

Bank Hapoalim B.M. v WestLB AG
2010 NY Slip Op 33908(U)
August 19, 2010
Sup Ct, New York County
Docket Number: 603458/2009
Judge: Shirley Werner Kornreich
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SUPREME COURT OF THE STATE OF NEW YORK — NEW YORK COUNTY

PRESENT: Shirley Werner Kornreich
Justice

PART 54

Bank Hapoalim BM,

INDEX NO. 603458/09

Plaintiffs,

MOTION DATE 04/27/10

v.

MOTION SEQ. NO. 02

West LB AG, New York Branch,

MOTION CAL. NO. _____

Defendants.

The following papers, numbered 1 to 10 were read on this motion to disqualify__

PAPERS NUMBERED

Notice of Motion/ — Affidavits — Exhibits ...

1-4

Answering Affidavits — Exhibits...

5-8

Replying Affidavits...

9-10

Cross-Motion: Yes No

Upon the foregoing papers, it is ordered that this motion

Dated: 8/19/10

Shirley Werner Kornreich
JUSTICE SHIRLEY WERNER KORNREICH
J.S.C.

Check one: FINAL DISPOSITION NON-FINAL DISPOSITION

Check if appropriate: DO NOT POST

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: PART 54

-----X
BANK HAPOALIM B.M., ARAB BANKING
CORPORATION B.S.C., ANGLO IRISH
BANK CORPORATION LIMITED,
MIZRAHI TEFAHOT BANK LTD., and
JUSTINIAN CAPITAL SPC, for and on behalf
of the HARRIER SEGREGATED PORTFOLIO,
HARRIER II SEGREGATED PORTFOLIO,
HARRIER III SEGREGATED PORTFOLIO,
HARRIER IV SEGREGATED PORTFOLIO,
and the HARRIER V SEGREGATED
PORTFOLIO,

Index No.: 603458/2009

DECISION and ORDER

Plaintiffs,

-against-

WESTLB AG, NEW YORK BRANCH,
WESTLB ASSET MANAGEMENT (US)
LLC, BRIGHTWATER CAPITAL
MANAGEMENT LLC, and PHOENIX LIGHT
SF LIMITED,

Defendants.

-----X

KORNREICH, SHIRLEY WERNER, J.:

This action arises from the collapse of structured investment vehicles (SIVs) Harrier Finance Limited, Harrier Finance (US) Limited (collectively "Harrier"), Kestrel Funding p.l.c. and Kestrel Funding (US) LLC (collectively "Kestrel"). Plaintiffs invested in income notes issued by these SIVs, and defendants were the investment managers. Defendants WestLB AG, New York Branch, WestLB Asset Management (US) LLC (collectively "WestLB"), and Brightwater Capital Management LLC (Brightwater) move to disqualify plaintiffs' counsel Jordan W. Siev (Siev) and his law firm, Reed Smith LLP, from representing plaintiffs in this

action. Mot. Seq. 002.¹ The motion is based on a November 5, 2007, hour-long meeting during which WestLB's counsel spoke with Siev and two attorneys from his prior law firm, Anderson Kill & Olick, P.C., about defending West LB in anticipated litigation involving the matters underlying this case. WestLB did not hire Siev, who subsequently joined the firm of Reed Smith LLP, the firm currently representing plaintiffs in this matter. The two attorneys who had attended the November 5, 2007 meeting with Siev also joined the Reed Smith firm. Plaintiffs oppose disqualification.

I. *Background*

Starting in 2002, Siev represented WestLB as part of a bank group in litigation arising out of the collapse of Enron. Siev's representation of WestLB in the Enron litigation lasted approximately five years and concluded several months prior to WestLB's meeting with Siev and his partners on November 5, 2007. There is no claim that the subject of this meeting was related to the subject of that earlier litigation.

According to the general counsel of WestLB New York Branch, Frederic M. Mauhs, the November 5, 2007 meeting was precipitated by an October 27, 2007 letter to WestLB from plaintiffs Bank Hapoalim, Anglo Irish Bank and three other Harrier income note holders. The letter contended, *inter alia*, that: (i) Brightwater had caused Harrier to engage in improvident asset sales; (ii) There had been too many management changes at Brightwater; and (iii) Brightwater had not caused Harrier to offer plaintiffs a "vertical slice" of its assets. Mauhs Aff.,

¹Defendant Phoenix Light SF Limited is not represented by counsel. References to "plaintiffs" throughout this decision are exclusive of Phoenix.

Ex. 1. Plaintiffs demanded that WestLB "make good the losses" they had allegedly sustained on their income notes, and they reserved "the right to pursue all other remedies, legal or otherwise, at [their] disposal should [they] not be able to reach a mutually acceptable solution." *Ibid.* After receiving this letter, WestLB, anticipating litigation, reached out to a number of attorneys, including Siev.

Siev left the Anderson Kill law firm in 2008 and joined Reed Smith along with fellow Anderson Kill attorneys J. Andrew Rahl, Jr. and John L. Scott, Jr. On November 12, 2009, Reed Smith filed the complaint in this action.

A. *WestLB's Evidence*

WestLB submits Mauhs' affidavit in which he affirms as follows:

6. ...We put together a short list of three lawyers (and their law firms). All had done legal work for the bank in recent years, and all were lawyers whom we trusted, whom we believed were loyal to WestLB and with whom we felt comfortable having a privileged conversation in which we discussed confidential strategic and other concerns raised by the October 29, 2007 letter. ...

7. On November 1, 2007, in an email to Mr. Siev with the subject line "confidential and privileged," I briefly described the general nature of the potential litigation, identified the potential plaintiffs as including Bank Hapoalim B.M., Arab Banking Corporation B.S.C., and Anglo Irish Bank Corporation Limited, and asked Mr. Siev to determine if he or his firm had any conflict that would prevent his representation of defendants. The fact that the email was clearly labeled "confidential and privileged" reflected my understanding that any discussions with Mr. Siev and his firm were to be privileged and confidential. After this email, Mr. Siev confirmed that he did not have any conflict and expressed his desire to be considered for the representation.

8. I scheduled a meeting with Mr. Siev for November 5, 2007. In advance of the meeting, I provided Mr. Siev with the October 29, 2007 letter. I did this because I intended to have a substantive discussion at the meeting with Mr. Siev during which I could obtain his preliminary views on the risks posed by plaintiffs' claims and possible responses to those claims by WestLB and WestLB Asset Management. Indeed, this is exactly why I had selected Mr. Siev and other

lawyers with whom we had an existing relationship. I did not intend the meeting to be a mere "meet and greet," nor was it. (Indeed, not only had I already "met" Mr. Siev, he was already well known to me.) I had every expectation that the meeting would be privileged and confidential, and nothing said before, during, or after the meeting suggested otherwise.

WestLB also submitted an October 23, 2007 e-mail from Siev seeking retention on an unrelated class action, and two e-mails from Mauhs to Siev, redacted of all text. The redacted November 1, 2007 e-mail includes as the subject "confidential and privileged," and the redacted November 2, 2007 e-mail includes as the subject "letter from Anglo Irish Bank / HSH Nordbank Securities S.A."; it refers to the letter as an "attached file." Mauhs Reply Aff., Exs. 3, 4.

At the April 27, 2010 argument on the motion, the court directed WestLB's counsel to submit unredacted copies of these e-mails for *in camera* inspection. After reviewing the unredacted versions, the court finds that they do not contain substantive content that is privileged or confidential. Mauhs, in the November 1, 2007 e-mail, refers to the potential "minor" role of Siev and his then law firm Anderson Kill in the dispute. Mauhs then asks Siev to run a conflicts check, refers to the dispute as a "good chance" for Siev and his firm to "introduce [them]selves a little more closely to WestLB and Brightwater," and to "stop by fairly soon with any relevant partners to explain any relevant securities litigation [they]'ve had." Mauhs also identifies three of the four plaintiffs named in this action. The November 2, 2007 e-mail is a response from Siev to Mauhs' e-mail forwarding the letter. Siev thanks Mauhs then confirms their meeting on Monday. The October 27, 2007 letter is attached.

As to the meeting itself, Mauhs affirms as follows:

9. The meeting occurred at WestLB's offices on November 5, 2007, and I have retained my notes of the meeting. Mr. Siev attended with two of his partners,

Andrew Rahl and John Scott, and I was joined by my colleague Gary Kalbaugh, a member of my staff who held and still holds the position of Director and Counsel in WestLB's New York Branch. Our meeting with Mr. Siev and his partners lasted at least an hour and it was a substantive meeting. While I do not, more than two years later, recall the specific details of the hour-long discussion word for word, I do recall that my procedure in evaluating which counsel to hire for this matter (as for virtually all major litigation involving WestLB) was to present the candidates with some critical documents, such as the demand letter, to present them with the structure of the transaction at issue, and to ask for their views on the merits of the claims, how the litigation is likely to play out in general, and how WestLB should respond to the demand in particular. Again, I had chosen only firms with whom we had an existing relationship of trust and confidence, and thus I fully expected a thorough and liberal discussion of the law firms' analysis of WestLB's position and options. In my view (held firmly both then and now), there can be no other basis upon which to hire counsel for major litigation. As reflected in my notes of this meeting, the November 5, 2007 meeting with Mr. Siev and his partners was a substantive discussion that was fully consistent with this general practice.

10. I fully expected the discussions that I had with Mr. Siev and his partners to be confidential and covered by the attorney-client privilege, as indicated by the subject line of the initial email I sent Mr. Siev regarding the matter. Although *I cannot recall the specifics of the confidential information I shared with Mr. Siev during the interview*, as discussed above, my practice was to provide counsel with the information needed to make an assessment about the merits of the potential claims that WestLB was facing and the best strategy to follow in defending them. My notes of the meeting reflect that my discussions with Mr. Siev and his partners followed this practice; according to my notes, I exchanged with Mr. Siev my thoughts on how WestLB and WestLB Asset Management might best defend themselves under the circumstances, and how the underlying issues with the SIVs might play out. As WestLB's counsel, I considered this information and these discussions confidential, and I would have considered it highly improper had these communications been directly provided to the plaintiffs or to their counsel.

(Emphasis added.) Mauhs then affirms, in a reply affirmation, (1) that he did not tell Siev that WestLB was seeking restructuring counsel, and (2) that he “wanted to conduct a substantive discussion with Mr. Siev and his colleagues.” ¶¶ 7-8.

Also pursuant to the court's direction, WestLB submitted the notes taken by Mauhs at the November 5, 2007 meeting for *in camera* inspection. The pertinent notes are one page long and

cryptic. On further request from the court, WestLB submitted a translation of these notes prepared by Mauhs. For the most part, the notes concern the qualifications of counsel. In one instance, they reflect some conversation that could involve possible litigation strategy.

By letter dated December 21, 2009, WestLB asked Siev to explain why his disqualification was not required in view of the conflict created by his representation of the plaintiffs in this action, his previous representation of WestLB and his prior confidential and privileged discussions with WestLB about representing it. Ex.1, Weinstaein Aff. WestLB's counsel informed Siev of its belief that he and Reed Smith should withdraw. In his January 5, 2010 letter in response, Siev stated that disqualification was not required and that they would oppose a motion for disqualification, which he characterized as a "litigation ploy." At oral argument, the parties agreed that within months of the WestLB meeting, Mr. Siev had changed firms and was representing plaintiffs.

B. Reed Smith's Evidence

In opposition, Reed Smith has submitted affirmations of Siev and his partners, J. Andrew Rahl, Jr. and John L. Scott, Jr. Recalling the meeting with Mauhs, Siev affirms as follows:

4.... I recall that it was my belief at the time that the matter to be discussed related to a securitization and possible restructuring issues.

5. As a result, I contacted two bankruptcy and restructuring attorneys from Anderson, Kill, Messrs. Rahl and Scott, and requested their attendance at the meeting. Mr. Rahl was at the time the head of Anderson Kill's bankruptcy and restructuring practice, and Mr. Scott was then an associate in Mr. Rahl's practice group, and they had bankruptcy and restructuring experience relating to securitization vehicles.

6. We did not do any preparation in advance of the pitch meeting. Indeed, I do not recall receiving or reviewing any documents from WestLB prior

to the meeting. Similarly, I do not recall conducting or reviewing any legal research concerning any issues in preparation for the November 5, 2007 meeting. I simply understood that WestLB was conducting a “beauty contest” regarding a potential representation that could involve bankruptcy and restructuring issues in connection with a securitization matter.

Siev also affirms that: (1) Rahl led off the meeting because Siev assumed he would be the primary Anderson Kill attorney for the prospective engagement; (2) Rahl described his background and qualifications, then repeated these after Gary Kalbaugh of WestLB joined the meeting; (3) No confidential or privileged information was shared with [them] either prior to or at the meeting “other than the fact that we learned generally that certain of WestLB’s income noteholders in Harrier and Kestrel were displeased with WestLB’s management of those structured vehicles—a fact that we have since learned was publicly known” In addition, Siev notes that the meeting lasted approximately one hour, that Kalbaugh excused himself before the meeting ended, that a few months later he was contacted and his new firm Reed Smith was retained by certain holders of income notes in Harrier and Kestrel to evaluate the possibility of suing WestLB. Siev had not previously seen any of the documents he reviewed to evaluate the potential bases of WestLB’s liability, “[w]ith the possible exception of the October 29, 2007 Letter.” ¶ 14.

The recollection of Siev’s partners J. Andrew Rahl and John L. Scott, Jr., conform to Siev’s. Rahl Aff., Scott Aff. Rahl adds that they spoke about “general market issues,” that Kalbaugh discussed “his thoughts generally on what was happening in the financial markets,” and that “WestLB communicat[ed] that it was having trouble with some of the noteholders in one

or two of its structured investment vehicles....” Rahl Aff. at ¶ 7. Scott refers to their discussion of “general market issues.” Scott Aff. at ¶ 7.

II. Discussion

Initially, this court finds that the Rules of Professional Conduct, which took effect on April 1, 2009,² do not apply to this case because the present disqualification issue arose before that effective date, when Mauhs met with Siev on November 5, 2007 and was later hired by plaintiffs in 2008. Instead, the Code of Professional Responsibility is applicable here and, thus, as WestLB correctly argues, plaintiffs’ reliance on Rule 1.18 of the Rules of Professional Conduct, which relates to the duty owed to prospective clients, is misplaced.³ See *Lee v Cintron*,

² “Effective April 1, 2009, the New York Rules of Professional Conduct (hereafter “New Rules”) replaced the Code of Professional Responsibility (hereafter “Code”) in an effort to enhance the consistency of ethical standards. The New Rules include approximately three-quarters of the former Code, with the remaining one-quarter coming from the ABA’s Model Rules. Simon, *Comparing the New NY Rules of Professional Conduct To the NY Code of Professional Responsibility*, New York State Bar Association Journal, May 2009, at 9. (Also available at www.nysba.org.) The New Rules align New York with the 47 other states that have adopted the ABA model. Siegler, Talel, *Impact of New Ethics and Conflicts of Interest Rules*, New York Law Journal, July 1, 2009, at 3, 10.” *Delorenz v Moss*, 24 Misc3d 1218A (Sup Ct, Nassau County 2009).

³ Rule 1.18(a) defines a prospective client as one with whom the lawyer discussed forming an attorney-client relationship. Section (b) of the Rule prohibits the lawyer from revealing information learned during the consultation, except as Rule 1.9 of the Code would permit regarding a former client, even if not retained. And, section (c) enjoins the lawyer from representing “a client with interests materially adverse to those of a prospective client in the same or a substantially related matter if the lawyer received information from the prospective client that *could be significantly harmful* to that person in the matter.” [emphasis added]. The Rule specifically excepts from the definition of prospective client an individual who communicates with a lawyer in order to prospectively disqualify the lawyer. Rule 1.18(e)(2).

25 Misc3d 1210(A) (Sup Ct, Queens County 2009) (denying disqualification motion based on “preliminary consultation”).

DR5-108(A)(1) of the Code of Professional Responsibility prohibits a lawyer from representing a party against a former client in the same or a substantially related matter, “without the consent of the former client after full disclosure.” The rule also proscribes the use of the former client’s confidences or secrets. DR5-108(A)(2). Confidences are defined as information covered by the attorney-client privilege, and secrets are defined as other information disclosed in the professional relationship, unless the information is generally known. DR4-101; *see Jamaica Pub. Serv. Co., Ltd. v AIU Ins. Co.*, 92 NY2d 631, 637 (1998) (attorney may divulge generally known information about former client). When seeking disqualification pursuant to DR5-108, movant must prove an attorney client relationship, that the matter was the same or substantially related and that the interests of the attorney’s present client and former client are adverse. *Solow v W.R. Grace & Co.*, 83 NY2d 303,308 (1994); *accord id.* at 636; *Tekni-Plex, Inc. v Meyner and Landis*, 89 NY2d 123, 130 (1996). These criteria, when met, “give rise to an irrebuttable presumption of disqualification.” *Jamaica Public Serv., id.*; *Tekni-Plex, id.*

As noted by the Court of Appeals, this bright line test for disqualification encourages a client to speak freely to counsel, protects a former client from apprehension that his confidences will be revealed, avoids the danger that a hearing on the issue would reveal the former client’s confidences, and provides a test which can be self-enforced. *Jamaica Pub. Serv., id.*; *Tekni-Plex, id.*; *Solow, supra* at 308-9. Moreover, the rule avoids even the appearance of impropriety, an ethical obligation imposed on all lawyers. *Id.* Any doubts as to the existence of a conflict of interest must be resolved in favor of disqualification. *See The Rose Ocko Foundation, Inc. v*

Liebovitz, 155 AD2d 426 (2d Dept 1989); *Sirianni v Tomlinson*, 133 AD2d 391 (2d Dept 1987), *app dismissed* 74 NY2d 792 (1989); *Seeley v Seeley*, 129 AD2d 625 (2d Dept 1987).

Nonetheless, to protect a client's basic right to counsel of choice, to prevent the adverse effects upon a client of disqualification and to guard against the bad-faith use of disqualification as a trial tactic, the test cannot be mechanically applied. *Tekni-Plex*, *id.* at 132. Each case must be determined on its facts, and the moving party bears the burden of proving each prong of the test. *Id.* at 131; *see Pelligrino v Oppenheimer & Co., Inc.*, 49 AD3d 94, 98 (1st Dept 2008).

Here, the last prong of the test is clearly met. The parties are adverse. The determination as to disqualification turns on whether a preliminary consultation with a prospective client constitutes an attorney-client relationship and whether the matter discussed was the same or substantially related.

"To determine whether an attorney-client relationship exists, a court must consider the parties' actions." *Pelligrino*, *id.* at 99. The existence of such a relationship is not dependent upon the exchange of a fee or an explicit agreement. *Id.* A preliminary consultation with a prospective client, even if it does not result in retention, "can encompass an attorney-client relationship." *Id.*; *see Bauerle v Bauerle*, 206 AD2d 937, 939 (4th Dept 1994), *app dismissed* 84 NY2d 1027 (1995); *Reyes v Ball*, 157 AD2d 1027(3d Dept 190); *Rose Ocko*, 155 AD2d 426; *Burton v Burton*, 139 AD2d 554 (2d Dept 1988); *Seeley*, 129 AD2d 625; Code of Professional Responsibility EC 4-1; *Fierro v Gallucci*, 2007 US Dist LEXIS 89296 (EDNY 2007); *Miness v Ahuja*, 2010 US Dist LEXIS 77154 (EDNY 2010) (applying April 2009 Rule of Prof. Conduct). However, the relationship is not created based merely upon one party's beliefs or actions. *Pelligrino*, *supra*.

Here, neither movant nor Siev and his colleagues can recall the specifics of their November 2007, pre-litigation meeting. What is certain, however, is that plaintiffs' letter threatening litigation was sent to Siev two days prior to the meeting, the email from Mauhs to Siev was marked "privileged and confidential," Siev was asked if he was conflicted in the matter, before the meeting, and said he was not, Siev was asked about his previous securities *litigation* experience and the meeting lasted for more than an hour. Additionally, Mauhs averred that his practice in interviewing lawyers for retention by WestLB, was to elicit their views as to the merits of the action, analysis and strategy. He further averred that he customarily disclosed his thoughts and ideas to the lawyers during such a meeting. Siev's colleagues recalled that "general market issues" were discussed, and one of his colleagues Rahl recalled that Kalbaugh, a director and counsel at WestLB who was present at the meeting, addressed what was happening in the financial markets. The court finds, considering both parties' actions, plaintiffs have met their burden. The letter from plaintiffs threatening litigation was sent to Siev prior to the meeting, the email enclosing the letter was marked "privileged and confidential," Siev was asked to check for conflicts and specifically told Mauhs none existed, Mauhs recollected that he exchanged ideas and views of the case with Siev, and Rahl and Scott confirmed that, at the very least, there was discussion beyond the attorneys' qualifications. The court finds these facts sufficient to demonstrate both an attorney-client relationship and that the matters discussed were substantially related to this matter. Disqualification, therefore, is in order here. Any doubts as to the existence of a conflict must be resolved in WestLB's favor even if only to avoid the appearance of impropriety. *See Burton*, 139 AD2d 554 (no evidentiary hearing required where disqualification

necessary to avoid appearance of impropriety); see also *Rose Ocho*, 155 AD2d 426; *Seeley*, 129 AD2d 626.

Moreover, the duty to protect a former client's confidences under DR5-108 is broader than the attorney client privilege.⁴ *Pelligrino*, 49 AD3d 99. A "reasonable probability of disclosure" is sufficient to meet a moving party's burden for disqualification. *Jamaica Pub. Serv.*, 92 NY2d 637; *Id.* In making this showing, the movant need not specify the secrets and confidences at issue, but must "provide the court with information sufficient to determine whether there exists a reasonable probability that DR5-108(A)(2) would be violated." *Jamaica Pub. Serv.*, *id.* at 638.

Here, two days before their meeting, Mauhs had e-mailed Siev the October 27, 2007 letter from Harrier note holders, which included plaintiffs Bank Hapaolim and Anglo Irish Bank. It is reasonable to infer that the letter was discussed during the preliminary meeting and that Siev and his colleagues obtained confidential or strategically valuable information during that discussion when Mauhs, as he claims, exchanged his thoughts regarding the matter. Movant's allegations of "disclosure of the type of information that could, even inadvertently, provide a strategic advantage to [plaintiffs]" supports disqualification. *Rose Ocho*, 155 AD2d 426. Further, in this case, where movant interviewed but three lawyers, all of whom had previously represented it, there is no indication that the motion to disqualify is made for tactical reasons.

⁴ Rule 1.6 of the new Code defines confidential information as information "that is(a) protected by the attorney-client privilege, (b) likely to be embarrassing or detrimental to the client if disclosed, or (c) information that the client has requested be kept confidential." It excludes a lawyer's legal knowledge or research and generally known information from the definition.

Finally, Reed Smith must also be disqualified, again, to avoid even the appearance of impropriety and to ensure fairness to WestLB. The Court of Appeals has articulated the standard to be applied in deciding whether to disqualify an entire firm when one of its lawyers has been disqualified:

[W]here one attorney is disqualified as a result of having acquired confidential client information at a former law firm, the presumption that the entirety of the attorney's current firm must be disqualified may be rebutted. ...

Where the presumption does arise, however, the party seeking to avoid disqualification must prove that any information acquired by the disqualified lawyer is unlikely to be significant or material in the litigation (*Solow v Grace & Co.*, *supra*, at 313; Restatement, *op. cit.*, § 204 [2] [a]-[c]; *see also, id.*, § 204 [2], illustration 4). In that factual scenario, with the presumption rebutted, a "Chinese Wall" around the disqualified lawyer would be sufficient to avoid firm disqualification....

Demonstrating that no significant client confidences were acquired by the disqualified attorney, however, does not wholly remove the imputation of disqualification from a law firm. Because even the appearance of impropriety must be eliminated, it follows that even where it is demonstrated that the disqualified attorney possesses no material confidential information, a firm must nonetheless erect adequate screening measures to separate the disqualified lawyer and eliminate any involvement by that lawyer in the representation.

Kassis v Teacher's Ins. & Annuity Ass'n, 93 NY2d 611, 617-18 (1999).

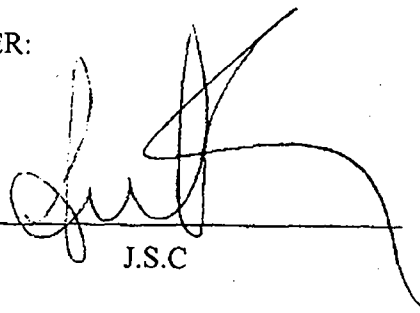
Here, Siev has not rebutted the presumption by establishing that any information he acquired "is unlikely to be significant or material in the litigation." *See id.* In addition, it was not only Siev, but his colleagues, two current Reed Smith attorneys, who were present at the preliminary meeting. Further, there is no evidence that Reed Smith set up any kind of screening measures to separate these attorneys from the others in the firm. Rather, Siev's letter, responding to WestLB's request that he remove himself as plaintiffs' attorney, denies the existence of a conflict and that he received any confidential information. Accordingly, it is hereby

ORDERED that WestLB's motion to disqualify Jordan W. Siev, Esq. and his law firm Reed Smith LLP as counsel for plaintiffs in this action, is granted; and it is further

ORDERED that this action is stayed for 60 days for plaintiffs to retain new counsel in this action; and it is further

ORDERED that the parties are to appear in Part 54, 60 Centre St., rm. 228, for a status conference on October 26, 2010, at 11:00 a.m.

ENTER:



J.S.C

Date: August 19, 2010
New York, N. Y.

