

China Dev. Indus. Bank v Morgan Stanley & Co. Inc.
2012 NY Slip Op 33961(U)
November 8, 2012
Supreme Court, New York County
Docket Number: 650957/2010
Judge: Melvin L. Schweitzer
Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op <u>30001</u> (U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.
This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: MELVIN L. SCHWEITZER
Justice

PART 45

CHINA DEVELOPMENT INDUSTRIAL BANK

INDEX NO. 650957/2010

-v-

Morgan Stanley & Co. INCORPORATED et al.

MOTION DATE

MOTION SEQ. NO. 012

The following papers, numbered 1 to , were read on this motion to/for

Notice of Motion/Order to Show Cause — Affidavits — Exhibits No(s).

Answering Affidavits — Exhibits No(s).

Replying Affidavits No(s).

Upon the foregoing papers, it is ordered that this motion regarding discovery is decided in accordance with the attached Decision and Order.

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE FOR THE FOLLOWING REASON(S):

Dated: November 8, 2012

[Signature] S.C.

- 1. CHECK ONE: CASE DISPOSED, NON-FINAL DISPOSITION
2. CHECK AS APPROPRIATE: MOTION IS: GRANTED, DENIED, GRANTED IN PART, OTHER
3. CHECK IF APPROPRIATE: SETTLE ORDER, SUBMIT ORDER, DO NOT POST, FIDUCIARY APPOINTMENT, REFERENCE

Document Production

Morgan Stanley is directed to produce the following documents:

All Due Diligence Reports and related communications with respect to the Stack Collateral Originators from the files of Anthony Tufariello, Jon Horowitz, Howard Hubler, Joseph Naggar, John Pearce, Erik Siegel, Graham Jones, Gary Mendelsohn, Frank Telesca and Steven Shapiro.

The December 9, 2011 deposition transcript (with exhibits) of Anton Peterson taken in *Abu Dhabi Commercial Bank v Morgan Stanley & Co. Inc., et al.*, No. 1:08-CV-07508 (S.D.N.Y.).

All Summary Due Diligence Reports and related communications concerning the Stack CDO Collateral Assets that Morgan Stanley received from Clayton Holdings.

All Due Diligence Reports and related communications concerning the Morgan Stanley RMBS that were included in the Stack CDO.

Morgan Stanley moves pursuant to CPLR 3124 to compel production of documents requested from plaintiff CDIB (motion sequence No. 12). The court rules as follows.

Document Production

CDIB is directed to produce the following documents:

1. CDIB shall construct and deliver to Morgan Stanley a list of all investments CDIB made in U.S. mortgage-related securities similar to the CDIB Swap for the period January 1, 2005 to April 31, 2007.
2. CDIB shall search the files of the Custodians identified to CDIB by Morgan Stanley using the Supplemental Search Terms (other than the Search Term "S near2 P") provided to CDIB by Morgan Stanley. All Search Terms shall be run using English, and, when possible, their Chinese language equivalent. In addition to using these Supplemental Search Terms, CDIB may use additional

Search Terms or combine Search Terms in order to comply with the court's orders.

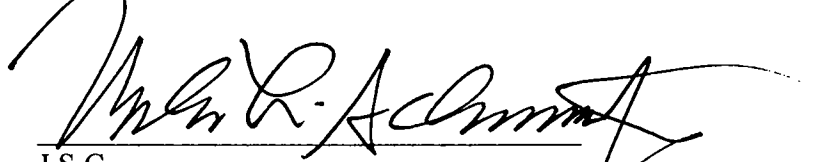
- 3. CDIB shall conduct a thorough search for metadata and electronic information associated with audio recordings produced to Morgan Stanley and deliver such data and information to Morgan Stanley.

ORDERED that CDIB's motion to compel is granted, and Morgan Stanley shall produce a copy of all responsive documents in accordance with the above not already produced within thirty days of the entry of this decision and order, and to the extent Morgan Stanley asserts that it has already produced responsive documents, it shall identify them by bates number; and it is further

ORDERED that Morgan Stanley's motion to compel is granted, and CDIB shall produce a copy of all responsive documents in accordance with the above not already produced within thirty days of the entry of this decision and order, and to the extent CDIB asserts that it has already produced responsive documents it shall identify them by bates number.

Dated: ~~October~~ ^{November 8}, 2012

ENTER:



 J.S.C.
MELVIN L. SCHWEITZER
 J.S.C.