

EXHIBIT A



July 11, 2014

BY ELECTRONIC MAIL

Thomas H. Kim
Enforcement Attorney
Consumer Financial Protection Bureau
1750 Penn. Ave. N.W., 10th Floor
Washington, DC 20220

Re: *In the matter of: PHH Corporation, et al.*, Administrative Proceeding,
File No. 2014-CFPB-0002

Dear Mr. Kim:

Respondents seek reimbursement for fees incurred by Enforcement Counsel on May 20, 2014, in deposing Respondents' expert witness, Vincent R. Burke. Pursuant to Rule 116 of the Bureau's Rules of Practice for Adjudication Proceedings (Rules) and Judge Elliot's Order of May 16, 2014, Respondents seek reimbursement for fees charged by Mr. Burke for his appearance and testimony at the deposition. Respondents do not seek remuneration for time spent by Mr. Burke in preparation for his deposition, but only for the actual time spent at the deposition, which began at 10:00 a.m. and concluded at approximately 4:45 p.m. Thus, Respondents request that Enforcement Counsel provide a reimbursement sufficient to compensate Mr. Burke for 6.75 hours of work at \$600 per hour – his standard rate for litigation support arrangements – or \$4,050.00.

Respondents submit that Mr. Burke's fees are reasonable in light of his qualifications and experience, and are comparable to fees charged by other professionals in his field and at his company. Rule 116 states that the Bureau shall pay witnesses subpoenaed for deposition the same fees "as are paid in the United States district courts in proceedings in which the United States is a party . . ." 12 C.F.R. § 1081.116. In district court, a party taking an expert's deposition must pay the expert a "reasonable fee" for the time spent in the deposition, "unless manifest injustice could result." Fed. R. Civ. P. 26(b)(4)(E). Courts have ruled that an expert's "regular hourly rate for professional services is



Thomas H. Kim

2

July 11, 2014

presumptively a reasonable hourly rate for deposition." *Snook v. City of Oakland*, No. 07-14270, 2009 U.S. Dist. LEXIS 27304, at *9 (E.D. Mich. Mar. 31, 2009). Mr. Burke's hourly fee of \$600 – the rate at which Respondents have agreed to compensate him in the present matter – is presumptively reasonable.

As the Tribunal noted, however, some jurisdictions consider the following factors in evaluating the reasonableness of an expert deposition fee: (1) the witness' area of expertise; (2) the education and training that is required to provide the expert insight that is sought; (3) the prevailing rates for other comparably respected available experts; (4) the nature, quality and complexity of the discovery responses provided; (5) the costs of living in the particular geographic area; (6) the fee actually being charged to the party who retained the expert; (7) the fees traditionally charged by the expert on related matters; and (8) any other factor likely to be of assistance to the court in balancing the interests implicated by Rule 26. *See Mathis v. NYNEX*, 165 F.R.D. 23, 24-25 (E.D.N.Y. 1996).

With consideration of the factors enumerated in *Mathis*, Mr. Burke's fee is reasonable. Mr. Burke has notable expertise in the accounting of mortgage reinsurance, a niche area of practice that is fundamental to this case. Moreover, Mr. Burke is well credentialed and has more than three decades of experience in the accounting and consulting fields. Furthermore, Mr. Burke's hourly rate represents both his standard fee in similar litigation support arrangements and the rate at which Respondents have agreed to compensate him.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink, which appears to read "Michael S. Trabon", is located below the word "Sincerely,".

Michael S. Trabon