

EXHIBIT B

Kim, Thomas (CFPB)

From: David Souders <SOUDERS@thewbkfirm.com>
Sent: Tuesday, May 06, 2014 4:56 PM
To: Kim, Thomas (CFPB)
Cc: Mitch Kider; Rosanne Rust; Michael Trabon; Leslie A. Sowers; Gordon, Donald (CFPB); Vazire, Navid (CFPB); Ravener, Kim (CFPB); Auchterlonie, Sarah (CFPB); Sandra Vipond
Subject: RE: expert depositions

Tom:

As an initial matter, please include Sandra Vipond, who is working on this case for Respondents, on all future email correspondence.

As you know, the Order resetting the hearing was decided yesterday. I will reach out to my expert today and see about his availability.

As for your position that Mr. Burke is only entitled to compensation at the fact witness rate, e.g., your attempt to use 209(e), Respondents disagree. In spite of the Bureau's belief that such a fee is "appropriate," in fact, expert witnesses are compensated at their hourly rate, which the party taking the deposition is required to pay. That way, you have less incentive to waste time conducting the deposition. That is how such depositions are conducted in district court. See Rule 26(a)(4)(E). If you disagree and refuse to compensate Mr. Burke at his hourly rate, then we will not agree to make him available.

If I am incorrect in my understanding regarding the payment of fees, please let me know, otherwise you have our position on this issue.

Dave Souders

David Souders
Weiner Brodsky Kider PC
1300 19th Street NW 5th Floor
Washington DC 20036
office: 202 628 2000
facsimile: 202 628 2011
souders@thewbkfirm.com
www.thewbkfirm.com

This electronic message contains information from the law firm of Weiner Brodsky Kider PC, which may be confidential or privileged. The information is intended to be for the use of the individual or entity named above. If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of the contents of this information is prohibited. If you have received this transmission in error, please notify us by telephone (202-628-2000) or by electronic mail (souders@thewbkfirm.com) immediately. For more information about Weiner Brodsky Kider PC, please visit us at www.thewbkfirm.com

TAX ADVICE DISCLAIMER: Any federal tax advice contained in this communication (including attachments) was not intended or written to be used, and it cannot be used, by you for the purpose of (1) avoiding any penalty that may be imposed by the Internal Revenue Service or (2) promoting, marketing or recommending to another party any transaction or matter addressed herein.

From: Kim, Thomas (CFPB) [mailto:Thomas.Kim@cfpb.gov]
Sent: Tuesday, May 06, 2014 9:39 AM
To: David Souders
Cc: Mitch Kider; Rosanne Rust; Michael Trabon; Leslie A. Sowers; Gordon, Donald (CFPB); Vazire, Navid (CFPB); Ravener, Kim (CFPB); Auchterlonie, Sarah (CFPB)
Subject: RE: expert depositions

Dave,

In light of the order pushing the recommencement of the hearing back to May 28, and the judge's statement indicating that the hearing would continue without break until completed, will make you agree to make Mr. Burke available for a deposition before May 28?

Please also let us know if you've reconsidered your view regarding fees.

We look forward to receiving your response today. We intend to request a subpoena for this deposition if the parties are unable to reach agreement on these matters.

Thanks,

Thomas H. Kim
Enforcement Attorney
Consumer Financial Protection Bureau
Tel: (202) 435-9441
Email: thomas.kim@cfpb.gov
consumerfinance.gov

From: Kim, Thomas (CFPB)
Sent: Thursday, May 01, 2014 1:03 PM
To: 'David Souders'
Cc: 'Mitch Kider'; 'Rosanne Rust'; 'Michael Trabon'; 'Leslie A. Sowers'; Gordon, Donald (CFPB); Vazire, Navid (CFPB); Ravener, Kim (CFPB); Auchterlonie, Sarah (CFPB)
Subject: RE: expert depositions

Dave:

We are fine with Mr. Burke's deposition taking place in Philadelphia. As for payment of his fees, as you are likely aware, Rule 210(d) provides: "Expert depositions shall be conducted pursuant to the procedures set forth in § 1081.209(g)." We think the appropriate fee amount for Mr. Burke's deposition is referenced in Rule 209(e). We are willing to pay that fee. Please let us know if that's acceptable.

We also do not understand your proposal regarding the date for his deposition. The Scheduling Order required that depositions of experts who submitted initial reports be completed within two weeks of the filing of those reports. There is a full month between the date the report was submitted (April 21) and the date the hearing recommences (May 19), and we see no reason that Mr. Burke's deposition should not occur within that longer time period. Additionally, given that we have two weeks allotted at the end of May for the hearing, your proposal would require the parties to reconvene for another session even if all of the other witnesses have completed their testimony by the end of those two weeks. Please let us know if Mr. Burke is available for a deposition before the hearing recommences; otherwise, we intend to request issuance of a subpoena.

We are willing to forego an additional deposition of Mr. Cascio, on the assumption that his rebuttal report contains a complete statement of all of his rebuttal opinions and the basis and reasons therefore.

Thank you,

Thomas H. Kim

Enforcement Attorney

Consumer Financial Protection Bureau

Tel: (202) 435-9441

Email: thomas.kim@cfpb.gov

consumerfinance.gov

From: David Souders [<mailto:SOULDERS@thewbkfirm.com>]

Sent: Wednesday, April 30, 2014 9:57 AM

To: Kim, Thomas (CFPB)

Cc: Mitch Kider; Rosanne Rust; Michael Trabon; Leslie A. Sowers; Gordon, Donald (CFPB); Vazire, Navid (CFPB); Ravener, Kim (CFPB); Auchterlonie, Sarah (CFPB)

Subject: RE: expert depositions

Tom:

In response to your email below regarding additional depositions, we do not believe that additional depositions of either Dr. Crawshaw or Mr. Cascio are necessary or contemplated by the Judge's Order of February 18, 2014, which specifically set the schedule for expert witness depositions and the subsequent filing of expert reports. Had additional depositions of the experts been contemplated, it would have been contained in the initial scheduling order.

As for Mr. Burke, since he was not previously disclosed, Respondents will make Mr. Burke available for deposition prior to his taking the stand in this matter. However, that deposition will be conducted in Philadelphia and the Bureau will be responsible for Mr. Burke's hourly rate for the time spent in the deposition. Since Mr. Burke will not be called during the next scheduled hearing session, we propose a date in the second or third week of June.

Thank you for your attention to this matter.

Dave Souders

David Souders

Weiner Brodsky Kider PC

1300 19th Street NW 5th Floor

Washington DC 20036

office: 202 628 2000

facsimile: 202 628 2011

souders@thewbkfirm.com

www.thewbkfirm.com

This electronic message contains information from the law firm of Weiner Brodsky Kider PC, which may be confidential or privileged. The information is intended to be for the use of the individual or entity named above. If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of the contents of this information is prohibited. If you have received this transmission in error, please notify us by telephone (202-628-2000) or by electronic mail (souders@thewbkfirm.com) immediately. For more information about Weiner Brodsky Kider PC, please visit us at www.thewbkfirm.com

TAX ADVICE DISCLAIMER: Any federal tax advice contained in this communication (including attachments) was not intended or written to be used, and it cannot be used, by you for the purpose of (1) avoiding any penalty that may be imposed by the Internal Revenue Service or (2) promoting, marketing or recommending to another party any transaction or matter addressed herein.

From: Kim, Thomas (CFPB) [<mailto:Thomas.Kim@cfpb.gov>]

Sent: Friday, April 25, 2014 9:39 AM

To: David Souders

Cc: Mitch Kider; Rosanne Rust; Michael Trabon; Leslie A. Sowers; Gordon, Donald (CFPB); Vazire, Navid (CFPB); Ravener, Kim (CFPB); Auchterlonie, Sarah (CFPB)

Subject: expert depositions

Dave:

We'd like to discuss scheduling of expert depositions in light of the rebuttal reports filed this week. Will you make Mr. Cascio and Mr. Burke available for deposition before the hearing recommences? We can check on Dr. Crawshaw's availability as well.

Sincerely,

Thomas H. Kim

Enforcement Attorney

Consumer Financial Protection Bureau

Tel: (202) 435-9441

Email: thomas.kim@cfpb.gov

consumerfinance.gov