



**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

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June 18, 2015

VIA ECF

Catherine O'Hagan Wolfe
Clerk of Court
United States Court of Appeals for the Second Circuit
Thurgood Marshall U.S. Courthouse
40 Foley Square
New York, New York 10007

Re: Berman v. Neo@Ogilvy LLC, No. 14-4626

Dear Ms. Wolfe,

I write to provide additional information with respect to a question that Judge Newman asked regarding the source of the "base text" that the Dodd-Frank Act House-Senate Conference Committee worked from.

According to a recent book that traced the legislative process that led to the Dodd-Frank Act, the base text was prepared in advance of the Conference Committee by staff from the offices of Senator Christopher Dodd and Representative Barney Frank. Specifically, the "Dodd and Frank staffs" "melded" the House and Senate bills together,¹ along with other changes.² The base text was then jointly approved by Senator Dodd and Representative Frank,³ and was publicly released on June 10, 2010, when the Conference

¹ ROBERT G. KAISER, ACT OF CONGRESS: HOW AMERICA'S ESSENTIAL INSTITUTION WORKS, AND HOW IT DOESN'T 338 (2013); see also id. at 333 ("The staffs had to spend long hours harmonizing minutiae in the two huge bills—thousands of small details.").

² See id. at 333 ("[Senator] Dodd's people wanted to add to it the hundred pages of small changes that they drew up as a manger's amendment [to the Senate bill] but couldn't offer because [Senator Richard] Shelby's staff never agreed to let it be voted on.").

³ See id. at 334.

Committee began.⁴ As discussed in the Commission's amicus curiae brief (at 20, n.17), the catchall employment retaliation provision that is at issue in this litigation (now codified at 15 U.S.C. 78u-6(h)(1)(A)(iii)) was first included in the base Conference Committee text.

If there is any further information that we can provide you, please let us know.

Respectfully yours,

/s William K. Shirey

William K. Shirey

Assistant General Counsel

⁴ See Sewell Chan, Congressional Negotiators Start Effort to Merge Versions of Financial Reform Bills, N.Y. TIMES (June 10, 2010) (“Soon before the start of the [Conference Committee] meeting, Democrats released a 1,974-page ‘base text’ that will be the basis for the negotiations. While it was mostly modeled on the version the Senate passed last month, it included several provisions from the House bill, which was adopted in December.”).

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing letter with the Clerk of Court for the United States Court of Appeals for the Second Circuit by using the appellate CM/ECF system on June 18, 2015. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

/s/ Stephen G. Yoder
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Dated: June 18, 2015