

From: Greig, Wm. Smith [mailto:GreigW@SEC.GOV]
Sent: Tuesday, March 22, 2016 9:28 AM
To: Gary Aguirre
Cc: Redacted ; Maria Pomares maria@aguirrelawapc.com; Redacted
Redacted ; Hardy, Melinda
Subject: RE: Mitchell v. SEC

Hi, Gary,

We have determined that the continued undertaking obligations in regard to NY-7910 are set forth in paragraph 36 of the attached order, dated June 1, 2015, in In the Matter of Merrill Lynch Pierce, Fenner & Smith Incorporated and Merrill Lynch Professional Clearing Corporation, AP File No. 3-16567.

Regards,

Smith

From: Gary Aguirre [mailto:gary@aguirrelawapc.com]
Sent: Tuesday, March 22, 2016 10:01 AM
To: Greig, Wm. Smith
Cc: Redacted); Maria Pomares maria@aguirrelawapc.com; Redacted
Redacted); Hardy, Melinda
Subject: RE: Mitchell v. SEC

Hi Smith:

I am confirming our call yesterday regarding the case closing report or other records relating to the status of the investigation of naked short selling in relation to Bear Stearns and Lehman Brothers.

First, I have asked you what is meant by the ongoing “undertakings” in that case. I have never heard of “undertakings” in relation to an investigation. This sounds more like a term of a settlement which remains open and consequently would not be subject to Exemption 7(A). Please specifically advise what is meant by this term and whether it is in connection with a settlement or an investigation.

If in relation to an investigation, what does this mean?

If in relation to a settlement, how could that be done without a filing of a proceeding?

Please advise.

Best,

Gary J. Aguirre
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