

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

COMPLAINT OF CAPITAL ONE
SERVICES, INC.

Docket No. C2008-3

**INTERROGATORIES OF CAPITAL ONE SERVICES, INC.
DIRECTED TO MICHAEL PLUNKETT OF THE UNITED STATES POSTAL
SERVICE (COS/USPS-13-26)**

(October 20, 2008)

Pursuant to Rules 25 through 27 of the Rules of Practice of the Postal Regulatory Commission and P. O. Ruling C2008-3/24 (September 23, 2008), Capital One Services, Inc. ("Capital One") submits the following interrogatories directed to Michael Plunkett of the United States Postal Service. Instructions and Definitions applicable to these interrogatories are contained in the Interrogatories of Capital One Services, Inc. to the United States Postal Service (COS/USPS-1-11), filed August 8, 2008, and are hereby incorporated by reference.

Respectfully submitted,

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INTERROGATORY COS/USPS-13

With respect to your positions as Manager of Pricing Strategy and Acting Vice President of Pricing, please provide the following information for each position:

- a. Dates that you held each position
- b. Job description and responsibilities of each position
- c. Name and title of the person you reported to in each position
- d. Names and titles of direct reports to you in each position
- e. Names of Postal Service committees or working groups that you participated in regularly as a member or adviser.

INTERROGATORY COS/USPS-14

Please describe with relevant dates:

- (a) Your role in setting strategy for the NSA program;
- (b) Your role in developing procedures for negotiating NSAs with mailers;
- (c) Your role in the preparation of the NSA Manual;
- (d) Your role in developing and/or implementing process improvements for NSAs in late 2007- mid 2008;
- (e) Your role in developing NSAs that did not have any volume incentive component (i.e., pure “cost-savings” NSAs).

INTERROGATORY COS/USPS-15

- (a) As Manager of Pricing Strategy, did you hold regular meetings, e.g., weekly, meetings?
 - (i) If so, how often did you hold these meetings?
 - (ii) Please provide the name and title of each person who attended these meetings.
 - (iii) Please describe the topics covered at these meetings.

- (b) As Acting Vice President of Pricing, did you hold regular meetings, e.g., weekly, meetings?
 - (i) If so, how often did you hold these meetings?
 - (ii) Please provide the name and title of each person who attended these meetings.
 - (iii) Please describe the topics covered at these meetings.

INTERROGATORY COS/USPS-16

With respect to the NSA negotiations process, please describe

- (a) the step-by-step process that a mailer followed in applying for, negotiating, litigating, and implementing an NSA;
- (b) the step-by-step process that Pricing Strategy followed in initiating, negotiating, litigating, and implementing an NSA;
- (c) the point in the process that you, as Manager of Pricing Strategy, would first become aware of the interest of a particular mailer in applying for an NSA;
- (d) the criteria and decision-making process you used to determine which mailers you would pursue negotiations with and which you would not;
- (e) the criteria and decision-making process you used to determine which NSA structures (e.g., cost-savings through electronic returns from UAA coupled with volume incentive discounts or pure "cost-savings) you would pursue.

INTERROGATORY COS/USPS-17

Have you ever conducted a study or analysis, formal or informal, of the effects of a specific NSA (a) on the NSA applicant's competitors, (b) on competition in the relevant industry of the NSA applicant, or (c) on the relevant marketplace (as that term is used in 39 U.S.C. 3622(c)(10))? If your answer is no, are you aware of and/or have you ever relied upon any such study or analysis? If so, please describe all such studies or analyses.

INTERROGATORY COS/USPS-18

While you were Manager of Pricing Strategy and Acting Vice President of Pricing, was it your understanding that the Postal Service's Nondisclosure Agreement with an NSA applicant prevented the Postal Service from negotiating with another applicant an NSA with the same structural elements of the NSA that was the subject of the Nondisclosure Agreement?

INTERROGATORY COS/USPS-19

Are you aware of (a) any revisions or updates to the NSA Manual (Exhibit 1 to the Lowrance Deposition), in final or draft form, or (b) any statement of procedures, formal or informal, that may have replaced, amended, or supplemented the NSA Manual?

INTERROGATORY COS/USPS-20

For each of the following time periods, please identify by name, title, and department, each person who played a key role in developing, reviewing, evaluating, or approving the Bank of America NSA, and his or her area of expertise and contribution:

- (a) From 2006 to January 2007 (execution of Bank of America NSA)
- (b) From February 2007-October 2007 (issuance of the PRC Recommended Decision in MC2007-1)
- (c) From October 2007 – December 2007 (issuance of the Board of Governors' final decision)
- (d) From January 2008 – present (implementation).

For any person not within your department, please indicate the date that that person first provided input to you on the Bank of America NSA and describe the nature of that input.

INTERROGATORY COS/USPS-21

With respect to the Bank of America NSA and MC2007-1:

- (a) Please confirm that you were the lead negotiator for the Postal Service and the senior official with day-to-day responsibility for the Bank of America NSA.
- (b) Please confirm that you reviewed and approved the direct testimony of Ali Ayub, filed in MC2007-1 on behalf of the United States Postal Service (USPS-T-1).
- (c) Please explain your interpretation of the statement in Mr. Ayub's testimony that the Postal Service recognized an "affirmative obligation to make comparable terms available to companies that are deemed functionally equivalent, thus obviating the possibility that any competitor of BAC need be affected by the Agreement." USPS-T-1 at 26.
- (d) Please describe any plans or steps that you considered or developed to carry out the "affirmative obligation" referred to above.
- (e) At the time of filing of Mr. Ayub's testimony, were you aware of the possibility that "the marginal value of any functionally equivalent NSA would be lower to the Postal Service, a factor which would have to be considered during the course of negotiation any functionally equivalent agreement," Response of USPS to COS/USPS-1 (August 22, 2008)? Please indicate when you first became aware of this factor.
- (f) Have you developed a metric to quantify the value of being the first adopter, as described in paragraph (e) above? If so, please describe in detail.

INTERROGATORY COS/USPS-22

With respect to the December 2007 memorandum from the Postmaster General to the Board of Governors (referred to in the Deposition of Jessica Lowrance as the "PMG Memo"):

- (a) Please describe your role in preparing, drafting, coordinating departmental input, obtaining approvals, and presenting the PMG Memo.
- (b) Please identify by name and title each person who had input or approved the PMG Memo.
- (c) For each section of the PMG Memo, please identify by name and title the person(s) who drafted that section.
- (e) Please provide the dates and participants of each meeting you attended in which a draft of the memo was discussed.
- (f) Were you present at any discussion or presentation to the Board of Governors regarding the Bank of America NSA? If so, please provide the date, names of other Postal Service employees present, and topics discussed.
- (g) Please confirm that, it was your understanding that with respect to the Bank of America NSA discussed in the PMG Memo:
 - a. Certain component(s) of the NSA resulted in "negative contribution", as defined in the Lowrance deposition at page 229.
 - b. The overall financial effect of the NSA was positive when strategic benefits were considered. (Strategic benefits refer to the value of BAC's commitments to IMB, Postal One, Seamless Acceptance, FAST, CAPS, Confirm and One Code ACS.)

If you do not confirm, please explain why.

INTERROGATORY COS/USPS-23

With respect to the December 2007 Powerpoint presentation from the Anita Bizzotto to the Board of Governors (referred to in the Deposition of Jessica Lowrance):

- (a) Please describe your role in preparing, drafting, coordinating departmental input, obtaining approvals, and presenting the Bizzotto presentation.
- (b) Please identify by name and title each person who had input or approved the presentation.
- (c) For each slide of the Bizzotto presentation, please identify by name and title the person(s) who drafted that slide.
- (d) Please provide the dates and participants of each meeting you attended in which a draft of the presentation was discussed.

INTERROGATORY COS/USPS-24

- (a) When were you first informed that the Postal Service needed a large mailer to adopt the Intelligent Mail Barcode prior to the date of mandated implementation?
- (b) Who informed you of this need?
- (c) Are you aware of any written recommendations, studies, analyses, or test, formal or informal, that support the need for an early adopter of the Intelligent Mail Barcode? If so, please identify by name, author, and date.
- (d) Are you aware of any quantification, in any form, of the value of early adoption of the Intelligent Mail Barcode to the Postal Service?

INTERROGATORY COS/USPS-25

Please provide the dates and Postal Service participants of face-to-face meetings you attended with Capital One representatives from 2006 to 2008, and confirm the following statements. If you do not confirm a statement, please explain why:

- (a) During Quarterly Business Reviews with Capital One, you were informed of Capital One's plans and progress in implementing new technologies for mail processing, including the Intelligent Mail Barcode.
- (b) You were informed of Capital One's participation in the Seamless Acceptance pilot tests.
- (c) You were informed of estimates of Capital One's scan rates from time to time.
- (d) You were informed of Capital One's interest in negotiating a "pure cost-savings" NSA, similar to the Bank of America NSA.

INTERROGATORY COS/USPS-26

Please confirm that, in the context of NSAs, you would define “similarly situated customers” as customers with similar business needs and mailing requirements to those of the baseline NSA mailer. If you do not confirm, please explain how you would define similarly situated customers.