

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

Postal Regulatory Commission  
Submitted 9/9/2008 3:44:11 PM  
Filing ID: 60933  
Accepted 9/9/2008

---

**COMPLAINT OF CAPITAL ONE  
SERVICES, INC.**

---

**DOCKET NO. C2008-3**

**BANK OF AMERICA CORPORATION'S MOTION FOR ACCESS TO SEALED  
DEPOSITION OF JESSICA D. LOWRANCE**

The Bank of America Corp. submits this Motion for Access to the Sealed Deposition of Jessica D. Lowrance held on August 28, 2008. In accordance with the Commission Ruling No. C2008-3/4, Jennifer Mallon has executed a Statement of Compliance with Protective Conditions (Attachment A of Ruling No. C2008-3/4) on behalf of Venable LLP, counsel for Bank of America, which is attached to this motion. Bank of America is a participant in this matter and, as such, has the right to obtain a copy of Ms. Lowrance's deposition transcript so long as it satisfies the protective conditions.

Bank of America respectfully requests that the Commission allow Ms. Mallon and Mr. Volner access to the proceedings. Given the scope of the questioning on the first day of Ms. Lowrance's testimony, it is likely that information about Bank of America was discussed in the second day of the deposition. Thus, access to the proceedings is essential to ensure that counsel can effectively represent the interests of Bank of America. No party will be prejudiced by granting Bank of America access to the proceedings.

Respectfully submitted,

Ian D. Volner  
Jennifer T. Mallon  
Venable LLP  
575 7<sup>th</sup> Street, N.W.  
Washington, DC 20004

Counsel to Bank of America Corp.

September 9, 2008

Dc1\304807

## EXHIBIT A

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Complaint of Capital One Services, Inc.

Docket No. C2008-3

### STATEMENT OF COMPLIANCE WITH PROTECTIVE CONDITIONS

The following protective conditions limit access to the August 27, 2008, closed session of the deposition of Jessica Dauer Lowrance in Docket No. C2008-3, and the discussions and materials presented therein. The purpose of the closed session of the deposition is to obtain a sworn copy of written or oral testimony, or cross-examination, of Postal Service employee Lowrance that may be of a confidential nature. Individuals attending the closed session must agree to comply with these conditions, complete the attached certification, and provide the completed certification to Katja Eichinger, the officer assigned for purposes of taking oaths and clarifying procedures in this matter, prior to admittance to the closed session of the deposition.

1. Only a person who is either:
  - (a) an employee of the Commission with a need to know; or
  - (b) a counsel of a participant in Docket No. C2008-3, shall be granted access to the closed session. However, no person involved in competitive decision-making for any entity that might gain competitive advantage from use of this

information shall be granted access to the closed session of the deposition. “Involved in competitive decision-making” includes consulting on marketing or advertising strategies, pricing, product research and development, product design, or the competitive structuring and composition of bids, offers or proposals. It does not include rendering legal advice or performing other services that are not directly in furtherance of activities in competition with a person or entity having a proprietary interest in the protected discussions and materials.

2. The discussions and materials presented in the closed session of the deposition are assumed to be of a confidential nature. No person granted access to the closed session is permitted to disseminate in whole or in part the discussions and materials presented in the closed session of the deposition to any person not authorized to obtain access under these conditions.
3. The duty of nondisclosure of anyone obtaining access to the discussions and materials is continuing, terminable only by specific order of the Commission, or as specified in paragraphs 4 through 6, below.
4. Any written materials — including but not limited to discovery requests and responses, requests for admission and responses, deposition transcripts and exhibits, pleadings, motions, affidavits, written testimony and briefs — that quote, summarize, or contain the discussions or materials protected under these protective

conditions also are covered by the same protective conditions and certification requirements, and shall be filed with the Commission only under seal. Documents submitted to the Commission as confidential shall remain sealed while in the Secretary's office or such other place as the Commission may designate so long as they retain their status as confidential documents.

5. A participant may apply to the Commission for a ruling that the discussions and materials presented in the closed session of the deposition, stamped or designated as confidential, are not entitled to such status and protection. The Postal Service and Bank of America shall be given notice of the application and an opportunity to respond.
  
6. Subpoena by Courts or Other Agencies. If a court or other administrative agency subpoenas or orders production of confidential information which a participant has obtained under the terms of this protective order, the target of the subpoena or order shall promptly (within two business days) notify the Postal Service and Bank of America of the pendency of the subpoena or order to allow the designating party time to object to that production or seek a protective order.

**CERTIFICATION**

The undersigned represents that:

Access to the August <sup>28</sup>~~27~~, 2008, closed session of the deposition in Docket No. C2008-3, and the discussions and materials presented therein has been authorized by the Commission by compliance with the attached Statement of Compliance with Protective Conditions and completion of this Certification. I agree to use the information ascertained only for purposes of analyzing matters at issue in Docket No. C2008-3. I certify that I have read and understand the above protective conditions and am eligible to attend the August <sup>28</sup>~~27~~, 2008, closed session of the deposition in Docket No. C2008-3 as referred to under paragraph 1 of the protective conditions. I further agree to comply with all protective conditions and will maintain in strict confidence the information disseminated in accordance with all of the protective conditions set out above.

Name JENNIFER T. MALLON

Firm VENABLE LLP

Title ATTORNEY

Representing BANK OF AMERICA CORP.

Signature 

Date 9/9/08