

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

COMPLAINT OF CAPITAL ONE
SERVICES, INC.

Docket No. C2008-3

**JOINT MOTION OF CAPITAL ONE SERVICES, INC.
AND THE UNITED STATES POSTAL SERVICE
FOR ACCEPTANCE OF JOINT STIPULATION ON FILING OF TWO DOCUMENTS
AND FOR PROTECTIVE CONDITIONS FOR FILING OF THE DOCUMENTS**

(December 4, 2008)

Pursuant to Rule 25 of the Commission's Rules, 39 C.F.R. § 3001.25, Capital One Services, Inc. (Capital One) and the United States Postal Service request acceptance of the attached Joint Stipulation regarding the Postal Service's filing of two documents in response to Capital One's discovery requests. The parties also request that, if the Presiding Officer approves the Joint Stipulation, a ruling giving effect to the Joint Stipulation be issued allowing filing of the two documents under protective conditions.

During the deposition of Jessica Lowrance, on August 27-28, 2008, two documents were identified by the deponent: (1) a memorandum from Postmaster General Potter to the Board of Governors, distributed prior to the Governors' meeting in early December 2007, relating to the Bank of America NSA (PMG Memo); and (2) a Powerpoint slide show presented at the December 10, 2007 Governors' meeting by Anita Bizzotto, relating to the Bank of America NSA (Bizzotto presentation). Capital

One was allowed to question the deponent about these documents in the closed session, but they were not made part of the deposition transcript.

The two parties have since engaged in informal discussions regarding discovery. In order to avoid unnecessary motions practice, they have agreed to certain terms and conditions relating to the filing and introduction into the record of these two documents with specific redactions. The terms and conditions are contained in the attached Stipulation and are binding only upon the signatories. The Postal Service also seeks certain protective conditions for the filing of the two documents, and proposed protective conditions are attached. Because of the highly sensitive nature of the two documents, the documents themselves have not been attached to this motion.

Approval of this Stipulation would obviate the need for motions to compel production of the two documents and allow more efficient use of the Commission's resources. The Stipulation would have no effect on other discovery issues in this case.

WHEREFORE, the movants request that the Presiding Officer issue a ruling giving effect to the terms of the Joint Stipulation and allowing the filing under the specified terms.

Respectfully submitted,

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

COMPLAINT OF CAPITAL ONE
SERVICES, INC.

Docket No. C2008-3

**JOINT STIPULATION BETWEEN
CAPITAL ONE SERVICES, INC. AND
THE UNITED STATES POSTAL SERVICE
REGARDING SPECIFIC DISCOVERY REQUEST**

(December 4, 2008)

The undersigned parties, Capital One Services, Inc. (Capital One) and the United States Postal Service, enter into this Stipulation regarding a specific discovery request, pursuant to Rule 25 of the Commission's Rules, 39 C.F.R. § 3001.25.

BACKGROUND

During the deposition of Jessica Lowrance, on August 27-28, 2008, two documents were identified by the deponent: (1) a memorandum from Postmaster General Potter to the Board of Governors, distributed prior to the Governors' meeting in early December 2007, relating to the Bank of America NSA (PMG Memo); and (2) a Powerpoint slide show presented at the December 10, 2007 Governors' meeting by Anita Bizzotto, relating to the Bank of America NSA (Bizzotto presentation). Capital One was allowed to question the deponent about these documents in the closed session, but they were not made part of the deposition transcript.

The undersigned parties have since engaged in informal discussions regarding discovery. In order to avoid unnecessary motion practice, the undersigned agree to the following terms and conditions relating to the filing and introduction into the record of these two documents.

TERMS AND CONDITIONS

The Postal Service agrees that, upon Commission approval of this Joint Stipulation, it will file in this docket, and at the appropriate time, allow entry into the record, the PMG Memo and Bizzotto presentation with agreed-upon redactions, as initialed by the parties. The Postal Service will request that the redacted documents be filed under certain protective conditions, attached hereto as Attachment B.

Capital One agrees not to seek lifting of the protective conditions at any time.

Capital One agrees to refrain from seeking to compel production of the two memoranda listed in Attachment A, and any underlying drafts of those memoranda.

Capital One agrees that it will not assert that disclosure of portions of the two documents results in waiver by the Postal Service of any privileges with respect to the undisclosed (redacted) portions or the underlying materials used to prepare the two documents.

This Stipulation shall have no effect on any other discovery dispute in PRC Docket No. C2008-3 and shall not be interpreted as an admission by either party as to the merits of the application of any privileges. This Stipulation shall expire upon conclusion of PRC Docket No. C2008-3.

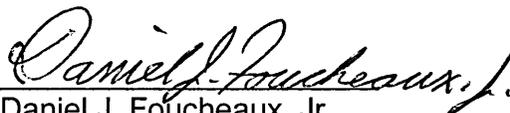
The parties understand that this measure creates no precedent in this or any other docket or proceeding.

PROCEDURES

The undersigned shall file a joint motion with the Commission requesting approval of this Stipulation. If the Commission approves the motion, all terms of the Stipulation shall apply. If the Commission denies the motion, this Stipulation shall become null and void unless amended in writing by the undersigned.



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ATTACHMENT A

1. Memorandum, undated and in draft form, from the Postal Service General Counsel to the Board of Governors relating to the Bank of America NSA and distributed in approximately October or November 2007, found in the files of Jessica Dauer Lowrance, and as identified in the Lowrance Deposition at page 136 and in the second entry on USPS Law Department Privilege Log for the First Day of the Lowrance Deposition.

2. Memorandum from the Postal Service General Counsel to the Governors re: Governors' statutory options in response to the PRC Recommended Decision in Docket No. MC2007-1, dated December 6, 2007.

ATTACHMENT B

STATEMENT OF COMPLIANCE WITH PROTECTIVE CONDITIONS

The following protective conditions limit access to the redacted documents referred to in the Joint Stipulation between Capital One and the Postal Service, filed December ____, 2008, in PRC Docket No. C2008-3. Individuals seeking access to these documents must agree to comply with these conditions, complete the attached certification, and file the completed certification with the Postal Regulatory Commission.

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 documents.

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 these documents 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 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 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 redacted documents referred to in the Joint Stipulation between Capital One and the Postal Service, filed December ____, 2008, in PRC Docket No. C2008-3. 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 have access to these documents 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 _____

Firm _____

Title _____

Representing _____

Signature _____

Date _____