

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

RICHARD BLEIER,)	
)	
Plaintiff,)	
)	
v.)	
)	No. 08 CV 6254
BUNDESREPUBLIK DEUTSCHELAND)	
a/k/a, FEDERAL REPUBLIC OF)	Hon. James B. Zagel
GERMANY, et al.)	U. S. District Court Judge
)	
Defendants.)	
)	

**AMENDED JOINT MOTION TO DISMISS FOR FAILURE TO STATE
A CLAIM UPON WHICH RELIEF CAN BE GRANTED
OF SELECT DEFENDANTS
(COMMERZBANK AG, COMMERZBANK “CHICAGO BRANCH,”
COMMERZBANK “NEW YORK BRANCH,” COMMERZBANK “LOS
ANGELES BRANCH,” COMMERZBANK “ATLANTA BRANCH,”
COMMERZBANK CAPITAL MARKETS CORP., a/k/a “CCMC” A DIVISION
OF COMMERZBANK AG, AND COMMERZBANK SECURITIES, A
DIVISION/SUBSIDIARY OF COMMERZBANK AG, CITIBANK, N.A., UBS AG
and JPMORGAN CHASE BANK, N.A.)**

Defendants Commerzbank AG, Commerzbank “Chicago Branch,” Commerzbank “New York Branch,” Commerzbank “Los Angeles Branch,” Commerzbank “Atlanta Branch,” Commerzbank Capital Markets Corp., a/k/a “CCMC” a division of Commerzbank AG, and Commerzbank Securities, a division/subsidiary of Commerzbank AG (collectively “Commerzbank Defendants”), by their counsel Tishler & Wald, Ltd. and Rubin, Winston, Diercks, Harris & Cooke, LLP, initially moved this Court, pursuant to Fed. R. Civ. P. 12(b)(6) to dismiss the complaint for failure to state a claim upon which relief can be granted before the Honorable John F. Grady.

Since the filing of the original motion by the Commerzbank Defendants, the case has been reassigned and some of the other named Defendants have been served. This Amended Joint Motion is being filed on behalf of the Commerzbank Defendants, Citibank, N.A., UBS AG and JPMorgan Chase Bank, N.A., incorrectly sued as J. P. Morgan Chase (“Served Defendants”), which constitute all of the served and/or appeared Defendants to date. On information and belief, none of the remaining Defendants have been served to date.

Commerzbank Defendants, Citibank, N.A., UBS AG, and JPMorgan Chase Bank, N.A. and anticipated counsel for Schroders and DeutscheBank have conferred. These parties have identified many common issues and a few issues which are unique to one or more Defendants. In order to facilitate the administration of this case, Served Defendants submit that in lieu of separate briefs from each Defendant, Served Defendants (and other timely joining Defendants) agree to submit a joint brief as to the common issues in support of their Joint Motion to Dismiss. The Served Defendants request that the joint brief be allowed to exceed fifteen (15) pages, but not more than forty (40) pages, exclusive of index, table of contents, and table of cases. N.D. ILL L.R. 7.1. In addition, each Defendant shall be permitted to submit a separate brief as to any unique issues or defenses, not to exceed fifteen (15) pages. Also, in lieu of response dates determined by the date of service, Served Defendants propose that a global briefing schedule for all Defendants joining in the Joint Motion be set by the Court as follows.

Pursuant to Local Rule 78.3, Served Defendants request that this Court set a briefing schedule of February 20, 2009 for their joint memorandum in support of the

motion. Plaintiff should have at least forty-five (45) days to respond and be permitted a like forty (40) pages therefor. Defendants request twenty (20) days to reply.

Should any Defendant determine that oral argument is desired, they will request the scheduling of same within fifteen (15) days of the conclusion of briefing and seek a time convenient to the Court and all non-resident counsel. A draft order will be submitted electronically and served as specified in this Court's standing instructions.

WHEREFORE, Served Defendants respectfully request that this Court set a briefing schedule on their Motion to Dismiss, authorize memoranda in excess of fifteen (15) pages, and for such other and further relief as the Court deems appropriate under present circumstances. Served Defendants will be asking that the Court enter an Order dismissing the complaint for the reasons which will be set forth in its Memorandum of Law to be filed in accordance with the briefing schedule ordered by the Court.

Dated: December 18, 2008

Respectfully submitted,

SERVED DEFENDANTS:

Commerzbank AG, Commerzbank "Chicago Branch," Commerzbank "New York Branch," Commerzbank "Los Angeles Branch," Commerzbank "Atlanta Branch," Commerzbank Capital Markets Corp., a/k/a "CCMC" a Division of Commerzbank AG, and Commerzbank Securities, a Division/Subsidiary of Commerzbank AG,

By: /s/ Alexander D. Kerr, Jr.
One of Their Counsel

Bruce L. Wald (2919095)
Alexander D. Kerr, Jr. (1450484)
TISHLER & WALD, LTD.
200 South Wacker Drive
Suite 3000
Chicago, IL 60606
(312) 876-3800 (phone)
(312) 876-3816 (fax)
e-mail: bwald@tishlerandwald.com
akerr@tishlerandwald.com

Jeffrey Harris
Max Riederer von Paar
RUBIN, WINSTON, DIERCKS,
HARRIS & COOKE, LLP
Sixth Floor
1155 Connecticut Avenue, N.W.
Washington, D.C. 20036
(202) 861-0870 (phone)
(202) 429-0657 (fax)
e-mail: mriederer@rwdhc.com
jharris@rwdhc.com

CITIBANK, N.A. and UBS AG,

By: /s/ Christian T. Kemnitz
One of Their Counsel

Christian T. Kemnitz
Brian J. Poronsky
KATTEN MUCHIN ROSENMAN LLP
525 West Monroe Street
Chicago, IL 60661
Phone: (312) 902-5200
e-mail: christian.kemnitz@kattenlaw.com
brian.poronsky@kattenlaw.com

JPMORGAN CHASE BANK, N.A.

By: /s/ Kenneth F. Berg
One of Its Counsel

Kenneth F. Berg
Peter R. Sonderby
ULMER & BERNE LLP
One North Franklin
Suite 1825
Chicago, IL 60606
Phone: (312) 324-8000
e-mail: kberg@ulmer.com
psonderby@ulmer.com