

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

HAMILTON SECURITIES ADVISORY SERVICES, INC.)	
)	
Plaintiff,)	NO. 98-169C
)	(Judge Horn)
v.)	
)	
UNITED STATES OF AMERICA,)	
)	
Defendant.)	
)	

PLAINTIFF'S ANSWERS TO DEFENDANT'S FIRST SET OF REQUESTS FOR ADMISSION

Plaintiff, Hamilton Securities Advisory Services, Inc. ("Hamilton"), answers Defendant's First Set of Requests for Admissions as follows:

GENERAL OBJECTIONS:

Plaintiff objects to Defendant's First Set of Requests for Admissions to the extent they call for information protected by the attorney/client communication or attorney work product privileges. Plaintiff objects to the Defendant's Definitions and Instructions to the extent they purport to vary the requirements of the Rules of the Court of Federal Claims ("RCFC").

All of Hamilton's answers to Defendant's Requests for Admissions are based on the information currently known to it. Without waiving the foregoing objections or the objections stated as to particular Requests, Plaintiff provides the following answers to Defendant's Requests for Admissions.

REQUEST FOR ADMISSION NO. 1:

That Exhibit 1 includes (specifically, at document numbers LUC 001288 through LUC 001304) a true, accurate and genuine copy of an e-mail transmission that Lucent/Bell Labs sent to Hamilton, and which Hamilton received, on or about September 21, 1995.

ANSWER:

The document appears to have been obtained directly from Lucent/Bell Labs and appears to be a true, accurate and genuine copy of an email transmission that Lucent/Bell Labs sent to Hamilton. Hamilton has made a reasonable inquiry, and the information known or readily obtainable by Hamilton is insufficient to enable Hamilton to admit or deny that it received the document on or about September 21, 1995.

REQUEST FOR ADMISSION NO. 2:

That Exhibit 2 (document numbers LUC 001953 through LUC 001962) is a true, accurate and genuine copy of a memorandum with attachments, that Lucent/Bell Labs sent to Hamilton, and which Hamilton received, on or about December 5, 1996.

ANSWER:

The document appears to have been obtained directly from Lucent/Bell Labs and appears to be a true, accurate and genuine copy of a memorandum with attachments that Lucent/Bell Labs sent to Hamilton. Hamilton has made a reasonable inquiry, and the information known or readily obtainable by Hamilton is insufficient to enable Hamilton to admit or deny that it received the document on or about December 5, 1996.

REQUEST FOR ADMISSION NO. 3:

That Exhibit 3 (document numbers LUC 001746 through LUC 1747) is a true, accurate and genuine copy of an email that Lucent/Bell Labs sent to Hamilton, and which Hamilton received, in September 1996.

ANSWER:

The document appears to have been obtained directly from Lucent/Bell Labs and appears to be a true, accurate and genuine copy of an email that Lucent/Bell Labs sent to Hamilton. Hamilton has made a reasonable inquiry, and the information known or readily obtainable by Hamilton is insufficient to enable Hamilton to admit or deny that it received the document in September 1996.

REQUEST FOR ADMISSION NO. 4:

That Exhibit 4 is a true, accurate and genuine copy of a memorandum, with attachments, that Lucent/Bell Labs sent to Hamilton, and which Hamilton received, on or about November 14, 1996.

ANSWER:

The document appears to have been obtained directly from Lucent/Bell Labs and appears to be a true, accurate and genuine copy of a memorandum with attachments that Lucent/Bell Labs sent to Hamilton. Hamilton has made a reasonable inquiry, and the information known or readily obtainable by Hamilton is insufficient to enable Hamilton to admit or deny that it received the document on or about November 14, 1996.

REQUEST FOR ADMISSION NO. 5:

That the columns of information in or within Exhibits 1, 2, 3, and 4 reflect the following information: Columns denominated "BidID" reflects certain bidders and bids (by identification number); columns denominated "Percent" reflect the percentage of a mortgage's unpaid principal balance that the bidder offered to pay as its bid on such mortgage; column denominated 'UPP' reflect the UPB (i.e., the unpaid principal balance) of the particular mortgage being bid on; and columns denominated "Revenue" reflect the dollar amount that the bidder offered to pay for the specified mortgage.

ANSWER:

Hamilton denies that Exhibit 1 contains any column denominated "BidID."

Hamilton has made a reasonable inquiry, and the information known or readily obtainable by Hamilton is insufficient to enable Hamilton to admit or deny the remainder of the Request. However, Hamilton states that its understanding of the information identified is as stated in the Request.

REQUEST FOR ADMISSION NO. 6:

That, with respect to the WOM Sale, section number 1 of Exhibit 1 (specifically, at document nos. LUC 001289 through LUC 001292) reflects the bidders and bids that were selected by the running of an optimization model using "prorated revenue floor," as described in paragraph 4 of Hamilton's December 20, 1996 Report.

ANSWER:

Hamilton has made a reasonable inquiry, and the information known or readily obtainable by Hamilton is insufficient to enable Hamilton to admit or deny. However, Hamilton states that its understanding is that the bidders and bids identified in section 1 of Exhibit 1 are the same bidders selected by the running of the optimization model using the prorated revenue floor as described in paragraph 4 of Hamilton's December 20, 1996 Report.

REQUEST FOR ADMISSION NO. 7:

That, with respect to the WOM Sale, section number 1 of Exhibit 1 (specifically, at document nos. LUC 001289 through LUC 001292) reflects:

- (a) the “revised bid results” referred to in paragraph 9 on page 3 of Hamilton’s December 20, 1996 Report; and
- (b) the “bid results” referred to in paragraph 10 on page 3 of Hamilton’s December 20, 1996 Report.

ANSWER:

Hamilton has made a reasonable inquiry, and the information known or readily obtainable by Hamilton is insufficient to enable Hamilton to admit or deny. However, Hamilton states that its understanding is that the bidders and bids identified in section 1 of Exhibit 1 are the revised bid results and bid results as referred to in paragraphs (a) and (b).

REQUEST FOR ADMISSION NO. 8:

That, after the bidding but before HUD awarded the mortgages in the WOM Sale in September, 1995, the bid results shown in section 1 of Exhibit 1 (specifically, at document nos. LUC 001289 through LUC 001292), were reported to HUD as the results of running the optimization model so as to analyze all conforming bids and to apply bidders' floors.

ANSWER:

Denied. Hamilton provided HUD the same information concerning bidder identification, revenue, and unpaid principal balance as set forth in the referenced section of Exhibit 1 as the results of the WOM Sale.

REQUEST FOR ADMISSION NO. 9:

That, with respect to the WOM Sale, HUD awarded the mortgages to the bidders identified in section number 1 of Exhibit 1 (specifically, at documents LUC 001289 through LUC 001292), at the bid prices stated therein.

ANSWER:

Interpreting the term "awarded" as meaning the bid was selected and closed, Hamilton denies this Request.

REQUEST FOR ADMISSION NO. 10:

That, with respect to the WOM Sale, HUD received sales proceeds of \$385,396,928.49.

ANSWER:

Hamilton admits that the aggregate bids selected for award totaled \$385,196,928.49. However, because three bidders did not close on the mortgages, the revenues HUD actually received may have been different. HUD is in the best position to state the actual amount of revenues it received on the WOM Sale.

REQUEST FOR ADMISSION NO. 11:

That, with regard to the WOM Sale, section 1.4 of Exhibit 2 (specifically, at document nos. LUC 001957 through LUC 001959) reflects Lucent/Bell Labs' results of running the optimization model which treated bidders' floors as being expressed in terms of UPB (i.e., the unpaid principal balance).

ANSWER:

Hamilton has made a reasonable inquiry, and the information known or readily obtainable by Hamilton is insufficient to enable Hamilton to admit or deny. However, Hamilton states that its understanding is that Exhibit 2 reflects the information as stated in Request No. 11.

REQUEST FOR ADMISSION NO. 12:

[The Defendant's First Set of Requests for Admission did not include a Request No. 12.]

ANSWER:

To the extent there is any Request No. 12, it is denied.

REQUEST FOR ADMISSION NO. 13:

That, with respect to the North/Central Sale, Exhibit 3 reflects the results of Lucent/Bell Labs' running the optimization model for all conforming bids, and which treated bidders' floors as being expressed in terms of the amount of revenue being bid.

ANSWER:

Hamilton has made a reasonable inquiry, and the information known or readily obtainable by Hamilton is insufficient to enable Hamilton to admit or deny. However, Hamilton states that its understanding is that Exhibit 3 reflects the information as stated in Request No. 13.

REQUEST FOR ADMISSION NO. 14:

That, with respect to the North/Central Sale, Exhibit 3 reflects the "bid results" referred to in paragraph 19 on page 5 of Hamilton's December 20, 1996 Report.

ANSWER:

Hamilton has made a reasonable inquiry, and the information known or readily obtainable by Hamilton is insufficient to enable Hamilton to admit or deny. However, Hamilton states that its understanding is that the bid results reflected in Exhibit 3 are the same as the bid results referred to in paragraph 19 of Hamilton's December 20, 1996 Report.

REQUEST FOR ADMISSION NO. 15:

That, after the bidding but before HUD awarded the mortgages in the North/Central Sale, the results shown in Exhibit 3 were reported to HUD as the results of running the optimization model so as to analyze all conforming bids and to apply bidders' floors.

ANSWER:

Denied. Hamilton provided Cushman & Wakefield the same information concerning bidder identification, revenue, and unpaid principal balance as set forth in Exhibit 3 as the results of the WOM Sale. Cushman & Wakefield was the financial advisor on this Sale and had responsibility for reporting the results to HUD.

REQUEST FOR ADMISSION 16:

That, with respect to the North/Central Sale, HUD awarded the mortgages to the bidders identified in Exhibit 3 at the bid prices stated therein.

ANSWER:

Interpreting the term "awarded" as meaning the bid was selected and closed, Hamilton has made a reasonable inquiry, and the information known or readily obtainable by Hamilton is insufficient to enable Hamilton to admit or deny. HUD would be in the best position to determine the mortgages awarded and their bid prices.

REQUEST FOR ADMISSION NO. 17:

That, with respect to the North/Central Sale, HUD received sales proceeds of \$621,674.33.

ANSWER:

Hamilton has made a reasonable inquiry, and the information known or readily obtainable by Hamilton is insufficient to enable Hamilton to admit or deny. Hamilton's understanding is that HUD received the stated revenues on this Sale, but HUD would be in the best position to state the revenues it actually received.

REQUEST FOR ADMISSION NO. 18:

That, with respect to the North/Central Sale, section 5.3 of Exhibit 4 (specifically, at document nos. LUC 001905 through LUC 001907) reflects Lucent/Bell Labs' results of running the optimization model which treated bidders' floors as being expressed in terms of UPB (i.e., unpaid principal balance).

ANSWER:

Hamilton has made a reasonable inquiry, and the information known or readily obtainable by Hamilton is insufficient to enable Hamilton to admit or deny. However, Hamilton states that its understanding is that the section 5.3 of Exhibit 4 reflects the information as stated in the Request.

REQUEST FOR ADMISSION NO. 19:

That section 5.3 of Exhibit 4 (specifically, at document nos. LUC 1905 through 1907) reflects the "Lucent/Bell Labs result generate using the UPB floor," referred to in the second bullet paragraph in the "Results" section on page 1 of Hamilton's December 20, 1996 Report.

ANSWER:

Hamilton has made a reasonable inquiry, and the information known or readily obtainable by Hamilton is insufficient to enable Hamilton to admit or deny. However, Hamilton states that its understanding is that section 5.3 contains the same information to which the second bullet paragraph in the Results section on page 1 of Hamilton's December 20, 1996 Report refers.

REQUEST FOR ADMISSION NO. 20:

That Exhibit 5 includes (at document nos. LUC 000180 through LUC 000193) a true, accurate and genuine copy of a set of materials that Lucent/Bell Labs presented or displayed to Hamilton on or about February 10, 1995.

ANSWER:

Hamilton has made a reasonable inquiry, and the information known or readily obtainable by Hamilton is insufficient to enable Hamilton to admit or deny.

REQUEST FOR ADMISSION NO. 21:

That Exhibit 6 (document nos. LUC 000034 through LUC 000041) is a true, accurate and genuine copy of an agreement between "AT&T Bell Laboratories" and Hamilton Securities Group, Inc., which was executed by those parties in or about March, 1995.

ANSWER:

Admitted.

REQUEST FOR ADMISSION NO. 22:

That Exhibits 7 (document nos. LUC 000056 through 000059) and 8 (document nos. LUC 000061 through 000065), respectively, are true, accurate and genuine copies of amendment no. 1 and amendment no. 2 to the agreement referred to in the preceding paragraph.

ANSWER:

Admitted.

REQUEST FOR ADMISSION NO. 23:

That Exhibit 9 (document nos. LUC 000317 through LUC 000318) is a true, accurate and genuine copy of a letter sent by Lucent/Bell Labs to Hamilton on or about March 22, 1995, and received by Hamilton on that date or shortly thereafter.

ANSWER:

The document appears to have been obtained directly from Lucent/Bell Labs and appears to be a true, accurate and genuine copy of a letter sent by Lucent/Bell Labs to Hamilton. Hamilton has made a reasonable inquiry, and the information known or readily obtainable by Hamilton is insufficient to enable Hamilton to admit or deny that it received the document on or about March 22, 1995.

REQUEST FOR ADMISSION NO. 24:

That Exhibit 10 (documents nos. LUC 000381 through LUC 000401) is a true, accurate and genuine copy of a set of materials prepared in or about March, 1995, by Lucent/Bell Labs, Hamilton and Coopers & Lybrand, L.L.P.

ANSWER:

Hamilton denies that the Exhibit was prepared by Hamilton. Hamilton may have provided input to the document but did not prepare it. The document appears to have been obtained directly from Lucent/Bell Labs and appears to be a true, accurate and genuine copy of a set of materials prepared by Lucent/Bell Labs. Hamilton has made a reasonable inquiry, and the information known or readily obtainable by Hamilton is insufficient to enable Hamilton to admit or deny that the materials were prepared in or about March 1995 or that Coopers & Lybrand, L.L.P. prepared them.

INTERROGATORY NO. 25:

That Exhibit 11 (document nos. LUC 001944 through LUC 001947) is a true, accurate and genuine copy of a set of materials that was sent by Lucent/Bell Labs to Hamilton, and received by Hamilton, on or about June 5, 1995.

ANSWER:

The document appears to have been obtained directly from Lucent/Bell Labs and appears to be a true, accurate and genuine copy of a set of materials sent by Lucent/Bell Labs to Hamilton. Hamilton has made a reasonable inquiry, and the information known or readily obtainable by Hamilton is insufficient to enable Hamilton to admit or deny that it received the materials on or about June 5, 1995.

REQUEST FOR ADMISSION NO. 26:

That, excluding any handwritten notations or markings thereon, Exhibit 12 (document nos. LUC 001916 through LUC 001917) is a true, accurate and genuine copy of an email message sent by Robert Robinson of Hamilton to various persons at Hamilton, Lucent and Coopers Lybrand.

ANSWER:

Admitted.

REQUEST FOR ADMISSION NO. 27:

That Exhibit 13 (document nos. LUC 001007 through LUC 001009) is a true, accurate and genuine copy of a letter sent by Hamilton to Lucent/Bell Labs on or about November 8, 1996, and, to the best of Hamilton's knowledge, was received by Lucent/Bell Labs shortly thereafter.

ANSWER:

Admitted, except as to the date, if any, on which Lucent/Bell Labs received the letter. Hamilton has made a reasonable inquiry, and the information known or readily obtainable by Hamilton is insufficient to enable Hamilton to admit or deny the fact or date of Lucent/Bell Labs' receipt.

REQUEST FOR ADMISSION NO. 28:

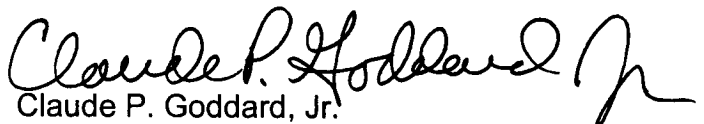
That Exhibit 14 (document no. LUC 001951) is a true, accurate and genuine copy of an email message that was sent by Sol Schindler of Lucent/Bell Labs to Hamilton, and received by Hamilton, on or about December 5, 1996.

ANSWER:

Denied.

Respectfully submitted,

Jan 5, 2000
Dated



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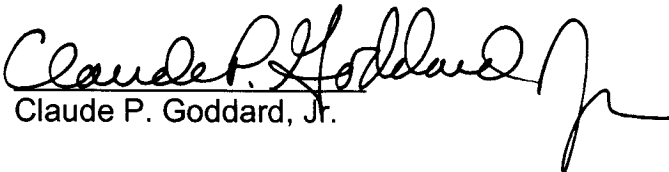
Certificate of Service

The undersigned certifies that he caused a copy of the foregoing Plaintiff's Answers to Defendant's First Set of Requests for Admissions to be served on the following government counsel by first class mail on January 5, 2000:

David J. Gottesman
Attorney
Commercial Litigation Branch
Civil Division
United States Department of Justice

Washington, D.C. 20005

Attn: Classification Unit
8th Floor, L Street Building


Claude P. Goddard, Jr.