IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

VERN MCKINLEY,	)	
	)	
Plaintiff,	)	Civil Action No. 09-1263 ESH
	)	
v.	)	
	)	
FEDERAL DEPOSIT INSURANCE CORPORATION, *et al.*,	)	
	)	
Defendants.	)	
	)	

PLAINTIFF'S REPLY TO DEFENDANT FDIC'S OPPOSITION TO PLAINTIFF'S CROSS-MOTION FOR PARTIAL SUMMARY JUDGMENT

Plaintiff Vern McKinley, by counsel and pursuant to Rule 56(c) of the Federal Rules of Civil Procedure, respectfully submits this reply to the opposition of Defendant Federal Deposit Insurance Corporation ("FDIC") to Plaintiff's cross-motion for partial summary judgment. As grounds therefor, Plaintiff states as follows:

MEMORANDUM OF LAW

I. Introduction.

Plaintiff brings this Freedom of Information Act ("FOIA") lawsuit to compel the FDIC to produce information regarding the FDIC's September 29, 2008 determination that "serious adverse effects on economic conditions or financial stability" would result if it did not provide billions of dollars worth of financial assistance to facilitate the takeover of Wachovia Bank, N.A. ("Wachovia") by Citigroup, Inc. ("Citigroup").[1] Despite ample opportunity, the FDIC has failed to establish that it conducted a proper search for information responsive to Plaintiff's November

[1] Less than a week later, Wells Fargo & Co. ("Wells Fargo") finalized an agreement to take over Wachovia without any government assistance.

18, 2008 request or that it is withholding responsive information properly. Consequently, the FDIC's motion for summary judgment should be denied and partial summary judgment should be entered in Plaintiff's favor.

II. Argument.

A. Plaintiff's Motion for Partial Summary Judgment.

The FDIC argues that Plaintiff failed to specify the portions of his claim on which he seeks summary judgment. Plaintiff's cross-motion was sufficient in this regard. Plaintiff seeks partial summary judgment on the following issues: (1) that the FDIC failed to conduct an adequate search for records responsive to Plaintiff's request and (2) that the FDIC failed to satisfy its burden of demonstrating that the information redacted from the responsive records produced to Plaintiffs is being properly withheld. Plaintiff only seeks "partial" summary judgment because, if the Court should find that the FDIC failed to conduct an adequate search, then the FDIC must conduct an additional search and, depending on the results of that search, it may be necessary to litigate further claims of exemption.[2]

B. Plaintiff Did Not Agree to Narrow the Scope of His Request.

The FDIC does not dispute that, rather than conduct a search for any and all records responsive to Plaintiff's November 18, 2008 request, it limited its search to identifying and locating the minutes of a September 29, 2008 meeting of the FDIC's Board of Directors only. It

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[2] Nor is it idle speculation that additional, responsive records exist. The FDIC asserts that "[a]nalyses, opinions, and recommendations concerning the Citigroup proposal were prepared by FDIC staff and presented to the FDIC Board of Directors in the form of [the Case Memorandum]." *See* Statement of Material Facts in Support of FDIC's Motion for Summary Judgment at ¶ 2. It would seem very likely that additional responsive records exist that were used to prepare the Case Memorandum.

alleges that, in a December 18, 2008 telephone conversation between Plaintiff and FDIC FOIA Specialist Jerry Sussman, Plaintiff agreed to narrow the scope of his request to the meeting minutes. In opposing the FDIC's motion for summary judgment and cross-moving for summary judgment, Plaintiff disputed that he agreed to narrow the scope of his request and, in a sworn declaration, denied that the alleged telephone conversation with Mr. Sussman took place. Plaintiff also demonstrated that the FDIC failed to present sufficient, admissible evidence to support its factual assertion that Plaintiff agreed to narrow his request.

In its opposition to Plaintiff's cross-motion, the FDIC again fails to present admissible evidence demonstrating the existence of an alleged agreement. It presents no admissible evidence of the date when this alleged agreement was reached (December 18, 2008 or some other date). It presents no admissible evidence of the manner in which the alleged agreement was reached (by phone conversation, letter, or email communication). Most tellingly, it presents no sworn declaration from Mr. Sussman setting forth the precise details of how and when Plaintiff allegedly agreed to narrow his request. Consequently, the only admissible evidence of record regarding the issue is Plaintiff's sworn declaration denying that he participated in any telephone conversation with Mr. Sussman on December 18, 2008, the date on which the FDIC claims the alleged agreement was reached. In short, there is a complete failure of proof. The FDIC also clouds the issue even further by asserting that Plaintiff "implicitly" agreed to limit the scope of his request or "acceded" to the FDIC's narrowing of his request "without objection." Combined Opposition to Plaintiff's Motion for Partial Summary Judgment and Reply in Support of FDIC's Motion for Summary Judgment ("FDIC's Opp.") at 5, 6.

Rather than presenting actual, admissible evidence of the alleged agreement, the FDIC tries to cobble together evidence of an explicit or implicit agreement by parsing various

statements made by Plaintiff in his Complaint and elsewhere. None of these statements prove that Plaintiff agreed to limit his request to the minutes of the September 29, 2008 meeting only:

- "To date, the FDIC has provided the requested documents...." Compl. at ¶ 4.

Not only is the statement taken out of context, but it in no way addresses the scope of the request, much less demonstrates an agreement to narrow the request. It ignores the remainder of the sentence, which states, "but the complete redaction of key, requested information is to such an extent as to eviscerate the usefulness of these documents and *thus what was provided does not represent the requested information from the initial FOIA request.*" *Id.* (emphasis added). It also ignores other factual assertions in the Complaint, such as the statements that "[t]he FDIC did not provide the information requested in the original FOIA request" and that "[t]he FDIC . . . [has] not provided the Requested Records to [Plaintiff] in a form that gives him the requested information." *Id.* at ¶¶ 26 and 38. Moreover, the Complaint also alleges that Mr. Sussman only informed Plaintiff that "the requested information would be most efficiently satisfied by securing the minutes of the FDIC Board Meeting ...." *Id.* at ¶ 23. Nowhere does the Complaint assert that Plaintiff agreed to narrow the scope of his request to the minutes only. Mr. Sussman's statement about how the FDIC might respond to the request does not constitute an agreement by Plaintiff to narrow the scope of the request, especially as the FDIC subsequently tried to withhold the minutes in their entirety. *Id.* at ¶¶ 24-26.

- "Mr. McKinley filed an appeal to the FDIC's General Counsel detailing his arguments [against] the decision to withhold the *minutes* in their entirety...." *Id.* at ¶ 25. Again, the statement is taken out of context and in no way addresses the scope of Plaintiff's request or evidences an agreement by Plaintiff to narrow the scope of his request.

- "McKinley's administrative appeal addresses *only* 'the decision to withhold *the noted minutes* in their entirety.'" January 28, 2009 Appeal Letter, attached as Exhibit 4 to the Declaration of Fredrick L. Fisch. Again, the statement is taken entirely out of context. In his administrative appeal letter, Plaintiff repeated his original November 18, 2008 request, which stated that he sought "any information available on this determination such as meeting minutes or supporting memos of how this determination was made."

- "... the January 27, 2009 email from Mr. Sussman ... makes clear that there was a lengthy exchange of telephone calls and emails as early as December 3, 2008, in which the scope of the FOIA request was discussed ...." January 26-27, 2009 email exchange between Plaintiff and Mr. Sussman, attached as Exhibit A to the Declaration of Vern McKinley. The email exchange shows no such thing. It references a single, specific telephone conversation between Plaintiff and Mr. Sussman on December 3, 2008 and a single, specific email from Mr. Sussman to Plaintiff on January 5, 2009.[3] *Id.* The remainder of the document does not detail any specific conversations or emails, but is an attempt by Mr. Sussman to reconstruct his recollection of his communications with Plaintiff. *Id.* It expressly states that on December 18, 2008, the date the FDIC alleges Plaintiff agreed to narrow the scope of his request, Mr. Sussman "left a *voice mail message* for [Plaintiff] in which [he] provided status advice to [Plaintiff]." *Id.* (emphasis added). The January 26-27, 2009 email exchange neither demonstrates nor evidences that Plaintiff ever agreed to narrow the scope of his original request.

Finally, the FDIC tacitly admits that it unilaterally limited the scope of Plaintiff's request to the minutes of the September 29, 2008 meeting only when it claims that Plaintiff "acceded to"

[3] The November 18, 2008 email referenced in the document refers to Plaintiff's November 18, 2008 request, which was served on the FDIC by email.

the narrowing of his request and when it faults Plaintiff for allegedly not objecting to this narrowing "until well after he filed this lawsuit." FDIC Opp. at 5. The FDIC's argument is belied by the email exchange between Plaintiff and Mr. Sussman on January 26-27, 2009. The email exchange took place well before the July 8, 2009 filing of the Complaint and represents an attempt by Plaintiff to pin down precisely when the FDIC claims he agreed to narrow the scope of his request. Moreover, in the Complaint itself, Plaintiff objects to the FDIC's failure to produce all of the requested information, not just the heavily redacted minutes. Compl. at ¶¶ 4, 22-28, and 38; *see also id.* at ¶¶ 40 and 43.

Because the FDIC did not conduct "a search reasonably calculated to uncover all relevant documents" but instead incorrectly claims that Plaintiff agreed to limit the scope of his request to the minutes of the September 29, 2008 meeting only, the FDIC must be compelled to conduct a proper search for *all* of the information Plaintiff requested, and Plaintiff is entitled to partial summary judgment regarding the inadequacy of the FDIC's original search. *Steinberg v. U.S. Dep't of Justice*, 23 F.3d 548, 551 (D.C. Cir. 1994), *quoting Weisberg v. U.S. Dep't of Justice*, 745 F.2d 1476, 1485 (D.C. Cir. 1984).

C. The FDIC Misconstrues the Burdens on FOIA Litigants.

The FDIC seriously misconstrues the parties' respective burdens on summary judgment in FOIA litigation. As Plaintiff demonstrated in his opening memorandum, FOIA generally requires complete disclosure of requested agency information unless the information falls into one of FOIA's nine clearly delineated exemptions. 5 U.S.C. § 552(b); *see also Department of Air Force v. Rose*, 425 U.S. 352, 360-61 (1976) (discussing the history and purpose of FOIA and the structure of FOIA exemptions). "[T]he strong presumption in favor of disclosure places the burden on the agency to justify the withholding of any requested documents." *United States*

Dep't of State v. Ray, 502 U.S. 164, 173 (1991). Consequently, it is the FDIC's burden, not Plaintiff's burden, to "prove that each document that falls within the class requested either has been produced, is unidentifiable, or is wholly exempt from the Act's inspection requirements." *Goland v. CIA*, 607 F.2d 339, 352 (D.C. Cir. 1978).

An agency can try to satisfy this burden by relying on affidavits that "describe the documents and the justifications for nondisclosure with reasonably specific detail" and "demonstrate that the information withheld logically falls within the claimed exemption." *Military Audit Project v. Casey,* 656 F.2d 724, 738 (D.C. Cir. 1981). Of course, if an agency's affidavits fail to demonstrate that the claimed exemptions apply as a matter of law, then the agency has failed to satisfy its burden and the presumption of disclosure requires that the requested information be produced. *Id.*; Fed.R.Civ.P. 56. While a requester may overcome an agency's summary judgment motion by controverting the agency's factual assertions or presenting evidence of agency bad faith, the requester certainly need not do so. *Id.* A requester may prevail simply by demonstrating that the agency has failed to satisfy its burden as a matter of law. *Id.* This is largely what Plaintiff argued in his opposition and cross-motion. The FDIC's declarations fail to establish as a matter of law that the FDIC is entitled to withhold the requested information. The FDIC's assertion that Plaintiff failed to present evidence that controverts its declarations, while factually incorrect, also seriously miscomprehends the parties' respective burdens on summary judgment in FOIA litigation.

D. The FDIC Improperly Withheld Information Pursuant to Exemption 4 of the Sunshine Act.

In his cross-motion, Plaintiff proved that, despite the FDIC's claim that certain information was protected from disclosure by Exemption 4 of the Sunshine Act, the FDIC failed

to present evidence demonstrating that the information had been provided to it "voluntarily." Consequently, Plaintiff argued that the FDIC had failed to satisfy its burden of demonstrating that Exemption 4 applies. The FDIC has now submitted a supplemental declaration in which it asserts that Citigroup, Wells Fargo, and Wachovia voluntarily submitted certain information to it as part of the bidding process for Wachovia. Suppl. Decl. of Christopher J. Spoth at ¶¶ 10-14. The FDIC's claim of exemption still fails.

In its original motion, the FDIC asserted that the information at issue consisted of "commercial or financial" information submitted to it by four institutions: Citigroup, Wells Fargo, Wachovia, and "one additional institution." Memorandum of Points and Authorities in Support of FDIC's Motion for Summary Judgment ("FDIC Mem.") at 9. While Mr. Spoth's supplemental declaration asserts that Citigroup, Wells Fargo, and Wachovia voluntarily provided information to the FDIC, the declaration makes no mention of the fourth, unidentified institution. There remains a complete failure of proof with respect to whether this fourth institution voluntarily submitted information to the FDIC. Despite ample opportunity, the agency has failed to satisfy its burden of proof with respect to its Exemption 4 claim over the information provided by this fourth institution.

Mr. Spoth's supplemental declaration also appears to be inconsistent with the FDIC's opening memorandum. In its memorandum, the FDIC asserted that the information at issue was "in large part" voluntarily provided to the agency. FDIC Mem. at 10. Mr. Spoth's supplemental declaration makes no such distinction. Consequently, it is at best unclear whether all of the information subject to the FDIC's Exemption 4 claim was voluntarily provided to the FDIC or whether only some portion of it was voluntarily provided. Like the failure of proof with respect to the fourth, unidentified institution, the FDIC still fails to satisfy its burden of proof with

respect to the information submitted by the other three institutions despite the submission of a second declaration by Mr. Spoth.

In addition, the FDIC also fails to satisfy its burden of proof with respect to the second element of an Exemption 4 claim regarding information "voluntarily" provided to an agency. Such information may be withheld only if it is the type of information not customarily disclosed to the public by the person who provided the information. *Critical Mass Energy Project v. NRC*, 975 F.2d 871, 879 (D.C. Cir. 1992). In his supplemental declaration, Mr. Spoth admits that information relating to bids "may be disclosed at a later time." Suppl. Decl. of Christopher J. Spoth at ¶ 9. It is only "at the time a bid is submitted and while it is under consideration" that the information is "closely held by both the FDIC and the bidder(s) and is not disclosed to the public." *Id.* Thus, according to the FDIC's own evidence, the type of information at issue is not kept from the public in perpetuity, but may be disclosed at some later date.[4] More than fifteen months have passed since the September 29, 2008 meeting at which the various bids were considered by the FDIC's Board of Directors. The FDIC acknowledges that none of the bids under consideration ever led to a consummated transaction. FDIC Mem. at 2, n.1. Consequently, there is no longer any reason to withhold the information at issue from Plaintiff or the public. The FDIC certainly has not demonstrated that a reason exists.

For the same reason, the FDIC cannot justify withholding the information at issue under *Nat'l Parks and Conservation Ass'n v. Morton*, 498 F.2d 765, 770 (D.C. Cir. 1974) ("*Nat'l Parks*"). Obviously, since the FDIC itself admits that the information "may be disclosed at a later time" when the bids are no longer under consideration (Suppl. Decl. of Christopher J. Spoth

[4] In this regard, because Wachovia is a publicly traded entity, SEC rules would have required it to report in publicly disclosed filings whether it was close to failure. *See* Declaration of Jean Helwege, attached hereto as Exhibit A ("Helwege Decl.").

at ¶ 9), the FDIC cannot legitimately claim that disclosure will likely impair the FDIC's ability to resolve troubled financial institutions. *Nat'l Parks*, 498 F.2d at 770. Nor for this same reason can the FDIC legitimately claim that the bidders are likely to suffer substantial competitive harm if the information at issue is made public, although Plaintiff submits that none of the three declarations submitted by the FDIC establishes that the bidders would likely suffer any competitive harm, much less substantial competitive harm, if the withheld information were disclosed. *Id.*

Because the FDIC has failed to satisfy its burden of proof with respect to Exemption 4, Plaintiff is entitled to partial summary judgment with respect to the FDIC's withholdings under Exemption 4.

E. The FDIC's Exemption 8 Withholdings Place All of Its Redactions in Doubt.

Plaintiff does not concede that redaction of Exemption 8 material is proper. Plaintiff concedes that it *may* be proper to redact information pursuant to Exemption 8 in certain circumstances. However, as Plaintiff demonstrated in his opening memorandum, inconsistencies in the FDIC's application of Exemption 8 place all of its redactions in doubt. The FDIC's meek attempt to rebut this conclusion is incomprehensible. Contrary to the FDIC's claim, the "glimpse" into the types of information the FDIC seeks to withhold from Plaintiff and the public, as demonstrated by the FDIC's inconsistent Exemption 8 redactions to the draft and final versions of the FDIC's September 29, 2008 board resolution, raises substantial doubt that the FDIC is withholding this information properly.

F. The FDIC Continues to Improperly Withhold Information Under Sunshine Act Exemption 9(A)(ii).

In his opening memorandum, Plaintiff demonstrated that the FDIC failed to present sufficient evidence to justify its Exemption 9(A)(ii) withholdings as a matter of law. Plaintiff also demonstrated that, in many instances, the FDIC's descriptions of the withheld information did not appear to have any direct connection to "currently open and operating" financial institutions. The FDIC did not even try to rebut this latter showing.

The FDIC's argument with respect to Plaintiff's first argument epitomizes its erroneous reversal of the burden of proof in FOIA litigation. *See* Section II(C), *supra*. Plaintiff need not present evidence to rebut the FDIC's allegedly undisputed facts if those facts are insufficient to sustain the FDIC's burden as a matter of law. Even after having yet another opportunity to establish a sufficient factual predicate for its legal argument, however, the FDIC's "facts" are simply too generalized and conclusory to satisfy its substantial burden of demonstrating that "premature disclosure" of the information at issue would "be likely to ... significantly endanger the stability of any financial institution." 5 U.S.C. § 552b(c)(9)(A)(ii).

In this regard, the FDIC boldly asserts that "[t]he Spoth Declaration is very clear and very specific in stating the likely consequences of release of the information withheld under Sunshine Act exemption 9(A)(ii)." FDIC Opp. at 14. It is not. Mr. Spoth's declaration provided only the following cursory and conclusory assertions about the alleged harm that will result if the FDIC discloses information about why it was prepared to extend billions of dollars worth of financial assistance for a transaction that ultimately was never consummated:

> The presentations to the FDIC Board at the Wachovia Board meeting included information about banks that are currently open and operating, and information about financial and economic factors that are critical to the health of a large number of financial institutions. The information that influenced the Board's

> decision concerning the resolution of Wachovia is likewise relevant to institutions that are currently open and operating. Disclosure of this information now is likely to cause depositors, investors, businesses, other banks and the public to call into question the viability of institutions susceptible to weakness the FDIC Board identified and considered significant in resolving Wachovia. At a time when more than 400 banks are identified as "troubled" and the industry remains unsettled, the resulting loss of confidence in what are currently open institutions creates significant risk of failure.
>
> The Wachovia Board Minutes and the Wachovia Case Memorandum include detailed analyses and opinions based on confidential financial information concerning open FDIC-insured financial institutions. The Board Minutes also reflect blunt observations and candid debate by the FDIC Board and staff as they considered the best method for resolving Wachovia. Public release of this information would generate news stories, commentary, speculation, and advice about the institutions mentioned in the Wachovia Board Minutes and in the Wachovia Board Case, the FDIC's outlook on the industry and what the FDIC might do in the future. In the current environment, with more financial institutions failing, and many others in troubled condition, disclosure would effectively undermine confidence, adversely affect decision-making by banks, investors, and depositors, impair the bank resolution process, and create a real and substantial risk of destabilizing healthy institutions and causing troubled institutions to fail.

Decl. of Christopher J. Spoth at ¶ ¶ 28, 29. Not only is Mr. Spoth's declaration too generalized and too conclusory to support the FDIC's substantial burden under Exemption 9(A)(ii), but its claim that the simple act of revealing the details of the FDIC's deliberations from fifteen months ago would somehow lead to the catastrophic results he suggests is nothing more than idle speculation. Indeed, revealing the basis for the SEC's determination – that open bank assistance was necessary because of the systemic risk that would have resulted from Wachovia's failure – would increase public confidence by maximizing the information available to investors, financial institutions, other market participants, and the general public. Helwege Decl. ¶¶ 5-17. Similarly, a maximization of available information would decrease market uncertainty.

The FDIC belittles Plaintiff's citation of the historical example of Continental Illinois National Bank ("Continental') from "25 years ago." FDIC Opp. at 14. It is noteworthy,

however, that the FDIC apparently cannot cite a single example from the history of the FDIC,[5] the financial history of the United States generally, or the history of a financial system outside of the United States, where the release of information about the basis for open bank assistance provided by a government regulator caused such drastic consequences. By contrast, Plaintiff offered the example of Continental to show that such harm did not result in the most recent historical case that arose under analogous circumstances. In the case of Continental, the FDIC was presented with an institution that was collapsing in the midst of a financial crisis. Decl. of Vern McKinley at ¶ 14. The FDIC considered various alternatives and then took decisive action in providing open bank assistance. *Id.* A few months later, the FDIC Chairman openly discussed those deliberations as detailed in the meeting minutes and related memoranda. *Id.* at ¶ 18.

Plaintiff does not assert, as the FDIC disingenuously contends, that the FDIC must present evidence demonstrating that the release of information about the open bank assistance it provided to Continental twenty-five years ago undermined the stability of a financial institution at that time. FDIC Opp. at 14. Plaintiff does assert that, more than fifteen months after voting to provide billions of dollars worth of open bank assistance to Wachovia, the FDIC must present more than the boilerplate, conclusory allegations of harm contained in Mr. Spoth's declaration if it is to satisfy its burden of proof under Exemption 9(A)(ii). Because the FDIC has failed to demonstrate, despite having substantial ample opportunity to do so, that the disclosure of the requested information at this time is "premature" and will "significantly endanger the stability of

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[5] On its public website, the FDIC touts its more than seventy-five years of resolving problem banks. *See* http://www.fdic.gov/anniversary/, which highlights details of the history of the FDIC on the 75th anniversary of the FDIC which was celebrated in 2008. The FDIC has possessed the open bank assistance power at issue here for nearly sixty years of that history.

any financial institution," the Court should grant partial summary judgment in Plaintiff's favor and require the release of the withheld information.

G The FDIC's Withholding of Nearly All of the Case Memorandum Is Improper.

Try as it might, the FDIC cannot avoid the plain language of the minutes of the September 29, 2008 meeting, which clearly states that the Case Memorandum is a part of the minutes. FDIC Mem., Ex. 6 at 56409. FOIA Exemption 5 does not apply to the Case Memorandum.

Even if it did, however, the FDIC still has failed to satisfy its burden of proving that the Case Memorandum is being withheld properly under the deliberative process exemption. The FDIC boldly admits that it has not even attempted to make a showing of harm to the decision-making process because, it asserts, "no such requirement exists." FDIC Opp. at 15. The FDIC is wrong on the law. As Plaintiff demonstrated in his opening memorandum, "[t]he deliberative process exemption exists to prevent injury to agency decision-making" and "such harm can not be merely presumed." *Judicial Watch, Inc. v. U.S. Postal Service*, 297 F. Supp.2d 252, 259 (D.D.C. 2004), *citing Mead Data Central, Inc. v. U.S. Dep't of the Air Force*, 566 F.2d 242, 258 (D.C. Cir. 1977) ("An agency cannot meet its statutory burden of justification by conclusory allegations of possible harm"). "The pertinent issue is what harm, if any, the [document's] release would do to [an agency's] deliberative process." *Formaldehyde Inst. v. Dep't of Health & Human Serv.*, 889 F.2d 1118, 1123-24 (D.C. Cir. 1989) (noting that the agency submitted a declaration to establish the harm that would result from disclosure). Because the FDIC did not even attempt to establish that its decision-making process would be harmed if the Case Memorandum were disclosed to Plaintiff and the public, it has not satisfied its burden of proof

with respect to Exemption 5, and partial summary judgment should be granted in Plaintiff's favor with respect to the Case Memorandum.[6]

H. The FDIC Has Failed to Meet Its Segregability Burden.

Like many of its other responses to Plaintiff's arguments, the FDIC's response to Plaintiff's segregability argument is little more than a brazen denial. It baldly claims that "even a cursory review of the documents released" shows it disclosed all reasonably segregable information. FDIC Opp. at 16. It provides no declaration to this effect, and, the FDIC's "cursory review" notwithstanding (*see id.*), the records produced by the FDIC to date have been redacted so heavily that they fail to provide any information about the basis for the FDIC's September 29, 2008 action, which is the information Plaintiff's November 18, 2008 request expressly sought. They are essentially meaningless. The minutes have been redacted so that, on many pages, only the names of speakers appear. *See, e.g.*, FDIC Mem., Ex. 6 at 56400 ("Mr. Browne then said [redacted];" "Mr. Browne said that [redacted]"), 56401 ("In addition, Mr. Browne stated that [redacted];" "Mr. Browne set out [redacted];" "Then, Mr. Browne expressed [redacted]"), 56404 ("Director Reich then inquired whether [redacted];" "In response to Director Reich's question [redacted]"), 56405 ("Chairman Bair then [redacted]"). Eight pages of the thirteen-page Case Memorandum, including three and a half solid pages of information that contains the entire discussion of systemic risk that lies at the heart of Plaintiff's request, have been redacted in their entirety. FDIC Mem., Ex. 8 at 4-6, 9-12. As none of the requested

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[6] Similarly, the FDIC did not even try to rebut Plaintiff's showing that many of the FDIC's descriptions of its redactions to the Case Memorandum appear to be of a factual or historical nature, and, therefore, cannot be deliberative.

information has been disclosed, it cannot be said that all reasonably segregable, non-exempt information has been disclosed. *Mead Data Central*, 566 F.2d at 260.

IV. Conclusion.

For the foregoing reasons, partial summary judgment should be entered in Plaintiff's favor.

Dated: January 6, 2010

Respectfully submitted,

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Exhibit A

I, JEAN HELWEGE, declare as follows:

1. I submit this declaration in support of Plaintiff Vern McKinley's reply to opposition to Defendant's Motion for Summary Judgment. I make this declaration on my own personal knowledge, except as to matters expressly stated to be upon information and belief, and as to those, I believe them to be true.

I. Presentation of Credentials and Experience in Academia and Government

2. As of January 1, 2010 I am a Professor of Finance at the University of South Carolina. Prior to accepting that appointment, I held the position of Associate Professor of Finance at the Pennsylvania State University. From 2004 to 2006, I was an Associate Professor of Finance at the University of Arizona. I was an Assistant Professor of Finance at Ohio State University from 1998 to 2004. I also served as a Senior Economist at the Federal Reserve Bank of New York from 1994 to 1998, and an Economist at the Federal Reserve Board from 1988 to 1994. I earned my Ph.D. in economics at U.C.L.A. in 1989.

3. Much of my teaching has been related to financial institutions. My research has emphasized credit risk, financial distress, securities issuance, and systemic risk. My research has been published in the profession's most competitive journals, including the *Journal of Finance*, the *Review of Financial Studies* and the *Journal of Financial Economics*. From 2005-2007, I served as Associate Editor of the *Review of Financial Studies*. I have authored more than 20 academic publications and have presented my findings at numerous academic meetings and universities. I also have received several research grants, including one from the National Science Foundation. My Curriculum Vitae is attached as Exhibit 1.

II. Discussion of the Information Sought by Vern McKinley

4. Vern McKinley requested the release of the FDIC Board's discussions of the open bank assistance acquisition of Wachovia by Citigroup in September 2008. This acquisition was considered so important that it involved the President of the United States. Its importance stemmed from the fact that "the Federal Reserve and FDIC determined that open bank assistance was necessary to avoid serious adverse effects on economic conditions and financial stability."[1] In addition to discussion of the three specific institutions (Wachovia, Citigroup and Wells Fargo) as bidders and target in an acquisition, the presentations to the Board and discussions centered on "the state of the economy, pressures on financial markets and the banking industry, the effects on investors from the failure of a large institution, the short-term and long-term economic effects of such a failure nationally and internationally, the confidence levels of depositors, the confidence levels of businesses and households, and the economic effects of particular options for resolution of Wachovia."[2] The FDIC states that the discussions of its board in the matter of Wachovia/Wells Fargo/Citigroup include "information about financial and economic factors that are critical to the health of a large number of financial institutions," but it holds the view that "[d]isclosure of this information now is likely to cause depositors, investors, businesses, other banks and the public to call into question the viability of institutions susceptible to weaknesses the FDIC Board identified and considered significant in resolving Wachovia."[3] It further states that "[i]n the current environment, with more financial institutions failing and many others in troubled condition, disclosure would effectively undermine confidence; adversely affect decision-

[1] FDIC press release on September 29, 2008, "Citigroup Inc. to Acquire Banking Operations of Wachovia"
[2] Spoth declaration, pp. 6.
[3] Spoth declaration, pp. 7.

making by banks, investors and depositors; impair the bank resolution process; and create a real and substantial risk of destabilizing healthy institutions and causing troubled institutions to fail."[4]

III. Discussion of the FDIC's Argument Against Disclosure of the Information Sought by Vern McKinley

A. "Disclosure would effectively undermine confidence"

5. The FDIC states that "[t]he 'systemic risk exception' permitted the Board in concurrence with FRB ... to provide financial assistance to Citibank in its acquisition of Wachovia and, therefore, avoid serious adverse economic effects posed by Wachovia's imminent failure."[5] Given that the FDIC considered Wachovia's demise imminent, it follows that the FDIC either considered Wachovia insolvent, as a result of a sudden drop in asset value, or the bank's regulators were following Prompt Corrective Action (PCA) rules enacted in FDICIA in 1991 as they observed Wachovia slowly eating through its equity capital. According to PCA, an undercapitalized institution such as Wachovia must show a plan to return to regulatory mandated capital levels or be subject to closure or forced into a merger with a stronger bank.

6. If PCA was in play and the Wells Fargo and Citibank bids were part of a merger plan with a solvent Wachovia, all debts of Wachovia would have been covered by the bank's own assets. Thus assistance from the FDIC was not necessary and the FDIC insurance fund would not contribute any money to Wachovia's depositors. Then revealing information about the resolution of this bank should not have had a negative effect on confidence. Confidence declines when creditors are concerned that the

[4] Spoth declaration , p. 8.
[5] Spoth declaration, p. 5-6.

borrower will not repay the debts owed. In the case of PCA, all Wachovia's creditors had reason to believe they would be paid in full because the bank had sufficient value to repay all its debts, including those without deposit insurance. Thus the FDIC's assertion that revealing the details of the negotiations would lead to destabilization of financial institutions is not valid if the Federal Reserve was following PCA rules for Wachovia.

7. Investors base their confidence on financial information that is normally made public. Wachovia, like all other banks, is required to file reports with regulators on a quarterly basis describing the level of equity in the firm. If the FDIC has information that invalidates these reports, they should be corrected and Wachovia should be punished for concealing information to regulators and shareholders. If Wachovia's reports are truthful then the opinion of the FDIC, Wells Fargo and Citigroup about Wachovia's solvency should be considered information that is routinely made public. If the FDIC and the Federal Reserve considered Wachovia to be close to failure, Wachovia should have reported this information in its filings with the SEC, as it is a publicly traded company and SEC rules require the disclosure of such material events. The fact that regulators were pursuing a resolution with open bank assistance is an important consideration for existing and future shareholders and failure to reveal the details of this highly risky situation to shareholders is a violation of SEC regulations.

B. "Disclosure would ...adversely affect decision-making by banks"

8. The most important decision a bank makes when it is close to failure is how and whether to raise capital. If its regulators deemed Wachovia to be solvent and capable of paying off all its debts with positive capital remaining, stating this view to the public would have not have hurt Wachovia's ability to raise capital in the securities market. No

more severe outcome could come to pass for a firm than to cease to exist. Wachovia had the opportunity to avoid this dire outcome by injecting new equity into the bank, which it might have done had investors had sufficient confidence to believe new equity would earn a positive return. In contrast, if Wachovia were insolvent, new equity would simply bail out creditors (Myers 1977) and no investor would choose to supply such equity.[6]

9. Financial research highlights the role of information problems in raising external capital. Myers and Majluf (1984) argue that private information prevents firms from issuing equity to the public.[7] Because investors do not know whether they are buying appropriately valued equity and the issuer has the incentive to sell overvalued equity to the public, issuance markets break down and few firms issue equity. Empirical research on banks (Cornett and Tehranian (1994), Cornett, Mehran, and Tehranian (1998) and Krishnan, Ergungor, Laux, Singh and Zebedee (2009)) finds that banks suffer less from this problem because they are under pressure to meet regulations and often issue equity even when it is undervalued.[8] Nonetheless, banks are not immune to these information problems. If regulators would improve investors' understanding, banks would be better

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[6]See Stewart C. Myers, "Determinants of Corporate Borrowing," *Journal of Financial Economics* 1977, 5, 147-175

[7] See Stewart C. Myers and Nicholas S. Majluf, "Corporate Financing and Investment Decisions When Firms Have Information that Investors Do Not Have," *Journal of Financial Economics* 1984, 13, 187-221.

[8] See Marcia M. Cornett and Hassan Tehranian, "An Examination of Voluntary Versus Involuntary Security Issuances by Commercial Banks: The Impact of Capital Regulations on Common Stock Returns," *Journal of Financial Economics*, 1994, 99-122;, Marcia M. Cornett, Hamid Mehran and Hassan Tehranian, "Are Financial Markets Overly Optimistic About the Prospects of Firms That Issue Equity? Evidence From Voluntary Versus Involuntary Equity Issuances By Banks," *Journal of Finance*, 1998, 53, 2139-2160; and C.N.V. Krishnan, O. Emre Ergungo, Paul A. Laux, Ajai K. Singh and Allan A. Zebedee, "Examining Bank SEOs: Are Offerings Made by Undercapitalized Banks Different?," forthcoming *Journal of Financial Intermediation.*

able to issue equity. Had the FDIC and the Fed revealed the belief that Wachovia was capable of repaying all its debts, customers would have had increased confidence in Wachovia and a successful seasoned equity offering would be more likely.

10. By not revealing positive information about the solvency of Wachovia, regulators by default bolstered the competitive position of Citigroup. Citigroup was aided by the FDIC when it was deemed healthy enough to be awarded the winning bid. Citigroup was in reality a firm that itself should have received a PCA directive, given the government's assistance to the bank only a few months later. Failure to provide justification for the intended Wachovia/Citigroup merger calls into question the validity of the regulatory oversight of these three banks. The FDIC should have been able to see earlier in the process that Citigroup was not capable of supplying the necessary capital to restore Wachovia's equity to the level required by bank regulations and therefore was not a viable bidder in the resolution process.

11. The FDIC's decision to use open bank assistance on Wachovia over the course of only a few days suggests that regulators viewed Wachovia as insolvent and losing value at a rapid pace. Thus the announcement of the agreement aggravated investors' concerns about the health of Wachovia and banks in general. Instead of highlighting Wachovia's ability to repay all its debts on its own, the FDIC made it clear that it viewed the bank as not just woefully undercapitalized but unable to provide value to an acquirer without FDIC funds. Nothing could be more harmful to a bank's reputation or more destructive of confidence.

12. The FDIC's concern about the large number of failing banks in the current environment could be assuaged by more private capital injections into banks, which

would occur if the Fed and the FDIC would reduce uncertainty. In considering whether to invest in banks, investors will discount earnings more heavily if they are unable to predict the outcome with confidence. The greater the discounting of bank securities, the harder it is to issue capital.

13. Uncertainty surrounding the value of bank securities is related to both fundamentals and policy. If investors are told Wachovia is insolvent they also learn about the value of other banks' fundamentals, as most banks hold similar portfolios. For example, Fenn and Cole (1994) show that other insurance companies stocks react to the information content revealed by the failure of a large insurer with similar assets.[9] Subrahmanyam and Titman (1999) argue that greater information, in either direction, increases the precision of firm value estimates and thereby lowers the cost of capital.[10]

14. Release of information about the bids from Wells Fargo and Citigroup would shed light on the important topic of how the government views systemic risk, which also affects the pricing of bank securities. Flannery and Sorescu (1996) show that bank bonds are priced to reflect the likelihood of a government bailout.[11] Ordinarily, the more likely the bank is to fail due to fundamentals the higher the spread. However in periods when bailouts are common, they found bank bond spreads did not reflect the banks' underlying risks. Recent Fed decisions suggest that too big to fail policy is again in place, reducing

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[9] See George R. Fenn and Rebel A. Cole, "Announcements of Asset-Quality Problems and Contagion Effects in the Life Insurance Industry," *Journal of Financial Economics*, 1994, 35, 181-198.

[10] See Avanidhar Subrahmanyam and Sheridan Titman, "The Going-Public Decision and the Development of Financial Markets," *Journal of Finance* 1999, 54, 1045-1082.

[11] See Mark J. Flannery, Mark J. and Sorin M. Sorescu, "Evidence of Bank Market Discipline in Subordinated Debenture Yields: 1983-1991," *Journal of Finance*, 1996, 51, 1347-1377.

the required spreads on bank's subordinated debt. However, bailout policy has not been consistent. In one week the Fed gave aid to AIG but none to Lehman. This uncertainty about policy increases investor risk. If the FDIC and Federal Reserve would detail their logic regarding Wells Fargo, Wachovia and Citigroup, investors could be more confident they understand when their debt capital is at risk and they would be willing to accept a lower yield. Banks would then overall be in a stronger position to raise new capital.

15. Whether banks are raising equity or debt capital, the greater the information problems the more costly the funding. The FDIC and the Fed aggravate such problems by hiding their reasoning in the rescues of large banks. Banks find it difficult to ease out from under the pressures of the subprime crisis and recapitalize because of the uncertainty surrounding their solvency and government policy. Investors do not know the true state of the firm's health, so they require a risk premium for the possibility that they are buying severely overpriced securities.

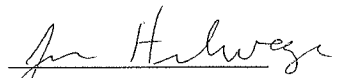
C. "Open bank assistance was necessary to avoid serious adverse effects on economic conditions and financial stability"

16. The FDIC states that Wachovia would have posed a systemic risk if it was not resolved via open bank assistance, but they have not made clear how they define systemic risk or how they apply this abstract concept to specific banks. Understanding how systemic risk is defined would allow market participants and competing banks to better predict the circumstances under which banks would receive government assistance, which in turn would reduce the uncertainty regarding raising new capital.

17. The FDIC has presented no evidence to support their contention that Wachovia would have caused systemic problems had it been allowed to fail. The claim that its

failure would destabilize financial institutions is without merit. Wachovia's failure would not lead other institutions to suffer financially in any material way, as the degree of interconnectedness in banking is very small. Helwege (2010) points out financial firms are well diversified, as both good business practices and regulations lead them to limit their exposure to other institutions.[12] Thus, the idea that Wachovia's failure might bring down other institutions is not based on the logic employed by competitive financial institutions. As Jorion and Zhang (2009) show in their study of bankruptcies, few failures cause other firms to fail as most creditors limit their exposure to the bankrupt firm.[13] Consistent with the findings of Hertzel, Li, Officer and Rodgers (2008), they find the most concentrated exposures lie with nonfinancial firms, such as suppliers to manufacturers.[14] The FDIC has not shown any connection between Wachovia's failure and costs to the real economy. The most likely path, if it exists, is through reduced confidence. The FDIC could reduce this problem by revealing the true extent of Wachovia's capital position and explaining why a firm supposedly in need of government aid was purchased only days later at a positive equity value and no assistance.

I declare under the penalty of perjury that the foregoing is true and correct. Executed in Columbia, South Carolina on this __5th_ day of January 2010.



Jean Helwege

[12] See Jean Helwege, "Financial Firm Bankruptcy and Systemic Risk," *Journal of International Financial Markets, Institutions and Money*, 2010, 20, 1-12

[13] See Phillippe Jorion and Gaiyan Zhang, "Credit Contagion from Counterparty Risk," *Journal of Finance*, 2009, 64, 2053-2087.

[14] See Michael G. Hertzel, Zhi Li, Micah S. Officer and Kimberly J. Rodgers, "Interfirm Linkages and the Wealth Effects of Financial Distress along the Supply Chain," *Journal of Financial Economics,* 2008, 87, 374-387.

EXHIBIT 1

JEAN HELWEGE

Education:

Ph.D., University of California at Los Angeles, Economics, 1989
M.A., University of California at Los Angeles, Economics, 1985
B.A., University of Chicago, Linguistics, 1980

Experience:

J. Henry Fellers Professor of Business Administration, University of South Carolina (2010-)
Associate Professor, Pennsylvania State University (2006-2009)
Associate Professor, University of Arizona (2004-2006)
Assistant Professor, Ohio State University (1998-2004)
Adjunct Professor, Rutgers University (Summer 1998)
Senior Economist, Federal Reserve Bank of New York (1994-1998)
Economist, Federal Reserve Board (1988-1994)

Publications:

Financial Firm Bankruptcy and Systemic Risk, *Journal of International Financial Markets, Institutions and Money*, 2010

Comment on "Regulate OTC Derivatives by Deregulating Them" by Lynn A. Stout, *Regulation*, 2009

Credit Default Swap Auctions and Price Discovery, *Journal of Fixed Income,* 2009

Financial Firm Bankruptcy and Systemic Risk, *Regulation*, 2009

Private Matters (with Frank Packer), *Journal of Financial Intermediation*, 2008

Forced Selling of Fallen Angels (with Brent Ambrose and Nianyun "Kelly" Cai), *Journal of Fixed Income,* 2008

Underpricing in the Corporate Bond Market (with Nianyun "Kelly" Cai and Arthur Warga), *Review of Financial Studies,* 2007

Why Do Firms Become Widely Held? An Analysis of the Dynamics of Corporate Ownership (with Christo Pirinsky and René Stulz), *Journal of Finance,* 2007

Initial Public Offerings in Hot and Cold Markets (with Nellie Liang), *Journal of Financial and Quantitative Analysis,* 2004

Structural Models of Corporate Bond Pricing: An Empirical Analysis (with Young Ho Eom and Jing-zhi Huang), *Review of Financial Studies,* 2004

The Determinants of the Choice of Bankruptcy Procedure in Japan (with Frank Packer), *Journal of Financial Intermediation*, 2003

The Slope of the Credit Yield Curve For Speculative-Grade Issuers (with Christopher Turner), *Journal of Finance,* 1999

How Long Do Junk Bonds Spend in Default? *Journal of Finance,* 1999

The Pricing of High-Yield Debt IPOs (with Paul Kleiman), *Journal of Fixed Income,* 1998

Understanding High Yield Bond Default Rates (with Paul Kleiman) *Journal of Fixed Income,* 1997

Stock Market Valuation Indicators: Is This Time Different? (with David Laster and Kevin Cole), *Financial Analysts Journal*, 1996

Financing Firm Growth After the IPO (with Nellie Liang), *Journal of Applied Corporate*

Finance, 1996
Determinants of S&L Failure Rates: Estimates of a Time-Varying Proportional Hazard Function, *Journal of Financial Services Research,* 1996
Is There a Pecking Order? Evidence from a Panel of IPO Firms (with Nellie Liang), *Journal of Financial Economics*, 1996
Alternative Tests of Agency Theories of Callable Corporate Bonds (with Leland Crabbe), *Financial Management*, 1994
The (Dis) Similarity of Interindustry Wage Differentials in Germany and the United States (with Joachim Wagner), *Jahrbucher fur Nationalokonomie und Statistik,* 1994
Sectoral Shocks and Interindustry Wage Differentials, *Journal of Labor Economics,* 1992

Working Papers:

Is Event Risk Priced? Modeling Contagion via the Updating of Beliefs (with Pierre Collin-Dufresne and Robert Goldstein)
Foreign Currency Exposure and Hedging: Evidence from Foreign Acquisitions (with Söhnke Bartram and Natasha Burns)
Voting with their Feet or Activism? Institutional Investors' Impact on CEO Turnover (with Vincent Intintoli and Andrew Zhang)
Fallen Angels and Price Pressure (with Brent Ambrose and Nianyun "Kelly" Cai)

Conference Participation:

American Finance Association (Presenter, 1/10, 1/98, 1/95 and 1/94; Session Chair, 1/09; Discussant, 1/06, 1/05, 1/04 and 1/02)
Annual Conference on Financial Economics and Accounting (Presenter 11/09; Discussant, 11/04)
Northern Finance Association (Presenter, 9/09; Discussant, 9/09 and 9/08)
New York Accounting and Finance Forum (Presenter, 09/09 and 09/08)
Simon Fraser/Bank of Canada Conference on Financial Stability (Presenter, 07/09)
Western Finance Association (Discussant, 6/09; Session Chair, 6/05; Presenter, 6/01 and 6/94)
Mitsui Life University of Michigan Conference (Discussant, 6/09)
FDIC Derivatives Conference (Presenter, 4/09)
Florida State University SunTrust Bank Spring Beach Conference (Presenter, 4/09)
Financial Management Association (Presenter and discussant, 10/08, 10/03, 10/96, and 10/95; Discussant, 10/06 and 10/02 ; Session Chair and discussant, 10/05; Presenter, 10/01, 10/00, 10/98, 10/94 and 10/93)
Swiss National Bank/CEPR Exchange Rate Conference (Presenter, 09/08)
Financial Intermediation Research Society (Discussant, 6/08)
Moody's Credit Risk Conference (Discussant, 5/08 and 5/05)
Midwest Finance Association (Fixed Income Track Chair, presenter and discussant, 2/08)
U.S. Treasury Conference on Corporate Bond Yield Curve (Roundtable participant, 7/07)
Federal Reserve Board Credit Risk Conference (Discussant, 3/07)
American Economics Association (Discussant, 1/07)
American Real Estate and Urban Economics Association (Discussant 1/02 and 1/07)
FDIC Annual Banking Conference (Discussant, 9/06)
European Finance Association (Discussant, 8/06)

University of Manitoba Conference (Presenter, 3/05)
Bank for International Settlements Credit Risk Conference (Discussant, 9/04)
National Forum on Corporate Finance (5/03)
First Yale SOM Conference on Young Firms (Presenter, 4/02)
Milken Institute-UCLA conference on the S&L Crisis (Roundtable participant, 1/02)
Association of Financial Economists (Discussant, 1/99)
Berkeley Program in Finance (Presenter, 8/98)
New York Federal Reserve's Latin American Central Bankers Conference (Presenter, 4/97)

Awards, Honors, and Grants:

2009 Smeal Research Grant
2008, 2005 Smeal Small Research Grant
2005 National Science Foundation, research grant (with George Theocharides)
2003, 2002 Fisher College of Business Dean's Summer Research Fellowship
2002, 2000, 1999 Fisher College of Business Small Research Grant
2001 Best Fixed Income Paper Award, FMA meetings
1999 Nominated for Smith Breeden Prize (with Turner)
1995 Best Fixed Income Paper Award, FMA meetings
1993 Best Fixed Income Paper Award, FMA meetings
1988 National Institutes on Aging, research grant
1987 Sloan Foundation, research grant

Invited Seminars:

Wilfred Laurier University (11/09), University of South Carolina (12/09, 5/09), New York Federal Reserve Bank (5/08, 3/99, 5/97, 9/96, 5/96, 9/94), UT San Antonio (4/08), Temple (11/07), HEC Montreal (10/07), Kansas (5/07), UC Irvine (5/06), Bank for International Settlements (3/06, 6/02), Carnegie Mellon University (11/05), George Mason University (9/05), Arizona State University (9/05), University of Manitoba (8/05), Ohio State University (4/04, 4/03, 7/00, 2/00,4/98), University of Western Ontario (12/03), University of Toronto (11/03), Indiana University (11/03), University of Arizona (10/03, 11/00), San Francisco Federal Reserve Bank (3/03), Federal Deposit Insurance Corporation (1/03), University of Houston (11/02), University of North Carolina (9/02), Pennsylvania State University (11/01), Cleveland Federal Reserve (10/00), University of Cincinnati (4/00), University of Kentucky (12/99), Rutgers University (9/97), University of Wisconsin at Milwaukee (3/97), Georgetown University (9/93), Federal Reserve Board (9/93, 2/88), Southern Methodist University (5/93), University of Pittsburgh (4/93), Dallas Federal Reserve Bank (2/88), Colgate University (1/88), Eastern Michigan University (1/88), St. Louis Federal Reserve Bank (3/88), UCLA (8/87)

Professional Service:

Associate Editor (2007-), *Journal of Financial Services Research*
Associate Editor (2005-2008), *Review of Financial Studies*
Associate Editor (1997-1999), *Financial Management*
Associate Editor (1998-2005), *Journal of Economics and Business*
Academic Director (2006-2008), Financial Management Association
Practitioner Director (1997-1999), Financial Management Association

Chair of the practitioner directors (1998)
Program Committee, Western Finance Association (2003- 2010)
Program Committee, Financial Management Association (2002)
Track Chair, Financial Management Association (2004)
Track Chair, Midwest Finance Association (2008)
Organizer, Women's Breakfast, Financial Management Association (2007)
Standard & Poor's Academic Council (2004-2007)
The Ph.D. Project, recruiting fair 2004
External Reviewer: University of Melbourne (2007, Iain Maclachlan) and University of Manitoba (2005, by Ilona Shiller)

Referee for *American Economic Review, Applied Financial Economics, Canadian Journal of Economics, Economic Inquiry, Engineering Economist, European Finance Review, Financial Management, Financial Review, Government of Canada (SSHRC), IMF Staff Studies, Journal of Banking and Finance, Journal of Corporate Finance, Journal of Economics and Management Strategy, Journal of Finance, Journal of Financial and Quantitative Analysis, Journal of Financial Economics, Journal of Financial Intermediation, Journal of Financial Research, Journal of Financial Services Research, Journal of Futures Markets, Journal of International Money and Finance, Journal of Money, Credit and Banking, Journal of Real Estate Finance and Economics, Journal of Risk and Insurance, Pacific Basin Finance Journal, Quantitative Finance, Review of Finance,* and *Review of Financial Studies.*

Ph.D. Dissertation Committees

Chair:

George Theocharides (2006), Emmanuel Morales (2006)

Committee member:

Marco Rossi (expected 2010), Andrew Zhang (2008), Ying Wang (2008), James Huang (2008), Natasha Burns (2003), Nicole Boyson (2003), Jin Hsieh (2002), Heli Wang (2002, Strategy), Christo Pirinsky (2001), Jan Jindra (2000)