

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK
APPELLATE DIVISION, FIRST DEPARTMENT

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BENJAMIN A. PACE III and LAWRENCE B.
WEISSMAN,

Petitioners-Appellants,

-against-

DEUTSCHE BANK SECURITIES INC., DEUTSCHE
BANK TRUST CORPORATION, DEUTSCHE
INVESTMENT MANAGEMENT AMERICAS INC.,
and DEUTSCHE BANK TRUST COMPANY
AMERICAS,

Respondents-Respondents

Index No. 651623/2014

I.A.S. Part

Hon. Marcy S. Friedman

PREARGUMENT STATEMENT

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PLEASE TAKE NOTICE THAT, the above named Petitioners-Appellants,
Benjamin A. Pace III and Lawrence B. Weissman, by and through their attorneys Vladeck,
Waldman, Elias, & Engelhard, P.C., submit the following as their pre-argument statement
pursuant to Rule 600.17 of the Supreme Court, Appellate Division – First Department, in
connection with their appeal in the above-titled action:

1. Title of the Action: The title of the action is set forth in the caption.
2. Original Parties to the Action: The full names of the Petitioners-Appellants are Benjamin A. Pace III and Lawrence B. Weissman. The full names of the Respondents-Respondents are Deutsche Bank Securities Inc., Deutsche Bank Trust Corporation, Deutsche Investment Management Americas Inc., and Deutsche Bank Trust Company Americas. There has been no change in the parties.
3. Counsel for Petitioners-Appellants: Counsel for Petitioners-Appellants are Debra L. Raskin, Valdi Licul and Jungmin Cho, Vladeck Waldman Elias & Engelhard, P.C.,

1501 Broadway, Suite 800, New York, New York 10036. Our telephone number is (212) 403-7300.

4. Counsel for Respondents-Respondents: Counsel for Respondents-Respondents are John Siegal, Sammi Malek, Baker & Hostetler, LLP, 45 Rockefeller Plaza, 11th Floor, New York, New York 10111. Their telephone number is (212) 589-4200.

5. Court from Which the Appeal is Taken: This appeal is taken from an order of Hon. Marcy S. Friedman, Supreme Court State of New York, County of New York. The order is dated May 30, 2014.

6. No Additional Appeals: There are no additional appeals pending in this action.

7. Related Action: There is one related action pending in this court: *Deutsche Bank Trust Company Americas v. HPM Partners LLC, et al*, Index No. 651622/2014, filed in Supreme Court of New York, New York County. Petitioners-Appellants Pace and Weissman are Defendants in that case, and they will also file a notice of appeal to the Appellate Division, First Department, in that case.

8. The Object and Nature of the Action: The object of the action is to enter a declaratory judgment and injunction against Respondents-Respondents in aid of arbitration, and prevent Respondents-Respondents from enforcing a notice and a non-solicitation period against Petitioners-Appellants. Petitioners-Appellants allege that Pace never entered into any agreement with Respondents-Respondents which contains a notice or a non-solicitation period; and that any notice or non-solicitation policies are unenforceable against Pace and Weissman because Respondents-Respondents forced Petitioners-Appellants to resign and enforcing any such

policies would cause harm to the customers who are unaware of Respondents-Respondents' shady business practices.


9. Result Below: The court below denied Petitioners-Appellants' motion for a Temporary Restraining Order to enjoin Respondents-Respondents from enforcing any notice or non-solicitation policy against Petitioners-Appellants.

10. Grounds for Reversal: Petitioners-Appellants seek to reverse the Temporary Restraining Order on the grounds that any notice or non-solicitation policy against Petitioners-Appellants are unenforceable because: (1) Pace never entered into an agreement with Respondents-Respondents containing any such policy; (2) Petitioners-Appellants were forced to resign from Respondents-Respondents; and (3) enforcing any such periods would harm the customers who are unaware of Respondents-Respondents shady business practices.

Dated: New York, New York
June 3, 2014

VLADECK, WALDMAN, ELIAS &
ENGELHARD, P.C.

By:



Debra L. Raskin
Valdi Licul
Jungmin Cho
Counsel for Petitioners-Appellants Benjamin
A. Pace III and Lawrence B. Weissman
1501 Broadway
Suite 800
New York, NY 10036-5560
(212) 403-7300