

# **EXHIBIT 14**

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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

IN RE BANK OF NEW YORK MELLON CORP.  
FOREX TRANSACTIONS LITIGATION

No. 12-MD-2335 (LAK)

THIS DOCUMENT RELATES TO:

*Southeastern Pennsylvania Transportation Authority v.  
The Bank of New York Mellon Corporation, et al.*

No. 12-CV-3066 (LAK)

*International Union of Operating Engineers, Stationary  
Engineers Local 39 Pension Trust Fund v. The Bank of  
New York Mellon Corporation, et al.*

No. 12-CV-3067 (LAK)

*Ohio Police & Fire Pension Fund, et al. v. The Bank of  
New York Mellon Corporation, et al.*

No. 12-CV-3470 (LAK)

*Carver, et al. v. The Bank of New York Mellon, et al.*

No. 12-CV-9248 (LAK)

*Fletcher v. The Bank of New York Mellon, et al.*

No. 14-CV-5496 (LAK)

**DECLARATION OF GINO BENEDETTI, ESQ. IN  
SUPPORT OF MOTION FOR FINAL APPROVAL OF  
SETTLEMENT, AWARD OF ATTORNEYS' FEES AND  
SERVICE AWARDS AND REIMBURSEMENT OF  
LITIGATION EXPENSES**

I, Gino Benedetti, do hereby declare as follows:

1. I am General Counsel at the Southeastern Pennsylvania Transportation Authority (“SEPTA” or the “Authority”), which serves as a lead plaintiff in the above-referenced matter. I submit this declaration in support of the final approval of the settlement and in support of counsel’s fees and expenses. I have personal knowledge of the matters set forth herein based on my active supervision and participation in the prosecution and settlement of the claims asserted on behalf of SEPTA in this Action.

2. SEPTA is the principal transit provider for the Pennsylvania counties of Philadelphia, Delaware, Montgomery, Bucks and Chester, operating regional commuter trains, rapid transit subway and elevated trains, trolleys and buses. It serves 3.9 million people in these counties making it the 6th largest U.S. rapid transit system by ridership and the 5th largest transit system overall in the United States. Today, SEPTA controls 290 active railroad stations, over 450 miles (720 km) of track, 2,295 revenue vehicles and 196 routes.

3. SEPTA is a Commonwealth Agency created by statute in 1963 to consolidate various existing bankrupt private transportation companies and coordinate state and federal transportation subsidies into a single operating company.

4. SEPTA is governed by a 15 member board of directors. The chair of SEPTA’s board is Mr. Pasquale T. Deon. The day-to-day operations of SEPTA are handled by a general manager, who is appointed and hired by the Board of Directors. SEPTA’s general manager is Mr. Joseph M. Casey. In addition to Mr. Casey, SEPTA’s day-to-day operations are managed by a team of nine assistant general managers, including a Chief Financial Officer and Treasurer, Mr. Richard G. Burnfield.

5. The Bank of New York Mellon (“BNYM”) serves as SEPTA’s custodial bank. The vast majority of SEPTA’s pension plan assets are maintained with BNYM. BNYM also serves as Trustee for all of SEPTA’s municipal bond transactions. SEPTA’s relationship with BNYM, and its predecessor, Mellon Bank, spans almost three decades.

6. This litigation relates to the undisclosed foreign exchange fees that BNYM and its predecessor, Mellon Bank, N.A. (“Mellon”), assessed SEPTA’s pension funds when SEPTA or its investment managers used BNYM’s automated foreign exchange services to convert currency in connection with transactions in foreign currency denominated securities.

7. SEPTA was the first custodial client of BNYM to commence a class action lawsuit arising out of BNYM’s automated foreign exchange service. The suit, which was filed by SEPTA’s counsel and interim class counsel, Kessler Topaz Meltzer & Check LLP (“KTMC”) in March 2011, alleged that BNYM and Mellon breached its fiduciary and contractual obligations owed to SEPTA arising out of the custodial contracts and specific forms and procedures governing the automated foreign exchange service.

8. Over the course of the next three-and-one-half years, this case was aggressively prosecuted by KTMC and their co-counsel but also defended aggressively by BNYM’s counsel. In this regard, BNYM filed counterclaims against SEPTA seeking to charge SEPTA and the other co-lead plaintiffs in this matter, together with all putative class members, the costs of BNYM’s attorneys fees and expenses incurred in not only defending this litigation but also the fees and expenses incurred in defending claims brought against it by the United States and the New York Attorney General. These claims were sustained by the Court in October 2013. Because SEPTA believed in the merits of this litigation it did not let BNYM’s threat dissuade SEPTA from pursuing claims on behalf of itself and the Class. However, the threat posed by the

counterclaims, including exposure to paying large sums in attorneys' fees, was taken very seriously and considered extensively at SEPTA before any decision to proceed notwithstanding the counterclaims.

9. In addition, BNYM's discovery against SEPTA was extensive. In March 2013, BNYM served SEPTA with seventy-two document requests, several of which were multi-part requests. In response to these requests, SEPTA worked closely with KTMC to determine sources for potentially relevant documents. Thereafter, at KTMC's instruction, SEPTA implemented search terms negotiated with BNYM to identify potentially relevant electronic documents responsive to the document requests. The search covered a period of ten years. The document collection process took several weeks and included searches conducted on the electronic files of no fewer than 15 SEPTA employees and on numerous shared computer work spaces.

10. In addition to the process of collecting electronic records, SEPTA, with the assistance of KTMC, reviewed and gathered thousands of files maintained in hardcopy in SEPTA's archival records. Such files included the minutes and materials associated with SEPTA's Board Meetings and Pension Committee meetings also covering a span of ten years. Furthermore, following litigation over a motion to compel brought by KTMC, SEPTA assisted KTMC to procure records from a number of SEPTA's investment managers who were responsible for executing foreign exchange transactions with BNYM over a ten year period. SEPTA's Assistant Treasurer, Thomas J. McFadden, together with SEPTA's Board secretary and a paralegal from my office, were involved in the document collection process. Ultimately, several million pages of documents were collected and turned over to KTMC through this process. Based on my discussions with SEPTA personnel, I can estimate that no fewer than 12

SEPTA employees were involved in the process of collecting documents, responding to counsel's requests for information, and reviewing pleadings and that SEPTA's employees committed several hundred hours in discharging their discovery obligations as a lead plaintiff in this case.

11. I understand that KTMC produced approximately 700,000 pages of documents on SEPTA's behalf following its review for relevance and privilege. Thereafter, BNYM sought extensive deposition discovery of SEPTA. Defendants deposed SEPTA's current and former Assistant Treasurers, Thomas J. McFadden and Kurt Weidenhammer, respectively, its current Treasurer, Mr. Richard G. Burnfeld, a former analyst employed by the Treasurer, Alex Greenwald and the former Chair of the Pension Committee of SEPTA's Board of Directors, Mr. Michael O'Donoghue. At the time of settlement, in addition to the five depositions identified above, Defendants were scheduled to depose Mr. Joseph M. Casey, SEPTA's General Manager, and were seeking the depositions of two lower level accounting personal at SEPTA as well as Rule 30(b)(6) testimony on a variety of topics, which could have necessitated additional depositions. In addition, Defendants sought to depose SEPTA's board chair, Mr. Pasquale T. Deon, but ultimately abandoned that request following extensive negotiations with KTMC.

12. SEPTA also responded to nine multi-part interrogatories served by BNYM. Defendants' efforts at SEPTA-directed discovery did not end there. Several of SEPTA's current and former investment managers who executed foreign exchange transactions with BNYM were also deposed, along with SEPTA's current and former investment consultants.

13. In addition to the deposition testimony and document discovery sought by Defendants, the U.S. Attorney also requested that SEPTA voluntarily serve as a percipient fact witness in so far as the U.S. Government's case went to trial. SEPTA entered into an agreement

with the U.S. Attorney to appear at any trial in New York, and discussed its potential testimony. This agreement was in lieu of SEPTA providing additional deposition testimony to the U.S. Attorney.

14. SEPTA is a sophisticated litigant, and due to the nature of its operations, is often a party in civil litigation. Accordingly, SEPTA is highly cognizant of the important role that counsel provides in dictating the outcome of litigation, the risks and costs of litigation and the merits of settlement.

15. SEPTA's pension plan portfolio of approximately \$1.1 billion is funded by the Authority and by contributions from SEPTA's employees. As such, the Authority is attuned to practices that operate to wrongfully deprive its pension plan, and thus retirees, of assets. SEPTA has occasionally served as a named plaintiff or class representative in class action lawsuits which seek to recover investment losses suffered by the wrongful conduct of others. For example, SEPTA served as a class representative with respect to certain securities in the case styled *In re Citigroup Bond Litig.*, 08-civ-9522 (S.D.N.Y.) which resulted in a class settlement of \$730 million for the benefit of investors in certain Citigroup issued bonds and preferred securities.

16. In this type of case, it is cost prohibitive for SEPTA to pursue potential recoveries for its pension funds through direct actions where it would be forced to individually shoulder attorneys' fees and litigation expenses and the risk of non-recovery. This is because the potential recovery would be dwarfed by the cost of the litigation and the risk of non-recovery would outweigh any benefit achieved in the litigation. In this regard, the work of firms like KTMC, which shoulder the entire risk of the litigation in exchange for a contingent fee, is invaluable. The economics of such litigation for a transit agency such as SEPTA only makes sense through a



contingency class action. The Authority is satisfied with the work KTMC did on its behalf and for the class and supports Counsel's application for an attorneys' fee award.

17. SEPTA actively monitored this litigation, received and reviewed key pleadings in this case and regularly conferred with KTMC regarding the status of the litigation. We are pleased with the outcome of the litigation and the results, based on my understanding of the record in this case, could only have been achieved through the aggressive advocacy of our lawyers in this case and, respectfully, SEPTA's willingness to serve as a class representative. In addition to the outstanding cash recovery for class members which amounts to approximately 35% of the margins that BNYM earned from class members during the Class Period, the litigation has also produced the additional benefit of a complete overhaul by BNYM of its foreign exchange practices. From a business perspective for SEPTA, this means greater transparency about BNYM's pricing practices for automated foreign exchange services. SEPTA is proud to have played an integral part in bringing about this transformative change in BNYM's custodial business.

I declare under penalty of perjury that the foregoing is true and correct. Executed on August 17, 2015 in Philadelphia, Pennsylvania.

  
Gino Benedetti, Esq.