

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re

ADVANTA CORP., et al.,

Debtors.

)
) Chapter 11
)

) Case No. 09-13931 (KJC)
)

) (Jointly Administered)
)

) **Ref. Docket No. 1631**

**OBJECTION OF DENNIS J. ALTER AND WILLIAM A. ROSOFF TO
MOTION OF LIQUIDATING TRUSTEE FOR ORDER
APPROVING THE DISPOSAL OF CERTAIN BOOKS AND RECORDS**

Dennis J. Alter and William A. Rosoff hereby object to the Motion of Liquidating Trustee for Order Approving the Disposal of Certain Books and Records (“Motion”) and in support thereof state as follows:

1. Dennis J. Alter and William A. Rosoff are former directors and/or officers of Advanta Corp. and Advanta Bank Corp. (the “Bank”).

2. On June 17, 2013, the Federal Deposit Insurance Corporation as Receiver for Advanta Bank Corp. (“FDIC-R”) filed a Complaint against Messrs. Alter and Rosoff in the United States District Court for the Eastern District of Pennsylvania. *See Fed. Deposit Ins. Corp. as Receiver for Advanta Bank Corp. v. Alter, et al.*, No. 2:13-cv-03361-CMR (E.D. Pa.) (the “FDIC-R Action”). The Complaint in the FDIC-R Action asserts claims against Messrs. Alter and Rosoff for gross negligence and breach of fiduciary duty related to the Bank’s credit card repricing practices and seeks damages in excess of \$219 million.

3. Shortly before the FDIC-R brought its action, Messrs. Alter and Rosoff filed their own lawsuit for damages and declaratory relief against the FDIC in the United States District Court for the District of Utah. *See Alter, et al. v. FDIC, et al.*, Civil Action No. 2:13-cv-00456

(D. Utah) (the “Alter and Rosoff Action”). The Complaint in the Alter and Rosoff Action alleges, among other things, that the FDIC caused the Bank’s failure and asserts claims for breach of contract and promissory estoppel against the FDIC.

4. On May 12, 2015, the Liquidating Trustee filed this Motion. The Books and Records¹ that are the subject of the Liquidating Trustee’s Motion include documents that are relevant to the claims and defenses in the FDIC-R Action and the Alter and Rosoff Action. Without these documents, Messrs. Alter and Rosoff would be gravely prejudiced in their ability to defend the claims brought against them by the FDIC.

5. On or about May 20, 2015, the FDIC-R’s counsel notified the Liquidating Trustee’s counsel that the FDIC-R and Alter and Rosoff were nearing a settlement of their disputes and asked for an extension of the deadline for objecting to the Motion. Thereafter, the Liquidating Trustee agreed to several extensions of the objection deadline.

6. The FDIC-R and Alter and Rosoff have now entered into a settlement agreement. On June 15, 2015, the parties exchanged executed settlement papers providing, among other things, for a monetary payment to the FDIC-R and the dismissal with prejudice of the FDIC-R Action and the Alter and Rosoff Action. Counsel for the FDIC-R received checks in full payment of the settlement amount on June 24, 2015. The FDIC-R has taken the position, however, that it will not dismiss the FDIC-R Action until the checks clear. The deadline under the settlement agreement for filing the stipulation of dismissal is July 9, 2015.

7. On July 2, 2015, counsel for Alter and Rosoff contacted the Liquidating Trustee’s counsel to request an additional one week extension of the objection deadline, until July 10, 2015, to allow time for the settlement checks to clear and the parties to dismiss the FDIC-R

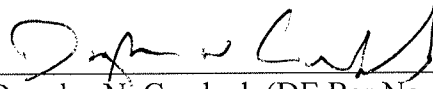
¹ Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Motion.

Action and the Alter and Rosoff Action and thereby moot any need for Alter and Rosoff to file any objection to the Motion. The Liquidating Trustee declined to grant the extension because of the July 9 hearing and has required any objections to the Motion to be filed by July 6, 2015 at 11 a.m. See Exhibit A (attached).

8. Given that the settlement is only a few days from being completed, Messrs. Alter and Rosoff respectfully request that the Court direct the Liquidating Trustee to continue preserving all Books and Records, including but not limited to the Plan Reserved Materials and Litigation Books and Records, pending notice of final dismissal of the FDIC-R Action and the Alter and Rosoff Action.

Dated: July 6, 2015

MORRIS JAMES LLP



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Telephone: (302) 888-6800
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and

DECHERT LLP

Steven B. Feirson
Michael L. Kichline
Stuart T. Steinberg
Cira Centre
2929 Arch Street
Philadelphia, PA 19104
Telephone: (215) 994-4000

*Attorneys for Dennis J. Alter and
William A. Rosoff*

EXHIBIT A

-----Original Message-----

From: Aaron.Singer@lw.com [<mailto:Aaron.Singer@lw.com>]

Sent: Thursday, July 02, 2015 6:26 PM

To: Steinberg, Stuart

Cc: mlogsdon@mhba.com; Roger.Schwartz@lw.com; david.mcelhoe@lw.com; dmullin@mhba.com; Howard.Cohen@dbr.com; Feirson, Steven; Kichline, Michael

Subject: RE: Advanta - Extension to Objection Deadline

Stu,

We cannot grant a week extension because the hearing is scheduled for July 9th and our client will not agree to postpone the hearing for the reasons we discussed.

Also as discussed, we are now coming up against local rule deadlines for court filings. Accordingly, there is not much time to spare. We will grant a further extension to the objection deadline through Monday, July 6th, at 11 a.m.

We renew the request made yesterday - can someone please look into the status of the checks that seem to be holding this process up? It was our understanding that they should have been deposited over a week ago and this entire issue is about waiting for them to clear.

Please inform as soon as practicable that there is no objection so we can move forward.

Thank you very much for your time.

Best regards,
Aaron

Aaron M. Singer
LATHAM & WATKINS LLP
Direct Dial: +1.212.906.4527

-----Original Message-----

From: Steinberg, Stuart [<mailto:stuart.steinberg@dechert.com>]

Sent: Thursday, July 02, 2015 3:03 PM

To: Singer, Aaron (NY)

Cc: mlogsdon@mhba.com; Schwartz, Roger (NY); McElhoe, David (NY); dmullin@mhba.com; Howard.Cohen@dbr.com; Feirson, Steven; Kichline, Michael

Subject: Re: Advanta - Extension to Objection Deadline

Aaron,

As you know, Dechert represents Dennis Alter and Bill Rosoff. We appreciate the prior extensions FTI has granted. The parties to the FDIC litigation have almost completed their settlement. The settlement payment has been made and once the checks clear the banks the FDIC and my clients will be dismissing their respective cases. Given where things stand, we request that FTI agree to one additional week extension to allow the settlement to be completed. Please let me know if FTI will accommodate our request. Thank you.

Regards,

Stu

On Jun 30, 2015, at 5:07 PM, "Aaron.Singer@lw.com<<mailto:Aaron.Singer@lw.com>>"
<Aaron.Singer@lw.com<<mailto:Aaron.Singer@lw.com>>> wrote:

Mark,

In response to your additional request for an extension to the objection deadline, FTI will agree to an extension to Friday, July 3rd, at noon. To be clear, FTI will not grant another extension unless other arrangements can be agreed between FTI and the parties to your litigation.

As we discussed, we would like to be updated as soon as practicable, including before Friday, if possible, when you have confirmed that you will not file an objection. Thank you in advance.

Best regards,
Aaron

Aaron M. Singer
LATHAM & WATKINS LLP
Direct Dial: +1.212.906.4527

From: Singer, Aaron (NY)
Sent: Thursday, June 25, 2015 3:59 PM
To: Mark Logsdon; Schwartz, Roger (NY)
Cc: McElhoe, David (NY); David Mullin;
stuart.steinberg@dechert.com<<mailto:stuart.steinberg@dechert.com>>;
Howard.Cohen@dbr.com<<mailto:Howard.Cohen@dbr.com>>
Subject: RE: Advanta - Extension to Objection Deadline

Mark,

In response to your request for an additional extension to the objection deadline to July 3rd, FTI is willing to give an extension to July 1st at 4:00 p.m. We understand that you may request an additional extension, and given further status updates, FTI may be willing to consider such a request. Thank you for reaching out.

Have a great weekend.

Best regards,
Aaron

Aaron M. Singer
LATHAM & WATKINS LLP
Direct Dial: +1.212.906.4527

From: Singer, Aaron (NY)
Sent: Wednesday, June 17, 2015 8:00 PM
To: Mark Logsdon; Schwartz, Roger (NY)
Cc: McElhoe, David (NY); David Mullin; stuart.steinberg@dechert.com<<mailto:stuart.steinberg@dechert.com>>
Subject: Re: Advanta - Extension to Objection Deadline

Mark:

FTI is ok agreeing to the additional extension to June 26th. Thank you.

Best regards,

Aaron

From: Mark Logsdon
Sent: Wednesday, June 17, 2015 5:35 PM
To: Schwartz, Roger (NY); Singer, Aaron (NY)
Cc: McElhoe, David (NY); David Mullin; stuart.steinberg@dechert.com<<mailto:stuart.steinberg@dechert.com>>
Subject: RE: Advanta - Extension to Objection Deadline

Roger:

The parties to the FDIC as Receiver for Advanta Bank Corp. v. Alter and Rosoff, No. 13-3361 (E.D. Pa. 2013) lawsuit (the "Lawsuit") have now exchanged a fully executed Settlement Agreement. However, the Settlement Payment due under the Settlement Agreement has yet to be received, and the Lawsuit has yet to be dismissed.

In light of the June 19 deadline to file objections to the Motion of the Liquidating Trustee for an Order Approving Disposal of Certain Books and Records ("FTI's Motion"), and in light of the parties' exchange of the fully executed Settlement Agreement and pending Settlement Payment and dismissal of the Lawsuit, the parties to the Lawsuit hereby request an additional week, until Friday, June 26, 2015, within which to file objections to FTI's Motion.

Please advise as to whether or not FTI can agree to this extension. Thanks very much.

Best Regards,

Mark S. Logsdon
Mullin Hoard & Brown, LLP

From: Roger.Schwartz@lw.com<<mailto:Roger.Schwartz@lw.com>> [<mailto:Roger.Schwartz@lw.com>]
Sent: Thursday, June 11, 2015 12:49 PM
To: Mark Logsdon; Aaron.Singer@lw.com<<mailto:Aaron.Singer@lw.com>>

Cc: david.mcelhoe@lw.com<<mailto:david.mcelhoe@lw.com>>; David Mullin;
stuart.steinberg@dechert.com<<mailto:stuart.steinberg@dechert.com>>
Subject: RE: Advanta - Extension to Objection Deadline

Mark:

FTI is ok agreeing to the additional extension to June 19. Thank you.

Best,
Roger

Roger G. Schwartz

LATHAM & WATKINS LLP
885 Third Avenue
New York, NY 10022-4834
Direct Dial: +1.212.906.1766
Fax: +1.212.751.4864
Email: roger.schwartz@lw.com<<mailto://roger.schwartz@lw.com>>
https://urldefense.proofpoint.com/v2/url?u=http-3A_www.lw.com&d=AwIFAg&c=XHgqDMffAkUKcWDgZTAAtfA&r=eE-IVuN7imoRrMuhPESISjdSLcjU1frhuu3VXVaTis&m=wgwQKp0fAEYyqkUKJr2lIrwli4fuv39tNZxY6hKtJSY&s=eZ1hMoAk5iIsW7rJmMCTc7QkLLti8X7d5pMWBG3LPCk&e=<https://urldefense.proofpoint.com/v2/url?u=http-3A_www.lw.com&d=AwMGaQ&c=XHgqDMffAkUKcWDgZTAAtfA&r=eE-IVuN7imoRrMuhPESISjdSLcjU1frhuu3VXVaTis&m=SW2fejUlIBXCSoPFb_GSTs_TlZ3lU9hQDG1hXqpPHvs&s=eUp3ZbOfpgQ3WlWFOivzQgY9K-ctJ0CFI9PIX_JUBM&e=>

From: Mark Logsdon [<mailto:mlogsdon@mhba.com>]
Sent: Thursday, June 11, 2015 12:34 PM
To: Schwartz, Roger (NY); Singer, Aaron (NY)
Cc: McElhoe, David (NY); David Mullin;
'stuart.steinberg@dechert.com<<mailto:stuart.steinberg@dechert.com>>'<<mailto:stuart.steinberg@dechert.com>>
Subject: RE: Advanta - Extension to Objection Deadline

Roger: Please let us hear from you on the extension request (to June 19) below. Thanks very much.

Mark S. Logsdon
Mullin Hoard & Brown, LLP

From: Mark Logsdon
Sent: Wednesday, June 10, 2015 5:33 PM
To: 'Roger.Schwartz@lw.com<<mailto:Roger.Schwartz@lw.com>>';
Aaron.Singer@lw.com<<mailto:Aaron.Singer@lw.com>>
Cc: david.mcelhoe@lw.com<<mailto:david.mcelhoe@lw.com>>; David Mullin;
stuart.steinberg@dechert.com<<mailto:stuart.steinberg@dechert.com>>
Subject: RE: Advanta - Extension to Objection Deadline

Roger:

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re

Chapter 11

ADVANTA CORP., et al.,

Case No. 09-13931 (KJC)

Debtors.

(Jointly Administered)

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**OBJECTION OF DENNIS J. ALTER AND WILLIAM A. ROSOFF TO
MOTION OF LIQUIDATING TRUSTEE FOR ORDER
APPROVING THE DISPOSAL OF CERTAIN BOOKS AND RECORDS**

Dennis J. Alter and William A. Rosoff hereby object to the Motion of Liquidating Trustee for Order Approving the Disposal of Certain Books and Records (“Motion”) and in support thereof state as follows:

1. Dennis J. Alter and William A. Rosoff are former directors and/or officers of Advanta Corp. and Advanta Bank Corp. (the “Bank”).

2. On June 17, 2013, the Federal Deposit Insurance Corporation as Receiver for Advanta Bank Corp. (“FDIC-R”) filed a Complaint against Messrs. Alter and Rosoff in the United States District Court for the Eastern District of Pennsylvania. *See Fed. Deposit Ins. Corp. as Receiver for Advanta Bank Corp. v. Alter, et al.*, No. 2:13-cv-03361-CMR (E.D. Pa.) (the “FDIC-R Action”). The Complaint in the FDIC-R Action asserts claims against Messrs. Alter and Rosoff for gross negligence and breach of fiduciary duty related to the Bank’s credit card repricing practices and seeks damages in excess of \$219 million.

3. Shortly before the FDIC-R brought its action, Messrs. Alter and Rosoff filed their own lawsuit for damages and declaratory relief against the FDIC in the United States District Court for the District of Utah. *See Alter, et al. v. FDIC, et al.*, Civil Action No. 2:13-cv-00456

The parties to the FDIC as Receiver for Advanta Bank Corp. v. Alter and Rosoff, No. 13-3361 (E.D. Pa. 2013) lawsuit (the "Lawsuit") are still in the process of obtaining the necessary signatures on the settlement documents. We understand from recent communications with defense counsel in the Lawsuit that some of the necessary signatures have been received by defense counsel, but a couple of others have yet to be received.

In light of the June 12 deadline to file objections to the Motion of the Liquidating Trustee for an Order Approving Disposal of Certain Books and Records ("FTI's Motion"), the parties to the Lawsuit hereby request an additional week, until Friday, June 19, 2015, within which to file objections to FTI's Motion.

Please advise as to whether or not FTI can agree to this extension. Thanks very much.

Best Regards,

Mark S. Logsdon
Mullin Hoard & Brown, LLP

From: Roger.Schwartz@lw.com<<mailto:Roger.Schwartz@lw.com>> [<mailto:Roger.Schwartz@lw.com>]
Sent: Tuesday, June 02, 2015 5:40 PM
To: Mark Logsdon; Aaron.Singer@lw.com<<mailto:Aaron.Singer@lw.com>>
Cc: david.mcelhoe@lw.com<<mailto:david.mcelhoe@lw.com>>; David Mullin;
stuart.steinberg@dechert.com<<mailto:stuart.steinberg@dechert.com>>
Subject: RE: Advanta - Extension to Objection Deadline

Mark:

The requested extension is acceptable to FTI. Thank you.

Best,
Roger

Roger G. Schwartz

LATHAM & WATKINS LLP
885 Third Avenue
New York, NY 10022-4834
Direct Dial: +1.212.906.1766
Fax: +1.212.751.4864
Email: roger.schwartz@lw.com<<mailto://roger.schwartz@lw.com>>
[https://urldefense.proofpoint.com/v2/url?u=http-3A__www.lw.com&d=AwMGaQ&c=XHgqDMffAkUKcWDgZTAtfA&r=eE-IVuN7imoRrMuhPESISjdSLlcjU1frhuu3VXVaTis&m=SW2fejUIIBXCSoPFb_GSTs_TlZ3IU9hQDG1hXqpPHvs&s=eUp3ZbOfpgQ3WIWFLOivzQgY9K-ctJ0CFI9PIX_JUBM&e=>](https://urldefense.proofpoint.com/v2/url?u=http-3A__www.lw.com&d=AwIFAg&c=XHgqDMffAkUKcWDgZTAtfA&r=eE-IVuN7imoRrMuhPESISjdSLlcjU1frhuu3VXVaTis&m=wgwQKp0fAEYyqkUKJr2llrwli4fuv39tNZxY6hKtJSY&s=eZ1hMoAk5iIsw7rJmMCTc7QkLLti8X7d5pMWBG3LPCk&e=<https://urldefense.proofpoint.com/v2/url?u=http-3A__www.lw.com&d=AwMGaQ&c=XHgqDMffAkUKcWDgZTAtfA&r=eE-IVuN7imoRrMuhPESISjdSLlcjU1frhuu3VXVaTis&m=SW2fejUIIBXCSoPFb_GSTs_TlZ3IU9hQDG1hXqpPHvs&s=eUp3ZbOfpgQ3WIWFLOivzQgY9K-ctJ0CFI9PIX_JUBM&e=>)

From: Mark Logsdon [<mailto:mlogsdon@mhba.com>]
Sent: Tuesday, June 02, 2015 6:22 PM
To: Singer, Aaron (NY)
Cc: Schwartz, Roger (NY); McElhoe, David (NY); David Mullin;
'stuart.steinberg@dechert.com'<<mailto:stuart.steinberg@dechert.com>>'
Subject: RE: Advanta - Extension to Objection Deadline

Aaron:

The parties to the FDIC as Receiver for Advanta Bank Corp. v. Alter and Rosoff, No. 13-3361 (E.D. Pa. 2013) lawsuit (the "Lawsuit") are still in the process of obtaining the necessary signatures on the settlement documents.

In light of the June 5 deadline to file objections to the Motion of the Liquidating Trustee for an Order Approving Disposal of Certain Books and Records ("FTI's Motion"), the parties to the Lawsuit hereby request an additional week, until Friday, June 12, 2015, within which to file objections to FTI's Motion.

Please advise as to whether or not FTI can agree to this extension.

Best Regards,

Mark S. Logsdon
Mullin Hoard & Brown, LLP

From: Mark Logsdon
Sent: Wednesday, May 20, 2015 7:13 PM
To: 'Aaron.Singer@lw.com'<<mailto:Aaron.Singer@lw.com>>'
Cc: Roger.Schwartz@lw.com<<mailto:Roger.Schwartz@lw.com>>;
david.mcelhoe@lw.com<<mailto:david.mcelhoe@lw.com>>; David Mullin;
'stuart.steinberg@dechert.com'<<mailto:stuart.steinberg@dechert.com>>'
Subject: RE: Advanta - Extension to Objection Deadline

Aaron: I have received your email. Thanks very much for the extension.

Mark S. Logsdon
Mullin Hoard & Brown, LLP

From: Aaron.Singer@lw.com<<mailto:Aaron.Singer@lw.com>> [<mailto:Aaron.Singer@lw.com>]
Sent: Wednesday, May 20, 2015 6:59 PM
To: Mark Logsdon
Cc: Roger.Schwartz@lw.com<<mailto:Roger.Schwartz@lw.com>>;
david.mcelhoe@lw.com<<mailto:david.mcelhoe@lw.com>>
Subject: Advanta - Extension to Objection Deadline

Hi Mark,

It was nice catching up with you earlier today. To follow up on your request for an extension to the objection deadline, based on your update that the parties are nearing a final settlement, the Liquidating Trustee has agreed to extend the objection deadline to the Motion of the Liquidating Trustee for an Order Approving Deposal of Certain Books and Records from May 29, 2015 at 4:00 p.m. to June 5, 2015 at 4:00 p.m. To be clear, the agreed extension is solely for the parties to FDIC as Receiver for Advanta Bank Corp. v. Alter and Rosoff, No. 13-

3361 (E.D. Pa. 2013).

The Liquidating Trustee will consider further requests for extension to this objection deadline on a week-to-week basis and as needed.

Please confirm receipt of this email. Thank you.

Once again, please copy Roger and David on all correspondence going forward as I will be out of the country after this week. Thank you, again.

Best regards,
Aaron

Aaron M. Singer
LATHAM & WATKINS LLP
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Fax: +1.212.751.4864
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https://urldefense.proofpoint.com/v2/url?u=http-3A_www.lw.com&d=AwIFAg&c=XHggDMffAkUKcWDgZTAtfA&r=eE-IVuN7imoRrMuhPESISjdSLlcjU1frhuu3VXVaTis&m=wgwQKp0fAEYyqkUKJr2lIrwli4fuv39tNZxY6hKtJSY&s=eZ1hMoAk5iIsw7rJmMCTc7QkLLti8X7d5pMWBG3LPCk&e=<https://urldefense.proofpoint.com/v2/url?u=http-3A_www.lw.com_&d=AwMGaQ&c=XHggDMffAkUKcWDgZTAtfA&r=eE-IVuN7imoRrMuhPESISjdSLlcjU1frhuu3VXVaTis&m=SW2fejUllBXCSOpfB_GSTs_TlZ3lU9hQDG1hXqpPHvs&s=fl-PG3q9266k9dfzgTyyuWyw5ajQ_ynlz299kG0SbRI&e=>

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Latham & Watkins LLP

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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

Debtors.

(Jointly Administered)

AFFIDAVIT OF JAMIE L. DAWSON, PARALEGAL

STATE OF DELAWARE :
 : SS:
NEW CASTLE COUNTY :

I, Jamie L. Dawson, certify that I am, and at all times during the service, have been an employee of Morris James LLP, not less than 18 years of age and not a party to the matter concerning which service was made. I certify further that on July 6, 2015, I caused to be served:

**OBJECTION OF DENNIS J. ALTER AND WILLIAM A. ROSOFF TO
MOTION OF LIQUIDATING TRUSTEE FOR ORDER
APPROVING THE DISPOSAL OF CERTAIN BOOKS AND RECORDS**

Service was completed upon the parties on the attached service list as indicated thereon.

Date: July 6, 2015


Jamie L. Dawson

SWORN AND SUBSCRIBED before me this 6th day of July, 2015.

Notary Public



VIA HAND DELIVERY

Howard A. Cohen, Esq.
Brinker Biddle & Reath LLP
222 Delaware Avenue, Suite 1410
Wilmington, DE 19801
[Counsel for FTI Consulting, Inc., as
Liquidating Trustee]

VIA FIRST CLASS MAIL

Roger G. Schwartz, Esq.
Aaron M. Singer, Esq.
885 Third Avenue
New York, NY 10022
[Counsel for FTI Consulting, Inc. as
Liquidating Trustee]