UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 10-60786-Civ-Cooke/Bandstra

COQUINA INVESTMENTS,

Plaintiff,

v.

SCOTT W. ROTHSTEIN and
TD BANK, N.A.,

Defendants.

DEFENDANT TD BANK, N.A.'S NOTICE OF PRODUCTION AND WITHDRAWAL OF CERTAIN STATEMENTS MADE TO THE COURT

Defendant, TD Bank, N.A. ("TD Bank" and the "Bank"), by and through its undersigned counsel, respectfully submits this Notice of Production to Plaintiff's counsel of a document titled "Standard Investigative Protocol," and withdraws certain statements made in prior written submissions and argument to the court in connection with motions concerning the existence of such a document.

As the court is aware, there were issues during the trial of this case concerning the existence of a document titled the "Standard Investigative Protocol." These issues arose in connection with Plaintiff's request for the document and for a spoliation instruction and sanctions, and resulted in affidavits and memoranda being filed and statements being made by counsel in open court regarding the existence of such a document.

Within the last week, undersigned counsel have determined that a 2005 document, revised in January 2007, with the title "Standard Investigative Protocol," does exist and is today being produced to counsel for Plaintiff.

In light of the identification and production of this document, certain statements that this document did not exist (D.E. 727 at 4; D.E. 727-3 at para 4; Tr. of Proceedings on Jan. 13, 2012 at 29-30, attached hereto as Exhibit A[1]) are withdrawn and should not be relied upon.

Respectfully submitted,

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[1] Ms. Evans is no longer associated with Greenberg Traurig.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of April, 2012, I electronically filed the foregoing document with the Clerk of Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

By: */s/ Mark P. Schnapp*
MARK P. SCHNAPP

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