

COPY

STATE OF WISCONSIN

DANE COUNTY

CIRCUIT COURT

2018 MAY 19 PM 2:27

In the Matter of the Rehabilitation of:

SEGREGATED ACCOUNT OF
AMBAC ASSURANCE
CORPORATION

DANE COUNTY
CIRCUIT COURT

Case No. 10-CV-1576

Name and Address of Witness:

Ambac Credit Products, LLC
One State Street Plaza
New York, NY 10004

**LVM BONDHOLDERS' NOTICE OF INTENT TO OBTAIN A
COMMISSION TO TAKE THE DEPOSITION OF NON-RESIDENT,
THIRD-PARTY WITNESS IN THE STATE OF NEW YORK**

To: Counsel of Record

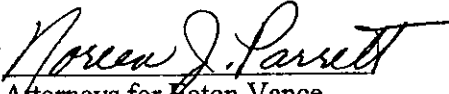
PLEASE TAKE NOTICE that Eaton Vance Management, Nuveen Asset Management, Restoration Capital Management LLC, and Stone Lion Capital Partners L.P. (collectively, the "LVM Bondholders"), by their attorneys, Parrett & O'Connell LLP and Kramer Levin Naftalis & Frankel LLP, petition this Court for an Order for Issuance of a Commission to take the deposition of non-resident, third-party witness Ambac Credit Products, LLC. The Commission will be issued to the Clerk of Court of the New York County Court, at the expiration of five days from the date of this notice, if objections are not filed with the Court within that time.

The grounds for this petition are set forth in the attached supporting Affidavit of Noreen J. Parrett.

Dated this 19th day of May, 2010.

Parrett & O'Connell, LLP
10 East Doty Street, Suite 621
Madison, WI 53703
Telephone: 608-251-1542
Facsimile: 608-251-1996

Noreen J. Parrett
WI State Bar ID No. 1003686
nparrett@parrettoconnell.com
Connie L. O'Connell
WI State Bar ID No. 1026209
coconnell@parrettoconnell.com

BY 
Attorneys for Eaton Vance
Management, Nuveen Asset
Management, Restoration Capital
Management LLC, and Stone Lion
Capital Partners L.P.

Of Counsel:

Philip Bentley
Amy Caton
Susan Jacquemot
Kramer Levin Naftalis & Frankel LLP
1177 Avenue of the Americas
New York, New York 10036
Telephone (212) 715-9100
Facsimile: (212) 715-8000

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STATE OF WISCONSIN

DANE COUNTY

CIRCUIT COURT

In the Matter of the Rehabilitation of:

SEGREGATED ACCOUNT OF
AMBAC ASSURANCE
CORPORATION

Case No. 10-CV-1576

Name and Address of Witness:
Ambac Credit Products, LLC
One State Street Plaza
New York, NY 10004

ORDER

This cause came on before the Court upon the LVM Bondholders' Notice of Intent to Obtain a Commission to Take the Deposition of a Non-Resident, Third-Party Witness in the State of New York.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

The Court shall issue a Commission to the Clerk of Court of New York County, State of New York, for issuance of a Subpoena Duces Tecum to Ambac Credit Products, LLC.

Dated this ___ day of May, 2010.

BY THE COURT:

Honorable William D. Johnston
Circuit Court Judge

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STATE OF WISCONSIN

DANE COUNTY

CIRCUIT COURT

In the Matter of the Rehabilitation of:

SEGREGATED ACCOUNT OF
AMBAC ASSURANCE
CORPORATION

Case No. 10-CV-1576

Name and Address of Witness:

Ambac Credit Products, LLC
One State Street Plaza
New York, NY 10004

COMMISSION

To: Clerk of the Court
Supreme Court of the State of New York
New York County Courthouse
60 Centre Street
New York, NY 10007

WHEREAS, it appears that Ambac Credit Products, LLC of One State Street Plaza, New York, New York 10004, has relevant information and documents in the above-captioned cause now pending in this Court, and that a deposition upon oral examination of or the production of documents by Ambac Credit Products, LLC cannot be compelled by this Court.

NOW THEREFORE, I hereby authorize and empower you, in accordance with New York CPLR § 3102(e), to issue a Subpoena Duces Tecum to compel the appearance of or production of documents by Ambac Credit Products, LLC and cause the examination or production of documents by such witness.

Witness, the Honorable William D. Johnston, Circuit Court Judge of Dane
County, State of Wisconsin, this ____ day of May, 2010.

BY THE COURT:

Honorable William D. Johnston
Circuit Court Judge

3. The LVM Bondholders request the Commission on the grounds that Ambac Credit Products, LLC is a non-resident, third-party witness, with its principal place of business at One State Street Plaza, New York, New York 10004.

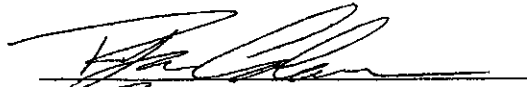
4. The testimony of the third-party witness is material and relevant to the subject matter of this action.

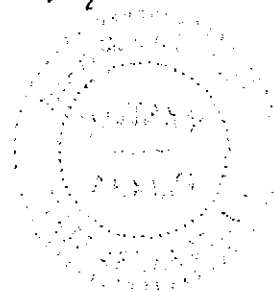
5. The LVM Bondholders believe that the third-party witness has custody, possession and control of documents and testimony related to the subject matter of this action and it is necessary that a Commission issue to the court where the third-party witness has its place of business to issue a Subpoena Duces Tecum for said deposition.

6. Pursuant New York CPLR § 3102(e), a copy of which is attached, a witness in the State of New York may be compelled to appear, to produce certain documents and to give testimony in an out-of-state action.


Noreen J. Parrett

Subscribed and sworn to before me this 19th day of May, 2010, by Noreen J. Parrett.


Ryan Coleman
Notary Public, State of Wisconsin
My commission expires on 02/05/2012.



§ 3102. Method of obtaining disclosure, McKinney's CPLR § 3102

McKinney's Consolidated Laws of New York Annotated

Civil Practice Law and Rules (Refs & Annos)

Chapter Eight. Of the Consolidated Laws

Article 31. Disclosure (Refs & Annos)

McKinney's ~~CPLR~~ § 3102

§ 3102. Method of obtaining disclosure

Effective: January 1, 2011
Currentness

(a) Disclosure devices. Information is obtainable by one or more of the following disclosure devices: depositions upon oral questions or without the state upon written questions, interrogatories, demands for addresses, discovery and inspection of documents or property, physical and mental examinations of persons, and requests for admission.

(b) Stipulation or notice normal method. Unless otherwise provided by the civil practice law and rules or by the court, disclosure shall be obtained by stipulation or on notice without leave of the court.

(c) Before action commenced. Before an action is commenced, disclosure to aid in bringing an action, to preserve information or to aid in arbitration, may be obtained, but only by court order. The court may appoint a referee to take testimony.

(d) After trial commenced. Except as provided in section 5223, during and after trial, disclosure may be obtained only by order of the trial court on notice.

(e) [Eff. until Jan. 1, 2011. See, also, subd. (e) below.] Action pending in another jurisdiction. When under any mandate, writ or commission issued out of any court of record in any other state, territory, district or foreign jurisdiction, or whenever upon notice or agreement, it is required to take the testimony of a witness in the state, he may be compelled to appear and testify in the same manner and by the same process as may be employed for the purpose of taking testimony in actions pending in the state. The supreme court or a county court shall make any appropriate order in aid of taking such a deposition.

(e) [Eff. Jan. 1, 2011. See, also, subd. (e) above.] Action pending in another jurisdiction. Except as provided in section three thousand one hundred nineteen of this article, when under any mandate, writ or commission issued out of any court of record in any other state, territory, district or foreign jurisdiction, or whenever upon notice or agreement, it is required to take the testimony of a witness in the state, he or she may be compelled to appear and testify in the same manner and by the same process as may be employed for the purpose of taking testimony in actions pending in the state. The supreme court or a county court shall make any appropriate order in aid of taking such a deposition.

(f) Action to which state is party. In an action in which the state is properly a party, whether as plaintiff, defendant or otherwise, disclosure by the state shall be available as if the state were a private person.

Credits

(L.1962, c. 308. Amended L.1963, c. 422, § 1; L.1964, c. 388, § 15; L.1967, c. 638, § 1; L.1984, c. 294, § 3; L.1993, c. 98, §§ 3, 4; L.2010, c. 29, § 3, eff. Jan. 1, 2011.)

Editors' Notes

SUPPLEMENTARY PRACTICE COMMENTARIES

2010 Electronic Update7NYP

By Patrick M. Connors

2008

C3102:3 Usual Time for Disclosure; Certificate of Readiness.

Court of Appeals Emphasizes That Filing of Note of Issue Marks the Completion of Disclosure