

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE:
HELLAS TELECOMMUNICATIONS
(LUXEMBOURG) II SCA.

DEUTSCHE BANK AG,

Appellant,

-v-

No. 16 CV 1840-LTS

ANDREW LAWRENCE HOSKING and
BRUCE MACKAY,

Appellee.

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MEMORANDUM ORDER

Before the Court is a motion by Appellant Deutsche Bank AG ("DB") for leave to file an interlocutory appeal from an opinion and order of the Bankruptcy Court for the Southern District of New York dated February 4, 2016, in In re: Hellas Telecommunications (Luxembourg) II SCA, No. 12-10631, Adv. Proc. No. 14-01848 (Glenn, B.J.). The order in question (docket entry no. 263) denied DB's motion to dismiss the complaint for lack of personal jurisdiction.

This Court has discretion to permit an interlocutory appeal from an order of the Bankruptcy Court pursuant to **28 U.S.C. § 158(a)(3)**. Leave to file an interlocutory appeal is generally granted only when the order appealed from: (1) involved a controlling question of law, (2) over which there is substantial ground for difference of opinion, and (3) an immediate interlocutory appeal would materially advance the ultimate termination of the litigation. See,

e.g., In re Enron Corp., 2006 WL 1222035, at *1 (S.D.N.Y. May 3, 2006).

DB's motion is premised on a disagreement with the Bankruptcy Court's analysis of general personal jurisdiction under the standard established in Daimler AG v. Bauman, 134 S. Ct. 746 (2014). Although reasonable minds can differ on the correct outcome of the general personal jurisdiction analysis as to DB,¹ the Bankruptcy Court's order from which Appellant seeks leave to appeal expressly notes that Plaintiffs are advancing an alternative, agency-based theory of specific personal jurisdiction as to DB. (See No. 12-10631 (MG), docket entry no. 263, at 3.) The question of specific jurisdiction based on agency principles and the actions of DB's affiliate therefore remains unresolved, so the issue of general personal jurisdiction is not controlling or dispositive. A grant of leave to file an interlocutory appeal of the decision as to general personal jurisdiction would therefore not materially advance the ultimate termination of this multi-party litigation.

For the foregoing reasons, DB's motion for leave to file an interlocutory appeal is denied. The Clerk of Court is respectfully requested to terminate the motion pending at docket

¹ In support of its motion, DB notes that a number of decisions of this Court have held that DB is not subject to general personal jurisdiction in New York. See, e.g., Cortlandt Street Recovery Corp. v. Deutsche Bank AG, London Branch, No. 14 CV 1568, 2015 WL 5091170, at *4 (S.D.N.Y. Aug. 28, 2015) (holding that DB is not subject to general personal jurisdiction in New York despite maintaining a Regional Head Office in New York City); In re LIBOR-Based Fin. Instruments Antitrust Litig., No. 11 MDL 2262, 2015 WL 4634541, at *21 (S.D.N.Y. Aug. 4, 2015) (same).

entry no. 4, and close this case.

SO ORDERED.

Dated: New York, New York
May 20, 2016

/s/ Laura Taylor Swain
LAURA TAYLOR SWAIN
United States District Judge