

DAY Catherine (SG)

AREs (2010) 437480

From: Charles McCreedy [mailto:charles@mcreevy.com]
Sent: 16 July 2010 13:46
To: DAY Catherine (SG)
Subject: Approval
Attachments: Project NB Appointment Let.PDF

Dear Catherine,

Subject to relevant approvals I have consented to become a non executive director of "New Bank Investments PLC". This latter name (because it includes the word "bank") is also subject to separate approval by the Financial Services Authority of the UK. I am enclosing copy of letter of appointment which relates to De Facto 9999 plc. which will, subject to the FSA approval, become "New Bank Investments Plc".

There was some press coverage last weekend about this proposal. The chairman will be Lord Levene and the Board of Directors includes Sir David Walker, Lord McFall and Lord Brennan. The intention is to acquire branches in become a High Street bank in the UK. The intention is to list on the AIM in the next few weeks.

Of course, I will be glad to let you have any further information which may be required.

Yours sincerely,

Charles McCreedy
Blundell House,
Millicent South,
Sallins,
Co. Kildare,
Ireland.

DE FACTO 9999 PLC
5 Clifford Street, London W1S 2LG
(company number: 7303316)

~~STRICTLY PRIVATE AND CONFIDENTIAL~~

Mr Charles McCreevy
Blundell House
Millicent
Sallins
County Kildare
Ireland

__ July 2010

Dear Charles

I am writing to set out the terms of the agreement which we have reached in relation to your proposed appointment as a non-executive director of De Facto 9999 plc (the "Company"):

1. **Appointment**

Your appointment will be for an initial term of 3 years, unless otherwise terminated earlier by, and at the discretion of, either party upon three months' written notice to the other. Your appointment is also subject to the Company's Articles of Association (the "Articles").

Continuation of your contract of appointment is contingent on satisfactory performance and re-election at forthcoming AGMs, in accordance with the Articles.

The terms of your appointment will need to be reviewed in connection with any acquisition of a business by the Company to ensure compliance by the Company with appropriate corporate governance codes and other guidelines.

2. **Time commitment**

It is anticipated that for the first 12 months of your appointment, there will be monthly board meetings with an appropriate schedule of board meetings agreed thereafter or upon the Company completing a major acquisition (following which your time commitment shall be subject to a review). Further board meetings may also have to be called at shorter notice to discuss particular issues, most notably in relation to the Company's acquisition programme. Your time commitment may increase if you are appointed to any committees of the Board.

The Chairman should be notified at the earliest possible opportunity before accepting additional commitments, including further directorships of publicly quoted companies that might affect the time you are able to devote to your role as a non-executive director of the Company, or that might give rise to a conflict of interest.

3. Role

It is agreed that this is a contract for services and is not a contract of employment.

Non-executive directors have the same general legal responsibilities to the Company as any other director. The Board as a whole is collectively responsible for promoting the success of the Company by directing and supervising the Company's affairs. Specifically, the Board should:

- 3.1 provide entrepreneurial leadership of the Company within a framework of prudent and effective controls which enable risk to be assessed and managed;
- 3.2 set the Company's strategic aims, ensure that the necessary financial and human resources are in place for the Company to meet its objectives, and review management performance; and
- 3.3 set the Company's values and standards and ensure that its obligations to its shareholders and others are understood and met.

Further, you will be responsible (collectively with all other directors and individually) for the Company's compliance with the AIM Rules.

In addition to these requirements of all directors, your role of non-executive director has the following key elements, namely:

- 3.4 constructively challenging and contributing to the development of strategy;
- 3.5 satisfying yourself that the board discussion and decision-taking on risk matters is based on accurate and appropriately comprehensive information and draws, to the extent you believe necessary, on external analysis and input;
- 3.6 scrutinising the performance of management in meeting agreed goals and objectives and monitoring the reporting of performance;
- 3.7 satisfying yourself that financial information is accurate and that financial controls and systems of risk management are robust and defensible; and

3.8 determining appropriate levels of remuneration of executive directors and having a prime role in appointing, and where necessary removing, senior management and in succession planning.

4. **Fees**

You will be paid a fee of £--- up until the Company has completed its first acquisition which, in the reasonable opinion of the Board is regarded as a substantial acquisition, from which date you will be paid a fee of £--- such fee to be paid per annum monthly in arrears (subject to the deduction of PAYE tax and national insurance contributions) which will be subject to an annual review by the Board. The Company will reimburse you for all reasonable and properly documented expenses which you incur in performing the duties of your office.

5. **Outside interests**

It is accepted and acknowledged that you have business interests other than those of the Company and have declared any conflicts that are apparent at present. In the event that you become aware of any potential conflicts of interest, these should be disclosed to the Chairman and Company Secretary as soon as apparent. The Board of the Company has determined you to be independent according to the provisions of the UK Corporate Governance Code.

6. **Confidentiality**

All information acquired during your appointment is confidential to the Company and should not be released, either during your appointment or following termination (by whatever means), to third parties without prior clearance from the Chairman.

7. **Dealings**

You will be obliged at all times to comply with the requirements and the spirit of the Company's share dealing rules which incorporate the provisions of the Model Code (the "Code") of the Financial Services Authority related to directors' dealings, a copy of which you acknowledge you have been provided with. The Code is separate from the insider dealing provisions contained in Part V of the Criminal Justice Act 1993 and you may not at any time enter into any transaction which contravenes that Act irrespective of whether this should also breach the Code. You may also not at any time enter into any transaction or engage in any behaviour which constitutes "market abuse" under Part VIII of the Financial Services and Markets Act 2000.

8. **Review process**

The performance of individual directors and the whole Board and its committees is

evaluated annually. If, in the interim, there are any matters which cause you concern about your role you should discuss them with the Chairman as soon as is appropriate.

9. Insurance

The Company has directors' and officers' liability insurance and it is intended to maintain such cover for the full term of your appointment. The current indemnity limit is currently £10,000,000; a copy of the policy document can be supplied on request.

10. Independent professional advice

Occasions may arise when you consider that you need professional advice in the furtherance of your duties as a director. Circumstances may occur when it will be appropriate for you to seek advice from independent advisors at the Company's expense. A copy of the Board's agreed procedure under which directors may obtain such independent advice can be supplied on request. The Company will reimburse the cost of any reasonable expenditure incurred by you in accordance with the policy.

11. Committees

This letter refers to your appointment as a non-executive director of the Company. In the event that you are also asked to serve on one or more of the Board committees this will be covered in a separate communication setting out the relevant committee's terms of reference, any specific responsibilities and any additional fees that may be involved.

12. Termination

Notwithstanding the provisions of paragraph 1 of this letter, the Company will have the right summarily to terminate your appointment and your right to director's fees without any notice, payment in lieu of notice, or other compensation should you (i) materially or persistently breach the terms of your appointment, (ii) have a bankruptcy order made against you or compound with or enter into any voluntary arrangements with your creditors, (iii) be disqualified from holding office as a director, (iv) be removed as a director by the Company's shareholders, (v) fail to be reappointed as a director for whatever reason or (vi) admission of the whole of the ordinary share capital of the Company to AIM does not become effective on or before 30 September 2010. On the termination of your appointment for whatever reason you shall return all property of the Company and any Group Company.

13. Resignation

At the request of the Company you will resign forthwith from your office as a director of the Company and from all offices held by you in any Group Company and from all other appointments or offices which you hold as nominee or representative for the Company or any Group Company, and you shall at the time of signing this letter appoint the Company as

your attorney by executing a Power of Attorney in the form set out in the Appendix to this letter to do any things and sign any documents in your name and on your behalf as may be required under the constitution of the Company and each Group Company to make your resignation effective.

For the purposes of this letter "Group Company" shall mean any undertaking which from time to time is a subsidiary or parent undertaking of the Company or a subsidiary undertaking of any such parent undertaking.

The obligations and restrictions set out in this letter are in addition and without prejudice to your statutory, common law, and fiduciary duties as a director of the Company and any subsidiary of which you may also be a director.

We look forward to the benefit of your independent views on the Board.

Please do not hesitate to contact me if you have any questions. Otherwise, I look forward to hearing from you.

Yours sincerely

.....
Chairman



EUROPEAN COMMISSION
SECRETARIAT-GÉNÉRAL

The Secretary General

Document
(B)

Brussels, 22/07/2010
SG/B/4 DCB/JTB Ares(2010)

Mr Charlie McCreevy
Blundell House,
Millicent South, Sallins,
Co. Kildare
Ireland

Dear Mr McCreevy,

Thank you for your e-mail of Friday July 16 regarding your envisaged assignment as Non-Executive Director of "De Facto 9999 plc" (which will soon become "New Bank Investments plc").

This activity is related to the content of your former portfolio as Commissioner in charge of the Internal Market and Services. Therefore, the Commission is consulting the Ad hoc Ethical Committee on the compatibility of your assignment with the Code of Conduct for Commissioners and article 245(2) of the TFEU.

Although the Ad hoc Ethical Committee and the College will seek to take decisions as quickly as possible, the procedure requires time. In view of the upcoming Summer break, the Commission will not be in a position to decide on this matter during the next few weeks. While waiting for the Commission's decision, it is important that you make your final acceptance of "De facto 1999 plc" / "New Investment Bank plc" assignment clearly conditional upon a positive decision by the Commission.

Kind regards,

Catherine Day

Cc: Hubert Sztaszewski



EUROPEAN COMMISSION
SECRETARIAT GENERAL

SG/B – Better Regulation and Administration
The Director

Document
(C)

Brussels, 22/07/2010
SG.B4 Ares(2010)

Note to the Members of the Ad hoc Ethical Committee

Mr Michel Petite

Mr Terry Wynn

Mr. Rafael García-Valdecasas

**Subject: Post-office activity of Mr. Charles McCreevy - Non Executive Director of
“De facto 1999 plc” (which will become “New Bank Investments plc”)**

Please find here attached the information sent on 16 July 2010 by former Commissioner Charles McCreevy to Secretary General Catherine Day, concerning his envisaged post-office activity as “Non Executive” Director of “De facto 1999 plc” (which will soon become “New Bank Investments plc”).

The consultation of the Ad hoc Ethical Committee is necessary insofar as this activity is linked to Mr McCreevy’s former portfolio as Commissioner in charge of Internal Market and Services.

Hubert Sztaszewski

Encl: 2

Copy: Ms Day, Secretary General

REQUEST FOR OPINION
OF THE AD-HOC ETHICAL COMMITTEE
(16.07.2010)

Name of the (former) Commissioner	Mr. Charles McCREEVY
Former portfolio	Internal Market and Services
Date of the letter sent to the Secretary General	Friday July 16, 2010
Proposed post/occupation	"Non executive" Director
Name of the "employer"	Current "De Facto 9999 plc" , in the near future "New Bank Investments plc"
Additional information / Comments	<p>Mr McCreevy's future responsibilities seem to be related to the company's merger strategy in the banking sector.</p> <p>See attached Mr McCreevy's e-mail to Secretary General Catherine Day of 16.07.2010 and its annex: draft letter of appointment of "De facto 9999 plc"</p> <p>According to the draft terms of his contract with "De Facto 9999 plc", Mr McCreevy, as "Non-executive Director", will have the same general legal responsibilities to the company as any other director.</p>

PEREZ BURGO Maria Ange (SG)

Subject: FW: Ref. letter dated 22.07.2010

Document
(D)

From: SZLASZEWSKI Hubert (SG)
Sent: Thursday, August 05, 2010 5:07 PM
To: Michel Petite; Rafael Garcia-Valdecasas; Terry Wynn
Cc: CLAEYS BOUUAERT Donatienne (SG)
Subject: Ref. letter dated 22.07.2010

Dear Members of the Ad Hoc Ethical Committee,

in reference to my message from 22nd of July, we have today received from Mr. McCreevy the final name of the new company:

"... the approved company name is NBNK Investments Plc."

Yours sincerely, H

Hubert Szlaszewski
Director
Secretariat General
European Commission
Tel: +32 2 29 95 171 Fax : +32 2 29 20 763
New e-mail address: hubert.szlaszewski@ec.europa.eu

Opinion of the Ad Hoc Ethical Committee

TO	Mrs. Day, General Secretary	DATE	24 August 2010
COPY TO	Mr. Hubert Szlaszewski, General Secretariat	FILE REF	
FROM	Michel Petite Rafael Garcia-Valdecasas Terry Wynn	DIRECT DIAL	+33 1 44 05 52 44

Re: - Request n° 9 from the European Commission
- Mr. Charles McCreevy

1. By letter of the 22nd of July 2010, the Secretariat General of the European Commission requested the opinion of the Ad Hoc Ethical Committee, on an activity envisaged by Mr. McCreevy, former Commissioner in charge of the Internal Market and Services until the entry in office of the new Commission in 2010.
2. The activity considered is that of non-executive director of NBNK Investments Plc. NBNK Investments PLC will be a financial institution, subject to the approval of the UK regulator, the Financial Services Authority (FSA). Its business plan seems to be to acquire available branches on the retail banking market in the UK.
3. The activity is due to be held for an initial term of 3 years, subject to the Company's Articles of Association.

It is anticipated that there will initially be monthly board meetings, further board meetings to be called at short notice in particular in relation to the Company's acquisition programme. The time commitment may also increase in case of appointment to any Board committees.

The remuneration will consist in a fee of £... up until the Company has completed its first acquisition, from which date it will rise to £... .

4. In his former term of office as Commissioner, Mr. McCreevy was in charge of the Internal Market and Services. This included the financial services as a whole, including banking and financial conglomerates.

In this respect, Mr. McCreevy was primarily competent for the conception and negotiation of the entire regulatory banking framework in the European Union. This framework became a paramount and priority issue due to the financial crisis, and Mr. McCreevy was in charge of its heavy recast.

It is therefore plain that Mr. McCreevy's envisaged activity is closely linked to his former portfolio as Commissioner in charge of the very sector.

5. It must be further noted that the financial crisis had a major effect in generating a considerable number of State aids to banks. These State aids are notified to the Commission. Some of them are the subject of formal enquiries, where the Commission has doubts on their compatibility with the EU State aid discipline. In such a case, frequent outcome have been major restructuring plans for the aided banks, which could include significant divestitures of business.

These restructuring plans are subject to the Commission's agreement and, although this discipline lies within the portfolio of the Commissioner in charge of Competition, the Directorate for Internal Market and Services and Mr. McCreevy and his cabinet are called to give an opinion and participate in the decisions.

6. The fact that the function is a non-executive has to be considered. It is nevertheless noted that in the present case, the non-executive directors have the same general legal responsibilities to the Company as any other director, and participate in the collective responsibility of the Board. The function includes advising on the Company's strategic aim, and the recurrence of Board meetings suggests that the Company's acquisition programme will be prominent on its agenda.

7. Taking account of the above, the Ethical Committee is of the opinion that, due to the nature of Mr. McCreevy's previous responsibilities as the Commissioner in charge of banks and financial institutions, and also bearing in mind the present sensitivity of this sector, the considered activity is so closely linked to the previous functions as to generate a situation of potential conflict of interest which could not adequately be dealt with by abstaining from certain specific decisions of the Board.

The Committee also believes that exercising the considered activity at this moment in time is likely to put the Commission under significant criticism, in contrast with the discretion called for in these circumstances.

The Ethical Committee is therefore of the opinion that the considered activity is not in conformity with article 245(2) of the Treaty on the Functioning of the European Union.

Document

(F)

From: DAY Catherine (SG)
Sent: Monday, August 30, 2010 11:02 AM
To: [redacted]
Subject: Message for Mr McCreevy

Dear Commissioner

In July you wrote to inform the Commission of your wish to take up a position as a non executive director with NBNK Investments Plc. As is usual in such cases the Commission invited the ad hoc ethical committee to give an opinion on whether the proposed activity is in conformity with article 245 (2) of the Treaty. We have now received the attached opinion of the Committee which you will see comes to the conclusion that, at this point in time, the proposed activity would not be in conformity because of your previous functions in the Commission.

In the light of the opinion of the ad hoc ethical committee I would like to ask whether you wish to withdraw the request for approval, in which case, no Commission decision will be sought. If you wish to maintain the request, the next step will be for the Commission to take a decision on your request. Given the opinion of the Committee I would expect the Commission decision to be negative.

If you would like to discuss the matter further please do not hesitate to contact me

Yours sincerely

Catherine Day.

<<...>>

7/09/2010



EUROPEAN COMMISSION
SECRETARIAT-GENERAL

The Secretary General

Document

(6)

Brussels, 22.09. 2010
SG/B/4 DCB/JTB Ares(2010) 616361

Mr Charlie McCreevy
Blundell House,
Millicent South, Sallins,
Co. Kildare
Ireland

Dear Mr McCreevy,

Please find below a summary of the applicable provisions, regulating the obligation to inform the Commission about post office activities of former members of the European Commission.

On the basis of the principles laid down in the Treaty¹, paragraph 1.1.1 of the Code of conduct for Commissioners establishes a procedure whereby former Commissioners are bound by the obligation to inform the Commission on any occupation they intend to engage in during the first year after they have ceased to hold office and the Commission then has to assess whether the planned occupation is compatible with the provisions of the Treaty².

After that year is over (in your case on 9 February 2011) and the above mentioned obligation to inform the Commission expires, it remains the responsibility of the former Commissioners to ascertain, that their choices are at all times compatible with the relevant provisions of the Treaty, in particular the duty to behave with integrity and discretion as regards the acceptance

¹ Article 245(2) of the TFEU: "*The Members of the Commission may not, during their term of office, engage in any other occupation, whether gainful or not. When entering upon their duties they shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising there from and in particular their duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits. In the event of any breach of these obligations, the Court of Justice may, on application by the Council acting by a simple majority or the Commission, rule that the Member concerned be, according to the circumstances, either compulsorily retired in accordance with Article 247 or deprived of his right to a pension or other benefits in its stead*".

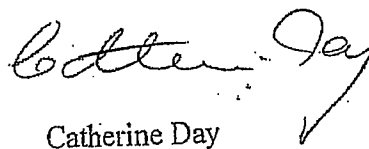
² Code of conduct for commissioners, paragraph 1.1.1: "*Whenever Commissioners intend to engage in an occupation during the year after they have ceased to hold office, they shall inform the Commission in good time. The Commission will examine the nature of the planned occupation and shall seek the opinion of the Ad hoc Ethical Committee if it is related to the content of the portfolio of the Commissioner during his/her full term of office. In the light of the Committee's findings, the Commission decides whether the planned occupation is compatible with Article 245(2) of the TFEU*".

of certain appointments. In other words, while after 9 February 2011, you would be free from the obligation to notify the Commission of any new activities, you would still be bound by the obligations of the treaty to ensure their acceptability.

In addition, former Commissioners receiving a transitional allowance and taking-up new gainful activities during the three year period during which they are entitled to receive this allowance must inform the Commission's Paymaster's Office (PMO) about any such gainful activity³. This information to the Commission is required in order to allow the PMO to compute the exact amount of transitional allowance due.

Please do not hesitate to contact me for any help or additional information you might need.

Kind regards,


Catherine Day

Cc: Mr Hubert Szlaszewski, Director SG/B.

³ In conformity with the rule against overlapping benefits laid down in article 7 of Regulation 422/67/EEC and 5/67 Euratom of the Council of 25.07.1967.

From: Noeleen McCreedy [mailto:...]
Sent: Tuesday, September 28, 2010 9:00 PM
To: DAY Catherine (SG)
Subject: C. McCreedy
Importance: High

Document
(H.)

Dear Catherine,

Thank you for your letter of 30th August with attached opinion of the committee; also your further e.mail of 22nd September.

I have discussed these matters with the Chairman of NBNK Investments Plc (ie. Lord Peter Levene). The latter has suggested the following as a course of action:

- Rather than I resigning from the Company, and be re-appointed later, he suggests that I attend no board meetings; nor receive any board or other papers; nor receive any Directors fees or emoluments.

In other words my directorship would be inactive until Spring 2011.

May I add that in light of this suggestion I will not be attending the scheduled board of this Thursday, 30 September 2010.

I think the foregoing fully meets the concerns expressed by the Ethical Committee. I also feel that this is a proportionate response, because

- a. NBNK Investments Plc did not exist at any time during my term as EU

21/10/2010

Commissioner

- b. As of today, it is little more than a shell company with no stakes of any kind in any bank
- c. As of today it does not even have a chief executive.

I think my proposal to effectively step aside for the coming months should put to rest the concerns expressed in the opinion.

I look forward to hearing from you.

Yours sincerely,

CHARLES MCCREEVY

Subject: FW: Follow up

Document
(1)

From: DAY Catherine (SG)
Sent: Monday, October 04, 2010 1:34 PM
To:
Cc: SZLASZEWSKI Hubert (SG); CLAEYS BOUUAERT Donatienne (SG)
Subject: Follow up

Dear Commissioner

Thank you for your message of 28 September proposing that instead of withdrawing from the proposed activity you would have an inactive directorship with NBNK Investments Plc until the Spring of 2011. Having considered the proposal in the light of the opinion that the Commission has received from the ad hoc Ethical Committee I regret to inform you that even this reduced involvement cannot be considered compatible with the code of conduct. In these circumstances I would like to ask you to inform us whether you now intend to withdraw from this proposed activity? I would be grateful for a rapid reply, if possible within 10 days.. If you do not intend to withdraw then I must inform you that a negative decision will be submitted to the Commission for adoption before the end of October.

If you would like to discuss further please do not hesitate to contact me


Yours sincerely

Catherine Day

Document

Subject: FW: Follow up

(J)

From: Noeleen McCreedy [mailto:...] 
Sent: Wednesday, October 06, 2010 11:10 PM
To: DAY Catherine (SG)
Subject: Re: Follow up

Dear Catherine,

Thank you for your message of 4 October.

I have today notified NBNK Investments PLC of my resignation from the Board of Directors with immediate effect.

Consequently, I wish to withdraw my request for Commission approval as it is no longer relevant.

Yours sincerely,

CHARLES McCREEVY

DAY Catherine (SG)

From: DAY Catherine (SG)
Sent: 07 October 2010 21:22
To: 'Noeleen McCreevy'
Subject: RE: Follow up


*Wouter!
(k)*

Dear Commissioner

thank you for your message. We have duly noted your resignation from the Board and the fact that a Commission decision is no longer necessary.

Best regards

Catherine

From: Noeleen McCreevy [mailto:Noeleen.McCreevy@ec.europa.eu] 
Sent: Wednesday, October 06, 2010 11:10 PM
To: DAY Catherine (SG)
Subject: Re: Follow up

Dear Catherine,

Thank you for your message of 4 October.

I have today notified NBNK Investments PLC of my resignation from the Board of Directors with immediate effect.

Consequently, I wish to withdraw my request for Commission approval as it is no longer relevant.

Yours sincerely,

CHARLES McCREEVY

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

From: "Catherine Day" <Catherine.Day@ec.europa.eu>
To: 
Cc: "Hubert SZLASZEWSKI" <Hubert.SZLASZEWSKI@ec.europa.eu>, "Donatienne Claeys-Bouuaert" <Donatienne.Claeys-Bouuaert@ec.europa.eu>
Sent: Monday, 4 October, 2010 12:33:31 GMT +00:00 GMT Britain, Ireland, Portugal
Subject: Follow up

Dear Commissioner

Thank you for your message of 28 September proposing that instead of withdrawing from the proposed activity you would have an inactive directorship with NBNK Investments Plc until the Spring of 2011. Having considered the proposal in the light of the opinion that the Commission has received from the ad hoc Ethical Committee I regret to inform you that even this reduced involvement cannot be

considered compatible with the code of conduct. In these circumstances I would like to ask you to inform us whether you now intend to withdraw from this proposed activity? I would be grateful for a rapid reply, if possible within 10 days.. If you do not intend to withdraw then I must inform you that a negative decision will be submitted to the Commission for adoption before the end of October.

If you would like to discuss further please do not hesitate to contact me

Yours sincerely

Catherine Day



EUROPEAN COMMISSION
SECRETARIAT GENERAL

SG/B – Better Regulation and Administrative Policies
The Director

Document
(L)

Brussels, 15 NOV. 2010
SG.B4 Ares(2010)

Note to the Members of the Ad hoc Ethical Committee

Mr Michel Petite

Mr Terry Wynn

Mr. Rafael García-Valdecasas

**Subject: Post-office activity of Mr. Charles McCreevy as Non Executive Director of
“NBNK Investments plc”**

Following the Ad hoc Ethical Committee’s opinion of 24 August 2010 and subsequent contacts with Mr McCreevy, Secretary General Catherine Day informed Mr McCreevy on 4 October 2010 that, should he maintain this proposed activity with NBNK, a negative decision on his request for approval would be submitted to the Commission for adoption.

This led Mr McCreevy to resign from the NBNK on 6 October 2010 and to withdraw his request.

Hubert Szlaszewski

Cc: Mrs Day