

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

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In re	:	Chapter 11
	:	
WASHINGTON MUTUAL, INC., <i>et al.</i> , ¹	:	Case No. 08-12229 (MFW)
	:	
Debtors.	:	Jointly Administered
	:	
	:	Hearing Date: January 4, 2010 at 3:00 pm
	:	Obj. Deadline: December 22, 2009 at 4:00 pm
	x	

**DEBTORS' MOTION FOR AN ORDER PURSUANT
TO BANKRUPTCY RULE 2004 AND LOCAL BANKRUPTCY
RULE 2004-1 DIRECTING THE EXAMINATION OF WITNESSES AND
PRODUCTION OF DOCUMENTS FROM KNOWLEDGEABLE PARTIES**

Washington Mutual, Inc. ("WMI") and WMI Investment Corp. ("WMI Investment," and with WMI, "Debtors"), through their undersigned counsel, hereby file this motion (the "Motion") pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") and Local Rule 2004-1 of the United States Bankruptcy Court for the District of Delaware seeking the entry of an order directing the production of documents and examination of witnesses most knowledgeable about the subjects in the attached document requests (the "Requested Examination") from regulatory entities, rating agencies, former WaMu suitors, banks, and professionals in connection with Debtors' investigation of certain pre-petition conduct that may unearth estate claims (the "Knowledgeable Parties"),² and respectfully represent:

¹ The Debtors in these chapter 11 cases (the "Chapter 11 Cases") and the last four digits of each Debtor's federal tax identification numbers are: (i) Washington Mutual, Inc. (3725) and (ii) WMI Investment Corp. (5395).

² Debtors seek the Rule 2004 examination of the following Knowledgeable Parties: The Federal Deposit Insurance Corporation, in its capacity as receiver for WMB and in its corporate capacity, ("FDIC"), the Office of Thrift Supervision ("OTS"), the Office of the Comptroller of



PRELIMINARY STATEMENT

1. On June 24, 2009, pursuant to Bankruptcy Rule 2004, this Court granted Debtors' motion for an order directing the examination of JPMC to investigate potentially valuable estate claims sounding in business tort and tortious interference. *See* June 24, 2009 Order (the "June 24 Order") and June 24, 2009 Opinion (the "June 24 Opinion," together, with the June 24 Order, Exhibit 1). Since that time, Debtors have received and reviewed documents that JPMC produced pursuant to the June 24 Order. Certain of the documents in the JPMC productions highlight the need to expand to third parties the investigation this Court authorized concerning "JPM[C]'s alleged malfeasance prior to the seizure and sale of WMB." *See* June 24 Opinion, Exhibit 1 at 17 & n.14. For example, with respect to Debtors' investigation into JPMC's efforts to interfere with a potential sale of WaMu, an internal JPMC email from June 2008 reports on a meeting between JPMC CEO Jamie Dimon and Banco Santander Chairman Emilio Botin in which Botin indicated that Santander was interested in acquiring WaMu. When Botin asked why JPMC did not buy WaMu in March 2008, Dimon responded that WaMu's "potential losses are higher than TPG is estimating." The e-mail further noted that "[i]t is important to have an open dialogue with [Santander], as Santander would not pursue any . . . of these opportunities if JPMorgan were to do the same." JPM_EX00004075, Exhibit 2. In light of such documents

the Currency ("OCC"), the Board of Governors of the Federal Reserve System ("Federal Reserve"), the U.S. Department of the Treasury ("Treasury Department"), the U.S. Securities and Exchange Commission ("SEC"), and former U.S. Treasury Secretary Henry M. Paulson, Jr ("Paulson") (collectively, the "Regulators"); Moody's Investors Service ("Moody's"), and Standard and Poor's Corporation ("S&P") (collectively, the "Rating Agencies"); Banco Santander, S.A. ("Banco Santander"), Toronto-Dominion Bank ("Toronto-Dominion"), TD Bank, N.A. ("TD Bank"), and Wells Fargo, N.A. ("Wells Fargo") (collectively, the "WaMu Suitors"); Federal Home Loan Bank-San Francisco ("FHLB-SF"); Federal Home Loan Bank-Seattle ("FHLB-Seattle"); The Goldman Sachs Group, Inc. ("Goldman Sachs") (collectively, the "Banks"); PricewaterhouseCoopers ("PwC"), Equale & Associates ("Equale"), Richard F. Holt ("Holt"), David Horne, LLC ("Horne") (collectively, the "JPMC Professionals").

demonstrating Debtors' need for discovery from certain third parties, Debtors respectfully request that the Court order the Rule 2004 examination of the Regulators, Rating Agencies, WaMu Suitors, Banks, and JPMC Professionals (collectively, the "Knowledgeable Parties").³

2. Documents produced by JPMC pursuant to the June 24 Opinion and Order suggest that the Knowledgeable Parties had dealings and communications with the Debtors and/or JPMC in the period leading up to the seizure and sale of WMB (and afterwards) on subjects directly relevant to the business tort claims this Court has authorized the Debtors to investigate.⁴ The Knowledgeable Parties are likely to have information currently unobtainable by Debtors relevant to potential estate claims sounding in business tort and tortious interference against JPMC, including information relevant to allegations made in *American National Insurance Co., et al. v. FDIC*, No. 1:09-cv-01743 (D.D.C.) (the "American National Action"),⁵ that JPMC (i) engaged in sham negotiations designed to elicit confidential information from WMI, (ii) misused and publicly leaked this confidential information, in violation of a confidentiality agreement, to gain an unfair advantage in obtaining WMB's long-coveted assets at a "fire sale" price, and (iii) misused access to government regulators to acquire confidential information about contemplated government supervisory action directed at Washington Mutual as part of an effort to "bargain and work with federal regulators for the seizure and sale of

³ During the meet and confer process required by Local Rule 2004.1 of the United States Bankruptcy Court for the District of Delaware, a number of third parties falling within these categories agreed to voluntarily produce documents responsive to Debtors' Rule 2004 requests. This motion is solely directed at those parties with whom Debtors were unable to proceed consensually.

⁴ Capitalized terms not defined herein have the meaning set forth in the Motion for Rule 2004 Examination of JPMC.

⁵ This action was referred to as "the Texas Action" in the Motion for Rule 2004 Examination of JPMC. On September 9, 2009, the District Court for the Southern District of Texas transferred the action to the District of Columbia.

Washington Mutual's assets." See *American National* Complaint ¶ 32, **Exhibit 3**. As with the Rule 2004 Examination of JPMC, the Rule 2004 Examination of the Knowledgeable Parties will enable the Debtors – as estate fiduciaries – to determine the validity and ownership of these potentially significant claims. To the extent the Requested Examination demonstrates that the Debtors have viable claims against JPMC, such claims are assets of the Debtors' chapter 11 bankruptcy estates and, thus, any recovery resulting from the assertion of these claims will inure to the benefit of the Debtors and their creditors.

3. The Requested Examination involves an investigation into the same set of allegations that formed the basis for the Rule 2004 Examination of JPMC. Therefore, as the Court already determined with respect to the Rule 2004 Examination of JPMC, the discovery sought herein is appropriate and necessary and is unrelated to any proceedings currently pending between JPMC and the Debtors. Furthermore, the Requested Examination is not duplicative of discovery taking place in the JPMC Adversary Action and the Turnover Action.

JURISDICTION AND VENUE

4. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (O). Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

5. The predicates for the requested relief are Bankruptcy Rule 2004 and Local Bankruptcy Rule 2004-1.

FACTUAL AND PROCEDURAL BACKGROUND

6. On September 26, 2008 (the "Petition Date"), the Debtors filed petitions for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the "Bankruptcy Code"). WMI and WMI Investment are debtors in the jointly-administered Chapter 11 Cases

and are operating as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

7. On March 24, 2009, JPMC filed the JPMC Adversary Proceeding concerning the ownership of certain assets that JPMC alleges to have acquired from the Federal Deposit Insurance Corporation (“FDIC”).

8. On April 27, 2009, the Debtors commenced a separate adversary proceeding against JPMC captioned *Washington Mutual, Inc. et al. v. JPMorgan Chase Bank, N.A.*, Adv. No. 09-50934, seeking the turnover of over \$4 billion in deposit liabilities that JPMC owes the Debtors but has refused to pay (the “Turnover Action”).

9. Pursuant to the June 24 Order, on July 2, 2009, Debtors served JPMC with the Subpoena for Rule 2004 Examination requesting production of documents responsive to narrowed and tailored document requests limited to discovery into the potential business torts claims (the “Debtors’ Rule 2004 Subpoena”, **Exhibit 4**). On July 20, 2009, JPMC sent responses and objections to Debtors’ Rule 2004 Requests.

10. In August 2009, Debtors and JPMC held a series of meet and confer sessions concerning Debtors’ Rule 2004 Requests. JPMC agreed to begin producing documents responsive to Debtors’ Rule 2004 Requests on a rolling basis beginning on August 26, 2009, and to make a good faith effort to complete its production of documents by September 25, 2009.

11. On August 26, 2009, JPMC made its first production in response to Debtors’ Rule 2004 Requests; JPMC made subsequent productions on September 8, 2009, and September 25, 2009 (the “JPMC Rule 2004 Discovery”).

A. **THE AMERICAN NATIONAL ACTION AND JPMC RULE 2004 DISCOVERY DEMONSTRATE THAT THE KNOWLEDGEABLE PARTIES LIKELY HAVE RELEVANT INFORMATION CONCERNING POTENTIAL VALUABLE ESTATE CLAIMS**

12. The Debtors' Rule 2004 Requests to JPMC sought information concerning a number of serious and detailed allegations from the *American National* Complaint concerning JPMC misconduct prior to the OTS closure of WMB. Key aspects of this alleged misconduct include (i) entering into false negotiations with WMI under the guise of a good-faith bidder in 2008; (ii) gaining access to WMI's and its subsidiaries' confidential and proprietary information pursuant to a confidentiality agreement with WMI (the "Confidentiality Agreement"); (iii) disclosing confidential information, in violation of the Confidentiality Agreement, to government regulators, rating agencies, media, and investors in an effort to harm WMI by driving down WMI's credit rating and stock price, and (iv) misusing confidential information as part of a lobbying effort to convince federal regulators to seize and sell off Washington Mutual's assets at a fire-sale price that JPMC would be strategically positioned to take advantage of. The *American National* Complaint and JPMC's Rule 2004 Discovery suggest that the Knowledgeable Parties had dealings and communications with the Debtors and/or JPMC concerning Washington Mutual prior to (and after) the seizure and sale of WMB with respect to these topics, and therefore likely have information relevant to potential estate claims arising from JPMC's pre-seizure misconduct.

(a) The Regulators

13. A recent investigative news report indicates that regulators may have "acted precipitously in seizing a bank that could have survived, and in the process wiped out billions of dollars of wealth with widespread personal consequences." Kristen Grind, *The Washington Mutual Decision*, Puget Sound Business Journal, Dec. 4, 2009, **Exhibit 5**. According to a senior federal official, regulators "'pulled the trigger too soon'" and "'[s]omeone needs to take a serious look at this because [the bank was not] illiquid.'" *Id.*

14. The OTS was Washington Mutual's primary regulator and was in communication with WMI from December 2007 through September 2008 concerning regulatory issues. OTS was ultimately responsible for closing WMB and appointing the FDIC as receiver. The FDIC was in communication with WMI concerning regulatory issues and established the bid process for WMB. Washington Mutual was subject to OCC and Federal Reserve regulations, and JPMC's Rule 2004 discovery indicates that JPMC was in communication with the OCC and Federal Reserve concerning JPMC's potential acquisition of Washington Mutual. The U.S. Department of the Treasury was concerned with Washington Mutual's affairs, as reflected in a news report that JPMC CEO Jamie Dimon had communications in July 2008 with then-U.S. Treasury Secretary Henry Paulson regarding Washington Mutual. *American National Complaint* ¶ 45, **Exhibit 3**. Furthermore, a September 19, 2008, JPMC slide presentation about the potential acquisition of Washington Mutual notes that among the "Issues and considerations" is the "Impact of Paulson RTC-like structure." JPM_EX00012957, **Exhibit 6**. The SEC also served an oversight role over Debtors given Debtors' publicly traded equity and debt securities. In a September 18, 2008 emergency order, the SEC prohibited the short sale of the securities of WMI and certain other financial institutions, reasoning that "recent sudden declines in the prices of a wide range of securities . . . can give rise to questions about the underlying financial condition of an issuer, which in turn can create a crisis of confidence, without a fundamental underlying basis." See Emergency Order Pursuant to Section 12(k)(2) of the Securities Exchange Act of 1934 Taking Temporary Action to Respond to Market Developments, dated September 18, 2008, **Exhibit 7**.

15. The *American National Complaint* alleges that as part of its scheme to acquire Washington Mutual, JPMC "gathered non-public information" about Washington Mutual from

the OCC, OTS, FDIC, and the Federal Reserve. *American National* Complaint at ¶ 40, **Exhibit 3**. Moreover, JPMC’s Rule 2004 Discovery indicates that JPMC held meetings with Regulators in 2008 concerning Washington Mutual and made presentations regarding Washington Mutual that included sensitive Washington Mutual information. Prior to JPMC submitting its March 31, 2008 bid to acquire WMI’s business, JPMC discussed the potential acquisition with regulators and sought government assistance in a deal. *See, e.g.*, JPM_EX00000851, **Exhibit 8** (JPMC “Project West timetable” noting a 3/28/08 meeting with regulators); JPM_EX00023598, **Exhibit 9** (internal March 30, 2008 JPMC e-mail chain proposing plan for government assistance and noting “[i]t sounds to me like the government is really concerned as they should be about taking losses, so they should like this versus alternative”). After WMI rejected JPMC’s March 2008 bid in favor of a \$7.2 billion investment from private equity firms, JPMC continued to meet with regulators to discuss a potential acquisition of WaMu. An internal JPMC e-mail chain from July 17, 2008, states that “we may get more color tomorrow with the regulators” concerning WaMu and potential government assistance in a deal. JPM_EX00000322-23, **Exhibit 10**. Attached to the e-mail is a presentation disclosing information on “West’s”⁶ asset and mortgage portfolios and describing a “Regulatory Relief” option in which JPMC will “[a]sk Fed for relief on DTA [Deferred Tax Assets] or RWA [Risk Weighted Assets] related to the Option ARMs & Subprime portfolios” and notes that JPMC had already “discussed with Fed on prior occasions.” JPM_EX00000324-339, **Exhibit 11**. These documents are consistent with allegations that JPMC “misused” its “insider” status and access to regulators to leak confidential WMI information and

⁶ In certain of its presentations to regulators, ratings agencies, and other third parties, JPMC refers to Washington Mutual as “West.” It was likely apparent to all involved that the referenced entity was Washington Mutual.

“wrongfully influence government policy and actions,” *American National* Complaint ¶¶ 31-32, 43, giving rise to potential claims sounding in business tort and tortious interference. **Exhibit 3**.

16. Documents produced by JPMC and news reports also suggest that JPMC, through its access to Regulators, had advance notice of the plans to seize WMB and may have used that knowledge to “obstruct Washington Mutual’s efforts to sell itself in a fair bidding process.” See *American National* Complaint ¶¶ 32, 98, **Exhibit 3**. For example, in a slide presentation dating back to July 2008, JPMC refers to a potential transaction in which it “acquires West lead thrift subsidiary (WMB) from Receiver” and notes the assets and liabilities it would assume. JPM_EX00005836, **Exhibit 12**. In early September, three weeks before WMB was seized, FDIC officials informed JPMC that “the FDIC was carefully monitoring [WMB] and that a seizure of its assets was likely” and that the FDIC “would want to immediately auction off [WMB’s] assets.” See Heidi N. Moore, *Deal Journal*, Wall St. J., Sept. 30, 2008, at C7, **Exhibit 13**. This is consistent with an internal e-mail on September 11, 2008 in which JPMC executives discussed the structure of a deal involving the FDIC in which JPMC would “acquire assets and liabilities of West’s thrift subsidiaries but leave behind senior and unsecured debt with the FDIC (\$15.2 bn).” JPM_EX00000319, **Exhibit 14**. On September 12 and 14, 2008, JPMC made presentations providing further detail on a transaction in which JPMC would acquire “West’s thrift subsidiaries from Receiver.” JPM_EX00000279, 4259, **Exhibit 15**. Moreover, in September 19, 2008 presentations, JPMC indicates that it was “[c]ontacted by FDIC about interest in West” and “[h]ad spoken to FDIC about Bank only in receivership with protection.” JPM_EX00012889, 12952, **Exhibit 6**. However, the FDIC did not open up the bid process for WMB until September 23, 2008. See JPMC_EX00003647-48, **Exhibit 16**. Discovery is warranted to determine the extent to which JPMC and the Regulators worked together to craft a

deal for JPMC to acquire WMB at a fire-sale price and thereby interfered with WMI's efforts to find an acquirer for all or part of WMI's business.

17. In the days leading up to JPMC's acquisition of WMB from the FDIC, Regulators worked with JPMC to consummate a deal on terms acceptable to JPMC. For example, in a September 22, 2008 e-mail exchange between JPMC Senior Vice President and General Counsel Dan Cooney and FDIC Deputy Director James Wigand, Cooney indicated that WaMu was reluctant to provide JPMC certain financial data and the FDIC offered to try to obtain the information for JPMC. JPM_EX00000077-78, **Exhibit 17**. Additionally, documents made available by the FDIC through the Freedom of Information Act ("FOIA"), indicate that per JPMC's request, the FDIC agreed to "modify the standard indemnification [in the Purchase & Assumption Agreement] to include a limited indemnity in favor of JPMorgan Chase in an amount not to exceed \$500 million for any damages JPMorgan Chase may sustain as a result of litigation brought by WMI against JPMorgan Chase for violation of the agreement between WMI and JPMorgan Chase dated March 11, 2008." See 9/24/08 Memorandum from James Wigand and Herbert Held to FDIC Board of Directors, at 2; FDIC Board of Directors Resolution Approving P&A Transaction, at 2, 6-7, **Exhibit 18**. Moreover, the OCC coordinated with the FDIC and JPMC on language to be included in the FDIC resolution approving the P&A Transaction in which the FDIC agreed to override certain state banking laws that would otherwise prohibit JPMC from acquiring WMB. JPM_EX00036075-76, **Exhibit 19**.

18. Together, the *American National* allegations and documents produced by JPMC to date pursuant to Rule 2004 cement the belief that the Regulators are in possession of information that Debtors require to properly assess potential estate claims.

(b) The Rating Agencies

19. JPMC's Rule 2004 Discovery indicates that JPMC had several meetings and communications with each of the Rating Agencies in April 2008 and September 2008 regarding Washington Mutual. The *American National* Complaint alleges that JPMC misused confidential Washington Mutual information to "drive down WMI's credit rating." *American National* Complaint ¶ 98, **Exhibit 3**. Debtors have cause to investigate further a potential claim that JPMC leaked confidential WMI information to the Rating Agencies in violation of the Confidentiality Agreement.

20. JPMC made presentations to the Rating Agencies concerning Washington Mutual's creditworthiness and sought feedback from the Rating Agencies concerning the potential acquisition of WMB. For example, an April 4, 2008 internal JPMC e-mail attaches a draft presentation to ratings agencies including information about "West's" mortgage portfolio. JPM_EX00005951-60, **Exhibit 20**. Additionally, on September 22, 2008, before the FDIC was appointed receiver for WMB, JPMC scheduled meetings with the rating agencies "to tell them about the FDIC process and that we intend to be a bidder" for WMB and prepared materials for the rating agencies "concerning our credit due diligence [of WaMu] in March and again now." JPM_EX00000074-75, **Exhibit 21**. See also JPM_EX00004276-78, **Exhibit 22** (internal JPMC e-mail chain regarding communications with rating agencies); JPM_EX00005173, **Exhibit 23** (9/22/08 internal JPMC e-mail asking for "book . . . used to discuss West w/ the FDIC" so JPMC can "leverage the page from that book that laid out West's loan portfolios, by product, on a managed basis for the rating agency meetings which are scheduled to begin tomorrow").

(c) WaMu Suitors

21. According to media reports and JPMC's Rule 2004 Discovery, the WaMu Suitors had expressed interest in investing in, merging, or acquiring all or part of Washington Mutual's

business in 2008. JPMC's Rule 2004 Discovery suggests, as the *American National* Complaint alleges, that Debtors may have a claim against JPMC for tortious interference with business expectancy due to JPMC's alleged use of its insider status to "bargain and work with federal regulators for the seizure and sale of Washington Mutual's assets" and thereby prevent Washington Mutual from reaching a (more favorable) deal with one of the WaMu Suitors. *American National* Complaint ¶ 32, **Exhibit 3**. Together, the *American National* Complaint and JPMC's Rule 2004 Discovery further suggest that at the time JPMC was working with federal regulators on a plan in which it would acquire WMB out of receivership, JPMC was aware that several parties may have expressed interest in acquiring WMI's banking business through a bidding process being run by Goldman Sachs and Morgan Stanley on Washington Mutual's behalf. *See id.* ¶ 51, **Exhibit 3** (noting that Washington Mutual hired Goldman Sachs on or about September 12, 2008 "to help find a buyer for Washington Mutual"); JPM_EX00012889, **Exhibit 6** (in a September 19, 2008 presentation to ratings agencies, JPMC acknowledged that WaMu had hired investment banks "to run [an] auction process" for the sale of WaMu, but indicated that it chose to "not participate in auction" because its "[a]pproach is to work directly with the FDIC").

22. Moreover, JPMC's Rule 2004 Discovery suggests that JPMC may have leaked confidential Washington Mutual information to the WaMu Suitors in an effort to reduce competition and drive them away from a deal with Washington Mutual. Illustrating JPMC's efforts to interfere with a potential sale of WaMu is the internal JPMC email from June 2008 reporting that when Banco Santander Chairman Botin indicated to JPMC CEO Dimon that Santander was interested in acquiring WaMu, Dimon told Botin that WaMu's "potential losses are higher than TPG is estimating." The e-mail further noted that "[i]t is important to have an

open dialogue with [Santander], as Santander would not pursue any . . . of these opportunities if JPMorgan were to do the same.” JPM_EX00004075, **Exhibit 2**. JPMC also took steps to gather information concerning other entities’ interest in acquiring WaMu and gauge their likelihood of consummating a deal. See JPM_EX00003884, 3886, **Exhibit 24** (6/17/08 slide presentation listing and ranking potential WaMu buyers); JPM_EX00013270, **Exhibit 25** (9/23/08 e-mail noting that “TD still in West process. Any of you think they post?”); JPM_EX00013271-77, **Exhibit 26** (9/23/08 presentation concerning capital structures of Citigroup, Santander, Wells Fargo, and TD Bank, among others); JPM_EX00013146, **Exhibit 27** (internal 9/22/08 JPMC e-mail forwarding article listing Wells Fargo and Banco Santander as among parties interested in acquiring WaMu). Discovery is warranted from the WaMu Suitors to determine the extent to which they were engaged in talks to acquire or invest in WaMu and actions that JPMC may have taken to interfere with a potential deal.

(d) Banks

23. In 2007 and 2008, WMI retained Goldman Sachs, among other investment banks, to raise capital and/or locate a potential merger partner or acquiror for all or part of WMI’s business.⁷

24. In connection with its bid for WMI’s business in March 2008, JPMC entered into the Confidentiality Agreement governing its access to Washington Mutual information and prohibiting the disclosure of confidential Washington Mutual information to third parties. *American National Complaint* ¶ 54, **Exhibit 3**.

25. JPMC’s Rule 2004 Discovery suggests that JPMC communicated regularly with Goldman Sachs concerning access to and requests for Washington Mutual information. See, e.g.

⁷ The other investment banks agreed to proceed consensually in responding to Debtors’ Rule 2004 requests, and therefore the other investment banks are not included in this motion.

JPM_EX00002818, 3034-36, **Exhibit 28** (internal JPMC e-mails from March 2008 regarding need to contact Goldman Sachs with respect to requests for information about WaMu). Goldman Sachs therefore likely has information relevant to the allegations in the *American National* Complaint concerning JPMC entering into false negotiations with WMI under the guise of a good-faith bidder, gaining access to WMI's and its subsidiaries' confidential information, and the potential misuse of that information.

26. Further, in September 2008, as part of their efforts to locate a potential merger partner or acquiror for all or part of WMI's business, Goldman Sachs communicated with JPMC and the WaMu suitors to gauge their interest in Washington Mutual. *See, e.g.*, JPM_EX00012889, **Exhibit 6** (slide presentation noting that Goldman Sachs was hired to run an auction process for WaMu). These communications are relevant to potential claims that JPMC tortiously interfered with WMI's efforts to raise capital or locate a buyer for its business and warrant discovery.

27. WMB was a member bank of FHLB-SF and WMBfsb was a member bank of FHLB-Seattle. At various times during 2008, Washington Mutual made loan requests to FHLB-SF and FHLB-Seattle. During the time period prior to the OTS seizure of WMB, it is Debtors' understanding that JPMC communicated with FHLB-SF and FHLB-Seattle regarding Washington Mutual and its loan requests. An internal JPMC e-mail from March 2008 illustrates JPMC was concerned with advances that Washington Mutual had received from FHLB. JPM_EX00014957, **Exhibit 29** ("West has roughly \$40B FHLB advances maturing in 2008 and \$18B in 2009. . . . Not a deal killer but something to work out if this progresses."). Debtors have cause to investigate a potential claim that JPMC leaked confidential WMI information to

FHLB-SF and FHLB-Seattle in an effort to prevent future loans to Washington Mutual, restrict Washington Mutual's liquidity and drive WMB into receivership.

(e) JPMC Professionals

28. As part of its efforts to acquire Washington Mutual, JPMC retained the services of the JPMC Professionals. PwC provided accounting services to JPMC in conjunction with JPMC's interest in a transaction to acquire WMI's business. See JPM_EX00031573, **Exhibit 30** (PwC listed as accountant on Project West Working Group List); see also JPM_EX00027993-28020, **Exhibit 31** (7/22/08 e-mail from PwC forwarding to JPMC a WaMu Credit Risk Management presentation). Additionally, on September 18, 2008, five days prior to the FDIC instituting the bid process for WMB, PwC was discussing with JPMC the FDIC's procedures concerning failed banks and various structures of purchase and assumption transactions. JPM_EX000031860-61, **Exhibit 32**. Lobbyist disclosure forms filed with the U.S. Congress indicate that in 2008, Equale, Hohlt, and Horne all lobbied the government on JPMC's behalf concerning financial regulatory issues. See **Exhibit 33**.

29. Discovery from the JPMC Professionals is warranted concerning JPMC's disclosure of confidential Washington Mutual information, in violation of the Confidentiality Agreement, to government regulators, rating agencies, media, and investors in an effort to drive down WMI's credit rating and stock price, as well as JPMC's misuse of confidential information as part of a lobbying effort to convince federal regulators to seize and sell off Washington Mutual's assets at a fire-sale price.

RELIEF REQUESTED

30. Pursuant to Bankruptcy Rule 2004 and Local Rule 2004-1, the Debtors seek authorization to obtain the Requested Examination, including production of documents

responsive to the document requests, annexed hereto as **Exhibit A** to the attached order, and oral examination of witnesses most knowledgeable of the subjects described in the document requests, from the Knowledgeable Parties relating to the allegations in the *American National Action* and information provided in JPMC's Rule 2004 Discovery. To obtain this relief, the Debtors seek entry of an order substantially in the form annexed hereto (the "**Proposed Order**"), and also reserve the right to serve supplemental and additional document requests and seek additional oral examinations that relate to the foregoing.

REQUESTED EXAMINATION

31. The Debtors need the Requested Examination to further unearth the facts and assess the merits of potentially valuable causes of action against JPMC that would inure to the benefit of their estates. The Requested Examination will assist the Debtors in identifying potential claims of the estates, which are significant and may impact the administration of the estates and formulation of a plan of reorganization. Accordingly, the Debtors must obtain such information in order to properly discharge their duties as debtors-in-possession.

32. The discovery sought herein is tailored to the allegations in the *American National Action* and information gleaned from JPMC's Rule 2004 Discovery. Compliance with the annexed document requests and oral examinations of individuals most knowledgeable about the subjects described in the document requests will not be unduly burdensome to the Knowledgeable Parties, and can be achieved without undue hardship in the time period requested.

33. To facilitate the necessary discovery, the Debtors request that the Court enter the Proposed Order granting the Motion and requiring the Knowledgeable Parties to produce documents responsive to the requests annexed hereto as **Exhibit A** to the Proposed Order, and

make witnesses most knowledgeable about the subjects described in the document requests available for oral examination. The Debtors request that the Court order that such document production be made (or at least substantially completed) on or before the date that is thirty (30) days after entry of the Proposed Order. In addition, the Debtors request the right to provide the Knowledgeable Parties from whom discovery is sought by this Motion with thirty (30) days notice of the proposed oral examinations.

BASIS FOR RELIEF

34. Bankruptcy Rule 2004(a) provides that “[o]n motion of any party in interest, the court may order the examination of any entity.” The purpose of a Rule 2004 examination “is to enable the trustee to discover the nature and extent of the bankruptcy estate.” June 24 Opinion at 8 (citing *In re Drexel Burnham Lambert Group, Inc.*, 123 B.R. 702, 708 (Bankr. S.D.N.Y. 1991)); *see also In re Symington*, 209 B.R. 678, 684 (Bankr. D. Md. 1997) (noting that Bankruptcy Rule 2004 “assure[s] the proper administration of bankruptcy estates”) (citations omitted). Among the “[l]egitimate goals of Rule 2004 examinations” are “determining whether wrongdoing has occurred,” June 24 Opinion, **Exhibit 1**, at 8 (quoting *In re Enron Corp.*, 281 B.R. 836, 840 (Bankr. S.D.N.Y. 2002)), and exposing any fraudulent conduct. *Symington*, 209 B.R. at 683-84 (explaining that a “‘sweeping general examination’ . . . to recover assets and uncover fraudulent conduct is a traditional feature of bankruptcy jurisprudence . . . “and that among the “obvious purposes” of a Rule 2004 examination is “the exposure of fraudulent conduct”) (citing 5 Remington on Bankruptcy § 1979 (1953 ed.); *In re Foerst*, 93 F. 190 (S.D.N.Y.1899)).

35. Rule 2004 grants debtors “broad rights of examination of a third-party’s records.” *Snyder v. Society Bank*, 181 B.R. 40, 41 (S.D.Tex. 1994) (citing *Cameron v. United States*, 231

U.S. 710, 716 (1914)); *see also In re Cousins Barricades & Metal Prods, Inc.*, No. Civ. A. 99-2035, 2000 WL 245860, *3 (E.D.La. Mar 2, 2000). Emphasizing the broad purpose of Rule 2004, courts permit the examination of any third party that has “knowledge of the debtor’s affairs,” *In re Ecam Publ’ns*, 131 B.R. 556, 559 (Bankr. S.D.N.Y. 1991), or who can be shown to have had dealings with the debtor, *In re Ionosphere Clubs, Inc.*, 156 B.R. 414, 432 (S.D.N.Y. 1993), *aff’d*, 17 F.3d 600 (2d Cir. 1994). *See* Bankruptcy Rule 2004(b) (noting that Rule 2004 examination may concern “any matter which may affect the administration of the debtor’s estate”). Accordingly, because the Knowledgeable Parties had dealings with the Debtors or have information relevant to potential valuable estate claims based on JPMC’s alleged wrongdoings, they are subject to examination under Bankruptcy Rule 2004.

36. Rule 2004 discovery is appropriate here because the Requested Examination to investigate potential business tort claims against JPMC is unrelated to any of the pending proceedings between WMI and JPMC. *See* June 24 Opinion, **Exhibit 1**, at 14. Furthermore, the Knowledgeable Parties are not a party to those proceedings. As the Court held in the June 24 Opinion, ““even after the trustee has commenced adversary proceeding(s), the trustee may conduct Rule 2004 examinations of entities who are not parties to or are not affected by the pending adversary proceedings.”” *Id.* at 11 (quoting *In re Buick*, 174 B.R. 299, 305 (D. Colo. 1994)).

37. As with Debtors’ Rule 2004 Requests to JPMC, each of the proposed document requests properly seeks documents relating to Debtors’ “acts, conduct, or property,” or their “liabilities and financial condition”, and/or “any other matter which may affect the administration” of their estates. Fed. R. Bankr. P. 2004. Consequently, the Requested

Examination sought by the Debtors is clearly within the scope of a Bankruptcy Rule 2004 examination.

CERTIFICATION OF COMPLIANCE WITH LOCAL RULE 2004-1

38. Counsel for the Debtors have discussed with each of the Knowledgeable Parties and/or their counsel whether each of the Knowledgeable Parties would agree to voluntarily produce documents and make witnesses available consistent with this Motion. As of the time of filing this Motion, Debtors and each of the Knowledgeable Parties have not been able to arrange for a mutually agreeable date, time, place and scope of an examination or production. In order to prevent unnecessary delay arising from disputes concerning, among other things, the entitlement to the information requested and claims of confidentiality, the Debtors seek to put this Motion on for a hearing and thereby ensure a fair and expeditious resolution hereof. Prior to the hearing on this Motion, the Debtors will continue discussing the relief sought herein and attempt to resolve any legitimate objections raised by any of the Knowledgeable Parties.

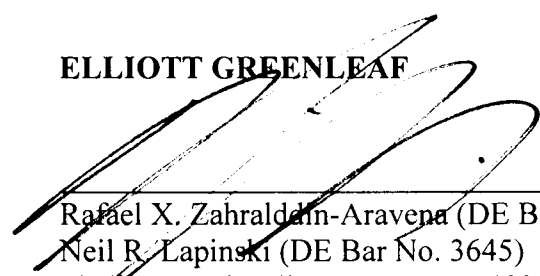
39. Accordingly, the Debtors seek the authority of this Court to conduct an examination under Bankruptcy Rule 2004 and Local Rule 2004-1 that includes the production by the Knowledgeable Parties of all documents responsive to the requests annexed hereto as **Exhibit A** to the Proposed Order, as well as related oral examinations of witnesses most knowledgeable about the subjects described in the document requests.

40. No previous request for the relief sought herein has been made to this Court or any other court.

WHEREFORE the Debtors respectfully request that the Court grant the relief requested herein and such other and further relief as it deems just and proper.

Dated: December 14, 2009
Wilmington, Delaware

ELLIOTT GREENLEAF



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Special Litigation and Conflicts Co-Counsel to Washington Mutual, Inc. and WMI Investment Corp.

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

----- X
In re : Chapter 11
: :
WASHINGTON MUTUAL, INC., *et al.*,¹ : Case No. 08-12229 (MFW)
: :
Debtors. : Jointly Administered
: :
: **Hearing Date: January 4, 2010 at 3:00 pm**
: **Obj. Deadline: December 22, 2009 at 4:00 pm**
: :
----- X

**NOTICE OF DEBTORS' MOTION FOR AN ORDER
PURSUANT TO BANKRUPTCY RULE 2004 AND LOCAL BANKRUPTCY
RULE 2004-1 DIRECTING THE EXAMINATION OF WITNESSES AND
PRODUCTION OF DOCUMENTS FROM KNOWLEDGEABLE PARTIES**

TO: (I) the Office of the United States Trustee for the District of Delaware; (II) counsel for the Official Committee of Unsecured Creditors; (III) The Federal Deposit Insurance Corporation, in its capacity as receiver for WMB and in its corporate capacity; (IV) the Office of Thrift Supervision; (V) the Office of the Comptroller of the Currency; (VI) the Board of Governors of the Federal Reserve System; (VII) the U.S. Department of the Treasury; (VIII) the U.S. Securities and Exchange Commission; (IX) former U.S. Treasury Secretary Henry M. Paulson, Jr.; (X) Moody's Investors Service; (XI) Standard and Poor's Corporation; (XII) Banco Santander, S.A.; (XIII) Toronto-Dominion Bank; (XIV) TD Bank, N.A.; (XV) Wells Fargo, N.A.; (XVI) Federal Home Loan Bank-San Francisco; (XVII) Federal Home Loan Bank-Seattle; (XVIII) The Goldman Sachs Group, Inc.; (XIX) PricewaterhouseCoopers; (XX) Equale & Associates; (XXI) Richard F. Holt; (XXII) David Horne, LLC; (XXIII) counsel for JPMorgan Chase Bank, N.A.; (XXIV) counsel for WMB Bank Bondholders; and (XXV) all parties required to receive service under Rule 2002-1(b) of the Local Rules.

PLEASE TAKE NOTICE that Washington Mutual, Inc. and WMI Investment Corp. have filed this *Motion for an Order Pursuant to Bankruptcy Rule 2004 and Local Bankruptcy Rule 2004-1 Directing the Examination of Witnesses and Production of Documents from Knowledgeable Parties* (the "Motion").

PLEASE TAKE FURTHER NOTICE that any responses or objections to the relief requested in the Motion must be filed on or before **December 22, 2009 at 4:00 p.m. (prevailing Eastern Time)** with the United States Bankruptcy Court for the District of Delaware (the

¹ The Debtors in these chapter 11 cases (the "Chapter 11 Cases") and the last four digits of each Debtor's federal tax identification numbers are: (i) Washington Mutual, Inc. (3725) and (ii) WMI Investment Corp. (5395).

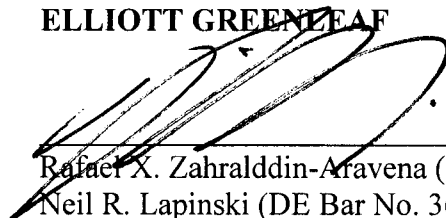
“Bankruptcy Court”), 824 Market Street, Wilmington, Delaware 19801. At the same time, you must also serve a copy of any responses or objection upon the undersigned attorneys.

PLEASE TAKE FURTHER NOTICE that a hearing on the Motion, if necessary, shall be held before the Honorable Mary F. Walrath on **January 4, 2010 at 3:00 p.m. (prevailing Eastern Time)** at the Bankruptcy Court, 824 Market Street, 5th Floor, Courtroom 4, Wilmington, Delaware 19801.

PLEASE TAKE FURTHER NOTICE THAT IF NO RESPONSES OR OBJECTIONS ARE TIMELY FILED AND RECEIVED IN ACCORDANCE WITH THE ABOVE PROCEDURES, AN ORDER MAY BE ENTERED GRANTING THE MOTION WITHOUT FURTHER NOTICE OR A HEARING.

Dated: December 14, 2009
Wilmington, Delaware

ELLIOTT GREENLEAF



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*Special Litigation and Conflicts Co-Counsel to Washington
Mutual, Inc. and WMI Investment Corp.*

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

----- X
In re : Chapter 11
 :
WASHINGTON MUTUAL, INC., *et al.*,¹ : Case No. 08-12229 (MFW)
 :
 : Jointly Administered
Debtors. :
 :
 : Re: Docket No. _____
----- X

**ORDER PURSUANT TO BANKRUPTCY RULE 2004
AND LOCAL BANKRUPTCY RULE 2004-1 DIRECTING
THE EXAMINATION OF WITNESSES AND PRODUCTION
OF DOCUMENTS FROM KNOWLEDGEABLE PARTIES**

Upon the motion (the “Motion”) of Washington Mutual, Inc. (“WMI”) and WMI Investment Corp. (“WMI Investment”) as debtors and debtors in possession (together, the “Debtors”), pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Local Rule 2004-1 of the United States Bankruptcy Court for the District of Delaware for the entry of an order directing the production of documents and examination of witnesses most knowledgeable about the subjects in the requested documents (the “Requested Examination”) from regulatory entities, rating agencies, former WaMu suitors, banks, and professionals in connection with Debtors’ investigation of certain pre-petition conduct that may unearth estate claims (the “Knowledgeable Parties”);² and this matter being a

¹ The Debtors in these chapter 11 cases (the “Chapter 11 Cases”) and the last four digits of each Debtor’s federal tax identification numbers are: (i) Washington Mutual, Inc. (3725) and (ii) WMI Investment Corp. (5395).

² Debtors seek the Rule 2004 examination of the following Knowledgeable Parties: The Federal Deposit Insurance Corporation, in its capacity as receiver for WMB and in its corporate capacity, (“FDIC”), the Office of Thrift Supervision (“OTS”), the Office of the Comptroller of the Currency (“OCC”), the Board of Governors of the Federal Reserve System (“Federal Reserve”), the U.S. Department of the Treasury (“Treasury Department”), the U.S. Securities and Exchange Commission (“SEC”), and former U.S. Treasury Secretary Henry M. Paulson, Jr

core proceeding pursuant to 28 U.S.C. § 157(b)(2)(B); and upon consideration of the Motion; and due and proper notice of the Motion having been given, it is hereby

ORDERED that the Motion is granted in its entirety; and it is

ORDERED that Debtors are hereby authorized to issue subpoenas or other process to compel the production of documents from each of the Knowledgeable Parties; and it is

ORDERED that Debtors are hereby authorized to issue subpoenas or other process to compel from each of the Knowledgeable Parties the attendance at oral examinations of witnesses who are most knowledgeable about the subjects described in the document requests; and it is

ORDERED that all Knowledgeable Parties are directed to produce documents on or before the date that is thirty (30) days after entry of this Order responsive to the discovery requests, at the locations set forth in the subpoena forms attached hereto as Exhibit A, subject to any documents withheld under a claim of privilege; and it is

ORDERED that the Knowledgeable Parties are directed to provide counsel for the Debtors with a privilege log in accordance with Rule 7026 of the Federal Rules of Bankruptcy within forty-five (45) days after entry of this Order; and it is

ORDERED that witnesses from each of the Knowledgeable Parties who are most knowledgeable about the subjects described in the document requests, submit to oral

(“Paulson”) (collectively, the “Regulators”); Moody’s Investors Service (“Moody’s”), and Standard and Poor’s Corporation (“S&P”) (collectively, the “Rating Agencies”); Banco Santander, S.A. (“Banco Santander”), Toronto-Dominion Bank (“Toronto-Dominion”), TD Bank, N.A. (“TD Bank”), and Wells Fargo, N.A. (“Wells Fargo”) (collectively, the “WaMu Sutors”); Federal Home Loan Bank-San Francisco (“FHLB-SF”); Federal Home Loan Bank-Seattle (“FHLB-Seattle”); The Goldman Sachs Group, Inc. (“Goldman Sachs”) (collectively, the “Banks”); PricewaterhouseCoopers (“PwC”), Equale & Associates (“Equale”), Richard F. Holt (“Holt”), David Horne, LLC (“Horne”) (collectively, the “JPMC Professionals”).

examinations upon reasonable notice, and in no event less than (30) days from the date of issuance of a subpoena issued to the Knowledgeable Party; and it is

ORDERED that the Debtors may video-tape any oral examinations of the Knowledgeable Parties; and it is

ORDERED that the Court shall retain jurisdiction with respect to any matters, claims, rights or disputes arising from or related to the implementation of this Order; and it is further

ORDERED that this Order is without prejudice to the rights of the Debtors to apply for further discovery of the Knowledgeable Parties, or of any other entity or individual.

Dated: December ____, 2009
Wilmington, Delaware

The Honorable Mary F. Walrath
United States Bankruptcy Judge

Exhibit A

UNITED STATES BANKRUPTCY COURT

for the District of Columbia

In re: Washington Mutual, Inc., et. al.
Debtor

SUBPOENA FOR RULE 2004 EXAMINATION

Case No.* 08-12229 (MFW) U.S. Bankruptcy Court for the District of Delaware

To: Mr. George W. Madison, General Counsel
U.S. Department of the Treasury
Office of General Counsel
1500 Pennsylvania Ave, N.W.
Washington, DC 20220

Chapter Chapter 11

YOU ARE COMMANDED to appear and testify at an examination under Rule 2004, Federal Rules of Bankruptcy Procedure, at the place, date, and time specified below. A copy of the court order authorizing the examination is attached.

PLACE OF TESTIMONY

DATE AND TIME

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

Please see First Request for Production of Documents, attached hereto as "Exhibit A."

PLACE Weil, Gotshal & Manges, LLP
1300 Eye Street, N.W., Suite 900
Washington, D.C. 20005

DATE AND TIME

_____, 2010 5:00 p.m.

ISSUING OFFICER SIGNATURE AND TITLE

DATE

ISSUING OFFICER'S NAME, ADDRESS, AND PHONE NUMBER

Neil R. Lapinski, Esq.
Elliott Greenleaf

1105 North Market Street, Suite 1700
Wilmington, DE 19801
(302) 384-9400

* If the bankruptcy case is pending in a district other than the district in which the subpoena is issued, state the district under the case number.

PROOF OF SERVICE

SERVED	DATE	PLACE	
SERVED ON (PRINT NAME)		MANNER OF SERVICE	
SERVED BY (PRINT NAME)		TITLE	

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____
DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), as amended on December 1, 2007, made applicable in cases under the Bankruptcy Code by Rule 9016, Federal Rules of Bankruptcy Procedure:

(c) Protecting a Person Subject to a Subpoena.

(1) **Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) **Command to Produce Materials or Permit Inspection.**

(A) **Appearance Not Required.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) **Objections.** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) **Quashing or Modifying a Subpoena.**

(A) **When Required.** On timely motion, the issuing court must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) **When Permitted.** To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information;
- (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or
- (iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) **Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(d) Duties in Responding to a Subpoena.

(1) **Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

(A) **Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) **Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) **Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

(D) **Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) **Claiming Privilege or Protection.**

(A) **Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) **Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) Contempt.

The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

Exhibit A

FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

DEFINITIONS

The following terms (whether or not capitalized) shall have the meanings set forth below:

1. "Adversary Proceedings" means or refers to the JPMC Adversary Proceeding and the Turnover Proceeding.
2. "And" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
3. "Any," "all" and "each" shall be construed broadly, and shall mean any, all, and each as necessary to bring within the scope of the discovery request all responses that otherwise could be construed to be outside of its scope.
4. "Banco Santander" means Banco Santander, S.A., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.
5. "Blackstone" means the Blackstone Group, L.P., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.
6. "Carlyle" means Carlyle Group LLC, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.
7. "Cerberus" means Cerberus Capital Management, L.P., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any

of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

8. "Chapter 11 case" means or refers to *In re Washington Mutual, Inc.*, No. 08-12229 (Bankr. D. Del).

9. "Citigroup" means Citigroup, Inc. and Citibank, N.A., and all of their predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

10. "Communication" means any oral, written or electronic transmission of information, fact, opinion, belief, idea, statement, inquiry or otherwise, including without limitation any letter, correspondence, memorandum, electronic-mail message, note or meeting log, conversation, meeting, discussion, telephone call, facsimile, telegram, telex, conference or message.

11. "Concerning" means comprising, consisting of, concerning, referring to, reflecting, regarding, supporting, evidencing, relating to, prepared in connection with, used in preparation for, or being in any way legally, logically or factually concerned with the matter or document described, referred to or discussed.

12. "DC Action" refers to *Washington Mutual, Inc. and WMI Investment Corp. v. Federal Deposit Insurance Corporation*, No. 1:09-cv-00533 (D.D.C.).

13. "Document" is used in its broadest sense and mean and include any written or graphic matter or other means of preserving thought or expression and all tangible things from which information can be processed or transcribed, including the originals and all non-identical copies, whether different from the original by reason of any notation made on such copy or otherwise, including but not limited to, correspondence, memoranda, notes, messages, letters, telegrams, teletype, telefax, bulletins, meetings or other communications, interoffice and intraoffice telephone calls, diaries, chronological data, minutes, books, reports, studies, summaries, pamphlets, bulletins, printed matter, charts, ledgers, invoices, worksheets, receipts,

returns, computer printouts, prospectuses, financial statements, schedules, affidavits, contracts, cancelled checks, statements, transcripts, statistics, surveys, magazine or newspaper articles, releases (and any and all drafts, alterations and modifications, changes and amendments of any of the foregoing), graphic or aural records or representations of any kind (including without limitation photographs, microfiche, microfilm, videotape, records and motion pictures) and electronic, mechanical or electric records or representations of any kind (including without limitation tapes, cassettes, discs and records).

14. "FDIC" means or refers to the Federal Deposit Insurance Corporation, as receiver for Washington Mutual Bank, Henderson Nevada and in its corporate capacity.

15. "Federal Reserve" means the Board of Governors of the Federal Reserve System and the twelve Federal Banks; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

16. "Fitch" means Fitch Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

17. "Goldman Sachs" means The Goldman Sachs Group, Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

18. "Governmental Unit" has the meaning set forth at 11 U.S.C. § 101(27).

19. "Including" means including but not limited to the referenced subject.

20. "JPMC" means JPMorgan Chase Bank, National Association and JPMorgan Chase & Co., and any of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

21. "JPMC Adversary Proceeding" refers to *JPMorgan Chase Bank, National Association v. Washington Mutual, Inc., et al.*, Adversary Proceeding No. 09-50551 (Bankr. D. Del.).

22. "Lehman Brothers" means Lehman Brothers Holdings, Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

23. "Morgan Stanley" means Morgan Stanley, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

24. "Moody's" means Moody's Investors Service, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

25. "Oak Hill" means Oak Hill Capital Partners, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

26. "OCC" means the Office of the Comptroller of the Currency, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

27. "OTS" means the Office of Thrift Supervision, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

28. "RTC" means the Resolution Trust Corporation, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

29. "P&A Agreement" means or refers to the Purchase and Assumption Agreement, Whole Bank, among the Federal Deposit Insurance Corporation, as receiver of Washington Mutual Bank, Henderson, Nevada, the Federal Deposit Insurance Corporation and JPM, dated as of September 25, 2008.

30. "SEC" means the U.S. Securities and Exchange Commission and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

31. "S&P" means Standard and Poor's Corporation and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

32. "TD Bank" means TD Bank, N.A., and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

33. "Texas Action" refers to *American Nat'l Ins. Co., et al., v. JPMorgan Chase & Co., et al.*, Case No. 3:09-cv-00044 (S.D. Tex.), which has been transferred to the United States District Court for the District of Columbia.

34. "TPG" means TPG Capital (formerly Texas Pacific Group), and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

35. "Transaction" means or refers to any means by which JPMorgan Chase might obtain, receive or succeed to Washington Mutual's businesses or properties, or any portion

thereof, or any transaction preliminary, preparatory or incident thereto, including any stock tender, stock purchase, asset purchase, assumption of deposit or other liabilities, merger, joint venture or partnership.

36. "Turnover Proceeding" means *WMI and WMI Investment Corp. v. JPMC*, No. 09-50934 (Bankr. D. Del.).

37. "U.S. Department of the Treasury" means or refers to the U.S. Department of the Treasury and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

38. "Washington Mutual" means or refers to WMI and WMB, and any and all of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on their behalf, any of their parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

39. "Wells Fargo" means Wells Fargo, N.A., and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

40. "WMB" means or refers to Washington Mutual Bank, Henderson, Nevada, and any and all of its current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

41. "WMB fsb" means or refers to Washington Mutual Bank, fsb, Utah, and any and all of its current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

42. "WMI" means or refers to Washington Mutual, Inc. and WMI Investment Corp. (collectively, the "Debtors") and any and all of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on their behalf, any of their parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

43. "You" means or refers to the U.S. Department of the Treasury, individually or collectively, to whom this subpoena is addressed, and any owner, director, officer, employee, agent, custodian, parent, subsidiary, affiliate, predecessor, successor, attorney, accountant, representative, and other Persons purporting to act on your behalf.

44. Any ambiguity in a discovery request shall be construed to bring within the scope of the discovery request all responses that otherwise could be construed to be outside of its scope.

INSTRUCTIONS

Each response must be made in accordance with the following instructions:

1. The responsive documents should be produced in the manner prescribed by the Federal Rules of Civil Procedure, as made applicable herein by the Federal Rules of Bankruptcy Procedure, including producing the requested documents as they are kept in the usual course of business or organized and labeled to correspond with the categories in the requests, and identifying the name of the person from whose files the documents were produced.

2. You are to produce the original and all non-identical copies, including all drafts, of each document requested. If you are not able to produce the original of any document, please produce the best available copy and all non-identical copies, including drafts.

3. Each request herein extends to all documents and communications in the possession, custody or control of you or anyone acting on your behalf. A document is deemed to be in your possession, custody, or control if it is in your physical custody, or if it is in the physical custody of any other person and you: (1) own such document in whole or in part; (2)

have a right, by contract, statute or otherwise, to use, inspect, examine or copy such document on any terms; (3) have an understanding, express or implied, that you may use, inspect, examine, or copy such document on any terms; or (4) as a practical matter, have been able to use, inspect, examine, or copy such document when you sought to do so. If any requested document was, but no longer is, in your control, state the disposition of each such document.

4. Any reference in these document requests to an individual or person include any and all agents, advisors, employees, representatives, attorneys, successors-in-interest, and all other persons or entities acting in his, her, or its behalf or under his, her or its control.

5. If any document is withheld under any claim of privilege, including without limitation, attorney-client privilege and attorney work product, you should provide the following information with respect to such document:

- (1) The date of the document;
- (2) The title of the document;
- (3) The name of its author(s) or preparer(s) and an identification by employment and title of each such person;
- (4) The name of each person who was sent or furnished with, received, viewed or has custody of the document or a copy thereof together with an identification by employment and title of each such person;
- (5) The request to which the document relates;
- (6) The title and description of the document sufficient to identify it without revealing the information for which privilege is claimed;
- (7) The claim of privilege under which it is withheld; and
- (8) A description of the subject matter of the document in sufficient detail to support your contention that the document is privileged;

6. If, after exercising due diligence to secure them, you cannot provide some or any of the requested documents, so state and provide all documents to the extent possible, specifying

the reason for your inability to produce the remainder of the documents, and stating whatever information or knowledge you have concerning each document not produced.

7. If any requested document or other document potentially relevant to this action is subject to destruction under any document retention or destruction program, the documents(s) should be exempted from any scheduled destruction and should not be destroyed until the conclusion of this action or unless otherwise permitted by the Court.

8. If any document responsive to these requests is known to have existed and cannot now be located, or has been destroyed or discarded, set forth a complete statement of the circumstances surrounding such loss or destruction, including:

- (1) a description of the document, including the date, a summary of its contents and the identity of its author and the person(s) to whom it was sent or shown;
- (2) the last known custodian;
- (3) whether the document is missing or lost or was destroyed or discarded;
- (4) the date of loss, destruction or discard;
- (5) the manner of destruction or discard;
- (6) the reason(s) for destruction or discard;
- (7) the person(s) authorizing or carrying out such destruction or discard; and
- (8) the efforts made to locate lost or misplaced documents.

9. If an objection is made to any request, state your objection and the ground or grounds with particularity in your written response. If an objection is made only to part of the request, identify that part in your written response and state your objection and the ground(s) therefor.

10. Each request shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive. Any request propounded in the singular shall

also be read as if propounded in the plural and vice versa. Any request propounded in the present tense shall also be read as if propounded in the past tense and vice versa.

11. This request is a continuing one. If, after producing the requested documents, you obtain or become aware of any further documents responsive to this request, you are required to produce such additional documents. Supplemental responses should be served within thirty (30) days after such information or documents become known to you.

12. Unless otherwise specified, the time period covered by these requests is from January 1, 2007 to the present and shall encompass all documents and information relating in whole or in part to such period, or to events or circumstances during such period, even though dated, prepared, generated or received prior to that date.

REQUESTS FOR PRODUCTION OF DOCUMENTS

The Debtors request that the U.S. Department of the Treasury produce the following documents in its possession, custody or control:

1. All documents concerning, or communications with, Washington Mutual with respect to any entity's efforts to acquire all or part of Washington Mutual, and/or any of its substantial assets.
2. All documents concerning communications with or among JPMC, the FDIC, the media, ratings agencies, investors, and/or any third party concerning Washington Mutual.
3. All documents concerning any meetings and/or communications between Washington Mutual and any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, Federal Reserve, and the SEC, including (a) any meetings between OTS and WMI on or about April 5, 2008, (b) any meetings between Washington Mutual, OTS, and the FDIC on or about July 31, 2008, and/or (c) any communications with or among U.S. Treasury Secretary Hank Paulson and WMI Chairman and CEO Kerry Killinger and/or JPMC President and CEO Jamie Dimon regarding Washington Mutual.
4. All documents concerning any potential or actual regulatory and/or supervisory actions, ratings, or examinations directed toward or taken with respect to Washington Mutual by any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, Federal Reserve, and SEC, including but not limited to (a) OTS's decision to initiate discussions about Memorandums of Understanding with WMI and WMB, (b) the Memorandums of Understanding OTS issued to WMI and WMB on or about September 7, 2008, (c) any regulatory classification of Washington Mutual by the OTS, including without limitation any decision by

OTS to classify WMB as a "problem institution," and/or (d) U.S. Treasury Secretary Henry Paulson's "RTC plan" concerning Washington Mutual.

5. All documents concerning Washington Mutual's responses or potential responses to any regulatory and/or supervisory actions, ratings, or examinations by any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, Federal Reserve, and the SEC.

6. All documents concerning Washington Mutual's efforts to raise capital and/or locate a potential merger partner or acquiror, including without limitation (a) any actual or possible acquisition or investment by any entity of any stake in Washington Mutual, including any communications with or among Banco Santander, Bankers Trust, Blackstone, Carlyle, Cerberus, Citigroup, JPMC, Oak Hill, TPG, TD Bank, and/or Wells Fargo and their affiliates; (b) any efforts to raise capital through the issuance of debt securities in December 2007 (including the issuance of approximately \$3 billion of debt securities on or about December 17, 2007); (c) any actual, potential, or contemplated bids for Washington Mutual and/or the bidding process for Washington Mutual; (d) any efforts to raise capital and/or locate a potential merger partner or acquiror during the first quarter of 2008; (e) TPG's investment of about \$7.2 billion into Washington Mutual on or about April 7, 2008; and/or (f) any efforts to raise capital and/or locate a potential merger partner or acquiror in September 2008, including any efforts by Goldman Sachs and/or Morgan Stanley on Washington Mutual's behalf.

7. All documents concerning any meetings and/or communications between JPMC and any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, Federal Reserve, and the SEC, concerning Washington Mutual including (a) any meetings on or

about March 28, 2008, (b) any meetings between JPMC and the U.S. Department of the Treasury in April 2008, and/or (c) any meetings on or about July 18, 2008.

8. All documents concerning JPMC's trading activity in Washington Mutual stock, including any actual, potential, or contemplated decision by JPMC to short Washington Mutual stock in the three months prior to the OTS seizure of WMB.

9. All documents concerning JPMC's disclosure of any Washington Mutual information, or disclosure of any information about Washington Mutual, to any Governmental Unit, the media, ratings agencies, investors, and/or any other third parties.

10. All documents concerning any agreement between JPMC and Washington Mutual concerning access to and/or disclosure of non-public, confidential or proprietary information in connection with a potential transaction in which JPMC would acquire, merge with, or invest in Washington Mutual.

11. All documents concerning JPMC's access to Washington Mutual data, including but not limited to (a) JPMC due diligence of Washington Mutual and/or (b) any effort by JPMC to place "moles" at Washington Mutual for the purpose of obtaining confidential Washington Mutual information, which JPMC used "to bargain and work with federal regulators for the seizure and sale of Washington Mutual's assets," *see* Texas Action Complaint at ¶ 32, including JPMC's placement of former JPMC employees at Washington Mutual, including but not limited to, the placement or employment of Stephen J. Rotella, Steve Fortunato, Taj Bindra, John Berens, Youyi Chen, and Bill Murray, *see id.* at ¶ 38.

12. All documents concerning JPMC's interest in any potential Transaction and any attempt by JPMC to engage in any potential Transaction, including but not limited to any actual, potential, or contemplated bid or offer by JPMC to merge with, invest in, or purchase

Washington Mutual, including but not limited to (a) Washington Mutual's rejection of JPMC's offer to merge with, invest in, or acquire Washington Mutual in or about April 2008, (b) capital contributions or investments received by JPMC in connection with any potential Transaction in or about September 2008, and/or (c) any agreement or arrangement between JPMC and any Government Unit, including but not limited to the FDIC, OTS, OCC, Federal Reserve, SEC and/or the U.S. Department of the Treasury, concerning any potential transaction in which JPMC might or did acquire WMB, or any stake or portion of WMB.

13. All documents concerning the potential for WMB to be seized by OTS and the decision to seize WMB, as well as the potential for the FDIC to be appointed receiver of WMB and the decision to place WMB into receivership with the FDIC, including all documents concerning any communication from FDIC officials to JPMC in early September 2008, to inform JPMC in words or substance that "the FDIC was carefully monitoring [WMB] and that a seizure of its assets was likely" and that the FDIC "would want to immediately auction off [WMB's] assets." *See* Heidi N. Moore, *Deal Journal*, Wall St. J., Sept. 30, 2008, at C7.

14. All documents concerning the bid process established by the FDIC for the purchase of WMB, including but not limited to (a) all documents concerning any communication with or among JPMC, any Government Unit and/or any third party about the bid process and (b) all documents concerning bids or indications of interest received by the FDIC, including copies of bids or indications of interest from JPMC and Citigroup.

15. All documents concerning the following statement, in form or in substance, from Citigroup to the FDIC: "We recognize that our approach does not conform to the bidding instructions for Washington Mutual. We believe, however, that our suggested approach will in fact provide greater systemic ability and lower losses than would any conforming bid. . . . [W]e

would expect that, consistent with the FDIC's statutory obligation under the 'least-cost' test, this construct would be offered to all potential bidders in a new round of bidding." *See* Citigroup Bid Letter to FDIC, at 4.

16. All documents concerning the FDIC's consideration of and decision to "modify the standard indemnification to include a limited indemnity in favor of JPMorgan Chase in an amount not to exceed \$500 million for any damages JPMorgan Chase may sustain as a result of litigation brought by WMI against JPMorgan Chase for violation of the agreement between WMI and JPMorgan Chase dated March 11, 2008," including all documents concerning JPMC's request for such an indemnification provision. *See* 9/24/08 Memorandum from James Wigand and Herbert Held to FDIC Board of Directors and FDIC Board of Directors Resolution Approving P&A Transaction.

17. All documents concerning any OCC indication to OTS, FDIC, and/or JPMC that "as the federal regulator of JPMorgan Chase . . . it will provide its approval of the transfer of assets and liabilities [of WMB to JPMC] on September 25, 2008." *See* FDIC Board of Directors Resolution Board of Directors Approving JPMC's Bid for WMB, at 4.

18. All documents concerning OTS's determination that "WMB met the well-capitalized standards through the date of receivership." *See* OTS Fact Sheet, Sept. 25, 2008.

19. All documents concerning OTS's determination that "adverse publicity" caused WMB to "suffer[] significant cash outflows." *See* OTS Order 2008-36, dated September 25, 2008.

UNITED STATES BANKRUPTCY COURT

for the District of Columbia

In re: Washington Mutual, Inc., et. al.
Debtor

SUBPOENA FOR RULE 2004 EXAMINATION

Case No.* 08-12229 (MFW) U.S. Bankruptcy Court for the District of Delaware

To: Mr. David M. Becker, General Counsel
U.S. Securities and Exchange Commission
Office of the General Counsel
100 F Street, NE
Washington, D.C. 20549

Chapter Chapter 11

YOU ARE COMMANDED to appear and testify at an examination under Rule 2004, Federal Rules of Bankruptcy Procedure, at the place, date, and time specified below. A copy of the court order authorizing the examination is attached.

PLACE OF TESTIMONY

DATE AND TIME

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

Please see First Request for Production of Documents, attached hereto as "Exhibit A."

PLACE Weil, Gotshal & Manges, LLP
1300 Eye Street, NW, Suite 900
Washington, D.C. 20005

DATE AND TIME

_____, 2010 5:00 p.m.

ISSUING OFFICER SIGNATURE AND TITLE

DATE

ISSUING OFFICER'S NAME, ADDRESS, AND PHONE NUMBER

Neil R. Lapinski, Esq.
Elliott Greenleaf

1105 North Market Street, Suite 1700
Wilmington, DE 19801
(302) 384-9400

* If the bankruptcy case is pending in a district other than the district in which the subpoena is issued, state the district under the case number.

PROOF OF SERVICE

SERVED	DATE	PLACE
SERVED ON (PRINT NAME)		MANNER OF SERVICE
SERVED BY (PRINT NAME)		TITLE

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____

DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), as amended on December 1, 2007, made applicable in cases under the Bankruptcy Code by Rule 9016, Federal Rules of Bankruptcy Procedure

(c) Protecting a Person Subject to a Subpoena.

(1) **Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) **Command to Produce Materials or Permit Inspection.**

(A) **Appearance Not Required.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) **Objections.** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) **Quashing or Modifying a Subpoena.**

(A) **When Required.** On timely motion, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) **When Permitted.** To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) **Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(d) Duties in Responding to a Subpoena.

(1) **Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

(A) **Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) **Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) **Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

(D) **Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) **Claiming Privilege or Protection.**

(A) **Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications,

or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) **Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) Contempt.

The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

Exhibit A

FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

DEFINITIONS

The following terms (whether or not capitalized) shall have the meanings set forth below:

1. "Adversary Proceedings" means or refers to the JPMC Adversary Proceeding and the Turnover Proceeding.
2. "And" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
3. "Any," "all" and "each" shall be construed broadly, and shall mean any, all, and each as necessary to bring within the scope of the discovery request all responses that otherwise could be construed to be outside of its scope.
4. "Banco Santander" means Banco Santander, S.A., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.
5. "Blackstone" means the Blackstone Group, L.P., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.
6. "Carlyle" means Carlyle Group LLC, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.
7. "Cerberus" means Cerberus Capital Management, L.P., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any

of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

8. "Chapter 11 case" means or refers to *In re Washington Mutual, Inc.*, No. 08-12229 (Bankr. D. Del).

9. "Citigroup" means Citigroup, Inc. and Citibank, N.A., and all of their predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

10. "Communication" means any oral, written or electronic transmission of information, fact, opinion, belief, idea, statement, inquiry or otherwise, including without limitation any letter, correspondence, memorandum, electronic-mail message, note or meeting log, conversation, meeting, discussion, telephone call, facsimile, telegram, telex, conference or message.

11. "Concerning" means comprising, consisting of, concerning, referring to, reflecting, regarding, supporting, evidencing, relating to, prepared in connection with, used in preparation for, or being in any way legally, logically or factually concerned with the matter or document described, referred to or discussed.

12. "DC Action" refers to *Washington Mutual, Inc. and WMI Investment Corp. v. Federal Deposit Insurance Corporation*, No. 1:09-cv-00533 (D.D.C.).

13. "Document" is used in its broadest sense and mean and include any written or graphic matter or other means of preserving thought or expression and all tangible things from which information can be processed or transcribed, including the originals and all non-identical copies, whether different from the original by reason of any notation made on such copy or otherwise, including but not limited to, correspondence, memoranda, notes, messages, letters, telegrams, teletype, telefax, bulletins, meetings or other communications, interoffice and intraoffice telephone calls, diaries, chronological data, minutes, books, reports, studies, summaries, pamphlets, bulletins, printed matter, charts, ledgers, invoices, worksheets, receipts,

returns, computer printouts, prospectuses, financial statements, schedules, affidavits, contracts, cancelled checks, statements, transcripts, statistics, surveys, magazine or newspaper articles, releases (and any and all drafts, alterations and modifications, changes and amendments of any of the foregoing), graphic or aural records or representations of any kind (including without limitation photographs, microfiche, microfilm, videotape, records and motion pictures) and electronic, mechanical or electric records or representations of any kind (including without limitation tapes, cassettes, discs and records).

14. "FDIC" means or refers to the Federal Deposit Insurance Corporation, as receiver for Washington Mutual Bank, Henderson Nevada and in its corporate capacity.

15. "Federal Reserve" means the Board of Governors of the Federal Reserve System and the twelve Federal Banks; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

16. "Fitch" means Fitch Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

17. "Goldman Sachs" means The Goldman Sachs Group, Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

18. "Governmental Unit" has the meaning set forth at 11 U.S.C. § 101(27).

19. "Including" means including but not limited to the referenced subject.

20. "JPMC" means JPMorgan Chase Bank, National Association and JPMorgan Chase & Co., and any of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

21. "JPMC Adversary Proceeding" refers to *JPMorgan Chase Bank, National Association v. Washington Mutual, Inc., et al.*, Adversary Proceeding No. 09-50551 (Bankr. D. Del.).

22. "Lehman Brothers" means Lehman Brothers Holdings, Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

23. "Morgan Stanley" means Morgan Stanley, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

24. "Moody's" means Moody's Investors Service, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

25. "Oak Hill" means Oak Hill Capital Partners, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

26. "OCC" means the Office of the Comptroller of the Currency, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

27. "OTS" means the Office of Thrift Supervision, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

28. "RTC" means the Resolution Trust Corporation, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

29. "P&A Agreement" means or refers to the Purchase and Assumption Agreement, Whole Bank, among the Federal Deposit Insurance Corporation, as receiver of Washington Mutual Bank, Henderson, Nevada, the Federal Deposit Insurance Corporation and JPM, dated as of September 25, 2008.

30. "SEC" means the U.S. Securities and Exchange Commission and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

31. "S&P" means Standard and Poor's Corporation and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

32. "TD Bank" means TD Bank, N.A., and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

33. "Texas Action" refers to *American Nat'l Ins. Co., et al., v. JPMorgan Chase & Co., et al.*, Case No. 3:09-cv-00044 (S.D. Tex.), which has been transferred to the United States District Court for the District of Columbia.

34. "TPG" means TPG Capital (formerly Texas Pacific Group), and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

35. "Transaction" means or refers to any means by which JPMorgan Chase might obtain, receive or succeed to Washington Mutual's businesses or properties, or any portion

thereof, or any transaction preliminary, preparatory or incident thereto, including any stock tender, stock purchase, asset purchase, assumption of deposit or other liabilities, merger, joint venture or partnership.

36. "Turnover Proceeding" means *WMI and WMI Investment Corp. v. JPMC*, No. 09-50934 (Bankr. D. Del.).

37. "U.S. Department of the Treasury" means or refers to the U.S. Department of the Treasury and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

38. "Washington Mutual" means or refers to WMI and WMB, and any and all of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on their behalf, any of their parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

39. "Wells Fargo" means Wells Fargo, N.A., and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

40. "WMB" means or refers to Washington Mutual Bank, Henderson, Nevada, and any and all of its current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

41. "WMB fsb" means or refers to Washington Mutual Bank, fsb, Utah, and any and all of its current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

42. "WMI" means or refers to Washington Mutual, Inc. and WMI Investment Corp. (collectively, the "Debtors") and any and all of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on their behalf, any of their parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

43. "You" or "Your" means or refers to the U.S. Securities and Exchange Commission, individually or collectively, to whom this subpoena is addressed, and any owner, director, officer, employee, agent, custodian, parent, subsidiary, affiliate, predecessor, successor, attorney, accountant, representative, and other Persons purporting to act on your behalf.

44. Any ambiguity in a discovery request shall be construed to bring within the scope of the discovery request all responses that otherwise could be construed to be outside of its scope.

INSTRUCTIONS

Each response must be made in accordance with the following instructions:

1. The responsive documents should be produced in the manner prescribed by the Federal Rules of Civil Procedure, as made applicable herein by the Federal Rules of Bankruptcy Procedure, including producing the requested documents as they are kept in the usual course of business or organized and labeled to correspond with the categories in the requests, and identifying the name of the person from whose files the documents were produced.

2. You are to produce the original and all non-identical copies, including all drafts, of each document requested. If you are not able to produce the original of any document, please produce the best available copy and all non-identical copies, including drafts.

3. Each request herein extends to all documents and communications in the possession, custody or control of you or anyone acting on your behalf. A document is deemed to be in your possession, custody, or control if it is in your physical custody, or if it is in the physical custody of any other person and you: (1) own such document in whole or in part; (2)

have a right, by contract, statute or otherwise, to use, inspect, examine or copy such document on any terms; (3) have an understanding, express or implied, that you may use, inspect, examine, or copy such document on any terms; or (4) as a practical matter, have been able to use, inspect, examine, or copy such document when you sought to do so. If any requested document was, but no longer is, in your control, state the disposition of each such document.

4. Any reference in these document requests to an individual or person include any and all agents, advisors, employees, representatives, attorneys, successors-in-interest, and all other persons or entities acting in his, her, or its behalf or under his, her or its control.

5. If any document is withheld under any claim of privilege, including without limitation, attorney-client privilege and attorney work product, you should provide the following information with respect to such document:

- (1) The date of the document;
- (2) The title of the document;
- (3) The name of its author(s) or preparer(s) and an identification by employment and title of each such person;
- (4) The name of each person who was sent or furnished with, received, viewed or has custody of the document or a copy thereof together with an identification by employment and title of each such person;
- (5) The request to which the document relates;
- (6) The title and description of the document sufficient to identify it without revealing the information for which privilege is claimed;
- (7) The claim of privilege under which it is withheld; and
- (8) A description of the subject matter of the document in sufficient detail to support your contention that the document is privileged;

6. If, after exercising due diligence to secure them, you cannot provide some or any of the requested documents, so state and provide all documents to the extent possible, specifying

the reason for your inability to produce the remainder of the documents, and stating whatever information or knowledge you have concerning each document not produced.

7. If any requested document or other document potentially relevant to this action is subject to destruction under any document retention or destruction program, the documents(s) should be exempted from any scheduled destruction and should not be destroyed until the conclusion of this action or unless otherwise permitted by the Court.

8. If any document responsive to these requests is known to have existed and cannot now be located, or has been destroyed or discarded, set forth a complete statement of the circumstances surrounding such loss or destruction, including:

- (1) a description of the document, including the date, a summary of its contents and the identity of its author and the person(s) to whom it was sent or shown;
- (2) the last known custodian;
- (3) whether the document is missing or lost or was destroyed or discarded;
- (4) the date of loss, destruction or discard;
- (5) the manner of destruction or discard;
- (6) the reason(s) for destruction or discard;
- (7) the person(s) authorizing or carrying out such destruction or discard; and
- (8) the efforts made to locate lost or misplaced documents.

9. If an objection is made to any request, state your objection and the ground or grounds with particularity in your written response. If an objection is made only to part of the request, identify that part in your written response and state your objection and the ground(s) therefor.

10. Each request shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive. Any request propounded in the singular shall

also be read as if propounded in the plural and vice versa. Any request propounded in the present tense shall also be read as if propounded in the past tense and vice versa.

11. This request is a continuing one. If, after producing the requested documents, you obtain or become aware of any further documents responsive to this request, you are required to produce such additional documents. Supplemental responses should be served within thirty (30) days after such information or documents become known to you.

12. Unless otherwise specified, the time period covered by these requests is from January 1, 2007 to the present and shall encompass all documents and information relating in whole or in part to such period, or to events or circumstances during such period, even though dated, prepared, generated or received prior to that date.

REQUESTS FOR PRODUCTION OF DOCUMENTS

The Debtors request that the SEC produce the following documents in its possession, custody or control:

1. All documents concerning, or communications with, Washington Mutual with respect to any entity's efforts to acquire all or part of Washington Mutual, and/or any of its substantial assets.
2. All documents concerning communications with or among JPMC, the FDIC, the media, ratings agencies, investors, and/or any third party concerning Washington Mutual.
3. All documents concerning any meetings and/or communications between Washington Mutual and any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, Federal Reserve, and the SEC, including (a) any meetings between OTS and WMI on or about April 5, 2008, (b) any meetings between Washington Mutual, OTS, and the FDIC on or about July 31, 2008, and/or (c) any communications with or among U.S. Treasury Secretary Hank Paulson and WMI Chairman and CEO Kerry Killinger and/or JPMC President and CEO Jamie Dimon regarding Washington Mutual.
4. All documents concerning any potential or actual regulatory and/or supervisory actions, ratings, or examinations directed toward or taken with respect to Washington Mutual by any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, Federal Reserve, and SEC, including but not limited to (a) OTS's decision to initiate discussions about Memorandums of Understanding with WMI and WMB, (b) the Memorandums of Understanding OTS issued to WMI and WMB on or about September 7, 2008, (c) any regulatory classification of Washington Mutual by the OTS, including without limitation any decision by

OTS to classify WMB as a "problem institution," and/or (d) U.S. Treasury Secretary Henry Paulson's "RTC plan" concerning Washington Mutual.

5. All documents concerning Washington Mutual's responses or potential responses to any regulatory and/or supervisory actions, ratings, or examinations by any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, Federal Reserve, and the SEC.

6. All documents concerning Washington Mutual's efforts to raise capital and/or locate a potential merger partner or acquiror, including without limitation (a) any actual or possible acquisition or investment by any entity of any stake in Washington Mutual, including any communications with or among Banco Santander, Bankers Trust, Blackstone, Carlyle, Cerberus, Citigroup, JPMC, Oak Hill, TPG, TD Bank, and/or Wells Fargo and their affiliates; (b) any efforts to raise capital through the issuance of debt securities in December 2007 (including the issuance of approximately \$3 billion of debt securities on or about December 17, 2007); (c) any actual, potential, or contemplated bids for Washington Mutual and/or the bidding process for Washington Mutual; (d) any efforts to raise capital and/or locate a potential merger partner or acquiror during the first quarter of 2008; (e) TPG's investment of about \$7.2 billion into Washington Mutual on or about April 7, 2008; and/or (f) any efforts to raise capital and/or locate a potential merger partner or acquiror in September 2008, including any efforts by Goldman Sachs and/or Morgan Stanley on Washington Mutual's behalf.

7. All documents concerning any meetings and/or communications between JPMC and any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, Federal Reserve, and the SEC, concerning Washington Mutual including (a) any meetings on or

about March 28, 2008, (b) any meetings between JPMC and the U.S. Department of the Treasury in April 2008, and/or (c) any meetings on or about July 18, 2008.

8. All documents concerning Your consideration of and decision with respect to whether or not to prohibit the short sale of Washington Mutual securities, including Your decision with respect to whether or not to include Washington Mutual among the list of entities in any emergency order issued pursuant to Section 12(k) of the Exchange Act.

9. All documents concerning JPMC's trading activity in Washington Mutual stock, including any actual, potential, or contemplated decision by JPMC to short Washington Mutual stock in the three months prior to the OTS seizure of WMB.

10. All documents concerning JPMC's disclosure of any Washington Mutual information, or disclosure of any information about Washington Mutual, to any Governmental Unit, the media, ratings agencies, investors, and/or any other third parties.

11. All documents concerning any agreement between JPMC and Washington Mutual concerning access to and/or disclosure of non-public, confidential or proprietary information in connection with a potential transaction in which JPMC would acquire, merge with, or invest in Washington Mutual.

12. All documents concerning JPMC's access to Washington Mutual data, including but not limited to (a) JPMC due diligence of Washington Mutual and/or (b) any effort by JPMC to place "moles" at Washington Mutual for the purpose of obtaining confidential Washington Mutual information, which JPMC used "to bargain and work with federal regulators for the seizure and sale of Washington Mutual's assets," *see* Texas Action Complaint at ¶ 32, including JPMC's placement of former JPMC employees at Washington Mutual, including but not limited

to, the placement or employment of Stephen J. Rotella, Steve Fortunato, Taj Bindra, John Berens, Youyi Chen, and Bill Murray, *see id.* at ¶ 38.

13. All documents concerning JPMC's interest in any potential Transaction and any attempt by JPMC to engage in any potential Transaction, including but not limited to any actual, potential, or contemplated bid or offer by JPMC to merge with, invest in, or purchase Washington Mutual, including but not limited to (a) Washington Mutual's rejection of JPMC's offer to merge with, invest in, or acquire Washington Mutual in or about April 2008, (b) capital contributions or investments received by JPMC in connection with any potential Transaction in or about September 2008, and/or (c) any agreement or arrangement between JPMC and any Government Unit, including but not limited to the FDIC, OTS, OCC, Federal Reserve, SEC and/or the U.S. Department of the Treasury, concerning any potential transaction in which JPMC might or did acquire WMB, or any stake or portion of WMB.

14. All documents concerning the potential for WMB to be seized by OTS and the decision to seize WMB, as well as the potential for the FDIC to be appointed receiver of WMB and the decision to place WMB into receivership with the FDIC, including all documents concerning any communication from FDIC officials to JPMC in early September 2008, to inform JPMC in words or substance that "the FDIC was carefully monitoring [WMB] and that a seizure of its assets was likely" and that the FDIC "would want to immediately auction off [WMB's] assets." *See Heidi N. Moore, Deal Journal, Wall St. J., Sept. 30, 2008, at C7.*

15. All documents concerning the bid process established by the FDIC for the purchase of WMB, including but not limited to (a) all documents concerning any communication with or among JPMC, any Government Unit and/or any third party about the bid process and (b)

all documents concerning bids or indications of interest received by the FDIC, including copies of bids or indications of interest from JPMC and Citigroup.

16. All documents concerning the following statement, in form or in substance, from Citigroup to the FDIC: "We recognize that our approach does not conform to the bidding instructions for Washington Mutual. We believe, however, that our suggested approach will in fact provide greater systemic ability and lower losses than would any conforming bid. . . . [W]e would expect that, consistent with the FDIC's statutory obligation under the 'least-cost' test, this construct would be offered to all potential bidders in a new round of bidding." *See* Citigroup Bid Letter to FDIC, at 4.

17. All documents concerning the FDIC's consideration of and decision to "modify the standard indemnification to include a limited indemnity in favor of JPMorgan Chase in an amount not to exceed \$500 million for any damages JPMorgan Chase may sustain as a result of litigation brought by WMI against JPMorgan Chase for violation of the agreement between WMI and JPMorgan Chase dated March 11, 2008," including all documents concerning JPMC's request for such an indemnification provision. *See* 9/24/08 Memorandum from James Wigand and Herbert Held to FDIC Board of Directors and FDIC Board of Directors Resolution Approving P&A Transaction.

18. All documents concerning any OCC indication to OTS, FDIC, and/or JPMC that "as the federal regulator of JPMorgan Chase . . . it will provide its approval of the transfer of assets and liabilities [of WMB to JPMC] on September 25, 2008." *See* FDIC Board of Directors Resolution Board of Directors Approving JPMC's Bid for WMB, at 4.

19. All documents concerning OTS's determination that "WMB met the well-capitalized standards through the date of receivership." *See* OTS Fact Sheet, Sept. 25, 2008.

20. All documents concerning OTS's determination that "adverse publicity" caused WMB to "suffer[] significant cash outflows." *See* OTS Order 2008-36, dated September 25, 2008.

UNITED STATES BANKRUPTCY COURT

for the District of Columbia

In re: Washington Mutual, Inc., et. al.
Debtor

SUBPOENA FOR RULE 2004 EXAMINATION

Case No.* 08-12229 (MFW) U.S. Bankruptcy Court for the District of Delaware

To: Ms. Deborah Dakin, Acting Chief Counsel
Office of Thrift Supervision
Office of Chief Counsel
1700 G Street, NW
Washington, D.C. 20552

Chapter Chapter 11

YOU ARE COMMANDED to appear and testify at an examination under Rule 2004, Federal Rules of Bankruptcy Procedure, at the place, date, and time specified below. A copy of the court order authorizing the examination is attached.

PLACE OF TESTIMONY

DATE AND TIME

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

Please see First Request for Production of Documents, attached hereto as "Exhibit A."

PLACE Weil, Gotshal & Manges, LLP
1300 Eye Street, NW, Suite 900
Washington, D.C. 20005

DATE AND TIME

_____, 2010 5:00 p.m.

ISSUING OFFICER SIGNATURE AND TITLE

DATE

ISSUING OFFICER'S NAME, ADDRESS, AND PHONE NUMBER

Neil R. Lapinski, Esq.
Elliott Greenleaf

1105 North Market Street, Suite 1700
Wilmington, DE 19801
(302) 384-9400

* If the bankruptcy case is pending in a district other than the district in which the subpoena is issued, state the district under the case number.

PROOF OF SERVICE

SERVED	DATE	PLACE	
SERVED ON (PRINT NAME)		MANNER OF SERVICE	
SERVED BY (PRINT NAME)		TITLE	

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____
DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), as amended on December 1, 2007, made applicable in cases under the Bankruptcy Code by Rule 9016, Federal Rules of Bankruptcy Procedure:

(c) Protecting a Person Subject to a Subpoena.

(1) **Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney’s fees — on a party or attorney who fails to comply.

(2) **Command to Produce Materials or Permit Inspection.**

(A) **Appearance Not Required.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) **Objections.** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party’s officer from significant expense resulting from compliance.

(3) **Quashing or Modifying a Subpoena.**

(A) **When Required.** On timely motion, the issuing court must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person who is neither a party nor a party’s officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(ii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) **When Permitted.** To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information,
- (ii) disclosing an unretained expert’s opinion or information that does

not describe specific occurrences in dispute and results from the expert’s study that was not requested by a party; or

- (iii) a person who is neither a party nor a party’s officer to incur substantial expense to travel more than 100 miles to attend trial

(C) **Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated

(d) Duties in Responding to a Subpoena.

(1) **Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

(A) **Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) **Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) **Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

(D) **Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not nonethless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) **Claiming Privilege or Protection.**

(A) **Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications,

or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) **Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) Contempt.

The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty’s failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

Exhibit A

FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

DEFINITIONS

The following terms (whether or not capitalized) shall have the meanings set forth below:

1. "Adversary Proceedings" means or refers to the JPMC Adversary Proceeding and the Turnover Proceeding.
2. "And" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
3. "Any," "all" and "each" shall be construed broadly, and shall mean any, all, and each as necessary to bring within the scope of the discovery request all responses that otherwise could be construed to be outside of its scope.
4. "Banco Santander" means Banco Santander, S.A., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.
5. "Blackstone" means the Blackstone Group, L.P., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.
6. "Carlyle" means Carlyle Group LLC, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.
7. "Cerberus" means Cerberus Capital Management, L.P., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any

of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

8. "Chapter 11 case" means or refers to *In re Washington Mutual, Inc.*, No. 08-12229 (Bankr. D. Del).

9. "Citigroup" means Citigroup, Inc. and Citibank, N.A., and all of their predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

10. "Communication" means any oral, written or electronic transmission of information, fact, opinion, belief, idea, statement, inquiry or otherwise, including without limitation any letter, correspondence, memorandum, electronic-mail message, note or meeting log, conversation, meeting, discussion, telephone call, facsimile, telegram, telex, conference or message.

11. "Concerning" means comprising, consisting of, concerning, referring to, reflecting, regarding, supporting, evidencing, relating to, prepared in connection with, used in preparation for, or being in any way legally, logically or factually concerned with the matter or document described, referred to or discussed.

12. "DC Action" refers to *Washington Mutual, Inc. and WMI Investment Corp. v. Federal Deposit Insurance Corporation*, No. 1:09-cv-00533 (D.D.C.).

13. "Document" is used in its broadest sense and mean and include any written or graphic matter or other means of preserving thought or expression and all tangible things from which information can be processed or transcribed, including the originals and all non-identical copies, whether different from the original by reason of any notation made on such copy or otherwise, including but not limited to, correspondence, memoranda, notes, messages, letters, telegrams, teletype, telefax, bulletins, meetings or other communications, interoffice and intraoffice telephone calls, diaries, chronological data, minutes, books, reports, studies, summaries, pamphlets, bulletins, printed matter, charts, ledgers, invoices, worksheets, receipts,

returns, computer printouts, prospectuses, financial statements, schedules, affidavits, contracts, cancelled checks, statements, transcripts, statistics, surveys, magazine or newspaper articles, releases (and any and all drafts, alterations and modifications, changes and amendments of any of the foregoing), graphic or aural records or representations of any kind (including without limitation photographs, microfiche, microfilm, videotape, records and motion pictures) and electronic, mechanical or electric records or representations of any kind (including without limitation tapes, cassettes, discs and records).

14. "FDIC" means or refers to the Federal Deposit Insurance Corporation, as receiver for Washington Mutual Bank, Henderson Nevada and in its corporate capacity.

15. "Federal Reserve" means the Board of Governors of the Federal Reserve System and the twelve Federal Banks; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

16. "Fitch" means Fitch Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

17. "Goldman Sachs" means The Goldman Sachs Group, Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

18. "Governmental Unit" has the meaning set forth at 11 U.S.C. § 101(27).

19. "Including" means including but not limited to the referenced subject.

20. "JPMC" means JPMorgan Chase Bank, National Association and JPMorgan Chase & Co., and any of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

21. "JPMC Adversary Proceeding" refers to *JPMorgan Chase Bank, National Association v. Washington Mutual, Inc., et al.*, Adversary Proceeding No. 09-50551 (Bankr. D. Del.).

22. "Lehman Brothers" means Lehman Brothers Holdings, Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

23. "Morgan Stanley" means Morgan Stanley, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

24. "Moody's" means Moody's Investors Service, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

25. "Oak Hill" means Oak Hill Capital Partners, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

26. "OCC" means the Office of the Comptroller of the Currency, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

27. "OTS" means the Office of Thrift Supervision, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

28. "RTC" means the Resolution Trust Corporation, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

29. "P&A Agreement" means or refers to the Purchase and Assumption Agreement, Whole Bank, among the Federal Deposit Insurance Corporation, as receiver of Washington Mutual Bank, Henderson, Nevada, the Federal Deposit Insurance Corporation and JPM, dated as of September 25, 2008.

30. "SEC" means the U.S. Securities and Exchange Commission and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

31. "S&P" means Standard and Poor's Corporation and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

32. "TD Bank" means TD Bank, N.A., and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

33. "Texas Action" refers to *American Nat'l Ins. Co., et al., v. JPMorgan Chase & Co., et al.*, Case No. 3:09-cv-00044 (S.D. Tex.), which has been transferred to the United States District Court for the District of Columbia.

34. "TPG" means TPG Capital (formerly Texas Pacific Group), and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

35. "Transaction" means or refers to any means by which JPMorgan Chase might obtain, receive or succeed to Washington Mutual's businesses or properties, or any portion

thereof, or any transaction preliminary, preparatory or incident thereto, including any stock tender, stock purchase, asset purchase, assumption of deposit or other liabilities, merger, joint venture or partnership.

36. "Turnover Proceeding" means *WMI and WMI Investment Corp. v. JPMC*, No. 09-50934 (Bankr. D. Del.).

37. "U.S. Department of the Treasury" means or refers to the U.S. Department of the Treasury and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

38. "Washington Mutual" means or refers to WMI and WMB, and any and all of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on their behalf, any of their parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

39. "Wells Fargo" means Wells Fargo, N.A., and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

40. "WMB" means or refers to Washington Mutual Bank, Henderson, Nevada, and any and all of its current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

41. "WMB fsb" means or refers to Washington Mutual Bank, fsb, Utah, and any and all of its current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

42. "WMI" means or refers to Washington Mutual, Inc. and WMI Investment Corp. (collectively, the "Debtors") and any and all of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on their behalf, any of their parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

43. "You" or "Your" means or refers to the Office of Thrift Supervision, individually or collectively, to whom this subpoena is addressed, and any owner, director, officer, employee, agent, custodian, parent, subsidiary, affiliate, predecessor, successor, attorney, accountant, representative, and other Persons purporting to act on your behalf.

44. Any ambiguity in a discovery request shall be construed to bring within the scope of the discovery request all responses that otherwise could be construed to be outside of its scope.

INSTRUCTIONS

Each response must be made in accordance with the following instructions:

1. The responsive documents should be produced in the manner prescribed by the Federal Rules of Civil Procedure, as made applicable herein by the Federal Rules of Bankruptcy Procedure, including producing the requested documents as they are kept in the usual course of business or organized and labeled to correspond with the categories in the requests, and identifying the name of the person from whose files the documents were produced.

2. You are to produce the original and all non-identical copies, including all drafts, of each document requested. If you are not able to produce the original of any document, please produce the best available copy and all non-identical copies, including drafts.

3. Each request herein extends to all documents and communications in the possession, custody or control of you or anyone acting on your behalf. A document is deemed to be in your possession, custody, or control if it is in your physical custody, or if it is in the physical custody of any other person and you: (1) own such document in whole or in part; (2)

have a right, by contract, statute or otherwise, to use, inspect, examine or copy such document on any terms; (3) have an understanding, express or implied, that you may use, inspect, examine, or copy such document on any terms; or (4) as a practical matter, have been able to use, inspect, examine, or copy such document when you sought to do so. If any requested document was, but no longer is, in your control, state the disposition of each such document.

4. Any reference in these document requests to an individual or person include any and all agents, advisors, employees, representatives, attorneys, successors-in-interest, and all other persons or entities acting in his, her, or its behalf or under his, her or its control.

5. If any document is withheld under any claim of privilege, including without limitation, attorney-client privilege and attorney work product, you should provide the following information with respect to such document:

- (1) The date of the document;
- (2) The title of the document;
- (3) The name of its author(s) or preparer(s) and an identification by employment and title of each such person;
- (4) The name of each person who was sent or furnished with, received, viewed or has custody of the document or a copy thereof together with an identification by employment and title of each such person;
- (5) The request to which the document relates;
- (6) The title and description of the document sufficient to identify it without revealing the information for which privilege is claimed;
- (7) The claim of privilege under which it is withheld; and
- (8) A description of the subject matter of the document in sufficient detail to support your contention that the document is privileged;

6. If, after exercising due diligence to secure them, you cannot provide some or any of the requested documents, so state and provide all documents to the extent possible, specifying

the reason for your inability to produce the remainder of the documents, and stating whatever information or knowledge you have concerning each document not produced.

7. If any requested document or other document potentially relevant to this action is subject to destruction under any document retention or destruction program, the documents(s) should be exempted from any scheduled destruction and should not be destroyed until the conclusion of this action or unless otherwise permitted by the Court.

8. If any document responsive to these requests is known to have existed and cannot now be located, or has been destroyed or discarded, set forth a complete statement of the circumstances surrounding such loss or destruction, including:

- (1) a description of the document, including the date, a summary of its contents and the identity of its author and the person(s) to whom it was sent or shown;
- (2) the last known custodian;
- (3) whether the document is missing or lost or was destroyed or discarded;
- (4) the date of loss, destruction or discard;
- (5) the manner of destruction or discard;
- (6) the reason(s) for destruction or discard;
- (7) the person(s) authorizing or carrying out such destruction or discard; and
- (8) the efforts made to locate lost or misplaced documents.

9. If an objection is made to any request, state your objection and the ground or grounds with particularity in your written response. If an objection is made only to part of the request, identify that part in your written response and state your objection and the ground(s) therefor.

10. Each request shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive. Any request propounded in the singular shall

also be read as if propounded in the plural and vice versa. Any request propounded in the present tense shall also be read as if propounded in the past tense and vice versa.

11. This request is a continuing one. If, after producing the requested documents, you obtain or become aware of any further documents responsive to this request, you are required to produce such additional documents. Supplemental responses should be served within thirty (30) days after such information or documents become known to you.

12. Unless otherwise specified, the time period covered by these requests is from January 1, 2007 to the present and shall encompass all documents and information relating in whole or in part to such period, or to events or circumstances during such period, even though dated, prepared, generated or received prior to that date.

REQUESTS FOR PRODUCTION OF DOCUMENTS

The Debtors request that OTS produce the following documents in its possession, custody or control:

1. All documents concerning, or communications with, Washington Mutual with respect to any entity's efforts to acquire all or part of Washington Mutual, and/or any of its substantial assets.

2. All documents concerning communications with or among JPMC, the FDIC, the media, ratings agencies, investors, and/or any third party concerning Washington Mutual.

3. All documents concerning any meetings and/or communications between Washington Mutual and any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, Federal Reserve, and the SEC, including (a) any meetings between OTS and WMI on or about April 5, 2008, (b) any meetings between Washington Mutual, OTS, and the FDIC on or about July 31, 2008, and/or (c) any communications with or among U.S. Treasury Secretary Hank Paulson and WMI Chairman and CEO Kerry Killinger and/or JPMC President and CEO Jamie Dimon regarding Washington Mutual.

4. All documents concerning any potential or actual regulatory and/or supervisory actions, ratings, or examinations directed toward or taken with respect to Washington Mutual by any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, Federal Reserve, and SEC, including but not limited to (a) OTS's decision to initiate discussions about Memorandums of Understanding with WMI and WMB, (b) the Memorandums of Understanding OTS issued to WMI and WMB on or about September 7, 2008, (c) any regulatory classification of Washington Mutual by the OTS, including without limitation any decision by

OTS to classify WMB as a "problem institution," and/or (d) U.S. Treasury Secretary Henry Paulson's "RTC plan" concerning Washington Mutual.

5. All documents concerning Washington Mutual's responses or potential responses to any regulatory and/or supervisory actions, ratings, or examinations by any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, Federal Reserve, and the SEC.

6. All documents concerning Washington Mutual's efforts to raise capital and/or locate a potential merger partner or acquiror, including without limitation (a) any actual or possible acquisition or investment by any entity of any stake in Washington Mutual, including any communications with or among Banco Santander, Bankers Trust, Blackstone, Carlyle, Cerberus, Citigroup, JPMC, Oak Hill, TPG, TD Bank, and/or Wells Fargo and their affiliates; (b) any efforts to raise capital through the issuance of debt securities in December 2007 (including the issuance of approximately \$3 billion of debt securities on or about December 17, 2007); (c) any actual, potential, or contemplated bids for Washington Mutual and/or the bidding process for Washington Mutual; (d) any efforts to raise capital and/or locate a potential merger partner or acquiror during the first quarter of 2008; (e) TPG's investment of about \$7.2 billion into Washington Mutual on or about April 7, 2008; and/or (f) any efforts to raise capital and/or locate a potential merger partner or acquiror in September 2008, including any efforts by Goldman Sachs and/or Morgan Stanley on Washington Mutual's behalf.

7. All documents concerning any meetings and/or communications between JPMC and any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, Federal Reserve, and the SEC, concerning Washington Mutual including (a) any meetings on or

about March 28, 2008, (b) any meetings between JPMC and the U.S. Department of the Treasury in April 2008, and/or (c) any meetings on or about July 18, 2008.

8. All documents concerning JPMC's trading activity in Washington Mutual stock, including any actual, potential, or contemplated decision by JPMC to short Washington Mutual stock in the three months prior to the OTS seizure of WMB.

9. All documents concerning JPMC's disclosure of any Washington Mutual information, or disclosure of any information about Washington Mutual, to any Governmental Unit, the media, ratings agencies, investors, and/or any other third parties.

10. All documents concerning any agreement between JPMC and Washington Mutual concerning access to and/or disclosure of non-public, confidential or proprietary information in connection with a potential transaction in which JPMC would acquire, merge with, or invest in Washington Mutual.

11. All documents concerning JPMC's access to Washington Mutual data, including but not limited to (a) JPMC due diligence of Washington Mutual and/or (b) any effort by JPMC to place "moles" at Washington Mutual for the purpose of obtaining confidential Washington Mutual information, which JPMC used "to bargain and work with federal regulators for the seizure and sale of Washington Mutual's assets," *see* Texas Action Complaint at ¶ 32, including JPMC's placement of former JPMC employees at Washington Mutual, including but not limited to, the placement or employment of Stephen J. Rotella, Steve Fortunato, Taj Bindra, John Berens, Youyi Chen, and Bill Murray, *see id.* at ¶ 38.

12. All documents concerning JPMC's interest in any potential Transaction and any attempt by JPMC to engage in any potential Transaction, including but not limited to any actual, potential, or contemplated bid or offer by JPMC to merge with, invest in, or purchase

Washington Mutual, including but not limited to (a) Washington Mutual's rejection of JPMC's offer to merge with, invest in, or acquire Washington Mutual in or about April 2008, (b) capital contributions or investments received by JPMC in connection with any potential Transaction in or about September 2008, and/or (c) any agreement or arrangement between JPMC and any Government Unit, including but not limited to the FDIC, OTS, OCC, Federal Reserve, SEC and/or the U.S. Department of the Treasury, concerning any potential transaction in which JPMC might or did acquire WMB, or any stake or portion of WMB.

13. All documents concerning the potential for WMB to be seized by OTS and the decision to seize WMB, as well as the potential for the FDIC to be appointed receiver of WMB and the decision to place WMB into receivership with the FDIC, including all documents concerning any communication from FDIC officials to JPMC in early September 2008, to inform JPMC in words or substance that "the FDIC was carefully monitoring [WMB] and that a seizure of its assets was likely" and that the FDIC "would want to immediately auction off [WMB's] assets." *See* Heidi N. Moore, *Deal Journal*, Wall St. J., Sept. 30, 2008, at C7.

14. All documents concerning the bid process established by the FDIC for the purchase of WMB, including but not limited to (a) all documents concerning any communication with or among JPMC, any Government Unit and/or any third party about the bid process and (b) all documents concerning bids or indications of interest received by the FDIC, including copies of bids or indications of interest from JPMC and Citigroup.

15. All documents concerning the following statement, in form or in substance, from Citigroup to the FDIC: "We recognize that our approach does not conform to the bidding instructions for Washington Mutual. We believe, however, that our suggested approach will in fact provide greater systemic ability and lower losses than would any conforming bid. . . . [W]e

would expect that, consistent with the FDIC's statutory obligation under the 'least-cost' test, this construct would be offered to all potential bidders in a new round of bidding." *See* Citigroup Bid Letter to FDIC, at 4.

16. All documents concerning the FDIC's consideration of and decision to "modify the standard indemnification to include a limited indemnity in favor of JPMorgan Chase in an amount not to exceed \$500 million for any damages JPMorgan Chase may sustain as a result of litigation brought by WMI against JPMorgan Chase for violation of the agreement between WMI and JPMorgan Chase dated March 11, 2008," including all documents concerning JPMC's request for such an indemnification provision. *See* 9/24/08 Memorandum from James Wigand and Herbert Held to FDIC Board of Directors and FDIC Board of Directors Resolution Approving P&A Transaction.

17. All documents concerning any OCC indication to OTS, FDIC, and/or JPMC that "as the federal regulator of JPMorgan Chase . . . it will provide its approval of the transfer of assets and liabilities [of WMB to JPMC] on September 25, 2008." *See* FDIC Board of Directors Resolution Board of Directors Approving JPMC's Bid for WMB, at 4.

18. All documents concerning OTS's determination that "WMB met the well-capitalized standards through the date of receivership." *See* OTS Fact Sheet, Sept. 25, 2008.

19. All documents concerning OTS's determination that "adverse publicity" caused WMB to "suffer[] significant cash outflows." *See* OTS Order 2008-36, dated September 25, 2008.

UNITED STATES BANKRUPTCY COURT

for the District of Columbia

In re: Washington Mutual, Inc., et. al.
Debtor

SUBPOENA FOR RULE 2004 EXAMINATION

Case No.* 08-12229 (MFW) U.S. Bankruptcy Court for the District of Delaware

To: Board of Governors of the Federal Reserve System
Mr. Scott G. Alvarez, General Counsel
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, D.C. 20551

Chapter Chapter 11

YOU ARE COMMANDED to appear and testify at an examination under Rule 2004, Federal Rules of Bankruptcy Procedure, at the place, date, and time specified below. A copy of the court order authorizing the examination is attached.

PLACE OF TESTIMONY

DATE AND TIME

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

Please see First Request for Production of Documents, attached hereto as "Exhibit A."

PLACE Weil, Gotshal & Manges, LLP
1300 Eye Street, NW, Suite 900
Washington, DC 20005

DATE AND TIME

_____, 2010 5:00 p.m.

ISSUING OFFICER SIGNATURE AND TITLE

DATE

ISSUING OFFICER'S NAME, ADDRESS, AND PHONE NUMBER

Neil R. Lapinski, Esq.
Elliott Greenleaf

1105 North Market Street, Suite 1700
Wilmington, DE 19801
(302) 384-9400

* If the bankruptcy case is pending in a district other than the district in which the subpoena is issued, state the district under the case number.

PROOF OF SERVICE

SERVED	DATE	PLACE	
SERVED ON (PRINT NAME)		MANNER OF SERVICE	
SERVED BY (PRINT NAME)		TITLE	

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____
DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), as amended on December 1, 2007, made applicable in cases under the Bankruptcy Code by Rule 9016, Federal Rules of Bankruptcy Procedure:

(c) Protecting a Person Subject to a Subpoena.

(1) **Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) **Appearance Not Required.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) **Objections.** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) **When Required.** On timely motion, the issuing court must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) **When Permitted.** To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information;
- (ii) disclosing an unretained expert's opinion or information that does not

describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

- (iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial

(C) **Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(d) Duties in Responding to a Subpoena.

(1) **Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

(A) **Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) **Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) **Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

(D) **Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) **Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications,

or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) **Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) Contempt.

The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

Exhibit A

FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

DEFINITIONS

The following terms (whether or not capitalized) shall have the meanings set forth below:

1. "Adversary Proceedings" means or refers to the JPMC Adversary Proceeding and the Turnover Proceeding.

2. "And" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.

3. "Any," "all" and "each" shall be construed broadly, and shall mean any, all, and each as necessary to bring within the scope of the discovery request all responses that otherwise could be construed to be outside of its scope.

4. "Banco Santander" means Banco Santander, S.A., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

5. "Blackstone" means the Blackstone Group, L.P., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

6. "Carlyle" means Carlyle Group LLC, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

7. "Cerberus" means Cerberus Capital Management, L.P., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any

of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

8. "Chapter 11 case" means or refers to *In re Washington Mutual, Inc.*, No. 08-12229 (Bankr. D. Del).

9. "Citigroup" means Citigroup, Inc. and Citibank, N.A., and all of their predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

10. "Communication" means any oral, written or electronic transmission of information, fact, opinion, belief, idea, statement, inquiry or otherwise, including without limitation any letter, correspondence, memorandum, electronic-mail message, note or meeting log, conversation, meeting, discussion, telephone call, facsimile, telegram, telex, conference or message.

11. "Concerning" means comprising, consisting of, concerning, referring to, reflecting, regarding, supporting, evidencing, relating to, prepared in connection with, used in preparation for, or being in any way legally, logically or factually concerned with the matter or document described, referred to or discussed.

12. "DC Action" refers to *Washington Mutual, Inc. and WMI Investment Corp. v. Federal Deposit Insurance Corporation*, No. 1:09-cv-00533 (D.D.C.).

13. "Document" is used in its broadest sense and mean and include any written or graphic matter or other means of preserving thought or expression and all tangible things from which information can be processed or transcribed, including the originals and all non-identical copies, whether different from the original by reason of any notation made on such copy or otherwise, including but not limited to, correspondence, memoranda, notes, messages, letters, telegrams, teletype, telefax, bulletins, meetings or other communications, interoffice and intraoffice telephone calls, diaries, chronological data, minutes, books, reports, studies, summaries, pamphlets, bulletins, printed matter, charts, ledgers, invoices, worksheets, receipts,

returns, computer printouts, prospectuses, financial statements, schedules, affidavits, contracts, cancelled checks, statements, transcripts, statistics, surveys, magazine or newspaper articles, releases (and any and all drafts, alterations and modifications, changes and amendments of any of the foregoing), graphic or aural records or representations of any kind (including without limitation photographs, microfiche, microfilm, videotape, records and motion pictures) and electronic, mechanical or electric records or representations of any kind (including without limitation tapes, cassettes, discs and records).

14. "FDIC" means or refers to the Federal Deposit Insurance Corporation, as receiver for Washington Mutual Bank, Henderson Nevada and in its corporate capacity.

15. "Federal Reserve" means the Board of Governors of the Federal Reserve System and the twelve Federal Banks; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

16. "Fitch" means Fitch Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

17. "Goldman Sachs" means The Goldman Sachs Group, Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

18. "Governmental Unit" has the meaning set forth at 11 U.S.C. § 101(27).

19. "Including" means including but not limited to the referenced subject.

20. "JPMC" means JPMorgan Chase Bank, National Association and JPMorgan Chase & Co., and any of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

21. "JPMC Adversary Proceeding" refers to *JPMorgan Chase Bank, National Association v. Washington Mutual, Inc., et al.*, Adversary Proceeding No. 09-50551 (Bankr. D. Del.).

22. "Lehman Brothers" means Lehman Brothers Holdings, Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

23. "Morgan Stanley" means Morgan Stanley, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

24. "Moody's" means Moody's Investors Service, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

25. "Oak Hill" means Oak Hill Capital Partners, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

26. "OCC" means the Office of the Comptroller of the Currency, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

27. "OTS" means the Office of Thrift Supervision, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

28. "RTC" means the Resolution Trust Corporation, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

29. "P&A Agreement" means or refers to the Purchase and Assumption Agreement, Whole Bank, among the Federal Deposit Insurance Corporation, as receiver of Washington Mutual Bank, Henderson, Nevada, the Federal Deposit Insurance Corporation and JPM, dated as of September 25, 2008.

30. "SEC" means the U.S. Securities and Exchange Commission and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

31. "S&P" means Standard and Poor's Corporation and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

32. "TD Bank" means TD Bank, N.A., and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

33. "Texas Action" refers to *American Nat'l Ins. Co., et al., v. JPMorgan Chase & Co., et al.*, Case No. 3:09-cv-00044 (S.D. Tex.), which has been transferred to the United States District Court for the District of Columbia.

34. "TPG" means TPG Capital (formerly Texas Pacific Group), and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

35. "Transaction" means or refers to any means by which JPMorgan Chase might obtain, receive or succeed to Washington Mutual's businesses or properties, or any portion

thereof, or any transaction preliminary, preparatory or incident thereto, including any stock tender, stock purchase, asset purchase, assumption of deposit or other liabilities, merger, joint venture or partnership.

36. "Turnover Proceeding" means *WMI and WMI Investment Corp. v. JPMC*, No. 09-50934 (Bankr. D. Del.).

37. "U.S. Department of the Treasury" means or refers to the U.S. Department of the Treasury and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

38. "Washington Mutual" means or refers to WMI and WMB, and any and all of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on their behalf, any of their parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

39. "Wells Fargo" means Wells Fargo, N.A., and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

40. "WMB" means or refers to Washington Mutual Bank, Henderson, Nevada, and any and all of its current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

41. "WMB fsb" means or refers to Washington Mutual Bank, fsb, Utah, and any and all of its current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

42. "WMI" means or refers to Washington Mutual, Inc. and WMI Investment Corp. (collectively, the "Debtors") and any and all of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on their behalf, any of their parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

43. "You" means or refers to the Board of Governors of the Federal Reserve System and the twelve Federal Banks, individually or collectively, to whom this subpoena is addressed, and any owner, director, officer, employee, agent, custodian, parent, subsidiary, affiliate, predecessor, successor, attorney, accountant, representative, and other Persons purporting to act on your behalf.

44. Any ambiguity in a discovery request shall be construed to bring within the scope of the discovery request all responses that otherwise could be construed to be outside of its scope.

INSTRUCTIONS

Each response must be made in accordance with the following instructions:

1. The responsive documents should be produced in the manner prescribed by the Federal Rules of Civil Procedure, as made applicable herein by the Federal Rules of Bankruptcy Procedure, including producing the requested documents as they are kept in the usual course of business or organized and labeled to correspond with the categories in the requests, and identifying the name of the person from whose files the documents were produced.

2. You are to produce the original and all non-identical copies, including all drafts, of each document requested. If you are not able to produce the original of any document, please produce the best available copy and all non-identical copies, including drafts.

3. Each request herein extends to all documents and communications in the possession, custody or control of you or anyone acting on your behalf. A document is deemed to be in your possession, custody, or control if it is in your physical custody, or if it is in the

physical custody of any other person and you: (1) own such document in whole or in part; (2) have a right, by contract, statute or otherwise, to use, inspect, examine or copy such document on any terms; (3) have an understanding, express or implied, that you may use, inspect, examine, or copy such document on any terms; or (4) as a practical matter, have been able to use, inspect, examine, or copy such document when you sought to do so. If any requested document was, but no longer is, in your control, state the disposition of each such document.

4. Any reference in these document requests to an individual or person include any and all agents, advisors, employees, representatives, attorneys, successors-in-interest, and all other persons or entities acting in his, her, or its behalf or under his, her or its control.

5. If any document is withheld under any claim of privilege, including without limitation, attorney-client privilege and attorney work product, you should provide the following information with respect to such document:

- (1) The date of the document;
- (2) The title of the document;
- (3) The name of its author(s) or preparer(s) and an identification by employment and title of each such person;
- (4) The name of each person who was sent or furnished with, received, viewed or has custody of the document or a copy thereof together with an identification by employment and title of each such person;
- (5) The request to which the document relates;
- (6) The title and description of the document sufficient to identify it without revealing the information for which privilege is claimed;
- (7) The claim of privilege under which it is withheld; and
- (8) A description of the subject matter of the document in sufficient detail to support your contention that the document is privileged;

6. If, after exercising due diligence to secure them, you cannot provide some or any of the requested documents, so state and provide all documents to the extent possible, specifying

the reason for your inability to produce the remainder of the documents, and stating whatever information or knowledge you have concerning each document not produced.

7. If any requested document or other document potentially relevant to this action is subject to destruction under any document retention or destruction program, the documents(s) should be exempted from any scheduled destruction and should not be destroyed until the conclusion of this action or unless otherwise permitted by the Court.

8. If any document responsive to these requests is known to have existed and cannot now be located, or has been destroyed or discarded, set forth a complete statement of the circumstances surrounding such loss or destruction, including:

- (1) a description of the document, including the date, a summary of its contents and the identity of its author and the person(s) to whom it was sent or shown;
- (2) the last known custodian;
- (3) whether the document is missing or lost or was destroyed or discarded;
- (4) the date of loss, destruction or discard;
- (5) the manner of destruction or discard;
- (6) the reason(s) for destruction or discard;
- (7) the person(s) authorizing or carrying out such destruction or discard; and
- (8) the efforts made to locate lost or misplaced documents.

9. If an objection is made to any request, state your objection and the ground or grounds with particularity in your written response. If an objection is made only to part of the request, identify that part in your written response and state your objection and the ground(s) therefor.

10. Each request shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive. Any request propounded in the singular shall

also be read as if propounded in the plural and vice versa. Any request propounded in the present tense shall also be read as if propounded in the past tense and vice versa.

11. This request is a continuing one. If, after producing the requested documents, you obtain or become aware of any further documents responsive to this request, you are required to produce such additional documents. Supplemental responses should be served within thirty (30) days after such information or documents become known to you.

12. Unless otherwise specified, the time period covered by these requests is from January 1, 2007 to the present and shall encompass all documents and information relating in whole or in part to such period, or to events or circumstances during such period, even though dated, prepared, generated or received prior to that date.

REQUESTS FOR PRODUCTION OF DOCUMENTS

The Debtors request that the Federal Reserve produce the following documents in its possession, custody or control:

1. All documents concerning, or communications with, Washington Mutual with respect to any entity's efforts to acquire all or part of Washington Mutual, and/or any of its substantial assets.
2. All documents concerning communications with or among JPMC, the FDIC, the media, ratings agencies, investors, and/or any third party concerning Washington Mutual.
3. All documents concerning any meetings and/or communications between Washington Mutual and any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, Federal Reserve, and the SEC, including (a) any meetings between OTS and WMI on or about April 5, 2008, (b) any meetings between Washington Mutual, OTS, and the FDIC on or about July 31, 2008, and/or (c) any communications with or among U.S. Treasury Secretary Hank Paulson and WMI Chairman and CEO Kerry Killinger and/or JPMC President and CEO Jamie Dimon regarding Washington Mutual.
4. All documents concerning any potential or actual regulatory and/or supervisory actions, ratings, or examinations directed toward or taken with respect to Washington Mutual by any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, Federal Reserve, and SEC, including but not limited to (a) OTS's decision to initiate discussions about Memorandums of Understanding with WMI and WMB, (b) the Memorandums of Understanding OTS issued to WMI and WMB on or about September 7, 2008, (c) any regulatory classification of Washington Mutual by the OTS, including without limitation any decision by

OTS to classify WMB as a "problem institution," and/or (d) U.S. Treasury Secretary Henry Paulson's "RTC plan" concerning Washington Mutual.

5. All documents concerning Washington Mutual's responses or potential responses to any regulatory and/or supervisory actions, ratings, or examinations by any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, Federal Reserve, and the SEC.

6. All documents concerning Washington Mutual's efforts to raise capital and/or locate a potential merger partner or acquiror, including without limitation (a) any actual or possible acquisition or investment by any entity of any stake in Washington Mutual, including any communications with or among Banco Santander, Bankers Trust, Blackstone, Carlyle, Cerberus, Citigroup, JPMC, Oak Hill, TPG, TD Bank, and/or Wells Fargo and their affiliates; (b) any efforts to raise capital through the issuance of debt securities in December 2007 (including the issuance of approximately \$3 billion of debt securities on or about December 17, 2007); (c) any actual, potential, or contemplated bids for Washington Mutual and/or the bidding process for Washington Mutual; (d) any efforts to raise capital and/or locate a potential merger partner or acquiror during the first quarter of 2008; (e) TPG's investment of about \$7.2 billion into Washington Mutual on or about April 7, 2008; and/or (f) any efforts to raise capital and/or locate a potential merger partner or acquiror in September 2008, including any efforts by Goldman Sachs and/or Morgan Stanley on Washington Mutual's behalf.

7. All documents concerning any meetings and/or communications between JPMC and any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, Federal Reserve, and the SEC, concerning Washington Mutual including (a) any meetings on or

about March 28, 2008, (b) any meetings between JPMC and the U.S. Department of the Treasury in April 2008, and/or (c) any meetings on or about July 18, 2008.

8. All documents concerning JPMC's trading activity in Washington Mutual stock, including any actual, potential, or contemplated decision by JPMC to short Washington Mutual stock in the three months prior to the OTS seizure of WMB.

9. All documents concerning JPMC's disclosure of any Washington Mutual information, or disclosure of any information about Washington Mutual, to any Governmental Unit, the media, ratings agencies, investors, and/or any other third parties.

10. All documents concerning any agreement between JPMC and Washington Mutual concerning access to and/or disclosure of non-public, confidential or proprietary information in connection with a potential transaction in which JPMC would acquire, merge with, or invest in Washington Mutual.

11. All documents concerning JPMC's access to Washington Mutual data, including but not limited to (a) JPMC due diligence of Washington Mutual and/or (b) any effort by JPMC to place "moles" at Washington Mutual for the purpose of obtaining confidential Washington Mutual information, which JPMC used "to bargain and work with federal regulators for the seizure and sale of Washington Mutual's assets," *see* Texas Action Complaint at ¶ 32, including JPMC's placement of former JPMC employees at Washington Mutual, including but not limited to, the placement or employment of Stephen J. Rotella, Steve Fortunato, Taj Bindra, John Berens, Youyi Chen, and Bill Murray, *see id.* at ¶ 38.

12. All documents concerning JPMC's interest in any potential Transaction and any attempt by JPMC to engage in any potential Transaction, including but not limited to any actual, potential, or contemplated bid or offer by JPMC to merge with, invest in, or purchase

Washington Mutual, including but not limited to (a) Washington Mutual's rejection of JPMC's offer to merge with, invest in, or acquire Washington Mutual in or about April 2008, (b) capital contributions or investments received by JPMC in connection with any potential Transaction in or about September 2008, and/or (c) any agreement or arrangement between JPMC and any Government Unit, including but not limited to the FDIC, OTS, OCC, Federal Reserve, SEC and/or the U.S. Department of the Treasury, concerning any potential transaction in which JPMC might or did acquire WMB, or any stake or portion of WMB.

13. All documents concerning the potential for WMB to be seized by OTS and the decision to seize WMB, as well as the potential for the FDIC to be appointed receiver of WMB and the decision to place WMB into receivership with the FDIC, including all documents concerning any communication from FDIC officials to JPMC in early September 2008, to inform JPMC in words or substance that "the FDIC was carefully monitoring [WMB] and that a seizure of its assets was likely" and that the FDIC "would want to immediately auction off [WMB's] assets." *See Heidi N. Moore, Deal Journal, Wall St. J., Sept. 30, 2008, at C7.*

14. All documents concerning the bid process established by the FDIC for the purchase of WMB, including but not limited to (a) all documents concerning any communication with or among JPMC, any Government Unit and/or any third party about the bid process and (b) all documents concerning bids or indications of interest received by the FDIC, including copies of bids or indications of interest from JPMC and Citigroup.

15. All documents concerning the following statement, in form or in substance, from Citigroup to the FDIC: "We recognize that our approach does not conform to the bidding instructions for Washington Mutual. We believe, however, that our suggested approach will in fact provide greater systemic ability and lower losses than would any conforming bid. . . . [W]e

would expect that, consistent with the FDIC's statutory obligation under the 'least-cost' test, this construct would be offered to all potential bidders in a new round of bidding." *See* Citigroup Bid Letter to FDIC, at 4.

16. All documents concerning the FDIC's consideration of and decision to "modify the standard indemnification to include a limited indemnity in favor of JPMorgan Chase in an amount not to exceed \$500 million for any damages JPMorgan Chase may sustain as a result of litigation brought by WMI against JPMorgan Chase for violation of the agreement between WMI and JPMorgan Chase dated March 11, 2008," including all documents concerning JPMC's request for such an indemnification provision. *See* 9/24/08 Memorandum from James Wigand and Herbert Held to FDIC Board of Directors and FDIC Board of Directors Resolution Approving P&A Transaction.

17. All documents concerning any OCC indication to OTS, FDIC, and/or JPMC that "as the federal regulator of JPMorgan Chase . . . it will provide its approval of the transfer of assets and liabilities [of WMB to JPMC] on September 25, 2008." *See* FDIC Board of Directors Resolution Board of Directors Approving JPMC's Bid for WMB, at 4.

18. All documents concerning OTS's determination that "WMB met the well-capitalized standards through the date of receivership." *See* OTS Fact Sheet, Sept. 25, 2008.

19. All documents concerning OTS's determination that "adverse publicity" caused WMB to "suffer[] significant cash outflows." *See* OTS Order 2008-36, dated September 25, 2008.

UNITED STATES BANKRUPTCY COURT

for the District of Delaware

In re: Washington Mutual, Inc., et. al.
Debtor

SUBPOENA FOR RULE 2004 EXAMINATION

Case No.* 08-12229 (MFW)

To: The Goldman Sachs Group, Inc.
c/o The Corporation Trust Company,
Corporation Trust Center,
1209 Orange Street, Wilmington, DE 19801

Chapter Chapter 11

YOU ARE COMMANDED to appear and testify at an examination under Rule 2004, Federal Rules of Bankruptcy Procedure, at the place, date, and time specified below. A copy of the court order authorizing the examination is attached.

PLACE OF TESTIMONY

DATE AND TIME

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

Please see First Request for Production of Documents, attached hereto as "Exhibit A."

PLACE Elliott Greenleaf
1105 North Market Street, Suite 1700
Wilmington, DE 19801

DATE AND TIME

_____, 2010 5:00 p.m.

ISSUING OFFICER SIGNATURE AND TITLE

DATE

ISSUING OFFICER'S NAME, ADDRESS, AND PHONE NUMBER

Neil R. Lapinski, Esq.
Elliott Greenleaf

1105 North Market Street, Suite 1700
Wilmington, DE 19801
(302) 384-9400

* If the bankruptcy case is pending in a district other than the district in which the subpoena is issued, state the district under the case number.

PROOF OF SERVICE

SERVED	DATE	PLACE	
SERVED ON (PRINT NAME)		MANNER OF SERVICE	
SERVED BY (PRINT NAME)		TITLE	

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____
DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), as amended on December 1, 2007, made applicable in cases under the Bankruptcy Code by Rule 9016, Federal Rules of Bankruptcy Procedure:

(c) Protecting a Person Subject to a Subpoena.

(1) **Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) **Command to Produce Materials or Permit Inspection.**

(A) **Appearance Not Required.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) **Objections.** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.
(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) **Quashing or Modifying a Subpoena.**

(A) **When Required.** On timely motion, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;
(ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;
(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
(iv) subjects a person to undue burden.

(B) **When Permitted.** To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;
(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or
(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) **Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
(ii) ensures that the subpoenaed person will be reasonably compensated.

(d) Duties in Responding to a Subpoena.

(1) **Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

(A) **Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) **Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) **Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

(D) **Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) **Claiming Privilege or Protection.**

(A) **Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and
(ii) describe the nature of the withheld documents, communications, or

tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) **Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) **Contempt.**

The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

Exhibit A

FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

DEFINITIONS

The following terms (whether or not capitalized) shall have the meanings set forth below:

1. "Adversary Proceedings" means or refers to the JPMC Adversary Proceeding and the Turnover Proceeding.
2. "And" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
3. "Any," "all" and "each" shall be construed broadly, and shall mean any, all, and each as necessary to bring within the scope of the discovery request all responses that otherwise could be construed to be outside of its scope.
4. "Banco Santander" means Banco Santander, S.A., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.
5. "Blackstone" means the Blackstone Group, L.P., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.
6. "Carlyle" means Carlyle Group LLC, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.
7. "Cerberus" means Cerberus Capital Management, L.P., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any

of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

8. "Chapter 11 case" means or refers to *In re Washington Mutual, Inc.*, No. 08-12229 (Bankr. D. Del) (MFW).

9. "Citigroup" means Citigroup, Inc. and Citibank, N.A., and all of their predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

10. "Communication" means any oral, written or electronic transmission of information, fact, opinion, belief, idea, statement, inquiry or otherwise, including without limitation any letter, correspondence, memorandum, electronic-mail message, note or meeting log, conversation, meeting, discussion, telephone call, facsimile, telegram, telex, conference or message.

11. "Concerning" means comprising, consisting of, concerning, referring to, reflecting, regarding, supporting, evidencing, relating to, prepared in connection with, used in preparation for, or being in any way legally, logically or factually concerned with the matter or document described, referred to or discussed.

12. "Document" is used in its broadest sense and mean and include any written or graphic matter or other means of preserving thought or expression and all tangible things from which information can be processed or transcribed, including the originals and all non-identical copies, whether different from the original by reason of any notation made on such copy or otherwise, including but not limited to, correspondence, memoranda, notes, messages, letters, telegrams, teletype, telefax, bulletins, meetings or other communications, interoffice and intraoffice telephone calls, diaries, chronological data, minutes, books, reports, studies, summaries, pamphlets, bulletins, printed matter, charts, ledgers, invoices, worksheets, receipts, returns, computer printouts, prospectuses, financial statements, schedules, affidavits, contracts, cancelled checks, statements, transcripts, statistics, surveys, magazine or newspaper articles,

releases (and any and all drafts, alterations and modifications, changes and amendments of any of the foregoing), graphic or aural records or representations of any kind (including without limitation photographs, microfiche, microfilm, videotape, records and motion pictures) and electronic, mechanical or electric records or representations of any kind (including without limitation tapes, cassettes, discs and records).

13. "FDIC" means or refers to the Federal Deposit Insurance Corporation, as receiver for Washington Mutual Bank, Henderson Nevada and in its corporate capacity.

14. "Federal Reserve" means the Board of Governors of the Federal Reserve System and the twelve Federal Banks; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

15. "Fitch" means Fitch Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

16. "Goldman Sachs" means The Goldman Sachs Group, Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

17. "Governmental Unit" has the meaning set forth at 11 U.S.C. § 101(27).

18. "Including" means including but not limited to the referenced subject.

19. "JPMC" means JPMorgan Chase Bank, National Association and JPMorgan Chase & Co., and any of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

20. "JPMC Adversary Proceeding" refers to *JPMorgan Chase Bank, National Association v. Washington Mutual, Inc., et al.*, Adversary Proceeding No. 09-50551 (Bankr. D. Del.).

21. "Lehman Brothers" means Lehman Brothers Holdings, Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

22. "Morgan Stanley" means Morgan Stanley, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

23. "Moody's" means Moody's Investors Service, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

24. "Oak Hill" means Oak Hill Capital Partners, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

25. "OCC" means the Office of the Comptroller of the Currency, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

26. "OTS" means the Office of Thrift Supervision, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

27. "RTC" means the Resolution Trust Corporation, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

28. "P&A Agreement" means or refers to the Purchase and Assumption Agreement, Whole Bank, among the Federal Deposit Insurance Corporation, as receiver of Washington Mutual Bank, Henderson, Nevada, the Federal Deposit Insurance Corporation and JPM, dated as of September 25, 2008.

29. "SEC" means the U.S. Securities and Exchange Commission and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

30. "S&P" means Standard and Poor's Corporation and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

31. "TD Bank" means TD Bank, N.A., and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

32. "Texas Action" refers to *American Nat'l Ins. Co., et al., v. JPMorgan Chase & Co., et al.*, Case No. 3:09-cv-00044 (S.D. Tex.), which has been transferred to the United States District Court for the District of Columbia.

33. "TPG" means TPG Capital (formerly Texas Pacific Group), and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

34. "TPG Transaction" means or refers to the investment of approximately \$7.2 billion into Washington Mutual on or about April 7, 2008, that was described by Washington Mutual in a Form 8-K filing dated April 7, 2008.

35. "Transaction" means or refers to any means by which JPMorgan Chase might obtain, receive or succeed to Washington Mutual's businesses or properties, or any portion thereof, or any transaction preliminary, preparatory or incident thereto, including any stock tender, stock purchase, asset purchase, assumption of deposit or other liabilities, merger, joint venture or partnership.

36. "Turnover Proceeding" means *WMI and WMI Investment Corp. v. JPMC*, No. 09-50934 (Bankr. D. Del.).

37. "U.S. Department of the Treasury" means or refers to the U.S. Department of the Treasury and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

38. "WaMu Pension Plan" means or refers to the WMI-sponsored tax qualified cash balance pension plan.

39. "Washington DC Action" refers to *Washington Mutual, Inc. and WMI Investment Corp. v. Federal Deposit Insurance Corporation*, No. 1:09-cv-00533 (D.D.C.).

40. "Washington Mutual" means or refers to WMI and WMB, and any and all of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on their behalf, any of their parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

41. "Wells Fargo" means Wells Fargo, N.A., and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

42. "WMB" means or refers to Washington Mutual Bank, Henderson, Nevada, and any and all of its current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

43. "WMB fsb" means or refers to Washington Mutual Bank, fsb, Utah, and any and all of its current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

44. "WMI" means or refers to Washington Mutual, Inc. and WMI Investment Corp. (collectively, the "Debtors") and any and all of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on their behalf, any of their parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

45. "You" or "Your" means or refers to The Goldman Sachs Group, Inc., individually or collectively, to whom this subpoena is addressed, and any owner, director, officer, employee, agent, custodian, parent, subsidiary, affiliate, predecessor, successor, attorney, accountant, representative, and other Persons purporting to act on your behalf.

46. Any ambiguity in a discovery request shall be construed to bring within the scope of the discovery request all responses that otherwise could be construed to be outside of its scope.

INSTRUCTIONS

Each response must be made in accordance with the following instructions:

1. The responsive documents should be produced in the manner prescribed by the Federal Rules of Civil Procedure, as made applicable herein by the Federal Rules of Bankruptcy

Procedure, including producing the requested documents as they are kept in the usual course of business or organized and labeled to correspond with the categories in the requests, and identifying the name of the person from whose files the documents were produced.

2. You are to produce the original and all non-identical copies, including all drafts, of each document requested. If you are not able to produce the original of any document, please produce the best available copy and all non-identical copies, including drafts.

3. Each request herein extends to all documents and communications in the possession, custody or control of you or anyone acting on your behalf. A document is deemed to be in your possession, custody, or control if it is in your physical custody, or if it is in the physical custody of any other person and you: (1) own such document in whole or in part; (2) have a right, by contract, statute or otherwise, to use, inspect, examine or copy such document on any terms; (3) have an understanding, express or implied, that you may use, inspect, examine, or copy such document on any terms; or (4) as a practical matter, have been able to use, inspect, examine, or copy such document when you sought to do so. If any requested document was, but no longer is, in your control, state the disposition of each such document.

4. Any reference in these document requests to an individual or person include any and all agents, advisors, employees, representatives, attorneys, successors-in-interest, and all other persons or entities acting in his, her, or its behalf or under his, her or its control.

5. If any document is withheld under any claim of privilege, including without limitation, attorney-client privilege and attorney work product, you should provide the following information with respect to such document:

- (1) The date of the document;
- (2) The title of the document;
- (3) The name of its author(s) or preparer(s) and an identification by employment and title of each such person;

- (4) The name of each person who was sent or furnished with, received, viewed or has custody of the document or a copy thereof together with an identification by employment and title of each such person;
- (5) The request to which the document relates;
- (6) The title and description of the document sufficient to identify it without revealing the information for which privilege is claimed;
- (7) The claim of privilege under which it is withheld; and
- (8) A description of the subject matter of the document in sufficient detail to support your contention that the document is privileged;

6. If, after exercising due diligence to secure them, you cannot provide some or any of the requested documents, so state and provide all documents to the extent possible, specifying the reason for your inability to produce the remainder of the documents, and stating whatever information or knowledge you have concerning each document not produced.

7. If any requested document or other document potentially relevant to this action is subject to destruction under any document retention or destruction program, the document(s) should be exempted from any scheduled destruction and should not be destroyed until the conclusion of this action or unless otherwise permitted by the Court.

8. If any document responsive to these requests is known to have existed and cannot now be located, or has been destroyed or discarded, set forth a complete statement of the circumstances surrounding such loss or destruction, including:

- (1) a description of the document, including the date, a summary of its contents and the identity of its author and the person(s) to whom it was sent or shown;
- (2) the last known custodian;
- (3) whether the document is missing or lost or was destroyed or discarded;
- (4) the date of loss, destruction or discard;

- (5) the manner of destruction or discard;
- (6) the reason(s) for destruction or discard;
- (7) the person(s) authorizing or carrying out such destruction or discard; and
- (8) the efforts made to locate lost or misplaced documents.

9. If an objection is made to any request, state your objection and the ground or grounds with particularity in your written response. If an objection is made only to part of the request, identify that part in your written response and state your objection and the ground(s) therefor.

10. Each request shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive. Any request propounded in the singular shall also be read as if propounded in the plural and vice versa. Any request propounded in the present tense shall also be read as if propounded in the past tense and vice versa.

11. This request is a continuing one. If, after producing the requested documents, you obtain or become aware of any further documents responsive to this request, you are required to produce such additional documents. Supplemental responses should be served within thirty (30) days after such information or documents become known to you.

12. Unless otherwise specified, the time period covered by these requests is from January 1, 2007 to the present and shall encompass all documents and information relating in whole or in part to such period, or to events or circumstances during such period, even though dated, prepared, generated or received prior to that date.

REQUESTS FOR PRODUCTION OF DOCUMENTS

The Debtors request that Goldman Sachs produce the following documents in its possession, custody or control:

1. All documents concerning, or communications with, Washington Mutual with respect to any entity's efforts to acquire all or part of Washington Mutual, and/or any of its substantial assets.
2. All documents concerning any Washington Mutual board of directors meeting attended by You.
3. All documents concerning any communications with or among JPMC, the FDIC, Banco Santander, Blackstone, Carlyle, Cerberus, Citigroup, Oak Hill, TPG, TD Bank, and/or Wells Fargo, the media, ratings agencies, investors, and/or any third party regarding Washington Mutual.
4. All documents concerning Washington Mutual's efforts to raise capital and/or locate a potential merger partner or acquiror, including without limitation (a) any actual or possible acquisition, purchase, or investment by any entity of any stake in or portion of Washington Mutual, including any communications with or among Banco Santander, Blackstone, Carlyle, Cerberus, Citigroup, JPMC, Oak Hill, TPG, TD Bank, and/or Wells Fargo and their affiliates concerning any interest in Washington Mutual; (b) any efforts to raise capital through the issuance of debt securities in December 2007 (including the issuance of approximately \$3 billion of debt securities on or about December 17, 2007); (c) any efforts to raise capital and/or locate a potential merger partner or acquiror during the first quarter of 2008; (d) TPG's investment of about \$7.2 billion into Washington Mutual on or about April 7, 2008; and/or (e) any efforts to raise capital and/or locate a potential merger partner or acquiror in

September 2008, including any efforts by You or any other entity on Washington Mutual's behalf.

5. All documents, including communications, concerning Washington Mutual's retention of You and/or any other entity to work on Washington Mutual's behalf to raise capital and/or locate a potential merger partner or acquiror.

6. All documents concerning work performed by You and/or any other entity on Washington Mutual's behalf to raise capital and/or locate a potential merger partner or acquiror.

7. All documents concerning any actual or possible merger with Washington Mutual, or any actual or possible purchase or investment by any entity of any stake in or portion of Washington Mutual.

8. All documents, including communications with or among Washington Mutual, JPMC, the FDIC, any Government Unit and/or any third party, concerning any entity's interest in merging with, investing in, or purchasing any stake in or portion of Washington Mutual.

9. All documents concerning JPMC's knowledge of any entity's interest in potentially merging with, investing in, or purchasing any stake in or portion of Washington Mutual.

10. All documents concerning any actual, potential, or contemplated bid, term sheet, offer, or other expression of interest to merge with, invest in, or purchase any stake in or portion of Washington Mutual.

11. All documents concerning Washington Mutual's consideration or evaluation of any bid, term sheet, offer, or other expression of interest to merge with, invest in, or purchase any stake in or portion of Washington Mutual.

12. All documents concerning Your consideration or evaluation of any bid, term sheet, offer, or other expression of interest from any entity to merge with, invest in, or purchase any stake in or portion of Washington Mutual.

13. All documents concerning Your and/or any other entity's access to Washington Mutual information.

14. All documents concerning any due diligence concerning Washington Mutual performed by You or any other entity.

15. All documents concerning trading activity in Washington Mutual stock.

16. All documents concerning any actual, potential, or contemplated decision to short Washington Mutual stock in the three months prior to the OTS seizure of WMB.

17. All documents concerning any advice given by JPMC representatives to any third parties, including any customers, concerning Washington Mutual securities.

18. All documents concerning any advice given by JPMC representatives to any third parties, including any customers, concerning the short sale of Washington Mutual securities.

19. All documents concerning Washington Mutual provided to You by JPMC, the FDIC, and/or any third party.

20. All documents concerning JPMC's disclosure of any Washington Mutual information, or disclosure of any information about Washington Mutual, to You, any Governmental Unit, the media, ratings agencies, investors, and/or any other third parties.

21. All documents concerning any effect JPMC's disclosure of any Washington Mutual information, or disclosure of any information about Washington Mutual had on any actual, potential, or contemplated bid, term sheet, offer, or other expression of interest to merge with, invest in, or purchase any stake in or portion of Washington Mutual.

22. All documents concerning any agreement between JPMC and Washington Mutual concerning access to and/or disclosure of non-public, confidential or proprietary information in connection with a potential transaction in which JPMC would acquire, merge with, or invest in Washington Mutual.

23. All documents, including communications with JPMC, concerning JPMC's consideration of and/or decision about whether or not to negotiate, discuss, participate, or work with You and or any other entity in connection with any potential Transaction.

24. All documents, including communications with JPMC, concerning JPMC's consideration of and/or decision to negotiate, discuss, participate, or work with You and/or any other entity in conjunction with any potential Transaction.

25. All documents, including communications with JPMC, concerning JPMC's consideration of and/or decision not to negotiate, discuss, participate, or work with You and/or any other entity in conjunction with any potential Transaction.

26. All documents concerning the FDIC's bid process for Washington Mutual, including (a) documents sufficient to demonstrate when You and/or any other entity first became aware of the FDIC's bid process for Washington Mutual, (b) any entity's consideration of whether to submit a bid, and/or (c) all documents concerning any draft, potential, or actual bids submitted to the FDIC.

27. All documents concerning any effort by JPMC to negotiate, discuss, participate, or work with the FDIC "to design bidding parameters that would suit JPMC's needs, and which would rule out other potential bidders" and/or "to sell assets of Washington Mutual without an adequate or fair bidding process." *See* Texas Action Complaint at ¶¶ 25, 32.

28. All documents concerning Citigroup's bid for Washington Mutual submitted to the FDIC on or about September 24, 2008.

29. All documents concerning the following statement, in form or in substance, from Citigroup to the FDIC: "We recognize that our approach does not conform to the bidding instructions for Washington Mutual. We believe, however, that our suggested approach will in fact provide greater systemic ability and lower losses than would any conforming bid. . . . [W]e would expect that, consistent with the FDIC's statutory obligation under the 'least-cost' test, this construct would be offered to all potential bidders in a new round of bidding." *See* Citigroup Bid Letter to FDIC, at 4.

30. All documents concerning the FDIC's analysis, evaluation, and/or consideration of any bids concerning Washington Mutual (including Citigroup's bid), including whether or not to open a new round of bidding.

31. All documents concerning the potential for WMB to be seized by OTS and the decision or plans to seize WMB, as well as the potential for the FDIC to be appointed receiver of WMB and the decision to place WMB into receivership with the FDIC, including all documents concerning any communication from FDIC officials to JPMC in early September 2008, to inform JPMC in words or substance that "the FDIC was carefully monitoring [WMB] and that a seizure of its assets was likely" and that the FDIC "would want to immediately auction off [WMB's] assets." *See* Heidi N. Moore, *Deal Journal*, Wall St. J., Sept. 30, 2008, at C7.

32. All documents concerning OTS's determination that "adverse publicity" caused WMB to "suffer[] significant cash outflows." *See* OTS Order 2008-36, dated September 25, 2008.

33. All documents concerning JPMC's access to Washington Mutual data, including but not limited to (a) JPMC due diligence of Washington Mutual and/or (b) any effort by JPMC to place "moles" at Washington Mutual for the purpose of obtaining confidential Washington Mutual information, which JPMC used "to bargain and work with federal regulators for the seizure and sale of Washington Mutual's assets," *see* Texas Action Complaint at ¶ 32, including JPMC's placement of former JPMC employees at Washington Mutual, including but not limited to, the placement or employment of Stephen J. Rotella, Steve Fortunato, Taj Bindra, John Berens, Youyi Chen, and Bill Murray, *see id.* at ¶ 38.

34. All documents concerning JPMC's interest in any potential Transaction and any attempt by JPMC to engage in any potential Transaction, including but not limited to any actual, potential, or contemplated bid or offer by JPMC to merge with, invest in, or purchase Washington Mutual, including (a) Washington Mutual's rejection of JPMC's offer to merge with, invest in, or acquire Washington Mutual in or about April 2008, (b) capital contributions or investments received by JPMC in connection with any potential Transaction in or about September 2008, and/or (c) any agreement or arrangement with or among JPMC and any Government Unit, including but not limited to the FDIC, OTS, OCC, the Federal Reserve and/or the U.S. Department of the Treasury, concerning any potential transaction in which JPMC might or did acquire WMB, or any stake or portion of WMB.

35. All documents concerning any potential or actual regulatory and/or supervisory actions, ratings, or examinations directed toward or taken with respect to Washington Mutual by any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, Federal Reserve, and the SEC, including but not limited to (a) OTS's decision to initiate discussions about Memorandums of Understanding with WMI and WMB, (b) the Memorandums

of Understanding OTS issued to WMI and WMB on or about September 7, 2008, (c) any regulatory classification of Washington Mutual by the OTS, including without limitation any decision by OTS to classify WMB as a "problem institution," and/or (d) U.S. Treasury Secretary Henry Paulson's "RTC plan" concerning Washington Mutual.

36. All documents concerning Washington Mutual's responses or potential responses to any regulatory and/or supervisory actions, ratings, or examinations by any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, Federal Reserve and the SEC.

37. All documents concerning any meetings and/or communications between JPMC and any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, Federal Reserve, and the SEC, concerning Washington Mutual including (a) any meetings on or about March 28, 2008, (b) any meetings between JPMC and the U.S. Department of the Treasury in April 2008, and/or (c) any meetings on or about July 18, 2008.

UNITED STATES BANKRUPTCY COURT

for the District of Columbia

In re: Washington Mutual, Inc., et. al.
Debtor

SUBPOENA FOR RULE 2004 EXAMINATION

Case No. * 08-12229 (MFW) U.S. Bankruptcy Court for the District of Delaware

To: Henry M. Paulson, Jr.
1619 Massachusetts Ave., N.W.
Rome Building - 810
Washington, D.C. 20036

Chapter Chapter 11

YOU ARE COMMANDED to appear and testify at an examination under Rule 2004, Federal Rules of Bankruptcy Procedure, at the place, date, and time specified below. A copy of the court order authorizing the examination is attached.

PLACE OF TESTIMONY

DATE AND TIME

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

Please see First Request for Production of Documents, attached hereto as "Exhibit A."

PLACE Weil, Gotshal & Manges, LLP
1300 Eye Street, NW, Suite 900
Washington, DC 20005

DATE AND TIME

_____, 2010 5:00 p.m.

ISSUING OFFICER SIGNATURE AND TITLE

DATE

ISSUING OFFICER'S NAME, ADDRESS, AND PHONE NUMBER

Neil R. Lapinski, Esq.
Elliott Greenleaf

1105 North Market Street, Suite 1700
Wilmington, DE 19801
(302) 384-9400

* If the bankruptcy case is pending in a district other than the district in which the subpoena is issued, state the district under the case number.

PROOF OF SERVICE

SERVED	DATE	PLACE	
SERVED ON (PRINT NAME)		MANNER OF SERVICE	
SERVED BY (PRINT NAME)		TITLE	

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____

DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), as amended on December 1, 2007, made applicable in cases under the Bankruptcy Code by Rule 9016, Federal Rules of Bankruptcy Procedure:

(c) Protecting a Person Subject to a Subpoena.

(1) **Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) **Appearance Not Required.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) **Objections.** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.
 (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) **When Required.** On timely motion, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;
 (ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(ii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;
 (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
 (iv) subjects a person to undue burden.

(B) **When Permitted.** To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;
 (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or
 (iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) **Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
 (ii) ensures that the subpoenaed person will be reasonably compensated.

(d) Duties in Responding to a Subpoena.

(1) **Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

(A) **Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) **Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) **Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

(D) **Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) **Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and
 (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) **Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) Contempt.

The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

Exhibit A

FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

DEFINITIONS

The following terms (whether or not capitalized) shall have the meanings set forth below:

1. "Adversary Proceedings" means or refers to the JPMC Adversary Proceeding and the Turnover Proceeding.
2. "And" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
3. "Any," "all" and "each" shall be construed broadly, and shall mean any, all, and each as necessary to bring within the scope of the discovery request all responses that otherwise could be construed to be outside of its scope.
4. "Banco Santander" means Banco Santander, S.A., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.
5. "Blackstone" means the Blackstone Group, L.P., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.
6. "Carlyle" means Carlyle Group LLC, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.
7. "Cerberus" means Cerberus Capital Management, L.P., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any

of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

8. "Chapter 11 case" means or refers to *In re Washington Mutual, Inc.*, No. 08-12229 (Bankr. D. Del).

9. "Citigroup" means Citigroup, Inc. and Citibank, N.A., and all of their predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

10. "Communication" means any oral, written or electronic transmission of information, fact, opinion, belief, idea, statement, inquiry or otherwise, including without limitation any letter, correspondence, memorandum, electronic-mail message, note or meeting log, conversation, meeting, discussion, telephone call, facsimile, telegram, telex, conference or message.

11. "Concerning" means comprising, consisting of, concerning, referring to, reflecting, regarding, supporting, evidencing, relating to, prepared in connection with, used in preparation for, or being in any way legally, logically or factually concerned with the matter or document described, referred to or discussed.

12. "DC Action" refers to *Washington Mutual, Inc. and WMI Investment Corp. v. Federal Deposit Insurance Corporation*, No. 1:09-cv-00533 (D.D.C.).

13. "Document" is used in its broadest sense and mean and include any written or graphic matter or other means of preserving thought or expression and all tangible things from which information can be processed or transcribed, including the originals and all non-identical copies, whether different from the original by reason of any notation made on such copy or otherwise, including but not limited to, correspondence, memoranda, notes, messages, letters, telegrams, teletype, telefax, bulletins, meetings or other communications, interoffice and intraoffice telephone calls, diaries, chronological data, minutes, books, reports, studies, summaries, pamphlets, bulletins, printed matter, charts, ledgers, invoices, worksheets, receipts,

returns, computer printouts, prospectuses, financial statements, schedules, affidavits, contracts, cancelled checks, statements, transcripts, statistics, surveys, magazine or newspaper articles, releases (and any and all drafts, alterations and modifications, changes and amendments of any of the foregoing), graphic or aural records or representations of any kind (including without limitation photographs, microfiche, microfilm, videotape, records and motion pictures) and electronic, mechanical or electric records or representations of any kind (including without limitation tapes, cassettes, discs and records).

14. "FDIC" means or refers to the Federal Deposit Insurance Corporation, as receiver for Washington Mutual Bank, Henderson Nevada and in its corporate capacity.

15. "Federal Reserve" means the Board of Governors of the Federal Reserve System and the twelve Federal Banks; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

16. "Fitch" means Fitch Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

17. "Goldman Sachs" means The Goldman Sachs Group, Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

18. "Governmental Unit" has the meaning set forth at 11 U.S.C. § 101(27).

19. "Including" means including but not limited to the referenced subject.

20. "JPMC" means JPMorgan Chase Bank, National Association and JPMorgan Chase & Co., and any of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

21. "JPMC Adversary Proceeding" refers to *JPMorgan Chase Bank, National Association v. Washington Mutual, Inc., et al.*, Adversary Proceeding No. 09-50551 (Bankr. D. Del.).

22. "Lehman Brothers" means Lehman Brothers Holdings, Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

23. "Morgan Stanley" means Morgan Stanley, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

24. "Moody's" means Moody's Investors Service, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

25. "Oak Hill" means Oak Hill Capital Partners, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

26. "OCC" means the Office of the Comptroller of the Currency, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

27. "OTS" means the Office of Thrift Supervision, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

28. "RTC" means the Resolution Trust Corporation, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

29. "P&A Agreement" means or refers to the Purchase and Assumption Agreement, Whole Bank, among the Federal Deposit Insurance Corporation, as receiver of Washington Mutual Bank, Henderson, Nevada, the Federal Deposit Insurance Corporation and JPM, dated as of September 25, 2008.

30. "SEC" means the U.S. Securities and Exchange Commission and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

31. "S&P" means Standard and Poor's Corporation and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

32. "TD Bank" means TD Bank, N.A., and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

33. "Texas Action" refers to *American Nat'l Ins. Co., et al., v. JPMorgan Chase & Co., et al.*, Case No. 3:09-cv-00044 (S.D. Tex.), which has been transferred to the United States District Court for the District of Columbia.

34. "TPG" means TPG Capital (formerly Texas Pacific Group), and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

35. "Transaction" means or refers to any means by which JPMorgan Chase might obtain, receive or succeed to Washington Mutual's businesses or properties, or any portion

thereof, or any transaction preliminary, preparatory or incident thereto, including any stock tender, stock purchase, asset purchase, assumption of deposit or other liabilities, merger, joint venture or partnership.

36. "Turnover Proceeding" means *WMI and WMI Investment Corp. v. JPMC*, No. 09-50934 (Bankr. D. Del.).

37. "U.S. Department of the Treasury" means or refers to the U.S. Department of the Treasury and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

38. "Washington Mutual" means or refers to WMI and WMB, and any and all of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on their behalf, any of their parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

39. "Wells Fargo" means Wells Fargo, N.A., and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

40. "WMB" means or refers to Washington Mutual Bank, Henderson, Nevada, and any and all of its current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

41. "WMB fsb" means or refers to Washington Mutual Bank, fsb, Utah, and any and all of its current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

42. "WMI" means or refers to Washington Mutual, Inc. and WMI Investment Corp. (collectively, the "Debtors") and any and all of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on their behalf, any of their parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

43. "You" means or refers to Henry M. Paulson, Jr., to whom this subpoena is addressed, and any employee, agent, custodian, attorney, accountant, representative, and other Persons purporting to act on your behalf.

44. Any ambiguity in a discovery request shall be construed to bring within the scope of the discovery request all responses that otherwise could be construed to be outside of its scope.

INSTRUCTIONS

Each response must be made in accordance with the following instructions:

1. The responsive documents should be produced in the manner prescribed by the Federal Rules of Civil Procedure, as made applicable herein by the Federal Rules of Bankruptcy Procedure, including producing the requested documents as they are kept in the usual course of business or organized and labeled to correspond with the categories in the requests, and identifying the name of the person from whose files the documents were produced.

2. You are to produce the original and all non-identical copies, including all drafts, of each document requested. If you are not able to produce the original of any document, please produce the best available copy and all non-identical copies, including drafts.

3. Each request herein extends to all documents and communications in the possession, custody or control of you or anyone acting on your behalf. A document is deemed to be in your possession, custody, or control if it is in your physical custody, or if it is in the physical custody of any other person and you: (1) own such document in whole or in part; (2) have a right, by contract, statute or otherwise, to use, inspect, examine or copy such document on

any terms; (3) have an understanding, express or implied, that you may use, inspect, examine, or copy such document on any terms; or (4) as a practical matter, have been able to use, inspect, examine, or copy such document when you sought to do so. If any requested document was, but no longer is, in your control, state the disposition of each such document.

4. Any reference in these document requests to an individual or person include any and all agents, advisors, employees, representatives, attorneys, successors-in-interest, and all other persons or entities acting in his, her, or its behalf or under his, her or its control.

5. If any document is withheld under any claim of privilege, including without limitation, attorney-client privilege and attorney work product, you should provide the following information with respect to such document:

- (1) The date of the document;
- (2) The title of the document;
- (3) The name of its author(s) or preparer(s) and an identification by employment and title of each such person;
- (4) The name of each person who was sent or furnished with, received, viewed or has custody of the document or a copy thereof together with an identification by employment and title of each such person;
- (5) The request to which the document relates;
- (6) The title and description of the document sufficient to identify it without revealing the information for which privilege is claimed;
- (7) The claim of privilege under which it is withheld; and
- (8) A description of the subject matter of the document in sufficient detail to support your contention that the document is privileged;

6. If, after exercising due diligence to secure them, you cannot provide some or any of the requested documents, so state and provide all documents to the extent possible, specifying the reason for your inability to produce the remainder of the documents, and stating whatever information or knowledge you have concerning each document not produced.

7. If any requested document or other document potentially relevant to this action is subject to destruction under any document retention or destruction program, the documents(s) should be exempted from any scheduled destruction and should not be destroyed until the conclusion of this action or unless otherwise permitted by the Court.

8. If any document responsive to these requests is known to have existed and cannot now be located, or has been destroyed or discarded, set forth a complete statement of the circumstances surrounding such loss or destruction, including:

- (1) a description of the document, including the date, a summary of its contents and the identity of its author and the person(s) to whom it was sent or shown;
- (2) the last known custodian;
- (3) whether the document is missing or lost or was destroyed or discarded;
- (4) the date of loss, destruction or discard;
- (5) the manner of destruction or discard;
- (6) the reason(s) for destruction or discard;
- (7) the person(s) authorizing or carrying out such destruction or discard; and
- (8) the efforts made to locate lost or misplaced documents.

9. If an objection is made to any request, state your objection and the ground or grounds with particularity in your written response. If an objection is made only to part of the request, identify that part in your written response and state your objection and the ground(s) therefor.

10. Each request shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive. Any request propounded in the singular shall also be read as if propounded in the plural and vice versa. Any request propounded in the present tense shall also be read as if propounded in the past tense and vice versa.

11. This request is a continuing one. If, after producing the requested documents, you obtain or become aware of any further documents responsive to this request, you are required to produce such additional documents. Supplemental responses should be served within thirty (30) days after such information or documents become known to you.

12. Unless otherwise specified, the time period covered by these requests is from January 1, 2007 to the present and shall encompass all documents and information relating in whole or in part to such period, or to events or circumstances during such period, even though dated, prepared, generated or received prior to that date.

REQUESTS FOR PRODUCTION OF DOCUMENTS

The Debtors request that Henry M. Paulson, Jr. produce the following documents in its possession, custody or control:

1. All documents concerning, or communications with, Washington Mutual, including any communications with or among You and WMI Chairman and CEO Kerry Killinger and/or JPMC President and CEO Jamie Dimon regarding Washington Mutual.
2. All documents concerning in form or in substance the "Paulson RTC-like structure" and/or "Paulson's 'RTC' plan" concerning Washington Mutual.
3. All documents concerning communications with or among JPMC, the FDIC, the media, ratings agencies, investors, and/or any third party concerning Washington Mutual.
4. All documents concerning any meetings and/or communications between Washington Mutual and any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, Federal Reserve, and the SEC, including (a) any meetings between OTS and WMI on or about April 5, 2008, and/or (b) any meetings between Washington Mutual, OTS, and the FDIC on or about July 31, 2008.
5. All documents concerning any potential or actual regulatory and/or supervisory actions, ratings, or examinations directed toward or taken with respect to Washington Mutual by any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, Federal Reserve, and SEC, including but not limited to (a) OTS's decision to initiate discussions about Memorandums of Understanding with WMI and WMB, (b) the Memorandums of Understanding OTS issued to WMI and WMB on or about September 7, 2008, (c) any regulatory classification of Washington Mutual by the OTS, including without limitation any decision by

OTS to classify WMB as a "problem institution," and/or (d) U.S. Treasury Secretary Henry Paulson's "RTC plan" concerning Washington Mutual.

6. All documents concerning Washington Mutual's responses or potential responses to any regulatory and/or supervisory actions, ratings, or examinations by any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, Federal Reserve, and the SEC.

7. All documents concerning Washington Mutual's efforts to raise capital and/or locate a potential merger partner or acquiror, including without limitation (a) any actual or possible acquisition or investment by any entity of any stake in Washington Mutual, including any communications with or among Banco Santander, Bankers Trust, Blackstone, Carlyle, Cerberus, Citigroup, JPMC, Oak Hill, TPG, TD Bank, and/or Wells Fargo and their affiliates; (b) any efforts to raise capital through the issuance of debt securities in December 2007 (including the issuance of approximately \$3 billion of debt securities on or about December 17, 2007); (c) any actual, potential, or contemplated bids for Washington Mutual and/or the bidding process for Washington Mutual; (d) any efforts to raise capital and/or locate a potential merger partner or acquiror during the first quarter of 2008; (e) TPG's investment of about \$7.2 billion into Washington Mutual on or about April 7, 2008; and/or (f) any efforts to raise capital and/or locate a potential merger partner or acquiror in September 2008, including any efforts by Goldman Sachs and/or Morgan Stanley on Washington Mutual's behalf.

8. All documents concerning any meetings and/or communications between JPMC and any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, Federal Reserve, and the SEC, concerning Washington Mutual including (a) any meetings on or

about March 28, 2008, (b) any meetings between JPMC and the U.S. Department of the Treasury in April 2008, and/or (c) any meetings on or about July 18, 2008.

9. All documents concerning JPMC's trading activity in Washington Mutual stock, including any actual, potential, or contemplated decision by JPMC to short Washington Mutual stock in the three months prior to the OTS seizure of WMB.

10. All documents concerning JPMC's disclosure of any Washington Mutual information, or disclosure of any information about Washington Mutual, to any Governmental Unit, the media, ratings agencies, investors, and/or any other third parties.

11. All documents concerning any agreement between JPMC and Washington Mutual concerning access to and/or disclosure of non-public, confidential or proprietary information in connection with a potential transaction in which JPMC would acquire, merge with, or invest in Washington Mutual.

12. All documents concerning JPMC's access to Washington Mutual data, including but not limited to (a) JPMC due diligence of Washington Mutual and/or (b) any effort by JPMC to place "moles" at Washington Mutual for the purpose of obtaining confidential Washington Mutual information, which JPMC used "to bargain and work with federal regulators for the seizure and sale of Washington Mutual's assets," *see* Texas Action Complaint at ¶ 32, including JPMC's placement of former JPMC employees at Washington Mutual, including but not limited to, the placement or employment of Stephen J. Rotella, Steve Fortunato, Taj Bindra, John Berens, Youyi Chen, and Bill Murray, *see id.* at ¶ 38.

13. All documents concerning JPMC's interest in any potential Transaction and any attempt by JPMC to engage in any potential Transaction, including but not limited to any actual, potential, or contemplated bid or offer by JPMC to merge with, invest in, or purchase

Washington Mutual, including but not limited to (a) Washington Mutual's rejection of JPMC's offer to merge with, invest in, or acquire Washington Mutual in or about April 2008, (b) capital contributions or investments received by JPMC in connection with any potential Transaction in or about September 2008, and/or (c) any agreement or arrangement between JPMC and any Government Unit, including but not limited to the FDIC, OTS, OCC, Federal Reserve, SEC and/or the U.S. Department of the Treasury, concerning any potential transaction in which JPMC might or did acquire WMB, or any stake or portion of WMB.

14. All documents concerning the potential for WMB to be seized by OTS and the decision to seize WMB, as well as the potential for the FDIC to be appointed receiver of WMB and the decision to place WMB into receivership with the FDIC, including all documents concerning any communication from FDIC officials to JPMC in early September 2008, to inform JPMC in words or substance that "the FDIC was carefully monitoring [WMB] and that a seizure of its assets was likely" and that the FDIC "would want to immediately auction off [WMB's] assets." *See* Heidi N. Moore, *Deal Journal*, Wall St. J., Sept. 30, 2008, at C7.

15. All documents concerning the bid process established by the FDIC for the purchase of WMB, including but not limited to (a) all documents concerning any communication with or among JPMC, any Government Unit and/or any third party about the bid process and (b) all documents concerning bids or indications of interest received by the FDIC, including copies of bids or indications of interest from JPMC and Citigroup.

16. All documents concerning the following statement, in form or in substance, from Citigroup to the FDIC: "We recognize that our approach does not conform to the bidding instructions for Washington Mutual. We believe, however, that our suggested approach will in fact provide greater systemic ability and lower losses than would any conforming bid. . . . [W]e

would expect that, consistent with the FDIC's statutory obligation under the 'least-cost' test, this construct would be offered to all potential bidders in a new round of bidding." *See* Citigroup Bid Letter to FDIC, at 4.

17. All documents concerning the FDIC's consideration of and decision to "modify the standard indemnification to include a limited indemnity in favor of JPMorgan Chase in an amount not to exceed \$500 million for any damages JPMorgan Chase may sustain as a result of litigation brought by WMI against JPMorgan Chase for violation of the agreement between WMI and JPMorgan Chase dated March 11, 2008," including all documents concerning JPMC's request for such an indemnification provision. *See* 9/24/08 Memorandum from James Wigand and Herbert Held to FDIC Board of Directors and FDIC Board of Directors Resolution Approving P&A Transaction.

18. All documents concerning any OCC indication to OTS, FDIC, and/or JPMC that "as the federal regulator of JPMorgan Chase . . . it will provide its approval of the transfer of assets and liabilities [of WMB to JPMC] on September 25, 2008." *See* FDIC Board of Directors Resolution Board of Directors Approving JPMC's Bid for WMB, at 4.

19. All documents concerning OTS's determination that "WMB met the well-capitalized standards through the date of receivership." *See* OTS Fact Sheet, Sept. 25, 2008.

20. All documents concerning OTS's determination that "adverse publicity" caused WMB to "suffer[] significant cash outflows." *See* OTS Order 2008-36, dated September 25, 2008.

UNITED STATES BANKRUPTCY COURT

for the Southern District of New York

In re: Washington Mutual, Inc., et. al.
Debtor

SUBPOENA FOR RULE 2004 EXAMINATION

Case No.* 08-12229 (MFW) U.S. Bankruptcy Court for the District of Delaware

To: Banco Santander, S.A., New York Branch
45 East 53rd Street
New York, New York 10022

Chapter Chapter 11

YOU ARE COMMANDED to appear and testify at an examination under Rule 2004, Federal Rules of Bankruptcy Procedure, at the place, date, and time specified below. A copy of the court order authorizing the examination is attached.

PLACE OF TESTIMONY

DATE AND TIME

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

Please see First Request for Production of Documents, attached hereto as "Exhibit A."

PLACE Quinn Emanuel Urquhart Oliver & Hedges LLP
51 Madison Avenue, 22nd Floor
New York, NY 10010

DATE AND TIME

_____, 2010 5:00 p.m.

ISSUING OFFICER SIGNATURE AND TITLE

DATE

ISSUING OFFICER'S NAME, ADDRESS, AND PHONE NUMBER

Neil R. Lapinski, Esq.
Elliott Greenleaf

1105 North Market Street, Suite 1700
Wilmington, DE 19801
(302) 384-9400

* If the bankruptcy case is pending in a district other than the district in which the subpoena is issued, state the district under the case number.

PROOF OF SERVICE

SERVED	DATE	PLACE	
SERVED ON (PRINT NAME)		MANNER OF SERVICE	
SERVED BY (PRINT NAME)		TITLE	

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____

DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), as amended on December 1, 2007, made applicable in cases under the Bankruptcy Code by Rule 9016, Federal Rules of Bankruptcy Procedure

(c) Protecting a Person Subject to a Subpoena.

(1) **Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) **Command to Produce Materials or Permit Inspection.**

(A) **Appearance Not Required.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) **Objections.** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) **Quashing or Modifying a Subpoena.**

(A) **When Required.** On timely motion, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) **When Permitted.** To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) **Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(d) Duties in Responding to a Subpoena.

(1) **Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

(A) **Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) **Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) **Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

(D) **Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) **Claiming Privilege or Protection.**

(A) **Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications,

or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) **Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) **Contempt.**

The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

Exhibit A

FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

DEFINITIONS

The following terms (whether or not capitalized) shall have the meanings set forth below:

1. "Adversary Proceedings" means or refers to the JPMC Adversary Proceeding and the Turnover Proceeding.
2. "And" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
3. "Any," "all" and "each" shall be construed broadly, and shall mean any, all, and each as necessary to bring within the scope of the discovery request all responses that otherwise could be construed to be outside of its scope.
4. "Banco Santander" means Banco Santander, S.A., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.
5. "Blackstone" means the Blackstone Group, L.P., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.
6. "Carlyle" means Carlyle Group LLC, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.
7. "Cerberus" means Cerberus Capital Management, L.P., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any

of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

8. "Chapter 11 case" means or refers to *In re Washington Mutual, Inc.*, No. 08-12229 (Bankr. D. Del) (MFW).

9. "Citigroup" means Citigroup, Inc. and Citibank, N.A., and all of their predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

10. "Communication" means any oral, written or electronic transmission of information, fact, opinion, belief, idea, statement, inquiry or otherwise, including without limitation any letter, correspondence, memorandum, electronic-mail message, note or meeting log, conversation, meeting, discussion, telephone call, facsimile, telegram, telex, conference or message.

11. "Concerning" means comprising, consisting of, concerning, referring to, reflecting, regarding, supporting, evidencing, relating to, prepared in connection with, used in preparation for, or being in any way legally, logically or factually concerned with the matter or document described, referred to or discussed.

12. "Document" is used in its broadest sense and mean and include any written or graphic matter or other means of preserving thought or expression and all tangible things from which information can be processed or transcribed, including the originals and all non-identical copies, whether different from the original by reason of any notation made on such copy or otherwise, including but not limited to, correspondence, memoranda, notes, messages, letters, telegrams, teletype, telefax, bulletins, meetings or other communications, interoffice and intraoffice telephone calls, diaries, chronological data, minutes, books, reports, studies, summaries, pamphlets, bulletins, printed matter, charts, ledgers, invoices, worksheets, receipts, returns, computer printouts, prospectuses, financial statements, schedules, affidavits, contracts, cancelled checks, statements, transcripts, statistics, surveys, magazine or newspaper articles,

releases (and any and all drafts, alterations and modifications, changes and amendments of any of the foregoing), graphic or aural records or representations of any kind (including without limitation photographs, microfiche, microfilm, videotape, records and motion pictures) and electronic, mechanical or electric records or representations of any kind (including without limitation tapes, cassettes, discs and records).

13. "FDIC" means or refers to the Federal Deposit Insurance Corporation, as receiver for Washington Mutual Bank, Henderson Nevada and in its corporate capacity.

14. "Federal Reserve" means the Board of Governors of the Federal Reserve System and the twelve Federal Banks; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

15. "Fitch" means Fitch Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

16. "Goldman Sachs" means The Goldman Sachs Group, Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

17. "Governmental Unit" has the meaning set forth at 11 U.S.C. § 101(27).

18. "Including" means including but not limited to the referenced subject.

19. "JPMC" means JPMorgan Chase Bank, National Association and JPMorgan Chase & Co., and any of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

20. "JPMC Adversary Proceeding" refers to *JPMorgan Chase Bank, National Association v. Washington Mutual, Inc., et al.*, Adversary Proceeding No. 09-50551 (Bankr. D. Del.).

21. "Lehman Brothers" means Lehman Brothers Holdings, Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

22. "Morgan Stanley" means Morgan Stanley, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

23. "Moody's" means Moody's Investors Service, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

24. "Oak Hill" means Oak Hill Capital Partners, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

25. "OCC" means the Office of the Comptroller of the Currency, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

26. "OTS" means the Office of Thrift Supervision, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

27. "RTC" means the Resolution Trust Corporation, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

28. "P&A Agreement" means or refers to the Purchase and Assumption Agreement, Whole Bank, among the Federal Deposit Insurance Corporation, as receiver of Washington Mutual Bank, Henderson, Nevada, the Federal Deposit Insurance Corporation and JPM, dated as of September 25, 2008.

29. "SEC" means the U.S. Securities and Exchange Commission and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

30. "S&P" means Standard and Poor's Corporation and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

31. "TD Bank" means TD Bank, N.A., and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

32. "Texas Action" refers to *American Nat'l Ins. Co., et al., v. JPMorgan Chase & Co., et al.*, Case No. 3:09-cv-00044 (S.D. Tex.), which has been transferred to the United States District Court for the District of Columbia.

33. "TPG" means TPG Capital (formerly Texas Pacific Group), and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

34. "TPG Transaction" means or refers to the investment of approximately \$7.2 billion into Washington Mutual on or about April 7, 2008, that was described by Washington Mutual in a Form 8-K filing dated April 7, 2008.

35. "Transaction" means or refers to any means by which JPMorgan Chase might obtain, receive or succeed to Washington Mutual's businesses or properties, or any portion thereof, or any transaction preliminary, preparatory or incident thereto, including any stock tender, stock purchase, asset purchase, assumption of deposit or other liabilities, merger, joint venture or partnership.

36. "Turnover Proceeding" means *WMI and WMI Investment Corp. v. JPMC*, No. 09-50934 (Bankr. D. Del.).

37. "U.S. Department of the Treasury" means or refers to the U.S. Department of the Treasury and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

38. "Washington DC Action" refers to *Washington Mutual, Inc. and WMI Investment Corp. v. Federal Deposit Insurance Corporation*, No. 1:09-cv-00533 (D.D.C.).

39. "Washington Mutual" means or refers to WMI and WMB, and any and all of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on their behalf, any of their parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

40. "Wells Fargo" means Wells Fargo, N.A., and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

41. "WMB" means or refers to Washington Mutual Bank, Henderson, Nevada, and any and all of its current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or

purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

42. "WMB fsb" means or refers to Washington Mutual Bank, fsb, Utah, and any and all of its current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

43. "WMI" means or refers to Washington Mutual, Inc. and WMI Investment Corp. (collectively, the "Debtors") and any and all of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on their behalf, any of their parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

44. "You" means or refers to Banco Santander, S.A., individually or collectively, to whom this subpoena is addressed, and any owner, director, officer, employee, agent, custodian, parent, subsidiary, affiliate, predecessor, successor, attorney, accountant, representative, and other Persons purporting to act on your behalf.

45. Any ambiguity in a discovery request shall be construed to bring within the scope of the discovery request all responses that otherwise could be construed to be outside of its scope.

INSTRUCTIONS

Each response must be made in accordance with the following instructions:

1. The responsive documents should be produced in the manner prescribed by the Federal Rules of Civil Procedure, as made applicable herein by the Federal Rules of Bankruptcy Procedure, including producing the requested documents as they are kept in the usual course of business or organized and labeled to correspond with the categories in the requests, and identifying the name of the person from whose files the documents were produced.

2. You are to produce the original and all non-identical copies, including all drafts, of each document requested. If you are not able to produce the original of any document, please produce the best available copy and all non-identical copies, including drafts.

3. Each request herein extends to all documents and communications in the possession, custody or control of you or anyone acting on your behalf. A document is deemed to be in your possession, custody, or control if it is in your physical custody, or if it is in the physical custody of any other person and you: (1) own such document in whole or in part; (2) have a right, by contract, statute or otherwise, to use, inspect, examine or copy such document on any terms; (3) have an understanding, express or implied, that you may use, inspect, examine, or copy such document on any terms; or (4) as a practical matter, have been able to use, inspect, examine, or copy such document when you sought to do so. If any requested document was, but no longer is, in your control, state the disposition of each such document.

4. Any reference in these document requests to an individual or person include any and all agents, advisors, employees, representatives, attorneys, successors-in-interest, and all other persons or entities acting in his, her, or its behalf or under his, her or its control.

5. If any document is withheld under any claim of privilege, including without limitation, attorney-client privilege and attorney work product, you should provide the following information with respect to such document:

- (1) The date of the document;
- (2) The title of the document;
- (3) The name of its author(s) or preparer(s) and an identification by employment and title of each such person;
- (4) The name of each person who was sent or furnished with, received, viewed or has custody of the document or a copy thereof together with an identification by employment and title of each such person;
- (5) The request to which the document relates;

- (6) The title and description of the document sufficient to identify it without revealing the information for which privilege is claimed;
- (7) The claim of privilege under which it is withheld; and
- (8) A description of the subject matter of the document in sufficient detail to support your contention that the document is privileged;

6. If, after exercising due diligence to secure them, you cannot provide some or any of the requested documents, so state and provide all documents to the extent possible, specifying the reason for your inability to produce the remainder of the documents, and stating whatever information or knowledge you have concerning each document not produced.

7. If any requested document or other document potentially relevant to this action is subject to destruction under any document retention or destruction program, the document(s) should be exempted from any scheduled destruction and should not be destroyed until the conclusion of this action or unless otherwise permitted by the Court.

8. If any document responsive to these requests is known to have existed and cannot now be located, or has been destroyed or discarded, set forth a complete statement of the circumstances surrounding such loss or destruction, including:

- (1) a description of the document, including the date, a summary of its contents and the identity of its author and the person(s) to whom it was sent or shown;
- (2) the last known custodian;
- (3) whether the document is missing or lost or was destroyed or discarded;
- (4) the date of loss, destruction or discard;
- (5) the manner of destruction or discard;
- (6) the reason(s) for destruction or discard;
- (7) the person(s) authorizing or carrying out such destruction or discard; and

(8) the efforts made to locate lost or misplaced documents.

9. If an objection is made to any request, state your objection and the ground or grounds with particularity in your written response. If an objection is made only to part of the request, identify that part in your written response and state your objection and the ground(s) therefor.

10. Each request shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive. Any request propounded in the singular shall also be read as if propounded in the plural and vice versa. Any request propounded in the present tense shall also be read as if propounded in the past tense and vice versa.

11. This request is a continuing one. If, after producing the requested documents, you obtain or become aware of any further documents responsive to this request, you are required to produce such additional documents. Supplemental responses should be served within thirty (30) days after such information or documents become known to you.

12. Unless otherwise specified, the time period covered by these requests is from January 1, 2007 to the present and shall encompass all documents and information relating in whole or in part to such period, or to events or circumstances during such period, even though dated, prepared, generated or received prior to that date.

REQUESTS FOR PRODUCTION OF DOCUMENTS

The Debtors request that Banco Santander, S.A., produce the following documents in its possession, custody or control:

1. All documents concerning, or communications with, Washington Mutual with respect to any entity's efforts to acquire all or part of Washington Mutual, and/or any of its substantial assets.
2. All documents concerning any Washington Mutual board of directors meeting attended by You.
3. All documents concerning any communications with or among JPMC, the FDIC, the media, ratings agencies, investors, and/or any third party regarding Washington Mutual.
4. All documents concerning a meeting in or about June 2008 with or among JPMC executives, including CEO Jamie Dimon, and Banco Santander executives, including Chairman Emilio Botin.
5. All documents concerning Washington Mutual's efforts to raise capital and/or locate a potential merger partner or acquiror, including without limitation (a) any actual or possible acquisition, purchase, or investment by any entity of any stake in or portion of Washington Mutual; (b) any efforts to raise capital through the issuance of debt securities in December 2007 (including the issuance of approximately \$3 billion of debt securities on or about December 17, 2007); (c) any efforts to raise capital and/or locate a potential merger partner or acquiror during the first quarter of 2008; (d) TPG's investment of about \$7.2 billion into Washington Mutual on or about April 7, 2008; and/or (e) any efforts to raise capital and/or locate a potential merger partner or acquiror in September 2008, including any efforts by Goldman Sachs and/or Morgan Stanley on Washington Mutual's behalf.

6. All documents concerning any actual or possible merger with Washington Mutual, or any actual or possible purchase or investment by any entity of any stake in or portion of Washington Mutual.

7. All documents, including communications with or among Washington Mutual, JPMC, the FDIC, any Government Unit and/or any third party, concerning Your and/or any other entity's interest in merging with, investing in, or purchasing any stake in or portion of Washington Mutual.

8. All documents concerning JPMC's knowledge of Your and/or any other entity's interest in potentially merging with, investing in, or purchasing any stake in or portion of Washington Mutual.

9. All documents concerning any actual, potential, or contemplated bid, term sheet, offer, or other expression of interest from You and/or any other entity to merge with, invest in, or purchase any stake in or portion of Washington Mutual.

10. All documents concerning Washington Mutual's consideration or evaluation of any bid, term sheet, offer, or other expression of interest from You and/or any other entity to merge with, invest in, or purchase any stake in or portion of Washington Mutual.

11. All documents concerning Your and/or any other entity's access to Washington Mutual information.

12. All documents concerning any due diligence concerning Washington Mutual performed by You or any other entity.

13. All documents concerning Washington Mutual provided to You by JPMC, the FDIC, and/or any third party.

14. All documents concerning JPMC's disclosure of any Washington Mutual information, or disclosure of any information about Washington Mutual, to You, any Governmental Unit, the media, ratings agencies, investors, and/or any other third parties.

15. All documents concerning any effect JPMC's disclosure of any Washington Mutual information, or disclosure of any information about Washington Mutual had on any actual, potential, or contemplated bid, term sheet, offer, or other expression of interest to merge with, invest in, or purchase any stake in or portion of Washington Mutual.

16. All documents concerning any agreement between JPMC and Washington Mutual concerning access to and/or disclosure of non-public, confidential or proprietary information in connection with a potential transaction in which JPMC would acquire, merge with, or invest in Washington Mutual.

17. All documents concerning the FDIC's bid process for Washington Mutual, including (a) documents sufficient to demonstrate when You and/or any other entity first became aware of the FDIC's bid process for Washington Mutual, (b) Your or any other entity's consideration of whether to submit a bid, and/or (c) all documents concerning any draft, potential, or actual bids submitted to the FDIC.

18. All documents concerning any effort by JPMC to negotiate, discuss, participate, or work with the FDIC "to design bidding parameters that would suit JPMC's needs, and which would rule out other potential bidders" and/or "to sell assets of Washington Mutual without an adequate or fair bidding process." *See* Texas Action Complaint at ¶¶ 25, 32.

19. All documents concerning Citigroup's bid for Washington Mutual submitted to the FDIC on or about September 24, 2008.

20. All documents concerning the following statement, in form or in substance, from Citigroup to the FDIC: "We recognize that our approach does not conform to the bidding instructions for Washington Mutual. We believe, however, that our suggested approach will in fact provide greater systemic ability and lower losses than would any conforming bid. . . . [W]e would expect that, consistent with the FDIC's statutory obligation under the 'least-cost' test, this construct would be offered to all potential bidders in a new round of bidding." *See* Citigroup Bid Letter to FDIC, at 4.

21. All documents concerning the FDIC's analysis, evaluation, and/or consideration of any bids concerning Washington Mutual (including Citigroup's bid), including whether or not to open a new round of bidding.

22. All documents concerning the potential for WMB to be seized by OTS and the decision or plans to seize WMB, as well as the potential for the FDIC to be appointed receiver of WMB and the decision to place WMB into receivership with the FDIC, including all documents concerning any communication from FDIC officials to JPMC in early September 2008, to inform JPMC in words or substance that "the FDIC was carefully monitoring [WMB] and that a seizure of its assets was likely" and that the FDIC "would want to immediately auction off [WMB's] assets." *See* Heidi N. Moore, *Deal Journal*, Wall St. J., Sept. 30, 2008, at C7.

23. All documents concerning OTS's determination that "adverse publicity" caused WMB to "suffer[] significant cash outflows." *See* OTS Order 2008-36, dated September 25, 2008.

24. All documents concerning JPMC's access to Washington Mutual data, including but not limited to (a) JPMC due diligence of Washington Mutual and/or (b) any effort by JPMC to place "moles" at Washington Mutual for the purpose of obtaining confidential Washington

Mutual information, which JPMC used "to bargain and work with federal regulators for the seizure and sale of Washington Mutual's assets," *see* Texas Action Complaint at ¶ 32, including JPMC's placement of former JPMC employees at Washington Mutual, including but not limited to, the placement or employment of Stephen J. Rotella, Steve Fortunato, Taj Bindra, John Berens, Youyi Chen, and Bill Murray, *see id.* at ¶ 38.

25. All documents concerning JPMC's interest in any potential Transaction and any attempt by JPMC to engage in any potential Transaction, including but not limited to any actual, potential, or contemplated bid or offer by JPMC to merge with, invest in, or purchase Washington Mutual, including (a) Washington Mutual's rejection of JPMC's offer to merge with, invest in, or acquire Washington Mutual in or about April 2008, (b) capital contributions or investments received by JPMC in connection with any potential Transaction in or about September 2008, and/or (c) any agreement or arrangement with or among JPMC and any Government Unit, including but not limited to the FDIC, OTS, OCC, the Federal Reserve, the SEC, and/or the U.S. Department of the Treasury, concerning any potential transaction in which JPMC might or did acquire WMB, or any stake or portion of WMB.

26. All documents concerning any potential or actual regulatory and/or supervisory actions, ratings, or examinations directed toward or taken with respect to Washington Mutual by any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, the SEC, and Federal Reserve, including but not limited to (a) OTS's decision to initiate discussions about Memorandums of Understanding with WMI and WMB, (b) the Memorandums of Understanding OTS issued to WMI and WMB on or about September 7, 2008, (c) any regulatory classification of Washington Mutual by the OTS, including without limitation any decision by

OTS to classify WMB as a "problem institution," and/or (d) U.S. Treasury Secretary Henry Paulson's "RTC plan" concerning Washington Mutual.

27. All documents concerning Washington Mutual's responses or potential responses to any regulatory and/or supervisory actions, ratings, or examinations by any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, SEC, and Federal Reserve.

28. All documents concerning any meetings and/or communications between JPMC and any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, SEC, and Federal Reserve, concerning Washington Mutual including (a) any meetings on or about March 28, 2008, (b) any meetings between JPMC and the U.S. Department of the Treasury in April 2008, and/or (c) any meetings on or about July 18, 2008.

UNITED STATES BANKRUPTCY COURT

for the District of Columbia

In re: Washington Mutual, Inc., et. al.
Debtor

SUBPOENA FOR RULE 2004 EXAMINATION

Case No.* 08-12229 (MFW) U.S. Bankruptcy Court for the District of Delaware

To: David Horne LLC
4308 Brandywine Street, N.W.
Washington, DC 20016

Chapter Chapter 11

YOU ARE COMMANDED to appear and testify at an examination under Rule 2004, Federal Rules of Bankruptcy Procedure, at the place, date, and time specified below. A copy of the court order authorizing the examination is attached.

PLACE OF TESTIMONY

DATE AND TIME

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

Please see First Request for Production of Documents, attached hereto as "Exhibit A."

PLACE Weil, Gotshal & Manges, LLP
1300 Eye Street, NW, Suite 900
Washington, DC 20005

DATE AND TIME

_____, 2010 5:00 p.m.

ISSUING OFFICER SIGNATURE AND TITLE

DATE

ISSUING OFFICER'S NAME, ADDRESS, AND PHONE NUMBER

Neil R. Lapinski, Esq.
Elliott Greenleaf

1105 North Market Street, Suite 1700
Wilmington, DE 19801
(302) 384-9400

* If the bankruptcy case is pending in a district other than the district in which the subpoena is issued, state the district under the case number.

PROOF OF SERVICE

SERVED	DATE	PLACE
SERVED ON (PRINT NAME)		MANNER OF SERVICE
SERVED BY (PRINT NAME)		TITLE

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____
DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), as amended on December 1, 2007, made applicable in cases under the Bankruptcy Code by Rule 9016, Federal Rules of Bankruptcy Procedure.

(c) Protecting a Person Subject to a Subpoena.

(1) **Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) **Command to Produce Materials or Permit Inspection.**
(A) **Appearance Not Required.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) **Objections.** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) **Quashing or Modifying a Subpoena.**

(A) **When Required.** On timely motion, the issuing court must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) **When Permitted.** To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information;
- (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or
- (iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) **Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship, and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(d) Duties in Responding to a Subpoena.

(1) **Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

(A) **Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) **Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) **Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

(D) **Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) **Claiming Privilege or Protection.**

(A) **Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) **Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) **Contempt.**

The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

Exhibit A

FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

DEFINITIONS

The following terms (whether or not capitalized) shall have the meanings set forth below:

1. "Adversary Proceedings" means or refers to the JPMC Adversary Proceeding and the Turnover Proceeding.
2. "And" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
3. "Any," "all" and "each" shall be construed broadly, and shall mean any, all, and each as necessary to bring within the scope of the discovery request all responses that otherwise could be construed to be outside of its scope.
4. "Banco Santander" means Banco Santander, S.A., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.
5. "Blackstone" means the Blackstone Group, L.P., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.
6. "Carlyle" means Carlyle Group LLC, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.
7. "Cerberus" means Cerberus Capital Management, L.P., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any

of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

8. "Chapter 11 case" means or refers to *In re Washington Mutual, Inc.*, No. 08-12229 (Bankr. D. Del).

9. "Citigroup" means Citigroup, Inc. and Citibank, N.A., and all of their predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

10. "Communication" means any oral, written or electronic transmission of information, fact, opinion, belief, idea, statement, inquiry or otherwise, including without limitation any letter, correspondence, memorandum, electronic-mail message, note or meeting log, conversation, meeting, discussion, telephone call, facsimile, telegram, telex, conference or message.

11. "Concerning" means comprising, consisting of, concerning, referring to, reflecting, regarding, supporting, evidencing, relating to, prepared in connection with, used in preparation for, or being in any way legally, logically or factually concerned with the matter or document described, referred to or discussed.

12. "DC Action" refers to *Washington Mutual, Inc. and WMI Investment Corp. v. Federal Deposit Insurance Corporation*, No. 1:09-cv-00533 (D.D.C.).

13. "Document" is used in its broadest sense and mean and include any written or graphic matter or other means of preserving thought or expression and all tangible things from which information can be processed or transcribed, including the originals and all non-identical copies, whether different from the original by reason of any notation made on such copy or otherwise, including but not limited to, correspondence, memoranda, notes, messages, letters, telegrams, teletype, telefax, bulletins, meetings or other communications, interoffice and intraoffice telephone calls, diaries, chronological data, minutes, books, reports, studies, summaries, pamphlets, bulletins, printed matter, charts, ledgers, invoices, worksheets, receipts,

returns, computer printouts, prospectuses, financial statements, schedules, affidavits, contracts, cancelled checks, statements, transcripts, statistics, surveys, magazine or newspaper articles, releases (and any and all drafts, alterations and modifications, changes and amendments of any of the foregoing), graphic or aural records or representations of any kind (including without limitation photographs, microfiche, microfilm, videotape, records and motion pictures) and electronic, mechanical or electric records or representations of any kind (including without limitation tapes, cassettes, discs and records).

14. "FDIC" means or refers to the Federal Deposit Insurance Corporation, as receiver for Washington Mutual Bank, Henderson Nevada and in its corporate capacity.

15. "Federal Reserve" means the Board of Governors of the Federal Reserve System and the twelve Federal Banks; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

16. "Fitch" means Fitch Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

17. "Goldman Sachs" means The Goldman Sachs Group, Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

18. "Governmental Unit" has the meaning set forth at 11 U.S.C. § 101(27).

19. "Including" means including but not limited to the referenced subject.

20. "JPMC" means JPMorgan Chase Bank, National Association and JPMorgan Chase & Co., and any of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

21. "JPMC Adversary Proceeding" refers to *JPMorgan Chase Bank, National Association v. Washington Mutual, Inc., et al.*, Adversary Proceeding No. 09-50551 (Bankr. D. Del.).

22. "Lehman Brothers" means Lehman Brothers Holdings, Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

23. "Morgan Stanley" means Morgan Stanley, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

24. "Moody's" means Moody's Investors Service, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

25. "Oak Hill" means Oak Hill Capital Partners, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

26. "OCC" means the Office of the Comptroller of the Currency, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

27. "OTS" means the Office of Thrift Supervision, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

28. "RTC" means the Resolution Trust Corporation, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

29. "P&A Agreement" means or refers to the Purchase and Assumption Agreement, Whole Bank, among the Federal Deposit Insurance Corporation, as receiver of Washington Mutual Bank, Henderson, Nevada, the Federal Deposit Insurance Corporation and JPM, dated as of September 25, 2008.

30. "SEC" means the U.S. Securities and Exchange Commission and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

31. "S&P" means Standard and Poor's Corporation and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

32. "TD Bank" means TD Bank, N.A., and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

33. "Texas Action" refers to *American Nat'l Ins. Co., et al., v. JPMorgan Chase & Co., et al.*, Case No. 3:09-cv-00044 (S.D. Tex.), which has been transferred to the United States District Court for the District of Columbia.

34. "TPG" means TPG Capital (formerly Texas Pacific Group), and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

35. "TPG Transaction" means or refers to the investment of approximately \$7.2 billion into Washington Mutual on or about April 7, 2008, that was described by Washington Mutual in a Form 8-K filing dated April 7, 2008.

36. "Transaction" means or refers to any means by which JPMorgan Chase might obtain, receive or succeed to Washington Mutual's businesses or properties, or any portion thereof, or any transaction preliminary, preparatory or incident thereto, including any stock tender, stock purchase, asset purchase, assumption of deposit or other liabilities, merger, joint venture or partnership.

37. "U.S. Department of the Treasury" means or refers to the U.S. Department of the Treasury and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

38. "Turnover Proceeding" means *WMI and WMI Investment Corp. v. JPMC*, No. 09-50934 (Bankr. D. Del.).

39. "U.S. Congress" means or refers to the United States Senate and United States House of Representatives, and any of their members, staff, committees, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

40. "Washington Mutual" means or refers to WMI and WMB, and any and all of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on their behalf, any of their parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

41. "Wells Fargo" means Wells Fargo, N.A., and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

42. "WMB" means or refers to Washington Mutual Bank, Henderson, Nevada, and any and all of its current or former officers, directors, employees, shareholders, agents, staff,

attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

43. "WMB fsb" means or refers to Washington Mutual Bank, fsb, Utah, and any and all of its current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

44. "WMI" means or refers to Washington Mutual, Inc. and WMI Investment Corp. (collectively, the "Debtors") and any and all of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on their behalf, any of their parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

45. "You" means or refers to you, David Horne, LLC, to whom this subpoena is addressed, and any employee, agent, custodian, attorney, accountant, representative, and other Persons purporting to act on your behalf.

46. Any ambiguity in a discovery request shall be construed to bring within the scope of the discovery request all responses that otherwise could be construed to be outside of its scope.

INSTRUCTIONS

Each response must be made in accordance with the following instructions:

1. The responsive documents should be produced in the manner prescribed by the Federal Rules of Civil Procedure, as made applicable herein by the Federal Rules of Bankruptcy Procedure, including producing the requested documents as they are kept in the usual course of business or organized and labeled to correspond with the categories in the requests, and identifying the name of the person from whose files the documents were produced.

2. You are to produce the original and all non-identical copies, including all drafts, of each document requested. If you are not able to produce the original of any document, please produce the best available copy and all non-identical copies, including drafts.

3. Each request herein extends to all documents and communications in the possession, custody or control of you or anyone acting on your behalf. A document is deemed to be in your possession, custody, or control if it is in your physical custody, or if it is in the physical custody of any other person and you: (1) own such document in whole or in part; (2) have a right, by contract, statute or otherwise, to use, inspect, examine or copy such document on any terms; (3) have an understanding, express or implied, that you may use, inspect, examine, or copy such document on any terms; or (4) as a practical matter, have been able to use, inspect, examine, or copy such document when you sought to do so. If any requested document was, but no longer is, in your control, state the disposition of each such document.

4. Any reference in these document requests to an individual or person include any and all agents, advisors, employees, representatives, attorneys, successors-in-interest, and all other persons or entities acting in his, her, or its behalf or under his, her or its control.

5. If any document is withheld under any claim of privilege, including without limitation, attorney-client privilege and attorney work product, you should provide the following information with respect to such document:

- (1) The date of the document;
- (2) The title of the document;
- (3) The name of its author(s) or preparer(s) and an identification by employment and title of each such person;
- (4) The name of each person who was sent or furnished with, received, viewed or has custody of the document or a copy thereof together with an identification by employment and title of each such person;
- (5) The request to which the document relates;

- (6) The title and description of the document sufficient to identify it without revealing the information for which privilege is claimed;
- (7) The claim of privilege under which it is withheld; and
- (8) A description of the subject matter of the document in sufficient detail to support your contention that the document is privileged;

6. If, after exercising due diligence to secure them, you cannot provide some or any of the requested documents, so state and provide all documents to the extent possible, specifying the reason for your inability to produce the remainder of the documents, and stating whatever information or knowledge you have concerning each document not produced.

7. If any requested document or other document potentially relevant to this action is subject to destruction under any document retention or destruction program, the document(s) should be exempted from any scheduled destruction and should not be destroyed until the conclusion of this action or unless otherwise permitted by the Court.

8. If any document responsive to these requests is known to have existed and cannot now be located, or has been destroyed or discarded, set forth a complete statement of the circumstances surrounding such loss or destruction, including:

- (1) a description of the document, including the date, a summary of its contents and the identity of its author and the person(s) to whom it was sent or shown;
- (2) the last known custodian;
- (3) whether the document is missing or lost or was destroyed or discarded;
- (4) the date of loss, destruction or discard;
- (5) the manner of destruction or discard;
- (6) the reason(s) for destruction or discard;
- (7) the person(s) authorizing or carrying out such destruction or discard; and

(8) the efforts made to locate lost or misplaced documents.

9. If an objection is made to any request, state your objection and the ground or grounds with particularity in your written response. If an objection is made only to part of the request, identify that part in your written response and state your objection and the ground(s) therefor.

10. Each request shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive. Any request propounded in the singular shall also be read as if propounded in the plural and vice versa. Any request propounded in the present tense shall also be read as if propounded in the past tense and vice versa.

11. This request is a continuing one. If, after producing the requested documents, you obtain or become aware of any further documents responsive to this request, you are required to produce such additional documents. Supplemental responses should be served within thirty (30) days after such information or documents become known to you.

12. Unless otherwise specified, the time period covered by these requests is from January 1, 2007 to the present and shall encompass all documents and information relating in whole or in part to such period, or to events or circumstances during such period, even though dated, prepared, generated or received prior to that date.

REQUESTS FOR PRODUCTION OF DOCUMENTS

The Debtors request that David Horne, LLC, produce the following documents in its possession, custody or control:

1. All documents concerning, or communications with, Washington Mutual, with respect to any entity's efforts to acquire all or part of Washington Mutual, and/or any of its substantial assets.
2. All documents concerning any agreements between You and JPMC.
3. All documents concerning any work You performed on JPMC's behalf concerning Washington Mutual.
4. All documents concerning any meetings and/or communications with JPMC concerning Washington Mutual.
5. All documents concerning any meetings and/or communications with or among JPMC, the FDIC, OTS, OCC, the U.S. Department of the Treasury, Federal Reserve, SEC, U.S. Congress any other Government Unit, the media, ratings agencies, investors, and/or any third party concerning Washington Mutual.
6. All documents concerning any meetings and/or communications between JPMC and any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, Federal Reserve, SEC, and U.S. Congress concerning Washington Mutual, including (a) any meetings on or about March 28, 2008, (b) any meetings between JPMC and the U.S. Department of the Treasury in April 2008, and/or (c) any meetings on or about July 18, 2008.
7. All documents concerning Your disclosure of any Washington Mutual information, or disclosure of any information about Washington Mutual, to any Governmental Unit, the media, ratings agencies, investors, and/or any other third parties.

8. All documents concerning JPMC's disclosure of any Washington Mutual information, or disclosure of any information about Washington Mutual, to any Governmental Unit, the media, ratings agencies, investors, and/or any other third parties.

9. All documents concerning any agreement between JPMC and Washington Mutual concerning access to and/or disclosure of non-public, confidential or proprietary information in connection with a potential transaction in which JPMC would acquire, merge with, or invest in Washington Mutual.

10. All documents concerning JPMC's access to Washington Mutual data, including but not limited to (a) JPMC due diligence of Washington Mutual and/or (b) any effort by JPMC to place "moles" at Washington Mutual for the purpose of obtaining confidential Washington Mutual information, which JPMC used "to bargain and work with federal regulators for the seizure and sale of Washington Mutual's assets," *see* Texas Action Complaint at ¶ 32, including JPMC's placement of former JPMC employees at Washington Mutual, including but not limited to, the placement or employment of Stephen J. Rotella, Steve Fortunato, Taj Bindra, John Berens, Youyi Chen, and Bill Murray, *see id.* at ¶ 38.

11. All documents concerning JPMC's interest in any potential Transaction and any attempt by JPMC to engage in any potential Transaction, including but not limited to any actual, potential, or contemplated bid or offer by JPMC to merge with, invest in, or purchase Washington Mutual, including but not limited to (a) Washington Mutual's rejection of JPMC's offer to merge with, invest in, or acquire Washington Mutual in or about April 2008, (b) capital contributions or investments received by JPMC in connection with any potential Transaction in or about September 2008, and/or (c) any agreement or arrangement between JPMC and any Government Unit, including but not limited to the FDIC, OTS, OCC, the Federal Reserve, SEC

and/or the U.S. Department of the Treasury, concerning any potential transaction in which JPMC might or did acquire WMB, or any stake or portion of WMB.

12. All documents concerning any meetings and/or communications between Washington Mutual and any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, SEC, Federal Reserve, and U.S. Congress, including (a) any meetings between OTS and WMI on or about April 5, 2008, (b) any meetings between Washington Mutual, OTS, and the FDIC on or about July 31, 2008, and/or (c) any communications with or among U.S. Treasury Secretary Hank Paulson and WMI Chairman and CEO Kerry Killinger and/or JPMC President and CEO Jamie Dimon regarding Washington Mutual.

13. All documents concerning any potential or actual regulatory and/or supervisory actions, ratings, or examinations directed toward or taken with respect to Washington Mutual by any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, SEC, Federal Reserve, and U.S. Congress, including but not limited to (a) OTS's decision to initiate discussions about Memorandums of Understanding with WMI and WMB, (b) the Memorandums of Understanding OTS issued to WMI and WMB on or about September 7, 2008, (c) any regulatory classification of Washington Mutual by the OTS, including without limitation any decision by OTS to classify WMB as a "problem institution," and/or (d) U.S. Treasury Secretary Henry Paulson's "RTC plan" concerning Washington Mutual.

14. All documents concerning Washington Mutual's responses or potential responses to any regulatory and/or supervisory actions, ratings, or examinations by any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, SEC, Federal Reserve, and U.S. Congress.

15. All documents concerning Washington Mutual's efforts to raise capital and/or locate a potential merger partner or acquiror, including without limitation (a) any actual or possible acquisition or investment by any entity of any stake in Washington Mutual, including any communications with or among Banco Santander, Blackstone, Carlyle, Cerberus, Citigroup, JPMC, Oak Hill, TPG, TD Bank, and/or Wells Fargo and their affiliates; (b) any efforts to raise capital through the issuance of debt securities in December 2007 (including the issuance of approximately \$3 billion of debt securities on or about December 17, 2007); (c) any actual, potential, or contemplated bids for Washington Mutual and/or the bidding process for Washington Mutual; (d) TPG's investment of about \$7.2 billion into Washington Mutual on or about April 7, 2008; and/or (e) any efforts to raise capital and/or locate a potential merger partner or acquiror in September 2008, including any efforts by Goldman Sachs and/or Morgan Stanley on Washington Mutual's behalf.

16. All documents concerning the potential for WMB to be seized by OTS and the decision to seize WMB, as well as the potential for the FDIC to be appointed receiver of WMB and the decision to place WMB into receivership with the FDIC, including all documents concerning any communication from FDIC officials to JPMC in early September 2008, to inform JPMC in words or substance that "the FDIC was carefully monitoring [WMB] and that a seizure of its assets was likely" and that the FDIC "would want to immediately auction off [WMB's] assets." *See* Heidi N. Moore, *Deal Journal*, Wall St. J., Sept. 30, 2008, at C7.

17. All documents concerning any OCC indication to OTS, FDIC, and/or JPMC that "as the federal regulator of JPMorgan Chase . . . it will provide its approval of the transfer of assets and liabilities [of WMB to JPMC] on September 25, 2008." *See* FDIC Board of Directors Resolution Board of Directors Approving JPMC's Bid for WMB, at 4.

18. All documents concerning OTS's determination that "adverse publicity" caused WMB to "suffer[] significant cash outflows." *See* OTS Order 2008-36, dated September 25, 2008.

UNITED STATES BANKRUPTCY COURT

for the District of Columbia

In re: Washington Mutual, Inc., et. al.
Debtor

SUBPOENA FOR RULE 2004 EXAMINATION

Case No.* 08-12229 (MFW) U.S. Bankruptcy Court for the District of Delaware

To: Equale & Associates
11400 Spur Wheel Lane
Potomac, MD 20854

Chapter Chapter 11

YOU ARE COMMANDED to appear and testify at an examination under Rule 2004, Federal Rules of Bankruptcy Procedure, at the place, date, and time specified below. A copy of the court order authorizing the examination is attached.

PLACE OF TESTIMONY

DATE AND TIME

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

Please see First Request for Production of Documents, attached hereto as "Exhibit A."

PLACE Weil, Gotshal & Manges, LLP
1300 Eye Street, NW, Suite 900
Washington, DC 20005

DATE AND TIME

_____, 2010 5:00 p.m.

ISSUING OFFICER SIGNATURE AND TITLE

DATE

ISSUING OFFICER'S NAME, ADDRESS, AND PHONE NUMBER

Neil R. Lapinski, Esq.
Elliott Greenleaf

1105 North Market Street, Suite 1700
Wilmington, DE 19801
(302) 384-9400

* If the bankruptcy case is pending in a district other than the district in which the subpoena is issued, state the district under the case number.

PROOF OF SERVICE

SERVED	DATE	PLACE
SERVED ON (PRINT NAME)		MANNER OF SERVICE
SERVED BY (PRINT NAME)		TITLE

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____ DATE _____ SIGNATURE OF SERVER _____

ADDRESS OF SERVER _____

Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), as amended on December 1, 2007, made applicable in cases under the Bankruptcy Code by Rule 9016, Federal Rules of Bankruptcy Procedure:

(c) Protecting a Person Subject to a Subpoena.

(1) **Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction -- which may include lost earnings and reasonable attorney's fees -- on a party or attorney who fails to comply.

(2) **Command to Produce Materials or Permit Inspection.**
 (A) **Appearance Not Required.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) **Objections.** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises -- or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.
 (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) **Quashing or Modifying a Subpoena.**
 (A) **When Required.** On timely motion, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;
 (ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person -- except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;
 (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
 (iv) subjects a person to undue burden.

(B) **When Permitted.** To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;
 (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or
 (iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) **Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
 (ii) ensures that the subpoenaed person will be reasonably compensated.

(d) Duties in Responding to a Subpoena.

(1) **Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

(A) **Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) **Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) **Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

(D) **Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) **Claiming Privilege or Protection.**

(A) **Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and
 (ii) describe the nature of the withheld documents, communications, or

tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) **Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) Contempt.

The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

Exhibit A

FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

DEFINITIONS

The following terms (whether or not capitalized) shall have the meanings set forth below:

1. "Adversary Proceedings" means or refers to the JPMC Adversary Proceeding and the Turnover Proceeding.
2. "And" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
3. "Any," "all" and "each" shall be construed broadly, and shall mean any, all, and each as necessary to bring within the scope of the discovery request all responses that otherwise could be construed to be outside of its scope.
4. "Banco Santander" means Banco Santander, S.A., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.
5. "Blackstone" means the Blackstone Group, L.P., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.
6. "Carlyle" means Carlyle Group LLC, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.
7. "Cerberus" means Cerberus Capital Management, L.P., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any

of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

8. "Chapter 11 case" means or refers to *In re Washington Mutual, Inc.*, No. 08-12229 (Bankr. D. Del).

9. "Citigroup" means Citigroup, Inc. and Citibank, N.A., and all of their predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

10. "Communication" means any oral, written or electronic transmission of information, fact, opinion, belief, idea, statement, inquiry or otherwise, including without limitation any letter, correspondence, memorandum, electronic-mail message, note or meeting log, conversation, meeting, discussion, telephone call, facsimile, telegram, telex, conference or message.

11. "Concerning" means comprising, consisting of, concerning, referring to, reflecting, regarding, supporting, evidencing, relating to, prepared in connection with, used in preparation for, or being in any way legally, logically or factually concerned with the matter or document described, referred to or discussed.

12. "DC Action" refers to *Washington Mutual, Inc. and WMI Investment Corp. v. Federal Deposit Insurance Corporation*, No. 1:09-cv-00533 (D.D.C.).

13. "Document" is used in its broadest sense and mean and include any written or graphic matter or other means of preserving thought or expression and all tangible things from which information can be processed or transcribed, including the originals and all non-identical copies, whether different from the original by reason of any notation made on such copy or otherwise, including but not limited to, correspondence, memoranda, notes, messages, letters, telegrams, teletype, telefax, bulletins, meetings or other communications, interoffice and intraoffice telephone calls, diaries, chronological data, minutes, books, reports, studies, summaries, pamphlets, bulletins, printed matter, charts, ledgers, invoices, worksheets, receipts,

returns, computer printouts, prospectuses, financial statements, schedules, affidavits, contracts, cancelled checks, statements, transcripts, statistics, surveys, magazine or newspaper articles, releases (and any and all drafts, alterations and modifications, changes and amendments of any of the foregoing), graphic or aural records or representations of any kind (including without limitation photographs, microfiche, microfilm, videotape, records and motion pictures) and electronic, mechanical or electric records or representations of any kind (including without limitation tapes, cassettes, discs and records).

14. "FDIC" means or refers to the Federal Deposit Insurance Corporation, as receiver for Washington Mutual Bank, Henderson Nevada and in its corporate capacity.

15. "Federal Reserve" means the Board of Governors of the Federal Reserve System and the twelve Federal Banks; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

16. "Fitch" means Fitch Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

17. "Goldman Sachs" means The Goldman Sachs Group, Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

18. "Governmental Unit" has the meaning set forth at 11 U.S.C. § 101(27).

19. "Including" means including but not limited to the referenced subject.

20. "JPMC" means JPMorgan Chase Bank, National Association and JPMorgan Chase & Co., and any of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

21. "JPMC Adversary Proceeding" refers to *JPMorgan Chase Bank, National Association v. Washington Mutual, Inc., et al.*, Adversary Proceeding No. 09-50551 (Bankr. D. Del.).

22. "Lehman Brothers" means Lehman Brothers Holdings, Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

23. "Morgan Stanley" means Morgan Stanley, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

24. "Moody's" means Moody's Investors Service, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

25. "Oak Hill" means Oak Hill Capital Partners, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

26. "OCC" means the Office of the Comptroller of the Currency, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

27. "OTS" means the Office of Thrift Supervision, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

28. "RTC" means the Resolution Trust Corporation, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

29. "P&A Agreement" means or refers to the Purchase and Assumption Agreement, Whole Bank, among the Federal Deposit Insurance Corporation, as receiver of Washington Mutual Bank, Henderson, Nevada, the Federal Deposit Insurance Corporation and JPM, dated as of September 25, 2008.

30. "SEC" means the U.S. Securities and Exchange Commission and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

31. "S&P" means Standard and Poor's Corporation and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

32. "TD Bank" means TD Bank, N.A., and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

33. "Texas Action" refers to *American Nat'l Ins. Co., et al., v. JPMorgan Chase & Co., et al.*, Case No. 3:09-cv-00044 (S.D. Tex.), which has been transferred to the United States District Court for the District of Columbia.

34. "TPG" means TPG Capital (formerly Texas Pacific Group), and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

35. "TPG Transaction" means or refers to the investment of approximately \$7.2 billion into Washington Mutual on or about April 7, 2008, that was described by Washington Mutual in a Form 8-K filing dated April 7, 2008.

36. "Transaction" means or refers to any means by which JPMorgan Chase might obtain, receive or succeed to Washington Mutual's businesses or properties, or any portion thereof, or any transaction preliminary, preparatory or incident thereto, including any stock tender, stock purchase, asset purchase, assumption of deposit or other liabilities, merger, joint venture or partnership.

37. "U.S. Department of the Treasury" means or refers to the U.S. Department of the Treasury and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

38. "Turnover Proceeding" means *WMI and WMI Investment Corp. v. JPMC*, No. 09-50934 (Bankr. D. Del.).

39. "U.S. Congress" means or refers to the United States Senate and United States House of Representatives, and any of their members, staff, committees, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

40. "Washington Mutual" means or refers to WMI and WMB, and any and all of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on their behalf, any of their parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

41. "Wells Fargo" means Wells Fargo, N.A., and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

42. "WMB" means or refers to Washington Mutual Bank, Henderson, Nevada, and any and all of its current or former officers, directors, employees, shareholders, agents, staff,

attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

43. "WMB fsb" means or refers to Washington Mutual Bank, fsb, Utah, and any and all of its current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

44. "WMI" means or refers to Washington Mutual, Inc. and WMI Investment Corp. (collectively, the "Debtors") and any and all of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on their behalf, any of their parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

45. "You" means or refers to Equale & Associates, individually or collectively, to whom this subpoena is addressed, and any owner, director, officer, employee, agent, custodian, parent, subsidiary, affiliate, predecessor, successor, attorney, accountant, representative, and other Persons purporting to act on your behalf.

46. Any ambiguity in a discovery request shall be construed to bring within the scope of the discovery request all responses that otherwise could be construed to be outside of its scope.

INSTRUCTIONS

Each response must be made in accordance with the following instructions:

1. The responsive documents should be produced in the manner prescribed by the Federal Rules of Civil Procedure, as made applicable herein by the Federal Rules of Bankruptcy Procedure, including producing the requested documents as they are kept in the usual course of

business or organized and labeled to correspond with the categories in the requests, and identifying the name of the person from whose files the documents were produced.

2. You are to produce the original and all non-identical copies, including all drafts, of each document requested. If you are not able to produce the original of any document, please produce the best available copy and all non-identical copies, including drafts.

3. Each request herein extends to all documents and communications in the possession, custody or control of you or anyone acting on your behalf. A document is deemed to be in your possession, custody, or control if it is in your physical custody, or if it is in the physical custody of any other person and you: (1) own such document in whole or in part; (2) have a right, by contract, statute or otherwise, to use, inspect, examine or copy such document on any terms; (3) have an understanding, express or implied, that you may use, inspect, examine, or copy such document on any terms; or (4) as a practical matter, have been able to use, inspect, examine, or copy such document when you sought to do so. If any requested document was, but no longer is, in your control, state the disposition of each such document.

4. Any reference in these document requests to an individual or person include any and all agents, advisors, employees, representatives, attorneys, successors-in-interest, and all other persons or entities acting in his, her, or its behalf or under his, her or its control.

5. If any document is withheld under any claim of privilege, including without limitation, attorney-client privilege and attorney work product, you should provide the following information with respect to such document:

- (1) The date of the document;
- (2) The title of the document;
- (3) The name of its author(s) or preparer(s) and an identification by employment and title of each such person;
- (4) The name of each person who was sent or furnished with, received, viewed or has custody of the document or a copy thereof together with an identification by employment and title of each such person;

- (5) The request to which the document relates;
- (6) The title and description of the document sufficient to identify it without revealing the information for which privilege is claimed;
- (7) The claim of privilege under which it is withheld; and
- (8) A description of the subject matter of the document in sufficient detail to support your contention that the document is privileged;

6. If, after exercising due diligence to secure them, you cannot provide some or any of the requested documents, so state and provide all documents to the extent possible, specifying the reason for your inability to produce the remainder of the documents, and stating whatever information or knowledge you have concerning each document not produced.

7. If any requested document or other document potentially relevant to this action is subject to destruction under any document retention or destruction program, the document(s) should be exempted from any scheduled destruction and should not be destroyed until the conclusion of this action or unless otherwise permitted by the Court.

8. If any document responsive to these requests is known to have existed and cannot now be located, or has been destroyed or discarded, set forth a complete statement of the circumstances surrounding such loss or destruction, including:

- (1) a description of the document, including the date, a summary of its contents and the identity of its author and the person(s) to whom it was sent or shown;
- (2) the last known custodian;
- (3) whether the document is missing or lost or was destroyed or discarded;
- (4) the date of loss, destruction or discard;
- (5) the manner of destruction or discard;
- (6) the reason(s) for destruction or discard;

(7) the person(s) authorizing or carrying out such destruction or discard; and

(8) the efforts made to locate lost or misplaced documents.

9. If an objection is made to any request, state your objection and the ground or grounds with particularity in your written response. If an objection is made only to part of the request, identify that part in your written response and state your objection and the ground(s) therefor.

10. Each request shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive. Any request propounded in the singular shall also be read as if propounded in the plural and vice versa. Any request propounded in the present tense shall also be read as if propounded in the past tense and vice versa.

11. This request is a continuing one. If, after producing the requested documents, you obtain or become aware of any further documents responsive to this request, you are required to produce such additional documents. Supplemental responses should be served within thirty (30) days after such information or documents become known to you.

12. Unless otherwise specified, the time period covered by these requests is from January 1, 2007 to the present and shall encompass all documents and information relating in whole or in part to such period, or to events or circumstances during such period, even though dated, prepared, generated or received prior to that date.

REQUESTS FOR PRODUCTION OF DOCUMENTS

The Debtors request that Equale & Associates produce the following documents in its possession, custody or control:

1. All documents concerning, or communications with, Washington Mutual with respect to any entity's efforts to acquire all or part of Washington Mutual, and/or any of its substantial assets.
2. All documents concerning any agreements between You and JPMC.
3. All documents concerning any work You performed on JPMC's behalf concerning Washington Mutual.
4. All documents concerning any meetings and/or communications with JPMC concerning Washington Mutual.
5. All documents concerning any meetings and/or communications with or among JPMC, the FDIC, OTS, OCC, the U.S. Department of the Treasury, Federal Reserve, SEC, U.S. Congress any other Government Unit, the media, ratings agencies, investors, and/or any third party concerning Washington Mutual.
6. All documents concerning any meetings and/or communications between JPMC and any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, Federal Reserve, SEC, and U.S. Congress concerning Washington Mutual, including (a) any meetings on or about March 28, 2008, (b) any meetings between JPMC and the U.S. Department of the Treasury in April 2008, and/or (c) any meetings on or about July 18, 2008.
7. All documents concerning Your disclosure of any Washington Mutual information, or disclosure of any information about Washington Mutual, to any Governmental Unit, the media, ratings agencies, investors, and/or any other third parties.

8. All documents concerning JPMC's disclosure of any Washington Mutual information, or disclosure of any information about Washington Mutual, to any Governmental Unit, the media, ratings agencies, investors, and/or any other third parties.

9. All documents concerning any agreement between JPMC and Washington Mutual concerning access to and/or disclosure of non-public, confidential or proprietary information in connection with a potential transaction in which JPMC would acquire, merge with, or invest in Washington Mutual.

10. All documents concerning JPMC's access to Washington Mutual data, including but not limited to (a) JPMC due diligence of Washington Mutual and/or (b) any effort by JPMC to place "moles" at Washington Mutual for the purpose of obtaining confidential Washington Mutual information, which JPMC used "to bargain and work with federal regulators for the seizure and sale of Washington Mutual's assets," *see* Texas Action Complaint at ¶ 32, including JPMC's placement of former JPMC employees at Washington Mutual, including but not limited to, the placement or employment of Stephen J. Rotella, Steve Fortunato, Taj Bindra, John Berens, Youyi Chen, and Bill Murray, *see id.* at ¶ 38.

11. All documents concerning JPMC's interest in any potential Transaction and any attempt by JPMC to engage in any potential Transaction, including but not limited to any actual, potential, or contemplated bid or offer by JPMC to merge with, invest in, or purchase Washington Mutual, including but not limited to (a) Washington Mutual's rejection of JPMC's offer to merge with, invest in, or acquire Washington Mutual in or about April 2008, (b) capital contributions or investments received by JPMC in connection with any potential Transaction in or about September 2008, and/or (c) any agreement or arrangement between JPMC and any Government Unit, including but not limited to the FDIC, OTS, OCC, the Federal Reserve, SEC

and/or the U.S. Department of the Treasury, concerning any potential transaction in which JPMC might or did acquire WMB, or any stake or portion of WMB.

12. All documents concerning any meetings and/or communications between Washington Mutual and any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, SEC, Federal Reserve, and U.S. Congress, including (a) any meetings between OTS and WMI on or about April 5, 2008, (b) any meetings between Washington Mutual, OTS, and the FDIC on or about July 31, 2008, and/or (c) any communications with or among U.S. Treasury Secretary Hank Paulson and WMI Chairman and CEO Kerry Killinger and/or JPMC President and CEO Jamie Dimon regarding Washington Mutual.

13. All documents concerning any potential or actual regulatory and/or supervisory actions, ratings, or examinations directed toward or taken with respect to Washington Mutual by any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, SEC, Federal Reserve, and U.S. Congress, including but not limited to (a) OTS's decision to initiate discussions about Memorandums of Understanding with WMI and WMB, (b) the Memorandums of Understanding OTS issued to WMI and WMB on or about September 7, 2008, (c) any regulatory classification of Washington Mutual by the OTS, including without limitation any decision by OTS to classify WMB as a "problem institution," and/or (d) U.S. Treasury Secretary Henry Paulson's "RTC plan" concerning Washington Mutual.

14. All documents concerning Washington Mutual's responses or potential responses to any regulatory and/or supervisory actions, ratings, or examinations by any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, SEC, Federal Reserve, and U.S. Congress.

15. All documents concerning Washington Mutual's efforts to raise capital and/or locate a potential merger partner or acquiror, including without limitation (a) any actual or possible acquisition or investment by any entity of any stake in Washington Mutual, including any communications with or among Banco Santander, Blackstone, Carlyle, Cerberus, Citigroup, JPMC, Oak Hill, TPG, TD Bank, and/or Wells Fargo and their affiliates; (b) any efforts to raise capital through the issuance of debt securities in December 2007 (including the issuance of approximately \$3 billion of debt securities on or about December 17, 2007); (c) any actual, potential, or contemplated bids for Washington Mutual and/or the bidding process for Washington Mutual; (d) TPG's investment of about \$7.2 billion into Washington Mutual on or about April 7, 2008; and/or (e) any efforts to raise capital and/or locate a potential merger partner or acquiror in September 2008, including any efforts by Goldman Sachs and/or Morgan Stanley on Washington Mutual's behalf.

16. All documents concerning the potential for WMB to be seized by OTS and the decision to seize WMB, as well as the potential for the FDIC to be appointed receiver of WMB and the decision to place WMB into receivership with the FDIC, including all documents concerning any communication from FDIC officials to JPMC in early September 2008, to inform JPMC in words or substance that "the FDIC was carefully monitoring [WMB] and that a seizure of its assets was likely" and that the FDIC "would want to immediately auction off [WMB's] assets." *See* Heidi N. Moore, *Deal Journal*, Wall St. J., Sept. 30, 2008, at C7.

17. All documents concerning any OCC indication to OTS, FDIC, and/or JPMC that "as the federal regulator of JPMorgan Chase . . . it will provide its approval of the transfer of assets and liabilities [of WMB to JPMC] on September 25, 2008." *See* FDIC Board of Directors Resolution Board of Directors Approving JPMC's Bid for WMB, at 4.

18. All documents concerning OTS's determination that "adverse publicity" caused WMB to "suffer[] significant cash outflows." *See* OTS Order 2008-36, dated September 25, 2008.

UNITED STATES BANKRUPTCY COURT

for the Northern District of California

In re: Washington Mutual, Inc., et. al.
Debtor

SUBPOENA FOR RULE 2004 EXAMINATION

Case No.* 08-12229 (MFW) U.S. Bankruptcy Court for the District of Delaware

To: FHLB
c/o Duane Geck
Severson & Werson
1 Embarcadero Center, 26th Floor
San Francisco, CA 94111

Chapter Chapter 11

YOU ARE COMMANDED to appear and testify at an examination under Rule 2004, Federal Rules of Bankruptcy Procedure, at the place, date, and time specified below. A copy of the court order authorizing the examination is attached.

PLACE OF TESTIMONY

DATE AND TIME

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

Please see First Request for Production of Documents, attached hereto as "Exhibit A."

PLACE Quinn Emanuel Urquhart Oliver & Hedges, LLP
555 Twin Dolphin Dr. Suite 560,
Redwood Shores, CA 94065

DATE AND TIME

_____, 2010 5:00 p.m.

ISSUING OFFICER SIGNATURE AND TITLE

DATE

ISSUING OFFICER'S NAME, ADDRESS, AND PHONE NUMBER

Neil R. Lapinski, Esq.
Elliott Greenleaf

1105 North Market Street, Suite 1700
Wilmington, DE 19801
(302) 384-9400

* If the bankruptcy case is pending in a district other than the district in which the subpoena is issued, state the district under the case number.

PROOF OF SERVICE

SERVED	DATE	PLACE
SERVED ON (PRINT NAME)		MANNER OF SERVICE
SERVED BY (PRINT NAME)		TITLE

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____
DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), as amended on December 1, 2007, made applicable in cases under the Bankruptcy Code by Rule 9016, Federal Rules of Bankruptcy Procedure:

(c) Protecting a Person Subject to a Subpoena.

(1) **Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) **Appearance Not Required.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) **Objections.** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) **When Required.** On timely motion, the issuing court must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) **When Permitted.** To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) **Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(d) Duties in Responding to a Subpoena.

(1) **Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

(A) **Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) **Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) **Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

(D) **Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not nonethless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) **Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications,

or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) **Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) Contempt.

The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

Exhibit A

FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

DEFINITIONS

The following terms (whether or not capitalized) shall have the meanings set forth below:

1. "Adversary Proceedings" means or refers to the JPMC Adversary Proceeding and the Turnover Proceeding.
2. "And" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
3. "Any," "all" and "each" shall be construed broadly, and shall mean any, all, and each as necessary to bring within the scope of the discovery request all responses that otherwise could be construed to be outside of its scope.
4. "Banco Santander" means Banco Santander, S.A., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.
5. "Blackstone" means the Blackstone Group, L.P., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.
6. "Capital Contributions" means any capital contributions that WMI made to WMB or WMB fsb from November 1, 2007 through September 2008, including the \$6.5 billion in capital contributions that WMI made to WMB from December 2007 through September 2008.
7. "Carlyle" means Carlyle Group LLC, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

8. "Cerberus" means Cerberus Capital Management, L.P., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

9. "Chapter 11 case" means or refers to *In re Washington Mutual, Inc.*, No. 08-12229 (Bankr. D. Del).

10. "Citigroup" means Citigroup, Inc. and Citibank, N.A., and all of their predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

11. "Communication" means any oral, written or electronic transmission of information, fact, opinion, belief, idea, statement, inquiry or otherwise, including without limitation any letter, correspondence, memorandum, electronic-mail message, note or meeting log, conversation, meeting, discussion, telephone call, facsimile, telegram, telex, conference or message.

12. "Concerning" means comprising, consisting of, concerning, referring to, reflecting, regarding, supporting, evidencing, relating to, prepared in connection with, used in preparation for, or being in any way legally, logically or factually concerned with the matter or document described, referred to or discussed.

13. "DC Action" refers to *Washington Mutual, Inc. and WMI Investment Corp. v. Federal Deposit Insurance Corporation*, No. 1:09-cv-00533 (D.D.C.).

14. "Document" is used in its broadest sense and mean and include any written or graphic matter or other means of preserving thought or expression and all tangible things from which information can be processed or transcribed, including the originals and all non-identical copies, whether different from the original by reason of any notation made on such copy or otherwise, including but not limited to, correspondence, memoranda, notes, messages, letters, telegrams, teletype, telefax, bulletins, meetings or other communications, interoffice and

intraoffice telephone calls, diaries, chronological data, minutes, books, reports, studies, summaries, pamphlets, bulletins, printed matter, charts, ledgers, invoices, worksheets, receipts, returns, computer printouts, prospectuses, financial statements, schedules, affidavits, contracts, cancelled checks, statements, transcripts, statistics, surveys, magazine or newspaper articles, releases (and any and all drafts, alterations and modifications, changes and amendments of any of the foregoing), graphic or aural records or representations of any kind (including without limitation photographs, microfiche, microfilm, videotape, records and motion pictures) and electronic, mechanical or electric records or representations of any kind (including without limitation tapes, cassettes, discs and records).

15. "FDIC" means or refers to the Federal Deposit Insurance Corporation, as receiver for Washington Mutual Bank, Henderson Nevada and in its corporate capacity.

16. "Federal Reserve" means the Board of Governors of the Federal Reserve System and the twelve Federal Banks; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

17. "Fitch" means Fitch Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

18. "Goldman Sachs" means The Goldman Sachs Group, Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

19. "Governmental Unit" has the meaning set forth at 11 U.S.C. § 101(27).

20. "Including" means including but not limited to the referenced subject.

21. "JPMC" means JPMorgan Chase Bank, National Association and JPMorgan Chase & Co., and any of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting

or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

22. "JPMC Adversary Proceeding" refers to *JPMorgan Chase Bank, National Association v. Washington Mutual, Inc., et al.*, Adversary Proceeding No. 09-50551 (Bankr. D. Del.).

23. "Lehman Brothers" means Lehman Brothers Holdings, Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

24. "Morgan Stanley" means Morgan Stanley, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

25. "Moody's" means Moody's Investors Service, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

26. "Oak Hill" means Oak Hill Capital Partners, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

27. "OCC" means the Office of the Comptroller of the Currency, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

28. "OTS" means the Office of Thrift Supervision, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

29. "RTC" means the Resolution Trust Corporation, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

30. "P&A Agreement" means or refers to the Purchase and Assumption Agreement, Whole Bank, among the Federal Deposit Insurance Corporation, as receiver of Washington Mutual Bank, Henderson, Nevada, the Federal Deposit Insurance Corporation and JPM, dated as of September 25, 2008.

31. "SEC" means the U.S. Securities and Exchange Commission and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

32. "S&P" means Standard and Poor's Corporation and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

33. "TD Bank" means TD Bank, N.A., and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

34. "Texas Action" refers to *American Nat'l Ins. Co., et al., v. JPMorgan Chase & Co., et al.*, Case No. 3:09-cv-00044 (S.D. Tex.), which has been transferred to the United States District Court for the District of Columbia.

35. "TPG" means TPG Capital (formerly Texas Pacific Group), and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

36. "TPG Transaction" means or refers to the investment of approximately \$7.2 billion into Washington Mutual on or about April 7, 2008, that was described by Washington Mutual in a Form 8-K filing dated April 7, 2008.

37. "Transaction" means or refers to any means by which JPMorgan Chase might obtain, receive or succeed to Washington Mutual's businesses or properties, or any portion thereof, or any transaction preliminary, preparatory or incident thereto, including any stock tender, stock purchase, asset purchase, assumption of deposit or other liabilities, merger, joint venture or partnership.

38. "Turnover Proceeding" means *WMI and WMI Investment Corp. v. JPMC*, No. 09-50934 (Bankr. D. Del.).

39. "U.S. Department of the Treasury" means or refers to the U.S. Department of the Treasury and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

40. "Washington Mutual" means or refers to WMI and WMB, and any and all of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on their behalf, any of their parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

41. "Wells Fargo" means Wells Fargo, N.A., and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

42. "WMB" means or refers to Washington Mutual Bank, Henderson, Nevada, and any and all of its current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

43. "WMB fsb" means or refers to Washington Mutual Bank, fsb, Utah, and any and all of its current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

44. "WMI" means or refers to Washington Mutual, Inc. and WMI Investment Corp. (collectively, the "Debtors") and any and all of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on their behalf, any of their parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

45. "You" or "FHLB" means or refers to the Federal Home Loan Bank, individually or collectively, to whom this subpoena is addressed, and any owner, director, officer, employee, agent, custodian, parent, subsidiary, affiliate, predecessor, successor, attorney, accountant, representative, and other Persons purporting to act on your behalf.

46. Any ambiguity in a discovery request shall be construed to bring within the scope of the discovery request all responses that otherwise could be construed to be outside of its scope.

INSTRUCTIONS

Each response must be made in accordance with the following instructions:

1. The responsive documents should be produced in the manner prescribed by the Federal Rules of Civil Procedure, as made applicable herein by the Federal Rules of Bankruptcy Procedure, including producing the requested documents as they are kept in the usual course of business or organized and labeled to correspond with the categories in the requests, and identifying the name of the person from whose files the documents were produced.

2. You are to produce the original and all non-identical copies, including all drafts, of each document requested. If you are not able to produce the original of any document, please produce the best available copy and all non-identical copies, including drafts.

3. Each request herein extends to all documents and communications in the possession, custody or control of you or anyone acting on your behalf. A document is deemed to be in your possession, custody, or control if it is in your physical custody, or if it is in the physical custody of any other person and you: (1) own such document in whole or in part; (2) have a right, by contract, statute or otherwise, to use, inspect, examine or copy such document on any terms; (3) have an understanding, express or implied, that you may use, inspect, examine, or copy such document on any terms; or (4) as a practical matter, have been able to use, inspect, examine, or copy such document when you sought to do so. If any requested document was, but no longer is, in your control, state the disposition of each such document.

4. Any reference in these document requests to an individual or person include any and all agents, advisors, employees, representatives, attorneys, successors-in-interest, and all other persons or entities acting in his, her, or its behalf or under his, her or its control.

5. If any document is withheld under any claim of privilege, including without limitation, attorney-client privilege and attorney work product, you should provide the following information with respect to such document:

- (1) The date of the document;
- (2) The title of the document;
- (3) The name of its author(s) or preparer(s) and an identification by employment and title of each such person;
- (4) The name of each person who was sent or furnished with, received, viewed or has custody of the document or a copy thereof together with an identification by employment and title of each such person;
- (5) The request to which the document relates;

- (6) The title and description of the document sufficient to identify it without revealing the information for which privilege is claimed;
- (7) The claim of privilege under which it is withheld; and
- (8) A description of the subject matter of the document in sufficient detail to support your contention that the document is privileged;

6. If, after exercising due diligence to secure them, you cannot provide some or any of the requested documents, so state and provide all documents to the extent possible, specifying the reason for your inability to produce the remainder of the documents, and stating whatever information or knowledge you have concerning each document not produced.

7. If any requested document or other document potentially relevant to this action is subject to destruction under any document retention or destruction program, the document(s) should be exempted from any scheduled destruction and should not be destroyed until the conclusion of this action or unless otherwise permitted by the Court.

8. If any document responsive to these requests is known to have existed and cannot now be located, or has been destroyed or discarded, set forth a complete statement of the circumstances surrounding such loss or destruction, including:

- (1) a description of the document, including the date, a summary of its contents and the identity of its author and the person(s) to whom it was sent or shown;
- (2) the last known custodian;
- (3) whether the document is missing or lost or was destroyed or discarded;
- (4) the date of loss, destruction or discard;
- (5) the manner of destruction or discard;
- (6) the reason(s) for destruction or discard;
- (7) the person(s) authorizing or carrying out such destruction or discard; and

(8) the efforts made to locate lost or misplaced documents.

9. If an objection is made to any request, state your objection and the ground or grounds with particularity in your written response. If an objection is made only to part of the request, identify that part in your written response and state your objection and the ground(s) therefor.

10. Each request shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive. Any request propounded in the singular shall also be read as if propounded in the plural and vice versa. Any request propounded in the present tense shall also be read as if propounded in the past tense and vice versa.

11. This request is a continuing one. If, after producing the requested documents, you obtain or become aware of any further documents responsive to this request, you are required to produce such additional documents. Supplemental responses should be served within thirty (30) days after such information or documents become known to you.

12. Unless otherwise specified, the time period covered by these requests is from January 1, 2007 to the present and shall encompass all documents and information relating in whole or in part to such period, or to events or circumstances during such period, even though dated, prepared, generated or received prior to that date.

REQUESTS FOR PRODUCTION OF DOCUMENTS

The Debtors request that Federal Home Loan Bank produce the following documents in its possession, custody or control:

1. All documents concerning, or communications with, Washington Mutual with respect to any entity's efforts to acquire all or part of Washington Mutual, and/or any of its substantial assets.
2. All documents concerning any communications with Robert J. Williams, President of WMI.
3. All documents concerning communications with or among JPMC, the FDIC, the media, ratings agencies, investors, and/or any third party concerning Washington Mutual.
4. All documents concerning Washington Mutual provided to You by JPMC, the FDIC, and/or any third party.
5. All documents concerning JPMC's disclosure of any Washington Mutual information, or disclosure of any information about Washington Mutual, to You, any Governmental Unit, the media, ratings agencies, investors, and/or any other third parties.
6. All documents concerning any Washington Mutual entity's participation as an FHLB member bank.
7. All documents concerning any FHLB consideration or analysis of the possibility of lending or not lending funds to Washington Mutual.
8. All documents concerning any FHLB decision to lend funds to Washington Mutual.
9. All documents concerning any FHLB decision not to lend funds to Washington Mutual.

10. All documents concerning any collateral pledged by Washington Mutual in conjunction with an FHLB loan.
11. All documents concerning communications with or among JPMC, the FDIC, and/or any third party concerning whether or not to lend funds to Washington Mutual.
12. All documents concerning any effect JPMC's disclosure of any Washington Mutual information, or disclosure of any information about Washington Mutual, had on any FHLB decision concerning whether or not to lend funds to Washington Mutual.
13. All documents concerning any agreement between JPMC and Washington Mutual concerning access to and/or disclosure of non-public, confidential or proprietary information in connection with a potential transaction in which JPMC would acquire, merge with, or invest in Washington Mutual.
14. All documents concerning JPMC's access to Washington Mutual data, including but not limited to (a) JPMC due diligence of Washington Mutual and/or (b) any effort by JPMC to place "moles" at Washington Mutual for the purpose of obtaining confidential Washington Mutual information, which JPMC used "to bargain and work with federal regulators for the seizure and sale of Washington Mutual's assets," *see* Texas Action Complaint at ¶ 32, including JPMC's placement of former JPMC employees at Washington Mutual, including but not limited to, the placement or employment of Stephen J. Rotella, Steve Fortunato, Taj Bindra, John Berens, Youyi Chen, and Bill Murray, *see id.* at ¶ 38.
15. All documents concerning JPMC's interest in any potential Transaction and any attempt by JPMC to engage in any potential Transaction, including but not limited to any actual, potential, or contemplated bid or offer by JPMC to merge with, invest in, or purchase Washington Mutual, including but not limited to (a) Washington Mutual's rejection of JPMC's

offer to merge with, invest in, or acquire Washington Mutual in or about April 2008, (b) capital contributions or investments received by JPMC in connection with any potential Transaction in or about September 2008, and/or (c) any agreement or arrangement between JPMC and any Government Unit, including but not limited to the FDIC, OTS, OCC, the Federal Reserve and/or the U.S. Department of the Treasury, concerning any potential transaction in which JPMC might or did acquire WMB, or any stake or portion of WMB.

16. All documents concerning any meetings and/or communications between Washington Mutual and any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, SEC, and Federal Reserve, including (a) any meetings between OTS and WMI on or about April 5, 2008, (b) any meetings between Washington Mutual, OTS, and the FDIC on or about July 31, 2008, and/or (c) any communications with or among U.S. Treasury Secretary Hank Paulson and WMI Chairman and CEO Kerry Killinger and/or JPMC President and CEO Jamie Dimon regarding Washington Mutual.

17. All documents concerning any potential or actual regulatory and/or supervisory actions, ratings, or examinations directed toward or taken with respect to Washington Mutual by any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, SEC, and Federal Reserve, including but not limited to (a) OTS's decision to initiate discussions about Memorandums of Understanding with WMI and WMB, (b) the Memorandums of Understanding OTS issued to WMI and WMB on or about September 7, 2008, (c) any regulatory classification of Washington Mutual by the OTS, including without limitation any decision by OTS to classify WMB as a "problem institution," and/or (d) U.S. Treasury Secretary Henry Paulson's "RTC plan" concerning Washington Mutual.

18. All documents concerning Washington Mutual's responses or potential responses to any regulatory and/or supervisory actions, ratings, or examinations by any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, SEC, and Federal Reserve.

19. All documents concerning Washington Mutual's efforts to raise capital and/or locate a potential merger partner or acquiror, including without limitation (a) any actual or possible acquisition or investment by any entity of any stake in Washington Mutual, including any communications with or among Banco Santander, Blackstone, Carlyle, Cerberus, Citigroup, JPMC, Oak Hill, TPG, TD Bank, and/or Wells Fargo and their affiliates; (b) any efforts to raise capital through the issuance of debt securities in December 2007 (including the issuance of approximately \$3 billion of debt securities on or about December 17, 2007); (c) any actual, potential, or contemplated bids for Washington Mutual and/or the bidding process for Washington Mutual; (d) any efforts to raise capital and/or locate a potential merger partner or acquiror during the first quarter of 2008; (e) TPG's investment of about \$7.2 billion into Washington Mutual on or about April 7, 2008; and/or (f) any efforts to raise capital and/or locate a potential merger partner or acquiror in September 2008, including any efforts by Goldman Sachs and/or Morgan Stanley on Washington Mutual's behalf.

20. All documents concerning the potential for WMB to be seized by OTS and the decision to seize WMB, as well as the potential for the FDIC to be appointed receiver of WMB and the decision to place WMB into receivership with the FDIC, including all documents concerning any communication from FDIC officials to JPMC in early September 2008, to inform JPMC in words or substance that "the FDIC was carefully monitoring [WMB] and that a seizure

of its assets was likely" and that the FDIC "would want to immediately auction off [WMB's] assets." See Heidi N. Moore, *Deal Journal*, Wall St. J., Sept. 30, 2008, at C7.

UNITED STATES BANKRUPTCY COURT

for the Western District of Washington

In re: Washington Mutual, Inc., et. al.
Debtor

SUBPOENA FOR RULE 2004 EXAMINATION

Case No. * 08-12229 (MFW) U.S. Bankruptcy Court for the District of Delaware

To: Federal Home Loan Bank - Seattle
1501 4th Ave
Suite 1800
Seattle, WA 98101

Chapter Chapter 11

YOU ARE COMMANDED to appear and testify at an examination under Rule 2004, Federal Rules of Bankruptcy Procedure, at the place, date, and time specified below. A copy of the court order authorizing the examination is attached.

PLACE OF TESTIMONY	DATE AND TIME
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YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

Please see First Request for Production of Documents, attached hereto as "Exhibit A."

PLACE Washington Mutual, Inc. 1301 Second Avenue, WMC3601, Seattle, WA 98101	DATE AND TIME _____, 2010 5:00 p.m.
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ISSUING OFFICER SIGNATURE AND TITLE	DATE
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ISSUING OFFICER'S NAME, ADDRESS, AND PHONE NUMBER	Neil R. Lapinski, Esq. Elliott Greenleaf	1105 North Market Street, Suite 1700 Wilmington, DE 19801 (302) 384-9400
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* If the bankruptcy case is pending in a district other than the district in which the subpoena is issued, state the district under the case number.

PROOF OF SERVICE

SERVED	DATE	PLACE
SERVED ON (PRINT NAME)	MANNER OF SERVICE	
SERVED BY (PRINT NAME)	TITLE	

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____
DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), as amended on December 1, 2007, made applicable in cases under the Bankruptcy Code by Rule 9016, Federal Rules of Bankruptcy Procedure:

(c) Protecting a Person Subject to a Subpoena.

(1) **Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) **Appearance Not Required.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) **Objections.** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) **When Required.** On timely motion, the issuing court must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) **When Permitted.** To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information;
- (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or
- (iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) **Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(d) Duties in Responding to a Subpoena.

(1) **Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

(A) **Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) **Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) **Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

(D) **Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) **Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications,

or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) **Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) Contempt.

The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

Exhibit A

FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

DEFINITIONS

The following terms (whether or not capitalized) shall have the meanings set forth below:

1. "Adversary Proceedings" means or refers to the JPMC Adversary Proceeding and the Turnover Proceeding.
2. "And" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
3. "Any," "all" and "each" shall be construed broadly, and shall mean any, all, and each as necessary to bring within the scope of the discovery request all responses that otherwise could be construed to be outside of its scope.
4. "Banco Santander" means Banco Santander, S.A., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.
5. "Blackstone" means the Blackstone Group, L.P., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.
6. "Capital Contributions" means any capital contributions that WMI made to WMB or WMB fsb from November 1, 2007 through September 2008, including the \$6.5 billion in capital contributions that WMI made to WMB from December 2007 through September 2008.
7. "Carlyle" means Carlyle Group LLC, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

8. "Cerberus" means Cerberus Capital Management, L.P., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

9. "Chapter 11 case" means or refers to *In re Washington Mutual, Inc.*, No. 08-12229 (Bankr. D. Del).

10. "Citigroup" means Citigroup, Inc. and Citibank, N.A., and all of their predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

11. "Communication" means any oral, written or electronic transmission of information, fact, opinion, belief, idea, statement, inquiry or otherwise, including without limitation any letter, correspondence, memorandum, electronic-mail message, note or meeting log, conversation, meeting, discussion, telephone call, facsimile, telegram, telex, conference or message.

12. "Concerning" means comprising, consisting of, concerning, referring to, reflecting, regarding, supporting, evidencing, relating to, prepared in connection with, used in preparation for, or being in any way legally, logically or factually concerned with the matter or document described, referred to or discussed.

13. "DC Action" refers to *Washington Mutual, Inc. and WMI Investment Corp. v. Federal Deposit Insurance Corporation*, No. 1:09-cv-00533 (D.D.C.).

14. "Document" is used in its broadest sense and mean and include any written or graphic matter or other means of preserving thought or expression and all tangible things from which information can be processed or transcribed, including the originals and all non-identical copies, whether different from the original by reason of any notation made on such copy or otherwise, including but not limited to, correspondence, memoranda, notes, messages, letters, telegrams, teletype, telefax, bulletins, meetings or other communications, interoffice and

intraoffice telephone calls, diaries, chronological data, minutes, books, reports, studies, summaries, pamphlets, bulletins, printed matter, charts, ledgers, invoices, worksheets, receipts, returns, computer printouts, prospectuses, financial statements, schedules, affidavits, contracts, cancelled checks, statements, transcripts, statistics, surveys, magazine or newspaper articles, releases (and any and all drafts, alterations and modifications, changes and amendments of any of the foregoing), graphic or aural records or representations of any kind (including without limitation photographs, microfiche, microfilm, videotape, records and motion pictures) and electronic, mechanical or electric records or representations of any kind (including without limitation tapes, cassettes, discs and records).

15. "FDIC" means or refers to the Federal Deposit Insurance Corporation, as receiver for Washington Mutual Bank, Henderson Nevada and in its corporate capacity.

16. "Federal Reserve" means the Board of Governors of the Federal Reserve System and the twelve Federal Banks; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

17. "Fitch" means Fitch Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

18. "Goldman Sachs" means The Goldman Sachs Group, Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

19. "Governmental Unit" has the meaning set forth at 11 U.S.C. § 101(27).

20. "Including" means including but not limited to the referenced subject.

21. "JPMC" means JPMorgan Chase Bank, National Association and JPMorgan Chase & Co., and any of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting

or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

22. "JPMC Adversary Proceeding" refers to *JPMorgan Chase Bank, National Association v. Washington Mutual, Inc., et al.*, Adversary Proceeding No. 09-50551 (Bankr. D. Del.).

23. "Lehman Brothers" means Lehman Brothers Holdings, Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

24. "Morgan Stanley" means Morgan Stanley, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

25. "Moody's" means Moody's Investors Service, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

26. "Oak Hill" means Oak Hill Capital Partners, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

27. "OCC" means the Office of the Comptroller of the Currency, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

28. "OTS" means the Office of Thrift Supervision, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

29. "RTC" means the Resolution Trust Corporation, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

30. "P&A Agreement" means or refers to the Purchase and Assumption Agreement, Whole Bank, among the Federal Deposit Insurance Corporation, as receiver of Washington Mutual Bank, Henderson, Nevada, the Federal Deposit Insurance Corporation and JPM, dated as of September 25, 2008.

31. "SEC" means the U.S. Securities and Exchange Commission and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

32. "S&P" means Standard and Poor's Corporation and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

33. "TD Bank" means TD Bank, N.A., and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

34. "Texas Action" refers to *American Nat'l Ins. Co., et al., v. JPMorgan Chase & Co., et al.*, Case No. 3:09-cv-00044 (S.D. Tex.), which has been transferred to the United States District Court for the District of Columbia.

35. "TPG" means TPG Capital (formerly Texas Pacific Group), and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

36. "TPG Transaction" means or refers to the investment of approximately \$7.2 billion into Washington Mutual on or about April 7, 2008, that was described by Washington Mutual in a Form 8-K filing dated April 7, 2008.

37. "Transaction" means or refers to any means by which JPMorgan Chase might obtain, receive or succeed to Washington Mutual's businesses or properties, or any portion thereof, or any transaction preliminary, preparatory or incident thereto, including any stock tender, stock purchase, asset purchase, assumption of deposit or other liabilities, merger, joint venture or partnership.

38. "Turnover Proceeding" means *WMI and WMI Investment Corp. v. JPMC*, No. 09-50934 (Bankr. D. Del.).

39. "U.S. Department of the Treasury" means or refers to the U.S. Department of the Treasury and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

40. "Washington Mutual" means or refers to WMI and WMB, and any and all of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on their behalf, any of their parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

41. "Wells Fargo" means Wells Fargo, N.A., and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

42. "WMB" means or refers to Washington Mutual Bank, Henderson, Nevada, and any and all of its current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

43. "WMB fsb" means or refers to Washington Mutual Bank, fsb, Utah, and any and all of its current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

44. "WMI" means or refers to Washington Mutual, Inc. and WMI Investment Corp. (collectively, the "Debtors") and any and all of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on their behalf, any of their parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

45. "You" or "FHLB" means or refers to the Federal Home Loan Bank, individually or collectively, to whom this subpoena is addressed, and any owner, director, officer, employee, agent, custodian, parent, subsidiary, affiliate, predecessor, successor, attorney, accountant, representative, and other Persons purporting to act on your behalf.

46. Any ambiguity in a discovery request shall be construed to bring within the scope of the discovery request all responses that otherwise could be construed to be outside of its scope.

INSTRUCTIONS

Each response must be made in accordance with the following instructions:

1. The responsive documents should be produced in the manner prescribed by the Federal Rules of Civil Procedure, as made applicable herein by the Federal Rules of Bankruptcy Procedure, including producing the requested documents as they are kept in the usual course of business or organized and labeled to correspond with the categories in the requests, and identifying the name of the person from whose files the documents were produced.

2. You are to produce the original and all non-identical copies, including all drafts, of each document requested. If you are not able to produce the original of any document, please produce the best available copy and all non-identical copies, including drafts.

3. Each request herein extends to all documents and communications in the possession, custody or control of you or anyone acting on your behalf. A document is deemed to be in your possession, custody, or control if it is in your physical custody, or if it is in the physical custody of any other person and you: (1) own such document in whole or in part; (2) have a right, by contract, statute or otherwise, to use, inspect, examine or copy such document on any terms; (3) have an understanding, express or implied, that you may use, inspect, examine, or copy such document on any terms; or (4) as a practical matter, have been able to use, inspect, examine, or copy such document when you sought to do so. If any requested document was, but no longer is, in your control, state the disposition of each such document.

4. Any reference in these document requests to an individual or person include any and all agents, advisors, employees, representatives, attorneys, successors-in-interest, and all other persons or entities acting in his, her, or its behalf or under his, her or its control.

5. If any document is withheld under any claim of privilege, including without limitation, attorney-client privilege and attorney work product, you should provide the following information with respect to such document:

- (1) The date of the document;
- (2) The title of the document;
- (3) The name of its author(s) or preparer(s) and an identification by employment and title of each such person;
- (4) The name of each person who was sent or furnished with, received, viewed or has custody of the document or a copy thereof together with an identification by employment and title of each such person;
- (5) The request to which the document relates;

- (6) The title and description of the document sufficient to identify it without revealing the information for which privilege is claimed;
- (7) The claim of privilege under which it is withheld; and
- (8) A description of the subject matter of the document in sufficient detail to support your contention that the document is privileged;

6. If, after exercising due diligence to secure them, you cannot provide some or any of the requested documents, so state and provide all documents to the extent possible, specifying the reason for your inability to produce the remainder of the documents, and stating whatever information or knowledge you have concerning each document not produced.

7. If any requested document or other document potentially relevant to this action is subject to destruction under any document retention or destruction program, the document(s) should be exempted from any scheduled destruction and should not be destroyed until the conclusion of this action or unless otherwise permitted by the Court.

8. If any document responsive to these requests is known to have existed and cannot now be located, or has been destroyed or discarded, set forth a complete statement of the circumstances surrounding such loss or destruction, including:

- (1) a description of the document, including the date, a summary of its contents and the identity of its author and the person(s) to whom it was sent or shown;
- (2) the last known custodian;
- (3) whether the document is missing or lost or was destroyed or discarded;
- (4) the date of loss, destruction or discard;
- (5) the manner of destruction or discard;
- (6) the reason(s) for destruction or discard;
- (7) the person(s) authorizing or carrying out such destruction or discard; and

(8) the efforts made to locate lost or misplaced documents.

9. If an objection is made to any request, state your objection and the ground or grounds with particularity in your written response. If an objection is made only to part of the request, identify that part in your written response and state your objection and the ground(s) therefor.

10. Each request shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive. Any request propounded in the singular shall also be read as if propounded in the plural and vice versa. Any request propounded in the present tense shall also be read as if propounded in the past tense and vice versa.

11. This request is a continuing one. If, after producing the requested documents, you obtain or become aware of any further documents responsive to this request, you are required to produce such additional documents. Supplemental responses should be served within thirty (30) days after such information or documents become known to you.

12. Unless otherwise specified, the time period covered by these requests is from January 1, 2007 to the present and shall encompass all documents and information relating in whole or in part to such period, or to events or circumstances during such period, even though dated, prepared, generated or received prior to that date.

REQUESTS FOR PRODUCTION OF DOCUMENTS

The Debtors request that Federal Home Loan Bank produce the following documents in its possession, custody or control:

1. All documents concerning, or communications with, Washington Mutual with respect to any entity's efforts to acquire all or part of Washington Mutual, and/or any of its substantial assets.
2. All documents concerning any communications with Robert J. Williams, President of WMI.
3. All documents concerning communications with or among JPMC, the FDIC, the media, ratings agencies, investors, and/or any third party concerning Washington Mutual.
4. All documents concerning Washington Mutual provided to You by JPMC, the FDIC, and/or any third party.
5. All documents concerning JPMC's disclosure of any Washington Mutual information, or disclosure of any information about Washington Mutual, to You, any Governmental Unit, the media, ratings agencies, investors, and/or any other third parties.
6. All documents concerning any Washington Mutual entity's participation as an FHLB member bank.
7. All documents concerning any FHLB consideration or analysis of the possibility of lending or not lending funds to Washington Mutual.
8. All documents concerning any FHLB decision to lend funds to Washington Mutual.
9. All documents concerning any FHLB decision not to lend funds to Washington Mutual.

10. All documents concerning any collateral pledged by Washington Mutual in conjunction with an FHLB loan.
11. All documents concerning communications with or among JPMC, the FDIC, and/or any third party concerning whether or not to lend funds to Washington Mutual.
12. All documents concerning any effect JPMC's disclosure of any Washington Mutual information, or disclosure of any information about Washington Mutual, had on any FHLB decision concerning whether or not to lend funds to Washington Mutual.
13. All documents concerning any agreement between JPMC and Washington Mutual concerning access to and/or disclosure of non-public, confidential or proprietary information in connection with a potential transaction in which JPMC would acquire, merge with, or invest in Washington Mutual.
14. All documents concerning JPMC's access to Washington Mutual data, including but not limited to (a) JPMC due diligence of Washington Mutual and/or (b) any effort by JPMC to place "moles" at Washington Mutual for the purpose of obtaining confidential Washington Mutual information, which JPMC used "to bargain and work with federal regulators for the seizure and sale of Washington Mutual's assets," *see* Texas Action Complaint at ¶ 32, including JPMC's placement of former JPMC employees at Washington Mutual, including but not limited to, the placement or employment of Stephen J. Rotella, Steve Fortunato, Taj Bindra, John Berens, Youyi Chen, and Bill Murray, *see id.* at ¶ 38.
15. All documents concerning JPMC's interest in any potential Transaction and any attempt by JPMC to engage in any potential Transaction, including but not limited to any actual, potential, or contemplated bid or offer by JPMC to merge with, invest in, or purchase Washington Mutual, including but not limited to (a) Washington Mutual's rejection of JPMC's

offer to merge with, invest in, or acquire Washington Mutual in or about April 2008, (b) capital contributions or investments received by JPMC in connection with any potential Transaction in or about September 2008, and/or (c) any agreement or arrangement between JPMC and any Government Unit, including but not limited to the FDIC, OTS, OCC, the Federal Reserve and/or the U.S. Department of the Treasury, concerning any potential transaction in which JPMC might or did acquire WMB, or any stake or portion of WMB.

16. All documents concerning any meetings and/or communications between Washington Mutual and any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, SEC, and Federal Reserve, including (a) any meetings between OTS and WMI on or about April 5, 2008, (b) any meetings between Washington Mutual, OTS, and the FDIC on or about July 31, 2008, and/or (c) any communications with or among U.S. Treasury Secretary Hank Paulson and WMI Chairman and CEO Kerry Killinger and/or JPMC President and CEO Jamie Dimon regarding Washington Mutual.

17. All documents concerning any potential or actual regulatory and/or supervisory actions, ratings, or examinations directed toward or taken with respect to Washington Mutual by any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, SEC, and Federal Reserve, including but not limited to (a) OTS's decision to initiate discussions about Memorandums of Understanding with WMI and WMB, (b) the Memorandums of Understanding OTS issued to WMI and WMB on or about September 7, 2008, (c) any regulatory classification of Washington Mutual by the OTS, including without limitation any decision by OTS to classify WMB as a "problem institution," and/or (d) U.S. Treasury Secretary Henry Paulson's "RTC plan" concerning Washington Mutual.

18. All documents concerning Washington Mutual's responses or potential responses to any regulatory and/or supervisory actions, ratings, or examinations by any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, SEC, and Federal Reserve.

19. All documents concerning Washington Mutual's efforts to raise capital and/or locate a potential merger partner or acquiror, including without limitation (a) any actual or possible acquisition or investment by any entity of any stake in Washington Mutual, including any communications with or among Banco Santander, Blackstone, Carlyle, Cerberus, Citigroup, JPMC, Oak Hill, TPG, TD Bank, and/or Wells Fargo and their affiliates; (b) any efforts to raise capital through the issuance of debt securities in December 2007 (including the issuance of approximately \$3 billion of debt securities on or about December 17, 2007); (c) any actual, potential, or contemplated bids for Washington Mutual and/or the bidding process for Washington Mutual; (d) any efforts to raise capital and/or locate a potential merger partner or acquiror during the first quarter of 2008; (e) TPG's investment of about \$7.2 billion into Washington Mutual on or about April 7, 2008; and/or (f) any efforts to raise capital and/or locate a potential merger partner or acquiror in September 2008, including any efforts by Goldman Sachs and/or Morgan Stanley on Washington Mutual's behalf.

20. All documents concerning the potential for WMB to be seized by OTS and the decision to seize WMB, as well as the potential for the FDIC to be appointed receiver of WMB and the decision to place WMB into receivership with the FDIC, including all documents concerning any communication from FDIC officials to JPMC in early September 2008, to inform JPMC in words or substance that "the FDIC was carefully monitoring [WMB] and that a seizure

of its assets was likely" and that the FDIC "would want to immediately auction off [WMB's] assets." See Heidi N. Moore, *Deal Journal*, Wall St. J., Sept. 30, 2008, at C7.

UNITED STATES BANKRUPTCY COURT

for the District of Columbia

In re: Washington Mutual, Inc., et. al.
Debtor

SUBPOENA FOR RULE 2004 EXAMINATION

Case No.* 08-12229 (MFW) U.S. Bankruptcy Court for the District of Delaware

To: Richard F. Hohlt
7901 Kent Road
Alexandria, VA 22308

Chapter Chapter 11

YOU ARE COMMANDED to appear and testify at an examination under Rule 2004, Federal Rules of Bankruptcy Procedure, at the place, date, and time specified below. A copy of the court order authorizing the examination is attached.

PLACE OF TESTIMONY	DATE AND TIME
--------------------	---------------

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

Please see First Request for Production of Documents, attached hereto as "Exhibit A."

PLACE Weil, Gotshal & Manges, LLP 1300 Eye Street, N.W., Suite 900 Washington, D.C. 20005	DATE AND TIME _____, 2010 5:00 p.m.
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ISSUING OFFICER SIGNATURE AND TITLE	DATE
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ISSUING OFFICER'S NAME, ADDRESS, AND PHONE NUMBER	Neil R. Lapinski, Esq. Elliott Greenleaf	1105 North Market Street, Suite 1700 Wilmington, DE 19801 (302) 384-9400
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* If the bankruptcy case is pending in a district other than the district in which the subpoena is issued, state the district under the case number.

PROOF OF SERVICE

SERVED	DATE	PLACE
SERVED ON (PRINT NAME)		MANNER OF SERVICE
SERVED BY (PRINT NAME)		TITLE

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____
DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), as amended on December 1, 2007, made applicable in cases under the Bankruptcy Code by Rule 9016, Federal Rules of Bankruptcy Procedure:

(c) Protecting a Person Subject to a Subpoena.

(1) **Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) **Command to Produce Materials or Permit Inspection.**

(A) **Appearance Not Required.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) **Objections.** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) **Quashing or Modifying a Subpoena.**

(A) **When Required.** On timely motion, the issuing court must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(ii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) **When Permitted.** To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information;
- (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or
- (iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) **Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(d) Duties in Responding to a Subpoena.

(1) **Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

(A) **Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) **Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) **Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

(D) **Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) **Claiming Privilege or Protection.**

(A) **Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) **Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) **Contempt.**

The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

Exhibit A

FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

DEFINITIONS

The following terms (whether or not capitalized) shall have the meanings set forth below:

1. "Adversary Proceedings" means or refers to the JPMC Adversary Proceeding and the Turnover Proceeding.
2. "And" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
3. "Any," "all" and "each" shall be construed broadly, and shall mean any, all, and each as necessary to bring within the scope of the discovery request all responses that otherwise could be construed to be outside of its scope.
4. "Banco Santander" means Banco Santander, S.A., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.
5. "Blackstone" means the Blackstone Group, L.P., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.
6. "Carlyle" means Carlyle Group LLC, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.
7. "Cerberus" means Cerberus Capital Management, L.P., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any

of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

8. "Chapter 11 case" means or refers to *In re Washington Mutual, Inc.*, No. 08-12229 (Bankr. D. Del).

9. "Citigroup" means Citigroup, Inc. and Citibank, N.A., and all of their predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

10. "Communication" means any oral, written or electronic transmission of information, fact, opinion, belief, idea, statement, inquiry or otherwise, including without limitation any letter, correspondence, memorandum, electronic-mail message, note or meeting log, conversation, meeting, discussion, telephone call, facsimile, telegram, telex, conference or message.

11. "Concerning" means comprising, consisting of, concerning, referring to, reflecting, regarding, supporting, evidencing, relating to, prepared in connection with, used in preparation for, or being in any way legally, logically or factually concerned with the matter or document described, referred to or discussed.

12. "DC Action" refers to *Washington Mutual, Inc. and WMI Investment Corp. v. Federal Deposit Insurance Corporation*, No. 1:09-cv-00533 (D.D.C.).

13. "Document" is used in its broadest sense and mean and include any written or graphic matter or other means of preserving thought or expression and all tangible things from which information can be processed or transcribed, including the originals and all non-identical copies, whether different from the original by reason of any notation made on such copy or otherwise, including but not limited to, correspondence, memoranda, notes, messages, letters, telegrams, teletype, telefax, bulletins, meetings or other communications, interoffice and intraoffice telephone calls, diaries, chronological data, minutes, books, reports, studies, summaries, pamphlets, bulletins, printed matter, charts, ledgers, invoices, worksheets, receipts,

returns, computer printouts, prospectuses, financial statements, schedules, affidavits, contracts, cancelled checks, statements, transcripts, statistics, surveys, magazine or newspaper articles, releases (and any and all drafts, alterations and modifications, changes and amendments of any of the foregoing), graphic or aural records or representations of any kind (including without limitation photographs, microfiche, microfilm, videotape, records and motion pictures) and electronic, mechanical or electric records or representations of any kind (including without limitation tapes, cassettes, discs and records).

14. "FDIC" means or refers to the Federal Deposit Insurance Corporation, as receiver for Washington Mutual Bank, Henderson Nevada and in its corporate capacity.

15. "Federal Reserve" means the Board of Governors of the Federal Reserve System and the twelve Federal Banks; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

16. "Fitch" means Fitch Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

17. "Goldman Sachs" means The Goldman Sachs Group, Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

18. "Governmental Unit" has the meaning set forth at 11 U.S.C. § 101(27).

19. "Including" means including but not limited to the referenced subject.

20. "JPMC" means JPMorgan Chase Bank, National Association and JPMorgan Chase & Co., and any of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

21. "JPMC Adversary Proceeding" refers to *JPMorgan Chase Bank, National Association v. Washington Mutual, Inc., et al.*, Adversary Proceeding No. 09-50551 (Bankr. D. Del.).

22. "Lehman Brothers" means Lehman Brothers Holdings, Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

23. "Morgan Stanley" means Morgan Stanley, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

24. "Moody's" means Moody's Investors Service, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

25. "Oak Hill" means Oak Hill Capital Partners, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

26. "OCC" means the Office of the Comptroller of the Currency, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

27. "OTS" means the Office of Thrift Supervision, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

28. "RTC" means the Resolution Trust Corporation, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

29. "P&A Agreement" means or refers to the Purchase and Assumption Agreement, Whole Bank, among the Federal Deposit Insurance Corporation, as receiver of Washington Mutual Bank, Henderson, Nevada, the Federal Deposit Insurance Corporation and JPM, dated as of September 25, 2008.

30. "SEC" means the U.S. Securities and Exchange Commission and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

31. "S&P" means Standard and Poor's Corporation and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

32. "TD Bank" means TD Bank, N.A., and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

33. "Texas Action" refers to *American Nat'l Ins. Co., et al., v. JPMorgan Chase & Co., et al.*, Case No. 3:09-cv-00044 (S.D. Tex.), which has been transferred to the United States District Court for the District of Columbia.

34. "TPG" means TPG Capital (formerly Texas Pacific Group), and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

35. "TPG Transaction" means or refers to the investment of approximately \$7.2 billion into Washington Mutual on or about April 7, 2008, that was described by Washington Mutual in a Form 8-K filing dated April 7, 2008.

36. "Transaction" means or refers to any means by which JPMorgan Chase might obtain, receive or succeed to Washington Mutual's businesses or properties, or any portion thereof, or any transaction preliminary, preparatory or incident thereto, including any stock tender, stock purchase, asset purchase, assumption of deposit or other liabilities, merger, joint venture or partnership.

37. "U.S. Department of the Treasury" means or refers to the U.S. Department of the Treasury and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

38. "Turnover Proceeding" means *WMI and WMI Investment Corp. v. JPMC*, No. 09-50934 (Bankr. D. Del.).

39. "U.S. Congress" means or refers to the United States Senate and United States House of Representatives, and any of their members, staff, committees, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

40. "Washington Mutual" means or refers to WMI and WMB, and any and all of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on their behalf, any of their parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

41. "Wells Fargo" means Wells Fargo, N.A., and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

42. "WMB" means or refers to Washington Mutual Bank, Henderson, Nevada, and any and all of its current or former officers, directors, employees, shareholders, agents, staff,

attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

43. "WMB fsb" means or refers to Washington Mutual Bank, fsb, Utah, and any and all of its current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

44. "WMI" means or refers to Washington Mutual, Inc. and WMI Investment Corp. (collectively, the "Debtors") and any and all of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on their behalf, any of their parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

45. "You" means or refers to you, Richard F. Hohlt, to whom this subpoena is addressed, and any employee, agent, custodian, attorney, accountant, representative, and other Persons purporting to act on your behalf.

46. Any ambiguity in a discovery request shall be construed to bring within the scope of the discovery request all responses that otherwise could be construed to be outside of its scope.

INSTRUCTIONS

Each response must be made in accordance with the following instructions:

1. The responsive documents should be produced in the manner prescribed by the Federal Rules of Civil Procedure, as made applicable herein by the Federal Rules of Bankruptcy Procedure, including producing the requested documents as they are kept in the usual course of business or organized and labeled to correspond with the categories in the requests, and identifying the name of the person from whose files the documents were produced.

2. You are to produce the original and all non-identical copies, including all drafts, of each document requested. If you are not able to produce the original of any document, please produce the best available copy and all non-identical copies, including drafts.

3. Each request herein extends to all documents and communications in the possession, custody or control of you or anyone acting on your behalf. A document is deemed to be in your possession, custody, or control if it is in your physical custody, or if it is in the physical custody of any other person and you: (1) own such document in whole or in part; (2) have a right, by contract, statute or otherwise, to use, inspect, examine or copy such document on any terms; (3) have an understanding, express or implied, that you may use, inspect, examine, or copy such document on any terms; or (4) as a practical matter, have been able to use, inspect, examine, or copy such document when you sought to do so. If any requested document was, but no longer is, in your control, state the disposition of each such document.

4. Any reference in these document requests to an individual or person include any and all agents, advisors, employees, representatives, attorneys, successors-in-interest, and all other persons or entities acting in his, her, or its behalf or under his, her or its control.

5. If any document is withheld under any claim of privilege, including without limitation, attorney-client privilege and attorney work product, you should provide the following information with respect to such document:

- (1) The date of the document;
- (2) The title of the document;
- (3) The name of its author(s) or preparer(s) and an identification by employment and title of each such person;
- (4) The name of each person who was sent or furnished with, received, viewed or has custody of the document or a copy thereof together with an identification by employment and title of each such person;
- (5) The request to which the document relates;

- (6) The title and description of the document sufficient to identify it without revealing the information for which privilege is claimed;
- (7) The claim of privilege under which it is withheld; and
- (8) A description of the subject matter of the document in sufficient detail to support your contention that the document is privileged;

6. If, after exercising due diligence to secure them, you cannot provide some or any of the requested documents, so state and provide all documents to the extent possible, specifying the reason for your inability to produce the remainder of the documents, and stating whatever information or knowledge you have concerning each document not produced.

7. If any requested document or other document potentially relevant to this action is subject to destruction under any document retention or destruction program, the document(s) should be exempted from any scheduled destruction and should not be destroyed until the conclusion of this action or unless otherwise permitted by the Court.

8. If any document responsive to these requests is known to have existed and cannot now be located, or has been destroyed or discarded, set forth a complete statement of the circumstances surrounding such loss or destruction, including:

- (1) a description of the document, including the date, a summary of its contents and the identity of its author and the person(s) to whom it was sent or shown;
- (2) the last known custodian;
- (3) whether the document is missing or lost or was destroyed or discarded;
- (4) the date of loss, destruction or discard;
- (5) the manner of destruction or discard;
- (6) the reason(s) for destruction or discard;
- (7) the person(s) authorizing or carrying out such destruction or discard; and

(8) the efforts made to locate lost or misplaced documents.

9. If an objection is made to any request, state your objection and the ground or grounds with particularity in your written response. If an objection is made only to part of the request, identify that part in your written response and state your objection and the ground(s) therefor.

10. Each request shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive. Any request propounded in the singular shall also be read as if propounded in the plural and vice versa. Any request propounded in the present tense shall also be read as if propounded in the past tense and vice versa.

11. This request is a continuing one. If, after producing the requested documents, you obtain or become aware of any further documents responsive to this request, you are required to produce such additional documents. Supplemental responses should be served within thirty (30) days after such information or documents become known to you.

12. Unless otherwise specified, the time period covered by these requests is from January 1, 2007 to the present and shall encompass all documents and information relating in whole or in part to such period, or to events or circumstances during such period, even though dated, prepared, generated or received prior to that date.

REQUESTS FOR PRODUCTION OF DOCUMENTS

The Debtors request that Richard F. Hohlt produce the following documents in its possession, custody or control:

1. All documents concerning, or communications with, Washington Mutual with respect to any entity's efforts to acquire all or part of Washington Mutual, and/or any of its substantial assets.
2. All documents concerning any agreements between You and JPMC.
3. All documents concerning any work You performed on JPMC's behalf concerning Washington Mutual.
4. All documents concerning any meetings and/or communications with JPMC concerning Washington Mutual.
5. All documents concerning any meetings and/or communications with or among JPMC, the FDIC, OTS, OCC, the U.S. Department of the Treasury, Federal Reserve, SEC, U.S. Congress any other Government Unit, the media, ratings agencies, investors, and/or any third party concerning Washington Mutual.
6. All documents concerning any meetings and/or communications between JPMC and any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, Federal Reserve, SEC, and U.S. Congress concerning Washington Mutual, including (a) any meetings on or about March 28, 2008, (b) any meetings between JPMC and the U.S. Department of the Treasury in April 2008, and/or (c) any meetings on or about July 18, 2008.
7. All documents concerning Your disclosure of any Washington Mutual information, or disclosure of any information about Washington Mutual, to any Governmental Unit, the media, ratings agencies, investors, and/or any other third parties.

8. All documents concerning JPMC's disclosure of any Washington Mutual information, or disclosure of any information about Washington Mutual, to any Governmental Unit, the media, ratings agencies, investors, and/or any other third parties.

9. All documents concerning any agreement between JPMC and Washington Mutual concerning access to and/or disclosure of non-public, confidential or proprietary information in connection with a potential transaction in which JPMC would acquire, merge with, or invest in Washington Mutual.

10. All documents concerning JPMC's access to Washington Mutual data, including but not limited to (a) JPMC due diligence of Washington Mutual and/or (b) any effort by JPMC to place "moles" at Washington Mutual for the purpose of obtaining confidential Washington Mutual information, which JPMC used "to bargain and work with federal regulators for the seizure and sale of Washington Mutual's assets," *see* Texas Action Complaint at ¶ 32, including JPMC's placement of former JPMC employees at Washington Mutual, including but not limited to, the placement or employment of Stephen J. Rotella, Steve Fortunato, Taj Bindra, John Berens, Youyi Chen, and Bill Murray, *see id.* at ¶ 38.

11. All documents concerning JPMC's interest in any potential Transaction and any attempt by JPMC to engage in any potential Transaction, including but not limited to any actual, potential, or contemplated bid or offer by JPMC to merge with, invest in, or purchase Washington Mutual, including but not limited to (a) Washington Mutual's rejection of JPMC's offer to merge with, invest in, or acquire Washington Mutual in or about April 2008, (b) capital contributions or investments received by JPMC in connection with any potential Transaction in or about September 2008, and/or (c) any agreement or arrangement between JPMC and any Government Unit, including but not limited to the FDIC, OTS, OCC, the Federal Reserve, SEC

and/or the U.S. Department of the Treasury, concerning any potential transaction in which JPMC might or did acquire WMB, or any stake or portion of WMB.

12. All documents concerning any meetings and/or communications between Washington Mutual and any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, SEC, Federal Reserve, and U.S. Congress, including (a) any meetings between OTS and WMI on or about April 5, 2008, (b) any meetings between Washington Mutual, OTS, and the FDIC on or about July 31, 2008, and/or (c) any communications with or among U.S. Treasury Secretary Hank Paulson and WMI Chairman and CEO Kerry Killinger and/or JPMC President and CEO Jamie Dimon regarding Washington Mutual.

13. All documents concerning any potential or actual regulatory and/or supervisory actions, ratings, or examinations directed toward or taken with respect to Washington Mutual by any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, SEC, Federal Reserve, and U.S. Congress, including but not limited to (a) OTS's decision to initiate discussions about Memorandums of Understanding with WMI and WMB, (b) the Memorandums of Understanding OTS issued to WMI and WMB on or about September 7, 2008, (c) any regulatory classification of Washington Mutual by the OTS, including without limitation any decision by OTS to classify WMB as a "problem institution," and/or (d) U.S. Treasury Secretary Henry Paulson's "RTC plan" concerning Washington Mutual.

14. All documents concerning Washington Mutual's responses or potential responses to any regulatory and/or supervisory actions, ratings, or examinations by any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, SEC, Federal Reserve, and U.S. Congress.

15. All documents concerning Washington Mutual's efforts to raise capital and/or locate a potential merger partner or acquiror, including without limitation (a) any actual or possible acquisition or investment by any entity of any stake in Washington Mutual, including any communications with or among Banco Santander, Blackstone, Carlyle, Cerberus, Citigroup, JPMC, Oak Hill, TPG, TD Bank, and/or Wells Fargo and their affiliates; (b) any efforts to raise capital through the issuance of debt securities in December 2007 (including the issuance of approximately \$3 billion of debt securities on or about December 17, 2007); (c) any actual, potential, or contemplated bids for Washington Mutual and/or the bidding process for Washington Mutual; (d) TPG's investment of about \$7.2 billion into Washington Mutual on or about April 7, 2008; and/or (e) any efforts to raise capital and/or locate a potential merger partner or acquiror in September 2008, including any efforts by Goldman Sachs and/or Morgan Stanley on Washington Mutual's behalf.

16. All documents concerning the potential for WMB to be seized by OTS and the decision to seize WMB, as well as the potential for the FDIC to be appointed receiver of WMB and the decision to place WMB into receivership with the FDIC, including all documents concerning any communication from FDIC officials to JPMC in early September 2008, to inform JPMC in words or substance that "the FDIC was carefully monitoring [WMB] and that a seizure of its assets was likely" and that the FDIC "would want to immediately auction off [WMB's] assets." *See* Heidi N. Moore, *Deal Journal*, Wall St. J., Sept. 30, 2008, at C7.

17. All documents concerning any OCC indication to OTS, FDIC, and/or JPMC that "as the federal regulator of JPMorgan Chase . . . it will provide its approval of the transfer of assets and liabilities [of WMB to JPMC] on September 25, 2008." *See* FDIC Board of Directors Resolution Board of Directors Approving JPMC's Bid for WMB, at 4.

18. All documents concerning OTS's determination that "adverse publicity" caused WMB to "suffer[] significant cash outflows." *See* OTS Order 2008-36, dated September 25, 2008.

UNITED STATES BANKRUPTCY COURT

for the District of Delaware

In re: Washington Mutual, Inc., et. al.
Debtor

SUBPOENA FOR RULE 2004 EXAMINATION

Case No.* 08-12229 (MFW)

To: Moody's Investors Service
c/o The Corporation Trust Company,
2711 Centerville Road, Suite 400,
Wilmington, DE 19808

Chapter Chapter 11

YOU ARE COMMANDED to appear and testify at an examination under Rule 2004, Federal Rules of Bankruptcy Procedure, at the place, date, and time specified below. A copy of the court order authorizing the examination is attached.

PLACE OF TESTIMONY

DATE AND TIME

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

Please see First Request for Production of Documents, attached hereto as "Exhibit A."

PLACE
Elliott Greenleaf
1105 North Market Street, Suite 1700
Wilmington, DE 19801

DATE AND TIME

_____, 2010 5:00 p.m.

ISSUING OFFICER SIGNATURE AND TITLE

DATE

Neil R. Lapinski, Esq.

ISSUING OFFICER'S NAME, ADDRESS, AND PHONE NUMBER

Neil R. Lapinski, Esq.
Elliott Greenleaf

1105 North Market Street, Suite 1700
Wilmington, DE 19801
302-384-9400

* If the bankruptcy case is pending in a district other than the district in which the subpoena is issued, state the district under the case number.

PROOF OF SERVICE

SERVED	DATE	PLACE
SERVED ON (PRINT NAME)		MANNER OF SERVICE
SERVED BY (PRINT NAME)		TITLE

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____

DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), as amended on December 1, 2007, made applicable in cases under the Bankruptcy Code by Rule 9016, Federal Rules of Bankruptcy Procedure:

(c) Protecting a Person Subject to a Subpoena.

(1) **Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) **Command to Produce Materials or Permit Inspection.**

(A) **Appearance Not Required.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) **Objections.** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) **Quashing or Modifying a Subpoena.**

(A) **When Required.** On timely motion, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(ii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) **When Permitted.** To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development,

or commercial information;

(ii) disclosing an unretained expert's opinion or information that does

not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

(iii) a person who is neither a party nor a party's officer to incur

substantial expense to travel more than 100 miles to attend trial.

(C) **Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(d) Duties in Responding to a Subpoena.

(1) **Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

(A) **Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) **Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) **Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

(D) **Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) **Claiming Privilege or Protection.**

(A) **Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications,

or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) **Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) **Contempt.**

The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

Exhibit A

FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

DEFINITIONS

The following terms (whether or not capitalized) shall have the meanings set forth below:

1. "Adversary Proceedings" means or refers to the JPMC Adversary Proceeding and the Turnover Proceeding.
2. "And" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
3. "Any," "all" and "each" shall be construed broadly, and shall mean any, all, and each as necessary to bring within the scope of the discovery request all responses that otherwise could be construed to be outside of its scope.
4. "Banco Santander" means Banco Santander, S.A., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.
5. "Blackstone" means the Blackstone Group, L.P., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.
6. "Carlyle" means Carlyle Group LLC, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.
7. "Cerberus" means Cerberus Capital Management, L.P., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any

of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

8. "Chapter 11 case" means or refers to *In re Washington Mutual, Inc.*, No. 08-12229 (Bankr. D. Del) (MFW).

9. "Citigroup" means Citigroup, Inc. and Citibank, N.A., and all of their predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

10. "Communication" means any oral, written or electronic transmission of information, fact, opinion, belief, idea, statement, inquiry or otherwise, including without limitation any letter, correspondence, memorandum, electronic-mail message, note or meeting log, conversation, meeting, discussion, telephone call, facsimile, telegram, telex, conference or message.

11. "Concerning" means comprising, consisting of, concerning, referring to, reflecting, regarding, supporting, evidencing, relating to, prepared in connection with, used in preparation for, or being in any way legally, logically or factually concerned with the matter or document described, referred to or discussed.

12. "DC Action" refers to *Washington Mutual, Inc. and WMI Investment Corp. v. Federal Deposit Insurance Corporation*, No. 1:09-cv-00533 (D.D.C.).

13. "Document" is used in its broadest sense and mean and include any written or graphic matter or other means of preserving thought or expression and all tangible things from which information can be processed or transcribed, including the originals and all non-identical copies, whether different from the original by reason of any notation made on such copy or otherwise, including but not limited to, correspondence, memoranda, notes, messages, letters, telegrams, teletype, telefax, bulletins, meetings or other communications, interoffice and intraoffice telephone calls, diaries, chronological data, minutes, books, reports, studies, summaries, pamphlets, bulletins, printed matter, charts, ledgers, invoices, worksheets, receipts,

returns, computer printouts, prospectuses, financial statements, schedules, affidavits, contracts, cancelled checks, statements, transcripts, statistics, surveys, magazine or newspaper articles, releases (and any and all drafts, alterations and modifications, changes and amendments of any of the foregoing), graphic or aural records or representations of any kind (including without limitation photographs, microfiche, microfilm, videotape, records and motion pictures) and electronic, mechanical or electric records or representations of any kind (including without limitation tapes, cassettes, discs and records).

14. "FDIC" means or refers to the Federal Deposit Insurance Corporation, as receiver for Washington Mutual Bank, Henderson Nevada and in its corporate capacity.

15. "Federal Reserve" means the Board of Governors of the Federal Reserve System and the twelve Federal Banks; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

16. "Fitch" means Fitch Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

17. "Goldman Sachs" means The Goldman Sachs Group, Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

18. "Governmental Unit" has the meaning set forth at 11 U.S.C. § 101(27).

19. "Including" means including but not limited to the referenced subject.

20. "JPMC" means JPMorgan Chase Bank, National Association and JPMorgan Chase & Co., and any of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

21. "JPMC Adversary Proceeding" refers to *JPMorgan Chase Bank, National Association v. Washington Mutual, Inc., et al.*, Adversary Proceeding No. 09-50551 (Bankr. D. Del.).

22. "Lehman Brothers" means Lehman Brothers Holdings, Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

23. "Morgan Stanley" means Morgan Stanley, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

24. "Moody's" means Moody's Investors Service, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

25. "Oak Hill" means Oak Hill Capital Partners, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

26. "OCC" means the Office of the Comptroller of the Currency, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

27. "OTS" means the Office of Thrift Supervision, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

28. "RTC" means the Resolution Trust Corporation, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

29. "P&A Agreement" means or refers to the Purchase and Assumption Agreement, Whole Bank, among the Federal Deposit Insurance Corporation, as receiver of Washington Mutual Bank, Henderson, Nevada, the Federal Deposit Insurance Corporation and JPM, dated as of September 25, 2008.

30. "SEC" means the U.S. Securities and Exchange Commission and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

31. "S&P" means Standard and Poor's Corporation and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

32. "TD Bank" means TD Bank, N.A., and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

33. "Texas Action" refers to *American Nat'l Ins. Co., et al., v. JPMorgan Chase & Co., et al.*, Case No. 3:09-cv-00044 (S.D. Tex.), which has been transferred to the United States District Court for the District of Columbia.

34. "TPG" means TPG Capital (formerly Texas Pacific Group), and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

35. "TPG Transaction" means or refers to the investment of approximately \$7.2 billion into Washington Mutual on or about April 7, 2008, that was described by Washington Mutual in a Form 8-K filing dated April 7, 2008.

36. "Transaction" means or refers to any means by which JPMorgan Chase might obtain, receive or succeed to Washington Mutual's businesses or properties, or any portion thereof, or any transaction preliminary, preparatory or incident thereto, including any stock tender, stock purchase, asset purchase, assumption of deposit or other liabilities, merger, joint venture or partnership.

37. "Turnover Proceeding" means *WMI and WMI Investment Corp. v. JPMC*, No. 09-50934 (Bankr. D. Del.).

38. "U.S. Department of the Treasury" means or refers to the U.S. Department of the Treasury and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

39. "Washington Mutual" means or refers to WMI and WMB, and any and all of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on their behalf, any of their parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

40. "Wells Fargo" means Wells Fargo, N.A., and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

41. "WMB" means or refers to Washington Mutual Bank, Henderson, Nevada, and any and all of its current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

42. "WMB fsb" means or refers to Washington Mutual Bank, fsb, Utah, and any and all of its current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

43. "WMI" means or refers to Washington Mutual, Inc. and WMI Investment Corp. (collectively, the "Debtors") and any and all of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on their behalf, any of their parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

44. "You" means or refers to Moody's Investors Service, individually or collectively, to whom this subpoena is addressed, and any owner, director, officer, employee, agent, custodian, parent, subsidiary, affiliate, predecessor, successor, attorney, accountant, representative, and other Persons purporting to act on your behalf.

45. Any ambiguity in a discovery request shall be construed to bring within the scope of the discovery request all responses that otherwise could be construed to be outside of its scope.

INSTRUCTIONS

Each response must be made in accordance with the following instructions:

1. The responsive documents should be produced in the manner prescribed by the Federal Rules of Civil Procedure, as made applicable herein by the Federal Rules of Bankruptcy Procedure, including producing the requested documents as they are kept in the usual course of business or organized and labeled to correspond with the categories in the requests, and identifying the name of the person from whose files the documents were produced.

2. You are to produce the original and all non-identical copies, including all drafts, of each document requested. If you are not able to produce the original of any document, please produce the best available copy and all non-identical copies, including drafts.

3. Each request herein extends to all documents and communications in the possession, custody or control of you or anyone acting on your behalf. A document is deemed to be in your possession, custody, or control if it is in your physical custody, or if it is in the physical custody of any other person and you: (1) own such document in whole or in part; (2) have a right, by contract, statute or otherwise, to use, inspect, examine or copy such document on any terms; (3) have an understanding, express or implied, that you may use, inspect, examine, or copy such document on any terms; or (4) as a practical matter, have been able to use, inspect, examine, or copy such document when you sought to do so. If any requested document was, but no longer is, in your control, state the disposition of each such document.

4. Any reference in these document requests to an individual or person include any and all agents, advisors, employees, representatives, attorneys, successors-in-interest, and all other persons or entities acting in his, her, or its behalf or under his, her or its control.

5. If any document is withheld under any claim of privilege, including without limitation, attorney-client privilege and attorney work product, you should provide the following information with respect to such document:

- (1) The date of the document;
- (2) The title of the document;
- (3) The name of its author(s) or preparer(s) and an identification by employment and title of each such person;
- (4) The name of each person who was sent or furnished with, received, viewed or has custody of the document or a copy thereof together with an identification by employment and title of each such person;
- (5) The request to which the document relates;

- (6) The title and description of the document sufficient to identify it without revealing the information for which privilege is claimed;
- (7) The claim of privilege under which it is withheld; and
- (8) A description of the subject matter of the document in sufficient detail to support your contention that the document is privileged;

6. If, after exercising due diligence to secure them, you cannot provide some or any of the requested documents, so state and provide all documents to the extent possible, specifying the reason for your inability to produce the remainder of the documents, and stating whatever information or knowledge you have concerning each document not produced.

7. If any requested document or other document potentially relevant to this action is subject to destruction under any document retention or destruction program, the document(s) should be exempted from any scheduled destruction and should not be destroyed until the conclusion of this action or unless otherwise permitted by the Court.

8. If any document responsive to these requests is known to have existed and cannot now be located, or has been destroyed or discarded, set forth a complete statement of the circumstances surrounding such loss or destruction, including:

- (1) a description of the document, including the date, a summary of its contents and the identity of its author and the person(s) to whom it was sent or shown;
- (2) the last known custodian;
- (3) whether the document is missing or lost or was destroyed or discarded;
- (4) the date of loss, destruction or discard;
- (5) the manner of destruction or discard;
- (6) the reason(s) for destruction or discard;
- (7) the person(s) authorizing or carrying out such destruction or discard; and

(8) the efforts made to locate lost or misplaced documents.

9. If an objection is made to any request, state your objection and the ground or grounds with particularity in your written response. If an objection is made only to part of the request, identify that part in your written response and state your objection and the ground(s) therefor.

10. Each request shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive. Any request propounded in the singular shall also be read as if propounded in the plural and vice versa. Any request propounded in the present tense shall also be read as if propounded in the past tense and vice versa.

11. This request is a continuing one. If, after producing the requested documents, you obtain or become aware of any further documents responsive to this request, you are required to produce such additional documents. Supplemental responses should be served within thirty (30) days after such information or documents become known to you.

12. Unless otherwise specified, the time period covered by these requests is from January 1, 2007 to the present and shall encompass all documents and information relating in whole or in part to such period, or to events or circumstances during such period, even though dated, prepared, generated or received prior to that date.

REQUESTS FOR PRODUCTION OF DOCUMENTS

The Debtors request that Moody's produce the following documents in its possession, custody, or control:

1. All documents concerning, or communications with, Washington Mutual with respect to any entity's efforts to acquire all or part of Washington Mutual, and/or any of its substantial assets.
2. All documents concerning any communications with or among JPMC, the FDIC or any other Government Unit, other ratings agencies, the media, investors, and/or any third party regarding Washington Mutual.
3. All documents concerning any meetings with or among JPMC, the FDIC, and/or any third party regarding Washington Mutual.
4. All documents concerning any meetings with JPMC in or about March 2008, April 2008, and/or September 2008.
5. All documents, including any presentations, provided to You by JPMC, the FDIC, and/or any third party concerning Washington Mutual.
6. All documents concerning any analysis of WMI's and/or WMB's creditworthiness.
7. All documents concerning any actual or potential credit ratings for Washington Mutual and/or JPMC.
8. All documents concerning any actual or potential credit ratings for Washington Mutual and/or JPMC provided by You to JPMC in or about September 2008.
9. All documents concerning any consideration of downgrading, or decision to downgrade, the credit ratings of any Washington Mutual entity, whether regular or unscheduled.

10. All documents concerning any consideration of upgrading, or decision to upgrade, the credit ratings of any Washington Mutual entity, whether regular or unscheduled.

11. All documents concerning any consideration of taking no action, or any decisions to take no action, with respect to the credit ratings of any Washington Mutual entity, whether regular or unscheduled.

12. All documents concerning JPMC's disclosure of any Washington Mutual information, or disclosure of any information about Washington Mutual, to You or other ratings agencies, any Governmental Unit, the media, investors, and/or any third parties.

13. All documents concerning any effect JPMC's disclosure of any Washington Mutual information, or disclosure of any information about Washington Mutual had on any consideration or to decision to downgrade, upgrade, or take no action with respect to the credit ratings of any Washington Mutual entity, whether regular or unscheduled.

14. All documents, including communications with JPMC, concerning JPMC's consideration of and/or decision to negotiate, discuss, participate, or work with the FDIC in conjunction with any potential Transaction.

15. All documents, including communications with JPMC, concerning JPMC's consideration of and/or decision not to negotiate, discuss, participate, or work with Goldman Sachs and/or Morgan Stanley in conjunction with any potential Transaction.

16. All documents concerning the FDIC's bid process for Washington Mutual.

17. All documents concerning any effort by JPMC to negotiate, discuss, participate, or work with the FDIC "to design bidding parameters that would suit JPMC's needs, and which would rule out other potential bidders" and/or "to sell assets of Washington Mutual without an adequate or fair bidding process." *See Texas Action Complaint at ¶¶ 25, 32.*

18. All documents concerning Your and/or any other entity's access to Washington Mutual information, including any terms or conditions applicable to such access.

19. All documents concerning any due diligence concerning Washington Mutual.

20. All documents concerning Washington Mutual's efforts to raise capital and/or locate a potential merger partner or acquiror, including without limitation (a) any actual or possible acquisition, purchase, or investment by any entity of any stake in or portion of Washington Mutual; (b) any efforts to raise capital through the issuance of debt securities in December 2007 (including the issuance of approximately \$3 billion of debt securities on or about December 17, 2007); (c) any efforts to raise capital and/or locate a potential merger partner or acquiror during the first quarter of 2008; (d) TPG's investment of about \$7.2 billion into Washington Mutual on or about April 7, 2008; and/or (e) any efforts to raise capital and/or locate a potential merger partner or acquiror in September 2008, including any efforts by Goldman Sachs and/or Morgan Stanley on Washington Mutual's behalf.

21. All documents concerning any agreement between JPMC and Washington Mutual concerning access to and/or disclosure of non-public, confidential or proprietary information in connection with a potential transaction in which JPMC would acquire, merge with, or invest in Washington Mutual.

22. All documents concerning JPMC's access to Washington Mutual data, including but not limited to (a) JPMC due diligence of Washington Mutual and/or (b) any effort by JPMC to place "moles" at Washington Mutual for the purpose of obtaining confidential Washington Mutual information, which JPMC used "to bargain and work with federal regulators for the seizure and sale of Washington Mutual's assets," *see* Texas Action Complaint at ¶ 32, including JPMC's placement of former JPMC employees at Washington Mutual, including but not limited

to, the placement or employment of Stephen J. Rotella, Steve Fortunato, Taj Bindra, John Berens, Youyi Chen, and Bill Murray, *see id.* at ¶ 38.

23. All documents concerning any potential or actual regulatory and/or supervisory actions, ratings, or examinations directed toward or taken with respect to Washington Mutual by any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, Federal Reserve, and the SEC, including but not limited to (a) OTS's decision to initiate discussions about Memorandums of Understanding with WMI and WMB, (b) the Memorandums of Understanding OTS issued to WMI and WMB on or about September 7, 2008, (c) any regulatory classification of Washington Mutual by the OTS, including without limitation any decision by OTS to classify WMB as a "problem institution," and/or (d) U.S. Treasury Secretary Henry Paulson's "RTC plan" concerning Washington Mutual.

24. All documents concerning Washington Mutual's responses or potential responses to any regulatory and/or supervisory actions, ratings, or examinations by any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, and Federal Reserve.

25. All documents concerning the potential for WMB to be seized by OTS and the decision or plans to seize WMB, as well as the potential for the FDIC to be appointed receiver of WMB and the decision to place WMB into receivership with the FDIC, including all documents concerning any communication from FDIC officials to JPMC in early September 2008, to inform JPMC in words or substance that "the FDIC was carefully monitoring [WMB] and that a seizure of its assets was likely" and that the FDIC "would want to immediately auction off [WMB's] assets." *See* Heidi N. Moore, *Deal Journal*, Wall St. J., Sept. 30, 2008, at C7.

UNITED STATES BANKRUPTCY COURT

for the District of Delaware

In re: Washington Mutual, Inc., et. al.
Debtor

SUBPOENA FOR RULE 2004 EXAMINATION

Case No.* 08-12229 (MFW)

To: PricewaterhouseCoopers
c/o RL&F Service Corp
ONE RODNEY SQUARE 10TH FL. TENTH & KING STS.
P.O. BOX 551
Wilmington, DE 19801

Chapter Chapter 11

YOU ARE COMMANDED to appear and testify at an examination under Rule 2004, Federal Rules of Bankruptcy Procedure, at the place, date, and time specified below. A copy of the court order authorizing the examination is attached.

PLACE OF TESTIMONY

DATE AND TIME

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

Please see First Request for Production of Documents, attached hereto as "Exhibit A."

PLACE Elliott Greenleaf
1105 North Market Street, Suite 1700
Wilmington, DE 19801

DATE AND TIME

_____, 2010 5:00 p.m

ISSUING OFFICER SIGNATURE AND TITLE

DATE

Neil R. Lapinski, Esq.

ISSUING OFFICER'S NAME, ADDRESS, AND PHONE NUMBER Neil R. Lapinski, Esq. 1105 North Market Street, Suite 1700
Elliott Greenleaf Wilmington, DE 19801
(302) 384-9400

* If the bankruptcy case is pending in a district other than the district in which the subpoena is issued, state the district under the case number.

PROOF OF SERVICE

SERVED	DATE	PLACE
	SERVED ON (PRINT NAME)	
SERVED BY (PRINT NAME)		MANNER OF SERVICE
		TITLE

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____ DATE _____ SIGNATURE OF SERVER _____

ADDRESS OF SERVER _____

Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), as amended on December 1, 2007, made applicable in cases under the Bankruptcy Code by Rule 9016, Federal Rules of Bankruptcy Procedure:

(c) Protecting a Person Subject to a Subpoena.

(1) **Avoiding Undue Burden or Expense, Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) **Command to Produce Materials or Permit Inspection.**

(A) **Appearance Not Required.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) **Objections.** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) **Quashing or Modifying a Subpoena.**

(A) **When Required.** On timely motion, the issuing court must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) **When Permitted.** To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information;
- (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or
- (iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) **Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(d) Duties in Responding to a Subpoena.

(1) **Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

(A) **Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) **Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) **Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

(D) **Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) **Claiming Privilege or Protection.**

(A) **Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications,

or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) **Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) Contempt.

The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

Exhibit A

FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

DEFINITIONS

The following terms (whether or not capitalized) shall have the meanings set forth below:

1. "Adversary Proceedings" means or refers to the JPMC Adversary Proceeding and the Turnover Proceeding.
2. "And" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
3. "Any," "all" and "each" shall be construed broadly, and shall mean any, all, and each as necessary to bring within the scope of the discovery request all responses that otherwise could be construed to be outside of its scope.
4. "Chapter 11 case" means or refers to *In re Washington Mutual, Inc.*, No. 08-12229 (Bankr. D. Del).
5. "Communication" means any oral, written or electronic transmission of information, fact, opinion, belief, idea, statement, inquiry or otherwise, including without limitation any letter, correspondence, memorandum, electronic-mail message, note or meeting log, conversation, meeting, discussion, telephone call, facsimile, telegram, telex, conference or message.
6. "Concerning" means comprising, consisting of, concerning, referring to, reflecting, regarding, supporting, evidencing, relating to, prepared in connection with, used in preparation for, or being in any way legally, logically or factually concerned with the matter or document described, referred to or discussed.
7. "DC Action" refers to *Washington Mutual, Inc. and WMI Investment Corp. v. Federal Deposit Insurance Corporation*, No. 1:09-cv-00533 (D.D.C.).
8. "Document" is used in its broadest sense and mean and include any written or graphic matter or other means of preserving thought or expression and all tangible things from

which information can be processed or transcribed, including the originals and all non-identical copies, whether different from the original by reason of any notation made on such copy or otherwise, including but not limited to, correspondence, memoranda, notes, messages, letters, telegrams, teletype, telefax, bulletins, meetings or other communications, interoffice and intraoffice telephone calls, diaries, chronological data, minutes, books, reports, studies, summaries, pamphlets, bulletins, printed matter, charts, ledgers, invoices, worksheets, receipts, returns, computer printouts, prospectuses, financial statements, schedules, affidavits, contracts, cancelled checks, statements, transcripts, statistics, surveys, magazine or newspaper articles, releases (and any and all drafts, alterations and modifications, changes and amendments of any of the foregoing), graphic or aural records or representations of any kind (including without limitation photographs, microfiche, microfilm, videotape, records and motion pictures) and electronic, mechanical or electric records or representations of any kind (including without limitation tapes, cassettes, discs and records).

9. "FDIC" means or refers to the Federal Deposit Insurance Corporation, as receiver for Washington Mutual Bank, Henderson Nevada and in its corporate capacity.

10. "Federal Reserve" means the Board of Governors of the Federal Reserve System and the twelve Federal Banks; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

11. "Governmental Unit" has the meaning set forth at 11 U.S.C. § 101(27).

12. "Including" means including but not limited to the referenced subject.

13. "JPMC" means JPMorgan Chase Bank, National Association and JPMorgan Chase & Co., and any of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

14. "JPMC Adversary Proceeding" refers to *JPMorgan Chase Bank, National Association v. Washington Mutual, Inc., et al.*, Adversary Proceeding No. 09-50551 (Bankr. D. Del.).

15. "OCC" means the Office of the Comptroller of the Currency, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

16. "OTS" means the Office of Thrift Supervision, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

17. "RTC" means the Resolution Trust Corporation, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

18. "P&A Agreement" means or refers to the Purchase and Assumption Agreement, Whole Bank, among the Federal Deposit Insurance Corporation, as receiver of Washington Mutual Bank, Henderson, Nevada, the Federal Deposit Insurance Corporation and JPM, dated as of September 25, 2008.

19. "SEC" means the U.S. Securities and Exchange Commission and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

20. "Texas Action" refers to *American Nat'l Ins. Co., et al., v. JPMorgan Chase & Co., et al.*, Case No. 3:09-cv-00044 (S.D. Tex.), which has been transferred to the United States District Court for the District of Columbia.

21. "TPG" means TPG Capital (formerly Texas Pacific Group), and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

22. "TPG Transaction" means or refers to the investment of approximately \$7.2 billion into Washington Mutual on or about April 7, 2008, that was described by Washington Mutual in a Form 8-K filing dated April 7, 2008.

23. "Transaction" means or refers to any means by which JPMorgan Chase might obtain, receive or succeed to Washington Mutual's businesses or properties, or any portion thereof, or any transaction preliminary, preparatory or incident thereto, including any stock tender, stock purchase, asset purchase, assumption of deposit or other liabilities, merger, joint venture or partnership.

24. "Turnover Proceeding" means *WMI and WMI Investment Corp. v. JPMC*, No. 09-50934 (Bankr. D. Del.).

25. "U.S. Department of the Treasury" means or refers to the U.S. Department of the Treasury and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

26. "Washington Mutual" means or refers to WMI and WMB, and any and all of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on their behalf, any of their parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

27. "WMB" means or refers to Washington Mutual Bank, Henderson, Nevada, and any and all of its current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

28. "WMB fsb" means or refers to Washington Mutual Bank, fsb, Utah, and any and all of its current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on

its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

29. "WMI" means or refers to Washington Mutual, Inc. and WMI Investment Corp. (collectively, the "Debtors") and any and all of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on their behalf, any of their parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

30. "You" means or refers to PricewaterhouseCoopers, individually or collectively, to whom this subpoena is addressed, and any owner, director, officer, employee, agent, custodian, parent, subsidiary, affiliate, predecessor, successor, attorney, accountant, representative, and other Persons purporting to act on your behalf.

31. Any ambiguity in a discovery request shall be construed to bring within the scope of the discovery request all responses that otherwise could be construed to be outside of its scope.

INSTRUCTIONS

Each response must be made in accordance with the following instructions:

1. The responsive documents should be produced in the manner prescribed by the Federal Rules of Civil Procedure, as made applicable herein by the Federal Rules of Bankruptcy Procedure, including producing the requested documents as they are kept in the usual course of business or organized and labeled to correspond with the categories in the requests, and identifying the name of the person from whose files the documents were produced.

2. You are to produce the original and all non-identical copies, including all drafts, of each document requested. If you are not able to produce the original of any document, please produce the best available copy and all non-identical copies, including drafts.

3. Each request herein extends to all documents and communications in the possession, custody or control of you or anyone acting on your behalf. A document is deemed to

be in your possession, custody, or control if it is in your physical custody, or if it is in the physical custody of any other person and you: (1) own such document in whole or in part; (2) have a right, by contract, statute or otherwise, to use, inspect, examine or copy such document on any terms; (3) have an understanding, express or implied, that you may use, inspect, examine, or copy such document on any terms; or (4) as a practical matter, have been able to use, inspect, examine, or copy such document when you sought to do so. If any requested document was, but no longer is, in your control, state the disposition of each such document.

4. Any reference in these document requests to an individual or person include any and all agents, advisors, employees, representatives, attorneys, successors-in-interest, and all other persons or entities acting in his, her, or its behalf or under his, her or its control.

5. If any document is withheld under any claim of privilege, including without limitation, attorney-client privilege and attorney work product, you should provide the following information with respect to such document:

- (1) The date of the document;
- (2) The title of the document;
- (3) The name of its author(s) or preparer(s) and an identification by employment and title of each such person;
- (4) The name of each person who was sent or furnished with, received, viewed or has custody of the document or a copy thereof together with an identification by employment and title of each such person;
- (5) The request to which the document relates;
- (6) The title and description of the document sufficient to identify it without revealing the information for which privilege is claimed;
- (7) The claim of privilege under which it is withheld; and
- (8) A description of the subject matter of the document in sufficient detail to support your contention that the document is privileged;

6. If, after exercising due diligence to secure them, you cannot provide some or any of the requested documents, so state and provide all documents to the extent possible, specifying the reason for your inability to produce the remainder of the documents, and stating whatever information or knowledge you have concerning each document not produced.

7. If any requested document or other document potentially relevant to this action is subject to destruction under any document retention or destruction program, the document(s) should be exempted from any scheduled destruction and should not be destroyed until the conclusion of this action or unless otherwise permitted by the Court.

8. If any document responsive to these requests is known to have existed and cannot now be located, or has been destroyed or discarded, set forth a complete statement of the circumstances surrounding such loss or destruction, including:

- (1) a description of the document, including the date, a summary of its contents and the identity of its author and the person(s) to whom it was sent or shown;
- (2) the last known custodian;
- (3) whether the document is missing or lost or was destroyed or discarded;
- (4) the date of loss, destruction or discard;
- (5) the manner of destruction or discard;
- (6) the reason(s) for destruction or discard;
- (7) the person(s) authorizing or carrying out such destruction or discard; and
- (8) the efforts made to locate lost or misplaced documents.

9. If an objection is made to any request, state your objection and the ground or grounds with particularity in your written response. If an objection is made only to part of the request, identify that part in your written response and state your objection and the ground(s) therefor.

10. Each request shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive. Any request propounded in the singular shall also be read as if propounded in the plural and vice versa. Any request propounded in the present tense shall also be read as if propounded in the past tense and vice versa.

11. This request is a continuing one. If, after producing the requested documents, you obtain or become aware of any further documents responsive to this request, you are required to produce such additional documents. Supplemental responses should be served within thirty (30) days after such information or documents become known to you.

12. Unless otherwise specified, the time period covered by these requests is from January 1, 2007 to the present and shall encompass all documents and information relating in whole or in part to such period, or to events or circumstances during such period, even though dated, prepared, generated or received prior to that date.

REQUESTS FOR PRODUCTION OF DOCUMENTS

The Debtors request that PricewaterhouseCoopers produce the following documents in its possession, custody or control:

1. All documents concerning, or communications with, Washington Mutual with respect to any entity's efforts to acquire all or part of Washington Mutual, and/or any of its substantial assets.
2. All documents concerning communications with or among JPMC, the FDIC, the media, ratings agencies, investors, and/or any third party concerning Washington Mutual.
3. All documents concerning any assessment, evaluation, or analysis of Washington Mutual and/or JPMC.
4. All documents concerning any assessment, evaluation, or analysis of any actual, potential, or contemplated bid or offer by JPMC to merge with, invest in, or purchase Washington Mutual.
5. All documents concerning JPMC's disclosure of any Washington Mutual information, or disclosure of any information about Washington Mutual, to You, any Governmental Unit, the media, ratings agencies, investors, and/or any other third parties.
6. All documents concerning any agreement between JPMC and Washington Mutual concerning access to and/or disclosure of non-public, confidential or proprietary information in connection with a potential transaction in which JPMC would acquire, merge with, or invest in Washington Mutual.
7. All documents concerning JPMC's access to Washington Mutual data, including but not limited to (a) JPMC due diligence of Washington Mutual and/or (b) any effort by JPMC to place "moles" at Washington Mutual for the purpose of obtaining confidential Washington

Mutual information, which JPMC used "to bargain and work with federal regulators for the seizure and sale of Washington Mutual's assets," *see* Texas Action Complaint at ¶ 32, including JPMC's placement of former JPMC employees at Washington Mutual, including but not limited to, the placement or employment of Stephen J. Rotella, Steve Fortunato, Taj Bindra, John Berens, Youyi Chen, and Bill Murray, *see id.* at ¶ 38.

8. All documents concerning JPMC's interest in any potential Transaction and any attempt by JPMC to engage in any potential Transaction, including but not limited to any actual, potential, or contemplated bid or offer by JPMC to merge with, invest in, or purchase Washington Mutual, including but not limited to (a) Washington Mutual's rejection of JPMC's offer to merge with, invest in, or acquire Washington Mutual in or about April 2008, (b) capital contributions or investments received by JPMC in connection with any potential Transaction in or about September 2008, and/or (c) any agreement or arrangement between JPMC and any Government Unit, including but not limited to the FDIC, OTS, OCC, the Federal Reserve, SEC and/or the U.S. Department of the Treasury, concerning any potential transaction in which JPMC might or did acquire WMB, or any stake or portion of WMB.

9. All documents concerning any meetings and/or communications between JPMC and any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, SEC, and Federal Reserve, concerning Washington Mutual.

10. All documents concerning the potential for WMB to be seized by OTS and the decision to seize WMB, as well as the potential for the FDIC to be appointed receiver of WMB and the decision to place WMB into receivership with the FDIC, including all documents concerning any communication from FDIC officials to JPMC in early September 2008, to inform JPMC in words or substance that "the FDIC was carefully monitoring [WMB] and that a seizure

of its assets was likely" and that the FDIC "would want to immediately auction off [WMB's] assets." *See* Heidi N. Moore, *Deal Journal*, Wall St. J., Sept. 30, 2008, at C7.

UNITED STATES BANKRUPTCY COURT

for the District of Delaware

In re: Washington Mutual, Inc., et. al.
Debtor

SUBPOENA FOR RULE 2004 EXAMINATION

Case No.* 08-12229 (MFW)

To: Standard and Poor's Corporation
c/o The Prentice Hall Corporation System, Inc.,
2711 Centerville Road, Suite 400,
Wilmington, DE 19808

Chapter Chapter 11

YOU ARE COMMANDED to appear and testify at an examination under Rule 2004, Federal Rules of Bankruptcy Procedure, at the place, date, and time specified below. A copy of the court order authorizing the examination is attached.

PLACE OF TESTIMONY

DATE AND TIME

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

Please see First Request for Production of Documents, attached hereto as "Exhibit A."

PLACE Elliott Greenleaf
1105 North Market Street, Suite 1700
Wilmington, DE 19801

DATE AND TIME

_____, 2010 5:00 p.m.

ISSUING OFFICER SIGNATURE AND TITLE

DATE

ISSUING OFFICER'S NAME, ADDRESS, AND PHONE NUMBER

Neil R. Lapinski, Esq.
Elliott Greenleaf

1105 North Market Street, Suite 1700
Wilmington, DE 19801
(302) 384-9400

* If the bankruptcy case is pending in a district other than the district in which the subpoena is issued, state the district under the case number.

PROOF OF SERVICE

SERVED	DATE	PLACE	
	SERVED ON (PRINT NAME)		MANNER OF SERVICE
SERVED BY (PRINT NAME)		TITLE	

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____
DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), as amended on December 1, 2007, made applicable in cases under the Bankruptcy Code by Rule 9016, Federal Rules of Bankruptcy Procedure:

(c) Protecting a Person Subject to a Subpoena.

(1) **Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney’s fees — on a party or attorney who fails to comply.

(2) **Command to Produce Materials or Permit Inspection.**
(A) **Appearance Not Required.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) **Objections.** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.
(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party’s officer from significant expense resulting from compliance.

(3) **Quashing or Modifying a Subpoena.**
(A) **When Required.** On timely motion, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;
(ii) requires a person who is neither a party nor a party’s officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(ii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;
(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.
(B) **When Permitted.** To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information,
(ii) disclosing an unretained expert’s opinion or information that does not describe specific occurrences in dispute and results from the expert’s study that was not requested by a party; or

(iii) a person who is neither a party nor a party’s officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) **Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
(ii) ensures that the subpoenaed person will be reasonably compensated.

(d) Duties in Responding to a Subpoena.

(1) **Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

(A) **Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) **Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) **Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

(D) **Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) **Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and
(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) **Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) Contempt.

The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty’s failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

Exhibit A

FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

DEFINITIONS

The following terms (whether or not capitalized) shall have the meanings set forth below:

1. "Adversary Proceedings" means or refers to the JPMC Adversary Proceeding and the Turnover Proceeding.
2. "And" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
3. "Any," "all" and "each" shall be construed broadly, and shall mean any, all, and each as necessary to bring within the scope of the discovery request all responses that otherwise could be construed to be outside of its scope.
4. "Banco Santander" means Banco Santander, S.A., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.
5. "Blackstone" means the Blackstone Group, L.P., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.
6. "Carlyle" means Carlyle Group LLC, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.
7. "Cerberus" means Cerberus Capital Management, L.P., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any

of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

8. "Chapter 11 case" means or refers to *In re Washington Mutual, Inc.*, No. 08-12229 (Bankr. D. Del) (MFW).

9. "Citigroup" means Citigroup, Inc. and Citibank, N.A., and all of their predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

10. "Communication" means any oral, written or electronic transmission of information, fact, opinion, belief, idea, statement, inquiry or otherwise, including without limitation any letter, correspondence, memorandum, electronic-mail message, note or meeting log, conversation, meeting, discussion, telephone call, facsimile, telegram, telex, conference or message.

11. "Concerning" means comprising, consisting of, concerning, referring to, reflecting, regarding, supporting, evidencing, relating to, prepared in connection with, used in preparation for, or being in any way legally, logically or factually concerned with the matter or document described, referred to or discussed.

12. "DC Action" refers to *Washington Mutual, Inc. and WMI Investment Corp. v. Federal Deposit Insurance Corporation*, No. 1:09-cv-00533 (D.D.C.).

13. "Document" is used in its broadest sense and mean and include any written or graphic matter or other means of preserving thought or expression and all tangible things from which information can be processed or transcribed, including the originals and all non-identical copies, whether different from the original by reason of any notation made on such copy or otherwise, including but not limited to, correspondence, memoranda, notes, messages, letters, telegrams, teletype, telefax, bulletins, meetings or other communications, interoffice and intraoffice telephone calls, diaries, chronological data, minutes, books, reports, studies, summaries, pamphlets, bulletins, printed matter, charts, ledgers, invoices, worksheets, receipts,

returns, computer printouts, prospectuses, financial statements, schedules, affidavits, contracts, cancelled checks, statements, transcripts, statistics, surveys, magazine or newspaper articles, releases (and any and all drafts, alterations and modifications, changes and amendments of any of the foregoing), graphic or aural records or representations of any kind (including without limitation photographs, microfiche, microfilm, videotape, records and motion pictures) and electronic, mechanical or electric records or representations of any kind (including without limitation tapes, cassettes, discs and records).

14. "FDIC" means or refers to the Federal Deposit Insurance Corporation, as receiver for Washington Mutual Bank, Henderson Nevada and in its corporate capacity.

15. "Federal Reserve" means the Board of Governors of the Federal Reserve System and the twelve Federal Banks; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

16. "Fitch" means Fitch Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

17. "Goldman Sachs" means The Goldman Sachs Group, Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

18. "Governmental Unit" has the meaning set forth at 11 U.S.C. § 101(27).

19. "Including" means including but not limited to the referenced subject.

20. "JPMC" means JPMorgan Chase Bank, National Association and JPMorgan Chase & Co., and any of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

21. "JPMC Adversary Proceeding" refers to *JPMorgan Chase Bank, National Association v. Washington Mutual, Inc., et al.*, Adversary Proceeding No. 09-50551 (Bankr. D. Del.).

22. "Lehman Brothers" means Lehman Brothers Holdings, Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

23. "Morgan Stanley" means Morgan Stanley, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

24. "Moody's" means Moody's Investors Service, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

25. "Oak Hill" means Oak Hill Capital Partners, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

26. "OCC" means the Office of the Comptroller of the Currency, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

27. "OTS" means the Office of Thrift Supervision, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

28. "RTC" means the Resolution Trust Corporation, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

29. "P&A Agreement" means or refers to the Purchase and Assumption Agreement, Whole Bank, among the Federal Deposit Insurance Corporation, as receiver of Washington Mutual Bank, Henderson, Nevada, the Federal Deposit Insurance Corporation and JPM, dated as of September 25, 2008.

30. "SEC" means the U.S. Securities and Exchange Commission and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

31. "S&P" means Standard and Poor's Corporation and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

32. "TD Bank" means TD Bank, N.A., and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

33. "Texas Action" refers to *American Nat'l Ins. Co., et al., v. JPMorgan Chase & Co., et al.*, Case No. 3:09-cv-00044 (S.D. Tex.), which has been transferred to the United States District Court for the District of Columbia.

34. "TPG" means TPG Capital (formerly Texas Pacific Group), and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

35. "TPG Transaction" means or refers to the investment of approximately \$7.2 billion into Washington Mutual on or about April 7, 2008, that was described by Washington Mutual in a Form 8-K filing dated April 7, 2008.

36. "Transaction" means or refers to any means by which JPMorgan Chase might obtain, receive or succeed to Washington Mutual's businesses or properties, or any portion thereof, or any transaction preliminary, preparatory or incident thereto, including any stock tender, stock purchase, asset purchase, assumption of deposit or other liabilities, merger, joint venture or partnership.

37. "Turnover Proceeding" means *WMI and WMI Investment Corp. v. JPMC*, No. 09-50934 (Bankr. D. Del.).

38. "U.S. Department of the Treasury" means or refers to the U.S. Department of the Treasury and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

39. "Washington Mutual" means or refers to WMI and WMB, and any and all of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on their behalf, any of their parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

40. "Wells Fargo" means Wells Fargo, N.A., and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

41. "WMB" means or refers to Washington Mutual Bank, Henderson, Nevada, and any and all of its current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

42. "WMB fsb" means or refers to Washington Mutual Bank, fsb, Utah, and any and all of its current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

43. "WMI" means or refers to Washington Mutual, Inc. and WMI Investment Corp. (collectively, the "Debtors") and any and all of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on their behalf, any of their parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

44. "You" means or refers to Standard and Poor's Corporation, individually or collectively, to whom this subpoena is addressed, and any owner, director, officer, employee, agent, custodian, parent, subsidiary, affiliate, predecessor, successor, attorney, accountant, representative, and other Persons purporting to act on your behalf.

45. Any ambiguity in a discovery request shall be construed to bring within the scope of the discovery request all responses that otherwise could be construed to be outside of its scope.

INSTRUCTIONS

Each response must be made in accordance with the following instructions:

1. The responsive documents should be produced in the manner prescribed by the Federal Rules of Civil Procedure, as made applicable herein by the Federal Rules of Bankruptcy Procedure, including producing the requested documents as they are kept in the usual course of business or organized and labeled to correspond with the categories in the requests, and identifying the name of the person from whose files the documents were produced.

2. You are to produce the original and all non-identical copies, including all drafts, of each document requested. If you are not able to produce the original of any document, please produce the best available copy and all non-identical copies, including drafts.

3. Each request herein extends to all documents and communications in the possession, custody or control of you or anyone acting on your behalf. A document is deemed to be in your possession, custody, or control if it is in your physical custody, or if it is in the physical custody of any other person and you: (1) own such document in whole or in part; (2) have a right, by contract, statute or otherwise, to use, inspect, examine or copy such document on any terms; (3) have an understanding, express or implied, that you may use, inspect, examine, or copy such document on any terms; or (4) as a practical matter, have been able to use, inspect, examine, or copy such document when you sought to do so. If any requested document was, but no longer is, in your control, state the disposition of each such document.

4. Any reference in these document requests to an individual or person include any and all agents, advisors, employees, representatives, attorneys, successors-in-interest, and all other persons or entities acting in his, her, or its behalf or under his, her or its control.

5. If any document is withheld under any claim of privilege, including without limitation, attorney-client privilege and attorney work product, you should provide the following information with respect to such document:

- (1) The date of the document;
- (2) The title of the document;
- (3) The name of its author(s) or preparer(s) and an identification by employment and title of each such person;
- (4) The name of each person who was sent or furnished with, received, viewed or has custody of the document or a copy thereof together with an identification by employment and title of each such person;
- (5) The request to which the document relates;

- (6) The title and description of the document sufficient to identify it without revealing the information for which privilege is claimed;
- (7) The claim of privilege under which it is withheld; and
- (8) A description of the subject matter of the document in sufficient detail to support your contention that the document is privileged;

6. If, after exercising due diligence to secure them, you cannot provide some or any of the requested documents, so state and provide all documents to the extent possible, specifying the reason for your inability to produce the remainder of the documents, and stating whatever information or knowledge you have concerning each document not produced.

7. If any requested document or other document potentially relevant to this action is subject to destruction under any document retention or destruction program, the document(s) should be exempted from any scheduled destruction and should not be destroyed until the conclusion of this action or unless otherwise permitted by the Court.

8. If any document responsive to these requests is known to have existed and cannot now be located, or has been destroyed or discarded, set forth a complete statement of the circumstances surrounding such loss or destruction, including:

- (1) a description of the document, including the date, a summary of its contents and the identity of its author and the person(s) to whom it was sent or shown;
- (2) the last known custodian;
- (3) whether the document is missing or lost or was destroyed or discarded;
- (4) the date of loss, destruction or discard;
- (5) the manner of destruction or discard;
- (6) the reason(s) for destruction or discard;
- (7) the person(s) authorizing or carrying out such destruction or discard; and

(8) the efforts made to locate lost or misplaced documents.

9. If an objection is made to any request, state your objection and the ground or grounds with particularity in your written response. If an objection is made only to part of the request, identify that part in your written response and state your objection and the ground(s) therefor.

10. Each request shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive. Any request propounded in the singular shall also be read as if propounded in the plural and vice versa. Any request propounded in the present tense shall also be read as if propounded in the past tense and vice versa.

11. This request is a continuing one. If, after producing the requested documents, you obtain or become aware of any further documents responsive to this request, you are required to produce such additional documents. Supplemental responses should be served within thirty (30) days after such information or documents become known to you.

12. Unless otherwise specified, the time period covered by these requests is from January 1, 2007 to the present and shall encompass all documents and information relating in whole or in part to such period, or to events or circumstances during such period, even though dated, prepared, generated or received prior to that date.

REQUESTS FOR PRODUCTION OF DOCUMENTS

The Debtors request that S&P produce the following documents in its possession, custody, or control:

1. All documents concerning, or communications with, Washington Mutual with respect to any entity's efforts to acquire all or part of Washington Mutual, and/or any of its substantial assets.
2. All documents concerning any communications with or among JPMC, the FDIC or any other Government Unit, other ratings agencies, the media, investors, and/or any third party regarding Washington Mutual.
3. All documents concerning any meetings with or among JPMC, the FDIC, and/or any third party regarding Washington Mutual.
4. All documents concerning any meetings with JPMC in or about March 2008, April 2008, and/or September 2008.
5. All documents, including any presentations, provided to You by JPMC, the FDIC, and/or any third party concerning Washington Mutual.
6. All documents concerning any analysis of WMI's and/or WMB's creditworthiness.
7. All documents concerning any actual or potential credit ratings for Washington Mutual and/or JPMC.
8. All documents concerning any actual or potential credit ratings for Washington Mutual and/or JPMC provided by You to JPMC in or about September 2008.
9. All documents concerning any consideration of downgrading, or decision to downgrade, the credit ratings of any Washington Mutual entity, whether regular or unscheduled.

10. All documents concerning any consideration of upgrading, or decision to upgrade, the credit ratings of any Washington Mutual entity, whether regular or unscheduled.

11. All documents concerning any consideration of taking no action, or any decisions to take no action, with respect to the credit ratings of any Washington Mutual entity, whether regular or unscheduled.

12. All documents concerning JPMC's disclosure of any Washington Mutual information, or disclosure of any information about Washington Mutual, to You or other ratings agencies, any Governmental Unit, the media, investors, and/or any third parties.

13. All documents concerning any effect JPMC's disclosure of any Washington Mutual information, or disclosure of any information about Washington Mutual had on any consideration or to decision to downgrade, upgrade, or take no action with respect to the credit ratings of any Washington Mutual entity, whether regular or unscheduled.

14. All documents, including communications with JPMC, concerning JPMC's consideration of and/or decision to negotiate, discuss, participate, or work with the FDIC in conjunction with any potential Transaction.

15. All documents, including communications with JPMC, concerning JPMC's consideration of and/or decision not to negotiate, discuss, participate, or work with Goldman Sachs and/or Morgan Stanley in conjunction with any potential Transaction.

16. All documents concerning the FDIC's bid process for Washington Mutual.

17. All documents concerning any effort by JPMC to negotiate, discuss, participate, or work with the FDIC "to design bidding parameters that would suit JPMC's needs, and which would rule out other potential bidders" and/or "to sell assets of Washington Mutual without an adequate or fair bidding process." *See Texas Action Complaint at ¶¶ 25, 32.*

18. All documents concerning Your and/or any other entity's access to Washington Mutual information, including any terms or conditions applicable to such access.

19. All documents concerning any due diligence concerning Washington Mutual.

20. All documents concerning Washington Mutual's efforts to raise capital and/or locate a potential merger partner or acquiror, including without limitation (a) any actual or possible acquisition, purchase, or investment by any entity of any stake in or portion of Washington Mutual; (b) any efforts to raise capital through the issuance of debt securities in December 2007 (including the issuance of approximately \$3 billion of debt securities on or about December 17, 2007); (c) any efforts to raise capital and/or locate a potential merger partner or acquiror during the first quarter of 2008; (d) TPG's investment of about \$7.2 billion into Washington Mutual on or about April 7, 2008; and/or (e) any efforts to raise capital and/or locate a potential merger partner or acquiror in September 2008, including any efforts by Goldman Sachs and/or Morgan Stanley on Washington Mutual's behalf.

21. All documents concerning any agreement between JPMC and Washington Mutual concerning access to and/or disclosure of non-public, confidential or proprietary information in connection with a potential transaction in which JPMC would acquire, merge with, or invest in Washington Mutual.

22. All documents concerning JPMC's access to Washington Mutual data, including but not limited to (a) JPMC due diligence of Washington Mutual and/or (b) any effort by JPMC to place "moles" at Washington Mutual for the purpose of obtaining confidential Washington Mutual information, which JPMC used "to bargain and work with federal regulators for the seizure and sale of Washington Mutual's assets," *see* Texas Action Complaint at ¶ 32, including JPMC's placement of former JPMC employees at Washington Mutual, including but not limited

to, the placement or employment of Stephen J. Rotella, Steve Fortunato, Taj Bindra, John Berens, Youyi Chen, and Bill Murray, *see id.* at ¶ 38.

23. All documents concerning any potential or actual regulatory and/or supervisory actions, ratings, or examinations directed toward or taken with respect to Washington Mutual by any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, Federal Reserve, and the SEC, including but not limited to (a) OTS's decision to initiate discussions about Memorandums of Understanding with WMI and WMB, (b) the Memorandums of Understanding OTS issued to WMI and WMB on or about September 7, 2008, (c) any regulatory classification of Washington Mutual by the OTS, including without limitation any decision by OTS to classify WMB as a "problem institution," and/or (d) U.S. Treasury Secretary Henry Paulson's "RTC plan" concerning Washington Mutual.

24. All documents concerning Washington Mutual's responses or potential responses to any regulatory and/or supervisory actions, ratings, or examinations by any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, and Federal Reserve.

25. All documents concerning the potential for WMB to be seized by OTS and the decision or plans to seize WMB, as well as the potential for the FDIC to be appointed receiver of WMB and the decision to place WMB into receivership with the FDIC, including all documents concerning any communication from FDIC officials to JPMC in early September 2008, to inform JPMC in words or substance that "the FDIC was carefully monitoring [WMB] and that a seizure of its assets was likely" and that the FDIC "would want to immediately auction off [WMB's] assets." *See Heidi N. Moore, Deal Journal, Wall St. J., Sept. 30, 2008, at C7.*

Requests in Adversary Proceedings – Topics Other Than Business Torts – to Be Served via Subpoena

26. All documents concerning the financial condition, valuation, liquidity, balance sheet, asset quality, creditworthiness, capital adequacy, loan reserves, and/or solvency of Washington Mutual, WMI, WMB and WMB fsb, including all documents concerning any such information provided to You by JPMC, the FDIC, or any third parties.

27. All documents concerning the value of Washington Mutual, or any portion or assets thereof.

28. All documents concerning the financial operations of WMI, WMB, and/or WMB fsb.

29. All documents concerning any actual or contingent budget or business or financial plan for Washington Mutual, WMI, WMB or WMB fsb.

30. All documents concerning any statements or representations by WMI as a "source of strength" for WMB, including, but not limited to, any communications with any Government Unit or any auditor, investor, or rating agency.

31. All documents concerning Washington Mutual considering or actually filing for bankruptcy protection.

32. All documents concerning the P&A Agreement.

33. All documents concerning any assessment, evaluation, or analysis of the consideration provided and received by JPMC under the P&A Agreement, including but not limited to JPMC's assumption of any of WMB's assets and/or liabilities.

34. All documents concerning any assessment, evaluation, or analysis of the Purchase Price, including documents concerning JPMC's knowledge or consideration of the

relative value of the Purchase Price to the value of the net assets acquired pursuant to the P&A Agreement.

35. All documents concerning JPMC's statement in its Form 10-K for the period ending December 31, 2008 that "the fair value of the net assets [of WMB] acquired exceeded the purchase price. . . . "

36. All documents concerning JPMC's first quarter 2009 announcement that it stands to realize a \$29 billion gain on WMB assets it purchased pursuant to the P&A Transaction.

37. All documents concerning any of the Disputed Assets, including:

(a) any internal communications or communications with or among JPMC, Washington Mutual, and/or any third party related to the Disputed Assets;

(b) all documents concerning ownership of the Disputed Assets, including whether any of the Disputed Assets were owned by the Debtors, WMB, or WMB fsb; and

(c) all documents concerning JPMC's accounting treatment of the Disputed Assets.

38. For the period January 1, 2006 to date, all documents and communications concerning the Trust Securities, including OTS's declaration on or about September 25, 2008 that an Exchange Event had occurred.

39. All documents concerning the Deposit Accounts, including all documents concerning any assessment, evaluation, consideration, or analysis concerning whether the Deposit Accounts were owned by the Debtors, WMB, WMB fsb, JPMC, or by any other person or entity.

40. All documents concerning the Capital Contributions, including all documents concerning any assessment, evaluation, consideration, or analysis concerning whether the Capital

Contributions were owned by the Debtors, WMB, WMB fsb, JPMC, or by any other person or entity.

41. All documents concerning communications with Washington Mutual, JPMC, the FDIC, or any third party from September 25, 2008 to date concerning (a) the Chapter 11 case, (b) the DC Action, (c) the Adversary Proceedings, (d) the Texas Action (e) WMI's claims submitted in the FDIC receivership, or (f) other actual or potential proceedings against WMI and/or JPMC.

UNITED STATES BANKRUPTCY COURT

for the District of Delaware

In re: Washington Mutual, Inc., et. al.
Debtor

SUBPOENA FOR RULE 2004 EXAMINATION

Case No.* 08-12229 (MFW)

To: T.D. Bank, N.A. 2035 Limestone Road, Wilmington, DE 19808
c/o Alexander Bono
Duane Morris LLP
30 South 17th St
Philadelphia, PA 19103

Chapter Chapter 11

YOU ARE COMMANDED to appear and testify at an examination under Rule 2004, Federal Rules of Bankruptcy Procedure, at the place, date, and time specified below. A copy of the court order authorizing the examination is attached.

PLACE OF TESTIMONY

DATE AND TIME

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

Please see First Request for Production of Documents, attached hereto as "Exhibit A."

PLACE Elliott Greenleaf
1105 North Market Street, Suite 1700
Wilmington, DE 19801

DATE AND TIME

_____, 2010 5:00 p.m.

ISSUING OFFICER SIGNATURE AND TITLE

DATE

Neil R. Lapinski, Esq.

ISSUING OFFICER'S NAME, ADDRESS, AND PHONE NUMBER

Neil R. Lapinski, Esq.
Elliott Greenleaf

1105 North Market Street, Suite 1700
Wilmington, DE 19801
(302) 384-9400

* If the bankruptcy case is pending in a district other than the district in which the subpoena is issued, state the district under the case number.

PROOF OF SERVICE

SERVED	DATE	PLACE
SERVED ON (PRINT NAME)	MANNER OF SERVICE	
SERVED BY (PRINT NAME)	TITLE	

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____
DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), as amended on December 1, 2007, made applicable in cases under the Bankruptcy Code by Rule 9016, Federal Rules of Bankruptcy Procedure:

(c) Protecting a Person Subject to a Subpoena.

(1) **Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) **Appearance Not Required.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) **Objections.** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) **When Required.** On timely motion, the issuing court must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) **When Permitted.** To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information;
- (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or
- (iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) **Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(d) Duties in Responding to a Subpoena.

(1) **Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

(A) **Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) **Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) **Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

(D) **Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) **Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications,

or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) **Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) Contempt.

The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

Exhibit A

FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

DEFINITIONS

The following terms (whether or not capitalized) shall have the meanings set forth below:

1. "Adversary Proceedings" means or refers to the JPMC Adversary Proceeding and the Turnover Proceeding.
2. "And" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
3. "Any," "all" and "each" shall be construed broadly, and shall mean any, all, and each as necessary to bring within the scope of the discovery request all responses that otherwise could be construed to be outside of its scope.
4. "Banco Santander" means Banco Santander, S.A., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.
5. "Blackstone" means the Blackstone Group, L.P., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.
6. "Carlyle" means Carlyle Group LLC, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.
7. "Cerberus" means Cerberus Capital Management, L.P., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any

of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

8. "Chapter 11 case" means or refers to *In re Washington Mutual, Inc.*, No. 08-12229 (Bankr. D. Del) (MFW).

9. "Citigroup" means Citigroup, Inc. and Citibank, N.A., and all of their predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

10. "Communication" means any oral, written or electronic transmission of information, fact, opinion, belief, idea, statement, inquiry or otherwise, including without limitation any letter, correspondence, memorandum, electronic-mail message, note or meeting log, conversation, meeting, discussion, telephone call, facsimile, telegram, telex, conference or message.

11. "Concerning" means comprising, consisting of, concerning, referring to, reflecting, regarding, supporting, evidencing, relating to, prepared in connection with, used in preparation for, or being in any way legally, logically or factually concerned with the matter or document described, referred to or discussed.

12. "Document" is used in its broadest sense and mean and include any written or graphic matter or other means of preserving thought or expression and all tangible things from which information can be processed or transcribed, including the originals and all non-identical copies, whether different from the original by reason of any notation made on such copy or otherwise, including but not limited to, correspondence, memoranda, notes, messages, letters, telegrams, teletype, telefax, bulletins, meetings or other communications, interoffice and intraoffice telephone calls, diaries, chronological data, minutes, books, reports, studies, summaries, pamphlets, bulletins, printed matter, charts, ledgers, invoices, worksheets, receipts, returns, computer printouts, prospectuses, financial statements, schedules, affidavits, contracts, cancelled checks, statements, transcripts, statistics, surveys, magazine or newspaper articles,

releases (and any and all drafts, alterations and modifications, changes and amendments of any of the foregoing), graphic or aural records or representations of any kind (including without limitation photographs, microfiche, microfilm, videotape, records and motion pictures) and electronic, mechanical or electric records or representations of any kind (including without limitation tapes, cassettes, discs and records).

13. "FDIC" means or refers to the Federal Deposit Insurance Corporation, as receiver for Washington Mutual Bank, Henderson Nevada and in its corporate capacity.

14. "Federal Reserve" means the Board of Governors of the Federal Reserve System and the twelve Federal Banks; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

15. "Fitch" means Fitch Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

16. "Goldman Sachs" means The Goldman Sachs Group, Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

17. "Governmental Unit" has the meaning set forth at 11 U.S.C. § 101(27).

18. "Including" means including but not limited to the referenced subject.

19. "JPMC" means JPMorgan Chase Bank, National Association and JPMorgan Chase & Co., and any of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

20. "JPMC Adversary Proceeding" refers to *JPMorgan Chase Bank, National Association v. Washington Mutual, Inc., et al.*, Adversary Proceeding No. 09-50551 (Bankr. D. Del.).

21. "Lehman Brothers" means Lehman Brothers Holdings, Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

22. "Morgan Stanley" means Morgan Stanley, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

23. "Moody's" means Moody's Investors Service, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

24. "Oak Hill" means Oak Hill Capital Partners, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

25. "OCC" means the Office of the Comptroller of the Currency, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

26. "OTS" means the Office of Thrift Supervision, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

27. "RTC" means the Resolution Trust Corporation, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

28. "P&A Agreement" means or refers to the Purchase and Assumption Agreement, Whole Bank, among the Federal Deposit Insurance Corporation, as receiver of Washington Mutual Bank, Henderson, Nevada, the Federal Deposit Insurance Corporation and JPM, dated as of September 25, 2008.

29. "SEC" means the U.S. Securities and Exchange Commission and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

30. "S&P" means Standard and Poor's Corporation and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

31. "TD Bank" means TD Bank, N.A., and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

32. "Texas Action" refers to *American Nat'l Ins. Co., et al., v. JPMorgan Chase & Co., et al.*, Case No. 3:09-cv-00044 (S.D. Tex.), which has been transferred to the United States District Court for the District of Columbia.

33. "TPG" means TPG Capital (formerly Texas Pacific Group), and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

34. "TPG Transaction" means or refers to the investment of approximately \$7.2 billion into Washington Mutual on or about April 7, 2008, that was described by Washington Mutual in a Form 8-K filing dated April 7, 2008.

35. "Transaction" means or refers to any means by which JPMorgan Chase might obtain, receive or succeed to Washington Mutual's businesses or properties, or any portion thereof, or any transaction preliminary, preparatory or incident thereto, including any stock tender, stock purchase, asset purchase, assumption of deposit or other liabilities, merger, joint venture or partnership.

36. "Turnover Proceeding" means *WMI and WMI Investment Corp. v. JPMC*, No. 09-50934 (Bankr. D. Del.).

37. "U.S. Department of the Treasury" means or refers to the U.S. Department of the Treasury and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

38. "Washington DC Action" refers to *Washington Mutual, Inc. and WMI Investment Corp. v. Federal Deposit Insurance Corporation*, No. 1:09-cv-00533 (D.D.C.).

39. "Washington Mutual" means or refers to WMI and WMB, and any and all of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on their behalf, any of their parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

40. "Wells Fargo" means Wells Fargo, N.A., and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

41. "WMB" means or refers to Washington Mutual Bank, Henderson, Nevada, and any and all of its current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or

purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

42. "WMB fsb" means or refers to Washington Mutual Bank, fsb, Utah, and any and all of its current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

43. "WMI" means or refers to Washington Mutual, Inc. and WMI Investment Corp. (collectively, the "Debtors") and any and all of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on their behalf, any of their parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

44. "You" means or refers to TD Bank, N.A., individually or collectively, to whom this subpoena is addressed, and any owner, director, officer, employee, agent, custodian, parent, subsidiary, affiliate, predecessor, successor, attorney, accountant, representative, and other Persons purporting to act on your behalf.

45. Any ambiguity in a discovery request shall be construed to bring within the scope of the discovery request all responses that otherwise could be construed to be outside of its scope.

INSTRUCTIONS

Each response must be made in accordance with the following instructions:

1. The responsive documents should be produced in the manner prescribed by the Federal Rules of Civil Procedure, as made applicable herein by the Federal Rules of Bankruptcy Procedure, including producing the requested documents as they are kept in the usual course of business or organized and labeled to correspond with the categories in the requests, and identifying the name of the person from whose files the documents were produced.

2. You are to produce the original and all non-identical copies, including all drafts, of each document requested. If you are not able to produce the original of any document, please produce the best available copy and all non-identical copies, including drafts.

3. Each request herein extends to all documents and communications in the possession, custody or control of you or anyone acting on your behalf. A document is deemed to be in your possession, custody, or control if it is in your physical custody, or if it is in the physical custody of any other person and you: (1) own such document in whole or in part; (2) have a right, by contract, statute or otherwise, to use, inspect, examine or copy such document on any terms; (3) have an understanding, express or implied, that you may use, inspect, examine, or copy such document on any terms; or (4) as a practical matter, have been able to use, inspect, examine, or copy such document when you sought to do so. If any requested document was, but no longer is, in your control, state the disposition of each such document.

4. Any reference in these document requests to an individual or person include any and all agents, advisors, employees, representatives, attorneys, successors-in-interest, and all other persons or entities acting in his, her, or its behalf or under his, her or its control.

5. If any document is withheld under any claim of privilege, including without limitation, attorney-client privilege and attorney work product, you should provide the following information with respect to such document:

- (1) The date of the document;
- (2) The title of the document;
- (3) The name of its author(s) or preparer(s) and an identification by employment and title of each such person;
- (4) The name of each person who was sent or furnished with, received, viewed or has custody of the document or a copy thereof together with an identification by employment and title of each such person;
- (5) The request to which the document relates;

- (6) The title and description of the document sufficient to identify it without revealing the information for which privilege is claimed;
- (7) The claim of privilege under which it is withheld; and
- (8) A description of the subject matter of the document in sufficient detail to support your contention that the document is privileged;

6. If, after exercising due diligence to secure them, you cannot provide some or any of the requested documents, so state and provide all documents to the extent possible, specifying the reason for your inability to produce the remainder of the documents, and stating whatever information or knowledge you have concerning each document not produced.

7. If any requested document or other document potentially relevant to this action is subject to destruction under any document retention or destruction program, the document(s) should be exempted from any scheduled destruction and should not be destroyed until the conclusion of this action or unless otherwise permitted by the Court.

8. If any document responsive to these requests is known to have existed and cannot now be located, or has been destroyed or discarded, set forth a complete statement of the circumstances surrounding such loss or destruction, including:

- (1) a description of the document, including the date, a summary of its contents and the identity of its author and the person(s) to whom it was sent or shown;
- (2) the last known custodian;
- (3) whether the document is missing or lost or was destroyed or discarded;
- (4) the date of loss, destruction or discard;
- (5) the manner of destruction or discard;
- (6) the reason(s) for destruction or discard;
- (7) the person(s) authorizing or carrying out such destruction or discard; and

(8) the efforts made to locate lost or misplaced documents.

9. If an objection is made to any request, state your objection and the ground or grounds with particularity in your written response. If an objection is made only to part of the request, identify that part in your written response and state your objection and the ground(s) therefor.

10. Each request shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive. Any request propounded in the singular shall also be read as if propounded in the plural and vice versa. Any request propounded in the present tense shall also be read as if propounded in the past tense and vice versa.

11. This request is a continuing one. If, after producing the requested documents, you obtain or become aware of any further documents responsive to this request, you are required to produce such additional documents. Supplemental responses should be served within thirty (30) days after such information or documents become known to you.

12. Unless otherwise specified, the time period covered by these requests is from January 1, 2007 to the present and shall encompass all documents and information relating in whole or in part to such period, or to events or circumstances during such period, even though dated, prepared, generated or received prior to that date.

REQUESTS FOR PRODUCTION OF DOCUMENTS

The Debtors request that TD Bank, N.A., produce the following documents in its possession, custody or control:

1. All documents concerning, or communications with, Washington Mutual with respect to any entity's efforts to acquire all or part of Washington Mutual, and/or any of its substantial assets.
2. All documents concerning any Washington Mutual board of directors meeting attended by You.
3. All documents concerning any communications with or among JPMC, the FDIC, the media, ratings agencies, investors, and/or any third party regarding Washington Mutual.
4. All documents concerning Washington Mutual's efforts to raise capital and/or locate a potential merger partner or acquiror, including without limitation (a) any actual or possible acquisition, purchase, or investment by any entity of any stake in or portion of Washington Mutual; (b) any efforts to raise capital through the issuance of debt securities in December 2007 (including the issuance of approximately \$3 billion of debt securities on or about December 17, 2007); (c) any efforts to raise capital and/or locate a potential merger partner or acquiror during the first quarter of 2008; (d) TPG's investment of about \$7.2 billion into Washington Mutual on or about April 7, 2008; and/or (e) any efforts to raise capital and/or locate a potential merger partner or acquiror in September 2008, including any efforts by Goldman Sachs and/or Morgan Stanley on Washington Mutual's behalf.

5. All documents concerning any actual or possible merger with Washington Mutual, or any actual or possible purchase or investment by any entity of any stake in or portion of Washington Mutual.

6. All documents, including communications with or among Washington Mutual, JPMC, the FDIC, any Government Unit and/or any third party, concerning Your and/or any other entity's interest in merging with, investing in, or purchasing any stake in or portion of Washington Mutual.

7. All documents concerning JPMC's knowledge of Your and/or any other entity's interest in potentially merging with, investing in, or purchasing any stake in or portion of Washington Mutual.

8. All documents concerning any actual, potential, or contemplated bid, term sheet, offer, or other expression of interest from You and/or any other entity to merge with, invest in, or purchase any stake in or portion of Washington Mutual.

9. All documents concerning Washington Mutual's consideration or evaluation of any bid, term sheet, offer, or other expression of interest from You and/or any other entity to merge with, invest in, or purchase any stake in or portion of Washington Mutual.

10. All documents concerning Your and/or any other entity's access to Washington Mutual information.

11. All documents concerning any due diligence concerning Washington Mutual performed by You or any other entity.

12. All documents concerning Washington Mutual provided to You by JPMC, the FDIC, and/or any third party.

13. All documents concerning JPMC's disclosure of any Washington Mutual information, or disclosure of any information about Washington Mutual, to You, any Governmental Unit, the media, ratings agencies, investors, and/or any other third parties.

14. All documents concerning any effect JPMC's disclosure of any Washington Mutual information, or disclosure of any information about Washington Mutual had on any actual, potential, or contemplated bid, term sheet, offer, or other expression of interest to merge with, invest in, or purchase any stake in or portion of Washington Mutual.

15. All documents concerning any agreement between JPMC and Washington Mutual concerning access to and/or disclosure of non-public, confidential or proprietary information in connection with a potential transaction in which JPMC would acquire, merge with, or invest in Washington Mutual.

16. All documents concerning the FDIC's bid process for Washington Mutual, including (a) documents sufficient to demonstrate when You and/or any other entity first became aware of the FDIC's bid process for Washington Mutual, (b) Your or any other entity's consideration of whether to submit a bid, and/or (c) all documents concerning any draft, potential, or actual bids submitted to the FDIC.

17. All documents concerning any effort by JPMC to negotiate, discuss, participate, or work with the FDIC "to design bidding parameters that would suit JPMC's needs, and which would rule out other potential bidders" and/or "to sell assets of Washington Mutual without an adequate or fair bidding process." *See* Texas Action Complaint at ¶¶ 25, 32.

18. All documents concerning Citigroup's bid for Washington Mutual submitted to the FDIC on or about September 24, 2008.

19. All documents concerning the following statement, in form or in substance, from Citigroup to the FDIC: "We recognize that our approach does not conform to the bidding instructions for Washington Mutual. We believe, however, that our suggested approach will in fact provide greater systemic ability and lower losses than would any conforming bid. . . . [W]e would expect that, consistent with the FDIC's statutory obligation under the 'least-cost' test, this construct would be offered to all potential bidders in a new round of bidding." *See* Citigroup Bid Letter to FDIC, at 4.

20. All documents concerning the FDIC's analysis, evaluation, and/or consideration of any bids concerning Washington Mutual (including Citigroup's bid), including whether or not to open a new round of bidding.

21. All documents concerning the potential for WMB to be seized by OTS and the decision or plans to seize WMB, as well as the potential for the FDIC to be appointed receiver of WMB and the decision to place WMB into receivership with the FDIC, including all documents concerning any communication from FDIC officials to JPMC in early September 2008, to inform JPMC in words or substance that "the FDIC was carefully monitoring [WMB] and that a seizure of its assets was likely" and that the FDIC "would want to immediately auction off [WMB's] assets." *See* Heidi N. Moore, *Deal Journal*, Wall St. J., Sept. 30, 2008, at C7.

22. All documents concerning OTS's determination that "adverse publicity" caused WMB to "suffer[] significant cash outflows." *See* OTS Order 2008-36, dated September 25, 2008.

23. All documents concerning JPMC's access to Washington Mutual data, including but not limited to (a) JPMC due diligence of Washington Mutual and/or (b) any effort by JPMC to place "moles" at Washington Mutual for the purpose of obtaining confidential Washington

Mutual information, which JPMC used "to bargain and work with federal regulators for the seizure and sale of Washington Mutual's assets," *see* Texas Action Complaint at ¶ 32, including JPMC's placement of former JPMC employees at Washington Mutual, including but not limited to, the placement or employment of Stephen J. Rotella, Steve Fortunato, Taj Bindra, John Berens, Youyi Chen, and Bill Murray, *see id.* at ¶ 38.

24. All documents concerning JPMC's interest in any potential Transaction and any attempt by JPMC to engage in any potential Transaction, including but not limited to any actual, potential, or contemplated bid or offer by JPMC to merge with, invest in, or purchase Washington Mutual, including (a) Washington Mutual's rejection of JPMC's offer to merge with, invest in, or acquire Washington Mutual in or about April 2008, (b) capital contributions or investments received by JPMC in connection with any potential Transaction in or about September 2008, and/or (c) any agreement or arrangement with or among JPMC and any Government Unit, including but not limited to the FDIC, OTS, OCC, the Federal Reserve, the SEC, and/or the U.S. Department of the Treasury, concerning any potential transaction in which JPMC might or did acquire WMB, or any stake or portion of WMB.

25. All documents concerning any potential or actual regulatory and/or supervisory actions, ratings, or examinations directed toward or taken with respect to Washington Mutual by any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, the SEC, and Federal Reserve, including but not limited to (a) OTS's decision to initiate discussions about Memorandums of Understanding with WMI and WMB, (b) the Memorandums of Understanding OTS issued to WMI and WMB on or about September 7, 2008, (c) any regulatory classification of Washington Mutual by the OTS, including without limitation any decision by

OTS to classify WMB as a "problem institution," and/or (d) U.S. Treasury Secretary Henry Paulson's "RTC plan" concerning Washington Mutual.

26. All documents concerning Washington Mutual's responses or potential responses to any regulatory and/or supervisory actions, ratings, or examinations by any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, SEC, and Federal Reserve.

27. All documents concerning any meetings and/or communications between JPMC and any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, SEC, and Federal Reserve, concerning Washington Mutual including (a) any meetings on or about March 28, 2008, (b) any meetings between JPMC and the U.S. Department of the Treasury in April 2008, and/or (c) any meetings on or about July 18, 2008.

UNITED STATES BANKRUPTCY COURT

for the Southern District of New York

In re: Washington Mutual, Inc., et. al.
Debtor

SUBPOENA FOR RULE 2004 EXAMINATION

Case No. * 08-12229 (MFW) U.S. Bankruptcy Court for the District of Delaware

Chapter Chapter 11

To: Toronto Dominion Bank, 31 West 52nd Street, New York, NY 10019
c/o Alexander Bono
Duane Morris LLP
30 South 17th St
Philadelphia, PA 19103

YOU ARE COMMANDED to appear and testify at an examination under Rule 2004, Federal Rules of Bankruptcy Procedure, at the place, date, and time specified below. A copy of the court order authorizing the examination is attached.

PLACE OF TESTIMONY

DATE AND TIME

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

Please see First Request for Production of Documents, attached hereto as "Exhibit A."

PLACE Quinn Emanuel Urquhart Oliver & Hedges LLP
51 Madison Avenue, 22nd Floor
New York, NY 10010

DATE AND TIME

_____, 2010 5:00 p.m.

ISSUING OFFICER SIGNATURE AND TITLE

DATE

ISSUING OFFICER'S NAME, ADDRESS, AND PHONE NUMBER Neil R. Lapinski, Esq.
Elliott Greenleaf

1105 North Market Street, Suite 1700
Wilmington, DE 19801
(302) 384-9400

* If the bankruptcy case is pending in a district other than the district in which the subpoena is issued, state the district under the case number.

PROOF OF SERVICE

SERVED	DATE	PLACE
SERVED ON (PRINT NAME)	MANNER OF SERVICE	
SERVED BY (PRINT NAME)	TITLE	

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____

DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), as amended on December 1, 2007, made applicable in cases under the Bankruptcy Code by Rule 9016, Federal Rules of Bankruptcy Procedure:

(c) Protecting a Person Subject to a Subpoena.

(1) **Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) **Appearance Not Required.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) **Objections.** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.
(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) **When Required.** On timely motion, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;
(ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;
(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
(iv) subjects a person to undue burden.

(B) **When Permitted.** To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;
(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or
(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) **Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
(ii) ensures that the subpoenaed person will be reasonably compensated.

(d) Duties in Responding to a Subpoena.

(1) **Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

(A) **Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) **Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) **Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

(D) **Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) **Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and
(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) **Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) Contempt.

The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

Exhibit A

FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

DEFINITIONS

The following terms (whether or not capitalized) shall have the meanings set forth below:

1. "Adversary Proceedings" means or refers to the JPMC Adversary Proceeding and the Turnover Proceeding.
2. "And" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
3. "Any," "all" and "each" shall be construed broadly, and shall mean any, all, and each as necessary to bring within the scope of the discovery request all responses that otherwise could be construed to be outside of its scope.
4. "Banco Santander" means Banco Santander, S.A., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.
5. "Blackstone" means the Blackstone Group, L.P., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.
6. "Carlyle" means Carlyle Group LLC, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.
7. "Cerberus" means Cerberus Capital Management, L.P., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any

of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

8. "Chapter 11 case" means or refers to *In re Washington Mutual, Inc.*, No. 08-12229 (Bankr. D. Del) (MFW).

9. "Citigroup" means Citigroup, Inc. and Citibank, N.A., and all of their predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

10. "Communication" means any oral, written or electronic transmission of information, fact, opinion, belief, idea, statement, inquiry or otherwise, including without limitation any letter, correspondence, memorandum, electronic-mail message, note or meeting log, conversation, meeting, discussion, telephone call, facsimile, telegram, telex, conference or message.

11. "Concerning" means comprising, consisting of, concerning, referring to, reflecting, regarding, supporting, evidencing, relating to, prepared in connection with, used in preparation for, or being in any way legally, logically or factually concerned with the matter or document described, referred to or discussed.

12. "Document" is used in its broadest sense and mean and include any written or graphic matter or other means of preserving thought or expression and all tangible things from which information can be processed or transcribed, including the originals and all non-identical copies, whether different from the original by reason of any notation made on such copy or otherwise, including but not limited to, correspondence, memoranda, notes, messages, letters, telegrams, teletype, telefax, bulletins, meetings or other communications, interoffice and intraoffice telephone calls, diaries, chronological data, minutes, books, reports, studies, summaries, pamphlets, bulletins, printed matter, charts, ledgers, invoices, worksheets, receipts, returns, computer printouts, prospectuses, financial statements, schedules, affidavits, contracts, cancelled checks, statements, transcripts, statistics, surveys, magazine or newspaper articles,

releases (and any and all drafts, alterations and modifications, changes and amendments of any of the foregoing), graphic or aural records or representations of any kind (including without limitation photographs, microfiche, microfilm, videotape, records and motion pictures) and electronic, mechanical or electric records or representations of any kind (including without limitation tapes, cassettes, discs and records).

13. "FDIC" means or refers to the Federal Deposit Insurance Corporation, as receiver for Washington Mutual Bank, Henderson Nevada and in its corporate capacity.

14. "Federal Reserve" means the Board of Governors of the Federal Reserve System and the twelve Federal Banks; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

15. "Fitch" means Fitch Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

16. "Goldman Sachs" means The Goldman Sachs Group, Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

17. "Governmental Unit" has the meaning set forth at 11 U.S.C. § 101(27).

18. "Including" means including but not limited to the referenced subject.

19. "JPMC" means JPMorgan Chase Bank, National Association and JPMorgan Chase & Co., and any of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

20. "JPMC Adversary Proceeding" refers to *JPMorgan Chase Bank, National Association v. Washington Mutual, Inc., et al.*, Adversary Proceeding No. 09-50551 (Bankr. D. Del.).

21. "Lehman Brothers" means Lehman Brothers Holdings, Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

22. "Morgan Stanley" means Morgan Stanley, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

23. "Moody's" means Moody's Investors Service, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

24. "Oak Hill" means Oak Hill Capital Partners, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

25. "OCC" means the Office of the Comptroller of the Currency, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

26. "OTS" means the Office of Thrift Supervision, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

27. "RTC" means the Resolution Trust Corporation, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

28. "P&A Agreement" means or refers to the Purchase and Assumption Agreement, Whole Bank, among the Federal Deposit Insurance Corporation, as receiver of Washington Mutual Bank, Henderson, Nevada, the Federal Deposit Insurance Corporation and JPM, dated as of September 25, 2008.

29. "SEC" means the U.S. Securities and Exchange Commission and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

30. "S&P" means Standard and Poor's Corporation and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

31. "TD Bank" means TD Bank, N.A., and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

32. "Texas Action" refers to *American Nat'l Ins. Co., et al., v. JPMorgan Chase & Co., et al.*, Case No. 3:09-cv-00044 (S.D. Tex.), which has been transferred to the United States District Court for the District of Columbia.

33. "Toronto-Dominion Bank" means The Toronto-Dominion Bank and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

34. "TPG" means TPG Capital (formerly Texas Pacific Group), and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries,

divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

35. "TPG Transaction" means or refers to the investment of approximately \$7.2 billion into Washington Mutual on or about April 7, 2008, that was described by Washington Mutual in a Form 8-K filing dated April 7, 2008.

36. "Transaction" means or refers to any means by which JPMorgan Chase might obtain, receive or succeed to Washington Mutual's businesses or properties, or any portion thereof, or any transaction preliminary, preparatory or incident thereto, including any stock tender, stock purchase, asset purchase, assumption of deposit or other liabilities, merger, joint venture or partnership.

37. "Turnover Proceeding" means *WMI and WMI Investment Corp. v. JPMC*, No. 09-50934 (Bankr. D. Del.).

38. "U.S. Department of the Treasury" means or refers to the U.S. Department of the Treasury and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

39. "Washington DC Action" refers to *Washington Mutual, Inc. and WMI Investment Corp. v. Federal Deposit Insurance Corporation*, No. 1:09-cv-00533 (D.D.C.).

40. "Washington Mutual" means or refers to WMI and WMB, and any and all of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on their behalf, any of their parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

41. "Wells Fargo" means Wells Fargo, N.A., and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

42. "WMB" means or refers to Washington Mutual Bank, Henderson, Nevada, and any and all of its current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

43. "WMB fsb" means or refers to Washington Mutual Bank, fsb, Utah, and any and all of its current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

44. "WMI" means or refers to Washington Mutual, Inc. and WMI Investment Corp. (collectively, the "Debtors") and any and all of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on their behalf, any of their parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

45. "You" means or refers to Toronto-Dominion Bank, individually or collectively, to whom this subpoena is addressed, and any owner, director, officer, employee, agent, custodian, parent, subsidiary, affiliate, predecessor, successor, attorney, accountant, representative, and other Persons purporting to act on your behalf.

46. Any ambiguity in a discovery request shall be construed to bring within the scope of the discovery request all responses that otherwise could be construed to be outside of its scope.

INSTRUCTIONS

Each response must be made in accordance with the following instructions:

1. The responsive documents should be produced in the manner prescribed by the Federal Rules of Civil Procedure, as made applicable herein by the Federal Rules of Bankruptcy

Procedure, including producing the requested documents as they are kept in the usual course of business or organized and labeled to correspond with the categories in the requests, and identifying the name of the person from whose files the documents were produced.

2. You are to produce the original and all non-identical copies, including all drafts, of each document requested. If you are not able to produce the original of any document, please produce the best available copy and all non-identical copies, including drafts.

3. Each request herein extends to all documents and communications in the possession, custody or control of you or anyone acting on your behalf. A document is deemed to be in your possession, custody, or control if it is in your physical custody, or if it is in the physical custody of any other person and you: (1) own such document in whole or in part; (2) have a right, by contract, statute or otherwise, to use, inspect, examine or copy such document on any terms; (3) have an understanding, express or implied, that you may use, inspect, examine, or copy such document on any terms; or (4) as a practical matter, have been able to use, inspect, examine, or copy such document when you sought to do so. If any requested document was, but no longer is, in your control, state the disposition of each such document.

4. Any reference in these document requests to an individual or person include any and all agents, advisors, employees, representatives, attorneys, successors-in-interest, and all other persons or entities acting in his, her, or its behalf or under his, her or its control.

5. If any document is withheld under any claim of privilege, including without limitation, attorney-client privilege and attorney work product, you should provide the following information with respect to such document:

- (1) The date of the document;
- (2) The title of the document;
- (3) The name of its author(s) or preparer(s) and an identification by employment and title of each such person;

- (4) The name of each person who was sent or furnished with, received, viewed or has custody of the document or a copy thereof together with an identification by employment and title of each such person;
- (5) The request to which the document relates;
- (6) The title and description of the document sufficient to identify it without revealing the information for which privilege is claimed;
- (7) The claim of privilege under which it is withheld; and
- (8) A description of the subject matter of the document in sufficient detail to support your contention that the document is privileged;

6. If, after exercising due diligence to secure them, you cannot provide some or any of the requested documents, so state and provide all documents to the extent possible, specifying the reason for your inability to produce the remainder of the documents, and stating whatever information or knowledge you have concerning each document not produced.

7. If any requested document or other document potentially relevant to this action is subject to destruction under any document retention or destruction program, the document(s) should be exempted from any scheduled destruction and should not be destroyed until the conclusion of this action or unless otherwise permitted by the Court.

8. If any document responsive to these requests is known to have existed and cannot now be located, or has been destroyed or discarded, set forth a complete statement of the circumstances surrounding such loss or destruction, including:

- (1) a description of the document, including the date, a summary of its contents and the identity of its author and the person(s) to whom it was sent or shown;
- (2) the last known custodian;
- (3) whether the document is missing or lost or was destroyed or discarded;
- (4) the date of loss, destruction or discard;

- (5) the manner of destruction or discard;
- (6) the reason(s) for destruction or discard;
- (7) the person(s) authorizing or carrying out such destruction or discard; and
- (8) the efforts made to locate lost or misplaced documents.

9. If an objection is made to any request, state your objection and the ground or grounds with particularity in your written response. If an objection is made only to part of the request, identify that part in your written response and state your objection and the ground(s) therefor.

10. Each request shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive. Any request propounded in the singular shall also be read as if propounded in the plural and vice versa. Any request propounded in the present tense shall also be read as if propounded in the past tense and vice versa.

11. This request is a continuing one. If, after producing the requested documents, you obtain or become aware of any further documents responsive to this request, you are required to produce such additional documents. Supplemental responses should be served within thirty (30) days after such information or documents become known to you.

12. Unless otherwise specified, the time period covered by these requests is from January 1, 2007 to the present and shall encompass all documents and information relating in whole or in part to such period, or to events or circumstances during such period, even though dated, prepared, generated or received prior to that date.

REQUESTS FOR PRODUCTION OF DOCUMENTS

The Debtors request that Toronto-Dominion Bank produce the following documents in its possession, custody or control:

1. All documents concerning, or communications with, Washington Mutual with respect to any entity's efforts to acquire all or part of Washington Mutual, and/or any of its substantial assets.
2. All documents concerning any Washington Mutual board of directors meeting attended by You.
3. All documents concerning any communications with or among JPMC, the FDIC, the media, ratings agencies, investors, and/or any third party regarding Washington Mutual.
4. All documents concerning Washington Mutual's efforts to raise capital and/or locate a potential merger partner or acquiror, including without limitation (a) any actual or possible acquisition, purchase, or investment by any entity of any stake in or portion of Washington Mutual; (b) any efforts to raise capital through the issuance of debt securities in December 2007 (including the issuance of approximately \$3 billion of debt securities on or about December 17, 2007); (c) any efforts to raise capital and/or locate a potential merger partner or acquiror during the first quarter of 2008; (d) TPG's investment of about \$7.2 billion into Washington Mutual on or about April 7, 2008; and/or (e) any efforts to raise capital and/or locate a potential merger partner or acquiror in September 2008, including any efforts by Goldman Sachs and/or Morgan Stanley on Washington Mutual's behalf.

5. All documents concerning any actual or possible merger with Washington Mutual, or any actual or possible purchase or investment by any entity of any stake in or portion of Washington Mutual.

6. All documents, including communications with or among Washington Mutual, JPMC, the FDIC, any Government Unit and/or any third party, concerning Your and/or any other entity's interest in merging with, investing in, or purchasing any stake in or portion of Washington Mutual.

7. All documents concerning JPMC's knowledge of Your and/or any other entity's interest in potentially merging with, investing in, or purchasing any stake in or portion of Washington Mutual.

8. All documents concerning any actual, potential, or contemplated bid, term sheet, offer, or other expression of interest from You and/or any other entity to merge with, invest in, or purchase any stake in or portion of Washington Mutual.

9. All documents concerning Washington Mutual's consideration or evaluation of any bid, term sheet, offer, or other expression of interest from You and/or any other entity to merge with, invest in, or purchase any stake in or portion of Washington Mutual.

10. All documents concerning Your and/or any other entity's access to Washington Mutual information.

11. All documents concerning any due diligence concerning Washington Mutual performed by You or any other entity.

12. All documents concerning Washington Mutual provided to You by JPMC, the FDIC, and/or any third party.

13. All documents concerning JPMC's disclosure of any Washington Mutual information, or disclosure of any information about Washington Mutual, to You, any Governmental Unit, the media, ratings agencies, investors, and/or any other third parties.

14. All documents concerning any effect JPMC's disclosure of any Washington Mutual information, or disclosure of any information about Washington Mutual had on any actual, potential, or contemplated bid, term sheet, offer, or other expression of interest to merge with, invest in, or purchase any stake in or portion of Washington Mutual.

15. All documents concerning any agreement between JPMC and Washington Mutual concerning access to and/or disclosure of non-public, confidential or proprietary information in connection with a potential transaction in which JPMC would acquire, merge with, or invest in Washington Mutual.

16. All documents concerning the FDIC's bid process for Washington Mutual, including (a) documents sufficient to demonstrate when You and/or any other entity first became aware of the FDIC's bid process for Washington Mutual, (b) Your or any other entity's consideration of whether to submit a bid, and/or (c) all documents concerning any draft, potential, or actual bids submitted to the FDIC.

17. All documents concerning any effort by JPMC to negotiate, discuss, participate, or work with the FDIC "to design bidding parameters that would suit JPMC's needs, and which would rule out other potential bidders" and/or "to sell assets of Washington Mutual without an adequate or fair bidding process." *See* Texas Action Complaint at ¶¶ 25, 32.

18. All documents concerning Citigroup's bid for Washington Mutual submitted to the FDIC on or about September 24, 2008.

19. All documents concerning the following statement, in form or in substance, from Citigroup to the FDIC: "We recognize that our approach does not conform to the bidding instructions for Washington Mutual. We believe, however, that our suggested approach will in fact provide greater systemic ability and lower losses than would any conforming bid. . . . [W]e would expect that, consistent with the FDIC's statutory obligation under the 'least-cost' test, this construct would be offered to all potential bidders in a new round of bidding." *See* Citigroup Bid Letter to FDIC, at 4.

20. All documents concerning the FDIC's analysis, evaluation, and/or consideration of any bids concerning Washington Mutual (including Citigroup's bid), including whether or not to open a new round of bidding.

21. All documents concerning the potential for WMB to be seized by OTS and the decision or plans to seize WMB, as well as the potential for the FDIC to be appointed receiver of WMB and the decision to place WMB into receivership with the FDIC, including all documents concerning any communication from FDIC officials to JPMC in early September 2008, to inform JPMC in words or substance that "the FDIC was carefully monitoring [WMB] and that a seizure of its assets was likely" and that the FDIC "would want to immediately auction off [WMB's] assets." *See* Heidi N. Moore, *Deal Journal*, Wall St. J., Sept. 30, 2008, at C7.

22. All documents concerning OTS's determination that "adverse publicity" caused WMB to "suffer[] significant cash outflows." *See* OTS Order 2008-36, dated September 25, 2008.

23. All documents concerning JPMC's access to Washington Mutual data, including but not limited to (a) JPMC due diligence of Washington Mutual and/or (b) any effort by JPMC to place "moles" at Washington Mutual for the purpose of obtaining confidential Washington

Mutual information, which JPMC used "to bargain and work with federal regulators for the seizure and sale of Washington Mutual's assets," *see* Texas Action Complaint at ¶ 32, including JPMC's placement of former JPMC employees at Washington Mutual, including but not limited to, the placement or employment of Stephen J. Rotella, Steve Fortunato, Taj Bindra, John Berens, Youyi Chen, and Bill Murray, *see id.* at ¶ 38.

24. All documents concerning JPMC's interest in any potential Transaction and any attempt by JPMC to engage in any potential Transaction, including but not limited to any actual, potential, or contemplated bid or offer by JPMC to merge with, invest in, or purchase Washington Mutual, including (a) Washington Mutual's rejection of JPMC's offer to merge with, invest in, or acquire Washington Mutual in or about April 2008, (b) capital contributions or investments received by JPMC in connection with any potential Transaction in or about September 2008, and/or (c) any agreement or arrangement with or among JPMC and any Government Unit, including but not limited to the FDIC, OTS, OCC, the Federal Reserve, the SEC, and/or the U.S. Department of the Treasury, concerning any potential transaction in which JPMC might or did acquire WMB, or any stake or portion of WMB.

25. All documents concerning any potential or actual regulatory and/or supervisory actions, ratings, or examinations directed toward or taken with respect to Washington Mutual by any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, the SEC, and Federal Reserve, including but not limited to (a) OTS's decision to initiate discussions about Memorandums of Understanding with WMI and WMB, (b) the Memorandums of Understanding OTS issued to WMI and WMB on or about September 7, 2008, (c) any regulatory classification of Washington Mutual by the OTS, including without limitation any decision by

OTS to classify WMB as a "problem institution," and/or (d) U.S. Treasury Secretary Henry Paulson's "RTC plan" concerning Washington Mutual.

26. All documents concerning Washington Mutual's responses or potential responses to any regulatory and/or supervisory actions, ratings, or examinations by any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, SEC, and Federal Reserve.

27. All documents concerning any meetings and/or communications between JPMC and any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, SEC, and Federal Reserve, concerning Washington Mutual including (a) any meetings on or about March 28, 2008, (b) any meetings between JPMC and the U.S. Department of the Treasury in April 2008, and/or (c) any meetings on or about July 18, 2008.

UNITED STATES BANKRUPTCY COURT

for the District of Delaware

In re: Washington Mutual, Inc., et. al.
Debtor

SUBPOENA FOR RULE 2004 EXAMINATION

Case No.* 08-12229 (MFW)

To: Wells Fargo, N.A.
c/o Corporation Service Company
2711 Centerville Road, Suite 400
Wilmington, DE 19808

Chapter Chapter 11

YOU ARE COMMANDED to appear and testify at an examination under Rule 2004, Federal Rules of Bankruptcy Procedure, at the place, date, and time specified below. A copy of the court order authorizing the examination is attached.

PLACE OF TESTIMONY

DATE AND TIME

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

Please see First Request for Production of Documents, attached hereto as "Exhibit A."

PLACE Elliott Greenleaf
1105 North Market Street, Suite 1700
Wilmington, DE 19801

DATE AND TIME

_____, 2010 5:00 p.m.

ISSUING OFFICER SIGNATURE AND TITLE

DATE

Neil R. Lapinski, Esq.

ISSUING OFFICER'S NAME, ADDRESS, AND PHONE NUMBER

Neil R. Lapinski, Esq. 1105 North Market Street, Suite 1700
Elliott Greenleaf Wilmington, DE 19801
(302) 384-9400

* If the bankruptcy case is pending in a district other than the district in which the subpoena is issued, state the district under the case number.

PROOF OF SERVICE

SERVED	DATE	PLACE
SERVED ON (PRINT NAME)		MANNER OF SERVICE
SERVED BY (PRINT NAME)		TITLE

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____
DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), as amended on December 1, 2007, made applicable in cases under the Bankruptcy Code by Rule 9016, Federal Rules of Bankruptcy Procedure:

(c) Protecting a Person Subject to a Subpoena.

(1) **Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) **Appearance Not Required.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) **Objections.** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) **When Required.** On timely motion, the issuing court must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) **When Permitted.** To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information;
- (ii) disclosing an unretained expert's opinion or information that does not

describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

- (iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial

(C) **Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(d) Duties in Responding to a Subpoena.

(1) **Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

(A) **Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) **Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) **Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

(D) **Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) **Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications,

or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) **Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) Contempt.

The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

Exhibit A

FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

DEFINITIONS

The following terms (whether or not capitalized) shall have the meanings set forth below:

1. "Adversary Proceedings" means or refers to the JPMC Adversary Proceeding and the Turnover Proceeding.
2. "And" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
3. "Any," "all" and "each" shall be construed broadly, and shall mean any, all, and each as necessary to bring within the scope of the discovery request all responses that otherwise could be construed to be outside of its scope.
4. "Banco Santander" means Banco Santander, S.A., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.
5. "Blackstone" means the Blackstone Group, L.P., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.
6. "Carlyle" means Carlyle Group LLC, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.
7. "Cerberus" means Cerberus Capital Management, L.P., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any

of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

8. "Chapter 11 case" means or refers to *In re Washington Mutual, Inc.*, No. 08-12229 (Bankr. D. Del) (MFW).

9. "Citigroup" means Citigroup, Inc. and Citibank, N.A., and all of their predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

10. "Communication" means any oral, written or electronic transmission of information, fact, opinion, belief, idea, statement, inquiry or otherwise, including without limitation any letter, correspondence, memorandum, electronic-mail message, note or meeting log, conversation, meeting, discussion, telephone call, facsimile, telegram, telex, conference or message.

11. "Concerning" means comprising, consisting of, concerning, referring to, reflecting, regarding, supporting, evidencing, relating to, prepared in connection with, used in preparation for, or being in any way legally, logically or factually concerned with the matter or document described, referred to or discussed.

12. "Document" is used in its broadest sense and mean and include any written or graphic matter or other means of preserving thought or expression and all tangible things from which information can be processed or transcribed, including the originals and all non-identical copies, whether different from the original by reason of any notation made on such copy or otherwise, including but not limited to, correspondence, memoranda, notes, messages, letters, telegrams, teletype, telefax, bulletins, meetings or other communications, interoffice and intraoffice telephone calls, diaries, chronological data, minutes, books, reports, studies, summaries, pamphlets, bulletins, printed matter, charts, ledgers, invoices, worksheets, receipts, returns, computer printouts, prospectuses, financial statements, schedules, affidavits, contracts, cancelled checks, statements, transcripts, statistics, surveys, magazine or newspaper articles,

releases (and any and all drafts, alterations and modifications, changes and amendments of any of the foregoing), graphic or aural records or representations of any kind (including without limitation photographs, microfiche, microfilm, videotape, records and motion pictures) and electronic, mechanical or electric records or representations of any kind (including without limitation tapes, cassettes, discs and records).

13. "FDIC" means or refers to the Federal Deposit Insurance Corporation, as receiver for Washington Mutual Bank, Henderson Nevada and in its corporate capacity.

14. "Federal Reserve" means the Board of Governors of the Federal Reserve System and the twelve Federal Banks; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

15. "Fitch" means Fitch Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

16. "Goldman Sachs" means The Goldman Sachs Group, Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

17. "Governmental Unit" has the meaning set forth at 11 U.S.C. § 101(27).

18. "Including" means including but not limited to the referenced subject.

19. "JPMC" means JPMorgan Chase Bank, National Association and JPMorgan Chase & Co., and any of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

20. "JPMC Adversary Proceeding" refers to *JPMorgan Chase Bank, National Association v. Washington Mutual, Inc., et al.*, Adversary Proceeding No. 09-50551 (Bankr. D. Del.).

21. "Lehman Brothers" means Lehman Brothers Holdings, Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

22. "Morgan Stanley" means Morgan Stanley, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

23. "Moody's" means Moody's Investors Service, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

24. "Oak Hill" means Oak Hill Capital Partners, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

25. "OCC" means the Office of the Comptroller of the Currency, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

26. "OTS" means the Office of Thrift Supervision, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

27. "RTC" means the Resolution Trust Corporation, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

28. "P&A Agreement" means or refers to the Purchase and Assumption Agreement, Whole Bank, among the Federal Deposit Insurance Corporation, as receiver of Washington Mutual Bank, Henderson, Nevada, the Federal Deposit Insurance Corporation and JPM, dated as of September 25, 2008.

29. "SEC" means the U.S. Securities and Exchange Commission and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

30. "S&P" means Standard and Poor's Corporation and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

31. "TD Bank" means TD Bank, N.A., and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

32. "Texas Action" refers to *American Nat'l Ins. Co., et al., v. JPMorgan Chase & Co., et al.*, Case No. 3:09-cv-00044 (S.D. Tex.), which has been transferred to the United States District Court for the District of Columbia.

33. "TPG" means TPG Capital (formerly Texas Pacific Group), and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

34. "TPG Transaction" means or refers to the investment of approximately \$7.2 billion into Washington Mutual on or about April 7, 2008, that was described by Washington Mutual in a Form 8-K filing dated April 7, 2008.

35. "Transaction" means or refers to any means by which JPMorgan Chase might obtain, receive or succeed to Washington Mutual's businesses or properties, or any portion thereof, or any transaction preliminary, preparatory or incident thereto, including any stock tender, stock purchase, asset purchase, assumption of deposit or other liabilities, merger, joint venture or partnership.

36. "Turnover Proceeding" means *WMI and WMI Investment Corp. v. JPMC*, No. 09-50934 (Bankr. D. Del.).

37. "U.S. Department of the Treasury" means or refers to the U.S. Department of the Treasury and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

38. "Washington DC Action" refers to *Washington Mutual, Inc. and WMI Investment Corp. v. Federal Deposit Insurance Corporation*, No. 1:09-cv-00533 (D.D.C.).

39. "Washington Mutual" means or refers to WMI and WMB, and any and all of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on their behalf, any of their parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

40. "Wells Fargo" means Wells Fargo Bank, N.A., and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

41. "WMB" means or refers to Washington Mutual Bank, Henderson, Nevada, and any and all of its current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or

purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

42. "WMB fsb" means or refers to Washington Mutual Bank, fsb, Utah, and any and all of its current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

43. "WMI" means or refers to Washington Mutual, Inc. and WMI Investment Corp. (collectively, the "Debtors") and any and all of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on their behalf, any of their parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

44. "You" or "Your" means or refers to Wells Fargo Bank, N.A., individually or collectively, to whom this subpoena is addressed, and any owner, director, officer, employee, agent, custodian, parent, subsidiary, affiliate, predecessor, successor, attorney, accountant, representative, and other Persons purporting to act on your behalf.

45. Any ambiguity in a discovery request shall be construed to bring within the scope of the discovery request all responses that otherwise could be construed to be outside of its scope.

INSTRUCTIONS

Each response must be made in accordance with the following instructions:

1. The responsive documents should be produced in the manner prescribed by the Federal Rules of Civil Procedure, as made applicable herein by the Federal Rules of Bankruptcy Procedure, including producing the requested documents as they are kept in the usual course of business or organized and labeled to correspond with the categories in the requests, and identifying the name of the person from whose files the documents were produced.

2. You are to produce the original and all non-identical copies, including all drafts, of each document requested. If you are not able to produce the original of any document, please produce the best available copy and all non-identical copies, including drafts.

3. Each request herein extends to all documents and communications in the possession, custody or control of you or anyone acting on your behalf. A document is deemed to be in your possession, custody, or control if it is in your physical custody, or if it is in the physical custody of any other person and you: (1) own such document in whole or in part; (2) have a right, by contract, statute or otherwise, to use, inspect, examine or copy such document on any terms; (3) have an understanding, express or implied, that you may use, inspect, examine, or copy such document on any terms; or (4) as a practical matter, have been able to use, inspect, examine, or copy such document when you sought to do so. If any requested document was, but no longer is, in your control, state the disposition of each such document.

4. Any reference in these document requests to an individual or person include any and all agents, advisors, employees, representatives, attorneys, successors-in-interest, and all other persons or entities acting in his, her, or its behalf or under his, her or its control.

5. If any document is withheld under any claim of privilege, including without limitation, attorney-client privilege and attorney work product, you should provide the following information with respect to such document:

- (1) The date of the document;
- (2) The title of the document;
- (3) The name of its author(s) or preparer(s) and an identification by employment and title of each such person;
- (4) The name of each person who was sent or furnished with, received, viewed or has custody of the document or a copy thereof together with an identification by employment and title of each such person;
- (5) The request to which the document relates;

- (6) The title and description of the document sufficient to identify it without revealing the information for which privilege is claimed;
- (7) The claim of privilege under which it is withheld; and
- (8) A description of the subject matter of the document in sufficient detail to support your contention that the document is privileged;

6. If, after exercising due diligence to secure them, you cannot provide some or any of the requested documents, so state and provide all documents to the extent possible, specifying the reason for your inability to produce the remainder of the documents, and stating whatever information or knowledge you have concerning each document not produced.

7. If any requested document or other document potentially relevant to this action is subject to destruction under any document retention or destruction program, the document(s) should be exempted from any scheduled destruction and should not be destroyed until the conclusion of this action or unless otherwise permitted by the Court.

8. If any document responsive to these requests is known to have existed and cannot now be located, or has been destroyed or discarded, set forth a complete statement of the circumstances surrounding such loss or destruction, including:

- (1) a description of the document, including the date, a summary of its contents and the identity of its author and the person(s) to whom it was sent or shown;
- (2) the last known custodian;
- (3) whether the document is missing or lost or was destroyed or discarded;
- (4) the date of loss, destruction or discard;
- (5) the manner of destruction or discard;
- (6) the reason(s) for destruction or discard;
- (7) the person(s) authorizing or carrying out such destruction or discard; and

(8) the efforts made to locate lost or misplaced documents.

9. If an objection is made to any request, state your objection and the ground or grounds with particularity in your written response. If an objection is made only to part of the request, identify that part in your written response and state your objection and the ground(s) therefor.

10. Each request shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive. Any request propounded in the singular shall also be read as if propounded in the plural and vice versa. Any request propounded in the present tense shall also be read as if propounded in the past tense and vice versa.

11. This request is a continuing one. If, after producing the requested documents, you obtain or become aware of any further documents responsive to this request, you are required to produce such additional documents. Supplemental responses should be served within thirty (30) days after such information or documents become known to you.

12. Unless otherwise specified, the time period covered by these requests is from January 1, 2007 to the present and shall encompass all documents and information relating in whole or in part to such period, or to events or circumstances during such period, even though dated, prepared, generated or received prior to that date.

REQUESTS FOR PRODUCTION OF DOCUMENTS

The Debtors request that Wells Fargo Bank, N.A., produce the following documents in its possession, custody or control:

1. All documents concerning, or communications with, Washington Mutual with respect to any entity's efforts to acquire all or part of Washington Mutual, and/or any of its substantial assets, with the exception of any such documents or communications related to Your participation on The Official Committee of Unsecured Creditors of Washington Mutual, Inc. and WMI Investment Corp.¹
2. All documents concerning any Washington Mutual board of directors meeting attended by You.
3. All documents concerning any communications with or among JPMC, the FDIC, the media, ratings agencies, investors, and/or any third party regarding Washington Mutual.
4. All documents concerning Washington Mutual's efforts to raise capital and/or locate a potential merger partner or acquiror, including without limitation (a) any actual or possible acquisition, purchase, or investment by any entity of any stake in or portion of Washington Mutual; (b) any efforts to raise capital through the issuance of debt securities in December 2007 (including the issuance of approximately \$3 billion of debt securities on or about December 17, 2007); (c) any efforts to raise capital and/or locate a potential merger partner or acquiror during the first quarter of 2008; (d) TPG's investment of about \$7.2 billion into Washington Mutual on or about April 7, 2008; and/or (e) any efforts to raise capital and/or locate a potential merger partner or acquiror in September 2008, including any efforts by Goldman Sachs and/or Morgan Stanley on Washington Mutual's behalf.

¹ This exception applies to all requests herein.

5. All documents concerning any actual or possible merger with Washington Mutual, or any actual or possible purchase or investment by any entity of any stake in or portion of Washington Mutual.

6. All documents, including communications with or among Washington Mutual, JPMC, the FDIC, any Government Unit and/or any third party, concerning Your and/or any other entity's interest in merging with, investing in, or purchasing any stake in or portion of Washington Mutual.

7. All documents concerning JPMC's knowledge of Your and/or any other entity's interest in potentially merging with, investing in, or purchasing any stake in or portion of Washington Mutual.

8. All documents concerning any actual, potential, or contemplated bid, term sheet, offer, or other expression of interest from You and/or any other entity to merge with, invest in, or purchase any stake in or portion of Washington Mutual.

9. All documents concerning Washington Mutual's consideration or evaluation of any bid, term sheet, offer, or other expression of interest from You and/or any other entity to merge with, invest in, or purchase any stake in or portion of Washington Mutual.

10. All documents concerning Your and/or any other entity's access to Washington Mutual information.

11. All documents concerning any due diligence concerning Washington Mutual performed by You or any other entity.

12. All documents concerning Washington Mutual provided to You by JPMC, the FDIC, and/or any third party.

13. All documents concerning JPMC's disclosure of any Washington Mutual information, or disclosure of any information about Washington Mutual, to You, any Governmental Unit, the media, ratings agencies, investors, and/or any other third parties.

14. All documents concerning any effect JPMC's disclosure of any Washington Mutual information, or disclosure of any information about Washington Mutual had on any actual, potential, or contemplated bid, term sheet, offer, or other expression of interest to merge with, invest in, or purchase any stake in or portion of Washington Mutual.

15. All documents concerning any agreement between JPMC and Washington Mutual concerning access to and/or disclosure of non-public, confidential or proprietary information in connection with a potential transaction in which JPMC would acquire, merge with, or invest in Washington Mutual.

16. All documents concerning the FDIC's bid process for Washington Mutual, including (a) documents sufficient to demonstrate when You and/or any other entity first became aware of the FDIC's bid process for Washington Mutual, (b) Your or any other entity's consideration of whether to submit a bid, and/or (c) all documents concerning any draft, potential, or actual bids submitted to the FDIC.

17. All documents concerning any effort by JPMC to negotiate, discuss, participate, or work with the FDIC "to design bidding parameters that would suit JPMC's needs, and which would rule out other potential bidders" and/or "to sell assets of Washington Mutual without an adequate or fair bidding process." *See* Texas Action Complaint at ¶¶ 25, 32.

18. All documents concerning Citigroup's bid for Washington Mutual submitted to the FDIC on or about September 24, 2008.

19. All documents concerning the following statement, in form or in substance, from Citigroup to the FDIC: "We recognize that our approach does not conform to the bidding instructions for Washington Mutual. We believe, however, that our suggested approach will in fact provide greater systemic ability and lower losses than would any conforming bid. . . . [W]e would expect that, consistent with the FDIC's statutory obligation under the 'least-cost' test, this construct would be offered to all potential bidders in a new round of bidding." *See* Citigroup Bid Letter to FDIC, at 4.

20. All documents concerning the FDIC's analysis, evaluation, and/or consideration of any bids concerning Washington Mutual (including Citigroup's bid), including whether or not to open a new round of bidding.

21. All documents concerning the potential for WMB to be seized by OTS and the decision or plans to seize WMB, as well as the potential for the FDIC to be appointed receiver of WMB and the decision to place WMB into receivership with the FDIC, including all documents concerning any communication from FDIC officials to JPMC in early September 2008, to inform JPMC in words or substance that "the FDIC was carefully monitoring [WMB] and that a seizure of its assets was likely" and that the FDIC "would want to immediately auction off [WMB's] assets." *See* Heidi N. Moore, *Deal Journal*, Wall St. J., Sept. 30, 2008, at C7.

22. All documents concerning OTS's determination that "adverse publicity" caused WMB to "suffer[] significant cash outflows." *See* OTS Order 2008-36, dated September 25, 2008.

23. All documents concerning JPMC's access to Washington Mutual data, including but not limited to (a) JPMC due diligence of Washington Mutual and/or (b) any effort by JPMC to place "moles" at Washington Mutual for the purpose of obtaining confidential Washington

Mutual information, which JPMC used "to bargain and work with federal regulators for the seizure and sale of Washington Mutual's assets," *see* Texas Action Complaint at ¶ 32, including JPMC's placement of former JPMC employees at Washington Mutual, including but not limited to, the placement or employment of Stephen J. Rotella, Steve Fortunato, Taj Bindra, John Berens, Youyi Chen, and Bill Murray, *see id.* at ¶ 38.

24. All documents concerning JPMC's interest in any potential Transaction and any attempt by JPMC to engage in any potential Transaction, including but not limited to any actual, potential, or contemplated bid or offer by JPMC to merge with, invest in, or purchase Washington Mutual, including (a) Washington Mutual's rejection of JPMC's offer to merge with, invest in, or acquire Washington Mutual in or about April 2008, (b) capital contributions or investments received by JPMC in connection with any potential Transaction in or about September 2008, and/or (c) any agreement or arrangement with or among JPMC and any Government Unit, including but not limited to the FDIC, OTS, OCC, the Federal Reserve, the SEC, and/or the U.S. Department of the Treasury, concerning any potential transaction in which JPMC might or did acquire WMB, or any stake or portion of WMB.

25. All documents concerning any potential or actual regulatory and/or supervisory actions, ratings, or examinations directed toward or taken with respect to Washington Mutual by any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, the SEC, and Federal Reserve, including but not limited to (a) OTS's decision to initiate discussions about Memorandums of Understanding with WMI and WMB, (b) the Memorandums of Understanding OTS issued to WMI and WMB on or about September 7, 2008, (c) any regulatory classification of Washington Mutual by the OTS, including without limitation any decision by

OTS to classify WMB as a "problem institution," and/or (d) U.S. Treasury Secretary Henry Paulson's "RTC plan" concerning Washington Mutual.

26. All documents concerning Washington Mutual's responses or potential responses to any regulatory and/or supervisory actions, ratings, or examinations by any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, SEC, and Federal Reserve.

27. All documents concerning any meetings and/or communications between JPMC and any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, SEC, and Federal Reserve, concerning Washington Mutual including (a) any meetings on or about March 28, 2008, (b) any meetings between JPMC and the U.S. Department of the Treasury in April 2008, and/or (c) any meetings on or about July 18, 2008.

UNITED STATES BANKRUPTCY COURT

for the District of Columbia

In re: Washington Mutual, Inc., et. al.
Debtor

SUBPOENA FOR RULE 2004 EXAMINATION

Case No.* 08-12229 (MFW) U.S. Bankruptcy Court for the District of Delaware

To: Office of the Comptroller of the Currency
Director, Litigation Division
250 E Street, SW
Washington, DC 20219

Chapter Chapter 11

YOU ARE COMMANDED to appear and testify at an examination under Rule 2004, Federal Rules of Bankruptcy Procedure, at the place, date, and time specified below. A copy of the court order authorizing the examination is attached.

PLACE OF TESTIMONY

DATE AND TIME

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

Please see First Request for Production of Documents, attached hereto as "Exhibit A."

PLACE Weil, Gotshal & Manges, LLP
1300 Eye Street, NW, Suite 900
Washington, DC 20005

DATE AND TIME

_____, 2010 5:00 p.m.

ISSUING OFFICER SIGNATURE AND TITLE

DATE

ISSUING OFFICER'S NAME, ADDRESS, AND PHONE NUMBER

Neil R. Lapinski, Esq.
Elliott Greenleaf

1105 North Market Street, Suite 1700
Wilmington, DE 19801
(302) 384-9400

* If the bankruptcy case is pending in a district other than the district in which the subpoena is issued, state the district under the case number.

PROOF OF SERVICE

SERVED	DATE	PLACE	
	SERVED ON (PRINT NAME)		MANNER OF SERVICE
SERVED BY (PRINT NAME)		TITLE	

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____
DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), as amended on December 1, 2007, made applicable in cases under the Bankruptcy Code by Rule 9016, Federal Rules of Bankruptcy Procedure

(c) Protecting a Person Subject to a Subpoena.

(1) **Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) **Command to Produce Materials or Permit Inspection.**

(A) **Appearance Not Required.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) **Objections.** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) **Quashing or Modifying a Subpoena.**

(A) **When Required.** On timely motion, the issuing court must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) **When Permitted.** To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information;
- (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or
- (iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) **Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(d) Duties in Responding to a Subpoena.

(1) **Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

(A) **Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) **Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) **Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

(D) **Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) **Claiming Privilege or Protection.**

(A) **Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) **Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) Contempt.

The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

Exhibit A

FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

DEFINITIONS

The following terms (whether or not capitalized) shall have the meanings set forth below:

1. "Adversary Proceedings" means or refers to the JPMC Adversary Proceeding and the Turnover Proceeding.
2. "And" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
3. "Any," "all" and "each" shall be construed broadly, and shall mean any, all, and each as necessary to bring within the scope of the discovery request all responses that otherwise could be construed to be outside of its scope.
4. "Banco Santander" means Banco Santander, S.A., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.
5. "Blackstone" means the Blackstone Group, L.P., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.
6. "Carlyle" means Carlyle Group LLC, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.
7. "Cerberus" means Cerberus Capital Management, L.P., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any

of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

8. "Chapter 11 case" means or refers to *In re Washington Mutual, Inc.*, No. 08-12229 (Bankr. D. Del).

9. "Citigroup" means Citigroup, Inc. and Citibank, N.A., and all of their predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

10. "Communication" means any oral, written or electronic transmission of information, fact, opinion, belief, idea, statement, inquiry or otherwise, including without limitation any letter, correspondence, memorandum, electronic-mail message, note or meeting log, conversation, meeting, discussion, telephone call, facsimile, telegram, telex, conference or message.

11. "Concerning" means comprising, consisting of, concerning, referring to, reflecting, regarding, supporting, evidencing, relating to, prepared in connection with, used in preparation for, or being in any way legally, logically or factually concerned with the matter or document described, referred to or discussed.

12. "DC Action" refers to *Washington Mutual, Inc. and WMI Investment Corp. v. Federal Deposit Insurance Corporation*, No. 1:09-cv-00533 (D.D.C.).

13. "Document" is used in its broadest sense and mean and include any written or graphic matter or other means of preserving thought or expression and all tangible things from which information can be processed or transcribed, including the originals and all non-identical copies, whether different from the original by reason of any notation made on such copy or otherwise, including but not limited to, correspondence, memoranda, notes, messages, letters, telegrams, teletype, telefax, bulletins, meetings or other communications, interoffice and intraoffice telephone calls, diaries, chronological data, minutes, books, reports, studies, summaries, pamphlets, bulletins, printed matter, charts, ledgers, invoices, worksheets, receipts,

returns, computer printouts, prospectuses, financial statements, schedules, affidavits, contracts, cancelled checks, statements, transcripts, statistics, surveys, magazine or newspaper articles, releases (and any and all drafts, alterations and modifications, changes and amendments of any of the foregoing), graphic or aural records or representations of any kind (including without limitation photographs, microfiche, microfilm, videotape, records and motion pictures) and electronic, mechanical or electric records or representations of any kind (including without limitation tapes, cassettes, discs and records).

14. "FDIC" means or refers to the Federal Deposit Insurance Corporation, as receiver for Washington Mutual Bank, Henderson Nevada and in its corporate capacity.

15. "Federal Reserve" means the Board of Governors of the Federal Reserve System and the twelve Federal Banks; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

16. "Fitch" means Fitch Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

17. "Goldman Sachs" means The Goldman Sachs Group, Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

18. "Governmental Unit" has the meaning set forth at 11 U.S.C. § 101(27).

19. "Including" means including but not limited to the referenced subject.

20. "JPMC" means JPMorgan Chase Bank, National Association and JPMorgan Chase & Co., and any of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

21. "JPMC Adversary Proceeding" refers to *JPMorgan Chase Bank, National Association v. Washington Mutual, Inc., et al.*, Adversary Proceeding No. 09-50551 (Bankr. D. Del.).

22. "Lehman Brothers" means Lehman Brothers Holdings, Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

23. "Morgan Stanley" means Morgan Stanley, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

24. "Moody's" means Moody's Investors Service, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

25. "Oak Hill" means Oak Hill Capital Partners, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

26. "OCC" means the Office of the Comptroller of the Currency, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

27. "OTS" means the Office of Thrift Supervision, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

28. "RTC" means the Resolution Trust Corporation, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

29. "P&A Agreement" means or refers to the Purchase and Assumption Agreement, Whole Bank, among the Federal Deposit Insurance Corporation, as receiver of Washington Mutual Bank, Henderson, Nevada, the Federal Deposit Insurance Corporation and JPM, dated as of September 25, 2008.

30. "SEC" means the U.S. Securities and Exchange Commission and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

31. "S&P" means Standard and Poor's Corporation and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

32. "TD Bank" means TD Bank, N.A., and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

33. "Texas Action" refers to *American Nat'l Ins. Co., et al., v. JPMorgan Chase & Co., et al.*, Case No. 3:09-cv-00044 (S.D. Tex.), which has been transferred to the United States District Court for the District of Columbia.

34. "TPG" means TPG Capital (formerly Texas Pacific Group), and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

35. "Transaction" means or refers to any means by which JPMorgan Chase might obtain, receive or succeed to Washington Mutual's businesses or properties, or any portion

thereof, or any transaction preliminary, preparatory or incident thereto, including any stock tender, stock purchase, asset purchase, assumption of deposit or other liabilities, merger, joint venture or partnership.

36. "Turnover Proceeding" means *WMI and WMI Investment Corp. v. JPMC*, No. 09-50934 (Bankr. D. Del.).

37. "U.S. Department of the Treasury" means or refers to the U.S. Department of the Treasury and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

38. "Washington Mutual" means or refers to WMI and WMB, and any and all of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on their behalf, any of their parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

39. "Wells Fargo" means Wells Fargo, N.A., and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

40. "WMB" means or refers to Washington Mutual Bank, Henderson, Nevada, and any and all of its current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

41. "WMB fsb" means or refers to Washington Mutual Bank, fsb, Utah, and any and all of its current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

42. "WMI" means or refers to Washington Mutual, Inc. and WMI Investment Corp. (collectively, the "Debtors") and any and all of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on their behalf, any of their parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

43. "You" means or refers to the Office of the Comptroller of the Currency, individually or collectively, to whom this subpoena is addressed, and any owner, director, officer, employee, agent, custodian, parent, subsidiary, affiliate, predecessor, successor, attorney, accountant, representative, and other Persons purporting to act on your behalf.

44. Any ambiguity in a discovery request shall be construed to bring within the scope of the discovery request all responses that otherwise could be construed to be outside of its scope.

INSTRUCTIONS

Each response must be made in accordance with the following instructions:

1. The responsive documents should be produced in the manner prescribed by the Federal Rules of Civil Procedure, as made applicable herein by the Federal Rules of Bankruptcy Procedure, including producing the requested documents as they are kept in the usual course of business or organized and labeled to correspond with the categories in the requests, and identifying the name of the person from whose files the documents were produced.

2. You are to produce the original and all non-identical copies, including all drafts, of each document requested. If you are not able to produce the original of any document, please produce the best available copy and all non-identical copies, including drafts.

3. Each request herein extends to all documents and communications in the possession, custody or control of you or anyone acting on your behalf. A document is deemed to be in your possession, custody, or control if it is in your physical custody, or if it is in the physical custody of any other person and you: (1) own such document in whole or in part; (2)

have a right, by contract, statute or otherwise, to use, inspect, examine or copy such document on any terms; (3) have an understanding, express or implied, that you may use, inspect, examine, or copy such document on any terms; or (4) as a practical matter, have been able to use, inspect, examine, or copy such document when you sought to do so. If any requested document was, but no longer is, in your control, state the disposition of each such document.

4. Any reference in these document requests to an individual or person include any and all agents, advisors, employees, representatives, attorneys, successors-in-interest, and all other persons or entities acting in his, her, or its behalf or under his, her or its control.

5. If any document is withheld under any claim of privilege, including without limitation, attorney-client privilege and attorney work product, you should provide the following information with respect to such document:

- (1) The date of the document;
- (2) The title of the document;
- (3) The name of its author(s) or preparer(s) and an identification by employment and title of each such person;
- (4) The name of each person who was sent or furnished with, received, viewed or has custody of the document or a copy thereof together with an identification by employment and title of each such person;
- (5) The request to which the document relates;
- (6) The title and description of the document sufficient to identify it without revealing the information for which privilege is claimed;
- (7) The claim of privilege under which it is withheld; and
- (8) A description of the subject matter of the document in sufficient detail to support your contention that the document is privileged;

6. If, after exercising due diligence to secure them, you cannot provide some or any of the requested documents, so state and provide all documents to the extent possible, specifying

the reason for your inability to produce the remainder of the documents, and stating whatever information or knowledge you have concerning each document not produced.

7. If any requested document or other document potentially relevant to this action is subject to destruction under any document retention or destruction program, the documents(s) should be exempted from any scheduled destruction and should not be destroyed until the conclusion of this action or unless otherwise permitted by the Court.

8. If any document responsive to these requests is known to have existed and cannot now be located, or has been destroyed or discarded, set forth a complete statement of the circumstances surrounding such loss or destruction, including:

- (1) a description of the document, including the date, a summary of its contents and the identity of its author and the person(s) to whom it was sent or shown;
- (2) the last known custodian;
- (3) whether the document is missing or lost or was destroyed or discarded;
- (4) the date of loss, destruction or discard;
- (5) the manner of destruction or discard;
- (6) the reason(s) for destruction or discard;
- (7) the person(s) authorizing or carrying out such destruction or discard; and
- (8) the efforts made to locate lost or misplaced documents.

9. If an objection is made to any request, state your objection and the ground or grounds with particularity in your written response. If an objection is made only to part of the request, identify that part in your written response and state your objection and the ground(s) therefor.

10. Each request shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive. Any request propounded in the singular shall

also be read as if propounded in the plural and vice versa. Any request propounded in the present tense shall also be read as if propounded in the past tense and vice versa.

11. This request is a continuing one. If, after producing the requested documents, you obtain or become aware of any further documents responsive to this request, you are required to produce such additional documents. Supplemental responses should be served within thirty (30) days after such information or documents become known to you.

12. Unless otherwise specified, the time period covered by these requests is from January 1, 2007 to the present and shall encompass all documents and information relating in whole or in part to such period, or to events or circumstances during such period, even though dated, prepared, generated or received prior to that date.

REQUESTS FOR PRODUCTION OF DOCUMENTS

The Debtors request that the OCC produce the following documents in its possession, custody or control:

1. All documents concerning, or communications with, Washington Mutual with respect to any entity's efforts to acquire all or part of Washington Mutual, and/or any of its substantial assets.
2. All documents concerning communications with or among JPMC, the FDIC, the media, ratings agencies, investors, and/or any third party concerning Washington Mutual.
3. All documents concerning any meetings and/or communications between Washington Mutual and any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, Federal Reserve, and the SEC, including (a) any meetings between OTS and WMI on or about April 5, 2008, (b) any meetings between Washington Mutual, OTS, and the FDIC on or about July 31, 2008, and/or (c) any communications with or among U.S. Treasury Secretary Hank Paulson and WMI Chairman and CEO Kerry Killinger and/or JPMC President and CEO Jamie Dimon regarding Washington Mutual.
4. All documents concerning any potential or actual regulatory and/or supervisory actions, ratings, or examinations directed toward or taken with respect to Washington Mutual by any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, Federal Reserve, and SEC, including but not limited to (a) OTS's decision to initiate discussions about Memorandums of Understanding with WMI and WMB, (b) the Memorandums of Understanding OTS issued to WMI and WMB on or about September 7, 2008, (c) any regulatory classification of Washington Mutual by the OTS, including without limitation any decision by

OTS to classify WMB as a "problem institution," and/or (d) U.S. Treasury Secretary Henry Paulson's "RTC plan" concerning Washington Mutual.

5. All documents concerning Washington Mutual's responses or potential responses to any regulatory and/or supervisory actions, ratings, or examinations by any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, Federal Reserve, and the SEC.

6. All documents concerning Washington Mutual's efforts to raise capital and/or locate a potential merger partner or acquiror, including without limitation (a) any actual or possible acquisition or investment by any entity of any stake in Washington Mutual, including any communications with or among Banco Santander, Bankers Trust, Blackstone, Carlyle, Cerberus, Citigroup, JPMC, Oak Hill, TPG, TD Bank, and/or Wells Fargo and their affiliates; (b) any efforts to raise capital through the issuance of debt securities in December 2007 (including the issuance of approximately \$3 billion of debt securities on or about December 17, 2007); (c) any actual, potential, or contemplated bids for Washington Mutual and/or the bidding process for Washington Mutual; (d) any efforts to raise capital and/or locate a potential merger partner or acquiror during the first quarter of 2008; (e) TPG's investment of about \$7.2 billion into Washington Mutual on or about April 7, 2008; and/or (f) any efforts to raise capital and/or locate a potential merger partner or acquiror in September 2008, including any efforts by Goldman Sachs and/or Morgan Stanley on Washington Mutual's behalf.

7. All documents concerning any meetings and/or communications between JPMC and any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, Federal Reserve, and the SEC, concerning Washington Mutual including (a) any meetings on or

about March 28, 2008, (b) any meetings between JPMC and the U.S. Department of the Treasury in April 2008, and/or (c) any meetings on or about July 18, 2008.

8. All documents concerning JPMC's trading activity in Washington Mutual stock, including any actual, potential, or contemplated decision by JPMC to short Washington Mutual stock in the three months prior to the OTS seizure of WMB.

9. All documents concerning JPMC's disclosure of any Washington Mutual information, or disclosure of any information about Washington Mutual, to any Governmental Unit, the media, ratings agencies, investors, and/or any other third parties.

10. All documents concerning any agreement between JPMC and Washington Mutual concerning access to and/or disclosure of non-public, confidential or proprietary information in connection with a potential transaction in which JPMC would acquire, merge with, or invest in Washington Mutual.

11. All documents concerning JPMC's access to Washington Mutual data, including but not limited to (a) JPMC due diligence of Washington Mutual and/or (b) any effort by JPMC to place "moles" at Washington Mutual for the purpose of obtaining confidential Washington Mutual information, which JPMC used "to bargain and work with federal regulators for the seizure and sale of Washington Mutual's assets," *see* Texas Action Complaint at ¶ 32, including JPMC's placement of former JPMC employees at Washington Mutual, including but not limited to, the placement or employment of Stephen J. Rotella, Steve Fortunato, Taj Bindra, John Berens, Youyi Chen, and Bill Murray, *see id.* at ¶ 38.

12. All documents concerning JPMC's interest in any potential Transaction and any attempt by JPMC to engage in any potential Transaction, including but not limited to any actual, potential, or contemplated bid or offer by JPMC to merge with, invest in, or purchase

Washington Mutual, including but not limited to (a) Washington Mutual's rejection of JPMC's offer to merge with, invest in, or acquire Washington Mutual in or about April 2008, (b) capital contributions or investments received by JPMC in connection with any potential Transaction in or about September 2008, and/or (c) any agreement or arrangement between JPMC and any Government Unit, including but not limited to the FDIC, OTS, OCC, Federal Reserve, SEC and/or the U.S. Department of the Treasury, concerning any potential transaction in which JPMC might or did acquire WMB, or any stake or portion of WMB.

13. All documents concerning the potential for WMB to be seized by OTS and the decision to seize WMB, as well as the potential for the FDIC to be appointed receiver of WMB and the decision to place WMB into receivership with the FDIC, including all documents concerning any communication from FDIC officials to JPMC in early September 2008, to inform JPMC in words or substance that "the FDIC was carefully monitoring [WMB] and that a seizure of its assets was likely" and that the FDIC "would want to immediately auction off [WMB's] assets." *See* Heidi N. Moore, *Deal Journal*, Wall St. J., Sept. 30, 2008, at C7.

14. All documents concerning any OCC indication to OTS, FDIC, and/or JPMC that "as the federal regulator of JPMorgan Chase . . . it will provide its approval of the transfer of assets and liabilities [of WMB to JPMC] on September 25, 2008." *See* FDIC Board of Directors Resolution Board of Directors Approving JPMC's Bid for WMB, at 4.

15. All documents concerning OTS's determination that "WMB met the well-capitalized standards through the date of receivership." *See* OTS Fact Sheet, Sept. 25, 2008.

16. All documents concerning OTS's determination that "adverse publicity" caused WMB to "suffer[] significant cash outflows." *See* OTS Order 2008-36, dated September 25, 2008.

UNITED STATES BANKRUPTCY COURT

for the District of Columbia

In re: Washington Mutual, Inc., et. al.
Debtor

SUBPOENA FOR RULE 2004 EXAMINATION

Case No.* 08-12229 (MFW) U.S. Bankruptcy Court for the District of Delaware

To: Federal Deposit Insurance Corporation
Mr. Michael Bradfield, General Counsel
Legal Division
550 17th Street, NW
Washington, DC 20429

Chapter Chapter 11

YOU ARE COMMANDED to appear and testify at an examination under Rule 2004, Federal Rules of Bankruptcy Procedure, at the place, date, and time specified below. A copy of the court order authorizing the examination is attached.

PLACE OF TESTIMONY

DATE AND TIME

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

Please see First Request for Production of Documents, attached hereto as "Exhibit A."

PLACE Weil, Gotshal & Manges, LLP
1300 Eye Street, NW, Suite 900
Washington, DC 20005

DATE AND TIME

_____, 2010 5:00 p.m.

ISSUING OFFICER SIGNATURE AND TITLE

DATE

ISSUING OFFICER'S NAME, ADDRESS, AND PHONE NUMBER

Neil R. Lapinski, Esq.
Elliott Greenleaf

1105 North Market Street, Suite 1700
Wilmington, DE 19801
(302) 384-9400

* If the bankruptcy case is pending in a district other than the district in which the subpoena is issued, state the district under the case number.

PROOF OF SERVICE

SERVED	DATE	PLACE	
SERVED ON (PRINT NAME)		MANNER OF SERVICE	
SERVED BY (PRINT NAME)		TITLE	

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____	DATE	_____	SIGNATURE OF SERVER

		ADDRESS OF SERVER	

Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), as amended on December 1, 2007, made applicable in cases under the Bankruptcy Code by Rule 9016, Federal Rules of Bankruptcy Procedure.

(c) Protecting a Person Subject to a Subpoena.

(1) **Avoiding Undue Burden or Expense, Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) **Command to Produce Materials or Permit Inspection.**

(A) **Appearance Not Required.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) **Objections.** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) **Quashing or Modifying a Subpoena.**

(A) **When Required.** On timely motion, the issuing court must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) **When Permitted.** To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information;
- (ii) disclosing an unretained expert's opinion or information that does

not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

- (iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial

(C) **Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(d) Duties in Responding to a Subpoena.

(1) **Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

(A) **Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) **Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) **Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

(D) **Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) **Claiming Privilege or Protection.**

(A) **Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications,

or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) **Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) Contempt.

The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

Exhibit A

FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

DEFINITIONS

The following terms (whether or not capitalized) shall have the meanings set forth below:

1. "Adversary Proceedings" means or refers to the JPMC Adversary Proceeding and the Turnover Proceeding.
2. "And" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
3. "Any," "all" and "each" shall be construed broadly, and shall mean any, all, and each as necessary to bring within the scope of the discovery request all responses that otherwise could be construed to be outside of its scope.
4. "Banco Santander" means Banco Santander, S.A., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.
5. "Blackstone" means the Blackstone Group, L.P., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.
6. "Carlyle" means Carlyle Group LLC, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.
7. "Cerberus" means Cerberus Capital Management, L.P., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any

of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

8. "Chapter 11 case" means or refers to *In re Washington Mutual, Inc.*, No. 08-12229 (Bankr. D. Del).

9. "Citigroup" means Citigroup, Inc. and Citibank, N.A., and all of their predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

10. "Communication" means any oral, written or electronic transmission of information, fact, opinion, belief, idea, statement, inquiry or otherwise, including without limitation any letter, correspondence, memorandum, electronic-mail message, note or meeting log, conversation, meeting, discussion, telephone call, facsimile, telegram, telex, conference or message.

11. "Concerning" means comprising, consisting of, concerning, referring to, reflecting, regarding, supporting, evidencing, relating to, prepared in connection with, used in preparation for, or being in any way legally, logically or factually concerned with the matter or document described, referred to or discussed.

12. "DC Action" refers to *Washington Mutual, Inc. and WMI Investment Corp. v. Federal Deposit Insurance Corporation*, No. 1:09-cv-00533 (D.D.C.).

13. "Document" is used in its broadest sense and mean and include any written or graphic matter or other means of preserving thought or expression and all tangible things from which information can be processed or transcribed, including the originals and all non-identical copies, whether different from the original by reason of any notation made on such copy or otherwise, including but not limited to, correspondence, memoranda, notes, messages, letters, telegrams, teletype, telefax, bulletins, meetings or other communications, interoffice and intraoffice telephone calls, diaries, chronological data, minutes, books, reports, studies, summaries, pamphlets, bulletins, printed matter, charts, ledgers, invoices, worksheets, receipts,

returns, computer printouts, prospectuses, financial statements, schedules, affidavits, contracts, cancelled checks, statements, transcripts, statistics, surveys, magazine or newspaper articles, releases (and any and all drafts, alterations and modifications, changes and amendments of any of the foregoing), graphic or aural records or representations of any kind (including without limitation photographs, microfiche, microfilm, videotape, records and motion pictures) and electronic, mechanical or electric records or representations of any kind (including without limitation tapes, cassettes, discs and records).

14. "FDIC" means or refers to the Federal Deposit Insurance Corporation, as receiver for Washington Mutual Bank, Henderson Nevada and in its corporate capacity.

15. "Federal Reserve" means the Board of Governors of the Federal Reserve System and the twelve Federal Banks; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

16. "Fitch" means Fitch Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

17. "Goldman Sachs" means The Goldman Sachs Group, Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

18. "Governmental Unit" has the meaning set forth at 11 U.S.C. § 101(27).

19. "Including" means including but not limited to the referenced subject.

20. "JPMC" means JPMorgan Chase Bank, National Association and JPMorgan Chase & Co., and any of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

21. "JPMC Adversary Proceeding" refers to *JPMorgan Chase Bank, National Association v. Washington Mutual, Inc., et al.*, Adversary Proceeding No. 09-50551 (Bankr. D. Del.).

22. "Lehman Brothers" means Lehman Brothers Holdings, Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

23. "Morgan Stanley" means Morgan Stanley, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

24. "Moody's" means Moody's Investors Service, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

25. "Oak Hill" means Oak Hill Capital Partners, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

26. "OCC" means the Office of the Comptroller of the Currency, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

27. "OTS" means the Office of Thrift Supervision, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

28. "RTC" means the Resolution Trust Corporation, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

29. "P&A Agreement" means or refers to the Purchase and Assumption Agreement, Whole Bank, among the Federal Deposit Insurance Corporation, as receiver of Washington Mutual Bank, Henderson, Nevada, the Federal Deposit Insurance Corporation and JPM, dated as of September 25, 2008.

30. "SEC" means the U.S. Securities and Exchange Commission and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

31. "S&P" means Standard and Poor's Corporation and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

32. "TD Bank" means TD Bank, N.A., and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

33. "Texas Action" refers to *American Nat'l Ins. Co., et al., v. JPMorgan Chase & Co., et al.*, Case No. 3:09-cv-00044 (S.D. Tex.), which has been transferred to the United States District Court for the District of Columbia.

34. "TPG" means TPG Capital (formerly Texas Pacific Group), and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

35. "Transaction" means or refers to any means by which JPMorgan Chase might obtain, receive or succeed to Washington Mutual's businesses or properties, or any portion

thereof, or any transaction preliminary, preparatory or incident thereto, including any stock tender, stock purchase, asset purchase, assumption of deposit or other liabilities, merger, joint venture or partnership.

36. "Turnover Proceeding" means *WMI and WMI Investment Corp. v. JPMC*, No. 09-50934 (Bankr. D. Del.).

37. "U.S. Department of the Treasury" means or refers to the U.S. Department of the Treasury and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

38. "Washington Mutual" means or refers to WMI and WMB, and any and all of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on their behalf, any of their parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

39. "Wells Fargo" means Wells Fargo, N.A., and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

40. "WMB" means or refers to Washington Mutual Bank, Henderson, Nevada, and any and all of its current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

41. "WMB fsb" means or refers to Washington Mutual Bank, fsb, Utah, and any and all of its current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

42. "WMI" means or refers to Washington Mutual, Inc. and WMI Investment Corp. (collectively, the "Debtors") and any and all of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on their behalf, any of their parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

43. "You" or "Your" means or refers to the FDIC, individually or collectively, to whom this subpoena is addressed, and any owner, director, officer, employee, agent, custodian, parent, subsidiary, affiliate, predecessor, successor, attorney, accountant, representative, and other Persons purporting to act on your behalf.

44. Any ambiguity in a discovery request shall be construed to bring within the scope of the discovery request all responses that otherwise could be construed to be outside of its scope.

INSTRUCTIONS

Each response must be made in accordance with the following instructions:

1. The responsive documents should be produced in the manner prescribed by the Federal Rules of Civil Procedure, as made applicable herein by the Federal Rules of Bankruptcy Procedure, including producing the requested documents as they are kept in the usual course of business or organized and labeled to correspond with the categories in the requests, and identifying the name of the person from whose files the documents were produced.

2. You are to produce the original and all non-identical copies, including all drafts, of each document requested. If you are not able to produce the original of any document, please produce the best available copy and all non-identical copies, including drafts.

3. Each request herein extends to all documents and communications in the possession, custody or control of you or anyone acting on your behalf. A document is deemed to be in your possession, custody, or control if it is in your physical custody, or if it is in the physical custody of any other person and you: (1) own such document in whole or in part; (2)

have a right, by contract, statute or otherwise, to use, inspect, examine or copy such document on any terms; (3) have an understanding, express or implied, that you may use, inspect, examine, or copy such document on any terms; or (4) as a practical matter, have been able to use, inspect, examine, or copy such document when you sought to do so. If any requested document was, but no longer is, in your control, state the disposition of each such document.

4. Any reference in these document requests to an individual or person include any and all agents, advisors, employees, representatives, attorneys, successors-in-interest, and all other persons or entities acting in his, her, or its behalf or under his, her or its control.

5. If any document is withheld under any claim of privilege, including without limitation, attorney-client privilege and attorney work product, you should provide the following information with respect to such document:

- (1) The date of the document;
- (2) The title of the document;
- (3) The name of its author(s) or preparer(s) and an identification by employment and title of each such person;
- (4) The name of each person who was sent or furnished with, received, viewed or has custody of the document or a copy thereof together with an identification by employment and title of each such person;
- (5) The request to which the document relates;
- (6) The title and description of the document sufficient to identify it without revealing the information for which privilege is claimed;
- (7) The claim of privilege under which it is withheld; and
- (8) A description of the subject matter of the document in sufficient detail to support your contention that the document is privileged;

6. If, after exercising due diligence to secure them, you cannot provide some or any of the requested documents, so state and provide all documents to the extent possible, specifying

the reason for your inability to produce the remainder of the documents, and stating whatever information or knowledge you have concerning each document not produced.

7. If any requested document or other document potentially relevant to this action is subject to destruction under any document retention or destruction program, the documents(s) should be exempted from any scheduled destruction and should not be destroyed until the conclusion of this action or unless otherwise permitted by the Court.

8. If any document responsive to these requests is known to have existed and cannot now be located, or has been destroyed or discarded, set forth a complete statement of the circumstances surrounding such loss or destruction, including:

- (1) a description of the document, including the date, a summary of its contents and the identity of its author and the person(s) to whom it was sent or shown;
- (2) the last known custodian;
- (3) whether the document is missing or lost or was destroyed or discarded;
- (4) the date of loss, destruction or discard;
- (5) the manner of destruction or discard;
- (6) the reason(s) for destruction or discard;
- (7) the person(s) authorizing or carrying out such destruction or discard; and
- (8) the efforts made to locate lost or misplaced documents.

9. If an objection is made to any request, state your objection and the ground or grounds with particularity in your written response. If an objection is made only to part of the request, identify that part in your written response and state your objection and the ground(s) therefor.

10. Each request shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive. Any request propounded in the singular shall

also be read as if propounded in the plural and vice versa. Any request propounded in the present tense shall also be read as if propounded in the past tense and vice versa.

11. This request is a continuing one. If, after producing the requested documents, you obtain or become aware of any further documents responsive to this request, you are required to produce such additional documents. Supplemental responses should be served within thirty (30) days after such information or documents become known to you.

12. Unless otherwise specified, the time period covered by these requests is from January 1, 2007 to the present and shall encompass all documents and information relating in whole or in part to such period, or to events or circumstances during such period, even though dated, prepared, generated or received prior to that date.

REQUESTS FOR PRODUCTION OF DOCUMENTS

The Debtors request that FDIC produce the following documents in its possession, custody or control:

1. All documents concerning, or communications with, Washington Mutual with respect to any entity's efforts to acquire all or part of Washington Mutual, and/or any of its substantial assets.
2. All documents concerning communications with or among JPMC, any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, Federal Reserve, and the SEC, the media, ratings agencies, investors, and/or any third party concerning Washington Mutual.
3. All documents concerning any meetings and/or communications between Washington Mutual and any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, Federal Reserve, and the SEC, including (a) any meetings between OTS and WMI on or about April 5, 2008, (b) any meetings between Washington Mutual, OTS, and the FDIC on or about July 31, 2008, and/or (c) any communications with or among U.S. Treasury Secretary Hank Paulson and WMI Chairman and CEO Kerry Killinger and/or JPMC President and CEO Jamie Dimon regarding Washington Mutual.
4. All documents concerning any potential or actual regulatory and/or supervisory actions, ratings, or examinations directed toward or taken with respect to Washington Mutual by any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, Federal Reserve, and SEC, including but not limited to (a) OTS's decision to initiate discussions about Memorandums of Understanding with WMI and WMB, (b) the Memorandums of Understanding OTS issued to WMI and WMB on or about September 7, 2008, (c) any regulatory

classification of Washington Mutual by the OTS, including without limitation any decision by OTS to classify WMB as a "problem institution," and/or (d) U.S. Treasury Secretary Henry Paulson's "RTC plan" concerning Washington Mutual.

5. All documents concerning Washington Mutual's responses or potential responses to any regulatory and/or supervisory actions, ratings, or examinations by any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, Federal Reserve, and the SEC.

6. All documents concerning Washington Mutual's efforts to raise capital and/or locate a potential merger partner or acquiror, including without limitation (a) any actual or possible acquisition or investment by any entity of any stake in Washington Mutual, including any communications with or among Banco Santander, Bankers Trust, Blackstone, Carlyle, Cerberus, Citigroup, JPMC, Oak Hill, TPG, TD Bank, and/or Wells Fargo and their affiliates; (b) any efforts to raise capital through the issuance of debt securities in December 2007 (including the issuance of approximately \$3 billion of debt securities on or about December 17, 2007); (c) any actual, potential, or contemplated bids for Washington Mutual and/or the bidding process for Washington Mutual; (d) any efforts to raise capital and/or locate a potential merger partner or acquiror during the first quarter of 2008; (e) TPG's investment of about \$7.2 billion into Washington Mutual on or about April 7, 2008; and/or (f) any efforts to raise capital and/or locate a potential merger partner or acquiror in September 2008, including any efforts by Goldman Sachs and/or Morgan Stanley on Washington Mutual's behalf.

7. All documents concerning any meetings and/or communications between JPMC and any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, Federal Reserve, and the SEC, concerning Washington Mutual including (a) any meetings on or

about March 28, 2008, (b) any meetings between JPMC and the U.S. Department of the Treasury in April 2008, and/or (c) any meetings on or about July 18, 2008.

8. All documents concerning JPMC's trading activity in Washington Mutual stock, including any actual, potential, or contemplated decision by JPMC to short Washington Mutual stock in the three months prior to the OTS seizure of WMB.

9. All documents concerning JPMC's disclosure of any Washington Mutual information, or disclosure of any information about Washington Mutual, to any Governmental Unit, the media, ratings agencies, investors, and/or any other third parties.

10. All documents concerning any agreement between JPMC and Washington Mutual concerning access to and/or disclosure of non-public, confidential or proprietary information in connection with a potential transaction in which JPMC would acquire, merge with, or invest in Washington Mutual.

11. All documents concerning JPMC's access to Washington Mutual data, including but not limited to (a) JPMC due diligence of Washington Mutual and/or (b) any effort by JPMC to place "moles" at Washington Mutual for the purpose of obtaining confidential Washington Mutual information, which JPMC used "to bargain and work with federal regulators for the seizure and sale of Washington Mutual's assets," *see* Texas Action Complaint at ¶ 32, including JPMC's placement of former JPMC employees at Washington Mutual, including but not limited to, the placement or employment of Stephen J. Rotella, Steve Fortunato, Taj Bindra, John Berens, Youyi Chen, and Bill Murray, *see id.* at ¶ 38.

12. All documents concerning JPMC's interest in any potential Transaction and any attempt by JPMC to engage in any potential Transaction, including but not limited to any actual, potential, or contemplated bid or offer by JPMC to merge with, invest in, or purchase

Washington Mutual, including but not limited to (a) Washington Mutual's rejection of JPMC's offer to merge with, invest in, or acquire Washington Mutual in or about April 2008, (b) capital contributions or investments received by JPMC in connection with any potential Transaction in or about September 2008, and/or (c) any agreement or arrangement between JPMC and any Government Unit, including but not limited to the FDIC, OTS, OCC, Federal Reserve, SEC and/or the U.S. Department of the Treasury, concerning any potential transaction in which JPMC might or did acquire WMB, or any stake or portion of WMB.

13. All documents concerning the potential for WMB to be seized by OTS and the decision to seize WMB, as well as the potential for the FDIC to be appointed receiver of WMB and the decision to place WMB into receivership with the FDIC, including all documents concerning any communication from FDIC officials to JPMC in early September 2008, to inform JPMC in words or substance that "the FDIC was carefully monitoring [WMB] and that a seizure of its assets was likely" and that the FDIC "would want to immediately auction off [WMB's] assets." *See* Heidi N. Moore, *Deal Journal*, Wall St. J., Sept. 30, 2008, at C7.

14. All documents concerning the FDIC's efforts in September 2008 to restore JPMC's access to Washington Mutual data.

15. All documents concerning the bid process established by the FDIC for the purchase of WMB, including but not limited to (a) all documents concerning any communication with or among JPMC, any Government Unit and/or any third party about the bid process and (b) all documents concerning bids or indications of interest received by the FDIC, including copies of bids or indications of interest from JPMC and Citigroup.

16. All documents concerning the following statement, in form or in substance, from Citigroup to the FDIC: "We recognize that our approach does not conform to the bidding

instructions for Washington Mutual. We believe, however, that our suggested approach will in fact provide greater systemic ability and lower losses than would any conforming bid. . . . [W]e would expect that, consistent with the FDIC's statutory obligation under the 'least-cost' test, this construct would be offered to all potential bidders in a new round of bidding." *See* Citigroup Bid Letter to FDIC, at 4.

17. All documents concerning the FDIC's consideration of and decision to "modify the standard indemnification to include a limited indemnity in favor of JPMorgan Chase in an amount not to exceed \$500 million for any damages JPMorgan Chase may sustain as a result of litigation brought by WMI against JPMorgan Chase for violation of the agreement between WMI and JPMorgan Chase dated March 11, 2008," including all documents concerning JPMC's request for such an indemnification provision. *See* 9/24/08 Memorandum from James Wigand and Herbert Held to FDIC Board of Directors and FDIC Board of Directors Resolution Approving P&A Transaction.

18. All documents concerning any OCC indication to OTS, FDIC, and/or JPMC that "as the federal regulator of JPMorgan Chase . . . it will provide its approval of the transfer of assets and liabilities [of WMB to JPMC] on September 25, 2008." *See* FDIC Board of Directors Resolution Board of Directors Approving JPMC's Bid for WMB, at 4.

19. All documents concerning OTS's determination that "WMB met the well-capitalized standards through the date of receivership." *See* OTS Fact Sheet, Sept. 25, 2008.

20. All documents concerning OTS's determination that "adverse publicity" caused WMB to "suffer[] significant cash outflows." *See* OTS Order 2008-36, dated September 25, 2008.

UNITED STATES BANKRUPTCY COURT

for the District of Southern District of New York

In re: Washington Mutual, Inc., et. al.
Debtor

SUBPOENA FOR RULE 2004 EXAMINATION

Case No.* 08-12229 (MFW) U.S. Bankruptcy Court for the District of Delaware

To: Federal Deposit Insurance Corporation
c/o John J. Clarke, Jr.
DLA Piper LLP
1251 Avenue of the Americas
New York, NY 10020

Chapter Chapter 11

YOU ARE COMMANDED to appear and testify at an examination under Rule 2004, Federal Rules of Bankruptcy Procedure, at the place, date, and time specified below. A copy of the court order authorizing the examination is attached.

PLACE OF TESTIMONY

DATE AND TIME

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

Please see First Request for Production of Documents, attached hereto as "Exhibit A."

PLACE Weil, Gotshal & Manges, LLP
1300 Eye Street, NW, Suite 900
Washington, DC 20005

DATE AND TIME

_____, 2010 5:00 p.m.

ISSUING OFFICER SIGNATURE AND TITLE

DATE

ISSUING OFFICER'S NAME, ADDRESS, AND PHONE NUMBER

Neil R. Lapinski, Esq.
Elliott Greenleaf

1105 North Market Street, Suite 1700
Wilmington, DE 19801
(302) 384-9400

* If the bankruptcy case is pending in a district other than the district in which the subpoena is issued, state the district under the case number.

PROOF OF SERVICE

SERVED	DATE	PLACE	
SERVED ON (PRINT NAME)		MANNER OF SERVICE	
SERVED BY (PRINT NAME)		TITLE	

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____

DATE

SIGNATURE OF SERVER _____

ADDRESS OF SERVER _____

Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), as amended on December 1, 2007, made applicable in cases under the Bankruptcy Code by Rule 9016, Federal Rules of Bankruptcy Procedure:

(c) Protecting a Person Subject to a Subpoena.

(1) **Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) **Appearance Not Required.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) **Objections.** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) **When Required.** On timely motion, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) **When Permitted.** To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;

(ii) disclosing an unretained expert's opinion or information that does

not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial

(C) **Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(d) Duties in Responding to a Subpoena.

(1) **Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

(A) **Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) **Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) **Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

(D) **Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) **Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications,

or

tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) **Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) Contempt.

The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

Exhibit A

FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

DEFINITIONS

The following terms (whether or not capitalized) shall have the meanings set forth below:

1. "Adversary Proceedings" means or refers to the JPMC Adversary Proceeding and the Turnover Proceeding.
2. "And" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
3. "Any," "all" and "each" shall be construed broadly, and shall mean any, all, and each as necessary to bring within the scope of the discovery request all responses that otherwise could be construed to be outside of its scope.
4. "Banco Santander" means Banco Santander, S.A., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.
5. "Blackstone" means the Blackstone Group, L.P., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.
6. "Carlyle" means Carlyle Group LLC, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.
7. "Cerberus" means Cerberus Capital Management, L.P., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any

of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

8. "Chapter 11 case" means or refers to *In re Washington Mutual, Inc.*, No. 08-12229 (Bankr. D. Del).

9. "Citigroup" means Citigroup, Inc. and Citibank, N.A., and all of their predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

10. "Communication" means any oral, written or electronic transmission of information, fact, opinion, belief, idea, statement, inquiry or otherwise, including without limitation any letter, correspondence, memorandum, electronic-mail message, note or meeting log, conversation, meeting, discussion, telephone call, facsimile, telegram, telex, conference or message.

11. "Concerning" means comprising, consisting of, concerning, referring to, reflecting, regarding, supporting, evidencing, relating to, prepared in connection with, used in preparation for, or being in any way legally, logically or factually concerned with the matter or document described, referred to or discussed.

12. "DC Action" refers to *Washington Mutual, Inc. and WMI Investment Corp. v. Federal Deposit Insurance Corporation*, No. 1:09-cv-00533 (D.D.C.).

13. "Document" is used in its broadest sense and mean and include any written or graphic matter or other means of preserving thought or expression and all tangible things from which information can be processed or transcribed, including the originals and all non-identical copies, whether different from the original by reason of any notation made on such copy or otherwise, including but not limited to, correspondence, memoranda, notes, messages, letters, telegrams, teletype, telefax, bulletins, meetings or other communications, interoffice and intraoffice telephone calls, diaries, chronological data, minutes, books, reports, studies, summaries, pamphlets, bulletins, printed matter, charts, ledgers, invoices, worksheets, receipts,

returns, computer printouts, prospectuses, financial statements, schedules, affidavits, contracts, cancelled checks, statements, transcripts, statistics, surveys, magazine or newspaper articles, releases (and any and all drafts, alterations and modifications, changes and amendments of any of the foregoing), graphic or aural records or representations of any kind (including without limitation photographs, microfiche, microfilm, videotape, records and motion pictures) and electronic, mechanical or electric records or representations of any kind (including without limitation tapes, cassettes, discs and records).

14. "FDIC" means or refers to the Federal Deposit Insurance Corporation, as receiver for Washington Mutual Bank, Henderson Nevada and in its corporate capacity.

15. "Federal Reserve" means the Board of Governors of the Federal Reserve System and the twelve Federal Banks; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

16. "Fitch" means Fitch Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

17. "Goldman Sachs" means The Goldman Sachs Group, Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

18. "Governmental Unit" has the meaning set forth at 11 U.S.C. § 101(27).

19. "Including" means including but not limited to the referenced subject.

20. "JPMC" means JPMorgan Chase Bank, National Association and JPMorgan Chase & Co., and any of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

21. "JPMC Adversary Proceeding" refers to *JPMorgan Chase Bank, National Association v. Washington Mutual, Inc., et al.*, Adversary Proceeding No. 09-50551 (Bankr. D. Del.).

22. "Lehman Brothers" means Lehman Brothers Holdings, Inc., and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

23. "Morgan Stanley" means Morgan Stanley, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

24. "Moody's" means Moody's Investors Service, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

25. "Oak Hill" means Oak Hill Capital Partners, and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

26. "OCC" means the Office of the Comptroller of the Currency, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

27. "OTS" means the Office of Thrift Supervision, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

28. "RTC" means the Resolution Trust Corporation, and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

29. "P&A Agreement" means or refers to the Purchase and Assumption Agreement, Whole Bank, among the Federal Deposit Insurance Corporation, as receiver of Washington Mutual Bank, Henderson, Nevada, the Federal Deposit Insurance Corporation and JPM, dated as of September 25, 2008.

30. "SEC" means the U.S. Securities and Exchange Commission and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

31. "S&P" means Standard and Poor's Corporation and all of its predecessors and successors in interest, as well as all of its parents, subsidiaries, divisions, and affiliates; any of its present and former partners, officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

32. "TD Bank" means TD Bank, N.A., and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

33. "Texas Action" refers to *American Nat'l Ins. Co., et al., v. JPMorgan Chase & Co., et al.*, Case No. 3:09-cv-00044 (S.D. Tex.), which has been transferred to the United States District Court for the District of Columbia.

34. "TPG" means TPG Capital (formerly Texas Pacific Group), and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

35. "Transaction" means or refers to any means by which JPMorgan Chase might obtain, receive or succeed to Washington Mutual's businesses or properties, or any portion

thereof, or any transaction preliminary, preparatory or incident thereto, including any stock tender, stock purchase, asset purchase, assumption of deposit or other liabilities, merger, joint venture or partnership.

36. "Turnover Proceeding" means *WMI and WMI Investment Corp. v. JPMC*, No. 09-50934 (Bankr. D. Del.).

37. "U.S. Department of the Treasury" means or refers to the U.S. Department of the Treasury and any of its present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

38. "Washington Mutual" means or refers to WMI and WMB, and any and all of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on their behalf, any of their parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

39. "Wells Fargo" means Wells Fargo, N.A., and all of its predecessors and successors in interest, as well as all of its partners, parents, subsidiaries, divisions, and affiliates; any of their present and former officers, directors, employees, representatives, agents or attorneys; and any other Person acting on behalf of any of them.

40. "WMB" means or refers to Washington Mutual Bank, Henderson, Nevada, and any and all of its current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

41. "WMB fsb" means or refers to Washington Mutual Bank, fsb, Utah, and any and all of its current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

42. "WMI" means or refers to Washington Mutual, Inc. and WMI Investment Corp. (collectively, the "Debtors") and any and all of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on their behalf, any of their parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

43. "You" or "Your" means or refers to the FDIC, individually or collectively, to whom this subpoena is addressed, and any owner, director, officer, employee, agent, custodian, parent, subsidiary, affiliate, predecessor, successor, attorney, accountant, representative, and other Persons purporting to act on your behalf.

44. Any ambiguity in a discovery request shall be construed to bring within the scope of the discovery request all responses that otherwise could be construed to be outside of its scope.

INSTRUCTIONS

Each response must be made in accordance with the following instructions:

1. The responsive documents should be produced in the manner prescribed by the Federal Rules of Civil Procedure, as made applicable herein by the Federal Rules of Bankruptcy Procedure, including producing the requested documents as they are kept in the usual course of business or organized and labeled to correspond with the categories in the requests, and identifying the name of the person from whose files the documents were produced.

2. You are to produce the original and all non-identical copies, including all drafts, of each document requested. If you are not able to produce the original of any document, please produce the best available copy and all non-identical copies, including drafts.

3. Each request herein extends to all documents and communications in the possession, custody or control of you or anyone acting on your behalf. A document is deemed to be in your possession, custody, or control if it is in your physical custody, or if it is in the physical custody of any other person and you: (1) own such document in whole or in part; (2)

have a right, by contract, statute or otherwise, to use, inspect, examine or copy such document on any terms; (3) have an understanding, express or implied, that you may use, inspect, examine, or copy such document on any terms; or (4) as a practical matter, have been able to use, inspect, examine, or copy such document when you sought to do so. If any requested document was, but no longer is, in your control, state the disposition of each such document.

4. Any reference in these document requests to an individual or person include any and all agents, advisors, employees, representatives, attorneys, successors-in-interest, and all other persons or entities acting in his, her, or its behalf or under his, her or its control.

5. If any document is withheld under any claim of privilege, including without limitation, attorney-client privilege and attorney work product, you should provide the following information with respect to such document:

- (1) The date of the document;
- (2) The title of the document;
- (3) The name of its author(s) or preparer(s) and an identification by employment and title of each such person;
- (4) The name of each person who was sent or furnished with, received, viewed or has custody of the document or a copy thereof together with an identification by employment and title of each such person;
- (5) The request to which the document relates;
- (6) The title and description of the document sufficient to identify it without revealing the information for which privilege is claimed;
- (7) The claim of privilege under which it is withheld; and
- (8) A description of the subject matter of the document in sufficient detail to support your contention that the document is privileged;

6. If, after exercising due diligence to secure them, you cannot provide some or any of the requested documents, so state and provide all documents to the extent possible, specifying

the reason for your inability to produce the remainder of the documents, and stating whatever information or knowledge you have concerning each document not produced.

7. If any requested document or other document potentially relevant to this action is subject to destruction under any document retention or destruction program, the documents(s) should be exempted from any scheduled destruction and should not be destroyed until the conclusion of this action or unless otherwise permitted by the Court.

8. If any document responsive to these requests is known to have existed and cannot now be located, or has been destroyed or discarded, set forth a complete statement of the circumstances surrounding such loss or destruction, including:

- (1) a description of the document, including the date, a summary of its contents and the identity of its author and the person(s) to whom it was sent or shown;
- (2) the last known custodian;
- (3) whether the document is missing or lost or was destroyed or discarded;
- (4) the date of loss, destruction or discard;
- (5) the manner of destruction or discard;
- (6) the reason(s) for destruction or discard;
- (7) the person(s) authorizing or carrying out such destruction or discard; and
- (8) the efforts made to locate lost or misplaced documents.

9. If an objection is made to any request, state your objection and the ground or grounds with particularity in your written response. If an objection is made only to part of the request, identify that part in your written response and state your objection and the ground(s) therefor.

10. Each request shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive. Any request propounded in the singular shall

also be read as if propounded in the plural and vice versa. Any request propounded in the present tense shall also be read as if propounded in the past tense and vice versa.

11. This request is a continuing one. If, after producing the requested documents, you obtain or become aware of any further documents responsive to this request, you are required to produce such additional documents. Supplemental responses should be served within thirty (30) days after such information or documents become known to you.

12. Unless otherwise specified, the time period covered by these requests is from January 1, 2007 to the present and shall encompass all documents and information relating in whole or in part to such period, or to events or circumstances during such period, even though dated, prepared, generated or received prior to that date.

REQUESTS FOR PRODUCTION OF DOCUMENTS

The Debtors request that FDIC produce the following documents in its possession, custody or control:

1. All documents concerning, or communications with, Washington Mutual with respect to any entity's efforts to acquire all or part of Washington Mutual, and/or any of its substantial assets.
2. All documents concerning communications with or among JPMC, any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, Federal Reserve, and the SEC, the media, ratings agencies, investors, and/or any third party concerning Washington Mutual.
3. All documents concerning any meetings and/or communications between Washington Mutual and any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, Federal Reserve, and the SEC, including (a) any meetings between OTS and WMI on or about April 5, 2008, (b) any meetings between Washington Mutual, OTS, and the FDIC on or about July 31, 2008, and/or (c) any communications with or among U.S. Treasury Secretary Hank Paulson and WMI Chairman and CEO Kerry Killinger and/or JPMC President and CEO Jamie Dimon regarding Washington Mutual.
4. All documents concerning any potential or actual regulatory and/or supervisory actions, ratings, or examinations directed toward or taken with respect to Washington Mutual by any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, Federal Reserve, and SEC, including but not limited to (a) OTS's decision to initiate discussions about Memorandums of Understanding with WMI and WMB, (b) the Memorandums of Understanding OTS issued to WMI and WMB on or about September 7, 2008, (c) any regulatory

classification of Washington Mutual by the OTS, including without limitation any decision by OTS to classify WMB as a "problem institution," and/or (d) U.S. Treasury Secretary Henry Paulson's "RTC plan" concerning Washington Mutual.

5. All documents concerning Washington Mutual's responses or potential responses to any regulatory and/or supervisory actions, ratings, or examinations by any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, Federal Reserve, and the SEC.

6. All documents concerning Washington Mutual's efforts to raise capital and/or locate a potential merger partner or acquiror, including without limitation (a) any actual or possible acquisition or investment by any entity of any stake in Washington Mutual, including any communications with or among Banco Santander, Bankers Trust, Blackstone, Carlyle, Cerberus, Citigroup, JPMC, Oak Hill, TPG, TD Bank, and/or Wells Fargo and their affiliates; (b) any efforts to raise capital through the issuance of debt securities in December 2007 (including the issuance of approximately \$3 billion of debt securities on or about December 17, 2007); (c) any actual, potential, or contemplated bids for Washington Mutual and/or the bidding process for Washington Mutual; (d) any efforts to raise capital and/or locate a potential merger partner or acquiror during the first quarter of 2008; (e) TPG's investment of about \$7.2 billion into Washington Mutual on or about April 7, 2008; and/or (f) any efforts to raise capital and/or locate a potential merger partner or acquiror in September 2008, including any efforts by Goldman Sachs and/or Morgan Stanley on Washington Mutual's behalf.

7. All documents concerning any meetings and/or communications between JPMC and any Government Unit, including the FDIC, OTS, OCC, the U.S. Department of the Treasury, Federal Reserve, and the SEC, concerning Washington Mutual including (a) any meetings on or

about March 28, 2008, (b) any meetings between JPMC and the U.S. Department of the Treasury in April 2008, and/or (c) any meetings on or about July 18, 2008.

8. All documents concerning JPMC's trading activity in Washington Mutual stock, including any actual, potential, or contemplated decision by JPMC to short Washington Mutual stock in the three months prior to the OTS seizure of WMB.

9. All documents concerning JPMC's disclosure of any Washington Mutual information, or disclosure of any information about Washington Mutual, to any Governmental Unit, the media, ratings agencies, investors, and/or any other third parties.

10. All documents concerning any agreement between JPMC and Washington Mutual concerning access to and/or disclosure of non-public, confidential or proprietary information in connection with a potential transaction in which JPMC would acquire, merge with, or invest in Washington Mutual.

11. All documents concerning JPMC's access to Washington Mutual data, including but not limited to (a) JPMC due diligence of Washington Mutual and/or (b) any effort by JPMC to place "moles" at Washington Mutual for the purpose of obtaining confidential Washington Mutual information, which JPMC used "to bargain and work with federal regulators for the seizure and sale of Washington Mutual's assets," *see* Texas Action Complaint at ¶ 32, including JPMC's placement of former JPMC employees at Washington Mutual, including but not limited to, the placement or employment of Stephen J. Rotella, Steve Fortunato, Taj Bindra, John Berens, Youyi Chen, and Bill Murray, *see id.* at ¶ 38.

12. All documents concerning JPMC's interest in any potential Transaction and any attempt by JPMC to engage in any potential Transaction, including but not limited to any actual, potential, or contemplated bid or offer by JPMC to merge with, invest in, or purchase

Washington Mutual, including but not limited to (a) Washington Mutual's rejection of JPMC's offer to merge with, invest in, or acquire Washington Mutual in or about April 2008, (b) capital contributions or investments received by JPMC in connection with any potential Transaction in or about September 2008, and/or (c) any agreement or arrangement between JPMC and any Government Unit, including but not limited to the FDIC, OTS, OCC, Federal Reserve, SEC and/or the U.S. Department of the Treasury, concerning any potential transaction in which JPMC might or did acquire WMB, or any stake or portion of WMB.

13. All documents concerning the potential for WMB to be seized by OTS and the decision to seize WMB, as well as the potential for the FDIC to be appointed receiver of WMB and the decision to place WMB into receivership with the FDIC, including all documents concerning any communication from FDIC officials to JPMC in early September 2008, to inform JPMC in words or substance that "the FDIC was carefully monitoring [WMB] and that a seizure of its assets was likely" and that the FDIC "would want to immediately auction off [WMB's] assets." *See* Heidi N. Moore, *Deal Journal*, Wall St. J., Sept. 30, 2008, at C7.

14. All documents concerning the FDIC's efforts in September 2008 to restore JPMC's access to Washington Mutual data.

15. All documents concerning the bid process established by the FDIC for the purchase of WMB, including but not limited to (a) all documents concerning any communication with or among JPMC, any Government Unit and/or any third party about the bid process and (b) all documents concerning bids or indications of interest received by the FDIC, including copies of bids or indications of interest from JPMC and Citigroup.

16. All documents concerning the following statement, in form or in substance, from Citigroup to the FDIC: "We recognize that our approach does not conform to the bidding

instructions for Washington Mutual. We believe, however, that our suggested approach will in fact provide greater systemic ability and lower losses than would any conforming bid. . . . [W]e would expect that, consistent with the FDIC's statutory obligation under the 'least-cost' test, this construct would be offered to all potential bidders in a new round of bidding." *See* Citigroup Bid Letter to FDIC, at 4.

17. All documents concerning the FDIC's consideration of and decision to "modify the standard indemnification to include a limited indemnity in favor of JPMorgan Chase in an amount not to exceed \$500 million for any damages JPMorgan Chase may sustain as a result of litigation brought by WMI against JPMorgan Chase for violation of the agreement between WMI and JPMorgan Chase dated March 11, 2008," including all documents concerning JPMC's request for such an indemnification provision. *See* 9/24/08 Memorandum from James Wigand and Herbert Held to FDIC Board of Directors and FDIC Board of Directors Resolution Approving P&A Transaction.

18. All documents concerning any OCC indication to OTS, FDIC, and/or JPMC that "as the federal regulator of JPMorgan Chase . . . it will provide its approval of the transfer of assets and liabilities [of WMB to JPMC] on September 25, 2008." *See* FDIC Board of Directors Resolution Board of Directors Approving JPMC's Bid for WMB, at 4.

19. All documents concerning OTS's determination that "WMB met the well-capitalized standards through the date of receivership." *See* OTS Fact Sheet, Sept. 25, 2008.

20. All documents concerning OTS's determination that "adverse publicity" caused WMB to "suffer[] significant cash outflows." *See* OTS Order 2008-36, dated September 25, 2008.

Exhibit 1

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

In re:)	Chapter 11
)	
WASHINGTON MUTUAL, INC., et al.,)	Case No. 08-12229 (MFW)
)	
Debtors.)	Jointly Administered
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OPINION¹

Before the Court is the Debtors' Motion for an Order Pursuant to Bankruptcy Rule 2004 and Local Bankruptcy Rule 2004.1 Directing the Examination of JPMorgan Chase Bank, National Association ("JPM"). For the reasons set forth below, the Court will grant the Debtors' Motion.

I. FACTUAL BACKGROUND

Prior to the filing of a chapter 11 petition, Washington Mutual, Inc. ("WMI") was a savings and loan holding company,² which owned Washington Mutual Bank ("WMB"). WMB owned the subsidiary bank Washington Mutual Bank fsb ("WMBfsb"). Before failing, WMB was the nation's largest savings and loan association, with over 2,200 branches and \$188.3 billion in deposits.

¹ This Opinion constitutes the findings of fact and conclusions of law of the Court pursuant to Rule 7052 of the Federal Rules of Bankruptcy Procedure, which is made applicable to contested matters by Rule 9014 of the Federal Rules of Bankruptcy Procedure.

² See 12 U.S.C. § 1467a.

Beginning in mid-2007, the slowdown in the nation's economy and, in particular, the deterioration in the residential housing market resulted in decreased revenue and earnings at WMI and trouble in the asset portfolio of WMB. By September 2008, in the midst of a global credit crisis of unprecedented proportions (which included the bankruptcy of Lehman Brothers Holdings Inc.³), WMI and WMB faced a wave of ratings downgrades by the major credit rating agencies. Deteriorating confidence in WMB fueled a bank run beginning September 15, with \$16.7 billion in deposits withdrawn over a ten-day period.

On September 25, 2008, WMB's primary regulator,⁴ the Office of Thrift Supervision (the "OTS"), closed WMB and appointed the Federal Deposit Insurance Corporation (the "FDIC") as receiver. WMB's takeover by the FDIC was the largest bank failure in the nation's history. Immediately after its appointment as receiver, the FDIC sold substantially all the assets of WMB to JPM. On September 26, the Debtors filed chapter 11 petitions.

On December 30, 2008, the Debtors asserted various claims against the WMB receivership by filing proofs of claim with the FDIC in its capacity as receiver of WMB. Specifically, the

³ See In re Lehman Brothers Holdings Inc., No. 08-13555 (Bankr. S.D.N.Y. filed Sept. 15, 2008).

⁴ WMB was also subject to regulatory oversight by the Office of the Comptroller of the Currency ("OCC"), the Board of Governors of the Federal Reserve System (the "Fed"), and the FDIC.

Debtors' claims are claims for damages related to intercompany loans and receivables, taxes paid on behalf of WMB, tax refunds, capital contributions, certain trust preferred securities, preferential transfers, vendor contract claims, subrogation claims, improper asset sales, cash in demand deposit accounts, administrative claims, employment-related costs and insurance claims, and indemnification claims. The FDIC denied all claims filed by the Debtors in a letter dated January 23, 2009.

On March 20, 2009, the Debtors filed suit in the United States District Court for the District of Columbia (the "DC Court") against the FDIC (the "DC Action")⁵ with the following five counts: (1) seeking review of the FDIC's denial of the Debtors' proofs of claim; (2) wrongful dissipation of WMB's assets; (3) taking of the Debtors' property without just compensation; (4) conversion of the Debtors' property; and (5) seeking a declaration that the FDIC's disallowance of the Debtors' claims is void. JPM moved to intervene in the DC Action; the Debtors have opposed JPM's motion to intervene.

On March 24, 2009, JPM filed an adversary proceeding in this Court naming the Debtors as defendants (the "JPM Adversary Action").⁶ In it, JPM seeks a series of declaratory judgments

⁵ See Washington Mutual, Inc., et al. v. Federal Deposit Insurance Corp., No. 1:09-cv-00533 (D.D.C. filed Mar. 20, 2009).

⁶ See JPMorgan Chase Bank, National Association v. Washington Mutual, Inc. et al., Case No. 08-12229, Adv. No. 09-

regarding the ownership of various assets which JPM asserts it acquired in good faith and for value from the FDIC as receiver for WMB. Specifically, the assets at issue include approximately \$4 billion in trust securities, a \$3.7 billion book entry at WMBfsb purporting to create a deposit account in the name of WMI, tax refunds, judgments from certain prior litigation, assets of certain trusts supporting deferred compensation of former and current employees of WMB, shares of Class B common stock in Visa, Inc., intellectual property and contractual rights. JPM characterizes the JPM Adversary Action as "in many ways the flip side of the DC Action," as JPM "broadly asserts claims that result from Debtors' efforts to assert ownership rights over assets [JPM purportedly] purchased from the FDIC."⁷

On April 27, 2009, the Debtors filed an adversary proceeding in this Court naming JPM as defendant (the "Turnover Action").⁸ In that action, the Debtors seek turnover of approximately \$4 billion in cash held in demand deposit accounts in the name of the Debtors at WMB and WMBfsb at the time WMB was seized and sold

50551 (Bankr. D. Del. filed Mar. 24, 2009). The JPM Adversary Action also names the FDIC as an additional defendant solely on an interpleader claim related to the deposit account liabilities.

⁷ JPM Objection at 2.

⁸ See Washington Mutual, Inc. et al. v. JPMorgan Chase Bank, National Association, Case No. 08-12229, Adv. No. 09-50934 (Bankr. D. Del. filed Apr. 27, 2009).

to JPM. JPM has filed a motion to dismiss the Turnover Action; the Debtors have filed a motion for summary judgment.⁹

A fourth action was filed on February 16, 2009, in the 122d Judicial District Court of Galveston County, Texas (the "Texas Action") by a group of insurance companies¹⁰ which held common stock of WMI and debt securities of WMI and WMB (collectively, the "Insurance Company Plaintiffs") against defendants JPM and its parent company, JPMorgan Chase & Co. ("JPMC"). On March 25, 2009, the FDIC, as an intervening defendant, JPM and JPMC removed the Texas Action to the United States District Court for the Southern District of Texas.¹¹ In addition, the FDIC filed a motion to transfer the Texas Action to the DC Court. The Insurance Company Plaintiffs opposed the motion to transfer venue and sought to remand the action to the Texas state court. The District Court has yet to rule on the motion to transfer venue.

⁹ The FDIC has filed a motion to intervene in the Turnover Action. In addition, both the FDIC and JPM seek to stay the Turnover Action pending the result of the DC Action.

¹⁰ The plaintiffs in the Texas Action are: American National Insurance Company, American National Property and Casualty Company, American National General Insurance Company, Farm Family Life Insurance Company, Farm Family Casualty Insurance Company, Pacific Property and Casualty Company, American National Lloyds Insurance Company, National Western Life Insurance Company, and Garden State Life Insurance Company.

¹¹ See American National Insurance Company et al. v. JPMorgan Chase & Co., No. 3:09-CV-00044 (S.D. Tex. Mar. 25, 2009).

The Complaint in the Texas Action ("Texas Complaint") alleges causes of action for tortious interference with an existing contract, breach of a confidentiality agreement, and unjust enrichment. Specifically, the Texas Complaint alleges that JPM, which had long coveted WMB's depositor base and branch network, drove down WMB's value so it could purchase WMB's assets at a fire-sale price well below their fair market value. Key aspects of the alleged scheme include entering into false negotiations with WMI and WMB under the guise of a good-faith bidder during the summer of 2008, gaining access to confidential and proprietary information, and disseminating that confidential information, as well as false information, to the media and investors in an effort to drive down WMI's credit rating and stock price.

The instant dispute is based on the Debtors' Motion for an Order Pursuant to Bankruptcy Rule 2004 and Local Bankruptcy Rule 2004.1 Directing the Examination of JPM (the "Motion"), which was filed on May 1, 2009. Specifically, the Debtors' Motion seeks production of documents and related depositions regarding four areas of investigation:

- potential business tort claims against JPM based on the allegations in the Texas Action;

- potential fraudulent transfer claims against JPM arising from approximately \$6.5 billion of capital contributions made by WMI to WMB since December 2007;
- potential turnover claims against JPM related to (i) approximately \$177 million owed by WMB under outstanding promissory notes held by non-Debtor subsidiaries of WMI, and (ii) approximately \$22.5 million in intercompany receivables owed to WMI by WMB; and
- potential preferential transfer claims against JPM arising from approximately \$152 million transferred to WMB or third parties on behalf of WMB in the one-year period preceeding the filing of the Debtors' chapter 11 petitions.

JPM opposes the Motion, asserting that the requested Rule 2004 examination seeks information related to the pending DC Action, as well as the JPM Adversary Action and the Turnover Action, and thus the applicable discovery rules of the Federal Rules of Civil Procedure should apply. The Court held a hearing on May 20, at which the parties presented oral argument on the Motion. At the conclusion of the hearing, the Court took the matter under advisement. Upon consideration of the parties' pleadings and arguments, the Motion is ripe for decision.

II. JURISDICTION

This Court has jurisdiction over this matter, which is a core proceeding pursuant to 28 U.S.C. §§ 1334 and 157(b)(2)(A).

III. DISCUSSION

A. Rule 2004 Examination Standards

Rule 2004(a) of the Federal Rules of Bankruptcy Procedure states that “[o]n motion of any party in interest, the court may order the examination of any entity.” The scope of a Rule 2004 examination is “unfettered and broad.” In re Bennett Funding Group, Inc., 203 B.R. 24, 28 (Bankr. N.D.N.Y. 1996).

The examination . . . may relate only to the acts, conduct, or property or to the liabilities and financial condition of the debtor, or to any matter which may affect the administration of the debtor’s estate. [Additionally, in a] case under chapter 11 . . . the examination may also relate to the operation of any business and the desirability of its continuance, the source of any money or property acquired or to be acquired by the debtor for purposes of consummating a plan and the consideration given or offered therefor, and any other matter relevant to the case or to the formulation of a plan.

Fed. R. Bankr. P. 2004(b). A Rule 2004 examination “is commonly recognized as more in the nature of a ‘fishing expedition.’” Bennett Funding, 203 B.R. at 28. The purpose of the examination is to enable the trustee to discover the nature and extent of the bankruptcy estate. In re Drexel Burnham Lambert Group, Inc., 123

B.R. 702, 708 (Bankr. S.D.N.Y. 1991). Legitimate goals of Rule 2004 examinations include "discovering assets, examining transactions, and determining whether wrongdoing has occurred." In re Enron Corp., 281 B.R. 836, 840 (Bankr. S.D.N.Y. 2002). There are, however, limits to the use of Rule 2004 examinations. Id. "It may not be used for 'purposes of abuse or harassment' and it 'cannot stray into matters which are not relevant to the basic inquiry.'" In re Table Talk, Inc., 51 B.R. 143, 145 (Bankr. D. Mass. 1985) (quoting In re Mittco, Inc., 44 B.R. 35, 36 (Bankr. E.D. Wis. 1984)).

At issue in this case is the potential limitation on the use of the Rule 2004 examination device caused by the shadow of pending adversary proceedings or litigation in other forums. The "pending proceeding" rule states "that once an adversary proceeding or contested matter has been commenced, discovery is made pursuant to Federal Rules of Bankruptcy Procedure 7026 et seq., rather than by a [Rule] 2004 examination." Bennett Funding, 203 B.R. at 28. See also Enron, 281 B.R. at 840; In re 2435 Plainfield Ave., Inc., 223 B.R. 440, 455-56 (Bankr. D.N.J. 1998) (collecting cases); Intercontinental Enters., Inc. v. Keller (In re Blinder, Robinson & Co., Inc.), 127 B.R. 267, 274 (D. Colo. 1991) (quoting In re Valley Forge Plaza Assocs., 109 B.R. 669, 674-75 (Bankr. E.D. Pa. 1990)). In addition to restricting the use of Rule 2004 examinations when proceedings

are pending against the examinee in the bankruptcy court, courts have also recognized that Rule 2004 examinations may be inappropriate "where the party requesting the Rule 2004 examination could benefit their pending litigation outside of the bankruptcy court against the proposed Rule 2004 examinee."

Enron, 281 B.R. at 842. See also, Snyder v. Soc'y Bank, 181 B.R. 40, 42 (S.D. Tex. 1994), aff'd sub nom., In re Snyder, 52 F.3d 1067 (5th Cir. 1995) (mem.) (characterizing the use of Rule 2004 to further a state court action as an abuse of Rule 2004 and stating that the bankruptcy court did not abuse its discretion by denying production under a subpoena issued under Rule 2004, where appellant's primary motivation was to use those materials in a state court action against the examinee).

The reasons supporting these restrictions on the use of Rule 2004 examinations are twofold. First, the discovery rules apply both in adversary proceedings and contested matters. See Fed. R. Bankr. P. 7001 & 9014(c). Furthermore, a Rule 2004 examination does not provide the same procedural safeguards as Rule 7026. For example, a witness has no general right to representation by counsel during a deposition, and the right to object to immaterial or improper questions is limited. In re Dinubilo, 177 B.R. 932, 940 (E.D. Cal. 1993).

The prohibition on use of Rule 2004 examinations once an adversary proceeding or litigation in another forum is commenced,

however, has an exception best expressed by the court in Bennett Funding: “[d]iscovery of evidence related to the pending proceeding must be accomplished in accord with more restrictive provisions of [the Federal Rules of Bankruptcy Procedure], while unrelated discovery should not be subject to those rules simply because there is an adversary proceeding pending.” 203 B.R. at 29 (emphasis in original). See also In re Buick, 174 B.R. 299, 305 (D. Colo. 1994) (noting that “even after the trustee has commenced adversary proceeding(s), the trustee may conduct Rule 2004 examinations of entities which are not parties to or are not affected by the pending adversary proceeding(s)”); Blender, Robinson, 127 B.R. at 275 (“Entities not affected by the adversary proceeding do not require the greater protections afforded under the Federal Rules, and the Trustee should be permitted to examine them under Rule 2004”); In re Int’l Fibercom, Inc., 283 B.R. 290, 292 (Bankr. D. Ariz. 2002) (“Consequently when the Rule 2004 examination relates not to the pending adversary litigation, but to another matter, the ‘pending proceeding’ rule does not apply”); In re M4 Enters., Inc., 190 B.R. 471, 475 n.4 (Bankr. N.D. Ga. 1995) (finding that the 2004 examination did not relate to the pending adversary proceeding and thus the ‘pending proceeding’ rule did not apply).

The primary concern of courts is the use of Rule 2004 examinations to circumvent the safeguards and protections of the

Federal Rules of Civil Procedure. Enron, 281 B.R. at 841. Yet aggressive application of the “pending proceeding” rule may prevent legitimate Rule 2004 examinations on matters wholly unrelated to the pending proceeding, thereby interfering with the trustee’s fiduciary duty to maximize estate assets. See Bennett Funding, 203 B.R. at 29 (noting that precluding the use of the 2004 examination device when any adversary proceeding has been commenced would allow entities unaffected by the proceeding to avoid examination); Drexel Burnham Lambert, 123 B.R. at 708 (“A trustee in bankruptcy . . . is under a duty to maximize the realization of estate liquidation”).

In this Court’s view, the proper approach is that of Bennett Funding. Where a party requests a Rule 2004 examination and an adversary proceeding or other litigation in another forum is pending between the parties, the relevant inquiry is whether the Rule 2004 examination will lead to discovery of evidence related to the pending proceeding or whether the requested examination seeks to discover evidence unrelated to the pending proceeding.

B. Relatedness of the Requested 2004 Examination to the Pending Proceedings

In this case, JPM argues that the Debtors’ requested Rule 2004 examination is improper because it seeks to elicit information directly related to issues and parties already named

in the JPM Adversary Action as well as the DC Action.¹²

1. The JPM Adversary Action

JPM argues that the Debtors' requested 2004 examination seeks documents related to the JPM Adversary Action. In support of this, JPM created a detailed chart which purports to delineate the overlapping areas between the Complaint in the JPM Adversary Action and the Debtors' document production requests.¹³ The overlap, however, is premised on a single alleged fact in the JPM Adversary Action Complaint: "[T]he OTS placed WMB in receivership because of significant concerns over the safety and soundness of the institution. To ensure continuity of operations, maximize public confidence and minimize cost to the public treasury, the FDIC ran an accelerated bidding process." JPM Adversary Action Complaint at ¶ 25. Simply because JPM chose to include background information regarding the relationship of the parties

¹² JPM does not argue that the Debtors' 2004 examination request is improper due to its relationship to either the Texas Action or the Turnover Action. Nothing in the document production request seeks any information related to the Turnover Action, thus the Turnover Action is not an obstacle to Debtors' examination request.

The requested Rule 2004 examination does seek extensive discovery related to the Texas Action. However, the Debtor is not a party to the Texas Action. Nor has the Texas Action been transferred to the DC Court, nor consolidated with the DC Action. Therefore, because the Debtor is not a party to the Texas Action, the requested 2004 examination is proper, even though it seeks information related to the Texas Action.

¹³ See JPM Objection at 11-12.

involved in the JPM Adversary Action in its Complaint does not mean that any Rule 2004 examination request dealing with those background facts is "related" to the JPM Adversary Action. Rather, the Court must determine whether the requested 2004 examination will result in the "discovery of evidence related to the pending proceeding." Bennett Funding, 203 B.R. at 29 (emphasis added).

The JPM Adversary Action primarily seeks a series of declaratory judgments that JPM owns a number of disputed assets it asserts that it purchased when it acquired the assets of WMB from the FDIC. The Debtors' Motion seeks production of documents and related depositions relating to potential business tort claims, potential fraudulent transfer claims, potential turnover claims against JPM, and potential preferential transfer claims against JPM.

The Court concludes that the Debtors' Motion does not seek the discovery of evidence "related" to the JPM Adversary Action. With respect to the potential business tort claims, the Debtors seek to investigate conduct which occurred before the OTS closed WMB. In contrast, the JPM Adversary Action seeks to have the Court determine the ownership of certain disputed assets from the sale of WMB's assets to JPM, which occurred after the OTS closed WMB.

Furthermore, the Debtors' document requests for information related to fraudulent transfer claims, turnover claims and preference claims are also unrelated to the JPM Adversary Action. Specifically, the JPM Adversary Action Complaint does not seek a determination of ownership of the potential assets the Debtors seek to investigate: (1) the \$6.5 billion of capital contributions made by WMI to WMB since December 2007; (2) the \$177 million owed by WMB under outstanding promissory notes held by non-Debtor subsidiaries of WMI; (3) the \$22.5 million in intercompany receivables owed to WMI by WMB; and (4) the \$152 million transferred to WMB or to third parties on behalf of WMB in the one-year period preceding the Debtors' filing of chapter 11 petitions.

Accordingly, the Court finds that the Debtors' Motion does not seek to discover evidence related to the JPM Adversary Action.

2. The DC Action

JPM also argues that the Debtors' requested 2004 examination seeks documents related to the DC Action. However, JPM is not a party to the DC Action. JPM admits it is not a party to the DC Action, but notes there is a "substantial likelihood" that JPM's motion to intervene in the DC Action will be granted. JPM then argues that since it has a "clear interest" in the DC Action, any

discovery related to the DC Action is improper. The Court disagrees.

The possibility that JPM may intervene in the DC Action is not a sufficient reason to deny the Debtors' Motion at this time. The "pending proceeding" rule is predicated on there actually being a pending action involving the two parties. Bennett Funding, 203 B.R. at 28. JPM has not cited any authority for the proposition that a Rule 2004 examination of an entity is improper when a proceeding is pending in another venue against a third party and there is a "substantial likelihood" that the examinee may intervene.

Thus, the Court concludes that there is no justification to prevent the Rule 2004 examination of JPM simply because the Debtors may obtain evidence which could be used in a pending proceeding in which JPM is not yet a party. One of the primary purposes of a Rule 2004 examination is as a pre-litigation device. See Table Talk, 51 B.R. at 145-46. Consequently, the Court should not permit a party to avoid examination by simply filing a motion to intervene in a pending proceeding against a third party. Since JPM is not a party to the DC Action, the concern that the Debtors are attempting to circumvent the Federal Rules of Civil Procedure is not present. The "relatedness" of

the DC Action to the Debtors' requested 2004 examination is not relevant.¹⁴

Accordingly, the Court concludes that the Debtors' Motion to conduct a Rule 2004 examination of JPM is appropriate. The Court will grant the Debtor's Motion.

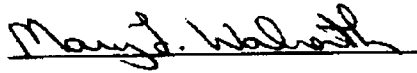
IV. CONCLUSION

For the reasons set forth above, the Court will grant the Debtors' Motion.

An appropriate order is attached.

Dated: June 24, 2009

BY THE COURT:



Mary F. Walrath
United States Bankruptcy Judge

¹⁴ With respect to the business tort claims, even if JPM successfully intervened in the DC Action, the requested 2004 examination does not seek to discover evidence related to the DC Action. The Debtors seek to discover evidence regarding JPM's alleged malfeasance prior to the seizure and sale of WMB. JPM argues that discovery of this evidence is related to the Debtors alleged causes of action against the FDIC for dissipation of WMB's assets and the taking of Debtors' property without just compensation. However, these causes of action are premised on the FDIC's failure to maximize the value of the receivership's assets in the sale of WMB to JPM. Specifically, the Debtors assert the FDIC would have received a higher value through the liquidation of WMB than the sale to JPM. The requested 2004 examination does not seek to discover evidence related to the hypothetical liquidation analysis implicated in the dissipation and takings causes of action asserted in the DC Action.

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

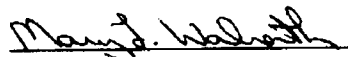
In re:) Chapter 11
)
WASHINGTON MUTUAL, INC., et al.,) Case No. 08-12229 (MFW)
)
Debtors.) Jointly Administered
_____)

ORDER

AND NOW, this **24th** day of **JUNE, 2009**, upon consideration of the Motion filed by the Debtors and for the reasons set forth in the accompanying Opinion, it is hereby

ORDERED that the Debtors' Motion for an Order Pursuant to Bankruptcy Rule 2004 and Local Bankruptcy Rule 2004.1 Directing the Examination of JPMorgan Chase Bank, National Association is **GRANTED**.

BY THE COURT:



Mary F. Walrath
United States Bankruptcy Court

cc: Rafael X. Zahralddin-Aravena, Esquire¹

¹Counsel shall serve a copy of this Order and the accompanying Opinion on all interested parties and file a Certificate of Service with the Court.

SERVICE LIST

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Wilmington, DE 19801
Counsel for the Official Committee of Unsecured Creditors

Exhibit 2

From: tim.main@jpmorgan.com
Sent: Thursday, June 5, 2008 9:03 AM
To: Douglas.Braunstein@jpmorgan.com
Subject: Fw: Meeting with Emilio Botín

Timothy R.M. Main
JPMorgan Chase & Co.
277 Park Avenue, 13th Floor
New York, NY 10172
tel 212-622-7272
fax 917-546-2585

----- Forwarded by Tim Main/JPMCHASE on 06/05/2008 08:50 AM -----

**Jose A
Cerezo/JPMCHASE**

06/04/2008 01:55 PM

To "Bombieri, Enrico" <enrico.bombieri@jpmorgan.com>, Tim
Main/JPMCHASE@JPMCHASE, "Chrin, John"
<john.r.chrin@jpmorgan.com>, "Rivas, Fernando"
<fernando.rivas@jpmorgan.com>, "Pinel, Enrique"
<enrique.pinel@jpmorgan.com>
cc "Casanueva, Enrique" <enrique.casanueva@jpmorgan.com>
Subject: Meeting with Emilio Botín

Jamie Dimon, Enrique Casanueva and I met with Santander Chairman Emilio Botín, and executive board members Matías R Inciarte and Juan R Inciarte.

Good meeting and with lots of topics and with many questions from Santander. In fact so many questions that there was no time to answer a few of them.

. USA: Emilio Botín and Juan asked many questions about specific opportunities. Wamu, Wachovia, Suntrust and PNC which are of interest to Santander. We covered them in detail and Jamie reckoned that these are opportunities in which JP Morgan would also be interested. It is important to have an open dialogue with them, as Santander would not pursue any one of these opportunities if JP Morgan were to do the same (can't compete on price with JP Morgan for an acquisition in the USA). But Santander would probably hire JP Morgan as advisor if we are not going after them.

Emilio Botín said we could perhaps pursue opportunities together. Asked Jamie if it would make sense for JP Morgan and Santander to go together after Wachovia. But we were interrupted with another question before Jamie could answer. Asked why did JP Morgan not buy Wamu and instead TPG injected the capital; Jamie replied he thinks the potential losses are higher than TPG is estimating, plus their losses are limited to their initial equity investment, unlike for JP Morgan (or any other USA bank) which has to mark to market and assign/inject additional capital accordingly.

Emilio Botín is concerned about their position at Sovereign. They have devoted much resources, they have lost money and he believes it would have been best to bid for control of the bank instead of trying to negotiate a capital increase with Santander subscribing the whole issue. Matías R Inciarte said the best route is to either gain control soon, or get out.

Asia:

Like many others, they are struggling to do business in Asia. Considering to buy a stake in a bank in China and asked if it makes sense to do so at current prices. Jamie replied that the concept is ok, but not now, too expensive, adding that so far "in China it is a one way street" with them wanting to get all and letting you get nothing, and that there will be more and better opportunities when China has a downturn.

Also, too difficult to know what you are buying: many of them do not yet have integrated systems, possibly a meaningful amount of political loans, etc.

Emilio Botín inquired about Jamie's views on Brazil and Mexico. Santander likes Banamex and has approached City to try and buy it, but not for sale. Jamie acknowledged he would like to buy it too.

Europe: Jamie asked about their views on Royal Bank of Scotland. Botín thinks their mistake has been to go for ABN Amro without having a strong financial position. And then bad luck as wholesale banking outlook deteriorated sharply. Thinks Goodwin will stay at least until integration of ABN Amro's assets has been completed.

Consumer/auto finance: Santander is intrigued about why JP Morgan would not try to buy GE Money in USA, nor Citi's consumer finance assets in the USA. Jamie explained credit card business of GE Money is all private label. They can lose it to competitors who can do the business better, like ourselves. Citi's consumer finance business in the USA is a very good one, but does not fit in any one of JP Morgan's key divisions. He said Santander should take a good look at it. There are very few potential buyers at this moment, and Santander might be able to get it for a good price and Citi could perhaps provide some of the financing themselves to facilitate the deal.

Santander continues to be a buyer of auto finance assets. Drive Financial doing better than they expected in terms of npls; reason being Texas, where they do the bulk of their business, is doing much better than other regions because they are a big beneficiary of the high oil price. Still, priority in the USA is to buy businesses with retail deposits/branches. Not easy to finance auto loan companies in the USA these days.

Botin finally asked a lot of questions about the decision making process at the top, number of board members and members of the executive committee. Frequency of meetings and other corporate governance issues. Obviously very good chemistry between Jamie and Botin, who would like to see him next time he is in New York.

José A Cerezo
JP Morgan
Financial Institutions Group
Tel: +34 91 516 13 51
+34 34630904440

Exhibit 3



**Service of Process
Transmittal**

02/24/2009

CT Log Number 514486511



TO: Carl Del Vecchio
JPMorgan Chase Bank, N.A.
1 Chase Manhattan Plaza - 20th Floor, Legal Department
New York, NY 10081-

RE: Process Served in Texas

FOR: JPMorgan Chase Bank, National Association (Domestic State: OH)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: American National Insurance Company, et al., Pltfs. vs. JPMorgan Chase & Co., and JPMorgan Chase Bank, National Association, Dfts.

DOCUMENT(S) SERVED: Citation, Original Petition, Civil Case Statement, First Set of Interrogatories

COURT/AGENCY: 122nd Judicial District Court Galveston County, TX
Case # 09CV0199

NATURE OF ACTION: Tortious Interference with an Existing Contract, Unjust Enrichment and Breach of Contract

ON WHOM PROCESS WAS SERVED: C T Corporation System, Dallas, TX

DATE AND HOUR OF SERVICE: By Process Server on 02/24/2009 at 15:45

APPEARANCE OR ANSWER DUE: By 10:00 a.m. on the Monday next after the expiration of 20 days

ATTORNEY(S) / SENDER(S): Andrew J. Mytelka
One Moody Plaza
18th Floor
Galveston, TX 77550
4097973200

ACTION ITEMS: CT has retained the current log, Retain Date: 02/24/2009, Expected Purge Date: 03/01/2009
Image SOP
Email Notification, Legal Papers Served legal.papers.served@jpmchase.com
CC Recipient(s)
Teresa Goldberg, via Customer Pick-up

SIGNED: C T Corporation System
PER: Beatrice Casarez
ADDRESS: 350 North St Paul Street
Suite 2900
Dallas, TX 75201
TELEPHONE: 214-932-3601

Citation Upon Whom Personal Service

CITATION
THE STATE OF TEXAS
CASE NO. 09CV0199 - 122ND District Court

AMERICAN NATIONAL INSURANCE COMPANY, ET AL

VS.

JPMORGAN CHASE & CO., ET AL

Issued to: JPMORGAN CHASE BANK, NATIONAL ASSOCIATION, Upon Whom Process of Service may be had by serving: Registered Agent, C.T CORPORATION SYSTEM, 350 NORTH ST. PAUL ST., DALLAS, TEXAS 75201

Defendant Greetings:

NOTICE TO DEFENDANT: You have been sued. You may employ an Attorney. If you or your attorney does not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. The Original petition was filed on the 16TH day of February 2009 in cause number 09CV0199 pending before the 122ND District Court of Galveston County, Texas. See attached Original Petition for named parties to the suit.

The name and address of the Pro Se party or Attorney: ANDREW J. MYTELKA, ATTORNEY, ONE MOODY PLAZA, 18TH FLOOR, GALVESTON, TEXAS 77550

The nature of the demand of the Plaintiff is shown by a true and correct copy of the Original Petition attached to this citation.

If this citation is not served it shall be returned unserved.

Issued and given under my hand and seal of Court at Office, on February 18, 2009 A.D.

A Status Conference is set for: 05-21-09

Please refer to and complete the attached Status Conference Sheet. Upon completion, please return to Clerk of Court.

LATONIA D. WILSON, District Clerk, Galveston County, Texas,
600 59th Street, Suite 4001, Galveston, Texas 77551

By: Terrell Smith
Terrell Smith, Deputy Clerk

OFFICER'S RETURN

Came to hand on the _____ day of _____, _____ at _____ o'clock at _____ M. Executing
Within the County of _____, at _____ o'clock _____ M. on the _____ day of _____
By delivering to the within the named Defendant by serving: Registered Agent at _____

Each in person a true copy of this citation together with the accompanying copy of the petition, having first attached such copy of such petition to such copy of citation and endorsed on such copy of citation the date of delivery.
Total fee for serving citation \$ _____

Name of Officer or Authorized & Disinterested Person
_____, County, Texas

By: _____, Signature of Deputy of Authorized & Disinterested Person

Authorized & Disinterested person's Verification:

On this the day personally appeared _____, known to me to be the person whose signature appears on the foregoing return. After being duly sworn by me, he/she stated that this citation was executed by him/her in the exact manner recited on the return.

Sworn to and subscribed before me, on this the _____ day of _____, _____

Notary's Name Printed: _____

Notary Public in and for the State of Texas _____

Commission Expires: _____

Nicole Seales
#4752
2-24-09

CAUSE NO. 09CV0199

AMERICAN NATIONAL INSURANCE	§	
COMPANY, AMERICAN NATIONAL	§	
PROPERTY AND CASUALTY COMPANY,	§	
AMERICAN NATIONAL GENERAL	§	IN THE DISTRICT COURT
INSURANCE COMPANY, FARM FAMILY	§	
LIFE INSURANCE COMPANY, FARM	§	
FAMILY CASUALTY INSURANCE	§	GALVESTON COUNTY, TEXAS
COMPANY, PACIFIC PROPERTY AND	§	
CASUALTY COMPANY, AMERICAN	§	
NATIONAL LLOYDS INSURANCE	§	122 ^d TH JUDICIAL CIRCUIT
COMPANY, NATIONAL WESTERN LIFE	§	
INSURANCE COMPANY, and GARDEN	§	
STATE LIFE INSURANCE COMPANY,	§	
Plaintiffs	§	
vs.	§	
JPMORGAN CHASE & CO., and	§	DEMAND FOR JURY TRIAL
JPMORGAN CHASE BANK, NATIONAL	§	
ASSOCIATION,	§	
Defendants.	§	

PLAINTIFFS' ORIGINAL PETITION

TO THE HONORABLE STATE DISTRICT JUDGE:

COME NOW, Plaintiffs American National Insurance Company, American National Property and Casualty Company, American National General Insurance Company, Farm Family Life Insurance Company, Farm Family Casualty Insurance Company, Pacific Property and Casualty Company, American National Lloyds Insurance Company, National Western Life Insurance Company, and Garden State Life Insurance Company (collectively, "Plaintiffs"), who file this Original Petition against Defendants JPMorgan Chase & Co. and JPMorgan Chase Bank, National Association (collectively, "JPMC" or "Defendants").

Parties

1. Plaintiff American National Insurance Company ("ANICO") is a Texas insurance company with its principal place of business at One Moody Plaza, Galveston, Galveston County, Texas 77550.

2. American National Property and Casualty Company ("ANPAC") is a Missouri insurance company with its principal place of business at 1949 East Sunshine, Springfield, Missouri 65808.

3. American National General Insurance Company ("ANGIC") is a Missouri insurance company with its principal place of business at 1949 East Sunshine, Springfield, Missouri 65808.

4. Farm Family Life Insurance Company ("FFLIC") is a New York insurance company with its principal place of business at 344 Route 9W, Glenmont, New York 12077.

5. Farm Family Casualty Insurance Company ("FFCIC") is a New York insurance company with its principal place of business at 344 Route 9W, Glenmont, New York 12077.

6. Pacific Property and Casualty Company ("Pacific") is a California insurance company with its principal place of business at 1949 East Sunshine, Springfield, Missouri 65808.

7. American National Lloyds Insurance Company ("AN LLOYDS") is a Texas insurance company with its principal place of business at 1949 East Sunshine, Springfield, Missouri 65808.

8. National Western Life Insurance Company ("NWL") is a Colorado insurance company with its principal place of business at 850 East Anderson Lane, Austin, Travis County, Texas 78752.

9. Garden State Life Insurance Company ("Garden State") is a Texas insurance company with its principal place of business in League City, Galveston County, Texas 77550.

10. JPMorgan Chase & Co. (referred to as "JPMC", collectively with its subsidiary, co-defendant JPMorgan Chase Bank, National Association) is a bank holding company incorporated in Delaware with its principle place of business at 1 Chase Manhattan Plaza, 59th Floor, New York, New York, 10005-1401. JPMorgan Chase & Co. may be served with process through service upon its registered agent for service of process in the State of Texas, C.T Corporation System, 350 North St. Paul St., Dallas, Texas 75201.

11. Defendant JPMorgan Chase Bank, National Association (referred to as "JPMC", collectively with its parent, JPMorgan Chase & Co.) is a wholly owned subsidiary of JPMorgan Chase & Co. Defendant JPMorgan Chase Bank, National Association is a national banking association incorporated in the state of New York with its principal place of business at 270 Park Ave., New York, New York 10017-2070. JPMorgan Chase Bank, National

Association may be served with process through service upon its registered agent for service of process in the State of Texas, C T Corporation System, 350 North St. Paul St., Dallas, Texas 75201.

Discovery Control Plan

12. Plaintiff intends that discovery be conducted under Level 3, and affirmatively pleads that it seeks monetary relief aggregating more than \$50,000.

Jurisdiction and Venue

13. The Court has jurisdiction over the parties and subject matter of this cause.

14. The amount in controversy is within the jurisdictional limits of this Court.

15. All Defendants are authorized to conduct business in Texas and regularly and systematically transact substantial business in the state of Texas. A substantial part of the conduct of each Defendant complained-of herein occurred in the state of Texas.

16. Venue is proper in Galveston County, Texas, because a tort suit for damages may be brought in the county in which the injury was inflicted. TEX. CIV. PRAC. & REM. CODE § 15.093.

17. Venue is also proper in Galveston County, Texas, because all or part of the cause of action arose in Galveston County. TEX. CIV. PRAC. & REM. CODE § 15.094.

18. Venue is also proper in Galveston County, Texas, because the Defendants have an agency or representative in Galveston County. TEX. CIV. PRAC. & REM. CODE § 15.094.

19. Venue is proper in Galveston County, Texas, because a substantial part of the events or omissions giving rise to the claims occurred in Galveston County, Texas. TEX. CIV. PRAC. & REM. CODE § 15.002(a)(1).

Summary of Claim - Overview

20. In September of 2008, motivated by greed and unrestrained by moral or legal boundaries, the Defendants exploited a perceived liquidity crisis in the banking industry to improperly and illegally take advantage of the financial difficulties of Washington Mutual, Inc. ("WMI"), the nation's largest savings and loan association. Defendants used the crisis as a

backdrop and lever to negotiate the seizure and sale of the banking operations of WMI— Washington Mutual Bank, Henderson, NV and Washington Mutual Bank, FSB, Park City, UT (together, “Washington Mutual Bank” or “WMB”)—stripped of liabilities, from federal regulators. In negotiating with the federal regulators, JPMC misused confidential financial information of WMI and WMB (collectively referred to as “Washington Mutual”) that it had gained through deceptive means and under false pretenses. JPMC’s purchase of Washington Mutual’s core operations from federal regulators culminated a years-long scheme designed to wrongfully exploit the opportunity of a financial crisis in Washington Mutual.

21. On September 25, 2008, after weeks of pressure by the Defendants upon Federal Deposit Insurance Corporation (the “FDIC”) and other federal regulators, the FDIC and the Office of Thrift Supervision (the “OTS”) agreed to the Defendants’ terms. On that day, the OTS seized Washington Mutual Bank (“WMB”), passed the bank to the FDIC as receiver, and the FDIC sold the crown jewels of Washington Mutual to JPMC at a fire sale price. In the deal, JPMC acquired the extensive banking franchise of Washington Mutual for the severely undervalued sum of \$1.9 billion.

22. As a result of the FDIC deal, according to JPMC’s fourth quarter 2008 financial reports, JPMC gained 2237 branches and \$126.3 billion in deposits (an increase of 63%), and reported a positive impact upon its retail financial services, card services and commercial banking divisions. More tellingly, in this fourth quarter 2008 statement, JPMC admitted that the fair value of the assets it obtained from Washington Mutual was \$1.3 billion more than the \$1.9 billion it paid, and booked a gain in that amount. This \$1.3 billion extraordinary gain was in addition to the \$581 million extraordinary gain reported on October 15, 2008 as being the

result of the acquisition of Washington Mutual's assets. As JPMC stated in the footnote to its fourth quarter 2008 Consolidated Financial Highlights statement, explaining the gain:

"JPMorgan Chase acquired the banking operations of Washington Mutual Bank for \$1.9 billion. The fair value of the net assets acquired exceeded the purchase price which resulted in negative goodwill. In accordance with SFAS 141, nonfinancial assets that are not held-for-sale were written down against that negative goodwill. The negative goodwill that remained after writing down nonfinancial assets is recognized as an extraordinary gain."

23. The deal capped a years-long effort on the part of Defendants to acquire Washington Mutual and expand its operations to the West Coast. As JPMC's Chief Executive Officer of Retail Financial Services, Charlie Scharf, stated in an October 2, 2008 letter to Washington Mutual employees after the acquisition:

"During the last few years as we have been building our own business, we kept track of banks that would complement our franchise and help us become a better bank for our customers, our employees and our shareholders. Washington Mutual consistently was at the top of the list."

24. As early as 2004, JPMC and JPMC's then-Chief Operating Officer and later Chief Executive Officer, James "Jamie" Dimon, set a goal to acquire the Washington Mutual banking franchise and geographic market. In the months and years prior to the seizure of Washington Mutual by the Office of Thrift Supervision on September 25, 2008, the Defendants developed and executed a scheme designed to achieve this end.

25. Defendants' plan first entailed strategically placing key personnel to gather information regarding Washington Mutual's strategic business decisions and financial health. In addition, Defendants later falsely negotiated with Washington Mutual as a good faith bidder during the summer of 2008, when Washington Mutual sought a purchaser for itself. Instead of dealing honestly with Washington Mutual, JPMC used its "inside position" to build a

profitable bid to the FDIC. The Defendants worked extensively with the FDIC to design bidding parameters that would suit JPMC's needs, and which would rule out other potential bidders.

26. In this way, the Defendants were able to strip the liabilities away from the valuable revenue-producing assets of Washington Mutual, and to obtain those assets. All of these acts were done with the knowledge of contractual liabilities owed to Plaintiffs and the intent to destroy Washington Mutual's ability to fulfill those obligations.

27. Following the dismantling of Washington Mutual, because of the dubious circumstances of its closure, the United States Attorney's Office, Western District of Washington, announced that a multi-agency investigation had been launched to scrutinize the activities of the participants to Washington Mutual's closure. As U.S. Attorney Jeffrey C. Sullivan stated on October 15, 2008,

"Due to the intense public interest in the failure of Washington Mutual, I want to assure our community that federal law enforcement is examining activities at the bank to determine if any federal laws were violated. The FBI, Federal Deposit Insurance Corporation Office of Inspector General (FDIC-OIG), Securities and Exchange Commission (SEC) and the Internal Revenue Service Criminal Investigations (IRS-CI) have all provided investigators to our task force.

* * *

For more than 100 years Washington Mutual was a highly regarded financial institution headquartered in Seattle. Given the significant losses to investors, employees, and our community, it is fully appropriate that we scrutinize the activities of the bank, its leaders, and others to determine if any federal laws were violated."

When asked about the investigation by the Wall Street Journal for an article appearing the next day, JPMC declined to comment. The investigation, upon information and belief, is ongoing.

Statement of Claim

28. This is an action for Tortious Interference with an Existing Contract, Unjust Enrichment and Breach of Contract.

29. The Plaintiffs own common stock of Washington Mutual, Inc. ("WMI") and debt securities of WMI and Washington Mutual Bank ("WMB") (collectively referred to as "Washington Mutual").

30. On September 25, 2008, JPMC, in order to gain money and market share, wrongfully finalized its scheme to strip away valuable assets of Washington Mutual without properly compensating the company or its stakeholders, including the Plaintiffs. JPMC's scheme was a prime example of JPMC's capitalizing on its position of strength through use of unfair and illegal business practices. For JPMC, strength, power and influence justified the pursuit of profits by any means available.

31. One of JPMC's "strengths" was its "insider" status through its influence with banking regulators and policymakers and its access to information through its business dealings with clients, associates and other parties. When JPMC identified a business target, it improperly used its influence to gather confidential information from and about these companies. Upon information and belief JPMC then created and exploited opportunities to wrongfully disclose or use the confidential information to achieve its business purposes at the expense of these companies.

32. JPMC's scheme to strip away Washington Mutual's value from its stakeholders involved, among other things, misusing access to government regulators to gain non-public information in order to gain a competitive advantage and wrongfully influence government

policy and actions. In addition, JPMC deceptively gained access to Washington Mutual's confidential financial records through the use of "plants" and "moles" engaged in corporate espionage at Washington Mutual. JPMC misused the wrongfully obtained confidential information of Washington Mutual to bargain and work with federal regulators for the seizure and sale of Washington Mutual's assets. JPMC leaked false and harmful information to news media, which incited depositors to make withdrawals from their Washington Mutual accounts. JPMC obstructed Washington Mutual's efforts to sell itself in a fair bidding process. Finally, JPMC exerted improper influence over government regulators to prematurely seize Washington Mutual, a solvent and liquid bank, and to sell assets of Washington Mutual without an adequate or fair bidding process.

JP Morgan takes the valuable assets of Washington Mutual and destroys the property rights of shareholders and contract rights of debt holders

33. Just prior to September 25, 2008, Washington Mutual was the nation's largest savings and loan association, specializing in providing home mortgages, credit cards and other retail lending products and services. Washington Mutual had more than 43,000 employees, more than 2,200 branch offices in 15 states and \$188.3 billion in deposits. WMB was the wholly owned subsidiary of WMI, a savings bank holding company with a thrift charter.

WMB was the chief source of revenue for WMI.

34. WMB and WMI were both subject to regulation and examination by the Office of Thrift Supervision (the "OTS"), an agency of the United States Department of the Treasury. In addition, WMB was supervised by the FDIC, among other state and federal agencies.

35. In and around 2004, JPMC's then-Chief Operating Officer, James Dimon, resolved to improve JPMC's lack of market presence on the West Coast and in the south.

Dimon would, in 2005, take over JPMC as Chairman and Chief Executive Officer. JPMC's shareholders had been clamoring for Washington Mutual's network of bank branch holdings on the West Coast and south, and its large deposit base. Dimon, in response, promised to acquire banks in "fast-growing markets such as Florida, New Jersey and California," according to a March 28, 2005 Business Week article.

36. On July 29, 2004, at a company meeting with JPMC's branch managers, Dimon declared "Retail is not only here to stay, but you are a tremendous asset." Dimon promised to push to expand the retail business. Later that month, Dimon told analysts on a conference call that JPMC would be in position to make a "major acquisition" by early 2006. Upon information and belief, the intended "major acquisition" referred to by Dimon was Washington Mutual.

37. In January of 2005, in order to place insiders in his targeted company, Dimon sent a number of senior and junior executives to Washington Mutual to begin "new chapters" in their lives. The most significant transfer to Washington Mutual was Stephen J. Rotella, an 18-year veteran of JPMorgan Chase, who held the posts of chief executive officer for Chase Home Finance, executive vice president for JPMorgan Chase, and member of the JPMorgan Chase executive committee. At Washington Mutual, Rotella took the job of president and chief operating officer.

38. In addition to Rotella, at least four senior vice presidents and a chief financial officer transferred from JPMC to Washington Mutual as plants in late 2004 and 2005. These included, Steve Fortunato, a 12 year veteran of JPMC serving as Senior Vice President, Chase Home Finance, who was responsible at JPMC for, among other things, merger analysis,

forecasting and mortgage servicing valuation; Taj Bindra, Chief Financial Officer and Executive Vice President for Chase Home Finance; John Berens, senior vice president of default services, managing over 2,000 JPMC employees; Youyi Chen, PhD, senior vice president responsible for managing the interest rate risks of JP Morgan Chase's mortgage servicing rights (MSR) portfolio; and Bill Murray, a senior vice president, led the MSR valuation, pricing and reporting functions for JPMC's Capital Markets group. Upon information and belief, Rotella and the other JPMC executives that transferred to Washington Mutual understood and agreed to help with Dimon's long term plan and goal for JPMC to acquire Washington Mutual, and thereafter provided substantial assistance to that end.

39. JPMC's and CEO Dimon's strategy of gaining an insider position was a well-trodden approach for them. They used this approach in 2006 to gain confidential information regarding a client's natural gas derivatives trading positions, Amaranth. JPMC and Dimon used this confidential information and misstatements about Amaranth's solvency to prevent attempts to sell a block of its natural gas position to an outside party. JPMC inserted itself into the deal and reaped a profit of more than \$725 million. As reported by an online news source on November 15, 2006 and later cited in Amaranth's lawsuit against JPMC, a JPMC executive

boasted of JPMC's ability to leverage its inside information sources:

"We are not exposed from a credit perspective, materially, which allows us to respond quickly to opportunities when they come up. . . . Amaranth was one obvious example of that. I imagine there will be others as we go through time where our ability to be on the inside, but not compromised, is extremely powerful."

40. From 2005 to 2007, upon information and belief, JPMC gathered non-public information from Rotella and the other former JPMC executives placed at Washington Mutual

relating to Washington Mutual's banking and mortgage markets, and statuses in those markets.

In addition, JPMC gathered this information regarding Washington Mutual and other banks from government regulators and monetary policymakers at the Office of the Comptroller of the Currency, OTS, FDIC, Federal Reserve, and other individuals in governmental positions of power. JPMC used this information to build a "fortress balance sheet," from which it could later acquire Washington Mutual.

41. In 2006, Washington Mutual's credit rating was securely investment grade. However, beginning in 2006 and continuing through 2008, lending institutions faced a difficult business environment due to a deteriorating housing market, an increase in mortgage delinquencies and foreclosures, illiquidity and loss of value of asset-backed and mortgage-backed securities, and a general downturn in the global credit markets.

42. In April of 2008, despite having posted significant losses, Washington Mutual's credit was still investment grade and the company was solvent and liquid. At this time, JPMC made its first attempt to acquire Washington Mutual, making a public offer to purchase Washington Mutual for \$8 a share, or about \$7 billion, in JPMC stock. Washington Mutual declined, and instead accepted a capital infusion by a private investor group of approximately \$7 billion, at \$8.75 per share.

43. The rejection did not deter JPMC, however. Instead, upon information and belief, JPMC began to exert pressure on the OTC, FDIC and other regulators to intensify oversight and reporting requirements of Washington Mutual, with the end goal of closing Washington Mutual in a seamless transfer of the valuable, cherry-picked, assets, while leaving the liabilities, to JPMC.

44. This was not the first time JPMC pressured government officials to gain undue advantage in its efforts to bid for an ailing competitor. As Reuters and the Washington Post reported in articles published on October 22, 2008, according to an "anonymous but specific" complaint to Senator Chuck Grassley, the ranking Republican on the Senate Finance Committee, the general counsel for JPMC and the enforcement director for the U.S. Securities and Exchange Commission had inappropriately discussed the details of SEC investigations into Bear Stearns in relation to JPMC's efforts to acquire Bear Stearns in March of 2008. Sen. Grassley, in a letter to SEC Chairman Christopher Cox, stated that Linda Thomsen, the SEC enforcement director, gave inside information to Stephen Cutler, the General Counsel of JPMC (and himself a former SEC enforcement director), about the state of SEC investigations into Bear Stearns, which enabled JPMC to put together a low-ball bid to purchase Bear Stearns. JPMC ultimately won the Bear Stearns bidding with a bid of \$2 per share, after the company had previously traded at \$30.85 per share. JPMC later agreed to raise the price to about \$10 per share. As Sen. Grassley's stated regarding JPMC's misuse of its personal relationship with an SEC official,

"This inside information, gotten through a personal relationship, would be critical in helping Morgan put together a low-ball bid to Bear and the US government."

45. In the Washington Mutual case, because of JPMC's pressure, U.S. Treasury Secretary Henry Paulson in July of 2008 personally telephoned Washington Mutual's Chief Executive Officer and advised him to sell Washington Mutual to JPMC. As reported in a November 9, 2008 Seattle Times article citing Washington Mutual executives, Paulson warned the Washington Mutual's then-CEO, Kerry Killinger,

“You should have sold to JPMorgan Chase in the spring, and you should do so now. Things could get a lot more difficult for you.”

46. During the summer of 2008, Defendants engineered a campaign involving adverse media “leaks,” stock sales, and deposit withdrawals designed to distort the market and regulatory perception of Washington Mutual’s financial health. Defendants continued this campaign up until the seizure of WMB.

47. On or about September 4, 2008, the FDIC and JPMC discussed FDIC’s oversight of Washington Mutual, according to a Wall Street Journal article dated September 29, 2008. The article cited “people familiar with the situation,” who stated that the FDIC told JPMC that “the FDIC was carefully monitoring WaMu and that a seizure of its assets was likely.” In addition, the FDIC told JPMC it wanted to immediately auction off the assets after the seizure. Therefore, upon information and belief, at or about the time of this communication, JPMC and the FDIC agreed to a plan whereby federal regulators would seize WMB and certain valuable assets would be passed to JPMC, and certain liabilities excluded. From September 4, 2008 to September 25, 2008, JPMC and FDIC continued discussions regarding seizure of WMB and JPMC’s purchase of WMB’s valuable assets and stripping away WMB’s liabilities.

48. During late July and early September of 2008, the FDIC exerted pressure upon the OTS to seize WMB. A Wall Street Journal article dated September 27, 2008, stated that this pressure, and OTS’s reluctance to downgrade Washington Mutual, continued for weeks.

49. On September 7, 2008, Washington Mutual entered into a memorandum of understanding with the OTS concerning “aspects of the bank’s operations, principally in several areas of its risk management and compliance functions, including its Bank Secrecy Act

compliance program.” In this memorandum of understanding, Washington Mutual committed to provide the OTS “an updated, multi-year business plan and forecast for its earnings, asset quality, capital and business segment performance.” However, the business plan did not require the company to raise capital, increase liquidity or make changes to the products and services it provides to customers.

50. On September 11, 2008, Washington Mutual released preliminary third quarter financial results, which showed that the company was well capitalized and liquid. In its release, the company stated

“[T]he company continues to maintain a strong liquidity position with approximately \$50 billion of liquidity from reliable funding sources. The company’s tier 1 leverage and total risk-based capital ratios at June 30, 2008 were 7.76% and 13.93%, respectively, which were significantly above the regulatory requirements for well-capitalized institutions. The company expects both ratios to remain significantly above the levels for well-capitalized institutions at the end of the third quarter.”

51. On or about September 12, Washington Mutual hired Goldman Sachs as an advisor to help find a buyer for Washington Mutual.

52. On September 12, 2008, the Bloomberg financial news organization reported that JPMC was in “advanced talks” to buy Washington Mutual. Negotiations were described as being conducted “at the highest levels of both companies” and included JPMC’s CEO Dimon and Washington Mutual’s CEO Alan Fishman. The government was not involved.

53. Based on its ongoing negotiations with the FDIC and the manner in which JPMC later obtained Washington Mutual’s assets, JPMC’s “negotiations” with Washington Mutual were a sham and a pretext designed to gain access Washington Mutual’s confidential financial information. JPMC misrepresented to Washington Mutual that it would negotiate in

good faith for the purchase of the company. It is apparent from the fact that the Washington Mutual board of directors and officers were unaware of the imminent seizure and simultaneous sale of WMB to JPMC, that JPMC did not disclose that it was negotiating separately with the FDIC for the seizure of WMB and purchase of its assets. The fact that JPMC made no serious offer to Washington Mutual during September of 2008 for the purchase of the entire entity, but instead negotiated with the FDIC for the purchase of the cherry-picked assets out of receivership indicates that JPMC never had any intention to directly deal with Washington Mutual regarding purchase of Washington Mutual or any part thereof.

54. JPMC required, as a term of its "negotiations" with Washington Mutual, that JPMC be permitted access to Washington Mutual's financial non-public, confidential, financial records. In return for being granted access to Washington Mutual's confidential and proprietary financial information, JPMC, upon information and belief, executed an agreement, which it had no intention of abiding by, to keep confidential and not disclose any and all confidential information gathered by JPMC as part of its due diligence in examining Washington Mutual's financial circumstances.

55. Furthermore, in its dealings with Washington Mutual, JPMC implicitly represented to Washington Mutual that it would abide by the rules and expectations set forth in JPMC's own Code of Conduct (the "Code"). However, in dealing with Washington Mutual, JPMC failed to meet the ethical standards and rules contained in its Code.

56. The Code, which is publically available on JPMC's web site, "sets forth certain minimum expectations that JPMorgan Chase has for . . . employees and directors of JPMorgan Chase & Co. and its direct and indirect subsidiaries." The Code states that "We are all

expected to conduct the firm's business in accordance with the highest ethical standards, respecting the firm's customers, suppliers, and other business counterparties, dealing responsibly with the firm's assets, and complying with applicable legal and regulatory requirements." As one of JPMC's executives boasted, "Jamie Dimon and I are proud of the 200-year tradition of integrity on which this firm is built . . ."

57. The Code of Conduct states regarding "Confidential Information, Public Communication, Data Privacy":

"We are all responsible for the safeguarding of confidential information, whether it is information entrusted to us by our customers, information regarding JPMorgan Chase's businesses and activities, or information about other employees.

* * *

You may not . . . directly or indirectly use or disclose to anyone any such confidential information, except as permitted by the Code and other policies applicable to you

* * *

(d) Do not disclose confidential information to anyone outside the firm unless you are authorized to do so. Where such disclosure is authorized, a confidentiality or privacy agreement may be required; check with the Legal Department"

58. In gaining access to Washington Mutual's confidential records, JPMC and Dimon falsely promised that JPMC would maintain the secrecy of Washington Mutual financial information. However, neither JPMC nor Dimon ever had any intention of abiding by its Code of Conduct or maintaining the confidentiality of Washington Mutual financial records. Upon information and belief, JPMC instead disclosed information as it saw fit to news media, government regulators, and investors, in such way as promoted its scheme. In addition, JPMC used its insider status to aggressively gather confidential information from Washington Mutual, which it then analyzed in order to accurately estimate the value of WMB deposits, mortgage

portfolio and other assets in order to make a detailed and profitable prearranged bid to the FDIC for the purchase of those assets. JPMC was therefore well prepared when the FDIC asked for bids to purchase WMB's assets some two weeks later.

59. On September 12, 2008, JPMC froze the assets of Lehman Brothers, thus precipitating Lehman Brothers' collapse and sending financial markets into turmoil. The resulting fear and uncertainty in the financial markets further hindered Washington Mutual's efforts to find a bidder for itself.

60. During this time, news media ran many stories that discussed Washington Mutual's unsuccessful efforts to sell itself, and other aspects of the company's financial health. Many of these news stories were sourced by unnamed "investment bankers" close to the negotiations. As a CNN Money article dated September 18, 2008 stated regarding the merger rumors about Washington Mutual and other banks, "You have bankers throwing rumors around trying to see how the market would react to things." The Wall Street Journal on September 19, 2008 reported that JPMC was reviewing Washington Mutual's books, "which are packed with shaky mortgages," and was "biding its time on a potential bid," according to "people close to J.P. Morgan." By September 23, 2008, the Financial Times was reporting that "people familiar with the talks" involving the Washington Mutual purchase said that the OTS was pushing for a speedy solution, but "[o]ne challenge for an outright sale of Washington Mutual is that the acquiring bank would have to take on WaMu's troubled mortgage portfolio, as well as the bank's litigation risk." Between September 15, 2008 and September 25, 2008, WMB customers withdrew \$16.7 billion in deposits, thus achieving JPMC's goal of creating a bank run.

61. In September of 2008, the Defendants shared the confidential information with outside investors in order to arrange an \$8 billion capital infusion that would enable JPMC to maintain its Tier 1 capital ratio. An investigative article published by the Wall Street Journal on September 29, 2008 details how JPMC contacted 10 major financial firms, many of whom were significant JPMC shareholders, asked them if they were interested in investing in the "strategic acquisition of a retail bank," and shared material non-public information relating to the acquisition. Nine out the ten firms contacted chose to invest, and JPMC was able to raise over \$11.5 billion within 24 hours after the FDIC awarded JPMC WMB's assets in late September of 2008.

62. On Tuesday, September 23, 2008, according to a September 29, 2008 Wall Street Journal article, the FDIC purportedly sought bids from select bidders, including JPMC, for the sale of WMB. Upon information and belief, an agreement had already been reached at this time between the FDIC and JPMC for the seizure and sale of WMB to JPMC. In addition, the requirements for a "conforming bid" had been reached after extensive negotiations between the FDIC and JPMC. Among other things, the unredacted portions of JPMC's "bid" to the FDIC dated September 24, 2008, obtained through Plaintiffs' Freedom of Information Act request, refer to multiple discussions between JPMC and the FDIC, OTS, OCC and other unspecified colleagues of the FDIC.

63. JPMC was the only company that submitted a conforming bid. According to records obtained from the FDIC by way of Plaintiffs' FOIA request, the only other bid was from Citigroup, Inc. This bid, by its own admitted terms, was not a conforming bid under the structure the FDIC offered. As it was nonconforming, the FDIC rejected this bid.

64. On September 24, 2008, the FDIC awarded JPMC the bid for WMB's assets. On Thursday evening September 25, 2008, the OTS seized WMB and placed WMB into receivership with the FDIC.

65. Upon information and belief, the seizure of WMB was conducted a day earlier than had been originally planned due to an expected legislative banking relief plan—the “bailout”—that appeared imminent earlier that week. On Tuesday, September 23, 2008, Federal Reserve Chairman Ben Bernanke and Treasury Secretary Henry Paulson testified before the Senate Banking Committee regarding the dire implications for the broader economy if the bailout was not passed by the end of the week. The \$700 billion financial bailout would have provided financial relief to Washington Mutual as it ultimately did for other non-seized national financial institutions, thus making seizure more difficult to justify.

66. In addition, two weeks later, the FDIC raised the ceiling for deposit insurance from \$100,000 to \$250,000. Many of the deposits Washington Mutual lost in mid-September came from accounts exceeding the earlier \$100,000 limit.

67. On September 25, 2008, only two days after the FDIC sought a bidder for the assets of Washington Mutual Bank, the FDIC and JPMC signed a “Whole Bank Purchase and Assumption” agreement whereby the FDIC, as receiver, sold WMB assets, including its branches, deposit liabilities, loan portfolio, and covered bonds and secured debts to JPMC for \$1.9 billion. This purchase price, which got JPMC the most valuable assets of Washington Mutual without any of the liabilities or litigation risk, was well below JPMC's offer of more than \$7 billion for the entire Washington Mutual company—liabilities and assets—made only five months prior. JPMC did not acquire obligations to unsecured debt holders such as the

Plaintiffs' in the transaction, or any litigation liability of WMI or WMB. JPMC stated that it expected to take a write-down of \$30 billion to \$54 billion on the acquired loan portfolio.

68. In return, JPMC received 2,237 bank branches, \$123.3 billion in deposits, and a significant increase in market presence in California, Oregon, Washington and Florida, and strengthening of market presence in several other states. JPMC gained \$176 billion in home loans, minus approximately \$30 billion in write downs. JPMC expected the deal to generate \$12 billion in capital over the next four years. After the deal, JPMC was the second largest retail bank in the United States. With its third and fourth quarter financial reports for 2008, JPMC reported gains of almost \$1.9 billion, due to its admission (buried in a financial statement footnote) that the fair value of the WMB's assets acquired exceed the \$1.9 billion purchase price it paid to the FDIC.

69. Following JPMC's acquisition of the Washington Mutual prime assets, Rotella was released from employment by JPMC. As a result of the termination, Rotella became eligible for an approximately \$20 million cash severance, plus millions more in noncash severance. Upon information and belief, Defendants JPMC and their CEO Dimon intended this result when Rotella was sent to Washington Mutual, and rewarded Rotella for his efforts by payment of \$20 million as provided in his employment agreement.

70. WMI, on September 26, 2008, having lost its primary income-producing asset, filed for Chapter 11 bankruptcy in the U.S. Bankruptcy Court for the District of Delaware, Case No. 08-CV-12229-MFW. WMI as it now exists lacks sufficient income-producing assets to meet its contractually mandated debt obligations to the Plaintiffs who own WMI bonds.

WMI bonds, and the underlying contractual rights, are therefore substantially impaired. WMI stock is worthless.

71. The WMB bonds (also held by Plaintiffs) are subject to liquidation as part of the FDIC receivership. Upon information and belief, these Bonds are worthless. The FDIC, in an informational sheet provided to claimants in Washington Mutual Bank states, "The FDIC as Receiver for Washington Mutual Bank does not anticipate that subordinated debt holders of the bank will receive any recovery on their claims."

Common stock owned by the Plaintiffs

72. The Plaintiff ANPAC purchased 5,000 shares of WMI common stock in 2004 and 2005, and held the stock through September 30, 2008. All purchases were made in League City, Galveston County, Texas.

73. The Plaintiff Garden State purchased 1,200 shares of WMI common stock in 2004, and held the stock through September 30, 2008. All purchases were made in League City, Galveston County, Texas.

74. The Plaintiff Farm Family Life Insurance Company purchased 2,600 shares of WMI common stock in 2004, and held the stock through September 30, 2008. All purchases were made in League City, Galveston County, Texas.

75. The Plaintiff NWL, through a wholly owned subsidiary, NWL Financial, Inc., purchased 1500 shares of WMI common stock in 2004 and 2005, and held the stock through September 30, 2008. All purchases were made in League City, Galveston County, Texas.

Bonds owned by the Plaintiffs and JPMC knowledge of Plaintiffs' Bond Contracts

76. The Plaintiffs owned the bonds listed below, which were issued by WMI and/or WMB (collectively referred to in later paragraphs as "Bonds"). Each bond evidences debt owed to them by the issuer. As such, the Bonds evidence the contractual obligation of WMI and/or WMB to pay to each Plaintiff a stream of future cash payments consisting of coupon payments and a payment of the principal value of the bond.

77. JPMC, by way of a wholly-owned subsidiary, served as registrar and/or depository for some or all of the Global Bank Note Programs under which the Plaintiffs' bonds were issued, and thereby had knowledge of the terms and conditions of Plaintiffs' bond contracts. JPMC's access to knowledge of the Bond contracts is described in the program circular for Washington Mutual Bank's Global Bank Note Program of April 2002, and states on page 37 that:

"J.P. Morgan Trust Company, National Association will serve initially as the Registrar for the Registered Notes. In such capacity, the Registrar will cause to be kept at its offices in The City of New York, as register (the "Note Register") in which, subject to such reasonable regulations as it may prescribe, the Registrar will provide for the registration of the Registered Notes and of transfers thereof."

~~78. For the 4.625% April 1, 2014 maturity Bond, JPMC was listed on the prospectus and was the depository institution for investors that wanted to hold their investments through Euroclear. In addition, JPMC was the depository and a joint book-running manager on the 5.0% March 22, 2012 maturity Bond and was again the depository institution for investors that wanted to hold their investments through Euroclear.~~

79. Through this special role with regard to Washington Mutual's bonds, its examination of Washington Mutual's confidential financial information in September of 2008,

and access of publically available information, JPMC had actual knowledge of the contractual rights and obligations associated with the Plaintiffs' bond contracts and was well aware of the contractual rights with which its scheme would interfere. Because of this actual knowledge of the bond contracts at issue, JPMC knew that its scheme to effect the seizure and sale of WMB's valuable assets would create a default and totally prevent WMI and WMB from otherwise being able to perform their obligations under the contracts.

80. ANICO owns the following bonds:

ISSUER	CUSIP	COUPON	MATURITY	PURCHASE DATE	PAR/FACE
Washington Mutual, Inc.	939322AT0	5.0%	March 22, 2012	August, 1, 2005	\$8,325,000
Washington Mutual Bank	93933VAS7	5.5%	January 15, 2013	October 9, 2003	\$5,300,000
Washington Mutual Bank	93933VAS7	5.5%	January 15, 2013	October 14, 2003	\$5,079,000
Washington Mutual Bank	93933WAA4	6.875%	June 15, 2011	October 15, 2002	\$3,000,000
Washington Mutual Bank	93933WAB2	5.65%	August 15, 2014	September 16, 2004	\$5,000,000

81. ANPAC owns the following bond:

ISSUER	CUSIP	COUPON	MATURITY	PURCHASE DATE	PAR/FACE
Washington Mutual Bank	93933WAA4	6.875%	June 15, 2011	October 15, 2002	\$2,000,000

82. ANGIC owns the following bond:

ISSUER	CUSIP	COUPON	MATURITY	PURCHASE DATE	PAR/FACE
Washington Mutual, Inc.	939322AN3	4.625%	April 1, 2014	April 6, 2004	\$1,000,000

83. FFLIC owns the following bond:

ISSUER	CUSIP	COUPON	MATURITY	PURCHASE DATE	PAR/FACE
Washington Mutual Bank	93933WAA4	6.875%	June 15, 2011	May 16, 2002	\$5,000,000

84. FFCIC owns the following bonds:

ISSUER	CUSIP	COUPON	MATURITY	PURCHASE DATE	PAR/FACE
Washington Mutual, Inc.	939322AN3	4.625%	April 1, 2014	April 6, 2004	\$1,000,000
Washington Mutual Bank	93933WAA4	6.875%	June 15, 2011	October 15, 2002	\$3,200,000

85. Pacific owns the following bond:

ISSUER	CUSIP	COUPON	MATURITY	PURCHASE DATE	PAR/FACE
Washington Mutual, Inc.	939322AP8	4.2%	January 15, 2010	August 1, 2005	\$500,000

86. AN LLOYDS owns the following bond:

ISSUER	CUSIP	COUPON	MATURITY	PURCHASE DATE	PAR/FACE
Washington Mutual, Inc.	939322AN3	4.625%	April 1, 2014	April 6, 2004	\$1,000,000

87. NWL owns the following bonds:

ISSUER	CUSIP	COUPON	MATURITY	PURCHASE DATE	PAR/FACE
Washington Mutual Bank	93933VAS7	5.5%	January 15, 2013	January 23, 2004	\$5,000,000
Washington Mutual Bank	93933VAS7	5.5%	January 15, 2013	January 26, 2004	\$4,000,000

Causes of Action

Count One:

Tortious Interference with Existing Contract

88. The allegations in the preceding paragraphs are hereby incorporated by reference as if fully set forth herein.

89. In and about September of 2008, each Plaintiff (except Garden State) owned Bonds of either WMI and/or WMB, which bonds evidenced the contractual obligation by WMI and/or WMB to make cash payments to the Plaintiff, as set forth in each Bond. WMB utilized a Global Note Program under which some of Plaintiffs' Bond investments were offered. The specifics of those offerings were described in Pricing Supplements. More specifically, the 2002 Offering Circular covering the Note Issuance program for WMB states:

"[Washington Mutual Bank] is obligated to make payments or principal of, and premium, if any, and interest on all of its Notes in the applicable

specified currency"

The Circular further provides:

"The applicable Pricing Supplement will specify a fixed interest rate per annum payable on a Fixed Rate Note. Unless otherwise specified in the applicable Pricing Supplement, the interest payment dates (the "Interest Payment Dates") for Fixed Rate Notes (other than Zero Coupon Notes) having a maturity greater than one year will be semi-annual on such dates specified in the applicable Pricing Supplement. Payments of interest on Fixed Rate Notes having maturities of greater than one year will include interest accrued to but excluding the relevant Interest Payment Date or Maturity. Unless otherwise specified in the applicable Pricing Supplement, interest on Fixed Rate Notes denominated in U.S. dollars with maturities of greater than one year will be computed on the basis of 360-day year of twelve 30-day months."

Consistent with those terms, the Pricing Supplements utilized the interest payment dates of "January 15 and July 15 for each year . . ." up to the stated Maturity Date of the specific Bond at which time remaining principal or par value of the Bond would be returned to the investor. These types of various Bond obligations entitled Plaintiffs to specific interest and principal payments from WMB and WMI.

90. Defendants were specifically aware of the Bond obligations to Plaintiffs. Defendants, through sources of information publically available to all participants in the marketplace for financial instruments, through its position and responsibilities as depositary and/or registrar for some or all of Global Bank Note Programs under which the Plaintiffs' bonds were issued, and through its extensive due diligence into the financial circumstances of Washington Mutual, were aware of terms and conditions of all of the contractual relations and rights relating to the outstanding debt obligations of WMI and WMB. As such, the Defendants had actual knowledge of the existence of the Plaintiffs' bond contracts and the fact that their

actions in causing the seizure and sale out of the FDIC receivership would interfere with Plaintiffs' rights under the bond contracts.

91. Defendants willfully and intentionally interfered with Plaintiffs' bond contracts by inducing WMI and WMB to breach the contracts. As a proximate result of Defendants' actions, WMI voluntarily filed a petition in bankruptcy court, and has failed and refused to meet its obligations under the bond contracts. Likewise, WMB, through the FDIC as receiver for WMB, has failed and refused to meet its obligations under the bond contracts.

92. Defendants made WMI's and WMB's performance under the bond contracts impossible, more burdensome, difficult and expensive by executing its scheme to strip away the source of revenue from which WMI and WMB were to meet their obligations under the bond contracts. The scheme included, among other things, gaining access to Washington Mutual's confidential financial information under false pretenses, breaching an agreement to maintain the confidentiality of such information, and misusing the information. In addition, Defendants breached its promise to negotiate with Washington Mutual in good faith and obstructed Washington Mutual's efforts to sell itself. Defendants used their insider status and financial strength to work to bring about a regulatory seizure of WMB and obtain the sale of

WMB assets from federal regulators to JPMC at a below-market price under terms that would sever the Plaintiffs' contractual rights under the Bonds.

93. Defendants' actions proximately caused the Plaintiffs to suffer actual damage and loss.

Count Two:
Breach of Confidentiality Agreement

94. The allegations in the preceding paragraphs are hereby incorporated by reference as if fully set forth herein.

95. It is a usual and customary business practice for a business to sign a confidentiality agreement prior to engaging in a review of the financial records of another business for the purpose of conducting due diligence as part of a potential purchase of all or part of the business. The terms of such agreement provide that the reviewing party shall maintain the confidence of all confidential information reviewed. Upon information and belief, JPMC signed such a confidentiality agreement, and such agreement was valid and enforceable.

96. As owners of common stock of WMI and debt holders of the entities of WMI and/or WMB, the Plaintiffs have a valid and enforceable interest in protecting WMI and WMB from the harm resulting from disclosure of confidential financial information, and are intended beneficiaries of the confidentiality agreement. As a result, Plaintiffs have standing to sue for breach of the confidentiality agreement.

~~97. The Plaintiffs and WMI and/or WMB have performed all obligations under the agreement.~~

98. The Defendants violated the confidentiality agreement by, among other things, misusing confidential financial information of Washington Mutual to negotiate with and develop a bid to submit to the FDIC, communicating with the FDIC regarding raw data and analyzed data for purposes that were wholly contrary to the purposes and intentions of the confidentiality agreement, disclosing confidential information with potential investors in order

to obtain capital, and, upon information and belief, disclosing confidential information to third parties in order to cause depositors to withdraw deposits, hamper Washington Mutual's efforts to obtain a purchaser for itself, and drive down WMI's credit rating and stock price.

99. The Defendants' breach caused the Plaintiffs injury by preventing WMI from obtaining a purchaser for itself or improving its financial health enough so that it could weather the market turmoil. As a result, the value of Plaintiffs' common stock was rendered worthless, and the contractual rights underlying the Bonds are of no value.

Count Three:
Unjust Enrichment

100. The allegations in the preceding paragraphs are hereby incorporated by reference as if fully set forth herein.

101. JPMC received a benefit from its transaction with the FDIC whereby it obtained the valuable assets of WMB at a price less than its fair market value. By JPMC's admission in its year-end 2007 financial statement, the fair value of WMB's assets was almost \$1.9 billion more than the amount JPMC paid.

102. Defendants unjustly failed to pay the Plaintiffs for the benefits they received, and the Plaintiffs received overwhelmingly less than the value of what Defendants extracted from the Plaintiffs.

103. The failure of Defendants to pay for the benefits they received was to the Plaintiffs' detriment and occurred only because the Defendants used fraud, duress, and took undue advantage by way of false pretenses, deceit, breached trust, and broken promises, in order to obtain the WMB assets at below market prices out of the FDIC receivership, unencumbered of Plaintiffs' contractual rights to payment.

Prayer

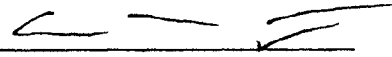
Plaintiffs pray that Defendants be cited to appear and answer herein, and that upon trial of this cause judgment be rendered for Plaintiffs as follows:

- a. All actual, consequential, and special damages;
- b. Punitive damages as provided by statutory and common law;
- c. Attorneys fees and legal expenses (including expert fees);
- d. Pre- and Post- judgment interest;
- e. Equitable relief to which Plaintiffs may be entitled; and,
- f. Costs of court.

Plaintiffs pray for general relief and such other and further relief to which they may be entitled in equity or at law.

Plaintiffs respectfully demand a trial by jury.

Respectfully submitted,



Andrew J. Mytelka
Attorney-in-Charge
State Bar No. 1476700
S.D. Tex. I.D. No. 11084
Joe A.C. Fulcher
State Bar No. 07509320
M. David Le Blanc
State Bar No. 00791090
Joseph R. Russo, Jr.
State Bar No. 24002879
Steve Windsor
State Bar No. 21760650
James M. Roquemore
State Bar No. 24058082

One Moody Plaza, 18th Floor
Galveston, Texas 77550
(409) 797-3200
(409) 766-6424 (FAX)

ATTORNEYS FOR PLAINTIFFS

**THE DISTRICT COURTS OF GALVESTON COUNTY
CIVIL CASE INFORMATION STATEMENT**

This Case Information Statement is for administrative purposes only. It shall be filed with the Parties Original Pleadings and shall be served upon all other parties to the action.

STYLE: American National Insurance Co. et al
v.
JPMorgan Chase & Co et al

COURT NO. 122nd
CASE NO. 09CV0099
FILED BY: X Plaintiff
Defendant
Other

Andrew J. Mytelka
Name of Primary Attorney filing this
Bar No. 1476700
One Moody Plaza, 18th Fl.
Address
Galveston TX 77550
City State Zip
(409) 797-3200 (409) 766-6424
Phone No. Fax No.

Name of Opposing Attorney, if known
Bar No.
Address
City State Zip
Phone No. Fax No.

Briefly describe the case, including special characteristics that may warrant extended discovery or accelerated disposition. If discovery LEVEL 3 is requested, explain why. Attach additional sheets if necessary.
This lawsuit involves complex commercial matters involving numerous expert witnesses and complicated electronic discovery.

Estimated time for discovery 1 year Estimated Trial Time 2 weeks
Do you presently anticipate adding any parties? NO When?

Level Assignment Preferred:
LEVEL 1 LEVEL 2 LEVEL 3

\$50,000 or less All other Cases X Court order only
Is this case suitable for ADR? yes ADR Method Mediation
Signature of Attorney [Signature] Date
Printed Name of Attorney: Andrew J. Mytelka

All Status Conferences will be set for the Thursday following 90 days from the date of filing.
YOUR STATUS CONFERENCE IS SET AS FOLLOWS:

- 10TH District Court 10:00 a.m. _____
- 56th District Court 9:30 a.m. _____
- 122nd District Court 9:30 a.m. 5/21/09
- 212th District Court 9:00 a.m. _____
- 405th District Court 9:30 a.m. _____

CAUSE NO. _____

AMERICAN NATIONAL INSURANCE	§	
COMPANY, AMERICAN NATIONAL	§	
PROPERTY AND CASUALTY COMPANY,	§	
AMERICAN NATIONAL GENERAL	§	IN THE DISTRICT COURT
INSURANCE COMPANY, FARM FAMILY	§	
LIFE INSURANCE COMPANY, FARM	§	
FAMILY CASUALTY INSURANCE	§	GALVESTON COUNTY, TEXAS.
COMPANY, PACIFIC PROPERTY AND	§	
CASUALTY COMPANY, AMERICAN	§	
NATIONAL LLOYDS INSURANCE	§	____ TH JUDICIAL CIRCUIT
COMPANY, NATIONAL WESTERN LIFE	§	
INSURANCE COMPANY, and GARDEN	§	
STATE LIFE INSURANCE COMPANY,	§	
Plaintiffs	§	
vs.	§	
	§	
JPMORGAN CHASE & CO., and	§	
JPMORGAN CHASE BANK, NATIONAL	§	
ASSOCIATION,	§	
Defendants.	§	

PLAINTIFFS' FIRST SET OF REQUESTS FOR PRODUCTION TO DEFENDANT, JPMORGAN CHASE BANK, NATIONAL ASSOCIATION.

TO: JPMorgan Chase Bank, National Association, 270 Park Ave., New York, New York 10017-2070 by way of service upon its registered agent for service of process in the State of Texas, C T Corporation System, 350 North St. Paul St., Dallas, Texas 75201.

Pursuant to Rules 192, 193 and 196 of the Texas Rules of Civil Procedure, you are requested to produce, at the offices of GREER, HERZ & ADAMS, L.L.P., One Moody Plaza, 18th Floor, Galveston, Texas 77550, no later than fifty (50) days from the date of service, the documents and other tangible things described for examination, photocopying, and reproduction.

I. DEFINITIONS

Unless otherwise indicated in a specific request or negated by the context of the request, the following definitions apply:

(A) **Plaintiffs** – Unless otherwise indicated, the term “Plaintiffs” refers to the named Plaintiffs, and their subsidiaries and affiliates.

(B) **Bonds** – Unless otherwise indicated, the term “bonds” shall refer to those bonds identified in the Plaintiffs’ Original Petition as being owned by the Plaintiffs.

(C) **Defendant, Respondent, You or Your** - Unless otherwise indicated, the use in this Set of Discovery Requests of the term “Defendant”, “Respondent”, “You” or “Your” shall specifically refer to JPMorgan Chase & Co., its subsidiaries and affiliates, as well as Your directors, officers, attorneys, agents, employees, and all other natural persons or business or legal entities acting, or purporting to act, for or on Your behalf whether authorized to do so or not. By way of example and not limitation, “Defendant,” “Respondent,” “You” and “Your” includes James “Jamie” Dimon.

(D) **WMI** – The term “WMI” refers to Washington Mutual, Inc., its subsidiaries and affiliates, as well as its trustee in bankruptcy, directors, officers, attorneys, agents, employees, and all other natural persons or business or legal entities acting, or purporting to act, for or on WMI’s behalf whether authorized to do so or not.

(E) **Washington Mutual Bank** – The term “Washington Mutual Bank” unless otherwise indicated, refers to the banking operations of WMI and where appropriate, the entities Washington Mutual Bank, Henderson, NV and Washington Mutual Bank, FSB, Park City, UT.

(F) **FDIC** - The term “FDIC” refers to the Federal Deposit Insurance Corporation acting in any capacity, and any directors, officers, attorneys, agents, employees, and all other natural persons or business or legal entities acting, or purporting to act, for or on FDIC’s behalf whether authorized to do so or not.

(G) **OTS** – The term “OTS” refers to the Office of Thrift Supervision and any directors, officers, attorneys, agents, employees, and all other natural persons or business or legal entities acting, or purporting to act, for or on FDIC’s behalf whether authorized to do so or not.

(H) **Person** - The term “Person” shall include individuals, associations, partnerships, corporations, joint ventures, proprietorships, agencies, boards, commissions, governmental entities, and any other institutions whether formed for business purposes or any other purposes and the officers, representatives, employees, and agents of such associations, partnerships, public or private corporation, joint ventures, proprietorships, agencies, boards, commissions, governmental entities, and institutions.

(I) **Document(s), Other data compilation or Tangible things** - The terms “Document(s)”, “Other data compilations” and/or “Tangible things” as used in this Set of

GREER, HERZ & ADAMS, L.L.P.

By: 

Andrew J. Mytelka
Attorney-in-Charge
State Bar No. 1476700
S.D. Tex. I.D. No. 11084
Joe A.C. Fulcher
State Bar No. 07509320
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State Bar No. 00791090
Joseph R. Russo, Jr.
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State Bar No. 21760650
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State Bar No. 24058082
One Moody Plaza, 18th Floor
Galveston, Texas 77550
(409) 797-3200
(409) 766-6424 (FAX)

ATTORNEYS FOR PLAINTIFFS

Discovery Requests means and includes, whether printed or recorded, or reproduced by any other mechanical process: all originals when available, and otherwise a carbon copy, xerox copy, or other identical or non-identical copy, of any agreements, contracts, communications, directives, correspondence, telegrams, letters, memoranda, forms, summaries or records of personal conversations or interview or telephone conversations, trip reports, diaries, graphs, reports, studies, reports of studies, position papers, notebooks, notes, charts, plans or specifications, drawings, sketches, calculations, working papers, maps, summaries or records of meetings or conferences, summaries or reports of investigation or negotiations, opinions or reports of consultants, computer print-outs, books, accounts, writings, photographs, motion picture film, electronic or videotape recordings, magnetic tapes or other product of any device for recording sound, light or electronic impulses, brochures, pamphlets, advertisements, circulars, press releases, any marginal comments appearing on any Document, Other data compilations from which information can be obtained and translated, if necessary, by Respondent, into reasonably usable form, and drafts of any of the foregoing. In those instances when requested information is stored only on software or Other data compilations, the Respondent should either produce the raw data along with all codes and programs for translating it into usable form or produce the information in a finished usable form, which would include all necessary glossaries, keys and indices for interpretation of the material. It is further requested that all Documents and/or Other data compilations which might have impact on the subject matter of this litigation be preserved and that any ongoing process of Document destruction involving such Documents cease, whether or not such destruction is pursuant to the unrelated business practices of Respondent.

(J) **Communicate** or **Communication** - "Communicate" and "Communication" refer to every disclosure, transfer, or exchange of information, whether face to face, oral, written, by telephone, mail, personal delivery, or otherwise.

(K) **And** and **Or** - "And" and "or" shall be construed either conjunctively or disjunctively as required by the context of the request.

(L) **Relate** or **Relating** - "Relate" or "relating" shall mean in whole or in part directly or indirectly referring to, concerning, connected with, commenting on, responding to, showing, describing, analyzing, reflecting, evidencing, or constituting.

(M) **Control** - "Control" means within Your possession, custody, or control and includes constructive possession as long as You, Your attorneys, agents, or representatives, whether natural Persons or business or legal entities, have possession, custody, or control or have an equal or superior right to compel production from any third party having possession, whether natural Persons or business or legal entities, and including any agency, authority, or representative.

(N) **Identify** - The use of the term "identify" in any of its forms in this Set of Interrogatories shall require Respondent to provide:

- (1) with respect to a natural person, the person's full name, present employer, present job title, present job description, present business address and present residence

address (last known if the present addresses are unknown). If there have been changes in employer, job title, or job description during the time period covered by this Set of Interrogatories, then Respondent shall provide all employers, titles, and job descriptions together with the period during which each title or job was held;

- (2) with respect to a witness, his full name, present employer, present job title, present job description, present business address and present residence address, whether the witness has given a statement and, if so, the date the statement was given, the person to whom the statement was given, whether the statement as oral or in writing, and, if oral, whether the state was or has been reduced to writing; and identify all documents relating to the statement or testimony of the witness;
- (3) with respect to a business entity, the full name of the business entity, the present address of its principal place of business, the present address of each of its other places of business, all dates and states of incorporation, all dates and places of registration, and the identity of its officers, directors, and partners;
- (4) with respect to a document, its title, date, author (and, if different, signer or signers), addressee, recipient of each copy, subject matter and substance, the present location, and the identity of the custodian(s). All documents shall be so identified regardless of whether or not the document is in Respondent's possession, custody or control and regardless of whether the document is claimed to be privileged. The identification of a document requires the identification, as separate documents, of all attachments to each document, as well as drafts and revisions of the document;
- (5) with respect to a file, the title, any other file designator, date, subject matter, the location(s) where it was maintained in the usual course of business immediately prior to the time it was first used in connection with this litigation, and the identity of the custodian at such time;

-
- (6) with respect to an oral statement, representation or communication, the identification of each person taking part in the communication, the identification of each person present at the time of the communication, the subject matter of the communication, the substance of the communication, the mode of communication, the date and location of the communication, and the identification of all documents relating thereto.

(O) If any Document which would be responsive to any discovery request herein was, but is no longer, in Your possession or subject to Your Control, or is no longer in existence, Identify each Document, in the manner defined hereinabove, and by additionally stating:

- (1) if it is missing or lost; or
- (2) if it has been destroyed; or

- (3) if it has been transferred voluntarily to others; or
- (4) it has been otherwise disposed of; and, in each instance in which it has been destroyed, transferred, or disposed of:
 - (a) explain the circumstances surrounding such disposition; and
 - (b) Identify the Persons(s) directing or authorizing its destruction or transfer; and
 - (c) the date(s) of such direction or authorization; and
 - (d) whether the Document (or copies) are still in existence, and if so, Identify the custodians(s) and its (or their) present location(s).

(P) The singular and masculine of any noun or pronoun includes the plural, the feminine, and the neuter, as determined from the context of the interrogatory. The defined terms include any version of that term, including capitalization, italicized, bold, underlined, or regular usage of the term.

(Q) If Defendant claims any privilege or immunity in connection with any of these discovery requests, Defendant shall state its claim in detail and provide all information that is relevant to the evaluation of the claim of privilege or immunity or to the waiver of the privilege or immunity. The information shall be sufficient to allow presentation of the claim to the court and to allow Plaintiffs to contest the claim and urge any waiver of the privilege. The information shall also include, without limitation, the Identity of all Documents and of all oral statements and communications relating to the claim or its waiver.

(R) These discovery requests are continuing in nature. If further information comes into the possession of, or is brought to the attention of You, Your partners, agents, employees, officers, directors, representatives or attorneys in the course of trial or prior to trial, then supplementation of Respondent's response is required.

II. INSTRUCTIONS

- (A) If any Document which would be responsive to any discovery request herein was, but is no longer, in Your possession or subject to Your Control, or is no longer in existence, Identify each Document, in the manner defined herein above, and by additionally stating:
- 1) if it is missing or lost; or
 - 2) if it has been destroyed; or
 - 3) if it has been transferred voluntarily to others; or
 - 4) it has been otherwise disposed of; and, in each instance in which it has been destroyed, transferred, or disposed of:
 - a) explain the circumstances surrounding such disposition; and

- b) Identify the Persons(s) directing or authorizing its destruction or transfer; and
- c) the date(s) of such direction or authorization; and
- d) whether the Document (or copies) are still in existence, and if so, Identify the custodians(s) and its (or their) present locations(s).

(B) The singular and masculine of any noun or pronoun includes the plural, the feminine, and the neuter, as determined from the context of the interrogatory. The defined terms include any version of that term, including capitalized, italicized, bold, underlined, or regular usage of that term.

(C) If you claim any privilege or immunity in connection with any of these discovery requests, you shall state its claim in detail and provide all information that is relevant to the evaluation of the claim of privilege or immunity or to the waiver of the privilege or immunity, specifically including the privilege claimed, the facts upon which you rely to support the claim of privilege, and the scope of said privilege. The information shall be sufficient to allow presentation of the claim to the court and to allow Requesting Party to contest the claim and urge any waiver of the privilege. The information shall also include, without limitation, the Identity of all Documents and of all oral statements and communications relating to the claim or its waiver. Proceed to answer with all requested information for which protection or privilege is not claimed.

(D) These discovery requests are continuing in nature. If further information comes into the possession of, or is brought to the attention of You, Your partners, agents, employees, officers, directors, representatives or attorneys in the course of trial or prior to trial, then supplementation of Respondent's response is required.

(E) Except as otherwise specified or indicated by context, each of the following requests seeks information for the period from January 1, 2000, to the date of your responses hereto, subject to your continuing duty to supplement.

(F) It is requested that all documents and/or other data compilations which might have impact on the subject matter of this litigation be preserved and that any ongoing process of document destruction involving such documents cease, whether or not such destruction is pursuant to the unrelated business practices of Responding Party.

(G) Counsel for Requesting Party will discuss with counsel for Responding Party any questions regarding perceived ambiguities in, or claims regarding the burdens involved in, or compliance with the discovery sought in this request in order to resolve any such issues without the necessity of court intervention.

III. REQUESTS FOR PRODUCTION

Produce all documents, data compilations and other tangible items related to, evidencing or reflecting the following:

REQUEST FOR PRODUCTION NO. 1:

All documents that constitute, memorialize or evidence agreements between you and the FDIC made from January 1, 2008 to the present regarding the following entities or their assets:

- (a) WMI;
- (b) Washington Mutual Bank, Henderson, NV;
- (c) Washington Mutual Bank, FSB, Park City, UT.

RESPONSE:

REQUEST FOR PRODUCTION NO. 2:

All documents that constitute, memorialize or evidence agreements between you and the OTS made from January 1, 2008 to the present regarding the following entities or their assets:

- (a) WMI;
- (b) Washington Mutual Bank, Henderson, NV;
- (c) Washington Mutual Bank, FSB, Park City, UT.

RESPONSE:

REQUEST FOR PRODUCTION NO. 3:

All documents that constitute memorialize or evidence agreements between you and any person made from January 1, 2008 to the present regarding each of the following entities or their assets:

- (a) WMI;
- (b) Washington Mutual Bank, Henderson, NV;
- (c) Washington Mutual Bank, FSB, Park City, UT.

RESPONSE:

REQUEST FOR PRODUCTION NO. 4:

All documents relating to your negotiations for and acquisition of the assets and liabilities of Washington Mutual Bank pursuant to any Washington Mutual Bank Purchase and Assumption Agreement, entered into by and among FDIC and you.

RESPONSE:

REQUEST FOR PRODUCTION NO. 5:

All documents evidencing or reflecting a confidentiality agreement between you and the FDIC in any way related to the acquisition of WMB assets.

All documents evidencing or reflecting a confidentiality agreement between you and WMB or WMI in any way related to the acquisition of WMB assets.

RESPONSE:

REQUEST FOR PRODUCTION NO. 6:

All documents and communications between you and any person, including but not limited to the FDIC, OTS and WMI, relating to any offer or negotiation to purchase of part or all of WMI or Washington Mutual Bank during the time period from January 1, 2008 to September 30, 2008.

RESPONSE:

REQUEST FOR PRODUCTION NO. 7:

The following documents and communications delivered to the FDIC on or about September 24, 2008:

- (a) Bid Form;
- (b) Certified Board Resolutions;
- (c) Secretary's Certificate re: Authorized Officers;
- (d) Purchaser Eligibility Certification;
- (e) any document, including cover letter, accompanying the documents identified in (a) through (d), above.

RESPONSE:

REQUEST FOR PRODUCTION NO. 8:

All documents and electronic files upon which were relied or used in creating or developing any

bid or offer regarding Washington Mutual Bank submitted to the FDIC, including but not limited to the bid submitted on or about September 24, 2008.

RESPONSE:

REQUEST FOR PRODUCTION NO. 9:

All documents that identify or reference the source of information used to create any bid, communication or document submitted to the FDIC or OTS regarding Washington Mutual Bank during the period from January 1, 2008 to the present.

RESPONSE:

REQUEST FOR PRODUCTION NO. 10:

All documents acquired or created regarding or in furtherance of negotiations between you and the FDIC, OTS or any person concerning WMI or Washington Mutual Bank, made between January 1, 2008 and the present.

RESPONSE:

REQUEST FOR PRODUCTION NO. 11:

All documents that reflect the identity of any person that communicated with the FDIC or OTS regarding WMI or Washington Mutual Bank during the time period between January 1, 2008 and the present.

RESPONSE:

REQUEST FOR PRODUCTION NO. 12:

All communications between you and the FDIC, OTS regarding WMI or Washington Mutual Bank made between January 1, 2008 and the present.

RESPONSE:

REQUEST FOR PRODUCTION NO. 13:

All documents and communications relating to the approval by the OTS to enter an order putting Washington Mutual Bank into receivership.

RESPONSE:

REQUEST FOR PRODUCTION NO. 14:

All documents reflecting any meeting between you and any persons representing the following organizations regarding WMI or Washington Mutual Bank, between January 1, 2008 and the present:

- (a) FDIC;
- (b) OTS;
- (c) any member or representative of the Federal Reserve;
- (d) any federal agency;
- (e) any official elected to office in the United States
- (f) any director, officer, employee or agent of WMI or Washington Mutual Bank.

RESPONSE:

REQUEST FOR PRODUCTION NO. 15:

All agreements between you and WMI or Washington Mutual Bank made from January 1, 2008 to the present. This request includes, but is not limited to, all confidentiality agreements entered into between you and WMI or Washington Mutual Bank.

RESPONSE:

REQUEST FOR PRODUCTION NO. 16:

All documents provided by you to WMI or Washington Mutual Bank from September 1, 2008 to September 30, 2008.

RESPONSE:

REQUEST FOR PRODUCTION NO. 17:

All documents received by you from WMI or Washington Mutual Bank from September 1, 2008 to September 30, 2008.

RESPONSE:

REQUEST FOR PRODUCTION NO. 18:

All documents acquired or created as a result of any due diligence investigation relating to the financial circumstances of WMI or Washington Mutual Bank between January 1, 2008 to the September 30, 2008. This request includes but is not limited to:

- (a) any charts describing the organizational structure of WMI and its subsidiaries;
- (b) all business and financial records obtained or reviewed from WMI and Washington Mutual Bank;
- (c) all contracts of WMI and Washington Mutual Bank that were obtained or reviewed;
- (d) all litigation to which WMI was involved, and any assessment made regarding such litigation;
- (e) all real estate and personal property holdings of WMI and Washington Mutual Bank;
- (f) all intellectual property holdings of WMI and Washington Mutual Bank;
- (g) all federal, state and local tax returns of WMI and Washington Mutual Bank that were obtained or reviewed;
- (h) all other material that was reviewed as part of your due diligence.

RESPONSE:

REQUEST FOR PRODUCTION NO. 19:

All documents reflecting the identity of persons that conducted due diligence or examined financial records of WMI or Washington Mutual Bank on behalf of you from January 1, 2008 to the present.

RESPONSE:

REQUEST FOR PRODUCTION NO. 20:

All documents created or obtained by you as a result of any negotiations with WMI or Washington Mutual Bank from January 1, 2008 to the present.

RESPONSE:

REQUEST FOR PRODUCTION NO. 21:

All documents containing the results of analysis of financial data of WMI or Washington Mutual Bank created using information obtained as part of any due diligence investigation

RESPONSE:

REQUEST FOR PRODUCTION NO. 22:

Any and all documents, communications, recordings, transcriptions or other materials concerning any conversations or other communications between Ken Blincow of the FDIC and you, including documents upon which such person was copied, between January 1, 2008 and the present, which in any way regards Washington Mutual Bank.

RESPONSE:

REQUEST FOR PRODUCTION NO. 23:

Any and all documents, communications, recordings, transcriptions or other materials concerning any conversations or other communications between Mitchell Glassman of the FDIC and you, including documents upon which such person was copied, between January 1, 2008 and the present, which in any way regards Washington Mutual Bank.

RESPONSE:

REQUEST FOR PRODUCTION NO. 24:

Any and all documents, communications, recordings, transcriptions or other materials concerning any conversations or other communications between Sheila Bair of the FDIC and you, including documents upon which such person was copied, between January 1, 2008 and the present, which in any way regards Washington Mutual Bank.

RESPONSE:

REQUEST FOR PRODUCTION NO. 25:

Any and all documents, communications, recordings, transcriptions or other materials concerning any conversations or other communications between any employee or representative of the FDIC and you, including documents upon which such person was copied, between January 1, 2008 and the present, which in any way regards Washington Mutual Bank.

RESPONSE:

REQUEST FOR PRODUCTION NO. 26:

Any and all documents, communications, recordings, transcriptions or other materials concerning any conversations or other communications between William Isaac, a former FDIC chairman, and you, including documents upon which such person was copied, between January 1, 2008 and the present, which in any way regards Washington Mutual Bank.

RESPONSE:

REQUEST FOR PRODUCTION NO. 27:

Any and all documents, communications, recordings, transcriptions or other materials concerning any conversations or other communications between John Reich of the OTS and you, including documents upon which such person was copied, between January 1, 2008 and the present, which in any way regards Washington Mutual Bank.

RESPONSE:

REQUEST FOR PRODUCTION NO. 28:

Any and all documents, communications, recordings, transcriptions or other materials concerning any conversations or other communications between Henry Paulson and you, including documents upon which such person was copied, between January 1, 2008 and the present, which in any way regards Washington Mutual Bank.

RESPONSE:

REQUEST FOR PRODUCTION NO. 29:

Any and all documents, communications, recordings, transcriptions or other materials concerning any conversations or other communications between Ben Bernanke and you, including documents upon which such person was copied, between January 1, 2008 and the present, which in any way regards Washington Mutual Bank.

RESPONSE:

REQUEST FOR PRODUCTION NO. 30:

Any and all documents, communications, recordings, transcriptions or other materials concerning any conversations or other communications between Chris Cox and you, including documents upon which such person was copied, between January 1, 2008 and the present, which in any way regards Washington Mutual Bank.

RESPONSE:

REQUEST FOR PRODUCTION NO. 31:

Any and all documents, communications, recordings, transcriptions or other materials concerning any conversations or other communications between Stephen Cutler and Linda Thomsen, including documents upon which either person was copied by the other, between January 1, 2008 and the present, regarding Bear Sterns or Washington Mutual Bank.

RESPONSE:

REQUEST FOR PRODUCTION NO. 32:

Any and all documents, communications, recordings, transcriptions or other materials concerning any conversations or other communications between any employee, officer or agent of Goldman Sachs and you, including documents upon which such person was copied, between January 1, 2008 and the present, which in any way regards Washington Mutual Bank.

RESPONSE:

REQUEST FOR PRODUCTION NO. 33:

Any and all documents, communications, recordings, transcriptions or other materials

concerning any conversations or other communications between Alan Fishman and you, including documents upon which such person was copied, between January 1, 2005 and the present, which in any way regards the acquisition of WMI, Washington Mutual Bank, or any assets thereof, by you.

RESPONSE:

REQUEST FOR PRODUCTION NO. 34:

All documents reflecting the identity of the persons and firms contacted by you in September of 2008 regarding a "strategic acquisition of a retail bank," as referenced in the September 29, 2008 Wall Street Journal Article, "How J.P. Morgan Raised \$11.5 Billion in 24 Hours," in order to raise capital in connection capital requirements affected by your bid to purchase Washington Mutual Bank.

RESPONSE:

REQUEST FOR PRODUCTION NO. 35:

All documents provided to persons and firms contacted by you in September of 2008 regarding a "strategic acquisition of a retail bank," as referenced in the September 29, 2008 Wall Street Journal Article, "How J.P. Morgan Raised \$11.5 Billion in 24 Hours," in order to raise capital in connection capital requirements affected by your bid to purchase Washington Mutual Bank.

RESPONSE:

REQUEST FOR PRODUCTION NO. 36:

All documents reflecting the source of the information that was provided to persons and firms with respect to your efforts to raise capital in connection capital requirements affected by your bid to purchase Washington Mutual Bank.

RESPONSE:

REQUEST FOR PRODUCTION NO. 37:

All documents upon which you relied in reporting an extraordinary gain in the amount of \$581 million on your third quarter 2008 Consolidated Financial Highlights as a result of your

acquisition of the banking operations of Washington Mutual Bank.

RESPONSE:

REQUEST FOR PRODUCTION NO. 38:

All documents upon which you relied in reporting an extraordinary gain in the amount of \$1.3 billion on your fourth quarter 2008 Consolidated Financial Highlights as a result of your acquisition of the banking operations of Washington Mutual Bank.

RESPONSE:

REQUEST FOR PRODUCTION NO. 39:

All documents and communications created or made from July 1, 2008 to the present regarding your calculation and reporting of the extraordinary gains in the third and fourth quarters of 2008 as a result of your acquisition of the banking operations of Washington Mutual Bank.

RESPONSE:

REQUEST FOR PRODUCTION NO. 40:

All documents that reflect the identity of the persons that calculated the extraordinary gains in the third and fourth quarters of 2008 as a result of your acquisition of the banking operations of Washington Mutual Bank, and the persons responsible for reporting such gain.

RESPONSE:

REQUEST FOR PRODUCTION NO. 41:

All post-acquisition documents that show the financial and business impact upon you as a result of your acquisition of the assets of Washington Mutual Bank.

RESPONSE:

REQUEST FOR PRODUCTION NO. 42:

All documents created by you between January 1, 2004 and the present in which you "kept track of banks that would complement [your] franchise," and in which you determined that "Washington Mutual consistently was at the top of the list," as stated by Charlie Scharf, your Chief Executive Officer of Retail Financial Services in a letter dated October 2, 2008.

RESPONSE:

REQUEST FOR PRODUCTION NO. 43:

All documents reflecting your "ability to be on the inside" as being a source of power, strength or other positive attribute to be utilized as a business practice.

RESPONSE:

REQUEST FOR PRODUCTION NO. 44:

All memoranda, business plans, and documents evaluating or discussing WMI or Washington Mutual Bank created by you between January 1, 2004 to the present.

RESPONSE:

REQUEST FOR PRODUCTION NO. 45:

All documents reflecting or evidencing employment or separation agreements between WMB or WMI and WMB or WMI directors or the following employees: Steven Rotella, Taj Bindra, John Berens, Youyi Chen or Bill Murray between January 1, 2008 and the present.

RESPONSE:

REQUEST FOR PRODUCTION NO. 46:

All documents that concern the circumstances, agreements and understandings relating to the termination of employment with you of the following persons, and their employment with WMI or Washington Mutual Bank, in and about 2004 to 2005:

- (a) Steven Rotella;
- (b) Taj Bindra;
- (c) John Berens;

- (d) Youyi Chen;
- (e) Bill Murray;

RESPONSE:

REQUEST FOR PRODUCTION NO. 47:

All communications between you and the following individuals from December 1, 2004 to the present:

- (a) Steven Rotella;
- (b) Taj Bindra;
- (c) John Berens;
- (d) Youyi Chen;
- (e) Bill Murray;

RESPONSE:

REQUEST FOR PRODUCTION NO. 48:

All communications and documents by, to, or upon which the following persons were copied between January 1, 2004 to December 1, 2004 that refer to WMI or Washington Mutual Bank:

- (a) Steven Rotella;
- (b) Taj Bindra;
- (c) John Berens;
- (d) Youyi Chen;
- (e) Bill Murray.

RESPONSE:

REQUEST FOR PRODUCTION NO. 49:

All communications and documents delivered to or from you and Steve Fortunato from January 1, 2007 to October 1, 2008

RESPONSE:

REQUEST FOR PRODUCTION NO. 50:

All communications between you and Steve Fortunato from January 1, 2004 to the present that refer to WMI or Washington Mutual Bank

RESPONSE:

REQUEST FOR PRODUCTION NO. 51:

All communications between you and any member of the United States Senate Banking Committee during the period from July 1, 2008 and October 15, 2008 relating or referring to any legislation under consideration by such committee.

RESPONSE:

REQUEST FOR PRODUCTION NO. 52:

All documents evidencing or reflecting internal communications by or between JPMC's Management and its Board of Directors regarding when the United States Congress may decide to provide money to financial institutions through a government bail out program which ultimately became the Troubled Asset Relief Program enacted in October of 2008.

All documents evidencing or reflecting internal communications by or between JPMC's Management and WMB or WMI Board of Directors regarding when the United States Congress may decide to provide money to financial institutions through a government bail out program which ultimately became the Troubled Asset Relief Program enacted in October of 2008.

RESPONSE:

REQUEST FOR PRODUCTION NO. 53:

All communications between you and any member of the news media regarding WMI or Washington Mutual Bank during the period from April 1, 2008 to September 30, 2008. This Request includes, but is not limited to, communications to or from the following persons:

- (a) Heidi N. Moore of the Wall Street Journal
- (b) Damian Paletta of the Wall Street Journal
- (c) David Enrich of the Wall Street Journal
- (d) Robin Sidel of the Wall Street Journal
- (e) Dan Fitzpatrick of the Wall Street Journal

- (f) Evan Perez of the Wall Street Journal
- (g) Dan Fitzpatrick of the Wall Street Journal
- (h) John McCorry, Bloomberg
- (i) Rick Green of Bloomberg
- (j) Ari Levy of Bloomberg
- (k) Elizabeth Hester of Bloomberg
- (l) Zach Mider of Bloomberg
- (m) David Evans of Bloomberg
- (n) Justin Baer of Bloomberg
- (o) Saskia Scholtes of Financial Times
- (p) Julie MacIntosh of Financial Times
- (q) Krishna Guha of Financial Times
- (r) Joanne Chung of Financial Times
- (s) Karey Wtkowski, Reuters
- (t) Tim Dobbyn, Reuters
- (u) Kim Dixon, Reuters
- (v) Eric Dash of the New York Times
- (w) Andrew Ross Sorkin of the New York Times
- (x) Mara Der Hovanesian, as of 2005, of Business Week
- (y) Emily Thornton, as of 2005, of Business Week
- (z) Stanley Reed, as of 2005, of Business Week
- (aa) Eric Engleman, as of 2004, of the Puget Sound Business Journal
- (bb) Kristen Grind of the Puget Sound Business Journal
- (cc) Mary McGarity, as of 2005, of Mortgage Banking
- (dd) Rami Grunbaum, Seattle Times
- (ee) Melissa Allison of the Seattle Times
- (ff) Amit R. Paley, Washington Post
- (gg) David Ellis of CNN
- (hh) Tami Luhby of CNN
- (ii) Julie Hirschfeld of Time
- (jj) Jeannine Aversa of Time

RESPONSE:

REQUEST FOR PRODUCTION NO. 54:

Any and all documents, communications, recordings, transcriptions or other materials concerning any conversations or other communications between Ben Bernanke and you between January 1, 2008 and the present, regarding WMI or Washington Mutual Bank.

RESPONSE:

REQUEST FOR PRODUCTION NO. 55:

All documents that reflect your trading activity on your own account regarding common stock of WMI from April 1, 2008 to September 30, 2008.

RESPONSE:

REQUEST FOR PRODUCTION NO. 56:

All documents that reflect advice or evaluations made by you between April 1, 2008 to September 30, 2008 regarding any security issued by WMI or Washington Mutual Bank

RESPONSE:

REQUEST FOR PRODUCTION NO. 57:

All documents that reflect deposit and withdrawal activity in any account maintained or controlled by you in Washington Mutual Bank for the time period between April 1, 2008 to September 30, 2008.

RESPONSE:

REQUEST FOR PRODUCTION NO. 58:

All documents created by you from July 1, 2008 to the present, that reference the basis for your decision to freeze the assets of Lehman Brothers, which event occurred on September 12, 2008.

RESPONSE:

REQUEST FOR PRODUCTION NO. 59:

The personal and business diaries of James "Jamie" Dimon for the years 2004, 2005, 2006, 2007, 2008 and 2009.

RESPONSE:

REQUEST FOR PRODUCTION NO. 60:

All documents evidencing or reflecting inquiry by the United States Securities and Exchange Commission or Federal Bureau of Investigation in any way related to the acquisition of WMB assets.

RESPONSE

REQUEST FOR PRODUCTION NO. 61:

All communications with any member of the task force formed to investigate the failure of Washington Mutual Inc. as described in statement by United States Attorney, Jeffrey C. Sullivan, on October 15, 2008.

RESPONSE:

REQUEST FOR PRODUCTION NO. 62:

All documents provided to the task force formed to investigate the failure of Washington Mutual Inc. as described in statement by United States Attorney, Jeffrey C. Sullivan, on October 15, 2008.

RESPONSE:

REQUEST FOR PRODUCTION NO. 63:

All documents reflecting lawsuits and claims against you by owners of stock or debt securities of WMI and Washington Mutual Bank based on your actions relating to the seizure of Washington Mutual Bank and your purchase of assets from the FDIC.

RESPONSE:

REQUEST FOR PRODUCTION NO. 64:

All communications you have received by owners of stock or debt securities of WMI and Washington Mutual Bank based on your actions relating to the seizure of Washington Mutual Bank and your purchase of assets from the FDIC.

RESPONSE:

REQUEST FOR PRODUCTION NO. 65:

All documents reflecting settlement, compromise or resolution of lawsuits and claims against you by owners of stock or debt securities of WMI and Washington Mutual Bank based on your actions relating to the seizure of Washington Mutual Bank and your purchase of assets from the FDIC.

RESPONSE:

REQUEST FOR PRODUCTION NO. 66:

All documents referring to any Plaintiffs as owners of any of the bonds.

RESPONSE:

REQUEST FOR PRODUCTION NO. 67:

All documents created or obtained by you as part of your activities as bond registrar, depository or transfer agent with respect to the Plaintiff's Bonds.

RESPONSE:

REQUEST FOR PRODUCTION NO. 68:

All documents reflecting your duties as the Registrar for any note offerings under the WMB April 2002 and/or August 2002 Global Bank Note Program.

RESPONSE:

REQUEST FOR PRODUCTION NO. 69:

All Pricing supplements related in any way to notes or bond offerings under the WMB April 2002 and/or August 2002 Global Bank Note Program.

RESPONSE:

REQUEST FOR PRODUCTION NO. 70:

All documents evidencing or reflecting your role as an investment or book running manager for the Bonds or Notes purchased by Plaintiffs and made the basis of this lawsuit.

RESPONSE:

REQUEST FOR PRODUCTION NO. 71:

All documents evidencing or reflecting WMB April 2002 and/or August 2002 Global Bank Note Program.

RESPONSE:

REQUEST FOR PRODUCTION NO. 72:

All correspondence between you and WMB or WMI regarding or reflecting your involvement with the WMB April 2002 and/or August 2002 Global Bank Note Program.

RESPONSE:

REQUEST FOR PRODUCTION NO. 73:

All correspondence between you and WMB or WMI regarding or reflecting your involvement the issuance of any WMB or WMB Bonds or Notes purchased by Plaintiffs and made the basis of this lawsuit.

RESPONSE:

REQUEST FOR PRODUCTION NO. 74:

All documents reflecting your review, knowledge, investment or holdings of or in the following securities between January 1, 2008 and the present:

RESPONSE:

REQUEST FOR PRODUCTION NO. 75:

ISSUER	CUSIP	COUPON	MATURITY
Washington Mutual, Inc.	939322AT0	5.0%	March 22, 2012
Washington Mutual Bank	93933VAS7	5.5%	January 15, 2013
Washington Mutual Bank	93933VAS7	5.5%	January 15, 2013
Washington Mutual Bank	93933WAA4	6.875%	June 15, 2011
Washington Mutual Bank	93933WAB2	5.65%	August 15, 2014
Washington Mutual, Inc.	939322AN3	4.625%	April 1, 2014
Washington Mutual, Inc.	939322AP8	4.2%	January 15, 2010

RESPONSE:

REQUEST FOR PRODUCTION NO. 76:

All documents that reflect or evidence your authorization to do business in the State of Texas.

RESPONSE:

REQUEST FOR PRODUCTION NO. 77:

All documents that reflect the number of branches, office locations, and business contacts, and dollar amount of revenue generated from your business activities in the State of Texas.

RESPONSE:

CAUSE NO. _____

AMERICAN NATIONAL INSURANCE	§	
COMPANY, AMERICAN NATIONAL	§	
PROPERTY AND CASUALTY COMPANY,	§	
AMERICAN NATIONAL GENERAL	§	IN THE DISTRICT COURT
INSURANCE COMPANY, FARM FAMILY	§	
LIFE INSURANCE COMPANY, FARM	§	
FAMILY CASUALTY INSURANCE	§	GALVESTON COUNTY, TEXAS
COMPANY, PACIFIC PROPERTY AND	§	
CASUALTY COMPANY, AMERICAN	§	
NATIONAL LLOYDS INSURANCE	§	____ TH JUDICIAL CIRCUIT
COMPANY, NATIONAL WESTERN LIFE	§	
INSURANCE COMPANY, and GARDEN	§	
STATE LIFE INSURANCE COMPANY,	§	
Plaintiffs	§	
vs.	§	
JPMORGAN CHASE & CO., and	§	DEMAND FOR JURY TRIAL
JPMORGAN CHASE BANK, NATIONAL	§	
ASSOCIATION,	§	
Defendants.	§	

PLAINTIFFS' REQUEST FOR DISCLOSURE TO
DEFENDANT, JPMORGAN CHASE BANK, NATIONAL ASSOCIATION

TO: JPMorgan Chase Bank, National Association, 270 Park Ave., New York, New York
10017-2070 by way of service upon its registered agent for service of process in the
State of Texas, C T Corporation System, 350 North St. Paul St., Dallas, Texas 75201

Pursuant to Rule 194 Texas Rules of Civil Procedure, you are requested to disclose the

following information and material:

- 194.2 (a) the correct names of the parties to the lawsuit;
- (b) the name, address, and telephone number of any potential parties;
- (c) the legal theories and, in general, the factual bases of the responding party's
claims or defenses;
- (d) the amount and any method of calculating economic damages;

(e) the names, address, and telephone number of persons having knowledge of relevant facts, and a brief statement of each identified person's connection with the case;

(f) for any testifying expert:

- (1) the expert's name, address and telephone number;
- (2) the subject matter on which the expert will testify;
- (3) the general substance of the expert's mental impressions and opinions and a brief summary of the basis for them, or if the expert is not retained by, employed by, or otherwise subject to the control of the responding party, documents reflecting such information;
- (4) if the expert is retained by, employed by, or otherwise subject to the control of the responding party:
 - (A) all documents, tangible things, reports, models, or data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipation of the expert's testimony; and

(B) the expert's current resume and bibliography;

- (g) any discoverable indemnity and insuring agreements;
- (h) any discoverable settlement agreements;
- (i) any discoverable witness statements;
- (j) in a suit alleging physical or mental injury and damages from the occurrence that is the subject of the case, all medical records and bills that are reasonably related

to the injuries or damages asserted or, in lieu thereof, an authorization permitting the disclosure of such medical records and bills;

(k) in a suit alleging physical or mental injury and damages from the occurrence that is the subject of the case, all medical records and bills obtained by the responding party by virtue of an authorization furnished by the requesting party.

You are instructed that pursuant to Rule 194.5, no objection or assertion of work product is permitted to this request.

You must serve a written response on the requesting party within 30 days after service of this request.

GREER, HERZ & ADAMS, L.L.P.

By: 

Andrew J. Mytelka
Attorney-in-Charge
State Bar No. 1476700
S.D. Tex. I.D. No. 11084
Joe A.C. Fulcher
State Bar No. 07509320
M. David Le Blanc
State Bar No. 00791090
Joseph R. Russo, Jr.
~~State Bar No. 24002879~~

Steve Windsor
State Bar No. 21760650
James M. Roquemore
State Bar No. 24058082
One Moody Plaza, 18th Floor
Galveston, Texas 77550
(409) 797-3200
(409) 766-6424 (FAX)

ATTORNEYS FOR PLAINTIFFS

Exhibit 4

UNITED STATES BANKRUPTCY COURT

Southern

District of

New York

In re Washington Mutual, Inc., et al.

SUBPOENA FOR RULE 2004 EXAMINATION

Case No.* 08-12229 (MFW) (Bankr. D. Del.)

To: JP Morgan Chase Bank, N.A.
One Chase Manhattan Plaza
New York, NY 10005

Chapter 11

and its agent:

CT Corporation NYC
111 8th Avenue, 13th Floor
New York, NY 10011

YOU ARE COMMANDED to appear and testify at an examination under Rule 2004, Federal Rules of Bankruptcy Procedure, at the place, date, and time specified below. A copy of the court order authorizing the examination is attached.

PLACE OF TESTIMONY

DATE AND TIME

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

See attached schedule.

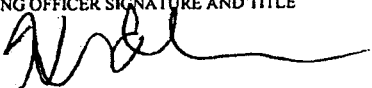
PLACE

Quinn Emanuel Urquhart Oliver & Hedges, LLP
51 Madison Avenue
New York, NY 10010

DATE AND TIME

August 1, 2009 at 5:00 p.m.

ISSUING OFFICER SIGNATURE AND TITLE



DATE

7/2/09

ISSUING OFFICER'S NAME, ADDRESS, AND PHONE NUMBER

Harrison Denman; address same as above; telephone no. (212) 849-7347

PROOF OF SERVICE

SERVED	DATE	PLACE
SERVED ON (PRINT NAME)		MANNER OF SERVICE
SERVED BY (PRINT NAME)		TITLE

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____
DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), as amended on December 1, 2006, made applicable in cases under the Bankruptcy Code by Rule 9016, Federal Rules of Bankruptcy Procedure:

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection, copying, testing, or sampling of designated electronically stored information, books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection, copying, testing, or sampling may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to producing any or all of the designated materials or inspection of the premises — or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect, copy, test, or sample the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production, inspection, copying, testing, or sampling. Such an order to compel shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection, copying, testing, or sampling commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance;
(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held;

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies; or
(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject

to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1) (A) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which the person ordinarily maintains it or in a form or forms that are reasonably usable.

(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) (A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial-preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information is produced in response to a subpoena that is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, it must take reasonable steps to retrieve it. The person who produced the information must preserve the information until the claim is resolved.

(c) CONTEMPT. Failure of any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued. An adequate cause for failure to obey exists when a subpoena purports to require a nonparty to attend or produce at a place not within the limits provided by clause (ii) of subparagraph (c)(3)(A).

EXHIBIT B

FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

DEFINITIONS

The following terms (whether or not capitalized) shall have the meanings set forth below:

1. "Adversary Proceeding" refers to *JPMorgan Chase Bank, National Association v. Washington Mutual, Inc., et al.*, Adversary Proceeding No. 09-50551 (Bankr. D. Del.).

2. "And" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.

3. "Any," "all" and "each" shall be construed broadly, and shall mean , any, all, and each as necessary to bring within the scope of the discovery request all responses that otherwise could be construed to be outside of its scope.

4. "Communication" means any oral, written or electronic transmission of information, fact, opinion, belief, idea, statement, inquiry or otherwise, including without limitation any letter, correspondence, memorandum, electronic-mail message, note or meeting log, conversation, meeting, discussion, telephone call, facsimile, telegram, telex, conference or message.

5. "Concerning" means comprising, consisting of, concerning, referring to, reflecting, regarding, supporting, evidencing, relating to, prepared in connection with, used in preparation for, or being in any way legally, logically or factually concerned with the matter or document described, referred to or discussed.

6. "Document" is used in its broadest sense and mean and include any written or graphic matter or other means of preserving thought or expression and all tangible things from which information can be processed or transcribed, including the originals and all non-identical copies, whether different from the original by reason of any notation made on such copy or otherwise, including but not limited to, correspondence, memoranda, notes, messages, letters,

telegrams, teletype, telefax, bulletins, meetings or other communications, interoffice and intraoffice telephone calls, diaries, chronological data, minutes, books, reports, studies, summaries, pamphlets, bulletins, printed matter, charts, ledgers, invoices, worksheets, receipts, returns, computer printouts, prospectuses, financial statements, schedules, affidavits, contracts, cancelled checks, statements, transcripts, statistics, surveys, magazine or newspaper articles, releases (and any and all drafts, alterations and modifications, changes and amendments of any of the foregoing), graphic or aural records or representations of any kind (including without limitation photographs, microfiche, microfilm, videotape, records and motion pictures) and electronic, mechanical or electric records or representations of any kind (including without limitation tapes, cassettes, discs and records).

7. "FDIC" means or refers to the Federal Deposit Insurance Corporation, as receiver for Washington Mutual Bank, Henderson Nevada and in its corporate capacity.

8. "Governmental Unit" has the meaning set forth at 11 U.S.C. § 101(27).

9. "Including" means including but not limited to the referenced subject.

10. "JPMC" means JPMorgan Chase Bank, National Association and JPMorgan Chase & Co., and any of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

11. "Texas Action" refers to *American Nat'l Ins. Co., et al., v. JPMorgan Chase & Co., et al.*, Case No. 3:09-cv-00044 (S.D. Tex.).

12. "Washington Mutual" means or refers to WMI and WMB, and any and all of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on their behalf, any of their parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

13. "WMB" means or refers to Washington Mutual Bank, Henderson, Nevada, and any and all of its current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

14. "WMB fsb" means or refers to Washington Mutual Bank, fsb, Utah, and any and all of its current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on its behalf, any of its parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

15. "WMI" means or refers to Washington Mutual, Inc. and WMI Investment Corp. (collectively, the "Debtors") and any and all of their current or former officers, directors, employees, shareholders, agents, staff, attorneys, accountants, outside consultants, representatives and other persons acting or purporting to act on their behalf, any of their parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors and/or successors-in-interest.

16. "OTS" means or refers to the Office of Thrift Supervision.

17. "P&A Agreement" means or refers to the Purchase and Assumption Agreement, Whole Bank, among the Federal Deposit Insurance Corporation, as receiver of Washington Mutual Bank, Henderson, Nevada, the Federal Deposit Insurance Corporation and JPM, dated as of September 25, 2008.

18. "Petition Date" means or refers to September 26, 2008.

19. "Purchase Price" means the approximately \$1.9 billion JPMC paid to the FDIC for the assets of WMB.

20. "Transaction" means or refers to any means by which JPMorgan Chase might obtain, receive or succeed to Washington Mutual's businesses or properties, or any portion thereof, or any transaction preliminary, preparatory or incident thereto, including any stock

tender, stock purchase, asset purchase, assumption of deposit or other liabilities, merger, joint venture or partnership.

21. Any ambiguity in a discovery request shall be construed to bring within the scope of the discovery request all responses that otherwise could be construed to be outside of its scope.

INSTRUCTIONS

Each response must be made in accordance with the following instructions:

1. The responsive documents should be produced in the manner prescribed by the Federal Rules of Civil Procedure, as made applicable herein by the Federal Rules of Bankruptcy Procedure, including producing the requested documents as they are kept in the usual course of business or organized and labeled to correspond with the categories in the requests, and identifying the name of the person from whose files the documents were produced.

2. You are to produce the original and all non-identical copies, including all drafts, of each document requested. If you are not able to produce the original of any document, please produce the best available copy and all non-identical copies, including drafts.

3. Each request herein extends to all documents and communications in the possession, custody or control of you or anyone acting on your behalf. A document is deemed to be in your possession, custody, or control if it is in your physical custody, or if it is in the physical custody of any other person and you: (1) own such document in whole or in part; (2) have a right, by contract, statute or otherwise, to use, inspect, examine or copy such document on any terms; (3) have an understanding, express or implied, that you may use, inspect, examine, or copy **such** document on any terms; or (4) as a practical matter, have been able to use, inspect, examine, or copy such document when you sought to do so. If any requested document was, but no longer is, in your control, state the disposition of each such document.

4. Any reference in these document requests to an individual or person include any and all agents, advisors, employees, representatives, attorneys, successors-in-interest, and all other persons or entities acting in his, her, or its behalf or under his, her or its control.

5. If any document is withheld under any claim of privilege, including without limitation, attorney-client privilege and attorney work product, you should provide the following information with respect to such document:

- (1) The date of the document;
- (2) The title of the document;
- (3) The name of its author(s) or preparer(s) and an identification by employment and title of each such person;
- (4) The name of each person who was sent or furnished with, received, viewed or has custody of the document or a copy thereof together with an identification by employment and title of each such person;
- (5) The request to which the document relates;
- (6) The title and description of the document sufficient to identify it without revealing the information for which privilege is claimed;
- (7) The claim of privilege under which it is withheld; and
- (8) A description of the subject matter of the document in sufficient detail to support your contention that the document is privileged;

6. If, after exercising due diligence to secure them, you cannot provide some or any of the requested documents, so state and provide all documents to the extent possible, specifying the reason for your inability to produce the remainder of the documents, and stating whatever information or knowledge you have concerning each document not produced.

7. If any requested document or other document potentially relevant to this action is subject to destruction under any document retention or destruction program, the document(s) should be exempted from any scheduled destruction and should not be destroyed until the conclusion of this action or unless otherwise permitted by the Court.

8. If any document responsive to these requests is known to have existed and cannot now be located, or has been destroyed or discarded, set forth a complete statement of the circumstances surrounding such loss or destruction, including:

- (1) a description of the document, including the date, a summary of its contents and the identity of its author and the person(s) to whom it was sent or shown;
- (2) the last known custodian;
- (3) whether the document is missing or lost or was destroyed or discarded;
- (4) the date of loss, destruction or discard;
- (5) the manner of destruction or discard;
- (6) the reason(s) for destruction or discard;
- (7) the person(s) authorizing or carrying out such destruction or discard; and
- (8) the efforts made to locate lost or misplaced documents.

9. If an objection is made to any request, state your objection and the ground or grounds with particularity in your written response. If an objection is made only to part of the request, identify that part in your written response and state your objection and the ground(s) therefor.

10. Each request shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive. Any request propounded in the singular shall also be read as if propounded in the plural and vice versa. Any request propounded in the present tense shall also be read as if propounded in the past tense and vice versa.

11. This request is a continuing one. If, after producing the requested documents, you obtain or become aware of any further documents responsive to this request, you are required to produce such additional documents. Supplemental responses should be served within thirty (30) days after such information or documents become known to you.

12. Unless otherwise specified, the time period covered by these requests is from January 1, 2004 to the present and shall encompass all documents and information relating in

whole or in part to such period, or to events or circumstances during such period, even though dated, prepared, generated or received prior to that date.

REQUESTS FOR PRODUCTION OF DOCUMENTS

The Debtors request that JPMC produce the following documents in its possession, custody or control:

1. All documents concerning any agreement between JPMC and Washington Mutual concerning access to and/or disclosure of non-public, confidential or proprietary information in connection with any potential Transaction in 2008.
2. All documents concerning JPMC's disclosure of Washington Mutual's non-public, confidential or proprietary information to third parties, including but not limited to disclosure of such information to third parties to secure financing or raise capital in connection with any potential Transaction.
3. All documents concerning any communications with any Governmental Unit regarding non-public, confidential or proprietary information related to Washington Mutual, including but not limited to JPMC's receipt of non-public, confidential or proprietary information concerning Washington Mutual.
4. Documents sufficient to identify JPMC's company policies and procedures concerning the protection or disclosure of non-public, confidential or proprietary information.
5. All documents concerning JPMC's interest in any potential Transaction.
6. All documents concerning any attempt by JPMC to engage in any Transaction in the spring and summer of 2008, including but not limited to JPMC's bid to merge with, purchase, or acquire Washington Mutual in or about April 2008.
7. All documents concerning any communications between JPMC and Washington Mutual concerning JPMC's interest in any potential Transaction in the spring and summer of 2008.

8. All documents concerning any communications between JPMC and any third party, concerning JPMC's interest in any potential Transaction in the spring and summer of 2008, including any communications with the FDIC or any other Governmental Unit.

9. All documents concerning any due diligence performed by JPMC in connection with its interest in any potential Transaction in 2008.

10. All documents concerning any attempt by JPMC to engage in any potential Transaction in or about September 2008, including but not limited to any bid or offer by JPMC to merge with, invest in, or purchase Washington Mutual in or about September 2008.

11. All documents concerning capital contributions or investments received by JPMC in connection with any potential Transaction in or about September 2008.

12. All documents concerning any communications between JPMC and the media, including but not limited to The Wall Street Journal, any other print, on-line, broadcast, or cable news outlet, related to Washington Mutual, including but not limited to Washington Mutual's financial status, assets, and liabilities.

13. All documents concerning any communications between JPMC and any Governmental Unit concerning the seizure and/or sale of Washington Mutual, including but not limited to communications with the US Department of the Treasury, the FDIC, and/or the OTS.

14. All documents concerning actions considered or taken by any Governmental Unit concerning Washington Mutual, including but not limited to the seizure of WMB by the OTS and the appointment of FDIC as receiver.

15. All documents concerning any agreement or arrangement between JPMC and any Governmental Unit concerning any potential Transaction or Transaction on or prior to September 25, 2008, including but not limited to any agreement or arrangement with the OTS and/or FDIC.

16. All documents concerning any communications between JPMC and any Governmental Unit concerning any Transaction on September 25, 2008.

17. Documents sufficient to identify the names of all persons who negotiated on behalf of JPMC in connection with entering into the P&A Agreement.

18. Documents sufficient to show JPMC's weighted average cost of capital, including but not limited to JPMC's cost of debt, cost of equity, yield on outstanding debt and the weighted average cost of capital for any loan or other financing obtained by JPMC.

19. All documents concerning any investigations by federal, state or municipal government bodies of JPMC related to its acquisition of the assets of WMB.

20. All documents concerning any lawsuit or other legal action brought against JPMC related to its acquisition of the assets of WMB.

21. All documents concerning JPMC's placement of former JPMC employees at Washington Mutual, including but not limited to, the placement or employment of Stephen J. Rotella, Steve Fortunato, Taj Bindra, John Berens, Youyi Chen and Bill Murray.

22. All documents concerning the disclosure of any of Washington Mutual's non-public, confidential or proprietary information by former JPMC employees working at Washington Mutual, including but not limited to Stephen J. Rotella, Steve Fortunato, Taj Bindra, John Berens, Youyi Chen and Bill Murray.

23. To the extent not otherwise covered by these requests, all documents produced in the Texas Action that relate to Washington Mutual.

Exhibit 5

Puget Sound Business Journal (Seattle) - December 7, 2009
[/seattle/stories/2009/12/07/story1.html](#)

Puget Sound
BUSINESS JOURNAL
 Business Leaders Get It.

Friday, December 4, 2009

The Washington Mutual decision

Why did regulators abruptly close Washington Mutual when it had the cash to operate? Help was coming in six days

Puget Sound Business Journal (Seattle) - by [Kirsten Grind](#) Staff Writer

BACK STORY: In September, at the first anniversary of Washington Mutual's closure, the Puget Sound Business Journal reported that as executives fought to sell the bank during its final days, regulators undercut those efforts by signaling to bidders that the bank would soon be seized and sold at a much lower price. Now, further investigation reveals that, contrary to regulators' assertions at the time of the seizure, WaMu had sufficient liquidity and capital to meet regulatory standards and survive. Why, then, was it shuttered?

On a sunny Sunday afternoon in late September, a year and two days after regulators closed Washington Mutual, the bank's former leaders gathered for an improbable, and tragic, reunion at a Seattle restaurant.

Among those present: Lou Pepper, the CEO who guided WaMu through the 1980s; and Kerry Killinger, the CEO who presided over both its vast expansion in the 1990s and its later deep dive into risky mortgage lending.

They came to honor a widely respected WaMu veteran who had been let go this year after decades at the bank. Just 10 days earlier, wracked in part by his family's growing financial pressures, he took his own life at his Seattle home, according to a police report. He left behind a family and scores of colleagues who revered him. (Out of respect for the family, the Puget Sound Business Journal is not publishing his name.)

For nearly two hours at the memorial, speakers shared memories of the man's many accomplishments.

The speakers didn't address the looming questions, however. These were broached in hushed tones among some WaMu employees: Why exactly did the government seize our bank? Was all this financial pain and personal hardship necessary?

WaMu's regulators said they based their decision to close the bank and sell it to **JPMorgan Chase** on lack of liquidity — its access to ready cash — and the mounting pile of failed mortgage loans that were expected to cripple the bank's earnings for months to come.

But new information — gathered from internal documents and interviews with scores of former WaMu executives, regulators and other experts — shows that WaMu had plenty of cash on the day it was seized, and a regulator-vetted plan to operate with even less money if necessary.

WaMu also had ample capital — more than the regulatory levels for a "well-capitalized" bank.

Cash and secrecy

These documents and sources, part of a Puget Sound Business Journal investigation, raise questions about whether the regulators acted precipitously in seizing a bank that could have survived, and in the process wiped out billions of dollars of wealth with widespread personal consequences.

"Someone needs to take a serious look at this because they weren't illiquid," said a senior federal official with direct knowledge of WaMu's circumstances.

Regulators, the official added, "pulled the trigger too soon."

Yet more than a year later, the details of the decision remain shrouded from view. WaMu's main regulators — the **Federal Deposit Insurance Corp.** and the **Office of Thrift Supervision** — continue to decline requests to discuss their actions, release liquidity figures or give any other evidence that the bank was in a precarious situation that demanded immediate action. In refusing the disclosures, the regulators cite confidentiality regulations for a bank that no longer exists except in a liquidation proceeding and as a basis for numerous lawsuits.

Similar secrecy surrounds other bank failures. As the toll of closed banks mounts — more than 140 have been shut by regulators since the housing bubble burst in early 2008 — and as Congress prepares to overhaul the regulatory structure, more people are asking what exactly was wrong with these banks, and whether regulators always acted appropriately in closing them.

After regulators shut down First Bank of Idaho in April, for example, congressmen Mike Simpson and Walt Minnick said regulators had "intentionally destroyed" a pillar of the community "through inappropriate use of their powers." The Idaho lawmakers asked why regulators acted so abruptly when the bank was close to raising a needed \$10 million.

MEDIA



ANALYSIS OF A BANK'S WEALTH

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By [Name] on [Date]

WASHINGTON MUTUAL'S decision to close the bank and sell it to JPMorgan Chase on lack of liquidity — its access to ready cash — and the mounting pile of failed mortgage loans that were expected to cripple the bank's earnings for months to come.

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FIRES OF A BANK'S CLOSURE

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"We are concerned that the OTS and the FDIC did not give the bank enough time to capitalize properly, even though it is our understanding that they were nearing the end of negotiations with a willing investor," they wrote in a letter to the agencies. "Not only have investors lost millions in personal investments, but many of the businesses that have banked with First Bank of Idaho for years have found their credit lines frozen."

The FDIC and OTS responded by providing the official reasons for closing the bank, but no new details, according to Simpson's office.

It appears that Washington's two senators didn't seek much more information about WaMu — and they have not responded to requests for comment. However, in October, Gov. Chris Gregoire questioned why regulators failed to approve a plan to recapitalize Everett-based Frontier Financial, the state's largest commercial bank, through a merger. The deal fell apart and the bank is still seeking crucial capital.

Some see a much broader and more worrisome effect from the government's discretionary and murky process. As one WaMu executive put it: "If you're a shareholder in any bank you'd have to really look at it and say, 'What are the parameters here? Can they just seize any bank at any time?'"

Widespread problems and pain

The closures have had enormous repercussions. Had regulators acted differently in WaMu's case, they might have preserved at least some of the \$7 billion in shareholder wealth that remained just before the seizure, and tens of billions more in bondholder wealth. If WaMu executives had been able to sell the bank to a healthy financial institution, as they were energetically trying to do, far more wealth — perhaps \$30 billion more — would have been revived as bank stocks rose with the tide of a surging stock market during the spring and summer of 2009.

Instead, tens of thousands of WaMu investors lost everything — retirement dreams, college savings, endowments for schools and churches — and they continue to suffer that hardship today. Many of WaMu's past employees and the 43,000 left when the bank closed held substantial amounts of stock that became worthless.

Calls and letters flooded into the FDIC and WaMu's bankruptcy lawyers. On the day after WaMu's closure, the FDIC fielded more than 320 calls, according to records released by the agency. "They are calling the office demanding that the chairman intervene," the chief of staff of FDIC Chairman Sheila Bair wrote in an email.

Wrote one angry investor: "Your agency took over Washington Mutual and left countless investors in both the common and preferred stock out to dry. I knew going into the stock there was going to be risk. But I would rather that the market itself dictated that risk and hope that government intervention would not change that process for me."

"As a small investor and citizen of this country, I would like to ask you: Are you going to do anything to help me recuperate some of my retirement money?" asked Luis Osorio, another investor. A 73-year-old native of Peru, he lost his lifetime savings, \$202,000, which he had invested in WaMu shares.

"I need help!"

Precipitous action

To be sure, regulators had reasons to act quickly in the tumult of September of 2008. In just a few weeks, Lehman Bros. failed, Freddie Mac and Fannie Mae were placed in receivership, Merrill Lynch was sold and AIG received a massive bailout to prevent a collapse of global markets. Many smaller banks had made bad real estate loans that would weaken them in the months ahead, producing legitimate failures.

WaMu already faced a growing mass of failed mortgage loans, creating an exposure that was impossible to quantify at the time, but surely ran to billions of dollars.

But if regulators had waited just six business days, WaMu could have been helped by the government's \$700 billion Troubled Asset Relief Program, and by an increase in bank deposit insurance limits to \$250,000 from \$100,000, a move that helped stop panic withdrawals at all banks. Those changes almost surely would have further quelled a bank run that struck WaMu in September and had already slowed, according to banking experts and people familiar with WaMu's situation.

The government also refused, despite pleas from WaMu executives, to put WaMu on a list of banks in which short-selling of stock was prohibited. That decision contributed to a downward spiral of the stock price, which mirrored dwindling confidence in the bank.

"Nobody is saying they didn't have problems — they had tons of problems," said the federal official familiar with WaMu's financial situation. "But they could have worked through them."

Discord among regulators

Bank closures often provoke what insiders call "healthy tension" between regulators. The FDIC at its root is an insurance agency, managing a pool of money used to repay customer deposits if a bank fails. Because it controls that reserve, it often takes a hard line, arguing to avoid any situation that might deplete its fund. "They have incredible powers and enormous discretion," said Stephen Klein, a Seattle banking attorney and former regulator. "Their No. 1 objective is to protect the insurance fund and if they feel their fund is in jeopardy, they'll act. They don't care about the shareholders."

The OTS, in contrast, is more of a police officer. It can force lenders to meet financial health standards. But it is usually inclined to point out problems and allow banks to fix them on their own.

Tension between the two agencies usually plays out behind the scenes.

With WaMu, a strong rift spilled out in front of the bank's executives.

On July 30, 2008, Killinger and several members of his executive team arrived at OTS headquarters in Washington, D.C., for an early afternoon appointment with director John Reich and Scott Polakoff, deputy director of the agency.

FDIC Chairman Bair also attended the meeting, held in Reich's conference room. Though Bair didn't typically get involved in the nitty-gritty of bank supervision, this meeting was different.

Earlier that summer, FDIC and OTS had been trying to settle on a new CAMELS score for WaMu. The rating (which covers capital adequacy, asset quality, management quality, earnings, liquidity and sensitivity to market risk) indicates the health of a bank on a 1 to 5 scale and is never made public.

WaMu had rated a 1, the highest, until the end of 2007, when its score dropped to 2 as the subprime mortgage crisis began, WaMu executives say.

Now the FDIC wanted WaMu's overall rating lowered to 4, while the OTS, which ultimately assigns the rating, thought WaMu should remain at 2, and certainly no lower than 3, according to people with knowledge of the discussion.

WaMu executives, aware that the rating was under review, had asked to brief regulators. The bank was at the tail end of a \$9.4 billion deposit run that had been kept secret from shareholders and the public. Killinger, Chief Financial Officer Tom Casey and Treasurer Robert Williams wanted to explain why they believed WaMu was still in sound financial condition.

A dispute erupts

For the first part of the hour, Killinger and Williams presented a detailed update on liquidity and capital, including WaMu's recent \$7 billion cash infusion led by private equity group TPG, and WaMu's anticipation of future losses from bad loans, according to people familiar with the discussion.

Throughout the difficult year, Killinger had remained fiercely determined to keep the bank independent, and had turned down an \$8 billion purchase offer by JPMorgan Chase in March in favor of the TPG investment. He saw no reason why the bank should give up its independence now.

Reich echoed the view that WaMu had sufficient liquidity and capital to survive on its own, according to several people familiar with the meeting. Bair agreed about the capital, and even complimented WaMu executives on their ability to pull out of the bank run earlier that month.

But Bair surprised the executives when she said: "Washington Mutual is a big concern to the FDIC." The worry, she added, centered on WaMu's growing pile of sour mortgage loans.

"You need to keep your eyes open to merger possibilities," Bair said, according to one person familiar with the meeting. Any other plan, she said, was not going to be in the best interest of the deposit insurance fund.

Reich told Bair: "This is not the time to discuss this in front of WaMu or any bank," according to those familiar with the meeting.

The gathering ended abruptly, with the two officials agreeing it was inappropriate to debate the bank's future in front of its executives. Killinger and his team left with the impression that, while the OTS thought the bank was not a problem, the FDIC was very worried and did not want WaMu to remain independent.

"The OTS was effectively trying to facilitate (WaMu) coming up with its own solution, where the FDIC wanted to take a much more active approach," said one person familiar with the meeting.

The regulators had gone beyond healthy tension into a heated debate, according to people familiar with the discussions. The details of debate are not known, because the regulators have declined to make their records available or to respond to questions.

However, sometime within the next two months, the FDIC gave WaMu until Sept. 30 to find a buyer. The agency also began telling potential bidders that the bank would soon be available as a distressed asset because the government planned to seize it. The FDIC's moves undercut the bank's efforts, backed by the OTS, to find a buyer or fresh capital, because a government sale was sure to be at a much lower price than a private transaction.

"It's one thing to have a disagreement," said a former federal official with knowledge of the discussion. "It's another to disrupt a potential market solution because of an arbitrary deadline."

IndyMac influence

One possible explanation for Bair's concern about WaMu was the failure of another mortgage lender just a few weeks earlier. IndyMac, based in Pasadena, Calif., had suffered a \$1.3 billion bank run in early July. It failed before regulators could move in and find a buyer, causing a \$10.7 billion hit to the FDIC's insurance fund.

WaMu, which was 10 times larger than IndyMac, posed a substantially larger threat to the FDIC's \$45 billion fund.

"Whenever you have a liquidity failure, they stay in your mind for years and years," said one person familiar with regulators' actions. "It's a failure in which you lose control very quickly and as a regulator whose job is to maintain public confidence, you don't like to see that situation."

The FDIC kept a close watch on WaMu following the July meeting with executives. The regulators' calendar records and dozens of interviews show that the OTS and FDIC carefully monitored WaMu's liquidity levels during this period and were well aware of the bank's plan.

Hundreds of emails flew back and forth between Bair, her chief of staff, board members of the FDIC and OTS staff involved in bank supervision. Bair alone sent more than 50 emails with WaMu as the subject during those eight weeks, including many sent at night, early in the morning or on the weekend.

The content of the emails, obtained by the Business Journal through the Freedom of Information Act, is not part of the public record because regulators blacked out the writing with markers before releasing them.

Despite these redactions, the subject lines make clear that the contents refer to liquidity reports on WaMu. It also appears that FDIC staff met at least twice regarding WaMu — once at the beginning of August and again in mid-September amid WaMu's second bank run.

"Should never have been seized"

When the OTS closed WaMu on Sept. 25, 2008, it sent out a press release that gave this reason:

"With insufficient liquidity to meet its obligations, WaMu was in an unsafe and unsound condition to transact business."

In short, the OTS feared WaMu didn't have enough ready cash to allow customers to make withdrawals at teller windows and ATMs.

In its release, the OTS revealed that WaMu had suffered a bank run in mid-September that had drained \$16.7 billion of WaMu's liquidity in 10 days. It also cited the fact that the bank had posted a financial loss of \$6.1 billion in the previous three quarters, due to nonperforming mortgage loans.

OTS did not reveal the previous, \$9.4 billion bank run in July. WaMu insiders later documented that outflow of deposits for a report in the Business Journal.

What OTS also didn't make public, at the time or afterward, were WaMu's actual liquidity figures or its capital position at the time of the seizure.

WaMu never released them either, because it closed before reporting its third-quarter financial results.

But documents and interviews with former WaMu employees show that regulators closed WaMu even though it had liquidity and capital that were well above the levels at which a bank might normally be threatened with closure.

Typically, a bank is in danger of being seized if its net liquidity dips below 5 percent of total assets, according to banking experts and former regulators. On the day regulators shut WaMu, the bank had \$29 billion in net liquidity — about 9.4 percent of assets, and nearly twice the closure threshold. The figure was provided by a former senior WaMu manager who closely tracked the bank's liquidity at the time. It was confirmed by a former top WaMu executive who had full knowledge of the bank's liquidity position.

"With the cash it had, WaMu should never have been seized," said a senior banking regulator familiar with the matter.

In addition, internal documents and interviews with bank employees show that WaMu had a plan to operate and survive even if its liquidity dropped to \$25 billion, what it termed a "stress case scenario." At that level, WaMu's liquidity still would have been more than 3 percentage points above the typical trigger point for regulatory action.

In its review that summer before the CAMELS rating, the OTS never questioned or raised concerns about WaMu's strategy to survive with \$25 billion in liquidity, bank officials said.

"They didn't say anything to us," said one senior manager. "They seemed to like it."

Other documents also support the view that WaMu had sufficient liquidity to stay open. The last liquidity report from inside WaMu shows that on Sept. 11 the bank could borrow \$6.2 billion from the Federal Home Loan banks in Seattle and San Francisco. It could borrow an additional \$8.2 billion from the Federal Reserve Bank, a line that it hadn't accessed at the time of its seizure, according to two people familiar with the matter.

The 25-page report also shows that WaMu's capital exceeded all regulatory minimums. The tier-one leverage ratio, one key measure, stood at 7.66 percent of total assets. Regulators consider a level of 5.75 percent to be "well-capitalized."

Typically, regulators will intervene at an institution when this ratio falls below 2 percent of its assets, banking experts say.

Even so, WaMu executives, under pressure from regulators, were exploring ways to raise even more capital, according to people familiar with the matter. The bank, along with investment bank Goldman Sachs, developed a plan in September to convert some of its bondholder debt into equity, boosting its capital levels even more.

TPG, the group that led the \$7 billion capital infusion in the spring, cleared the way in mid-September by removing a clause in its contract that would have prevented the bank from finding other investors. It's likely TPG would have put in more money as well, according to former WaMu executives.

WaMu's second bank run began on Sept. 11, sparked by a downgrade by Moody's Investors Service. Coupled with the bank's payments to other creditors, the run eroded WaMu's cash pile, as executives anticipated.

But three days before WaMu was seized, the bank run slowed, much like it had in July. By then, Reich, of OTS, had changed his mind and cut WaMu's CAMELS score to a 4. He and Bair, of the FDIC, were no longer in disagreement.

On Sept. 20, Reich wrote to Bair with a "status report re: WaMu."

Although Reich's update was redacted, Bair responds positively to his assessment.

"Glad we are all working toward the same end," she writes.

"Many thanks for your efforts."

Bair, through a spokesman, declined numerous requests to comment for this story and explain the process that was going on in the emails.

Reich resigned in February 2009 and is no longer authorized to speak about his agency's role with WaMu.

Job of a lifetime

The afternoon private gathering in honor of the late WaMu executive drew an extraordinary group of about 100 people. Pepper, who is widely credited with laying a solid foundation for the bank, attended with several members of his former executive team who helped grow WaMu through the 1980s. Killinger attended with his wife, Linda. Since his ouster as chief executive in early September 2008 just before the bank collapsed, he has remained largely out of sight, spending much of his time at his second home in Palm Desert, Calif.

The executive who died had joined WaMu in the mid-1970s and risen high in the ranks. He met his wife at WaMu. He played on a company sports team. He mentored dozens of employees. He knew so much that some people called him "Mr. Wizard."

In his last assignment, he helped head a team that fielded hundreds of calls from shareholders in the frantic weeks before WaMu closed.

"He was one of those people that made tough situations bearable and good situations fun," wrote a former WaMu manager.

The executive was not a WaMu rarity. The company, for all its problems in recent years, bred many employees who loved the bank deeply and spent their entire careers there — and lost it all in the closure. Several former executives formed a scholarship fund to help laid-off workers. They quickly raised \$600,000 from all over the country.

"WaMu was the kind of job that only comes along once in a lifetime," said one former employee.

After WaMu's collapse, the executive stayed on as part of the JPMorgan transition team.

In January, the bank let him go.

The loss of his income created "significant increasing financial pressures," according to a police report filed after his death. Colleagues said he also had a history of depression.

He was due to start a new job the following week at a smaller Washington bank.

Recently, that bank said it is significantly undercapitalized due to bad loans.

It is unlikely, the bank added, that it will find capital before regulators intervene.

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Exhibit 6

SEPTEMBER 19, 2008

RATING AGENCY PRESENTATION

Park potential acquisition of West

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JPMORGAN CHASE & CO.

Background

- Had spoken to FDIC about Bank only in receivership with protection
- Contacted by FDIC about interest in West
 - They met with West - had to open books
 - Want a solution by Friday, September 26th
 - Preference for open bank solution
 - We indicated we would analyze, but did not expect it to work for us
- Goldman Sachs and Morgan Stanley retained by West to run auction process
- We indicated we would do work, however would not participate in auction
- Approach is to work directly with the FDIC
- In process of updating due diligence
 - Document review and meetings
 - Lines of business updating models for findings and market developments
 - Updated loss forecast and loan valuations

RATING AGENCY PRESENTATION

JPMORGAN CHASE & CO.

PROJECT WEST 1

Potential transaction structure and considerations

- Buy whole company
 - Shareholder approval
 - Large markdown on loan portfolio
 - Larger capital need
 - Less advantageous tax
- Buy bank out of receivership
 - No shareholder approval
 - Close immediately
 - Large markdown on loan portfolio
 - More capital at bank than holding company
 - Significantly less capital required
 - Contingent liabilities left behind

RATING AGENCY PRESENTATION

JPMORGAN CHASE & CO.

PROJECT WEST 2

Capital required

(\$mm)

	Holding company
TCE	\$14
Marks	\$29
Purchase accounting adjustments	(2)
Other tier 1 adjustments	(5)
Pro forma TCE	(\$21)
Required capital to support RWA	\$15
Total capital required	\$37

IF BANK ONLY, MARKS CAPITAL AND PURCHASE ACCOUNTING ADJUSTMENTS ARE SUBJECT TO APPROVAL BY REGULATORY AGENCIES

RATING AGENCY PRESENTATION

JPMORGAN CHASE & CO.

PROJECT WEST 3

Capital generation

(\$mm)	2009	2010	2011	2012
Operating income (after-tax)	\$4,300	\$4,403	\$4,668	\$4,822
Capital from balance sheet reduction	\$1,274	\$1,199	\$575	\$630
Total excess capital	\$6,073	\$5,601	\$5,243	\$5,452
Total cumulative excess capital (without DTA)	\$6,073	\$11,675	\$16,918	\$22,369

RATING AGENCY PRESENTATION

JPMORGAN CHASE & CO.

PROJECT WEST 4

Leader in retail banking and deposit gathering

Branches			Deposits (\$bn)		
Rank	Institution	Branches (#)	Rank	Institution	Deposits (\$bn)
1	Bank of America	6,138	(1)	Pro forma Park	\$905
(2)	Pro forma Park	5,410	1	Citi	804
2	Wells Fargo	3,430	2	Bank of America	785
3	Wachovia	3,348	3	Park	723
4	Park	3,203	4	Wachovia	448
5	U.S. Bancorp	2,649	5	Wells Fargo	339

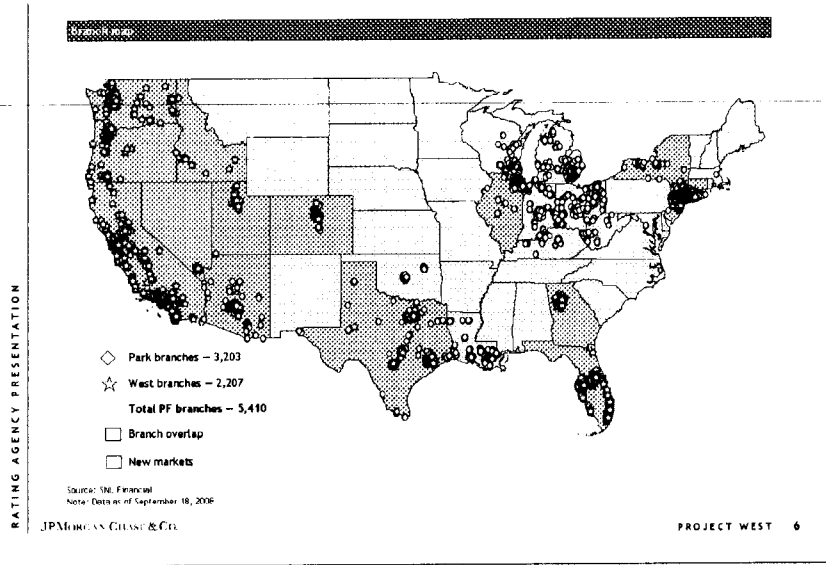
Source: SNL Financial
 Note: Search date as of September 18, 2006; deposit date as of June 30, 2008

RATING AGENCY PRESENTATION

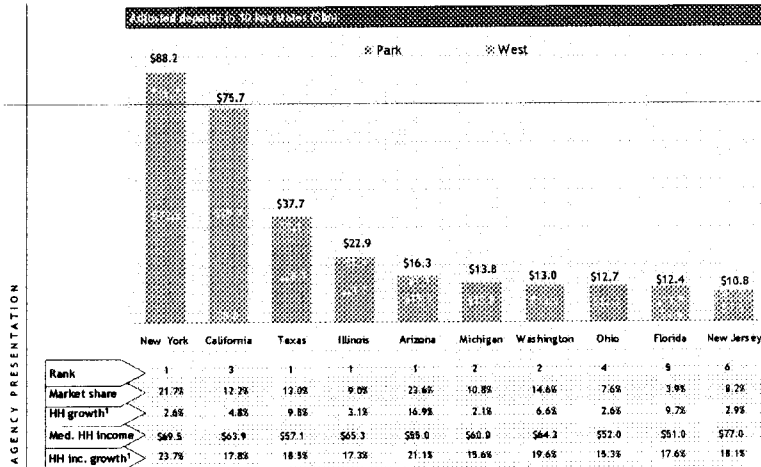
JPMORGAN CHASE & CO.

PROJECT WEST 5

Branch network



Retail deposit base



RATING AGENCY PRESENTATION

	New York	California	Texas	Illinois	Arizona	Michigan	Washington	Ohio	Florida	New Jersey
Rank	1	3	1	1	1	2	2	4	5	6
Market share	21.7%	12.2%	12.0%	9.0%	23.6%	10.8%	14.6%	7.6%	3.9%	8.2%
HH growth ¹	2.6%	4.8%	9.8%	3.1%	16.9%	2.1%	6.6%	2.6%	9.7%	2.9%
Med. HH income	\$69.5	\$63.9	\$57.1	\$65.3	\$55.0	\$60.0	\$64.2	\$52.0	\$51.0	\$77.0
HH inc. growth ²	23.7%	17.8%	18.5%	17.3%	21.1%	15.6%	19.6%	15.3%	17.6%	18.1%

Source: SNL Financial
 Note: Deposit data as of June 30, 2007; excludes deposits greater than \$500mm in a single branch; demographic data deposit-weighted by county
¹ JPM/AMZ
² JPM/AMZ

JPMORGAN CHASE & CO.

PROJECT WEST 7

Retail footprint

State	Rank	West		Perk		Proforma combined		market leader	Current				
		# of branches	Deposits (\$mm)	# of branches	Deposits (\$mm)	# of branches	Deposits (\$mm)						
California	3	686	575,721	12.2%	283	516	0.0%	1	691	575,737	12.2%	29.3%	
New York	6	237	15,691	3.9	1	651	72,461	17.4	1	888	85,153	21.7	17.9
Washington	7	187	13,002	14.6	15*	3	0	0.0	12	185	13,602	14.6	15.5
Florida	5	291	11,880	3.7	59	13	568	0.2	3	274	12,448	2.5*	4.3
Texas	7	253	4,962	3.1	1	487	26,668	9.4	1	720	37,731	13.0	9.7
Oregon	2	105	5,196	12.8	-	-	0	0.0	2	-	5,196	12.8	17.4
New Jersey	12	84	2,308	2.5	8	167	7,450	5.7	6	257	10,738	8.2	23.0
Nevada	7	37	1,774	5.0	-	-	0	0.0	7	37	1,774	5.0	22.5
Illinois	11	115	1,373	0.5	2	347	21,503	8.5	1	462	22,876	9.0	8.5
Arizona	9	64	1,124	1.6	3	244	19,221	22.0	1	308	16,745	23.6	22.0
Utah	6	33	848	2.4	3	34	1,993	5.7	2	67	2,641	8.9	13.3
Georgia	17	66	751	0.5	297	1	0	0.0	2	67	751	0.5	9.5
Iowa	8	22	627	3.5	-	-	0	0.0	8	-	627	3.5	20.0
Colorado	26	40	416	0.7	5	84	3,395	4.7	5	129	3,811	5.4	15.3
Connecticut	42	13	166	0.2	7	42	3,507	5.0	7	55	3,672	5.3	13.0
Other	-	-	-	-	NA	1,144	285,344	NA	16	-	-	NA	NA
Total		2,207	\$141,829		2,203	\$448,128			6,139	\$709,313			

Source: S&P Financials.
 Notes: Deposit data as of June 30, 2007; branch data as of September 18, 2008; excludes deposits greater than \$200mm in a single branch; demographic data deposit-weighted by county.
 * Single branch in NV holds \$62.4bn of deposits

RATING AGENCY PRESENTATION

JPMORGAN CHASE & CO

PROJECT WEST 8

Object titles are difficult to line up exactly to the table width, due to removal of sliver of space. On these examples, the border on the object title has been taken off.

Presence in California

Rank	Institution	2007 branches	% of total branches	2007 deposits (\$mm)	Deposit share (%)	'06-'07 deposit growth
1	Bank of America	1,007	13.9%	\$154,331	20.8%	1.6%
2	Wells Fargo	1,016	14.0%	114,884	15.5%	5.0%
3	West	688	9.5%	75,721	10.2%	(4.3%)
4	Wachovia	179	2.5%	43,106	5.8%	18.2%
5	Citi	379	5.2%	41,715	5.6%	8.5%
	Total	7,362	100.0%	\$743,323	100.0%	3.6%

Rank	MSA	Population (mm)	Market rank	Branches	Deposits (\$mm)	Deposit share (%)	Market leader (%)
1	Los Angeles-Long Beach-Santa Ana	13.2	2	251	\$33,258	11.2%	19.2%
2	San Francisco-Oakland-Fremont	4.3	4	94	11,377	6.6%	26.6%
3	San Diego-Carlsbad-San Marcos	3.1	3	75	7,284	15.7%	17.0%
4	San Jose-Sunnyvale-Santa Clara	1.8	3	38	4,916	9.4%	24.0%
5	Riverside-San Bernardino-Ontario	4.2	2	49	4,789	12.4%	21.2%
	Total	37.5	3	688	\$75,721	10.2%	20.8%

Source: FRB Financial
 Note: Branch data as of September 17, 2008; deposit data as of June 30, 2007

JPMORGAN CHASE & CO.

PROJECT WEST 9

RATING AGENCY PRESENTATION

Largest California MSAs

Los Angeles Long Beach Anaheim

Institution	Branch count	Branch count % of total	Deposits (\$mm)	% Deposit Share
1 Bank of America	354	14.2%	\$57,206	19.2%
2 West	291	10.7%	\$5,258	17.2%
3 Wells Fargo	320	12.9%	32,579	10.9%
4 UnionBank	113	4.4%	28,512	6.9%
5 Citi	146	5.9%	13,482	4.5%
Total market	2,478	100.0%	\$298,043	100.0%

San Francisco Oakland Redwood City

Institution	Branch count	Branch count % of total	Deposits (\$mm)	% Deposit Share
1 Bank of America	158	15.3%	\$48,830	28.6%
2 Wells Fargo	165	16.0%	37,865	22.0%
3 Citi	88	8.5%	18,546	10.8%
4 West	92	9.1%	11,377	6.4%
5 Wachovia	23	2.2%	10,935	6.3%
Total market	1,034	100.0%	\$172,493	100.0%

San Diego Carlsbad San Marcos

Institution	Branch count	Branch count % of total	Deposits (\$mm)	% Deposit Share
1 Bank of America	78	12.4%	\$7,913	17.0%
2 Wells Fargo	101	16.3%	7,734	16.7%
3 West	75	12.0%	7,284	15.7%
4 UnionBank	61	9.9%	4,434	9.5%
5 Wachovia	11	1.8%	2,632	5.7%
Total market	619	100.0%	\$46,441	100.0%

San Jose Campbell Lake Alamo Clara

Institution	Branch count	Branch count % of total	Deposits (\$mm)	% Deposit Share
1 Wells Fargo	64	17.4%	\$12,608	24.0%
2 Bank of America	61	17.0%	10,309	19.6%
3 West	38	10.0%	4,916	9.4%
4 Comerica	13	3.6%	3,956	7.5%
5 SVB	2	0.4%	3,579	6.8%
Total market	359	100.0%	\$52,482	100.0%

RATING AGENCY PRESENTATION

Source: FRB Financial
 Note: Branch data as of September 17, 2006; deposit data as of June 30, 2007

JPMORGAN CHASE & CO.

PROJECT WEST 10

Presence in other new markets

Florida deposit market share				
Institution	Branch count	% of total	Deposits (\$mm)	% Deposit share
1 Wachovia	732	12.7%	71,335	19.4%
2 Bank of America	657	11.4	67,008	18.2
3 SunTrust	574	9.9	34,105	9.3
4 Regions	414	7.3	17,679	4.8
5 West	261	4.5	11,880	3.2
Total	5,777	100.0%	368,563	100.0%

Florida deposit market share				
Institution	Branch count	% of total	Deposits (\$mm)	% Deposit share
Top MSAs				
Miami-Fort Lauderdale-Pompano Beach	7	12%	58,804	5.7%
Orlando-Kissimmee	5	47	1,458	5.4
Tampa-St. Petersburg-Clearwater	13	40	354	0.9
Palm Bay-Melbourne-Titusville	5	12	477	5.5
Bradenton-Sarasota-Venice	32	11	65	0.4
Lakeland-Winter Haven	12	10	68	1.2
Port St. Lucie	9	7	261	3.6
Sebastian-Vero Beach	10	2	77	2.1
Deltona-Daytona Beach-Ormond Beach	22	2	45	0.5
Cape Coral-Fort Myers	41	2	0	0.0
Norol-Marco Island	38	1	0	0.0
Jacksonville	40	1	0	0.0
Total Florida - West	5	201	11,880	3.23%

Washington deposit market share				
Institution	Branch count	% of total	Deposits (\$mm)	% Deposit share
1 Bank of America	236	12.2%	23,679	22.4%
2 West	187	9.7	13,092	12.3
3 U.S. Bancorp	187	9.7	8,225	7.8
4 Key	153	7.9	8,040	7.6
5 Wells Fargo	159	8.2	7,412	7.0
Total	1,933	100.0%	105,673	100.0%

Washington deposit market share				
Institution	Branch count	% of total	Deposits (\$mm)	% Deposit share
1 U.S. Bancorp	191	17.2%	8,881	18.5%
2 Wells Fargo	128	11.5	5,946	12.4
3 West	105	9.5	5,696	11.9
4 Bank	87	7.8	5,680	11.8
5 Uniqua	70	6.3	3,466	7.2
Total	1,109	100.0%	47,943	100.0%

Source: SN Financial
 Note: Branch data as of September 17, 2008, deposit data as of June 30, 2007

RATING AGENCY PRESENTATION

JPMORGAN CHASE & CO.

PROJECT WEST 11

Presence in existing markets

Existing branch market share				
Institution	Branch count	% of total	Deposits (\$mm)	% Deposit share
Pro-farma combined	888	16.4%	\$27,010	33.3%
1 Park	651	12.2	221,316	31.7
2 HSBC	389	7.3	70,468	10.1
3 CITI	260	4.9	57,425	8.2
4 Bank of America	379	7.1	37,727	5.4
5 Capital One	288	5.4	35,563	5.0
8 West	237	4.4	15,691	2.2
Total	9,349	100.0%	\$618,107	100.0%

Existing branch market share				
Institution	Branch count	% of total	Deposits (\$mm)	% Deposit share
Pro-farma combined	720	10.0%	\$77,206	21.2%
1 Park	467	6.7	68,245	18.8
2 Bank of America	466	6.7	48,743	13.4
3 Wells Fargo	595	8.4	29,122	8.0
4 BBVA	327	4.7	20,904	5.7
5 Wachovia	229	3.3	12,248	3.4
7 West	253	3.7	6,042	2.5
Total	6,923	100.0%	\$361,701	100.0%

Existing branch market share				
Institution	Branch count	% of total	Deposits (\$mm)	% Deposit share
Pro-farma combined	462	6.7%	\$29,992	12.0%
1 Bank of America	317	9.4	26,749	13.7
3 TD	324	9.6	26,213	12.5
4 PNC	331	9.8	18,282	8.7
5 Hudson City	93	2.8	12,732	6.1
6 Pro-farma combined	183	7.8%	\$10,360	2.8%
12 West	86	2.6	2,108	1.6
Total	3,346	100.0%	\$249,168	100.0%

Existing branch market share				
Institution	Branch count	% of total	Deposits (\$mm)	% Deposit share
Pro-farma combined	462	6.7%	\$29,992	12.0%
1 Bank of America	220	4.4%	39,763	12.1%
2 Park	347	6.9	28,615	11.8
3 BMO	186	3.7	29,115	8.9
4 National City	194	3.6	12,982	4.0
5 Northern Trust	19	0.4	8,950	2.7
13 West	118	2.3	9,373	3.0
Total	6,956	100.0%	\$228,204	100.0%

Source: OAI Financial
 Note: Branch data as of September 17, 2006; deposit data as of June 30, 2007

RATING AGENCY PRESENTATION

JPMORGAN CHASE & CO.

PROJECT WEST 12

Footprint attractiveness

	BAC	Park/West	Park	WFC	WB	West	STI
Network Comparisons							
U.S. Households	48.9%	42.1%	24.4%	25.1%	23.6%	30.3%	12.4%
Hispanic Households	74.8%	67.9%	33.4%	46.3%	28.4%	58.6%	11.6%
Average Income	\$71,434	\$71,526	\$70,652	\$70,760	\$72,809	\$74,238	\$69,572
Businesses	53.4%	44.8%	25.5%	27.9%	26.7%	32.7%	13.5%
Total # of Branches	5,598	5,410 ¹	3,203	3,068	3,058	2,207	1,762
Population Growth (2006-11)							
5 Year Growth	5.3%	5.0%	3.5%	6.7%	5.5%	5.8%	6.8%
% of Population Growth	54.2%	44.6%	17.7%	36.2%	26.1%	38.3%	16.6%
% of Hispanic Growth	71.4%	63.5%	30.1%	47.1%	30.0%	53.7%	15.9%

Source: FDIC and SNL Financial

Note: Data as of June 30, 2008. Analysis based on 3 mile radius around each branch; assumes no new branches after July 2007

¹ Branch count before consolidations; assuming 440 consolidations branch count would be 4,970

RATING AGENCY PRESENTATION

JPMORGAN CHASE & CO.

PROJECT WEST 13

SEPTEMBER 19, 2008

BOARD OF DIRECTORS PRESENTATION

Park potential acquisition of West

STRICTLY PRIVATE AND CONFIDENTIAL

JPMORGAN CHASE & CO.

Background

- Had spoken to FDIC about Bank only in receivership with protection
- Contacted by FDIC about interest in West
 - They met with West - had to open books
 - Want a solution by Friday, September 26th
 - Preference for open bank solution
 - We indicated we would analyze, but did not expect it to work for us
- Goldman Sachs and Morgan Stanley retained by West to run auction process
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- Approach is to work directly with the FDIC
- In process of updating due diligence
 - Document review and meetings
 - Lines of business updating models for finding and market developments
 - Updated loss forecast and loan valuations

BOARD OF DIRECTORS PRESENTATION

JPMORGAN CHASE & CO.

PROJECT WEST 1

Potential transaction structure and considerations

- Buy whole company
 - Shareholder approval
 - Large markdown on loan portfolio
 - Significant capital raise necessary
 - Less advantageous tax
- Buy bank out of receivership
 - No shareholder approval
 - Close immediately
 - Large markdown on loan portfolio
 - More capital at bank than holding company
 - Potential to leave debt behind (additional capital)
 - Significantly less capital required
 - Contingent liabilities left behind

BOARD OF DIRECTORS PRESENTATION

JPMORGAN CHASE & CO.

PROJECT WEST 2

Transaction summary

	Acquire Bank - Leave sub debt		
	\$20	\$30	\$40
Pretax loan marks			
Capital requirement ¹	\$16	\$20	\$23
2010 GAAP EPS	\$1.50	\$1.30	\$1.10
2011 GAAP EPS	\$1.60	\$1.40	\$1.20
2011 GAAP net income	\$5.4	\$4.8	\$4.2
IRR	NM	NM	NM

Notes: assumes no capital raise
¹ Required capital to reach 8.0% target Tier I for West post marks and purchase accounting

BOARD OF DIRECTORS PRESENTATION

JPMORGAN CHASE & CO.

PROJECT WEST 3

Capital required

	Holding company	Bank - Leave Sub debt	Bank - Leave all unsecured debt
TCE	\$14	\$14	\$14
REIT and Debt	0	12	17
Acquired TCE	\$14	\$26	\$31
Marks	(\$30)	(\$28)	(\$28)
Purchase accounting adjustments	(2)	(2)	(2)
Other tier 1 adjustments ¹	(1)	(5)	(4)
Pro forma TCE	(\$19)	(\$8)	(\$2)
Required capital to support RWA	\$15	\$15	\$15
Total capital required	\$34	\$23	\$17

1. Includes deferred tax asset per regulatory limitations, writedown of PPE due to negative goodwill rules and other adjustments

BOARD OF DIRECTORS PRESENTATION

JPMORGAN CHASE & CO.

PROJECT WEST 4

Capital generation

	2009	2010	2011	2012
Operating income (after-tax)				
Ongoing	\$512	\$1,585	\$2,950	\$3,189
Liquidating	3,788	7,820	2,119	1,635
Total	\$4,301	\$4,404	\$4,670	\$4,824
Capital from balance sheet reduction				
Ongoing	(\$213)	\$270	(\$97)	\$233
Liquidating	1,988	927	672	997
Total	\$1,775	\$1,197	\$575	\$630
Total excess capital	\$6,076	\$5,602	\$5,244	\$5,454
Total cumulative excess capital	\$6,076	\$11,677	\$16,922	\$22,376

BOARD OF DIRECTORS PRESENTATION

JPMORGAN CHASE & CO.

PROJECT WEST 5

Issues and considerations

- Willingness of someone else to buy West holding company or West bank (at better terms)
- Impact of Paulson RTC-like structure
- Ability to manage immediately
- Daily erosion of franchise / deposit base
- Contract process with FDIC

BOARD OF DIRECTORS PRESENTATION

JPMORGAN CHASE & CO.

PROJECT WEST 6

Leader in retail banking and deposit gathering

Branches			Deposits (\$bn)		
Rank	Institution	Branches (#)	Rank	Institution	Deposits (\$bn)
1	Bank of America	6,138	(1)	Pro forma Park	\$905
(2)	Pro forma Park	5,410	1	Citi	804
2	Wells Fargo	3,430	2	Bank of America	785
3	Wachovia	3,348	3	Park	723
4	Park	3,203	4	Wachovia	448
5	U.S. Bancorp	2,649	5	Wells Fargo	339

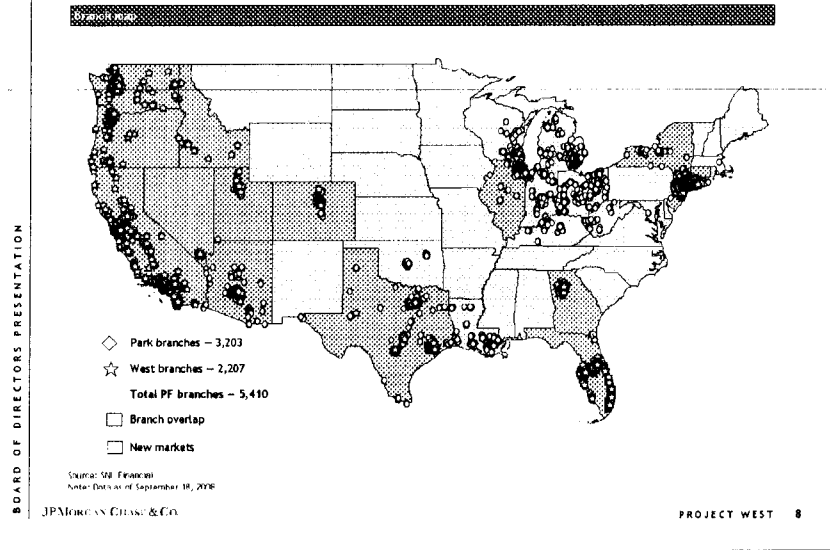
Source: S&P Financial
 Note: Branch data as of September 18, 2008; deposit data as of June 30, 2008

BOARD OF DIRECTORS PRESENTATION

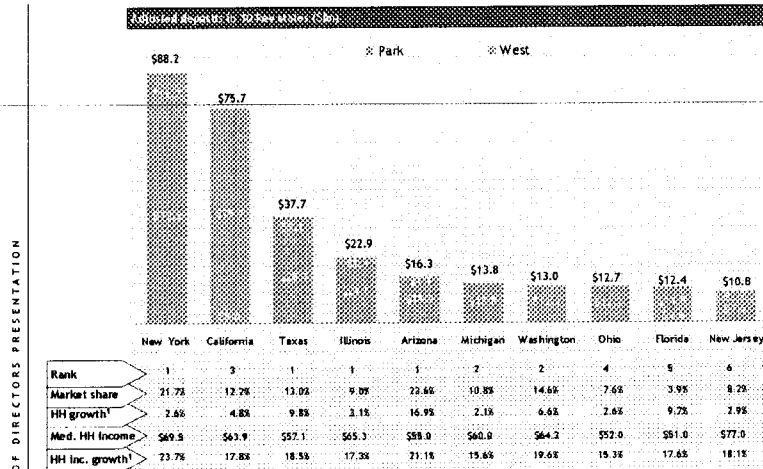
JPMORGAN CHASE & CO

PROJECT WEST 7

Branch network



Retail deposit base



BOARD OF DIRECTORS PRESENTATION

Source: S&P Financial
 Note: Deposit data as of June 30, 2007; excludes deposits greater than \$500mm in a single branch; demographic data deposit weighted by county
 * 2007-2012
 JPMORGAN CHASE & CO.

Retail footprint

State	Rank	West				Penn				Pro forma combined				Current market leader (%)
		# of branches	Deposits (\$mm)	Deposit share (%)	Rank	# of branches	Deposits (\$mm)	Deposit share (%)	Rank	# of branches	Deposits (\$mm)	Deposit share (%)	Rank	
California	3	488	\$75,721	12.2%	283	3	\$16	0.0%	8	693	\$75,737	12.2%	20.2%	
New York	6	237	15,691	3.9	1	651	70,461	17.9	1	888	86,152	21.7	17.9	
Washington	2	187	15,002	14.6	116	1	0	0.0	2	388	15,002	14.6	15.5	
Florida	5	261	11,880	3.7	35	73	568	0.2	5	274	12,448	2.5	4.0	
Texas	7	253	9,262	3.1	1	467	28,348	6.8	1	720	27,332	13.0	9.9	
Oregon	2	105	5,191	12.8	-	-	0	0.0	2	-	5,191	12.8	17.4	
New Jersey	12	84	3,308	2.5	8	167	7,450	5.7	6	252	10,738	8.2	23.0	
Nevada	7	37	1,724	5.0	-	-	0	0.0	7	37	1,724	5.0	22.5	
Illinois	33	115	1,373	0.5	2	347	21,503	8.5	1	462	22,876	9.0	8.5	
Arizona	9	64	1,124	1.6	1	244	15,221	22.0	1	308	16,345	23.6	22.0	
Utah	6	33	848	2.4	3	34	1,193	5.7	3	67	2,841	4.1	17.1	
Georgia	17	66	756	0.5	287	1	0	0.0	27	67	756	0.5	1.5	
Iowa	8	22	627	3.5	-	-	0	0.0	8	-	627	3.5	20.0	
Colorado	24	40	498	0.7	5	39	3,195	4.7	5	126	3,813	5.4	15.5	
Connecticut	42	13	166	0.2	7	42	3,507	5.0	7	55	3,672	5.2	13.0	
Other	-	-	-	-	NA	1,144	285,344	NA	NA	NA	NA	NA	NA	
Total		1,207	\$141,829			1,203	\$440,126			4,128	\$290,313			

Source: SNL Financial
 Note: Deposit data as of June 30, 2007; branch data as of September 18, 2008; excludes deposits greater than \$500mm in a single branch; demographic data deposit-weighted by county
 * Single branch in NY holds \$62.4bn of deposits

BOARD OF DIRECTORS PRESENTATION

JPMORGAN CHASE & CO.

PROJECT WEST 10

Object titles are difficult to line up exactly to the table width, due to removal of sliver of space. On these examples, the border on the object title has been taken off.

Presence in California

Rank	Institution	2007 branches	% of total branches	2007 deposits (\$mm)	Deposit share (%)	06-07 deposit growth
1	Bank of America	1,007	13.9%	\$154,331	20.8%	1.6%
2	Wells Fargo	1,016	14.0%	114,884	15.5%	5.0%
3	West	688	9.5%	75,721	10.2%	(4.3%)
4	Wachovia	179	2.5%	43,106	5.8%	18.2%
5	Citi	379	5.2%	41,715	5.6%	8.5%
	Total	7,262	100.0%	\$743,523	100.0%	3.6%

Rank	MSA	Population (mm)	Market rank	Branches	Deposits (\$mm)	Deposit share (%)	Market leader (%)
1	Los Angeles-Long Beach-Santa Ana	13.2	2	251	\$33,258	11.2%	19.2%
2	San Francisco-Oakland-Fremont	4.3	4	94	11,377	6.6%	26.4%
3	San Diego-Carlsbad-San Marcos	3.1	3	75	7,284	15.7%	17.0%
4	San Jose-Sunnyvale-Santa Clara	1.8	3	38	4,916	9.4%	24.0%
5	Riverside-San Bernardino-Ontario	4.2	2	49	4,789	12.4%	21.2%
	Total	37.5	3	688	\$75,721	10.2%	20.8%

Source: SNL Financial
 Note: Branch data as of September 17, 2006; deposit data as of June 30, 2007

JPMORGAN CHASE & CO.

PROJECT WEST 11

BOARD OF DIRECTORS PRESENTATION

Largest California MSAs

San Francisco Bay Area (MSA)				
Institution	Branch count	Branch % of total	Deposits (\$mm)	% Deposit Share
1 Bank of America	354	14.2%	\$57,206	19.2%
2 West	251	10.7%	\$3,258	11.2%
3 Wells Fargo	320	12.9%	31,579	10.9%
4 UnionBanCal	113	4.6%	20,512	6.9%
5 Citi	146	5.9%	13,482	4.5%
Total market	2,478	100.0%	\$298,043	100.0%

San Francisco Bay Area (MSA)				
Institution	Branch count	Branch % of total	Deposits (\$mm)	% Deposit Share
1 Bank of America	158	15.3%	\$46,830	26.6%
2 Wells Fargo	165	16.0%	37,865	22.9%
3 Citi	88	8.9%	18,546	10.6%
4 West	94	9.1%	11,377	6.6%
5 Wachovia	23	2.2%	10,935	6.3%
Total market	1,034	100.0%	\$172,492	100.0%

San Diego County (MSA)				
Institution	Branch count	Branch % of total	Deposits (\$mm)	% Deposit Share
1 Bank of America	78	12.6%	\$7,913	17.0%
2 Wells Fargo	101	16.3%	7,734	16.7%
3 West	75	12.1%	7,284	15.7%
4 UnionBanCal	61	9.9%	4,434	9.5%
5 Wachovia	11	1.8%	2,632	5.7%
Total market	619	100.0%	\$46,443	100.0%

San Diego County (MSA)				
Institution	Branch count	Branch % of total	Deposits (\$mm)	% Deposit Share
1 Wells Fargo	64	17.8%	\$12,608	24.0%
2 Bank of America	61	17.0%	10,309	19.6%
3 West	38	10.6%	4,916	9.4%
4 Comerica	13	3.6%	3,956	7.3%
5 SVB	2	0.6%	3,579	6.8%
Total market	359	100.0%	\$52,482	100.0%

BOARD OF DIRECTORS PRESENTATION

Source: SNL Financial
 Note: Branch data as of September 17, 2006; deposit data as of June 30, 2007

JPMORGAN CHASE & CO.

PROJECT WEST 12

Presence in other new markets

Florida-based branches (2007)				
Institution	Branch count	% of total	Deposits (\$mm)	% Deposit share
1 Wachovia	732	12.7%	71,235	19.4%
2 Bank of America	657	11.4	67,008	18.2
3 SunTrust	574	9.9	34,105	9.3
4 Regions	414	7.2	17,679	4.8
5 West	261	4.5	11,880	3.2
Total	5,777	100.0%	368,553	100.0%

Top 10 West-based branches (2007)				
Institution	Branch count	% of total	Deposits (\$mm)	% Deposit share
1 Top USA	126	12.6	58,894	5.9%
Miami-Fort Lauderdale-Pompano Beach	5	4.7	1,382	1.4
Doral-Wellington	13	40	384	0.9
Tampa-St. Petersburg-Clearwater	5	12	477	0.4
Palm Bay-Melbourne-Titusville	32	11	65	0.4
Bradenton-Sarasota-Venice	12	10	66	1.2
Lakeland-Winter Haven	9	7	259	1.4
Port St. Lucie	10	2	72	2.1
Sebastian-Vero Beach	22	2	45	0.5
Deltona-Daytona Beach-Ormond Beach	41	2	0	0.0
Cape Coral-Fort Myers	38	1	0	0.0
Naples-Marco Island	40	1	0	0.0
Jacksonville	5	261	11,880	3.21%
Total Florida - West	5	261	11,880	3.21%

Top 5 West-based deposit sources (2007)				
Institution	Branch count	% of total	Deposits (\$mm)	% Deposit share
1 Bank of America	236	12.2%	23,629	22.4%
2 West	187	9.7	13,092	12.3
3 U.S. Bancorp	187	9.7	8,225	7.8
4 Key	153	7.9	8,040	7.6
5 Wells Fargo	159	8.2	7,412	7.0
Total	1,932	100.0%	105,673	100.0%

Top 5 West-based deposit sources (2007)				
Institution	Branch count	% of total	Deposits (\$mm)	% Deposit share
1 U.S. Bancorp	191	17.2%	8,881	18.5%
2 Wells Fargo	128	11.5	5,946	12.4
3 West	105	9.5	5,696	11.9
4 Bank	87	7.8	5,680	11.8
5 Umpqua	70	6.3	3,466	7.2
Total	1,109	100.0%	47,943	100.0%

Source: SNL Financial
 Note: Branch data as of September 17, 2008, deposit data as of June 30, 2007

BOARD OF DIRECTORS PRESENTATION

JPMORGAN CHASE & CO.

PROJECT WEST 13

Presence in existing markets

New York & Connecticut market share				Florida market share					
Institution	Branch count	Branch count % of total	Deposits (\$mm)	% Deposit share	Institution	Branch count	Branch count % of total	Deposits (\$mm)	% Deposit share
Pre-former combined	888	15.6%	\$237,010	33.3%	Pre-former combined	720	10.6%	\$77,205	21.3%
1 Park	651	12.2	271,316	31.7	1 Park	467	6.7	68,245	16.8
2 HSEC	389	7.3	70,466	10.1	2 Bank of America	466	6.7	48,743	13.4
3 Citic	260	4.9	57,425	8.2	3 Wells Fargo	595	8.6	29,122	6.0
4 Bank of America	379	7.1	37,727	5.4	4 BBVA	327	4.7	20,404	5.7
5 Capital One	288	5.4	34,361	5.0	5 Wachovia	221	3.3	12,249	3.4
6 West	237	4.4	15,495	2.2	7 West	263	3.7	9,042	2.5
Total	5,349	100.0%	\$498,107	100.0%	Total	6,923	100.0%	\$361,701	100.0%

Illinois market share				Indiana market share					
Institution	Branch count	Branch count % of total	Deposits (\$mm)	% Deposit share	Institution	Branch count	Branch count % of total	Deposits (\$mm)	% Deposit share
Pre-former combined	389	13.2%	\$4,264	10.4%	Pre-former combined	462	6.7%	\$39,392	12.2%
1 Bank of America	389	13.2	24,264	10.4	1 Bank of America	220	4.4	19,763	12.1
2 Wachovia	317	9.4	28,749	13.7	2 Park	347	6.9	38,115	11.8
3 TD	324	9.6	26,213	12.5	3 BMO	186	3.7	29,115	8.9
4 PNC	321	9.8	18,282	8.7	4 National City	194	3.6	12,982	4.0
5 Hudson City	93	2.9	1,732	6.1	5 Northern Trust	19	0.4	8,950	2.7
6 Pre-former combined	253	7.8%	\$10,340	3.8%	33 West	115	2.3	1,373	0.4
12 West	86	2.6	3,308	1.6	Total	6,066	100.0%	\$328,204	100.0%
Total	3,148	100.0%	\$30,158	100.0%					

Source: SNL Financial
 Note: Branch data as of September 17, 2006; deposit data as of June 30, 2007

BOARD OF DIRECTORS PRESENTATION

JPMORGAN CHASE & CO.

PROJECT WEST 14

Footprint attractiveness

	BAC	Park/West	Park	WFC	WB	West	STI
Network Comparisons							
U.S. Households	48.9%	42.1%	24.4%	25.1%	23.6%	30.3%	12.4%
Hispanic Households	74.8%	67.9%	33.4%	48.3%	28.4%	58.6%	11.6%
Average Income	\$71,434	\$71,526	\$70,652	\$70,760	\$72,809	\$74,238	\$69,572
Businesses	53.4%	44.8%	25.5%	27.9%	26.7%	32.7%	13.5%
Total # of Branches	5,598	5,410 ¹	3,203	3,068	3,058	2,207	1,762
Population Growth (2006-11)							
5 Year Growth	5.3%	5.0%	3.5%	6.7%	5.5%	5.8%	6.8%
% of Population Growth	54.2%	44.6%	17.7%	36.2%	26.1%	38.3%	16.8%
% of Hispanic Growth	71.4%	63.5%	30.1%	47.1%	30.0%	53.7%	15.9%

Source: FDIC and SML Financial

Note: Data as of June 30, 2008. Analysis based on 3 mile radius around each branch; assumes no new branches after July 2007

¹ Branch count before consolidations; assuming 440 consolidations branch count would be 4,970

BOARD OF DIRECTORS PRESENTATION

JPMORGAN CHASE & CO.

PROJECT WEST 15

Exhibit 7

▽

Release No. 58592, Release No. 34-58592, 2008 WL 4287187 (S.E.C. Release No.)

S.E.C. Release No.
Securities Exchange Act of 1934

SECURITIES AND EXCHANGE COMMISSION (S.E.C.)

EMERGENCY ORDER PURSUANT TO SECTION 12(K)(2) OF THE SECURITIES EXCHANGE ACT OF 1934
TAKING TEMPORARY ACTION TO RESPOND TO MARKET DEVELOPMENTS

September 18, 2008

The Commission is aware of the continued potential of sudden and excessive fluctuations of securities prices and disruption in the functioning of the securities markets that could threaten fair and orderly markets. In our recent publication of an emergency order under Section 12(k) of the Exchange Act (the "Act"),^[FN1] for example, we were concerned about the possible unnecessary or artificial price movements based on unfounded rumors regarding the stability of financial institutions and other issuers exacerbated by "naked" short selling. Our concerns, however, are no longer limited to just the financial institutions that were the subject of the July Emergency Order. Recent market conditions have made us concerned that short selling in the securities of a wider range of financial institutions may be causing sudden and excessive fluctuations of the prices of such securities in such a manner so as to threaten fair and orderly markets.

Given the importance of confidence in our financial markets as a whole, we have become concerned about recent sudden declines in the prices of a wide range of securities. Such price declines can give rise to questions about the underlying financial condition of an issuer, which in turn can create a crisis of confidence, without a fundamental underlying basis. This crisis of confidence can impair the liquidity and ultimate viability of an issuer, with potentially broad market consequences. Our concerns are no longer limited to the financial institutions that were the subject of the July Emergency Order.

As a result of these recent developments, the Commission has concluded that there continues to exist the potential of sudden and excessive fluctuations of securities prices generally and disruption in the functioning of the securities markets that could threaten fair and orderly markets. Based on this conclusion, the Commission is exercising its powers under Section 12(k)(2) of the Act.^[FN2] Pursuant to Section 12(k)(2), in appropriate circumstances the Commission may issue summarily an order to alter, supplement, suspend, or impose requirements or restrictions with respect to matters or actions subject to regulation by the Commission if the Commission determines such an order is necessary in the public interest and for the protection of investors to maintain or restore fair and orderly securities markets.

In these unusual and extraordinary circumstances, we have concluded that, to prevent substantial disruption in the securities markets, temporarily prohibiting any person from effecting a short sale in the publicly traded securities of certain financial firms, which entities are identified in Appendix A ("Included Financial Firms"), is in the public interest and for the protection of investors to maintain or restore fair and orderly securities markets.

This emergency action should prevent short selling from being used to drive down the share prices of issuers even where there is no fundamental basis for a price decline other than general market conditions.

IT IS ORDERED that, pursuant to our Section 12(k)(2) powers, all persons are prohibited from short selling^[FN3] any publicly traded securities of any Included Financial Firm.

Similar to the Amended July Emergency Order, we are providing a limited exception for certain bona fide market makers. We believe this narrow exception is necessary because such market makers may need to facilitate customer orders in a fast moving market without possible delays associated with complying with the requirements of this Order.

IT IS THEREFORE ORDERED that, pursuant to our Section 12(k)(2) powers, the following entities are excepted from the requirements of the Order: registered market makers, block positioners, or other market makers obligated to quote in the over-the-counter market, in each case that are selling short a publicly traded security of an Included Financial Firm as part of bona fide market making in such security.

In addition, we are providing an exception to allow short sales that occur as a result of automatic exercise or assignment of an equity option held prior to effectiveness of this Order due to expiration of the option.

IT IS THEREFORE ORDERED that, pursuant to our Section 12(k)(2) powers, the requirements of this Order shall not apply to any person that effects a short sale in any publicly traded security of any Included Financial Firm as a result of automatic exercise or assignment of an equity option held prior to effectiveness of this Order due to expiration of the option.

Finally, to facilitate the expiration of options on September 20th, options market makers are excepted from the requirements of this Order until 11:59 p.m. on September 19th when selling short as part of bona fide market making and hedging activities related directly to bona fide market making in derivatives on the publicly traded securities of any Included Financial Firm.

IT IS THEREFORE ORDERED that, pursuant to our Section 12(k)(2) powers, the requirements of this Order shall not apply, until 11:59 p.m. on September 19, 2008, to any person that is a market maker that effects a short sale as part of a bona fide market making and hedging activity related directly to bona fide market making in derivatives on the publicly traded securities of any Included Financial Firm.

This Order shall be effective immediately and shall terminate at 11:59 p.m. EDT on October 2, 2008, unless further extended by the Commission.

By the Commission.

Florence E. Harmon
Acting Secretary

FN1. See Exchange Act Release No. 58166 (July 15, 2008). See also Exchange Act Release No. 58190 (July 18, 2008) (“Amended July Emergency Order”). See also Exchange Act Release No. 58572 (September 17, 2008).

FN2. This finding of an “emergency” is solely for purposes of Section 12(k)(2) of the Exchange Act and is not intended to have any other effect or meaning or to confer Any right or impose any obligation other than set forth in this Order.

FN3. The definition of “short sale” shall be the same definition used in Rule 200(a) of Regulation SHO and the requirements for marking orders “long” or “short” shall Be the same as provided in Regulation SHO.

Appendix A

This list, prepared on a best efforts basis, includes banks, insurance companies, and securities firms identified by SICs 6000, 6011, 6020-22, 6025, 6030, 6035-36, 6111, 6140, 6144, 6200, 6210-11, 6231, 6282, 6305, 6310-11, 6320-21, 6324, 6330-31, 6350-51, 6360-61, 6712, and 6719.

AAME	ATLANTIC AMERICAN CORP
AANB	ABIGAIL ADAMS NATL BANCORP INC
ABBC	ABINGTON BANCORP INC PA
ABCB	AMERIS BANCORP
ABCW	ANCHOR BANCORP WISCONSIN INC
ABK	AMBAC FINANCIAL GROUP INC
ABNJ	AMERICAN BANCORP OF NJ INC
ABVA	ALLIANCE BANKSHARES CORP
ACAP	AMERICAN PHYSICIANS CAPITAL INC
ACBA	AMERICAN COMMUNITY BNCSHRS INC
ACE	ACE LTD
ACFC	ATLANTIC COAST FED CORP
ACGL	ARCH CAPITAL GROUP LTD NEW
ADVNA	ADVANTA CORP
ADVNB	ADVANTA CORP
AEG	AEGON N V
AEL	AMERICAN EQUITY INVT LIFE HLDG C
AET	AETNA INC NEW
AF	ASTORIA FINANCIAL CORP
AFFM	AFFIRMATIVE INSURANCE HLDGS INC
AFG	AMERICAN FINANCIAL GROUP INC NEW
AFL	A F L A C INC
AGII	ARGO GROUP INTL HLDGS LTD
AGO	ASSURED GUARANTY LTD
AGP	AMERIGROUP CORP
AGX	ARGAN INC
AHD	ATLAS PIPELINE HOLDINGS L P
AHL	ASPEN INSURANCE HOLDINGS LTD
AIB	ALLIED IRISH BANKS PLC
AIG	AMERICAN INTERNATIONAL GROUP INC
AINV	APOLLO INVESTMENT CORP
AIZ	ASSURANT INC
ALL	ALLSTATE CORP
ALLB	ALLIANCE BANCORP INC PA

ALNC	ALLIANCE FINANCIAL CORP NY
AMCP	AMCOMP INC NEW
AMFI	AMCORE FINANCIAL INC
AMG	AFFILIATED MANAGERS GROUP INC
AMIC	AMERICAN INDEPENDENCE CORP
AMNB	AMERICAN NATIONAL BANKSHARES INC
AMP	AMERIPRISE FINANCIAL INC
AMPH	AMERICAN PHYSICIANS SVC GROUP
AMRB	AMERICAN RIVER BANKSHARES
AMSF	AMERISAFE INC
AMTD	T D AMERITRADE HOLDING CORP
ANAT	AMERICAN NATIONAL INS CO
ANNB	ANNAPOLIS BANCORP INC
AOC	AON CORP
APAB	APPALACHIAN BANCSHARES INC
AROW	ARROW FINANCIAL CORP
ASBI	AMERIANA BANCORP
ASFI	ASTA FUNDING INC
ASFN	ATLANTIC SOUTHERN FINL GROUP INC
ASRV	AMERISERV FINANCIAL INC
ATBC	ATLANTIC BANCGROUP INC
ATLO	AMES NATL CORP
AUBN	AUBURN NATIONAL BANCORP
AWBC	AMERICAN WEST BANCORPORATION
AWH	ALLIED WORLD ASSUR CO HLDGS LTD
AXA	A X A UAP
AXG	ATLAS ACQUISITION HOLDINGS CORP
AXS	AXIS CAPITAL HOLDINGS LTD
BAC	BANK OF AMERICA CORP
BANF	BANCFIRST CORP
BANR	BANNER CORP
BARI	BANCORP RHODE ISLAND INC
BAYN	BAY NATIONAL CORP
BBNK	BRIDGE CAPITAL HOLDINGS
BBT	B B & T CORP
BBX	BANKATLANTIC BANCORP INC
BCA	CORPBANCA

BCAR	BANK OF THE CAROLINAS CORP
BCBP	B C B BANCORP INC
BCP	BROOKE CAPITAL CORP
BCS	BARCLAYS PLC
BCSB	B C S B BANCORP INC
BDGE	BRIDGE BANCORP INC
BEN	FRANKLIN RESOURCES INC
BERK	BERKSHIRE BANCORP INC DEL
BFF	B F C FINANCIAL CORP
BFIN	BANKFINACIAL CORP
BFNB	BEACH FIRST NATL BANCSHARES INC
BHB	BAR HARBOR BANKSHARES
BHBC	BEVERLY HILLS BANCORP INC
BHLB	BERKSHIRE HILLS BANCORP INC
BK	BANK OF NEW YORK MELLON CORP
BKBK	BRITTON & KOONTZ CAPITAL CORP
BKMU	BANK MUTUAL CORP NEW
BKOR	OAK RIDGE FINANCIAL SERVICES INC
BKSC	BANK SOUTH CAROLINA CORP
BKUNA	BANKUNITED FINANCIAL CORP
BLX	BANCO LATINOAMERICANO DE EXP SA
BMRC	BANK OF MARIN BANCORP
BMTC	BRYN MAWR BANK CORP
BNCL	BENEFICIAL MUTUAL BANCORP INC
BNCN	B N C BANCORP
BNS	BANK OF NOVA SCOTIA
BNV	BEVERLY NATIONAL CORP
BOCH	BANK OF COMMERCE HOLDINGS
BOFI	B OF I HOLDING INC
BOFL	BANK OF FLORIDA CORP NAPLES
BOH	BANK OF HAWAII CORP
BOKF	B O K FINANCIAL CORP
BOMK	BANK MCKENNEY VA
BOVA	BANK OF VIRGINIA
BPFH	BOSTON PRIVATE FINL HLDS INC
BPSG	BROADPOINT SECURITIES GROUP INC
BRK	BERKSHIRE HATHAWAY INC DEL

BRK	BERKSHIRE HATHAWAY INC DEL
BRKL	BROOKLINE BANCORP INC
BSRR	SIERRA BANCORP
BTFG	BANCTRUST FINANCIAL GROUP INC
BUSE	FIRST BUSEY CORP
BWINA	BALDWIN & LYONS INC
BWINB	BALDWIN & LYONS INC
BX	BLACKSTONE GROUP L P
BXS	BANCORPSOUTH INC
BYFC	BROADWAY FINANCIAL CORP DEL
C	CITIGROUP INC
CAC	CAMDEN NATIONAL CORP
CACB	CASCADE BANCORP
CADE	CADENCE FINANCIAL CORP
CAFI	CAMCO FINANCIAL CORP
CAPB	CAPITALSOUTH BANCORP
CAPE	CAPE FEAR BANK CORP
CART	CAROLINA TRUST BANK
CARV	CARVER BANCORP INC
CASB	CASCADE FINANCIAL CORP
CASH	META FINANCIAL GROUP INC
CATY	CATHAY GENERAL BANCORP
CB	CHUBB CORP
CBAN	COLONY BANKCORP INC
CBBO	COLUMBIA BANCORP ORE
CBC	CAPITOL BANCORP LTD
CBIN	COMMUNITY BANK SHRS INDIANA INC
CBKN	CAPITAL BANK CORP NEW
CBNK	CHICOPEE BANCORP INC
CBON	COMMUNITY BANCORP
CBU	COMMUNITY BANK SYSTEM INC
CCBD	COMMUNITY CENTRAL BANK CORP
CCBG	CAPITAL CITY BANK GROUP
CCBP	COMM BANCORP INC
CCFH	C C F HOLDING COMPANY
CCNE	C N B FINANCIAL CORP PA
CCOW	CAPITAL CORP OF THE WEST

CEBK	CENTRAL BANCORP INC
CFBK	CENTRAL FEDERAL CORP
CFFC	COMMUNITY FINANCIAL CORP
CFFI	C & F FINANCIAL CORP
CFFN	CAPITOL FEDERAL FINANCIAL
CFNL	CARDINAL FINANCIAL CORP
CFR	CULLEN FROST BANKERS INC
CHCO	CITY HOLDING CO
CHEV	CHEVIOT FINANCIAL CORP
CHFC	CHEMICAL FINANCIAL CORP
CI	C I G N A CORP
CIA	CITIZENS INC
CINF	CINCINNATI FINANCIAL CORP
CITZ	C F S BANCORP INC
CIZN	CITIZENS HOLDING CO
CJBK	CENTRAL JERSEY BANCORP
CLBH	CAROLINA BANK HOLDINGS INC
CLFC	CENTER FINANCIAL CORP
CLMS	CALAMOS ASSET MANAGEMENT INC
CMA	COMERICA INC
CME	C M E GROUP INC
CMFB	COMMERCEFIRST BANCORP INC
CMGI	C M G I INC
CMSB	C M S BANCORP INC
CNA	C N A FINANCIAL CORP
CNAF	COMMERCIAL NATIONAL FINL CORP
CNB	COLONIAL BANCGROUP INC
CNBC	CENTER BANCORP INC
CNBKA	CENTURY BANCORP INC
CNC	CENTENE CORP DEL
CNLA	COMMUNITY NATL BANK LAKEWAY AREA
CNO	CONSECO INC
CNS	COHEN & STEERS INC
COBH	PENNSYLVANIA COMMERCE BANCORP IN
COBZ	COBIZ FINANCIAL INC
COLB	COLUMBIA BANKING SYSTEM INC
COOP	COOPERATIVE BANCSHARES INC

CORS	CORUS BANKSHARES INC
COWN	COWEN GROUP INC
CPBC	COMMUNITY PARTNERS BANCORP
CPBK	COMMUNITY CAPITAL CORP
CPF	CENTRAL PACIFIC FINANCIAL CORP
CPHL	CASTLEPOINT HOLDINGS LTD
CRBC	CITIZENS REPUBLIC BANCORP INC
CRFN	CRESCENT FINANCIAL CORP
CRMH	C R M HOLDINGS LTD
CRRB	CARROLLTON BANCORP
CRVL	CORVEL CORP
CSBC	CITIZENS SOUTH BANKING CORP DEL
CSBK	CLIFTON SAVINGS BANCORP INC
CSFL	CENTERSTATE BANKS OF FLORIDA INC
CSHB	COMMUNITY SHORES BANK CORP
CSNT	CRESCENT BANKING CO
CTBC	CONNECTICUT BANK & TRUST CO
CTBI	COMMUNITY TRUST BANCORP INC
CTBK	CITYBANK LYNNWOOD WASHINGTON
CTZN	CITIZENS FIRST BANCORP INC
CVBF	C V B FINANCIAL CORP
CVBK	CENTRAL VIRGINIA BANKSHARES INC
CVCY	CENTRAL VALLEY COMM BANCORP
CVH	COVENTRY HEALTH CARE INC
CVLL	COMMUNITY VALLEY BANCORP
CVLY	CODORUS VALLEY BANCORP INC
CWBC	COMMUNITY WEST BANCSHARES
CWBS	COMMONWEALTH BANKSHARES INC
CWLZ	COWLITZ BANCORPORATION
CZFC	CITIZENS FIRST CORP
CZWI	CITIZENS CMNTY BANCORP INC MD
DB	DEUTSCHE BANK AG
DCOM	DIME COMMUNITY BANCSHARES
DEAR	DEARBORN BANCORP INC
DFG	DELPHI FINANCIAL GROUP INC
DGICA	DONEGAL GROUP INC
DGICB	DONEGAL GROUP INC

DHIL	DIAMOND HILL INVESTMENT GRP INC
DLLR	DOLLAR FINANCIAL CORP
DR	DARWIN PROFESSIONAL UNDERWRITERS
DSL	DOWNEY FINANCIAL CORP
DUF	DUFF & PHELPS CORP NEW
EBSB	MERIDIAN INTERSTATE BANCORP INC
EBTX	ENCORE BANCSTRES INC
ECBE	E C B BANCORP INC
EGBN	EAGLE BANCORP INC
EIHI	EASTERN INSURANCE HOLDINGS INC
EII	ENERGY INFRASTRUCTURE ACQUI CORP
EMCI	E M C INSURANCE GROUP INC
EMITF	ELBIT IMAGING LTD
ENH	ENDURANCE SPECIALTY HOLDINGS LTD
ESBF	E S B FINANCIAL CORP
ESBK	ELMIRA SAVINGS BANK FSB NY
ESGR	ENSTAR GROUP LTD
ETFC	E TRADE FINANCIAL CORP
EV	EATON VANCE CORP
EVBN	EVANS BANCORP INC
EVBS	EASTERN VIRGINIA BANKSHARES INC
EVR	EVERCORE PARTNERS INC
EWBC	EAST WEST BANCORP INC
FABK	FIRST ADVANTAGE BANCORP
FAC	FIRST ACCEPTANCE CORP
FAF	FIRST AMERICAN CORP CALIF
FBC	FLAGSTAR BANCORP INC
FBCM	F B R CAPITAL MARKETS CORP
FBIZ	FIRST BUSINESS FINL SVCS INC
FBMI	FIRSTBANK CORP
FBMS	FIRST BANCSHARES INC MS
FBNC	FIRST BANCORP NC
FBP	FIRST BANCORP P R
FBSI	FIRST BANCSHARES INC MO
FBSS	FAUQUIER BANKSHARES INC
FBTC	FIRST BANCTRUST
FCAL	FIRST CALIFORNIA FINL GROUP INC

FCAP	FIRST CAPITAL INC
FCBC	FIRST COMMUNITY BANCSHARES INC
FCCO	FIRST COMMUNITY CORP SC
FCCY	1ST CONSTITUTION BANCORP
FCFL	FIRST COMMUNITY BANK CORP AMER
FCNCA	FIRST CITIZENS BANCSHARES INC NC
FCVA	FIRST CAPITAL BANCORP INC VA
FCZA	FIRST CITIZENS BANC CORP
FDEF	FIRST DEFIANCE FINANCIAL CORP
FDT	FEDERAL TRUST CORP
FED	FIRSTFED FINANCIAL CORP
FFBC	FIRST FINANCIAL BANCORP OHIO
FFBH	FIRST FEDERAL BANCSHARES ARK INC
FFCH	FIRST FINANCIAL HOLDINGS INC
FFCO	FEDFIRST FINANCIAL CORP
FFDF	F F D FINANCIAL CORP
FFFD	NORTH CENTRAL BANCSHARES INC
FFG	F B L FINANCIAL GROUP INC
FFH	FAIRFAX FINL HOLDINGS LTD
FFHS	FIRST FRANKLIN CORP
FFIC	FLUSHING FINANCIAL CORP
FFIN	FIRST FINANCIAL BANKSHARES INC
FFKT	FARMERS CAPITAL BANK CORP
FFKY	FIRST FINANCIAL SERVICE CORP
FFNM	FIRST FED NORTHN MI BANCORP INC
FFNW	FIRST FINANCIAL NORTHWEST INC
FFSX	FIRST FEDERAL BANKSHARES INC DEL
FHN	FIRST HORIZON NATIONAL CORP
FIFG	1ST INDEPENDENCE FNL GROUP INC
FIG	FORTRESS INVESTMENT GROUP L L C
FII	FEDERATED INVESTORS INC PA
FISI	FINANCIAL INSTITUTIONS INC
FKFS	FIRST KEYSTONE FINANCIAL INC
FLIC	FIRST LONG ISLAND CORP
FMAR	FIRST MARINER BANCORP
FMBI	FIRST MIDWEST BANCORP DE
FMER	FIRSTMERIT CORP

FMFC	FIRST M & F CORP
FNB	F N B CORP PA
FNBN	F N B UNITED CORP
FNFG	FIRST NIAGARA FINL GROUP INC NEW
FNLC	FIRST BANCORP INC ME
FNM	FEDERAL NATIONAL MORTGAGE ASSN
FNSC	FIRST NATIONAL BANCSHARES INC SC
FPBI	F P B BANCORP INC
FPBN	1ST PACIFIC BANCORP CA
FPFC	FIRST PLACE FINANCIAL CORP NM
FPIC	F P I C INSURANCE GROUP INC
FPTB	FIRST PACTRUST BANCORP INC
FRBK	REPUBLIC FIRST BANCORP INC
FRE	FEDERAL HOME LOAN MORTGAGE CORP
FRGB	FIRST REGIONAL BANCORP
FRME	FIRST MERCHANTS CORP
FSBI	FIDELITY BANCORP INC
FSBK	FIRST SOUTH BANCORP INC
FSGI	FIRST SECURITY GROUP INC
FSNM	FIRST STATE BANCORPORATION
FTBK	FRONTIER FINANCIAL CORP
FULT	FULTON FINANCIAL CORP PA
FUNC	FIRST UNITED CORP
FWV	FIRST WEST VIRGINIA BANCORP INC
FXCB	FOX CHASE BANCORP INC
GABC	GERMAN AMERICAN BANCORP INC
GAN	GAINSCO INC
GBCI	GLACIER BANCORP INC NEW
GBH	GREEN BUILDERS INC
GBL	GAMCO INVESTORS INC
GBNK	GUARANTY BANCORP
GBTS	GATEWAY FINANCIAL HLDGS INC
GCA	GLOBAL CASH ACCESS HOLDINGS INC
GFED	GUARANTY FEDERAL BANCSHARES INC
GFIG	G F I GROUP INC
GFLB	GREAT FLORIDA BANK
GGAL	GRUPO FINANCIERO GALICIA S A

GHL	GREENHILL & CO INC
GIW	WILBER CORP
GLBZ	GLEN BURNIE BANCORP
GLRE	GREENLIGHT CAPITAL RE LTD
GNW	GENWORTH FINANCIAL INC
GOV	GOUVERNEUR BANCORP INC
GRAN	BANK GRANITE CORP
GRNB	GREEN BANKSHARES INC
GROW	U S GLOBAL INVESTORS INC
GS	GOLDMAN SACHS GROUP INC
GSBC	GREAT SOUTHERN BANCORP INC
GSLA	G S FINANCIAL CORP
GTS	TRIPLE S MANAGEMENT CORP
HABC	HABERSHAM BANCORP INC
HAFC	HANMI FINANCIAL CORP
HALL	HALLMARK FINANCIAL SERVICES INC
HARL	HARLEYSVILLE SAVINGS FINAN CORP
HAXS	HEALTHAXIS INC
HBAN	HUNTINGTON BANCSHARES INC
HBHC	HANCOCK HOLDING CO
HBNK	HAMPDEN BANCORP INC
HBOS	HERITAGE FINANCIAL GROUP
HCBK	HUDSON CITY BANCORP INC
HCC	H C C INSURANCE HOLDINGS INC
HEOP	HERITAGE OAKS BANCORP
HFBC	HOPFED BANCORP INC
HFFC	H F FINANCIAL CORP
HFWA	HERITAGE FINANCIAL CORP WA
HGIC	HARLEYSVILLE GROUP INC
HIFS	HINGHAM INSTITUTION FOR SVGS MA
HMN	HORACE MANN EDUCATORS CORP NEW
HMNF	H M N FINANCIAL INC
HMPR	HAMPTON ROADS BANKSHARES INC
HNBC	HARLEYSVILLE NATIONAL CORP PA
HNT	HEALTH NET INC
HOMB	HOME BANCSHARES INC
HOME	HOME FEDERAL BANCORP INC MD

HRZB	HORIZON FINANCIAL CORP WASH
HS	HEALTHSPRING INC
HTBK	HERITAGE COMMERCE CORP
HTH	HILLTOP HOLDINGS INC
HTLF	HEARTLAND FINANCIAL USA INC
HUM	HUMANA INC
HWBK	HAWTHORN BANCSHARES INC
HWFG	HARRINGTON WEST FINANCIAL GRP IN
IAAC	INTERNATIONAL ASSETS HLDG CORP
IBCA	INTERVEST BANCSHARES CORP
IBCP	INDEPENDENT BANK CORP MICH
IBKC	IBERIABANK CORP
IBKR	INTERACTIVE BROKERS GROUP INC
IBNK	INTEGRA BANK CORP
IBOC	INTERNATIONAL BANCSHARES CORP
ICE	INTERCONTINENTALEXCHANGE INC
ICH	INVESTORS CAPITAL HOLDINGS LTD
IFC	IRWIN FINANCIAL CORP
IFSB	INDEPENDENCE FEDERAL SAVINGS BK
IHC	INDEPENDENCE HOLDING CO NEW
IMP	IMPERIAL CAPITAL BANCORP INC
INCB	INDIANA COMMUNITY BANCORP
INDB	INDEPENDENT BANK CORP MA
ING	I N G GROEP N V
IPCC	INFINITY PROPERTY & CASUALTY COR
IPCR	I P C HOLDINGS LTD
IRE	IRELAND BANK
ITC	I T C HOLDINGS CORP
ITG	INVESTMENT TECHNOLOGY GP INC
ITIC	NEW INVESTORS TITLE CO
JAXB	JACKSONVILLE BANCORP INC FL
JEF	JEFFERIES GROUP INC NEW
JFBC	JEFFERSONVILLE BANCORP
JFBI	JEFFERSON BANCSHARES INC TENN
JLI	JESUP & LAMONT INC
JMP	J M P GROUP INC
JNS	JANUS CAP GROUP INC

JPM	JPMORGAN CHASE & CO
JXSB	JACKSONVILLE BANCORP INC
KCLI	KANSAS CITY LIFE INS CO
KENT	KENT FINANCIAL SERVICES INC
KEY	KEYCORP NEW
KFED	K FED BANCORP
KFFB	KENTUCKY FIRST FEDERAL BANCORP
KFS	KINGSWAY FINANCIAL SERVICES INC
KRNY	KEARNY FINANCIAL CORP
L	LOEWS CORP
LAB	LABRANCHE & CO INC
LABC	LOUISIANA BANCORP INC
LARK	LANDMARK BANCORP INC
LAZ	LAZARD LTD
LBBB	LIBERTY BELL BK CHERRY HILL NJ
LBCP	LIBERTY BANCORP INC MO
LEGC	LEGACY BANCORP INC
LEH	LEHMAN BROTHERS HOLDINGS INC
LFC	CHINA LIFE INSURANCE CO LTD
LION	FIDELITY SOUTHERN CORP NEW
LKFN	LAKELAND FINANCIAL CORP
LNC	LINCOLN NATIONAL CORP IN
LNCB	LINCOLN BANCORP IND
LPSB	LAPORTE BANCORP INC
LSBI	L S B FINANCIAL CORP
LSBK	LAKE SHORE BANCORP INC
LSBX	L S B CORP
LTS	LADENBURG THALMANN FIN SVCS INC
LUK	LEUCADIA NATIONAL CORP
LYG	LLOYDS TSB GROUP PLC
MAIN	MAIN STREET CAPITAL CORP
MASB	MASSBANK CORP
MBFI	M B FINANCIAL INC NEW
MBHI	MIDWEST BANC HOLDINGS INC
MBI	M B I A INC
MBP	MID PENN BANCORP INC
MBR	MERCANTILE BANCORP INC

MBRG	MIDDLEBURG FINANCIAL CORP
MBTF	M B T FINANCIAL CORP
MBVA	MILLENNIUM BANKSHARES CORP
MBVT	MERCHANTS BANCSHARES INC
MBWM	MERCANTILE BANK CORP
MCBF	MONARCH COMMUNITY BANCORP INC
MCBI	METROCORP BANCSHARES INC
MCGC	M C G CAPITAL CORP
MCY	MERCURY GENERAL CORP NEW
MER	MERRILL LYNCH & CO INC
MERR	MERRIMAN CURHAN FORD GROUP INC
MF	M F GLOBAL LTD
MFC	MANULIFE FINANCIAL CORP
MFLR	MAYFLOWER BANCORP INC
MFNC	MACKINAC FINANCIAL CORP
MFSF	MUTUALFIRST FINL INC
MGYR	MAGYAR BANCORP INC
MHLD	MAIDEN HOLDNGS LTD
MI	MARSHALL & ILSLEY CORP NEW
MIG	MEADOWBROOK INSURANCE GROUP INC
MIGP	MERCER INSURANCE GROUP INC
MKL	MARKEL CORP
MKTX	MARKETAXESS HLDGS INC
MNRK	MONARCH FINANCIAL HOLDINGS INC
MOFG	MIDWESTONE FINANCIAL GRP INC NEW
MOH	MOLINA HEALTHCARE INC
MORN	MORNINGSTAR INC
MRH	MONTPELIER RES HOLDINGS LTD
MROE	MONROE BANCORP
MS	MORGAN STANLEY DEAN WITTER & CO
MSBF	M S B FINANCIAL CORP
MSFG	MAINSOURCE FINANCIAL GROUP INC
MSL	MIDSOUTH BANCORP INC
MTG	M G I C INVESTMENT CORP WIS
MTU	MITSUBISHI UFJ FINANCIAL GP INC
MXGL	MAX CAPITAL GROUP LTD
NAHC	NATIONAL ATLANTIC HOLDINGS CORP

NAL	NEWALLIANCE BANCSHARES INC
NARA	NARA BANCORP INC
NATL	NATIONAL INTERSTATE CORP
NAVG	NAVIGATORS GROUP INC
NBBC	NEWBRIDGE BANCORP
NBN	NORTHEAST BANCORP
NBTB	N B T BANCORP INC
NBTF	N B & T FINANCIAL GROUP INC
NCBC	NEW CENTURY BANCORP INC NC
NCC	NATIONAL CITY CORP
NDAQ	NASDAQ O M X GROUP INC
NEBS	NEW ENGLAND BANCSHARES INC
NECB	NORTHEAST COMMUNITY BANCORP INC
NEWT	NEWTEK BUSINESS SVCS INC
NFBK	NORTHFIELD BANCORP INC
NFS	NATIONWIDE FINANCIAL SERVICES IN
NFSB	NEWPORT BANCORP INC
NHTB	NEW HAMPSHIRE THRIFT BNCSHRS INC
NICK	NICHOLAS FINANCIAL INC
NITE	KNIGHT CAPITAL GROUP INC
NKSH	NATIONAL BANKSHARES INC
NMR	NOMURA HOLDINGS INC
NMX	NYMEX HOLDINGS INC
NOVB	NORTH VALLEY BANCORP
NPBC	NATIONAL PENN BANCSHARES INC
NRIM	NORTHRIM BANCORP INC
NSEC	NATIONAL SECURITY GROUP INC
NSFC	NORTHERN STATES FINANCIAL CORP
NSH	NUSTAR G P HOLDINGS LLC
NTQ	N T R ACQUISITION CO
NTRS	NORTHERN TRUST CORP
NVSL	NAUGATUCK VLY FINANCIAL CORP
NWFL	NORWOOD FINANCIAL CORP
NWLIA	NATIONAL WESTERN LIFE INS CO
NWSB	NORTHWEST BANCORP INC PA
NXTY	NEXITY FINANCIAL CORP
NYB	NEW YORK COMMUNITY BANCORP INC

NYM	NYMAGIC INC
NYX	NYSE EURONEXT
OCFC	OCEANFIRST FINANCIAL CORP
OFG	ORIENTAL FINANCIAL GROUP INC
OKSB	SOUTHWEST BANCORP INC OKLA
OLBK	OLD LINE BANCSHARES
OLCB	OHIO LEGACY CORP
ONB	OLD NATIONAL BANCORP
ONFC	ONEIDA FINANCIAL CORP
OPHC	OPTIMUMBANK HOLDINGS INC
OPOF	OLD POINT FINL CORP
OPY	OPPENHEIMER HOLDINGS INC
ORH	ODYSSEY RE HOLDINGS CORP
ORI	OLD REPUBLIC INTERNATIONAL CORP
ORIT	ORITANI FINANCIAL CORP
OSBC	OLD SECOND BANCORP INC
OSBK	OSAGE BANCSHARES INC
OSHC	OCEAN SHORE HOLDING CO
OVBC	OHIO VALLEY BANC CORP
OXPS	OPTIONSXPRESS HOLDINGS INC
OZM	OCH ZIFF CAPITAL MANGMNT GRP LLC
OZRK	BANK OF THE OZARKS INC
PABK	P A B BANKSHARES INC
PACW	PACWEST BANCORP DE
PBCI	PAMRAPO BANCORP INC
PBCT	PEOPLES UNITED FINANCIAL INC
PBHC	PATHFINDER BANCORP INC
PBIB	PORTER BANCORP INC
PBIP	PRUDENTIAL BANCORP INC PA
PBKS	PROVIDENT BANKSHARES CORP
PBNY	PROVIDENT NEW YORK BANCORP
PCBC	PACIFIC CAPITAL BANCORP NEW
PCBI	PEOPLES COMMUNITY BANCORP INC
PCBK	PACIFIC CONTINENTAL CORP
PCBS	PROVIDENT COMMUNITY BANCSHRS INC
PEBK	PEOPLES BANCORP NC INC
PEBO	PEOPLES BANCORP INC

PFBC	PREFERRED BANK LOS ANGELES
PFBI	PREMIER FINANCIAL BANCORP INC
PFBX	PEOPLES FINANCIAL CORP
PFED	PARK BANCORP INC
PFG	PRINCIPAL FINANCIAL GROUP INC
PFS	PROVIDENT FINANCIAL SVCS INC
PGR	PROGRESSIVE CORP OH
PHLY	PHILADELPHIA CONSOLIDATED HLG CO
PICO	P I C O HOLDINGS INC
PJC	PIPER JAFFRAY COMPANIES
PKBK	PARKE BANCORP INC
PL	PROTECTIVE LIFE CORP
PLCC	PAULSON CAPITAL CORP
PLFE	PRESIDENTIAL LIFE CORP
PMACA	P M A CAPITAL CORP
PMBC	PACIFIC MERCANTILE BANCORP
PMI	P M I GROUP INC
PNBC	PRINCETON NATIONAL BANCORP INC
PNBK	PATRIOT NATIONAL BANCORP INC
PNC	P N C FINANCIAL SERVICES GRP INC
PNFP	PINNACLE FINANCIAL PARTNERS INC
PNSN	PENSON WORLDWIDE INC
PNX	PHOENIX COS INC
PPBI	PACIFIC PREMIER BANCORP INC
PRA	PROASSURANCE CORP
PRE	PARTNERRE LTD
PRK	PARK NATIONAL CORP
PROS	PROCENTURY CORP
PROV	PROVIDENT FINANCIAL HOLDINGS INC
PRSP	PROSPERITY BANCSHARES INC
PRU	PRUDENTIAL FINANCIAL INC
PRWT	PREMIERWEST BANCORP
PSBC	PACIFIC STATE BANCORP
PSBH	PSB HOLDINGS INC
PSEC	PROSPECT CAPITAL CORP
PTA	PENN TREATY AMERICAN CORP
PTP	PLATINUM UNDERWRITERS HLDGS LTD

PUK	PRUDENTIAL PLC
PULB	PULASKI FINANCIAL CORP
PVFC	P V F CAPITAL CORP
PVSA	PARKVALE FINANCIAL CORP
PVTB	PRIVATEBANCORP INC
PWOD	PENNS WOODS BANCORP INC
PZN	PZENA INVESTMENT MANAGEMENT INC
QCRH	Q C R HOLDINGS INC
QNTA	QUANTA CAPITAL HOLDINGS LTD
RAMR	R A M HOLDINGS LTD
RBCAA	REPUBLIC BANCORP INC KY
RBNF	RURBAN FINANCIAL CORP
RBPA	ROYAL BANCSHARES PA INC
RBS	ROYAL BANK SCOTLAND GROUP PLC
RCBK	RIVER CITY BANK
RCKB	ROCKVILLE FINANCIAL INC
RDN	RADIAN GROUP INC
RE	EVEREST RE GROUP LTD
RF	REGIONS FINANCIAL CORP NEW
RGA	REINSURANCE GROUP OF AMERICA INC
RIVR	RIVER VALLEY BANCORP
RJF	RAYMOND JAMES FINANCIAL INC
RKH	REGIONAL BANK HOLDRS TRUST
RLI	R L I CORP
RNR	RENAISSANCERE HOLDINGS LTD
RNST	RENASANT CORP
RODM	RODMAN & RENSHAW CAP GRP INC NEW
ROMA	ROMA FINANCIAL CORP
ROME	ROME BANCORP INC
RPFG	RAINIER PACIFIC FINL GROUP INC
RVSB	RIVERVIEW BANCORP INC
RY	ROYAL BANK CANADA MONTREAL QUE
SAF	SAFECO CORP
SAFT	SAFETY INSURANCE GROUP INC
SAL	SALISBURY BANCORP INC
SAMB	SUN AMERICAN BANCORP
SASR	SANDY SPRING BANCORP INC

SAVB	SAVANNAH BANCORP INC
SBBX	SUSSEX BANCORP
SBCF	SEACOAST BANKING CORP FLA
SBIB	STERLING BANCSHARES INC
SBKC	SECURITY BANK CORP
SBNY	SIGNATURE BANK NEW YORK N Y
SBP	SANTANDER BANCORP
SBSI	SOUTHSIDE BANCSHARES INC
SCA	SECURITY CAPITAL ASSURANCE LTD
SCB	COMMUNITY BANKSHARES INC S C
SCBT	S C B T FINANCIAL CORP
SCHW	SCHWAB CHARLES CORP NEW
SCMF	SOUTHERN COMMUNITY FINCL CORP
SEAB	SEABRIGHT INSURANCE HOLDINGS INC
SF	STIFEL FINANCIAL CORP
SFG	STANCORP FINANCIAL GROUP INC
SFNC	SIMMONS 1ST NATIONAL CORP
SFST	SOUTHERN FIRST BANCSHARES INC
SGB	SOUTHWEST GEORGIA FINANCIAL CORP
SHG	SHINHAN FINANCIAL GROUP CO LTD
SIEB	SIEBERT FINANCIAL CORP
SIFI	SI FINANCIAL GROUP INC
SIGI	SELECTIVE INSURANCE GROUP INC
SIVB	S V B FINANCIAL GROUP
SLF	SUN LIFE FINANCIAL INC
SLM	S L M CORP
SMBC	SOUTHERN MISSOURI BANCORP INC
SMCG	MILLENNIUM INDIA ACQUISIT CO INC
SMHG	SANDERS MORRIS HARRIS GROUP INC
SMMF	SUMMIT FINANCIAL GROUP INC
SMTB	SMITHTOWN BANCORP INC
SNBC	SUN BANCORP INC
SNV	SYNOVUS FINANCIAL CORP
SOCB	SOUTHCOAST FINANCIAL CORP
SOMH	SOMERSET HILLS BANCORP
SONA	SOUTHERN NATIONAL BANCORP VA INC
SOV	SOVEREIGN BANCORP INC

SRCE	1ST SOURCE CORP
SSBI	SUMMIT STATE BANK
SSBX	SILVER STATE BANCORP
SSFN	STEWARDSHIP FINANCIAL CORP
STBA	S & T BANCORP INC
STBC	STATE BANCORP INC NY
STBK	STERLING BANKS INC
STEL	STELLARONE CORP
STFC	STATE AUTO FINANCIAL CORP
STI	SUNTRUST BANKS INC
STL	STERLING BANCORP
STSA	STERLING FINANCIAL CORP WASH
STT	STATE STREET CORP
STU	STUDENT LOAN CORP
SUAI	SPECIALTY UNDERWRITERS ALL INC
SUBK	SUFFOLK BANCORP
SUFB	SUFFOLK FIRST BANK VA
SUPR	SUPERIOR BANCORP
SUR	C N A SURETY CORP
SUSQ	SUSQUEHANNA BANCSHARES INC PA
SVBI	SEVERN BANCORP INC MD
SWS	S W S GROUP INC
SYBT	S Y BANCORP INC
TAMB	TAMALPAIS BANCORP
TAQ	TRANSFORMA ACQUISITION GROUP INC
TAYC	TAYLOR CAPITAL GROUP INC
TBBK	BANCORP INC
TBHS	BANK HOLDINGS THE
TCB	T C F FINANCIAL CORP
TCBI	TEXAS CAPITAL BANCSHARES INC
TCBK	TRICO BANCSHARES
TCHC	21ST CENTURY HOLDING CO
TDBK	TIDELANDS BANCSHARES INC
TFIN	TEAM FINANCIAL INC
TFSL	TFS FINANCIAL CORP
TGIC	TRIAD GUARANTY INC
THFF	FIRST FINANCIAL CORP IN

THG	HANOVER INSURANCE GROUP INC
THRD	T F FINANCIAL CORP
TIBB	T I B FINANCIAL CORP
TIL	TRANS INDIA ACQUISITION CORP
TMCV	TEMECULA VALLEY BANCORP INC
TMK	TORCHMARK CORP
TMP	TOMPKINS FINANCIAL CORP
TNCC	TENNESSEE COMMERCE BANCORP INC
TOFC	TOWER FINANCIAL CORP
TONE	TIERONE CORP
TOWN	TOWNEBANK
TRH	TRANSATLANTIC HOLDINGS INC
TROW	T ROWE PRICE GROUP INC
TRST	TRUSTCO BANK CORP NY
TRUE	CENTRUE FINANCIAL CORP NEW
TRV	TRAVELERS COMPANIES INC
TSBK	TIMBERLAND BANCORP INC
TSFG	SOUTH FINL GROUP INC
TSH	TECHE HOLDING CO
TWGP	TOWER GROUP INC
TWPG	THOMAS WEISEL PARTNERS GROUP INC
UAM	UNIVERSAL AMERICAN CORP
UB	UNIONBANCAL CORP
UBCP	UNITED BANCORP INC
UBFO	UNITED SECURITY BANKSHARES
UBNK	UNITED FINANCIAL BANCORP INC MD
UBOH	UNITED BANCSHARES INC
UBS	U B S AG
UBSH	UNION BANKSHARES CORP
UBSI	UNITED BANKSHARES INC
UCBA	UNITED COMMUNITY BANCORP
UCBH	U C B H HOLDINGS INC
UCBI	UNITED COMMUNITY BANKS INC GA
UCFC	UNITED COMMUNITY FINL CORP OHIO
UFCS	UNITED FIRE & CAS CO
UMBF	U M B FINANCIAL CORP
UMPQ	UMPQUA HOLDINGS CORP

UNAM	UNICO AMERICAN CORP
UNB	UNION BANKSHARES INC
UNH	UNITEDHEALTH GROUP INC
UNIB	UNIVERSITY BANCORP INC
UNM	UNUM GROUP
UNTY	UNITY BANCORP INC
USB	U S BANCORP DEL
USBI	UNITED SECURITY BANCSHARES INC
UTR	UNITRIN INC
UVSP	UNIVEST CORP OF PENNSYLVANIA
UWBK	UNITED WESTERN BANCORP INC
VBFC	VILLAGE BANK AND TRUST FINL CORP
VCBI	VIRGINIA COMMERCE BANCORP
VIST	V I S T FINACIAL CORP
VLY	VALLEY NATIONAL BANCORP
VNBC	VINEYARD NATIONAL BANCORP
VPFG	VIEWPOINT FINANCIAL GROUP
VR	VALIDUS HOLDINGS LTD
VSBN	V S B BANCORP INC NY
VYFC	VALLEY FINANCIAL CORP VA
WABC	WESTAMERICA BANCORPORATION
WAIN	WAINWRIGHT BANK & TRUST CO BOSTN
WAL	WESTERN ALLIANCE BANCORPORATION
WASH	WASHINGTON TRUST BANCORP INC
WAUW	WAUWATOSA HOLDINGS INC
WAYN	WAYNE SAVINGS BANCSHARES INC NEW
WB	WACHOVIA CORP 2ND NEW
WBCO	WASHINGTON BANKING COMPANY
WBNK	WACCAMAW BANKSHARES INC
WBS	WEBSTER FINL CORP WATERBURY CONN
WCBO	WEST COAST BANCORP ORE NEW
WCG	WELLCARE HEALTH PLANS INC
WDR	WADDELL & REED FINANCIAL INC
WFBC	WILLOW FINANCIAL BANCORP INC
WFC	WELLS FARGO & CO NEW
WFD	WESTFIELD FINANCIAL INC
WFSL	WASHINGTON FEDERAL INC

WGNB	W G N B CORP
WHG	WESTWOOD HOLDINGS GROUP INC
WHI	W HOLDING CO INC
WIBC	WILSHIRE BANCORP INC
WL	WILMINGTON TRUST CORP
WLP	WELLPOINT INC
WM	WASHINGTON MUTUAL INC
WPL	STEWART W P & CO LTD
WRB	BERKLEY W R CORP
WSB	W S B HOLDINGS INC
WSBC	WESBANCO INC
WSFG	W S B FINANCIAL GROUP
WSFS	WSFS FINANCIAL CORP
WTBA	WEST BANCORPORATION INC
WTFC	WINTRUST FINANCIAL CORPORATION
WTM	WHITE MOUNTAINS INS GROUP INC
WTNY	WHITNEY HOLDING CORP
WVFC	WVS FINANCIAL CORP
XL	X L CAPITAL LTD
Y	ALLEGHANY CORP DE
YAVY	YADKIN VALLEY FINANCIAL CORP
ZION	ZIONS BANCORP
ZNT	ZENITH NATIONAL INSURANCE CORP

Release No. 58592, Release No. 34-58592, 2008 WL 4287187 (S.E.C. Release No.)

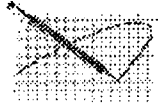
END OF DOCUMENT

Exhibit 8

Fernando Rivas To: Charlie Scharf/IL/ONE@JPMCHASE, Brian A Bessey/IL/ONE@JPMCHASE,
tim.main@jpmorgan.com
cc: Gregg B Gunselman/IL/ONE@JPMCHASE, Genevieve E
Hovde/JPMCHASE@JPMCHASE
03/25/2008 01:43 PM Subject: Fw: Project West Timetable.ppt

FYI

----- Forwarded by Fernando Rivas/JPMCHASE on 03/25/2008 01:43 PM -----



**Genevieve E
Hovde/JPMCHASE**

To: Fernando Rivas/JPMCHASE@JPMCHASE
cc
Subject: Project West Timetable.ppt

03/25/2008 01:42 PM

Genevieve Hovde
Financial Institutions and Governments Group
J.P. Morgan Securities Inc.
277 Park Avenue, 13th Floor
New York, NY 10172
212-622-8535
847-707-7982 (mobile)
genevieve.e.hovde@jpmorgan.com



- Project West Timetable.ppt

MARCH 25, 2008

[DRAFT - 1:42 PM]

PROJECT WEST

Timetable

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JPMorgan 

Project West timetable

March 2008							April 2008						
S	M	T	W	T	F	S	S	M	T	W	T	F	S
					1				1	2	3	4	5
2	3	4	5	6	7	8	6	7	8	9	10	11	12
9	10	11	12	13	14	15	13	14	15	16	17	18	19
16	17	18	19	20	21	22	20	21	22	23	24	25	26
23	24	25	26	27	28	29	27	28	29	30			
30	31												

- Key work streams:**
- Board meeting
 - Offer letter
 - Regulatory meetings
 - Due diligence
 - Contract
 - Investor / agency communication

Date	Event
3/25	Board call
3/27	Send offer letter
3/28	Meet with regulators
3/29-30	Commence due diligence
3/31	Commence contract negotiation
4/1	Final draft IR / rating agency decks
4/2	Meet rating agencies
4/3	Complete due diligence and contract
4/4	Final Board meeting
4/5	Complete IR materials
4/7	Announce

PROJECT WEST

JPMorgan

PROJECT WEST

Exhibit 9

From: Tim Main/JPMCHASE <tim.main@jpmorgan.com>
Sent: Sunday, March 30, 2008 7:31 AM
To: Charlie Scharf/IL/ONE <charlie.scharf@chase.com>
Subject: Re: West

Thanks

I of course love the idea of a slightly higher price than they deserve in the form of a contingent where their shareholders pick up the first loss versus say their high credit case until they literally get zero, then the government kicks in with some form of second loss - either 75% for them and 25% for us, or they take 100% for a slice and then its all for us.

Either way, something that really really reduces our risk and gets the government comfortable that they only get involved if shareholders get zero. It sounds to me like the government is really concerned as they should be about taking losses, so they should like this versus alternative.

Look forward to talking today and travel safely.

Tim

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

From: Charlie Scharf
Sent: 03/29/2008 09:10 PM CDT
To: Tim Main
Subject: Re: West

Will do. Didn't miss much. A few questions. The 2 got screwed up because the phone on your plane that I was borrowing wasn't working so we did some add hoc follow ups. Fernando working on warrants, contingent security tied to loans, and contingent tied to hpa index.

Sent from my BlackBerry Handheld.

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

From: Tim Main
Sent: 03/29/2008 06:14 PM CDT
To: Charlie Scharf
Subject: West

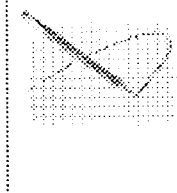
Charlie

Do me a favor and let me know when you are going to be on calls so i can make sure that i am as well.

Sorry to ask you to do that but schedule from my team was murky again today.

Tim

Exhibit 10



Fernando Rivas To: Brian A Bessey/IL/ONE
cc:
Subject: FW:

07/25/2008
11:00 AM

From: Fernando Rivas
Sent: Monday, July 21, 2008 9:25 AM
To: Mike Cavanagh
Cc: Tim Main; Gregg B Gunselman; Charlie Scharf
Subject: Fw:

Mike - apologies - we sent out Thursday and didn't include you, see email below.

Let us know if wld like to setup a time to discuss.

Sorry again.

Fernando

From: Gregg B Gunselman
To: Charlie Scharf
Cc: Tim Main; Fernando Rivas
Sent: Thu Jul 17 18:43:04 2008
Subject: RE:

Charlie-

Attached is the analysis of the Wamu capital alternatives including:

- 1) The original \$14bn common equity scenario (base case)
- 2a) Aggressive hybrid issuance scenario (\$14bn fixed income and convertible markets)
- 2b) Maximum market capacity scenario (all \$14bn done in fixed income market)

We have also modeled the impact of two made up assistance alternatives (a. permanent DTA relief and b. 2-year RWA relief on Option ARMS and subprime portfolios) under each of the three issuance scenarios. We will continue to work on assistance alternatives.

Pages 5 and 6 contain the financial and capital impacts.

From: Fernando Rivas
Sent: Thursday, July 17, 2008 11:01 AM
To: Charlie Scharf
Cc: Gregg B Gunselman; Tim Main
Subject: Re:

Gregg sending first two scenarios today.

We are thinking through how to make up the assisted scenario - we may get more color tomorrow with the regulators - if not will make something up

From: Charlie Scharf
To: Fernando Rivas
Sent: Thu Jul 17 08:37:07 2008
Subject:

when will we have wamu stuff done?



West capital alternatives 71708.ppt

Type: application/vnd.ms-powerpoint
Name: West capital alternatives 71708.ppt

Exhibit 11

JULY 2008

DISCUSSION MATERIALS

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DISCUSSION MATERIALS

Summary capital reduction alternatives

Objectives:

- 1) Improve returns and lower cost of capital
- 2) De-risk downside case

Option #1: Common rate

- Capitalize target @ 8.0% Tier 1 with 15% limit on hybrid usage
- Raise balance of required capital as common equity

Option #2: Hybrid capacity

- Maximize pro forma non-common issuance capacity
- Current hybrid utilization currently low versus peers

Option #3: Regulatory relief

- Ask Fed for relief on DTA or RWA related to Option ARMs & Subprime portfolios
- \$4.4bn benefit from permanent DTA relief
- \$2.4bn capital benefit from RWA relief on \$50bn of problem assets (2yrs)

OVERVIEW

Capital reduction alternatives - considerations

Proposed Consideration	Considerations
Option #1: Dividend rate	✓ Maintains high quality of Tier 1 composition ✗ Dilutive ✗ Unrealistic given likely size of raise
Option #2: Hybrid capacity	✓ More realistic/actionable than follow-on given size ✓ Brings hybrid utilization more in line with peers ✗ Erodes quality of Tier 1 composition ✗ Market capacity
Option #3: Regulatory relief	✓ Have discussed with Fed on prior occasions ✗ Meaningfully less capital impact than other options

OVERVIEW

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DISCUSSION MATERIALS

Capital reduction alternatives - summary financial impact

	Capital issued (\$mm)	Cash EPS accretion/(dilution)		TBV		Coupon
		2010 (\$)	2011 (\$)	accretion/(dilution) (\$)	IRR ¹ (%)	(%)
	\$14,184	\$0.67	\$0.78	\$0.53	37.7%	0.0%
	\$3,000 PPS \$6,000 DRD \$5,184 convt pref.	\$0.80	\$0.94	(\$1.02)	30.8%	9.0% PPS 9.5% DRD 7.5% convt pref.
	\$3,000 PPS \$10,000 DRD \$1,184 convt pref.	\$0.80	\$0.95	(\$1.02)	25.8%	10.5% PPS 10.5% DRD 10.5% convt pref.

¹ Reflects coupon expense of securities issued

ANALYSIS OF WEST CAPITAL STRATEGY

Capital alternatives

Capital alternatives assuming 100% of the value of all subordinated

	Scenario 1: 100% sub				Scenario 2:				Scenario 3:			
	Post		Pre		Post		Pre		Post		Pre	
	Standards	Qualifying Capital	Standards	Qualifying Capital	Standards	Qualifying Capital	Standards	Qualifying Capital	Standards	Qualifying Capital	Standards	Qualifying Capital
PPS	50	50	50	50	50	50	50	50	50	50	50	50
CRD	6,362	3,792	0	6,362	6,362	3,292	6,229	20,218	6,362	3,792	0	6,362
Convertible preferred	0	0	0	0	0	0	5,864	0	0	0	0	0
TRMPL/CDM	17,024	6,720	0	19,341	17,024	6,720	0	21,794	17,024	6,720	0	22,949
Loans	131,236	66,618	16,880	167,661	131,236	66,618	0	162,271	131,236	66,618	0	162,271
Total	176,492	112,020	16,880	198,314	176,492	112,020	16,880	198,314	176,492	112,020	16,880	198,314
	41,500	12,712,000	12,712,000	41,500	41,500	12,712,000	12,712,000	41,500	41,500	12,712,000	12,712,000	41,500
Pre-empted capital	10.1%	4.7%	4.7%	4.9%	5.0%	4.2%	4.2%	4.6%	4.2%	4.9%	4.7%	4.2%
Tier 1	8.3%	8.3%	8.3%	8.3%	8.3%	8.3%	8.3%	8.3%	8.3%	8.3%	8.3%	8.3%
Common	1.8%	1.8%	1.8%	1.8%	1.8%	1.8%	1.8%	1.8%	1.8%	1.8%	1.8%	1.8%
Total Capital	11.9%	11.9%	11.9%	12.0%	12.2%	12.2%	12.2%	12.2%	12.2%	12.2%	12.2%	12.2%
Pre-empted capital	11.1%	14.7%	13.2%	13.1%	10	10	10	10	11.6%	14.6%	13.2%	13.1%
TRMPL/CDM	11,484	36,740	25,989	27,458	11,484	15,938	16,008	21,798	11,484	16,640	16,803	19,408
TRMPL/CDM	9,122	6,122	0	0	9,122	6,122	0	0	9,122	6,122	0	0
Non-qualifying hybrid securities	0	0	0	0	0	0	0	0	0	0	0	0
Hybrid and subordinated Tier 1	2,362	20,288	16,488	9,776	2,362	488	0	0	2,362	1,920	421	0
Pre-empted capital	4.8%	4.9%	4.8%	4.8%	3.8%	3.8%	4.0%	4.2%	3.8%	3.8%	3.9%	4.1%
ATF Capital	7.7%	7.8%	8.0%	8.2%	7.0%	7.2%	7.8%	8.0%	7.0%	7.2%	7.8%	8.0%
TRMPL/CDM	50	50	50	50	50	50	50	50	50	50	50	50
TRMPL/CDM	0	0	0	0	0	0	0	0	0	0	0	0
TRMPL/CDM	26,647	27,298	28,422	28,904	14,801	15,634	17,207	19,207	14,801	15,634	17,207	19,207
Hybrid 112 Alt Cap	7.5%	7.4%	7.5%	7.8%	7.4%	7.3%	7.5%	7.7%	7.4%	7.4%	7.4%	7.6%
Hybrid 112 Alt Cap	16.8%	19.2%	18.4%	18.5%	23.3%	22.2%	22.5%	23.4%	23.3%	22.3%	22.7%	23.9%
Capital alternatives	(1)	12.2%	11.4%	12.2%	12.2%	11.9%	12.1%	12.2%	12.2%	11.9%	12.2%	12.2%
(2)	10.4%	10.4%	10.4%	10.4%	10.4%	10.4%	10.4%	10.4%	10.4%	10.4%	10.4%	10.4%
Pre-empted capital	14.7%	14.7%	14.7%	14.7%	11.2%	11.2%	11.2%	11.2%	11.2%	11.2%	11.2%	11.2%
(2)	10.9%	10.9%	10.9%	10.9%	10.9%	10.9%	10.9%	10.9%	10.9%	10.9%	10.9%	10.9%
Non-qualifying hybrid securities	14.3%	14.3%	14.3%	14.3%	14.3%	14.3%	14.3%	14.3%	14.3%	14.3%	14.3%	14.3%
(2)	13.2%	13.2%	13.2%	13.2%	13.2%	13.2%	13.2%	13.2%	13.2%	13.2%	13.2%	13.2%
(3)	10.9%	10.9%	10.9%	10.9%	10.9%	10.9%	10.9%	10.9%	10.9%	10.9%	10.9%	10.9%

1 Post capital ratio, pre capital ratio capacity of 50 and 515e respectively
 2 Problem portfolios include Option ARM, Subprime, Subprime HE, Loans and Subprime HE

ANALYSIS OF WEST CAPITAL STRATEGY

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West asset composition and fair market adjustments

Portfolio	Balance as of		Nominal assets		OWA		
	02/28/07	12/31/08	Fair market	Adj balance @	12/31/08	Adj balance @	
			value	close		12/31/08	12/31/08
Cash and cash equivalents	\$11,437	\$4,399	\$0	\$4,399	100.0%	\$375	\$375
Trading securities	2,788	887	(180)	707	74.7	887	707
Investment securities	8,291	24,947	(1,200)	23,747	95.2	24,947	23,747
Mortgage backed securities	19,249	0	0	0	0	0	0
Loans held for sale	5,403	4,737	0	4,737	100.0	4,737	4,737
Loans held for investment							
Option ARMs	\$58,870	\$47,504	(\$7,237)	\$40,267	84.8%	\$23,752	\$20,134
Other ARMs	4,551	7,141	(1,340)	5,801	81.2	3,570	2,900
Medium Term ARMs	36,507	27,202	0	27,202	100.0	13,601	13,601
Fixed Rate Mortgages	5,480	10,838	0	10,838	100.0	5,419	5,419
HE Loans & Lines	16,093	49,543	(7,407)	42,136	85.9	49,543	41,556
Subprime HE	2,225	3,640	(836)	2,804	74.4	1,460	824
Business Banking	1,404	1,404	(24)	1,380	98.3	1,404	1,380
Home Construction	2,226	1,484	0	1,484	100.0	1,484	1,484
Multi Family	30,507	30,500	5	30,505	100.0	15,250	15,253
Other Commercial HE	10,874	9,815	0	9,815	100.0	9,815	9,815
Credit Card	4,836	27,360	(475)	26,885	98.3	27,360	26,885
Other	0	0	(2,434)	0	0	0	0
Total loans held in portfolio	\$244,380	\$225,957	(\$18,455)	\$207,502	89.0%	\$164,369	\$147,810
Investment in Federal Home Loan Banks	\$3,351	\$3,377	\$0	\$3,377	100.0%	\$675	\$675
Mortgage servicing rights	4,278	4,136	0	4,136	100.0	5,521	5,521
Goodwill	7,287	7,130	0	7,131	11.9	0	0
Core deposit intangible	43	8	0	4,842	-	0	0
PCCL	321	248	0	820	-	248	820
Other Intangibles	4	4	0	0	-	4	0
Deferred tax assets	0	0	0	0	-	0	0
Other assets	21,048	24,448	190	25,148	100.0	24,448	25,148
Items: Fed funds purchased							
Total assets	\$290,484	\$264,489	(\$24,995)	\$239,494	92.2%	\$211,363	\$213,836
Allowance for loan losses	(\$2,871)	(\$7,990)	\$7,990	\$0	0	\$0	\$0
Total (net LCR)	\$287,613	\$256,499	(\$16,995)	\$239,494		\$211,363	\$213,836

¹ 100% risk weighting applied to 90% of MSR balance; 10% is straight deduction from Tier 1
² Adjusted RWA of \$210,541 after asset sales of \$2,566 (\$10,726 nominal with 24.4% assumed risk weighting)

West outstanding hybrid capital

Fund Bucket	Notional (\$bn)	Carrying (\$bn)	Type	Coupon (%)	Maturity	Call Date	Bucket	
							SGP	Moody's
Unrestricted (50% Bucket)								
	\$0.500	\$0.500	Preferred	3mL + 70	Perpetual	09/18/11	338	D
	\$3.000	\$3.892	Convertible preferred	7.750%	Perpetual	09/18/11	33	D
15% Bucket								
	\$0.750	\$0.750	REIT preferred	7.250%	Perpetual	03/15/11	338	D
	1.250	1.167	REIT preferred	6.534	Perpetual	03/15/11	33	D
	0.500	0.500	REIT preferred	6.665	Perpetual	12/15/16	33	D
	0.500	0.500	REIT preferred	6.895	Perpetual	06/15/12	33	D
	1.000	1.000	REIT preferred	9.750	Perpetual	12/15/17	33	D
	\$4.000	\$3.917						
	\$1.150	\$0.746	PIERs	5.375%			128	A
	0.067	0.067	Trust Preferred	3mL + 250-300	Various	Various	12	A
Total	\$8.717	\$8.122						

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Summary observations

Peer issuance review

- JPM hybrids + DRD as a % of Tier 1 are 24% versus C/BAC (39%-46%) and WB/USB/PNC (31%-34%)
- Banks are issuing non-common capital well beyond ratings agency limits (33% of S&P ACE ratio)
 - C (82%), BAC (64%), WB (50%), USB (49%) and PNC (45%) as % of S&P ACE; JPM (30%)
- The few firms with unused hybrid capacity with Fed are filling buckets
 - JPM and WFC are the only large-cap banks that still have tax-deductible capacity

JPM Issuance Capacity

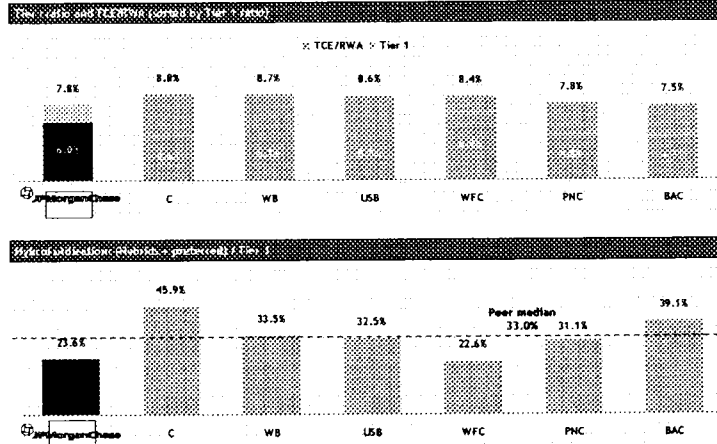
- Today, JPM has \$17bn of TRUPs/CENTs and \$6bn of DRD outstanding, on a Tier 1 base of \$99bn
- If JPM were to issue up to 35% of Tier 1, it means \$26bn more hybrid/preferred capacity (-200bps Tier 1) with Fed
 - Of the \$26bn headroom with the Fed at the 35% assumed cap, JPM has:
 - \$14bn (110bps Tier 1) capacity in tax-deductible form (PPS), and an additional
 - \$12bn DRD capacity (incremental 90bps Tier 1)
 - Of the \$26bn of Fed capacity, only ~\$5bn (~30bps ATE/TA) would count for S&P and ~\$20bn (~110bps TCE/RWA) would count for Moody's¹

Source: Company filings, internal documents.
Note: Financial data reflects internal estimates June 30, 2008 for JPM, March 31, 2008 for peers; Pro forma for post 1Q 2008 capital raises and pending acquisitions.
¹ \$16bn of vanilla trust preferreds do not receive Moody's credit today.

APPENDIX

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Peer hybrid utilization



Source: S&P, Financial Company filings, internal documents.
 Note: Financial data as of June 30, 2008 for JPM, March 31, 2008 for peers; Pro forma for pending acquisitions (JPM BSE, BAC CF C, PNC SLF) and post-1Q08 capital raises by JPM (\$600m preferred and \$1.8bn CE MS, BAC (\$7.0bn preferred), C (\$4.9bn common equity and \$8.0bn preferred), PNC (\$500mm preferred), WFC (\$2.5bn PP) and WB (\$4.0bn common equity and \$4.0bn preferred). Tier 1 ratio based on Federal Reserve guidelines effective March 2009.

APPENDIX

JPMorgan Chase issuance capacity analysis

	Vanilla trust preferred (TRUPs)	Enhanced trust preferred (CENTs)	Preferred Purchase Securities (PPS)	DRD preferred (DRD)
Outstanding instruments (\$mm)	\$9,630	\$7,423	\$0	\$6,252
Regulatory				
Allowable restricted regulatory capital as a % of core capital	15%	15%	25%	No limit ¹
Max capacity (\$mm)	\$15,971	\$15,971	\$30,167	\$48,721
Cumulative issuance capacity (\$mm)	0	0	14,196	26,408
Increase in Tier 1 (bps) if fully issued	0bps	0bps	110bps	203bps
SBP				
Allowable % ACE	12%	18%	33%	93bps Δ 33%
Max capacity (\$mm)	\$9,419	\$14,128	\$25,901	\$25,901
Cumulative issuance capacity (\$mm)	0	0	5,421	5,421
Increase in ATE / TA (bps) if fully issued			28bps	28bps
Moody's				
Allowable % TCE	0%	25%	25%	0bps Δ 25%
Max capacity (\$mm)	\$0	\$33,321	\$33,321	\$33,321
Cumulative issuance capacity (\$mm)		19,546	19,546	19,546
Increase in TCE / RWA (bps) if fully issued		113bps	113bps	113bps
Moody's TCE credit capacity (\$mm)		14,659	14,659	14,659

Source: S&P Financial, Regulatory filings, internal documents

Note: Financial data estimated as of June 30, 2008. Increase if fully issued estimates assume proceeds invested in 20% risk-weighted assets. Estimated capacity under SBP and Moody's calculated in accordance with publicly available guidelines; Moody's capital ratios incorporate a cap of 25% of TCE on the 25% equity credit rule on hybrid capital instruments and preferred equity. Analysis assumes Tier 1 capital of \$99.23trmm, SBP ACE of \$78.48trmm and Moody's TCE of \$80.30trmm

¹ Dominant form of Tier 1 capital should be voting common equity. Max capacity assumed to be 35% of core capital elements less outstanding restricted securities

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JPMorgan Chase peer capital comparison

Metric	JPMorgan Chase		Selected peers					
	Median	Q1	Q2	Q3	Q4	Q5	Q6	Q7
QAM:								
TCE/TA	4.2%	4.1%	2.7%	4.1%	4.7%	5.8%	4.1%	3.0%
TE/TA	4.5%	4.0%	4.0%	5.4%	5.7%	6.0%	4.5%	4.6%
Capital:								
Common equity	\$127,801	\$41,343	\$112,746	\$74,217	\$20,072	\$47,268	\$14,731	\$143,148
(+) Qualifying TRUPS, CEMs, hybrid securities	15,871	8,292	24,100	8,049	4,524	8,534	2,382	16,863
(-) Qualifying preferred preferred	6,352	5,463	27,425	9,825	1,700	891	517	24,231
(-) Other Tier 1 capital, intangibles & unrealized gains	(20,868)	(27,829)	(53,090)	(40,675)	(7,553)	(14,982)	(8,321)	(79,274)
(-) Tier 1 capital	99,236	47,564	112,181	52,416	16,543	41,711	9,299	104,969
(+) Tier 2 capital	48,055	21,821	44,520	26,321	8,644	15,211	4,316	52,710
(-) Total capital	147,291	69,385	156,701	81,747	27,207	57,022	13,614	157,679
Key regulatory ratios:								
Tier 1 ratio	7.8%	8.5%	8.0%	8.7%	8.0%	8.4%	7.8%	7.7%
Total capital ratio	11.0%	11.9%	12.2%	13.4%	12.6%	11.5%	11.4%	11.3%
Tier 1 leverage ratio	5.6%	7.1%	5.0%	7.0%	8.1%	7.5%	6.9%	5.6%
Outstanding non common equity / Tier 1	23.6%	33.0%	45.9%	33.5%	32.5%	22.6%	31.1%	29.1%
Key SML ratios:								
ATE/TA	5.2%	4.1%	3.0%	4.4%	7.6%	4.4%	3.5%	3.8%
TRUPS as a % of ACE (12%)	12.3%	9.9%	17.8%	8.7%	8.2%	8.0%	9.0%	24.0%
CEMs as a % of ACE (18%)	9.2%	7.7%	8.5%	6.9%	14.4%	9.9%	7.0%	10.2%
Total hybrids = DRG as a % of ACE (32%)	29.5%	49.7%	61.5%	50.3%	49.7%	28.0%	45.0%	64.2%
Key liquidity ratios:								
TCE/TA	4.6%	4.4%	3.5%	4.7%	6.7%	6.1%	5.7%	3.6%
TCE/AMWA	6.2%	5.8%	5.6%	5.7%	6.8%	7.1%	5.8%	4.7%

Source: SNL, FactSet, Internal documents

Note: Financial data reflects internal estimated June 30, 2008 for JPM, March 31, 2008 for peers; Pro forma for post 1Q 2008 capital raises and pending acquisitions

1 Noncommon equity includes total outstanding restricted and preferred securities

APPENDIX

Exhibit 12

JULY 2008

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DISCUSSION MATERIALS

STRICTLY PRIVATE AND CONFIDENTIAL



Summary financial impact of structural and capital alternatives

	Capital raise (\$mm) ¹			Cost of capital (2012)		2012 ROIC (%)	RR (%)
	(\$mm)	Form		2012	2011		
		Public	Other ²	(\$)	(\$)		
Common equity	\$26,440	Common ³	-	\$0.54	\$0.77	24.2%	34.1%
Hybrid	\$22,750	Hybrid ⁴	-	\$0.76	\$0.49	-	-
Common equity	\$23,904	Common ³	-	\$0.72	\$0.47	32.9%	43.8%
Hybrid	\$15,800	Hybrid ⁴	-	\$0.98	\$1.22	-	-
Contingent Preferred Security (CPS) ⁵	\$14,287	-	CPS ⁵	\$1.55	\$1.82	NM	NM
Contingent Preferred Security (CPS) ⁵	-	-	-	-	-	NM	NM

- ¹ Capital required to achieve 8.0% Tier 1 ratio for West, post credit marks and purchase accounting adjustments
- ² Common equity scenario limits use of existing West Hybrids to 15% of West's Tier 1 capital
- ³ Hybrid alternatives utilize existing West hybrids and don't preclude regulatory bucket of capital, limited by assumed market capacity
- ⁴ Contingent Preferred Security (CPS) assumed to be non-cumulative, perpetual preferred Tier 1 qualifying
- ⁵ Reflects S-AT 181 for contingent payment treatment. Assumes full fair value of debt and recognition of restructuring charge in Day 1 earnings

DISCUSSION MATERIALS

Preliminary capital and tax calculations

Capital	Case 1	Case 2A	Case 2B
West ICF @ 12/09	\$16,371	\$16,371	\$16,371
- Credit related marks and PAA adjustments	(22,869)	(21,785)	(24,032)
- Restructuring charge	(1,142)	(1,142)	(1,142)
- Deferred tax asset	(5,632)	8,777	(4,476)
+ incremental ICF at West Bank	0	901	901
+ REIT Paid from West Bank	0	3,517	3,517
+ Extinguishment of debt	0	0	15,219
+ Qualifying hybrid?	2,297	---	---
+ Gains related to negative goodwill (after tax)	0	0	4,252
Pre capital	(211,176)	(58,652)	\$12,916
PWA	\$191,421	\$191,421	\$191,421
Capital required (B/C) of PWA	\$19,314	\$19,314	\$19,314
Capital raise	\$26,499	\$26,499	\$26,499
CPS issued	0	0	\$14,287

Tax calculations	Case 1	Case 2A	Case 2B
Total pre-tax credit mark	234,863	\$34,863	\$34,863
Non-tax deductible amount	16,000	12,612	16,421
Tax deductible	218,863	\$22,251	\$18,442
Capital raise		\$26,499	\$16,785
+ 4.0%		4.5%	4.6%
Annual tax deductible credit		\$1,301	\$750
Years		0	2
Tax deductible		\$1,301	\$1,497

DISCUSSION MATERIALS

Purchase accounting adjustments

	Case 1	Case 2A	Case 2B
- Deal value	21	51	51
+ Credit marks (after tax)	28,450	27,366	23,613
- Loan loss reserve (after tax)	(5,581)	(5,581)	(5,581)
REIT Preferred from west bank	0	(3,217)	(3,217)
Incremental TCE at West Bank	0	(901)	(691)
Tangible book value	(15,171)	(15,171)	(15,171)
- Deferred tax liability	1,874	271	0
- Extinguishment of debt	0	0	(15,214)
- Core deposit intangible	(4,897)	(677)	0
PCCR	(820)	(518)	0
Other intangibles	0	0	0
Goodwill created	51,260	577	(51,176)
Targets identifiable intangibles			5,889
Primary negative goodwill			(51,476)
+ Targets identifiable intangibles			530
+ Targets PP&E			52,704
- Negative goodwill			(51,472)
Gain (after tax)			\$9,252

DISCUSSION MATERIALS

Accounting for an acquisition of a business - resulting in a negative goodwill situation

IFRS	US GAAP
<ul style="list-style-type: none"> ■ Determine acquisition purchase price¹ ■ Determine fair value of net assets acquired - including identifiable intangible assets acquired ■ Determine preliminary negative goodwill amount <ul style="list-style-type: none"> ■ Difference between fair value of net assets acquired less purchase price ■ Verify that amounts assigned to net assets acquired are complete and correct ■ Reduce non-financial, non-current assets to zero <ul style="list-style-type: none"> ■ Intangible assets not subsequently accounted for at fair value, property plant and equipment ■ Note - if value assigned to non-financial, non-current assets is greater than the amount of preliminary negative goodwill, then reduction is performed pro-rata ■ If a negative goodwill amount still exists after the reduction of non-financial, non-current assets, record an extra-ordinary gain in the P&L ■ If Contingent Consideration is contemplated in a business combination that results in preliminary negative goodwill <ul style="list-style-type: none"> ■ If the form of the contingent consideration is not a financial instrument that is transferable, record as a liability the lesser of: <ul style="list-style-type: none"> - The amount of the preliminary negative goodwill, or - The maximum amount of the contingent consideration. Maximum amount includes both principal and interest ■ When the contingency is resolved and the consideration is transferable AND a negative goodwill condition still exists, then reduce remaining acquired non-financial, non-current assets to zero; recognize any remaining negative goodwill as an extraordinary gain 	<ul style="list-style-type: none"> ■ Determine acquisition purchase price¹ ■ Determine fair value of net assets acquired - including identifiable intangible assets acquired² ■ Determine preliminary negative goodwill amount <ul style="list-style-type: none"> ■ Difference between fair value of net assets acquired less purchase price ■ Verify that amounts assigned to net assets acquired are complete and correct ■ No Reduction of acquired non-financial, non-current assets <ul style="list-style-type: none"> ■ Rationale is that if assets are acquired by the Acquirer, then assets should be reflected on balance sheet at fair value ■ Need to give more thought to general question of intangible valuation in these market conditions ■ Record Gain in Operating Earnings (i.e., Ordinary Gain) ■ If Contingent Consideration is contemplated in a business combination that results in preliminary negative goodwill <ul style="list-style-type: none"> ■ Include an estimate of the fair value of the contingent consideration when determining the fair value of the net assets acquired. Subsequent changes in fair value are recorded through earnings

DISCUSSION MATERIALS

¹ The value assigned to the purchase price will be different (IFAC 141 vs. IAS 141R). If shares are issued to effect the business combination (i.e., announcement date versus closing date)

² Assumes that the existing equity interest is held by cash in the acquiring entity. If yes, step up on existing interest included as part of overall gain

³ There will be differences in amounts assigned to the fair value of net assets acquired under IAS 141 vs. IAS 141R (e.g., intangible assets to non-current assets) and there will be different under IAS 141 vs. IAS 141R

Projected West home loan portfolio and capital requirement over time

Projected West home loan portfolio and capital requirement										
In millions	Q4 '08		FY 08 adj. ²		Adj. balance @ close	Q4 '09				
	Mar-08	Dec-08	(\$)	(%)		Dec-09	Dec-10	Dec-11	Dec-12	Dec-13
Total core loans and assets ¹	\$142,372	\$142,953	(\$2,374)	(1.6%)	\$140,683	\$142,601	\$139,378	\$41,825	\$157,426	\$171,966
Liquidating home loans:										
Option ARMs	\$4,547	\$46,219	(\$41,672)	(91.9%)	\$34,367	\$24,899	\$18,239	\$13,166	\$9,349	\$7,127
Other ARMs	8,867	7,047	1,791	(20.3)	6,252	4,681	3,539	2,690	2,099	1,563
Medium-term adjustable rate loans	33,815	26,844	6,971	(20.3)	24,068	17,845	13,407	10,143	7,498	5,854
Fixed rate loans	6,294	10,755	(4,461)	(41.5)	10,269	16,201	14,295	11,863	9,767	8,247
Home equity loans and lines of credit ³	16,736	45,613	(28,877)	(172.3)	32,084	23,047	16,448	12,088	9,147	7,015
Subprime home loans	14,676	11,951	2,725	(22.8)	7,342	4,691	2,891	1,894	1,249	852
Subprime HE loans and lines	2,448	1,515	994	(39.4)	621	341	161	90	42	26
Total liquidating loans	\$177,342	\$147,187	(\$32,274)	(21.9%)	\$114,913	\$91,781	\$69,019	\$51,510	\$39,252	\$30,449
Total assets	\$100,113	\$260,144	(\$234,548)	(91.9%)	\$265,596	\$234,181	\$208,397	\$193,714	\$167,717	\$215,444
RWA										
Total core loans and assets	\$110,495	\$117,294	(\$6,808)	(5.8%)	\$113,987	\$108,915	\$107,941	\$117,280	\$110,736	\$111,164
Total liquidating loans	155,881	172,814	(17,408)	(10.1%)	137,439	109,958	84,279	72,988	25,315	16,153
Total assets	225,876	260,114	(34,113)	(13.1%)	251,426	218,873	192,220	190,268	136,051	147,317
Capital need @ EOM										
Core portfolio	\$8,808	\$4,384	\$4,424	(50.1%)	\$4,384	\$8,253	\$8,632	\$8,982	\$8,854	\$8,841
Liquidating portfolio	10,264	8,227	2,037	(20.0%)	8,227	4,797	3,242	2,419	2,001	1,532
Total capital need	18,872	12,611	6,247	(33.1%)	12,611	13,050	11,874	11,401	10,855	10,373

¹ Core loans and assets include cash B loan equivalents, securities, loans held for sale, construction loans, commercial RE loans, credit card loans, investments in FHEBs, MRFs, subprime B mortgages, and other assets.
² Liquidating home equity loans and lines of credit exclude new originations.
³ FHEB reflects full mark to market at all times and no carry over of existing reserves (SFRS 141 treatment).

DISCUSSION MATERIALS

Agenda

	Page
West financial summary (Case 1)	3
West financial summary (Case 2A)	18
West financial summary (Case 2B)	26
Appendix	35

DISCUSSION MATERIALS

Potential transaction structure and terms - Case 1

WEST FINANCIAL SUMMARY (CASE 1)

West Financial Summary (Case 1) - Confidential

Structure	■ Park acquires West holding company and subsidiary entities from shareholders
Offer	■ Equity holders receive \$0.00 with \$0.00 make-whole payment to TFG investors, in exchange for outstanding capital stock of West
Consideration to equity holders	■ None ¹
Assets & liabilities assumed	■ Park assumes: ■ All assets and liabilities of West holding company (WM) and its subsidiaries

¹ Includes make-whole payment to investors associated with 5% debt capital raise announced April 6, 2008

Key transaction facts - Case 1

WEST FINANCIAL SUMMARY (CASE 1)

West Financial Summary - Case 1

	2017	2018
West ICE @ 12/08	\$16,171	
- Credit related items and P&H adjustments	(22,869)	
Market making charge	(1,742)	
Defined loan asset ¹	(5,633)	
+ Incremental TLE at West Bank	0	
+ REIT Preferred from West Bank	0	
+ Extra dividend of debt	0	
+ Qualifying hybrids ²	2,767	
+ Gain related to negative goodwill (after tax)	0	
Pr capital	(5,111)	
Capital required ³		
Asset balances		
- Operating ⁴	\$191,421	\$15,314
- Corp ⁵	\$77,434	\$6,495
- Total	\$268,855	\$21,809
Capital raise ⁶		\$26,490
Final net income ⁷		\$4,319
Final net income ⁸		\$4,839
Total available excess capital		\$22,704

West Financial Summary - Case 1

	2017	2018	2019	2020
Premium to market	\$4.74	\$3.92	\$4.75	\$4.48
Deal value without make whole	\$0	\$8,283	\$8,227	\$14,922
Make whole	0	2,622	2,096	2,717
Deal value	\$4.74	\$10,905	\$10,323	\$17,639
Cap Rat (ave)	26.490	26.490	26.490	26.490
Total invested capital	\$26,490	\$27,873	\$28,152	\$41,412
Total invested capital / TD earnings contribution	8.4x	7.7x	7.7x	8.4x
2018 Impact				
\$ per share (GAAP)	\$0.81	\$0.15	\$0.14	\$0.26
\$ per share (Cash)	1,938	448	422	287
\$ per share (Cash)	\$0.89	\$0.25	\$0.24	\$0.15
\$ per Cash	2,415	1,383	1,256	848
ROIC	26.2%	11.5%	11.4%	14.0%
2019 Impact				
\$ per share (GAAP)	\$0.64	\$0.29	\$0.29	\$0.19
\$ per share (Cash)	4,681	1,209	1,240	829
\$ per share (Cash)	\$0.77	\$0.39	\$0.38	\$0.28
\$ per Cash	2,292	1,444	1,426	1,219
ROIC	29.9%	14.8%	14.7%	14.3%
FBI	34.1%	21.8%	21.7%	19.4%

¹ See page "West Capital Fund after TBA" for details.
² Assumes only 15% of target's Tier 1 consists of hybrid instruments.
³ Assumes 8% Tier 1 ratio.
⁴ Excludes the portfolio consists of West's existing Out on DRM, 50% of home equity loans and lines and all debtline loans and lines.
⁵ Core assets reflect all other existing loans, securities, non-earning assets and projected new loan originations.
⁶ Assumes 10% stock consideration and common equity raise.

Capital alternatives - Case 1

Capital alternatives - Case 1 - Table 1: Pre and Post 2010

	Scenario 1 (Pre and Post)				Scenario 2 (Pre and Post)				Scenario 3 (Pre and Post)			
	Debt	Equity	Capital	Cost	Debt	Equity	Capital	Cost	Debt	Equity	Capital	Cost
Pre	11,000	0	11,000	11.00%	11,000	0	11,000	11.00%	11,000	0	11,000	11.00%
Post	11,000	0	11,000	11.00%	11,000	0	11,000	11.00%	11,000	0	11,000	11.00%
Debt	0	0	0	0.00%	0	0	0	0.00%	0	0	0	0.00%
Equity	11,000	11,000	11,000	11.00%	11,000	11,000	11,000	11.00%	11,000	11,000	11,000	11.00%
Capital	11,000	11,000	11,000	11.00%	11,000	11,000	11,000	11.00%	11,000	11,000	11,000	11.00%
Cost	11.00%	11.00%	11.00%	11.00%	11.00%	11.00%	11.00%	11.00%	11.00%	11.00%	11.00%	11.00%
Total	11,000	11,000	11,000	11.00%	11,000	11,000	11,000	11.00%	11,000	11,000	11,000	11.00%

WEST FINANCIAL SUMMARY (CASE 1)

1. Pre-2010 weighted average cost of capital (WACC) is 11.00%
 2. Post-2010 weighted average cost of capital (WACC) is 11.00%
 3. Pre-2010 weighted average cost of capital (WACC) is 11.00%
 4. Post-2010 weighted average cost of capital (WACC) is 11.00%

Accretion/(dilution) sensitivity to key drivers - Case 1

			(%)	(%)	(\$mil)
Baseline 2011 EPS accretion / dilution					
GAAP			13.0%	50.86	\$2,951
Conv			14.8	11.72	1,012
		Change		Change in GAAP accretion / (dilution)	
2011 GAAP EPS impact of change in:	(%)	(%)	(%)	(%)	(\$mil)
West's 2011 pre-tax income	5,000	15.2%	0.0%	50.00	50
Price paid (\$)	1.00	NA	(5.2)	(0.27)	(1,065)
Part of acq price (\$)	1.00	2.4	0.4	0.02	96
Bank's 2011 net income	1,000	5.5	(6.6)	(0.03)	(132)
Capital raise	1,000	3.8	(6.5)	(0.03)	(105)
Increase in pre-tax credit losses	1,000		(0.5)	(0.00)	(79)

Source: Company Filings
 Note: Market data as of July 30, 2008

WEST FINANCIAL SUMMARY (CASE 1)

Capital adequacy analysis - Case 1

	Projected - 12/31/00		Transaction impact	Pro forma Pre-capital raise	Capital raise impact	Pro forma capital raise
	Park	West				
Tier 1 capital	8.39%	11.01%	(1.83%)	6.57%	1.81%	8.38%
Leverage	5.81	8.42	(1.24)	4.58	1.26	5.84
TCE / MRWA (Moody's)	7.07	8.84	(1.05)	6.02	1.52	7.53

Source: Company filings, Fitch IBCA, V6, F15, Equity research, Park and West estimates

WEST FINANCIAL SUMMARY (CASE 1)

IRR and ROIC - Case 1

2008 Acquisition - Summary (\$'000)							
	2008	2009	2010	2011	2012	2013	2014
Purchase price	\$0						
Capital raise / release	(26,490)	1,964	1,175	552	761	435	
DTA release		371	2,525	2,077			
Cash net income		3,760	4,944	5,335	5,117	4,700	4,790
Terminal value							46,700
Incremental cash flow	(\$26,490)	6,095	8,644	7,965	5,878	52,024	
Internal rate of return	34.1%						

2008 Acquisition - Summary (\$'000)				
	2008	2009	2010	2011
Invested capital for acquisition				
Purchase price	\$0	\$0	\$0	\$0
Capital raise	26,490	26,490	26,490	26,490
DTA release (cumulative)	0	(371)	(2,896)	(4,973)
Capital raise (cumulative)	0	(1,964)	(3,129)	(3,692)
Invested capital	\$26,490	\$24,155	\$20,465	\$17,825
Return				
Cash net income		3,760	4,944	5,335
ROIC (%)		15.6%	24.2%	29.9%

Source: West Projections
 Assumes 10% cost of capital for all earnings; except earnings from liquidating portfolio, assumes 5% with multiple on earnings from liquidating portfolio. Assumes cash after taxes and financing is zero until one year post-2010 to 2014.

WEST FINANCIAL SUMMARY (CASE 1)

Assumptions - Case 1

Company Assumptions (Non-Controlling)

Closing: 12/31/2008
 Concentration risk: 100% stock
 Earnings on capital rate (pre-tax): Based on forward Fed Funds curve
 Shares issued to West (mm): 0 mm
 Shares issued for make-whole (mm): 0 mm
 Shares issued for capital raise (mm): 637 mm
 Risk-free rate: 3.75%
 West tax rate: 34.7%
 E/P: Institutional investors, make whole: 1 purchase price = \$8.75, pay difference between \$8.75 and purchase price on 82 mm shares
 Pro forma net income not adjusted for potential impact of neutralizing duration and convexity risk
 FMV reflects full mark to market of loans and no carry over of existing reserves (SFAS 141 treatment)

Company Earnings (mm)

Year ended December 31	2008	2007	2006
Park (\$41.97)			
GAAP EPS	\$2.53	\$3.70	\$2.00
Cash EPS	\$2.76	\$3.68	\$4.85
Avg. Diluted share count (mm)	1,550	1,536	1,576
Net Income (\$mm)	\$3,961	\$12,315	\$7,352
LTV (%)			81%
West (\$474)			
GAAP EPS	(\$4.23)	\$1.39	\$1.95
Cash EPS	(\$4.18)	\$1.41	\$1.97
Avg. Diluted share count (mm)	1,694	1,727	1,883
Memo. New shares issued during capital raise	627	829	827
Net Income (\$mm)	(\$7,162)	\$2,347	\$3,681

Note: Market data as of July 30, 2008. Assumptions/E/Ps estimates for Park and management estimates for West

WEST FINANCIAL SUMMARY (CASE 1)

Base case accretion/(dilution) - Case 1

	2009	2010	2011
Park GAAP earnings	\$12,515	\$16,886	\$18,151
West GAAP earnings *	2,297	3,661	4,309
Cost of cash payments	(26)	(273)	(664)
Income from proceeds of equity raise	421	590	650
Savings on excluded shares	257	361	364
Funding restriction charge	0	0	0
Pro forma contribution from West	\$11,952	\$14,064	\$14,839
Pro forma GAAP Net Income	\$15,668	\$21,196	\$22,989
Existing Park amortization	\$632	\$525	\$481
New amortization	606	794	499
Pro forma cash net income	\$16,908	\$22,265	\$23,940
Park fully diluted shares	3,576	3,576	3,576
Shares issued to West / capital raise	637	637	637
Share repurchases	(18)	(116)	(216)
Pro forma fully diluted shares	4,195	4,297	4,007
Stand alone Park GAAP EPS	\$3.00	\$4.70	\$5.08
Stand alone Park cash EPS	\$3.68	\$4.85	\$5.20
Pro forma GAAP EPS	\$3.73	\$5.17	\$5.74
GAAP EPS accretion / (dilution) (%)	50.21	50.47	50.65
GAAP EPS accretion / (dilution) (%)	6.7%	10.1%	13.0%
GAAP EPS accretion / (dilution) (\$mm)	\$984	\$1,938	\$2,651
Pro forma cash EPS	\$4.03	\$5.44	\$5.96
Cash EPS accretion / (dilution) (%)	50.25	50.75	50.77
Cash EPS accretion / (dilution) (%)	9.9%	13.2%	14.8%
Cash EPS accretion / (dilution) (\$mm)	\$1,481	\$2,437	\$3,187
Projected 2009 price	\$69.54	\$77.13	\$83.30

WEST FINANCIAL SUMMARY (CASE 1)

Note: Market data as of July 31, 2008. Contingent and amortization of intangible assets incorporated in West earnings.

Pro forma summary balance sheet - Case 1

	2006		2007		2008		2009	
	Actual	Pro forma	Actual	Pro forma	Actual	Pro forma	Actual	Pro forma
Assets								
Cash and cash equivalents	175,000	1,302,210	50	82,122	5,100	5,202,510	5,000	1,302,210
Receivables	347,710	736,299	0	(25,742)	0	736,299	0	736,299
Inventory	32,000	2,000	22,000	2,000	0	20,000	0	20,000
Goodwill and intangible assets	1,410	0	1,410	0	0	0	0	0
Other receivables	1,000	0	2,000	0	0	0	0	0
Other assets	12,000	12,000	0	0	0	12,000	0	12,000
Total assets	579,720	2,052,509	72,000	56,380	5,100	5,772,809	5,000	2,052,509
Liabilities								
Accounts payable	1,700,000	1,700,000	50	50	50	1,700,000	50	1,700,000
Accrued expenses	400,000	400,000	0	0	0	400,000	0	400,000
Deferred compensation	10,000	10,000	0	0	0	10,000	0	10,000
Other liabilities	1,000	1,000	0	0	0	1,000	0	1,000
Equity	7,020	7,020	0	0	0	7,020	0	7,020
Minority interest	0	0	0	0	0	0	0	0
Retained earnings	1,000	1,000	0	0	0	1,000	0	1,000
Other equity	0	0	0	0	0	0	0	0
Total liabilities	2,107,720	2,108,020	50	50	50	2,108,020	50	2,108,020
Equity								
Preferred equity	50,000	50,000	50	50	50	50,000	50,000	50,000
Common equity	30,000	30,000	0	0	0	30,000	0	30,000
Total equity	80,000	80,000	50	50	50	80,000	50,000	80,000
Total liabilities & equity	2,187,720	2,188,020	100	100	100	2,188,020	100,000	2,188,020
Other								
Other assets	100,000	100,000	0	0	0	100,000	0	100,000
Other liabilities	100,000	100,000	0	0	0	100,000	0	100,000
Other equity	0	0	0	0	0	0	0	0
Other assets	0	0	0	0	0	0	0	0
Other liabilities	0	0	0	0	0	0	0	0
Other equity	0	0	0	0	0	0	0	0
Total other	0	0	0	0	0	0	0	0
Total	2,187,720	2,188,020	100	100	100	2,188,020	100,000	2,188,020

NET FINANCIAL SUMMARY (CONSOLIDATED)

Source: Company Filings, FactSet, IB/E/S, Equity research, Park and West estimates
 Note: Market data as of July 31, 2008

Detailed West capital need after PAA - Case 1

Capital need (Case 1)	
West ECR 3/21/08	\$76,378
- Total PAA adjustments to equity (after tax)	(22,869)
- Restructuring charge ¹	(1,142)
+ Incremental TCE at West Bank	0
+ RE ² Preferred from West Bank	0
- Performing allowance	0
+ Adjusted TCE	\$78,840
Projected PWA 12/31/08	\$220,129
- Total PAA adjustments ³	(26,275)
- Asset sales of \$49.26m	(2,694)
+ Adjusted PWA	\$191,160
Free Capital at 8.25% two-tiered capital rate	\$15,014
West capital components	
Adjusted TCE	\$78,840
Hybrid allowed (15%)	2,297
Deferred tax asset created	(5,833)
Loss related to negative goodwill for tax ⁴	0
Capital need	\$26,490
Park stand alone hybrid capital capacity (at 12/31/08)	
Restricted capital instruments (15% Fed)	\$0
Restricted capital instruments (20% Fed)	4,187
PPS and DRIF referred (20% JBP)	2,081
Mandatory convertible into common (20% JBP)	76,378
Park hybrid capital capacity pro forma prior to capital rate (at 12/31/08)	
Restricted capital instruments (15% Fed)	0
Restricted capital instruments (20% Fed)	4,382
PPS and DRIF referred (20% JBP)	0

WEST FINANCIAL SUMMARY (CASE 1)

Source: Company's CRP files.
¹ Based on filing, restricted as day 1 expense for Park.
² Assumes 75% risk weighting on PAA adjustments.
³ DTA assumed to amortize straight line over 4 years.

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Potential transaction structure and terms - Case 2A

Assumed: Park acquires West Lead Thrift Bank's assets and liabilities	
Structure	<ul style="list-style-type: none"> ■ Park acquires West lead thrift subsidiary (WMB) from Receiver
Offer	<ul style="list-style-type: none"> ■ Park pays \$0.00 to Receiver
Consideration to equity holders	<ul style="list-style-type: none"> ■ None¹
Assets & liabilities assumed	<ul style="list-style-type: none"> ■ Park assumes all of the thrift bank's and subsidiaries': <ul style="list-style-type: none"> ■ Assets ■ Deposits (insured and uninsured) ■ Non-ordinary course liabilities ■ Covered bonds (~\$9.4bn) remain intact ■ Senior and unsecured debt are brought along ■ REIT preferred securities (\$3.9bn) are extinguished as they are assumed to become liabilities of the holding company upon receivership or bankruptcy, increasing net asset value of lead thrift bank ■ All assets, liabilities and equity (including any preferred equity securities) of the holding company will be left behind

WEST FINANCIAL SUMMARY (CASE 2A)

¹ Includes: make a whole payment to investors associated with \$7.2bn capital raise announced April 6, 2008

Key transaction facts - Case 2A

WEST FINANCIAL SUMMARY (CASE 2A)

Impact of Proposed New Exchange Offer on Balance Sheet

	(\$mm)
West TCE @ \$2/GB	\$16,171
Credit related marks and P&A adjustments	(21,785)
Residual Loan - Target	11,742
Deferred Tax Asset ¹	8,717
Impairments (1) at West Bank	983
+ REIT Preferred from West Bank	3,917
+ Exit guarantee of debt	0
+ Qualifying hybrids ²	0
+ Gain related to negative goodwill (after tax)	0
Principal	(\$8,674)
	Capital
	Required³
Asset Liabilities	RWA
Equitying ⁴	\$19,421
Corp ⁵	\$15,314
Capital raise ⁶	\$23,969
Final Income ⁷	\$8,723
Total Income ⁸	\$5,000
Total available excess capital	\$23,327

Example Non-Contingent

	Price per share			
	\$0.00	\$4.00	\$3.00	\$4.75
Premium to market	-	0.0%	5.3%	\$4.00
Deal value without make whole	\$0	\$8,483	\$8,027	\$14,922
Make whole	-	-	-	-
Deal value	-	\$8,483	\$8,027	\$14,922
Capital raise	23,969	23,969	23,969	23,969
Total invested capital	23,969	52,952	52,495	52,895
Total invested capital / TO earnings contribution	8.0x	6.7x	6.8x	8.1x
2X Impact				
\$/share (GAAP)	\$0.72	\$0.35	\$0.33	\$0.15
\$/share (GAAP)	7.850	1.444	1.374	4.75
\$/share (Cash)	\$0.72	\$0.46	\$0.44	\$0.26
\$/share (Cash)	3.888	1.913	1.858	3.113
ROE	32.9%	21.1%	20.7%	18.2%
3X Impact				
\$/share (GAAP)	\$0.91	\$0.52	\$0.50	\$0.30
\$/share (GAAP)	10.01	2.107	2.048	7.483
\$/share (Cash)	\$0.91	\$0.62	\$0.61	\$0.39
\$/share (Cash)	4.534	2.533	2.477	3.475
ROE	43.7%	27.0%	26.7%	19.7%
HR	43.8%	29.7%	29.3%	22.8%

¹ Average 7% West cap let need after ADD for deal
² Assumes only 15% of target's Tier 1 consists of hybrid instruments
³ Assumes 8% Tier 1 ratio
⁴ Represents both other assets of West's existing debt on 100% 50% of their equity loan and then and off-balance sheet loan and then
⁵ Core assets reflect all other existing loans, securities, non-earning assets and projected new loan originations
⁶ Assumes 100% fees outside other tier 1 common equity raise

Capital alternatives - Case 2A

Capital alternatives - Case 2A - Risk 0.5% to all alternatives

Item	Scheme 1 (Scheme 1a and 1b)				Scheme 2 (Scheme 1a and 1b)				Scheme 3 (Scheme 1a and 1b)			
	Est. Amount	Est. Weighting	Est. Cost/Benefit	Est. Risk	Est. Amount	Est. Weighting	Est. Cost/Benefit	Est. Risk	Est. Amount	Est. Weighting	Est. Cost/Benefit	Est. Risk
Item 1	1,000	5%	5,000	0.5%	1,000	5%	5,000	0.5%	1,000	5%	5,000	0.5%
Item 2	2,000	10%	10,000	1.0%	2,000	10%	10,000	1.0%	2,000	10%	10,000	1.0%
Item 3	3,000	15%	15,000	1.5%	3,000	15%	15,000	1.5%	3,000	15%	15,000	1.5%
Item 4	4,000	20%	20,000	2.0%	4,000	20%	20,000	2.0%	4,000	20%	20,000	2.0%
Item 5	5,000	25%	25,000	2.5%	5,000	25%	25,000	2.5%	5,000	25%	25,000	2.5%
Item 6	6,000	30%	30,000	3.0%	6,000	30%	30,000	3.0%	6,000	30%	30,000	3.0%
Item 7	7,000	35%	35,000	3.5%	7,000	35%	35,000	3.5%	7,000	35%	35,000	3.5%
Item 8	8,000	40%	40,000	4.0%	8,000	40%	40,000	4.0%	8,000	40%	40,000	4.0%
Item 9	9,000	45%	45,000	4.5%	9,000	45%	45,000	4.5%	9,000	45%	45,000	4.5%
Item 10	10,000	50%	50,000	5.0%	10,000	50%	50,000	5.0%	10,000	50%	50,000	5.0%
Item 11	11,000	55%	55,000	5.5%	11,000	55%	55,000	5.5%	11,000	55%	55,000	5.5%
Item 12	12,000	60%	60,000	6.0%	12,000	60%	60,000	6.0%	12,000	60%	60,000	6.0%
Item 13	13,000	65%	65,000	6.5%	13,000	65%	65,000	6.5%	13,000	65%	65,000	6.5%
Item 14	14,000	70%	70,000	7.0%	14,000	70%	70,000	7.0%	14,000	70%	70,000	7.0%
Item 15	15,000	75%	75,000	7.5%	15,000	75%	75,000	7.5%	15,000	75%	75,000	7.5%
Item 16	16,000	80%	80,000	8.0%	16,000	80%	80,000	8.0%	16,000	80%	80,000	8.0%
Item 17	17,000	85%	85,000	8.5%	17,000	85%	85,000	8.5%	17,000	85%	85,000	8.5%
Item 18	18,000	90%	90,000	9.0%	18,000	90%	90,000	9.0%	18,000	90%	90,000	9.0%
Item 19	19,000	95%	95,000	9.5%	19,000	95%	95,000	9.5%	19,000	95%	95,000	9.5%
Item 20	20,000	100%	100,000	10.0%	20,000	100%	100,000	10.0%	20,000	100%	100,000	10.0%

WEST FINANCIAL SUMMARY (CASE 2A)

1. Risk factor excludes hybrids above 15%
 2. Risk factor refers to capital risk (weighting of 50 and 2500, respectively)
 3. Problem portfolio includes Octopus APW (5000/50% risk weighting), Subprime (5000/100% risk weighting) Loans and Subprime HE (5000/100% risk weighting)

IRR and ROIC - Case 2A

	2008	2009	2010	2011	2012	2013	2014
Purchase price	\$0						
Capital raise / release	(21,672)	1,964	1,175	563	761	433	
DTA release		1,455	2,525	2,077			
Cash net income		3,645	4,781	5,152	4,920	4,600	4,600
Terminal value						48,376	
Incremental cash flow	(\$21,672)	7,064	8,481	7,782	5,691	53,411	
Internal rate of return	43.8%						

	2008	2009	2010	2011
Invested capital for acquisition				
Purchase price	\$0	\$0	\$0	\$0
Capital raise	21,672	21,672	21,672	21,672
DTA release (cumulative)	0	(1,455)	(3,980)	(6,057)
Capital raise (cumulative)	0	(1,964)	(3,139)	(3,692)
Invested capital	\$21,672	\$18,253	\$14,553	\$11,923
Return				
Cash net income		3,645	4,781	5,152
ROIC (%)		20.0%	32.9%	43.2%

Source: West ProjectData
 *Assumes 50x exit multiple on all earnings; except earnings from liquidating portfolio, assumes 5.0x exit multiple on earnings from liquidating portfolio. Assumes cash acquisitions and financing costs in 2008 are paid in cash from 2008 to 2011.

WEST FINANCIAL SUMMARY (CASE 2A)

Base case accretion/(dilution) - Case 2A

	2019	2020	2021
Park GAAP earnings	\$12,515	\$11,367	\$18,151
West GAAP earnings ¹	2,939	4,177	4,754
Cost of debt benefits	(8)	(27)	(50)
Income from proceeds of equity raise	28	40	49
Savings on excluded hybrids	350	34	37
Funding restructuring charge	0	0	0
Pro forma contribution from West	\$3,579	\$4,723	\$5,100
Pro forma GAAP Net income	\$16,095	\$21,525	\$23,251
Existing Park amortization	\$633	\$57	\$40
New amortization	85	9	5
Pro forma cash net income	\$16,793	\$22,113	\$23,763
Park fully diluted shares	3,576	3,576	3,575
Shares issued to West Corp to raise	521	521	521
Share repurchases	(94)	(177)	(711)
Pro forma fully diluted shares	4,073	3,974	3,887
Stand alone Park GAAP EPS	\$3.50	\$4.30	\$5.08
Stand alone Park cash EPS	\$3.68	\$4.45	\$5.20
Pro forma GAAP EPS	\$3.95	\$5.41	\$5.99
GAAP EPS accretion / dilution (%)	50.4%	50.7%	50.9%
GAAP EPS accretion / (dilution) (\$)	12.9%	16.3%	17.8%
GAAP EPS accretion / dilution (\$/share)	\$1.838	\$4.056	\$3.523
Pro forma cash EPS	\$4.17	\$5.77	\$6.11
cash EPS accretion / dilution (%)	50.4%	50.7%	50.9%
cash EPS accretion / (dilution) (\$)	12.1%	14.8%	17.6%
cash EPS accretion / dilution (\$/share)	\$1.815	\$3.949	\$3.514
Projected to a price	\$72.87	\$81.41	\$89.85

WEST FINANCIAL SUMMARY (CASE 2A)

Note: Market data as of July 31, 2018, contingent and promotional intangible assets incorporated in West earnings.

Pro forma summary balance sheet - Case 2A

	Actual		Pro forma		Fund Bal.	Pro forma		Add'l Assets	Total
	6/30/2008	6/30/2008	6/30/2008	6/30/2008		6/30/2008	6/30/2008		
Assets									
Cash and cash equivalents	1,071,961	1,082,213	\$0	\$0	\$1,140	\$0	\$1,140	\$1,074,961	1,074,961
Accounts receivable	1,071,961	1,071,961	0	0	0	0	0	1,071,961	1,071,961
Inventory	12,000	12,000	0	0	0	0	0	12,000	12,000
Capital equipment	1,071,961	1,071,961	0	0	0	0	0	1,071,961	1,071,961
Other assets	12,000	12,000	0	0	0	0	0	12,000	12,000
Total assets	3,248,883	3,250,145	\$0	\$0	\$1,140	\$0	\$1,140	3,248,883	3,248,883
Liabilities									
Accounts payable	1,071,961	1,071,961	\$0	\$0	\$0	\$0	\$0	1,071,961	1,071,961
Accrued expenses	1,071,961	1,071,961	0	0	0	0	0	1,071,961	1,071,961
Deferred revenue	1,071,961	1,071,961	0	0	0	0	0	1,071,961	1,071,961
Other liabilities	1,071,961	1,071,961	0	0	0	0	0	1,071,961	1,071,961
Total liabilities	3,248,883	3,248,883	\$0	\$0	\$0	\$0	\$0	3,248,883	3,248,883
Equity									
Contributed equity	1,071,961	1,071,961	\$0	\$0	\$0	\$0	\$0	1,071,961	1,071,961
Retained earnings	1,071,961	1,071,961	0	0	0	0	0	1,071,961	1,071,961
Total equity	2,143,922	2,143,922	\$0	\$0	\$0	\$0	\$0	2,143,922	2,143,922
Total Liabilities & Equity	3,248,883	3,248,883	\$0	\$0	\$1,140	\$0	\$1,140	3,248,883	3,248,883

WEST FINANCIAL SUMMARY (CASE 2A)

Source: Company filings, actual 6/30/08, 1 July forward, Pro forma and West estimates
 Note: Actual data as of July 30, 2008

Detailed West capital need after PAA - Case 2A

WEST FINANCIAL SUMMARY (CASE 2A)

West TCE 12/31/08	
West TCE 12/31/08	\$16,171
- Total PAA adjustments to equity (after tax)	(21,785)
- Restructuring charge ¹	(1,142)
+ Incremental TSE at West Bank	401
+ PFA Preferred from West Bank	3,977
- Conforming Allowance	0
+ Adjusted TCE	\$19,938
Projected RWA 12/31/08	\$200,329
- Total PAA adjustments ²	(26,272)
- Asset rules of SRO 2008	(42,694)
+ Adjusted RWA	\$191,621
Tier I capital at 6.00% Tier I risk-based capital ratio	\$15,314
West capital components	
Adjusted TCE	\$19,938
+ Hybrid allowed (7%)	0
Deferred tax benefit created	(6,715)
Item related to negative goodwill (after tax)	0
Capital need	\$23,948
Bank stand alone hybrid capital capacity (at 12/31/08)	
Restricted capital instruments (10% Fed)	\$0
Restricted capital instruments (20% Fed)	4,187
RFI and DRD Preferred (17% S&P)	2,081
Mandatory convertible into common (0% S&P)	6,339
Bank hybrid capital capacity pro forma prior to capital raise (at 12/31/08)	
Restricted capital instruments (10% Fed)	0
Restricted capital instruments (20% Fed)	4,605
RFI and DRD Preferred (17% S&P)	0
<small> Source: Company estimates. ¹ Restructuring allowed in 2008 expense plan. ² Assumes 75% risk weighting in PAA adjustments. ³ PFA assumed to amortize straight line over 4 years. </small>	

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DISCUSSION MATERIALS

Potential transaction structure and terms - Case 2B

WEST FINANCIAL SUMMARY (CASE 2B)	
Structure	<ul style="list-style-type: none"> ■ Park acquires West lead thrift subsidiary (WMB) from Receiver
Offer	<ul style="list-style-type: none"> ■ Park pays \$0.00 to Receiver
Consideration to equity holders	<ul style="list-style-type: none"> ■ None¹
Assets & liabilities assumed	<ul style="list-style-type: none"> ■ Park assumes all of the thrift bank's and subsidiaries': <ul style="list-style-type: none"> ■ Assets ■ Deposits (insured and uninsured) ■ Non-ordinary course liabilities of the thrift bank and its subsidiaries ■ Covered bonds (~\$9.4bn) remain intact ■ Senior and unsecured debt left behind ■ REIT preferred securities (\$3.9bn) are extinguished as they are assumed to become liabilities of the holding company upon receivership or bankruptcy, increasing net asset value of lead thrift banks ■ All assets, liabilities and equity (including any preferred equity securities) of the holding company will be left behind
Other	<ul style="list-style-type: none"> ■ Park will issue a Contingent Preferred Security (CPS) linked to West loan loss performance with a par amount equal to the par value of the thrift senior and subordinated debt (\$16bn). The form of this note will be a callable, non-cumulative, perpetual preferred Tier 1 qualifying security, with a 5-year reference period. Payment will be contingent upon credit performance of reference loans against a loss threshold of \$19bn, reflecting West management's estimation of losses. The par value of this security will be reduced dollar for dollar by the amount actual losses, as measured by Park, exceeding the \$19bn threshold

¹ Includes make-whole payment to investors associated with \$1.2bn in debt to be announced April 8, 2008

Draft CPS term sheet

WEST FINANCIAL SUMMARY (CASE 28)

	Corning Preferred Security (CPS) Term Sheet
Issuer	JPMorgan Chase & Co.
Security	One Share of JPMorgan Chase & Co. Non-cumulative Preferred Stock (Series C)
Par	(\$100,000) Shares
Issuance Preference	50,000 par shares of Preferred Stock reduced dollar-for-dollar by the actual losses incurred on Reference Portfolio by either Wall or JPMorgan Chase & Co. from January 1, 2008 through December 31, 2013, exceeding \$75,000,000,000, with a maximum adjustment equal to the Aggregate Pay Amount.
Aggregate Pay Amount	(\$11,200,000,000)
Par for	Perpetual
Div. Count	30/360
Valuation Date	January 1, 2009
Dividend Rate (Non-Cumulative)	8.25% on the \$75,000,000,000 Aggregate Pay Amount subject to terms of the Adjustment Mechanism described herein.
Dividend Usage	Dividends will be paid or distributed and set aside for payment full dividend until all dividends for the most recently completed dividend period are satisfied. Dividends or distributions provided pursuant to distribution policy under existing stock, other than its need for its own financing stock, or 2' modern business, otherwise a share of all assets money for a voting trust for the redemption of any call for shares, voting trust, or capital investments, or otherwise for future financing.
Dividend Payment Date	Beginning October 22, 2008, each April 22 and October 20 (until April 20, 2013) and the latter each January 30, April 30, July 31, and October 31, in each case if declared by the Board of Directors or duly authorized board committee.
Adjustment Date	January 1, 2014
Adjustment Mechanism	Aggregate Pay Amount will be reduced dollar-for-dollar by the actual losses incurred on Reference Portfolio by either Wall or JPMorgan Chase & Co. from January 1, 2009 through December 31, 2013, exceeding \$75,000,000,000, with a maximum adjustment equal to the Aggregate Pay Amount.
Optional Redemption	In addition to the optional Redemption Term Date set on or after January 1, 2014 to 100% of the Issuance Preference subject to terms of Adjustment Mechanism described herein.
Voting Rights	The Corning Preferred Security will have no voting rights except as provided below or as otherwise agreed to by law.
Parking	The Corning Preferred Security will have no payment of dividends and distribution of assets upon liquidation, dissolution, or winding up, except with any series of preferred stock ranking equal to the Corning Preferred Security, senior to any series of preferred stock ranking equal to the Corning Preferred Security and not convertible into any class of JPMorgan Chase & Co. Common Stock.
Reference Portfolio	\$181,100,000 West, single family residential portfolio

Key transaction facts - Case 2B (CPS w/loss threshold of \$34bn)

WEST FINANCIAL SUMMARY (CASE 2B)

	Average share			
	\$8.00	\$6.74	\$5.00	\$8.75
Premium to market	0.0%	5.9%	8.4%	8.4%
Deal value without make-whole	\$0	\$8,683	\$8,527	\$14,922
Make-whole	0	0	0	0
Deal value	\$0	\$8,683	\$8,527	\$14,922
Common equity value	2,498	2,498	2,498	2,498
Contingent preferred security	14,287	14,287	14,287	14,287
Total invested capital	\$16,785	\$24,848	\$25,111	\$31,706
Total invested capital / 7.5x earnings (annualized)	3.3x	4.7x	5.0x	6.7x
2010 Impact				
1 per share (GAAP)	\$1.54	\$1.22	\$1.20	\$0.89
1 per share (GAAP)	5,416	4,505	4,455	3,438
1 per share (cash)	\$1.30	\$1.21	\$1.19	\$0.96
1 per share (cash)	5,428	4,485	4,434	3,452
ROE	NA	NA	NA	NA
2011 Impact				
1 per share (GAAP)	\$1.81	\$1.44	\$1.42	\$1.09
1 per share (GAAP)	4,190	5,214	5,144	4,179
1 per share (cash)	\$1.82	\$1.44	\$1.42	\$1.15
1 per share (cash)	4,217	5,232	5,163	4,207
ROE	NA	NA	NA	NA
ROE	NA	NA	NA	NA

Under \$19.0bn loss threshold (West mgt. 2Q08 guidance), 2011 GAAP EPS increases by \$0.35

Accretion/(dilution) sensitivity to key drivers - Case 2B

Assumptions: 2012-03 post-charge-off Earnings Impact Note

	(M)	(C)	(\$mm)
Baseline 2011 EPS accretion / (dilution)			
GAAP	35.7%	\$1.81	\$5,137
Cash	34.9	1.80	6,217

	Change		Change in GAAP accretion / (dilution)		
	(\$)	(%)	(M)	(C)	(\$mm)
2011 GAAP EPS impact of change in:					
Wells 2011 pre-tax income	\$1,000	13.7%	0.08	\$0.00	30
Price paid (\$)	1.00	N/A	(1.6)	(0.08)	(27)
Part of new price (\$)	1.00	2.4	0.1	0.00	10
Part of 2011 net income	1,000	5.5	0.2	0.07	80
Capital raise	1,000	40.0	(6.9)	(0.05)	(152)
Increase in pre-tax credit losses	1,000		0.0	0.00	0

Source: Company filings
 Note: Market data as of July 30, 2008

WEST FINANCIAL SUMMARY (CASE 2B)

Capital adequacy analysis - Case 2B

	Projected - 12/31/08		Transaction impact	Pro forma Pre-capital raise	Capital raise impact	Pro forma capital raise
	Park	West				
Tier 1 capital	8.39%	11.01%	(0.79%)	7.60%	0.88%	8.48%
Leverage	5.81	8.43	(0.50)	5.31	0.82	5.93
TCE / MRWA (Moody's)	7.07	8.84	(0.17)	6.90	0.55	7.44

Source: Company filings, Fitch, Moody's, Equity research, Park and West estimates

WEST FINANCIAL SUMMARY (CASE 2B)

Detailed West capital need after PAA - Case 2B

WEST FINANCIAL SUMMARY (CASE 2B)

Total plus less adjustments against business for equity

	Pre-tax	After tax
Gross		
Loans	(\$3,940)	(\$26,943)
Trading account securities	(180)	(17)
AFS securities	(1,444)	(792)
Other assets	680	649
Deposits	(114)	(75)
FHA Borrowings	(707)	(177)
Other borrowings	61	40
Loan loss reserve	8,456	5,581
Total	(\$24,407)	(\$24,032)

For deductibility

Capital raise	\$16,785
+ 4.6%	4.6%
Annual tax deductible credit	\$772
Taxes	20
Tax deductible	\$15,442

NTM Deduction from Tier 1 Capital (Case)

	At close
NTM pre-tax earnings	\$6,257
Less: NTM NCDs	(4,094)
Taxable income less NCDs	\$2,229
Tax effect	76
Deferred tax assets	\$5,276
Less: Tax effect	(787)
Deduction from Tier 1 Capital	\$5,476

Pro forma summary balance sheet - Case 2B

	2008		2009		2010		2011	
	Actual	Pro Forma	Actual	Pro Forma	Actual	Pro Forma	Actual	Pro Forma
Assets								
Current assets	175,341	172,311	50	50	1,142	1,142	1,142	1,142
Cash	148,711	146,476	0	0	0	0	0	0
Accounts receivable	26,630	25,835	50	50	1,142	1,142	1,142	1,142
Other current assets	0	0	0	0	0	0	0	0
Non-current assets	1,000	1,000	0	0	0	0	0	0
Property, plant and equipment	1,000	1,000	0	0	0	0	0	0
Intangible assets	0	0	0	0	0	0	0	0
Other non-current assets	0	0	0	0	0	0	0	0
Liabilities								
Current liabilities	175,341	172,311	50	50	1,142	1,142	1,142	1,142
Accounts payable	148,711	146,476	50	50	1,142	1,142	1,142	1,142
Other current liabilities	26,630	25,835	0	0	0	0	0	0
Non-current liabilities	0	0	0	0	0	0	0	0
Long-term debt	0	0	0	0	0	0	0	0
Other non-current liabilities	0	0	0	0	0	0	0	0
Equity								
Common stock	0	0	0	0	0	0	0	0
Retained earnings	1,000	1,000	0	0	0	0	0	0
Other equity	0	0	0	0	0	0	0	0
Total	176,341	173,311	50	50	1,142	1,142	1,142	1,142

WEST FINANCIAL SUMMARY (Case 2B)

Source: Company filings, actual 2008-2010, Equity values, Park and West estimates
Note: Market data as of July 20, 2008

Agenda

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West asset composition and fair market adjustments - Case 1

Portfolio	Nominal assets					RWA	
	Balance as of		Fair market	Adj balance @	Carrying value	Adj balance @	
	12/31/07	12/31/08	value	12/31/08		12/31/08	12/31/08
Cash and cash equivalents	\$11,832	\$6,799	\$0	\$6,799	100.0%	\$375	\$375
Trading securities	2,366	362	(193)	169	74.7	367	267
Investment securities	8,261	24,667	(1,458)	23,209	88.2	14,948	14,248
Mortgage backed securities	15,249	0	0	0	0	0	0
Loans held for sale	1,431	4,737	0	4,737	100.0	4,737	4,737
Loans held for investment							
Option ARMs	\$38,873	\$44,029	(\$1,662)	\$42,367	78.1%	\$22,015	\$37,184
Other ARMs	9,551	7,047	(794)	6,252	66.7	3,523	3,124
Mortgage Term ARMs	16,507	28,844	(2,778)	26,066	89.7	13,422	12,034
Fixed Rate Mortgages	5,462	0	(536)	5,026	95.2	5,393	5,335
HE Loans @ 6.25%	80,263	48,279	(13,329)	34,950	72.0	48,279	34,750
Supplement Loans	16,293	1,283	(4,132)	3,242	43.8	11,153	7,242
Subprime HE	2,525	1,515	(884)	631	41.4	1,515	631
Business Banking	1,434	1,434	(323)	1,111	91.2	1,464	1,281
Home Construction	2,226	1,484	0	1,484	100.0	1,484	1,484
Multi-Family	30,507	30,500	(172)	30,328	99.4	15,250	15,144
Other Commercial RE	8,374	9,815	0	9,815	100.0	9,815	9,815
Credit Card	5,336	27,343	(1,279)	26,064	95.3	27,340	26,061
Total loans held in portfolio	\$244,386	\$220,194	(\$33,192)	\$186,998	84.6%	\$140,993	\$133,705
Investment in Federal Home Loan Bank	11,751	13,377	\$0	13,377	100.0%	\$675	\$675
Mortgage servicing rights	4,275	6,136	0	6,136	100.0	5,523 ¹	5,523 ¹
Goodwill	2,287	2,111	0	2,111	91.9	0	0
Core deposit intangibles	63	18	0	18	28.1	0	0
PPIC	321	252	0	252	78.5	252	252
Other intangibles	4	3	0	3	75.0	0	0
Deferred tax assets	3	5	0	5	100.0	0	0
Other assets	1,945	21,341	680	22,021	103.8	21,341	25,021
Minor fair value adjustments		18,865	0	18,865	100.0	2,772	2,772
Total assets	\$230,484	\$298,600	(\$34,346)	\$267,238	89.6%	\$220,129	\$193,016
Allowance for loan losses	(\$1,571)	(\$8,486)	\$0	\$0	0	\$0	\$0
Total net LLI	\$227,913	\$290,114	(\$34,346)	\$267,238		\$220,129	\$193,016

APPENDIX

¹ 100% risk weighting applied to 40% of MSR balance; 0% strategic deduction from Tier 1
² Adjusted RWA of \$11,473 after application of 2% ban (50% of the amount with 100% assumed risk weighting)

West consolidated income statement

Description	Historical			2008 Budget		Park forecasts			
	2006 YE	2007 YE	2007 YE w/ mid credit	2008 YE	2009 YE	2010 YE	2011 YE	2012 YE	
INCOME STATEMENT									
GAAP net interest income	\$8,121	\$8,177	\$9,020						
Plus: Card securitization adjustment (for historical)	1,886	1,783	2,175						
Managed net interest income	\$10,007	\$9,960	\$11,195	\$10,429	\$10,680	\$9,771	\$9,129	\$8,531	
PAP adjustments				0	462	285	228	230	
Revenue fund				(1,369)	(1,741)	497	188	59	
Net charge-offs				(12,861)	(3,847)	(3,755)	(2,803)	(2,253)	
Provision for loan losses - GAAP	(\$614)	(\$3,107)	(\$12,500)	N/A	N/A	N/A	N/A	N/A	
Plus: Card securitization adjustment (for historical)	(943)	(1,200)	(1,958)	-	-	-	-	-	
Provision for loan losses - Managed	(\$1,757)	(\$4,307)	(\$14,758)	(\$18,730)	(\$5,588)	(\$3,257)	(\$2,615)	(\$2,194)	
Net interest income after provisions (Managed)	\$8,048	\$8,653	(\$3,163)	(\$7,801)	\$8,812	\$6,788	\$6,912	\$6,877	
Fee revenue	\$4,377	\$4,042	\$6,263	-	-	-	-	-	
Plus: Card securitization adjustment (for historical)	(743)	(583)	(318)	-	-	-	-	-	
Managed fee revenue	\$3,634	\$3,459	\$5,945	\$6,181	\$6,078	\$6,274	\$6,499	\$6,706	
Direct expenses (incl. cost sales)				\$8,863	\$8,970	\$8,194	\$5,615	\$5,377	
Indirect expenses (incl. cost sales)				937	910	910	910	910	
Total expenses (incl. cost sales)	\$8,912	\$10,803	\$8,905	\$8,800	\$7,980	\$7,104	\$6,525	\$6,287	
Income before taxes (Managed)	\$8,812	\$892	(\$8,708)	(\$10,470)	\$4,007	\$9,989	\$6,916	\$6,996	
Less: Taxes	1,914	372	(2,516)	(3,540)	1,362	2,026	2,351	2,379	
Operating net income (Managed)	\$3,899	\$520	(\$3,189)	(\$6,910)	\$2,645	\$3,933	\$4,565	\$4,618	
Less: Preferred dividends	0	31	260	252	248	252	256	256	
Plus: Income from discontinued operations	664								
Operating net income avail. to common shareholders (Managed)	\$4,043	\$489	(\$3,449)	(\$7,163)	\$2,397	\$3,681	\$4,309	\$4,362	

APPENDIX

West consolidated balance sheet

	Historical		2008 Budget w/ revisions	Plan forecasts			
	2006 YE	2007 YE		2008 YE	2009 YE	2010 YE	2011 YE
Assets							
Cash and cash equivalents	\$6,948	\$9,560	\$6,336	\$4,522	\$4,522	\$4,522	\$4,522
Fixed, sold and lease	3,743	1,877	-	1,877	1,877	1,877	1,877
AF's securities	24,978	27,540	33,703	25,834	15,244	15,244	15,244
Loans held for sale	44,970	5,403	6,665	4,737	2,271	2,818	3,094
Loans held in portfolio	224,901	244,355	252,508	222,196	162,637	139,538	137,868
Allowance for loan and lease losses	(1,631)	(2,571)	(7,593)	(8,454)	(1,366)	(1,074)	(1,309)
Investment in Federal Home Loan Bank	2,705	3,351	-	3,277	3,395	3,395	3,395
Mortgage servicing rights	6,193	6,278	6,169	6,136	5,411	4,819	4,363
Intangible	9,190	7,087	7,087	7,131	7,130	7,130	7,131
Long capital intangible	79	63	18	18	2,809	2,447	1,749
PCIP	404	321	248	252	705	591	484
Deferred tax assets	-	-	-	6,134	4,177	2,321	464
Other assets	23,828	24,419	22,183	24,341	26,174	22,774	22,014
Total assets	\$346,288	\$327,913	\$308,737	\$290,144	\$234,381	\$208,397	\$193,734
Liabilities & Equity							
Total deposits	\$213,956	\$181,926	\$197,856	\$173,569	\$133,250	\$136,105	\$140,783
Federal funds purchased and CP	4,378	2,703	-	(8,885)	(8,755)	(5,114)	(47,755)
Securities sold under agreements to repurchase	17,453	4,138	-	4,148	4,148	4,148	4,148
Reserve for litigation	-	-	-	13,464	11,611	8,049	9,764
NEP/Big Harm Debt	-	-	-	0	0	0	0
Allowance for loss on Home Loan Sales	44,297	63,852	-	50,881	31,995	24,760	20,242
Other intangibles	32,852	38,958	75,331	37,197	36,067	31,729	24,895
Other liabilities	8,117	7,140	8,767	6,990	7,413	7,831	7,413
Deferred tax liabilities	906	1,183	-	1,821	2,432	2,932	2,197
Minority interests	2,448	3,919	3,517	3,917	3,917	3,917	3,917
Total liabilities	\$119,219	\$300,329	\$285,156	\$252,932	\$111,849	\$182,899	\$164,495
Preferred stock	549	51,887	51,887	51,891	51,891	51,892	51,892
Common stock	26,477	21,192	17,149	23,781	19,847	4,378	23,885
Total equity	226,660	27,584	23,581	37,212	122,532	25,598	28,741
Total liabilities & equity	\$346,288	\$327,913	\$308,738	\$290,144	\$234,381	\$208,829	\$193,773
Minority interests in entities	-	-	-	1,644	2,568	1,361	1,427
Adm. Total liabilities & equity (Plus intangibles increase)				\$234,381	\$208,397	\$193,734	\$197,017

Source: Park estimates

APPENDIX

West outstanding hybrid capital

Fed Bucket	Notional (\$m)	Carrying (\$m)	Type	Coupon (%)	Maturity	Call Date	Bucket	
							SBP	Moody's
Unrestricted (50% Bucket)								
	\$0.500	\$0.500	Preferred	3ml + 70	Perpetual	09/18/11	33%	D
	\$3.000	\$2.892	Convertible preferred	7.750%	Perpetual	09/18/11	33	D
15% Bucket								
	\$0.750	\$0.750	REIT preferred	7.250%	Perpetual	03/15/11	33%	D
	1.250	1.167	REIT preferred	6.534	Perpetual	03/15/11	33	D
	0.500	0.500	REIT preferred	6.665	Perpetual	12/15/16	33	D
	0.500	0.500	REIT preferred	6.895	Perpetual	06/15/12	33	D
	1.000	1.000	REIT preferred	9.750	Perpetual	12/15/17	33	D
	\$4.000	\$3.917						
	\$1.150	\$0.746	PIERs	5.375%			12%	A
	0.067	0.067	Trust Preferred	3ml + 250-300	Various	Various	12	A
Total	\$8.717	\$8.122						

Year	HYBRID CAPITAL BY COUPON		
	Amount (\$mm)	Blended coupon (%)	Cap features
2009			
2010			
2011	\$1.809	7.017%	
2012	540	6.895%	
2012	2.313	7.544%	
Total	\$4.122	7.157%	

APPENDIX

Strategic evaluation

Operational Base			
	Network	South	West
<ul style="list-style-type: none"> Scale / competitive position 	<ul style="list-style-type: none"> 3,366 branches 1,646mm core deposits / branch Total deposits of \$465bn Total assets of \$807bn 	<ul style="list-style-type: none"> 1,478 branches 1,646mm core deposits / branch Total deposits of \$174br Total assets of \$177bn 	<ul style="list-style-type: none"> 2,241 branches 1,646mm core deposits / branch Total deposits of \$1,888bn Total assets of \$1,820bn
<ul style="list-style-type: none"> Geography / market position 	<ul style="list-style-type: none"> Expansion into SW West Expansion into California Greater geographic diversity #1 dep. share in Charlotte MSA #1 dep. share in Miami MSA #1 dep. share in Philadelphia MSA 	<ul style="list-style-type: none"> Expansion into SW West Greater geographic diversity #1 dep. share in Atlanta MSA #1 dep. share in Orlando MSA #2 dep. share in Washington MSA 	<ul style="list-style-type: none"> Expansion into Southeast Expansion into West Coast Greater geographic diversity #2 dep. share in Los Angeles MSA #2 dep. share in San Francisco MSA
<ul style="list-style-type: none"> Clustep 	<ul style="list-style-type: none"> 315 New Jersey branches 814 Florida branches 234 Texas branches 	<ul style="list-style-type: none"> 543 Texas branches 	<ul style="list-style-type: none"> 235 New York branches 217 Florida branches 256 Texas branches
<ul style="list-style-type: none"> Demographic profile* 	<ul style="list-style-type: none"> 8.2% population growth 8.7% household growth \$72,374 median HH income 	<ul style="list-style-type: none"> 9.4% population growth 9.8% household growth \$67,474 median HH income 	<ul style="list-style-type: none"> 10.7% population growth 10.5% household growth \$72,292 median HH income
<ul style="list-style-type: none"> Business mix impact 	<ul style="list-style-type: none"> \$86bn added AUM (Wealth Mng.) 74,600 financial advisors (Retail Bnk.) Increased investment banking w/m 	<ul style="list-style-type: none"> \$140bn added AUM (Wealth Mng.) 	<ul style="list-style-type: none"> \$4.3bn added eqgt. retail reserves

Source: SNL Financial, FactSet, Company filings
 Note: Financial details of state/retail dep. March 31, 2008
 * Demographic data is based on average county level demographics by USL defined retail deposit market share. Growth projections are from 2007-2017

Financial impact evaluation

	Network	Saturn	West
LTM Profitability metrics			
Net interest margin	2.92%	3.12%	2.91%
Core cash ROAA	0.44	0.61	(0.56)
Core cash ROAE	4.5	6.0	(7.4)
Efficiency ratio	65.3	64.7	69.7
Fee income ratio	39.2	39.5	43.3
Balance sheet metrics			
Loans/deposits	108.0%	106.5%	129.1%
Securities/assets	23.1	15.0	9.3
Core deposits/total deposits	78.1	78.6	85.1
Credit concentrations			
1-4 family	41.1%	26.8%	50.8%
Home equity	12.7	12.4	24.6
Option ARMs	25.6	-	19.6
Construction & development	3.9	10.5	0.9
Asset quality implications			
NCO/avg. loans	0.34%	0.50%	1.14%
NPA's/loans + OREOs	1.70	1.77	3.83
Reserves/loans	1.33	1.18	1.90
Capital implications¹			
TCE/TA	5.3%	6.2%	6.0%
Tier 1	8.7	7.2	11.0
Impact on earnings growth:			
LTG	9.0%	10.0%	10.0%
EPS growth (2008E - 2009E)	72.6	28.8	(171.9)

Source: JPM Financial Services Company, Inc.
 Notes: Figures are based on last three months of quarter ended March 31, 2008.
¹Capital ratios are pro forma for post-TC 2008 capital ratios.

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West capital adequacy analysis (as of 3/31/08)

Period	3/31/2008	6/30/2008	9/30/2008	12/31/2008	3/31/2009	6/30/2009	9/30/2009	12/31/2009	3/31/2010	6/30/2010	9/30/2010	12/31/2010	3/31/2011	6/30/2011	9/30/2011	12/31/2011
Net Capitalization	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276
Provisions	3,799	3,799	3,799	3,799	3,799	3,799	3,799	3,799	3,799	3,799	3,799	3,799	3,799	3,799	3,799	3,799
Charge-offs	2,748	2,748	2,748	2,748	2,748	2,748	2,748	2,748	2,748	2,748	2,748	2,748	2,748	2,748	2,748	2,748
Loans reclassified	8,342	8,342	8,342	8,342	8,342	8,342	8,342	8,342	8,342	8,342	8,342	8,342	8,342	8,342	8,342	8,342
Net Provisions (charge-offs)	(1,453)	(1,453)	(1,453)	(1,453)	(1,453)	(1,453)	(1,453)	(1,453)	(1,453)	(1,453)	(1,453)	(1,453)	(1,453)	(1,453)	(1,453)	(1,453)
Net (re)classification	1,666	1,666	1,666	1,666	1,666	1,666	1,666	1,666	1,666	1,666	1,666	1,666	1,666	1,666	1,666	1,666
Net Capitalization	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276
12/31/2007	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276

Period	3/31/2008	6/30/2008	9/30/2008	12/31/2008	3/31/2009	6/30/2009	9/30/2009	12/31/2009	3/31/2010	6/30/2010	9/30/2010	12/31/2010	3/31/2011	6/30/2011	9/30/2011	12/31/2011
Net Capitalization	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276
Provisions	3,799	3,799	3,799	3,799	3,799	3,799	3,799	3,799	3,799	3,799	3,799	3,799	3,799	3,799	3,799	3,799
Charge-offs	2,748	2,748	2,748	2,748	2,748	2,748	2,748	2,748	2,748	2,748	2,748	2,748	2,748	2,748	2,748	2,748
Loans reclassified	8,342	8,342	8,342	8,342	8,342	8,342	8,342	8,342	8,342	8,342	8,342	8,342	8,342	8,342	8,342	8,342
Net Provisions (charge-offs)	(1,453)	(1,453)	(1,453)	(1,453)	(1,453)	(1,453)	(1,453)	(1,453)	(1,453)	(1,453)	(1,453)	(1,453)	(1,453)	(1,453)	(1,453)	(1,453)
Net (re)classification	1,666	1,666	1,666	1,666	1,666	1,666	1,666	1,666	1,666	1,666	1,666	1,666	1,666	1,666	1,666	1,666
Net Capitalization	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276
12/31/2007	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276

Period	3/31/2008	6/30/2008	9/30/2008	12/31/2008	3/31/2009	6/30/2009	9/30/2009	12/31/2009	3/31/2010	6/30/2010	9/30/2010	12/31/2010	3/31/2011	6/30/2011	9/30/2011	12/31/2011
Net Capitalization	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276
Provisions	3,799	3,799	3,799	3,799	3,799	3,799	3,799	3,799	3,799	3,799	3,799	3,799	3,799	3,799	3,799	3,799
Charge-offs	2,748	2,748	2,748	2,748	2,748	2,748	2,748	2,748	2,748	2,748	2,748	2,748	2,748	2,748	2,748	2,748
Loans reclassified	8,342	8,342	8,342	8,342	8,342	8,342	8,342	8,342	8,342	8,342	8,342	8,342	8,342	8,342	8,342	8,342
Net Provisions (charge-offs)	(1,453)	(1,453)	(1,453)	(1,453)	(1,453)	(1,453)	(1,453)	(1,453)	(1,453)	(1,453)	(1,453)	(1,453)	(1,453)	(1,453)	(1,453)	(1,453)
Net (re)classification	1,666	1,666	1,666	1,666	1,666	1,666	1,666	1,666	1,666	1,666	1,666	1,666	1,666	1,666	1,666	1,666
Net Capitalization	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276
12/31/2007	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276	52,276

APPENDIX

Source: Company filings, Management presentation
 Note: Shading represents Tier 1 ratio lower than adequately capitalized ratio of 4.0% or Tier 2 ratio lower than adequately capitalized ratio of 6.0%. NEU's 4% of loan held constant every year. Assumes 0% deduction from Tier 1.
 * Assumes 100% transfer of management high credit forecast levels for all projected periods.
 † Projected NEU included by acquisition of ZK's net spread on a charge-off. Tier 2 equity includes referred stock of \$3.0M

Exhibit 13

*Deal Journal / Breaking Insight From WSJ.com The Wall Street Journal September 30, 2008
Tuesday*

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THE WALL STREET JOURNAL

The Wall Street Journal

September 30, 2008 Tuesday

SECTION: DEALS & DEAL MAKERS; Pg. C7

LENGTH: 498 words

HEADLINE: Deal Journal / Breaking Insight From WSJ.com

BYLINE: By **Heidi N. Moore**

BODY:

Ready, Waiting

For WaMu's Fall

FDIC Saw It Coming

And Warned J.P. Morgan;

'Wall-Crossing' Strategy

The fall of Washington Mutual wasn't a surprise to the government. Nor was it a surprise to J.P. Morgan.

Three weeks before J.P. Morgan bought WaMu's deposits for \$1.9 billion, officials at the Federal Deposit Insurance Corp. called J.P. Morgan to say the FDIC was carefully monitoring WaMu and that a seizure of its assets was likely. The FDIC said it would want to immediately auction off WaMu's assets if a seizure was necessary, people familiar with the situation told Deal Journal.

J.P. Morgan was well-prepared, then, when the FDIC asked for bids Tuesday, Sept. 23. On Wednesday night, the regulators told J.P. Morgan the bank had won the bidding, one person close to the situation said.

J.P. Morgan set about raising \$8 billion of capital without revealing to investors why it needed the money, or else face the FDIC's wrath and a major market disruption. So the bank chose a strategy that has become increasingly popular in these times of crisis: "wall-crossing."

Here's how it worked. J.P. Morgan picked 10 major financial firms that could help the bank raise money. All were U.S. asset managers, and several were already among the biggest J.P. Morgan shareholders.

Nine of the 10 investors J.P. Morgan invited said they were interested in hearing more. As soon as they agreed, they were asked to sign confidentiality agreements that would make them official J.P. Morgan insiders, which would mean they could not trade in the bank's stock. J.P. Morgan's chief executive, Jamie Dimon, along with Chief Financial Officer Mike Cavanagh and retail chief Charlie Scharf, triple-teamed to speak with the investors in half-hour conference calls that extended throughout the day Thursday. The investors were told the U.S. bank in question was J.P. Morgan itself, but none was told about WaMu.

By the end of the day, J.P. Morgan had raised \$7 billion from the nine investors. By 9:15 p.m., when J.P. Morgan held its public conference call to announce the deal, all seven investors were taken off the "insiders" list and no longer had any access to material nonpublic information about the bank. J.P. Morgan also planned to raise an additional \$1 billion in the capital markets Friday by opening the offering to anyone who wanted to participate.

Between 7 a.m. and 9:30 a.m. Friday, before the markets opened, J.P. Morgan pitched the offering to new investors, who clamored for \$2 billion of shares. A "greenshoe," or overallotment, added \$1.5 billion. The bank had gathered \$11.5 billion, \$3.5 billion of that in open-market shares at their Wednesday closing price of \$40.50, a 6.8% discount to the Thursday close of \$43.46.

Many investors, including J. Christopher Flowers and his old shop Goldman Sachs, are gearing up to bid for the masses of distressed bank assets expected to flood the markets in coming months.

Will J.P. Morgan be a buyer again?

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Exhibit 14

Alice Lin To: Brian A Bessey/IL/ONE@JPMCHASE
cc:
09/11/2008 Subject: West - Case 2(b)
07:01 PM

Below is a quick summary of the CPS structure:

- acquire assets and liabilities of West's thrift subsidiaries but leave behind senior and unsecured debt with the FDIC (\$15.2bn)
- issue Contingent Preferred Security (CPS) to the FDIC with a par amount equal to the par value of the o/s debt (\$15.2bn)
- CPS (Tier 1 qualifying) will be linked to West loan loss performance with a loss threshold of \$19bn. Par value of security will be reduced \$ for \$ by the amount of actual losses exceeding \$19bn
- reference portfolio is West's single family residential portfolio of \$187bn as of 3/31

Exhibit 15

SEPTEMBER 14, 2008

[DRAFT]

DISCUSSION MATERIALS

STRICTLY PRIVATE AND CONFIDENTIAL

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Potential transaction structure and terms

Potential Transaction Structure and Terms	
Structure	<ul style="list-style-type: none"> ■ Park acquires assets and liabilities (as detailed below) of West's thrift subsidiaries from Receiver
Consideration to holding company equity holders	<ul style="list-style-type: none"> ■ Park pays \$0.00 to Receiver ■ Receiver and Holding company retain value of assets in holding company excluding value of stock ownership in thrift subsidiaries¹
Assets & liabilities assumed	<ul style="list-style-type: none"> ■ Park assumes all WMB's ordinary course: <ul style="list-style-type: none"> ■ Assets (\$307.0bn) ■ Deposits (\$143.2bn insured and \$45.0bn uninsured) ■ Covered bonds (~\$8.4bn)² ■ Ordinary course liabilities ■ REIT preferred securities (\$3.9bn) are not assumed as they are thought to become liabilities of the holding company upon receivership or bankruptcy, increasing net asset value of lead thrift banks ■ Senior and unsecured debt left behind (\$14.1bn) remain with Receiver
Contingent Preferred Security	<ul style="list-style-type: none"> ■ Park will issue to Receiver a Contingent Preferred Security (CPS) linked to West loan loss performance with a par amount equal to the par value of the thrift senior and subordinated debt (\$14.1bn) ■ The form of this note will be redeemable at option of issuer, non-cumulative, perpetual preferred Tier 1 qualifying security, with a 5-year reference period <ul style="list-style-type: none"> ■ Tier 1 capital limited to Net Asset Value at close of \$8.2bn ■ Payment will be contingent upon credit performance of reference loans against a loss threshold of \$19.0bn, reflecting West management's estimation of losses <ul style="list-style-type: none"> ■ The par value of this security will be reduced dollar-for-dollar by the amount actual losses, as measured by Park, exceeding the \$19.0bn threshold

DISCUSSION MATERIALS

Note: Financial data as of June 30, 2008
 1 Includes zero make-whole payment to investors associated with \$7.2bn capital raise announced April 8, 2008
 2 Excludes \$1.6bn of covered bonds at June 30, 2008; Assumes \$1/E exchange rate of 1.401

1

Key transaction facts - Base case (Acquire West Bank and issue \$11bn CPS)

Capital structure and liquidity contribution			Financial ratios	
		(\$bn)		\$0.00
West TCE @ 4/08	Pre tax	\$13,826	Deal value without make whole	50
Credit related marks	(40,208)	(28,932)	Make-whole	0
Deductible	(33,149)	(21,892)	Deal value	50
Non-Deductible	(7,049)	(7,049)	Common equity value	14,830
PAA adjustments	6,512	4,311	Contingent preferred security	
- Conforming LCR		(1,973)	Total invested capital	\$14,830
- Restructuring charge		(323)	Total invested capital / '10 earnings contribution	2.4x
- Deferred tax asset		(2,455)	2010 Impact	
- Incremental TCE at West Bank		1,885	\$ per share (GAAP)	\$1.43
- REIT Preferred from West Bank		3,437	\$ m (GAAP)	\$,294
- CPS (Gross of identifiable intangible assets)		11,181	\$ per share (Cash)	\$1.55
- Gain related to negative goodwill (after tax)		0	\$ m (Cash)	\$,451
PI capital		3836	ROIC	66.3%
			2011 Impact	
			\$ per share (GAAP)	\$1.67
			\$ m (GAAP)	\$,900
			\$ per share (Cash)	\$1.78
			\$ m (Cash)	\$,384
			ROIC	73.7%
			IRR (E)	71.8%
Asset balances	RWA	Capital required ¹		
Equidrop ²	\$18,853	\$15,448		
Core ³	\$77,443	\$4,797		
	\$18,790	\$9,477		
Capital ratio ⁴		\$14,830		
'10 net income ⁵		\$5,714		
'11 net income ⁶		\$6,024		
'11 cumulative excess capital		\$25,095		

Note: For details on credit related marks, please refer to the appendix
¹ Assumes 15% Tier 1 ratio
² Liquidating portfolio consists of West's existing single family residential loans
³ Core assets: subprime and other existing loans, securities, non-earning assets and projected new loan migrations
⁴ Assumes 100% stock consideration and common equity raise

DISCUSSION MATERIALS
 2/25/11 2/21

Key transaction facts - Warrants case

Warranting and warrants corporation

		Pre-tax	Post-tax
West TCE @ 97.0%		\$13,826	
Credit related marks	(10,209)	(28,932)	
Deductible	(33,149)	(21,892)	
Non-Deductible	(7,040)	(7,040)	
PAA adjustments	6,532	4,311	
- conforming LLR		(1,979)	
- Restructuring charge		(222)	
- Deferred tax asset		(285)	
- Incremental TCE at West Bank		1,685	
- REIT Preferred from West Bank		3,917	
- CPS (Gross of identifiable intangible assets)		0	
- Gain related to negative goodwill (after-tax)		4,211	
PI capital			(\$3,760)
		Capital	
		RWA required ¹	
Asset balances	\$19,853	\$15,648	
Liquidity ²	\$7,443	\$4,197	
Cost ³	\$18,790	\$9,471	
Capital raise ⁴		\$19,630	
'10 net income ⁵		\$6,242	
'11 net income ⁶		\$6,512	
'11 cumulative excess capital		\$23,140	

Warranting corporation

	\$0.00
Deal value without make whole	\$0
Make whole	0
Deal value	\$0
Common equity raise	\$7,209
Warrant value	\$325
Total invested capital	\$19,830
Total invested capital / TD earnings contribution	2.1x
2010 Impact	
\$ per share (GAAP)	\$1.46
\$ mm (GAAP)	\$474
\$ per share (Cash)	\$1.45
\$ mm (Cash)	\$448
ROIC	38.4%
2011 Impact	
\$ per share (GAAP)	\$1.68
\$ mm (GAAP)	\$514
\$ per share (Cash)	\$1.68
\$ mm (Cash)	\$513
ROIC	41.6%
IRR (R)	51.7%

DISCUSSION MATERIALS

Note: For details on credit related marks, please refer to the appendices.
¹ Assumes 25 Tier 1 ratio.
² Liquidity portfolio consists of West's existing single family residential loans.
³ Core assets reflect all other existing loans, securities, non-earning assets and projected new loan originations.
⁴ Assumes 100% stock consideration and common equity raise.

1/15/2012/931

Capital issuance sensitivity - Base case

	Increase / (decrease) in capital ratio		
	Base case assumption	High case	Low case
Total Tier 1 ratio	\$14,830	\$39,247	\$11,332
Impact from:			
- Rate on DTA Tier 1 limitation	\$2,455	50	(\$2,455)
+/- COI tax	2,484	2,484	(2,484)
+ Deposit transfer	7,500	1,020	0
Non-deductibility of losses	0	0	0
\$5 Obv credit mark (after tax)	28,932	3,300	0
Total increase / (decrease) in capital ratio		\$4,784	(\$4,915)
Offsetting impact to R2 deduction		(\$2,017)	\$1,722

DISCUSSION MATERIALS

11/15/2023

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Capital issuance alternatives - Base case

	Scenario 1 common rate				Scenario 2 (core assets funded with common)			
	Part. Standalone	Wght.	Weighted	Cost of Debt	Part. Standalone	Wght.	Weighted	Cost of Debt
PPS	\$0	0	\$0	0	\$0	0	\$0	0
ERD	8,152	0	0	8,152	8,152	0	0	8,152
Preference preferred	0	0	0	0	0	0	0	0
Hybrid debt	0	0	0	0	0	0	0	0
CPS	0	0	11,981	11,981	0	0	11,981	11,981
Common	127,211	0	14,632	14,632	127,211	0	8,628	146,042
Total	\$135,363	0	\$26,632	\$178,197	\$135,363	0	\$20,611	\$178,197

	Day 1	12/31/2009			12/31/2010			12/31/2011		
		12/31/2009	12/31/2010	12/31/2011	12/31/2009	12/31/2010	12/31/2011	12/31/2009	12/31/2010	12/31/2011
Pre-Issue regulatory capital	97,260,000									
TCE (%)	4.4%	4.3%	4.2%	4.4%	4.7%	4.0%	3.9%	4.1%	4.4%	4.4%
Tier 1	8.3%	8.3%	8.4%	8.9%	9.1%	8.5%	8.4%	8.9%	9.1%	9.1%
Leverage	6.0%	6.1%	6.2%	6.4%	6.6%	6.1%	6.2%	6.4%	6.5%	6.5%
Total capital	12.2%	11.8%	12.2%	12.7%	12.5%	11.8%	12.1%	12.2%	12.4%	12.4%
Pre-Issue capacity										
15% Capacity	11,389	51,290	52,777	54,494	56,000	54,911	52,888	53,755		
25% Capacity	17,578	17,263	20,171	23,453	13,578	13,251	15,927	19,626		
Non-outstanding hybrid securities	1,348	0	0	0	0	0	0	0		
Hybrid and preferred / Tier 1	25.0%	30.4%	29.2%	27.1%	29.3%	29.5%	31.6%	29.1%		
Pre-Issue rating agency capital										
100% TCE	4.2%	4.0%	4.0%	4.2%	4.5%	3.7%	3.7%	3.9%	4.2%	4.2%
ATL (all-in)	7.9%	7.1%	7.4%	7.8%	8.2%	4.9%	7.2%	7.7%	8.1%	8.1%
15% Capacity	50	50	517	52,683	50	50	50	51,289		
25% Capacity	4,760	4,991	7,174	10,778	0	0	0	2,465		
30% Capacity	19,440	19,887	22,752	26,191	13,429	13,801	15,403	19,597		
Pre-Issue 100% TCE	7.7%	6.8%	6.8%	7.2%	7.5%	6.7%	6.7%	7.0%	7.4%	7.4%
Hybrid and preferred / TCE	11.0%	11.7%	11.5%	10.4%	9.5%	10.5%	10.2%	14.7%	13.4%	13.4%
Costs associated with the issue										
ERD	-	41.5%	33.9%	37.7%	-	40.2%	36.2%	39.7%		
PS	-	51.4%	51.5%	51.7%	-	51.3%	51.6%	51.9%		
PPS	71.8%	51.8%	44.1%	72.7%	47.8%	46.2%	41.0%	47.7%		
ROE	-	51.8%	44.1%	47.7%	-	46.2%	41.0%	47.7%		

Note: Assumes coupon of 10.0% on ERD. Preferred and PPS; CPS not considered as a core capital element; CPS not included in rating agency ratios.
 1 Pre-Issue includes hybrids above 15%
 2 First capital raise

DISCUSSION MATERIALS

12/14/2011

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Tax basis and loss deductibility - Base case

Discussion Point

	Base Case
Total pre-tax basis	\$41,224
1) Determination of book value	\$9,000
Unrealized gains of Hedco basis at 12/31/2008	(2,111)
Impact of 2008 spread of losses through 9/30/2008	5,000
Walt cash increase w/ bank equity reduction	1,485
Holding company preferred B bank excess capital	3,917
Bank local REIT preferred	(17,583)
Walt Bank tax basis 9/30	(17,583)
2) Net unrealized book losses (NULB)	\$17,583
Tax basis	0
Less: Fully taxable (purchase price)	(17,583)
NULB	(17,583)
3) 302 limitation	\$14,830
Liquidity capital ratio to target 0.08 Tier 1	0
Plan down of equity	(14,830)
Total capitalization of target	7,500
Dividend transfer	(22,230)
Subsidiary	(4,300)
Holding company (w/ a 4.63)	(11,227)
Available deductible losses	20
Taxes	(20,144)
Aggregate deductible loss	(20,144)
4) Tax-deductible BAs	\$0
A. Non deductible (NULB) minus NULB at C CORP	(17,583)
Additional non-deductible tax due to C-CORP income (20% - Base case)	(3,500)
Total non-deductible losses	(21,083)
B. Fully deductible net cash basis (Total basis of \$41,224 minus C of \$17,583 and A of \$21,083)	(16,401)
C. 20 year deduction (302 limitation)	(17,583)
Total deductible losses	(34,184)
Present value tax on 20 year deduction	\$6,624
Present value tax on fully deductible net cash basis	(2,832)
Total present value tax	(9,956)
5) Total DTA	\$34,184
Total Deductible Basis	34,088
34% tax rate	(11,629)
Total DTA	(11,629)

DISCUSSION MATERIALS

Note: Total pre-tax losses include marks on gains of \$40,209 and other marks of \$1,015
 * Only deductible after all non-deductible assets have been realized
 † Assumes 5.0% discount rate; Excess losses assumed to be realized in years 3 - 5

Purchase accounting adjustments and estimated goodwill - Base case

	Base case
• Deal value	\$0
Tangible book value (revalued)	\$13,826
- PEIT Preferred from West Bank	3,917
- Unsecured TCE at West Bank	1,685
- Unsecured debt left behind	14,080
- Credits (pre-tax)	(41,274)
- Taxes	(1,523)
- Credits (after-tax)	(29,402)
- Loan loss reserve (after-tax)	4,981
- Restructuring charge (after-tax)	(722)
Adjusted tangible book value (NAV)	\$8,166
Excess purchase price over NAV (pre-DTL adjustment)	(8,166)
Core deposit intangible created	(3,748)
- PE CR created	(800)
Other intangibles created	0
- DTL on identified intangible assets	1,353
- Preliminary goodwill created / (negative goodwill)	(\$11,781)
Implied intangible assets (pre-DTL adjustment)	(8,166)
Resulting core deposit intangible	(3,748)
Resulting PE CR	(800)
Resulting other intangible assets	0
Change in value of PPSF (after-tax)	0
Deferred tax liability	1,353
Goodwill	(\$11,781)
Extraordinary gain	\$0
Liability for contingent payment	\$11,181

DISCUSSION MATERIALS

2 P55612 2/24

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Accretion/(dilution) sensitivity to key drivers - Base case

Assumes \$1.00 per share paid EPS					
			(%)	(\$)	(\$mm)
Baseline 2011 EPS accretion / (dilution)					
GAAP			35.7%	\$1.67	\$5,990
Cash			37.1	1.78	6,384
2011 GAAP EPS impact of change in:					
	Change		Change in GAAP accretion / (dilution)		
	(\$)	(%)	(%)	(\$)	(\$mm)
Wesley 2011 pre-tax income	\$1,000	12.5%	3.9%	\$0.18	\$653
Park share price (\$)	1.00	2.4	0.3	0.02	54
Park's 2011 net income (\$0.28 2011 EPS)	1,000	8.0	(0.1)	(0.00)	(13)
Capital rate	5,000	33.7	(4.4)	(0.21)	(749)
Increase in pre-tax credit losses	5,000		(6.5)	(0.31)	(1,095)

Source: Company filings
 Note: Market data as of September 12, 2008

DISCUSSION MATERIALS

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8

Capital adequacy analysis- Base case

	Projected - 9/30/08		Transaction impact	Pro forma Pre-capital raise	Capital raise impact	Pro forma at close
	Park	West				
Tier 1 capital	8.33%	9.55%	(1.34%)	6.99%	1.64%	8.62%
Leverage	5.98	7.31	(0.96)	5.02	1.17	6.19
TCE / ARWA (Moody's)	7.25	7.22	(0.96)	6.29	0.64	6.93

Source: Company filings, FactSet, I/B/E/S, Equity research, Park and West estimates
 Note: Park pro forma for \$1.8bn issuance of DRD Preferred in August 2008

DISCUSSION MATERIALS

JPMorgan

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Multi-year earnings projections - Base case

	Pro forma combined GAAP					
	2008	2009	2010	2011	2012	2013
Part stand-alone net income	\$11,744	\$15,747	\$16,715	\$17,318	\$17,318	\$18,781
West contribution						
Pre-provision income	17,801	16,802	16,889	16,444	15,340	15,340
Provision expense	(3,715)	(2,394)	(2,902)	(2,511)	(2,235)	(2,235)
Expenses	(6,681)	(6,022)	(5,490)	(5,426)	(5,496)	(5,496)
Income before taxes	7,399	7,374	8,117	8,309	8,012	8,012
Taxes	(2,515)	(2,507)	(2,760)	(2,625)	(2,724)	(2,724)
West net operating income contribution	\$4,884	\$4,867	\$5,357	\$5,684	\$5,288	\$5,288
Pro forma operating income	\$16,667	\$20,636	\$22,072	\$22,020	\$22,020	\$24,049
Extraordinary gain/(loss) - net of non-financial asset reductions after tax	\$0	\$0	\$0	\$0	\$0	\$1,596
Pro forma adjusted income	\$16,667	\$20,636	\$22,072	\$22,020	\$22,020	\$25,645
Residential loan charge-offs						
	2008	2009	2010	2011	2012	2013
Part stand-alone net income	\$11,744	\$15,747	\$16,715	\$17,318	\$17,318	\$18,781
West contribution						
Pre-provision income	17,801	16,802	16,889	16,444	15,340	15,340
Provision expense	(3,715)	(2,394)	(2,902)	(2,511)	(2,235)	(2,235)
Expenses	(6,681)	(6,022)	(5,490)	(5,426)	(5,496)	(5,496)
Income before taxes	7,399	7,374	8,117	8,309	8,012	8,012
Taxes	(2,515)	(2,507)	(2,760)	(2,625)	(2,724)	(2,724)
West net operating income contribution	\$4,884	\$4,867	\$5,357	\$5,684	\$5,288	\$5,288
Pro forma operating income	\$16,667	\$20,636	\$22,072	\$22,020	\$22,020	\$24,049
Extraordinary gain/(loss) - after tax	\$0	\$15	\$143	\$747	\$0	\$0
Pro forma adjusted income	\$16,596	\$20,650	\$22,215	\$22,767	\$22,020	\$24,049
Residential loan charge-offs						
Annual	4,200	10,000	8,900	4,800	2,100	1,300
Cumulative charge-offs from 1/1/08		30,100	29,000	13,800	8,900	30,200
Adjusted EPS value	\$11.41	\$10.081	\$11.181	\$0	\$0	\$0
Non-financial assets (PCOL, CG, PREG, net of DT)	\$2,719	\$5,087	\$6,442	\$6,242	\$2,890	\$3,334

DISCUSSION MATERIALS

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West consolidated income statement - Base case

	Historical		2018 Budget		Park forecasts			
	2006YE	2007YE w/ mid-cycle	2008YE	2009YE	2010YE	2011YE	2012YE	2013YE
INCOME STATEMENT								
GAAP net interest income	\$8,121	\$8,177	\$9,000	-	-	-	-	-
Plus: Card securitization adjustment (for historical)	1,086	1,783	2,175	-	-	-	-	-
Managed net interest income	\$9,807	\$9,960	\$11,175	\$9,212	\$11,244	\$10,246	\$9,976	\$9,517
P&L adjustments	-	-	-	0	467	290	228	230
Reserve build	-	-	(6,471)	1,102	590	278	64	14
Net charge-offs	-	-	(10,388)	(4,620)	(3,983)	(3,140)	(2,575)	(2,244)
Provision for loan losses - GAAP	(\$818)	(\$3,104)	(\$12,900)	N/A	N/A	N/A	N/A	N/A
Plus: Card securitization adjustment (for historical)	(943)	(1,403)	(1,858)	-	-	-	-	-
Provision for loan losses - Managed	(\$1,761)	(\$4,507)	(\$14,758)	(\$19,859)	(\$3,719)	(\$3,141)	(\$2,511)	(\$2,230)
Net interest income after provisions (Managed)	\$8,046	\$5,453	(\$3,583)	(\$10,647)	\$8,007	\$7,105	\$7,465	\$7,287
Fee revenue	\$6,377	\$6,642	\$6,263	-	-	-	-	-
Plus: Card securitization adjustment (for historical)	(463)	(583)	(314)	-	-	-	-	-
Managed fee revenue	\$5,634	\$5,459	\$5,949	\$5,214	\$6,075	\$6,272	\$6,483	\$6,697
Direct expenses (incl. cost leases)	-	-	-	\$6,598	\$5,714	\$5,123	\$4,780	\$4,714
Indirect expenses (incl. cost leases)	-	-	-	2,208	910	910	910	910
Total expenses (incl. cost leases)	\$6,912	\$10,803	\$6,809	\$8,806	\$6,624	\$6,033	\$5,690	\$5,624
Income before taxes (Managed)	\$5,813	\$4,656	(\$1,860)	(\$3,592)	\$7,389	\$6,379	\$6,775	\$6,673
Less: Taxes	1,914	312	(2,014)	(5,347)	2,515	2,267	2,760	2,825
Operating net income (Managed)	\$2,999	\$4,344	(\$3,874)	(\$18,939)	\$4,874	\$4,112	\$4,015	\$3,848
Less: Preferred dividends	0	31	780	261	248	252	256	259
Plus: Income from discontinued operations	444	-	-	-	-	-	-	-
Operating net income avail. to common shareholders (Managed)	\$4,043	\$4,313	(\$4,654)	(\$19,199)	\$4,626	\$3,860	\$3,759	\$3,589

Source: Park estimate

DISCUSSION MATERIALS

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Base case accretion/(dilution) - Base case

	2009	2010	2011
Park GAAP earnings	\$11,764	\$15,769	\$16,715
West GAAP earnings	4,635	4,615	5,101
Cost of cash balances	(125)	(394)	(200)
Income from proceeds of equity raise	307	417	466
Savings on excluded hybrids	1,676	1,676	1,676
Pro forma contribution from West	\$5,894	\$5,714	\$6,624
Pro forma GAAP Net Income	\$17,451	\$22,427	\$23,182
Existing Park amortization	\$633	\$525	\$461
New amortization	494	452	406
Pro forma cash net income	\$18,312	\$22,471	\$23,606
Park fully diluted shares	2,576	2,576	2,576
Shares issued to West / capital raise	360	360	360
Share repurchases	(106)	(256)	(251)
Pro forma fully diluted shares	3,830	3,680	3,585
Stand alone Park GAAP EPS	\$3.29	\$4.41	\$4.67
Stand alone Park Cash EPS	\$3.47	\$4.56	\$4.80
Pro forma GAAP EPS	\$4.61	\$5.84	\$6.34
GAAP EPS accretion / (dilution) (\$)	\$1.32	\$1.43	\$1.67
GAAP EPS accretion / (dilution) (%)	40.7%	32.4%	36.2%
GAAP EPS accretion / (dilution) (\$mm)	\$5,258	\$5,254	\$5,980
Pro forma cash EPS	\$4.90	\$6.11	\$6.58
Cash EPS accretion / (dilution) (\$)	\$1.44	\$1.55	\$1.78
Cash EPS accretion / (dilution) (%)	41.8%	33.9%	37.1%
Cash EPS accretion / (dilution) (\$mm)	\$5,707	\$5,691	\$6,364
Projected stock price (11.2x multiple)	\$64.72	\$69.77	\$73.96

DISCUSSION MATERIALS

12/12/2010 Note: Market data as of September 12, 2008; Cost synergies and amortization of intangible assets incorporated in West earnings

IRR and ROIC - Base case

	2008	2009	2010	2011	2012	2013	2014
Purchase price	\$0						
Capital raise / release	(14,830)	1,902	1,198	557	719	369	
DTA release		2,455	0	0	0	0	
Cash net income		6,388	6,167	6,429	6,315	5,885	5,885
Terminal value						51,980	
Incremental cash flow	(\$14,830)	10,744	7,365	6,986	7,034	58,233	
Internal rate of return	71.8%						

	2008	2009	2010	2011
Invested capital for acquisition				
Purchase price	\$0	\$0	\$0	\$0
Capital raise	14,830	14,830	14,830	14,830
DTA release (cumulative)	0	(2,455)	(2,455)	(2,455)
Capital raise (cumulative)	0	(1,902)	(3,899)	(3,656)
Invested capital	\$14,830	\$10,474	\$9,277	\$8,720
Return				
Cash net income		6,388	6,167	6,429
ROIC (%)		61.0%	66.5%	73.7%

Source: West Transaction
 * Assumes 10.0x exit multiple on all earnings except earnings from liquidating portfolio; assumes 5.0x exit multiple on earnings from liquidating portfolio; Assumes cash adjustments and financing costs in 2011 are held constant from 2012 to 2014.

Figure 931

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Capital need - liquidating and core portfolio

Capital need for liquidating portfolio - 2008 - 2012										
	QE		FMV adj. ¹		Adj. balance	QE		QE		QE
\$ in millions	Mar-08	Dec-08	Q4	Q4	@ close	Dec-09	Dec-10	Dec-11	Dec-12	Dec-13
Total core loans and assets ²	\$144,977	\$151,548	(\$1,194)	(0.8%)	\$150,354	\$138,881	\$131,626	\$127,354	\$134,565	\$146,800
Liquidating home loans:										
Option ARMs	\$55,835	\$47,148	(\$12,977)	(23.0%)	\$34,172	\$26,579	\$19,466	\$14,526	\$11,506	\$9,146
Other ARMs	8,351	7,064	(918)	(11.0%)	6,146	4,599	3,465	2,632	2,004	1,528
Medium-term adjustable rate loans	33,833	26,911	(\$3,259)	(12.1%)	23,452	17,541	13,114	9,914	7,520	5,713
Fixed rate loans ³	4,974	3,904	(\$87)	(1.5%)	3,317	2,445	2,126	1,729	1,411	1,155
Home equity loans and lines of credit ⁴	56,756	45,613	(\$15,447)	(27.1%)	30,166	21,849	15,441	11,639	8,267	6,341
New originations - fixed rate	1,293	6,891	0	0.0%	6,891	13,508	12,124	10,078	8,357	6,870
New originations - HELOCs	374	2,366	0	0.0%	2,666	5,213	8,594	13,508	17,757	21,184
Subprime home loans	15,153	12,409	(\$5,408)	(35.4%)	7,255	5,810	4,679	4,011	3,598	3,195
Subprime HE loans and lines	2,278	1,610	(\$1,124)	(69.8%)	486	376	225	135	84	54
Total liquidating loans	\$175,211	\$154,268	(\$20,714)	(11.9%)	\$148,252	\$98,120	\$79,032	\$67,543	\$40,525	\$55,187
Total assets	\$324,295	\$305,815	(\$40,908)	(12.6%)	\$264,906	\$237,001	\$210,659	\$194,896	\$195,040	\$201,986
FWB										
Total core loans and assets	\$109,280	\$121,079	(\$2,689)	(2.2%)	\$118,390	\$106,400	\$103,227	\$102,048	\$96,647	\$93,240
Total liquidating loans	126,929	108,308	(\$3,845)	(3.0%)	77,452	65,698	53,885	48,603	45,125	42,981
Total assets	236,209	229,387	(\$1,078)	(0.5%)	195,838	172,098	157,112	150,151	141,167	136,261
Capital need @ BIA										
Core portfolio	\$8,742	\$9,086	-	-	\$5,471	\$8,512	\$8,248	\$8,114	\$7,683	\$7,486
Liquidating portfolio	19,154	8,965	-	-	6,197	5,256	4,311	3,848	3,090	3,438
Total capital need for assets ⁴	18,897	18,351	-	-	15,668	13,767	12,569	12,012	11,293	10,925

¹ Core loans and assets include cash & cash equivalents, securities, loans held for sale, construction loans, commercial RE loans, credit card loans, investments in FHEBs, MREs, Goodwill & intangibles, and other assets

² Liquidating home equity loans and lines of credit exclude new originations

³ FMV reflects full mark to market of loans and no carry over of existing reserves (SFAS 141 treatment)

⁴ Excludes mark-to-market

DISCUSSION MATERIALS

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Assumptions - Base case

Assumptions

Closing:	9/30/2008
Earnings on capital raise (pre-tax):	Based on forward Fed Funds curve
Shares issued to West (mm):	0 mm
Shares issued for make-whole (mm):	0 mm
Shares issued for capital raise (mm):	36.0 mm
Park tax rate:	35.0%
West tax rate:	34.0%

Pro forma net income not adjusted for potential impact of neutralizing duration and convexity risk

Company assumptions

Year ended December 31	2008	2009E	2010E
Park (\$41.17)			
GAAP EPS	\$2.25	\$3.29	\$4.41
Cash EPS	\$2.48	\$3.47	\$4.56
Avg. Diluted share count (mm)	1,550	1,576	1,576
Net income (\$mm)	\$7,987	\$11,704	\$15,769
LTV (\$)			6.08
West (\$2.73)			
GAAP EPS	(\$5.29)	\$2.68	\$2.49
Cash EPS	(\$5.25)	\$2.71	\$2.47
Avg. Diluted share count (mm)	1,730	1,727	1,883
Memo: New shares issued during capital raise	823	823	823
Net income (\$mm)	(\$9,156)	\$4,635	\$4,615
Avg. Fed Funds (pre-tax)	2.41%	3.18%	4.32%

Note: Market data as of September 12, 2008. Assumes 11B/EFS estimates for Park, and management estimates for West.

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Draft Contingent Preferred Security (CPS) term sheet

[DRAFT]

Contingent Preferred Security (CPS) Term Sheet

Issuer:	JPMorgan Chase & Co.
Security:	1,320,000 Shares of JPMorgan Chase & Co. Non-Cumulative Contingent Preferred Stock, Series G
Yield:	1,320,000 Shares
Liquidation Preference:	\$10,000 per share of Preferred Stock reduced pro rata dollar for dollar by the actual value (measured on Reference Portfolio by either Market or JPMorgan Chase & Co.) from January 1, 2009 through December 31, 2013, or ending (\$19,000,000,000), with a maximum aggregate adjustment equal to the Aggregate Per Amount
Aggregate Per Amount:	\$15,200,000,000
Maturity:	Perpetual
Day Count:	30/360
Settlement Date:	January 7, 2009
Dividend Rate (Non-Cumulative):	8.00% on the Aggregate Liquidation Preference (subject to terms of the Adjustment Mechanism described herein)
Dividend Stopper:	Unless to cash has been declared and set aside for payment of dividends on Preferred Stock for the most recently completed dividend period, we will not: (i) declare or make any dividend payment or distribution on the junior ranking stock, other than a dividend paid in junior ranking stock, or (ii) redeem, purchase, repurchase or repurchase or repurchase money for a sinking fund for the redemption of any junior or equity ranking stock, in each case to the extent required or authorized for junior ranking stock
Dividend Payment Date:	Beginning January 30, 2009, each April 30 and October 30 until January 30, 2013 and thereafter, in each case if declared by issuer's board of directors or duly authorized board committee
Adjustment Date:	January 1, 2014
Adjustment Mechanism:	Liquidation Preference will be reduced pro rata dollar for dollar by the actual aggregate value (measured on Reference Portfolio by either Market or JPMorgan Chase & Co.) from January 1, 2009 through December 31, 2013, or ending \$19,000,000,000, with a maximum aggregate adjustment equal to the Aggregate Per Amount, to be determined at issuer's sole discretion
Optional Redemption:	in whole or in part on any Dividend Payment Date on or after April 30, 2014 for 100% of the Liquidation Preference (subject to terms of Adjustment Mechanism described herein)
Voting Rights:	The Preferred Stock will have no voting rights insofar as required by law
Ranking:	The Preferred Stock will rank, as to payment of dividends and distribution of assets upon our liquidation, dissolution, or winding up, senior to the series of junior ranking stock equal to the Preferred Stock, senior to any series of preferred stock ranking junior to the Preferred Stock and our common stock and pari passu to JPMorgan Preferred Stock, Series I
Reference Portfolio:	\$18,000,000 West single family residential portfolio as of March 31, 2008

DISCUSSION MATERIALS

JPM54122311

Draft warrants description and terms

Description of Warrants	
Objective:	Have a broader hedge against Park downside than performance of West portfolio. Achieved via setting a warrant struck at a stock price only consistent with Park exceeding PF EPS estimates. (both West and Park must hit earnings estimates)
Transaction:	Park Issues to the Receiver warrants
Maximum payout:	[par value of \$14.1bn / \$8 per warrant] [par plus accrued interest @ 8% of \$17.8bn]
Expiration date:	[January 2012]
Amount of warrants:	[1,750]
Lower strike price:	[\$8 (12x PF GAAP EPS)]
Upper strike:	[\$91 (we share 50% of upside in JPM's estimated mkt cap based on 3.5bn shares between \$83 - \$91)]
Max shares issuable:	[154mm]
Settlement:	Gross physical or net share at JPM's option
Reference price:	Average of JPM's shares over the [20] trading days in January 2012
Estimated value:	[\$1.10 per warrant or \$1.925mm]
Accounting considerations:	Warrant value increases tangible common equity - Triggers negative goodwill rules which limits gain by writing down PPE and other non-financial assets before recording a gain

DISCUSSION MATERIALS

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Tax basis and loss deductibility - Warrants case

Assumptions

	Base case
Total gross basis	

1) Determination of basis - 9/30	
Original estimate of HUBB's basis at 12/31/2008	59,200
Impact of JDSB's post-2008 losses through 9/30/2009	(2,719)
Went Capital's loan loss/bank equity infusion	1,020
Holding company's purchase of bank's excess capital	1,443
Bank loan REIT's purchase	3,917
Went Bank tax basis 9/30	61,951
2) Net unrealized debt in loss (NULB)	
Tax basis	517,562
Less: Equity value (purchase price)	0
NULB	(517,562)
3) 362 limitation	
Estimated capex rate to target BDE Tier 1	\$19.6M
Push down of capex	0
Tax credit limitation of target	\$19.6M
Deposit transfer	7,500
Subtotal	\$27,100
IPS (credit rate 2.4%)	4.4%
Annual tax deductible loss	\$1,240
Years	20
Aggregate deductible credit	\$24,940
4) Loss deductibility	
A. Non-deductible (NULB) minus aggregate credit	50
Add back from deductible loss due to COO income (50% Base case)	7,040
Total non-deductible basis	\$7,090
B. Fully deductible excess basis (Total loss of \$41,244 minus C of \$17,562 and A of \$7,090)	\$16,592
C. 20 year deduction (82% base case)	\$7,563
Total deductible basis	\$24,155
Present value loss on 20 year deduction	\$6,624
Present value loss on fully deductible excess basis	2,932
Total present value loss	\$9,556
5) Total DTA	-----
Total Deductible basis	\$24,155
Net tax gain	\$4,008
Gross DTA	\$10,553

DISCUSSION MATERIALS

1. Only deductible after all non-deductible losses have been realized.
 2. Assumes 5.0% discount rate. Excess losses assumed to be realized in years 3 - 5.

**Purchase accounting adjustments and estimated goodwill -
Warrants case**

Estimated Goodwill

	Base case
• Debt value	50
Tangible book value (unrestricted)	513,876
- REIT Preferred from West Bank	3,917
- Incremental TCE at West Bank	1,485
- Unsecured debt left behind	14,080
Credit memo (pre-tax)	(41,224)
Taxes	11,423
- Credit memo (after-tax)	(29,802)
- Loan loss reserve (after-tax)	4,981
- Restructuring charge (after-tax)	(722)
Adjusted tangible book value (NAV)	56,166
Excess purchase price over NAV (pre-DTL adjustment)	(58,166)
Core deposit intangible created	(3,749)
- PCR created	(809)
Other intangibles created	0
• DTL on identified intangible assets	1,353
Preliminary goodwill created / (negative goodwill)	(\$1,191)
Implied intangible assets (pre-DTL adjustment)	(58,166)
Resulting core deposit intangible	0
Resulting PCR	0
Resulting other intangible assets	0
Change in value of PP&F (after-tax)	1,785
Deferred tax liability	0
Goodwill	(56,381)
Extraordinary gain	56,381
Liability for contingent payment	50

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JPMorgan

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PAA adjustments and DTA

PAA adjustments

(\$mm)	Pre-tax	After-tax
Trading account securities	(180)	(119)
AFS Securities	(1,000)	(622)
Other assets	690	449
Deposits	(114)	(75)
FHLB Borrowings	(242)	(173)
Other borrowings	61	40
Loan loss reserve	7,547	4,981
Total PAA adjustments	\$6,832	\$4,311

DTA schedule

(\$mm)	West	Park	Total
NTM pre-tax pre-provision earnings	\$11,117	\$37,790	\$48,907
Less: NTM NCOs	(6,800)	(13,925)	(18,745)
Taxable income less NCOs	\$6,297	\$23,865	\$30,162
Tax effect	2,204	8,353	10,557
Deferred tax assets	-	-	\$13,011
Less: Tax effect	-	-	(10,557)
Deduction from Tier 1 capital			\$2,468

APPENDIX

12/31/2020

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Open issues

- Accounting and capital around the debt extinguishment / contingent security
 - We currently estimate \$8.4bn of West TCE post all marks AND the extinguishment of the debt; Unlikely that we would get capital credit for a note in excess of the \$8.4bn NAV (i.e. NAV is the equivalent of the cash you would be getting from investors in a regular way offering - i.e. we assume regulators won't give capital credit in excess of this number); This is reducing the capital credit from the CPS by -\$3.0bn
 - If and when the contingency is resolved, it doesn't automatically become a pre-tax gain; We first have to write off any non-financial assets (e.g. the \$2.7bn of PPE); we will have this modeled out; We are settling the CPS in preferred so our Tier 1 will still be neutral to up if there is a gain
- Warrants vs. CPS
 - Decks will have the math on this; January 2012 warrants struck at -\$83.00 - a price we would only hit if we met our pro forma EPS estimate - are compelling as we get downside protection on much more than the West portfolio; Accounting in part good in that we get APIC upfront for the warrant value and treasury stock method with no MTM in the interim; Downside to the accounting is that the delta between the warrant fair value and the negative goodwill we would book as an extraordinary gain is first reduced by the value of any non-financial assets (e.g. the \$2.7bn of PPE)
 - In addition to the \$8.4bn cap on Tier 1 credit we can likely get from any instrument (per above assumed WEST NAV post closing marks) we would need to request from the regulators that we get Tier 1 credit for PPE and other assets whose FMV was ascertainable but was written off due to the negative goodwill rules
- Other issues
 - We are currently calculating the DTA capacity the pro forma firm would have under the 12 month earnings test - this would perhaps be more accurately done by the tax / finance groups; Do not believe anyone is doing the calculation today
 - The deck has a "task list" page; In addition to the analysis do we want to prepare shell board / rating agency decks? May benefit from the thoughtfulness we can give them now vs. in a fire drill later; Also, regarding the analysis, it has been 6 months since we went through the operating model in detail as a team; Do we want to schedule some time with the LOBs and CIO to go through them and vet / refresh on the assumptions?

APPENDIX

1:PS60rg333

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West task list

- Critical analysis
 - Capital impact
 - Loss / PAA estimate (loans and securities)
 - Treatment of CPS (upfront and resolution)
 - Capital raise assumptions (form and size)
 - Tax assumptions
 - High / low case w/critical drivers
 - Earnings / ROI impact to JPM
 - Operating / synergy model
- Legal / structuring
 - Purchase contract with FDIC
 - Unusual terms/issues vs. public/private deal
 - CPS
 - Draft indenture
 - Approval for capital treatment
 - DTA relief from Fed
 - Tax plan
- Board process
 - Materials
 - Approval
 - Brief in anticipation
 - Fairness opinion
- Communications
 - IR call / deck
 - Rating agencies
 - Employees / customers
- Timing Issues
 - Closing close to a qtr or month end
 - Pro forma requirements for capital raise
- Due diligence
 - Critical due diligence items by LOB/ staff
- Day zero operating plan

Accounting for an acquisition of a business - resulting in a negative goodwill situation

- Determine acquisition purchase price¹
- Determine fair value of net assets acquired - including identifiable intangible assets acquired
- Determine preliminary negative goodwill amount
 - Difference between fair value of net assets acquired less purchase price
- Verify that amounts assigned to net assets acquired are complete and correct
- If Contingent Consideration is contemplated in a business combination that results in preliminary negative goodwill:
 - If the form of the contingent consideration is not a financial instrument that is transferable, record as a liability the lesser of:
 - The amount of the preliminary negative goodwill, or
 - The maximum amount of the contingent consideration. Maximum amount includes both principal and interest.
- If a negative goodwill amount exists after establishing the liability for the contingent consideration:
 - Reduce non-financial, non-current assets to zero
 - Intangible assets not subsequently accounted for at fair value, property plant and equipment
 - Note - if value assigned to non-financial, non-current assets is greater than the amount of preliminary negative goodwill, then reduction is performed pro-rata
 - If a negative goodwill amount still exists after the reduction of non-financial, non-current assets, record an extraordinary gain in the P&L
- Note - subsequent accounting when contingency is resolved:
 - When the contingency is resolved and the consideration is transferable and a negative goodwill condition still exists, then reduce remaining acquired non-financial, non-current assets to zero; recognize any remaining negative goodwill as an extraordinary gain

- Determine acquisition purchase price¹
- Determine fair value of net assets acquired - including identifiable intangible assets acquired, any contingent consideration and pre-acquisition contingencies, if applicable²
- Determine preliminary negative goodwill amount
 - Difference between fair value of net assets acquired less purchase price
- Verify that amounts assigned to net assets acquired are complete and correct
- If Contingent Consideration is contemplated in a business combination that results in preliminary negative goodwill:
 - Include an estimate of the fair value of the contingent consideration when determining the fair value of the net assets acquired. Subsequent changes in fair value are recorded through earnings
- If a negative goodwill amount exists after establishing the liability for the contingent consideration:
 - No Reduction of acquired non-financial, non-current assets
 - Rationale is that if assets are acquired by the Acquirer, then assets should be reflected on balance sheet at fair value
 - Need to give more thought to general question of intangible valuation in these marked condition
 - Record gain in operating earnings (i.e., ordinary gain)
- Note - subsequent accounting when contingency is resolved:
 - No additional steps to purchase accounting required. Subsequent changes to liability flow through earnings

A B C D E X

¹ The value assigned to the purchase price will be different (SFAS 141 vs. SFAS 141R) if shares are issued to effect the business combination (i.e., announcement date versus closing date)

² Assumes that no existing equity interest is held by Park in the acquiring entity. If yes, then up on existing interest included in part of overall gain

³ There will be differences in amounts assigned to the fair value of net assets acquired under SFAS 141 vs. SFAS 141R (e.g., assigning values to noncash impaired loans will be different under SFAS 141 vs. SFAS 141R)

West asset composition and fair market adjustments

Total Assets and RWA Adjusting Items

Portfolio	Nominal assets				RWA		
	Balance as of		Fair market	Adj balance @	Adj balance @		
	12/31/07	12/31/08	value	close	12/31/08	12/31/08	
			adjustment	Carrying value			
Cash and cash equivalents	\$11,437	\$6,399	\$0	\$6,399	100.0%	\$375	\$375
Trading securities	2,748	887	(88)	707	79.7	887	707
Investment securities	8,291	24,947	(1,200)	23,747	95.7	14,948	14,248
Mortgage-backed securities	19,249	0	0	0	0	0	0
Loans held for sale	5,403	4,737	0	4,737	100.0	4,737	4,737
Loans held for investment							
Other ABLs	\$58,870	\$47,348	(\$12,977)	\$34,371	72.9%	\$23,574	\$17,086
Other ABLs	4,951	7,044	(918)	6,126	87.0	3,570	3,073
Medium Term ABLs	36,507	26,911	(1,259)	25,652	87.8	13,456	11,826
Fixed Rate Mortgages	5,440	10,795	(687)	10,208	94.6	5,398	5,104
HE Loans B/Lines	60,963	48,279	(15,447)	32,833	68.0	48,279	32,833
Subprime Loans	16,093	12,459	(5,403)	7,055	56.6	12,459	7,055
Subprime HE	2,725	1,630	(1,124)	486	30.2	1,630	486
Business Banking	1,404	1,404	241	1,800	96.3	1,404	1,404
Home Construction	2,226	1,484	0	1,484	100.0	1,484	1,484
Multi-Family	30,507	8,151	0	8,151	100.0	15,290	14,751
Other Commercial RI	10,974	9,615	0	9,615	100.0	9,615	9,615
Credit Card	9,304	27,340	(475)	26,865	98.3	27,340	26,865
Other	0	0	0	0	0	0	0
Total loans held in portfolio	\$244,380	\$224,610	(\$40,209)	\$184,401	82.1%	\$163,401	\$133,059
Investment in Federal Home Loan Banks	\$3,351	\$3,377	\$0	\$3,377	100.0%	\$475	\$475
Mortgage servicing rights	4,278	6,136	0	6,136	100.0	5,523	5,523
Goodwill	7,287	7,310	0	0	0.0	0	0
Core deposit intangible	63	29	0	3,748	-	0	0
PCER	371	252	0	252	-	252	252
Other intangibles	4	0	0	0	-	0	0
Other intangibles	0	11,623	0	11,623	-	11,623	11,623
Other assets	21,644	24,471	680	25,151	100.8	24,471	25,151
Memo: Fed funds purchased		12,376	0	12,376	-	2,475	2,475
Total assets	\$330,684	\$314,778	(\$40,909)	\$270,869	86.0%	\$229,887	\$198,348
Allowance for loan losses	(\$2,671)	(\$8,943)	\$7,647	(\$3,786)	-	\$0	\$0
Total (incl. LL)	\$327,913	\$305,835	(\$33,362)	\$267,083		\$229,887	\$198,348

* 100% risk weighting applied to 90% of MSR balance; 10% is straight deduction from "net"
 * Adjusted RWA of \$195,452 after asset class of 22,350 (\$10,200 nominal with 24.4% assumed risk-weighting)

West consolidated balance sheet

	Historical		2008 Budget		Plan forecasts			
	2006/2	2007/1	2007/1 w/ mid-year	2007/2	2007/2	2007/2	2007/2	2007/2
Assets								
Cash and cash equivalents	\$6,948	\$9,540	\$4,336	\$4,322	\$4,322	\$4,322	\$4,322	\$4,322
Funds sold and receivables	3,743	1,877	-	1,877	1,877	1,877	1,877	1,877
MS securities	24,978	27,940	33,703	25,834	15,244	15,244	15,244	15,244
Loan held for sale	44,870	5,403	6,645	4,737	2,071	2,878	3,054	3,242
Loan held in portfolio	224,762	244,386	232,158	224,410	164,204	142,028	130,474	122,223
Allowance for loan and lease losses	(14,857)	(12,571)	(7,950)	(3,794)	(3,702)	(3,113)	(2,874)	(2,810)
Investment in Federal Home Loan Banks	2,705	3,351	-	3,377	3,395	3,395	3,395	3,395
Mortgage servicing rights	6,193	6,278	6,149	6,136	5,413	4,919	4,360	4,301
Goodwill	6,050	7,287	7,287	7,330	7,330	7,330	7,330	7,330
Core deposit intangible	139	63	18	18	2,309	2,247	1,748	1,311
PCCB	404	321	248	252	705	501	484	395
Deferred tax assets	23,828	24,418	22,383	24,471	24,234	22,439	22,159	21,745
Other assets	-	-	-	11,623	8,717	3,811	2,924	0
Total assets	\$346,388	\$327,913	\$305,232	\$310,941	\$277,001	\$210,686	\$194,256	\$195,090
Liabilities & Equity								
Total deposits	\$213,954	\$181,928	\$197,855	\$173,549	\$133,250	\$136,805	\$143,793	\$145,152
Federal funds purchased and CP	4,778	2,003	-	(12,374)	(21,045)	(41,700)	(35,332)	(44,404)
Securities sold under agreements to repurchase	11,953	4,148	-	4,148	4,148	4,148	4,148	4,148
Securitization	-	-	-	13,464	10,011	8,049	8,744	4,622
NEW long-term debt	-	-	-	0	0	0	0	0
Advances from Federal Home Loan Banks	44,797	63,852	-	40,803	31,995	24,740	20,242	11,449
Other borrowings	32,852	38,958	75,231	37,197	30,047	31,729	28,895	22,558
Other liabilities	8,127	7,340	8,052	8,840	7,803	7,803	7,303	7,303
Deferred tax liabilities	449	1,383	-	1,821	2,995	2,148	2,362	2,179
Minority interests	2,448	2,419	3,517	3,517	3,517	3,417	3,417	3,517
Total liabilities	\$316,319	\$303,328	\$285,155	\$289,481	\$207,821	\$177,340	\$157,083	\$152,586
Preferred stock	5,442	5,192	5,392	5,392	5,392	5,392	5,392	5,392
Common stock	24,477	21,192	17,191	18,108	22,743	27,308	32,460	37,405
Total equity	\$24,641	\$24,394	\$20,085	\$21,352	\$26,155	\$16,950	\$19,823	\$27,107
Total liabilities & equity	\$346,388	\$327,913	\$308,730	\$310,941	\$233,976	\$200,091	\$194,256	\$195,090
Memo: Increase in intangibles	-	-	-	3,244	2,548	1,961	1,427	962
Memo: Total liabilities & equity (Plus intangibles increases)	-	-	-	\$237,001	\$210,686	\$194,256	\$195,090	\$201,986

Source: Park estimate

APPENDIX

WESTCONSOLIDATED

Net income by LOB per year

	Part A (in millions)				
	2008	2009	2010	2011	2012
Operating Income Before Tax, Interest and Provision					
Net Earnings	\$1,170	\$1,295	\$1,812	\$2,266	\$2,600
HE - Existing portfolio	(8,274)	3,284	2,493	1,992	1,909
Academy Bank/home Lending	82	37	118	138	141
New mortgage portfolio - 2008	10	80	46	46	42
New mortgage portfolio - 2009 and beyond	0	(72)	100	117	148
Crack Card	(41)	(14)	124	273	354
Commercial	7	503	309	364	369
Treasury	(1,552)	(1,361)	(1,442)	(1,096)	(872)
Investment portfolio	1,135	364	864	864	864
Other	0	(87)	(213)	(205)	(205)
Income tax temporary adjustments	(81)	473	604	470	384
Consolidated Total	\$1,899	\$4,381	\$4,867	\$5,790	\$5,948
Operating Income After Tax, Interest and Provision					
Net Earnings	\$18,766	\$15,247	\$12,417	\$12,764	\$14,542
HE - Existing portfolio	0	0	0	0	0
Academy Bank/home Lending	4,274	5,312	4,991	4,807	4,328
New mortgage portfolio - 2008	0	0	0	0	0
New mortgage portfolio - 2009 and beyond	0	0	0	0	0
Crack Card	0	0	0	0	0
Commercial	7,111	3,463	4,063	4,461	4,978
Treasury	15,285	9,209	5,654	3,788	1,311
Investment portfolio	0	0	0	0	0
Other	0	0	0	0	0
Income tax temporary adjustments	0	0	0	0	0
Consolidated Total	\$173,549	\$133,290	\$136,405	\$140,783	\$145,112
Other Income - Average balances for historical periods					
Net Earnings	\$1,225	\$1,183	\$1,411	\$2,293	\$2,742
HE - Existing portfolio	14,482	29,248	57,863	43,747	34,800
Academy Bank/home Lending	0	0	0	0	0
New mortgage portfolio - 2008	9,268	8,129	7,701	6,107	3,604
New mortgage portfolio - 2009 and beyond	0	7,548	13,132	17,211	20,415
Crack Card (managed bank)	20,448	22,242	19,484	18,444	16,740
Commercial	39,419	39,423	39,424	39,424	39,423
Treasury	0	0	0	0	0
Investment portfolio	0	0	0	0	0
Other	0	0	0	0	0
Income tax temporary adjustments	(804)	0	0	0	0
Consolidated Total	\$20,825	\$140,862	\$138,925	\$127,600	\$119,411

APPENDIX

2012-2013

NIAT by line of business

	2008										Total	
	Real Estate					Corporate						
	So. Cal.	FL	East	Mid	West	Banking	Securities	Commodity	Insurance	Other	FDI	Temporary
	RE	RE	RE	RE	RE	RE	RE	RE	RE	RE	RE	RE
Interest income on FTD	4,508	0	203	0	0	0	0	0	0	0	0	0
Interest expense	(4,844)	0	0	0	0	0	0	0	0	0	0	0
Interest expense on FTD	(78)	\$ 291	(32)	0	0	0	0	0	0	0	0	0
Net interest income	\$2,626	\$2,911	(149)	\$136	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Revenue build	(80)	(36,364)	0	0	0	(1,663)	(5,008)	0	0	0	0	(514)
Net charge-offs	(184)	(9,332)	0	(1)	0	(2,389)	(7)	0	0	0	0	(10,288)
Provision for loan losses	(2,241)	(5,154)	0	(3)	0	(4,171)	(5,008)	0	0	0	0	(19,295)
Net interest income after provisions	\$2,221	\$1,244	\$149	\$138	\$0	\$1,632	\$226	\$0	\$0	\$0	\$0	\$10,486
Fee income	\$2,441	\$17	\$777	\$2	\$0	\$1,411	\$41	\$0	\$120	\$0	\$0	\$144
Net non-fee income	0	0	\$468	0	0	0	0	0	0	0	0	0
Other income	0	\$46	0	\$40	0	(48)	0	0	0	0	0	(89)
Total net revenue	\$2,441	\$132	\$1,285	\$42	\$0	\$1,632	\$41	\$0	\$120	\$0	\$0	\$10,591
DEBIT EXPENSES:												
GA amortization	\$4	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$4
FCID amortization	0	0	0	0	0	0	0	0	0	0	0	0
Other	2,542	302	1,020	46	0	1,746	299	0	0	0	0	(20)
Total direct expenses	\$2,546	\$302	\$1,020	\$46	\$0	\$1,746	\$299	\$0	\$0	\$0	\$0	(\$20)
Indirect expenses	\$84	0	\$9	0	0	0	\$1	0	0	0	0	\$94
Total expenses	\$2,630	\$302	\$1,029	\$46	\$0	\$1,746	\$300	\$0	\$0	\$0	\$0	\$94
Total expenses after credit losses	\$2,630	\$302	\$1,029	\$46	\$0	\$1,746	\$300	\$0	\$0	\$0	\$0	\$94
Income before taxes	\$1,271	\$(170)	\$128	\$115	\$0	\$(114)	\$11	\$(120)	\$120	\$0	\$(120)	\$(144)
Taxes	(40)	(9,363)	(4)	0	0	(23)	(4)	(174)	0	0	0	(9,544)
Operating net income	\$1,131	\$(9,533)	\$124	\$115	\$0	\$(137)	\$(7)	\$(294)	\$120	\$0	\$(120)	\$(1,588)
Total foreign expenses	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total foreign expenses (included in direct expenses)	0	0	0	0	0	0	0	0	0	0	0	0
One-time charges	0	0	0	0	0	0	0	0	0	0	0	0
Net income	\$1,131	\$(9,533)	\$124	\$115	\$0	\$(137)	\$(7)	\$(294)	\$120	\$0	\$(120)	\$(1,588)

APPENDIX

2008-2009

NIAT by line of business

	2007										2006										
	Real estate	Auto	Life	Health	Investment	Other	Corporate	FG	Consolidated	Total	Real estate	Auto	Life	Health	Investment	Other	Corporate	FG	Consolidated	Total	
Interest income	4,071	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Interest expense	(1,973)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Net interest income	2,098	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Net income	1,146	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Net operating income	(1,973)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Net income after operations	2,098	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Net income	1,146	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Net operating income	(1,973)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total net income	1,146	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Direct expenses	500	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Indirect expenses	1,500	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total expenses	2,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Income before taxes	2,146	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Taxes	(70)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Operating net income	2,076	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total net income	2,076	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Net income	1,146	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

APPENDIX

Financials

NIAT by line of business

	2010										2009									
	Period	PL	DL	DR	DR	DR	DR	DR	DR	DR	DR	DR	DR	DR	DR	DR	DR	DR	DR	DR
Investment income	1,022	56,276	11,6	181	544	1,336	52,238	50	282	50	50	50	50	50	50	50	50	50	50	50
Interest income on FTP	4,943	0	266	0	0	0	0	137	0,266	0	0	0	0	0	0	0	0	0	0	0
Interest & expense	(1,869)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Interest & expense on FTP	118	(1,869)	(2,70)	(266)	(60)	(146)	(1,270)	4,911	0	0	0	0	0	0	0	0	0	0	0	0
Net interest income	2,140	54,236	117	115	544	1,190	52,238	50	282	50	50	50	50	50	50	50	50	50	50	50
Revenue subs	50	30	0	(17)	(27)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Net charge-offs	(94)	(94)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Provision for loan losses	(94)	(94)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Net interest income after provision	1,996	54,211	117	115	544	1,190	52,238	50	282	50	50	50	50	50	50	50	50	50	50	50
Fee income	1,000	14	132	11	38	11,188	58	50	50	50	50	50	50	50	50	50	50	50	50	50
Net non-interest income	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Other income	0	(4)	0	(7)	(10)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total fee income	(2,000)	(4)	0	(7)	(10)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Direct expenses	1,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Direct expenses	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Other	3,280	44	44	22	80	788	80	0	0	0	0	0	0	0	0	0	0	0	0	0
Total direct expenses	(1,000)	44	44	22	80	788	80	0	0	0	0	0	0	0	0	0	0	0	0	0
Indirect expenses	400	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total expenses after cost base	5,280	44	44	22	80	788	80	0	0	0	0	0	0	0	0	0	0	0	0	0
Income before taxes	2,240	54,236	117	115	544	1,190	52,238	50	282	50	50	50	50	50	50	50	50	50	50	50
Taxes	(20)	(20)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Operating net income	1,840	54,211	117	115	544	1,190	52,238	50	282	50	50	50	50	50	50	50	50	50	50	50
Type II merger expense	1,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Type III merger expense	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
One-time charge	(1,000)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Net income	1,840	54,211	117	115	544	1,190	52,238	50	282	50	50	50	50	50	50	50	50	50	50	50

APPENDIX

2010-2011

NIAT by line of business

	2011										2010		FC	Consolidated total	
	Revenue	Net Interest	Net Fee	Net Other	Net Other	Net Other	Net Other	Net Other	Net Other	Net Other	Net Other	Net Other			Net Other
Income															
Interest income	1,172	1,000	1,144	2,040	2,030	1,719	2,492	50	300	50	50	50	50	1,124	
Interest income per FTP	1,414	0	700	0	0	0	0	0	0	0	0	0	0	0	
Interest expense	(2,423)	0	0	0	0	0	0	0	0	0	0	0	0	0	
Interest expense per FTP	(11)	(1,960)	(222)	(248)	(271)	(271)	(1,026)	1,026	0	0	0	0	0	0	
Net interest income	(1,251)	(2,000)	1,144	2,040	2,030	1,719	2,492	50	300	50	50	50	50	1,124	
Net fee income	30	(27)	0	(1)	(2)	0	0	0	0	0	0	0	0	0	
Net other income	(44)	(44)	0	(3)	(2)	(2)	(2)	(2)	0	0	0	0	0	0	
Provision for loan losses	(44)	(44)	0	(3)	(2)	(2)	(2)	(2)	0	0	0	0	0	0	
Net interest income after provision	(1,285)	(2,071)	1,144	2,037	2,028	1,717	2,490	50	300	50	50	50	50	1,124	
Pre-tax income	14,270	13	117	13	118	1,296	215	30	288	30	30	30	30	14,286	
Net operating income	0	0	230	0	0	0	0	0	0	0	0	0	0	230	
Other income	0	149	0	84	(81)	0	0	0	0	0	0	0	0	(7)	
Total line revenue	14,270	(536)	347	(68)	(63)	(51)	1,296	30	288	30	30	30	30	14,480	
Direct expenses															
CD and cash	149	0	0	0	0	0	0	0	0	0	0	0	0	149	
FCID administration	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Other	1,107	300	441	14	14	14	147	0	0	0	0	0	0	1,706	
Total direct expenses	(1,456)	(300)	(441)	(14)	(14)	(14)	(147)	0	0	0	0	0	0	(1,827)	
Indirect expenses	(40)	0	39	0	0	0	0	0	0	0	0	0	0	1	
Total expenses	(1,496)	(300)	(402)	(14)	(14)	(14)	(147)	0	0	0	0	0	0	(1,826)	
Net income	12,814	13	117	13	118	1,296	215	30	288	30	30	30	30	12,659	
Income before taxes	12,814	13	117	13	118	1,296	215	30	288	30	30	30	30	12,659	
Taxes	(1,144)	(44)	(44)	(14)	(14)	(14)	(147)	0	0	0	0	0	0	(1,377)	
Operating net income	11,670	(31)	73	(1)	104	1,282	201	30	288	30	30	30	30	11,282	
Total pre-tax income	14,270	13	117	13	118	1,296	215	30	288	30	30	30	30	14,286	
Total pre-tax income (1% based on direct expense)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Change charge	(2,246)	(1,810)	(131)	(64)	(117)	(27)	(264)	(1,296)	(30)	(30)	(30)	(30)	(30)	(2,534)	
Net income	12,024	(1,823)	64	(64)	(117)	(27)	(264)	(1,296)	(30)	(30)	(30)	(30)	(30)	9,748	

APPENDIX

2011-2012

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NIAT by line of business

	2011										Total
	Banking		Securities		Corporate		FIC		Consolidated		
	Net	Net	Net	Net	Net	Net	Net	Net	Net	Net	
	income	expense	income	expense	income	expense	income	expense	income	expense	
5% addback	1,222	1,222	1,222	1,222	1,222	1,222	1,222	1,222	1,222	1,222	1,222
Interest income	4,273	0	241	0	0	0	298	8,748	0	0	0
Interest expense	(2,407)	0	0	0	0	0	(178)	88	0	(29)	(2,407)
Net interest income	1,866	(1,222)	241	(1,222)	0	0	120	8,760	0	0	0
Net interest income after provision	50	50	50	50	50	50	50	50	50	50	50
Net charge-offs	(16)	(16)	0	0	0	0	0	0	0	0	(16)
Provision for loan losses	(158)	(158)	0	0	0	0	0	0	0	0	(158)
Net interest income after provision	13,484	13,484	50	50	50	50	122	11,208	11,208	1,866	13,484
Fee income	54,547	0	3,630	12	122	11,208	184	0	0	0	54,547
Net servicing income	0	0	231	0	0	0	0	0	0	0	231
Other income	0	148	0	84	288	0	0	0	0	0	516
Total fee income	54,547	(138)	561	96	1,410	11,208	184	0	0	0	56,507
Direct expenses											
Compensation	540	0	0	0	0	0	0	0	0	0	540
FCR amortization	0	0	0	0	0	0	0	0	0	0	0
Other	3,129	220	475	15	138	381	461	0	0	0	4,329
Total direct expenses	3,669	220	475	15	138	381	461	0	0	0	4,329
Indirect expenses	480	0	0	0	0	0	0	0	0	0	480
Total expenses	4,149	220	475	15	138	381	461	0	0	0	4,809
Income before taxes	12,484	12,484	50	50	50	50	122	11,208	11,208	1,866	12,484
Taxes	1,381	1,381	77	77	77	77	77	77	77	77	1,381
Operating net income	11,103	11,103	(27)	(27)	(27)	(27)	45	10,430	10,430	1,789	11,103
Type III merger expenses	0	0	0	0	0	0	0	0	0	0	0
Type IV merger expenses (included in direct expenses)	0	0	0	0	0	0	0	0	0	0	0
One-time charges	0	0	0	0	0	0	0	0	0	0	0
Net income	11,103	11,103	(27)	(27)	(27)	(27)	45	10,430	10,430	1,789	11,103

APPENDIX

JPMorgan

West outstanding hybrid capital

Fed Bucket	Notional (\$m)	Carrying (\$m)	Type	Coupon (%)	Maturity	Call Date	Bucket	
							SBP	Moody's
Unrestricted (50% Bucket)								
	\$0.500	\$0.500	Preferred	3mL + 70	Perpetual	09/18/11	338	D
	\$2.000	\$2.892	Convertible preferred	7.750%	Perpetual	09/18/11	33	D
15% Bucket								
	\$0.750	\$0.750	REIT preferred	7.250%	Perpetual	03/15/11	338	D
	1.250	1.167	REIT preferred	6.534	Perpetual	03/15/11	33	D
	0.500	0.500	REIT preferred	6.665	Perpetual	12/15/16	33	D
	0.500	0.500	REIT preferred	6.895	Perpetual	06/15/12	33	D
	1.000	1.000	REIT preferred	9.750	Perpetual	12/15/17	33	D
	\$4.000	\$3.917						
	\$1.150	\$0.746	PIERs	5.375%			12%	A
	0.067	0.067	Trust Preferred	3mL + 250-300	Various	Various	12	A
Total	\$8.747	\$8.122						

Hybrid capital by call schedule			
	Amount		Call features
	(\$mm)	Weighted coupon (%)	
2009	-	-	-
2010	-	-	-
2011	\$5,309	7.018%	-
2012	90	6.895%	-
>2012	2,723	7.548%	-
Total	\$8,122	7.157%	

APPENDIX

2015 Morgan

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[TBU]

Reconciliation of capital need to 3/31/08 analysis

Impact to capital need	Increase/(decrease)
Capital raise - Mar. 31 analysis	\$15,298
- TPG investment	(7,200)
+ Higher realized losses and OCI	2,922
+ After-tax incremental credit marks ¹	14,991
- Other assets & liabilities PAA adjustments	0
- Conforming LLR adjustment	98
- Allowance for loan losses	(604)
- Restructuring charge	(561)
+ Deferred tax asset	0
- Incremental TCE at West Bank	(1,685)
- REIT Preferred from West Bank	(3,917)
+ Excluded hybrids (bank only)	5,632
- Change in RWA (reduced capital requirement)	(1,475)
- Other	(7)
Current capital raise	\$23,492
Credit linked note	(\$14,080)
Total capital need	\$9,412

¹ Please see following page for detailed comparison of credit marks.

APPENDIX

3/31/08

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SEPTEMBER 12, 2008

[DRAFT]

DISCUSSION MATERIALS

STRICTLY PRIVATE AND CONFIDENTIAL

JPMorgan

Potential transaction structure and terms

Potential transaction structure and terms	
<p>Structure</p>	<ul style="list-style-type: none"> ■ Park acquires assets and liabilities (as detailed below) of West's thrift subsidiaries from Receiver
<p>Consideration to holding company equity holders</p>	<ul style="list-style-type: none"> ■ Park pays \$0.00 to Receiver ■ Receiver and Holding company retain value of assets in holding company excluding value of stock ownership in thrift subsidiaries¹
<p>Assets & liabilities assumed</p>	<ul style="list-style-type: none"> ■ Park assumes all WMB's ordinary course: <ul style="list-style-type: none"> ■ Assets (\$307.0bn) ■ Deposits (\$143.2bn insured and \$45.0bn uninsured) ■ Covered bonds (~\$8.4bn)² ■ Ordinary course liabilities ■ REIT preferred securities (\$3.9bn) are not assumed as they are thought to become liabilities of the holding company upon receivership or bankruptcy, increasing net asset value of lead thrift banks ■ Senior and unsecured debt left behind (\$14.1bn) remain with Receiver
<p>Contingent Preferred Security</p>	<ul style="list-style-type: none"> ■ Park will issue to Receiver a Contingent Preferred Security (CPS) linked to West loan loss performance with a par amount equal to the par value of the thrift senior and subordinated debt (\$14.1bn) ■ The form of this note will be redeemable at option of issuer, non-cumulative, perpetual preferred Tier 1 qualifying security, with a 5-year reference period ■ Payment will be contingent upon credit performance of reference loans against a loss threshold of \$19.0bn, reflecting West management's estimation of losses <ul style="list-style-type: none"> ■ The par value of this security will be reduced dollar-for-dollar by the amount actual losses, as measured by Park, exceeding the \$19.0bn threshold
<p style="writing-mode: vertical-rl; transform: rotate(180deg);">DISCUSSION MATERIALS</p>	<p style="font-size: small;"> Note: Financial data as of June 30, 2008 1 Includes zero make whole payment to investors associated with \$7.2bn capital rate announced April 8, 2008 2 \$8.0bn at June 30, 2008; Issued at \$14 exchange rate of 1.401 </p>

Draft Contingent Preferred Security (CPS) term sheet

Contingent Preferred Security (CPS) Term Sheet

<p>Issuer</p> <p>Security</p> <p>Size</p> <p>Liquidation Preference</p> <p>Aggregate Par Amount</p> <p>Accruals</p> <p>Div. Court</p> <p>Settlement Date</p> <p>Dividend Rate (Non-Cumulative)</p> <p>Dividend Stopped</p> <p>Dividend Payment Date</p> <p>Adjustment Date</p> <p>Adjustment Mechanism</p> <p>Optional Redemption</p> <p>Voting Rights</p> <p>Ranking</p> <p>Reference Portfolio</p>	<p>JPMorgan Chase & Co.</p> <p>1,576,000 Shares of JPMorgan Chase & Co. Non-Cumulative Contingent Preferred Stock, Series J.</p> <p>1,576,000 Shares</p> <p>10,000 per share of Preferred Stock reduced pro-rata dollar-for-dollar by the actual net increase in Reference Portfolio by either West or JPMorgan Chase & Co. from January 1, 2009 through Dec 31, 2013, according to [19,000,000,000], with a maximum aggregate adjustment equal to the Aggregate Par Amount.</p> <p>15,200,000,000</p> <p>Preferential</p> <p>NY/NJ</p> <p>January 1, 2009</p> <p>8.00% on the Aggregate Liquidation Preference subject to terms of the Adjustment Mechanism described herein.</p> <p>Unless issuer has paid or declared and set aside for payment full dividends on Preferred Stock for the most recently completed dividend period, we will not: (1) declare or make any dividend payment or distribution on any junior ranking stock, other than a dividend paid to junior ranking stock, or (2) redeem, purchase, otherwise acquire or set apart assets for a sinking fund for the redemption of any junior or more ranking stock, except by conversion into or exchange for junior ranking stock.</p> <p>Beginning January 30, 2009, each April 30 and October 30 until January 30, 2015 and thereafter, in each case if declared by issuer's board of directors or duly authorized board committee.</p> <p>January 1, 2014</p> <p>Liquidation Preference will be reduced pro-rata dollar-for-dollar by the actual net increase in Reference Portfolio by either West or JPMorgan Chase & Co. from January 1, 2009 through December 31, 2013, according to [19,000,000,000], with a maximum aggregate adjustment equal to the Aggregate Par Amount, to be determined at issuer's sole discretion.</p> <p>in whole or in part on any Dividend Payment Date on or after April 30, 2014 for 100% of the Liquidation Preference subject to terms of Adjustment Mechanism described herein.</p> <p>The Preferred Stock will have no voting rights except as required by law.</p> <p>The Preferred Stock will rank, as to payment of dividends and distribution of assets upon our liquidation, dissolution, or winding up, equally with any series of preferred stock ranking equal to the Preferred Stock, senior to any series of preferred stock ranking junior to the Preferred Stock and our common stock and pari passu to JPMorgan Preferred Stock, Series I.</p> <p>157,200,000 West single family residential portfolio as of March 31, 2008</p>
--	---

DISCUSSION MATERIALS

PS/12/2011

Exhibit 16

To: Dan Cooney/IL/ONE
cc:
Subject: Re: Fw: B08-30 FDIC Acquisition Opportunity

09/23/2008
02:10 PM

can't get in

must be only set up for you and Mike to access

BAB

☛ Dan Cooney/IL/ONE

Dan Cooney/IL/ONE To: Brian A Bessey/IL/ONE
cc
09/23/2008 02:18 PM Subject: Fw: B08-30 FDIC Acquisition Opportunity

See if you can get in

Daniel P. Cooney
Dan.Cooney@Chase.com
(312) 732-3171 (Chicago voice)
(312) 732-5976 (Chicago fax)
(212) 270-7094 (New York voice)
(212) 270-9643 (New York fax)

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

From: "Foster, Sheri G." [SFoster@FDIC.gov]
Sent: 09/23/2008 01:14 PM EST
To: Mike Cavanagh; Dan Cooney
Subject: B08-30 FDIC Acquisition Opportunity

The FDIC is offering select financial institutions, such as yours, an opportunity to bid on a depository institution. If you are interested in learning more about this potential acquisition, please visit the secure financial web site known as [IntraLinks](#) for more information. You may click on the following hyperlink to log into [Project B08-30](#) workspace to obtain information about this specific offering.

<https://services.intralinks.com/logon.html>

Your e-mail address is your login ID for IntraLinks and if you have never accessed this web site, you will need to receive a password from IntraLinks. To obtain a password, there is a link on the web site for direct help from IntraLinks. You may also contact IntraLinks via e-mail at support@intralinks.com; and forward a copy of this e-mail and ask for assistance in obtaining your password. IntraLinks also has a Helpdesk phone number as follows: 1-888-546-5383.

Thank you for your time and interest in the FDIC's Merger and Acquisition process. If you have

any questions about this process, please contact me at any time. Please keep in mind that this information is extremely confidential and you will be required to execute a confidentiality agreement when you go into IntraLinks.

Sheri Foster

Marketing Specialist

Division of Resolutions and Receiverships

Federal Deposit Insurance Corporation

(972) 761-2229

sfoster@FDIC.gov

Exhibit 17

Dan Cooney To: Brian A Bessey/IL/ONE
cc:
Subject: Fw: Information Request

09/22/2008
10:44 PM

Daniel P. Cooney
Dan.Cooney@Chase.com
(312) 732-3171 (Chicago voice)
(312) 732-5976 (Chicago fax)
(212) 270-7094 (New York voice)
(212) 270-9643 (New York fax)

----- Original Message -----
From: "Wigand, James" [JWigand@FDIC.gov]
Sent: 09/22/2008 10:42 PM AST
To: Dan Cooney
Subject: Re: Information Request

We will try to get the information. Let me know if you have any more data room access problems.

Jrw

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: dan.cooney@chase.com <dan.cooney@chase.com>
To: Wigand, James
Sent: Mon Sep 22 22:08:45 2008
Subject: Fw: Information Request

Jim - one point of clarification: the person denying us the information was not their investment banker but an internal WaMu corporate development person.

Dan

Daniel P. Cooney
Dan.Cooney@Chase.com
(312) 732-3171 (Chicago voice)
(312) 732-5976 (Chicago fax)
(212) 270-7094 (New York voice)
(212) 270-9643 (New York fax)

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

From: Dan Cooney

Sent: 09/22/2008 08:56 PM CDT
To: "James Wigand" <jwigand@fdic.gov>
Subject: Information Request

Jim - Sorry to bother you but we have asked the target for the following information and have been advised by their investment bankers that they will not provide any further information unless Charlie Scharf calls Alan Fishman and personally explains why it is necessary. This process seems counterproductive to an efficient resolution of this situation and we were wondering if there were anything the FDIC could do to expedite this request.

Specifically, we have asked for the following information:
"What is the deferred tax asset at the Bank and Holdco level as of Aug 31, 2008 and what is it projected to be at the end of September."

This request is a focused one and one which we need to help us properly allocate value between the bank and the holding company.

Feel free to call my cell if you have any questions - 847-477-6825 - or my NY # below in the morning.

Thank you in advance for your help.

Dan

Daniel P. Cooney
Dan.Cooney@Chase.com
(312) 732-3171 (Chicago voice)
(312) 732-5976 (Chicago fax)
(212) 270-7094 (New York voice)
(212) 270-9643 (New York fax)

This transmission may contain information that is privileged, confidential, legally privileged, and/or exempt from disclosure under applicable law. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or use of the information contained herein (including any reliance thereon) is STRICTLY PROHIBITED. Although this transmission and any attachments are believed to be free of any virus or other defect that might affect any computer system into which it is received and opened, it is the responsibility of the recipient to ensure that it is virus free and no responsibility is accepted by JPMorgan Chase & Co., its subsidiaries and affiliates, as applicable, for any loss or damage arising in any way from its use. If you received this transmission in error, please immediately contact the sender and destroy the material in its entirety, whether in electronic or hard copy format. Thank you.

Exhibit 18

September 24, 2008

MEMORANDUM: The Board of Directors

THROUGH: Mitchell L. Glassman, Director *Mitchell L. Glassman*
Division of Resolutions and Receiverships

FROM: James R. Wigand, Deputy Director *JRW*
Franchise and Asset Marketing Branch
Division of Resolutions and Receiverships

Herbert J. Held, Assistant Director *HJH*
Franchise and Asset Marketing Branch
Division of Resolutions and Receiverships

SUBJECT: Washington Mutual Bank,
Henderson, Nevada
Failing Bank Case

Total Assets: \$307,022,000,000 (as of June 30, 2008)
Retail Deposits: \$134,700,000,000 (as of September 17, 2008)
Uninsured Deposits: \$8,452,029,625 (as of September 17, 2008)
Tier 1 Leverage/Tier 1 Risk Based/Total Risk Based:
7.07%/8.40%/12.44% (June 30, 2008)

b8 F

~~INTERNAL SECURITY~~

Recommendation

That the Board of Directors:

1. Approve the Bid from JPMorgan Chase & Co (JPMorgan Chase) to resolve Washington Mutual Bank, Henderson, Nevada (the Bank), a failing institution, as the least costly transaction;
2. Authorize the transfer of the assets and liabilities of the Bank including its subsidiary savings association to JPMorgan Chase under Section 13(k) of the Federal Deposit Insurance Act, 12 U.S.C. 1823(k) (the FDI Act) and override certain state laws which

prohibit JPMorgan Chase to retain and operate branches of the Bank and its subsidiary savings association acquired in the transaction;

3. Authorize the Director, Division of Resolutions and Receiverships (DRR) or designee, to accept appointment of FDIC as receiver for the Bank;
4. Waive the restriction contained in paragraph 32 of Robinson Resolution (Third) that limits the application of Robinson Resolution (Third) to institutions with assets less than \$1 billion for the purpose of resolving the Bank and invoke application of the Robinson Resolution (Third) to authorize staff to implement any transaction approved by the Board and take any other action authorized by said Robinson Resolution (Third);
5. Authorize the Director, DRR or designee, to modify the standard indemnification to include a limited indemnity in favor of JPMorgan Chase in an amount not to exceed \$500 million for any damages JPMorgan Chase may sustain as a result of litigation brought by Washington Mutual Inc. (WMI) or third parties.

Executive Summary

The Bank is a federally-chartered savings association that was established in 1889 and has been FDIC-insured since January 1, 1934. The Bank is wholly owned by WMI, which is a non-diversified, multiple savings and loan holding company that is regulated as a unitary holding company because the charters of both of its bank subsidiaries were supervisory acquisitions. The Bank is the largest savings and loan association in the country and the predominant legal entity

in WMI, which has no significant subsidiaries outside of the Bank's corporate structure. WMI's earnings are derived almost entirely from the Bank and, therefore, earnings outside of the Bank within the holding company will neither materially harm nor provide substantial benefit to the Bank. The Bank operates over 2,300 branches in fifteen states and has no foreign operations. The risk profile of the Bank is increasing, and the institution poses a high risk to the deposit insurance fund.

b4, b5

MATERIAL REDACTED

FOIA Redaction/Fact Sheet

At this point in this document 9 page(s) have/have been withheld totally because of the following:

The information was withheld pursuant to the following subsection of the Freedom of Information Act:

- (b) (4)
- (b) (5)
- (b) (6)
- (b) (7) (A) (B) (C) (D) (E) (F)
- (b) (8)
-

The page(s) being withheld may be referred to as:

page 4-12 of the Washington Mutual bond memo.

COMMENTS:

b5 [



b5

MATERIAL REDACTED

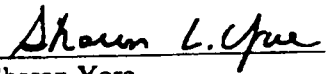
b5 r

b5

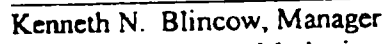
Other Information

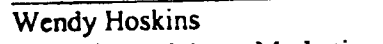
If you have any questions concerning this case, please call Herbert Held at extension 8-7329 or Sharon Yore at extension 8-7336.

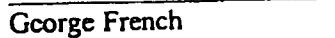
This recommendation is prepared by:

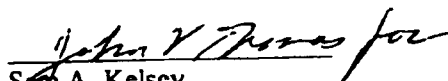

Sharon Yore
Franchise and Asset Marketing
DRR - Washington

This recommendation is supported by:


Kenneth N. Blincow, Manager
Franchise and Asset Marketing
DRR- Dallas


Wendy Hoskins
Franchise and Asset Marketing
DRR - Washington


George French
Deputy Director
DSC- Washington


Sara A. Kelsey
General Counsel

Attachment 1: Cost Test Summary-JPMorgan Chase Bid
Attachment 2: Board Resolution

FOIA Redaction/Fact Sheet

At this point in this document 1 page(s) have/has been withheld totally because of the following:

[] The information was withheld pursuant to the following subsection of the Freedom of Information Act:

- [] (b) (4)
- [] (b) (5)
- [] (b) (6)
- [] (b) (7) (A) (B) (C) (D) (E) (F)
- [] (b) (8)
- [] _____

The page(s) being withheld may be referred to as:

 cost test summary

COMMENTS:

RESOLUTION

WHEREAS, the Federal Deposit Insurance Corporation (the "Corporation") has been advised that the Director of the Office of Thrift Supervision (the "OTS") may (i) close Washington Mutual Bank, Henderson, Nevada, a federal savings association insured under 12 U.S.C. § 1814(a) (the "Bank"), and (ii) tender to the Corporation appointment as receiver (the "Receiver") of the Bank in accordance with 12 U.S.C. § 1821(c)(2)(A)(ii); and

WHEREAS, pursuant to 12 U.S.C. § 1821(c)(2)(A)(ii), the Corporation shall accept appointment as Receiver of the Bank; and

WHEREAS, in anticipation of the Bank's closing, the Corporation's Division of Resolutions and Receiverships (DRR) solicited bids from financial institutions for the resolution of the Bank; and

WHEREAS, DRR received bids from two financial institutions and evaluated those bids in order to select the bid that would result in the least cost resolution of the Bank; and

WHEREAS, DRR has determined that the bid submitted by JPMorgan Chase & Co. (JPMorgan Chase) represents the most viable and least costly solution, on terms and conditions acceptable to the FDIC, for resolving the Bank; and

WHEREAS, JPMorgan Chase and the Bank both have subsidiaries, offices and branches located in states with state law restrictions that could effectively prevent JPMorgan Chase from acquiring certain subsidiaries, offices and branches of the Bank and its savings association subsidiary.

WHEREAS, the FDIC may override state branching laws, whether existing now or enacted in the future, through its authorization of the proposed acquisition of the Bank and its savings association subsidiary under Section 13(k)(1) of the Federal Deposit Insurance Act (the FDI Act); and

WHEREAS, JPMorgan Chase has requested an indemnification from the FDIC for any potential breach of an agreement dated March 11, 2006 with Washington Mutual, Inc. (WMI) caused by its acquisition of the assets and liabilities of the Bank from the Receiver as set forth in its bid.

WHEREAS, the override of such state branching laws pursuant to Section 13(k)(1) is a condition precedent to the acquisition of the Bank and its savings association subsidiary by JPMorgan Chase; and

WHEREAS, in order to authorize the acquisition under Section 13(k)(1) and override state law, the Board of Directors of the Corporation (the "Board") must determine that (i) severe financial conditions exist which threaten the stability of a significant number of savings associations, or of savings associations possessing significant financial resources, (ii) the acquisition will lessen the risk to the FDIC, (iii) the acquisition will not present a significant risk

to the safety and soundness of the savings association to be acquired or to the acquiring entity, and (iv) the savings association to be acquired is eligible for assistance pursuant to Section 13(c) of the FDI Act; and

WHEREAS, for the FDIC to provide assistance under Section 13(c) of the FDI Act the Board must determine that the Bank is (i) in default, (ii) in danger of default, or (iii) that severe financial conditions exist which threaten the stability of a significant number of insured depository institutions, or of insured depository institutions possessing significant financial resources; and

WHEREAS, severe financial conditions exist that threaten the stability of a significant number of savings associations, or of savings associations possessing significant financial resources and the Bank is a savings association possessing significant financial resources; and

WHEREAS, the Bank and its savings association subsidiary are eligible for Section 13(c) assistance; and

WHEREAS, the transfer of assets and liabilities of the Bank to JPMorgan Chase will lessen the risk to the FDIC because the transfer will require no assistance from the FDIC, although the Bank is eligible for assistance under Section 13(c); and

WHEREAS, the transfer of assets and liabilities of the Bank to JPMorgan Chase will not present a significant risk to the safety and soundness of JPMorgan Chase as the resulting

institution will be satisfactorily managed and capitalized and sufficient resources appear to be available; and

WHEREAS, Section 13(k) requires that the transaction be approved by the appropriate Federal banking agency of every party; and

WHEREAS, the Office of the Comptroller of the Currency (OCC) as the federal regulator of JPMorgan Chase has indicated that it will provide its approval of the transfer of assets and liabilities of the Bank on September 25, 2008; and

WHEREAS, the FDIC staff has advised the Board that it can make the determinations required by Section 13(k) of the FDI Act and all other requirements of Section 13(k) have or will be satisfied prior to the transfer of assets and liabilities of the Bank to JPMorgan Chase, and

WHEREAS, the FDIC staff has recommended that the Board authorize the transfer of assets and liabilities of the Bank as described above and override state laws existing now or in the future, prohibiting, limiting, restricting, or voiding authorization of retention of subsidiaries, offices or branches of the Bank and its savings association subsidiary as applied to a national bank, as requested by JPMorgan Chase; and

WHEREAS, the Corporation has reviewed such documents and information as it deems relevant with respect to the Bank; and

WHEREAS, the Board at a meeting closed to public observation in accordance with 5 U.S.C. § 552b and 12 C.F.R. § 311.3(b), considered certain courses of action with respect to the Bank, upon the recommendation of DRR and as set forth in Resolution No. 062393, dated May 6, 1997, as amended (the "Robinson Resolution (Third)"); and

WHEREAS, due to the size of the Bank, DRR is requesting a waiver by the Board of the restriction on application of the Robinson Resolution (Third) to institutions with assets less than \$1 billion; and

WHEREAS, DRR is requesting that the Board authorize the Director, DRR or designees, to accept appointment of the FDIC as receiver of the Bank.

NOW, THEREFORE, BE IT RESOLVED, that the Board hereby finds and determines that:

- (1) severe financial conditions threaten the stability of a significant number of savings associations or savings associations possessing significant financial resources, and the Bank and its savings association subsidiary are possessing significant financial resources; and
- (2) authorization of the proposed acquisition as described above would lessen the risk to the FDIC and will not present a substantial risk to the safety and soundness of JPMorgan Chase; and
- (3) the Bank and its savings association subsidiary are eligible for assistance under Section 13(c) of the FDI Act because severe conditions exist which threaten the stability of a significant number of savings associations or of savings associations possessing significant

financial resources, and the Bank is a savings association possessing significant financial resources.

BE IT FURTHER RESOLVED that the Board by unanimous vote hereby determines that the JPMorgan Chase bid is the least costly transaction to resolve the Bank.

BE IT FURTHER RESOLVED that the Board by unanimous vote hereby authorizes the transfer of assets and liabilities of the Bank to JPMorgan Chase pursuant to Section 13(k) of the FDI Act.

BE IT FURTHER RESOLVED that the Board, pursuant to its authorization of the transfer of assets and liabilities of the Bank to JPMorgan Chase, hereby preempts and overrides the laws of any state presently existing or hereafter enacted that as applied to national banks prohibit or would prohibit, restrict, limit or lack authorization of the establishment, acquisition, or retention of subsidiaries, office or branches by JPMorgan Chase of the Bank and its savings association subsidiary.

BE IT FURTHER RESOLVED that the Board hereby waives the restriction on application of the Robinson Resolution (Third) to institutions with assets less than \$1 billion and invokes application of the Robinson Resolution (Third) with respect to the Bank.

BE IT FURTHER RESOLVED that the Board hereby authorizes the Director, Division of Resolutions and Receiverships (DRR) or designee, to modify the standard indemnification to include a limited indemnity in favor of JPMorgan Chase in an amount not to exceed \$500 million for any

damages JPMorgan Chase may sustain as a result of litigation brought by WMI against JPMorgan Chase for violation of the agreement between WMI and JPMorgan Chase dated March 11, 2008.

BE IT FURTHER RESOLVED that in the event the Bank is closed and the Corporation is appointed as Receiver, the Board hereby authorizes and directs the Director (or designee) of the Corporation's Division of Resolutions and Receiverships (the "Director (or designee)") to implement or cause to be implemented the least costly resolution of the Bank as required by 12 U.S.C. § 1823(c)(4)(A), as amended.

BE IT FURTHER RESOLVED that subject to the immediately preceding paragraph, the Board hereby authorizes appropriate staff of the Corporation as contemplated by the Robinson Resolution (Third) to take all actions as set forth in the Robinson Resolution (Third) with respect to the implementation of such resolution of the Bank selected by the Director (or designee).

Exhibit 19

Kathryn
McCulloch@JPMCHASE To: "Eitel, Mitchell" <EitelM@sullerom.com>
09/24/2008 04:17 PM cc: "Bray, Garth" <BrayG@sullerom.com>, "Cohen, H. Rodgin"
<Cohenhr@sullerom.com>, "dan.cooney@chase.com"
<dan.cooney@chase.com>, "Eitel, Mitchell" <EitelM@sullerom.com>, "Orme,
Camille L." <Ormec@sullerom.com>
Subject: Fw: Resolution Language

fyi

Kathryn V. McCulloch | Senior Vice President & Associate General Counsel | JPMorgan Chase & Co. | 17 277 Park Avenue 19th
Fl. (NY1-L347) New York, NY 10172 | ☎ 212-270-5922 | 📠 646-534-3043 | ✉ Kathryn.mcculloch@chase.com
----- Forwarded by Kathryn McCulloch/JPMCHASE on 09/24/2008 04:17 PM -----

"Williams, Julie"
<Julie.Williams@occ.treas.gov> To: "Kathryn.McCulloch@chase.com"
09/24/2008 03:58 PM <Kathryn.McCulloch@chase.com>, "dan.cooney@chase.com"
<dan.cooney@chase.com>
cc
Subject: Resolution Language

Kathy & Dan,
FDIC staff has asked us for suggested language on a 13(k) override. I'm attaching a copy of what we
have provided. Its just slightly different from what I sent you yesterday in the way it describes the staff
laws being overridden.
Julie

From: Edelstein, Jerry
Sent: Wednesday, September 24, 2008 3:55 PM
To: Williams, Julie
Subject: Resolution



(See attached file: WAMUJPMCBbranchoverrideresolutionB92308.doc)



WAMUJPMCBbranchoverrideresolutionB92308.doc

Type: application/msword

Name:

WAMUJPMCBbranchoverrideresolutionB92308.doc

WHEREAS, the retention by [name of national bank acquirer] of the main offices and branches (“Offices”) of [name of target] may violate state laws applied to national banks prohibiting, restricting, limiting, or lacking authorization of retention of some of all of these Offices by [name of acquiring bank]; and

WHEREAS, [name of acquiring bank] has requested the FDIC to override any such branching laws in connection with its authorization of the proposed acquisition as described above under § 13(k)(1); and

WHEREAS, the override of such branching laws pursuant to § 13(k)(1) is a condition precedent to the acquisition of [names of target]; and

* * * * *

WHEREAS, the FDIC staff has advised the Board of Directors of the FDIC (the “Board”) that it can make the findings required by § 13(k)(1) of the FDIA and that all other requirements of § 13(k)(1) have or will be satisfied prior to consummation of the proposed acquisition; and

WHEREAS, the FDIC staff has recommended that the Board authorize the proposed acquisition as described above and the override of state laws prohibiting, limiting, restricting, or lacking authorization of retention of branches of [name of target] as applied to national banks, as requested by [name of acquirer].

* * * * *

NOW, THEREFORE, BE IT RESOLVED,

* * * * *

that the Board hereby finds and determines that pursuant to its authorization of the acquisition as described above under § 13(k)(1) of the FDIA, and subject to the foregoing provisos and compliance with the conditions on such authorization as set forth above, the Board hereby preempts and overrides the laws of any state presently existing or hereafter enacted that as applied to national banks prohibit or would prohibit, restrict, limit or lack authorization of the establishment, acquisition, or retention as branches by [name of acquiring bank] of the Offices of [name of target].

DRAFT: 9/24/08

Exhibit 20

Gregg B Gunselman To: Sally E Durdan/JPMCHASE@JPMCHASE, william.king@jpmorgan.com
cc: fernando.rivas@jpmorgan.com
Subject: Mortgage Exposure

04/04/2008
01:19 PM

Sally/Billy

We are preparing materials to present to rating agencies for the Madison and West transactions. We need input from both of you on the following, as it relates to our proforma mortgage exposures (Sally for Park stand-alone and West HFI/warehouse and Billy for Madison and Park trading/other).

- 1) Amount of mortgage assets on balance sheet for West, Park stand-alone, and Madison (at close of each deal), by asset class - see page 40 in attached.
- 2) Amount of projected portfolio run-off over time or targeted mortgage asset sales
- 3) Sensitivity of profoma combined entity to an incremental 5% decline in hose prices - (MTM or loss impact)

I am available to discuss live. We need input as soon as it is available, as it will have a direct impact on how we view the West deal.

Attached are a couple slides from the overall presentation that so you can see how we intend to present the data and other risk factors related to mortgages.



Madison-West_Rating_Agency_Mortg Risk.ppt

Gregg B Gunselman
Investment Banking Coverage - FIG
JPMorgan Securities, Inc.
Phone: (212) 622-2431
Mobile: (773) 343-3226
Fax: (646) 534-1886
E-Fax: (917) 546-2565

MARCH 2008

[DRAFT]

8/10/2009 3:06 PM

DISSEMINATION

Project Madison/West rating agency presentation

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DISCUSSION MATERIALS

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Mortgage exposure in the banking book

[TBU]

- Madison and West have sizeable exposures to an uncertain asset class
- [FRB facility provides Park with a measure of risk mitigation with regard to Madison's mortgage exposure]

	Park	Madison	West	Combined
1-4 family				
Prime mortgages	\$29.9*		\$110.4	\$140.3
Subprime	15.3		18.8	34.1
Option ARM	8.8		58.9	67.7
Home Equity	94.8		61.0	155.8
Total exposure	\$148.8		\$199.1	\$347.9
Total exposure as % total loans	21.4%		77.7%	
Total exposure / TCE	1.5x		14.1x	
Valuation adjustment ¹	-	\$5.2	\$21.4	
Valuation adjustment as a % of total exposure	-		11.7%	

Source: Company TRG, Management presentation, Investor presentation.
 Note: Financial data as of December 31, 2007; Excludes Trading and AFS securities.
 *Includes \$26.9m of held-for-investment prime mortgage loans that were transferred from FFS to the Corporate segment for risk management and reporting purposes.

RISKS / CHALLENGES

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INTERNAL USE 40

West mortgage portfolio geographic concentration and loans with CLTV > 90%

	Portfolio % In CA & FL	Portfolio with CLTV > 90% :			
		At origination	West OFHEO	Perk estimate 12/31/07	Perk estimate 12/31/06
Option ARM	62%	1%	3%	23%	39%
Prime Home Equity	63	3	10	27	39
Prime Mortgage	55	2	2	12	22
Sub Prime 1st lien	35	5	7	37	43
Sub Prime 2nd lien	34	66	67	77	76
Total	58%	3%	6%	23%	32%

RISKS / CHALLENGES

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INTERNAL USE 41

West credit impairment

Home Loan Portfolio	Balance pre - close		Post - close (1/1/09)	
	12/31/2007	12/31/2008	Credit impairment	Balance at 1/1/09
Option ARMs				
Non-credit impaired	\$25,975	\$21,076	\$0	\$21,076
Credit impaired	32,895	26,428	(7,440)	18,988
Other Prime Loans				
Non-credit impaired	\$31,117	\$23,223	\$0	\$23,223
Credit impaired	20,400	15,044	(2,007)	13,037
HE Loans & Lines				
Non-credit impaired	\$28,823	\$22,595	\$0	\$22,595
Credit impaired	32,138	24,281	(8,003)	16,278
Subprime Home Loans				
Non-credit impaired	\$5,616	\$4,293	\$0	\$4,293
Credit impaired	10,476	7,434	(3,148)	4,286
Subprime Home Equity				
Non-credit impaired	\$0	\$0	\$0	\$0
Credit impaired	2,525	1,660	(837)	823
Home construction				
Non-credit impaired	2,226	1,484	0	1,484
Credit impaired	0	0	0	0
	\$192,193	\$147,541	(\$21,436)	\$126,105

RISKS / CHALLENGES

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West asset quality

Home Loan Portfolio	2009 Net charge-offs		Non-performing loans	
	(\$)	(%)	(\$)	(%)
Option ARMs				
Non-credit Impaired	(537)	0.2%	5823	4.5%
Credit Impaired	(1,524)	8.6	1,152	6.5
Other Prime Loans				
Non-credit Impaired	(174)	0.9%	492	2.5%
Credit Impaired	(607)	5.0	426	3.5
HE Loans & Lines				
Non-credit Impaired	(561)	3.0%	662	3.5%
Credit Impaired	(3,259)	20.8	548	3.5
Subprime Home Loans				
Non-credit Impaired	(141)	4.0%	635	18.0%
Credit Impaired	(1,531)	38.7	711	18.0
Subprime Home Equity				
Non-credit Impaired	-	-	-	-
Credit Impaired	(277)	35.1%	142	18.0%
Home construction				
Non-credit Impaired	-	-	-	0.0%
Credit Impaired	-	-	-	-
	(58,110)	7.3%	\$5,592	5.0%

RISKS / CHALLENGES

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INTERNAL USE 43

Option ARM overview

Key Product characteristics

- Accrual rate adjusts each month
- Minimum payment adjusts each year
- Monthly payment options
 - Minimum (selected by 2/3rd of borrowers)
 - Interest only
 - Amortizing
 - Curtailing (faster amortization, typically 15 year)
- Recast
 - Earlier of 5 years or reaching negative amortization cap
 - Increase in minimum payment can be substantial
- Documentation: most Option ARMs have limited documentation
- Prepayment: many Option ARMs have prepayment penalties

Incremental product risks

- Primary incremental risks:
 - Large payment shock at recast
 - Increased leverage
- Recast timing and magnitude driven by:
 - Intro minimum payment rate and amortization (e.g., 30 versus 40 year)
 - Margin
 - Interest rate "paths" and spreads
 - Borrower's understanding of the product
 - Borrower behavior
 - Payment selection
 - Prepayment (refinancing, property sale; both less likely now)
- Limited history, especially in context to the current environment, makes it very difficult to predict future performance

"Affordability product":

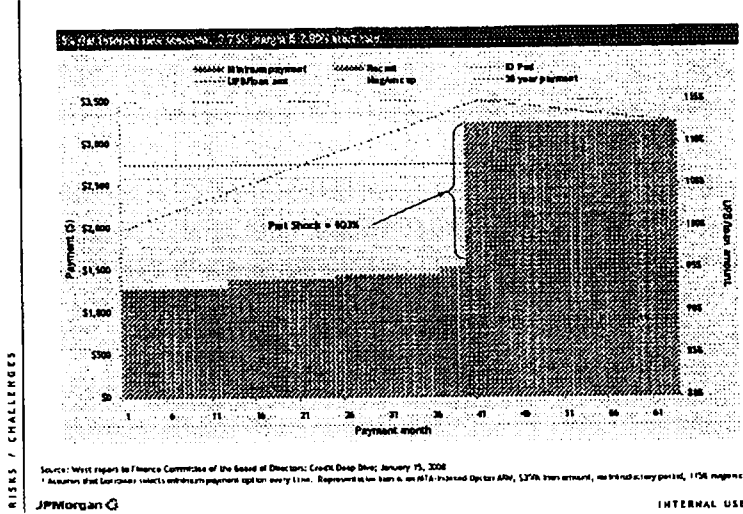
- 2/3rd select minimum payment / negative amortization
- 45% of portfolio has intro rates of less than 1.5%

RISES / CHALLENGES

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INTERNAL USE 44

Illustrative option ARM representative payment schedule¹



Other issues

- Credit risk
 - Extent of housing decline - ability to predict
 - No real history on Option ARMs
 - Real recession
 - Mortgage legislation could be good or bad
- Ability to transform West retail franchise
- Embedded unknowns
- Deposit cap

RISKS / CHALLENGES

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Exhibit 21

**Chuck
Pursh**

To: Ryan M McInerney/JPMCHASE@JPMCHASE
cc: Brian A Bessey/IL/ONE@JPMCHASE, Sean D Carmody/IL/ONE@JPMCHASE1
Subject: Re: Rating Agency material

09/23/2008
01:04 AM

Ryan / Sean - here's a simple list on how we approached due diligence regarding credit: Let me know if this will work or if you need something different:

1) Reviewed mgt reports to get a high level view of credit quality and performance by product (FICO, CLTVs, state concentrations, vintage contributions, roll rate performance, modifications, option arm recast schedule, etc) to understand product performance and to assess risk levels within a given portfolio & product

2) Calculated lifetime loss estimates using (3) methods

1. HPA Model - calculated current LTV/CLTVs at the account level, based on MSA HPI projections, to evaluate portfolio CLTV migrations into the future (next 5 years). Assigned loss rates based on projected CLTVs and aggregated into a lifetime loss estimate at the product level (primary model as it uses HPA projections and CLTVs are a key driver of risk)

2. Roll Rate model - built roll rate models at the product level based on historical performance provided in the mgt reports. Roll rate projections based on expected trends with Chase portfolio for a given product with like composition to west. Derived loss estimates for near term then extrapolated over the remaining life

3. Vintage Model - developed loss estimates based on current vintage curves. Modeled the Chase portfolio then adjusted for West based on differences in credit quality & portfolio composition (analysis conducted in step #1)

3) Conducted detailed analysis & comparisons to support loss estimates. Based on loan level file and management reports, evaluated specific segments to confirm assumptions with loss estimates. Quick examples:

1. California & Florida loss rate assumptions for West and Chase very similar even though modeled separately, total loss rate much higher for West given concentration of FL/CA is greater

2. Evaluated Chase timing of peak loss and correlation to HPI projections, West has different view, based on credit quality/seasoning/vintages/etc concluded peaks will occur later in 2009/2010 vs. West projections showing their portfolios are peaking now

3. Analyzed roll rate performance by comparing Chase vs West for a given product and bucket, tracked each over time, applied projections on future rolls to determine various loss estimates, concluded what was reasonable vs unlikely and how each corresponded to a given loss forecast

4) The approach used in March and today are very similar (did steps 1-3 in both cases). The significant difference is in the set of assumptions as there are three major changes from March:

1. The outlook on HPA has worsened so risk has increased as we expect higher CLTVs in the future and subsequently more in losses

2. Performance is worse than expected when we look at what has happened from Mar-Aug 2008 compared to what we projected in March (leading to more losses)

3. The macro environment has worsened (unemployment trending up, credit policies have tightened further, troubled consumers have fewer options) - all leading to more losses

Conclusion - in March and today, all started with high level reviews which then led into loss projections via (3) models. Loss estimates were derived which were then validated with detailed analysis to support a final loss estimate. Since March, the external environment has worsened significantly which has led to an upward revision of our loss estimate.

Chuck

✉ Ryan M McInerney/JPMCHASE

**Ryan M
McInerney/JPMCHASE**

To Brian A Bessey/IL/ONE@JPMCHASE
cc Sean D Carmody/IL/ONE@JPMCHASE1, Chuck
Pursh/AZ/ONE@JPMCHASE

09/22/2008 08:42 PM

Subject Re: Rating Agency material

Chuck - please send the bullets we discussed directly to Sean

Ryan McInerney
O: 312.732.5445
M: 202.744.5789

✉ Brian A Bessey

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

From: Brian A Bessey
Sent: 09/22/2008 09:21 PM CDT
To: Ryan McInerney
Cc: Sean Carmody
Subject: Rating Agency material

Sean has been charged by Charlie, etc with building the Rating Agency deck

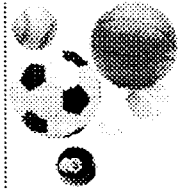
To do so, he needs a few bullets that describe in ways the Rating Agencies would like the process applied for our credit due diligence in March and again now

Of course, he needs to have a draft out overnight so if you would be able to send at least a first cut at such bullets to him it would be very helpful

Thanks

BAB

Exhibit 22



To: Donald McCree/JPMCHASE@JPMCHASE
cc:
Norma Corio@JPMCHASE Subject: Re: Are times for rating agency meetings set?

09/23/2008 07:30 AM

Ok

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

From: Donald McCree
Sent: 09/23/2008 06:29 AM CDT
To: Norma Corio
Subject: Re: Are times for rating agency meetings set?

Probably not these ones. Likely jamie, charlie, mike

Sent from my BlackBerry Handheld.

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

From: Norma Corio
Sent: 09/23/2008 07:27 AM EDT
To: Donald McCree
Subject: Fw: Are times for rating agency meetings set?

i'd like to listen to one of these sessions. will be a good way to get up to speed.

n

Norma C. Corio, Managing Director & Treasurer
JPMorgan Chase & Co.
270 Park Avenue | Floor 46 | New York, NY 10017
☎ direct: (212) 270-5176 | 📠 fax: (212) 270-1077
✉ email: norma.corio@jpmorgan.com

----- Forwarded by Norma Corio/JPMCHASE on 09/23/2008 07:26 AM -----

Brian Keegan/JPMCHASE

09/22/2008 09:10 PM

To: Tod Gordon/IL/ONE@JPMCHASE, Mike Cavanagh/IL/ONE@JPMCHASE, Donald McCree/JPMCHASE@JPMCHASE, Norma Corio/JPMCHASE@JPMCHASE
cc
Subject Re: Are times for rating agency meetings set? [Link](#)

Sharon Haas is one of the best

S&P is better grounds for practicing.

Brian Keegan
Managing Director
Capital Structure Advisory & Solutions
JP Morgan Securities
W: 1-212-270-3518
M: 1-917-562-5671

Assistant:
Pam Flowers
1-212-270-0587
pam.flowers@jpmorgan.com

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

From: Tod Gordon
Sent: 09/22/2008 08:07 PM CDT
To: Mike Cavanagh; Donald McCree; Norma Corio; Brian Keegan
Subject: Re: Are times for rating agency meetings set?

We'll get them booked. Presume you, Charlie and Jamie are required.

I love the Fitch/practice comment. Let me know when you've contacted them and we'll get a time set.

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

From: Mike Cavanagh
Sent: 09/22/2008 07:50 PM CDT
To: Tod Gordon; Donald McCree; Norma Corio; Brian Keegan
Subject: Re: Are times for rating agency meetings set?

Spoke to SP and Moodys. Both OK w Wed am and feedback by 4pm. Please set them up early. Fitch to be contacted tomorrow. Maybe we do them tomorrow night for practice.

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

From: Tod Gordon
Sent: 09/22/2008 07:48 PM CDT
To: Mike Cavanagh; Donald McCree; Norma Corio; Brian Keegan
Subject: Are times for rating agency meetings set?

Let me/Brian know if we can assist.

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

From: Mike Cavanagh
Sent: 09/22/2008 02:34 PM EDT
To: Donald McCree; Norma Corio; Tod Gordon; Brian Keegan
Subject: Urgent : Ratings agency calls

I am about to call Jay Dhru and Greg BAuer re West.

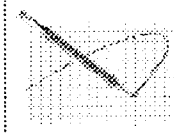
I'm going to tell them about the FDIC process and that we intend to be a bidder on Wednesday. I will propose that we meet with them Wednesday morning and want to know that they can give us their feedback before we bid at 4pm that day (if they can't do that it may move us to Tues night).

I need to figure out what to do with Fitch and who to call.

Please give thoughts on any of this while I cal the regulators now.

Mike

Exhibit 23



Sean D Carmody To: Sally E Durdan/JPMCHASE
cc: Fernando Rivas/JPMCHASE, Gregg B Gunselman/IL/ONE, Scott R
Hynes/JPMCHASE, Candice M Corvetti/JPMCHASE
Subject: FDIC book
09/22/2008
10:03 PM

Sally,

Can someone on your team send us the book that you used to discuss West w/ the FDIC? Charlie and Mike would like us to leverage the page from that book that laid out West's loan portfolios, by product, on a managed basis for the rating agency meetings which are scheduled to begin tomorrow.

Thank you,

Sean

Sean D. Carmody

J.P. Morgan Securities Inc.

Investment Banking Coverage - Financial Institutions

383 Madison Avenue, 36th Floor, New York, NY 10179

O: 212-622-0741 F: 917-546-2549 C: 917-940-2308

Exhibit 24

Brian A Bessey To: Giuseppe X Incitti/JPMCHASE
cc:
Subject: Fw: West output

06/17/2008
02:58 PM

----- Forwarded by Brian A Bessey/IL/ONE on 06/17/2008 02:55 PM -----

Genevieve E Hovde/JPMCHASE

To: Alice Lin/JPMCHASE@JPMCHASE
cc: Brian A Bessey/IL/ONE@JPMCHASE, Gregg B Gunselman/IL/ONE@JPMCHASE, Scott R Hynes/JPMCHASE@JPMCHASE, Vishal X Idnani/JPMCHASE@JPMCHASE

06/17/2008 02:35 PM

Subject: West output



West summary numbers EDITED.xls.zip



West Potential Partners.ppt.zip



Project West - Merger Package 6-12-2006 - West only.ppt.zip

Alice,

~~We have attached our West summary numbers. Please include the West Potential partners slide at the end of the summary section. The 3rd attachment is our West only pages.~~

We will call with additional details.

Genevieve Hovde
Financial Institutions and Governments Group
J.P. Morgan Securities Inc.
277 Park Avenue, 13th Floor
New York, NY 10172
212-622-8535
847-707-7982 (mobile)
genevieve.e.hovde@jpmorgan.com

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Potential buyers


Control approximately 50 percent of the transactions

Network Latent Weak

Domestic

 PNC	4	4	1
---	---	---	---

 US Bank	4	4	2
---	---	---	---

 Wells Fargo	5	5	2
---	---	---	---

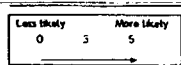
International

BBVA	4	5	5
-------------	---	---	---

 Citi	1	1	2
--	---	---	---

 RBC	3	3	2
---	---	---	---

 Santander	3	4	4
---	---	---	---



JUNE 17, 2008

PROJECT WEST

Merger Package

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Key transaction facts

Capital requirements/Number of shares

	(\$ mil)
West TCE @ 12/08	\$16,341
- Cash related mark and PMA adjustments	(17,922)
- Restructuring charge	(1,142)
- Deferred tax asset ¹	(6,370)
- Qualifying hybrids ²	2,529
FF capital	\$2,459
AWA	\$240,341
Capital required ³	\$16,842
Common equity ratio ⁴	\$14,194
'10 net income ⁵	\$4,362
'11 net income ⁵	\$4,683
'11 cumulative excess capital	\$22,251

Transaction completion

	FF per share			
	\$ mil	\$ mil	\$ mil	\$ mil
Pre-close market	88.00	87.94	8.06	79.88
Deal value without make-whole	\$5,114	\$4,200	\$1,913	\$14,973
Make-whole	4.78	2.04	1.64	0
Deal value	17.34	\$11,237	\$12,158	\$14,973
Capital value	16.18	15.10	14,184	14,184
Total invested capital	\$24,650	\$24,197	\$27,342	\$27,342
Total invested capital - % of average market cap	4.2%	2.6%	5.2%	5.2%
2010 Impact				
\$ per share (GAAP)	10.71	10.11	10.11	10.11
\$ mm (GAAP)	2,718	2,551	2,544	2,544
\$ per share (E-adj)	10.48	10.09	10.37	10.71
\$ mm (E-adj)	2,528	2,478	2,602	2,718
ROIC	25.2%	25.5%	21.7%	25.2%
2011 Impact				
\$ per share (GAAP)	10.70	10.37	10.37	10.71
\$ mm (GAAP)	2,569	2,604	2,604	2,644
\$ per share (E-adj)	11.02	10.26	10.91	10.43
\$ mm (E-adj)	2,794	2,551	2,709	2,618
ROIC	24.1%	21.0%	22.0%	21.2%
10x	44.0%	37.0%	35.2%	32.7%

¹ See page "Capital cost after EAT" for detail.
² Assumes only 1% of target's 10x11 convertible hybrid transactions.
³ Assumes no TCE costs.
⁴ Assumes 100% loan conversion and common equity ratio.

Agenda

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PROJECT WEST

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PROJECT WEST 2

Accretion/(dilution) sensitivity to key drivers

ATTACHMENT 5 - Project West - IPRM - diluted earnings (per share), Time					
			(b)	(c)	Change
Before 2011 IPRM accretion / (dilution)					
GMP			17.76	\$0.81	\$7,043
Cash			19.8	0.95	3,513
2011 GMP EPS impact of change in:					
		Change	Change in GMP accretion / (dilution)		
	(b)	(b)	(b)	(c)	Change
Price paid (\$)	\$1,200	14.16	3.24	\$0.18	\$652
Perk share price (\$)	1.00	20.0	(0.1)	(0.01)	(100)
Perk share price (\$)	1.00	2.5	0.2	0.01	38
Perk's 2011 net income	1,200	4.4	(0.2)	(0.01)	(114)
Capit of rate	1,200	7.1	(0.4)	(0.02)	(403)
Increase to pre-ex restructuring charge	3,200	-	(1.1)	(0.12)	(443)

Source: Company filing
 Note: Annual data as of June 16, 2008

WEST



Summary of material changes from 3/31/2008

	Accretion / (Dis)burse				Capital rate (Basis)	Pre-emptive Ther 1 (Basis)
	2010 Cash (Basis)	2011 Cash (Basis)	2012 Cash (Basis)	2013 Cash (Basis)		
Analysis (3/31/2008)	\$0.94	1.19%	\$0.87	0.1%	\$18,339	0.2%
Impact of:						
Park stock price	(\$0.11)	(2.3%)	(\$0.12)	(2.5%)	\$0	0.0%
Park net income (451.1 bn in 2010)	\$0.25	1.5%	\$0.04	1.5%	\$0	0.2%
DTA deduction from Ther 1 ¹	(\$0.15)	(1.4%)	(\$0.17)	(1.6%)	\$5,227	0.2%
West \$7bn capl of rais with \$3.1bn make-whole	(\$0.01)	(0.8%)	(\$0.04)	(0.9%)	(\$2,200)	0.0%
Park - P/O forms for DSC B \$4.0bn DFD	NA	NA	NA	NA	\$0	(0.1%)
SAAS 141(R) adjustments for loans acquired	\$0.03	0.4%	\$0.03	0.7%	(\$994)	(0.1%)
Updated ben portfolio estimates from Shose 1 Ben	\$0.24	12.3%	\$0.31	10.7%	(\$1,004)	0.0%
Other *	(\$0.01)	(0.1%)	\$0.02	0.4%	(\$37)	(0.0%)
Total Impact	\$0.21	2.9%	\$0.24	6.4%	(\$4,040)	(0.2%)
Current analysis (3/31/2008)	\$1.15	11.7%	\$1.11	11.8%	\$14,199	0.2%

¹ Capital required to maintain B.2B Ther 1 net to 100%, assuming 100% capital spread to 10% of Ther 1
² Reflection of change in 141(R) median 2010 GAAP EPI of \$4.3M (3/31/2008) to \$4.24 (3/31/2008)
³ See page "Capital needs after exit" for detail
⁴ Includes other operating model changes and updated forward curve assumptions

Capital adequacy analysis

	Projected - 12/31/08		Transaction Impact	Pro forma Pre-capital raise	Capital raise Impact	Pro forma capital raise
	Pink	West				
Tier 1 capital	8.21%	7.38%	(0.79%)	7.46%	(0.78%)	8.24%
Leverage	5.87	5.83	(0.50)	5.74	0.54	5.89
TCE / RWVA (Woodys)	7.05	4.88	(0.41)	6.60	1.48	7.28

Source: Company filings, Fitch, Moody's, IBC/EIS, Equity research, Pink and West estimates

WEST

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PROJECT WEST 6

IRR and ROIC calculations

IRR (breakdown) (Expected \$,mm)							
	2008	2009	2010	2011	2012	2013	2014
Purchase price	(11,613)						
Capital raise / release	(14,184)	2,281	1,134	514	636	489	
Operating income		1,403	1,807	1,140			
Cash net income		4,458	3,116	3,179	4,271	4,811	3,125
Terminal value						30,334	
Incremental cash flow	(25,797)	8,641	8,039	4,813	5,407	35,654	

ROIC (breakdown) (Expected \$,mm)				
	2008	2009	2010	2011
Invested capital				
Purchase price	\$11,613	\$11,613	\$11,613	\$11,613
Capital raise	14,184	14,184	14,184	14,184
Capital release (cumulative)	0	(2,581)	(1,714)	(4,228)
Invested capital	\$25,797	\$23,217	\$22,983	\$21,569

ROIC (%)				
	2008	2009	2010	2011
Return				
Cash net income		4,458	3,116	3,179
ROIC (%)		19.2%	13.6%	14.7%

Source: West Projections
 * Assumes 10% debt multiple on all earnings except earnings from divesting portfolio; assumes 10% debt multiple on earnings from divesting portfolio. Assumes such adjustments and financing costs in 2011 are fully amortized from 2011 to 2014.

WEST

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PROJECT WEST 7

Assumptions

Inputs for proposed West financing

Closing:	12/31/2006
Consideration mtb:	100% stock
Earnings on capital rate (pre-tax):	Based on forward Fed Funds curve
Shares issued to West (mm):	214 mm
Shares issued for make-whole (mm):	77 mm
Shares issued for capital raise (mm):	715 mm
PAK fee rate:	35.0%
West fee rate:	34.0%
TPG / Institutional Investor make-whole:	If purchase price < \$2.75, pay difference between \$2.75 and purchase price on 822mm shares
Pre forms net income	not adjusted for potential impact of operating duration and currency risk

Summary of financials

Year ended December 31	2006	2007	2012
PAK (\$70.9M)			
GAAP EPS	\$2.88	\$3.83	\$4.24
Cash EPS	\$3.16	\$4.04	\$4.39
Avg. Diluted share count (mm)	3,463	3,397	3,368
Net Income (\$mm)	\$16,187	\$13,879	\$14,221
LTV (%)			19.0%
West (\$6.73)			
GAAP EPS	(\$2.74)	\$1.87	\$2.79
Cash EPS	(\$2.78)	\$2.80	\$2.31
Avg. Diluted share count (mm)	1,094	1,727	1,823
Number West shares issued during capital raise	822	822	822
Net Income (\$mm)	(\$4,641)	\$3,482	\$4,388

Note: Most of data as of June 16, 2007; Assumes US/US dollars for PAK and management addresses for West

WEST

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PROJECT WEST B

Capital need after PAA

Capital need (000)	
West TCE 12/31/08	\$16,367
- Total PAA adjustments to equity after-tax	(10,803)
- Restructuring charges ¹	(1,142)
- Contingent allowance	0
+ Adjusted TCE	\$4,522
Projected PAA 12/31/08	\$21,363
- Total PAA adjustments ²	(16,372)
- Asset sale of \$10.2bn	(2,454)
+ Adjusted PAA	\$2,537
Tier 1 capital at 8.00% Tier 1 risk-based capital rate	\$16,843
West capital components	
Adjusted TCE	\$4,522
Hybrids allowed (150)	1,526
Deferred tax assets created	(6,270)
Capital need	\$11,156
Park Hybrid class hybrid capital capacity (at 12/31/08)	
Restricted capital instruments (136 Fed)	\$0
Restricted capital instruments (236 Fed)	14,912
WTS and DRD Preferred (236 SLP)	4,035
Mandatory convertible into common (206 SLP)	20,273
Park hybrid capital capacity per firm prior to capital rate (at 12/31/08)	
Restricted capital instruments (136 Fed)	0
Restricted capital instruments (236 Fed)	14,861
WTS and DRD Preferred (236 SLP)	2,315
Mandatory convertible into common (206 SLP)	18,116

Source: West 12/31/08
¹ Restructuring treated as day 1 expense for Park
² Assumes 30% risk-weighting on PAA adjustments
³ DIA assumed to amortize straight line over 4 years

Total purchase accounting adjustments for equity		
(\$mm)	Pre-tax	After-tax
Lease	(22,453)	(215,400)
Trading account securities	(180)	(119)
AFS Securities	(1,200)	(752)
Other assets	630	449
Debits	(114)	(73)
FMS Borrowings	(243)	(173)
Other borrowings	61	40
Loan loss reserve	7,750	5,247
Total	(16,629)	(180,903)

Deduction from Tier 1 capital (\$000)	
	At close
NIM pre-tax earnings	\$7,454
Less: NDA/NCOs	(3,891)
Taxable income less NCOs	\$3,563
Tax effect	1,247
Deferred tax assets	\$5,817
Less: Tax effect	(1,247)
Deduction from Tier 1 capital	\$4,370

1
2
3



Accretion/(dilution)

	2008	2009	2011
Attributable to Park, West, and West Energy			
Park CAP savings	\$12,024	\$14,231	\$19,278
West CAP savings	2,407	4,328	4,948
Cost of cash balances	(79)	(377)	(377)
Profits from proceeds of equity sales	176	241	370
Savings on excluded hydro	346	250	257
Funding restructuring charge	0	0	0
Pro forma cash/distribution from West	\$14,074	\$18,263	\$24,181
Pro forma CAP and income	\$16,920	\$18,792	\$28,267
Existing Park accretion			
Now accretion	683	554	546
Pro forma cash/net income	\$18,171	\$19,682	\$21,219
Pro forma fully diluted shares			
Shares issued to West / capital raise	646	646	646
Share repurchases	(79)	(79)	(79)
Pro forma fully diluted shares	3,397	3,360	3,344
Stand alone Park CAP EPS			
Stand alone Park CAP EPS	\$4.64	\$4.24	\$4.80
Pro forma CAP EPS			
Pro forma CAP EPS	\$4.29	\$4.61	\$5.44
GAAP EPS accretion / (dilution) (\$)			
GAAP EPS accretion / (dilution) (\$)	\$0.40	\$0.45	\$0.83
GAAP EPS accretion / (dilution) (\$/share)			
GAAP EPS accretion / (dilution) (\$/share)	\$1.761	\$2.645	\$3.743
Pro forma cash/EP			
Pro forma cash/EP	\$4.24	\$5.23	\$5.75
Cost EPS accretion / (dilution) (\$)			
Cost EPS accretion / (dilution) (\$)	\$0.52	\$0.82	\$0.93
Cost EPS accretion / (dilution) (\$/share)			
Cost EPS accretion / (dilution) (\$/share)	\$1.886	\$3.776	\$4.886
Cost EPS accretion / (dilution) (\$/share) (EVM)			
Cost EPS accretion / (dilution) (\$/share) (EVM)	\$2.090	\$3.131	\$3.213
Projected stock price			
Projected stock price	\$38.53	\$43.17	\$71.81

JPMorgan Note: Market data as of June 19, 2009; Cost savings and amortization of intangible assets incorporated in West savings

PROJECT WEST ID

Pro forma summary balance sheet

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Assets											
Current assets	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000
Cash	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000
Accounts receivable	0	0	0	0	0	0	0	0	0	0	0
Inventory	0	0	0	0	0	0	0	0	0	0	0
Prepaid expenses	0	0	0	0	0	0	0	0	0	0	0
Other current assets	0	0	0	0	0	0	0	0	0	0	0
Non-current assets	0	0	0	0	0	0	0	0	0	0	0
Property, plant and equipment	0	0	0	0	0	0	0	0	0	0	0
Intangible assets	0	0	0	0	0	0	0	0	0	0	0
Other non-current assets	0	0	0	0	0	0	0	0	0	0	0
Liabilities											
Current liabilities	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000
Accounts payable	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000
Short-term debt	0	0	0	0	0	0	0	0	0	0	0
Other current liabilities	0	0	0	0	0	0	0	0	0	0	0
Non-current liabilities	0	0	0	0	0	0	0	0	0	0	0
Long-term debt	0	0	0	0	0	0	0	0	0	0	0
Other non-current liabilities	0	0	0	0	0	0	0	0	0	0	0
Equity											
Common stock	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000
Retained earnings	0	0	0	0	0	0	0	0	0	0	0
Other equity	0	0	0	0	0	0	0	0	0	0	0

JPMorgan | Source: Company filings, FactSet, I/B/E/S, Equity research, PwC and West estimates
 Note: Market data as of June 16, 2008

Model updates / open issues

- Operating model - not implemented
 - \$5bn incremental credit losses (TBD)—Shane/Sally/Charlie
 - \$100mm incremental indirect expense saves—Sally/Blu Xager
 - Retail banking update to employee benefit expenses—Chad Barton
 - Increase in projected card credit losses—Gordon Smith
 - Inclusion of Commercial aggressive build case—Karen Parkhill
 - Updated BOLI assumptions/projected income—CIO analysis, with Cavanagh approval
 - Update of CIO investment portfolio forecast—Joe Bonocore
 - ALCO overlay (TBD)—Gebler
- Merger / Operating model - changes implemented 6/12
 - Update portfolio mark-to-markets to reflect current (wider) new volume spreads
 - Updated liquidating portfolio projections/template (operating model)—Shane
 - CDI increase from \$3.7bn to \$4.7bn
 - SFAS 141(R) adjustments for loans acquired
 - Update earnings on capital/cost of financing to reflect forward rate curve (merger model)—FIG
 - Update marginal tax rate to 35% from 34% for use on PAA and deal adjustments (operating/merger model)—Ben Lopata/FIG
 - DTA amortization and impact value—reflect imbedded basis calculation and amortization (operating model)—Ben Lopata/FIG

WEST

JPMorgan Q

PROJECT WEST 12

Exhibit 25

From: John R Chrin <john.r.chrin@jpmorgan.com>
Sent: Tuesday, September 23, 2008 9:14 AM
To: Fernando Rivas <fernando.rivas@jpmorgan.com>; Eric L Warmstein <eric.l.warmstein@jpmorgan.com>
Subject: RE:

This would be the "low risk" deal to catapult them ahead of RBC to be Canada's largest company + plays to their retail power alley. I don't 10 is a problem 20 starts to get big

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

From: Fernando Rivas
Sent: Tuesday, September 23, 2008 9:00 AM
To: John R Chrin; Eric L Warmstein
Subject: Re:

How aggressive do you think they'd be? Wld be a huge capital raise. 10 - 20bn common

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

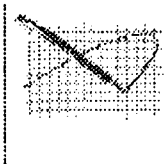
From: John R Chrin
To: Fernando Rivas; Eric L Warmstein
Sent: Tue Sep 23 08:57:33 2008
Subject: RE:

Yes

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

From: Fernando Rivas
Sent: Tuesday, September 23, 2008 8:45 AM
To: Eric L Warmstein; John R Chrin
Subject:
TD still in West process. Any of you think they post?

Exhibit 26



Scott R Hynes@JPMCHASE To: Jamie Dimon/IL/ONE
cc: Project West BANKS <Project_West_BANKS@jpmorgan.com>, Charlie Scharf/IL/ONE, Mike Cavanagh/IL/ONE, Tim Main/JPMCHASE, Kathleen Will/JPMCHASE
09/23/2008 02:13 PM Subject: West Competitor Analysis

Jamie:

Attached is an analysis of select West competitors based on a \$25bn cumulative loss and three scenarios. You will find a snapshot of the competitors' current capital structure, along with their pro forma ratios for the three scenarios and what capital raise would be necessary to hit a target ratio or to get them back capital neutral. Please let us know if you have questions.


Scott R. Hynes

J.P. Morgan | Investment Banking Coverage | Financial Institutions Group

383 Madison Avenue, 36th floor | New York, NY 10179

Tel: (212) 622-2193 | Mob: (202) 299-6303 | Fax: (646) 688-6906

scott.r.hynes@jpmorgan.com

 <u>West capital comparision vFINAL REVISED</u> 22 Sep 2008.ppt	Type: application/vnd.ms-powerpoint Name: West capital comparision vFINAL REVISED 22 Sep 2008.ppt
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SEPTEMBER 23, 2008

PROJECT WLS1

Competitor Analysis

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Scenario summary

- Leave no debt behind
 - \$3.7bn deduction from Tier I capital
 - West pro forma Tier I capital 4.1bn LESS \$7.8bn sub debt = (\$3.7bn)
- Leave sub debt behind
 - \$4.1bn addition to Tier I capital
 - West pro forma Tier I capital \$4.1bn
- Leave sub and sr debt behind
 - \$10.4bn addition to Tier I capital
 - West pro forma Tier I capital \$4.1bn ADD \$6.3bn senior debt = \$10.4bn

PROJECT WEST




12/25/2023

PROJECT WEST 1

Exhibit 27

Chad M Borton To: Anne Leyden/OH/ONE@JPMCHASE, Chad M Borton/JPMCHASE@JPMCHASE, Cathy Kenworthy/JPMCHASE@JPMCHASE, Christopher I. Sieve/OH/BANCONONE@JPMCHASE, Chuck T Heiden/OH/BANCONONE@JPMCHASE, Emmett J Vollenweider/OH/ONE@JPMCHASE, Michael Lipsitz/IL/ONE@JPMCHASE, Christopher J Henry/AZ/ONE@JPMCHASE, Michael Cleary/IL/ONE@JPMCHASE, Donald V Alecci/JPMCHASE@JPMCHASE, kent.w.ziegler@chase.com, Kevin Watters/JPMCHASE@JPMCHASE, Scott E Powell/JPMCHASE@JPMCHASE
09/22/2008 08:14 AM
cc:
Subject: WSJ

If you did not catch this morning, see article from Chuck below....leak of potential FDIC.

Chad M. Borton | Head of Retail Distribution Network | JPMorganChase & Co. |  chad.m.borton@chase.com |  Office : (614) 213-9439 |  Cell : (614) 530-1191

----- Forwarded by Chad M Borton/JPMCHASE on 09/22/2008 08:07 AM -----

WAMU pushed Sunday to decide its fate, continuing talks with potential buyers amid mounting pressure from federal regulators.

The Seattle thrift has drawn interest from potential suitors such as Citigroup Inc., J.P. Morgan Chase & Co., Wells Fargo & Co. and Banco Santander SA of Spain, according to people familiar with the situation.

While some people close to the discussions hope a deal could be struck within days, one stumbling block is that a straightforward sale of WaMu would require the buyer to absorb the company's troubled assets.

With WaMu expecting losses of \$19 billion on its mortgage portfolio during the next 2½ years, some would-be bidders favor a government-assisted takeover, people familiar with the matter said. One scenario is that the Federal Deposit Insurance Corp. would seize control of WaMu's banking unit and then sell its deposits to another bank.

The buyer would have the right to pick the branches and assets it wanted to buy along with WaMu's deposits. But that would leave the government to grapple with the riskier leftovers.

Executives and directors at WaMu also are weighing other options, including raising additional capital, possibly with assistance from federal regulators. But falling housing prices and deepening tumult in the U.S. financial system have made it much harder to attract outsider investors.

At WaMu, pressure to resolve the uncertainty swirling around the company is coming from the FDIC, which has been taking an increasingly tough stance with troubled financial institutions.

A FDIC spokesman declined to comment Sunday. A spokesman from the Office of Thrift Supervision, which also regulates WaMu, said "we are aware of the situation and following closely" but declined further comment.

Write to Dan Fitzpatrick at dan.fitzpatrick@wsj.com, Robin Sidel at robin.sidel@wsj.com and David

Enrich at david.enrich@wsj.com

Exhibit 28

Brian A Bessey To: Gregg Gunselman, Genevieve E Hovde/JPMCHASE, Fernando Rivas
cc: sally.e.durdan@jpmchase.com
Subject: Open Due Diligence Items

03/27/2008
05:40 PM

While we have been able to close out the Tier 1 tax issues, as far as I am aware all other Tier 1 issues remain outstanding (did we ever have the call re share count today??)

It would be helpful to speak again with Lehman/Goldman on these specific requests (updated list is attached below) to see where we stand. I would expect that Charlie would like to know prior to finalizing a letter.

BAB



Status Summary West 3_27_08.xls

**Brian A
Bessey**

To: Scott E Powell/JPMCHASE
cc:
Subject: Re: Fw: West Branch P&L

03/20/2008
07:28 AM

please have someone review item 3.09.02 on the intrlinks site

they claim that this satisfies our request for direct expense and headcount detail for retail

let me know

thanks

BAB

✉ Scott E Powell/JPMCHASE

**Scott E
Powell/JPMCHASE**

To "Brian Bessey" <brian.a.bessey@jpmchase.com>
cc "Chad Borton" <chad.m.borton@jpmchase.com>
Subject Fw: West Branch P&L

03/20/2008 07:12 AM

Brian

We need a clean p&l, and a detailed breakdown of the direct expenses (and ideally, the indirects in banking too). We need to push the two requests again to the top of our critical list. We'd also be willing to get on the phone with their bankers and/or Scott Maw (banking cfo) to discuss. Thanks.

Scott

Sent from my BlackBerry Handheld.

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

From: Charlie Scharf
Sent: 03/20/2008 06:01 AM CDT
To: Scott Powell
Subject: Re: West Branch P&L

Both

Sent from my BlackBerry Handheld.

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

From: Scott E Powell
Sent: 03/19/2008 08:23 PM CDT
To: Brian Bessey; Charlie Scharf
Subject: West Branch P&L

The branch p&l is not what we asked for or what we need. We can ask for a follow-up to clarify the request but




I'm sure they understood the original request. I'm not sure how you want to proceed. We can keep asking or we can swag the numbers based on what we have. Please advise.

Sent from my BlackBerry Handheld.

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

From: Chad M Borton
Sent: 03/19/2008 08:02 PM EDT
To: Ryan McInerney
Cc: Scott Powell
Subject: Re: ECC & P&L

The P&L is not helpful - they did not want to work too hard to break it out. They have "Store Distribution" but it has \$583MM of loan losses.....so clearly they still have some branch generated HE portfolio in it of \$38B!!!!

Chad M. Borton | Chief Financial Officer, Consumer Banking | JPMorganChase & Co. | 
chad.m.borton@chase.com |  Office : (614) 213-9439 |  Cell : (614) 530-1191

Ryan M McInerney/JPMCHASE

03/19/2008 07:27 PM

To chad.m.borton@jpmchase.com
cc scott.e.powell@chase.com
Subject ECC & P&L

They just loaded what looks to be a pretty good break down of ECC HC and a high-level P&L broken out into Banking, HE, Online, Other. As we suspected, it looks like they created the P&L breakdown from scratch.
Ryan

Ryan McInerney
JPMorgan Chase
w: 312.732.5445
m: 202.744.5789

----- Forwarded by Ryan M McInerney/JPMCHASE on 03/19/2008 06:17 PM -----

IntraLinks <publications_comments@intralinks.com>

03/19/2008 06:12 PM

To IntraLinks Alert <ilalerts@intralinks.com>
cc
Subject Project Olympic - publication "3.41 01 Retail Ops and ECC"

Please respond to
IntraLinks <michael.olson@wamu.net>

1. note from Mike Olson / Washington Mutual

The purpose of this message is to notify you of a change made to the subject item. You can review the updated item by clicking on the URL below.

2. details

type: publication
title: 3.41 01 Retail Ops and ECC
folder: 3.0 Business Segment - Retail Banking
workspace: Project Olympic

link:
<https://services.intralinks.com/AZ?i=76727072&w=586472&p=1>

3. primary contacts

David Bloch / Goldman Sachs
999-999-9999
david.bloch@gs.com

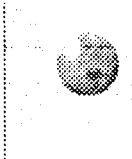
Anand Krishnamurthy / Goldman Sachs
02120 902-5818
anand.krishnamurthy@gs.com

Ishaan Pohoomul / Lehman
212-526-1954
ispohoom@lehman.com

forgot your password? <https://services.intralinks.com/html/visitor/identifyVisitor.jsp>
call our 24 x 7 global phone support service. Find the phone number closest to you by
going to <https://services.intralinks.com/numWorldwide.html>
or email us at support@intralinks.com

<<<ILJHKEQIKFIFQ>>>

Exhibit 29



Tod To: m.shane.tilson@jpmchase.com, brian.a.bessey@jpmchase.com,
Gordon@JPMCHASE mike.cavanagh@jpmchase.com
cc:
03/10/2008 06:58 PM Subject: West FHLB Maturities

West has roughly \$40B FHLB advances maturing in 2008 and \$18B in 2009 (pg. 35). Not a deal killer but something to work out if this progresses.


 West 4Q07 Fixed Income Investor Update.pdf **Type:** application/octet-stream
Name: West 4Q07 Fixed Income Investor Update.pdf

Exhibit 30

WORKING GROUP LIST

Project West

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WORKING GROUP LIST



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WORKING GROUP LIST

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WORKING GROUP LIST

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Exhibit 31



robert.p.sullivan@us.pwc.com To: louis.rauchenberger@jpmorgan.com,
warren_shannon@jpmorgan.com
07/22/2008 07:35 PM cc:
Subject: Wamu credit slides

These are worth a quick flip, I am sure Sally and Corrine are all over this....(See attached file: Wamu credit_pdf.zip)

Robert P Sullivan | PricewaterhouseCoopers | Telephone: +1 646 471 8388 |
Mobile: +1 203 722 0458 | robert.p.sullivan@us.pwc.com

Thoughts don't need paper to take shape.

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Wamu credit_pdf.zip

Type: application/zip

Name: Wamu credit_pdf.zip



Q2 2008

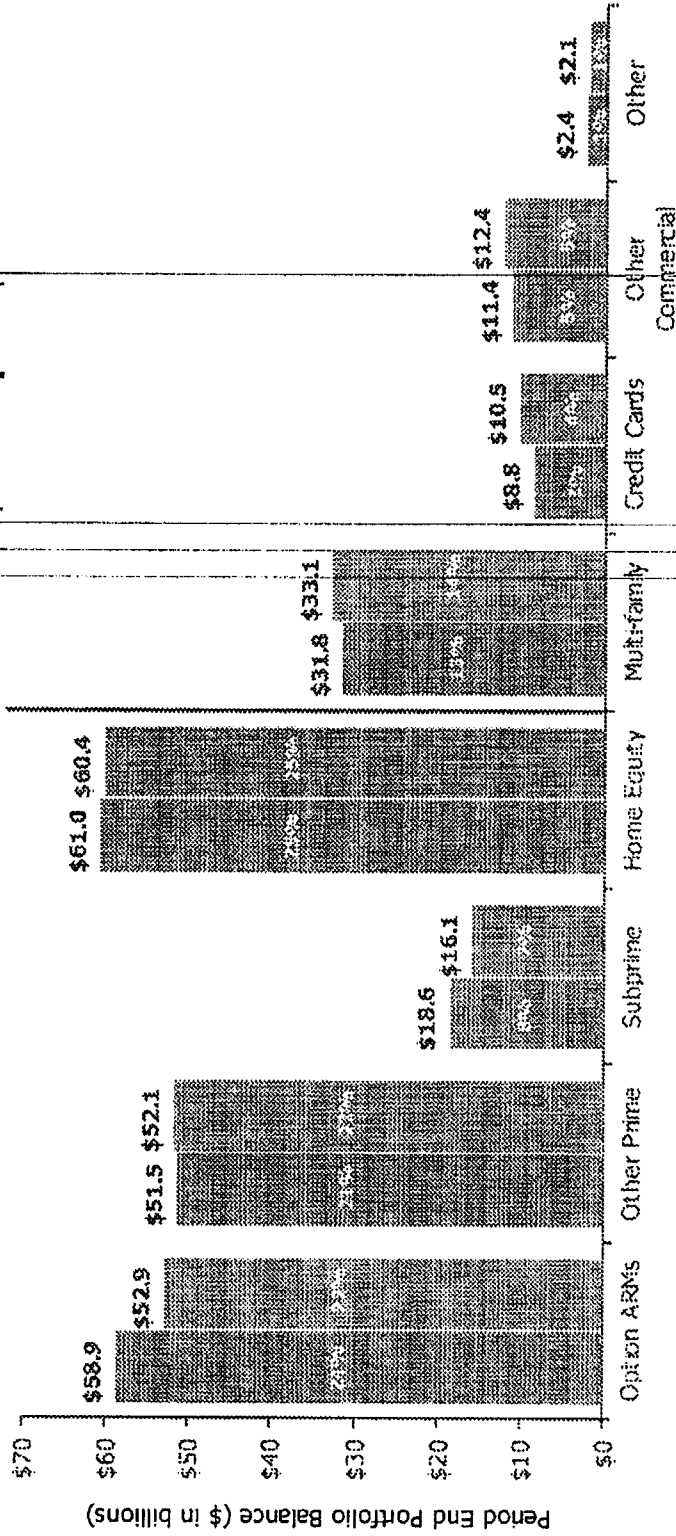
Credit Risk Management

July 22, 2008

Loan Portfolio Mix

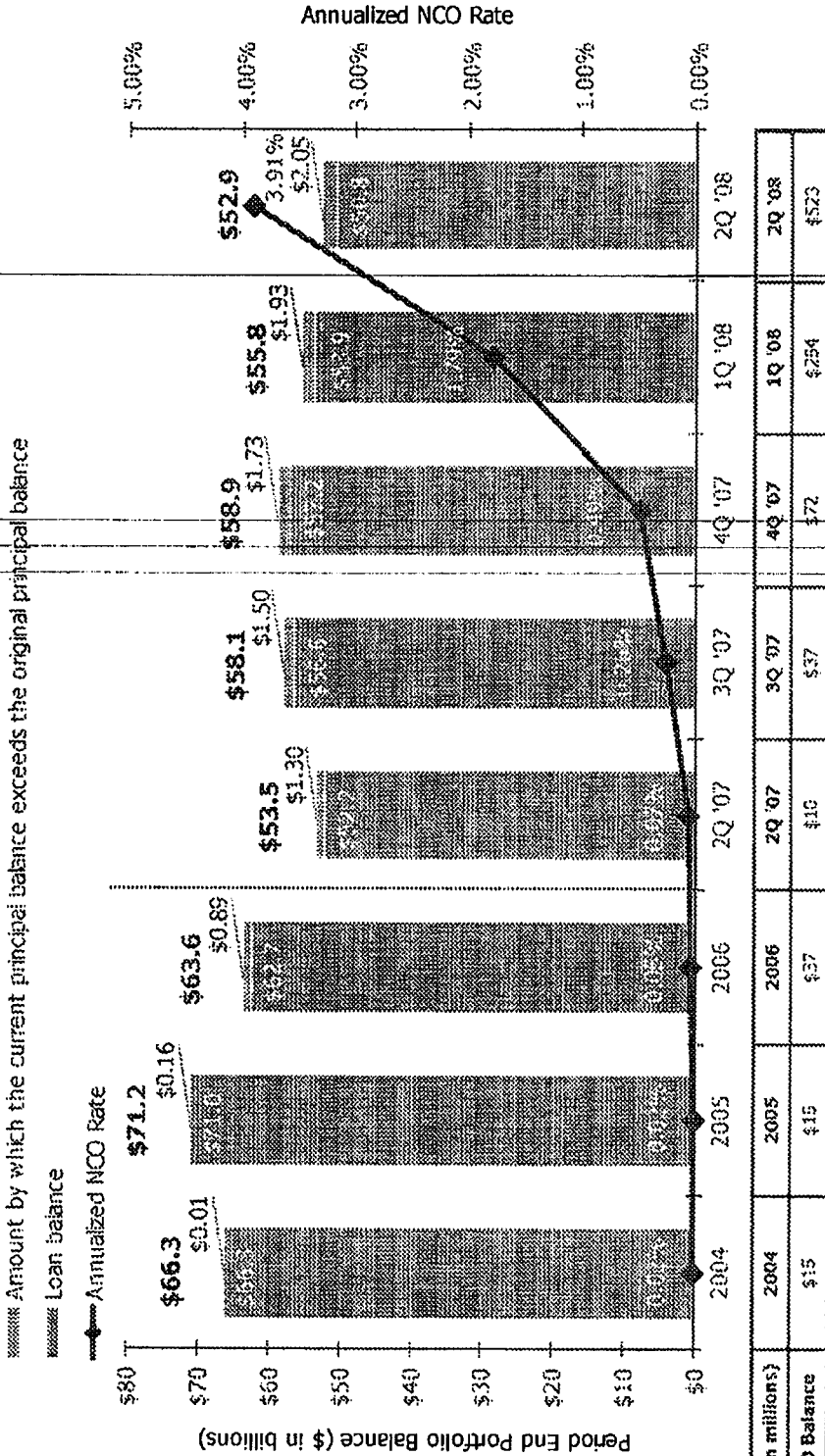
Single Family Residential Loans
\$190.0 down to \$181.5

Other Loans
\$54.4 up to \$58.1



Option ARM Portfolio

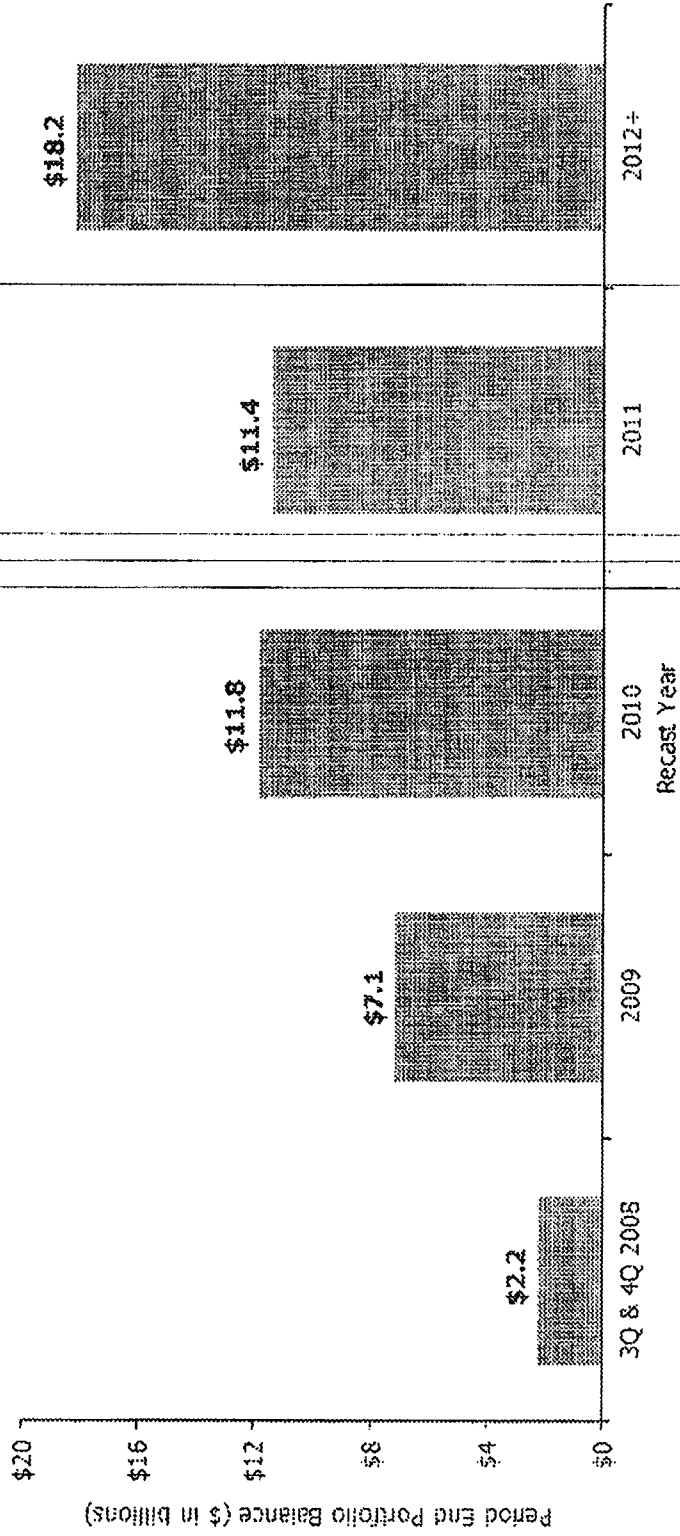
Current FICO = 683
Original LTV = 72%
Est. Current LTV = 70%
Est. Current LTV > 90% = 14%
Est. Current LTV > 80% = 38%



(\$ in millions)	2004	2005	2006	2Q '07	3Q '07	4Q '07	1Q '08	2Q '08
NCO Balance	\$15	\$15	\$37	\$10	\$37	\$72	\$254	\$523

Estimated loan-to-value calculation based on OFHEO March 2008 data (released May 2008).

Option ARM Portfolio Recasts¹

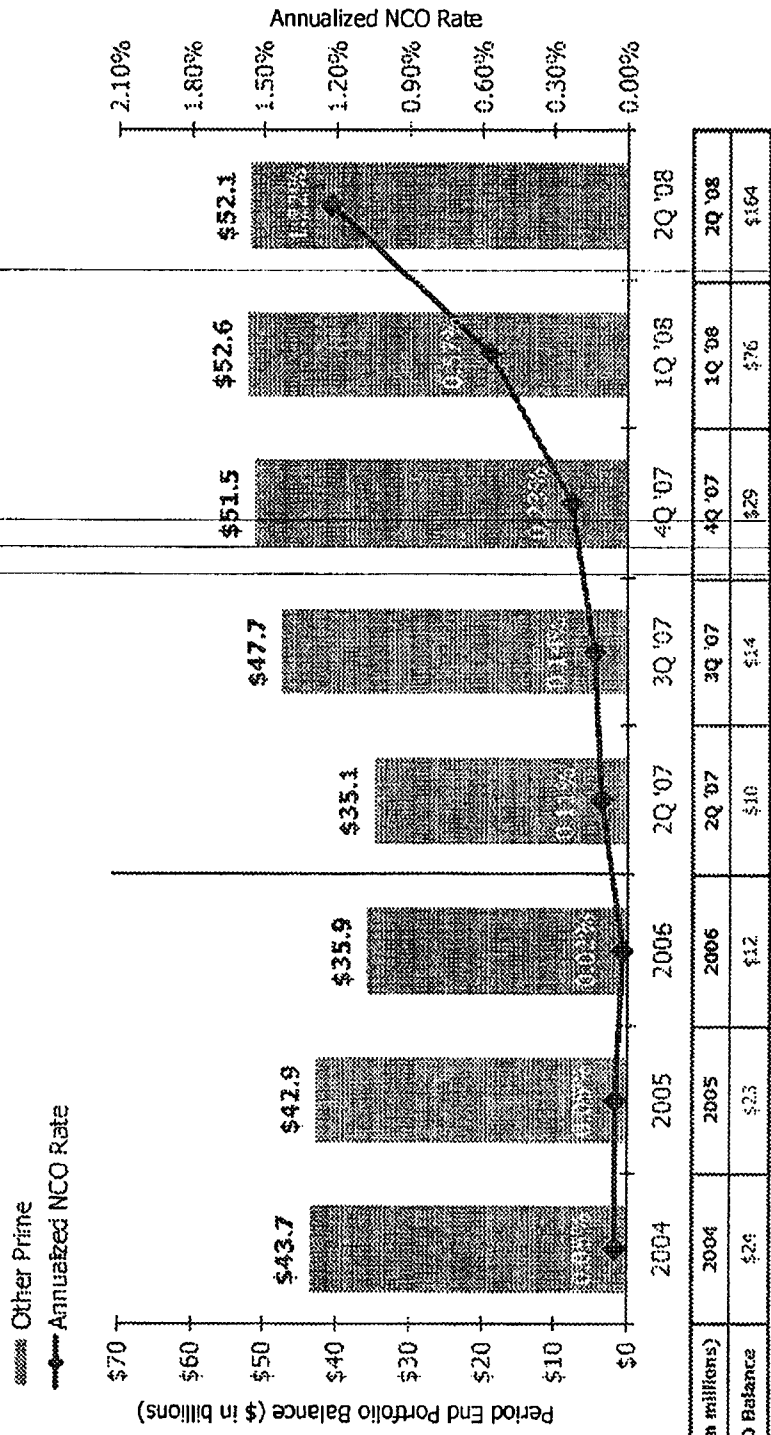


Data as of 6/30/08.

¹Assumes that all balances recast no earlier than 5 years after origination and no prepayment or refinancing occurs.

Other Prime Portfolio

Current FICO = 720
 Original LTV = 69%
 Est. Current LTV = 82%
 Est. Current LTV > 90% = 4%
 Est. Current LTV > 80% = 19%

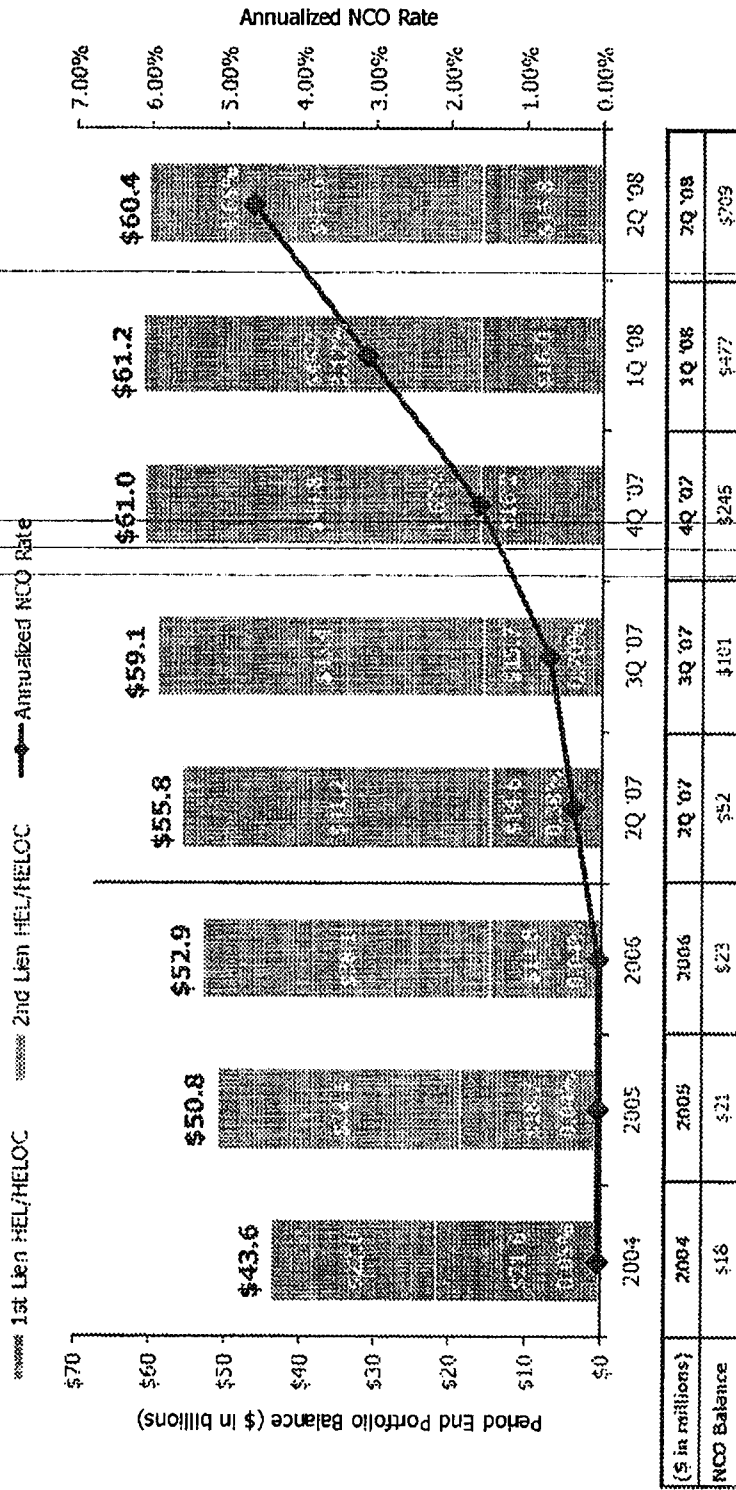


¹Estimated loan-to-value calculation based on OFFHEO March 2008 data (released May 2008).

Home Equity Loan / Home Equity LOC Portfolios

1st Lien Home Equity
 Current FICO = 738
 Original Combined LTV = 65%
 Est. Current Combined LTV = 56%
 Est. Current Combined LTV > 50% = 8%
 Est. Current Combined LTV > 80% = 20%

2nd Lien Home Equity
 Current FICO = 720
 Original Combined LTV = 76%
 Est. Current Combined LTV = 73%
 Est. Current Combined LTV > 90% = 22%
 Est. Current Combined LTV > 80% = 41%

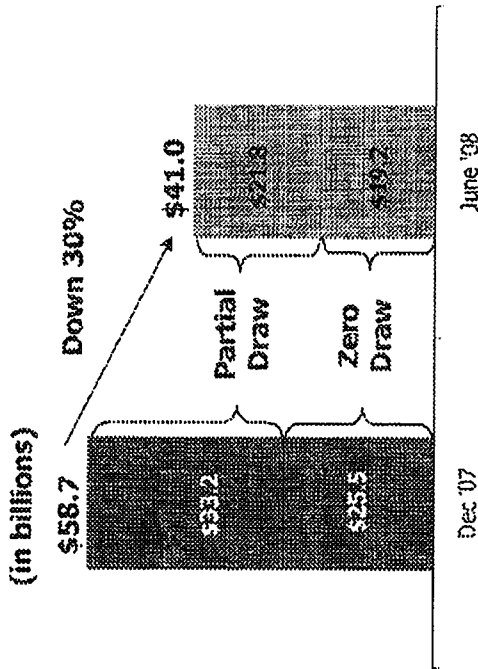
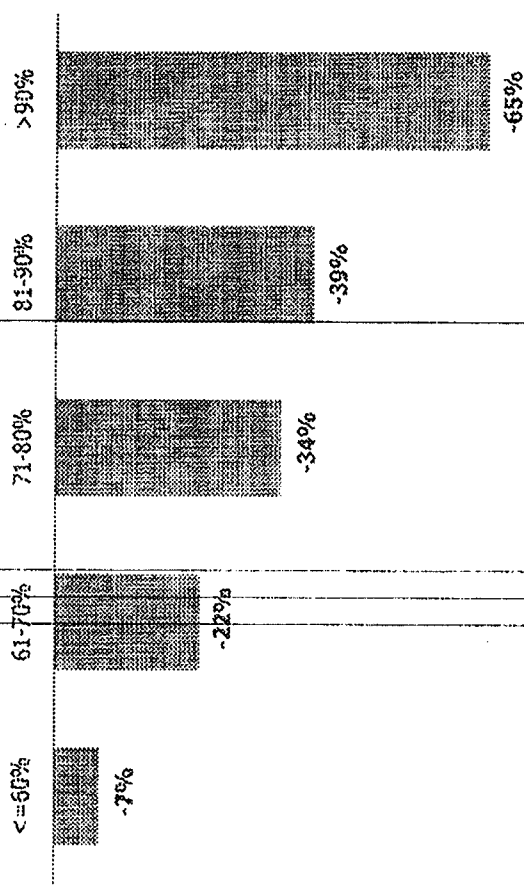


¹Estimated combined loan-to-value ratio based on OFHEO March 2008 data (released May 2008).

Reducing Home Equity Exposure

Unfunded Loan Commitments

Percentage of Unfunded Line Reductions by CLTV^{1,2}



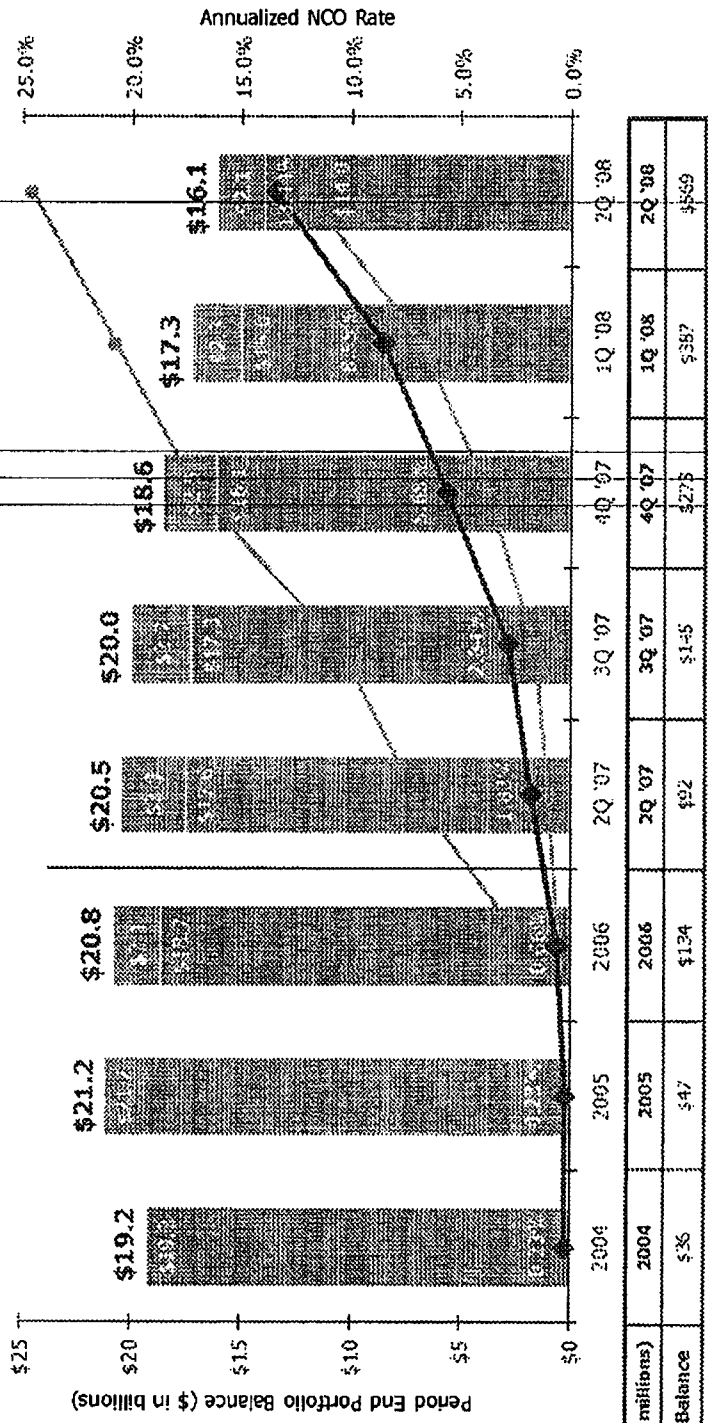
¹The balances shown are for accounts existing in both periods and exclude accounts for which Current Combined LTV estimates were not obtained.
²Current combined loan to value (CLTV) ratios are calculated using estimates of potential total debt that reflect the total line amount (including portions that are currently undrawn) with specific analysis using AVMs, BPOs, appraisals, and other techniques.

Subprime Mortgage Channel Portfolio

Home Loans
 Current FICO = 605
 Original LTV = 78%
 Est. Current LTV = 72%
 Est. Current LTV > 90% = 13%
 Est. Current LTV > 80% = 33%

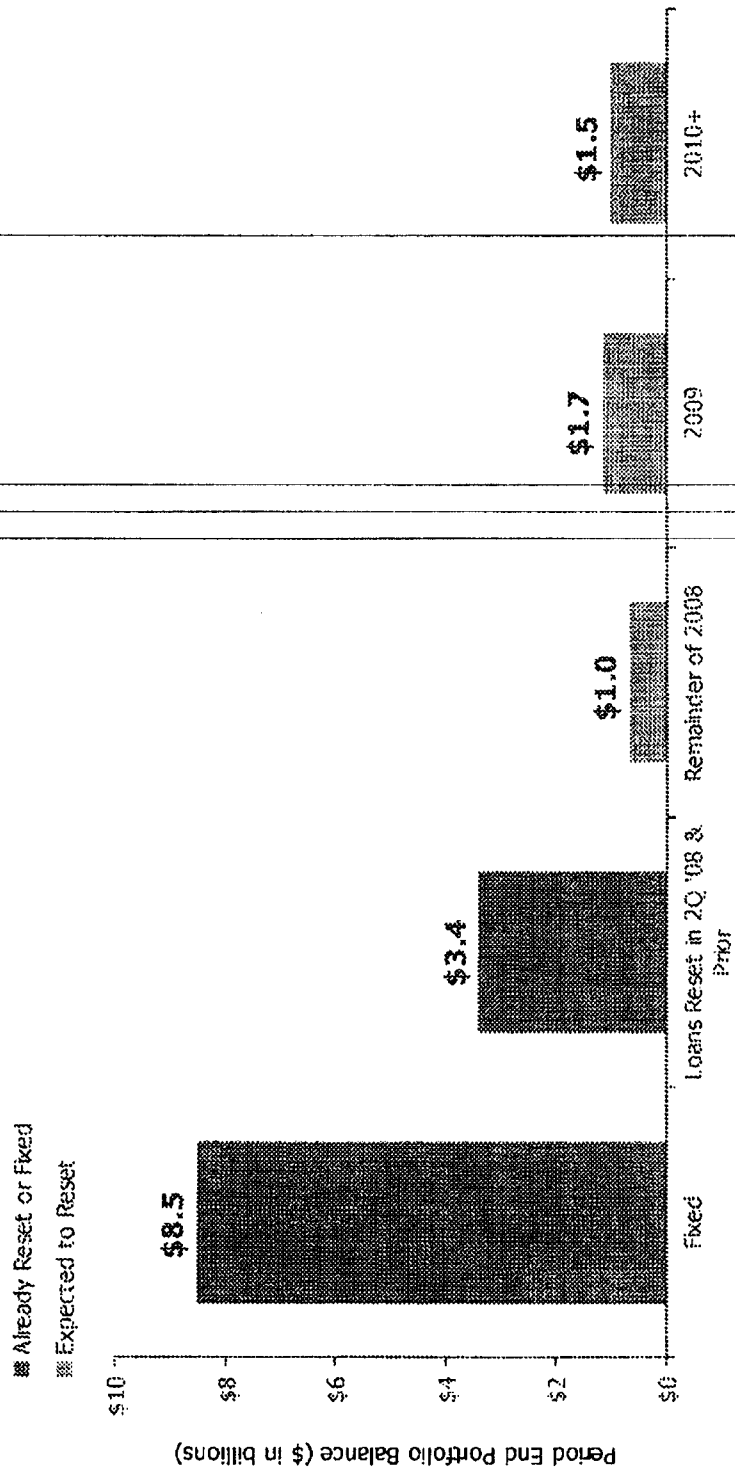
Home Equity
 Current FICO = 671
 Original Combined LTV = 94%
 Est. Current Combined LTV = 95%
 Est. Current Combined LTV > 80% = 71%
 Est. Current Combined LTV > 80% = 89%

- Home Equity Loans
- Home Loans
- Total SMC Annualized NCO Rate
- Subprime Home Equity NCO Rate
- Subprime Home Loan NCO Rate



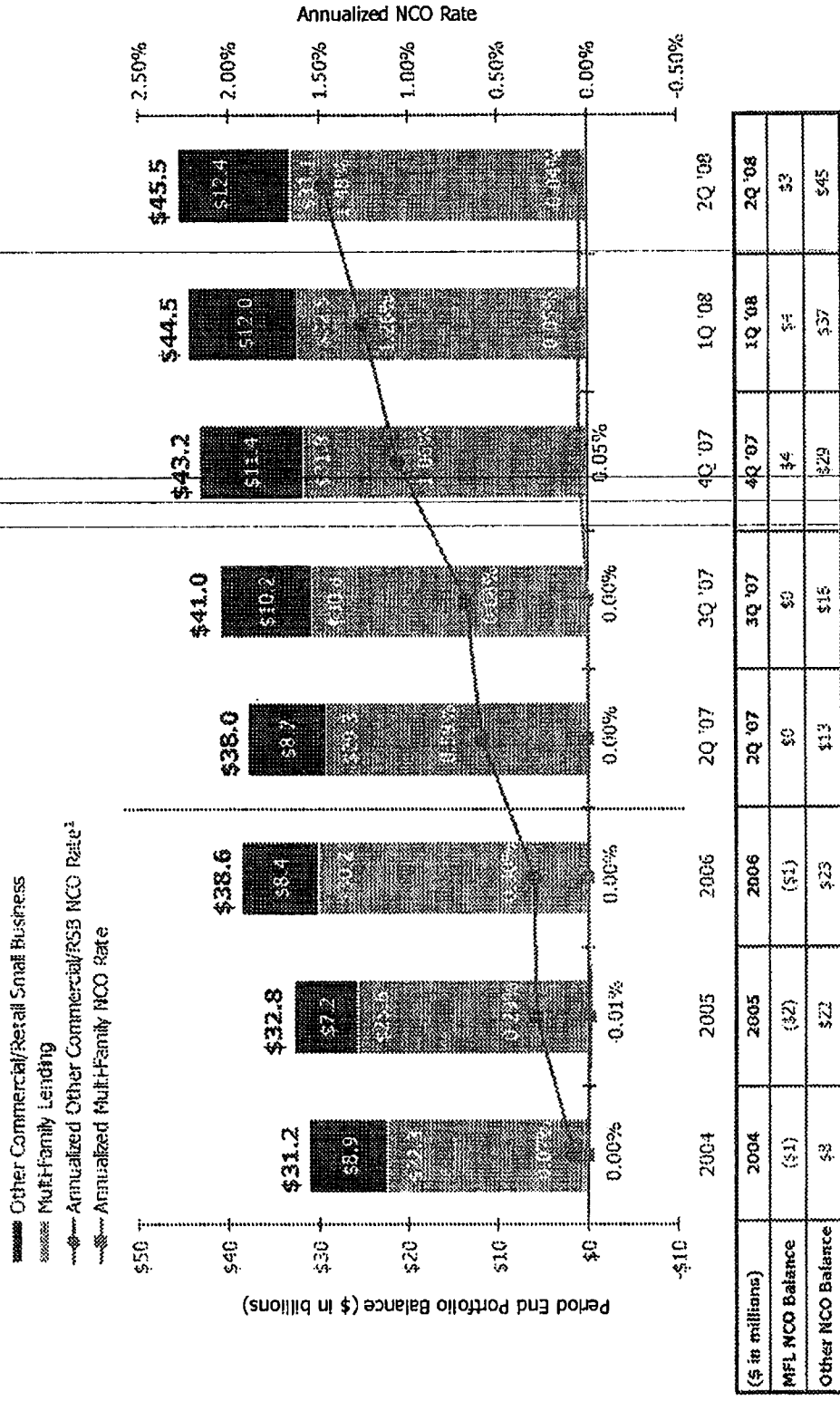
*Estimated loan-to-value ratio based on OFHEO March 2008 data (released May 2008).
 †Estimated combined loan-to-value ratio based on OFHEO March 2008 data (released May 2008).

Subprime Mortgage Channel Resets



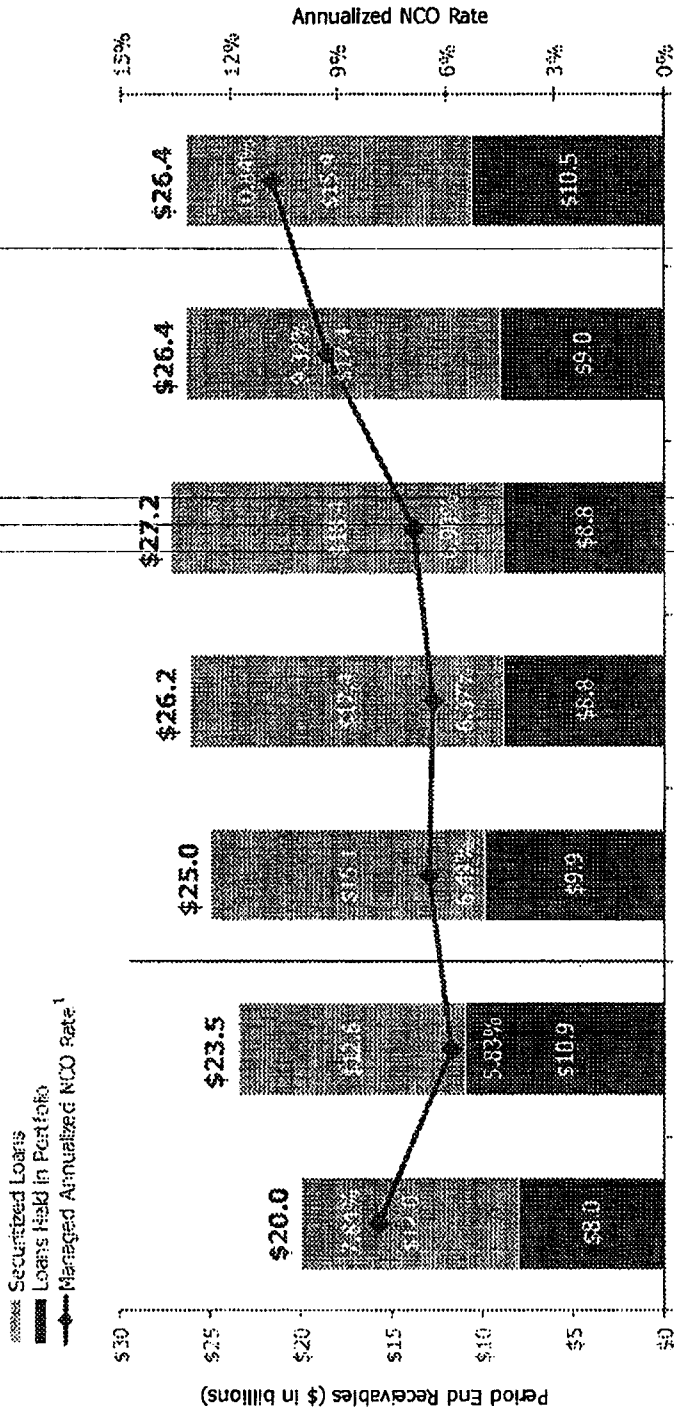
Date as of 5/30/2008.

Multi-Family Lending and Other Commercial Portfolios



¹Net charge-offs for Other Commercial in 4Q '07, 1Q '08, and 2Q '08 are almost entirely driven from Retail Small Business.

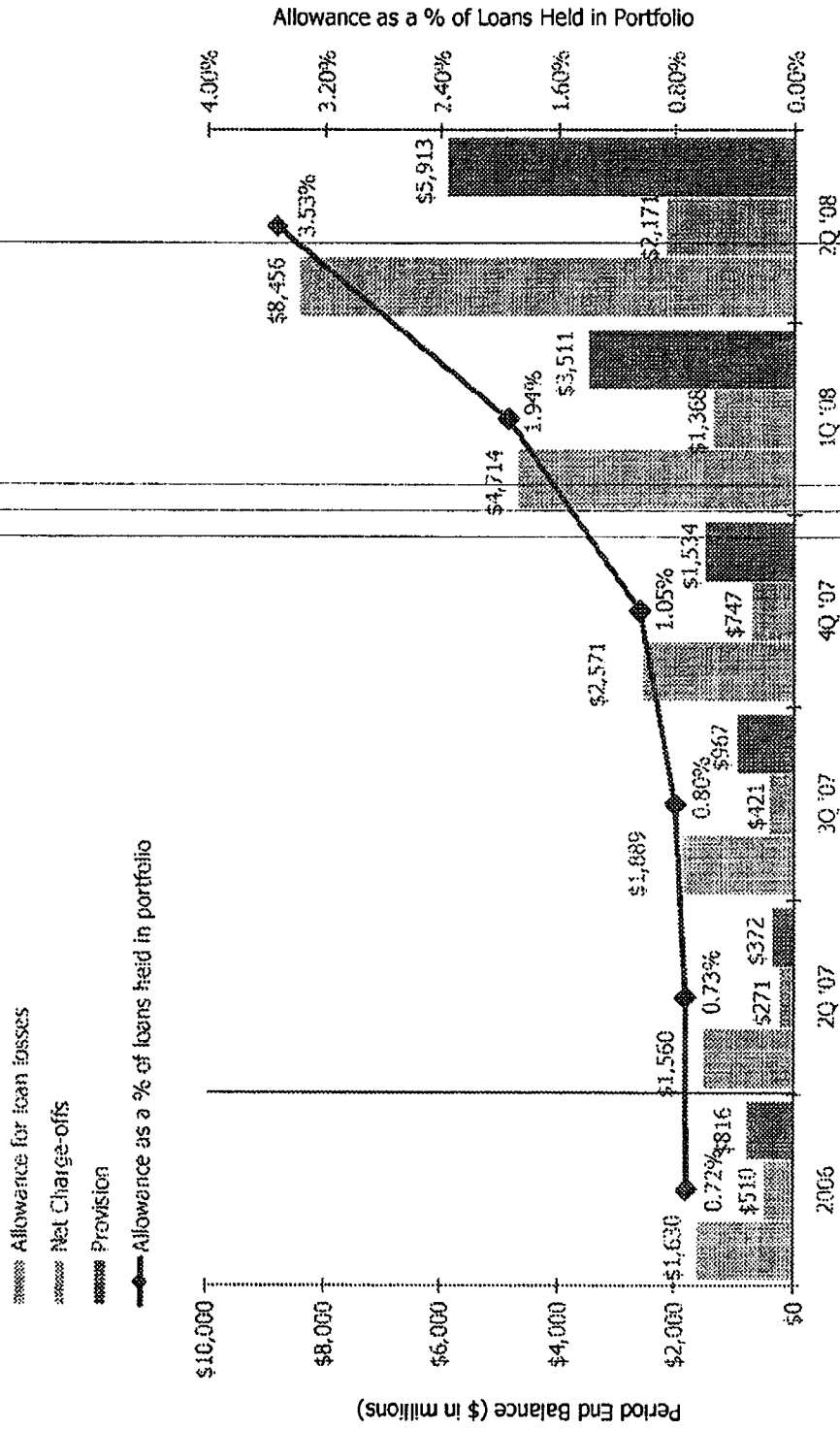
Managed Card Services Portfolio



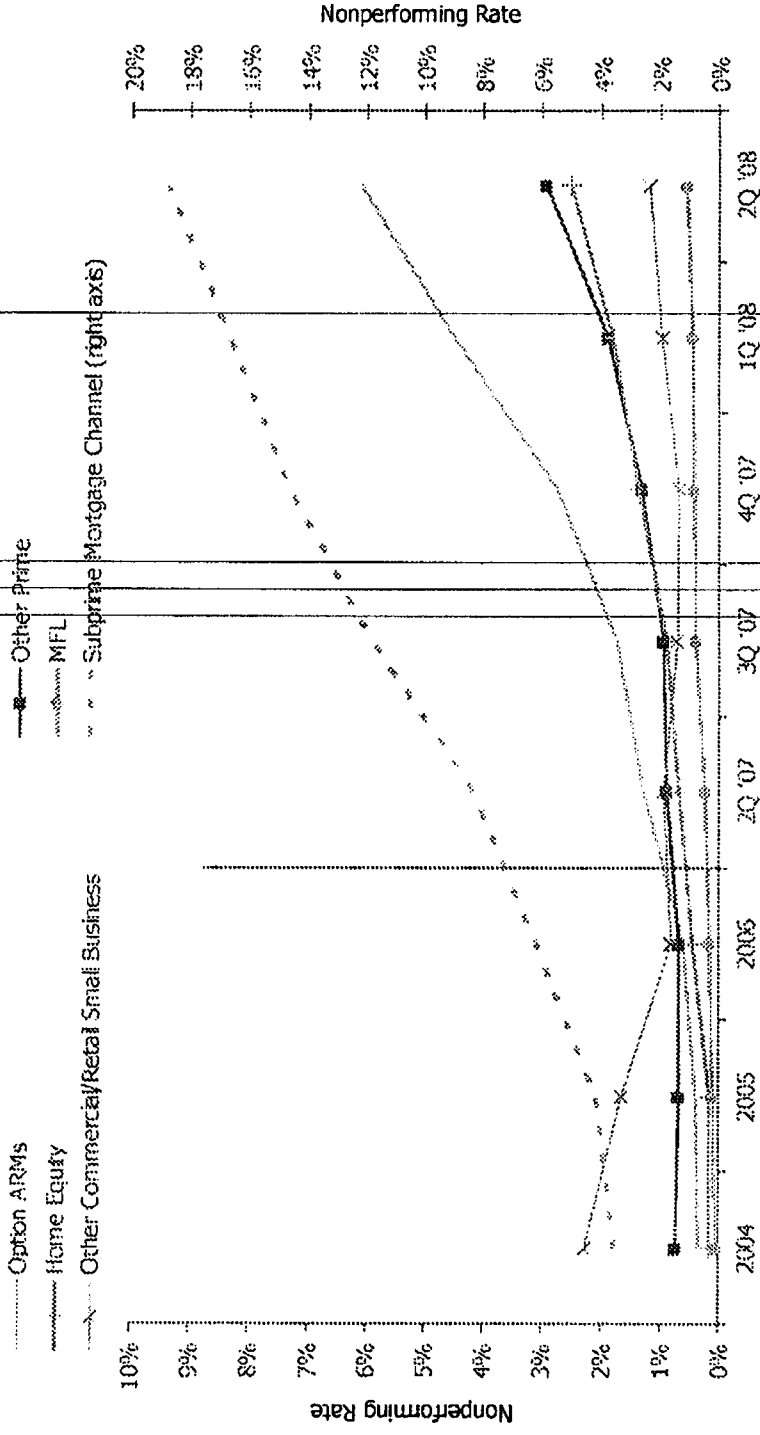
(\$ in millions)	2005	2006	2007	3Q '07	4Q '07	1Q '08	2Q '08
On Balance Sheet NCO Balance	\$96	\$269	\$91	\$105	\$95	\$123	\$153
Managed NCO Balance	\$1,456	\$1,235	\$322	\$413	\$454	\$623	\$753

¹Net charge-off data presented for periods 1Q '05 to 3Q '05 is for Provident Financial Corp.

Allowance for Loan Losses

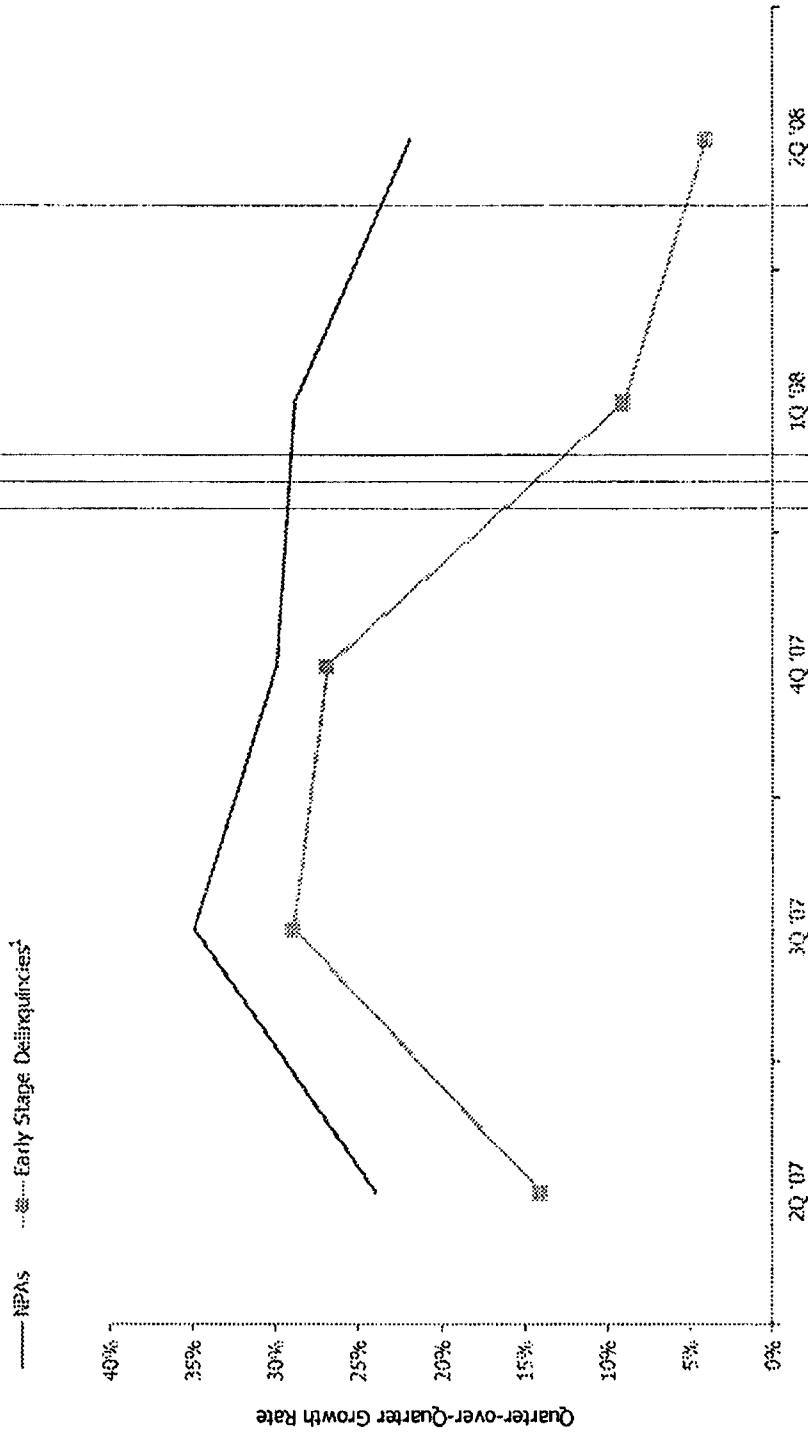


Nonperforming Assets



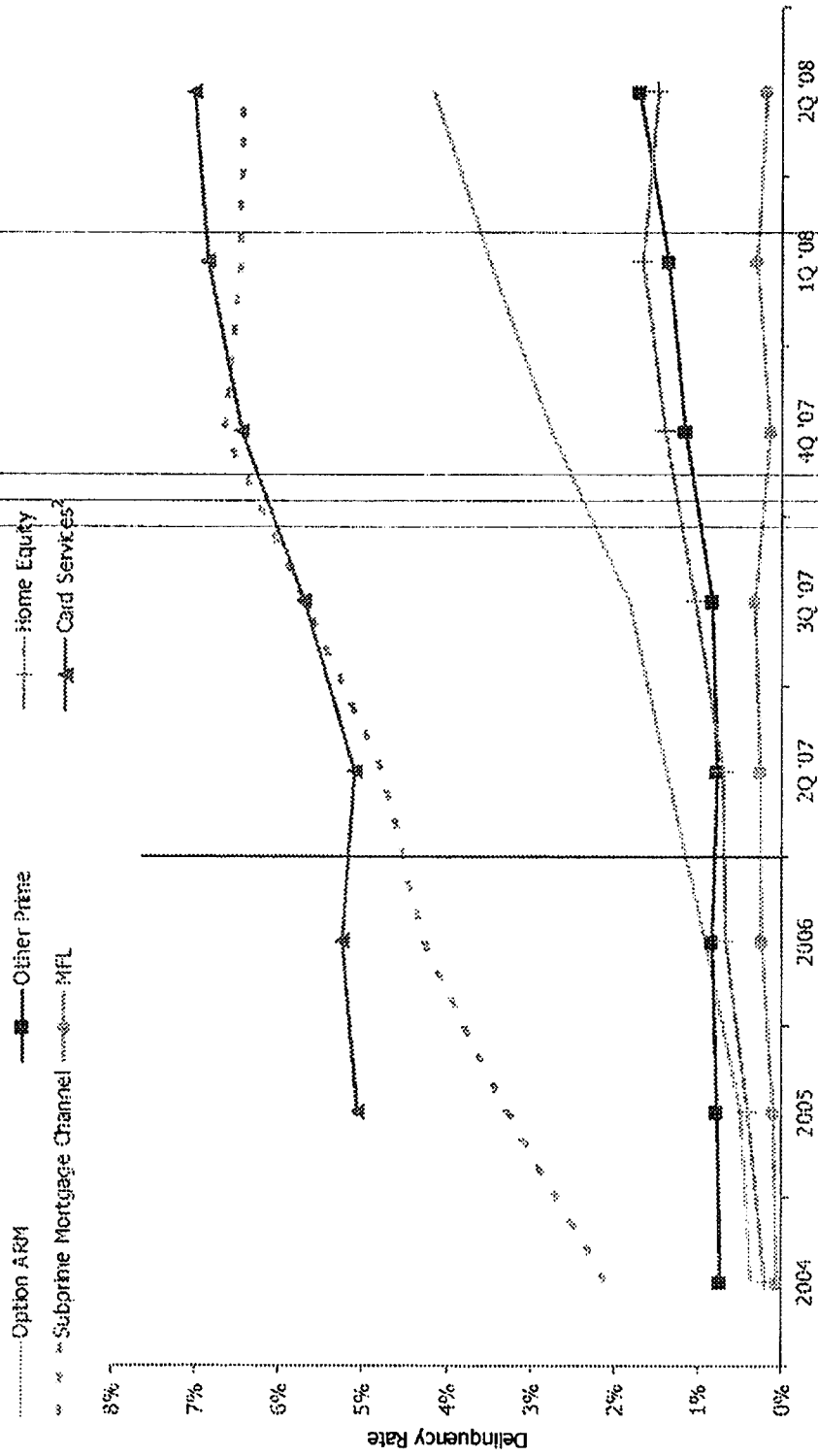
(\$ in millions)	2004	2005	2006	2Q '07	3Q '07	4Q '07	1Q '08	2Q '08
Nonperforming Loans	\$1,534	\$1,686	\$2,295	\$3,275	\$4,577	\$6,123	\$7,824	\$9,691
Foreclosed Assets	\$261	\$276	\$180	\$750	\$874	\$979	\$1,357	\$1,512
Nonperforming Assets as a % of Total Assets	0.58%	0.57%	0.80%	1.29%	1.65%	2.17%	2.87%	3.62%

Declining Rate of Growth in NPAs and Delinquencies



¹Computed as total delinquencies less nonperforming loans and represents loans roughly 30-99 days past due.

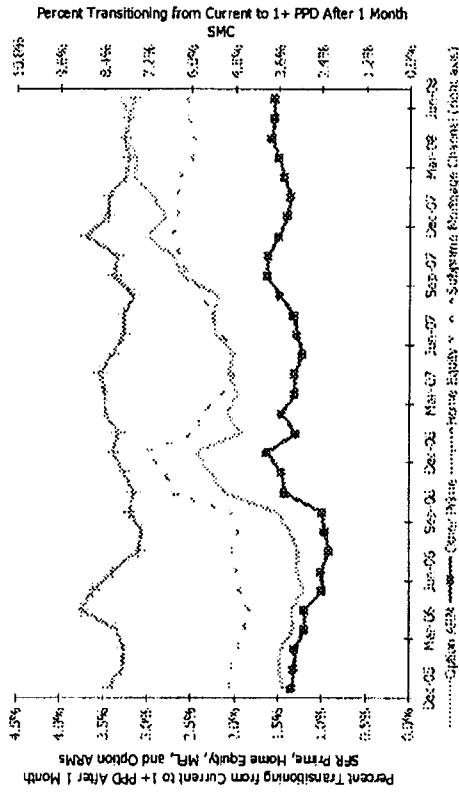
Early Stage Delinquencies¹



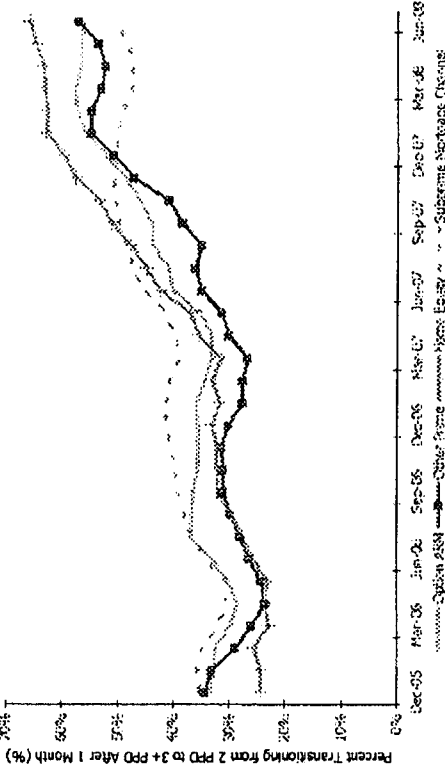
¹Computed as total delinquencies less nonperforming loans and represents loans roughly 30-89 days past due.
²Card Services is shown on a managed basis and represents 30+ day delinquencies.

Transition Roll Rates¹

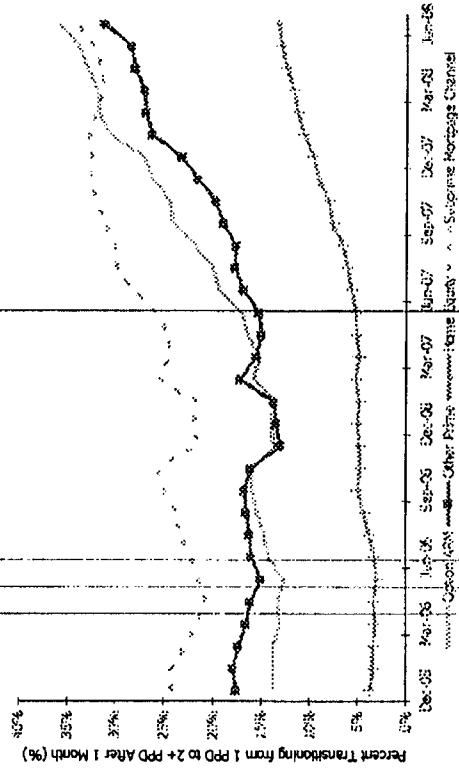
Current to 1+ PPD



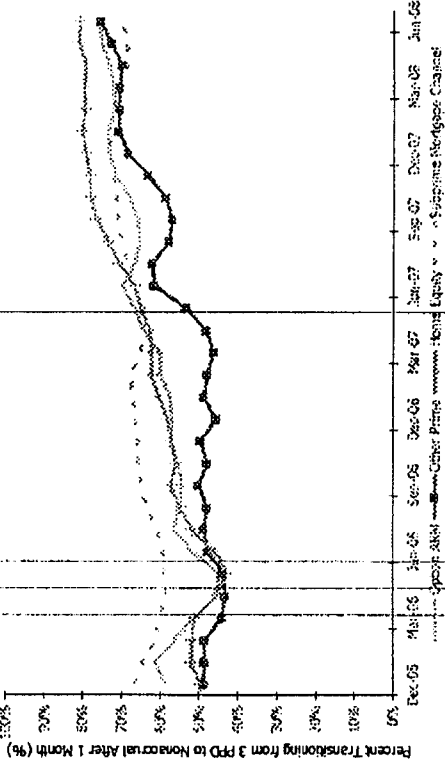
2 PPD to 3+ PPD



1 PPD to 2+ PPD



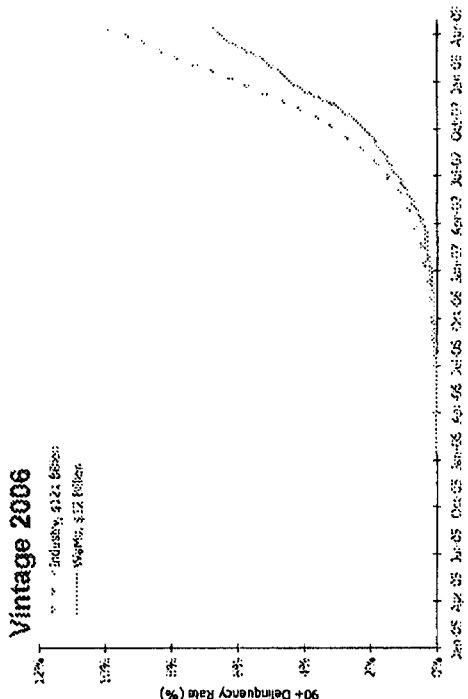
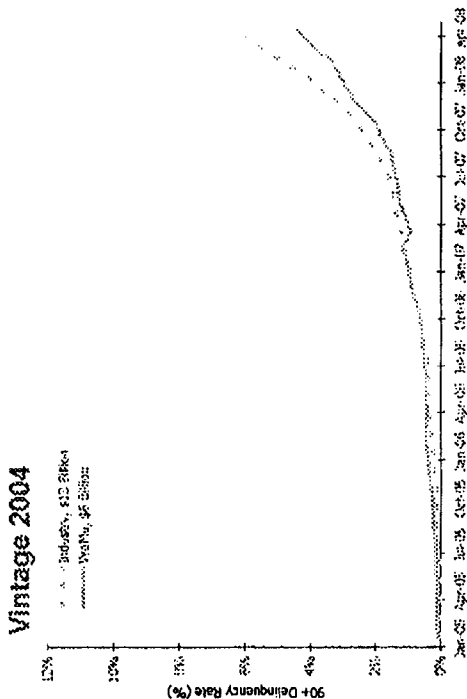
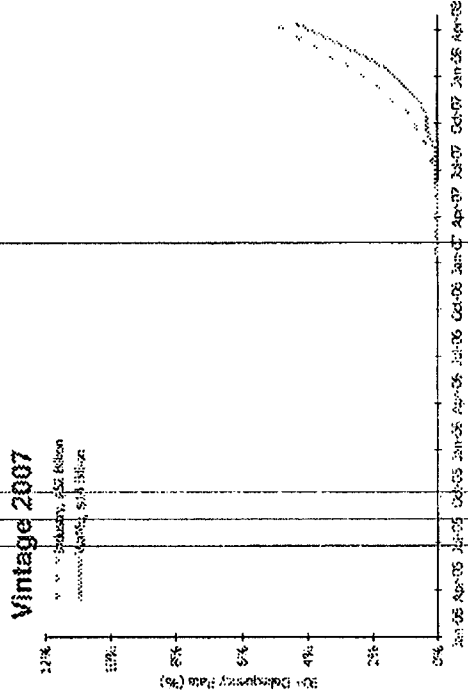
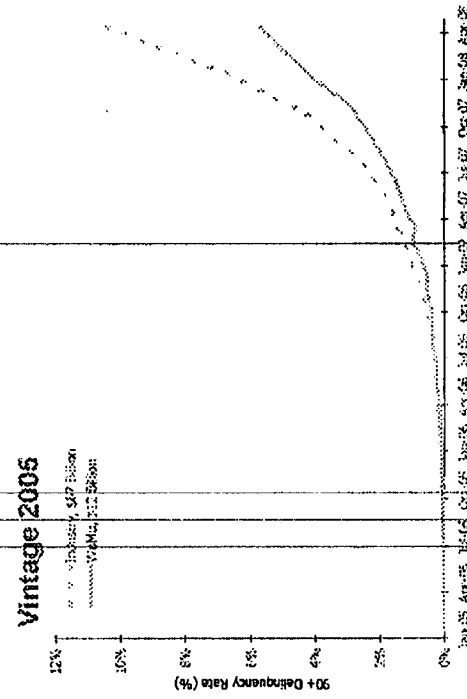
3 PPD to Nonaccrual



¹Rates shown are 3 month balance-weighted moving averages. Estimation techniques have been applied in some instances to account for censored loan states occurring in specific periods.

WaMu Option ARM Delinquencies vs. Industry

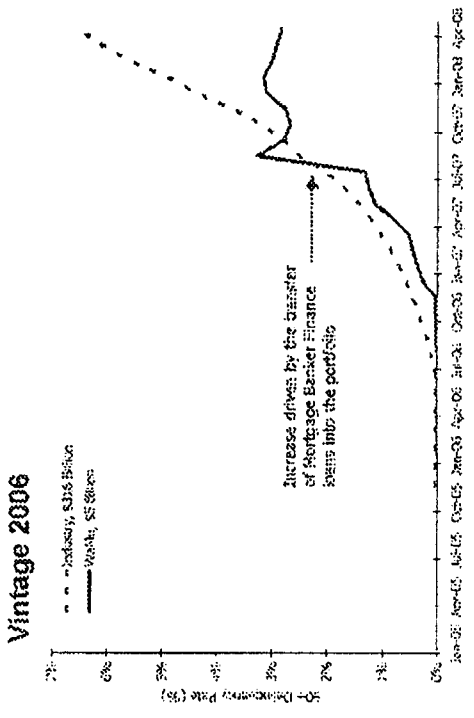
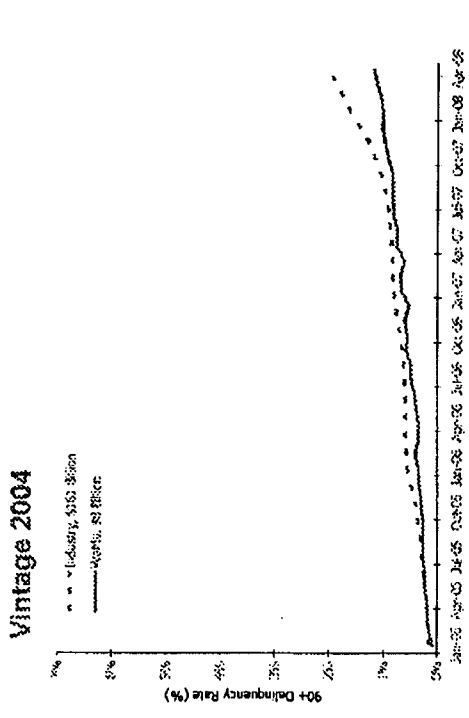
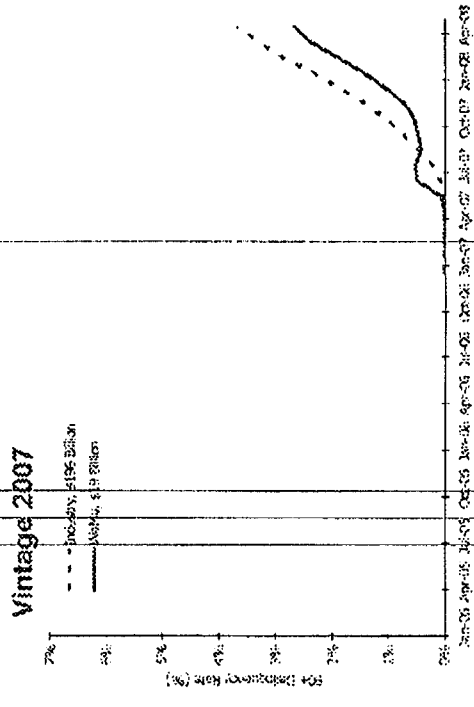
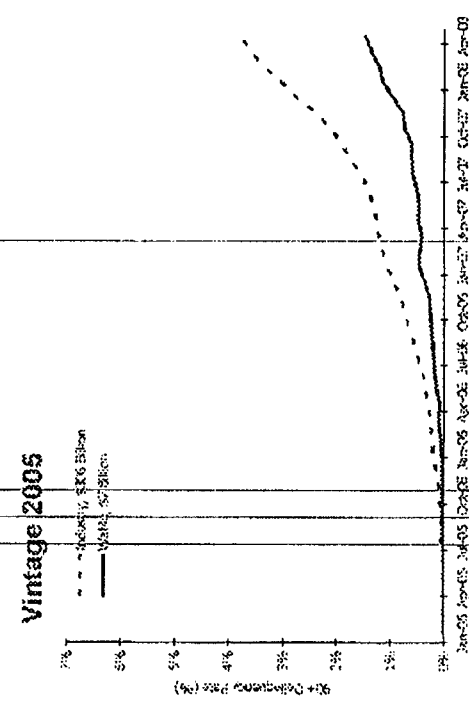
OTS 90+ Delinquencies, WaMu vs. Industry¹, 2004-2007 Vintages



¹Loan Performance TS Securities through April 2008

WaMu Other Prime Delinquencies vs. Industry

OTS 90+ Delinquencies, WaMu vs. Industry¹, 2004-2007 Vintages

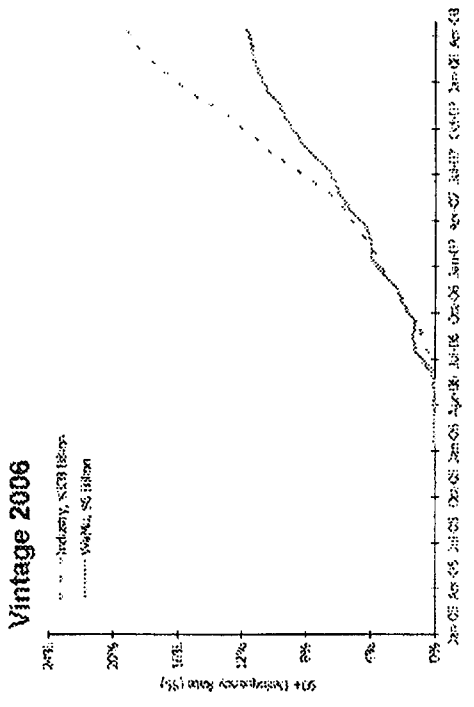
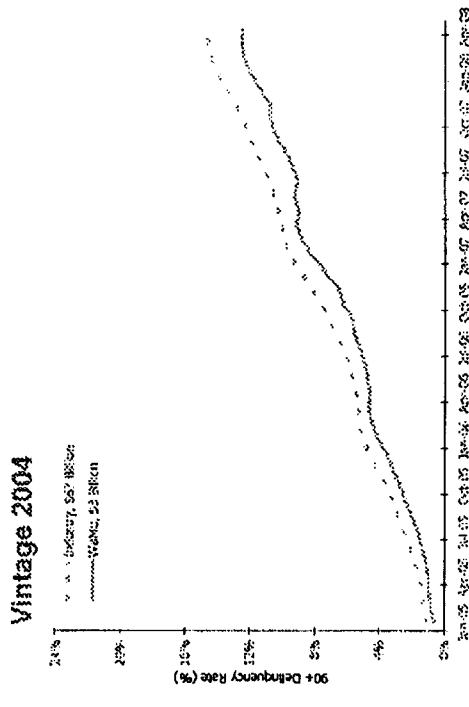
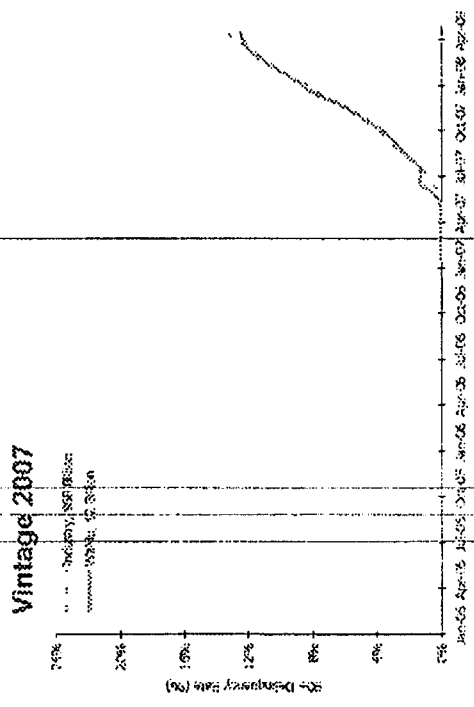
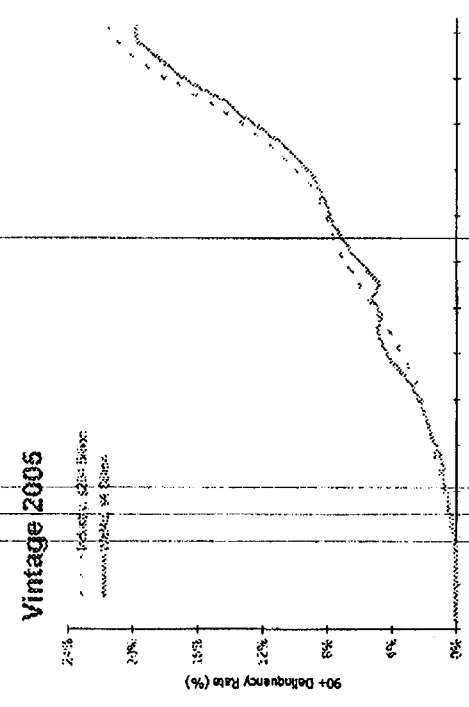


¹Loan Performance TS Securities through April 2008



WaMu Subprime Delinquencies vs. Industry

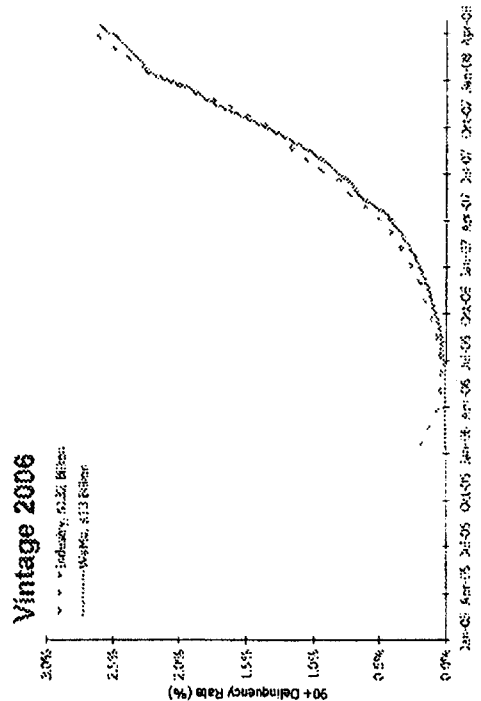
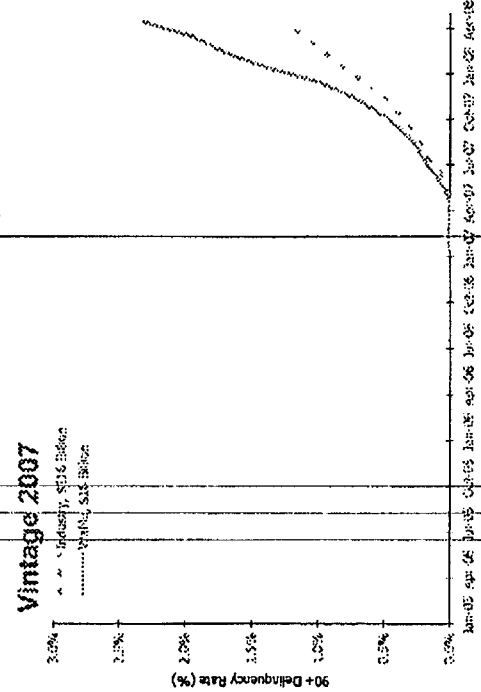
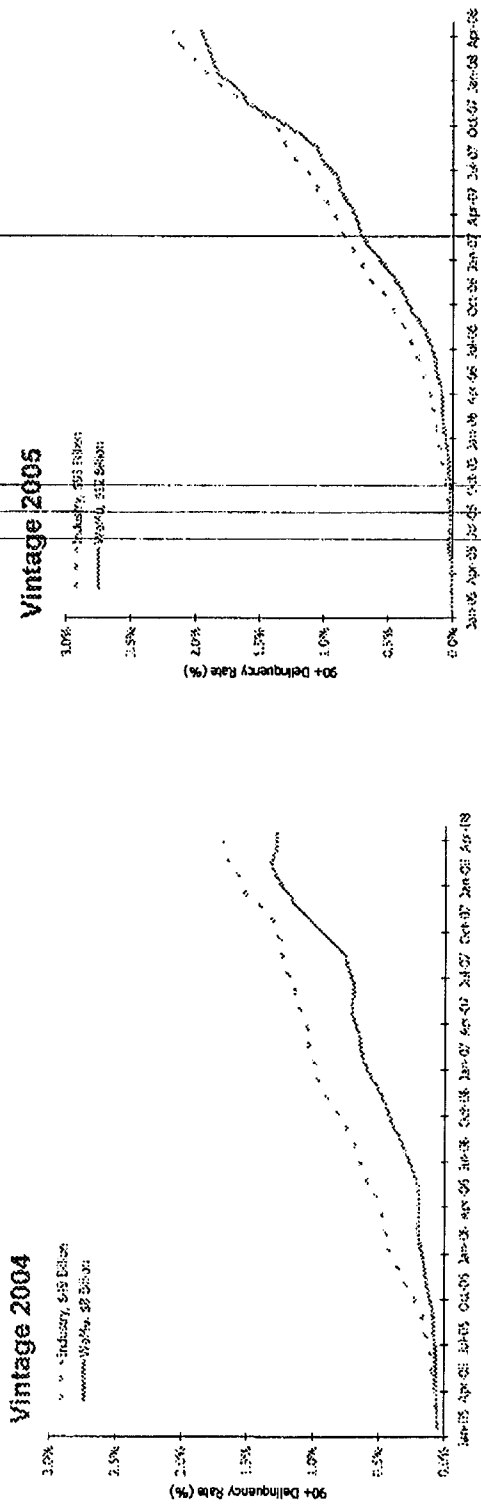
OTS 90+ Delinquencies, WaMu vs. Industry¹, 2004-2007 Vintages



¹Loan Performance TS Securities through April 2008

WaMu Home Equity Delinquencies vs. Industry

MBA 90+ Delinquencies, WaMu vs. Industry¹, 2004-2007 Vintages



¹Loan Performance LPS Home Equity HELOC/Seconds through April 2008

Option ARMs by Metro Area

Metro Area	Portfolio Balance (\$B)	Nonaccrual Rate (%)
California		
Los Angeles	\$7.0	4.55%
Santa Ana	3.0	5.06%
San Diego	2.6	4.55%
San Francisco	2.4	2.77%
Oakland	2.2	5.34%
San Jose	2.0	3.45%
Riverside	1.6	7.74%
Sacramento	0.8	5.92%
Oxnard	0.9	5.79%
Other	3.8	5.10%
Total California	26.3	4.76%
Florida		
Miami	\$1.8	12.84%
Fort Lauderdale	1.2	11.14%
West Palm Beach	0.9	9.35%
Other	2.9	13.21%
Total Florida	6.8	12.23%
New York Metro Area		
Seattle	2.5	4.43%
Nassau, NY	1.0	3.16%
Chicago	0.9	5.53%
Phoenix	1.2	8.37%
Washington D.C.	0.9	5.84%
Portland, OR	1.7	4.44%
All Other	0.3	2.99%
Grand Total	\$52.9	6.13%

Data as of 6/30/2008.

Option ARM Portfolio

Original LTV Distribution by Vintage as of 6/30/08

UPB (\$MM)	2004 & Prior	2005	2006	2007	2008	Total \$ ¹	Total %
<=50%	\$1,037	\$627	\$387	\$598	\$15	\$2,764	6%
>50-60%	\$1,238	\$906	\$773	\$1,261	\$29	\$4,207	8%
>60-70%	\$3,870	\$3,085	\$2,527	\$3,162	\$74	\$12,718	24%
>70-80%	\$7,491	\$6,479	\$7,308	\$8,083	\$92	\$29,433	56%
>80-90%	\$898	\$450	\$442	\$990	\$21	\$2,701	5%
>90%	\$259	\$92	\$125	\$122	\$2	\$600	1%
Total \$¹	\$14,793	\$11,639	\$11,562	\$14,196	\$233	\$52,423	100%
Total %	28%	22%	22%	27%	1%	100%	
Average Original LTV	71%	72%	73%	72%	70%	72%	
Avg Estimated Current LTV²	50%	74%	84%	78%	71%	70%	
Average Original FICO	688	702	700	713	729	701	
Delinquent 30-89 Days^{3,4}	2.97%	4.05%	5.49%	4.59%	5.85%	4.22%	
Nonperforming⁵	4.07%	6.61%	8.50%	6.14%	0.22%	6.16%	

¹Excludes accounting adjustments and invalid vintage and OLTV values; negative amortization is included in the loan balances.

²Estimated loan-to-value calculation based on OFHEO March 2008 data (released May 2008).

³Invalid vintage excluded.

⁴Computed as total delinquencies less nonperforming loans.

Other Prime Portfolio

Original LTV Distribution by Vintage as of 6/30/08

UPB (\$MM)	2004 & Prior	2005	2006	2007	2008	Total \$ ¹	Total %
<=50%	\$2,344	\$534	\$364	\$2,024	\$502	\$5,768	11%
>50-60%	\$2,472	\$756	\$597	\$2,435	\$505	\$6,765	13%
>60-70%	\$4,645	\$1,762	\$1,125	\$4,241	\$774	\$12,567	24%
>70-80%	\$7,131	\$3,980	\$2,322	\$6,949	\$1,179	\$23,561	46%
>80-90%	\$760	\$183	\$118	\$653	\$192	\$1,906	4%
>90%	\$704	\$95	\$59	\$272	\$8	\$1,138	2%
Total \$¹	\$18,056	\$7,330	\$4,585	\$18,574	\$3,160	\$51,705	100%
Total %	35%	14%	9%	36%	6%	100%	
Average Original LTV	68%	70%	70%	69%	66%	68%	
Avg Estimated Current LTV²	46%	66%	74%	72%	66%	62%	
Average Original FICO	709	711	712	725	740	717	
Delinquent 30-89 Days^{3,4}	0.90%	1.40%	2.15%	2.19%	0.68%	1.53%	
Nonperforming³	2.18%	2.97%	4.54%	3.74%	0.30%	2.95%	

¹Excludes accounting adjustments and invalid vintage and OLTV values.

²Estimated loan-to-value calculation based on OFFHEO March 2008 data (released May 2008).

³Invalid vintage excluded.

⁴Computed as total delinquencies less nonperforming loans.

Subprime Mortgage Channel Portfolio

Original LTV² Distribution by Vintage as of 6/30/08

UPB (\$MM)	2004 & Prior	2005	2006	2007	2008	Total \$ ¹	Total %
<=50%	\$195	\$98	\$218	\$57	\$0	\$568	4%
>50-60%	\$231	\$135	\$208	\$82	\$0	\$656	4%
>60-70%	\$485	\$301	\$462	\$195	\$0	\$1,444	9%
>70-80%	\$1,502	\$2,058	\$2,052	\$752	\$0	\$6,364	40%
>80-90%	\$1,604	\$1,063	\$1,784	\$582	\$0	\$5,033	31%
>90%	\$28	\$108	\$1,579	\$203	\$0	\$1,918	12%
Total \$ ¹	\$4,045	\$3,763	\$6,203	\$1,872	\$0	\$15,983	100%
Total %	25%	24%	39%	12%	0%	100%	
Average Original LTV	77%	79%	83%	80%	N/A	80%	
Avg Estimated Current LTVs ³	58%	73%	84%	83%	N/A	75%	
Average Original FICO	625	631	661	632	N/A	642	
Delinquent 30-89 Days ^{4,5}	4.13%	7.07%	6.82%	9.28%	N/A	6.48%	
Nonperforming ⁴	14.53%	26.19%	17.47%	17.87%	N/A	18.82%	

¹Excludes accounting adjustments and invalid vintage and CLTV values.

²Originated loan-to-value used for 1st liens and combined loan-to-value used for 2nd liens.

³Estimated loan-to-value calculation based on OFHEO March 2008 data (released May 2008).

⁴Invalid vintage excluded.

⁵Computed as total delinquencies less nonperforming loans.

1st & 2nd Lien Home Equity Portfolio

Combined LTV Distribution by Vintage as of 6/30/08

UPB (\$MM)	2004 & Prior	2005	2006	2007	2008	Total \$ ¹	Total %
<=50%	\$2,834	\$1,306	\$1,385	\$1,490	\$239	\$7,256	12%
>50-60%	\$1,848	\$932	\$909	\$1,042	\$116	\$4,847	8%
>60-70%	\$2,749	\$1,528	\$1,443	\$1,724	\$187	\$7,631	13%
>70-80%	\$6,334	\$4,311	\$3,707	\$4,948	\$327	\$19,627	33%
>80-90%	\$2,718	\$3,904	\$5,223	\$6,354	\$101	\$18,300	31%
>90%	\$541	\$189	\$200	\$451	\$3	\$1,384	3%
Total \$¹	\$17,024	\$12,172	\$12,867	\$16,009	\$973	\$59,045	100%
Total %	29%	20%	22%	27%	2%	100%	
Average Original LTV	69%	74%	75%	76%	63%	73%	
Avg Estimated Current LTV²	51%	69%	78%	80%	54%	69%	
Average Original FICO	736	734	727	724	746	731	
Delinquent 30-89 Days^{3,4}	0.64%	1.36%	2.03%	2.13%	1.21%	1.50%	
Nonperforming⁵	1.18%	2.48%	3.65%	3.40%	0.44%	2.58%	

¹Excludes accounting adjustments and invalid vintage and CLTV values.

²Estimated loan-to-value calculation based on OFHEO March 2008 data (released May 2008).

³Invalid vintage excluded.

⁴Computed as total delinquencies less nonperforming loans.

2nd Lien Home Equity Portfolio

Combined LTV Distribution by Vintage as of 6/30/08

UPB (\$MM)	2004 & Prior	2005	2006	2007	2008	Total \$ ¹	Total %
<=50%	\$1,032	\$644	\$855	\$740	\$106	\$3,378	8%
>50-60%	\$955	\$646	\$773	\$711	\$79	\$3,164	7%
>60-70%	\$1,632	\$1,170	\$1,284	\$1,201	\$126	\$5,413	12%
>70-80%	\$4,117	\$3,469	\$3,353	\$3,527	\$217	\$14,683	34%
>80-90%	\$2,270	\$3,549	\$5,026	\$5,014	\$42	\$15,901	37%
>90%	\$262	\$77	\$165	\$418	\$3	\$925	2%
Total \$¹	\$10,268	\$9,555	\$11,457	\$11,611	\$573	\$43,464	100%
Total %	24%	22%	26%	27%	1%	100%	
Average Original LTV	72%	76%	77%	78%	65%	76%	
Avg Estimated Current LTV²	55%	73%	80%	82%	65%	73%	
Average Original FICO	733	731	726	722	746	728	
Delinquent 30-89 Days⁴	0.81%	1.52%	2.15%	2.28%	0.78%	1.71%	
Nonperforming³	1.21%	2.55%	3.69%	3.29%	0.16%	2.70%	

¹Excludes accounting adjustments and invalid vintage and CLTV values.

²Estimated loan-to-value calculation based on OFFED March 2008 data (released May 2008).

³Invalid vintage excluded.

⁴Computed as total delinquencies less nonperforming loans.

Cautionary Statements

This presentation contains forward-looking statements, which are not historical facts and pertain to future operating results. These forward-looking statements are within the meaning of the Private Securities Litigation Reform Act of 1995. These forward-looking statements include, but are not limited to, statements about our plans, objectives, expectations and intentions and other statements contained in this document that are not historical facts. When used in this presentation, the words "expects," "anticipates," "intends," "plans," "believes," "seeks," "estimates," or words of similar meaning, or future or conditional verbs, such as "will," "would," "should," "could," or "may" are generally intended to identify forward-looking statements. These forward-looking statements are inherently subject to significant business, economic and competitive uncertainties and contingencies, many of which are beyond our control. In addition, these forward-looking statements are subject to assumptions with respect to future business strategies and decisions that are subject to change. Actual results may differ materially from the results discussed in these forward-looking statements for the reasons, among others, discussed under the heading "Factors That May Affect Future Results" in Washington Mutual's 2007 Annual Report on Form 10-K, as amended, and Quarterly Report on Form 10-Q for the quarter ended March 31, 2008 which include:

- *Economic conditions that negatively affect housing prices and the job market that have resulted, and may continue to result, in a deterioration in credit quality of the Company's loan portfolio.*
- *Access to market-based liquidity sources that may be negatively impacted if market conditions persist or if further ratings downgrades occur and could lead to increased funding costs and reduced gain on sale.*
- *The need to raise additional capital due to significant additional losses which could have a dilutive effect on existing shareholders and could affect the ability to pay dividends.*
- *Changes in interest rates.*
- *Features of certain of the Company's loan products that may result in increased credit risk.*
- *Estimates used by the Company to determine the fair value of certain of our assets that may prove to be imprecise and result in significant changes in valuation.*
- *Risks related to the Company's credit card operations that could adversely affect the credit card portfolio and our ability to continue growing the credit card business.*
- *Operational risk which may result in incurring financial and reputational losses.*
- *Failure to comply with laws and regulations.*
- *Changes in the regulation of financial services companies, housing government-sponsored enterprises, mortgage originators and servicers, and credit card lenders.*
- *General business, economic and market conditions and continued deterioration in these conditions.*
- *Damage to the Company's professional reputation and business as a result of allegations and negative public opinion as well as pending and threatened litigation.*
- *Significant competition from banking and nonbanking companies.*

There are other factors not described in our 2007 Form 10-K, as amended, and Form 10-Q for the quarter ended March 31, 2008 which are beyond the Company's ability to anticipate or control that could cause results to differ.

Exhibit 32

Sally E Durdan@JPMCHASE To: "Corrine Burger" <corrinc.m.burger@chase.com>, "Paul Beinstein" <paul.s.beinstein@jpmchase.com>, "Dan Cooney" <dan.cooney@chase.com>
cc:
Subject: Fw: FDIC Resolution Methods
09/18/2008 11:24 PM

Sent from my BlackBerry Wireless Handheld

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

From: robert.p.sullivan
Sent: 09/18/2008 10:18 PM AST
To: Sally Durdan; Shannon Warren
Subject: Fw: FDIC Resolution Methods

In case this may be helpful to your teams....

----- Forwarded by Robert P Sullivan/US/ABAS/PwC on 09/18/2008 09:53 PM -----

Gary Welsh

09/18/2008 12:30 PM
Local: 703-918-1432
Int: 813-281-6589 (Right Fax)
McLean, VA

To: Robert P Sullivan/US/ABAS/PwC@Americas-US
cc:
Subject: FDIC Resolution Methods

US

Bob,

My memory was partially right on remembering a form of loss sharing; however, as discussed below, the bank typically takes the bad assets and the FDIC provides the loss sharing.

The FDIC has published a Resolutions Handbook which describes virtually all aspects of the resolution process for failed or failing banks. I am attaching below what appear to be the two most relevant chapters – The Resolution Process and Purchase and Assumption (P&A) Transactions.

The Handbook generally indicates a strong preference for the acquiring institution in a P&A transaction taking as much of the assets as possible of the failed institution and having a loss-sharing agreement with the FDIC whereby the FDIC would take most of the losses on questionable assets (typical loss sharing on commercial loans or commercial real estate loans has been 80% (FDIC) and 20% (Acquiror). The FDIC preference for this method is based on the belief that once assets go into receivership at the FDIC they lose most of their value and become firesale items. The FDIC believes assets retain more value if held in the private sector. The FDIC usually reimburses the acquiring institution for 80 percent of expenses (except overhead and personnel) incurred in relation to the disposition or collection of the shared loss assets. During the shared recovery period, which runs concurrently with the loss share period, the acquiror pays the receiver 80% of any recoveries (less and recovery expenses). See attached **Chapter 3 - Purchase and Assumption Transactions**, at pages 11-17

The opposite process – the acquiror doesn't take the bad assets but instead offers the FDIC a form of loss sharing/guarantee on those assets– isn't discussed in the Handbook, but there is nothing to prevent it from being an option. However, the FDIC, by law, has to choose the resolution alternative in which the total amount of the FDIC's expected expenditures (including any immediate or long-term obligation and any direct or contingent liability for future payment) is the least costly to the deposit insurance fund of all possible methods for resolving the failed institution. If it could be shown that the loss sharing/guarantee method offered by the acquiror was less or no more costly than the more typical FDIC method where the acquiror takes the assets with FDIC loss-sharing, it would theoretically satisfy the tests. The least-cost formula is pages 9 and 10 of **Chapter Two – The Resolution Process**.

On larger institutions, the FDIC has typically used a Bridge Bank option which is essentially a P&A in which the FDIC acts as a temporary acquiror. This option is not available for thrifts, which must be put in Conservatorship instead – e.g., IndyMac. Closing and selling the Bridge Bank or a Bank in conservatorship allows the FDIC more time to market the institution. More recently, when Bridge Banks have been sold there has been an FDIC loss-sharing arrangement on the bad assets. See attached **Chapter 3 - Purchase and Assumption Transactions**, at pages 17-22.

Some Questions (Weiss is of course the capital guru)

- If the FDIC agrees to take 80% of the loss on the bad assets taken by the acquiror, does that reduce the risk-weight on the 80% portion of those assets to zero percent?
- If the acquiror proposes limited loss-sharing instead of taking the bad assets, does the acquiror also have to agree contractually with the FDIC to service/collect the bad loans as a way of keeping them in private hands and having the same value as if taken by the acquiror. In other words, would the acquiror be expected to perform the collection role (with 80% reimbursement) even though it was not the owner.

Hope this is helpful.

Best regards

Gary

Gary Welsh, Managing Director • PricewaterhouseCoopers LLP • Financial Services Regulatory Practice • www.pwc regulatory.com • 1800 Tysons Boulevard, McLean, VA 22102 • [\(703\) 918-1432](tel:7039181432) • Fax: (813) 281-6589 • gary.welsh@us.pwc.com



[Res Handbook ch3pas_pdf.zip](#)

Type: application/zip

Name: Res Handbook ch3pas_pdf.zip



[Res Handbook ch 2 res process_pdf.zip](#)

Type: application/zip

Name: Res Handbook ch 2 res process_pdf.zip

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Exhibit 33

Clerk of the House of Representatives
Legislative Resource Center
B-106 Cannon Building
Washington, DC 20515
<http://lobbyingdisclosure.house.gov>

Secretary of the Senate
Office of Public Records
232 Hart Building
Washington, DC 20510
<http://www.senate.gov/lobby>

LOBBYING REPORT

Lobbying Disclosure Act of 1995 (Section 5) - All Filers Are Required to Complete This Page

1. Registrant Name Organization/Lobbying Firm Self Employed Individual

Equale & Associates

2. Address Check if different than previously reported

Address1 **11400 SPUR WHEEL LANE** Address2 _____
City **POTOMAC** State **MD** Zip Code **20854** - Country **USA**

3. Principal place of business (if different than line 2)

City _____ State _____ Zip Code _____ - Country _____

4a. Contact Name

PAUL EQUALE

b. Telephone Number c. E-mail

International Number

(301) 299-4168 paul@equale.com

5. Senate ID#

86711-1001616

7. Client Name Self Check if client is a state or local government or instrumentality

JP Morgan Chase

6. House ID#

365760001

TYPE OF REPORT 8. Year **2008** Q1 (1/1 - 3/31) Q2 (4/1 - 6/30) Q3 (7/1-9/30) Q4 (10/1 - 12/31)

9. Check if this filing amends a previously filed version of this report

10. Check if this is a Termination Report Termination Date _____ 11. No Lobbying Issue Activity

INCOME OR EXPENSES - YOU MUST complete either Line 12 or Line 13

12. Lobbying

INCOME relating to lobbying activities for this reporting period was:

Less than \$5,000

\$5,000 or more \$ **37,500.00**

Provide a good faith estimate, rounded to the nearest \$10,000, of all lobbying related income from the client (including all payments to the registrant by any other entity for lobbying activities on behalf of the client).

13. Organizations

EXPENSE relating to lobbying activities for this reporting period were:

Less than \$5,000

\$5,000 or more \$ _____

14. REPORTING Check box to indicate expense accounting method. See instructions for description of options.

Method A. Reporting amounts using LDA definitions only

Method B. Reporting amounts under section 6033(b)(8) of the Internal Revenue Code

Method C. Reporting amounts under section 162(e) of the Internal Revenue Code

Signature **Filed Electronically**

Date **10/16/2008**

Printed Name and Title **Paul Equale, President**

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Add additional page(s) as needed.

15. General issue area code (one per page)

16. Specific lobbying issues

Credit Cards, Student lending, Regulation

17. House(s) of Congress and Federal agencies Check if None

U.S. HOUSE OF REPRESENTATIVES, U.S. SENATE

18. Name of each individual who acted as a lobbyist in this issue area

First Name	Last Name	Suffix	Covered Official Position (if applicable)	New
Paul	Equale			<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>

19. Interest of each foreign entity in the specific issues listed on line 16 above Check if None

Printed Name and Title **Paul Equale, President**

Clerk of the House of Representatives
Legislative Resource Center
B-106 Cannon Building
Washington, DC 20515
<http://lobbyingdisclosure.house.gov>

Secretary of the Senate
Office of Public Records
232 Hart Building
Washington, DC 20510
<http://www.senate.gov/lobby>

LOBBYING REPORT

Lobbying Disclosure Act of 1995 (Section 5) - All Filers Are Required to Complete This Page

1. Registrant Name Organization/Lobbying Firm Self Employed Individual

Mr. RICHARD F. HOHLT

2. Address Check if different than previously reported

Address1 **7901 KENT ROAD** Address2 _____
City **ALEXANDRIA** State **VA** Zip Code **22308** - Country **USA**

3. Principal place of business (if different than line 2)

City _____ State _____ Zip Code _____ - Country _____

4a. Contact Name

RICHARD F. HOHLT

b. Telephone Number c. E-mail

International Number
(202) 833-4146 rick@hohlt.com

5. Senate ID#

18433-146

7. Client Name Self Check if client is a state or local government or instrumentality

J.P. MORGAN CHASE & COMPANY

6. House ID#

313830013

TYPE OF REPORT 8. Year **2008** Q1 (1/1 - 3/31) Q2 (4/1 - 6/30) Q3 (7/1-9/30) Q4 (10/1 - 12/31)

9. Check if this filing amends a previously filed version of this report

10. Check if this is a Termination Report Termination Date _____ 11. No Lobbying Issue Activity

INCOME OR EXPENSES - YOU MUST complete either Line 12 or Line 13

12. Lobbying

INCOME relating to lobbying activities for this reporting period was:

Less than \$5,000
\$5,000 or more \$ **37,500.00**

Provide a good faith estimate, rounded to the nearest \$10,000, of all lobbying related income from the client (including all payments to the registrant by any other entity for lobbying activities on behalf of the client).

13. Organizations

EXPENSE relating to lobbying activities for this reporting period were:

Less than \$5,000
\$5,000 or more \$ _____

14. REPORTING Check box to indicate expense accounting method. See instructions for description of options.

- Method A.** Reporting amounts using LDA definitions only
 Method B. Reporting amounts under section 6033(b)(8) of the Internal Revenue Code
 Method C. Reporting amounts under section 162(e) of the Internal Revenue Code

Signature **Filed Electronically**

Date **10/16/2008**

Printed Name and Title **Richard F. Hohlt**

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Add additional page(s) as needed.

15. General issue area code (one per page)

16. Specific lobbying issues

All legislation relating to the above issue.

17. House(s) of Congress and Federal agencies Check if None

U.S. HOUSE OF REPRESENTATIVES, U.S. SENATE, Housing & Urban Development - Dept of (HUD), Treasury - Dept of

18. Name of each individual who acted as a lobbyist in this issue area

First Name	Last Name	Suffix	Covered Official Position (if applicable)	New
Richard	Hohlt			<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>

19. Interest of each foreign entity in the specific issues listed on line 16 above Check if None

Printed Name and Title Richard F. Hohlt

Registrant

Mr. RICHARD F. HOHLT

Client Name

J.P. MORGAN CHASE & COMPANY

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Add additional page(s) as needed.

15. General issue area code (one per page)

16. Specific lobbying issues

All legislation relating to the above issue.

17. House(s) of Congress and Federal agencies Check if None

U.S. HOUSE OF REPRESENTATIVES, U.S. SENATE, Housing & Urban Development - Dept of (HUD), Treasury - Dept of

18. Name of each individual who acted as a lobbyist in this issue area

First Name	Last Name	Suffix	Covered Official Position (if applicable)	New
Richard	Hohlt			<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>

19. Interest of each foreign entity in the specific issues listed on line 16 above Check if None

Printed Name and Title Richard F. Hohlt

Registrant

Mr. RICHARD F. HOHLT

Client Name

J.P. MORGAN CHASE & COMPANY

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Add additional page(s) as needed.

15. General issue area code (one per page)

16. Specific lobbying issues

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17. House(s) of Congress and Federal agencies Check if None

U.S. HOUSE OF REPRESENTATIVES, U.S. SENATE, Housing & Urban Development - Dept of (HUD), Treasury - Dept of

18. Name of each individual who acted as a lobbyist in this issue area

First Name	Last Name	Suffix	Covered Official Position (if applicable)	New
Richard	Hohlt			<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>

19. Interest of each foreign entity in the specific issues listed on line 16 above Check if None

Printed Name and Title Richard F. Hohlt

Registrant

Mr. RICHARD F. HOHLT

Client Name

J.P. MORGAN CHASE & COMPANY

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Add additional page(s) as needed.

15. General issue area code (one per page)

16. Specific lobbying issues

All legislation relating to the above issue.

17. House(s) of Congress and Federal agencies Check if None

U.S. HOUSE OF REPRESENTATIVES, U.S. SENATE, Housing & Urban Development - Dept of (HUD), Treasury - Dept of

18. Name of each individual who acted as a lobbyist in this issue area

First Name	Last Name	Suffix	Covered Official Position (if applicable)	New
Richard	Hohlt			<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>

19. Interest of each foreign entity in the specific issues listed on line 16 above Check if None

Printed Name and Title **Richard F. Hohlt**

Clerk of the House of Representatives
Legislative Resource Center
B-106 Cannon Building
Washington, DC 20515
<http://lobbyingdisclosure.house.gov>

Secretary of the Senate
Office of Public Records
232 Hart Building
Washington, DC 20510
<http://www.senate.gov/lobby>

LOBBYING REPORT

Lobbying Disclosure Act of 1995 (Section 5) - All Filers Are Required to Complete This Page

1. Registrant Name Organization/Lobbying Firm Self Employed Individual

David Horne

2. Address Check if different than previously reported

Address1 4308 Brandywine Street, NW Address2 _____
City Washington State DC Zip Code 20016 - Country USA

3. Principal place of business (if different than line 2)

City _____ State _____ Zip Code _____ - Country _____

4a. Contact Name

b. Telephone Number c. E-mail

5. Senate ID#

DAVID HORNE

International Number

(202) 912-8620 DavidHorneLLC@aol.com

71837-152

7. Client Name Self Check if client is a state or local government or instrumentality

6. House ID#

JP Morgan Chase

358680004

TYPE OF REPORT 8. Year 2008 Q1 (1/1 - 3/31) Q2 (4/1 - 6/30) Q3 (7/1-9/30) Q4 (10/1 - 12/31)

9. Check if this filing amends a previously filed version of this report

10. Check if this is a Termination Report Termination Date 06/17/2008 11. No Lobbying Issue Activity

INCOME OR EXPENSES - YOU MUST complete either Line 12 or Line 13

12. Lobbying

13. Organizations

INCOME relating to lobbying activities for this reporting period was:

EXPENSE relating to lobbying activities for this reporting period were:

Less than \$5,000

Less than \$5,000

\$5,000 or more \$ 10,000.00

\$5,000 or more \$ _____

Provide a good faith estimate, rounded to the nearest \$10,000, of all lobbying related income from the client (including all payments to the registrant by any other entity for lobbying activities on behalf of the client).

14. REPORTING Check box to indicate expense accounting method. See instructions for description of options.

- Method A.** Reporting amounts using LDA definitions only
- Method B.** Reporting amounts under section 6033(b)(8) of the Internal Revenue Code
- Method C.** Reporting amounts under section 162(e) of the Internal Revenue Code

Signature Filed Electronically

Date 07/28/2008

Printed Name and Title David Horne, President

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Add additional page(s) as needed.

15. General issue area code (one per page)

16. Specific lobbying issues

FHA modernization, stimulus packages, and other housing and financial institution issues as well as related legislation

17. House(s) of Congress and Federal agencies Check if None

U.S. HOUSE OF REPRESENTATIVES, U.S. SENATE, Housing & Urban Development - Dept of (HUD)

18. Name of each individual who acted as a lobbyist in this issue area

First Name	Last Name	Suffix	Covered Official Position (if applicable)	New
David	Horne			<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>

19. Interest of each foreign entity in the specific issues listed on line 16 above Check if None

Printed Name and Title David Horne, President

Information Update Page - Complete ONLY where registration information has changed.

20. Client new address

Address _____
 City _____ State _____ Zip Code _____ - _____ Country _____

21. Client new principal place of business (if different than line 20)

City _____ State _____ Zip Code _____ - _____ Country _____

22. New General description of client's business or activities

LOBBYIST UPDATE

23. Name of each previously reported individual who is no longer expected to act as a lobbyist for the client

1	First Name	Last Name	Suffix	3	First Name	Last Name	Suffix
1				3			
2				4			

ISSUE UPDATE

24. General lobbying issue that no longer pertains

AFFILIATED ORGANIZATIONS

25. Add the following affiliated organization(s)

Internet Address:

Name	Address				Principal Place of Business (city and state or country)	
	Street Address	City	State/Province	Zip	Country	
Fennel Consulting	101 Constitution Avenue, NW #800	Washington	DC	20001	USA	City
						State
						Country
						Country

26. Name of each previously reported organization that is no longer affiliated with the registrant or client

1	2	3
---	---	---

FOREIGN ENTITIES

27. Add the following foreign entities

Name	Address			Principal place of business (city and state or country)	Amount of contribution for lobbying activities	Ownership percentage in client
	Street Address	City	State/Province			
				City		
				State		%

28. Name of each previously reported foreign entity that no longer owns, or controls, or is affiliated with the registrant, client or affiliated organization

1	3	5
2	4	6

Printed Name and Title David Horne, President