

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

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:
In re : Chapter 11
:
WASHINGTON MUTUAL, INC., et al.,¹ : Case No. 08-12229 (MFW)
:
: (Jointly Administered)
Debtors. :
:
: Proposed Hearing Date:
: October 20, 2008 at 10:00 a.m.
:
: Proposed Objection Deadline:
: Objections are to be raised at the
: Hearing
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**MOTION OF DEBTORS PURSUANT TO SECTIONS 105(a), 361, 362
AND 542(b) OF THE BANKRUPTCY CODE SEEKING APPROVAL
OF A STIPULATION AND AGREEMENT CONCERNING DEPOSIT
ACCOUNTS AT JPMORGAN CHASE BANK, NATIONAL ASSOCIATION**

TO THE HONORABLE MARY F. WALRATH,
UNITD STATES BANKRUPTCY JUDGE:

Washington Mutual, Inc. ("WMI") and WMI Investment Corp. ("WMI
Investment"), as debtors and debtors in possession (collectively, the "Debtors"), respectfully
represent:

Background

1. On September 26, 2008 (the "Commencement Date"), each of the Debtors
commenced with this Court a voluntary case pursuant to chapter 11 of title 11 of the United
States Code (the "Bankruptcy Code"). The Debtors are authorized to continue to operate their
businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and

¹ The Debtors in these chapter 11 cases along with the last four digits of each Debtor's federal tax
identification number are: (i) Washington Mutual, Inc. (3725); and (ii) WMI Investment Corp. (5395).
The Debtors' principal offices are located at 1301 Second Avenue, Seattle, Washington 98101.



1108 of the Bankruptcy Code. On October 3, 2008, the Court entered an order, pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), authorizing the joint administration of the Debtors' chapter 11 cases.

WMI's Business

2. WMI is a holding company incorporated in the State of Washington and headquartered at 1301 Second Avenue, Seattle, Washington 98101. WMI is the direct parent of WMI Investment, which serves as an investment vehicle for WMI and holds a variety of securities. WMI Investment is incorporated in the State of Delaware.

3. Prior to the Commencement Date, WMI was a savings and loan holding company that owned Washington Mutual Bank ("WMB") and such bank's subsidiaries, including Washington Mutual Bank fsb ("WMBfsb"). WMI also has certain non-banking, non-debtor subsidiaries (the "Non-debtor Subsidiaries"). Like all savings and loan holding companies, WMI was subject to regulation by the Office of Thrift Supervision (the "OTS"). WMB and WMBfsb, in turn, like all depository institutions with federal thrift charters, were subject to regulation and examination by the OTS. In addition, WMI's banking and nonbanking subsidiaries were overseen by various federal and state authorities, including the Federal Deposit Insurance Corporation ("FDIC").

4. On September 25, 2008, the Director of the OTS, by order number 2008-36, appointed the FDIC as receiver for WMB and advised that the receiver was immediately taking possession of WMB (the "Receivership"). Immediately after its appointment as receiver, the FDIC sold substantially all the assets of WMB, including the stock of WMBfsb, to JPMorgan Chase Bank, National Association ("JPMorgan Chase") pursuant to that certain Purchase and Assumption Agreement, dated as of September 25, 2008 (the "Purchase Agreement") (publicly available at <http://www.fdic.gov/about/freedom/popular.html>).

5. WMI's assets include its common stock interest in WMB, its interest in its non-banking subsidiaries, and more than \$4 billion of cash that WMI and its non-banking subsidiaries (including WMI Investment) had on deposit at WMB and WMBfsb immediately prior to the time the FDIC was appointed as receiver. WMI is in the process of evaluating these and other assets for purposes of ultimate distribution to its creditors.

Jurisdiction

6. 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). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

Relief Requested

7. By this motion (the "Motion"), the Debtors request, pursuant to sections 105(a), 361, 362 and 542(b) of the Bankruptcy Code, approval of the Stipulation and Agreement Concerning Deposit Accounts at JPMorgan Chase Bank, National Association, dated as of October 14, 2008, by and between WMI and JPMorgan Chase (the "Stipulation"), which is attached hereto as Exhibit "A."

The Stipulation Concerning the Deposit Accounts

8. At the time of the Receivership, the Debtors and certain of WMI's Non-debtor Subsidiaries had funds on deposit at WMB in the approximate amount of \$707,000,000 (the "WMB Deposits"). In addition, WMI had funds on deposit at WMBfsb in the approximate amount of \$3,668,000,000 (the "WMBfsb Deposits" and collectively with the WMB Deposits,

the “Deposits”).² Certain of the books and records transferred to JPM in connection with its acquisition of WMB and WMBfsb reflect the Deposits specified on Exhibit A.

9. Given the magnitude of the Deposits and the need to investigate the exact amounts involved and the respective rights of the parties, the Debtors and JPMorgan Chase entered into an agreement to give each at least 48 hours notice of certain actions that would affect the Deposits (the “Standstill”). Neither party has exercised their respective rights under the Standstill. Instead, JPMorgan Chase and the Debtors have been working diligently since the Commencement Date to verify the amounts and other information concerning the Deposits. The cooperative exchange of information between the parties that resulted has led to the Stipulation.

10. As more fully set forth in the Stipulation, JPMorgan Chase and the Debtors agree that, upon execution, delivery and approval of the deposit account documentation specified in paragraph 2 of the Stipulation, and the approval of the Stipulation by the Bankruptcy Court, the Deposits are to be deposit accounts of the Debtors and the Debtors’ non-bank subsidiaries.

11. Further, within one day following entry of an order by the Court approving the Stipulation, and upon the request of the Debtors, JPMorgan Chase shall transfer the Deposits to any other financial institution not under their control as the Debtors may direct; *provided that* the Debtors agree to (i) adhere to any compliance procedures that are required in connection with the transfer, (ii) stipulate that the Deposits remain subject to all claims, rights and remedies, including any right of setoff, recoupment or any lien, that JP Morgan Chase might have had, all as if the Deposits had not been transferred, and (iii) provide JP Morgan Chase

² At the time of the chapter 11 filing, the Debtors believed the aggregate deposits in WMB and WMBfsb approximated \$5 billion. The aggregate amounts described in the Stipulation and herein are based on information provided by JPMorgan Chase and are subject to further review by the Debtors.

(subject to Bankruptcy Court approval), with a replacement lien on the transferred Deposits equal to the same force, effect, validity and priority as any right JPMorgan Chase might have had with respect to the Deposits had the Deposits not been transferred.

**Approval of the Stipulation and Agreement is Appropriate
Pursuant to Sections 105(a), 361, 362 and 542(b) of the Bankruptcy Code**

12. Section 542(b) of the Bankruptcy Code provides, in relevant part, that “an entity that owes a debt that is property of the estate and that is matured, payable on demand, or payable on order, shall pay such debt to, or on the order of, the trustee except to the extent that such debt may be offset under section 553 of [the Bankruptcy Code] against a claim against the debtor.” 11 U.S.C. § 542(b). Section 105(a) of the Bankruptcy Code, in turn, authorizes this Court to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a).

13. The Debtors believe there is no question that the Deposits constitute property of the Debtors’ estates. The Debtors deposited the funds in checking and savings accounts at WMB and WMBfsb, respectively, prior to the Receivership. *See Casarow v. Chomenko (In re Cobb)*, 231 B.R. 236 (Bankr. D. N.J. 1999) (monies placed into checking account from thrift savings account are property of the estate and subject to trustee’s avoidance powers); *In re Cusanno*, 17 B.R. 879, 881 (Bankr. E.D. Pa. 1982) (checking account is property of the estate); *Pyatt*, 483 F.3d at 427 (same); *Franklin v. Kwik Cash of Martin (In re Franklin)*, 254 B.R. 718, 721 (Bankr. W.D. Tenn. 2000) (same); *Wittman v State Farm Life Ins. Co. (In re Mills)*, 167 B.R. 663, 664 (Bankr. D. Kan. 1994) (credit union deposit account is property of the estate). The Debtors believe that the books and records of WMB and WMBfsb acquired by JP Morgan Chase pursuant to the Purchase Agreement continue to confirm this arrangement

postpetition. The Deposits, therefore, constitute property of the Debtors' estates within the meaning of section 542(b).

14. Likewise, the parties are in agreement pursuant to the Stipulation that the Deposits are subject to turnover under section 542 of the Bankruptcy Code. The Deposits are payable on demand, and the Debtors have triggered JPMorgan Chase's obligations to turnover the funds in the Deposits by (i) asserting their interest in, and demanded their right of access to, the Deposits in connection with entering into the Standstill, (ii) giving notice of the case to JPMorgan Chase in accordance with Bankruptcy Rule 2015(a), and (iii) obtaining authority from the Court to maintain their existing bank accounts, including those bank accounts where the Deposits are held. *See Brown v. Pyatt (In re Pyatt)*, 486 F.3d 423, 430 (8th Cir. 2007) (An entity's obligation to pay under section 542(b) arises when the trustee sends an entity holding money or property of the estate notice of the case pursuant to Bankruptcy Rule 2015(a.); *In re Schnoonver*, 2006 Bankr. LEXIS 2892 at *8 (Bankr. D. Kan. October 30, 2006) (a trustee may give, and rely upon, notice issued pursuant to Bankruptcy Rule 2015(a)(4) to recover funds on deposit from banks). Accordingly, turnover of the Deposits by JP Morgan Chase to the Debtors pursuant to this Stipulation is authorized under section 542 of the Bankruptcy Code.

15. The relief provided to JPMorgan Chase under the Stipulation is also appropriate and should be granted by the Court. By preserving JPMorgan Chase's right, if any, to offset any claims it may have against the Debtors against the Deposits, the Stipulation merely reflects the setoff rights currently accorded to JPMorgan Chase under section 542 of the Bankruptcy Code. *See* 11 U.S.C. 542(b); *see also* 11 U.S.C. 105(a) (authorizing the Court to enter any order or process "necessary [and] appropriate " to carry out the provisions of the Bankruptcy Code). Pursuant to the Stipulation, the Debtors and non-debtor subsidiaries will

document the depositor relationship by executing and delivering standard WMB or WMBfsb deposit agreements and instructions. Neither the Debtors nor JPMorgan Chase are making any compromise or concession regarding the rights or remedies hereunder other than that they agree that the Deposits are to be treated as deposits of the Debtors. In that regard, the documentation to be executed and delivered formalizes the depositor relationship, and, except with respect to the characterization of the Deposits, preserves the status quo with respect to the Deposits in the event of any related or unrelated disputes in the future.

16. Similarly, to the extent JPMorgan Chase is able to currently assert a right of setoff, recoupment, or any lien against the Deposits, it is a secured creditor of the Debtors. *See Lee v. Schweiker*, 739 F.2d 870, 875 (3d Cir. 1984) (“Setoff, in effect, elevates an unsecured claim to secured status, to the extent that the debtor has a mutual, pre-petition claim against the creditor.”); *see CDI Trust v. U.S. Elec., Inc. (In re Commum Dynamics, Inc.)*, 382 B.R. 219, 228 (Bankr. D. Del. 2008) (citing *Schweiker* for the same proposition). As a secured creditor, JPMorgan Chase would be entitled to adequate protection, including a replacement lien as set forth in section 361 of the Bankruptcy Code, against any diminution in value of its prepetition secured claim. Thus, by granting JPMorgan a replacement lien “to have the same force, effect, validity and priority as any setoff or lien rights would have in [the Deposits] had [the Deposits] continued to be maintained where and as they were on the Commencement Date,” the Debtors are merely acknowledging rights that JPMorgan Chase otherwise would have under sections 361 and 362 of the Bankruptcy Code.

17. Finally, the Stipulation will enable the Debtors to effectuate an orderly disposition of their cases and maximize recovery for the Debtors’ creditors. As noted in the First Day Declaration of Stewart Landefeld, as subsequently amended, the commencement of the

chapter 11 cases was beset with uncertainty, because, among other things, the Receivership and news reports pertaining to the Purchase Agreement generated considerable speculation in the markets as to how the Deposits would be treated. Approval of the Stipulation will not only part the fog of uncertainty surrounding the Deposits, but also will bring to conclusion recovery of the Debtors' largest assets without delay or costly litigation. *See Pyatt*, 483 F.3d at 427, n.16 ("The Debtors have a duty to collect property of the estate as expeditiously as is compatible with the best interests of the estate and its parties in interest.")

18. In sum, the Stipulation will help the Debtors effectuate a successful chapter 11 plan by securing the largest asset of the estate available for distribution to the Debtors' creditors. Accordingly, the Stipulation is in the best interests of the Debtors, their estates, and all parties in interest, and the Court should approve the Stipulation on an expedited basis.

Waiver of Bankruptcy Rule 7001(1) is Appropriate

19. Rule 7001(1) of Bankruptcy Rules provides, in relevant part, that a "proceeding to recover money or property" of the estate is an adversary proceeding and, therefore, subject to the requirements of Part VII of the Bankruptcy Rules. However, as JPMorgan Chase has agreed to turnover the Deposits to the Debtors' estates, subject to the JPM Rights as set forth in the Stipulation, there is no requirement to proceed pursuant to Rule 7001(1). Thus, to the extent that Rule 7001(1) is applicable to actions pursuant to section 542 of the Bankruptcy Code, the Debtors request a waiver of same.

Notice

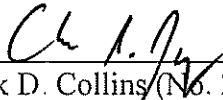
20. No trustee, examiner, or statutory creditors' committee has been appointed in these chapter 11 cases. Notice of this Motion has been provided to: (i) the United States Trustee for the District of Delaware; (ii) each of the Debtors' thirty (30) largest unsecured creditors; (iii) the OTS; (iv) the FDIC; (v) counsel to JPMorgan Chase; and (vi) counsel to Bank of New York Mellon. In light of the nature of the relief requested, the Debtors submit that no other or further notice need be provided.

No Previous Request

21. No previous request for the relief sought herein has been made to this 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: October 14, 2008
Wilmington, Delaware



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PROPOSED ATTORNEYS TO THE DEBTORS
AND DEBTORS IN POSSESSION

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

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<i>In re</i>	: Chapter 11
WASHINGTON MUTUAL, INC., <u>et al.</u> , ¹	: Case No. 08-12229 (MFW)
	: (Jointly Administered)
Debtors.	: Proposed Hearing Date:
	: October 20, 2008 at 10:00 a.m.
	: Proposed Objection Deadline:
	: At the hearing
-----X	

NOTICE OF MOTIONS AND HEARING

PLEASE TAKE NOTICE that on October 14, 2008, the above-captioned debtors and debtors in possession (the “Debtors”), filed the **Motion of Debtors Pursuant to Sections 105(a), 361, 362 and 542(b) of the Bankruptcy Code Seeking Approval of a Stipulation and Agreement Concerning Deposit Accounts at JPMorgan Chase Bank, National Association** (the “Motion”) with the United States Bankruptcy Court for the District of Delaware, 824 Market Street, 3rd Floor, Wilmington, Delaware 19801 (the “Bankruptcy Court”).

PLEASE TAKE FURTHER NOTICE that the Debtors contemporaneously filed a Motion to Shorten with respect to the Motion (the “Notice Motion”) with the Bankruptcy Court. The hearing date and objection deadline set forth herein are consistent with the dates proposed in the Notice Motion. In the event that the Court does not approve the dates proposed in the Notice Motion, the Debtors will file and serve a separate notice notifying all parties-in-interest of the revised hearing date and objection deadline.

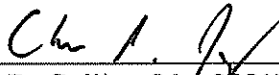
¹ The Debtors in these chapter 11 cases along with the last four digits of each Debtor’s federal tax identification number are: (i) Washington Mutual, Inc. (3725); and (ii) WMI Investment Corp (5395). The Debtors’ principal offices are located at 1301 Second Avenue, Seattle, Washington 98101.

PLEASE TAKE FURTHER NOTICE that pursuant to the Notice Motion, the Debtors propose that a hearing with respect to the Motion be held on **October 20, 2008 at 10:00 a.m. EDT** (the "Hearing") before the Honorable Mary F. Walrath at the United States Bankruptcy Court, 824 Market Street, 5th Floor, Courtroom #4, Wilmington, Delaware 19801.

PLEASE TAKE FURTHER NOTICE that pursuant to the Notice Motion, the Debtors propose that objections to the Motion be made at the Hearing.

IF NO OBJECTIONS TO THE MOTION ARE RECEIVED IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF REQUESTED IN THE MOTION WITHOUT FURTHER NOTICE OR HEARING.

Dated: October 14, 2008
Wilmington, Delaware



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*Proposed Attorneys for the Debtors
and Debtors in Possession*

Exhibit A
(Stipulation)

EXECUTION COPY

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

-----X
: **Chapter 11**
: **Case No. 08-12229 (MFW)**
: **(Jointly Administered)**
: **Debtors.**
: **(Jointly Administered)**
: **(Jointly Administered)**
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**STIPULATION BY AND BETWEEN DEBTORS AND
JPMORGAN CHASE BANK, N.A. CONCERNING CERTAIN ACCOUNTS**

Washington Mutual, Inc. (“WMI”) and WMI Investment Corporation (“WMI Investment” and together with WMI, collectively, the “Debtors”), as debtors and debtors in possession, and JPMorgan Chase Bank, N.A. (“Chase” and together with the Debtors, collectively, the “Parties”), hereby submit this Stipulation By And Between Debtors And JPMorgan Chase Bank, N.A. (the “Stipulation”), and in support thereof, respectfully stipulate as follows:

RECITALS

WHEREAS, on September 25, 2008, the Federal Deposit Insurance Corporation (the “FDIC”), in its corporate capacity and as receiver of Washington Mutual Bank, Henderson, Nevada (“WMB”) and Chase entered into that certain Purchase and Assumption Agreement, Whole Bank, dated as of September 25, 2008 (the “Purchase Agreement”), which Purchase Agreement is publicly available at <http://www.fdic.gov/about/freedom/popular.html>;

WHEREAS, on September 26, 2008 (the “Commencement Date”), each of the Debtors commenced with the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy

¹ The Debtors in these chapter 11 cases along with the last four digits of each Debtor’s federal tax identification number are: (i) Washington Mutual, Inc. (3725); and (ii) WMI Investment Corp. (5395). The Debtors’ principal offices are located at 1301 Second Avenue, Seattle, Washington 98101.

Court”) a voluntary case (collectively, the “Bankruptcy Cases”) pursuant to chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”);

WHEREAS, as of the date hereof, the Debtors are authorized to continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code;

WHEREAS, the books and records transferred to Chase in connection with the Purchase Agreement reflect the accounts (the “Accounts”) and balances (the “Funds”) specified on Exhibit A hereto, at least one of which Chase asserts is subject to an Account Security Agreement, dated as of May 31, 2002 (the “Security Agreement”), with respect to certain intercompany obligations between WMI and WMB;

WHEREAS, Chase and Washington Mutual Bank fsb (“WMBfsb” and together with Chase, “JPM”) assert that they have not located, other than with respect to a limited number of Accounts, any deposit account agreements establishing the Accounts, any other agreements regarding the maintenance of or withdrawals from the Accounts or any signature cards or other specification of any authorized signatories with respect to the Accounts;

WHEREAS, JPM has been and still is engaged in the transition of the operations it acquired on September 25, 2008 under the Purchase Agreement, including working with the FDIC, closing the books of WMB as required under the Purchase Agreement, and transitioning and integrating the customers, employees and vendors of WMB and WMBfsb into JPM;

WHEREAS, in addition to the transition of WMB’s and WMBfsb’s operations, the Debtors and JPM have been cooperating to provide information requested by the Debtors in connection with the Bankruptcy Cases and to facilitate the operations of the Debtors, WMB and WMBfsb, including providing information regarding creditors and the Accounts;

WHEREAS, JPM asserts that it has not had the opportunity to fully evaluate the nature or extent of the rights, if any, JPM may have (including as a result of the Purchase Agreement) with respect to setoff, statutory bankers' liens, intercompany agreements, or otherwise;

WHEREAS, the Debtors continue to evaluate the information provided by JPM on Exhibit A;

WHEREAS, the Debtors assert that the Funds in the Accounts are the deposits of the Debtors and the Debtors' non-bank subsidiaries and have requested that JPM release the Funds from the Accounts and transfer them to other accounts of the Debtors not held with Chase or with WMBfsb;

WHEREAS, Chase is a national banking association and, accordingly, the withdrawal of funds from an account at Chase is subject to customary regulatory policies and procedures; and

WHEREAS, JPM is prepared to accede to the Debtors' request, provided that (a) the Debtors comply with the requirements for the transfer specified in paragraph 2 below; and (b) any right, title, priority or other interest, if any, that JPM may have (including as a result of the Purchase Agreement) in connection with the Accounts and the Funds contained therein is preserved upon the terms and conditions specified in this Stipulation.

NOW, THEREFORE, IT IS HEREBY STIPULATED, CONSENTED AND AGREED AS FOLLOWS:

1. JPM and the Debtors agree that, upon execution, delivery and approval of the deposit account documentation specified in paragraph 2 and the approval of this Stipulation by the Bankruptcy Court, the Funds in the Accounts (each as identified on Exhibit A) are agreed to be deposit accounts of the Debtors and the Debtors' non-bank subsidiaries.

2. Within one (1) business day following entry of an order approving this Stipulation, JPM shall transfer the Funds from the Accounts as the Debtors, in their sole and absolute discretion, may direct; provided, however, that the Debtors comply with the procedures required in connection with such a transaction, including, but not limited to, delivering to JPM (a) certified resolutions from

the respective boards of directors of each entity listed as a depositor for the Accounts that (i) designate and approve the signatories for such Accounts and (ii) approve the transfer of the Funds, any related transactions and the execution of all related documentation, including deposit account agreements (to the extent deposit account agreements for such Accounts have not been located) in the form customary and standard for deposit accounts of WMB and WMBfsb (as of the date prior to the Commencement Date) providing for customary setoff and bankers rights, which documentation is and shall be deemed to be effective at all relevant times from and after the establishment of each of the Accounts, (b) authorized, verified and executed signature cards containing an IRS Form W-9 certification in the case of interest-bearing Accounts and instructions for each of the Accounts, (c) executed incumbency certificates for each authorized signatory, (d) the desired transaction instructions (e.g., specify the (i) Account to be debited; (ii) amount to be debited from each Account; (iii) name of institution receiving the Funds; and (iv) ABA, routing, and account numbers of the assuming institution), and (e) such other information or documentation as may be reasonably required to effectuate the withdrawals and transfers of the Funds from the Accounts; and provided, further, that, notwithstanding the foregoing, without the express consent of JPM, the Debtors shall not request the transfer of the Funds in the Account subject to the Security Agreement. All Funds in the Account subject to the Security Agreement shall be in compliance with section 345 of the Bankruptcy Code.

3. Prior to and after the transfer thereof, the Funds will remain subject to all claims, rights and remedies, if any, that JPM may have including (a) those arising under or related to the Purchase Agreement and the Security Agreement, (b) any available right of setoff, recoupment or other remedy, including such rights under customary deposit account agreements now existing or executed in connection with the withdrawal of the Funds from the Accounts under this Stipulation and (c) any statutory bankers' lien with respect to the Funds or the Accounts, in each case as if the

Funds had not been transferred and had remained on deposit in the Accounts at JPM.

4. As adequate protection for any claims that would have been entitled to be paid or to priority by way of setoff, recoupment or lien rights, or pursuant to the Security Agreement, against the Accounts held by Chase or the Accounts held by WMBfsb, the Debtors hereby grant (subject to Bankruptcy Court approval) to Chase or to WMBfsb, as applicable, a replacement lien in the respective Funds from such Accounts transferred in the new accounts and in any successive accounts into which such Funds may be transferred, with such replacement lien to have the same force, effect, validity and priority as any setoff or lien rights would have had in such Funds and such Accounts had such Funds and such Accounts continued to be maintained where and as they were on the Commencement Date. In the event such Funds are utilized by the Debtors for other purposes and the replacement lien approved by the Bankruptcy Court is insufficient to pay any claim as to which WMBfsb or Chase would have had a valid and enforceable right of setoff, recoupment or statutory lien on the Funds in the Accounts held by Chase or WMBfsb, as applicable, on the Commencement Date, Chase or WMBfsb shall be entitled to adequate protection thereof and to seek payment of an administrative claim under section 503(b)(1) of the Bankruptcy Code in the amount of any such shortfall.

5. Notwithstanding the foregoing provisions, the replacement liens provided to Chase and WMBfsb shall not preclude the Debtors from using the Funds to pay administrative expenses or make distributions under a chapter 11 plan and such replacement liens shall not encumber any amounts paid to third parties or distributed to creditors of the Debtors, whether pursuant to a chapter 11 plan or otherwise; provided that JPM may seek a determination at any time regarding the rights, claims and remedies reserved under this Stipulation.

6. Nothing in this Stipulation shall be deemed to constitute a waiver of any claim, right

or defense of the Debtors (or any of their non-bank subsidiaries), including, without limitation, as to the nature, amount or priority of any claim asserted by Chase or WMBfsb or the entitlement of Chase or WMBfsb to any right of setoff, recoupment, or statutory banker's lien in these cases. Furthermore, nothing in this Stipulation shall be deemed to constitute a waiver of any claim, right or defense of Chase or WMBfsb, including, without limitation, any objection Chase or WMBfsb may have to a use of the Funds out of the ordinary course of the business of the Debtors and any objection to any proposed plan of reorganization, including any use of the Funds therein or the confirmation thereof.

7. The Parties agree that, prior to the effectiveness of the Purchase Agreement, Chase had no relationship with or access to the Funds in the Accounts.

8. This Stipulation is without prejudice to the rights of (i) the Debtors to identify additional accounts at Chase or WMBfsb, or demonstrate that the Accounts have more Funds than specified on Exhibit A and (ii) JPM to contest the existence of additional accounts at Chase or WMBfsb, or additional amounts in the Accounts.

9. Any provision of this Stipulation may be amended if, and only if, such amendment is in writing and is signed by all the Parties hereto. Material amendments must be approved by the Bankruptcy Court.

10. Whether or not this Stipulation is approved by the Bankruptcy Court, nothing contained herein may be used as, or deemed to be, an admission of liability of any party with respect to any matter.

11. This Stipulation may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute but one and the same document.

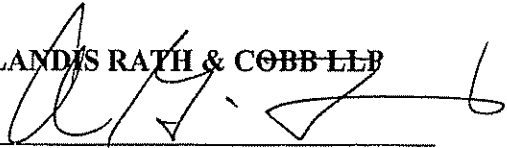
12. The Parties hereto represent and warrant to each other that: (i) they are authorized to execute this Stipulation; (ii) each has full power and authority to enter into and perform in accordance

with the terms of this Stipulation (subject to Bankruptcy Court approval); and (iii) this Stipulation is duly executed and delivered and constitutes a valid and binding agreement in accordance with its terms (subject to Bankruptcy Court approval).

13. This Stipulation shall become effective immediately upon entry of an order approving the Stipulation by the Bankruptcy Court in form and substance acceptable to the Debtors and JPM.

Dated: Wilmington, Delaware
October __, 2008

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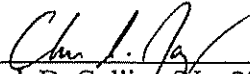
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Exhibit A

Account Number	Balance in Account as of September 30, 2008
xxxxxx1206	\$52,600,201.01
xxxxxx0844	\$38,321,197.03
xxxxxx4234	\$3,667,943,172.50
xxxxxx2184	\$2,048,993.84
xxxxxx3525	\$1,881,775.10
xxxxxx0667	\$264,068,186.05
xxxxxx9626	\$4,650.22
xxxxxx9663	\$747,799.23
xxxxxx8359	\$167,040.92
xxxxxx7731	\$140,775.81
xxxxxx7187	\$25,493,030.18
xxxxxx3411	\$1,625,209.48
xxxxxx6282	\$74,623,240.91
xxxxxx3429	\$3,097,999.14
xxxxxx3487	\$41,812.64
xxxxxx3495	\$93,996,770.14
xxxxxx6290	\$62,490,542.45
xxxxxx6307	\$13,166,938.46
xxxxxx3445	\$281.83
xxxxxx3461	\$73,356.39
xxxxxx3479	\$1,676.99
xxxxxx7719	\$11,566,787.62
xxxxxx6323	\$2,108,985.71
xxxxxx3672	\$105,000.00
xxxxxx7873	\$2,393,845.53
xxxxxx9697	\$0.00
xxxxxx4704	\$53,145,275.33
xxxxxx5081	\$2,900,309.33
xxxxxx5099	\$0

Exhibit B

(Proposed Order)

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

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

**ORDER APPROVING STIPULATION AND AGREEMENT
CONCERNING DEPOSIT ACCOUNTS AT JPMORGAN
CHASE BANK, NATIONAL ASSOCIATION**

Upon the motion, dated October 14, 2008 (the "Motion"), of Washington Mutual, Inc. ("WMI") and WMI Investment Corp. ("WMI Investment"), as debtors and debtors in possession (collectively, the "Debtors"), for entry of an order, pursuant to sections 105(a) and 542(b) of title 11 of the United States Code (the "Bankruptcy Code"),² seeking approval of the Stipulation and Agreement Concerning Deposit Accounts at JPMorgan Chase Bank, National Association, dated as of October 14, 2008, by and between WMI and JPMorgan Chase (the "Stipulation"), which is attached as Exhibit "A" to the Motion, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C.

¹ The Debtors in these chapter 11 cases along with the last four digits of each Debtor's federal tax identification number are: (i) Washington Mutual, Inc. (3725); and (ii) WMI Investment Corp. (5395). The Debtors' principal offices are located at 1301 Second Avenue, Seattle, Washington 98101.

² Capitalized terms used and not otherwise defined herein shall have the meanings ascribed to them in the Motion.

§§ 157 and 1334; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the parties listed therein, and it appearing that no other or further notice need be provided; and the Court having determined that the relief sought in the Motion is in the best interests of the Debtors, their creditors, and all parties in interest; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor, it is

ORDERED that the Motion is granted; and it is further

ORDERED that the Stipulation is approved in its entirety; and it is further

ORDERED that this Court shall retain jurisdiction to hear and determine

all matters arising from or related to the implementation, interpretation and/or enforcement of this Order.

Dated: October ____, 2008
Wilmington, Delaware

THE HONORABLE MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE