IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re	:	Chapter 11
WASHINGTON MUTUAL, INC., et al.[1]	:	Case No. 08-12229 (MFW)
Debtors.	:	Jointly Administered
JPMORGAN CHASE BANK, NATIONAL ASSOCIATION	:	Adversary Proceeding No. 09-50551
Plaintiff	:	**DEBTORS' ANSWER AND AMENDED COUNTERCLAIMS IN RESPONSE TO THE COMPLAINT OF JPMORGAN CHASE BANK, N.A.**
- against -	:	
WASHINGTON MUTUAL, INC. AND WMI INVESTMENT CORP.,	:	**JURY TRIAL DEMANDED FOR COUNTERCLAIMS 15 - 18**
Defendants for all claims,	:	
- and-	:	
FEDERAL DEPOSIT INSURANCE CORPORATION,	:	
Additional Defendant for Interpleader claim.	:	

[1] The Debtors in these 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). The Debtors continue to share their principal offices with the employees of JPMorgan Chase located at 1301 Second Avenue, Seattle, Washington 98101.

DEBTORS' ANSWER

Debtors Washington Mutual, Inc. ("WMI") and WMI Investment Corp. ("WMI Investment," and, together with WMI, the "Debtors" or "Counterclaims-Plaintiffs"), by their undersigned counsel, for their Answer And Counterclaims To The Complaint Of JPMorgan Chase Bank, N.A. ("JPMorgan Chase" or "Counterclaims-Defendant") dated March 24, 2009 (the "Complaint"), hereby respond as follows:

INTRODUCTION

Having obtained the largest deposit and new customer base ever seized by the Federal Deposit Insurance Corporation ("FDIC", and, as receiver, the "FDIC-Receiver"), in exchange for paying a token percentage of such deposits, JPMorgan Chase now seeks to further line its pockets at the expense of WMI by grabbing assets above and beyond the assets it already acquired at a fire-sale price. This Court should not permit JPMorgan Chase to raid the most significant remaining assets of the Debtors when these assets were never owned by the former bank subsidiaries of WMI. The assets in dispute in this adversary proceeding are and have always been property of the Debtors' estates which, by definition, could not have been transferred to JPMorgan Chase without this Court's approval because they became property of the estate pursuant to section 541 of title 11 of the United States Code (as amended, the "Bankruptcy Code").

Although JPMorgan Chase is correct to seek this Court's ruling as to whether it could take assets that belong to the Debtors' estates, launching this adversary proceeding is nothing but a transparent attempt to put its proofs of claims that were filed with this Court (at least ten of which seek exactly the relief sought in this action) in front of other creditors. As JPMorgan Chase well knows, the Debtors' human resources have been drained and they are operating at a significant informational disadvantage given the loss of employees and the

substantial amount of historical books and records taken by JPMorgan Chase as part of the sale. Recognizing, however, the central role this action will have on recoveries to the Debtors' creditors and shareholders, the Debtors do not seek to delay disposition of these core estate property questions and hereby file their answer (the "Answer") and assert counterclaims (the "Counterclaims") in response to the Complaint, reserving their right under Federal Rule of Bankruptcy Procedure 7013 to amend this pleading to assert additional counterclaims after the Debtors complete their investigation of all of the facts concerning JPMorgan Chase's actions, including pre-petition dealings with the Debtors.

With respect to the issues squarely placed before the Court in this adversary proceeding, JPMorgan Chase seeks numerous rulings that lie at the heart of this Court's core jurisdiction. The Complaint concerns the administration of the Debtors' estates, seeks allowance of JPMorgan Chase's claims, and seeks to "quiet title" as to disputed property interests, all while purporting to absolve JPMorgan Chase from any potential liability under the Bankruptcy Code's avoidance powers. The Debtors respectfully request that the Court not permit JPMorgan Chase to obtain a windfall at the expense of the Debtors' significant creditor and shareholder constituency (which already face the prospect of considerable losses) and thereby thwart any realistic prospect of recoveries pursuant to a confirmable Chapter 11 plan.

GENERAL DENIAL

Except as otherwise expressly admitted, Debtors deny each and every allegation in the Complaint, including, without limitation, any allegations contained in the preamble, prayer, headings, and subheadings of the Complaint. Pursuant to Federal Rule of Civil Procedure 8(b)(6), as made applicable to this action by Federal Rule of Bankruptcy Procedure 7008, averments in the Complaint to which no responsive pleading is required shall be deemed as denied. Debtors expressly reserve the right to seek to amend and/or supplement this Answer, as may be necessary.

Complaint 1: JPMorgan Chase brings this action in order to ensure that JPMorgan Chase and its subsidiaries are not divested of their assets and interests purchased in good faith from the Federal Deposit Insurance Corporation ("FDIC") as receiver (the "Receiver") for Washington Mutual Bank, Henderson Nevada ("WMB") under Title 12 of the United States Code pursuant to that certain Purchase and Assumption Agreement (Whole Bank) dated as of September 25, 2008, a true and correct copy of which is attached as Exhibit A hereto (the "P&A"). JPMC also brings this action for indemnification and recovery against the Debtors for certain liabilities that may be asserted against JPMorgan Chase as the successor by merger to Washington Mutual Bank, fsb, Utah ("WMB fsb"), a former subsidiary of WMB, or against other former subsidiaries of WMB that currently are subsidiaries of JPMorgan Chase.

Answer: Paragraph 1 of the Complaint characterizes the nature of the Complaint and therefore no response is required. To the extent a response is required, the Debtors deny knowledge or information sufficient to determine why JPMorgan Chase brought this action and therefore deny same. Debtors further respectfully refer the Court to the Purchase and Assumption Agreement Whole Bank, dated September 25, 2008 ("P&A Agreement") for the content thereof and deny the remainder of paragraph 1 of the Complaint.

Complaint 2: Under the P&A, JPMorgan Chase acquired the business and related assets of WMB, including ownership of all of WMB's direct and indirect subsidiaries, and all right, title and interest of

the Receiver in those assets. As provided for in the P&A, JPMorgan Chase purchased "all of the Receiver's right, title and interest" to these assets, pursuant to and in accordance with the Federal Deposit Insurance Act, as amended (the "FDI Act"). Among the assets acquired by JPMorgan Chase under the P&A were certain assets that have been claimed by Washington Mutual, Inc. ("WMI", and collectively with WMI Investment Corp. ("WMI Investment"), the "Debtors").

Answer: Debtors deny the allegations set forth in paragraph 2 of the Complaint, except respectfully refer the Court to the P&A Agreement for the content thereof.

Complaint 3: Many of the assets the Debtors now improperly claim belong to them (but that JPMorgan Chase in fact acquired from the FDIC) have already been determined not to be the Debtors' property pursuant to the resolution procedures under Title 12. On December 30, 2008, the Debtors submitted claims in the Receivership for, among other things, ownership of these assets. On January 23, 2009, the FDIC, as Receiver, disallowed the Debtors' claims. The Debtors elected not to appeal the disallowance of their claims to ownership of these assets. Rather, on March 20, 2009, the Debtors filed an action against the FDIC in the United States District Court for the District of Columbia, *Washington Mutual, Inc., et al. v. Federal Deposit Insurance Corporation,* Case No. 1:09-cv-00533 (the "District Court Action"), challenging to the disallowance of their claims and also claiming ownership of those assets. The Debtors have exercised their purported right to demand a trial by jury in the District Court Action.

Answer: Debtors deny the allegations set forth in paragraph 3 of the Complaint, except respectfully refer the Court to the proof of claim Debtors filed with the FDIC-Receiver on December 30, 2008 (the "Proof of Claim"), the FDIC-Receiver's notice dated January 23, 2009 (the "Disallowance Notice"), and the complaint filed in *Washington Mutual, Inc., et al. v. Federal Deposit Insurance Corporation,* Case No. 1:09-cv-00533 (the "DC Action"), for the content thereof. Debtors further admit and aver that the Disallowance Notice stated in part: "[I]f you do not agree with this disallowance, you have the right to file a lawsuit on your claim ... in the United States District (or Territorial) Court for the District within which the failed Institution's principal place of business was located or the United States District Court for the District of Columbia within 60 days

from the date of this notice. **IF YOU DO NOT FILE A LAWSUIT ... BEFORE THE END OF THE 60-DAY PERIOD, THE DISALLOWANCE WILL BE FINAL, YOUR CLAIM WILL BE FOREVER BARRED AND YOU WILL HAVE NO FURTHER RIGHTS OR REMEDIES WITH RESPECT TO YOUR CLAIM**." (Emphasis and capitalization in original.)

Complaint 4: The assets that are the subject of the Debtors' disallowed claims are also among the assets set forth in the Debtors' Schedules and Statements of Financial Affairs filed with this Court on December 19, 2008, January 27, 2009 and February 24, 2009 (collectively, the "Schedules"). Notwithstanding the assertions in the Schedules and the District Court Action, the assets put at issue by the Debtors are not property of the Debtors' estates under 11 U.S.C. § 541, nor are they property of the Receiver any longer, but rather the assets are property of JPMC, which acquired them in good faith and for value from the FDIC pursuant to the FDI Act.

Answer: Debtors deny the allegations set forth in paragraph 4 of the Complaint, except respectfully refer the Court to the Disallowance Notice, and the Debtors' Schedules and Statements of Financial Affairs filed by the Debtors with this Court on December 19, 2008, January 27, 2009 and February 24, 2009, for the content thereof.

Complaint 5: In response to the Debtors' actions and in order to protect its economic interests in the assets the Debtors chose to put at issue in the District Court Action, JPMorgan Chase has filed this Complaint.

Answer: Paragraph 5 of the Complaint characterizes the nature of the Complaint and therefore no response is required. To the extent a response is required, Debtors deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 5 of the Complaint that concern JPMorgan Chase's putative motivations for filing the Complaint, and therefore deny same. Debtors otherwise deny the allegations set forth in paragraph 5 of the Complaint, except respectfully refer the Court to the Complaint for the content thereof.

Complaint 6: The assets of the Receiver that were sold to JPMC, as to which WMI has asserted rights or has refused to acknowledge JPMC 's ownership, include (i) approximately $4 billion in the aggregate

face amount of Trust Securities (as defined below) contributed by WMI to WMB, the amount of which constitutes regulatory core capital of WMB; (ii) the right to tax refunds arising from overpayments attributable to operations of WMB and its subsidiaries for the 2008 tax year and prior tax years and net operating loss, net capital loss, and excess tax credit carrybacks from 2008 to prior tax years; (iii) approximately $3.7 billion credited by book entry shortly prior to the receivership of WMB so as to create a purported deposit account at WMB fsb in the name of WMI without any apparent deposit of funds; (iv) at least $234 million in tax refunds that belonged to WMB and/or WMB subsidiaries and were acquired by JPMorgan Chase under the P&A but were deposited to the credit of WMI in the days following the Receivership; (v) goodwill judgments that arise from pending and prior litigation; (vi) assets of certain trusts supporting deferred compensation arrangements covering the former and current employees of WMB and its subsidiaries; and (vii) other assets of WMB, including Visa shares, intellectual property and contractual rights, as described below. The Debtors are also refusing to recognize the Receiver's ability to transfer to JPMorgan Chase certain tax qualified pension and 401(k) plans pursuant to which the trust assets are held for the exclusive benefit of participants, most of whom were WMB's employees.

Answer: Debtors deny the allegations set forth in paragraph 6 of the Complaint, except respectfully refer the Court to the P&A Agreement for the content thereof.

Complaint 7: The liabilities at issue in this adversary proceeding are liabilities that did not transfer to the Receiver or to JPMorgan Chase, but rather are liabilities of the Debtors that relate to acts, conduct or omissions of WMI in connection with events prior to the commencement of the receivership proceedings for WMB and for which WMB and/or its former subsidiaries would be entitled to indemnification and contribution from the Debtors as primary actors. These liabilities relate principally to (i) the issuance of "Trust Securities" with the aggregate face amount of approximately $4 billion; (ii) so-called "deposit accounts," which in the aggregate were recorded as having a book balance of approximately $4.3 billion as of the commencement of these Chapter 11 cases; and (iii) the restructuring and transfer of assets and liabilities among the Debtors and their former subsidiaries.

Answer: Debtors deny the allegations set forth in paragraph 7 of the Complaint.

Complaint 8: In this action, JPMorgan Chase seeks, pursuant to Title 12 and the P&A, (i) a declaration that, as the successor of the Receiver, it has

or is entitled to full legal title to and the beneficial interest in the assets at issue, (ii) a declaration that it has lien rights against, and/or is entitled to setoff, recoupment and/or imposition of a constructive trust with respect to any amounts to which the Debtors may otherwise claim to be entitled, (iii) a declaration of the rights of JPMC to indemnification, contribution and/or reimbursement for amounts paid or advanced by JPMC or WMB with respect to any of the assets at issue that are not transferred to JPMC, and (iv) adjudication of any and all conflicting claims to the so-called "deposit accounts" and any funds in them. JPMorgan Chase intends to file its proofs of claim for the amounts, if any, that this Court may determine in this adversary proceeding constitute claims against the Debtors and their estates.

Answer: The first sentence of paragraph 8 of the Complaint characterizes the nature of the Complaint and therefore no response is required. To the extent a response is required, Debtors deny same and deny that JPMorgan Chase is entitled to any relief. Debtors admit that JPMorgan Chase has filed proofs of claim in the Debtors' cases and respectfully refer the Court to the proofs of claim for the content thereof, and further aver that JPMorgan Chase is entitled to no recovery on such proofs of claim.

PARTIES AND BACKGROUND RELATIONSHIPS

Complaint 9: Plaintiff JPMorgan Chase is a national banking association organized under the laws of the United States of America with its principal place of business in Columbus, Ohio. JPMorgan Chase is a wholly-owned subsidiary of JPMorgan Chase & Co., a corporation organized under the laws of the State of Delaware. JPMorgan Chase is the "Assuming Bank" as that term is defined in the P&A and is the successor to and good faith purchaser for value from the Receiver under the P&A and under Title 12 of the United States Code.

Answer: Debtors deny the allegations set forth in paragraph 9 of the Complaint, except respectfully refer the Court to the P&A Agreement for the content thereof, and deny knowledge or information sufficient to form a belief as to the truth of the allegations in the first two sentences of paragraph 9 of the Complaint and therefore deny same.

Complaint 10: Defendant WMI is a holding company incorporated in Washington with its principal place of business in Seattle, Washington and is one of the debtors and debtors-in-possession in these cases, having filed its voluntary petition for reorganization under chapter 11 of Title 11 of the United States Code on September 26, 2008 (the "Petition Date") before the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court").

Answer: Debtors admit the allegations set forth in paragraph 10 of the Complaint.

Complaint 11: Defendant WMI Investment is a Delaware corporation with its principal place of business in Seattle, Washington and is the other debtor and debtor-in-possession in these cases.

Answer: Debtors admit the allegations set forth in paragraph 11 of the Complaint.

Complaint 12: Defendant FDIC is a federal corporation with its principal place of business in the District of Columbia. The FDIC is named as a defendant solely in connection with the interpleader claim.

Answer: Debtors admit the allegations set forth in the first sentence of paragraph 12 of the Complaint. The second sentence of paragraph 12 of the Complaint characterizes the nature of the Complaint and therefore no response is required. To the extent a response is required, Debtors deny same except respectfully refer the Court to the Complaint for the content thereof.

Complaint 13: At all times relevant hereto, WMI was a savings and loan holding company, WMI directly owned WMI Investment and directly or indirectly owned WMB and WMB's subsidiaries, including WMB fsb (WMB and WMB fsb as in existence prior to the Receivership are sometimes collectively referred to herein as the "Affiliated Banks").

Answer: Debtors deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 13 of the Complaint and therefore deny same, and aver that the undefined phrase "[a]ll times relevant hereto" renders the allegations vague and ambiguous, except admit that at certain times WMI was a savings and loan holding company that owned Washington Mutual Bank ("WMB"), and indirectly owned WMB's subsidiaries, including Washington Mutual Bank fsb ("WMB fsb"), and that WMI was the direct parent of WMI Investment.

Complaint 14: At all times relevant hereto, the Debtors, WMB and WMB's direct and indirect subsidiaries, including WMB fsb, were subject to regulation by the Office of Thrift Supervision ("OTS") and various other state and federal depository institutions regulatory agencies and banking authorities, including the FDIC, which insured the banks' deposits.

Answer: Debtors deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 14 of the Complaint and therefore deny same, and aver that the undefined phrase "[a]ll times relevant hereto" renders the allegations vague and ambiguous, except admit that at certain times WMI, WMB, and WMB fsb were subject to regulation by the Office of Thrift Supervision ("OTS"), and WMI's banking and non-banking subsidiaries were also overseen by various federal and state authorities, including the FDIC.

Complaint 15: On September 25, 2008, the Director of the OTS by order number 200836, appointed the FDIC as Receiver for WMB and the Receiver took possession of WMB in a receivership proceeding under section 1821 of Title 12 of the United States Code (the "Receivership").

Answer: Debtors deny the allegations set forth in paragraph 15 of the Complaint, except respectfully refer the Court to order number 2008-36 for the content thereof, and admit that on September 25, 2008, the Director of OTS, by order number 2008-36, appointed the FDIC as receiver for WMB and advised that the receiver was immediately taking possession of WMB.

Complaint 16: On September 25, 2008, the FDIC, as Receiver and in its corporate capacity, also entered into a Purchase and Assumption transaction with JPMorgan Chase under the P&A, whereby JPMorgan Chase acquired substantially all of the assets and assumed the deposit liabilities (as defined in the P&A and under 12 U.S.C. § 1813(1)) and certain other liabilities of WMB's banking operations under the authority vested in the FDIC by Title 12.

Answer: Debtors deny the allegations set forth in paragraph 16 of the Complaint, except respectfully refer the Court to the P&A Agreement for the content thereof, and admit that after its appointment as receiver, the FDIC-Receiver and the FDIC in its corporate capacity sold

certain of the assets of WMB, including the stock of WMB fsb, to JPMorgan Chase pursuant to the P&A Agreement.

Complaint 17: On September 26, 2008, at approximately 10:16 p.m., WMI and WMI Investment filed their voluntary petitions for relief under Chapter 11 of Title 11 of the United States Code (as amended, the "Bankruptcy Code") in the Bankruptcy Court, thereby commencing the Chapter 11 cases in which this adversary proceeding is filed.

Answer: Debtors admit the allegations set forth in paragraph 17 of the Complaint.

Complaint 18: On January 30, 2009, the Bankruptcy Court entered its order setting March 31, 2009 as the date by which all proofs of claim against the Debtors and their estates must be filed.

Answer: Debtors deny the allegations set forth in paragraph 18 of the Complaint, except respectfully refer the Court to the January 30, 2009 order for the content thereof.

Complaint 19: On February 24, 2009, the Debtors filed amended schedules in these cases.

Answer: Debtors deny the allegations set forth in paragraph 19 of the Complaint, except respectfully refer the Court to the Court dockets in "these cases" for the content thereof.

Complaint 20: On March 20, 2009, the Debtors commenced the District Court Action.

Answer: Debtors admit that on March 20, 2009 Debtors filed the complaint in the DC Action, and respectfully refer the Court to the complaint filed by the Debtors in the DC Action for the content thereof. Debtors further admit and aver that the FDIC-Receiver's Disallowance Notice stated in part: "[I]f you do not agree with this disallowance, you have the right to file a lawsuit on your claim ... in the United States District (or Territorial) Court for the District within which the failed Institution's principal place of business was located or the United States District Court for the District of Columbia within 60 days from the date of this notice. **IF YOU DO NOT FILE A LAWSUIT ... BEFORE THE END OF THE 60-DAY PERIOD, THE DISALLOWANCE**

WILL BE FINAL, YOUR CLAIM WILL BE FOREVER BARRED AND YOU WILL HAVE NO FURTHER RIGHTS OR REMEDIES WITH RESPECT TO YOUR CLAIM." (Emphasis and capitalization in original.)

JURISDICTION AND VENUE

Complaint 21: Since the Petition Date, the Debtors have been and continue to be authorized to operate their businesses and manage their properties as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

Answer: Debtors admit that they have been and continue to be authorized to operate their businesses in accordance with applicable Bankruptcy Code sections, and respectfully refer the Court to the applicable Bankruptcy Code sections for the content thereof.

Complaint 22: On October 3, 2008, this Court entered an order pursuant to Federal Rule of Bankruptcy Procedure 1015(b) (collectively, the "Bankruptcy Rules") authorizing the joint administration of the Debtors' Chapter 11 cases.

Answer: Debtors admit the allegations set forth in paragraph 22 of the Complaint, and respectfully refer the Court to the October 3, 2008 order for the content thereof.

Complaint 23: This Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. §§ 2201 and 2202, 28 U.S.C. § 1334, 28 U.S.C. § 157, and Bankruptcy Rule 7001.

Answer: The Debtors state that the allegations set forth in paragraph 23 of the Complaint state a conclusion of law to which no response is required, except admit and aver that one or more of the claims asserted in this proceeding are core proceedings pursuant to 28 U.S.C. § 157(b)(2), and otherwise respectfully refer the Court to 28 U.S.C. §§ 2201 and 2202, 28 U.S.C. § 1334, 28 U.S.C. § 157, and Federal Rule of Bankruptcy Procedure 7001, for the content thereof.

Complaint 24: Venue of this adversary proceeding in this Court is proper pursuant to 28 U.S.C. § 1409(a).

Answer: Debtors state that the allegations set forth in paragraph 24 of the Complaint state a conclusion of law as to which no response is required and respectfully refer the Court to 28 U.S.C. § 1409(a) for the content thereof.

STATEMENT OF FACTS

A. The Bank Failure And Acquisition

Complaint 25: On September 18, 2008, the OTS designated WMB as a "problem institution," thus subjecting it to closer control and scrutiny by the federal regulatory authorities and on September 25, 2008, the 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 in accordance with statutorily mandated procedures under Title 12 that, subject to certain limited exceptions, resulted in the sale of all of the Receiver's right, title and interest to or in WMB's assets whether or not reflected on the books and records of WMB, to JPMorgan Chase pursuant to the terms of the P&A.

Answer: Debtors deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 25 of the Complaint to the extent they purport to characterize motivations of the OTS and of the FDIC, and Debtors therefore deny same. Debtors further state that the allegations set forth in paragraph 25 of the Complaint concerning Title 12 state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same, except respectfully refer the Court to Title 12 for the content thereof. Debtors otherwise deny the allegations set forth in paragraph 25 of the Complaint, except respectfully refer the Court to the P&A Agreement and to the putative document that purportedly "designate[d] WMB as a 'problem institution'" for the content thereof.

Complaint 26: At the time of the Receivership, WMB was the sixth largest bank in the United States, with 2207 branches, more than 43,000 employees, and more than 13 million depositors with more than $140 billion of deposit liabilities insured by the FDIC.

Answer: Debtors deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 26 of the Complaint and therefore deny same.

Complaint 27: WMB also indirectly owned 100% of WMB fsb. WMB fsb or "the little bank" (as it has sometimes been called) had 26 offices to WMB's 2,207 and less than $5 billion in customer deposits insured by the FDIC to WMB's more than $140 billion.

Answer: Debtors deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 27 of the Complaint and therefore deny same.

Complaint 28: The FDIC's ability to promptly find a suitable acquirer of WMB's banking operations had significant economic and policy ramifications. This was a bank failure of unprecedented magnitude that occurred in the midst of the most severe financial crisis in decades. Had the FDIC been unable to sell the assets of WMB, 13 million depositors would have lost their bank and the confidence of consumers in the banking system generally would likely have been further undermined. The protection of the title conveyed by the FDIC to institutions like JPMorgan Chase, who are encouraged to step into the breach and provide the stability and continuity necessary to avert a run on a failing bank and disruption of its services to the public, is critical to the ability of the regulators to manage bank failures under Title 12 and the government to administer an insurance fund that can maintain public confidence in the banking system.

Answer: The allegations set forth in paragraph 28 of the Complaint are argumentative and require no response. To the extent a response is required, Debtors deny same.

Complaint 29: That WMB stands as the largest bank failure in United States history stems in large part from the financial crisis and crisis of confidence that still grips the nation. In the ten days immediately prior to the Receivership, WMB experienced deposit outflows of more than $16.7 billion, amounting to more than $2 billion per banking business day, as its customers and even WMI itself were apparently moving their assets so as to avoid the effects of what was increasingly perceived to be- an inevitable bank failure.

Answer: The allegations set forth in paragraph 29 of the Complaint are argumentative and require no response. To the extent a response is required, Debtors deny same.

Complaint 30: JPMorgan Chase had only two days after being briefed by the FDIC to submit a bid and then only twenty-four hours from the time that its bid was accepted by the FDIC until the time the acquisition closed to complete the single largest acquisition of a failed institution in United States history. The circumstances which led to execution of the P&A meant that JPMorgan Chase had limited opportunity to prepare for this unprecedented transaction.

Answer: Debtors deny the allegations set forth in paragraph 30 of the Complaint.

Complaint 31: The acquisition included, among other things, a nationwide credit card lending business, a multi-family and commercial real estate lending business, and nationwide mortgage banking activities. JPMorgan Chase's acquisition avoided an interruption in banking services. It assured that the 2,207 branches operated by WMB, as well as the 26 additional branches operated by WMB fsb, opened for business on September 26, 2008, protecting the interests of employees, customers, vendors, and communities who were dependent on WMB's banking operations. JPMorgan Chase paid $1.88 billion dollars to the FDIC for these and other assets, and assumed all deposits. This transaction involved no financial assistance from, or cost to, the FDIC's Deposit Insurance Fund. This stands in contrast to other recent bank failures such as the FDIC's sale of IndyMac Federal Bank FSB, which cost the FDIC approximately $10.7 billion, despite IndyMac being a much smaller bank than WMB.

Answer: Debtors deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 31 of the Complaint and therefore deny same, except respectfully refer the Court to the P&A Agreement for the content thereof.

Complaint 32: The task of stabilizing, integrating and creating as smooth a transition as possible has been time-consuming and arduous. But its success has been vital to the banking system, the communities served by WMB and the general public interest.

Answer: Debtors deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 32 of the Complaint and therefore deny same.

B. Combined Operations of Washington Mutual

Complaint 33: As a federal savings association committed to serving consumers and small businesses, WMB accepted deposits from the general public, originated, purchased, serviced and sold home loans, made

credit card, home equity, multi-family and other commercial real estate loans, and to a lesser degree, engaged in certain commercial banking activities. WMB's substantial mortgage business was hit especially hard by increasing home and commercial mortgage delinquencies in late 2007 and 2008.

Answer: Debtors admit that WMB accepted deposits from the general public, originated, purchased, serviced and sold home loans, made credit card, home equity, multi-family and other commercial real estate loans, and engaged in certain commercial banking activities. Debtors otherwise state that the remaining allegations set forth in paragraph 33 of the Complaint are argumentative and require no response. To the extent a response is required, Debtors deny same.

Complaint 34: As the financial crisis took root toward the end of 2007, WMI focused its efforts on raising capital for WMB. In late 2007, WMI raised approximately $3 billion in new capital through the issuance of a series of debt securities. In early 2008, WMI sought out merger partners and equity investors. A number of companies participated in the process (including JPMorgan Chase which submitted a bid to acquire WMI, but whose bid was rejected by WMI). In April 2008, in lieu of an acquisition or a merger, WMI negotiated a capital infusion of approximately $7.2 billion from a group of investment funds led by Texas Pacific Group, a private equity firm, through an issuance of preferred stock, which included anti-dilution provisions that severely constricted the ability of WMI to raise additional capital.

Answer: Debtors admit that (i) from December 2007 through April 2008, WMI raised approximately $10 billion in the capital markets, (ii) during that period, WMI's principal assets included cash, the stock of WMB, and the stock of WMI Investment and of the other WMI subsidiaries, (iii) throughout 2008, WMI's debt obligations approximated $7 billion, (iv) from December 2007 through September 2008, WMI made $6.5 billion of capital contributions to WMB (the "Capital Contributions"), and (v) in April 2008, WMI completed a significant recapitalization, which resulted in a $7.2 billion capital infusion by a group of outside investors led by TPG Capital. The remaining allegations set forth in paragraph 34 of the Complaint are argumentative and require no response. To the extent a response is required, Debtors deny same.

Complaint 35: WMI formally contributed to WMB at least $6.5 billion of the approximately $10.2 billion in capital it had raised. As discussed below, certain book entries made between September 19 and September 24, 2008 reflect an additional contribution of $3.7 billion from WMI to WMB fsb, accounting for much of the remaining debt and equity capital raised by WMI during 2007 and 2008. While book entries were made, neither WMI nor WMB transferred cash or other good funds to WMB fsb corresponding to the book entries, whether as a contribution or otherwise.

Answer: Debtors deny the allegations set forth in paragraph 35 of the Complaint, except respectfully refer the Court to the P&A Agreement and to the book entries for the content thereof, and admit that from December 2007 through September 2008, WMI made the Capital Contributions, as more fully described in paragraph 20 of the Proof of Claim and Exhibit D thereto.

Complaint 36: Prior to the Receivership, WMI and WMB had identical and overlapping directors and held joint meetings of the Boards of Directors of both entities on a combined basis, resulting in effect in a single Board of Directors with identical directors that met on the same topics at the same time and made decisions for both entities collectively. WMI's officers and employees were also officers and directors of WMB and WMI and WMB shared a joint general ledger and other books and records, and centralized their decision making, treasury, cash management, finance, governance, regulatory and executive functions in the same individuals. The overlap was so extensive that as of the time of the Receivership and subsequent Petition Date, WMI claimed it had only a handful of employees remaining as the result of the Receivership.

Answer: The allegations set forth in paragraph 36 of the Complaint are argumentative and so generalized and vague as to require no response. To the extent a response is required, Debtors deny same.

Complaint 37: Likewise, the assets and liabilities of the Debtors and their direct and indirect subsidiaries, including the Affiliated Banks, were connected and in many cases, commingled and intertwined. Prior to the Receivership, the Debtors and their direct and indirect subsidiaries operated a centralized and consolidated cash management system pursuant to which external receipts and payments were accounted for on a consolidated basis and internal receipts or payments were done in whole or in part by book or

journal entry as "due to/from" accounts on the general ledger or other books of account.

Answer: The allegations set forth in paragraph 37 of the Complaint are argumentative and so generalized and vague as to require no response. To the extent a response is required, Debtors deny same.

Complaint 38: At various times prior to the Receivership, WMI entered into agreements with third parties that titled assets or contractual rights in WMI's name although WMB or a subsidiary of WMB paid for the asset or contractual right or was the entity liable on the payment or liability therefore. At various times prior to the Receivership, WMI also entered into intercompany arrangements with the Affiliated Banks with documentation different than the documentation that the Affiliated Banks would have obtained in an arm's-length transaction with an unaffiliated party.

Answer: Debtors deny the allegations set forth in paragraph 38 of the Complaint, except respectfully refer the Court to the putative agreements and arrangements for the content thereof.

Complaint 39: In 2007 and 2008, WMI undertook a series of projects and other acts, at least some of which appear to have moved assets away from WMB or its subsidiaries to WMI or another of WMI's subsidiaries. This included transfers undertaken during August and September 2008 as part of WMI's self-titled "WMI Cash Optimization Program", for the apparent benefit of WMI.

Answer: The allegations set forth in paragraph 39 of the Complaint are argumentative and so generalized and vague as to require no response. To the extent a response is required, Debtors deny same.

Complaint 40: To the extent that any person has or may assert claims against JPMC that resulted from these transactions, JPMC is entitled to be indemnified and held harmless by WMI since all pre-petition transactions were consummated at the behest and direction of WMI and for its benefit.

Answer: Debtors deny the allegations set forth in paragraph 40 of the Complaint.

C. Trust Securities

Complaint 41: Between March 2006 and October 2007, certain issuer trusts (the "Issuing Trusts") formed by WMI and its then subsidiaries issued securities (the "Trust Securities") in the aggregate face amount of approximately $4 billion, exchangeable into depository shares representing preferred stock of WMI upon the occurrence of certain events. A complete list of the Trust Securities is attached as Exhibit B. The Trust Securities were issued in global form registered in the name of Cede & Co., as nominee, and held by Wilmington Trust as depositary for the Depositary Trust Corporation ("DTC"). The sole assets of the Issuing Trusts, in turn, were preferred securities issued by Washington Mutual Preferred Funding LLC ("WMPF").

Answer: Debtors deny the allegations set forth in paragraph 41 of the Complaint, except admit that, between March 2006 and October 2007, in four instances, certain issuing special purpose entities formed by WMI and its then-subsidiaries (the "SPEs") issued securities (the "Trust Securities"), and respectfully refer the Court to the documents evidencing the Trust Securities and Exhibit B to the Complaint for the content thereof, and admit, on information and belief, that the Trust Securities have an aggregate liquidated preference of as much as $4 billion.

Complaint 42: As set forth below, JPMorgan Chase acquired the Trust Securities under the P&A and all steps required to transfer the Trust Securities as required were completed prior to the Petition Date save and except for the ministerial formality of changing record title as reflected at DTC and described below.

Answer: Debtors deny the allegations set forth in paragraph 42 of the Complaint.

Complaint 43: The Trust Securities, like other trust securities issued by financial institutions, qualified as regulatory core capital of WMB under applicable banking laws and regulations with specific approvals and requirements governing their issuance and treatment. They were, by their express terms, mandatorily and automatically exchangeable for a like amount of newly issued depository shares representing WMI preferred stock upon the occurrence of an exchange event. In addition, for the Trust Securities to be treated as core capital of WMB or any other regulated institution when issued, the Trust Securities would have to be structured in a manner that assured they would become property of the regulated institution upon exchange.

Answer: Debtors deny the allegations set forth in paragraph 43 of the Complaint, except respectfully refer the Court to the offering documents for the content thereof, and admit that according to the terms of the Trust Securities, the exchange of the Trust Securities for preferred stock of WMI (or depositary shares representing an interest in preferred stock of WMI) was to follow the issuance by WMI of a press release announcing the exchange event.

Complaint 44: On January 30, 2006, WMB submitted a Notice for Establishment of an Operating Subsidiary (the "Notice") to the OTS and the FDIC regarding the establishment of WMPF. WMPF's assets consisted of indirect interests in various residential mortgage and home equity loans and other permitted investments. WMPF in turn issued preferred securities to the Issuing Trusts that entitled the Issuing Trusts to a liquidation preference against the assets of WMPF. In the Notice to the OTS and the FDIC, WMB sought confirmation from the OTS that the Trust Securities would qualify for inclusion in the core capital of WMB.

Answer: Debtors deny the allegations set forth in paragraph 44 of the Complaint, except respectfully refer the Court to the documents referenced in paragraph 44 for the content thereof, and admit that Washington Mutual Preferred Funding LLC's ("WMPF") assets were limited to direct or indirect interests in mortgages or mortgage-related assets, cash and other permitted assets, and that WMPF issued preferred securities.

Complaint 45: On February 23, 2006, WMI committed to contribute the Trust Securities to WMB and stated that WMI "hereby undertakes that if, as a result of a Supervisory Event," WMI exchanges its preferred stock for the Trust Securities, "WMI will contribute to WMB the [Trust Securities]." A true and correct copy of that commitment is attached as Exhibit C.

Answer: Debtors deny the allegations set forth in paragraph 45 of the Complaint, except refer to Exhibit C to the Complaint for the content thereof.

Complaint 46: WMI's written commitment to contribute the Trust Securities to WMB in exchange for including the Trust Securities in the core capital of WMB constituted a capital commitment to a federal depository institutions regulatory agency or its predecessor which was deemed assumed as of the Petition Date under 11 U.S.C.

Section 365(o). That commitment also constituted a binding agreement (the "Contribution Agreement"), the breach of which would give rise to post-petition administrative claims against WMI.

Answer: Debtors deny the allegations set forth in paragraph 46 of the Complaint.

Complaint 47: At all times relevant hereto solely by virtue of the Contribution Agreement, WMB was permitted to include the Trust Securities in-its- core capital and counted the amount of the Trust Securities as regulatory core capital. The Trust Securities have never been beneficially owned by WMI and have always been subject to a concomitant obligation to contribute the Trust Securities to WMB as a necessary corollary to the treatment of the Trust Securities as core capital of WMB.

Answer: Debtors deny the allegations set forth in paragraph 47 of the Complaint.

Complaint 48: The issuance of the Trust Securities and the Contribution Agreement were duly authorized by all requisite corporate action on the part of WMI and WMB. True and correct copies of the minutes of the Board of Directors authorizing the transaction are attached as Exhibit D.

Answer: Debtors deny the allegations set forth in paragraph 48 of the Complaint, except respectfully refer the Court to the documents referenced in paragraph 48 for the content thereof.

Complaint 49: On September 25, 2008, in a letter to WMI, the OTS declared an Exchange Event had occurred and directed an immediate exchange of the Trust Securities for WMI preferred stock. WMI responded to the OTS letter later on September 25, 2008, confirming the exchange and contribution.

Answer: Debtors deny the allegations set forth in paragraph 49 of the Complaint, except respectfully refer the Court to any September 25, 2008 letters for the content thereof.

Complaint 50: On September 25, 2008, WMI contributed the Trust Securities to WMB pursuant to an Assignment Agreement, a true and correct copy of which is attached as Exhibit E, pursuant to which, among other things, effective as of September 25, 2008, WMI transferred "all of [WMI's] right, title and interest, whether now owned or hereafter acquired, in and to the [Trust] Securities" to WMB. Furthermore, upon execution, WMI assigned to WMB all present

and future "rights and benefits arising out of the [Trust] Securities which come into the possession of [WMI]."

Answer: Debtors deny the allegations set forth in paragraph 50 of the Complaint, except respectfully refer the Court to the Assignment Agreement for the content thereof.

Complaint 51: Under the express terms of the P&A, JPMorgan Chase purchased "all right, title, and interest of the Receiver in and to all of the assets . . . of [WMB] whether or not reflected on the books of [WMB] as of Bank Closing," which includes WMB's and the Receiver's rights to receive-the Trust Securities, a transfer that was effected on September 25, 2008. The Receiver sold the Trust Securities to JPMorgan Chase under the P&A and, therefore, JPMorgan Chase is the sole owner of all equitable and beneficial right, title and interest in the Trust Securities, leaving only the ministerial act of correcting the record at DTC (or with the Issuing Trusts and their trustees) undone before the filing of these Chapter 11 cases.

Answer: Debtors deny the allegations set forth in paragraph 51 of the Complaint.

Complaint 52: Although the Debtors did not initially dispute JPMorgan Chase's ownership of the Trust Securities and the parties drafted and agreed to a stipulation to transfer the Trust Securities to JPMorgan Chase to accompany the account stipulation, the Debtors amended their schedules on January 27, 2009 to add a Footnote 4 to Schedule B regarding the Trust Securities which had not been mentioned in the Schedules originally filed on December 19, 2008. In that footnote, which is repeated verbatim in the Debtors' Second Amended Schedules filed on February 24, 2009, the Debtors assert unspecified and potential rights to or interests in the Trust Securities.

Answer: Debtors deny the allegations set forth in paragraph 52 of the Complaint, except admit and aver that Debtors have rights and interests in the Trust Securities, and respectfully refer the Court to the Schedules for the content thereof.

Complaint 53: To the extent that WMI ever held or now holds any interest in the Trust Securities — and JPMorgan Chase believes WMI had and has no legally cognizable interest in them — that interest has never consisted of anything more than bare legal title to a securities entitlement to the Trust Securities for the moment in time of the conditional exchange and contribution. Section 541(iv) of the Bankruptcy Code provides that "property in which the debtor

holds, as of the commencement of the case, only legal title and not an equitable interest . . . becomes property of the estate . . . only to the extent of the debtor's legal title to such property, but not to the extent of any equitable interest in such property that the debtor does not hold."

Answer: Debtors deny the allegations set forth in paragraph 53 of the Complaint except admit and aver that the Debtors have rights and interests in the Trust Securities.

Complaint 54: As set forth in the P&A, JPMorgan Chase purchased "all of the Receiver's right, title and interest," in the Trust Securities, pursuant to and in accordance with the FDI Act. On December 30, 2008, WMI nonetheless submitted a claim to the Receiver asserting, among other things, ownership of the Trust Securities. On January 23, 2009, the Debtors' claims were disallowed by the Receiver. The Receiver's disallowance is dispositive of the fact that the Debtors do not own the Trust Securities. On March 20, 2009, the Debtors commenced the District Court Action with respect to the disallowance of their claims to the Trust Securities.

Answer: Debtors deny the allegations set forth in paragraph 54 of the Complaint, except respectfully refer the Court to the Proof of Claim, the Disallowance Notice, the complaint filed in the DC Action on March 20, 2009, and the P&A Agreement, for the content thereof.

Complaint 55: Accordingly, JPMorgan Chase seeks a declaration that it owns the Trust Securities and an order directing third parties including, DTC, Cede & Co., Wilmington Trust Corporation and any other trustee, custodian, depository or other securities intermediary, to take all actions reasonably necessary or appropriate, as requested by JPMorgan Chase, to have the record legal title reflect JPMorgan Chase as the sole owner of the Trust Securities.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 55 of the Complaint.

Complaint 56: In addition, JPMC is entitled to be indemnified and held harmless by WMI for any liabilities associated with the issuance, exchange, contribution or recovery of the Trust Securities, including without limitation any claims regarding authorization, enforceability, avoidability or inadequate disclosure. JPMC seeks a determination that WMI, as the controlling parent, the primary issuer and the

principal actor, has the obligation to indemnify and hold harmless its indirect formerly wholly owned. subsidiaries from any liability to third parties associated with or related to the Trust Securities.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 56 of the Complaint.

D. Tax Refunds

Complaint 57: To the extent WMB is or was entitled to tax refunds, the right to receive those refunds was purchased by JPMorgan Chase under the P&A.

Answer: Debtors deny the allegations set forth in paragraph 57 of the Complaint.

Complaint 58: For taxable years prior to 2008, the Washington Mutual entities, consisting of WMI, WMB, and other direct and indirect subsidiaries of WMI (collectively, the "WaMu Group"), filed- a consolidated-tax return, a unitary tax report or a combined tax return with appropriate taxing authorities wherever permissible. WMB (and its subsidiaries) made payments to WMI in the same manner and at the same time as if filing separate returns or separate consolidated returns.

Answer: Debtors deny the allegations set forth in paragraph 58 of the Complaint, except respectfully refer the Court to the tax filings for the content thereof.

Complaint 59: For all tax refunds and rights to receive tax refunds attributable to tax attributes of WMB or its subsidiaries, pursuant to applicable rules and regulations, and as between the Debtors and WMB (or their respective subsidiaries), WMB (or such subsidiary) is the beneficial owner of such tax refund or such right to receive a tax refund attributable to its tax attributes. All or substantially all of the refunds received by, now due and hereafter expected to be due to the WaMu Group are attributable to income and losses of, and taxes paid by, WMB and its subsidiaries, and, therefore, as among the members of the WaMu Group, WMB and its subsidiaries were and are the beneficial owners of all or substantially all tax refunds received, tax refunds due and rights to receive tax refunds.

Answer: Debtors deny the allegations set forth in paragraph 59 of the Complaint.

(i) California Tax Refunds

Complaint 60: For taxable years prior to 2008, the WaMu Group filed a unitary tax report with the California Franchise Tax Board ("FTB"), pursuant to the filing of FTB Form 2523A (for years prior to 1991), and pursuant to a Schedule R-7 (for taxable years after 1991). For taxable years on or after 2005, the Schedule R-7 was filed in compliance with FTB regulations promulgated in 2005 and effective for returns filed after January 8, 2005. In each case, the WaMu Group filed group returns under California tax law, with WMI as the "key corporation." In each case, the agent and surety for the other members included in the unitary tax report was WMI, the "key corporation" as defined under California tax law.

Answer: Debtors deny the allegations set forth in paragraph 60 of the Complaint, except respectfully refer the Court to the applicable tax regulations and tax filings for the content thereof.

Complaint 61: Even though each taxpayer corporation in the combined group is required under California law to file its own California return and pay its own tax due, as a- matter of administrative convenience, the FTB permits groups to file a group return.

Answer: Debtors deny the allegations set forth in paragraph 61 of the Complaint, except respectfully refer the Court to the applicable tax regulations and tax filings for the content thereof.

Complaint 62: A "key corporation" only acts as agent for the other taxpayer members. Thus, (i) all California refunds are identifiable to an individual taxpayer in the WMI Group, and (ii) all California tax refunds WMI receives that are identified to California income taxes of WMB (or any of WMB's subsidiaries) are held by WMI merely as agent for WMB (or its respective subsidiary) and WMB (or its respective subsidiary) is the beneficial owner of such California tax refunds.

Answer: Debtors deny the allegations set forth in paragraph 62 of the Complaint, except respectfully refer the Court to the applicable tax regulations and tax filings for the content thereof.

Complaint 63: California tax refunds, substantially all of which are expected to be attributable to WMB and its subsidiaries, are expected for the 2008 tax year and for tax years prior to 2008 relating to overpayments of taxes to the FTB.

Answer: Debtors deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 63 of the Complaint (which refer to what is purportedly "expected" by unidentified person(s)), and therefore deny same.

Complaint 64: All facts and circumstances necessary to determine the amount of California tax refunds for WMB and for any of WMB's subsidiaries are fixed and determinable.

Answer: Debtors deny the allegations set forth in paragraph 64 of the Complaint, except respectfully refer the Court to the applicable tax regulations and tax filings for the content thereof.

Complaint 65: The Debtors have wrongly asserted that WMI—and not WMB (or its respective subsidiaries)—is entitled to the California tax refunds due to the WaMu Group. Accordingly, JPMorgan Chase requests that the Court enter an order declaring that, pursuant to the P&A, JPMorgan Chase and its subsidiaries own the rights to such refunds.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 65 of the Complaint.

Complaint 66: WMI has already received at least a portion of the California income tax refunds due as agent for the WaMu Group and owes those amounts to JPMorgan Chase and the former WMB subsidiaries acquired by JPMorgan Chase under the P&A.

Answer: Debtors deny the allegations set forth in paragraph 66 of the Complaint.

Complaint 67: The beneficial interest in all or a portion of the California income tax refunds received by WMI as agent for the WaMu Group belongs to JPMorgan Chase, as successor in interest to WMB.

Answer: Debtors deny the allegations set forth in paragraph 67 of the Complaint.

Complaint 68: WMI has refused to turn over to JPMorgan Chase those California income tax refunds received already or in the future that are properly allocable to WMB (and its subsidiaries). As a result, JPMorgan Chase seeks an order from the Court compelling the Debtors to turn over those tax refunds.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 68 of the Complaint.

Complaint 69: Various employees and agents of WMB and its subsidiaries had been in discussions with the FTB regarding ongoing California tax matters, such as the progress of audits, and anticipated tax refunds, prior to September 26, 2008. WMI had threatened FTB and its officials with sanctions for violation of the stay to prevent them from continuing their communications with WMB.

Answer: Debtors deny the allegations set forth in paragraph 69 of the Complaint.

Complaint 70: JPMorgan Chase has been significantly prejudiced by not being able to communicate directly without restrictions with the FTB about matters concerning WMB or its subsidiaries since the Petition Date. Certain employees and agents of JPMorgan Chase need to continue these discussions with the FTB about California tax matters related to WMB and its subsidiaries, in order to preserve beneficial tax attributes, to complete pending audits and refund applications, and to arrange for the receipt of California income tax refunds.

Answer: Debtors deny the allegations set forth in paragraph 70 of the Complaint, except deny knowledge or information sufficient to form a belief as to the truth of the allegations concerning what "[c]ertain employees and agents of JPMorgan Chase need" and therefore deny same.

Complaint 71: JPMorgan Chase is entitled to communicate with the FTB about matters concerning refunds that may be due to WMB and its subsidiaries, or WMB's successors. WMI only recently directed a letter to the FTB granting them "permission" to speak to WMB for the limited purpose of continuing negotiation of audit matters previously under discussion subject to numerous restrictions,

including that WMI retained rights as the "key corporation" for the WaMu Group.

Answer: The allegations set forth in the first sentence of paragraph 71 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same, except respectfully refer the Court to the putative "letter to the FTB" for the content thereof and deny that JPMorgan Chase is entitled to any relief.

Complaint 72: WMI is ineligible to serve as a "key corporation" under California law and its attempt to exercise continuing control over assets and property that do not belong to it is without legal authority or basis. WMI is no longer able to act as an agent for either- WMB or any successors in interest to WMB, for matters involving both years prior to 2008, and for years on or after 2008, because WMI is no longer affiliated with WMB or its former subsidiaries and filing for bankruptcy has caused WMI to have interests adverse to those of WMB and WMB's successors in interest. As a result, JPMorgan Chase is entitled to unrestricted communications with the FTB about all matters concerning WMB, including but not limited to audit activity, assessments, tax refunds and notices. JPMorgan Chase therefore requests that the Court enter an Order authorizing it to engage in such communications and precluding the Debtors or anyone else from interfering with those communications.

Answer: Debtors deny the allegations set forth in paragraph 72 of the Complaint, except respectfully refer the Court to the applicable tax regulations and tax filings for the content thereof, and deny that JPMorgan Chase is entitled to any relief.

(ii) Federal and Other State Tax Refunds

Complaint 73: For taxable years prior to 2008, the WaMu Group filed a consolidated U.S. federal tax return pursuant to regulations promulgated by the U.S. Department of the Treasury ("Treasury Regulations") and the Internal Revenue Service (the "IRS") under Internal Revenue Code ("IRC") Section 1501 *et seq.* For the tax year of 2008, WMB and its subsidiaries were members of the WaMu Group consolidated group until at least September 25, 2008. For each time period, WMI was the common parent of the consolidated group.

Answer: The allegations set forth in paragraph 73 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny the allegations set forth in paragraph 73 of the Complaint.

Complaint 74: To the extent permissible under applicable state law, the WaMu Group filed consolidated tax returns, unitary reports or similar, combined returns with other (non-California) state revenue authorities with which it was required to file tax returns. Such consolidated or combined returns were filed in those states listed on Exhibit F.

Answer: Debtors deny the allegations set forth in paragraph 74 of the Complaint, except respectfully refer the Court to the applicable state law and tax filings for the content thereof.

Complaint 75: Pursuant to applicable law, WMI acted as agent for the WaMu Group in filing the consolidated tax returns.

Answer: Debtors deny the allegations set forth in paragraph 75 of the Complaint, except respectfully refer the Court to the applicable law and tax filings for the content thereof.

Complaint 76: As with California tax filings, for all tax refunds attributable to tax attributes of WMB or its subsidiaries, WMB (or its-respective subsidiary) is, and under applicable law and regulation is required to be, the beneficial owner of the portions of such tax refund attributable to its tax attributes.

Answer: Debtors deny the allegations set forth in paragraph 76 of the Complaint, except respectfully refer the Court to the applicable law and tax filings for the content thereof.

Complaint 77: WMI has already received certain U.S. federal and state income tax refunds as agent for the WaMu Group that have not been allocated and transferred to WMB (or its subsidiaries).

Answer: Debtors deny the allegations set forth in paragraph 77 of the Complaint, except respectfully refer the Court to the applicable tax regulations and tax filings for the content thereof.

Complaint 78: WMI has likely received additional U.S. federal and state income tax refunds as agent for the WaMu Group of which JPMorgan Chase is presently unaware.

Answer: Debtors deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 78 of the Complaint and therefore deny same.

Complaint 79: The beneficial interest in all or a portion of the U.S. federal and state income tax refunds received by WMI as agent for the WaMu Group belongs to JPMorgan Chase, as successor in interest to WMB (and its subsidiaries).

Answer: Debtors deny the allegations set forth in paragraph 79 of the Complaint.

Complaint 80: WMI has refused to turn over to JPMorgan Chase those U.S. federal and state income tax refunds received that are properly allocable to WMB (and its subsidiaries).

Answer: Debtors deny the allegations set forth in paragraph 80 of the Complaint.

Complaint 81: U.S. federal and state income tax refunds, substantially all of which are expected to be attributable to WMB and its subsidiaries, are expected for the 2008 tax year and for tax years prior to 2008 relating to overpayments of taxes by the WaMu Group to the various state taxing authorities.

Answer: Debtors deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 81 of the Complaint (which refer to what is purportedly "expected" by unidentified person(s)), and therefore deny same.

Complaint 82: For the 2008 tax year, the WaMu Group is expected to have a variety of tax attributes such as net operating losses, net capital losses, and excess tax credits, and a substantial portion of such tax attributes are expected to be attributable to the operations of WMB and its subsidiaries. The WaMu Group expects to be able to carry back these favorable tax attributes to prior tax years, where such carrybacks will result in additional U.S. federal and state income tax refunds for such prior tax years.

Answer: Debtors deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 82 of the Complaint (which refer to what is purportedly "expected" by unidentified person(s)), and therefore deny same.

Complaint 83: All facts and circumstances necessary to determine the amount of U.S. federal and state tax refunds for WMB and for any of WMB's subsidiaries are fixed and determinable.

Answer: Debtors deny the allegations set forth in paragraph 83 of the Complaint, except respectfully refer the Court to the applicable tax regulations and tax filings for the content thereof.

Complaint 84: Debtors have wrongly asserted that WMI—and not WMB (nor its respective subsidiaries)—is entitled to the U.S. federal and state tax refunds due to the WaMu Group.

Answer: Debtors deny the allegations set forth in paragraph 84 of the Complaint.

Complaint 85: As set forth in the P&A, JPMorgan Chase purchased "all of the Receiver's right, title and interest," in these tax refunds, pursuant to and in accordance with the FDI Act. On December 30, 2008, WMI nonetheless submitted a claim to the Receiver asserting, among other things, ownership of the tax refunds. On January 23, 2009, the Debtors' claims were disallowed by the Receiver. The Receiver's disallowance is dispositive of the fact that the Debtors do not own or have an interest the tax refunds. On March 20, 2009, the Debtors filed the District Court Action with respect to the disallowance of their claims to the tax refunds.

Answer: Debtors deny the allegations set forth in paragraph 85 of the Complaint, except respectfully refer the Court to the P&A Agreement, the Proof of Claim, the Disallowance Notice, and the complaint filed in the DC Action on March 20, 2009, for the content thereof.

Complaint 86: Accordingly, JPMorgan Chase requests that in addition to an order directing the turnover of the funds, the Court enter an order declaring that as the acquirer of WMB's interests pursuant to the P&A, JPMorgan Chase and its subsidiaries own the rights to such refunds and further ordering Debtors to turn over to JPMorgan Chase any such refunds already received.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 86 of the Complaint.

Complaint 87: In addition, during the time that WMI, WMB and their respective eligible subsidiaries filed a consolidated tax return for U.S. federal income tax purposes, items of income, deduction, loss and credit were combined in one consolidated return, filed by WMI on behalf of the consolidated group.

Answer: Debtors deny the allegations set forth in paragraph 87 of the Complaint, except respectfully refer the Court to the tax filings for the content thereof.

Complaint 88: During this time, WMB was subject to a variety of state and local taxes. The accrual and payment of these state and-local taxes generated by WMB created -a deduction against income for the combined U.S. federal income tax return. Said differently, the state and local taxes accrued by virtue of WMB's operations created deductions that were used to offset the WMI consolidated group taxable income.

Answer: Debtors deny the allegations set forth in paragraph 88 of the Complaint, except respectfully refer the Court to the applicable tax regulations and tax filings for the content thereof.

Complaint 89: Although these deductions should have been recognized as a benefit that was solely WMB's, WMI did not credit WMB in any way for the state and local income tax deductions attributable to WMB's operations. In effect, WMI claimed for itself the state and local tax deductions properly attributable to WMB. Debtors have wrongly asserted that WMI-and not WMB (nor its respective subsidiaries)—is entitled to these deductions.

Answer: Debtors deny the allegations set forth in paragraph 89 of the Complaint.

Complaint 90: The total dollar value of such deductions is at least approximately $517 million. As set forth in the P&A, JPMorgan Chase purchased "all of the Receiver's right, title and interest," in these assets, pursuant to and in accordance with the FDI Act. JPMorgan Chase requests that the Court enter an order declaring that as the acquirer of WMB's interests pursuant to the P&A, JPMorgan Chase and its subsidiaries own the rights to any cash value generated by such deductions and further ordering Debtors to turn over to JPMorgan Chase the value of any such deductions.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 90 of the Complaint.

(iii) Tax Sharing Agreement

Complaint 91: On August 31, 1999, WMI and members of the WaMu Group entered into a Tax Sharing Agreement, which required various members of the WaMu Group to pay WMI for each member's share of the WaMu Group's consolidated income, and required WMI to return to each member such member's share of any tax refunds paid to WMI.

Answer: The allegations set forth in paragraph 91 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same, except respectfully refer the Court to the Tax Sharing Agreement for the content thereof, and admit that WMI, WMB, WMB fsb, and certain other direct and indirect subsidiaries of WMI and WMB are parties to that certain Tax Sharing Agreement, dated as of August 31, 1999, and that pursuant to the Tax Sharing Agreement, all federal income taxes were paid directly by WMI on behalf of the consolidated tax group, which includes WMB and its subsidiaries.

Complaint 92: The Tax Sharing Agreement provides further support that WMI would receive any tax refund attributable to WMB's or WMB's subsidiaries' tax attributes merely as agent, and-that WMB (or its respective subsidiary) would be the beneficial owner of such tax refund. At all times the Tax Sharing Agreement was subject, by law and by its own terms, to applicable bank and thrift regulatory guidelines. The ownership of the tax refunds that would result from application of either applicable law or the Tax Sharing Agreement should be identical—in neither event may WMI retain refunds that are not attributable to the tax attributes of its regulated subsidiaries.

Answer: The allegations set forth in paragraph 92 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same, except respectfully refer the Court to the Tax Sharing Agreement for the content thereof.

E. The Intercompany Amounts and Accounts

(i) The "On-Us" Accounting Entries

Complaint 93: On the Petition Date, WMI claimed that JPMorgan Chase was liable to pay a total purported deposit liability to WMI and its non-

WMB subsidiaries, originally claimed in the amount of $5 billion and then ultimately asserted in the total amount of $4,358,492,498 (the "Intercompany Amounts"). According to WMI, the Intercompany Amounts represented deposits maintained by WMI at the Affiliated Banks, all as non-interest bearing demand deposit accounts. A true and correct copy of the original list of twenty-nine account numbers (the "Accounts") provided to JPMorgan Chase by WMI shortly after the Petition Date is attached as Exhibit G.

Answer: Debtors deny the allegations set forth in paragraph 93 of the Complaint, except respectfully refer the Court to WMI's court filings made on September 26, 2009 (the "Petition Date") for the content thereof, and Debtors respectfully refer the Court to Exhibit G to the Complaint for the content thereof.

Complaint 94: As set forth in the P&A, JPMorgan Chase purchased "all of the Receiver's right, title and interest," in the Intercompany Amounts, pursuant to and in accordance with the FDI Act. On December 30, 2008, the Debtors nonetheless submitted a claim to the Receiver asserting, among other things, ownership of the Intercompany Amounts. On January 23, 2009, the Debtors' claims were disallowed by the Receiver. On March 20, 2009, the Debtors commenced the District Court Action with respect to the disallowance of their claims, assert that the Intercompany Amounts are deposit accounts at JPMorgan Chase, and claim damages relating to the Intercompany Amounts.

Answer: Debtors deny the allegations set forth in paragraph 94 of the Complaint, except respectfully refer the Court to the P&A Agreement, the Proof of Claim, the Disallowance Notice, and the complaint filed in the DC Action on March 20, 2009, for the content thereof.

Complaint 95: With the exception of signature cards for several of the smaller Accounts, JPMC has not located and believes there do not exist pre-petition any deposit account agreements, signature cards or any other documentation for the Accounts as deposit accounts. Notwithstanding that fact and while it continued to investigate whether such documents existed somewhere, JPMorgan Chase was prepared to treat the Accounts as if they were deposit accounts so long as all rights of all parties, including JPMorgan Chase's rights, were acknowledged and approved by order of this Court. Toward that end, on or about October 15, 2008, JPMorgan Chase and the Debtors entered into a proposed stipulation (the "Account Stipulation") with respect to the Accounts that was filed with the

Court for approval. The Account Stipulation was ultimately withdrawn following objections filed by certain creditors of the Receivership and the FDIC and was never entered by the Court.

Answer: Debtors deny knowledge or information sufficient to form a belief as to the truth of the allegations in the first two sentences of paragraph 95 of the Complaint and therefore deny same. Debtors deny the remaining allegations set forth in paragraph 95 of the Complaint, except Debtors respectfully refer the Court to the October 15, 2008 document for the content thereof, and further allege and aver that the October 15, 2008 document was withdrawn and never approved by the Court.

Complaint 96: Pursuant to the Account Stipulation, and before it was withdrawn, JPMorgan Chase and the Debtors executed customary deposit account agreements regarding the Accounts on or about October 21, 2008 that provided, among other things, customary rights of setoff, recoupment and banker's liens to secure JPMorgan Chase's rights to recover claims JPMC may have against the Debtors or their subsidiaries and affiliates from the funds on deposit in the Accounts.

Answer: Debtors object to the allegations set forth in paragraph 96 of the Complaint on the grounds that such allegations purport to disclose confidential settlement communications in violation of ethical and legal rules binding upon JPMorgan Chase and its counsel (*see, e.g.*, Fed. R. Evid. 408), and Debtors reserve all rights, remedies and defenses with respect to the breach of such ethical and legal obligations. To the extent a response is required, Debtors deny the allegations set forth in paragraph 96 of the Complaint.

Complaint 97: After the execution of those documents but prior to December 19, 2008, JPMorgan Chase acceded to a request of the Debtors and the Official Committee of Unsecured Creditors (the "Committee") to agree to the accrual of interest on the Intercompany Amounts as a sign of good faith in the event that it were ultimately determined that any of the Intercompany Amounts were in fact deposit accounts, without prejudice to its rights. Similarly, JPMorgan Chase agreed to the Debtors' further-request that as a sign of "goodwill" it agree to release $292 million of the Intercompany

Amounts attributable to the Accounts of the non-debtor subsidiaries of WMI, without prejudice to its rights.

Answer: Debtors deny the allegations set forth in paragraph 97 of the Complaint.

Complaint 98: JPMorgan Chase agreed to those requests from the Debtors in good faith, without prejudice to its rights, and on the understanding that the parties were working diligently to resolve open questions and issues with respect to the Intercompany Amounts. It did so in reliance on the Debtors' execution of account documentation for the Accounts that protected the interests of JPMC, and on the understanding that the Debtors would respect those rights. However, on or about December 19, 2008, after obtaining from JPMorgan Chase the benefit of these concessions, the Debtors advised JPMorgan Chase that the execution of those deposit account agreements on October 21, 2008, was only in anticipation of the proposed Account Stipulation and, since that stipulation had never been approved, the execution and delivery of the agreements was in error, unauthorized and considered by the Debtors to be null, void and without legal effect.

Answer: Debtors deny the allegations set forth in paragraph 98 of the Complaint.

Complaint 99: The execution and effectiveness of the account documentation executed by the Debtors on October 21, 2008, was a key factor in JPMorgan Chase's decision to agree to the request that it accrue interest on the Intercompany Amounts and to the release of $292 million to the Debtors and their non-debtor affiliates. While JPMorgan Chase does not dispute that the Account Stipulation was never so ordered, to the extent that such documentation is ineffective, it should be ineffective for all parties and for all purposes, including the effectiveness of any post-petition book entries reflecting any portion of the Intercompany Amounts or Accounts as deposit liabilities and the release of any funds to the Debtors or their non-Debtor affiliates.

Answer: Debtors deny the allegations set forth in paragraph 99 of the Complaint.

Complaint 100: Although JPMorgan Chase still has not discovered any pre-petition deposit account agreements, signature cards or other documentation for the Accounts that would have been required of depositors that were not affiliates in order to treat the Accounts as deposit accounts (except for the signature cards on a few accounts as described above), it is nonetheless clear that if these are deposit accounts—not capital contributions—they were and are subject to the standard terms and conditions specified in the Master Business

Account Disclosures and Regulations (the "MBA Policy") of the Affiliated Banks.

Answer: Debtors deny the allegations set forth in paragraph 100 of the Complaint.

Complaint 101: The Accounts were associated with the DDA numbers provided by WMI. Of the twenty-nine, most were so-called "On–Us Accounts", the internal nomenclature for intercompany receivables that were understood to represent deposit accounts at the Affiliated Banks. Thus, the balances in these Accounts as of any point in time, unlike third party deposit accounts, were maintained both at the depository institution and as intercompany book entries on the general ledger of WMI and the Affiliated Banks that were its subsidiaries.

Answer: Debtors deny the allegations set forth in paragraph 101 of the Complaint, except admit that "On Us Accounts" were deposit accounts, and respectfully refer the Court to the documents referenced in paragraph 101 for the content thereof.

Complaint 102: The decision on how to characterize an intercompany transaction was made by a single centralized Treasury group for WMI and all of its affiliates. That Treasury group was under the direct supervision of Robert Williams, currently the Chief Executive Officer of WMI.

Answer: Debtors deny the allegations set forth in paragraph 102 of the Complaint.

Complaint 103: To the extent the Intercompany Amounts and the Accounts reflect capital contributions, they are the property of JPMorgan Chase under the terms of the P&A. To the extent they are deposit liabilities, they must be governed by standard terms and conditions governing unaffiliated deposit accounts, as a result of which they become subject to any liens, claims and interests that JPMC may have, and are also subject to setoff, recoupment or other offset.

Answer: Debtors deny the allegations set forth in paragraph 103 of the Complaint.

(ii) Deposit Liabilities

Complaint 104: To the extent the Intercompany Amounts in the Accounts are not capital contributions and are in fact deposit liabilities of WMB or WMB fsb assumed by JPMorgan Chase under the P&A, WMI and its subsidiaries, like every other Affiliated Bank depositor (expressly or otherwise), are bound by the standard terms and conditions for deposits at the Affiliated Banks.

Answer: The allegations set forth in paragraph 104 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same.

Complaint 105: The Accounts were utilized to settle intercompany obligations, including obligations arising from the payment and allocation of expenses among WMI and all of its subsidiaries, with intercompany allocations, payments and settlements on a periodic, usually monthly, basis. The balances on the Accounts were reflected on "On-Us Elevation Reports" generated on a monthly basis and on paper "Washington Mutual Internal Checking Detail" statements mailed to an employee of WMB on a monthly basis. Copies of the "On-Us Elevation Reports" and of the "Washington Mutual Internal Checking Detail" statements for August, September and October, 2008 are attached as Exhibits H and I, respectively.

Answer: Debtors deny the allegations set forth in paragraph 105 of the Complaint, except admit that Exhibits H and I to the Complaint contain, among other language, headings that state "On-Us Elevation Report" and "Washington Mutual Internal Checking Detail Information".

Complaint 106: These Accounts were established by WMI or one of its non-bank subsidiaries at the Affiliated Banks pursuant to WMI' s Internal Corporate Demand Deposit Account Establishment and Usage Policy (the "On-Us Policy"). According to that policy, WMB had the right to use the Intercompany Amounts for, among other things, processing and clearing transactions between WMB and WMI or their respective subsidiaries, customers, vendors, or investors, again raising the question of whether the Intercompany Amounts represented a continuing deposit liability or should be characterized as a general reserve, a capital contribution or a form of intercompany advance to the Affiliated Banks. The On-Us Policy was silent regarding the rules and terms governing the acceptance by the Affiliated Banks of amounts under the On-Us Policy as deposit accounts and services related to such accounts maintained at the Affiliated Banks.

Answer: Debtors deny the allegations set forth in paragraph 106 of the Complaint, except admit that the Accounts were established by WMI or one of its non-bank subsidiaries and respectfully refer the Court to the documents referenced in paragraph 106 for the content thereof.

Complaint 107: WMI and the Affiliated Banks maintained a detailed, forty-page policy, the MBA Policy, that operated as a contract setting

forth the terms and conditions governing all deposit accounts established at the Affiliated Banks. The MBA Policy contained, among other things, a self-executing clause that made the terms of the policy binding upon all depositors, even those who did not expressly give permission, through consent implied by the opening and continued use of the deposit account.

Answer: The allegations set forth in paragraph 107 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same, except refer to the documents referenced in paragraph 107 for the content thereof.

Complaint 108: The MBA Policy and its terms and conditions apply to and govern any accounts that are in fact deposit accounts at the Affiliated Banks, including the Accounts to the extent any are deposit accounts. WMI as the sole shareholder and parent of the Affiliated Banks is charged with knowledge and acceptance of the MBA Policy for any deposit account it maintained at the Affiliated Banks.

Answer: The allegations set forth in paragraph 108 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same, except refer to the documents referenced in paragraph 108 for the content thereof.

Complaint 109: Any claim that WMI is entitled to terms more favorable to it than the terms imposed on third party depositors under the MBA Policy would violate applicable federal law and regulations and be untenable. The provision of services, including deposit services, to WMI by its Affiliated Banks, under relevant banking laws and regulations, were required to have been conducted on terms and conditions no less favorable to the bank than would have been undertaken in a comparable transaction with an unaffiliated third party. Thus, these accounts, to the extent they reflect deposits, were required by law to be maintained on terms no less favorable to the Affiliated Banks than those clearly set forth in the MBA Policy.

Answer: The allegations set forth in paragraph 109 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same, except refer to the documents referenced in paragraph 109 for the content thereof.

Complaint 110: The MBA Policy expressly grants the Affiliated Banks a right to offset any and all claims against all deposit account liabilities. Specifically, the MBA Policy provides, "you agree we have the right to offset any account or asset of yours then held by us, by our sister bank, or any subsidiary of ours or our sister bank." Said differently, to the extent the Accounts and the Intercompany Amounts contained therein are deposit liabilities of the Affiliated Banks, the MBA Policy created a broad contractual right of setoff against the Accounts and the Intercompany Amounts for the benefit of the Affiliated Banks and their subsidiaries.

Answer: The allegations set forth in paragraph 110 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same, except refer to the documents referenced in paragraph 110 for the content thereof.

Complaint 111: Accordingly, to the extent that any of the Accounts or Intercompany Amounts are found by the Court to constitute deposit liabilities of JPMorgan Chase as assignee of the Receiver, they are deposit liabilities subject to and created under the MBA Policy and JPMorgan Chase has a security interest in, lien rights against and rights of set off and recoupment against the Intercompany Amounts as deposit liabilities under the MBA Policy and standard deposit account agreement terms and conditions applicable to all third party depositors and as in effect at the time that the Affiliated Banks and their parent entered into the transactions creating and maintaining the Accounts.

Answer: The allegations set forth in paragraph 111 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same and further deny that JPMorgan Chase is entitled to any relief.

(iii) JPMorgan Chase Also Has an Express Security Interest in at Least One Account

Complaint 112: In addition, WMI entered into at least one specific security agreement with WMB (the "Security Agreement") whereby WMB received a security interest in and lien upon at least one of the Accounts in return for providing value to WMI. According to its terms, the Security Agreement "shall be binding upon [WMI] and its successors and assigns, and shall inure to the benefit of, and may be enforced by [WMB] and its successors, transferees, and assigns." This express security interest creates a lien to secure any and all intercompany obligations. JPMorgan Chase is the

successor, transferee or assignee of the Security Agreement and entitled to enforce its terms against WMI at least as to Intercompany Amounts associated with Account No. 177-8911206. A true and correct copy of the Security Agreement is attached as Exhibit J.

Answer: The allegations set forth in paragraph 112 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same, except respectfully refer the Court to the documents referenced in paragraph 112 for the content thereof.

(iv) The September $3.67 Billion Book Entry Transfer

Complaint 113: Between September 19, 2008 and September 24, 2008, in the days immediately preceding the impending takeover of WMB by its regulators, WMI directed book entries purporting to transfer approximately $3.67 billion (the "$3.67 Billion Book Entry Transfer") from WMB to WMB fsb. The entries direct the transfer from the triple 070-10450009909 "On-Us" Account No. 17900001650667, which is reflected in the internal On-Us Elevation Report and the Internal Checking Detail as an account at WMB, to what WMI now claims was a deposit account at WMB fsb identified as triple 070-10441-0009909 "On-Us" Account No. 44100000064234.

Answer: Debtors deny the allegations set forth in paragraph 113 of the Complaint, except Debtors admit and aver that $3.67 billion was transferred to a deposit account bearing Account No. 44100000064234, and respectfully refer the Court to the documents referenced in paragraph 113 and the Complaint for the content thereof.

Complaint 114: The general ledger entries for this transaction indicate that the entries were posted on September 24, 2008 with a "retro" date to September 19, 2008 and describe the $3.67 Billion Book Entry Transfer as "WMI contributes to FSB." WMI has asserted that the transaction was intended to be a transfer of funds from a WMI deposit account at WMB to a WMI deposit account at WMB fsb. What is clear, however, is that no cash or other funds were actually moved to or received by WMB fsb in connection with the transfer.

Answer: Debtors deny the allegations set forth in paragraph 114 of the Complaint, except admit that there was a transfer of funds from a WMI deposit account at WMB to a WMI deposit account at WMB fsb, and respectfully refer the Court to the ledger entries for the content thereof.

Complaint 115: The Debtor's agreement to the terms of the Account Stipulation and the deposit agreements that provide JPMorgan Chase on behalf of itself and its affiliates and subsidiaries with broad post-petition lien rights and rights of setoff and recoupment resulted in the entry of the $3.67 Billion Book Entry Transfer as a deposit liability on the books and records of JPMC. Having executed the standard deposit agreements with JPMorgan Chase necessary to have this account reflected as a deposit at JPMorgan Chase, WMI should be estopped from taking the position that these account agreements were a mistake and not binding on it or from enjoying-the benefit of having-the Accounts reflected as deposit liabilities free of the lien and setoff rights created by those very same agreements. To the extent that any post-petition book entry is considered as relevant to the status of the purported deposit, any such resulting deposit should similarly be considered subject to the depository institution's rights, including post-petition contractual and statutory rights of setoff, that accompany the post-petition deposit.

Answer: Debtors object to the allegations set forth in paragraph 115 of the Complaint on the grounds that such allegations purport to disclose confidential settlement communications in violation of ethical and legal rules binding upon JPMorgan Chase and its counsel (*see, e.g.*, Fed. R. Evid. 408), and Debtors reserve all rights, remedies and defenses with respect to the breach of such ethical and legal obligations. To the extent a response is required, Debtors deny the allegations set forth in paragraph 115 of the Complaint.

Complaint 116: WMB fsb would never have accepted a deposit liability from an unaffiliated third party without first receiving good funds, or at least not a deposit liability of the magnitude its parent now asserts was created on or about September 19, 2008. The $3.67 Billion Book Entry Transfer represented approximately 44% of the total deposits at WMB fsb, an increase of nearly 80% in total deposit liabilities. In no way was this an ordinary course transaction. Regardless of the fact that WMI and its affiliates may have

operated a centralized cash management system for efficiency as members of the same corporate family, intracompany transfers, unaccompanied by actual movement of funds, cannot create obligations and liabilities as third parties when the corporate ownership link is broken. Because no cash or other funds were actually transferred by WMI to WMB fsb, the $3.67 Billion Book Entry Transfer could not have created a deposit liability of WMB fsb to WMI without receipt of good funds. To the extent the $3.7 Billion Book Entry Transfer is nonetheless deemed to create such a liability, JPMC is entitled to a complete offset for WMI's failure to deliver good funds representing that $3.67 billion deposit.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 116 of the Complaint.

Complaint 117: The $3.7 Billion Book Entry Transfer was not a deposit account and WMI should be estopped from making any claims to the contrary.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 117 of the Complaint.

Complaint 118: Alternatively, to the extent any third party has or may have a claim against WMB fsb and/or JPMorgan Chase with respect to or as a result of the $3.7 Billion Book Entry Transfer, JPMorgan Chase is entitled to-be indemnified by WMI for any liability it may incur and is entitled to recover the amount by which it is or may be liable to any such third party from the Intercompany Amounts.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 118 of the Complaint.

(v) The Tax Refunds and other Funds in the Accounts

Complaint 119: A substantial portion of the Intercompany Amounts were, at the time of the Receivership and the Petition Date, in fact the property of the Affiliated Banks, representing tax payments made by the Affiliated Banks either as (i) accelerated payments of

amounts previously claimed by WMI against the Affiliated Banks purportedly for taxes paid in prior years by WMI on behalf of the Affiliated Banks; or (ii) amounts transferred to WMI in payment of estimated or actual 2008 taxes.

Answer: Debtors deny the allegations set forth in paragraph 119 of the Complaint.

Complaint 120: In addition, after the Petition Date, at least approximately $234 million of tax refunds due to WMB — the rights to which were purchased by JPMorgan Chase as assets of WMB (the "Tax Refunds Received") — were paid to WMI. An amount equal to at least this $234 million of the Tax Refunds Received are included in the balance of the Intercompany Amounts and the Accounts and should be paid over to JPMorgan Chase as the lawful owner of those funds.

Answer: Debtors deny the allegations set forth in paragraph 120 of the Complaint.

Complaint 121: The Tax Refunds Received should not have been, and at various times were not in fact, recorded in any way as a deposit liability. The Tax Refunds Received were and are property of JPMorgan Chase purchased under the P&A.

Answer: Debtors deny the allegations set forth in paragraph 121 of the Complaint.

(vi) Section 9.5 of P&A Agreement

Complaint 122: To the extent any of the Accounts are deposit liabilities assumed by JPMorgan Chase, pursuant to Section 9.5 of the P&A, "[a]t any time, the [FDIC] may, in its discretion, determine that all or any portion of any deposit balance assumed by [JPMorgan Chase] pursuant to this Agreement does not constitute a "Deposit" . . . and may direct [JPMorgan Chase] to withhold payment of all or any portion of any such deposit. Upon such direction, [JPMorgan Chase] agrees to hold such deposit and not make payment of such deposit balance to or on behalf of the depositor, or to itself, whether by way of transfer, set-off, or otherwise. [JPMorgan Chase] shall be obligated to reimburse the [FDIC], . . . for the amount of any deposit balance or portion thereof paid by [JPMorgan Chase] in contravention of any previous direction to withhold payment of such deposit balance or return such deposit balance, the payment of which was withheld pursuant to this Section."

Answer: Debtors deny the allegations set forth in paragraph 122 of the Complaint, except respectfully refer the Court to the P&A Agreement for the content thereof.

Complaint 123: The FDIC has not to date notified JPMorgan Chase that all or any portion of the Intercompany Amounts or Accounts are or are not Deposit Liabilities within the meaning of the P&A. Nor has the FDIC directed JPMorgan Chase to withhold payment on all or any portion of the Accounts. JPMorgan Chase requests that to the extent this Court orders JPMorgan Chase to pay any portion of the Intercompany Amounts or Accounts to the Debtors or into the registry of this Court, that the Court do so by way of interpleader under Rule 7022, releasing JPMorgan Chase from any liability for such amounts to any person and preserving the rights of all parties and all possible claimants with respect to those funds (including JPMorgan Chase). Specifically, JPMorgan Chase requests a finding that it only has to pay or credit the Accounts or the Intercompany Amounts once and that this Court's determination regarding ownership, character and rights in or to the Intercompany Amounts or the Accounts is final so that JPMorgan Chase has no further liability in any capacity for the Intercompany Amounts or Accounts except as may be determined by this Court in this proceeding.

Answer: Debtors deny knowledge or information sufficient to form a belief as to the truth of the allegations in the first two sentences of paragraph 123 of the Complaint and therefore deny same. Debtors further deny that JPMorgan Chase is entitled to any relief.

Complaint 124: In the District Court Action, the Debtors assert that JPMorgan Chase assumed these liabilities as deposit liabilities under the P&A and that they are now depositors of JPMorgan Chase.

Answer: Debtors deny the allegations set forth in paragraph 124 of the Complaint, except respectfully refer the Court to the complaint filed by the Debtors in the DC Action for the content thereof.

F. Goodwill Litigation

Complaint 125: JPMorgan Chase, as the successor in interest to the Receiver and WMB-and not WMI—is the proper recipient of both the $356,454,911 judgment entered in *Anchor Savings Bank, FSB v. United States*, No. 95-872C (Fed. Cl.) (the "Anchor Judgment") and the $55,028,000 partial judgment entered in American Savings Bank, F.A. v. United States, No. 92-872C (Fed. Cl.) (the "ASB Judgment"), as well as the proper plaintiff in the continuing *Anchor Savings Bank and American Savings Bank* cases.

Answer: The allegations set forth in paragraph 125 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same, except respectfully refer the Court to the pleadings and court decisions of the referenced cases for the content thereof.

Complaint 126: The *Anchor Savings Bank and American Savings Bank* cases are two of the numerous actions brought against the United States, asserting that passage of the Financial Institutions Reform, Recovery, and Enforcement Act ("FIRREA") breached supervisory merger contracts that permitted financial institutions to apply special accounting treatment to their acquisitions of failing savings and loan thrifts. Specifically, the contracts permitted the treatment of supervisory goodwill as regulatory capital that was no longer permissible under FIRREA.

Answer: Debtors deny the allegations set forth in paragraph 126 of the Complaint, except respectfully refer the Court to the pleadings and documents in the referenced cases for the content thereof, and state that the allegations in the last sentence of paragraph 126 of the Complaint state a conclusion of law as to which no response is required.

Complaint 127: As the facts and court decisions in the *Anchor Savings Bank* action establish, the damages resulting from the United States' breach of a series of contracts were incurred by *Anchor Savings Bank*. Ownership of the Anchor Savings Bank cause of action remained at all times with Anchor Savings Bank—the sole plaintiff in the action—and the successor thrifts so that the Anchor Judgment thereby became an asset of WMB. In 1995, the operations and assets of Anchor Savings Bank were merged with those of Dime Savings Bank. In 2002, Dime Savings Bank was merged into WMB.

Answer: The allegations set forth in paragraph 127 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same, except respectfully refer the Court to the pleadings and court decisions in the referenced cases for the content thereof.

Complaint 128: Similarly, the capital at issue in the *American Savings Bank* action was provided and posted by American Savings Bank, F.A.

and consisted of inventory capital and retained earnings held by American Savings-Bank, F.A. As the facts and-court decisions in the *American Savings Bank* action establish, the damages resulting from the United States' breach of the Note Forbearance—which are the damages comprising the ASB Judgment—were incurred by American Savings Bank, F.A. The plaintiff that provided the capital, American Savings Bank, F.A., was the predecessor in interest to WMB and amended its Federal Stock Charter in 1997 to change its corporate title from American Savings Bank, F.A. to Washington Mutual Bank, F.A. In addition, the parent company of American Savings Bank, F.A., New American Capital, Inc., was subsequently liquidated and merged into WMB, not WMI.

Answer: The allegations set forth in paragraph 128 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same, except respectfully refer the Court to the merger documents and to the pleadings and court decisions in the referenced cases for the content thereof.

Complaint 129: WMI has asserted that it is entitled to the ASB Judgment, which on February 16, 2009, this Court ordered be paid into its registry. This Court further directed that any party, other than the Debtors, asserting an ownership interest in the ASB Judgment bring its claim through an adversary proceeding in accordance with Bankruptcy Rule 7001. JPMorgan Chase hereby does so.

Answer: Debtors admit the allegations set forth in paragraph 129 of the Complaint, except deny that JPMorgan Chase is entitled to any relief.

G. Legacy Rabbi Trusts and Benefit Plans

(i) Legacy Rabbi Trusts

Complaint 130: The Debtors have refused to acknowledge JPMorgan Chase's ownership of the assets of certain rabbi trusts ("Legacy Rabbi Trusts") that belong to JPMorgan Chase under the terms of the P&A, even though these assets were reflected on WMB's books and records and WMB was the successor to the original settlor. These assets support obligations under certain non-qualified retirement and pension plans covering current or former employees of or retirees from WMB or its predecessors in interest.

Answer: Debtors deny the allegations that JPMorgan Chase has "ownership of the assets" and otherwise deny the allegations set forth in paragraph 130 of the Complaint.

Complaint 131: In a series of mergers in the late 1990s and the early part of this decade, WMI, through a variety of subsidiaries, acquired a number of financial institutions, which were merged into, or the assets of which were purchased by, WMB. As part of-these acquisitions, WMB also acquired a number of non-qualified plans funded through Legacy Rabbi Trusts as well as liabilities for other plans not supported by trust assets. Rabbi Trusts are used to fund the payment of benefits under nonqualified deferred compensation plans that were adopted by some of the financial institutions WMI acquired. As of September 30, 2008, the books and records of WMB and WMI reflected 16 separate legacy plan Rabbi Trusts with aggregate legacy Rabbi Trust assets of over $550 million.

Answer: Debtors deny the allegations set forth in paragraph 131 of the Complaint, except respectfully refer the Court to the merger documents, plan documents, and books and records, for the content thereof.

Complaint 132: The "Legacy Rabbi Trusts" support the liabilities created under a number of non-qualified deferred compensation and supplemental retirement plans ("legacy plans") adopted by predecessor institutions acquired by the Washington Mutual family over the years.

Answer: Debtors admit that "Legacy Rabbi Trusts" support liabilities created under a number of non-qualified deferred compensation and supplemental retirement plans adopted by predecessor institutions acquired by certain Washington Mutual entities over the years, and otherwise deny the allegations set forth in paragraph 132 of the Complaint.

Complaint 133: Since the execution of the P&A, JPMorgan Chase has been prepared to assume the obligations supported by the rabbi trust assets that it purchased under the P&A but the Debtors have refused to provide joint instructions to the trustees even where it is incontrovertible that the assets for a particular trust were acquired by JPMorgan Chase under the P&A. In so refusing to acknowledge JPMC's ownership and utilizing the automatic stay, the Debtors in effect have halted the payment of benefits to employees and many elderly retirees.

Answer: Debtors deny the allegations set forth in paragraph 133 of the Complaint.

Complaint 134: Under the P&A, the assets of twelve Legacy Rabbi Trusts were sold to JPMorgan Chase by the FDIC. With respect to five of these Legacy Rabbi Trusts, the FDIC has directed the trustees to turn the assets over to JPMorgan Chase and, when that happens, JPMorgan Chase has agreed to recommence the payment of benefits to retirees and others whose benefits were supported by the Legacy Rabbi Trust assets. With respect to the other seven Legacy Rabbi Trusts—four Dime Savings Bank Rabbi Trusts (the "Dime Rabbi Trusts"), two Great Western Rabbi Trusts (the "Great Western Rabbi Trusts"), and a Providian Rabbi Trust (the "Providian Rabbi Trust" and, together with the Dime Rabbi Trusts and the Great Western Rabbi Trusts, the "Bank Rabbi Trusts")[2]—there was some initial ambiguity as to either the identity of the successor to the original settlor of the Bank Rabbi Trust or the source of funding for the trust assets. JPMorgan Chase has since provided the Debtors with documentation for the conclusion that WMB had properly accounted for the assets of the Bank Rabbi Trusts on its books and that WMB was the successor to the original settlor. Accordingly, the assets of the Bank Rabbi Trusts were confirmed as property of WMB and thus also purchased by JPMorgan Chase under the P&A. To date, the Debtors have refused to acknowledge JPMorgan Chase's ownership of the Bank Rabbi Trust assets in writing.

Answer: Debtors deny the allegations set forth in paragraph 134 of the Complaint.

Complaint 135: To determine with finality the ownership of the assets of the Legacy Rabbi Trusts, JPMorgan Chase requests that the Court enter an order declaring that JPMorgan Chase purchased the assets of the Legacy Rabbi Trusts, and an order authorizing JPMorgan Chase and the trustees of each of the Legacy Rabbi Trusts to take all actions necessary or appropriate to transfer ownership of the assets to JPMorgan Chase and compel Debtors to cooperate in the transfer of them to JPMorgan Chase.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 135 of the Complaint.

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[2] JPMorgan Chase does not assert an ownership interest in the Rabbi Trusts previously sponsored by H.F. Ahmanson and Co. Accordingly, the Ahmanson Rabbi Trusts' assets and related liabilities are not included in the definition of Rabbi Trusts for the purposes of this Complaint.

(ii) The Pension Plan and the 401(k) Plan

Complaint 136: As of the Petition Date, WMI sponsored the WaMu Savings Plan, a tax qualified savings plan under section 401(k) of the Internal Revenue Code (the "401(k) Plan"), and a tax qualified cash balance pension plan, the WaMu Pension Plan (the "Pension Plan") (collectively, the "Plans"). In 2007, WMB booked an intercompany receivable of approximately $316 million payable by WMI to WMB, of which approximately $275 million is still owed to WMB.

Answer: Debtors admit that WMI sponsored employee benefit plans, including, among others, the Washington Mutual, Inc. Savings Plan, and otherwise deny the allegations set forth in paragraph 136 of the Complaint, except respectfully refer the Court to the plan documents and applicable book entries for the content thereof.

Complaint 137: While WMI was the sponsor of the Plans as of the Petition Date, nearly all of the employees covered by the Plans were employees of WMB or its subsidiaries, many of whom are now employed by JPMorgan Chase.

Answer: Debtors admit the allegations set forth in paragraph 137 of the Complaint, except deny knowledge or information sufficient to form a belief as to the truth of the allegation in paragraph 137 that the employees are currently employed by JP Morgan Chase and therefore deny same.

Complaint 138: Employees who participate in the 401(k) Plan contribute a percentage of their pre-tax income to the 401(k) Plan. Prior to the Petition Date, WMB would then match a portion of participants' contributions and fund that amount directly or indirectly by making a payment to the trust associated with the 401(k) Plan, which was administered by Fidelity Management Trust Company. The 401(k) Plan is administered by an administration committee and investments are overseen by an investment committee, whose members were appointed by WMI.

Answer: Debtors admit the allegations set forth in paragraph 138 of the Complaint.

Complaint 139: The Pension Plan is a defined benefit plan in which no employee contributions are required. Instead, required funding contributions were made by WMI and/or participating employers.

As with the 401(k) Plan, the Pension Plan was administered, and investments were overseen, by individuals appointed by WMI. As of Petition Date, the Pension Plan had approximately 32,000 participants and assets valued at approximately $1 billion.

Answer: Debtors admit that the Pension Plan is a defined benefit plan in which no employee contributions are required, that required funding contributions were made by WMI and/or participating employers, and that the Pension Plan was administered, and investments were overseen, by individuals appointed by WMI. Debtors otherwise deny the allegations set forth in paragraph 139 of the Complaint, except respectfully refer the Court to the plan documents for the content thereof.

Complaint 140: Since the Petition Date, WMI has refused to relinquish sponsorship of the Plans. Members of the committees for each plan have made all administrative and investment decisions. WMI has retained responsibility for making payments to participants in the Plans.

Answer: Debtors deny the allegations set forth in paragraph 140 of the Complaint, except admit and aver that (i) WMI has rightfully refused to relinquish sponsorship of Plans, and (ii) JPMorgan Chase has made a number of administrative decisions with respect to the Plans without WMI's guidance or permission.

Complaint 141: Since September 25, 2008, JPMorgan Chase has been seeking to assume the Plans to ensure that covered employees retain their benefits and interests under the Plans. In anticipation of sponsoring the Plans, JPMorgan Chase, for the benefit of former WMB employees currently employed by JPMorgan Chase, has continued to record accruals for the Pension Plan. JPMorgan Chase also has directed employee contributions into the 401(k) Plan and funded significant matching contributions.

Answer: Debtors deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 141 of the Complaint and therefore deny same.

Complaint 142: WMB, not WMI, had the real economic interest in the Plans, having (i) incurred most of the pension and other expenses associated with the Pension Plan and funded the contributions for the 401(k) Plan and (ii) employed nearly all of the participants. As of the Petition Date, the Pension and 401(k) Plans were not

material to WMI's business or reorganization because WMI, by its own account, had only a handful of employees as of the Petition Date and, even since the Petition Date, has added only a dozen or two additional former employees of WMB. Thus, JPMorgan Chase believed that it would ultimately assume sponsorship of the Plans.

Answer: Debtors deny the allegations set forth in paragraph 142 of the Complaint, except Debtors deny knowledge or information sufficient to form a belief as to the truth of the allegations in the last sentence of paragraph 142 of the Complaint and therefore deny same.

Complaint 143: The Debtors have nonetheless refused to allow JPMorgan Chase to assume the Plans. With respect to the Pension Plan, the Debtors' refusal appears to be based on the unfounded claim that the Pension Plan is over-funded and the desire to extract from JPMorgan Chase the purported over-funding as a condition to assuming sponsorship. There is no support for this assertion under fact, law (including the Employee Retirement Income Security Act of 1974, which likely would prevent such a recapture) or the P&A. JPMorgan Chase intends to assume and continue the Pension Plan and the sufficiency of the Pension Plan's assets to cover benefit obligations will continue to vary depending upon ongoing market and economic fluctuations that affect the value of plan assets, as well as the interest rate used to discount liabilities. It therefore makes no sense to suggest that there is "over-funding" that is due to the Debtors today as a practical matter, under relevant law or pursuant to the P&A.

Answer: Debtors deny the allegations set forth in paragraph 143 of the Complaint, and deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 143 of the Complaint that refer to what JPMorgan Chase purportedly intends and Debtors therefore deny same.

Complaint 144: With respect to the 401(k) Plan, Debtors' position is even less well reasoned. Debtors cannot obtain any value from the 401(k) Plan or its termination because the assets belong to the employees. Likewise, there is no basis for Debtors' assertion that, in connection with assumption of the Plans, JPMorgan Chase should acquire litigation pending against WMI and certain individual officers and directors arising from their pre-petition alleged misconduct.

Answer: Debtors deny the allegations set forth in paragraph 144 of the Complaint.

Complaint 145: Debtors have no rational basis on which to retain sponsorship of the Plans given the pending Chapter 11 proceeding and JPMorgan Chase's repeated attempts to assume the sponsorship and to ensure that the participants and beneficiaries are protected on an ongoing basis. To avoid hardship to its employees, JPMorgan Chase has continued to accrue benefits and make contributions into the 401(k) Plan, while waiting for WMI to stop holding the participants and their benefits hostage as the value of the assets in the Pension Plan has dropped. The decline in value of those assets may be of little moment to WMI since it no longer employs the participants and is a debtor in bankruptcy, but it does matter to others.

Answer: Debtors deny the allegations set forth in paragraph 145 of the Complaint.

Complaint 146: JPMorgan Chase seeks a determination that either (i) JPMorgan Chase be permitted immediately to assume sponsorship of the Plans without making payments to the Debtors that they have no right to demand; or (ii) the Debtors and their estates are responsible for, and must indemnify and hold JPMorgan Chase harmless for any liabilities due to the decline in value of the Pension Plan during this Chapter 11 case.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 146 of the Complaint.

Complaint 147: JPMorgan Chase further requests that this Court allow its administrative claims against the Debtors for (i) the amount of all contributions made from and after the Petition Date to the 401(k) Plan; and (ii) the amount by which the decline in the value of the assets in the Pension Plan from and after the Petition Date has resulted from WMI's inattention and failure properly to administer the Pension Plan assets. Finally, whatever the outcome of the sponsorship issue, the pending litigation matters are and should remain the responsibility of WMI and its estate and JPMC is entitled to be fully indemnified and held harmless for any and all claims related to the Pension and 401(k) Plans prior to the date upon which JPMC may assume their sponsorship.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 147 of the Complaint.

Complaint 148: As set forth in the P&A, JPMorgan Chase purchased "all of the Receiver's right, title and interest," in the Plans, pursuant to and in accordance with the FDI Act. On December 30, 2008, the Debtors nonetheless submitted a claim to the Receiver asserting, among other things, ownership of various of the employee benefits plans. On January 23, 2009, the Debtors' claims were disallowed by the Receiver. On March 20, 2009, the Debtors commenced the District Court Action with respect to the disallowance of their claims and put ownership of the plans and its liabilities at issue in that action.

Answer: Debtors deny the allegations set forth in paragraph 148 of the Complaint, except respectfully refer the Court to the P&A Agreement, the Proof of Claim, the Disallowance Notice, and the complaint filed by the Debtors in the DC Action on March 20, 2009, for the content thereof.

H. Other Assets

(i) Company and Bank Owned Life Insurance Policies

Complaint 149: JPMorgan Chase also seeks an order confirming that certain life insurance policies owned by WMB and the cash surrender value of which were reflected on the books and records of WMB as of September 25, 2008 are JPMorgan Chase's property and were purchased under the P&A. These life insurance policies are known as Bank Owned Life Insurance ("BOLI").

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 149 of the Complaint.

Complaint 150: The BOLI policies are types of life insurance policies purchased by WMB (or a predecessor company) on the lives of employees. Under these types of plans, WMB paid the premiums on the insurance and was also the primary beneficiary of the policies. In the case of a split dollar policy, the insurance proceeds are split by both WMB (or a predecessor company) and the insured employees designated beneficiary. WMB used- these BOLI policies and split dollar policies as a tax-deferred way to fund the costs of various welfare plans, hedge deferred compensation arrangements and to provide insurance benefits to certain employees.

Answer: Debtors admit the allegations set forth in the first sentence of paragraph 150 of the Complaint. Debtors deny knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 150 of the Complaint and therefore deny same, except respectfully refer the Court to the BOLI policies for the content thereof.

Complaint 151: By letter dated November 7, 2008, a true and correct copy of which is attached as Exhibit K (the "Cease and Desist Letter"), counsel for the Debtors demanded that JPMorgan Chase cease exercising control over the BOLI policies on the ground that the Debtors believed they might have an ownership interest in those policies and demanded access to books and records regarding the BOLI policies. JPMorgan Chase complied with the demand in the Cease and Desist Letter in order to provide the Debtors with the information they requested. JPMorgan Chase and Debtor have provided each other with documentation establishing the ownership of each party in certain policy list bills. (See Exhibit L for list bills owned by JPMorgan Chase.) Accordingly, each of the parties have exercised their respective ownership rights over the policies that they own.

Answer: Debtors deny the allegations set forth in paragraph 151 of the Complaint, except respectfully refer the Court to the documents referenced in paragraph 151 for the content thereof.

Complaint 152: There are two BOLI policies issued by Pacific Life list bills of 7675A and 7729A on which the Debtors and JPMorgan Chase could not reach agreement as to ownership (the "Pac Life List Bill Policies"). As between WMI and WMB, these BOLI policies are reflected on WMB's books and records and owned by WMB. WMB acquired the policies from a banking institution that merged with WMB and these policies were on the books of that institution at the time of the merger. The accounting records of WMB do not show a dividend of these policies to WMI or a purchase of these policies by WMI , the only lawful ways that these policies could have been acquired by WMI from WMB. However, the carrier has advised JPMorgan Chase that, according to the records of the carrier, Washington Mutual Revocable Trust, not WMB, is shown as the policy owner. Because Debtors have refused to acknowledge JPMorgan Chase's ownership of these policies, JPMorgan Chase has not taken any action with respect thereto. JPMorgan Chase requests that the Court determine that JPMorgan Chase acquired all right, title and interest in and to these policies under the P&A

and that WMI has no interest in them. To the extent that the carrier's records reflect WMI as the policy owner, WM] has no more than bare legal title under Section 541(iv) of the Bankruptcy Code and JPMorgan Chase is entitled to a declaration that it, and not WMI, is the rightful owner of the policies.

Answer: Debtors admit the allegations set forth in the first sentence of paragraph 152 of the Complaint, and otherwise deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 152 of the Complaint and therefore deny same, and further deny that JPMorgan Chase is entitled to any relief.

Complaint 153: The parties did not address and no action has been taken by JPMorgan Chase with respect to certain other policies, the cash surrender value of which is reflected on WMB's books and records as of September 25, 2008. These policies consist of ING Security Life List Bills E208090000 and E208090001 and approximately 955 Split Dollar policies issue by a number of carriers.

Answer: Debtors deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 153 of the Complaint and therefore deny same.

Complaint 154: The ING Security Life policies were reflected on the books and records of American Savings Bank, F.A. when it merged into WMB and supported American Savings Bank's executive life insurance plan. These policies were reflected on WMB's books and records as of September 25, 2008 and therefore were acquired by JPMorgan Chase from the Receiver under the P&A. WMI has no legal, record, equitable or beneficial interest in any of these policies and no right to continue to interfere with JPMorgan Chase's administration of these policies.

Answer: Debtors deny the allegations set forth in paragraph 154 of the Complaint, except respectfully refer the Court to the P&A Agreement for the content thereof.

Complaint 155: As of the date of the P&A, the 955 Split Dollar policies were recorded on the books of WMB. These policies initially belonged to Commercial Capital Bancorp Inc. ("CCBI") when it was merged into WMB in April 2006 and were reflected on its books as of the date of the merger. Correspondence with the insurance carriers for these Split Dollar policies—Beneficial Life, Jefferson Pilot Financial, John Hancock, Massachusetts Mutual, Midland

National, New York Life, Northwestern Mutual, Security Life of Denver, and West Coast Life confirms that WMB was the owner of these policies as of September 25, 2008. Once again, there can be no legitimate dispute regarding JPMorgan Chase's ownership of these policies. WMI has no legal, record, equitable, or beneficial interest in any of these policies and no right to interfere with JPMorgan Chase's administration of these policies as they clearly are property of JPMorgan Chase acquired from the Receiver under the P&A.

Answer: Debtors deny the allegations set forth in paragraph 155 of the Complaint.

Complaint 156: Accordingly, JPMorgan Chase seeks a determination that it owns the BOLI policies and Split Dollar policies discussed above, along with an administrative claim for its damages, fees, costs, and expenses, including for any deterioration in the value of these policies during the administration of these cases.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 156 of the Complaint.

Complaint 157: As set forth in the P&A, JPMorgan Chase purchased "all of the Receiver's right, title and interest," in the BOLI policies and Split Dollar policies, pursuant to and in accordance with the FDI Act. On December 30, 2008, the Debtors nonetheless submitted a claim to the Receiver asserting, among other things, ownership of certain of these policies. On January 23, 2009, the Debtors' claims were disallowed by the Receiver. The Receiver's disallowance is dispositive of the fact that the Debtors do not own these policies. On March 20, 2009, the Debtors commenced the District Court Action with respect to the disallowance of their claims.

Answer: Debtors deny the allegations set forth in paragraph 157 of the Complaint, except respectfully refer the Court to the P&A Agreement, the Proof of Claim, the Disallowance Notice, and the complaint filed in the DC Action on March 20, 2009, for the content thereof.

(ii) Visa Shares

Complaint 158: WMB was the original WaMu Group member of Visa U.S.A. Inc. WMB fsb became a member on July 27, 1994, when it signed the Visa U.S.A Inc. Membership Agreement with Washington Mutual, a Federal Savings Bank (predecessor to WMB) serving as

its sponsor. WMB conducted the Visa payment card business for WaMu Group, paid all service fees, and bore the risk of the Visa payment card business.

Answer: The allegations set forth in paragraph 158 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same, except respectfully refer the Court to the documents referenced in the allegations set forth in paragraph 158 of the Complaint for the content thereof.

Complaint 159: As part of Visa's restructuring and initial public offering, members of Visa U.S.A. were allocated shares of Class B common stock in Visa, Inc. The shares were allocated based on each member's ownership interest, which was calculated on the basis of service fees paid over a period of time.

Answer: The allegations set forth in paragraph 159 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same, except respectfully refer the Court to the relevant restructuring and initial public offering documents for the content thereof.

Complaint 160: The allocation of Class B shares and Visa's retrospective responsibility plan (the "Plan") are outlined in Visa, Inc.'s Prospectus dated March 18, 2008 (the "Final Prospectus") (filed with the U.S. Securities and Exchange Commission), as well as in certain transaction documents. Class B shares are subject to the restrictions and are encumbered by contingent liabilities. The Class B shares are convertible into Class A shares upon the satisfaction of certain conditions and pursuant to a conversion formula, all as described in Visa Inc.'s Final Prospectus and certain related transaction documents.

Answer: The allegations set forth in paragraph 160 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same, except respectfully refer the Court to the documents referenced in the allegations set forth in paragraph 160 of the Complaint for the content thereof.

Complaint 161: Pursuant to the restructuring documents, Visa U.S.A. members have litigation indemnification obligations to Visa Inc.

with respect to certain antitrust litigation (whether a named defendant or not) referred to in the transaction documents as "Covered Litigation." The Class B shares are restricted until the later of three years or the conclusion of all Covered Litigation. If shares remain at the conclusion of the Covered Litigation and after the passage of three years, the Class B shares may be converted to Class A shares.

Answer: The allegations set forth in paragraph 161 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same, except respectfully refer the Court to the documents referenced in the allegations set forth in paragraph 161 of the Complaint for the content thereof.

Complaint 162: In connection with and in furtherance of the restructuring, certain Visa U.S.A. members executed a Loss Sharing Agreement (the "LSA") and an Interchange Judgment Sharing Agreement (the "JSA"), each document is dated July 2007. Each agreement provides that its signatories will indemnify Visa Inc. for potential liabilities associated with the Covered Litigation whether the signatory is a named defendant or not. The obligation is limited to their Visa U.S.A. respective membership-portions. WMB signed the JSA on July 2, 2007; WMI signed the LSA, which applied to all Covered Litigation, on July 2, 2007.

Answer: The allegations set forth in paragraph 162 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same, except respectfully refer the Court to the documents referenced in the allegations set forth in paragraph 162 of the Complaint for the content thereof.

Complaint 163: Indemnity obligations that may arise in connection with the Covered Litigation are to be funded by an escrow account established by Visa. The escrow was established with some proceeds of Visa Inc.'s initial public offering and, to the extent that the escrow must be replenished, through further dilution of the Class B common stock. If the funds contained in the escrow account (after continued Class B share dilution) prove insufficient to satisfy a Covered Litigation, the Final Prospectus as well as certain transaction documents, provide that in addition to the dilution of the Visa Class B shares, any shortfall is to be paid from the voting members' own funds in accordance with their respective ownership proportion. The foregoing is clearly set out in the Final

Prospectus, as well as in the LSA and in other transaction documents.

Answer: Debtors deny the allegations set forth in paragraph 163 of the Complaint, except respectfully refer the Court to the documents referenced in paragraph 163 for the content thereof.

Complaint 164: On October 2, 2007, a notice of pre-true up share allocation was sent to WMI, indicating that WaMu Group would be allocated 5,465,562 shares of Visa Inc. class USA common stock. Pursuant to a true-up procedure, on March 17, 2008, the share allocation was adjusted to 5,130,523 shares of Visa Class B common stock. In the course of the initial public offering, Visa Inc. redeemed some of the Class B Shares of its members and paid proceeds to the members. On March 28, 2008, after redemption and payment of proceeds, 3,147,059 shares of Visa Inc. Class B common stock (the "Visa shares") were allocated to WaMu Group.

Answer: Debtors deny the allegations set forth in paragraph 164 of the Complaint, except respectfully refer the Court to the documents referenced in paragraph 164 for the content thereof.

Complaint 165: JPMorgan Chase believes that the Visa shares were issued in the name of WMI consistent with Visa's general practice of issuing its stock to the holding company of its issuing bank members. The Visa shares were not in the name of the bank entity issuing the credit and/or debit payment cards, which entity had paid fees to Visa and also had responsibility for the gains and-losses associated with being a card issuing Visa member.

Answer: Debtors deny knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of paragraph 165 of the Complaint which refer to what JPMorgan Chase supposedly "believes", and therefore deny same. Debtors deny the remaining allegations set forth in paragraph 165 of the Complaint, except respectfully refer the Court to the documents referenced in paragraph 165 for the content thereof.

Complaint 166: The proceeds Visa paid to its members in the initial public offering were in the case of WaMu Group, distributed to WMB.

Answer: Debtors deny the allegations set forth in paragraph 166 of the Complaint.

Complaint 167: Although WMI may have received bare legal title from Visa upon distribution of the shares, WMB at all times remained, and was required by applicable regulations and law to be, the beneficial owner of the Visa shares.

Answer: Debtors deny the allegations set forth in paragraph 167 of the Complaint.

Complaint 168: The expense and reserve associated with the Covered Litigation were posted to WMB and recorded in the profit and loss statement at the WMB level. For example, in 2007, WMB recognized a guarantee liability of $50 million for the modified indemnification obligation that resulted from Visa's reorganization and initial public offering. According to publicly filed documents, therefore, WMB accounted for loss with respect to the Covered Litigation which burdens the Visa shares. WMB was the beneficial owner of the Visa shares, ownership which passed to JPMorgan Chase as the successor to the Receiver under the P&A.

Answer: Debtors deny the allegations set forth in paragraph 168 of the Complaint.

Complaint 169: Debtors have refused to transfer title in the Visa shares to JPMorgan Chase. In WMI's Schedule of Assets and Liabilities, originally filed December 19, 2008, first amended on January 27, 2009 and then amended again on February 24, 2009, Debtors list approximately 5.4 million shares of Visa Inc. Class B stock as an asset of the estate in "Schedule B — Personal Property," Item 13.

Answer: Debtors admit that Debtors have not transferred to JPMorgan Chase title in the Class B common stock of Visa that was allocated to the WaMu Group on March 28, 2008 (the "Visa Shares"). Debtors deny the remaining allegations set forth in paragraph 169 of the Complaint, except respectfully refer the Court to the documents referenced in paragraph 169 of the Complaint for the content thereof.

Complaint 170: Upon information and belief, WMI holds only 3.147 million Visa shares, which it received post-redemption.

Answer: Debtors admit that WMI holds 3.147 million Visa Shares, which it received post-redemption.

Complaint 171: As set forth in the P&A, JPMorgan Chase purchased "all of the Receiver's right, title and interest," in the Visa shares, pursuant to and in accordance with the FDI Act. JPMorgan Chase seeks an order determining that the Visa shares in which WMI has bare legal title were owned by WMB are JPMorgan Chase's property and were purchased pursuant to the P&A.

Answer: Debtors deny the allegations set forth in paragraph 171 of the Complaint, except respectfully refer the Court to the P&A Agreement for the content thereof, and deny that JPMorgan Chase is entitled to any relief.

(iii) Contracts, Intellectual Property and Other Intangible Assets

Complaint 172: Prior to the Receivership, WMB was the primary operating subsidiary of WMI and both WMI and WMB had registered the trademarks "Washington Mutual" and the "W" logo ("Trademarks") and utilized the marks interchangeably in their operations, agreements and transactions.

Answer: Debtors admit that WMB was the primary operating subsidiary of WMI. Debtors deny the remaining allegations set forth in paragraph 172 of the Complaint, except respectfully refer the Court to the registration documents for the content thereof.

Complaint 173: Prior to the Receivership, a number of contracts and other counterparty transactions to lease property, perform services, deliver goods, license, develop or acquire software were entered into for the benefit of the banking operations formerly owned by WMB, now owned and operated by JPMorgan Chase (the "Vendor Contracts"), were bought or paid for by WMB and were utilized extensively if not exclusively by WMB. Some of the Vendor Contracts include prepaid rights, incentives, rebates or developed software (all of the foregoing, together with the Trademarks and the Vendor Contracts, the "Intangible Assets").

Answer: Debtors deny the allegations set forth in paragraph 173 of the Complaint, except admit that (i) WMI is party to numerous agreements with vendors (the "Vendors") who lease property, perform services, deliver goods, or license software that primarily benefit the banking operations formerly owned by WMB (the "Vendor Contracts"); (ii) typically, prior to the receivership, WMB, as the primary beneficiary, paid Vendors for goods and services received

pursuant to the Vendor Contracts; (iii) after September 25, 2008 (the "Receivership Date"), JPMorgan Chase paid certain Vendors for outstanding pre- and post-receivership obligations incurred in connection with the Vendor Contracts; and (iv) notwithstanding these payments, there continue to be unpaid obligations outstanding in connection with certain of the Vendor Contracts.

Complaint 174: As a result of the Receivership and the P&A, WMB's banking operations and subsidiaries no longer belong directly or indirectly to WMI. Vendors have, nonetheless, continued to provide goods and services under the Vendor Contracts. By order dated December 16, 2008, this Court authorized and approved a stipulation between the Debtors and JPMorgan Chase regarding certain of the Vendor Contracts (the "Vendor Stipulation"). The Vendor Stipulation, among other things, (i) facilitates the transfer of the services to JPMorgan Chase, (ii) requires JPMorgan Chase to pay for the services provided under those contracts until twenty days after notice of the rejection of a contract is given by JPMorgan Chase to the Debtors, thereby reducing or eliminating certain expenses of administration, and (iii) allows the Debtors to use any new contracts negotiated by JPMorgan Chase for such services to mitigate any--damage claims filed by such vendors for rejection of their contracts.

Answer: Debtors admit that WMI no longer owns any subsidiaries with any banking operations and that vendors have continued to provide goods and services under vendor contracts. Debtors deny the remaining allegations set forth in paragraph 174 of the Complaint, except respectfully refer the Court to the December 16, 2008 order for the content thereof.

Complaint 175: While the Vendor Stipulation resolved a number of the outstanding issues and protected the estates against administrative liability, the Vendor Stipulation did not resolve issues regarding ownership of the Intangible Assets. There are a number of Intangible Assets which JPMorgan Chase believes were properly assets of WMB, not WMI, and which have not been resolved to date.

Answer: Debtors deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 175 of the Complaint and therefore deny same, except respectfully refer the Court to the December 16, 2008 order for the content thereof.

Complaint 176: Any interest of WMI in these Intangible Assets consists of nothing more than bare legal title and all beneficial and equitable rights thereunder were WMB's and now belong to JPMorgan Chase as the successor to the Receiver under the P&A and Title 12. While WMI may have been the nominal contracting party for contracts entered by the WaMu Group entities, WMB held all beneficial and equitable title and interest in each Intangible Asset. WMB paid for the Intangible Assets, recorded the Intangible Assets on its books, and interacted directly with the counterparties as the Intangible Assets supported WMB's business, now owned and operated by JPMorgan Chase. All payments and pre-payments on the Vendor Contracts and other Intangible Assets were made by WMB.

Answer: The allegations set forth in paragraph 176 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same.

Complaint 177: WMI's Schedule of Assets and Liabilities appears to assert ownership over a number of these Intangible Assets in Schedule G—Executory Contracts and Unexpired Leases.

Answer: Debtors deny the allegations set forth in paragraph 177 of the Complaint, except respectfully refer the Court to the schedule for the content thereof.

Complaint 178: As set forth in the P&A, JPMorgan Chase purchased "all of the Receiver's right, title and interest," in the Vendor Contracts, pursuant to and in accordance with the FDI Act. On December 30, 2008, WMI nonetheless submitted a claim to the Receiver asserting, among other things, an interest in certain of these contracts. On January 23, 2009, the WMI's claims were disallowed by the Receiver. The Receiver's disallowance is dispositive of the fact that the Debtors do not own these contracts. On March 20, 2009, the Debtors commenced the District Court Action with respect to the disallowance of their claims.

Answer: Debtors deny the allegations set forth in paragraph 178 of the Complaint, except respectfully refer the Court to the P&A Agreement, the Proof of Claim, the Disallowance Notice, and the complaint filed in the DC Action on March 20, 2009, for the content thereof.

Complaint 179: JPMorgan Chase is entitled to a declaration that it has all right, title and interest to these Intangible Assets or, in the alternative, JPMorgan Chase is entitled to a claim for the full amount of all damages it may suffer from the loss of these

Intangible Assets and to exercise rights of offset and recoupment for that loss.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 179 of the Complaint.

RELIEF REQUESTED BY JPMORGAN CHASE

TRUST SECURITIES

Count One: Trust Securities (Declaratory Judgment)

Complaint 180: JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

Answer: In response to paragraph 180 of the Complaint, Debtors repeat and reallege the answers to the foregoing paragraphs of the Complaint as if fully set forth herein.

Complaint 181: As set forth above, JPMorgan Chase contends that, pursuant to the P&A, it purchased the Trust Securities. The Debtors have disputed JPMorgan Chase's ownership of these assets in this bankruptcy case, in their Schedules and in the filing of the District Court Action.

Answer: Paragraph 181 of the Complaint characterizes the nature of the Complaint and therefore no response is required. To the extent a response is required, Debtors deny same, except respectfully refer the Court to the Complaint for the content thereof.

Complaint 182: There is thus an actual controversy that is of sufficient immediacy to warrant judicial relief under the Declaratory Judgment Act, 28 U.S.C. § 2201.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and otherwise deny the allegations set forth in paragraph 182 of the Complaint, except admit that the Complaint purports to present a request for declaratory relief, and respectfully refer the Court to 28 U.S.C. § 2201 for the content thereof.

Complaint 183: JPMorgan Chase requests a declaratory judgment finding that Debtors must proceed with any claim to the Trust Securities through the District Court Action it chose to commence. In the alternative, JPMorgan Chase requests a declaratory judgment determining that the Trust Securities are assets purchased by and belonging to JPMorgan Chase.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 183 of the Complaint.

Count Two: Trust Securities
(Breach of Contract)

Complaint 184: JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

Answer: In response to paragraph 184 of the Complaint, Debtors repeat and reallege the answers to the foregoing paragraphs of the Complaint as if fully set forth herein.

Complaint 185: WMI assumed a direct obligation to WMB upon entering into the Contribution Agreement to immediately contribute and transfer the Trust Securities to WMB following the conditional exchange. In the alternative, WMB was the third party beneficiary of WMI' s commitment to the OTS and the FDIC under the Contribution Agreement. WMI also assumed a direct obligation to WMB pursuant to the Assignment Agreement.

Answer: The allegations set forth in paragraph 185 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same, except respectfully refer the Court to the documents referenced in paragraph 185 for the content thereof.

Complaint 186: To the extent the Assignment Agreement is interpreted as leaving WMI with anything other than bare legal title, WMI breached the Contribution Agreement. WMI further breached the Contribution Agreement and the Assignment Agreement by refusing to assist JPMorgan Chase in obtaining registered ownership of the Trust Securities.

Answer: Debtors deny the allegations set forth in paragraph 186 of the Complaint.

Complaint 187: JPMorgan Chase (as successor in interest to WMB), has suffered, and will suffer, substantial monetary damages as a proximate result of WMI's breach of the Contribution Agreement and the Assignment Agreement.

Answer: Debtors deny the allegations set forth in paragraph 187 of the Complaint.

Count Three: Trust Securities
(Unjust Enrichment)

Complaint 188: JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

Answer: In response to paragraph 188 of the Complaint, Debtors repeat and reallege the answers to the foregoing paragraphs of the Complaint as if fully set forth herein.

Complaint 189: The Debtors would be unjustly enriched if they retained the Trust Securities. From the time of the creation of the Trust Securities, the Debtors benefited from the treatment of the Trust Securities as core capital, which permitted the Debtors to, among other things, satisfy regulatory requirements and report higher capital ratios.

Answer: Debtors deny the allegations set forth in paragraph 189 of the Complaint.

Complaint 190: Thus, to the extent the Court does not enter a declaratory judgment determining that the Trust Securities are assets purchased by and belonging to JPMorgan Chase, JPMorgan Chase requests that the Court establish a constructive trust for the benefit of JPMorgan Chase consisting of the value recognized by Debtors as a result of the treatment of the Trust Securities as core capital.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 190 of the Complaint.

TAX REFUNDS

Count Four: Tax Refunds (Declaratory Judgment)

Complaint 191: JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

Answer: In response to paragraph 191 of the Complaint, Debtors repeat and reallege the answers to the foregoing paragraphs of the Complaint as if fully set forth herein.

Complaint 192: As discussed above, JPMorgan Chase is the beneficial owner of tax refunds due to, and deductions generated by, the WaMu Group. JPMorgan Chase is also the beneficial owner of tax refunds already received by, and deductions taken by, WMI. The Debtors dispute JPMorgan Chase's ownership of these refunds and deductions.

Answer: The allegations set forth in paragraph 192 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same.

Complaint 193: Furthermore, JPMorgan Chase should be permitted to communicate directly without restriction with the taxing authorities concerning ongoing tax matters affecting WMB and its subsidiaries. The Debtors have sought to prohibit JPMorgan Chase from engaging in these communications.

Answer: The allegations set forth in paragraph 193 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same.

Complaint 194: There is thus an actual controversy that is of sufficient immediacy to warrant judicial relief under the Declaratory Judgment Act, 28 U.S.C. § 2201.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and otherwise deny the allegations set forth in paragraph 194 of the Complaint, except admit that the Complaint purports to present a request for declaratory relief, and respectfully refer the Court to 28 U.S.C. § 2201 for the content thereof.

Complaint 195: JPMorgan Chase requests a declaratory judgment finding that Debtors must proceed with any claim to the tax refunds and deduction through the District Court Action they elected to commence. In the alternative, JPMorgan Chase requests a declaratory judgment determining that the tax refunds and deductions are assets purchased by and belonging to JPMorgan Chase.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 195 of the Complaint.

Count Five: Tax Refunds
(Unjust Enrichment)

Complaint 196: JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

Answer: In response to paragraph 196 of the Complaint, Debtors repeat and reallege the answers to the foregoing paragraphs of the Complaint as if fully set forth herein.

Complaint 197: In the alternative, WMI would be unjustly enriched if it retained any tax refunds received on behalf of, or generated by, the WaMu Group that are attributable to tax attributes of WMB or its subsidiaries.

Answer: The allegations set forth in paragraph 197 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same.

Complaint 198: WMI received the tax refunds and deductions merely as agent for the WaMu Group. If WMI is permitted to retain the tax refunds, it will have received a windfall by receiving a refund on income tax paid by WMB (or its subsidiaries).

Answer: The allegations set forth in paragraph 198 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same.

Complaint 199: JPMorgan Chase requests that the Court establish a constructive trust for the benefit of JPMorgan Chase consisting of the tax refunds received by and/or deductions recognized by WMI to which WMB is entitled.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 199 of the Complaint.

Complaint 200: Furthermore, any future tax refunds received by and/or deductions recognized by WMI as agent for the WaMu Group should be similarly deposited into the constructive trust for the benefit of JPMorgan Chase.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 200 of the Complaint.

DISPUTED INTERCOMPANY AMOUNTS

Count Six: Disputed Funds (Declaratory Judgment: $3.7 Billion Book Entry Transfer)

Complaint 201: JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

Answer: In response to paragraph 201 of the Complaint, Debtors repeat and reallege the answers to the foregoing paragraphs of the Complaint as if fully set forth herein.

Complaint 202: WMI has asserted that the $3.7 Billion Book Entry Transfer creates a deposit liability owed to it by WMB fsb, now JPMorgan Chase. JPMorgan Chase disputes that there is a valid deposit liability due to Debtors as the result of the $3.7 Billion Book Entry Transfer.

Answer: Paragraph 202 of the Complaint characterizes the nature of the Complaint and is argumentative and therefore no response is required. To the extent a response is required, Debtors deny same, except admit that $3.7 billion was transferred to a deposit account.

Complaint 203: There is thus an actual controversy that is of sufficient immediacy to warrant judicial relief under the Declaratory Judgment Act, 28 U.S.C. § 2201.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and otherwise deny the allegations set forth in paragraph 203 of the Complaint, except admit that the Complaint purports to present a request for declaratory relief, and respectfully refer the Court to 28 U.S.C. § 2201 for the content thereof.

Complaint 204: JPMorgan Chase requests a declaratory judgment finding that Debtors must proceed with any claim to assert ownership of or interest in the $3.7 Billion Book Entry Transfer through the District Court Action they elected to commence. In the alternative, JPMorgan Chase requests a declaratory judgment determining that there is no valid deposit liability due to Debtors as a result of the $3.7 Billion Book Entry Transfer.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 204 of the Complaint.

Count Seven: Disputed Funds
(Declaratory Judgment: Setoff, Recoupment, and Other Equitable Limitations)

Complaint 205: JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

Answer: In response to paragraph 205 of the Complaint, Debtors repeat and reallege the answers to the foregoing paragraphs of the Complaint as if fully set forth herein.

Complaint 206: To the extent that JPMC has any liabilities to Debtors, including deposit account liabilities, it is entitled to (i) recoup and or setoff all such amounts under the MBA Policy and/or any other applicable terms and conditions governing those liabilities or deposit accounts; (ii) imposition of a constructive trust for the amount of all such liabilities over any funds of Debtors it possesses; and (iii) enforce any security interest determined to apply to the funds of the Debtors. Debtors dispute that JPMorgan Chase has these rights.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 206 of the Complaint.

Complaint 207: The amounts owed to JPMorgan Chase include, but are not limited to, the at least approximately $234 million in tax refunds deposited in the Accounts and due to WMB, which the Debtors have claimed as their own, the intercompany receivables of $275 million due from WMI to WMB, and any amounts awarded by the Court under this Complaint.

Answer: Debtors deny the allegations set forth in paragraph 207 of the Complaint.

Complaint 208: There is thus an actual controversy that is of sufficient immediacy to warrant judicial relief under the Declaratory Judgment Act, 28 U.S.C. § 2201.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and otherwise deny the allegations set forth in paragraph 208 of the Complaint, except admit that the Complaint purports to present a request for declaratory relief, and respectfully refer the Court to 28 U.S.C. § 2201 for the content thereof.

Complaint 209: JPMorgan Chase requests a declaratory judgment determining its right to setoff, recoupment, imposition of a constructive trust, and/or enforcement of its security interests.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 209 of the Complaint.

Count Eight: Any Remaining Deposit Liabilities
(Interpleader Pursuant to Bankruptcy Rule 7022)

Complaint 210: JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

Answer: In response to paragraph 210 of the Complaint, Debtors repeat and reallege the answers to the foregoing paragraphs of the Complaint as if fully set forth herein.

Complaint 211: Pursuant to the terms of the P&A, JPMorgan Chase, WMI, and the FDIC have asserted, or may assert, competing claims to any funds that constitute deposit liabilities and JPMorgan Chase may be exposed to double liability if it were to pay these claims to the wrong party.

Answer: The allegations set forth in paragraph 211 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same.

Complaint 212: JPMorgan Chase seeks to interplead any remaining funds that constitute deposit liabilities pursuant to Bankruptcy Rule 7022, less any attorneys' fees and costs, so that all claims to the amounts can be adjudged and the funds can be properly disbursed.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 212 of the Complaint.

GOODWILL LITIGATION

Count Nine: Goodwill Litigations (Declaratory Judgment)

Complaint 213: JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

Answer: In response to paragraph 213 of the Complaint, Debtors repeat and reallege the answers to the foregoing paragraphs of the Complaint as if fully set forth herein.

Complaint 214: There is an actual and substantial controversy between JPMorgan Chase and WMI as to whether WMI or WMB (as successor in interest to Anchor Savings Bank and American Savings Bank) is entitled to the Anchor and ASB Judgments and any future judgment entered in either litigation.

Answer: The allegations set forth in paragraph 214 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same.

Complaint 215: This is an actual controversy that is of sufficient immediacy to warrant judicial relief under the Declaratory Judgment Act, 28 U.S.C. § 2201.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and otherwise deny the allegations set forth in paragraph 215 of the Complaint, except admit that the Complaint purports to present a request for declaratory relief, and respectfully refer the Court to 28 U.S.C. § 2201 for the content thereof.

Complaint 216: JPMorgan Chase requests a declaratory judgment determining that WMB (and thus JPMorgan Chase as successor in interest) owns the beneficial interest in the Anchor and American Judgments and all monies paid on account of those judgments and directing payment of the Anchor and ASB Judgments, as well as any future judgment in either the *Anchor Savings Bank or the American Savings Bank* litigations, to JPMorgan Chase.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 216 of the Complaint.

RABBI TRUSTS

Count Ten: Rabbi Trusts (Declaratory Judgment)

Complaint 217: JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

Answer: In response to paragraph 217 of the Complaint, Debtors repeat and reallege the answers to the foregoing paragraphs of the Complaint as if fully set forth herein.

Complaint 218: As set forth above, JPMorgan Chase contends that, pursuant to the P&A, it purchased the Legacy Rabbi Trusts. The Debtors dispute JPMorgan Chase's ownership of these assets.

Answer: Paragraph 218 of the Complaint characterizes the nature of the Complaint and therefore no response is required. To the extent a response is required, Debtors deny same.

Complaint 219: There is thus an actual controversy that is of sufficient immediacy to warrant judicial relief under the Declaratory Judgment Act, 28 U.S.C. § 2201.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and otherwise deny the allegations set forth in paragraph 219 of the Complaint, except admit that the Complaint purports to present a request for declaratory relief, and respectfully refer the Court to 28 U.S.C. § 2201 for the content thereof.

Complaint 220: JPMorgan Chase requests a declaratory judgment determining that JPMorgan Chase purchased the assets of the Legacy Rabbi Trusts and an order authorizing JPMorgan Chase and the trustees of each of the Legacy Rabbi Trusts to take all actions necessary or appropriate to transfer ownership to JPMorgan Chase.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 220 of the Complaint.

Count Eleven: Rabbi Trusts
(Unjust Enrichment)

Complaint 221: JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

Answer: In response to paragraph 221 of the Complaint, Debtors repeat and reallege the answers to the foregoing paragraphs of the Complaint as if fully set forth herein.

Complaint 222: In the alternative, in the event that this Court finds that JPMorgan Chase did not purchase the assets of the Legacy Rabbi Trusts, the Debtors would be unjustly enriched if they were allowed to retain the assets. The Debtors did not fund the Trusts and the assets were owned by WMB.

Answer: The allegations set forth in paragraph 222 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same.

Complaint 223: JPMorgan Chase requests that the Court establish a constructive trust for the benefit of JPMorgan Chase consisting of the value of the assets of the Legacy Rabbi Trusts.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 223 of the Complaint.

PENSION AND 401(K) PLANS

Count Twelve: Pension and 401(k) Plans (Declaratory Judgment)

Complaint 224: JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

Answer: In response to paragraph 224 of the Complaint, Debtors repeat and reallege the answers to the foregoing paragraphs of the Complaint as if fully set forth herein.

Complaint 225: JPMorgan Chase stands ready, willing and able to assume the Pension and 401(k) Plans, and continues to record accruals for the Pension Plan and fund significant matching contributions to the 401(k) Plan in anticipation of doing so.

Answer: Debtors deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 225 of the Complaint and therefore deny same.

Complaint 226: As set forth above, JPMorgan Chase contends that it may assume the Pension and 401(k) Plans in their entirety. The Debtors dispute this contention. Debtors assert that JPMorgan Chase is required to pay them an amount reflecting a purported "excess funding" in the Pension Plan. However, the Pension and 401(k) Plans will not be terminated if they are assumed by JPMorgan Chase. Rather, JPMorgan Chase would assume the Pension Plan on an ongoing basis without any termination but, instead, with the continuing obligation to pay accrued benefits. And, because the Pension Plan is continuing, the sufficiency of their assets to cover benefit obligations will continue to vary depending upon ongoing fluctuations in the value of plan assets as well as the interest rate used to discount liabilities. It therefore makes no sense to suggest that there exists some excess value to which Debtors are presently entitled as though the Pension Plan was being terminated with no further liabilities.

Answer: Paragraph 226 of the Complaint characterizes the nature of the Complaint (to the extent it describes what JPMorgan Chase "contends") and is argumentative and therefore no response is required. To the extent a response is required, Debtors deny same, except that with respect to the allegations concerning what Debtors supposedly have "assert[ed]", Debtors respectfully refer the Court to Debtors' pleadings for the content thereof.

Complaint 227: In addition, the Debtors have claimed that, in order to assume the Pension and 401(k) Plans, JPMorgan Chase must assume the liabilities associated with litigation against WMI and its officers and directors for their conduct in administrating the Pension and 401(k) Plans before the Petition Date. JPMorgan Chase does not have any obligation to assume these liabilities.

Answer: Paragraph 227 of the Complaint is argumentative and therefore no response is required. To the extent a response is required, Debtors deny same, except with respect to the allegations concerning what Debtors supposedly have "claimed", Debtors respectfully refer the Court to Debtors' pleadings for the content thereof.

Complaint 228: There is thus an actual controversy that is of sufficient immediacy to warrant judicial relief under the Declaratory Judgment Act, 28 U.S.C. § 2201.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and otherwise deny the allegations set forth in paragraph 228 of the Complaint, except admit that the Complaint purports to present a request for declaratory relief, and respectfully refer the Court to 28 U.S.C. § 2201 for the content thereof.

Complaint 229: JPMorgan Chase requests a declaratory judgment finding that Debtors must proceed with any claim to assert ownership of any assets in any employee benefit plans through the District Court Action they elected to commence. Alternatively, JPMorgan Chase requests a declaratory judgment determining that JPMorgan Chase may assume the Pension and 401(k) Plans without requiring it to forfeit any hypothetical over-funding to Debtors and without imposing liability for litigation that does not belong to JPMorgan Chase. In the alternative, JPMorgan Chase requests a declaratory judgment determining that, if it is not permitted to assume the

Pension and 401(k) Plans, it has no further liability to any person for any liabilities associated with those plans.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and further state that the allegations set forth in paragraph 229 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same.

Count Thirteen: Pension and 401(k) Plans (Unjust Enrichment)

Complaint 230: JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

Answer: In response to paragraph 230 of the Complaint, Debtors repeat and reallege the answers to the foregoing paragraphs of the Complaint as if fully set forth herein.

Complaint 231: In the alternative, in the event that this Court finds that JPMorgan Chase can only assume the Pension and 401(k) Plans by either paying the hypothetical excess funding or assuming pending litigation liabilities upon assumption of the Pension and 401(k) Plans, and JPMorgan Chase does not assume the Pension and 401(k) Plans, the Debtors would be unjustly enriched by benefiting through JPMorgan Chase's contributions to the 401(k) Plan that were made in the expectation that it would be able to assume the 401(k) Plan pursuant to the P&A. Debtors and JPMorgan Chase understood that JPMorgan Chase was making these payments in anticipation of assumption of the plans.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 231 of the Complaint.

Complaint 232: The Debtors would unjustly realize a windfall from the circumstances alleged herein if they do not reimburse JPMorgan Chase for the funds contributed to the 401(k) and resources it allocated to the Plans, which Debtors (or another party) would have needed to contribute if JPMorgan Chase had not done so. The Debtors did not contribute any of these funds or resources relating to the post-September 25, 2008 operation of the Pension and 401(k) Plans and have no right to them.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 232 of the Complaint.

Complaint 233: By reason of the foregoing, a post-petition constructive trust should be imposed on the Debtors in the full amount necessary to reimburse JPMorgan Chase for the amounts it contributed to the 401(k) Plan.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 233 of the Complaint.

BANK OWNED LIFE INSURANCE POLICIES

Count Fourteen: Life Insurance Policies (Declaratory Judgment)

Complaint 234: JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

Answer: In response to paragraph 234 of the Complaint, Debtors repeat and reallege the answers to the foregoing paragraphs of the Complaint as if fully set forth herein.

Complaint 235: As set forth above, there is an actual and substantial controversy between JPMorgan Chase and the Debtors. JPMorgan Chase contends that, pursuant to the P&A, it purchased the BOLI policies and Split Dollar policies referenced above. The Debtors appear to contend to the contrary.

Answer: Paragraph 235 of the Complaint characterizes the nature of the Complaint and states a conclusion of law and therefore no response is required. To the extent a response is required, Debtors deny same.

Complaint 236: There is thus an actual controversy that is of sufficient immediacy to warrant judicial relief under the Declaratory Judgment Act, 28 U.S.C. § 2201.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and otherwise deny the allegations set forth in paragraph 236 of the Complaint, except admit that the Complaint purports to present a request for declaratory relief, and respectfully refer the Court to 28 U.S.C. § 2201 for the content thereof.

Complaint 237: JPMorgan Chase requests a declaratory judgment finding that Debtors must proceed with any claim to assert ownership of or interest in the BOLI Policies and Split Dollar policies through the District Court Action they elected to commence. Alternatively, JPMorgan Chase requests a declaratory judgment determining that the BOLI policies and Split Dollar policies are assets purchased by and belonging to JPMorgan Chase.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 237 of the Complaint.

Count Fifteen: Life Insurance Policies (Unjust Enrichment)

Complaint 238: JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

Answer: In response to paragraph 238 of the Complaint, Debtors repeat and reallege the answers to the foregoing paragraphs of the Complaint as if fully set forth herein.

Complaint 239: In the alternative, in the event that this Court finds that JPMorgan Chase did not purchase the BOLI policies and Split Dollar policies, the Debtors would be unjustly enriched if they were allowed to retain the policies. The Debtors were never the policyholders for the BOLI policies and Split Dollar policies. Accordingly, they have no right to the BOLI policies and Split Dollar policies and would unjustly realize a windfall from the circumstances alleged herein if they are permitted to retain the BOLI policies and Split Dollar policies.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 239 of the Complaint.

Complaint 240: JPMorgan Chase requests that the Court establish a constructive trust for the benefit of JPMorgan Chase consisting of the value of the BOLI policies and Split Dollar policies.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 240 of the Complaint.

VISA SHARES

Count Sixteen: Visa Shares (Declaratory Judgment)

Complaint 241: JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

Answer: In response to paragraph 241 of the Complaint, Debtors repeat and reallege the answers to the foregoing paragraphs of the Complaint as if fully set forth herein.

Complaint 242: There is thus an actual controversy that is of sufficient immediacy to warrant judicial relief under the Declaratory Judgment Act, 28 U.S.C. § 2201.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and otherwise deny the allegations set forth in paragraph 242 of the Complaint, except admit that the Complaint purports to present a request for declaratory relief, and respectfully refer the Court to 28 U.S.C. § 2201 for the content thereof.

Complaint 243: JPMorgan Chase requests a declaratory judgment determining that the Visa shares are assets purchased by and belonging to JPMorgan Chase. In the alternative, if the Court should determine that the Visa shares are assets belonging to the Debtors, JPMorgan Chase requests a declaratory judgment determining that Debtors assume the full liabilities associated with the Visa Inc.

restructuring and initial public offering in which those shares were issued by requiring that the Debtors pay and discharge any Covered Litigation obligation not satisfied by the Visa shares.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 243 of the Complaint.

Count Seventeen: Visa Shares
(Unjust Enrichment)

Complaint 244: JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

Answer: In response to paragraph 244 of the Complaint, Debtors repeat and reallege the answers to the foregoing paragraphs of the Complaint as if fully set forth herein.

Complaint 245: The Debtors would be unjustly enriched if they retained title to the Visa shares.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 245 of the Complaint.

Complaint 246: If the Debtors are permitted to retain the Visa shares without bearing full liability associated with the reorganization and creation of the asset, they will incur a windfall if and to the extent JPMorgan Chase is responsible for any Covered Litigation shortfall relating to the Visa shares.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 246 of the Complaint.

Complaint 247: Thus, to the extent the Court does not enter a declaratory judgment protecting JPMorgan Chase from any such liabilities, JPMorgan Chase requests that the Court establish a constructive trust for the benefit of JPMorgan Chase over any Visa shares

remaining after satisfaction of obligations related to the Covered Litigation.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 247 of the Complaint.

INTANGIBLE ASSETS

Count Eighteen: Intangible Assets (Declaratory Judgment)

Complaint 248: JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

Answer: In response to paragraph 248 of the Complaint, Debtors repeat and reallege the answers to the foregoing paragraphs of the Complaint as if fully set forth herein.

Complaint 249: As set forth above, JPMorgan Chase contends that, pursuant to the P&A and Title 12, it owns the Intangible Assets. The Debtors dispute this.

Answer: Paragraph 249 of the Complaint characterizes the nature of the Complaint and therefore no response is required. To the extent a response is required, Debtors deny same.

Complaint 250: There is thus an actual controversy that is of sufficient immediacy to warrant judicial relief under the Declaratory Judgment Act, 28 U.S.C. § 2201.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and otherwise deny the allegations set forth in paragraph 250 of the Complaint, except admit that the Complaint purports to present a request for declaratory relief, and respectfully refer the Court to 28 U.S.C. § 2201 for the content thereof.

Complaint 251: JPMorgan Chase requests a declaratory judgment determining that JPMorgan Chase is the owner of the Intangible Assets. In the alternative, JPMorgan Chase requests a declaratory judgment determining that, if it is not the owner of the Intangible Assets, it

has no liability to any person for any liabilities associated with those Intangible Assets.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 251 of the Complaint.

Count Nineteen: Intangible Assets
(Unjust Enrichment)

Complaint 252: JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

Answer: In response to paragraph 252 of the Complaint, Debtors repeat and reallege the answers to the foregoing paragraphs of the Complaint as if fully set forth herein.

Complaint 253: In the alternative, in the event that this Court finds that JPMorgan Chase does not own the Intangible Assets, the Debtors would be unjustly enriched if they were allowed to retain the Intangible Assets or were not ordered to repay JPMorgan Chase for amounts paid by WMB in connection with the Intangible Assets.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 253 of the Complaint.

Complaint 254: JPMorgan Chase requests that the Court establish a constructive trust for the benefit of JPMorgan Chase consisting of the value of Intangible Assets.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 254 of the Complaint.

ADMINISTRATIVE CLAIM

Count Twenty: Administrative Expenses

Complaint 255: JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

Answer: In response to paragraph 255 of the Complaint, Debtors repeat and reallege the answers to the foregoing paragraphs of the Complaint as if fully set forth herein.

Complaint 256: To the extent the Court accepts WMI's claims of ownership of any of the Pension and 401(k) Plans or other assets and JPMorgan Chase has made payments and incurred expenses in connection with these assets, JPMorgan Chase is entitled to reimbursement from Debtors of all post-petition expenses it has incurred and payments it has made on account of those assets.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 256 of the Complaint.

Complaint 257: To the extent JPMorgan Chase incurs any liability or suffers any loss as the result of conduct by Debtors after the Petition Date, including conduct by the Debtors as the sponsor of any of the Pension and 401(k) Plans, JPMorgan Chase is entitled to post-petition administrative claim for those amounts.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 257 of the Complaint.

INDEMNIFICATION

Count Twenty-One: Indemnification

Complaint 258: JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

Answer: In response to paragraph 258 of the Complaint, Debtors repeat and reallege the answers to the foregoing paragraphs of the Complaint as if fully set forth herein.

Complaint 259: Claims have been threatened against JPMC arising out of or relating to the acts, omissions or conduct of Debtors prior to the Petition Date. To the extent that any claim is asserted against JPMC as a result of such matters, JPMC is entitled to be indemnified and held harmless by the Debtors for any loss, damage or liability they might incur.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 259 of the Complaint.

DEFENSES, AFFIRMATIVE DEFENSES, AND RESERVATION OF RIGHTS

The statement of any defense hereinafter does not assume the burden of proof for any issue as to which applicable law places the burden upon JPMorgan Chase. Debtors expressly reserve the right to assert, and hereby give notice that they intend to rely upon, any other defense and/or affirmative defense that may become available or appear during discovery proceedings or otherwise in this case and hereby reserve the right to amend this Answer to assert any such defense and/or affirmative defense. Debtors hereby incorporate into this Answer and assert any and all defenses asserted or pled in this proceeding by any other party to the extent the defenses are applicable to the Debtors under the facts and law.

Debtors have not knowingly or intentionally waived any applicable affirmative defenses. Debtors presently lack sufficient knowledge or information on which to form a belief as to whether they may have, as yet unstated, affirmative defenses, and expressly reserve all rights with respect to all affirmative defenses that may be revealed during the course of discovery. Debtors further reserve all rights to assert any and all applicable defenses or affirmative defenses against JPMorgan Chase, including, but not limited to, all equitable claims, avoidance actions, and set-off rights.

Debtors assert the following affirmative defenses, without assuming the burden of proof when the burden of proof would otherwise be on JPMorgan Chase:

First Defense

The Complaint fails to state a claim upon which relief may be granted.

Second Defense

JPMorgan Chase is not entitled to a declaration that it has a right to set off the amount of claims it owes to Debtors against the amount of obligations that Debtors allegedly owe to it because such setoff does not comply with the Bankruptcy Code or any other applicable law, including because, without limitation, mutuality among the parties is lacking.

Third Defense

JPMorgan Chase's claims are barred, in whole or in part, by section 502(d) of the Bankruptcy Code because JPMorgan Chase is in possession of property recoverable by the Debtors under sections 542 and 550 of the Bankruptcy Code and because JPMorgan Chase is a transferee of transfers avoidable under sections 544, 547 and 548 of the Bankruptcy Code.

Fourth Defense

JPMorgan Chase's claims are barred, in whole or in part, by section 558 of the Bankruptcy Code because the Debtors are entitled to the defense of setoff or recoupment under applicable state law.

Fifth Defense

JPMorgan Chase is not the real party in interest with respect to some or all of its claims.

Sixth Defense

JPMorgan Chase lacks standing to assert some or all of its claims.

Seventh Defense

JPMorgan Chase's Complaint is barred in whole or in part by the Statute of Frauds.

Eighth Defense

JPMorgan Chase has benefited from the acts and transactions of Debtors complained of in an amount exceeding JPMorgan Chase's claimed damages. JPMorgan Chase is required to set off against such alleged damages the benefits received and thus has suffered no legally cognizable damages proximately caused by any conduct of Debtors.

Ninth Defense

JPMorgan Chase is precluded to the extent it seeks any recovery or indemnification, in whole or in part, because JPMorgan Chase has failed to mitigate its damages.

Tenth Defense

JPMorgan Chase is precluded from recovery because it would be unjustly enriched thereby.

Eleventh Defense

By virtue of its conduct, JPMorgan Chase is estopped from asserting the claims in the Complaint.

Twelfth Defense

JPMorgan Chase's claims are barred, in whole or in part, by waiver.

Thirteenth Defense

JPMorgan Chase's claims are barred, in whole or in part, by the doctrine of laches.

Fourteenth Defense

JPMorgan Chase's claims are barred, in whole or in part, by JPMorgan Chase's approval and ratification of the conduct upon which the claims are based.

Fifteenth Defense

JPMorgan Chase is precluded from recovery, in whole or in part, because of its own wrongful and/or negligent conduct and the doctrines of comparative negligence and contributory negligence.

Sixteenth Defense

JPMorgan Chase's Complaint is barred, in whole or in part, by the doctrine of unclean hands.

Seventeenth Defense

JPMorgan Chase is precluded from recovery, in whole or in part, because JPMorgan Chase had knowledge of and approved and assumed the risk of the transactions of which it complains.

Eighteenth Defense

JPMorgan Chase's Complaint is barred, in whole or in part, by the doctrine of *in pari delicto*.

Nineteenth Defense

JPMorgan Chase's claims are barred, in whole or in part, by the statute of limitations.

Twentieth Defense

JPMorgan Chase's claims are barred, in whole or in part, by its illegal conduct.

Twenty-First Defense

JPMorgan Chase's claims are barred, in whole or in part, by the release of those claims.

Twenty-Second Defense

JPMorgan Chase's claims are barred, in whole or in part, by the payment of those claims.

Twenty-Third Defense

With respect to Counts 4 and 5, JPMorgan Chase's claims are barred, in whole or in part, by operation of the Internal Revenue Code (26 U.S.C.) and the Federal Tax Regulations (26 C.F.R.).

Twenty-Fourth Defense

JPMorgan Chase's claims, in whole or in part, have been or will be discharged in the bankruptcy.

DEBTORS' AMENDED COUNTERCLAIMS

The Debtors, through their undersigned counsel, bring the following Counterclaims against JPMorgan Chase. The Debtors assert and expressly reserve all rights with respect to all counterclaims or cross-claims that may be revealed during the course of discovery, including the right to amend to assert any counterclaims or cross-claims that may hereafter be revealed during discovery.

INTRODUCTION

1. This suit is brought to redress certain injuries that WMI has suffered as a result of fraudulent and preferential transfers of potentially more than $10 billion in WMI assets to WMB and subsequently to JPMorgan Chase, among other things.

2. Since at least December 2007 until it was ultimately seized and placed into receivership by the FDIC, WMB was under liquidity pressure. During this period, WMI down-streamed billions of dollars without recompense and made significant preferential transfers to WMB on account of antecedent debts.

3. To the extent such contributions were made at a time when WMI was insolvent or engaged in business for which its assets were unreasonably small capital and when WMB was insolvent, WMI received no consideration in exchange for making such contributions and they are avoidable as a matter of law. Moreover, contributions or other transfers made when the likelihood of the FDIC's seizure was increasingly becoming inevitable resulted in WMI again receiving no consideration in exchange for making such contributions. Similarly, to the extent the transfers on account of prior obligations were made at a time when WMI was insolvent, they too are avoidable as a matter of law.

4. WMI and WMB's financial condition ultimately resulted in regulatory action. On the Receivership Date, by order number 2008-36, the OTS closed WMB and appointed the FDIC

Receiver. Immediately upon its appointment, the FDIC sold the majority of WMB's assets – having a book value of more than $300 billion – to JPMorgan Chase in exchange for payment of just $1.88 billion (the "P&A Transaction"), pursuant to the P&A Agreement.

5. JPMorgan Chase thereupon booked an extraordinary gain, reflecting that it acquired WMB's assets at a significant discount to fair market value. Specifically, based upon JPMorgan Chase's own accounting, the adjusted fair value of the net assets acquired was higher than the purchase price paid in the amount of $1.9 billion – an amount in and of itself more than the total consideration paid by JPMorgan Chase. Moreover, JPMorgan Chase has recently announced that it stands to realize a $29 billion gain on WMB assets it purchased and marked down pursuant to the P&A Transaction based upon the actual value of such assets. On the date of the P&A Transaction, WMI was both a creditor and a stockholder of WMB, and thus WMI was harmed further by this transaction. The next day, the Debtors commenced their cases under chapter 11 of the Bankruptcy Code.

JURISDICTION AND VENUE

6. This is an action pursuant to Federal Rule of Bankruptcy Procedure 7001 and 11 U.S.C. §§ 541, 544, 547, 548, and 550.

7. The Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. §§ 157(b) and 1334(b).

8. Venue is proper in this Court under 28 U.S.C. § 1409(b).

9. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

THE PARTIES

10. Counterclaim-Defendant JPMorgan Chase is a national banking association organized under the laws of the United States with its principal place of business in Columbus, Ohio.

JPMorgan Chase is a wholly-owned subsidiary of JPMorgan Chase & Co., a corporation organized under the laws of Delaware.

11. Counterclaim-Plaintiff WMI is a corporation organized under the laws of the State of Washington with its principal place of business located at 1301 Second Avenue, Seattle, Washington 98101.

12. Counterclaim-Plaintiff WMI Investment is a corporation organized under the laws of the State of Delaware with its principal place of business located at 1301 Second Avenue, Seattle, Washington 98101.

FACTUAL ALLEGATIONS

A. WMI's Capital Contributions

13. From December 2007 through April 2008, WMI made the Capital Contributions to WMB in the amount of $6.5 billion:

Date	Amount Contributed to WMB
December 18, 2007 (the "December '07 Capital Contribution")	$1 billion
April 18, 2008 (the "April '08 Capital Contribution")	$3 billion
July 21, 2008 (the "July '08 Capital Contribution")	$2 billion
September 10, 2008 (the "September '08 Capital Contribution")	$500 million

14. During this period, WMI had public debt obligations of approximately $7 billion, 3.5 million shares of preferred stock, and more than 1.7 billion shares of common stock.

15. All Capital Contributions made at a time when WMI was insolvent or engaged in business for which its assets were unreasonably small capital and when WMB was insolvent resulted

in WMI receiving no consideration in exchange for making such contributions. Moreover, Capital Contributions made during this period, when the likelihood of the FDIC's closing of WMB was increasingly inevitable, although not understood to be by WMI, resulted in WMI receiving no consideration in exchange for making such contributions. Thus, WMB (and ultimately, JPMorgan Chase) received the benefit of billions of dollars of Capital Contributions to the detriment of WMI.

(i) December '07 and April '08 Capital Contributions

16. In December 2007, WMI was recognizing serious signs of asset deterioration. On December 10, 2007, WMI announced a loss for the fourth quarter because of a $1.6 billion charge to write down the value of its home-loan business, and its plans to lay off approximately 3,150 employees. *See* Bill Virgin, *WaMu To Slash 3,150 Jobs Facing Fourth Quarter Loss, Bank Cuts Dividend 73% And Sets Office Closures*, THE SEATTLE POST-INTELLIGENCER, Dec. 11, 2007, at A1.

17. At this time, WMI already carried a debt burden that included approximately $7 billion in publicly-traded debt.

18. On the day of the April '08 Capital Contribution, WMI announced a net loss of approximately $1.1 billion, a provision for loan losses for the first quarter of approximately $3.5 billion, and expected first quarter net charge-offs of approximately $1.4 billion. *See* Washington Mutual, Inc. Press Release, *Company Expects First Quarter Net Loss of Approximately $1.1 Billion*, April 8, 2008.

(ii) July '08 Capital Contribution

19. On June 30, 2008, the OTS completed an examination of WMB and identified various "supervisory issues," and a general weakened financial condition. Pursuant to this examination WMB's board of directors and management were instructed to construct a three-year business plan to be submitted to the OTS for its approval. This examination culminated on September 7, 2008, when the OTS entered into Memorandums of Understanding with each of WMI and WMB (the "MOUs").

The MOU entered into by WMB provided various measures aimed at improving its financial health, including, among other things, limitations placed on the ability of WMB to pay dividends, a requirement that WMB's board of directors review and approve a "contingency capital plan," and incorporation of an asset reduction plan with respect to certain targeted assets.

20. On Friday, July 11, 2008, the OTS seized IndyMac Bank and appointed the FDIC receiver of its assets. *See IndyMac Taken Over By Regulators,* REUTERS, July 11, 2008. On Monday, July 14, 2008, WMB experienced significant loss of deposits in the wake of IndyMac Bank being placed into receivership.

21. On July 22, 2008 – one day after the July '08 Capital Contribution was made – WMI announced a second quarter net loss of $3.33 billion and increased loan loss provisions by 69 percent to $5.9 billion. *See* Washington Mutual, Inc. Press Release, *WaMu Reports Significant Build-Up of Reserves Contributing to Second Quarter Net Loss of $3.3 Billion*, July 22, 2008. WMI's second quarter announcement spurred analyst concerns. Citi analyst Bradley Ball stated Citi's concern that "credit and market conditions will continue to damage Washington Mutual's financial flexibility over the near to intermediate term." *See* Maurna Desmond, *Alarm Over WaMu,* FORBES.COM, July 24, 2008.[3] Richard Bove, a Ladenburg Thalmann analyst, discussing his firm's projections noted that, "these numbers are based on our projection of what Washington Mutual must do to return to profitability, not what is necessarily likely to happen." *Id.*

22. The capital markets evidenced WMI's financial distress. WMI credit default swaps (reflecting risk of default on WMI's publicly-issued notes) were trading at record-high levels just four days after the consummation of the July '08 Capital Contribution. *See* Shannon D. Harrington,

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[3] http://www.forbes.com/2008/07/24/wamu-analyst-update-market-equity-cx_md_0724markets46.html.

WaMu Bond Risk Climbs to Record Amid Mortgage Losses, BLOOMBERG.COM, July 25, 2008.[4] Further indicative of WMI's financial distress, WMI subordinated notes were offering 15.0% yields to compensate investors for their risk, in stark contrast to five-year Treasury bonds that were offering a mere 3.3%. *See* Maurna Desmond, *Alarm Over WaMu,* FORBES.COM, July 24, 2008.

(iii) September '08 Capital Contribution

23. In September, 2008, WMI and WMB continued to experience a deterioration of their financial positions. On September 7, 2008, it was reported that WMI was forced to replace its then acting CEO, Kerry Killinger. *Washington Mutual CEO Killinger is out*, CNNMONEY.COM, Sept. 7, 2008.[5] The September '08 Capital Contributions were transferred to WMB only three days later.

24. The ratings agencies perceived WMI's financial distress. One day after the September '08 Capital Contributions were made, on September 11, 2008, both Moody's and Fitch Ratings downgraded their ratings on WMI to "junk status" and BBB- "with a negative outlook," respectively. *See Washington Mutual tries to soothe anxiety,* CNNMONEY.COM, September 7, 2008.[6] Just five days later, Standard & Poor's followed suit, lowering its WMI ratings to three levels below investment grade. *See* Ari Levy, *WaMu Rating Lowered to Junk by S&P on Mortgage Losses,* BLOOMBERG.COM, Sept. 15, 2008.[7]

25. In a September 25, 2008 letter to the WMI board of directors, the OTS discussed the prior two-week period as one of substantial "deposit outflows" from WMB that gave rise to "significant liquidity pressures." During this period, more than $16.7 billion was withdrawn by WMB customers. *See* Robin Sidel, David Enrich, and Dan Fitzpatrick, *WaMu Is Seized, Sold Off to*

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4 http://www.bloomberg.com/apps/news?pid=20601087&sid=ax7YtHccUeAQ&refer =home

5 http://money.cnn.com/2008/09/07/news/companies/wamu_ceo/? postversion=2008090722

6 http://money.cnn.com/2008/09/12/news/companies/wamu_3Q_update/index.htm

7 http://www.bloomberg.com/a pps/news?pid=20601087&sid=awDjhtIfoz_Q

J.P. Morgan, In Largest Failure in U.S. Banking History, WALL ST. J., Sept. 26, 2008, at A1. The OTS ultimately concluded that WMB "is likely to be unable to pay its obligations or meet its depositors' demands in the normal course of business because it does not have sufficient liquid assets to pay those obligations and fund the expected withdrawals." *See* OTS Order 2008-36 at 2.

(iv) Capital Contributions Were Made For Less Than Reasonably Equivalent Value

26. To the extent that as of the time the Capital Contributions were made, WMB was insolvent, WMI's equity value in those entities was worthless and WMI did not receive any value in exchange for the Capital Contributions. Moreover, as the prospect of WMB being seized by the OTS approached inevitability, WMI's equity shares in WMB were likewise valueless.

27. WMI did not receive any tangible benefit in exchange for disbursing the funds. WMI received no indirect benefit either, such as increased equity value flowing from its wholly-owned subsidiary, WMB. At such time, there was no possibility that WMI would ever receive any return on the Capital Contributions.

28. At all such times, WMI had a debt burden of more than $7 billion, and its primary asset, the equity value in WMB, was reduced to nothing. To the extent that WMI was either insolvent or engaged in business for which its assets were unreasonably small capital, each of the Capital Contributions harmed WMI and are avoidable as a matter of law.

(v) Capital Contributions are Subsequently Transferred to JPMorgan Chase

29. The Capital Contributions were transfers of an interest in WMI's property. In its Complaint, JPMorgan Chase admits that the Capital Contributions were transferred to WMB, stating: "WMI formally contributed to WMB at least $6.5 billion of the approximately $10.2 billion in capital it had raised." (Complaint at ¶ 35).

30. Pursuant to the P&A Agreement, JPMorgan Chase purchased substantially all of WMB's assets. On the Receivership Date, funds that comprised the Capital Contributions were transferred to JPMorgan Chase.

31. Because the Capital Contributions are avoidable as constructive fraudulent transfers, WMI may recover from JPMorgan Chase as the subsequent transferee of the Capital Contributions, either the Capital Contributions or the value of the Capital Contributions for the benefit of WMI's estate pursuant to section 550 of the Bankruptcy Code. On the Receivership Date, JPMorgan Chase knew or should have known of the Capital Contributions and about the respective financial conditions of WMI and WMB. Thus, JPMorgan Chase did not acquire its interest in WMI property in good faith and without knowledge of the voidability of the Capital Contributions.

B. The Trust Securities

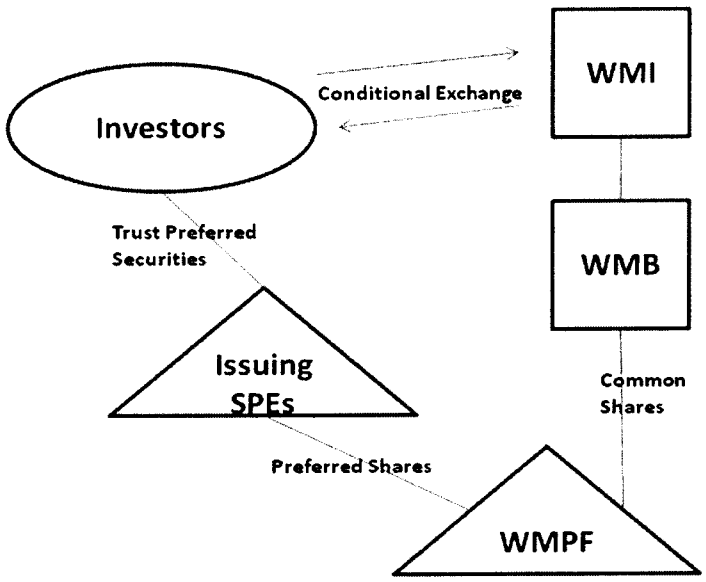
(i) Issuance of the Trust Securities

32. Between March 2006 and October 2007, in four instances, certain SPEs associated with WMI and its then subsidiaries issued the Trust Securities in connection with, and facilitated by, WMPF. The Trust Securities have an aggregate liquidation preference of approximately $4 billion and upon information and belief are currently worth at least as much.

33. WMPF's assets were limited to direct or indirect interests in mortgage or mortgage-related assets, cash, and other permitted assets which were held in certain trusts. WMPF issued preferred securities which were held by, and were the only asset of, the SPEs. These securities were senior in priority to the common equity interests of WMPF which were indirectly held by WMB and WMI. In turn, the SPEs issued the Trust Securities.

34. The Trust Securities were offered and sold to "qualified institutional buyers" or "qualified purchasers" subject to a conditional exchange feature that operated to exchange the Trust Securities into related classes of WMI preferred stock, or depository shares representing WMI

preferred stock, upon the occurrence of certain events as directed by the OTS under certain circumstances (*i.e.*, WMB becoming undercapitalized, WMB being placed into receivership, or the OTS anticipating WMB becoming undercapitalized in the near future, each an "Exchange Event"). Pursuant to the declaration of such an Exchange Event, the Trust Securities would be then held by WMI, having been exchanged for newly-issued preferred stock of WMI (a "Conditional Exchange"). A simplified illustrative chart follows:



35. On February 23, 2006, by letter addressed to Darrel Dochow of the OTS, John F. Robinson, WMI Corporate Risk Management, indicated to the OTS that if, as a result of the occurrence of an Exchange Event declared by the OTS, WMI issues preferred stock, or depository shares representing WMI preferred stock, in exchange for the Trust Securities, "WMI will contribute to WMB the [Trust Securities]" (collectively, with the November 14, 2006 and the August 17, 2007 correspondence discussed below, the "Downstream Undertakings"). On February 24, 2006, the OTS responded by letter from Dochow to Robinson, indicating that it would consider the value of the Trust Securities in WMB's core capital in light of WMI's Downstream Undertaking. With respect to

subsequent issuances of Trust Securities, similar letter exchanges took place on November 14, 2006 and December 4, 2006, and August 17, 2007 and September 20, 2007.

36. The February 26, 2006 OTS letter went on to state that "[n]otwithstanding the above, the OTS reserves the right, in its sole discretion, to exclude the [Trust Securities] (or prospective issuances of [Trust Securities]) if the terms are revised or it otherwise ceases to provide meaningful capital support and a realistic ability to absorb losses, or otherwise raises supervisory concerns." Similar reservations of rights appeared in correspondence relating to subsequent issuances of Trust Securities (collectively, the "OTS Reservation of Rights").

37. The Trust Securities were certificated securities, represented by global certificates held by Depository Trust Company ("DTC") and registered in the name of DTC's nominee, Cede & Co.

(ii) The OTS Declares an Exchange Event

38. On September 24, 2008, the day prior to the Receivership Date, the OTS notified WMI that an Exchange Event had occurred.

39. On September 25, 2008, by letter addressed to Steve Frank and Alan Fishman of WMI from Darrel Dochow of the OTS, the OTS directed WMI to cause a Conditional Exchange, exchanging the Trust Securities for preferred shares of WMI.

40. Later that day, immediately after the OTS closed WMB, its assets were purportedly sold to JPMorgan Chase pursuant to the P&A Transaction.

41. Still later that day, just prior to 9:00 p.m. Eastern time, an employee of WMI executed an Assignment Agreement which purported to assign the right, title, and interest in the Trust Securities to WMB (the "Assignment").

42. Pursuant to section 4.08 of the Amended and Restated Trust Agreement, dated as of March 7, 2006 (the "Trust Agreement") governing the Trust Securities, the Trust Securities were to

be transferred to WMI in a Conditional Exchange at "the earliest possible date such exchange could occur consistent with the directive, as evidenced by the issuance by WMI of a press release prior to such time." (Trust Agreement §4.08). WMI sent a letter to the OTS on the evening of September 25, 2008, indicating that the Conditional Exchange would occur at 8:00 a.m. Eastern time on the 26th of September and that WMI would immediately contribute the Trust Securities to WMB upon the Conditional Exchange.

(iii) The Transfer of the Trust Securities Was Made For Less Than Reasonably Equivalent Value

43. The transfer of the Trust Securities pursuant to the Assignment Agreement is avoidable as a constructive fraudulent transfer of an interest in WMI's property that harmed WMI and its creditors.

44. At 8:00 a.m. Eastern time on the Petition Date, at a time when WMI was insolvent, WMI transferred the Trust Securities to WMB or to JPMorgan Chase, as successor in interest to WMB (Complaint at ¶ 79), for no consideration.

45. WMI did not receive any direct benefit in exchange for the transfer of the Trust Securities. WMI received no indirect benefit either, such as increased equity value flowing from WMB because its wholly-owned subsidiary WMB was insolvent. Moreover, both the transfer, and the Assignment the day prior, were made after WMB had been seized by the OTS, and thus WMI's equity shares in WMB were likewise valueless.

46. JPMorgan Chase is liable to WMI's estate as an initial or subsequent transferee of the Trust Securities. On the Receivership Date and the Petition Date, JPMorgan Chase knew or should have known of the transfers of the Trust Securities and about the financial condition of WMI and WMB. Thus, JPMorgan Chase did not acquire its interest in WMI property in good faith and without knowledge of the voidability of the transfer of the Trust Securities.

(iv) In the Alternative, the Transfer of the Trust Securities in Satisfaction of the Downstream Undertakings is Fraudulent as to Creditors and a Voidable Preference

47. Alternatively, the transfer of the Trust Securities at 8:00 a.m. Eastern time on the Petition Date in satisfaction of the Downstream Undertakings was both fraudulent as to WMI's creditors under applicable state law and a preferential transfer under the Bankruptcy Code.

48. First, the transfer of the Trust Securities was fraudulent as to WMI's creditors that existed as of the date of the transfer under applicable state law because the transfer was made to an insider, WMB or JPMorgan Chase, as successor in interest to WMB, while WMI was insolvent and while WMB or JPMorgan Chase had reasonable cause to believe that WMI was insolvent. The transfer was made on account of an antecedent obligation – the Downstream Undertakings. Thus, JPMorgan Chase is liable to WMI's estate as an initial or subsequent transferee of the Trust Securities. On the Receivership Date and the Petition Date, JPMorgan Chase knew or should have known of the purported transfers of the Trust Securities and about the financial condition of WMI. Thus, JPMorgan Chase did not acquire its interest in WMI property in good faith and without knowledge of the voidability of the transfer of the Trust Securities.

49. Second, the transfer of the Trust Securities was a preferential transfer under the Bankruptcy Code. At a time when WMI was insolvent, WMI transferred the Trust Securities on account of an antecedent obligation – the Downstream Undertakings.

50. The transfer was made either to WMB or JPMorgan Chase and enabled WMB or JPMorgan Chase to receive more than either would have received if WMI had not transferred the Trust Securities and had filed a bankruptcy case under chapter 7 of the Bankruptcy Code.

51. JPMorgan Chase expressly did not acquire any claims against WMI under the P&A Agreement and cannot be construed as a contractual assignee (P&A Agreement, Schedule 3.5), yet it asserted a claim to the Trust Securities in light of its assumption of all of WMB's deposit liabilities.

If the Trust Securities are deemed to have been transferred to JPMorgan Chase, they were transferred to JPMorgan Chase as subrogee to WMB, and subrogees do not enjoy the priority contemplated by section 507(a)(9) of the Bankruptcy Code. Therefore, the transfer enabled WMB to receive more than it would have received in a hypothetical WMI chapter 7 bankruptcy case. As such, JPMorgan Chase would be left with only a general unsecured claim and would stand to recover significantly less than the value of the Trust Securities.

52. Further, even if WMB or JPMorgan Chase could assert a priority claim under section 507(a)(9) of the Bankruptcy Code, which WMI disputes, the transfer enabled WMB or JPMorgan Chase to receive more than either would have received in a hypothetical WMI chapter 7 bankruptcy case. This is so because, as asserted above and below, WMB and JPMorgan Chase are transferees of transfers that are avoidable under the Bankruptcy Code. Section 502(d) of the Bankruptcy Code would operate to disallow any claim of WMB in a hypothetical WMI chapter 7 bankruptcy case.

53. JPMorgan Chase is liable to WMI's estate as an initial or subsequent transferee of the Trust Securities. On the Receivership Date and the Petition Date, JPMorgan Chase knew or should have known of the purported transfers of the Trust Securities and about the financial condition of WMI. Thus, JPMorgan Chase did not acquire its interest in WMI property in good faith and without knowledge of the voidability of the transfer of the Trust Securities.

(v) In the Alternative, the Trust Securities Were Not Transferred and are Owned by WMI

54. In the alternative, if it is determined that the Trust Securities were not in fact transferred to WMB or to JPMorgan Chase pursuant to the Assignment Agreement, then the Trust Securities are owned by WMI and are property of WMI's bankruptcy estate.

55. Pursuant to section 4.08 of the Trust Agreement, upon a Conditional Exchange, until replacement certificates are issued by WMI for the new WMI preferred stock issued to the prior

holders of the Trust Securities, the certificates formerly representing the Trust Securities shall be deemed for all purposes to represent the preferred shares of WMI. (Trust Agreement § 4.08). The September 26, 2008 press release provided that "until such depositary receipts are delivered or in the event such depositary receipts are not delivered, any certificates previously representing [Trust] Securities will be deemed for all purposes, effective as of 8:00 AM New York time on September 26, 2008, to represent Fixed Rate Depositary Shares or Fixed-to-Floating Rate Depositary Shares, as applicable." A copy of the press release is attached hereto as Exhibit 1. Thus, upon a Conditional Exchange, the Trust Securities necessarily became uncertificated.

56. Upon information and belief, the SPEs, the issuers of the Trust Securities, have made no transfer notations registering the Trust Securities to WMB to reflect any purported Assignment.[8]

57. More than simply a clerical act, registration is a legally significant act that facilitates the administration of a large-scale security issuance involving multiple holders, like the Trust Securities. Neither WMB nor JPMorgan Chase is the registered owner listed in the registrar's books with respect to the Trust Securities. Therefore, under applicable law and the Uniform Commercial Code as adopted by the State of Washington, the Trust Securities have not been delivered to WMB. Thus, the Trust Securities are property of WMI's bankruptcy estate.

(vi) JPMorgan Chase Has No Claim for the Trust Securities

58. The Trust Securities were not assigned to JPMorgan Chase under the terms of the P&A Agreement. Under Section 3.2(b) of the P&A Agreement, JPMorgan Chase was required to submit a bid for any securities that were not the capital stock of an acquired subsidiary of WMB. (P&A Agreement ¶ 3.2(b)). No such bid was submitted to WMB or the FDIC for the Trust

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[8] The Debtors are not aware of any transfer notations being made post-petition, but reserve their right to amend the complaint to avoid any such unauthorized transfers of property of the Debtors' estate.

Securities. The P&A Agreement further provides that "in the absence of an acceptable bid from [JPMorgan Chase], each such security shall not pass to [JPMorgan Chase] and shall be deemed to be an excluded asset hereunder." (P&A Agreement ¶ 3.2(b)). Therefore, JPMorgan Chase has no claim to the Trust Securities.

59. Further, Section 3.5 of the P&A Agreement provides that Schedule 3.5, "Certain Assets Not Purchased," enumerates certain assets not purchased, acquired, or assumed by JPMorgan Chase under the P&A Agreement. (P&A Agreement ¶ 3.5). Listed on Schedule 3.5 is "any interest, right, action, claim, or judgment against . . . any shareholder or holding company of [WMB] . . . ." (P&A Agreement, Schedule 3.5). Thus, JPMorgan Chase expressly did not acquire any claim from WMB for the Trust Securities under the Assignment Agreement or otherwise.

60. Further, in light of the fact that JPMorgan Chase assumed all of WMB's deposit liabilities, to the extent JPMorgan Chase has subrogated to the rights of WMB with respect to the Trust Securities, section 507(d) of the Bankruptcy Code provides that any priority status that WMB may have with respect to the Trust Securities will not inure to the benefit of JPMorgan Chase as subrogee.

61. Moreover, property is recoverable from JPMorgan Chase on account of, among other things, its status as a transferee of the avoidable Capital Contributions, as asserted above. Thus, section 502(d) of the Bankruptcy Code operates to disallow any claim of JPMorgan Chase (in any event) until JPMorgan Chase turns over the value of the avoidable Capital Contributions, among other things, to WMI's estate. Accordingly, any claim JPMorgan Chase may have on account of the Trust Securities or otherwise is disallowed.

C. Preferential Payments

(i) WMI Transfers Cash and Interests in Property to WMB on Account of Antecedent Debt

62. On or before the Receivership Date, WMI transferred significant sums or other interest in property to WMB, to third parties for the benefit of WMB, or to WMB fsb. These transfers were made on account of pre-existing tax-related obligations (the "Tax Transfers"), administrative obligations (the "Intercompany Settlements"), and indemnification obligations arising out of WMI's agreement to indemnify WMB for losses and fees incurred in connection with loans acquired pursuant to the merger of WMB with Long Beach Mortgage Company in July 2006 (the "Long Beach Transfers," and with the Intercompany Settlements and the Tax Transfers, the "Preferential Transfers"). In each case, the obligations were owed WMB and were made during the one-year period immediately preceding the Petition Date.

63. During the one-year period immediately preceding the Petition Date, the Tax Transfers were made to WMB by WMI in an approximate amount of $3,051,127,370. During this period, the Intercompany Settlements were made to WMB by WMI in an approximate amount of $151,934,564. During this period, the Long Beach Transfers were made to WMB by WMI in an approximate amount of $192,171,812 . The Preferential Transfers are detailed in the schedules attached hereto as Exhibit 2. At the time of the Preferential Transfers, WMB and WMB fsb were both "insiders" of WMI and "creditors" of WMI as those terms are defined in the Bankruptcy Code or under applicable non-bankruptcy law.

64. WMB and WMB fsb received more on account of the Preferential Transfers than they would have received under a hypothetical chapter 7 bankruptcy case had the Preferential Transfers not been made.

65. To the extent WMI was insolvent at the time of the various Preferential Transfers, the Preferential Transfers are avoidable under the Bankruptcy Code and under applicable state law as fraudulent transfers. To the extent WMI was insolvent at the time of the various Preferential Transfers, WMB and WMB fsb had reasonable cause to believe that WMI was insolvent.

(ii) Preferential Transfers are Subsequently Transferred to JPMorgan Chase

66. The Preferential Transfers were transfers of an interest of WMI in property. Pursuant to P&A Agreement, JPMorgan Chase purchased substantially all of WMB's assets. Moreover, by subsequent transaction, JPMorgan Chase merged with WMB fsb. Thus, on the Receivership Date, the funds and/or value that comprised the Preferential Transfers were transferred to JPMorgan Chase.

67. Because the Preferential Transfers are avoidable as preferential transfers or as fraudulent transfers, then pursuant to section 550 of the Bankruptcy Code, WMI may recover the Preferential Transfers from JPMorgan Chase as subsequent transferee, or the value of the Preferential Transfers for the benefit of WMI's estate. On the Receivership Date and the Petition Date, JPMorgan Chase knew or should have known of the Preferential Transfers and about the financial condition of WMI. Thus, JPMorgan Chase did not acquire its interest in WMI property in good faith and without knowledge of the voidability of the Preferential Transfers.

D. FDIC Sells WMB's Assets to JPMorgan Chase For Less Than Reasonably Equivalent Value

68. As reported in the *Wall Street Journal*, because the FDIC had informed JPMorgan Chase in early September that it desired to "immediately auction off WaMu's assets" upon the

seizure of WMB, "J.P. Morgan was well-prepared . . . when the FDIC asked for bids" for the purchase of WMB's assets. Heidi N. Moore, *Deal Journal*, WALL ST. J., Sept. 30, 2008, at C7.

69. Prior to the Receivership Date, the FDIC determined that it would accept JPMorgan Chase's bid for WMB's assets.

70. Immediately after its appointment as receiver, the FDIC purportedly sold the majority of WMB's assets to JPMorgan Chase in exchange for consideration of $1.88 billion.

71. Under the P&A Transaction, JPMorgan Chase likely acquired more than $300 billion of assets at book value, including $134 billion of retail deposits and over $8 billion of uninsured deposits which have matching liabilities. *See* FDIC Memorandum to Board of Directors, September 24, 2008.

72. Less than a week after the P&A Transaction was consummated, JPMorgan Chase booked an after-tax extraordinary gain from "merger-related items" in connection with the P&A Transaction in the amount of $581 million. *See* JPMorgan Chase & Co., Form 10-Q for the quarter ended September 30, 2008, at 9. This amount reflected "negative goodwill," or a gain occurring when the price paid for an acquisition is less than the fair value of the acquired net assets. Subsequently, and because JPMorgan Chase's initial assessment of the value received over and beyond what it paid was conducted just days after the P&A Transaction, that gain was reassessed and increased to *$1.9 billion* – an amount in and of itself more than the total consideration paid by JPMorgan Chase. *See* JPMorgan Chase & Co., Form 10-K for the fiscal year ended December 31, 2008, at 26.

73. The actual windfall to JPMorgan Chase was even greater, taking an immediate effect on JPMorgan Chase revenues. Having acquired WMB at fire-sale prices, JPMorgan Chase has achieved "record firmwide revenue" in first quarter 2009 and has enjoyed growth in retail banking

deposits by 62% and in checking accounts by 126%.[9] Further, JPMorgan Chase has announced that it is now poised to recognize significant gains (*i.e.*, as much as $29 billion), as it recognizes the actual market value of many of the WMB assets it purchased and marked down at aggressive discounts. *See* Ari Levy and Elizabeth Hester, *JPMorgan's WaMu Windfall Turns Bad Loans Into Income,* BLOOMBERG.COM, May 26, 2009.[10]

74. At the time of the P&A Transaction, WMI was an actual creditor of WMB pursuant to various promissory notes and other intercompany payables. WMB was insolvent at the time of, or was rendered insolvent by, the P&A Transaction or was engaged in a business for which its remaining assets were unreasonably small.

75. In short, WMB did not receive from JPMorgan Chase reasonably equivalent value in exchange for the transfer of WMB's assets in the P&A Transaction.

E. Former Intercompany Amounts Due Assumed and Payable by JPMorgan Chase

76. WMB was indebted to WMI, or certain of WMI's non-bank, non-Debtor subsidiaries, under certain demand promissory notes that are due and payable in an approximate aggregate amount of $177 million as of the Petition Date (the "Promissory Notes"), plus interest accruing thereafter, as follows:[11]

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9 *See* JPMorgan Chase Press Release, *JPMorgan Chase Reports First-Quarter 2009 Net Income of $2.1 Billion, or $0.40 per Share,* April 16, 2009. Specifically, net income in JPMorgan Chase's Retail Financial Services division "was $474 million, compared with a net loss of $311 million in the prior year" due, in part, to the "positive impact of the Washington Mutual transaction . . ." Net income in JPMorgan Chase's Commercial Banking division "was $338 million, an increase of $46 million, or 16%, from the prior year, driven by higher net revenue reflecting the impact of the Washington Mutual transaction . . ." "Net interest income [at JPMorgan Chase] was $15.5 billion, up by $6.1 billion, or 65%, due to the impact of the Washington Mutual transaction," among other things.

10 http://www.bloomberg.com/apps/news?pid=20601087&sid=aYhaiSOq_Tbc &refer=home

11 Separately, WMB and WMB fsb were indebted to the Debtors on account of deposit liabilities in an amount in excess of $4 billion. These deposit liabilities are the subject of a separate adversary

- $82,048,081 under that certain Revolving Master Note, dated as of December 22, 2005, by and between WMB, as borrower, and H.S. Loan Corporation, as lender. H.S. Loan Corporation is a subsidiary of WMI, in which WMB owns 1.3283%.

- $73,670,153 under that certain Revolving Master Note, dated as of December 22, 2005, by and between WMB, as borrower, and H.S. Loan Partners, as lender. H.S. Loan Partners is an indirect, wholly-owned subsidiary of WMI.

- $7,781,240 under that certain Revolving Master Note, dated as of February 11, 2005, by and between WMB, as borrower, and WMHFA Delaware Holdings LLC, as lender. WMEIFA Delaware Holdings LLC is an indirect, wholly-owned subsidiary of WMI.

- $13,576,245 under that certain Registered Security, Note A, dated as of December 17, 2004, by and between University Street, Inc., as payor and predecessor in interest to WMB, and WMRP Delaware Holdings LLC, as payee, and predecessor in interest to PCA Asset Holdings LLC. This Promissory Note is recorded on WMI's books and records as an obligation owed to PCA Asset Holdings LLC, an indirect subsidiary of WMI, by WMB.

77. Further, there were significant intercompany receivables, that arose pursuant to that certain Administrative Services Agreement (the "Administrative Services Agreement"), identified by account numbers 28101, 28120, and 28025 owed WMI by WMB or its subsidiary WaMu Capital Corp. in the approximate amount of $22.5 million (the "Intercompany Receivables"). A summary of the amounts owed to WMI is as follows:

Account Debtor	WMI A/R Number	Amount
WMB	28101	$9,298,479
WMB	28120	$13,200,977
WaMu Capital Corp.	28025	$28,558

78. Additionally, there may be other service agreements which would fall under the Administrative Services Agreement that operated to benefit WMB or one of its subsidiaries prior to the Petition Date. To the extent it is determined that the Debtors are liable for any amounts owed

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proceeding commenced on April 27, 2009, captioned *Washington Mutual, Inc. et al.v. JPMorgan Chase Bank, N.A.*, Adv. No. 09-50934.

under such agreements, a related intercompany payable would have accrued payable from WMB to WMI (the "Additional Intercompany Receivables").

79. Separately, as of the Petition Date, WMI sponsored a tax qualified cash balance pension plan, the WaMu Pension Plan (the "Plan"). Beginning in December 2006, and contrary to historical practice, WMI began to make contributions on account of both WMI and WMB plan participants. Pursuant to the Administrative Services Agreement, WMB is obligated to compensate WMI for such contributions. From December 2006 through the Petition Date, WMI contributed approximately $491 million on account of both WMI and WMB plan participants and has not been paid any amounts owed it by WMB for the amount contributed on account of WMB plan participants (the portion allocable to WMB or WMB subsidiary plan participants being the "Retirement Benefit Advances," and collectively, with the Promissory Notes, the Intercompany Receivables, and the Additional Intercompany Receivables, the "Intercompany Amounts Due").

80. Under the P&A Agreement, JPMorgan Chase "expressly assumes . . . all of the liabilities of [WMB] which are reflected on the Books and Records of [WMB]. . .and all liabilities associated with any and all employee benefit plans . . . ." (P&A Agreement at § 2.1). Thus, JPMorgan Chase assumed the Intercompany Amounts Due. However, the Intercompany Amounts Due have not been paid to WMI's estate and remain due and payable.

F. JPMorgan Chase's Unauthorized Use of the WaMu Trademarks

81. WMI is the owner of more than 80 federal trademark registrations and applications comprising a family of Washington Mutual trademarks, including but not limited to the marks "WAMU," "WASHINGTON MUTUAL," and the "W Logo" for a variety of services including but not limited to banking, credit card, lending, investment and other financial services as well as community, education and philanthropic oriented services (the "WaMu Marks"). The registrations

are valid and subsisting, unrevoked and uncancelled, in full force and effect. A list of the aforesaid federal trademark registrations and applications is attached hereto as Exhibit 3.

82. In the years preceding the seizure, the WaMu corporate family encompassed dozens of companies that operated, primarily under the WAMU brand, as a single, unified organization. Many of these companies conducted business under the WaMu Marks, as part of the larger Washington Mutual corporate family.

82. The WaMu Marks are unquestionably famous and extremely valuable. Banking services and related services have been provided under some or all of the WaMu Marks since 1889. The WAMU mark has been continuously used since at least as early as 1983. At the time of the seizure of WMB, it was the largest thrift and the sixth largest banking institution in the United States. In fact, the rights to the WAMU brand alone was recently valued at approximately $6 billion.

83. WMI also owns registrations for at least 140 other trademarks and service marks, each in connection with various lines of business of the WaMu corporate family (the "Secondary Marks"). The registrations are valid and subsisting, unrevoked and uncancelled, in full force and effect. A list of the aforesaid federal trademark registrations and applications is attached hereto as Exhibit 4.

84. It was WMI's policy and practice to register the WaMu Marks and the Secondary Marks with the United States Patent and Trademark Office in the name of WMI, the holding company. WMI subsidiaries operating under the WaMu Marks and/or using the Secondary Marks were permitted to use them for the products and services relevant to such subsidiary's business pursuant to an implied license from WMI for as long as the subsidiary remained part of the Washington Mutual corporate family.

85. WMI is the owner of approximately 1350 domain names containing the WaMu Marks and the Secondary Marks, including, but not limited to, wamu.com, washingtonmutual.com, and wamubank.com (collectively, the "WaMu Domain Names"), which contain either the WaMu Marks, the Secondary Marks, or references to past advertising campaigns. WMI subsidiaries were permitted to use the WaMu Domain Names to advertise and provide information to customers regarding the products and services relevant to such subsidiary's business pursuant to an implied license from WMI for as long as the subsidiary remained part of the Washington Mutual corporate family.

86. Wamu.com was the primary website for WMI and its subsidiaries, and as such was the primary centralized focal point for customer interaction, from advertising WMI's various products and services to providing online banking and financial and investment consultation services. In addition, WAMU.COM is the subject of a U.S. federal trademark registration for a broad range of banking and financial services.

87. WMB, as a subsidiary of WMI, used the WaMu Marks and the Secondary Marks pursuant to an implied license from WMI which operated so long as WMB remained a member of WMI's corporate family.

88. On September 25, 2008, upon the OTS's seizure of WMB, WMB's license to use the WaMu Marks and the Secondary Marks terminated.

89. JPMorgan Chase's continued use of the WaMu Marks and the Secondary Marks, in connection with its business operations is unauthorized and infringing.

90. JPMorgan Chase has infringed the WaMu Domain Names by continuing to use at least 120 active domain names, including, but not limited to wamu.com, and by causing at least 60 of the active WaMu Domain Names, including, but not limited to wamu.com, to display JPMorgan Chase-branded and run websites.

91. JPMorgan Chase's continued use of the WaMu Marks, the Secondary Marks and the WaMu Domain Names will cause consumers to falsely believe that the products and/or services provided by JPMorgan Chase under such marks and domain names emanate from WMI, or are being rendered with the authorization or approval of WMI, when they are not.

92. JPMorgan Chase's use of the WaMu Marks, the Secondary Marks and the WaMu Domain Names is intentional and willful.

FIRST COUNTERCLAIM

Avoidance and Recovery of Capital Contributions Pursuant to 11 U.S.C. §§ 548, 550

93. Debtors repeat and re-allege each and every allegation contained in the preceding paragraphs 1-92.

94. Each of the Capital Contributions was a transfer of an interest in WMI's property within two years of the Petition Date.

95. WMI received no direct consideration in exchange for each of the Capital Contributions.

96. As of the time of each of the Capital Contributions, to the extent that WMI was either insolvent or was left with unreasonably small capital and WMB was insolvent or the prospect of WMB being seized by the OTS was so likely that equity shares in WMB were valueless, each of the Capital Contributions was for less than reasonably equivalent value and is avoidable as a fraudulent transfer under section 548 of the Bankruptcy Code.

97. JPMorgan Chase is liable to WMI's estate as a subsequent transferee of the interest in WMI's property that was transferred by each of the Capital Contributions plus pre-judgment interest at the highest applicable rate to be determined by the Court. JPMorgan Chase did not acquire its interest in the WMI property that was transferred by each of the Capital Contributions in good faith and without knowledge of the voidability of each of the Capital Contributions.

SECOND COUNTERCLAIM

Avoidance and Recovery of Capital Contributions Pursuant to 11 U.S.C. §§ 544, 550; RCW §§ 19.40.041, 19.40.051, 19.40.071 & 19.40.081

98. Debtors repeat and re-allege each and every allegation contained in the preceding paragraphs 1-97.

99. On the dates of each of the Capital Contributions, there were actual creditors of the Debtors holding unsecured claims allowable against the Debtors' estates within the meaning of sections 502(d) and 544(b) of the Bankruptcy Code, which claims remained unsatisfied on the Petition Date. Pursuant to section 544(b) of the Bankruptcy Code, the Debtors have the rights of an existing unsecured creditor of the Debtors.

100. Each of the Capital Contributions was a transfer of an interest in WMI's property within four years of the Petition Date.

101. WMI received no direct consideration in exchange for each of the Capital Contributions.

102. As of the time of each of the Capital Contributions, to the extent that WMI was either insolvent or was left with unreasonably small remaining assets and WMB was insolvent or the prospect of WMB being seized by the OTS was so likely that equity shares in WMB were valueless, each of the Capital Contributions was not for reasonably equivalent value and are avoidable fraudulent transfers under RCW §§ 19.40.041, 19.40.051 and section 544 of the Bankruptcy Code.

103. JPMorgan Chase is liable to WMI's estate as a subsequent transferee of the interest in WMI's property that was transferred by each of the Capital Contributions plus pre-judgment interest at the highest applicable rate to be determined by the Court. JPMorgan Chase did not acquire its interest in the WMI property that was transferred by each of the Capital Contributions in good faith and without knowledge of the voidability of each of the Capital Contributions.

THIRD COUNTERCLAIM

Avoidance and Recovery of Trust Securities Pursuant to 11 U.S.C. §§ 548, 550

104. Debtors repeat and re-allege each and every allegation contained in the preceding paragraphs 1-103.

105. The transfer of the Trust Securities to WMB or to JPMorgan Chase is avoidable pursuant to 11 U.S.C. § 548.

106. The transfer of the Trust Securities was a transfer of an interest in WMI's property within two years of the Petition Date.

107. At the time of the transfer of the Trust Securities, WMI was insolvent or had unreasonably small capital. WMI did not receive any value for transferring the Trust Securities to WMB or to JPMorgan Chase. Further, WMI received no indirect benefit either, such as increased equity value flowing from WMB because its wholly-owned subsidiary WMB was insolvent or had been seized by FDIC thereby rendering WMI's equity stake in WMB worthless. Moreover, both the purported transfer, and the Assignment the day prior, were made after WMB had been seized by the OTS, and thus WMI's equity shares in WMB were likewise valueless.

108. If the Trust Securities were transferred by WMI to JPMorgan Chase, then pursuant to section 550 of the Bankruptcy Code, WMI may recover the Trust Securities from JPMorgan Chase as initial transferee, or the value of the Trust Securities for the benefit of WMI's estate plus, in both instances, pre-judgment interest at the highest applicable rate to be determined by the Court.

109. If the Trust Securities were transferred by WMI to WMB and then to JPMorgan Chase, then pursuant to section 550 of the Bankruptcy Code, WMI may recover the Trust Securities from JPMorgan Chase as subsequent transferee, or the value of the Trust Securities for the benefit of WMI's estate plus, in both instances, pre-judgment interest at the highest applicable rate to be

determined by the Court. JPMorgan Chase did not acquire its interest in WMI property in good faith and without knowledge of the voidability of the Trust Securities.

FOURTH COUNTERCLAIM

Avoidance and Recovery of Trust Securities Pursuant to 11 U.S.C. §§ 544, 550; RCW §§ 19.40.041, 19.40.051, 19.40.071 & 19.40.081

110. Debtors repeat and re-allege each and every allegation contained in the preceding paragraphs 1-109.

111. The transfer of the Trust Securities to WMB or to JPMorgan Chase is avoidable pursuant to applicable Washington state law.

112. The transfer of the Trust Securities was a transfer of an interest in WMI's property within four years of the Petition Date.

113. On the date of the transfer of the Trust Securities, there were actual creditors of WMI holding unsecured claims allowable against WMI's estate within the meaning of sections 502(d) and 544(b) of the Bankruptcy Code, which claims remained unsatisfied on the Petition Date. Pursuant to section 544(b) of the Bankruptcy Code, WMI has the rights of an existing unsecured creditor of WMI.

114. At the time of the transfer of the Trust Securities, WMI was insolvent or had unreasonably small remaining assets. WMI did not receive any value for transferring the Trust Securities to WMB or to JPMorgan Chase. Further, WMI received no indirect benefit either, such as increased equity value flowing from WMB because its wholly-owned subsidiary WMB was insolvent or had been seized by FDIC thereby rendering WMI's equity stake in WMB worthless. Moreover, both the purported transfer, and the Assignment the day prior, were made after WMB had been seized by the OTS, and thus WMI's equity shares in WMB were likewise valueless.

115. If the Trust Securities were transferred by WMI to JPMorgan Chase, then pursuant to section 550 of the Bankruptcy Code, WMI may recover the Trust Securities from JPMorgan Chase as initial transferee, or the value of the Trust Securities for the benefit of WMI's estate plus, in both instances, pre-judgment interest at the highest applicable rate to be determined by the Court.

116. If the Trust Securities were transferred by WMI to WMB and then to JPMorgan Chase, then pursuant to section 550 of the Bankruptcy Code, WMI may recover the Trust Securities from JPMorgan Chase as subsequent transferee, or the value of the Trust Securities for the benefit of WMI's estate plus, in both instances, pre-judgment interest at the highest applicable rate to be determined by the Court. JPMorgan Chase did not acquire its interest in WMI property in good faith and without knowledge of the voidability of the Trust Securities.

FIFTH COUNTERCLAIM

Avoidance and Recovery of Trust Securities Pursuant to 11 U.S.C. §§ 547, 550

117. Debtors repeat and re-allege each and every allegation contained in the preceding paragraphs 1-116.

118. In the alternative to the third and fourth counterclaims, if it is determined at or before trial that WMI transferred the Trust Securities to WMB or to JPMorgan Chase in satisfaction of the Downstream Undertakings as valid, enforceable, antecedent obligations, then such transfer is avoidable pursuant to 11 U.S.C. § 547.

119. As such, WMB or JPMorgan Chase, as subrogee or successor in interest to WMB, were creditors of WMI pursuant to the Downstream Undertakings at the time the transfer was made.

120. The transfer of the Trust Securities was a transfer of an interest in WMI's property within ninety days of the Petition Date.

121. WMI was insolvent at the time the transfer was made.

122. As asserted above, WMB, as recipient of the Capital Contributions, is a transferee of a transfer avoidable under the Bankruptcy Code. Property is recoverable under the Bankruptcy Code from JPMorgan Chase on account of its status as a transferee of the Capital Contributions.

123. The transfer allowed WMB or JPMorgan Chase to receive more by virtue of the transfer than either of them would have received had the transfer not been made in a hypothetical WMI chapter 7 bankruptcy case.

124. Pursuant to section 550 of the Bankruptcy Code, WMI may recover the Trust Securities from JPMorgan Chase as initial or subsequent transferee, or the value of the Trust Securities for the benefit of WMI's estate plus, in both instances, pre-judgment interest at the highest applicable rate to be determined by the Court. JPMorgan Chase did not acquire its interest in WMI property in good faith and without knowledge of the voidability of the Trust Securities.

SIXTH COUNTERCLAIM

Avoidance and Recovery of Trust Securities Pursuant to 11 U.S.C. §§ 544, 550; RCW §§ 19.40.051, 19.40.071 & 19.40.081

125. Debtors repeat and re-allege each and every allegation contained in the preceding paragraphs 1-124.

126. On the dates of the transfer of the Trust Securities, there were actual creditors of WMI holding unsecured claims allowable against WMI's estate within the meaning of sections 502(d) and 544(b) of the Bankruptcy Code, which claims remained unsatisfied on the Petition Date. Pursuant to section 544(b) of the Bankruptcy Code, WMI has the rights of an existing unsecured creditor of WMI.

127. In the alternative to the third and fourth counterclaims, if it is determined at or before trial that WMI transferred the Trust Securities to WMB or to JPMorgan Chase in satisfaction of the

Downstream Undertakings as valid, enforceable, antecedent obligations, then such transfer is avoidable pursuant to 11 U.S.C. § 544 and Washington state law.

128. As such, WMB or JPMorgan Chase, as successor in interest to WMB, were creditors of WMI pursuant to the Downstream Undertakings at the time the transfer was made.

129. WMB or JPMorgan Chase, as successor in interest to WMB, was an insider of WMI under applicable law at the time the transfer of the Trust Securities was made.

130. The transfer of the Trust Securities was a transfer of an interest in WMI's property within one year of the Petition Date.

131. WMI was insolvent at the time the transfer was made and WMB or JPMorgan Chase had reasonable cause to believe that WMI was insolvent in light of the seizure of WMB by the FDIC, among other reasons.

132. Pursuant to section 550 of the Bankruptcy Code, WMI may recover the Trust Securities from JPMorgan Chase as subsequent transferee, or the value of the Trust Securities for the benefit of WMI's estate plus, in both instances, pre-judgment interest at the highest applicable rate to be determined by the Court. JPMorgan Chase did not acquire its interest in WMI property in good faith and without knowledge of the voidability of the Trust Securities.

SEVENTH COUNTERCLAIM

Declaratory Judgment that Trust Securities are Property of the Estate

133. Debtors repeat and re-allege each and every allegation contained in the preceding paragraphs 1-132.

134. In the alternative to the third, fourth, fifth, and sixth counterclaims, as set forth above, the Trust Securities were not transferred to WMB, the FDIC, or JPMorgan Chase.

135. JPMorgan Chase asserts a claim of ownership to the Trust Securities.

136. The Trust Securities were not assigned to JPMorgan Chase under the terms of the P&A Agreement. Thus, at best, JPMorgan Chase has a general unsecured claim against WMI's estate as subrogee to WMB.

137. There is an actual controversy that is of sufficient immediacy to warrant judicial relief under the Declaratory Judgment Act, 28 U.S.C. § 2201.

138. Debtors request a declaratory judgment that the Trust Securities are property of WMI's bankruptcy estate and were never delivered or transferred therefrom.

EIGHTH COUNTERCLAIM

Avoidance and Recovery of Preferential Transfers to WMB Pursuant to 11 U.S.C. §§ 547, 550

139. Debtors repeat and re-allege each and every allegation contained in the preceding paragraphs 1-138.

140. The Preferential Transfers were transfers of an interest in WMI's property within one year of the Petition Date.

141. WMB and WMB fsb were creditors of WMI at the time the Preferential Transfers were made and the Preferential Transfers were made to WMB or WMB fsb or for their benefit.

142. WMB and WMB fsb were insiders of WMI within the meaning of the Bankruptcy Code at the time the Preferential Transfers were made.

143. The Preferential Transfers allowed WMB and WMB fsb to receive more by virtue of the Preferential Transfers than they would have received had the Preferential Transfers not been made in a hypothetical WMI chapter 7 bankruptcy case.

144. To the extent WMI was insolvent at the time the Preferential Transfers were made, the Preferential Transfers are avoidable pursuant to 11 U.S.C. § 547.

145. JPMorgan Chase is liable to WMI's estate as a subsequent transferee of the Preferential Transfers plus pre-judgment interest at the highest applicable rate to be determined by the Court. JPMorgan Chase did not acquire its interest in WMI property in good faith and without knowledge of the voidability of the Preferential Transfers.

NINTH COUNTERCLAIM

Avoidance and Recovery of Preferential Transfers to WMB Pursuant to 11 U.S.C. §§ 544, 550; RCW §§ 19.40.051, 19.40.071 & 19.40.081

146. Debtors repeat and re-allege each and every allegation contained in the preceding paragraphs 1-145.

147. On the dates of the Preferential Transfers, there were actual creditors of WMI holding unsecured claims allowable against WMI's estate within the meaning of sections 502(d) and 544(b) of the Bankruptcy Code, which claims remained unsatisfied on the Petition Date. Pursuant to section 544(b) of the Bankruptcy Code, WMI has the rights of an existing unsecured creditor of WMI.

148. The Preferential Transfers were transfers of an interest in WMI's property within one year of the Petition Date.

149. WMB and WMB fsb were creditors of WMI at the time the Preferential Transfers were made.

150. WMB and WMB fsb were insiders of WMI under applicable law at the time the Preferential Transfers were made.

151. To the extent WMI was insolvent at the time the Preferential Transfers were made (which WMB and WMB fsb each would have had reason to know of), the Preferential Transfers are avoidable pursuant to 11 U.S.C. § 544 and Washington state law.

152. Pursuant to section 550 of the Bankruptcy Code, JPMorgan Chase is liable to WMI's estate as a subsequent transferee of the Preferential Transfers plus pre-judgment interest at the

highest applicable rate to be determined by the Court. JPMorgan Chase did not acquire its interest in WMI property in good faith and without knowledge of the voidability of the Preferential Transfers.

TENTH COUNTERCLAIM

Fraudulent Transfer Pursuant to 11 U.S.C. § 541; RCW §§ 19.40.041, 19.40.051, 19.40.071, & 19.40.081; NEV. REV. STAT. §§ 112.180, 112.190, 112.210, & 112.220

153. Debtors repeat and re-allege each and every allegation contained in the preceding paragraphs 1-152.

154. The P&A Transaction is avoidable as a fraudulent transfer by WMI in WMI's capacity as a creditor of WMB under Nevada state law or alternatively under Washington state law.

155. At the time of the P&A Transaction, WMI was an actual creditor of WMB pursuant to various promissory notes and other intercompany payables. WMB was insolvent at the time of, or was rendered insolvent by, the P&A Transaction or was engaged in a business for which its remaining assets were unreasonably small.

156. The P&A Transaction is avoidable because it took place within four years of the date hereof and WMB did not receive reasonably equivalent value for its assets from JPMorgan Chase.

157. JPMorgan Chase did not acquire WMB's assets in good faith.

158. JPMorgan Chase is liable to WMI's estate for the actual value of WMB's assets at the time of the P&A Transaction to be demined at trial plus pre-judgment interest at the highest applicable rate to be determined by the Court.

159. Alternatively, JPMorgan Chase is liable to WMI's estate in an amount necessary to satisfy any and all claims that WMI has against WMB in full.

160. With respect to the claims recited in paragraphs 158 and 159 hereof, WMI has a claim against JPMorgan Chase for money damages and for any other relief that the circumstances may require.

161. Alternatively, WMI may avoid the P&A Transaction to the extent necessary to satisfy any and all claims that WMI has against WMB in full.

ELEVENTH COUNTERCLAIM

Disallowance of Claims Pursuant to 11 U.S.C. §§ 105, 502

162. Debtors repeat and re-allege each and every allegation contained in the preceding paragraphs 1-161.

163. JPMorgan Chase filed proofs of claims in the Debtors' bankruptcy cases. The Debtors hereby object to any and all claims filed or asserted by JPMorgan Chase pursuant to section 502(d) of the Bankruptcy Code.[12]

164. Property is recoverable from JPMorgan Chase on account of its status as a transferee of the Capital Contributions, the Preferential Transfers, and to the extent applicable, the Trust Securities, as asserted above. JPMorgan Chase has failed to turn over to the Debtors such property of the Debtors' estates.

165. Pursuant to Section 502(d) of the Bankruptcy Code, each claim asserted by JPMorgan Chase must be disallowed because property of the Debtors' estates is recoverable from JPMorgan Chase and JPMorgan Chase has not turned over all of such property to the Debtors.

166. Further, pursuant to Section 502(b)(1) of the Bankruptcy Code, the Debtors have a right of setoff under applicable state law, and because the Debtors have claims against JPMorgan

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12 The Debtors reserve their rights to object to JPMorgan Chase's proofs of claims on different grounds through the Debtors' claims reconciliation process.

Chase that exceed the amount (if any) owed by the Debtors to JPMorgan Chase, JPMorgan Chase's claims are unenforceable and must be disallowed.

TWELFTH COUNTERCLAIM

Declaratory Judgment that Certain Assets are Property of the Estate

167. Debtors repeat and re-allege each and every allegation contained in the preceding paragraphs 1-166.

168. In its Complaint, JPMorgan Chase asserts a claim of ownership to the: (i) Trust Securities; (ii) Tax Refunds; (iii) $3.7 Billion Book Entry Transfer; (iv) Anchor and American Judgments (as defined therein) and all monies paid on account of those judgments, as well as any future judgment in either the *Anchor Savings Bank* or the *American Savings Bank* litigations; (v) Legacy Rabbi Trusts; (vi) Pension and 401(k) Plans; (vii) BOLI and Split Dollar Policies; (viii) Visa Shares; and (ix) Intangible Assets (each as defined in the Complaint, and collectively, the "Disputed Assets").

169. The Disputed Assets are property of the Debtors' estates and were not purchased by JPMorgan Chase under the terms of the P&A Agreement.

170. There is an actual controversy that is of sufficient immediacy to warrant judicial relief under the Declaratory Judgment Act, 28 U.S.C. § 2201.

171. The Debtors request a declaratory judgment determining that all of the Disputed Assets are property of the Debtors' estates and were not purchased by JPMorgan Chase under the terms of the P&A Agreement.

THIRTEENTH COUNTERCLAIM

Turnover of Intercompany Amounts Due Pursuant to 11 U.S.C. § 542

172. Debtors repeat and re-allege each and every allegation contained in the preceding paragraphs 1-171.

173. The Intercompany Amounts Due are debts owed to the Debtors' estates that are matured and payable on demand.

174. Pursuant to section 542 of the Bankruptcy Code, JPMorgan Chase is required to pay the Intercompany Amounts Due, including pre-judgment interest at the highest applicable rate to be determined by the Court, to the Debtors' estates.

FOURTEENTH COUNTERCLAIM

Unjust Enrichment, Constructive Trust, and Equitable Lien

175. Debtors repeat and re-allege each and every allegation contained in the preceding paragraphs 1-174.

176. JPMorgan Chase would be unjustly enriched if it were allowed to retain the Capital Contributions, the Trust Securities (if transferred), the Preferential Transfers, or any of the Disputed Assets.

177. In order to prevent that unjust enrichment, equity entitles WMI to recover the value of the property transferred, including through the remedies of constructive trust and/or equitable lien.

FIFTEENTH COUNTERCLAIM

Trademark Infringement Pursuant to 15 U.S.C. § 1114

178. Debtors repeat and re-allege each and every allegation contained in the preceding paragraphs 1-177.

179. JPMorgan Chase's continued use of the WaMu Marks, the Secondary Marks, and the WaMu Domain Names that incorporate either the WaMu Marks or the Secondary Marks, in connection with its business operations is unauthorized and infringing.

180. JPMorgan Chase's use of the WaMu Marks, the Secondary Marks and the WaMu Domain Names is intentional and willful.

181. The aforesaid acts of JPMorgan Chase constitute trademark infringement in violation of Section 32(1) of the Lanham Act, 15 U.S.C. § 1114(1).

182. The aforesaid acts of Counterclaim-Defendants have caused, and are causing, great and irreparable harm to WMI and, unless JPMorgan Chase is permanently restrained by this Court, said injury will continue.

183. WMI, the owner of the WASHINGTON MUTUAL and W Logo marks, permitted WMB, as its licensee, to retain two United States trademark registrations that cover a small fraction of WMB's services (United States Trademark Registrations Nos. 1197378 and 1214303), as an administrative convenience. Since the license is now terminated, WMI is entitled to an order requiring that JPMorgan Chase assign said trademark registrations to WMI to rectify the Federal Register or, in the alternative, cancelling such registrations.

184. WMI is entitled to recover its damages sustained as a result of JPMorgan Chase's federal trademark infringement, together with an accounting of JPMorgan Chase profits arising from such infringing activities.

185. WMI is entitled to recover treble damages under 15 U.S.C. § 1117 by reason of the willful and deliberate acts of federal trademark infringement by JPMorgan Chase.

186. WMI is entitled to recover its reasonable attorneys' fees pursuant to 15 U.S.C. § 1117.

SIXTEENTH COUNTERCLAIM

Common Law Trademark Infringement

187. Debtors repeat and re-allege each and every allegation contained in the preceding paragraphs 1-186.

188. The aforesaid acts of JPMorgan Chase constitute use that is likely to cause confusion as to the source of JPMorgan Chase's services.

189. The aforesaid acts of JPMorgan Chase constitute trademark infringement in violation of WMI's continuing and residual common law trademark rights in the WaMu Marks and the Secondary Marks.

190. The aforesaid acts of JPMorgan Chase have caused, and are causing, great and irreparable harm to WMI, and, unless permanently restrained by this Court, said injury will continue.

191. WMI is entitled to recover JPMorgan Chase's profits and/or damages by reason of JPMorgan Chase's acts of trademark infringement under the common law.

SEVENTEENTH COUNTERCLAIM

Patent Infringement

192. Debtors repeat and re-allege each and every allegation contained in the preceding paragraphs 1-191.

193. The Court has jurisdiction pursuant to 28 U.S.C. § 1334 and 28 U.S.C. § 157.

194. WMI is the owner by assignment of United States Patent No. 6,681,985, entitled "System For Providing Enhanced Systems Management, Such As In Branch Banking" (the "'985 patent"). The '985 patent was duly and legally issued by the United States Patent and Trademark Office ("USPTO") on January 27, 2004. A true and correct copy of the '985 patent is attached hereto as Exhibit 5.

195. In the years preceding the seizure, the WaMu corporate family encompassed dozens of companies that operated as a single, unified organization. WMB practiced the '985 patent as part of the larger corporate family.

196. Related companies were permitted to practice the '985 patent pursuant to an implied license from WMI for as long as they remained part of the Washington Mutual corporate family.

197. On September 25, 2008, upon the OTS's seizure of WMB, WMB's implied license to practice the '985 patent terminated.

198. JPMorgan Chase has continued to practice the '985 patent in connection with its business operations, which use is unauthorized and infringing.

199. In violation of 35 U.S.C. § 271, JPMorgan Chase has been and is now directly infringing and indirectly infringing, by way of inducement and/or contribution, literally and/or under the doctrine of equivalents, the '985 patent by practicing one or more claims of the '985 patent by making, using, selling, offering for sale, contributing to the use of, and/or inducing the use of financial transaction processing systems to process financial transactions for a customer in a branch bank.

200. JPMorgan Chase's infringement of the '985 patent includes, but is not limited to, use of the patented system in connection with banking operations in former Washington Mutual branch banks.

201. JPMorgan Chase's actions have damaged WMI in an amount to be determined at trial and have caused and will continue to cause WMI irreparable injury for which WMI has no adequate remedy at law.

202. Upon information and belief, JPMorgan Chase's infringement, contributory infringement, and inducement to infringe have been, and continue to be, willful, and will continue to injure WMI unless and until the Court enters an injunction prohibiting further infringement.

203. WMI is entitled to an award of damages adequate to compensate WMI for the infringement that has occurred, together with prejudgment interest from the date infringement began.

204. WMI is also entitled to increased damages as permitted under 35 U.S.C. § 284, as well a finding that this case is exceptional, entitling WMI to attorneys' fees and costs as provided by 35 U.S.C. § 285.

205. WMI is also entitled to a permanent injunction prohibiting JPMorgan Chase's further infringement, inducement of infringement, and contributory infringement of the '985 patent.

EIGHTEENTH COUNTERCLAIM

Federal Copyright Infringement Pursuant to 17 U.S.C. § 501

206. Debtors repeat and re-allege each and every allegation contained in the preceding paragraphs 1-205.

207. WMI owns the copyright for its website at wamu.com (the "Website"). True and correct copies of the Certificates of Registration issued by the United States Copyright Office are attached hereto as Exhibit 6.

208. Upon information and belief, JPMorgan Chase has continued to display, reproduce and distribute the Website, or significant parts thereof, without authorization from WMI.

209. Upon information and belief, JPMorgan Chase has created, reproduced and distributed derivative works based on the Website without authorization from WMI.

210. The actions and conduct by JPMorgan Chase as described above infringe upon the exclusive rights of WMI granted by Section 106 of the Copyright Act, 17 U.S.C. § 106, to display, reproduce, and distribute the copyrighted Website to the public, and to create derivative works based on the copyrighted Website. WMI is informed and believes, and on that basis alleges, that JPMorgan Chase has infringed directly and indirectly WMI's exclusive rights in the Copyrighted Website.

211. Such actions and conduct by JPMorgan Chase constitute copyright infringement under Section 501 of the Copyright Act, 17 U.S.C. § 501.

212. As a result of the copyright infringement described above, WMI is entitled to relief including, but not limited to, injunctive relief, actual damages, and prejudgment interest.

PRAYER FOR RELIEF

WHEREFORE, Debtors WMI and WMI Investment respectfully request that the Court enter judgment in favor of Debtors:

A. Dismissing the Complaint with prejudice;

B. Ordering JPMorgan Chase to return and pay to WMI's estate an amount equal to the Capital Contributions plus pre-judgment interest at the highest applicable rate to be determined by the Court;

C. Declaring that the Trust Securities are property of WMI's estate and were never delivered or transferred therefrom;

D. In the alternative, ordering JPMorgan Chase to return the Trust Securities to WMI's estate or to pay to WMI's estate an amount equal to the value of Trust Securities as of the Petition Date plus pre-judgment interest at the highest applicable rate to be determined by the Court;

E. Ordering JPMorgan Chase to return and pay to WMI's estate an amount equal to the Preferential Transfers plus pre-judgment interest at the highest applicable rate to be determined by the Court;

F. Ordering JPMorgan Chase to pay to WMI's estate the fair market value of the assets it purchased from WMB at the time of the P&A Transaction or, in the alternative, ordering JPMorgan Chase to return and pay to WMI's estate an amount necessary to satisfy any and all claims that WMI has against WMB in full, or, in the alternative, avoiding the P&A Transaction to the extent necessary to satisfy any and all claims that WMI has against WMB in full, in each case plus pre-judgment interest at the highest applicable rate to be determined by the Court;

G. Ordering JPMorgan Chase to pay restitution to the Debtors in an amount equal to JPMorgan Chase's unjust enrichment;

H. Disallowing each and every claim asserted by JPMorgan Chase against the Debtors' estates;

I. Declaring that the Disputed Assets are property of WMI's estate and were not purchased by JPMorgan Chase under the terms of the P&A Agreement;

J. Declaring that JPMorgan Chase has assumed the Intercompany Amounts Due and that such debts are due and payable;

K. Enjoining the further use of the WaMu Marks, the Secondary Marks and the WaMu Domain Names by JPMorgan Chase;

L. Ordering that JPMorgan Chase be required to assign United States Trademark Registrations Nos. 1197378 and 1214303 to WMI to rectify the Federal Register or, in the alternative, ordering the cancellation said trademark registrations;

M. Ordering that WMI recover its damages sustained as a result of JPMorgan Chase's federal trademark infringement, together with an accounting of JPMorgan Chase's profits arising from such infringing activities;

N. Ordering that WMI have and recover treble damages under 15 U.S.C. § 1117 by reason of the willful and deliberate acts of federal trademark infringement by JPMorgan Chase;

O. Ordering that WMI have and recover its reasonable attorneys' fees pursuant to 15 U.S.C. § 1117;

P. Ordering that WMI have and recover JPMorgan Chase's profits and/or damages by reason of JPMorgan Chase's acts of trademark infringement under the common law;

Q. Ordering that JPMorgan Chase pay damages adequate to compensate Debtors for JPMorgan Chase's past and ongoing willful infringement of the '985 patent and increased damages as permitted under 35 U.S.C. § 284;

R. Ordering that WMI have and recover its reasonable attorneys' fees and costs pursuant to 35 U.S.C. § 285;

S. Enjoining JPMorgan Chase's infringement, inducement of infringement, and contributory infringement of the '985 patent;

T. Ordering that WMI recover its damages sustained as a result of JPMorgan Chase's federal copyright infringement, together with prejudgment interest;

U. Enjoining JPMorgan Chase's copyright infringement;

V. Awarding the Debtors costs and attorneys' fees and expenses; and

W. Granting Debtors such other legal or equitable relief as is just.

DEMAND FOR JURY TRIAL

Debtors hereby demand trial by jury on counts fifteen to eighteen (15-18).

Dated: September 11, 2009
Wilmington, Delaware

ELLIOTT GREENLEAF

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

Exhibit 1

(Docket No. 23)

Exhibit 2

In re: Washington Mutual Inc.
Payments made to Washington Mutual Bank and Washington Mutual Bank fsb
Tax Transfers

Date	Amount	Paid to
11/9/2007	11,489,211	Washington Mutual Bank, fsb
11/9/2007	390,077,331	Washington Mutual Bank
12/17/2007	139,388,137	Washington Mutual Bank
2/26/2008	1,938,609,898	Washington Mutual Bank
3/17/2008	136,661,251	Washington Mutual Bank
6/16/2008	196,412,285	Washington Mutual Bank
9/15/2008	238,489,257	Washington Mutual Bank
Total	3,051,127,370	

In re: Washington Mutual Inc.
Payments made to Washington Mutual Bank
Long Beach Transfers

Date	Amount	Paid to
3/31/2008	$31,220,000	Washington Mutual Bank
5/30/2008	$122,406,521	Washington Mutual Bank
6/30/2008	$29,293,090	Washington Mutual Bank
9/18/2008	$9,252,201	Washington Mutual Bank
Total	**$192,171,812**	

In re: Washington Mutual, Inc.
Case No. 08-12229
SOFA 23 Payments to Insiders
Payments made to Washington Mutual Bank

Date Paid	Amount Paid to WMB
10/11/2007	857,230.47
10/18/2007	3,446,107.42
11/8/2007	1,189.73
11/15/2007	254,364.42
12/13/2007	186,438.82
1/10/2008	6,863,343.95
1/17/2008	2,190.72
2/7/2008	2,319,329.88
3/6/2008	7,948.56
3/13/2008	773,837.68
3/31/2008	14,030,414.67
4/10/2008	4,488,747.40
4/24/2008	3,759,043.02
5/8/2008	2,598,863.39
5/30/2008	1,240,005.70
6/19/2008	170.28
6/26/2008	10,520,771.72
7/24/2008	581,788.51
8/14/2008	1,431,922.60
8/21/2008	4,194,820.96
9/11/2008	112,923.51
9/25/2008	4,101,278.69
10/18/2007	175,635.71
10/25/2007	305,110.56
10/31/2007	1,434,522.37
11/8/2007	4,966,409.90
11/15/2007	725,599.67
12/13/2007	8,865,013.39
12/31/2007	6,205.49
1/10/2008	6,362,822.58
1/17/2008	914,011.32
1/31/2008	12,447,072.22
2/7/2008	3,377,908.39
2/14/2008	292,691.98
2/21/2008	671,242.69
2/29/2008	750,288.31
3/13/2008	3,256,230.57
3/20/2008	1,096,451.96

In re: Washington Mutual, Inc.
Case No. 08-12229
SOFA 23 Payments to Insiders
Payments made to Washington Mutual Bank

Date Paid	Amount Paid to WMB
4/10/2008	3,429,936.11
5/15/2008	1,956,466.25
5/22/2008	3,062,583.76
6/19/2008	1,422,117.59
6/30/2008	5,284,659.08
7/10/2008	2,598,631.45
7/24/2008	2,879,785.16
8/7/2008	1,805,099.83
8/14/2008	2,573,609.62
9/11/2008	614,326.45
9/18/2008	17,205,753.61
9/25/2008	1,681,646.07
Total:	151,934,564.19

Exhibit 3

(Docket No. 23)

Exhibit 4

(Docket No. 23)

Exhibit 5

(Docket No. 23)

Exhibit 6

Certificate of Registration

This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Marybeth Peters

Register of Copyrights, United States of America

Registration Number:

TX 6-935-497

Effective date of registration:

June 1, 2009

Title

Title of Work: wamu.com website September 24, 2008

Completion/ Publication

Year of Completion: 2008

Date of 1st Publication: September 24, 2008 **Nation of 1st Publication:** United States

Author

- **Author:** Washington Mutual, Inc.

Author Created: text, editing, computer program, artwork

Work made for hire: Yes

Citizen of: United States **Domiciled in:** United States

Copyright claimant

Copyright Claimant: Washington Mutual, Inc.
1301 Second Avenue, WMC 3601, Seattle, WA, 98101, United States

Limitation of copyright claim

Material excluded from this claim: text, computer program, artwork

New material included in claim: text, editing, computer program, artwork

Rights and Permissions

Organization Name: Washington Mutual, Inc.

Address: 1301 Second Avenue
WMC 3601
Seattle, WA 98101 United States

Certification

Name: Lynne E. Graybeal

Date: May 29, 2009

Applicant's Tracking Number: 53000.6000.0001.US006

Correspondence: Yes

Copyright Office notes: Regarding deposit: Special Relief granted under 202.20(d) of C.O. regulations.

IPN#:

Registration #: TX0006935497

Service Request #: 1-198669154

Perkins Coie LLP
Lynne E. Graybeal
1201 Third Ave., Ste. 4800
Seattle, WA 98101 United States

Certificate of Registration

This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Marybeth Peters

Register of Copyrights, United States of America

Registration Number:

TX 6-935-465

Effective date of registration:

June 10, 2009

Title

Title of Work: wamu.com website November 2002

Completion/ Publication

Year of Completion: 2002

Date of 1st Publication: November 22, 2002 **Nation of 1st Publication:** United States

Author

- **Author:** Washington Mutual, Inc.

Author Created: text, editing, computer program, artwork

Work made for hire: Yes

Citizen of: United States **Domiciled in:** United States

Copyright claimant

Copyright Claimant: Washington Mutual, Inc.
1301 Second Avenue, WMC 3601, Seattle, WA, 98101, United States

Limitation of copyright claim

Material excluded from this claim: text, computer program, artwork

New material included in claim: text, editing, computer program, artwork

Rights and Permissions

Organization Name: Washington Mutual, Inc.

Address: 1301 Second Avenue
WMC 3601
Seattle, WA 98101 United States

Certification

Name: Lynne E. Graybeal

Date: May 28, 2009

Applicant's Tracking Number: 53000.6000.0001.US002

Correspondence: Yes

Copyright Office notes: Regarding deposit: Special Relief granted under 202.20(d) of C.O. regulations.

IPN#:

Registration #: TX0006935465

Service Request #: 1-198473965

Perkins Coie LLP
Lynne E. Attn: Graybeal
1201 Third Ave., Ste. 4800
Seattle, WA 98101 United States

Certificate of Registration

This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Marybeth Peters

Register of Copyrights, United States of America

Registration Number:

TX 6-935-477

Effective date of registration:

June 10, 2009

Title

Title of Work: wamu.com website April 2004

Completion/ Publication

Year of Completion: 2004

Date of 1st Publication: April 6, 2004 **Nation of 1st Publication:** United States

Author

- **Author:** Washington Mutual, Inc.

Author Created: text, editing, computer program, artwork

Work made for hire: Yes

Citizen of: United States **Domiciled in:** United States

Copyright claimant

Copyright Claimant: Washington Mutual, Inc.

1301 Second Avenue, WMC 3601, Seattle, WA, 98101, United States

Limitation of copyright claim

Material excluded from this claim: text, computer program, artwork

New material included in claim: text, editing, computer program, artwork

Rights and Permissions

Organization Name: Washington Mutual, Inc.

Address: 1301 Second Avenue
WMC 3601
Seattle, WA 98101 United States

Certification

Name: Lynne E. Graybeal

Date: May 28, 2009

Applicant's Tracking Number: 53000.6000.0001.US003

Correspondence: Yes

Copyright Office notes: Regarding deposit: Special Relief granted under 202.20(d) of C.O. regulations.

IPN#:

Registration #: TX0006935477

Service Request #: 1-198474378

Perkins Coie LLP
To Whom it May Concern
Attn: Lynne E. Graybeal
1201 Third Ave., Ste. 4800
Seattle, WA 98101 United States

Certificate of Registration

This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Marybeth Peters

Register of Copyrights, United States of America

Registration Number:

TX 6-935-480

Effective date of registration:

June 10, 2009

Title

Title of Work: wamu.com website March 2006

Completion/ Publication

Year of Completion: 2006

Date of 1st Publication: March 14, 2006 **Nation of 1st Publication:** United States

Author

- **Author:** Washington Mutual, Inc.

Author Created: text, editing, computer program, artwork

Work made for hire: Yes

Citizen of: United States **Domiciled in:** United States

Copyright claimant

Copyright Claimant: Washington Mutual, Inc.

1301 Second Avenue, WMC 3601, Seattle, WA, 98101, United States

Limitation of copyright claim

Material excluded from this claim: text, computer program, artwork

New material included in claim: text, editing, computer program, artwork

Rights and Permissions

Organization Name: Washington Mutual, Inc.

Address: 1301 Second Avenue
WMC 3601
Seattle, WA 98101 United States

Certification

Name: Lynne E. Graybeal

Date: May 28, 2009

Applicant's Tracking Number: 53000.6000.0001.US004

Correspondence: Yes

Copyright Office notes: Regarding deposit: Special Relief granted under 202.20(d) of C.O. regulations.

IPN#:

Registration #: TX0006935480

Service Request #: 1-198474422

Perkins Coie LLP
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Attn: Lynne E. Graybeal
1201 Third Ave., Ste. 4800
Seattle, WA 98101 United States

Certificate of Registration

This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Marybeth Peters

Register of Copyrights, United States of America

Registration Number:

TX 6-935-487

Effective date of registration:

June 1, 2009

Title

Title of Work: wamu.com website June 1998

Completion/Publication

Year of Completion: 1998

Date of 1st Publication: June 14, 1998 **Nation of 1st Publication:** United States

Author

- **Author:** Washington Mutual, Inc.

Author Created: text, computer program, artwork

Work made for hire: Yes

Citizen of: United States **Domiciled in:** United States

Copyright claimant

Copyright Claimant: Washington Mutual, Inc.

1301 Second Avenue, WMC 3601, Seattle, WA, 98101, United States

Rights and Permissions

Organization Name: Washington Mutual, Inc.

Address: 1301 Second Avenue

WMC 3601

Seattle, WA 98101 United States

Certification

Name: Lynne E. Graybeal

Date: May 28, 2009

Applicant's Tracking Number: 53000-6000.0001.US001

Correspondence: Yes

IPN#: 

* *

Registration #: TX0006935487

Service Request #: 1-198424731

Perkins Coie LLP
To Whom it May Concern
Attn: Lynne E. Graybeal
1201 Third Ave., Ste. 4800
Seattle, WA 98101 United States

Certificate of Registration

This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Marybeth Peters

Register of Copyrights, United States of America

Registration Number:

TX 6-935-492

Effective date of registration:

June 1, 2009

Title

Title of Work: wamu.com website September 8, 2008

Completion/Publication

Year of Completion: 2008

Date of 1st Publication: September 8, 2008 **Nation of 1st Publication:** United States

Author

- **Author:** Washington Mutual, Inc.

Author Created: text, editing, computer program, artwork

Work made for hire: Yes

Citizen of: United States **Domiciled in:** United States

Copyright claimant

Copyright Claimant: Washington Mutual, Inc.

1301 Second Avenue, WMC 3601, Seattle, WA, 98101, United States

Limitation of copyright claim

Material excluded from this claim: text, computer program, artwork

New material included in claim: text, editing, computer program, artwork

Rights and Permissions

Organization Name: Washington Mutual, Inc.

Address: 1301 Second Avenue
WMC 3601
Seattle, WA 98101 United States

Certification

Name: Lynne E. Graybeal

Date: May 29, 2009

Applicant's Tracking Number: 53000.6000.0001.US005

Correspondence: Yes

IPN#: 

* *

Registration #: TX0006935492

Service Request #: 1-198669081

Perkins Coie LLP
To Whom it May Concern
Attn: Lynne E. Graybeal
1201 Third Ave., Ste. 4800
Seattle, WA 98101 United States

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re	:	Chapter 11
WASHINGTON MUTUAL, INC., et al.[1]	:	Case No. 08-12229 (MFW)
Debtors.	:	Jointly Administered
JPMORGAN CHASE BANK, NATIONAL ASSOCIATION	:	Adversary Proceeding No. 09-50551
Plaintiff	:	**DEBTORS' ANSWER AND AMENDED COUNTERCLAIMS IN RESPONSE TO THE COMPLAINT OF JPMORGAN CHASE BANK, N.A.**
- against -	:	
WASHINGTON MUTUAL, INC. AND WMI INVESTMENT CORP.,	:	**JURY TRIAL DEMANDED FOR COUNTERCLAIMS 15 - 18**
Defendants for all claims,	:	
- and-	:	
FEDERAL DEPOSIT INSURANCE CORPORATION,	:	
Additional Defendant for Interpleader claim.	:	

[1] The Debtors in these 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). The Debtors continue to share their principal offices with the employees of JPMorgan Chase located at 1301 Second Avenue, Seattle, Washington 98101.

DEBTORS' ANSWER

Debtors Washington Mutual, Inc. ("WMI") and WMI Investment Corp. ("WMI Investment," and, together with WMI, the "Debtors" or "Counterclaims-Plaintiffs"), by their undersigned counsel, for their Answer And Counterclaims To The Complaint Of JPMorgan Chase Bank, N.A. ("JPMorgan Chase" or "Counterclaims-Defendant") dated March 24, 2009 (the "Complaint"), hereby respond as follows:

INTRODUCTION

Having obtained the largest deposit and new customer base ever seized by the Federal Deposit Insurance Corporation ("FDIC", and, as receiver, the "FDIC-Receiver"), in exchange for paying a token percentage of such deposits, JPMorgan Chase now seeks to further line its pockets at the expense of WMI by grabbing assets above and beyond the assets it already acquired at a fire-sale price. This Court should not permit JPMorgan Chase to raid the most significant remaining assets of the Debtors when these assets were never owned by the former bank subsidiaries of WMI. The assets in dispute in this adversary proceeding are and have always been property of the Debtors' estates which, by definition, could not have been transferred to JPMorgan Chase without this Court's approval because they became property of the estate pursuant to section 541 of title 11 of the United States Code (as amended, the "Bankruptcy Code").

Although JPMorgan Chase is correct to seek this Court's ruling as to whether it could take assets that belong to the Debtors' estates, launching this adversary proceeding is nothing but a transparent attempt to put its proofs of claims that were filed with this Court (at least ten of which seek exactly the relief sought in this action) in front of other creditors. As JPMorgan Chase well knows, the Debtors' human resources have been drained and they are operating at a significant informational disadvantage given the loss of employees and the substantial amount of historical books and records taken by JPMorgan Chase as part of the sale. Recognizing, however, the central

role this action will have on recoveries to the Debtors' creditors and shareholders, the Debtors do not seek to delay disposition of these core estate property questions and hereby file their answer (the "Answer") and assert counterclaims (the "Counterclaims") in response to the Complaint, reserving their right under Federal Rule of Bankruptcy Procedure 7013 to amend this pleading to assert additional counterclaims after the Debtors complete their investigation of all of the facts concerning JPMorgan Chase's actions, including pre-petition dealings with the Debtors.

With respect to the issues squarely placed before the Court in this adversary proceeding, JPMorgan Chase seeks numerous rulings that lie at the heart of this Court's core jurisdiction. The Complaint concerns the administration of the Debtors' estates, seeks allowance of JPMorgan Chase's claims, and seeks to "quiet title" as to disputed property interests, all while purporting to absolve JPMorgan Chase from any potential liability under the Bankruptcy Code's avoidance powers. The Debtors respectfully request that the Court not permit JPMorgan Chase to obtain a windfall at the expense of the Debtors' significant creditor and shareholder constituency (which already face the prospect of considerable losses) and thereby thwart any realistic prospect of recoveries pursuant to a confirmable Chapter 11 plan.

GENERAL DENIAL

Except as otherwise expressly admitted, Debtors deny each and every allegation in the Complaint, including, without limitation, any allegations contained in the preamble, prayer, headings, and subheadings of the Complaint. Pursuant to Federal Rule of Civil Procedure 8(b)(6), as made applicable to this action by Federal Rule of Bankruptcy Procedure 7008, averments in the Complaint to which no responsive pleading is required shall be deemed as denied. Debtors expressly reserve the right to seek to amend and/or supplement this Answer, as may be necessary.

Complaint 1: JPMorgan Chase brings this action in order to ensure that JPMorgan Chase and its subsidiaries are not divested of their assets and interests purchased in good faith from the Federal Deposit Insurance Corporation ("FDIC") as receiver (the "Receiver") for Washington Mutual Bank, Henderson Nevada ("WMB") under Title 12 of the United States Code pursuant to that certain Purchase and Assumption Agreement (Whole Bank) dated as of September 25, 2008, a true and correct copy of which is attached as Exhibit A hereto (the "P&A"). JPMC also brings this action for indemnification and recovery against the Debtors for certain liabilities that may be asserted against JPMorgan Chase as the successor by merger to Washington Mutual Bank, fsb, Utah ("WMB fsb"), a former subsidiary of WMB, or against other former subsidiaries of WMB that currently are subsidiaries of JPMorgan Chase.

Answer: Paragraph 1 of the Complaint characterizes the nature of the Complaint and therefore no response is required. To the extent a response is required, the Debtors deny knowledge or information sufficient to determine why JPMorgan Chase brought this action and therefore deny same. Debtors further respectfully refer the Court to the Purchase and Assumption Agreement Whole Bank, dated September 25, 2008 ("P&A Agreement") for the content thereof and deny the remainder of paragraph 1 of the Complaint.

Complaint 2: Under the P&A, JPMorgan Chase acquired the business and related assets of WMB, including ownership of all of WMB's direct and indirect subsidiaries, and all right, title and interest of the Receiver in those assets. As provided for in the P&A,

JPMorgan Chase purchased "all of the Receiver's right, title and interest" to these assets, pursuant to and in accordance with the Federal Deposit Insurance Act, as amended (the "FDI Act"). Among the assets acquired by JPMorgan Chase under the P&A were certain assets that have been claimed by Washington Mutual, Inc. ("WMI", and collectively with WMI Investment Corp. ("WMI Investment"), the "Debtors").

Answer: Debtors deny the allegations set forth in paragraph 2 of the Complaint, except respectfully refer the Court to the P&A Agreement for the content thereof.

Complaint 3: Many of the assets the Debtors now improperly claim belong to them (but that JPMorgan Chase in fact acquired from the FDIC) have already been determined not to be the Debtors' property pursuant to the resolution procedures under Title 12. On December 30, 2008, the Debtors submitted claims in the Receivership for, among other things, ownership of these assets. On January 23, 2009, the FDIC, as Receiver, disallowed the Debtors' claims. The Debtors elected not to appeal the disallowance of their claims to ownership of these assets. Rather, on March 20, 2009, the Debtors filed an action against the FDIC in the United States District Court for the District of Columbia, *Washington Mutual, Inc., et al. v. Federal Deposit Insurance Corporation,* Case No. 1:09-cv-00533 (the "District Court Action"), challenging to the disallowance of their claims and also claiming ownership of those assets. The Debtors have exercised their purported right to demand a trial by jury in the District Court Action.

Answer: Debtors deny the allegations set forth in paragraph 3 of the Complaint, except respectfully refer the Court to the proof of claim Debtors filed with the FDIC-Receiver on December 30, 2008 (the "Proof of Claim"), the FDIC-Receiver's notice dated January 23, 2009 (the "Disallowance Notice"), and the complaint filed in *Washington Mutual, Inc., et al. v. Federal Deposit Insurance Corporation,* Case No. 1:09-cv-00533 (the "DC Action"), for the content thereof. Debtors further admit and aver that the Disallowance Notice stated in part: "[I]f you do not agree with this disallowance, you have the right to file a lawsuit on your claim ... in the United States District (or Territorial) Court for the District within which the failed Institution's principal

place of business was located or the United States District Court for the District of Columbia within 60 days from the date of this notice. **IF YOU DO NOT FILE A LAWSUIT ... BEFORE THE END OF THE 60-DAY PERIOD, THE DISALLOWANCE WILL BE FINAL, YOUR CLAIM WILL BE FOREVER BARRED AND YOU WILL HAVE NO FURTHER RIGHTS OR REMEDIES WITH RESPECT TO YOUR CLAIM.**" (Emphasis and capitalization in original.)

Complaint 4: The assets that are the subject of the Debtors' disallowed claims are also among the assets set forth in the Debtors' Schedules and Statements of Financial Affairs filed with this Court on December 19, 2008, January 27, 2009 and February 24, 2009 (collectively, the "Schedules"). Notwithstanding the assertions in the Schedules and the District Court Action, the assets put at issue by the Debtors are not property of the Debtors' estates under 11 U.S.C. § 541, nor are they property of the Receiver any longer, but rather the assets are property of JPMC, which acquired them in good faith and for value from the FDIC pursuant to the FDI Act.

Answer: Debtors deny the allegations set forth in paragraph 4 of the Complaint, except respectfully refer the Court to the Disallowance Notice, and the Debtors' Schedules and Statements of Financial Affairs filed by the Debtors with this Court on December 19, 2008, January 27, 2009 and February 24, 2009, for the content thereof.

Complaint 5: In response to the Debtors' actions and in order to protect its economic interests in the assets the Debtors chose to put at issue in the District Court Action, JPMorgan Chase has filed this Complaint.

Answer: Paragraph 5 of the Complaint characterizes the nature of the Complaint and therefore no response is required. To the extent a response is required, Debtors deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 5 of the Complaint that concern JPMorgan Chase's putative motivations for filing the Complaint, and

therefore deny same. Debtors otherwise deny the allegations set forth in paragraph 5 of the Complaint, except respectfully refer the Court to the Complaint for the content thereof.

Complaint 6: The assets of the Receiver that were sold to JPMC, as to which WMI has asserted rights or has refused to acknowledge JPMC 's ownership, include (i) approximately $4 billion in the aggregate face amount of Trust Securities (as defined below) contributed by WMI to WMB, the amount of which constitutes regulatory core capital of WMB; (ii) the right to tax refunds arising from overpayments attributable to operations of WMB and its subsidiaries for the 2008 tax year and prior tax years and net operating loss, net capital loss, and excess tax credit carrybacks from 2008 to prior tax years; (iii) approximately $3.7 billion credited by book entry shortly prior to the receivership of WMB so as to create a purported deposit account at WMB fsb in the name of WMI without any apparent deposit of funds; (iv) at least $234 million in tax refunds that belonged to WMB and/or WMB subsidiaries and were acquired by JPMorgan Chase under the P&A but were deposited to the credit of WMI in the days following the Receivership; (v) goodwill judgments that arise from pending and prior litigation; (vi) assets of certain trusts supporting deferred compensation arrangements covering the former and current employees of WMB and its subsidiaries; and (vii) other assets of WMB, including Visa shares, intellectual property and contractual rights, as described below. The Debtors are also refusing to recognize the Receiver's ability to transfer to JPMorgan Chase certain tax qualified pension and 401(k) plans pursuant to which the trust assets are held for the exclusive benefit of participants, most of whom were WMB's employees.

Answer: Debtors deny the allegations set forth in paragraph 6 of the Complaint, except respectfully refer the Court to the P&A Agreement for the content thereof.

Complaint 7: The liabilities at issue in this adversary proceeding are liabilities that did not transfer to the Receiver or to JPMorgan Chase, but rather are liabilities of the Debtors that relate to acts, conduct or omissions of WMI in connection with events prior to the commencement of the receivership proceedings for WMB and for which WMB and/or its former subsidiaries would be entitled to indemnification and contribution from the Debtors as primary actors. These liabilities relate principally to (i) the issuance of "Trust Securities" with the aggregate face amount of approximately $4 billion; (ii) so-called "deposit accounts," which in the aggregate were recorded as having a book balance of

approximately $4.3 billion as of the commencement of these Chapter 11 cases; and (iii) the restructuring and transfer of assets and liabilities among the Debtors and their former subsidiaries.

Answer: Debtors deny the allegations set forth in paragraph 7 of the Complaint.

Complaint 8: In this action, JPMorgan Chase seeks, pursuant to Title 12 and the P&A, (i) a declaration that, as the successor of the Receiver, it has or is entitled to full legal title to and the beneficial interest in the assets at issue, (ii) a declaration that it has lien rights against, and/or is entitled to setoff, recoupment and/or imposition of a constructive trust with respect to any amounts to which the Debtors may otherwise claim to be entitled, (iii) a declaration of the rights of JPMC to indemnification, contribution and/or reimbursement for amounts paid or advanced by JPMC or WMB with respect to any of the assets at issue that are not transferred to JPMC, and (iv) adjudication of any and all conflicting claims to the so-called "deposit accounts" and any funds in them. JPMorgan Chase intends to file its proofs of claim for the amounts, if any, that this Court may determine in this adversary proceeding constitute claims against the Debtors and their estates.

Answer: The first sentence of paragraph 8 of the Complaint characterizes the nature of the Complaint and therefore no response is required. To the extent a response is required, Debtors deny same and deny that JPMorgan Chase is entitled to any relief. Debtors admit that JPMorgan Chase has filed proofs of claim in the Debtors' cases and respectfully refer the Court to the proofs of claim for the content thereof, and further aver that JPMorgan Chase is entitled to no recovery on such proofs of claim.

PARTIES AND BACKGROUND RELATIONSHIPS

Complaint 9: Plaintiff JPMorgan Chase is a national banking association organized under the laws of the United States of America with its principal place of business in Columbus, Ohio. JPMorgan Chase is a wholly-owned subsidiary of JPMorgan Chase & Co., a corporation organized under the laws of the State of Delaware. JPMorgan Chase is the "Assuming Bank" as that term is defined in the P&A and is the successor to and good faith purchaser for value from the Receiver under the P&A and under Title 12 of the United States Code.

Answer: Debtors deny the allegations set forth in paragraph 9 of the Complaint, except respectfully refer the Court to the P&A Agreement for the content thereof, and deny knowledge or information sufficient to form a belief as to the truth of the allegations in the first two sentences of paragraph 9 of the Complaint and therefore deny same.

Complaint 10: Defendant WMI is a holding company incorporated in Washington with its principal place of business in Seattle, Washington and is one of the debtors and debtors-in-possession in these cases, having filed its voluntary petition for reorganization under chapter 11 of Title 11 of the United States Code on September 26, 2008 (the "Petition Date") before the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court").

Answer: Debtors admit the allegations set forth in paragraph 10 of the Complaint.

Complaint 11: Defendant WMI Investment is a Delaware corporation with its principal place of business in Seattle, Washington and is the other debtor and debtor-in-possession in these cases.

Answer: Debtors admit the allegations set forth in paragraph 11 of the Complaint.

Complaint 12: Defendant FDIC is a federal corporation with its principal place of business in the District of Columbia. The FDIC is named as a defendant solely in connection with the interpleader claim.

Answer: Debtors admit the allegations set forth in the first sentence of paragraph 12 of the Complaint. The second sentence of paragraph 12 of the Complaint characterizes the nature of the Complaint and therefore no response is required. To the extent a response is required, Debtors deny same except respectfully refer the Court to the Complaint for the content thereof.

Complaint 13: At all times relevant hereto, WMI was a savings and loan holding company, WMI directly owned WMI Investment and directly or indirectly owned WMB and WMB's subsidiaries, including WMB fsb (WMB and WMB fsb as in existence prior to the Receivership are sometimes collectively referred to herein as the "Affiliated Banks").

Answer: Debtors deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 13 of the Complaint and therefore deny same, and aver that the undefined phrase "[a]ll times relevant hereto" renders the allegations vague and ambiguous, except admit that at certain times WMI was a savings and loan holding company that owned Washington Mutual Bank ("WMB"), and indirectly owned WMB's subsidiaries, including Washington Mutual Bank fsb ("WMB fsb"), and that WMI was the direct parent of WMI Investment.

Complaint 14: At all times relevant hereto, the Debtors, WMB and WMB's direct and indirect subsidiaries, including WMB fsb, were subject to regulation by the Office of Thrift Supervision ("OTS") and various other state and federal depository institutions regulatory agencies and banking authorities, including the FDIC, which insured the banks' deposits.

Answer: Debtors deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 14 of the Complaint and therefore deny same, and aver that the undefined phrase "[a]ll times relevant hereto" renders the allegations vague and ambiguous, except admit that at certain times WMI, WMB, and WMB fsb were subject to regulation by the Office of Thrift Supervision ("OTS"), and WMI's banking and non-banking subsidiaries were also overseen by various federal and state authorities, including the FDIC.

Complaint 15: On September 25, 2008, the Director of the OTS by order number 200836, appointed the FDIC as Receiver for WMB and the Receiver took possession of WMB in a receivership proceeding under section 1821 of Title 12 of the United States Code (the "Receivership").

Answer: Debtors deny the allegations set forth in paragraph 15 of the Complaint, except respectfully refer the Court to order number 2008-36 for the content thereof, and admit that on September 25, 2008, the Director of OTS, by order number 2008-36, appointed the FDIC as receiver for WMB and advised that the receiver was immediately taking possession of WMB.

Complaint 16: On September 25, 2008, the FDIC, as Receiver and in its corporate capacity, also entered into a Purchase and Assumption transaction with JPMorgan Chase under the P&A, whereby JPMorgan Chase acquired substantially all of the assets and assumed the deposit liabilities (as defined in the P&A and under 12 U.S.C. § 1813(1)) and certain other liabilities of WMB's banking operations under the authority vested in the FDIC by Title 12.

Answer: Debtors deny the allegations set forth in paragraph 16 of the Complaint, except respectfully refer the Court to the P&A Agreement for the content thereof, and admit that after its appointment as receiver, the FDIC-Receiver and the FDIC in its corporate capacity sold certain of the assets of WMB, including the stock of WMB fsb, to JPMorgan Chase pursuant to the P&A Agreement.

Complaint 17: On September 26, 2008, at approximately 10:16 p.m., WMI and WMI Investment filed their voluntary petitions for relief under Chapter 11 of Title 11 of the United States Code (as amended, the "Bankruptcy Code") in the Bankruptcy Court, thereby commencing the Chapter 11 cases in which this adversary proceeding is filed.

Answer: Debtors admit the allegations set forth in paragraph 17 of the Complaint.

Complaint 18: On January 30, 2009, the Bankruptcy Court entered its order setting March 31, 2009 as the date by which all proofs of claim against the Debtors and their estates must be filed.

Answer: Debtors deny the allegations set forth in paragraph 18 of the Complaint, except respectfully refer the Court to the January 30, 2009 order for the content thereof.

Complaint 19: On February 24, 2009, the Debtors filed amended schedules in these cases.

Answer: Debtors deny the allegations set forth in paragraph 19 of the Complaint, except respectfully refer the Court to the Court dockets in "these cases" for the content thereof.

Complaint 20: On March 20, 2009, the Debtors commenced the District Court Action.

Answer: Debtors admit that on March 20, 2009 Debtors filed the complaint in the DC Action, and respectfully refer the Court to the complaint filed by the Debtors in the DC Action for the content thereof. Debtors further admit and aver that the FDIC-Receiver's Disallowance Notice stated in part: "[I]f you do not agree with this disallowance, you have the right to file a lawsuit on your claim ... in the United States District (or Territorial) Court for the District within which the failed Institution's principal place of business was located or the United States District Court for the District of Columbia within 60 days from the date of this notice. **IF YOU DO NOT FILE A LAWSUIT ... BEFORE THE END OF THE 60-DAY PERIOD, THE DISALLOWANCE WILL BE FINAL, YOUR CLAIM WILL BE FOREVER BARRED AND YOU WILL HAVE NO FURTHER RIGHTS OR REMEDIES WITH RESPECT TO YOUR CLAIM.**" (Emphasis and capitalization in original.)

JURISDICTION AND VENUE

Complaint 21: Since the Petition Date, the Debtors have been and continue to be authorized to operate their businesses and manage their properties as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

Answer: Debtors admit that they have been and continue to be authorized to operate their businesses in accordance with applicable Bankruptcy Code sections, and respectfully refer the Court to the applicable Bankruptcy Code sections for the content thereof.

Complaint 22: On October 3, 2008, this Court entered an order pursuant to Federal Rule of Bankruptcy Procedure 1015(b) (collectively, the "Bankruptcy Rules") authorizing the joint administration of the Debtors' Chapter 11 cases.

Answer: Debtors admit the allegations set forth in paragraph 22 of the Complaint, and respectfully refer the Court to the October 3, 2008 order for the content thereof.

Complaint 23: This Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. §§ 2201 and 2202, 28 U.S.C. § 1334, 28 U.S.C. § 157, and Bankruptcy Rule 7001.

Answer: The Debtors state that the allegations set forth in paragraph 23 of the Complaint state a conclusion of law to which no response is required, except admit and aver that one or more of the claims asserted in this proceeding are core proceedings pursuant to 28 U.S.C. § 157(b)(2), and otherwise respectfully refer the Court to 28 U.S.C. §§ 2201 and 2202, 28 U.S.C. § 1334, 28 U.S.C. § 157, and Federal Rule of Bankruptcy Procedure 7001, for the content thereof.

Complaint 24: Venue of this adversary proceeding in this Court is proper pursuant to 28 U.S.C. § 1409(a).

Answer: Debtors state that the allegations set forth in paragraph 24 of the Complaint state a conclusion of law as to which no response is required and respectfully refer the Court to 28 U.S.C. § 1409(a) for the content thereof.

STATEMENT OF FACTS

A. The Bank Failure And Acquisition

Complaint 25: On September 18, 2008, the OTS designated WMB as a "problem institution," thus subjecting it to closer control and scrutiny by the federal regulatory authorities and on September 25, 2008, the 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 in accordance with statutorily mandated procedures under Title 12 that, subject to certain limited exceptions, resulted in the sale of all of the Receiver's right, title and interest to or in WMB's assets whether or not reflected on the books and records of WMB, to JPMorgan Chase pursuant to the terms of the P&A.

Answer: Debtors deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 25 of the Complaint to the extent they purport to characterize motivations of the OTS and of the FDIC, and Debtors therefore deny same. Debtors further state

that the allegations set forth in paragraph 25 of the Complaint concerning Title 12 state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same, except respectfully refer the Court to Title 12 for the content thereof. Debtors otherwise deny the allegations set forth in paragraph 25 of the Complaint, except respectfully refer the Court to the P&A Agreement and to the putative document that purportedly "designate[d] WMB as a 'problem institution'" for the content thereof.

Complaint 26: At the time of the Receivership, WMB was the sixth largest bank in the United States, with 2207 branches, more than 43,000 employees, and more than 13 million depositors with more than $140 billion of deposit liabilities insured by the FDIC.

Answer: Debtors deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 26 of the Complaint and therefore deny same.

Complaint 27: WMB also indirectly owned 100% of WMB fsb. WMB fsb or "the little bank" (as it has sometimes been called) had 26 offices to WMB's 2,207 and less than $5 billion in customer deposits insured by the FDIC to WMB's more than $140 billion.

Answer: Debtors deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 27 of the Complaint and therefore deny same.

Complaint 28: The FDIC's ability to promptly find a suitable acquirer of WMB's banking operations had significant economic and policy ramifications. This was a bank failure of unprecedented magnitude that occurred in the midst of the most severe financial crisis in decades. Had the FDIC been unable to sell the assets of WMB, 13 million depositors would have lost their bank and the confidence of consumers in the banking system generally would likely have been further undermined. The protection of the title conveyed by the FDIC to institutions like JPMorgan Chase, who are encouraged to step into the breach and provide the stability and continuity necessary to avert a run on a failing bank and disruption of its services to the public, is critical to the ability of the regulators to manage bank failures under Title 12 and the government to administer an insurance fund that can maintain public confidence in the banking system.

Answer: The allegations set forth in paragraph 28 of the Complaint are argumentative and require no response. To the extent a response is required, Debtors deny same.

Complaint 29: That WMB stands as the largest bank failure in United States history stems in large part from the financial crisis and crisis of confidence that still grips the nation. In the ten days immediately prior to the Receivership, WMB experienced deposit outflows of more than $16.7 billion, amounting to more than $2 billion per banking business day, as its customers and even WMI itself were apparently moving their assets so as to avoid the effects of what was increasingly perceived to be- an inevitable bank failure.

Answer: The allegations set forth in paragraph 29 of the Complaint are argumentative and require no response. To the extent a response is required, Debtors deny same.

Complaint 30: JPMorgan Chase had only two days after being briefed by the FDIC to submit a bid and then only twenty-four hours from the time that its bid was accepted by the FDIC until the time the acquisition closed to complete the single largest acquisition of a failed institution in United States history. The circumstances which led to execution of the P&A meant that JPMorgan Chase had limited opportunity to prepare for this unprecedented transaction.

Answer: Debtors deny the allegations set forth in paragraph 30 of the Complaint.

Complaint 31: The acquisition included, among other things, a nationwide credit card lending business, a multi-family and commercial real estate lending business, and nationwide mortgage banking activities. JPMorgan Chase's acquisition avoided an interruption in banking services. It assured that the 2,207 branches operated by WMB, as well as the 26 additional branches operated by WMB fsb, opened for business on September 26, 2008, protecting the interests of employees, customers, vendors, and communities who were dependent on WMB's banking operations. JPMorgan Chase paid $1.88 billion dollars to the FDIC for these and other assets, and assumed all deposits. This transaction involved no financial assistance from, or cost to, the FDIC's Deposit Insurance Fund. This stands in contrast to other recent bank failures such as the FDIC's sale of IndyMac Federal Bank FSB, which cost the FDIC approximately $10.7 billion, despite IndyMac being a much smaller bank than WMB.

Answer: Debtors deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 31 of the Complaint and therefore deny same, except respectfully refer the Court to the P&A Agreement for the content thereof.

Complaint 32: The task of stabilizing, integrating and creating as smooth a transition as possible has been time-consuming and arduous. But its success has been vital to the banking system, the communities served by WMB and the general public interest.

Answer: Debtors deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 32 of the Complaint and therefore deny same.

B. Combined Operations of Washington Mutual

Complaint 33: As a federal savings association committed to serving consumers and small businesses, WMB accepted deposits from the general public, originated, purchased, serviced and sold home loans, made credit card, home equity, multi-family and other commercial real estate loans, and to a lesser degree, engaged in certain commercial banking activities. WMB's substantial mortgage business was hit especially hard by increasing home and commercial mortgage delinquencies in late 2007 and 2008.

Answer: Debtors admit that WMB accepted deposits from the general public, originated, purchased, serviced and sold home loans, made credit card, home equity, multi-family and other commercial real estate loans, and engaged in certain commercial banking activities. Debtors otherwise state that the remaining allegations set forth in paragraph 33 of the Complaint are argumentative and require no response. To the extent a response is required, Debtors deny same.

Complaint 34: As the financial crisis took root toward the end of 2007, WMI focused its efforts on raising capital for WMB. In late 2007, WMI raised approximately $3 billion in new capital through the issuance of a series of debt securities. In early 2008, WMI sought out merger partners and equity investors. A number of companies participated in the process (including JPMorgan Chase which submitted a bid to acquire WMI, but whose bid was rejected by

WMI). In April 2008, in lieu of an acquisition or a merger, WMI negotiated a capital infusion of approximately $7.2 billion from a group of investment funds led by Texas Pacific Group, a private equity firm, through an issuance of preferred stock, which included anti-dilution provisions that severely constricted the ability of WMI to raise additional capital.

Answer: Debtors admit that (i) from December 2007 through April 2008, WMI raised approximately $10 billion in the capital markets, (ii) during that period, WMI's principal assets included cash, the stock of WMB, and the stock of WMI Investment and of the other WMI subsidiaries, (iii) throughout 2008, WMI's debt obligations approximated $7 billion, (iv) from December 2007 through September 2008, WMI made $6.5 billion of capital contributions to WMB (the "Capital Contributions"), and (v) in April 2008, WMI completed a significant recapitalization, which resulted in a $7.2 billion capital infusion by a group of outside investors led by TPG Capital. The remaining allegations set forth in paragraph 34 of the Complaint are argumentative and require no response. To the extent a response is required, Debtors deny same.

Complaint 35: WMI formally contributed to WMB at least $6.5 billion of the approximately $10.2 billion in capital it had raised. As discussed below, certain book entries made between September 19 and September 24, 2008 reflect an additional contribution of $3.7 billion from WMI to WMB fsb, accounting for much of the remaining debt and equity capital raised by WMI during 2007 and 2008. While book entries were made, neither WMI nor WMB transferred cash or other good funds to WMB fsb corresponding to the book entries, whether as a contribution or otherwise.

Answer: Debtors deny the allegations set forth in paragraph 35 of the Complaint, except respectfully refer the Court to the P&A Agreement and to the book entries for the content thereof, and admit that from December 2007 through September 2008, WMI made the Capital Contributions, as more fully described in paragraph 20 of the Proof of Claim and Exhibit D thereto.

Complaint 36: Prior to the Receivership, WMI and WMB had identical and overlapping directors and held joint meetings of the Boards of Directors of both entities on a combined basis, resulting in effect in a single Board of Directors with identical directors that met on the same topics at the same time and made decisions for both entities collectively. WMI's officers and employees were also officers and directors of WMB and WMI and WMB shared a joint general ledger and other books and records, and centralized their decision making, treasury, cash management, finance, governance, regulatory and executive functions in the same individuals. The overlap was so extensive that as of the time of the Receivership and subsequent Petition Date, WMI claimed it had only a handful of employees remaining as the result of the Receivership.

Answer: The allegations set forth in paragraph 36 of the Complaint are argumentative and so generalized and vague as to require no response. To the extent a response is required, Debtors deny same.

Complaint 37: Likewise, the assets and liabilities of the Debtors and their direct and indirect subsidiaries, including the Affiliated Banks, were connected and in many cases, commingled and intertwined. Prior to the Receivership, the Debtors and their direct and indirect subsidiaries operated a centralized and consolidated cash management system pursuant to which external receipts and payments were accounted for on a consolidated basis and internal receipts or payments were done in whole or in part by book or journal entry as "due to/from" accounts on the general ledger or other books of account.

Answer: The allegations set forth in paragraph 37 of the Complaint are argumentative and so generalized and vague as to require no response. To the extent a response is required, Debtors deny same.

Complaint 38: At various times prior to the Receivership, WMI entered into agreements with third parties that titled assets or contractual rights in WMI's name although WMB or a subsidiary of WMB paid for the asset or contractual right or was the entity liable on the payment or liability therefore. At various times prior to the Receivership, WMI also entered into intercompany arrangements with the Affiliated Banks with documentation different than the

documentation that the Affiliated Banks would have obtained in an arm's-length transaction with an unaffiliated party.

Answer: Debtors deny the allegations set forth in paragraph 38 of the Complaint, except respectfully refer the Court to the putative agreements and arrangements for the content thereof.

Complaint 39: In 2007 and 2008, WMI undertook a series of projects and other acts, at least some of which appear to have moved assets away from WMB or its subsidiaries to WMI or another of WMI's subsidiaries. This included transfers undertaken during August and September 2008 as part of WMI's self-titled "WMI Cash Optimization Program", for the apparent benefit of WMI.

Answer: The allegations set forth in paragraph 39 of the Complaint are argumentative and so generalized and vague as to require no response. To the extent a response is required, Debtors deny same.

Complaint 40: To the extent that any person has or may assert claims against JPMC that resulted from these transactions, JPMC is entitled to be indemnified and held harmless by WMI since all pre-petition transactions were consummated at the behest and direction of WMI and for its benefit.

Answer: Debtors deny the allegations set forth in paragraph 40 of the Complaint.

C. Trust Securities

Complaint 41: Between March 2006 and October 2007, certain issuer trusts (the "Issuing Trusts") formed by WMI and its then subsidiaries issued securities (the "Trust Securities") in the aggregate face amount of approximately $4 billion, exchangeable into depository shares representing preferred stock of WMI upon the occurrence of certain events. A complete list of the Trust Securities is attached as Exhibit B. The Trust Securities were issued in global form registered in the name of Cede & Co., as nominee, and held by Wilmington Trust as depositary for the Depositary Trust Corporation ("DTC"). The sole assets of the Issuing Trusts, in turn, were preferred securities issued by Washington Mutual Preferred Funding LLC ("WMPF").

Answer: Debtors deny the allegations set forth in paragraph 41 of the Complaint, except admit that, between March 2006 and October 2007, in four instances, certain issuing special purpose entities formed by WMI and its then-subsidiaries (the "SPEs") issued securities (the "Trust Securities"), and respectfully refer the Court to the documents evidencing the Trust Securities and Exhibit B to the Complaint for the content thereof, and admit, on information and belief, that the Trust Securities have an aggregate liquidated preference of as much as $4 billion.

Complaint 42: As set forth below, JPMorgan Chase acquired the Trust Securities under the P&A and all steps required to transfer the Trust Securities as required were completed prior to the Petition Date save and except for the ministerial formality of changing record title as reflected at DTC and described below.

Answer: Debtors deny the allegations set forth in paragraph 42 of the Complaint.

Complaint 43: The Trust Securities, like other trust securities issued by financial institutions, qualified as regulatory core capital of WMB under applicable banking laws and regulations with specific approvals and requirements governing their issuance and treatment. They were, by their express terms, mandatorily and automatically exchangeable for a like amount of newly issued depository shares representing WMI preferred stock upon the occurrence of an exchange event. In addition, for the Trust Securities to be treated as core capital of WMB or any other regulated institution when issued, the Trust Securities would have to be structured in a manner that assured they would become property of the regulated institution upon exchange.

Answer: Debtors deny the allegations set forth in paragraph 43 of the Complaint, except respectfully refer the Court to the offering documents for the content thereof, and admit that according to the terms of the Trust Securities, the exchange of the Trust Securities for preferred stock of WMI (or depositary shares representing an interest in preferred stock of WMI) was to follow the issuance by WMI of a press release announcing the exchange event.

Complaint 44: On January 30, 2006, WMB submitted a Notice for Establishment of an Operating Subsidiary (the "Notice") to the

OTS and the FDIC regarding the establishment of WMPF. WMPF's assets consisted of indirect interests in various residential mortgage and home equity loans and other permitted investments. WMPF in turn issued preferred securities to the Issuing Trusts that entitled the Issuing Trusts to a liquidation preference against the assets of WMPF. In the Notice to the OTS and the FDIC, WMB sought confirmation from the OTS that the Trust Securities would qualify for inclusion in the core capital of WMB.

Answer: Debtors deny the allegations set forth in paragraph 44 of the Complaint, except respectfully refer the Court to the documents referenced in paragraph 44 for the content thereof, and admit that Washington Mutual Preferred Funding LLC's ("WMPF") assets were limited to direct or indirect interests in mortgages or mortgage-related assets, cash and other permitted assets, and that WMPF issued preferred securities.

Complaint 45: On February 23, 2006, WMI committed to contribute the Trust Securities to WMB and stated that WMI "hereby undertakes that if, as a result of a Supervisory Event," WMI exchanges its preferred stock for the Trust Securities, "WMI will contribute to WMB the [Trust Securities]." A true and correct copy of that commitment is attached as Exhibit C.

Answer: Debtors deny the allegations set forth in paragraph 45 of the Complaint, except refer to Exhibit C to the Complaint for the content thereof.

Complaint 46: WMI's written commitment to contribute the Trust Securities to WMB in exchange for including the Trust Securities in the core capital of WMB constituted a capital commitment to a federal depository institutions regulatory agency or its predecessor which was deemed assumed as of the Petition Date under 11 U.S.C. Section 365(o). That commitment also constituted a binding agreement (the "Contribution Agreement"), the breach of which would give rise to post-petition administrative claims against WMI.

Answer: Debtors deny the allegations set forth in paragraph 46 of the Complaint.

Complaint 47: At all times relevant hereto solely by virtue of the Contribution Agreement, WMB was permitted to include the

Trust Securities in- its- core capital and counted the amount of the Trust Securities as regulatory core capital. The Trust Securities have never been beneficially owned by WMI and have always been subject to a concomitant obligation to contribute the Trust Securities to WMB as a necessary corollary to the treatment of the Trust Securities as core capital of WMB.

Answer: Debtors deny the allegations set forth in paragraph 47 of the Complaint.

Complaint 48: The issuance of the Trust Securities and the Contribution Agreement were duly authorized by all requisite corporate action on the part of WMI and WMB. True and correct copies of the minutes of the Board of Directors authorizing the transaction are attached as Exhibit D.

Answer: Debtors deny the allegations set forth in paragraph 48 of the Complaint, except respectfully refer the Court to the documents referenced in paragraph 48 for the content thereof.

Complaint 49: On September 25, 2008, in a letter to WMI, the OTS declared an Exchange Event had occurred and directed an immediate exchange of the Trust Securities for WMI preferred stock. WMI responded to the OTS letter later on September 25, 2008, confirming the exchange and contribution.

Answer: Debtors deny the allegations set forth in paragraph 49 of the Complaint, except respectfully refer the Court to any September 25, 2008 letters for the content thereof.

Complaint 50: On September 25, 2008, WMI contributed the Trust Securities to WMB pursuant to an Assignment Agreement, a true and correct copy of which is attached as Exhibit E, pursuant to which, among other things, effective as of September 25, 2008, WMI transferred "all of [WMI's] right, title and interest, whether now owned or hereafter acquired, in and to the [Trust] Securities" to WMB. Furthermore, upon execution, WMI assigned to WMB all present and future "rights and benefits arising out of the [Trust] Securities which come into the possession of [WMI]."

Answer: Debtors deny the allegations set forth in paragraph 50 of the Complaint, except respectfully refer the Court to the Assignment Agreement for the content thereof.

Complaint 51: Under the express terms of the P&A, JPMorgan Chase purchased "all right, title, and interest of the Receiver in and to all of the assets . . . of [WMB] whether or not reflected on the books of [WMB] as of Bank Closing," which includes WMB's and the Receiver's rights to receive-the Trust Securities, a transfer that was effected on September 25, 2008. The Receiver sold the Trust Securities to JPMorgan Chase under the P&A and, therefore, JPMorgan Chase is the sole owner of all equitable and beneficial right, title and interest in the Trust Securities, leaving only the ministerial act of correcting the record at DTC (or with the Issuing Trusts and their trustees) undone before the filing of these Chapter 11 cases.

Answer: Debtors deny the allegations set forth in paragraph 51 of the Complaint.

Complaint 52: Although the Debtors did not initially dispute JPMorgan Chase's ownership of the Trust Securities and the parties drafted and agreed to a stipulation to transfer the Trust Securities to JPMorgan Chase to accompany the account stipulation, the Debtors amended their schedules on January 27, 2009 to add a Footnote 4 to Schedule B regarding the Trust Securities which had not been mentioned in the Schedules originally filed on December 19, 2008. In that footnote, which is repeated verbatim in the Debtors' Second Amended Schedules filed on February 24, 2009, the Debtors assert unspecified and potential rights to or interests in the Trust Securities.

Answer: Debtors deny the allegations set forth in paragraph 52 of the Complaint, except admit and aver that Debtors have rights and interests in the Trust Securities, and respectfully refer the Court to the Schedules for the content thereof.

Complaint 53: To the extent that WMI ever held or now holds any interest in the Trust Securities — and JPMorgan Chase believes WMI had and has no legally cognizable interest in them — that interest has never consisted of anything more than bare legal title to a securities entitlement to the Trust Securities for the moment in time of the conditional exchange and contribution. Section 541(iv) of the Bankruptcy Code provides that "property in which the debtor holds, as of the commencement of the case, only legal title and not an equitable interest . . . becomes property of the estate . . . only to the extent of the debtor's legal title to such property, but not to the extent of any equitable interest in such property that the debtor does not hold."

Answer: Debtors deny the allegations set forth in paragraph 53 of the Complaint except admit and aver that the Debtors have rights and interests in the Trust Securities.

Complaint 54: As set forth in the P&A, JPMorgan Chase purchased "all of the Receiver's right, title and interest," in the Trust Securities, pursuant to and in accordance with the FDI Act. On December 30, 2008, WMI nonetheless submitted a claim to the Receiver asserting, among other things, ownership of the Trust Securities. On January 23, 2009, the Debtors' claims were disallowed by the Receiver. The Receiver's disallowance is dispositive of the fact that the Debtors do not own the Trust Securities. On March 20, 2009, the Debtors commenced the District Court Action with respect to the disallowance of their claims to the Trust Securities.

Answer: Debtors deny the allegations set forth in paragraph 54 of the Complaint, except respectfully refer the Court to the Proof of Claim, the Disallowance Notice, the complaint filed in the DC Action on March 20, 2009, and the P&A Agreement, for the content thereof.

Complaint 55: Accordingly, JPMorgan Chase seeks a declaration that it owns the Trust Securities and an order directing third parties including, DTC, Cede & Co., Wilmington Trust Corporation and any other trustee, custodian, depository or other securities intermediary, to take all actions reasonably necessary or appropriate, as requested by JPMorgan Chase, to have the record legal title reflect JPMorgan Chase as the sole owner of the Trust Securities.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 55 of the Complaint.

Complaint 56: In addition, JPMC is entitled to be indemnified and held harmless by WMI for any liabilities associated with the issuance, exchange, contribution or recovery of the Trust Securities, including without limitation any claims regarding authorization, enforceability, avoidability or inadequate disclosure. JPMC seeks a determination that WMI, as the controlling parent, the primary issuer and the principal actor, has the obligation to indemnify and hold harmless its indirect formerly wholly owned. subsidiaries

from any liability to third parties associated with or related to the Trust Securities.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 56 of the Complaint.

D. Tax Refunds

Complaint 57: To the extent WMB is or was entitled to tax refunds, the right to receive those refunds was purchased by JPMorgan Chase under the P&A.

Answer: Debtors deny the allegations set forth in paragraph 57 of the Complaint.

Complaint 58: For taxable years prior to 2008, the Washington Mutual entities, consisting of WMI, WMB, and other direct and indirect subsidiaries of WMI (collectively, the "WaMu Group"), filed- a consolidated-tax return, a unitary tax report or a combined tax return with appropriate taxing authorities wherever permissible. WMB (and its subsidiaries) made payments to WMI in the same manner and at the same time as if filing separate returns or separate consolidated returns.

Answer: Debtors deny the allegations set forth in paragraph 58 of the Complaint, except respectfully refer the Court to the tax filings for the content thereof.

Complaint 59: For all tax refunds and rights to receive tax refunds attributable to tax attributes of WMB or its subsidiaries, pursuant to applicable rules and regulations, and as between the Debtors and WMB (or their respective subsidiaries), WMB (or such subsidiary) is the beneficial owner of such tax refund or such right to receive a tax refund attributable to its tax attributes. All or substantially all of the refunds received by, now due and hereafter expected to be due to the WaMu Group are attributable to income and losses of, and taxes paid by, WMB and its subsidiaries, and, therefore, as among the members of the WaMu Group, WMB and its subsidiaries were and are the beneficial owners of all or substantially all tax refunds received, tax refunds due and rights to receive tax refunds.

Answer: Debtors deny the allegations set forth in paragraph 59 of the Complaint.

(i) California Tax Refunds

Complaint 60: For taxable years prior to 2008, the WaMu Group filed a unitary tax report with the California Franchise Tax Board ("FTB"), pursuant to the filing of FTB Form 2523A (for years prior to 1991), and pursuant to a Schedule R-7 (for taxable years after 1991). For taxable years on or after 2005, the Schedule R-7 was filed in compliance with FTB regulations promulgated in 2005 and effective for returns filed after January 8, 2005. In each case, the WaMu Group filed group returns under California tax law, with WMI as the "key corporation." In each case, the agent and surety for the other members included in the unitary tax report was WMI, the "key corporation" as defined under California tax law.

Answer: Debtors deny the allegations set forth in paragraph 60 of the Complaint, except respectfully refer the Court to the applicable tax regulations and tax filings for the content thereof.

Complaint 61: Even though each taxpayer corporation in the combined group is required under California law to file its own California return and pay its own tax due, as a- matter of administrative convenience, the FTB permits groups to file a group return.

Answer: Debtors deny the allegations set forth in paragraph 61 of the Complaint, except respectfully refer the Court to the applicable tax regulations and tax filings for the content thereof.

Complaint 62: A "key corporation" only acts as agent for the other taxpayer members. Thus, (i) all California refunds are identifiable to an individual taxpayer in the WMI Group, and (ii) all California tax refunds WMI receives that are identified to California income taxes of WMB (or any of WMB's subsidiaries) are held by WMI merely as agent for WMB (or its respective subsidiary) and WMB (or its respective subsidiary) is the beneficial owner of such California tax refunds.

Answer: Debtors deny the allegations set forth in paragraph 62 of the Complaint, except respectfully refer the Court to the applicable tax regulations and tax filings for the content thereof.

Complaint 63: California tax refunds, substantially all of which are expected to be attributable to WMB and its subsidiaries, are expected for the 2008 tax year and for tax years prior to 2008 relating to overpayments of taxes to the FTB.

Answer: Debtors deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 63 of the Complaint (which refer to what is purportedly "expected" by unidentified person(s)), and therefore deny same.

Complaint 64: All facts and circumstances necessary to determine the amount of California tax refunds for WMB and for any of WMB's subsidiaries are fixed and determinable.

Answer: Debtors deny the allegations set forth in paragraph 64 of the Complaint, except respectfully refer the Court to the applicable tax regulations and tax filings for the content thereof.

Complaint 65: The Debtors have wrongly asserted that WMI—and not WMB (or its respective subsidiaries)—is entitled to the California tax refunds due to the WaMu Group. Accordingly, JPMorgan Chase requests that the Court enter an order declaring that, pursuant to the P&A, JPMorgan Chase and its subsidiaries own the rights to such refunds.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 65 of the Complaint.

Complaint 66: WMI has already received at least a portion of the California income tax refunds due as agent for the WaMu Group and owes those amounts to JPMorgan Chase and the former WMB subsidiaries acquired by JPMorgan Chase under the P&A.

Answer: Debtors deny the allegations set forth in paragraph 66 of the Complaint.

Complaint 67: The beneficial interest in all or a portion of the California income tax refunds received by WMI as agent for the WaMu Group belongs to JPMorgan Chase, as successor in interest to WMB.

Answer: Debtors deny the allegations set forth in paragraph 67 of the Complaint.

Complaint 68: WMI has refused to turn over to JPMorgan Chase those California income tax refunds received already or in the future

that are properly allocable to WMB (and its subsidiaries). As a result, JPMorgan Chase seeks an order from the Court compelling the Debtors to turn over those tax refunds.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 68 of the Complaint.

Complaint 69: Various employees and agents of WMB and its subsidiaries had been in discussions with the FTB regarding ongoing California tax matters, such as the progress of audits, and anticipated tax refunds, prior to September 26, 2008. WMI had threatened FTB and its officials with sanctions for violation of the stay to prevent them from continuing their communications with WMB.

Answer: Debtors deny the allegations set forth in paragraph 69 of the Complaint.

Complaint 70: JPMorgan Chase has been significantly prejudiced by not being able to communicate directly without restrictions with the FTB about matters concerning WMB or its subsidiaries since the Petition Date. Certain employees and agents of JPMorgan Chase need to continue these discussions with the FTB about California tax matters related to WMB and its subsidiaries, in order to preserve beneficial tax attributes, to complete pending audits and refund applications, and to arrange for the receipt of California income tax refunds.

Answer: Debtors deny the allegations set forth in paragraph 70 of the Complaint, except deny knowledge or information sufficient to form a belief as to the truth of the allegations concerning what "[c]ertain employees and agents of JPMorgan Chase need" and therefore deny same.

Complaint 71: JPMorgan Chase is entitled to communicate with the FTB about matters concerning refunds that may be due to WMB and its subsidiaries, or WMB's successors. WMI only recently directed a letter to the FTB granting them "permission" to speak to WMB for the limited purpose of continuing negotiation of audit matters previously under discussion subject to numerous

restrictions, including that WMI retained rights as the "key corporation" for the WaMu Group.

Answer: The allegations set forth in the first sentence of paragraph 71 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same, except respectfully refer the Court to the putative "letter to the FTB" for the content thereof and deny that JPMorgan Chase is entitled to any relief.

Complaint 72: WMI is ineligible to serve as a "key corporation" under California law and its attempt to exercise continuing control over assets and property that do not belong to it is without legal authority or basis. WMI is no longer able to act as an agent for either- WMB or any successors in interest to WMB, for matters involving both years prior to 2008, and for years on or after 2008, because WMI is no longer affiliated with WMB or its former subsidiaries and filing for bankruptcy has caused WMI to have interests adverse to those of WMB and WMB's successors in interest. As a result, JPMorgan Chase is entitled to unrestricted communications with the FTB about all matters concerning WMB, including but not limited to audit activity, assessments, tax refunds and notices. JPMorgan Chase therefore requests that the Court enter an Order authorizing it to engage in such communications and precluding the Debtors or anyone else from interfering with those communications.

Answer: Debtors deny the allegations set forth in paragraph 72 of the Complaint, except respectfully refer the Court to the applicable tax regulations and tax filings for the content thereof, and deny that JPMorgan Chase is entitled to any relief.

(ii) Federal and Other State Tax Refunds

Complaint 73: For taxable years prior to 2008, the WaMu Group filed a consolidated U.S. federal tax return pursuant to regulations promulgated by the U.S. Department of the Treasury ("Treasury Regulations") and the Internal Revenue Service (the "IRS") under Internal Revenue Code ("IRC") Section 1501 *et seq.* For the tax year of 2008, WMB and its subsidiaries were members of the WaMu Group consolidated group until at least September 25, 2008. For each time period, WMI was the common parent of the consolidated group.

Answer: The allegations set forth in paragraph 73 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny the allegations set forth in paragraph 73 of the Complaint.

Complaint 74: To the extent permissible under applicable state law, the WaMu Group filed consolidated tax returns, unitary reports or similar, combined returns with other (non-California) state revenue authorities with which it was required to file tax returns. Such consolidated or combined returns were filed in those states listed on Exhibit F.

Answer: Debtors deny the allegations set forth in paragraph 74 of the Complaint, except respectfully refer the Court to the applicable state law and tax filings for the content thereof.

Complaint 75: Pursuant to applicable law, WMI acted as agent for the WaMu Group in filing the consolidated tax returns.

Answer: Debtors deny the allegations set forth in paragraph 75 of the Complaint, except respectfully refer the Court to the applicable law and tax filings for the content thereof.

Complaint 76: As with California tax filings, for all tax refunds attributable to tax attributes of WMB or its subsidiaries, WMB (or its-respective subsidiary) is, and under applicable law and regulation is required to be, the beneficial owner of the portions of such tax refund attributable to its tax attributes.

Answer: Debtors deny the allegations set forth in paragraph 76 of the Complaint, except respectfully refer the Court to the applicable law and tax filings for the content thereof.

Complaint 77: WMI has already received certain U.S. federal and state income tax refunds as agent for the WaMu Group that have not been allocated and transferred to WMB (or its subsidiaries).

Answer: Debtors deny the allegations set forth in paragraph 77 of the Complaint, except respectfully refer the Court to the applicable tax regulations and tax filings for the content thereof.

Complaint 78: WMI has likely received additional U.S. federal and state income tax refunds as agent for the WaMu Group of which JPMorgan Chase is presently unaware.

Answer: Debtors deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 78 of the Complaint and therefore deny same.

Complaint 79: The beneficial interest in all or a portion of the U.S. federal and state income tax refunds received by WMI as agent for the WaMu Group belongs to JPMorgan Chase, as successor in interest to WMB (and its subsidiaries).

Answer: Debtors deny the allegations set forth in paragraph 79 of the Complaint.

Complaint 80: WMI has refused to turn over to JPMorgan Chase those U.S. federal and state income tax refunds received that are properly allocable to WMB (and its subsidiaries).

Answer: Debtors deny the allegations set forth in paragraph 80 of the Complaint.

Complaint 81: U.S. federal and state income tax refunds, substantially all of which are expected to be attributable to WMB and its subsidiaries, are expected for the 2008 tax year and for tax years prior to 2008 relating to overpayments of taxes by the WaMu Group to the various state taxing authorities.

Answer: Debtors deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 81 of the Complaint (which refer to what is purportedly "expected" by unidentified person(s)), and therefore deny same.

Complaint 82: For the 2008 tax year, the WaMu Group is expected to have a variety of tax attributes such as net operating losses, net capital losses, and excess tax credits, and a substantial portion of such tax attributes are expected to be attributable to the operations of WMB and its subsidiaries. The WaMu Group expects to be able to carry back these favorable tax attributes to prior tax years, where such carrybacks will result in additional U.S. federal and state income tax refunds for such prior tax years.

Answer: Debtors deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 82 of the Complaint (which refer to what is purportedly "expected" by unidentified person(s)), and therefore deny same.

Complaint 83: All facts and circumstances necessary to determine the amount of U.S. federal and state tax refunds for WMB and for any of WMB's subsidiaries are fixed and determinable.

Answer: Debtors deny the allegations set forth in paragraph 83 of the Complaint, except respectfully refer the Court to the applicable tax regulations and tax filings for the content thereof.

Complaint 84: Debtors have wrongly asserted that WMI—and not WMB (nor its respective subsidiaries)—is entitled to the U.S. federal and state tax refunds due to the WaMu Group.

Answer: Debtors deny the allegations set forth in paragraph 84 of the Complaint.

Complaint 85: As set forth in the P&A, JPMorgan Chase purchased "all of the Receiver's right, title and interest," in these tax refunds, pursuant to and in accordance with the FDI Act. On December 30, 2008, WMI nonetheless submitted a claim to the Receiver asserting, among other things, ownership of the tax refunds. On January 23, 2009, the Debtors' claims were disallowed by the Receiver. The Receiver's disallowance is dispositive of the fact that the Debtors do not own or have an interest the tax refunds. On March 20, 2009, the Debtors filed the District Court Action with respect to the disallowance of their claims to the tax refunds.

Answer: Debtors deny the allegations set forth in paragraph 85 of the Complaint, except respectfully refer the Court to the P&A Agreement, the Proof of Claim, the Disallowance Notice, and the complaint filed in the DC Action on March 20, 2009, for the content thereof.

Complaint 86: Accordingly, JPMorgan Chase requests that in addition to an order directing the turnover of the funds, the Court enter an order declaring that as the acquirer of WMB's interests pursuant to the P&A, JPMorgan Chase and its subsidiaries own the rights to such refunds and further ordering Debtors to turn over to JPMorgan Chase any such refunds already received.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 86 of the Complaint.

Complaint 87: In addition, during the time that WMI, WMB and their respective eligible subsidiaries filed a consolidated tax return for U.S. federal income tax purposes, items of income, deduction, loss and credit were combined in one consolidated return, filed by WMI on behalf of the consolidated group.

Answer: Debtors deny the allegations set forth in paragraph 87 of the Complaint, except respectfully refer the Court to the tax filings for the content thereof.

Complaint 88: During this time, WMB was subject to a variety of state and local taxes. The accrual and payment of these state and-local taxes generated by WMB created -a deduction against income for the combined U.S. federal income tax return. Said differently, the state and local taxes accrued by virtue of WMB's operations created deductions that were used to offset the WMI consolidated group taxable income.

Answer: Debtors deny the allegations set forth in paragraph 88 of the Complaint, except respectfully refer the Court to the applicable tax regulations and tax filings for the content thereof.

Complaint 89: Although these deductions should have been recognized as a benefit that was solely WMB's, WMI did not credit WMB in any way for the state and local income tax deductions attributable to WMB's operations. In effect, WMI claimed for itself the state and local tax deductions properly attributable to WMB. Debtors have wrongly asserted that WMI-and not WMB (nor its respective subsidiaries)—is entitled to these deductions.

Answer: Debtors deny the allegations set forth in paragraph 89 of the Complaint.

Complaint 90: The total dollar value of such deductions is at least approximately $517 million. As set forth in the P&A, JPMorgan Chase purchased "all of the Receiver's right, title and interest," in these assets, pursuant to and in accordance with the FDI Act. JPMorgan Chase requests that the Court enter an order declaring that as the acquirer of WMB's interests pursuant to the P&A, JPMorgan Chase and its subsidiaries own the rights to any cash value generated by such deductions and further ordering Debtors to turn over to JPMorgan Chase the value of any such deductions.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 90 of the Complaint.

(iii) Tax Sharing Agreement

Complaint 91: On August 31, 1999, WMI and members of the WaMu Group entered into a Tax Sharing Agreement, which required various members of the WaMu Group to pay WMI for each member's share of the WaMu Group's consolidated income, and required WMI to return to each member such member's share of any tax refunds paid to WMI.

Answer: The allegations set forth in paragraph 91 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same, except respectfully refer the Court to the Tax Sharing Agreement for the content thereof, and admit that WMI, WMB, WMB fsb, and certain other direct and indirect subsidiaries of WMI and WMB are parties to that certain Tax Sharing Agreement, dated as of August 31, 1999, and that pursuant to the Tax Sharing Agreement, all federal income taxes were paid directly by WMI on behalf of the consolidated tax group, which includes WMB and its subsidiaries.

Complaint 92: The Tax Sharing Agreement provides further support that WMI would receive any tax refund attributable to WMB's or WMB's subsidiaries' tax attributes merely as agent, and-that WMB (or its respective subsidiary) would be the beneficial owner of such tax refund. At all times the Tax Sharing Agreement was subject, by law and by its own terms, to applicable bank and thrift regulatory guidelines. The ownership of the tax refunds that would result from application of either applicable law or the Tax Sharing Agreement should be identical—in neither event may WMI retain refunds that are not attributable to the tax attributes of its regulated subsidiaries.

Answer: The allegations set forth in paragraph 92 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same, except respectfully refer the Court to the Tax Sharing Agreement for the content thereof.

E. The Intercompany Amounts and Accounts

(i) The "On-Us" Accounting Entries

Complaint 93: On the Petition Date, WMI claimed that JPMorgan Chase was liable to pay a total purported deposit liability to WMI and its non-WMB subsidiaries, originally claimed in the amount of $5 billion and then ultimately asserted in the total amount of $4,358,492,498 (the "Intercompany Amounts"). According to WMI, the Intercompany Amounts represented deposits maintained by WMI at the Affiliated Banks, all as non-interest bearing demand deposit accounts. A true and correct copy of the original list of twenty-nine account numbers (the "Accounts") provided to JPMorgan Chase by WMI shortly after the Petition Date is attached as Exhibit G.

Answer: Debtors deny the allegations set forth in paragraph 93 of the Complaint, except respectfully refer the Court to WMI's court filings made on September 26, 2009 (the "Petition Date") for the content thereof, and Debtors respectfully refer the Court to Exhibit G to the Complaint for the content thereof.

Complaint 94: As set forth in the P&A, JPMorgan Chase purchased "all of the Receiver's right, title and interest," in the Intercompany Amounts, pursuant to and in accordance with the FDI Act. On December 30, 2008, the Debtors nonetheless submitted a claim to the Receiver asserting, among other things, ownership of the Intercompany Amounts. On January 23, 2009, the Debtors' claims were disallowed by the Receiver. On March 20, 2009, the Debtors commenced the District Court Action with respect to the disallowance of their claims, assert that the Intercompany Amounts are deposit accounts at JPMorgan Chase, and claim damages relating to the Intercompany Amounts.

Answer: Debtors deny the allegations set forth in paragraph 94 of the Complaint, except respectfully refer the Court to the P&A Agreement, the Proof of Claim, the Disallowance Notice, and the complaint filed in the DC Action on March 20, 2009, for the content thereof.

Complaint 95: With the exception of signature cards for several of the smaller Accounts, JPMC has not located and believes there do not exist pre-petition any deposit account agreements, signature cards or any other documentation for the Accounts as deposit accounts.

Notwithstanding that fact and while it continued to investigate whether such documents existed somewhere, JPMorgan Chase was prepared to treat the Accounts as if they were deposit accounts so long as all rights of all parties, including JPMorgan Chase's rights, were acknowledged and approved by order of this Court. Toward that end, on or about October 15, 2008, JPMorgan Chase and the Debtors entered into a proposed stipulation (the "Account Stipulation") with respect to the Accounts that was filed with the Court for approval. The Account Stipulation was ultimately withdrawn following objections filed by certain creditors of the Receivership and the FDIC and was never entered by the Court.

Answer: Debtors deny knowledge or information sufficient to form a belief as to the truth of the allegations in the first two sentences of paragraph 95 of the Complaint and therefore deny same. Debtors deny the remaining allegations set forth in paragraph 95 of the Complaint, except Debtors respectfully refer the Court to the October 15, 2008 document for the content thereof, and further allege and aver that the October 15, 2008 document was withdrawn and never approved by the Court.

Complaint 96: Pursuant to the Account Stipulation, and before it was withdrawn, JPMorgan Chase and the Debtors executed customary deposit account agreements regarding the Accounts on or about October 21, 2008 that provided, among other things, customary rights of setoff, recoupment and banker's liens to secure JPMorgan Chase's rights to recover claims JPMC may have against the Debtors or their subsidiaries and affiliates from the funds on deposit in the Accounts.

Answer: Debtors object to the allegations set forth in paragraph 96 of the Complaint on the grounds that such allegations purport to disclose confidential settlement communications in violation of ethical and legal rules binding upon JPMorgan Chase and its counsel (*see, e.g.*, Fed. R. Evid. 408), and Debtors reserve all rights, remedies and defenses with respect to the breach of such ethical and legal obligations. To the extent a response is required, Debtors deny the allegations set forth in paragraph 96 of the Complaint.

Complaint 97: After the execution of those documents but prior to December 19, 2008, JPMorgan Chase acceded to a request of the Debtors and the Official Committee of Unsecured Creditors (the "Committee") to agree to the accrual of interest on the Intercompany Amounts as a sign of good faith in the event that it were ultimately determined that any of the Intercompany Amounts were in fact deposit accounts, without prejudice to its rights. Similarly, JPMorgan Chase agreed to the Debtors' further-request that as a sign of "goodwill" it agree to release $292 million of the Intercompany Amounts attributable to the Accounts of the non-debtor subsidiaries of WMI, without prejudice to its rights.

Answer: Debtors deny the allegations set forth in paragraph 97 of the Complaint.

Complaint 98: JPMorgan Chase agreed to those requests from the Debtors in good faith, without prejudice to its rights, and on the understanding that the parties were working diligently to resolve open questions and issues with respect to the Intercompany Amounts. It did so in reliance on the Debtors' execution of account documentation for the Accounts that protected the interests of JPMC, and on the understanding that the Debtors would respect those rights. However, on or about December 19, 2008, after obtaining from JPMorgan Chase the benefit of these concessions, the Debtors advised JPMorgan Chase that the execution of those deposit account agreements on October 21, 2008, was only in anticipation of the proposed Account Stipulation and, since that stipulation had never been approved, the execution and delivery of the agreements was in error, unauthorized and considered by the Debtors to be null, void and without legal effect.

Answer: Debtors deny the allegations set forth in paragraph 98 of the Complaint.

Complaint 99: The execution and effectiveness of the account documentation executed by the Debtors on October 21, 2008, was a key factor in JPMorgan Chase's decision to agree to the request that it accrue interest on the Intercompany Amounts and to the release of $292 million to the Debtors and their non-debtor affiliates. While JPMorgan Chase does not dispute that the Account Stipulation was never so ordered, to the extent that such documentation is ineffective, it should be ineffective for all parties and for all purposes, including the effectiveness of any post-petition book entries reflecting any portion of the Intercompany Amounts or Accounts as deposit liabilities and the release of any funds to the Debtors or their non-Debtor affiliates.

Answer: Debtors deny the allegations set forth in paragraph 99 of the Complaint.

Complaint 100: Although JPMorgan Chase still has not discovered any pre-petition deposit account agreements, signature cards or other documentation for the Accounts that would have been required of depositors that were not affiliates in order to treat the Accounts as deposit accounts (except for the signature cards on a few accounts as described above), it is nonetheless clear that if these are deposit accounts—not capital contributions—they were and are subject to the standard terms and conditions specified in the Master Business Account Disclosures and Regulations (the "MBA Policy") of the Affiliated Banks.

Answer: Debtors deny the allegations set forth in paragraph 100 of the Complaint.

Complaint 101: The Accounts were associated with the DDA numbers provided by WMI. Of the twenty-nine, most were so-called "On–Us Accounts", the internal nomenclature for intercompany receivables that were understood to represent deposit accounts at the Affiliated Banks. Thus, the balances in these Accounts as of any point in time, unlike third party deposit accounts, were maintained both at the depository institution and as intercompany book entries on the general ledger of WMI and the Affiliated Banks that were its subsidiaries.

Answer: Debtors deny the allegations set forth in paragraph 101 of the Complaint, except admit that "On Us Accounts" were deposit accounts, and respectfully refer the Court to the documents referenced in paragraph 101 for the content thereof.

Complaint 102: The decision on how to characterize an intercompany transaction was made by a single centralized Treasury group for WMI and all of its affiliates. That Treasury group was under the direct supervision of Robert Williams, currently the Chief Executive Officer of WMI.

Answer: Debtors deny the allegations set forth in paragraph 102 of the Complaint.

Complaint 103: To the extent the Intercompany Amounts and the Accounts reflect capital contributions, they are the property of JPMorgan Chase under the terms of the P&A. To the extent they are deposit liabilities, they must be governed by standard terms and conditions governing unaffiliated deposit accounts, as a result of which they become subject to any liens, claims and interests that

JPMC may have, and are also subject to setoff, recoupment or other offset.

Answer: Debtors deny the allegations set forth in paragraph 103 of the Complaint.

(ii) Deposit Liabilities

Complaint 104: To the extent the Intercompany Amounts in the Accounts are not capital contributions and are in fact deposit liabilities of WMB or WMB fsb assumed by JPMorgan Chase under the P&A, WMI and its subsidiaries, like every other Affiliated Bank depositor (expressly or otherwise), are bound by the standard terms and conditions for deposits at the Affiliated Banks.

Answer: The allegations set forth in paragraph 104 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same.

Complaint 105: The Accounts were utilized to settle intercompany obligations, including obligations arising from the payment and allocation of expenses among WMI and all of its subsidiaries, with intercompany allocations, payments and settlements on a periodic, usually monthly, basis. The balances on the Accounts were reflected on "On-Us Elevation Reports" generated on a monthly basis and on paper "Washington Mutual Internal Checking Detail" statements mailed to an employee of WMB on a monthly basis. Copies of the "On-Us Elevation Reports" and of the "Washington Mutual Internal Checking Detail" statements for August, September and October, 2008 are attached as Exhibits H and I, respectively.

Answer: Debtors deny the allegations set forth in paragraph 105 of the Complaint, except admit that Exhibits H and I to the Complaint contain, among other language, headings that state "On-Us Elevation Report" and "Washington Mutual Internal Checking Detail Information".

Complaint 106: These Accounts were established by WMI or one of its non-bank subsidiaries at the Affiliated Banks pursuant to WMI' s Internal Corporate Demand Deposit Account Establishment and Usage Policy (the "On-Us Policy"). According to that policy, WMB had the right to use the Intercompany Amounts for, among other things, processing and clearing transactions between WMB and WMI or their respective subsidiaries, customers, vendors, or investors, again raising the question of whether the Intercompany Amounts represented a continuing deposit liability or should be

characterized as a general reserve, a capital contribution or a form of intercompany advance to the Affiliated Banks. The On-Us Policy was silent regarding the rules and terms governing the acceptance by the Affiliated Banks of amounts under the On-Us Policy as deposit accounts and services related to such accounts maintained at the Affiliated Banks.

Answer: Debtors deny the allegations set forth in paragraph 106 of the Complaint, except admit that the Accounts were established by WMI or one of its non-bank subsidiaries and respectfully refer the Court to the documents referenced in paragraph 106 for the content thereof.

Complaint 107: WMI and the Affiliated Banks maintained a detailed, forty-page policy, the MBA Policy, that operated as a contract setting forth the terms and conditions governing all deposit accounts established at the Affiliated Banks. The MBA Policy contained, among other things, a self-executing clause that made the terms of the policy binding upon all depositors, even those who did not expressly give permission, through consent implied by the opening and continued use of the deposit account.

Answer: The allegations set forth in paragraph 107 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same, except refer to the documents referenced in paragraph 107 for the content thereof.

Complaint 108: The MBA Policy and its terms and conditions apply to and govern any accounts that are in fact deposit accounts at the Affiliated Banks, including the Accounts to the extent any are deposit accounts. WMI as the sole shareholder and parent of the Affiliated Banks is charged with knowledge and acceptance of the MBA Policy for any deposit account it maintained at the Affiliated Banks.

Answer: The allegations set forth in paragraph 108 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same, except refer to the documents referenced in paragraph 108 for the content thereof.

Complaint 109: Any claim that WMI is entitled to terms more favorable to it than the terms imposed on third party depositors under the MBA Policy would violate applicable federal law and regulations and be untenable. The provision of services, including deposit

services, to WMI by its Affiliated Banks, under relevant banking laws and regulations, were required to have been conducted on terms and conditions no less favorable to the bank than would have been undertaken in a comparable transaction with an unaffiliated third party. Thus, these accounts, to the extent they reflect deposits, were required by law to be maintained on terms no less favorable to the Affiliated Banks than those clearly set forth in the MBA Policy.

Answer: The allegations set forth in paragraph 109 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same, except refer to the documents referenced in paragraph 109 for the content thereof.

Complaint 110: The MBA Policy expressly grants the Affiliated Banks a right to offset any and all claims against all deposit account liabilities. Specifically, the MBA Policy provides, "you agree we have the right to offset any account or asset of yours then held by us, by our sister bank, or any subsidiary of ours or our sister bank." Said differently, to the extent the Accounts and the Intercompany Amounts contained therein are deposit liabilities of the Affiliated Banks, the MBA Policy created a broad contractual right of setoff against the Accounts and the Intercompany Amounts for the benefit of the Affiliated Banks and their subsidiaries.

Answer: The allegations set forth in paragraph 110 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same, except refer to the documents referenced in paragraph 110 for the content thereof.

Complaint 111: Accordingly, to the extent that any of the Accounts or Intercompany Amounts are found by the Court to constitute deposit liabilities of JPMorgan Chase as assignee of the Receiver, they are deposit liabilities subject to and created under the MBA Policy and JPMorgan Chase has a security interest in, lien rights against and rights of set off and recoupment against the Intercompany Amounts as deposit liabilities under the MBA Policy and standard deposit account agreement terms and conditions applicable to all third party depositors and as in effect at the time that the Affiliated Banks and their parent entered into the transactions creating and maintaining the Accounts.

Answer: The allegations set forth in paragraph 111 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same and further deny that JPMorgan Chase is entitled to any relief.

(iii) JPMorgan Chase Also Has an Express Security Interest in at Least One Account

Complaint 112: In addition, WMI entered into at least one specific security agreement with WMB (the "Security Agreement") whereby WMB received a security interest in and lien upon at least one of the Accounts in return for providing value to WMI. According to its terms, the Security Agreement "shall be binding upon [WMI] and its successors and assigns, and shall inure to the benefit of, and may be enforced by [WMB] and its successors, transferees, and assigns." This express security interest creates a lien to secure any and all intercompany obligations. JPMorgan Chase is the successor, transferee or assignee of the Security Agreement and entitled to enforce its terms against WMI at least as to Intercompany Amounts associated with Account No. 177-8911206. A true and correct copy of the Security Agreement is attached as Exhibit J.

Answer: The allegations set forth in paragraph 112 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same, except respectfully refer the Court to the documents referenced in paragraph 112 for the content thereof.

(iv) The September $3.67 Billion Book Entry Transfer

Complaint 113: Between September 19, 2008 and September 24, 2008, in the days immediately preceding the impending takeover of WMB by its regulators, WMI directed book entries purporting to transfer approximately $3.67 billion (the "$3.67 Billion Book Entry Transfer") from WMB to WMB fsb. The entries direct the transfer from the triple 070-10450009909 "On-Us" Account No. 17900001650667, which is reflected in the internal On-Us Elevation Report and the Internal Checking Detail as an account at WMB, to what WMI now claims was a deposit account at WMB fsb identified as triple 070-10441-0009909 "On-Us" Account No. 44100000064234.

Answer: Debtors deny the allegations set forth in paragraph 113 of the Complaint, except Debtors admit and aver that $3.67 billion was transferred to a deposit account bearing Account No. 44100000064234, and respectfully refer the Court to the documents referenced in paragraph 113 and the Complaint for the content thereof.

Complaint 114: The general ledger entries for this transaction indicate that the entries were posted on September 24, 2008 with a "retro" date to September 19, 2008 and describe the $3.67 Billion Book Entry Transfer as "WMI contributes to FSB." WMI has asserted that the transaction was intended to be a transfer of funds from a WMI deposit account at WMB to a WMI deposit account at WMB fsb. What is clear, however, is that no cash or other funds were actually moved to or received by WMB fsb in connection with the transfer.

Answer: Debtors deny the allegations set forth in paragraph 114 of the Complaint, except admit that there was a transfer of funds from a WMI deposit account at WMB to a WMI deposit account at WMB fsb, and respectfully refer the Court to the ledger entries for the content thereof.

Complaint 115: The Debtor's agreement to the terms of the Account Stipulation and the deposit agreements that provide JPMorgan Chase on behalf of itself and its affiliates and subsidiaries with broad post-petition lien rights and rights of setoff and recoupment resulted in the entry of the $3.67 Billion Book Entry Transfer as a deposit liability on the books and records of JPMC. Having executed the standard deposit agreements with JPMorgan Chase necessary to have this account reflected as a deposit at JPMorgan Chase, WMI should be estopped from taking the position that these account agreements were a mistake and not binding on it or from enjoying-the benefit of having-the Accounts reflected as deposit liabilities free of the lien and setoff rights created by those very same agreements. To the extent that any post-petition book entry is considered as relevant to the status of the purported deposit, any such resulting deposit should similarly be considered subject to the depository institution's rights, including post-petition contractual and statutory rights of setoff, that accompany the post-petition deposit.

Answer: Debtors object to the allegations set forth in paragraph 115 of the Complaint on the grounds that such allegations purport to disclose confidential settlement communications in

violation of ethical and legal rules binding upon JPMorgan Chase and its counsel (*see, e.g.*, Fed. R. Evid. 408), and Debtors reserve all rights, remedies and defenses with respect to the breach of such ethical and legal obligations. To the extent a response is required, Debtors deny the allegations set forth in paragraph 115 of the Complaint.

Complaint 116: WMB fsb would never have accepted a deposit liability from an unaffiliated third party without first receiving good funds, or at least not a deposit liability of the magnitude its parent now asserts was created on or about September 19, 2008. The $3.67 Billion Book Entry Transfer represented approximately 44% of the total deposits at WMB fsb, an increase of nearly 80% in total deposit liabilities. In no way was this an ordinary course transaction. Regardless of the fact that WMI and its affiliates may have operated a centralized cash management system for efficiency as members of the same corporate family, intracompany transfers, unaccompanied by actual movement of funds, cannot create obligations and liabilities as third parties when the corporate ownership link is broken. Because no cash or other funds were actually transferred by WMI to WMB fsb, the $3.67 Billion Book Entry Transfer could not have created a deposit liability of WMB fsb to WMI without receipt of good funds. To the extent the $3.7 Billion Book Entry Transfer is nonetheless deemed to create such a liability, JPMC is entitled to a complete offset for WMI's failure to deliver good funds representing that $3.67 billion deposit.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 116 of the Complaint.

Complaint 117: The $3.7 Billion Book Entry Transfer was not a deposit account and WMI should be estopped from making any claims to the contrary.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 117 of the Complaint.

Complaint 118: Alternatively, to the extent any third party has or may have a claim against WMB fsb and/or JPMorgan Chase with respect to or as a result of the $3.7 Billion Book Entry Transfer, JPMorgan Chase is entitled to-be indemnified by WMI for any liability it may incur and is entitled to recover the amount by which it is or may be liable to any such third party from the Intercompany Amounts.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 118 of the Complaint.

(v) The Tax Refunds and other Funds in the Accounts

Complaint 119: A substantial portion of the Intercompany Amounts were, at the time of the Receivership and the Petition Date, in fact the property of the Affiliated Banks, representing tax payments made by the Affiliated Banks either as (i) accelerated payments of amounts previously claimed by WMI against the Affiliated Banks purportedly for taxes paid in prior years by WMI on behalf of the Affiliated Banks; or (ii) amounts transferred to WMI in payment of estimated or actual 2008 taxes.

Answer: Debtors deny the allegations set forth in paragraph 119 of the Complaint.

Complaint 120: In addition, after the Petition Date, at least approximately $234 million of tax refunds due to WMB — the rights to which were purchased by JPMorgan Chase as assets of WMB (the "Tax Refunds Received") — were paid to WMI. An amount equal to at least this $234 million of the Tax Refunds Received are included in the balance of the Intercompany Amounts and the Accounts and should be paid over to JPMorgan Chase as the lawful owner of those funds.

Answer: Debtors deny the allegations set forth in paragraph 120 of the Complaint.

Complaint 121: The Tax Refunds Received should not have been, and at various times were not in fact, recorded in any way as a deposit liability. The Tax Refunds Received were and are property of JPMorgan Chase purchased under the P&A.

Answer: Debtors deny the allegations set forth in paragraph 121 of the Complaint.

(vi) Section 9.5 of P&A Agreement

Complaint 122: To the extent any of the Accounts are deposit liabilities assumed by JPMorgan Chase, pursuant to Section 9.5 of the P&A, "[a]t any time, the [FDIC] may, in its discretion, determine that all or any portion of any deposit balance assumed by [JPMorgan Chase] pursuant to this Agreement does not constitute a "Deposit" . . . and may direct [JPMorgan Chase] to withhold payment of all or any portion of any such deposit. Upon such direction, [JPMorgan Chase] agrees to hold such deposit and not make payment of such deposit balance to or on behalf of the depositor, or to itself, whether by way of transfer, set-off, or otherwise. [JPMorgan Chase] shall be obligated to reimburse the [FDIC], . . . for the amount of any deposit balance or portion thereof paid by [JPMorgan Chase] in contravention of any previous direction to withhold payment of such deposit balance or return such deposit balance, the payment of which was withheld pursuant to this Section."

Answer: Debtors deny the allegations set forth in paragraph 122 of the Complaint, except respectfully refer the Court to the P&A Agreement for the content thereof.

Complaint 123: The FDIC has not to date notified JPMorgan Chase that all or any portion of the Intercompany Amounts or Accounts are or are not Deposit Liabilities within the meaning of the P&A. Nor has the FDIC directed JPMorgan Chase to withhold payment on all or any portion of the Accounts. JPMorgan Chase requests that to the extent this Court orders JPMorgan Chase to pay any portion of the Intercompany Amounts or Accounts to the Debtors or into the registry of this Court, that the Court do so by way of interpleader under Rule 7022, releasing JPMorgan Chase from any liability for such amounts to any person and preserving the rights of all parties and all possible claimants with respect to those funds (including JPMorgan Chase). Specifically, JPMorgan Chase requests a finding that it only has to pay or credit the Accounts or the Intercompany Amounts once and that this Court's determination regarding ownership, character and rights in or to the Intercompany Amounts or the Accounts is final so that JPMorgan Chase has no further liability in any capacity for the Intercompany Amounts or Accounts except as may be determined by this Court in this proceeding.

Answer: Debtors deny knowledge or information sufficient to form a belief as to the truth of the allegations in the first two sentences of paragraph 123 of the Complaint and therefore deny same. Debtors further deny that JPMorgan Chase is entitled to any relief.

Complaint 124: In the District Court Action, the Debtors assert that JPMorgan Chase assumed these liabilities as deposit liabilities under the P&A and that they are now depositors of JPMorgan Chase.

Answer: Debtors deny the allegations set forth in paragraph 124 of the Complaint, except respectfully refer the Court to the complaint filed by the Debtors in the DC Action for the content thereof.

F. Goodwill Litigation

Complaint 125: JPMorgan Chase, as the successor in interest to the Receiver and WMB-and not WMI—is the proper recipient of both the $356,454,911 judgment entered in *Anchor Savings Bank, FSB v. United States*, No. 95-872C (Fed. Cl.) (the "Anchor Judgment") and the $55,028,000 partial judgment entered in American Savings Bank, F.A. v. United States, No. 92-872C (Fed. Cl.) (the "ASB Judgment"), as well as the proper plaintiff in the continuing *Anchor Savings Bank and American Savings Bank* cases.

Answer: The allegations set forth in paragraph 125 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same, except respectfully refer the Court to the pleadings and court decisions of the referenced cases for the content thereof.

Complaint 126: The *Anchor Savings Bank and American Savings Bank* cases are two of the numerous actions brought against the United States, asserting that passage of the Financial Institutions Reform, Recovery, and Enforcement Act ("FIRREA") breached supervisory merger contracts that permitted financial institutions to apply special accounting treatment to their acquisitions of failing savings and loan thrifts. Specifically, the contracts permitted the treatment of supervisory goodwill as regulatory capital that was no longer permissible under FIRREA.

Answer: Debtors deny the allegations set forth in paragraph 126 of the Complaint, except respectfully refer the Court to the pleadings and documents in the referenced cases for the content thereof, and state that the allegations in the last sentence of paragraph 126 of the Complaint state a conclusion of law as to which no response is required.

Complaint 127: As the facts and court decisions in the *Anchor Savings Bank* action establish, the damages resulting from the United States' breach of a series of contracts were incurred by *Anchor Savings Bank*. Ownership of the Anchor Savings Bank cause of action remained at all times with Anchor Savings Bank—the sole plaintiff in the action—and the successor thrifts so that the Anchor Judgment thereby became an asset of WMB. In 1995, the operations and assets of Anchor Savings Bank were merged with those of Dime Savings Bank. In 2002, Dime Savings Bank was merged into WMB.

Answer: The allegations set forth in paragraph 127 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same, except respectfully refer the Court to the pleadings and court decisions in the referenced cases for the content thereof.

Complaint 128: Similarly, the capital at issue in the *American Savings Bank* action was provided and posted by American Savings Bank, F.A. and consisted of inventory capital and retained earnings held by American Savings-Bank, F.A. As the facts and-court decisions in the *American Savings Bank* action establish, the damages resulting from the United States' breach of the Note Forbearance—which are the damages comprising the ASB Judgment—were incurred by American Savings Bank, F.A. The plaintiff that provided the capital, American Savings Bank, F.A., was the predecessor in interest to WMB and amended its Federal Stock Charter in 1997 to change its corporate title from American Savings Bank, F.A. to Washington Mutual Bank, F.A. In addition, the parent company of American Savings Bank, F.A., New American Capital, Inc., was subsequently liquidated and merged into WMB, not WMI.

Answer: The allegations set forth in paragraph 128 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same,

except respectfully refer the Court to the merger documents and to the pleadings and court decisions in the referenced cases for the content thereof.

Complaint 129: WMI has asserted that it is entitled to the ASB Judgment, which on February 16, 2009, this Court ordered be paid into its registry. This Court further directed that any party, other than the Debtors, asserting an ownership interest in the ASB Judgment bring its claim through an adversary proceeding in accordance with Bankruptcy Rule 7001. JPMorgan Chase hereby does so.

Answer: Debtors admit the allegations set forth in paragraph 129 of the Complaint, except deny that JPMorgan Chase is entitled to any relief.

G. Legacy Rabbi Trusts and Benefit Plans

(i) Legacy Rabbi Trusts

Complaint 130: The Debtors have refused to acknowledge JPMorgan Chase's ownership of the assets of certain rabbi trusts ("Legacy Rabbi Trusts") that belong to JPMorgan Chase under the terms of the P&A, even though these assets were reflected on WMB's books and records and WMB was the successor to the original settlor. These assets support obligations under certain non-qualified retirement and pension plans covering current or former employees of or retirees from WMB or its predecessors in interest.

Answer: Debtors deny the allegations that JPMorgan Chase has "ownership of the assets" and otherwise deny the allegations set forth in paragraph 130 of the Complaint.

Complaint 131: In a series of mergers in the late 1990s and the early part of this decade, WMI, through a variety of subsidiaries, acquired a number of financial institutions, which were merged into, or the assets of which were purchased by, WMB. As part of-these acquisitions, WMB also acquired a number of non-qualified plans funded through Legacy Rabbi Trusts as well as liabilities for other plans not supported by trust assets. Rabbi Trusts are used to fund the payment of benefits under nonqualified deferred compensation plans that were adopted by some of the financial institutions WMI acquired. As of September 30, 2008, the books and records of WMB and WMI reflected 16 separate legacy plan Rabbi Trusts with aggregate legacy Rabbi Trust assets of over $550 million.

Answer: Debtors deny the allegations set forth in paragraph 131 of the Complaint, except respectfully refer the Court to the merger documents, plan documents, and books and records, for the content thereof.

Complaint 132: The "Legacy Rabbi Trusts" support the liabilities created under a number of non-qualified deferred compensation and supplemental retirement plans ("legacy plans") adopted by predecessor institutions acquired by the Washington Mutual family over the years.

Answer: Debtors admit that "Legacy Rabbi Trusts" support liabilities created under a number of non-qualified deferred compensation and supplemental retirement plans adopted by predecessor institutions acquired by certain Washington Mutual entities over the years, and otherwise deny the allegations set forth in paragraph 132 of the Complaint.

Complaint 133: Since the execution of the P&A, JPMorgan Chase has been prepared to assume the obligations supported by the rabbi trust assets that it purchased under the P&A but the Debtors have refused to provide joint instructions to the trustees even where it is incontrovertible that the assets for a particular trust were acquired by JPMorgan Chase under the P&A. In so refusing to acknowledge JPMC's ownership and utilizing the automatic stay, the Debtors in effect have halted the payment of benefits to employees and many elderly retirees.

Answer: Debtors deny the allegations set forth in paragraph 133 of the Complaint.

Complaint 134: Under the P&A, the assets of twelve Legacy Rabbi Trusts were sold to JPMorgan Chase by the FDIC. With respect to five of these Legacy Rabbi Trusts, the FDIC has directed the trustees to turn the assets over to JPMorgan Chase and, when that happens, JPMorgan Chase has agreed to recommence the payment of benefits to retirees and others whose benefits were supported by the Legacy Rabbi Trust assets. With respect to the other seven Legacy Rabbi Trusts—four Dime Savings Bank Rabbi Trusts (the "Dime Rabbi Trusts"), two Great Western Rabbi Trusts (the "Great Western Rabbi Trusts"), and a Providian Rabbi Trust (the "Providian Rabbi Trust" and, together with the Dime Rabbi Trusts and the Great Western Rabbi Trusts, the "Bank Rabbi

Trusts")[2]—there was some initial ambiguity as to either the identity of the successor to the original settlor of the Bank Rabbi Trust or the source of funding for the trust assets. JPMorgan Chase has since provided the Debtors with documentation for the conclusion that WMB had properly accounted for the assets of the Bank Rabbi Trusts on its books and that WMB was the successor to the original settlor. Accordingly, the assets of the Bank Rabbi Trusts were confirmed as property of WMB and thus also purchased by JPMorgan Chase under the P&A. To date, the Debtors have refused to acknowledge JPMorgan Chase's ownership of the Bank Rabbi Trust assets in writing.

Answer: Debtors deny the allegations set forth in paragraph 134 of the Complaint.

Complaint 135: To determine with finality the ownership of the assets of the Legacy Rabbi Trusts, JPMorgan Chase requests that the Court enter an order declaring that JPMorgan Chase purchased the assets of the Legacy Rabbi Trusts, and an order authorizing JPMorgan Chase and the trustees of each of the Legacy Rabbi Trusts to take all actions necessary or appropriate to transfer ownership of the assets to JPMorgan Chase and compel Debtors to cooperate in the transfer of them to JPMorgan Chase.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 135 of the Complaint.

(ii) The Pension Plan and the 401(k) Plan

Complaint 136: As of the Petition Date, WMI sponsored the WaMu Savings Plan, a tax qualified savings plan under section 401(k) of the Internal Revenue Code (the "401(k) Plan"), and a tax qualified cash balance pension plan, the WaMu Pension Plan (the "Pension Plan") (collectively, the "Plans"). In 2007, WMB booked an intercompany receivable of approximately $316 million payable by WMI to WMB, of which approximately $275 million is still owed to WMB.

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[2] JPMorgan Chase does not assert an ownership interest in the Rabbi Trusts previously sponsored by H.F. Ahmanson and Co. Accordingly, the Ahmanson Rabbi Trusts' assets and related liabilities are not included in the definition of Rabbi Trusts for the purposes of this Complaint.

Answer: Debtors admit that WMI sponsored employee benefit plans, including, among others, the Washington Mutual, Inc. Savings Plan, and otherwise deny the allegations set forth in paragraph 136 of the Complaint, except respectfully refer the Court to the plan documents and applicable book entries for the content thereof.

Complaint 137: While WMI was the sponsor of the Plans as of the Petition Date, nearly all of the employees covered by the Plans were employees of WMB or its subsidiaries, many of whom are now employed by JPMorgan Chase.

Answer: Debtors admit the allegations set forth in paragraph 137 of the Complaint, except deny knowledge or information sufficient to form a belief as to the truth of the allegation in paragraph 137 that the employees are currently employed by JP Morgan Chase and therefore deny same.

Complaint 138: Employees who participate in the 401(k) Plan contribute a percentage of their pre-tax income to the 401(k) Plan. Prior to the Petition Date, WMB would then match a portion of participants' contributions and fund that amount directly or indirectly by making a payment to the trust associated with the 401(k) Plan, which was administered by Fidelity Management Trust Company. The 401(k) Plan is administered by an administration committee and investments are overseen by an investment committee, whose members were appointed by WMI.

Answer: Debtors admit the allegations set forth in paragraph 138 of the Complaint.

Complaint 139: The Pension Plan is a defined benefit plan in which no employee contributions are required. Instead, required funding contributions were made by WMI and/or participating employers. As with the 401(k) Plan, the Pension Plan was administered, and investments were overseen, by individuals appointed by WMI. As of Petition Date, the Pension Plan had approximately 32,000 participants and assets valued at approximately $1 billion.

Answer: Debtors admit that the Pension Plan is a defined benefit plan in which no employee contributions are required, that required funding contributions were made by WMI and/or participating employers, and that the Pension Plan was administered, and investments were

overseen, by individuals appointed by WMI. Debtors otherwise deny the allegations set forth in paragraph 139 of the Complaint, except respectfully refer the Court to the plan documents for the content thereof.

Complaint 140: Since the Petition Date, WMI has refused to relinquish sponsorship of the Plans. Members of the committees for each plan have made all administrative and investment decisions. WMI has retained responsibility for making payments to participants in the Plans.

Answer: Debtors deny the allegations set forth in paragraph 140 of the Complaint, except admit and aver that (i) WMI has rightfully refused to relinquish sponsorship of Plans, and (ii) JPMorgan Chase has made a number of administrative decisions with respect to the Plans without WMI's guidance or permission.

Complaint 141: Since September 25, 2008, JPMorgan Chase has been seeking to assume the Plans to ensure that covered employees retain their benefits and interests under the Plans. In anticipation of sponsoring the Plans, JPMorgan Chase, for the benefit of former WMB employees currently employed by JPMorgan Chase, has continued to record accruals for the Pension Plan. JPMorgan Chase also has directed employee contributions into the 401(k) Plan and funded significant matching contributions.

Answer: Debtors deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 141 of the Complaint and therefore deny same.

Complaint 142: WMB, not WMI, had the real economic interest in the Plans, having (i) incurred most of the pension and other expenses associated with the Pension Plan and funded the contributions for the 401(k) Plan and (ii) employed nearly all of the participants. As of the Petition Date, the Pension and 401(k) Plans were not material to WMI's business or reorganization because WMI, by its own account, had only a handful of employees as of the Petition Date and, even since the Petition Date, has added only a dozen or two additional former employees of WMB. Thus, JPMorgan Chase believed that it would ultimately assume sponsorship of the Plans.

Answer: Debtors deny the allegations set forth in paragraph 142 of the Complaint, except Debtors deny knowledge or information sufficient to form a belief as to the truth of the allegations in the last sentence of paragraph 142 of the Complaint and therefore deny same.

Complaint 143: The Debtors have nonetheless refused to allow JPMorgan Chase to assume the Plans. With respect to the Pension Plan, the Debtors' refusal appears to be based on the unfounded claim that the Pension Plan is over-funded and the desire to extract from JPMorgan Chase the purported over-funding as a condition to assuming sponsorship. There is no support for this assertion under fact, law (including the Employee Retirement Income Security Act of 1974, which likely would prevent such a recapture) or the P&A. JPMorgan Chase intends to assume and continue the Pension Plan and the sufficiency of the Pension Plan's assets to cover benefit obligations will continue to vary depending upon ongoing market and economic fluctuations that affect the value of plan assets, as well as the interest rate used to discount liabilities. It therefore makes no sense to suggest that there is "over-funding" that is due to the Debtors today as a practical matter, under relevant law or pursuant to the P&A.

Answer: Debtors deny the allegations set forth in paragraph 143 of the Complaint, and deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 143 of the Complaint that refer to what JPMorgan Chase purportedly intends and Debtors therefore deny same.

Complaint 144: With respect to the 401(k) Plan, Debtors' position is even less well reasoned. Debtors cannot obtain any value from the 401(k) Plan or its termination because the assets belong to the employees. Likewise, there is no basis for Debtors' assertion that, in connection with assumption of the Plans, JPMorgan Chase should acquire litigation pending against WMI and certain individual officers and directors arising from their pre-petition alleged misconduct.

Answer: Debtors deny the allegations set forth in paragraph 144 of the Complaint.

Complaint 145: Debtors have no rational basis on which to retain sponsorship of the Plans given the pending Chapter 11 proceeding and JPMorgan Chase's repeated attempts to assume the sponsorship and to ensure that the participants and

beneficiaries are protected on an ongoing basis. To avoid hardship to its employees, JPMorgan Chase has continued to accrue benefits and make contributions into the 401(k) Plan, while waiting for WMI to stop holding the participants and their benefits hostage as the value of the assets in the Pension Plan has dropped. The decline in value of those assets may be of little moment to WMI since it no longer employs the participants and is a debtor in bankruptcy, but it does matter to others.

Answer: Debtors deny the allegations set forth in paragraph 145 of the Complaint.

Complaint 146: JPMorgan Chase seeks a determination that either (i) JPMorgan Chase be permitted immediately to assume sponsorship of the Plans without making payments to the Debtors that they have no right to demand; or (ii) the Debtors and their estates are responsible for, and must indemnify and hold JPMorgan Chase harmless for any liabilities due to the decline in value of the Pension Plan during this Chapter 11 case.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 146 of the Complaint.

Complaint 147: JPMorgan Chase further requests that this Court allow its administrative claims against the Debtors for (i) the amount of all contributions made from and after the Petition Date to the 401(k) Plan; and (ii) the amount by which the decline in the value of the assets in the Pension Plan from and after the Petition Date has resulted from WMI's inattention and failure properly to administer the Pension Plan assets. Finally, whatever the outcome of the sponsorship issue, the pending litigation matters are and should remain the responsibility of WMI and its estate and JPMC is entitled to be fully indemnified and held harmless for any and all claims related to the Pension and 401(k) Plans prior to the date upon which JPMC may assume their sponsorship.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 147 of the Complaint.

Complaint 148: As set forth in the P&A, JPMorgan Chase purchased "all of the Receiver's right, title and interest," in the Plans, pursuant to

and in accordance with the FDI Act. On December 30, 2008, the Debtors nonetheless submitted a claim to the Receiver asserting, among other things, ownership of various of the employee benefits plans. On January 23, 2009, the Debtors' claims were disallowed by the Receiver. On March 20, 2009, the Debtors commenced the District Court Action with respect to the disallowance of their claims and put ownership of the plans and its liabilities at issue in that action.

Answer: Debtors deny the allegations set forth in paragraph 148 of the Complaint, except respectfully refer the Court to the P&A Agreement, the Proof of Claim, the Disallowance Notice, and the complaint filed by the Debtors in the DC Action on March 20, 2009, for the content thereof.

H. Other Assets

(i) Company and Bank Owned Life Insurance Policies

Complaint 149: JPMorgan Chase also seeks an order confirming that certain life insurance policies owned by WMB and the cash surrender value of which were reflected on the books and records of WMB as of September 25, 2008 are JPMorgan Chase's property and were purchased under the P&A. These life insurance policies are known as Bank Owned Life Insurance ("BOLI").

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 149 of the Complaint.

Complaint 150: The BOLI policies are types of life insurance policies purchased by WMB (or a predecessor company) on the lives of employees. Under these types of plans, WMB paid the premiums on the insurance and was also the primary beneficiary of the policies. In the case of a split dollar policy, the insurance proceeds are split by both WMB (or a predecessor company) and the insured employees designated beneficiary. WMB used- these BOLI policies and split dollar policies as a tax-deferred way to fund the costs of various welfare plans, hedge deferred compensation arrangements and to provide insurance benefits to certain employees.

Answer: Debtors admit the allegations set forth in the first sentence of paragraph 150 of the Complaint. Debtors deny knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 150 of the Complaint and therefore deny same, except respectfully refer the Court to the BOLI policies for the content thereof.

Complaint 151: By letter dated November 7, 2008, a true and correct copy of which is attached as Exhibit K (the "Cease and Desist Letter"), counsel for the Debtors demanded that JPMorgan Chase cease exercising control over the BOLI policies on the ground that the Debtors believed they might have an ownership interest in those policies and demanded access to books and records regarding the BOLI policies. JPMorgan Chase complied with the demand in the Cease and Desist Letter in order to provide the Debtors with the information they requested. JPMorgan Chase and Debtor have provided each other with documentation establishing the ownership of each party in certain policy list bills. (See Exhibit L for list bills owned by JPMorgan Chase.) Accordingly, each of the parties have exercised their respective ownership rights over the policies that they own.

Answer: Debtors deny the allegations set forth in paragraph 151 of the Complaint, except respectfully refer the Court to the documents referenced in paragraph 151 for the content thereof.

Complaint 152: There are two BOLI policies issued by Pacific Life list bills of 7675A and 7729A on which the Debtors and JPMorgan Chase could not reach agreement as to ownership (the "Pac Life List Bill Policies"). As between WMI and WMB, these BOLI policies are reflected on WMB's books and records and owned by WMB. WMB acquired the policies from a banking institution that merged with WMB and these policies were on the books of that institution at the time of the merger. The accounting records of WMB do not show a dividend of these policies to WMI or a purchase of these policies by WMI , the only lawful ways that these policies could have been acquired by WMI from WMB. However, the carrier has advised JPMorgan Chase that, according to the records of the carrier, Washington Mutual Revocable Trust, not WMB, is shown as the policy owner. Because Debtors have refused to acknowledge JPMorgan Chase's ownership of these policies, JPMorgan Chase has not taken any action with respect thereto. JPMorgan Chase requests that the Court determine that JPMorgan Chase acquired all right, title and interest in and to these policies under the P&A and that WMI has no interest in

them. To the extent that the carrier's records reflect WMI as the policy owner, WM] has no more than bare legal title under Section 541(iv) of the Bankruptcy Code and JPMorgan Chase is entitled to a declaration that it, and not WMI, is the rightful owner of the policies.

Answer: Debtors admit the allegations set forth in the first sentence of paragraph 152 of the Complaint, and otherwise deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 152 of the Complaint and therefore deny same, and further deny that JPMorgan Chase is entitled to any relief.

Complaint 153: The parties did not address and no action has been taken by JPMorgan Chase with respect to certain other policies, the cash surrender value of which is reflected on WMB's books and records as of September 25, 2008. These policies consist of ING Security Life List Bills E208090000 and E208090001 and approximately 955 Split Dollar policies issue by a number of carriers.

Answer: Debtors deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 153 of the Complaint and therefore deny same.

Complaint 154: The ING Security Life policies were reflected on the books and records of American Savings Bank, F.A. when it merged into WMB and supported American Savings Bank's executive life insurance plan. These policies were reflected on WMB's books and records as of September 25, 2008 and therefore were acquired by JPMorgan Chase from the Receiver under the P&A. WMI has no legal, record, equitable or beneficial interest in any of these policies and no right to continue to interfere with JPMorgan Chase's administration of these policies.

Answer: Debtors deny the allegations set forth in paragraph 154 of the Complaint, except respectfully refer the Court to the P&A Agreement for the content thereof.

Complaint 155: As of the date of the P&A, the 955 Split Dollar policies were recorded on the books of WMB. These policies initially belonged to Commercial Capital Bancorp Inc. ("CCBI") when it was merged into WMB in April 2006 and were reflected on its books as of the date of the merger. Correspondence with the insurance

carriers for these Split Dollar policies—Beneficial Life, Jefferson Pilot Financial, John Hancock, Massachusetts Mutual, Midland National, New York Life, Northwestern Mutual, Security Life of Denver, and West Coast Life confirms that WMB was the owner of these policies as of September 25, 2008. Once again, there can be no legitimate dispute regarding JPMorgan Chase's ownership of these policies. WMI has no legal, record, equitable, or beneficial interest in any of these policies and no right to interfere with JPMorgan Chase's administration of these policies as they clearly are property of JPMorgan Chase acquired from the Receiver under the P&A.

Answer: Debtors deny the allegations set forth in paragraph 155 of the Complaint.

Complaint 156: Accordingly, JPMorgan Chase seeks a determination that it owns the BOLI policies and Split Dollar policies discussed above, along with an administrative claim for its damages, fees, costs, and expenses, including for any deterioration in the value of these policies during the administration of these cases.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 156 of the Complaint.

Complaint 157: As set forth in the P&A, JPMorgan Chase purchased "all of the Receiver's right, title and interest," in the BOLI policies and Split Dollar policies, pursuant to and in accordance with the FDI Act. On December 30, 2008, the Debtors nonetheless submitted a claim to the Receiver asserting, among other things, ownership of certain of these policies. On January 23, 2009, the Debtors' claims were disallowed by the Receiver. The Receiver's disallowance is dispositive of the fact that the Debtors do not own these policies. On March 20, 2009, the Debtors commenced the District Court Action with respect to the disallowance of their claims.

Answer: Debtors deny the allegations set forth in paragraph 157 of the Complaint, except respectfully refer the Court to the P&A Agreement, the Proof of Claim, the Disallowance Notice, and the complaint filed in the DC Action on March 20, 2009, for the content thereof.

(ii) Visa Shares

Complaint 158: WMB was the original WaMu Group member of Visa U.S.A. Inc. WMB fsb became a member on July 27, 1994, when it signed the Visa U.S.A Inc. Membership Agreement with Washington Mutual, a Federal Savings Bank (predecessor to WMB) serving as its sponsor. WMB conducted the Visa payment card business for WaMu Group, paid all service fees, and bore the risk of the Visa payment card business.

Answer: The allegations set forth in paragraph 158 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same, except respectfully refer the Court to the documents referenced in the allegations set forth in paragraph 158 of the Complaint for the content thereof.

Complaint 159: As part of Visa's restructuring and initial public offering, members of Visa U.S.A. were allocated shares of Class B common stock in Visa, Inc. The shares were allocated based on each member's ownership interest, which was calculated on the basis of service fees paid over a period of time.

Answer: The allegations set forth in paragraph 159 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same, except respectfully refer the Court to the relevant restructuring and initial public offering documents for the content thereof.

Complaint 160: The allocation of Class B shares and Visa's retrospective responsibility plan (the "Plan") are outlined in Visa, Inc.'s Prospectus dated March 18, 2008 (the "Final Prospectus") (filed with the U.S. Securities and Exchange Commission), as well as in certain transaction documents. Class B shares are subject to the restrictions and are encumbered by contingent liabilities. The Class B shares are convertible into Class A shares upon the satisfaction of certain conditions and pursuant to a conversion formula, all as described in Visa Inc.'s Final Prospectus and certain related transaction documents.

Answer: The allegations set forth in paragraph 160 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same,

except respectfully refer the Court to the documents referenced in the allegations set forth in paragraph 160 of the Complaint for the content thereof.

Complaint 161: Pursuant to the restructuring documents, Visa U.S.A. members have litigation indemnification obligations to Visa Inc. with respect to certain antitrust litigation (whether a named defendant or not) referred to in the transaction documents as "Covered Litigation." The Class B shares are restricted until the later of three years or the conclusion of all Covered Litigation. If shares remain at the conclusion of the Covered Litigation and after the passage of three years, the Class B shares may be converted to Class A shares.

Answer: The allegations set forth in paragraph 161 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same, except respectfully refer the Court to the documents referenced in the allegations set forth in paragraph 161 of the Complaint for the content thereof.

Complaint 162: In connection with and in furtherance of the restructuring, certain Visa U.S.A. members executed a Loss Sharing Agreement (the "LSA") and an Interchange Judgment Sharing Agreement (the "JSA"), each document is dated July 2007. Each agreement provides that its signatories will indemnify Visa Inc. for potential liabilities associated with the Covered Litigation whether the signatory is a named defendant or not. The obligation is limited to their Visa U.S.A. respective membership-portions. WMB signed the JSA on July 2, 2007; WMI signed the LSA, which applied to all Covered Litigation, on July 2, 2007.

Answer: The allegations set forth in paragraph 162 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same, except respectfully refer the Court to the documents referenced in the allegations set forth in paragraph 162 of the Complaint for the content thereof.

Complaint 163: Indemnity obligations that may arise in connection with the Covered Litigation are to be funded by an escrow account established by Visa. The escrow was established with some proceeds of Visa Inc.'s initial public offering and, to the extent that the escrow must be replenished, through further dilution of

the Class B common stock. If the funds contained in the escrow account (after continued Class B share dilution) prove insufficient to satisfy a Covered Litigation, the Final Prospectus as well as certain transaction documents, provide that in addition to the dilution of the Visa Class B shares, any shortfall is to be paid from the voting members' own funds in accordance with their respective ownership proportion. The foregoing is clearly set out in the Final Prospectus, as well as in the LSA and in other transaction documents.

Answer: Debtors deny the allegations set forth in paragraph 163 of the Complaint, except respectfully refer the Court to the documents referenced in paragraph 163 for the content thereof.

Complaint 164: On October 2, 2007, a notice of pre-true up share allocation was sent to WMI, indicating that WaMu Group would be allocated 5,465,562 shares of Visa Inc. class USA common stock. Pursuant to a true-up procedure, on March 17, 2008, the share allocation was adjusted to 5,130,523 shares of Visa Class B common stock. In the course of the initial public offering, Visa Inc. redeemed some of the Class B Shares of its members and paid proceeds to the members. On March 28, 2008, after redemption and payment of proceeds, 3,147,059 shares of Visa Inc. Class B common stock (the "Visa shares") were allocated to WaMu Group.

Answer: Debtors deny the allegations set forth in paragraph 164 of the Complaint, except respectfully refer the Court to the documents referenced in paragraph 164 for the content thereof.

Complaint 165: JPMorgan Chase believes that the Visa shares were issued in the name of WMI consistent with Visa's general practice of issuing its stock to the holding company of its issuing bank members. The Visa shares were not in the name of the bank entity issuing the credit and/or debit payment cards, which entity had paid fees to Visa and also had responsibility for the gains and-losses associated with being a card issuing Visa member.

Answer: Debtors deny knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of paragraph 165 of the Complaint which refer to what JPMorgan Chase supposedly "believes", and therefore deny same. Debtors deny the remaining

allegations set forth in paragraph 165 of the Complaint, except respectfully refer the Court to the documents referenced in paragraph 165 for the content thereof.

Complaint 166: The proceeds Visa paid to its members in the initial public offering were in the case of WaMu Group, distributed to WMB.

Answer: Debtors deny the allegations set forth in paragraph 166 of the Complaint.

Complaint 167: Although WMI may have received bare legal title from Visa upon distribution of the shares, WMB at all times remained, and was required by applicable regulations and law to be, the beneficial owner of the Visa shares.

Answer: Debtors deny the allegations set forth in paragraph 167 of the Complaint.

Complaint 168: The expense and reserve associated with the Covered Litigation were posted to WMB and recorded in the profit and loss statement at the WMB level. For example, in 2007, WMB recognized a guarantee liability of $50 million for the modified indemnification obligation that resulted from Visa's reorganization and initial public offering. According to publicly filed documents, therefore, WMB accounted for loss with respect to the Covered Litigation which burdens the Visa shares. WMB was the beneficial owner of the Visa shares, ownership which passed to JPMorgan Chase as the successor to the Receiver under the P&A.

Answer: Debtors deny the allegations set forth in paragraph 168 of the Complaint.

Complaint 169: Debtors have refused to transfer title in the Visa shares to JPMorgan Chase. In WMI's Schedule of Assets and Liabilities, originally filed December 19, 2008, first amended on January 27, 2009 and then amended again on February 24, 2009, Debtors list approximately 5.4 million shares of Visa Inc. Class B stock as an asset of the estate in "Schedule B — Personal Property," Item 13.

Answer: Debtors admit that Debtors have not transferred to JPMorgan Chase title in the Class B common stock of Visa that was allocated to the WaMu Group on March 28, 2008 (the "Visa Shares"). Debtors deny the remaining allegations set forth in paragraph 169 of the Complaint, except respectfully refer the Court to the documents referenced in paragraph 169 of the Complaint for the content thereof.

Complaint 170: Upon information and belief, WMI holds only 3.147 million Visa shares, which it received post-redemption.

Answer: Debtors admit that WMI holds 3.147 million Visa Shares, which it received post-redemption.

Complaint 171: As set forth in the P&A, JPMorgan Chase purchased "all of the Receiver's right, title and interest," in the Visa shares, pursuant to and in accordance with the FDI Act. JPMorgan Chase seeks an order determining that the Visa shares in which WMI has bare legal title were owned by WMB are JPMorgan Chase's property and were purchased pursuant to the P&A.

Answer: Debtors deny the allegations set forth in paragraph 171 of the Complaint, except respectfully refer the Court to the P&A Agreement for the content thereof, and deny that JPMorgan Chase is entitled to any relief.

(iii) Contracts, Intellectual Property and Other Intangible Assets

Complaint 172: Prior to the Receivership, WMB was the primary operating subsidiary of WMI and both WMI and WMB had registered the trademarks "Washington Mutual" and the "W" logo ("Trademarks") and utilized the marks interchangeably in their operations, agreements and transactions.

Answer: Debtors admit that WMB was the primary operating subsidiary of WMI. Debtors deny the remaining allegations set forth in paragraph 172 of the Complaint, except respectfully refer the Court to the registration documents for the content thereof.

Complaint 173: Prior to the Receivership, a number of contracts and other counterparty transactions to lease property, perform services, deliver goods, license, develop or acquire software were entered into for the benefit of the banking operations formerly owned by WMB, now owned and operated by JPMorgan Chase (the "Vendor Contracts"), were bought or paid for by WMB and were utilized extensively if not exclusively by WMB. Some of the Vendor Contracts include prepaid rights, incentives, rebates or developed software (all of the foregoing, together with the Trademarks and the Vendor Contracts, the "Intangible Assets").

Answer: Debtors deny the allegations set forth in paragraph 173 of the Complaint, except admit that (i) WMI is party to numerous agreements with vendors (the "Vendors") who lease property, perform services, deliver goods, or license software that primarily benefit the banking operations formerly owned by WMB (the "Vendor Contracts"); (ii) typically, prior to the receivership, WMB, as the primary beneficiary, paid Vendors for goods and services received pursuant to the Vendor Contracts; (iii) after September 25, 2008 (the "Receivership Date"), JPMorgan Chase paid certain Vendors for outstanding pre- and post-receivership obligations incurred in connection with the Vendor Contracts; and (iv) notwithstanding these payments, there continue to be unpaid obligations outstanding in connection with certain of the Vendor Contracts.

Complaint 174: As a result of the Receivership and the P&A, WMB's banking operations and subsidiaries no longer belong directly or indirectly to WMI. Vendors have, nonetheless, continued to provide goods and services under the Vendor Contracts. By order dated December 16, 2008, this Court authorized and approved a stipulation between the Debtors and JPMorgan Chase regarding certain of the Vendor Contracts (the "Vendor Stipulation"). The Vendor Stipulation, among other things, (i) facilitates the transfer of the services to JPMorgan Chase, (ii) requires JPMorgan Chase to pay for the services provided under those contracts until twenty days after notice of the rejection of a contract is given by JPMorgan Chase to the Debtors, thereby reducing or eliminating certain expenses of administration, and (iii) allows the Debtors to use any new contracts negotiated by JPMorgan Chase for such services to mitigate any--damage claims filed by such vendors for rejection of their contracts.

Answer: Debtors admit that WMI no longer owns any subsidiaries with any banking operations and that vendors have continued to provide goods and services under vendor contracts. Debtors deny the remaining allegations set forth in paragraph 174 of the Complaint, except respectfully refer the Court to the December 16, 2008 order for the content thereof.

Complaint 175: While the Vendor Stipulation resolved a number of the outstanding issues and protected the estates against administrative liability, the Vendor Stipulation did not resolve

issues regarding ownership of the Intangible Assets. There are a number of Intangible Assets which JPMorgan Chase believes were properly assets of WMB, not WMI, and which have not been resolved to date.

Answer: Debtors deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 175 of the Complaint and therefore deny same, except respectfully refer the Court to the December 16, 2008 order for the content thereof.

Complaint 176: Any interest of WMI in these Intangible Assets consists of nothing more than bare legal title and all beneficial and equitable rights thereunder were WMB's and now belong to JPMorgan Chase as the successor to the Receiver under the P&A and Title 12. While WMI may have been the nominal contracting party for contracts entered by the WaMu Group entities, WMB held all beneficial and equitable title and interest in each Intangible Asset. WMB paid for the Intangible Assets, recorded the Intangible Assets on its books, and interacted directly with the counterparties as the Intangible Assets supported WMB's business, now owned and operated by JPMorgan Chase. All payments and pre-payments on the Vendor Contracts and other Intangible Assets were made by WMB.

Answer: The allegations set forth in paragraph 176 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same.

Complaint 177: WMI's Schedule of Assets and Liabilities appears to assert ownership over a number of these Intangible Assets in Schedule G—Executory Contracts and Unexpired Leases.

Answer: Debtors deny the allegations set forth in paragraph 177 of the Complaint, except respectfully refer the Court to the schedule for the content thereof.

Complaint 178: As set forth in the P&A, JPMorgan Chase purchased "all of the Receiver's right, title and interest," in the Vendor Contracts, pursuant to and in accordance with the FDI Act. On December 30, 2008, WMI nonetheless submitted a claim to the Receiver asserting, among other things, an interest in certain of these contracts. On January 23, 2009, the WMI's claims were disallowed by the Receiver. The Receiver's disallowance is dispositive of the fact that the Debtors do not own these contracts.

On March 20, 2009, the Debtors commenced the District Court Action with respect to the disallowance of their claims.

Answer: Debtors deny the allegations set forth in paragraph 178 of the Complaint, except respectfully refer the Court to the P&A Agreement, the Proof of Claim, the Disallowance Notice, and the complaint filed in the DC Action on March 20, 2009, for the content thereof.

Complaint 179: JPMorgan Chase is entitled to a declaration that it has all right, title and interest to these Intangible Assets or, in the alternative, JPMorgan Chase is entitled to a claim for the full amount of all damages it may suffer from the loss of these Intangible Assets and to exercise rights of offset and recoupment for that loss.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 179 of the Complaint.

RELIEF REQUESTED BY JPMORGAN CHASE

TRUST SECURITIES

Count One: Trust Securities (Declaratory Judgment)

Complaint 180: JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

Answer: In response to paragraph 180 of the Complaint, Debtors repeat and reallege the answers to the foregoing paragraphs of the Complaint as if fully set forth herein.

Complaint 181: As set forth above, JPMorgan Chase contends that, pursuant to the P&A, it purchased the Trust Securities. The Debtors have disputed JPMorgan Chase's ownership of these assets in this bankruptcy case, in their Schedules and in the filing of the District Court Action.

Answer: Paragraph 181 of the Complaint characterizes the nature of the Complaint and therefore no response is required. To the extent a response is required, Debtors deny same, except respectfully refer the Court to the Complaint for the content thereof.

Complaint 182: There is thus an actual controversy that is of sufficient immediacy to warrant judicial relief under the Declaratory Judgment Act, 28 U.S.C. § 2201.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and otherwise deny the allegations set forth in paragraph 182 of the Complaint, except admit that the Complaint purports to present a request for declaratory relief, and respectfully refer the Court to 28 U.S.C. § 2201 for the content thereof.

Complaint 183: JPMorgan Chase requests a declaratory judgment finding that Debtors must proceed with any claim to the Trust Securities through the District Court Action it chose to commence. In the alternative, JPMorgan Chase requests a declaratory judgment determining that the Trust Securities are assets purchased by and belonging to JPMorgan Chase.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 183 of the Complaint.

Count Two: Trust Securities
(Breach of Contract)

Complaint 184: JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

Answer: In response to paragraph 184 of the Complaint, Debtors repeat and reallege the answers to the foregoing paragraphs of the Complaint as if fully set forth herein.

Complaint 185: WMI assumed a direct obligation to WMB upon entering into the Contribution Agreement to immediately contribute and transfer the Trust Securities to WMB following the conditional exchange. In the alternative, WMB was the third party

beneficiary of WMI' s commitment to the OTS and the FDIC under the Contribution Agreement. WMI also assumed a direct obligation to WMB pursuant to the Assignment Agreement.

Answer: The allegations set forth in paragraph 185 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same, except respectfully refer the Court to the documents referenced in paragraph 185 for the content thereof.

Complaint 186: To the extent the Assignment Agreement is interpreted as leaving WMI with anything other than bare legal title, WMI breached the Contribution Agreement. WMI further breached the Contribution Agreement and the Assignment Agreement by refusing to assist JPMorgan Chase in obtaining registered ownership of the Trust Securities.

Answer: Debtors deny the allegations set forth in paragraph 186 of the Complaint.

Complaint 187: JPMorgan Chase (as successor in interest to WMB), has suffered, and will suffer, substantial monetary damages as a proximate result of WMI's breach of the Contribution Agreement and the Assignment Agreement.

Answer: Debtors deny the allegations set forth in paragraph 187 of the Complaint.

Count Three: Trust Securities
(Unjust Enrichment)

Complaint 188: JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

Answer: In response to paragraph 188 of the Complaint, Debtors repeat and reallege the answers to the foregoing paragraphs of the Complaint as if fully set forth herein.

Complaint 189: The Debtors would be unjustly enriched if they retained the Trust Securities. From the time of the creation of the Trust Securities, the Debtors benefited from the treatment of the Trust Securities as core capital, which permitted the Debtors to, among other things, satisfy regulatory requirements and report higher capital ratios.

Answer: Debtors deny the allegations set forth in paragraph 189 of the Complaint.

Complaint 190: Thus, to the extent the Court does not enter a declaratory judgment determining that the Trust Securities are assets purchased by and belonging to JPMorgan Chase, JPMorgan Chase requests that the Court establish a constructive trust for the benefit of JPMorgan Chase consisting of the value recognized by Debtors as a result of the treatment of the Trust Securities as core capital.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 190 of the Complaint.

TAX REFUNDS

Count Four: Tax Refunds (Declaratory Judgment)

Complaint 191: JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

Answer: In response to paragraph 191 of the Complaint, Debtors repeat and reallege the answers to the foregoing paragraphs of the Complaint as if fully set forth herein.

Complaint 192: As discussed above, JPMorgan Chase is the beneficial owner of tax refunds due to, and deductions generated by, the WaMu Group. JPMorgan Chase is also the beneficial owner of tax refunds already received by, and deductions taken by, WMI. The Debtors dispute JPMorgan Chase's ownership of these refunds and deductions.

Answer: The allegations set forth in paragraph 192 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same.

Complaint 193: Furthermore, JPMorgan Chase should be permitted to communicate directly without restriction with the taxing authorities concerning ongoing tax matters affecting WMB and its subsidiaries. The Debtors have sought to prohibit JPMorgan Chase from engaging in these communications.

Answer: The allegations set forth in paragraph 193 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same.

Complaint 194: There is thus an actual controversy that is of sufficient immediacy to warrant judicial relief under the Declaratory Judgment Act, 28 U.S.C. § 2201.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and otherwise deny the allegations set forth in paragraph 194 of the Complaint, except admit that the Complaint purports to present a request for declaratory relief, and respectfully refer the Court to 28 U.S.C. § 2201 for the content thereof.

Complaint 195: JPMorgan Chase requests a declaratory judgment finding that Debtors must proceed with any claim to the tax refunds and deduction through the District Court Action they elected to commence. In the alternative, JPMorgan Chase requests a declaratory judgment determining that the tax refunds and deductions are assets purchased by and belonging to JPMorgan Chase.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 195 of the Complaint.

Count Five: Tax Refunds
(Unjust Enrichment)

Complaint 196: JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

Answer: In response to paragraph 196 of the Complaint, Debtors repeat and reallege the answers to the foregoing paragraphs of the Complaint as if fully set forth herein.

Complaint 197: In the alternative, WMI would be unjustly enriched if it retained any tax refunds received on behalf of, or generated by, the WaMu Group that are attributable to tax attributes of WMB or its subsidiaries.

Answer: The allegations set forth in paragraph 197 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same.

Complaint 198: WMI received the tax refunds and deductions merely as agent for the WaMu Group. If WMI is permitted to retain the tax refunds, it will have received a windfall by receiving a refund on income tax paid by WMB (or its subsidiaries).

Answer: The allegations set forth in paragraph 198 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same.

Complaint 199: JPMorgan Chase requests that the Court establish a constructive trust for the benefit of JPMorgan Chase consisting of the tax refunds received by and/or deductions recognized by WMI to which WMB is entitled.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 199 of the Complaint.

Complaint 200: Furthermore, any future tax refunds received by and/or deductions recognized by WMI as agent for the WaMu Group should be similarly deposited into the constructive trust for the benefit of JPMorgan Chase.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 200 of the Complaint.

DISPUTED INTERCOMPANY AMOUNTS

Count Six: Disputed Funds (Declaratory Judgment: $3.7 Billion Book Entry Transfer)

Complaint 201: JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

Answer: In response to paragraph 201 of the Complaint, Debtors repeat and reallege the answers to the foregoing paragraphs of the Complaint as if fully set forth herein.

Complaint 202: WMI has asserted that the $3.7 Billion Book Entry Transfer creates a deposit liability owed to it by WMB fsb, now JPMorgan Chase. JPMorgan Chase disputes that there is a valid deposit liability due to Debtors as the result of the $3.7 Billion Book Entry Transfer.

Answer: Paragraph 202 of the Complaint characterizes the nature of the Complaint and is argumentative and therefore no response is required. To the extent a response is required, Debtors deny same, except admit that $3.7 billion was transferred to a deposit account.

Complaint 203: There is thus an actual controversy that is of sufficient immediacy to warrant judicial relief under the Declaratory Judgment Act, 28 U.S.C. § 2201.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and otherwise deny the allegations set forth in paragraph 203 of the Complaint, except admit that the Complaint purports to present a request for declaratory relief, and respectfully refer the Court to 28 U.S.C. § 2201 for the content thereof.

Complaint 204: JPMorgan Chase requests a declaratory judgment finding that Debtors must proceed with any claim to assert ownership of or interest in the $3.7 Billion Book Entry Transfer through the District Court Action they elected to commence. In the alternative, JPMorgan Chase requests a declaratory judgment determining that there is no valid deposit liability due to Debtors as a result of the $3.7 Billion Book Entry Transfer.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 204 of the Complaint.

Count Seven: Disputed Funds
(Declaratory Judgment: Setoff, Recoupment, and Other Equitable Limitations)

Complaint 205: JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

Answer: In response to paragraph 205 of the Complaint, Debtors repeat and reallege the answers to the foregoing paragraphs of the Complaint as if fully set forth herein.

Complaint 206: To the extent that JPMC has any liabilities to Debtors, including deposit account liabilities, it is entitled to (i) recoup and or setoff all such amounts under the MBA Policy and/or any other applicable terms and conditions governing those liabilities or deposit accounts; (ii) imposition of a constructive trust for the amount of all such liabilities over any funds of Debtors it possesses; and (iii) enforce any security interest determined to apply to the funds of the Debtors. Debtors dispute that JPMorgan Chase has these rights.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 206 of the Complaint.

Complaint 207: The amounts owed to JPMorgan Chase include, but are not limited to, the at least approximately $234 million in tax refunds deposited in the Accounts and due to WMB, which the Debtors have claimed as their own, the intercompany receivables of $275 million due from WMI to WMB, and any amounts awarded by the Court under this Complaint.

Answer: Debtors deny the allegations set forth in paragraph 207 of the Complaint.

Complaint 208: There is thus an actual controversy that is of sufficient immediacy to warrant judicial relief under the Declaratory Judgment Act, 28 U.S.C. § 2201.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and otherwise deny the allegations set forth in paragraph 208 of the Complaint, except admit that the Complaint purports

to present a request for declaratory relief, and respectfully refer the Court to 28 U.S.C. § 2201 for the content thereof.

Complaint 209: JPMorgan Chase requests a declaratory judgment determining its right to setoff, recoupment, imposition of a constructive trust, and/or enforcement of its security interests.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 209 of the Complaint.

Count Eight: Any Remaining Deposit Liabilities (Interpleader Pursuant to Bankruptcy Rule 7022)

Complaint 210: JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

Answer: In response to paragraph 210 of the Complaint, Debtors repeat and reallege the answers to the foregoing paragraphs of the Complaint as if fully set forth herein.

Complaint 211: Pursuant to the terms of the P&A, JPMorgan Chase, WMI, and the FDIC have asserted, or may assert, competing claims to any funds that constitute deposit liabilities and JPMorgan Chase may be exposed to double liability if it were to pay these claims to the wrong party.

Answer: The allegations set forth in paragraph 211 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same.

Complaint 212: JPMorgan Chase seeks to interplead any remaining funds that constitute deposit liabilities pursuant to Bankruptcy Rule 7022, less any attorneys' fees and costs, so that all claims to the amounts can be adjudged and the funds can be properly disbursed.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 212 of the Complaint.

GOODWILL LITIGATION

Count Nine: Goodwill Litigations (Declaratory Judgment)

Complaint 213: JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

Answer: In response to paragraph 213 of the Complaint, Debtors repeat and reallege the answers to the foregoing paragraphs of the Complaint as if fully set forth herein.

Complaint 214: There is an actual and substantial controversy between JPMorgan Chase and WMI as to whether WMI or WMB (as successor in interest to Anchor Savings Bank and American Savings Bank) is entitled to the Anchor and ASB Judgments and any future judgment entered in either litigation.

Answer: The allegations set forth in paragraph 214 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same.

Complaint 215: This is an actual controversy that is of sufficient immediacy to warrant judicial relief under the Declaratory Judgment Act, 28 U.S.C. § 2201.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and otherwise deny the allegations set forth in paragraph 215 of the Complaint, except admit that the Complaint purports to present a request for declaratory relief, and respectfully refer the Court to 28 U.S.C. § 2201 for the content thereof.

Complaint 216: JPMorgan Chase requests a declaratory judgment determining that WMB (and thus JPMorgan Chase as successor in interest) owns the beneficial interest in the Anchor and American Judgments and all monies paid on account of those judgments and directing payment of the Anchor and ASB Judgments, as well as any future judgment in either the *Anchor Savings Bank or the American Savings Bank* litigations, to JPMorgan Chase.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 216 of the Complaint.

RABBI TRUSTS

Count Ten: Rabbi Trusts (Declaratory Judgment)

Complaint 217: JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

Answer: In response to paragraph 217 of the Complaint, Debtors repeat and reallege the answers to the foregoing paragraphs of the Complaint as if fully set forth herein.

Complaint 218: As set forth above, JPMorgan Chase contends that, pursuant to the P&A, it purchased the Legacy Rabbi Trusts. The Debtors dispute JPMorgan Chase's ownership of these assets.

Answer: Paragraph 218 of the Complaint characterizes the nature of the Complaint and therefore no response is required. To the extent a response is required, Debtors deny same.

Complaint 219: There is thus an actual controversy that is of sufficient immediacy to warrant judicial relief under the Declaratory Judgment Act, 28 U.S.C. § 2201.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and otherwise deny the allegations set forth in paragraph 219 of the Complaint, except admit that the Complaint purports to present a request for declaratory relief, and respectfully refer the Court to 28 U.S.C. § 2201 for the content thereof.

Complaint 220: JPMorgan Chase requests a declaratory judgment determining that JPMorgan Chase purchased the assets of the Legacy Rabbi Trusts and an order authorizing JPMorgan Chase and the trustees of each of the Legacy Rabbi Trusts to take all actions necessary or appropriate to transfer ownership to JPMorgan Chase.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 220 of the Complaint.

Count Eleven: Rabbi Trusts
(Unjust Enrichment)

Complaint 221: JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

Answer: In response to paragraph 221 of the Complaint, Debtors repeat and reallege the answers to the foregoing paragraphs of the Complaint as if fully set forth herein.

Complaint 222: In the alternative, in the event that this Court finds that JPMorgan Chase did not purchase the assets of the Legacy Rabbi Trusts, the Debtors would be unjustly enriched if they were allowed to retain the assets. The Debtors did not fund the Trusts and the assets were owned by WMB.

Answer: The allegations set forth in paragraph 222 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same.

Complaint 223: JPMorgan Chase requests that the Court establish a constructive trust for the benefit of JPMorgan Chase consisting of the value of the assets of the Legacy Rabbi Trusts.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 223 of the Complaint.

PENSION AND 401(K) PLANS

Count Twelve: Pension and 401(k) Plans
(Declaratory Judgment)

Complaint 224: JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

Answer: In response to paragraph 224 of the Complaint, Debtors repeat and reallege the answers to the foregoing paragraphs of the Complaint as if fully set forth herein.

Complaint 225: JPMorgan Chase stands ready, willing and able to assume the Pension and 401(k) Plans, and continues to record accruals for the Pension Plan and fund significant matching contributions to the 401(k) Plan in anticipation of doing so.

Answer: Debtors deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 225 of the Complaint and therefore deny same.

Complaint 226: As set forth above, JPMorgan Chase contends that it may assume the Pension and 401(k) Plans in their entirety. The Debtors dispute this contention. Debtors assert that JPMorgan Chase is required to pay them an amount reflecting a purported "excess funding" in the Pension Plan. However, the Pension and 401(k) Plans will not be terminated if they are assumed by JPMorgan Chase. Rather, JPMorgan Chase would assume the Pension Plan on an ongoing basis without any termination but, instead, with the continuing obligation to pay accrued benefits. And, because the Pension Plan is continuing, the sufficiency of their assets to cover benefit obligations will continue to vary depending upon ongoing fluctuations in the value of plan assets as well as the interest rate used to discount liabilities. It therefore makes no sense to suggest that there exists some excess value to which Debtors are presently entitled as though the Pension Plan was being terminated with no further liabilities.

Answer: Paragraph 226 of the Complaint characterizes the nature of the Complaint (to the extent it describes what JPMorgan Chase "contends") and is argumentative and therefore no response is required. To the extent a response is required, Debtors deny same, except that with respect to the allegations concerning what Debtors supposedly have "assert[ed]", Debtors respectfully refer the Court to Debtors' pleadings for the content thereof.

Complaint 227: In addition, the Debtors have claimed that, in order to assume the Pension and 401(k) Plans, JPMorgan Chase must assume the liabilities associated with litigation against WMI and its officers and directors for their conduct in administrating the Pension and 401(k) Plans before the Petition Date. JPMorgan Chase does not have any obligation to assume these liabilities.

Answer: Paragraph 227 of the Complaint is argumentative and therefore no response is required. To the extent a response is required, Debtors deny same, except with respect to the allegations concerning what Debtors supposedly have "claimed", Debtors respectfully refer the Court to Debtors' pleadings for the content thereof.

Complaint 228: There is thus an actual controversy that is of sufficient immediacy to warrant judicial relief under the Declaratory Judgment Act, 28 U.S.C. § 2201.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and otherwise deny the allegations set forth in paragraph 228 of the Complaint, except admit that the Complaint purports to present a request for declaratory relief, and respectfully refer the Court to 28 U.S.C. § 2201 for the content thereof.

Complaint 229: JPMorgan Chase requests a declaratory judgment finding that Debtors must proceed with any claim to assert ownership of any assets in any employee benefit plans through the District Court Action they elected to commence. Alternatively, JPMorgan Chase requests a declaratory judgment determining that JPMorgan Chase may assume the Pension and 401(k) Plans without requiring it to forfeit any hypothetical over-funding to Debtors and without imposing liability for litigation that does not belong to JPMorgan Chase. In the alternative, JPMorgan Chase requests a declaratory judgment determining that, if it is not permitted to assume the Pension and 401(k) Plans, it has no further liability to any person for any liabilities associated with those plans.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and further state that the allegations set forth in paragraph 229 of the Complaint state a conclusion of law to which no response is required. To the extent a response is required, Debtors deny same.

Count Thirteen: Pension and 401(k) Plans
(Unjust Enrichment)

Complaint 230: JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

Answer: In response to paragraph 230 of the Complaint, Debtors repeat and reallege the answers to the foregoing paragraphs of the Complaint as if fully set forth herein.

Complaint 231: In the alternative, in the event that this Court finds that JPMorgan Chase can only assume the Pension and 401(k) Plans by either paying the hypothetical excess funding or assuming pending litigation liabilities upon assumption of the Pension and 401(k) Plans, and JPMorgan Chase does not assume the Pension and 401(k) Plans, the Debtors would be unjustly enriched by benefiting through JPMorgan Chase's contributions to the 401(k) Plan that were made in the expectation that it would be able to assume the 401(k) Plan pursuant to the P&A. Debtors and JPMorgan Chase understood that JPMorgan Chase was making these payments in anticipation of assumption of the plans.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 231 of the Complaint.

Complaint 232: The Debtors would unjustly realize a windfall from the circumstances alleged herein if they do not reimburse JPMorgan Chase for the funds contributed to the 401(k) and resources it allocated to the Plans, which Debtors (or another party) would have needed to contribute if JPMorgan Chase had not done so. The Debtors did not contribute any of these funds or resources relating to the post-September 25, 2008 operation of the Pension and 401(k) Plans and have no right to them.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 232 of the Complaint.

Complaint 233: By reason of the foregoing, a post-petition constructive trust should be imposed on the Debtors in the full amount necessary to reimburse JPMorgan Chase for the amounts it contributed to the 401(k) Plan.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 233 of the Complaint.

BANK OWNED LIFE INSURANCE POLICIES

Count Fourteen: Life Insurance Policies (Declaratory Judgment)

Complaint 234: JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

Answer: In response to paragraph 234 of the Complaint, Debtors repeat and reallege the answers to the foregoing paragraphs of the Complaint as if fully set forth herein.

Complaint 235: As set forth above, there is an actual and substantial controversy between JPMorgan Chase and the Debtors. JPMorgan Chase contends that, pursuant to the P&A, it purchased the BOLI policies and Split Dollar policies referenced above. The Debtors appear to contend to the contrary.

Answer: Paragraph 235 of the Complaint characterizes the nature of the Complaint and states a conclusion of law and therefore no response is required. To the extent a response is required, Debtors deny same.

Complaint 236: There is thus an actual controversy that is of sufficient immediacy to warrant judicial relief under the Declaratory Judgment Act, 28 U.S.C. § 2201.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and otherwise deny the allegations set forth in paragraph 236 of the Complaint, except admit that the Complaint purports to present a request for declaratory relief, and respectfully refer the Court to 28 U.S.C. § 2201 for the content thereof.

Complaint 237: JPMorgan Chase requests a declaratory judgment finding that Debtors must proceed with any claim to assert ownership of or interest in the BOLI Policies and Split Dollar policies through

the District Court Action they elected to commence. Alternatively, JPMorgan Chase requests a declaratory judgment determining that the BOLI policies and Split Dollar policies are assets purchased by and belonging to JPMorgan Chase.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 237 of the Complaint.

Count Fifteen: Life Insurance Policies
(Unjust Enrichment)

Complaint 238: JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

Answer: In response to paragraph 238 of the Complaint, Debtors repeat and reallege the answers to the foregoing paragraphs of the Complaint as if fully set forth herein.

Complaint 239: In the alternative, in the event that this Court finds that JPMorgan Chase did not purchase the BOLI policies and Split Dollar policies, the Debtors would be unjustly enriched if they were allowed to retain the policies. The Debtors were never the policyholders for the BOLI policies and Split Dollar policies. Accordingly, they have no right to the BOLI policies and Split Dollar policies and would unjustly realize a windfall from the circumstances alleged herein if they are permitted to retain the BOLI policies and Split Dollar policies.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 239 of the Complaint.

Complaint 240: JPMorgan Chase requests that the Court establish a constructive trust for the benefit of JPMorgan Chase consisting of the value of the BOLI policies and Split Dollar policies.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 240 of the Complaint.

VISA SHARES

Count Sixteen: Visa Shares (Declaratory Judgment)

Complaint 241: JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

Answer: In response to paragraph 241 of the Complaint, Debtors repeat and reallege the answers to the foregoing paragraphs of the Complaint as if fully set forth herein.

Complaint 242: There is thus an actual controversy that is of sufficient immediacy to warrant judicial relief under the Declaratory Judgment Act, 28 U.S.C. § 2201.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and otherwise deny the allegations set forth in paragraph 242 of the Complaint, except admit that the Complaint purports to present a request for declaratory relief, and respectfully refer the Court to 28 U.S.C. § 2201 for the content thereof.

Complaint 243: JPMorgan Chase requests a declaratory judgment determining that the Visa shares are assets purchased by and belonging to JPMorgan Chase. In the alternative, if the Court should determine that the Visa shares are assets belonging to the Debtors, JPMorgan Chase requests a declaratory judgment determining that Debtors assume the full liabilities associated with the Visa Inc. restructuring and initial public offering in which those shares were issued by requiring that the Debtors pay and discharge any Covered Litigation obligation not satisfied by the Visa shares.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 243 of the Complaint.

Count Seventeen: Visa Shares
(Unjust Enrichment)

Complaint 244: JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

Answer: In response to paragraph 244 of the Complaint, Debtors repeat and reallege the answers to the foregoing paragraphs of the Complaint as if fully set forth herein.

Complaint 245: The Debtors would be unjustly enriched if they retained title to the Visa shares.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 245 of the Complaint.

Complaint 246: If the Debtors are permitted to retain the Visa shares without bearing full liability associated with the reorganization and creation of the asset, they will incur a windfall if and to the extent JPMorgan Chase is responsible for any Covered Litigation shortfall relating to the Visa shares.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 246 of the Complaint.

Complaint 247: Thus, to the extent the Court does not enter a declaratory judgment protecting JPMorgan Chase from any such liabilities, JPMorgan Chase requests that the Court establish a constructive trust for the benefit of JPMorgan Chase over any Visa shares remaining after satisfaction of obligations related to the Covered Litigation.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 247 of the Complaint.

INTANGIBLE ASSETS

Count Eighteen: Intangible Assets (Declaratory Judgment)

Complaint 248: JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

Answer: In response to paragraph 248 of the Complaint, Debtors repeat and reallege the answers to the foregoing paragraphs of the Complaint as if fully set forth herein.

Complaint 249: As set forth above, JPMorgan Chase contends that, pursuant to the P&A and Title 12, it owns the Intangible Assets. The Debtors dispute this.

Answer: Paragraph 249 of the Complaint characterizes the nature of the Complaint and therefore no response is required. To the extent a response is required, Debtors deny same.

Complaint 250: There is thus an actual controversy that is of sufficient immediacy to warrant judicial relief under the Declaratory Judgment Act, 28 U.S.C. § 2201.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and otherwise deny the allegations set forth in paragraph 250 of the Complaint, except admit that the Complaint purports to present a request for declaratory relief, and respectfully refer the Court to 28 U.S.C. § 2201 for the content thereof.

Complaint 251: JPMorgan Chase requests a declaratory judgment determining that JPMorgan Chase is the owner of the Intangible Assets. In the alternative, JPMorgan Chase requests a declaratory judgment determining that, if it is not the owner of the Intangible Assets, it has no liability to any person for any liabilities associated with those Intangible Assets.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 251 of the Complaint.

Count Nineteen: Intangible Assets
(Unjust Enrichment)

Complaint 252: JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

Answer: In response to paragraph 252 of the Complaint, Debtors repeat and reallege the answers to the foregoing paragraphs of the Complaint as if fully set forth herein.

Complaint 253: In the alternative, in the event that this Court finds that JPMorgan Chase does not own the Intangible Assets, the Debtors would be unjustly enriched if they were allowed to retain the Intangible Assets or were not ordered to repay JPMorgan Chase for amounts paid by WMB in connection with the Intangible Assets.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 253 of the Complaint.

Complaint 254: JPMorgan Chase requests that the Court establish a constructive trust for the benefit of JPMorgan Chase consisting of the value of Intangible Assets.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 254 of the Complaint.

ADMINISTRATIVE CLAIM

Count Twenty: Administrative Expenses

Complaint 255: JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

Answer: In response to paragraph 255 of the Complaint, Debtors repeat and reallege the answers to the foregoing paragraphs of the Complaint as if fully set forth herein.

Complaint 256: To the extent the Court accepts WMI's claims of ownership of any of the Pension and 401(k) Plans or other assets and JPMorgan Chase has made payments and incurred expenses in connection with these assets, JPMorgan Chase is entitled to reimbursement from Debtors of all post-petition expenses it has incurred and payments it has made on account of those assets.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 256 of the Complaint.

Complaint 257: To the extent JPMorgan Chase incurs any liability or suffers any loss as the result of conduct by Debtors after the Petition Date, including conduct by the Debtors as the sponsor of any of the Pension and 401(k) Plans, JPMorgan Chase is entitled to post-petition administrative claim for those amounts.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 257 of the Complaint.

INDEMNIFICATION

Count Twenty-One: Indemnification

Complaint 258: JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

Answer: In response to paragraph 258 of the Complaint, Debtors repeat and reallege the answers to the foregoing paragraphs of the Complaint as if fully set forth herein.

Complaint 259: Claims have been threatened against JPMC arising out of or relating to the acts, omissions or conduct of Debtors prior to the Petition Date. To the extent that any claim is asserted against JPMC as a result of such matters, JPMC is entitled to be indemnified and held harmless by the Debtors for any loss, damage or liability they might incur.

Answer: Debtors deny that JPMorgan Chase is entitled to any relief and to the extent a response is otherwise required Debtors deny the allegations set forth in paragraph 259 of the Complaint.

DEFENSES, AFFIRMATIVE DEFENSES, AND RESERVATION OF RIGHTS

The statement of any defense hereinafter does not assume the burden of proof for any issue as to which applicable law places the burden upon JPMorgan Chase. Debtors expressly reserve the right to assert, and hereby give notice that they intend to rely upon, any other defense and/or affirmative defense that may become available or appear during discovery proceedings or otherwise in this case and hereby reserve the right to amend this Answer to assert any such defense and/or affirmative defense. Debtors hereby incorporate into this Answer and assert any and all defenses asserted or pled in this proceeding by any other party to the extent the defenses are applicable to the Debtors under the facts and law.

Debtors have not knowingly or intentionally waived any applicable affirmative defenses. Debtors presently lack sufficient knowledge or information on which to form a belief as to whether they may have, as yet unstated, affirmative defenses, and expressly reserve all rights with respect to all affirmative defenses that may be revealed during the course of discovery. Debtors further reserve all rights to assert any and all applicable defenses or affirmative defenses

against JPMorgan Chase, including, but not limited to, all equitable claims, avoidance actions, and set-off rights.

Debtors assert the following affirmative defenses, without assuming the burden of proof when the burden of proof would otherwise be on JPMorgan Chase:

First Defense

The Complaint fails to state a claim upon which relief may be granted.

Second Defense

JPMorgan Chase is not entitled to a declaration that it has a right to set off the amount of claims it owes to Debtors against the amount of obligations that Debtors allegedly owe to it because such setoff does not comply with the Bankruptcy Code or any other applicable law, including because, without limitation, mutuality among the parties is lacking.

Third Defense

JPMorgan Chase's claims are barred, in whole or in part, by section 502(d) of the Bankruptcy Code because JPMorgan Chase is in possession of property recoverable by the Debtors under sections 542 and 550 of the Bankruptcy Code and because JPMorgan Chase is a transferee of transfers avoidable under sections 544, 547 and 548 of the Bankruptcy Code.

Fourth Defense

JPMorgan Chase's claims are barred, in whole or in part, by section 558 of the Bankruptcy Code because the Debtors are entitled to the defense of setoff or recoupment under applicable state law.

Fifth Defense

JPMorgan Chase is not the real party in interest with respect to some or all of its claims.

Sixth Defense

JPMorgan Chase lacks standing to assert some or all of its claims.

Seventh Defense

JPMorgan Chase's Complaint is barred in whole or in part by the Statute of Frauds.

Eighth Defense

JPMorgan Chase has benefited from the acts and transactions of Debtors complained of in an amount exceeding JPMorgan Chase's claimed damages. JPMorgan Chase is required to set off against such alleged damages the benefits received and thus has suffered no legally cognizable damages proximately caused by any conduct of Debtors.

Ninth Defense

JPMorgan Chase is precluded to the extent it seeks any recovery or indemnification, in whole or in part, because JPMorgan Chase has failed to mitigate its damages.

Tenth Defense

JPMorgan Chase is precluded from recovery because it would be unjustly enriched thereby.

Eleventh Defense

By virtue of its conduct, JPMorgan Chase is estopped from asserting the claims in the Complaint.

Twelfth Defense

JPMorgan Chase's claims are barred, in whole or in part, by waiver.

Thirteenth Defense

JPMorgan Chase's claims are barred, in whole or in part, by the doctrine of laches.

Fourteenth Defense

JPMorgan Chase's claims are barred, in whole or in part, by JPMorgan Chase's approval and ratification of the conduct upon which the claims are based.

Fifteenth Defense

JPMorgan Chase is precluded from recovery, in whole or in part, because of its own wrongful and/or negligent conduct and the doctrines of comparative negligence and contributory negligence.

Sixteenth Defense

JPMorgan Chase's Complaint is barred, in whole or in part, by the doctrine of unclean hands.

Seventeenth Defense

JPMorgan Chase is precluded from recovery, in whole or in part, because JPMorgan Chase had knowledge of and approved and assumed the risk of the transactions of which it complains.

Eighteenth Defense

JPMorgan Chase's Complaint is barred, in whole or in part, by the doctrine of *in pari delicto*.

Nineteenth Defense

JPMorgan Chase's claims are barred, in whole or in part, by the statute of limitations.

Twentieth Defense

JPMorgan Chase's claims are barred, in whole or in part, by its illegal conduct.

Twenty-First Defense

JPMorgan Chase's claims are barred, in whole or in part, by the release of those claims.

Twenty-Second Defense

JPMorgan Chase's claims are barred, in whole or in part, by the payment of those claims.

Twenty-Third Defense

With respect to Counts 4 and 5, JPMorgan Chase's claims are barred, in whole or in part, by operation of the Internal Revenue Code (26 U.S.C.) and the Federal Tax Regulations (26 C.F.R.).

Twenty-Fourth Defense

JPMorgan Chase's claims, in whole or in part, have been or will be discharged in the bankruptcy.

DEBTORS' AMENDED COUNTERCLAIMS

The Debtors, through their undersigned counsel, bring the following Counterclaims against JPMorgan Chase. The Debtors assert and expressly reserve all rights with respect to all counterclaims or cross-claims that may be revealed during the course of discovery, including the right to amend to assert any counterclaims or cross-claims that may hereafter be revealed during discovery.

INTRODUCTION

1. This suit is brought to redress certain injuries that WMI has suffered as a result of fraudulent and preferential transfers of potentially more than $10 billion in WMI assets to WMB and subsequently to JPMorgan Chase, among other things.

2. Since at least December 2007 until it was ultimately seized and placed into receivership by the FDIC, WMB was under liquidity pressure. During this period, WMI down-streamed billions of dollars without recompense and made significant preferential transfers to WMB on account of antecedent debts.

3. To the extent such contributions were made at a time when WMI was insolvent or engaged in business for which its assets were unreasonably small capital and when WMB was insolvent, WMI received no consideration in exchange for making such contributions and they are avoidable as a matter of law. Moreover, contributions or other transfers made when the likelihood of the FDIC's seizure was increasingly becoming inevitable resulted in WMI again receiving no consideration in exchange for making such contributions. Similarly, to the extent the transfers on account of prior obligations were made at a time when WMI was insolvent, they too are avoidable as a matter of law.

4. WMI and WMB's financial condition ultimately resulted in regulatory action. On the Receivership Date, by order number 2008-36, the OTS closed WMB and appointed the FDIC

Receiver. Immediately upon its appointment, the FDIC sold the majority of WMB's assets – having a book value of more than $300 billion – to JPMorgan Chase in exchange for payment of just $1.88 billion (the "P&A Transaction"), pursuant to the P&A Agreement.

5. JPMorgan Chase thereupon booked an extraordinary gain, reflecting that it acquired WMB's assets at a significant discount to fair market value. Specifically, based upon JPMorgan Chase's own accounting, the adjusted fair value of the net assets acquired was higher than the purchase price paid in the amount of $1.9 billion – an amount in and of itself more than the total consideration paid by JPMorgan Chase. Moreover, JPMorgan Chase has recently announced that it stands to realize a $29 billion gain on WMB assets it purchased and marked down pursuant to the P&A Transaction based upon the actual value of such assets. On the date of the P&A Transaction, WMI was both a creditor and a stockholder of WMB, and thus WMI was harmed further by this transaction. The next day, the Debtors commenced their cases under chapter 11 of the Bankruptcy Code.

JURISDICTION AND VENUE

6. This is an action pursuant to Federal Rule of Bankruptcy Procedure 7001 and 11 U.S.C. §§ 541, 544, 547, 548, and 550.

7. The Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. §§ 157(b) and 1334(b).

8. Venue is proper in this Court under 28 U.S.C. § 1409(b).

9. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

THE PARTIES

10. Counterclaim-Defendant JPMorgan Chase is a national banking association organized under the laws of the United States with its principal place of business in Columbus,

Ohio. JPMorgan Chase is a wholly-owned subsidiary of JPMorgan Chase & Co., a corporation organized under the laws of Delaware.

11. Counterclaim-Plaintiff WMI is a corporation organized under the laws of the State of Washington with its principal place of business located at 1301 Second Avenue, Seattle, Washington 98101.

12. Counterclaim-Plaintiff WMI Investment is a corporation organized under the laws of the State of Delaware with its principal place of business located at 1301 Second Avenue, Seattle, Washington 98101.

FACTUAL ALLEGATIONS

A. WMI's Capital Contributions

13. From December 2007 through April 2008, WMI made the Capital Contributions to WMB in the amount of $6.5 billion:

Date	Amount Contributed to WMB
December 18, 2007 (the "December '07 Capital Contribution")	$1 billion
April 18, 2008 (the "April '08 Capital Contribution")	$3 billion
July 21, 2008 (the "July '08 Capital Contribution")	$2 billion
September 10, 2008 (the "September '08 Capital Contribution")	$500 million

14. During this period, WMI had public debt obligations of approximately $7 billion, 3.5 million shares of preferred stock, and more than 1.7 billion shares of common stock.

15. All Capital Contributions made at a time when WMI was insolvent or engaged in business for which its assets were unreasonably small capital and when WMB was insolvent

resulted in WMI receiving no consideration in exchange for making such contributions. Moreover, Capital Contributions made during this period, when the likelihood of the FDIC's closing of WMB was increasingly inevitable, although not understood to be by WMI, resulted in WMI receiving no consideration in exchange for making such contributions. Thus, WMB (and ultimately, JPMorgan Chase) received the benefit of billions of dollars of Capital Contributions to the detriment of WMI.

(i) December '07 and April '08 Capital Contributions

16. In December 2007, WMI was recognizing serious signs of asset deterioration. On December 10, 2007, WMI announced a loss for the fourth quarter because of a $1.6 billion charge to write down the value of its home-loan business, and its plans to lay off approximately 3,150 employees. *See* Bill Virgin, *WaMu To Slash 3,150 Jobs Facing Fourth Quarter Loss, Bank Cuts Dividend 73% And Sets Office Closures*, THE SEATTLE POST-INTELLIGENCER, Dec. 11, 2007, at A1.

17. At this time, WMI already carried a debt burden that included approximately $7 billion in publicly-traded debt.

18. On the day of the April '08 Capital Contribution, WMI announced a net loss of approximately $1.1 billion, a provision for loan losses for the first quarter of approximately $3.5 billion, and expected first quarter net charge-offs of approximately $1.4 billion. *See* Washington Mutual, Inc. Press Release, *Company Expects First Quarter Net Loss of Approximately $1.1 Billion*, April 8, 2008.

(ii) July '08 Capital Contribution

19. On June 30, 2008, the OTS completed an examination of WMB and identified various "supervisory issues," and a general weakened financial condition. Pursuant to this examination WMB's board of directors and management were instructed to construct a three-year business plan to be submitted to the OTS for its approval. This examination culminated on

September 7, 2008, when the OTS entered into Memorandums of Understanding with each of WMI and WMB (the "MOUs"). The MOU entered into by WMB provided various measures aimed at improving its financial health, including, among other things, limitations placed on the ability of WMB to pay dividends, a requirement that WMB's board of directors review and approve a "contingency capital plan," and incorporation of an asset reduction plan with respect to certain targeted assets.

20. On Friday, July 11, 2008, the OTS seized IndyMac Bank and appointed the FDIC receiver of its assets. *See IndyMac Taken Over By Regulators,* REUTERS, July 11, 2008. On Monday, July 14, 2008, WMB experienced significant loss of deposits in the wake of IndyMac Bank being placed into receivership.

21. On July 22, 2008 – one day after the July '08 Capital Contribution was made – WMI announced a second quarter net loss of $3.33 billion and increased loan loss provisions by 69 percent to $5.9 billion. *See* Washington Mutual, Inc. Press Release, *WaMu Reports Significant Build-Up of Reserves Contributing to Second Quarter Net Loss of $3.3 Billion*, July 22, 2008. WMI's second quarter announcement spurred analyst concerns. Citi analyst Bradley Ball stated Citi's concern that "credit and market conditions will continue to damage Washington Mutual's financial flexibility over the near to intermediate term." *See* Maurna Desmond, *Alarm Over WaMu,* FORBES.COM, July 24, 2008.[3] Richard Bove, a Ladenburg Thalmann analyst, discussing his firm's projections noted that, "these numbers are based on our projection of what Washington Mutual must do to return to profitability, not what is necessarily likely to happen." *Id.*

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3 http://www.forbes.com/2008/07/24/wamu-analyst-update-market-equity-cx_md_0724markets46.html.

22. The capital markets evidenced WMI's financial distress. WMI credit default swaps (reflecting risk of default on WMI's publicly-issued notes) were trading at record-high levels just four days after the consummation of the July '08 Capital Contribution. *See* Shannon D. Harrington, *WaMu Bond Risk Climbs to Record Amid Mortgage Losses,* BLOOMBERG.COM, July 25, 2008.[4] Further indicative of WMI's financial distress, WMI subordinated notes were offering 15.0% yields to compensate investors for their risk, in stark contrast to five-year Treasury bonds that were offering a mere 3.3%. *See* Maurna Desmond, *Alarm Over WaMu,* FORBES.COM, July 24, 2008.

(iii) September '08 Capital Contribution

23. In September, 2008, WMI and WMB continued to experience a deterioration of their financial positions. On September 7, 2008, it was reported that WMI was forced to replace its then acting CEO, Kerry Killinger. *Washington Mutual CEO Killinger is out*, CNNMONEY.COM, Sept. 7, 2008.[5] The September '08 Capital Contributions were transferred to WMB only three days later.

24. The ratings agencies perceived WMI's financial distress. One day after the September '08 Capital Contributions were made, on September 11, 2008, both Moody's and Fitch Ratings downgraded their ratings on WMI to "junk status" and BBB- "with a negative outlook," respectively. *See Washington Mutual tries to soothe anxiety,* CNNMONEY.COM, September 7, 2008.[6] Just five days later, Standard & Poor's followed suit, lowering its WMI ratings to three levels below investment grade. *See* Ari Levy, *WaMu Rating Lowered to Junk by S&P on Mortgage Losses,* BLOOMBERG.COM, Sept. 15, 2008.[7]

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4 http://www.bloomberg.com/apps/news?pid=20601087&sid=ax7YtHccUeAQ&refer =home

5 http://money.cnn.com/2008/09/07/news/companies/wamu_ceo/? postversion=2008090722

6 http://money.cnn.com/2008/09/12/news/companies/wamu_3Q_update/index.htm

7 http://www.bloomberg.com/a pps/news?pid=20601087&sid=awDjhtIfoz_Q

25. In a September 25, 2008 letter to the WMI board of directors, the OTS discussed the prior two-week period as one of substantial "deposit outflows" from WMB that gave rise to "significant liquidity pressures." During this period, more than $16.7 billion was withdrawn by WMB customers. *See* Robin Sidel, David Enrich, and Dan Fitzpatrick, *WaMu Is Seized, Sold Off to J.P. Morgan, In Largest Failure in U.S. Banking History,* WALL ST. J., Sept. 26, 2008, at A1. The OTS ultimately concluded that WMB "is likely to be unable to pay its obligations or meet its depositors' demands in the normal course of business because it does not have sufficient liquid assets to pay those obligations and fund the expected withdrawals." *See* OTS Order 2008-36 at 2.

(iv) Capital Contributions Were Made For Less Than Reasonably Equivalent Value

26. To the extent that as of the time the Capital Contributions were made, WMB was insolvent, WMI's equity value in those entities was worthless and WMI did not receive any value in exchange for the Capital Contributions. Moreover, as the prospect of WMB being seized by the OTS approached inevitability, WMI's equity shares in WMB were likewise valueless.

27. WMI did not receive any tangible benefit in exchange for disbursing the funds. WMI received no indirect benefit either, such as increased equity value flowing from its wholly-owned subsidiary, WMB. At such time, there was no possibility that WMI would ever receive any return on the Capital Contributions.

28. At all such times, WMI had a debt burden of more than $7 billion, and its primary asset, the equity value in WMB, was reduced to nothing. To the extent that WMI was either insolvent or engaged in business for which its assets were unreasonably small capital, each of the Capital Contributions harmed WMI and are avoidable as a matter of law.

(v) Capital Contributions are Subsequently Transferred to JPMorgan Chase

29. The Capital Contributions were transfers of an interest in WMI's property. In its Complaint, JPMorgan Chase admits that the Capital Contributions were transferred to WMB, stating: "WMI formally contributed to WMB at least $6.5 billion of the approximately $10.2 billion in capital it had raised." (Complaint at ¶ 35).

30. Pursuant to the P&A Agreement, JPMorgan Chase purchased substantially all of WMB's assets. On the Receivership Date, funds that comprised the Capital Contributions were transferred to JPMorgan Chase.

31. Because the Capital Contributions are avoidable as constructive fraudulent transfers, WMI may recover from JPMorgan Chase as the subsequent transferee of the Capital Contributions, either the Capital Contributions or the value of the Capital Contributions for the benefit of WMI's estate pursuant to section 550 of the Bankruptcy Code. On the Receivership Date, JPMorgan Chase knew or should have known of the Capital Contributions and about the respective financial conditions of WMI and WMB. Thus, JPMorgan Chase did not acquire its interest in WMI property in good faith and without knowledge of the voidability of the Capital Contributions.

B. The Trust Securities

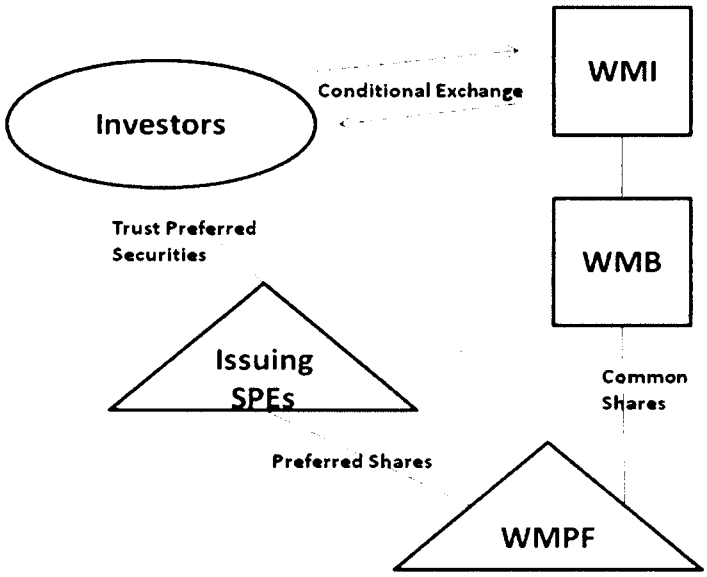
(i) Issuance of the Trust Securities

32. Between March 2006 and October 2007, in four instances, certain SPEs associated with WMI and its then subsidiaries issued the Trust Securities in connection with, and facilitated by, WMPF. The Trust Securities have an aggregate liquidation preference of approximately $4 billion and upon information and belief are currently worth at least as much.

33. WMPF's assets were limited to direct or indirect interests in mortgage or mortgage-related assets, cash, and other permitted assets which were held in certain trusts. WMPF issued preferred securities which were held by, and were the only asset of, the SPEs. These

securities were senior in priority to the common equity interests of WMPF which were indirectly held by WMB and WMI. In turn, the SPEs issued the Trust Securities.

34. The Trust Securities were offered and sold to "qualified institutional buyers" or "qualified purchasers" subject to a conditional exchange feature that operated to exchange the Trust Securities into related classes of WMI preferred stock, or depository shares representing WMI preferred stock, upon the occurrence of certain events as directed by the OTS under certain circumstances (*i.e.*, WMB becoming undercapitalized, WMB being placed into receivership, or the OTS anticipating WMB becoming undercapitalized in the near future, each an "Exchange Event"). Pursuant to the declaration of such an Exchange Event, the Trust Securities would be then held by WMI, having been exchanged for newly-issued preferred stock of WMI (a "Conditional Exchange"). A simplified illustrative chart follows:



35. On February 23, 2006, by letter addressed to Darrel Dochow of the OTS, John F. Robinson, WMI Corporate Risk Management, indicated to the OTS that if, as a result of the occurrence of an Exchange Event declared by the OTS, WMI issues preferred stock, or depository shares representing WMI preferred stock, in exchange for the Trust Securities, "WMI will

contribute to WMB the [Trust Securities]" (collectively, with the November 14, 2006 and the August 17, 2007 correspondence discussed below, the "Downstream Undertakings"). On February 24, 2006, the OTS responded by letter from Dochow to Robinson, indicating that it would consider the value of the Trust Securities in WMB's core capital in light of WMI's Downstream Undertaking. With respect to subsequent issuances of Trust Securities, similar letter exchanges took place on November 14, 2006 and December 4, 2006, and August 17, 2007 and September 20, 2007.

36. The February 26, 2006 OTS letter went on to state that "[n]otwithstanding the above, the OTS reserves the right, in its sole discretion, to exclude the [Trust Securities] (or prospective issuances of [Trust Securities]) if the terms are revised or it otherwise ceases to provide meaningful capital support and a realistic ability to absorb losses, or otherwise raises supervisory concerns." Similar reservations of rights appeared in correspondence relating to subsequent issuances of Trust Securities (collectively, the "OTS Reservation of Rights").

37. The Trust Securities were certificated securities, represented by global certificates held by Depository Trust Company ("DTC") and registered in the name of DTC's nominee, Cede & Co.

(ii) The OTS Declares an Exchange Event

38. On September 24, 2008, the day prior to the Receivership Date, the OTS notified WMI that an Exchange Event had occurred.

39. On September 25, 2008, by letter addressed to Steve Frank and Alan Fishman of WMI from Darrel Dochow of the OTS, the OTS directed WMI to cause a Conditional Exchange, exchanging the Trust Securities for preferred shares of WMI.

40. Later that day, immediately after the OTS closed WMB, its assets were purportedly sold to JPMorgan Chase pursuant to the P&A Transaction.

41. Still later that day, just prior to 9:00 p.m. Eastern time, an employee of WMI executed an Assignment Agreement which purported to assign the right, title, and interest in the Trust Securities to WMB (the "Assignment").

42. Pursuant to section 4.08 of the Amended and Restated Trust Agreement, dated as of March 7, 2006 (the "Trust Agreement") governing the Trust Securities, the Trust Securities were to be transferred to WMI in a Conditional Exchange at "the earliest possible date such exchange could occur consistent with the directive, as evidenced by the issuance by WMI of a press release prior to such time." (Trust Agreement §4.08). WMI sent a letter to the OTS on the evening of September 25, 2008, indicating that the Conditional Exchange would occur at 8:00 a.m. Eastern time on the 26th of September and that WMI would immediately contribute the Trust Securities to WMB upon the Conditional Exchange.

(iii) The Transfer of the Trust Securities Was Made For Less Than Reasonably Equivalent Value

43. The transfer of the Trust Securities pursuant to the Assignment Agreement is avoidable as a constructive fraudulent transfer of an interest in WMI's property that harmed WMI and its creditors.

44. At 8:00 a.m. Eastern time on the Petition Date, at a time when WMI was insolvent, WMI transferred the Trust Securities to WMB or to JPMorgan Chase, as successor in interest to WMB (Complaint at ¶ 79), for no consideration.

45. WMI did not receive any direct benefit in exchange for the transfer of the Trust Securities. WMI received no indirect benefit either, such as increased equity value flowing from WMB because its wholly-owned subsidiary WMB was insolvent. Moreover, both the transfer, and the Assignment the day prior, were made after WMB had been seized by the OTS, and thus WMI's equity shares in WMB were likewise valueless.

46. JPMorgan Chase is liable to WMI's estate as an initial or subsequent transferee of the Trust Securities. On the Receivership Date and the Petition Date, JPMorgan Chase knew or should have known of the transfers of the Trust Securities and about the financial condition of WMI and WMB. Thus, JPMorgan Chase did not acquire its interest in WMI property in good faith and without knowledge of the voidability of the transfer of the Trust Securities.

(iv) In the Alternative, the Transfer of the Trust Securities in Satisfaction of the Downstream Undertakings is Fraudulent as to Creditors and a Voidable Preference

47. Alternatively, the transfer of the Trust Securities at 8:00 a.m. Eastern time on the Petition Date in satisfaction of the Downstream Undertakings was both fraudulent as to WMI's creditors under applicable state law and a preferential transfer under the Bankruptcy Code.

48. First, the transfer of the Trust Securities was fraudulent as to WMI's creditors that existed as of the date of the transfer under applicable state law because the transfer was made to an insider, WMB or JPMorgan Chase, as successor in interest to WMB, while WMI was insolvent and while WMB or JPMorgan Chase had reasonable cause to believe that WMI was insolvent. The transfer was made on account of an antecedent obligation – the Downstream Undertakings. Thus, JPMorgan Chase is liable to WMI's estate as an initial or subsequent transferee of the Trust Securities. On the Receivership Date and the Petition Date, JPMorgan Chase knew or should have known of the purported transfers of the Trust Securities and about the financial condition of WMI. Thus, JPMorgan Chase did not acquire its interest in WMI property in good faith and without knowledge of the voidability of the transfer of the Trust Securities.

49. Second, the transfer of the Trust Securities was a preferential transfer under the Bankruptcy Code. At a time when WMI was insolvent, WMI transferred the Trust Securities on account of an antecedent obligation – the Downstream Undertakings.

50. The transfer was made either to WMB or JPMorgan Chase and enabled WMB or JPMorgan Chase to receive more than either would have received if WMI had not transferred the Trust Securities and had filed a bankruptcy case under chapter 7 of the Bankruptcy Code.

51. JPMorgan Chase expressly did not acquire any claims against WMI under the P&A Agreement and cannot be construed as a contractual assignee (P&A Agreement, Schedule 3.5), yet it asserted a claim to the Trust Securities in light of its assumption of all of WMB's deposit liabilities. If the Trust Securities are deemed to have been transferred to JPMorgan Chase, they were transferred to JPMorgan Chase as subrogee to WMB, and subrogees do not enjoy the priority contemplated by section 507(a)(9) of the Bankruptcy Code. Therefore, the transfer enabled WMB to receive more than it would have received in a hypothetical WMI chapter 7 bankruptcy case. As such, JPMorgan Chase would be left with only a general unsecured claim and would stand to recover significantly less than the value of the Trust Securities.

52. Further, even if WMB or JPMorgan Chase could assert a priority claim under section 507(a)(9) of the Bankruptcy Code, which WMI disputes, the transfer enabled WMB or JPMorgan Chase to receive more than either would have received in a hypothetical WMI chapter 7 bankruptcy case. This is so because, as asserted above and below, WMB and JPMorgan Chase are transferees of transfers that are avoidable under the Bankruptcy Code. Section 502(d) of the Bankruptcy Code would operate to disallow any claim of WMB in a hypothetical WMI chapter 7 bankruptcy case.

53. JPMorgan Chase is liable to WMI's estate as an initial or subsequent transferee of the Trust Securities. On the Receivership Date and the Petition Date, JPMorgan Chase knew or should have known of the purported transfers of the Trust Securities and about the financial

condition of WMI. Thus, JPMorgan Chase did not acquire its interest in WMI property in good faith and without knowledge of the voidability of the transfer of the Trust Securities.

(v) In the Alternative, the Trust Securities Were Not Transferred and are Owned by WMI

54. In the alternative, if it is determined that the Trust Securities were not in fact transferred to WMB or to JPMorgan Chase pursuant to the Assignment Agreement, then the Trust Securities are owned by WMI and are property of WMI's bankruptcy estate.

55. Pursuant to section 4.08 of the Trust Agreement, upon a Conditional Exchange, until replacement certificates are issued by WMI for the new WMI preferred stock issued to the prior holders of the Trust Securities, the certificates formerly representing the Trust Securities shall be deemed for all purposes to represent the preferred shares of WMI. (Trust Agreement § 4.08). The September 26, 2008 press release provided that "until such depositary receipts are delivered or in the event such depositary receipts are not delivered, any certificates previously representing [Trust] Securities will be deemed for all purposes, effective as of 8:00 AM New York time on September 26, 2008, to represent Fixed Rate Depositary Shares or Fixed-to-Floating Rate Depositary Shares, as applicable." A copy of the press release is attached hereto as Exhibit 1. Thus, upon a Conditional Exchange, the Trust Securities necessarily became uncertificated.

56. Upon information and belief, the SPEs, the issuers of the Trust Securities, have made no transfer notations registering the Trust Securities to WMB to reflect any purported Assignment.[8]

57. More than simply a clerical act, registration is a legally significant act that facilitates the administration of a large-scale security issuance involving multiple holders, like the

[8] The Debtors are not aware of any transfer notations being made post-petition, but reserve their right to amend the complaint to avoid any such unauthorized transfers of property of the Debtors' estate.

Trust Securities. Neither WMB nor JPMorgan Chase is the registered owner listed in the registrar's books with respect to the Trust Securities. Therefore, under applicable law and the Uniform Commercial Code as adopted by the State of Washington, the Trust Securities have not been delivered to WMB. Thus, the Trust Securities are property of WMI's bankruptcy estate.

(vi) JPMorgan Chase Has No Claim for the Trust Securities

58. The Trust Securities were not assigned to JPMorgan Chase under the terms of the P&A Agreement. Under Section 3.2(b) of the P&A Agreement, JPMorgan Chase was required to submit a bid for any securities that were not the capital stock of an acquired subsidiary of WMB. (P&A Agreement ¶ 3.2(b)). No such bid was submitted to WMB or the FDIC for the Trust Securities. The P&A Agreement further provides that "in the absence of an acceptable bid from [JPMorgan Chase], each such security shall not pass to [JPMorgan Chase] and shall be deemed to be an excluded asset hereunder." (P&A Agreement ¶ 3.2(b)). Therefore, JPMorgan Chase has no claim to the Trust Securities.

59. Further, Section 3.5 of the P&A Agreement provides that Schedule 3.5, "Certain Assets Not Purchased," enumerates certain assets not purchased, acquired, or assumed by JPMorgan Chase under the P&A Agreement. (P&A Agreement ¶ 3.5). Listed on Schedule 3.5 is "any interest, right, action, claim, or judgment against . . . any shareholder or holding company of [WMB] . . . ." (P&A Agreement, Schedule 3.5). Thus, JPMorgan Chase expressly did not acquire any claim from WMB for the Trust Securities under the Assignment Agreement or otherwise.

60. Further, in light of the fact that JPMorgan Chase assumed all of WMB's deposit liabilities, to the extent JPMorgan Chase has subrogated to the rights of WMB with respect to the Trust Securities, section 507(d) of the Bankruptcy Code provides that any priority status that

WMB may have with respect to the Trust Securities will not inure to the benefit of JPMorgan Chase as subrogee.

61. Moreover, property is recoverable from JPMorgan Chase on account of, among other things, its status as a transferee of the avoidable Capital Contributions, as asserted above. Thus, section 502(d) of the Bankruptcy Code operates to disallow any claim of JPMorgan Chase (in any event) until JPMorgan Chase turns over the value of the avoidable Capital Contributions, among other things, to WMI's estate. Accordingly, any claim JPMorgan Chase may have on account of the Trust Securities or otherwise is disallowed.

C. Preferential Payments

(i) WMI Transfers Cash and Interests in Property to WMB on Account of Antecedent Debt

62. On or before the Receivership Date, WMI transferred significant sums or other interest in property to WMB, to third parties for the benefit of WMB, or to WMB fsb. These transfers were made on account of pre-existing tax-related obligations (the "Tax Transfers") ~~or,~~ administrative obligations (the "Intercompany Settlements~~," and with~~"), and indemnification obligations arising out of WMI's agreement to indemnify WMB for losses and fees incurred in connection with loans acquired pursuant to the merger of WMB with Long Beach Mortgage Company in July 2006 (the "Long Beach Transfers," and with the Intercompany Settlements and the Tax Transfers, the "Preferential Transfers"). In each case, the obligations were owed WMB and were made during the one-year period immediately preceding the Petition Date.

63. During ~~this~~the one-year period immediately preceding the Petition Date, the Tax Transfers were made to WMB by WMI in an approximate amount of ~~$1,112,517,472.~~3,051,127,370. During this period, the Intercompany Settlements were made to

WMB by WMI in an approximate amount of $151,934,564. During this period, the Long Beach Transfers were made to WMB by WMI in an approximate amount of $192,171,812 . The Preferential Transfers are detailed in the schedules attached hereto as Exhibit 2. At the time of the Preferential Transfers, WMB and WMB fsb were both "insiders" of WMI and "creditors" of WMI as those terms are defined in the Bankruptcy Code or under applicable non-bankruptcy law.

64. WMB and WMB fsb received more on account of the Preferential Transfers than they would have received under a hypothetical chapter 7 bankruptcy case had the Preferential Transfers not been made.

65. To the extent WMI was insolvent at the time of the various Preferential Transfers, the Preferential Transfers are avoidable under the Bankruptcy Code and under applicable state law as fraudulent transfers. To the extent WMI was insolvent at the time of the various Preferential Transfers, WMB and WMB fsb had reasonable cause to believe that WMI was insolvent.

(ii) Preferential Transfers are Subsequently Transferred to JPMorgan Chase

66. The Preferential Transfers were transfers of an interest of WMI in property. Pursuant to P&A Agreement, JPMorgan Chase purchased substantially all of WMB's assets. Moreover, by subsequent transaction, JPMorgan Chase merged with WMB fsb. Thus, on the Receivership Date, the funds and/or value that comprised the Preferential Transfers were transferred to JPMorgan Chase.

67. Because the Preferential Transfers are avoidable as preferential transfers or as fraudulent transfers, then pursuant to section 550 of the Bankruptcy Code, WMI may recover the Preferential Transfers from JPMorgan Chase as subsequent transferee, or the value of the

Preferential Transfers for the benefit of WMI's estate. On the Receivership Date and the Petition Date, JPMorgan Chase knew or should have known of the Preferential Transfers and about the financial condition of WMI. Thus, JPMorgan Chase did not acquire its interest in WMI property in good faith and without knowledge of the voidability of the Preferential Transfers.

D. FDIC Sells WMB's Assets to JPMorgan Chase For Less Than Reasonably Equivalent Value

68. As reported in the *Wall Street Journal*, because the FDIC had informed JPMorgan Chase in early September that it desired to "immediately auction off WaMu's assets" upon the seizure of WMB, "J.P. Morgan was well-prepared . . . when the FDIC asked for bids" for the purchase of WMB's assets. Heidi N. Moore, *Deal Journal*, WALL ST. J., Sept. 30, 2008, at C7.

69. Prior to the Receivership Date, the FDIC determined that it would accept JPMorgan Chase's bid for WMB's assets.

70. Immediately after its appointment as receiver, the FDIC purportedly sold the majority of WMB's assets to JPMorgan Chase in exchange for consideration of $1.88 billion.

71. Under the P&A Transaction, JPMorgan Chase likely acquired more than $300 billion of assets at book value, including $134 billion of retail deposits and over $8 billion of uninsured deposits which have matching liabilities. *See* FDIC Memorandum to Board of Directors, September 24, 2008.

72. Less than a week after the P&A Transaction was consummated, JPMorgan Chase booked an after-tax extraordinary gain from "merger-related items" in connection with the P&A Transaction in the amount of $581 million. *See* JPMorgan Chase & Co., Form 10-Q for the quarter ended September 30, 2008, at 9. This amount reflected "negative goodwill," or a gain occurring when the price paid for an acquisition is less than the fair value of the acquired net assets. Subsequently, and because JPMorgan Chase's initial assessment of the value received over and

beyond what it paid was conducted just days after the P&A Transaction, that gain was reassessed and increased to *$1.9 billion* – an amount in and of itself more than the total consideration paid by JPMorgan Chase. *See* JPMorgan Chase & Co., Form 10-K for the fiscal year ended December 31, 2008, at 26.

73. The actual windfall to JPMorgan Chase was even greater, taking an immediate effect on JPMorgan Chase revenues. Having acquired WMB at fire-sale prices, JPMorgan Chase has achieved "record firmwide revenue" in first quarter 2009 and has enjoyed growth in retail banking deposits by 62% and in checking accounts by 126%.[9] Further, JPMorgan Chase has announced that it is now poised to recognize significant gains (*i.e.*, as much as $29 billion), as it recognizes the actual market value of many of the WMB assets it purchased and marked down at aggressive discounts. *See* Ari Levy and Elizabeth Hester, *JPMorgan's WaMu Windfall Turns Bad Loans Into Income,* BLOOMBERG.COM, May 26, 2009.[10]

74. At the time of the P&A Transaction, WMI was an actual creditor of WMB pursuant to various promissory notes and other intercompany payables. WMB was insolvent at the time of, or was rendered insolvent by, the P&A Transaction or was engaged in a business for which its remaining assets were unreasonably small.

75. In short, WMB did not receive from JPMorgan Chase reasonably equivalent value in exchange for the transfer of WMB's assets in the P&A Transaction.

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9 *See* JPMorgan Chase Press Release, *JPMorgan Chase Reports First-Quarter 2009 Net Income of $2.1 Billion, or $0.40 per Share,* April 16, 2009. Specifically, net income in JPMorgan Chase's Retail Financial Services division "was $474 million, compared with a net loss of $311 million in the prior year" due, in part, to the "positive impact of the Washington Mutual transaction . . ." Net income in JPMorgan Chase's Commercial Banking division "was $338 million, an increase of $46 million, or 16%, from the prior year, driven by higher net revenue reflecting the impact of the Washington Mutual transaction . . ." "Net interest income [at JPMorgan Chase] was $15.5 billion, up by $6.1 billion, or 65%, due to the impact of the Washington Mutual transaction," among other things.

10 http://www.bloomberg.com/apps/news?pid=20601087&sid=aYhaiSOq_Tbc &refer=home

E. Former Intercompany Amounts Due Assumed and Payable by JPMorgan Chase

76. WMB was indebted to WMI, or certain of WMI's non-bank, non-Debtor subsidiaries, under certain demand promissory notes that are due and payable in an approximate aggregate amount of $177 million as of the Petition Date (the "Promissory Notes"), plus interest accruing thereafter, as follows:[11]

- $82,048,081 under that certain Revolving Master Note, dated as of December 22, 2005, by and between WMB, as borrower, and H.S. Loan Corporation, as lender. H.S. Loan Corporation is a subsidiary of WMI, in which WMB owns 1.3283%.
- $73,670,153 under that certain Revolving Master Note, dated as of December 22, 2005, by and between WMB, as borrower, and H.S. Loan Partners, as lender. H.S. Loan Partners is an indirect, wholly-owned subsidiary of WMI.
- $7,781,240 under that certain Revolving Master Note, dated as of February 11, 2005, by and between WMB, as borrower, and WMHFA Delaware Holdings LLC, as lender. WMEIFA Delaware Holdings LLC is an indirect, wholly-owned subsidiary of WMI.
- $13,576,245 under that certain Registered Security, Note A, dated as of December 17, 2004, by and between University Street, Inc., as payor and predecessor in interest to WMB, and WMRP Delaware Holdings LLC, as payee, and predecessor in interest to PCA Asset Holdings LLC. This Promissory Note is recorded on WMI's books and records as an obligation owed to PCA Asset Holdings LLC, an indirect subsidiary of WMI, by WMB.

77. Further, there were significant intercompany receivables, that arose pursuant to that certain Administrative Services Agreement (the "Administrative Services Agreement"), identified by account numbers 28101, 28120, and 28025 owed WMI by WMB or its subsidiary WaMu Capital Corp. in the approximate amount of $22.5 million (the "Intercompany Receivables"). A summary of the amounts owed to WMI is as follows:

Account Debtor	WMI A/R Number	Amount
WMB	28101	$9,298,479
WMB	28120	$13,200,977

[11] Separately, WMB and WMB fsb were indebted to the Debtors on account of deposit liabilities in an amount in excess of $4 billion. These deposit liabilities are the subject of a separate adversary proceeding commenced on April 27, 2009, captioned *Washington Mutual, Inc. et al.v. JPMorgan Chase Bank, N.A.*, Adv. No. 09-50934.

WaMu Capital Corp.	28025	$28,558

78. Additionally, there may be other service agreements which would fall under the Administrative Services Agreement that operated to benefit WMB or one of its subsidiaries prior to the Petition Date. To the extent it is determined that the Debtors are liable for any amounts owed under such agreements, a related intercompany payable would have accrued payable from WMB to WMI (the "Additional Intercompany Receivables").

79. Separately, as of the Petition Date, WMI sponsored a tax qualified cash balance pension plan, the WaMu Pension Plan (the "Plan"). Beginning in December 2006, and contrary to historical practice, WMI began to make contributions on account of both WMI and WMB plan participants. Pursuant to the Administrative Services Agreement, WMB is obligated to compensate WMI for such contributions. From December 2006 through the Petition Date, WMI contributed approximately $491 million on account of both WMI and WMB plan participants and has not been paid any amounts owed it by WMB for the amount contributed on account of WMB plan participants (the portion allocable to WMB or WMB subsidiary plan participants being the "Retirement Benefit Advances," and collectively, with the Promissory Notes, the Intercompany Receivables, and the Additional Intercompany Receivables, the "Intercompany Amounts Due").

80. Under the P&A Agreement, JPMorgan Chase "expressly assumes . . . all of the liabilities of [WMB] which are reflected on the Books and Records of [WMB]. . .and all liabilities associated with any and all employee benefit plans . . . ." (P&A Agreement at § 2.1). Thus, JPMorgan Chase assumed the Intercompany Amounts Due. However, the Intercompany Amounts Due have not been paid to WMI's estate and remain due and payable.

F. JPMorgan Chase's Unauthorized Use of the WaMu Trademarks

81. WMI is the owner of more than 80 federal trademark registrations and applications comprising a family of Washington Mutual trademarks, including but not limited to the marks

"WAMU," "WASHINGTON MUTUAL," and the "W Logo" for a variety of services including but not limited to banking, credit card, lending, investment and other financial services as well as community, education and philanthropic oriented services (the "WaMu Marks"). The registrations are valid and subsisting, unrevoked and uncancelled, in full force and effect. A list of the aforesaid federal trademark registrations and applications is attached hereto as Exhibit 3.

82. In the years preceding the seizure, the WaMu corporate family encompassed dozens of companies that operated, primarily under the WAMU brand, as a single, unified organization. Many of these companies conducted business under the WaMu Marks, as part of the larger Washington Mutual corporate family.

82. The WaMu Marks are unquestionably famous and extremely valuable. Banking services and related services have been provided under some or all of the WaMu Marks since 1889. The WAMU mark has been continuously used since at least as early as 1983. At the time of the seizure of WMB, it was the largest thrift and the sixth largest banking institution in the United States. In fact, the rights to the WAMU brand alone was recently valued at approximately $6 billion.

83. WMI also owns registrations for at least 140 other trademarks and service marks, each in connection with various lines of business of the WaMu corporate family (the "Secondary Marks"). The registrations are valid and subsisting, unrevoked and uncancelled, in full force and effect. A list of the aforesaid federal trademark registrations and applications is attached hereto as Exhibit 4.

84. It was WMI's policy and practice to register the WaMu Marks and the Secondary Marks with the United States Patent and Trademark Office in the name of WMI, the holding company. WMI subsidiaries operating under the WaMu Marks and/or using the Secondary Marks

were permitted to use them for the products and services relevant to such subsidiary's business pursuant to an implied license from WMI for as long as the subsidiary remained part of the Washington Mutual corporate family.

85. WMI is the owner of approximately 1350 domain names containing the WaMu Marks and the Secondary Marks, including, but not limited to, wamu.com, washingtonmutual.com, and wamubank.com. ~~WMI is also the owner of numerous other domain names related to~~ (collectively, the "WaMu Domain Names"), which contain either the WaMu Marks, the Secondary Marks, or references to past advertising campaigns ~~(together, the "WaMu Domain Names")~~. WMI subsidiaries were permitted to use the WaMu Domain Names to advertise and provide information to customers regarding the products and services relevant to such subsidiary's business pursuant to an implied license from WMI for as long as the subsidiary remained part of the Washington Mutual corporate family.

86. Wamu.com was the primary website for WMI and its subsidiaries, and as such was the primary centralized focal point for customer interaction, from advertising WMI's various products and services to providing online banking and financial and investment consultation services. In addition, WAMU.COM is the subject of a U.S. federal trademark registration for a broad range of banking and financial services.

87. WMB, as a subsidiary of WMI, used the WaMu Marks and the Secondary Marks pursuant to an implied license from WMI which operated so long as WMB remained a member of WMI's corporate family.

88. On September 25, 2008, upon the OTS's seizure of WMB, WMB's license to use the WaMu Marks and the Secondary Marks terminated.

89. JPMorgan Chase's continued use of the WaMu Marks~~, including~~ and the ~~WaMu Domain Names~~Secondary Marks, in connection with its business operations is unauthorized and infringing.

90. JPMorgan Chase has infringed the WaMu Domain Names by continuing to use at least 120 active domain names, including, but not limited to wamu.com, and by causing at least 60 ~~active~~ of the active WaMu Domain Names, including, but not limited to wamu.com, to display JPMorgan Chase-branded and run websites.

91. JPMorgan Chase's continued use of the WaMu Marks, the Secondary Marks and the WaMu Domain Names will cause consumers to falsely believe that the products and/or services provided by JPMorgan Chase under such marks and domain names emanate from WMI, or are being rendered with the authorization or approval of WMI, when they are not.

92. JPMorgan Chase's use of the WaMu Marks, the Secondary Marks and the WaMu Domain Names is intentional and willful.

FIRST COUNTERCLAIM

Avoidance and Recovery of Capital Contributions Pursuant to 11 U.S.C. §§ 548, 550

93. Debtors repeat and re-allege each and every allegation contained in the preceding paragraphs 1-92.

94. Each of the Capital Contributions was a transfer of an interest in WMI's property within two years of the Petition Date.

95. WMI received no direct consideration in exchange for each of the Capital Contributions.

96. As of the time of each of the Capital Contributions, to the extent that WMI was either insolvent or was left with unreasonably small capital and WMB was insolvent or the prospect of WMB being seized by the OTS was so likely that equity shares in WMB were valueless, each of the Capital Contributions was for less than reasonably equivalent value and is avoidable as a fraudulent transfer under section 548 of the Bankruptcy Code.

97. JPMorgan Chase is liable to WMI's estate as a subsequent transferee of the interest in WMI's property that was transferred by each of the Capital Contributions plus pre-judgment interest at the highest applicable rate to be determined by the Court. JPMorgan Chase did not acquire its interest in the WMI property that was transferred by each of the Capital Contributions in good faith and without knowledge of the voidability of each of the Capital Contributions.

SECOND COUNTERCLAIM

Avoidance and Recovery of Capital Contributions Pursuant to 11 U.S.C. §§ 544, 550; RCW §§ 19.40.041, 19.40.051, 19.40.071 & 19.40.081

98. Debtors repeat and re-allege each and every allegation contained in the preceding paragraphs 1-97.

99. On the dates of each of the Capital Contributions, there were actual creditors of the Debtors holding unsecured claims allowable against the Debtors' estates within the meaning of sections 502(d) and 544(b) of the Bankruptcy Code, which claims remained unsatisfied on the Petition Date. Pursuant to section 544(b) of the Bankruptcy Code, the Debtors have the rights of an existing unsecured creditor of the Debtors.

100. Each of the Capital Contributions was a transfer of an interest in WMI's property within four years of the Petition Date.

101. WMI received no direct consideration in exchange for each of the Capital Contributions.

102. As of the time of each of the Capital Contributions, to the extent that WMI was either insolvent or was left with unreasonably small remaining assets and WMB was insolvent or the prospect of WMB being seized by the OTS was so likely that equity shares in WMB were valueless, each of the Capital Contributions was not for reasonably equivalent value and are avoidable fraudulent transfers under RCW §§ 19.40.041, 19.40.051 and section 544 of the Bankruptcy Code.

103. JPMorgan Chase is liable to WMI's estate as a subsequent transferee of the interest in WMI's property that was transferred by each of the Capital Contributions plus pre-judgment interest at the highest applicable rate to be determined by the Court. JPMorgan Chase did not

acquire its interest in the WMI property that was transferred by each of the Capital Contributions in good faith and without knowledge of the voidability of each of the Capital Contributions.

THIRD COUNTERCLAIM

Avoidance and Recovery of Trust Securities Pursuant to 11 U.S.C. §§ 548, 550

104. Debtors repeat and re-allege each and every allegation contained in the preceding paragraphs 1-103.

105. The transfer of the Trust Securities to WMB or to JPMorgan Chase is avoidable pursuant to 11 U.S.C. § 548.

106. The transfer of the Trust Securities was a transfer of an interest in WMI's property within two years of the Petition Date.

107. At the time of the transfer of the Trust Securities, WMI was insolvent or had unreasonably small capital. WMI did not receive any value for transferring the Trust Securities to WMB or to JPMorgan Chase. Further, WMI received no indirect benefit either, such as increased equity value flowing from WMB because its wholly-owned subsidiary WMB was insolvent or had been seized by FDIC thereby rendering WMI's equity stake in WMB worthless. Moreover, both the purported transfer, and the Assignment the day prior, were made after WMB had been seized by the OTS, and thus WMI's equity shares in WMB were likewise valueless.

108. If the Trust Securities were transferred by WMI to JPMorgan Chase, then pursuant to section 550 of the Bankruptcy Code, WMI may recover the Trust Securities from JPMorgan Chase as initial transferee, or the value of the Trust Securities for the benefit of WMI's estate plus, in both instances, pre-judgment interest at the highest applicable rate to be determined by the Court.

109. If the Trust Securities were transferred by WMI to WMB and then to JPMorgan Chase, then pursuant to section 550 of the Bankruptcy Code, WMI may recover the Trust Securities from JPMorgan Chase as subsequent transferee, or the value of the Trust Securities for

the benefit of WMI's estate plus, in both instances, pre-judgment interest at the highest applicable rate to be determined by the Court. JPMorgan Chase did not acquire its interest in WMI property in good faith and without knowledge of the voidability of the Trust Securities.

FOURTH COUNTERCLAIM

Avoidance and Recovery of Trust Securities Pursuant to 11 U.S.C. §§ 544, 550; RCW §§ 19.40.041, 19.40.051, 19.40.071 & 19.40.081

110. Debtors repeat and re-allege each and every allegation contained in the preceding paragraphs 1-109.

111. The transfer of the Trust Securities to WMB or to JPMorgan Chase is avoidable pursuant to applicable Washington state law.

112. The transfer of the Trust Securities was a transfer of an interest in WMI's property within four years of the Petition Date.

113. On the date of the transfer of the Trust Securities, there were actual creditors of WMI holding unsecured claims allowable against WMI's estate within the meaning of sections 502(d) and 544(b) of the Bankruptcy Code, which claims remained unsatisfied on the Petition Date. Pursuant to section 544(b) of the Bankruptcy Code, WMI has the rights of an existing unsecured creditor of WMI.

114. At the time of the transfer of the Trust Securities, WMI was insolvent or had unreasonably small remaining assets. WMI did not receive any value for transferring the Trust Securities to WMB or to JPMorgan Chase. Further, WMI received no indirect benefit either, such as increased equity value flowing from WMB because its wholly-owned subsidiary WMB was insolvent or had been seized by FDIC thereby rendering WMI's equity stake in WMB worthless. Moreover, both the purported transfer, and the Assignment the day prior, were made after WMB had been seized by the OTS, and thus WMI's equity shares in WMB were likewise valueless.

115. If the Trust Securities were transferred by WMI to JPMorgan Chase, then pursuant to section 550 of the Bankruptcy Code, WMI may recover the Trust Securities from JPMorgan Chase as initial transferee, or the value of the Trust Securities for the benefit of WMI's estate plus, in both instances, pre-judgment interest at the highest applicable rate to be determined by the Court.

116. If the Trust Securities were transferred by WMI to WMB and then to JPMorgan Chase, then pursuant to section 550 of the Bankruptcy Code, WMI may recover the Trust Securities from JPMorgan Chase as subsequent transferee, or the value of the Trust Securities for the benefit of WMI's estate plus, in both instances, pre-judgment interest at the highest applicable rate to be determined by the Court. JPMorgan Chase did not acquire its interest in WMI property in good faith and without knowledge of the voidability of the Trust Securities.

FIFTH COUNTERCLAIM

Avoidance and Recovery of Trust Securities Pursuant to 11 U.S.C. §§ 547, 550

117. Debtors repeat and re-allege each and every allegation contained in the preceding paragraphs 1-116.

118. In the alternative to the third and fourth counterclaims, if it is determined at or before trial that WMI transferred the Trust Securities to WMB or to JPMorgan Chase in satisfaction of the Downstream Undertakings as valid, enforceable, antecedent obligations, then such transfer is avoidable pursuant to 11 U.S.C. § 547.

119. As such, WMB or JPMorgan Chase, as subrogee or successor in interest to WMB, were creditors of WMI pursuant to the Downstream Undertakings at the time the transfer was made.

120. The transfer of the Trust Securities was a transfer of an interest in WMI's property within ninety days of the Petition Date.

121. WMI was insolvent at the time the transfer was made.

122. As asserted above, WMB, as recipient of the Capital Contributions, is a transferee of a transfer avoidable under the Bankruptcy Code. Property is recoverable under the Bankruptcy Code from JPMorgan Chase on account of its status as a transferee of the Capital Contributions.

123. The transfer allowed WMB or JPMorgan Chase to receive more by virtue of the transfer than either of them would have received had the transfer not been made in a hypothetical WMI chapter 7 bankruptcy case.

124. Pursuant to section 550 of the Bankruptcy Code, WMI may recover the Trust Securities from JPMorgan Chase as initial or subsequent transferee, or the value of the Trust Securities for the benefit of WMI's estate plus, in both instances, pre-judgment interest at the highest applicable rate to be determined by the Court. JPMorgan Chase did not acquire its interest in WMI property in good faith and without knowledge of the voidability of the Trust Securities.

SIXTH COUNTERCLAIM

Avoidance and Recovery of Trust Securities Pursuant to 11 U.S.C. §§ 544, 550; RCW §§ 19.40.051, 19.40.071 & 19.40.081

125. Debtors repeat and re-allege each and every allegation contained in the preceding paragraphs 1-124.

126. On the dates of the transfer of the Trust Securities, there were actual creditors of WMI holding unsecured claims allowable against WMI's estate within the meaning of sections 502(d) and 544(b) of the Bankruptcy Code, which claims remained unsatisfied on the Petition Date.

Pursuant to section 544(b) of the Bankruptcy Code, WMI has the rights of an existing unsecured creditor of WMI.

127. In the alternative to the third and fourth counterclaims, if it is determined at or before trial that WMI transferred the Trust Securities to WMB or to JPMorgan Chase in satisfaction of the Downstream Undertakings as valid, enforceable, antecedent obligations, then such transfer is avoidable pursuant to 11 U.S.C. § 544 and Washington state law.

128. As such, WMB or JPMorgan Chase, as successor in interest to WMB, were creditors of WMI pursuant to the Downstream Undertakings at the time the transfer was made.

129. WMB or JPMorgan Chase, as successor in interest to WMB, was an insider of WMI under applicable law at the time the transfer of the Trust Securities was made.

130. The transfer of the Trust Securities was a transfer of an interest in WMI's property within one year of the Petition Date.

131. WMI was insolvent at the time the transfer was made and WMB or JPMorgan Chase had reasonable cause to believe that WMI was insolvent in light of the seizure of WMB by the FDIC, among other reasons.

132. Pursuant to section 550 of the Bankruptcy Code, WMI may recover the Trust Securities from JPMorgan Chase as subsequent transferee, or the value of the Trust Securities for the benefit of WMI's estate plus, in both instances, pre-judgment interest at the highest applicable rate to be determined by the Court. JPMorgan Chase did not acquire its interest in WMI property in good faith and without knowledge of the voidability of the Trust Securities.

SEVENTH COUNTERCLAIM

Declaratory Judgment that Trust Securities are Property of the Estate

133. Debtors repeat and re-allege each and every allegation contained in the preceding paragraphs 1-132.

134. In the alternative to the third, fourth, fifth, and sixth counterclaims, as set forth above, the Trust Securities were not transferred to WMB, the FDIC, or JPMorgan Chase.

135. JPMorgan Chase asserts a claim of ownership to the Trust Securities.

136. The Trust Securities were not assigned to JPMorgan Chase under the terms of the P&A Agreement. Thus, at best, JPMorgan Chase has a general unsecured claim against WMI's estate as subrogee to WMB.

137. There is an actual controversy that is of sufficient immediacy to warrant judicial relief under the Declaratory Judgment Act, 28 U.S.C. § 2201.

138. Debtors request a declaratory judgment that the Trust Securities are property of WMI's bankruptcy estate and were never delivered or transferred therefrom.

EIGHTH COUNTERCLAIM

Avoidance and Recovery of Preferential Transfers to WMB Pursuant to 11 U.S.C. §§ 547, 550

139. Debtors repeat and re-allege each and every allegation contained in the preceding paragraphs 1-138.

140. The Preferential Transfers were transfers of an interest in WMI's property within one year of the Petition Date.

141. WMB and WMB fsb were creditors of WMI at the time the Preferential Transfers were made and the Preferential Transfers were made to WMB or WMB fsb or for their benefit.

142. WMB and WMB fsb were insiders of WMI within the meaning of the Bankruptcy Code at the time the Preferential Transfers were made.

143. The Preferential Transfers allowed WMB and WMB fsb to receive more by virtue of the Preferential Transfers than they would have received had the Preferential Transfers not been made in a hypothetical WMI chapter 7 bankruptcy case.

144. To the extent WMI was insolvent at the time the Preferential Transfers were made, the Preferential Transfers are avoidable pursuant to 11 U.S.C. § 547.

145. JPMorgan Chase is liable to WMI's estate as a subsequent transferee of the Preferential Transfers plus pre-judgment interest at the highest applicable rate to be determined by the Court. JPMorgan Chase did not acquire its interest in WMI property in good faith and without knowledge of the voidability of the Preferential Transfers.

NINTH COUNTERCLAIM

Avoidance and Recovery of Preferential Transfers to WMB Pursuant to 11 U.S.C. §§ 544, 550; RCW §§ 19.40.051, 19.40.071 & 19.40.081

146. Debtors repeat and re-allege each and every allegation contained in the preceding paragraphs 1-145.

147. On the dates of the Preferential Transfers, there were actual creditors of WMI holding unsecured claims allowable against WMI's estate within the meaning of sections 502(d) and 544(b) of the Bankruptcy Code, which claims remained unsatisfied on the Petition Date. Pursuant to section 544(b) of the Bankruptcy Code, WMI has the rights of an existing unsecured creditor of WMI.

148. The Preferential Transfers were transfers of an interest in WMI's property within one year of the Petition Date.

149. WMB and WMB fsb were creditors of WMI at the time the Preferential Transfers were made.

150. WMB and WMB fsb were insiders of WMI under applicable law at the time the Preferential Transfers were made.

151. To the extent WMI was insolvent at the time the Preferential Transfers were made (which WMB and WMB fsb each would have had reason to know of), the Preferential Transfers are avoidable pursuant to 11 U.S.C. § 544 and Washington state law.

152. Pursuant to section 550 of the Bankruptcy Code, JPMorgan Chase is liable to WMI's estate as a subsequent transferee of the Preferential Transfers plus pre-judgment interest at the highest applicable rate to be determined by the Court. JPMorgan Chase did not acquire its interest in WMI property in good faith and without knowledge of the voidability of the Preferential Transfers.

TENTH COUNTERCLAIM

Fraudulent Transfer Pursuant to 11 U.S.C. § 541; RCW §§ 19.40.041, 19.40.051, 19.40.071, & 19.40.081; NEV. REV. STAT. §§ 112.180, 112.190, 112.210, & 112.220

153. Debtors repeat and re-allege each and every allegation contained in the preceding paragraphs 1-152.

154. The P&A Transaction is avoidable as a fraudulent transfer by WMI in WMI's capacity as a creditor of WMB under Nevada state law or alternatively under Washington state law.

155. At the time of the P&A Transaction, WMI was an actual creditor of WMB pursuant to various promissory notes and other intercompany payables. WMB was insolvent at the time of, or was rendered insolvent by, the P&A Transaction or was engaged in a business for which its remaining assets were unreasonably small.

156. The P&A Transaction is avoidable because it took place within four years of the date hereof and WMB did not receive reasonably equivalent value for its assets from JPMorgan Chase.

157. JPMorgan Chase did not acquire WMB's assets in good faith.

158. JPMorgan Chase is liable to WMI's estate for the actual value of WMB's assets at the time of the P&A Transaction to be demined at trial plus pre-judgment interest at the highest applicable rate to be determined by the Court.

159. Alternatively, JPMorgan Chase is liable to WMI's estate in an amount necessary to satisfy any and all claims that WMI has against WMB in full.

160. With respect to the claims recited in paragraphs 158 and 159 hereof, WMI has a claim against JPMorgan Chase for money damages and for any other relief that the circumstances may require.

161. Alternatively, WMI may avoid the P&A Transaction to the extent necessary to satisfy any and all claims that WMI has against WMB in full.

ELEVENTH COUNTERCLAIM

Disallowance of Claims Pursuant to 11 U.S.C. §§ 105, 502

162. Debtors repeat and re-allege each and every allegation contained in the preceding paragraphs 1-161.

163. JPMorgan Chase filed proofs of claims in the Debtors' bankruptcy cases. The Debtors hereby object to any and all claims filed or asserted by JPMorgan Chase pursuant to section 502(d) of the Bankruptcy Code.[12]

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[12] The Debtors reserve their rights to object to JPMorgan Chase's proofs of claims on different grounds through the Debtors' claims reconciliation process.

164. Property is recoverable from JPMorgan Chase on account of its status as a transferee of the Capital Contributions, the Preferential Transfers, and to the extent applicable, the Trust Securities, as asserted above. JPMorgan Chase has failed to turn over to the Debtors such property of the Debtors' estates.

165. Pursuant to Section 502(d) of the Bankruptcy Code, each claim asserted by JPMorgan Chase must be disallowed because property of the Debtors' estates is recoverable from JPMorgan Chase and JPMorgan Chase has not turned over all of such property to the Debtors.

166. Further, pursuant to Section 502(b)(1) of the Bankruptcy Code, the Debtors have a right of setoff under applicable state law, and because the Debtors have claims against JPMorgan Chase that exceed the amount (if any) owed by the Debtors to JPMorgan Chase, JPMorgan Chase's claims are unenforceable and must be disallowed.

TWELFTH COUNTERCLAIM

Declaratory Judgment that Certain Assets are Property of the Estate

167. Debtors repeat and re-allege each and every allegation contained in the preceding paragraphs 1-166.

168. In its Complaint, JPMorgan Chase asserts a claim of ownership to the: (i) Trust Securities; (ii) Tax Refunds; (iii) $3.7 Billion Book Entry Transfer; (iv) Anchor and American Judgments (as defined therein) and all monies paid on account of those judgments, as well as any future judgment in either the *Anchor Savings Bank* or the *American Savings Bank* litigations; (v) Legacy Rabbi Trusts; (vi) Pension and 401(k) Plans; (vii) BOLI and Split Dollar Policies; (viii) Visa Shares; and (ix) Intangible Assets (each as defined in the Complaint, and collectively, the "Disputed Assets").

169. The Disputed Assets are property of the Debtors' estates and were not purchased by JPMorgan Chase under the terms of the P&A Agreement.

170. There is an actual controversy that is of sufficient immediacy to warrant judicial relief under the Declaratory Judgment Act, 28 U.S.C. § 2201.

171. The Debtors request a declaratory judgment determining that all of the Disputed Assets are property of the Debtors' estates and were not purchased by JPMorgan Chase under the terms of the P&A Agreement.

THIRTEENTH COUNTERCLAIM

Turnover of Intercompany Amounts Due Pursuant to 11 U.S.C. § 542

172. Debtors repeat and re-allege each and every allegation contained in the preceding paragraphs 1-171.

173. The Intercompany Amounts Due are debts owed to the Debtors' estates that are matured and payable on demand.

174. Pursuant to section 542 of the Bankruptcy Code, JPMorgan Chase is required to pay the Intercompany Amounts Due, including pre-judgment interest at the highest applicable rate to be determined by the Court, to the Debtors' estates.

FOURTEENTH COUNTERCLAIM

Unjust Enrichment, Constructive Trust, and Equitable Lien

175. Debtors repeat and re-allege each and every allegation contained in the preceding paragraphs 1-174.

176. JPMorgan Chase would be unjustly enriched if it were allowed to retain the Capital Contributions, the Trust Securities (if transferred), the Preferential Transfers, or any of the Disputed Assets.

177. In order to prevent that unjust enrichment, equity entitles WMI to recover the value of the property transferred, including through the remedies of constructive trust and/or equitable lien.

FIFTEENTH COUNTERCLAIM

Trademark Infringement Pursuant to 15 U.S.C. § 1114

178. Debtors repeat and re-allege each and every allegation contained in the preceding paragraphs 1-177.

179. JPMorgan Chase's continued use of the WaMu Marks, the Secondary Marks, and the WaMu Domain Names that incorporate either the WaMu Marks or the Secondary Marks, in connection with its business operations is unauthorized and infringing.

180. JPMorgan Chase's use of the WaMu Marks, the Secondary Marks and the WaMu Domain Names is intentional and willful.

181. The aforesaid acts of JPMorgan Chase constitute trademark infringement in violation of Section 32(1) of the Lanham Act, 15 U.S.C. § 1114(1).

182. The aforesaid acts of Counterclaim-Defendants have caused, and are causing, great and irreparable harm to WMI and, unless JPMorgan Chase is permanently restrained by this Court, said injury will continue.

183. WMI, the owner of the WASHINGTON MUTUAL and W Logo marks, permitted WMB, as its licensee, to retain two United States trademark registrations that cover a small fraction of WMB's services (United States Trademark Registrations Nos. 1197378 and 1214303), as an administrative convenience. Since the license is now terminated, WMI is entitled to an order requiring that JPMorgan Chase assign said trademark registrations to WMI to rectify the Federal Register or, in the alternative, cancelling such registrations.

184. WMI is entitled to recover its damages sustained as a result of JPMorgan Chase's federal trademark infringement, together with an accounting of JPMorgan Chase profits arising from such infringing activities.

185. WMI is entitled to recover treble damages under 15 U.S.C. § 1117 by reason of the willful and deliberate acts of federal trademark infringement by JPMorgan Chase.

186. WMI is entitled to recover its reasonable attorneys' fees pursuant to 15 U.S.C. § 1117.

SIXTEENTH COUNTERCLAIM

Common Law Trademark Infringement

187. Debtors repeat and re-allege each and every allegation contained in the preceding paragraphs 1-186.

188. The aforesaid acts of JPMorgan Chase constitute use that is likely to cause confusion as to the source of JPMorgan Chase's services.

189. The aforesaid acts of JPMorgan Chase constitute trademark infringement in violation of WMI's continuing and residual common law trademark rights in the WaMu Marks and the Secondary Marks.

190. The aforesaid acts of JPMorgan Chase have caused, and are causing, great and irreparable harm to WMI, and, unless permanently restrained by this Court, said injury will continue.

191. WMI is entitled to recover JPMorgan Chase's profits and/or damages by reason of JPMorgan Chase's acts of trademark infringement under the common law.

SEVENTEENTH COUNTERCLAIM

Patent Infringement

192. Debtors repeat and re-allege each and every allegation contained in the preceding paragraphs 1-191.

193. The Court has jurisdiction pursuant to 28 U.S.C. § 1334 and 28 U.S.C. § 157.

194. WMI is the owner by assignment of United States Patent No. 6,681,985, entitled "System For Providing Enhanced Systems Management, Such As In Branch Banking" (the "'985 patent"). The '985 patent was duly and legally issued by the United States Patent and Trademark

Office ("USPTO") on January 27, 2004. A true and correct copy of the '985 patent is attached hereto as Exhibit 5.

195. In the years preceding the seizure, the WaMu corporate family encompassed dozens of companies that operated as a single, unified organization. WMB practiced the '985 patent as part of the larger corporate family.

196. Related companies were permitted to practice the '985 patent pursuant to an implied license from WMI for as long as they remained part of the Washington Mutual corporate family.

197. On September 25, 2008, upon the OTS's seizure of WMB, WMB's implied license to practice the '985 patent terminated.

198. JPMorgan Chase has continued to practice the '985 patent in connection with its business operations, which use is unauthorized and infringing.

199. In violation of 35 U.S.C. § 271, JPMorgan Chase has been and is now directly infringing and indirectly infringing, by way of inducement and/or contribution, literally and/or under the doctrine of equivalents, the '985 patent by practicing one or more claims of the '985 patent by making, using, selling, offering for sale, contributing to the use of, and/or inducing the use of financial transaction processing systems to process financial transactions for a customer in a branch bank.

200. JPMorgan Chase's infringement of the '985 patent includes, but is not limited to, use of the patented system in connection with banking operations in former Washington Mutual branch banks.

201. JPMorgan Chase's actions have damaged WMI in an amount to be determined at trial and have caused and will continue to cause WMI irreparable injury for which WMI has no adequate remedy at law.

202. Upon information and belief, JPMorgan Chase's infringement, contributory infringement, and inducement to infringe have been, and continue to be, willful, and will continue to injure WMI unless and until the Court enters an injunction prohibiting further infringement.

203. WMI is entitled to an award of damages adequate to compensate WMI for the infringement that has occurred, together with prejudgment interest from the date infringement began.

204. WMI is also entitled to increased damages as permitted under 35 U.S.C. § 284, as well a finding that this case is exceptional, entitling WMI to attorneys' fees and costs as provided by 35 U.S.C. § 285.

205. WMI is also entitled to a permanent injunction prohibiting JPMorgan Chase's further infringement, inducement of infringement, and contributory infringement of the '985 patent.

EIGHTEENTH COUNTERCLAIM

Federal Copyright Infringement Pursuant to 17 U.S.C. § 501

206. Debtors repeat and re-allege each and every allegation contained in the preceding paragraphs 1-205.

207. WMI owns the copyright for~~, and has applied to register,~~ its website at wamu.com (the "Website"). True and correct copies of the ~~applications as filed with~~Certificates of Registration issued by the United States Copyright Office~~, and the filing receipts for these applications,~~ are attached hereto as Exhibit 6.

208. Upon information and belief, JPMorgan Chase has continued to display, reproduce and distribute the Website, or significant parts thereof, without authorization from WMI.

209. Upon information and belief, JPMorgan Chase has created, reproduced and distributed derivative works based on the Website without authorization from WMI.

210. The actions and conduct by JPMorgan Chase as described above infringe upon the exclusive rights of WMI granted by Section 106 of the Copyright Act, 17 U.S.C. § 106, to display, reproduce, and distribute the copyrighted Website to the public, and to create derivative works based on the copyrighted Website. WMI is informed and believes, and on that basis alleges, that JPMorgan Chase has infringed directly and indirectly WMI's exclusive rights in the Copyrighted Website.

211. Such actions and conduct by JPMorgan Chase constitute copyright infringement under Section 501 of the Copyright Act, 17 U.S.C. § 501.

212. As a result of the copyright infringement described above, WMI is entitled to relief including, but not limited to, injunctive relief, actual damages, and prejudgment interest.

Amended Exhibit 2

In re: Washington Mutual Inc.
Payments made to Washington Mutual Bank and Washington Mutual Bank fsb
Tax Transfers

Date	Amount	Paid to
11/9/2007	11,489,211	Washington Mutual Bank, fsb
11/9/2007	390,077,331	Washington Mutual Bank
12/17/2007	139,388,137	Washington Mutual Bank
2/26/2008	1,938,609,898	Washington Mutual Bank
3/17/2008	136,661,251	Washington Mutual Bank
6/16/2008	196,412,285	Washington Mutual Bank
9/15/2008	238,489,257	Washington Mutual Bank
Total	3,051,127,370	

In re: Washington Mutual Inc.
Payments made to Washington Mutual Bank
Long Beach Transfers

Date	Amount	Paid to
3/31/2008	$31,220,000	Washington Mutual Bank
5/30/2008	$122,406,521	Washington Mutual Bank
6/30/2008	$29,293,090	Washington Mutual Bank
9/18/2008	$9,252,201	Washington Mutual Bank
Total	**$192,171,812**	

In re: Washington Mutual, Inc.
Case No. 08-12229
SOFA 23 Payments to Insiders
Payments made to Washington Mutual Bank

Date Paid	Amount Paid to WMB
10/11/2007	857,230.47
10/18/2007	3,446,107.42
11/8/2007	1,189.73
11/15/2007	254,364.42
12/13/2007	186,438.82
1/10/2008	6,863,343.95
1/17/2008	2,190.72
2/7/2008	2,319,329.88
3/6/2008	7,948.56
3/13/2008	773,837.68
3/31/2008	14,030,414.67
4/10/2008	4,488,747.40
4/24/2008	3,759,043.02
5/8/2008	2,598,863.39
5/30/2008	1,240,005.70
6/19/2008	170.28
6/26/2008	10,520,771.72
7/24/2008	581,788.51
8/14/2008	1,431,922.60
8/21/2008	4,194,820.96
9/11/2008	112,923.51
9/25/2008	4,101,278.69
10/18/2007	175,635.71
10/25/2007	305,110.56
10/31/2007	1,434,522.37
11/8/2007	4,966,409.90
11/15/2007	725,599.67
12/13/2007	8,865,013.39
12/31/2007	6,205.49
1/10/2008	6,362,822.58
1/17/2008	914,011.32
1/31/2008	12,447,072.22
2/7/2008	3,377,908.39
2/14/2008	292,691.98
2/21/2008	671,242.69
2/29/2008	750,288.31
3/13/2008	3,256,230.57
3/20/2008	1,096,451.96

In re: Washington Mutual, Inc.
Case No. 08-12229
SOFA 23 Payments to Insiders
Payments made to Washington Mutual Bank

Date Paid	Amount Paid to WMB
4/10/2008	3,429,936.11
5/15/2008	1,956,466.25
5/22/2008	3,062,583.76
6/19/2008	1,422,117.59
6/30/2008	5,284,659.08
7/10/2008	2,598,631.45
7/24/2008	2,879,785.16
8/7/2008	1,805,099.83
8/14/2008	2,573,609.62
9/11/2008	614,326.45
9/18/2008	17,205,753.61
9/25/2008	1,681,646.07
Total:	151,934,564.19

Amended Exhibit 6

Certificate of Registration

This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Marybeth Peters

Register of Copyrights, United States of America

Registration Number:

TX 6-935-497

Effective date of registration:

June 1, 2009

Title

Title of Work: wamu.com website September 24, 2008

Completion/ Publication

Year of Completion: 2008

Date of 1st Publication: September 24, 2008 **Nation of 1st Publication:** United States

Author

- **Author:** Washington Mutual, Inc.

Author Created: text, editing, computer program, artwork

Work made for hire: Yes

Citizen of: United States **Domiciled in:** United States

Copyright claimant

Copyright Claimant: Washington Mutual, Inc.

1301 Second Avenue, WMC 3601, Seattle, WA, 98101, United States

Limitation of copyright claim

Material excluded from this claim: text, computer program, artwork

New material included in claim: text, editing, computer program, artwork

Rights and Permissions

Organization Name: Washington Mutual, Inc.

Address: 1301 Second Avenue

WMC 3601

Seattle, WA 98101 United States

Certification

Name: Lynne E. Graybeal

Date: May 29, 2009

Applicant's Tracking Number: 53000.6000.0001.US006

Correspondence: Yes

Copyright Office notes: Regarding deposit: Special Relief granted under 202.20(d) of C.O. regulations.

IPN#:

Registration #: TX0006935497

Service Request #: 1-198669154

Perkins Coie LLP
Lynne E. Graybeal
1201 Third Ave., Ste. 4800
Seattle, WA 98101 United States

Certificate of Registration

This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Marybeth Peters

Register of Copyrights, United States of America

Registration Number:

TX 6-935-465

Effective date of registration:

June 10, 2009

Title

Title of Work: wamu.com website November 2002

Completion/ Publication

Year of Completion: 2002

Date of 1st Publication: November 22, 2002 **Nation of 1st Publication:** United States

Author

- **Author:** Washington Mutual, Inc.

Author Created: text, editing, computer program, artwork

Work made for hire: Yes

Citizen of: United States **Domiciled in:** United States

Copyright claimant

Copyright Claimant: Washington Mutual, Inc.

1301 Second Avenue, WMC 3601, Seattle, WA, 98101, United States

Limitation of copyright claim

Material excluded from this claim: text, computer program, artwork

New material included in claim: text, editing, computer program, artwork

Rights and Permissions

Organization Name: Washington Mutual, Inc.

Address: 1301 Second Avenue

WMC 3601

Seattle, WA 98101 United States

Certification

Name: Lynne E. Graybeal

Date: May 28, 2009

Applicant's Tracking Number: 53000.6000.0001.US002

Correspondence: Yes

Copyright Office notes: Regarding deposit: Special Relief granted under 202.20(d) of C.O. regulations.

IPN#:

Registration #: TX0006935465

Service Request #: 1-198473965

Perkins Coie LLP
Lynne E. Attn: Graybeal
1201 Third Ave., Ste. 4800
Seattle, WA 98101 United States

Certificate of Registration

This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Marybeth Peters

Register of Copyrights, United States of America

Registration Number:

TX 6-935-477

Effective date of registration:

June 10, 2009

Title

Title of Work: wamu.com website April 2004

Completion/ Publication

Year of Completion: 2004

Date of 1st Publication: April 6, 2004 **Nation of 1st Publication:** United States

Author

- **Author:** Washington Mutual, Inc.

Author Created: text, editing, computer program, artwork

Work made for hire: Yes

Citizen of: United States **Domiciled in:** United States

Copyright claimant

Copyright Claimant: Washington Mutual, Inc.

1301 Second Avenue, WMC 3601, Seattle, WA, 98101, United States

Limitation of copyright claim

Material excluded from this claim: text, computer program, artwork

New material included in claim: text, editing, computer program, artwork

Rights and Permissions

Organization Name: Washington Mutual, Inc.

Address: 1301 Second Avenue

WMC 3601

Seattle, WA 98101 United States

Certification

Name: Lynne E. Graybeal

Date: May 28, 2009

Applicant's Tracking Number: 53000.6000.0001.US003

Correspondence: Yes

Copyright Office notes: Regarding deposit: Special Relief granted under 202.20(d) of C.O. regulations.

IPN#:

Registration #: TX0006935477

Service Request #: 1-198474378

Perkins Coie LLP
To Whom it May Concern
Attn: Lynne E. Graybeal
1201 Third Ave., Ste. 4800
Seattle, WA 98101 United States

Certificate of Registration

This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Marybeth Peters

Register of Copyrights, United States of America

Registration Number:

TX 6-935-480

Effective date of registration:

June 10, 2009

Title

Title of Work: wamu.com website March 2006

Completion/ Publication

Year of Completion: 2006

Date of 1st Publication: March 14, 2006 **Nation of 1st Publication:** United States

Author

- **Author:** Washington Mutual, Inc.

Author Created: text, editing, computer program, artwork

Work made for hire: Yes

Citizen of: United States **Domiciled in:** United States

Copyright claimant

Copyright Claimant: Washington Mutual, Inc.

1301 Second Avenue, WMC 3601, Seattle, WA, 98101, United States

Limitation of copyright claim

Material excluded from this claim: text, computer program, artwork

New material included in claim: text, editing, computer program, artwork

Rights and Permissions

Organization Name: Washington Mutual, Inc.

Address: 1301 Second Avenue

WMC 3601

Seattle, WA 98101 United States

Certification

Name: Lynne E. Graybeal

Date: May 28, 2009

Applicant's Tracking Number: 53000.6000.0001.US004

Correspondence: Yes

Copyright Office notes: Regarding deposit: Special Relief granted under 202.20(d) of C.O. regulations.

IPN#:

Registration #: TX0006935480

Service Request #: 1-198474422

Perkins Coie LLP
To Whom it May Concern
Attn: Lynne E. Graybeal
1201 Third Ave., Ste. 4800
Seattle, WA 98101 United States

Certificate of Registration

This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Marybeth Peters

Register of Copyrights, United States of America

Registration Number:

TX 6-935-487

Effective date of registration:

June 1, 2009

Title

Title of Work: wamu.com website June 1998

Completion/Publication

Year of Completion: 1998

Date of 1st Publication: June 14, 1998 **Nation of 1st Publication:** United States

Author

- **Author:** Washington Mutual, Inc.

Author Created: text, computer program, artwork

Work made for hire: Yes

Citizen of: United States **Domiciled in:** United States

Copyright claimant

Copyright Claimant: Washington Mutual, Inc.

1301 Second Avenue, WMC 3601, Seattle, WA, 98101, United States

Rights and Permissions

Organization Name: Washington Mutual, Inc.

Address: 1301 Second Avenue

WMC 3601

Seattle, WA 98101 United States

Certification

Name: Lynne E. Graybeal

Date: May 28, 2009

Applicant's Tracking Number: 53000-6000.0001.US001

Correspondence: Yes

IPN#: 

Registration #: TX0006935487

Service Request #: 1-198424731

Perkins Coie LLP
To Whom it May Concern
Attn: Lynne E. Graybeal
1201 Third Ave., Ste. 4800
Seattle, WA 98101 United States

Certificate of Registration

This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Marybeth Peters

Register of Copyrights, United States of America

Registration Number:

TX 6-935-492

Effective date of registration:

June 1, 2009

Title

Title of Work: wamu.com website September 8, 2008

Completion/Publication

Year of Completion: 2008

Date of 1st Publication: September 8, 2008 **Nation of 1st Publication:** United States

Author

- **Author:** Washington Mutual, Inc.

Author Created: text, editing, computer program, artwork

Work made for hire: Yes

Citizen of: United States **Domiciled in:** United States

Copyright claimant

Copyright Claimant: Washington Mutual, Inc.

1301 Second Avenue, WMC 3601, Seattle, WA, 98101, United States

Limitation of copyright claim

Material excluded from this claim: text, computer program, artwork

New material included in claim: text, editing, computer program, artwork

Rights and Permissions

Organization Name: Washington Mutual, Inc.

Address: 1301 Second Avenue

WMC 3601

Seattle, WA 98101 United States

Certification

Name: Lynne E. Graybeal

Date: May 29, 2009

Applicant's Tracking Number: 53000.6000.0001.US005

Correspondence: Yes

IPN#: 

Registration #: TX0006935492

Service Request #: 1-198669081

Perkins Coie LLP
To Whom it May Concern
Attn: Lynne E. Graybeal
1201 Third Ave., Ste. 4800
Seattle, WA 98101 United States

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re	:	Chapter 11
WASHINGTON MUTUAL, INC., *et al.*,[1]	:	Case No. 08-12229 (MFW)
Debtors.	:	
JPMORGAN CHASE BANK, NATIONAL ASSOCIATION,	:	
Plaintiff,	:	Adversary No. 09-50551 (MFW)
v.	:	
WASHINGTON MUTUAL, INC. AND WMI INVESTMENT CORP.,	:	
Defendants and Counterclaimants,	:	
and	:	
FEDERAL DEPOSIT INSURANCE CORPORATION,	:	
Additional Defendant for Interpleader claim.	:	

CERTIFICATE OF SERVICE REGARDING
DEBTORS' ANSWER AND AMENDED COUNTERCLAIMS IN
RESPONSE TO THE COMPLAINT OF JPMORGAN CHASE BANK, N.A.

I, Neil R. Lapinski, Delaware counsel to Washington Mutual, Inc. and WMI Investment Corp., hereby certify that I caused copies of the Debtors' Answer and Amended Counterclaims in Response to the Complaint of JPMorgan Chase Bank, N.A. to be served on September 11,

[1] The Debtors in these 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).

2009 to all Notice Parties via hand delivery on all local parties; and via U.S. First Class Mail upon the remaining parties listed on the attached service list.

Dated: September 11, 2009
Wilmington, Delaware

ELLIOTT GREENLEAF

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