

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

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CLERK COURT
U.S. BANKRUPTCY COURT
DISTRICT OF DELAWARE

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<i>In re</i>	:	Chapter 11
WASHINGTON MUTUAL, INC., <u>et al.</u> , ¹	:	Case No. 08-12229 (MFW)
Debtors.	:	(Jointly Administered)
-----X	:	

NOTICE OF WITHDRAWAL OF PROOF OF CLAIM

Pursuant to Rule 3006 of the Federal Rules of Bankruptcy Procedure, NACHA – The Electronic Payments Association hereby withdraws, with prejudice, its proof of claim filed against Washington Mutual, Inc. on or about January 8, 2009, numbered 556 (the “*Proof of Claim*”). A copy of the Proof of Claim is attached hereto as Exhibit “A.”

Dated: January 11, 2010

By: NACHA – The Electronic Payments Association

Name: *Carrie M. Lee*

Title: Staff Attorney

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



UNITED STATES BANKRUPTCY COURT

PROOF OF CLAIM

Name of Debtor: Washington Mutual

Case Number:

NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.

Name of Creditor (the person or other entity to whom the debtor owes money or property):
NACHA - The Electronic Payment Association

Check this box to indicate that this claim amends a previously filed claim.

Name and address where notices should be sent:
13450 Sunrise Valley Dr.
#100
Herndon, VA 20171
Telephone number:
(703) 561-3975

Court Claim Number: _____
(If known)

Filed on: _____

Name and address where payment should be sent (if different from above):

Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.

Telephone number:

Check this box if you are the debtor or trustee in this case.

1. Amount of Claim as of Date Case Filed: \$ 33,034

5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount.

If all or part of your claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4.

If all or part of your claim is entitled to priority, complete item 5.

Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of interest or charges.

Specify the priority of the claim.

2. Basis for Claim: Contractual membership dues (contractual per NACHA Bylaws Article VII)
(See instruction #2 on reverse side.)

Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B).

3. Last four digits of any number by which creditor identifies debtor: 9063

Wages, salaries, or commissions (up to \$10,950*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. §507 (a)(4).

3a. Debtor may have scheduled account as: _____
(See instruction #3a on reverse side.)

Contributions to an employee benefit plan - 11 U.S.C. §507 (a)(5).

4. Secured Claim (See instruction #4 on reverse side.)
Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information.

Up to \$2,425* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. §507 (a)(7).

Nature of property or right of setoff: Real Estate Motor Vehicle Other

Describe:
Value of Property: \$ _____ Annual Interest Rate: % _____

Amount of arrearage and other charges as of time case filed included in secured claim,
if any: \$ _____ Basis for perfection: _____

Amount of Secured Claim: \$ _____ Amount Unsecured: \$ _____

Taxes or penalties owed to governmental units - 11 U.S.C. §507 (a)(8).

Other - Specify applicable paragraph of 11 U.S.C. §507 (a)(____).

Amount entitled to priority:

\$ _____

6. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim.

7. Documents: Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary. (See definition of "redacted" on reverse side.)

DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.

If the documents are not available, please explain:

*Amounts are subject to adjustment on 4/1/10 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.

Date: 1/31/09

Signature: The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any.

Carrie M. Lee Carrie M. Lee
Staff Attorney

FOR COURT USE ONLY

**BYLAWS OF THE
NATIONAL AUTOMATED CLEARING HOUSE ASSOCIATION**
(Amended April 2008)

A Nonstock Corporation

**ARTICLE I
NAME AND PURPOSE**

1. Name. The name of the organization is the National Automated Clearing House Association ("NACHA" or the "Corporation"), a nonstock corporation organized under the laws of the State of Delaware.
2. Location. The location of the principal office of the Corporation shall be determined by the Board of Directors.
3. Nature and Purpose. The Corporation is a voluntary, nonprofit, and nonstock membership corporation. The purposes of the Corporation are as set forth in the Certificate of Incorporation.

**ARTICLE II
MEMBERS**

1. Members. The Corporation shall have three classes of membership: Payment Association members, Direct Financial Institution members, and Council members. Each class of membership shall have the right to vote for Directors and Officers as provided in these Bylaws. All members shall abide by NACHA's Code of Conduct.
2. Payment Associations. A membership association whose primary purpose is to support payment system issues, and whose individual members are primarily Participating Depository Financial Institutions, as defined in the *NACHA Operating Rules*, as amended from time to time ("Participating DFIs"), may join the Corporation as a Payment Association member. Such Payment Association shall provide educational programs, regulatory and compliance support, and marketing support appropriate to its members, which shall be considered indirect members of NACHA for purposes of Article VI of the Bylaws. Each Payment Association shall be a member of NACHA for the purposes of these Bylaws.
3. Direct Financial Institutions. A Participating DFI that is a member of any Payment Association that is (i) itself a member of NACHA, and (ii) a recognized provider of education and training that has met the criteria set by NACHA for payments accreditation, may join the Corporation as a Direct Financial Institution member. Each Direct Financial Institution shall be a member of NACHA for purposes of these Bylaws.
4. Councils. Representatives of Participating DFIs and other stakeholders focused on developing electronic payment and e-commerce applications may form a Council in accordance with policies and procedures adopted by the Board. Councils are part of NACHA and not separately incorporated, but each Council is considered to be a member for purposes of these Bylaws. The Council's individual or organization members are not considered members of NACHA for the purposes of these Bylaws.

5. Designated Representative. Each member Direct Financial Institution, Payment Association, and Council shall designate one (1) individual representative for voting and other purposes relevant to the Corporation.

6. Meetings. Special meetings of the members may be called by the Board of Directors upon notice provided at least ten (10) business days in advance. Notice may be waived by members in writing, either before or after such meetings, or by attendance at such meetings in person or by proxy.

7. Voting. Members shall have the right to vote for Directors and on other matters as may be expressly provided by the Board of Directors or in these Bylaws. Voting may be conducted by mail ballot or by electronic means, in accordance with applicable law. The presence of a majority of members in person, by proxy, by mail ballot, or by such electronic means constitutes a quorum. A majority of votes cast carries any action, except where provided otherwise by law or these Bylaws.

8. Resignation. A member may resign from the Corporation upon giving thirty (30) calendar days prior written notice to the Board of Directors. Such resignation shall not relieve the member of its obligation to pay that portion of annual dues or other assessments owed to the Corporation, as provided in Article VII.

9. Termination of Membership. Any member who (i) is delinquent in the payment of any membership fee or assessment for more than three months or in the discharge of any other obligation incurred by it as a member of the Corporation, or (ii) ceases to be eligible for membership, shall be deemed to have resigned its membership in the Corporation. Any member may be expelled from the Corporation with cause by the vote of two-thirds of the Board taken at any meeting, provided that the member is given advance written notice including the reason for the proposed expulsion, the opportunity to contest the proposed expulsion in writing or in person before the Board of Directors, and final written notice of the Board's decision. Such resignation or expulsion shall not relieve the member of its obligation to pay that portion of annual dues or other assessments owed to the Corporation, as provided in Article VII.

ARTICLE III BOARD OF DIRECTORS

1. Board of Directors. There shall be nineteen (19) voting members of the Board of Directors composed of the following groups:

a. Ten (10) Directors shall be from Payment Associations. Of these Directors, at least one (1) shall be an employee of a natural person¹ credit union and at least one (1) shall be an employee of a community bank ("community bank" for purposes of these Bylaws is defined as

¹ This amendment shall take effect January 1, 2009.

any non-credit union Participating DFI with assets of \$5 billion or less and an interest in serving its local market).

b. Six (6) Directors shall be from Direct Financial Institutions; and

c. Three (3) Directors shall be from the Councils. Of these Directors, at least one (1) shall be an employee of a Direct Financial Institution.

No more than one (1) employee of any institution or organization may serve on the Board at the same time. ~~There shall be two ex officio non-voting members of the Board: (1) the President and (2) the Immediate Past Chairperson.~~²

With the exception of the President of NACHA, who shall serve as an ex officio non-voting member of the Board, all other members of the Board of Directors shall be employees of Direct Financial Institutions, Payment Associations, or Participating DFI members of Payment Associations.

2. Authority. The Board of Directors supervises, directs, and controls the policies and programs of the Corporation. The Board of Directors delegates to the Executive Committee responsibility for management of the Corporation when the Board is not in session, consistent with any policies established by the Board.

3. Duties. Directors have fiduciary duties and obligations to serve on the Board and act in the best interests of the Corporation and to avoid conflicts of interest as provided in these Bylaws and applicable law.

4. Operator Advisors. There shall be an Operator Advisor representing each ACH Operator (as defined in the *NACHA Operating Rules*). Operator Advisors shall not be members of the Board and will have no vote on Board matters, but may attend Board meetings. An Operator Advisor shall be a senior staff person of the ACH Operator as designated by the respective Operator. Operator Advisors may participate in Board meetings and may receive information concerning Board matters at the discretion of the Chairperson.

5. Election. The Nominating Committee will solicit from the membership the names of individuals to serve on the Board of the Corporation.

Each Direct Financial Institution may nominate up to two (2) employees as candidates for a Director seat.

Each Payment Association may nominate up to three (3) candidates for a Director seat. A nominee from a Payment Association shall be an employee of the Payment Association or an employee of a member Participating DFI. If a Payment Association nominates two (2) candidates, at least one (1) candidate shall be an employee of a community bank or natural person credit union.³ If a Payment Association nominates three (3) candidates, at least two (2) candidates shall

² Amendments reflected in bold italics take effect January 1, 2009.

³ See Article III, Section 1.a. regarding 2009 implementation of language pertaining to natural person credit union.

be employees of member Participating DFIs, of which at least one (1) candidate shall be an employee of a community bank or natural person credit union.⁴

Each Council may nominate up to two (2) candidates for a Director seat, of which at least one (1) candidate shall be an employee of a Direct Financial Institution.

The Nominating Committee shall consider geography, experience, representation of all members in the industry, and other factors in developing its slate in order to promote the adequate representation of all members. The Nominating Committee will develop and present a slate of candidates to the membership for all open Director seats, subject to the approval of the Board. Upon submission of a signed petition of twenty percent (20%) of the membership an additional nominee(s) will be added to the slate, provided that such petition is received within thirty (30) calendar days after the Nominating Committee presents its slate to the members. If no such petitions are submitted, the members shall vote on the slate as a whole, as presented by the Nominating Committee. The candidate(s) receiving the plurality of the votes cast by mail ballot or otherwise for the Direct Financial Institution, Payment Association and Council seats, as applicable, shall be elected. The Board of Directors shall develop procedures to implement the nomination and election provisions of these Bylaws.

6. Term. Directors shall serve staggered two (2) three (3) year terms. ~~Unless elected to an Officer position, no~~ No Director may serve more than ~~three (3) consecutive full terms, but no individual may serve as a Director and as an Officer for more than a total of four (4) consecutive full terms~~ six (6) consecutive years. A Director who serves six (6) consecutive years shall not be eligible to serve again for two (2) years.

7. Notice and Meetings. The Chairperson shall call meetings of the Board of Directors. Notice of a meeting of the Board, specifying the business to be conducted, shall be provided to Directors at least ten (10) business days in advance of the meeting.

8. Voting. The presence of a majority of Directors constitutes a quorum. A majority of votes carries any action, except where provided otherwise by law or these Bylaws. A two-thirds vote of the Directors present and voting shall be required in order to approve amendments to the Certificate of Incorporation or these Bylaws; make decisions regarding dues, assessments, and the Corporation's annual budget; or remove a Director with or without cause. Directors may not vote by proxy.

9. Vacancies. A vacancy on the Board of Directors shall be deemed to exist in the case of the death, removal, or resignation of a Director, or if a Director ceases to be qualified to serve as a member of the Board. The Board of Directors may fill a vacancy on the Board for the unexpired portion of the term of the Director whose place becomes vacant, or until his or her successor shall have been duly elected and qualified. If the Board fills the vacated seat, it shall apply the criteria used by the Nominating Committee in Article III, Section 5, for the election of the Director whose seat is vacated.

⁴ See Article III, Section 1.a. regarding 2009 implementation of language pertaining to natural person credit union.

10. Removal. A Director may be removed with or without cause by a two-thirds vote of the Board of Directors voting at a meeting at which a quorum is present, with the Director being considered for removal not participating in the vote, provided that the Director is given advance written notice including the reason for the proposed removal, opportunity to contest the proposed removal in writing or in person before the Board, and final written notice of the Board's decision. A Director will automatically be removed without notice or vote by the Board upon failure to attend three (3) consecutive meetings.

11. Action Without Meeting. Any action that is required to be taken, or that may be taken, at a meeting of Directors may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by all of the Directors. Such consent in writing shall have the same force and effect as a unanimous vote of the Board and shall be filed with the corporate records with the minutes of Board of Directors meetings.

12. Meeting by Conference Telephone. Members of the Board of Directors may participate in a meeting of the Board or a Board committee by means of conference telephone or similar communications equipment through which all persons participating in the meeting can hear each other. Participation in a meeting under this Section shall constitute presence in person at a meeting.

13. Fees and Compensation. Directors shall receive no compensation for their services as Directors, other than reimbursement for reasonable expenses in accordance with policies developed by the Board.

ARTICLE IV OFFICERS

1. Officers. The Officers of the Corporation are the Chairperson, Vice-Chairperson, Secretary/Treasurer, and the President of NACHA, ~~and the Immediate Past Chairperson of the Corporation~~. The Chairperson, Vice-Chairperson, and Secretary/Treasurer shall be employees of Participating DFIs. Officers shall serve two (2) year terms.

2. Election. The ~~members~~ Board shall elect the Chairperson, Vice-Chairperson, and Secretary/Treasurer of the Corporation from a slate of candidates submitted by the Nominating Committee at the same time as after the members elect the Directors of the Corporation, in accordance with the provisions of Article III, Section 5 of these Bylaws.

3. Duties. The elected Officers perform those duties that are usual to their positions and that are assigned to them by the Board of Directors. In addition, the Chairperson, as the chief elected officer of the Corporation, presides at meetings of the Board and the Executive Committee, and is a non-voting ex officio member of all committees except the Nominating Committee. The Vice-Chairperson acts in the place of the Chairperson whenever the Chairperson is not available. The Secretary/ Treasurer is the recording officer of the Corporation responsible for minutes, records, notices, and the like, and is the financial officer with responsibility for oversight of revenues and expenditures, and reporting on the financial affairs of the Corporation to the Board and Executive Committee.

4. President. The Corporation shall employ a salaried staff executive who shall have the title of President and whose terms and conditions of employment shall be specified by the Executive Committee. The President shall be the chief executive officer of the Corporation responsible for all management functions. The President shall manage and direct all activities of the Corporation as prescribed by the Board of Directors and the Executive Committee. The President shall enter into contracts on behalf of the Corporation, employ and terminate the employment of members of the staff and fix their compensation within the approved budget, and supervise their performance as shall be, in the President's judgment, in the best interest of the Corporation.

5. Vacancies. The Board of Directors may fill any vacancies among the Officers. Each Officer so elected shall hold office for the unexpired portion of the term of the Officer whose place becomes vacant, or until his or her successor shall have been duly elected and qualified.

6. Removal. An elected Officer may be removed with or without cause by a two-thirds vote of the Board of Directors at a meeting at which a quorum is present, with the Officer being considered for removal not participating in the vote, provided that the Officer is given advance written notice including the reason for the proposed expulsion, opportunity to contest the proposed expulsion in writing or in person before the Board, and final written notice of the Board's decision.

ARTICLE V COMMITTEES

1. Executive Committee. The Executive Committee shall be responsible for the management of the Corporation when the Board is not in session. The Executive Committee shall consist of the Chairperson, the Vice-Chairperson, and the Secretary/Treasurer, and shall be chaired by the Chairperson of the Corporation. The President of NACHA ~~and the Immediate Past Chair~~ shall serve as an ex officio non-voting members of the Executive Committee.

2. Nominating Committee. The Chairperson of the Corporation shall appoint a Director to chair the Nominating Committee, subject to Board approval. The Nominating Committee Chairperson shall select six (6) individuals to serve on the Nominating Committee, subject to Board approval. At least two (2) representatives from each membership class shall be selected to serve on the Nominating Committee, but no more than three (3) representatives from any membership class may serve on the Committee at the same time. No more than four (4) Nominating Committee members shall be sitting Directors. The balance of the Committee shall consist of individuals from Payment Associations or Direct Financial Institutions that do not have representatives or employees serving on the Board. While serving on the Nominating Committee, no individual may be nominated or elected to the Board in the election cycle administered by the Committee.

3. Other Committees. The Board of Directors may establish other committees as it deems necessary from time to time. The Chairperson of the Corporation shall appoint a Director to chair each committee so established, and the Chairperson of each committee shall select the

remaining members of the committee, subject to Board approval. Unless otherwise required by the Board, committee members other than the Chairperson need not be Directors of the Corporation.

ARTICLE VI NACHA OPERATING RULES

1. NACHA Operating Rules. The Corporation shall develop and approve *NACHA Operating Rules* for the ACH Network. *NACHA Operating Rules* amendments shall be developed and presented for vote in accordance with these Bylaws and procedures established by the Board, but such votes are not considered to be member votes within the meaning of applicable Delaware law.
2. Payment Associations. Each Payment Association shall be allotted a certain number of votes on the *NACHA Operating Rules* based on its annual membership dues, and the annual ACH originated and received volume of its respective financial institutions, according to a schedule determined annually by the Board of Directors. Each Payment Association shall designate an individual authorized to vote on behalf of the Payment Association's Participating DFI members. The Board of Directors shall develop procedures governing all voting on *NACHA Operating Rules*.
3. Direct Financial Institutions. Each Direct Financial Institution member shall be allotted a certain number of votes on *NACHA Operating Rules* amendments based upon its annual membership dues and annual ACH originated and received volume, according to a schedule determined annually by the Board of Directors.
4. Councils. Councils shall not have the right to vote on *NACHA Operating Rules*.
5. Voting. Subject to the sentence below, either two-thirds of the votes cast or three-quarters of the members shall be required to approve an amendment to the *NACHA Operating Rules*. An amendment to the *NACHA Operating Rules* otherwise approved can be defeated if two-thirds of the members of either the Payment Association or Direct Financial Institution classes vote against the amendment.

ARTICLE VII MEMBERSHIP DUES AND ASSESSMENTS

1. Dues and Assessments. At the time of becoming a member of the Corporation, each member shall pay to the Corporation an initial membership fee and capital contribution as determined by the Board. Each class of members shall pay annual dues and other fees and assessments in accordance with a schedule to be determined by the Board of Directors.
2. Mergers, Consolidations, Resignations, Expulsions, and Cessation of Business. Members shall be responsible for continuing to pay annual dues and assessments upon merger, consolidation, resignation or expulsion from the Corporation, cessation of business, or similar circumstances. If (i) two (2) or more members of the Corporation merge or consolidate, (ii) a

member resigns or is expelled from the Corporation as provided in these Bylaws, or (iii) a member ceases operations and a second member extends its service area to encompass the major part or all of the service area of the first member, then such member shall be responsible for payment of a certain percentage of the dues or assessments owed to the Corporation by the member (or, in the case of merger or consolidation, amounts owed by both of the merged or consolidated members) for the remainder of the fiscal year. Such member or members shall also be responsible for payment of a certain percentage of the dues or assessments that would have been owed to the Corporation by the member (or, in the case of merger or consolidation, amounts owed by both of the merged or consolidated members) for the following fiscal year; provided, however, that the member(s) shall not be liable for such dues or assessments for the second year if written notice of the merger, consolidation, resignation, expulsion, or cessation is received by the Board of Directors at least thirty (30) calendar days prior to the Board of Directors meeting in which assessments are approved for the following year. The Board of Directors shall establish the amount of dues and assessments owed by such members and other policies for payments to be made under such circumstances.

ARTICLE VIII MISCELLANEOUS

1. Amendments. Amendments to the Certificate of Incorporation or these Bylaws may be approved at any duly called meeting of the Board of Directors by a two-thirds vote of the Directors present and voting; provided, however, the members shall have the power to override any amendment to these Bylaws approved by the Board should two-thirds of the members of either the Payment Association or Direct Financial Institution classes vote against the amendment in accordance with procedures developed by the Board.
2. Indemnification. Directors, Officers, and other authorized employees, volunteers, or agents of the Corporation may be indemnified against claims for liability arising in connection with their positions or activities on behalf of the Corporation to the full extent permitted by law.
3. Fiscal Year. The fiscal year for the Corporation is the calendar year.
4. Distribution of Assets. Upon the dissolution or winding up of the Corporation, after paying or adequately providing for the debts and obligations of the Corporation, the Corporation may make a distribution or refund of any remaining assets to each then-member of the Corporation in accordance with a plan of dissolution adopted by the Board, subject to applicable law.
5. Antitrust Compliance. It is the undeviating policy of the Corporation to comply strictly with the letter and spirit of all federal, state, and applicable international trade laws and regulations, including but not limited to the antitrust laws.
6. Liability of the Corporation. The Corporation shall have no liability to any member or Participating DFI by reason of any act of omission of the Corporation or an originating or receiving automated clearing house, including without limitation any act or omission relating to the clearing of or settlement with respect to entries or application of the *NACHA Operating Rules*.

7. Conflict of Interest. All Directors, Officers, employees, and other volunteers and agents who serve NACHA shall avoid all business, financial, and personal conflicts of interest that compete with those of NACHA or activities that may otherwise constitute a violation of the individuals' fiduciary obligations to NACHA. All potential conflicts of interest shall be disclosed to the Board. Upon such disclosure, an individual may recuse him or herself from decision-making related to the conflict, or recusal may be mandated by a two-thirds vote of the Board. The Board may establish policies and procedures to ensure compliance with the provisions of the Bylaws and applicable fiduciary duties.