UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	**Chapter 11**
WASHINGTON MUTUAL, INC., et al.,	**Case No. 08-12229 (MFW)** **(Jointly Administered)**
Debtors.	**Hearing Date: April 6, 2010 at 2:00 p.m.** **Objections Due: March 30, 2010 at 4:00 p.m.**
OFFICIAL COMMITTEE OF EQUITY SECURITY HOLDERS	**Adv. Proc. No. 10-50731(MFW)**
Plaintiff,	
v.	
WASHINGTON MUTUAL, INC.,	
Defendant.	

MEMORANDUM OF LAW OF THE OFFICIAL COMMITTEE OF EQUITY SECURITY HOLDERS IN SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT, OR IN THE ALTERNATIVE, FOR RELIEF FROM THE AUTOMATIC STAY

The Official Committee of Equity Security Holders (the "Equity Committee" or "Plaintiff") of Washington Mutual, Inc. ("WMI" and, together with its chapter 11 debtor-affiliate, WMI Investment Corp., the "Debtors"), by and through undersigned counsel, respectfully submits this memorandum of law in support of its motion for summary judgment, or in the alternative, to determine the automatic stay is not applicable or grant relief from the automatic stay to commence an action in Washington State court.

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PRELIMINARY STATEMENT

The Equity Committee filed a straightforward Complaint seeking an order compelling WMI to convene a shareholder meeting as required by Washington State law and WMI's Bylaws. In contravention of Washington State law and its Bylaws, WMI has ***not*** held an annual meeting of its shareholders since April 15, 2008. Pursuant to Federal Rule of Civil Procedure 56(c),[1] the Equity Committee seeks summary judgment and an order directing WMI to: (1) convene a meeting of its shareholders in April 2010; (2) send notice to the shareholders of record as of March 3, 2010 (the date on which the Equity Committee filed its Complaint); (3) designate the time, place, and procedures to be followed to hold the annual meeting, as well as the form of notice of the meeting to be delivered to all shareholders by WMI; and (4) enter further orders as are necessary to accomplish the purposes of the meeting. In the alternative, the Equity Committee seeks an order determining the automatic stay is not applicable or granting relief from the automatic stay to allow the Equity Committee to commence an action in Washington State court.

FACTUAL BACKGROUND

WMI is a savings and loan holding company and formerly the owner of Washington Mutual Bank. See Exh. A: Declaration of Stewart M. Landefeld ¶1 (Oct. 10, 2008) ("Landefeld Decl.").[2] At one point, WMI was the largest savings association supervised by the United States Office of Thrift Supervision. See Press Release, United States Office of Thrift Services, Washington Mutual Acquired by JPMorgan Chase (Sept. 25, 2008) (on file with author). WMI is incorporated in the state of Washington and is headquartered in Seattle. See Landefeld Decl. ¶1. On September 25, 2008, the OTS seized Washington Mutual Bank from

[1] Federal Rule of Bankruptcy Procedure 7056 incorporates by reference Federal Rule of Civil Procedure 56(c). See Fed. R. Bankr. P. 7056.

WMI and placed it into a Federal Deposit Insurance Corporation ("FDIC") receivership. The FDIC then sold substantially all of WMI's assets to JP Morgan Chase. See Landefeld Decl. ¶2. On September 26, 2008, Debtor filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code (the "Bankruptcy Code") [Docket No. 1].

The Equity Committee represents the shareholders of WMI, including the beneficial owners of shares of preferred and common stock of WMI. WMI's shareholders are, among other things, entitled to vote in the election of WMI's board of directors at an annual meeting. Washington corporate law requires corporations like WMI to hold annual meetings of its shareholders. WASH. REV. CODE §23B.07.010 (2009). WMI's fiscal year follows the calendar year; therefore, WMI's fiscal year ended on December 31, 2007, December 31, 2008, and December 31, 2009, respectively. See Exh. B: Article X, WMI's Bylaws. In addition, Section 3.1 of WMI's Bylaws provides that WMI shall hold an annual meeting of the shareholders on the third Tuesday in April of each year. See Exh. C: Declaration of Joyce M. Presnall (Mar. 10, 2010) ("Presnall Decl."); Exh. B: Corporate Bylaws of WMI.[3]

As WMI's filings with the Securities & Exchange Commission ("SEC") indicate, WMI last held an annual shareholders' meeting on April 15, 2008. See. Exh. D: SEC Filing: WMI Schedule 14A (Mar. 14, 2008).[4]

In short, WMI has not held an annual meeting of its shareholders since April 2008; it has not sent notice to its shareholders of an annual meeting in more than two years; there is no

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[2] The Equity Committee adopts only the statements of Mr. Landefeld cited in this memorandum of law.

[3] As with SEC documents, the court may take judicial notice of the bylaws of public corporations. See, e.g., Omaha Tribe of Nebraska v. Miller, 311 F.Supp. 2d 816, 819 n.3 (S.D. Iowa 2004) (taking judicial notice of the bylaws and corporate charter of affiliated corporations).

[4] The Court may also take judicial notice of WMI's public filings with the Securities & Exchange Commission ("SEC"). See In re NAHC, Inc. Secs. Litig., 306 F.3d 1314, 1331 (3d Cir. 2002) (affirming district court's taking judicial notice of documents filed with the SEC (citing Fed. R. Evid. 201)). Accord Southmark Prime Plus, L.P. v. Falzone, 776 F. Supp. 888, 892-93 (D. Del. 1991) (holding "[j]udicial notice of public [SEC] filings is . . . appropriate under Rule 201(b)(2)).

meeting of WMI's shareholders currently scheduled. See Presnall Decl.[5]

ARGUMENT

A. Standard for Granting Summary Judgment

Pursuant to Federal Rule of Civil Procedure 56(c), the moving party is entitled to summary judgment where "there is no genuine issue as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(c). "Where the record taken as a whole could not lead a rational trier of fact to find for the nonmoving party, there is no genuine issue for trial and summary judgment may be granted." In re IT Group, Inc., 377 B.R. 471, 475 (Bankr. D. Del. 2007) (Walrath, J.) (quoting Matsushita Elec. Indus. Co., Ltd v. Zenith Radio Corp., 475 U.S. 574, 587 (1986)). As this Court has recognized, "[s]ummary judgment . . . is properly regarded not as a disfavored procedural shortcut, but rather as an integral part of the Federal Rules as a whole which are designed to secure the just, speedy and inexpensive determination of every action." Bank of New York v. Epic Resorts-Palm Springs Marquis Villas, LLC (In re Epic Capital Corp.), 290 B.R. 514, 520 (Bankr. D. Del. 2003) (Walrath, J.) (quoting Celotex v. Catrett, 477 U.S. 317, 327 (1986)) (quotations omitted).

B. Washington State Law Requires WMI To Hold An Annual Shareholders' Meeting.

Washington law provides that "a corporation shall hold a meeting of the shareholders annually for the election of directors at a time stated in or fixed in accordance with the bylaws." WASH. REV. CODE §23B.07.010(1) (2009). According to WMI's Bylaws, the annual shareholders' meeting is supposed to occur on the third Tuesday in April of each year. When a corporation fails to hold a meeting of its shareholders "within the earlier of six months after the

[5] WMI has not made any filings with the SEC indicating that an annual meeting has been held or scheduled since April 15, 2008. If a meeting had been held or scheduled, WMI should have filed proxy statements under Rule 14a-6 of the Securities Exchange Act of 1934 and also should have distributed an annual report to shareholders.

end of the corporation's fiscal year or fifteen months after its last annual meeting," Washington law empowers the court, upon petition of a shareholder, to summarily order the corporation to hold an annual shareholders' meeting to elect directors. WAS. REV. CODE §23B.07.030(1) (2009).

WMI has entirely failed to abide by this statutory timeframe. It is undisputed that WMI last held an annual meeting of its shareholders to elect directors on or about April 15, 2008 – a period of nearly two years.

The fact that WMI operates as a debtor in possession does not obviate WMI's need to comply with the requirements of the laws of Washington State. Indeed, the Congress specifically requires that "a debtor in possession, shall manage and operate the property in his possession as such trustee, receiver or manager ***according to the requirements of the valid laws of the State*** in which the property is situated, in the same manner that the owner or possessor thereof would be bound to do if in possession thereof." 28 U.S.C. §959 (emphasis added).

The Third Circuit and this Court have confirmed that a debtor in possession must abide by all state laws and may not transgress them. See City of New York v. Quanta Resources Corp. (In re Quanta Resources Group Corp.), 739 F.2d 912, 919 (3d Cir. 1984) ("Implicit in §959(b) is the notion that the goals of the federal bankruptcy laws, including rehabilitation of the debtor, do not authorize transgression of state laws setting requirements for the operation of the business even if the continued operation of the business would be thwarted by applying state laws."); ETS v. AT & T (In re PSA, Inc.), 335 B.R. 580, 587 (Bkrptcy. D. Del. 2005) (holding that "'a debtor in possession or an operating trustee in a case under the Code must comply with all applicable state laws that regulate any aspect of 'carrying on' a business. In this fundamental respect, federal bankruptcy law offers the estate representative no relief or exemption from state

regulatory law . . . .'" (quoting 1 COLLIER ON BANKRUPTCY ¶10.03 (15th ed. rev. 2005)). See also Hillis Motors, Inc. v. Hawaii Automobile Dealers' Ass'n, 997 F.2d 581, 593 (9th Cir. 1993) (finding that §959 "stands for the the uncontroversial proposition that a trustee must continue its operations in conformity with state law"). As clearly demonstrated, WMI has violated Washington corporate law by failing to hold an annual meeting to elect directors since April 2008.

Courts have recognized that a plaintiff who establishes that he is a shareholder in the company and that the company has not held a timely meeting has a "***virtually absolute***" right to hold a shareholder meeting to elect directors. See Saxon Indus., Inc. v. NKFW Partners, 488 A.2d 1298, 1301 (Del. 1984) (quoting Coaxial Communications, Inc. v. CAN Financial Corp, 367 A.2d 994 (Del. 1976)) (emphasis added); see also Newcastle Partners, L.P. v. Vesta Ins. Group, Inc., 887 A.2d 975, 979 (Del. Ch. 2005) (finding that "Delaware courts have repeatedly recognized that the policy justifications behind [the statute on annual shareholder meetings] are so strong that if the statutory elements are shown, ***the right to relief is 'virtually absolute'***" (quoting Speiser v. Baker, 525 A.2d 1001 (Del. Ch. 1987)) (emphasis added).[6]

Courts also routinely have affirmed that a shareholder's state law right to have annual shareholder's meetings should not be disturbed regardless of a bankruptcy filing. In the analogous case of The Lionel Corp. v. Committee of Equity Security Holders of the Lionel Corp. (In re the Lionel Corp.), 30 B.R. 327 (Bankr. S.D.N.Y. 1983), an equity committee sought to have the directors call overdue annual shareholders' meetings, which the debtor opposed. See Lionel Corp., 30 B.R. at 328. Even though the debtor was in bankruptcy, the bankruptcy court agreed with the equity committee and affirmed its right to compel the directors "to honor their

[6] Like most states, Washington generally follows Delaware corporate law. See, e.g., Noble v. Lubrin, 114 Wash.App. 812, 818 (Wash. Ct. App. 2003) (noting with approval Delaware corporate law).

fiduciary duty to the shareholder through the calling of the long overdue annual meetings . . . ." Id. at 330.

Likewise, in In re Saxon Indus., 39 B.R. 49 (Bankr. S.D.N.Y. 1984), the debtor-in-possession sought injunctive relief to enjoin the equity committee's attempt to require that an annual shareholders' meeting be held under state law. See In re Saxon Indus., 39 B.R. at 50. The bankruptcy court held: "This court will not preclude the equity committee from resorting to all available legal remedies including the state court proceeding as a vehicle for asserting their fundamental rights against Saxon...to elect directors of their choice." Id. Accord In re Marvel Entertainment Group, Inc., 209 B.R. 832, 838 (D. Del. 1997) ("The right of shareholders to be represented by directors of their choice and thus to control corporate policy is paramount")(citations omitted); see also In re Bush Terminal Co., 78 F.2d 662, 664 (2d Cir. 1935) (discussing a lack of evidence showing why shareholders should not be able to vote for a new board to be elected that will act in accordance with their wishes if they feel the current board is not acting in their best interest).

WMI violated Washington law by failing to hold an annual shareholder meeting in April 2009, and WMI has not scheduled an annual shareholder meeting for April 2010 as required by Washington law and WMI's Bylaws. And, because it is undisputed that it has been more than fifteen months since WMI last held a meeting of its shareholders, the Court may order WMI to hold an annual shareholder meeting.

Washington law also allows the Court to prescribe the general tenets of the meeting, and the Court may issue a variety of orders to, among other things:

> [F]ix the time and place of the meeting, determine the shares and shareholders entitled to participate in the meeting, specify a record date for determining shareholders entitled to notice of and to vote at the meeting, prescribe the manner form, and content of the meeting notice, fix the quorum required for specific

> matters to be considered at the meeting, or direct that the votes represented at the meeting constitute a quorum for approval of those matters, and enter other orders necessary to accomplish the purpose or purposes of the meeting.

WASH. REV. CODE §23B.07.030(2). The Court, therefore, may issue any and all necessary orders to ensure that the meeting occurs and proceeds smoothly. The Equity Committee attaches hereto its proposed orders in accordance with the foregoing statute. See Exh. E: Proposed Orders.

Accordingly, because WMI has failed to hold a meeting as required Washington corporate law and its Bylaws, the Court should enter summary judgment in favor of the Equity Committee and enter an order compelling WMI to convene a meeting in accordance with and pursuant to the proposed orders attached hereto as Exhibit E.

III. CONCLUSION

For the reasons stated above, the Court should grant summary judgment to the Equity Committee, and issue an order compelling WMI to: (1) convene an annual shareholders' meeting in April 2010; (2) send notice of the meeting to the shareholders of record as of March 3, 2010 (the date the Equity Committee filed its Complaint); (3) designate the time, place, and procedures to be followed to hold the annual meeting, as well as the form of notice of the meeting to be delivered to all shareholders by WMI; and (4) enter further orders as necessary to accomplish the purposes of the meeting. In the alternative, the Court should determine that the automatic stay does not apply or grant relief from the automatic stay such that the Plaintiffs may seek such relief in Washington.

Dated: March 11, 2010

ASHBY & GEDDES, P.A.

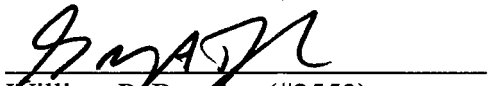

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EXHIBIT A

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

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

DECLARATION OF STEWART M. LANDEFELD IN SUPPORT OF THE DEBTORS' CHAPTER 11 PETITIONS AND FIRST-DAY MOTIONS

I, Stewart M. Landefeld, being fully sworn, hereby declare that the following is true to the best of my knowledge, information, and belief:

1. I am an Executive Vice President of Washington Mutual, Inc. ("WMI"), formerly a savings and loan holding company incorporated in the State of Washington and headquartered in Seattle. WMI is the parent of (i) WMI Investment Corporation, which is incorporated in Delaware ("WMI Investment," together with WMI, the "Debtors"),[1] and (ii) several other non-banking, non-debtor subsidiaries (the "Non-Debtor Subsidiaries"). Prior to the Commencement Date and the Bank Receivership (both as defined below), WMI also was the direct parent of Washington Mutual Bank ("WMB"), which owned Washington Mutual Bank fsb ("WMBfsb" and together with WMB and their respective banking subsidiaries, the "Banking Subsidiaries" or "WaMu," and WMI, the Non-Debtor Subsidiaries and the Banking Subsidiaries, the "Company").

[1] The Debtors' federal tax identification numbers are: (i) for WMI, 91-1653725; and, (ii) for WMI Investment, 20-5885395.

2. I am generally familiar with WMI's day-to-day operations, business, and financial affairs as they existed prior to, and, where applicable, as they continue to exist after September 25, 2008. On September 25, 2008, the Director of the Office of Thrift Supervision ("OTS"), by order number 2008-36, appointed the Federal Deposit Insurance Corporation ("FDIC") as receiver for WMB and advised that the receiver was immediately taking possession of WMB (the "Bank Receivership"). I have been advised that the receiver sold substantially all assets of WMB to JPMorgan Chase Bank, National Association ("JPMorgan Chase") pursuant to an agreement dated September 25, 2008.

3. I submit this declaration (the "Declaration") to (a) assist the Court and other interested parties in understanding the Bank Receivership and other circumstances that compelled the commencement of these chapter 11 cases and (b) in support of (1) the Debtors' petitions for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") filed on September 26, 2008 (the "Commencement Date") and (2) the relief sought in certain motions and applications (the "Pleadings") filed subsequent thereto.

4. Except as otherwise indicated, all facts set forth in this Declaration are based upon my personal knowledge, my discussion with other members of WMI's current or former senior management, my review of relevant documents, or my opinion based upon experience, knowledge, and information concerning the operations of WMI and the retail and commercial banking industry as a whole. While I have made every reasonable effort to ensure that the information contained herein is accurate and complete based upon information that was available at the time of preparation, the subsequent receipt of information may result in material changes to financial data and other information contained herein. If called upon to testify, I

would testify competently to the facts set forth in this Declaration. By resolution of the Board of Directors of WMI, I am authorized to submit this Declaration.

5. This Declaration is intended to provide an overview of WMI and these chapter 11 cases. Sections I and II of this Declaration provide an overview of WMI's corporate history and organizational structure, and capital structure, as they existed prior to the Bank Receivership and the Commencement Date. Section III describes the circumstances giving rise to the commencement of these chapter 11 cases. Section IV describes the relief that the Debtors seek in their Pleadings.

I.

Corporate History and Organizational Structure

6. On June 6, 1889, a fire blackened the entire central business district of Seattle, engulfing 25 city blocks and destroying nearly everything in its path. Out of "The Great Seattle Fire" arose WMI's predecessor, the Washington National Building Loan and Investment Association (the "Association") to (i) offer stockholders a vehicle for investing and lending and (ii) help Seattle residents rebuild after the fire. The Association made the first monthly-installment home loan on the Pacific Coast on February 10, 1890 in the amount of $700 to a borrower and aspiring homebuilder in Seattle. This amortized home loan proved so popular that, in a short period thereafter, the Association made more than 2,000 similar loans to help build 250 blocks of housing in Seattle.

7. The Company made the first of its acquisitions in the early days of the Great Depression with the purchase of Continental Mutual Savings Bank. In 1983, after decades of continued growth and at a time when many thrifts were folding, the Company acquired Murphy Favre, Inc. ("Murphy"), a full-service securities brokerage firm. Shortly thereafter, the

Company converted from a mutual form of ownership to a capital stock savings bank and its stock issuance raised $72 million. Subsequently, the Company continued to expand and diversify and became the nation's leading bank in originating mortgages. In doing so, the Company acquired, among other institutions, Commercial Capital Bancorp, Dime Bancorp, Inc., PNC Mortgage, Providian Financial Corporation, and several of the Non-Debtor Subsidiaries.

8. WMI was incorporated in the state of Washington in 1994. WMI Investment is a corporation formed under the laws of Delaware. WMI is registered with, and its securities trade on, the New York Stock Exchange under the symbol "WM."[2] Accordingly, WMI is subject to the informational disclosure requirements of the Securities Exchange Act of 1934, as amended, and files annual, quarterly and current reports and other information with the Securities and Exchange Commission (the "SEC").

9. As a former savings and loan holding company, WMI was also subject to regulation by the OTS prior to the Bank Receivership and the Commencement Date. WMB and WMBfsb, like all depository institutions with federal thrift charters, were also subject to regulation and examination by the OTS. In addition, WMI's banking and nonbanking subsidiaries were also overseen by various federal and state authorities, including the FDIC and the Comptroller of the Currency of the United States.[3]

10. WMI's assets consist of its common stock interest in WMB, its interests in its non-banking subsidiaries, and approximately $5 billion of cash that WMI and its non-banking subsidiaries (including WMI Investment) had on deposit at WMB and its other banking

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[2] In addition, the securities of certain of WMI's subsidiaries are publicly registered.

[3] In addition, certain of the Debtors' non-debtor subsidiaries, including, but not limited to WaMu Investments, Inc., are registered with the SEC as broker-dealers, derivatives dealers, and investment advisors. As such, those entities are subject to regulation by the SEC and by self-regulatory organizations, including the Financial Industry Regulatory Authority.

subsidiaries immediately prior to the Bank Receivership. In connection therewith, the Debtors have entered into a standstill agreement, dated September 28, 2008 (the "Standstill") with JPMorgan Chase in an effort to resolve certain issues pertaining to deposits that the Debtors held, prior to the Bank Receivership, in accounts at WMB and WMBfsb.

II.

Capital Structure/Significant Indebtedness

Overview

11. As of June 30, 2008, WMI had outstanding principal unsecured indebtedness totaling approximately $7 billion, with $4.1 billion attributable to nine series of senior unsecured notes (the "Senior Notes"),[4] $1.6 billion attributable to three series of subordinated unsecured notes (the "Subordinated Notes"),[5] and $1.15 billion attributable to junior unsecured debentures (the "Junior Subordinated Debentures") in connection with certain trust preferred equity redeemable securities.[6] WMI had also issued $3.5 billion in outstanding

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[4] The Senior Notes are obligations of WMI only, and not guaranteed by, or otherwise obligations of, WMI's subsidiaries. The Bank of New York is the indenture trustee pursuant to the indentures for each of the Senior Notes.

[5] The Subordinated Notes are obligations of WMI only, and are not guaranteed by, or otherwise obligations of, WMI's subsidiaries. Furthermore, the Subordinated Notes are subordinate in right of payment in full of all obligations under the Senior Notes and other senior indebtedness as defined in the indentures for each of the Subordinated Notes. The Bank of New York, as successor to Harris Trust and Saving Bank, is the indenture trustee pursuant to each such indenture.

[6] The Junior Subordinated Debentures are obligations of WMI only, are not guaranteed by or otherwise obligations of, WMI's subsidiaries. Furthermore, the Junior Subordinated Notes are subordinate in right of payment in full of all obligations under the Senior Notes, the Subordinated Notes and other "Senior Indebtedness" as defined in the indenture for the Junior Subordinated Debenture (the "Junior Subordinated Debenture Indenture"). The Bank of New York is the indenture trustee pursuant to such indenture.

The Junior Subordinated Debentures were issued to a special purpose grantor trust, Washington Mutual Capital Trust 2001(the "Trust"). The Trust, in turn, issued common securities to WMI and preferred securities to third parties (the "Preferred Securities" and together with the common securities, the "Trust Securities") to fund its purchase of the Junior Subordinated Debentures. The Preferred

preferred stock.[7] The following chart details WMI's[8] capital structure and significant indebtedness as of June 30, 2008:

Issuance Type	Coupon	Issue Date	Maturity	Principal Outstanding ($mm)	Par at Issuance
Senior	4.00%	10/27/2003	1/15/2009	805	1,000
Senior	Floating	8/24/2006	8/24/2009	359	500
Senior	4.200%	12/20/2004	1/15/2010	504	600
Senior	Floating	12/20/2004	1/15/2010	176	250
Senior	5.500%	8/24/2006	8/24/2011	361	400
Senior	5.000%	3/22/2005	3/22/2012	376	400
Senior	Floating	3/22/2005	3/22/2012	363	450
Senior	Floating	9/26/2005	9/17/2012	447	500
Senior	5.250%	9/26/2005	9/15/2017	730	750
Series K Preferred Stock	Floating	9/11/2006	Perpetual	500	500
Series R Convertible Preferred Stock	7.750%	12/17/2007	Perpetual	3,000	3,000
Subordinate	8.250%	4/4/2000	4/1/2010	452	500
Subordinate	4.625%	3/24/2004	4/1/2014	732	750
Subordinate	7.250%	11/1/2007	11/1/2017	440	500
Trust Preferred	5.375%	4/30/2001	5/1/2041	1,150	1,150

Preferred Stock

12. In April 2008, WMI completed a significant recapitalization, which resulted in a $7.2 billion capital infusion (the "Capital Raise") by a group of outside investors

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Securities, together with warrants to purchase common stock of WMI were sold as units, "Trust Preferred Income Equity Redeemable Securities Units" or "PIERS," but each can be traded separately. The Preferred Securities reflect the economics of the Junior Subordinated Debentures. WMI has guaranteed payment of (i) distributions required to be paid on the Trust Securities, (ii) the redemption price of the Trust Securities upon exercise of certain redemption rights by the holders thereof and (iii) the accreted value of the Trust Securities in a liquidation of the trust (or if less, the amount of assets of the trust available in such liquidation for distribution to the holders), in each case, to the extent the Trust has funds legally available for such payments. The guarantee is subordinate in right of payment to all obligations under the Senior Notes and the Subordinated Notes and to other Senior Indebtedness as defined in the Junior Subordinated Debenture Indenture.

[7] Amounts reflected are principal amounts exclusive of interest.

[8] Upon information and belief, with limited exception, aside from certain intercompany claims, WMI Investment does not have any outstanding debt as of the date hereof.

(the "Outside Investors") led by TPG Capital (the "TPG Investors"). Pursuant to this transaction, WMI issued 822,857 shares of common stock to the TPG Investors and 175,500,000 shares of common stock to the other Outside Investors at $8.75 per share.[9] As of the close of business on September 19, 2008, WMI had 1,704,961,280 shares of common stock outstanding and 3,000,500 shares of preferred stock outstanding – inclusive of the stock issued in connection with the Capital Raise. Prior to the Capital Raise, WMI issued 2 series of preferred stock, the Series K Perpetual Non-Cumulative Floating Rate Preferred Stock (the "Series K") and the Series R Non-Cumulative Perpetual Convertible Preferred Stock (the "Series R"). On September 18, 2006, the Company issued 20,000,000 depositary shares representing 1/40,000th ownership interest in a share of Series K. There are 500 shares of Series K and 3,000,000 shares of Series R outstanding.

13. In addition, WMI had additional series of Perpetual Non-cumulative Fixed and Fixed to Floating Rate Preferred Stock in Series I, J, L, M and N (collectively, the "Preferred Stock Series") – none of which were outstanding prior to September 25, 2008. By letter, dated as of that day and immediately prior to the Bank Receivership, however, the OTS directed that certain Trust Securities issued by various trust entities be automatically exchanged for a "depositary share," each representing 1/1000th of a share of preferred stock, as applicable, in one of the Preferred Stock Series. OTS' direction stemmed from the asserted occurrence of an "Exchange Event" defined by the Preferred Stock Series prospectus as, among other things: (i) the undercapitalization of WMB under OTS' "prompt correction action" regulations; or (ii) the OTS, in its sole discretion, directing the exchange in anticipation of WMB becoming

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[9] The number of common shares issued includes common shares issued upon conversion of all of the Series T contingent convertible perpetual non cumulative preferred stock initially issued to the TPG Investors and Series S contingent convertible perpetual non cumulative preferred stock initially issued to the Other Investors.

"undercapitalized" or the OTS taking supervisory action limiting the payment of dividends by WMB.

III.

Events Leading to the Commencement of these Chapter 11 Cases

14. As extensively reported in the financial press, in mid-2007, the United States residential mortgage market began to experience serious disruption due to, among other things, (i) credit quality deterioration in a significant portion of originated loans, particularly to non-prime and subprime borrowers, (ii) a residential housing market characterized by a slowing pace of transactions and declining home values, (iv) increased mortgage rates and reduced availability of borrowings, (v) a rising unemployment rate, (vi) increased delinquencies in non-mortgage consumer credit, (vii) illiquid credit markets, and (viii) changes in the regulatory environment. These conditions continued and worsened throughout 2007 and 2008, expanding into the broader U.S. credit markets and resulting in greater volatility, less liquidity, widening of credit spreads, significantly depressed volumes in most equity markets, declining assets values, a lack of transparency, slowed growth in major economies, and declining business and consumer confidence.

15. In this context, the Company reported decreased earnings and revenue. Until recently, however, the Company had been able to weather the storm in large part due to the Capital Raise and extensive internal restructuring efforts. The Company's proactive measures served to strengthen, at least temporarily, the Company's banking franchise.

16. The Company's business was highly dependent upon WaMu's insured deposits and was therefore driven by consumer trust and the appearance of, if not actual, stability. Indeed, WaMu's ability to retain its retail deposit base and attract new deposits

depended on various factors such as customer service satisfaction levels, the competitiveness of interest rates offered on deposit products, WaMu's reputation, and depositor perception of WaMu's stability and future prospects. These perceptions were easily influenced by external events, such as instability in the banking industry generally, rating downgrades, rumor and speculation.

17. Recent ratings downgrades fed the speculation and accentuated the Company's problem of perception. On September 11, 2008, Moody's Investor Service ("Moody's") downgraded the long-term deposit and issuer ratings of WMB to Baa3 from Baa2, and the short-term rating to Prime-3 from Prime-2. Moody's also reported a negative outlook. In response, WMB stated that the downgrade was "inconsistent with the company's current financial condition," and that Moody's actions reflected the current uncertainty in the markets generally, rather than a specific evaluation of WMB's business, the strength of its national franchise, and the steps it was taking to return to profitability.

18. On September 15, 2008, Standard & Poor's ("S&P") reduced its counterparty credit rating on WMI to BB-/B from BBB-/A-3, while lowering the rating on WMB to BBB-/A-3 from BBB/A-2, and reported a negative outlook. S&P attributed its actions to worsening market conditions, and not to any material change of WMI's financial condition. Indeed, S&P acknowledged that (i) WMI and WMB's overall liquidity profiles were positioned to withstand the weak credit cycle through the end of 2010 and (ii) WMI conservatively managed its liquidity position. S&P also acknowledged, however, that capital pressures remained high given the expectation for loss in 2008 and possibly in 2009.

19. On September 18, 2008, Fitch Ratings announced that it placed the ratings of WMI, WMB, and related entities, on Rating Watch Evolving.

20. On September 23, 2008, Moody's issued an additional downgrade of WMI. Moody's announced that it had cut its rating on WMI's preferred stock from B2 to Ca, while simultaneously downgrading the WMB's financial strength rating to E from D+. Moody's 'E' rating pins WMI as a company with (i) very modest intrinsic financial strength, (ii) a higher likelihood of getting outside support or eventual need for outside assistance, and (iii) an unstable operating environment and materially deficient financials.

21. On September 24, 2008, S&P issued an additional downgrade of WMI from BB-/B to CCC/C, eight levels below investment grade. S&P affirmed, however, its earlier BBB-/A-3 rating of WMB because of the breadth of its retail franchise.

22. These downgrades fed the pervasive speculation that began to circulate in the market that WaMu's operations were unstable. Although WaMu tried to stem the tide through press releases and market assurances of stability and adaptability, the wave of external events brought an intense amount of public focus on WaMu and its ability to withstand the latest economic crisis. Compounded with the reality of the information age, rumors and speculation and the mass media's coverage of WaMu's alleged capital and liquidity issues resulted in millions of people around the world watching and panicking. This cycle became a self-fulfilling prophecy – sparking days of significant deposit withdrawals as WaMu's depositors reacted to having their faith in financial institutions shaken.

23. In the midst of these downgrades, the FDIC assigned WaMu a supervisory rating of overall condition – commonly referred to as a CAMELS rating – of four, the second lowest rating on a scale of one to five.[10] To qualify for primary credit from the Federal Reserve

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[10] Upon information and belief, the components of a bank's condition that factor into its CAMELS rating include: (C) Capital Adequacy; (A) Asset Quality; (M) Management; (E) Earnings; (L) Liquidity; and (S) Sensitivity to market risk (since 1997).

Bank's Discount Window (the "Discount Window"), a depository institution must be able to demonstrate that it is in sound financial condition. To this end, the Federal Reserve Bank performs ongoing reviews of an institution's condition using the CAMELS rating and capitalization data. An institution assigned a composite CAMELS rating of four is ineligible to receive primary credit from the Discount Window unless an ongoing examination or other supplemental information indicates adequate capitalization and improvement sufficient to be deemed "sound."

24. During this ongoing process, the OTS and the FDIC strongly signaled that WMI should pursue a sale or merger transaction with a stronger financial institution. Among others, WMI drew interest from potential suitors such as Citigroup Inc., JPMorgan Chase, Wells Fargo & Co., Toronto-Dominion Bank, and Banco Santander SA of Spain. To facilitate a sale, the TPG Investors agreed to waive a provision requiring WMI to pay/issue up to $1.5 billion in cash or common stock (i) if WMI issued or sold more than $500 million of common stock or other equity-linked securities (such as securities that are convertible into, exchangeable or exercisable for, or otherwise linked to the common stock) or (ii) upon a fundamental change in WMI's ownership (such as a consolidation, merger, liquidation, or sale of all, or substantially all, of WMI's assets) – where the effective price of the sale or fundamental change is for less than $8.75 per share. As noted by the press, the waiver constituted the removal of a major obstacle to a sale.

25. Despite the waiver, WMI's sale negotiations proved unsuccessful. On September 23, 2008, WMI informed the OTS, the FDIC and the Board of Governors of the Federal Reserve System (the "FED") of other strategic alternatives under consideration including, among other things, (i) debt for equity swaps, (ii) equity for equity swaps, and (iii)

divestiture plans. Each of the alternatives were intended to increase WMI's capital and liquidity levels. While the Debtors were pursuing these alternatives, the OTS initiated the Bank Receivership on September 25, 2008 and, upon information and belief, the receiver sold substantially all assets of WMB to JPMorgan Chase pursuant to an agreement dated the same day.

26. After the Bank Receivership, the Debtors filed these chapter 11 cases to preserve their assets and maximize the value of their estates for the benefit of their creditors.

IV.

Summary of Pending Pleadings

27. The Debtors are filing, for the Court's approval, a number of pleadings, which the Debtors believe are necessary to enable them to operate in chapter 11 with minimal disruption and loss of productivity. The Debtors respectfully ask that the relief requested in each of the pleadings be granted as they are a critical element in stabilizing and facilitating the Debtors' operations during the pendency of these chapter 11 cases. A description of the relief requested and the facts supporting each of the pleadings is set forth below.

Motion of Debtors' for Order Directing Joint Administration of Chapter 11 Cases Pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure

28. The Debtors seek, pursuant to Rule 1015(b) of the Bankruptcy Rules, the joint administration of their chapter 11 cases for procedural purposes only. Joint administration will obviate the need for duplicative notices, motions, applications, and orders and thereby save time and expense for the Debtors and their estates.

29. The rights of the Debtors' creditors will not be adversely affected by the proposed joint administration of these cases, and, in fact, will be enhanced by the reduction in costs resulting from the joint administration. The Court will also be relieved of the burden of

entering duplicative orders and maintaining redundant files. Finally, supervision of the administrative aspects of these chapter 11 cases by the Office of the United States Trustee for the District of Delaware will be simplified.

30. I believe that joint administration of the Debtors' chapter 11 cases is in the best interests of the Debtors, their estates, and all parties in interest, and should be granted.

Motion of Debtors for (I) a Waiver of the Requirement for Filing List of Creditors and an Extension of Time to File a List of Creditors, and (II) Authority to Establish Procedures for Notifying Creditors of Commencement of Debtors' Chapter 11 Cases

31. The Debtors request, pursuant to sections 105(a), 342(a), and 521(a)(1) of the Bankruptcy Code, Bankruptcy Rules 1007(a), 2002(a), (f), and (l), and Rule 1007-2 of the Local Rules (collectively, the "Notice Rules"), (I) a waiver of the requirement to file their List of Creditors (as defined below) on the Commencement Date and an extension of time to file their List of Creditors, and (II) authority to implement certain procedures (the "Procedures") for notifying creditors of the commencement of the Debtors' chapter 11 cases and of the meeting of creditors to be held pursuant to section 341 of the Bankruptcy Code.

32. I am informed by counsel that a debtor must file with its chapter 11 petition a list containing the name and address of each of its creditors (the "List of Creditors"). I am also aware that this Court has the authority to grant an extension pursuant to Bankruptcy Rule 1007(a)(4). Prior to the Commencement Date, the Debtors began gathering the information necessary to generate a complete list of their creditors for filing with the Court, but the Bank Receivership disrupted this process by limiting the Debtors' access to their employees and their books and records. The Debtors expect to work with the FDIC, JPMorgan Chase, and other parties to gain access to the information necessary to complete their List of Creditors. The

Debtors will also continue their independent efforts to obtain the requisite information, but anticipate that this will require additional time under the current circumstances.

33. Moreover, the Debtors intend to file a motion to retain and employ a notice and claims agent (the "Notice and Claims Agent") in their chapter 11 cases, and the Debtors will furnish the List of Creditors, as soon as it is available and on a rolling basis, to the Notice and Claims Agent so that the Notice and Claims Agent may undertake the mailing of the notice of commencement to all the Debtors' creditors.

34. Because (i) it will take time to assemble the List of Creditors under the current circumstances and (ii) once retained, the Notice and Claims Agent will send the notice of commencement to all the Debtors' creditors set forth on the List of Creditors on a rolling basis, the Debtors request that this Court waive the Notice Rules and provide the Debtors with a sixty (60) day extension to file their List of Creditors without prejudice to further extension, if necessary, upon a motion to the Court.

Motion of Debtors Pursuant to Bankruptcy Rules 1007(c) and 2002(d) and Local Rule 1007-1(b) for (I) an Extension of the Time to File Schedules of Assets and Liabilities, Schedules of Current Income and Expenditures, Schedules of Executory Contracts and Unexpired Leases, and Statements of Final Affairs and (II) a Waiver of the Requirements to File the Equity List and Provide Notice to Equity Security Holders

35. The Debtors request, pursuant to section 521 of the Bankruptcy Code and Rule 1007(c) of the Bankruptcy Rules and Rule 1007-1(b) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "Local Rules"), (i) an extension of time to file its (a) schedules of assets and liabilities; (b) schedules of current income and expenditures; (c) schedules of executory contracts and unexpired leases; and (d) statement of financial affairs (collectively, the "Schedules and

SOFAs"), and (ii) a waiver of requirements to file lists of equity security holders and provide notice of order for relief to equity security holders.

36. Due to the exigent circumstances under which the Debtors' commenced their chapter 11 cases and the demands on the limited resources available to the Debtors at this time, the Debtors anticipate that they will be unable to complete their Schedules in the mere thirty (30) days provided by the Bankruptcy Rules. To prepare the Schedules, the Debtors must compile information from their books, records, and other sources relating to their assets, contracts, and creditors. Assembling the necessary information will be a significant task for the Debtors, especially in light of the Bank Receivership and its disruption to the Debtors' business operations. Indeed, the Debtors believe that many of their books and records may be in the possession of the FDIC or JPMorgan Chase and retrieving such information will take additional time. The Debtors have also lost a number of employees to JPMorgan Chase.

37. In view of the amount of work entailed in completing the Schedules and the competing demands on the Debtors' remaining employees to compile and distill the relevant information following the Bank Receivership and assisting with the transition to chapter 11, it would be very difficult for the Debtors to properly and accurately complete the Schedules within the thirty-day time period imposed under the Bankruptcy Rules.

38. Therefore, the Debtors are requesting a ninety (90) day extension of the applicable time period. Moreover, the Debtors submit that preparing a list of equity security holders with last known addresses and sending notice to all parties on the list will be expensive and time consuming given the volume of equity security holders in these cases. The Debtors further submit that if it becomes necessary for such equity security holders to file proofs of

interest, they will be provided with notice of the bar date and then will have an opportunity to assert their interests.

39. Accordingly, I respectfully submit that in light of (i) the large amount of information that must be assembled and compiled, (ii) the significant amount of employee time that must be devoted to the task of completing the Schedules and SOFAs, (iii) the limited number of employees available to the Debtors, post-Bank Receivership, and (iv) the many pressing items that must be addressed at the inception of these cases, the Debtors respectfully submit that ample cause exists for the Court to (a) grant the requested extension for filing their Schedules and SOFAs, and (b) waive the requirement to file the lists of equity security holders and the requirement to send notice of the order for relief to all equity security holders.

Motion of Debtors for (I) Authorization (A) to Maintain Existing Bank Accounts and Business Forms, and (II) for an Extension of Time to Comply with Section 345(b) of the Bankruptcy Code

40. The Debtors request, pursuant to sections 105(a), 363(c), and 345(b) of the Bankruptcy Code, entry of an order authorizing (I) the Debtors to (a) maintain existing bank accounts (the "Bank Accounts") and business forms, and (II) a sixty-day extension of time for the Debtors to comply, if necessary, with section 345 of the Bankruptcy Code.

41. I am informed by counsel that the Office of the United States Trustee's "Operating Guidelines and Financial Reporting Requirements Required in All Cases Under Chapter 11" mandate the closure of the Debtors' prepetition bank accounts, the opening of new accounts, and the immediate printing of new checks with a "Debtors in Possession" designation on them. At this time, it would be difficult for the Debtors to comply with these guidelines because it would cause even further disruption and confusion in light of the Bank Receivership

and the need to confirm the status of certain bank accounts previously maintained by the Debtors at WMB and WMBfsb.

42. The Debtors believe, therefore, that their transition to chapter 11 will be smoother and more orderly, with minimum disruption and harm to their operations, if the Bank Accounts are left in a status quo and continued following the Commencement Date with the same account numbers; provided, however, that checks issued or dated prior to the Commencement Date will not be honored by WMI, absent a prior order of this Court.[11] By preserving continuity and avoiding the disruption and delay to the Debtors' collection and disbursement procedures that would necessarily result from closing the Bank Accounts and opening new accounts, all parties in interest will be best served. Accordingly, the Debtors respectfully request authority to maintain the Bank Accounts in the ordinary course of business.

43. In addition to mandating the closure of all bank accounts, I am informed by counsel that the United States Trustee Guidelines require the immediate printing of new checks with the label "Debtor in Possession," and Rule 2015-2(a) of the Local Rules mandate that the Debtors, upon exhausting their existing check stock, order new ones with the "Debtor in Possession" label. To minimize expenses, the Debtors further request that they be authorized to continue to use their correspondence and business forms, including, but not limited to, purchase orders, multicopy checks, letterhead, envelopes, promotional materials, and other business forms (collectively, the "Business Forms"), substantially in the forms existing immediately before the Commencement Date, without reference to their status as debtors in possession. The Debtors propose that in the event they need to purchase new Business Forms during the pendency of the

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[11] Importantly, the Debtors' request for authority to designate, maintain and continue using any and all existing bank accounts is subject to the Standstill.

chapter 11 cases, such forms will include a legend referring to the Debtors' status as debtors in possession.

44. Moreover, the Debtors propose to engage in discussions with the Office of the United States Trustee for the District of Delaware (the "U.S. Trustee") to determine what modifications to their Bank Accounts and current investment practices, if any, would be appropriate under the circumstances. The Debtors believe that their current investment practices will provide the protection contemplated by section 345(b) of the Bankruptcy Code during the extension period. Based on, among other things, the FDIC's post-Bank Receivership reports, the Debtors believe that remaining cash on deposit in their Bank Accounts at WMB and WMBfsb are now held by JPMorgan Chase and, therefore, funds in excess of the amounts insured by the FDIC are not at risk. Similarly, there is no question that the Debtors' funds in excess of the amounts insured by the FDIC, located at Bank of America and Bank of New York Mellon accounts are also not at risk, as Bank of America and Bank of New York Mellon are, like JPMorgan Chase, among the most highly-rated banking institutions in the country. The Debtors will therefore seek approval of these institutions as "Authorized Bank Depositories" by the Office of the United States Trustee for the District of Delaware, to the extent they are not already so designated.

45. Particularly in light of the Standstill, the extension period will provide the Debtors with an opportunity to work with JPMorgan Chase to review the status of the deposits previously held by WMB and WMBfsb. The Debtors, therefore, are requesting a sixty-day extension (or such additional time to which the U.S. Trustee may agree) of the time period in which to either come into compliance with section 345(b) of the Bankruptcy Code.

46. I believe that the foregoing relief is in the best interests of the Debtors and their estates and will enable the Debtors to continue to operate, and manage their assets in chapter 11 without disruption.

Motion of Debtors Pursuant to Sections 331 and 105(a) of the Bankruptcy Code for Administrative Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses of Professionals

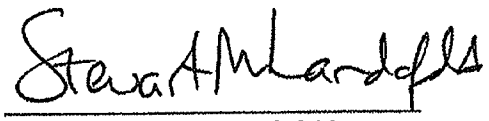
47. The Debtors request, pursuant to section 105(a) and 331 of the Bankruptcy Code and Bankruptcy Rule 2016(a), entry of an order establishing procedures for the compensation and reimbursement of attorneys and other professionals whose retentions are approved by this Court pursuant to section 327 or 1103 of the Bankruptcy Code on a monthly basis, on terms that satisfy the requirements of Local Bankruptcy Rule 2016-2. Such an order will streamline the professional compensation process and enable the Court and all other parties to monitor more effectively the professional fees incurred in these chapter 11 cases.

48. The Debtors' chapter 11 cases present a number of complex issues that, together with the day-to-day administration of the chapter 11 cases, must be addressed by the Debtors' limited staff and resources. In addition, it is anticipated that several professionals will be involved. Absent streamlined compensation procedures, the professional fee application and review process could be exceptionally burdensome on the Debtors, the professionals, the Court, and other parties.

49. I believe that the authority to enter into the proposed interim compensation procedures for the Debtors' professionals is in the best interests of the Debtors and their estates and will enable the Debtors to continue to operate, and effectively reorganize, their business in chapter 11 without disruption.

50. I respectfully request that the Court grant all relief requested in the pleadings and such and other further relief as may be just.

WASHINGTON MUTUAL, INC.

By: 

Name: Stewart M. Landefeld
Title: Executive Vice President
Dated: October 1, 2008

EXHIBIT B

EX-3.2 3 a2187197zex-3_2.htm EXHIBIT 3.2

Exhibit 3.2

RESTATED(1)

BYLAWS

OF

WASHINGTON MUTUAL, INC.

ARTICLE I
OFFICES

The principal office and place of business of the corporation in the state of Washington shall be located at 1301 Second Avenue, Seattle, Washington 98101.

The corporation may have such other offices within or without the state of Washington as the board of directors may designate or the business of the corporation may require from time to time.

ARTICLE II
NUMBER OF DIRECTORS

The board of directors of this corporation shall consist of between 14 and 16 members, with the exact number determined from time to time by resolution adopted by the board of directors.

ARTICLE III
SHAREHOLDERS

Section 3.1. Annual Meeting. The annual meeting of the shareholders shall be held on the third Tuesday in the month of April in each year, beginning with the year 1995, at 10:00 a.m., or at such other date or time as may be determined by the board of directors, for the purpose of electing directors and for the transaction of such other business as may come before the meeting. If the day fixed for the annual meeting shall be a legal holiday in the state of Washington, the meeting shall be held on the next succeeding business day. If the election of directors is not held on the day designated herein for any annual meeting of the shareholders or at any adjournment thereof, the board of directors shall cause the election to be held at a meeting of the shareholders as soon thereafter as may be convenient.

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(1) Reflects amendments adopted by the Board of Directors through and including the May 27, 2008 meeting of the Board of Directors.

Section 3.2. Special Meetings. Special meetings of the shareholders for any purpose or purposes unless otherwise prescribed by statute may be called by the board of directors or by the written request of holders of at least twenty-five percent (25%) of the votes entitled to be cast on each issue to be considered at the special meeting.

Section 3.3. Place of Meetings. Meetings of the shareholders shall be held at either the principal office of the corporation or at such other place within or without the state of Washington as the person or persons calling the meeting may designate.

Section 3.4. Fixing of Record Date. For the purpose of determining shareholders entitled to notice of or to vote at any meeting of shareholders or any adjournment thereof, or shareholders entitled to receive payment of any dividend or distribution, or in order to make a determination of shareholders for any other proper purpose, the board of directors may fix a date as the record date for any such determination of shareholders, which date in any case shall not be more than seventy (70) days and, in the case of a meeting of shareholders, not less than 20 days prior to the date on which the particular action requiring such determination of shareholders is to be taken. If no record date is fixed for the determination of shareholders entitled to notice of or to vote at a meeting of shareholders, or shareholders entitled to receive payment of a dividend or distribution, the day before the first notice of a meeting is dispatched to shareholders or the date on which the resolution of the board of directors authorizing such dividend or distribution is adopted, as the case may be, shall be the record date for such determination of shareholders. When a determination of shareholders entitled to notice of or to vote at any meeting of shareholders has been made as provided in this section, such determination shall apply to any adjournment thereof unless the board of directors fixes a new record date, which it must do if the meeting is adjourned to a date more than one hundred twenty (120) days after the date fixed for the original meeting.

The record date for determining shareholders entitled to take action without a meeting is the date the first shareholder signs the consent in lieu of meeting.

Section 3.5. Voting Lists. At least ten (10) days before each meeting of the shareholders, the officer or agent having charge of the stock transfer books for shares of the corporation shall prepare an alphabetical list of all its shareholders on the record date who are entitled to vote at the meeting or any adjournment thereof, arranged by voting group, and within each voting group by class or series of shares, with the address of and the number of shares held by each, which record for a period of ten (10) days prior to the meeting shall be kept on file at the principal office of the corporation or at a place identified in the meeting notice in the city where the meeting will be held. Such record shall be produced and kept open at the time and place of the meeting and shall be subject to the inspection of any shareholder, shareholder's agent or shareholder's attorney at any time during the meeting or any adjournment thereof. Failure to comply with the requirements of this bylaw shall not affect the validity of any action taken at the meeting.

Section 3.6. Notice of Meetings. Notice, in tangible written or printed form, in electronic form, or in any other form then allowed under the Washington Business Corporations Act or other applicable law, stating the date, time and place of a meeting of shareholders and, in the case of a special meeting of shareholders, the purpose or purposes for which the meeting is called, shall be given by the person or persons calling the meeting or by the Secretary of the corporation at the direction of such person or persons to each shareholder of record entitled to vote at such meeting (unless required by law to send notice to all shareholders regardless of whether or not such shareholders are entitled to vote), not less than ten (10) days and not more than sixty (60) days before the meeting, except that notice of a meeting to act on an amendment to the articles of incorporation, a plan of merger or share exchange, a proposed sale, lease, exchange or other disposition of all or substantially all of the assets of the corporation other than in the usual course of business, or the dissolution of the corporation shall be given not less than twenty (20) days and not more than sixty (60) days before the meeting. Written notice may be transmitted by: mail, private carrier or personal delivery; telegraph or teletype; or telephone, wire or wireless equipment which transmits a facsimile of the notice. Such notice shall be effective upon dispatch if sent to the shareholder's address, telephone number, or other number appearing on the records of the corporation.

Only such business shall be conducted at a special meeting of shareholders as shall be specified in the applicable notice of meeting given pursuant to this Section 3.6. If an annual or special shareholders' meeting is adjourned or postponed to a different date, time or place, notice need not be given of the new date, time or place of the adjourned or postponed meeting if the new date, time or place is announced at the meeting before adjournment or postponement unless a new record date is or, under the Washington Business Corporation Act or other applicable law, must be fixed. If a new record date for the adjourned or postponed meeting is or, under the Washington Business Corporation Act or other applicable law, must be fixed, however, notice of the adjourned or postponed meeting must be given to persons who are shareholders as of the new record date.

Section 3.7. Waiver of Notice. A shareholder may waive any notice required to be given under the provisions of these bylaws, the articles of incorporation or by applicable law, whether before or after the date and time stated therein. A valid waiver is created by any of the following three methods: (a) in writing signed by the shareholder entitled to the notice and delivered to the corporation for inclusion in its corporate records; (b) by attendance at the meeting, unless the shareholder at the beginning of the meeting objects to holding the meeting or transacting business at the meeting; or (c) by failure to object at the time of presentation of a matter not within the purpose or purposes described in the meeting notice.

Section 3.8. Manner of Acting; Proxies. A shareholder may vote either in person or by proxy. A shareholder may vote by proxy by means of a proxy appointment form which is executed by the shareholder, his agent, or by his duly authorized attorney-in-fact. All proxy appointment forms shall be filed with the secretary of the corporation before or at the commencement of meetings. No unrevoked proxy appointment form shall be valid after eleven (11) months from the date of its execution unless otherwise

expressly provided in the appointment form. No proxy appointment may be effectively revoked until notice of such revocation has been given to the secretary of the corporation by the shareholder appointing the proxy. Any proxy appointment or any revocation of a proxy appointment may be executed in tangible written form, may be by means of an electric transmission or may be by any other means then allowed by the Washington Business Corporations Act or other applicable law.

Section 3.9. Quorum. At any meeting of the shareholders, a majority in interest of all the shares entitled to vote on a matter by the voting group, represented in person or by proxy by shareholders of record, shall constitute a quorum of that voting group for action on that matter. Once a share is represented at a meeting, other than to object to holding the meeting or transacting business, it is deemed to be present for purposes of a quorum for the remainder of the meeting and for any adjournment of that meeting unless a new record date is or must be fixed for the adjourned meeting. At such reconvened meeting, any business may be transacted which might have been transacted at the adjourned meeting. If a quorum exists, action on a matter is approved by a voting group if the votes cast within the voting group favoring the action exceed the votes cast within the voting group opposing the action, unless the question is one upon which a different vote is required by express provision of law or of the articles of incorporation or of these bylaws.

Section 3.10. Voting of Shares. Each outstanding share, regardless of class, shall be entitled to one vote on each matter submitted to a vote at a meeting of shareholders, except as may be otherwise provided in the articles of incorporation.

Section 3.11. Voting for Directors.

3.11.1. In the election of directors every shareholder of record entitled to vote at the election shall have the right to vote in person the number of shares owned by him for as many persons as there are directors to be elected and for whose election he has a right to vote. Shareholders entitled to vote at any election of directors shall have no right to cumulate votes.

3.11.2 The Company elects to be governed by Section 23B.10.205 of the Washington Business Corporation Act with respect to the election of directors, as set forth in this Section 3.11.2. In any election of directors that is not a contested election the candidates elected are those receiving a majority of votes cast. For purposes of this Section 3.11, a vote of a "majority of votes cast" means that the number of shares voted "for" a director must exceed the number of shares voted "against" that director. The following shall not be votes cast: (i) a share whose ballot is marked as withheld; (ii) a share otherwise present at the meeting but for which there is an abstention; and (iii) a share otherwise present at the meeting as to which a shareholder gives no authority or direction. A nominee for director in an election that is not a contested election who does not receive a majority of votes cast, but who was a director at the time of the election, shall continue to serve as a director for a term that shall terminate on the date that is the earlier of: (i) ninety (90) days from the date on which the voting results of the election are determined, (ii) the date on which an

individual is selected by the Board of Directors to fill the office held by such director, which selection shall be deemed to constitute the filling of a vacancy by the Board of Directors, or (iii) the date on which the director's resignation is accepted by the Board. In a contested election, the directors shall be elected by a plurality of the votes cast. For purposes of this Section 3.11, a "contested election" is any meeting of shareholders for which (i) the Secretary of the Corporation receives a notice that a shareholder has nominated a person for election to the Board of Directors in compliance with the advance notice requirements for shareholder nominees for director set forth in Section 3.14 of these bylaws, (ii) such nomination has not been withdrawn by such shareholder on or prior to the last date that a notice of nomination for such meeting is timely as determined under Section 3.14 and (iii) the Board of Directors has not determined before the notice of meeting is given that the shareholder's nominee(s) do not create a *bona fide* election contest.

Section 3.12. Voting of Shares by Certain Holders.

3.12.1. Shares standing in the name of another corporation, domestic or foreign, may be voted by such officer, agent or proxy as the board of directors of such corporation may determine. A certified copy of a resolution adopted by such directors shall be conclusive as to their determination.

3.12.2. Shares held by a personal representative, administrator, executor, guardian or conservator may be voted by such administrator, executor, guardian or conservator, without a transfer of such shares into the name of such personal representative, administrator, executor, guardian or conservator. Shares standing in the name of a trustee may be voted by such trustee, but no trustee shall be entitled to vote shares held in trust without a transfer of such shares into the name of the trustee.

3.12.3. Shares standing in the name of a receiver may be voted by such receiver, and shares held by or under the control of a receiver may be voted by the receiver without the transfer thereof into his name if authority so to do is contained in an appropriate order of the court by which such receiver was appointed.

3.12.4. If shares are held jointly by three or more fiduciaries, the will of the majority of the fiduciaries shall control the manner of voting or appointment of a proxy, unless the instrument or order appointing such fiduciaries otherwise directs.

3.12.5. Unless the pledge agreement expressly provides otherwise, a shareholder whose shares are pledged shall be entitled to vote such shares until the shares have been transferred into the name of the pledgee, and thereafter the pledgee shall be entitled to vote the shares so transferred.

3.12.6. Shares held by another corporation shall not be voted at any meeting or counted in determining the total number of outstanding shares entitled to vote at any given time if a majority of the shares entitled to vote for the election of directors of such other corporation is held by this corporation.

3.12.7. On and after the date on which written notice of redemption of redeemable shares has been dispatched to the holders thereof and a sum sufficient to redeem such shares has been deposited with a bank or trust company with irrevocable instruction and authority to pay the redemption price to the holders thereof upon surrender of certificates therefor, such shares shall not be entitled to vote on any matter and shall be deemed to be not outstanding shares.

Section 3.13. Conduct of Meetings. The Chair shall serve as chair of a meeting of the shareholders. In the absence of the Chair, the Chief Executive Officer or any other person designated by the board of directors shall serve as chair of a meeting of shareholders. The Secretary or in his absence an Assistant Secretary or in the absence of the Secretary and all Assistant Secretaries a person whom the chair of the meeting shall appoint shall act as secretary of the meeting and keep a record of the proceedings thereof.

The chair of a meeting of shareholders, determined in accordance with this Section 3.13, shall have discretion to establish the rules, regulations and procedures for the conduct of such meeting of shareholders and shall have the authority to adjourn or postpone such meeting from time to time whether or not there is a quorum present and without any action or vote by the shareholders present at such meetings, subject to any specific rules, regulations and procedures established by the board of directors.

Section 3.14. Notice of Nomination or Proposal. Nominations for the election of directors and proposals for any new business to be taken up at any annual or, subject to Section 3.6 of these bylaws, special meeting of shareholders may be made by the board of directors of the corporation or by any shareholder of the corporation entitled to vote generally in the election of directors. In order for a shareholder of the corporation to make any such nomination or proposal at any annual meeting, the shareholder's nomination or proposal must be in writing and received at the Executive Offices of the corporation by the Secretary of the corporation not less than 120 days in advance of the date corresponding to the date in the previous year on which the corporation's proxy statement was released to shareholders in connection with the previous year's annual meeting of shareholders, except that if no annual meeting was held in the previous year or the date of the annual meeting has been changed by more than 30 calendar days from the date of the previous year's annual meeting, a proposal shall be received by the corporation in accordance with the method set forth hereafter for proposals or nominations in advance of a special meeting of shareholders. In order for a shareholder of the corporation to make any nomination or proposal to be taken up at a special meeting of shareholders, the shareholder's nomination or proposal must be in writing and received at the Executive Offices of the corporation by the Secretary of the corporation not later than the later of the 90th day prior to such special meeting or the 10th day following the day on which public announcement of the date of such special meeting is made by the corporation. Each such notice given by a shareholder with respect to nominations for the election of directors shall set forth (i) the name, age, business address and, if known, residence address of each nominee proposed in such notice,

(ii) the principal occupation or employment of each such nominee, (iii) the number of shares of stock of the corporation which are beneficially owned, and the number of shares of stock of the corporation concerning which there is a right to acquire, directly or indirectly, by (A) each such nominee, and (B) by each associate of such person, determined in accordance with Section 13(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"); and (iv) a statement that the nominee has agreed to tender his or her resignation pursuant to any resignation policy applicable to persons nominated for election as directors by the Board of Directors pursuant to the Company's corporate governance guidelines as in effect from time to time.

For purposes of this Section 3.14, "public announcement" means disclosure in a press release reported by the Dow Jones News Service, Associated Press or comparable national news service or in a document publicly filed by the corporation with the Securities and Exchange Commission pursuant to Sections 13, 14, or 15(d) of the Exchange Act.

In no event shall the public announcement of an adjournment or postponement of an annual or special meeting commence a new time period (or extend any time period) for the giving of a shareholder's notice of a proposal or a nomination for director at such meeting as described above.

Section 3.15. Action Without a Meeting. Any action permitted or required to be taken at a meeting of the shareholders may be taken without a meeting if one or more consents in writing setting forth the action so taken shall be signed by all the shareholders.

ARTICLE IV
BOARD OF DIRECTORS

Section 4.1. General Powers. The business and affairs of the corporation shall be managed by its board of directors.

Section 4.2. Number, Tenure and Qualification. The number of directors set forth in Article II of these bylaws may be increased or decreased from time to time by amendment to or in the manner provided in these bylaws. No decrease, however, shall have the effect of shortening the term of any incumbent director unless such director resigns or is removed in accordance with the provisions of these bylaws. Directors shall serve until their successors are duly elected and qualified or until their earlier resignation, removal from office, termination of their term or death. Directors need not be residents of the state of Washington or shareholders of the corporation.

Section 4.3. Annual and Other Regular Meetings. Regular meetings of the board shall be held on the third Tuesday of the months of January, February, April, June, July, September, October, and December or on such other date within the month as shall be determined by the Chair or the Chief Executive Officer, provided notice of the time and place of such meeting is given as provided in Section 4.4. In each year, the regular

meeting on the day of the Annual Meeting of Shareholders shall be known as the Annual Meeting of the Board.

Section 4.4. Special Meetings. Special meetings of the board of directors may be called by one-third of the directors, the Chair or the Chief Executive Officer. The notice of a special meeting of the board of directors shall state the date and time and, if the meeting is not exclusively telephonic, the place of the meeting. Unless otherwise required by law, neither the business to be transacted at, nor the purpose of, any regular or special meeting of the board of directors need be specified in the notice or waiver of notice of such meeting. Notice shall be given by the person or persons authorized to call such meeting, or by the Secretary at the direction of the person or persons authorized to call such meeting. The notice may be oral or written. If the notice is orally communicated in person or by telephone to the director or to the director's personal secretary or is sent by electronic mail, telephone or wireless equipment, which transmits a facsimile of the notice to the director's electronic mail designation or telephone number appearing on the records of the corporation, the notice of a meeting shall be timely if sent no later than twenty-four (24) hours prior to the time set for such meeting. If the notice is sent by courier to the director's address appearing on the records of the corporation, the notice of a meeting shall be timely if sent no later than three (3) full days prior to the time set for such meeting. If the notice is sent by mail to the director's address appearing on the records of the corporation, the notice of a meeting shall be timely if sent no later than five (5) full days prior to the time set for such meeting.

Section 4.5. Waiver of Notice. Any director may waive notice of any meeting at any time. Whenever any notice is required to be given to any director of the corporation pursuant to applicable law, a waiver thereof in writing signed by the director, entitled to notice, shall be deemed equivalent to the giving of notice. The attendance of a director at a meeting shall constitute a waiver of notice of the meeting except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully convened. A director waives objection to consideration of a particular matter at a meeting that is not within the purpose or purposes described in the meeting notice, unless the director objects to considering the matter when it is presented.

Section 4.6. Quorum. A majority of the number of directors specified in or fixed in accordance with these bylaws shall constitute a quorum for the transaction of any business at any meeting of directors. If less than a majority shall attend a meeting, a majority of the directors present may adjourn the meeting from time to time without further notice, and a quorum present at such adjourned meeting may transact business.

Section 4.7. Manner of Acting. If a quorum is present when a vote is taken, the affirmative vote of a majority of directors present is the act of the board of directors.

Section 4.8. Participation by Conference Telephone. Directors may participate in a regular or special meeting of the board by, or conduct the meeting through the use of,

any means of communication by which all directors participating can hear each other during the meeting and participation by such means shall constitute presence in person at the meeting.

Section 4.9. Presumption of Assent. A director who is present at a meeting of the board of directors at which action is taken shall be presumed to have assented to the action taken unless such director's dissent shall be entered in the minutes of the meeting or unless such director shall file his written dissent to such action with the person acting as secretary of the meeting before the adjournment thereof or shall forward such dissent by registered mail to the secretary of the corporation immediately after adjournment of the meeting. Such right to dissent shall not apply to a director who voted in favor of such action.

Section 4.10. Action by Board Without a Meeting. Any action permitted or required to be taken at a meeting of the board of directors may be taken without a meeting if one or more consents setting forth the action so taken, shall be executed by all the directors, either before or after the action taken, and delivered to the corporation. Such consents may be set forth in a tangible written form, in an electronic transmission or in any other form then allowed under the Washington Business Corporations Act or other applicable law. Action taken by consent is effective when the last director executes the consent, unless the consent specifies a later effective date.

Section 4.11. Audit Committee. The board of directors, at any regular meeting of the Board, shall elect from their number an Audit Committee of not less than three members, none of whom shall be employed by the corporation. At least annually the Board of Directors shall determine that each Committee member has the independence and other qualifications set forth in the Charter of the Audit Committee as approved by the Board, and in any supplemental statements that the Board may adopt with regard to the composition of the Committee.

The Audit Committee shall have the authorities and responsibilities and shall perform the functions specified in the Charter of the Audit Committee, as approved by the Board, and in any supplemental statement that the Board may adopt with regard to the functions of the Committee.

Section 4.12. Human Resources Committee. The board of directors at any regular meeting of the board, shall elect from their number a Human Resources Committee which committee shall have not less than three members, none of whom shall be employed by the corporation. The Human Resources Committee shall have the authorities and responsibilities and shall perform the functions specified in the Charter of the Human Resources Committee, as approved by the Board, and in any supplemental statement or resolution that the Board may adopt with regard to the functions of the Committee.

Section 4.13. Governance Committee. The board of directors, at any regular meeting of the board, shall elect from their number a Governance Committee, none of

the members of which shall be employed by the corporation. The Governance Committee shall have the composition, authorities and responsibilities and shall perform the functions specified in the Charter of the Governance Committee, as approved by the Board, and in any supplemental statement or resolution that the Board may adopt with regard to the functions of the Committee.

Section 4.14. Finance Committee. The board of directors, at any regular meeting of the board, shall elect from their number a Finance Committee. A majority of the members of the Finance Committee shall not be employed by the corporation. The board, upon the recommendation of the Governance Committee, shall appoint a committee chair who is not employed by the corporation. The Finance Committee shall have the authorities and responsibilities and shall perform the functions specified in the Charter of the Finance Committee, as approved by the board, and in any supplemental statement or resolution that the board may adopt with regard to the functions of the Committee.

Section 4.15. Corporate Relations Committee. The board of directors, at any regular meeting of the board, may elect from among their number a Corporate Relations Committee which shall consist of no fewer than two Directors. The Corporate Relations Committee shall have the composition, authorities and responsibilities and shall perform the functions specified in the Charter of the Corporate Relations Committee, as approved by the Board, and in any supplemental statement or resolution that the Board may adopt with regard to the functions of the Committee.

Section 4.16. Corporate Development Committee. The board of directors, at any regular meeting of the board, may elect from among their number a Corporate Development Committee, which shall consist of the Chief Executive Officer and not less than two other directors. The Corporate Development Committee shall have the composition, authorities and responsibilities and shall perform the functions specified in the Charter of the Corporate Development Committee, as approved by the Board, and in any supplemental statement or resolution that the Board may adopt with regard to the functions of the Committee.

Section 4.17. Committee Procedures. Except as provided in the bylaws or in specific resolutions of the Board of Directors, the committees of the Board shall be governed by the same rules regarding meetings, action without meetings, notice, waiver of notice, and quorum and voting requirements as applied to the Board of Directors.

Section 4.18. Resignation. Any director may resign at any time by delivering written notice to the Chair or the Chief Executive Officer, or by giving oral notice at any meeting of the directors or shareholders. Any such resignation shall take effect at any subsequent time specified therein (including the occurrence of one or more specified future events), or if the time is not specified, upon delivery thereof and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 4.19. Removal. At a meeting of the shareholders called expressly for that purpose, any director or the entire board of directors may be removed from office, with cause, by a vote of the holders of a majority of the shares then entitled to vote at an election of the director or directors whose removal is sought. If the board of directors or any one or more directors is so removed, new directors may be elected at this same meeting.

Section 4.20. Vacancies. A vacancy on the board of directors may occur by the resignation, removal, termination of term or death of an existing director, or by reason of increasing the number of directors on the board of directors as provided in these bylaws. Except as may be limited by the articles of incorporation, any vacancy occurring in the board of directors may be filled by the affirmative vote of a majority of the remaining directors whether or not less than a quorum. A director elected to fill a vacancy shall be elected for a term of office continuing until the director or his or her successor is duly elected and qualified at the next election of directors by shareholders or until his or her earlier resignation, removal from office, termination of term or death.

If the vacant office was held by a director elected by holders of one or more authorized classes or series of shares, only the holders of those classes or series of shares are entitled to vote to fill the vacancy.

Section 4.21. Compensation. By resolution of the board of directors, the directors may be paid a fixed sum plus their expenses, if any, for attendance at meetings of the board of directors or committee thereof, or a stated salary as director. No such payment shall preclude any director from serving the corporation in any other capacity and receiving compensation therefor.

Section 4.22. Chair of the Board. The board of directors shall annually elect a Chair to preside at meetings of the

board of directors. In the absence of the Chair, the directors present may select someone from their number to preside. In accordance with Section 3.13 of these bylaws, the Chair (unless absent) shall preside over all meetings of the shareholders. The Chair shall perform such other duties as may be assigned by the board of directors or as provided in these bylaws.

ARTICLE V
OFFICERS

Section 5.1. Ranks and Terms in Office. The officers of the corporation shall be a Chief Executive Officer, a President, a General Auditor, a Chief Financial Officer, a Controller, and such Vice Chairs, Executive Vice Presidents, Senior Vice Presidents or First Vice Presidents as the board of directors may designate and elect, or such other officers as the board of directors may designate and elect or the Chief Executive Officer may designate and appoint.

Officers shall serve until the termination of their employment or their earlier removal from service as officers. Any officer may be removed, with or without cause,

by the board of directors, but such removal shall be without prejudice to the contractual rights, if any, of the person so removed. Other than the General Auditor, any officer who has been elected by the board of directors may be suspended with or without pay by the Chief Executive Officer, and any other officer may be removed or suspended with or without pay by the Chief Executive Officer, but such removal or suspension shall be without prejudice to the contractual rights, if any, of the person so removed or suspended. The termination of any officer's employment shall constitute removal of such person from office, effective as of the date of termination of employment.

Section 5.2. Chief Executive Officer. The Chief Executive Officer of the corporation shall have direct supervision and management of its affairs and the general powers and duties of supervision and management usually vested in the Chief Executive Officer of a corporation, subject to the Bylaws and policies of the corporation. The Chief Executive Officer shall perform such other duties as may be assigned by the board of directors. In the absence of the Chief Executive Officer, the duties of the Chief Executive Officer shall be assumed by the President, and in their absence such duties shall be assumed by a person designated by the Chief Executive Officer or the board of directors.

Section 5.3. [Reserved]

Section 5.4. President. The President shall perform such duties as may be assigned by the Chief Executive Officer or the board or a committee of directors

Section 5.5. General Auditor. The General Auditor shall supervise and maintain continuous audit control of the assets and liabilities of the corporation. The General Auditor shall report directly to the Audit Committee of the board of directors. The General Auditor shall perform such other duties as may be assigned by the Chief Executive Officer or the President from time to time, only to the extent that such other duties do not compromise the independence of audit control.

Section 5.6. Chief Financial Officer. The Chief Financial Officer of the corporation shall have the power and duty of supervising and managing the corporation's acquisition, retention and disposition of securities, loans and financial instruments (including but not limited to the corporation's investments in and loans to the corporation's subsidiaries), the power and duty of supervising the corporation's financial reporting, and the other general powers and duties of supervision and management usually vested in the Chief Financial Officer of a corporation, subject to the Bylaws and, subject to these Bylaws and to such limits as may from time to time be established by the board of directors or by a committee of directors or officers that the board of directors has authorized to establish such limits. The Chief Financial Officer shall perform such other duties as may be assigned by the board of directors or by the Chief Executive Officer or by a committee of directors or officers that the board of directors has authorized to assign such duties. In the absence of the Chief Financial Officer, the duties of the Chief Financial Officer shall be assumed by the Controller of the corporation, and in their absence such duties shall be assumed by a person designated by the Chief Executive Officer or the board of directors.

Section 5.7. Controller. The Controller shall be the chief accounting officer of the corporation and shall have supervisory control and direction of the general accounting, accounting procedure, and general bookkeeping, and shall be the custodian of the general accounting books, records, forms and papers. The Controller shall also perform such other duties as may be assigned from time to time by a committee of directors or officers that the board of directors has authorized to assign such duties or by the Chief Executive Officer, the President, a Vice Chair, or an Executive Vice President.

Section 5.8. Vice Chairs, Executive Vice Presidents. Vice Chairs and Executive Vice Presidents shall perform such duties as may be assigned from time to time by a committee of directors or officers that the board of directors has authorized to assign such duties or by the Chief Executive Officer or the President.

Section 5.9. Senior Vice Presidents, First Vice Presidents and Vice Presidents. Senior Vice Presidents, First Vice Presidents and Vice Presidents shall perform such duties as may be assigned from time to time by a committee of directors or officers that the board of directors has authorized to assign such duties or by the Chief Executive Officer, the President, a Vice Chair or an Executive Vice President.

Section 5.10. Secretary and Assistant Secretary. Except as otherwise set forth in these bylaws, the Secretary of the corporation shall keep the minutes of all meetings of the board of directors and of the shareholders and give such notices to the directors or shareholders as may be required by law or by these Bylaws. The Secretary shall have the custody of the corporate seal, if any, and the contracts, papers and documents belonging to the corporation. The Secretary shall also perform such other duties as may be assigned from time to time by a committee of directors or officers that the board of directors has authorized to assign such duties or by the Chief Executive Officer, the President, a Vice Chair, or an Executive Vice President. Except as otherwise set forth in these bylaws, in the absence of the Secretary, the powers and duties of the Secretary shall devolve upon an Assistant Secretary or such person as shall be designated by the Chief Executive Officer.

Section 5.11. Combining Offices. An officer who holds one office may, with or without resigning from such existing office, be elected by the board of directors to hold, in addition to such existing office, the office of Vice Chair, Executive Vice President, Senior Vice President, First Vice President or Vice President. An officer who holds one office may, with or without resigning from such existing office, be appointed by the Chief Executive Officer to hold, in addition to such existing office, another office other than the office of Vice Chair, Executive Vice President, Senior Vice President, First Vice President or Vice President.

Section 5.12. Other Officers. The other Officers shall perform such duties as may be assigned by a committee of directors or officers that the board of directors has authorized to assign such duties or by the Chief Executive Officer, the President, a Vice

Chair, or an Executive Vice President. The Chief Executive Officer may designate such functional titles to an officer, as the Chief Executive Officer deems appropriate from time to time.

Section 5.13. Official Bonds. The corporation may be indemnified in the event of the dishonest conduct or unfaithful performance of an officer, employee, or agent by a corporate fidelity bond, the premiums for which may be paid by the corporation.

Section 5.14. Execution of Contracts and Other Documents. The Chief Executive Officer, the President, any Vice Chair or any Executive Vice President may sign and may from time to time designate the officers, employees or agents of the corporation who shall have authority to sign deeds, contracts, satisfactions, releases, and assignments of mortgages, and all other documents or instruments in writing to be made or executed by the corporation.

Section 5.15. Resignation. Any officer may resign at any time by delivering written notice to the Chief Executive Officer, the President, the Secretary or the board of directors, or by giving oral notice at any meeting of the board. Any such resignation shall take effect at any subsequent time specified therein, or if the time is not specified, upon delivery thereof and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 5.16. Voting of Shares Held by Corporation. Shares of another corporation or interests in another entity held by this corporation may be voted in person or by proxy by the Chief Executive Officer, by the President, by a Vice Chair, by an Executive Vice President, or by a Senior Vice President.

ARTICLE VI
SHARES

Section 6.1. Certificates for Shares. The shares of the corporation may be represented by certificates in such form as prescribed by the board of directors. Signatures of the corporate officers on the certificate may be facsimiles if the certificate is manually signed on behalf of a transfer agent, or registered by a registrar, other than the corporation itself or an employee of the corporation. All certificates shall be consecutively numbered or otherwise identified. All certificates shall bear such legend or legends as prescribed by the board of directors or these bylaws.

Section 6.2. Issuance of Shares. Shares of the corporation shall be issued only when authorized by the board of directors, which authorization shall include the consideration to be received for each share.

Section 6.3. Beneficial Ownership. Except as otherwise permitted by these bylaws, the person in whose name shares stand on the books of the corporation shall be deemed by the corporation to be the owner thereof for all purposes. The board of

directors may adopt by resolution a procedure whereby a shareholder of the corporation may certify in writing to the corporation that all or a portion of the shares registered in the name of such shareholder are held for the account of a specified person or persons. Upon receipt by the corporation of a certification complying with such procedure, the persons specified in the certification shall be deemed, for the purpose or purposes set forth in the certification, to be the holders of record of the number of shares specified in place of the shareholder making the certification.

Section 6.4. Transfer of Shares. Transfer of shares of the corporation shall be made only on the stock transfer books of the corporation by the holder of record thereof or by his legal representative who shall furnish proper evidence of authority to transfer, or by his attorney thereunto authorized by power of attorney duly executed and filed with the secretary of the corporation, on surrender for cancellation of the certificate for the shares. All certificates surrendered to the corporation for transfer shall be canceled and no new certificate shall be issued until the former certificate for a like number of shares shall have been surrendered and canceled.

Section 6.5. Lost or Destroyed Certificates. In the case of a lost, destroyed or mutilated certificate, a new certificate may be issued therefor upon such terms and indemnity to the corporation as the board of directors may prescribe.

Section 6.6. Stock Transfer Records. The stock transfer books shall be kept at the principal office of the corporation or at the office of the corporation's transfer agent or registrar. The name and address of the person to whom the shares represented by any certificate, together with the class, number of shares and date of issue, shall be entered on the stock transfer books of the corporation. Except as provided in these bylaws, the person in whose name shares stand on the books of the corporation shall be deemed by the corporation to be the owner thereof for all purposes.

Section 6.7. Uncertificated Shares. The shares of the Corporation may be issued in uncertificated or book entry form in the manner prescribed by the board of directors. Without limiting the foregoing, shares of the Corporation may be issued in uncertificated or book entry form in connection with new share issuances, the transfer of shares as provided in Section 6.4 of these bylaws and the replacement of shares represented by lost, destroyed or mutilated certificates as provided in Section 6.5 of these bylaws.

ARTICLE VII
SEAL

This corporation need not have a corporate seal. If the directors adopt a corporate seal, the seal of the corporation shall be circular in form and consist of the name of the corporation, the state and year of incorporation, and the words "Corporate Seal."

ARTICLE VIII
INDEMNIFICATION OF DIRECTORS, OFFICERS, EMPLOYEES AND AGENT

Section 8.1. Director's Right To Indemnification. Each person who was or is made a party or is threatened to be made a party to or is involved (including, without limitation, as a witness) in any actual or threatened action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he or she is or was a director of the corporation or, being or having been such a director, he or she is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation or of a partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans, whether the basis of such proceeding is alleged action in an official capacity as a director or in any other capacity while serving as a director, shall be indemnified and held harmless by the corporation against all expense, liability and loss (including attorneys' fees, judgments, fines, ERISA excise taxes or penalties and amounts to be paid in settlement) actually and reasonably incurred or suffered by such person in connection therewith; provided, however, that (a) the corporation shall not indemnify any person from or on account of any acts or omissions of such person finally adjudged to be intentional misconduct or knowing violation of the law of such person, or from conduct of the person in violation of RCW 23B.08.310, or from or on account of any transaction with respect to which it is finally adjudged that such person personally received a benefit in money, property, or services to which such person was not legally entitled, and (b) except as provided in subsection 8.3 with respect to proceedings seeking to enforce rights to indemnification, the corporation shall indemnify any such person seeking indemnification in connection with a proceeding (or part thereof) initiated by such person only if such proceeding (or part thereof) was authorized by the board of directors of the corporation. Such indemnification shall continue as to a person who has ceased to be a director and shall inure to the benefit of his or her heirs, executors and administrators. Without limiting the situations in which a person shall be considered to be serving at the request of the corporation, a director who serves as a director, officer, employee or agent of another corporation or other enterprise that is a subsidiary of the corporation shall be deemed to be serving at the request of the corporation, where "subsidiary" means a corporation or other enterprise in which a majority of the voting stock or other voting power is owned or controlled by the corporation directly or through one or more subsidiaries, or a corporation or other enterprise which is consolidated on the corporation's financial statements or is reported using the equity method. If the Washington Business Corporation Act is amended to authorize further indemnification of directors, then directors of the corporation shall be indemnified to the fullest extent permitted by the Washington Business Corporation Act, as so amended.

Section 8.2. Director's Burden of Proof and Procedure For Payment.

(a) The claimant shall be presumed to be entitled to indemnification under this Article upon submission of a written claim (and, in an action brought to enforce a

claim for expenses incurred in defending any proceeding in advance of its final disposition, where the undertaking in (b) below has been tendered to the corporation) and thereafter the corporation shall have the burden of proof to overcome the presumption that the claimant is so entitled.

(b) The right to indemnification shall include the right to be paid by the corporation the expenses incurred in defending any such proceeding in advance of its final disposition; provided, however, that the payment of such expenses in advance of the final disposition of a proceeding shall be made only upon delivery to the corporation of an undertaking, by or on behalf of such director, to repay all amounts so advanced if it shall ultimately be determined that such director is not entitled to be indemnified under this Article or otherwise.

Section 8.3. Right of Claimant to Bring Suit. If a claim under this Article is not paid in full by the corporation within sixty (60) days after a written claim has been received by the corporation, except in the case of a claim for expenses incurred in defending a proceeding in advance of its final disposition, in which case the applicable period shall be twenty (20) days, the claimant may at any time thereafter bring suit against the corporation to recover the unpaid amount of the claim and, to the extent successful in whole or in part, the claimant shall be entitled to be paid also the expense of prosecuting such claim. Neither the failure of the corporation (including its board of directors, its shareholders or independent legal counsel) to have made a determination prior to the commencement of such action that indemnification of or reimbursement or advancement of expenses to the claimant is proper in the circumstances nor an actual determination by the corporation (including its board of directors, its shareholders or independent legal counsel) that the claimant is not entitled to indemnification or to the reimbursement or advancement of expenses shall be a defense to the action or create a presumption that the claimant is not so entitled.

Section 8.4. Nonexclusivity of Rights. The right to indemnification and the payment of expenses incurred in defending a proceeding in advance of its final disposition conferred in this Article shall not be exclusive of any other right which any person may have or hereafter acquire under any statute, provision of the Articles of Incorporation, Bylaws, agreement, vote of shareholders or disinterested directors or otherwise.

Section 8.5. Insurance, Contracts and Funding. The corporation may maintain insurance, at its expense, to protect itself and any director, officer, employee or agent of the corporation or another corporation, partnership, joint venture, trust or other enterprise against any expense, liability or loss, whether or not the corporation would have the power to indemnify such person against such expense, liability or loss under the Washington Business Corporation Act. The corporation may, without any shareholder action, enter into contracts with such director or officer in furtherance of the provisions of this Article and may create a trust fund, grant a security interest or use other means (including, without limitation, a letter of credit) to ensure the payment of such amounts as may be necessary to effect indemnification as provided in this Article.

Section 8.6. Indemnification of Officers, Employees and Agents of the Corporation. The corporation shall provide indemnification and pay expenses in advance of the final disposition of a proceeding to officers and employees of the corporation with the same scope and effect (including without limitation coverage when serving at the request of the corporation as directors, officers, employees or agents of other corporations, partnerships, joint ventures, trusts or other enterprises), and observing the same procedures, as the provisions of this Article with respect to the indemnification and advancement of expenses to directors of the corporation, except that determinations and authorizations described in RCW 23B.08.550(2) and (3) may also be made by a committee of officers authorized by the board of directors. Without limiting the situations in which a person shall be considered to be serving at the request of the corporation, an officer or employee who serves as a director, officer, employee or agent of another corporation or other enterprise that is a subsidiary of the corporation shall be deemed to be serving at the request of the corporation, where "subsidiary" has the meaning set forth in Section 8.1. At its sole option, the corporation may provide indemnification and pay expenses in advance of the final disposition of a proceeding to agents of the corporation (including without limitation providing such indemnification or advance to agents serving at the request of the corporation as directors, officers, employees or agents of other corporations, partnerships, joint ventures, trusts or other enterprises), provided that such indemnification or advance (i) is made pursuant to a written contract executed and delivered on behalf of the corporation prior to the occurrence of the conduct giving rise to the liability or expense for which indemnification or payment is being sought or (ii) is approved or ratified by the board of directors, a committee thereof, or a committee of officers authorized by the board of directors.

Section 8.7. Contract Right. The rights to indemnification conferred in this Article shall be a contract right and any amendment to or repeal of this Article shall not adversely affect any right or protection of a director of the corporation for or with respect to any acts or omissions of such director or officer occurring prior to such amendment or repeal.

Section 8.8. Severability. If any provision of this Article or any application thereof shall be invalid, unenforceable or contrary to applicable law, the remainder of this Article, or the application of such provision to persons or circumstances other than those as to which it is held invalid, unenforceable or contrary to applicable law, shall not be affected thereby and shall continue in full force and effect.

ARTICLE IX
BOOKS AND RECORDS

The corporation shall keep correct and complete books and records of account, stock transfer books, minutes of the proceedings of its shareholders and the board of directors and such other records as may be necessary or advisable.

ARTICLE X
FISCAL YEAR

The fiscal year of the corporation shall be the calendar year.

ARTICLE XI
AMENDMENTS TO BYLAWS

These bylaws may be altered, amended or repealed, and new bylaws may be adopted, by the board of directors, subject to the concurrent power of the shareholders, by at least two-thirds affirmative vote of the shares of the corporation entitled to vote thereon, to alter amend or repeal these bylaws or to adopt new bylaws.

EXHIBIT C

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	:	**Chapter 11**
WASHINGTON MUTUAL, INC., et al.,	:	**Case No. 08-12229 (MFW)**
	:	**(Jointly Administered)**
Debtors.	:	
OFFICIAL COMMITTEE OF EQUITY SECURITY HOLDERS,	:	**Adv. Proc. No. 10-50731(MFW)**
Plaintiff,	:	
v.	:	
WASHINGTON MUTUAL, INC.,	:	
Defendant,	:	

DECLARATION

Pursuant to 28 U.S.C. § 1746, I declare as follows:

1. I am an equity shareholder of Washington Mutual, Inc. ("WMI"). I am over eighteen years of age and competent to testify.

2. All statements in this declaration are based on my personal knowledge. If I were called upon to testify, I could and would testify to the facts set forth in my declaration.

3. As a shareholder, I am entitled to receive notices of WMI's annual shareholders' meetings.

4. I have not received any notice of an annual shareholders' meeting for 2009 and 2010. To my knowledge, WMI had no annual shareholders' meeting in 2009 and

WMI has not scheduled one for 2010.

[REMAINDER OF THE PAGE BLANK]

I declare under penalty of perjury that the foregoing is true and correct. Executed on March 10, 2010.

EXHIBIT D

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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

SCHEDULE 14A

Proxy Statement Pursuant to Section 14(a) of the Securities Exchange Act of 1934 (Amendment No.)

Filed by the Registrant ☑
Filed by a Party other than the Registrant ☐

Check the appropriate box:

☐ Preliminary Proxy Statement
☐ **Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))**
☑ Definitive Proxy Statement
☐ Definitive Additional Materials
☐ Soliciting Material Pursuant to §240.14a-12

WASHINGTON MUTUAL, INC.
(Name of Registrant as Specified In Its Charter)

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

Payment of Filing Fee (Check the appropriate box):

☑ No fee required.
☐ Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

(1) Title of each class of securities to which transaction applies:

(2) Aggregate number of securities to which transaction applies:

(3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):

(4) Proposed maximum aggregate value of transaction:

(5) Total fee paid:

☐ Fee paid previously with preliminary materials.

☐ Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

(1) Amount Previously Paid:

(2) Form, Schedule or Registration Statement No.:

---

(3) Filing Party:

---

(4) Date Filed:

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1301 Second Avenue
Seattle, Washington 98101

March 14, 2008

Dear Shareholder:

You are cordially invited to attend the Washington Mutual, Inc. Annual Meeting of Shareholders that will be held on Tuesday, April 15, 2008, at 1:00 p.m., local time, at Benaroya Hall, 200 University Street, Seattle, Washington 98101. We will webcast the meeting on our website at *www.wamu.com/ir*. I look forward to greeting as many of our shareholders as possible at the Annual Meeting.

As set forth in the attached Proxy Statement, we will hold the meeting to consider the following matters:

- the election of 13 directors;
- the ratification of the appointment of Washington Mutual's independent auditor for 2008;
- the approval of an amendment to the Washington Mutual Amended and Restated 2002 Employee Stock Purchase Plan for the purpose of increasing the number of shares that may be issued under the plan by 4,000,000 to 8,863,590;
- two shareholder proposals that are expected to be presented at the meeting; and
- to transact such other business as may properly come before the meeting and any postponement(s) or adjournment(s).

Please read the attached Proxy Statement carefully for information about the matters you are being asked to consider and vote upon. Your vote is important. Whether or not you attend the meeting in person, I urge you to promptly vote your proxy as soon as possible via the Internet, by telephone or by mail using the enclosed postage-paid reply envelope. If you decide to attend the meeting and vote in person, you will, of course, have that opportunity.

Thank you for your continued support of Washington Mutual, and again, I look forward to seeing you at the Annual Meeting.

Sincerely,

Kerry Killinger
Chairman and Chief Executive Officer

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WASHINGTON MUTUAL, INC.

1301 Second Avenue
Seattle, Washington 98101

NOTICE OF ANNUAL MEETING OF SHAREHOLDERS
To Be Held April 15, 2008

Meeting Date:	Tuesday, April 15, 2008
Meeting Time:	1:00 p.m. (local time)
Record Date:	February 29, 2008
Location:	Benaroya Hall 200 University Street Seattle, Washington 98101

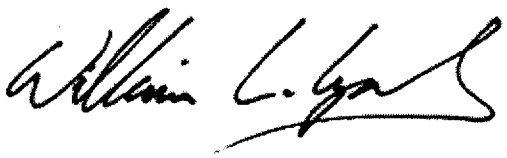
Agenda:

1. To elect 13 directors, each for a one-year term;
2. To ratify the appointment of Deloitte & Touche LLP as our independent auditor for 2008;
3. To approve an amendment to our Amended and Restated 2002 Employee Stock Purchase Plan for the purpose of increasing the number of shares that may be issued under the plan by 4,000,000 to 8,863,590;
4. To consider a shareholder proposal regarding an independent board chairman if it is properly presented by the shareholder proponent at the meeting;
5. To consider a shareholder proposal regarding our director election process if it is properly presented by the shareholder proponent at the meeting; and
6. To transact such other business as may properly come before the meeting or any adjournments or postponements.

The Board of Directors urges shareholders to vote FOR Items 1 through 3, and AGAINST Items 4 and 5.

All of these items are more fully described in the Proxy Statement that follows. Shareholders of record at the close of business on the Record Date will be entitled to vote at the Annual Meeting and any adjournments or postponements thereof. **Under new Securities and Exchange Commission rules, we have elected to provide access to our proxy materials both by sending you this full set of proxy materials, including a proxy card, and by notifying you of the availability of our proxy materials on the Internet. This proxy statement and our 2007 Annual Report to Shareholders are available at our web site at *http://www.wamu.com/ir*.**

By order of the Board of Directors,



William L. Lynch
Secretary

Seattle, Washington
March 14, 2008

IMPORTANT

Whether or not you expect to attend the Annual Meeting in person, we urge you to vote your proxy at your

EXHIBIT E

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	**Chapter 11**
WASHINGTON MUTUAL, INC., et al.,	**Case No. 08-12229 (MFW)** **(Jointly Administered)**
Debtors.	**Related Dkt. No. _____**
OFFICIAL COMMITTEE OF EQUITY SECURITY HOLDERS,	**Adv. Proc. No. 10-50731(MFW)**
Plaintiff,	
v.	**Related Adv. Dkt. No. ____**
WASHINGTON MUTUAL, INC.,	
Defendant.	

ORDER

Upon consideration of Plaintiff's Motion for Summary Judgment, or in the Alternative, for relief from the Automatic Stay and supporting Memorandum of Law (together, the "Motion") and the Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and the relief granted herein being a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and venue being proper pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having duly considered the submissions filed, and the statements and arguments in support of, and in opposition to, the Motion, if any it is hereby **ORDERED** that:

1. Plaintiff's Motion for Summary Judgment is **GRANTED**;

2. Defendant Washington Mutual, Inc. ("WMI"), together with its directors and officers,

must promptly schedule and send out the required notices for an annual shareholders' meeting to be held on April 24, 2010 ("Annual Shareholders' Meeting"); and conduct the meeting in the following manner:

a. Establish that the purpose of the Annual Shareholders' Meeting is to elect Directors.

b. Fix the time and place of the meeting as 10:00 a.m. at the Washington State Convention Center in Seattle, or such other appropriate forum in Seattle, Washington.

c. Permit the meeting to be held, and shareholders to be present and to vote, by Internet webcast.

d. Set March 3, 2010 as the record date.

e. Prescribe that notice of the Annual Shareholders' Meeting be given within five business days of the entry of this Order.

f. Direct that the votes represented at the meeting constitute a quorum.

g. Mandate that WMI provide plaintiffs with a list of stockholders as of the record date, as required by the Bylaws.

h. In view of the fact that dividends have not been paid for six quarters, expand the Board by two and allow the preferred shareholders to elect two Directors at the meeting.

i. Prevent the Chairman or any officer of director or their representatives from adjourning or postponing the meeting or establishing rules, regulations or procedures for the meeting that would prevent, interfere with, delay, or otherwise restrict voting for a new slate of directors.

j. Order WMI to include the shareholders' slate of Directors with WMI's meeting notice, proxy materials, including proxies (if any), and on the agenda of the annual meeting.

k. Waive any timing requirements regarding shareholder nominations for the election of Directors under Section 3.14 of the Bylaws.

3. The Official Creditors' Committee, Official Equity Security Holders Committee and Debtors shall work together to agree on such other rules and procedures as are necessary to carry out the purposes of the Annual Shareholders' Meeting.

4. The Court retains jurisdiction to enter further orders as necessary to accomplish the purposes of the meeting.

Dated: Wilmington, Delaware
April__, 2010

The Honorable Mary F. Walrath
United States Bankruptcy Court Judge

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	**Chapter 11**
WASHINGTON MUTUAL, INC., et al.,	**Case No. 08-12229 (MFW)** **(Jointly Administered)**
Debtors.	**Related Dkt. No. _____**
OFFICIAL COMMITTEE OF EQUITY SECURITY HOLDERS,	**Adv. Proc. No. 10-50731(MFW)**
Plaintiff,	
v.	**Related Dkt. No. _____**
WASHINGTON MUTUAL, INC.,	
Defendant,	

ORDER

Upon consideration of Plaintiff's Motion for Summary Judgment, or in the Alternative, for Relief from the Automatic Stay and supporting Memorandum of Law (together, the "Motion") and the Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and the relief granted herein being a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and venue being proper pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having duly considered the submissions filed, and the statements and arguments in support of, and in opposition to, the Motion, if any, it is hereby **ORDERED** that:

1. Plaintiff's Request for Relief from the Automatic Stay is **GRANTED**;

2. Section 362 of title 11 of the United States Code (the "Bankruptcy Code") is

inapplicable to, and to the extent applicable is terminated and modified to permit, an action by the Official Committee of Equity Security Holders, its members, or its members' designees (collectively, the "Committee") in state court seeking to compel the Debtors to hold an annual shareholders meeting and seek any relief related to such action.

3. The Committee is hereby authorized to take any and all actions necessary in order to prosecute an action in state court to compel an annual shareholders meeting and seek related relief, and such actions shall not be deemed in violation of Section 362 of the Bankruptcy Code.

4. The Court retains jurisdiction to enter further orders as necessary to accomplish the purposes of this Order.

Dated: Wilmington, Delaware
April __, 2010

The Honorable Mary F. Walrath
United States Bankruptcy Court Judge

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	**Chapter 11**
WASHINGTON MUTUAL, INC., et al.,	**Case No. 08-12229 (MFW)**
	(Jointly Administered)
Debtors.	
OFFICIAL COMMITTEE OF EQUITY SECURITY HOLDERS,	**Adv. Proc. No. 10-50731(MFW)**
Plaintiff,	
	Filed on: Mar. 11, 2010
v.	
WASHINGTON MUTUAL, INC.,	
Defendant,	

DECLARATION

Pursuant to 28 U.S.C. § 1746, I declare as follows:

1. I am a member of Venable LLP. I am over eighteen years of age and competent to testify.

2. All statements in this declaration are based on my personal knowledge. If I were called upon to testify, I could and would testify to the facts set forth in my declaration.

3. Exhibit B attached to the Memorandum of Law is a true and correct copy of WMI's Bylaws which were filed in WMI's SEC Filing Form 10-Q (Aug. 11, 2008) and are available at:

http://www.sec.gov/Archives/edgar/data/933136/000104746908009146/a2187197zex-

3_2.htm.

4. Exhibit D attached to the Memorandum of Law is a true and correct copy of WMI's Notice of Annual Meeting of Shareholders filed in WMI's Schedule 14A (Mar. 14, 2008) and are available at:

http://www.sec.gov/Archives/edgar/data/933136/000095013408004817/v37377def14a.htm.

I declare under penalty of perjury that the foregoing is true and correct. Executed on March 11, 2010.

Jorian Rose

CERTIFICATE OF SERVICE

I, Gregory A. Taylor, hereby certify that on March 11, 2010, I caused one copy of the foregoing document to be served upon the parties on the attached service list by first class U.S. Mail, postage prepaid, unless otherwise indicated.

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