

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF DELAWARE

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<i>In re</i>	:	<b>Chapter 11</b>
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WASHINGTON MUTUAL, INC., <u>et al.</u> , <sup>1</sup>	:	<b>Case No. 08-12229 (MFW)</b>
	:	
<b>Debtors.</b>	:	<b>(Jointly Administered)</b>
	:	
	:	
	:	<b>Hearing Date: April 6, 2010 at 2:00 p.m. (ET)</b>
-----X	:	<b>Objection Deadline: March 29, 2010 at 4:00 p.m. (ET)</b>

**DEBTORS' MOTION FOR AN ORDER AUTHORIZING THE DEBTORS TO FILE UNDER SEAL (A) EXHIBITS A, B, C, AND D TO THE MOTION OF WASHINGTON MUTUAL, INC. FOR AN ORDER, PURSUANT TO SECTION 105(a) OF THE BANKRUPTCY CODE AND BANKRUPTCY RULE 9019, APPROVING SETTLEMENT AGREEMENTS BETWEEN WASHINGTON MUTUAL, INC. AND CERTAIN EMPLOYEE BENEFIT PLAN PARTICIPANTS AND (B) ANY ORDER GRANTING THE MOTION, AS ENTERED BY THE COURT**

Washington Mutual, Inc. ("WMI") and WMI Investment Corp., as debtors and debtors-in-possession (collectively, the "Debtors"), submit this motion (the "Motion") for entry of an order substantially in the form attached hereto as Exhibit A (the "Proposed Order") authorizing the Debtors to file under seal (i) Exhibits A, B, C, and D (the "Exhibits") of the *Motion of Washington Mutual, Inc. for an Order, Pursuant to Section 105(a) of the Bankruptcy Code and Bankruptcy Rule 9019, Approving Settlement Agreements Between Washington Mutual, Inc. and Certain Employee Benefit Plan Participants* (the "Settlements Motion")<sup>2</sup> and (ii) any order, as entered by this Court, granting the relief sought pursuant to the Settlements

<sup>1</sup> The Debtors in these chapter 11 cases along with the last four digits of each Debtor's federal tax identification number are: (i) Washington Mutual, Inc. (3725); and (ii) WMI Investment Corp. (5395). The Debtors' principal offices are located at 925 Fourth Avenue, Seattle, Washington 98104.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Settlements Motion.



Motion. The Settlements Motion and the Exhibits, which contain Participants' personally identifiable information, have been filed contemporaneously herewith. In support of the Motion, the Debtors respectfully state as follows:

### **Jurisdiction**

1. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The basis for the relief requested is section 107(c) of title 11 of the United States Code (the "Bankruptcy Code"), Rule 9018 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") and Rule 9018-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "Local Rules").

### **Background**

3. On September 26, 2008 (the "Commencement Date"), each of the Debtors commenced with this Court a voluntary case pursuant to chapter 11 of the Bankruptcy Code. The Debtors are authorized to continue to operate their businesses and manage their properties as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. On October 3, 2008, the Court entered an order, pursuant to Bankruptcy Rule 1015(b), authorizing the joint administration of the Debtors' chapter 11 cases.

### **The Settlement Agreements and the Confidential Information**

4. As set forth in the Settlements Motion, the Debtors are in the process of liquidating certain of their assets, and would like to receive WMI's cash interest in certain life insurance policies issues to participants in the SELIP, an employee benefit plan that WMI

assumed upon acquisition of HFA. WMI is unable to access this cash, however, without the participants' consent.

5. Following the Commencement Date, the Debtors ceased making payments pursuant to a certain senior supplemental executive retirement plan (the "SSERP"), and asserted in their Schedules of Assets and Liabilities that Participants in the SSERP held unliquidated liabilities against WMI.

6. As set forth more fully in the Settlements Motion, the Debtors were able to reach settlement agreements with the Participants resolving their claims pursuant to the SELIP and the SSERP and releasing to WMI its cash under the SELIP policies, and, through the Settlements Motion, seek the Court's approval of those agreements (the "Agreements"). The Agreements, copies of which are attached to the Settlements Motion and are to be attached to any order of this Court granting the relief sought pursuant to the Settlements Motion, however, contain personally identifiable, private information concerning the Participants (the "Confidential Information").

#### **Relief Requested**

7. Through this Motion, the Debtors seek entry of an order, pursuant to section 107(c) of the Bankruptcy Code, Bankruptcy Rule 9018 and Local Rule 9018-1, authorizing the Debtors, and directing the Clerk of the Court, (i) to file redacted versions on the Court's docket for these cases of the Exhibits, as attached to the Settlements Motion and to any order, as entered, granting the relief sought pursuant to the Settlements Motion, and (ii) to submit to the Court and maintain unredacted copies of the Exhibits and any such order under seal.

### Bases for Relief Requested

8. Section 107(c) of the Bankruptcy Code provide this Court with the power to issue orders to protect entities and persons from potential harm that may result from the disclosure of confidential information.

9. Section 107(c) provides that:

(1) The bankruptcy court, for cause, may protect an individual with respect to the following types of information to the extent the court finds that disclosure of such information would create undue risk of identity theft or other unlawful injury to the individual or the individual's property:

(A) Any means of identification (as defined in section 1028 (d) of title 18) contained in a paper filed, or to be filed, in a case under this title.

(B) Other information contained in a paper described in subparagraph (A).

10. In addition, pursuant to section 105(a) of the Bankruptcy Code, the Court may "issue any order, process, or judgment that is necessary or appropriate to carry out the provisions" of the Bankruptcy Code.

11. The Debtors submit that cause exists for the Court to grant the relief requested herein. The Exhibits each include the Confidential Information, which includes personally identifiable information regarding the Participants, as would any order entered by this Court granting the relief sought pursuant to the Settlements Motion. The disclosure of this information in the public record could impact the Participants' privacy interests. Moreover, there is no harm in redacting the Confidential Information from the Debtors' public filings and providing it only on a limited basis to those parties who truly need access to it. Indeed, only personally identifiable information will be redacted and all economic terms of the Agreements will be disclosed.

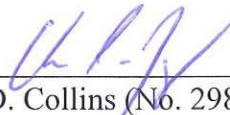
12. The Debtors propose providing unredacted copies of the Settlements Motion and the Exhibits, on a confidential basis, to the Court, the Participants' counsel, counsel to the official committee of unsecured creditors (the "Creditors' Committee"), counsel to the Official Committee of Equity Holders (the "Equity Committee"), and the Office of the United States Trustee (the "U.S. Trustee").

**Notice**

13. No trustee or examiner has been appointed in these chapter 11 cases. Notice of this Motion has been provided to: (i) the U.S. Trustee; (ii) counsel for the Creditors' Committee; (iii) counsel for the Equity Committee; (iv) counsel for the Participants; and (v) parties entitled to receive notice in these chapter 11 cases pursuant to Bankruptcy Rule 2002. In light of the nature of the relief requested, the Debtors submit that no other or further notice need be provided.

WHEREFORE, the Debtors respectfully request entry of the Proposed Order authorizing the Debtors to file certain portions of the Settlements Motion and the Exhibits under seal, and granting such other and further relief as the Court deems appropriate.

Dated: March 16, 2010  
Wilmington, Delaware

  
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ATTORNEYS TO THE DEBTORS  
AND DEBTORS IN POSSESSION

**EXHIBIT A**

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF DELAWARE

-----X  
: **Chapter 11**  
: **Case No. 08-12229 (MFW)**  
: **(Jointly Administered)**  
: **Re: Docket No. \_\_\_\_\_**  
-----X

*In re*  
WASHINGTON MUTUAL, INC., et al.,<sup>1</sup>  
Debtors.

**ORDER AUTHORIZING THE  
DEBTORS TO FILE UNDER SEAL (A) EXHIBITS A, B, C, AND D TO THE  
MOTION OF WASHINGTON MUTUAL, INC. FOR AN ORDER, PURSUANT TO  
SECTION 105(a) OF THE BANKRUPTCY CODE AND BANKRUPTCY RULE  
9019, APPROVING SETTLEMENT AGREEMENTS BETWEEN WASHINGTON  
MUTUAL, INC. AND CERTAIN EMPLOYEE BENEFIT PLAN PARTICIPANTS  
AND (B) ANY ORDER GRANTING THE MOTION, AS ENTERED BY THE COURT**

Upon the motion (the "Motion")<sup>2</sup> of the Debtors pursuant to 11 U.S.C. § 107(c), Rule 9018 of the Federal Rules of Bankruptcy Procedure, and Rule 9018-1(b) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware for entry of an authorizing the Debtors to file under seal (i) Exhibits A, B, C, and D (the "Exhibits") of the *Motion of Washington Mutual, Inc. for an Order, Pursuant to Section 105(a) of the Bankruptcy Code and Bankruptcy Rule 9019, Approving Settlement Agreements Between Washington Mutual, Inc. and Certain Employee Benefit Plan Participants* (the "Settlements Motion") and (ii) any order, as entered by this Court, granting the relief sought pursuant to the Settlements Motion, filed contemporaneously with the Motion; and the Court

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

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion.



finding that it has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334; and this Motion is a core proceeding pursuant to 28 U.S.C. §157(b); and venue being proper before this Court pursuant to 28 U.S.C. § 1408 and 1409; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted in this Order; and after due deliberation and sufficient cause appearing for the entry of this Order

IT IS HEREBY ORDERED THAT

1. The Motion is GRANTED.
2. The Debtors are authorized to file redacted versions on the Court's docket for these cases of the Exhibits, as attached to the Settlements Motion and to any order, as entered, granting the relief sought pursuant to the Settlements Motion.
3. The Debtors are authorized to submit under seal unredacted copies of the Exhibits to the Court.

Dated: March \_\_\_\_, 2010  
Wilmington Delaware

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THE HONORABLE MARY F. WALRATH  
UNITED STATES BANKRUPTCY JUDGE