

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF DELAWARE**

In re

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

Debtors.

Chapter 11

Case No. 08-12229 (MFW)

Jointly Administered

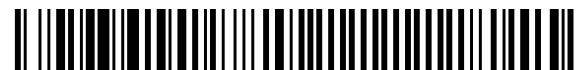
Related Docket No. 3579

**MOTION TO SHORTEN NOTICE OF THE MOTION AND SUPPORTING  
MEMORANDUM OF THE OFFICIAL COMMITTEE OF EQUITY  
SECURITY HOLDERS FOR THE APPOINTMENT OF AN EXAMINER  
PURSUANT TO SECTION 1104(c) OF THE BANKRUPTCY CODE**

The Official Committee of Equity Security Holders (the “Equity Committee”)<sup>2</sup> of Washington Mutual, Inc. (“WMI” and, together with its chapter 11 debtor-affiliate, WMI Investment Corp., the “Debtors”), by and through its undersigned counsel, respectfully submits this motion (the “Motion to Shorten”) for entry of an Order pursuant to sections 102(1) and 105(a) of title 11 of the United States Code (the “Bankruptcy Code”), Rules 2002 and 9006 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Rule 9006-1(e) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”) shortening notice with respect to the *Motion and Supporting Memorandum of the Official Committee of Equity Security Holders for the Appointment of an Examiner Pursuant to Section 1104(c) of the Bankruptcy Code* (the

<sup>1</sup> Debtors in these Chapter 11 cases and the last four digits of each Debtor’s federal tax identification numbers are: (i) Washington Mutual, Inc. (3725) and (ii) WMI Investment Corp. (5395). The Debtors are located at 925 Fourth Avenue, Suite 2500, Seattle, Washington 98104.

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



“Examiner Motion”), filed contemporaneously herewith. The grounds for the relief requested are set forth more fully in the Examiner Motion and are incorporated herein by reference.

Further, the Equity Committee respectfully states as follows:

### **PRELIMINARY STATEMENT**

1. This case is at a critical juncture. The Debtors have announced the Global Settlement Agreement that, although not fully agreed upon by the parties thereto, if consummated would result in the compromise of claims, the face value of which aggregate in the multi-billions of dollars. The Global Settlement Agreement is the cornerstone of the Debtors' recently filed plan of reorganization (the "Plan"). The Global Settlement Agreement not only would result in a settlement and release of claims of the Debtors and the Debtors' creditors and equity interest holders against JPMorgan Chase and the FDIC, it provides for cash payments to JPMorgan Chase that would essentially reimburse JPMorgan Chase for its purchase of WMB's assets. The list of unanswered questions regarding both the events that led to intervention by OTS and the FDIC and the Debtors' decision to enter into the Global Settlement Agreement far outstretch the Debtors' supposed justifications for entering into the settlement – and the list has grown in recent weeks as U.S. Senate and agency investigations have produced new disclosures about the events that led to the seizure and sale of WMB and the Debtors' collapse into Chapter 11. Perhaps most unsettling is that as recently as late January 2010, the Debtors were urging the Court to permit further Rule 2004 examination of third parties so that the Debtors might better identify and assess the strength of both asserted and unasserted claims that they now propose to abandon and release without benefit of such an investigation. The time has come for an independent examination under the authority of this Court.

2. Time is of the essence. The Debtors have scheduled a hearing on May 19, 2010 to request Court approval of their proposed Disclosure Statement and have announced their intention, if authorized, to solicit acceptances of the Plan with all deliberate speed in a rush to consummate the Global Settlement Agreement before parties in interest have an opportunity to investigate and determine whether the Debtors are squandering significant value that would otherwise be recoverable by the estate. Respectfully, the Equity Committee requests that the Motion to Shorten be approved so that the Court can consider the relief sought in the Examiner Motion at the hearing scheduled for May 5, 2010 at 10:30 a.m. (the "May 5<sup>th</sup> Hearing").

### **JURISDICTION AND VENUE**

3. This Court has jurisdiction over these matters 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 in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

4. The statutory predicates for the relief requested herein are Bankruptcy Code Sections 102(1) and 105(a), Bankruptcy Rules 2002 and 9006 and Local Rule 9006-1(e).

### **PROCEDURAL BACKGROUND**

5. On September 26, 2008 (the "Petition Date"), each of the Debtors filed with this Court a voluntary petition for relief under Chapter 11 of the Bankruptcy Code. The Debtors continue to manage and operate their businesses as debtors-in-possession pursuant to Bankruptcy Code Sections 1107(a) and 1108.

6. On October 15, 2008, the United States Trustee for the District of Delaware (the "U.S. Trustee") appointed the official committee of unsecured creditors (the "Creditors' Committee"). On January 11, 2010, the U.S. Trustee appointed the Equity Committee.

7. At the hearing held on March 12, 2010, the Debtors announced on the record the broad strokes of the Global Settlement Agreement that include a compromise and settlement of their disputes with JPMorgan Chase, the FDIC and others.

8. On March 26, 2010, the Debtors filed the Plan and the proposed Disclosure Statement, together with a draft of the Global Settlement Agreement. As of April 23, 2010, however, the final terms of the Global Settlement Agreement had not been fully agreed to by all parties thereto.

9. For the reasons set forth in the Examiner Motion filed contemporaneously herewith, the Equity Committee seeks entry of an order appointing an Examiner to investigate those potential claims and causes of action that could enhance the value of the estate, all of which are more fully described in the Examiner Motion.

#### **RELIEF REQUESTED**

10. By this Motion to Shorten, the Equity Committee respectfully requests that the Court enter an order: (i) shortening the notice period to enable the Equity Committee to present the Examiner Motion for consideration at the May 5<sup>th</sup> hearing; (ii) setting a shortened objection deadline with respect to the Examiner Motion; and (iii) granting such other and further relief that the Court deems appropriate.

#### **ARGUMENT**

11. In accordance with Local Rule 9006-1(c)(i) and Bankruptcy Rule 2002, as recently revised, the Equity Committee would generally be required to provide at least seventeen days notice of the Motion to the parties in interest specified in Local Rule 2002-1(b). Del. Bankr. L.R. 9006-1(c)(i). However, Local Rule 9006-1(e) provides that the Court may shorten

this notice period “on written motion (served on all interested parties) specifying the exigencies justifying shortened notice.” Del. Bankr. L.R. 9006-1(e).

12. The Equity Committee respectfully submits that shortening notice is justified and appropriate here. As set forth in the Examiner Motion, there exist numerous unanswered questions regarding the events that led to the commencement of this chapter 11 case. The Debtors initially recognized the critical nature of those questions and the importance of answering them if the estates' assets were to be maximized for the benefit of creditors and other interested parties. Now, the Debtors seem all too eager to avoid discovering the truth and would rather sweep those claims they initially touted under the rug in the name of expeditiously charging toward confirmation of a plan that will forever wipe out any additional (potentially very significant) recovery that rightly belongs to the estate. Immediate appointment of an Examiner is critical so that an independent examination of the claims held or assertable by the estates may be timely performed.

13. Based on the foregoing, the Equity Committee respectfully submits that shortening notice to allow the Examiner Motion to be heard at the May 5th Hearing is reasonable and appropriate under the circumstances.

### **NOTICE**

14. Notice of this Motion to Shorten has been provided to (i) the United State Trustee; (ii) counsel to the Debtors; (iii) counsel to the Creditors' Committee and (iv) those parties who have requested service pursuant to Bankruptcy Rule 2002, in accordance with Local Rule 2002-1(b). In light of the nature of the relief requested herein, the Equity Committee submits that no other or further notice need be provided.

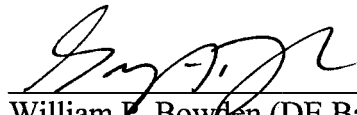
**NO PRIOR REQUEST**

15. No prior request for the relief sought in the Motion to Shorten Notice has been made to this Court or any other court.

**WHEREFORE**, the Equity Committee respectfully requests entry of an order, substantially in the form attached hereto as Exhibit A: (i) shortening the notice period to enable the Equity Committee to present the Examiner Motion for consideration at the May 5th Hearing; (ii) setting a shortened objection deadline with respect to the Examiner Motion; and (iii) granting such other and further relief that the Court deems appropriate.

Dated: April 26, 2010

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*Proposed Co-Counsel for the Official Committee of  
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**Exhibit A**  
**(Proposed Order)**



UNITED STATES BANKRUPTCY COURT  
DISTRICT OF DELAWARE

In re

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

Debtors.

Chapter 11

Case No. 08-12229 (MFW)

Jointly Administered

Related Docket No. \_\_\_\_\_

**ORDER**

The Court having considered the *Motion to Shorten Notice of the Motion and Supporting Memorandum of the Official Committee of Equity Security Holders for the Appointment of an Examiner Pursuant to Section 1104(c) of the Bankruptcy Code* (the "Motion to Shorten"); the Court having reviewed all pleadings related thereto; and the Court having determined that there exists just cause for the relief granted herein;

IT IS HEREBY ORDERED THAT:

1. The Motion to Shorten is GRANTED.
2. The Examiner Motion<sup>2</sup> shall be heard on May 5, 2010 at 10:30 a.m. (prevailing Eastern Time).
3. All objections and responses to the Examiner Motion shall be filed on or before May \_\_\_\_\_, 2010 at \_\_: \_\_.m. (prevailing Eastern Time).

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

4. This Court shall retain jurisdiction over any and all issues arising from or related to the implementation of this Order.


Dated: \_\_\_\_\_, 2010

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THE HONORABLE MARY F. WALRATH  
UNITED STATES BANKRUPTCY JUDGE

**CERTIFICATE OF SERVICE**

I, Gregory A. Taylor, hereby certify that on April 26, 2010, I caused one copy of the foregoing document to be served upon the parties on the attached service list by Hand Delivery (local) and first class U.S. Mail, postage prepaid (non-local), unless otherwise indicated.

  
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