IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:
WASHINGTON MUTUAL, INC., et al., 1
Debtors.

Chapter 11
Case No. 08-12229 (MFW)
(Jointly Administered)
Related Docket No. 3742 & 3745

STATEMENT OF EQUITY SECURITY HOLDER PHILIPP SCHNABEL
TO APPROVAL OF THE MOTION OF DEBTORS FOR AN ORDER, PURSUANT TO SECTIONS 105,502, 1125, 1126, AND 1128 OF THE BANKRUPTCY CODE AND BANKRUPTCY RULES 2002,3003,3017,3018 AND 3020, (I) APPROVING THE PROPOSED DISCLOSURE STATEMENT AND THE FORM AND MANNER OF THE NOTICE OF THE DISCLOSURE STATEMENT HEARING, (II) ESTABLISHING SOLICIT A TION AND VOTING PROCEDURES, (III) SCHEDULING A CONFIRMATION HEARING, AND (IV) ESTABLISHING NOTICE AND OBJECTION PROCEDURES FOR CONFIRMATION OF THE DEBTORS' JOINT PLAN

PRELIMINARY STATEMENT

The Debtors ask this Court to allow them to solicit votes to accept a Plan the cornerstone of which is a " global settlement" (the "Proposed Settlement"). Yet the Proposed Settlement, and thus the Plan which is conditioned upon the effectiveness of the Proposed Settlement, is ridiculous.

The proposed Disclosure Statement, Proposed Settlement and Plan lack information critical to an understanding of the Proposed Settlement and thus the Plan. These deficiencies include:

(a) potential claims against JPMorgan Chase ("JPMC")

(b) potential claims against the Debtors' directors and officers

(c) potential claims against the FDIC

(d) Disclosure regarding the current "ownership" of the Trust Preferred Securities.

(e) Disclosure regarding the current status (balances, performance, etc.) of the asset
trusts underlying the Trust Preferred Securities, including whether dividend payments have been made during the pendency of these cases.

(f) Disclosure regarding what information and factors the Debtors considered before deciding to "settle" billions of dollars in estate claims and causes of action.

(g) Disclosure regarding what information and factors the Debtors considered before
attempting to force the non-consensual "settlement" of billions of dollars in potential claims and causes of action held by third parties (including the members of the TPS Consortium).

(h) Disclosure regarding the identity of the parties who are purported to have negotiated the "settlement" on behalf of Class 18, including the origin of the $50 million payment from JPMC to members of Class 18 under the Plan; the apparent purpose of which is to "purchase" a release of claims against JPMC and others.

(i) Disclosure regarding how counsel for the Debtors and other **case fiduciaries addressed conflicts of interest with respect to JPMC and others in negotiating a settlement that:** (i) delivers significant additional value to JPMC; (ii) releases potentially valuable estate claims and causes of action against JPMC and others; and (iii) would release involuntarily valuable third party claims against JPMC and others.

(j) Disclosure regarding the estimated value to be delivered to classes alleged to be senior to Class 18 under the Plan, in particular holders of the PIERS interests.

(k) Disclosure regarding the value of the estate claims and causes of action that are to be compromised and/or retained by the reorganized Debtors.

(l) Disclosure regarding the estates' rights to billions of dollars in tax refunds, and what was considered before deciding to deliver the majority of those tax refunds to JPMC.

(m) Disclosure regarding the management and operation of the Liquidating Trust.

(n) A liquidation analysis by which stakeholders can gauge whether they are better off under the Plan or under a Chapter 7 liquidation.

In short, nearly every essential piece of information regarding what the Proposed Settlement and the Plan are, and are not, has yet to be identified, provided, valued or otherwise disclosed by the Debtors. The Plan is not ready to be solicited.

SUMMARY OF ARGUMENT

1. The Supreme Court long ago declared that "the object of bankruptcy laws is the equitable distribution of the debtor's assets amongst his creditors." The Supreme Court reiterated this principle: "[W]e are mindful that the Bankruptcy Code aims, in the main, to secure equal distribution among creditors." For a Court to determine whether a creditor / shareholder is receiving its fair, reasonable and equitable distribution of its debtor's assets, the Court must determine, at least roughly, where the creditor stands in the hierarchy of claims, the assets available to satisfy these claims, and the number and amount of claims that must be paid before such creditor /shareholder is entitled to any distribution. The Supreme Court commented on this elementary principle in a case reversing a confirmation order based on the lower court's failure to exercise its informed and independent judgment on these base points: "In the first place, there must be a determination of what assets are subject to the payment of the respective claims."

2. For that reason, **section 521 of the Bankruptcy Code requires every debtor to file a list of creditors, a schedule of assets and liabilities, a schedule of current income and expenditures, and a statement of the debtor's financial affairs.**

3. Moreover, the Court cannot approve the Global Settlement as a justification for this redistribution of value because it reaches an irrational result.

WMI is claiming 5.4 million Class B Visa shares, the original SOFA clearly shows 5.4 million class b Visa shares. JPM contends that only 3.147 million shares were issued to WMI. (JPM vs WMI)

It is based on the present course of the legal proceedings very well placed to question the statement made by JPM.

There is no statement or information at the Disclosure Statement, why the amount of shares was reduced and why a value of the company goes away.

6. Decades ago, in reversing the approval of a settlement that was part of a reorganization plan in a case that had been pending for ten years, the Supreme Court made clear that a court faced with a request to confirm a plan that embodies a contested settlement must make an independent determination of whether the settlement is **fair and equitable** in relation to the underlying merits of the dispute. In doing so, **the Supreme Court made clear that the desire to avoid delay and expense could not excuse a non-merits based settlement.** The Global Settlement fails to satisfy that standard for reasons that include the following:

a. The settlement cannot be approved because it strips more than $3.77 billion of WMI's assets to „pay" JPMC based on faulty accounting and absurd legal positions.

Rev. Proc. 2009-52

SECTION 1. PURPOSE

.01 This revenue procedure provides guidance under § 13 of the Worker, Homeownership, and Business Assistance Act of 2009, Pub. L. No. 111-92, 123 Stat. 2984 (November 6, 2009) (the Act).

SECTION 2. BACKGROUND

*.10 Section 13(f) of the Act provides that § 172(b)(1)(H) does not apply to any taxpayer that received certain benefits (whether or not repaid) under the Emergency Economic Stabilization Act of 2008, Title I of Div. A of Pub. L. No. 110-343, 122 Stat. 3765 (TARP recipients), **or to members of the taxpayer's affiliated group.***

SECTION 4. APPLICATION

.01 Time and manner of making the election under § 172(b)(1)(H).

*(2) **Affiliated groups**. For purposes of this revenue procedure, "taxpayer" includes an affiliated group filing a consolidated return, "applicable NOL" includes a consolidated net operating loss (CNOL), and the common parent of the group makes the § 172(b)(1)(H) election. See § 1.1502-21(b); § 1.1502-77(a). However, nothing in this revenue procedure permits a consolidated return group to otherwise make or revoke a carryback waiver election for the CNOL attributable to a member acquired from another group, described in **§ 1.1502-21(b)(3)(ii)(B).** The conditions under which this election may be permitted will be the subject of separate guidance.*

b. The settlement cannot be approved because it was crafted in secret without consent, is divorced from any consideration of the merits, disregards the Debtors claim statements, and achieves unreasonable results that leave WMI Shareholder worse off than they would be under any plausible litigated result.

c. The settlement cannot be approved because **there is no arms' length bargain, but instead a proposal spun from whole cloth by participant of other estates that shifts all risk of loss and all costs to WMI equity holders and then—as salt in the wounds—strips those equity holder of their statutory rights to equal treatment unless they concede defeat.**

7. Just as the Global Settlement fails to satisfy the standards for approval, the Plan's violations of the Bankruptcy Code's confirmation requirements are numerous and include:

a. The treatment of Claims is both illogical and illegal, because claims of different priorities are classified together and, with no explanation, are simultaneously denied the right to vote and receive distributions (violating 11 U.S.C. §§ 1122(a),1126(g)).

b. The Plan also discriminates unfairly and violates absolute priorities, because it pays some claims nothing while other claims are paid, with no explanation.

c. The Plan is not in the best interests of the WMI stakeholders because the Plan has illegal payoffs to JPM.

e. The United States Supreme Court made clear in Young v. Higbee, that it is illegal for a few members of a class to receive better treatment than other members of the class; and section 1123(a)(4) codifies this rule.

g. The illegal payoffs in the Plan made the entire solicitation of acceptances illegal, thereby showing the Plan was irreparably proposed in violation of law and not in good faith, the reverse of what is required by 11 U.S.C. § 1129(a)(1), (3).15

8. While perhaps worthy of a third-world country, the "process" that created the Plan has no relation to the one Congress envisioned when it enacted the Bankruptcy Code. This Court has already recognized that the issues before it "raise questions of extraordinary importance in this case, where there are billions of dollars at stake (and at risk).

THE PROPOSED "GLOBAL SETTLEMENT" IS FATALLY FLAWED AND THEREFORE CANNOT BE APPROVED

9. The Global Settlement fails to satisfy the standards set because of its silence and obfuscation as to how the distributions under the Plan correlate with a likely resolution of the issues in the Dispute is resolved, and because creditor recoveries under the settlement are completely divorced from the merits of the litigation, as well as the Debtors' own schedules of assets and liabilities.

10. The Court should be under no illusion that consolidation in the Plan and Global Settlement resemble a merits-based settlement of thedisputes between WMI and JPM. The Global Settlement is not a result of negotiating in good faith and arms' length bargain.

11. **The Plan contains illegal release, exculpation, and injunctive provisions designed to coerce and manipulate Plan acceptance.** The solicitation process is irreparably tainted and violates sections 1122 and 1126 of the Bankruptcy Code.

Conclusion

The Plan and Settlement was filed in bad faith, no arms' length bargain.
The conflict of interest should be addressed.

The Disclosure Statement does not contain sufficient information for a decision.

Sgined P. Schnabel
Philipp Schnabel

Dated: 05/18/2010 Germany, Sachsen, Radeberg