

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

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<u>In re</u>	: Chapter 11
WASHINGTON MUTUAL, INC., <u>et al.</u>	: Case No. 08-12229 (MFW)
Debtors.	: Jointly Administered
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OFFICIAL COMMITTEE OF EQUITY SECURITY HOLDERS,	: Adversary Proceeding No. 10-50731 (MFW)
Plaintiff	:
- against -	:
WASHINGTON MUTUAL, INC.,	:
Defendant.	:
----- X	

**NOTICE OF DEPOSITION OF ESOPUS CREEK VALUE, LLC  
PURSUANT TO RULE 30(b)(6) OF THE FEDERAL RULES OF CIVIL PROCEDURE**

**TO:**

William P. Bowden  
Ashby & Geddes  
500 Delaware Avenue  
P.O. Box 1150  
Wilmington, Delaware 19899


PLEASE TAKE NOTICE THAT, pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure, made applicable to this matter by Rules 9014 and 7030 of the Federal Rules of Bankruptcy Procedure, Washington Mutual, Inc. will take the deposition upon oral examination of a witness or witnesses to be designated by Esopus Creek Value, LLC ("Esopus"), who are competent to testify with respect to the matters set forth in the attached Exhibit A, commencing at 10:00 a.m. on July 13, 2010, at the offices of Richards, Layton & Finger, P.A., One Rodney Square, Wilmington, Delaware (or at such time and place as may be agreed upon by the parties). Pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure, Esopus is



required to designate one or more officers, directors, managing agents or other persons who consent to testify on the their behalf regarding the matters set forth in the attached Exhibit A.

The deposition(s) will be conducted under oath by an officer authorized to take such testimony, will be recorded by videotape and/or stenographic means, and will continue from day to day until completed or adjourned. You are invited to attend and cross-examine.

Dated: June 4, 2010  
Wilmington, Delaware

  
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Mark D. Collins (No. 2981)  
Marcos A. Ramos (No. 4450)  
Chun I. Jang (No. 4790)  
RICHARDS, LAYTON & FINGER, P.A.  
One Rodney Square  
Wilmington, Delaware 19899  
Telephone: (302) 651-7700  
Facsimile: (302) 651-7701

-- and --

Marcia L. Goldstein  
Brian S. Rosen  
WEIL, GOTSHAL & MANGES LLP  
767 Fifth Avenue  
New York, New York 10153  
Telephone: (212) 310-8000  
Facsimile: (212) 310-8007

*Attorneys for Debtors*

## EXHIBIT A

### Definitions

1. The term “WMI” means Washington Mutual, Inc.
2. The term “Equity Committee” means the Official Committee of Equity Security Holders of WMI appointed by the United States Trustee in the above-captioned Chapter 11 case and includes each and every member of the Equity Committee (including Esopus Creek Value, LLC, Dorthea Barr, Kenneth I. Feldman, Tyson Matthews, Joyce M. Presnall, Saul Sutton, and Michael Willingham), each individual represented by a member of the Equity Committee (if any), and the entity (or entities, as the case may be) that he, she, or it represents on the Equity Committee.
3. The term “Debtors” means WMI and WMI Investment Corp.
4. The term “Court” means the United States Bankruptcy Court for the District of Delaware.
5. The term “Plan” means the Joint Plan of Affiliated Debtors filed by Debtors in the above-captioned Chapter 11 case.
6. The term “Agreement” means the settlement agreement by and among, inter alia, Debtors, JPMorgan Chase, N.A., and the Federal Deposit Insurance Corp. announced to the Court on March 12, 2010.
7. The term “Action” means the adversary proceeding filed in the Court on March 3, 2010, by the Equity Committee captioned Official Committee of Equity Security Holders v. Washington Mutual, Inc. (Adversary Proceeding No. 10-50731 (MFW)).
8. The term “Counterclaim” means WMI’s counterclaim set forth in WMI’s Answer and Counterclaim to Plaintiff’s Complaint filed in the Court on April 7, 2010.

9. The terms “you” and “your” mean Esopus Creek Value LLC, all persons acting on its behalf, and any person, business, or other entity that it represents on the Equity Committee.

**Topics for Examination**

1. Debtors’ Chapter 11 cases.
2. The Action and the Counterclaim, including but not limited to the allegations contained in the complaint filed by the Equity Committee in the Action on March 3, 2010, and the Equity Committee’s efforts to require WMI to convene and hold an annual shareholders’ meeting for the nomination of WMI’s board of directors.
3. Your appointment to and service on the Equity Committee.
4. All documents and communications that refer or relate to WMI.
5. Your ownership of WMI securities and Esopus Creek Value LLP’s ownership of WMI securities.
6. The projected value of your WMI shares and Esopus Creek Value LLP’s shares under the Plan and Agreement.
7. The treatment of holders of WMI common and preferred equity under the Plan and Agreement.
8. Any valuation, appraisal, or other similar analysis of WMI securities or any of the Debtors’ assets, including causes of action for the WMI estate’s benefit.
9. Any public statements that you have made concerning Debtors, their Chapter 11 cases, the Plan, the Agreement, the Action, and the Counterclaim.
10. When you first learned of a possible settlement of any litigation among Debtors, JPMorgan Chase, N.A., and the Federal Deposit Insurance Corp.

11. Whether WMI preferred shareholders are entitled to vote, as a group, for WMI directors and whether WMI common shareholders are entitled to vote, as a group, for WMI directors.

12. The Plan, the Equity Committee's opposition or support for the Plan, and the bases for the Equity Committee's opposition or support for the Plan.

13. The Agreement, the Equity Committee's opposition or support for the Agreement, and the bases for the Equity Committee's opposition or support for the Agreement.

14. The projected expenses that each of (i) WMI and (ii) the Equity Committee would incur if a WMI annual shareholders meeting were convened and held and each of these entities waged a proxy contest for the election of WMI directors at such a meeting.

15. The candidates for director that the Equity Committee intends to nominate for WMI's board of directors if an annual meeting of WMI shareholders were convened and held and the position that those candidates would take with respect to the Plan and Agreement.

16. WMI preferred and common security holders' ability to nominate a majority of WMI's board of directors

17. All communications between or among you and one or more members of the Equity Committee.

18. Any agreement between or among you and one or more members of the Equity Committee concerning Debtors and their above-captioned chapter 11 cases and adversary proceeding.

19. The replacement of advisors to or management of Debtors.

20. The subject matter of each of the requests contained in Debtor's First Request for the Production of Documents Directed to the Official Committee of Equity Security Holders of Washington Mutual, Inc. and your responses thereto, including the bases for those responses.

21. The existence, location, organization, and contents of all documents and information produced by you in response to Debtor's First Request for the Production of Documents Directed to the Official Committee of Equity Security Holders of Washington Mutual, Inc.

22. All facts relating to your search for documents and information produced by you in response to Debtor's First Request for the Production of Documents Directed to the Official Committee of Equity Security Holders of Washington Mutual, Inc.

23. Your document retention policy and/or your efforts (a) to preserve and not to destroy or delete documents potentially relevant to the claims asserted in the Action, the Counterclaim, or Debtors' chapter 11 cases and/or (b) to generate, maintain and preserve electronic data or backup tapes for electronically stored information.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 4th day of June 2010, he caused a copy of the foregoing **Notice of Deposition of Esopus Creek Value, LLC Pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure** to be served on counsel of record in this proceeding as follows:

**Via Hand Delivery**

William P. Bowden  
Ashby & Geddes  
500 Delaware Avenue  
P.O. Box 1150  
Wilmington, DE 19899

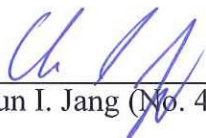
**Via First Class Mail**

David B. Stratton  
Evelyn J. Meltzer  
John H. Schanne, II  
Pepper Hamilton LLP  
Hercules Plaza, Suite 5100  
1313 Market Street  
Wilmington, DE 19801

Fred S. Hodara  
Robert A. Johnson  
Akin Gump Strauss Hauer & Feld LLP  
One Bryant Park  
New York, NY 10036

Parker C. Folse, III  
Edgar Sargent  
Justin A. Nelson  
Susman Godfrey, L.L.P.  
1201 Third Avenue, Suite 3800  
Seattle, WA 98101

Stephen D. Susman  
Seth D. Ard  
Susman Godfrey, L.L.P.  
654 Madison Avenue, 5<sup>th</sup> Floor  
New York, NY 10065

  
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Chun I. Jang (No. 4790)