

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:	)	Chapter 11
	)	
WASHINGTON MUTUAL, INC., <u>et al.</u> , <sup>1</sup>	)	Case No. 08-12229 (MFW)
	)	
Debtors.	)	(Jointly Administered)
	)	
	)	<b>Requested Hearing Date: June 17, 2010 at 10:30 a.m. (ET)</b>
	)	<b>Requested Obj. Deadline: June 14, 2010 at 4:00 (ET)</b>

**MOTION TO SHORTEN NOTICE AND SCHEDULE HEARING ON  
MOTION OF THE OFFICIAL COMMITTEE OF EQUITY SECURITY HOLDERS  
IN SUPPORT OF ORDER DIRECTING APPOINTMENT OF  
AN EXAMINER UNDER 11 U.S.C. § 1104(C)**

The Official Committee of Equity Security Holders (the “Equity Committee”) of Washington Mutual, Inc., by and through its undersigned counsel, hereby moves (the “Motion to Shorten”) this Court, pursuant to Rules 2002 and 9006 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), sections 102 and 105(a) of Title 11 of the United States Code (the “Bankruptcy Code”) and Rules 2002-1(b) and 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”), for the entry of an order (i) shortening notice of, and scheduling an emergency hearing on, the *Motion of the Official Committee of Equity Security Holders in Support of Order Directing Appointment of an Examiner Under 11 U.S.C. § 1104(c)* (the “Motion”) for June 17, 2010 at 10:30 a.m. (the “Hearing”), the next regularly scheduled omnibus hearing in these cases, (ii) allowing objections, if any, to the Motion to be raised by June 14, 2010 at 4:00 p.m. EST, and (iii) allowing the Equity Committee to file a brief reply to any objections filed by June 16, 2010 at noon EST. In support of the Motion to Shorten, the Equity

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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: Washington Mutual, Inc. (3725) and WMI Investment Corp. (5396). The Debtors’ principal offices are located at 1301 Second Avenue, Seattle, Washington 98101.



Committee respectfully represent as follows:

### **JURISDICTION**

1. The Court has jurisdiction to consider this Motion to Shorten pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A) and (B). Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The predicates for the relief requested herein are 11 U.S.C. §§ 102(1) and 105(a), Bankruptcy Rules 2002 and 9006 and Local Rules 2002-1(b) and 9006-1(e).

### **BACKGROUND**

3. The relevant background facts are set forth in the Motion, filed contemporaneously herewith, and incorporated herein by reference.<sup>2</sup>

### **RELIEF REQUESTED**

4. By this Motion to Shorten, the Equity Committee respectfully requests that the Court enter an order (i) shortening notice of, and scheduling an emergency hearing on, the Motion for June 17, 2010 at 10:30 a.m.; (ii) allowing objections, if any, to the Motion to be raised by June 14, 2010 at 4:00 p.m. EST; and (iii) allowing the Equity Committee to file a brief reply to any objections filed by June 16, 2010 at noon EST; and (iv) granting such other and further relief as the Court deems appropriate.

### **BASIS FOR RELIEF**

5. In accordance with Local Rule 9006-1(c) and Bankruptcy Rule 2002, parties generally are required to provide a total of seventeen days notice of motions (if service is by mail) to the parties in interest specified in Local Rule 2002-1(b). However, Local Rule 9006-1(e) provides that the Court may shorten this notice period “on written motion (served on all

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

interested parties) specifying the exigencies justifying shortened notice.” DEL. BANKR. L.R. 9006-1(e).

6. The Equity Committee respectfully submits that sufficient cause exists for shortening notice of, and scheduling an emergency hearing on, the Motion and approving the requested objection deadline. Both the Debtors and the Creditors’ Committee objected to the Equity Committee’s previous motion to appoint an examiner, arguing that appointment of an examiner was unnecessary in light of the extensive investigation into the potential claims against the FDIC and JPMC already undertaken. On May 5, 2010, this Court denied the Equity Committee’s Motion. Denial was premised on two key facts: (1) that the Debtors and Creditors’ Committee already had conducted an investigation into the assets held by the Estates; and (2) that the Debtors and Creditors’ Committee would share the results of that investigation with the Equity Committee. Events subsequent to the May 5, 2010 hearing have eviscerated both of these premises.

7. As described in the Motion, the extent of the Debtors' and Creditors' Committee's investigation has been drastically overstated. Moreover, the Debtors have refused to share with the Equity Committee the fruits of their investigation thus necessitating the equity Committee to "reinvent the wheel." Appointment of an Examiner now will allow a full and transparent accounting of the assets of the Estates – an accounting that will be vital in shaping the positions of all parties to this case – as well as an independent review of the basis that presumably exists for the proposed Global Settlement Agreement and the Plan for which appointment of an Examiner will substantially reduce the need for extended, contentious and time-consuming discovery by all parties. In light of these changed circumstances, the time has come to appoint an Examiner.

8. Given the accelerated schedule of these cases, the Equity Committee submits that expedited consideration of the Motion is necessary so that an Examiner, if one is appointed, will have sufficient time to conduct an independent investigation before the plan process progresses any further, and well in advance of the confirmation hearing. Thus, it is essential that the Court consider the Motion as soon as practicable.

9. Given the foregoing exigent circumstances, the Equity Committee submits that the relief requested in this Motion to Shorten is reasonable, appropriate and necessary.

### **NOTICE**

10. Notice of the Motion and this Motion to Shorten Notice will be given to the following parties, or, in lieu thereof, to their counsel: (i) the Debtors; (ii) the United States Trustee for the District of Delaware; (iii) the Official Committee of Unsecured Creditors; 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**

11. No previous application for the specific relief requested herein has been made to this or any other Court.

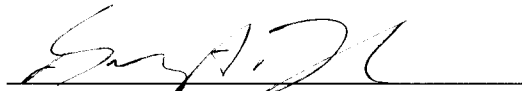
### **CONCLUSION**

**WHEREFORE**, the Equity Committee respectfully requests entry of an order, substantially in the form attached hereto as Exhibit A, (i) shortening notice of, and scheduling an emergency hearing on, the Motion for June 17, 2010 at 10:30 a.m.; (ii) allowing objections, if any, to the Motion by June 14, 2010 at 4:00 p.m. EST; (iii) allowing the Equity Committee to file

a brief reply to any objections filed by June 16, 2010 at noon EST, and (iv) granting such other and further relief as the Court deems appropriate.

Dated: June 8, 2010  
Wilmington, Delaware

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**Exhibit A**

**[Proposed Order]**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

		Chapter 11
In re:	)	
	)	Case No. 08-12229 (MFW)
WASHINGTON MUTUAL, INC., <u>et al.</u> , <sup>1</sup>	)	(Jointly Administered)
	)	
Debtors.	)	<b>Related Docket No.</b> _____
	)	
	)	

**ORDER SHORTENING NOTICE AND SCHEDULING HEARING ON  
MOTION OF THE OFFICIAL COMMITTEE OF EQUITY SECURITY HOLDERS  
IN SUPPORT OF ORDER DIRECTING APPOINTMENT OF  
AN EXAMINER UNDER 11 U.S.C. § 1104(C)**

Upon consideration of the *Motion to Shorten Notice and Schedule Hearing on the Motion of the Official Committee of Equity Security Holders in Support of Order Directing Appointment of an Examiner Under 11 U.S.C. § 1104(c)* (the “Motion to Shorten”), pursuant to Rules 2002 and 9006 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), sections 102 and 105(a) of Title 11 of the United States Code (the “Bankruptcy Code”) and Rules 2002-1(b) and 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”), for the entry of an order shortening notice of, and scheduling an emergency hearing on, the *Motion of the Official Committee of Equity Security Holders in Support of Order Directing Appointment of an Examiner Under 11 U.S.C. § 1104(c)* (the “Motion”); and the Court finding that it has jurisdiction over 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 in this district pursuant to 28 U.S.C. §§ 1408 and

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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: Washington Mutual, Inc. (3725) and WMI Investment Corp. (5396). The Debtors’ principal offices are located at 1301 Second Avenue, Seattle, Washington 98101.

1409; the relief requested in the Motion to Shorten is in the best interests of the Debtors, their estates and creditors; proper and adequate notice has been given and no other or further notice is necessary; after due deliberation and sufficient cause appearing therefore, it is hereby:

**ORDERED, ADJUDGED AND DECREED THAT:**

1. The Motion to Shorten is GRANTED.
2. The Motion shall be heard at the omnibus hearing scheduled for **June 17, 2010 at 10:30 a.m. (EST)**.
3. Any objections to the relief requested in the Motion shall be filed and served no later than **June 14, 2010 at 4:00 p.m. (EST)**.
4. Any reply by the Equity Committee to any objections filed to the Motion shall be filed and served no later than **June 16, 2010 at noon (EST)**.
5. This Court shall retain jurisdiction over any and all issues arising from or related to the implementation of this Order.

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

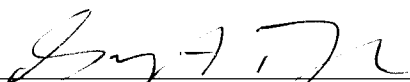
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THE HONORABLE MARY F. WALRATH  
UNITED STATES BANKRUPTCY COURT



**CERTIFICATE OF SERVICE**

I, Gregory A. Taylor, hereby certify that on June 8, 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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