

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)
)
)

) Requested Hearing Date: July 8, 2010 at 10:30 a.m. (ET)
) Requested Obj. Deadline: At the Hearing

**MOTION FOR ORDER AUTHORIZING THE OFFICIAL COMMITTEE
OF EQUITY SECURITY HOLDERS TO FILE SUPPLEMENTAL FILING
REGARDING THE EXAMINER MOTION AND THE SCOPE OF PRODUCTION
UNDER SEAL**

The Official Committee of Equity Security Holders (the "Equity Committee"), by and through its undersigned counsel, hereby submits this motion (the "Seal Motion"), pursuant to section 107 of title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (as amended, 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"), seeking an order, substantially in the form attached hereto as Exhibit A, authorizing the Equity Committee to file its *Supplemental Filing Regarding the Examiner Motion and the Scope of Production* (the "Supplement") under seal. In support thereof, the Equity Committee respectfully represents as follows:

JURISDICTION

1. This Court has jurisdiction over these matters pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceedings pursuant to 28 U.S.C. § 157(b). Venue is proper in this district

¹ 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.



pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The predicates for the relief requested herein are section 107 of the Bankruptcy Code, Bankruptcy Rule 9018 and Local Rule 9018-1.

BACKGROUND

3. The relevant background facts are set forth in the Supplement, filed contemporaneously herewith, and incorporated herein by reference.²

RELIEF REQUESTED

4. By this Seal Motion, the Equity Committee respectfully requests that the Court enter an order authorizing the Equity Committee to file the Supplement under seal, and directing that the Supplement remain under seal, and not made available to anyone except the Court, counsel for the Debtors or others upon further Court order.

BASIS FOR RELIEF REQUESTED

5. Section 107(b) of the Bankruptcy Code provides this Court with the authority to issue orders that will protect entities from potential harm that may result from the disclosure of certain information. The section provides, in relevant part:

- (b) On request of a party in interest, the bankruptcy court shall . . .
 - (1) protect an entity with respect to a trade secret or confidential research, development, or commercial information

11 U.S.C. § 107(b).

6. Bankruptcy Rule 9018 sets forth the procedures by which a party may move for relief under section 107(b) of the Bankruptcy Code, and provides, in relevant part: “the court may make any order which justice requires (1) to protect the estate or any entity in respect of a trade secret or other confidential research, development, or commercial information.” Fed. R.

² Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Supplement.

Bankr. P. 9018. Local Rule 9018-1(b) requires that a party seeking to file documents under seal file a motion to that effect, and expressly contemplates orders authorizing the filing of future documents under seal. Del. Bankr. L.R. 9018-1(b).

7. The Supplement discusses the substance of a confidential document that was produced to the Equity Committee by the Debtors under the *Interim Order Pursuant to Federal Rule of Evidence 502(d)* (the “Rule 502(d) Work Product Order”) [Docket No. 4740]. Pursuant to the Rule 502(d) Work Product Order, the Equity Committee is required to keep confidential documents received from the Debtors, and is further required not to disclose any portion of the documents to any person or entity. Importantly, the order indicates that submission of confidential documents received from the Debtors to the Court should be done pursuant to sealing. In accordance with the terms of the Rule 502(d) Work Product Order, the Equity Committee respectfully requests that it be permitted to file the Supplement under seal.

NOTICE

8. Notice of this Seal Motion has been provided to (i) the United State Trustee; (ii) counsel to the Debtors; and (iii) 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

9. No previous request for the relief requested herein has been made to this or any other court.

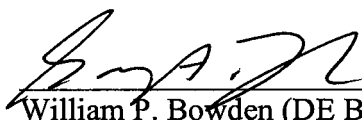
CONCLUSION

WHEREFORE, for the reasons set forth above, the Equity Committee respectfully requests that the Court enter an order, substantially in the form attached hereto as Exhibit A,

granting the relief requested herein and awarding such other and further relief that the Court deems just and proper.

Dated: July 7, 2010
Wilmington, Delaware

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EXHIBIT A

**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> , ¹)	
)	(Jointly Administered)
Debtors.)	
)	Related Docket No. _____

**ORDER GRANTING THE OFFICIAL COMMITTEE
OF EQUITY SECURITY HOLDERS AUTHORITY TO FILE SUPPLEMENTAL
FILING REGARDING THE EXAMINER MOTION AND THE SCOPE OF
PRODUCTION UNDER SEAL**

Upon consideration of the *Motion For Order Authorizing the Official Committee of Equity Security Holders to File Supplemental Filing Regarding the Examiner Motion and the Scope of Production Under Seal* (the "Seal Motion")² filed by the Official Committee of Equity Security Holders (the "Equity Committee"), the Court finds 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 1409; the relief requested in the Seal Motion 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 thereof, it is hereby:

ORDERED, ADJUDGED, AND DECREED THAT:

1. The Seal Motion is **GRANTED** as described herein.
2. The Equity Committee is authorized to file the Supplement under seal.

¹ 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.

² All capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Motion.

3. The Supplement shall remain under seal, and not made available to anyone except for this Court, counsel for the Debtors or others upon further Court order.

4. This Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: Wilmington, Delaware
July _____, 2010

THE HONORABLE MARY F. WALRATH
UNITED STATES BANKRUPTCY COURT