

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 to Docket No. 5390

**CERTIFICATION OF COUNSEL WITH RESPECT TO ORDER AUTHORIZING
EXAMINER TO FILE EXAMINER'S FINAL REPORT UNDER SEAL ON A
TEMPORARY BASIS AND ESTABLISHING PROCEDURES FOR REMOVING SEAL**

The undersigned, counsel to Joshua R. Hochberg, the Examiner, (the "Examiner"), hereby certifies as follows:

1. On September 7, 2010, the Examiner's Preliminary Report and Motion for Additional Relief (the "Preliminary Report") [Docket No. 5390] was filed with the Court. In the Preliminary Report, the Examiner requested, in part, that the Court establish procedures to address confidentiality issues so that the Final Report may be publicly released.

2. On September 7, 2010, the Court held a hearing on the Preliminary Report and also considered the additional relief sought in the Preliminary Report. At the conclusion of the Hearing, the Court requested the Examiner confer with certain parties in interest and submit a revised proposed order establishing procedures to address confidentiality issues.

3. Attached hereto as Exhibit 1 is a revised proposed Order Authorizing Examiner To File Examiner's Final Report Under Seal On A Temporary Basis And Establishing Procedures For Removing Seal (the "Revised Proposed Order"). Attached hereto as Exhibit 2 is a black line Revised Proposed Order which reflects all changes to the proposed order that was

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.



filed with the Preliminary Report. The Revised Proposed Order was circulated to counsel for the Debtors, the United States Trustee, the Official Committee of Unsecured Creditors, the Official Committee of Equity Security Holders, the FDIC, the Lead Plaintiff and the Putative Class, and JPMorgan Chase and they have not objected to the Revised Proposed Order. Accordingly, the Examiner respectfully requests the Court enter the Revised Proposed Order.

Dated: October 7, 2010


MCKENNA LONG & ALDRIDGE LLP
Henry F. Sewell, Jr., Esq.
J. Michael Levengood, Esq.
David E. Gordon, Esq.
303 Peachtree Street, N.E., Suite 5300
Atlanta, Georgia 30318
Telephone (404) 527-4000
Facsimile (404) 527-4198

-and-

Daniel J. Carrigan, Esq.
MCKENNA LONG & ALDRIDGE, LLP
1900 K Street NW
Washington, DC 20006-1108
Telephone: (202)-496-7208
Facsimile: (202) 496-7756

-and-

COLE, SCHOTZ, MEISEL,
FORMAN & LEONARD, P.A.



J. Kate Stickles (No. 2917)
Patrick J. Reilley (No. 4451)
500 Delaware Avenue, Suite 1410
Wilmington, Delaware 19801
Telephone: (302) 652-3131
Facsimile: (302) 652-3117

Counsel to the Examiner

EXHIBIT 1

REVISED PROPOSED ORDER

**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)

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Related to Docket No. 5390

**ORDER AUTHORIZING EXAMINER TO FILE EXAMINER'S FINAL REPORT
UNDER SEAL ON A TEMPORARY BASIS AND ESTABLISHING PROCEDURES FOR
REMOVING SEAL**

Upon the application for an Order to establish procedures for the filing of his final report contained in the *Examiner's Preliminary Report and Request for Additional Relief* (the "Preliminary Report") filed by Joshua R. Hochberg as examiner in these cases (the "Examiner"); said Preliminary Report having been served upon the United States Trustee, counsel to the Debtors, counsel to the Equity Committee, counsel for the Unsecured Creditors' Committee, and all parties who have filed a notice of appearance in the Chapter 11 Cases pursuant to Fed. R. Bankr. P. 2002; the Court finding that such notice is appropriate and sufficient under the circumstances; the Court having reviewed the Preliminary Report; and finding good cause to grant the relief requested in the Preliminary Report, it is

ORDERED, ADJUDGED, and DECREED:

1. Pursuant to Section 107(b) of the Bankruptcy Code and Rule 9018 of the Bankruptcy Rules, the Examiner is authorized to file the Final Report subject to the procedures established herein.

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. On or before 10 A.M. on October 25, 2010, the Examiner shall serve on each party that produced documentary information to the Examiner subject to either agreements to treat documents as confidential or pursuant to any protective or confidentiality order issued by this Court (“Confidential Documentary Information”), a notice containing the excerpts from the Final Report that reference, discuss, or otherwise disclose the contents of Confidential Documentary Information (“Notice”) obtained from that party. The Examiner will not provide such parties with his conclusions, recommendations, or text that does not disclose Confidential Documentary Information.

3. Parties receiving such Notice shall not further disseminate the information in the Notice except as necessary to prepare a response to the Notice.

4. Each party receiving Notice in accordance with the foregoing paragraphs shall have three days to meet and confer with the Examiner in an attempt to resolve any confidentiality issues. All meet and confer conferences must be completed by the close of business on October 27, 2010.

5. Should matters remain in dispute, the Examiner shall provide the parties with his final position with respect to any confidentiality issues within two days of the meet and confer conference with the party but no later than October 28, 2010.

6. Any party who objects to any discussion of its Confidential Documentary Information in the Final Report shall file its objections under seal with the Court on or before October 29, 2010 specifying the grounds upon which it claims such Confidential Documentary Information should remain under seal.

7. On or before November 1, 2010, the Examiner shall file on the public record a Final Report, which shall redact references, discussion, or other disclosure of Confidential

Documentary Information as to which any party has filed an objection. The Examiner shall also file under seal an unredacted copy of the Final Report.

8. This Court shall retain jurisdiction to resolve any disputes arising or related to this Order including any discovery disputes that may arise between or among the parties and to interpret, implement, and enforce the provisions of this Order.

9. This Order is without prejudice to the Examiner's right to alter, amend, or modify the relief requested in the Preliminary Report.

SO ORDERED THIS ____ day of September, 2010

MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT 2

BLACK LINED REVISED PROPOSED ORDER

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

In re:

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Chapter 11

Case No. 08-12229 (MFW)

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Related to Docket No. 5390

Deleted: _____

**ORDER AUTHORIZING EXAMINER TO FILE EXAMINER'S FINAL REPORT
UNDER SEAL ON A TEMPORARY BASIS AND ESTABLISHING PROCEDURES FOR
REMOVING SEAL**

Upon the application for an Order to establish procedures for the filing of his final report contained in the *Examiner's Preliminary Report and Request for Additional Relief* (the "Preliminary Report") filed by Joshua R. Hochberg as examiner in these cases (the "Examiner"); said Preliminary Report having been served upon the United States Trustee, counsel to the Debtors, counsel to the Equity Committee, counsel for the Unsecured Creditors' Committee, and all parties who have filed a notice of appearance in the Chapter 11 Cases pursuant to Fed. R. Bankr. P. 2002; the Court finding that such notice is appropriate and sufficient under the circumstances; the Court having reviewed the Preliminary Report; and finding good cause to grant the relief requested in the Preliminary Report, it is

ORDERED, ADJUDGED, and DECREED:

1. Pursuant to Section 107(b) of the Bankruptcy Code and Rule 9018 of the Bankruptcy Rules, the Examiner is authorized to file the Final Report subject to the procedures established herein.

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. On or before 10 A.M. on October 25, 2010, the Examiner shall serve on each party that produced documentary information to the Examiner subject to either agreements to treat documents as confidential or pursuant to any protective or confidentiality order issued by this Court ("Confidential Documentary Information"), a notice containing the excerpts from the Final Report that reference, discuss, or otherwise disclose the contents of Confidential Documentary Information ("Notice") obtained from that party. The Examiner will not provide such parties with his conclusions, recommendations, or text that does not disclose Confidential Documentary Information.

3. Parties receiving such Notice shall not further disseminate the information in the Notice except as necessary to prepare a response to the Notice.

4. Each party receiving Notice in accordance with the foregoing paragraphs shall have three days to meet and confer with the Examiner in an attempt to resolve any confidentiality issues. All meet and confer conferences must be completed by the close of business on October 27, 2010.

5. Should matters remain in dispute, the Examiner shall provide the parties with his final position with respect to any confidentiality issues within two days of the meet and confer conference with the party but no later than October 28, 2010.

6. Any party who objects to any discussion of its Confidential Documentary Information in the Final Report shall file its objections under seal with the Court on or before October 29, 2010 specifying the grounds upon which it claims such Confidential Documentary Information should remain under seal.

7. On or before November 1, 2010, the Examiner shall file on the public record a Final Report, which shall redact references, discussion, or other disclosure of Confidential

Deleted: covered by the Court's Order Governing the Production and Use of Discovery Materials in Connection with Plan Confirmation [Docket No. 4863] or

Deleted: covered by that Order

Documentary Information as to which any party has filed an objection. The Examiner shall also file under seal an unredacted copy of the Final Report.

8. This Court shall retain jurisdiction to resolve any disputes arising or related to this Order including any discovery disputes that may arise between or among the parties and to interpret, implement, and enforce the provisions of this Order.

9. This Order is without prejudice to the Examiner's right to alter, amend, or modify the relief requested in the Preliminary Report.

SO ORDERED THIS ____ day of September, 2010

MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE