November 19, 2010

Hon. Mary F. Walrath

United States Bankruptcy Court

District of Delaware

824 Market Street, 5th Floor

Wilmington, DE 19801

Re: In re Washington Mutual. Inc. et al. Case Number 08-12229 (MFW) (Jointly Administered)

Objection to the Plan of Reorganization

Dear Judge Walrath:

I am writing on behalf of myself as a shareholder of various Washington Mutual Securities (and those similarly situated) and as a concerned citizen. I have been tracking the progress of this case since its inception. I hold PIERS units, Preferred Equity of WMI, and Common Equity of WMI.

Naturally, my curiosity has lead me to research various aspects of bankruptcy law in general, and aspects surrounding plan confirmation in particular. Thus, although I trust that counsel for the equity committee has adequate experience and resources with which to represent my interests in the subject case (the "Case"), I feel compelled to forward my concerns.

My concerns with the confirmation of the Debtors' Plan of Reorganization, as amended, (the "Plan") are as follows:

The Debtors' Plan Has Been Proposed in Bad Faith

1. The Plan violates Section 1129(a)(3) of the Bankruptcy Code, which mandates that a plan have been "proposed in good faith and not by any means forbidden by law."
2. Throughout the course of the Case, Debtors' by and through Debtors' counsel, have continually acted adversely to equity, while simultaneously representing to the court through Debtors' counsel that equity's interests are adequately represented (e.g., in motions and hearings on the formation of an equity committee, etc.). Recognizing the Debtors' and Debtors' counsels' fiduciary duty to equity security holders, the Debtors' representations to the court cannot be reconciled with its conduct.
3. By locking out equity's interests in the negotiation of the Plan, without adequate disclosure that Debtors intended to conduct negotiations, dispose of assets, and litigate claims only to the extent to ensure that equity interests would not be recoverable, Debtors, by and through its counsel, have egregiously breached the duties of loyalty and care owed to its equity security holders.

0812229101123000000000010

4. Such breaches may also violate various state and federal laws that proscribe conduct amounting to fraud, unfair competition, and anti-competitive practices and/or are targeted toward consumer protection.
5. Taken alone, these considerations demonstrate that the Plan has been proposed in bad faith and had been proposed by means likely forbidden by law.
6. The coercive "trap door" voting mechanism which purports to release the Debtors and various third parties from essentially any liability toward WMI equity holders, as information material to the understanding to these releases pours out on the eve of confirmation hearings, is yet further evidence of Debtors' and Debtors' counsels' breach of fiduciary duty to equity security holders.[1,2]
7. As further demonstrated herein, Debtors have worked closely with the Settlement Note Holder constituent to the exclusion, detriment, and outright hostility to its equity security holders in crafting the Plan and Global Settlement Agreement (the "GSA") in contravention of its fiduciary duty to its equity security holders.
8. As a result of the foregoing, it is hereby requested that the court find that 1) the Plan violates Section 1129(a)(3) of the Bankruptcy Code, by finding that the Plan was proposed in bad faith or by means forbidden by law, and 2) that the plan cannot be confirmed.

Settlement Note Holders' Acceptance of the Plan Should Be Designated Under Bankruptcy Code Section 1126(e)

9. Section 1126(e) of the Bankruptcy Code provides that "[o]n request of a party in interest . . . the court may designate any entity whose acceptance or rejection of such plan was not in good faith, or was not solicited or procured in good faith or in accordance with the provisions of this title." In addition, Sections 1126(c) and (d) of the Bankruptcy Code provide that the vote of any entity designated by the bankruptcy court is to be excluded in assessing whether the requisite majorities for class acceptance have been achieved.
10. As mentioned above, Debtors have worked closely with the Settlement Note Holder constituent in crafting the terms of the GSA and POR. [3,4]

---

[1] See, e.g., discussion of "trap door" voting mechanism in Case Docket #5868, Objection to the Voting Process for the Sixth Amended Joint Plan of Reorganization Filed by Charles S. McCurry, http://www.kccllc.net/documents/0812229/081222910111200000000008.pdf

[2] See, e.g., Case Docket 5978, Second Supplemental Declaration of Alvarez & Marsal North America, LLC in Connection with Its Employment and Retention (noting the employment of Alvarez & Marsal North America, LLC and designating William C. Kosturos as Chief Restructuring Officer on behalf of the Debtors in settlement negotiations with JPM, and then subsequently acknowledging significant business dealings with an adverse party), http://www.kccllc.net/documents/0812229/081222910111800000000036.pdf.

[3] See, e.g., Letter to Creditors of the Debtors by Settlement Note Holders, dated October 19, 2010, received by my broker, attached as Appendix A.

[4] What's more, upon information and belief, Settlement Note Holders, by and through its selected representative, Fried, Frank, Harris, Shriver & Jacobson LLP ("Fried, Frank"), represent (paraphrasing) how involved Fried, Frank has been (and by logical extension the Settlement Note Holders) in creating this agreement (the GSA) and trying to get all the parties to sign off. See, e.g., Case Hearing Audio Transcript, October 18, 2010, at 32 minutes, 20 seconds.

11. Debtors represent that "It [(the Plan and coerced releases)] represents a compromise and settlement of many different interests and yields a tremendous - and in the Debtors ' opinion the best - opportunity for recovery on claims and equity interests."[5] However, Debtors further represent that it anticipates "holders of PIERS Claims recovering approximately seventy-three percent (73%) of their claims . . . ." Apparently, these statements demonstrate that Debtors consider only the PIERS claims as constituting their equity interests, to the exclusion and detriment, of course, to the common and preferred equity security holders.
12. As demonstrated elsewhere[6], whereas the Settlement Note Holders already stood to reap windfall profits by virtue of their shrewd investment in prepetition and post-petition claims, such claims appear, through great fortune, to put the Settlement Note Holder constituent in prime position to take control of a reorganized WMI.[7] Apparently, working closely with the Debtors in crafting the terms of the GSA and POR has worked out nicely for the Settlement Note Holder constituent, to the exclusion and detriment of equity security holders.
13. For instance, as can be observed in Appendix C and Appendix D, Settlement Note Holders appear to hold approximately 70% of the PIERS claims. Coincidentally, the GSA and Plan has been crafted, working closely with the Settlement Note Holders, such that PIERS claimants stand to recover approximately seventy-three percent (73%) of their claims.
14. As a further example, Appendix E demonstrates historical dates and corresponding prices for WMI Notes, a representative sample of which can be seen to have traded at or above par since February 2010, approximately one month before the GSA and POR became public information. Despite the market at large having conflicting, obfuscated, undervalued, and other unclear information regarding WMI's assets and claims as demonstrated elsewhere[8], somehow, a group of investors was able to divine the value of these WMI notes, well in advance of information became public that would support such an inference.
15. In yet the most striking example of the uncanny timing of the market reaction in advance of the GSA and POR becoming public information (as well as other notable events), Appendix F demonstrates the accumulation of the PIERS claims (e.g., WAHUQ securities) relative to other material events surrounding the timeframe of October 2009 to March 2010.[9] In a further example, note in Appendix F the heavy accumulation of WAHUQ CA. March, 2009.[10]

---

[5] See, e.g., Letter to Creditors, et al. from WMI, dated October 19, 2010, received by my broker, attached as Appendix B.

[6] See, e.g., discussion of The Global Settlement Agreement/Plan of Reorganization, The "Uncertain" deposit, and The Tax Returns, with respect to the Settlement Note Holders in Case Docket #5960, Objection to the Plan of Reorganization and Request for an Independent Audit of Estate Value Independent of Proposed Asset Conveyances Filed by Ben Mason, http://www.kccllc.net/documents/0812229/081222910111700000000039.pdf.

[7] See, e.g., Appendix C (Settlement Note Holders' 2019 Filing) and Appendix D (Dates, Prices, and Percentages for Settlement Note Holders' Purchases According to Their 2019 Filing).

[8] See n. 5, supra.

[9] See Appendices G and H for more a dramatic illustration of the Settlement Note Holders' remarkable ability to prognosticate the market in WMI securities.

[10] As further demonstrated infra, certain note holders of the Settlement Note Holders were diligently negotiating on behalf of their respective classes until negotiations suddenly ceased in March, 2009.

16. As a further example, referring again Appendix F, note the near-exponential run up in the price of the WAHUQ security ca. January, 2010, on volume of nearly 1 million shares. Recalling, the price movement over that time period, upon information and belief, there was no particularly positive public information that the price movement can be attributed to. However, in retrospect, it is clear that the terms of the GSA had been forged or nearly so, as the first announcement date was merely three months away. Upon further reflection, it is a rational conclusion that, as the GSA terms were becoming more solidified, and as the 5 Year NOL tax break had largely become a known quantity for the Debtors, certain holders were able to take advantage of better market insight than others.[11]
17. In one the two most egregious examples of the frightening ability to time the market, note in Appendix H and Appendix I, the ability of Owl Creek (of the Settlement Note Holders) to properly anticipate the passage of the Worker, Homeownership, and Business Assistance Act of 2009 containing the 5 year NOL carryback election ca. October 26, 2010, when they report their last WAHUQ acquisition. Recall again, that the U.S. Trustee, Joseph J. McMahon, Jr., identified exigent circumstances in its Motion[12] on December 16, 2009. What's more, note how Centebridge (of the Settlement Note Holders) was able to handily scoop up its last WAHUQ acquisition off the backs of frenzied retail investors as Debtors through Debtors counsel announced in open court and during market trading hours on March, 12, 2010, the heretofore publicly undisclosed terms of the GSA.[13]
18. The purpose of the predecessor section to Section 1126(e) was to "prevent speculators who had acquired claims or stock at depressed prices from exercising unfair veto power over the debtor's reorganization and to keep creditors and stockholders from securing advantages by refusing to vote in favor of a plan unless they received preferential treatment."[14] Section 1126(e) is broader in that the court can disallow votes that are not cast, procured, or solicited in good faith[15] or in accordance with the provisions of the Bankruptcy Code.[16] Moreover, while conduct amounting to bad faith is not specifically defined in the Bankruptcy Code, the bankruptcy court has broad discretion in determining whether to designate a vote.[17]
19. Typical cases of bad faith involve conduct including obstructive tactics, ulterior motives, and the like in the process of voting to accept or reject a plan or block the acceptance or

---

[11] Whether the better insight was a result of improper use of inside information will likely remain unanswered.

[12] See, e.g., Case Docket #2015, Motion to Limit and Shorten Notice Related to Motion of the Acting United States Trustee for an Order Directing the Debtors to Produce a Sortable List of Equity Security Holders, http://www.kccllc.net/documents/0812229/081222909121600000000016.pdf.

[13] See, e.g., App. H and App. I. As described infra, upon information and belief, one or more of the note holders of the Settlement Note Holders owed, as a result of acting as a representative class member negotiating on behalf of class, fiduciary duties to other members of the respective classes. See, e.g., n. 35-38, infra, and App. J-K.

[14] Mark G. Douglas, Disenfranchising Strategic Investors In Chapter 11: "Loan to Own" Acquisition Strategy May Result In Vote Designation, Pratt's Journal of Bankruptcy Law, p.383, 385, Volume 6, Number 5, July/August 2010.

[15] Section 1125 of the Bankruptcy Code.

[16] *Century Glove, Inc. v. First Am. Bank*, 860 F.2d 94, 97 (3d Cir. 1988) (Section 1126(e) "grants the bankruptcy court discretion to sanction any conduct that taints the voting process, whether it violates a specific provision or is in 'bad faith'").

[17] *In re Adelphia Communications Corp.*, 359 B.R. 54, 60 (Bankr. S.D.N.Y. 2006) (citing *Century Glove*, 860 F.2d at 97).

rejection thereof.[18] For instance, votes can be tainted if "designed to assume control of the debtor, put the debtor out of business or otherwise gain a competitive advantage, destroy the debtor out of pure malice, or obtain benefits available under a private side agreement with a third party that depends on the debtor's inability to reorganize."[19] However, it is clear that the broad discretion in determining whether to designate a vote is not so limited.[20]

20. As an example, the court in *In re Allegheny International*[21] designated the votes of a hedge fund that acquired claims against a Chapter 11 debtor with the "ulterior motive" of seizing control of ~~the~~ debtor, concluding that the hedge fund was manipulating the bankruptcy process because it was acting not to protect its interests as a creditor, but as an opportunistic investor.
21. As a further example, in *In re DBSD North America, Inc.*, based on testimony that revealed a creditor's plans to use debt purchased as a means to "control the bankruptcy process" and "acquire control" of the company, Judge Gerber reaffirmed the legitimacy of vigorous advocacy by creditors, including extremely aggressive actions, provided that such conduct is calculated "to increase their recoveries as creditors holding long positions in debt."[22]
22. In yet another example, in the non-precedential opinion *In re Machne Menachem, Inc.*,[23] the Third Circuit Court of Appeals treated the legitimacy of efforts to create an accepting impaired class, referred to as class "gerrymandering." For instance, the Third Circuit Court of Appeals upheld an order vacating confirmation of a chapter 11 plan, because an insider of the debtor purchased unsecured claims during the case to ensure that an impaired unsecured class would vote in favor of the plan. On appeal from the Bankruptcy Court, the District Court vacated the order of confirmation, ruling that the purchase of claims by an insider, and their subsequent reassignment to another class, made the debtor's plan unconfirmable under the bankruptcy code.[24] The District Court noted that, under 11 U.S.C. § 1129(a)(10), the debtor's plan required approval from at least one impaired class of creditors, and that the only impaired class did so as a result of the insider's purchase of claims.

---

[18] See, e.g., *Young v. Higbee Co.*, 324 U.S. at 211; *In re Federal Support Co.*, 859 F.2d 17, 19 (4th Cir. 1988); *Zenter GBV Fund IV v. Vesper*, 2001 WL 1042217 (6th Cir. Aug. 29, 2001); *In re Allegheny International, Inc.*, 118 B.R. 282, 289 (Bankr. W.D. Pa. 1990).

[19] Douglas, supra, at 386, citing *In re Holly Knoll Partnership*, 167 B.R. 381, 388 (Bankr. E.D. Pa. 1994); *Allegheny*, 118 B.R. at 289; *In re MacLeod Co.*, 63 B.R. 654, 656 (Bankr. S.D. Ohio 1986); *Dune Deck Owners Corp.*, 175 B.R. at 844 (canvassing law construing Section 1126(e)); 7 Collier on Bankruptcy ¶ 1126.06[2] (16th ed. 2010); 4 Norton Bankr. L. & Prac. 2d § 91:24 (2010).

[20] Douglas, supra, at 387 and n. 31 (noting that a bankruptcy court's broad equitable powers under Section 105(a) of the Bankruptcy Code give the court the power to disqualify a creditor from voting its claims on the basis of conflict of interest, such as holding claims or interests in more than one class).

[21] See note 18, supra. While *In re Allegheny International* may be distinguishable on the facts, the logic therein is unassailable.

[22] *In re DBSD North America, Inc.*, 421 B.R. 133 (Bankr. S.D.N.Y. 2009), aff'd, 2010 WL 1223109 (S.D.N.Y. Mar. 24, 2010). As with *In re Allegheny*, the case is notable for the limits placed on claimant conduct in bankruptcy.

[23] *In re Machne Menachem, Inc.*, 2007 WL 1157015 (3d Cir. Apr. 19, 2007).

[24] Id. citing 11 U.S.C. § 1129(a)(1) ("The court shall confirm a plan only if . . . plan complies with the applicable provisions of this title.").

23. While factual differences between *In re Machne Menachem* and the instant case are acknowledged,[25] the rationale of the Third Circuit Court of Appeals should prove fatal to Debtors efforts at Plan confirmation. For instance, the Third Circuit Court of Appeals reasoned that "vote manipulation by the gerrymandering of classes 'seriously undermines' the 'critical confirmation requirements set out in Section 1129(a)(8) (acceptance by all impaired classes) and Section 1129(a)(10) (acceptance by at least one impaired class in the event of a 'cram down')."'[26,27]
24. Thus, even though in *In re Machne Menachem* the impermissible gerrymandering concerned a debtor purchasing post-petition claims in an effort to create a plan-accepting impaired class, the application of the Third Circuit's logic is not so limited. Rather, it is clear that impermissible gerrymandering can include other activities that effect creating an accepting impaired class.
25. As a result, it is hereby requested that the court find that the Debtors, by and through Debtors' counsel and Debtors' agents, have effectively and impermissibly gerrymandered the Plan vote by constructing a Plan and GSA with prior knowledge of the class structure and assenting classes. While Debtors will likely argue that they could not have effectively and impermissibly gerrymandered the Plan vote, because of factual distinctions, it is respectfully submitted that such arguments would illustrate mere distinctions without a difference.
26. As demonstrated above,[28] the Debtors worked closely with the Settlement Note Holder constituent in crafting the terms of the GSA and POR.
27. Upon information and belief, the Debtors, with actual or constructive knowledge as to how a waterfall analysis would affect the various creditor classes and interest holders, crafted the Plan and GSA (strategically valuing or non-valuing assets and claims or gifting assets without a business purpose) merely in a transparent effort to create a plan-accepting impaired class.
28. As a matter of equity and fairness to all creditors and interest holders, a debtor in possession should not be allowed to perpetually delay and renew their periods of exclusivity with the good graces of the court, while values for assets and claims become more definite, and then be allowed to pass a dubious Plan and GSA upon the parties, where it is clear that the primary motivating factor for the terms of the Plan and GSA are to create a plan-accepting impaired class. Allowing such clear abuse of the bankruptcy

---

[25] There, the claims were purchased by a debtor insider under Section 101(31) of the bankruptcy code (e.g., relative of a general partner, director, officer, or person in control of the debtor) to create an accepting impaired class. Setting aside, arguendo, whether the facts of this Case support declaring the Settlement Note Holders as insiders for the purpose of plan confirmation, voting, and trading, the Settlement Note Holders impaired claims per the Plan appear to be the PIERS claims. And while the Settlement Note Holders can be considered creditors of the debtors, it may be that, due to a close relationship, access to inside information or information not generally available to other interests or claimants (such as the debtors intention to target the GSA and waterfall to preclude equity interests), exercise of control, or other suitable facts, if proven, could allow the court, to treat the Settlement Note Holders as insiders for the purpose of designating the vote. See, e.g., n. 6, supra.

[26] *In re Machne Menachem*, citing *John Hancock Mut. Life Ins. Co. v. Route 37 Bus. Park Assocs.*, 987 F.2d 154, 158 (3d Cir. 1993).

[27] It is notable that in *In re Machne Menachem, Inc.*, upon remand from the District Court, the Bankruptcy Court approved a Chapter 11 trustee to oversee the case.

[28] See n. 3 - n. 4, supra, n. 36, infra.

courts is unduly prejudicial to the various creditor and interest holders, would eviscerate the basic protections afforded by Section 1126(e), and would be an affront to the promise of basic fairness embodied in the Bankruptcy Code.

29. While Debtors and the Settlement Note Holders will likely argue that the polar opposite of the above statement is an equally unattractive option – that is, a debtor should not be forced to submit a plan which is assured to be rejected (or that which the debtor has no expectation either way) – such arguments merely present a false dilemma. Rather it is requested that, within the court's broad discretion in determining whether to designate a vote, that the Settlement Note Holders' acceptanee of the Plan be designated, as a result of Debtors' transparent efforts to impermissibly gerrymander a plan-accepting impaired class.
30. As a result of the foregoing, it is hereby requested that the court find that, under Section 1126(e) of the Bankruptcy Code, 1) the Settlement Note Holders' acceptance of the Plan is not in good faith, 2) was not solicited or procured in good faith, 3) was not solicited or procured in accordance with the provisions of Bankruptcy Code and applicable case law and, as a result, 4) that the plan cannot be confirmed.[29]

Without Adequate Compliance with Federal Rule of Bankruptcy Procedure 2019 and Disclosure Duties, Confirmation of the Plan May be Precluded

31. Federal Rule of Bankruptcy Procedure 2019 (Rule 2019) provides, in pertinent part:
(a) Data required.
In a . . . chapter 11 reorganization case, . . . every entity or committee representing more than one creditor or equity security holder . . . shall file a verified statement setting forth (1) the name and address of the creditor or equity security holder; (2) the nature and amount of the claim or interest and the time of acquisition thereof unless it is alleged to have been acquired more than one year prior to the filing of the petition; (3) a recital of

---

[29] It is further suggested that:

- due to the enmity exhibited by debtors' and debtors' counsel as they have purportedly taken steps to meet their fiduciary duties to the various constituents,
- due to the particular holdings of the Settlement Note Holders at this late stage of the post-petition process as a result of the Settlement Note Holders negotiations on behalf of themselves in the respective classes, and
- due to the sheer complexity of intertwined relations and conflicts of interest (see, e.g., n. 2, supra) of the various parties

it is doubtful under these circumstances that a plan can be proposed by the debtors in good faith. It is further doubtful under these same circumstances that the Plan confirmation process can conducted in good faith. It is certain that if these circumstances are permitted to continue in this Case that doubt will remain as to whether the outcome was fair and equitable to every party to this process. It is with great sadness and trepidation that I acknowledge this, but as in *In re Machne Menachem*, the only likely prospect for a fair and equitable administration of debtors' estate is to appoint a Chapter 11 trustee to oversee the remainder of this Case. For example, even after plan voting commenced, debtors propose to give an additional $50 Million Dollars to REIT Series Holders as a further enticement for releases as described in the plan. See, e.g., Case Docket # 5714, Modification of Sixth Amended Joint Plan of Affiliated Debtors Pursuant to Chapter 11 of the United States Bankruptcy Code, http://www.kccllc.net/documents/0812229/08122291010290000000000011.pdf. Are debtors attempting to entice a creditor into casting a vote for the ulterior purpose of securing some advantage to which the creditor would not otherwise be entitled as proscribed by Section 1126(e) of the Bankruptcy code? Are debtors attempting to create an accepting impaired class by virtue of purchasing requisite votes for $50 Million Dollars?

the pertinent facts and circumstances in connection with the employment of the entity or indenture trustee, and, in the case of a committee, the name or names of the entity or entities at whose instance, directly or indirectly, the employment was arranged or the committee was organized or agreed to act; and (4) with reference to the time of the employment of the entity, the organization or formation of the committee, or the appearance in the case of any indenture trustee, the amounts of claims or interests owned by the entity, the members of the committee or the indenture trustee, the times when acquired, the amounts paid therefore, and any sales or other disposition thereof . . . . A supplemental statement shall be filed promptly, setting forth any material changes in the facts contained in the statement filed pursuant to this subdivision.

(b) Failure to comply; effect.

On motion of any party in interest or on its own initiative, the court may (1) determine whether there has been a failure to comply with the provisions of subdivision (a) of this rule or with any other applicable law regulating the activities and personnel of any entity, committee, or indenture trustee or any other impropriety in connection with any solicitation and, if it so determines, the court may refuse to permit that entity, committee, or indenture trustee to be heard further or to intervene in the case; (2) examine any representation provision of a deposit agreement, proxy, trust mortgage, trust indenture, or deed of trust, or committee or other authorization, and any claim or interest acquired by any entity or committee in contemplation or in the course of a case under the Code and grant appropriate relief; and (3) hold invalid any authority, acceptance, rejection, or objection given, procured, or received by an entity or committee who has not complied with this rule or with § 1125(b) of the Code.

32. Certain details regarding acquisition details of Settlement Note Holders' claims or interests can be learned by referring to the various tables and figures assembled in Appendix C through Appendix I.[30]

33. However, it is requested that the court find that 1) the disclosures heretofore submitted by the Settlement Note Holders' in respect of Rule 2019 be found to fail to comply with the Rule 2019(a), inasmuch as any supplemental statements were not filed promptly, any of said disclosures fail to adequately disclose the nature and amount of the claim or interest and the time of acquisition thereof insofar as any credit default swaps, derivatives or other hedge instruments or insurance contracts bearing on the value of the respective claims or interests that represent material changes in the facts are outside the court record, and 2) the general failure to meet the letter, intent, and policy considerations of Rule 2019 supports a conclusion that the failures so identified suggest that the Settlement Note Holders acceptance of the Plan should be held invalid.[31]

---

[30] It is acknowledged that the various tables and figures are a compilation of data derived from Rule 2019 disclosures of associated parties of the Settlement Note Holder Constituent.

[31] While it is suggested that similar requirements should be enforced as against JP Morgan Chase (JPMC) regarding credit default swaps, derivatives or other hedge instruments or insurance contracts bearing on the value of its respective claims or interests to be resolved by the terms of the GSA and Plan, the difficulty in directly applying the disclosure requirements of Rule 2019 is noted. However, as to be demonstrated herein, this should not end the inquiry.

34. For instance, Fried, Frank, Harris, Shriver & Jacobson LLP filed a first Verified Statement Pursuant to Rule 2019 on January 2, 2009.[32] Only 13 months later, Fried, Frank filed a First Supplemental Verified Statement, despite substantial material changes over the course of the previous 13 months.[33] During that time, JPMC moved to compel the Washington Mutual, Inc. Noteholders Group (of which, certain of the Noteholders identified therein appear to now be included in the Settlement Note Holders constituent) to comply with Rule 2019 on August 6, 2009.[34] Despite the Settlement Note Holders' ultimately adjudicated lack of compliance,[35] and despite having initially complied of its own volition just 8 months prior, the Washington Mutual, Inc. Noteholders Group vigorously objected to the motion on August, 19, 2010.[36,37]
35. All this is to say that, notwithstanding the Washington Mutual, Inc. Noteholders Group representations to the contrary, upon information and belief, the Settlement Note Holders' knew or should have known of their continuing breach of the requirements of Rule 2019 as they continued acquire WMI securities as demonstrated herein, in Appendix C through Appendix I, for example.
36. Consequently, in addition, it is further requested that the court determine, after a hearing on the matter, whether 1) any of the Settlement Note Holders' constituents owed fiduciary duties to other creditors in the respective classes, as identified per Case Docket # 1952 the Opinion Granting JPMorgan Chase Bank, National Association's Motion to Compel excerpted as Appendix J, 2) whether any such fiduciary duties were breached (e.g., bad faith, self dealing, etc.),[38] 3) any appropriate remedies for breach of fiduciary duties that the court can dispense to include any of the remedies requested herein,

---

[32] Case Docket #0526, Verified Statement of Fried, Frank, Harris, Shriver & Jacobson LLP Pursuant to Rule 2019 of the Federal Rules of Bankruptcy Procedure, http://www.kccllc.net/documents/0812229/08122290901020000000000007.pdf (noting representation of Appaloosa and Centerbridge parties of the Settlement Note Holders constituency, the time of representation, and aggregate amount of holdings).

[33] Case Docket #3761 First Supplemental Verified Statement of Fried, Frank, Harris, Shriver & Jacobson LLP Pursuant to Rule 2019 of the Federal Rules of Bankruptcy Procedure, http://www.kccllc.net/documents/0812229/08122291005170000000000026.pdf (noting the addition of the Owl Creek and Aureilus parties of the Settlement Note Holders constituency, a).

[34] Case Docket #1444, Motion of JPMorgan Chase Bank, National Association to Compel the Washington Mutual, Inc. Noteholders Group to Comply with Federal Rule of Bankruptcy Procedure 2019, http://www.kccllc.net/documents/0812229/08122290908060000000000001.pdf.

[35] Motion Granted, Case Docket # 1953, Order Granting JPMorgan Chase Bank, National Association's Motion to Compel [re: Docket Nos. 1444, 1515, and 1535], http://www.kccllc.net/documents/0812229/08122290912020000000000002.pdf (the "Order to Compel"). Case Docket # 1952, Opinion Granting JPMorgan Chase Bank, National Association's Motion to Compel [re: Docket Nos. 1444, 1515 and 1535], http://www.kccllc.net/documents/0812229/08122290912020000000000001.pdf (pp. 16-17 excerpted herein as App. J).

[36] Case Docket # 1515, Objection by the Washington Mutual, Inc. Noteholders Group to the Motion of JPMorgan Chase Bank, N.A. to Compel the Washington Mutual, Inc. Noteholders Group to Comply with Federal Rule of Bankruptcy Procedure 2019, http://www.kccllc.net/documents/0812229/08122290908190000000000007.pdf.

[37] 500 Page Exhibit List, Case Docket #1516, Exhibit List for Noteholders' Objection to 2019 Motion, http://www.kccllc.net/documents/0812229/08122290908190000000000008.pdf.

[38] Appendix K includes excerpts of Case Docket # 1515, Objection by the Washington Mutual, Inc. Noteholders Group to the Motion of JPMorgan Chase Bank, N.A. to Compel the Washington Mutual, Inc. Noteholders Group to Comply with Federal Rule of Bankruptcy Procedure 2019, http://www.kccllc.net/documents/0812229/08122290908190000000000007.pdf. The excerpt indicates that at least a subset of the Settlement Note Holder constituency was purporting to act for the benefit of the class and as such, could be adjudicated to assume a fiduciary role as to the class. See, e.g., n. 35, supra; App. J, infra.

including but not limited to remedies under Rule 2019, Section 1126(e) and Section 1129(a)(3) of the Bankruptcy Code, and 4) and any other remedies that are fair and just in the eyes of the court.

37. However, unfortunately, disposition on Rule 2019 and the associated issues of fiduciary duties to other class members may not end the inquiry. Rather, a larger and more nebulous issue may preclude confirmation of the Debtors' proposed Plan. In an award-winning article,[39] student-author R. Travis Santos accurately described the pitfalls associated with confirming plans in the face of credit default swaps, which may have significant economic impact on creditors interests in and/or associated with a Debtors estate.[40]
38. Sparing the details of the article, suffice it to say that scenarios are conceivable that a creditor could have holdings in two conflicting classes (class one of which is impaired, and class two of which is fully satisfied), while having a credit default swap contract that insures loss on the first class holdings. Thus, the creditor could advocate on behalf of or against a class one recovery and vote according to whatever maximizes his or her return, while other class members are none the wiser.[41] However, this leaves open the possibility that the creditor can act in bad faith (e.g., for an ulterior purpose, etc.) resulting in a situation where that which maximizes his or her profit arising outside of the bankruptcy process. In other words, it is possible for a creditor acting on behalf of a class (such as Settlement Note Holders) to profit outside the bankruptcy by betting against his class members.
39. It can certainly be argued that the above scenarios are merely hypothetical. However, the article describes the problems with voting and confirmation in the instance of "a credit default swap, [where] the party bringing the motion to have the vote designated may argue that the . . . creditor's sole motivation was not based on its interest as a creditor in the bankruptcy case, but instead rests with the possible financial gains under the credit default swap agreement (i.e., financial gains under a third-party agreement constitutes an ulterior motive)."[42]
40. Therein lies the fatal problem with confirmation of the Debtors' plan. Without the ability to query whether a creditor has an ulterior profit motive that lies outside the bankruptcy estate, the court is blind as to these potential bad faith issues.[43]
41. While the duty of candor toward the tribunal appears to offer some respite, such relief rings hollow. That is, if a party has the profit potential on the order of millions or billions

---

[39] R. Travis Santos, Credit Default Swap Agreements: A Possible Obstacle to Plan Confirmation, Bankruptcy Litigation Committee: ABI Committee News, Volume 6, Number 4, June 2009, http://www.abiworld.org/committees/newsletters/litigation/vol6num4/obstacle.html.

[40] The article is especially seasonable and appropriate here, insofar as derivative contracts, credit default swaps, hedging instruments, insurance contracts and the like are the devils playground for parties comprising the Settlement Note Holders and JPMC – fact presumed to be so far beyond contention that it is capable of judicial notice.

[41] Recall in the objection to the Motion to Compel, supra at n. 34 (Case Docket #1444), the Washington Mutual, Inc. Noteholders Group, upon information and belief, advocated that keeping this information in the dark was a desirable protection of trade secrets, or words to that effect.

[42] See n. 39, supra.

[43] For example, whereas traditionally bad faith can be inferred from the timing of securities trades, which could be covered by Rule 2019, for example, the existence of such credit default swaps, derivatives or other hedge instruments or insurance contracts bearing on the value of the respective claims or interests are outside the court record.

of dollars outside the bankruptcy estate and is risking a determination of a bad faith vote to accept or reject on this ulterior purpose, then it can be expected that the party would not likely fulfill its duty of candor of its own volition.[44]

42. The article[45] concludes thusly: "If the bankruptcy court concludes that a third-party agreement played an integral role in determining how the creditor voted, the court would appear to have sufficient discretion under the prior case law to designate the vote."
43. Thus, the issue is clear. Plan confirmation cannot continue without an adequate determination (including sufficient discovery on the matter), after a hearing on the matter, whether 1) any of the parties (e.g., those parties that have negotiated their terms of their respective recovery with the Debtors, (the "Negotiating Parties")) that are receiving a distribution or assets (including debt relief, releases, cash, property, reorganized stock, etc.) under the GSA and POR have any third-party agreements bearing on the value of said party's interests or claims in the estate, and 2) whether any fiduciaries will be breached (e.g., bad faith, self dealing, etc.) to similarly situated class members by not designating a vote so conflicted.
44. Accordingly, it is hereby requested that the court 1) conduct or supervise an adequate determination as described above, prior to Plan confirmation, with reference to Negotiating Parties to include, but not limited to, the Settlement Note Holders, JPMC, the FDIC, the Debtors, Debtors' counsel and agents, the beneficiaries of the releases in the GSA, and 2) any appropriate remedies for such third-party agreements that the court can dispense to include any of the remedies requested herein, including but not limited to remedies under Rule 2019, Section 1126(e) and Section 1129(a)(3) of the Bankruptcy Code, and 3) and any other remedies that are fair and just in the eyes of the court.

Conclusion:

In order to ensure a fair equitable administration of the Debtors' reorganization, it is respectfully requested that the court find that:

1) the Plan has been proposed in bad faith under the applicable standards of Section 1129(a)(3) of the Bankruptcy Code, and thus, the Plan cannot be confirmed;
2) the Debtors, by and through Debtors' counsel and Debtors' agents, have effectively and impermissibly gerrymandered the Plan vote by constructing a Plan and GSA with prior knowledge of the class structure and assenting classes;
3) as a result of Debtors' transparent efforts to impermissibly gerrymander a plan-accepting impaired class , under Section 1126(e) of the Bankruptcy Code, a) the Settlement Note Holders' acceptance of the Plan is not in good faith, b) was not solicited or procured in

[44] It is further noted that, of the Settlement Note Holders, at least one was determined by the Securities and Exchange Commission to have "willfully" violated the Exchange Act during relevant times with respect to the administration of debtors estate, resulting in monetary penalties in excess of one million dollars. See, e.g., In re Appaloosa Management LP, Case No. 3-13956, http://www.sec.gov/litigation/admin/2010/34-62447.pdf.
[45] See n. 39, supra.

good faith, c) was not solicited or procured in accordance with the provisions of Bankruptcy Code and applicable case law and, and as a result,

4) the Settlement Note Holders acceptance of the plan should be designated according to Section 1126 of the Bankruptcy Code and applicable case law, and thus, the Plan cannot be confirmed;
5) the disclosures heretofore submitted by the Settlement Note Holders' in respect of Rule 2019 fail to comply with the Rule 2019(a), inasmuch as a) any supplemental statements were not filed promptly, b) any of said disclosures fail to adequately disclose the nature and amount of the claim or interest and the time of acquisition thereof insofar as any credit default swaps, derivatives or other hedge instruments or insurance contracts bearing on the value of the respective claims or interests that represent material changes in the facts are outside the court record; and
6) the general failure to meet the letter, intent, and policy considerations of Rule 2019 supports a conclusion that the failures so identified suggest that the Settlement Note Holders acceptance of the Plan should be held invalid;
7) after a hearing on the matter, whether a) any of the Settlement Note Holders' constituents owed fiduciary duties to other creditors in the respective classes, as identified per Case Docket # 1952 the Opinion Granting JPMorgan Chase Bank, National Association's Motion to Compel, b) whether any such fiduciary duties were breached (e.g., bad faith, self dealing, etc.);

In addition it is further requested that

8) the court determine appropriate available remedies for breach of fiduciary duties to include any of the remedies requested herein, including but not limited to remedies under Rule 2019, Section 1126(e) and Section 1129(a)(3) of the Bankruptcy Code, and 4) and any other remedies that are fair and just in the eyes of the court; and
9) the court a) conduct or supervise an adequate determination as described supra, prior to Plan confirmation, with reference to Negotiating Parties to include, but not limited to, the Settlement Note Holders, JPMC, the FDIC, the Debtors, Debtors' counsel and agents, the beneficiaries of the releases in the GSA, and b) any appropriate remedies for such third-party agreements that the court can dispense to include any of the remedies requested herein, including but not limited to remedies under Rule 2019, Section 1126(e) and Section 1129(a)(3) of the Bankruptcy Code, and 3) and any other remedies that are fair and just in the eyes of the court.
10) the court determine and administer any further just and equitable relief as is appropriate.

Either myself or a representative can appear in court to be heard at a hearing regarding this matter. A copy of this objection and request has been sent to all major parties as well as the US Trustee's Office.

Nate Thoma

105 S Jefferson St

Wenonah, NJ 08090

CC:

Washington Mutual Inc.
Charles E. Smith, Esq.
925 Fourth Avenue
Seattle, WA 98104

Weil, Gotshal & Manges LLP
Brian S. Rosen, Esq.
767 Fifth Avenue
New York, NY 10153

Richards Layton & Finger
P.A.
Mark D. Collins, Esq.
One Rodney Square
920 North King Street
Wilmington, DE 19899

Quinn Emanuel, LLP
Peter Calamari, Esq.
22nd Floor
55 Madison Avenue
New York, NY 10010

The Office of the US Trustee
Jane Leamy
844 King Street
Suite 2207, Lockbox 35
Wilmington, DE 19899-0035

Akin Gump LLP
Fred S. Hodara, Esq.
One Bryant Park
New York, NY 10036

Pepper Hamilton LLP
David B. Stratton, Esq.
Hercules Plaza Ste 5100
1313 N. Market Street
Wilmington, DE 19801-6111

Ashby & Geddes, P.A.
William P. Bowden, Esq.
8th Floor
500 DE Avenue
Wilmington, DE 19801-7400

Sullivan & Cromwell LLP
Stacey R. Friedman, Esq.
125 Broad Street
New York, NY 10004

Landis Rath & Cobb LLP
Adam G. Landis
919 Market Street
Suite 1800
P.O. Box 2087
Wilmington, DE 19899

Susman Godfrey LLP
Susman Godfrey Esq.
5th Floor
654 Madison Avenue
New York, NY 10065

Appendix A

Letter to Creditors of the Debtors by Settlement Note Holders

October 19, 2010

Re: ***In re Washington Mutual, Inc. et al.*** **(the "Debtors")**
Case No. 08-12229-(MFW)
United States Bankruptcy Court
District of Delaware

To the Creditors of the Debtors:

In connection with the Debtors' chapter 11 cases, certain managed fund entities of Appaloosa Management L.P. ("Appaloosa"); Centerbridge Partners, L.P. ("Centerbridge"); Owl Creek Asset Management, L.P. ("Owl Creek") and Aurelius Capital Management, LP ("Aurelius") are substantial creditors of the Debtors that respectively hold varying positions throughout the Debtors' capital structure. Each of Appaloosa, Centerbridge, Owl Creek and Aurelius are parties to the Amended and Restated Settlement Agreement, dated October 6, 2010 (the "Settlement Agreement"), attached to the Debtors' Sixth Amended Plan, filed on October 6, 2010 (the "Plan"), as Exhibit H and are collectively referred to in the Settlement Agreement and herein as the "Settlement Note Holders".

The Settlement Note Holders have been actively involved in the Debtors' chapter 11 cases and in negotiations regarding the terms of the Settlement Agreement and the Plan. On October 6, 2010, the Debtors filed a sixth amended disclosure statement in respect of the Plan (the "Disclosure Statement"). The Settlement Note Holders believe that the Disclosure Statement provides adequate information for creditors of the Debtors' estates to make an informed decision regarding whether or not to vote in favor of the Plan. The Settlement Agreement and Plan represent the culmination of many months of negotiations with the major constituencies in the case. If the Settlement Agreement and Plan are not approved, substantial delays, additional costs and risks will likely result. There can be no guaranties that creditors will receive any recoveries in the near future if the Settlement Agreement and Plan are not approved.

While the decision to cast a ballot in favor of or against the Plan is ultimately one that you must make individually, the Settlement Note Holders believe that the Plan provides for treatment of your claim which is fair and equitable, and, therefore, supports the Debtors' efforts to obtain approval thereof and urges you to vote to accept the Plan.

Very truly yours,

/s/ James Bolin

James Bolin
Appaloosa Management L.P.

/s/ Jed A. Hart

Jed A. Hart
Centerbridge Partners, L.P.

/s/ Dan Krueger

Dan Krueger
Owl Creek Asset Management, L.P.

/s/ Dan Gropper

Dan Gropper
Aurelius Capital Management, LP

Appendix B

Letter to Creditors, Preferred Equityholders and Non-Filing WMB Senior Note Holders from WMI

Washington Mutual, Inc.

925 Fourth Avenue, Suite 2500
Seattle, WA 98104

October 18, 2010

To: Creditors, Preferred Equityholders and Non-Filing WMB Senior Note Holders

Enclosed is a ballot or election form, as applicable, for voting and making elections with respect to the *Sixth Amended Joint Plan of Affiliated Debtors Pursuant to Chapter 11 of the United States Bankruptcy Code* (the "Plan")[1] filed by Washington Mutual, Inc. ("WMI") and WMI Investment Corp. ("WMI Investment" and together with WMI, the "Debtors"). The Debtors encourage you to vote to **ACCEPT** the Plan and grant the releases provided therein. It represents a compromise and settlement of many different interests and yields a tremendous – and in the Debtors' opinion the best – opportunity for recovery on claims and equity interests. The deadline for voting and submitting elections is **5:00 p.m. (Pacific Time) on November 15, 2010**.

The Plan embodies a proposed global compromise of numerous, complex disputes among the Debtors, JPMC, the FDIC Receiver, and the FDIC Corporate, as documented in the Global Settlement Agreement. Specifically, and as set forth more fully in the Global Settlement Agreement, Plan and Disclosure Statement, consummation of the Global Settlement Agreement will result in the following:

- Turnover to the Debtors of approximately $4 billion in deposit funds, free and clear of all claims;
- Projected receipt by the Debtors of approximately $2.49 to $2.55 billion in Tax Refunds (inclusive of any distribution that may be payable on account of WMB Senior Note Claims);
- Transfer to the Debtors, or clarification of ownership by the Debtors, of certain disputed assets;
- Assumption of certain liabilities by JPMC, eliminating significant claims against the Debtors' estates;
- Avoidance of termination of the Pension Plans;
- Release of claims asserted by, respectively, JPMC, the FDIC Receiver and the FDIC Corporate against the Debtors; and
- Avoidance of protracted litigation that would tie up any meaningful distribution from the Debtors' estates for years.

[1] Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Plan.

In summary, the Debtors estimate that the Global Settlement Agreement settles the Debtors' claims and causes of action against JPMC, the FDIC Receiver and the FDIC Corporate for $6.1 to $6.8 billion in value to the Debtors (including approximately $4 billion in disputed deposits held by JPMC), resulting in approximately $7.5 billion of total proceeds available for distribution to the Debtors' stakeholders as well as certain holders of senior indebtedness of WMB. Consequently, the Debtors project that most creditors will receive payment in full pursuant to the Plan, with holders of PIERS Claims recovering approximately seventy-three percent (73%) of their claims.

Further, the Plan provides the opportunity for holders of WMB Senior Notes, irrespective of whether they filed a proof of claim against the Debtors, to share in the distribution of $335 million, to the extent that such holders elect to grant the releases provided in the Plan.

In addition, the Plan contemplates the reorganization of the Debtors pursuant to chapter 11 of the Bankruptcy Code, and provides parties with the opportunity to receive stock, as well as purchase additional stock, of the reorganized entity. Such entity will be comprised of WMMRC, a non-debtor subsidiary engage in the business of mortgage re-insurance, and certain of the Debtors' other assets.

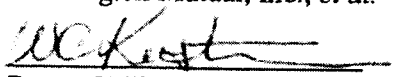
In the Debtors' view, the net value of the Global Settlement Agreement exceeds the Debtors' assessment of the value represented by litigating the claims and causes of action to be released by the Debtors pursuant to the Global Settlement Agreement, particularly considering the inherent uncertainty of results and the expense and delay associated with protracted litigation, including, among other things, the continued accrual of postpetition interest in the amount of approximately $30 million per month, plus administrative expenses. If the Plan is not confirmed, the Debtors anticipate being mired in years of litigation. After careful analysis of the foregoing, as well as of the merits, risks and uncertainty associated with the claims in dispute among the Debtors, JPMC, the FDIC Receiver and the FDIC Corporate, the Debtors, in the exercise of their business judgment, concluded that it is in the best interests of their stakeholders to resolve such disputes on the terms set forth in the Global Settlement Agreement and the Plan. Notably, the Global Settlement Agreement and Plan are supported by the Creditors' Committee and certain other significant creditor groups in these cases.

ACCORDINGLY, THE DEBTORS RECOMMEND THAT ALL PARTIES ENTITLED TO VOTE SUBMIT A TIMELY BALLOT VOTING TO <u>ACCEPT</u> THE PLAN.

Please review the attached Plan and Disclosure Statement carefully for details about voting, recoveries, the proposed reorganization, and other relevant matters.

Sincerely,

Washington Mutual, Inc., *et al.*



By: William C. Kosturos
Title: Chief Restructuring Officer

Appendix C

Settlement Note Holders' 2019 Filing

EXHIBIT A

Appaloosa Management L.P. on behalf of the following funds:

(1) Appaloosa Investment L. P. I;

(2) Palomino Fund Ltd.;

(3) Thoroughbred Fund L.P.; and

(4) Thoroughbred Master Ltd.

Security Description	Purchase Date Ranges	Purchase Price Ranges ($)
4.00% Fixed Rate Notes due 2009	9/26/08 - 12/18/08	22.00 - 63.00
4.2% Fixed Rate Notes due 2010	9/26/08 - 12/17/08	2.00 - 62.25
5.0% Fixed Rate Notes due 2012	9/26/08 - 10/28/2008	23.50 - 58.02
5.50% Fixed Rate Notes due 2011	9/24/08 - 10/28/2008	21.12 - 58.02
$500,000,000 Floating Rate Notes due 2009	9/24/08 - 12/15/2008	19.00 - 62.25
$250,000,000 Floating Rate Notes due 2010	9/24/08 - 1/5/2009	61.02 - 71.75
4.625% Subordinated Notes due 2014	9/26/08 - 12/18/2008	1.37 - 22.00
8.250% Subordinated Notes due 2010	9/26/08 - 5/12/2009	1.37 - 57.25
7.250% Subordinated Notes due 2017	9/26/08 - 12/18/2008	1.50 - 20.75
Junior Subordinated Debentures	9/29/08 - 10/23/2009	0.20 - 7.45 ($50 par)
Series I Perpetual Non-Cumulative Fixed-to-Floating Rate Preferred	9/26/08 - 11/17/2008	0.02 - 0.05
Series L Perpetual Non-Cumulative Fixed-to-Floating Rate Preferred	9/26/08 - 11/11/2008	0.02 - 0.12
Series M Perpetual Non-Cumulative Fixed-to-Floating Rate Preferred	9/26/08 - 11/7/2008	0.02 - 0.12
Series N Perpetual Non-Cumulative Fixed-to-Floating Rate Preferred	9/26/2008	0.02 - 0.05

EXHIBIT B

Aurelius Capital Management, LP on behalf of the following funds:

(1) Aurelius Capital Master, Ltd.;

(2) Aurelius Convergence Master, Ltd.; and

(3) ACP Master, Ltd.

Security Description	Purchase Date Ranges	Purchase Price Ranges ($)
5.25% Fixed Rate Notes due 2017	10/7/08 - 5/20/09	57.00 - 85.88
5.0% Fixed Rate Notes due 2012	10/23/08 - 11/3/09	57.00 - 94.00
5.50% Fixed Rate Notes due 2011	10/7/08 - 11/5/09	63.00 - 93.50
8.250% Subordinated Notes due 2010	10/3/08 - 5/7/10	17.875 - 106.00
7.250% Subordinated Notes due 2017	10/3/08 - 4/27/10	18.00 - 102.25
Junior Subordinated Debentures	1/5/09 - 4/21/10	1.84 - 24.93 ($50 par)

EXHIBIT C

Centerbridge Partners, L.P. on behalf of the following funds:

(1) Centerbridge Credit Partners, L.P.; and

(2) Centerbridge Credit Partners Master, L.P.

Security Description	Purchase Date Ranges	Purchase Price Ranges ($)
4.00% Fixed Rate Notes due 2009	9/26/08 - 4/8/10	25.50 - 103.50
5.25% Fixed Rate Notes due 2017	9/26/08 - 11/3/09	12.00 - 93.50
5.0% Fixed Rate Notes due 2012	9/26/08 - 5/5/10	23.00 - 102.75
$500,000,000 Floating Rate Notes due 2009	9/26/08 - 3/29/10	10.50 - 47.50
$500,000,000 Floating Rate Notes due 2012	9/30/08 - 5/6/10	57.00 - 97.38
$250,000,000 Floating Rate Notes due 2010	8/7/09 - 3/29/10	87.75 - 99.00
$450,000,000 Floating Rate Notes due 2012	9/26/08 - 5/6/10	41.25 - 96.50
4.625% Subordinated Notes due 2014	9/29/08 - 5/11/10	6.75 - 104.50
8.250% Subordinated Notes due 2010	9/29/08 - 5/7/10	7.25 - 103.00
7.250% Subordinated Notes due 2017	9/29/08 - 5/11/10	7.25 - 101.50
Junior Subordinated Debentures	11/5/08 - 3/12/10	1.00 - 26.94 ($50 par)

EXHIBIT D

Owl Creek Asset Management, L.P. on behalf of the following funds:

(1) Owl Creek I, L.P.;

(2) Owl Creek II, L.P.;

(3) Owl Creek Overseas Fund, LTD.;

(4) Owl Creek Socially Responsible Investment Fund, LTD.;

(5) Owl Creek Asia I, L.P.;

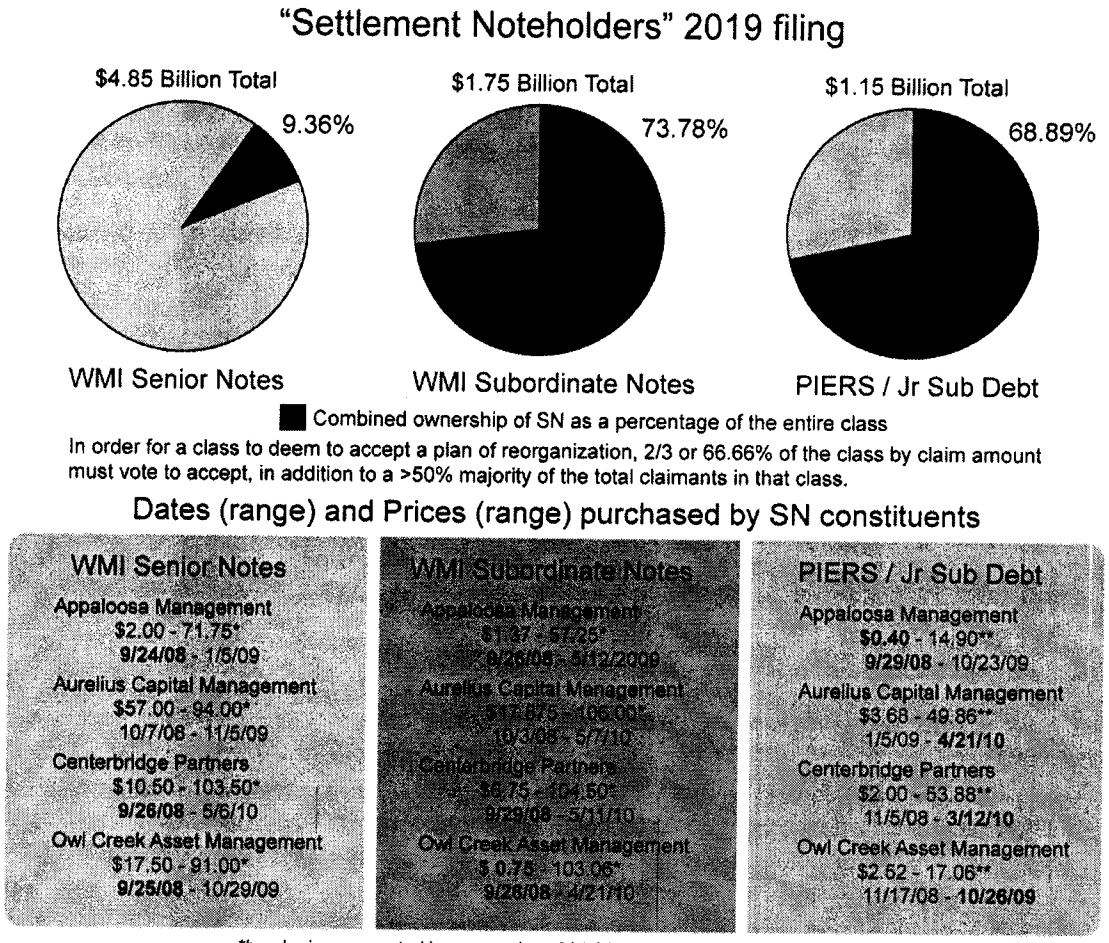
(6) Owl Creek Asia II, L.P.; and

(7) Owl Creek Asia Master Fund, LTD.

Security Description	Purchase Date Ranges	Purchase Price Ranges ($)
5.50% Fixed Rate Notes due 2011	9/25/08 - 1/21/09	17.50 - 74.00
$500,000,000 Floating Rate Notes due 2009	9/26/08 - 10/27/08	28.50 - 57.00
$500,000,000 Floating Rate Notes due 2012	9/26/08 - 10/29/09	22.00 - 91.50
$250,000,000 Floating Rate Notes due 2010	9/26/08 - 1/29/09	25.50 - 79.25
$450,000,000 Floating Rate Notes due 2012	9/25/08 - 12/23/08	20.25 - 67.63
4.625% Subordinated Notes due 2014	9/26/08 - 11/6/09	0.75 - 78.00
8.250% Subordinated Notes due 2010	10/2/08 - 10/15/09	17.88 - 72.75
7.250% Subordinated Notes due 2017	9/26/08 - 4/21/10	0.75 - 103.06
Junior Subordinated Debentures	11/17/08 - 10/26/09	1.26 - 8.53 ($50 par)
Series J Perpetual Non-Cumulative Fixed-to-Floating Rate Preferred	1/27/09 - 3/5/09	0.25 - 2.13
Series L Perpetual Non-Cumulative Fixed-to-Floating Rate Preferred	2/27/09 - 3/4/09	1.00 - 2.25
Series M Perpetual Non-Cumulative Fixed-to-Floating Rate Preferred	2/25/09 - 2/27/09	1.00 - 1.00
Series N Perpetual Non-Cumulative Fixed-to-Floating Rate Preferred	1/13/09	0.25

Appendix D

Dates, Prices, and Percentages for Settlement Note Holders' Purchases According to Their 2019 Filing



Appendix E

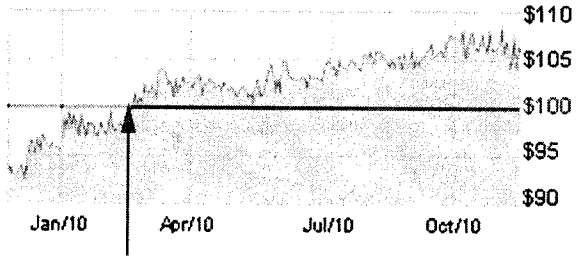
Historical Dates, Prices, for WMI Notes

WMI Inc Notes and Prices (11/18/2010)

Symbol	CUSIP	Type	Issuer Name	Coupon	Maturity	Moody's	S&P	Fitch	Last	$ Change	Yield	Last Sale Date & Time
WAMU.IE	939322AL7	Corporate	WASHINGTON MUT INC	4.00	01/15/2009	WR	NR	D	107.750	1.750	-	11/17/2010 16:06:33
WAMU.IL	939322AP8	Corporate	WASHINGTON MUT INC	4.20	01/15/2010	WR	NR	D	105.000	1.500	-	11/18/2010 16:00:13
WAMU.IM	939322AQ6	Corporate	WASHINGTON MUT INC	-	01/15/2010	WR	NR	D	98.000	-1.000	-	11/17/2010 16:10:49
WAMU.IO	939322AS2	Corporate	WASHINGTON MUT INC	-	03/22/2012	WR	NR	NR	100.750	0.500	-	11/17/2010 15:46:23
WAMU.IP	939322AT0	Corporate	WASHINGTON MUT INC	5.00	03/22/2012	WR	NR	D	106.000	-2.250	-	11/18/2010 16:32:28
WAMU.IS	939322AU7	Corporate	WASHINGTON MUT INC	-	09/17/2012	WR	NR	D	101.000	0.250	-	11/17/2010 15:46:56
WAMU.IT	939322AV5	Corporate	WASHINGTON MUT INC	5.25	09/15/2017	WR	NR	D	104.000	-4.500	-	11/18/2010 10:46:01
WAMU.JB	939322AW3	Corporate	WASHINGTON MUT INC	-	08/24/2009	WR	NR	D	101.125	0.625	-	11/09/2010 09:28:49
WAMU.JC	939322AX1	Corporate	WASHINGTON MUT INC	5.50	08/24/2011	WR	NR	D	108.000	1.500	-	11/17/2010 16:42:06
WAMU.HE	939322AE3	Corporate	WASHINGTON MUT INC	8.25	04/01/2010	WR	NR	D	113.370	-0.841	-	11/18/2010 15:37:44
WAMU.IH	939322AN3	Corporate	WASHINGTON MUT INC	4.63	04/01/2014	WR	NR	D	102.000	-3.500	-	11/18/2010 15:22:56
WAMU.JG	939322AY9	Corporate	WASHINGTON MUT INC	7.25	11/01/2017	WR	NR	D	112.500	3.105	-	11/17/2010 16:06:56

Senior Notes

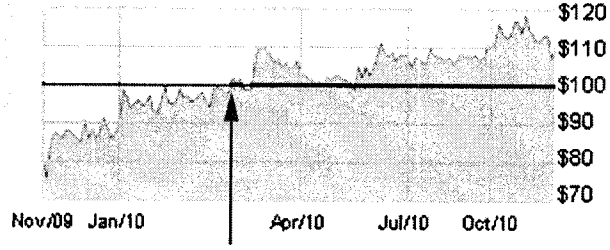
Representative Graph of 1yr Bond Price (WAMU.IE)



Has been trading at or above par since Feb 2010.

Subordinate Notes

Representative Graph of 1yr Bond Price (WAMU.JG)



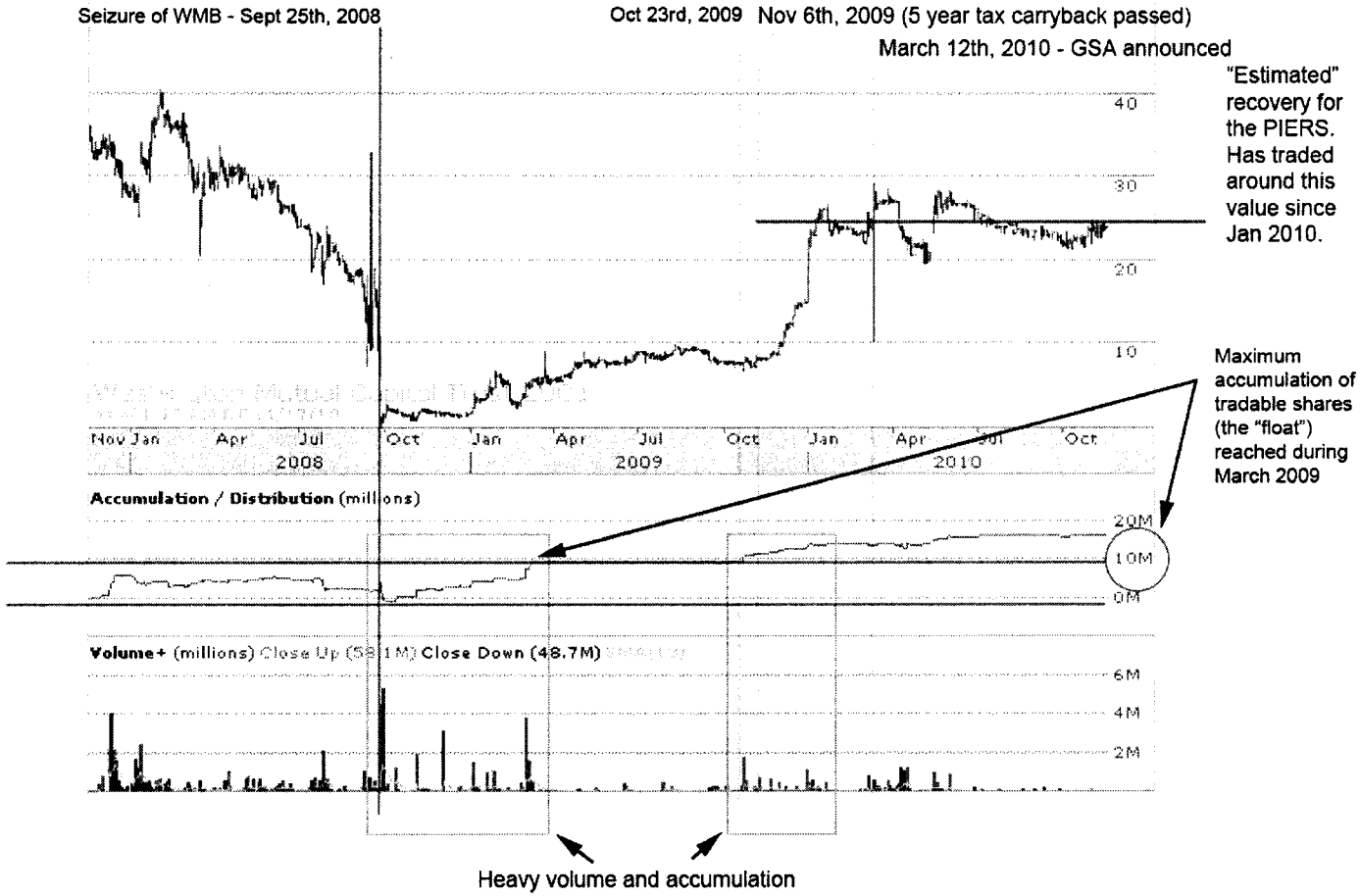
Has been trading at or above par since Mar 2010.

Appendix F

Historical Dates, Prices, for WMI Security

WMI Inc WAHUQ Preferred (PIERS / Jr Sub Debentures) Data, Historical Prices, Volume, and Accumulation

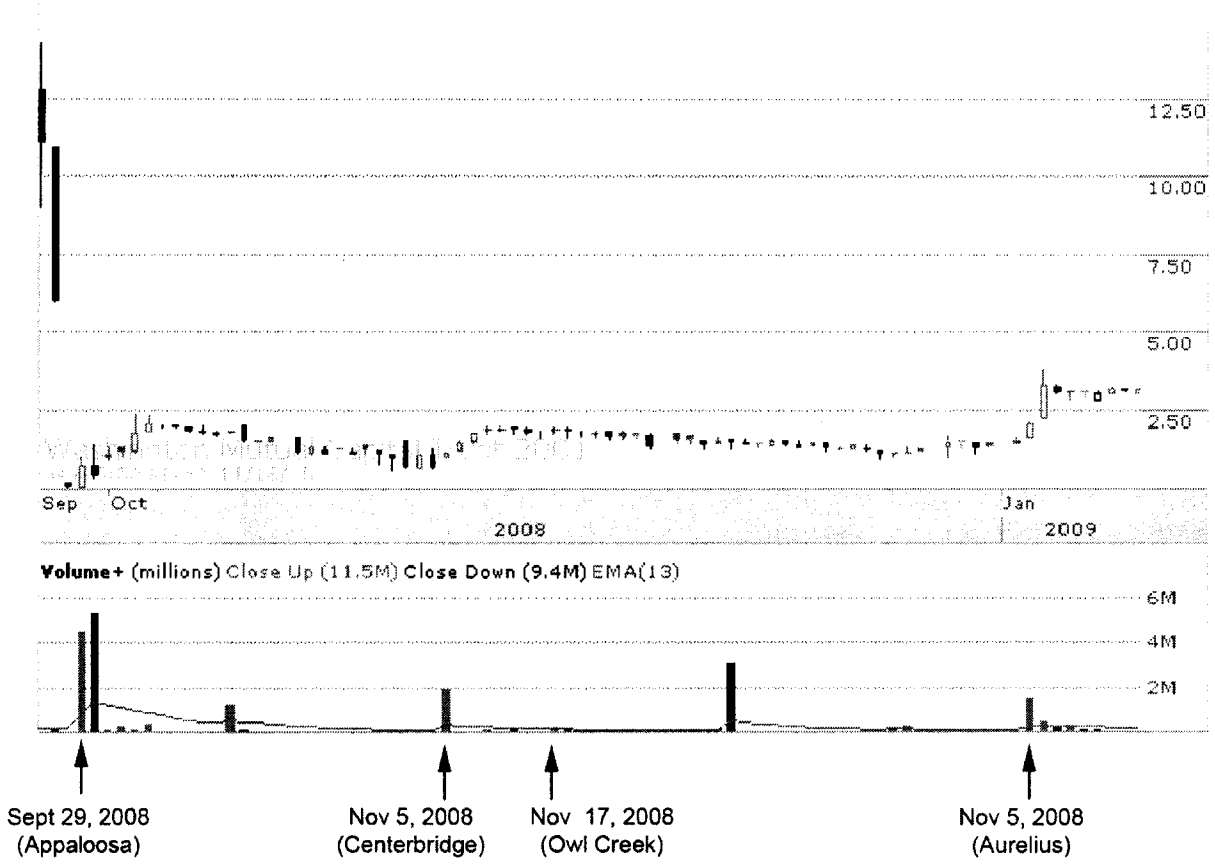
23 million units outstanding
10,073,595 Units registered (tradable securities)



Appendix G

Settlement Note Holders' First Purchase Dates

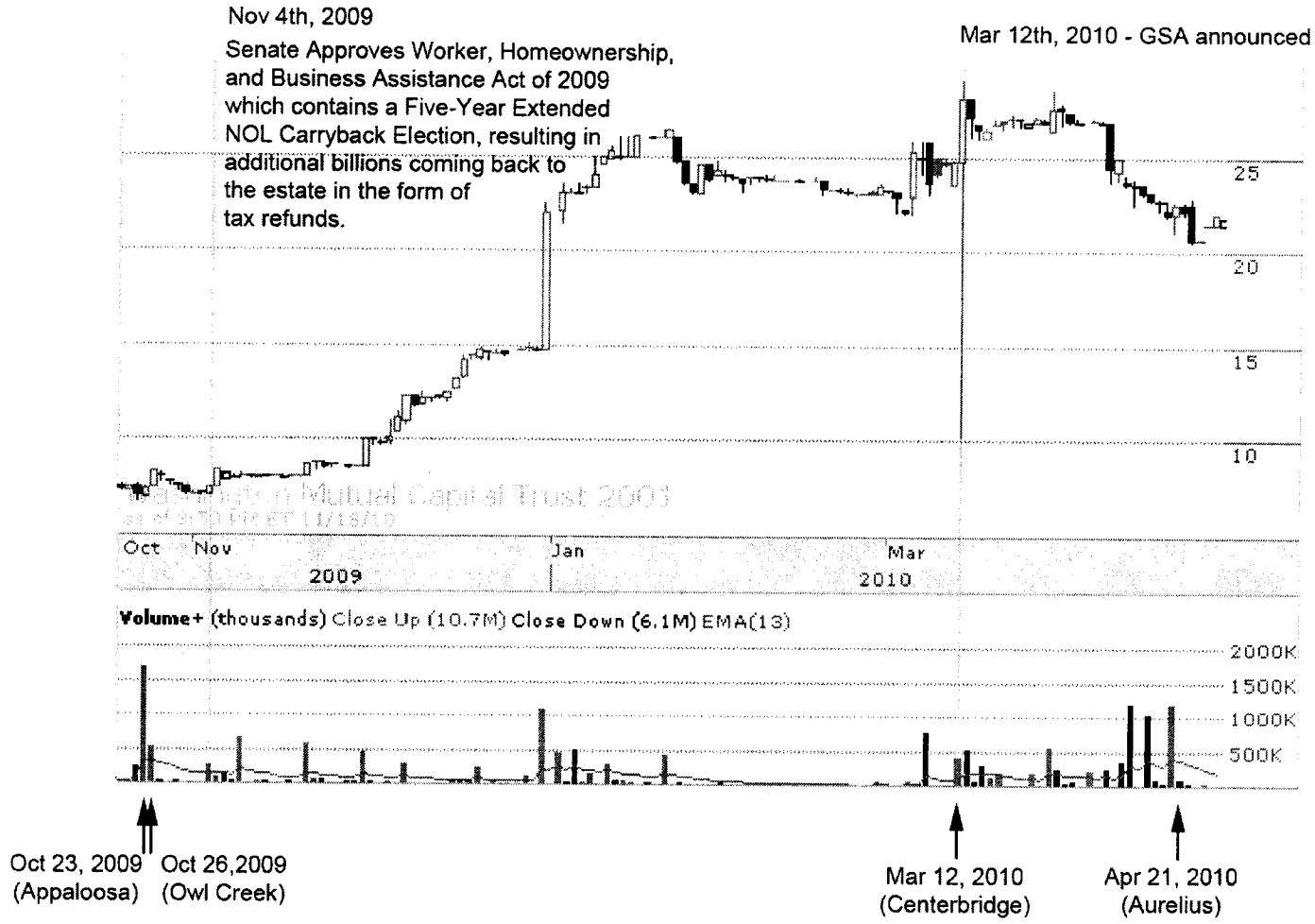
"Settlement Noteholders" first purchase dates for the WAHUQ securities



Appendix H

Settlement Note Holders' Last Purchase Dates

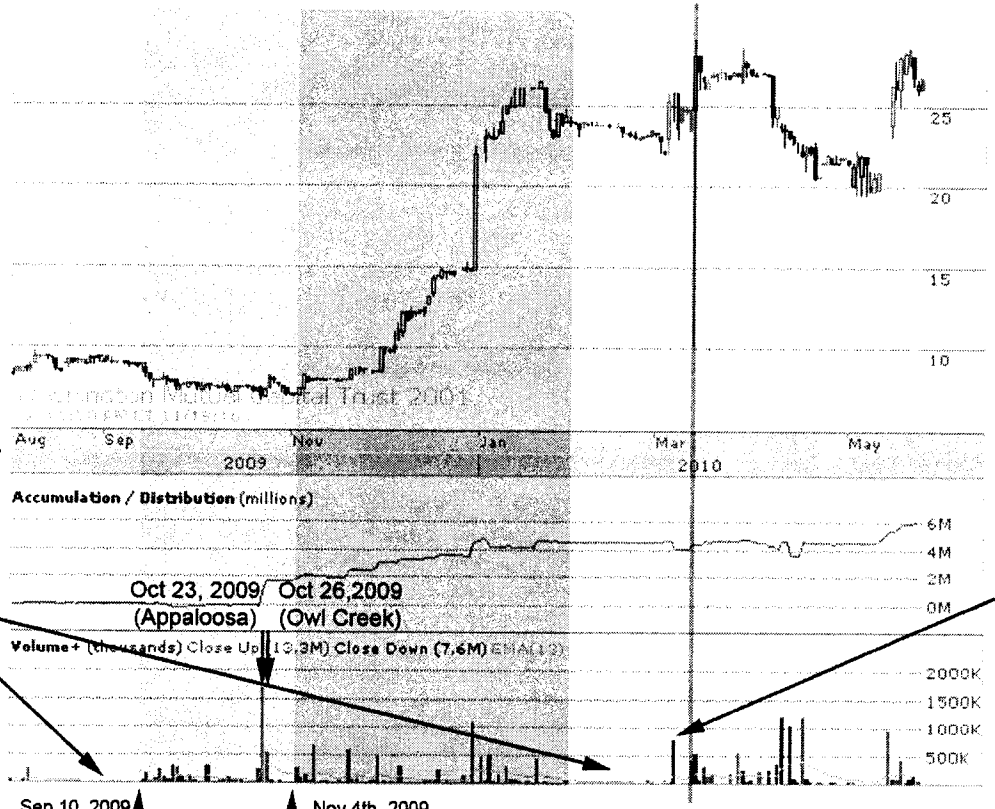
"Settlement Noteholders" last purchase dates for the WAHUQ securities



Appendix I

WAHUQ and the Worker, Homeownership, and Business Assistance Act of 2009

WAHUQ activity surrounding introduction and passage of WHaB Act



Little to no activity preceeding the introduction of the bill, or after roughly Feb '10 until immediately before the details of the Global Settlement Agreement become known.

Heavy Activity during GSA negotiations, when there should have been no public awareness of the particulars of those negotiations.

Sep 10, 2009
Worker, Homeownership, and Business Assistance Act of 2009 introduced which contains a Five-Year Extended NOL Carryback Election, resulting in additional billions coming back to the estate in the form of tax refunds.

Nov 4th, 2009
Senate Approves Worker, Homeownership, and Business Assistance Act of 2009 which contains a Five-Year Extended NOL Carryback Election, resulting in additional billions coming back to the estate in the form of tax refunds.

Appendix J

Excerpt from Case Docket # 1952, Opinion Granting JPMorgan Chase Bank, National Association's Motion to Compel

either in or outside the Group. The case law, however, suggests that members of a class of creditors may, in fact, owe fiduciary duties to other members of the class. See Young v. Higbee Co., 324 U.S. 204, 210 (1945) (finding that stockholders, "by appealing from a judgment which affected a whole class of stockholders owed an obligation to them, the full extent of which we need not now delineate. Certainly, at the very least they owed them an obligation to act in good faith."); Official Committee of Equity Security Holders of Mirant Corp. v. The Wilson Law Firm, P.C. (In re Mirant Corp.), 334 B.R. 787, 793 (Bankr. N.D. Tex. 2005) ("It is a well established principle of bankruptcy law that when a party purports to act for the benefit of a class, the party assumes a fiduciary role as to the class.") Indeed, Judge Gropper in Northwest II, while not expressly finding that fiduciary duties existed between the members of the ad hoc committee and the rest of the class, noted the importance of the relationship between the committee and other similarly situated shareholders:

> By acting as a group, the members of the shareholders' Committee subordinated to the requirement of Rule 2019 their interest in keeping private the prices at which they individually purchased or sold the Debtors' securities. This is not unfair because their negotiating decisions as a Committee should be based on the interest of the entire shareholders' group, not their individual financial advantage.

363 B.R. at 708 (emphasis added). It is not necessary, at this

stage, to determine the precise extent of fiduciary duties owed but only to recognize that collective action by creditors in a class implies some obligation to other members of that class.

D. Proposed Amendment of Rule 2019

Recently efforts have been made to repeal Rule 2019. See Letter from Securities Industry and Financial Markets Association and The Loan Syndication and Trading Association to Peter G. McCabe, Secretary, Committee on Rules of Practice and Procedure of the Judicial Conference of the United States 1 (November 30, 2007) (available at http://www.uscourts.gov/rules/BK%20Suggestions%202007/07-BK-G-.pdf).

In response, however, the Advisory Committee has recommended changes to the Rule that require more, rather than less, disclosure. The proposed amended Rule would still require that "every entity, group, or committee that consists of or represents more than one creditor or equity security holder and, unless the court directs otherwise, every indenture trustee," make certain disclosures. The Rule, however, has expanded the disclosures required to include information of the parties' "disclosable economic interest" which is "intended to be sufficiently broad to cover any economic interest that could affect the legal and strategic positions a stakeholder takes in a chapter 9 or chapter 11 case." Report of the Advisory Committee on Bankruptcy Rules, Appendix B, Committee Notes to Rule 2019 (May 11, 2009) (available

Appendix K

Excerpt from Case Docket # 1952, Opinion Granting JPMorgan Chase Bank, National Association's Motion to Compel

12. In March of 2009, certain of the Noteholders participated in negotiations with JPM, the FDIC, the Debtors, the Official Committee of Unsecured Creditors (the "Official Committee") and other noteholders represented by Fried, Frank, Harris, Shriver & Jacobson LLP ("Fried Frank") in hopes of reaching a global settlement of the disputed issues in these chapter 11 cases. As a condition to participation in those negotiations, the participating Noteholders were required to execute limited confidentiality agreements, which in effect precluded them from trading in WMI's securities or required them to establish and observe internal screening procedures during the term of the confidentiality agreement. During these negotiations, JPM commenced an adversary proceeding against the Debtors; no advance notice was provided to the Debtors, the Official Committee or the Noteholders. JPMorgan Chase Bank, N.A. v. Washington Mutual, Inc., Adv. Case No. 09-50551 (Bankr. D. Del.) [Docket No. 807]. The filing of the adversary proceeding effectively ended the negotiations. Nevertheless, at no time during the negotiations did JPM express any interest in any of the information now sought through the 2019 Motion.

13. Contemporaneously with this Objection, White & Case, Kasowitz, and Fox Rothschild have filed and served supplemental Rule 2019 disclosures (the "Supplemental Disclosures"), which show that at present the Noteholders include thirty entities holding in the aggregate $3.26 billion of WMI's outstanding debt securities.