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

,	Chapter 11
In re:	Case No. 08-12229 (MFW)
WASHINGTON MUTUAL, INC., et al., 1	) (Jointly Administered)
Debtors.	Requested Hearing Date: January 20, 2011 at 2:00 p.m. Requested Obj. Deadline: At the Hearing Related Docket No. 6567

MOTION TO SHORTEN NOTICE AND SCHEDULE HEARING ON MOTION OF THE OFFICIAL COMMITTEE OF EQUITY SECURITY HOLDERS FOR AN ORDER PURSUANT TO BANKRUPTCY RULE 2004 AND LOCAL BANKRUPTCY RULE 2004-1 DIRECTING THE EXAMINATION OF THE WASHINGTON MUTUAL, INC. SETTLEMENT NOTE HOLDERS GROUP

The Official Committee of Equity Security Holders (the "Equity Committee"), by and through its undersigned counsel, hereby moves (the "Motion to Shorten"), pursuant to sections 102 and 105(a) of title 11 of the United States Code, 11 U.S.C. §§ 101 et seq. (as amended, the "Bankruptcy Code"), Rules 2002 and 9006 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") 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 for an Order Pursuant to Bankruptcy Rule 2004 and Local Bankruptcy Rule 2004-1 Directing the Examination of the Washington Mutual, Inc. Settlement Note Holders Group (the "2004" Motion") for January 20, 2011 at 2:00 p.m. (the "Hearing") and (ii) allowing objections, if any, to the 2004 Motion to be raised at the Hearing. In support thereof, the Equity Committee

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.



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 pursuant to 28 U.S.C. §§ 1408 and 1409.
- 2. The predicates for the relief requested herein are sections 102 and 105(a) of the Bankruptcy Code, 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 2004 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 2004 Motion for the Hearing to be held on January 20, 2011 at 2:00 p.m. and (ii) allowing objections, if any, to the 2004 Motion to be raised at the Hearing.
- 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 interested parties) specifying the exigencies justifying shortened notice." DEL. BANKR. L.R. 9006-1(e).
  - 6. The Equity Committee respectfully requests that sufficient cause exists for

Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the 2004 Motion.

shortening notice of, and scheduling an emergency hearing on, the 2004 Motion and approving the requested objection deadline.

- 7. By the 2004 Motion, the Equity Committee requests authorization to conduct an examination of the members of Washington Mutual, Inc.'s Settlement Note Holders concerning the allegations that these members may have traded WMI securities based on confidential information. As noted in the Court's Opinion, these allegations of insider trading are relevant to at least two unresolved issues concerning the Plan the scope of releases granted to the Settlement Note Holders (if any) and the interest rate paid on the Settlement Note Holders' claims. It is necessary to resolve these outstanding issues as soon as practicable, and before any further confirmation proceedings occur.
- 8. The Debtors recently announced their intention to amend the Plan consistent with the Court's Opinion denying confirmation, and to seek confirmation and consummation of the Plan, as amended, as expeditiously as possible. [Docket No. 6564]. In fact, the Debtors recently filed a notice, notifying the parties that the Court will hold a status conference regarding the Opinion and the Debtors' suggested modifications to the Plan on January 20, 2011 at 2:00 p.m.
- 9. Because the information sought pursuant to the 2004 Motion bears directly on several unresolved issues related to the Plan, it is necessary to shorten notice to permit discovery to proceed as soon as possible. This is especially true given the Debtors' intention to seek confirmation and consummation of the amended Plan as expeditiously as possible. Indeed, the Debtors' rush to confirm the amended Plan only underscores the need for immediate consideration of the 2004 Motion. It is impossible for the Equity Committee to evaluate any amended Plan (and prepare an informed objection, if necessary) without having first obtained, reviewed and analyzed the requested documents and information. Therefore, it is essential that

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the 2004 Motion be permitted to go forward on shortened notice to allow the Equity Committee to receive the requested information immediately.

- 10. As certified in the 2004 Motion, the Equity Committee provided copies of its discovery requests to counsel for the Settlement Note Holders Group on January 14, 2011 and held a meet and confer with counsel on January 18, 2011.
- 11. Given the foregoing exigent circumstances, the Equity Committee submits that the relief requested in this Motion to Shorten is necessary and appropriate. Accordingly, the Court should shorten notice with respect to the 2004 Motion so that it may be heard on January 18, 2011, at the same time as the status conference regarding the Opinion and the Debtors' suggested modifications to the Plan.

#### NOTICE

12. Notice of this Motion to Shorten 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**

13. No previous request for the 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 2004 Motion for January 20, 2011 at 2:00 p.m.; (ii) allowing

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objections, if any, to the 2004 Motion to be raised at the Hearing; and (iv) granting such other and further relief as the Court deems appropriate.

Dated: January 18, 2011 Wilmington, Delaware

**ASHBY & GEDDES, P.A.** 

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Co-Counsel to the Official Committee of Equity Security Holders of Washington Mutual, Inc. et al.

# Exhibit A

[Proposed Order]

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

	)	Chapter 11
In re: WASHINGTON MUTUAL, INC., et al.,  Debtors.	)	Case No. 08-12229 (MFW)
	) )	(Jointly Administered)
	) )	Related Docket No

ORDER SHORTENING NOTICE AND SCHEDULING HEARING ON MOTION TO SHORTEN NOTICE AND SCHEDULE HEARING ON MOTION OF THE OFFICIAL COMMITTEE OF EQUITY SECURITY HOLDERS FOR AN ORDER PURSUANT TO BANKRUPTCY RULE 2004 AND LOCAL BANKRUPTCY RULE 2004-1 DIRECTING THE EXAMINATION OF THE WASHINGTON MUTUAL, INC. SETTLEMENT NOTE HOLDERS GROUP

Upon consideration of the Motion to Shorten Notice and Scheduling Hearing on Motion of the Official Committee of Equity Security Holders for an Order Pursuant to Bankruptcy Rule 2004 and Local Bankruptcy Rule 2004-1 Directing the Examination of the Washington Mutual, Inc. Settlement Note Holders Group (the "Motion to Shorten")<sup>2</sup> 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 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 thereof, it is hereby:

# ORDERED, ADJUDGED, AND DECREED THAT:

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.

All capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the 2004 Motion.

- 1. The Motion to Shorten is **GRANTED**.
- 2. The 2004 Motion shall be heard at the Hearing scheduled for January 20, 2011 at 2:00 p.m. (ET).
- 3. Any objections to the relief requested in the 2004 Motion shall be raised at the Hearing scheduled for January 20, 2011 at 2:00 p.m. (ET).
- 4. This Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated:	Wilmington,	Delaware
	January	, 2011

THE HONORABLE MARY F. WALRATH UNITED STATES BANKRUPTCY COURT