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**REQUEST FOR INFORMATION REGARDING DISPOSITION OF SECOND & UNION LLC  
PURSUANT TO CHAPTER 11 OF THE UNITED STATES BANKRUPTCY CODE**

US BANKRUPTCY COURT  
DISTRICT OF DELAWARE

VIA FEDERAL EXPRESS

January 25, 2011

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)

Dear Judge Walrath:

We write this letter as a formal request for information regarding disposition of Second & Union LLC. Upon information and belief, Second & Union LLC is a direct subsidiary of Washington Mutual Inc.

This request arrives at the court in its third incarnation. While it is not our wish to burden the court with excessive paperwork, the debtors have refused to answer any of the questions initially raised in our objection to the plan of reorganization (docket number 5960) or in our reply to the debtors (docket number 6455). Eight weeks have elapsed since our reply to the debtors and formal request for information regarding assets that the debtors have ignored.

This is of serious concern to us as holders of Washington Mutual debt and equity. The debtors' refusal has prompted us to file a formal complaint of suspected bankruptcy fraud based on a number of missing and undervalued assets. We write this supplemental request as a third attempt to gain meaningful information from the debtors regarding what is, upon information and belief, an estate asset. More importantly, as the debtors and debtors' counsel attempt to rapidly close this case without providing an asset list, these questions are even more important so that future litigation based on breach of fiduciary duty and fraudulent conveyance of estate assets may be undertaken with speed and clarity. It is of paramount importance that the bankruptcy courts be counted on to protect all rights and interests.



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## **I. BACKGROUND**

Second & Union LLC was the largest remaining subsidiary of Washington Mutual, Inc. after its seizure and sale in September of 2008. There is no mention of ownership or disposition of Second & Union LLC in the disclosure statement or the plan of reorganization.

## **II. STANDING**

WMI is owned by its equity holders and given historical and recent events related to tax issues, assets are currently above liabilities despite the best efforts of debtor's counsel to maintain the appearance of insolvency. You have recognized the right of WMI shareholders to appear as parties in interest. As a party in interest, we are entitled to a full accounting of assets under 11 U.S.C. § 101 et seq. (the "Bankruptcy Code").

It is our information and belief that assets have been obfuscated and this subsidiary represents a powerful and compelling case that the debtors and debtors' counsel are attempting to minimize rather than maximize estate values.

Accordingly, concealment of asset information injures us as shareholders as it prohibits us from determining if the Global Settlement is reasonable and has already impaired our ability to make an informed vote.

## **III Basis for Objection and Request**

The debtors have now twice ignored our request for asset valuations and ownership. Furthermore, the debtors attempt to rush modifications through the court after your honor's denial despite having never provided:

- a list of assets (even those that had no affiliation with WMB)
- valuation of claims (citing attorney-client privilege as if equity were not counsel's client)
- likelihood of success of those claims

We believe that the debtors are transferring property outside of the POR in violation of bankruptcy law so as to placate JP Morgan and the FDIC. Second & Union LLC is just one large example of such an asset.

### ***Second & Union LLC***

The following is from the February 29, 2008 filing of the 10K, page 9 (see exhibit A), signed by Kerry Killinger and affirmed by Deloitte & Touche LLP.

"The Company's primary executive and business segment headquarters are located at 1301 Second Avenue, Seattle, Washington, 98101. In March 2006 Second and Union LLC, a wholly-owned subsidiary of Washington Mutual, Inc., in a joint venture with the Seattle Art Museum, completed construction the Company's headquarters building and was granted an initial certificate of occupancy. At that time, Second and Union LLC took ownership of a condominium interest in the 944,000 square foot office tower and the attached 700 stall parking garage and the Company's employees began to relocate to the new space. Concurrently, the Seattle Art Museum completed and took ownership of 243,000 square feet of future expansion space that Second and Union LLC leased, and the Company's employees will occupy, for a period of up to 25 years. The Seattle Art Museum has the right to cancel the lease, in whole or in part, at any time after the tenth year of the lease. Certain leases covering downtown Seattle

locations were not renewed when their terms expired. The Company leases an additional 697,000 square feet in other downtown Seattle locations for administrative functions.

As of December 31, 2007, the Company's owned and leased property in 36 states was comprised of 2,257 retail banking stores, 233 lending stores and centers and 290 administrative and other offices. During 2007, the Company sold three administrative locations in California and Florida totaling 275,000 square feet and leased back 145,000 square feet. Administrative facilities involve the ownership of leasing of approximately 2.6 million square feet in California, 1.1 million square feet in Texas, 825,000 square feet in Florida and 463,000 square feet in Illinois."

It is unfortunate that so little information has been provided by the debtors and debtors' counsel that we are unable to assume estate maximization is or has ever been a central goal. Thus, regulatory filings must be consulted prior to accepting any statement regarding asset ownership.

- Upon information and belief, there were no corporate filings between the above date and the date of seizure that impacted Second & Union LLC's status as a direct subsidiary of WMI prior to the seizure and sale of Washington Mutual Bank. Also attached is a list of subsidiaries of JP Morgan Chase included in their annual filing (Exhibit B). Note that Second & Union is listed as a subsidiary of JP Morgan Chase. This subsidiary has unknown worth to the estate value, and given the inaccurate information provided in the SOFAs and MORs (for a review of these inaccuracies, see our formal reply to the debtors filed on December 18<sup>th</sup>) this information should have been presented to stakeholders in advance of any consideration of plan approval.
- If this subsidiary is indeed a direct subsidiary of WMI, then it represents a fraudulent conveyance to JP Morgan Chase. It would be difficult to find credibly any suggestion that the seasoned legal firms involved with this case have no awareness of this direct subsidiary relationship as well as its potential value. This suggests fraudulent conveyance has been committed in this case.
- While fraudulent conveyance, if proven, does not automatically grant us leave to file a cause of action against the debtors, debtors' counsel, or JP Morgan Chase, the bankruptcy court is empowered by 11 U.S.C. § 105(a) to "issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." The statute specifically allows a bankruptcy court to make "any determination necessary or appropriate to enforce or implement court orders or rules, or to prevent an abuse of process." In *Bessette v. Avco Fin. Servs.*, 230 F.3d 439, the Court of Appeals for the First Circuit stated "§ 105 does not itself create a private right of action, but a court may invoke § 105(a) "if the equitable remedy utilized is demonstrably necessary to preserve a right elsewhere provided in the Code."

#### **IV. Relief Requested**

- 1) The Debtors should be required to demonstrate to the Court the corporate structure of WMI to the extent that Second & Union LLC's status is reasonably resolved.
- 2) If it is found that the debtors were aware of Second & Union LLC's status as a direct subsidiary of Washington Mutual Inc., that the decision to shift this large estate asset to JP Morgan Chase without compensation be explained thoroughly to the satisfaction of equity shareholders.
- 3) Last, if this asset has in fact been ignored, that attorneys for the equity committee be allowed sufficient time to address these overlooked assets in a formal valuation hearing or that this breach of fiduciary duty be remedied by a course of action the court finds reasonable.

In addition to being a party in interest we are (a) members of the public, and (b) injured by the nondisclosure of asset values as well as the settlement proposed by the debtors and supported by the Settlement Noteholders. Therefore, we are entitled to a reasonable and timely response regarding this large estate asset.

A representative of our group can appear in court to be heard at a hearing regarding this matter. A copy of this objection and request has been made available to all major parties.

Thank you for your time and attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Joe Schorp', written over a horizontal line.

Joe Schorp

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**Exhibit A**

April 2001 to April 2002, he was an independent consultant, and from February 2000 to April 2001, he was President and Chief Operating Officer, First USA Bank.

**Operational Excellence and Business Process Outsourcing**

Washington Mutual has long been known for its commitment to quality customer service and innovation in products and services. In 2003, when it introduced "Operational Excellence," the Company began moving toward a focus and philosophy of continuous and systematic improvement in efficiency, productivity and processes. Operational Excellence is an approach to continuous process improvement adapted from industry-recognized methodologies and tools like six sigma, lean and total quality management. Since introducing Operational Excellence, Washington Mutual has devoted resources to educating and engaging the Company's employees on the methods and tools of Operational Excellence and how the approach supports the long-term success of the Company. As a consequence, opportunities for improvement in efficiency, productivity and processes are being continuously identified through the enterprise-wide approach and governance framework of Operational Excellence. Business Process Outsourcing is a complementary strategy that further supports Washington Mutual's focus on continuous improvement in productivity, efficiency and processes through utilization of the services of global vendors.

From time to time, the implementation of an Operational Excellence or Business Process Outsourcing initiative may lead to changes in the Company's operations, resulting in staff reductions, the closure or relocation of administrative support facilities, the closure or relocation of one or more home loan centers, or the renegotiation or termination of lease agreements or other forms of contracts. Within the governance framework of Operational Excellence and Business Process Outsourcing, expenses and charges necessary to implement an individual initiative that involve changes to the Company's operations are forecasted and related cost savings are estimated. As these expenses and charges are incurred, accrued or accumulated during a financial period, the Company quantitatively and qualitatively assesses their significance to its consolidated financial statements and management's discussion and analysis, as part of its disclosure controls process.

**Properties**

The Company's primary executive and business segment headquarters are located at 1301 Second Avenue, Seattle, Washington 98101. In March 2006, Second and Union LLC, a wholly-owned subsidiary of Washington Mutual, Inc., in a joint venture with the Seattle Art Museum, completed construction of the Company's headquarters building and was granted an initial certificate of occupancy. At that time, Second and Union LLC took ownership of a condominium interest in the 944,000 square foot office tower and the attached 700 stall parking garage and the Company's employees began to relocate to the new space. Concurrently, the Seattle Art Museum completed and took ownership of 243,000 square feet of future expansion space that Second and Union LLC leased, and the Company's employees will occupy, for a period of up to 25 years. The Seattle Art Museum has the right to cancel the lease, in whole or in part, at any time after the tenth year of the lease. Certain leases covering downtown Seattle locations were not renewed when their terms expired. The Company leases an additional 697,000 square feet in other downtown Seattle locations for administrative functions.

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## Exhibit B

Name	Organized under the laws of
Seafair Securities Holding Corp.	Delaware
Second and Union, LLC	Delaware
South Cutler Corporation	Delaware
Stockton Plaza, Incorporated	Florida
WaMu Asset Acceptance Corp.	Delaware
WaMu Capital Corp.	Washington
Washington Mutual Mortgage Securities Corp.	Delaware
We Valoroso Holding Corp.	Delaware
WM Asset Holdings Corp.	Delaware
WM Marion Holdings, LLC	Delaware
JPMC Mortgage Funding LLC	Delaware
WaMu 2007 MF-1 Trust	United States
JPMC Real Estate Investment Trust	Maryland
Washington Mutual Preferred Funding LLC	Delaware
Wamu 2006-OA1	Delaware
Wamu 2007-Flex 1	United States
WaMu 2008 SFR- 2	United States
Washington Mutual Home Equity Trust	Delaware
JPMC Specialty Mortgage LLC	Delaware
WMB Baker LLC	Nevada
JPMorgan Chase Funding Inc.	Delaware
J.P. Morgan Ventures Energy Corporation	Delaware
BE Investment Holding Inc.	Texas
Arroyo Energy Investors LLC	Delaware
Argonaut Power LP	Delaware
Arroyo DP Holding LP	Delaware
Central Power Holdings LP	Delaware
Okwari CB Holdings LP	Delaware
Okwari UCF LP	Delaware
Carbon Acquisition Company Limited	Jersey
J.P. Morgan Commodities Canada Corporation	Canada
JPMorgan Ventures Energy (Asia) Pte Ltd	Singapore
PropPartners Master Fund L.P.	Cayman Islands
JPMorgan Distribution Services, Inc.	Delaware
JPMorgan Funds Management, Inc.	Delaware
JPMorgan Private Capital Asia Corp.	Delaware
JPMorgan Private Capital Asia General Partner, L.P.	Cayman Islands
JPMorgan Private Capital Asia Fund I, L.P.	Cayman Islands
JPMorgan PCA Holdings (Mauritius) I Limited	Mauritius
JPMorgan Securities Holdings LLC	Delaware
J.P. Morgan Commercial Mortgage Investment Corp.	Delaware
J.P. Morgan Institutional Investments Inc.	Delaware
Neovest, Inc.	Utah
JPMorgan Special Situations Asia Corporation	Delaware
JPMorgan Mauritius Holdings VI Limited	Mauritius
Harbour Formosa Investment Holdings Limited	Mauritius
Harbour Victoria Investment Holdings Limited	Mauritius
Indocean Financial Holding Limited	Mauritius
JPMorgan Mauritius Holdings II Limited	Mauritius
JPMorgan Mauritius Holdings IV Limited	Mauritius
JPMorgan Mauritius Holdings Limited	Mauritius
JPMorgan Mauritius Holdings VII Limited	Mauritius
JPMorgan Special Situations (Mauritius) Limited	Mauritius
J.P. Morgan Advisors India Private Limited	India
Silver Summit (Delaware) Corporation	Delaware
Magenta Magic Limited	British Virgin Islands
JPMP Capital Corp.	New York
J.P. Morgan Partners, LLC	Delaware
JPMP Capital, LLC	Delaware
J.P. Morgan Capital, L.P.	Delaware
JPMCC Belgium (SCA)	Belgium
J.P. Morgan Partnership Capital Corporation	Delaware
J.P. Morgan Partnership Investment Corporation	Delaware
Peabody Real Estate Partnership Corporation	Delaware
The Peabody Fund Consultants, Inc.	Delaware