

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re:

WASHINGTON MUTUAL, INC., et al.,<sup>1</sup>

Debtors.

Chapter 11

Case No. 08-12229 (MFW)

Jointly Administered

03/29/11 09:30 AM  
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**Supplemental Complaint against Debtors' Bankruptcy Frauds**

Pursuant to 11 U.S.C. §1109(b), I, Gang Chen, an equity holder of Washington Mutual Inc. ("WMI") securities and a party in interest, upon the omnibus response by the Debtors to numerous aggrieved individual shareholders' objections to the SUPPLEMENTAL DISCLOSURE STATEMENT,<sup>2</sup> representing my interests in this case, hereby file this supplemental document in complement to my previous complaint.<sup>3</sup>

**JURISDICTION**

This Court has jurisdiction and discretion over Debtors' bankruptcy cases pursuant to 28 U.S.C. §157 and 1334. This is a core proceeding pursuant to 28 U.S.C. §157(b)(2) [Core proceedings include matters concerning the administration of the estate]. Venue is proper before this Court pursuant to 28 U.S.C. §1408 and 1409.

**BRIEF BACKGROUND**

On January 7, 2011, this Court denied the Debtors' motion for approval of the Sixth Amended Plan of Reorganization given the Court's concerns on the improper and unjust non-debtor legal releases to third parties and the inappropriateness of authorizing the releases by the parties in interest without receiving proper compensations for those releases and enumerated deficiencies therein. In the Opinion issued by this Court denying the Sixth Amended Plan, the Court concluded that there is not enough evidence to support allegations that the conflict of interest of the Debtors contaminated the WMI bankruptcy process and the lack of good faith of the same group undermined the recovery of the estate assets.<sup>4</sup>

On February 8, 2011, the Debtors filed a "wrap" of two documents to address the deficiencies in the previously submitted plan identified by the Court, and set March 9 as the deadline for the parties to submit objections to the modified disclosure statement.<sup>5</sup>

<sup>1</sup> The Debtors in these bankruptcy cases and the last four digits of each above Debtor's federal tax identification numbers are: Washington Mutual, Inc. (3725); and WMI Investment Corp. (5395).

<sup>2</sup> See Docket No. 6963.

<sup>3</sup> See Docket No. 6190.

<sup>4</sup> See Docket No. 6528, at page 13-16, 106.

<sup>5</sup> See Docket No. 6696, 6697 & 6670.



In subsequence of Debtors' filing of the wrap, the Court has received enormous amount of aggrieved individual shareholders' objections and responses to the Debtors' wrap. Particularly, several objectors raised concerns over the estate's assets being missing, hidied or fraudulently conveyed to JPMC.<sup>6</sup>

On March 16, 2011, the Debtors filed an omnibus response to the objections.<sup>7</sup>

## PRELIMINARY STATEMENT

In over 30 months of WMI's bankruptcy process, provided that the instant case's magnitude and scale as one of the largest bank holding corporations' bankruptcy cases in the United States, egregiously, parties in interest, at least Washington Mutual, Inc. equity security holders and certain PIERS holders, excluding Settlement Noteholders, the WMI Noteholder Group, the WMI Official Creditor Committee, JPMC and the FDIC, are still beclouded to the complete and accurate enumeration and respective valuation of the estate's assets. Especially, to the equity classes, under the plight of the Court's endorsement on the GSA of which had been dismissed by the original parties,<sup>8</sup> the continuous and explicit effort of the Debtors to eliminate the existing equity interests, the massive billings by the Debtors' counsels and the strong objections to the modified disclosure statement and the plan of reorganization from the aggrieved parties, the prayer of the Court's requiring the Debtors to disclose a comprehensive, accurate and audited estate assets list and respective valuation should be granted. Noteworthily, as a matter of fact and being examinable in the creditors' billings, the Settlement Noteholder Group is the co-architect of the GSA and the plan. Coincidentally, the very same group turns out to be the major beneficial party under the aforementioned plan. Gargantuan quantities of allegations by the parties in interest regarding the group's use of material and non-public information to accumulate the PIERS securities given their knowledge on the structure of the plan waterfall result to usurp the reorganized WMI, mainly, the WMRRRC were raised. Concerns on the Debtors' bankruptcy frauds were conveyed to the Court in various shareholders' letters with specific evidence and proofs therein. As evidenced by individual shareholders, the Debtors' bankruptcy frauds are categorized particularly in concealment of assets, fraudulent conveyance and unanswered questions or inconsistent information on debtor's statement of financial affair. The instant complaint deals with the first two categories.

## SPECIFIC EVIDENCE

### *B767 Aircraft Sale*

As proffered by Ben Mason in his objection letters, docketed as Doc. No. 6883, 6884 and 6892, to the modified disclosure statement, the Debtors admitted, in the omnibus response, that a B767 aircraft was sold without notifying the Court and the estate's rightful owner – the WMI Equity, but, only the creditors.<sup>9</sup> While Mr. Mason contended that it is required by laws that the Debtors in bankruptcy should gain permission from the Court in matters concerning the estate's asset sales before executing such a transaction. In counterargument, the Debtors obfuscated that the aircraft was sold by a non-debtor subsidiary – WMI Citation Holdings, LLC, a direct and wholly owned subsidiary of WMI. Arising from the fact that WMI is in the process of bankruptcy, all estate assets and liabilities, of which the current Debtors are representing, should be overseen fully by this Court with caution. The

<sup>6</sup> See Docket No. 6770, 6777, 6781, 6840, 6845, 6847, 6849, 6856, 6857, 6881, 6883, 6884, 6892, 6900, 6913 & 6918.

<sup>7</sup> See Docket No. 6963.

<sup>8</sup> Interestingly, the Settlement Noteholders, *aka* the four hedge funds, under the pressure of the EC's insider trading investigation, voluntarily or being forced to, withdraw from the modified GSA among the Debtors, the WMI creditors, JPMC and the FDIC. The modified GSA is virtually identical to the previous GSA.

<sup>9</sup> See *id.* at pg 51.

Debtors failed to clearly explain whom the aircraft belongs to and in what capacity that the Debtors can classify that the aircraft is unreachable by the Court's jurisdiction. WMI Citation Holding, LLC is WMI's direct and wholly-owned non-banking subsidiary, all of whose assets are properties of WMI. If the properties of WMI Citation are not subject to WMI's Chapter 11 bankruptcy process, those assets should be not materially influenced by the instant bankruptcy given that they are unscheduled assets. If so, however, on what ground did the Debtors retain the power to put all assets of WMI Citation into the Liquidating Trust for distribution to stakeholders under the modified plan?<sup>10</sup> This logic by the Debtors, whatsoever, makes no sense. The Debtors could have "mistakenly" missed the listing of the aircraft and WMI Citation as scheduled assets subject to the reorganization process. However, the reality suggests the reverse. The Debtors' failure to disclose the existence of such a piece of asset the subsequent sales of the asset, after many months of bankruptcy proceeding and MOR filings, disclosure statement and plan modifications and objectors' questioning on the asset disclosure completeness, demonstrates the Debtors' reckless disregard of relative codes and regulations.

#### *WMI Investment Corp. Securities*

Mr. Schorp, by his objection letter docketed as Doc. No. 6813, contended that the Debtors selectively disclosed six holdings of securities by the WMI Investment Corp. of which are accounted to be merely 15% of the stated book value of the WMIIC holdings as of 9/26/2008. Examples of the undisclosed valuable investment holdings are the quantity of preferred securities positions in PNC Financial Services and Citigroup. In response, the Debtors ignored Mr. Schorp's criticism on lack of disclosure on the above matter. Mr. Schorp contested further that the positions in Wachovia [CUSIP No. 922903276], MetLife [CUSIP No. 59156R603], Georgia Power [CUSIP No. 373334119] and Bank of America [CUSIP No. 060505740] may have been liquidated by the Debtors without the Court's authorization after the petition date. In response, the Debtors "divulged" or admitted that they may have sold the six listed securities after the petition date pursuant to section 345(b) of the Bankruptcy Code with no explanation. Esoterically, the Debtors further argued that all of the sales of the securities held by WMIIC had been properly filed with the Court from October 2008 through January 2009. After searching for the purported documents by the Debtors, motions for disposition of the six particular securities in WMIIC can not be located. Only a motion by the Debtors, docketed as Doc. No. 334 and later the Court's order regarding the respective motion docketed as Doc. No. 536 can be identified. The proposed sales of the identified "Investment" in that motion, in whatsoever manner, have no relation to the six listed securities in WMIIC. The Debtors proposed an asset sale notification procedure and the Court approved in part, but still the undisclosed sale of the six securities can not be justified by the Debtors' blanket response and reference.

The instant complaint suggests that the sales of the six listed securities which have been disclosed or partially disclosed are not justifiable or justifiable upon further disclosure by the Debtors.

Most of the disclosed investments that have been made are in preferred security classes of major U.S. corporations that have imposed systematic risks to the financial system. Any one of their falls would bring disastrous effect to the U.S. economy during those periods. The passage of TARP on October 3, 2008 demonstrated the determination of the U.S. government to stabilize the economic instability. Whereas those preferred security classes are backed by the full faith of the corporations and the corporations that impose systematic risks to the market are backed by the government through TARP. This should be sufficient to prove the security, to the degree as equivalent to "surety bond" in section 345(b), of those investment made by the estate prior the petition dates. Amid 2008, major corporations, especially financial institutions, are backed by the full faith of U.S. government in an attempt to restore global economic operations. Further, the Congress never contemplated that section 345(b) would be used by the debtor, the trustee of the estate, to harm the recovery probability and level of the estate assets. The Congress never proposed that entities entering bankruptcy process should liquidate all their investments and

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<sup>10</sup> See *id.* at pg 52.

hold cash for future distributions to creditors. In light of the fiduciary duty that the Debtors have to the estate, the Debtors should not have considered any liquidation of the investments amid the worst global economic situation for foregoing reasons. Last, even if, liquidation of the investments is deemed to be the most secured way to preserve the estate asset recovery, such transactions, including buyers' identities, amount of purchasing and dates of purchasing, should be fully disclosed to the court in prevention of insider trading and illegal sales of estate assets to unqualified buyers. Special attention should be paid on the four Settlement Noteholders' trading activities on WMI assets and securities.

*WMI Non-banking Subsidiaries*

Mr. Iverson, in his objection letters docketed respectively as Doc. No. 6840 and 6987, clearly showed to the Court that at least 25 WMI non-banking subsidiaries which have been discovered upon his comparison of SEC filings by WMI and JPM throughout the periods of WMI's bankruptcy. In details, Mr. Iverson listed the following WMI non- banking subsidiaries that had been fraudulently transferred by the Debtors to JPM.

California Reconveyance Company	Commercial Loan Partner LLC
FA Out-Of-State Holding	Ahmanson Land Company
Ahmanson Marketing Company	CRP Properties Inc
FA California Aircraft Holding	Pacific Centre Associates
WMRP Delaware Holdings	Irvine Corporation Center
Rivergrade Investment Corp	Savings of America
WaMu Insurance Services	Washington Mutual Community Dev. Inc.
HCP Properties Inc	Providian Bancorp Services
Second and Union	South Cutler Corp
Stockton Plaza	WaMu Asset Acceptance Corp
WaMu Capital Corp	WaMu Asset Holding Corp
Washington Mutual Preferred Funding LLC	Washington Mutual Securities Corp
WMICC Delaware Holdings	

In response, the Debtors twisted the fact that the referencing subsidiaries by Mr. Iverson are WMI non-banking subsidiaries. The Debtors intentionally described that Mr. Iverson were referencing "WMB Non-Banking Subsidiaries".

*The FDIC Claim against the WMI Estate*

This Court has no jurisdiction over the claims by the FDIC as the Congress assigned the District Court to deal with such claims in nature. Any recognition of the very claims without proper judicial procedures on hearings and adjudications is deemed to be meritless. The acceptance of such claims by ether the Debtors or the Court should be deemed to be void and fraudulent.<sup>11</sup>

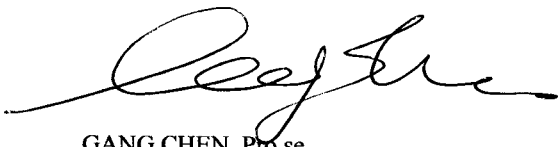
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<sup>11</sup> This Court's January 7, 2011 Opinion on Denying the Debtors' Sixth Amended Plan regarding the acceptance of the FDIC Claims is groundless and without jurisdiction of ordering such. The Court is not in a position to consider the merit of the FDIC claims. Therefore, the Court can not use the FDIC claims as an impediment to the estate asset recovery and later opined that the estate's litigation against the FDIC could be impacted by the FDIC Claims. At the end, the Court concluded the settlement of litigations among the estate, JPMC and the FDIC is reasonable and fair because of the \$54 billion claims by JPMC and the FDIC of which had never been heard before the proper court.

## CLOSING STATEMENT

All of the accused joined in a formulation and execution of a plan, a conspiracy whose purpose is to establish the out-of money WMI Equity illusion to the Court and to serve the Settlement Noteholders' greed on snatching the astonishing and hidden values of the reorganized estate. In order to achieve this goal, the Debtors alone or working with other parties sharing of like-mind, carried out a calibrated calculation of the estate recovery, to subjugate the WMI Equity who is the only party that stands in their way. This complaint supplements additional evidence and information for the Court to reconsider the allegations by individual shareholders and proves the participation of the accused in these criminal actions. There is no greater crime in bankruptcy than plotting and executing a fraud by the Debtors in an attempt to enrich themselves and their allies. The only possible outcome of which is the great suffering the estate shareholders have been experiencing. Therefore, the Court should severely punish those responsible for this horrible fraud in the name of justice.

Respectfully, submitted,

A handwritten signature in black ink, appearing to read 'Gang Chen', written in a cursive style.

GANG CHEN, Pro se

March 21, 2011