

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF DELAWARE**

	X	
<i>In re:</i>	:	
WASHINGTON MUTUAL, INC., <u>et al.</u> , <sup>1</sup>	:	<b>Chapter 11</b>
Debtors.	:	<b>Case No. 08-12229 (MFW)</b>
	:	<b>(Jointly Administered)</b>
	X	<b>Re: D.I. 6711</b>

**ORDER (I) APPROVING THE PROPOSED  
SUPPLEMENTAL DISCLOSURE STATEMENT AND THE FORM AND  
MANNER OF THE NOTICE OF THE PROPOSED SUPPLEMENTAL  
DISCLOSURE STATEMENT HEARING, (II) ESTABLISHING SOLICITATION  
AND VOTING PROCEDURES, (III) SCHEDULING A CONFIRMATION  
HEARING, AND (IV) ESTABLISHING NOTICE AND OBJECTION  
PROCEDURES FOR CONFIRMATION OF THE DEBTORS' MODIFIED PLAN**

Upon the motion, dated February 9, 2011 (the "Motion"),<sup>2</sup> of Washington Mutual, Inc. and WMI Investment Corp., as debtors and debtors in possession (collectively, the "Debtors"), pursuant to sections 105, 502, 1125, 1126, and 1128 of title 11 of the United States Code (the "Bankruptcy Code"), Rules 2002, 3003, 3017, 3018, and 3020 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Rules 2002-1 and 3017-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "Local Rules"), for an order (i) approving the proposed *Revised Supplemental Disclosure Statement for the Modified Sixth Amended Joint Plan of Affiliated Debtors Pursuant to Chapter 11 of the United States Bankruptcy Code*, dated March 25, 2011 (the "Proposed Supplemental Disclosure Statement") for the *Modified Sixth Amended Joint Plan*

<sup>1</sup> The Debtors in these chapter 11 cases along with the last four digits of each Debtor's federal tax identification number are: (i) Washington Mutual, Inc. (3725); and (ii) WMI Investment Corp. (5395). The Debtors' principal offices are located at 925 Fourth Avenue, Seattle, Washington 98104.

<sup>2</sup> Capitalized terms not defined herein shall have the meanings ascribed to them in the Motion or, if not defined in the Motion, the Modified Plan (defined below).



*of Affiliated Debtors Pursuant to Chapter 11 of the United States Bankruptcy Code*, dated February 7, 2011 (as it has and may be further modified, the “Modified Plan”), and the form and manner of the notice of the hearing on the Proposed Supplemental Disclosure Statement; (ii) establishing solicitation and voting procedures; (iii) scheduling a confirmation hearing; and (iv) establishing notice and objection procedures in respect of confirmation of the Modified Plan, all as more fully described in the Motion; and certain objections having been filed to the approval of the Proposed Supplemental Disclosure Statement (collectively, the “Objections”); and the Debtors having filed an omnibus response to the Objections on March 16, 2011 (the “Response”); and the Bankruptcy Court having held a hearing on March 21, 2011 to consider the relief requested herein, the Objections, and the Response (the “Hearing”) with the appearances of all interested parties noted in the record of the Hearing; and upon the record of the Hearing, and all of the proceedings before the Bankruptcy Court, the Bankruptcy Court hereby finds and determines the following:

A. The legal and factual bases set forth in the Motion establish just and sufficient cause to grant the relief requested therein.

#### **Jurisdiction and Venue**

B. Consideration of the Motion and the relief requested therein is a core proceeding pursuant to 28 U.S.C. § 157(b).

C. Venue is proper before the Bankruptcy Court pursuant to 28 U.S.C. §§ 1408 and 1409.

D. The Bankruptcy Court has jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334.

#### **The Proposed Supplemental Disclosure Statement**

E. The Proposed Supplemental Disclosure Statement, coupled with the Prior

Disclosure Statement, contains adequate information within the meaning of section 1125 of the Bankruptcy Code. No other or further information is necessary.

**Objections to the Proposed Supplemental Disclosure Statement**

F. All Objections, responses to, and statements and comments, if any, in opposition to the Proposed Supplemental Disclosure Statement, other than those withdrawn with prejudice in their entirety prior to, or on the record at, the Hearing, shall be, and hereby are, overruled in their entirety for the reasons stated on the record.

**Notice of the Supplemental Disclosure Statement Hearing**

G. On February 8, 2011, the Debtors filed the Modified Plan and the Proposed Supplemental Disclosure Statement. On the same day, the Debtors filed and served a notice of the Hearing [D.I. 6700] (the "Supplemental Disclosure Statement Notice"), a copy of which is annexed hereto as Exhibit 2.

H. Actual notice of the Hearing and the deadline for filing objections to the Proposed Supplemental Disclosure Statement, pursuant to the Supplemental Disclosure Statement Notice, was provided to parties in accordance with Bankruptcy Rules 3017 and 2002. The Supplemental Disclosure Statement Notice constitutes good and sufficient notice, comports with due process, and no other or further notice is necessary. In addition, the Debtors' provision of copies of the Proposed Supplemental Disclosure Statement and Modified Plan with the Supplemental Disclosure Statement Notice to the parties set forth in the Motion complies with Bankruptcy Rule 3017(a).

**Procedures for Filing Objections to the Proposed Supplemental Disclosure Statement**

I. The procedures set forth in the Motion and the Supplemental Disclosure Statement Notice for filing objections to the Proposed Supplemental Disclosure Statement are

appropriate based upon the particular needs of these Chapter 11 Cases and comply with Bankruptcy Rules 2002 and 3017(a).

**Balloting, Voting, and Election Procedures**

J. The procedures, set forth below, for the solicitation and tabulation of (i) votes to accept or reject the Modified Plan and (ii) elections with respect thereto provide for a fair and equitable process and are consistent with section 1126 of the Bankruptcy Code.

***Parties Entitled to Vote***

K. Pursuant to the Modified Plan, Claims and Equity Interests in Class 2 (Senior Notes Claims), Class 3 (Senior Subordinated Notes Claims), Class 5 (JPMC Rabbi Trust / Policy Claims), Class 6 (Other Benefit Plan Claims), Class 8 (WMB Vendor Claims), Class 9 (Visa Claims), Class 10 (Bond Claims), Class 11 (WMI Vendor Claims), Class 12 (General Unsecured Claims), Class 12A (Late-Filed Claims filed on or prior to the General Record Date), Class 13 (Convenience Claims), Class 14 (CCB-1 Guarantees Claims), Class 15 (CCB-2 Guarantees Claims), Class 16 (PIERS Claims), Class 18 (Subordinated Claims), and Class 20 (Preferred Equity Interests) are impaired and are entitled to receive distributions under the Modified Plan and, accordingly, holders of Claims and Equity Interests in such Classes (to the extent eligible) are entitled to vote on account of such Claims and Equity Interests (collectively, the "Voting Entities").

***Non-Voting Creditors and Interest Holders***

L. Pursuant to the Modified Plan, Claims in Class 1 (Priority Non-Tax Claims), Class 4 (WMI Medical Plan Claims), and Class 7 (Qualified Plan Claims) are unimpaired (the "Unimpaired Claims") and, accordingly, pursuant to section 1126(f) of the

Bankruptcy Code, holders of such Claims are conclusively presumed to accept the Modified Plan and are not entitled to vote on account of such Claims.

M. Pursuant to the Modified Plan, Claims in Class 17B (WMB Subordinated Notes Claims), and Equity Interests in Class 21 (Dime Warrants) and Class 22 (Common Equity Interests) (the “Non-Recovering Claims and Interests”) will not receive or retain any property under the Modified Plan and, accordingly, pursuant to section 1126(g) of the Bankruptcy Code, holders of such Claims or Equity Interests are deemed to reject the Modified Plan and are not entitled to vote on account of such Claims or Equity Interests.

N. In accordance with Bankruptcy Rule 3019, resolicitation of votes from holders of Claims in Class 17A (WMB Senior Notes Claims) and Equity Interests in Class 19 (REIT Series) (the holders of such Claims and Interests, collectively with the holders of the Unimpaired Claims and the holders of the Non-Recovering Claims and Interests, the “Non-Voting Creditors and Interest Holders”) is not necessary.

***Certain Holders of Claims Must Elect to Grant Non-Debtor Releases to Receive a Distribution Pursuant to the Modified Plan***

O. The proposed procedures for collecting certain stakeholders’ elections with respect to the Non-Debtor Release Provision are appropriate and address the particular needs of these Chapter 11 Cases. The Debtors shall not solicit elections regarding the Non-Debtor Release Provision from holders of (i) Claims in Classes 1, 4, and 7, which are to be paid or satisfied in full, and shall not be subject to the releases set forth in the Non-Debtor Release Provision; (ii) Common Equity Interests in Class 22, because they are not likely to ever receive any distribution pursuant to the Modified Plan, or (iii) Claims or Equity Interests, as applicable, in Classes 17A and 19, as well as Non-Filing WMB Senior Note Holders, because it was clear to such holders, based upon the terms of the Sixth Amended Plan and the Ballots and forms

submitted to such Classes, that they were required to grant the releases provided in the Non-Debtor Release Provision in order to receive distributions; provided, however, that holders of WMB Senior Notes Claims in Class 17A and Non-Filing WMB Senior Note Holders who failed to elect to grant the releases provided in the Non-Debtor Release Provision on or prior to November 18, 2010, but now wish to grant such releases in order to receive a distribution pursuant to the Modified Plan and otherwise receive the same treatment that such electing holder would have received had it elected to grant such releases on or prior to November 18, 2010, shall have an opportunity to make such election, subject to the submission and verification of certain information about their holdings, as set forth in more detail in paragraph 11 below.

***Certain Holders of Claims May Make New or Revised Stock Elections***

P. The proposed procedures for collecting certain stakeholders' elections with respect to the Stock Elections are appropriate, address the particular needs of these Chapter 11 Cases, and will ensure that all holders of Allowed Claims are given the opportunity to elect to receive value in full satisfaction of such holders' Claims on the Effective Date, prior to any distribution of value on account of Claims that are junior or subordinate to such Claims.

***Solicitation Packages***

Q. The content and proposed distribution of the Solicitation Packages complies with Bankruptcy Rule 3017(d).

***Ballots***

R. The ballots substantially in the forms annexed hereto as Exhibits 4-1, 4-2, 4-3, 4-4, 4-5, 4-6, 4-7, 4-8, 4-9, 4-10, 4-11, and 4-12 (collectively, the "Ballots"), including all instructions provided therein, are consistent with Official Form No. 14, address the particular needs of these Chapter 11 Cases, and provide adequate information and instructions for each individual entitled to vote to accept or reject and make certain elections with respect to the

Modified Plan. No other or further information or instructions are necessary.

*Election Forms*

S. The election forms substantially in the forms annexed hereto as Exhibits 4-13, 4-14, 4-15, and 4-16 (collectively, the "Election Forms"), including all instructions provided therein, address the particular needs of these Chapter 11 Cases and provide adequate information and instructions for each individual entitled to make certain elections pursuant to the Modified Plan. No other or further information or instructions are necessary.

T. The verification form substantially in the form annexed hereto as Exhibit 4-17 (the "Verification Form"), including all instructions provided therein, addresses the particular needs of these Chapter 11 Cases and provides adequate information and instructions for holders of WMB Senior Notes. No other or further information or instructions are necessary.

*Notice of Non-Voting Status*

U. The Notices of Non-Voting Status, substantially in the forms annexed hereto as Exhibits 5-1, 5-2, 5-3, and 5-4, comply with the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules and, together with the Confirmation Hearing Notice, provide adequate notice to Non-Voting Creditors and Interest Holders of their non-voting status. No other or further notice is necessary.

*Notice*

V. The proposed distribution and contents of the Solicitation Packages comply with Bankruptcy Rules 2002 and 3017, and constitute sufficient notice to all interested parties of the Record Date, Voting and Election Deadline, Modified Plan Objection Deadline, Confirmation Hearing, and all related matters.

W. The period, set forth below, during which the Debtors may solicit

acceptances and elections with respect to the Modified Plan is a reasonable and sufficient period of time for Entities to make an informed decision regarding whether to accept or reject the Modified Plan and elections with respect thereto and timely return Ballots and Election Forms evidencing such decisions.

### **The Confirmation Hearing**

X. The procedures, set forth below, regarding notice to all parties in interest of the time, date, and place of the hearing to consider confirmation of the Modified Plan (the "Confirmation Hearing") and for filing objections or responses to the Modified Plan, provide due, proper, and adequate notice and comply with Bankruptcy Rules 2002 and 3017.

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The Motion is **GRANTED** as set forth herein.
2. All Objections, responses to, and statements and comments, if any, in opposition to the Proposed Disclosure Statement, other than those withdrawn with prejudice in their entirety prior to, or on the record at, the Hearing, are **OVERRULED** in their entirety.

### **Supplemental Disclosure Statement**

3. The Proposed Supplemental Disclosure Statement (as approved, the "Supplemental Disclosure Statement," a copy of which is annexed hereto as Exhibit 1), coupled with the Prior Disclosure Statement, contains adequate information in accordance with section 1125 of the Bankruptcy Code, and is **APPROVED**.

### **Solicitation and Voting Procedures**

#### *Voting Entities*

4. Voting Entities are entitled to vote to accept or reject the Modified Plan; provided, however, that a Voting Entity is not entitled to vote to the extent that:



- (a) as of the Record Date, the outstanding amount of such creditor's claim is not greater than zero dollars (\$0.00);
- (b) as of the Record Date, such creditor's claim has been disallowed, expunged, disqualified, or suspended;
- (c) such creditor has not filed a proof of claim as of the Record Date and the Debtors have either not listed such creditor's claim on the Debtors' Schedules, or have listed such claim on the Schedules as contingent, unliquidated, or disputed; or
- (d) such creditor's claim is subject to an objection or request for estimation as of the Record Date.

***Temporary Allowance / Disallowance of Claims***

5. Solely for purposes of voting to accept or reject the Modified Plan, and not for the purpose of the allowance of, or distribution on account of, a Claim, and without prejudice to the rights of the Debtors in any other context, each Claim within a Class of Claims entitled to vote to accept or reject the Modified Plan is temporarily allowed in an amount equal to the amount of such Claim as set forth in the Schedules, provided that:

- (a) If a proof of claim was timely filed in an amount that is liquidated, non-contingent, and undisputed, such claim is temporarily allowed for voting purposes in the amount set forth on the proof of claim, unless such claim is disputed as set forth in subparagraph (g) below;
- (b) If a proof of claim was timely filed in an amount that is contingent or unliquidated, such claim is accorded one vote and valued temporarily in the amount of one dollar (\$1.00), unless such claim is disputed as set forth in subparagraph (g) below;
- (c) If a claim has been estimated or otherwise allowed for voting purposes by order of the Bankruptcy Court, such claim is temporarily allowed in the amount so estimated or allowed by the Bankruptcy Court;
- (d) If a claim is listed in the Schedules as contingent, unliquidated, or disputed and a proof of claim is not filed with respect to such claim prior to the Record Date, such claim is disallowed for voting purposes;
- (e) If a claim is listed in the Schedules or on a timely filed proof of claim as contingent, unliquidated, or disputed in part, such claim is temporarily allowed in the amount that is liquidated, non-contingent, and undisputed, unless such claim is disputed as set forth in subparagraph (g) below;

- (f) If a claim has been filed against multiple Debtors, each and every such related claim filed or to be filed in the chapter 11 cases is deemed filed against the consolidated Debtors and is deemed one claim against and obligation of the deemed consolidated Debtors and such claim is accorded one vote for voting purposes; and
- (g) If the Debtors have filed an objection to or request for estimation of a claim on or before the Record Date, such claim is temporarily disallowed, except as ordered by the Bankruptcy Court before the Voting and Election Deadline; provided, however, that, if the Debtors' objection seeks to reclassify or reduce the allowed amount of such claim, then such claim is temporarily allowed for voting purposes in the reduced amount and/or as reclassified, except as may be ordered by the Bankruptcy Court before the Voting and Election Deadline.

6. If any Creditor seeks to challenge the allowance (or disallowance, as the case may be) of its Claim for voting purposes – i.e., the Creditor believes it should be entitled to vote or believes it should be entitled to vote in a different Class or amount – such Creditor shall file with the Bankruptcy Court a motion for an order pursuant to Bankruptcy Rule 3018(a) temporarily allowing such Claim for voting purposes (a “Rule 3018(a) Motion”). Upon the filing of any such motion, such Creditor’s Ballot shall be counted in accordance with the above-designated guidelines unless temporarily allowed in a different amount by an order of the Bankruptcy Court entered prior to or concurrent with entry of an order confirming the Modified Plan. Any Rule 3018(a) Motion must be filed on or before the tenth (10th) day after service of notice of an objection or request for estimation, if any, as to that specific Claim, but in any event no later than **April 15, 2011 at 4:00 p.m. (Eastern Time)**.

7. The deadline for the Debtors to respond to any Rule 3018(a) Motion is **April 27, 2011 at 4:00 p.m. (Eastern Time)**.

8. To the extent that a Rule 3018(a) Motion is filed and opposed by the Debtors, a hearing with respect thereto shall be held on **May 2, 2011 at 9:30 a.m. (Eastern Time)**.

9. Each Creditor or interest holder that votes to accept or reject the Modified Plan is deemed to have voted the full amount of its Claim or interest herefor.

*Election Procedures*

10. All holders of Claims in impaired Classes entitled to receive distributions pursuant to the Modified Plan (except holders of WMB Senior Notes Claims in Class 17A) must submit revised elections regarding the Non-Debtor Release Provision. The Debtors shall not collect new elections regarding the Non-Debtor Release Provision from holders of the REIT Series in Class 19. **THUS, EXCEPT WITH RESPECT TO CLASS 17A, NON-FILING WMB SENIOR NOTE HOLDERS, AND CLASS 19, ALL PRIOR RELEASE ELECTIONS SHALL BE DISREGARDED (except as provided in paragraph 11 below).**

In addition, holders of Claims in Classes 5, 6, 8 through 11, and 13, as well as holders of Disputed Claims in Class 12, holders of Dime Warrants, and holders of Preferred Equity Interests, must submit elections regarding the Non-Debtor Release Provision.

11. Notwithstanding anything contained herein to the contrary, holders of WMB Senior Notes who failed to elect to grant the releases provided in the Non-Debtor Release Provision on or prior to November 18, 2010, including, without limitation, any holder of WMB Senior Notes who elected to not grant such releases, shall have an opportunity to grant such releases in order to receive a distribution pursuant to the Modified Plan and otherwise receive the same treatment that such electing holder would have received had it elected to grant such releases on or prior to November 18, 2010, provided that such electing holder, through its Voting Nominee, (a) submits to the Voting Agent, on or before the Voting and Election Deadline, an executed Verification Form (substantially in the form attached hereto as Exhibit 4-17) attesting to, among other things, the amount of WMB Senior Notes held by such holder as of October 25, 2010 and (b) to the extent such holder is a Non-Filing WMB Senior Note Holder, tenders all of

these WMB Senior Notes into the appropriate election account established at The Depository Trust Company (“DTC”) or instructs Euroclear Bank S.A./N.V. (“Euroclear”) or Clearstream Banking, société anonyme (“Clearstream”) to “block” such notes or, to the extent that such holder transferred some or all of such notes after October 25, 2010, requests that the ultimate transferee(s) of such notes tender or block such transferred notes with DTC, Euroclear, or Clearstream, as applicable, on the transferor’s behalf.

12. All holders of Disputed Claims in Class 12, holders of Dime Warrants, and holders of Claims in Classes 2, 3, 12, and 14 through 16, must make and/or revise their Stock Election, as applicable. **All prior Stock Elections shall be disregarded.**

***The Record Date, the Publicly-Traded Securities Record Date, and the Mailing Record Date***

13. The General Record Date shall be set as **March 16, 2011** for determining which holders of Claims in Class 5 (JPMC Rabbi Trust/Policy Claims), Class 6 (Other Benefit Plan Claims), Class 8 (WMB Vendor Claims), Class 9 (Visa Claims), Class 10 (Bond Claims), Class 11 (WMI Vendor Claims), Class 12 (General Unsecured Claims), Class 12A (Late-Filed Claims), Class 13 (Convenience Claims), and Class 18 (Subordinated Claims), are entitled to vote on the Modified Plan, as well as for purposes of determining which holders of Disputed Claims in Class 12 are entitled to make elections with respect to the Modified Plan. The Publicly-Traded Securities Record Date shall be set as the same date as the Voting and Election Deadline for determining which holders of Claims in Class 2 (Senior Notes Claims), Class 3 (Senior Subordinated Notes Claims), Class 14 (CCB-1 Guarantees Claims), Class 15 (CCB-2 Guarantees Claims), Class 16 (PIERS Claims), and Class 20 (Preferred Equity Interests), are entitled to vote on the Modified Plan, as well as for purposes of determining which holders of

Dime Warrants in Class 21 (Dime Warrants) are entitled to make elections with respect to the Modified Plan.

14. The Mailing Record Date shall be set as **March 16, 2011** for purposes of determining (i) which holders of Claims and Equity Interests in Class 2 (Senior Notes Claim), Class 3 (Senior Subordinated Notes Claims), Class 5 (JPMC Rabbi Trust / Policy Claims), Class 6 (Other Benefit Plan Claims), Class 8 (WMB Vendor Claims), Class 9 (Visa Claims), Class 10 (Bond Claims), Class 11 (WMI Vendor Claims), Class 12 (General Unsecured Claims), Class 12A (Late-Filed Claims), Class 13 (Convenience Claims), Class 14 (CCB-1 Guarantee Claims), Class 15 (CCB-2 Guarantee Claims), Class 16 (PIERS Claims), Class 18 (Subordinated Claims), Class 20 (Preferred Equity Interests), and Class 21 (Dime Warrants), and (ii) which Non-Voting Creditors and Interest Holders are entitled to receive Notices of Non-Voting Status.

15. With respect to transfers of Claims filed pursuant to Bankruptcy Rule 3001, the holder of a claim as of the General Record Date shall be the transferor of such claim and entitled to cast the Ballot with respect to that Claim unless the documentation evidencing such transfer was docketed by the Bankruptcy Court on or before the General Record Date and no timely objection with respect to such transfer was filed by the transferor.

16. Whether an entity is the record holder of a Claim or Equity Interest shall be determined, as of the applicable Record Date or Mailing Record Date, based upon the records of The Depository Trust Company, WMI, BNY Mellon as (transfer agent), and KCC.

***Solicitation Packages***

17. The Solicitation Packages, as described in decretal paragraph 18 hereof, are **APPROVED**.

18. The Debtors shall mail the Solicitation Packages within five (5) Business Days after the entry of this Order (the "Solicitation Date"), to: (a) the U.S. Trustee, (b) counsel to the Creditors' Committee; (c) counsel to the Equity Committee; (d) the SEC; (e) the IRS, (f) the Dep't of Justice, (g) any other party requesting service of pleadings in these chapter 11 cases pursuant to Bankruptcy Rule 2002, (h) all Creditors who are listed on the Debtors' Schedules or who have filed a proof of claim by the General Record Date, and (i) all Equity Interest holders.

19. Solicitation Packages shall contain copies of –
- (a) this Order (without attachments);
  - (b) the Confirmation Hearing Notice;
  - (c) a CD-ROM containing the Supplemental Disclosure Statement, which shall include copies of the Modified Plan, a chart setting forth the modifications incorporated in the Modified Plan, and the Prior Disclosure Statement as attachments (except as provided below); and
  - (d) if the recipient is entitled to vote on the Modified Plan, a Ballot customized for such holder and conforming to Official Bankruptcy Form No. 14, in the form approved herein; **OR**
  - (e) if the recipient is not entitled to vote on the Modified Plan, but is entitled to make certain elections with respect thereto, an Election Form, in the form approved herein; **OR**
  - (f) if the recipient is a Non-Voting Creditor or Interest Holder, and is not entitled to make elections with respect to the Modified Plan, then **only** the Confirmation Hearing Notice and a Notice of Non-Voting Status, as defined and in one of the forms approved herein.

20. The Debtors may send the Supplemental Disclosure Statement in a CD-ROM format instead of printed hard copies; provided, however, that, if service by CD-ROM imposes a hardship for any stakeholder, such stakeholder may submit to the Debtors a signed certification of hardship explaining why a paper copy should be provided to the stakeholder at the Debtors' cost. Upon receipt of a certification of hardship, the Debtors shall evaluate whether

an actual hardship appears to exist and, in the event that it does, the Debtors will provide such stakeholder with a paper copy of the Modified Plan, Global Settlement Agreement, Prior Disclosure Statement, Supplemental Disclosure Statement and the attachments thereto at no cost to the stakeholder within five (5) Business Days thereafter. If the Debtors determine that there is insufficient information to establish the existence of a hardship, the Debtors shall consult with the Creditors' Committee and/or the Equity Committee prior to making a final determination to deny any such request.

21. The Debtors shall not be required to send Solicitation Packages to Creditors that have Claims that have already been paid in full; provided, however, that, if, and to the extent that, any such Creditor would be entitled to receive a Solicitation Package for any reason other than by virtue of the fact that such Claim had been paid by the Debtors, then the Debtors shall send such Creditor a Solicitation Package in accordance with the procedures set forth herein.

22. The Debtors are excused from mailing Solicitation Packages or any other materials related to confirmation of the Modified Plan to those entities listed at addresses from which the Debtors received mailings returned as undeliverable by the United States Postal Service, unless the Debtors are provided with a new mailing address before the Solicitation Date. Failure to mail Solicitation Packages or any other materials related to voting or confirmation of the Modified Plan to such entities will not constitute inadequate notice of the Confirmation Hearing or the Voting and Election Deadline and shall not constitute a violation of Bankruptcy Rule 3017(d).

***Ballots***

23. The Ballots are **APPROVED**.

24. To holders of Claims in Classes 5, 6, 8, 9, 10, 11, and 13 that are eligible to vote, the Debtors shall send a General Ballot substantially in the form annexed hereto as Exhibit 4-1.

25. To holders of General Unsecured Claims in Class 12 that are eligible to vote, the Debtors shall send a General Unsecured Claims Ballot substantially in the form annexed hereto as Exhibit 4-2.

26. To holders of Late-Filed Claims in Class 12A that are eligible to vote, the Debtors shall send a Late-Filed Claims Ballot substantially in the form annexed hereto as Exhibit 4-3.

27. To holders of Subordinated Claims in Class 18 that are eligible to vote, the Debtors shall send a Subordinated Claims Ballot substantially in the form annexed hereto as Exhibit 4-4.

28. To holders of Senior Notes Claims in Class 2, Senior Subordinated Notes Claims in Class 3, CCB-1 Guarantees Claims in Class 14, CCB-2 Guarantees Claims in Class 15, and PIERS Claims in Class 16 that are eligible to vote, the Debtors shall send Ballots in substantially the same form as the General Unsecured Claims Ballot; provided, however, that, with respect to Voting Nominees, the Debtors shall provide each Voting Nominee with a master Ballot and Solicitation Packages for each beneficial holder represented by the Voting Nominee, each of which shall contain a beneficial holder Ballot. Specifically, for holders of Senior Notes Claims in Class 2 entitled to vote, the Debtors shall provide each Voting Nominee with a Class 2 Master Ballot substantially in the form attached hereto as Exhibit 4-5 and Solicitation Packages for each beneficial holder represented by the Voting Nominee, each of which shall contain a Class 2 Beneficial Ballot substantially in the form attached hereto as Exhibit 4-6. For holders of



Senior Subordinated Notes Claims, CCB-1 Guarantees Claims, and CCB-2 Guarantees Claims in Classes 3, 14, and 15, respectively, entitled to vote, the Debtors shall provide each Voting Nominee with a Multiclass Master Ballot substantially in the form attached hereto as Exhibit 4-7 and Solicitation Packages for each beneficial holder represented by the Voting Nominee, each of which shall contain a Multiclass Beneficial Ballot substantially in the form attached hereto as Exhibit 4-8. For holders of PIERS Claims in Class 16 entitled to vote, the Debtors shall provide each Voting Nominee with a Class 16 Master Ballot substantially in the form attached hereto as Exhibit 4-9 and Solicitation Packages for each beneficial holder represented by the Voting Nominee, each of which shall contain a Class 16 Beneficial Ballot substantially in the form attached hereto as Exhibit 4-10.

29. For holders of Preferred Equity Interests in Class 20 entitled to vote, the Debtors shall provide each Voting Nominee with a Class 20 Master Ballot, substantially in the form annexed hereto as Exhibit 4-11, and Solicitation Packages for each beneficial holder represented by the Voting Nominee, each of which shall contain a Class 20 Beneficial Ballot substantially in the form annexed hereto as Exhibit 4-12.

30. Each Voting Nominee must forward the Solicitation Package to each beneficial holder with instructions for the beneficial holder to return the Beneficial Ballot to the Voting Nominee. Upon return of the Beneficial Ballots, the Voting Nominee shall tabulate the Beneficial Ballots on a Master Ballot, tender the beneficial holder's securities into certain election accounts, as appropriate, and return the Master Ballot, along with copies of the Beneficial Ballots, to KCC. The Voting Nominee shall provide each beneficial holder with the appropriate materials within **five (5) Business Days** after receipt of the Solicitation Packages.

31. The Debtors shall reimburse each Voting Nominee for its reasonable and customary out-of-pocket external costs and expenses associate with distribution of the Solicitation Packages and tabulation of the Beneficial Ballots.

***Election Forms***

32. The Election Forms are **APPROVED**.

33. To holders of Disputed Claims in Class 12, the Debtors shall send Disputed Claim Election Forms substantially in the form attached hereto as Exhibit 4-13.

34. To registered holders of Dime Warrants who hold such securities directly, the Debtors shall send Class 21 Election Forms substantially in the form attached hereto as Exhibit 4-14. With regard to holders of Dime Warrants that hold through Voting Nominees, the Debtors shall provide each Voting Nominee with a Class 21 Master Election Form substantially in the form attached hereto as Exhibit 4-15 and Solicitation Packages for each beneficial holder represented by the Voting Nominee, each of which shall contain a Class 21 Beneficial Election Form substantially in the form attached hereto as Exhibit 4-16.

35. The Verification Form is approved. The Debtors are not obligated to send such form to any holder of WMB Senior Notes, unless specifically requested by such holder; provided, however, that the Debtors shall post the Verification Form, together with a notice with respect thereto, with DTC, Euroclear and Clearstream.

***Notices of Non-Voting Status***

36. The Notices of Non-Voting Status are **APPROVED**.

37. To the Non-Voting Creditors whose claims are unimpaired pursuant to the Modified Plan, the Debtors shall send a Notice of Non-Voting Status – Unimpaired Class substantially in the form annexed hereto as Exhibit 5-1. To the Non-Voting Creditors and

Interest Holders whose claims and interests are impaired and not entitled to receive distributions under the Modified Plan, the Debtors shall send a Notice of Non-Voting Status – Impaired Class substantially in the form annexed hereto as Exhibit 5-2.

38. To holders of WMB Senior Notes Claims in Class 17A and holders of REIT Series in Class 19, the Debtors shall send Notices of Non-Voting Status substantially in the forms attached annexed hereto as Exhibit 5-3 and Exhibit 5-4, respectively.

39. With respect to service of the Notices of Non-Voting Status on holders of the Debtors' publicly-traded securities as reflected in the records maintained by the Debtors' transfer agent(s) (the "Non-Voting Securities"), the Debtors shall send the Notices of Non-Voting Status as follows:

- (a) The Debtors shall provide any registered holders of Non-Voting Securities with a copy of the Notices of Non-Voting Status by first-class mail;
- (b) The Debtors shall provide the Nominees with sufficient copies of the Notices of Non-Voting Status to forward to the beneficial holders of the Non-Voting Securities; and
- (c) The Nominees shall then forward the Notices of Non-Voting Status or copies thereof to the Beneficial Holders of the Non-Voting Securities within five (5) Business Days after the receipt by such nominees of the Notices of Non-Voting Status.

***The Voting and Election Deadline***

40. The Voting and Election Deadline is set as **May 13, 2011 at 5:00 p.m. (Pacific Time)**.

41. All Ballots, Election Forms and Verification Forms must be properly executed, completed, and delivered to KCC by first-class mail, overnight courier, or personal delivery, so that they are actually received by KCC no later than the Voting and Election Deadline.

### ***Tabulation Procedures***

42. The following tabulation procedures are **APPROVED**:
- (a) **All prior votes and elections (except with respect to Classes 17A and 19) received in connection with solicitation of the Sixth Amended Plan shall be null and void, and of no further force and effect, and will be disregarded by the Debtors.**
  - (b) Whenever a Creditor or Equity Interest holder casts more than one Ballot or Election Form voting or electing, as the case may be, with respect to the same Claim(s) or Interest(s) before the Voting and Election Deadline, the last valid Ballot or Election Form, as the case may be, received on or before the Voting and Election Deadline shall be deemed to reflect the holder's intent, and thus, to supersede any prior Ballot or Election Form.
  - (c) Whenever a Creditor or Equity Interest holder casts a Ballot that is properly completed, executed, and timely returned to KCC, but does not indicate either an acceptance or rejection of the Modified Plan, the Ballot shall be deemed to reflect the voter's intent to accept the Modified Plan.
  - (d) Except with respect to Master Ballots, whenever a Creditor or Equity Interest holder casts a Ballot that is properly completed, executed, and timely returned to KCC, but indicates both an acceptance and a rejection of the Modified Plan, the Ballot shall be deemed to reflect the voter's intent to accept the Modified Plan.
  - (e) A Claim or Equity Interest holder shall be deemed to have voted/elected the full amount of its Claim or Equity Interest in each Class and shall not be entitled to split its vote/election within a particular Class. Any Ballot (except a Master Ballot) that partially accepts and partially rejects the Modified Plan shall be deemed to reflect the voter's intent to accept the Modified Plan.
  - (f) Whenever a Claim or Equity Interest holder casts Ballots in the same Class, which are received by KCC on the same day, but which are voted inconsistently, such Ballots shall be deemed to reflect the voter's intent to accept the Modified Plan.
  - (g) The following Ballots, Election Forms and Verification Forms shall not be counted:
    - 1. Any Ballot, Election Form or Verification Form received after the Voting and Election Deadline, unless the Debtors shall have granted an extension of the Voting and Election Deadline in writing with respect to such Ballot, Election Form or Verification Form; provided, however, that, except with respect to holders of

WMB Senior Notes Claims and Non-Filing WMB Senior Note Holders, late-submitted elections with respect to the Non-Debtor Release Provision shall be honored in accordance with Section 32.6(c) of the Modified Plan;

2. Any Ballot, Election Form or Verification Form that is illegible or contains insufficient information to permit the identification of the submitting Entity;
  3. Any Ballot cast by a person or entity that does not hold a Claim in a Class that is entitled to vote to accept or reject the Modified Plan;
  4. Any Election Form or Verification Form submitted by a person or entity that is not entitled to submit elections with respect to the Modified Plan;
  5. Any Ballot cast by a person who is not entitled to vote, even if such individual holds a Claim or Equity Interest in a Voting Class;
  6. Any unsigned Ballot, Election Form or Verification Form;
  7. Any Ballot with respect to which the Bankruptcy Court determines, after notice and a hearing, that such vote was not solicited or procured in good faith or in accordance with the provisions of the Bankruptcy Code; or
  8. Any Ballot, Election Form or Verification Form transmitted to KCC by facsimile or other means not specifically approved herein.
- (h) If a party that is entitled to vote has Claims (either scheduled or filed or both) against both of the Debtors based on the same transaction (e.g., a Claim against one Debtor that was guaranteed by another Debtor), the Debtors propose that said party shall be entitled to one vote for numerosity purposes in a dollar amount based upon its Claim against one of the Debtors.
- (i) A holder of a Claim or Equity Interest in more than one (1) Class must use separate Ballots, Election Forms, or Verification Form, as the case may be, for each Class.
43. With respect to Master Ballots submitted by Voting Nominees:
- (a) All Voting Nominees to which beneficial holders return their Ballots or Election Forms shall summarize on the Master Ballot/Master Election Form all Ballots/Election Forms cast by the beneficial holders and return the Master Ballot/Master Election Form along with copies of the Beneficial Ballots/Beneficial Election Forms to KCC; provided, however, that each Voting Nominee shall be required to retain copies of the

Ballots/Election Forms cast by the respective beneficial holders for inspection for a period of at least one (1) year following the Voting and Election Deadline;

- (b) Votes and elections cast by beneficial holders through a Voting Nominee by means of a Master Ballot/Master Election Form shall be applied against the positions held by such Voting Nominee as evidenced by a list of record holders provided by The Depository Trust Company and compiled as of the Voting and Election Deadline; provided, however, that votes and elections submitted by a Voting Nominee on a Master Ballot/Master Election Form shall not be counted in excess of the position maintained by such Voting Nominee as of the Voting and Election Deadline;
- (c) To the extent that there are over-votes or over-elections submitted by a Voting Nominee, whether pursuant to a Master Ballot or Master Election Form, KCC will attempt to reconcile discrepancies with the Voting Nominee;
- (d) To the extent that over-votes on a Master Ballot are not reconciled prior to the preparation of the vote certification, KCC will apply the votes to accept and to reject the Modified Plan in the same proportion as the votes to accept or reject the Modified Plan submitted on the Master Ballot that contained the over-vote, but only to the extent of the position maintained by such Voting Nominee as of the Voting and Election Deadline;
- (e) Multiple Master Ballots/Master Election Forms may be completed by a single Voting Nominee and delivered to KCC and such votes/elections shall be counted, except to the extent that such votes/elections are inconsistent with or are duplicative of other Master Ballots/Master Election Forms, in which case the latest dated Master Ballot/Master Election Forms received on or before the Voting and Election Deadline shall supersede and revoke any prior Master Ballot/Master Election Form; and
- (f) Each beneficial holder shall be deemed to have voted the full amount of its Claim or Equity Interest.

44. To assist in the solicitation process, KCC may, but is not obligated to, contact parties that submit incomplete or otherwise deficient Ballots, Election Forms, or Verification Forms to cure such deficiencies.

45. To the extent that holders of Claims or Equity Interests in Classes 2, 3, 14, 15, 16, 20, and 21, or Non-Filing WMB Senior Note Holders who are making a release election

pursuant to a Verification Form, do not tender or block, as the case may be, their securities on or before the Voting and Election Deadline into the appropriate election accounts, as set forth in more detail in the Ballots, Election Forms, and Verification Form, such holders' release and stock elections shall not be valid.

### **The Confirmation Hearing**

46. The Confirmation Hearing will commence on **June 6, 2011 at 9:30 a.m. (Eastern Time)**; provided, however, that the Confirmation Hearing may be adjourned or continued from time to time by the Bankruptcy Court or the Debtors without further notice other than adjournments announced in open court or as indicated in any notice of agenda of matters scheduled for hearing filed by the Debtors with the Bankruptcy Court.

### ***Objection Procedures***

47. The Modified Plan Objection Deadline is set as **May 13, 2011 at 4:00 p.m. (Eastern Time)**.

48. Objections and responses, if any, to confirmation of the Modified Plan, must (a) be in writing, (b) conform to the Bankruptcy Rules and the Local Rules, (c) set forth the name of the objecting party, the nature and amount of claims or interests held or asserted by the objecting party against the Debtors' estates or property, and (d) set forth the basis for the objection and the specific grounds therefor.

49. Registered users of the Bankruptcy Court's case filing system must electronically file their objections and responses. All other parties in interest must file their objections and responses in writing with the Bankruptcy Court, 824 Market Street, 3rd Floor, Wilmington, Delaware 19801 (Attn: Chambers of the Hon. Mary F. Walrath).

50. Any objection or response also **must be served upon and received** by:

- (a) Washington Mutual, Inc.  
925 Fourth Avenue  
Seattle, Washington 98104  
Attn: Charles Edward Smith, Esq.;
- (b) Weil, Gotshal & Manges LLP  
767 Fifth Avenue  
New York, New York 10153  
Attn: Brian S. Rosen, Esq.;
- (c) Richards Layton & Finger P.A.  
One Rodney Square  
920 North King Street  
Wilmington, Delaware 19899  
Attn: Mark D. Collins, Esq.;
- (d) Quinn Emanuel Urquhart & Sullivan, LLP  
55 Madison Avenue, 22nd Floor  
New York, New York 10010  
Attn: Peter Calamari, Esq.;
- (e) Office of the U.S. Trustee for the District of Delaware  
844 King Street, Suite 2207, Lockbox 35  
Wilmington, Delaware 19899-0035  
Attn: Jane Leamy, Esq.;
- (f) Akin Gump Strauss Hauer & Feld LLP  
One Bryant Park  
New York, New York 10036  
Attn: Fred S. Hodara, Esq.;
- (g) Pepper Hamilton LLP  
Hercules Plaza, Suite 5100  
1313 N. Market Street  
Wilmington, Delaware 19801  
Attn: David B. Stratton, Esq.;
- (h) Susman Godfrey LLP  
1201 Third Ave., Suite 3800  
Seattle, WA 98101  
Attn: Justin A. Nelson, Esq.;
- (i) Ashby & Geddes, P.A.  
500 Delaware Avenue, 8th Floor  
P.O. Box 1150  
Wilmington, Delaware 19899  
Attn: William P. Bowden, Esq.



- (j) Sullivan & Cromwell LLP  
125 Broad Street  
New York, New York 10004  
Attn: Stacey R. Friedman, Esq.; and
- (k) Landis Rath & Cobb LLP  
919 Market Street, Suite 1800  
P.O. Box 2087  
Wilmington, Delaware 19899  
Attn: Adam G. Landis, Esq.
- (l) DLA Piper LLP (US)  
1251 Avenue of the Americas  
New York, New York 10020  
Attn: Thomas R. Califano, Esq.
- (m) Young Conaway Stargatt & Taylor, LLP  
The Brandywine Building  
1000 West Street, 17th Floor  
Wilmington, Delaware 19801  
Attn: M. Blake Cleary, Esq.

no later than the Modified Plan Objection Deadline. Pursuant to Bankruptcy Rule 3020(b), if no objection is timely filed, the Bankruptcy Court may determine that the Modified Plan has been proposed in good faith and not by any means forbidden by law without receiving evidence on such issues.

51. The Debtors are authorized to file and serve replies or an omnibus reply to any such objections no later than **three (3) Business Days** prior to the Confirmation Hearing. The Debtors are relieved from the page limit set forth in Local Rule 7007-2(a)(iv) when filing any brief or declaration in support of confirmation of the Modified Plan.

52. Objections to confirmation of the Modified Plan that are not timely filed, served, and actually received in the manner set forth above shall not be considered and shall be deemed overruled.

***Confirmation Hearing Notice***

53. The notice substantially in the form annexed hereto as Exhibit 3 (the "Confirmation Hearing Notice") is **APPROVED**.

54. The Debtors are authorized to publish the Confirmation Hearing Notice, within fifteen (15) Business Days of entry of this Order, or as soon thereafter as is reasonably practicable, in *The New York Times (National Edition)*, *The Wall Street Journal*, and *The Seattle Times*.

55. The Debtors are authorized, in their sole discretion, to take or refrain from taking any action necessary or appropriate to implement the terms of and the relief granted in this Order without seeking further order of the Bankruptcy Court.

56. The Debtors are authorized to make nonsubstantive changes to the Supplemental Disclosure Statement, the Modified Plan, the Ballots, the Election Forms and related documents without further order of the Bankruptcy Court, including, without limitation, changes to correct typographical and grammatical errors and to make conforming changes among the Supplemental Disclosure Statement, the Modified Plan and any other materials in the Solicitation Packages prior to mailing.

Dated: March ~~30~~ 2011  
Wilmington, Delaware

  
\_\_\_\_\_  
THE HONORABLE MARY F. WALRATH  
UNITED STATES BANKRUPTCY JUDGE

To view the full exhibits, click [here](#).