

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

In re
WASHINGTON MUTUAL, INC., *et al.*,¹
Debtors.

)
) Chapter 11
)
) Case No. 08-12229 (MFW)
) (Jointly Administered)
)
) **Hearing Date: May 2, 2011 at 9:30 a.m. (ET)**
) **Obj. Deadline: April 29, 2011 at 4:00 p.m. (ET)**
)

**MOTION OF APPALOOSA MANAGEMENT L.P. FOR AN ORDER
COMPELLING NATE THOMA TO SEARCH FOR AND PRODUCE
DOCUMENTS AND TO RESPOND TO INTERROGATORY REQUESTS**

Appaloosa Management L.P. (“Appaloosa”) moves the Court pursuant to Bankruptcy Rules 3015, 9014, 7026, and 7037 and Local Bankruptcy Rule 7026-1 for an order compelling Nate Thoma to search for and produce documents and to respond to interrogatory requests. In support of the Motion, Appaloosa respectfully states as follows:

PRELIMINARY STATEMENT

In November 2010, Nate Thoma filed an Objection to the Sixth Amended Joint Plan of Affiliated Debtors Pursuant to Chapter 11 of the United States Bankruptcy Code (the “Plan”). That objection falsely speculated that Owl Creek Asset Management, L.P. (“Owl Creek”), Centerbridge Partners LP (“Centerbridge”), Aurelius Capital Management LP, Appaloosa, and several of their respective affiliates (collectively, the “Settlement Note Holders”) traded on material, nonpublic information obtained during negotiations of the Plan (the “Thoma Objection”). The Thoma Objection contained little or no facts, but rather relied on generalized and demonstrably false conjectures and conspiracy theories.

¹ The Debtors in these Chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification numbers, are: (a) Washington Mutual, Inc. (3725); and (b) WMI Investment Corp. (5395). The Debtors’ principal offices are located at 1301 Second Avenue, Seattle, Washington 98101.



On January 18, 2011, the Equity Committee filed a motion to conduct a Rule 2004 examination of Appaloosa and others based on the allegations contained in the Thoma Objection. On February 8, 2011, the Court heard arguments on the Equity Committee's motion. Mr. Thoma entered an appearance on February 8, 2011, and twice argued in favor of granting discovery. (2/8/2011 Tr. 63-67, 75-79). After hearing oral arguments from the parties, the Court granted the Equity Committee's motion, in part, and allowed discovery to proceed on certain limited topics. (2/8/2011 Tr. 81-84).

On February 25, 2011, Appaloosa responded to the Equity Committee's request for documents and information. Subsequently, on March 7, 2011, Appaloosa served its own requests on the Equity Committee and on Nate Thoma. Responses to those requests were due on April 7, 2011.

Despite Mr. Thoma's multiple appearances in this litigation, Mr. Thoma failed to respond to any of Appaloosa's discovery requests, and has not given any reason for his failure to do so. Mr. Thoma's objection contained a number of false and defamatory statements concerning Appaloosa. Appaloosa is entitled to defend itself and its reputation against such speculation, and Mr. Thoma is not entitled to pick and choose which aspects of the pending litigation he wants to participate in, and from which aspects he wants to abstain. Appaloosa needs access to the documents and information that formed the basis of Mr. Thoma's speculation in order to properly defend itself. Accordingly, Appaloosa respectfully requests that the Court enter an order compelling Mr. Thoma to search for and produce documents and to respond to interrogatory requests.

JURISDICTION AND VENUE

1. The Court has jurisdiction over this motion 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 Court

pursuant to 28 U.S.C. §§ 1408 and 1409.

FACTUAL BACKGROUND

2. On November 19, 2010, Mr. Thoma filed an objection to the Plan (the “Thoma Objection”). The Thoma Objection speculated that the Settlement Note Holders might have traded in securities of the Debtors while in receipt of material, nonpublic information.

3. On January 7, 2011 the Court issued an opinion denying confirmation of the Plan, although it noted that the Plan was “fair and reasonable” in most material aspects.

4. On January 18, 2011, the Equity Committee made a motion for an order pursuant to Bankruptcy Rule 2004 and Local Bankruptcy Rule 2004-1 directing the examination of the Settlement Note Holders.

5. On February 8, 2011, the Court granted the Equity Committee’s motion in part.

6. On March 7, 2011, Appaloosa served a request for the production of documents and a request to answer certain interrogatories upon Mr. Thoma. The Document Requests are attached as **Exhibit A**. The Interrogatory Requests are attached as **Exhibit B**.

7. Mr. Thoma’s responses to the Document and Interrogatory Requests were due on April 7, 2011.

8. Mr. Thoma failed to respond to the Document Requests and Interrogatory Requests.

9. By letter dated April 12, 2011, counsel for Appaloosa requested that Mr. Thoma immediately respond to the Document and Interrogatory Requests, as required under the Federal Rules. The April 12, 2011 letter is attached as **Exhibit C**, and the affidavit of service is attached as **Exhibit D**.

10. Mr. Thoma failed to respond to Appaloosa’s April 12, 2011 letter.

RELIEF REQUESTED

11. Pursuant to Bankruptcy Rules 3015, 9014, 7026, and 7037 and Local Bankruptcy Rule 7026-1, Appaloosa respectfully requests that this Court require Mr. Thoma to respond to the Interrogatory Requests within five days of an order granting this motion.

12. Appaloosa also respectfully requests that this Court require Mr. Thoma to search for and produce all responsive, non-privileged documents in response to the Document Requests within five days of an order granting this motion.

13. Appaloosa seeks entry of an order substantially in the form of the proposed order attached hereto.

BASIS FOR RELIEF

14. An objection to plan confirmation is governed by Federal Rules of Bankruptcy Procedure 9014 as a contested matter. *See* Fed. R. Bankr. P. 3015(f). Bankruptcy Rule 9014 states that Bankruptcy Rules 7026 and 7037 apply to contested matters. *See* Fed. R. Bank. P. 9014(c).

15. In turn, Bankruptcy Rules 7026 and 7037 provide that Federal Rules of Civil Procedure 26 and 37 apply to discovery related matters, and to sanctions for failure to make discovery in an adversary proceeding. *See* F.R.C.P. 26 and 37.

16. This motion is proper under Rules 26 and 37. The Document Requests and Interrogatory Requests are tailored to the allegations contained in the Thoma Objections, and as such, are relevant to Appaloosa's defense and reasonably calculated to lead to the discovery of admissible evidence.

17. Appaloosa's First Request for Production of Documents, for example, seeks only *four* categories of documents, each designed to elicit the documents that form the basis of (a) Mr. Thoma's objection and (b) his standing. Specifically, the Document Requests ask Mr. Thoma to

search for and produce documents relating to (a) his November 19, 2010 Objection to the Plan, and his December 7, 2010 and February 8, 2011 proffers to the Court, and (b) his holdings in any securities of the Debtors.

18. Similarly, Appaloosa requested that Mr. Thoma respond to *three* contention interrogatories to ascertain the basis of Mr. Thoma's allegations, and the facts underlying those allegations.

19. Mr. Thoma has failed to respond to either Appaloosa's Request for Production of Documents or its Interrogatories. Indeed, Mr. Thoma has failed to make any effort to communicate with Appaloosa whatsoever, despite requests from Appaloosa that he do so.

20. Rule 37 states that "[a] party seeking discovery may move for an order compelling an answer, designation, production, or inspection" if "a party fails to answer an interrogatory submitted under Rule 33" or "a party fails to respond that inspection will be permitted—or fails to permit inspection—as requested under Rule 34." *See* F.R.C.P. 37.

21. Because Mr. Thoma has failed to answer the interrogatories and requests for documents, Appaloosa respectfully requests that the Court enter an order compelling Mr. Thoma to search for and respond to Appaloosa's requests for documents and information.

CERTIFICATION OF COMPLIANCE WITH LOCAL RULE 7026-1

22. Counsel for Appaloosa made a reasonable effort to reach agreement with Mr. Thoma regarding the Document and Interrogatory Requests.

23. Specifically, counsel served the Document and Interrogatory Requests on Mr. Thoma at the New Jersey address Mr. Thoma filed with the Court, and, pursuant to Local Bankruptcy Rule 7026-2(a), electronically filed the Document and Interrogatory Requests with the Court.

24. Mr. Thoma does not reside at the New Jersey address filed with the Court.

Rather, Mr. Thoma's uncle – whom Mr. Thoma authorized to accept service on his behalf – owns and resides at the New Jersey address. Mr. Thoma's uncle accepted service of the Requests on March 7, 2011, but refused to provide contact information for Mr. Thoma.

25. Mr. Thoma did not respond to the Requests by April 7, 2011, as required by federal law. Subsequently, on April 12, 2011, counsel for Appaloosa served Mr. Thoma with a letter by personally delivering the letter to Mr. Thoma at the New Jersey address. The letter informed Mr. Thoma that he was required to respond to the March 7, 2011 Requests and specifically informed him that Appaloosa would file a motion to compel if he “persist[ed] in ignoring Appaloosa's Discovery Requests.” Mr. Thoma's uncle accepted the letter on Mr. Thoma's behalf.

26. Mr. Thoma did not respond to the April 12, 2011 letter, and Mr. Thoma's contact information is not publicly listed in the phone directory or on the Internet.

NOTICE

27. Notice of this Motion to Compel has been provided to (i) the United States Trustee; (ii) counsel to the Debtors; (iii) Mr. Nate Thoma (via certified mail, return receipt requested); and (iv) 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, Appaloosa submits that no other or further notice need be provided.

NO PRIOR REQUEST

28. No previous request for the relief requested herein has been made to this or any other court.

WHEREFORE, Appaloosa respectfully requests that the Court grant the relief requested by this Motion, and for such other and further relief as it deems just and proper.

Dated: April 19, 2011

BLANK ROME LLP

/s/ Victoria A. Guilfoyle

Michael D. DeBaecke (DE No. 3186)
Victoria A. Guilfoyle (DE No. 5183)
1201 North Market Street, Suite 800
Wilmington, Delaware 19801
Telephone: (302) 425-6400
Facsimile: (302) 425-6464
Email: debaecke@blankrome.com
Email: guilfoyle@blankrome.com

and

Barry G. Sher, Esq.
Maria E. Douvas, Esq.
Laura K. Isenberg, Esq.
PAUL, HASTINGS, JANOFSKY &
WALKER LLP
75 East 55th Street
New York, New York 10022
Telephone: (212) 318-6000
Facsimile: (212) 319 4090
Email: barrysher@paulhastings.com
 mariadouvas@paulhastings.com
 lauraisenberg@paulhastings.com

Counsel for Appaloosa Management, L.P.

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

In re
WASHINGTON MUTUAL, INC., *et al.*,¹
Debtors.

)
) Chapter 11
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) Case No. 08-12229 (MFW)
) (Jointly Administered)
)
) **Hearing Date: May 2, 2011 at 9:30 a.m. (ET)**
) **Obj. Deadline: April 29, 2011 at 4:00 p.m. (ET)**

NOTICE OF MOTION

PLEASE TAKE NOTICE that on April 19, 2011, Appaloosa Management L.P. (“Appaloosa”) filed the *Motion of Appaloosa Management L.P. for an Order Compelling Nate Thoma to Search for and Produce Documents and to Respond to Interrogatory Requests* (the “Motion”) with the United States Bankruptcy Court for the District of Delaware, 824 North Market Street, Wilmington, Delaware 19801 (the “Bankruptcy Court”).

PLEASE TAKE FURTHER NOTICE that responses or objections, if any, to the Motion must be filed with the United States Bankruptcy Court for the District of Delaware, 824 N. Market Street, Wilmington, Delaware 19801 on or before **April 29, 2011 at 4:00 p.m. (ET)** (the “Objection Deadline”). At the same time, you must serve a copy of your response upon the undersigned counsel.

PLEASE TAKE FURTHER NOTICE THAT A HEARING ON THE MOTION WILL BE HELD ON MAY 2, 2011 AT 9:30 A.M. (ET) BEFORE THE HONORABLE MARY F. WALRATH IN THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE, 824 N. MARKET STREET, 5TH FLOOR, COURTROOM #4, WILMINGTON,

¹ The Debtors in these Chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification numbers, are: (a) Washington Mutual, Inc. (3725); and (b) WMI Investment Corp. (5395). The Debtors’ principal offices are located at 1301 Second Avenue, Seattle, Washington 98101.

DELAWARE 19801.

IF YOU FAIL TO RESPOND IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF REQUESTED IN THE MOTION WITHOUT FURTHER NOTICE OR HEARING.

Dated: April 19, 2011

BLANK ROME LLP

/s/ Victoria A. Guilfoyle

Michael D. DeBaecke (DE No. 3186)
Victoria A. Guilfoyle (DE No. 5183)
1201 North Market Street, Suite 800
Wilmington, Delaware 19801
Telephone: (302) 425-6400
Facsimile: (302) 425-6464
Email: debaecke@blankrome.com
Email: guilfoyle@blankrome.com

and

Barry G. Sher, Esq.
Maria E. Douvas, Esq.
Laura K. Isenberg, Esq.
PAUL, HASTINGS, JANOFSKY &
WALKER LLP
75 East 55th Street
New York, New York 10022
Telephone: (212) 318-6000
Facsimile: (212) 319 4090
Email: barrysher@paulhastings.com
 mariadouvas@paulhastings.com
 lauraisenberg@paulhastings.com

Counsel for Appaloosa Management, L.P.

EXHIBIT A

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

In re
WASHINGTON MUTUAL, INC., *et al.*,¹
Debtors.

)
) Chapter 11
)
) Case No. 08-12229 (MFW)
) (Jointly Administered)
)
)
)

**APPALOOSA MANAGEMENT L.P.'S FIRST REQUEST FOR PRODUCTION OF
DOCUMENTS TO NATE THOMA**

PLEASE TAKE NOTICE THAT APPALOOSA MANAGEMENT L.P., by its attorneys, PAUL, HASTINGS, JANOFSKY & WALKER LLP, hereby request, pursuant to Federal Rule of Bankruptcy Procedure 9014(c) and 7034 that within thirty days Nate Thoma produce for inspection and copying the documents specified below. The documents requested should be made available for inspection and copying during regular hours at the offices of Paul, Hastings, Janofsky & Walker LLP, 75 East 55th Street, New York, NY 10022 or the offices of Blank Rome LLP, 1201 Market Street Suite 800, Wilmington, DE 19801, or at such places as otherwise agreed upon by the parties.

¹ The Debtors in these Chapter 11 cases, along with the last four digits of each Debtor's federal tax identification numbers, are: (a) Washington Mutual, Inc. (3725); and (b) WMI Investment Corp. (5395). The Debtors' principal offices are located at 1301 Second Avenue, Seattle, Washington 98101.

DEFINITIONS

1. "Appaloosa" shall mean and refer to Appaloosa Management L.P., including any of its funds, subsidiaries, affiliates, officers, directors, members, partners, employees and any agents, representatives or other persons or entities acting or purporting to act on its behalf.
2. "Chapter 11 Cases" means the jointly administered cases commenced by the Debtors styled as *In re Washington Mutual, Inc., et al.* and being jointly administered in the Bankruptcy Court, Case No. 08-12229 (MFW), under chapter 11 of the Bankruptcy Code.
3. "Global Settlement Agreement" means or refers to that proposed agreement contained as Exhibit H of the March 26, 2010 Plan, as such proposed agreement was amended or modified, and/or the settlement agreement by and among, *inter alia*, the Debtors, JPMorgan Chase and the Federal Deposit Insurance Corporation, announced to the Court on or about March 12, 2010.
4. The "Equity Committee" shall mean and refer to each and every member of the Official Committee of Equity Security Holders of Washington Mutual, Inc., including any current or former members, and any affiliates, agents, attorneys, representatives or other persons or entities acting or purporting to act on its behalf.
5. "Person" shall mean any natural person or any business, legal or governmental entity or association.
6. "You" shall mean and refer to Nate Thoma, and any affiliates, agents, attorneys, representatives or other persons or entities acting or purporting to act on Nate Thoma's behalf.

INSTRUCTIONS

1. Unless otherwise indicated, the documents requested herein include all documents in your possession, custody or control.

2. Each document sought shall be produced as it is kept in the ordinary course of business.

Documents attached to each other shall not be separated.

3. Unless otherwise agreed by the parties, documents that exist in electronic form and constitute or comprise databases or other tabulations or collections of data or information should be produced in their native, machine-readable format. Unless otherwise agreed by the parties, documents that exist in electronic form and constitute or comprise written communications between individuals (by way of example, e-mail messages, internal memos, and letters) should be produced in their native, machine-readable format.

4. Electronically stored information should be produced with all associated metadata and any and all associated files, including but not limited to attachments or hyperlinked files.

5. A document with handwritten, typewritten or other recorded notes, editing marks, etc., is not and shall not be deemed to be identical to one without such modifications, additions, or deletions. The term "original" includes the file copy or copies of any document if there is no actual original or ribbon copy.

6. If any request for documents is deemed to call for the production of privileged or work product materials and such privilege or work product is asserted, identify in writing each document so withheld and otherwise comply with the requirements of the federal rules of bankruptcy procedure. If only a portion of a document is privileged or work product, then redact and identify the portion being withheld. With regard to all documents or portions of documents withheld, provide the following information:

- (a) the reason for withholding the document;
- (b) a statement of the basis for the claim of privilege, work product or other ground of nondisclosure; and
- (c) a brief description of the document, including: (i) the date of the document; (ii) number of pages, attachments, and appendices; (iii) the names of its author,


authors or preparers, and addressees and recipients, and an identification by employment and title of each such person; (iv) the present custodian; and (v) the subject matter of the document, and in the case of any document relating or referring to a meeting or conversation, identification of such meeting or conversation.

7. If any requested document was at one time in existence but has been lost, discarded or destroyed, identify such documents as completely as possible, providing as much of the following information as possible: author(s); recipient(s); sender(s); subject matter; date prepared or received; date of disposal; reason(s) for disposal; person(s) authorizing the disposal; persons having knowledge of the disposal; and person disposing of the document.
8. Each request is to be answered separately.
9. Each request shall be deemed to be continuing so as to require prompt supplemental responses if you obtain or discover additional information or documents called for by these requests between the time of responding to these document requests and the time of any hearing in this matter.
10. The time period for each request is September 26, 2008 through the present.

REQUESTS FOR PRODUCTION

1. All documents or communications concerning the basis for your: (a) Objection to the Plan of Reorganization dated November 19, 2010 (the "Objection") as it relates to Appaloosa; and (b) proffers to the Court on December 7, 2010 and February 8, 2011.
2. All documents or communications concerning and/or reflecting communications between you and the Equity Committee relating to your Objection and/or subsequent proffers to the Court.
3. All documents or communications concerning and/or reflecting communications between you and any other person relating to your Objection and/or subsequent proffers to the Court.

4. All documents or communications sufficient to reflect your past or present holdings in any securities of the Debtors, including but not limited to: (a) the amount and type of the security; (b) the date(s) on which the security was purchased; (c) the purchase price of the security; (d) the date(s) on which the security was sold; and (e) the sale price of the security.

By: 

Dated: March 7, 2011
New York, NY

Barry G. Sher
Maria E. Douvas
Laura K. Isenberg
Paul, Hastings, Janofsky & Walker LLP
75 East 55th Street
New York, NY 10022
(212) 318-6000
Attorneys for Appaloosa Management L.P.

TO: Nate Thoma
105 South Jefferson Street
Wenonah, NJ 08090

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

-----X

Index No. 08-12229 (MFW)

In re:
WASHINGTON MUTUAL, INC., et al,

AFFIDAVIT OF SERVICE

Debtor.


-----X

STATE OF PENNSYLVANIA)
S.S.:
COUNTY OF PHILADELPHIA)

ROBERT BASSLER, being duly sworn, deposes and says that he is over the age of eighteen years, is an agent of METRO ATTORNEY SERVICE INC., and is not a party to this action.

That on the 7th day of March, 2011, at approximately the time of 7:20 pm, deponent served a true copy of the APPALOOSA MANAGEMENT L.P.'S FIRST SET OF INTERROGATORIES TO NATE THOMA and APPALOOSA MANAGEMENT L.P.'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO NATE THOMA upon Nate Thoma at 105 South Jefferson Street, Wenonah, New Jersey, by personally delivering and leaving the same with Ferdinand Thoma, Uncle, a person of suitable age and discretion at that address.

Ferdinand Thoma is a white male, approximately 50 years of age, stands approximately 5 feet 10 inches tall, and weighs approximately 170 pounds with brown hair and handlebar mustache.


ROBERT BASSLER

Sworn to before me this
8th day of March, 2011


NOTARY PUBLIC

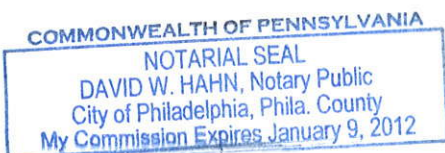


EXHIBIT B

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

In re WASHINGTON MUTUAL, INC., <i>et al.</i> , ¹ Debtors.)) Chapter 11)) Case No. 08-12229 (MFW)) (Jointly Administered)))))
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**APPALOOSA MANAGEMENT L.P.'S FIRST SET OF INTERROGATORIES
TO NATE THOMA**

PLEASE TAKE NOTICE THAT APPALOOSA MANAGEMENT L.P., by its attorneys, PAUL, HASTINGS, JANOFSKY & WALKER LLP, hereby demand, pursuant to Federal Rule of Bankruptcy Procedure 9014(c) and 7033, that within thirty days, Nate Thoma answer the following interrogatories in accordance with the Instructions and Definitions below. The responses to the interrogatories requested should be sent during regular hours to the offices of Paul, Hastings, Janofsky & Walker LLP, 75 East 55th Street, New York, NY 10022 or the offices of Blank Rome LLP, 1201 Market Street Suite 800, Wilmington, DE 19801, or at such places as otherwise agreed upon by the parties.

DEFINITIONS

1. "Appaloosa" shall mean and refer to Appaloosa Management L.P., including any of its funds, subsidiaries, affiliates, officers, directors, members, partners, employees and any agents, representatives or other persons or entities acting or purporting to act on its behalf.

¹ The Debtors in these Chapter 11 cases, along with the last four digits of each Debtor's federal tax identification numbers, are: (a) Washington Mutual, Inc. (3725); and (b) WMI Investment Corp. (5395). The Debtors' principal offices are located at 1301 Second Avenue, Seattle, Washington 98101.

2. "Chapter 11 Cases" means the jointly administered cases commenced by the Debtors styled as *In re Washington Mutual, Inc., et al.* and being jointly administered in the Bankruptcy Court, Case No. 08-12229 (MFW), under chapter 11 of the Bankruptcy Code.
3. "Global Settlement Agreement" means or refers to that proposed agreement contained as Exhibit H of the March 26, 2010 Plan, as such proposed agreement was amended or modified, and/or the settlement agreement by and among, *inter alia*, the Debtors, JPMorgan Chase and the Federal Deposit Insurance Corporation, announced to the Court on or about March 12, 2010.
4. The "Equity Committee" shall mean and refer to each and every member of the Official Committee of Equity Security Holders of Washington Mutual, Inc., including any current or former members, and any affiliates, agents, attorneys, representatives or other persons or entities acting or purporting to act on its behalf.
5. "Person" shall mean any natural person or any business, legal or governmental entity or association.
6. "You" shall mean and refer to Nate Thoma, and any affiliates, agents, attorneys, representatives or other persons or entities acting or purporting to act on Nate Thoma's behalf.

INSTRUCTIONS

1. Each interrogatory shall be responded to separately and fully in writing and under oath.
2. If you claim privilege against disclosure of any information, describe such information and the factual basis for the claim of privilege with sufficient detail to enable the undersigned counsel to understand and test the claim, and, if necessary, to frame a motion to compel.
3. Your answers and responses to these discovery requests should include all information available to you as of the date of the answers and responses, including information obtained by

or in the possession of your agents and representatives, and any other person acting on your behalf.

4. If your answer to any interrogatory is "N/A" or "Not Applicable," state fully the reasons for such reply.

5. Whenever reference is made to a person or entity, it shall include any and all of such person's or entity's officers, directors, members, and employees and any agents, representatives or other persons acting or purporting to act on its behalf.

6. When referring to a document, "identify" shall mean to state (i) the type of document, (ii) the date of the document, (iii) the author(s), addressee(s) and all recipient(s) of the document, (iv) the subject matter and substance of the document and (v) the identity of the custodian(s) of the document. Once a document has been identified in accordance with this instruction, only the type and date of that document need be stated in response to subsequent interrogatories requesting the identification of that document.

7. When referring to a person, "identify" shall mean to state (i) the person's full name, (ii) the person's present or last known residential address, (iii) the person's present or last known place of employment and address thereof, and (iv) the person's relationship to you, if applicable. Once a person has been identified in accordance with this instruction, only the name of that person need be stated in response to subsequent interrogatories requesting the identification of that document.

8. "State" and "describe" shall mean to provide a full and complete statement and account of your knowledge or belief concerning the interrogatory and information requested therein.

9. The connectives “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the interrogatory all responses that might otherwise be construed to be outside of its scope.

10. The use of the singular form of any word shall be deemed to include the plural, and vice-versa.

11. These interrogatories are continuing and, to the extent your responses may be enlarged, diminished or otherwise modified by information and other documents acquired by you subsequent to the service of its response hereto, you are to promptly serve supplemental responses reflecting all subsequently acquired information and documents.

12. The time period for these interrogatories is September 26, 2008 through the present.

INTERROGATORIES

1. State with particularity each and every fact that formed the basis for your: (a) Objection to the Plan of Reorganization dated November 19, 2010 (the “Objection”); and (b) proffers to the Court on December 7, 2010 and February 8, 2011.

ANSWER:


2. Identify any and all professionals you consulted or communicated with in connection with your Objection, including each and every accountant, financial advisor, attorney, and consultant.

ANSWER:

3. State with particularity each and every time you communicated with the Equity Committee or any of the Equity Committee's agents, affiliates, representatives or other persons or entities acting or purporting to act on the Equity Committee's behalf in relation to your Objection and/or subsequent proffers to the Court. For each such communication, indentify, without limitation, (a) the parties to the communication; (b) the date of the communication; and (c) the substance of the communication.

ANSWER:

Dated: March 7, 2011
New York, NY

By: 

Barry G. Sher
Maria E. Douvas
Laura K. Isenberg
Paul, Hastings, Janofsky & Walker LLP
75 East 55th Street
New York, NY 10022
(212) 318-6000
Attorneys for Appaloosa Management L.P.

TO: Nate Thoma
105 South Jefferson Street
Wenonah, NJ 08090

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

-----X

Index No. 08-12229 (MFW)

In re:
WASHINGTON MUTUAL, INC., et al,

AFFIDAVIT OF SERVICE

Debtor.


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STATE OF PENNSYLVANIA)
S.S.:
COUNTY OF PHILADELPHIA)

ROBERT BASSLER, being duly sworn, deposes and says that he is over the age of eighteen years, is an agent of METRO ATTORNEY SERVICE INC., and is not a party to this action.

That on the 7th day of March, 2011, at approximately the time of 7:20 pm, deponent served a true copy of the APPALOOSA MANAGEMENT L.P.'S FIRST SET OF INTERROGATORIES TO NATE THOMA and APPALOOSA MANAGEMENT L.P.'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO NATE THOMA upon Nate Thoma at 105 South Jefferson Street, Wenonah, New Jersey, by personally delivering and leaving the same with Ferdinand Thoma, Uncle, a person of suitable age and discretion at that address.

Ferdinand Thoma is a white male, approximately 50 years of age, stands approximately 5 feet 10 inches tall, and weighs approximately 170 pounds with brown hair and handlebar mustache.



ROBERT BASSLER

Sworn to before me this
8th day of March, 2011



NOTARY PUBLIC

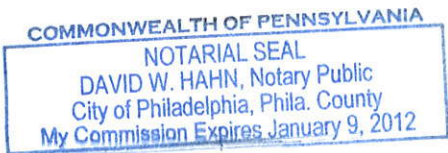


EXHIBIT C

Atlanta
Beijing
Brussels
Chicago
Frankfurt
Hong Kong
London
Los Angeles
Milan
New York
Orange County
Palo Alto
Paris
San Diego
San Francisco
Shanghai
Tokyo
Washington, DC

1(212) 318-6072
mariadouvas@paulhastings.com

April 12, 2011

Nate Thoma
105 South Jefferson
Wenonah, NJ 08090

Re: *In re Washington Mutual, Inc., et al.*, 08-12229 (MFW)

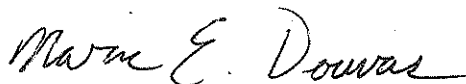
Dear Mr. Thoma:

We represent Appaloosa Management L.P. ("Appaloosa") in connection with the above-referenced proceeding.

On March 7, 2011, Appaloosa served you with a First Request for Production of Documents and a First Set of Interrogatories (collectively, "Appaloosa's Discovery Requests" or the "Requests"). Pursuant to the Federal Rules, you were required to respond to Appaloosa's Discovery Requests by April 7, 2011. You failed to do so.

If you persist in ignoring Appaloosa's Discovery Requests, and fail to respond to the Requests by April 14, 2011, we will file a motion with the Court to compel your responses.

Sincerely,



Maria E. Douvas
for PAUL, HASTINGS, JANOFSKY & WALKER LLP

EXHIBIT D

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

-----X

Index No. 08-12229 (MFW)

In re:
WASHINGTON MUTUAL, INC., et al,

AFFIDAVIT OF SERVICE

Debtor.

-----X

STATE OF PENNSYLVANIA)
S.S.:
COUNTY OF PHILADELPHIA)

ROBERT BASSLER, being duly sworn, deposes and says that he is over the age of eighteen years, is an agent of METRO ATTORNEY SERVICE INC., and is not a party to this action.

That on the 12th day of April, 2011, at approximately the time of 5:30 pm, deponent served a true copy of the Letter Dated April 12, 2011 TO NATE THOMA upon Nate Thoma at 105 South Jefferson Street, Wenonah, New Jersey, by personally delivering and leaving the same with Ferdinand Thoma, Uncle, a person of suitable age and discretion at that address.

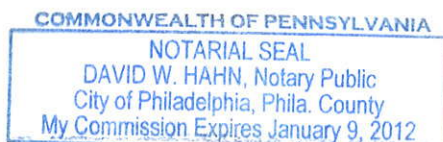
Ferdinand Thoma is a white male, approximately 50 years of age, stands approximately 5 feet 10 inches tall, and weighs approximately 170 pounds with brown hair and handlebar mustache.



ROBERT BASSLER

Sworn to before me this
13th day of April, 2011



NOTARY PUBLIC

PROPOSED ORDER

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

In re
WASHINGTON MUTUAL, INC., *et al.*,¹
Debtors.

)
) Chapter 11
)
) Case No. 08-12229 (MFW)
) (Jointly Administered)
)
)
)
) **Re: Dkt. No.** _____

**ORDER GRANTING MOTION OF APPALOOSA MANAGEMENT L.P. FOR AN
ORDER COMPELLING NATE THOMA TO SEARCH FOR AND PRODUCE
DOCUMENTS AND TO RESPOND TO INTERROGATORY REQUESTS**

Upon the motion (the “Motion”) of Appaloosa, pursuant to Bankruptcy Rules 3015, 9014, 7026, and 7037 and Local Bankruptcy Rule 7026-1 of the United States Bankruptcy Court for the District of Delaware, for the entry of and order compelling Nate Thoma to search for and produce documents and to respond to interrogatory requests; and this matter being a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(B); and upon consideration of the Motion; and due and proper notice of the Motion having been given, it is hereby:

ORDERED that the Motion is granted; and it is

ORDERED that Nate Thoma shall produce all responsive, non-privileged documents described in Appaloosa Management L.P.’s First Request for Production of Documents to Nate Thoma within 5 days of entry of this order; and it is

ORDERED that Nate Thoma shall respond with all responsive, non-privileged information to Appaloosa Management L.P.’s First Set of Interrogatories to Nate Thoma within 5 days of entry of this order; and it is

¹ The Debtors in these Chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification numbers, are: (a) Washington Mutual, Inc. (3725); and (b) WMI Investment Corp. (5395). The Debtors’ principal offices are located at 1301 Second Avenue, Seattle, Washington 98101.

ORDERED that the Court shall retain jurisdiction with respect to any matters, claims, rights, or disputes arising from or related to the implementation of this Order.

DATED: Wilmington, Delaware

May ____, 2011

HONORABLE MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

CERTIFICATE OF SERVICE

I, Victoria A. Guilfoyle, hereby certify that on the 19th day of April 2011, I caused service of the **Motion of Appaloosa Management L.P. for an Order Compelling Nate Thoma to Search For and Produce Documents and to Respond to Interrogatory Requests** to be made on the parties listed below in the manner indicated. I also caused service to be made on the parties listed on the attached service list via first class mail.

**VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Nate Thoma
105 South Jefferson Street
Wenonah, NJ 08090

VIA HAND DELIVERY

William P. Bowden, Esquire
Gregory Taylor, Esquire
Ashby & Geddes, P.A.
500 Delaware Avenue, 8th Floor
Wilmington, DE 19801

Mark D. Collins, Esquire
Chun I. Jang, Esquire
Richards Layton & Finger, P.A.
One Rodney Square
Wilmington, DE 19801

David B. Stratton, Esquire
Pepper Hamilton LLP
Hercules Plaza, Suite 5100
1313 Market Street
Wilmington, DE 19801

William D. Sullivan, Esquire
Sullivan Hazeltine Allinson LLC
901 N. Market Street, Suite 1300
Wilmington, DE 19801

Jane Leamy, Esquire
Office of the United States Trustee
J. Caleb Boggs Federal Building
844 King Street, Suite 2207
Lockbox #35
Wilmington, DE 19801

VIA FIRST CLASS MAIL

Fred S. Hodara, Esquire
Robert A. Johnson, Esquire
Akin Gump Strauss Hauer & Feld LLP
One Bryant Park
New York, NY 10036

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

Stephen D. Susman, Esquire
Seth Ard, Esquire
Susman Godfrey LLP
560 Lexington Avenue, 15th Floor
New York, NY 10022

/s/ Victoria A. Guilfoyle
VICTORIA A. GUILFOYLE

Acxiom Corporation

CB Blackard III
301 E Dave Ward Dr
PO Box 2000
Conway, AR 72033-2000

Akin Gump Strauss Hauer & Feld

LLP

David P Simonds
2029 Century Park E Ste 2400
Los Angeles, CA 90067-3012

Akin Gump Strauss Hauer & Feld

LLP

Fred S Hodara
One Bryant Park
New York, NY 10036

Akin Gump Strauss Hauer & Feld

LLP

Peter J Gurfein
2029 Century Park E Ste 2400
Los Angeles, CA 90067-3012

Akin Gump Strauss Hauer & Feld

LLP

Scott L Alberino
1333 New Hampshire Ave NW
Washington, DC 20036

Alston & Brid LLP

J William Boone
1201 W Peachtree St
Atlanta, GA 30309-3424

Andrews Kurth LLP

Attn Paul Silverstein
450 Lexington Ave 15th Fl
New York, NY 10017

Angelo Gordon & Co

Edward W Kressler
245 Park Ave 26th Fl
New York, NY 10167

Archer & Greiner PC

Attn Charles J Brown III
300 Delaware Ave Ste 1370
Wilmington, DE 19801

Archer & Greiner PC

Charles J Brown III
300 Delaware Ave Ste 1370
Wilmington, DE 19801

Arent Fox LLP

Andrew Silfen
1675 Broadway
New York, NY 10019

Arent Fox LLP

Jeffrey N Rothleder
1050 Connecticut Ave NW
Washington, DC 20036

Arnall Golden Gregory LLP

Darryl S Laddin
171 17th St NW Ste 2100
Atlanta, GA 30363-1031

Arnall Golden Gregory LLP

Michael F Holbein
171 17th St NW Ste 2100
Atlanta, GA 30363-1031

Ashby & Geddes PA

Amanda M Winfree
500 Delaware Ave 8th Fl
PO Box 1150
Wilmington, DE 19899

Ashby & Geddes PA

Benjamin Keenan
500 Delaware Ave 8th Fl
PO Box 1150
Wilmington, DE 19899

Ashby & Geddes PA

Don A Beskrone
500 Delaware Ave 8th Fl
PO Box 1150
Wilmington, DE 19899

Ashby & Geddes PA

Gregory A Taylor
500 Delaware Ave 8th Fl
PO Box 1150
Wilmington, DE 19899

Ashby & Geddes PA

Stacy L Newman
500 Delaware Ave 8th Fl
PO Box 1150
Wilmington, DE 19899

Ashby & Geddes PA

William P Bowden
500 Delaware Ave 8th Fl
PO Box 1150
Wilmington, DE 19899

Attorney Generals Office

Joseph R Biden III
Carvel State Office Bldg
820 N French St 8th Fl
Wilmington, DE 19801

Baker & McKenzie LLP

Carmen Lonstein
One Prudential Plaza Ste 3600
Chicago, IL 60601

Baker & McKenzie LLP

David F Heroy
One Prudential Plaza Ste 3600
Chicago, IL 60601

Bank of New York Mellon

Attn Gary S Bush
Global Corporate Trust
101 Barclay St
New York, NY 10286

Bartlett Hackett Feinberg PC

Frank F McGinn
155 Federal St 9th Fl
Boston, MA 02110

Benesch Friedlander Coplan &

Aronoff LLP

Bradford J Sandler
222 Delaware Ave Ste 801
Wilmington, DE 19801

Benesch Friedlander Coplan &

Aronoff LLP

Jennifer R Hoover
222 Delaware Ave Ste 801
Wilmington, DE 19801

**Bernstein Litowitz Berger &
Grossmann LLP**

Chad Johnson
1285 Avenue of the Americas 38th Fl
New York, NY 10019

**Bernstein Litowitz Berger &
Grossmann LLP**

Hannah Ross
1285 Avenue of the Americas 38th Fl
New York, NY 10019

**Bernstein Litowitz Berger &
Grossmann LLP**

Jerald Bien Willner
1285 Avenue of the Americas 38th Fl
New York, NY 10019

Blank Rome LLP

Michael DeBaecke
1201 Market St Ste 800
Wilmington, DE 19801

**Board of Governors of the Federal
Reserve System**

Stephen H Meyer
Assistant General Counsel
20th & C Sts NW
Washington, DE 20551

Bouchard Margules & Friedlander PA

Andre G Bouchard
222 Delaware Ave Ste 1400
Wilmington, DE 19801

Bouchard Margules & Friedlander PA

Sean M Brennecke
222 Delaware Ave Ste 1400
Wilmington, DE 19801

Bronwen Price

Gail B Price
2600 Mission St Ste 206
San Marion, CA 91108

Brown & Connery LLP

Donald K Ludman
6 N Broad St Ste 100
Woodbury, NJ 08096

Brown Rudnick LLP

Jeremy B Coffey
One Financial Ctr
Boston, MA 02111

Brown Rudnick LLP

Sigmund S Wissner Gross
Seven Times Sq
New York, NY 10036

Buchalter Nemer PC

Shawn M Christianson
333 Market St 25th Fl
San Francisco, CA 94105-2126

Cairncross & Hempelmann PS

John R Knapp Jr
542 2nd Ave Ste 500
Seattle, WA 98104-2323

Campbell & Levine LLC

Bernard G Conaway
800 N King St Ste 300
Wilmington, DE 19809

Capehart & Scatchard PA

William G Wright
8000 Midlantic Dr Ste 300S
Mt Laurel, NJ 08054

Centerbridge Capital Partners LP

Vivek Melwani
375 Park Ave 12th Fl
New York, NY 10152-0002

City of Fort Worth

Christopher B Mosley
1000 Throckmorton St
Fort Worth, TX 76102

Cohen Milstein Seller & Toll PLLC

Kenneth Rehns
88 Pine St Fl 14
New York, NY 10022

**Cole Schotz Meisel Forman &
Leonard PA**

J Kate Stickles
500 Delaware Ave Ste 1410
Wilmington, DE 19801

**Cole Schotz Meisel Forman &
Leonard PA**

Patrick J Reilley
500 Delaware Ave Ste 1410
Wilmington, DE 19801

Connolly Bove Lodge & Hutz LLP

Jeffrey C Wisler
1007 N Orange St
PO Box 2207
Wilmington, DE 19899

Connolly Bove Lodge & Hutz LLP

Marc J Phillips
1007 N Orange St
PO Box 2207
Wilmington, DE 19899

Cox Smith Matthew Inc

Patrick L Huffstickler
112 E Pecan Ste 1800
San Antonio, TX 78205

Cross & Simon LLC

Christopher P Simon
913 N Market St 11th Fl
Wilmington, DE 19801

**Curtis Mallet Prevost Colt & Mosle
LLP**

Steven J Reisman
101 Park Ave
New York, NY 10178-0061

David D Lennon

Asst Attorney General
Revenue Section
PO Box 629
Raleigh, NC 27602-0629

Delaware Dept of Justice

Attn Bankruptcy Dept
820 N French St 6th Fl
Wilmington, DE 19801

Delaware Secretary of the State

Division of Corporations
PO Box 898
Franchise Tax Division
Dover, DE 19903

Delaware Secretary of the Treasury

PO Box 7040
Dover, DE 19903

Department of Labor

Division of Unemployment Ins
4425 N Market St
Wilmington, DE 19802

Dewey & LeBoeuf LLP

Andrew Z Lebwohl
1301 Avenue of the Americas
New York, NY 10019

Dewey & LeBoeuf LLP

Peter A Ivanick
1301 Avenue of the Americas
New York, NY 10019

DLA Piper LLP

Jeremy R Johnson
1251 Avenue of the Americas
New York, NY 10020-1104

DLA Piper LLP

Thomas R Califano
1251 Avenue of the Americas
New York, NY 10020-1104

Eckert Seamans Cherin & Mellot LLC

Ronald S Gellert
300 Delaware Ave Ste 1210
Wilmington, DE 19801

Electronic Data Systems LLC

Ayala A Hassell
5400 Legacy Dr
MS H3 3A 05
Plano, TX 75024

Entwistle & Cappucci LLP

Andrew J Entwistle
280 Park Ave 26th Fl
New York, NY 10017

Entwistle & Cappucci LLP

Johnston de F Whitman Jr
280 Park Ave 26th Fl
New York, NY 10017

Entwistle & Cappucci LLP

Joshua K Porter
280 Park Ave 26th Fl
New York, NY 10017

Ezra Brutzkus Gubner LLP

Robyn B Sokol
21650 Oxnard Street, Suite 500
Woodland Hills, CA 91367

Federal Deposit Insurance Corp

Daniel H Kurtenbach
550 17th St NW
Washington, DC 20429

Federal Deposit Insurance Corp

Donald McKinley
1601 Bryan St
PAC 04024
Dallas, TX 75201

Federal Deposit Insurance Corp

Stephen J Pruss
1601 Bryan St
PAC 04024
Dallas, TX 75201

First Pacific Bank of California

Jame Burgess
PO Box 54830
Los Angeles, CA 90054-0830

**Fox Hefter Swibel Levin & Carroll
LLP**

Margaret Peg M Anderson
200 W Madison St Ste 3000
Chicago, IL 60606

Fox Rothschild LLP

Eric M Suttly
919 N Market St Ste 1600
Citizens Bank Center
Wilmington, DE 19801

Fox Rothschild LLP

Jeffrey M Schlerf
919 N Market St Ste 1600
Citizens Bank Center
Wilmington, DE 19801

Freshfields Bruckhaus Deringer LLP

David Russo
520 Madison Ave 34th Fl
New York, NY 10022

**Fried Frank Harris Shriver &
Jacobson LLP**

Brian D Pfeiffer
One New York Plaza
New York, NY 10004-1980

**Fried Frank Harris Shriver &
Jacobson LLP**

Matthew M Roose
One New York Plaza
New York, NY 10004-1980

Friedlander Misler
Robert E Greenberg
1101 17th St NW Ste 700
Washington, DC 20036-4704

**Gay McCall Isaacks Gordon &
Roberts**

David McCall
777 E 15th St
Plano, TX 75074

Goulston & Storrs PC

Christine D Lynch
400 Atlantic Ave
Boston, MA 02110-333

Greer Herz & Adams LLP

Frederick Black
One Moody Plz 18th Fl
Galveston, TX 77550

Greer Herz & Adams LLP

Tara B Annweiler
One Moody Plz 18th Fl
Galveston, TX 77550

Hans Brost

Serve via email only

Hewlett Packard Company

Ken Higman
12610 Park Plaza Dr No 100
Cerritos, CA 90703-9361

IBM Credit LLC

Bill Dimos
North Castle Dr
MD 320
Armonk, NY 10504

John Malone

1838 N Valley Mills Dr
Waco, TX 76710

Kasowitz Benson Torres & Friedman

David S Rosner
1633 Broadway
New York, NY 10019

Kelley Drye & Warren LLP

Eric R Wilson
101 Park Ave
New York, NY 10178

Landis Rath & Cobb LLP

Matthew B McGuire
919 Market St Ste 1800
Wilmington, DE 19801-3033

Law Offices of Lippe & Associates

Emil Lippe Jr
600 N Pearl St Ste S2460
Plaza of the Americas South Tower
Dallas, TX 75201

Gulf Group Holdings Acquisitions & Applications

Beatriz Agramonte
18305 Biscayne Blvd Ste 400
Aventura, FL 33160

Hennigan Bennet Dorman LLP

Bennett J Murphy
865 S Figueroa St Ste 2900
Los Angeles, CA 90017

Hodges and Associates

A Clifton Hodges
4 E Holly St Ste 202
Pasadena, CA 91103-3900

Internal Revenue Service

Centralized Insolvency Operation
PO Box 21126
Philadelphia, PA 19114-0326

Johnson Pope Bokor Ruppel & Burns LLP

Angelina E Lim
PO Box 1368
Clearwater, FL 33757

Kasowitz Benson Torres & Friedman

Paul M Oconnor III
1633 Broadway
New York, NY 10019

King & Spalding LLP

Arthur J Steinberg
1185 Avenue of the Americas
New York, NY 10036-4003

Lane Powell PC

Charles R Ekberg
1420 Fifth Ave Ste 4100
Seattle, WA 98101-2338

Lichtsinn & Haensel

Kathleen R. Dahlgren
111 E Wisconsin Ave Ste 1800
Milwaukee, WI 53202

Hagens Berman Sobol Shapiro LLP

Andrew M Volk
1918 8th Ave Ste 3300
Seattle, WA 98101-1214

Hennigan Bennet Dorman LLP

Michael C Schneiderei
865 S Figueroa St Ste 2900
Los Angeles, CA 90017

IBM Corporation

Vicky Namken
13800 Diplomat Dr
Dallas, TX 75234

Internal Revenue Service

Centralized Insolvency Operation
11601 Roosevelt Blvd
Mail Drop N781
Philadelphia, PA 19255-0002

Kasowitz Benson Torres & Friedman

Daniel A Fliman
1633 Broadway
New York, NY 10019

Kasowitz Benson Torres & Friedman

Trevor J Welch
1633 Broadway
New York, NY 10019

Landis Rath & Cobb LLP

Adam G Landis
919 Market St Ste 1800
Wilmington, DE 19801-3033

Law Debenture Trust Company of New York

Jame Heaney
400 Madison Ave 4th Fl
New York, NY 10017

Lichtsinn & Haensel

Michael J Bennett
111 E Wisconsin Ave Ste 1800
Milwaukee, WI 53202

**Linebarger Goggan Blair & Sampson
LLP**

Elizabeth Weller
2323 Bryan St Ste 1600
Dallas, TX 75201

Loeb & Loeb LLP

Walter H Curchack
345 Park Ave
New York, NY 10154

Lowenstein Sandler PC

Joseph M Yar
65 Livingston Ave
Roseland, NJ 07068

Manatee County Tax Collector

Ken Burton
Michelle Leeson
PO Box 25300
Bradenton, FL 34206-5300

McDermott Will & Emery LLP

Gary O Ravert
340 Madison Ave
New York, NY 10173-1922

McGuire Woods LLP

Sally E Edison
625 Liberty Ave 23rd Fl
Pittsburgh, PA 15222

McKenna Long & Aldridge LLP

Henry F Sewell Jr
303 Peachtree St NE Ste 5300
Atlanta, GA 30308-3265

**Monzack Mersky McLaughlin and
Browder PA**

Rachel B Mersky
1201 N Orange St Ste 400
Wilmington, DE 19801

Morris James LLP

Stephen M Miller
500 Delaware Ave Ste 1500
PO Box 2306
Wilmington, DE 19899-2306

Loeb & Loeb LLP

Daniel B Besikof
345 Park Ave
New York, NY 10154

Lowenstein Sandler PC

Eric H Horn
65 Livingston Ave
Roseland, NJ 07068

Lowenstein Sandler PC

Michael S Etkin
65 Livingston Ave
Roseland, NJ 07068

Manatee County Tax Collector

Ken Burton
Michelle Leeson
819 US 301 Blvd W
Bradenton, FL 34205

McDermott Will & Emery LLP

Nava Hazan
340 Madison Ave
New York, NY 10173-1922

McKenna Long & Aldridge LLP

Daniel J Carrigan
1900 K St NW
Washington, DC 20006-1108

McKenna Long & Aldridge LLP

J Michael Levensgood
303 Peachtree St NE Ste 5300
Atlanta, GA 30308-3265

Morris James LLP

Brett D Fallon
500 Delaware Ave Ste 1500
PO Box 2306
Wilmington, DE 19899-2306

Morrison & Foerster LLP

Brett H Miller
1290 Avenue of the Americas
New York, NY 10104

Loeb & Loeb LLP

Vadim J Rubinstein
345 Park Ave
New York, NY 10154

Lowenstein Sandler PC

Ira M Levee
65 Livingston Ave
Roseland, NJ 07068

Lowenstein Sandler PC

Vincent A Dagostino
65 Livingston Ave
Roseland, NJ 07068

McCreary Veselka Bragg & Allen

Michael Reed
PO Box 1269
Round Rock, TX 78680

McGuire Woods LLP

Nicholas E Meriwether
625 Liberty Ave 23rd Fl
Pittsburgh, PA 15222

McKenna Long & Aldridge LLP

David E Gordon
303 Peachtree St NE Ste 5300
Atlanta, GA 30308-3265

Miami Dade Bankruptcy Unit

Alberto Burnstein
140 W Flagler St Ste 1403
Miami, FL 33130-1575

Morris James LLP

Courtney R Bookout
500 Delaware Ave Ste 1500
PO Box 2306
Wilmington, DE 19899-2306

Nationstar Mortgage

350 Highland Dr
Lewisville, TX 75067

O Melveny & Myers LLP

Jason Alderson
Time Square Tower
7 Times Square
New York, NY 10036

O Melveny & Myers LLP

Michael J Sage
Time Square Tower
7 Times Square
New York, NY 10036

Office of the Attorney General

Deputy Attorney General
James Potter
300 S Spring St Ste 1702
Los Angeles, CA 90013

**Office of the United States Trustee
Delaware**

Joseph McMahon
844 King St Ste 2207
Lockbox 35
Wilmington, DE 19899-0035

Office of Thrift Supervision

Martin Jefferson Davis
1700 G St NW
Washington, DC 20552

Office of Thrift Supervision

Christopher A Sterbenz
Trial Counsel Litigation Div
1700 G St NW
Washington, DC 20552

Office of Thrift Supervision

Darrell W Dochow
Pacific Plaza
2001 Junipero Serra Blvd Ste 650
Daly City, CA 94014-1976

Oregon Dept of Justice

Carolyn G Wade
Senior Asst Attorney General
1162 Court St NE
Salem, OR 97301-4096

Patterson Belknap Webb & Tyler

Brian P Guiney
1133 Avenue of the Americas
New York, NY 10036-6710

Patterson Belknap Webb & Tyler

Daniel A Lowenthal
1133 Avenue of the Americas
New York, NY 10036-6710

Pension Benefit Guaranty Corp

Joel W Ruderman
Office of the Chief Counsel
1200 K St NW
Washington, DC 20005-4026

Pepper Hamilton LLP

David B Stratton
Hercules Plaza Ste 5100
1313 N Market St
Wilmington, DE 19801

Pepper Hamilton LLP

Evelyn J Meltzer
Hercules Plaza Ste 5100
1313 N Market St
Wilmington, DE 19801

**Perdue Brandon Fielder Collins &
Mott LLP**

Elizabeth Banda
PO Box 13430
Arlington, TX 76094-0430

Perkins Coie LLP

Alan D Smith
1201 Third Ave 48th Fl
Seattle, WA 98101

Perkins Coie LLP

Brian A Jennings
1201 Third Ave 48th Fl
Seattle, WA 98101

Perkins Coie LLP

Ronald L Berenstain
1201 Third Ave 48th Fl
Seattle, WA 98101

Phillips Goldman & Spence PA

Stephen W Spence
1200 N Broom St
Wilmington, DE 19806

**Pillsbury Winthrop Shaw Pittman
LLP**

Leo T Crowley
1540 Broadway
New York, NY 10036-4039

**Pillsbury Winthrop Shaw Pittman
LLP**

Margot P Erlich
1540 Broadway
New York, NY 10036-4039

**Pillsbury Winthrop Shaw Pittman
LLP**

Richard Epling
1540 Broadway
New York, NY 10036-4039

Pinckney Harris Weidinger LLC

Donna L Harris
1220 N Market St Ste 950
Wilmington, DE 19801

Plains Capital Bank Building

Michael S Mitchell
1255 W 15th St Ste 805
Plano, TX 75075-7225

**Platzer Sergold Karlin Levine
Goldberg Jaslow LLP**

Sydney G Platzer
1065 Avenue of the Americas 18th Fl
New York, NY 10018

**Procopio Cory Hargreaves & Savitch
LLP**

Jeffrey Isaacs
525 B St Ste 2200
San Diego, CA 92101-4474

Reed Smith LLP

J Andrew Rahl
599 Lexington Ave
New York, NY 10022

Reed Smith LLP

J Cory Falgowski
1201 Market St Ste 1500
Wilmington, DE 19801

Reed Smith LLP

James C McCarroll
599 Lexington Ave 30th Fl
New York, NY 10022

Reed Smith LLP

Kurt F Gwynne
1201 Market St Ste 1500
Wilmington, DE 19801

Richards Layton & Finger PA

Chun I Jang
One Rodney Square
920 N King St
Wilmington, DE 19899

Richards Layton & Finger PA

Mark D Collins
One Rodney Square
920 N King St
Wilmington, DE 19899

Riddell Williams PS

Joseph E Shickich Jr
1001 4th Ave Ste 4500
Seattle, WA 98154-1192

Robert M Menar

700 S Lake Ave Ste 325
Pasadena, CA 91106

Rosenthal Monhait & Goddess PA

Norman M Monhait
919 Market St Ste 1401
PO Box 1070
Wilmington, DE 19899

**San Diego Treasurer Tax Collector of
California**

Bankruptcy Desk
Dan McAllister
1600 Pacific Hwy Rm 162
San Diego, CA 92101

**San Joaquin County Treasurer & Tax
Collector**

Christine M Babb
500 E Mail St 1st Fl
PO Box 2169
Stockton, CA 95201

**San Joaquin County Treasurer & Tax
Collector Office of Shabbir A Khan**

Christine M Babb
44 N San Joaquin St Ste 150
PO Box 2169
Stockton, CA 95201

**Satterlee Stephens Burke & Burke
LLP**

Christopher R Belmonte
230 Park Ave
New York, NY 10169

**Satterlee Stephens Burke & Burke
LLP**

Pamela A Bosswick
230 Park Ave
New York, NY 10169

Saul Ewing LLP

Mark Minuti
222 Delaware Ave Ste 1200
PO Box 1266
Wilmington, DE 19899

Schiffrin & Partners PC

Javier Schiffrin
55 West 26th St 15th Fl
New York, NY 10010-1012

Schindler Cohen & Hochman LLP

Daniel E Shaw
100 Wall St 15th Fl
New York, NY 10005

Schindler Cohen & Hochman LLP

Jonathan L Hochman
100 Wall St 15th Fl
New York, NY 10005

Scott and Scott LLP

Joseph P Guglielmo
500 5th Ave 40th Fl
New York, NY 10110

Securities & Exchange Commission

Allen Maiza
Northeast Regional Office
3 World Financial Center Rm 4300
New York, NY 10281

Securities & Exchange Commission

Daniel M Hawke
The Mellon Independence Ctr
701 Market St
Philadelphia, PA 19106-1532

Securities & Exchange Commission

15th & Pennsylvania Ave NW
Washington, DC 20020

Seitz Van Ogtrop & Green PA

Patricia P McGonigle
222 Delaware Ave Ste 1500
Wilmington, DE 19899

Severson & Werson PC

Duane M Geck
One Embarcadero Center 26th Fl
San Francisco, CA 94111

Shearman & Sterling LLP

Elizabeth R Pike
Serve via email only

Shipman & Goodwin LLP

Julie A Manning
One Constitution Plaza
Hartford, CT 06103-1919

Singer & Levick PC

Michelle E Shriro
16200 Addison Rd Ste 140
Addison, TX 75001

Snow Fogel Spence LLP

Ross Spence
2929 Allen Pkwy Ste 4100
Houston, TX 77019

**State of Delaware Division of
Revenue**

Randy R Weller MS No 25
820 N French St 8th Fl
Wilmington, DE 19801-0820

**State of Washington Dept of
Revenue**

Zachary Mosner Asst Attorney General
800 Fifth Ave Ste 2000
Seattle, WA 98104-3188

Steckbauer Weinhart Jaffe LLP

Barry S Glaser
333 S Hope St Ste 3600
Los Angeles, CA 90071

Streusand & Landon LLP

Sabrina L Streusand
811 Barton Springs Rd Ste 811
Austin, TX 78704

Sullivan & Cromwell LLP

Hydee R Feldstein
1888 Century Park E
Los Angeles, CA 90067-1725

Sullivan & Cromwell LLP

Robert R Urband
1888 Century Park E
Los Angeles, CA 90067-1725

Susman Godfrey LLP

Edgar Sargent
1201 Third Ave Ste 3800
Seattle, WA 98101

Susman Godfrey LLP

Justin A Nelson
1201 Third Ave Ste 3800
Seattle, WA 98101

Susman Godfrey LLP

Parker C Folse III
1201 Third Ave Ste 3800
Seattle, WA 98101

Susman Godfrey LLP

Seth D Ard
560 Lexington Ave Fl 15
New York, NY 10022-6828

Susman Godfrey LLP

Stephen D Susman
560 Lexington Ave Fl 15
New York, NY 10022-6828

**Tannenbaum Helpern Syracuse &
Hirchtritt**

Roy H Carlin
900 Third Ave 13th Fl
New York, NY 10022

Tennessee Dept of Revenue

TN Attorney Generals Office
Bankruptcy Div
PO Box 20207
Nashville, TN 37202-0207

Treasurer Tax Collector

Dan McAllister Bankruptcy Desk
1600 Pacific Hwy Room 162
San Diego, CA 92101

Tulare County Tax Collector

Melissa Quinn
221 S Mooney Blvd Rm 104 E
Visalia, CA 93291-4593

Unisys Corporation

Janet Fitzpatrick Legal Asst
Unisys Way
PO Box 500 MS E8 108
Blue Bell, PA 19424

**US Attorney General US Department
of Justice**

Michael Mukasey
950 Pennsylvania Ave NW
Washington, DC 20530-0001

US Attorneys Office

Charles M Oberly III
1007 N Orange St Ste 700
PO Box 2046
Wilmington, DE 19899-2046

US Department of Justice

Jan M Geht Trial Attorney Tax Division
PO Box 227
Washington, DC 20044

Vedder Price PC

Douglas J Lipke
222 N LaSalle St Ste 2600
Chicago, IL 60601

Verizon Services Corp

William M Vermette
22001 Loudon County Parkway
Room E1 3 113
Ashburn, VA 20147

Walter R Holly Jr

10853 Garland Ave
Culver City, CA 90232

**Washington Mutual Claims
Processing**

c o Kurtzman Carson Consultants
2335 Alaska Ave
El Segundo, CA 90245

Weil Gotshal & Manges LLP

Brian S Rosen
767 Fifth Ave
New York, NY 10153

Weil Gotshal & Manges LLP

Marcia L Goldstein
767 Fifth Ave
New York, NY 10153

Weil Gotshal & Manges LLP

Michael F Walsh
767 Fifth Ave
New York, NY 10153

Weiss Serota Helfman

Douglas R Gonzales
200 E Broward Blvd Ste 1900
Fort Lauderdale, FL 33301

Wells Fargo Bank NA

Thomas M Korsman
625 Marquette Ave
Minneapolis, MN 55479

White & Case LLP

Thomas E Lauria
Wachovia Financial Center
200 S Biscayne Blvd Ste 4900
Miami, FL 33131

Wilmington Trust Company

Jame McGinley
520 Madison Ave 33rd Fl
New York, NY 10022

Wilson Sonsini Goodrich & Rosati

Barry Kaplan
701 Fifth Avenue Ste 5100
Seattle, WA 98104

Young Conaway Stargatt & Taylor

LLP

M Blake Cleary
1000 West St 17th Fl
The Brandywine Building
Wilmington, DE 19801

Young Conaway Stargatt & Taylor

LLP

Robert S Brady
1000 West St 17th Fl
The Brandywine Building
Wilmington, DE 19801