

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

	)	Chapter 11
In re:)	
WASHINGTON MUTUAL, INC., <u>et al.</u> , ¹	)	Case No. 08-12229 (MFW)
Debtors.	)	(Jointly Administered)
	)	Requested Hearing Date: TBD
	)	Requested Obj. Deadline: TBD
	)	Related Docket No. 7906

**MOTION TO SHORTEN NOTICE AND SCHEDULE HEARING
ON MOTION OF THE OFFICIAL COMMITTEE OF EQUITY SECURITY
HOLDERS FOR AN ORDER COMPELLING AURELIUS CAPITAL
MANAGEMENT L.P. TO PRODUCE DOCUMENTS**

The Official Committee of Equity Security Holders (the "Equity Committee"), by and through its undersigned counsel, hereby moves (the "Motion to Shorten"), pursuant to sections 102 and 105(a) of title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (as amended, the "Bankruptcy Code"), Rules 2002 and 9006 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") and Rules 2002-1(b) and 9006-1(e) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "Local Rules"), for the entry of an order (i) shortening notice of, and scheduling an emergency hearing on, the *Motion of the Official Committee of Equity Security Holders for an Order Compelling Aurelius Capital Management L.P. to Produce Documents* (the "Motion to Compel") for a time convenient to the Court during the week of June 20, 2011 (the "Hearing") and (ii) allowing objections, if any, to the Motion to Compel to be filed by 4:00 p.m. one day prior to the Hearing. In support thereof, the Equity Committee respectfully represents as follows:

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Washington Mutual, Inc. (3725) and WMI Investment Corp. (5396). The Debtors' principal offices are located at 1301 Second Avenue, Seattle, Washington 98101.



JURISDICTION

1. This Court has jurisdiction over these matters pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The predicates for the relief requested herein are sections 102 and 105(a) of the Bankruptcy Code, Bankruptcy Rules 2002 and 9006, and Local Rules 2002-1(b) and 9006-1(e).

BACKGROUND

3. The relevant background facts are set forth in the Motion to Compel, filed contemporaneously herewith under seal, and incorporated herein by reference.²

RELIEF REQUESTED

4. By this Motion to Shorten, the Equity Committee respectfully requests that the Court enter an order (i) shortening notice of and scheduling an emergency hearing on the Motion to Compel for an available time during the week of June 20, 2011, and (ii) allowing objections, if any, to the Motion to Compel to be filed by 4:00 p.m. one day prior to the Hearing.

5. In accordance with Local Rule 9006-1(c) and Bankruptcy Rule 2002, parties generally are required to provide a total of seventeen days notice of motions (if service is by mail) to the parties in interest specified in Local Rule 2002-1(b). However, Local Rule 9006-1(e) provides that the Court may shorten this notice period “on written motion (served on all interested parties) specifying the exigencies justifying shortened notice.” DEL. BANKR. L.R. 9006-1(e).

6. The Equity Committee respectfully requests that sufficient cause exists for

² Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Motion to

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

7. By the Motion to Compel, the Equity Committee seeks an order requiring Aurelius to produce documents consistent with the Court's prior order granting the Equity Committee the right to certain discovery from the four hedge funds known as the Settlement Note Holders, including Aurelius ("2004 Examination Order", D.I. 6725). The discovery granted by the 2004 Examination Order relates to the Equity Committee's examination of issues and potential objections to confirmation of the Debtor's Sixth Amended Plan of Reorganization.

8. As set forth in the Motion to Compel, Aurelius provided discovery responses and produced documents as required by the 2004 Examination Order, beginning February 25, 2011. The deposition of an Aurelius representative, Dan Gropper, was taken on May 4, 2011. Following the deposition, a draft of the Motion to Compel requesting the production of additional information and documents was provided to Aurelius' counsel on May 6, 2011. However, the motion was not pursued at that time, by agreement of the parties, while the parties pursued settlement negotiations with respect to the terms of potential plan modifications to allow confirmation of a consensual plan of reorganization. Those settlement negotiations came to an unsuccessful resolution on June 14, 2011.

9. An expedited hearing on the Equity Committee's Motion to Compel is necessary because the discovery at issue in the Motion to Compel relates to the Equity Committee's investigation of and objections to confirmation of the Debtor's Sixth Amended Plan of Reorganization. The confirmation hearing on the Debtor's Sixth Amended Plan of Reorganization is currently scheduled to begin on July 5, 2011. At the June 8, 2011 omnibus hearing in this case, the Debtor's counsel advised the Court that the Equity Committee would

Compel.

work to complete discovery in a compressed time-frame on issues relating to the Sixth Amended Plan, in the event the settlement negotiations were not successful. That discovery is now moving forward, including depositions of representatives of other Note Holders scheduled for the week of June 20, 2011. A hearing on the Motion to Compel during the week of June 20, 2011 would leave a minimum of one week prior to the confirmation hearing for Aurelius to turn over any documents the Court orders produced. If a hearing is not held on an expedited basis, then no time will be left for the completion of discovery prior to the scheduled confirmation hearing.

10. The Equity Committee is aware that the Court has an omnibus hearing date scheduled in these cases for June 23, 2011 at 3:00 p.m. However, the Equity Committee respectfully requests that the hearing on the Motion to Compel not be scheduled for that omnibus hearing for two reasons: (1) the Motion to Compel was filed under seal (pending approval of the Court) and the information and documents requested have been designated as confidential, such that the motion likely requires a confidential hearing, and (2) the Equity Committee has two depositions in this matter already scheduled for Thursday, June 23. The Equity Committee respectfully requests a hearing for any other day during the week of June 20, 2011, at such time as the Court may have available.

11. As certified in the Motion to Compel, the Equity Committee provided a draft of the Motion to Compel to counsel for Aurelius on May 6, 2011, so Aurelius is well aware of the additional documents the Equity Committee is seeking relevant to the plan process through the Motion to Compel.

12. Given the foregoing exigent circumstances, the Equity Committee submits that the relief requested in this Motion to Shorten is necessary and appropriate. Accordingly, the Court should shorten notice with respect to the Motion to Compel so that it may be heard during

the week of June 20, 2011, or such other time as is convenient to the Court.

NOTICE

13. Notice of this Motion to Shorten has been provided to (i) the United State Trustee; (ii) counsel to the Debtors; (iii) Aurelius Capital Management L.P.; 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, the Equity Committee submits that no other or further notice need be provided.

NO PRIOR REQUEST

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

CONCLUSION

WHEREFORE, the Equity Committee respectfully requests entry of an Order, substantially in the form attached hereto as Exhibit A, (i) shortening notice of and scheduling an emergency hearing on the Motion to Compel for an available time during the week of June 20, 2011; (ii) allowing objections, if any, to the Motion to Compel to be filed by 4:00 p.m. the day prior to the Hearing; and (iv) granting such other and further relief as the Court deems appropriate.

Date: June 16, 2011
Wilmington, DE

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Exhibit A

[Proposed Order]

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

In re:	)	Chapter 11
)	
WASHINGTON MUTUAL, INC., <u>et al.</u> , ¹	)	Case No. 08-12229 (MFW)
)	
Debtors.	)	(Jointly Administered)
)	
	)	Related Docket No. _____

**ORDER SHORTENING NOTICE AND SCHEDULING HEARING ON MOTION TO
SHORTEN NOTICE AND SCHEDULE HEARING ON MOTION OF THE OFFICIAL
COMMITTEE OF EQUITY SECURITY HOLDERS FOR AN ORDER COMPELLING
AURELIUS CAPITAL MANAGEMENT L.P. TO PRODUCE DOCUMENTS**

Upon consideration of the *Motion to Shorten Notice and Scheduling Hearing on Motion of the Official Committee of Equity Security Holders for an Order Compelling Aurelius Capital Management L.P. to Produce Documents* (the "Motion to Shorten")² filed by the Official Committee of Equity Security Holders (the "Equity Committee"), the Court finds that it has jurisdiction over this matter pursuant to 28 U.S.C. § 157 and 1334; this is a core proceeding pursuant to 28 U.S.C. § 157(b); venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409; the relief requested in the Motion to Shorten is in the best interests of the Debtors, their estates and creditors; proper and adequate notice has been given and no other or further notice is necessary; after due deliberation and sufficient cause appearing thereof, it is hereby:

ORDERED, ADJUDGED, AND DECREED THAT:

1. The Motion to Shorten is **GRANTED**.
2. The Motion to Compel shall be heard at the Hearing scheduled for June _____,

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Washington Mutual, Inc. (3725) and WMI Investment Corp. (5396). The Debtors' principal offices are located at 1301 Second Avenue, Seattle, Washington 98101.

² All capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Motion to Compel.

2011 at _____ (EDT).

3. Any objections to the relief requested in the Motion to Compel shall be filed on or before June _____, 2011 at _____ (EDT).

4. This Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: Wilmington, Delaware
June ____, 2011

THE HONORABLE MARY F. WALRATH
UNITED STATES BANKRUPTCY COURT

CERTIFICATE OF SERVICE

I, William D. Sullivan, hereby certify that on the 16th day of June 2011, I caused a copy of the foregoing *Motion to Shorten Notice and Schedule Hearing on Motion of the Official Committee of Equity Security Holders for an Order Compelling Aurelius Capital Management L.P. to Produce Documents* to be served upon the on the parties on the attached service list via U.S. Mail, First Class, postage pre-paid.

Under penalty of perjury, I declare the foregoing to be true and correct.

June 16, 2011
Date

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