

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

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<i>In re</i>	:	Chapter 11
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WASHINGTON MUTUAL, INC., <i>et al.</i> , ¹	:	Case No. 08-12229 (MFW)
	:	
Debtors.	:	Jointly Administered
	:	Hearing Date: July 28, 2011 at 11:30 a.m.
	:	Objection Deadline: July 22, 2011 at 4:00 p.m.
	:	Related Docket No. 8069
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OPPOSITION OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF WASHINGTON MUTUAL, INC. , ET AL., TO THE MOTION OF BETTINA M. HAPER TO COMPEL ALL WASHINGTON MUTUAL, INC. CREDITORS TO FULLY COMPLY WITH FEDERAL RULE OF BANKRUPTCY PROCEDURE 2019

The Official Committee of Unsecured Creditors (the “Creditors’ Committee”) of Washington Mutual, Inc. (“WMI”) and WMI Investment Corp. (“WMI Investment”, and collectively with WMI, the “Debtors”), by and through its undersigned co-counsel, submits this objection (the “Objection”) to the Motion to Compel All WMI Creditors to Fully Comply With Federal Rule of Bankruptcy Procedure 2019 (the “Motion”) (D.I. # 8069) of Bettina M. Haper, and respectfully represents as follows:

RELEVANT BACKGROUND

1. On September 26, 2010, Washington Mutual, Inc. (“WMI”) and Washington Mutual Investment Corp. (collectively, the “Debtors”) filed for chapter 11 bankruptcy protection.
2. On October 15, 2008, the Office of the United States Trustee appointed the Creditors’ Committee as the statutory fiduciary representative of all of the Debtors’ unsecured

¹ The Debtors in these chapter 11 cases (the "Chapter 11 Cases") and the last four digits of each Debtor's federal tax identification numbers are: (i) Washington Mutual, Inc. (3725) and (ii) WMI Investment Corp. (5395).



creditors. See 11 U.S.C. §§ 1102, 1103.

3. On April 15, 2010, the Debtors filed an Amended Notice of (A) Required Compliance With Provisions of Bankruptcy Rule 2019(a) and (B) Hearing To Show Cause Why Sanctions or Limitations Pursuant To Bankruptcy Rule 2019(b) Or Otherwise Should Not Be Imposed (the “Notice”). (D.I. 3447). The Notice stated:

[E]very entity or committee representing more than one creditor or equity security holder in the . . . chapter 11 cases shall file a verified statement . . . with the Clerk of the Bankruptcy Court consistent with the provisions of Rule 2019(a) of the Federal Rules of Bankruptcy Procedures . . . , including, without limitation, setting forth (1) the amounts of claims or equity interests owned by the entity or the members of the committee (including claims against Washington Mutual Bank which form the basis of alleged claims against Washington Mutual, Inc. . . .), (2) the date on which any such claims or equity interests were acquired, (3) the amounts paid therefor and (4) the date of any sales or other dispositions thereof and the amounts received in connection therewith.

4. On July 1, 2011, Ms. Haper – who is a holder of WMI equity securities (Motion, ¶ 11) – filed the Motion, seeking an Order requiring all WMI “Creditors” to comply with Bankruptcy Rule 2019 or be barred from the chapter 11 proceedings until any deficiencies have been remedied. The Motion defines “Creditors” as “any holders of Washington Mutual, Inc. debt, who are members of an official committee or participated in settlement negotiations or whose representatives took part in either.” Motion, at 1 n. 2.

ARGUMENT

5. The Motion should be denied.

6. First, Ms. Haper misquotes Rule 2019(a) by omitting from her recitation of the Rule the phrase “except with respect to a committee appointed pursuant to § 1102 or 1114 of the Code.” Motion, ¶ 13. By omitting this provision, Ms. Haper suggests that Rule 2019(a) would apply to official committees, including the Creditors’ Committee, a result that Congress expressly intended to avoid.

7. Second, while Ms. Haper asks the Court to compel “Creditors” (as that term is defined in the Motion) to comply with Rule 2019, the attached proposed Order would apply to *all* creditors. Because Rule 2019 applies only to “entities or committees representing *more than one* creditor or equity security holder”, and does not apply to individual creditors who are not represented by an entity or committee, the proposed Order as drafted exceeds the scope of Rule 2019.

8. Third, the Motion seeks to compel “holders of Washington Mutual, Inc. debt who are members of an official committee” to comply with Rule 2019. There are no such members of the Creditors’ Committee. The four Creditors’ Committee members are each an Indenture Trustee for the four respective tranches of WMI funded debt.² There has been no showing why the members of the Creditors’ Committee should be required to file updated 2019 statements.

9. Fourth, Ms. Haper has not identified a single entity or committee to whom Rule 2019 applies that has failed to comply with the Rule or the Notice. Thus, there has been no showing why additional 2019 statements should be required now, as the court considers confirmation.

10. Fifth, while Rule 2019(a) applies to certain entities or committees “representing more than one creditor *or equity security holder*”, Ms. Haper seeks relief that would apply only to creditors. The Court should not countenance such a discriminatory request.

11. Finally, even if the Court were to consider requiring further 2019 statements at this time – which it should not – we would note that other parties in interest, including the LTW Holders and an *ad hoc* committee called “United International Equity”, have failed to file any 2019 statements.

² However, one or more members of the Equity Committee may qualify as Creditors under Ms. Haper’s definition.

WHEREFORE, for the reasons set forth above, the Committee respectfully requests that this Court (a) deny the Motion; and (b) grant the Committee such other relief as is fair, just, and proper.

Dated: July 22, 2011
Wilmington, Delaware

Respectfully submitted,

PEPPER HAMILTON LLP

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Attorneys for the Official Committee of Unsecured
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CERTIFICATE OF SERVICE

I, John H. Schanne, II, hereby certify that on the 22nd day of July, 2011, I caused the foregoing **Opposition of the Official Committee of Unsecured Creditors of Washington Mutual, Inc., et al., to the Motion of Bettina M. Haper to Compel All Washington Mutual, Inc. Creditors to Fully Comply with Federal Rule of Bankruptcy Procedure 2019** to be served upon the following party in the manner indicated.

Bettina M. Haper
234 Claremont
San Antonio, TX 78209
Federal Express

/s/ John H. Schanne, II
John H. Schanne, II (DE No. 5260)