

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re: :
: Chapter 11
WASHINGTON MUTUAL, INC., et al., : Case No. 08-1229
: (MFW) Jointly
: Debtors. :
:

**INTERROGATORIES OF EDWARD F. BACH,
HENRY J. BERENS, AND MICHAEL R. ZARRO DIRECTED
TO THE WASHINGTON MUTUAL INC. LIQUIDATING TRUST**

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, made applicable by Rules 7026 and 7033 of the Federal Rules of Bankruptcy Procedure, Edward F. Bach, Henry J. Berens, and Michael R. Zarro (collectively, the “Claimants”), hereby request that the Washington Mutual Inc. Liquidating Trust (WMILT”), respond under oath and in writing to the following interrogatories (the “Interrogatories”).

All responses to these Interrogatories should be directed to Kenneth E. Aaron, Esquire, Weir & Partners LLP, 824 North Market Street, Suite 800, Wilmington, DE 19801.

INSTRUCTIONS AND DEFINITIONS

A. These Interrogatories are continuing in character, so as to require the WMILT to file supplemental answers if the WMILT obtains further, contradictory or different information. Such supplemental answers, if any, shall be filed from time to time promptly upon the discovery by you of such supplemental information. Each Interrogatory is to be answered separately and as completely as possible. The fact that an investigation is continuing and discovery is not complete shall not be used as a reason for failure to answer any such Interrogatory as fully as possible. The omission of any name, fact or other item of information from the answer shall be deemed a



representation that such name, fact or item is not known to the WMILT, its counselors other representatives or agents of the WMILT. Answers shall be based upon information known to the WMILT, its agents, attorneys, partners, associates, employees, servants, partners, associates, representatives, investigators or any other party or entity acting or who has acted by or on behalf of the WMILT. To the extent that the answer to any Interrogatory is not based upon information known to the WMILT, the WMILT shall specify that fact and the person or entity possessing such information.

B. If the answer to all or any part of an Interrogatory is not presently known or available, include a statement to that effect, specifying the portion of the Interrogatory that cannot be completely answered. However, once information is available, the WMILT is required to furnish all information available in response to the entire Interrogatory by supplemental answer as required above.

C. If the WMILT refuses to answer any Interrogatory or any part thereof on the grounds of privilege, the WMILT must identify the basis for the privilege claimed, the nature of any information that it refuses to disclose, referring specifically to the Interrogatory or any part thereof to which the Interrogatory applies and by identifying the form in which said information exists, the date of the document or oral communication and the general subject matter of the document or oral communication.

D. As used in these Interrogatories, the following terms shall have the following meanings:

1. The terms “you” or “your” shall mean the WMILT, and/or any of its agents, attorneys, partners, associates, employees, consultants, servants, representatives,

investigators and any person or entity acting or who has acted by or on behalf of the WMILT.

2. “Document” and “writing” are used interchangeably and shall mean any written or graphic matter of any kind whatsoever, however produced or reproduced, any electronically or magnetically recorded matter of any kind or character, however produced or reproduced, and any other matter constituting the recording of data or information upon any tangible thing by any means, including but not limited to, the original and any non-identical copy of any of the following: books, records, contracts, agreements, promissory notes, invoices, purchase orders, statements of account, credit and debit memoranda, orders, loan agreements, bills, installment contracts, mortgages, deeds of trust, security agreements, certificates of title, financing statements, instruments, expense accounts, canceled checks, bank statements, bank books, receipt and disbursement journals, tax returns, financial statements, check stubs, drafts, certificates, tabulations, questionnaires, tables, sketches, tax reports, working papers, computer data (including information or programs stored in a computer, whether or not ever printed out or displayed), resumes, medical records, address books, appointment books or telephone logs, notes, speeches, schedules, worksheets, pictures, income statements, profit and loss statements, deposit slips, credit card receipts, records and notations of telephone or personal conversations, conferences, inter-office communications, letters, telexes, partnership agreements, articles of incorporation, catalogue price lists, sound, tape and video recordings, memoranda (including written memoranda of telephone activities), minutes, manuals, diaries, calendars or desk pads, calendar or diary entries, scrapbooks, notebooks, correspondence, bulletins, circulars, policies, forms, pamphlets, notices,

statements, journals, postcards, letters, emails, text messages, social media posts, telegrams, facsimile transmissions, reports, magazines, booklets, brochures, instructions, interoffice communications, Photostats, microfilm, microfiche, maps, deposition transcripts, pleadings, orders, releases, appraisals, estimates, valuations, opinions, studies, analyses, summaries, drawings, blueprints, photographs, negatives, graphs, charts, publicly viewable websites, non-public websites (such as company or employee intranets) and other data, information or statistics contained within any data storage modules, tapes, discs or any other memory devices (including flash drives, CDs, DVDs, or internet-based data storage or data backup or similar methods of storage for information, data and programs) or any other information retrievable on storage systems (including computer generated reports and printouts).

3. “Communication” or “communication” shall mean any spoken communication, contact, oral or written, formal or informal at any time or place or under any circumstances whatsoever, whereby information of any nature was transmitted, recorded, or transferred (whether telephonic, written, in person or otherwise). Where you are requested to identify or list any communications, your identification or list of such communications shall require you separately as to each communication, to identify the mode of such communication, to identify the persons who participated in such communication, to identify the persons who overheard or had access to such communication, and to state the date of such communication, the time and/or place of such communication, and the subject matter of such communication.

4. “Identify” or “state the identity of” shall have the following meaning when used in the following contexts:

a. When used in connection with a natural person, you are required to state his or her: (a) full name; (b) present or last known home address (including street name, number, city and state); (c) present position, business affiliation and job description and, if unknown, so state and set forth the corresponding last known instance of such information; (d) position, business affiliation and job description at the time in question, with respect to the Interrogatory or other request involved.

b. When used in connection with a document or writing, you are required to state in the answer in each instance: (a) whether or not such document is known to be in existence at the time of the answer; (b) the date of the document; (c) type of document (e.g. letter, memorandum, computer printout, estimate, etc.); (d) identity of the author(s), addressee(s) and any other person to whom the document was shown or distributed; (e) any filing or identifying number; and (f) the present or last known location and/or custodian thereof. If any such document was, but is no longer in the possession of or subject to control of Plaintiff or any affiliated business entity, state what and when disposition was made of it.

c. When used in connection with an oral communication, you are required to state in the answer in each instance: (a) the identity of each person communicating; (b) the identity of the recipient(s) and intended recipient(s) of the communication; (c) the identity of each person present or otherwise aware of the substance of the communication; (d) the date and the place where it was made; (e) the identity of any document or writing that embodies, includes, reflects,

concerns, relates, refers to or is based upon such oral communication; and (f) a detailed description of the substance of the communication.

d. When used in connection with a transaction, you are required to state in the answer in each instance: (a) a description of the property or thing that is the subject of the transaction; (b) the identity of the parties to the transaction; (c) the date of the transaction; (d) the place or site where the transaction took place; (e) the location of the property or thing that was the subject to the transaction at the time the transaction took place; (f) the identity of all persons who have knowledge of the transaction; and (g) identify all documents that refer or relate to the transaction.

5. The “WMILT” shall mean the Washington Mutual, Inc. Liquidating Trust and its agents, employees, consultants, servants, attorneys, accountants, partners, associates, representatives and any person or entity acting or who has acted on its behalf.

6. The “Debtors” shall mean, collectively and as appropriate, Washington Mutual, Inc. and WMI Investment Corp.

7. “Petition Date” shall mean September 26, 2008.

8. “Claimants” shall mean Edward F. Bach, Henry J. Berens, and Michael R. Zarro.

9. “WMI” shall mean Washington Mutual, Inc.

10. “WMB, FSB” shall mean Washington Mutual Bank, FSB.

11. “WMB” shall mean Washington Mutual Bank.

12. “SERAP” shall mean Supplemental Executive Retirement Accumulation Plan.

13. “ETRIP” shall mean Executive Target Retirement Income Plan.

14. “Employee Agreements” shall mean any employment agreement, employment incentive offer, leadership bonus offer, change in control agreement, special bonus opportunity offer, and/or long term incentive agreement.

15. “5th Omnibus Objection” shall mean the Debtors’ Fifth Omnibus (Substantive) Objection to Claims [Docket No. 1233].

16. “6th” Omnibus Objection” shall mean the Debtors’ Sixth Omnibus (Substantive) Objection to Claims [Docket No. 1234].

17. “79th Omnibus Objection” shall mean the WMI Liquidating Trust’s Seventy-Ninth Omnibus (Substantive) Objection to Claims [Docket No. 10504].

18. “Omnibus Objections” shall mean, collectively, the 5th Omnibus Objection, the 6th Omnibus Objection, and the 79th Omnibus Objection.

All other terms used in these Interrogatories have the meaning given by the Bankruptcy Code or by common usage unless otherwise required by the context.

E. The answers to the Interrogatories shall be signed and verified by an authorized representative of the Plaintiff and the objections signed by the attorney making them.

INTERROGATORIES

1. Identify all documents relied upon or referred to (a) prepare the Omnibus Objections; and (b) in the answers to these Interrogatories.

ANSWER:

2. Identify each person having knowledge of the facts relevant to the allegations and/or issues in the Omnibus Objections and the allegations contained in the Omnibus Objections, and provide a general description of the facts and/or subject matter known by such person.

ANSWER:

3. Identify all documents, reports or analyses relied upon by the WMI board of directors or the WMB board of directors in any determination that a change in control occurred.

ANSWER:

4. Identify all employees or consultants who provided reports or recommendations to the Human Resources Committee of the Board of Directors of WMI or the Board of Directors of WMB on the adoption of or modifications or amendments to any employee benefit plans, recommendations for employee incentive compensation or bonus plans, change in control agreements or any other matters regarding employee compensation for the period of January 1, 2005 through December 31, 2008.

ANSWER:

5. For each of the Claimants, state all facts that support or relate to your contention that a change-in-control did not occur in connection with the Office of Thrift Services' seizure of WMB and subsequent FDIC receivership.

ANSWER:

6. Identify the documents relied upon by the Debtors or WMILT to determine the amount of each Claimant's vested benefits under ETRIP and SERAP.

ANSWER:

7. Identify all persons with knowledge regarding the calculation or determination, at any time following the Petition Date, of each Claimant's benefits under ETRIP and SERAP.

ANSWER:

8. For each of the Claimants, state all facts that support or relate to your contention that the Employee Agreements are not obligations of either Debtor as stated in the Omnibus Objections.

ANSWER:

9. Identify all persons who have knowledge of the facts stated in response to Interrogatory no. 8 above.

ANSWER:

10. Identify all Documents that support or relate to the facts set forth in response to Interrogatory no. 8 above.

ANSWER:

11. For each of the Claimants, state all facts that support or relate to your contention that a change-in-control did not occur in connection with the Office of Thrift Services seizure of WMB and subsequent FDIC receivership.

ANSWER:

12. For each of the Claimants, state their employment position and executive level designation (e.g. 1-8) within the Washington Mutual organization (including WMI and any of its subsidiaries or affiliates) during the period of January 1, 2005 through September 25, 2008.

ANSWER:

13. For each of the Claimants, please describe their job duties and reporting duties within the Washington Mutual organization (including WMI and any of its subsidiaries or affiliates) during the period of January 1, 2005 through September 25, 2008.

ANSWER:

14. Identify all persons with knowledge regarding the calculation or determination, at any time following the Petition Date, of each Claimant's benefits under ETRIP or SERAP.

ANSWER:

15. Identify all persons involved in calculating or determining the offers or payments or terms of the employee agreements made following the Petition Date.

ANSWER:

16. Identify all persons involved in calculating or determining the payments to be made to any of Claimants upon termination of their employment with WMI or any subsidiary or affiliate.

ANSWER:

Dated: December 7, 2012

/s/ Kenneth E. Aaron _____
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vice)
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