

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)

**ORDER REGARDING
STIPULATION AND PROTECTIVE ORDER**

Upon consideration of the *Stipulation and Protective Order*, a copy of which is attached hereto as Exhibit 1, as agreed to by and between the Debtors and AT&T Corp. and its affiliates (“AT&T,” and collectively with the Debtors, the “Parties”), it is hereby

ORDERED that the Stipulation and Protective Order is APPROVED; and it is further

ORDERED that pursuant to Local Rule 9018-1(c), the Parties are authorized to file Confidential Material or Highly Confidential Material² under seal without the filing a separate motion to that effect; and it is further

ORDERED that this Court shall retain jurisdiction over all matters arising from or related to the implementation or interpretation of the Stipulation and Protective Order or this Order.

Dated: December 19, 2012
Wilmington, Delaware



THE HONORABLE MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

¹ 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.

² Capitalized terms not otherwise define herein have the same meaning as in the Agreement.



Exhibit 1

Stipulation and Protective Order

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

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In re: : Chapter 11
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WASHINGTON MUTUAL, INC., et al.,¹ : Case No. 08-12229(MFW)
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Debtors. : (Jointly Administered)
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STIPULATION AND PROTECTIVE ORDER

This stipulation and protective order (the “**Protective Order**”) is entered into by and between (i) Washington Mutual, Inc. and WMI Investment Corp., as debtors and debtors in possession (collectively, the “**Debtors**”); and (ii) AT&T Corp. and its affiliates (collectively “**AT&T**”), (collectively, the “**Parties**”, and individually, each a “**Party**”).

IT IS HEREBY STIPULATED, AGREED, AND ORDERED THAT:

1. This Protective Order shall govern the handling of all documents (including all “documents” as defined in Fed. R. Civ. P. 34(a)), deposition testimony, discovery responses and other materials, oral or written, including all copies and excerpts thereof (collectively “**Material**”) produced or provided by a Party (in such capacity, a “**Producing Party**”) in connection with the above-captioned proceeding and any appeals related thereto (the “**Action**”). The Material provided by any Producing Party shall be handled in accordance with this Protective Order, and shall be used by each Party other than the Producing Party that receives

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such Material (in such capacity, a “**Receiving Party**”) only for purposes related to the Action, and not for any commercial, business, competitive or other purpose.

2. Material that contains or discloses information (i) that a Party in good faith considers to be, reflect, or reveal sensitive commercial, financial, business, or personal information (including, without limitation, such information regarding that Party or any of its clients), trade secrets or other confidential research, development or commercial information the public disclosure of which may adversely affect the Party, its employees (or a third party that supplied the Material or a client or former client of the Party), or other confidential information entitled to protection under the Federal Rules of Bankruptcy Procedure, the Federal Rules of Civil Procedure, or any other federal, state, or other applicable law, rule or regulation, or (ii) that is the subject of another confidentiality agreement, may be designated by any Producing Party as **Confidential Material**, regardless of who produces such material, and, where appropriate, redacted by the Producing Party. All Confidential Material produced or designated by any Party shall bear the legend “Confidential” on each page in addition to an appropriate bates-stamp designation indicating the Producing Party.

3. Confidential Material provided or designated by the Producing Parties or their professionals shall be held by all Receiving Parties and their professionals in strict confidence. Unless required by law or court order, or unless agreed otherwise with the Producing Party, such Confidential Material shall not be given, shown, made available or communicated in any way to anyone other than (i) counsel of record for the Parties, and attorneys, clerical, paralegal and other staff employed by or working with such counsel, including any outside vendor providing litigation support or photocopying services; (ii) in-house counsel for the Parties; (iii) any expert or consultant retained by or on behalf of a Party in connection with the Action, so long as such

expert or consultant is not employed by a competitor of AT&T; (iv) officers, employees, and members, as applicable, of the Parties who may be necessary to assist in connection with the Action; (v) witnesses at any deposition taken in connection with the Action (and counsel for such witness); (vi) court reporters and their employees; (vii) the Court and Court personnel (subject to the provisions of paragraph 6 below); (viii) counsel for the Official Committee of Unsecured Creditors in the above-captioned case and members of such committee, excluding, to the extent appointed, any competitor of AT&T; and (ix) the Parties themselves to the extent the Parties are individuals. Persons listed in subparagraphs (ii), (iii), (iv), (v) and (viii) and (ix) may be given access to Confidential Material only after counsel has provided a copy of this Stipulation and causes each such person to execute the Stipulation or a Certificate in the form attached as Exhibit A hereto. Counsel for the Party disclosing Confidential Material to persons under subparagraphs (ii), (iii), (iv), (v) and (viii) shall be responsible for holding executed certificates. To the extent any Confidential Material is provided to persons under subparagraph (viii), such information shall be provided pursuant to (i) the protections afforded by this Protective Order; (ii) the Court's Order Approving Stipulation by and Between the Debtors and JPMorgan Chase Bank, N.A. Concerning Certain Vendor Contracts, dated December 30, 2008; and (iii) Debtor's agreement on the record at the hearing held on December 16, 2008, that no AT&T contracts or other information including, but not limited to, rates, pricing, services, etc. would be provided to Verizon, a member of the Official Committee of Unsecured Creditors at that time, and direct competitor of AT&T.

4. Certain Confidential Material ("**Highly Confidential Material**") may be designated "Highly Confidential, For Professional Eyes Only" if a Party in good faith believes such Confidential Material is so sensitive that protections beyond those afforded by paragraph 3

are necessary. The persons listed in paragraphs 3(i), 3(vi) and 3(vii) shall be allowed access to Highly Confidential Material consistent with the requirements set forth in paragraph 3. The persons listed in paragraphs 3(iii), 3(v) and 3(viii) shall be allowed access to Highly Confidential Material only after counsel has provided a copy of this Stipulation and causes each such person to execute a Certificate in the form attached as Exhibit A hereto. No persons listed in paragraph 3(ii) or 3(iv) shall be given access to Highly Confidential Material unless (i) the Material was produced by the current employer of the person; (ii) the person initially created, sent or received such Material; (iii) each person or party that designated the documents or materials as Highly Confidential Material consents to such access; or (iv) the Court orders such access. Highly Confidential Material shall bear the legend "Highly Confidential, For Professional Eyes Only" on each page. Failure to designate Confidential Material as "Confidential" or "Highly Confidential, For Professional Eyes Only" at the time of production may be remedied by supplemental written notice to counsel for the Receiving Party and, upon receiving such written notice, the Receiving Party shall thereafter treat the designated materials in accordance with the terms of this Stipulation. The designation of a document or information as Confidential Material or Highly Confidential Material is without prejudice to the right of any Receiving Party to challenge such designation as provided in Paragraph 11 of this Stipulation.

5. Information or testimony disclosed at a deposition may be designated as Confidential Material or Highly Confidential Material by the person providing such testimony, or his or her counsel, or by any Party, if such person, counsel or Party (which person, counsel or Party shall thereafter be deemed a Producing Party with respect to such Material) (i) identifies on the record at the deposition those portions of the testimony that are designated as Confidential Material or Highly Confidential Material, or (ii) within ten (10) days after the receipt of the final

version of the transcript from the deposition, provides written notification to all Parties through the Parties' counsel of those pages and lines of the transcript that are designated as Confidential Material or Highly Confidential Material. The entire transcript of any deposition shall be treated as Highly Confidential Material until ten (10) days after the receipt of the final version of the transcript from the deposition. Each page of deposition transcript designated in whole or in part as Confidential Material shall be marked as "Confidential" and each page of deposition transcript designated in whole or in part as Highly Confidential Material shall be marked as "Highly Confidential, For Professional Eyes Only" by the court reporter. At the request of the Producing Party, any person(s) not permitted access to Confidential Material and/or Highly Confidential Material under the terms of this Stipulation shall be excluded from any portion of any deposition or examination at which such Confidential Material or Highly Confidential Material is used. The court reporter transcribing the testimony at such deposition shall not be so excluded.

6. Confidential Material or Highly Confidential Material shall not be filed with the Clerk except when required in connection with motions under Fed. R. Civ. P. 12 or 56, or other matters pending before the Court. All documents, including pleadings, motions and other papers, containing, identifying, or referencing Confidential Material or Highly Confidential Material filed with the Court shall be filed under seal. The Parties shall file a redacted public copy of any such pleadings, motions and/or other papers, redacting only that information that has been designated "Confidential" or "Highly Confidential, For Professional Eyes Only".

7. If any Receiving Party reasonably believes it may use any Confidential Material or Highly Confidential Material at any hearings in connection with the Action, that Party agrees to provide at least three (3) business days notice of such intention to the Producing Party through the Producing Party's counsel so that the Producing Party can take all steps necessary to protect

the confidentiality of such material. The Receiving Party intending to use Confidential Material or Highly Confidential Material in connection with such hearings further agrees to meet and confer in good faith through its counsel with the Producing Party's counsel about appropriate steps that may be taken to protect the confidentiality of such material, including clearing the Courtroom and/or agreeing to redact such Confidential Material or Highly Confidential Material.

8. In the event that a Producing Party moves the Court for any protections regarding the use of Confidential Material or Highly Confidential Material at any hearing in connection with the Action, the Receiving Party wishing to use such Confidential Material or Highly Confidential Material shall not use the Confidential Material or Highly Confidential Material in question unless and until the Court enters an Order permitting such use or as otherwise agreed by the Producing Party. Nothing contained in this Paragraph shall preclude the Receiving Party wishing to use such Confidential Material or Highly Confidential Material from orally moving the Court at any hearing for leave to use or reveal such Confidential Material or Highly Confidential Material.

9. The Parties agree that production of Material that is an attorney-client privileged communication, or work product as defined under Federal Rule of Bankruptcy Procedure 7026(b)(3), the Federal Rules of Civil Procedure or any other applicable law, or otherwise privileged or immune, shall not be deemed to be a waiver of the attorney-client privilege, work product doctrine or other applicable privilege or protection. In the event that any Material is produced that the Producing Party later claims is protected by a privilege or immunity, or has otherwise been inadvertently produced, the Receiving Party shall use all commercially reasonable efforts promptly to destroy or return all copies of same to counsel to the Producing Party within five (5) days of written notice and also comply with reasonable requests of the

Producing Party for handling such Material. This paragraph is without prejudice to the right of any Receiving Party to challenge the Producing Party's assertion of any privilege or immunity from production.

10. This Protective Order does not alter, modify or expand any obligation or duty of any Party to produce any Confidential Material or Highly Confidential Material.

11. No Party shall be obligated to immediately challenge the propriety of a confidentiality designation, and failure to do so shall not preclude a subsequent challenge to such designation. If, in good faith, any Receiving Party objects to the designation or treatment of any Confidential Material or Highly Confidential Material, the Party shall so state by letter to counsel for the Producing Party. Counsel for the Receiving Party and counsel for the Producing Party shall promptly confer, in good faith, to resolve any dispute concerning the designation and treatment of the Confidential Material or Highly Confidential Material. In the event that the applicable Producing and Receiving Parties are unable to resolve any dispute concerning the treatment of the Confidential Material or Highly Confidential Material, the Receiving Party may file an application with the Court, under seal, challenging the designation of Confidential Material or Highly Confidential Material. In its application to the Court, the Receiving Party shall identify the specific documents or transcript excerpts to which it objects as well as the basis for its objection as to each document or transcript excerpt. This Protective Order shall not affect the burden of proof with respect to the propriety of the designation. The Producing Party shall have five (5) business days to either agree to remove the designation or oppose the non-Producing Party's application. Pending determination of such application, the challenged Confidential Material or Highly Confidential Material shall continue to be treated in accordance with its original designation.

12. In the event that a Receiving Party is requested or required by any person or entity (by law, oral questions, government action, interrogatories, requests for information or documents, subpoena, civil investigation demand or similar process) to provide or produce Confidential Material or Highly Confidential Material, the Receiving Party shall, unless prohibited from doing so by applicable law, give the Producing Party's counsel prompt written notice as soon as practicable under the circumstances and before any Confidential Material or Highly Confidential Material is produced so that the Producing Party has an opportunity to object to production.

13. Except as provided otherwise by any subsequent order of the Court, within thirty (30) days after receiving notice of entry of an order, judgment or decree finally disposing of or resolving the Action (including appeals), or as otherwise agreed by all Parties, all Receiving Parties shall use all commercially reasonable efforts to return all Confidential Material and Highly Confidential Material provided by the Producing Parties, including all copies, summaries and excerpts thereof, to counsel to the applicable Producing Parties or destroy them. If the Confidential Material or Highly Confidential Material is destroyed, counsel for the Receiving Party shall, within seven (7) days following such destruction, certify in writing to counsel to the Producing Party that all such Confidential Material and Highly Confidential Material within its possession or control has been destroyed. Notwithstanding the foregoing, counsel for the Parties shall be entitled to retain court papers, deposition and trial transcripts and attorney work product that include or refer to Confidential Material or Highly Confidential Material, provided that such counsel, and employees of such counsel, shall not disclose any Confidential Material or Highly Confidential Material in such court papers, deposition or trial transcripts or attorney work

product to any person, except pursuant to court order or written agreement with the Producing Party.

14. This Protective Order shall not apply to any document, testimony or other information that (i) is already in a Receiving Party's possession at the time it is produced and is not subject to or governed by any other confidentiality agreement or restrictions, (ii) becomes generally available to the public other than as a result of disclosure in violation of this Protective Order or in breach of other legal obligation, or (iii) becomes available to a Receiving Party through voluntary or required production from a person or Party who obtained the document, testimony or other information without any confidentiality restriction.

15. Each Party acknowledges that it is aware that the use of Confidential or Highly Confidential Material produced in connection with the Action for any purpose inconsistent with the terms of this Protective Order will violate this Protective Order. This Protective Order is not to be construed as an agreement or representation that any such documents, including Confidential Material or Highly Confidential Material, are relevant to any claim or defense in the Action or any subsequent action or proceeding that may be commenced, nor that such Confidential Material or Highly Confidential Material should properly be produced in any of these proceedings.

16. Notwithstanding any provision contained herein, nothing in this Protective Order shall restrict in any way the right of any Party to make use of its own Confidential Material or Highly Confidential Material in any way it deems fit, or modify the terms of any other agreements, stipulations, laws or orders governing the treatment of confidential documents by any Party.

17. This Protective Order shall be deemed effective as to each Party, its attorneys, agents and representatives, upon execution by all Parties. When effective, this Protective Order applies to any Confidential Material or Highly Confidential Material provided prior to its execution.

18. This Protective Order shall remain binding after the conclusion of the Action.

19. Nothing in this Protective Order shall be deemed or otherwise provide for consolidation, for discovery, trial or any other purpose, of any legal action with the Action.

20. This Protective Order shall be without prejudice to and does not impair the ability or rights of any Party to seek further limits on disclosure or protections for the confidentiality of any Confidential Material and/or Highly Confidential Material in addition to the limits and protections provided herein. Accordingly, the Parties reserve the right to seek further modification of this Protective Order from the Court.

21. The terms and limitations of this Protective Order shall not be modified or deviated from except upon written stipulation by counsel for the Parties, or by Order of this Court.

22. This Protective Order may be executed in any number of counterparts and shall constitute one agreement binding upon all Parties thereto as if all parties signed the same document. Facsimile signatures shall be treated as originals for all purposes.

Dated: New York, New York
October 18 2011

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So ordered this ____ day of _____, 2012

HON. MARY K. WALRATH
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT A

ACKNOWLEDGMENT

The undersigned hereby acknowledges that he/she has read the stipulation and protective order entered into between the Parties dated _____, in the *In re Washington Mutual, Inc., et al.*, Case No. 08-12229 (Bankr. D. Del.) (MFW) (the "Action"), and understands and agrees to be bound by the terms thereof, and consents to the jurisdiction of the court for any conflict related to or arising out of this agreement.

Dated: _____, 2011

By: _____