Docket #11159 Date Filed: 3/18/2013

In Re

Washington Mutual , Inc., et. al. Debtors Chapter 11 Bankruptcy Case No. 08-12229 (MFW)

Subject Matter: My response to the "WMI Liquidating Trust's Amended Seventy-Ninth Omnibus (Substantive) Objection To Claims".

Doc 11032-4 Filed 2/19/13

Date of My Response March 16, 2013

My Name Suzanne R. Lehrberger

My Claim No 3763

My Response is listed below.

WMILT continues to assert fallacious reasons for not paying me my legitimately owed claim. I believe I have fairly and honestly summarized those arguments (the full texts of which appear in various parts of the Motion), listed below in random order, immediately followed by my counter-argument(s). The numbering system I have used to list those fallacious WMILT arguments is for presentation and convenience purposes only, and may or may not match the sequence shown in the Motion to which I am replying. If I have failed to list and/or fairly described any of their fallacious reasons, it is an inadvertent oversight on my part; I fully reserve the right to address such inadvertent oversights on my part in subsequent communiques to WMILT, this Court, or to any other appropriate party.

1 Wrong Party Claims. WMILT contends that WMI was not a party to any of the agreements between me and WMB.

I disagree; WMI was in fact a party to the Agreements between me and WMB. An executive level Officer of WMI signed my Change In Control Agreement on behalf of WMI, signing it in his capacity as an executive level Officer of WMI; this in fact made WMI a party to my CIC Agreement. The foregoing is a very brief summarized description of the reason why I disagree with the position taken by WMILT. I have raised this counter-argument in much greater detail and specificity and with supporting attachments in one or more of my previous written correspondences to WMI, and/or WMILT, and/or the FDIC, and/or this Court; as of yet I have not received any reply specifically addressing my counter-argument from any of them. My correspondences are dated on or about 6/4/2009, 6/30/2009, 7/4/2009, 8/3/2009, 9/15/2010, 9/1/2012, and I/3/2013, all of which are in the possession of WMILT and are incorporated by reference herein as if fully reproduced and attached here; if I have

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failed to list the date(s) of any of my correspondences it is an inadvertent oversight on my part which will be corrected in future correspondences. Further, I fully reserve the right to change, alter or amend my counter-argument on this topic in future correspondences as I deem necessary, based upon the response(s) I receive from either WMILT or the Court.

2 No Change In Control Has Occurred. WMILT contends that neither the (WMB) Bank Seizure nor the JPMC Transaction meets the definition of a Change in Control because neither action constitutes the sale of all or substantially all of the assets of WMI.

I hold a completely different position such that I maintain a Change In Control did in fact occur. My position is that the Change In Control occurred when WMI became subject to the control and supervision of this Court subsequent to the filing of this Chapter 11 Bankruptcy proceeding. The foregoing is a very brief summarized description of the reason why I hold a position in direct opposition to that taken by WMILT. I have raised this counter-argument in much greater detail and specificity and with supporting attachments in one or more of my previous written correspondences to WMI, and/or WMILT, and/or the FDIC, and/or this Court; as of yet I have not received any reply specifically addressing my counter-argument from any of them. My correspondences are dated on or about 6/4/2009, 6/30/2009, 7/4/2009, 8/3/2009, 9/15/2010, 9/1/2012, and I/3/2013, all of which are in the possession of WMILT and are incorporated by reference herein as if fully reproduced and attached here; if I have failed to list the date(s) of any of my correspondences it is an inadvertent oversight on my part which will be corrected in future correspondences. Further, I fully reserve the right to change, alter or amend my counter-argument on this topic in future correspondences as I deem necessary, based upon the response(s) I receive from either WMILT or this Court.

3 Even if this Court determines that WMILT is liable for the referenced WMB agreements (e.g., as if WMI were in fact a party to the respective WMB agreements) and that a Change In Control did in fact occur, the claim amounts allowed are limited and subject to a "cap". The purpose of the "cap" is both to prevent the payments of amounts in excess of the "cap"from unreasonably compromising the debtor's fresh start, and to prevent the payments of amounts in excess of the "cap" from working to the detriment of other creditors. This WMILT "cap" argument is based on 11 U.S.C. 502(b)(7).

I disagree; the 11 U.S.C. 502(b)(7) "cap" argument does not apply to this proceeding. WMILT has completely failed to document how paying the amounts in excess of the "cap" will either unreasonably compromise the debtor's (WMI) fresh start, or work to the detriment of other creditors. It is insufficient to simply quote the law; WMILT has an affirmative obligation to show that the law [11 U.S.C. 502(b)(7)] is applicable to this particular proceeding before this Court. If there is any truth in the financial press, WMI is currently a thriving enterprise in various businesses, and is flush with cash. The "fresh start" has already been accomplished and is no longer a valid concern. In terms of other creditors, all of their claim amounts have already been fixed via the requirements of the Bar Date. As WMILT so accurately pointed out in this filing, "Over 4,000 proofs ofclaim have been filed in these chapter 11 cases. ... To date, approximately 3,100 claims have been disallowed or withdrawn". It equally appears that "and work to the detriment of other creditors" has already happened, but has nothing whatsoever to do with paying amounts in excess of the "cap". Since WMILT has failed to show that the provisions of 11 U.S.C. 502(b)(7) are in fact applicable to this particular proceeding before this Court, as is detailed in the legislative comments recorded in the congressional record, their argument should be disallowed. I have raised this counter-argument in much greater detail and specificity and with supporting attachments in one or more of my previous written correspondences to WMI, and/orWMILT, and/or the FDIC, and/or this Court; as of yet I have not received any reply specifically addressing mycounter-argument from any

of them. My correspondences are dated on or about 6/4/2009, 6/30/2009, 7/4/2009, 8/3/2009, 9/15/2010, 9/1/2012, and I/3/2013, all of which are in the possession of WMILT and are incorporated by reference herein as if fully reproduced and attached here; if I have failed to list the date(s) of any of my correspondences it is an inadvertent oversight on my part which will be corrected in future correspondences. Further, I fully reserve the right to change, alter or amend my counter-argument on this topic in future correspondences as I deem necessary, based upon the response(s) I receive from either WMILT or thisCourt.

4 WMILT is entitled to a credit for any severance payments or other relevant benefits actually received by me from JPMC on account of my previous employment with WMB. As such, any liability pursuant to the WMB CIC Agreements should be significantly reduced.

I disagree. I received no severance payments of any type whatsoever from JPMC. The compensation I did receive from JPMC was for (at that time the then) current and future performance of my job duties, not for my past performance with WMB. Accordingly, the liability to me pursuant to the WMB CIC Agreement should not be reduced at all. I have raised this counter-argument in much greater detail and specificity and with supporting attachments in one or more of my previous written correspondences to WMI, and/orWMILT, and/or the FDIC, and/or this Court; as of yet I have not received any reply specifically addressing my counter-argument from any of them. My correspondences are dated on or about 6/4/2009, 6/30/2009, 7/4/2009, 8/3/2009, 9/15/2010, 9/1/2012, and I/3/2013, all of which are in the possession of WMILT and are incorporated by reference herein as if fully reproduced and attached here; if I have failed to list the date(s) ofany of my correspondences it is an inadvertent oversight on my part which will be corrected in future correspondences. Further, I fully reserve the right to change, alter or amend my counter-argument on this topic in future correspondences as I deem necessary, based upon the response(s) I receive from either WMILT or thisCourt.

5 Holders of equity securities, such as shares of stock, do not have claims under section 101(5) of the Bankruptcy Code, but rather equity interests. Because equity interests are not claims against the Debtor's estates, WMILT requests that the Court disallow the Equity Components of such claims.

I disagree. The references to 11 U.S.C. 101(16) and 101(5) have been mischaracterized by WMILT in that those two sections of the Code taken together refer to payments in "cash". I am not seeking a "cash" payment for the 3,333 shares of Restricted Stock (of WMI) which I was awarded on January 22, 2008. What I am seeking is the delivery of those shares of Common Stock. Since there was a three year vesting period, and both the (WMB) Bank Seizure and JPMC Transaction took place within a year of my award date, the shares were never delivered to me. There is an "acceleration" provision in my CIC Agreement that results in my award being fully vested, for which I have previously requested the delivery of the Common Stock. Based on the filings and claims, it appears that there are many other former employees similarly situated. This action by WMILT is a most interesting and draconian attempt to increase the value of the Common Stock of those shareholders who did receive their Common Stock, all at the expense of those individuals (such as myself) who did not receive their Common Stock. By seeking to have this Court disallow the Equity Component of my claim, WMILT would not have to issue those shares of Common Stock to which I am entitled, because the claim for same would have been disallowed. This is unconscionable because WMILT would be using the "mask" of not making a "cash" payment to prevent the issuance of legitimately owed Common Stock. I would then be prohibited from suing WMI to have my Common Stock issued, because the claim for same would have already been disallowed by this Court. I have raised the issue of delivering to me the Common Stock of WMI in much greater detail and specificity and with supporting attachments in one or more of my previous written correspondences to WMI, and/or WMILT, and/or the FDIC, and/or this Court; as of yet I have not received any reply specifically addressing my counter-argument from any

of them. My correspondences are dated on or about 6/4/2009, 6/30/2009, 7/4/2009, 8/3/2009, 9/15/2010, 9/1/2012, and 1/3/2013, all of which are in the possession of WMILT and are incorporated by reference herein as if fully reproduced and attached here; if I have failed to list the date(s) of any of my correspondences it is an inadvertent oversight on my part which will be corrected in future correspondences. Further, I fully reserve the right to change, alter or amend my counter-argument on this topic in future correspondences as I deem necessary, based upon the response(s) I receive from either WMILT or this Court.

The three below listed fallacious arguments of WMILT are listed under a new section titled "Disallowance by Operation of Applicable Nonbankruptcy Law".

6 12 C.F.R. 163.39 provides that an employment contract shall terminate upon the default of a savings association.

Not applicable to me. My Change In Control Agreement, which is the primary document supporting my claim against WMI, is not an employment contract as the term is described in detail in the regulations referred to by WMI. I fully reserve the right to change, alter or amend my counter-argument on this topic in future correspondences as I deem necessary, based upon the response(s) I receive from either WMILT or this Court.

7 12 C.F.R. 163, 12 C.F.R. 359, and 12 U.S.C. 1828, taken collectively, provide that no insured depository institution or depository institution holding company shall make or agree to make any golden parachute payments for the benefit of an employee that is contingent or is payable upon termination and is made in contemplation of, among other things, the insolvency of the insured depository institution or the appointment of a receiver.

Not applicable to me. My first counter-argument is that WMI has failed to demonstrate that either my employment contract or my Change In Control Agreement were made either "in contemplation of...the insolvency of the insured depository institution...", or, "in contemplation of...the appointment of a receiver". I was hired by WMB during December of 2006, almost two full years before either the (WMB) Bank Seizure or the JPMC Transaction. There was no such "contemplation" by either WMB or WMI at the time I was hired. I fully reserve the right to change, alter or amend my counter-argument on this topic in future correspondences as I deem necessary, based upon the response(s) I receive from either WMILT or this Court.

Not applicable to me. My second counter-argument is that neither WMI nor WMB was an insured depository institution or depository institution holding company when the payment to me became payable, which was during July of 2009. Neither WMI nor WMB had been an insured depository institution or depository institution holding company since the Bank Seizure and filing of this Chapter 11 Bankruptcy proceeding, both of which occurred during September of 2008. Hence, the prescription against an insured depository institution or a depository institution holding company making a golden parachute payment simply does not apply to me. I fully reserve the right to change, alter or amend my counter-argument on this topic in future correspondences as I deem necessary, based upon the response(s) I receive from either WMILT or this Court.

8 These regulations (the C.F.R. and U.S.C. items cited in point number 7 above) were designed to...prevent employees of a failed or failing financial institution from collecting golden parachute payments while creditors and depositors were at risk of losing their claims and deposits from such institutions.

Not applicable to me. My first counter-argument is that the depositors were never at risk of losing their deposits. The JPMC Transaction was a "Purchase and Assumption Agreement, Whole Bank" between JPMC and the FDIC. One of the provisions of that Purchase and Assumption Agreement was that JPMC would assume all the deposits of the failed WMB, and did in fact assume all of the deposits of the failed WMB, regardless of the

amount of the deposit, and regardless of whether or not any of those deposits exceeded the FDIC Deposit Guarantee. Hence the depositors of WMB were not at risk of losing their deposits. I fully reserve the right to change, alter or amend my counter-argument on this topic in future correspondences as I deem necessary, based upon the response(s) I receive from either WMILT or this Court.

Not applicable to me. My second counter-argument is that any risk of loss to the creditors of WMB is due to the actions of WMILT, as more fully described in the section above numbered 3, and not due to the prospective payment of any golden parachute payments. I fully reserve the right to change, alter or amend my counter-argument on this topic in future correspondences as I deem necessary, based upon the response(s) I receive from either WMILT or this Court.

Not applicable to me. My third counter-argument is that since I have negated the applicability of the WMILT arguments described in points 6 and 7 shown above, any conclusions WMILT reached to not pay me from those arguments are also negated. Hence, WMILT should promptly pay me the full amount of my claim. I fully reserve the right to change, alter or amend my counter-argument on this topic in future correspondences as I deem necessary, based upon the response(s) I receive from either WMILT or this Court.

In conclusion, WMILT has not successfully raised even one valid argument for withholding the payment of my claim. I therefore respectfully request that this Court order WMILT to both pay me the full amount of my claim, and to issue to me the shares of Common Stock of WMI, or as appropriate the successor in interest of WMI due to the reorganization of WMI, to which I am entitled.

Respectfully Submitted,

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Suzanne R. Lehrberger