

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:	Chapter 11
Residential Capital, LLC, <i>et al.</i> ,	Case No. 12-12020-mg
<i>Debtors.</i>	Jointly Administered
PNC Bank, National Association, et al.,	
<i>Movants,</i>	Case No. 16-mc-00063-P1
v.	Related Case No. 13-cv-3451 (SRN/JJK/HB)
MBIA Insurance Corporation,	in United States District Court for the District
<i>Respondent.</i>	of Minnesota

**AFFIDAVIT OF JONATHAN HARRIS IN SUPPORT OF
MBIA INSURANCE CORPORATION'S
OPPOSITION TO DEFENDANTS' MOTION TO COMPEL
COMPLIANCE WITH THIRD PARTY SUBPOENA**

1. I am the Deputy General Counsel of MBIA Insurance Corporation ("MBIA"), and submit this Affidavit in support of MBIA's Opposition to Defendants' Motion to Compel Compliance with Third Party Subpoena. I have personal knowledge of the facts stated in this Affidavit.

Attached Exhibits

2. Attached to this Affidavit are true and correct copies of the following documents, discussed in more detail below:

Exhibit	Document
1	Letter from J. Stanisci to J. Battle dated October 8, 2015
2	Letter from J. Stanisci to T. Devine, <i>et al.</i> dated October 8, 2015



Exhibit	Document
3	Letter from J. Battle to J. Stanisci dated October 15, 2015
4	Email Correspondence between J. Stanisci and P. Heeringa dated March 4, 2016
5	Email Correspondence between J. Stanisci and F. Levin dated March 23, 2016
6	Letter from J. Stanisci to P. Heeringa dated November 3, 2015
7	Confidentiality Agreement Regarding Examiner Submission Paper
8	Amended Stipulation and Order for the Production and Exchange of Confidential Information

MBIA and the MBIA v. RFC Litigation

3. MBIA is a financial guaranty or “monoline” insurer. During the period leading up to 2008, MBIA provided financial guaranty insurance to structured finance transactions, including to residential mortgage-backed securities (“RMBS”).

4. In 2006 and 2007, MBIA insured five securitizations issued by Residential Funding Co., LLC (“RFC”): Home Equity Loan Trust 2006-HSA4, Home Equity Loan Trust 2006-HSA5, Home Equity Loan Trust 2007-HSA1, Home Equity Loan Trust 2007-HSA2 and Home Equity Loan Trust 2007-HSA3 (the “RFC Securitizations”).

5. In or about 2008, as the mortgage and housing crisis deepened, MBIA ceased to issue new financial guaranty policies on structured finance products. Instead, MBIA’s business focused on remediation efforts for its existing portfolio of policies, including enforcing contractual repurchase or “putback” obligations and, where warranted, filing fraudulent inducement and breach of contract actions against RMBS sponsors. Aside from these remediation activities, MBIA’s business was chiefly managing its portfolio of insured structured finance products by monitoring its exposure, paying claims, and projecting future claims.

6. In 2008, the RFC Securitizations, like many other RMBS, began to suffer large losses and MBIA was required to make claims payments under its financial guaranty policies. MBIA began performing a review of securitized mortgage loans to determine if those loans breached RFC's contractual representations and warranties to MBIA. On December 4, 2008, MBIA filed suit against RFC in New York state court, commencing *MBIA Insurance Corporation v. Residential Funding Company, LLC*, No. 603552/08 (N.Y. Sup. Ct. N.Y. Cnty.) ("*MBIA v. RFC*"). MBIA's complaint, as amended on March 19, 2010, asserted eight causes of action against RFC sounding in fraud, breach of contract and negligent misrepresentation arising out of MBIA's provision of insurance for the five RFC Securitizations. MBIA also filed suit against two affiliates of RFC. *MBIA Ins. Corp. v. GMAC Mortg., LLC*, No. 600837/10 (N.Y. Sup. Ct.), involved two GMAC securitizations. *MBIA Ins. Corp. v. Ally Financial Inc.*, No. 12-cv-2563 (D. Minn.), involved the same five RFC securitizations at issue in *MBIA v. RFC*, as well as the two GMAC securitizations.

7. On May 14, 2012, RFC, along with its parent company Residential Capital, Inc. and other affiliates, filed for Chapter 11 Bankruptcy protection. *In re Residential Capital, Inc.*, No. 12-12020-mg (S.D.N.Y. Bankr.) ("Chapter 11 Cases").

8. When the Chapter 11 Cases were filed, the *MBIA v. RFC* litigation was well-advanced. The parties had completed fact discovery, exchanging tens of thousands of documents and taking approximately one hundred depositions. The discovery exchanged in the case covered a broad range of topics, including:

- loan tapes for each of the RFC Securitizations containing detailed characteristics of the securitized loans;
- MBIA's repurchase demands and other pre-suit correspondence with RFC about the RFC Securitizations and the mortgage loans;

- documents reflecting due diligence reviews of the securitized loans performed by third-party firms; and
- documents reflecting MBIA's ongoing surveillance of the RFC securitizations, including evidence of losses and MBIA's claims paid.

9. Also prior to the commencement of the Chapter 11 Cases, MBIA and RFC had served expert reports on a variety of topics. MBIA's reports disclosed that an expert statistician had selected a statistically valid and representative sample of 3,600 loans from the RFC Securitizations that would allow for the extrapolation of securitization-wide breach rates. MBIA's reunderwriting expert examined each of those 3,600 loans to determine whether the loans breached any representations and warranties made by RFC and established securitization-wide breach rates. MBIA also served a damages report disclosing its calculations for damages under fraud and breach-of-contract theories based on the breach rate, and a report on RFC's securitization practices.

10. MBIA filed a proof of claim against RFC in the Chapter 11 Cases, *see* Claim No. 5849, as well as proofs of claim against several other debtors, *see* Claims No. 5846 (Homecomings Financial, LLC), 5847 (Residential Capital, LLC), 5848 (Residential Funding Mortgage Securities II, Inc.), 5850 (Residential Asset Mortgage Products, Inc.), and 5851 (GMAC Mortgage, LLC). Eventually, MBIA's claims against RFC and the other debtors were resolved through the "Global Settlement" reached in the Chapter 11 Cases and allowed and paid pursuant to a confirmed plan.

11. Beginning at least in 2008 when MBIA commenced its loan review and demanded repurchase from RFC, and certainly as of December 2008 when *MBIA v. RFC* was filed, MBIA's primary interaction with RFC was as a litigation adversary. MBIA did not initiate any new business with RFC. Furthermore, MBIA's activities with respect to the RFC Securitizations were largely litigation-focused as MBIA and its employees worked to assist

counsel in prosecuting MBIA's claims. The MBIA employees responsible for the RFC Securitizations were in regular contact via email with myself, or other attorneys with whom I worked, outside counsel, and consultants retained by MBIA's outside counsel. Aside from these litigation-related activities, those MBIA employees reviewed monthly trustee reports for the RFC Securitizations, monitored MBIA's exposure, and paid claims under the policies. After litigation was filed, MBIA did not perform evaluations or analyses of the RFC Securitizations apart from its work assisting counsel in the litigation and Chapter 11 Cases.

Movant-Defendants' Request for MBIA Emails

12. On January 20, 2015, MBIA received a Subpoena issued by a number of entities who are defendants in litigation brought by RFC and the ResCap Liquidating Trust in the United States District Court for the District of Minnesota ("Movant-Defendants"). Through conversations and correspondence between counsel for Movant-Defendants, myself, and MBIA's outside counsel at Cadwalader, Wickersham & Taft LLP, MBIA informed Movant-Defendants that many of the documents encompassed by the Subpoena had been exchanged in *MBIA v. RFC* and, as such, were in the possession of RFC. However, MBIA agreed that, to the extent there were any gaps in RFC's collection of documents, MBIA would assist in ensuring that any missing documents were produced to Movant-Defendants. Upon being notified by RFC that it was unable to produce certain documents exchanged in *MBIA v. RFC*, MBIA restored its litigation databases and ensured that the missing documents—14,000 documents totaling 165,000 pages—were produced to Movant-Defendants in August 2015. This supplemented RFC's production such that the Movant-Defendants received all documents, exchanged in *MBIA v. RFC*, totaling over 66,000 documents. In addition, Movant-Defendants received all of the

expert reports exchanged in *MBIA v. RFC* and all of the transcripts of depositions of party witnesses.

13. MBIA took the position throughout negotiations that Movant-Defendants should review the *MBIA v. RFC* documents, as well as MBIA's publicly available filings in the Chapter 11 Cases, to identify any categories of relevant, non-privileged, and non-duplicative documents they purportedly required from MBIA. Not surprisingly, Movant-Defendants never identified any such categories.

14. On October 2, 2015, Movant-Defendants purported to narrow their requests by naming "specific categories" of documents. But the "specific" categories Movant-Defendants identified were even broader than the categories in the Subpoena itself. Movant-Defendants now demanded production of all documents from February 2009 onward, not covered by the Order Appointing Mediator dated December 26, 2012 (the "Mediation Order"), "reflecting or related to"

- the RFC/ResCap bankruptcy;
- any of MBIA's suits against RFC or its affiliates;
- any of the RFC securitizations for which MBIA provided financial guaranty insurance;
- MBIA's involvement or interaction with the ResCap Liquidating Trust after the bankruptcy; and
- RFC's litigation against the Movant-Defendants.

15. MBIA informed Movant-Defendants' counsel that many of the documents it sought would be protected by the Mediation Order entered in the Chapter 11 Cases or by the attorney-client privilege or work product protection. MBIA explained to Movant-Defendants that during the time after it filed suit against RFC, MBIA's relationship with RFC was that of a

litigation opponent, and the work its employees performed related to RFC consisted primarily of supporting MBIA's legal claims.

16. Movant-Defendants provided MBIA with a list of search strings that they represented would capture the documents they sought. Many of these search terms were so broad that they would hit any email or attachment that referenced RFC or ResCap in proximity to words like "litigation," "lawsuit," "fraud," "warranty," "putback", "loss," "liability" or "underwriting." The search terms included the docket number of the *MBIA v. RFC* litigation.

17. Without agreeing that Movant-Defendants' search terms were appropriate or were reasonably calculated to identify relevant, discoverable documents, in an effort to reach compromise and narrow the issues in dispute, MBIA agreed to test Movant-Defendants' search terms on the emails of three custodians at MBIA who were most involved in the *MBIA v. RFC* litigation and the Chapter 11 Cases: Mitchell Sonkin, Anthony McKiernan, and David Glehan. The time frame for the test searches was February 1, 2009 through December 11, 2013.

18. MBIA's test searches yielded a total of 43,693 emails, including attachments, and de-duplicated across the three custodians—approximately 20 GB of data.

19. Of those results, 12,201 emails and attachments date from the period covered by the Mediation Order, December 26, 2012 through December 11, 2013.

20. To assess the likelihood that documents were privileged, MBIA prepared a list of the names of its in-house and outside counsel as well as its litigation and reunderwriting consultants (retained by counsel) which it compared with the documents returned in the test searches. It found 22,030 documents contained a privileged name. 17,124 emails and attachments had one of these privileged names in the email To or From field.

21. Moreover, it is very likely that any relevant emails that do *not* contain a privileged name reflect legal advice or attorney work product. This is because, as described above, other than the portfolio monitoring work, which Movant-Defendants have not asked for, MBIA's primary "business" with RFC during this time period was pursuing legal remedies against RFC.

22. Furthermore, many of these documents likely contain confidential business information about securitizations entirely unrelated to RFC.

23. Movant-Defendants' solution to this issue was to propose that MBIA could "initially" withhold the 22,000 documents that included a privileged name. This proposal presented two problems. First, as explained above, MBIA believes that many of the documents that do *not* contain a privileged name contain protected communications. Therefore, MBIA would still need to undertake a full review of the produced documents and clawback (and presumably log) privileged documents. Second, Movant-Defendants never agreed that they would forgo production of the documents that included a privileged names; the proposal was only that MBIA need not "initially" produce these documents. *See* Ex. 4-5.

24. MBIA again informed Movant-Defendants that a more productive way to reduce the burden on MBIA was for Movant-Defendants to identify the categories of documents they were seeking more particularly so that the parties could work on a more targeted set of search terms that would return a smaller set of documents. Movant-Defendants again refused to do so. *See id.*, Mar. 23, 2016 Email from J. Stanisci to F. Levin.

25. The only representation Movant-Defendants made with respect to cost-sharing was a vague proposal to "share" costs only with respect to MBIA's creation of a "Mediation Log" of documents that are confidential under the Mediation Order.

26. MBIA estimates it would cost approximately \$400,000 to review, produce and log the emails returned by Movant-Defendants' search terms. This estimate is based on the following considerations:

- MBIA assumes that an attorney could complete review, logging and redaction of 50 documents an hour. Given the complexity of the privilege issues, this is a very conservative estimate.
- MBIA assumes a blended rate of \$440 per hour for associate review. In its litigation against RFC, MBIA employed attorneys from its outside counsel to review the documents it produced and to create privilege logs. Given the complicated privilege issues attendant to the emails Movant-Defendants currently seeks, MBIA would again employ attorneys from its outside counsel to review and log the underlying documents.
- MBIA assumes that more senior attorneys will need to assist in privilege determinations and review the privilege log prior to production at a blended rate of \$600 per hour.

Movant-Defendants' Request for Examiner Submission and Related Documents

27. Movant-Defendants' Subpoena also requested that MBIA produce its submission to the Examiner, the Hon. Arthur Gonzalez ("Examiner Submission"). MBIA, the Examiner, and numerous other parties entered into a Confidentiality Agreement with respect to the Examiner Submission. *See* Ex. 7. In addition, MBIA was subject to the Amended Stipulation and Order for the Production and Exchange of Confidential Information entered in *MBIA v. RFC*. *See* Ex. 8. Pursuant to the Confidentiality Agreement and the *MBIA v. RFC* Order, MBIA gave other parties notice and an opportunity to object before it produced its Examiner Submission or other materials pursuant to a subpoena. Accordingly, on October 8, 2015, Outside Counsel sent letters to RFC and other parties to the Confidentiality Agreement giving notice of the Movant-Defendants' request for the Examiner Submission. *See* Ex. 1-2.

28. On October 15, 2015, counsel for the ResCap Liquidating Trust responded to MBIA's notice, objecting to MBIA's production of its Examiner Submission. The ResCap

Liquidating Trust stated that it had no objection to MBIA's production of the supporting documents to the Examiner Submission, which consisted of discovery materials and expert reports from *MBIA v. RFC*. See Ex. 3.

29. Accordingly, on November 3, 2016, MBIA produced to Movant-Defendants the supporting materials to its Examiner Submission, totaling over 18,000 pages. See Ex. 6. MBIA informed Movant-Defendants that it had received an objection to the production of the Examiner Submission. Aside from the ResCap Liquidating Trust's objection and its obligations under the Confidentiality Agreement, MBIA has no objection to producing the Examiner Submission, and has informed Movant-Defendants that it can do so promptly if a court determines that production is proper.

[Signature on following page]

Liquidating Trust stated that it had no objection to MBIA's production of the supporting documents to the Examiner Submission, which consisted of discovery materials and expert reports from *MBIA v. RFC*. See Ex. 3.

29. Accordingly, on November 3, 2016, MBIA produced to Movant-Defendants the supporting materials to its Examiner Submission, totaling over 18,000 pages. See Ex. 6. MBIA informed Movant-Defendants that it had received an objection to the production of the Examiner Submission. Aside from the ResCap Liquidating Trust's objection and its obligations under the Confidentiality Agreement, MBIA has no objection to producing the Examiner Submission, and has informed Movant-Defendants that it can do so promptly if a court determines that production is proper.

March 25, 2016
Purchase, New York



Jonathan Harris

Exh. 1

C A D W A L A D E R

Cadwalader, Wickersham & Taft LLP
One World Financial Center, New York, NY 10281
Tel +1 212 504 6000 Fax +1 212 504 6666
www.cadwalader.com

New York London Charlotte Washington
Houston Beijing Hong Kong Brussels

October 8, 2015

VIA E-MAIL

Jennifer A. L. Battle
Carpenter, Lipps & Leland
280 Plaza, Suite 1300
280 N. High Street
Columbus, Ohio 43215

Re: MBIA Insurance Corporation v. Residential Funding Company, LLC, NY
Supreme Court, No. 603552/2008

Dear Jennifer:

Pursuant to Paragraph 7 of the Amended Stipulation and Order for the Production and Exchange of Confidential Information entered in the captioned case on November 23, 2009 ("Confidentiality Order"), we write to inform you that MBIA Insurance Corporation ("MBIA") received a Subpoena To Produce Documents (the "Subpoena") from the Defendants in the actions captioned *Residential Funding Company, LLC v. BMO Harris Bank, N.A.*, Civil Action No. 13-cv-03523 (JNE/FLN) and *Residential Funding Company, LLC v. PNC Bank, N.A.*, Civil Action No. 13-cv-03498 (JRT/BRT), both pending in the United States District Court for the District of Minnesota. In response to the Subpoena, MBIA intends to provide Defendants with MBIA's Examiner Submissions and exhibits thereto, which contain information and materials that have been designated by Residential Funding Company, LLC ("RFC") in the above-referenced action as Confidential or Highly Confidential pursuant to the Confidentiality Order. In the event RFC objects to MBIA's production or determines to take any action that would impact MBIA's compliance with the Subpoena, please advise us within seven (7) business days of the date of this letter.

Very truly yours,



Jared Stanisci

Exh. 2

CADWALADER

Cadwalader, Wickersham & Taft LLP
One World Financial Center, New York, NY 10281
Tel +1 212 504 6000 Fax +1 212 504 6666
www.cadwalader.com

New York London Charlotte Washington
Houston Beijing Hong Kong Brussels

October 8, 2015
VIA EMAIL

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Cleary Gottlieb Steen & Hamilton LLP
One Liberty Plaza
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Attorneys for Wilmington Trust

C A D W A L A D E R

October 8, 2015

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Attorneys for Junior Secured Noteholders


Kenneth H. Eckstein, Esq.
Douglas Mannal, Esq.
Kramer Levin Naftalis & Frankel LLP
1177 Avenue of the Americas
New York, NY 10036
Attorneys for Unsecured Creditors Committee

Re: *In re Residential Capital, LLC, et al.*, No. 12-12020 (MG)

Dear Counsel:

Pursuant to the Confidentiality Agreement Regarding Examiner Submission Paper, effective as of February 15, 2013 and entered in connection with the above-referenced proceeding (the "Agreement"), we write to inform you that MBIA Insurance Corporation ("MBIA") received a Subpoena To Produce Documents (the "Subpoena") from the Defendants in the actions captioned *Residential Funding Company, LLC v. BMO Harris Bank, N.A.*, Civil Action No. 13-cv-03523 (JNE/FLN) and *Residential Funding Company, LLC v. PNC Bank, N.A.*, Civil Action No. 13-cv-03498 (JRT/BRT), both pending in the United States District Court for the District of Minnesota.¹ In response to the Subpoena, MBIA has informed the Defendants that it will produce MBIA's Examiner Submissions and exhibits thereto, after giving notice to the Parties to the Agreement. In the event any Party objects to MBIA's production or determines to take any action that would impact MBIA's production of its Examiner Submission and/or exhibits thereto, please advise us within seven (7) business days of the date of this letter.

Very truly yours,



Jared Stanisci

JS

¹ Terms not otherwise defined herein shall have the meaning ascribed to them in the Agreement.

Exh. 3

CARPENTER LIPPS & LELAND LLP

TELEPHONE: (614) 365-4100

1540 BROADWAY
SUITE 3710
NEW YORK, NEW YORK 10036
TELEPHONE: (212) 837-1110

180 NORTH LaSALLE
SUITE 2640
CHICAGO, ILLINOIS 60601
TELEPHONE: (312) 777-4300

1025 CONNECTICUT AVENUE N.W.
SUITE 1000
WASHINGTON, DC 20036-5417
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ATTORNEYS AT LAW

280 PLAZA, SUITE 1300
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COLUMBUS, OHIO 43215

WWW.CARPENTERLIPPS.COM

WRITER'S DIRECT NUMBER:

(614) 365-4119
BATTLE@CARPENTERLIPPS.COM

October 15, 2015

VIA EMAIL – jared.stanisisci@cwt.com

Jared Stanisisci
Cadwalader, Wickersham & Taft LLP
One World Financial Center
New York, New York 10281

**Re: *In Re: Residential Funding Co., LLC and RESCAP Liquidating Trust
Litigation*, No. 13-cv-3451 (SRN/JJK/HB)**

Dear Mr. Stanisisci:

I write in response to your October 8, 2015 letter stating that MBIA Insurance Corporation (“MBIA”) intends to produce the submissions (and associated exhibits) it made to Arthur Gonzalez in his capacity as examiner (the “Examiner”) for Residential Capital, LLC and its affiliated debtors (collectively, the “Debtors”) in the jointly-administered bankruptcy cases pending in the Southern District of New York under the caption *In re Residential Capital, LLC et al.*, Case No. 12-12020 (mg), in response to subpoenas from certain defendants in the above-captioned actions (the “Correspondent Actions”).

As you are well aware, MBIA and numerous other parties, including the Debtors and the Examiner, entered into a Confidentiality Agreement Regarding Examiner Submissions Papers, which was effective as of February 15, 2013 (the “Confidentiality Agreement”). Paragraph 1 of the Confidentiality Agreement contains a broad confidentiality clause prohibiting the disclosure of these submissions, including an express prohibition against disclosure to third-parties as part of any judicial, arbitral, or administrative body. Paragraph 10 of the Confidentiality Agreement requires MBIA to object to the subpoenas and provide written notice to any other party or parties to the Confidentiality Agreement whose submission or submissions are also requested by the subpoenas.

Accordingly, the ResCap Liquidating Trust (the “Trust”) objects to the production of MBIA’s submission in the Correspondent Actions. The Trust has no objection to any production by MBIA of any of the discovery materials or expert reports from *MBIA Insurance Corporation v. Residential Funding Company, LLC*, NY Supreme Court, No. 603552/2008 (the “Prepetition

Mr. Jared Stanisci

October 15, 2015

Page 2

CARPENTER LIPPS & LELAND LLP

Litigation”) which it may have cited to in the submissions so long as such materials are designated as “confidential” in accordance with the protective orders in the Correspondent Actions and the Prepetition Litigation.

Should you wish to discuss this matter, please feel free to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read 'JAL Battle', written in a cursive style.

Jennifer A.L. Battle

cc: Jeffrey A. Lipps, Esq.
Isaac Nesser, Esq.
Anthony Alden, Esq.

Exh. 4

From: Heeringa, Paul <pheeringa@BuckleySandler.com>
Sent: Friday, March 04, 2016 11:53 AM
To: Stanisci, Jared; Hoff [PARTNER], Jonathan M.
Cc: Gottlieb, Richard; Levin, Fredrick; Rome, Michael; Natarelli, Brett; Karunaratne, Sean; Jonathan Harris
Subject: RE: PNC v. MBIA - Motion to Compel

Jared:

Thanks for speaking with Fredrick and me this morning. I write to confirm our discussion regarding the emails. You told us that (i) there are approximately 20 GB of emails and attachments that MBIA has gathered based on the search terms we previously provided; (ii) of those, approximately half (10 GB) represent emails/attachments either within the mediation order date range (Dec. 26, 2012 through Dec. 11, 2013) ("potential mediation documents") or are "possibly" privileged insofar as an attorney's name added by MBIA to its preliminary search appeared somewhere in the document ("privileged documents"); and (iii) the breakdown between documents allegedly covered by the mediation order and otherwise privileged documents is roughly equal (approx. 5 GB each). This would leave roughly 10GB of emails and attachments remaining that are neither within the mediation range nor are likely to be privileged. Further, based on our research, the mechanical cost for production of said remainder would be roughly \$2500 (\$250 per GB) depending on the vendor.

In an effort to reduce any burden associated with our request, narrow the parties' differences without judicial intervention and to minimize the issues to be presented to the Court, our proposal is as follows: First, MBIA would produce to us the 10 GB of emails/attachments that fall outside of the potential mediation documents or privilege documents, as these are unlikely to be privileged or covered by the mediation order and thus would not require any review. Second, prior to this production, the parties would negotiate and execute a non-waiver/claw back agreement in the event that a privileged or mediation document was inadvertently produced. Third, given the *de minimis* cost involved, MBIA would pay for this production. Finally, since the parties are at an impasse as to what MBIA must do to satisfy its obligation to provide a factual basis for withholding information on the grounds of privilege or the bankruptcy court's mediation order, we propose that we should brief those issues for the Court for argument and decision on March 30th.

We think this is a fair proposal and shows the Court that both sides have been cooperative. We trust you will agree. If you would, please let us know by close of business today whether MBIA will accept this proposal and we can move forward with the production. Thank you.

Best regards,
-Paul

A. Paul Heeringa
Litigation Attorney | **BuckleySandler LLP**
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From: Stanisci, Jared [mailto:Jared.Stanisci@cwt.com]
Sent: Tuesday, March 01, 2016 7:14 PM
To: Heeringa, Paul; Hoff [PARTNER], Jonathan M.
Cc: Gottlieb, Richard; Levin, Fredrick; Rome, Michael; Natarelli, Brett; Karunaratne, Sean; Jonathan Harris
Subject: RE: PNC v. MBIA - Motion to Compel

attached.

Jared Stanisci
Cadwalader, Wickersham & Taft LLP
200 Liberty Street
New York, New York 10281
T: 212.504.6075 | F: 212.504.6666
jared.stanisci@cwt.com | www.cadwalader.com
CADWALADER

From: Heeringa, Paul [mailto:pheeringa@BuckleySandler.com]
Sent: Tuesday, March 01, 2016 6:49 PM
To: Stanisci, Jared; Hoff [PARTNER], Jonathan M.
Cc: Gottlieb, Richard; Levin, Fredrick; Rome, Michael; Natarelli, Brett; Karunaratne, Sean; Jonathan Harris
Subject: RE: PNC v. MBIA - Motion to Compel

Jared:

Can you please provide me with copies of the referenced exhibits too? Thanks.

I am free tomorrow to discuss emails.

This email message (including any attachments) is only for use by the intended recipient(s) and is presumed confidential. It also may be subject to the attorney-client privilege or other confidentiality protections and may constitute inside information. If you are not an intended recipient, you may not review, copy, distribute, or otherwise use this message or its contents. If you received this message in error, please notify the sender and delete this message (including any attachments) from your system immediately. Any unauthorized reading, copying, distribution, or other use of this message or its contents is strictly prohibited and may be unlawful.

From: Stanisci, Jared [<mailto:Jared.Stanisci@cwt.com>]
Sent: Tuesday, March 01, 2016 5:48 PM
To: Heeringa, Paul; Hoff [PARTNER], Jonathan M.
Cc: Gottlieb, Richard; Levin, Fredrick; Rome, Michael; Natarelli, Brett; Karunaratne, Sean; Jonathan Harris
Subject: RE: PNC v. MBIA - Motion to Compel

Paul, attached is a draft stipulation as discussed. Let me know when you would like to discuss the draft and the email hit counts.

Best,
Jared

Jared Stanisci
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200 Liberty Street
New York, New York 10281
T: 212.504.6075 | F: 212.504.6666
jared.stanisci@cwt.com | www.cadwalader.com
CADWALADER

From: Heeringa, Paul [<mailto:pheeringa@BuckleySandler.com>]
Sent: Friday, February 26, 2016 5:59 PM
To: Stanisci, Jared; Hoff [PARTNER], Jonathan M.
Cc: Gottlieb, Richard; Levin, Fredrick; Rome, Michael; Natarelli, Brett; Karunaratne, Sean
Subject: RE: PNC v. MBIA - Motion to Compel

Jared: Thanks. We look forward to reading your draft stip. In the interim, since the court is now closed, we can execute the seven day extension on Monday. Also, let's plan on touching base on Wednesday to discuss the stip as well as the emails.

Have a good weekend.

-Paul

A. Paul Heeringa
Litigation Attorney | **BuckleySandler LLP**
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From: Stanisci, Jared [<mailto:Jared.Stanisci@cwt.com>]

Sent: Friday, February 26, 2016 4:19 PM

To: Heeringa, Paul; Hoff [PARTNER], Jonathan M.

Cc: Gottlieb, Richard; Levin, Fredrick; Rome, Michael; Natarelli, Brett; Karunaratne, Sean

Subject: RE: PNC v. MBIA - Motion to Compel

Paul: We can agree to disagree as to what we discussed on the Wednesday call, but I agree that we don't seem far apart on a stipulation. We will aim to circulate a draft on Monday or Tuesday.

Best,
Jared

Jared Stanisci

Cadwalader, Wickersham & Taft LLP

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New York, New York 10281

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C A D W A L A D E R

From: Heeringa, Paul [<mailto:pheeringa@BuckleySandler.com>]

Sent: Friday, February 26, 2016 4:18 PM

To: Stanisci, Jared; Hoff [PARTNER], Jonathan M.

Cc: Gottlieb, Richard; Levin, Fredrick; Rome, Michael; Natarelli, Brett; Karunaratne, Sean

Subject: RE: PNC v. MBIA - Motion to Compel

Jared,

Thank you for your note.

Your recollection differs from mine. As I stated at the end of our call on Wednesday, we were (and remain) willing to grant MBIA a one-week extension so we could work out the precise language of, get client approval for, and file the submission paper stipulation. I also indicated that we would consider additional extensions, if necessary, so that you could complete your preliminary analysis of the emails, which you indicated may take longer than one week. In response, you and Jon indicated that you would speak with Mr. Harris, provide us with a draft stipulation, and give periodic updates on the emails. My call yesterday was meant as a professional courtesy to let you know that the extension was forthcoming and to make sure Mr. Harris was available to execute it since Cadwalader would not. That is consistent with my email below. In any event, thank you for your update on the processing and let me know when you are ready to discuss.

With respect to the submission paper stipulation, we appreciate the explanation of what MBIA expects the stipulation to say. Upon reviewing it, we do not think the parties are very far apart at all. We agree that the stipulation should

provide that MBIA does not object to the production of its submission paper, that its only objection is the formal objection it believes is required under the applicable confidentiality agreement, and that if the Court enters the contemplated stipulation and order, MBIA would be willing to and would produce its Submission Paper. Please let us know if you will agree, as we believe that would resolve any outstanding dispute with respect to the submission paper.

Best regards,

-Paul

A. Paul Heeringa
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From: Stanisci, Jared [<mailto:Jared.Stanisci@cwt.com>]
Sent: Friday, February 26, 2016 11:38 AM
To: Heeringa, Paul; Hoff [PARTNER], Jonathan M.
Cc: Gottlieb, Richard; Levin, Fredrick; Rome, Michael; Natarelli, Brett; Karunaratne, Sean
Subject: RE: PNC v. MBIA - Motion to Compel

Paul:

We're a little surprised by your email, which is not consistent with the spirit of our discussion on Wednesday. When we spoke, Jon and I told you that MBIA agreed to work with Defendants to resolve your outstanding requests. In that regard, we informed you that we were applying your search terms to determine the number of "hits" so that we can have a further discussion about how best to proceed. We also told you we needed additional time to process the emails and determine "hit" counts. You asked that we continue that process and provide you with periodic updates, and then agreed to provide us with a one-week extension (until Monday, March 7, 2016) as an accommodation. Yesterday, you called to confirm the one-week extension and asked that I ensure someone from MBIA was available today to countersign an extension agreement. In the spirit of our agreement, I can provide you with an update with respect to the processing of MBIA's emails. Our practice support team informs me that they should be able to complete the process by Monday or Tuesday of next week. MBIA will then provide Defendants with an update on the hit counts so we can continue discussions.

Separately, we discussed the contours of a potential stipulation between Defendants and MBIA with respect to the production of MBIA's Examiner Submission, but we did not agree to a stipulation and you did not propose any terms for a stipulation, let alone say that the filing of a stipulation on a specific date was a condition to any extension. In fact, you said that because the parties could not agree to a stipulation on the call, you were only authorized to give us a one-week extension to continue processing emails and that, once we could agree on a stipulation, Defendants might be amenable to a further extension. On the call, both parties acknowledged they had not considered the particulars of a stipulation and agreed they were just sharing initial ideas. We also didn't discuss the terms of a stipulation as you articulate them. One of the purposes of the Wednesday call was to clarify what the stipulation would say so that we could present it to MBIA. There was no agreement or any ultimatum. We told you MBIA did not object to production of its Examiner

Submission on the merits, but was concerned about violating its confidentiality obligations. Thus, we discussed a conceptual stipulation between Defendants and MBIA stating that if the Court determined MBIA should produce the Examiner Submission and would not violate its confidentiality obligations by doing so, MBIA would comply with the Court's order and produce the Examiner Submission. We can confirm that MBIA will agree to a stipulation to that effect, i.e., that says generally MBIA does not object to production of the Examiner Submission on the merits, that its only objection is under the applicable confidentiality agreement and order, and that if the Court orders MBIA to produce the submission notwithstanding the confidentiality agreement and order, MBIA will do so. We will endeavor to work with Defendants to file the stipulation by Monday, March 7. In that regard, we are happy to take the lead on drafting a stipulation and will plan to get you a draft early next week so that the parties can further discuss and finalize the stipulation by March 7.

In the meantime, please provide us with the extension agreement so that MBIA may countersign the extension agreement and return to you for filing today.

Thanks. I am happy to discuss and we look forward to working with you.

Best,
Jared

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CADWALADER

From: Heeringa, Paul [<mailto:pheeringa@BuckleySandler.com>]
Sent: Thursday, February 25, 2016 7:21 PM
To: Stanisci, Jared; Hoff [PARTNER], Jonathan M.
Cc: Gottlieb, Richard; Levin, Fredrick; Rome, Michael; Ntarelli, Brett; Karunaratne, Sean
Subject: RE: PNC v. MBIA - Motion to Compel

Correction: The extension agreement will extend MBIA's deadline to respond to March 7, PNC's reply deadline to March 14, and the return date on the motion to March 15.

A. Paul Heeringa
Litigation Attorney
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From: Heeringa, Paul
Sent: Thursday, February 25, 2016 6:15 PM
To: 'Stanisci, Jared'; Hoff [PARTNER], Jonathan M.

Cc: Gottlieb, Richard; Levin, Fredrick; Rome, Michael; Natarelli, Brett; Karunaratne, Sean

Subject: PNC v. MBIA - Motion to Compel

Jonathan/Jared:

Per our discussion yesterday, it is my understanding that MBIA is amenable to entering into a stipulation providing that MBIA will not oppose Defendants' motion to compel MBIA's examiner submission paper, and will prepare a draft stipulation for our review and approval. I further understand that MBIA is undertaking a preliminary analysis of the emails at issue (using the search terms and date range we previously provided) in order to inform further discussion between the parties regarding the volume and potential review/production of those documents. On the call, MBIA requested that PNC extend MBIA's deadline to respond to the motion to compel, so that the parties may (1) get the stipulation on file and (2) continue to meet-and-confer about the email production.

PNC will agree to extend MBIA's deadline to respond to the motion to compel to March 7, so long as: (1) MBIA agrees that the stipulation will state that MBIA will not oppose entry of an order granting the relief sought in our motion with respect to production of MBIA's submission paper; (2) MBIA agrees to treat the stipulation as a Court order, and upon entry of the stipulation MBIA will produce the examiner submission paper forthwith; and (3) MBIA agrees to file the stipulation with the Court no later than March 7.

Please advise as soon as possible whether MBIA agrees to the foregoing, and we will prepare and send a draft extension agreement for your review and signature. The extension agreement will extend MBIA's deadline to respond to March 7, PNC's reply deadline to March 15, and the return date on the motion to March 15. We can discuss any potential further extensions in relation to the emails once the submission paper stipulation is filed with the Court.

Thank you in advance for your prompt response, and we look forward to reviewing your draft stipulation on the submission paper.

Best regards,

-Paul

A. Paul Heeringa
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Exh. 5

From: Levin, Fredrick <flevin@BuckleySandler.com>
Sent: Wednesday, March 23, 2016 3:13 PM
To: Stanisci, Jared
Cc: Rome, Michael; Heeringa, Paul; Jonathan Harris; Hoff [PARTNER], Jonathan M.
Subject: RE: Email confirming March 15 meet and confer discussion

See my comments, below.

From: Stanisci, Jared [mailto:Jared.Stanisci@cwt.com]
Sent: Wednesday, March 23, 2016 10:40 AM
To: Levin, Fredrick
Cc: Rome, Michael; Heeringa, Paul; Jonathan Harris; Hoff [PARTNER], Jonathan M.
Subject: RE: Email confirming March 15 meet and confer discussion

Fredrick, thanks for your email.

While MBIA disagrees with your opinions regarding the applicability of the protective order from the MBIA/RFC litigation, we think we are at a satisfactory outcome on the stipulation, subject to a couple of edits for consistency reflected in the attached. Let us know if these are ok with you. **These are okay; I think we have a deal on the submission papers**

With respect to the emails, you are correct that MBIA will not agree to your proposal to simply turn over, without reviewing them, all emails and attachments pulled in by your search terms that were not Potential Mediation Documents or Potentially Privileged Documents (as defined in your email below). First, as I explained to you on our call, even documents that don't contain the lawyer names MBIA applied are likely to be privileged. The reason is that during the applicable timeframe (Feb. 2009 through Dec. 2013), MBIA did not have a business relationship with RFC. Instead, through its attorneys, MBIA was actively litigating with RFC and then participating in ResCap's Chapter 11 proceedings. Accordingly, email communications between non-lawyer MBIA employees, or MBIA's employees and its attorneys' advisors, regarding RFC during that timeframe are likely to reflect legal advice or analyses being conducted under the control of or at the request of MBIA's attorneys. *Second*, the non-waiver/clawback agreement you describe would not alleviate MBIA's burden because MBIA would be required to actually review and analyze each of the documents it turned over to Defendants in order to determine which ones were subject to clawback. Your email conveniently ignores this fact. Third, as I said, the emails are likely to contain proprietary or commercially sensitive information and MBIA is not willing to produce documents without first conducting a review for that information.

As I said on the call, if Defendants revisit and narrow their search terms in an effort to substantially decrease the universe of potentially responsive documents at issue, MBIA is willing to continue the meet and confer process, although MBIA still maintains that Defendants have failed to articulate how the documents it seeks from MBIA are relevant to the litigation. Any efforts by Defendants that decrease the universe of documents will naturally decrease the universe of Potentially Privileged Documents, and we can meet and confer regarding a privilege log at that time. MBIA continues to object to the creation of a log of all documents protected from disclosure by the Mediation Order, for the reasons MBIA has repeatedly stated and need not repeat here.

On your other two paragraphs, I do not think we are in agreement. I am, however, not closing the door to considering whether there is a practicable way to narrow the search.

Best,
Jared

Jared Stanisci

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CADWALADER

From: Levin, Fredrick [<mailto:flevin@BuckleySandler.com>]
Sent: Friday, March 18, 2016 2:04 PM
To: Stanisci, Jared
Cc: Rome, Michael; Heeringa, Paul
Subject: Email confirming March 15 meet and confer discussion

Jared,

This email will confirm our call on March 15, 2016 regarding the draft examiner submission stipulation and the parties' ongoing discussions with respect to the production of emails.

The Examiner Submission Stipulation

With respect to the examiner paper stipulation, you had one comment and one question. The question was why we had eliminated the portion of the stipulation pertaining to the protective order in the ongoing litigation. We explained that we did that because we felt it was unnecessary, but agreed to add it back in at your request. Your comment was that MBIA wanted certain references to the protective order in the RFC/MBIA litigation (the "2009 protective order") added back into the stipulation. With respect to that comment, we went through the stipulation page-by-page and highlighted the portions you asked to have reinserted. We sent you the highlights to confirm their accuracy.

With respect to the 2009 protective order, we asked you to explain why it applies to the MBIA examiner submission. You explained that the submissions contained references to confidential information produced in the RFC/MBIA litigation pursuant to the 2009 protective order. We explained that in light of the fact that RFC consented to the production of the exhibits to the submissions—i.e., the actual documents produced pursuant to the 2009 protective order—we did not see how the submissions themselves could possibly be covered by the 2009 protective order. We asked what confidential information *other than* the exhibits already produced is referenced in the examiner submissions (if any), and we explained that we expect the answer is none. You were unable to explain how the submissions themselves could contain confidential information other than the already-disclosed exhibits. To be clear, we do not agree at all that the examiner submissions are covered by the 2009 protective order. The examiner submissions did not exist during the pendency of the New York Supreme Court case and were not produced in discovery in that matter. To the extent that MBIA contends that the 2009 protective order somehow applies because they refer to materials exchanged in New York Supreme Court case, MBIA has produced those materials with RFC's permission. Please let us know the basis on which you contend that the 2009 protective order applies.

After our call, I sent you a revised version of the examiner submission stipulation that addressed each of your concerns raised on the call. We have now received your response to our draft, and expect to respond shortly.

The Emails

Given the fact that the parties have been meeting-and-conferring on emails for the better part of a year, we will not attempt to recount the entire history here. As reflected in Paul Heeringa's email of March 4, you told us on March 4 that the search terms we proposed bought back 20 GB of emails, and approximately half of those were either within the mediation order date range (Dec. 26, 2012 through Dec. 11, 2013) ("Potential Mediation Documents") or were

“possibly” privileged insofar as an attorney’s name added by MBIA to its computerized search appears somewhere in the document (“Potentially Privileged Documents”). In an effort to reduce any purported burden and narrow the issues presented to the Court, we made the following proposal: (1) MBIA would immediately produce the 10 GB of emails of emails/attachments that fall outside of the Potential Mediation Documents or Potentially Privileged Documents; (2) MBIA could withhold the 10GB of Potential Mediation Documents and Potentially Privileged Documents; and (3) the parties would brief the extent to which MBIA is required to log the basis for withholding the 10GB of Potential Mediation Documents and Potentially Privileged Documents.

On the call, you rejected this proposal. The reason was that MBIA “just does not feel comfortable” producing documents without reviewing each one individually. In response, we noted our disagreement with MBIA’s concern. The fact that the documents will be produced pursuant to the protective order in the ongoing litigation alleviates any concern that trade secrets or other commercially sensitive information could be released to the public, so confidentiality is not a legitimate concern. Further, privilege should be no concern, since we have agreed that Plaintiffs may withhold Potentially Privileged Documents from the initial production. Under our proposal, every document that MBIA has preliminary identified as Potentially Privileged – based on the mere fact a computer search found that a lawyer’s name appears anywhere in the document -- would be withheld initially. Given this very broad definition of Potentially Privileged Documents, it is very unlikely that any genuinely privileged documents would be produced initially. Similarly, we have accepted a very broad definition of Potential Mediation Documents.

And in the event any genuinely privileged documents, or documents actually subject to withholding under the mediation order, happen to have slipped through, we offered a broad non-waiver/claw back agreement. As we explained on the call, it appears MBIA is insisting on doing a *relevance* review—a review that is inconsistent with MBIA’s claims that it is merely a disinterested third party.

As we discussed on the call, we are not saying MBIA *must* forego pre-production review. Our position is that if MBIA is insisting on attorney review rather than readily available and commonly used alternatives to reduce the burden of production, any resulting burden is of MBIA’s own making.

With respect to the 10GB of Potential Mediation Documents and Potentially Privileged Documents, we addressed in the meet and confer what factual showing – by way of privilege log or some other means – MBIA was willing to make to satisfy its burden to demonstrate that Potential Mediation Documents and Potentially Privileged Documents are, in fact, entitled to protection. Once again, MBIA was unable to offer anything other than its existing position that it should be required to do absolutely nothing. We offered MBIA one last opportunity to offer any middle ground or counter-proposal on the issue. Please advise ASAP.

Thanks,

Fredrick

Fredrick S. Levin
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Harris Affidavit Pg 5 of 5

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Exh. 6

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New York London Charlotte Washington
Houston Beijing Hong Kong Brussels

November 3, 2015

VIA E-MAIL (PHEERINGA@BUCKLEYSANDLER.COM)

A. Paul Heeringa
BuckleySandler LLP
353 N. Clark Street, Suite 3600
Chicago, Illinois 60654

Re: *Residential Funding Company, LLC v. BMO Harris Bank, N.A.*, Civil Action
No. 13-cv-03523 (JNE/FLN); *Residential Funding Company, LLC v. PNC
Bank, N.A.*, Civil Action No. 13-cv-03498 (JRT/BRT)

Dear Paul:

As you know, we represented MBIA Insurance Corp. ("MBIA") in connection with the action captioned *MBIA Insurance Corp. v. Residential Funding Company, LLC*, Index No. 603552/2008 (Supreme Court of the State of New York, County of New York) (the "MBIA v. RFC Litigation") and the Proofs of Claim MBIA filed against various debtors in *In re Residential Capital, et al.*, Case No. 12-12020-MG, and its associated cases (the "Chapter 11 Proceedings"). Accordingly, we are assisting MBIA in its response to the Subpoena served by Defendants on January 20, 2015 in connection with the above-referenced actions.

Enclosed, by way of a link in my transmittal email and subject to the Protective Order entered February 26, 2015 in the above-captioned actions (the "Protective Order"), are confidential documents Bates-stamped Rescap-MBIA-00000001-Rescap-MBIA-00018787. These documents represent discovery material from the MBIA v. RFC Litigation that MBIA relied on and provided to Arthur J. Gonzalez (the "Examiner") in connection with MBIA's submission paper (the "Submission Paper") in the Chapter 11 Proceedings, which set forth arguments, analysis, and supporting documents it believed bore on MBIA's third party claims against Residential Capital, LLC and its subsidiaries and against Ally Financial Inc. or other affiliated Ally entities. All of the documents have been marked "Confidential" pursuant to the Protective Order and should be treated in accordance with the Protective Order.

Certain of the documents or information included in this production contain borrower personal identifying information ("PII"). MBIA requests that Defendants, their representatives, agents, attorneys, and employees and anyone else permitted access to the documents pursuant to paragraphs 5(a), 6 and 7 of the Protective Order treat these documents and this information

C A D W A L A D E R

A. Paul Heeringa
November 3, 2015

with special care to avoid the risk of identity theft and other disclosure of the PII. MBIA also requests that Defendants comply with paragraph three of the Protective Order, which pertains to PII and explicitly requires the parties to protect PII from disclosure. PII is particularly likely to appear in: (i) individual loan files; (ii) the loan tapes created in connection with the securitizations discussed in the expert reports; (iii) the appendices to the Expert Report of David Pawlowski; and (iv) the materials supporting the Expert Report of David Pawlowski.

MBIA reserves all rights with respect to the documents it is producing, and MBIA does not waive or limit any future assertion that the documents are protected by the attorney client privilege, the work product doctrine, or any other applicable privileges, protections or immunities.

Very truly yours,

A handwritten signature in blue ink, appearing to read "J. Stanisci".

Jared Stanisci

JS
Enclosure

Exh. 7

**CONFIDENTIALITY AGREEMENT REGARDING
EXAMINER SUBMISSION PAPER**

This agreement (the “Agreement”), effective as of February 15, 2013, is made by and among AIG Asset Management (U.S.), LLC and Allstate Life Insurance Company (collectively “Allstate”); Massachusetts Mutual Life Insurance Company (“MassMutual”); Prudential Insurance Company of America (“Prudential”); Financial Guaranty Insurance Company (“FGIC”); the Talcott Franklin Group Investors (“Talcott Franklin”); Federal Home Loan Bank of Chicago, Federal Home Loan Bank of Boston, and Federal Home Loan Bank of Indianapolis (collectively, the “FHLBs”); the Steering Committee Group of RMBS Holders (collectively, “RMBS Steering Committee”); Wilmington Trust, National Association, as Indenture Trustee for the Senior Unsecured Notes Issued by Residential Capital, LLC (“Wilmington Trust”); MBIA Insurance Corporation (“MBIA”); the Ad Hoc Group of Junior Secured Noteholders (“Junior Secured Noteholders”); the Official Committee of Unsecured Creditors (the “Unsecured Creditors Committee”); Residential Capital, LLC, and certain of its subsidiaries and affiliated entities (collectively “Debtors”); Ally Financial Inc., Ally Bank, and Ally Securities, LLC (collectively “Ally”); Arthur J. Gonzalez (the “Examiner”), the examiner appointed in the Debtors’ chapter 11 bankruptcy proceedings (the “Chapter 11 Proceedings”), which are currently pending in the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”), and any other person that executes a joinder to this Agreement as provided in paragraph 4 of this Agreement (together with each other signatory to this Agreement, the “Parties,” or individually, a “Party”).

WHEREAS, on May 14, 2012, the Debtors filed a petition for bankruptcy and commenced the Chapter 11 Proceedings, which are currently pending in the Bankruptcy Court.

WHEREAS, on July 3, 2012 the Bankruptcy Court appointed the Examiner to conduct an investigation (the “Investigation”) and prepare a report (the “Report”) pursuant to that certain Order Approving Appointment of Arthur J. Gonzalez, Esq. as Examiner [Doc. No. 674] and that certain Order Approving Scope of Investigation of Arthur J. Gonzalez, Examiner [Doc. No. 925] (collectively, the “Appointment Orders”). The scope of the Investigation includes, *inter alia*, an investigation into and analysis of claims or causes of action the Debtors propose to release, or are to be released, as part of their plan of reorganization, including claims held by third parties (the “Third-Party Claims”) against current and former directors and officers of the Debtors and against Ally. The Appointment Orders contemplate that the Examiner will solicit the Parties’ views concerning the Third-Party Claims.

WHEREAS, by letter dated September 21, 2012, the Examiner requested that various parties in interest submit a paper setting forth any arguments, analysis, and supporting documents that such parties believe may bear on the Third-Party Claims and requested that Ally and the Debtors submit responses (collectively “Submission Papers”).

WHEREAS, each party has prepared and submitted or may prepare and submit a Submission Paper to the Examiner.

WHEREAS, the Parties wish to share Submission Papers, once submitted to the Examiner, pursuant to certain terms and conditions ensuring the confidentiality of the Submission Papers.

WHEREAS, the Parties desire to establish certain procedures governing the confidentiality and use of their Submission Papers.

NOW, THEREFORE, the Parties agree as follows:

1. Except as otherwise provided herein, the Submission Papers, including their content, (a) shall be and shall remain confidential, (b) shall not be disclosed to any other person, including, without limitation, to the Bankruptcy Court or any judicial, arbitral, or administrative body, and (c) shall not be admissible for any purpose, including as evidence in any judicial, arbitral, or administrative proceeding.

2. Nothing herein restricts the use for any purpose by the Examiner, the Parties, or a Recipient of any information or content contained in the Submission Papers that is or was publicly available, or was otherwise disclosed without ensuring its confidentiality.

3. Nothing herein restricts the Examiner's use of the Submission Papers in the course of preparing and publishing the Report.

4. Without limiting the Examiner's right referenced in Paragraph 3 above to use the Parties' Submission Papers in the course of preparing and publishing the Report, the Examiner may disclose the Submission Papers or their content to (a) counsel, accountants, financial advisors or other professionals employed by the Examiner, provided that such retention has been approved by the Bankruptcy Court (the "Examiner's Professionals"), (b) counsel to the Parties, and (c) any person that has executed an *Acknowledgement and Agreement to be Bound by the Uniform Protective Order for Examiner Discovery* and that (i) has signed a joinder to this Agreement, in the form attached hereto as Addendum A (a "Joinder"), prior to receiving the Submission Paper, and (ii) transmits true and correct copies of such Joinder to the Examiner and to each of the Parties (persons identified in clause (c) are collectively referred to as "Additional Parties" or individually as an "Additional Party").

5. Counsel for each of the Parties and Additional Parties may share Submission Papers that it has received from the Examiner pursuant to Paragraph 4 above with its client and client's accountants, financial advisors, other professionals, and regulators.¹ Counsel for the Unsecured Creditors Committee may share the Submission Papers with the Unsecured Creditors Committee's constituent members, *provided, however*, that any such constituent members have executed a Joinder to this Agreement as provided in Paragraph 4 above.

¹ Regulators include the New York State Department of Financial Services, the New York Liquidation Bureau, and the Superintendent of Financial Services of the State of New York, the Federal Reserve Board, the Federal Depository Insurance Corporation, and the Utah Department of Financial Institutions. Regulators may share the Submission Papers with their counsel and other advisors and professionals, if required, and each of them shall be informed of this Agreement and shall maintain the confidentiality of the Submission Papers.

6. Every person who receives a Submission Paper pursuant to Paragraphs 4 and 5 above is referred to herein as a "Recipient".

7. Each Party and Recipient shall hold each Submission Paper as confidential, shall not disclose any Submission Paper or its contents to any person or entity who is not a Party or Recipient, and shall not use any Submission Paper for any purpose beyond the Chapter 11 Proceedings.

8. Each Party and Recipient reserves all rights with respect to the Chapter 11 Proceedings and any other proceeding, and nothing in the Submission Papers shall be taken as binding or limiting in any way the position of any Party. Moreover, nothing contained in the Submission Papers shall be construed as a waiver or modification of or a forbearance from exercising any rights, powers, remedies, and privileges of any Party, at law or in equity, all of which rights, powers, remedies, and privileges are hereby expressly reserved by the Parties.

9. Each Party and Recipient acknowledges and agrees that the execution of the Agreement or the submission of the Submission Papers shall not constitute a modification or waiver of any rights or claims that the Parties may have, on the date hereof, against any Party, including without limitation any Recipient.

10. Responses to Subpoenas or Other Process. If any Party or Recipient (a) is subpoenaed in another action, (b) is served with a demand in another action to which it is a party, or (c) is served with any other legal process by a person not a party to this litigation, and is requested to produce or otherwise disclose material covered by this Agreement, the party subpoenaed or served as referred to in this paragraph shall object to production of such information and shall give prompt written notice to each Party or Additional Party whose Submission Paper was subpoenaed or otherwise demanded. If the person seeking access to such information takes action against the party to this Agreement to enforce such a subpoena, demand, or other legal process, that party shall respond by setting forth the existence of this Agreement. Nothing in this Agreement requires the Parties to this Agreement or any Recipient to challenge or appeal any order requiring production of Submission Papers covered by this Agreement.

11. Inadvertent or Unauthorized Disclosure. If a Party to this Agreement or any Recipient learns that, by inadvertence or otherwise, it has disclosed information covered by this Agreement to any person or entity under circumstances not authorized under this Agreement, that party must immediately: (a) notify the party whose Submission Paper was disclosed of all such unauthorized disclosures or uses; (b) use its best efforts to retrieve all copies of the information; (c) inform the person or persons to whom unauthorized disclosures were made of all of the terms of this Agreement, and (d) request such person or persons to execute the Joinder that is attached hereto as Addendum A. Nothing in this Paragraph in any way limits the ability of any party whose Submission Paper was disclosed to seek immediate remedy and relief in an appropriate fashion or in any way limits any party's liability for unauthorized disclosure.

12. Violations of Agreement. Any violation of this Agreement may constitute a contempt of court and may be punishable as such, and may subject the offending party to such additional and further remedies as may be available to the aggrieved party. Each Party and Recipient acknowledges and agrees that money damages are not an appropriate remedy for any

breach of the Agreement and, accordingly, the aggrieved party shall be entitled to seek specific performance and injunctive or other equitable relief as a remedy for any such breach. Such remedy shall not be deemed to be the exclusive remedy for the breach or threatened breach of the Agreement, but shall be in addition to all other remedies available at law or in equity.

13. Jurisdiction. The Bankruptcy Court shall have and retain jurisdiction to enforce the terms of this Agreement.

14. Modifications. This Agreement may be modified or amended by further order of the Court for good cause shown or by written agreement of the Parties.

15. By execution of this Agreement each of the Parties represents that it has the full power and authority and has been duly authorized to execute this Agreement in the capacity set forth next to their signatures and to be bound hereto.

16. This Agreement may be executed in one or more counterparts by the Parties, each of which shall be an original and all of which together shall constitute a single agreement. Copies of fully executed counterparts of this Agreement shall be binding on the Parties in the same manner as original counterparts.

17. This Agreement supersedes any confidentiality agreements entered into by a Party with any parties in interest in connection with the Submission Papers.

18. Notwithstanding any other provision of this Agreement, (a) material in MBIA's Submission that was designated "confidential" or "highly confidential" in pre-petition state court litigation between MBIA, Residential Funding Company, LLC, and GMAC Mortgage, LLC shall retain that status, (b) the exhibits to the MBIA Submission and the exhibits to the Debtors' Submission (which include confidential or highly confidential materials and expert reports filed in the prepetition state court litigation referenced in subpart (a) to this paragraph) shall not be distributed to any Party other than MBIA, AFI and the Debtors.

19. All notices, requests, and demands to or upon the Parties to be effective shall be in writing (including by facsimile transmission or email communication) and shall be deemed to have been duly given when delivered by hand, or when sent by facsimile transmission or email communication, or on the first business day after delivery to any overnight delivery service, freight prepaid, or three (3) business days after being sent by certified or registered mail, return receipt requested, postage prepaid, and addressed as follows, or to such other address as may be hereafter notified by the respective Parties:

If to Ally, then to:

Timothy A. Devine, Esq.
Chief Counsel - Litigation
Ally Financial Inc. Legal Staff
200 Renaissance Center
M/C: 482-B09-B11
Detroit, MI 48265
Telephone: (313) 656-3477
E-Mail: timothy.devine@ally.com

and

Jeffrey S. Powell, Esq.
Kirkland & Ellis LLP
655 Fifteenth Street, NW, Suite 1200
Washington, DC 20005
Telephone: (202) 879-5000
E-Mail: jeff.powell@kirkland.com

If to AIG, Allstate, MassMutual, and/or
Prudential, then to:

Susheel Kirpalani
Quinn Emanuel Urquhart & Sullivan LLP
51 Madison Avenue, 22nd Floor
New York, NY 10010
Telephone: (212) 849-7000
Facsimile: (212) 849-7100
E-Mail: susheelkirpalani@quinnemanuel.com

If to FGIC, then to:

Richard L. Wynne and Howard F. Sidman
Jones Day
222 East 41st Street
New York, NY 10017
Telephone: (212) 326-3939
Facsimile: (212) 755-7306
E-Mail: rlwynne@jonesday.com
E-Mail: hfsidman@jonesday.com

If to Talcott Franklin, then to:

Talcott J. Franklin
Talcott Franklin P.C.
208 Market Street, Suite 200
Dallas, TX 75202
Telephone: (214) 736-8730
Facsimile: (877) 577-1356
E-Mail: tal@talfrnaklin.com

If to the FHLBs, then to:

Derek W. Loeser and Amy Williams-Derry
Keller Rohrback L.L.P.
1201 Third Avenue, Suite 3200
Seattle, WA 98101
Telephone: (206) 623-1900
Facsimile: (206) 623-3384
E-Mail: dloeser@kellerrohrback.com
E-Mail: awilliams-derry@kellerrohrback.com

If to the RMBS Steering Committee, then to:

Kathy D. Patrick, Esq. and Robert J. Madden, Esq.
Gibbs & Bruns LLP
1100 Louisiana, Suite 5300
Houston, TX 77002
Telephone: (713) 650-8805
Facsimile: (713) 750-0903
E-Mail: kpatrick@gibbsbruns.com
E-Mail: rmadden@gibbsbruns.com

If to Wilmington Trust, then to:

Thomas J. Moloney and Sean A. O'Neal
Cleary Gottlieb Steen & Hamilton LLP
One Liberty Plaza
New York, NY 10006
Telephone: (212) 225-2000
Facsimile: (212) 225-3999
E-Mail: tmoloney@cgsh.com
E-Mail: soneal@cgsh.com

If to MBIA, then to:

Gregory M. Petrick, Esq. and Jonathan M. Hoff
Cadwalader, Wickersham & Taft LLP
One World Financial Center
New York, NY 10281
Telephone: (212) 504-6000
Facsimile: (212) 504-6666
E-Mail: gregory.petrick@cwt.com
E-Mail: jonathan.hoff@cwt.com

If to the Junior Secured Noteholders, then to:

J. Christopher Shore and Harrison L. Denman
White & Case LLP
1155 Avenue of the Americas
New York, NY 10036-2787
Telephone: (212) 819-8200
Facsimile: (212) 354-8113
E-Mail: cshore@whitecase.com
E-Mail: hdenman@whitecase.com

If to the Unsecured Creditors Committee,
then to:

Kenneth H. Eckstein and Douglas Mannal
Kramer Levin Naftalis & Frankel LLP
1177 Avenue of the Americas
New York, NY 10036
Telephone: (212) 715-9100
Facsimile: (212) 715-8100
E-Mail: keckstein@kramerlevin.com
E-Mail: dmannel@kramerlevin.com

If to Debtors, then to:

Gary S. Lee
Morrison & Foerster LLP
1290 Avenue of the Americas
New York, NY 10104
Telephone: (212) 468-8000
Facsimile: (212) 468-7900
E-Mail: glee@mofo.com

If to the Examiner, then to:

Seven Rivera, Esq.
Chadbourne & Parke LLP
30 Rockefeller Plaza
New York, NY 10112
Telephone No.: 212-408-5100
Facsimile No.: 212-541-5369

[The remainder of this page has been intentionally left blank.]

IN WITNESS WHEREOF, the Parties, by their counsel have executed this Agreement:

The Examiner, by Chadbourne & Parke LLP

By: [Signature] Date: 4/23/13

Ally Financial, Inc., Ally Bank, and Ally Securities, LLC, by Kirkland & Ellis LLP

By: [Signature] Date: 3/13/13

AIG Asset Management (U.S.), LLC and Allstate Life Insurance Company, by Quinn Emanuel Urquhart & Sullivan LLP

By: _____ Date: _____

Massachusetts Mutual Life Insurance Company, by Quinn Emanuel Urquhart & Sullivan LLP

By: _____ Date: _____

Prudential Insurance Company of America, by Quinn Emanuel Urquhart & Sullivan LLP

By: _____ Date: _____

Financial Guaranty Insurance Company, by Jones Day

By: _____ Date: _____

The Talcott Franklin Group Investors, by Talcott Franklin P.C.

By: _____ Date: _____

Federal Home Loan Bank of Chicago, Federal Home Loan Bank of Boston, and Federal Home Loan Bank of Indianapolis, by Keller Rohrback L.L.P.

By: _____ Date: _____

The Steering Committee Group of RMBS Holders, by Gibbs & Bruns LLP

By: _____ Date: _____

Wilmington Trust, National Association, as Indenture Trustee for the Senior Unsecured Notes Issued by Residential Capital, LLC, by Cleary Gottlieb Steen & Hamilton LLP

By: Sean O'Neil Date: 3/4/13

MBIA Insurance Corporation, by Cadwalader, Wickersham & Taft LLP

By: _____ Date: _____

IN WITNESS WHEREOF, the Parties, by their counsel have executed this Agreement:

The Examiner, by Chadbourne & Parke LLP

By: _____ Date: _____

Ally Financial, Inc., Ally Bank, and Ally Securities, LLC, by Kirkland & Ellis LLP

By: _____ Date: _____

AIG Asset Management (U.S.), LLC and Allstate Life Insurance Company, by Quinn Emanuel
Urquhart & Sullivan LLP

By: *Scott Gully* Date: 3-6-2013

Massachusetts Mutual Life Insurance Company, by Quinn Emanuel Urquhart & Sullivan LLP

By: *Scott Gully* Date: 3-6-2013

Prudential Insurance Company of America, by Quinn Emanuel Urquhart & Sullivan LLP

By: *Scott Gully* Date: 3-6-2013

Financial Guaranty Insurance Company, by Jones Day

By: _____ Date: _____

The Talcott Franklin Group Investors, by Talcott Franklin P.C.

By: _____ Date: _____

Federal Home Loan Bank of Chicago, Federal Home Loan Bank of Boston, and Federal Home
Loan Bank of Indianapolis, by Keller Rohrbach L.L.P.

By: _____ Date: _____

The Steering Committee Group of RMBS Holders, by Gibbs & Bruns LLP

By: _____ Date: _____

Wilmington Trust, National Association, as Indenture Trustee for the Senior Unsecured Notes
Issued by Residential Capital, LLC, by Cleary Gottlieb Steen & Hamilton LLP

By: _____ Date: _____

MBIA Insurance Corporation, by Cadwalader, Wickersham & Taft LLP

By: _____ Date: _____

IN WITNESS WHEREOF, the Parties, by their counsel have executed this Agreement:

The Examiner, by Chadbourne & Parke LLP

By: _____ Date: _____

Ally Financial, Inc., Ally Bank, and Ally Securities, LLC, by Kirkland & Ellis LLP

By: _____ Date: _____

AIG Asset Management (U.S.), LLC and Allstate Life Insurance Company, by Quinn Emanuel
Urquhart & Sullivan LLP

By: _____ Date: _____

Massachusetts Mutual Life Insurance Company, by Quinn Emanuel Urquhart & Sullivan LLP

By: _____ Date: _____

Prudential Insurance Company of America, by Quinn Emanuel Urquhart & Sullivan LLP

By: _____ Date: _____

Financial Guaranty Insurance Company, by Jones Day

By:  Date: 3-7-13

The Talcott Franklin Group Investors, by Talcott Franklin P.C.

By: _____ Date: _____

Federal Home Loan Bank of Chicago, Federal Home Loan Bank of Boston, and Federal Home
Loan Bank of Indianapolis, by Keller Rohrback L.L.P.

By: _____ Date: _____

The Steering Committee Group of RMBS Holders, by Gibbs & Bruns LLP

By: _____ Date: _____

Wilmington Trust, National Association, as Indenture Trustee for the Senior Unsecured Notes
Issued by Residential Capital, LLC, by Cleary Gottlieb Steen & Hamilton LLP

By:  Date: 3/4/13

MBIA Insurance Corporation, by Cadwalader, Wickersham & Taft LLP

By: _____ Date: _____

IN WITNESS WHEREOF, the Parties, by their counsel have executed this Agreement:

The Examiner, by Chadbourne & Parke LLP

By: _____ Date: _____

Ally Financial, Inc., Ally Bank, and Ally Securities, LLC, by Kirkland & Ellis LLP

By: _____ Date: _____

AIG Asset Management (U.S.), LLC and Allstate Life Insurance Company, by Quinn Emanuel
Urquhart & Sullivan LLP

By: _____ Date: _____

Massachusetts Mutual Life Insurance Company, by Quinn Emanuel Urquhart & Sullivan LLP

By: _____ Date: _____

Prudential Insurance Company of America, by Quinn Emanuel Urquhart & Sullivan LLP

By: _____ Date: _____

Financial Guaranty Insurance Company, by Jones Day

By: _____ Date: _____

The Talcott Franklin Group Investors, by Talcott Franklin P.C.

By: _____ Date: _____

Federal Home Loan Bank of Chicago, Federal Home Loan Bank of Boston, and Federal Home
Loan Bank of Indianapolis, by Keller Rohrback L.L.P.

By: _____ Date: _____

The Steering Committee Group of RMBS Holders, by Gibbs & Bruns LLP

By: _____ Date: _____

Wilmington Trust, National Association, as Indenture Trustee for the Senior Unsecured Notes
Issued by Residential Capital, LLC, by Cleary Gottlieb Steen & Hamilton LLP

By: _____ Date: _____

MBIA Insurance Corporation, by Cadwalader, Wickersham & Taft LLP

By: Suzid Bayley Date: March 7, 2013

The Ad Hoc Group of Junior Secured Noteholders, by White & Case LLP

By: *Haru Deven* Date: 3/13/13

The Official Committee of Unsecured Creditors, by Kramer Levin Naftalis & Frankel LLP

By: _____ Date: _____

Debtor Residential Capital, LLC, and Its Debtor Subsidiaries and Affiliated Debtor Entities, by
Morrison & Foerster LLP

By: _____ Date: _____

The Ad Hoc Group of Junior Secured Noteholders, by White & Case LLP

By: _____ Date: _____

The Official Committee of Unsecured Creditors, by Kramer Levin Naftalis & Frankel LLP

By: Douglas Manna (PP) Date: 3/8/2013

Debtor Residential Capital, LLC, and Its Debtor Subsidiaries and Affiliated Debtor Entities, by
Morrison & Foerster LLP

By: _____ Date: _____

The Ad Hoc Group of Junior Secured Noteholders, by White & Case LLP

By: _____ Date: _____

The Official Committee of Unsecured Creditors, by Kramer Levin Naftalis & Frankel LLP

By: _____ Date: _____

Debtor Residential Capital, LLC, and Its Debtor Subsidiaries and Affiliated Debtor Entities, by
Morrison & Foerster LLP

By: Rayne Elorshy Date: 3/6/13

ADDENDUM A

JOINDER TO CONFIDENTIALITY AGREEMENT REGARDING EXAMINER SUBMISSION PAPER

WHEREAS, reference is made to that certain Agreement dated as of February 15, 2013 (attached hereto as Annex 1, the "Agreement"), by and among AIG Asset Management (U.S.), LLC and Allstate Life Insurance Company (collectively "Allstate"); Massachusetts Mutual Life Insurance Company ("MassMutual"); Prudential Insurance Company of America ("Prudential"); Financial Guaranty Insurance Company ("FGIC"); the Talcott Franklin Group Investors ("Talcott Franklin"); Federal Home Loan Bank of Chicago, Federal Home Loan Bank of Boston, and Federal Home Loan Bank of Indianapolis (collectively, the "FHLBs"); the Steering Committee Group of RMBS Holders (collectively, "RMBS Steering Committee"); Wilmington Trust, National Association, as Indenture Trustee for the Senior Unsecured Notes Issued by Residential Capital, LLC ("Wilmington Trust"); MBIA Insurance Corporation ("MBIA"); the Ad Hoc Group of Junior Secured Noteholders ("Junior Secured Noteholders"); the Official Committee of Unsecured Creditors (the "Unsecured Creditors Committee"); Residential Capital, LLC, and certain of its subsidiaries and affiliated entities (collectively "Debtors"); Ally Financial Inc., Ally Bank, and Ally Securities, LLC (collectively "Ally"); Arthur J. Gonzalez (the "Examiner"), the examiner appointed in the Debtors' chapter 11 bankruptcy proceedings (the "Chapter 11 Proceedings"), which are currently pending in the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court"), and any other person that executes a joinder to this Agreement as provided in paragraph 4 of the Agreement (and together with each other signatory to this Agreement, the "Parties"). Each capitalized term used but not defined herein shall have the meaning given to it in the Agreement.


WHEREAS, the undersigned has read the Agreement in its entirety and understands all of the provisions therein.

NOW, THEREFORE, the undersigned agrees as follows:

1. By executing this Joinder, the undersigned shall become a party to the Agreement and, as of the date hereof, agrees to be bound as a "Recipient" by the terms and provisions of the Agreement.
2. Except as otherwise provided herein, the Submission Papers, including their content, (a) shall be and shall remain confidential, (b) shall not be disclosed to any other person, including, without limitation, to the Bankruptcy Court or any judicial, arbitral, or administrative body, and (c) shall not be admissible for any purpose, including as evidence in any judicial, arbitral, or administrative proceeding. The undersigned agrees to hold in confidence and not to disclose the Submission Papers or their content to any person not a Recipient under the terms of the Agreement.
3. In addition to the foregoing, the undersigned understands and agrees to be subject to the jurisdiction of the Bankruptcy Court for the purposes of enforcing the Agreement.
4. In addition to the foregoing, the undersigned understands and agrees that a violation of the Agreement may constitute a contempt of court and may be punishable as such,

and may subject the undersigned to such additional and further remedies as may be available to the aggrieved party.

[Signatory]

By:  Date: 3/4/13

Robert H. Major
Vice President

The Bank of New York Mellon Trust Company, N.A.

and may subject the undersigned to such additional and further remedies as may be available to the aggrieved party.


[Signatory]

By: Brenda Tye Date: 21 March 2013

Deutsche Bank National Trust Company
for itself and Deutsche Bank Trust Company Americas

and may subject the undersigned to such additional and further remedies as may be available to the aggrieved party.

[Signatory] Loeb & Loeb, LLP

By: 
Walter H. Curchack

Date: 3/1/13

and may subject the undersigned to such additional and further remedies as may be available to the aggrieved party.

[Signatory]

By: Laura L. Moran Date: March 12, 2013

Laura L. Moran
Vice President

Exh. 8

SUPREME COURT OF THE STATE OF NEW YORK – NEW YORK COUNTY

PRESENT: JOHN A K BRADLEYPART 90RJHO JusticeMBIA Insurance Corp.

INDEX NO.

603552/2008

MOTION DATE

MOTION SEQ. NO.

MOTION CAL. NO.

Residential Funding Co.**E-FILE**

The following papers, numbered 1 to _____ were read on this motion to/for

PAPERS NUMBERED

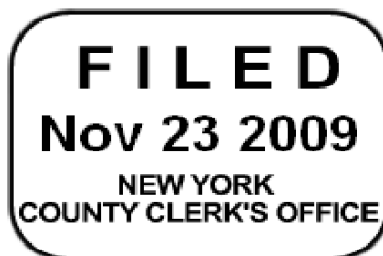
Notice of Motion/ Order to Show Cause – Affidavits – Exhibits ...

Answering Affidavits – Exhibits _____

Replying Affidavits _____

Cross-Motion: ☐ Yes ☐ No

Upon the foregoing papers, it is ordered that this motion

*is decided in
accordance with the amended
stipulation attached.*Dated: 11/23/09JHO JusticeCheck one: ☐ FINAL DISPOSITION ☒ NON-FINAL DISPOSITIONCheck if appropriate: ☐ DO NOT POST ☐ REFERENCEMOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE
FOR THE FOLLOWING REASON(S):

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

MBIA INSURANCE CORPORATION,

Plaintiff,

-against-

RESIDENTIAL FUNDING COMPANY, LLC.

Defendant.

Index No. 603552/08 (Fried, J./
Bradley, J.H.O.)**AMENDED STIPULATION
AND ORDER FOR THE
PRODUCTION AND
EXCHANGE OF
CONFIDENTIAL
INFORMATION**

This matter having come before the Court by stipulation of plaintiff, MBIA Insurance Corporation ("MBIA"), and defendant, Residential Funding Company, LLC ("RFC"), for the entry of a protective order pursuant to CPLR 3103(a), limiting the review, copying, dissemination and filing of confidential and/or proprietary documents and information to be produced by either party and their respective counsel or by any non-party in the course of discovery in this matter to the extent set forth below; and the parties, by, between and among their respective counsel, having stipulated and agreed to the terms set forth herein, and good cause having been shown;

IT IS hereby ORDERED that:

1. This Stipulation is being entered into to facilitate the production, exchange and discovery of documents, information and testimony (hereinafter "Discovery Material") that the parties agree merit confidential treatment.
2. Either party may designate Discovery Material in connection with this action as "confidential," either by notation on the document, statement on the record of the

deposition, written advice to the respective undersigned counsel for the parties hereto, or by other appropriate means as set forth herein.

3. As used herein:

- a. "Confidential Information" shall mean all Discovery Material, and all information contained therein, and other information designated as confidential, if such Discovery Material contain trade secrets, proprietary business information, competitively sensitive information, or other information the disclosure of which would, in the good faith judgment of the party designating the material as confidential, be detrimental to the conduct of that party's business or the business of any of that party's customers or clients. "Confidential Information" shall also mean non-public personal information, including, among other things, personally identifiable financial information relating to borrower and/or consumers (such as individuals' Social Security numbers) that may be subject to the Gramm-Leach-Bliley Act, 15 U.S.C. § 6802(c)(8), and other applicable laws and regulations, and/or documents or data which constitute "consumer reports," as that term is defined in the Fair Credit Reporting Act, 15 U.S.C. §§ 1681, *et seq.*, that may have been collected or produced in connection with the mortgage loans contributed to the securitization transactions that are the subject of the litigation (collectively, "Personal Financial Information").
- b. "Producing Party" shall mean the parties to this action and any third-parties producing "Confidential Information" in connection with depositions, document production or otherwise, or the party asserting the confidentiality privilege, as the case may be.

- c. "Receiving Party" shall mean the party to this action and/or any non-party receiving "Confidential Information" in connection with depositions, document production or otherwise.
4. Production of any Personal Financial Information in this action pursuant to this Stipulation shall satisfy and shall constitute compliance with the Producing Party's obligations under the Gramm-Leach-Bliley Act and the Fair Credit Reporting Act, including any rules or regulations promulgated thereunder, and the disclosure of any Personal Financial Information in this action pursuant to this Stipulation shall constitute disclosure of such Personal Financial Information pursuant to 15 U.S.C. § 6812(c)(8), 16 CFR 313.15(a)(7)(iii) and 15 U.S.C. § 1681b(a)(1).
5. The Receiving Party may, at any time, notify the Producing Party that the Receiving Party does not concur in the designation of certain Discovery Material as Confidential Information. If the Producing Party does not agree to declassify such Discovery Material, the Receiving Party may move before the Court for an order declassifying such Discovery Material. If no such motion is filed, such Discovery Material shall continue to be treated as Confidential Information. If such motion is filed, the Discovery Material shall be deemed Confidential Information unless and until the Court rules otherwise.
6. Except with the prior written consent of the Producing Party or by Order of the Court, Confidential Information shall not be furnished, shown or disclosed to any person or entity except to:
- a. personnel of plaintiff or defendant actually engaged in assisting in the preparation of this action for trial or other proceeding herein and who have been advised of their obligations hereunder;

- b. counsel for the parties to this action and their associated attorneys, paralegals and other professional personnel (including support staff) who are directly assisting such counsel in the preparation of this action for trial or other proceeding herein, are under the supervision or control of such counsel, and who have been advised by such counsel of their obligations hereunder;
- c. expert witnesses or consultants retained by a party or its counsel to furnish technical or expert services in connection with this action or to give testimony with respect to the subject matter of this action at the trial of this action or other proceeding herein; provided, however, that such Confidential Information is furnished, shown or disclosed in accordance with paragraph 8 hereof;
- d. consultants or vendors retained by a party to assist with review and production of documents and information in connection with this action, provided that any such consultant or vendor shall execute a written agreement, in the form of Exhibit A attached hereto, to comply with and be bound by its terms;
- e. the Court and court personnel, if filed in accordance with paragraph 13 hereof;
- f. an officer before whom a deposition is taken, including stenographic reporters and any necessary secretarial, clerical or other personnel of such officer;
- g. trial and deposition witnesses, if furnished, shown or disclosed in accordance with paragraphs 10 and 11, respectively, hereof; and
- h. former personnel of the plaintiff or defendant to the extent reasonably necessary to assist in the preparation of this action for trial or other proceeding herein; provided that any such former personnel shall execute a written agreement, in the form of Exhibit A attached hereto, to comply with and be bound by its terms. Any such written agreement shall be retained by counsel for the party making

disclosure to the former employee but is not required to be supplied to counsel for the other party.

i. any other person agreed to by the parties in writing.

7. Confidential Information shall be utilized by the Receiving Party and its counsel only for purposes of this litigation or prosecuting or defending any claims with respect to the transactions that are the subject of the litigation and for no other purposes. To the extent that a Receiving Party intends to disclose Confidential Information in connection with an action other than this litigation pursuant to the above limitation, the Receiving Party shall first give notice to the Producing Party of such intended disclosure and afford the Producing Party the opportunity to object to such disclosure. Further, with respect to Personal Financial Information, the Receiving Party shall take, and shall direct all permitted recipients of such Personal Financial Information to take, all reasonable measures and implement all reasonable safeguards to control and restrict access to and/or use of Personal Financial Information so as to minimize the use and/or authorized disclosure and to prevent the unauthorized disclosure of such Personal Financial Information.

8. Before any disclosure of Confidential Information is made to an expert witness or consultant pursuant to paragraph 5(c) hereof, counsel for the Receiving Party shall provide the expert's written agreement, in the form of Exhibit A attached hereto, to comply with and be bound by its terms. Counsel for the party obtaining the certificate shall supply a copy to counsel for the other party at the time of the disclosure of the information required to be disclosed by CPLR 3101(d), except that any certificate signed by an expert or consultant who is not expected to be called as a witness at trial is not required to be supplied.

9. All depositions shall presumptively be treated as Confidential Information and subject to this Stipulation during the deposition and for a period of fifteen (15) days after a transcript of said deposition is received by counsel for each of the parties. At or before the end of such fifteen day period, the deposition shall be classified appropriately.
10. Should the need arise for any of the parties to disclose Confidential Information during any hearing or trial before the Court, including through argument or the presentation of evidence, such party may do so only after taking such steps as the Court, upon motion of the disclosing party, shall deem necessary to preserve the confidentiality of such Confidential Information.
11. This Stipulation, except as provided for herein, shall not preclude counsel for the parties from using during any deposition in this action any documents or information which have been designated as "Confidential Information" under the terms hereof.
12. A Producing Party may designate as Confidential Information subject to this Stipulation any document, information, or deposition testimony produced or given by any such party or non-party to this case, or any portion thereof. In the case of Documents, designation shall be made by notifying all counsel in writing of those documents which are to be stamped and treated as such at any time up to fifteen (15) days after actual receipt of copies of those documents by counsel for the party asserting the confidentiality privilege. In the case of deposition Testimony, designation shall be made by notifying all counsel in writing of those portions which are to be stamped or otherwise treated as such at any time up to fifteen (15) days after the transcript is received by counsel for the party asserting the confidentiality privilege. Prior to the expiration of such fifteen (15) day period (or until a designation is made by counsel, if such a designation is made in a shorter period of time), all such documents shall be treated as Confidential Information.

13. (a) A Receiving Party who seeks to file with the Court any deposition transcripts, exhibits, answers to interrogatories, and other documents which have previously been designated as comprising or containing Confidential Information, and any pleading, brief or memorandum which reproduces, paraphrases or discloses Confidential Information, shall provide all other parties with seven (7) days' written notice of its intent to file such material with the Court, so that the Producing Party may file by Order to Show Cause a motion to seal such Confidential Information. The Confidential Information shall not be filed until the Court renders a decision on the motion to seal. In the event the motion to seal is granted, all deposition transcripts, exhibits, answers to interrogatories, and other documents which have previously been designated by a party as comprising or containing Confidential Information, and any pleading, brief or memorandum which reproduces, paraphrases or discloses such material, shall be filed in sealed envelopes or other appropriate sealed container on which shall be endorsed the caption of this litigation, the words "CONFIDENTIAL MATERIAL-SUBJECT TO STIPULATION AND ORDER FOR THE PRODUCTION AND EXCHANGE OF CONFIDENTIAL INFORMATION" as an indication of the nature of the contents, and a statement in substantially the following form: "This envelope, containing documents which are filed in this case by (name of party or non-party), is not to be opened nor are the contents thereof to be displayed or revealed other than to the Court, the parties and their counsel of record, except by order of the Court or consent of the parties. Violation hereof may be regarded as contempt of the Court."

(b) As an alternative to the procedure set forth in paragraph 12(a), any party may file with the court any documents previously designated as comprising or containing Confidential Information by submitting such documents to the Part Clerk in sealed

envelopes or other appropriate sealed container on which shall be endorsed the caption of this litigation, the words "CONFIDENTIAL MATERIAL-SUBJECT TO STIPULATION AND ORDER FOR THE PRODUCTION AND EXCHANGE OF CONFIDENTIAL INFORMATION" as an indication of the nature of the contents, and a statement in substantially the following form: "This envelope, containing documents which are filed in this case by (name of party or non-party), is not to be opened nor are the contents thereof to be displayed or revealed other than to the Court, the parties and their counsel of record, except by order of the Court or consent of the parties." Such documents shall be returned by the Part Clerk upon disposition of the motion or other proceeding for which they were submitted.

(c) All pleadings, briefs or memoranda which reproduces, paraphrases or discloses any documents which have previously been designated by a party as comprising or containing Confidential Information, shall identify such documents by the production number ascribed to them at the time of production.

(d) The parties shall endeavor not to serve, file or introduce any pleadings, briefs, memoranda or exhibits which contain or reproduce in unredacted form any Personal Financial Information to the extent such Personal Financial Information is irrelevant to the subject matter of such pleading, brief, memorandum or exhibit.

14. Any person receiving Confidential Information shall not reveal or discuss such information to or with any person not entitled to receive such information under the terms hereof.
15. Any Discovery Material that may contain Confidential Information that has been inadvertently produced without identification as to its "confidential" nature as provided in paragraphs 2 and/or 12 of this Stipulation, may be so designated by the party or non-

party asserting the confidentiality privilege by written notice to the undersigned counsel for the Receiving Party identifying the document or information as "confidential" within a reasonable time following the discovery that the document or information has been produced without such designation.

16. Extracts and summaries of Confidential Information shall also be treated as confidential in accordance with the provisions of this Stipulation.
17. The production or disclosure of Confidential Information shall in no way constitute a waiver of each party's right to object to the production or disclosure of other information in this action or in any other action.
18. A Producing Party may also designate any information, document or thing as "Highly Confidential Information." This designation shall signify that (a) at the time of the designation the Discovery Material contains or constitutes trade secrets or confidential business or financial information, (b) there is a substantial and imminent risk that, absent such designation, its receipt by the Receiving Party could cause competitive and/or economic harm to the Producing Party and (c) such Discovery Material would not otherwise be adequately protected under the procedures set forth herein for "Confidential Information." The provisions of this Stipulation, including all usage, dissemination and disclosure limitations, shall be applicable to "Highly Confidential Information" in the same manner as "Confidential Information," except that notwithstanding any other provision of this Stipulation, no disclosure of Highly Confidential Information may be made to any party. For purpose of this subsection of this Stipulation, a party's in-house counsel and the paralegals and support personnel working for such in-house counsel do not constitute a "party." Disclosure to in-house counsel shall be limited to those counsel providing legal advice in connection with this action, and Highly Confidential

Information disclosed to in-house counsel may not be used for any business or other purpose unrelated to the prosecution or defense of this action. Highly Confidential Information may not be disclosed to any other officers, directors, employees or agents of a party, including other in-house counsel. Nothing contained herein however shall limit a party's use of its own Highly Confidential Information. This subsection shall not limit use of Highly Confidential Information or deposition exhibits in accordance with paragraphs 10 and 11, respectively, hereof, and parties may submit Highly Confidential Information to the court in accordance with paragraph 13 hereof. Nothing in this subsection shall preclude counsel from giving advice to his or her client in this action that includes a general evaluation of Highly Confidential Information, provided that counsel shall not disclose the contents of any Highly Confidential Information contrary to the terms of this Stipulation. The Highly Confidential Information Designation may be applied only to "structured" data, including proprietary computer programs and models and testimony regarding such "structured" data. Documents and testimony regarding "structured" data, including among other things, emails and electronic documents that discuss "structured" data but are not themselves "structured" data shall not be designated as "Highly Confidential Information." Personal Financial Information shall not be designated as "Highly Confidential Information."

19. Inadvertent production of any information, document or thing which the Producing Party claims is privileged or work product shall not itself be deemed a waiver of any claim of privilege or work product as to such matter or as to any other matter. Upon notice from the Producing Party, all copies of such information, document or thing shall promptly be returned to the Producing Party if such designation is undisputed. In the event of a good faith dispute over a claim of privilege, the party claiming privilege shall promptly seek an

order of the Court with respect to such disputed information, document or thing and during the pendency of the Court's decision, all copies of such information, document or thing shall promptly be returned to the Producing Party and treated as if it were confidential, except for one copy which the Receiving Party may hold for purposes of disputing the claim of privilege. On any such application, the burden of proof shall be on the party claiming privilege.

20. If Confidential Information, including Personal Financial Information, is disclosed to or comes into the possession of any person other than in a manner authorized by this Stipulation, whether purposefully, negligently or inadvertently (any such disclosure an "Unauthorized Disclosure"), the Receiving Party shall immediately inform all other parties to this action of all pertinent facts relating to the Unauthorized Disclosure and the nature and extent of the Confidential Information, including Personal Financial Information, that has been disclosed.
21. If an Unauthorized Disclosure occurs, the Receiving Party shall take all appropriate and necessary actions to retrieve physically or otherwise control all Confidential Information, including Personal Financial Information, that was disclosed in connection with the Unauthorized Disclosure and to prevent further disclosure by each and every person that may have received such Confidential Information, including Personal Financial Information, other than in a manner authorized by this Stipulation.
22. This Stipulation is entered into without prejudice to the right of either party to seek relief from, or modification of, this Stipulation or any provisions thereof by properly noticed motion to the Court or to challenge any designation of confidentiality as inappropriate under the Civil Practice Law and Rules or other applicable law.

23. This Stipulation shall continue to be binding after the conclusion of this litigation except (a) that there shall be no restriction on documents that are used as exhibits in Court (unless such exhibits were filed under seal); and (b) that a party may seek the written permission of the Producing Party or further order of the Court with respect to dissolution or modification of any provisions of the Stipulation. The provisions of this Stipulation shall, absent prior written consent of both parties, continue to be binding after the conclusion of this action. The Court shall retain jurisdiction to order any remedy, including the imposition of appropriate sanctions, on any Receiving Party that breaches this agreement, including, without limitation, any remedy with respect to an Unauthorized Disclosure of Confidential Information, including Personal Financial Information.
24. Nothing herein shall be deemed to waive any privilege recognized by law, or shall be deemed an admission as to the admissibility in evidence of any facts or documents revealed in the course of disclosure.
25. Within sixty (60) days after the final termination of this litigation by settlement or exhaustion of all appeals, all Confidential Information produced or designated and all reproductions thereof, shall be returned to the Producing Party or shall be destroyed, at the option of the Producing Party. In the event that any party chooses to destroy physical objects and documents, such party shall certify in writing within sixty (60) days of the final termination of this litigation that it has undertaken its best efforts to destroy such physical objects and documents, and that such physical objects and documents have been destroyed to the best of its knowledge. Notwithstanding anything to the contrary, counsel of record for the parties may retain one copy of documents constituting work product, a copy of pleadings, motion papers, discovery responses, deposition transcripts and

deposition and trial exhibits. This Stipulation shall not be interpreted in a manner that would violate any applicable canons of ethics or codes of professional responsibility. Nothing in this Stipulation shall prohibit or interfere with the ability of counsel for any party, or of experts specially retained for this case, to represent any individual, corporation, or other entity adverse to any party or its affiliate(s) in connection with any other matters.

26. This Stipulation may be changed by further order of this Court, and is without prejudice to the rights of a party to move for relief from any of its provisions, or to seek or agree to different or additional protection for any particular material or information.
27. This Stipulation shall supersede the Stipulation And Order For The Production And Exchange Of Confidential Information that was entered by the Court on June 25, 2009 (the "Prior Stipulation"). The parties shall provide any entity that executed Exhibit A to the Prior Stipulation prior to the date hereof with a copy of this Stipulation and shall obtain a new executed Exhibit A dated after the date that this Stipulation is so ordered by the Court.
28. This Stipulation shall not apply to Confidential Information lawfully in the possession of a party by a means other than the production of such information by a Producing Party in connection with this action.

Dated: November 6, 2009

CADWALADER, WICKERSHAM
& TAFT LLPBy: *Howard R. Hawkins, Jr.*

Howard R. Hawkins, Jr.

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By: *Marshall Beil*

Marshall Beil

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(212) 548-7004
Attorneys for Defendant
Residential Funding Company, LLCDated: November 23 2009

IT IS SO ORDERED:

J.A.B.

J.H.O.

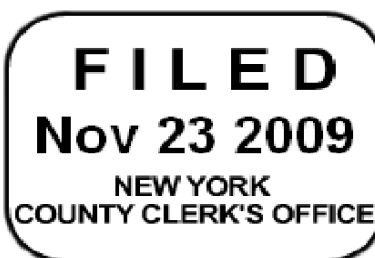
JOHN A K BRADLEY

EXHIBIT A

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

MBIA INSURANCE CORPORATION,

Plaintiff,

-against-

RESIDENTIAL FUNDING COMPANY, LLC,

Defendant.

Index No. 603552/08 (Fried, J.)

**AGREEMENT TO
RESPECT CONFIDENTIAL
MATERIAL.**

I, _____, state that:

1. My address is _____.

2. My present employer is _____.

3. My present occupation or job description is _____.

4. I have received a copy of the Amended Stipulation for the Production and Exchange of Confidential Information (the "Stipulation") entered in the above-entitled action on _____.

5. I have carefully read and understand the provisions of the Stipulation.

6. I will comply with all provisions of the Stipulation.

7. I will hold in confidence, will not disclose to anyone not qualified under the Stipulation, and will use only for purposes of this action, any Confidential Information that is disclosed to me.

8. I acknowledge that the Confidential Information I may receive may contain non-public personal information, including, among other things, personally identifiable financial information relating to borrowers and/or consumers (such as individuals' Social Security

numbers), and/or consumer or credit reports. I agree to take all reasonable measures and implement all reasonable safeguards to control and restrict access to and/or use of non-public personal information so as to minimize the use and/or authorized disclosure and to prevent the unauthorized disclosure of such information.

9. I will return all Confidential Information that comes into my possession, and documents or things that I have prepared relating thereto, to counsel for the party by whom I am employed or retained, or to counsel from whom I receive the Confidential Information.
10. I hereby submit to the jurisdiction of this court for the purpose of enforcement of the Stipulation in this action.

Dated: _____
