

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

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<i>In re</i>	: Chapter 11
WASHINGTON MUTUAL, INC., <u>et al.</u> , ¹	: Case No. 08-12229 (MFW)
Debtors.	: (Jointly Administered)
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**AGREED UPON ORDER APPROVING STIPULATION RESOLVING THE MOTION OF
BRANDES INVESTMENT PARTNERS, L.P. FOR THE REGISTRATION OF CERTAIN
STOCK TRANSFER CERTIFICATES BEARING A RESTRICTIVE LEGEND AND THE
RE-ISSUANCE OF SUCH CERTIFICATES WITHOUT THE RESTRICTIVE LEGEND**

Upon the *Motion Pursuant to 28 U.S.C. § 959(b) for an Order Compelling the Debtor to Comply with Section 8-401 of the Delaware Uniform Commercial Code by Registering Stock Transfers and Issuing New Certificates Without a Restrictive Legend* [Docket No. 255], filed by Brandes Investment Partners, L.P. (the "Motion"); and upon the Stipulation Resolving the Motion of Brandes Investment Partners, L.P. for the Registration of Certain Stock Transfer Certificates Bearing a Restrictive Legend and the Re-Issuance of the Stock Transfer Certificates without the Restrictive Legend resolving the issues set forth in the Motion (the "Stipulation"); this Court having jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334; this being a core proceeding pursuant to 28 U.S.C. § 157(b); venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; due and proper notice of the Stipulation having been provided to the (i) the United States Trustee for the District of Delaware; (ii) each of the Debtors' twenty (20) largest unsecured creditors; (iii) the FDIC; (iv) the Securities and Exchange Commission; (v) counsel to JPMorgan Chase; (vi) counsel to the official committee of

¹ The Debtors in these chapter 11 cases along with the last four digits of each Debtor's federal tax identification number are: (i) Washington Mutual, Inc. (3725); and (ii) WMI Investment Corp. (5395). The Debtors' principal offices are located at 1301 Second Avenue, Seattle, Washington 98101.



unsecured creditors; (vii) counsel to the Washington Mutual Inc. Noteholder Group; (viii) counsel to Bank of New York Mellon; and (ix) all parties who have requested notice in these chapter 11 cases; and it appearing that no other or further notice need be provided; a hearing having been held to consider the relief requested; and after due deliberation and sufficient cause appearing therefore, it is hereby:

ORDERED that the Stipulation, attached hereto as Exhibit "A," is incorporated by reference, and is approved in its entirety; and it is further

ORDERED that the terms and conditions of this order shall be immediately effective and enforceable upon its entry; and it is further

ORDERED that the Motion is hereby deemed withdrawn with prejudice; and it is further

ORDERED that this Court shall retain jurisdiction to hear and determine all matters arising from the implementation of this order.

Dated: Wilmington, Delaware
November 21, 2008


UNITED STATES BANKRUPTCY JUDGE

Exhibit A

Stipulation

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

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WASHINGTON MUTUAL, INC., <u>et al.</u> , ¹	: Case No. 08-12229 (MFW)
Debtors.	: (Jointly Administered)
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STIPULATION RESOLVING THE MOTION OF BRANDES INVESTMENT PARTNERS, L.P. FOR THE REGISTRATION OF CERTAIN STOCK TRANSFER CERTIFICATES BEARING A RESTRICTIVE LEGEND AND THE RE-ISSUANCE OF SUCH CERTIFICATES WITHOUT THE RESTRICTIVE LEGEND

Washington Mutual, Inc. ("WMI") and WMI Investment Corporation ("WMI Investment") and together with WMI, collectively, the "Debtors", as debtors and debtors in possession, and Brandes Investment Partners, L.P. ("Brandes," together with the Debtors, collectively, the "Parties"), by and through their respective counsel, hereby stipulate as follows:

RECITALS

A. On September 26, 2008, each of the Debtors filed a voluntary petition for relief pursuant to chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") with the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court").

B. As of the date hereof, the Debtors continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

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C. On October 3, 2008, the Bankruptcy Court entered an order, pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure, authorizing the joint administration of the Debtors' chapter 11 cases.

D. On or before April 14, 2008, Brandes acquired 33,921,097 shares of common stock of WMI (the "Common Stock") on behalf of certain of its clients.

E. The Common Stock bears the following restrictive legend (the "Restrictive Legend") limiting transferability of the Common Stock except in certain circumstances:

THIS SECURITY (OR ITS PREDECESSOR) WAS ORIGINALLY ISSUED IN A TRANSACTION EXEMPT FROM REGISTRATION UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND THIS SECURITY MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN APPLICABLE EXEMPTION THEREFROM.

THE HOLDER OF THIS SECURITY AGREES FOR THE BENEFIT OF THE COMPANY THAT THIS SECURITY MAY BE OFFERED, RESOLD, PLEDGED OR OTHERWISE TRANSFERRED, ONLY (1) PURSUANT TO ANY EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT, INCLUDING RULE 144 UNDER THE SECURITIES ACT (IF AVAILABLE) SUBJECT TO THE ISSUER'S RIGHT PRIOR TO ANY SUCH OFFER, SALE OR TRANSFER PURSUANT TO CLAUSE (A) TO REQUIRE THE DELIVERY OF AN OPINION OF COUNSEL, CERTIFICATION AND/OR OTHER INFORMATION SATISFACTORY TO IT, (2) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR (3) TO THE COMPANY OR ANY OF ITS SUBSIDIARIES IN EACH OF CASES (1) THROUGH (3) IN ACCORDANCE WITH ANY APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES.

F. On May 2, 2008, WMI filed a Registration Statement (the "Registration Statement") on Form S-3 (Registration No. 333-150629) with the Securities and Exchange Commission registering for resale by certain selling securityholders named therein up to 605,439,997 shares of WMI common stock and up to 36,642 shares of Series S Contingent Convertible Perpetual Non-Cumulative Preferred Stock (together with the WMI common stock, the "Securities").

G. In a series of transactions on October 20, 21 and 22, 2008, Brandes entered into stock sales with Goldman, Sachs & Co. ("Goldman"), pursuant to which Brandes agreed to sell its Common Stock through Goldman as broker (the "Transfers").

H. On or about October 22, 2008, Brandes requested that The Bank of New York Mellon Corporation, the Debtors' transfer agent (the "Transfer Agent"), record the Transfers and issue new shares of common stock without the Restrictive Legend, and was informed that, as a threshold matter, Brandes would have to deliver a legal opinion to the effect that the Common Stock was sold under and in compliance with the Registration Statement and that the Restrictive Legend may be permissibly removed.

I. On October 23, 2008, the Debtors filed Post-Effective Amendment No. 1 to the Registration Statement to withdraw from registration all unsold Securities previously registered for resale under the Registration Statement.

J. On October 24, 2008, the Debtors filed their *Motion of Debtors Pursuant to Sections 105(a) and 362 of the Bankruptcy Code for Interim and Final Orders (i) Establishing Notification Procedures and Approving Restrictions on Certain Transfers of Interests in the Debtors and (ii) Scheduling a Final Hearing* [Docket No. 155] (the "NOL Motion"), which was approved on an interim basis by order, dated November 7, 2008 [Docket No. 243], and on a final basis by order, dated November [], 2008 [Docket No. []] (the "Final NOL Order").

K. On October 27, 2008, Brandes provided the Debtors and the Transfer Agent with an opinion letter (the "Opinion Letter") from its counsel stating that the Common Stock was freely transferable and that the Restrictive Legend may be removed from the stock certificates. The Debtors have reviewed the Opinion Letter and determined that it is acceptable for the purposes proffered.

L. On October 28, 2008, the Debtors filed their *Motion of the Debtors for an Order, Pursuant to Section 365(a) of the Bankruptcy Code and Bankruptcy Rule 6006, Approving Rejection of Transfer Agent Agreement* [Docket No. 174], requesting authority to reject the agreement employing the Transfer Agent, retroactive to October 28, 2008.

M. On November 7, 2008, Brandes filed its *Motion Pursuant to 28 U.S.C. § 959(b) for an Order Compelling the Debtor to Comply with Section 8-401 of the Delaware Uniform Commercial Code by Registering Stock Transfers and Issuing New Certificates Without a Restrictive Legend* [Docket No. 255] (the "Motion to Compel"), requesting that the Debtors be required to register the Common Stock certificates bearing the Restrictive Legend and re-issue the Common Stock certificates without the Restrictive Legend.

N. Pursuant to Rule 144 of the Securities Act of 1933 (the "Securities Act"), (1) certain transfers are exempted from the registration requirements of the Securities Act and (2) if the issuer of the applicable securities is, and has been for a period of at least ninety (90) days immediately before the proposed sale of securities, subject to the reporting requirements of section 13 or 15(d) of the Securities Act (a "Reporting Issuer"), Rule 144 will only provide an exemption from the registration requirements of the Securities Act if the Reporting Issuer has filed all required reports (other than Form 8-K reports) under section 13 or 15(d) of the Securities Act, as applicable, during the twelve (12) months preceding such sale (or for such shorter period that the Reporting Issuer was required to file such reports).

O. WMI is a Reporting Issuer.

P. WMI did not timely file its Form 10-Q on November 10, 2008 and, consequently, the Securities cannot be sold in reliance upon Rule 144 after November 10, 2008 as WMI had not filed all required reports under Section 13 or 15(d) the Securities Act.

Q. In the event that Common Stock certificates with the Restrictive Legends removed are not delivered to Goldman by December 1, 2008, Brandes will be precluded from selling the Common Stock to another party pursuant to Rule 144 until April 14, 2009, when Brandes will have held the Common Stock for more than one year and Rule 144(c)(1) shall no longer apply (provided that Brandes complies with all other conditions of Rule 144).

R. The Parties hereto desire to resolve the issues associated with the Common Stock and the Motion to Compel without the incurrence of unnecessary fees and expenses.

NOW, THEREFORE, THE PARTIES, BY AND THROUGH THE UNDERSIGNED COUNSEL, AGREE AS FOLLOWS:

1. Upon the execution of this stipulation (the "Stipulation"), Brandes shall provide the Transfer Agent with such documentation as is necessary to effectuate the transfer of the Common Stock.

2. No later than one (1) business day following entry of an order approving this Stipulation, and upon instructions and directions of the Debtors, Brandes shall pay to the Debtors all fees and expenses associated with continuing the services of the Transfer Agent up to and including November 30, 2008 in an amount of \$40,000.00.

3. Notwithstanding anything contained herein to the contrary, Brandes shall comply with the restrictions, requirements and procedures set forth in the Final NOL Order, all of which are incorporated herein by reference.

4. No later than one (1) business day following entry of an order of the Bankruptcy Court approving this Stipulation, and upon payment of the amounts set forth in decretal paragraph 2 hereof, the Debtors shall (i) submit a reliance letter to the Transfer Agent with respect to this transaction, and (ii) direct the Transfer Agent, in sole reliance on the Opinion Letter, to record the Transfers and re-issue the common stock certificates without the Restrictive Legend.

5. Except as provided in decretal paragraph 2 above, the Parties shall be responsible for any and all of their respective fees and expenses incurred in connection with the Motion to Compel and this Stipulation.

6. Upon entry of an order of the Bankruptcy Court approving this Stipulation, Brandes and the Debtors shall be deemed to have released and discharged each other from, and waive and relinquish, any and all rights, claims, actions, causes of action, defenses, suits and proceedings whatsoever, in law, equity or otherwise, which they ever had, now have, or hereafter may have against the other by reason of, arising from, or in connection with the Transfers.

7. Upon entry of an order of the Bankruptcy Court approving this Stipulation, the Motion to Compel shall be deemed withdrawn with prejudice.

8. This Stipulation may be amended only in writing and if signed by all the Parties hereto.

9. Whether or not this Stipulation is approved by the Bankruptcy Court, nothing contained herein may be used as, or deemed to be, an admission of liability of any party with respect to any matter.


10. This Stipulation may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute but one and the same document.

11. The Parties hereto represent and warrant to each other that: (a) they are authorized to execute this Stipulation; (b) each has full power and authority to enter into and perform in accordance with the terms of this Stipulation (subject to Bankruptcy Court approval); and (c) this Stipulation is duly executed and delivered and constitutes a valid and binding agreement in accordance with its terms (subject to Bankruptcy Court approval).

12. Except as provided in decretal paragraph 1 hereof, this Stipulation shall become effective immediately upon entry of an order approving the Stipulation by the Bankruptcy Court in form and substance acceptable to the Parties.

Dated: Wilmington, Delaware
November 20 2008

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