

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

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| In re |) | Chapter 11 |
| |) | |
| WASHINGTON MUTUAL, INC., <u>et al.</u> , ¹ |) | Case No. 08-12229 (MJW) |
| |) | Jointly Administered |
| Debtors. |) | |
| |) | Hearing Date : Feb. 1, 2012, 10:30 a.m. |
| |) | Objection Deadline : Jan. 20, 2012, 4:00 p.m. |
| |) | Related Docket Nos. 9224, 9225 |

**MOTION OF THE OFFICIAL COMMITTEE OF UNSECURED
CREDITORS TO ALTER OR AMEND THE COURT’S OPINION AND
ORDER REGARDING SUBORDINATION OF THE CLAIM OF
TRANQUILITY MASTER FUND, LTD.**

The Official Committee of Unsecured Creditors (the “Committee”) of Washington Mutual, Inc., et al. (the “Debtors”), by and through its undersigned counsel, hereby moves this Court (the “Motion”), pursuant to Rule 59(e) of the Federal Rules of Civil Procedure as made applicable by Rule 9023 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), to alter or amend that portion of the Court’s Opinion and Order (D.I. 9224, 9225) (the “Opinion” and the “Order,” respectively) in which the Court ruled that the Debtors have not stated a basis for subordination of the claim asserted by Tranquility Master Fund, Ltd. (“Tranquility”) in proof of claim number 2206 as amended by proof of claim number 3925 (the “Claim”). In support of this Motion, the Committee respectfully represents as follows:

PRELIMINARY STATEMENT

1. A motion to alter or amend a judgment under Bankruptcy Rule 9023 is a request for extraordinary relief, and the Committee does not bring this Motion lightly. The Committee will not rehash prior arguments. The Opinion and Order must be altered or amended,

¹ The Debtors in these chapter 11 cases along with the last four digits of each Debtor's federal tax identification number are: (i) Washington Mutual, Inc. (3725); and (ii) WMI Investment Corp. (5395). The Debtors' principal offices are located at 925 Fourth Avenue, Seattle, Washington 98104.



however, to correct a clear error of law and prevent manifest injustice to the unsecured creditors of the Debtors' estates.

2. With respect to subordination, the Court stated in the Opinion that the WaMu and WMALT Trusts (the "Trusts") "issued" the securities purchased by Tranquility (the "Certificates") that are the subject of the Claim.² The Court said: "Neither the Debtors nor their affiliates are the issuers of the Certificates." Op. at 20. This ruling, coupled with the Court's implicit determination that the phrase "securities of the debtor or an affiliate of the debtor" in section 510(b) means securities *issued by* a debtor or its affiliates, *id.* at 18-20, brings into sharp focus the question of *who* exactly is the "issuer" of the Certificates.

3. The statutory and regulatory authorities under which Tranquility brings its claim provide the answer to this question, and the answer is contrary both to the Court's Opinion and to what Tranquility represented in its final brief to the Court.³ With respect to asset-backed securities such as the Certificates, the "issuer" is the "depositor", not the issuing Trust. The statutes are all explicit and clear on this point, as will be discussed below. Securities Act of 1933, § 2(a)(4) (the "Securities Act"), 15 U.S.C. § 77b(2)(a)(4); Securities Exchange Act of 1934 (the "Exchange Act"), § 3(a)(8), 15 U.S.C. § 78c(a)(8); Cal. Corp. Code § 25010(a). The applicable federal regulations are in accord. Securities and Exchange Commission ("SEC") Rule 191, 17 C.F.R. § 220.191; SEC Rule 3b-19, 17 C.F.R. § 240.3b-19; SEC Regulation AB, 17 C.F.R. § 229.1101(e) & (f). Here, although the Trusts were "issuing entities," they were not the "issuers" of the securities *as a matter of law*. The "issuers" were the depositors, WaMu Asset Acceptance Corp. ("WAAC") and Washington Mutual Mortgage Securities Corp. ("WMMSC"),

² Unless otherwise defined herein, all capitalized terms shall have the meanings ascribed to them in the Opinion.

³ Tranquility Master Fund, Ltd.'s Response to the Official Committee of Unsecured Creditors' Supplemental Brief Objecting To Tranquility's Amended Proof of Claim ("Tranquility's Supp. Response") (D.I. 8265) (filed July 18, 2011).

both wholly-owned subsidiaries of Washington Mutual Bank (“WMB”). Accordingly, the “issuers” of the securities were indeed affiliates of the Debtors. The correction of this error of law will lead to the proper subordination of Tranquility’s claim.

4. Unfortunately, none of the parties clearly and concisely referenced for the Court these explicit definitional sections of the Securities Act, the Exchange Act, SEC Rule 191, SEC Rule 3b-19, SEC Regulation AB, or the California Corporations Code. The Committee regrets that this was not done. Nevertheless, the Third Circuit has said that reconsideration under Fed. R. Civ. P. 59(e) is “the appropriate means of bringing to the court’s attention manifest errors of fact or law,” and that it is an abuse of discretion for a court to refuse to consider a new argument in a motion to alter or amend a judgment when that argument addresses a clear error of law. *Max’s Seafood Cafe ex. Rel. Lou-Ann, Inc. v. Quinteros*, 176 F.3d 669, 678 (3d Cir. 1999).

5. Correction of this error of law will also prevent manifest injustice to unsecured creditors, by causing the subordination of this securities fraud claim as Congress intended.

RELEVANT BACKGROUND

6. The facts and the procedural history of this dispute are well known to the Court and will not be repeated here except as relevant to this Motion.

7. Tranquility claims to have purchased Certificates from 56 tranches of securities in 21 separate series. Of these, five of the tranches were registered with the SEC; the other 51 tranches were unregistered and sold pursuant to private placement memoranda (“PPMs”). The tranches sold under PPMs were all lower-rated tranches from the same Trusts as those of the registered tranches. As Tranquility itself noted, “Each PPM attached and incorporated a Prospectus and a Prospectus Supplement that had been filed with the securities and Exchange Commission as part of the registration statements for WaMu’s mortgage-backed

securities. ... And each PPM contained numerous terms that were defined in the Prospectus Supplement.” Tranquility Response to Debtors’ Objection to Proof of Claim No. 2206 (D.I. 3641) (filed May 4, 2010), Ex. 1, ¶ 5. Attached as Exhibit A is a summary (based on existing exhibits already before the Court) of the 56 tranches, referencing the applicable exhibits containing the pertinent prospective supplements and PPMs where applicable. In 52 of the 56 tranches, WAAC was the “depositor”; in the remaining four, WMMSC was the “depositor”. *See* Ex. A.

JURISDICTION

8. This Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). The statutory predicate for the relief requested herein is Fed. R. Civ. P. 59(e) as made applicable by Bankruptcy Rule 9023.

RELIEF REQUESTED

9. The Committee seeks to alter or amend that portion of the Court’s Opinion and Order in which the Court ruled that the Debtors have not stated a basis for subordination of the Claim. The Committee requests entry of an order finding that WAAC and WMMSC were the issuers of the Certificates, and that because WAAC and WMMSC were affiliates of the Debtors under section 101(2)(B) of the Bankruptcy Code, section 510(b) applies to subordinate the Claim.

ARGUMENT

A. STANDARD

10. A motion to alter or amend a judgment may be filed pursuant to Bankruptcy Rule 9023, which incorporates Fed. R. Civ. P. 59(e). To prevail on a motion to alter or amend the judgment, the movant must show, in pertinent part: “the need to correct a clear

error of law or fact or to prevent manifest injustice.” *Max’s Seafood*, 176 F.3d at 677; *see also Maymi v. Phelps*, No. 10-638, 2011 WL 6034480, at *1 (D. Del. Dec. 5, 2011) (same). While a motion for reconsideration should not be used to rehash arguments that were already argued and that the Court already decided, *In re Edison Bros., Inc.*, 268 B.R. 409, 412 (Bankr. D. Del. 2001), “reconsideration is the appropriate means of bringing to the court’s attention manifest errors of fact or law,” *Max’s Seafood*, 176 F.3d at 678 (holding that district court abused its discretion when it failed to address clear error of law raised in motion for reconsideration).

B. BASIS FOR RELIEF

11. The first applicable federal statute is the “Definitions” section of the Securities Act. Tranquility brings Count III of its claim under the Securities Act. Section 2(a)(4) provides, in pertinent part:

When used in this title, unless the context otherwise requires--

(4) The term “issuer” means every person who issues or proposes to issue any security; except that with respect to . . . collateral-trust certificates, or with respect to certificates of interest . . . , **the term “issuer” means the person or persons performing the acts and assuming the duties of depositor** or manager pursuant to the provisions of the trust or other agreement or instrument under which such securities are issued

15 U.S.C. § 77b(2)(a)(4) (emphasis added).

12. This definition applies to control person liability under Section 15 of the Securities Act, 15 U.S.C. § 77o.

13. Exactly the identical definition appears in the analogous portion of the Exchange Act. Specifically, Section 3(a)(8) provides, in pertinent part:

When used in this title, unless the context otherwise requires--

(8) The term “issuer” means every person who issues or proposes to issue any security; except that with respect to . . . collateral-trust certificates, or with respect to certificates of interest . . . , **the term**

“issuer” means the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust or other agreement or instrument under which such securities are issued

15 U.S.C. § 78c(3)(a)(8) (emphasis added).

14. The applicable federal regulation promulgated under the Securities Act is SEC Rule 191, which states quite clearly:

Rule 191 -- Definition of “issuer” in Section 2(a)(4) of the Act in Relation to Asset-Backed Securities.

The following applies with respect to asset-backed securities under the Act. Terms used in this section have the same meaning as in Item 1101 of Regulation AB (Rule 229.1101 of this chapter).

a. The depositor for the asset-backed securities acting solely in its capacity as depositor to the issuing entity is the “issuer” for purposes of the asset-backed securities of that issuing entity.

17 C.F.R. § 230.191 (emphasis added).

15. The applicable federal regulation under the Exchange Act, SEC Rule 3b-19, is substantively identical. (It omits the citation for Regulation AB.)

Rule 3b-19 -- Definition of "issuer" in Section 3(a)(8) of the Act in Relation to Asset-Backed Securities.

The following applies with respect to asset-backed securities under the Act. Terms used in this section have the same meaning as in Item 1101 of Regulation AB.

a. The depositor for the asset-backed securities acting solely in its capacity as depositor to the issuing entity is the “issuer” for purposes of the asset-backed securities of that issuing entity.

17 C.F.R. § 240.3b-19 (emphasis added).

16. The applicable California statute under which Tranquility brings Counts I and II of its claim is the California Corporations Code, specifically sections 25504 and 25504.1. The applicable definition is set forth in Section 25010(a), in words identical to those of both the Securities Act and the Exchange Act:

With respect to . . . collateral-trust certificates, or with respect to certificates of interest . . . **“ issuer” means the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust or other agreement or instrument under which the security is issued.**

Calif. Corp. Code § 25010(a).

17. The statutes and regulations regarding asset-backed securities accordingly draw a very clear distinction between an “issuer” and an “issuing entity.” The “issuer” is the “depositor,” and “*Depositor* means the depositor who receives or purchases and transfers or sells the pool assets to the issuing entity.” Item 1101 of Regulation AB, 17 C.F.R. § 229.1101(e) (italics in original). The “issuing entity,” by contrast, “means “the trust or other entity created at the direction of the sponsor or depositor that owns or holds the pool assets and in whose name the asset-backed securities supported or serviced by the pool assets are issued”—here, the Trusts. 17 C.F.R. § 229.1101(f). *See also* Talcott J. Franklin & Thomas F. Nealon III, *Mortgage and Asset Backed Securities Litigation Handbook* Appendix A (2011) (stating in definition of “Depositor” that “the Depositor is considered the statutory issuer of CMBS, although technically CMBS are issued by the Trust”). Here, WAAC and WMMSC are the “issuers” and the Trusts are merely passive “issuing entities”.

18. The legislative history explains this structure, clarifying that “although the actual issuer is the trustee, the depositor is the person responsible for the flotation of the issue,” so “information relative to the depositor and to the basic securities is what chiefly concerns the investor—information respecting the assets and liabilities of the trust rather than of the trustee.” H.R. Rep. No. 85, 73 Cong., 1st Sess. 13 (1933). “For these reasons the duty of furnishing this information is placed upon the actual manager of the trust and not the passive trustee, and this purpose is accomplished by defining ‘issuer’ as in such instances referring to the depositor or manager.” *Id.* This depositor-as-issuer structure was not an accident or anomaly, but rather part

of a larger legislative and regulatory scheme, as evidenced by the fact that the SEC simultaneously promulgated Rule 191 and “an identical rule for purposes of the Exchange Act,” which it codified at 17 C.F.R. § 240.3b-19. *Asset-Backed Securities*, 70 Fed. Reg. 1506, 1526 n.155 (Jan. 7, 2005); *see also id.* at 1526 (“We are clarifying that the depositor for the asset-backed securities, acting solely in its capacity as depositor to the issuing entity, is the ‘issuer’ for purposes of the asset-backed securities of that issuing entity”).⁴

19. All of the above authority applies to tranches sold pursuant to PPMs as well as to tranches that were registered with the SEC. The California Corporate Code, under which Tranquility pursues its claims under Counts I and II, uses the exact same language as appears in the Securities Act and the Exchange Act. Furthermore, the PPMs explicitly “attached and incorporated a Prospectus and a Prospectus Supplement that had been filed with the Securities and Exchange Commission as part of the registration statements for WaMu’s mortgage-backed securities,” as Tranquility itself acknowledged.⁵ These lower-rated tranches sold under PPMs involved the same “depositor”/ “issuer” as the registered offered certificates, involved the same “issuing entity” as the registered offered certificates, were issued pursuant to and are held subject to the same pooling and servicing agreement as the registered offered securities, were backed by the same pool of mortgage loans as the registered offered certificates, and were an integral part of the same securitization transaction (their issuance and existence is

⁴ In analyzing who is the “issuer” of a security under the Exchange Act, the Seventh Circuit held that it “need not look beyond” the definition of “issuer” in that statute even though colorable policy reasons existed for expanding that definition. *Portnoy v. Kawecki Berylco Indus., Inc.*, 607 F.2d 765, 767-68 (7th Cir. 1979) (plaintiff did not have standing to sue under section 16(b) of Exchange Act because he did not own securities of “issuer” as defined by Exchange Act). Given the identical language defining “issuer” in the Securities Act and the Exchange Act, no reason exists to believe that the Securities Act’s definition should be treated any less dispositively. And given that the California statute uses exactly the same language in defining “issuer,” no reason exists to treat Tranquility’s California claims any differently from its federal claim.

⁵ Tranquility Response to Debtors’ Objection to Proof of Claim No. 2206 (D.I. 3641) (filed May 4, 2010), Ex. 1, ¶5.

necessary for the overall securitization transaction structure as they provide the subordination required for the creation of senior classes and the desired ratings on such senior classes).

20. The Debtors in their argument mistakenly implied that the Trusts – which the Court held are not affiliates of the Debtors – issued the Certificates that Tranquility purchased. But in accordance with the law cited above, Tranquility’s own admissions identify the depositor – WAAC or WMMSC—as the “issuer” of the Certificates that Tranquility purchased.⁶ Tranquility also makes much of a statement that Debtors made in a footnote which was based on an erroneous assumption that the Trusts were the issuers. *See* Tranquility Supp. Response at 6. However, Tranquility cannot bypass an error of law by admission or purported estoppel. What the Debtor erroneously said does not determine what is the law. *See In re SemCrude , L.P.*, 436 B.R. 317, 322 (Bankr. D. Del. 2010) (citation omitted) (“There is also support in this Circuit for the principle that ‘judicial admissions are restricted in scope to matters of fact.... A legal conclusion—e.g., that a party was negligent or caused an injury—does not qualify [as] a judicial admission’ ”). For instance, what if the Debtor had said in a footnote that the federal statute of limitations for fraudulent conveyance under section 548 of the Bankruptcy Code were three years? The erroneous statement would not change the law that the correct statute of limitations is two years. Nor could the admission justify applying the error as if it were the law.⁷

⁶ It is undisputed that WAAC and WMMSC were the “depositors” for the securities issuances that form the basis of the Claim. *See, e.g.*, WAAC Form S-3 filed February 28, 2005, at ii (identifying WAAC as “depositor” and stating that “WAAC, as depositor, will sell the securities, which may be in the form of mortgage pass-through certificates, mortgage-backed notes or mortgage trust certificates.”). Tranquility, in its proofs of claim, also acknowledges that WAAC is the depositor. *See* Tranquility Amended Proof of Claim (No. 3925) at 12 (“WaMu Asset Acceptance participated in the securitization of the underlying mortgages at issue. In particular, it served as the ‘Depositor’ of the certificates . . .”).

⁷ Tranquility’s own proof of claim acknowledges that WAAC was the issuer of the Certificates. Although Tranquility’s allegation is not determinative of the law, it is notable that Tranquility’s proof of claim alleges that “WaMu Inc. authorized and designed WaMu’s strategy to finance WaMu’s operations and earn profits from the

21. In short, the Trusts were not the issuers of the Certificates. Rather, WAAC and WMMSC, as depositors, were the issuers of the Certificates. The Court has already determined that WAAC was an affiliate of the Debtors, *see* Op. at 18, n.4, and WMMSC was as well. Therefore, the Certificates were issued by “affiliates” of the Debtors, and Tranquility’s Claim must be subordinated under section 510(b) of the Bankruptcy Code.

NOTICE

22. Notice of this Motion is being given to: (i) the Office of the United States Trustee; (ii) counsel to the Debtors; (iii) counsel to Tranquility; (iv) counsel to the Equity Committee; and (v) parties that have requested service pursuant to Bankruptcy Rule 2002.

WHEREFORE, the Committee respectfully requests that the Court (i) alter or amend that portion of the Opinion and Order in which the Court ruled that the Debtors have not stated a basis for subordination of the Claim; (ii) enter an order finding that WAAC and WMMSC, which are both affiliates of the Debtors pursuant to section 101(2)(B) of the Bankruptcy Code, were the issuers of the securities underlying Tranquility’s Claim, and that accordingly section 510(b) applies to subordinate the Claim; and (iii) grant the Committee such other and further relief as the Court deems just, proper and equitable.

sale of the Certificates, including by . . . causing WaMu Asset Acceptance, which served as the issuer of the Certificates, to file, and/or provide, in conjunction with other WaMu entities, materially false and misleading Offering Documents to the market and to investors such as Tranquility” Amended Proof of Claim (No. 3925) at 43 (emphasis added). Tranquility also acknowledges that the Certificates were issued through the Trusts, and not by the Trusts themselves. *Id.* at 52.

Dated: January 3, 2012
Wilmington, Delaware

Respectfully submitted,

PEPPER HAMILTON LLP

By: /s/ John H. Schanne, II
David B. Stratton (DE No. 960)
John H. Schanne, II (DE No. 5260)
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– and –

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Attorneys for the Official Committee of Unsecured
Creditors of Washington Mutual, Inc., *et al.*

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

| | | |
|---|---|---|
| In re |) | Chapter 11 |
| |) | |
| WASHINGTON MUTUAL, INC., <u>et al.</u> , ¹ |) | Case No. 08-12229 (MJW) |
| |) | Jointly Administered |
| Debtors. |) | |
| |) | Hearing Date : Feb. 1, 2012, 10:30 a.m. |
| |) | Objection Deadline : Jan. 20, 2012, 4:00 p.m. |
| |) | Related Docket Nos.: 9224, 9225 |

**NOTICE OF MOTION OF THE OFFICIAL COMMITTEE
OF UNSECURED CREDITORS TO ALTER OR AMEND THE COURT'S
OPINION AND ORDER REGARDING SUBORDINATION OF THE CLAIM
OF TRANQUILITY MASTER FUND, LTD.**

PLEASE TAKE NOTICE that counsel to the Official Committee of Unsecured Creditors (the "Committee") has filed the attached **Motion of the Official Committee of Unsecured Creditors to Alter or Amend the Court's Opinion and Order Regarding Subordination of the Claim of Tranquility Master Fund, Ltd.** (the "Motion").

PLEASE TAKE FURTHER NOTICE that if you oppose the relief, you are required to file an objection to the Motion on or before **January 20, 2012 at 4:00 p.m. Prevailing Eastern Time.** At the same time, you must also serve a copy of the objection upon the attorneys for Committee as follows:

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David B. Stratton, Esq.
John H. Schanne, II, Esq.
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Wilmington, DE 19899-1709

A hearing on the Motion is scheduled to take place before the Honorable Mary F. Walrath, United States District Bankruptcy Judge, 5th Floor, Courtroom #4, Wilmington, Delaware, on **February 1, 2012 at 11:30 a.m. Prevailing Eastern Time.**

¹ The Debtors in these chapter 11 cases along with the last four digits of each Debtor's federal tax identification number are: (i) Washington Mutual, Inc. (3725); and (ii) WMI Investment Corp. (5395). The Debtors' principal offices are located at 925 Fourth Avenue, Seattle, Washington 98104.

IF YOU FAIL TO RESPOND IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF REQUESTED IN THE MOTION WITHOUT FURTHER NOTICE OR HEARING.

Dated: January 3, 2012
Wilmington, DE

Respectfully submitted,

PEPPER HAMILTON LLP

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Attorneys for the Official Committee of Unsecured
Creditors of Washington Mutual, Inc., *et al.*

Exhibit A

Tranches of Securities at Issue in Tranquility POC # 2206

| | <u>SECURITY</u> | <u>DEPOSITOR</u> | <u>REGISTERED OR PRIVATE PLACEMENT</u> | <u>PROSPECTUS SUPPLEMENT CITATION</u> | <u>PPM CITATION</u> |
|----|--|---|--|---|-----------------------------------|
| 1 | WAMU 2005-AR08, Class B11 | Washington Mutual Mortgage Securities Corp. (" <u>WMMS</u> ") | Private Placement | Obj. ¹ , Ex. 2 | Tranq. Resp. ² , Ex. 2 |
| 2 | WAMU 2005-AR15, Class B13 | WaMu Asset Acceptance Corp. (" <u>WAAC</u> ") | Private Placement | Obj., Ex. 3 | Tranq. Resp., Ex. 3 |
| 3 | WAMU 2006-AR01, Class B13 | WAAC | Private Placement | Obj., Ex. 4 | Tranq. Resp., Ex. 4 |
| 4 | WAMU 2006-AR07, Class B13 | WAAC | Private Placement | Obj., Ex. 5 | Tranq. Resp., Ex. 5 |
| 5 | WAMU 2006-AR07, Class B13 ³ | WAAC | Private Placement | Obj., Ex. 5 | Tranq. Resp., Ex. 5 |
| 6 | WAMU 2006-AR07, Class B14 | WAAC | Private Placement | Obj., Ex. 5 | Tranq. Resp., Ex. 5 |
| 7 | WAMU 2006-AR07, Class B14 ⁴ | WAAC | Private Placement | Obj., Ex. 5 | Tranq. Resp., Ex. 5 |
| 8 | WAMU 2006-AR09, Class B11 | WAAC | Private Placement | Obj., Ex. 6 | Tranq. Resp., Ex. 6 |
| 9 | WAMU 2006-AR09, Class B12 | WAAC | Private Placement | Obj., Ex. 6 | Tranq. Resp., Ex. 6 |
| 10 | WAMU 2006-AR09, Class B13 | WAAC | Private Placement | Obj., Ex. 6 | Tranq. Resp., Ex. 6 |
| 11 | WAMU 2006-AR09, Class B14 | WAAC | Private Placement | Obj., Ex. 6 | Tranq. Resp., Ex. 6 |
| 12 | WAMU 2006-AR11, Class LB13 | WAAC | Private Placement | Obj., Ex. 7 | Tranq. Resp., Ex. 7 |
| 13 | WAMU 2006-AR11, Class LB14 | WAAC | Private Placement | Obj., Ex. 7 | Tranq. Resp., Ex. 7 |
| 14 | WAMU 2006-AR13, Class B13 | WAAC | Private Placement | Obj., Ex. 8 | Tranq. Resp., Ex. 8 |

¹ All references to "Obj." in this Exhibit A refer to the Debtors' "Objection to Proof of Claim of Tranquility Master Fund, Ltd. (Claim No. 2206)," (D.I. 2531) (filed March 10, 2010).

² All references to "Tranq. Resp." in this Exhibit A refer to Tranquility's "Response to Debtors' Objection to Proof of Claim No. 2206," (D.I. 3641) (filed May 4, 2010).

³ Tranquility indicated that it purchased this tranche of security twice, both as an initial issue and on the secondary market. *See* "Summary In Support Of Tranquility Master Fund, Ltd's Proof of Claim" (Claim #2206), Ex. 1.

⁴ Tranquility indicated that it purchased this tranche of security twice, both as an initial issue and on the secondary market. *See* "Summary In Support Of Tranquility Master Fund, Ltd's Proof of Claim" (Claim #2206), Ex. 1.

| | <u>SECURITY</u> | <u>DEPOSITOR</u> | <u>REGISTERED OR PRIVATE PLACEMENT</u> | <u>PROSPECTUS SUPPLEMENT CITATION</u> | <u>PPM CITATION</u> |
|----|---------------------------|------------------|--|---|-------------------------|
| 15 | WAMU 2006-AR13, Class B14 | WAAC | Private Placement | Obj., Ex. 8 | Tranq. Resp., Ex. 8 |
| 16 | WAMU 2006-AR15, Class B12 | WAAC | Private Placement | Obj., Ex. 9 | Tranq. Resp., Ex. 9 |
| 17 | WAMU 2006-AR15, Class B13 | WAAC | Private Placement | Obj., Ex. 9 | Tranq. Resp., Ex. 9 |
| 18 | WAMU 2006-AR15, Class B14 | WAAC | Private Placement | Obj., Ex. 9 | Tranq. Resp., Ex. 9 |
| 19 | WAMU 2006-AR17, Class B12 | WAAC | Private Placement | Obj., Ex. 10 | Tranq. Resp., Ex. 10 |
| 20 | WAMU 2006-AR17, Class B13 | WAAC | Private Placement | Obj., Ex. 10 | Tranq. Resp., Ex. 10 |
| 21 | WAMU 2006-AR17, Class B14 | WAAC | Private Placement | Obj., Ex. 10 | Tranq. Resp., Ex. 10 |
| 22 | WAMU 2006-AR19, Class B13 | WAAC | Private Placement | Obj., Ex. 11 | Tranq. Resp., Ex. 11 |
| 23 | WAMU 2006-AR19, Class B14 | WAAC | Private Placement | Obj., Ex. 11 | Tranq. Resp., Ex. 11 |
| 24 | WAMU 2007-OA01, Class B12 | WAAC | Private Placement | Obj., Ex. 12 | Tranq. Resp., Ex. 12 |
| 25 | WAMU 2007-OA01, Class B13 | WAAC | Private Placement | Obj., Ex. 12 | Tranq. Resp., Ex. 12 |
| 26 | WAMU 2007-OA01, Class B14 | WAAC | Private Placement | Obj., Ex. 12 | Tranq. Resp., Ex. 12 |
| 27 | WAMU 2007-OA02, Class B12 | WAAC | Private Placement | Obj., Ex. 13 | Tranq. Resp., Ex. 13 |
| 28 | WAMU 2007-OA02, Class B13 | WAAC | Private Placement | Obj., Ex. 13 | Tranq. Resp., Ex. 13 |
| 29 | WAMU 2007-OA02, Class B14 | WAAC | Private Placement | Obj., Ex. 13 | Tranq. Resp., Ex. 13 |
| 30 | WAMU 2007-OA05, Class B9 | WAAC | Private Placement | Obj., Ex. 14 | Tranq. Resp., Ex. 14 |
| 31 | WAMU 2007-OA05, Class B10 | WAAC | Private Placement | Obj., Ex. 14 | Tranq. Resp., Ex. 14 |
| 32 | WAMU 2007-OA05, Class B11 | WAAC | Private Placement | Obj., Ex. 14 | Tranq. Resp., Ex. 14 |
| 33 | WMALT 2005-AR1, Class B4 | WMMSC | Private Placement | Obj., Ex. 15 | Tranq. Resp., Ex. 15 |
| 34 | WMALT 2005-AR1, Class B5 | WMMSC | Private Placement | Obj., Ex. 15 | Tranq. Resp., Ex. 15 |
| 35 | WMALT 2005-AR1, Class B6 | WMMSC | Private Placement | Obj., Ex. 15 | Tranq. Resp., Ex. 15 |
| 36 | WMALT 2006-AR1, Class B5 | WAAC | Private Placement | Obj., Ex. 16 | Tranq. Resp., Ex. 16 |
| 37 | WMALT 2006-AR1, Class B6 | WAAC | Private Placement | Obj., Ex. 16 | Tranq. Resp. Ex. 16 |
| 38 | WMALT 2006-AR2, Class B13 | WAAC | Private Placement | Obj., Ex. 17 | Tranq. Resp., Ex. 17 |

| | <u>SECURITY</u> | <u>DEPOSITOR</u> | <u>REGISTERED OR PRIVATE PLACEMENT</u> | <u>PROSPECTUS SUPPLEMENT CITATION</u> | <u>PPM CITATION</u> |
|----|----------------------------|------------------|--|---------------------------------------|----------------------|
| 39 | WMALT 2006-AR2, Class B14 | WAAC | Private Placement | Obj., Ex. 17 | Tranq. Resp., Ex. 17 |
| 40 | WMALT 2006-AR4, Class B9 | WAAC | Registered | Obj., Ex. 18 | N/A |
| 41 | WMALT 2006-AR4, Class B13 | WAAC | Private Placement | Obj., Ex. 18 | Tranq. Resp., Ex. 18 |
| 42 | WMALT 2006-AR4, Class B14 | WAAC | Private Placement | Obj., Ex. 18 | Tranq. Resp., Ex. 18 |
| 43 | WMALT 2006-AR5, Class LB13 | WAAC | Private Placement | Obj., Ex. 19 | Tranq. Resp., Ex. 19 |
| 44 | WMALT 2006-AR5, Class LB14 | WAAC | Private Placement | Obj., Ex. 19 | Tranq. Resp., Ex. 19 |
| 45 | WMALT 2006-AR6, Class B13 | WAAC | Private Placement | Obj., Ex. 20 | Tranq. Resp., Ex. 20 |
| 46 | WMALT 2006-AR6, Class B14 | WAAC | Private Placement | Obj., Ex. 20 | Tranq. Resp., Ex. 20 |
| 47 | WMALT 2006-AR7, Class B10 | WAAC | Registered | Obj., Ex. 21 | N/A |
| 48 | WMALT 2006-AR7, Class B11 | WAAC | Registered | Obj., Ex. 21 | N/A |
| 49 | WMALT 2006-AR7, Class B12 | WAAC | Private Placement | Obj., Ex. 21 | Tranq. Resp., Ex. 21 |
| 50 | WMALT 2006-AR7, Class B13 | WAAC | Private Placement | Obj., Ex. 21 | Tranq. Resp., Ex. 21 |
| 51 | WMALT 2006-AR7, Class B14 | WAAC | Private Placement | Obj., Ex. 21 | Tranq. Resp., Ex. 21 |
| 52 | WMALT 2007-OA2, Class B10 | WAAC | Registered | Obj., Ex. 22 | N/A |
| 53 | WMALT 2007-OA2, Class B11 | WAAC | Registered | Obj., Ex. 22 | N/A |
| 54 | WMALT 2007-OA2, Class B12 | WAAC | Private Placement | Obj., Ex. 22 | Tranq. Resp., Ex. 22 |
| 55 | WMALT 2007-OA2, Class B13 | WAAC | Private Placement | Obj., Ex. 22 | Tranq. Resp., Ex. 22 |
| 56 | WMALT 2007-OA2, Class B14 | WAAC | Private Placement | Obj., Ex. 22 | Tranq. Resp., Ex. 22 |

CERTIFICATE OF SERVICE

I, John H. Schanne, II, hereby certify that on the 3rd day of January, 2012, I did serve the foregoing by causing a copy of the **Motion of the Official Committee of Unsecured Creditors to Alter or Amend the Court's Opinion and Order Regarding Subordination of the Claim of Tranquility Master Fund, Ltd.** to be served via United States mail, first class, postage pre-paid, or as indicated, upon those parties listed on the attached service list.

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