

# **EXHIBIT B**

UNITED STATES BANKRUPTCY COURT

DISTRICT OF DELAWARE

Case No. 08-12229 (MFW)

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In the Matter of:

WASHINGTON MUTUAL, INC., et al.,

Debtors.

- - - - -x

United States Bankruptcy Court

824 North Market Street

Wilmington, Delaware

May 5, 2010

10:30 AM

B E F O R E:

HON. MARY F. WALRATH

U.S. BANKRUPTCY JUDGE

ECR OPERATOR: BRANDON MCCARTHY

VERITEXT REPORTING COMPANY

1 litigation was in process, and that was well known. And even  
2 the request of the debtors with the consent of the creditors'  
3 committee to ask the Court to refrain from ruling in the  
4 debtors' summary judgment motion in the turnover action was due  
5 to the progress that was being made in the ongoing settlement  
6 negotiations.

7 I realize that Susman Godfrey is the fourth counsel to  
8 the equity committee here, but if we go back to January and the  
9 time that Venable was being proposed as counsel to the equity  
10 committee, I personally spoke at length with counsel from  
11 Venable about the strengths and weaknesses of the various  
12 causes of action. We went through long lists of all of these  
13 assets. I had personal conversations with Mr. Rose of the  
14 Venable firm. I sat down in a meeting with Quinn Emanuel and  
15 three members of the Venable law firm to go through extensively  
16 all of the adversary proceedings and to share with them, after  
17 we had entered into an appropriate confidentiality agreement,  
18 out thought processes regarding those litigations and regarding  
19 those assets. We spent a lot of time with the equity  
20 committee, Your Honor.

21 And so what I'd like to say in conclusion to this  
22 third point is that we have done this investigation. The  
23 creditors' committee has spent extensive time and we've spent a  
24 lot of the estate's money doing an investigation of all of  
25 these assets and all of these potential claims. And so it

1 We believe it is entirely appropriate for this Court and  
2 necessary for this Court to rule on the examiner motion before  
3 any dealings with the trustee motion that was filed late last  
4 night. What we suggested is the actual naming -- if there is a  
5 problem, the actual naming of the examiner, after the trustee  
6 submits it to this Court for approval, may be delayed if this  
7 Court wants. But in the HSH case, in the transcript, this  
8 Court made clear that they can proceed simultaneously and that  
9 we'll deal with this as it comes up first. So we think that  
10 this Court should expeditiously resolve one way or the other  
11 this pending motion.

12 There's also a red hearing about the -- excuse me, a  
13 red herring about the disclosure statement itself and how we're  
14 just trying to do it with respect to the -- trying to preview  
15 our disclosure statement. Nothing could be further from the  
16 truth. We are here because we don't have all the factual  
17 information. The difference between challenging it in plan  
18 confirmation and challenging it in terms of, you know, the  
19 settlement, versus getting an examiner to independently  
20 evaluate it here --

21 Your Honor, in my initial statement I went over a  
22 whole list of things that it appears that the debtors, the  
23 creditors' committee, the investigation, has not even looked  
24 at. I don't think they disputed any of that. They haven't  
25 taken a single deposition of JPMorgan. They haven't -- they

1 said they've done all this investigation. They haven't even  
2 seen JPMorgan's documents from third parties yet. Yet they  
3 want to say that they can settle these claims? They talk about  
4 these investigations that are ongoing, but they don't have the  
5 results of those investigations. That's why we -- exactly why  
6 we need an examiner. And in fact the examiner can build upon  
7 the very work that the creditors' committee has done, that the  
8 debtors have done, that the investigations in the Senate that  
9 took place after the settlement was announced are revealing.

10 They say that our purpose is to delay, but I don't  
11 know how we can delay when they don't even have a plan to  
12 present to this Court that has a final approval of all parties.  
13 Not only does it not have the FDIC, but a condition precedent  
14 of the settlement is for the WMB bondholders' claims to be  
15 disallowed, and that is just starting with the discovery  
16 schedule on this.

17 So to say that we're here for delay when there's  
18 already going to be a lag in terms of having the plan  
19 confirmation process is not consistent with the actual facts.  
20 What we are looking -- we are not out for delay. What we are  
21 looking for is to maximize the value of this estate.

22 And Mr. Rosen gave it all away when he said that  
23 again -- and the creditors' committee, Mr. Johnson, when he  
24 said again that we are out of the money. We don't believe  
25 that. We want -- at least we want to just not take their word

1 for that. We want to see after an investigation into the facts  
2 about what exists, and we have not had that investigation.

3 There's also been of course some confusion about what  
4 exactly they've looked at. The briefing says 7.6 million  
5 documents. Mr. Johnson says 100,000 documents. The briefing  
6 says 40,000 documents from JPMorgan, which is about 16 banker's  
7 boxes. The argument said about 30,000, which is about 12  
8 banker's boxes. And these are minor differences, but the point  
9 is even the two parties most saying that we've done the  
10 investigation doesn't (sic) appear to know even what it's  
11 reviewed.

12 And so we are here because -- oh -- because we believe  
13 we want to maximize the value of the estate. And, again, Your  
14 Honor, we can build, through the examiner, of what the  
15 creditors' committee and the debtors have uncovered. You know,  
16 they say that they've scoured the details here. I just don't  
17 understand how they can scour the details without having looked  
18 at basic facts.

19 And so, lastly, just on what we've looked at, we have  
20 not seen any of the documents, which perhaps is why they say we  
21 moved both prematurely and too late for this. But Susman  
22 Godfrey has not yet seen them because of the confidentiality  
23 order. There have been requests to remove prior counsel.

24 And so of course we are trying to expeditiously look  
25 at it, but to say that somehow in the three months between the