

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

In re:

WASHINGTON MUTUAL, INC. *et al.*,

Debtors.

Chapter 11

Case No. 08-12229 (MFW)

MOTION OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS TO FILE UNDER SEAL THE UNREDACTED VERSIONS OF THE: (I) POST-CONFIRMATION HEARING BRIEF OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS IN SUPPORT OF CONFIRMATION OF THE MODIFIED SIXTH AMENDED PLAN OF REORGANIZATION [DOCKET NO. 8073] WITH RESPECT TO INSIDER TRADING AND EQUITABLE CONDUCT ISSUES; AND THE (II) OBJECTION OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS TO MOTION FOR AN ORDER AUTHORIZING THE OFFICIAL COMMITTEE OF EQUITY SECURITY HOLDERS TO COMMENCE AND PROSECUTE CERTAIN CLAIMS OF DEBTORS' ESTATES

The Official Committee of Unsecured Creditors (the "Creditors' Committee") of Washington Mutual, Inc. *et al.* (the "Debtors") hereby respectfully moves (the "Motion to Seal") to File Under Seal the Unredacted Versions of the: (i) *Post-Confirmation Hearing Brief Of The Creditors' Committee In Support Of Confirmation Of The Modified Sixth Amended Plan Of Reorganization With Respect To Insider Trading And Equitable Conduct Issues* (the "Post-Confirmation Hearing Brief"); and the (ii) *Objection Of The Creditors' Committee To Motion For An Order Authorizing The Official Committee Of Equity Security Holders To Commence And Prosecute Certain Claims Of Debtors' Estates* (the "Standing Objection" and, together with the Post-Confirmation Hearing Brief, the "Sealed Documents"), and in support of this Motion to Seal, the Creditors' Committee respectfully states as follows:

1. Concurrently with this Motion to Seal, the Creditors' Committee has filed the Post-Confirmation Hearing Brief and the Standing Objection. In the Post-Confirmation Hearing Brief, the Creditors' Committee makes reference to evidence adduced at the

Confirmation Hearing related to insider trading and inequitable conduct allegations of the Official Committee of Equity Security Holders (the “Equity Committee”). In the Standing Objection, the Creditors’ Committee has objected to the Equity Committee’s request that this Court grant it derivative standing so that it may prosecute certain claims based upon this same alleged misconduct.

2. The Creditors’ Committee respectfully requests the entry of an Order authorizing it to file the unredacted versions of the Sealed Documents under seal, and directing that the unredacted Sealed Documents remain under seal and confidential, and not be made available to any entity other than: (i) the Court; (ii) the Debtors; (iii) the Office of the United States Trustee; (iv) the Equity Committee; (v) Appaloosa Management, L.P.; (vi) Aurelius Capital Management, LP; (vii) Centerbridge Partners, L.P.; and (viii) Owl Creek Management LP.¹

3. Section 107(b) of Title 11 of the United States Code (as amended, the “Bankruptcy Code”) provides bankruptcy courts with the power to issue orders that will protect entities from potential harm that may result from the disclosure of certain confidential information. Bankruptcy Code section 107(b) provides, in relevant part:

On request of a party in interest, the bankruptcy court shall, and on the bankruptcy court’s own motion, the bankruptcy court may - -
(1) protect an entity with respect to a trade secret or confidential research, development, or commercial information; or (2) protect a person with respect to scandalous or defamatory matter contained in a paper filed in a case under this title.

11 U.S.C. § 107(b).

4. Rule 9018 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) defines the procedures by which a party may move for relief under section 107(b), and

¹ Appaloosa Management, L.P., Aurelius Capital Management, LP, Centerbridge Partners, L.P. and Owl Creek Management LP shall collectively be referred to herein as the “Settlement Noteholders.”

provides that “[o]n motion, or on its own initiative, with or without notice, the court may make any order which justice requires (1) to protect the estate or any entity in respect of a trade secret or other confidential research, development, or commercial information [or] (2) to protect any entity against scandalous or defamatory matter contained in any paper filed in a case under the Code . . .”. FED. R. BANKR. P. 9018.

5. Sufficient cause exists for this Court to grant the relief requested in this Motion to Seal. The Sealed Documents contain citations and references to the record at the Confirmation Hearing, including certain exhibits that were submitted under seal. Certain factual recitations in the Sealed Documents also refer to documents and information that, arguably, are subject to that certain Confidentiality Agreement Governing the Production and Use of Confidential Material (the “Agreement”) between the Debtors, Creditors’ Committee, Equity Committee and the Settlement Noteholders. (*See* D.I. No. 6831). Thus, public disclosure of such information could potentially violate the Agreement and/or this Court’s directions respecting the sealing of certain exhibits offered at the Confirmation Hearing. Furthermore, this information may constitute non-public commercial information belonging to creditors that have requested such information be kept confidential.

WHEREFORE, the Creditors' Committee respectfully requests that the Court enter an Order granting this Motion to Seal, authorizing the filing of the unredacted versions of the Sealed Documents under seal, directing that the unredacted Sealed Documents remain under seal and confidential, and not be made available to any entity other than: (i) the Court; (ii) the Debtors; (iii) the Office of the United States Trustee; (iv) the Equity Committee; and (v) the Settlement Noteholders, and granting such other and further relief that the Court deems just and proper.

Dated: August 10, 2011
Wilmington, DE

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