

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

In re

WASHINGTON MUTUAL, INC., et al.,¹

Debtors.

:
:
: CHAPTER 11

:
: Case No. 08-12229 (MFW)

:
: (Jointly Administered)

:
: Ref. Docket Nos. 974, 1017, 1036,
: 1219, 1220, 1237

**BRIEF OF JPMORGAN CHASE BANK, N.A. IN SUPPORT OF MOTION FOR
RECONSIDERATION OF OPINION AND ORDER GRANTING DEBTORS' MOTION
FOR RULE 2004 DISCOVERY**

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¹ Debtors in these chapter 11 cases and the last four digits of each Debtor's federal tax identification numbers are: (a) Washington Mutual, Inc. (3725); and (b) WMI Investment Corp. (5395). Debtors continue to share their principal offices with the employees of JPMorgan Chase located at 1301 Second Avenue, Seattle, Washington 98101.

JPMorgan Chase, National Association (“JPMC”) submits this memorandum in support of its Motion for Reconsideration of Opinion and Order Granting Debtors’ Motion for Rule 2004 Discovery (the “2004 Motion”).² In granting the Debtors’ 2004 Motion, the Court apparently did not take into account the Debtors’ Counterclaims (“Counterclaims”) in the adversary proceeding entitled *JPMorgan Chase Bank, National Association v. Washington Mutual, Inc., et al.*, Adversary No. 09-50551 (the “JPMC Adversary Proceeding”), which were filed on May 29, 2009, after the Debtors’ 2004 Motion had been briefed and argued. When the relationship between the 2004 discovery requested by the Debtors and the Debtors’ Counterclaims is considered, the 2004 discovery is impermissible under the precise legal standard adopted by the Court in its Opinion. (*See* Opinion at 9-12.) Each of the four items on which 2004 discovery is sought (*see* Order at 6-7) is the direct subject of a counterclaim filed by the Debtors on May 29 and, as a result, that discovery is not properly the subject of a Rule 2004 examination but must be taken in the JPMC Adversary Proceeding pursuant to, and subject to the safeguards and protections of, the Federal Rules of Civil Procedure as incorporated into the Bankruptcy Rules.

BACKGROUND

The Debtors filed their 2004 Motion on May 1, 2009 and the Motion was argued before the Court on May 20, 2009. The 2004 Motion sought documents and depositions on four subjects:

- (1) “potential business tort claims against JPM based on allegations in the Texas action;”

² The Court’s Opinion was entered on June 24, 2009 as Docket No. 1219 and the Order was entered the same day as Docket No. 1220.

- (2) “potential fraudulent transfer claims against JPM arising from the approximately \$6.5 billion of capital contributions made by WMI to WMB since December 2007;”
- (3) “potential turnover claims against JPM related to (i) approximately \$177 million owed by WMB under outstanding promissory notes held by non-debtor subsidiaries of WMI, and (ii) approximately \$22.5 million in intercompany receivables owed to WMI by WMB;” and
- (4) “potential preferential transfer claims against JPM arising from approximately \$152 million transferred to WMB or third parties on behalf of WMB in the one-year period preceeding [sic] the filing of the Debtors’ chapter 11 petitions.”

(Opinion at 6-7.)

In granting the Debtors’ 2004 Motion, the Court noted that “[t]he ‘pending proceeding’ rule states ‘that once an adversary proceeding or contested matter has been commenced, discovery is made pursuant to Federal Rules of Bankruptcy Procedure 7026 *et seq.*, rather than by Rule 2004 examination.’” (Opinion at 9.) The Court held that “the relevant inquiry is whether the Rule 2004 examination will lead to discovery of evidence related to the pending proceeding or whether the requested examination seeks to discover evidence unrelated to the pending proceeding.” (Opinion at 12.) If the evidence sought is related to a pending proceeding, a Rule 2004 examination is improper. In granting the Debtors’ 2004 Motion, the Court found that the Rule 2004 discovery being sought was permissible because it was not sufficiently related to either JPMC’s complaint in the JPMC Adversary Proceeding or to the action entitled *Washington Mutual, Inc., et al. v. Federal Deposit Insurance Corporation*,

pending in the United States District Court for the District of Columbia (the “DC Action”).

(Opinion at 15, 17.)

The Court’s Opinion did not consider whether the Rule 2004 discovery requested by the Debtors was related to the Debtors’ Counterclaims in the JPMC Adversary Proceeding, which were filed nine days after the Court heard argument on the 2004 Motion. In those Counterclaims,³ the Debtors, among other things, allege that:

- The FDIC had determined prior to the receivership to accept JPMC’s bid and sell WMB’s assets to JPMC; JPMC received a “windfall” in acquiring WMB’s assets from the FDIC under the terms of the P&A Agreement; WMB did not receive reasonably equivalent value in return for the transfer of WMB’s assets in the P&A transaction; and the transaction by which JPMC acquired WMB’s assets from the FDIC was a fraudulent transfer. (Counterclaims, ¶¶ 68-75, 153-161.)
- They made \$6.5 billion in capital contributions to WMB; the contributions were made at a time that WMI was insolvent; they did not receive reasonably equivalent value for the contributions; the capital contributions were transferred to JPMC by the FDIC pursuant to the P&A Agreement; and the capital contributions are fraudulent transfers that may be recovered from JPMC. (Counterclaims, ¶¶ 13-31 & 93-103 (counterclaims 1 and 2).)
- WMB owed Debtors approximately \$177 million under certain promissory notes and JPMC is obligated to pay those amounts to Debtors. (Counterclaims, ¶¶ 76 & 172-174.)

³ A copy of the Debtors’ Counterclaims is attached to this Brief for the Court’s convenience as Exhibit A.

- WMB or its subsidiary owed Debtors approximately \$22.5 million in intercompany receivables and JPMC is obligated to pay those amounts to Debtors. (Counterclaims, ¶¶ 77 & 172-174.)
- Debtor WMI made approximately \$152 million in intercompany payments to WMB during a one-year period prior to the petition date; WMB was an insider and creditor of WMI; WMB received more than it would have received in a Chapter 7 liquidation on account of the payments; the payments were preferential transfers and/or fraudulent transfers; and the payments may be recovered from JPMC as a subsequent transferee. (Counterclaims, ¶¶ 62-67 & 139-152.)

ARGUMENT

Bankruptcy courts have broad discretionary power to reconsider, modify or vacate their previous orders. *See, e.g., In re Marcus Hook Development Park, Inc.*, 943 F.2d 261, 265 n. 5 (3d Cir. 1991) (“It is well settled that a bankruptcy court has power to vacate or modify its orders, as long as it is equitable to do so.”) (citing *Big Shanty Land Corp. v. Comer Properties, Inc.*, 61 B.R. 272, 282 (Bankr. N.D. Ga. 1985)). This inherent power derives at least in part from Section 105(a) of the Bankruptcy Code, which provides that a bankruptcy court may, “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. §105(a); *In re Argose, Inc.*, 372 B.R. 705, 708 (Bankr. D. Del. 2007) (“Under section 105(a), the Court may modify an order if it is equitable to do so.”)

In evaluating a motion to reconsider an interlocutory order, courts frequently refer to the standards for seeking relief under Fed. R. Civ. P. 59 (incorporated in Bankruptcy Rule 9023). *Calyon New York Branch v. American Home Mortgage*, 383 B.R. 585, 589 (Bankr. D. Del. 2008). Under that standard, the purpose for a motion for reconsideration is “to correct

manifest errors of law or fact or to present newly discovered evidence.” *Max’s Seafood Café v. Quinteros*, 176 F.3d 669, 677 (3d Cir. 1999) (quoting *Harsco Corp. v. Zlotnicki*, 770 F.2d 906, 909 (3d Cir. 1985)).

Reconsideration is necessary and appropriate here because the Court’s Opinion does not take into account the effect of the Debtors’ Counterclaims in the JPMC Adversary Proceeding. Considering those Counterclaims requires that the Motion be denied under the “pending proceeding” legal standard applied by the Court in its Opinion. As made clear above and summarized in the chart below, each of the subjects of the discovery requested by the Debtors in their 2004 Motion is expressly the subject of a pending Counterclaim filed by the Debtors in the JPMC adversary proceeding after they made their 2004 Motion.

2004 Discovery Subject	Counterclaims
<p>1. “Potential business tort claims against JPM based on allegation in the Texas action.” (Opinion at 6.)</p> <p>JPMC engaged in improper conduct in order to induce the regulators “to prematurely seize Washington Mutual, a solvent and liquid bank, and to sell assets of Washington Mutual without an adequate or fair bidding process.” (Texas Complaint, ¶ 32.)</p> <p>JPMC was the only company that submitted a conforming bid to the FDIC for WMB (Texas Complaint, ¶ 63.)</p> <p>The purchase price of \$1.9 billion for most of WMB’s assets and only some of its liabilities was well below the \$7 billion JPMC had offered to pay for all of WMI and its subsidiaries five months earlier. (Texas Complaint, ¶ 67.)</p> <p>“JPMC received a benefit from its</p>	<p>The FDIC had determined prior to the receivership to accept JPMC’s bid and sell WMB’s assets to JPMC; JPMC received a “windfall” in acquiring WMB’s assets from the FDIC under the terms of the P&A Agreement; WMB did not receive reasonably equivalent value in return for the transfer of WMB’s assets in the P&A transaction; and the transaction by which JPMC acquired WMB’s assets from the FDIC was a fraudulent transfer. (Counterclaims, ¶¶ 68-75 & 153-161 (Tenth Counterclaim).)</p>

<p>transaction with the FDIC whereby it obtained the valuable assets of WMB at a price less than its fair market value.” (Texas Complaint, ¶ 101 & Count Three.)</p>	
<p>2. “Potential fraudulent transfer claims against JPM arising from the approximately \$6.5 billion of capital contributions made by WMI to WMB since December 2007.” (Opinion at 7.)</p>	<p>Debtors made \$6.5 billion in capital contributions to WMB; the contributions were made at a time that WMI was insolvent; they did not receive reasonably equivalent value for the contributions; the capital contributions were transferred to JPMC by the FDIC pursuant to the P&A Agreement; and the capital contributions are fraudulent transfers that may be recovered from JPMC. (Counterclaims, ¶¶ 13-31 & 93-103.)</p> <p>“First Counterclaim” – “Avoidance and Recovery of Capital Contributions Pursuant to 11 U.S.C. §§ 548, 550” (Counterclaims, ¶¶ 93-97.)</p> <p>“Second Counterclaim” – “Avoidance and Recovery of Capital Contributions Pursuant to 11 U.S.C. §§ 544, 550; RCW §§ 19.40.041, 19.40.051 & 19.40.081” (Counterclaims, ¶¶ 98-103.)</p>
<p>3. “Potential turnover claims against JPM related to (i) approximately \$177 million owed by WMB under outstanding promissory notes held by non-debtor subsidiaries of WMI, and (ii) approximately \$22.5 million in intercompany receivables owed to WMI by WMB.” (Opinion at 7.)</p>	<p>WMB owed Debtors approximately \$177 million under certain promissory notes and JPMC is obligated to pay those amounts to Debtors. (Counterclaims, ¶¶ 76 & 172-174.)</p> <p>WMB or its subsidiary owed Debtors approximately \$22.5 million in intercompany receivables and JPMC is obligated to pay those amounts to Debtors. (Counterclaims, ¶¶ 77 & 172-174.)</p> <p>“Thirteenth Counterclaim” – “Turnover of Intercompany Amounts Due Pursuant to 11 U.S.C. § 542” (Counterclaims, ¶¶ 172-174.)</p>
<p>4. “Potential preferential transfer claims against JPM arising from approximately \$152 million transferred to WMB or third parties on behalf of WMB in the one-year period preceeding [sic] the filing of the</p>	<p>Debtor WMI made approximately \$152 million in intercompany payments to WMB during a one-year period prior to the petition date; WMB was an insider and creditor of WMI; WMB received more than it would have</p>

<p>Debtors' chapter 11 petitions." (Opinion at 7.)</p>	<p>received in a Chapter 7 liquidation on account of the payments; the payments were preferential transfers and/or fraudulent transfers; and the payments may be recovered from JPMC as a subsequent transferee. (Counterclaims, ¶¶ 62-67 & 139-152.)</p> <p>"Eighth Counterclaim" – "Avoidance and Recovery of Preferential Transfers to WMB Pursuant to 11 U.S.C. §§ 547, 550" (Counterclaims, ¶¶ 139-145.)</p> <p>"Ninth Counterclaim" – "Avoidance and Recovery of Preferential Transfers to WMB Pursuant to 11 U.S.C. §§ 544, 550; RCW §§ 19.40.051, 19.40.071 & 19.40.081" (Counterclaims, ¶¶ 146-152.)</p>
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In granting the 2004 Motion, the Court did not take into account the Debtors' Counterclaims in the JPMC Adversary Proceeding, which although not filed when the Debtors made their 2004 Motion, had been filed before the Court ruled on the Motion. Even accepting the Court's conclusions that the discovery requested by the Debtors in the 2004 Motion was not sufficiently related to JPMC's complaint in the JPMC Adversary Proceeding or to the D.C. Action to preclude the use of a Rule 2004 examination, the requested Rule 2004 discovery is without question directly related to the Debtors' own Counterclaims in the JPMC Adversary Proceeding, which state the very claims on which discovery is sought. Because the JPMC Adversary Proceeding is a pending proceeding between the Debtors and JPMC, and because there is a direct relationship between the discovery requested in the 2004 Motion and the Counterclaims already asserted by the Debtors in that Adversary Proceeding, the Debtors may not properly proceed by way of Rule 2004 examination. (See Opinion at 11-12.)

As the Court observed in its Opinion, “[t]he primary concern of courts is the use of Rule 2004 examinations to circumvent the safeguards and protections of the Federal Rules of Civil Procedure.” (Opinion at 11-12.) Following the Court’s ruling, the Debtors’ counsel bragged to the press: “We walked out of there thinking we had just scored a three-run home run, and then, like gravy, an hour later she issues this opinion saying [WaMu] can have unlimited discovery of Chase.” (Exhibit B.) This statement by the Debtors’ own counsel highlights precisely the reason that Rule 2004 examinations are not permitted in situations like this, where the subject of a Rule 2004 examination is the subject of pending litigation, because 2004 discovery is not constrained by the protections of the Federal Rules of Civil Procedure and can be used, without constraint as is being threatened here, for abusive purposes. The Court should, therefore, reconsider its prior ruling and deny the 2004 Motion.

CONCLUSION

In light of the Debtors’ Counterclaims in the JPMC Adversary Proceeding, the Court should reconsider its Order granting the Debtors’ 2004 Motion and issue an Order denying that Motion.

Dated: June 26, 2009
Wilmington, Delaware

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'A. G. Landis', written over a horizontal line.

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Exhibit A

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

	x	
<i>In re</i>	:	Chapter 11
	:	
WASHINGTON MUTUAL, INC., et al. ¹	:	Case No. 08-12229 (MFW)
	:	
Debtors.	:	Jointly Administered
	:	
	x	
JPMORGAN CHASE BANK, NATIONAL ASSOCIATION	:	Adversary Proceeding No. 09-50551
	:	
Plaintiff	:	
	:	
- against -	:	
	:	
WASHINGTON MUTUAL, INC. AND WMI INVESTMENT CORP.,	:	JURY TRIAL DEMANDED FOR COUNTERCLAIMS 15 – 18
	:	
Defendants for all claims,	:	
	:	
- and-	:	
	:	
FEDERAL DEPOSIT INSURANCE CORPORATION,	:	Re: Docket No. 1
	:	
Additional Defendant for Interpleader claim.	:	
	:	
	x	

**DEBTORS' ANSWER AND COUNTERCLAIMS IN
RESPONSE TO THE COMPLAINT OF JPMORGAN CHASE BANK, N.A.**

¹ The Debtors in these Chapter 11 cases and the last four digits of each Debtor's federal tax identification numbers are: (i) Washington Mutual, Inc. (3725) and (ii) WMI Investment Corp. (5395). The Debtors continue to share their principal offices with the employees of JPMorgan Chase located at 1301 Second Avenue, Seattle, Washington 98101.

DEBTORS' COUNTERCLAIMS

The Debtors, through their undersigned counsel, bring the following Counterclaims against JPMorgan Chase. The Debtors assert and expressly reserve all rights with respect to all counterclaims or cross-claims that may be revealed during the course of discovery, including the right to amend to assert any counterclaims or cross-claims that may hereafter be revealed during discovery.

INTRODUCTION

1. This suit is brought to redress certain injuries that WMI has suffered as a result of fraudulent and preferential transfers of potentially more than \$10 billion in WMI assets to WMB and subsequently to JPMorgan Chase, among other things.
2. Since at least December 2007 until it was ultimately seized and placed into receivership by the FDIC, WMB was under liquidity pressure. During this period, WMI downstreamed billions of dollars without recompense and made significant preferential transfers to WMB on account of antecedent debts.
3. To the extent such contributions were made at a time when WMI was insolvent or engaged in business for which its assets were unreasonably small capital and when WMB was insolvent, WMI received no consideration in exchange for making such contributions and they are avoidable as a matter of law. Moreover, contributions or other transfers made when the likelihood of the FDIC's seizure was increasingly becoming inevitable resulted in WMI again receiving no consideration in exchange for making such contributions. Similarly, to the extent the transfers on account of prior obligations were made at a time when WMI was insolvent, they too are avoidable as a matter of law.
4. WMI and WMB's financial condition ultimately resulted in regulatory action. On the Receivership Date, by order number 2008-36, the OTS closed WMB and appointed the FDIC

Receiver. Immediately upon its appointment, the FDIC sold the majority of WMB's assets – having a book value of more than \$300 billion – to JPMorgan Chase in exchange for payment of just \$1.88 billion (the "P&A Transaction"), pursuant to the P&A Agreement.

5. JPMorgan Chase thereupon booked an extraordinary gain, reflecting that it acquired WMB's assets at a significant discount to fair market value. Specifically, based upon JPMorgan Chase's own accounting, the adjusted fair value of the net assets acquired was higher than the purchase price paid in the amount of \$1.9 billion – an amount in and of itself more than the total consideration paid by JPMorgan Chase. Moreover, JPMorgan Chase has recently announced that it stands to realize a \$29 billion gain on WMB assets it purchased and marked down pursuant to the P&A Transaction based upon the actual value of such assets. On the date of the P&A Transaction, WMI was both a creditor and a stockholder of WMB, and thus WMI was harmed further by this transaction. The next day, the Debtors commenced their cases under chapter 11 of the Bankruptcy Code.

JURISDICTION AND VENUE

6. This is an action pursuant to Federal Rule of Bankruptcy Procedure 7001 and 11 U.S.C. §§ 541, 544, 547, 548, and 550.

7. The Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. §§ 157(b) and 1334(b).

8. Venue is proper in this Court under 28 U.S.C. § 1409(b).

9. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

THE PARTIES

10. Counterclaim-Defendant JPMorgan Chase is a national banking association organized under the laws of the United States with its principal place of business in Columbus, Ohio.

JPMorgan Chase is a wholly-owned subsidiary of JPMorgan Chase & Co., a corporation organized under the laws of Delaware.

11. Counterclaim-Plaintiff WMI is a corporation organized under the laws of the State of Washington with its principal place of business located at 1301 Second Avenue, Seattle, Washington 98101.

12. Counterclaim-Plaintiff WMI Investment is a corporation organized under the laws of the State of Delaware with its principal place of business located at 1301 Second Avenue, Seattle, Washington 98101.

FACTUAL ALLEGATIONS

A. WMI's Capital Contributions

13. From December 2007 through April 2008, WMI made the Capital Contributions to WMB in the amount of \$6.5 billion:

<u>Date</u>	<u>Amount Contributed to WMB</u>
December 18, 2007 (the "December '07 Capital Contribution")	\$1 billion
April 18, 2008 (the "April '08 Capital Contribution")	\$3 billion
July 21, 2008 (the "July '08 Capital Contribution")	\$2 billion
September 10, 2008 (the "September '08 Capital Contribution")	\$500 million

14. During this period, WMI had public debt obligations of approximately \$7 billion, 3.5 million shares of preferred stock, and more than 1.7 billion shares of common stock.

15. All Capital Contributions made at a time when WMI was insolvent or engaged in business for which its assets were unreasonably small capital and when WMB was insolvent resulted

in WMI receiving no consideration in exchange for making such contributions. Moreover, Capital Contributions made during this period, when the likelihood of the FDIC's closing of WMB was increasingly inevitable, although not understood to be by WMI, resulted in WMI receiving no consideration in exchange for making such contributions. Thus, WMB (and ultimately, JPMorgan Chase) received the benefit of billions of dollars of Capital Contributions to the detriment of WMI.

(i) December '07 and April '08 Capital Contributions

16. In December 2007, WMI was recognizing serious signs of asset deterioration. On December 10, 2007, WMI announced a loss for the fourth quarter because of a \$1.6 billion charge to write down the value of its home-loan business, and its plans to lay off approximately 3,150 employees. *See* Bill Virgin, *WaMu To Slash 3,150 Jobs Facing Fourth Quarter Loss, Bank Cuts Dividend 73% And Sets Office Closures*, THE SEATTLE POST-INTELLIGENCER, Dec. 11, 2007, at A1.

17. At this time, WMI already carried a debt burden that included approximately \$7 billion in publicly-traded debt.

18. On the day of the April '08 Capital Contribution, WMI announced a net loss of approximately \$1.1 billion, a provision for loan losses for the first quarter of approximately \$3.5 billion, and expected first quarter net charge-offs of approximately \$1.4 billion. *See* Washington Mutual, Inc. Press Release, *Company Expects First Quarter Net Loss of Approximately \$1.1 Billion*, April 8, 2008.

(ii) July '08 Capital Contribution

19. On June 30, 2008, the OTS completed an examination of WMB and identified various "supervisory issues," and a general weakened financial condition. Pursuant to this examination WMB's board of directors and management were instructed to construct a three-year business plan to be submitted to the OTS for its approval. This examination culminated on September 7, 2008, when the OTS entered into Memorandums of Understanding with each of WMI and WMB (the "MOUs").

The MOU entered into by WMB provided various measures aimed at improving its financial health, including, among other things, limitations placed on the ability of WMB to pay dividends, a requirement that WMB's board of directors review and approve a "contingency capital plan," and incorporation of an asset reduction plan with respect to certain targeted assets.

20. On Friday, July 11, 2008, the OTS seized IndyMac Bank and appointed the FDIC receiver of its assets. *See IndyMac Taken Over By Regulators*, REUTERS, July 11, 2008. On Monday, July 14, 2008, WMB experienced significant loss of deposits in the wake of IndyMac Bank being placed into receivership.

21. On July 22, 2008 – one day after the July '08 Capital Contribution was made – WMI announced a second quarter net loss of \$3.33 billion and increased loan loss provisions by 69 percent to \$5.9 billion. *See Washington Mutual, Inc. Press Release, WaMu Reports Significant Build-Up of Reserves Contributing to Second Quarter Net Loss of \$3.3 Billion*, July 22, 2008. WMI's second quarter announcement spurred analyst concerns. Citi analyst Bradley Ball stated Citi's concern that "credit and market conditions will continue to damage Washington Mutual's financial flexibility over the near to intermediate term." *See Maurna Desmond, Alarm Over WaMu*, FORBES.COM, July 24, 2008.³ Richard Bove, a Ladenburg Thalmann analyst, discussing his firm's projections noted that, "these numbers are based on our projection of what Washington Mutual must do to return to profitability, not what is necessarily likely to happen." *Id.*

22. The capital markets evidenced WMI's financial distress. WMI credit default swaps (reflecting risk of default on WMI's publicly-issued notes) were trading at record-high levels just four days after the consummation of the July '08 Capital Contribution. *See Shannon D. Harrington,*

³ http://www.forbes.com/2008/07/24/wamu-analyst-update-market-equity-cx_md_0724markets46.html.

WaMu Bond Risk Climbs to Record Amid Mortgage Losses, BLOOMBERG.COM, July 25, 2008.⁴ Further indicative of WMI's financial distress, WMI subordinated notes were offering 15.0% yields to compensate investors for their risk, in stark contrast to five-year Treasury bonds that were offering a mere 3.3%. See Maurna Desmond, *Alarm Over WaMu*, FORBES.COM, July 24, 2008.

(iii) September '08 Capital Contribution

23. In September, 2008, WMI and WMB continued to experience a deterioration of their financial positions. On September 7, 2008, it was reported that WMI was forced to replace its then acting CEO, Kerry Killinger. *Washington Mutual CEO Killinger is out*, CNNMONEY.COM, Sept. 7, 2008.⁵ The September '08 Capital Contributions were transferred to WMB only three days later.

24. The ratings agencies perceived WMI's financial distress. One day after the September '08 Capital Contributions were made, on September 11, 2008, both Moody's and Fitch Ratings downgraded their ratings on WMI to "junk status" and BBB- "with a negative outlook," respectively. See *Washington Mutual tries to soothe anxiety*, CNNMONEY.COM, September 7, 2008.⁶ Just five days later, Standard & Poor's followed suit, lowering its WMI ratings to three levels below investment grade. See Ari Levy, *WaMu Rating Lowered to Junk by S&P on Mortgage Losses*, BLOOMBERG.COM, Sept. 15, 2008.⁷

25. In a September 25, 2008 letter to the WMI board of directors, the OTS discussed the prior two-week period as one of substantial "deposit outflows" from WMB that gave rise to "significant liquidity pressures." During this period, more than \$16.7 billion was withdrawn by

⁴ <http://www.bloomberg.com/apps/news?pid=20601087&sid=ax7YtHccUeAQ&refer=home>

⁵ http://money.cnn.com/2008/09/07/news/companies/wamu_ceo/?postversion=2008090722

⁶ http://money.cnn.com/2008/09/12/news/companies/wamu_3Q_update/index.htm

⁷ http://www.bloomberg.com/apps/news?pid=20601087&sid=awDjhtIfoz_Q

WMB customers. *See* Robin Sidel, David Enrich, and Dan Fitzpatrick, *WaMu Is Seized, Sold Off to J.P. Morgan, In Largest Failure in U.S. Banking History*, WALL ST. J., Sept. 26, 2008, at A1. The OTS ultimately concluded that WMB "is likely to be unable to pay its obligations or meet its depositors' demands in the normal course of business because it does not have sufficient liquid assets to pay those obligations and fund the expected withdrawals." *See* OTS Order 2008-36 at 2.

(iv) Capital Contributions Were Made For Less Than Reasonably Equivalent Value

26. To the extent that as of the time the Capital Contributions were made, WMB was insolvent, WMI's equity value in those entities was worthless and WMI did not receive any value in exchange for the Capital Contributions. Moreover, as the prospect of WMB being seized by the OTS approached inevitability, WMI's equity shares in WMB were likewise valueless.

27. WMI did not receive any tangible benefit in exchange for disbursing the funds. WMI received no indirect benefit either, such as increased equity value flowing from its wholly-owned subsidiary, WMB. At such time, there was no possibility that WMI would ever receive any return on the Capital Contributions.

28. At all such times, WMI had a debt burden of more than \$7 billion, and its primary asset, the equity value in WMB, was reduced to nothing. To the extent that WMI was either insolvent or engaged in business for which its assets were unreasonably small capital, each of the Capital Contributions harmed WMI and are avoidable as a matter of law.

(v) Capital Contributions are Subsequently Transferred to JPMorgan Chase

29. The Capital Contributions were transfers of an interest in WMI's property. In its Complaint, JPMorgan Chase admits that the Capital Contributions were transferred to WMB, stating: "WMI formally contributed to WMB at least \$6.5 billion of the approximately \$10.2 billion in capital it had raised." (Complaint at ¶ 35).

30. Pursuant to the P&A Agreement, JPMorgan Chase purchased substantially all of WMB's assets. On the Receivership Date, funds that comprised the Capital Contributions were transferred to JPMorgan Chase.

31. Because the Capital Contributions are avoidable as constructive fraudulent transfers, WMI may recover from JPMorgan Chase as the subsequent transferee of the Capital Contributions, either the Capital Contributions or the value of the Capital Contributions for the benefit of WMI's estate pursuant to section 550 of the Bankruptcy Code. On the Receivership Date, JPMorgan Chase knew or should have known of the Capital Contributions and about the respective financial conditions of WMI and WMB. Thus, JPMorgan Chase did not acquire its interest in WMI property in good faith and without knowledge of the voidability of the Capital Contributions.

B. The Trust Securities

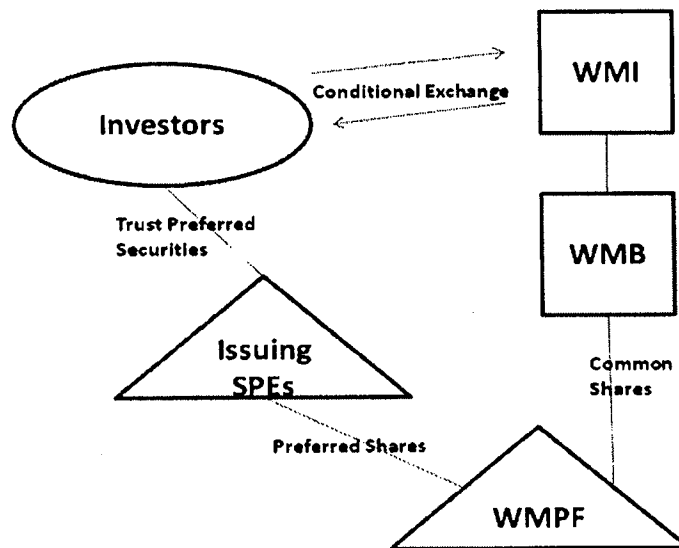
(i) Issuance of the Trust Securities

32. Between March 2006 and October 2007, in four instances, certain SPEs associated with WMI and its then subsidiaries issued the Trust Securities in connection with, and facilitated by, WMPF. The Trust Securities have an aggregate liquidation preference of approximately \$4 billion and upon information and belief are currently worth at least as much.

33. WMPF's assets were limited to direct or indirect interests in mortgage or mortgage-related assets, cash, and other permitted assets which were held in certain trusts. WMPF issued preferred securities which were held by, and were the only asset of, the SPEs. These securities were senior in priority to the common equity interests of WMPF which were indirectly held by WMB and WMI. In turn, the SPEs issued the Trust Securities.

34. The Trust Securities were offered and sold to "qualified institutional buyers" or "qualified purchasers" subject to a conditional exchange feature that operated to exchange the Trust Securities into related classes of WMI preferred stock, or depository shares representing WMI

preferred stock, upon the occurrence of certain events as directed by the OTS under certain circumstances (*i.e.*, WMB becoming undercapitalized, WMB being placed into receivership, or the OTS anticipating WMB becoming undercapitalized in the near future, each an "Exchange Event"). Pursuant to the declaration of such an Exchange Event, the Trust Securities would be then held by WMI, having been exchanged for newly-issued preferred stock of WMI (a "Conditional Exchange"). A simplified illustrative chart follows:



35. On February 23, 2006, by letter addressed to Darrel Dochow of the OTS, John F. Robinson, WMI Corporate Risk Management, indicated to the OTS that if, as a result of the occurrence of an Exchange Event declared by the OTS, WMI issues preferred stock, or depository shares representing WMI preferred stock, in exchange for the Trust Securities, "WMI will contribute to WMB the [Trust Securities]" (collectively, with the November 14, 2006 and the August 17, 2007 correspondence discussed below, the "Downstream Undertakings"). On February 24, 2006, the OTS responded by letter from Dochow to Robinson, indicating that it would consider the value of the Trust Securities in WMB's core capital in light of WMI's Downstream Undertaking. With respect to

subsequent issuances of Trust Securities, similar letter exchanges took place on November 14, 2006 and December 4, 2006, and August 17, 2007 and September 20, 2007.

36. The February 26, 2006 OTS letter went on to state that "[n]otwithstanding the above, the OTS reserves the right, in its sole discretion, to exclude the [Trust Securities] (or prospective issuances of [Trust Securities]) if the terms are revised or it otherwise ceases to provide meaningful capital support and a realistic ability to absorb losses, or otherwise raises supervisory concerns." Similar reservations of rights appeared in correspondence relating to subsequent issuances of Trust Securities (collectively, the "OTS Reservation of Rights").

37. The Trust Securities were certificated securities, represented by global certificates held by Depository Trust Company ("DTC") and registered in the name of DTC's nominee, Cede & Co.

(ii) The OTS Declares an Exchange Event

38. On September 24, 2008, the day prior to the Receivership Date, the OTS notified WMI that an Exchange Event had occurred.

39. On September 25, 2008, by letter addressed to Steve Frank and Alan Fishman of WMI from Darrel Dochow of the OTS, the OTS directed WMI to cause a Conditional Exchange, exchanging the Trust Securities for preferred shares of WMI.

40. Later that day, immediately after the OTS closed WMB, its assets were purportedly sold to JPMorgan Chase pursuant to the P&A Transaction.

41. Still later that day, just prior to 9:00 p.m. Eastern time, an employee of WMI executed an Assignment Agreement which purported to assign the right, title, and interest in the Trust Securities to WMB (the "Assignment").

42. Pursuant to section 4.08 of the Amended and Restated Trust Agreement, dated as of March 7, 2006 (the "Trust Agreement") governing the Trust Securities, the Trust Securities were to

be transferred to WMI in a Conditional Exchange at "the earliest possible date such exchange could occur consistent with the directive, as evidenced by the issuance by WMI of a press release prior to such time." (Trust Agreement §4.08). WMI sent a letter to the OTS on the evening of September 25, 2008, indicating that the Conditional Exchange would occur at 8:00 a.m. Eastern time on the 26th of September and that WMI would immediately contribute the Trust Securities to WMB upon the Conditional Exchange.

(iii) The Transfer of the Trust Securities Was Made For Less Than Reasonably Equivalent Value

43. The transfer of the Trust Securities pursuant to the Assignment Agreement is avoidable as a constructive fraudulent transfer of an interest in WMI's property that harmed WMI and its creditors.

44. At 8:00 a.m. Eastern time on the Petition Date, at a time when WMI was insolvent, WMI transferred the Trust Securities to WMB or to JPMorgan Chase, as successor in interest to WMB (Complaint at ¶ 79), for no consideration.

45. WMI did not receive any direct benefit in exchange for the transfer of the Trust Securities. WMI received no indirect benefit either, such as increased equity value flowing from WMB because its wholly-owned subsidiary WMB was insolvent. Moreover, both the transfer, and the Assignment the day prior, were made after WMB had been seized by the OTS, and thus WMI's equity shares in WMB were likewise valueless.

46. JPMorgan Chase is liable to WMI's estate as an initial or subsequent transferee of the Trust Securities. On the Receivership Date and the Petition Date, JPMorgan Chase knew or should have known of the transfers of the Trust Securities and about the financial condition of WMI and WMB. Thus, JPMorgan Chase did not acquire its interest in WMI property in good faith and without knowledge of the voidability of the transfer of the Trust Securities.

(iv) In the Alternative, the Transfer of the Trust Securities in Satisfaction of the Downstream Undertakings is Fraudulent as to Creditors and a Voidable Preference

47. Alternatively, the transfer of the Trust Securities at 8:00 a.m. Eastern time on the Petition Date in satisfaction of the Downstream Undertakings was both fraudulent as to WMI's creditors under applicable state law and a preferential transfer under the Bankruptcy Code.

48. First, the transfer of the Trust Securities was fraudulent as to WMI's creditors that existed as of the date of the transfer under applicable state law because the transfer was made to an insider, WMB or JPMorgan Chase, as successor in interest to WMB, while WMI was insolvent and while WMB or JPMorgan Chase had reasonable cause to believe that WMI was insolvent. The transfer was made on account of an antecedent obligation – the Downstream Undertakings. Thus, JPMorgan Chase is liable to WMI's estate as an initial or subsequent transferee of the Trust Securities. On the Receivership Date and the Petition Date, JPMorgan Chase knew or should have known of the purported transfers of the Trust Securities and about the financial condition of WMI. Thus, JPMorgan Chase did not acquire its interest in WMI property in good faith and without knowledge of the voidability of the transfer of the Trust Securities.

49. Second, the transfer of the Trust Securities was a preferential transfer under the Bankruptcy Code. At a time when WMI was insolvent, WMI transferred the Trust Securities on account of an antecedent obligation – the Downstream Undertakings.

50. The transfer was made either to WMB or JPMorgan Chase and enabled WMB or JPMorgan Chase to receive more than either would have received if WMI had not transferred the Trust Securities and had filed a bankruptcy case under chapter 7 of the Bankruptcy Code.

51. JPMorgan Chase expressly did not acquire any claims against WMI under the P&A Agreement and cannot be construed as a contractual assignee (P&A Agreement, Schedule 3.5), yet it asserted a claim to the Trust Securities in light of its assumption of all of WMB's deposit liabilities.

If the Trust Securities are deemed to have been transferred to JPMorgan Chase, they were transferred to JPMorgan Chase as subrogee to WMB, and subrogees do not enjoy the priority contemplated by section 507(a)(9) of the Bankruptcy Code. Therefore, the transfer enabled WMB to receive more than it would have received in a hypothetical WMI chapter 7 bankruptcy case. As such, JPMorgan Chase would be left with only a general unsecured claim and would stand to recover significantly less than the value of the Trust Securities.

52. Further, even if WMB or JPMorgan Chase could assert a priority claim under section 507(a)(9) of the Bankruptcy Code, which WMI disputes, the transfer enabled WMB or JPMorgan Chase to receive more than either would have received in a hypothetical WMI chapter 7 bankruptcy case. This is so because, as asserted above and below, WMB and JPMorgan Chase are transferees of transfers that are avoidable under the Bankruptcy Code. Section 502(d) of the Bankruptcy Code would operate to disallow any claim of WMB in a hypothetical WMI chapter 7 bankruptcy case.

53. JPMorgan Chase is liable to WMI's estate as an initial or subsequent transferee of the Trust Securities. On the Receivership Date and the Petition Date, JPMorgan Chase knew or should have known of the purported transfers of the Trust Securities and about the financial condition of WMI. Thus, JPMorgan Chase did not acquire its interest in WMI property in good faith and without knowledge of the voidability of the transfer of the Trust Securities.

**(v) In the Alternative, the Trust Securities Were Not Transferred
and are Owned by WMI**

54. In the alternative, if it is determined that the Trust Securities were not in fact transferred to WMB or to JPMorgan Chase pursuant to the Assignment Agreement, then the Trust Securities are owned by WMI and are property of WMI's bankruptcy estate.

55. Pursuant to section 4.08 of the Trust Agreement, upon a Conditional Exchange, until replacement certificates are issued by WMI for the new WMI preferred stock issued to the prior

holders of the Trust Securities, the certificates formerly representing the Trust Securities shall be deemed for all purposes to represent the preferred shares of WMI. (Trust Agreement § 4.08). The September 26, 2008 press release provided that "until such depositary receipts are delivered or in the event such depositary receipts are not delivered, any certificates previously representing [Trust] Securities will be deemed for all purposes, effective as of 8:00 AM New York time on September 26, 2008, to represent Fixed Rate Depositary Shares or Fixed-to-Floating Rate Depositary Shares, as applicable." A copy of the press release is attached hereto as Exhibit 1. Thus, upon a Conditional Exchange, the Trust Securities necessarily became uncertificated.

56. Upon information and belief, the SPEs, the issuers of the Trust Securities, have made no transfer notations registering the Trust Securities to WMB to reflect any purported Assignment.⁸

57. More than simply a clerical act, registration is a legally significant act that facilitates the administration of a large-scale security issuance involving multiple holders, like the Trust Securities. Neither WMB nor JPMorgan Chase is the registered owner listed in the registrar's books with respect to the Trust Securities. Therefore, under applicable law and the Uniform Commercial Code as adopted by the State of Washington, the Trust Securities have not been delivered to WMB. Thus, the Trust Securities are property of WMI's bankruptcy estate.

(vi) JPMorgan Chase Has No Claim for the Trust Securities

58. The Trust Securities were not assigned to JPMorgan Chase under the terms of the P&A Agreement. Under Section 3.2(b) of the P&A Agreement, JPMorgan Chase was required to submit a bid for any securities that were not the capital stock of an acquired subsidiary of WMB. (P&A Agreement ¶ 3.2(b)). No such bid was submitted to WMB or the FDIC for the Trust

⁸ The Debtors are not aware of any transfer notations being made post-petition, but reserve their right to amend the complaint to avoid any such unauthorized transfers of property of the Debtors' estate.

Securities. The P&A Agreement further provides that "in the absence of an acceptable bid from [JPMorgan Chase], each such security shall not pass to [JPMorgan Chase] and shall be deemed to be an excluded asset hereunder." (P&A Agreement ¶ 3.2(b)). Therefore, JPMorgan Chase has no claim to the Trust Securities.

59. Further, Section 3.5 of the P&A Agreement provides that Schedule 3.5, "Certain Assets Not Purchased," enumerates certain assets not purchased, acquired, or assumed by JPMorgan Chase under the P&A Agreement. (P&A Agreement ¶ 3.5). Listed on Schedule 3.5 is "any interest, right, action, claim, or judgment against . . . any shareholder or holding company of [WMB]" (P&A Agreement, Schedule 3.5). Thus, JPMorgan Chase expressly did not acquire any claim from WMB for the Trust Securities under the Assignment Agreement or otherwise.

60. Further, in light of the fact that JPMorgan Chase assumed all of WMB's deposit liabilities, to the extent JPMorgan Chase has subrogated to the rights of WMB with respect to the Trust Securities, section 507(d) of the Bankruptcy Code provides that any priority status that WMB may have with respect to the Trust Securities will not inure to the benefit of JPMorgan Chase as subrogee.

61. Moreover, property is recoverable from JPMorgan Chase on account of, among other things, its status as a transferee of the avoidable Capital Contributions, as asserted above. Thus, section 502(d) of the Bankruptcy Code operates to disallow any claim of JPMorgan Chase (in any event) until JPMorgan Chase turns over the value of the avoidable Capital Contributions, among other things, to WMI's estate. Accordingly, any claim JPMorgan Chase may have on account of the Trust Securities or otherwise is disallowed.

C. Preferential Payments

(i) WMI Transfers Cash and Interests in Property to WMB on Account of Antecedent Debt

62. On or before the Receivership Date, WMI transferred significant sums or other interest in property to WMB, to third parties for the benefit of WMB, or to WMB fsb. These transfers were made on account of pre-existing tax-related (the "Tax Transfers") or administrative obligations (the "Intercompany Settlements," and with the Tax Transfers, the "Preferential Transfers") owed WMB and were made during the one-year period immediately preceding the Petition Date.

63. During this period, the Tax Transfers were made to WMB by WMI in an approximate amount of \$1,112,517,472. During this period, the Intercompany Settlements were made to WMB by WMI in an approximate amount of \$151,934,564. The Preferential Transfers are detailed in the schedules attached hereto as Exhibit 2. At the time of the Preferential Transfers, WMB and WMB fsb were both "insiders" of WMI and "creditors" of WMI as those terms are defined in the Bankruptcy Code or under applicable non-bankruptcy law.

64. WMB and WMB fsb received more on account of the Preferential Transfers than they would have received under a hypothetical chapter 7 bankruptcy case had the Preferential Transfers not been made.

65. To the extent WMI was insolvent at the time of the various Preferential Transfers, the Preferential Transfers are avoidable under the Bankruptcy Code and under applicable state law as fraudulent transfers. To the extent WMI was insolvent at the time of the various Preferential Transfers, WMB and WMB fsb had reasonable cause to believe that WMI was insolvent.

(ii) Preferential Transfers are Subsequently Transferred to JPMorgan Chase

66. The Preferential Transfers were transfers of an interest of WMI in property. Pursuant to P&A Agreement, JPMorgan Chase purchased substantially all of WMB's assets. Moreover, by subsequent transaction, JPMorgan Chase merged with WMB fsb. Thus, on the Receivership Date, the funds and/or value that comprised the Preferential Transfers were transferred to JPMorgan Chase.

67. Because the Preferential Transfers are avoidable as preferential transfers or as fraudulent transfers, then pursuant to section 550 of the Bankruptcy Code, WMI may recover the Preferential Transfers from JPMorgan Chase as subsequent transferee, or the value of the Preferential Transfers for the benefit of WMI's estate. On the Receivership Date and the Petition Date, JPMorgan Chase knew or should have known of the Preferential Transfers and about the financial condition of WMI. Thus, JPMorgan Chase did not acquire its interest in WMI property in good faith and without knowledge of the voidability of the Preferential Transfers.

D. FDIC Sells WMB's Assets to JPMorgan Chase For Less Than Reasonably Equivalent Value

68. As reported in the *Wall Street Journal*, because the FDIC had informed JPMorgan Chase in early September that it desired to "immediately auction off WaMu's assets" upon the seizure of WMB, "J.P. Morgan was well-prepared . . . when the FDIC asked for bids" for the purchase of WMB's assets. Heidi N. Moore, *Deal Journal*, WALL ST. J., Sept. 30, 2008, at C7.

69. Prior to the Receivership Date, the FDIC determined that it would accept JPMorgan Chase's bid for WMB's assets.

70. Immediately after its appointment as receiver, the FDIC purportedly sold the majority of WMB's assets to JPMorgan Chase in exchange for consideration of \$1.88 billion.

71. Under the P&A Transaction, JPMorgan Chase likely acquired more than \$300 billion of assets at book value, including \$134 billion of retail deposits and over \$8 billion of uninsured deposits which have matching liabilities. See FDIC Memorandum to Board of Directors, September 24, 2008.

72. Less than a week after the P&A Transaction was consummated, JPMorgan Chase booked an after-tax extraordinary gain from "merger-related items" in connection with the P&A Transaction in the amount of \$581 million. See JPMorgan Chase & Co., Form 10-Q for the quarter ended September 30, 2008, at 9. This amount reflected "negative goodwill," or a gain occurring when the price paid for an acquisition is less than the fair value of the acquired net assets. Subsequently, and because JPMorgan Chase's initial assessment of the value received over and beyond what it paid was conducted just days after the P&A Transaction, that gain was reassessed and increased to *\$1.9 billion* – an amount in and of itself more than the total consideration paid by JPMorgan Chase. See JPMorgan Chase & Co., Form 10-K for the fiscal year ended December 31, 2008, at 26.

73. The actual windfall to JPMorgan Chase was even greater, taking an immediate effect on JPMorgan Chase revenues. Having acquired WMB at fire-sale prices, JPMorgan Chase has achieved "record firmwide revenue" in first quarter 2009 and has enjoyed growth in retail banking deposits by 62% and in checking accounts by 126%.⁹ Further, JPMorgan Chase has announced that

⁹ See JPMorgan Chase Press Release, *JPMorgan Chase Reports First-Quarter 2009 Net Income of \$2.1 Billion, or \$0.40 per Share*, April 16, 2009. Specifically, net income in JPMorgan Chase's Retail Financial Services division "was \$474 million, compared with a net loss of \$311 million in the prior year" due, in part, to the "positive impact of the Washington Mutual transaction . . ." Net income in JPMorgan Chase's Commercial Banking division "was \$338 million, an increase of \$46 million, or 16%, from the prior year, driven by higher net revenue reflecting the impact of the Washington Mutual transaction . . ." "Net interest income [at JPMorgan Chase] was \$15.5 billion, up by \$6.1 billion, or 65%, due to the impact of the Washington Mutual transaction," among other things.

it is now poised to recognize significant gains (*i.e.*, as much as \$29 billion), as it recognizes the actual market value of many of the WMB assets it purchased and marked down at aggressive discounts. *See* Ari Levy and Elizabeth Hester, *JPMorgan's WaMu Windfall Turns Bad Loans Into Income*, BLOOMBERG.COM, May 26, 2009.¹⁰

74. At the time of the P&A Transaction, WMI was an actual creditor of WMB pursuant to various promissory notes and other intercompany payables. WMB was insolvent at the time of, or was rendered insolvent by, the P&A Transaction or was engaged in a business for which its remaining assets were unreasonably small.

75. In short, WMB did not receive from JPMorgan Chase reasonably equivalent value in exchange for the transfer of WMB's assets in the P&A Transaction.

E. Former Intercompany Amounts Due Assumed and Payable by JPMorgan Chase

76. WMB was indebted to WMI, or certain of WMI's non-bank, non-Debtor subsidiaries, under certain demand promissory notes that are due and payable in an approximate aggregate amount of \$177 million as of the Petition Date (the "Promissory Notes"), plus interest accruing thereafter, as follows:¹¹

- \$82,048,081 under that certain Revolving Master Note, dated as of December 22, 2005, by and between WMB, as borrower, and H.S. Loan Corporation, as lender. H.S. Loan Corporation is a subsidiary of WMI, in which WMB owns 1.3283%.
- \$73,670,153 under that certain Revolving Master Note, dated as of December 22, 2005, by and between WMB, as borrower, and H.S. Loan Partners, as lender. H.S. Loan Partners is an indirect, wholly-owned subsidiary of WMI.

¹⁰ http://www.bloomberg.com/apps/news?pid=20601087&sid=aYhaiSOq_Tbc&refer=home

¹¹ Separately, WMB and WMB fsb were indebted to the Debtors on account of deposit liabilities in an amount in excess of \$4 billion. These deposit liabilities are the subject of a separate adversary proceeding commenced on April 27, 2009, captioned *Washington Mutual, Inc. et al. v. JPMorgan Chase Bank, N.A.*, Adv. No. 09-50934.

- \$7,781,240 under that certain Revolving Master Note, dated as of February 11, 2005, by and between WMB, as borrower, and WMHFA Delaware Holdings LLC, as lender. WMEIFA Delaware Holdings LLC is an indirect, wholly-owned subsidiary of WMI.
- \$13,576,245 under that certain Registered Security, Note A, dated as of December 17, 2004, by and between University Street, Inc., as payor and predecessor in interest to WMB, and WMRP Delaware Holdings LLC, as payee, and predecessor in interest to PCA Asset Holdings LLC. This Promissory Note is recorded on WMI's books and records as an obligation owed to PCA Asset Holdings LLC, an indirect subsidiary of WMI, by WMB.

77. Further, there were significant intercompany receivables, that arose pursuant to that certain Administrative Services Agreement (the "Administrative Services Agreement"), identified by account numbers 28101, 28120, and 28025 owed WMI by WMB or its subsidiary WaMu Capital Corp. in the approximate amount of \$22.5 million (the "Intercompany Receivables"). A summary of the amounts owed to WMI is as follows:

Account Debtor	WMI A/R Number	Amount
WMB	28101	\$9,298,479
WMB	28120	\$13,200,977
WaMu Capital Corp.	28025	\$28,558

78. Additionally, there may be other service agreements which would fall under the Administrative Services Agreement that operated to benefit WMB or one of its subsidiaries prior to the Petition Date. To the extent it is determined that the Debtors are liable for any amounts owed under such agreements, a related intercompany payable would have accrued payable from WMB to WMI (the "Additional Intercompany Receivables").

79. Separately, as of the Petition Date, WMI sponsored a tax qualified cash balance pension plan, the WaMu Pension Plan (the "Plan"). Beginning in December 2006, and contrary to historical practice, WMI began to make contributions on account of both WMI and WMB plan participants. Pursuant to the Administrative Services Agreement, WMB is obligated to compensate WMI for such contributions. From December 2006 through the Petition Date, WMI contributed

approximately \$491 million on account of both WMI and WMB plan participants and has not been paid any amounts owed it by WMB for the amount contributed on account of WMB plan participants (the portion allocable to WMB or WMB subsidiary plan participants being the "Retirement Benefit Advances," and collectively, with the Promissory Notes, the Intercompany Receivables, and the Additional Intercompany Receivables, the "Intercompany Amounts Due").

80. Under the P&A Agreement, JPMorgan Chase "expressly assumes . . . all of the liabilities of [WMB] which are reflected on the Books and Records of [WMB]. . . and all liabilities associated with any and all employee benefit plans" (P&A Agreement at § 2.1). Thus, JPMorgan Chase assumed the Intercompany Amounts Due. However, the Intercompany Amounts Due have not been paid to WMI's estate and remain due and payable.

F. JPMorgan Chase's Unauthorized Use of the WaMu Trademarks

81. WMI is the owner of more than 80 federal trademark registrations and applications comprising a family of Washington Mutual trademarks, including but not limited to the marks "WAMU," "WASHINGTON MUTUAL," and the "W Logo" for a variety of services including but not limited to banking, credit card, lending, investment and other financial services as well as community, education and philanthropic oriented services (the "WaMu Marks"). The registrations are valid and subsisting, unrevoked and uncanceled, in full force and effect. A list of the aforesaid federal trademark registrations and applications is attached hereto as Exhibit 3.

82. In the years preceding the seizure, the WaMu corporate family encompassed dozens of companies that operated, primarily under the WAMU brand, as a single, unified organization. Many of these companies conducted business under the WaMu Marks, as part of the larger Washington Mutual corporate family.

82. The WaMu Marks are unquestionably famous and extremely valuable. Banking services and related services have been provided under some or all of the WaMu Marks since 1889.

The WAMU mark has been continuously used since at least as early as 1983. At the time of the seizure of WMB, it was the largest thrift and the sixth largest banking institution in the United States. In fact, the rights to the WAMU brand alone was recently valued at approximately \$6 billion.

83. WMI also owns registrations for at least 140 other trademarks and service marks, each in connection with various lines of business of the WaMu corporate family (the "Secondary Marks"). The registrations are valid and subsisting, unrevoked and uncanceled, in full force and effect. A list of the aforesaid federal trademark registrations and applications is attached hereto as Exhibit 4.

84. It was WMI's policy and practice to register the WaMu Marks and the Secondary Marks with the United States Patent and Trademark Office in the name of WMI, the holding company. WMI subsidiaries operating under the WaMu Marks and/or using the Secondary Marks were permitted to use them for the products and services relevant to such subsidiary's business pursuant to an implied license from WMI for as long as the subsidiary remained part of the Washington Mutual corporate family.

85. WMI is the owner of approximately 1350 domain names containing the WaMu Marks and the Secondary Marks, including, but not limited to, wamu.com, washingtonmutual.com, and wamubank.com. WMI is also the owner of numerous other domain names related to advertising campaigns (together, the "WaMu Domain Names"). WMI subsidiaries were permitted to use the WaMu Domain Names to advertise and provide information to customers regarding the products and services relevant to such subsidiary's business pursuant to an implied license from WMI for as long as the subsidiary remained part of the Washington Mutual corporate family.

86. Wamu.com was the primary website for WMI and its subsidiaries, and as such was the primary centralized focal point for customer interaction, from advertising WMI's various

products and services to providing online banking and financial and investment consultation services. In addition, WAMU.COM is the subject of a U.S. federal trademark registration for a broad range of banking and financial services.

87. WMB, as a subsidiary of WMI, used the WaMu Marks pursuant to an implied license from WMI which operated so long as WMB remained a member of WMI's corporate family.

88. On September 25, 2008, upon the OTS's seizure of WMB, WMB's license to use the WaMu Marks terminated.

89. JPMorgan Chase's continued use of the WaMu Marks, including the WaMu Domain Names, in connection with its business operations is unauthorized and infringing.

90. JPMorgan Chase has infringed the WaMu Domain Names by continuing to use at least 120 active domain names, including, but not limited to wamu.com, and by causing at least 60 active of the WaMu Domain Names, including, but not limited to wamu.com, to display JPMorgan Chase-branded and run websites.

91. JPMorgan Chase's continued use of the WaMu Marks, the Secondary Marks and the WaMu Domain Names will cause consumers to falsely believe that the products and/or services provided by JPMorgan Chase under such marks and domain names emanate from WMI, or are being rendered with the authorization or approval of WMI, when they are not.

92. JPMorgan Chase's use of the WaMu Marks, the Secondary Marks and the WaMu Domain Names is intentional and willful.

FIRST COUNTERCLAIM

Avoidance and Recovery of Capital Contributions Pursuant to 11 U.S.C. §§ 548, 550

93. Debtors repeat and re-allege each and every allegation contained in the preceding paragraphs 1-92.

94. Each of the Capital Contributions was a transfer of an interest in WMI's property within two years of the Petition Date.

95. WMI received no direct consideration in exchange for each of the Capital Contributions.

96. As of the time of each of the Capital Contributions, to the extent that WMI was either insolvent or was left with unreasonably small capital and WMB was insolvent or the prospect of WMB being seized by the OTS was so likely that equity shares in WMB were valueless, each of the Capital Contributions was for less than reasonably equivalent value and is avoidable as a fraudulent transfer under section 548 of the Bankruptcy Code.

97. JPMorgan Chase is liable to WMI's estate as a subsequent transferee of the interest in WMI's property that was transferred by each of the Capital Contributions plus pre-judgment interest at the highest applicable rate to be determined by the Court. JPMorgan Chase did not acquire its interest in the WMI property that was transferred by each of the Capital Contributions in good faith and without knowledge of the voidability of each of the Capital Contributions.

SECOND COUNTERCLAIM

Avoidance and Recovery of Capital Contributions Pursuant to 11 U.S.C. §§ 544, 550; RCW §§ 19.40.041, 19.40.051, 19.40.071 & 19.40.081

98. Debtors repeat and re-allege each and every allegation contained in the preceding paragraphs 1-97.

99. On the dates of each of the Capital Contributions, there were actual creditors of the Debtors holding unsecured claims allowable against the Debtors' estates within the meaning of sections 502(d) and 544(b) of the Bankruptcy Code, which claims remained unsatisfied on the Petition Date. Pursuant to section 544(b) of the Bankruptcy Code, the Debtors have the rights of an existing unsecured creditor of the Debtors.

100. Each of the Capital Contributions was a transfer of an interest in WMI's property within four years of the Petition Date.

101. WMI received no direct consideration in exchange for each of the Capital Contributions.

102. As of the time of each of the Capital Contributions, to the extent that WMI was either insolvent or was left with unreasonably small remaining assets and WMB was insolvent or the prospect of WMB being seized by the OTS was so likely that equity shares in WMB were valueless, each of the Capital Contributions was not for reasonably equivalent value and are avoidable fraudulent transfers under RCW §§ 19.40.041, 19.40.051 and section 544 of the Bankruptcy Code.

103. JPMorgan Chase is liable to WMI's estate as a subsequent transferee of the interest in WMI's property that was transferred by each of the Capital Contributions plus pre-judgment interest at the highest applicable rate to be determined by the Court. JPMorgan Chase did not acquire its interest in the WMI property that was transferred by each of the Capital Contributions in good faith and without knowledge of the voidability of each of the Capital Contributions.

THIRD COUNTERCLAIM

Avoidance and Recovery of Trust Securities Pursuant to 11 U.S.C. §§ 548, 550

104. Debtors repeat and re-allege each and every allegation contained in the preceding paragraphs 1-103.

105. The transfer of the Trust Securities to WMB or to JPMorgan Chase is avoidable pursuant to 11 U.S.C. § 548.

106. The transfer of the Trust Securities was a transfer of an interest in WMI's property within two years of the Petition Date.

107. At the time of the transfer of the Trust Securities, WMI was insolvent or had unreasonably small capital. WMI did not receive any value for transferring the Trust Securities to WMB or to JPMorgan Chase. Further, WMI received no indirect benefit either, such as increased equity value flowing from WMB because its wholly-owned subsidiary WMB was insolvent or had been seized by FDIC thereby rendering WMI's equity stake in WMB worthless. Moreover, both the purported transfer, and the Assignment the day prior, were made after WMB had been seized by the OTS, and thus WMI's equity shares in WMB were likewise valueless.

108. If the Trust Securities were transferred by WMI to JPMorgan Chase, then pursuant to section 550 of the Bankruptcy Code, WMI may recover the Trust Securities from JPMorgan Chase as initial transferee, or the value of the Trust Securities for the benefit of WMI's estate plus, in both instances, pre-judgment interest at the highest applicable rate to be determined by the Court.

109. If the Trust Securities were transferred by WMI to WMB and then to JPMorgan Chase, then pursuant to section 550 of the Bankruptcy Code, WMI may recover the Trust Securities from JPMorgan Chase as subsequent transferee, or the value of the Trust Securities for the benefit of WMI's estate plus, in both instances, pre-judgment interest at the highest applicable rate to be

determined by the Court. JPMorgan Chase did not acquire its interest in WMI property in good faith and without knowledge of the voidability of the Trust Securities.

FOURTH COUNTERCLAIM

Avoidance and Recovery of Trust Securities Pursuant to 11 U.S.C. §§ 544, 550; RCW §§ 19.40.041, 19.40.051, 19.40.071 & 19.40.081

110. Debtors repeat and re-allege each and every allegation contained in the preceding paragraphs 1-109.

111. The transfer of the Trust Securities to WMB or to JPMorgan Chase is avoidable pursuant to applicable Washington state law.

112. The transfer of the Trust Securities was a transfer of an interest in WMI's property within four years of the Petition Date.

113. On the date of the transfer of the Trust Securities, there were actual creditors of WMI holding unsecured claims allowable against WMI's estate within the meaning of sections 502(d) and 544(b) of the Bankruptcy Code, which claims remained unsatisfied on the Petition Date. Pursuant to section 544(b) of the Bankruptcy Code, WMI has the rights of an existing unsecured creditor of WMI.

114. At the time of the transfer of the Trust Securities, WMI was insolvent or had unreasonably small remaining assets. WMI did not receive any value for transferring the Trust Securities to WMB or to JPMorgan Chase. Further, WMI received no indirect benefit either, such as increased equity value flowing from WMB because its wholly-owned subsidiary WMB was insolvent or had been seized by FDIC thereby rendering WMI's equity stake in WMB worthless. Moreover, both the purported transfer, and the Assignment the day prior, were made after WMB had been seized by the OTS, and thus WMI's equity shares in WMB were likewise valueless.

115. If the Trust Securities were transferred by WMI to JPMorgan Chase, then pursuant to section 550 of the Bankruptcy Code, WMI may recover the Trust Securities from JPMorgan Chase as initial transferee, or the value of the Trust Securities for the benefit of WMI's estate plus, in both instances, pre-judgment interest at the highest applicable rate to be determined by the Court.

116. If the Trust Securities were transferred by WMI to WMB and then to JPMorgan Chase, then pursuant to section 550 of the Bankruptcy Code, WMI may recover the Trust Securities from JPMorgan Chase as subsequent transferee, or the value of the Trust Securities for the benefit of WMI's estate plus, in both instances, pre-judgment interest at the highest applicable rate to be determined by the Court. JPMorgan Chase did not acquire its interest in WMI property in good faith and without knowledge of the voidability of the Trust Securities.

FIFTH COUNTERCLAIM

Avoidance and Recovery of Trust Securities **Pursuant to 11 U.S.C. §§ 547, 550**

117. Debtors repeat and re-allege each and every allegation contained in the preceding paragraphs 1-116.

118. In the alternative to the third and fourth counterclaims, if it is determined at or before trial that WMI transferred the Trust Securities to WMB or to JPMorgan Chase in satisfaction of the Downstream Undertakings as valid, enforceable, antecedent obligations, then such transfer is avoidable pursuant to 11 U.S.C. § 547.

119. As such, WMB or JPMorgan Chase, as subrogee or successor in interest to WMB, were creditors of WMI pursuant to the Downstream Undertakings at the time the transfer was made.

120. The transfer of the Trust Securities was a transfer of an interest in WMI's property within ninety days of the Petition Date.

121. WMI was insolvent at the time the transfer was made.

122. As asserted above, WMB, as recipient of the Capital Contributions, is a transferee of a transfer avoidable under the Bankruptcy Code. Property is recoverable under the Bankruptcy Code from JPMorgan Chase on account of its status as a transferee of the Capital Contributions.

123. The transfer allowed WMB or JPMorgan Chase to receive more by virtue of the transfer than either of them would have received had the transfer not been made in a hypothetical WMI chapter 7 bankruptcy case.

124. Pursuant to section 550 of the Bankruptcy Code, WMI may recover the Trust Securities from JPMorgan Chase as initial or subsequent transferee, or the value of the Trust Securities for the benefit of WMI's estate plus, in both instances, pre-judgment interest at the highest applicable rate to be determined by the Court. JPMorgan Chase did not acquire its interest in WMI property in good faith and without knowledge of the voidability of the Trust Securities.

SIXTH COUNTERCLAIM

Avoidance and Recovery of Trust Securities Pursuant to 11 U.S.C. §§ 544, 550; RCW §§ 19.40.051, 19.40.071 & 19.40.081

125. Debtors repeat and re-allege each and every allegation contained in the preceding paragraphs 1-124.

126. On the dates of the transfer of the Trust Securities, there were actual creditors of WMI holding unsecured claims allowable against WMI's estate within the meaning of sections 502(d) and 544(b) of the Bankruptcy Code, which claims remained unsatisfied on the Petition Date. Pursuant to section 544(b) of the Bankruptcy Code, WMI has the rights of an existing unsecured creditor of WMI.

127. In the alternative to the third and fourth counterclaims, if it is determined at or before trial that WMI transferred the Trust Securities to WMB or to JPMorgan Chase in satisfaction of the

Downstream Undertakings as valid, enforceable, antecedent obligations, then such transfer is avoidable pursuant to 11 U.S.C. § 544 and Washington state law.

128. As such, WMB or JPMorgan Chase, as successor in interest to WMB, were creditors of WMI pursuant to the Downstream Undertakings at the time the transfer was made.

129. WMB or JPMorgan Chase, as successor in interest to WMB, was an insider of WMI under applicable law at the time the transfer of the Trust Securities was made.

130. The transfer of the Trust Securities was a transfer of an interest in WMI's property within one year of the Petition Date.

131. WMI was insolvent at the time the transfer was made and WMB or JPMorgan Chase had reasonable cause to believe that WMI was insolvent in light of the seizure of WMB by the FDIC, among other reasons.

132. Pursuant to section 550 of the Bankruptcy Code, WMI may recover the Trust Securities from JPMorgan Chase as subsequent transferee, or the value of the Trust Securities for the benefit of WMI's estate plus, in both instances, pre-judgment interest at the highest applicable rate to be determined by the Court. JPMorgan Chase did not acquire its interest in WMI property in good faith and without knowledge of the voidability of the Trust Securities.

SEVENTH COUNTERCLAIM

Declaratory Judgment that Trust Securities are Property of the Estate

133. Debtors repeat and re-allege each and every allegation contained in the preceding paragraphs 1-132.

134. In the alternative to the third, fourth, fifth, and sixth counterclaims, as set forth above, the Trust Securities were not transferred to WMB, the FDIC, or JPMorgan Chase.

135. JPMorgan Chase asserts a claim of ownership to the Trust Securities.

136. The Trust Securities were not assigned to JPMorgan Chase under the terms of the P&A Agreement. Thus, at best, JPMorgan Chase has a general unsecured claim against WMI's estate as subrogee to WMB.

137. There is an actual controversy that is of sufficient immediacy to warrant judicial relief under the Declaratory Judgment Act, 28 U.S.C. § 2201.

138. Debtors request a declaratory judgment that the Trust Securities are property of WMI's bankruptcy estate and were never delivered or transferred therefrom.

EIGHTH COUNTERCLAIM

Avoidance and Recovery of Preferential Transfers to WMB **Pursuant to 11 U.S.C. §§ 547, 550**

139. Debtors repeat and re-allege each and every allegation contained in the preceding paragraphs 1-138.

140. The Preferential Transfers were transfers of an interest in WMI's property within one year of the Petition Date.

141. WMB and WMB fsb were creditors of WMI at the time the Preferential Transfers were made and the Preferential Transfers were made to WMB or WMB fsb or for their benefit.

142. WMB and WMB fsb were insiders of WMI within the meaning of the Bankruptcy Code at the time the Preferential Transfers were made.

143. The Preferential Transfers allowed WMB and WMB fsb to receive more by virtue of the Preferential Transfers than they would have received had the Preferential Transfers not been made in a hypothetical WMI chapter 7 bankruptcy case.

144. To the extent WMI was insolvent at the time the Preferential Transfers were made, the Preferential Transfers are avoidable pursuant to 11 U.S.C. § 547.

145. JPMorgan Chase is liable to WMI's estate as a subsequent transferee of the Preferential Transfers plus pre-judgment interest at the highest applicable rate to be determined by the Court. JPMorgan Chase did not acquire its interest in WMI property in good faith and without knowledge of the voidability of the Preferential Transfers.

NINTH COUNTERCLAIM

Avoidance and Recovery of Preferential Transfers to WMB Pursuant to 11 U.S.C. §§ 544, 550; RCW §§ 19.40.051, 19.40.071 & 19.40.081

146. Debtors repeat and re-allege each and every allegation contained in the preceding paragraphs 1-145.

147. On the dates of the Preferential Transfers, there were actual creditors of WMI holding unsecured claims allowable against WMI's estate within the meaning of sections 502(d) and 544(b) of the Bankruptcy Code, which claims remained unsatisfied on the Petition Date. Pursuant to section 544(b) of the Bankruptcy Code, WMI has the rights of an existing unsecured creditor of WMI.

148. The Preferential Transfers were transfers of an interest in WMI's property within one year of the Petition Date.

149. WMB and WMB fsb were creditors of WMI at the time the Preferential Transfers were made.

150. WMB and WMB fsb were insiders of WMI under applicable law at the time the Preferential Transfers were made.

151. To the extent WMI was insolvent at the time the Preferential Transfers were made (which WMB and WMB fsb each would have had reason to know of), the Preferential Transfers are avoidable pursuant to 11 U.S.C. § 544 and Washington state law.

152. Pursuant to section 550 of the Bankruptcy Code, JPMorgan Chase is liable to WMI's estate as a subsequent transferee of the Preferential Transfers plus pre-judgment interest at the

highest applicable rate to be determined by the Court. JPMorgan Chase did not acquire its interest in WMI property in good faith and without knowledge of the voidability of the Preferential Transfers.

TENTH COUNTERCLAIM

Fraudulent Transfer Pursuant to 11 U.S.C. § 541;
RCW §§ 19.40.041, 19.40.051, 19.40.071, & 19.40.081;
NEV. REV. STAT. §§ 112.180, 112.190, 112.210, & 112.220

153. Debtors repeat and re-allege each and every allegation contained in the preceding paragraphs 1-152.

154. The P&A Transaction is avoidable as a fraudulent transfer by WMI in WMI's capacity as a creditor of WMB under Nevada state law or alternatively under Washington state law.

155. At the time of the P&A Transaction, WMI was an actual creditor of WMB pursuant to various promissory notes and other intercompany payables. WMB was insolvent at the time of, or was rendered insolvent by, the P&A Transaction or was engaged in a business for which its remaining assets were unreasonably small.

156. The P&A Transaction is avoidable because it took place within four years of the date hereof and WMB did not receive reasonably equivalent value for its assets from JPMorgan Chase.

157. JPMorgan Chase did not acquire WMB's assets in good faith.

158. JPMorgan Chase is liable to WMI's estate for the actual value of WMB's assets at the time of the P&A Transaction to be determined at trial plus pre-judgment interest at the highest applicable rate to be determined by the Court.

159. Alternatively, JPMorgan Chase is liable to WMI's estate in an amount necessary to satisfy any and all claims that WMI has against WMB in full.

160. With respect to the claims recited in paragraphs 158 and 159 hereof, WMI has a claim against JPMorgan Chase for money damages and for any other relief that the circumstances may require.

161. Alternatively, WMI may avoid the P&A Transaction to the extent necessary to satisfy any and all claims that WMI has against WMB in full.

ELEVENTH COUNTERCLAIM

Disallowance of Claims Pursuant to 11 U.S.C. §§ 105, 502

162. Debtors repeat and re-allege each and every allegation contained in the preceding paragraphs 1-161.

163. JPMorgan Chase filed proofs of claims in the Debtors' bankruptcy cases. The Debtors hereby object to any and all claims filed or asserted by JPMorgan Chase pursuant to section 502(d) of the Bankruptcy Code.¹²

164. Property is recoverable from JPMorgan Chase on account of its status as a transferee of the Capital Contributions, the Preferential Transfers, and to the extent applicable, the Trust Securities, as asserted above. JPMorgan Chase has failed to turn over to the Debtors such property of the Debtors' estates.

165. Pursuant to Section 502(d) of the Bankruptcy Code, each claim asserted by JPMorgan Chase must be disallowed because property of the Debtors' estates is recoverable from JPMorgan Chase and JPMorgan Chase has not turned over all of such property to the Debtors.

166. Further, pursuant to Section 502(b)(1) of the Bankruptcy Code, the Debtors have a right of setoff under applicable state law, and because the Debtors have claims against JPMorgan

¹² The Debtors reserve their rights to object to JPMorgan Chase's proofs of claims on different grounds through the Debtors' claims reconciliation process.

Chase that exceed the amount (if any) owed by the Debtors to JPMorgan Chase, JPMorgan Chase's claims are unenforceable and must be disallowed.

TWELFTH COUNTERCLAIM

Declaratory Judgment that Certain Assets are Property of the Estate

167. Debtors repeat and re-allege each and every allegation contained in the preceding paragraphs 1-166.

168. In its Complaint, JPMorgan Chase asserts a claim of ownership to the: (i) Trust Securities; (ii) Tax Refunds; (iii) \$3.7 Billion Book Entry Transfer; (iv) Anchor and American Judgments (as defined therein) and all monies paid on account of those judgments, as well as any future judgment in either the *Anchor Savings Bank* or the *American Savings Bank* litigations; (v) Legacy Rabbi Trusts; (vi) Pension and 401(k) Plans; (vii) BOLI and Split Dollar Policies; (viii) Visa Shares; and (ix) Intangible Assets (each as defined in the Complaint, and collectively, the "Disputed Assets").

169. The Disputed Assets are property of the Debtors' estates and were not purchased by JPMorgan Chase under the terms of the P&A Agreement.

170. There is an actual controversy that is of sufficient immediacy to warrant judicial relief under the Declaratory Judgment Act, 28 U.S.C. § 2201.

171. The Debtors request a declaratory judgment determining that all of the Disputed Assets are property of the Debtors' estates and were not purchased by JPMorgan Chase under the terms of the P&A Agreement.

THIRTEENTH COUNTERCLAIM

Turnover of Intercompany Amounts Due Pursuant to 11 U.S.C. § 542

172. Debtors repeat and re-allege each and every allegation contained in the preceding paragraphs 1-171.

173. The Intercompany Amounts Due are debts owed to the Debtors' estates that are matured and payable on demand.

174. Pursuant to section 542 of the Bankruptcy Code, JPMorgan Chase is required to pay the Intercompany Amounts Due, including pre-judgment interest at the highest applicable rate to be determined by the Court, to the Debtors' estates.

FOURTEENTH COUNTERCLAIM

Unjust Enrichment, Constructive Trust, and Equitable Lien

175. Debtors repeat and re-allege each and every allegation contained in the preceding paragraphs 1-174.

176. JPMorgan Chase would be unjustly enriched if it were allowed to retain the Capital Contributions, the Trust Securities (if transferred), the Preferential Transfers, or any of the Disputed Assets.

177. In order to prevent that unjust enrichment, equity entitles WMI to recover the value of the property transferred, including through the remedies of constructive trust and/or equitable lien.

FIFTEENTH COUNTERCLAIM

Trademark Infringement Pursuant to 15 U.S.C. § 1114

178. Debtors repeat and re-allege each and every allegation contained in the preceding paragraphs 1-177.

179. JPMorgan Chase's continued use of the WaMu Marks, the Secondary Marks, and the WaMu Domain Names that incorporate either the WaMu Marks or the Secondary Marks, in connection with its business operations is unauthorized and infringing.

180. JPMorgan Chase's use of the WaMu Marks, the Secondary Marks and the WaMu Domain Names is intentional and willful.

181. The aforesaid acts of JPMorgan Chase constitute trademark infringement in violation of Section 32(1) of the Lanham Act, 15 U.S.C. § 1114(1).

182. The aforesaid acts of Counterclaim-Defendants have caused, and are causing, great and irreparable harm to WMI and, unless JPMorgan Chase is permanently restrained by this Court, said injury will continue.

183. WMI, the owner of the WASHINGTON MUTUAL and W Logo marks, permitted WMB, as its licensee, to retain two United States trademark registrations that cover a small fraction of WMB's services (United States Trademark Registrations Nos. 1197378 and 1214303), as an administrative convenience. Since the license is now terminated, WMI is entitled to an order requiring that JPMorgan Chase assign said trademark registrations to WMI to rectify the Federal Register or, in the alternative, cancelling such registrations.

184. WMI is entitled to recover its damages sustained as a result of JPMorgan Chase's federal trademark infringement, together with an accounting of JPMorgan Chase profits arising from such infringing activities.

185. WMI is entitled to recover treble damages under 15 U.S.C. § 1117 by reason of the willful and deliberate acts of federal trademark infringement by JPMorgan Chase.

186. WMI is entitled to recover its reasonable attorneys' fees pursuant to 15 U.S.C. § 1117.

SIXTEENTH COUNTERCLAIM

Common Law Trademark Infringement

187. Debtors repeat and re-allege each and every allegation contained in the preceding paragraphs 1-186.

188. The aforesaid acts of JPMorgan Chase constitute use that is likely to cause confusion as to the source of JPMorgan Chase's services.

189. The aforesaid acts of JPMorgan Chase constitute trademark infringement in violation of WMI's continuing and residual common law trademark rights in the WaMu Marks and the Secondary Marks.

190. The aforesaid acts of JPMorgan Chase have caused, and are causing, great and irreparable harm to WMI, and, unless permanently restrained by this Court, said injury will continue.

191. WMI is entitled to recover JPMorgan Chase's profits and/or damages by reason of JPMorgan Chase's acts of trademark infringement under the common law.

SEVENTEENTH COUNTERCLAIM

Patent Infringement

192. Debtors repeat and re-allege each and every allegation contained in the preceding paragraphs 1-191.

193. The Court has jurisdiction pursuant to 28 U.S.C. § 1334 and 28 U.S.C. § 157.

194. WMI is the owner by assignment of United States Patent No. 6,681,985, entitled "System For Providing Enhanced Systems Management, Such As In Branch Banking" (the "'985 patent"). The '985 patent was duly and legally issued by the United States Patent and Trademark Office ("USPTO") on January 27, 2004. A true and correct copy of the '985 patent is attached hereto as Exhibit 5.

195. In the years preceding the seizure, the WaMu corporate family encompassed dozens of companies that operated as a single, unified organization. WMB practiced the '985 patent as part of the larger corporate family.

196. Related companies were permitted to practice the '985 patent pursuant to an implied license from WMI for as long as they remained part of the Washington Mutual corporate family.

197. On September 25, 2008, upon the OTS's seizure of WMB, WMB's implied license to practice the '985 patent terminated.

198. JPMorgan Chase has continued to practice the '985 patent in connection with its business operations, which use is unauthorized and infringing.

199. In violation of 35 U.S.C. § 271, JPMorgan Chase has been and is now directly infringing and indirectly infringing, by way of inducement and/or contribution, literally and/or under the doctrine of equivalents, the '985 patent by practicing one or more claims of the '985 patent by making, using, selling, offering for sale, contributing to the use of, and/or inducing the use of financial transaction processing systems to process financial transactions for a customer in a branch bank.

200. JPMorgan Chase's infringement of the '985 patent includes, but is not limited to, use of the patented system in connection with banking operations in former Washington Mutual branch banks.

201. JPMorgan Chase's actions have damaged WMI in an amount to be determined at trial and have caused and will continue to cause WMI irreparable injury for which WMI has no adequate remedy at law.

202. Upon information and belief, JPMorgan Chase's infringement, contributory infringement, and inducement to infringe have been, and continue to be, willful, and will continue to injure WMI unless and until the Court enters an injunction prohibiting further infringement.

203. WMI is entitled to an award of damages adequate to compensate WMI for the infringement that has occurred, together with prejudgment interest from the date infringement began.

204. WMI is also entitled to increased damages as permitted under 35 U.S.C. § 284, as well a finding that this case is exceptional, entitling WMI to attorneys' fees and costs as provided by 35 U.S.C. § 285.

205. WMI is also entitled to a permanent injunction prohibiting JPMorgan Chase's further infringement, inducement of infringement, and contributory infringement of the '985 patent.

EIGHTEENTH COUNTERCLAIM

Federal Copyright Infringement Pursuant to 17 U.S.C. § 501

206. Debtors repeat and re-allege each and every allegation contained in the preceding paragraphs 1-205.

207. WMI owns the copyright for, and has applied to register, its website at wamu.com (the "Website"). True and correct copies of the applications as filed with the United States Copyright Office, and the filing receipts for these applications, are attached hereto as Exhibit 6.

208. Upon information and belief, JPMorgan Chase has continued to display, reproduce and distribute the Website, or significant parts thereof, without authorization from WMI.

209. Upon information and belief, JPMorgan Chase has created, reproduced and distributed derivative works based on the Website without authorization from WMI.

210. The actions and conduct by JPMorgan Chase as described above infringe upon the exclusive rights of WMI granted by Section 106 of the Copyright Act, 17 U.S.C. § 106, to display, reproduce, and distribute the copyrighted Website to the public, and to create derivative works based on the copyrighted Website. WMI is informed and believes, and on that basis alleges, that JPMorgan Chase has infringed directly and indirectly WMI's exclusive rights in the Copyrighted Website.

211. Such actions and conduct by JPMorgan Chase constitute copyright infringement under Section 501 of the Copyright Act, 17 U.S.C. § 501.

212. As a result of the copyright infringement described above, WMI is entitled to relief including, but not limited to, injunctive relief, actual damages, and prejudgment interest.

PRAYER FOR RELIEF

WHEREFORE, Debtors WMI and WMI Investment respectfully request that the Court enter judgment in favor of Debtors:

- A. Dismissing the Complaint with prejudice;
- B. Ordering JPMorgan Chase to return and pay to WMI's estate an amount equal to the Capital Contributions plus pre-judgment interest at the highest applicable rate to be determined by the Court;
- C. Declaring that the Trust Securities are property of WMI's estate and were never delivered or transferred therefrom;
- D. In the alternative, ordering JPMorgan Chase to return the Trust Securities to WMI's estate or to pay to WMI's estate an amount equal to the value of Trust Securities as of the Petition Date plus pre-judgment interest at the highest applicable rate to be determined by the Court;
- E. Ordering JPMorgan Chase to return and pay to WMI's estate an amount equal to the Preferential Transfers plus pre-judgment interest at the highest applicable rate to be determined by the Court;
- F. Ordering JPMorgan Chase to pay to WMI's estate the fair market value of the assets it purchased from WMB at the time of the P&A Transaction or, in the alternative, ordering JPMorgan Chase to return and pay to WMI's estate an amount necessary to satisfy any and all claims that WMI has against WMB in full, or, in the alternative, avoiding the P&A Transaction to the extent necessary to satisfy any and all claims that WMI has against WMB in full, in each case plus pre-judgment interest at the highest applicable rate to be determined by the Court;
- G. Ordering JPMorgan Chase to pay restitution to the Debtors in an amount equal to JPMorgan Chase's unjust enrichment;
- H. Disallowing each and every claim asserted by JPMorgan Chase against the Debtors' estates;

- I. Declaring that the Disputed Assets are property of WMI's estate and were not purchased by JPMorgan Chase under the terms of the P&A Agreement;
- J. Declaring that JPMorgan Chase has assumed the Intercompany Amounts Due and that such debts are due and payable;
- K. Enjoining the further use of the WaMu Marks, the Secondary Marks and the WaMu Domain Names by JPMorgan Chase;
- L. Ordering that JPMorgan Chase be required to assign United States Trademark Registrations Nos. 1197378 and 1214303 to WMI to rectify the Federal Register or, in the alternative, ordering the cancellation said trademark registrations;
- M. Ordering that WMI recover its damages sustained as a result of JPMorgan Chase's federal trademark infringement, together with an accounting of JPMorgan Chase's profits arising from such infringing activities;
- N. Ordering that WMI have and recover treble damages under 15 U.S.C. § 1117 by reason of the willful and deliberate acts of federal trademark infringement by JPMorgan Chase;
- O. Ordering that WMI have and recover its reasonable attorneys' fees pursuant to 15 U.S.C. § 1117;
- P. Ordering that WMI have and recover JPMorgan Chase's profits and/or damages by reason of JPMorgan Chase's acts of trademark infringement under the common law;
- Q. Ordering that JPMorgan Chase pay damages adequate to compensate Debtors for JPMorgan Chase's past and ongoing willful infringement of the '985 patent and increased damages as permitted under 35 U.S.C. § 284;
- R. Ordering that WMI have and recover its reasonable attorneys' fees and costs pursuant to 35 U.S.C. § 285;
- S. Enjoining JPMorgan Chase's infringement, inducement of infringement, and contributory infringement of the '985 patent;

- T. Ordering that WMI recover its damages sustained as a result of JPMorgan Chase's federal copyright infringement, together with prejudgment interest;
- U. Enjoining JPMorgan Chase's copyright infringement;
- V. Awarding the Debtors costs and attorneys' fees and expenses; and
- W. Granting Debtors such other legal or equitable relief as is just.

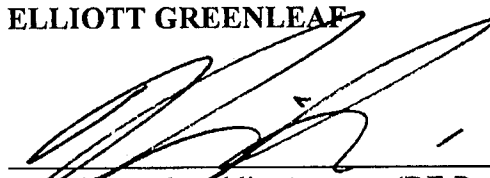
DEMAND FOR JURY TRIAL

Debtors hereby demand trial by jury on counts fifteen to eighteen (15-18).

Dated: May 29, 2009

ELLIOTT GREENLEAF

Wilmington, Delaware



Rafael X. Zahralddin-Aravena (DE Bar No. 4166)

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*Special Litigation and Conflicts Co-Counsel to Washington
Mutual, Inc. and WMI Investment Corp*

Exhibit 1

 Print Page

 Close Window

Washington Mutual, Inc. Announces Conditional Exchange of Preferred Securities

SEATTLE--(BUSINESS WIRE)--

Washington Mutual, Inc. (NYSE:WM) announced today that an "Exchange Event" has occurred under the applicable documents governing the following securities (Securities):

- Washington Mutual Preferred (Cayman) I Ltd. 7.25% Perpetual Non-cumulative Preferred Securities, Series A-1 (to be exchanged into depositary shares representing Series J Perpetual Non-Cumulative Fixed Rate Preferred Stock of WMI);
- Washington Mutual Preferred (Cayman) I Ltd. 7.25% Perpetual Non-cumulative Preferred Securities, Series A-2 (to be exchanged into depositary shares representing Series J Perpetual Non-Cumulative Fixed Rate Preferred Stock of WMI);
- Washington Mutual Preferred Funding Trust I Fixed-to-Floating Rate Perpetual Non-cumulative Trust Securities (to be exchanged into depositary shares representing Series I Perpetual Non-Cumulative Fixed-to-Floating Rate Preferred Stock of WMI);
- Washington Mutual Preferred Funding Trust II Fixed-to-Floating Rate Perpetual Non-cumulative Trust Securities (to be exchanged into depositary shares representing Series L Perpetual Non-Cumulative Fixed Rate Preferred Stock of WMI);
- Washington Mutual Preferred Funding Trust III Fixed-to-Floating Rate Perpetual Non-cumulative Trust Securities (to be exchanged into depositary shares representing Series M Perpetual Non-Cumulative Fixed Rate Preferred Stock of WMI); and
- Washington Mutual Preferred Funding Trust IV Fixed-to-Floating Rate Perpetual Non-cumulative Trust Securities (to be exchanged into depositary shares representing Series N Perpetual Non-Cumulative Fixed-to-Floating Rate Preferred Stock of WMI).

In connection with the Exchange Event, WMI will effect an exchange (Conditional Exchange) of the Securities into depositary shares representing a like amount of preferred stock in WMI, as contemplated by the applicable documents governing the

securities.

In accordance with the terms of the documents governing the Securities, the Conditional Exchange of the Securities will occur on Friday, September 26, 2008 at 8:00 A.M. New York time. As of the time of the Conditional Exchange, each outstanding Security will be exchanged automatically for a like amount of newly issued Fixed Rate Depositary Shares or newly issued Fixed-to-Floating Rate Depositary Shares, as applicable, each representing a 1/1000th interest in one share of the applicable series of preferred stock of WMI.

WMI will mail the notice required under the applicable documents to each holder of record of Securities within 30 days, and WMI will deliver or cause to be delivered to each such holder of record depositary receipts for the Fixed Rate Depositary Shares and Fixed-to-Floating Rate Depositary Shares upon surrender of the Securities. Until such depositary receipts are delivered or in the event such depositary receipts are not delivered, any certificates previously representing Securities will be deemed for all purposes, effective as of 8:00 AM New York time on September 26, 2008, to represent Fixed Rate Depositary Shares or Fixed-to-Floating Rate Depositary Shares, as applicable.

Source: Washington Mutual, Inc.

Exhibit 2

In re: Washington Mutual, Inc.
Case No. 08-12229
SOFA 23 Payments to Insiders
Payments made to Washington Mutual Bank

Date Paid	Amount Paid to WMB
10/11/2007	857,230.47
10/18/2007	3,446,107.42
11/8/2007	1,189.73
11/15/2007	254,364.42
12/13/2007	186,438.82
1/10/2008	6,863,343.95
1/17/2008	2,190.72
2/7/2008	2,319,329.88
3/6/2008	7,948.56
3/13/2008	773,837.68
3/31/2008	14,030,414.67
4/10/2008	4,488,747.40
4/24/2008	3,759,043.02
5/8/2008	2,598,863.39
5/30/2008	1,240,005.70
6/19/2008	170.28
6/26/2008	10,520,771.72
7/24/2008	581,788.51
8/14/2008	1,431,922.60
8/21/2008	4,194,820.96
9/11/2008	112,923.51
9/25/2008	4,101,278.69
10/18/2007	175,635.71
10/25/2007	305,110.56
10/31/2007	1,434,522.37
11/8/2007	4,966,409.90
11/15/2007	725,599.67
12/13/2007	8,865,013.39
12/31/2007	6,205.49
1/10/2008	6,362,822.58
1/17/2008	914,011.32
1/31/2008	12,447,072.22
2/7/2008	3,377,908.39
2/14/2008	292,691.98
2/21/2008	671,242.69
2/29/2008	750,288.31
3/13/2008	3,256,230.57
3/20/2008	1,096,451.96

In re: Washington Mutual, Inc.
Case No. 08-12229
SOFA 23 Payments to Insiders
Payments made to Washington Mutual Bank

Date Paid	Amount Paid to WMB
4/10/2008	3,429,936.11
5/15/2008	1,956,466.25
5/22/2008	3,062,583.76
6/19/2008	1,422,117.59
6/30/2008	5,284,659.08
7/10/2008	2,598,631.45
7/24/2008	2,879,785.16
8/7/2008	1,805,099.83
8/14/2008	2,573,609.62
9/11/2008	614,326.45
9/18/2008	17,205,753.61
9/25/2008	1,681,646.07
Total:	151,934,564.19

In re: Washington Mutual Inc.
Payments made to Washington Mutual Bank and Washington Mutual Bank feb
Tax Transfers

Date	Amount	Paid to
11/8/2007	11,489,211	Washington Mutual Bank, feb
11/9/2007	390,077,331	Washington Mutual Bank
12/17/2007	139,388,137	Washington Mutual Bank
3/17/2008	136,661,251	Washington Mutual Bank
6/16/2008	196,412,285	Washington Mutual Bank
9/15/2008	238,489,257	Washington Mutual Bank
Total	<u>1,112,517,472</u>	

Exhibit 3

Mark	Owner	App. No. App. Date Reg. No. Reg. Date Status	Class No.	Goods or Services
W LOGO	Washington Mutual, Inc.	75/515,416 7/8/1998 2,588,771 7/2/2002 Registered	036	Banking services; investment advisor services; investment brokerage, consultation and management; securities brokerage; financial portfolio management; financial planning; mortgage and consumer lending services; insurance services; namely agencies in the fields of property and casualty, life, health, credit and disability; and philanthropic services consisting of monetary donations
W LOGO	Washington Mutual, Inc.	77/103,111 2/8/2007 Pending	036, 045	Providing consumer credit information, credit card information and credit ratings, and information related to obtaining such information from others; providing credit reports, monitoring of credit reports, analysis of the credit reports, and notification of changes in credit reports; providing consulting services, advice and information to assist others in protecting credit ratings, registering and canceling credit cards; debt and credit analysis services; insurance underwriting, brokerage, agencies and consultation services specializing in the areas of privacy protection, identity theft and fraud; banking services; providing interactive websites containing information and online enrollment related to the foregoing services; Fraud detection and prevention in the field of identity theft, namely, locating and providing information to others concerning consumer and identity fraud and identity theft; providing consulting services and case worker assistance and counseling in filing claims, resolving fraud and identity theft issues with creditors and closing accounts necessitated by identity theft and fraud; providing consulting services, advice and information to assist others in protecting against identity fraud and identity theft; providing consulting services, advice and information on identity theft and fraud protection and prevention products and services; providing interactive websites containing information and online enrollment related to the foregoing services
W LOGO	Washington Mutual, Inc.	77/402,034 2/20/2008 Pending	036; 038; 041	Banking services provided via mobile phone communications; providing information on financial and insurance topics; Telecommunications services, namely electronic transmission of messages, data and text; text messaging services; electronic mail services; wireless digital messaging services; wireless electronic transmission of financial and insurance-related data; electronic mail services provided to others; electronic mail services provided to others; Providing online information on the topics of current events, entertainment venues, schedules, ticket information for arts and entertainment events and programs, namely, theater performances, musical performances and concerts, sporting events and community events and activities; providing online tickets for entertainment events via electronic mail
W LOGO	Washington Mutual, Inc.	77/489,166 6/2/2008 3,560,766 1/13/2009 Registered	035	Administration of a discount program for enabling participants to obtain discounts on goods and services through use of a discount membership card; promoting the goods and services of others through the distribution of discount cards; administration of discount programs for enabling participants to obtain discounts on health-care related merchandise and services through use of a discount membership card; providing information regarding discount shopping services for medical, dental, vision, pharmacy and healthcare services
W LOGO	Washington Mutual, Inc.	77/489,168 6/2/2008 3,560,767	036	Insurance brokerage and agencies in the fields of life, home, home warranties, mobile home, manufactured home, rental property, valuable article protection, mortgage, privacy protection, loss due to identity theft and fraud, personal umbrella protection, renters insurance, disaster mortgage

Mark	Owner	App No. App Date Reg No. Reg Date Status	GLBS No.	Goods of Service
		1/13/2009 Registered		insurance, earthquake, flood, auto, motor home, recreational vehicle, travel trailer and boat insurance
W LOGO	Washington Mutual, Inc.	77/529,939 7/23/2008 Pending	035	Arranging and conducting incentive rewards programs to promote the sale of banking services, mortgage and equity home lending services, credit cards and credit card services, insurance services, and financial and investment services and the sale of goods and services of others; promoting the sale of goods and services of others through the administration of membership discount cards [Intent to use] Promoting the sale of goods and services of others through the administration of incentive reward programs and purchase points for credit card use [Use based]
W LOGO	Washington Mutual, Inc.	77/548,644 8/15/2008 Pending	036	Insurance brokerage and agencies in the fields of life, home, home warranties, mobile home, manufactured home, rental property, valuable article protection, mortgage, privacy protection, loss due to identity theft and fraud, personal umbrella protection, renters insurance, disaster mortgage insurance, earthquake, flood, auto, motor home, recreational vehicle, travel trailer and boat insurance
W LOGO	Washington Mutual, Inc.	78/818,110 2/17/2006 Pending	036	Banking services; automated teller machine services; savings, checking and certificate of deposit account services; credit card services; debit card services; cash card services; stored value card services; deposit card services; online banking services; electronic payment services; namely, electronic processing and transmission of bill payment data; mortgage lending services; home equity lending services; consumer lending services; commercial lending services; equipment financing services; mortgage banking services; namely, origination, acquisition, servicing, securitization and brokerage of mortgage loans; specialty finance lending services, namely, lending to underserved borrowers; providing investment and financial information, advice, consultation, management and brokerage services; financial portfolio management and analysis services; mutual fund consultation, brokerage, distribution and investment; establishing and administering mutual funds for others; investment, management and distribution of fixed and variable annuities; retirement account management and distribution; insurance brokerage and agencies in the fields of home, renters, mortgage, earthquake, flood, long term health, medical, dental, vision, pet, boat, accidental death and accidental dismemberment; insurance services, namely, brokerage of insurance against loss due to identification and identity theft and fraud; brokerage of privacy protection insurance; brokerage of credit insurance; brokerage of insurance against loss due to identification and identity theft and fraud; brokerage of agency services in the field of home warranties; insurance underwriting and brokerage in the field of home warranties; charitable financial sponsorship of non-profit community, cultural, theatrical, artistic, musical, educational and sporting events and programs; providing charitable grants to educational institutions, students and community organizations; providing educational scholarships; charitable fund raising services; charitable financial sponsorship of non-profit community events; organizing financial sponsorship of fundraising events to raise money for recognition of educators, and providing financial sponsorship of fundraising events to raise money

Mail	Owner	App. No. App. Date Reg. No. Reg. Date Status	Class No.	Goodwill Service
				for recognition of educators; arranging for others to provide financial sponsorship of fundraising events in the field of education and teaching; providing financial sponsorship of fundraising events in the field of education and teaching; organizing and conducting fundraising events to raise money for recognition of educators; charitable fund raising for fundraising events; providing information related to all of the foregoing services and associated accounts via the Internet
W LOGO	Washington Mutual, Inc.	78/818, 113 2/17/2006 3.510.022 9/30/2008 Registered	009	Magnetically encoded credit cards, cash cards, check cards, ATM cards, deposit cards, debit cards and stored value cards
W LOGO	Washington Mutual, Inc.	78/818, 117 2/17/2006 Pending	016	Printed materials, namely, magazines, trade journals, brochures, flyers, pamphlets, program guides, articles and reports provided to bank customers containing information on topics of general interest; printed matter, namely, books, newsletters, flyers, brochures, paper banners and program guides about financial, lending and banking information and savings and investment accounts; newsletters in the field of mutual funds, annuities, investment securities, investment advice, financial planning, financial portfolio management and related news; newsletters provided to financial advisors containing information relating to mutual funds, annuities and related news
W LOGO	Washington Mutual, Inc.	78/818, 120 2/17/2006 Pending	035	Coordinating the recruitment and referral of volunteers for community service and tutoring programs
W LOGO	Washington Mutual, Inc.	78/818, 123 2/17/2006 Pending	041	Educational services, namely, programs, presentations, training, classes, seminars, conferences, and workshops in the fields of consumer and commercial banking, finance, financial planning, financial portfolio management, investing, mortgage, consumer and commercial lending, real estate, retirement planning and insurance, and the distribution of course materials in connection therewith; conducting seminars in the field of affordable housing; providing awards to recognize excellence in the fields of education and teaching; organizing and conducting community programs to encourage excellence in the fields of education and teaching; promoting excellence in education and teaching through contests; providing recognition and incentives to recognize excellence in the fields of education and teaching; organizing and conducting cultural events and programs to encourage excellence in the fields of education and teaching; organizing and conducting educational conferences, events and programs to encourage excellence in the fields of education and teaching; donation of books and toys for the purpose of meeting community needs; providing newsletters in the field of mutual funds, annuities, investment securities, investment advice, financial planning, financial portfolio management and related news via e-mail; providing on-line newsletters in the field of mutual funds, annuities, investment securities, investment advice, financial planning, financial portfolio management and related news; organizing and conducting events and programs, namely non-profit community, cultural, theatrical, artistic, musical, educational and sporting events and programs, for charitable purposes

Mark	Owner	App. No. App. Date Reg. No. Reg. Date Status	Class No.	Goods or Services
W LOGO II	Washington Mutual, Inc.	75/515,419 7/8/1998 2,478,344 8/14/2001 Registered	036	Banking services; financial services, namely mutual fund distribution [and transfer agent] services; investment advisor services; investment brokerage, consultation and management; securities brokerage; financial portfolio management; financial planning; mortgage and consumer lending services; insurance services, namely agencies in the fields of property and casualty, life, health, credit and disability; and philanthropic services consisting of monetary donations
W LOGO II	Washington Mutual, Inc.	75/714,879 5/27/1999 2,368,337 7/18/2000 Registered	009, 036	Magnetically encoded debit cards; Banking services; credit card services; debit card services; commercial lending services
W LOGO II	Washington Mutual, Inc.	76/155,532 10/27/2000 2,919,255 1/18/2005 Registered	041	Educational services, namely, classes, seminars and workshops in the fields of consumer [and] banking, finance, financial planning, financial portfolio management, investing, mortgage, consumer lending, * and * real estate, and the distribution of course materials in connection therewith; entertainment services, namely, providing games * and * activities for children; library services; providing recreational areas for others in the nature of children's play areas
W LOGO II	Washington Mutual, Inc.	76/159,039 11/3/2000 2,847,884 6/1/2004 Registered	035	Retail store services, mail order services, computerized on-line retail store and mail order services, all in the field of general consumer merchandise
W LOGO II	Washington Mutual, Inc.	78/129,390 5/16/2002 2,911,603 12/14/2004 Registered	036	Banking services; credit card services; debit card services; commercial lending services; equipment financing services; mortgage and consumer lending services; financial services, namely mutual fund distribution and transfer agent services; investment services, namely, investment advisor services; [investment banking services;] investment brokerage, consultation and management; securities brokerage; financial portfolio management; financial planning; insurance agencies in the fields of property and casualty, life, credit and disability insurance and annuities; philanthropic services concerning monetary donations; charitable fund raising services; providing interactive websites containing information related to the foregoing services
W WASHINGTON MUTUAL CIRCLE Design	Washington Mutual, Inc.	78/661,736 6/30/2005 3,313,767 10/16/2007 Registered	009	Magnetically encoded credit cards, debit cards, check card, cash cards, ATM cards, and stored value cards
W WASHINGTON MUTUAL CIRCLE Design	Washington Mutual, Inc.	78/661,742 6/30/2005 3,593,036 3/17/2009	036	Banking; credit card services; debit card services; cash card services; issuing stored value cards services; ATM services; mortgage and home equity lending services; home equity loans

Mark	Owner	App. No. App. Date Reg. No. Reg. Date Status	Class No.	Goods & Services
WAMU	Washington Mutual, Inc.	Registered 75/523,268 7/22/1998 2,315,782 2/8/2000 Registered	035	Promoting corporate investment in low-income housing
WAMU	Washington Mutual, Inc.	75/523,268 7/22/1998 2,315,782 2/8/2000 Registered	036	Banking services; financial services, namely mutual fund distribution *[and transfer agent services]*; investment advisor services; investment brokerage, consultation and management; securities brokerage; financial portfolio management; financial planning; mortgage and consumer lending services; insurance services, namely agencies in the fields of property and casualty, life, health, credit and disability; and philanthropic services consisting of monetary donations
WAMU	Washington Mutual, Inc.	75/719,116 5/28/1999 2,483,253 8/28/2001 Registered	036	Banking services; credit card services; debit card services; and commercial lending services
WAMU	Washington Mutual, Inc.	77/103,109 2/8/2007 Pending	036, 045	Providing consumer credit information, credit card information and credit ratings, and information related to obtaining such information from others; providing credit reports, monitoring of credit reports, analysis of the credit reports, and notification of changes in credit reports; providing consulting services, advice and information to assist others in protecting credit ratings, registering and canceling credit cards; debt and credit analysis services; insurance underwriting, brokerage, agencies and consultation services specializing in the areas of privacy protection, identity theft and fraud; banking services; providing interactive websites containing information and online enrollment related to the foregoing services; Fraud detection and prevention in the field of identity theft, namely, locating and providing information to others concerning consumer and identity fraud and identity theft; providing consulting services and case worker assistance and counseling in filing claims, resolving fraud and identity theft issues with creditors and closing accounts necessitated by identity theft and fraud; providing consulting services, advice and information to assist others in protecting against identity fraud and identity theft; providing consulting services, advice and information on identity theft and fraud protection and prevention products and services; providing interactive websites containing information and online enrollment related to the foregoing services
WAMU	Washington Mutual, Inc.	77/402,035 2/20/2008 Pending	036, 038, 041	Banking services provided via mobile phone communications; providing information on financial and insurance topics; Electronic transmission of text; text messaging services; electronic mail services; wireless digital messaging services; wireless electronic transmission of financial and insurance-related data; electronic mail services provided to others; Providing online information on the topics of entertainment venues, schedules, ticket information for arts and entertainment events and programs, namely, theater performances, and concerts, sporting events and community events and activities; providing online tickets for entertainment events via electronic mail

Mark	Owner	App. No. App. Date Reg. No. Reg. Date Status	Class No.	Goods or Service
WAMU	Washington Mutual, Inc.	77/489,160 6/2/2008 3,560,763 1/13/2009 Registered	035	Administration of a discount program for enabling participants to obtain discounts on goods and services through use of a discount membership card; promoting the goods and services of others through the distribution of discount cards; administration of discount programs for enabling participants to obtain discounts on health-care related merchandise and services through use of a discount membership card; providing consumer information regarding discount shopping services for medical, dental, vision, pharmacy and healthcare services
WAMU	Washington Mutual, Inc.	77/489,165 6/2/2008 3,560,765 1/13/2009 Registered	036	Insurance brokerage and agencies in the fields of life, home, home warranties, mobile home, manufactured home, rental property, valuable article protection, mortgage, privacy protection, loss due to identity theft and fraud, personal umbrella protection, renters insurance, disaster mortgage insurance, earthquake, flood, auto, motor home, recreational vehicle, travel trailer and boat insurance
WAMU	Washington Mutual, Inc.	77/529,937 7/23/2008 Pending	035	Arranging and conducting incentive rewards programs to promote the sale of banking services, mortgage and equity home lending services, credit cards and credit card services, insurance services, and financial and investment services and the sale of goods and services of others; promoting the sale of goods and services of others through the administration of membership discount cards [Intent to use] Promoting the sale of goods and services of others through the administration of incentive reward programs and purchase points for credit card use [Use based]
WAMU	Washington Mutual, Inc.	77/548,653 8/15/2008 Pending	036	Banking services; mortgage and home equity lending services; credit rating services; credit reporting services; providing information on privacy protection products and services, namely, providing consulting services and information on obtaining and monitoring consumer credit information, credit card information and credit ratings, protecting credit ratings, registering and canceling credit cards and debit cards and restoring and analyzing credit; automated teller machine services; savings, checking and certificate of deposit account services; cash card services; stored value card services; deposit card services; electronic payment services, namely, electronic processing and transmission of bill payment data; home equity lending services; equipment financing services; mortgage banking services; financial portfolio management and analysis services; mutual fund consultation, brokerage, distribution and investment services; establishing and administering mutual funds for others; investment, management and distribution of fixed and variable annuities; retirement account management and distribution; insurance brokerage and agencies in the fields of mortgage, long term health, medical, dental, vision, pet, and accidental dismemberment; insurance underwriting and brokerage in the field of home warranties; charitable financial sponsorship of non-profit community, cultural, theatrical, artistic, musical, educational and sporting events and programs; providing charitable grants to educational institutions, students and community organizations; providing educational scholarships; charitable financial sponsorship of non-profit community events; organizing financial sponsorship of fundraising events to raise money for recognition of educators, and providing financial sponsorship of fundraising events to raise money for recognition of educators, and providing financial sponsorship of fundraising events to raise money for recognition of educators; arranging for others to provide financial sponsorship of fundraising

Mark	Owner	App. No. App. Date Reg. No. Reg. Date Status	GLT No.	Goods or Service
				events in the field of education and teaching; providing financial sponsorship of fundraising events in the field of education and teaching; organizing and conducting fundraising events to raise money for recognition of educators; charitable fund raising for fundraising events; providing information related to all of the foregoing services and associated accounts via the Internet
WAMU	Washington Mutual, Inc.	78/949,868 8/10/2006 3,538,957 11/25/2008 Registered	036	Financial consultation and management services relating to IRS § 1031 tax deferred property exchange transactions, namely, services as a Qualified Intermediary, Accommodatee, Trustee or facilitator in such transactions; banking services; online banking services; mortgage banking, brokerage and lending services; asset management services; security brokerage services
WAMU	Washington Mutual, Inc.	78/953,663 8/16/2006 Pending	041	Educational services, namely providing classes, seminars, conferences and workshops in the field of tax planning, financial planning and financial investment; educational services, namely providing classes, seminars, conferences and workshops in the field of real property investment and asset investment; educational services, namely providing classes, seminars, conferences and workshops in the field of IRS § 1031 tax deferred property exchange transactions
WAMU	Washington Mutual, Inc.	78/956,846 8/21/2006 Pending	009	Magnetically encoded stored value cards; electronically readable stored value cards
WAMU	Washington Mutual, Inc.	78/956,852 8/21/2006 Pending	016	Printed materials, namely, magazines, trade journals, brochures, flyers, pamphlets, program guides, articles and reports provided to bank customers containing information on topics of general interest; printed matter, namely, books, newsletters, flyers, brochures, paper banners and program guides about financial, lending and banking information and savings and investment accounts; newsletters in the field of mutual funds, annuities, investment securities, investment advice, financial planning, financial portfolio management and related news; newsletters provided to financial advisors containing information relating to mutual funds, annuities and related news; non-magnetically encoded credit cards, cash cards, check cards, ATM cards, debit cards and stored value cards
WAMU	Washington Mutual, Inc.	78/956,855 8/21/2006 Pending	035	Coordinating the recruitment and referral of volunteers for community service and tutoring programs; providing a referral network for legal services; monitoring consumer credit reports and providing an alert as to any changes therein; providing referrals in the field of privacy protection and identity theft and fraud prevention products and services
WAMU	Washington Mutual, Inc.	78/957,035 8/21/2006 Pending	036	Banking services; automated teller machine services; savings, checking and certificate of deposit account services; check card services; credit card services; debit card services; cash card services; stored value card services; debit deposit card services; online banking services; electronic payment services; namely, electronic processing and transmission of bill payment data; mortgage lending services; home equity lending services; consumer lending services; commercial lending services; equipment financing services; mortgage banking services, namely, origination, acquisition, servicing, securitization and brokerage of mortgage loans; specialty finance lending services, namely, lending to underserved borrowers; investment services, namely, investment advisor

Mark	Owner	App. No. App. Date Reg. No. Reg. Date Status	Class No.	Condition/Service
				<p>services; investment brokerage, consultation and management services; securities brokerage; financial planning services; providing investment and financial information, advice, consultation, and management services; providing investment and financial information, advice, consultation, and management in the field of brokerage services; financial portfolio management and analysis services; mutual fund consultation, brokerage, distribution and investment; establishing and administering mutual funds for others; investment, management and distribution of fixed and variable annuities; retirement savings and investment account management and distribution; financial and investment services, namely providing asset-backed securities of government sponsored entities, mortgage backed securities, government securities, Treasury securities, municipal securities, bank certificates of deposit and investment securities backed by consumer loans, commercial loans, mortgage loans, home equity loans and equipment financing loans; providing investment securities backed by specialty finance loans, namely, loans provided to underserved borrowers; insurance brokerage and agencies in the fields of property and casualty, life, health, credit, home, renters, mortgage, earthquake, flood, long term health, medical, dental, vision, pet, boat, accidental death and accidental dismemberment and disability insurance and annuities; privacy protection insurance services, namely, insurance against loss due to identification and identity theft and fraud; insurance brokerage and agency services in the field of home warranties; insurance underwriting and brokerage in the field of home warranties; charitable financial sponsorship of non-profit community, cultural, theatrical, artistic, musical, educational and sporting events and programs; providing charitable grants to educational institutions, students and community organizations; providing educational scholarships; organizing and conducting events and programs for charitable purposes, namely, charitable fund raising services; organizing, arranging, conducting and providing financial sponsorship of fundraising events to raise money for recognition of educators; organizing, arranging, conducting and providing financial sponsorship of fundraising events in the field of education and teaching; charitable and philanthropic services concerning monetary donations; providing information related to all of the foregoing services and associated accounts via the Internet</p>
WAMU	Washington Mutual, Inc.	78/957,038 8/21/2006 Pending	041	<p>Educational services, namely, conducting programs, presentations, training, classes, seminars, conferences, and workshops in the fields of consumer and commercial banking, finance, financial planning, financial portfolio management, investing, mortgage, consumer and commercial lending, real estate, retirement planning and insurance, and the distribution of course materials in connection therewith; conducting seminars in the field of affordable housing; providing recognition and incentives by way of awards to demonstrate excellence in the fields of education and teaching; organizing and conducting community non-profit cultural and educational programs, events and educational conferences in the fields of education and teaching to encourage excellence in the fields of education and teaching; arranging of contests for the promotion of excellence in education and teaching; charitable donation of books and toys for the purpose of meeting community needs; providing on-line newsletters and newsletters via email in the fields of mutual funds, annuities, investment securities, investment advice, financial planning, financial portfolio management and</p>

Mark	Owner	App. No. App. Date Reg. No. Reg. Date Status	Class No.	Goods or Services
				related news
WAMU	Washington Mutual, Inc.	78/980,580 8/21/2006 3,532,722 11/11/2008 Registered	009	Magnetically encoded credit cards, cash cards, ATM cards and debit cards; electronically readable credit cards, cash cards, ATM cards and debit cards
WAMU 1031 EXCHANGE	Washington Mutual, Inc.	78/949,867 8/10/2006 3,529,315 11/4/2008 Registered	036	Financial consultation and management services relating to IRS § 1031 tax deferred property exchange transactions, namely, services as a Qualified Intermediary, Accommodatee, Trustee or facilitator in such transactions; banking services; online banking services; asset management services; mortgage banking, brokerage and lending services; security brokerage services
WAMU 1031 EXCHANGE	Washington Mutual, Inc.	78/953,666 8/16/2006 3,566,059 1/20/2009 Registered	041	Educational services, namely, providing classes, seminars, conferences and workshops in the field of tax planning, financial planning and financial investment; educational services, namely, providing classes, seminars, conferences and workshops in the field of real property investment and asset investment; educational services, namely, providing classes, seminars, conferences and workshops in the field of IRS § 1031 tax deferred property exchange transactions
WAMU BONUS BUCKS	Washington Mutual, Inc.	77/142,554 3/28/2007 Pending	036	Banking services; checking account services; credit card services; debit card services; financial services, namely a program offering purchase rebates and discounts for credit card and/or debit card transactions; providing cash and other rebates for credit card or debit card use as part of a customer loyalty program
WAMU BONUS BUCKS	Washington Mutual, Inc.	77/142,563 3/28/2007 Pending	035	Promoting credit card and/or debit card use and the sale of goods and services of others through the administration of discount, rebate and incentive awards for credit card and debit card use; promotional services, namely a program offering purchase rebates and discounts for credit card and/or debit card transactions
WAMU CAPITAL	Washington Mutual, Inc.	78/096,840 12/5/2001 3,268,921 7/24/2007 Registered	036	Providing investment and financial information, advice, consultation and management services; securities brokerage services; investment brokerage services; financial and investment services, namely providing asset-backed securities of government sponsored entities, mortgage backed securities, United States government securities, United States Treasury securities, municipal securities, bank certificates of deposit and investment securities backed by consumer loans, commercial loans and mortgage loans; providing investment securities backed by specialty finance loans, namely, loans provided to borrowers who do not fit standard underwriting models
WAMU COMMUNITY ACCESS	Washington Mutual, Inc.	77/155,453 4/12/2007 3,505,989 9/23/2008 Registered	036	Mortgage lending services; low-income and affordable housing mortgage lending services
WAMU DIRECT	Washington Mutual, Inc.	78/661,728 Registered	036	Banking services provided via computer and global computer networks; electronic cash

Mark	Owner	App. No. App. Date Reg. No. Reg. Date Status	CFE No.	Goods or Services
		6/30/2005 3,415,723 4/22/2008 Registered		transactions; banking services; savings account services; debit card services; ATM services
WAMU EQUITY PLUS	Washington Mutual, Inc.	78/649,678 6/13/2005 3,291,722 9/11/2007 Registered	036	Mortgage lending services; home equity loans and home equity lines of credit; consumer lending services; providing interactive websites containing information, services, and online enrollment related to the foregoing services and related accounts
WAMU FREE CHECKING	Washington Mutual, Inc.	77/496,898 6/11/2008 Pending	035	Identity theft restoration services, namely, monitoring consumer credit reports and providing an alert as to any changes therein; registering and canceling debit cards; providing information on registering and canceling debit cards
WAMU FREE CHECKING	Washington Mutual, Inc.	77/496,903 6/11/2008 Pending	036	Banking services; automated teller machine services; savings, checking and certificate of deposit account services; debit card services; online banking services; electronic payment services, namely, electronic processing and transmission of bill payment data; restoring credit, namely, fraud reimbursement services in the field of credit card purchases; providing information on restoring credit; insurance underwriting, brokerage, and agencies specializing in the areas of privacy protection, identity theft and fraud
WAMU FREE CHECKING	Washington Mutual, Inc.	77/496,909 6/11/2008 3,564,336 1/20/2009 Registered	045	Providing information on identity theft recovery; providing consultation services, advice and information on identity theft and fraud protection
WAMU FREE CHECKING	Washington Mutual, Inc.	78/785,949 1/5/2006 3,473,838 7/22/2008 Registered	036	Banking services; automated teller machine services; savings, checking and certificate of deposit account services; debit card services; online banking services; electronic payment services, namely, electronic processing and transmission of bill payment data; registering and canceling debit cards and restoring credit
WAMU HOME LOANS	Washington Mutual, Inc.	78/232,173 3/31/2003 2,879,308 8/31/2004 Registered	036	Banking services; online banking services; mortgage lending services; consumer lending services; commercial lending services; credit card services; debit card services; and providing information related to the foregoing services and related accounts via the Internet
WAMU INCENT	Washington Mutual, Inc.	77/547,682 8/14/2008 Pending	035	Providing online employee compensation information in the field of employee sales commissions and incentive compensation; providing an employee compensation website in the field for employee sales commissions and incentive compensation; providing information in the field of employee compensation and monetary benefits

Mark	Owner	App. No. App. Date Reg. No. Reg. Date Status	GDS No	Goods or Services
WAMU INVESTMENTS	Washington Mutual, Inc.	77/273,614 9/6/2007 Pending	036	Investment services, namely, providing securities brokerage and investment advisory services; investment and financial information, advice, consultation, management and planning services; financial portfolio management and analysis services; retirement account management and distribution services
WAMU KIDS	Washington Mutual, Inc.	78/227,482 3/19/2003 2,813,141 2/10/2004 Registered	036	Banking services; financial services, namely, mutual fund distribution and transfer agent services; investment advisor services; investment brokerage, consultation and management; securities brokerage; financial portfolio management; financial planning; mortgage lending services; consumer lending services; commercial lending services; insurance services, namely, agencies in the fields of property and casualty, life, health, credit and disability; and philanthropic services consisting of monetary donations
WAMU KIDS	Washington Mutual, Inc.	78/227,487 3/19/2003 2,813,142 2/10/2004 Registered	041	Entertainment services, namely, providing games and activities for children; library services; providing recreational areas for others in the nature of children's play areas
WAMU LIVE!	Washington Mutual, Inc.	77/115,174 2/23/2007 Pending	041	Entertainment services, namely providing a website featuring news, entertainment information, entertainment venues, schedules and ticket information for arts and entertainment events and programs, namely, theatre performances, musical performances and concerts, art gallery shows, sporting events, and community events and activities; entertainment services, namely, providing on-line reviews of movies, plays, concerts and art gallery shows; entertainment services, namely, conducting contests; entertainment ticket agency services; entertainment ticket agency services provided via the Internet
WAMU LIVE!	Washington Mutual, Inc.	77/115,178 2/23/2007 Pending	038	Electronic mail services provided to others and featuring the delivery of information on the topics of news, entertainment venues, schedules, ticket information for arts and entertainment events and programs, namely, theatre performances, musical performances and concerts, sporting events and community events and activities; delivery of tickets for entertainment events via electronic mail
WAMU LIVE!	Washington Mutual, Inc.	77/115,183 2/23/2007 3,599,069 3/31/2009 Registered	036	Banking services; savings, checking and certificate of deposit account services, credit and debit card services; mortgage lending services; home equity lending services; consumer lending services; online banking and bill payment services
WAMU LIVE!	Washington Mutual, Inc.	77/115,186 2/23/2007 Pending	035	Distribution of advertisements and commercial announcements for others featuring news, information, entertainment venues, schedules, ticket information, and contests related to arts and entertainment events and programs, namely, theatre performances, musical performances and concerts, sporting events, art gallery shows, and community events and activities; distribution of advertisements and commercial announcements for entertainment ticket agencies
WAMU LIVE!	Washington Mutual, Inc.	77/975,813	041	Entertainment services, namely, providing a website featuring news, entertainment information,

Mark	Owner	App No. App. Date Reg. No. Reg. Date Status	Class No.	Goods or Services
		2/23/2007 3,522,371 10/21/2008 Registered		entertainment venues, schedules and ticket information for arts and entertainment events and programs, namely, theatre performances, musical performances and concerts, and sporting events; entertainment services, namely, providing on-line reviews of concerts; entertainment services, namely, conducting contests; entertainment ticket agency services; entertainment ticket agency services provided via the Internet
WAMU LIVE!	Washington Mutual, Inc.	77/975,814 2/23/2007 3,518,040 10/14/2008 Registered	038	Electronic mail services provided to others and featuring the delivery of information on the topics of news, entertainment venues, schedules, ticket information for arts and entertainment events and programs, namely, theatre performances, musical performances and concerts, sporting events; delivery of tickets for entertainment events via electronic mail
WAMU LIVE!	Washington Mutual, Inc.	77/975,815 2/23/2007 3,522,372 10/21/2008 Registered	035	Distribution of advertisements and commercial announcements for others featuring news, information, entertainment venues, schedules, ticket information, and contests related to arts and entertainment events and programs, namely, theatre performances, musical performances and concerts, sporting events; distribution of advertisements and commercial announcements for entertainment ticket agencies
WAMU MORTGAGE PLUS	Washington Mutual, Inc.	78/649,674 6/13/2005 3,291,721 9/11/2007 Registered	036	Mortgage lending services; home equity loans and home equity lines of credit; consumer lending services; providing interactive websites containing information, services, and online enrollment related to the foregoing services and related accounts
WAMU REAL REWARDS	Washington Mutual, Inc.	77/109,922 2/16/2007 3,517,180 10/14/2008 Registered	036	Credit card services; financial information provided by electronic means
WAMU REAL REWARDS	Washington Mutual, Inc.	77/109,925 2/16/2007 3,517,181 10/14/2008 Registered	035	Promoting credit card use and the sale of goods and services of others through the administration of incentive award programs, purchase points for credit card use
WAMU THEATER	Washington Mutual, Inc.	77/194,309 5/31/2007 3,525,028 10/28/2008 Registered	043	Arena services, namely, providing facilities for concerts, conventions and exhibitions
WAMU THEATER	Washington Mutual, Inc.	77/194,312 5/31/2007	041	Production and co-production of sporting events and live music concerts; providing facilities for sporting events and live music concerts; production and co-production of, and providing facilities for,

Mark	Owner	App No. App Date Reg No. Reg Date Status	Class No.	Goods or Service
		Pending		educational, training, artistic, philanthropic, humanitarian, finance and business conventions and exhibitions; organizing community, amateur and professional sporting events; entertainment in the nature of live music concerts
WAMU WITH W LOGO	Washington Mutual, Inc.	77/103,117 2/8/2007 Pending	036, 045	Providing consumer credit information, credit card information and credit ratings, and information related to obtaining such information from others; providing credit reports, monitoring of credit reports, analysis of the credit reports, and notification of changes in credit reports; providing consulting services, advice and information to assist others in protecting credit ratings, registering and canceling credit cards; debt and credit analysis services; insurance underwriting, brokerage, agencies and consultation services specializing in the areas of privacy protection, identity theft and fraud; banking services; providing interactive websites containing information and online enrollment related to the foregoing services; Fraud detection and prevention in the field of identity theft, namely, locating and providing information to others concerning consumer and identity fraud and identity theft; providing consulting services and case worker assistance and counseling in filing claims, resolving fraud and identity theft issues with creditors and closing accounts necessitated by identity theft and fraud; providing consulting services, advice and information to assist others in protecting against identity fraud and identity theft; providing consulting services, advice and information on identity theft and fraud protection and prevention products and services; providing interactive websites containing information and online enrollment related to the foregoing services
WAMU WITH W LOGO	Washington Mutual, Inc.	77/402,030 2/20/2008 Pending	036, 038, 042	Banking services provided via mobile phone communications; providing information on financial and insurance topics; Electronic transmission of text; text messaging services; electronic mail services; wireless digital messaging services; wireless electronic transmission of financial and insurance-related data; electronic mail services provided to others; Providing online information on the topics of entertainment venues, schedules, ticket information for arts and entertainment events and programs, namely, theater performances and concerts, sporting events and community events and activities; providing online tickets for entertainment events via electronic mail
WAMU WITH W LOGO	Washington Mutual, Inc.	77/489,162 6/2/2008 3,560,764 1/13/2009 Registered	035	Administration of a discount program for enabling participants to obtain discounts on goods and services through use of a discount membership card; promoting the goods and services of others through the distribution of discount cards; administration of discount programs for enabling participants to obtain discounts on health-care related merchandise and services through use of a discount membership card; providing consumer information regarding discount shopping services for medical, dental, vision, pharmacy and healthcare services
WAMU WITH W LOGO	Washington Mutual, Inc.	77/489,170 6/2/2008 3,563,908 1/20/2009 Registered	036	Insurance brokerage and agencies in the fields of life, home, home warranties, mobile home, manufactured home, rental property, valuable article protection, mortgage, privacy protection, loss due to identity theft and fraud, personal umbrella protection, renters insurance, disaster mortgage insurance, earthquake, flood, auto, motor home, recreational vehicle, travel trailer and boat insurance
WAMU WITH W LOGO	Washington Mutual, Inc.	77/529,941 7/23/2008	035	Arranging and conducting incentive rewards programs to promote the sale of banking services, mortgage and equity home lending services, credit cards and credit card services, insurance

Mark	Owner	App No. App. Date Reg. No. Reg. Date Status	Glass No.	Goods or Service
		Pending		services, and financial and investment services and the sale of goods and services of others; promoting the sale of goods and services of others through the administration of membership discount cards [Intent to use] Promoting the sale of goods and services of others through the administration of incentive reward programs and purchase points for credit card use [Use based]
WAMU WITH W LOGO	Washington Mutual, Inc.	77/548,646 8/15/2008 Pending	036	Credit card and debit card services; credit rating services; credit reporting services; providing information on privacy protection products and services, namely, providing consulting services and information on obtaining and monitoring consumer credit information, credit card information and credit ratings, protecting credit ratings, registering and canceling credit cards and debit cards and restoring and analyzing credit
WAMU WITH W LOGO	Washington Mutual, Inc.	78/971,669 9/11/2006 Pending	009	Magnetically encoded and/or electronically readable stored value cards
WAMU WITH W LOGO	Washington Mutual, Inc.	78/971,677 9/11/2006 Pending	016	Credit cards, debit cards, ATM cards, cash cards, check cards, deposit cards and stored value cards without magnetic coding; printed materials, namely, magazines, trade journals, brochures, flyers, pamphlets, program guides, series of articles and reports provided to bank customers containing information on topics of general interest; printed matter, namely, books, newsletters, flyers, brochures, paper banners and program guides about financial, lending and banking information and savings and investment accounts; newsletters in the field of mutual funds, annuities, investment securities, investment advice, financial planning, financial portfolio management and related news; newsletters provided to financial advisors containing information relating to mutual funds, annuities and related news
WAMU WITH W LOGO	Washington Mutual, Inc.	78/971,679 9/11/2006 Pending	035	Coordinating the recruitment and referral of volunteers for community service and tutoring programs; providing a referral network for legal services; providing referrals in the field of privacy protection and identity theft and fraud prevention products and services; providing consulting services, advice and information concerning monitoring consumer credit reports; monitoring consumer credit reports and providing an alert as to any changes therein; promotion of non-profit community, cultural, theatrical, artistic, musical, educational and sporting events and programs; providing information regarding the foregoing services via the Internet
WAMU WITH W LOGO	Washington Mutual, Inc.	78/971,685 9/11/2006 Pending	036	Banking services; automated teller machine services; savings, checking and certificate of deposit account services; credit card services; debit card services; cash card services; issuing check cards, stored value cards and deposit cards; online banking services; electronic payment services; namely, electronic processing and transmission of bill payment data; mortgage lending services; home equity lending services; consumer lending services; commercial lending services; equipment financing services; mortgage banking services, namely, origination, acquisition, servicing, securitization and brokerage of mortgage loans; specialty finance lending services, namely, lending to underserved borrowers; investment services, namely, investment advisor services; investment brokerage, consultation and management services; securities brokerage; financial planning services; providing investment and financial information, advice, consultation, and management

Mark	Owner	App. No. App. Date Reg. No. Reg. Date Status	Class No.	Goods or Services
WAMU WITH W LOGO	Washington Mutual, Inc.	78/971,691 9/1/2006 Pending	041	<p>services; providing investment and financial information, advice, consultation, and management in the field of brokerage services; financial portfolio management and analysis services; mutual fund consultation, brokerage, distribution and investment; establishing and administering mutual funds for others; investment, management and distribution of fixed and variable annuities; retirement savings and investment account management and distribution; financial and investment services, namely providing asset-backed securities of government sponsored entities, mortgage backed securities, government securities, Treasury securities, municipal securities, bank certificates of deposit and investment securities backed by consumer loans, commercial loans, mortgage loans, home equity loans and equipment financing loans; providing investment securities backed by specialty finance loans, namely, loans provided to underserved borrowers; insurance brokerage and agencies in the fields of property and casualty, life, health, credit, home, home warranties, renters, mortgage, earthquake, flood, long term health, medical, dental, vision, pet, boat, privacy protection, loss due to identity theft and fraud, accidental death and accidental dismemberment and disability insurance and annuities; credit rating services; credit reporting services; charitable financial sponsorship of non-profit community, cultural, theatrical, artistic, musical, educational and sporting events and programs; providing charitable grants to educational institutions, students and community organizations; providing educational scholarships; organizing and conducting events and programs for charitable purposes, namely, charitable fund raising services; organizing, arranging, conducting and providing financial sponsorship of fundraising events to raise money for recognition of educators; organizing, arranging, conducting and providing financial sponsorship of fundraising events in the field of education and teaching; charitable and philanthropic services concerning monetary donations; providing information related to all of the foregoing services and associated accounts via the Internet; providing consumer credit information, credit card information and credit ratings and information related to obtaining such information from others; providing information on privacy protection products and services, namely, providing information on protecting credit ratings, registering and canceling credit cards and restoring and analyzing credit; providing credit reports and analysis of credit reports; providing information on privacy protection products and services, namely, providing information on obtaining and monitoring consumer credit information, credit card information and credit ratings; providing information regarding the foregoing services via the Internet</p> <p>Educational services, namely, conducting programs, presentations, training, classes, seminars, conferences, and workshops in the fields of consumer and commercial banking, finance, financial planning, financial portfolio management, investing, mortgage, consumer and commercial lending, real estate, retirement planning and insurance, and the distribution of course materials in connection therewith; conducting seminars in the field of affordable housing; providing recognition and incentives by way of awards to demonstrate excellence in the fields of education and teaching; organizing and conducting community non-profit cultural and educational programs, events and educational conferences in the fields of education and teaching to encourage excellence in the fields of education and teaching; arranging of contests for the promotion of excellence in education and teaching; charitable donation of books and toys for the purpose of meeting community needs;</p>

Mark	Owner	App. No. App. Date Reg. No. Reg. Date Status	Class No.	Goods or Services
				providing on-line newsletters and newsletters via email in the fields of mutual funds, annuities, investment securities, investment advice, financial planning, financial portfolio management and related news
WAMU WITH W LOGO	Washington Mutual, Inc.	78/980,556 9/11/2006 3,518,533 10/14/2008 Registered	009	Magnetically encoded and/or electronically readable credit cards, cash cards, ATM cards, deposit cards, debit cards
WAMU.COM	Washington Mutual, Inc.	75/742,362 7/2/1999 2,498,860 10/16/2001 Registered	036	Banking services; financial services, namely mutual fund distribution services; investment advisor services; investment brokerage, consultation and management; securities brokerage; financial portfolio management; financial planning; mortgage and consumer lending services; commercial lending services; credit card services; debit card services; insurance services, namely, agencies in the fields of property and casualty, life, health, credit and disability; philanthropic services consisting of monetary donations; and providing banking, financial, investment, insurance, credit card and loan information by means of the global computer network
WAMUINS	Washington Mutual, Inc.	76/977,685 2/1/2001 3,002,461 9/27/2005 Registered	036	Insurance services, namely, insurance brokerage and agencies in the fields of property and casualty, home, life, long term health insurance, pet insurance, and disability insurance and annuities; insurance brokerage and agencies in the field of home warranties; home warranty services; providing interactive websites containing information related to the foregoing services
WAMUINS.COM and Design	Washington Mutual, Inc.	76/976,846 2/1/2001 2,887,396 9/21/2004 Registered	036	Financial services, namely, financial planning, financial management, and financial analysis and consultation; insurance services, namely, insurance brokerage and agencies in the fields of property and casualty, home, life, long term health insurance, pet insurance, accidental death, accidental dismemberment and credit and disability insurance and annuities; insurance brokerage and agencies in the field of home warranties; providing an interactive website containing information and services relating to financial and insurance services, namely, financial planning, financial management, and financial analysis and consultation, insurance agencies in the fields of property and casualty, home, life, long term health insurance, pet insurance, accidental death and accidental dismemberment and credit and disability insurance and annuities; home warranty services
WASHINGTON MUTUAL	Washington Mutual, Inc.	75/515,420 7/8/1998 2,318,138 2/15/2000 Registered	036	Banking services; financial services, namely mutual fund distribution *[and transfer agent]* services; investment advisor services; investment brokerage, consultation and management; securities brokerage; financial portfolio management; financial planning; mortgage and consumer lending services; insurance services, namely agencies in the fields of property and casualty, life, health, credit and disability; and philanthropic services consisting of monetary donations
WASHINGTON MUTUAL	Washington Mutual, Inc.	75/715,723 5/27/1999 2,332,955	016, 036	Credit cards; debit cards; Banking services; credit card services; debit card services; commercial lending services

Mark	Owner	App. No. App. Date Reg. No. Reg. Date Status	Class No.	Goods or Services
WASHINGTON MUTUAL	Washington Mutual, Inc.	3/21/2000 Registered		
WASHINGTON MUTUAL	Washington Mutual, Inc.	76/155,066 10/27/2000 2,926,504 2/15/2005 Registered	041	Educational services, namely, classes, seminars and workshops in the fields of consumer banking, finance, financial planning, financial portfolio management, investing, mortgage, consumer lending and real estate, and the distribution of course materials in connection therewith; entertainment services, namely, providing games and activities for children; library services; providing recreational facilities in the nature of children's play areas
WASHINGTON MUTUAL	Washington Mutual, Inc.	76/976,677 11/3/2000 2,867,640 7/27/2004 Registered	035	Retail services, mail order services, computerized on-line retail store and mail order services, all featuring women's and men's apparel, toys, umbrellas, housewares, key chains, novelty items, bags, satchels, folios, candy, notepads, calendars, stationery, home electronics and flashlights
WASHINGTON MUTUAL	Washington Mutual, Inc.	78/129,389 5/16/2002 3,021,627 11/29/2005 Registered	036	Financial services, namely mutual fund distribution; investment services, namely, investment advisor services; investment brokerage, consultation and management; securities brokerage; financial portfolio management; financial planning; insurance agencies in the fields of property and casualty, life
WASHINGTON MUTUAL	Washington Mutual, Inc.	78/960,103 8/24/2006 3,329,552 11/6/2007 Registered	009	Magnetically encoded and/or electronically readable credit cards, cash cards, check cards, ATM cards, debit cards and stored value cards
WASHINGTON MUTUAL	Washington Mutual, Inc.	78/975,992 5/16/2002 2,980,037 7/26/2005 Registered	036	Banking services; credit card services; debit card services; commercial lending services; equipment financing services; mortgage and consumer lending services; philanthropic services concerning monetary donations; charitable fund raising services; providing interactive websites containing information related to the foregoing services
WASHINGTON MUTUAL BANK (Chinese Characters)	Washington Mutual, Inc.	75/601,482 12/9/1998 2,775,934 10/21/2003 Registered	036	Banking services; mortgage and consumer lending services and philanthropic services consisting of monetary donations
WASHINGTON MUTUAL BANK (Chinese Characters)	Washington Mutual, Inc.	75/697,864 5/4/1999 2,795,108 12/16/2003 Registered	036	Banking services; credit card services; debit card services; commercial lending services

Mark	Owner	App. No. App. Date Reg. No. Reg. Date Status	Class No.	Goods or Services
WASHINGTON MUTUAL COMMUNITY ACCESS	Washington Mutual, Inc.	78/975,413 6/21/2002 2,861,690 7/6/2004 Registered	036	Mortgage lending services; low-income and affordable housing mortgage lending services

Exhibit B



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Quinn Emanuel Prevails in Early Test of WaMu's Billion-Dollar Case Against JPMorgan Chase

By David Bario

June 25, 2009

Quinn Emanuel, that scourge of banks across America, emerged smiling on Wednesday from the latest round in Washington Mutual Inc.'s knock-down, drag-out fight with JPMorgan Chase. After four hours of argument, federal bankruptcy court judge Mary Walrath denied requests by JPMorgan Chase and the FDIC to stay two adversary proceedings tied to Washington Mutual's attempted recovery of \$10 billion it says was fraudulently transferred to JPMorgan when it acquired Washington Mutual Bank. (Here's our previous story about the case, in which Quinn Emanuel represents Washington Mutual Inc.)

Judge Walrath refused to transfer the litigation to federal district court in Washington, D.C., and issued an opinion Wednesday afternoon granting Quinn Emanuel's motion to examine JPMorgan's holdings under a bankruptcy provision allowing aggressive discovery. JPMorgan Chase was represented at the hearing by Robert Sacks and Hydee Feldstein of Sullivan & Cromwell. The FDIC had Thomas Califano of DLA.

Quinn Emanuel partner Michael Carlinsky told the Litigation Daily that the day couldn't have gone better for his client. "We walked out of there thinking we had just scored a three-run home run, and then, like gravy, an hour later she issues this opinion saying [WaMu] can have unlimited discovery of Chase," he said.

But Carlinsky didn't get everything he hoped for. Judge Walrath ruled that the FDIC, which is Washington Mutual's bankruptcy receiver, could intervene in the fight over the deposits. Carlinsky had argued that allowing the agency to intervene would lead to unacceptable delays.

Nevertheless, Walrath's ruling means Quinn Emanuel will now be on the prowl in two megabankruptcies: On Wednesday, you'll recall, Manhattan federal bankruptcy court judge James Peck gave the go-ahead for a probe of Barclay's purchase of Lehman's brokerage; Quinn represents the creditors committee in that case.

John Quinn told us back in March that his firm was working hard to refill its litigation pipeline after the completion of several big trials for clients like Mattel, Parmalat, and Nokia in late 2008. At the time, Quinn seemed a bit worried that the pace would not pick up to early 2008 levels. We're guessing he's not worried anymore.

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