

1 UNITED STATES BANKRUPTCY COURT
2 DISTRICT OF DELAWARE

3 IN RE:) Case No. 08-12229 (MFW)
4 WASHINGTON MUTUAL, INC., et al.,) Chapter 11
5 Debtors.) Courtroom No. 4
6) 824 Market Street
7) Wilmington, Delaware 19801
8)
9) February 5, 2010
10) 10:30 A.M.

11 TRANSCRIPT OF HEARING
12 BEFORE HONORABLE MARY F. WALRATH
13 UNITED STATES BANKRUPTCY JUDGE

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1 THE CLERK: All Rise.

2 THE COURT: Good Morning.

3 MR. ROSEN: Good morning, Your Honor, Brian Rose
4 Weil Gotshal & Manges here with Mr. Matt Curro from our firm
5 and Chun Jang from Richards Layton & Finger on behalf of
6 Washington Mutual. Your Honor, the only item on today's
7 agenda is the Debtors' 19th omnibus objection to claims. And
8 that is reflected as number 7 on the amended agenda that the
9 Court received yesterday afternoon, I believe.

10 THE COURT: I have it.

11 MR. ROSEN: Your Honor, we have, what the 19th
12 omnibus objection relates to is what we refer to as wrong
13 party litigation claims. And what we have for the Court
14 today is, what I believe is a short presentation something
15 that we probably should have done sometime before a point
16 that is, you know, almost a year and a half into the case,
17 but something that lays out for the Court the corporate
18 structure of Washington Mutual, Inc. and Washington Mutual
19 Bank and how it evolved over time. And if I could, Your
20 Honor, I'd like to approach and hand the Court a
21 demonstrative that we're then going to use with the witness.

22 THE COURT: All right.

23 MR. ROSEN: Your Honor, specifically the 19th
24 omnibus objection, as I said, what we refer to as our wrong
25 party litigation claims and what we did here is we objected

1 to miscellaneous proofs of claim that essentially where
2 Washington Mutual, Inc. had been named in prepetition
3 litigation. And what we were able to ascertain was for
4 activities associated with banking activities at Washington
5 Mutual Bank or any of its subsidiaries. And, specifically,
6 the conduct that it related to fell into four specific
7 categories: mortgage claims, bank operation claims, lending
8 claims, and certain miscellaneous claims. We received nine
9 responses, Your Honor. One of those had been resolved. That
10 was a response that had been filed by Ms. Deborah Hoover.
11 And we resolved that, Your Honor, by the Debtors and the
12 Claimants agreeing that we would add language to the proposed
13 order preserving for the avoidance of doubt that the
14 Claimant's claims against non-Debtor parties would continue.
15 And we have agreed on that language and Ms. Hoover's
16 objection has gone away.

17 There were five Claimants, Your Honor, where we have
18 agreed to adjourn our objection with respect to those. That
19 is Silas and Barbara Wrigley (claim number 3356); Bert and
20 Linda Barber (2037); the estate of Elaine DeNaples [*phonetic*]
21 (claim 2844); Richard McCord as Chapter 7 Trustee for Yandoli
22 Foods (claim 568); and Ernest Ciccotelli. There were three
23 contested claims meaning three additional responses that we
24 received. One was by Belal Dalati, one by Melissa Gonell and
25

1 the third by, what we refer to as the Cornelius's but it's
2 Ali S. Muhammad and Dortehea Cornelius that is claim 3126).

3 I would note, Your Honor, that when the first agenda
4 was filed with respect to this hearing, it incorrectly noted
5 on Exhibit D or whatever the appropriate exhibit was that
6 listed out all the respective claims that the claim of
7 Melissa Gonell was supposed to be adjourned. We immediately
8 upon seeing that filed, Your Honor, made efforts to contact
9 counsel for Ms. Gonell. That was the law offices of Charles
10 Nathan. And we left many messages on Mr. Nathan's voice
11 mail. We have never heard a response. Likewise, Your Honor,
12 we immediately informed the Court and we have subsequently
13 filed amended agendas was to reflect that it is going
14 forward. But, Your Honor, we have not heard from Mr. Nathan
15 since so if the Court would like to adjourn that one as well,
16 we would understand. But we do believe we've given him
17 appropriate notice, but we would understand since we have
18 kicked over others. And I don't want there to be any issues
19 associated with this one.

20 THE COURT: Let's continue that one as well.

21 MR. ROSEN: Okay. So Your Honor, we have, as I
22 said, many Respondents who have not responded or many claims
23 or Claimants who's claims have not been responded to by way
24 of our objection and we have two that happened: Belal Dalati
25 and Ali S. Muhammad/Dortehea Cornelius. And what I'd like to

1 do, Your Honor, is call to the witness stand two witnesses.
2 And we also have a declaration that we filed with the initial
3 19th omnibus objection that will make a proffer if the Court
4 so desires. But at this point, Your Honor, what I'd like to
5 do is call to the stand Ms. Doreen Logan.

6 THE COURT: All right. Please remain standing so
7 you can be sworn.

8 DOREEN LOGAN, DEBTORS' WITNESS, SWORN

9 THE CLERK: Please state your full name and spell
10 your last name.

11 MS. LOGAN: Doreen Logan, L-o-g-a-n.

12 DIRECT EXAMINATION

13 BY MR. ROSEN:

14 Q. Ms. Logan, by whom are you currently employed?

15 A. Washington Mutual Inc.

16 Q. And what is your position with Washington Mutual, Inc.?

17 A. I'm the Controller and Assistant Treasurer.

18 Q. And in that regard, what are your day-to-day
19 responsibilities?

20 A. General accounting for WMI at subsidiaries and putting
21 out the monthly operating report.

22 Q. And are you familiar with WMI's current organizational
23 structure?

24 A. Yes.

25 Q. Where were you previously employed?

1 A. Immediately prior to Washington Mutual, Inc. I was
2 employed by JPMorgan for approximately three weeks.

3 Q. So when you say that immediately after the seizure?

4 A. Yes.

5 Q. So 9/26 until 5 - -

6 A. 10/17.

7 Q. 10/17 okay. And prior to JPMorgan, by whom were you
8 employed?

9 A. From 1992, September 25th, 2008 I was employed by American
10 Savings or Washington Mutual Bank with a two year period when
11 I was at a different job.

12 Q. And in what capacity were you employed by Washington
13 Mutual Bank?

14 A. I had a series of positions in the Controller's Group,
15 Budget and Planning. And then most of my experience was in
16 treasury, cash management, and treasury operations.

17 Q. And in your position immediately prior to the seizure,
18 what were your job responsibilities at Washington Mutual
19 Bank?

20 A. I was a Transaction Manager in structured finance. So my
21 main functions were to put on structured transactions with
22 third parties and do internal corporate restructurings.

23 Q. And in that capacity doing these internal corporate
24 restructurings, therefore, were you familiar with the overall
25 organizational structure of Washington Mutual Bank?

1 A. Yes.

2 MR. ROSEN: May I approach the witness?

3 THE COURT: You may.

4 BY MR. ROSEN:

5 Q. Ms. Logan, I've handed you what's been marked as Exhibit

6 1. Were you involved in the preparation of this

7 presentation?

8 A. Yes.

9 Q. And have you reviewed the final presentation that I just
10 gave to you?

11 A. Yes.

12 Q. And is this slide presentation accurate in all respects?

13 A. Yes.

14 Q. Why don't you briefly say what this presentation is,
15 without going into slide by slide?

16 A. To give basic facts about Washington Mutual, Inc., as
17 well as operating segments within Washington Mutual
18 organization and describe where the business operations
19 occurred.

20 Q. Let's turn to slide number 4 or page number 4. Prior to
21 the seizure of Washington Mutual Bank what was WMI's position
22 in the overall Washington Mutual corporate structure?

23 A. It was the parent company of the bank, as well as other
24 subs.

25 Q. And did Washington Mutual, Inc. have any employees?

1 A. Yes.

2 Q. Approximately how many?

3 A. Approximately 19 employees.

4 Q. I like to turn your attention to slide 6. How many or
5 how were the operations of the bank broken down?

6 A. We have four operating segments.

7 Q. And what were those?

8 A. Retail Banking Group, Home Loans Group, Card Services,
9 and the Commercial Group.

10 Q. And what entities were primarily engaged in the banking
11 activities?

12 A. The vast majority of operations occurred at the bank or
13 some of its subs.

14 Q. Turning your attention to the next page, what would this
15 slide depict?

16 A. This is, it shows the four operating segments and what
17 their main operations were.

18 UNIDENTIFIED: Your Honor, I know its far away, but
19 I believe it's the first board up there if you want to look
20 at it that way as well.

21 BY MR. ROSEN:

22 Q. Ms. Logan, let's discuss each business segment. What was
23 entailed with the Retail Banking operations?

24 A. The Retail Banking Group was the way we described it was
25 the branches, banking operations. Normal bank products were

1 offered and, as well Retail Banking Group had a subsidiary.
2 There was, Wamu Investment Inc. had recently changes its name
3 from something else, and they provided advisory services to
4 customers.

5 Q. Did they also provide brokerage services?

6 A. Yes, yes.

7 THE COURT: What was it called again?

8 MS. LOGAN: It changed its name. It's now Wamu
9 Investment Inc.

10 BY MR. ROSEN

11 Q. And which entities were primarily involved with the
12 Retail Banking Group's operations?

13 A. Washington Mutual Bank, Washington Bank FSB and Wamu
14 Investment Inc. It was WMI Financial Services for years so -
15 -

16 Q. Before changing - -

17 A. Just before it changes its name yes.

18 Q. Okay. Did WMI directly conduct any retail banking
19 operations?

20 A. No.

21 Q. Moving onto the Home Loans Group which is the second box
22 there, what operations were subsumed under that group?

23 A. The origination fulfillment and servicing of mortgage
24 loans that included single family residential, home equity
25 loans, lines of credit. They also bought and sold mortgage

1 loans, as well as securitizations.

2 Q. So they did that securitizations through a Capital
3 Markets Group there?

4 A. Yes.

5 Q. And which entities were primarily involved in the Home
6 Loan Groups operations?

7 A. The vast majority occurred at Washington Mutual Bank but
8 then they also had some specific subs that were used for
9 other functions.

10 Q. When you say they had subs, Washington Mutual Bank had
11 subsidiaries in this?

12 A. Yes, yes.

13 Q. And WMI originate or service any loans or lines of credit
14 directly to consumers?

15 A. No.

16 Q. With respect to the Card Services Group which is the
17 third box there, what operations fell under that umbrella?

18 A. They issued and serviced credit cards.

19 Q. And what entities were primarily involved in that Card
20 Services Group?

21 A. That function was wholly at Washington Mutual Bank.

22 Q. Again, did WMI directly issue credit cards to the public
23 or service credit card accounts for consumers?

24 A. No.

25 Q. And finally with respect to the Commercial Group, what

1 operations fell under this category?

2 A. The Commercial Group had, their focus was multi-family
3 lending, commercial real estate lending, and providing
4 deposit services to those customers who were multi-family or
5 commercial real estate builders.

6 Q. And what entities were involved in the Commercial Groups
7 operations?

8 A. Vast majority of Washington Mutual Bank.

9 Q. When you say vast majority, were some done by
10 subsidiaries of Washington Mutual Bank?

11 A. In only one case, the Wamu 1031 exchange was actually a
12 sub of Washington Mutual, Inc. and it only had 10 employees.
13 It was doing tax exchange.

14 Q. At what point in time did that become a sub of Washington
15 Mutual, Inc.?

16 A. With the CCB, oh with the CCB acquisition it became a
17 subsidiary of NACI. And that - -

18 Q. And that was under Washington Mutual Bank eventually?

19 A. NACI became rolled into the bank, yes.

20 Q. Did Washington Mutual, Inc. itself provide any commercial
21 banking services to public commercial customers?

22 A. No.

23 Q. Are there any other business segments that are not
24 depicted on this slide 7?

25 A. Yes. There we call it, it's a business segment. It was

1 the corporate support and other segment.

2 Q. And why are they not on that slide?

3 A. They didn't do anything that was customer case and they
4 provided services to these four operating segments.

5 Q. And to whom were those services provided?

6 A. All four of the operating groups received the services of
7 the corporate support and other segment.

8 Q. So to whom they were provided, is it correct to say they
9 were provided to Washington Mutual Bank and its subsidiaries?

10 A. Yes.

11 Q. Did anyone in the Corporate Support Group deal directly
12 with any consumers?

13 A. No.

14 Q. Turning your attention to the next slide, slide 8. Could
15 you please explain to the Court what this depicts?

16 A. This is, this graphically shows where all of the
17 employees that were employed within any company at Washington
18 Mutual, what the number of employees was, and what segment
19 they were in.

20 Q. So the top line there, that is Washington Mutual, Inc.?

21 A. Yes.

22 Q. And how many employees does it have there?

23 A. In total it has 19 employees.

24 Q. Okay. The slide shows that Washington Mutual, Inc.

25 employed one person that was part of each of the home loan

1 commercial and retail business segments. What position did
2 each of these individuals hold?

3 A. In each case, that person was the president of that
4 segment.

5 Q. And what was their role then?

6 A. To provide strategic oversight to the rest of the
7 segment.

8 Q. What types of employees make up the 16 employees in the
9 corporate support group that's reflected up at Washington
10 Mutual, Inc.?

11 A. A CEO, president, chief financial officer, chief credit
12 officer, chief legal officer, human resources, those kinds
13 of, those EVP's are in the 16.

14 Q. Based upon your understanding of this corporate
15 structure, Ms. Logan, did WMI engage in any business directly
16 with the public banking customer?

17 A. No.

18 Q. And now I'd like to turn your attention all the way to
19 the bank to slide 32. Could you explain to the Court what
20 this slide shows.

21 THE COURT: What page, what one?

22 MR. ROSEN: I'm sorry, 32, Your Honor.

23 THE COURT: Thank you.

24 BY MR. ROSEN:

25 A. These are the list of claims that are part of today's

1 discussion.

2 Q. And could you explain specifically what it shows?

3 A. Each of the claimant is listed and then what the
4 allegations relate to and then any other named party besides
5 WMI.

6 Q. Notwithstanding that WMI has been named in these
7 litigations and that the claims have been filed against WMI,
8 based upon your understanding of the WMI and WMB businesses
9 and business segments did WMI in any way provide services or
10 take any actions with respect to the claims that are alleged?

11 A. No.

12 Q. Regarding the three employee claims that are here, did
13 you perform any investigation into those claims?

14 A. Yes.

15 Q. And what steps did you take?

16 A. I requested information from the HR management system
17 People Soft to determine which legal entity within the
18 structure employ that employee.

19 MR. ROSEN: Your Honor, may I approach?

20 THE COURT: Yes.

21 BY MR. ROSEN:

22 Q. Ms. Logan, I've just handed you what has been marked as
23 Debtors' Exhibit 2. Could you please explain what that is?

24 A. This is a printout from People Soft of all of the changes
25 made to this employee's record.

1 Q. Well it says this employee, but I think there are
2 multiple names on this.

3 A. Oh yeah I'm looking at the top one, that's correct.

4 Q. Okay. I believe that there are three people named here.
5 One is Poron Bozori [*phonetic*].

6 A. Uh huh.

7 Q. And the second is a Dale George. And the third is a Yi
8 Wong or Wang. I may have mispronounced that. Could you just
9 again explain to me then with respect to these employees what
10 does the People Soft Database reflect?

11 A. It's their employment record and then every change that
12 was made to the record while they were an employee.

13 Q. And does it show where they are an employee?

14 A. Yes.

15 Q. And which entities were they employed by?

16 A. In all cases these employees were either employed by the
17 bank or a subsidiary of the bank.

18 Q. Going back to slide 32 the third item down is Poron
19 Bozori. In the middle column or the third column over, it
20 says the allegations relate to employee related actions. So
21 was it the determination of Washington Mutual, Inc. that
22 these claims or employment related claims were not WMI
23 obligations and, instead, were Washington Mutual Bank or its
24 subsidiary?

25 A. That's correct.

1 Q. With respect to Dale George, again that's claim 196, in
2 the column it reflects employment issues. Again the same
3 question, was it the determination of Washington Mutual, Inc.
4 that it had no responsibility inasmuch as Mr. George was not
5 an employee of Washington Mutual, Inc.?

6 A. That's correct.

7 Q. And the third one Mr. Yi Wang the same question then
8 would it be that there was no obligation of WMI because he
9 was an employee of the bank?

10 A. That's correct.

11 MR. ROSEN: May I approach, Your Honor?

12 THE COURT: You may.

13 BY MR. ROSEN:

14 Q. I've handed you what's been marked as Debtors' Exhibit 3.
15 It's entitled For Dismissing Plaintiff's Claim with Prejudice
16 in a Lawsuit of Yi Wang against Washington Mutual Bank, et
17 al. Have you ever seen this document before?

18 A. Yes.

19 Q. And do you know what it reflects?

20 A. It reflects that in a prior case, his complaint was
21 dismissed.

22 Q. And is this prior case the basis of the proof of claim
23 that Mr. Wang filed against Washington Mutual, Inc.?

24 A. Yes.

25 Q. Thank you. We've gone through a bunch of slides here and

1 discussion but what is your basis for saying that WMI had no
2 business operations with the consumer public?

3 A. In my time in treasury and specifically when I was in
4 treasury operations and cash management, we closely managed
5 the bank accounts of Washington Mutual. And we were
6 responsible for inflows and outflows. We would have known if
7 there was mortgage activity, retail banking activity,
8 anything like that going on.

9 MR. ROSEN: Your Honor, I have no more questions for
10 Ms. Logan.

11 THE COURT: Does anybody wish to cross examine, Ms.
12 Logan?

13 MR. DALATI: I do. I'm on the phone. My name is
14 Belal Dalati and I'm representing myself in the case against
15 Washington Mutual and Washington Mutual, Inc.

16 THE COURT: All right, if you have some questions
17 you may ask them.

18 CROSS EXAMINATION

19 BY MR. DALATI:

20 Q. Yes. I just wanted to know how were those employees
21 getting paid?

22 A. I'm sorry?

23 Q. - - Mutual Inc., how were they, where were they getting
24 the money, how were they getting paid?

25

1 THE COURT: The employees of Washington Mutual,
2 Inc., you mean?

3 MR. DALATI: Yes.

4 THE COURT: All right.

5 A. The employees of Washington Mutual, Inc. were paid via
6 the payroll process which was - -

7 BY MR. DALATI:

8 Q. That's from Washington Mutual Bank, right?

9 A. WMI reimbursed WMB every week for any payments made on
10 behalf of it. WMI reimbursed WMB on a weekly basis for all
11 payments.

12 Q. Okay and then you said that there was one employee has a
13 strategic support that's from I heard from you or the
14 Washington Mutual Bank there was one person that was; I heard
15 something like that from you saying that there's some
16 strategic support regarding loans and - -

17 A. In each case where there's an employee at WMI in a
18 segment, it's the president of that segment who provided
19 strategic oversight for that segment.

20 MR. DALATI: Your Honor, just, I wanted, you know,
21 just for the record to show that there's, you know, those
22 employees of the Washington Mutual, Inc. are getting paid by
23 Washington Mutual Bank. And there's direct involvement
24 between Washington Mutual Bank and Washington Mutual, Inc. in
25 management.

1 THE COURT: Well you can - -

2 MR. DALATI: It should be considered as one.

3 THE COURT: You can save the argument for later. Do
4 you have anymore questions though of Ms. Logan?

5 MR. DALATI: No, Your Honor.

6 THE COURT: Okay thank you. Anybody else? All
7 right, thank you, you may step down.

8 MR. ROSEN: Your Honor, I'd like to call Mr. Jim
9 Carreon to the stand.

10 THE COURT: All right. Please remain standing so
11 you can be sworn.

12 JIM CARREON, DEBTORS' WITNESS, SWORN.

13 THE CLERK: State your full name and spell your
14 last name.

15 MR. CARREON: James Edward Carreon, C-a-r-r-e-o-n.

16 MR. ROSEN: Your Honor, for the record, Mr. Carreon
17 has actually appeared before the Court in its case already
18 several times by way of a proffer of his testimony, but now
19 we'll just go through a few questions and answers.

20 THE COURT: Okay.

21 DIRECT EXAMINATION

22 BY MR. ROSEN:

23 Q. Mr. Carreon, could you please what your educational
24 background is?

25 A. Certainly. I am a lawyer. I have a J.D. degree. I also

1 have a LM in taxation.

2 Q. And by whom are you currently employed?

3 A. Alvarez & Marsal.

4 Q. And what is your current position?

5 A. I am Managing Director there.

6 Q. And how long have you been a restructuring professional?

7 A. I have, my careers dealt with troubled companies
8 restructuring for probably close to 10 years.

9 Q. Could you just list for the Court a few of your
10 representative engagements?

11 A. Certainly. There's Washington Mutual, Redback Networks
12 was another troubled company that I've dealt with, and
13 Nextel.

14 Q. In those engagements, were you also involved in the tax
15 analysis?

16 A. Yes.

17 Q. And what is your title with Washington Mutual, Inc.?

18 A. I am Interim Tax Manager.

19 Q. For Washington - -

20 A. For Washington Mutual, Inc.

21 Q. And in that position, what are your day-to-day
22 responsibilities?

23 A. Part of the general oversight of the tax function, as
24 well as a certain project specific duties, overseeing the
25 appeals process, controversies, strategic thinking with

1 regard to taxes.

2 Q. And in that role, are you familiar with WMI's past and
3 present organizational structure?

4 A. I am.

5 Q. And how is that that you've become familiar?

6 A. Alvarez assumed the tax function almost immediately after
7 seizure. And as part of that process, we needed to
8 familiarize ourselves with the current structures, as well as
9 the historic structure. In addition, we performed a specific
10 project that required us to look at the changes in corporate
11 structure all the way back from 1994.

12 Q. And how did you perform that study and what documents did
13 you look at in that regard?

14 A. We looked at several documents from public filings to
15 source documents provided by the legal department to
16 interviews with relevant people, and we triangulated that
17 with certain forms on the tax returns.

18 Q. You heard Ms. Logan talk about the presentation, you've
19 seen us go through slides, were you also involved in the
20 preparation of that presentation?

21 A. I was.

22 Q. And have you reviewed the final presentation?

23 A. I have.

24 Q. And in your opinion, does it accurately reflect or depict
25 WMI's organizational structure?

1 A. Yes.

2 Q. Mr. Carreon, I want to turn your attention to page 10 or
3 slide 10. Can you explain to the Court what this shows?

4 A. This shows the corporate structure of WMI, the WMI
5 Enterprise immediately prior to its seizure. So you would
6 see WMI as the holding company. There are several non-bank
7 subsidiaries. And then off to the right, you would see
8 Washington Mutual Bank. And it shows, actually if you were
9 to go to the next slide that would show the subsidiaries
10 underneath that.

11 Q. Actually would it be the next two slides what we have?

12 A. Next two slides.

13 Q. Okay. Turning your attention now to, excuse me one
14 second, Your Honor. Mr. Carreon, just quickly going back to
15 page 4 and then we'll hop right back to page 10. You see at
16 the bottom there the legion on page 4, the different color
17 coding?

18 A. Yes.

19 Q. What, the red there that notes implicated by the wrong
20 party litigation claims, is that correct?

21 A. Yes.

22 Q. Okay so going back to page 10 through page 12 in this
23 instance, you'll see the red parties there. Are, is
24 Washington Mutual, Inc. - - well I guess technically it is.

25

1 But the red parties are all Washington Mutual Bank and its
2 subsidiaries then?

3 A. Yes.

4 Q. Okay. Page 14, Mr. Carreon, what does this slide show?

5 A. This slide shows the corporate structure immediately
6 after seizure where you see Washington Mutual, Inc. still as
7 the parent holding company with its subsidiaries. And then
8 you see Washington Mutual Bank just the corporate entity
9 itself.

10 Q. So pretty much the same as slide 10 through 12. Just you
11 don't have those yellow yield side taking to the subsequent
12 pages because those assets are gone?

13 A. Yes.

14 Q. And the only reason that Washington Mutual Bank is still
15 reflected here, is that because the assets of Washington
16 Mutual Bank were taken, but the stocks still remains the
17 property of Washington Mutual, Inc.?

18 A. Correct. The stock of the corporation still remains the
19 property of WMI.

20 Q. Okay. If we could turn your attention to slide number
21 16, what does this slide show?

22 A. This shows the current organizational structure of the
23 WMI Enterprise.

24 Q. And what are the differences between the immediately post
25 seizure versus today?

1 A. The difference is primarily a lot of the entities have
2 been rationalized, the direct subsidiaries of WMI. And we
3 have reduced the overall size of the structure.

4 Q. Through merges or liquidations?

5 A. Yes.

6 Q. And all these entities that we're talking about here that
7 have either been merged or liquidated, they were all non-
8 debtor entities?

9 A. Correct.

10 Q. And so on slide 16 the only two Debtors and the only two
11 in this case, are those the ones in gray there, sir?

12 A. Yes.

13 Q. Okay. Turning your attention now to slide 18, could you
14 please explain to the Court what this shows?

15 A. Certainly, this is part of the Washington Mutual
16 structure as of the beginning of the 1996 year. You have
17 Washington Mutual, Inc. as the parent holding company. And
18 one side, you have Washington Mutual Bank which I will refer
19 to as the state bank and then you have Washington Mutual FSB.

20 Q. Why is it referred to as a state bank?

21 A. It is referred to as a state bank to clarify that the
22 entity that in 1996 that was named Washington Mutual Bank is
23 not the same corporate entity that ultimately was Washington
24 Mutual Bank immediately prior to seizure.

25 Q. Okay. Turning to 19, could you explain to the Court what

1 this shows?

2 A. Certainly, this depicts Washington Mutual's acquisition
3 of Keystone. Keystone Holdings, Inc. merged into WMI with
4 NACI becoming a direct subsidiary of WMI.

5 Q. And why is the Keystone Holding transaction important for
6 our purposes today?

7 A. As part of the Keystone Holding or part of the Keystone
8 Holdings Group was American Savings Bank. American Savings
9 Bank is the corporate entity that ultimately becomes
10 Washington Mutual Bank immediately before seizure.

11 Q. And slide 20 the next page, does this show the Keystone
12 or the corporate structure immediately succeeding or
13 subsequent through the Keystone transaction?

14 A. Yes.

15 Q. Slide 21, could you explain what this is?

16 A. Certainly. In the middle of 1997, certain entities that
17 were acquired as part of Keystone were liquidated, namely
18 American Holdings, Inc. was liquidated into WMI and in a
19 capital holdings. As a result of that, NACI became a direct
20 subsidiary of WMI.

21 Q. And is that post transaction structure reflected on slide
22 22?

23 A. Yes, it is.

24 Q. Earlier you mentioned that American Savings Bank became
25 the present WMB. When did that happen?

1 A. You mean with respect to the name change or?

2 Q. Let's go to slide 23.

3 A. Yes okay.

4 Q. Why don't you explain what slide 23 shows?

5 A. Certainly. On slide 23, you see the name change from
6 American Savings Bank to Washington Mutual Bank FA.

7 Q. And I note this is now one of the first times you see a
8 red in these structures, is that because, well actually the
9 prior one as well. Is that because this is the Washington
10 Mutual Bank that's implicated in these wrong party litigation
11 claims?

12 A. Correct. This is the corporate entity that ultimately
13 becomes Washington Mutual Bank immediately before seizure.

14 Q. Okay. Slide 24, sir. The earlier slide indicated
15 Washington Mutual Bank FSB was, on the date of the seizure, a
16 sub of WMB, when did that occur?

17 A. It occurred in January of 2004 through a series of
18 transactions where the stock of WMBFSB was ultimately
19 attributed down and become a subsidiary of Washington Mutual
20 Bank FA.

21 Q. And was Washington Mutual, was the FSB a surviving
22 company and it was left as the wholly on sub of the bank?

23 A. Yes. It survived and that corporate structure became a
24 subsidiary of WMBFA.

25 Q. And is that reflected on slide 25 then, sir?

1 A. Yes, it is.

2 Q. Let's turn to slide 26. I know you've talked already
3 about the state bank and the other or the second Washington
4 Mutual Bank. Could you please explain what slide 26 is?

5 A. Certainly. In January of 2005, the state bank merged
6 with and into WMBFA with WMBFA surviving.

7 Q. So did the state bank cease to exist at that point in
8 time?

9 A. Yes, it did.

10 Q. And did all the assets of the state bank become the
11 assets of Washington Mutual Bank?

12 A. Yes, it did.

13 Q. Is that transaction then reflected on slide 27, sir?

14 A. Yes.

15 Q. And I see in the little corner there state bank. Does
16 that show that the merger into the Washington Mutual Bank as
17 we know it?

18 A. Correct. It's supposed to reflect the assets state bank
19 now existing within Washington Mutual Bank FA.

20 Q. Okay. Turning to slide 28, could you please explain what
21 that is?

22 A. Slide 28 depicts the name change from Washington Mutual
23 Bank FA to Washington Mutual Bank the entity that currently
24 that existed immediately prior to seizure.

25 Q. So it really was just a name change then?

1 A. That's all it was.

2 Q. Okay. Slide 29, sir, could you please explain what that
3 is?

4 A. Certainly. This is the dissolution of NACI. It was a
5 two step transaction. The first step was where you had
6 certain assets including tax accounts and certain liabilities
7 were distributed up to WMI. And then the corporate shell of
8 NACI was merged into a subsidiary of the bank.

9 Q. And is the post transaction structure, is that what is
10 reflected on slide 30?

11 A. Yes.

12 Q. And is that the structure that continued up to the moment
13 of seizure by the OTS?

14 A. Yes.

15 Q. And I think I ask it before but I'll ask it one more
16 time, does WMI continue to own the stock of Washington Mutual
17 Bank?

18 A. Yes.

19 Q. Mr. Carreon, turning slides 34 to 44, could you just
20 generally explain what they are without going into the
21 specifics of each of them?

22 A. Certainly. These are slides that depict additional
23 transactions throughout the corporate history of WMI.

24 Q. Meaning acquisitions and/or mergers, solutions?

25 A. Yes. MNA activity as well as some internal activity.

1 Q. And I note that on some of these we see some red box
2 entities. Are these entities that are associated with wrong
3 party litigation claims?

4 A. Yes.

5 MR. ROSEN: Your Honor, I have no further questions
6 for Mr. Carreon.

7 THE COURT: Does anybody have any questions of Mr.
8 Carreon?

9 MR. DALATI: Yes, my name is Belal Dalati
10 representing myself again.

11 CROSS EXAMINATION

12 BY MR. DALATI:

13 Q. And my question is so you are the person that in charge
14 of tax preparation and income statements and all this issues
15 with Washington Mutual or you're merely an expert witness?

16 A. I am, my firm has been retained to help with the tax
17 function of WMI post seizure.

18 Q. And my question to you is once someone is paying you your
19 salary, does that make you an employee of that person, direct
20 employee of that person whether it's a corporation or bank or
21 whatever it is? Someone paying you to perform a job, does
22 that make you a direct employee of that organization of that
23 person?

24 MR. ROSEN: Your Honor, is Mr. Dalati asking about
25 Mr. Carreon being paid or about - -

1 THE COURT: In general, I think - -

2 MR. DALATI: General

3 MR. CARREON: Well I'm a - -

4 THE COURT: For tax purposes, if someone pays your
5 salary are you an employee of that entity?

6 MR. CARREON: It depends. Because there's certainly
7 for tax purposes, there's quite a complicated analysis
8 concerning whether you're an employee or an independent
9 contractor.

10 BY MR. DALATI:

11 Q. Okay but if they're supplying you with an office and
12 place to work and you are a direct employee that you report
13 to the director, right?

14 A. Are you asking - -

15 Q. Cannot be an independent contractor if they're supplying
16 you with a place to work and according to what I know of tax
17 laws. If they give you a place to work and then they pay you
18 salary, you cannot be considered an independent contractor,
19 right?

20 THE COURT: If you're given an office at the - -

21 MR. DALATI: Yes.

22 THE COURT: At the person's, at the company's
23 location.

24 MR. DALATI: Yes, Your Honor.

25 THE COURT: All right, can you answer that?

1 MR. CARREON: Are you asking me in general or me
2 specifically?

3 THE COURT: In general.

4 MR. CARREON: In general, it's one of the factors
5 that goes into making the determination between employee or
6 independent contractor; however, it is not the only factor
7 that matters. There are roughly 20 different considerations
8 that go into making that determination.

9 THE COURT: What are they?

10 MR. CARREON: Most of it have to do around control.
11 How much control does one have over the other's scheduling,
12 where their time is spent, how it is spent, do they provide
13 things like business cards, what do they pay for, what do
14 they not pay for. Certainly, some baseline considerations as
15 to whether they provide a W2 or 1099 are considerations.

16 BY MR. DALATI:

17 Q. Well in your expert opinion the first witness had
18 stressed the fact that Washington Mutual, Inc. is being paid,
19 was being paid by Washington Mutual Bank. And they were
20 supplied with an office and area to work in. Yet, there was
21 someone from Washington Mutual, Inc. supervising the bank and
22 the loan term sections at Washington Mutual Bank does. Does
23 that make Washington Mutual, Inc. direct employee of
24 Washington Mutual Bank?

25 MR. ROSEN: Your Honor, if I could just, I'd like to

1 object for purposes of relevance with respect to Mr. Dalati.
2 Mr. Dalati's claim against the estate is that Washington
3 Mutual secured wrong pieces of property in connection with
4 several deeds of trust - -

5 MR. DALATI: Your Honor, this is irrelevant at this
6 point. I'm just trying to establish whether Washington
7 Mutual, Inc. is direct employee of Washington Mutual Bank.

8 THE COURT: Well you can answer that question. Was
9 Washington Mutual, Inc. a direct employee of Washington
10 Mutual Bank?

11 MR. CARREON: Was Washington Mutual, Inc. an - -

12 THE COURT: An employee of Washington Mutual Bank?

13 MR. CARREON: Well I guess I don't fully understand
14 how a corporation be an employee of another corporation.

15 MR. DALATI: Because I mean Washington Mutual Bank
16 had papers establish that Washington Mutual, Inc. Corporation
17 and yet they were paying for Washington Mutual, Inc.
18 employees, Washington Mutual was getting paid - -

19 THE COURT: Mr. Dalati, you can save that for
20 argument. I think - -

21 MR. DALATI: Okay I mean he can, if he can just
22 answer the question whether - -

23 THE COURT: He said that a corporation cannot be an
24 employee of another corporation.

25 MR. DALATI: Okay let me re-clarify my question,

1 Your Honor, if you would allow me. Do you, I mean when there
2 is a fund comingling fund, as they call it, there is, I mean
3 - - the tax laws in this country, how do they look at if the
4 funds are the same between two corporations today? Do they
5 look at them as one entity if there's a comingling between
6 funds?

7 MR. ROSEN: Your Honor, that calls for legal
8 conclusion.

9 THE COURT: Yeah sustained. He doesn't have to
10 answer that. That's a legal question.

11 MR. DALATI: All right, no further question, Your
12 Honor.

13 THE COURT: Okay. Any redirect?

14 MR. ROSEN: No, Your Honor.

15 THE COURT: All right, you may step down, Mr.
16 Carreon.

17 MR. ROSEN: Your Honor, at this time, I'd like to
18 make a proffer of the testimony of Mr. Charles Smith. Mr.
19 Smith is the person who submitted a declaration in support of
20 the 19th omnibus objection. And if I could submit that?

21 THE COURT: You may.

22 MR. ROSEN: Thank you, Your Honor. Mr. Smith is in
23 the Courtroom today. He is familiar with the matters before
24 the Court and respect of the 19th omnibus objection. If he
25 were called to testify, he would state as follows.

1 Mr. Smith holds a Bachelor of Art degree in
2 Political Science from Boston College and a juris doctor from
3 Columbia University Law School. He would state that he
4 joined Washington Mutual Inc. in November of 2008 and
5 currently is Executive Vice President, General Counsel and
6 Secretary of Washington Mutual Inc. He would state that
7 prior to joining WMI, he was employed by Washington Mutual
8 Bank for approximately six years as first Vice President,
9 Assistant General Counsel, and Team Lead. He would testify
10 that as a result of his experience at Washington Mutual Bank,
11 he is generally knowledgeable about the operations of WMB and
12 it's general corporate structure. He would state that on
13 September 25, 2008, the director of the office of thrift
14 supervision appointed the FDIC as receiver for Washington
15 Mutual Bank and advised that the receiver was immediately
16 taking possession of Washington Mutual Bank. Immediately
17 after it's appointment as receiver, the FDIC purportedly sold
18 substantially all the assets of the bank including the stock
19 of WMB's wholly owned subsidiary, Washington Mutual Bank FSB,
20 the JPMorgan Chase N.A. He would further testify that
21 pursuant to the 19th omnibus objection, the Debtors are
22 seeking to disallow in their entirety claims based upon
23 prepetition litigations which we have referred to, Your
24 Honor, as the wrong party litigation claims. And each such
25 claim asserts a liability on account of a prepetition

1 litigation that either contains no allegations that would
2 impose any direct liability upon either Debtor meaning
3 Washington Mutual, Inc. or WMI Investment Corp. They also
4 name either Debtor as a part or fails to name the Debtor as a
5 party to such litigation notwithstanding that a proof of
6 claim was filed. Mr. Smith would further state that he has
7 reviewed each of these claims and discussed these with
8 counsel. Mr. Smith would testify that based upon his review,
9 the wrong party litigation claim seek a recovery on account
10 of alleged injuries sustained as a result of Plaintiff's
11 dealings with Washington Mutual Bank and its banking
12 operations. And it's explained more, the WMI is not now and
13 never has been engaged directly in the retail banking
14 business. Rather, it is always existed strictly as a holding
15 company. Because the wrong party litigation claim seek to
16 impose liability on WMI for conduct that is not attributable
17 to WMI, the Debtors are seeking to have all of these wrong
18 party litigation claims disallowed in their entirety. He
19 would state that the claims can be divided into four
20 categories: mortgage claims which include claims related to
21 WMB's mortgage business; banking operation claims which
22 include claims related to WMB's traditional banking
23 operations such as the administration of checking accounts
24 and passbook saving accounts; lending claims which encompass
25 claims related to WMB's general lending activities including

1 the issuance of credit cards, letters of credit and other
2 types of non-mortgage commercial loans; and miscellaneous
3 claims relating to other claims surrounding WMB's banking
4 business. Mr. Smith would state that WMI is a Washington
5 Corporation with principle offices in Seattle. WMI's
6 business is and has been to act solely as a holding company.
7 Prior to the petition date, WMI owned either directly or
8 indirectly WMB and WMB's banking subsidiaries including
9 WMBFSB, as well as other non-banking subsidiaries. WMB
10 currently owns WMI Investment, certain non-banking, non-
11 debtor subsidiaries and the outstanding stock of WMB. He
12 would further testify that WMI itself is not currently, never
13 has engaged in any of the following business activities:
14 operated as a bank; originated or serviced mortgage loans
15 anywhere in the United States or elsewhere; contracted with
16 depositors of WMB in a bank capacity; originated or serviced
17 non-mortgaged commercial loans anywhere in the United States
18 or elsewhere; issued or serviced any consumer or commercial
19 lines of credit including home equity and letters of credit;
20 engaged in any form of banking function such as investments
21 on behalf of banking customers; the issuance or servicing of
22 any passbook savings account, credit cards, checking accounts
23 or the maintenance of a safe deposit function or initiated
24 foreclosure proceedings. Mr. Smith would testify that with
25 respect to certain claims filed by former employees based

1 upon review of WMI's employment records, the following
2 individuals were never employed by WMI: Yi Wang, Dale George,
3 and Poron Borozi. That would Mr. Smith's testimony, Your
4 Honor.

5 THE COURT: Do you wish to cross examine Mr. Smith
6 on any of these points?

7 MR. DALATI: Is that me, Your Honor?

8 THE COURT: Yes, Mr. Dalati.

9 MR. DALATI: Not at this point, Your Honor.

10 THE COURT: All right, thank you. I'll accept the
11 proffered testimony then.

12 MR. ROSEN: Thank you, Your Honor. Your Honor, that
13 would then just leave us to some closing remarks. That would
14 be our case with respect to the 19th omnibus objection.

15 THE COURT: All right, I'll hear argument then.

16 MR. ROSEN: Your Honor, as we've indicated and I
17 think the evidence supports, Washington Mutual, Inc. did none
18 of the activities that are alleged in any of the complaints
19 or claims that are the subject of the 19th omnibus objection.
20 Mr. Dalati, as I indicated before, his claims relate to
21 Washington Mutual, and I put that in quotes because that's
22 how Mr. Dalati referred to it in his complaint. That
23 Washington Mutual secured wrong pieces of property in
24 connection with several deeds of trust. Mr. Dalati makes no
25 attempt to refute any of our arguments that WMI is the wrong

1 party. He does not allege that WMI specifically engaged in
2 the alleged conduct that caused him damage. Moreover, none
3 of the documents that Mr. Dalati attached, for example the
4 equity line of credit, the deeds of trust, and correspondence
5 with Washington Mutual Bank show that WMI was involved in any
6 of the facts in the underlying litigation.

7 The Cornelius's or the Ali Muhammad one there, Your
8 Honor, the claimant merely stated that he is opposed to the
9 relief sought by us and he reattached his original proof of
10 claim. The Claimant inserted no new facts or arguments upon
11 which the Debtors may be found liable. The supporting detail
12 submitted by the Cornelius's indicates that the mortgage was
13 issued by Long Beach Mortgage Company which was a subsidiary
14 of Washington Mutual Bank. And as I referred Your Honor
15 before, that was one of the entities that was in the red in
16 the respective slides.

17 So as a result, Your Honor, the Debtors - - and
18 those are the only two that we have Respondents before the
19 Court, Your Honor, with all the others having been either
20 non-responsive or adjourned as we detailed before. Your
21 Honor, so as a result, the Debtors object to these claims.
22 Because while WMI may have been named as a defendant in some
23 of these underlying litigations or not even named but merely
24 a proof of claim filed which allege these things, the
25 allegations clearly implicate bank only conduct. They do

1 nothing. They assert nothing with respect to Washington
2 Mutual, Inc.

3 Your Honor, to the extent that these wrong party
4 litigation Claimants met their initial burden by merely
5 filing the claims, the Debtors submit, and we believe, that
6 we have certainly put forth sufficient evidence indicating
7 that WMI is not liable for any of the conduct implicated by
8 the claims. And as a result, Your Honor, based upon
9 applicable case law the burden has certainly shifted back to
10 each and everyone of the Claimants to show that, in fact, WMI
11 was a responsible party. Nothing that we have received, Your
12 Honor, from the two people that are subject to this hearing
13 meet anywhere near that burden because, as I indicated, Your
14 Honor, they're mere recitations or attachments to what was
15 done previously. And as a result, Your Honor, the Debtors
16 submit that the claim should be disallowed in their entirety.
17 Thank you.

18 THE COURT: Thank you. Someone else wish to be
19 heard, Mr. Landis?

20 MR. DALATI: Yes, Your Honor, if I may - -

21 THE COURT: Just a second, Mr. Dalati.

22 MR. LANDIS: Thank you, Your Honor. I think this is
23 probably the right time to do this. I suppose I could wait
24 until the end. For the record, Adam Landis from Landis Rath
25 and Cobb on behalf of JPMorgan Chase. Your Honor, I think

1 you probably anticipate why it is I am rising to be heard at
2 all today. The 19th omnibus objection does not involve
3 JPMorgan Chase. The order in connection with the 19th omnibus
4 objection proposed order contains a carve-out basically that
5 states, that's going into all substantive objection orders
6 that states that nothing that happens in connection with the
7 order, and I think by extension in connection with the
8 hearing, prejudices any rights of JPMorgan Chase or;
9 otherwise, assesses any liability in connection with the
10 objection to or disallowed claims onto JPMorgan Chase in any
11 way. Your Honor, the record today that was created contained
12 an awful lot of evidence and some testimony with respect to
13 corporate structure and facts relating to the claims that the
14 Debtors are seeking to disallow. To the extent that that
15 testimony is being used solely and for the limited purpose of
16 the 19th omnibus objection, we have no comments today. But to
17 the extent that the testimony would be used otherwise in a
18 broader nature in the case or be asserted to be law of the
19 case or otherwise impact any of the claims and other
20 litigation that's going on, JPMorgan Chase would object. I'm
21 not sure that Mr. Rosen moved the slides into evidence as an
22 exhibit or if they were being used as a demonstrative exhibit
23 only. But, you know, having been handed a, I guess 49-page
24 exhibit - - 49 pages let me take a look here, 44-page exhibit
25 or for whatever purpose it's being used, we're not in a

1 position today to accept or contest any of the facts that are
2 being used. So again to the extent that this is all relating
3 to and solely being offered in connection with the 19th
4 omnibus objection, we have no issue, no complaint. But to
5 the extent it would go any further, we have an issue.

6 THE COURT: Mr. Rosen.

7 MR. ROSEN: Your Honor, first thank you, Mr. Landis.
8 I would like to move all three exhibits, Your Honor, into
9 evidence.

10 THE COURT: They're admitted.

11 (Debtors' Exhibits 1 through 3 received into evidence.)

12 MR. ROSEN: Thank you. We do not mean in any way to
13 prejudice the interest of the JPMorgan. We do not mean to
14 have this binding upon them in any subsequent litigations
15 that we have. Likewise, we do not, to the extent that they
16 would have any issues, they will not use those in any way
17 with respect to us in any future litigations as well.

18 MR. LANDIS: Thank you. Mr. Rosen's comments are
19 appropriate and much appreciated.

20 THE COURT: Okay.

21 MR. CLARK: Your Honor, it's John Clark from DLA
22 Piper counsel for the FDIC Receiver.

23 THE COURT: Yes.

24 MR. CLARK: I'd just like to join in Mr. Landis'
25 objection to the extent, the same extent for the FDIC

1 Receiver.

2 MR. ROSEN: Same response, Your Honor.

3 THE COURT: Okay, Mr. Dalati.

4 MR. DALATI: Your Honor, what's happening here if I
5 may just explain what's happening here. I mean we have a
6 claim against Washington Mutual Bank and Washington Mutual,
7 Inc. Washington Mutual Bank claiming at the Court, I mean
8 showing to the Judge evidence with a deal with the FDIC
9 saying that, yet they have acquired all the assets. They are
10 not liable for any wrongdoing by Washington Mutual Bank.
11 Washington Mutual, Inc. saying no, no no we're different than
12 Washington Mutual Bank. We are not liable for anything
13 that's done by Washington Mutual Bank. The FDIC is saying
14 that we don't have, you know, we don't have enough funds to
15 cover all the losses that are filed against Washington Mutual
16 Bank. So everybody is trying to run from their
17 responsibility, Your Honor, you know of who goes how and
18 what. Even though, I mean with the respect of JPMorgan I
19 mean they have acquired all the assets of Washington Mutual.
20 And if they don't correct the problems that was raised by, I
21 mean all the wrong deeds that were liened on many properties
22 that caused by Washington Mutual Bank who is going to correct
23 it. It's either the Court or JPMorgan that owns those assets
24 right now. And if Washington Mutual, Inc. that were created
25 by Washington Mutual Bank and they were paid by the and yet

1 there was somebody from Washington Mutual, Inc. that's
2 supervising all the transactions that was done by Washington
3 Mutual Bank. If there was a direct supervision of Washington
4 Mutual, Inc. regarding those loans and those transactions
5 that were made by Washington Mutual Bank. And yet they're
6 trying to, you know, relieve themselves from any
7 responsibility. And where does that leave us. Where does
8 that leave all of us, Your Honor. If you are to go by this,
9 Your Honor, it's just like, this is not serving justice. You
10 know, that leave us out in the open. That leaves us out no
11 where. And I urge Your Honor to just make consideration, you
12 know, to consider the fact that those banks they're all
13 connected together. They are one. Even though they try to,
14 they try to, you know, manipulate the law and separate this
15 and that just to get away from all the liabilities. But as
16 far as you stand, Your Honor, it's just I mean them doing
17 that does not serve justice in any way.

18 THE COURT: Well - -

19 MR. DALATI: I'm sorry.

20 THE COURT: I'm sorry to interrupt. Go ahead.

21 MR. DALATI: Yeah I urge Your Honor to consider all
22 those facts, you know, for the first, the first witness
23 stressed the fact that yes Washington Mutual, Inc. employees
24 were getting paid by Washington Mutual Bank. And yes there
25 was direct supervision between Washington Mutual, Inc. and

1 Washington Mutual Bank. JPMorgan bought all the assets of
2 Washington Mutual Bank and they're the only one that can
3 correct the wrongdoing of Washington Mutual Bank because they
4 own those assets, Your Honor. Now as far as the FDIC, you
5 know, they had all this money from Washington Mutual Bank but
6 not enough to cover all the losses. Where does that leave
7 all of us, Your Honor.

8 THE COURT: Well let me make my ruling first with
9 respect to JPMorgan. I have no jurisdiction over any claims
10 that you or anybody else may have against them. So I'm making
11 no ruling on that.

12 With respect to however whether WMI is responsible
13 for any claims that arise out of the operations of WMB, I
14 think the law requires that I disallow your claim because
15 they were two separate corporate entities. And, quite
16 frankly, there's just not enough evidence to show that there
17 would be fraud or any other activity that would justify
18 piercing the corporate veils on this record.

19 MR. DALATI: Well if you, may I, Your Honor?

20 THE COURT: Yes.

21 MR. DALATI: If you give us enough time to ask for
22 all the tax records as for all the payroll information, you
23 know, we'll be able to establish a direct connection between
24 Washington Mutual, Inc. and Washington Mutual Bank.

25

1 THE COURT: Well there may be a connection and there
2 may have been, for purposes of convenience, one corporation
3 paying the salaries of and other employees. I don't think
4 that rises to the level of sufficient to show that the
5 corporate veil should be pierced. And I don't think there's
6 really any basis to do any further discovery on that. I
7 think all the facts have been laid out and it's just not
8 enough to show that WMI is responsible for liability that
9 occurred during the bank's operations.

10 MR. DALATI: But, Your Honor, if I may, you know,
11 now if Washington Mutual Bank is not taking the
12 responsibilities for their own deed because they were bought
13 by JPMorgan and then the deal between them, and I see that
14 JPMorgan is not liable for any liabilities and Washington
15 Mutual, Inc. is getting away with this bankruptcy with all
16 the wrongdoing that Washington Mutual Bank done - -

17 THE COURT: You have a claim against Washington
18 Mutual Bank. You don't have a claim against Washington
19 Mutual, Inc.

20 MR. DALATI: But I don't have that anymore, Your
21 Honor, because Washington Mutual as it was bought by
22 JPMorgan. And the Court is about to dismiss my case based on
23 that.

24 THE COURT: Well you don't have a claim against
25 Washington Mutual, Inc. It's just the fact. So I'll sustain

1 the Debtors' 19th omnibus objection.

2 MR. ROSEN: May I approach?

3 THE COURT: With respect to those. Yes. All right,
4 I'll enter that order than.

5 MR. ROSEN: Thank you, Your Honor, that's all for
6 the agenda today. Oh I'm sorry, oh yes, I'm sorry. Your
7 Honor, number 6 was also there. That was, we had adjourned
8 that from last time. The parties have been able that, Your
9 Honor, relates to a 9019 settlement with respect to Old
10 Republic. And I think we reported that there just had to be
11 some tinkering with some documents. The parties have made
12 modifications, Your Honor. They're all being reviewed now.
13 And I believe that we will submit it either on certification
14 of counsel. But for purposes of now, we'd like to move it
15 over to February 22nd calendar. And if we submit it before
16 then, we'll take it off that calendar.

17 THE COURT: All right, tell me about the FDIC? Do
18 you want me to hold off any ruling until the continued
19 hearing on that?

20 MR. ROSEN: On the 9.5 motion that has been
21 adjourned. Nothing further, Your Honor. You can do as you
22 wish.

23 MR. CLARK: Your Honor, this is John Clark from DLA
24 Piper. If I might be heard on that question?

25 THE COURT: Yes.

1 MR. CLARK: The FDIC Receiver does believe the Court
2 should hold off on that ruling, on the summary judgment
3 motion. Obviously, the parties have different points of view
4 on that.

5 MR. ROSEN: Your Honor, the parties understanding
6 was that the Court could make a determination with respect to
7 the summary judgment ruling if the Court did do so; however,
8 the FDIC could come in and seek some form of expedited relief
9 and we would have a hearing at that time.

10 THE COURT: When is it continued to March 4th?

11 MR. ROSEN: March 4th, Your Honor.

12 THE COURT: Well I'm going to hold off until the
13 March 4th date. I don't need anymore emergencies. All
14 right, we're done then today?

15 MR. DALATI: Your Honor, we would like to, I mean if
16 we were like trying to do some discovery regarding the
17 relationship between Washington Mutual Bank and Washington
18 Mutual, Inc. would you allow that in Court in March 4th or?

19 THE COURT: No I won't.

20 MR. DALATI: You won't. This is a final decision?

21 THE COURT: Yes.

22 MR. DALATI: Because you know that's going to leave
23 us out of the FDIC too because I mean if we don't have a
24 claim against Washington Mutual, Inc., then we don't have a
25

1 claim against FDIC also. That's going to leave us totally
2 out, Your Honor.

3 THE COURT: Well I'm just ruling you have no claim
4 against WMI. Okay.

5 MR. DALATI: Thank you, Your Honor.

6 THE COURT: Thank you. We'll stand adjourned.

7 (Court Adjourned)

8

9 CERTIFICATE

10

11 I certify that the foregoing is a correct transcript from the
12 electronic sound recording of the proceedings in the above-
13 entitled matter.

14

15 /s/Mary Zajackowski
Mary Zajackowski, CET

February 6, 2010
Date

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