

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

-----X
In re : Chapter 11
 :
 WASHINGTON MUTUAL, INC., et al.,¹ : Case No. 08-12229 (MFW)
 :
 : (Jointly Administered)
 Debtors. :
 :
 : Hearing Date: November 25, 2008 at 10:30 a.m. ET
 : Objection Deadline: November 24, 2008 at Noon ET
 :
 :
 -----X

**AMENDED MOTION OF DEBTORS TO AUTHORIZE
WASHINGTON MUTUAL, INC. TO PROVIDE FINANCIAL
SUPPORT TO WM MORTGAGE REINSURANCE COMPANY, INC.**²

Washington Mutual, Inc. ("WMI") and WMI Investment Corp. ("WMI Investment"), as debtors and debtors in possession (collectively, the "Debtors"), respectfully represent:

Preliminary Statement

1. WMI requests authority to provide financial support to its non-debtor wholly-owned subsidiary WM Mortgage Reinsurance Company, Inc. ("WMMRC") in order to preserve almost \$400 million in value for its creditors. Specifically, by this amended motion, the Debtors seek authority to use approximately \$11.9 million of WMI's funds to satisfy WMMRC's Capital Deficiency (as defined below) in the Genworth Trust (as defined below) and to provide

¹ The Debtors in these chapter 11 cases along with the last four digits of each Debtor's federal tax identification number are: (i) Washington Mutual, Inc. (3725); and (ii) WMI Investment Corp. (5395). The Debtors' principal offices are located at 1301 Second Avenue, Seattle, Washington 98101

² A blackline comparing the Motion of Debtors' to Authorize WMI to Provide Financial Support to WM Mortgage Reinsurance Company, Inc., dated November 10, 2008, to this Amended Motion is attached hereto as Exhibit "B."



additional financial support in the future, as needed, to preserve the value of WMMRC's business and interests in certain trust funds. WMMRC's repayment obligations to WMI will be secured by WMMRC's residual interest in the Genworth Trust (as defined below). Providing this financial support to WMMRC is in the best interests of WMI's estate and creditors because it will preserve the value of WMMRC's business – with an estimated aggregate value of between \$330 and \$395 million – for the ultimate benefit of WMI's creditors. In light of the residual value at stake, an immediate investment of approximately \$11.9 million – and possibly future investments, as needed – makes good business sense and should be approved.

Background

2. On September 26, 2008 (the "Commencement Date"), each of the Debtors commenced with this Court a voluntary case pursuant to chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"). As of the date hereof, the Debtors continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

3. On October 3, 2008, this Court entered an order pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") authorizing the joint administration of the Debtors' chapter 11 cases.

4. On October 15, 2008, the United States Trustee for the District of Delaware (the "U.S. Trustee") appointed an official committee of unsecured creditors (the "Creditors' Committee"). No trustee or examiner has been appointed in these cases.

WMI's Business

5. WMI is a holding company incorporated in the State of Washington and headquartered at 1301 Second Avenue, Seattle, Washington 98101. WMI is the direct parent of

WMI Investment, which serves as an investment vehicle for WMI and holds a variety of securities. WMI Investment is incorporated in the State of Delaware.

6. Prior to the Commencement Date, WMI was a savings and loan holding company that owned Washington Mutual Bank (“WMB”) and such bank’s subsidiaries, including Washington Mutual Bank fsb (“WMBfsb”). WMI also has certain non-banking, non-debtor subsidiaries.

7. Prior to the Commencement Date, WMI, like all savings and loan holding companies, was subject to regulation by the Office of Thrift Supervision (the “OTS”). WMB and WMBfsb, like all depository institutions with federal thrift charters, were also subject to regulation and examination by the OTS. In addition, WMI’s banking and non-banking subsidiaries were overseen by various federal and state authorities, including the Federal Deposit Insurance Corporation (“FDIC”). On September 25, 2008, the Director of the OTS, by order number 2008-36, appointed the FDIC as receiver for WMB and advised that the receiver was immediately taking possession of WMB (the “Receivership”). Immediately after its appointment as receiver, the FDIC sold substantially all the assets of WMB, including the stock of WMBfsb, to JPMorgan Chase Bank, National Association (“JPMorgan Chase”) pursuant to that certain Purchase and Assumption Agreement, Whole Bank, dated as of September 25, 2008.

8. WMI’s assets include its common stock interest in WMB, its interests in its non-banking subsidiaries, and in excess of \$4 billion of cash that WMI and its non-banking subsidiaries (including WMI Investment) had on deposit at WMB and WMBfsb immediately prior to the time the FDIC was appointed as receiver. WMI is in the process of evaluating these and other assets for purposes of ultimate distribution to its creditors.

Jurisdiction

9. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

Relief Requested

10. By this amended motion (the "Amended Motion"), the Debtors request, pursuant to sections 105(a) and 363(b)(1) of the Bankruptcy Code, entry of an order, substantially in the form attached hereto as Exhibit "A," authorizing WMI to provide financial support to WMMRC, a non-Debtor, wholly-owned subsidiary of WMI. Specifically, the Debtors request authority to (i) use approximately \$11.9 million of WMI's funds to pay for WMMRC's Capital Deficiency in the Genworth Trust (as defined below) and (ii) provide further financial support to WMMRC, as may be needed from time to time, after notice and consultation with the Creditors' Committee and the ad hoc group of noteholders, as WMI deems, in its business judgment, to be necessary to preserve the value of WMMRC's assets, for the ultimate benefit of WMI's estate and creditors, without the need for further Court approval. WMI's loan to WMMRC in the amount of approximately \$11.9 million shall be secured by WMMRC's residual interests in the Genworth Trust.

WMMRC's Business

11. WMMRC, an entity incorporated under the laws of Hawaii, is a captive reinsurance company, created to reinsure the risk associated with residential mortgages that were originated or had been acquired by WMB. In accordance with industry standard, residential mortgages originated or acquired by WMB with a loan-to-value ratio greater than 80 percent must be insured. Mortgage insurance for WMB-originated or acquired loans had historically

been provided by seven (7) mortgage insurance companies (collectively, the “Mortgage Insurers”).³ WMMRC, in turn, entered into reinsurance agreements (the “Reinsurance Agreements”) with each Mortgage Insurer, pursuant to which it would share in the risk, in the form of claim losses, in exchange for a portion of the premiums generated from the residential mortgage loan portfolio held by the Mortgage Insurer.

12. Generally, WMMRC is required to pay claims made with respect to the insured loans in a “book of business”⁴ only after a Mortgage Insurer’s losses exceed 4% of the insured risk. Thereafter, WMMRC is required to pay all losses on the next 10% risk layer, after which the Mortgage Insurer bears any remaining loss. In consideration for this risk, WMMRC typically receives 40% of the mortgage insurance premiums paid.

13. Pursuant to each Reinsurance Agreement, WMMRC established a trust account with US Bank N.A. (collectively, the “Trusts” and each a “Trust”) – for the benefit of the Mortgage Insurer – to hold premiums collected and to secure WMMRC’s obligations to each Mortgage Insurer with respect to the insured loans. Trust funds are invested principally in government backed securities. WMMRC is party to seven trust agreements – one for each Reinsurance Agreement to which it is a party. As of September 30, 2008, the value of all Trust assets was estimated to be \$386 million.

14. Generally, WMMRC is only permitted to withdraw funds from the Trusts for the payment of reasonable operating expenses, including taxes and other trust expenses, or

³ The Mortgage Insurers are: Genworth Mortgage Insurance Corporation, Mortgage Guaranty Insurance Corporation, PMI Mortgage Insurance Company, Radian Guaranty Inc., Republic Mortgage Insurance Company, Triad Guaranty Insurance Corporation, and United Guaranty Residential Insurance Company.

⁴ A “book of business” is comprised of loans originated in a given calendar year by a Mortgage Insurer. Each annual “book of business” has a 10-year term.

when the Trusts are deemed to be over-funded pursuant to formulas set forth in the applicable Reinsurance Agreements. Notwithstanding WMMRC's ability to withdraw funds for such purposes, Trust balances may not drop below the minimum Reinsurance Reserve (as defined below). In addition to funds held in trust, WMMRC has approximately \$1 million in unrestricted funds, which funds are reserved for the payment of WMMRC's operating expenses. The majority of WMMRC's unrestricted funds are held in a custodial account at US Bank, N.A., with the remainder (in the approximate amount of \$150,000) held in an operating account at WMB (and now at JPMorgan Chase).

15. Each Reinsurance Agreement requires that WMMRC maintain a certain minimum amount of capital in the Trust (the "Reinsurance Reserve"), which amount is determined by applicable law, including Hawaiian law or the law of the Mortgage Insurer's domicile state, as well as each Mortgage Insurer's calculation of reserves needed, based on known delinquencies within the loan portfolio and anticipated losses associated therewith. Minimum capital requirements fluctuate on a monthly basis and are reflected in monthly "cession statements" provided by each Mortgage Insurer to WMMRC.

16. Pursuant to the Reinsurance Agreements, monthly cession statements provide WMMRC with information regarding, among other things, the amount of insurance in force, claims paid to date, and WMMRC's share of contingency reserves needed to cover anticipated claims, including any deficiency in Trust assets needed to satisfy such amounts (the "Capital Deficiencies"). WMMRC is generally required to cure Capital Deficiencies within thirty days after receiving notice of any such deficiency. Failure to cure a Capital Deficiency gives rise to the Mortgage Insurer's right to terminate the Reinsurance Agreement and to elect whether to terminate the agreement on a "run-off" or "cut-off" basis.

17. In the event of termination on a “run-off” basis, WMMRC would continue to be subject to all terms and conditions of the Reinsurance Agreement and would remain liable on the reinsured loans until the natural expiration, cancellation, or termination of coverage of each reinsured loan. WMMRC would also continue to receive reinsurance premiums to which it would be entitled under the Reinsurance Agreement. As of the Commencement Date, due to the Bank Receivership and the sale of substantially all of WMB’s assets to JPMorgan Chase, all of the Trusts are operating on a “run-off” basis because WMMRC has ceased to reinsure any new WMB-originated loans.⁵

18. Alternatively, if, in the event of WMMRC’s failure to cure a Capital Deficiency, the Mortgage Insurer elects to terminate the Reinsurance Agreement on a “cut-off” basis, WMMRC would no longer be liable for the reinsured loans and would no longer receive reinsurance premiums with respect thereto. WMMRC would also be liable for the Reinsurance Reserve, which may, in certain cases, result in the extinguishment of all assets on account in the Trust at issue.

The Genworth Trust and Reinsurance Agreement

19. WMMRC and Genworth Mortgage Insurance Corporation (“Genworth”), as successor in interest to General Electric Mortgage Insurance Corporation and GE Residential Mortgage Insurance Company of North Carolina, are party to certain Reinsurance Agreements (collectively, the “Genworth Agreement”). Pursuant to the Genworth Agreement, WMMRC established a trust (the “Genworth Trust”), which, as of September 30, 2008, held approximately \$74 million in assets.

⁵ Prior to the Commencement Date, WMMRC’s Reinsurance Agreement with United Guaranty Residential Insurance Company was terminated by the Mortgage Insurer on a “run-off” basis.

20. Due to an increasing delinquency rate within Genworth's insured loans, WMMRC is required to shore up and hold in trust sufficient funds to cover anticipated losses. Increased delinquencies in Genworth's insured loans reflects the current state of the mortgage industry which, as a whole, is facing an increase in the number of delinquencies and a corresponding increase in foreclosure rates. By notice, dated October 14, 2008, Genworth declared a Capital Deficiency with respect to the Genworth Trust in the approximate amount of \$7.4 million, which amount was payable, in full, by WMMRC on or before November 14, 2008. On November 12, 2008, subsequent to the filing of the Debtors' *Motion to Authorize Provision of Financial Support to WMMRC* (D.I. 269), Genworth agreed to grant WMMRC a thirty-day extension of the deadline to satisfy its Capital Deficiency. On November 12, 2008, Genworth also provided a cession statement for the month of October, which based on updated projections of anticipated losses, declared a Capital Deficiency in the Genworth Trust of \$11.9 million in the aggregate (inclusive of the previous \$7.4 million Capital Deficiency). The Capital Deficiency in the Genworth Trust represents anticipated amounts needed to cover claims with respect to delinquent loans insured by Genworth and reinsured by WMMRC.

21. WMMRC's failure to satisfy the Capital Deficiency in the Genworth Trust – in the approximate amount of \$11.9 million – by December 12, 2008 may result in Genworth's termination of the Genworth Agreement. As described above, Genworth has the right, in its sole discretion, to terminate the Genworth Agreement on a "run-off" or "cut-off" basis. The former would result in WMMRC's continued liability with respect to outstanding reinsured loans until the expiration, cancellation or termination of coverage for each reinsured loan and WMMRC would continue to receive reinsurance premiums with respect thereto.

22. If Genworth elects to terminate the Genworth Agreement on a “cut-off” basis, WMMRC would no longer be liable for the reinsured loans and would cease collecting reinsurance premiums with respect thereto. If the Genworth Agreement is terminated on a “cut-off” basis, the Debtors anticipate that a substantial portion of the funds in the Genworth Trust would be claimed by Genworth to satisfy all existing and future liabilities on the reinsured loans, eliminating most, if not all, residual value for WMMRC. At this time, the Debtors have no knowledge regarding whether Genworth would elect to terminate on a “run-off” or “cut-off” basis.

23. Notwithstanding the increasing need for reserves to cover anticipated losses in the coming years, the anticipated value of the Genworth Trust is between \$45 and \$65 million and accordingly, the Capital Deficiency in the Genworth Trust should be paid in order to preserve this value. The net present value of the Genworth Trust is calculated based on, among other factors, the continued accrual of interest on the assets in the Genworth Trust and the continued collection of premiums – in the approximate amount of \$45 million – over the next decade, the anticipated duration of the outstanding reinsured policies.

24. Based on the anticipated value of the Genworth Trust, it is in the Debtors’ economic best interests to assist WMMRC in satisfying the Capital Deficiency in the Genworth Trust and to provide financial support to WMMRC, as needed from time to time, in order to preserve the value of WMMRC’s interest in all of the Trusts, pending a final determination regarding the disposition of WMMRC. The Debtors anticipate that further financial support for all of the Trusts, including the Genworth Trust, of between \$15 and \$40 million, in the

aggregate, on a net annual basis, may be needed during the next two (2) years in order to preserve the value of WMMRC's Trusts.⁶

25. The Debtors propose that, if it becomes necessary to make a further capital contribution to WMMRC, on account of a Capital Deficiency, that the Debtors will consult with the Creditors' Committee and the ad hoc group of noteholders before making any such payment. If the Creditors' Committee or the ad hoc group of noteholders object to the proposed payment, the Debtors will seek Court approval prior to making any such payment to WMMRC.

Good Business Reasons Support
The Debtors' Provision of Financial Support to WMMRC

26. Pursuant to sections 105(a) and 363(b)(1) of the Bankruptcy Code, the Debtors request authorization for WMI to provide WMMRC with approximately \$11.9 million to cure the Capital Deficiency of the Genworth Trust. Additionally, the Debtors request authorization for WMI to provide further financial support to WMMRC as WMI deems, in its business judgment, necessary and in the best interests of its estate and creditors. Section 363(b)(1) provides, in relevant part, that "[t]he trustee, after notice and a hearing, may use, sell or lease, other than in the ordinary course of business, property of the estate." The use, sale, or lease of property of the estate, other than in the ordinary course of business, is authorized when there is a "good business reason" that justifies such action. See, e.g., In re Lionel Corp., 722

⁶ The calculation of the additional reserves needed are predicated on, among other things, WMMRC's continued receipt of capital contingency reserve releases. Hawaiian law provides that WMMRC must hold 50% of premiums collected with respect to a book of business in a given year as a contingency reserve for the next ten years. Upon request, the Hawaii Insurance Commissioner may authorize the release of contingency reserves in an amount equal to the sum of the ceded loss reserves and claims paid in the current year less 35% of the premiums earned in the same year. On September 30, 2008, the Hawaii Insurance Commissioner approved the release of contingency reserves for WMMRC. The contingency release reduced WMMRC's reserve requirements as of September 30, 2008, with respect to the Genworth Trust by approximately \$5.5 million. In addition, the Debtors' calculation of anticipated reserve requirements for the Trusts were derived, in part, from actuarial reports, dated June 30, 2008, prepared by Milliman USA, Inc., which reports are subject to change on a quarterly basis.

F.2d 1063, 1070 (2d Cir. 1983) (“The rule we adopt requires that a judge determining a § 363(b) application expressly find from the evidence presented before him at the hearing a good business reason to grant such an application.”); In re Allegheny Int’l, 117 B.R. 171 (W.D. Pa. 1990) (affirming bankruptcy court order allowing debtor to enter financing arrangement because debtor provided good business reason for use of estate property pursuant to section 363(b)).

27. The Debtors submit that good business reasons support WMI’s provision of approximately \$7.4 million to cure WMMRC’s Capital Deficiency in the Genworth Trust. As discussed above, while the Genworth Trust has a net present value of approximately \$45-65 million on a run-off basis, its value will be substantially diminished should WMMRC fail to cure its Capital Deficiency (in the approximate amount of \$11.9 million) by December 12, 2008 and Genworth elects to terminate the Genworth Agreement on a “cut-off” basis. Termination on a “cut-off” basis will eliminate WMMRC’s ability to collect future premiums or to retain investment income to offset future losses. WMMRC does not have sufficient capital to satisfy the Capital Deficiency on its own. Accordingly, WMI’s provision of the funds necessary to cure the Capital Deficiency is the only way to preserve the value of the Genworth Trust at this time.

28. In addition, it is in the best interests of WMI’s estate and creditors if WMI is authorized to provide further financial support (in the range of \$15 to \$40 million) to WMMRC, as needed from time to time, to preserve the value of all Trusts, including the Genworth Trust, for the benefit of WMI’s estate. Notwithstanding the recent increase in the amount of the Capital Deficiency in the Genworth Trust (from approximately \$7.4 to \$11.9 million), the Debtors estimate of aggregate financial support needed for WMMRC remains the same. If WMMRC can sustain its current run-off status for all Trusts, including the Genworth Trust, it has an anticipated, aggregate value of between \$330-\$395 million. However, WMMRC

will only be able to maintain its present strategy and preserve the value of its assets if WMI were authorized to provide WMMRC with the funds necessary to satisfy the Capital Deficiency with respect to the Genworth Trust and future capital deficiencies that may arise. In the alternative, should WMMRC fail to cure future capital deficiencies and the Mortgage Insurers elect to terminate on a cut-off basis, the existing Trust assets would likely be used to satisfy all existing and future liabilities of the Mortgage Insurers, eliminating substantially all value for WMMRC and ultimately for WMI's creditors.

29. Accordingly, for the foregoing reasons, the Debtors request authority, to (i) use approximately \$11.9 million in WMI's funds to cure the Capital Deficiency on the Genworth Trust and (ii) provide further financial support to WMMRC, as may be needed from time to time, upon notice and consultation with the Creditors' Committee and the ad hoc group of noteholders, as WMI deems necessary, in its business judgment, to preserve the value of WMMRC's assets for the ultimate benefit of WMI's estate and creditors, without further Court approval.

Notice

30. No trustee or examiner has been appointed in these chapter 11 cases. Notice of this Amended Motion has been provided to: (i) the U.S. Trustee; (ii) proposed counsel for the Creditors' Committee; (iii) the OTS; (iv) the FDIC; (v) counsel to JPMorgan Chase; and (vi) parties entitled to receive notice in these chapter 11 cases pursuant to Bankruptcy Rule 2002. In light of the nature of the relief requested, the Debtors submit that no other or further notice need be provided.


No Previous Request

31. No previous request for the relief sought herein has been made to this or any other Court.

WHEREFORE the Debtors respectfully request that the Court enter an order, substantially in the form attached hereto as Exhibit A, granting the relief requested herein and such other and further relief as it deems just and proper.

Dated: November 19, 2008
Wilmington, Delaware

Respectfully submitted,



Mark D. Collins (No. 2981)
Chun I. Jang (No. 4790)
Lee E. Kaufman (No. 4877)
RICHARDS, LAYTON & FINGER, P.A.
One Rodney Square
920 North King Street
Wilmington, DE 19801
Telephone: (302) 651-7700
Facsimile: (302) 651-7701

– and –

Marcia L. Goldstein, Esq.
Brian S. Rosen, Esq.
Michael F. Walsh, Esq.
WEIL, GOTSHAL & MANGES LLP
767 Fifth Avenue
New York, New York 10153
Telephone: (212) 310-8000
Facsimile: (212) 310-8007

*Attorneys to the Debtors and
Debtors in Possession*

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

-----X
:
In re : Chapter 11
:
WASHINGTON MUTUAL, INC., et al.,¹ : Case No. 08-12229 (MFW)
:
 : (Jointly Administered)
:
 Debtors. :
 : Hearing Date: November 25, 2008 at 10:30 a.m.
 : Objection Deadline: November 24, 2008 at 12:00 p.m.
-----X

NOTICE OF MOTION AND HEARING

PLEASE TAKE NOTICE that on November 10, 2008, the above-captioned debtors and debtors in possession (collectively, the “Debtors”) filed the **Motion of Debtors’ to Authorize Washington Mutual, Inc. to Provide Financial Support to WM Mortgage Reinsurance Company, Inc.** [Docket No. 269] (the “Motion”) with the United States Bankruptcy Court for the District of Delaware, 824 Market Street, 3rd Floor, Wilmington, Delaware 19801 (the “Bankruptcy Court”). **You were previously served with a copy of the Motion.**

PLEASE TAKE FURTHER NOTICE THAT on November 19, 2008, the Debtors filed the **Amended Motion of Debtor’s to Authorize Washington Mutual, Inc. to Provide Financial Support to WM Mortgage Reinsurance Company, Inc.** (the “Amended Motion”). A copy of the Amended Motion is attached hereto.

PLEASE TAKE FURTHER NOTICE that any responses or objections to the Amended Motion must be filed in writing with the Bankruptcy Court, 824 Market Street, 3rd

¹ The Debtors in these chapter 11 cases along with the last four digits of each Debtor’s federal tax identification number are: (i) Washington Mutual, Inc. (3725); and (ii) WMI Investment Corp. (5395). The Debtors’ principal offices are located at 1301 Second Avenue, Seattle, Washington 98101

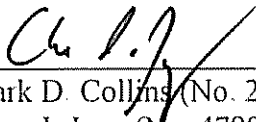
Floor, Wilmington, Delaware 19801, and served upon and received by the undersigned counsel for the Debtors on or before **November 24, 2008 at 12:00 p.m. (Eastern Standard Time)**.

PLEASE TAKE FURTHER NOTICE that if an objection is timely filed, served and received and such objection is not otherwise timely resolved, a hearing to consider such objection and the Amended Motion will be held before The Honorable Mary F. Walrath at the Bankruptcy Court, 824 Market Street, 5th Floor, Courtroom 5, Wilmington, Delaware 19801 on **November 25, 2008 at 10:30 a.m. (Eastern Standard Time)**.

IF NO OBJECTIONS TO THE AMENDED MOTION ARE TIMELY FILED, SERVED AND RECEIVED IN ACCORDANCE WITH THIS NOTICE, THE BANKRUPTCY COURT MAY GRANT THE RELIEF REQUESTED IN THE AMENDED MOTION WITHOUT FURTHER NOTICE OR HEARING.

Dated: November 19, 2008
Wilmington, Delaware

RICHARDS, LAYTON & FINGER, P.A.



Mark D. Collins (No. 2981)
Chun I. Jang (No. 4790)
Lee E. Kaufman (No. 4877)
One Rodney Square
920 North King Street
Wilmington, DE 19801
Telephone: (302) 651-7700
Facsimile: (302) 651-7701

– and –

WEIL, GOTSHAL & MANGES LLP

Marcia L. Goldstein, Esq.
Brian S. Rosen, Esq.
Michael F. Walsh, Esq.
767 Fifth Avenue
New York, New York 10153
Telephone: (212) 310-8000
Facsimile: (212) 310-8007

*Attorneys to the Debtors
and Debtors in Possession*

EXHIBIT A

Proposed Order

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

-----X
:

In re : Chapter 11

:

WASHINGTON MUTUAL, INC., et al.,¹ : Case No. 08-12229 (MFW)

:

: (Jointly Administered)

Debtors. :

:

: Re: Docket No. ____

:

-----X

**ORDER AUTHORIZING WASHINGTON MUTUAL INC. TO PROVIDE
FINANCIAL SUPPORT TO WM MORTGAGE REINSURANCE COMPANY, INC.**

Upon the motion, dated November 10, 2008, as amended pursuant to an amended motion, dated November 19, 2008 (the "Amended Motion"), of Washington Mutual, Inc. ("WMI") and WMI Investment Corp., as debtors and debtors in possession (together, the "Debtors"), for entry of an order, pursuant to sections 105(a) and 363(b)(1) of title 11 of the United States Code (the "Bankruptcy Code"), authorizing WMI to provide financial support to its non-debtor, wholly owned subsidiary WM Mortgage Reinsurance Company, Inc. ("WMMRC"), all as more fully set forth in the Amended Motion; and the Court having jurisdiction to consider the Amended Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; and consideration of the Amended Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Amended

¹ The Debtors in these chapter 11 cases along with the last four digits of each Debtor's federal tax identification number are: (i) Washington Mutual, Inc. (3725); and (ii) WMI Investment Corp (5395). The Debtors' principal offices are located at 1301 Second Avenue, Seattle, Washington 98101.

Motion having been provided to the parties listed therein, and it appearing that no other or further notice need be provided; and the Court having determined that the relief sought in the Amended Motion is in the best interests of the Debtors, their creditors, and all parties in interest; and the Court having determined that the legal and factual bases set forth in the Amended Motion establish just cause for the relief granted herein; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor, it is

ORDERED that the Amended Motion is granted; and it is further

ORDERED that, pursuant to sections 105(a) and 363(b)(1) of the Bankruptcy Code, WMI is authorized, but not required, to provide WMMRC with approximately \$11.9 million to cure the Capital Deficiency of the Genworth Trust, thereby preserving the value of the Genworth Trust, provided, that, WMI's loan to WMMRC – in the approximate amount of \$11.9 million – shall be secured by WMMRC's residual interest in the Genworth Trust and provided, further, that any future financial support provided by WMI shall be secured by WMMRC's residual interests in the Trusts; and it is further

ORDERED that the Debtors shall be authorized to enter into, execute, deliver, certify, file and/or record, and perform such agreements, instruments, applications for approvals or rulings of governmental or regulatory authorities, certificates, or other documents, and to take such other actions as shall be or become necessary, proper, and desirable to effectuate a secured loan of funds to WMMRC; and it is further

ORDERED that, pursuant to sections 105(a) and 363(b)(1) of the Bankruptcy Code, upon notice to and consultation with the Creditors' Committee and the ad hoc group of noteholders, WMI may provide WMMRC with further financial support as WMI deems, in its business judgment, necessary and in the best interests of its estate and creditors and to preserve

the value of WMMRC's assets; provided, however, that, if the Creditors' Committee or the ad hoc group of noteholders object to the proposed payment, WMI shall seek relief from this Court prior to making any further payments to WMMRC; and it is further

ORDERED that this Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation and/or enforcement of this Order.

Dated: Wilmington, Delaware
_____, 2008

THE HONORABLE MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT B

Blackline

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

-----X
:

In re : Chapter 11

:

WASHINGTON MUTUAL, INC., et al.,¹ : Case No. 08-12229 (MFW)

:

: (Jointly Administered)

:

Debtors. :

: ~~Proposed~~ Hearing Date: November 14, 25, 2008 at 10:30

a.m. ET : ~~Proposed~~ Objection Deadline: ~~At the hearing~~

November 24, 2008 at Noon ET :

=====

-----X

**AMENDED MOTION OF DEBTORS² TO AUTHORIZE
WASHINGTON MUTUAL, INC. TO PROVIDE FINANCIAL
SUPPORT TO WM MORTGAGE REINSURANCE COMPANY, INC.²**

Washington Mutual, Inc. ("WMI") and WMI Investment Corp. ("WMI
Investment"), as debtors and debtors in possession (collectively, the "Debtors"), respectfully represent:

Preliminary Statement

1. WMI requests authority to provide financial support to its non-debtor wholly-owned subsidiary WM Mortgage Reinsurance Company, Inc. ("WMMRC") in order to preserve almost \$400 million in value for its creditors. Specifically, by this amended motion, the Debtors seek authority to use approximately \$7.411.9 million of WMI's funds to satisfy

¹ The Debtors in these chapter 11 cases along with the last four digits of each Debtor's federal tax identification number are: (i) Washington Mutual, Inc. (3725); and (ii) WMI Investment Corp. (5395). The Debtors' principal offices are located at 1301 Second Avenue, Seattle, Washington 98101.

² A blackline comparing the Motion of Debtors' to Authorize WMI to Provide Financial Support to WM Mortgage Reinsurance Company, Inc., dated November 10, 2008, to this Amended Motion is attached hereto as Exhibit "B."

WMMRC's Capital Deficiency (as defined below) in the Genworth Trust (as defined below) and to provide additional financial support in the future, as needed, to preserve the value of WMMRC's business and interests in certain ~~Trust funds~~trust funds. WMMRC's repayment obligations to WMI will be secured by WMMRC's residual interest in the Genworth Trust (as defined below). Providing this financial support to WMMRC is in the best interests of WMI's estate and creditors because it will preserve the value of WMMRC's business – with an estimated aggregate value of between \$330 and \$395 million – for the ultimate benefit of WMI's creditors. In light of the tremendous residual value at stake, an immediate investment of approximately \$7.411.9 million – and possibly future investments, as needed – makes good business sense and should be approved.

Background

2. On September 26, 2008 (the "Commencement Date"), each of the Debtors commenced with this Court a voluntary case pursuant to chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"). As of the date hereof, the Debtors continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

3. On October 3, 2008, this Court entered an order pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") authorizing the joint administration of the Debtors' chapter 11 cases.

4. On October 15, 2008, the United States Trustee for the District of Delaware (the "U.S. Trustee") appointed an official committee of unsecured creditors (the "Creditors' Committee"). No trustee or examiner has been appointed in these cases.

WMI's Business

5. WMI is a holding company incorporated in the State of Washington and headquartered at 1301 Second Avenue, Seattle, Washington 98101. WMI is the direct parent of WMI Investment, which serves as an investment vehicle for WMI and holds a variety of securities. WMI Investment is incorporated in the State of Delaware.

6. Prior to the Commencement Date, WMI was a savings and loan holding company that owned Washington Mutual Bank ("WMB") and such bank's subsidiaries, including Washington Mutual Bank fsb ("WMBfsb"). WMI also has certain non-banking, non-debtor subsidiaries.

7. Prior to the Commencement Date, WMI, like all savings and loan holding companies, was subject to regulation by the Office of Thrift Supervision (the "OTS"). WMB and WMBfsb, like all depository institutions with federal thrift charters, were also subject to regulation and examination by the OTS. In addition, WMI's banking and non-banking subsidiaries were overseen by various federal and state authorities, including the Federal Deposit Insurance Corporation ("FDIC"). On September 25, 2008, the Director of the OTS, by order number 2008-36, appointed the FDIC as receiver for WMB and advised that the receiver was immediately taking possession of WMB (the "Receivership"). Immediately after its appointment as receiver, the FDIC sold substantially all the assets of WMB, including the stock of WMBfsb, to JPMorgan Chase Bank, National Association ("JPMorgan Chase") pursuant to that certain Purchase and Assumption Agreement, Whole Bank, dated as of September 25, 2008.

8. WMI's assets include its common stock interest in WMB, its interests in its non-banking subsidiaries, and in excess of \$4 billion of cash that WMI and its non-banking subsidiaries (including WMI Investment) had on deposit at WMB and WMBfsb immediately

prior to the time the FDIC was appointed as receiver. WMI is in the process of evaluating these and other assets for purposes of ultimate distribution to its creditors.

Jurisdiction

9. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

Relief Requested

10. By this amended motion (the "Amended Motion"), the Debtors request, pursuant to sections 105(a) and 363(b)(1) of the Bankruptcy Code, entry of an order, substantially in the form attached hereto as Exhibit "A," authorizing WMI to provide financial support to WMMRC, a non-Debtor, wholly-owned subsidiary of WMI. Specifically, the Debtors request authority to (i) use approximately \$7,411.9 million of WMI's funds to pay for WMMRC's Capital Deficiency in the Genworth Trust (as defined below) and (ii) provide further financial support to WMMRC, as may be needed from time to time, after notice to the ~~ad hoc group of noteholders, and after notice and~~ ad hoc group of noteholders, and after notice and consultation with the Creditors' Committee and the ad hoc group of noteholders, as WMI deems, in its business judgment, to be necessary to preserve the value of WMMRC's assets, for the ultimate benefit of WMI's estate and creditors, without the need for further Court approval. WMI's loan to WMMRC in the amount of approximately \$11.9 million shall be secured by WMMRC's residual interests in the Genworth Trust.

WMMRC's Business

11. WMMRC, an entity incorporated under the laws of Hawaii, is a captive reinsurance company, created to reinsure the risk associated with residential mortgages that were originated or had been acquired by WMB. In accordance with industry standard, residential

mortgages originated or acquired by WMB with a loan-to-value ratio greater than 80 percent must be insured. Mortgage insurance for WMB-originated or acquired loans had historically been provided by seven (7) mortgage insurance companies (collectively, the “Mortgage Insurers”).^{2,3} WMMRC, in turn, entered into reinsurance agreements (the “Reinsurance Agreements”) with each Mortgage Insurer, pursuant to which it would share in the risk, in the form of claim losses, in exchange for a portion of the premiums generated from the residential mortgage loan portfolio held by the Mortgage Insurer.

12. Generally, WMMRC is required to pay claims made with respect to the insured loans in a “book of business”^{3,4} only after a Mortgage Insurer’s losses exceed 4% of the insured risk. Thereafter, WMMRC is required to pay all losses on the next 10% risk layer, after which the Mortgage Insurer bears any remaining loss. In consideration for this risk, WMMRC typically receives 40% of the mortgage insurance premiums paid.

13. Pursuant to each Reinsurance Agreement, WMMRC established a trust account with US Bank N.A. (collectively, the “Trusts” and each a “Trust”) – for the benefit of the Mortgage Insurer – to hold premiums collected and to secure WMMRC’s obligations to each Mortgage Insurer with respect to the insured loans. Trust funds are invested principally in government backed securities. WMMRC is party to seven trust agreements – one for each Reinsurance Agreement to which it is a party. As of September 30, 2008, the value of all Trust assets was estimated to be \$386 million.

²⁻³ The Mortgage Insurers are: Genworth Mortgage Insurance Corporation, Mortgage Guaranty Insurance Corporation, PMI Mortgage Insurance Company, Radian Guaranty Inc., Republic Mortgage Insurance Company, Triad Guaranty Insurance Corporation, and United Guaranty Residential Insurance Company

³⁻⁴ A “book of business” is comprised of loans originated in a given calendar year by a Mortgage Insurer. Each annual “book of business” has a 10-year term

14. Generally, WMMRC is only permitted to withdraw funds from the Trusts for the payment of reasonable operating expenses, including taxes and other trust expenses, or when the Trusts are deemed to be over-funded pursuant to formulas set forth in the applicable Reinsurance Agreements. Notwithstanding WMMRC's ability to withdraw funds for such purposes, Trust balances may not drop below the minimum Reinsurance Reserve (as defined below). In addition to funds held in trust, WMMRC has approximately \$1 million in unrestricted funds held in a custodial account at US Bank, N.A., which funds are reserved for the payment of WMMRC's operating expenses. The majority of WMMRC's unrestricted funds are held in a custodial account at US Bank, N.A., with the remainder (in the approximate amount of \$150,000) held in an operating account at WMB (and now at JPMorgan Chase).

15. Each Reinsurance Agreement requires that WMMRC maintain a certain minimum amount of capital in the Trust (the "Reinsurance Reserve"), which amount is determined by applicable law, including Hawaiian law or the law of the Mortgage Insurer's domicile state, as well as each Mortgage Insurer's calculation of reserves needed, based on known delinquencies within the loan portfolio and anticipated losses associated therewith. Minimum capital requirements fluctuate on a monthly basis and are reflected in monthly "cession statements" provided by each Mortgage Insurer to WMMRC.

16. Pursuant to the Reinsurance Agreements, monthly cession statements provide WMMRC with information regarding, among other things, the amount of insurance in force, claims paid to date, and WMMRC's share of contingency reserves needed to cover anticipated claims, including any deficiency in Trust assets needed to satisfy such amounts (the "Capital Deficiencies"). WMMRC is generally required to cure Capital Deficiencies within thirty days after receiving notice of any such deficiency. Failure to cure a Capital Deficiency

gives rise to the Mortgage Insurer's right to terminate the Reinsurance Agreement and to elect whether to terminate the agreement on a "run-off" or "cut-off" basis.

17. In the event of termination on a "run-off" basis, WMMRC would continue to be subject to all terms and conditions of the Reinsurance Agreement and would remain liable on the reinsured loans until the natural expiration, cancellation, or termination of coverage of each reinsured loan. WMMRC would also continue to receive reinsurance premiums to which it would be entitled under the Reinsurance Agreement. As of the Commencement Date, due to the Bank Receivership and the sale of substantially all of WMB's assets to JPMorgan Chase, all of the Trusts are operating on a "run-off" basis because WMMRC has ceased to reinsure any new WMB-originated loans.⁵

18. Alternatively, if, in the event of WMMRC's failure to cure a Capital Deficiency, the Mortgage Insurer elects to terminate the Reinsurance Agreement on a "cut-off" basis, WMMRC would no longer be liable for the reinsured loans and would no longer receive reinsurance premiums with respect thereto. WMMRC would also be liable for the Reinsurance Reserve, which may, in certain cases, result in the extinguishment of all assets on account in the Trust at issue.

The Genworth Trust and Reinsurance Agreement

19. WMMRC and Genworth Mortgage Insurance Corporation ("Genworth"), as successor in interest to General Electric Mortgage Insurance Corporation and GE Residential Mortgage Insurance Company of North Carolina, are party to certain Reinsurance Agreements (collectively, the "Genworth Agreement"). Pursuant to the Genworth Agreement, WMMRC

⁵ Prior to the Commencement Date, WMMRC's Reinsurance Agreement with United Guaranty Residential Insurance Company was terminated by the Mortgage Insurer on a "run-off" basis.

established a trust (the "Genworth Trust"), which, as of September 30, 2008, held approximately \$74 million in assets.

20. Due to an increasing delinquency rate within Genworth's insured loans, WMMRC is required to shore up and hold in trust sufficient funds to cover anticipated losses. Increased delinquencies in Genworth's insured loans reflects the current state of the mortgage industry which, as a whole, is facing an increase in the number of delinquencies and a corresponding increase in foreclosure rates. By notice, dated October 14, 2008, Genworth declared a Capital Deficiency with respect to the Genworth Trust in the approximate amount of \$7.4 million, which amount ~~is~~was payable, in full, by WMMRC on or before November 14, 2008. ~~The Capital Deficiency declared by~~On November 12, 2008, subsequent to the filing of the Debtors' Motion to Authorize Provision of Financial Support to WMMRC (D.I. 269), Genworth agreed to grant WMMRC a thirty-day extension of the deadline to satisfy its Capital Deficiency. On November 12, 2008, Genworth also provided a cession statement for the month of October, which based on updated projections of anticipated losses, declared a Capital Deficiency in the Genworth Trust of \$11.9 million in the aggregate (inclusive of the previous \$7.4 million Capital Deficiency). The Capital Deficiency in the Genworth Trust represents anticipated amounts needed to cover claims with respect to delinquent loans insured by Genworth and reinsured by WMMRC.

21. WMMRC's failure to satisfy the Capital Deficiency in the Genworth Trust – in the approximate amount of ~~\$7.4~~\$11.9 million – by ~~November 14,~~December 12, 2008 may result in Genworth's termination of the Genworth Agreement. As described above, Genworth has the right, in its sole discretion, to terminate the Genworth Agreement on a "run-off" or "cut-off" basis. The former would result in WMMRC's continued liability with respect to

outstanding reinsured loans until the expiration, cancellation or termination of coverage for each reinsured loan and WMMRC would continue to receive reinsurance premiums with respect thereto.

22. If Genworth elects to terminate the Genworth Agreement on a “cut-off” basis, WMMRC would no longer be liable for the reinsured loans and would cease collecting reinsurance premiums with respect thereto. If the Genworth Agreement is terminated on a “cut-off” basis, the Debtors anticipate that a substantial portion of the funds in the Genworth Trust would be claimed by Genworth to satisfy all existing and future liabilities on the reinsured loans, eliminating most, if not all, residual value for WMMRC. At this time, the Debtors have no knowledge regarding whether Genworth would elect to terminate on a “run-off” or “cut-off” basis.

23. Notwithstanding the increasing need for reserves to cover anticipated losses in the coming years, the anticipated value of the Genworth Trust is between \$45 and \$65 million and accordingly, the Capital Deficiency in the Genworth Trust should be paid in order to preserve this value. The net present value of the Genworth Trust is calculated based on, among other factors, the continued accrual of interest on the assets in the Genworth Trust and the continued collection of premiums – in the approximate amount of \$45 million – over the next decade, the anticipated duration of the outstanding reinsured policies.

24. Based on the anticipated value of the Genworth Trust, it is in the Debtors’ economic best interests to assist WMMRC in satisfying the Capital Deficiency in the Genworth Trust and to provide financial support to WMMRC, as needed from time to time, in order to preserve the value of WMMRC’s interest in all of the Trusts, pending a final determination regarding the disposition of WMMRC. The Debtors anticipate that further financial support for

all of the Trusts, including the Genworth Trust, of between \$15 and \$40 million, in the aggregate, on a net annual basis, may be needed ~~in~~during the near term~~next two (2) years in~~ order to preserve the value of WMMRC's Trusts.⁶ ~~The Debtors propose that~~

25. ~~The Debtors propose that~~, if it becomes necessary to make a further capital contribution to WMMRC, on account of a Capital Deficiency, that the Debtors will consult with the Creditors' Committee and ~~provide notice to the ad hoc group of noteholders before making~~ any such payment. If the Creditors' Committee ~~objects~~or the ad hoc group of noteholders object to the proposed payment, the Debtors will seek Court approval prior to making any such payment to WMMRC.

Good Business Reasons Support
The Debtors' Provision of Financial Support to WMMRC

26. ~~25.~~ Pursuant to sections 105(a) and 363(b)(1) of the Bankruptcy Code, the Debtors request authorization for WMI to provide WMMRC with approximately \$7.411.9 million to cure the Capital Deficiency of the Genworth Trust. Additionally, the Debtors request authorization for WMI to provide further financial support to WMMRC as WMI deems, in its business judgment, necessary and in the best interests of its estate and creditors. Section 363(b)(1) provides, in relevant part, that "[t]he trustee, after notice and a hearing, may use, sell or lease, other than in the ordinary course of business, property of the estate." The use, sale, or

⁶ The calculation of the additional reserves needed are predicated on, among other things, WMMRC's continued receipt of capital contingency reserve releases. Hawaiian law provides that WMMRC must hold 50% of premiums collected with respect to a book of business in a given year as a contingency reserve for the next ten years. Upon request, the Hawaii Insurance Commissioner may authorize the release of contingency reserves in an amount equal to the sum of the ceded loss reserves and claims paid in the current year less 35% of the premiums earned in the same year. On September 30, 2008, the Hawaii Insurance Commissioner approved the release of contingency reserves for WMMRC. The contingency release reduced WMMRC's reserve requirements as of September 30, 2008, with respect to the Genworth Trust by approximately \$5.5 million. In addition, the Debtors' calculation of anticipated reserve requirements for the Trusts were derived, in part, from actuarial reports, dated June 30, 2008, prepared by Milliman USA, Inc., which reports are subject to change on a quarterly basis.

lease of property of the estate, other than in the ordinary course of business, is authorized when there is a “good business reason” that justifies such action. See, e.g., In re Lionel Corp., 722 F.2d 1063, 1070 (2d Cir. 1983) (“The rule we adopt requires that a judge determining a § 363(b) application expressly find from the evidence presented before him at the hearing a good business reason to grant such an application.”); In re Allegheny Int’l, 117 B.R. 171 (W.D. Pa. 1990) (affirming bankruptcy court order allowing debtor to enter financing arrangement because debtor provided good business reason for use of estate property pursuant to section 363(b)).

27. ~~26.~~ The Debtors submit that good business reasons support WMI’s provision of approximately \$7.4 million to cure WMMRC’s Capital Deficiency in the Genworth Trust. As discussed above, while the Genworth Trust has a net present value of approximately \$45-65 million on a run-off basis, its value will be substantially diminished should WMMRC fail to cure its Capital Deficiency (in the approximate amount of \$7.411.9 million) by ~~November 14,~~ December 12, 2008 and Genworth elects to terminate the Genworth Agreement on a “cut-off” basis. Termination on a “cut-off” basis will eliminate WMMRC’s ability to collect future premiums or to retain investment income to offset future losses. WMMRC does not have sufficient capital to satisfy the Capital Deficiency on its own. Accordingly, WMI’s provision of the funds necessary to cure the Capital Deficiency is the only way to preserve the value of the Genworth Trust at this time.

28. ~~27.~~ In addition, it is in the best interests of WMI’s estate and creditors if WMI is authorized to provide further financial support (in the range of \$15 to \$40 million) to WMMRC, as needed from time to time, to preserve the value of all Trusts, including the Genworth Trust, for the benefit of WMI’s estate. Notwithstanding the recent increase in the amount of the Capital Deficiency in the Genworth Trust (from approximately \$7.4 to \$11.9

million), the Debtors estimate of aggregate financial support needed for WMMRC remains the same. If WMMRC can sustain its current run-off status for all Trusts, including the Genworth Trust, it has an anticipated, aggregate value of between \$330-\$395 million. However, WMMRC will only be able to maintain its present strategy and preserve the value of its assets if WMI were authorized to provide WMMRC with the funds necessary to satisfy the Capital Deficiency with respect to the Genworth Trust and future capital deficiencies that may arise. In the alternative, should WMMRC fail to cure future capital deficiencies and the Mortgage Insurers elect to terminate on a cut-off basis, the existing Trust assets would likely be used to satisfy all existing and future liabilities of the Mortgage Insurers, eliminating substantially all value for WMMRC and ultimately for WMI's creditors.

29. ~~28.~~ Accordingly, for the foregoing reasons, the Debtors request authority, to (i) use approximately \$7,411.9 million in WMI's funds to cure the Capital Deficiency on the Genworth Trust and (ii) provide further financial support to WMMRC, as may be needed from time to time, upon notice to ~~the ad hoc group of noteholders and upon notice and~~ consultation with the Creditors' Committee and the ad hoc group of noteholders, as WMI deems necessary, in its business judgment, to preserve the value of WMMRC's assets for the ultimate benefit of WMI's estate and creditors, without further Court approval.

Notice

30. ~~29.~~ No trustee or examiner has been appointed in these chapter 11 cases. Notice of this Amended Motion has been provided to: (i) the U.S. Trustee; (ii) proposed counsel for the Creditors' Committee; (iii) the OTS; (iv) the FDIC; (v) counsel to JPMorgan Chase; and (vi) parties entitled to receive notice in these chapter 11 cases pursuant to Bankruptcy Rule 2002.

In light of the nature of the relief requested, the Debtors submit that no other or further notice need be provided.

No Previous Request

31. ~~30.~~ No previous request for the relief sought herein has been made to this or any other Court.

WHEREFORE the Debtors respectfully request that the Court enter an order, substantially in the form attached hereto as Exhibit A, granting the relief requested herein and such other and further relief as it deems just and proper.

Dated: November ~~10,~~19, 2008
Wilmington, Delaware

Respectfully submitted,

Mark D. Collins (No. 2981)
Chun I. Jang (No. 4790)
Lee E. Kaufman (No. 4877)
RICHARDS, LAYTON & FINGER, P.A.
One Rodney Square
920 North King Street
Wilmington, DE 19801
Telephone: (302) 651-7700
Facsimile: (302) 651-7701

– and –

Marcia L. Goldstein, Esq.
Brian S. Rosen, Esq.
Michael F. Walsh, Esq.
WEIL, GOTSHAL & MANGES LLP
767 Fifth Avenue
New York, New York 10153
Telephone: (212) 310-8000
Facsimile: (212) 310-8007

*Attorneys to the Debtors and
Debtors in Possession*

EXHIBIT A

Proposed Order

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

-----X	:	
	:	
<i>In re</i>	:	Chapter 11
	:	
WASHINGTON MUTUAL, INC., <u>et al.</u> , ¹	:	Case No. 08-12229 (MFW)
	:	
----- Debtors.	:	(Jointly
Administered)	:	
-----	:	
	X	
	:	
Debtors.	:	
=====	:	
=====	:	Re: Docket No. _____
=====	:	
-----X	:	

**ORDER AUTHORIZING WASHINGTON MUTUAL INC. TO PROVIDE
FINANCIAL SUPPORT TO WM MORTGAGE REINSURANCE COMPANY, INC.**

Upon the motion, dated November 10, 2008, as amended pursuant to an amended motion, dated November 19, 2008 (the "Amended Motion"), of Washington Mutual, Inc. ("WMI") and WMI Investment Corp., as debtors and debtors in possession (together, the "Debtors"), for entry of an order, pursuant to sections 105(a) and 363(b)(1) of title 11 of the United States Code (the "Bankruptcy Code"), authorizing WMI to provide financial support to its non-debtor, wholly owned subsidiary WM Mortgage Reinsurance Company, Inc. ("WMMRC"), all as more fully set forth in the Amended Motion; and the Court having jurisdiction to consider the Amended Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; and consideration of the Amended Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before

¹ The Debtors in these chapter 11 cases along with the last four digits of each Debtor's federal tax identification number are: (i) Washington Mutual, Inc. (3725); and (ii) WMI Investment Corp. (5395). The Debtors' principal offices are located at 1301 Second Avenue, Seattle, Washington 98101.

this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Amended Motion having been provided to the parties listed therein, and it appearing that no other or further notice need be provided; and the Court having determined that the relief sought in the Amended Motion is in the best interests of the Debtors, their creditors, and all parties in interest; and the Court having determined that the legal and factual bases set forth in the Amended Motion establish just cause for the relief granted herein; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor, it is

ORDERED that the Amended Motion is granted; and it is further

ORDERED that, pursuant to sections 105(a) and 363(b)(1) of the Bankruptcy Code, WMI is authorized, but not required, to provide WMMRC with approximately \$7,411.9 million to cure the Capital Deficiency of the Genworth Trust, thereby preserving the value of the Genworth Trust; and it, provided, that, WMI's loan to WMMRC – in the approximate amount of \$11.9 million – shall be secured by WMMRC's residual interest in the Genworth Trust and provided, further, that any future financial support provided by WMI shall be secured by WMMRC's residual interests in the Trusts; and it is further

ORDERED that the Debtors shall be authorized to enter into, execute, deliver, certify, file and/or record, and perform such agreements, instruments, applications for approvals or rulings of governmental or regulatory authorities, certificates, or other documents, and to take such other actions as shall be or become necessary, proper, and desirable to effectuate a secured loan of funds to WMMRC; and it is further

ORDERED that, pursuant to sections 105(a) and 363(b)(1) of the Bankruptcy Code, ~~upon notice to the ad hoc group of noteholders and~~ upon notice to and consultation with the Creditors' Committee and the ad hoc group of noteholders, WMI may provide WMMRC

EXHIBIT B

Blackline

Document comparison done by DeltaView on Wednesday, November 19, 2008 7:57:28 PM

Input:	
Document 1	interwovenSite://IM-DMS2/RLF1/3339650/1
Document 2	interwovenSite://im-dms2/RLF1/3342656/1
Rendering set	Standard

Legend:	
Insertion	
Deletion	
Moved from	
Moved to	
Style change	
Format change	
Moved-deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	77
Deletions	51
Moved from	4
Moved to	4
Style change	0
Format changed	0
Total changes	136