Exhibit 8

to

Affidavit of Daniel M. Reilly
in Support of Joint Memorandum of
Law in Opposition to Proposed Settlement

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In the matter of the application of	:	
THE BANK OF NEW YORK MELLON (as Trustee under various Pooling and Servicing Agreement and Indenture Trustee under various Indentures) *et al.*,	:	**2011-cv-5988 (WHP)**
Petitioners,	:	
-against-	:	
WALNUT PLACE LLC *et al.*,	:	
Intervenor-Respondents.	:	

INSTITUTIONAL INVESTORS' STATEMENT IN SUPPORT OF SETTLEMENT AND CONSOLIDATED RESPONSE TO SETTLEMENT OBJECTIONS

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Court has questioned whether the Trustee was entitled to rely on experts for this purpose. *See* Tr. of Sept. 1 Hearing at 27:3-5. The PSAs expressly permit the Trustee to do so. *See* PSA § 8.02(ii). In fact, the Trustee's good faith reliance on the opinion of these experts "shall be full and complete authorization and protection in any action taken or suffered or omitted by it hereunder." *Id.* The Second Circuit has recognized that, where an Indenture authorizes a trustee to rely on opinions of counsel, the *correctness* of the underlying opinion is irrelevant: "Nor is the Trustees' good faith put in question merely by virtue of the fact that the opinion relied upon may have been wrong; to so hold would eviscerate the opinion of counsel defense." *Cruden v. Bank of New York*, 957 F.2d 961, 972 (2d Cir. 1992). For this reason alone, the PSAs and applicable law require that the court approve the settlement. *See* Part II(C)(2), *infra*.

4. Even if the court could ignore the plain language of the PSAs, and it cannot, the settlement itself is reasonable. The $8.5 billion settlement the Trustee asks the court to approve is the second-largest litigation settlement in history, and the largest ever achieved in private litigation. If approved, it will provide the Trusts with a favorable and early resolution of uncertain claims for repurchase of ineligible mortgages. It will substitute a solvent obligor, Bank of America, for the deeply insolvent Countrywide entities who are otherwise liable for the repurchase claims. It effects a complete reform of mortgage servicing, at Bank of America's expense, in a manner that is favorable not only to investors, but to borrowers. Finally, it provides the Trusts with a complete, and automatic, indemnity for losses they suffer as a result of unrecorded mortgages and defective and missing title policies.

5. There are 530 Trusts involved in the settlement. The Institutional Investors hold 25% of the Voting Rights in 189 of these Trusts. If the settlement is not approved, they can and will litigate claims for those Trusts, but they do not believe litigation would achieve a better—or

more certain—result than the settlement the Trustee has in hand. Though they are prepared to litigate, they prefer the settlement. There are 341 other Trusts involved in the settlement. In all but two of those 341 Trusts, no group alleges that they hold 25% of the Voting Rights. In fact, of the over $40 billion in securities held by the Institutional Investors or by funds and clients they advise, almost $14 billion are in Trusts where the Institutional Investors lack the required 25% threshold. If the settlement is disapproved, these Trusts will receive no remedy at all. *See* Part II(F), *infra.* Rejection of the settlement would be devastating for these Trusts and their investors. The Court should press the objectors carefully to determine whether they have any plan, at all, to obtain relief for these Trusts if the settlement is disapproved.

6. If the settlement is rejected, the industry-reforming servicing improvements and the document indemnity will also be lost for all of the Trusts. These are affirmative, negotiated remedies. They are not mandated by the PSAs, so they cannot be achieved through contested litigation of prudent servicing claims. Destroying the settlement, and thus the servicing improvements, could cause investors to suffer billions of dollars of additional losses they will likely avoid if the settlement is approved. Borrowers will be hurt too, because the servicing improvements—which provide important protections and incentives for them—will not be implemented fully.

7. Evaluation of any settlement necessarily requires consideration not only of the terms of the proposed settlement but an estimate of the likely outcome of a litigated alternative. It is a truism, and also true, that litigation is inherently uncertain. The inaccurate assertion that there are "billions of dollars in toxic mortgage claims" in the pools does not establish that those claims will succeed if pursued in litigation. Speculative claims that Bank of America is liable as a successor in interest for contracts with the Countrywide Mortgage Sellers do little to assure

Trustee's decision to settle might well have been the only truly *prudent* conclusion to be drawn.[33]

D. Servicing Improvements and Litigation Risks

44. A key component of the settlement is the near complete transformation of loan servicing that will occur upon the approval of the settlement. This is a matter of keen importance to all investors in the trusts, no matter the tranche in which they hold, because poor loan servicing magnifies investor losses and increases poor outcomes for borrowers. As the chart below demonstrates, at the time of the settlement, Bank of America was by far the worst of the major bank loan servicers. Its consistently poor performance was endemic: regardless of loan type, regardless of activity, Bank of America was at the bottom of nearly every category:

Key Pool Statistics by Servicers – May 2011[34]

Alt-A	Total Loans/# of Loans 90+ Delinquent	Percentage of Loans 90+ Delinquent	Roll Rate 30 to 60 Days DQ	Roll Rate 60 to 90 Days DQ	Number of Modifications Granted as % of UPB	6 Mo Mod Redefault Rate	Weighted Avg. Mos to Liquidation (last 12)	WA Mos to Liq from Foreclosure
BofA	503,000/56,900	11.3%	43.2%	52.1%	11.2%	12.3%	21	23
JPM Chase	72,000/4,790	6.6%	42.3%	49.1%	7.1%	9.9%	20	19
CitiMortgage	49,000/1,709	3.4%	38.0%	34.6%	16.1%	5.1%	18	19
Wells Fargo	195,593/9,906	5.1%	40.7%	34.6%	15.4%	12.6%	21	19
Option ARM	**Total Loans/# of Loans 90+ Delinquent**	**Percentage of Loans 90+ Delinquent**	**Roll Rate 30 to 60**	**Roll Rate 60 to 90**	**Number of Modifications Granted as % of UPB**	**6 Month Redefault Rate**	**Weighted Avg. Mos to Liquidation**	
BofA	153,604/36,876	24%	44.3%	57.0%	15.6%	17.2%	24	29
JPM Chase	51,199/4,949	9.6%	40.8%	49.0%	6.3%	11.5%	19	21
Prime	**Total Loans/# of Loans 90+ Delinquent**	**Percentage of Loans 90+ Delinquent**	**Roll Rate 30 to 60**	**Roll Rate 60 to 90**	**Number of Modifications Granted as % of UPB**	**6 Month Redefault Rate**	**Weighted Avg. Mos to Liquidation**	
BofA	131,568/10,163	7.7%	43.5%	54.3%	5.3%	9.3%	19	21
JPMorgan Chase	105,688/5,582	5.2%	49.2%	53.5%	3.8%	8.2%	17	13

[33] This is particularly true where the majority of Trusts lacked investors ready, willing, and able to fund the Trusts' litigation of these claims and bear the Trusts' substantial litigation risks.

[34] Source: RMBS My Final Look as of May 2011 Remittance, using data from CoreLogic Loan Performance, CoreLogic Home Price Index and RMBS 2000-2010 Vintages.

Wells Fargo	184,341/3,947	2.1%	36.1%	44.3%	3.5%	6.8%	15	14
Subprime	**Total Loans/# of Loans 90+ Delinquent**	**Percentage of Loans 90+ Delinquent**	**Roll Rate 30 to 60**	**Roll Rate 60 to 90**	**Number of Modifications Granted as % of UPB**	**6 Month Redefault Rate**	**Weighted Avg. Mos to Liquidation**	
BofA	426,616/117,472	27.5%	35.9%	42.5%	38.8%	18.9%	27	30
JPMorgan Chase	193,714/25,194	13%	29.4%	40.1%	41.7%	14.7%	23	25
Wells Fargo	155,681/14,391	9.2%	34.4%	33.0%	43.3%	16.5%	24	19

45. Bank of America's poor servicing had real and lasting consequences for investors and borrowers. Its markedly longer time to resolution meant that it advanced more funds, for longer, to pay principal and interest on loans that were hopelessly in default. While on the surface these advances benefitted the trusts, in reality, they magnified collateral losses: every advance creates a super-senior lien that must be satisfied on liquidation, at the expense of holders in loss bearing tranches. Bank of America granted fewer modifications to troubled borrowers, and those it granted failed at a much higher rate, thus exacerbating losses that might have been avoided through competent implementation of an appropriate modification. Bank of America also had much higher rates of delinquencies, and did less to re-convert them to performing loans, than did any other major bank servicer.

46. "Prudent servicing" plainly required a far better level of service than Bank of America was providing, but litigation offered little prospect of improving the situation. Litigation of servicing claims would likely be on a loan by loan basis; i.e., how much of the loss on Loan A could have been avoided through prudent servicing. This was an intractable problem, particularly for long term holders who depend on prudent servicing to minimize losses and maximize performance of their investments. Imprudent servicing was also exceedingly difficult to remedy under the PSAs. Certificateholders cannot compel the Trustee to replace a servicer without: a) amassing 66% of the Voting Rights, b) identifying a replacement subservicer acceptable to the rating agencies, and c) indemnifying the Trustee for any losses reasonably