

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

In the matter of the application of

THE BANK OF NEW YORK MELLON (as Trustee
under various Pooling and Servicing Agreements and
Indenture Trustee under various Indentures), *et al.*

Petitioners,

for an order, pursuant to C.P.L.R. § 7701, seeking judicial
instructions and approval of a proposed settlement.

Index No. 651786/2011

Assigned to: Kapnick, J.

**AFFIRMATION OF
DANIEL M. REILLY IN
SUPPORT OF JOINT
MEMORANDUM OF
LAW IN OPPOSITION
TO THE PROPOSED
SETTLEMENT**

I, Daniel M. Reilly, hereby affirm under the penalty of perjury that the following is true and correct:

1. I am a member of the Bar of the State of Colorado and admitted to appear before this Court *pro hac vice*. I am a member of Reilly Pozner LLP, counsel for the AIG entities in this matter.

2. AIG is one of several Intervenor-Respondents (collectively with potential objectors, “Intervenors”) in this matter and my firm is a member of the Steering Committee. I am familiar with the matters referenced herein and submit this affirmation in support of the Joint Memorandum of Law in Opposition to the Proposed Settlement.

3. Attached as Exhibit 1 is a true and accurate copy of the settlement agreement with exhibits.

4. Attached as Exhibit 2 is a true and accurate copy of excerpts from the Deposition Transcript of Thomas Scrivener (Nov. 14, 2012).

5. Attached as Exhibit 3 is a true and accurate copy of the Final Report of the National Commission on the Causes of the Financial and Economic Crisis in the United States by the Financial Crisis Inquiry Commission (Jan. 2011).

6. Attached as Exhibit 4 is a true and accurate copy of the Bank of America conflict of interest waiver (Nov. 4, 2010).

7. Attached as Exhibit 5 is a true and accurate copy of a November 29, 2010 email from Elaine Golin to various recipients, Bates stamped BNYM_CW-00271023-26.

8. Attached as Exhibit 6 is a true and accurate copy of the Countrywide Internal Audit Department Review of Consumer Markets Division (*MBIA v. Countrywide*, Doc. No. 2226, at Ex. 11) (filed Nov. 13, 2012).

9. Attached as Exhibit 7 is a true and accurate copy of the *Former Countrywide CEO Angelo Mozilo to Pay SEC's Largest-Ever Financial Penalty Against a Public Company's Senior Executive*, U.S. Securities & Exchange Commission Press Release (Oct. 15, 2010).

10. Attached as Exhibit 8 is a true and accurate copy of the Institutional Investors' Statement in Support of Settlement and Consolidated Response to Settlement Objections (Fed. Doc. No. 124) (Oct. 31, 2011) (Dep. Ex. 132).

11. Attached as Exhibit 9 is a true and accurate copy of the *\$25 Billion Mortgage Servicing Agreement Filed in Federal Court*, Press Release from the U.S. Dep't of Justice (*MBIA v. Countrywide*, Doc. No. 3552) (filed Nov. 27, 2012).

12. Attached as Exhibit 10 is a true and accurate copy of the Consent Judgment of Bank of America from *United States v. Bank of America Corp. et al.*, available at

<http://www.justice.gov/opa/documents/bank-of-america-consent-judgement.pdf> (last visited May 3, 2013).

13. Attached as Exhibit 11 is a true and accurate copy of the *Countrywide Will Pay \$108 Million for Overcharging Struggling Homeowners*, Federal Trade Commission Press Release (June 7, 2010).

14. Attached as Exhibit 12 is a true and accurate copy of excerpts from the February 7, 2013 Hearing Transcript.

15. Attached as Exhibit 13 is a true and accurate copy of excerpts from the Deposition Transcript of Kelly Crosson (Nov. 9, 2012).

16. Attached as Exhibit 14 is a true and accurate copy of excerpts from the Expert Report of Tamar Frankel (Feb. 28, 2013) (Doc. No. 529).

17. Attached as Exhibit 15 is a true and accurate copy of excerpts from the Deposition Transcript of John Langbein (Apr. 18, 2013).

18. Attached as Exhibit 16 is a true and accurate copy of excerpts from the Expert Rebuttal Report of Adam J. Levitin (Apr. 11, 2013) (Doc. No. 570).

19. Attached as Exhibit 17 is a true and accurate copy of excerpts from the Expert Report of Daniel R. Fischel (Mar. 13, 2013) (Doc. No. 541).

20. Attached as Exhibit 18 is a true and accurate copy of excerpts from the Expert Reply Report of Tamar Frankel (Apr. 11, 2013) (Doc. No. 566).

21. Attached as Exhibit 19 is a true and accurate copy of excerpts from the Deposition Transcript of Debra Baker (Jan. 11, 2013).

22. Attached as Exhibit 20 is a true and accurate copy of a February 17, 2009 letter to Countrywide and the Bank of New York Mellon, Bates stamped BNYM_CW-00253913-17.
23. Attached as Exhibit 21 is a true and accurate copy of a January 4, 2010 letter to the Bank of New York Mellon, Bates stamped BNYM_CW-00253895.
24. Attached as Exhibit 22 is a true and accurate copy of a January 24, 2011 letter to the Bank of New York, Bates stamped BNYM_CW-00253869-74.
25. Attached as Exhibit 23 is a true and accurate copy of an undated letter to the Bank of New York, Bates stamped BNYM_CW-00253778-79.
26. Attached as Exhibit 24 is a true and accurate copy of excerpts from the Deposition Transcript of Richard P. Stanley (Jan. 8, 2013).
27. Attached as Exhibit 25 is a true and accurate copy of a March 1, 2010 letter from the Bank of New York Mellon, Bates stamped BNYM_CW-00253648-49.
28. Attached as Exhibit 26 is a true and accurate copy of a February 17, 2010 letter from the Bank of New York Mellon, Bates stamped BNYM_CW-00253199-200.
29. Attached as Exhibit 27 is a true and accurate copy of a July 3, 2009 letter from the Bank of New York Mellon, Bates stamped BNYM_CW-00253191-92.
30. Attached as Exhibit 28 is a true and accurate copy of an August 20, 2010 letter from Kathy Patrick to the Bank of New York, Bates stamped BNYM_CW-00008742-59 (Dep. Ex. 16).
31. Attached as Exhibit 29 is a true and accurate copy of a September 3, 2010 letter from Pillsbury Winthrop Shaw Pittman LLP to Kathy Patrick, Bates stamped BNYM_CW-00008784-87 (Dep. Ex. 146).

32. Attached as Exhibit 30 is a true and accurate copy of an October 18, 2010 letter from Kathy Patrick to Countrywide and the Bank of New York, Bates stamped BNYM_CW-00008683-96 (Dep. Ex. 17).

33. Attached as Exhibit 31 is a true and accurate copy of an October 22, 2010 letter from Kathy Patrick to the Bank of New York, Bates stamped BNYM_CW-00008766-68 (Dep. Ex. 18).

34. Attached as Exhibit 32 is a true and accurate copy of excerpts of the Pooling and Servicing Agreement for CWALT 2005-35CB (Dep. Ex. 13).

35. Attached as Exhibit 33 is a true and accurate copy of excerpts from the Deposition Transcript of Terry Chavez (Nov. 30, 2012).

36. Attached as Exhibit 34 is a true and accurate copy of excerpts from the Deposition Transcript of Robert E. Bailey (Dec. 3, 2012).

37. Attached as Exhibit 35 is a true and accurate copy of excerpts from the Deposition Transcript of Douglas Chapman (Dec. 11, 2012).

38. Attached as Exhibit 36 is a true and accurate copy of excerpts from the Deposition Transcript of Jason H.P. Kravitt (Sept. 19 & 20, 2012).

39. Attached as Exhibit 37 is a true and accurate copy of a December 14, 2010 email from Jason Kravitt to various recipients, Bates stamped BNYM_CW-00270570-72 (Dep. Ex. 58).

40. Attached as Exhibit 38 is a true and accurate copy of an October 29, 2010 email from Jason Kravitt to various recipients, Bates stamped BNYM_CW-00271825 (Dep. Ex. 28).

41. Attached as Exhibit 39 is a true and accurate copy of a February 10, 2011 email from Jason Kravitt to various recipients, Bates stamped II-0001299.

42. Attached as Exhibit 40 is a true and accurate copy of a June 17, 2010 letter from Kathy Patrick to the Bank of New York, Bates stamped BNYM_CW-00008697-702 (Dep. Ex. 15).

43. Attached as Exhibit 41 is a true and accurate copy of a July 28, 2010 email from Kathy Patrick to various recipients, Bates stamped BNYM_CW-00250076-77 (Dep. Ex. 135).

44. Attached as Exhibit 42 is a true and accurate copy of a November 2, 2010 email from Jason Kravitt to Kathy Patrick, Bates stamped BNYM_CW-00271803-04.

45. Attached as Exhibit 43 is a true and accurate copy of a December 9, 2010 letter from Theodore Mirvis to Kathy Patrick and Jason Kravitt, Bates stamped BNYM_CW-00271275-81 (Dep. Ex. 46).

46. Attached as Exhibit 44 is a true and accurate copy of a December 2, 2010 email from Kathy Patrick to various recipients, Bates stamped BNYM_CW-00270963-64.

47. Attached as Exhibit 45 is a true and accurate copy of a December 2, 2010 email from Jason Kravitt to various recipients, Bates stamped BNYM_CW-00270959-60 (Dep. Ex. 50).

48. Attached as Exhibit 46 is a true and accurate copy of excerpts from the Deposition Transcript of Robert Griffin (Jan. 3, 2013).

49. Attached as Exhibit 47 is a true and accurate copy of excerpts from the Deposition Transcript of Theodore Mirvis (Nov. 28, 2012).

50. Attached as Exhibit 48 is a true and accurate copy of a December 1, 2010 email from Jason Kravitt to various recipients, Bates stamped BNYM_CW-00270970 (Dep. Ex. 53).

51. Attached as Exhibit 49 is a true and accurate copy of a December 10, 2010 letter from Bank of America to the Bank of New York Mellon, Bates stamped BNYM_CW-00270587-89 (Dep. Ex. 52).

52. Attached as Exhibit 50 is a true and accurate copy of the Bank of New York Mellon conflict of interest waiver, Bates stamped BNYM_CW-00285677-78.

53. Attached as Exhibit 51 is a true and accurate copy of an Inside Institutional Investor conflict of interest waiver, Bates stamped BNYM_CW-00285661-74.

54. Attached as Exhibit 52 is a true and accurate copy of excerpts from the September 21, 2011 Hearing Transcript.

55. Attached as Exhibit 53 is a true and accurate copy of a December 9, 2010 email from Jason Kravitt to Elaine Golin, Bates stamped BNYM_CW-00270712-15 (Dep. Ex. 62).

56. Attached as Exhibit 54 is a true and accurate copy of a November 11, 2010 email from Kathy Patrick to Jason Kravitt, Bates stamped II-0000705-07.

57. Attached as Exhibit 55 is a true and accurate copy of excerpts from the Deposition Transcript of Brian Lin (Oct. 16 & 17, 2012).

58. Attached as Exhibit 56 is a true and accurate copy of a June 1, 2011 email from Matthew Ingber to various recipients, Bates stamped BNYM_CW-00255381-84 (Dep. Ex. 118).

59. Attached as Exhibit 57 is a true and accurate copy of a June 5, 2011 email from Theodore Mirvis to various recipients, Bates stamped BNYM_CW-00261773-82 (Dep. Ex. 119).

60. Attached as Exhibit 58 is a true and accurate copy of a June 17, 2011 email from Matthew Ingber to various recipients, Bates stamped BNYM_CW-00261204 (Dep. Ex. 235).

61. Attached as Exhibit 59 is a true and accurate copy of a June 21, 2011 email from Matthew Ingber to Theodore Mirvis, Bates stamped BNYM_CW-00261050-58 (Dep. Ex. 379).

62. Attached as Exhibit 60 is a true and accurate copy of a June 23, 2011 email from Robert Madden to various recipients, Bates stamped BNYM_CW-00254990-98 (Dep. Ex. 210).

63. Attached as Exhibit 62 is a true and accurate copy of excerpts from the August 2, 2012 Hearing Transcript.

64. Attached as Exhibit 63 is a true and accurate copy of excerpts from the 2011 Bank of America Corporation Form 10-Q filing with the United States Securities and Exchange Commission (Dep. Ex. 350).

65. Attached as Exhibit 64 is a true and accurate copy of excerpts from the Deposition Transcript of Scott Waterstredt (Dec. 5, 2012).

66. Attached as Exhibit 65 is a true and accurate copy of excerpts from the Deposition Transcript of Kent Smith (Dec. 5, 2012).

67. Attached as Exhibit 66 is a true and accurate copy of excerpts from the Deposition Transcript of Randy Robertson (Nov. 29, 2012).

68. Attached as Exhibit 67 is a true and accurate copy of the Brian Lin (RRMS Advisors) Opinion Concerning Contemplated Settlement Agreement – Mortgage Loan Servicing and Loan Administration (June 28, 2011), Bates stamped BNYM_CW-00120294-300 (Dep. Ex. 8).

69. Attached as Exhibit 68 is a true and accurate copy of the Brian Lin (RRMS Advisors) Opinion Concerning Contemplated Settlement Amount for 530 Trusts (June 7, 2011), Bates stamped BNYM_CW-00252597-605 (Dep. Ex. 9).

70. Attached as Exhibit 69 is a true and accurate copy of a November 14, 2010 email from Jason Kravitt, Bates stamped BNYM_CW-00276323-25 (Dep. Ex. 368).

71. Attached as Exhibit 70 is a true and accurate copy of excerpts from the Deposition Transcript of Robert Landau (Apr. 19, 2013).

72. Attached as Exhibit 71 is a true and accurate copy of excerpts from the Deposition Transcript of Loretta A. Lundberg (Oct. 2 & 3, 2012).

73. Attached as Exhibit 72 is a true and accurate copy of the *J.P. Morgan Mortgage Acquisition Trust, Series 2006-WMC4 v. WMC Mortgage, LLC et al.*, Summons with Notice, Index No. 654464/2012 (Dec. 20, 2012) (Dep. Ex. 763).

74. Attached as Exhibit 73 is a true and accurate copy of an April 23, 2011 email from Jason Kravitt, Bates stamped BNYM_CW-00273353-57 (Dep. Ex. 138).

75. Attached as Exhibit 74 is a true and accurate copy of an August 4, 2010 email from Kathy Patrick to various institutional investors, made public and available at http://newsandinsight.thomsonreuters.com/uploadedFiles/Reuters_Content/2011/09 - September/Patrick8.10email.pdf (last visited May 3, 2013).

76. Attached as Exhibit 75 is a true and accurate copy of a December 3, 2010 email from Kathy Patrick to Jason Kravitt, Bates stamped II-0010273-74.

77. Attached as Exhibit 76 is a true and accurate copy of a November 20, 2010 email from Jason Kravitt to various recipients, Bates stamped BNYM_CW-00271138-39 (Dep. Ex. 44).

78. Attached as Exhibit 77 is a true and accurate copy of excerpts from the Deposition Transcript of Phillip R. Burnaman, II (Apr. 25, 2013).

79. Attached as Exhibit 78 is a true and accurate copy of excerpts from the Expert Report of Professor John C. Coates IV (Feb. 28, 2013) (Doc. No. 530).

80. Attached as Exhibit 79 is a true and accurate copy of excerpts from the Deposition Transcript of Kathy Patrick (Dec. 17, 2012).

81. Attached as Exhibit 80 is a true and accurate copy of excerpts from the Deposition Transcript of Terry P. Laughlin (Dec. 12, 2012).

82. Attached as Exhibit 81 is a true and accurate copy of excerpts from the Deposition Transcript of Robert Bostrom (Dec. 18, 2012).

83. Attached as Exhibit 82 is a true and accurate copy of a December 15, 2010 email from Jason Kravitt to various recipients, Bates stamped BOA_Art77_00000709-12.

84. Attached as Exhibit 83 is a true and accurate copy of an April 18, 2011 email from Jason Kravitt to various recipients, Bates stamped BNYM_CW-00264674 (Dep. Ex. 90).

85. Attached as Exhibit 84 is a true and accurate copy of excerpts from the Expert Report of Robert M. Daines (Mar. 14, 2013) (Doc. No. 540).

86. Attached as Exhibit 85 is a true and accurate copy of the Material and Adverse Opinion of Professor Barry E. Adler (May 27, 2011), Bates stamped BNYM_CW-00120115-28 (Dep. Ex. 11).

87. Attached as Exhibit 86 is a true and accurate copy of excerpts from the Deposition Transcript of Bruce B. Bingham (Jan. 18, 2013).

88. Attached as Exhibit 87 is a true and accurate copy of the Capstone Valuation Analysis Report (June 6, 2011), Bates stamped BNYM_CW-00249770-84 (Dep. Ex. 12).

89. Attached as Exhibit 88 is a true and accurate copy of excerpts from the Deposition Transcript of Robert Daines (Jan. 24, 2013).

90. Attached as Exhibit 90 is a true and accurate copy of the Minutes of the Corporate Trust Committee of June 28, 2011, Bates stamped BNYM_CW-00249885 (Dep. Ex. 134).

91. Attached as Exhibit 91 is a true and accurate copy of excerpts from the Deposition Transcript of Jason Buechele (Nov. 27, 2012).

92. Attached as Exhibit 92 is a true and accurate copy of a May 31, 2011 email from Robert Bailey to various recipients, Bates stamped BNYM_CW-00271630-33 (Dep. Ex. 280).

93. Attached as Exhibit 94 is a true and accurate copy of excerpts from the Deposition Transcript of Faten Sabry (Dec. 4, 2012).

94. Attached as Exhibit 95 is a true and accurate copy of excerpts from the Expert Report of Charles D. Cowan, Ph.D. (Mar. 14, 2013) (Doc. No. 537).

95. Attached as Exhibit 96 is a true and accurate copy of the All Consortium Deals document, Bates stamped BNYM_CW-00000206-7 (Dep. Ex. 21).

96. Attached as Exhibit 97 is a true and accurate copy of a May 5, 2011 email from Sagi Tamir to various recipients, Bates stamped BNYM_CW-00000278-80 (Dep. Ex. 22).

97. Attached as Exhibit 98 is a true and accurate copy of excerpts from Frank J. Fabozzi, *Handbook of Fixed Income Securities*.

98. Attached as Exhibit 99 is a true and accurate copy of excerpts from the Expert Report of Phillip R. Burnaman, II (Mar. 14, 2013) (Doc. No. 539).

99. Attached as Exhibit 100 is a true and accurate copy of the *Evaluation of the Federal Housing Finance Agency's Oversight of Freddie Mac's Repurchase Settlement with Bank of America*, Federal Housing Finance Agency Office of Inspector General (Sept. 27, 2011) (Dep. Ex. 201).

100. Attached as Exhibit 101 is a true and accurate copy of excerpts from the Rebuttal Opinion of Phillip R. Burnaman, II (Mar. 28, 2013) (Doc. No. 551).

101. Attached as Exhibit 102 is a true and accurate copy of a May 19, 2011 email from David Hakim to various recipients, Bates stamped BNYM_CW-00256230-33.

102. Attached as Exhibit 103 is a true and accurate copy of excerpts from the Pooling and Servicing Agreement for CWALT 2005-35.

103. Attached as Exhibit 105 is a true and accurate copy of excerpts from the Pooling and Servicing Agreement for CWALT 2005-36.

104. Attached as Exhibit 106 is a true and accurate copy of excerpts from the Pooling and Servicing Agreement for CWALT 2007-4CB.

105. Attached as Exhibit 107 is a true and accurate copy of Alexander Poltorak & Paul Lerner, *Introducing Litigation Risk Analysis*, Managing Intellectual Property (May 2001, Issue 109) (Dep. Ex. 787).

106. Attached as Exhibit 108 is a true and accurate copy of excerpts from the April 29, 2013 Order denying summary judgment on successor liability claims against Bank of America in *MBIA v. Countrywide* (Index No. 602825/2008, Doc. No. 4092).

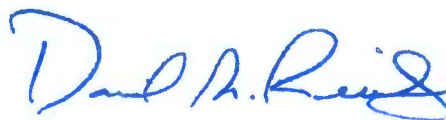
107. Attached as Exhibit 109 is a true and accurate copy of excerpts from the Pooling and Servicing Agreement for CWL 2005-13, beginning page Bates stamped BNYM_CW-00120546.

108. Attached as Exhibit 110 is a true and accurate copy of excerpts from the Expert Report of Robert I. Landau (Mar. 14, 2013) (Doc. No. 542).

109. Attached as Exhibit 111 is a true and accurate copy of a January 13, 2012 joint letter to Judge Pauley.

110. Attached as Exhibit 112 is a true and accurate copy of the Institutional Investors' Responses and Objections to the Steering Committee's First Set of Interrogatories (Aug. 27, 2012).

Dated this 3rd day of May, 2013.



Daniel M. Reilly