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UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

THE PRUDENTIAL INSURANCE  
COMPANY OF AMERICA; COMMERCE  
STREET INVESTMENTS, LLC; PRU  
ALPHA FIXED INCOME OPPORTUNITY  
MASTER FUND I, L.P.; PRUCO LIFE  
INSURANCE COMPANY; PRUCO LIFE  
INSURANCE COMPANY OF NEW  
JERSEY; THE PRUDENTIAL LIFE  
INSURANCE COMPANY, LTD.;  
PRUDENTIAL RETIREMENT INSURANCE  
AND ANNUITY COMPANY; and  
PRUDENTIAL TRUST COMPANY,

Plaintiffs,

vs.

CREDIT SUISSE SECURITIES (USA) LLC  
(f/k/a CREDIT SUISSE FIRST BOSTON  
LLC), CREDIT SUISSE FIRST BOSTON  
MORTGAGE SECURITIES CORP., ASSET  
BACKED SECURITIES CORPORATION,  
and DLJ MORTGAGE CAPITAL, INC.,

Defendants.

No. 2:12-CV-07242 (KSH)(CLW)

~~PROPOSED~~ CONSENT  
DISCOVERY CONFIDENTIALITY  
ORDER

This matter having come before the Court by stipulation of Plaintiffs The Prudential Insurance Company of America, Commerce Street Investments, LLC, Pru Alpha Fixed Income Opportunity Master Fund I, L.P., Pruco Life Insurance Company of New Jersey, the Prudential Life Insurance Company, LTD., Prudential Retirement Insurance and Annuity Company, and Prudential Trust Company, and Defendants Credit Suisse Securities (USA) LLC

(f/k/a Credit Suisse First Boston LLC), Credit Suisse First Boston Mortgage Securities Corp., Asset Backed Securities Corporation, and DLJ Mortgage Capital, Inc., for the entry of a confidentiality order pursuant to Fed. R. Civ. P. 26(c) and Fed. R. Evid. 502(d), L. Civ. R. 5.3 as well as any other relevant local rules, limiting the review, copying, dissemination and filing of confidential and/or proprietary documents and information to be produced by the parties and their respective counsel or by any non-parties and their respective counsel in the course of discovery in the above-captioned action (the "Action") to the extent set forth below; and the parties, by, between and among their respective counsel, having stipulated and agreed to the terms set forth herein, and good cause having been shown;

IT IS hereby ORDERED that:

1. This Order shall apply to and govern all information that a disclosing party designates as "CONFIDENTIAL PURSUANT TO COURT ORDER" or "HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER" during discovery in the above-captioned action. This includes deposition testimony, documents produced in response to requests for production of documents, answers to interrogatories, responses to requests for admissions, subpoenas and all other discovery in any form.

2. When used in this Order, the phrase "disclosing party" shall refer to the parties to the above-captioned action or to non-parties who give testimony or produce documents or other material, and the phrase "receiving party" shall refer to the parties to the above-captioned action or to non-parties who receive any such documents or other material.

3. When used in this Order, the phrase "Discovery Material" shall refer to documents, deposition testimony, deposition exhibits, interrogatory responses, admissions, and any other information or material produced, given, or exchanged by and among the parties and any non-parties to the Action in connection with discovery in the Action (such information or material hereinafter referred to as "Discovery Material").

4. A disclosing party (sometimes referred to herein as a “designating party”) may designate as “CONFIDENTIAL PURSUANT TO COURT ORDER” any document, material or information that is not known to the general public, including, but not limited to, trade secret, proprietary business information, competitively sensitive information, or other confidential research, design, development, financial or commercial information, or non-public personal information, including, but not limited to, social security numbers, home telephone numbers and addresses, tax returns, medical information, credit information, banking information, documents or data that constitute “consumer reports,” as that term is defined in the Fair Credit Reporting Act, 15 U.S.C. § 1681a, other sensitive personally identifiable information, other information for which applicable federal or state law requires confidential treatment, and/or “Nonparty Borrower Information,” which for purposes of this Order shall mean any information that constitutes “nonpublic personal information” within the meaning of Section 509(4) of the Gramm-Leach-Bliley Act, 15 U.S.C. § 6809 and its implementing regulations, including, but not limited to, any portion of a mortgage loan file or other document that includes financial or credit information for any person (including any credit history, report, or score obtained on any such person to determine the individual’s eligibility for credit) together with personally identifiable information with respect to such person, including, but not limited to, name, address, social security number, loan number, telephone number, or place or position of work. As set forth in ¶ 32, this Order authorizes the disclosure of such Nonparty Borrower Information in the above-captioned action.

5. A disclosing party may designate as “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER” (i) any document, material or information otherwise meeting the definition of “CONFIDENTIAL PURSUANT TO COURT ORDER,” the disclosure of which to another party or nonparty the disclosing party reasonably believes would likely result in competitive, commercial, financial or personal harm to the disclosing party or its clients or customers, or (ii) any document, material or information that a

disclosing party believes in good faith would not otherwise be adequately protected if designated as "CONFIDENTIAL PURSUANT TO COURT ORDER."

6. A disclosing party shall designate material as "CONFIDENTIAL PURSUANT TO COURT ORDER" or "HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER" only to the extent that it reasonably and in good faith believes that such material is in fact "CONFIDENTIAL PURSUANT TO COURT ORDER" or "HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER," respectively. The prior sentence notwithstanding, a disclosing party shall have no obligation to review documents that contain Nonparty Borrower Information, underwriting guidelines, loan origination files, loan servicing records or related information, materials reflecting due diligence on loans at issue in the Action, other voluminous materials or other such categories as the Court orders, on a page-by-page or document-by-document basis in order to determine whether an individual page in the loan file reflects information that is not entitled to confidential treatment. Subject to the "clawback" procedures provided in paragraphs 28-31, the disclosing party may designate those collections of documents, which by their nature contain material or information meeting the definition of "CONFIDENTIAL PURSUANT TO COURT ORDER" or "HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER" with the appropriate designation notwithstanding that some of the documents within the collection may not qualify for such designation. Notwithstanding the foregoing, and subject to paragraph 15, the receiving party may challenge the designation of one or more documents on the grounds that it or they does not or do not qualify for protection, or does not or do not qualify for the level of protection initially asserted.

7. Any party or nonparty receiving any non-public material from a disclosing party, regardless of whether such material is designated as "CONFIDENTIAL PURSUANT TO

COURT ORDER” or “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER,” shall use that material solely for the purpose of conducting or participating in the above-captioned action and not for any other purpose whatsoever.

8. In the absence of written permission from the disclosing party or an order of the Court, material designated as “CONFIDENTIAL PURSUANT TO COURT ORDER” may be disclosed only to the following persons:

(a) The named parties and the attorneys working on the above-captioned litigation on behalf of any party, including attorneys consulting with or advising any party to the above-captioned action, in-house attorneys, paralegals, and staff, stenographic and clerical employees and contractors working under the direct supervision of such counsel;

(b) Any expert or consultant who is expressly retained to assist in the above-captioned action, with disclosure only to the extent reasonably necessary to perform such work; *provided* that any part of a report created by such expert or consultant relying on or incorporating “CONFIDENTIAL PURSUANT TO COURT ORDER” information in whole or in part shall be designated as “CONFIDENTIAL PURSUANT TO COURT ORDER” by the party responsible for its creation; and *provided further* that the experts or consultants may not use “CONFIDENTIAL PURSUANT TO COURT ORDER” information to their competitive advantage or for any purpose that does not relate to the above-captioned action;

(c) Any fact witness or potential fact witness, including named parties (and counsel for such witnesses) to the extent reasonably believed by counsel to be necessary in connection with their testimony or potential testimony in the above-captioned action or the preparation thereof; *provided, however*, that any such individual (1) shall not retain any documents marked as “CONFIDENTIAL PURSUANT TO COURT ORDER,” and

(ii) shall be informed, prior to being shown materials marked as "CONFIDENTIAL PURSUANT TO COURT ORDER," that he/she is being shown such materials solely for use in the above-captioned action;

(d) Any other person designated by agreement of the parties and the disclosing party, or by order of the Court;

(e) Vendors retained by or for the parties to assist in preparing for pretrial discovery, trial and/or hearings in the above-captioned action including, but not limited to, court reporters, videographers, litigation support personnel, jury consultants, individuals to prepare demonstrative and audiovisual aids for use in the courtroom or in depositions or mock jury sessions, as well as their staff, stenographic, and clerical employees whose duties and responsibilities require access to such materials;

(f) The Court and its personnel;

(g) Mediators or discovery masters (and their support staff) assisting in the above-captioned action, if any; and

(h) An individual who either prepared the document or is identified on the face of the document as an addressee or copy addressee.

9. In the absence of written permission from the disclosing party or an order of the Court, material designated as "HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER" may be disclosed only to the following persons:

(a) Outside counsel working on the above-captioned action on behalf of any party, including paralegals, staff, stenographic and clerical employees and contractors working under the direct supervision of such counsel;

(b) The in-house counsel of any party who is/are involved in management of the above-captioned action, the in-house counsel to whom they report, and any counsel



and staff assisting them (including paralegals, stenographic and clerical employees and contractors working under their direct supervision);

(c) Up to four current employees of Plaintiffs, as designated by Plaintiffs' counsel and not including the persons covered by subparagraph 9(b) above;

(d) Up to four current employees of Defendants, as designated by Defendants' counsel and not including the persons covered by subparagraph 9(b) above;

(e) Any expert or consultant who is expressly retained to assist in the above-captioned action, with disclosure only to the extent reasonably necessary to perform such work; *provided* that any part of a report created by such expert or consultant relying on or incorporating "HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER" information in whole or in part shall be designated as "HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER" by the party responsible for its creation; and *provided further* that the experts or consultants may not use "HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER" information to their competitive advantage or for any purpose that does not relate to the above-captioned litigation;

(f) Any fact witness or potential fact witness, including named parties (and counsel for such witnesses) to the extent reasonably believed by counsel to be necessary in connection with their testimony or potential testimony in the above-captioned action or the preparation thereof; *provided, however*, that any such individual (i) shall not retain any documents marked as "HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER," and (ii) shall be informed, prior to being shown materials marked as "HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER," that he/she is being shown such materials solely for use in the above-captioned action;

(g) Any other person designated by agreement of the parties and the disclosing party, or by order of the Court;

(h) Vendors retained by or for the parties to assist in preparing for pretrial discovery, trial and/or hearings in the above-captioned action including, but not limited to, court reporters, videographers, litigation support personnel, jury consultants, individuals to prepare demonstrative and audiovisual aids for use in the courtroom or in depositions or mock jury sessions, as well as their staff, stenographic, and clerical employees whose duties and responsibilities require access to such materials;

(i) The Court and its personnel;

(j) Mediators or discovery masters (and their support staff) assisting in the above-captioned action, if any; and

(k) An individual who either prepared the document or is identified on the face of the document as an addressee or copy addressee.

Counsel for the Plaintiffs and for the Defendants shall promptly exchange lists of the persons that they have designated under subparagraphs 9(c) and 9(d); provided, however, that no party shall be entitled to receive documents produced in the Actions until it provides its list of persons designated under subparagraphs 9(c) and 9(d). The parties may, by mutual agreement, expand or amend the list of persons permitted to receive “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER” material pursuant to subparagraphs 9(c) and 9(d).

10. The persons described in Paragraphs 8(a)-(e) and (g), and 9(a)-(h) and (j) shall have access to “CONFIDENTIAL PURSUANT TO COURT ORDER” or “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER” material only after they have been made aware of the provisions of this Order (including, without limitation, Paragraph 7). Counsel retaining or representing the persons described in Paragraphs



8(b) and 9(c)-(e) shall require that such persons manifest their assent to be bound by the provisions of this Order by signing a copy of the annexed "UNDERTAKING" prior to being afforded access to "CONFIDENTIAL PURSUANT TO COURT ORDER" or "HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER" material, and such persons shall have access to "CONFIDENTIAL PURSUANT TO COURT ORDER" or "HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER" material only after they manifest their assent to be bound by the provisions of this Order by signing a copy of the annexed "UNDERTAKING." The persons described in Paragraphs 8(c) and 9(f) shall have access to "CONFIDENTIAL PURSUANT TO COURT ORDER" or "HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER" material only after Counsel representing or interviewing those persons has provided a copy of this Order to such persons for review and required those persons to manifest their assent to be bound by the provisions of this Order by signing a copy of the annexed "UNDERTAKING," except when persons described in Paragraphs 8(c) and 9(f) are being deposed. Counsel shall retain copies of the signed "UNDERTAKING" forms so long as this Order remains in effect. Any person receiving "CONFIDENTIAL PURSUANT TO COURT ORDER" or "HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER" material is enjoined from disclosing that material to any other person, except in conformance with this Order. The parties shall act in good faith to eliminate, whenever possible, the expenditure of "on the record" time to effectuate or confirm compliance with this Paragraph at any deposition.

11. This Court shall retain jurisdiction over this Order, including any proceedings relating to performance under or compliance with the Order. Individuals or entities who receive "CONFIDENTIAL PURSUANT TO COURT ORDER" or "HIGHLY CONFIDENTIAL –

ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER” material shall be subject to this Order and to the jurisdiction of this Court concerning this Order.

12. The recipient of any “CONFIDENTIAL PURSUANT TO COURT ORDER” or “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER” material that is provided under this Order shall maintain such material in a secure and safe area and shall exercise the same standard of due and proper care with respect to the storage, custody, use and/or dissemination of such material as is exercised by the recipient with respect to its own proprietary material “CONFIDENTIAL PURSUANT TO COURT ORDER” or “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER” material shall not be copied, reproduced, summarized, extracted or abstracted, except to the extent that such copying, reproduction, summarization, extraction or abstraction is reasonably necessary for the conduct of the above-captioned action. All such copies, reproductions, summarizations, extractions, and abstractions shall be subject to the terms of the Order and labeled in the same manner as the designated material on which they are based.

13. Disclosing parties shall designate “CONFIDENTIAL PURSUANT TO COURT ORDER” or “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER” material as follows:

(a) In the case of documents produced, interrogatory responses, responses to requests to admit, and the information contained therein, designation shall be made by marking or stamping each page as “CONFIDENTIAL PURSUANT TO COURT ORDER” or “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER,” as appropriate, prior to its production or disclosure to the receiving party. Electronically-stored information designated as “CONFIDENTIAL PURSUANT TO COURT ORDER” or “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER” shall be marked or stamped as

“CONFIDENTIAL PURSUANT TO COURT ORDER” or “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER,” as appropriate, using means sufficient to ensure that every page of such document, when printed, contains the appropriate mark or stamp, where practicable. To designate a multi-page document as “CONFIDENTIAL PURSUANT TO COURT ORDER” or “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER,” all pages must be conspicuously marked or stamped. Notwithstanding the foregoing, Excel documents or any other type of electronically-stored information produced in native format (together, “Natively-Produced ESI”) need not be produced using a means sufficient to ensure that every page of such document, when printed, contains the appropriate mark or stamp. Instead, the disclosing party shall use reasonable means to designate as “CONFIDENTIAL PURSUANT TO COURT ORDER” or “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER,” as appropriate, such Natively-Produced ESI including, where applicable and/or practicable, by (a) producing a TIFF placeholder image corresponding to the Natively-Produced ESI that includes the “CONFIDENTIAL PURSUANT TO COURT ORDER” or “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER” mark; (b) including “CONFIDENTIAL PURSUANT TO COURT ORDER” or “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER,” as appropriate, in the file name of the Natively-Produced ESI; and (c) including “CONFIDENTIAL PURSUANT TO COURT ORDER” or “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER,” as appropriate, on the label of the media or in the transmittal email containing the Natively-Produced ESI.

(b) Any “CONFIDENTIAL PURSUANT TO COURT ORDER” or “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER” material produced in a non-paper media (e.g, videotape, audiotape, computer disc) may be designated as such by labeling the outside of such non-paper media as “CONFIDENTIAL PURSUANT TO COURT ORDER” or “HIGHLY CONFIDENTIAL– ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER.” In the event a receiving party generates any electronic copy, “hard copy,” transcription, or printout from any such designated non-paper media, such party must treat each copy, transcription, or printout as “CONFIDENTIAL PURSUANT TO COURT ORDER” or “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER” pursuant to the terms of this Order in accordance with the designation of the produced copy.

(c) A stamp or mark of “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY,” shall have the same effect as a stamp or mark of “CONFIDENTIAL PURSUANT TO COURT ORDER” or “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER,” respectively.

(d) In the event that a disclosing party inadvertently fails to stamp or otherwise designate a document or other material as “CONFIDENTIAL PURSUANT TO COURT ORDER” or “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER” at the time of its production, that disclosing party may stamp or otherwise designate the document or other material as “CONFIDENTIAL PURSUANT TO COURT ORDER” or “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER” at any reasonable time thereafter. A document not marked “CONFIDENTIAL PURSUANT TO COURT ORDER” or “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT

ORDER” prior to its disclosure to a receiving party may be subsequently designated as “CONFIDENTIAL PURSUANT TO COURT ORDER” or “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER” in writing or, if on the record at a deposition, court hearing, or trial, orally. If the designation of information as “CONFIDENTIAL PURSUANT TO COURT ORDER” or “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER” is made orally, the party making the designation shall memorialize the designation in writing. Upon making such subsequent designation, the disclosing party shall promptly provide a replacement copy of the document with the appropriate mark or stamp. To the extent such information may have been disclosed by the receiving party to anyone not authorized to receive “CONFIDENTIAL PURSUANT TO COURT ORDER” or “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER” information, the receiving party shall make reasonable efforts to retrieve the information promptly and to avoid any further such disclosure. Delay in designating a document as “CONFIDENTIAL PURSUANT TO COURT ORDER” or “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER” shall not, in and of itself, be deemed to have effected a waiver of any of the protections of this Order.

(e) “CONFIDENTIAL PURSUANT TO COURT ORDER” or “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER” material may be used in depositions. Designation of the portion of the deposition transcript (including exhibits) that contains “CONFIDENTIAL PURSUANT TO COURT ORDER” or “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER” material shall be made by a statement to such effect on the record in the course of the deposition or, upon review of such transcript, by the disclosing party

or counsel for the disclosing party whose “CONFIDENTIAL PURSUANT TO COURT ORDER” or “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER” material was used at the deposition, which material shall be so designated within twenty-one (21) days after the transcript of the deposition is made available. In the event that (i) “CONFIDENTIAL PURSUANT TO COURT ORDER” or “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER” material produced by a nonparty is used as an Exhibit in a deposition and (ii) counsel for the nonparty is not present at the deposition, the parties agree that the Exhibit and any testimony concerning the Exhibit shall be designated as “CONFIDENTIAL PURSUANT TO COURT ORDER” or “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER,” accordingly. During the twenty-one (21) days after the transcript of any deposition becomes available, the entire deposition transcript shall be treated as “CONFIDENTIAL PURSUANT TO COURT ORDER” to the extent that documents designated “CONFIDENTIAL PURSUANT TO COURT ORDER” are marked as Exhibits at the deposition or any testimony is designated “CONFIDENTIAL PURSUANT TO COURT ORDER” in the course of the deposition, or “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER” to the extent that documents designated “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER” are marked as exhibits at the deposition or any testimony is designated “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER” in the course of the deposition. The cover of each deposition transcript that contains “CONFIDENTIAL PURSUANT TO COURT ORDER” or “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER” information shall bear the following legend: “THIS DEPOSITION TRANSCRIPT CONTAINS [CONFIDENTIAL/ HIGHLY



CONFIDENTIAL – ATTORNEYS EYES ONLY] INFORMATION SUBJECT TO A PROTECTIVE ORDER.”

14. A party may change the designation of any document or information that contains “CONFIDENTIAL PURSUANT TO COURT ORDER” or “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER” information produced by another disclosing party without a designation of “CONFIDENTIAL PURSUANT TO COURT ORDER” or “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER,” or designate any document or information produced as “CONFIDENTIAL PURSUANT TO COURT ORDER” as “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER,” provided that such document or information contains the upward designating party’s own “CONFIDENTIAL PURSUANT TO COURT ORDER” or “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER” information. Upward designations shall be accomplished by providing written notice to all parties identifying (by production number, transcript line and page number, or other individually identifiable information) the document, testimony, or other information whose designation is to be increased. Promptly after providing such notice, the upward designating party shall provide relabeled copies of the material to each receiving party reflecting the new designation, upon which the upward designating party shall be deemed a Producing Party for such Discovery Material. The receiving party will take commercially reasonable steps to replace the originally designated material with the newly designated material and to destroy the incorrectly designated material. Any party may object to the upward designation of documents or information pursuant to the procedures set forth in paragraph 15 of this Order. The upward designating party shall bear the burden of establishing the basis for the enhanced designation.

15. Nothing in this Order shall be taken as indicating that any information is in fact “CONFIDENTIAL PURSUANT TO COURT ORDER” or “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER” or entitled to confidential treatment. No party shall be obligated to challenge the propriety of a “CONFIDENTIAL PURSUANT TO COURT ORDER” or “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER” designation at the time made, and a failure to do so shall not preclude a subsequent challenge thereto, nor shall a party that has designated documents, materials or information as “CONFIDENTIAL PURSUANT TO COURT ORDER” or “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER” contend that any delay by another party in objecting to the designating party’s “CONFIDENTIAL PURSUANT TO COURT ORDER” or “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER” designation in any way (a) lends support to the designating party’s “CONFIDENTIAL PURSUANT TO COURT ORDER” or “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER” designation or (b) invalidates or diminishes in any way the objecting party’s challenge of the “CONFIDENTIAL PURSUANT TO COURT ORDER” or “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER” designation for any such materials or information. In the event that any party disagrees at any stage of these proceedings with such designation, counsel for such party shall notify counsel for the disclosing party in writing (the “Notice”). The objecting party shall identify each particular document or other material bearing a designation to which it objects and shall specify the reasons for the objection. Within seven (7) calendar days of the receipt of the Notice, counsel for the parties (and any nonparty involved) shall promptly schedule and hold a meet-and-confer to attempt to resolve the dispute on an informal basis consistent with the requirement to confer in good faith under L. Civ. R. 37.1(b)(1). If the dispute cannot be resolved, the objecting party may request from the Court

any relief that it deems appropriate (which shall have first been raised no later than during the parties' meet and confer). In the event of a dispute, the designating party shall have the burden of establishing that the materials in question are "CONFIDENTIAL PURSUANT TO COURT ORDER" or "HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER." The materials in question shall retain their "CONFIDENTIAL PURSUANT TO COURT ORDER" or "HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER" status until the Court rules on any such motion. The objecting party may request a telephonic hearing with respect to the "CONFIDENTIAL PURSUANT TO COURT ORDER" or "HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER" status of materials.

16. Without written permission from the designating party or a court order secured after appropriate notice to all interested persons, a party may not file in the public record in the above-captioned action any material designated as "CONFIDENTIAL PURSUANT TO COURT ORDER" or "HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER." Documents containing "CONFIDENTIAL PURSUANT TO COURT ORDER" or "HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER" material shall not be filed with the Court unless the filing party reasonably believes it is necessary to do so for purposes of trial, motions (including without limitation, motions for summary judgment) or other Court matters. Any party that seeks to file any material designated as "CONFIDENTIAL PURSUANT TO COURT ORDER" or "HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER" or any papers containing or making reference to the contents of such material or information, in any pleading or document filed with the Court in the above-captioned action must file a motion to seal such pleading or document and any material designated as "CONFIDENTIAL PURSUANT TO COURT ORDER" or "HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY

PURSUANT TO COURT ORDER” in accordance with L. Civ. R. 5.3(c) and 7.1, identifying (by bates number) any material designated as “CONFIDENTIAL PURSUANT TO COURT ORDER” or “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER” that any party wishes to file under seal, and comply with the provisions for filing materials under seal contained in L. Civ. R. 5.3(c)(3). The designation of documents or materials as “CONFIDENTIAL PURSUANT TO COURT ORDER” or “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER” shall not constitute evidence as to whether such documents or materials may properly be sealed. A party’s failure to contest a disclosing party’s designation of documents or material as “CONFIDENTIAL PURSUANT TO COURT ORDER” or “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER” before the filing of a motion to seal shall not be deemed an admission by the party who failed to contest the designation that such documents or material should be filed under seal.

17. While a motion to seal is pending and before the Court has ruled, the materials designated as “CONFIDENTIAL PURSUANT TO COURT ORDER” or “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER” that are subject to the motion to seal shall remain sealed pursuant to L. Civ. R. 5.3(c)(3) and no party shall make use in open court of any documents that are subject to that motion to seal without the consent of the designating party or the permission of the Court.

18. If “CONFIDENTIAL PURSUANT TO COURT ORDER” or “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER” material is disclosed to any person other than in the manner authorized by this Order, the person or party responsible for the disclosure must promptly bring all pertinent facts relating to such disclosure to the attention of counsel for the designating party and, without prejudice to any other rights and remedies of the parties or non-parties, make reasonable efforts to retrieve the information

promptly and to prevent further disclosure by it or by the person who was the recipient of such material.

19. Nothing in this Order shall preclude any parties or non-parties to the above-captioned action or their attorneys (a) from showing a document or part of a document designated as “CONFIDENTIAL PURSUANT TO COURT ORDER” or “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER” to an individual who either prepared the document or is identified on the face of the document as an addressee or copy addressee, or (b) from disclosing or using, in any manner or for any purpose, any material or documents from the disclosing party’s own files.

20. In the event any receiving party having possession, custody or control of any “CONFIDENTIAL PURSUANT TO COURT ORDER” or “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER” material receives a subpoena, order or other request from a court, administrative or legislative body, or any other person or entity purporting to have authority to require the production of any “CONFIDENTIAL PURSUANT TO COURT ORDER” or “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER” material (a “Third-Party Request”), the receiving party shall to the extent permissible by applicable law and the rules and requirements of any relevant governmental authority:

- (a) Promptly, and in any event within five business days of receipt of the Third-Party Request, give written notice to counsel for the designating party;
- (b) furnish counsel for the designating party with a copy of the subpoena, request for production of documents, or other process or order; and
- (c) cooperate reasonably with respect to all reasonable and legitimate procedures sought to be pursued by the designating party.

The designating party asserting the “CONFIDENTIAL PURSUANT TO COURT ORDER” or “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER” treatment shall have the burden of defending against such subpoena, process or order. The party receiving the subpoena, request for production of documents, or other process or order shall be entitled to comply with it except to the extent the designating party is successful in obtaining an order modifying or quashing the subpoena, request for production of documents, or other process or order; *provided, however*, that the party receiving the subpoena, request for production of documents, or other process shall await the disposition of any motion to quash or motion for a protective order timely filed by the disclosing party before producing any “CONFIDENTIAL PURSUANT TO COURT ORDER” or “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER” information in response to the subpoena, request for production of documents, or other process or order to the extent that doing so does not expose such receiving party to sanctions, an order of contempt or the like; *provided, further*, that nothing in this Order shall require any party to disregard or violate any order or direction of any governmental authority.

21. Within sixty (60) days of the termination of the above-captioned action between any of the parties, including final appellate action or the expiration of time to appeal or seek further review, those parties shall take commercially reasonable efforts to see that all material designated as “CONFIDENTIAL PURSUANT TO COURT ORDER” or “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER” shall be destroyed and the disclosing party shall be provided with a certification stating that the disclosing party’s “CONFIDENTIAL PURSUANT TO COURT ORDER” or “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER” documents have been destroyed, except for (1) such information or material that was transmitted electronically and whose removal or destruction from a party’s electronic systems would violate



applicable federal or state law, rule or regulation, or policies and procedures reasonably designed to ensure compliance with such law, rule or regulation; and (2) information saved on backup media in an electronically stored format, for which a receiving party may certify to have complied with the 60-day destruction period if the receiving party has a data destruction policy for the backup media resulting in the eventual destruction or overwriting of the electronically stored information. As to those materials designated as "CONFIDENTIAL PURSUANT TO COURT ORDER" or "HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER" that constitute counsel's work product, and pleadings, motion papers, deposition transcripts and exhibits, legal memoranda, and correspondence that were served in the above-captioned action, or filed with this Court in the above-captioned action, counsel for the parties in the above-captioned action may retain such documents if such counsel otherwise comply with this Order with respect to such retained material.

22. Except as specifically provided herein, the terms, conditions, and limitations of this Order shall survive the termination of the above-captioned action.

23. This Order is without prejudice to the right of any party or nonparty to seek any other or different confidentiality arrangement or relief from the Court, on notice to all identifiable potentially affected disclosing parties, from, or in addition to, any of the provisions contained herein.

24. This Order shall not be construed as waiving any right to assert a claim of privilege, relevance, overbreadth, burdensomeness or other grounds for not producing material called for, and access to all material (whether designated as "CONFIDENTIAL PURSUANT TO COURT ORDER," "HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY PURSUANT TO COURT ORDER" or neither) shall be only as provided by the discovery rules and other applicable law.

25. Neither the taking of nor the failure to take any action to enforce the provisions of this Order, nor the failure to object to any such action or omission, shall constitute a waiver of any substantive claim or defense in the trial of, or other proceedings in, the above-captioned action.

#### **INADVERTENT PRODUCTION**

26. The undersigned agree, and the Court orders, that the production of documents by parties and by non-parties that produce documents in the above-captioned action (each a “producing party”) shall, to the maximum extent permitted by law, be governed by Fed. R. Civ. P. 26(b)(5)(B) and Fed. R. Evid. 502 regarding the inadvertent production of material protected by the attorney-client privilege, the work product doctrine, or any other privilege or protection from disclosure recognized under applicable law (“Privileged Material”).

27. The procedure set forth below is intended to provide the producing party or any other party purporting to hold a privilege with an efficient method for retrieving or “clawing back” inadvertently produced Privileged Material, subject to any resolution of any dispute over the privileged or protected status of the Privileged Material, and for foreclosing any arguments of waiver, subject to the procedures outlined below for bringing disputed claims to the Court for resolution. In order to allow for expeditious production of voluminous documents, a producing party may, at its sole option, produce voluminous materials without detailed, or any, review to determine whether a privilege or other immunity from discovery applies to some of the documents, and such expeditious production shall not be deemed a waiver - in this litigation or in any other proceeding, including in Federal, State, arbitral, or foreign proceedings - of any applicable privilege, protection or prohibition from disclosure of any Privileged Material if the producing party otherwise complies with the procedures outlined below for retrieving or “clawing back” the Privileged Material.

28. If a producing party, or any other party purporting to hold a privilege, has a good faith belief that Privileged Material has been inadvertently produced, and at any time notifies any other party in writing that the producing party disclosed Privileged Material (an “Inadvertent Disclosure Notice”), or any party or nonparty receiving Privileged Material discovers such disclosure (in which case the receiving party shall give the producing party prompt written notice), then, consistent with Fed. R. Evid. 502(d), the inadvertent production of Privileged Material shall not be deemed a waiver - in the above-captioned action or in any other proceeding, including in Federal, State, arbitral or foreign proceedings - of the applicable privilege, protection, or prohibition from disclosure.

29. Upon receipt of any Inadvertent Disclosure Notice claiming that a document is or includes Privileged Material, all other parties (regardless of whether they agree with the claim of privilege or work-product protection) shall promptly:

(a) use reasonable efforts to destroy or sequester all copies of the inadvertently produced documents or material in their possession, custody, or control and notify the producing party, or any other party purporting to hold a privilege, that they have done so; and

(b) take reasonable steps to retrieve and destroy or sequester the inadvertently produced documents or material from other persons, if any, to whom such documents or material have been provided consistent with Fed. R. Civ. P. 26(b)(5)(B), and notify the producing party that they have done so.

30. To the extent a receiving party disputes the claim of privilege or work-product protection (the “disputing party”), the disputing party shall notify in writing the producing party, or any other party purporting to hold a privilege, of its position (a “Dispute Notification”). Within seven (7) days of receiving the Dispute Notification, the producing party, or any other party purporting to hold a privilege, shall either withdraw its claim of privilege or confer with the

disputing party in an effort to resolve their disagreement. If no such resolution is reached, the disputing party may apply to the Court for a ruling on the producing party's claim of privilege. In arguing issues concerning protection for material claimed to constitute Privileged Material, no party shall assert as a basis for the relief it seeks (including if a receiving party seeks a ruling that the disclosed information was never privileged) the fact or circumstance that such documents have already been inadvertently produced in the above-captioned action or a related action.

31. If, during a deposition, a party claims that a document being used in the deposition (*e.g.*, marked as an exhibit, shown to the witness, or made the subject of examination) is subject to privilege or work-product protection, it may at its sole election (a) allow the document to be used in the deposition without waiver of its claim of privilege or work-product protection or (b) consistent with Fed. R. Civ. P. 30(c)(2), instruct the witness not to answer questions concerning the document pending a prompt resolution of any disagreement concerning the document's privileged or work-product protected status. Until the dispute is resolved, all parties shall treat the transcript of such deposition as confidential.

#### **MISCELLANEOUS**

32. To the extent any federal or state law or other legal authority governing the disclosure or use of Nonparty Borrower Information (hereinafter, "Nonparty Borrower Information Law") permits disclosure of such information pursuant to an order of a court, this Order shall constitute compliance with such requirement. To the extent any Nonparty Borrower Information Law requires a disclosing party, including third parties, to obtain a court-ordered subpoena or give notice to or obtain consent, in any form or manner, from any person or entity before disclosure of any Nonparty Borrower Information, the Court finds that, in view of the protections provided for such information disclosed in this Order, the volume of documents to be produced and the ongoing oversight of the Court, there is good cause to excuse such requirement, and this Order shall constitute an express direction that the disclosing party is

exempted from obtaining a court-ordered subpoena or having to notify and/or obtain consent from any person or entity prior to the disclosure of Nonparty Borrower Information. To the extent that any Nonparty Borrower Information Law requires that any person or entity be notified prior to disclosure of Nonparty Borrower Information except where such notice is prohibited by court order, the Court directs that, in view of the protections provided for the information disclosed in this Order, the volume of documents to be produced and the ongoing oversight of the Court, the parties are explicitly prohibited from providing such notice; *provided, however*, that this Order shall not prohibit any party from contacting any person or entity for any other purpose. Any disclosing party may seek additional orders from this Court that such party believes may be necessary to comply with any Nonparty Borrower Information Law.

DATED: February 10, 2014

NUKK-FREEMAN & CERRA, P.C.

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DATED: February 7, 2014

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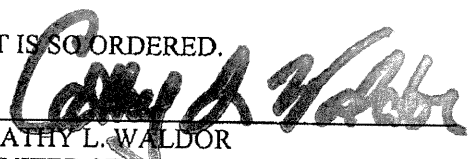
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DATED: 2/11/14

IT IS SO ORDERED.

  
CATHY L. WALDOR  
UNITED STATES MAGISTRATE JUDGE



**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

THE PRUDENTIAL INSURANCE  
COMPANY OF AMERICA; COMMERCE  
STREET INVESTMENTS, LLC; PRU  
ALPHA FIXED INCOME OPPORTUNITY  
MASTER FUND I, L.P.; PRUCO LIFE  
INSURANCE COMPANY; PRUCO LIFE  
INSURANCE COMPANY OF NEW  
JERSEY; THE PRUDENTIAL LIFE  
INSURANCE COMPANY, LTD.;  
PRUDENTIAL RETIREMENT INSURANCE  
AND ANNUITY COMPANY; and  
PRUDENTIAL TRUST COMPANY,

Plaintiffs,

vs.

CREDIT SUISSE SECURITIES (USA) LLC  
(f/k/a CREDIT SUISSE FIRST BOSTON  
LLC), CREDIT SUISSE FIRST BOSTON  
MORTGAGE SECURITIES CORP., ASSET  
BACKED SECURITIES CORPORATION,  
and DLJ MORTGAGE CAPITAL, INC.,

Defendants.

No. 2:12-CV-07242 (KSH)(CLW)

**UNDERTAKING REGARDING  
ORDER FOR THE PRODUCTION  
AND EXCHANGE OF  
CONFIDENTIAL INFORMATION**

I, \_\_\_\_\_, declare that:

1. I have received a copy of the Order for the Production and Exchange of Confidential Information, entered in this action on \_\_\_\_\_, 2013 (the "Confidentiality Agreement"), and I have read and understand its provisions.

2. I will comply with all of the provisions of the Agreement. I consent to the jurisdiction of the United States District Court for the District of New Jersey, to resolve any issues with respect to my compliance with the Confidentiality Agreement.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature