

# **EXHIBIT 4**

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

In the matter of the application of

U.S. BANK NATIONAL ASSOCIATION, THE BANK OF NEW YORK MELLON, THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., WILMINGTON TRUST, NATIONAL ASSOCIATION, LAW DEBENTURE TRUST COMPANY OF NEW YORK, WELLS FARGO BANK, NATIONAL ASSOCIATION, HSBC BANK USA, N.A., AND DEUTSCHE BANK NATIONAL TRUST COMPANY  
(as trustees under various Pooling and Servicing Agreements and indenture trustees under various Indentures),

Petitioners,

for an order, pursuant to CPLR § 7701, seeking judicial instruction.

Index No. 652382/2014

**THE INSTITUTIONAL INVESTORS' OBJECTIONS AND RESPONSES  
TO W&L INVESTMENTS' FIRST SET OF DISCOVERY REQUESTS**

Pursuant to CPLR §§ 3122 and 3133, AEGON USA Investment Management, LLC, Bayerische Landesbank, BlackRock Financial Management, Inc., Cascade Investment, LLC, the Federal Home Loan Bank of Atlanta, the Federal Home Loan Mortgage Corporation (Freddie Mac), the Federal National Mortgage Association (Fannie Mae), Goldman Sachs Asset Management L.P., Voya Investment Management LLC (f/k/a ING Investment Management LLC), Invesco Advisers, Inc., Kore Advisors, L.P., Landesbank Baden-Wuerttemberg, Metropolitan Life Insurance Company, Pacific Investment Management Company LLC, Sealink Funding Limited, Teachers Insurance and Annuity Association of America, The Prudential Insurance Company of America, the TCW Group, Inc., Thrivent Financial for Lutherans, and Western Asset Management Company (each for themselves and, to the extent applicable, as investment manager of funds and accounts, and collectively, the "Institutional Investors") object and respond to W&L Investments, LLC's ("W&L") First Set of Interrogatories (collectively, the

"Interrogatories" and, individually, an "Interrogatory") and Requests for Production to the Institutional Investors (collectively, the "Requests" and, individually, a "Request"). The Responses and Objections below are based upon information presently known to the Institutional Investors and without prejudice to their right to assert additional objections or supplemental responses. The Institutional Investors reserve their right to amend, supplement, correct or clarify these responses and objections set forth herein.

### **Objections and Responses to Interrogatories**

#### **Interrogatory No. 1**

Identify each of Your employees and/or agents with knowledge of the aggregate dollar amount of the Settlement Payment the Institutional Investors project will be distributed to certificates held by the Institutional Investors, whether on their own account or the account of others.

#### **Objections and Response to Interrogatory 1:**

1. The Institutional Investors object to this Interrogatory because it seeks information that is not material, necessary, relevant, or reasonably calculated to lead to the discovery of admissible evidence. The Settlement Agreement, the relevant Pooling and Servicing Agreements, and the filed expert reports disclose the relevant information regarding how the Settlement payment is anticipated to flow. The identity of employees and agents of the Institutional Investors with knowledge of the aggregate dollar amount of the Settlement Payment they project will be distributed to certificates held by the Institutional Investors is not relevant to any issue in this case, which concerns solely whether the Trustees acted within the scope of their reasonable discretion in entering into the Settlement Agreement. No aspect of the relief sought in this proceeding concerns how the distribution provisions of the Settlement Agreement were negotiated.

2. The Institutional Investors object to this Interrogatory because it seeks information regarding trusts in which W&L has no holdings, and therefore has no standing to raise an objection or seek discovery.

3. The Institutional Investors object to this Interrogatory because it is not limited in time or limited to the settlement at issue in this proceeding. Counsel for W&L has indicated that the discovery sought here includes discussions and analysis of distribution methodologies used in connection with other settlement agreements that pre-date the settlement at issue here, and continues to the date of the filing of the present action. For these reasons, the Institutional Investors object that this Interrogatory is overbroad and unduly burdensome.

4. On the basis of the forgoing objections, the Institutional Investors will not provide the information requested by this Interrogatory.

**Interrogatory No. 2**

Identify each of Your employees and/or agents with knowledge of any investigations, evaluations, analyses, and communications concerning: (a) the effect of any distribution methodology You considered, analyzed, evaluated, investigated, or rejected (including the distribution methodology described in Section 3.06 of the Settlement Agreement); and (b) the effect those distribution methodologies would have on the distribution of the Settlement Payment to certificates held by:

- (i) The Institutional Investors.
- (ii) Senior certificateholders.
- (iii) Junior certificateholders.
- (iv) Holders of certificates bearing balances of \$0.00.

**Objections and Response to Interrogatory No. 2:**

1. The Institutional Investors object to this Interrogatory because it seeks information that is not material, necessary, relevant, or reasonably calculated to lead to the discovery of admissible evidence. The identity of employees and agents of the Institutional

Investors with knowledge of investigations, evaluations, analyses, and communications concerning the effect of Section 3.06 of the Settlement Agreement, or any other alternative is not relevant to any issue in this case, which concerns solely whether the Trustees acted within the scope of their reasonable discretion in entering into the Settlement Agreement. No aspect of the relief sought in this proceeding concerns how the distribution provisions of the Settlement Agreement were negotiated.

2. The Institutional Investors object to this Interrogatory because it seeks information regarding trusts in which W&L has no holdings, and therefore has no standing to raise an objection or seek discovery.

3. The Institutional Investors object to this Interrogatory because it is not limited in time or limited to the settlement at issue in this proceeding. Counsel for W&L has indicated that the discovery sought here includes discussions and analysis of distribution methodologies used in connection with other settlement agreements that pre-date the settlement at issue here, and continues to the date of the filing of the present action. For these reasons, the Institutional Investors object that this Interrogatory is overbroad and unduly burdensome.

4. On the basis of the forgoing objections, the Institutional Investors will not provide the information requested by this Interrogatory.

### **Objections and Responses to Requests for Production**

#### **Request for Production No. 1**

Please produce all communications between and/or among the Institutional Investors, the Trustees, and/or JPMC, concerning

- (a) The distribution methodology described in section 3.06 of the Settlement Agreement.

- (b) Any and all distribution methodologies considered by any Settlement Proponent for the purpose of determining the distribution methodology to be adopted in the Settlement Agreement.
- (c) The relationship or comparison between the distribution methodology described in section 3.06 of the Settlement Agreement and/or any other distribution methodology considered by any Settlement Proponent.
- (d) The relationship or comparison between the distribution methodology described in section 3.06 of the Settlement Agreement and the payment distribution terms of the Governing Agreements.
- (e) Any self-interest or potential self-interest of the Institutional Investors associated with the distribution methodology described in Section 3.06 of the Settlement Agreement.

**Objections and Responses to Request for Production No. 1**

1. The Institutional Investors object to this Request because it seeks documents that are not material, necessary, relevant, or reasonably calculated to lead to the discovery of admissible evidence. The Institutional Investors' communications regarding Section 3.06 of the Settlement Agreement is not relevant to any issue in this case, which concerns solely whether the Trustees acted within the scope of their reasonable discretion in entering into the Settlement Agreement. No aspect of the relief sought in this proceeding concerns how the distribution provisions of the Settlement Agreement were negotiated.

2. The Institutional Investors object to this Request to the extent that it seeks confidential communications by and between, or among, the Institutional Investors and/or their counsel. Such communications are protected from discovery by the attorney/client privilege, the work product privilege, and the common interest privilege. In addition, the Institutional Investors object to this Request to the extent that it seeks the production of confidential communications between counsel for the Institutional Investors and counsel for The Bank of New York Mellon regarding settlement payment distribution methodologies in connection with the negotiation of

the settlement at issue in Index No. 651786/11, *In re the Bank of New York Mellon*. Such communications are protected from discovery the common interest privilege.

3. The Institutional Investors object to this Request to the extent that it seeks confidential mediation communications, which are not discoverable. As described in more detail in the attached Exhibit A, JPMorgan and the Institutional Investors conducted their settlement discussions pursuant to a confidential mediation agreement, controlled by California law, before a California mediator. Under California law, mediation communications are neither discoverable nor admissible. *See Cassell v. Superior Court*, 244 P.2d 1080, 1083 (Cal. 2011 (discussing CAL. EVID. CODE §1119, which prohibits the disclosure of any mediation communications in a mediation conducted under California law, and holding “We have repeatedly said that these confidentiality provisions are clear and absolute,” so “neither ‘evidence of anything said,’ nor any ‘writing,’ is discoverable or admissible ‘in any...civil action,’ ... if the statement was made, or the writing was prepared, ‘for the purpose of, in the course of, or pursuant to, a mediation...’”). The Institutional Investors also object to the Request because it seeks documents or information subject to confidentiality or nondisclosure agreements with JPMorgan, and thus seeks information that also is not discoverable under New York law.

4. The Institutional Investors object to this Request because it is not limited in time or limited to the settlement at issue in this proceeding. Counsel for W&L has indicated that the documents sought here include discussions and analysis of distribution methodologies used in connection with other settlement agreements that pre-date the settlement at issue here, and continues to the date of the filing of the present action. For these reasons, the Institutional Investors object that this Request is overbroad and unduly burdensome.

5. On the basis of the forgoing objections, the Institutional Investors will not produce documents responsive to this request. In addition, pursuant to Rule 11-b of Section 2.02.70(g) of the Uniform Rules for the Supreme and County Courts (Rules of Practice for the Commercial Division), the Institutional Investors will withhold from production the groups and/or categories of documents and/or communications identified in Exhibit A hereto, on the basis of the privileges and immunities asserted in Exhibit A. In the event that an Institutional Investor does produce privileged information, the production of any such information is inadvertent and does not constitute a waiver of any privilege, immunity or claim of confidentiality.

### **Request for Production No. 2**

Please produce all investigations, evaluations, notes, analyses, and communications concerning: (a) any distribution methodology You considered, analyzed, evaluated, investigated, or rejected (including the distribution methodology described in Section 3.06 of the Settlement Agreement), and/or (b) the effect those distribution methodologies would have on the distribution of the Settlement Payment to certificates held by:

- (i) The Institutional Investors.
- (ii) Senior certificateholders.
- (iii) Junior certificateholders.
- (iv) Holders of certificates bearing balances of \$0.00.

### **Objections and Responses to Request for Production No. 2**

1. The Institutional Investors object to this Request because it seeks documents that are not material, necessary, relevant, or reasonably calculated to lead to the discovery of admissible evidence. The Institutional Investors' evaluations, notes, analyses, and communications concerning distribution methodologies are not relevant to any issue in this case, which concerns solely whether the Trustees acted within the scope of their reasonable discretion

in entering into the Settlement Agreement. No aspect of the relief sought in this proceeding concerns how the distribution provisions of the Settlement Agreement were negotiated.

2. The Institutional Investors object to this Request to the extent that it seeks confidential communications by and between, or among, the Institutional Investors and/or their counsel. Such communications are protected from discovery by the attorney/client privilege, the work product privilege, and the common interest privilege. In addition, the Institutional Investors object to this Request to the extent that it seeks the production of confidential communications between counsel for the Institutional Investors and counsel for The Bank of New York Mellon regarding settlement payment distribution methodologies in connection with the negotiation of the settlement at issue in Index No. 651786/11, *In re the Bank of New York Mellon*. Such communications are protected from discovery the common interest privilege.

3. The Institutional Investors object to this Request to the extent that it seeks confidential mediation communications, which are not discoverable. The Institutional Investors conducted their settlement discussions pursuant to a confidential mediation agreement, controlled by California law, before a California mediator. Under California law, mediation communications are neither discoverable nor admissible. *See Cassell v. Superior Court*, 244 P.2d 1080, 1083 (Cal. 2011 (discussing CAL. EVID. CODE §1119, which prohibits the disclosure of any mediation communications in a mediation conducted under California law, and holding “We have repeatedly said that these confidentiality provisions are clear and absolute,” so “neither ‘evidence of anything said,’ nor any ‘writing,’ is discoverable or admissible ‘in any...civil action,’... if the statement was made, or the writing was prepared, ‘for the purpose of, in the course of, or pursuant to, a mediation...’”). The Institutional Investors also object to the Request because it seeks documents or information subject to confidentiality or nondisclosure

agreements with JPMorgan, and thus seeks information that also is not discoverable under New York law.

4. The Institutional Investors object to this Request because it is not limited in time or limited to the settlement at issue in this proceeding. Counsel for W&L has indicated that the documents sought here include discussions and analysis of distribution methodologies used in connection with other settlement agreements that pre-date the settlement at issue here, and continues to the date of the filing of the present action. For these reasons, the Institutional Investors object that this Request is overbroad and unduly burdensome.

5. On the basis of the forgoing objections, the Institutional Investors will not produce documents responsive to this request. In addition, pursuant to Rule 11-b of Section 2.02.70(g) of the Uniform Rules for the Supreme and County Courts (Rules of Practice for the Commercial Division), the Institutional Investors will withhold from production the groups and/or categories of documents and/or communications identified in Exhibit A hereto, on the basis of the privileges and immunities asserted in Exhibit A. In the event that an Institutional Investor does produce privileged information, the production of any such information is inadvertent and does not constitute a waiver of any privilege, immunity or claim of confidentiality.

Dated: New York, New York  
January 13, 2015

WARNER PARTNERS, P.C.

By: /s/ Kenneth E. Warner  
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Investors*

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of these Objections and Responses were served on counsel of record for all parties at the address of their counsel of record, via electronic mail and first class mail, on this the 13th day of January, 2015.

/s/ David Sheeren  
David Sheeren

**Exhibit A – Certification Regarding Assertion of Privilege**

Subject to the above Objections, and pursuant to Rule 11-b of Section 2.02.70(g) of the Uniform Rules for the Supreme and County Courts (Rules of Practice for the Commercial Division), and pursuant to agreement among the parties, the Institutional Investors hereby identify the groups and/or categories of documents and/or communications they will withhold from production on the basis of the following assertions of privilege

<b>Category</b>	<b>Documents</b>	<b>Privilege And/Or Immunity</b>
1	Confidential communications by and between, or among, the Institutional Investors and/or their counsel regarding settlement payment distribution methodologies, from November 1, 2010 to August 3, 2014.	Attorney/client privilege, work product privilege, and common interest privilege.
2	Settlement and mediation communications between and among the Institutional Investors, JPMorgan and/or the Mediator, Mr. Robert Meyer, regarding settlement payment distribution methodologies, from July 25, 2012 to August 3, 2014.	Immunity for mediation communications under California and New York law. <i>See, e.g., Cassel v. The Superior Court of Los Angeles County</i> , 51 Cal.4th 113, 117, 244 P.3d 1080, 1083 (Cal. 2011); <i>Lynbrook Glass &amp; Architectural Metals, Corp. v. Elite Assocs., Inc.</i> , 656 N.Y.S.2d 291, 292 (2d Dep’t. 1997).
3	Confidential communications between counsel for the Institutional Investors and counsel for The Bank of New York Mellon regarding settlement payment distribution methodologies in connection with the negotiation of the settlement at issue in Index No. 651786/11, <i>In re the Bank of New York Mellon</i> , from November 1, 2010 to August 3, 2014.	Common interest privilege

The documents included in Category 1 above reflect confidential communications by and between, or among, the Institutional Investors and/or their counsel regarding settlement payment distribution methodologies. The documents included in Category 2 above reflect communications with JPMorgan made in connection with a confidential mediation conducted

before Robert Meyer, of the law firm of Loeb & Loeb in Los Angeles, California. The mediation was conducted pursuant to a confidential mediation agreement, governed by California law, which provides that all communications made in connection with the mediation were to remain confidential and were not to be disclosed to third parties. The documents included in Category 3 above reflect communications between: (i) counsel for the Institutional Investors and counsel for The Bank of New York Mellon regarding settlement payment distribution methodologies in connection with the negotiation of the settlement at issue in Index No. 651786/11, *In re the Bank of New York Mellon*; and (ii) counsel for the Institutional Investors, counsel for JPMorgan, and/or counsel for the Petitioner Trustees in this proceeding, regarding payment distribution methodologies.

Counsel for the Institutional Investors have identified the categories of documents identified above by comparing the requests for production to: (i) confidential communications by and between, or among, the Institutional Investors and/or their counsel regarding the settlement and distribution methodologies, including emails, memoranda, and other forms of communication; (ii) mediation communications shared with JPMorgan, including emails, in person hand-outs, and other forms of communication; (iii) confidential communications between counsel for the Institutional Investors and counsel for The Bank of New York Mellon regarding settlement payment distribution methodologies in connection with the negotiation of the settlement at issue in Index No. 651786/11, *In re the Bank of New York Mellon*, from November 1, 2010 to the present; and (iv) confidential communications between counsel for the Institutional Investors, counsel for JPMorgan, and/or counsel for the Petitioner Trustees in this proceeding, regarding payment distribution methodologies.



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David Sheeren, Responsible Attorney