

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), AEGON USA Investment Management, LLC (intervenor), Bayerische Landesbank (intervenor), BlackRock Financial Management, Inc. (intervenor), Cascade Investment, LLC (intervenor), the Federal Home Loan Bank of Atlanta (intervenor), the Federal Home Loan Mortgage Corporation (Freddie Mac) (intervenor), the Federal National Mortgage Association (Fannie Mae) (intervenor), Goldman Sachs Asset Management L.P. (intervenor), Voya Investment Management LLC (f/k/a ING Investment LLC) (intervenor), Invesco Advisers, Inc. (intervenor), Kore Advisors, L.P. (intervenor), Landesbank Baden-Wurtemberg (intervenor), Metropolitan Life Insurance Company (intervenor), Pacific Investment Management Company LLC (intervenor), Sealink Funding Limited (intervenor), Teachers Insurance and Annuity Association of America (intervenor), The Prudential Insurance Company of America (intervenor), the TCW Group, Inc. (intervenor), Thrivent Financial for Lutherans (intervenor), and Western Asset Management Company (intervenor),

Petitioners,

-against-

TRIAXX PRIME CDO 2006-1, LTD., TRIAXX PRIME CDO 2006-2, LTD., TRIAXX PRIME CDO 2007-1, LTD. (intervenor), QVT FUND V LP, QVT FUND IV LP, QUINTESSENCE FUND L.P., QVT FINANCIAL LP (intervenor), AMBAC ASSURANCE CORPORATION, THE SEGREGATED ACCOUNT OF AMBAC ASSURANCE CORPORATION (intervenor), and W&L INVESTMENTS, LLC (intervenor)

Respondents,

for an order, pursuant to CPLR § 7701, seeking judicial instruction, and approval of a proposed settlement.

Index No. 652382/2014

Friedman, J.

AFFIDAVIT OF LORETTA A. LUNDBERG
IN SUPPORT OF THE TRUSTEES' FIRST AMENDED PETITION

STATE OF NEW YORK)
) ss:
COUNTY OF NEW YORK)

LORETTA A. LUNDBERG, being duly sworn, deposes and says:

1. I am a Managing Director in the Global Corporate Trust Division at The Bank of New York Mellon (“BNYM”). I have been employed by BNYM since 1996. In my role as Managing Director, I oversee four different groups, including the Mortgage-Backed Securities group that administers residential mortgage-backed securities transactions, and the Default Administration Group.
2. The Bank of New York Mellon Trust Company, N.A. (“BNYMTC”) is affiliated with, but is a separate legal entity from, BNYM.
3. This affidavit, which I submit in support of the Trustees’ First Amended Petition, reflects the testimony that I would provide at trial in my individual capacity and on behalf of both BNYM and BNYMTC. It is based on my personal knowledge or based upon information and belief through inquiries that I made in my capacity as the designated corporate representative for BNYM and BNYMTC. Throughout this affidavit I refer to BNYM and BNYMTC collectively as the “BNYM Trustees.”
4. The BNYM Trustees act as trustee, indenture trustee, or successor trustee, as applicable, for certain residential mortgage-backed securitization (“RMBS”) trusts that are at issue in the above-captioned proceeding. Each of the RMBS trusts is governed, in part, by a Pooling and Servicing Agreement or an Indenture (as applicable, the “Governing Agreement”), and relates to a securitization transaction sponsored by JPMorgan Chase & Co. and/or its affiliates (collectively, “JPMorgan”).

I. PROPOSED SETTLEMENT

5. By letter dated November 15, 2013, a group of twenty-one institutional investors (the “Institutional Investors”) notified the Trustees (as defined below) of a settlement offer (the “Proposed Settlement”) by JPMorgan. Trustees’ Ex. 005. The Proposed Settlement concerned 330 RMBS trusts sponsored by JPMorgan (the “Trusts”), and their associated loan groups (the “Loan Groups”), as reflected in a proposed written settlement agreement (the “Proposed Settlement Agreement”) attached to the Institutional Investors’ letter. Trustees’ Ex. 005. The final settlement agreement (“Final Settlement Agreement”) that the Trustees ultimately entered into is identified in this matter as Trustees’ Ex. 003.

6. The “Trustees” are 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 U.S.A., N.A., and Deutsche Bank National Trust Company. Throughout this affidavit, I refer to the trustees other than BNYM and BNYMTC as the “Other Trustees.”

7. The Institutional Investors are AEGON USA Investment Management, LLC; Bayerische Landesbank, New York Branch; BlackRock Financial Management Inc.; Cascade Investment, L.L.C.; Federal Home Loan Bank of Atlanta; Federal National Mortgage Association (“Fannie Mae”) and Federal Home Loan Mortgage Corporation (“Freddie Mac”); 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, through its investment manager Neuberger Berman Europe Limited; Teachers Insurance and Annuity Association of America; The Prudential Insurance Company of America; The TCW

Group, Inc. on behalf of itself and its subsidiaries; Thrivent Financial for Lutherans; and Western Asset Management Company.

8. The Proposed Settlement Agreement required JPMorgan to make a cash payment to the Trustees for distribution to the Trusts based on a defined allocation formula, and also required JPMorgan to implement improvements to mortgage loan servicing, including a protocol for transferring high-risk loans to subservicers for more individualized attention. In exchange, the Trustees would release certain claims held by the accepting Trust or Loan Group against JPMorgan. Although the Proposed Settlement Agreement speaks for itself (and the Final Settlement Agreement contains the specific release language to which the BNYM Trustees agreed, with exceptions noted therein), in general, the proposed releases would cover claims relating to (i) alleged breaches of representations and warranties made by JPMorgan; (ii) alleged deficiencies in the documentation of mortgage loans held by the Trust or Loan Group; and (iii) servicing of the mortgage loans held by the Trust or Loan Group. See Trustees' Ex. 002 at ¶ 3.02

9. If the Trustees accepted the Proposed Settlement as to all 330 Trusts, JPMorgan's cash payment to the Trusts would equal \$4.5 billion. See Trustees' Ex. 002 at ¶ 3.01. The Proposed Settlement Agreement permitted the Trustees to accept or reject the Proposed Settlement on a trust-by-trust basis, but because certain of the Trusts contain multiple "loan groups," the Trustees analyzed the Proposed Settlement on both a trust-by-trust and a loan group-by-loan group basis, a point that was reflected in the Final Settlement Agreement. See Trustees' Ex. 003, ¶ 2.03(a). The Proposed Settlement Agreement required the Trustees to accept or reject the Proposed Settlement by January 15, 2014, but provided the Trustees the option of extending the deadline as of right by 60 days, to March 16, 2014.

10. BNYM is the trustee for 43 of the 330 trusts that were subject to the Proposed Settlement. BNYMTC is trustee for 15 of the 330 trusts. The 58 trusts for which BNYM and BNYMTC are trustee (collectively, the “BNYM Trusts”) are identified in Trustees’ Ex. 220. The BNYM Trusts include a total of 170 loan groups (“BNYM Loan Groups”), which are also identified in Trustees’ Ex. 220.

II. SUMMARY OF THE TRUSTEE’S EVALUATION PROCESS

11. Counsel for the Institutional Investors presented the Proposed Settlement to the Trustees by a letter dated November 15, 2013. The BNYM Trustees’ counsel, Mayer Brown LLP (“Mayer Brown”), received the letter and forwarded it to me. In the November 15 letter, the Institutional Investors claimed to hold more than 75% of the total unpaid principal balance across the Trusts and urged the Trustees to accept the Proposed Settlement, which the letter stated was the result of exhaustive negotiations. Trustees’ Ex. 005 at *65 (USB-00453696).

12. Shortly after receipt of the Proposed Settlement, the following BNYM personnel began to review and evaluate the Proposed Settlement: Nandini Mani (then Senior Managing Counsel within BNYM’s legal department), Robert Major (then a Vice President in the Default Administration Group²), and me. Mr. Major and I were the principal business people to supervise the settlement review process mainly due to our experience overseeing two other large RMBS settlements in which BNYM, as trustee, entered into a settlement on behalf of RMBS trusts. These settlements were the RMBS settlement involving 530 trusts (the “Countrywide Settlement”) and a

² Generally speaking, the Default Administration Group works in conjunction with other groups within corporate trust, including the mortgage-backed securities group, to help manage trusts that fit within one of two general groups: (i) trusts for which Events of Default have occurred, and (ii) trusts that are involved in contentious matters or are the subject of investor inquiries – whether or not an Event of Default has occurred. The BNYM Trusts fall within the second group described above since none of them is, or was during the evaluation and approval process, in “default” or “Event of Default” status.

separate settlement involving trusts sponsored by Residential Capital, LLC (the “ResCap Settlement”). Ms. Mani was a senior in-house lawyer who supported the corporate trust area and who recently had supervised the Article 77 proceeding in connection with the Countrywide Settlement as well as the bankruptcy proceeding related to the ResCap Settlement.

13. The BNYM Trustees looked to their external counsel, Mayer Brown, to advise them in connection with the Proposed Settlement. Mayer Brown had previously advised BNYM, as trustee and indenture trustee, in connection with the Countrywide Settlement.

14. In evaluating the Proposed Settlement, one or more members of our BNYM team were involved in:

- (a) reviewing the Proposed Settlement Agreement;
- (b) discussing which issues required opinions from experts, a process commonly undertaken by trustees in matters for which they lack in-house subject matter expertise;
- (c) meeting with the Other Trustees and their counsel to discuss the retention of experts, and further which issues to present for expert analysis, which experts to interview, and whether any expert under consideration might be conflicted;
- (d) participating (with the Other Trustees and their counsel) in interviews with expert candidates to determine which candidates were most qualified to analyze the issues presented by the Proposed Settlement;
- (e) supervising outside counsel in connection with the selection of legal experts;
- (f) supervising Mayer Brown, who (along with the Other Trustees’ outside counsel) worked directly with each of the Experts to answer questions and provide relevant information;
- (g) reviewing and commenting on multiple notices that were provided to investors during the Settlement Evaluation Process, in order to
 - (i) apprise investors of the Trustees’ receipt of the Proposed Settlement Agreement,
 - (ii) update investors on the Trustees’ process of evaluating the Proposed Settlement,

- (iii) invite investors to contact the Trustees with inquiries or, if desired, to direct the Trustees to accept or reject the Proposed Settlement with respect to a particular Trust or Loan Group,
 - (iv) disclose the expert reports to investors, and
 - (v) inform investors of the modification of the Proposed Settlement Agreement into the Final Settlement Agreement and of the Trustees' ultimate decision to accept (or reject) the Proposed Settlement and enter into the Final Settlement Agreement with respect to each of the Trusts and Loan Groups therein;
- (h) working with outside counsel and the Other Trustees and their counsel to establish a publicly accessible website, www.rmbstrusteesettlement.com, that would contain relevant documents, information, and notices concerning the Proposed Settlement;
 - (i) participating in frequent calls with the Other Trustees and their counsel;
 - (j) speaking regularly to Mayer Brown concerning its communications with the Other Trustees' counsel, the experts, and JPMorgan;
 - (k) requesting that Mayer Brown review the Governing Agreements for each of the BNYM Trusts;
 - (l) supervising Mayer Brown's negotiations with JPMorgan concerning two deadline extensions beyond the automatic extension – one from March 16, 2014 to June 16, 2014, and another from June 16, 2014 to August 1, 2014;
 - (m) at the request of the expert (described below), collecting certain investor correspondence and other documents relating to the BNYM Trusts and providing such documents to Mayer Brown for delivery to the expert;
 - (n) reviewing relevant databases within the Default Administration Group and consulting with various corporate trust personnel to confirm that none of the BNYM Trusts was in "default" or "Event of Default" status;
 - (o) updating more senior personnel of the BNYM Trustees, as appropriate, about the Settlement Evaluation Process;
 - (p) reviewing revised drafts of the Final Settlement Agreement;
 - (q) meeting separately with experts, listening to the presentation of each expert's preliminary opinions, and asking questions of each expert;
 - (r) reviewing and analyzing all expert reports;

- (s) circulating the final expert reports and the Final Settlement Agreement to the BNYM and BNYMTC Corporate Trust Committees, which had ultimate decision-making authority with respect to the Proposed Settlement as it pertains to the BNYM Trusts;
- (t) conducting a meeting with the BNYM and BNYMTC Corporate Trust Committees to discuss the Proposed Settlement;
- (u) consulting with Mayer Brown and the Other Trustees and their counsel concerning the filing of the instant action.

15. I elaborate on certain aspects of the Settlement Evaluation Process below.

III. SELECTION OF EXPERTS

16. After receiving the Proposed Settlement, the BNYM Trustees and their outside counsel consulted with the Other Trustees and began the process of vetting potential experts to assist in the evaluation of the Proposed Settlement. The Trustees considered experts on the basis of the following factors (the “Expert Evaluation Factors”), among others:

- (a) credentials and expertise in the relevant subject matter;
- (b) ideas for approaching their respective assignments;
- (c) availability and capacity; and
- (d) evaluation of potential conflicts.

17. The Trustees considered various areas of possible expert advice and guidance. Ultimately the Trustees decided to seek the advice of the following experts (collectively, the “Experts”):

- (a) a valuation expert, to consider and estimate historical losses for the Trusts and Loan Groups that were subject to the Proposed Settlement, to project future losses for each of the Loan Groups, and to determine the net recovery from the Proposed Settlement for each of the Loan Groups in each of the Trusts subject to the Proposed Settlement;
- (b) a servicing expert, to evaluate the servicing-related aspects of the Proposed Settlement;
- (c) legal experts, to provide analyses to, and inform the assumptions and conclusions of, the Trustees and their other Experts; and

- (d) a financial and economic expert, to assess the reasonableness and adequacy of the settlement consideration as it pertained to each Trust or Loan Group and provide a recommendation to either accept or reject the Proposed Settlement as to each Trust and Loan Group.

18. On or about November 12, 2013, the Trustees and their counsel conducted first-round interviews of potential expert candidates.

19. Following these initial interviews, the Trustees narrowed the group of potential expert candidates under consideration. On or about December 3, 2013, representatives of BNYM and Mayer Brown, along with representatives of the Other Trustees and their respective counsel, conducted second-round expert interviews. These firms made presentations to the Trustees concerning their potential evaluation of the Proposed Settlement.

A. Retention of Faten Sabry, Ph.D. and National Economic Research Associates, Inc.

20. The opinions to be rendered by the valuation expert included the calculation of lifetime losses and the determination of the net recovery under the Proposed Settlement for each Loan Group in each Trust subject to the Proposed Settlement.

21. The Trustees selected Dr. Faten Sabry of National Economic Research Associates, Inc. (“NERA”) to serve as their valuation expert regarding each Trust’s (or Loan Group’s) allocable share of the Settlement Payment under the Proposed Settlement. See Trustees’ Ex. 021 (Expert Report of Faten Sabry, PhD, dated July 17, 2014 (the “Sabry Report”). Given the Expert Evaluation Factors, the materials provided by NERA, the Trustees’ interview of Dr. Sabry and her colleague, and NERA’s reputation in the industry, I believed (and agreed with the Other Trustees) that Dr. Sabry was qualified to serve as a valuation expert. BNYM was also familiar with NERA and Dr. Sabry, because NERA was performing similar tasks – calculating realized losses, projecting future losses, and determining a per-trust and per-loan group allocable share – in

connection with the Countrywide Settlement. I refer to Dr. Sabry's report (Trustees' Ex. 021) for the details of her background and qualifications.

B. Retention of Jeremy E. Reifsnnyder and Boston Portfolio Advisors, Inc.

22. The servicing expert was retained to opine on issues relating to the servicing components of the Proposed Settlement Agreement.

23. The Trustees selected Jeremy Reifsnnyder of Boston Portfolio Advisors, Inc. ("BPA") to serve as their expert concerning evaluation of the servicing issues presented by the Proposed Settlement. See Trustees' Ex. 019 (Expert Report of Jeremy E. Reifsnnyder, dated July 12, 2014 (the "Reifsnnyder Report")). Based on the Expert Evaluation Factors, the presentations given by Mr. Reifsnnyder and his colleague at BPA, the written materials BPA provided to the Trustees, and BPA's reputation in the industry, I believed, and was in agreement with the Other Trustees in believing, that Mr. Reifsnnyder and BPA were qualified to opine on issues relating to mortgage loan servicing. I refer to the Reifsnnyder Report (Trustees' Ex. 019) for the details of Mr. Reifsnnyder's background and qualifications.

C. Retention of Professor Alan Schwartz and The Honorable Anthony A. Carpinello

24. The process of selecting the legal experts was, for the BNYM Trustees, supervised principally by Ms. Mani. However, I understand that in March 2014, the Trustees conducted telephonic interviews with the candidates for this aspect of the settlement evaluation. The areas in which opinions were to be rendered by the legal experts are set forth in the legal experts' reports. I understand these issues were identified as the essential legal issues by the Trustees' counsel or, in some cases, the experts.

25. I understand that we considered several potential legal experts to assist in the evaluation of the Proposed Settlement. The Trustees ultimately selected both Prof. Alan Schwartz, a professor

at Yale Law School, and Hon. Anthony J. Carpinello, a retired justice of the appellate division, to serve as legal experts.

D. Retention of Professor Daniel Fischel and Compass Lexecon

26. In addition to the other experts, it was agreed by the BNYM Trustees and the Other Trustees that a financial and economic expert was needed to evaluate the reasonableness of the settlement as to each Trust and Loan Group, in light of the reports of the valuation expert, servicing expert, legal experts, and other factors that this expert deemed relevant, in order to formulate a recommendation to accept or reject the Proposed Settlement for each Loan Group in each Trust. The BNYM Trustees and Mayer Brown (along with the Other Trustees and their counsel) conducted interviews with potential experts to assist in our evaluation of the Proposed Settlement. Following multiple interviews and follow-up telephone conversations, the Trustees selected Professor Daniel Fischel from the firm Compass Lexecon. In considering the Expert Evaluation Factors, the materials provided by Compass Lexecon, the Trustees' interview of Professor Fischel and his colleagues, and Professor Fischel's reputation in the industry, I believed (and agreed with the Other Trustees) that Professor Fischel was qualified to serve as this expert. Professor Fischel was also qualified as a litigation expert in the Countywide Article 77 proceeding to opine on the reasonableness of the Countrywide Settlement. I refer to Professor Fischel's report and supplemental report (the "Fischel Reports") for the details of his background and qualifications. Trustees Exhibits 020; 022.

27. The Trustees relied on Professor Fischel and his expertise, to formulate a recommendation to accept or reject the Proposed Settlement for each Trust and Loan Group. Professor Fischel's analysis and recommendations are set forth in the Fischel Reports.

IV. THE TRUSTEE'S DEALINGS WITH THE EXPERTS

28. Throughout the Settlement Evaluation Process, the Trustees relied on the Experts to identify documents and information that would aid their analysis. The Trustees received numerous requests for documents and information from the Experts.

29. Some of the information requested by the Experts with respect to the BNYM Trusts was in the BNYM Trustees' possession. One or more members of our BNYM group directed Mayer Brown to assist the Experts with their information requests. Through counsel, we provided documents to the Experts that included the Governing Agreements for the BNYM Trusts, summaries of certain provisions in those Governing Agreements as requested by the Experts, tolling agreements covering the BNYM Trusts, final certifications and exception reports for a sample of the BNYM Trusts, notices concerning the Proposed Settlement, and correspondence from investors in the BNYM Trusts concerning the Proposed Settlement, including notices of alleged breaches of representations and warranties concerning loans held in the BNYM Trusts.

30. The Experts also requested and received documents and information from JPMorgan, including original loan data information for the Trusts, information concerning notices provided to JPMorgan of any breaches of representations and warranties concerning loans held in the Trusts, and information concerning repurchases by JPMorgan of any loans in the Trusts. I understand that counsel for the Trustees and JPMorgan representatives conferred on a number of occasions concerning the materials requested by the Experts, and that calls took place between and among the Trustees' counsel, JPMorgan's counsel, and the Experts.

31. Throughout the Settlement Evaluation Process, our outside counsel participated in regular calls with the Experts to monitor the Experts' progress, ensure coordination among the Experts, address the Experts' requests for information and documents, and allow the Experts to ask

questions of each other, the Trustees, and JPMorgan. All of this was discussed during scheduled weekly (and sometimes more frequent) calls among the Trustees and their counsel, and separate and frequent calls with our outside counsel.

32. To ensure adequate time for the Experts to complete their reviews and analyses, the Trustees sought extensions of time from JPMorgan to respond to the Proposed Settlement. By letter dated January 13, 2014, the Trustees exercised their option under Section 2.03(b) of the Proposed Settlement Agreement to extend the evaluation period to March 16, 2014. See Trustees' Ex. 037. For the same reasons, the Trustees sought, and received, further extensions until June 16, 2014 and August 1, 2014. See Trustees' Exhibits 024 and 025. Following the completion of their work, each Expert provided the Trustees with his or her report. See Trustees' Exhibits 015-022. All of the Experts' reports were posted on the Settlement Website (as defined below) on July 22, 2014. After receiving the reports, the Trustees arranged separate meetings with each of the Experts. The purpose was to allow each Expert, separately, to explain to the Trustees and their counsel the substance of his or her report, including the opinions contained in the report and the support for such opinions, as well as to allow the Trustees and their counsel to receive answers to questions.

33. After conducting his own analysis and considering and/or addressing relevant aspects of the other Experts' reports, Professor Fischel recommended that the BNYM Trustees accept the Proposed Settlement for all 58 BNYM Trusts and all 170 BNYM Loan Groups.

V. COMMUNICATIONS WITH INVESTORS IN THE TRUSTS

34. The Trustees retained Garden City Group, LLC ("GCG"), a recognized legal administration firm, to assist in their efforts to provide relevant information to investors in the Trusts. At the Trustees' direction, GCG established and maintained a publicly accessible website

containing relevant documents, information, and notices concerning the Proposed Settlement at www.rmbstrusteesettlement.com (the "Settlement Website"). GCG continues to maintain the Settlement Website, and in addition to the notices to investors, expert reports, and other relevant documents, GCG has posted filings of the parties and orders of this Court in this proceeding.

35. On December 11, 2013, the Trustees sent a notice to investors disclosing the Proposed Settlement (the "December 11th Notice"). Trustees' Ex. 010. The December 11th Notice provided the address of the Settlement Website, where anyone could view the Proposed Settlement Agreement. The December 11th Notice also set forth certain basic terms of the Proposed Settlement Agreement (including the Proposed Settlement payment amount, the releases being sought by JPMorgan, and the Acceptance Date by which the Trustees were initially required to reach a decision to accept or reject the Proposed Settlement). The Trustees urged investors to review the Proposed Settlement Agreement carefully and referred them to the Settlement Website for its complete terms. The December 11th Notice also informed investors of a tolling and forbearance agreement, a copy of which is posted to the Settlement Website, in which JPMorgan agreed that any statutes of limitations with respect to certain claims held by the Trustees or the Trusts against JPMorgan would be tolled while the Trustees considered the Proposed Settlement. Furthermore, the Trustees informed investors that they had retained expert advisors to assist the Trustees in evaluating the Proposed Settlement and also informed investors that, if they had any inquiries or wished to furnish a direction concerning the Proposed Settlement, they should contact the Trustee that administers the Trust(s) in which the investor held Certificates.

36. One of the BNYM Trustees' key goals in disseminating the notices was to keep investors apprised of developments in the Settlement Evaluation Process, and to give them an opportunity to express to the BNYM Trustees any support or opposition to the Proposed Settlement. The BNYM

Trustees wanted to learn about the investors' views on the Proposed Settlement before any decision was made. This also allowed Professor Fischel to consider the views of investors other than the Institutional Investors before he gave a Trust or Loan Group recommendation. The BNYM group believed that, given the disclosure of the Proposed Settlement Agreement and the lengthy period during which the investors could conduct their own analyses, hire their own experts (if they felt it necessary), calculate each Trust's allocable share, and weigh alternatives to the Proposed Settlement, investors who wished to share their views with the BNYM Trustees before acceptance or rejection of the Proposed Settlement had an ample opportunity to do so.

37. Soon after the Proposed Settlement was announced, certain investors or other interested parties, such as monoline insurers, sent correspondence to the BNYM Trustees concerning the Proposed Settlement, which the BNYM Trustees (through counsel) sent to Professor Fischel at his request. One group of investors, represented by the law firm Quinn Emanuel Urquhart & Sullivan, LLP ("Quinn Emanuel"), requested a meeting to discuss Quinn Emanuel's clients' concerns with the Proposed Settlement. A meeting was held that was attended by BNYM representatives and counsel; however, I was not in attendance. At the meeting, I understand that the Quinn Emanuel lawyers presented a PowerPoint addressing various aspects of the Proposed Settlement. This PowerPoint was provided to Professor Fischel.

38. Throughout the Settlement Evaluation Process, the Trustees provided frequent updates to investors concerning the Trustees' ongoing evaluation of the Proposed Settlement, including the extensions of the Acceptance Date described above. During the period while the Proposed Settlement was being evaluated, the Trustees issued multiple separate notices to investors concerning developments relating to the Proposed Settlement and posted all of the notices on the Settlement Website. See Trustees' Exhibits 010-013; 023-030.

39. For example, in their April 29, 2014 notice, the Trustees communicated to investors that investors who “wish to provide a direction with respect to the Proposed Settlement Agreement for consideration by an RMBS Trustee should contact the applicable RMBS Trustee as soon as possible to verify their holdings and receive a confidential form of direction and indemnity letter” and that “[t]he RMBS Trustees recommend that any such communication be initiated prior to May 15, 2014.” Trustees’ Ex. 011.

40. In a notice dated July 22, 2014, Trustees provided the investors with the Expert reports. See Trustees’ Ex. 026. The Expert reports were also made available on the Settlement Website.

VII. THE BNYM TRUSTEES’ DECISION-MAKING PROCESS

41. Throughout the Settlement Evaluation Process, the BNYM group provided periodic updates to more senior personnel within the corporate trust group, and to members of BNYM’s and BNYMTC’s Corporate Trust Committees.

42. BNYM and BNYMTC each have a trust committee, which meets monthly. In this case, it was BNYM’s Corporate Trust Committee and BNYMTC’s Corporate Trust Committee (the “Trust Committees”) that were responsible for deciding whether or not to accept the Proposed Settlement for specific Trusts and Loan Groups.

43. Once the Trustees received the expert reports, and after the meetings with the Experts described in paragraph 32, the BNYM group and the Trustee’s counsel reviewed, evaluated, and discussed the Expert Reports. We then scheduled a special meeting of the Trust Committees and provided copies of the Expert Reports and the Final Settlement Agreement to the Trust Committee members in advance of the Trust Committee meeting.

44. On July 29, 2014, we convened a special joint meeting of the Trust Committees to vote on whether to accept or reject the Proposed Settlement for each BNYM Loan Group. The Proposed

Settlement was the only item on the agenda. The meeting attendees for the BNYM Corporate

Trust Committee included:

Members:

Rick Stanley – Chair*³

Jim Maitland*

Alex Tsarnas*

Melissa Adelson*

Kelly Crosson*

Phil Reinle*

Steve Chrysanthis*

Ex-officio Members:

Don Lancaster

Carolyn Lee

Nandini Mani

Secretary:

Susan Bowers

Invitees:

Loretta Lundberg

Rob Major

Frank Amodeo

Bob Griffin

Pat Lankford

45. The meeting attendees for the BNYMTC Corporate Trust Committee included:

Members:

Tony Portuondo – Chair*

Julz Burgess*

Jocelyn Lynch

Jay Rogers*

Sarah Stout

Scott Thompson*

Jan Bradley*

Ex-officio Members:

Don Lancaster

Carolyn Lee

Nandini Mani

³

* Indicates a voting member.

Secretary:
Susan Bowers

Invitees:
Loretta Lundberg Rob Major
Frank Amodeo
Bob Griffin
Pat Lankford

46. During the July 29, 2014, meeting of the Trust Committees, the BNYM group presented the Proposed Settlement. We explained the terms of the Proposed Settlement, described the Settlement Evaluation Process as summarized in paragraph 14 above, walked through the Expert Reports, answered questions from members of the Trust Committees, and recommended that the Trust Committees accept the recommendation of Professor Fischel. The Trust Committees were guided principally by Professor Fischel's reports and our confidence that his reports were thorough, reasonable, and the result of robust analysis. But we also understood – based on our collective experience – the delay and uncertainty associated with the litigation alternative, and the importance of the fact that relatively few investors or other interested parties expressed any objection to the Proposed Settlement during the 9-month Settlement Evaluation Process. We also understood that not every investor would necessarily agree with our decision, but that the BNYM Trustees were responsible for considering the interests of all the investors, and I believe we acted in good faith and that the Proposed Settlement was in the best interests of the BNYM Trusts and the investors in those Trusts. After discussion of the Proposed Settlement, the Trust Committees unanimously voted to approve the Proposed Settlement. Trustees' Ex. 231 (Minutes of the BNYM Corporate Trust Committee) and Trustees' Ex. 232 (Minutes of the BNYMTC Corporate Trust Committee).

47. I executed the Final Settlement Agreement on behalf of BNYM for the Loan Groups in the trusts for which BNYM is trustee. Robert Major executed the Final Settlement Agreement on behalf of BNYMTC for the Loan Groups in the trusts for which BNYMTC is the trustee.

48. On August 1, 2014, the Trustees issued a notice (the “August 1st Notice”) informing investors of their determinations concerning whether to accept or reject the Proposed Settlement on a loan group-by-loan group basis, and posted a copy of the August 1st Notice on the Settlement Website where it remains available for review. Trustees’ Ex. 012.

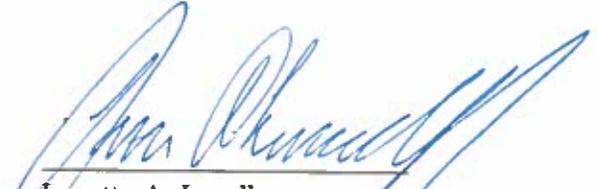
49. The Trustees commenced this special proceeding (the “Article 77 Proceeding”) by filing a petition on August 3, 2014 and filing a First Amended Petition (the “First Amended Petition”) on October 2, 2014.

50. On August 20, 2014, the Trustees issued a notice (the “August 20th Notice”) informing investors of, among other things, (i) the Trustees’ acceptance of the Final Settlement Agreement, (ii) the Trustees’ commencement of the Article 77 Proceeding, (iii) the Court’s entry of the August 15, 2015 order to show cause, (iv) the deadline for objections to the Final Settlement Agreement, and (v) the time and place of the hearing. The Trustees posted a copy of the August 20th Notice on the Settlement Website where it remains available for review. Trustees’ Ex. 027.

51. I understand that Jose C. Fraga of GCG provided an affidavit, dated October 13, 2014 (the “Fraga Affidavit”), which was filed by the Trustees’ counsel, concerning the Trustees’ compliance with the comprehensive notice program that was ordered by this Court. See ECF No. 73.

52. For each of the BNYM Trusts, the BNYM Trustees obtained the names and addresses of the registered certificateholders, and provided their names and contact information to GCG to complete the mailings required under the notice program. The BNYM Trustees also provided to GCG the names and contact information for certificateholders (or their counsel) that had

communicated with the BNYM Trustees and requested such papers, as well as all persons and entities identified in paragraphs 4(a) – (m) of the Affirmation of Robert C. Micheletto dated August 4, 2014. See ECF No. 7.



Loretta A. Lundberg

Sworn to before me this
15th day of January 2016



Notary Public

RAFAL BAR
NOTARY PUBLIC, State of New York
No. 01BA6293822
Qualified in Kings County
Commission Expires Dec. 16, 2017