

1. I am a Group Vice President of Global Capital Markets Structured Products at Wilmington Trust, National Association (“Wilmington Trust”). In that capacity my responsibilities include, among other things, managing and overseeing matters relating to Wilmington Trust’s role as trustee for residential mortgage-backed securitization (“RMBS”) trusts.

2. This affidavit, which I submit in support of the Trustees’ First Amended Petition,¹ reflects the testimony that I would provide at trial in my individual capacity and on behalf of Wilmington Trust and is based on my personal knowledge, except as to certain matters that I believe to be true based on (i) information contained in Wilmington Trust’s business records or supplied to me by other Wilmington Trust personnel, (ii) information provided by the Trustees’ experts, or (iii) certain information contained in pleadings filed in this matter that I reviewed or that have been reported to me by counsel.

3. The Amended Petition relates to the Trustees’ evaluation of a proposed settlement of claims negotiated between JPMorgan Chase & Co. (with its direct and indirect subsidiaries, “JPMorgan”) and the Institutional Investors² (the “Settlement Offer”) and the Trustees’ acceptance

¹ The First Amended Petition (the “Amended Petition”) was filed by Petitioners Wilmington Trust, U.S. Bank National Association, the Bank of New York Mellon, the Bank of New York Mellon Trust Company, N.A., Law Debenture Trust Company of New York, Wells Fargo Bank, National Association, HSBC Bank USA, N.A., and Deutsche Bank National Trust Company, solely in their respective capacities as trustees, indenture trustees, successor trustees, and/or separate trustees (collectively, the “Trustees”) for the RMBS trusts and/or loan groups listed in Exhibit A (the “Accepting Trusts”) of the Amended Petition, in this special proceeding.

² The twenty-one 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 and Federal Home Loan Mortgage Corporation; 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

of a modified settlement agreement dated July 29, 2014 on behalf of the Accepting Trusts (the “Settlement Agreement”).³

I. THE RELEVANT TRUSTS FOR WHICH WILMINGTON TRUST IS TRUSTEE

4. As set forth more fully below, Wilmington Trust serves as Trustee for 47 trusts that were sponsored by JPMorgan and subject to the Settlement Offer (the “Wilmington Covered Trusts”). After the evaluation process described more fully below, Wilmington Trust conditionally entered into the Settlement Agreement on behalf of one or more loan groups contained in 40 of the Wilmington Covered Trusts (the “Wilmington Accepting Trusts”) and rejected the Settlement Agreement on behalf of one or more loan groups contained in nine Wilmington Covered Trusts.⁴

5. With only one exception (which is discussed in the following paragraph), there are presently no objections pending with respect to the Wilmington Accepting Trusts. Two Investors⁵

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.

³ For the Court’s convenience and to avoid unnecessary duplication, I have cited to items included on the Trustees’ exhibit list. I understand that copies of the Trustees’ exhibits will be provided to the Court. A true and correct copy of the Settlement Offer, as memorialized, has been marked as Exhibit 002. A true and correct copy of the Settlement Agreement has been marked as Exhibit 003.

⁴ Exhibit 285 is a true and correct list of the Wilmington Covered Trusts. Exhibit 286 is a true and correct list of the Wilmington Accepting Trusts. Exhibit 287 is a true and correct list of trusts subject to JPMorgan’s Settlement Offer for which Wilmington Trust serves as Trustee and on behalf of which Wilmington Trust rejected the Settlement Agreement, either in whole or in part. For two of the Wilmington Covered Trusts, Wilmington Trust accepted the settlement on behalf of one loan group in each and rejected the Settlement Agreement on behalf of others; both trusts are referenced in both Exhibits 286 and 287. These three exhibits are offered for the Court’s convenience only; the Wilmington Covered Trusts are also listed in the Settlement Offer (Ex. 002), and the Wilmington Accepting Trusts, including both the August Accepting Trusts (as defined below) and the October Accepting Trusts (as defined below), are reflected in the Settlement Agreement (Ex. 003).

⁵ For ease of reference, I use the term “Certificates” to refer to certificates and notes issued under the agreements governing the Trusts. For the same reason, I use the term “Investor” to refer to

– the Federal Home Loan Bank of Boston (“FHLBB”) and the National Credit Union Administration Board, as Liquidating Agent for U.S. Central Federal Credit Union, Western Corporate Federal Credit Union, Southwest Corporate Federal Credit Union, Members United Corporate Federal Credit Union and Constitution Corporate Federal Credit Union (collectively, “NCUA”) – intervened in this special proceeding and together alleged holdings in eight of the Wilmington Accepting Trusts. FHLBB and NCUA objected to Wilmington Trust’s acceptance of the Settlement Agreement. However, both FHLBB and NCUA have withdrawn their objections.

6. As of the date of this Affidavit, only one objector, Ambac Assurance Corporation and its “Segregated Account” (collectively “Ambac”),⁶ continues to prosecute an objection as to Wilmington Trust’s conditional acceptance of the Settlement Agreement. Ambac’s objection relates to a single Wilmington Accepting Trust, the BALTA 2006-4 trust. NYSCEF Doc. No. 149 (Ambac’s Statement of Grounds for Objection) at 5.⁷ Ambac claims rights in BALTA 2006-4 by virtue of its role as an insurer for certain classes of certificates in BALTA 2006-R1, a resecuritization of RMBS certificates that includes certain tranches of certificates from BALTA 2006-4. *Id.* (BALTA 2006-R1 is not among the Covered Trusts (as defined below). *See* Ex. 002.)

certificateholders, noteholders, beneficial owners of Certificates, and investment manager advisors acting on behalf of beneficial owners of Certificates. Most of the Certificates of each Trust are held in the name of Cede & Co., the nominee of The Depository Trust Company, and/or other similar nominees and, accordingly, for those Certificates held by Cede & Co. or other similar nominees, the Trustee has no information as to the number or identity of Investors (including beneficial owners) of Certificates.

⁶ The “Segregated Account” refers to the Segregated Account of Ambac Assurance Corporation.

⁷ Wilmington Trust rejected the Settlement Agreement on behalf of three Wilmington Covered Trusts and a loan group in a fourth Wilmington Covered Trust pursuant to a direction given by Ambac. *See* Ex. 289H. Exhibit 289H includes true and correct copies of letters dated December 9, 2013 and May 16, 2014 received by Wilmington Trust and a letter dated June 19, 2014 sent by counsel for Wilmington Trust. Wilmington Trust did not receive such a direction from Ambac in respect of the BALTA 2006-4 trust.

7. Other than Ambac, none of the remaining objectors that intervened in this special proceeding to object to the Trustees' acceptance of the Settlement Agreement allege any holdings in any Wilmington Accepting Trust. Except for Ambac's objection with respect to the BALTA 2006-4 trust, I am not aware of any Investor that currently objects to Wilmington Trust's acceptance of the Settlement Agreement in respect of the Wilmington Accepting Trusts.

8. Prior to the commencement of this action, Wilmington Trust had not received notice of any purported Event of Default under any of the applicable agreements for the Wilmington Accepting Trusts nor did Wilmington Trust otherwise have actual knowledge of an Event of Default under those agreements. With respect to the BALTA 2006-4 trust in particular, Wilmington Trust has not received a notice of, nor is it otherwise aware of, a breach of a relevant duty by Wells Fargo Bank, N.A., which is the Master Servicer for that trust.

II. WILMINGTON TRUST RECEIVED THE SETTLEMENT OFFER

9. By letter dated November 15, 2013, counsel for the Institutional Investors, which claimed to hold more than 30% of the total unpaid principal balances of securities from 330 RMBS trusts (the "Covered Trusts") sponsored by JPMorgan, informed the Trustees of the Settlement Offer negotiated between JPMorgan and the Institutional Investors and urged the Trustees to accept the Settlement Offer. *See* Ex. 005.

10. The Settlement Offer contemplated that JPMorgan would make a cash payment to the Covered Trusts to settle claims against JPMorgan for alleged breaches of representations and warranties contained in the agreements governing the Covered Trusts (the "Rep and Warranty Claims") and for alleged breaches of servicing obligations (the "Servicing Claims") relating to the Covered Trusts, and implement certain improvements to mortgage loan servicing, including a protocol for transferring delinquent loans to identified subservicers, in exchange for a waiver and release of the Rep and Warranty Claims and the Servicing Claims against JPMorgan.

11. If the Trustees accepted the Settlement Offer as to all 330 Trusts, JPMorgan's cash payment to the Covered Trusts would equal \$4.5 billion. *See* Ex. 002 (Settlement Offer), ¶ 3.01. Certain of the Covered Trusts contain multiple loan groups, and the terms of the Settlement Offer permit the Trustees to accept or reject the Settlement Offer on a loan group-by-loan group basis. *See id.* ¶ 2.03(a).

III. WILMINGTON TRUST'S EVALUATION OF THE SETTLEMENT OFFER

12. In response to the request by the Institutional Investors and JPMorgan, Wilmington Trust undertook a process of evaluating whether it, as Trustee, should accept the Settlement Offer on behalf of the Wilmington Covered Trusts.

13. As part of this process, Wilmington Trust retained the law firm of Alston & Bird LLP ("Alston & Bird") to assist it with the evaluation of, and determination whether to accept or reject, the Settlement Offer.

14. On behalf of Wilmington Trust, I directed Ms. Jennifer Luce, a Vice President in the Asset Backed Securities Unit of Structured Products, to attend to day-to-day duties in managing and coordinating the evaluation of the Settlement Offer for the Wilmington Covered Trusts. I supervised Ms. Luce, received regular updates from her and Alston & Bird, and participated in calls and meetings regarding Wilmington Trust's efforts to evaluate the Settlement Offer.

15. As part of her responsibilities, Ms. Luce worked with Alston & Bird to gather relevant data and information, communicated with other employees of the Trustees on a regular basis concerning the status of the Trustees' evaluation of the Settlement Offer, vetted and retained expert advisors to assist the Trustees, and communicated with certain senior leaders identified below about whether to accept or reject the Settlement Offer as to each Wilmington Covered Trust or loan group.

16. The Settlement Agreement identified a deadline for the Trustees to accept the Settlement Offer (the “Acceptance Date”) but permitted the Trustees to extend the Acceptance Date with JPMorgan’s consent. *See* Ex. 003 (Settlement Agreement), ¶ 2.03(b). After various extensions, the Acceptance Date was set as August 1, 2014 for all but a subset of the Covered Trusts. For that subset of the Covered Trusts, the Evaluation Period extended through October 1, 2014 (the “Extension Acceptance Date”). I will use the term “Evaluation Period” to refer to the date from when Wilmington Trust received the November 15, 2013 letter informing it about the Settlement Offer to the Acceptance Date or the Extension Acceptance Date, as applicable.

17. Throughout the Evaluation Period, Ms. Luce, our colleague Roseline Maney, and I participated in regular telephone conferences with Alston & Bird and, in some instances, other Trustees and their counsel to discuss issues relating to the Settlement Offer, including, but not limited to (i) the retention of subject matter experts; (ii) providing notices to Investors in the Trusts; (iii) requesting information from JPMorgan for the experts to consider in connection with their analyses; and (iv) consideration of the reports prepared by the subject matter experts. In addition, throughout the Evaluation Period, Ms. Luce and/or I participated in *ad hoc* calls with Alston & Bird to address various questions and inquiries.

IV. WILMINGTON TRUST RETAINED WELL-QUALIFIED EXPERTS TO ASSIST IT WITH THE EVALUATION OF THE SETTLEMENT OFFER

18. After receiving the Settlement Offer, Wilmington Trust and Alston & Bird, in coordination with the other Trustees and their counsel, began the process of vetting potential experts to assist in evaluating the Settlement Offer. Wilmington Trust participated in this process in full. The Trustees, including Wilmington Trust, considered such experts on the basis of, among other factors, (i) credentials and subject-matter expertise; (ii) understanding of the roles of

securitization participants, including corporate trustees; (iii) ideas for assessing the Settlement Offer; (iv) availability and capacity; (v) potential conflicts; and (vi) testifying experience.

19. The Trustees considered various areas of possible expert advice and guidance. Ultimately the Trustees decided to obtain advice from four types of experts: (i) valuation experts; (ii) legal experts who could provide analysis to the Trustees and their other experts; (iii) a servicing expert, and (iv) a financial and economic expert who could evaluate the reasonableness and adequacy of the proposed settlement based on a number of factors (including the analyses conducted by the Trustees' other experts) and provide a recommendation to either accept or reject the Settlement Offer as to each Covered Trust and loan group.

20. It is my recollection that at least one representative from Wilmington Trust, including Ms. Luce, Ms. Maney, and me, attended the presentations for each of the candidates for each of the expert roles, along with someone from Alston & Bird. I cannot, however, recall which Wilmington Trust representative attended which presentations.

21. The Trustees selected Faten Sabry of NERA Economic Consulting to estimate the expected lifetime losses for each Covered Trust and loan group and apply the allocation formula in the Settlement Agreement to estimate the share of the Settlement Payment for each Covered Trust and loan group. *See Ex. 021.* Additionally, Dr. Sabry provided estimates of losses attributable to breaches of mortgage loan representations and warranties. *See id.*

22. Following interviews and evaluation of, among other things, the potential legal experts' credentials and expertise, the Trustees selected Professor Alan Schwartz and Hon. Anthony J. Carpinello (Ret.) to serve as their legal experts to consider legal issues that might be relevant to the analysis of the Settlement Offer.

23. Specifically, Justice Carpinello analyzed the statutes of limitations applicable to the claims to be released pursuant to the Settlement Agreement, the effect of tolling agreements on claims potentially released by the Settlement Offer, and conditions precedent, if any, to a trustee bringing suit to enforce claims against JPMorgan. Professor Schwartz opined on legal issues that Wilmington Trust would face in attempting to prove claims held by the Wilmington Covered Trusts against JPMorgan if Wilmington Trust were to reject the Settlement Offer and assert claims against JPMorgan in a judicial proceeding.

24. The Trustees retained Jeremy E. Reifsnnyder of Boston Portfolio Advisors, Inc. (“BPA”) to evaluate the servicing aspects of the Settlement Offer.

25. The Trustees selected Professor Daniel R. Fischel of Compass Lexecon (“Compass Lexecon”) to assess the reasonableness and adequacy of the Settlement Offer for each Covered Trust and provide an estimate of payments pursuant to the Settlement Offer for each loan group. Professor Fischel’s final report included his recommendations, on a trust-by-trust and loan group-by-loan group basis, as to whether the Trustees should accept or reject the Settlement Offer.

26. I believed, was in agreement with the other Trustees in believing, and still believe that each of the experts retained by the Trustees to assist with evaluating the Settlement Offer were qualified to opine on the applicable issues for which they were retained. Each of the experts are highly qualified, and the analyses with which they were charged are squarely within their respective fields of expertise.

V. THE EXPERTS’ EVALUATIONS OF THE SETTLEMENT OFFER

27. At the outset of their reviews and throughout the process, the experts requested documents and information from the Trustees to aid in their analyses, including, among other things, communications with Investors regarding the Settlement Offer, information regarding payments made by monoline insurers on account of losses on mortgage loans in the Wilmington

Covered Trusts, document exception lists, and other information available to Wilmington Trust and specifically requested by the experts. *See* Ex. 248 at 23-24. Wilmington Trust worked with Alston & Bird to ensure that the experts received such information. Alston & Bird, along with counsel for the other Trustees, was in regular communication with the experts to monitor their process, ensure coordination among the experts, and facilitate information and document requests.

28. The experts also requested documents and information from JPMorgan to aid in their analyses, including information concerning notices provided to JPMorgan of any breaches of representations and warranties concerning loans held in the Trusts, and repurchases by JPMorgan of any loans in the Trusts. Counsel for the Trustees contacted JPMorgan to obtain those documents.

29. After they were retained, the experts considered the subject matters and questions posed by the Trustees, designed analyses they deemed appropriate, and began working. Legal experts researched and prepared analyses of questions posed by the Trustees. The specific analyses performed by each of the experts are set forth in their respective reports.

30. Throughout the Evaluation Period, Ms. Luce, Ms. Maney, and I participated in calls with the other Trustees, their counsel, and Alston & Bird regarding the experts' progress and the information and documents provided to the experts. I often delegated responsibility for day-to-day activities (such as collecting documents requested by the experts) to Ms. Luce, and she kept me updated on her activities and communications on a regular basis.

31. In order to ensure adequate time for the experts to complete their reviews and analyses, the Trustees sought from JPMorgan extensions of time to respond to the Settlement Offer, which JPMorgan granted. *See* Exs. 037, 038, and 039. The Trustees also sought a further extension until October 1, 2014 regarding certain Covered Trusts and loan groups to allow the

Trustees time to solicit Investor views regarding the Settlement Agreement, which JPMorgan also granted. *See* Ex. 040.

VI. COMMUNICATIONS WITH INVESTORS IN THE WILMINGTON COVERED TRUSTS

32. The Trustees jointly retained Garden City Group (“GCG”) to assist in providing relevant information to Investors in the Covered Trusts. At the Trustees’ direction, GCG established and maintains a publicly available website containing relevant documents, information, and notices concerning the Settlement Agreement (at www.rmbstrusteesettlement.com) (the “Settlement Website”) that the Trustees used to notify Investors in the Covered Trusts, and all other potentially interested parties, about current developments in the evaluation process. The website includes an email address (RMBSsettlement@wilmingtontrust.com) for Investors, and all other potentially interested parties, to contact Wilmington Trust regarding the Settlement Offer. GCG continues to maintain the Settlement Website. *See* Ex. 036.

33. On December 11, 2013, the Trustees together sent a notice to Investors in all Covered Trusts informing them of the Settlement Offer. *See* Ex. 010. That notice provided the address of the Settlement Website, where anyone, including Investors, could view the Settlement Offer. The notice also set forth certain basic terms of the Settlement Offer, including the amount of the cash payment, the release being sought by JPMorgan, and the Acceptance Date by which the Trustees were required to reach a decision to accept or reject the Settlement Offer. The Trustees urged any potentially interested persons to review the Settlement Offer carefully and referred Investors to the Settlement Website for a complete copy of the Settlement Offer’s terms.

34. The notice also informed Investors of an agreement between JPMorgan and the Trustees tolling the statute of limitations associated with the Rep and Warranty Claims and

Servicing Claims, a copy of which was posted to the Settlement Website. *See* Ex. 004. The Trustees also informed Investors that (i) the Trustees intended to retain expert advisors to assist in evaluating the Settlement Offer and (ii) if Investors had any inquiries concerning the Settlement Offer, they should contact the Trustee for the Trust in which the Investor held certificates.

35. On April 29, 2014, the Trustees sent a notice to Investors advising that any Investors that were interested in providing a direction with respect to the Settlement Offer should contact the applicable Trustee prior to May 15, 2014 to verify their holdings and receive a confidential form of direction and indemnity letter. *See* Ex. 011. After sending this notice, Wilmington Trust received multiple inquiries from Investors and other interested parties regarding the Settlement Offer.

36. Throughout the Evaluation Period, the Trustees provided frequent updates to Investors concerning the Trustees' ongoing evaluation of the Settlement Offer, including that the Trustees negotiated several extensions of the Acceptance Date. *See* Exs. 023, 024, and 025. Through October 14, 2014, the Trustees issued twelve separate Investor notices concerning developments relating to the Settlement Offer. *See* Exs. 010, 011, 012, 013, 023, 024, 025, 026, 027, 028, 029, and 030.

37. In each instance that the Trustees prepared a notice to Investors, Wilmington Trust (i) ensured the notice was posted to the Settlement Website; (ii) ensured GCG distributed the notice to The Depository Trust Company as a registered holder of Certificates at lensnotices@dtcc.com (per The Depository Trust Company's standing instructions to Wilmington Trust that all communications be delivered electronically); (iii) had GCG distribute notices for any Investors that did not hold their certificates through The Depository Trust Company; and (iv) mailed copies

of the notice to all holders of record and other parties entitled to receive notices pursuant to the underlying agreements.

VII. COMMUNICATIONS WITH INVESTORS AND INTERESTED PARTIES IN THE WILMINGTON COVERED TRUSTS

38. During the evaluation of the Settlement Offer, various Investors and other interested parties contacted Wilmington Trust concerning the Settlement Offer. Ms. Luce, at my direction, maintained reasonable processes to manage the inflow of communications, including by establishing and maintaining a dedicated email address that was referenced in notices to Investors and available on the Settlement Website (RMBSsettlement@wilmingtontrust.com) and conferring with Alston & Bird concerning the status of communications. Wilmington Trust (directly or through counsel) had communications concerning the Settlement Offer with more than 25 interested parties, including Investors and monoline insurers.⁸ Communications with such interested parties took the form of letters, emails and telephone calls, and in some instances Alston & Bird participated in these communications. Communications with interested parties involved a variety of issues, including timing considerations (such as the deadline to accept the Settlement Agreement), tolling of claims, support or opposition to the Settlement Offer, and, in some cases, the possibility of providing a direction to Wilmington Trust to accept or reject the Settlement Offer as to a particular Wilmington Covered Trust or loan group.

39. In certain instances, Wilmington Trust's communications with Investors and other interested parties culminated in Wilmington Trust declining to accept the Settlement Offer as to certain trusts and loan groups, pursuant to directions from the interested parties. Such trusts and

⁸ In response to a direction from NCUA to deliver a letter to Investors in the BALTA 2006-4 trust, Wilmington Trust issued an additional notice to Investors in that trust. *See* Ex. 292.

loan groups are not included in the Wilmington Accepting Trusts and are not part of this proceeding.

40. In addition, the law firm Quinn Emanuel Urquhart & Sullivan, LLP contacted Wilmington Trust on behalf of a group of Investors that purported to oppose the Settlement Offer (the “QE Investors”). At the request of the QE Investors, Wilmington Trust and its counsel along with other Trustees and their respective counsel attended an in-person meeting on January 29, 2014, with the QE Investors during which Quinn Emanuel attorneys gave a PowerPoint presentation concerning the Settlement Offer. *See* Ex. 217.

41. During the Evaluation Period, Wilmington Trust communicated with Ambac about the Settlement Offer, but not about the BALTA 2006-4 trust, the only Wilmington Accepting Trust to which an objection (from Ambac) remains.

VIII. THE EXPERT REPORTS AND RECOMMENDATIONS

42. Following the completion of his analysis of the issues presented to him, Justice Carpinello provided the Trustees with his initial expert report dated May 5, 2014, and subsequent expert reports dated May 27, 2014, and June 20, 2014 (collectively, the “Carpinello Report”). *See* Exs. 015, 016, and 018. Professor Schwartz provided the Trustees with his expert report dated May 27, 2014 (the “Schwartz Report”). *See* Ex. 017. On behalf of BPA, Jeremy Reifsnyder provided his expert report dated July 12, 2014 (the “Reifsnyder Report”). *See* Ex. 019. On behalf of NERA, Dr. Sabry provided her expert report dated July 17, 2014 (the “Sabry Report”). *See* Ex. 021.

43. Also on July 17, 2014, Professor Fischel provided his initial report (the “Fischel Report”), which considered and discussed the findings of the Carpinello Report, Schwartz Report, and Reifsnyder Report. *See* Ex. 020. In the Fischel Report, Professor Fischel provided

recommendations to either accept or reject the Settlement Offer with respect to each of the Covered Trusts, including the Wilmington Covered Trusts. *See* Ex. 020, Exs. B-C.

44. In his report, Professor Fischel explained his criteria for determining whether he would recommend acceptance or rejection of the Settlement Agreement as to a Covered Trust. Specifically, Professor Fischel stated that he would recommend rejecting the Settlement Agreement only if: (i) the holders of a substantial proportion of the Covered Trust's certificates have expressed opposition to accepting the Settlement Agreement for that Covered Trust and their holdings exceed those of Investors who support the Settlement Agreement; (ii) there is an indication that the "Expected Recovery" would be greater than the value of the "Settlement Consideration" (as defined in the Fischel Report); and (iii) the Covered Trust's claims that are released by the Settlement Agreement, other than those related to servicing, are not likely to be barred by the applicable statute of limitations or there is an indication that the Covered Trust's recovery on Servicing Claims would exceed the Settlement Consideration. *See* Ex. 020, ¶ 96.

45. Professor Fischel made clear, however, that, even if all three circumstances were present, Wilmington Trust should only reject the Settlement Offer as to a given Wilmington Covered Trust if there were Investors willing to direct litigation (as an alternative to accepting the Settlement Offer): "[B]efore a Trustee rejects the Settlement Offer for any Trust, the Trustee needs to be confident there is a group of Certificateholders who are willing and able to direct and indemnify the Trustee to complete the investigation and litigation that would likely be necessary to pursue claims against JPM[organ]." *See* Ex. 020, ¶ 139.

46. Applying these criteria, Professor Fischel recommended that Wilmington Trust accept the Settlement Agreement on behalf of certain Wilmington Covered Trusts. *See* Ex. 020, Ex. T.

47. On July 26, 2014, Fischel provided a supplemental expert report, which analyzed the criteria discussed in the Fischel Report on a loan group-by-loan group basis (to the extent loan groups existed in a Covered Trust) (the “Supplemental Fischel Report,” and with the Fischel Report, the “Fischel Reports”). *See* Ex. 022. Applying these criteria, Professor Fischel recommended that Wilmington Trust accept the Settlement Offer on behalf of loan groups in certain Wilmington Covered Trusts. *See id.*, Ex. F.

IX. WILMINGTON TRUST RELIED UPON THE EXPERTS IN ACCEPTING THE SETTLEMENT AGREEMENT ON BEHALF OF THE WILMINGTON ACCEPTING TRUSTS

48. Throughout the Evaluation Period, Ms. Luce, along with counsel, provided formal and informal updates to me and other Wilmington Trust personnel, including updates on the experts’ progress and communications with Investors and interested parties concerning the Settlement Offer. After the experts delivered their reports, I reviewed the Fischel Reports, the Reifsnnyder Report, and the Sabry Report (collectively, the “Primary Expert Reports”), and the Committee (as defined below) was also provided copies of the Primary Expert Reports. *See* Ex. 289. I believe that each of the Primary Expert Reports reflected a careful and considered analysis of the matters described therein and appeared reasonable. I did not hear any disagreement with this assessment from any other members of the Committee (as defined below).

49. On July 30, 2014, Wilmington Trust’s Settlement Committee (“Committee”) held an in-person meeting in Wilmington, Delaware to discuss the Primary Expert Reports and consider whether to accept the Settlement Offer on behalf of individual trusts and loan groups. Most of the Committee attended in person, though some members participated by phone.

50. The Committee was comprised of the following members: (i) Jennifer Luce, VP in the ABS Unit of Structured Products; (ii) Roseline Maney, Administrative VP and Section Manager of Structured Products; (iii) Steven Cimalore, VP in Global Capital Markets; (iv) Robert

Fiedler, internal Legal Counsel; (v) Garry Hills, Operations/Risk Business Process Manager; and (vi) myself.

51. The day of our formal meeting, Ms. Luce circulated an agenda and worksheet to track our decisions. *See* Ex. 288.

52. Prior to the July 30, 2014 meeting, each of the Committee members received a binder of materials to consider in connection with the evaluation. The binder included: (i) the Settlement Offer; (ii) the modified Settlement Agreement; (iii) the Primary Expert Reports; (v) the notices that the Trustees had posted to the Settlement Website as of the meeting date; and (vi) communications with Ambac (pertaining to Wilmington Covered Trusts other than the BALTA 2006-4 trust). *See* Exs. 289A-H.

53. At the July 30, 2014 meeting, the Committee convened to evaluate, consider, and vote whether to accept or reject the Settlement Agreement on behalf of the trusts and/or loan groups in the Wilmington Covered Trusts. The Committee considered the Settlement Agreement, the Primary Expert Reports, communications from Investors, and communications from other interested parties, including Ambac (which directed Wilmington Trust to reject the Settlement Agreement on behalf of three Wilmington Covered Trusts and a loan group in a fourth Wilmington Covered Trust but provided no direction as to the BALTA 2006-4 trust). Among the Primary Expert Reports, the Committee focused particularly on Professor Fischel's recommendations for each trust and/or loan group in the Wilmington Covered Trusts.

54. After review and consideration of the recommendations of the Trustees' experts and other factors, including the benefits and risks of accepting or rejecting the Settlement Agreement and directions from Investors and other interested parties, the Committee unanimously determined that Wilmington Trust should reject the Settlement Agreement for each Wilmington

Covered Trust and loan group for which it had received and accepted a direction appropriate under the applicable governing agreements to reject the Settlement Agreement. As to the remaining Wilmington Covered Trusts and loan groups, the Committee agreed that Wilmington Trust should either accept the Settlement Agreement (in accordance with Professor Fischel's recommendations) or seek an extension of the Acceptance Date. Specifically, the Committee determined that Wilmington Trust should seek an extension for Wilmington Covered Trusts and loan groups for which (1) Professor Fischel had recommended the Settlement Offer be rejected but for which Wilmington Trust had not received appropriate direction to pursue litigation against JPMorgan, or (2) Professor Fischel had recommended the Settlement Offer be accepted but for which Investors were then discussing with Wilmington Trust providing an appropriate direction to litigate.

55. Ms. Luce circulated an updated version of the working spreadsheet after our meeting, which I received. *See* Ex. 290.

56. On August 1, 2014, I executed the Settlement Agreement on behalf of Wilmington Trust, thereby memorializing its acceptance of the Settlement Agreement on behalf of the enumerated Wilmington Covered Trusts and loan groups (the "August Accepting Trusts"). *See* Ex. 003.

57. Later that day, the Trustees posted a notice to the Settlement Website, informing Investors and all other interested parties that the Trustees had accepted the Settlement Agreement on behalf of certain Covered Trusts, including Wilmington Trust on behalf of the August Accepting Trusts. *See* Ex. 012.

58. In his report, Professor Fischel had recommended that Wilmington Trust accept the Settlement Agreement in respect of the BALTA 2006-4 trust, the only Wilmington Accepting Trust to which an objection is pending. In light of Professor Fischel's recommendation (and the

fact that it had not received a direction, from Ambac or anyone else, to litigate claims against JPMorgan), Wilmington Trust accepted the Settlement Agreement in respect of the BALTA 2006-4 trust on August 1, 2014, and it was among the August Accepting Trusts.

X. SOLICITATION OF INVESTORS IN CERTAIN TRUSTS AND LOAN GROUPS

59. On July 31, 2014, JPMorgan agreed to the Extended Acceptance Date with respect to 13 Wilmington Covered Trusts and loan groups (the “Extended Acceptance Date Trusts”) to permit Wilmington Trust additional time to consider whether to accept the Settlement Agreement. (I understand that JPMorgan also agreed to the Extended Acceptance Date for certain trusts for which Wilmington Trust is not the trustee.) Wilmington Trust utilized this additional time, among other things, to determine whether Investors were prepared to provide directions under the terms of the applicable governing agreements not to accept the Settlement Agreement and instead pursue litigation.

60. On or about August 18, 2014, Wilmington Trust sent a notice to Investors in the Extended Acceptance Date Trusts to request that any Investors who wished to direct Wilmington Trust to accept or reject the Settlement Agreement complete an attached direction and indemnity form. *See* Ex. 295 (attaching true and correct copies of the notices as sent).

61. On October 1, 2014, Wilmington Trust accepted the Settlement Agreement, subject to judicial approval, as to eight additional Wilmington Covered Trusts and loan groups (the “October Accepting Trusts”) based on the recommendations of Professor Fischel and the lack of directions under the terms of the applicable governing agreements to reject the Settlement Offer. *See* Ex. 003. Wilmington Trust did not accept the Settlement Agreement as to the remaining five Extended Acceptance Date Trusts and loan groups, based on appropriate directions received from Investors.

62. For each of Wilmington Trust's October Accepting Trusts, Professor Fischel had either recommended accepting the Settlement Agreement or conditioned his recommendation to reject the Settlement Agreement on Wilmington Trust determining that sufficient Investors were willing to support litigating the Rep and Warranty Claims and/or the Servicing Claims. No Investor gave Wilmington Trust a direction under the terms of the applicable governing agreements to reject the Settlement Agreement in favor of litigation on behalf of any of the October Accepting Trusts.

63. Also on October 1, 2014, the Trustees provided a notice informing Investors of their determination to accept the Settlement Agreement as to additional Covered Trusts (including the Wilmington Trust's Extended Date Accepting Trusts) and posted a copy of the that notice on the Settlement Website where it remains available for review. *See* Ex. 030. Exhibit A to that notice identified the additional Covered Trusts, including the Extended Date Accepting Trusts, for which the Trustees had accepted the Settlement.

XI. NOTICE TO INVESTORS OF ACCEPTANCE OF THE SETTLEMENT AGREEMENT

64. On August 3, 2014, the Trustees, by and through their counsel, filed a petition with this Court seeking an order, pursuant to CPLR 7701, regarding the Trustees' action in evaluating and accepting the Settlement Agreement (the "Article 77 Proceeding"), subject to judicial approval.

65. On October 2, 2014, the Trustees filed the Amended Petition, to include Wilmington Trust's October Accepting Trusts and the other Covered Trusts on behalf of which the Settlement Agreement had been accepted since August 1, 2014, in the Trustees' request for relief. *See* Ex. 001.

66. I have read the Amended Petition. The contents of the Amended Petition with respect to Wilmington Trust are true to my own knowledge, except as to those matters therein stated to be alleged upon information and belief, and as to those matters I believe them to be true.

67. The Court entered an Interim Decision and Order on Order to Show Cause on August 18, 2014, NYSCEF Doc. No. 40, setting forth a comprehensive program to provide notice to Investors in the Accepting Trusts as of August 1, 2014, of the Article 77 Proceeding and the Trustees' acceptance of the Settlement Agreement (the "Notice Program"). *See* Ex. 006.

68. On October 10, 2014, the Court entered an Order to Show Cause, NYSCEF Doc. No. 68, setting forth a similar notice program for Investors the October Accepting Trusts (the "Supplemental Notice Program"). *See* Ex. 007.

69. On Wilmington Trust's behalf, Alston & Bird provided GCG a list of interested parties, including the persons and entities identified in paragraphs 4(a) – (m) of the Affirmation of Robert C. Micheletto dated August 3, 2014, for each of the Wilmington Accepting Trusts, which GCG used to implement the Notice Program and the Supplemental Notice Program. *See* NYSCEF Doc. No. 73 (Affidavit of Jose C. Fraga regarding the Notice Program); *see* NYSCEF Doc. No. 169 (Affidavit of Jose C. Fraga regarding the Notice Program).

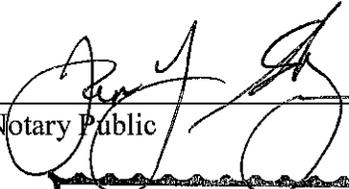
70. Wilmington Trust rendered its decisions on behalf of the Wilmington Accepting Trusts at all times in good faith after conducting a reasonable evaluation of the Settlement Agreement, which included retaining highly qualified experts, relying on the recommendations of those experts, and establishing a broad notice program to inform Investors at each stage of the Wilmington Trust's evaluation process. Wilmington Trust believes that acceptance of the Settlement Agreement is in the best interests of Investors in the Wilmington Accepting Trusts.

Executed: Minneapolis, Minnesota
January 15, 2016



Joseph Nardi

Subscribed and sworn to
before me this 15th day of January 2016



Notary Public

