

At IAS Part 60 of the Supreme Court of the State of New York, held in and for the County of New York, at the Courthouse located at 60 Centre Street, New York, New York on the \_\_\_\_\_ day of \_\_\_\_\_, 2021

**P R E S E N T** : Hon. Marcy S. Friedman, Justice.

In the matter of the application of

WELLS FARGO BANK, NATIONAL ASSOCIATION, 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, HSBC BANK USA, N.A., and DEUTSCHE BANK NATIONAL TRUST COMPANY (as Trustees, Indenture Trustees, Securities Administrators, Paying Agents, and/or Calculation Agents of Certain Residential Mortgage-Backed Securitization Trusts),

Petitioners,

For Judicial Instructions under CPLR Article 77 on the Distribution of a Settlement Payment.

Index No. 657387/2017

**[PROPOSED]  
PARTIAL SEVERANCE  
ORDER AND PARTIAL  
FINAL JUDGMENT  
(BSABS 2007-AC1)**

WHEREAS, the Petitioners identified in the above case caption commenced this proceeding under CPLR Article 77 by filing a petition (NYSCEF No. 1) (the “Petition”) seeking judicial instructions concerning the administration and distribution of a settlement payment (the “Settlement Payment”) for 270 residential mortgage-backed securities trusts identified in Exhibit A to the Petition (the “Settlement Trusts”) under a settlement agreement dated as of November 15, 2013 and modified as of July 29, 2014 (the “Settlement Agreement”); and

WHEREAS, all capitalized terms used and not otherwise defined herein shall have the meanings ascribed to such terms in the Petition; and

WHEREAS, pursuant to the Settlement Agreement, the Settlement Payment is to be apportioned among the Settlement Trusts, including the individual loan groups therein and classes of principal only certificates therein, based on “Allocable Shares” calculated in an expert report filed with the Court at NYSCEF Nos. 178 and 179;<sup>1</sup> and

WHEREAS, by Order to Show Cause dated December 19, 2017 and Interim Order dated December 20, 2017 (collectively, the “December Orders”), the Court authorized and directed the Petitioners to place the Allocable Shares for the Settlement Trusts in escrow; and

WHEREAS, the Court has been advised that the escrow provisions of the December Orders have been complied with and that the Allocable Shares for the Settlement Trusts, plus any investment earnings thereon, are currently invested as directed in the December Orders; and

WHEREAS, under the December Orders, the Court directed the Petitioners to provide notice of this proceeding pursuant to the notice program described in the December Orders (the “Notice Program”), and the Court found that the Notice Program was the best notice practicable, was reasonably calculated to put interested persons on notice of the proceeding, and constituted due and sufficient notice of the proceeding in satisfaction of federal and state due process requirements and other applicable law; and

WHEREAS, this Partial Severance Order and Partial Final Judgment (the “Order”) concerns the following Settlement Trust: BSABS 2007-AC1; and

WHEREAS, the Notice Program directed that interested persons respond to the

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<sup>1</sup> The term “loan pool” as used herein refers to any loan group, loan subgroup, loan pool, loan subpool, or any other applicable grouping, pooling, or other assemblage of loans. Additionally, the term “certificate” as used herein refers to certificates, notes, or other applicable securities.

Petition on or before January 29, 2018, and no interested persons have asserted an interest in BSABS 2007-AC1;

WHEREAS, on February 13, 2020, the Court issued a Decision and Order on the Petition (NYSCEF No. 843) (the “Merits Ruling”) concerning administration and distribution issues (the “Settlement Payment Application Process Issues”) for certain disputed Settlement Trusts; and

WHEREAS, on July 31, 2020, certain petitioners filed a Proposed Procedural Order Concerning Settlements Trusts For Which No Investors Have Appeared (NYSCEF No. 878), to propose a procedure for resolving administration and distribution issues for certain Settlement Trusts including the Subject No Appearance Settlement Trusts; and

WHEREAS, on August 5, 2020, the Court issued a Decision and Order (NYSCEF No. 879) (the “August 5 Order”) on the five trusts for which no investors have appeared in this proceeding<sup>2</sup>, (the “No Appearance Settlement Trusts”), and identified No Appearance Settlement Trusts for which “all the Settlement Payment Application Process issues . . . can be resolved in a manner consistent with the Merits Ruling (the “Proposed Resolved No Appearance Settlement Trusts”) and ordered, among other things, that “with respect to all Proposed Resolved No Appearance Settlement Trusts, the interested petitioner(s) for such Trust shall file on NYSCEF proposed partial severance order(s) and partial final judgment(s), ordering that the allocable share(s) for the applicable No Appearance Settlement Trust(s) be distributed in accordance with the Merits Ruling” and “that any partial severance order and partial final judgment for a Proposed Resolved No Appearance Settlement Trust filed pursuant to this order shall be accompanied by a supporting submission that sets forth the

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<sup>2</sup> The No Appearance Settlement Trusts are: BSABS 2007-AC1, GPMF 2007-HE1, PRIME 2007-3, SACO 2005-WM2, SACO 2006-1.

basis in the Merits Ruling for the proposed distribution of the Settlement Payment and the provisions of the settlement agreement and the governing agreement(s) for the Trust that supports such distribution.”

WHEREAS, the Subject Petitioners informed the Court that, with respect to the No Appearance Settlement Trusts, all of the Settlement Payment Application Process Issues can be resolved in a manner consistent with the Merits Ruling (*see* NYSCEF No. 880), and, as required by the August 5 Order, have contemporaneously filed herewith: (1) a supporting affirmation of Julie R. Landy setting forth “the basis in the Merits Ruling for the proposed distribution of the Settlement Payment [in this Order] and the provisions of the [S]ettlement [A]greement and [G]overning [A]greement . . . that support such distribution,” and (2) a true and correct copy of the Governing Agreement (defined below), as well as the Settlement Agreement; and

WHEREAS, BSABS 2007-AC1 is a No Appearance Settlement Trust and a Proposed Resolved No Appearance Settlement Trust.

WHEREAS, BSABS 2007-AC1 is governed by a Pooling and Serving Agreement, dated as of January 1, 2007 (the “Governing Agreement”), by and among Bear Stearns Asset Backed Securities I LLC, as depositor, and EMC Mortgage Corporation, as seller, master servicer and company. Wells Fargo Bank, National Association (“Wells Fargo”) acts as securities administrator for BSABS 2007-AC1, and U.S. Bank National Association (“U.S. Bank”) acts as trustee (Wells Fargo and U.S. Bank together in such capacities, the “Subject Petitioners”);

WHEREAS, pursuant to the Decision and Order on the Proposed Resolved No Appearance Settlement Trusts, the Subject Petitioners agree and consent to this Partial Severance Order and Partial Final Judgment (the “Order”) which includes an accompanying

submission as requested by the Court and resolves the issues for which judicial instructions were sought concerning the administration and distribution of the Allocable Share for BSABS 2007-AC1 (the “Subject Allocable Share”);

WHEREAS, as used herein, the term “Judgment Entry Date” means the first date on which counsel of record to the parties hereto receive a copy of this Order signed by the Court by email or NYSCEF service, without regard to when the Court actually signs or the Clerk actually enters this Order; and

WHEREAS, the term “Overcollateralization Amount Calculation” is used herein to refer to the terms in the Governing Agreement prescribing that the “overcollateralization amount” is equal to the excess of the aggregate balances of the mortgage loans held by BSABS 2007-AC1 over the aggregate certificate principal balances of certain designated classes of certificates, as more fully defined and described in the applicable Governing Agreement; and

WHEREAS, as used herein the term “Transfer Month” means the first month after the Judgment Entry Date; and

WHEREAS, as used herein, the term “Transfer Target Date” means the fifteenth day of the Transfer Month; and

WHEREAS, as used herein, the term “AS Distribution Date” means the Distribution Date (as that term is defined in the Governing Agreement) for BSABS 2007-AC1 occurring in the Transfer Month, and

NOW, THEREFORE, as contemplated in the August 5 Order, and on the motion of Wells Fargo, as securities administrator for BSABS 2007-AC1, and U.S. Bank, as trustee for BSABS 2007-AC1, it is hereby:

1. ORDERED, ADJUDGED and DECREED that, on or before the Transfer Target

Date, the Subject Petitioners are to (i) cause escrowed assets to be liquidated to cash with a value equal to the Subject Allocable Share plus any investments earnings thereon, and (ii) cause the Subject Allocable Share and investment earnings thereon to be deposited in the distribution account for BSABS 2007-AC1. From the time of the aforescribed deposit, the amount so deposited shall be deemed the Subject Allocable Share for BSABS 2007-AC1 for all purposes under the Settlement Agreement and this Order; and it is further

2. ORDERED, ADJUDGED and DECREED that sums representing investment earnings accrued on the Subject Allocable Share not received at the time escrowed assets are liquidated to cash pursuant to the immediately preceding paragraph (“Trailing Interest”) shall be transferred from U.S. Bank, as trustee for BSABS 2007-AC1, to Wells Fargo, as securities administrator for BSABS 2007-AC1, promptly following U.S. Bank’s receipt of such Trailing Interest, and Wells Fargo shall distribute the Trailing Interest on the Distribution Date for the month the Trailing Interest is transferred so long as such transfer takes place on or before the fifteenth day of the month or, if the Trailing Interest is transferred after the fifteenth day of the month, Wells Fargo shall distribute the Trailing Interest on the Distribution Date for the immediately following month. Any Trailing Interest shall be deemed a Subject Allocable Share for BSABS 2007-AC1 on whose Allocable Share such Trailing Interest was accrued, and any Trailing Interest shall be administered and distributed as a Subject Allocable Share subject to the terms of the Settlement Agreement and this Order; and it is further

3. ORDERED, ADJUDGED and DECREED that Wells Fargo, as securities administrator for BSABS 2007-AC1, shall distribute the Subject Allocable Share to certificateholders of BSABS 2007-AC1 on the AS Distribution Date; and it is further

4. ORDERED, ADJUDGED and DECREED that in administering and distributing the Subject Allocable Share for BSABS 2007-AC1, Wells Fargo, as securities administrator for BSABS 2007-AC1, (i) shall first distribute the Subject Allocable Share to certificateholders based on certificate principal balances that have not been adjusted by the Settlement Payment Write-Up, and after such distribution, (ii) shall then increase the applicable certificate balances by the amount of the Settlement Payment Write-Up or a portion thereof in a manner consistent with this Order; and it is further

5. ORDERED, ADJUDGED and DECREED that in administering and distributing the Subject Allocable Share for BSABS 2007-AC1, Wells Fargo, as securities administrator for BSABS 2007-AC1, shall increase the certificate principal balances of the applicable classes of certificates in the amount of the Settlement Payment Write-Up in accordance with the Settlement Agreement Write-Up Instruction in a manner that causes all classes of certificates with outstanding unpaid realized losses to be eligible to be increased by the amount of the Settlement Payment Write-Up under the same order and priority scheme provided for in Settlement Agreement (without regard to any language in the Governing Agreement that could be construed as rendering any classes of certificates ineligible to be increased by the Settlement Payment Write-Up); and it is further

6. ORDERED, ADJUDGED and DECREED that in administering and distributing the Subject Allocable Share for BSABS 2007-AC1, Wells Fargo, as securities administrator for BSABS 2007-AC1, shall not give effect to any temporary Overcollateralization Amount Calculation that occurs as a result of the distribution of the Settlement Payment; and it is further

7. ORDERED, ADJUDGED and DECREED that in administering and distributing the Subject Allocable Share for BSABS 2007-AC1, Wells Fargo, as securities administrator for

BSABS 2007-AC1, shall allocate the Settlement Payment Write-Up to the Certificates in the reverse order of previously allocated realized losses, as set forth in Paragraph 3.06(b) of the Settlement Agreement; and it is further

8. ORDERED, ADJUDGED and DECREED that any aspects of the administration and distribution of the Subject Allocable Share not expressly addressed in this Order shall be performed as provided for in the Governing Agreement and the Settlement Agreement; and it is further

9. ORDERED, ADJUDGED and DECREED that this Order is not applicable to, and shall be without prejudice to and shall have no precedential effect on, (i) any argument of any party concerning the appropriate administration and distribution of the Settlement Payment where there is a dispute among the parties regarding how the Settlement Payment should be administered and distributed; (ii) the Settlement Trusts for which no investors have appeared in this proceeding or any trust, indenture, or other securitization other than BSABS 2007-AC1, or (iii) any applications to certificate balances (*e.g.*, write-ups) or distributions of payments or funds other than the Subject Allocable Share; and it is further

10. ORDERED, ADJUDGED and DECREED that certificateholders, noteholders, and any other parties claiming rights or interests in BSABS 2007-AC1 are barred from asserting claims against any of the Subject Petitioners with respect to any conduct taken to implement and comply with the terms of this Order and with respect to such Subject Petitioners' administration and distribution of the Settlement Payment with respect to BSABS 2007-AC1, so long as such conduct is performed in accordance with the terms of this Order; and it is further

11. ORDERED, ADJUDGED and DECREED that upon the occurrence of the Judgment Entry Date, Subject Petitioners shall promptly post a copy of this Order, bearing the Court's

signature, on <http://rmbtrusteesettlement.com/>, the website established by Petitioners; and it is further

12. ORDERED that the Clerk of New York County be, and he hereby is, directed to enter this Order forthwith and without delay.

Dated: New York, New York

\_\_\_\_\_, 2021

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Hon. Marcy Friedman. J.S.C.

Judgment signed and entered this \_\_\_\_\_ day of \_\_\_\_\_ 2020.

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Clerk of New York County