

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 60

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In the matter of the application of

INDEX NO. 657387/2017

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

MOTION DATE n/a

MOTION SEQ. NO. n/a

DECISION AND ORDER

Petitioners,

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

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HON. MARCY S. FRIEDMAN:

The court is in receipt of the Notice Of Proposed Procedural Order Concerning Settlement Trusts For Which No Investors Have Appeared (5 trusts) (NYSCEF Doc. No. 877) and Proposed Procedural Order Concerning Settlement Trusts For Which No Investors Have Appeared (5 trusts) (NYSCEF Doc. No. 878), both filed on July 31, 2020 by petitioners U.S. Bank National Association, Wells Fargo Bank, National Association, and Wilmington Trust, National Association. The Proposed Order sets forth a procedure for addressing issues concerning five trusts for which no investors have appeared in this proceeding, BSABS 2007-AC1, GPMF 2007-HE1, PRIME 2007-3, SACO 2005-WM2, and SACO 2006-1 (No Appearance Settlement Trusts)—namely, application of this court’s February 13, 2020 Decision and Order determining this Article 77 proceeding (Merits Ruling) (NYSCEF Doc. No. 843) to the administration and distribution of the Settlement Payment to those Trusts.¹

The Proposed Order makes a distinction between, and proposes different procedures for, (i) No Appearance Settlement Trusts for which “all of the Settlement Payment Application

¹ The terms Settlement Payment and Settlement Trusts have the same meaning as in the Merits Ruling.

Process Issues . . . can be resolved in a manner consistent with the Merits Ruling” (Proposed Resolved No Appearance Settlement Trusts); and (ii) No Appearance Settlement Trusts for which “one or more of the Settlement Payment Application Process issues . . . is not sufficiently addressed in the Merits Ruling or requires further guidance from the Court” (Proposed Unresolved No Appearance Settlement Trusts). (Proposed Order, ¶¶ 1-2.)

The court requires further information as to the proposal and accordingly declines to approve the Proposed Order.

It is hereby ORDERED that the interested petitioners shall appear at a conference on August 25, 2020 at 2:00 p.m. to address the Proposed Unresolved No Appearance Settlement Trusts; and it is further

ORDERED that on or before August 20, 2020, the interested petitioners shall provide a joint letter submission to the court, addressed to the Proposed Unresolved No Appearance Settlement Trusts, which shall: (i) identify the alleged Proposed Unresolved No Appearance Settlement Trusts, (ii) concisely identify each issue with respect to such Trusts that the interested petitioners contend is not sufficiently addressed by the Merits Ruling or requires further judicial instruction, and (iii) identify any portion of the Merits Ruling that relates or may relate to the issues identified. The submission shall be filed on NYSCEF and shall not exceed 10 double-spaced pages; and it is further

ORDERED that with respect to all Proposed Resolved No Appearance Settlement Trusts, the interested petitioner(s) for such Trust(s) 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 it is further

ORDERED 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 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 support such distribution. The submission shall be filed on NYSCEF and shall not exceed 10 double-spaced pages. The relevant agreements shall be filed as exhibits.

Nothing in this order shall be construed as modifying or affecting any prior order in this proceeding. Nothing in this order shall be construed as holding that the Merits Ruling did not fully resolve all issues that were raised by the Petition in this proceeding or all issues applicable to all Settlement Trusts including the No Appearance Settlement Trusts.

This constitutes the decision and order of the court.

Dated: New York, New York
August 4, 2020


MARCY S. FRIEDMAN, J.S.C.

The August 25, 2020 conference to address the Proposed Unresolved No Appearance Settlement Trusts will be conducted virtually via Skype for Business. In order to set up the virtual conference, the court’s IT department requires a list of email addresses for all participants. Interested petitioners shall submit a single joint list of all anticipated participants to the Part 60 email by August 21, 2020.

Additional information concerning virtual court appearances may be located in the “Public Users” section at <https://portal.nycourts.gov>.

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CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input type="checkbox"/>	NON-FINAL DISPOSITION
	<input type="checkbox"/>	GRANTED	<input type="checkbox"/> DENIED	<input checked="" type="checkbox"/> OTHER
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	SUBMIT ORDER
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	FIDUCIARY APPOINTMENT
				<input type="checkbox"/> REFERENCE