

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

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 Administration and Distribution of a
Settlement Payment.

Index No. 657387/2017

**NOTICE OF [PROPOSED]
PARTIAL SEVERANCE
ORDER AND PARTIAL
FINAL JUDGMENT**

(SACO 2005-9)

TO THE HONORABLE MELISSA ANNE CRANE:

In the Court's February 13, 2020 Decision and Order (the "Merits Ruling"), which has now been affirmed by the First Department, Appellate Division, the Court ordered, among other things, that "as to any Settlement Trust in which all interested respondents are able, after the issuance of this decision and in consultation with the Trustees, to resolve a dispute as to any issue that is the subject of this proceeding, they may do so independent of the court's ultimate determination as to how such issue should be resolved among parties that continue to dispute the issue." NYSCEF No. 843.

Consistent with the foregoing, (i) D. E. Shaw Refraction Portfolios L.L.C. ("DES"); (ii) U.S. Bank National Association ("U.S. Bank"), solely in its capacity as NIM trustee ("U.S. Bank

as NIM Trustee”)¹; (iii) Nover Ventures, LLC (“Nover”); and (iv) the Institutional Investors² respectfully submit a [Proposed] Partial Severance Order and Partial Final Judgment (the “Proposed Order”) concerning the administration and distribution of the allocable share of the settlement payment for SACO 2005-9 (the “Undisputed Trust,” and the allocable share for the Undisputed Trust, the “Subject Allocable Share”), as set forth in the Proposed Order attached as Exhibit A. The Undisputed Trust has not been the subject of any previous proposed severance orders presented to the Court in this proceeding. As fully set forth in the Proposed Order, DES, U.S. Bank as NIM Trustee, Nover, and the Institutional Investors are the only parties claiming an interest in the Trust with standing to appear with respect to the Trust, and respectfully request the Court to enter the Proposed Order, which calls for the distribution of the Subject Allocable Share in a manner consistent with the Merits Ruling. As there is no triable issue of fact as to the Undisputed Trust or the entry of this judgment, DES, U.S. Bank as NIM Trustee, Nover, and the Institutional Investors request that the judgment be entered without further delay so that the Subject Allocable Share, which exceeds \$16,358,996, can be paid promptly.

The parties have conferred with the trustee for the Undisputed Trust, U.S. Bank. U.S. Bank, in its capacity as trustee, takes no position concerning whether the Court should enter the Proposed Order, but has confirmed that it can implement the Proposed Order if entered.

¹ As more fully set forth in footnote 1 of the Proposed Order, (i) U.S. Bank as NIM Trustee submits the Proposed Order at the direction of Poetic Holdings VI LLC, Poetic Holdings VII LLC, and Prophet Mortgage Opportunities LP pursuant to a direction and indemnity agreement, and (ii) U.S. Bank’s capacity in its role as NIM Trustee is separate and distinct from U.S. Bank’s capacity in its role as Trustee of the Undisputed Trust.

² All references to the “Institutional Investors” include each and every one of the sixteen institutions identified in the Institutional Investors’ Notice of Appearance (NYSCEF No. 135).

Dated: New York, NY
January 21, 2022

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its capacity as Trustee of the BSSP 2005-32N NIM
Trust*