

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),

Petitioners,

for an order, pursuant to CPLR § 7701, seeking judicial instruction.

Motion No. 002

Index No. 652382/2014

**NOTICE OF PETITION
TO INTERVENE
AS CO-PETITIONERS**

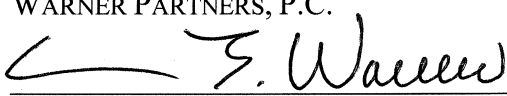
Assigned to: Friedman, J.

PLEASE TAKE NOTICE that upon the affirmation of Kenneth E. Warner, Esq., affirmed August 5, 2014, the affidavit of Kathy D. Patrick, Esq., sworn to August 4, 2014, the Petition in Support of Intervention as Co-Petitioners herein dated August 5, 2014, the accompanying Memorandum of Law dated August 5, 2014, the Petition of the Trustees that commenced this proceeding, the proposed Order granting intervention and upon all of the pleadings and proceedings heretofore had herein, the proposed intervenors, the "Institutional Investors" identified *infra*, will move this Court, by their undersigned attorneys, at the Motion Submission Part thereof, Room 130, located at 60 Centre Street, New York, New York, on August 13, 2014 at 9:30 a.m., or as soon thereafter as counsel may be heard, pursuant to CPLR 401, 1012, and 1013, for an Order permitting AEGON USA Investment Management, LLC, Bayerische Landesbank, BlackRock Financial Management, Inc., Cascade Investment, LLC, the Federal Home Loan Bank of Atlanta, the Federal Home Loan Mortgage Corporation (Freddie Mac), the Federal National Mortgage Association (Fannie Mae), 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-Wurtemberg, Metropolitan Life Insurance Company, Pacific Investment Management Company LLC, Sealink Funding Limited, Teachers Insurance and Annuity Association of America, The Prudential Insurance Company of America, the TCW Group, Inc., Thrivent Financial for Lutherans, and Western Asset Management Company (each for themselves and, to the extent applicable, as investment managers of funds and accounts, and collectively, the "Institutional Investors") to intervene as co-petitioners in the above-captioned proceeding, directing that the Institutional Investors be added as petitioners, directing that the Trustees' Petition and the caption of this proceeding be amended by adding the Institutional Investors as intervenor petitioners, and granting such other and further relief as may be just, proper, and equitable.

PLEASE TAKE FURTHER NOTICE that pursuant to CPLR 403(b), answering papers, if any, must be served upon the undersigned no later than two (2) days prior to the return date of this motion.

Dated: New York, New York
August 5, 2014

By: 
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Attorneys for Proposed Intervenors

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),

Petitioners,

for an order, pursuant to CPLR § 7701, seeking judicial instruction.

Motion No. 002

Index No. 652382/2014

**PETITION TO INTERVENE
AS CO-PETITIONERS TO
SUPPORT SETTLEMENT**

Assigned to: Friedman, J.

Proposed intervenors, the “Institutional Investors” (as hereinafter defined), by and through their attorneys, Warner Partners, P.C., submit this Petition to Intervene, pursuant to CPLR 401, 1012, and 1013, and respectfully allege as follows:

1. This Petition to Intervene is filed by 20 institutional investors in, and investment managers for holders of, residential mortgage backed securities sponsored by JPMorgan Chase & Co. and certain of its direct and indirect subsidiaries (the “JPM RMBS”). The petitioners on this application are: (1) AEGON USA Investment Management, LLC, (2) Bayerische Landesbank, (3) BlackRock Financial Management, Inc., (4) Cascade Investment, LLC, (5) the Federal Home Loan Bank of Atlanta, (6) the Federal Home Loan Mortgage Corporation (Freddie Mac), (7) the Federal National Mortgage Association (Fannie Mae), (8) Goldman Sachs Asset Management L.P., (9) Voya Investment Management LLC (f/k/a ING Investment Management LLC), (10) Invesco Advisers, Inc., (11) Kore Advisors, L.P., (12) Landesbank Baden-Wuerttemberg, (13) Metropolitan Life Insurance Company, (14) Pacific Investment Management Company LLC, (15) Sealink Funding Limited, (16) Teachers Insurance and

Annuity Association of America, (17) The Prudential Insurance Company of America, (18) the TCW Group, Inc., (19) Thrivent Financial for Lutherans, and (20) Western Asset Management Company (each for themselves and, to the extent applicable, as investment managers of funds and accounts; collectively, the “Institutional Investors”). They seek to intervene in this proceeding to support the settlement of repurchase and servicing claims (the “Settlement”) that is the subject of the Article 77 Petition filed by multiple Trustees (collectively, the “Trustees”). The Trustees are acting for JPM RMBS trusts that issued such securities and on whose behalf the Settlement is being accepted, subject to this Article 77 proceeding (the “Accepting Trusts”). The Settlement is embodied in a written agreement dated July 30, 2014 (the “Settlement Agreement”).

2. On August 4, 2014, the Trustees, solely in their capacity as trustees of the Accepting Trusts, petitioned this Court pursuant to CPLR 7701 for judicial instructions and acceptance of their exercise of discretion in entering into the Settlement Agreement on behalf of the Accepting Trusts (Doc. No. 1). The Accepting Trusts are identified in Exhibit A to the Trustees’ Petition.

2. The genesis of the Settlement was a binding offer agreement (the “Binding Offer”) the Institutional Investors, represented by their attorneys, Gibbs & Bruns LLP, negotiated with JPMorgan Chase & Co. and certain of its direct and indirect subsidiaries (collectively, “JPMorgan”).¹ Under the Binding Offer, JPMorgan was obligated to offer the Trustees \$4.5 billion in cash plus mortgage servicing improvements in exchange for a release of

¹ Application is being separately made for the *pro hac vice* admission in this proceeding of three attorneys from Gibbs & Bruns – Kathy D. Patrick, Esq., Robert J. Madden, Esq. and David Sheeren, Esq. – to serve as co-counsel for the Institutional Investors with Warner Partners, P.C.

the Trustees' mortgage repurchase and servicing claims associated with JPM RMBS Trusts.² JPMorgan tendered its Binding Offer to the Trustees in November 2013. *See* Petition at ¶ 1, *In re U.S. Bank National Ass'n., et al.*, in this matter. With the assistance of various financial and legal experts, the Trustees evaluated the offer for eight and one half months. *Id.* at ¶¶ 3-4. The Trustees then accepted, with certain changes, the foregoing offer on behalf of the Accepting Trusts and filed this Article 77 Proceeding "seeking judicial instructions and approval of their acceptance of the settlement offer on behalf of the Accepting Trusts." *Id.* at ¶ 4.

3. The Institutional Investors are significantly affected by the Trustees' action seeking approval of the Settlement. They and their clients are some of the nation's largest holders of the JPM RMBS issued by the Accepting Trusts, in aggregate representing the investment of billions of dollars and over 32% of the securities issued by the Accepting Trusts.

4. The Trustees consent to this intervention, having stated in their Petition that they "consent to timely appearances or motions to intervene filed by any investor with current holdings in any of the Accepting Trusts." Trustees' Petition at ¶ 29.

5. The Accepting Trusts each resulted from residential mortgage-backed securitizations between 2005 and 2007. The great majority of the Accepting Trusts are evidenced by separate contracts known as Pooling and Servicing Agreements ("PSAs"). The remainder are evidenced by Indentures and related Sale and Servicing Agreements ("SSAs"). The PSAs, Indentures, and SSAs are collectively referred to herein as the "Governing Agreements."

6. The Settlement Agreement is attached as Exhibit B to the Trustees' Article 77 Petition. If the Trustees' exercise of discretion in entering into the Settlement Agreement is approved by the Court, the Settlement would require JPMorgan to pay into the Accepting Trusts

² The Binding Offer agreement has been publicly available since November of 2013 on the website rmbstrusteessettlement.com.

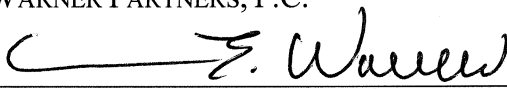
(as specified in the Settlement Agreement) amounts allocated pursuant to the waterfall in the Governing Agreements, based upon an agreed-upon methodology. The Settlement Agreement also requires JPMorgan to implement, among other things, a series of servicing protocols and improvements designed to more effectively service all performing and non-performing loans.

7. The Institutional Investors have evaluated this Settlement against the alternative to settlement; they believe it represents fair and reasonable compensation for the claims at issue and should be approved swiftly, so that the Settlement amount can be paid and the Settlement's servicing benefits implemented. Confirmation of the Settlement affords investors certainty, and billions of dollars of value, for claims where recovery through litigation would otherwise be lengthy, hotly contested, uncertain, and expensive.

WHEREFORE, the Institutional Investors respectfully request that this Court permit them to intervene as co-petitioners as requested herein in support of the relief requested in the Trustees' Petition, with a direction that the caption be amended accordingly.

Dated: New York, New York
August 5, 2014

WARNER PARTNERS, P.C.

By: 
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