Exhibit G

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

In the matter of the application of THE BANK OF NEW YORK MELLON, (as Trustee under various Pooling and Servicing Agreements and Indenture Trustee under various Indentures), BlackRock Financial Management Inc. (intervenor), Kore Advisors, L.P. (intervenor), Maiden Lane, LLC (intervenor), Maiden Lane II, LLC (intervenor), Maiden Lane III, LLC (intervenor), Metropolitan Life Insurance Company (intervenor), Trust Company of the West and affiliated companies controlled by The TCW Group, Inc. (intervenor), Neuberger Berman Europe Limited (intervenor), Pacific Investment Management Company LLC (intervenor), Goldman Sachs Asset Management, L.P. (intervenor), Teachers Insurance and Annuity Association of America (intervenor), Invesco Advisers, Inc. (intervenor), Thrivent Financial for Lutherans (intervenor), Landesbank Baden-Wuerttemberg (intervenor), LBBW Asset Management (Ireland) plc, Dublin (intervenor), ING Bank fsb (intervenor), ING Capital LLC (intervenor), ING Investment Management LLC (intervenor), New York Life Investment Management LLC (intervenor), Nationwide Mutual Insurance Company and its affiliated companies (intervenor), AEGON USA Investment Management LLC, authorized signatory for Transamerica Life Insurance Company, AEGON Financial Assurance Ireland Limited, Transamerica Life International (Bermuda) Ltd., Monumental Life Insurance Company, Transamerica Advisors Life Insurance Company, AEGON Global Institutional Markets, plc, LIICA Re II, Inc., Pine Falls Re, Inc., Transamerica Financial Life Insurance Company, Stonebridge Life Insurance Company, and Western Reserve Life Assurance Co. of Ohio (intervenor), Federal Home Loan Bank of Atlanta (intervenor), Bayerische Landesbank (intervenor), Prudential Investment Management, Inc. (intervenor), and Western Asset Management Company (intervenor), Petitioners, for an order pursuant to CPLR § 7701 seeking judicial instructions and approval of a proposed settlement.	Index No. 651786/2011 Assigned to: Kapnick, J. **AMENDED VERIFIED PLEADING IN INTERVENTION**

For his amended pleading in intervention pursuant to CPLR 401, 1012, 1013, and 1014, Respondent the People of the State of New York by ERIC T. SCHNEIDERMAN, Attorney General of the State of New York, states and alleges upon information and belief as follows:

INTRODUCTION

1. In this proceeding under CPLR Article 77, Bank of New York Mellon ("BNYM," or "the Trustee"), the trustee for 530 New York trusts ("the Trusts")

comprising hundreds of billions of dollars in residential mortgage-backed securities, seeks the Court's approval of a sweeping settlement of claims against the creators of those trusts, Countrywide Home Loans, Inc. and Countrywide Financial Corporation (collectively "Countrywide") and the servicers of the trusts, Bank of America ("BoA") or affiliated entities.[1]

2. The claims at issue arise from a massive collapse in value of the mortgage loans held by the trusts. This collapse resulted from widespread misconduct both in the origination of mortgage loans and in the creation and administration of the Trusts, all causing grave harm to borrowers, investors and to the integrity of the securities marketplace.

3. The New York State Attorney General intervenes pursuant to his statutory and common-law authority to safeguard the welfare of New Yorkers and the integrity of the securities marketplace. Thus, while the other investors that have or may become parties to this proceeding stand only for their own interests, the Attorney General by law is charged to protect the interests of all New York investors and the marketplace more broadly.

4. The facts presently available raise serious questions about the fairness and adequacy of the proposed settlement, as to both matters of procedure and substance. As to procedure, the trustee's duty to negotiate the settlement in the best interests of investors in the trusts has been impaired because the trustee stands to receive direct financial benefits under the proposed settlement. As to substance, the proposed

[1] On January 11, 2008, BoA agreed to acquire Countrywide Financial Corporation (the parent company of Countrywide Home Loans) in a reverse triangular merger. The transaction closed on July 1, 2008, and on October 6, 2008, BoA announced that Countrywide would transfer all or substantially all of its assets to subsidiaries of BoA.

settlement seeks to compromise investors' claims in exchange for a payment representing a small fraction of the losses suffered and for provisions governing mitigation of losses that are non-binding and may well prove to be illusory.

5. The New York State Attorney General seeks to ensure that a fair and comprehensive resolution of all claims is reached and that no proposed settlement is approved absent adequate participation by all injured parties.

I. BACKGROUND

6. On June 29, 2011, BoA (which bought Countrywide in early 2008) announced a settlement with BNYM, the trustee for numerous trusts created by Countrywide, including the 530 trusts covered by the proposed settlement. On or about the same day, BNYM commenced the instant Article 77 proceeding, seeking "an order, among other things, (i) approving the Settlement, and (ii) declaring that the Settlement is binding on all Trust Beneficiaries and their successors and assigns."[2]

7. In its petition, BNYM describes the proposed settlement as resolving a number of claims against Countrywide and BoA, including:

- Countrywide's failure to comply with its representations and warranties in the governing agreements creating the trusts, known as Pooling and Servicing Agreements or PSAs.
- Countrywide's and BoA's breaches of those agreements' requirements that the servicers maintain adequate mortgage files and correct any deficiencies in those files.
- Countrywide's and BoA's overcharging of fees and other costs for their inadequate recordkeeping and other services.

[2] Trustee Petition at ¶ 16.

8. To resolve these and related claims, the proposed settlement contains three principal elements: a cash payment, changes to loan servicing methods (including loan modification and loss mitigation programs), and provisions regarding the cure of mortgage file deficiencies.[3]

- The cash payment is intended to compensate investors for losses from non-performing loans. BoA and/or Countrywide agree to pay $8.5 billion to investors, allocable among the trusts according to a formula based on the past and estimated future losses suffered by each of the trusts.[4]
- The changes to servicing methods encompass (among other things) a loss-mitigation program authorizing BoA/Countrywide to evaluate individual borrowers' eligibility and suitability for a variety of modification programs or for other remedies in lieu of foreclosure, although these loss-mitigation provisions do not obligate BoA or Countrywide to undertake any specific loan modifications or prescribe any standards according to which loan modifications must be extended.
- The cure provisions propose procedures under which BoA/Countrywide will perform, and BNYM as trustee will monitor, the reconstruction of otherwise deficient mortgage files and restore the rights to collateral underlying the trusts' certificates.

9. As this Court is aware, only 22 investors directly participated or had a role in the negotiation and formation of the proposed settlement. Several groups of investors proposing to intervene as respondents have raised multiple objections to the proposed

[3] Settlement Agreement between Bank of New York Mellon, Bank of America Corporation and others dated June 28, 2011 ("Settlement"), at ¶¶ 3, 5, 6.

[4] Settlement ¶ 3.

settlement's adequacy and the trustee's conflicts of interest in negotiating the proposed settlement.

II. THE INTEREST OF THE NEW YORK STATE ATTORNEY GENERAL

10. The New York State Attorney General has both common-law *parens patriae* and statutory interests in protecting the economic health and well-being of all investors who reside or transact business within the State of New York. *See People ex rel. Spitzer v. Grasso*, 11 N.Y.3d 64, 69 n.4 (2008) ("[C]ourts have held that a state has a quasi-sovereign interest in protecting the integrity of the marketplace."); *State v. 7040 Colonial Road Associates Co.*, 176 Misc. 2d 367, 374 (N.Y. Sup. Ct. 1998) ("[T]he Attorney General is empowered not only to protect the investing public at large from misleading statements and omissions in connection with the sale of securities, but also to seek redress on behalf of individual investors who have been the victims of Martin Act violations."). The Attorney General also has an interest in upholding the integrity, efficacy, and strength of the financial markets of New York State, as well as an interest in upholding the rule of law generally. *See People v. Morris*, 2010 WL 2977151, at *13 (N.Y. Sup. Ct. July 29, 2010) ("State Blue Sky securities acts such as the Martin Act represent considered legislative judgments of individual States to preserve the honesty and therefore investor confidence and the efficacy of the securities and capital markets."). For the same reason, the Attorney General has an interest in the law governing the proper role of New York-chartered trustees.

11. As described below, the facts available to date suggest that the proposed settlement is unfair to trust investors, many of whom are New York residents. Many of these investors have not intervened in this litigation and, indeed, may not even be aware of it.

III. THE PROPOSED SETTLEMENT

12. On the facts currently available, the Attorney General believes that the proposed settlement is both procedurally and substantively flawed.

13. In negotiating the proposed settlement, BNYM labored under a conflict of interest because it stands to receive direct financial benefits under the deal as currently structured. As trustee, BNYM owed and owes a fiduciary duty of undivided loyalty to trust investors, and its direct financial interest in the consummation and approval of the settlement violates that duty of strict loyalty.

14. The proposed settlement advances BNYM's own financial interests most clearly by broadening its rights to indemnification and releases for losses to investors or others. Under the PSAs,[5] Countrywide agreed to indemnify the Trustee for certain claims arising out of the Trustee's duties. (*See* Settlement ¶ 16 & Exhibit C ("sideletter" agreement between Countrywide and BNYM).) But that indemnification has little value at present because, as BNYM concedes in its petition here (Petition ¶¶ 78-81), Countrywide has inadequate resources. A "side letter" appended to the proposed settlement expands the benefit of the PSAs' indemnification provisions by having BoA, now Countrywide's parent company, expressly guarantee the indemnification obligations of Countrywide. In addition, the proposed settlement extends the indemnification to cover BNYM's negotiation and implementation of the terms of the settlement, thus shielding the trustee from significant forms of liability in connection with the formation

[5] All but seventeen of the Trusts used PSAs, with the remainder using indentures and Sales and Servicing Agreements ("SSAs"). The terms relevant to the Settlement are for practical purposes largely similar, and for simplicity's sake this Petition will quote only PSAs. As does the Bank of New York Mellon, this Petition will refer generally to PSAs, indentures and SSAs as "Governing Agreements." In the Matter of the Application of Bank of New York Mellon (as trustee under various Pooling and Servicing Agreements and Indenture Trustee under various Indentures), Petitioner, for an order pursuant to CPLR § 7701, seeking judicial instructions and approval of a proposed settlement, Verified Petition dated June 28, 2011 ("Trustee Petition") at ¶ 2-3.

and implementation of a settlement which seeks to compromise the claims of the investors to whom BNYM owes fiduciary duties. Additionally, the [Proposed] Final Order And Judgment submitted as part of the proposed settlement seeks to release all claims against the Trustee "arising from or in connection with the Trustee's entry into the Settlement."[6]

15. In addition, BNYM devised the proposed settlement without the participation of the vast majority of affected investors, and it seeks expedited approval of the settlement without full disclosure of crucial information. Before filing this proceeding, BNYM negotiated the settlement with only a small group of investors and did not notify or obtain any input from other investors until the terms of the proposed settlement had already been finalized. Moreover, in an attempt to obtain swift approval of the proposed settlement, BNYM has insisted that this Court evaluate the settlement under an improperly narrow standard of review, and it has consistently refused to divulge critical information about the settlement to other investors, including settlement communications, loan files, and legal advice concerning the settlement.

16. As to the substance of the proposed settlement, the proposed cash payment represents only a tiny percentage of the losses investors have faced and will continue to face. The proposed $8.5 billion payment is dwarfed by the alleged $242 billion in unpaid principal balances that Countrywide may be required to repurchase under the PSAs. On its face, the attempt to compromise investors' claims for a few pennies on the dollar

[6] Settlement Ex. B ¶ (p); *see also id.* ¶ (s) ("None of the Bank of America Parties, the Countrywide Parties, the Institutional Investors, or the Trustee shall have any liability (including under any indemnification obligation provided for in any Governing Agreement, including as clarified by the side-letter that is Exhibit C to the Settlement Agreement) to each other, the Trust Beneficiaries, the Covered Trusts, or any other Person arising out of the determination, administration, or distribution (including distribution within each Covered Trust) of the Allocable Shares pursuant to the Settlement or incurred by reason of any tax consequences of the Settlement.").

raises serious concerns, issues which this Court should fully explore in evaluating the proposed settlement.

17. Given these considerations, the value of any non-monetary consideration is a crucial element in evaluating the proposed settlement's fairness. Here, the Attorney General believes that the proposed settlement's purported servicing improvements are too vague and ill-defined to provide any concrete value to investors whatsoever.

18. The servicing improvements encompass several methods for dealing with high-risk loans, including loss-mitigation provisions that require the servicers to consider whether borrowers are eligible for modification programs. Because performing loans (even when restructured) yield greater returns to investors than foreclosed properties, meaningful servicing improvements and loss-mitigation efforts are essential to adequately compensate to investors. As written, however, the proposed settlement's provisions regarding servicing improvement are so vague and permissive that they have no ascertainable value.

19. For example, the loan servicing improvements call for "high-risk" loans to be placed with subservicers meeting certain qualifications, but they say nothing about the methods the subservicers are required to use in servicing the high-risk loans—the matter of most importance to investors looking to recoup or salvage value from loans at risk.[7] Of even more concern is the fact that the proposed settlement identifies loan modifications as an important way to mitigate losses, but expressly makes loan modifications wholly optional: "nothing [in the relevant provision] shall be deemed to create an obligation . . . to offer any modification or loss mitigation strategy to any

[7] Settlement ¶ 5.

borrower."[8] Moreover, while the proposed settlement describes a methodology for choosing loss-mitigation strategies, it includes a substantial escape hatch by allowing servicers to make decisions based on "such other factors as would be deemed prudent in [the servicer's] judgment."[9]

20. Thus, the proposed settlement imposes no concrete requirements or procedures on servicers with respect to loan modification. The lack of objective standards leaves to servicer discretion such important decisions as principal and interest write-downs, forbearance, or penalty abatements. The complete lack of standards for "high-risk" loans is inadequate to ensure that BoA will afford sufficient borrower relief and thereby stabilize RMBS loan pools to the benefit of investors.

21. The inadequacy of these provisions is all the more troubling because BoA has a poor track record in the area of loss mitigation. Indeed, the Treasury Department cited BoA for poor performance as to loan modifications[10] and withheld incentive payments from BoA under a federal loss-mitigation program due to BoA's poor performance in administering loan modifications.[11] Likewise, BoA has been subject to lawsuits asserting that it has repeatedly withheld reasonable modifications.[12] In this context, any settlement would require explicit standards for implementing and monitoring the servicing improvements.

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[8] *Id.* ¶ 5(d).

[9] *Id.* ¶ 5(d)-(e).

[10] Dawn Kopecki, *Bank of America Among the Worst for Loan Modifications*, Bloomberg (August 4, 2009), available at http://www.bloomberg.com/apps/news?pid=newsarchive&sid=aoO9FGsvnJOk.

[11] *See e.g.*, Dina ElBoghdady, *Federal Payments Halted to Three Mortgage Servicers*, Washington Post (June 8, 2011).

[12] *See, e.g.*, *Fraser v. Bank of America*, Index No. 4:10-cv-02400-AGF (E. D. Mo. Dec. 22, 2010); *In re Bank of America Home Affordable Modification Program (HAMP) Contract Litigation*, 10-MD-02193 (D. Mass. 2010).

CONCLUSION

WHEREFORE, Respondent seeks relief as follows:

A. Denying the relief sought in the Trustee Petition and Proposed Order; and

B. Granting such other and further relief as may be just and proper.

Dated: April 10, 2012
New York, New York

ERIC T. SCHNEIDERMAN
Attorney General of the State of New York

By: _____
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VERIFICATION

I, Marc B. Minor, hereby affirm under the penalty of perjury that the following is true and correct:

I am a member of the bar of this Court and Bureau Chief of the Investment Protection Bureau of the Office of the New York State Attorney General. I have read the foregoing Pleading in Intervention and know the contents thereof. All statements of fact therein are true and correct to the best of my knowledge and belief.

Executed this Tenth Day of April, 2012, in New York, New York.

Marc B. Minor