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February 5, 2013

By E-Filing and Hand Delivery

The Honorable Barbara R. Kapnick
New York Supreme Court, New York County
60 Centre Street, Courtroom 208
New York, New York 10007

***Re: In re the Application of The Bank of
New York Mellon, Index No. 651786/2011***

Dear Justice Kapnick:

We respond to the letter from counsel for the Trustee to the Court, dated February 4, 2013.

The Trustee's counsel claims that the issue of whether modified loans must be repurchased from the Trusts "was litigated" in *Greenwich Financial Services Distressed Mortgage Fund 3, LLC v. Countrywide Financial Corp.*, Index No. 650474/2008. To the contrary, that case was decided on standing grounds and did not resolve the issues raised by our February 1, 2013 letter. *See* Decision, dated October 7, 2010.

Counsel for the Trustee also does "not understand why these investors have requested a judicial instruction." As explained in our February 1, 2013 letter, this Court's Order to Show Cause (the "Order"), dated June 29, 2011, requires a judicial instruction. Order, at 5 (The Trustee "*shall* seek an instruction from the Court *before responding to or taking any action with respect to* assertions, allegations. . .") (emphasis added).

However, the February 4 letter of Trustee's counsel provides that he is willing to meet with us to respond to the assertions and allegations. Therefore, we

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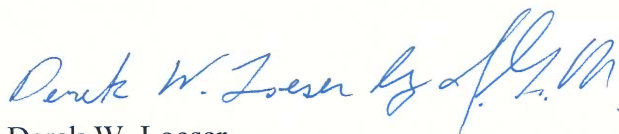
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respectfully submit that the instruction from the Court required by the Order be issued on consent.

Sincerely,



John G. Moon
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cc: Counsel for all parties and investors of record (*via E-filing*)