Exhibit 121

to

Affidavit of Daniel M. Reilly
in Support of Consolidated Response to
Statements in Support of the Proposed Settlement

REDACTED

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)

Petitioner,

for an order pursuant to CPLR § 7701 seeking judicial instructions and approval of a proposed settlement.

Index No. 651786/2011

Assigned to: Kapnick, J.

EXPERT REPORT OF PROFESSOR JOHN C. COATES IV

a. The Red Oak Merger and the Asset Stripping Transactions are inconsistent with M&A customs and practices for how a purchaser would customarily effect the acquisition of a stand-alone entity;

b. The Asset-Stripping Transactions had equivalent economic effects on CFC, CHL and the Other Subs and their business operations as if they had been *de jure* merged into BAC and its subsidiaries: CFC and its subsidiaries ceased operating a business while BAC (i) continued maintaining the ownership, management, personnel, physical location and the bulk of the assets and business operations through other BAC commonly controlled and owned subsidiaries and (ii) assumed those liabilities necessary for the operation of those businesses; and

c. The procedures by which the Asset-Stripping Transactions were approved were inconsistent with corporate governance customs and practices for economically similar transactions, and certainly inconsistent with "best practices," and were instead consistent with practices for transactions in which the parties did not face a conflict of interest, which did not represent a "last period" for CFC, CHL and the Other Subs, and which did not confront the parties with significant ongoing solvency concerns.

Had the Trustee sought to do more than simply accept BAC's word on crucial facts, and had it not imposed such strong limits on the efforts of its advisors, the Trustee would have discovered facts such as those reflected in Exhibit C, which would tend to show that the successor liability elements of the Claims had a materially greater chance of success than the Trustee appears to have believed, and further would have discovered additional categories of Claims (fraudulent conveyance, fiduciary duty, and contract-based servicing Claims) that warranted at least some evaluation.

The bases for these opinions are set out in Part V below.

III. Background and Credentials

A. Academic Experience

I am the John F. Cogan Professor of Law and Economics and Research Director of the Program on the Legal Profession at the Harvard Law School (***Harvard***). At Harvard, I teach, among other courses: the basic course on contracts; the basic course on corporations, partnerships, limited liability companies and other business organizations; and advanced courses on M&A, corporate control and governance, the regulation of financial institutions, and securities law and regulation, including basic principles of

and its subsidiaries, the interests of BAC and CFC were potentially divergent when it came to setting a price in those transactions. The more BAC had to pay, the more CFC stood to gain for itself (as a stand-alone entity) and for its creditors; the less BAC paid, the less CFC stood to gain, as a stand-alone entity and for its creditors. Therefore, any transaction between CFC and BAC's other subsidiaries, such as the Asset-Stripping Transactions, would have been a conflict-of-interest transaction.

The fiduciaries of CFC in approving such a transaction would ordinarily need to prove the transactions were "entirely fair," which would include not only a fair price – which could be more than the asset-by-asset value of the businesses being acquired, but might also need to include estimates of alternative uses for the assets, among other things – but also a fair process, including adequate notice to the beneficiaries of the fiduciary duties in question (which would include creditors, if CFC was insolvent), and, ordinarily, some effort by those fiduciaries to obtain the best reasonably available deal for CFC (which, again, might mean something more than an asset-by-asset valuation of CFC and its subsidiaries). None of this is even addressed in the evidence I have reviewed in this case. Without evaluating such claims, the Trustee had no basis for validly assessing CFC's assets, or capacity to pay more than the Settlement Amount.

3. Successor liability claims based on the PSAs

I have seen no evidence that the Trustee obtained information or evaluated successor liability claims based on the contract provisions of the PSAs. Specifically, the PSAs imposed obligations on CHLS that CHLS allegedly failed to perform. Liabilities arising from failure to perform those obligations were not subject to the defense that CFC had insufficient assets, for two reasons. First, Section 6.04 of the PSAs, which provides that no resignation of CHLS as Master Servicer under the Trusts would be effective

unless a successor servicer assumed all of CHLS's liabilities under the PSAs. Second, Section 6.02 of the PSAs required that any person into which CHLS may be merged would be that person's successor by operation of law, and CHLS has subsequently merged into a fully solvent subsidiary of BAC (Bank of America, N.A.), and is thus by operation of law successor to CHLS. I have seen no evidence that the Trustee considered these potential Claims or related facts in evaluating the Settlement, and Loretta Lundberg—a Bank of New York Mellon managing director and [redacted]—admitted that [redacted][1] Additionally, Professor Daines testified that he [redacted][2]

4. Direct liability for servicing-related losses

Loretta Lundberg also testified that [redacted][3] and I have seen no evidence that the Trustee evaluated the extent to which BAC and/or its subsidiaries may be liable for losses arising from their own improper servicing-related activities after the Red Oak Merger (in which BAC acquired CFC). Indeed, I understand that the institutional investor group represented by Gibbs & Bruns asserted in court pleadings that BAC servicing was the worst in the industry and identified how BAC's servicing caused harm to the Trusts. Any such claims would not be subject to corporate separateness defenses.

[1] Lundberg Dep. 428-29.

[2] Daines Dep. 194-95.

[3] Lundberg Dep. 332-33.