

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), *et al.*

Petitioners,

for an order, pursuant to C.P.L.R. § 7701, seeking judicial instructions and approval of a proposed settlement.

Index No: 651786/2011

Assigned to Kapnick, J.
IAS Part 39

**AFFIRMATION OF
JOHN G. MOON
IN SUPPORT OF TRIAXX'S MOTION
PURSUANT TO CPLR 4401
FOR JUDGMENT DURING TRIAL**

Mot. Seq. No. 042

I, John G. Moon, hereby affirm under the penalty of perjury that the following is true and correct:

1. I am an attorney in good standing of the bar of this Court and of Miller & Wrubel P.C., counsel to Respondents Triaxx Prime CDO 2006-1, Ltd., Triaxx Prime CDO 2006-2, Ltd., and Triaxx Prime CDO 2007-1 (together, "Triaxx"). I submit this affirmation in support of Triaxx's Motion for Judgment During Trial in the above-captioned Article 77 proceeding.

2. Attached as Exhibit A is a demonstrative exhibit showing the three categories of repurchase provisions among the 530 PSAs for the Covered Trusts: Category 1 (repurchase required following loan modifications); Category 2 (repurchase and "in lieu of refinancing" are two requirements for a loan modification); and Category 3 (modification permitted without repurchase).

3. Attached as Exhibit B is a demonstrative exhibit that further breaks down those three categories into seven variants of specific repurchase language within all of the PSAs of the Covered Trusts governing loan modifications.

4. Attached hereto as Exhibit C is Respondents' Exhibit 4126, entered into evidence by stipulation of the parties on July 26, 2013. Exhibit C details the PSA language governing loan modifications for each of the Covered Trusts.

5. Attached hereto as Exhibit D is Respondents' Exhibit 4127, entered into evidence by stipulation of the parties on July 26, 2013. Exhibit D sets forth, in part, the number of trusts, number of loans, realized loss, number of modified loans, and unpaid balance at modification of the mortgage loans.

6. Attached hereto as Exhibit E is an excerpt from Respondents' Exhibit 3436, Section 10.01 of the PSA, dated November 1, 2005, for Countrywide asset-backed certificates, series 2005-13.

7. Attached hereto as Exhibit F is the testimony of various witnesses who testified at trial: F1: Mr. Kravitt; F2: Mr. Kravitt and Mr. Bailey; F3: Mr. Landau; F4: Mr. Stanley; F5: Mr. Stanley and Mr. Waterstredt; F6: Mr. Kravitt; F7: Mr. Kravitt; F8: Mr. Kravitt.

Dated: October 29, 2013
New York, New York

s/ John G. Moon
John G. Moon, Esq.