

October 28, 2016

The Honorable Saliann Scarpulla
New York State Supreme Court
Commercial Division
60 Centre Street
New York, NY 10007

Re: *In the Matter of the Application of the Bank of New York Mellon, No. 150973/2016*


Dear Justice Scarpulla:

We write on behalf of American International Group, Inc. and certain of its affiliates (“AIG”) and the Institutional Investor Group. During the August 31, 2016 oral argument in this matter, Your Honor accepted the “Standard Intex Method” for distributing the Bank of America settlement payment to the uncontested CWALT 2007-OA10 trust and invited AIG and the Institutional Investor Group to submit a proposed judgment to that effect.¹

The enclosed Proposed Judgment gives effect to the distribution methodology described in Footnote 20 of AIG’s August 12, 2016 brief in this action (which methodology is also referred to as the “Standard Intex Method”), and AIG and the Institutional Investor Group respectfully request that the Court so-order it.

Thank you for your consideration.

Respectfully submitted,


Jordan A. Goldstein
QUINN EMANUEL URQUHART
& SULLIVAN, LLP
51 Madison Avenue, 22nd Floor
New York, New York 10010
(212) 849-7000

*Counsel for American International
Group, Inc. and certain affiliates*


Kathy D. Patrick
GIBBS & BRUNS LLP
1100 Louisiana, Suite 5300
Houston, Texas 77002
(713) 650-8805

Counsel for the Institutional Investor Group

cc: All counsel of record (via NYSCEF)

¹ Counsel for the objecting certificateholders Prosirris Capital Management and Tilden Park Capital Management LP have confirmed that those parties do not have standing to object to the distribution for the CWALT 2007-OA10 trust, and no other interested certificateholders have made an appearance as to this trust. *See* 8/31/2016 Trans. at 13:10-14:10.

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

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In the Matter of the Application of	:	Index No. 150973/2016
	:	IAS Part 39
THE BANK OF NEW YORK MELLON, in its	:	Justice Scarpulla
Capacity as Trustee or Indenture Trustee of 530	:	
Countrywide Residential Mortgage-Backed	:	Mot. Seq. 001
Securitization Trusts,	:	
	:	SEVERANCE ORDER
	:	AND PARTIAL FINAL
	:	JUDGMENT (CWALT
	:	2007-OA10)
Petitioner,	:	
	:	
For Judicial Instructions under CPLR Article 77	:	
on the Distribution of a Settlement Payment.	:	

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APPEARANCES:

MAYER BROWN LLP (Matthew D. Ingber and Michael O. Ware, of counsel)
*Attorneys for Petitioner The Bank of New York Mellon in its capacity as Trustee
or Indenture Trustee of the Covered Trusts (the "Trustee")*

QUINN EMANUEL URQUHART & SULLIVAN LLP (Michael B. Carlinsky,
Jordan A. Goldstein, David D. Burnett, and Joshua Margolin, of counsel)
*Attorneys for Respondents American International Group, Inc., AIG Financial
Products Corp.; AIG Property Casualty Company; American General Life
Insurance Company; American Home Assurance Company; American
International Reinsurance Company, Ltd.; Commerce and Industry
Insurance Company; Lexington Insurance Company; National Union Fire
Insurance Company of Pittsburgh, PA; The United States Life Insurance
Company in the City of New York; and The Variable Annuity Life Insurance
Company (the "AIG Group")*

SCHLAM STONE & DOLAN LLP (John M. Lundin, of counsel)
*Attorneys for Respondents Blue Mountain Credit Alternatives Master Fund
L.P., BlueMountain Guadalupe Peak Fund L.P., Blue Mountain Monteners
Master Fund SCA SICAV-SIF, BlueMountain Kicking Horse Fund L.P.,
BlueMountain Logan Opportunities Master Fund L.P., BlueMountain
Foinaven Master Fund L.P., and BlueMountain Credit Opportunities Master
Fund I L.P.*

McKOOL SMITH, P.C. (Gayle R. Klein, Robert W. Scheef, Matthew P. Rand
and Melody L. McGowin, of counsel)
Attorneys for Respondent Center Court, LLC

WARNER PARTNERS, P.C. (Kenneth E. Warner, of counsel) and GIBBS & BRUNS LLP (Kathy D. Patrick, Robert J. Madden and David Sheeren, all pro hac vice, of counsel)

Attorneys for Respondents AEGON (including 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, Western Reserve Life Assurance Co. of Ohio, and BlackRock Financial Management, Inc. (the "Institutional Investor Group")

MOLOLAMKEN LLP (Steven F. Molo, Justin M. Ellis and Laura K. Jereski, of counsel)

Attorneys for Respondents Prosirris Capital Management LP and Tilden Park Capital Management LP

WOLLMUTH MAHER & DEUTSCH LLP (Michael C. Ledley, of counsel) and PERRY, JOHNSON, ANDERSON, MILLER & MOSKOWITZ LLP (Isaac M. Gradman, pro hac vice, of counsel)

Attorneys for TIG Securitized Asset Master Fund LP

WHEREAS, the Trustee commenced this proceeding under CPLR Article 77 to obtain judicial instructions on the distribution of a settlement payment in the amount of \$8.5 billion (the "Settlement Payment") to which it had become entitled in its capacity as trustee or indenture trustee of the 530 residential mortgage-backed securities trusts (the "Covered Trusts") specified in Exhibit A to the Verified Petition herein under a settlement agreement dated June 28, 2011 (the "Settlement Agreement"); and,

WHEREAS, under the Settlement Agreement, each Covered Trust has been assigned an "Allocable Share" of the overall Settlement Payment; and,

WHEREAS, by Order to Show Cause dated February 5, 2016 (the "February 5 Order") the Court directed the Trustee to serve the Verified Petition and certain other materials on investors ("Certificateholders") in the Covered Trusts and certain other

persons, and directed that interested persons answer the Verified Petition by March 4, 2016; and,

WHEREAS, the February 5 Order authorized and directed the Trustee to place the Settlement Payment in escrow with The Bank of New York Mellon as escrow agent; and,

WHEREAS, the Court has been advised that the escrow provisions of the February 5 Order have been complied with and that the Settlement Payment, plus the earnings thereon and less amounts distributed pursuant to the May Partial Judgment discussed below, are currently invested as directed in the February 5 Order; and,

WHEREAS, on May 12, 2016, the Court signed and the Clerk entered a Partial Severance Order and Partial Final Judgment (the “May Partial Judgment”). The May Partial Judgment (among other things) directed the Trustee in the allocation of the Allocable Shares of 512 Covered Trusts (the “Initial Release Trusts”); severed and fully and finally resolved all issues pertaining to the Initial Release Trusts; and, directed that this proceeding would continue according to law in respect of the remaining 18 Covered Trusts; and,

WHEREAS, the Court has been advised that the Trustee has complied with the May Partial Judgment; and,

WHEREAS, members of the Institutional Investor Group and the AIG Group are the only Certificateholders to appear in the proceeding and to claim an interest in the CWALT 2007-OA10 Trust (the “Uncontested Trust”), and they are in agreement on the manner in which the Trustee should be directed. In the absence of any party with standing to object, the Court has determined to implement that agreement and to achieve that end by entry of this Severance Order and Partial Final Judgment; and,

WHEREAS, as used herein, the term “Judgment Entry Date” means the date on which the Clerk’s docketing of this Severance Order and Partial Final Judgment first appears publicly on the New York State Court Electronic Filing System, without regard to when the Court actually signs or the Clerk actually enters this Severance Order and Partial Final Judgment; and,

WHEREAS, as used herein the term “Transfer Month” means the month of the Judgment Entry Date if the Judgment Entry Date is on or before the fifteenth calendar date of that month, and otherwise the month immediately following; and,

WHEREAS, as used herein, the term “Transfer Target Date” means the twenty-second day of the Transfer Month; and,

WHEREAS, as used herein, the term “AS Distribution Date” means, for each Uncontested Trust, that trust’s next distribution date following the Transfer Target Date,

NOW, THEREFORE, on the joint motion of Warner Partners, P.C. and Gibbs & Bruns LLP, attorneys for the Institutional Investor Group, and Quinn Emanuel Urquhart & Sullivan, LLP, attorneys for the AIG Group, and on the papers, pleadings, and motions filed herein, it is hereby

ORDERED, pursuant to CPLR 407 and 5012, that all issues concerning the Uncontested Trust are severed for full and final resolution hereby, with proceedings concerning the Other Trusts¹ to continue according to law; and it is further

¹ The “Other Trusts” are CWABS 2006-12, CWALT 2005-61, CWALT 2005-69, CWALT 2005-72, CWALT 2005-76, CWALT 2005-IM1, CWALT 2006-OA10, CWALT 2006-OA14, CWALT 2006-OA3, CWALT 2006-OA7, CWALT 2006-OA8, CWALT 2007-OA3, CWALT 2007-OA8, CWHL 2006-3, CWHL 2006-OA5, CWALT 2007-OA2, and CWHL 2006-OA4.

ORDERED that this Severance Order and Partial Final Judgment is rendered without prejudice to the claims, contentions or defenses of any party in respect of the Other Trusts. Without limiting the generality of the immediately previous sentence, this Severance Order and Partial Final Judgment will in no way represent the law of the case as to, or otherwise be deemed to resolve any issue pertaining to, the Other Trusts; and it is further

ORDERED, ADJUDGED and DECREED that, no later than the Transfer Target Date, for the Uncontested Trust the Trustee is to reduce to cash escrow assets with a value equal to that trust's Allocable Share plus the earnings thereon and to deposit that amount in that trust's distribution account or payment account, as applicable. From the time of that deposit, the amount so deposited will be treated as the Uncontested Trust's Allocable Share for all purposes under the Settlement Agreement; and it is further

ORDERED, ADJUDGED and DECREED that sum representing interest on the Allocable Share of the Uncontested Trust not received by the Trustee at the time of the deposit directed by the immediately preceding paragraph is to be allocated on receipt by the Trustee to the Uncontested Trust and distributed within the Uncontested Trust in the manner the Settlement Agreement, the relevant Governing Agreements and this Severance Order and Partial Final Judgment provide for distribution of Allocable Shares; and it is further

ORDERED, ADJUDGED and DECREED that the Trustee shall distribute the Uncontested Trust's Allocable Share on that trust's AS Distribution Date; and it is further

ORDERED, ADJUDGED and DECREED that in distributing the Allocable Shares of the Uncontested Trust to Certificateholders, the Trustee shall adhere to Section 3(d) of

the Settlement Agreement, including the order of operations specified in Subsections 3(d)(i) and 3(d)(ii) therein; and it is further

ORDERED, ADJUDGED and DECREED that in distributing the Allocable Share of the Uncontested Trust to Certificateholders in that trust, the Trustee shall calculate the Principal Distribution Amount for the Uncontested Trust based upon “written-up” certificate principal balances (that is, by calculating the Principal Distribution Amount as the sum of the Class Certificate Balances immediately prior to the AS Distribution Date, *plus* the relevant Allocable Share and ordinary Subsequent Recoveries eligible for distribution, *less* the Stated Principal Balance of the Mortgage Loans as of the Due Date in the Target Month (after giving effect to Principal Prepayments received in the related Prepayment Period), *plus* the Overcollateralization Target for the AS Distribution Date), but shall, pursuant Section 4.02 of the Pooling and Servicing Agreement, distribute the Allocable Share among particular tranches based upon the pre-distribution Class Certificate Balances (with the Principal Distribution Amount calculated per the prior clause). To the extent the Principal Distribution Amount is calculated in part by reference to an aggregate stated principal balance of the mortgage loans after giving effect (among other things) to subsequent recoveries, the effect to be given to subsequent recoveries in that calculation is zero because subsequent recoveries do not affect mortgage loan balances. As a result of the directions provided in this paragraph, no part of the Allocable Share will be used to pay Unpaid Realized Loss Amounts except insofar as such Unpaid Realized Loss Amounts are repaid as part of the Principal Distribution Amount (calculated as provided herein); and it is further

ORDERED, ADJUDGED and DECREED that all persons claiming rights in the Uncontested Trust are forever barred from asserting any claims against the Trustee with respect to the Trustee's implementation of the instructions contained in this Severance Order and Partial Final Judgment, so long as such implementation is in accordance with this Severance Order and Partial Final Judgment and, to the extent not expressly addressed by this Severance Order and Partial Final Judgment, the requirements of the Settlement Agreement and relevant Governing Agreements; and it is further

ORDERED, ADJUDGED and DECREED that the Court shall retain exclusive jurisdiction to render such additional instructions as may be necessary or appropriate in the administration of the Uncontested Trust; and it is further

ORDERED, ADJUDGED and DECREED that no party may have costs or disbursements of this proceeding insofar as it concerned the Uncontested Trust; and it is further

ORDERED that the Clerk of New York County be, and he hereby is, directed to enter this Severance Order and Partial Final Judgment as a judgment forthwith and without delay.

Dated: New York, New York
_____, 2016

Hon. Saliann Scarpulla, J.S.C.

Judgment signed and entered this _____ day of _____ 2016.

Clerk of New York County