

Exhibit 40
to
Affidavit of Daniel M. Reilly
in Support of Joint Memorandum of
Law in Opposition to Proposed Settlement



June 17, 2010

FACSIMILE TRANSMISSION

TO: The Bank of New York
Attn: Mortgage-Back Securities Group
CWALT, CWHL, and CWL Series
Listed on the Attached Exhibit A
101 Barclay Street, 8W
Floor 4W
New York, NY 10286

Facsimile No. 212-815-3986

FROM: Kathy Patrick

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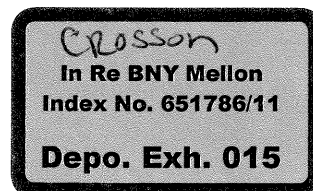
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COMMENT:

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Kathy Patrick, Partner
713 751 5253

June 17, 2010

kpatrick@gibbsbruns.com

Via Facsimile No. (212) 815 3986 and Federal Express

Jane Sherburne, Esq.
Senior Executive Vice-President
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The Bank of New York
Attn: Mortgage-Backed Securities
Group
CWALT, CWHL, and CWL Series
Listed on the Attached Exhibit A
101 Barclay Street, 8W
Floor 4W
New York, NY 10286

Mr. Scott Posner
Corporate Trust CEO
BNY Mellon, Inc.
32 Old Slip
New York, NY 10286

Re; Certificateholders' Instruction to Bank of New York, as Trustee of CWALT, CWHL, and CWL Series Listed on the Attached Exhibit A, Pursuant to Applicable Pooling and Servicing Agreements

Gentlemen and Ms. Sherburne:

This firm represents the holders of more than 25% of the Voting Rights in Residential Mortgage Backed Securities (RMBS) evidenced by the Countrywide Mortgage Pass-Through Certificates listed on the attached Exhibit "A" (the "Certificates"). The aggregate outstanding balance of the 65 RMBS deals in which our client hold 25% or more of the Voting Rights exceeds \$31.2 billion.

There is widespread, readily available evidence suggesting that large numbers of mortgages securing the Certificates held by our clients were sold into the RMBS pools based on false and/or fraudulent representations and warranties by the mortgage originators and sellers. This evidence includes, but is not limited to:

- excessive early default and foreclosure rates experienced in the underlying mortgage pools;

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- allegations in lawsuits by various mortgage and financial guaranty insurers alleging that their audit and re-underwriting of pools of RMBS residential mortgage-backed securities demonstrates that high levels of mortgages that were ineligible at origination;¹
- multi-billion dollar predatory lending settlements reached by Countrywide with various states attorneys general;² and,
- recently released emails from high level officials at Countrywide demonstrating that they were “flying blind,” knew of “errors of both judgment and protocol,” knew that loans had been originated “through our channels with disregard for process [and] compliance with guidelines,” and also knew of a “serious lack of compliance within our origination system.”³

Bank of New York has been aware of much of this information for some time. It has been named as a defendant in lawsuits brought by the financial guaranty insurers against Countrywide and Bank of New York, and has been served with affidavits asserting these facts. As Trustee, Bank of New York is also aware of the excessive early default rates that have been experienced in the RMBS pools that secure the Certificates. Bank of New York, however, appears to have taken no steps to compel the sellers of ineligible loans to repurchase or cure them, even though this remedy is plainly available to the Trustee under the applicable Pooling and Servicing Agreements (PSAs). See e.g. § 2.03 (c) of PSA for CWALT Alternative Loan Trust 2006-OA19 (providing that, “upon discovery by any of the parties hereto of a breach of a representation or warranty with respect to a Mortgage Loan...that materially and adversely affects the interests of the Certificateholders in that Mortgage Loan, the party discovering that breach *shall* give prompt notice thereof to the other parties,” in order to trigger the Seller’s contractual covenant to “cure such breach in all material respects,... or repurchase the Affected Mortgage Loan at the Purchase Price...”) (emphasis added).

The Certificateholders we represent are not willing to continue to suffer losses as a result of ineligible loans held in the pools that secure their Certificates. Pursuant to Section 8 of the applicable PSAs, Bank of New York is therefore instructed to make appropriately senior legal

¹ MBIA has reported that 91% of defaulted loans in 15 separate Countrywide-originated pools diverged from underwriting guidelines or were otherwise defective, and United Financial Guaranty has alleged that over 55% of the loans originated by Countrywide failed to comply with Countrywide’s underwriting guidelines or contained a material defect. See ¶ 80, Amended Complaint of MBIA against Countrywide Financial Corporation and ¶ 65, Complaint of United Financial Guaranty against Countrywide Financial Corporation.

² The most recent of these settlements, with the Commonwealth of Massachusetts, not only calls for loan modifications but for “significant principal forgiveness.” See March 24, 2010 Press Release of Hon. Martha Coakley, Attorney General of the Commonwealth of Massachusetts, available at http://www.mass.gov/?pageID=cagopressrelease&L=1&1.0=Home&sid=Cago&b=pressrelease&f=2010_03_24_countrywide_agreement&csic=Cago, and Final Judgment by Consent, C.A. No. 10-1169, *Commonwealth of Massachusetts v. Countrywide Financial Corp., et al.*, in the Superior Court of the Commonwealth of Massachusetts.

³ Excerpts of these emails are available from the Securities and Exchange Commission website at <http://www.sec.gov/news/press/2009/2009-129-email.htm>.

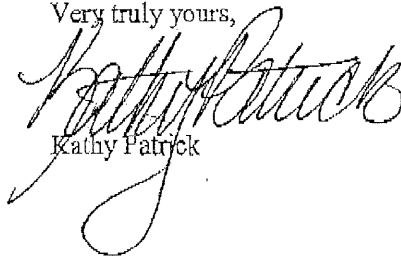
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and business personnel available to attend a meeting with the holders to discuss a strategy to pursue the remedies available to the Trustee under Section 2.03 and other provisions of the PSAs. The meeting will be held in New York on Tuesday, June 29, 2010 at 9:30 a.m. We can meet in Bank of New York's offices, or we can make space available in the offices of Blackrock Financial Management, Inc., 55 East 52nd Street in New York. Please advise which you prefer, and who from Bank of New York will attend the meeting.

It is imperative that Bank of New York attend this meeting. Please do not hesitate to contact me should Bank of New York require any additional information in order to comply with this instruction.

Very truly yours,



Kathy Patrick

cc: Mr. Stephen Ahrens (Blackrock Financial Management, Inc.)
Mr. James Harrington (Fortress Investments)
Mr. Gary Kosinski (Kore Capital)
Mr. William Ding (MetLife)
Mr. Terry Glomski (Neuberger Berman)
Mr. Richard LeBrun (PIMCO)

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Exhibit "A"
List of Issuances Covered by June 11, 2010 Instruction

CWALT

2007-24
2007-OA7
2007-17CB
2007-5CB
2006-OA9
2006-OA17
2006-OA19
2006-OC4
2006-OC5
2006-OC6
2006-OC7
2006-OC10
2006-OC11
2006-14CB
2006-20CB
2006-J7
2006-HY12
2005-AR1
2005-74T1
2005-73CB
2005-67CB
2005-21CB
2005-J9
2005-45
2005-81
2005-35CB

CWHL

CWHL 2008-3R
CWHL 2007-12
CWHL 2007-16
CWHL 2006-HYB2
CWHL 2006-HYB5
CWHL 2006-OA5
CWHL 2006-J2
CWHL 2005-HYB9
CWHL 2005-18
CWHL 2005-14
CWHL 2005-2

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CWHL 2004-HYB9

CWHL 2004-22

CWL

2007-2

2007-5

2007-7

2007-9

2007-BC1

2007-BC2

2007-BC3

2006-BC4

2006-BC5

2006-2

2006-3

2006-5

2006-7

2006-12

2006-19

2006-20

2006-21

2006-22

2006-24

2006-26

2006-SD1

2005-AB2

2005-AB3

2005-AB4

2005-16

2005-57CB