

At Commercial Division Part 39 Supreme Court of the State of New York, held in and for the County of New York, at the Courthouse located at 60 Centre Street, New York, New York, on the 4<sup>th</sup> day of April, 2012

MOTION SEQUENCE # 023

PRESENT: **BARBARA R. KAPNICK**  
J.S.C

HONORABLE BARBARA R. KAPNICK, J.S.C.

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,  
  
-against-  
  
WALNUT PLACE LLC, et al.,  
  
Intervenor-Respondents.

Index No. 651786/2011

Assigned to: Kapnick, J. (Part 39)

**ORDER TO SHOW CAUSE  
WHY THE COURT SHOULD  
NOT CONVERT THIS  
SPECIAL PROCEEDING TO A  
PLENARY ACTION**

Mot Seq 023

UPON the accompanying Affirmation of Owen L. Cyrulnik, dated April 3, 2012, with the exhibit attached thereto, the accompanying Memorandum of Law in Support of Order to Show Cause Why the Court Should Not Convert this Special Proceeding to a Plenary Action, dated April 3, 2012, and all pleadings and proceedings previously had herein,

**SUFFICIENT CAUSE THEREFOR BEING ALLEGED, IT IS HEREBY**

**ORDERED** that petitioner The Bank of New York Mellon ("BNYM") and the 22 intervenor-petitioners ("Institutional Investors"), show cause before this Court at Commercial

Division Part 39, to be held at 60 Centre Street, New York, New York, on the 24<sup>th</sup> day of April, 2012, at 2 o'clock, or as soon as counsel may be heard, why an order should not be issued to convert this special proceeding under CPLR § 7701 to a plenary action pursuant to the Court's authority under CPLR § 103(c).

*Benlyzed*  
**SUFFICIENT REASON APPEARING THEREFOR**, let service of a copy of this

Order, together with the papers upon which it was granted, upon counsel for BNYM and counsel for the Institutional Investors, by electronic filing service and a courtesy copy of the signed order by electronic mail, on or before the 5<sup>th</sup> day of April, 2012, be deemed good and sufficient service. In accordance with the briefing schedule previously submitted to this Court, any answering papers shall be filed and served upon all counsel of record on or before April 13,

2012, and reply papers shall be filed and served upon all counsel of record on or before April 19,

2012. *Properly bound and tabbed working copies shall be filed with the Clerk in 1A Part 39, 60 Centre St, Rm 2091 on the dates Oral argument is requested on this motion. provided above.*

Counsel submitting this Order to Show Cause has affirmed that a good faith effort has been made to resolve the issues raised in this Order to Show Cause with counsel for BNYM and counsel for the Institutional Investors.

~~OPPOSITION PAPERS, if any, shall be served on the \_\_\_\_\_ on or before \_\_\_\_\_.~~

~~ORDERED, that opposition papers, if any, shall be served on the \_\_\_\_\_ on or before \_\_\_\_\_.~~

ENTER,

J.S.C.

*[Signature]*  
**BARBARA R. KAPNICK**  
J.S.C.

**ORAL ARGUMENT  
DEFECTED**

*[Signature]*  
**BARBARA R. KAPNICK**  
J.S.C.