

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

----- X

THE BANK OF NEW YORK MELLON (as Trustee :
under various Pooling and Servicing Agreements and : Index No. 651786/2011
Indenture Trustee under various Indentures), et al., :
: Part 39
Petitioners, :
: (Hon. Barbara R. Kapnick)
-against- :
:
THE WESTERN AND SOUTHERN LIFE :
INSURANCE COMPANY, WESTERN-SOUTHERN :
LIFE ASSURANCE COMPANY, COLUMBUS LIFE :
INSURANCE COMPANY, INTEGRITY LIFE :
INSURANCE COMPANY, NATIONAL INTEGRITY :
LIFE INSURANCE COMPANY, and FORT :
WASHINGTON INVESTMENT ADVISORS, INC. on :
behalf of FORT WASHINGTON ACTIVE FIXED :
INCOME LLC, :
:
Intervenors-Respondents, :
:
for an order, pursuant to CPLR § 7701, seeking judicial :
instructions and approval of a proposed settlement. :
----- X

NOTICE OF INTENTION TO OBJECT

Intervenors The Western and Southern Life Insurance Company, Western-Southern Life Assurance Company, Columbus Life Insurance Company, Integrity Life Insurance Company, National Integrity Life Insurance Company and Fort Washington Investment Advisors, Inc. (collectively, "Western & Southern") hereby file this written notice of intention to object to the settlement between Bank of New York Mellon (the "Trustee") and Bank of America Corporation, BAC Home Loans Servicing, LP f/k/a Countrywide Home Loans Servicing, LP, Countrywide Financial Corporation, and Countrywide Home Loans, Inc. with respect to which the Trustee filed a Petition in the Supreme Court of the State of New York seeking judicial

instructions and approval pursuant to Article 77 of the New York Civil Practice Law and Rules (the "Proposed Settlement").

Western & Southern holds certificates issued in connection with 25 offerings that are subject to the proposed settlement. On August 19, 2011, Justice Kapnick of the Supreme Court of the State of New York granted Western & Southern's motion to intervene in this action.

Western & Southern does not have sufficient information at this time to fully evaluate the settlement. Pursuant to this Court's Order dated August 5, 2011, by filing this notice, Western & Southern is preserving any and all rights it may have with respect to the Proposed Settlement and this Article 77 proceeding, including the right to seek discovery and to supplement this objection and take any other appropriate actions at the appropriate time.

In order to evaluate the Proposed Settlement, Western & Southern needs more information concerning (i) the proposed distribution of settlement proceeds, (ii) the servicing improvements that Bank of America has agreed to undertake, (iii) the indemnifications Bank of America has agreed to provide, (iv) the strength of the claims subject to the Proposed Settlement, (v) the negotiation of the settlement, and (vi) the merger of Countrywide Financial Corporation and its affiliates with Bank of America or its affiliates (the "Merger"). At a minimum, individuals with knowledge of these matters should be made available for deposition and the following documents, many of which have already been requested by other parties to this action, should be made available for review by Western & Southern:

- 1) Documents sufficient to identify distributions to be made to certificate holders including a projection of the amount holders of each tranche of each offering subject to the Proposed Settlement will receive, the basis for that projection and the precise

recovery that each institutional investor that negotiated the Proposed Settlement is entitled to under the Proposed Settlement.

- 2) Documents sufficient to identify the specific nature of the servicing improvements Bank of America has committed to undertake and fund.
- 3) Documents sufficient to identify the scope and application of the indemnification Bank of America has agreed to provide with respect to the failure to assign mortgage notes to securitization trusts and maintain mortgage files in accordance with the requirements of the relevant pooling and servicing agreements.
- 4) All documents concerning the negotiation, consideration, or drafting, by any party, of the Proposed Settlement agreement dated June 28, 2011 (the “Settlement Agreement”), the related institutional investor agreement dated June 28, 2011, and the indemnity side letter from BAC Home Loans Servicing, LP to The Bank of New York Mellon dated June 28, 2011.
- 5) All documents concerning the negotiation, consideration, or drafting, by any party, of the letter from Kathy D. Patrick, Esq., of Gibbs & Bruns LLP to Mr. Robert Bailey of The Bank of New York Mellon dated June 23, 2011.
- 6) Any document or information that “the Trustee received and evaluated ... presented by Bank of America, Countrywide, and the Institutional Investors related to potential liabilities and defenses, and alleged damages,” as described on page 2, fifth “Whereas” clause, of the Settlement Agreement.
- 7) The loan level exception reports for the Covered Trusts provided by the Trustee to the Master Servicer on April 14, 2011, April 27, 2011, and April 28, 2011, as referred to in section 6(a)(iv) of the Settlement Agreement.

- 8) All “factual information provided to the Trustee, its counsel, and its experts in connection with the negotiation of the Settlement Agreement concerning: (A) historical factual information concerning prior repurchase experience; (B) factual information concerning historical losses and historical delinquencies experienced by the covered trusts, (C) the financial statements of CFC and/or CHL, and (D) documents reflecting, or information concerning, corporate transactions involving the exchange of assets between CFC and its subsidiaries and BAC and its non-Countrywide subsidiaries that were taken subsequent to the merger of CFC and a BAC subsidiary,” all as referred to in section 13(b) of the Settlement Agreement.
- 9) “[T]he CD-ROM provided to the Trustee’s counsel and experts on June 3, 2011,” as referred to in section 13(b) of the Settlement Agreement.
- 10) All “Confidential Information,” as defined in section 17 of the Settlement Agreement.
- 11) All documents, information, and methodologies referred to in the following excerpt from the press release issued by Gibbs & Bruns LLP on June 29, 2011, and posted on its website:

In assessing the size of the potential repurchase claims, we developed a methodology that estimated how many mortgage loans – out of the hundreds of thousands of loans in the trusts – were eligible for repurchase claims, and how many loans on those we might successfully “put back” to the mortgage sellers. To do this, we relied on historic repurchase experience across of a variety of Countrywide issuance platforms, our clients’ collective experience in loan re-underwriting and repurchase claims, and relevant industry information concerning repurchase successes.
- 12) Any audit or review of any loans in any of the trusts covered by the Settlement Agreement.

- 13) All documents concerning monetary consideration provided under the Settlement Agreement, including all documents that reflect or embody any analysis done by Brian Lin and all other personnel of RRMS Advisors.
- 14) Detailed resumes of Brian Lin and all other personnel of RRMS Advisors who worked in any way on the Settlement Amount Opinion.
- 15) The “forensic underwriting review performed by an independent third party” described on page 1 of the Settlement Amount Opinion; sampling protocols used in the review; the findings of the loan reviewers on each loan reviewed; all underwriting standards or guidelines used in reviewing loans; any reports of the results of that review, including all drafts or earlier versions thereof; and all documents reviewed, read, or otherwise used in the review or in the writing of any report thereof.
- 16) The “Presentation to Gibbs & Bruns’ dated April 11, 2011, provided by BofA” described on page 4 of the Settlement Amount Opinion, including all drafts or earlier versions thereof and all documents reviewed, read, or otherwise used in the preparation thereof.
- 17) Any consideration of, or communication with or about, experts whom The Bank of New York Mellon considered or approached to opine on any subject discussed in the Settlement Amount Opinion; the “Opinion Concerning Contemplated Settlement Agreement – Mortgage Loan Servicing and Loan Administration” dated June 28, 2011, from RRMS Advisors to The Bank of New York Mellon; the letter and attached memorandum from Professor Robert Daines to Jason H.P. Kravitt, Esq., and Matthew D. Ingber, Esq., about veil piercing and successor liability; the “Material

and Adverse Opinion of Professor Barry E. Adler”; or the “Countrywide Financial Corp., Valuation Analysis Prepared at the Request of Counsel by Capstone Valuation Services, LLC.”

- 18) Documents sufficient to identify all revenue received by BNY Mellon from January 1, 2009, through August 30, 2011, on account of business relationships, transactions, agreements, or other dealings between BNY Mellon and Bank of America or between BNY Mellon and any entity (such as a securitization trust) whose business Bank of America played a role in sending to BNY Mellon.
- 19) Documents sufficient to identify the allocation of securities in any offering from January 1, 2009, through August 30, 2011, of which Bank of America was an underwriter, manager, or bookrunner and in which BNY Mellon or any Institutional Investor purchased securities, including the order book, the number of securities ordered or requested by any entity, and the number of securities allocated or sold to each such entity.
- 20) Documents concerning the Merger, including documents reflecting:
 - a. Any proposed or actual responsibility of Bank of America for pre-Merger debts or liabilities of legacy Countrywide Financial Corporation, whether by assumption, novation, or otherwise.
 - b. Bank of America’s accounting for the Merger, including the allocation of the purchase price to assets and liabilities of legacy Countrywide Financial Corporation and the post-Merger Countrywide Financial Corporation.
 - c. The First Asset Purchases referenced in the Form 8-K filed by Countrywide Financial Corporation in connection with the Merger, including the decision

to purchase the assets, the description of each asset purchased, the value of each asset on the books of New CFC at the time of the purchase, the amount that Bank of America paid for each asset and the entity to which it paid that amount, the entity within Bank of America to which each asset was transferred, and Bank of America's accounting for each purchase of assets.

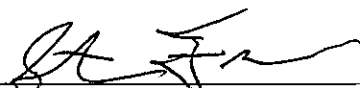
- d. The Second Asset Purchases referenced in the Form 8-K filed by Countrywide Financial Corporation in connection with the Merger, including the decision to purchase the assets, the description of each asset purchased, the value of each asset on the books of New CFC at the time of the purchase, the amount that Bank of America paid for each asset and the entity to which it paid that amount, the entity within Bank of America to which each asset was transferred, and Bank of America's accounting for each purchase of assets.
- e. The Other Asset Purchases referenced in the Form 8-K filed by Countrywide Financial Corporation in connection with the Merger, including the decision to purchase the assets, the description of each asset purchased, the value of each asset on the books of New CFC at the time of the purchase, the amount that Bank of America paid for each asset and the entity to which it paid that amount, the entity within Bank of America to which each asset was transferred, and Bank of America's accounting for each purchase of assets.
- f. The merger of Countrywide Bank FSB into Bank of America, N.A. on or about April 27, 2009.
- g. The sources of all funds used for legal and related expenses, including the cost of settlements, incurred in connection with any investigation of or litigation

against legacy Countrywide Financial Corporation or post-Merger
Countrywide Financial Corporation or any present or former director, officer,
or employee of either of them, from July 1, 2008, to date.

The foregoing is not meant to be an exhaustive list of the discovery necessary to evaluate
the Proposed Settlement and Western & Southern reserves the right to seek additional discovery.

Dated: New York, New York
August 30, 2011

WOLLMUTH MAHER & DEUTSCH LLP

By: 
David H. Wollmuth
Vincent T. Chang
Steven S. Fitzgerald

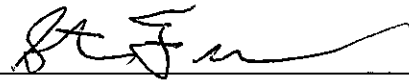
500 Fifth Avenue
New York, New York 10110
Tel: (212) 382-3300

*Attorneys for The Western and Southern
Life Insurance Company, Western-Southern
Life Assurance Company, Columbus Life
Insurance Company, Integrity Life
Insurance Company, National Integrity Life
Insurance Company, and Fort Washington
Investment Advisors, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that the above and foregoing document was mailed by first-class mail to the following:

Jason H.P. Kravitt
Hector Gonzalez
Matthew D. Ingber
MAYER BROWN LLP
1675 Broadway
New York, New York 10019



Steven S. Fitzgerald