

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), Indentures), BlackRock Financial Management Inc. (intervenor), Kore Advisors, L.P. (intervenor), Maiden Lane, LLC (intervenor), Maiden Lane II, LLC (intervenor), Maiden Lane III, LLC (intervenor), Metropolitan Life Insurance Company (intervenor), Trust Company of the West and affiliated companies controlled by The TCW Group, Inc. (intervenor), Neuberger Berman Europe Limited (intervenor), Pacific Investment Management Company LLC (intervenor), Goldman Sachs Asset Management, L.P. (intervenor), Teachers Insurance and Annuity Association of America (intervenor), Invesco Advisers, Inc. (intervenor), Thrivent Financial for Lutherans (intervenor), Landesbank Baden-Wuerttemberg (intervenor), LBBW Asset Management (Ireland) plc, Dublin (intervenor), ING Bank fsb (intervenor), ING Capital LLC (intervenor), ING Investment Management LLC (intervenor), New York Life Investment Management LLC (intervenor), Nationwide Mutual Insurance Company and its affiliated companies (intervenor), AEGON USA Investment Management LLC, authorized signatory for 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, and Western Reserve Life Assurance Co. of Ohio (intervenor), Federal Home Loan Bank of Atlanta (intervenor), Bayerische Landesbank (intervenor), Prudential Investment Management, Inc. (intervenor), and Western Asset Management Company (intervenor)

) Index No. 651786/2011
) IAS Part 39
) (Kapnick, J.)
)
) **NOTICE OF INTENTION
TO APPEAR AND
OBJECT AND NOTICE OF
PETITION TO
INTERVENE**

Petitioner,

for an order, pursuant to CPLR § 7701, seeking judicial instructions and approval of a proposed settlement.

PLEASE TAKE NOTICE that, Monarch Debt Recovery Master Fund Ltd, Monarch Opportunities Master Fund Ltd, Monarch Capital Master Partners LP, Monarch Structured Credit

Master Fund Ltd, Monarch Capital Master Partners II LP, P Monarch Recovery Ltd, Monarch Alternative Solutions Master Fund Ltd, Oakford MF Limited, Monarch Cayman Fund Limited, and Monarch Capital Master Partners II-A LP (collectively, “Monarch”), as Potentially Interested Persons in the above-captioned Article 77 proceeding before this Court, intend to appear and object to the Settlement proposed by Bank of New York Mellon (the “Trustee”), pursuant to this Court’s order dated August 5, 2011, upon the grounds that Monarch does not have sufficient information to evaluate the Settlement.

PLEASE TAKE FURTHER NOTICE that, upon the Affirmation of Howard Graff, dated August 30, 2011, the Verified Petition to Intervene filed herewith and Memorandum of Law in Support thereof, and all previous papers and proceedings in this proceeding, Monarch will move this Court at the Motion Support Office Courtroom, at the Courthouse, 60 Centre Street, Room 130, New York, New York, on September 9, 2011 at 9:30 a.m., or as soon thereafter as counsel may be heard, for an order pursuant to CPLR 401, 1012, and 1013 permitting Monarch Debt Recovery Master Fund Ltd, Monarch Opportunities Master Fund Ltd, Monarch Capital Master Partners LP, Monarch Structured Credit Master Fund Ltd, Monarch Capital Master Partners II LP, P Monarch Recovery Ltd, Monarch Alternative Solutions Master Fund Ltd, Oakford MF Limited, Monarch Cayman Fund Limited, and Monarch Capital Master Partners II-A LP to intervene as respondents in this proceeding, directing that Monarch Debt Recovery Master Fund Ltd, Monarch Opportunities Master Fund Ltd, Monarch Capital Master Partners LP, Monarch Structured Credit Master Fund Ltd, Monarch Capital Master Partners II LP, P Monarch Recovery Ltd, Monarch Alternative Solutions Master Fund Ltd, Oakford MF Limited, Monarch Cayman Fund Limited, and Monarch Capital Master Partners II-A LP be added as respondents, directing that the Trustee’s petition and notice of petition be amended by adding Monarch Debt

Recovery Master Fund Ltd, Monarch Opportunities Master Fund Ltd, Monarch Capital Master Partners LP, Monarch Structured Credit Master Fund Ltd, Monarch Capital Master Partners II LP, P Monarch Recovery Ltd, Monarch Alternative Solutions Master Fund Ltd, Oakford MF Limited, Monarch Cayman Fund Limited, and Monarch Capital Master Partners II-A LP as intervenor-respondents, and granting such other and further relief as may be just, proper, and equitable.

PLEASE TAKE FURTHER NOTICE that, pursuant to CPLR 403(b), answering papers, if any, must be served on the undersigned no later than two days before the return date of this motion.

Dated: New York, New York
August 30, 2011

DICKSTEIN SHAPIRO LLP

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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), Indentures), BlackRock Financial Management Inc. (intervenor), Kore Advisors, L.P. (intervenor), Maiden Lane, LLC (intervenor), Maiden Lane II, LLC (intervenor), Maiden Lane III, LLC (intervenor), Metropolitan Life Insurance Company (intervenor), Trust Company of the West and affiliated companies controlled by The TCW Group, Inc. (intervenor), Neuberger Berman Europe Limited (intervenor), Pacific Investment Management Company LLC (intervenor), Goldman Sachs Asset Management, L.P. (intervenor), Teachers Insurance and Annuity Association of America (intervenor), Invesco Advisers, Inc. (intervenor), Thrivent Financial for Lutherans (intervenor), Landesbank Baden-Wuerttemberg (intervenor), LBBW Asset Management (Ireland) plc, Dublin (intervenor), ING Bank fsb (intervenor), ING Capital LLC (intervenor), ING Investment Management LLC (intervenor), New York Life Investment Management LLC (intervenor), Nationwide Mutual Insurance Company and its affiliated companies (intervenor), AEGON USA Investment Management LLC, authorized signatory for 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, and Western Reserve Life Assurance Co. of Ohio (intervenor), Federal Home Loan Bank of Atlanta (intervenor), Bayerische Landesbank (intervenor), Prudential Investment Management, Inc. (intervenor), and Western Asset Management Company (intervenor)

Petitioner,

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) Index No. 651786/2011
) IAS Part 39
) (Kapnick, J.)

) **VERIFIED PETITION TO INTERVENE**

Proposed Intervenor Monarch Debt Recovery Master Fund Ltd, Monarch Opportunities Master Fund Ltd, Monarch Capital Master Partners LP, Monarch Structured Credit Master Fund

Ltd, Monarch Capital Master Partners II LP, P Monarch Recovery Ltd, Monarch Alternative Solutions Master Fund Ltd, Oakford MF Limited, Monarch Cayman Fund Limited, and Monarch Capital Master Partners II-A LP (collectively referred to herein as “Monarch”), by and through their attorneys, Dickstein Shapiro LLP, submit this Petition to Intervene pursuant to CPLR 401, 1012, and 1013, and respectfully allege as follows:

1. The Bank of New York Mellon (“BoNY”) is the trustee of 530 residential mortgage-securitization trusts created by Countrywide Home Loans, Inc., and its affiliates (“Countrywide”). (Countrywide has since merged into a subsidiary of Bank of America Corporation.) The 530 trusts at issue are listed on Exhibit A to BoNY’s Verified Petition (the “Covered Trusts”). The Covered Trusts purchased portfolios of mortgage loans created or acquired by Countrywide by selling securities called certificates to investors in order to raise the necessary capital to purchase the loans. The monthly mortgage payments on the loans were to flow into the Covered Trusts for distribution to the investors.

2. The governing agreements for the Covered Trusts included representations and warranties regarding the underlying loans (e.g., that they were underwritten in all material respects in accordance with certain underwriting guidelines). Those agreements also provided certain “put-back” rights, as described in BoNY’s Verified Petition.

3. Monarch owns certificates issued by 14 of the 530 Covered Trusts at issue in this proceeding. The original principal value of those certificates exceeds \$150 million.

4. On June 29, 2011, BoNY filed this Article 77 proceeding to request judicial approval of a proposed settlement that seeks to resolve all potential claims relating to the Covered Trusts (the “Proposed Settlement”), including all claims that the loans Countrywide sold to the Covered Trusts did not comply with the representations and warranties set forth in the

governing documents. According to BoNY's Verified Petition, the settlement was negotiated over an "extended period of time" between the so-called Institutional Investors (as defined in paragraph 7 of BoNY's Verified Petition), BoNY (as Trustee), Countrywide and Bank of America. Other investors, such as Monarch, who were not in the Institutional Investor group were not included in the negotiations.

5. BoNY did not name any adverse parties when it filed this Article 77 proceeding, but it contemplated the addition of adverse parties. BoNY also recognized that some certificateholders may disagree with the reasonableness of the Proposed Settlement and/or wish to be free to pursue remedies for breaches in different ways. See BoNY Verified Pet. ¶¶ 13, 14, 18. In addition, this Court's August 5, 2011 Order expressly permits Potentially Interested Persons (defined in paragraph 4 the Affirmation of Matthew D. Ingber, dated June 28, 2011, to include, inter alia, holders of certificates or notes evidencing various categories of ownership interests in the Covered Trusts) to file a written notice of intention to appear and object on or before August 30, 2011. And, on August 19, 2011, this Court signed an omnibus order granting a significant number of motions by investors similarly situated to Monarch to intervene in this proceeding.

6. Monarch, as a substantial investor in 14 of the Covered Trusts, is directly affected by this proceeding and seeks to intervene to protect its own interests. The previous submissions of other intervenors (the "Previous Submissions") have identified significant potential flaws in the settlement process as well as the fairness of the Proposed Settlement. For example, the Previous Submissions contend that:

- the Proposed Settlement is the product of a highly conflicted process, in which BoNY violated its fiduciary duties, and, both BoNY and the Institutional Investors engaged in self dealing;

- the Proposed Settlement suffers from procedural defects, including the denial of due process to certificateholders due to the unprecedented use of Article 77 in the context of 530 residential mortgage-securitization trusts affecting the rights of many thousands of parties;
- the negotiation process resulting in the Proposed Settlement was not transparent, including the selective dissemination of documents relied upon in reaching the Proposed Settlement; and
- the Proposed Settlement amount of \$8.5 billion is a tiny fraction of the losses suffered by the investors.

7. Monarch objects to the Proposed Settlement on the basis that it does not have sufficient information to evaluate the reasonableness of the Proposed Settlement.

8. By intervening in this Article 77 proceeding, Monarch seeks to preserve its right to participate in this proceeding as a party in order to seek the information necessary to make a determination about the merits of the Proposed Settlement and whether it is in the best interest of Monarch. Thus, Monarch objects to the [Proposed] Order submitted by BoNY (as Exhibit C to the Affirmation of Matthew D. Ingber, dated July 11, 2011) insofar as pursuant to paragraph (a) to such [Proposed] Order, any petition to intervene (such as the Petition herein) would be treated solely as an objection.

Dated: New York, New York
August 30, 2011

DICKSTEIN SHAPIRO LLP

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Capital Master Partners II LP, P Monarch
Recovery Ltd, Monarch Alternative Solutions
Master Fund Ltd, Oakford MF Limited,
Monarch Cayman Fund Limited, Monarch
Capital Master Partners II-A LP

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STATE OF NEW YORK)
)ss.:
COUNTY OF NEW YORK)

Adam Sklar, being duly sworn, deposes and says that I am the Vice President of Monarch Alternative Capital LP, the investment advisor and authorized signatory of Petitioner Monarch Debt Recovery Master Fund Ltd. I have read the foregoing Petition and know the contents thereof. The same is true to my own knowledge, except as to those matters alleged upon information and belief, and as to those matters I believe them to be true.

AD SKLAR

to before me this
day of August, 2011



Notary Public