Docket #0043 Date Filed: 6/28/2012

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*Bankruptcy Counsel for Lead Plaintiff and the Putative Class, Union Central Life Insurance Company, Ameritas Life Insurance Company, Acacia Life Insurance Company and Cambridge Place Investment Management Inc.*

**UNITED STATES BANKRUPTCY COURT**
**SOUTHERN DISTRICT OF NEW YORK**

| | |
|---|---|
| In re:<br><br>RESIDENTIAL CAPITAL, LLC, *et al.*,<br><br>Debtors. | Chapter 11<br><br>Case No. 12-12020 (MG)<br><br>Jointly Administered |
| RESIDENTIAL CAPITAL, LLC; *et al.*,<br><br>Plaintiffs,<br><br>v.<br><br>ALLSTATE INSURANCE CO., THE OTHER PARTIES LISTED ON EXHIBIT A TO THE COMPLAINT, JOHN DOES 1-1000,<br><br>Defendants. | Case No. 12-AP-01671 (MG)<br><br>Bankruptcy Case No. 12-02020 (MG)<br><br>Jointly Administered |

**DECLARATION OF MICHAEL S. ETKIN**

1212020120628000000000019

I, Michael S. Etkin, hereby declare:

1. I am an attorney admitted to practice before the Courts of the State of New York and the United States District Court for the Southern District of New York, among others. I am a member of the firm of Lowenstein Sandler PC, counsel for New Jersey Carpenters Health Fund, Lead Plaintiff, in the securities class action styled *New Jersey Carpenters Health Fund, et al., on Behalf of Themselves and All Others Similarly Situated v. Residential Capital, LLC, et als.*, Case No 08-cv-8781 (HB) (S.D.N.Y.) (the "Class Action"), Union Central Life Insurance Company, Ameritas Life Insurance Company and Acacia Life Insurance Company (the "Insurance Companies"), plaintiffs in the securities action styled *The Union Central Life Insurance Company, et als. v. Credit Suisse First Boston Mortg. Sec. Corp, et als.*, Civil Action No. 11-cv-02890 (GBD) (S.D.N.Y.) (the "Union Central Action"), and Cambridge Place Investment Management Inc. ("CPIM"), plaintiff in *Cambridge Place Investment Management Inc. v. Morgan Stanley & Co., Inc., et als.*, Civil Action No. 10-2741-BLS1 and in *Cambridge Place Investment Management Inc. v. Morgan Stanley & Co., Inc., et als.*, Civil Action No. 11-0555-BLS1, both pending in the Commonwealth of Massachusetts Superior Court (Suffolk County) and collectively the "CPIM Actions". I submit this declaration in support of the (i) *Objection of New Jersey Carpenters Health Fund to Debtors' Motion to Extend Automatic Stay or, in the Alternative, for Injunctive Relief Enjoining Prosecution of Certain Pending Litigation Against Debtors' Directors and Officers and Non-Debtor Corporate Affiliates* (the "Lead Plaintiff Objection"), (ii) *Joinder of The Union Central Life Insurance Company, Ameritas Life Insurance Company and Acacia Life Insurance Company to Objection of New Jersey Carpenters Health Fund to Debtors' Motion to Extend Automatic Stay or, in the Alternative, for Injunctive Relief Enjoining Prosecution of Certain Pending Litigation Against Debtors' Directors and Officers*

*and Non-Debtor Corporate Affiliates* (the "Union Central Joinder"), and (iii) *Joinder of Cambridge Place Investment Management Inc. to Objection of New Jersey Carpenters Health Fund to Debtors' Motion to Extend Automatic Stay or, in the Alternative, for Injunctive Relief Enjoining Prosecution of Certain Pending Litigation Against Debtors' Directors and Officers and Non-Debtor Corporate Affiliates* (the "Cambridge Joinder").

2. Attached as Exhibit 1 is a true and correct copy of the April 30, 2012 letter from Cohen Milstein, counsel for Lead Plaintiff, to the Honorable Harold Baer Jr., U.S.D.J., with the Court's "So Ordered" Endorsement as entered on the Court's ECF docket on the May 7, 2012 in the Class Action.

3. Attached as Exhibit 2 is a true and correct copy of the April 11, 2012 letter from Robbins Geller Rudman & Dowd, counsel to the Insurance Companies, to the Honorable James C. Francis, U.S.M.J., with the Court's "So Ordered" Endorsement as entered on the Court's ECF docket on April 12, 2012 in the Union Central Action.

4. Attached as Exhibit 3 is a true and correct copy of the Initial Case Management Order entered in the CPIM Actions on November 22, 2011.

5. Attached as Exhibit 4 is a true and correct copy of Case Management Order No. 2 entered in the CPIM Actions on May 18, 2012.

6. Attached as Exhibit 5 is a true and correct copy of the *Amended and Restated Certificate of Incorporation of Ally Financial Inc.*, excluding the exhibits thereto.

7. Attached as Exhibit 6 is a true and correct copy of the relevant pages of the March 7, 2006 Hearing Transcript in *In re Northwest Airlines Corporation*, Case No. 05-17930 (ALG) (S.D.N.Y.), entered on the Court's ECF docket at No. 8644.

8. Attached hereto as Exhibit 7 is a true and correct copy of Plaintiff's [CPIM] Preliminary Requests for Production of Documents to Defendant Residential Funding Securities, LLC d/b/a GMAC RFC Securities in the CPIM Actions.

9. Attached as Exhibit 8 is a true and correct copy of Defendant Residential Funding Securities, LLC's [Ally Securities] Responses to CPIM's Preliminary Requests for Production of Documents, dated June 21, 2012 in the CPIM Actions.

10. On June 12, 2012, Lowenstein Sandler PC, on behalf of Lead Plaintiff, the Insurance Companies and CPIM served an initial request for production of documents (the "Document Request") on counsel for the Debtors in their capacity as Plaintiffs in the adversary proceeding.

11. After several "meet and confer" sessions both before and after the telephonic conference with the Court on June 20, 2012, the parties resolved all pending disputes with respect to the Document Request.

12. On June 27, 2012, and without any prior indication by Debtors' counsel that a confidentiality agreement would be required, Debtors' counsel forwarded a form of confidentiality agreement to me, indicating that documents would not be provided until a confidentiality agreement was executed and returned to Debtors' counsel.

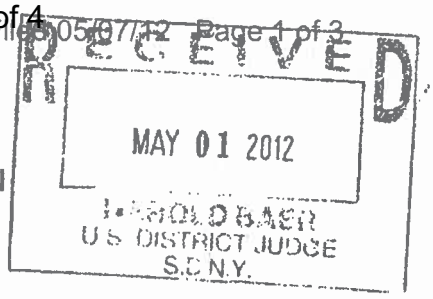
13. At 1:00 p.m. (ET) today, documents were produced, via a secure file link, by the Debtors pursuant to the Document Request as modified by agreement of the parties and input from the Court. We have not had an opportunity to review the content of that production in advance of preparing and filing the Lead Plaintiff Objection, the Union Central Joinder and the Cambridge Joinder.

I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: June 28, 2012

Michael S. Etkin

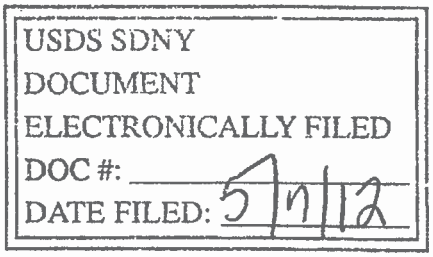
# EXHIBIT 1




COHEN MILSTEIN

Joel Laitman
(212) 750-7581
jlaitman@cohenmilstein.com

April 30, 2012




**BY HAND and FACSIMILE**

Honorable Harold Baer, Jr.
United States District Court Judge
Southern District of New York
500 Pearl Street, Room 2230
New York, New York 10007

Re: *New Jersey Carpenters Vacation Fund, et al., v. The Royal Bank of Scotland PLC, et al.*, Civ. No. 08-5093 (HB) (S.D.N.Y.)

*NJ Carpenters Health Fund v. RALI Series 2006-QO1 Trust et al*, 08-CV-8781 (HB) (S.D.N.Y.)

Dear Judge Baer:

We represent Lead Plaintiffs in the above-captioned cases and write to advise the Court that the Second Circuit, in the summary order attached hereto as Exhibit A, affirmed this Court's denial of class certification based on the "limited evidence" of absent class member knowledge "before the Court at the time the class certification motion was made" and the broad class definition in the motion. Ex. A. at 7-8. The Second Circuit specifically noted that "perhaps another inference could have been drawn and perhaps a different inference might be drawn on a renewed motion on a fuller record." *Id.* at 7. The Second Circuit also specifically held that its affirmance applied only to the broad class definition proposed by Plaintiffs in their original motion which encompassed "any purchaser from the date of the Offering to the present day" and that a more limited class or set of subclasses circumscribed to each offering or shortly thereafter may well eliminate the obstacle to class certification. *Id.* at 8. If the class definition was limited to, for example, only purchasers who bought on the offering or shortly thereafter, ratings downgrades and default rates well after the offering would have no bearing on class member knowledge.

It is for both of the reasons noted in the Second Circuit's decision—to permit additional discovery on the limited issue of absent class member knowledge and to provide Plaintiffs the opportunity to re-file their class certification motion with a more limited class definition—that the Second Circuit affirmance was made explicitly "without prejudice to further motion practice in the District Court." *Id.* at 10.

Based on the Second Circuit's ruling, we respectfully seek to lift the discovery stay in both of the above-captioned actions for 60 days for the limited purpose of conducting additional limited discovery and filing a revised motion for class certification that more narrowly defines the class in each case.

Respectfully submitted,

Joel Laitman /tag

Joel P. Laitman

JPL/tag
Enclosure

cc: All Defendants' Counsel (via electronic mail)

I believe the Circuit was at least amenable if not suggesting another 90 round so I will order 60 days of discovery starting today and additional briefs of 10 pages of anything new & different & 10 pages from Pl and 10 pages from both Δ's of anything new to be submitted on or before August 6, 2012.

SO ORDERED:

Harold Baer, Jr., U.S.D.J.

Date: 5/7/12

Endorsement:

I believe the Circuit was at least amenable if not suggesting another go round so I will order 60 days of discovery starting today and additional briefs of 10 pages of anything new and different, 10 pages for plaintiff and 10 pages from both defendants of anything new to be submitted on or before August 6, 2012.

# EXHIBIT 2

Robbins Geller Rudman & Dowd LLP

Atlanta Boca Raton Melville New York Philadelphia San Diego San Francisco Washington, DC

Christopher M. Wood
CWood@rgrdlaw.com

MEMO ENDORSED

April 11, 2012

VIA FAX (212) 805-7930

Hon. James C. Francis
United States Magistrate Judge
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, NY 10007

USDS SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 4/12/12

Re: *Union Central v. Credit Suisse Securities*,
Case No.: 11-cv-02327-GBD-JCF

*Union Central v. Credit Suisse First Boston*,
Case No.: 11-cv-02890-GBD-JCF

Dear Judge Francis:

On February 27, 2012, Your Honor approved the parties' proposed schedule for the filing of amended complaints and responses thereto in the above-referenced matters. The schedule approved by Your Honor was as follows:

| | |
|---|---|
| Plaintiffs' amended complaints: | April 20, 2012 |
| Defendants' responses to amended complaints: | June 22, 2012 |
| Plaintiffs' oppositions to any motions to dismiss: | August 24, 2012 |
| Defendants' replies to any motions to dismiss: | October 1, 2012 |

Counsel for plaintiffs respectfully request that the Court approve a modification to this schedule in order to accommodate intervening obligations in counsels' schedule. The proposed modified schedule is as follows:

| | |
|---|---|
| Plaintiffs' amended complaints: | May 4, 2012 |
| Defendants' responses to amended complaints: | July 13, 2012 |
| Plaintiffs' oppositions to any motions to dismiss: | August 31, 2012 |
| Defendants' replies to any motions to dismiss: | October 9, 2012 |



One Montgomery Street Suite 1800 San Francisco, CA 94104 Tel 415 288 4545 Fax 415 288 4534 rgrdlaw.com

Robbins Geller
Rudman & Dowd LLP



Counsel for plaintiffs have discussed this modification with counsel for defendants, who have indicated that they have no objection to this requested schedule modification.

Respectfully submitted,

CHRISTOPHER M. WOOD

CMW:mg

4/12/12
Application granted.
SO ORDERED.
James C. Francis IV
USMJ

# EXHIBIT 3

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT

CAMBRIDGE PLACE INVESTMENT MANAGEMENT INC.,

Plaintiff,

v.

MORGAN STANLEY & CO., INC., *et al.*,

Defendants.

Civil Action Nos. 10-2741-BLS1 and 11-0555-BLS1

This paper relates to both actions

**~~[PROPOSED]~~ INITIAL CASE MANAGEMENT ORDER**

WHEREAS, the Court having considered the parties' pre-conference statements and having heard the parties at the Rule 16 Initial Conference held on November 10, 2011, it is hereby ordered that:

**I. Staged Motion Practice**

1. Defendants' motions to dismiss in these actions shall be submitted and decided in two stages. In the first stage, Defendants from both actions shall initially submit and brief two issues: (i) whether Cambridge Place Investment Management Inc. ("Plaintiff") lacks standing due to the purported invalidity of the assignments and/or the purported inability of the assignments to transfer effectively claims for rescission; and (ii) whether this Court lacks personal jurisdiction over certain Defendants.

2. Briefing on the first stage of motion practice shall be conducted according to the following schedule:

(a) On November 22, 2011, Defendants shall serve a Joint Motion to Dismiss for Lack of Standing, supported by a common brief of not more than 15 pages.

(b) On November 22, 2011, those Defendants asserting a personal jurisdiction defense shall serve individual Motions to Dismiss for Lack of Personal Jurisdiction, supported by individual briefs of not more than 20 pages each.

(c) On December 8, 2011, Plaintiff shall serve any opposition to Defendants' Joint Motion to Dismiss for Lack of Standing in a brief of not more than 15 pages, and any opposition to those Defendants asserting a personal jurisdiction defense in briefs of not more than 20 pages each.

(d) On December 16, 2011, Defendants shall serve any Joint Reply brief of not more than 8 pages in support of their Motion to Dismiss for Lack of Standing, and those Defendants asserting a personal jurisdiction defense shall serve any individual reply briefs of not more than 10 pages each in support of their Motions to Dismiss for Lack of Personal Jurisdiction.

(e) Defendants shall submit and file the fully-briefed motions on December 16, 2011.

(f) The Court shall hear argument on issues fully briefed during the first stage of motion practice on January 11, 2012, at 2:00 p.m.

3. In a second stage of briefing, if the first stage of motions does not dispose of the cases in their entirety, Defendants shall move to dismiss on all remaining grounds. Defendants shall coordinate briefing on all issues they deem common, with individual briefing as to other issues, according to the following schedule:

(a) Within 45 days following the Court's decision on the entirety of the motions filed in the first stage of motion practice, Defendants shall serve a second Joint Motion to Dismiss presenting common arguments, supported by a joint brief on behalf of all Defendants of not more than 45 pages, ~~and those Defendants presenting individual arguments shall serve individual motions, supported by briefs of not more than 10 pages each.~~

(b) Plaintiff shall serve any opposition to Defendants' second stage of motion practice within 45 days from the date Defendants serve their motions, in a brief of not more than 45 pages in response to Defendants' joint brief, ~~and in briefs of not more than 10 pages each in response to any individual briefs.~~

(c) Defendants shall serve any replies in support of the second stage of motion practice within 21 days from the date Plaintiff serves its oppositions, in a common reply brief for all Defendants of not more than ~~20~~ 10 pages, ~~and individual reply briefs of not more than 5 pages each.~~

(d) Defendants shall submit and file their fully-briefed motions on the same date that they serve their replies.

## II. Discovery

4. All discovery is stayed in these actions until the hearing date on the first motions (presently scheduled for January 11, 2012), except for discovery that has not already been done related to (i) the validity of the assignments; and (ii) whether this Court has personal jurisdiction over any parties moving for dismissal on that ground.

## III. Additional Case Management Issues

5. Short-Form Caption

Papers filed that pertain to both actions shall be filed in both actions and bear the following caption:

| | |
|---|---|
| CAMBRIDGE PLACE INVESTMENT MANAGEMENT INC.,<br>Plaintiff,<br>v.<br>MORGAN STANLEY & CO., INC., *et al.*,<br>Defendants. | Civil Action Nos. 10-2741-BLS1 and 11-0555-BLS1<br>This paper relates to both actions<br>[title of submission] |

Papers that pertain only to one of the actions shall be filed only in that action and shall bear one of the following captions:

| | |
|---|---|
| CAMBRIDGE PLACE INVESTMENT MANAGEMENT INC.,<br>Plaintiff,<br>v.<br>MORGAN STANLEY & CO., INC., *et al.*,<br>Defendants. | Civil Action No. 10-2741-BLS1<br>This paper relates only to this action<br>[title of submission] |

CAMBRIDGE PLACE INVESTMENT MANAGEMENT INC.,

Plaintiff,

v.

MORGAN STANLEY & CO., INC., *et al.*,

Defendants.

Civil Action No. 11-0555-BLS1

This paper relates only to this action

[title of submission]

In accordance with the October 19, 2011 Stipulation and Order, the use of a short-form caption shall not prejudice any party's right to seek consolidation or severance of the action(s) or otherwise to seek coordinated or separate trials.

6. Electronic Service: Service of papers required or permitted to be made in these actions may be effected by e-mail on all counsel of record. Service of voluminous documents not transmitted by e-mail shall be served on all counsel of record in the form of hard copies or disks ~~as provided for in Rule 5(h)~~ (CF). This Order does not affect requirements for filing papers with the Court.

7. Contact For Defense Counsel: When seeking to communicate with counsel for all Defendants in these actions, the Court will direct such communications to the following counsel, who shall then relay such information to counsel for all Defendants:

Stephen D. Poss, Esq.
Goodwin Procter LLP
Exchange Place
53 State Street
Boston, MA 02109
Direct Telephone: (617) 570-1886
Direct Facsimile: (617) 523-1231

8. Status Conference: A status conference shall be held in these actions on March 22, 2012 at 2:00 p.m.

9. Either party may seek to modify this Order.

SO ORDERED:

Judith Fabricant
Superior Court Justice

Dated: November 22, 2011

# EXHIBIT 4

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT
CIVIL ACTION
NOS. 10-2741-BLS1
11-0555-BLS1

CAMBRIDGE PLACE INVESTMENT MANAGEMENT, INC.

v.

MORGAN STANLEY & CO., INC., *et al.*

CASE MANAGEMENT ORDER NO. 2

I.

After a status conference and hearing in these two related actions, the court has agreed to set down the defendants yet to be filed "Phase Two Motions To Dismiss" for a hearing on Monday, July 16, 2012 at 3:00 p.m., with each side allowed 30 minutes for oral arguments. Should the parties desire additional time for arguments, they shall submit a written request for same, with substantial reasons therefor, to the court by or before July 3, 2012.

II.

It is apparent to the court that despite its request of all parties to confer informally, and if possible, agree on certain initial or preliminary discovery, that request has failed. Given the ages of these cases, the plaintiffs are entitled to at least start down the long and likely arduous road toward securing discovery from the defendants.

Accordingly, the temporary stay of discovery ordered by the court in its Initial

Case Management Order , ¶ 4 (Paper # 187), which appears to have expired by its terms as of the date of the hearing on the defendants' first phase Motions to Dismiss, is lifted or vacated to the following extent:

Plaintiffs may, without delay, serve their initial Rule 34 Requests for Production of Documents (or categories of documents), as outlined in Plaintiffs' Pre-Conference Statement dated March 20, 2012. Defendants shall serve their Rule 34 written responses to those document requests within the time permitted by Rule 34. All parties shall comply fully with Superior Court Standing Order 1-09.

Within 30 days thereafter, the parties shall meet and confer, in good faith and pursuant to Superior Court Rule 9C, to attempt to resolve any issues raised by the defendants' responses to the plaintiffs' document requests. To the extent that such issues remain unresolved, the parties may thereupon serve and file, pursuant to Rules 9A and 9C, appropriate motions to compel discovery or for protective orders, accompanied by Certificates evidencing their efforts to resolve their disputes. The court will address and determine any filed discovery related motions, after or without a hearing, in due course.

SO ORDERED.

Peter M. Lauriat, JSC
Peter M. Lauriat
Justice of the Superior Court

Dated: May 18, 2012

# EXHIBIT 5

**Exhibit 3.1**

***Ally Financial Inc.***
***Amended and Restated Certificate of Incorporation, as Amended***

## *ARTICLE I*

The name of the Corporation is Ally Financial Inc.

## *ARTICLE II*

The Corporation's registered office in the State of Delaware is c/o The Corporation Trust Company, The Corporation Trust Center, 1209 Orange Street in the City of Wilmington, County of New Castle, State of Delaware 19801, and its registered agent at this address is The Corporation Trust Company.

## *ARTICLE III*

The Corporation's purpose is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of Delaware.

## *ARTICLE IV*

A. The Corporation is authorized to issue 396,813,476 shares of capital stock, of which:

1. 2,021,384 shares are shares of common stock, $0.01 par value per share ("Common Stock"); and
2. 394,792,092 shares are shares of preferred stock, $0.01 par value per share ("Preferred Stock") of which:
   - 160,870,560 are designated as Preferred Stock, Series A ( "GM Preferred Stock")
   - 8,330 are designated as Preferred Stock, Series C
   - 2,576,601 are designated as Preferred Stock, Series E ("Class E Preferred Stock")
   - 228,750,000 are designated as Preferred Stock, Series F-2 ("Class F-2 Preferred Stock")
   - 2,576,601 are designated as Preferred Stock, Series G ("Class G Preferred Stock")

in each case, upon the applicable terms, designations, powers and preferences as set forth in the applicable exhibit to this Certificate of Incorporation.

3. Each share of Class G Preferred Stock may be issued by the Corporation solely in exchange for or otherwise with respect to a share of Class E Preferred Stock, such that there shall not be more than 2,576,601 shares of Class E Preferred Stock and Class G Preferred Stock in the aggregate issued and outstanding at any one time (other than shares, if any, held by a wholly owned subsidiary of the Company).

B. From time to time, the Corporation may issue shares of Preferred Stock in one or more series, and the Board is hereby authorized to fix:

1. The voting rights (if any), designations, powers, preferences, and the relative, participating, optional, or other rights (in each case, if any), and the qualifications, limitations, or restrictions of any unissued series of Preferred Stock, provided that approval by the affirmative vote, or the consent, of the holders of at least a majority of the outstanding Common Stock (the "Majority Holders"), including at least two holders of the outstanding Common Stock, is required for the Corporation to authorize or issue Preferred Stock if any such Preferred Stock would rank senior to the Common Stock with respect to dividends or distributions (including upon any sale or liquidation of the Corporation), provided further that the Board is authorized to issue up to 120,000,000 shares of GM Preferred Stock without obtaining such stockholder approval.

2. The number of shares constituting any such series of Preferred Stock, and to increase or decrease the number of shares of any such series (but not below the number of shares thereof then outstanding).

C. Except as otherwise provided by Law (as defined in the Bylaws of the Corporation ("Bylaws")), or pursuant to any Certificate of Designations designating the rights, powers and preferences of any series of Preferred Stock, the holders of the outstanding Common Stock (i) have the exclusive right to vote for the election of directors and for all other purposes and (ii) vote together as a single class. Each share of Common Stock has one vote.

## *ARTICLE V*

A. The number of directors of the Corporation will be determined in the manner stated in the Bylaws.

B. Election of directors of the Corporation need not be by written ballot, unless and to the extent required by the Bylaws.

## *ARTICLE VI*

The Bylaws may be amended, changed, altered or repealed as set forth in the Bylaws. To the extent set forth in the Bylaws, the Board shall have the ability to amend, change, alter and repeal the Bylaws.

## *ARTICLE VII*

A. In addition to any requirements under applicable law, this Certificate of Incorporation may only be amended by the Board with the prior written approval of the Majority Holders, provided, however, that:

1. Any provision of this Certificate of Incorporation that provides for an approval right of the Majority Holders or any other specific class of holders of capital stock may only be amended, modified or waived with the prior written approval of the Majority Holders or such other specific class of holders;

2. If any such amendment, modification or waiver would adversely affect in any material respect any stockholder or group of stockholders who have comparable rights under this Certificate of Incorporation disproportionately to the other stockholders having such comparable rights (it being understood no amendment entered into in connection with the compliance by the Corporation with its commitments to the United States Department of the Treasury for purposes of the Corporation's participation in the Troubled Asset Relief Program shall be deemed to adversely affect in any material respect any stockholder), such amendment, modification, or waiver shall also require the written consent of the stockholder(s) so adversely affected;

3. Any amendment that would require any stockholder to contribute or loan additional funds to the Corporation or impose personal liability upon any stockholder shall not be effective against such stockholder without its prior written consent;

4. Any repeal or amendment of Article VIII shall be prospective only, and shall not adversely affect any limitation on the personal liability, any indemnification right or any insurance coverage of a director of the Corporation existing at the time of such repeal or modification.

5. No alteration, repeal or amendment, whether by merger, consolidation, combination, reclassification or otherwise, of the preceding Section 1 through this Section 5 shall be made without the prior written approval of the threshold of stockholders specified in such proviso or those

specific stockholders relevant to each such Section. Amendment of this Section 5 shall require the approval of all stockholders.

B. Notwithstanding anything herein to the contrary, in no event will (i) the merger of the Corporation (with the Corporation as the survivor) or a direct wholly owned subsidiary thereof with each of CB FIM, LLC, FIM CB Holdings, LLC, FIM Coinvestor Holdings I, LLC, CB FIM Coinvestors, LLC and CB FIM Coinvestors I, LLC (each a "FIM Blocker Corp") (or an exchange by each such FIM Blocker Corp (with either the Corporation or a wholly owned subsidiary of the Corporation) of the FIM Blocker Corp's shares in the Corporation for new shares in the Corporation, or a similar exchange transaction) or (ii) the merger of the Corporation (with the Corporation as the survivor) or a direct wholly owned subsidiary thereof with Preferred Blocker, Inc., or an exchange of the outstanding 9% cumulative perpetual preferred stock of Preferred Blocker, Inc. for the Class G Preferred Stock, or a similar exchange transaction, in each of cases (i) and (ii) consummated in accordance with Section 2.8 and 12.7 of the Sixth Amended and Restated Limited Liability Company Operating Agreement of GMAC LLC, dated as of May 22, 2009, in connection with the Corporation's conversion into a Delaware corporation, be prohibited by, or require any consent of any holder of Common Stock under, this Certificate of Incorporation.

C. All rights, preferences and privileges of whatsoever nature conferred upon stockholders are granted subject to the rights reserved in this Article VII.

## ***ARTICLE VIII***

A. No director shall be liable to the Corporation or any stockholder(s) for monetary damages for breach of fiduciary duty as a director, provided that the foregoing shall not eliminate or limit the liability of a director for:

1. Any breach of such director's duty of loyalty to the Corporation or its stockholders;
2. Acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of Law; or
3. For any transaction from which such director derived an improper personal benefit.

B. Except as required by the Delaware General Corporation Law (the "DGCL"), no individual who is a director or an officer, or any combination of the foregoing, shall be personally liable under any judgment of a court, or in any other manner, for any debt, obligation or liability of the Corporation, whether

that liability or obligation arises in contract, tort or otherwise solely by reason of being a director or an officer or any combination of the foregoing.

C. No director or officer shall be liable to the Corporation or any stockholder for any act or omission (including any breach of duty (fiduciary or otherwise)), including any mistake of fact or error in judgment taken, suffered or made by such person if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the Corporation and which act or omission was within the scope of authority granted to such person; provided that such act or omission did not constitute fraud, willful misconduct, bad faith or gross negligence in the conduct of such person's office.

D. To the fullest extent permitted by the DGCL or applicable Law, and to the extent of its assets legally available for this purpose, the Corporation shall indemnify and hold harmless each person who was or is made a party or is threatened to be made a party to or is involved in or participates as a witness with respect to any action, suit or proceeding, whether civil, criminal, administrative or investigative (each a "Proceeding"), by reason of the fact that he or she, or a person of whom he or she is the legal representative, is or was a director or an officer, or is or was serving at the request of the Corporation as a manager, director, officer, employee, fiduciary or agent of another entity (collectively, the "Indemnified Persons") from and against any and all loss, cost, damage, fine, expense (including reasonable fees and expenses of attorneys and other advisors and any court costs incurred by any Indemnified Person) or liability actually and reasonably incurred by the person in connection with the Proceeding, if the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the Corporation and except that no indemnification shall be made in respect of any claim, issue, or matter as to which such person has been adjudged to be liable to the Corporation, unless, and only to the extent that, the Court of Chancery of the State of Delaware or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery or such other court shall deem proper. The termination of any Proceeding by judgment, order, settlement, conviction, or upon a plea of *nolo contendere* or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith or in a manner such person reasonably believed to be in or not opposed to the best interests of the Corporation.

E. To the fullest extent permitted by applicable Law, the Corporation shall pay in advance or reimburse reasonable expenses (including advancing reasonable costs of defense) incurred by an Indemnified Person who is or is

threatened to be named or made a defendant or a respondent in a Proceeding; provided, however, that as a condition to any such advance or reimbursement, such Indemnified Person shall agree that it shall repay the same to the Corporation if such Indemnified Person is finally judicially determined by a court of competent jurisdiction not to be entitled to indemnification under this Article VIII.

F. The Corporation shall not be required to indemnify a Person in connection with a Proceeding initiated by such Person against the Corporation or any of its subsidiaries if the Proceeding was not authorized by the Board of Directors. The ultimate determination of entitlement to indemnification of any Indemnified Person shall be made by the Board of Directors in such manner as the Board of Directors may determine.

G. Any and all indemnity obligations of the Corporation with respect to any Indemnified Person shall survive any dissolution of the Corporation. The indemnification and other rights provided for in this Article VIII shall inure to the benefit of the heirs, executors and administrators of any person entitled to such indemnification.

H. The Corporation shall maintain, at its expense, insurance (i) to indemnify the Corporation for any obligations which it incurs as a result of the indemnification of Indemnified Persons under the provisions of this Article VIII, and (ii) to indemnify Indemnified Persons in instances in which they may not otherwise be indemnified by the Corporation under the provisions of this Article VIII.

I. The Corporation has obtained and fully paid the premium for an extension of the directors' and officers' liability coverage of GMAC LLC's directors' and officers' insurance policies in effect as of March 24, 2009 (the "GMAC LLC Policies") of at least $105 million in coverage in favor of all persons who are or were managers of GMAC LLC on or prior to March 24, 2009 with a claims or discovery period of at least six years from the date the last of the managers of GMAC LLC in office as of March 24, 2009 resigned or otherwise ceased to be a manager (the "End Date"), with respect to any claim related to any period or time at or prior to the End Date from an insurance carrier with the same or better credit rating as the Corporation's then current insurance carrier with respect to directors' and officers' liability insurance (including side A coverage) and fiduciary liability insurance with terms, conditions, retentions and limits of liability that are no less advantageous than the coverage provided under the GMAC LLC Policies with respect to any actual or alleged error, misstatement, misleading statement, act, omission, neglect, breach of duty or any matter claimed against a manager of GMAC LLC by reason of him or her serving in such capacity, to the fullest extent permitted by applicable Federal banking law. In the event that that any

claim is brought under any such policy prior to the six-year anniversary of the End Date, such policy shall be maintained until the final disposition thereof. This covenant is intended to be for the benefit of, and shall be enforceable by, each persons who is or was a manager of GMAC LLC on or prior to March 24, 2009 and their respective heirs and legal representatives. The rights provided for herein shall not be deemed exclusive of any other rights to which such person is entitled, whether pursuant to law, contract or otherwise. The Corporation shall pay all reasonable, documented out-of-pocket expenses, including reasonable attorneys' fees, that may be incurred by any such person in enforcing the indemnity and other obligations provided in this Article VIII.

J. The obligations of the Corporation under paragraphs H, I, J and K shall not be terminated or modified in such a manner as to adversely affect any person to whom paragraphs H, I, J and K apply without the consent of such affected person (it being expressly agreed that the person to whom paragraphs H, I, J and K apply shall be third party beneficiaries of such paragraphs).

K. In the event that the Corporation or any of its successors or assigns (i) in a single transaction or a series of related transactions, effects any sale of all or substantially all of the capital stock of the Corporation or all or substantially all of the assets of the Corporation and its subsidiaries, (ii) in a single transaction or a series of related transactions, effects any sale of capital stock of the Corporation possessing the power to elect or appoint a majority of the Board, or (iii) consolidates with or otherwise merges into any other person, then and in each case, proper provision will be made so that the applicable successors, assigns or transferees assume the obligations set forth in paragraphs H, I, J and K.

L. The rights to indemnification and the payment of expenses incurred in defending any Proceeding in advance of its final disposition conferred in this Article VIII shall not be exclusive of any other right which any person may have or hereafter acquire under any applicable Law, provision of this Certificate of Incorporation, any other agreement, any vote of stockholders of the Corporation or otherwise.

M. For purposes of this Article VIII, references to "the Corporation" shall include, in addition to the resulting company, any constituent company (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its managers, directors, officers, employees or agents, so that any person who is or was a manager, director, officer, employee or agent of such constituent company, or is or was serving at the request of such constituent company as a director, officer, employee or agent of another company, partnership, joint venture, trust or other enterprise, shall

stand in the same position under this Article with respect to the resulting or surviving company as he or she would have with respect to such constituent company if its separate existence had continued. For purposes of this Article, references to "another entity" shall include employee benefit plans; references to "fines" shall include any excise taxes assessed on a person with respect to any employee benefit plan; and references to "serving at the request of the Corporation" shall include any service as a manager, director, officer, employee or agent of the Corporation that imposes duties on, or involves services by, such manager, director, officer, employee or agent with respect to an employee benefit plan, its participants or beneficiaries; and a person who acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner "not opposed to the best interests of the Corporation" as referred to in this Article.

N. Anything herein to the contrary notwithstanding, any indemnity by the Corporation relating to the matters covered in this Article VIII shall be provided out of and to the extent of Corporation assets only and no stockholder of the Corporation shall have personal liability on account thereof or shall be required to make any additional contribution to help satisfy such indemnity of the Corporation.

# EXHIBIT 6

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

| | |
|---|---|
| IN RE: | Case No. 05-17930 (ALG) |
| NORTHWEST AIRLINES CORPORATION, et al, | New York, New York<br>Tuesday, March 7, 2006<br>11:15 a.m. |
| Debtors. | |

TRANSCRIPT OF MOTIONS
BEFORE THE HONORABLE ALLAN L. GROPPER
UNITED STATES BANKRUPTCY JUDGE

APPEARANCES:

| | |
|---|---|
| For the Debtors: | Bruce R. Zirinsky, Esq.<br>Gregory M. Petrick, Esq.<br>Nathan A. Haynes, Esq.<br>Mark C. Ellenberg, Esq.<br>CADWALADER, WICKERSHAM & TAFT, LLP<br>One World Financial Center<br>New York, New York 10261<br>(212) 504-6000 |
| For the Official Committee of Unsecured Creditors: | Scott Hazan, Esq<br>Todd M. Goren, Esq.<br>OTTERBOURG, STEINDLER, HOUSTON & ROSEN, P.C.<br>250 Park Avenue<br>New York, New York 10169<br>(212) 661-9100 |

(Appearances continued)

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Proceedings recorded by electronic sound recording, transcript produced by transcription service.

A P P E A R A N C E S: (Continued)

| | |
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| For General Foods Credit Corp: | Michael P. Richman, Esq.<br>MAYER, BROWN, ROWE & MAW, LLP<br>1675 Broadway<br>New York, New York 10019<br>(212) 506-2500 |
| For Michael Levine: | Richard G. Smolev, Esq.<br>KAYE SCHOLER, LLP<br>425 Park Avenue<br>New York, New York 10022<br>(212) 836-8000 |
| For the Retiree Committee: | Vincent E. Lazar, Esq.<br>JENNER & BLOCK, LLP<br>One IBM Plaza<br>Chicago, Illinois 60611<br>(312) 222-9350 |
| For XL Specialty Insurance Company: | Robert Beau Leonard, Esq.<br>TORRE, LENTZ, GAMELL, GARY & RITTMASTER, LLP<br>100 Jericho Quadrangle<br>Suite 309<br>Jericho, New York 11753<br>(516) 240-8900 |
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the debtors. If the action proceeds against any one of them, the potential prejudice to the debtors exists.

THE COURT: If I stay this action, I think the result would be that any class action brought against any large company in bankruptcy would be stayed. Is that not the implication of this motion?

MR. PETRICK: Your Honor, I know of no -- in all circumstances -- there may be different circumstances in different cases where class actions should proceed.

THE COURT: Well, you have the --

MR. PETRICK: But certainly --

THE COURT: It would be in almost any case you would have involvement of executives, assuming that the top executives are named which is routine, you have possibility of indemnification claims, you have insurance issues. What makes this unique?

MR. PETRICK: Your Honor, I think many of the --

THE COURT: It's a complicated case. It's a large case. It's a well-managed case with counsel who are being well-compensated. And there is insurance. I gather there's a large deductible, if I read the papers correctly.

MR. PETRICK: Yes, Your Honor.

THE COURT: That might be a little unusual. But what else is unusual about this case?

MR. PETRICK: All of those factors that you've

Northwest Airlines, et al, for a preliminary injunction to extend the automatic stay of the Bankruptcy Code to cover claims brought against certain president, former officers and directors in several class action lawsuits.

As far as I can tell from the record before me, these are, in the vernacular, "plain vanilla" or "garden-variety" class actions brought in the wake of the debtors' bankruptcy filing. One charges securities fraud; the other contains charges of ERISA liability based upon the purchase of securities of the debtor.

This preliminary injunction motion requires the movant to show irreparable injury and a substantial probability of success on the merits, or at least a likelihood of success and a balance of the equities tipping decidedly in the debtors' favor.

(Pause in proceedings.)

THE COURT: The debtors quote In Re: United Health Care Organization, 210 B.R. at 233, for the heavy burden that they must meet, quote:

"The first requirement is that there be a danger of imminent irreparable harm to the estate or the debtors' ability to reorganize. Second, there must be a reasonable likelihood of a successful reorganization. Third, the Court must balance the relative harm as between the debtor and the

creditor, who would be restrained. Fourth, the Court must consider the public interest. This requires a balancing of the public interest and successful bankruptcy reorganizations with competing societal interests."

The debtors concede, as they must, that they are not defendants in the class actions. They make three arguments in support of their having met their burden:

First, the debtors argue that they are the real target of the lawsuits. Plaintiffs concede, as they must, that the debtors will not be bound as a result -- by a result in the litigation adverse to the defendants. If the company is the real target, the plaintiffs have seriously compromised their case by proceeding against the other defendants only. But that does not constitute grounds to stay the litigation.

The debtors further argue that they will be affected by the continuation of the litigation in at least three ways:

First, the officers and directors will be diverted by the existence of the litigation at a time when they need to expend all of their energy on the reorganization process. This is a very important consideration and may merit some relief in the future and, if the debtors want it, an evidentiary hearing. But it does not justify a blanket injunction on the basis of the record to date, including the debtors' proffer.

As the plaintiffs argue, there is a period during which discovery is stayed, and discovery against the debtors cannot proceed in absence from relief from the stay in any event. If the debtors need protection in the future, they can seek it on a showing that their officers and directors' attention to critical reorganization issues is, in fact, being diverted.

Debtors further argue that they will be affected by the depletion of available insurance, a fund that they can access, as well as the relevant officers and directors. Further, they claim that the officers and directors have indemnification rights against the estate that may be fixed by the results in the class action.

The Court does not have any issues before it that directly involve indemnification or access to insurance. The debtors' argument, however, proves too much. In their argument, every garden-variety class action would be subject to a stay against non-debtor defendants. The existence of insurance would, in every case, justify such a blanket extension, as would the existence of indemnification rights.

There is authority that extends the stay beyond the debtor, but many of these cases reserve stays to situations where the movant shows true irreparable injury and a balance of the harm that demonstrates an immediate need for relief.

"In the leading circuit court cases, relief has been

granted in mass tort cases, where officers and directors were added to thousands upon thousands of personal injury suits."

See In Re: Johns-Manville, 837 F.2d 89 (2d Cir. 1988), and 33 B.R. 254 (Bankruptcy SDNY 1983); A.H. Robins v. Piccinin, 788 F.2d 994 (4th Cir.), cert. den. 479 U.S. 876 (1986).

Relief has not been routinely granted in routine class actions, and the law should not be so extended.

Balancing the harms on the record before the Court today demonstrates more harm to the class action plaintiffs and a lack of a substantial probability of success on the debtors' part to demonstrating irreparable injury in the future. The motion, of course, does not implicate the strength of the underlying cases; and, if the debtors can show particularized harm to the reorganization process because of interference with the activities of their officers and directors in the future, the motion can be renewed.

One other issue must be considered. There appears to be a large deductible in this case that would leave the defendants uninsured for up to $5 million. It appears from colloquy that the insurer's obligation to defend does not provide for defense costs in the interim. If that is so, the debtors have their remedies before this Court because the Court certainly understands that the incurrence of costs that

the debtors have obligations to advance under their charter, or at least so I assume, might constitute an immediate distraction.

On the other hand, the Court cannot see that the question of irreparable injury or balance of the harms should be adversely determined to the class action plaintiffs because the defendants made a business decision to have a large insurance deductible. As stated, the debtors have their remedies.

The class action plaintiffs should settle an order on five days' notice.

COUNSEL: Thank you, Your Honor. Thank you.

THE COURT: Thank you.

COUNSEL: Thank you. Thank you, Your Honor.

(Proceedings concluded at 1:03 p.m.)

CERTIFICATION

I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter to the best of my knowledge and ability.

Cathryn Lynch

March 8, 2006

Cathryn Lynch
Certified Court Transcriptionist
For Rand Transcript Service, Inc.

# EXHIBIT 7

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS

SUPERIOR COURT

| | |
|---|---|
| CAMBRIDGE PLACE INVESTMENT MANAGEMENT INC.,<br><br>Plaintiff,<br><br>v.<br><br>MORGAN STANLEY & CO., INC., *et al.*,<br><br>Defendants. | Civil Action No. 10-2741-BLS1<br><br>Civil Action No. 11-0555-BLS1 |

PLAINTIFF'S PRELIMINARY REQUESTS FOR PRODUCTION OF DOCUMENTS TO DEFENDANT RESIDENTIAL FUNDING SECURITIES, LLC d/b/a GMAC RFC SECURITIES

Pursuant to Rules 26 and 34 of the Massachusetts Rules of Civil Procedure and Superior Court Standing Order 1-09, Cambridge Place Investment Management Inc. ("Plaintiff") hereby requests that RESIDENTIAL FUNDING SECURITIES, LLC d/b/a GMAC RFC SECURITIES ("Defendant") produce for inspection and copying the documents described herein that are in the possession, custody, or control of the Defendant within 30 days of these Preliminary Requests at the offices of Bernstein Litowitz Berger & Grossmann LLP, 1285 Avenue of the Americas, 38th Floor, New York, New York 10019, or at such other time and place as the parties mutually agree. These Preliminary Requests are being served in accordance with Case Management Order No. 2, which was entered on May 18, 2012. Plaintiff reserves all rights to propound additional requests in accordance with Rule 26 of the Massachusetts Rules of Civil Procedure.

**RELEVANT PERIOD**

Unless otherwise specified, each Preliminary Request shall be deemed to include all documents prepared, sent, received, written, reviewed or marked upon from June 29, 2005 to the date of YOUR response to the Preliminary Request ("Relevant Period"). This shall be construed to include documents concerning events and circumstances during such Relevant Period even though dated, prepared, generated, created, edited, revised or received prior to the Relevant Period.

**DOCUMENTS REQUESTED**

**DOCUMENT REQUEST NO. 1**

Documents such as organizational charts, directories or lists sufficient to identify the entities, departments, groups and persons involved in YOUR (i) residential mortgage securitization business relating to the OFFERINGS; (ii) whole loan due diligence relating to the OFFERINGS; (iii) purchasing the LOANS from, or providing warehouse financing to, the ORIGINATORS; (iv) trading in the CERTIFICATES; and (v) structuring of the OFFERINGS.

**DOCUMENT REQUEST NO. 2**

The DEAL FILE for each OFFERING.

**DOCUMENT REQUEST NO. 3**

Documents that YOU distributed or showed to Plaintiff concerning the OFFERINGS, CERTIFICATES or YOUR residential mortgage securitization business, including any promotional materials, presentations, pitch books, selling memoranda, term sheets, deal sheets or deal summaries at meetings with Plaintiff, including those meetings on or around: August 17, 2005.

**DOCUMENT REQUEST NO. 4**

Documents sufficient to identify the persons at each ORIGINATOR with whom YOU communicated in connection with purchasing the LOANS from, or providing warehouse financing to, the ORIGINATORS.

**DOCUMENT REQUEST NO. 5**

YOUR policy, procedures or manual describing YOUR guidelines for acquiring and selling residential mortgage loans.

**DOCUMENT REQUEST NO. 6**

All written discovery requests, and YOUR objections, responses and agreements regarding such requests, that YOU received from any GOVERNMENTAL BODY in connection with any informal or formal investigation of YOUR residential mortgage securitization business, the CERTIFICATES and the OFFERINGS.

**DOCUMENT REQUEST NO. 7**

Reports documenting the results of any audit or investigation concerning YOUR residential mortgage securitization business, whether performed by YOUR personnel (e.g., internal audit or risk management) or by an external firm.

**DOCUMENT REQUEST NO. 8**

YOUR document retention and destruction policies.

**DOCUMENT REQUEST NO. 9**

Documents sufficient to identify the DUE DILIGENCE FIRMS that YOU engaged to review or evaluate the LOANS.

**DOCUMENT REQUEST NO. 10**

Reports from the DUE DILIGENCE FIRMS concerning their review or evaluation of the LOANS, and of loans that were considered for inclusion in the OFFERINGS.

**DEFINITIONS**

1. "RESIDENTIAL FUNDING SECURITIES, LLC d/b/a GMAC RFC SECURITIES," means RESIDENTIAL FUNDING SECURITIES, LLC d/b/a GMAC RFC SECURITIES, and its present and former officers, employees, corporate parents, subsidiaries, predecessors and successors.

2. The terms "concerning," "document" and "person" have the meanings set forth in Massachusetts Rules of Civil Procedure 34(b) and Superior Court Standing Order 1-09.

3. "CERTIFICATES" means the mortgage pass-through certificates offered or sold in the OFFERINGS.

4. "DEAL FILE" means the repository or repositories of documents that YOU maintained related to each OFFERING, including all documents contained therein, such as data concerning the LOANS, due diligence reports or files, rating analyses, and draft and final registration statements.

5. "DUE DILIGENCE FIRM" means any company or organization engaged to review and evaluate the LOANS (*e.g.*, Clayton Holdings, The Bohan Group LLC, Mortgage

Data Management Corporation, Hanover Capital Partners, Lydian Data Services LLC, Edison Mortgage Decisioning Solutions LLC).

6. "GOVERNMENTAL BODY" means any governmental or regulatory person or entity including the U.S. Congress, the U.S. Department of Justice, the Federal Bureau of Investigation, the U.S. Securities and Exchange Commission, the Financial Industry Regulatory Authority, the Financial Crisis Inquiry Commission, or any Secretary of State or state Attorney General.

7. "LOANS" means any or all mortgage loans that were included in the OFFERINGS.

8. "OFFERING" or "OFFERINGS" means, collectively or disjunctively, the following public offerings of mortgage pass-through CERTIFICATES:

| |
|---|
| RAMP 2005-EFC4 |
| RASC 2006-KS2 |

9. "ORIGINATORS" or "ORIGINATOR" means, collectively or disjunctively, mortgage loan originators from which YOU purchased LOANS.

10. "YOU" or "YOUR" refers to RESIDENTIAL FUNDING SECURITIES, LLC d/b/a GMAC RFC SECURITIES.

## INSTRUCTIONS

1. In responding to these Preliminary Requests, YOU shall produce all of the requested documents in YOUR possession, custody or control, and in the possession, custody or control of YOUR subsidiaries, divisions, affiliates or merged and acquired predecessors. YOU shall supplement YOUR response whenever necessary in accordance with the Massachusetts Rules. This request shall be deemed to be a continuing request for supplemental responses up to

trial pursuant to Massachusetts Rule of Civil Procedure 26(e)(3). If after making YOUR initial production, YOU obtain or become aware of any further documents responsive to these Preliminary Requests, YOU are required to produce such additional documents.

2. In accordance with Massachusetts Rule of Civil Procedure 34(b), documents produced pursuant to these Preliminary Requests shall be produced as kept in the regular course of business or shall be organized and labeled to correspond with the categories in the Preliminary Request.

3. YOU shall produce the original of each document or if the original is not in YOUR possession, custody, or control, then a copy thereof, and in any event, all non-identical copies that differ from the original or from the other copies produced for any reason, including notations on the front or back of the document.

4. In order to bring within the scope of these Preliminary Requests relevant and responsive documents that otherwise might be construed to be outside their scope:

(a) the singular of each word shall be construed to include its plural and vice versa;

(b) "and" and "or" shall be construed conjunctively and disjunctively;

(c) "each" shall be construed to include "every" and vice versa;

(d) "including" means "including without limitation"; and

(e) the present tense shall be construed to include the past tense and vice versa.

5. Plaintiff specifies that dynamic files (e.g., databases, spreadsheets, project files, etc.) shall be produced in original native format with all accompanying metadata, along with all

software necessary to interpret the produced information if such software is not readily commercially available.

6. If YOU claim any form of privilege, whether based on statute or otherwise, as a ground for not producing any document, state the following:

(a) the date of the document;

(b) the name, the title and the occupation of those individuals who prepared, produced, reproduced, or who were recipients of said document;

(c) a description of the document sufficient to identify it without revealing the information for which the privilege is claimed; and

(d) the fact or basis upon which YOU claim any such privilege.

7. Any document that YOU object to producing, but that nevertheless contains non-objectionable information that is responsive to any Preliminary Request, must be produced; but that portion of the document for which the objection is asserted may be withheld on the condition that the information in Instruction No. 6 (a)-(d), above, is produced.

8. If YOU have removed, excised or deleted any portion of a document, stamp the word "REDACTED" on each page of the document that YOU have redacted. Redactions should be included on the privilege log described in Instruction No. 6, above.

Dated: May 22, 2012

**CAMBRIDGE PLACE INVESTMENT MANAGEMENT INC.**

By its attorneys,

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*Counsel for Plaintiff Cambridge Place Investment Management Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that, on May 22, 2012, a true and correct copy of the above document was served upon all counsel to this action via electronic mail and upon the following counsel personally:

DAVID R. STICKNEY

***CAMBRIDGE PLACE INVESTMENT MANAGEMENT, INC.***
***v. MORGAN STANLEY & CO., INC., et al.***
Commonwealth of Massachusetts, Superior Court Department of the Trial Court
Civil Action Nos. 10-2741-BLS1 and 11-0555-BLS1

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Rev. 5/21/12 #119833/v1

# EXHIBIT 8

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT

CAMBRIDGE PLACE INVESTMENT MANAGEMENT INC.,

Plaintiff,

v.

MORGAN STANLEY & CO., INC., *et al.*,

Defendants.

Civil Action Nos. 10-2741-BLS1 and 11-0555-BLS1

This paper relates to both actions

**DEFENDANT RESIDENTIAL FUNDING SECURITIES, LLC'S RESPONSES TO CPIM'S PRELIMINARY REQUESTS FOR PRODUCTION OF DOCUMENTS**

Pursuant to Superior Court Standing Order 1-09 ("Standing Order 1-09") and Rule 34 of the Massachusetts Rules of Civil Procedure, Defendant, Residential Funding Securities, LLC, now known as Ally Securities ("Ally Securities"), provides the following objections and responses to the May 22, 2012 Preliminary Requests for Production of Documents ("Preliminary Requests") served by Plaintiff Cambridge Place Investment Management Inc. ("CPIM"):

**INTRODUCTORY STATEMENT**

1. To the extent Ally Securities responds to any request, in whole or in part, it does not concede that the information requested or provided is relevant to these actions, material, admissible in evidence or reasonably calculated to lead to the discovery of admissible evidence, and it does not waive any objection to the competency, relevance or admissibility as evidence of any information provided, referred to or made the subject of any responses. Further, as Ally Securities'

responses are based on the information available at this time, which may be incomplete, they are given without prejudice to Ally Securities' right to subsequently add to, modify, or otherwise change or amend its responses and/or to correct any inadvertent errors, mistakes, or omissions.

2. Ally Securities states that it will not produce documents in accordance with the Instructions contained in CPIM's Requests to the extent that those Instructions are inconsistent with or exceed the requirements set forth in the Massachusetts Rules of Civil Procedure, the Massachusetts Superior Court Rules, other applicable law, any mutually agreed-upon stipulation or any order entered by the Court in, or applicable to, the above-captioned action.

3. For the purposes of Ally Securities' Objections and Responses, Ally Securities will interpret the term "Loans" to mean only those loans underlying the Certificates at issue between CPIM and Ally Securities, and not loans underlying other certificates in the same Offering.

4. For the purposes of Ally Securities' Objections and Responses, Ally Securities will interpret the term "Relevant Time Period" to mean three months prior to and after the date of the Offerings at issue.

5. Neither intentional production nor inadvertent disclosure shall operate as a waiver of any privileges or protections from discovery, including (a) the attorney-client privilege, (b) the work product doctrine, (c) any joint defense, common interest or other shared privilege, (d) any other applicable discovery rule or privilege, (e) domestic or foreign banking privileges or bank regulatory laws and regulations, (f) domestic or foreign bank secrecy laws, blocking laws, or

similar laws or (g) domestic or foreign criminal or civil laws (including privacy laws).

6. Ally Securities states that it will only produce electronic documents after the parties have agreed upon the appropriate methodology for searching electronically stored information and the appropriate format for electronically produced documents in these actions.

7. Ally Securities states that it will only produce documents that are confidential or of a sensitive nature after the parties enter into a mutually agreeable Confidentiality Stipulation and Protective Order.

## SCOPE OF SEARCH CONDUCTED

Pursuant to Standing Order 1-09, Ally Securities states that in responding to CPIM's Preliminary Request, it will conduct a search of reasonable scope of the readily accessible central files where there is a reasonable likelihood that relevant documents responsive to these Requests may be located and to the extent that they can be located, files of former employees of Ally Securities with significant involvement in the Offerings.

## GENERAL OBJECTIONS

Ally Securities makes the following General Objections to CPIM's Preliminary Requests. These General Objections are incorporated by reference into the response to each individual discovery request, to the extent applicable, whether or not specifically stated in any individual response. Responses to the Plaintiffs' discovery requests are qualified by the objections, whether general or specific, and answers do not waive any asserted objections.

1. The production of documents in response to CPIM's Preliminary Requests is unduly burdensome as to Ally Securities because a pending Bankruptcy Court action may moot these document requests. Residential Capital, LLC along with several affiliates including Residential Accredit Loans, Inc., Residential Asset Mortgage Products, Inc. and Residential Asset Securities Corporation, all of which are former defendants in the above- captioned actions, filed for Chapter 11 bankruptcy protection in the Southern District of New York on May 14, 2012. The case is titled: *In re Residential Capital, LLC, et al.,* Case No. 12-12020 (MG). Ally Securities is an affiliate of Residential Capital, LLC, but is not one of the petitioning debtors. On May 25, 2012, Debtors in *In re Residential Capital, LLC,* moved the Bankruptcy Court to extend the automatic stay to Ally Securities and certain other affiliates on the grounds that the allegations and claims against the non-debtor affiliates, such as Ally Securities, are inextricably interwoven with the allegations and claims against the Debtors in the bankruptcy proceeding. The Bankruptcy Court is scheduled to hear argument on the motion to extend the automatic stay on July 10, 2012 and may extend the automatic stay to cover Ally Securities. Given the proximity of the bankruptcy court hearing and the potential for extending the automatic stay to Ally Securities, it would be unduly burdensome to require Ally Securities to produce documents prior to the Bankruptcy Court's ruling on the pending motion to extend the Stay.

2. Ally Securities objects to any discovery request to the extent it purports to require Ally Securities to produce documents and information outside its possession, custody or control.

3. Ally Securities objects to any discovery request insofar as it seeks discovery of privileged information or material or attorney work product prepared or assembled in anticipation of litigation or for trial.

4. Ally Securities objects to any discovery requests to the extent that it seeks information or documents that Defendant received from CPIM.

5. By agreeing to produce documents responsive to certain requests, Ally Securities makes no representation as to whether such documents necessarily exist.

6. Documents may be responsive to more than one request. Once a document has been produced as responsive to one request, Ally Securities is under no obligation, nor will it attempt, to produce the same document again, even though it may be responsive to an additional request.

7. Ally Securities objects to producing any documents or materials in their original cover or container.

## REQUESTS, SPECIFIC OBJECTIONS, AND RESPONSES

**Request No. 1**

Documents such as organizational charts, directories or lists sufficient to identify the entities, departments, groups and persons involved in YOUR (i) residential mortgage securitization business relating to the OFFERINGS; (ii) whole loan due diligence relating to the OFFERINGS; (iii) purchasing the LOANS from, or providing warehouse financing to, the ORIGINATORS; (iv) trading in the CERTIFICATES; and (v) structuring of the OFFERINGS.

**Specific Objections:** Ally Securities objects to this Request on the grounds that the terms "residential mortgage-backed securities business," "whole loan due diligence" and "warehouse financing" are vague and ambiguous. Ally

Securities further objects to this Request as overly broad, unduly burdensome, not relevant and not reasonably calculated to lead to the discovery of admissible evidence to the extent that it seeks: (1) documents outside of the Relevant Time Period; or (2) documents relating to offerings, certificates or mortgage loans, other than the Offerings, Certificates or Loans that were included in the final collateral pool underlying Certificates on which CPIM has asserted a claim against Ally Securities.

**Response**: Subject to and without waiving either the general or the specific objections and subject to any order extending the scope of the automatic stay in *In re Residential Capital LLC* to include Ally Securities, and after entry of a mutually agreed-upon protective order in these actions, Ally Securities will begin a rolling production of non-privileged documents in its possession, custody or control located after a search of reasonable scope that are sufficient to identify the individuals at Ally Securities who worked on each Offering and the internal departments and groups within Ally Securities that were involved with each Offering.

**Request No. 2**

The DEAL FILE for each OFFERING.

**Specific Objections**: Ally Securities objects to this Request on the grounds that the definition of "Deal File" is vague and ambiguous. Ally Securities further objects to this Request to the extent that it seeks information protected by the attorney-client or work-product privileges or otherwise protected from discovery by law. Ally Securities also objects to this Request as premature

in light of Defendants' pending Joint Motion to Dismiss for Failure to State a Claim, dated April 22, 2012 ("Motion to Dismiss"). Requiring Ally Securities to respond to this Request prior to the disposition of Defendants' Motion to Dismiss, which, even if granted only in part, will narrow the scope of CPIM's claims and the scope of allowable discovery in these actions, is unduly burdensome at this time. In addition, Ally Securities objects to this Request on the grounds that it exceeds the scope of "Preliminary Discovery" that CPIM has sought from the Court. In particular, CPIM represented that its "Preliminary Discovery" would be narrowly tailored to "enable CPIM to prepare deposition lists and to propound more informed, targeted party and third-party discovery going forward." Pl.'s Pre-Conf. Stmt. at 3 & 5. This Request, however, exceeds the scope of such "Preliminary Discovery" and is, therefore, premature.

**Response**: In light of the foregoing general and specific objections, Ally Securities will not produce any documents in response to this Request at this time.

**Request No. 3**

Documents that YOU distributed or showed to Plaintiff concerning the OFFERINGS, CERTIFICATES or YOUR residential mortgage securitization business, including any promotional materials, presentations, pitch books, selling memoranda, term sheets, deal sheets or deal summaries at meetings with Plaintiff, including those meetings on or around: August 17, 2005.

**Specific Objections**: Ally Securities objects to this Request as unduly burdensome because these documents can be derived from CPIM's own records and the burden of obtaining them is substantially the same for CPIM as for Ally Securities. Ally Securities also objects to this Request on the grounds that it assumes facts that have not been established in these actions regarding alleged

meetings with CPIM on or around the dates specified in the Request. Ally Securities further objects to this Request as overly broad, unduly burdensome, not relevant and not reasonably calculated to lead to the discovery of admissible evidence to the extent that it seeks: (1) documents outside of the Relevant Time Period; or (2) documents relating to offerings, certificates or mortgage loans, other than the Offerings, Certificates or Loans that were included in the final collateral pool underlying Certificates on which CPIM has asserted a claim against Ally Securities.

Ally Securities further objects to this Request as premature in light of Defendants' pending Motion to Dismiss. Requiring Ally Securities to respond to this Request prior to the disposition of Defendants' Motion to Dismiss, which, even if granted only in part, will narrow the scope of CPIM's claims and the scope of allowable discovery in these actions, is therefore unduly burdensome at this time. The dismissal of even part of CPIM's claims regarding any of the Offerings at issue could render documents related to one or more of the alleged meetings no longer relevant in these actions, and the production of such documents is premature and unduly burdensome at this time. In addition, Ally Securities objects to this Request on the grounds that it exceeds the scope of "Preliminary Discovery" that CPIM has sought from the Court. In particular, CPIM represented that its "Preliminary Discovery" would be narrowly tailored to "enable CPIM to prepare deposition lists and to propound more informed, targeted party and third-party discovery going forward." Pl.'s Pre-Conf. Stmt. at

3 & 5. This Request, however, exceeds the scope of such "Preliminary Discovery" and is, therefore, premature.

**Response**: In light of the foregoing general and specific objections, Ally Securities will not produce any documents in response to this Request at this time.

**Request No. 4**

Documents sufficient to identify the persons at each ORIGINATOR with whom YOU communicated in connection with purchasing the LOANS from, or providing warehouse financing to, the ORIGINATORS.

**Specific Objections**: Ally Securities objects to this request as overly broad and unduly burdensome to the extent it calls for identification of every individual at each Originator who had any communication with Ally Securities regarding the sale of thousands of Loans related to two separate Offerings, irrespective of the frequency, quantity or nature of the communication with those persons or whether such Originator contributed only a *de minimis* number of loans to any of the Offerings at issue in this case. Ally Securities further objects to this Request as overly broad, unduly burdensome, not relevant and not reasonably calculated to lead to the discovery of admissible evidence to the extent that it seeks: (1) documents outside of the Relevant Time Period; or (2) documents relating to offerings, certificates or mortgage loans, other than the Offerings, Certificates or Loans that were included in the final collateral pool underlying Certificates on which CPIM has asserted a claim against Ally Securities.

Ally Securities further objects to this Request as premature in light of Defendants' pending Motion to Dismiss. Requiring Ally Securities to respond to this Request prior to the disposition of Defendants' Motion to Dismiss, which,

even if granted only in part, will narrow the scope of CPIM's claims and the scope of allowable discovery in these actions, is therefore unduly burdensome at this time. The dismissal of even part of CPIM's claims regarding any of the Offerings at issue could render documents related to multiple originators no longer relevant in these actions, and the production of such documents is premature and unduly burdensome at this time. In addition, Ally Securities objects to this Request on the grounds that it exceeds the scope of "Preliminary Discovery" that CPIM has sought from the Court. In particular, CPIM represented that its "Preliminary Discovery" would be narrowly tailored to "enable CPIM to prepare deposition lists and to propound more informed, targeted party and third-party discovery going forward." Pl.'s Pre-Conf. Stmt. at 3 & 5. This Request, however, exceeds the scope of such "Preliminary Discovery" and is, therefore, premature.

**Response**: In light of the foregoing general and specific objections, Ally Securities will not produce any documents in response to this Request at this time.

**Request No. 5**

YOUR policy, procedures or manual describing YOUR guidelines for acquiring and selling residential mortgage loans.

**Specific Objections**: Ally Securities objects to the terms "guidelines for acquiring" and "guidelines for . . . selling" as vague. Ally Securities further objects to this Request as overly broad, unduly burdensome, not relevant and not reasonably calculated to lead to the discovery of admissible evidence to the extent that it seeks: (1) documents outside of the Relevant Time Period; or (2) documents relating to offerings, certificates or mortgage loans, other than the

Offerings, Certificates or Loans that were included in the final collateral pool underlying Certificates on which CPIM has asserted a claim against Ally Securities.

Ally Securities further objects to this Request as premature in light of Defendants' pending Motion to Dismiss. Requiring Ally Securities to respond to this Request prior to the disposition of Defendants' Motion to Dismiss, which, even if granted only in part, will narrow the scope of CPIM's claims and the scope of allowable discovery in these actions, is therefore unduly burdensome at this time. The dismissal of even part of CPIM's claims regarding any of the Offerings at issue could limit the Relevant Time Frame for these Requests, and the production of such documents is premature and unduly burdensome at this time. In addition, Ally Securities objects to this Request on the grounds that it exceeds the scope of "Preliminary Discovery" that CPIM has sought from the Court. In particular, CPIM represented that its "Preliminary Discovery" would be narrowly tailored to "enable CPIM to prepare deposition lists and to propound more informed, targeted party and third-party discovery going forward." Pl.'s Pre-Conf. Stmt. at 3 & 5. This Request, however, exceeds the scope of such "Preliminary Discovery" and is, therefore, premature.

**Response**: Subject to and without waiving either the general or the specific objections and subject to any order extending the scope of the automatic stay in *In re Residential Capital LLC* to include Ally Securities and after entry of a mutually agreed-upon protective order in these actions, Ally Securities will

begin a rolling production of non-privileged responsive documents in its possession, custody or control located after a search of reasonable scope.

**Request No. 6**

All written discovery requests, and YOUR objections, responses and agreements regarding such requests, that YOU received from any GOVERNMENTAL BODY in connection with any informal or formal investigation of YOUR residential mortgage securitization business, the CERTIFICATES and the OFFERINGS.

**Specific Objections**: Ally Securities objects to this Request as overly broad, unduly burdensome, not relevant and not reasonably calculated to lead to the discovery of admissible evidence to the extent that it seeks: (1) documents outside of the Relevant Time Period; or (2) documents relating to offerings, certificates or mortgage loans, other than the Offerings, Certificates or Loans that were included in the final collateral pool underlying Certificates on which CPIM has asserted a claim against Ally Securities. Ally Securities also objects to this Request to the extent it seeks documents that are subject to government-imposed confidentiality restrictions.

Ally Securities further objects to this Request as premature in light of Defendants' pending Motion to Dismiss. Requiring Ally Securities to respond to this Request prior to the disposition of Defendants' Motion to Dismiss, which, even if only granted in part, will narrow the scope of CPIM's claims and the scope of allowable discovery in these actions, is therefore unduly burdensome at this time. The dismissal of even part of CPIM's claims regarding any of the Offerings at issue could limit the Relevant Time Frame, and the production of such documents is premature and unduly burdensome at this time. In addition,

Ally Securities objects to this Request on the grounds that it exceeds the scope of "Preliminary Discovery" that CPIM has sought from the Court. In particular, CPIM represented that its "Preliminary Discovery" would be narrowly tailored to "enable CPIM to prepare deposition lists and to propound more informed, targeted party and third-party discovery going forward." Pl.'s Pre-Conf. Stmt. at 3 & 5. This Request, however, exceeds the scope of such "Preliminary Discovery" and is, therefore, premature.

**Response**: In light of the foregoing general and specific objections, Ally Securities will not produce any documents in response to this Request at this time.

**Request No. 7**

Reports documenting the results of any audit or investigation concerning YOUR residential mortgage securitization business, whether performed by YOUR personnel (e.g., internal audit or risk management) or by an external firm.

**Specific Objections**: Ally Securities objects to the terms "audit," "investigation" and "residential mortgage securitization business" as vague. Ally Securities further objects to this Request as overly broad, unduly burdensome, not relevant and not reasonably calculated to lead to the discovery of admissible evidence to the extent that it seeks: (1) documents outside of the Relevant Time Period; or (2) documents relating to offerings, certificates or mortgage loans, other than the Offerings, Certificates or Loans that were included in the final collateral pool underlying Certificates on which CPIM has asserted a claim against Ally Securities.

Ally Securities further objects to this Request as premature in light of Defendants' pending Motion to Dismiss. Requiring Ally Securities to respond to

this Request prior to the disposition of Defendants' Motion to Dismiss, which, even if granted only in part, will narrow the scope of CPIM's claims and the scope of allowable discovery in these actions, is therefore unduly burdensome at this time. The dismissal of even part of CPIM's claims regarding any of the Offerings would render documents related to that Offering no longer relevant to these actions, and the production of such documents is premature and unduly burdensome at this time. In addition, Ally Securities objects to this Request on the grounds that it exceeds the scope of "Preliminary Discovery" that CPIM has sought from the Court. In particular, CPIM represented that its "Preliminary Discovery" would be narrowly tailored to "enable CPIM to prepare deposition lists and to propound more informed, targeted party and third-party discovery going forward." Pl.'s Pre-Conf. Stmt. at 3 & 5. This Request, however, exceeds the scope of such "Preliminary Discovery" and is, therefore, premature.

**Response**: In light of the foregoing general and specific objections, Ally Securities will not produce any documents in response to this Request at this time.

**Request No. 8**

YOUR document retention and destruction policies.

**Specific Objections**: Ally Securities objects that the terms "due diligence firms," "engaged," "review" and "evaluate" as vague. Ally Securities further objects to this Request on the grounds that it seeks documents or communications concerning document retention and destruction policies that are protected from production by the attorney-client privilege and work-product doctrines. Ally Securities further objects to this Request as overly broad, unduly burdensome, not

relevant and not reasonably calculated to lead to the discovery of admissible evidence to the extent that it seeks: (1) documents outside of the Relevant Time Period; or (2) documents relating to offerings, certificates or mortgage loans, other than the Offerings, Certificates or Loans that were included in the final collateral pool underlying Certificates on which CPIM has asserted a claim against Ally Securities.

**Response**: In light of the foregoing general and specific objections, Ally Securities will not produce any documents in response to this Request at this time.

**Request No. 9**

Documents sufficient to identify the DUE DILIGENCE FIRMS that YOU engaged to review or evaluate the LOANS.

**Specific Objections**: Ally Securities objects to this Request as overly broad, unduly burdensome, not relevant and not reasonably calculated to lead to the discovery of admissible evidence to the extent that it seeks: (1) documents outside of the Relevant Time Period; or (2) documents relating to offerings, certificates or mortgage loans, other than the Offerings, Certificates or Loans that were included in the final collateral pool underlying Certificates on which CPIM has asserted a claim against Ally Securities.

**Response**: Subject to and without waiving either the general or the specific objections and subject to any order extending the scope of the automatic stay in *In re Residential Capital LLC* to include Ally Securities and after entry of a mutually agreed-upon protective order in these actions, Ally Securities will begin a rolling production of non-privileged responsive documents in its possession, custody or control, that are located after a search of reasonable scope

that: (1) are within the Relevant Time Period; and (2) relate to the Offerings, Certificates or Loans that were included in the final collateral pool underlying Certificates on which CPIM has asserted a claim against Ally Securities.

**Request No. 10**

Reports from the DUE DILIGENCE FIRMS concerning their review or evaluation of the LOANS, and of loans that were considered for inclusion in the OFFERINGS.

**Specific Objections**: Ally Securities objects that the terms "due diligence firms," "engaged," "review" and "evaluate" as vague. Ally Securities further objects to this Request as overly broad, unduly burdensome, not relevant and not reasonably calculated to lead to the discovery of admissible evidence to the extent that it seeks: (1) documents outside of the Relevant Time Period; or (2) documents relating to offerings, certificates or mortgage loans, other than the Offerings, Certificates or Loans that were included in the final collateral pool underlying Certificates on which CPIM has asserted a claim against Ally Securities.

Ally Securities further objects to this Request as premature in light of Defendants' pending Motion to Dismiss. Requiring Ally Securities to respond to this Request prior to the disposition of Defendants' Motion to Dismiss, which, even if only granted in part, will narrow the scope of CPIM's claims and the scope of allowable discovery in these actions, is therefore unduly burdensome at this time. The dismissal of even part of CPIM's claims regarding any of the Offerings would render documents related to due diligence in connection with that Offering no longer relevant to these actions, and the production of such

documents is premature and unduly burdensome at this time. In addition, Ally Securities objects to this Request on the grounds that it exceeds the scope of "Preliminary Discovery" that CPIM has sought from the Court. In particular, CPIM represented that its "Preliminary Discovery" would be narrowly tailored to "enable CPIM to prepare deposition lists and to propound more informed, targeted party and third-party discovery going forward." Pl.'s Pre-Conf. Stmt. at 3 & 5. This Request, however, exceeds the scope of such "Preliminary Discovery" and is therefore premature at this time.

**Response**: In light of the foregoing general and specific objections, Ally Securities will not produce any documents in response to this Request at this time.

Dated: June 21, 2012

ALLY SECURITIES, LLC, f/k/a
RESIDENTIAL FUNDING SECURITIES
LLC,

By its attorneys,

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CERTIFICATE OF SERVICE

I, John A. Houlihan, hereby certify that on this 21st day of June, 2012, a true and correct copy of the foregoing document was served upon counsel of record for plaintiff by first-class mail and, pursuant to agreement, upon counsel of record for all defendants by electronic mail.

John A. Houlihan