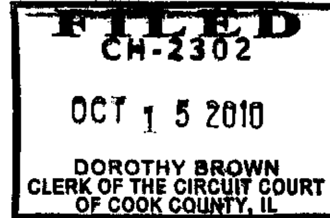
IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

FEDERAL HOME LOAN BANK OF CHICAGO, Plaintiff, v. BANC OF AMERICA FUNDING CORPORATION; BANC OF AMERICA SECURITIES LLC; BANK OF AMERICA CORPORATION; SECURITIZED ASSET BACKED RECEIVABLES, LLC; BARCLAYS CAPITAL INC.; CITIGROUP MORTGAGE LOAN TRUST INC.; CITIGROUP GLOBAL MARKETS INC.; CITIGROUP FINANCIAL PRODUCTS, INC.; CITIGROUP INC.; COUNTRYWIDE SECURITIES CORPORATION; CREDIT SUISSE SECURITIES (USA) LLC F/K/A CREDIT SUISSE FIRST BOSTON LLC; FIRST HORIZON ASSET SECURITIES, INC.; FIRST TENNESSEE BANK, NATIONAL ASSOCIATION; RESIDENTIAL ASSET MORTGAGE PRODUCTS, INC.; RESIDENTIAL ASSET SECURITIES CORPORATION; RESIDENTIAL FUNDING MORTGAGE SECURITIES I, INC.; RESIDENTIAL FUNDING SECURITIES LLC F/K/A RESIDENTIAL FUNDING SECURITIES CORPORATION; GMAC MORTGAGE GROUP LLC F/K/A GMAC MORTGAGE GROUP INC.; ALLY FINANCIAL INC. F/K/A GMAC INC.; GS MORTGAGE SECURITIES CORP.; GOLDMAN, SACHS & CO.; GOLDMAN SACHS MORTGAGE COMPANY; THE GOLDMAN SACHS GROUP INC.; FINANCIAL ASSET SECURITIES CORP.; RBS ACCEPTANCE INC. F/K/A GREENWICH CAPITAL ACCEPTANCE, INC.; RBS SECURITIES INC. F/K/A GREENWICH CAPITAL	10CH45033 No. COMPLAINT FOR RESCISSION AND DAMAGES **JURY TRIAL DEMANDED**



MARKETS, INC.; RBS HOLDINGS USA)
INC. F/K/A GREENWICH CAPITAL)
HOLDINGS, INC.; SAND CANYON)
ACCEPTANCE CORPORATION F/K/A)
OPTION ONE MORTGAGE)
ACCEPTANCE CORP.; AMERICAN)
ENTERPRISE INVESTMENT SERVICES,)
INC.; AMERIPRISE FINANCIAL)
SERVICES, INC.; AMERIPRISE)
ADVISOR SERVICES, INC. F/K/A H&R)
BLOCK FINANCIAL ADVISORS, INC.;)
SAND CANYON CORPORATION F/K/A)
OPTION ONE MORTGAGE)
CORPORATION; H&R BLOCK, INC.;)
HSBC SECURITIES (USA) INC.;)
INDYMAC MBS, INC.; J.P. MORGAN)
ACCEPTANCE CORPORATION I; J.P.)
MORGAN SECURITIES INC.; MERRILL)
LYNCH, PIERCE, FENNER & SMITH)
INCORPORATED; MORGAN STANLEY)
ABS CAPITAL I INC.; MORGAN)
STANLEY & CO. INCORPORATED;)
MORGAN STANLEY; PNC)
INVESTMENTS LLC; THE PNC)
FINANCIAL SERVICES GROUP, INC.;)
NOMURA HOME EQUITY LOAN, INC.;)
NOMURA SECURITIES)
INTERNATIONAL, INC.; NOMURA)
HOLDING AMERICA INC.; SEQUOIA)
RESIDENTIAL FUNDING, INC.;)
MORTGAGE ASSET SECURITIZATION)
TRANSACTIONS, INC.; UBS)
SECURITIES LLC; UBS AMERICAS INC.;)
WELLS FARGO ASSET SECURITIES)
CORPORATION; WELLS FARGO BANK,)
NATIONAL ASSOCIATION; WELLS)
FARGO & COMPANY, and JOHN DOE)
DEFENDANTS 1-50,)
)
Defendants.)

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Plaintiff, FEDERAL HOME LOAN BANK OF CHICAGO (hereinafter the "FHLBC" or the "Bank") alleges the following based upon personal knowledge with regard to its own acts, and upon public information as well as information and belief as to all other matters. The Bank's information and belief is based on, among other things, the investigation by its counsel. The investigation included but was not limited to: (1) review and analysis of the Offering Documents for the Certificates that are the subject of this action; (2) interviews with individuals with first hand knowledge of the events alleged herein; (3) examination of relevant SEC filings, press releases and other public statements; (4) review and analysis of pleadings in other civil actions involving certain Defendants; (5) review and analysis of investigations of and complaints filed by state and federal authorities against certain Defendants; (6) published materials, media reports, congressional testimony and additional related materials; and (7) analysis of the performance of the loan pools underlying the securities. Many of the facts related to Plaintiff's allegations are known only by the Defendants, or are exclusively within their custody or control. Plaintiff believes that substantial additional evidentiary support for the allegations set forth below will be developed after a reasonable opportunity for discovery.

I. NATURE OF THE ACTION

1. This is an action for rescission and damages under: (a) Illinois State Securities Law, 815 ILCS § 5, *et seq.*; and (b) applicable common law.

2. The Certificates are "securities" within the meaning of 815 ILCS § 5/2.1. Under the statute, the Bank is entitled to rescind its purchase of the Certificates and/or to be paid damages for its losses on the Certificates.

3. The action arises from the sale of over $3.3 billion in Private Label Mortgage Backed Securities ("PLMBS"), a type of Residential Mortgage Backed Security ("RMBS") by

the Defendants to the Bank. The Defendants include the depositors/issuers, underwriters/dealers, and certain entities controlling these parties, who offered and sold the PLMBS to the Bank. These Defendants' roles are described in detail below.

4. Accompanying Defendants' sales or offers of these PLMBS to the Bank were registration statements, prospectuses, supplemental prospectuses, and other written offering materials (collectively, "Offering Documents") that Defendants wrote, signed, and/or circulated, and which contained untrue statements of material facts and omitted to state material facts necessary in order to make the statements made not misleading. Attached as Appendix I is a list of the PLMBS Certificates purchased by the bank that are the subject of this Action due to the Defendants' material misstatements in and omissions from the Offering Documents described herein.

5. PLMBS are mortgage pass-through certificate securities entitling the holder to income payments from pools of mortgage loans.[1] The securities are referred to as "private label" because they are issued by private entities instead of the Federal National Mortgage Association ("Fannie Mae") and the Federal Home Loan Mortgage Corporation ("Freddie Mac"), which are U.S. government-sponsored enterprises ("GSEs"). Mortgage securities issued by Fannie Mae and Freddie Mac are referred to as "agency" mortgage securities.

6. Traditionally, the GSEs provided liquidity for the residential mortgage market by buying loans that conformed to their underwriting standards and dollar limits. In the early 2000s, PLMBS became an increasingly important adjunct to the GSEs, forming a capital market for mortgages that could not be sold to the GSEs. Certain PLMBS were secured by "prime/alt-a"

[1] The terms "PLMBS" and "Certificate(s)" are used interchangeably herein. Plaintiff identifies the PLMBS Certificates herein using the ticker symbols for each Certificate as created by Bloomberg.

mortgages. These were mortgages that allegedly met the credit score and other underwriting criteria of the GSEs, but were ineligible for GSE purchase either because the mortgages exceeded the applicable GSE dollar limit, were supported by reduced documentation, or contained disqualifying terms, such as certain types of adjustable rates. Other PLMBS were secured by "subprime" mortgages. These were mortgages that did not meet the GSE criteria for creditworthiness of the borrower but purportedly satisfied loan underwriting criteria developed by their originators.

7. Fundamentally, the value of a mortgage pass-through certificate depends on the ability of borrowers to repay the principal and interest on the underlying loans and the adequacy of the collateral the borrowers provide in the event of default. In the event that borrowers fall behind or default, the investor is exposed to loss. For this reason, rigorous and effective loan underwriting by the mortgage originators, performed in accordance with stated underwriting criteria, is of paramount importance; the absence of it – as demonstrated by this case – renders unreliable any credit rating or other attempt to assess the credit risk of the securities.

8. PLMBS are segmented into "tranches" with laddered payment priority and varying return potential for security holders. Interests in each tranche are issued in the form of certificates identified by a CUSIP code unique to that certificate. Mortgage payments are collected by the servicing agent and provided to a trustee, who then distributes payments to the investors who hold the securities in accordance with the priority scheme among the various tranches. The most senior tranches enjoy the highest payment priority and lowest risk of default. Thus, if mortgage payments are not made, the losses are allocated first to the most junior tranches and move upward as the junior tranches are wiped out.

9. By policy, and in order to minimize the risk of loss, for the certificates at issue the Bank purchased only the most senior, triple-A rated PLMBS tranches. These tranches were backed by pools of prime/alt-a as well as subprime mortgage loans. Unfortunately, as detailed herein, the Offering Documents contained material misstatements and omitted to disclose material information with respect to the mortgage pools, the creditworthiness of the borrowers, and quality of the collateral. As a result, despite their original AAA ratings and the abundant representations and warranties regarding the underlying mortgage pools, the Bank has incurred massive losses on these securities.

10. Though the securities themselves are complex, the abuses by the Defendants can be put in simple terms. The Defendants did not tell the Bank the truth about the loans that comprised the mortgage pools securing the PLMBS. The Bank believed it was buying safe and secure securities with an extremely low risk of default – equivalent, from an investment quality standpoint, to other AAA rated investments – but in fact, the Bank purchased a toxic stew of doomed mortgage loans.

11. It is not happenstance that the PLMBS failed to perform and plunged in value and were ultimately severely downgraded. To the contrary, the PLMBS purchased by the Bank collapsed because they are not what the Defendants claimed they were. Contrary to the way in which Defendants represented them, the PLMBS at issue in this case are simply not pools of loans issued to borrowers based on the application of stated underwriting standards or considerations. The ability of the borrowers to pay was not genuinely taken into account by the mortgage originators, and exceptions to underwriting standards were not made due to "compensating circumstances." Instead, the primary motivation was the desire to issue and securitize as many loans as possible in order to receive substantial fees; exceptions to

underwriting standards became the norm. The Depositor/Issuers and Underwriters packaged and sold these securities without regard to whether the underlying mortgage pools comported with the detailed descriptions contained in the Offering Documents.

12. The sale of each PLMBS purchased by the Bank was effected through the Offering Documents which include a registration statement, prospectus, prospectus supplement and other documents that were provided to the Bank in connection with the offer and sale of the PLMBS that are the subject of this action. The Offering Documents contained extensive statements regarding underwriting guidelines purportedly used by the mortgage originators, and extensive data supporting the credit quality of the mortgage loans. However, the statements and data and the omissions pertaining to them were materially false and misleading. Had the Bank been provided with truthful, complete and accurate information, it would not have purchased the PLMBS, and would not have suffered hundreds of millions of dollars of losses.

13. Defendants' untrue statements and omissions of material fact went to the heart of the risk of the mortgage pools underlying the PLMBS. Specifically, Defendants failed to accurately describe key characteristics of the mortgages and the securitization of the mortgages, including, but not limited to:

> **a.** **The Mortgage Originators' Underwriting Guidelines**. The Offering Documents contained material misstatements and omitted to disclose material information regarding the underwriting guidelines purportedly utilized by the mortgage originators. The Defendants represented that the mortgage originators applied their stated underwriting guidelines and standards when issuing loans to borrowers. However, as set forth in more detail below, the mortgage originators routinely disregarded their own guidelines and granted exceptions without proper justification. Moreover, Defendants knew, or in the exercise of due diligence should have known, that numerous statements contained in the Offering Documents with regard to the efficacy of the underwriting guidelines and the processes used to grant exceptions had no reasonable basis. Consequently, the statements in and omissions from the Offering Documents

regarding the mortgage originators' underwriting guidelines rendered the Offering Documents materially false and misleading.

b. **The Loan-to-Value Ratios of the Mortgage Loans and the Appraisal Standards Used to Determine the Ratios**. The Offering Documents contained material misstatements and omitted to disclose material information regarding the loan-to-value ("LTV") ratios of the loans in the mortgage pools, and the appraisal standards that were purportedly applied to determine the home values. The LTV ratios were based on appraisals that were inflated as a result of conflicts of interest and inappropriate influence by the mortgage originators who sought to ensure that the appraisals came back at a high enough level to support the loan amount. But the severe flaws in the appraisal process were not disclosed in the Offering Documents. Consequently, the statements in and omissions from the Offering Documents regarding the LTV ratios and appraisal standards rendered the Offering Documents materially false and misleading.

c. **Primary Residency**. The Offering Documents contained material misstatements and omitted to disclose material information regarding the primary residency status of the mortgage properties – another key characteristic of the risk of the mortgage loans. The Defendants represented that certain specified percentages of the mortgage loan properties were primary residences of the borrower, instead of "second homes" or "investment properties," which carry more risk. However, in truth, the data provided by Defendants overstated the percentage of homes that were primary residences. Consequently, the statements in and omissions from the Offering Documents regarding the occupancy rates of the homes in the mortgage pools rendered the Offering Documents materially false and misleading.

d. **The Ratings Process**. Many of the Offering Documents contained material misstatements and omitted to disclose material information regarding the bases for the bonds' triple-A ratings and ratings process. The Defendants represented that the Credit Rating Agencies conducted analysis that was designed to assess the likelihood of delinquency and defaults in the underlying mortgage pools. However, in truth, the ratings were based on insufficient information and faulty assumptions that vastly understated the true risk of the PLMBS, and overstated the quality of the securities. Consequently, the statements in and omissions from the Offering Documents regarding the PLMBS ratings rendered the Offering Documents materially false and misleading.

e. **Predatory Lending Representations and Warranties**. The Offering Documents contained materials misstatements and omitted to disclose material information regarding the mortgage originators' compliance with state and federal predatory lending prohibitions. By policy, the Bank, was not permitted to purchase any mortgage backed securities that were secured by mortgage loans that violated these prohibitions. The Defendants represented that the mortgage pools did not contain any mortgage loans that violated state and

federal predatory lending prohibitions. However, in truth, the mortgage originators engaged in predatory lending, and, thus, the mortgage pools contained many loans that violated state and federal predatory lending restrictions. Consequently, the statements in and omissions from the Offering Documents regarding predatory lending rendered the Offering Documents materially false and misleading.

f. **Sponsors' Due Diligence**. Many of the Offering Documents contained material misstatements and omitted to disclose material information regarding the sponsors' due diligence on the mortgage loans in the PLMBS mortgage pools. The Offering Documents stated that the sponsors or third-parties retained by them inspected the underlying mortgage loans for compliance with the mortgage originators' underwriting and appraisal guidelines, and documentation requirements. However, the Offering Documents omit to state that the sponsors undermined the due diligence process and pressured the third-party due diligence firms to ignore deviations from the applicable underwriting criteria, and that even with regard to loan defects identified through the due diligence process, the sponsors nonetheless waived the defects as to a substantial percentage of these loans and, in many cases, used this information about defective loans to negotiate lower prices for the loan pools. Consequently, the statements in and omissions from the Offering Documents regarding the sponsors' due diligence on the mortgage loans in the PLMBS mortgage pools rendered the Offering Documents materially false and misleading.

14. The untrue, incomplete and materially misleading statements summarized above and discussed in detail below were made with respect to each of the PLMBS purchased by the Bank that are the subject of this lawsuit. The Bank reasonably relied on these statements and was misled by the omissions when deciding to purchase the securities, and the statements and omissions have caused them significant losses.

15. As a result of these untrue statements in and omissions from the Offering Documents, the Bank purchased securities that were far riskier than represented by the Defendants, and that were not in truth "highest investment grade" as stated in the Offering Documents, but, instead, were low quality, high risk securities. All but three of the Certificates at issue in this case have been downgraded to below investment grade, *e.g.*, "junk," indicating a high probability of default. Furthermore, the Bank has already experienced losses on all

Certificates in this action, including the three Certificates which the Credit Rating Agencies, for whatever reason, have not yet downgraded below investment grade.

II. JURISDICTION AND VENUE

16. This Court has jurisdiction over the claims alleged in this action.

17. This is an action for rescission and damages in an amount exceeding $30,000.

18. This Court has subject matter jurisdiction over Plaintiff's state law claims, which arise under the Illinois Securities Law of 1953, 815 ILCS §§ 5/12 and 5/13 and under Illinois common law, because the Bank's claims arise from its transaction of business with Defendants within this State. The offer and sale to the Bank of the Certificates that are the subject of this action, including certain Defendants' making of materially false and misleading statements and omission of material facts alleged herein, occurred in this State.

19. The Defendants are subject to personal jurisdiction in this State pursuant to the Illinois Long-Arm Statute, 735 ILCS § 5/2-209, because the Bank's claims arise from the transaction of business with Defendants within this State.

20. Venue is proper in this County pursuant to 735 ILCS § 5/2-101. The offer and sale to the Bank of the Certificates that are the subject of this action, including certain Defendants' making of materially false and misleading statements and omission of material facts alleged herein, occurred in this County.

21. The Bank asserts no claims against any entity that has filed for bankruptcy protection.

III. THE PARTIES

A. Plaintiff

22. Plaintiff is a bank created by the Federal Home Loan Bank Act. The headquarters of the Bank are in the city of Chicago, County of Cook. Under its Organization Certificate, the Bank is to operate in Federal Home Loan Bank District 7, which comprises the states of Illinois and Wisconsin. The Bank does conduct business in each of those states. From time to time, the Bank also conducts business with the other 11 Federal Home Loan Banks. It also operates the Mortgage Partnership Finance Program®, a national mortgage purchase program.

23. The Bank's operations are funded solely by its earnings and funds raised by issuing debt instruments (bonds and notes) in the capital markets through the Office of Finance, a joint Federal Home Loan Bank Office located in Virginia.

24. The Bank is capitalized solely by the capital-stock investments of its members and by its retained earnings.

25. The Bank's members are all private financial institutions, including savings banks, savings and loan associations, cooperative banks, credit unions, and insurance companies.

26. The Bank is not a federal agency, and the Bank is not a citizen of any state. The Bank is federally chartered, but privately capitalized and independently managed. The federal government is not involved in the day-to-day management of the Bank's operations. Management of the Bank is vested by law in the Bank's board of directors, all of whom are either elected by the Bank's shareholder members or appointed by the board of directors. No tax dollars are involved in the operation of the Bank, and the federal government does not own any of the Bank's stock.

27. Members of the Bank's board of directors reside in both Wisconsin and Illinois.

28. Employees of the Bank routinely travel to the offices of the Bank's members. In 2009, employees of the Bank made more than 110 business trips to members outside of Illinois.

B. Defendants

29. **The Banc of America Entities**

A. **Depositor Defendant Banc of America Funding Corporation** is a Delaware corporation. On information and belief, **Banc of America Funding Corporation** was formed and exists solely for the purpose of receiving and depositing loans into trusts for PLMBS securitization. **Banc of America Funding Corporation** was the depositor for Certificates BAFC 2006-C 2A1, BAFC 2006-E 2A2, BAFC 2006-E 3A1, BAFC 2006-F 2A1, and BAFC 2006-F 3A1.

B. **Underwriter Defendant Banc of America Securities LLC** is a Delaware limited liability company. **Banc of America Securities LLC** underwrote the following Certificates: ARSI 2005-W5 A2C, BAFC 2006-C 2A1, BAFC 2006-E 2A2, BAFC 2006-E 3A1, BAFC 2006-F 2A1, BAFC 2006-F 3A1, FHASI 2006-AR1 2A1, OOMLT 2005-5 A3, OOMLT 2006-2 2A3, RASC 2005-KS12 A2, SEMT 2006-1 2A1, and SEMT 2006-1 3A1, and sold Certificates BAFC 2006-C 2A1, BAFC 2006-E 2A2, BAFC 2006-E 3A1, BAFC 2006-F 2A1, BAFC 2006-F 3A1, OOMLT 2005-5 A3, OOMLT 2006-2 2A3, RASC 2005-KS12 A2, SEMT 2006-1 2A1, and SEMT 2006-1 3A1 directly to the Bank.

C. **Controlling Person Defendant Bank of America Corporation** is a Delaware corporation. **Bank of America Corporation** is the parent company, with 100% direct or indirect ownership, and a controlling entity of **Banc of America Funding Corporation. Bank of America Corporation** is also the parent company, with at least 75% indirect ownership, of

Banc of America Securities LLC. **Bank of America Corporation** is also the parent company, with at least 100% indirect ownership, of sponsor and originator Bank of America, National Association (sponsor of Certificates BAFC 2006-C 2A1, BAFC 2006-E 2A2, BAFC 2006-E 3A1, BAFC 2006-F 2A1 and BAFC 2006-F 3A1; originator of loans for the offerings in which the Bank purchased Certificates BAFC 2006-C 2A1, BAFC 2006-E 2A2 and BAFC 2006-E 3A1).

30. **The Barclays Entities**

A. **Depositor Defendant Securitized Asset Backed Receivables, LLC** is a Delaware Limited Liability Company. On information and belief, **Securitized Asset Backed Receivables, LLC** was formed and exists solely for the purpose of receiving and depositing loans into trusts for PLMBS securitization. **Securitized Asset Backed Receivables, LLC** was the depositor for Certificates SABR 2006-FR3 A2 and SABR 2006-NC3 A2B.

B. **Underwriter Defendant Barclays Capital Inc.** is a Connecticut corporation. **Barclays Capital Inc.** underwrote the following Certificates: AMSI 2005-R10 A2B, ARSI 2005-W5 A2C, FHLT 2005-E 2A3, SABR 2006-FR3 A2, SABR 2006-NC3 A2B, and WFHET 2006-3 A2, and sold Certificates ARSI 2005-W5 A2C, SABR 2006-FR3 A2, SABR 2006-NC3 A2B, and WFHET 2006-3 A2 directly to the Bank.

31. **The Citigroup Entities**

A. **Depositor Defendant Citigroup Mortgage Loan Trust Inc.** is a Delaware corporation. On information and belief, **Citigroup Mortgage Loan Trust Inc.** was formed and exists solely for the purpose of receiving and depositing loans into trusts for PLMBS securitization. **Citigroup Mortgage Loan Trust Inc.** was the depositor for Certificates CMLTI

2006-NC1 A2C, CMLTI 2006-WFH2 A2B, CMLTI 2006-WFH4 A3, and CMLTI 2006-NC2 A2B.

B. **Underwriter Defendant Citigroup Global Markets Inc.** is a New York corporation. **Citigroup Global Markets Inc.** underwrote the following Certificates: CMLTI 2006-NC1 A2C, CMLTI 2006-WFH2 A2B, CMLTI 2006-WFH4 A3, CMLTI 2006-NC2 A2B, NHELI 2006-WF1 A3, and OOMLT 2005-5 A3, and sold Certificates CMLTI 2006-NC1 A2C, CMLTI 2006-WFH2 A2B, CMLTI 2006-WFH4 A3, CMLTI 2006-NC2 A2B, and FHASI 2006-AR1 2A1 directly to the Bank.

C. **Controlling Person Defendant Citigroup Financial Products, Inc.** is a Delaware corporation. **Citigroup Financial Products, Inc.** is the parent company, with 100% direct ownership, and a controlling entity of **Citigroup Mortgage Loan Trust Inc. Citigroup Financial Products, Inc.** is also the parent company of Citigroup Global Markets Realty Corp. (sponsor of Certificates CMLTI 2006-NC1 A2C, CMLTI 2006-WFH2 A2B, CMLTI 2006-WFH4 A3 and CMLTI 2006-NC2 A2B).

D. **Controlling Person Defendant Citigroup Inc.** is a Delaware corporation. **Citigroup Inc.** is the parent company, with 100% direct or indirect ownership, and a controlling entity of **Citigroup Mortgage Loan Trust Inc.**, as well as **Citigroup Financial Products, Inc. Citigroup Inc.** is also the parent company of Citigroup Global Markets Realty Corp. (sponsor of Certificates CMLTI 2006-NC1 A2C, CMLTI 2006-WFH2 A2B, CMLTI 2006-WFH4 A3 and CMLTI 2006-NC2 A2B) and **Citigroup Global Markets Inc.**

32. **Underwriter Defendant Countrywide Securities Corporation** is a California corporation. **Countrywide Securities Corporation** underwrote the Certificates: HVMLT 2006-

2 2A1A, HVMLT 2006-2 3A1A, MSAC 2006-HE6 A2C, SEMT 2006-1 2A1, and SEMT 2006-1 3A1.

33. **Underwriter Defendant Credit Suisse First Boston LLC** is a Delaware limited liability company. **Credit Suisse First Boston LLC** underwrote the following three Certificates: FHLT 2005-E 2A3 and INABS 2005-D AII3, and sold Certificate FHLT 2005-E 2A3 directly to the Bank. On January 23, 2006, **Credit Suisse First Boston LLC** changed its name to **Credit Suisse Securities (USA) LLC**, effective January 16, 2006. All references herein to **Underwriter Credit Suisse First Boston LLC** are also to **Credit Suisse Securities (USA) LLC**.

34. **The First Horizon Entities**

A. **Depositor Defendant First Horizon Asset Securities, Inc.** is a Delaware corporation. On information and belief, **First Horizon Asset Securities, Inc.** was formed and exists solely for the purpose of receiving and depositing loans into trusts for PLMBS securitization. **First Horizon Asset Securities, Inc.** was the depositor for Certificate FHASI 2006-AR1 2A1.

B. Controlling Person First Horizon Home Loan Corporation, a Kansas corporation, was the parent company, with 100% direct ownership, and a controlling entity of **First Horizon Asset Securities, Inc.**, as well as sponsor of, and an originator of loans for, the offering in which the Bank purchased Certificate FHASI 2006-AR1 2A1. During 2001, First Horizon Home Loan Corporation merged with and into its parent corporation **First Tennessee Bank National Association**, a nationally chartered bank, and continues, through its divisions, to do business as divisions of **First Tennessee Bank National Association. First Tennessee Bank National**

Association is therefore named herein as a **Controlling Person Defendant**, controlling both **First Horizon Asset Securities, Inc.** and First Horizon Home Loan Corporation.

C. **First Tennessee Bank National Association**, d/b/a **FTN Financial Capital Markets** (hereafter "**First Tennessee Bank National Association**") also underwrote Certificate FHASI 2006-AR1 2A1 and is therefore named as an **Underwriter Defendant** herein..

35. **The GMAC Entities**

A. **Depositor Defendant Residential Asset Mortgage Products, Inc.** is a Delaware corporation. On information and belief, **Residential Asset Mortgage Products, Inc.** was formed and exists solely for the purpose of receiving and depositing loans into trusts for PLMBS securitization. **Residential Asset Mortgage Products, Inc.** was the depositor for Certificates GMACM 2006-AR2 2A1 and GMACM 2006-AR2 4A1.

B. **Depositor Defendant Residential Asset Securities Corporation** is a Delaware corporation. On information and belief, **Residential Asset Securities Corporation** was formed and exists solely for the purpose of receiving and depositing loans into trusts for PLMBS securitization. **Residential Asset Securities Corporation** was the depositor for Certificate RASC 2005-KS12 A2.

C. **Depositor Defendant Residential Funding Mortgage Securities I, Inc.** is a Delaware corporation. On information and belief, **Residential Funding Mortgage Securities I, Inc.** was formed and exists solely for the purpose of receiving and depositing loans into trusts for PLMBS securitization. **Residential Funding Mortgage Securities I, Inc.** was the depositor for Certificate RFMSI 2006-SA2 2A1.

D. **Underwriter Defendant Residential Funding Securities Corporation,** also known at times relevant hereto as **Residential Funding Securities, LLC and/or GMAC RFC**

Securities (hereafter together referred to as **"Residential Funding Securities Corporation"**) is a Delaware corporation or limited liability company, respectively. **Residential Funding Securities Corporation** underwrote Certificates GMACM 2006-AR2 2A1, GMACM 2006-AR2 4A1, and RASC 2005-KS12 A2, and sold Certificates GMACM 2006-AR2 2A1 and GMACM 2006-AR2 4A1 directly to the Bank.

E. **Controlling Person Defendant GMAC Mortgage Group, Inc.**, also known at times relevant hereto as **GMAC Mortgage Group LLC** (hereafter, together referred to as "**GMAC Mortgage Group, Inc.**"), is a Delaware corporation or limited liability company, respectively. **GMAC Mortgage Group, Inc.** was the parent corporation, with 100% direct or indirect ownership, and controlling entity of **Residential Asset Mortgage Products, Inc., Residential Asset Securities Corporation** and **Residential Funding Mortgage Securities I, Inc. GMAC Mortgage Group, Inc.** was also the parent corporation of **Residential Funding Securities Corporation,** Residential Funding Corporation (originator of loans for the offering in which the Bank acquired Certificate RASC 2005-KS12 A2 and sponsor of Certificates RFMSI 2006-SA2 2A1 and RASC 2005-KS12 A2), GMAC Mortgage Corporation (an originator of loans for the offering in which the Bank purchased Certificates GMACM 2006-AR2 2A1, GMACM 2006-AR2 4A1 and RFMSI 2006-SA2 2A1 and sponsor of Certificates GMACM 2006-AR2 2A1 and GMACM 2006-AR2 4A1), and HomeComings Financial Network, Inc. (originator of loans for the offering in which the Bank purchased Certificate RFMSI 2006-SA2 2A1).

F. **Controlling Person Defendant GMAC Inc.**, also known at times relevant hereto as **GMAC LLC** (hereafter, together referred to as "**GMAC Inc.**"), is a Delaware corporation or limited liability company, respectively. In addition to automobile financing, **GMAC Inc.** offers

mortgage services, including originating, purchasing, selling, and securitizing residential mortgage loans; servicing residential mortgage loans; and providing collateralized lines of credit to other mortgage originators. **GMAC Inc.** is the parent corporation and controlling entity of **Residential Asset Mortgage Products, Inc., Residential Asset Securities Corporation, Residential Funding Mortgage Securities I, Inc.** and **GMAC Mortgage Group, Inc. GMAC Inc.** is also the parent corporation of **Residential Funding Securities Corporation,** Residential Funding Corporation (originator of loans for the offering in which the Bank acquired Certificate RASC 2005-KS12 A2 and sponsor of Certificates. RFMSI 2006-SA2 2A1 and RASC 2005-KS12 A2), GMAC Mortgage Corporation (an originator of loans for the offering in which the Bank purchased Certificates GMACM 2006-AR2 2A1, GMACM 2006-AR2 4A1 and RFMSI 2006-SA2 2A1 and sponsor of Certificate GMACM 2006-AR2 2A1 and GMACM 2006-AR2 4A1), and HomeComings Financial Network, Inc. (originator of loans for the offering in which the Bank purchased Certificate RFMSI 2006-SA2 2A1).

G. On May 10, 2010, **GMAC Inc.** changed its corporate name to **Ally Financial Inc.** All references herein to **GMAC Inc.** are also to **Ally Financial Inc.**

36. **The Goldman, Sachs Entities**

A. **Depositor Defendant GS Mortgage Securities Corp.** is a Delaware corporation. On information and belief, **GS Mortgage Securities Corp.** was formed and exists solely for the purpose of receiving and depositing loans into trusts for PLMBS securitization. **GS Mortgage Securities Corp.** was the depositor for Certificates FFML 2006-FF13 A2C and GSAMP 2006-NC2 A2C.

B. **Underwriter Defendant Goldman, Sachs & Co**. is a New York corporation. **Goldman, Sachs & Co** underwrote the following four Certificates: FFML 2006-FF13 A2C,

GSAMP 2006-NC2 A2C, and RFMSI 2006-SA2 2A1, and sold Certificates FFML 2006-FF13 A2C, GSAMP 2006-NC2 A2C, and RFMSI 2006-SA2 2A1 directly to the Bank.

C. **Controlling Person Defendant Goldman Sachs Mortgage Company,** a New York limited partnership, is the parent company, with 100% direct ownership, and a controlling entity of **GS Mortgage Securities Corp.**, as well as the sponsor of Certificates FFML 2006-FF13 A2C and GSAMP 2006-NC2 A2C.

D. **Controlling Person Defendant The Goldman Sachs Group Inc.**, a Delaware corporation, is the parent company, with at least 99% direct or indirect ownership, and a controlling entity of **Goldman Sachs Mortgage Company** and **GS Mortgage Securities Corp. The Goldman Sachs Group Inc.** is also the parent corporation of **Goldman, Sachs & Co.**

37. **The Greenwich Entities**

A. **Depositor Defendant Financial Asset Securities Corp.,** is a Delaware corporation. On information and belief, **Financial Asset Securities Corp.** was formed and exists solely for the purpose of receiving and depositing loans into trusts for PLMBS securitization. **Financial Asset Securities Corp.** was the depositor for Certificate FFML 2006-FF8 IIA3.

B. **Depositor Defendant Greenwich Capital Acceptance, Inc.** is a Delaware corporation. On information and belief, **Greenwich Capital Acceptance, Inc.** was formed and exists solely for the purpose of receiving and depositing loans into trusts for PLMBS securitization. **Greenwich Capital Acceptance, Inc.** was the depositor for Certificates HVMLT 2006-2 2A1A and HVMLT 2006-2 3A1A. Pursuant to its Restated Certificate of Incorporation, dated July 8, 2009, **Greenwich Capital Acceptance, Inc.** legally changed its name to **RBS**

Acceptance Inc. All references herein to **Greenwich Capital Acceptance, Inc.** are also to **RBS Acceptance Inc.**

C. **Underwriter Defendant Greenwich Capital Markets, Inc.** is a Delaware corporation. **Greenwich Capital Markets, Inc** is a registered broker-dealer engaged in the U.S. government securities market and related capital markets business, and underwrote the following Certificates: AMSI 2005-R10 A2B, ARSI 2005-W5 A2C, FFML 2006-FF8 IIA3, FHLT 2005-E 2A3, HVMLT 2006-2 2A1A, HVMLT 2006-2 3A1A, INABS 2005-D AII3, OOMLT 2005-5 A3, OOMLT 2006-2 2A3, and RASC 2005-KS12 A2, and sold Certificates FFML 2006-FF8 IIA3, HVMLT 2006-2 2A1A, and HVMLT 2006-2 3A1A directly to the Bank. Pursuant to its Restated Certificate of Incorporation, dated April 1, 2009, **Greenwich Capital Markets, Inc.** legally changed its name to **RBS Securities Inc.** All references herein to **Greenwich Capital Markets, Inc.** are also to **RBS Securities Inc.**

D. **Controlling Person Defendant Greenwich Capital Holdings, Inc.**, a Delaware corporation, is the parent company, with 100% direct or indirect ownership, and a controlling entity of **Financial Asset Securities Corp.** and **Greenwich Capital Acceptance, Inc.** **Greenwich Capital Holdings, Inc.** is also the parent company, with 100% direct ownership, of **Greenwich Capital Markets, Inc.** and Greenwich Capital Financial Products, Inc. (sponsor of Certificates FFML 2006-FF8 IIA3, HVMLT 2006-2 2A1A and HVMLT 2006-2 3A1A; now known as RBS Financial Products, Inc.). **Greenwich Capital Holdings, Inc.** legally changed its name to **RBS Holdings USA Inc.** All references herein to **Greenwich Capital Holdings, Inc.** are also to **RBS Holdings USA Inc.**

38. **The H&R Block Companies**

A. **Depositor Defendant Option One Mortgage Acceptance Corp.** is a Delaware corporation. On or about July 24, 2008, **Option One Mortgage Acceptance Corp.** legally changed its name to **Sand Canyon Acceptance Corporation.** All references herein to **Option One Mortgage Acceptance Corp.** are also to **Sand Canyon Acceptance Corporation.** On information and belief, **Option One Mortgage Acceptance Corp.** was formed and exists solely for the purpose of receiving and depositing loans into trusts for PLMBS securitization. **Option One Mortgage Acceptance Corp.** was the depositor for Certificates OOMLT 2005-5 A3 and OOMLT 2006-2 2A3.

B. **Underwriter Defendant H&R Block Financial Advisors, Inc.** is a Michigan corporation. **H&R Block Financial Advisors, Inc.** underwrote Certificates OOMLT 2005-5 A3 and OOMLT 2006-2 2A3. **H&R Block Financial Advisors, Inc.** was acquired by Ameriprise Financial, Inc. during 2008 as a wholly-owned subsidiary. That same year, **H&R Block Financial Advisors, Inc.** legally changed its name to **Ameriprise Advisor Services, Inc.** Thereafter, in October 2009, portions of **Ameriprise Advisor Services, Inc.** were combined **with Ameriprise Financial, Inc.'s** subsidiaries **Successor Defendant American Enterprise Investment Services, Inc.**, a Minnesota corporation, and **Successor Defendant Ameriprise Financial Services, Inc.**, a Delaware corporation, which are jointly liable as successors in interest to **Ameriprise Advisor Services, Inc. (f/k/a H&R Block Financial Advisors, Inc.).** All references herein to **H&R Block Financial Advisors, Inc.** are also to **Ameriprise Advisor Services, Inc., American Enterprise Investment Services, Inc.** and **Ameriprise Financial Services, Inc.**

C. **Controlling Person Defendant Option One Mortgage Corporation,** a California corporation, is the parent corporation, 100% direct or indirect owner, and controlling entity of **Option One Mortgage Acceptance Corporation. Option One Mortgage Corporation** was also the sponsor of Certificates OOMLT 2005-5 A3 and OOMLT 2006-2 2A3 and an originator of loans for the offerings in which the Bank purchased Certificates OOMLT 2005-5 A3 and OOMLT 2006-2 2A3. During 2008, **Option One Mortgage Corporation** legally changed its name to **Sand Canyon Corporation.** All references herein to **Option One Mortgage Corporation** are also to **Sand Canyon Corporation.**

D. **Controlling Person Defendant H&R Block, Inc.** is a Missouri corporation. **H&R Block, Inc.**, through its subsidiaries, provides tax, retail banking, accounting, and business consulting services and products. **H&R Block, Inc.** is the parent corporation, with 100% direct or indirect ownership, and controlling entity of **Option One Mortgage Corporation** and **Option One Mortgage Acceptance Corp.** At the time the Bank purchased the relevant securities, **H&R Block, Inc.** was also the parent corporation of **H&R Block Financial Advisors, Inc.**

39. **Underwriter Defendant HSBC Securities (USA) Inc.** is a Delaware corporation. **HSBC Securities (USA) Inc.** is a registered broker-dealer that leads or participates as underwriter of all domestic issuances of the company's corporate and asset backed securities. **HSBC Securities (USA) Inc.** underwrote the following two certificates: OOMLT 2005-5 A3 and OOMLT 2006-2 2A3.

40. **Depositor Defendant IndyMac MBS, Inc.** is a Delaware corporation. On information and belief, **IndyMac MBS, Inc.** was formed and exists solely for the purpose of receiving and depositing loans into trusts for PLMBS securitization. **IndyMac MBS, Inc.** was the depositor for Certificate INDX 2006-AR15 A2.

41. **The JP Morgan Chase Entities**

A. **Depositor Defendant J.P. Morgan Acceptance Corporation I** is a Delaware corporation. On information and belief, **J.P. Morgan Acceptance Corporation** was formed and exists solely for the purpose of receiving and depositing loans into trusts for PLMBS securitization. **J.P. Morgan Acceptance Corporation I** was the depositor for Certificate CBASS 2006-CB4 AV3.

B. **Underwriter Defendant J.P. Morgan Securities Inc.** is a Delaware corporation. **J.P. Morgan Securities Inc.** underwrote the following Certificates: AMSI 2005-R10 A2B, CBASS 2006-CB4 AV3, and OOMLT 2005-5 A3, and sold Certificate AMSI 2005-R10 A2B directly to the Bank.

42. **Underwriter Defendant Merrill Lynch, Pierce, Fenner & Smith Incorporated** is a Delaware corporation. **Merrill Lynch, Pierce, Fenner & Smith Incorporated** is a U.S.-based broker-dealer in securities and futures commission merchant, and underwrote the following certificates: CBASS 2006-CB4 AV3 and OOMLT 2006-2 2A3, and sold Certificate CBASS 2006-CB4 AV3 directly to the Bank.

43. **The Morgan Stanley Entities**

A. **Depositor Defendant Morgan Stanley ABS Capital I Inc.** is a Delaware corporation. On information and belief, **Morgan Stanley ABS Capital I Inc.** was formed and exists solely for the purpose of receiving and depositing loans into trusts for PLMBS securitization. **Morgan Stanley ABS Capital I Inc.** was the depositor for Certificates MSAC 2006-WMC2 A2C, MSAC 2006-HE5 A2C and MSAC 2006-HE6 A2C.

B. **Underwriter Defendant Morgan Stanley & Co. Incorporated** is a Delaware corporation. **Morgan Stanley & Co. Incorporated** underwrote the following Certificates:

INABS 2005-D AII3, MSAC 2006-WMC2 A2C, MSAC 2006-HE5 A2C, MSAC 2006-HE6 A2C and WFMBS 2006-AR3 A4, and sold Certificates MSAC 2006-WMC2 A2C, MSAC 2006-HE5 A2C, MSAC 2006-HE6 A2C, and WFMBS 2006-AR3 A4, directly to the Bank.

C. **Controlling Person Defendant Morgan Stanley** is a financial holding company organized under the laws of Delaware. **Morgan Stanley** is the parent company, with 100% direct ownership, and controlling entity of **Morgan Stanley ABS Capital I Inc. Morgan Stanley** is also the parent corporation of Morgan Stanley Mortgage Capital Inc. (sponsor of Certificates MSAC 2006-WMC2 A2C, MSAC 2006-HE5 A2C and MSAC 2006-HE6 A2C) and **Morgan Stanley & Co. Incorporated.**

44. **The National City Entities**

A. At all relevant times, NatCity Investments, Inc. was an Indiana corporation. NatCity Investments, Inc. underwrote the following five certificates: FFML 2006-FF13 A2C, FFML 2006-FF12 A3, FFML 2006-FF12 A4, FFML 2006-FF14 A5, and FFML 2006-FF10 A7. On November 7, 2009, NatCity Investments, Inc. merged with and into **Successor Defendant PNC Investments LLC**, a Delaware limited liability company. All references herein to NatCity Investments, Inc. are also to **PNC Investments LLC**, which is liable as the successor in interest to NatCity Investments, Inc.

B. National City Capital Markets was a trade name under which corporate and investment banking services of National City Corporation, a Delaware corporation, operated. National City Capital Markets was not a separate legal entity from National City Corporation. National City Capital Markets underwrote Certificate FFML 2006-FF8 IIA3. National City Corporation was also the parent corporation of NatCity Investments Inc.

C. Pursuant to an Agreement and Plan of Merger dated October 24, 2008, on or about December 31, 2008, National City Corporation merged with and into **Successor Defendant The PNC Financial Services Group, Inc.**, a Pennsylvania corporation. Under the terms of the agreement, **The PNC Financial Services Group, Inc.** acquired all outstanding shares of common stock in a stock-for-stock merger transaction. Indeed, PNC advised its shareholders and the public that "PNC [was] to acquire 100% of National City resulting in 5th largest U.S. deposit franchise." *See* The PNC Financial Services Group, Inc. Form 8-K, dated October 24, 2008, and exhibits thereto. The merger also resulted in combined company leadership. For example, upon closing, the chairman, president and chief executive officer of National City Corporation was to be appointed as a **PNC Financial Services Group, Inc.** vice chairman, and one National City Corporation director was to "join the board of the combined company." *Id.* To its shareholders and the public **The PNC Financial Services Group, Inc.** also touted the synergies to be obtained from the transaction, estimated at $1.2 billion in annual expense reduction, its success in integrating balance sheets into its business model. *Id.* **The PNC Financial Services Group, Inc.** Chairman and chief executive officer stated that "[w]e believe this strategic combination will continue PNC's efforts to build capital strength and shareholder value." *Id.* The merger became effective December 31, 2008. National City Corporation ceased filing its own financial statements in 2008. The merger was intended to qualify, and on information and belief, did qualify as a "reorganization" within the meaning of Section 368(a) of the Internal Revenue Code of 1986, and its assets and liabilities are now set forth in the financial statements of **The PNC Financial Services Group, Inc. The PNC Financial Services Group, Inc.**, thus acquired the assets, responsibilities, and liabilities, including those relating to the Certificates at issue in this case, of National City Corporation and

its divisions and subsidiaries, including National City Capital Markets, which now does business as **Defendant The PNC Financial Services Group, Inc.**, and NatCity Investments, Inc. All references herein to National City Corporation or National City Capital Markets are also to **The PNC Financial Services Group, Inc. Successor Defendant The PNC Financial Services Group, Inc.** is the successor in liability to National City Corporation and National City Capital Markets, and is jointly and severally or otherwise vicariously liable for the misstatements, omissions, and other wrongful conduct of Defendants alleged herein, including the liability with respect to the Certificates at issue in this case.

45. **The Nomura Entities**

A. **Depositor Defendant Nomura Home Equity Loan, Inc.** is a Delaware corporation. On information and belief, **Nomura Home Equity Loan, Inc.** was formed and exists solely for the purpose of receiving and depositing loans into trusts for PLMBS securitization. **Nomura Home Equity Loan, Inc.** was the depositor for Certificate NHELI 2006-WF1 A3.

B. **Underwriter Defendant Nomura Securities International, Inc**. is a Delaware corporation. **Nomura Securities International, Inc.** underwrote and sold Certificate NHELI 2006-WF1 A3 directly to the Bank.

C. **Controlling Person Defendant Nomura Holding America, Inc.**, a Delaware corporation, is the parent company, with 100% direct ownership, and controlling entity of **Nomura Home Equity Loan, Inc. Nomura Holding America, Inc.** is also the parent corporation of **Nomura Securities International, Inc**., and Nomura Credit & Capital, Inc. (sponsor of Certificate NHELI 2006-WF1 A3).

46. **Depositor Defendant Sequoia Residential Funding, Inc.** is a Delaware corporation. On information and belief, **Sequoia Residential Funding, Inc.** was formed and exists solely for the purpose of receiving and depositing loans into trusts for PLMBS securitization. **Sequoia Residential Funding, Inc.** was the depositor for Certificates SEMT 2006-1 2A1 and SEMT 2006-1 3A1.

47. **The UBS Entities**

A. **Depositor Defendant Mortgage Asset Securitization Transactions, Inc.** is a Delaware corporation. On information and belief, **Mortgage Asset Securitization Transactions, Inc.** was formed and exists solely for the purpose of receiving and depositing loans into trusts for PLMBS securitization. **Mortgage Asset Securitization Transactions, Inc.** was the depositor for Certificate MABS 2006-NC1 A3.

B. **Underwriter Defendant UBS Securities LLC** is a Connecticut limited liability company. **UBS Securities LLC** underwrote and/or sold the following four Certificates: FHLT 2005-E 2A3, INABS 2005-D AII3, MABS 2006-NC1 A3, and SARM 2005-21 3A1 directly to the Bank.

C. **Controlling Person Defendant UBS Americas Inc.** is a Delaware corporation. **UBS Americas Inc.** is the parent company, with 100% direct ownership, and controlling entity of **Mortgage Asset Securitization Transactions, Inc. UBS Americas Inc.** is also the parent of UBS Real Estate Securities Inc. (sponsor of Certificate MABS 2006-NC1 A3) and the parent company (owner of the preferred members' interest) of **UBS Securities LLC.**

48. **The Wells Fargo Entities**

A. **Depositor Defendant Wells Fargo Asset Securities Corporation** is a Delaware corporation. On information and belief, **Wells Fargo Asset Securities Corporation** was formed

and exists solely for the purpose of receiving and depositing loans into trusts for PLMBS securitization. Wells Fargo Asset Securities Corp. was the depositor for Certificates WFHET 2006-3 A2 and WFMBS 2006-AR3 A4.

B. **Controlling Person Defendant Wells Fargo Bank, National Association,** a nationally chartered bank, is the parent corporation and controlling entity of **Wells Fargo Asset Securities Corporation. Wells Fargo Bank, National Association** was also the sponsor of Certificates WFHET 2006-3 A2 and WFMBS 2006-AR3 A4 and an originator of loans for the offering in which the Bank purchased Certificates BAFC 2006-F 2A1, BAFC 2006-F 3A1, CMLTI 2006-WFH2 A2B, CMLTI 2006-WFH4 A3, NHELI 2006-WF1 A3, WFHET 2006-3 A2, and WFMBS 2006-AR3 A4.

C. **Controlling Person Defendant Wells Fargo & Company,** a Delaware corporation, is the parent corporation, with 100% direct or indirect ownership, and controlling entity of **Wells Fargo Asset Securities Corporation and Wells Fargo Bank, National Association. Wells Fargo & Company** is a financial services company that provides retail, commercial and corporate banking services. It has banking stores located in 39 states and the District of Columbia. Wells Fargo & Company provides additional financial services through subsidiaries that are engaged in various businesses, including: wholesale banking, mortgage banking, consumer finance, commercial finance, securities brokerage and investment banking, and mortgage-backed securities servicing.

49. In sum, the "**Depositor/Issuer Defendants**," listed below, received or purchased and transferred or sold pools of assets to the issuing trusts identified below, and securitized in the bonds listed below, and were the "issuers" of the securities:[2]

Depositor/Issuer Defendants	Issuing Trust	Sec.
Banc of America Funding Corporation	Banc of America Funding 2006-C Trust	BAFC 2006-C 2A1
	Banc of America Funding 2006-E Trust	BAFC 2006-E 2A2 BAFC 2006-E 3A1
	Banc of America Funding 2006-F Trust	BAFC 2006-F 2A1 BAFC 2006-F 3A1
Citigroup Mortgage Loan Trust Inc.	Citigroup Mortgage Loan Trust 2006-NC1	CMLTI 2006-NC1 A2C
	Citigroup Mortgage Loan Trust 2006-NC2	CMLTI 2006-NC2 A2B
	Citigroup Mortgage Loan Trust 2006-WFHE2	CMLTI 2006-WFH2 A2B
	Citigroup Mortgage Loan Trust 2006-WFHE4	CMLTI 2006-WFH4 A3
Financial Asset Securities Corp., Inc.	First Franklin Mortgage Loan Trust 2006-FF8	FFML 2006-FF8 IIA3
First Horizon Asset Securities, Inc.	First Horizon Mortgage Pass-Through Trust 2006-AR1	FHASI 2006-AR1 2A1
Greenwich Capital Acceptance, Inc.	Harborview Mortgage Loan Trust 2006-2	HVMLT 2006-2 2A1A HVMLT 2006-2 3A1A
GS Mortgage Securities Corp.	FFMLT Trust 2006-Ff13	FFML 2006-FF13 A2C
	GSAMP Trust 2006-NC2	GSAMP 2006-NC2 A2C
IndyMac MBS, Inc.	Indymac Indx Mortgage Loan Trust 2006-AR15	INDX 2006-AR15 A2
J.P. Morgan Acceptance Corporation I	2006-CB4 Trust	CBASS 2006-CB4 AV3
Morgan Stanley ABS Capital I Inc.	Morgan Stanley ABS Capital I Inc. Trust 2006-HE5	MSAC 2006-HE5 A2C
	Morgan Stanley ABS Capital I Inc. Trust 2006-HE6	MSAC 2006-HE6 A2C

[2] *See* 17 C.F.R. § 230.191 ("The depositor for the asset-backed securities acting solely in its capacity as depositor to the issuing entity is the issuer for purposes of the asset-backed securities of that issuing entity").

Depositor/Issuer Defendants	Issuing Trust	Sec.
	Morgan Stanley ABS Capital I Inc. Trust 2006-WMC2	MSAC 2006-WMC2 A2C
Mortgage Asset Securitization Transactions, Inc.	Mastr Asset Backed Securities Trust 2006-NC1	MABS 2006-NC1 A3
Nomura Home Equity Loan, Inc.	Nomura Home Equity Loan, Inc., Home Equity Loan Trust, Series 2006-WF1	NHELI 2006-WF1 A3
Option One Mortgage Acceptance Corp.	Option One Mortgage Loan Trust 2005-5	OOMLT 2005-5 A3
	Option One Mortgage Loan Trust 2006-2	OOMLT 2006-2 2A3
Residential Asset Mortgage Products, Inc.	GMACM Mortgage Loan Trust 2006-AR2	GMACM 2006-AR2 2A1 GMACM 2006-AR2 4A1
Residential Asset Securities Corporation	RASC Series 2005-Ks12 Trust	RASC 2005-KS12 A2
Residential Funding Mortgage Securities I, Inc.	RFMSI Series 2006-Sa2 Trust	RFMSI 2006-SA2 2A1
Securitized Asset Backed Receivables, LLC	Securitized Asset Backed Receivables LLC Trust 2006-FR3	SABR 2006-FR3 A2
	Securitized Asset Backed Receivables LLC Trust 2006-NC3	SABR 2006-NC3 A2B
Sequoia Residential Funding, Inc.	Sequoia Mortgage Trust 2006-1	SEMT 2006-1 2A1 SEMT 2006-1 3A1
Wells Fargo Asset Securities Corporation	Wells Fargo Home Equity Asset-Backed Securities 2006-3 Trust	WFHET 2006-3 A2
	Wells Fargo Mortgage Backed Securities 2006-AR3 Trust	WFMBS 2006-AR3 A4

50. In sum, the "**Underwriter Defendants**," listed below, purchased the securities identified herein from the Depositor/Issuer Defendants (defined and identified above) and offered or sold the securities to the Bank. Together with the Depositor/Issuer Defendants, the Underwriter Defendants prepared the Offering Documents for the securities and provided them to the Bank:

Underwriter Defendants	Securities
Banc of America Securities LLC	ARSI 2005-W5 A2C BAFC 2006-C 2A1 BAFC 2006-E 2A2 BAFC 2006-E 3A1 BAFC 2006-F 2A1 BAFC 2006-F 3A1 FHASI 2006-AR1 2A1 OOMLT 2005-5 A3 OOMLT 2006-2 2A3 RASC 2005-KS12 A2 SEMT 2006-1 2A1 SEMT 2006-1 3A1
Barclays Capital Inc.	AMSI 2005-R10 A2B ARSI 2005-W5 A2C FHLT 2005-E 2A3 SABR 2006-FR3 A2 SABR 2006-NC3 A2B WFHET 2006-3 A2
Citigroup Global Markets Inc.	CMLTI 2006-NC1 A2C CMLTI 2006-WFH2 A2B CMLTI 2006-WFH4 A3 CMLTI 2006-NC2 A2B NHELI 2006-WF1 A3 OOMLT 2005-5 A3
Countrywide Securities Corporation	HVMLT 2006-2 2A1A HVMLT 2006-2 3A1A MSAC 2006-HE6 A2C SEMT 2006-1 2A1 SEMT 2006-1 3A1
Credit Suisse First Boston LLC	FHLT 2005-E 2A3 INABS 2005-D AII3
First Tennessee Bank, National Association	FHASI 2006-AR1 2A1
Goldman, Sachs & Co.	FFML 2006-FF13 A2C GSAMP 2006-NC2 A2C RFMSI 2006-SA2 2A1

Underwriter Defendants	Securities
Greenwich Capital Markets, Inc.	AMSI 2005-R10 A2B ARSI 2005-W5 A2C FFML 2006-FF8 IIA3 FHLT 2005-E 2A3 HVMLT 2006-2 2A1A HVMLT 2006-2 3A1A INABS 2005-D AII3 OOMLT 2005-5 A3 OOMLT 2006-2 2A3 RASC 2005-KS12 A2
H&R Block Financial Advisors, Inc.	OOMLT 2005-5 A3 OOMLT 2006-2 2A3
HSBC Securities (USA) Inc.	OOMLT 2005-5 A3 OOMLT 2006-2 2A3
J.P. Morgan Securities Inc.	AMSI 2005-R10 A2B CBASS 2006-CB4 AV3 OOMLT 2005-5 A3
Merrill Lynch, Pierce, Fenner & Smith Incorporated	CBASS 2006-CB4 AV3 OOMLT 2006-2 2A3
Morgan Stanley & Co. Incorporated	INABS 2005-D AII3 MSAC 2006-WMC2 A2C MSAC 2006-HE5 A2C MSAC 2006-HE6 A2C WFMBS 2006-AR3 A4
NatCity Investments, Inc.	FFML 2006-FF13 A2C FFML 2006-FF12 A3 FFML 2006-FF12 A4 FFML 2006-FF14 A5 FFML 2006-FF10 A7
National City Corporation	FFML 200-FF8 IIA3
Nomura Securities International, Inc.	NHELI 2006-WF1 A3
Residential Funding Securities Corporation	GMACM 2006-AR2 2A1 GMACM 2006-AR2 4A1 RASC 2005-KS12 A2
UBS Securities LLC	FHLT 2005-E 2A3 INABS 2005-D AII3 MABS 2006-NC1 A3 SARM 2005-21 3A1

51. In sum, the following Defendants, collectively referred to as the "**Controlling Person Defendants**," controlled the Depositor/Issuer Defendants:

Controlling Person	Controlled Defendants	Defendants
Bank of America Corporation	Banc of America Funding Corporation	Depositor
Citigroup Financial Products, Inc.	Citigroup Mortgage Loan Trust Inc.	Depositor
Citigroup Inc.	Citigroup Mortgage Loan Trust Inc.	Depositor
First Tennessee Bank, National Association	First Horizon Asset Securities, Inc.	Depositor
GMAC Inc.	Residential Asset Mortgage Products, Inc.	Depositor
	Residential Asset Securities Corporation	Depositor
	Residential Funding Mortgage Securities I, Inc.	Depositor
GMAC Mortgage Group Inc.	Residential Asset Mortgage Products, Inc.	Depositor
	Residential Asset Securities Corporation	Depositor
	Residential Funding Mortgage Securities I, Inc.	Depositor
Goldman Sachs Mortgage Company	GS Mortgage Securities Corp.	Depositor
Greenwich Capital Holdings, Inc.	Financial Asset Securities Corp.	Depositor
	Greenwich Capital Acceptance, Inc.	Depositor
H&R Block, Inc.	Option One Mortgage Acceptance Corp.	Depositor
Morgan Stanley	Morgan Stanley ABS Capital I Inc.	Depositor
Nomura Holding America Inc.	Nomura Home Equity Loan, Inc.	Depositor
Option One Mortgage Corporation	Option One Mortgage Acceptance Corp.	Depositor
The Goldman Sachs Group Inc.	GS Mortgage Securities Corp.	Depositor
UBS Americas Inc.	Mortgage Asset Securitization Transactions, Inc.	Depositor
Wells Fargo & Company	Wells Fargo Asset Securities Corporation	Depositor
Wells Fargo Bank, National Association	Wells Fargo Asset Securities Corporation	Depositor

52. In sum, the following Defendants, collectively referred to as the "**Successor Liability Defendants,**" are liable as successors to the Underwriters , as set forth above, and all references herein to the Underwriters are also to the Successor:

Successor Defendant	Underwriter Succeeded	Securities
American Enterprise Investment Services, Inc.	H&R Block Financial Advisors, Inc.	OOMLT 2005-5 A3 OOMLT 2006-2 2A3
Ameriprise Financial Services, Inc.	H&R Block Financial Advisors, Inc.	OOMLT 2005-5 A3 OOMLT 2006-2 2A3
The PNC Financial Services Group, Inc.	National City Corporation, d/b/a National City Capital Markets	FFML 2006-FF8 IIA3
PNC Investments LLC	NatCity Investments, Inc.	FFML 2006-FF10 A7 FFML 2006-FF12 A3 FFML 2006-FF12 A4 FFML 2006-FF13 A2C FFML 2006-FF14 A5

C. The John Doe Defendants

53. Defendants John Doe 1-50 are other Depositor/Issuers, Underwriters, Controlling Persons, Successor Liability Defendants, and/or others who are jointly and severally or otherwise liable for the misstatements, omissions, and other wrongful conduct alleged herein, including the liability with respect to the Certificates at issue in this case. The John Doe Defendants may include persons or entities that are not named as Defendants at this time because Plaintiff has insufficient information as to the extent, if any, of their involvement in and liability for the matters alleged herein. Plaintiff will amend this Complaint to allege the true names and capacities of these Defendants when ascertained.

IV. FACTUAL BACKGROUND

A. Mechanics of Mortgage Backed Securities

1. The Securitization Process

54. Like all residential mortgage backed securities, the PLMBS purchased by the Bank were created in a process known as "mortgage securitization." Mortgage securitization is a process by which mortgage loans are acquired from "mortgage originators," pooled together, and securities constituting interests in the cash flow from the mortgage pools are then sold to investors. The securities are referred to as "mortgage pass-through securities" because the cash flow from the pool of mortgages is "passed through" to the securities holders when payments are made by the underlying mortgage borrowers.

55. Securitization involves several entities who perform distinct tasks, though, as often was the case with the PLMBS purchased by the Bank, many or all of the entities may be subsidiaries or affiliates of a single parent or holding company. The first step in creating a mortgage pass-through security such as the PLMBS purchased by the Bank is the acquisition by the "**depositor**" (referred to herein as "depositor" or "depositor/issuer") of an inventory of loans from a "**sponsor**" or "**seller**" which either originates the loans or acquires the loans from other mortgage originators in exchange for cash. The depositor is often a subsidiary or other affiliate of the sponsor.

56. The depositor then securitizes the pool of loans by forming one or more mortgage pools with the inventory of loans, and creating tranches of interests in the mortgage pools with various levels of seniority. Interests in these tranches are then issued by the depositor (who then serves as the "**issuer**") through a trust in the form of bonds, or certificates.

57. Each tranche has a different level of purported risk and reward, and, often, a different rating. The most senior tranches often receive the highest investment grade rating, triple-A. Junior tranches, which usually have lower ratings, are more exposed to risk, but offer higher potential returns. The most senior tranches of securities will be entitled to payment in full before the junior tranches. Conversely, losses on the underlying loans in the asset pool – whether due to default, delinquency, or otherwise – are allocated first to the most subordinate or junior tranche of securities, then to the tranche above that. This hierarchy in the division of cash flows is referred to as the "**flow of funds**" or "**waterfall.**"

58. The depositor/issuer works with one or more of the nationally-recognized credit rating agencies – Fitch Ratings, Standard & Poor's Rating Services (S&P), and Moody's Investor Services, Inc. (collectively, the "Credit Rating Agencies") – to ensure that each tranche of the mortgage pass-through certificate receives the rating desired by the depositor/issuer (and underwriter). For PLMBS, this meant a triple-A rating for the senior tranche, and lower ratings for the subordinated tranches Once the asset pool is securitized, the certificates are issued to one or more "**underwriters**" (typically Wall Street banks), who resell them to investors, such as the Bank.

59. Because the cash flow from the loans in the mortgage pool of a securitization is the source of funds to pay the holders of the securities issued by the trust, the credit quality of the securities depends largely on the credit quality of the loans in the mortgage pool. The collateral pool for PLMBS often includes thousands of loans. Detailed information about the credit quality of the loans is contained in the "loan files" developed and maintained by the mortgage originators when making the loans. For residential mortgage loans, such as the loans that backed the PLMBS purchased by the Bank, each loan file normally contains documents including the

borrower's application for the loan, verification of income, assets, and employment, references, credit reports, an appraisal of the property that will secure the loan and provide the basis for other measures of credit quality, such as loan-to-value ratios, and occupancy status. The loan file should also include notes from the person who underwrote the loan describing the loan's purported compliance with underwriting guidelines, and documentation of "compensating factors" that justified any departure from those standards.

60. Investors in RMBS do not have access to the loan files. Instead, the sponsors, depositors/issuers, and the underwriters are responsible for gathering and verifying information about the credit quality and characteristics of the loans that are deposited into the trust, and presenting this information in prospectuses or other offering documents that are prepared for potential investors. This due diligence process is a critical safeguard for investors and a fundamental legal obligation of the sponsors, the depositor/issuers and the underwriters.

2. The Rating Process for PLMBS

61. Because, like many institutional investors, the Bank was permitted to buy only triple-A rated tranches of these securities, the credit rating of the tranches of PLMBS it purchased was material to its investment decision.

62. In any PLMBS, the credit rating of each tranche is negotiated between the depositor/issuer of the securities and the credit rating agencies. In this process, the depositor/issuer provides the credit rating agency with the purported characteristics of the underlying asset pool. The credit rating agency is then supposed to evaluate, among other things:

a. The credit quality of the collateral – *i.e.*, the underlying obligor's ability to pay and the obligor's equity in the asset;

b. The experience and underwriting standards of the originators of the underlying loans;

c. The loan characteristics reported by the depositor/issuer as underlying a particular transaction;

d. The default rates, historic recovery rates, and concentration of the loans;

e. The ability of the servicer to perform all the activities for which the servicer will be responsible; and

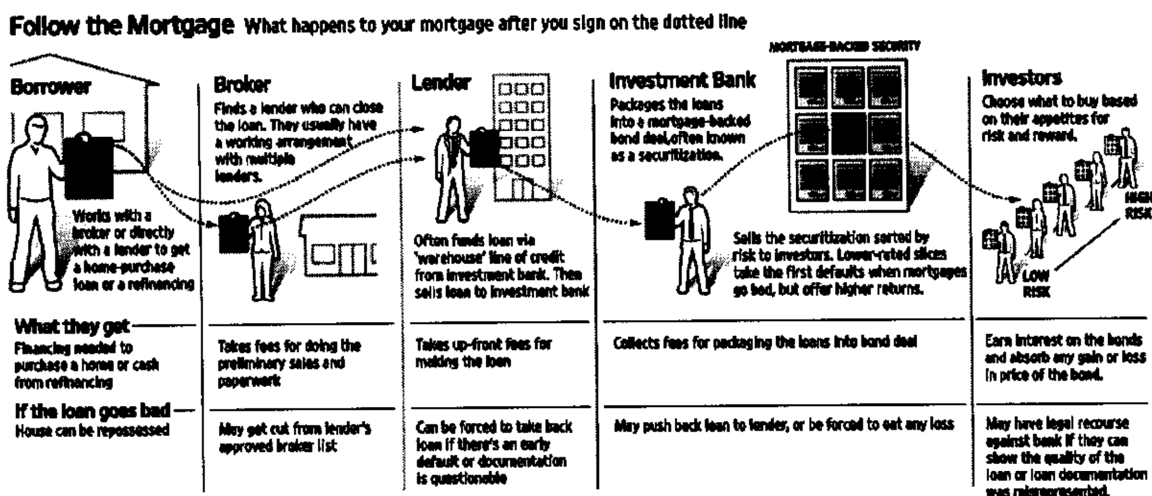
f. The extent to which the cash flow from the collateral can satisfy all of the obligations of the PLMBS transaction. The cash flow payments which must be made from the asset pool are interest and principal to investors, servicing fees, and any other expenses for which the depositor/issuer is liable. The rating agencies are supposed to stress-test the flow of funds to determine whether the cash flows match the payments that are required to be made to satisfy the depositor/issuer's obligations.

63. After evaluating these factors, the credit rating agency issues a rating for the security. This credit rating should be a reflection of both the riskiness of the loans in the asset pool and the seniority of the tranche. If the rating that the credit rating agency assigns to the tranche is not in accord with the issuer's target, then the depositor/issuer may "**credit enhance**" the structure. Such credit enhancement may include overcollateralization (*i.e.*, including in the pool mortgages whose aggregate principal balances exceeds the aggregate principal balances of the certificates secured thereby), cash reserve accounts, excess spread (scheduled cash inflows from the mortgages in excess of the interest service requirements of the secured certificates), or third party contracts (whereby losses suffered by the asset pool are absorbed by an insurer or

other counter party). By using credit enhancement, a depositor/issuer may be able to elevate a bond to the highest credit rating.

64. All of the Certificates that the Bank purchased were senior certificates that were rated triple-A when the Bank purchased them.

65. The following graphic illustrates the securitization process:



B. The Mortgage Originators Abandoned Underwriting and Appraisal Standards and Engaged in Predatory Lending.

1. The Shift from "Originate to Hold" to "Originate to Distribute" Securitization Incentivized Mortgage Originators to Disregard Loan Quality.

66. As noted above, the fundamental basis upon which mortgage pass-through certificates are valued is the ability of the borrowers to repay the principal and interest on the underlying loans and the adequacy of the collateral for those loans. If the borrowers cannot pay, and the collateral is insufficient, the cash flow from the certificate diminishes, and the investors are exposed to losses. For this reason, the underwriting standards and practices of the mortgage originators who issued loans that back MBS, and the representations in the Offering Documents

regarding those standards, are critically important to the value of the securities, and the investors' decisions to purchase the securities.

67. Yet, unbeknownst to the Bank, during the time frame that the Bank purchased the PLMBS at issue in this case, mortgage originators: (a) effectively abandoned their stated underwriting standards; (b) allowed pervasive and systematic exceptions to their stated underwriting standards without proper justification; (c) adopted practices such that variance from their stated underwriting practices was the norm; and (d) disregarded credit risk and quality controls in favor of generating loan volume. As has only now become clear, this was the result of a fundamental shift in the mortgage securitization markets.

68. In the 1980s and 1990s, under the traditional model, mortgage originators held the mortgage loans they provided to borrowers through the term of the loan. They would therefore profit from the obligor's payment of interest and repayment of principal, but also bear the risk of loss if the obligor defaulted and the property value was insufficient to repay the loan. As a consequence of this arrangement, the originator was economically vested in establishing the creditworthiness of the obligor and the true value of the underlying property by appraising it before issuing the mortgage loans.

69. Additionally, the mortgage securitizations that took place in the 1980s and 1990s generally fell within the domain of GSEs Fannie Mae and Freddie Mac. These GSEs purchased the loans from the originators, securitized them, and sold them to investors. Investors in the early GSE securitizations were provided protections because the underlying loans were originated pursuant to strict underwriting guidelines, and the GSEs guaranteed that the investors would receive timely payments of principal and interest. Because the GSEs were perceived as

being backed by the federal government, investors viewed the guarantees as diminishing credit risk, if not removing it altogether.

70. Between 2001 and 2006, however, Wall Street banks moved aggressively into the securitization markets, taking market share away from the GSEs. Unlike the GSEs, the Wall Street banks focused primarily on Alt-A, subprime, and jumbo prime mortgage pools because of the higher fees that were available. Likewise, investors sought higher returns offered by non-agency MBS. As a result, non-agency loan originations and securitizations grew dramatically as shown by the following table:

	2001	2006
GSE Loan Originations	**$1.433 trillion**	**$1.040 trillion**
GSE Securitizations	**$1.087 trillion**	**$904 billion**
Non-GSE Loan Originations	**$680 billion**	**$1.480 trillion**
Non-GSE Securitizations	**$240 billion (including $87 billion of subprime and $11 billion of Alt-A securitizations)**	**$1.033 trillion (including $449 billion of subprime and $366 of Alt-A securitizations)**

Source: Inside Mortgage Finance (2007).

71. Thus, from 2001 to 2006, non-GSE loan originations more than doubled and non-GSE securitizations more than quadrupled, while GSE loan originations and securitizations contracted. Moreover, during this time the non-GSE Alt-A and subprime securitization activity skyrocketed, increasing eight-fold during the period from $98 billion to $815 billion.

72. As the Financial Crisis Inquiry Commission ("FCIC") reported in April 2010, "[t]he amount of all outstanding mortgages held in non[Agency] MBS rose notably from only $670 billion in 2004 to over $2,000 billion in 2006." This statistic demonstrates the dramatic

growth of the PLMBS market during this time. FCIC, "Preliminary Staff Report: Securitization and the Mortgage Crisis," April 7, 2010.

73. This enormous increase in PLMBS securitization is reflected in the securitization volume of the sponsors of the PLMBS purchased by the Bank. For example, between 2003 and 2006, Citigroup reported that its Prime/Alt-A securitization nearly quintupled, from $2.2 billion to $10.9 billion, and its subprime securitization increased from $306 million to $10.3 billion (3000%+ increase). Other sponsors – primarily Wall Street banks – similarly expanded their securitization business during the same time period.

74. This shift was fueled by the complex interaction between record high global savings, referred to by Federal Reserve Chairman Ben Bernanke as the "global savings glut," and exceedingly low interest rates. Low interest rates made it easier and more appealing for consumers to take out home mortgage loans. But the low Federal Reserve rate also meant that the global pool of investors received only marginal returns on traditional low-risk investments, in particular U.S. Government Bonds. This created an incentive for Wall Street banks to create seemingly low-risk investment options that produced returns in excess of those of government bonds. PLMBS securitization was their answer. Thus, following the model created by the GSEs, the Wall Street banks began buying pools of mortgages from mortgage originators, securitizing the pools, and selling the bonds to global investors. Because mortgage interest rates (and even more so Alt-A and subprime rates) generally exceeded those of U.S. Government bonds, the resulting PLMBS could provide investors with the higher rate of return they were seeking.

75. The one complication that the Wall Street banks needed to solve was the rating of the securities. Debt securities secured by pools of mortgages made to lower credit quality

borrowers would generally fail to meet the investment grade requirements of most institutional investors. The Wall Street banks' solution was to divide the risks into "tranches" as discussed above, referred to generally as "structured finance." As a general rule, this allowed Wall Street to convert up to 80% of any particular PLMBS into "investment grade" securities. The remaining 20% was often purchased by hedge funds and other entities that were able to buy non-investment grade securities. The development opened the floodgates for the securitization and sale of PLMBS.

76. To ensure that the flood of securitizations and sale of PLMBS did not abate, the Wall Street banks bankrolled the lenders (both the ones they owned and those that were independent) so that the lenders had ample capital to issue loans. Indeed, a recent study by The Center for Public Integrity found that 21 of top 25 subprime lenders (in terms of loan volume) were either owned outright by the biggest banks or former investment houses, or had their subprime lending hugely financed by those banks, either directly or through lines of credit. *See* "Who Is Behind The Financial Meltdown: The Top 25 Subprime Lenders and their Wall Street Backers," The Center for Public Integrity (May 6, 2009), http://www.publicintegrity.org/investigations/economic_meltdown/ (visited Sept. 20, 2010).

77. As the PLMBS market expanded, the traditional "originate to hold" model morphed into the "originate to distribute" model. Under the new "originate to distribute" model, mortgage originators no longer held the mortgage loans to maturity. Rather, mortgage originators sold the loans to Wall Street banks and other major financial institutions and shifted the risk of loss to the investors who purchased an interest in the securitized pool of loans.

78. The new distribution model was highly profitable for the mortgage originators in the short term. By securitizing and selling the mortgages to investors through

underwriter/dealers, the mortgage originators shifted loans off their books, earned fees and, thus, were able to issue more loans. Additionally, the securitization process enabled the originators to earn most of their income from transaction and loan-servicing fees, rather than (in the traditional model) from the spread between interest rates paid on deposits and interest rates received on mortgage loans. This created an unchecked incentive to originate more and more loans to feed into the securitization machine.

79. In testimony before the FCIC, Sheila C. Bair, Chair of the Federal Deposit Insurance Corporation, explained both the misalignment of incentives arising from the sale of loans and the misalignment created by flawed compensation practices within the origination industry:

> The standard compensation practice of mortgage brokers and bankers was based on the volume of loans originated rather than the performance and quality of the loans made. From the underwriters' perspective, it was not important that consumers be able to pay their mortgages when interest rates reset, because it was assumed the loans would be refinanced, generating more profit by ensuring a steady stream of customers. The long-tail risk posed by these products did not affect mortgage brokers and bankers' incentives because these mortgages were sold and securitized.

80. The Attorney General for the Commonwealth of Massachusetts came to the same conclusion when she issued the results of her investigation into the subprime mortgage industry, THE AMERICAN DREAM SHATTERED: THE DREAM OF HOMEOWNERSHIP AND THE REALITY OF PREDATORY LENDING ("The Massachusetts AG Predatory Lending Report"). This report explained:

> Historically, the vast majority of home mortgages were written by banks which held the loans in their own portfolios, knew their borrowers, and earned profit by writing good loans and collecting interest over many years. Those banks had to live with their "bad paper" and thus had a strong incentive to avoid making bad loans. In recent years, however, the mortgage market has been driven and funded by the sale and securitization of the vast majority of loans. Lenders now frequently make mortgage loans with the intention to promptly sell the loan and

> mortgage to one or more entities. … The lenders' incentives thus changed from writing good loans to writing a huge volume of loans to re-sell, extracting their profit at the front end, with considerably less regard to the ultimate performance of the loans.

81. An internal memorandum drafted by the former Credit Risk Officer at Countrywide Financial demonstrates how originators recognized the link between reduced underwriting standards and the ability to pass the resultant associated risks on to third parties. The Credit Risk Officer explained that "[Underwriting] Guidelines have become more aggressive …. Furthermore, the portion of our nonconforming loans that are expanded criteria has increased. Because the sub holders bear most of the credit risk we are not directly exposed to the expansion of guidelines or change of mix." Declaration of Paris Wynn In Support of Plaintiff SEC's Ex Parte Application for Relief from Deposition Duration Limit for Deposition of John P. McMurray, *SEC v. Mozilo, et al.*, No. 09-3994 (C.D. Cal.), Ex. 1.

82. As far as lenders were concerned, their profits were generated by origination of as many loans as possible, and once these loans were packaged and securitized, repayment risk was someone else's problem.

83. As Ben Bernanke, Chairman of the Federal Reserve Bank, explained in Congressional testimony:

> When an originator sells a mortgage and its servicing rights, depending on the terms of the sale, much or all of the risks are passed on to the loan purchaser. Thus, originators who sell loans may have less incentive to undertake careful underwriting than if they kept the loans. Moreover, for some originators, fees tied to loan volume made loan sales a higher priority than loan quality. This misalignment of incentives, together with strong investor demand for securities with high yields, contributed to the weakening of underwriting standards.

2. Mortgage Originators Abandoned Underwriting Guidelines in Order to Initiate High Cost Loans for Securitization.

84. The misalignment of incentives following the shift to the "originate to distribute model," noted by Mr. Bernanke and others following the collapse of the mortgage market, caused mortgage originators to systematically violate their stated underwriting and appraisal standards, and to accept, encourage and even fabricate their own untrue information from loan applicants. This was not a problem limited to one or a few mortgage originators, but, rather, was pervasive among mortgage originators, including those that issued the loans that backed the PLMBS purchased by the Bank. Mortgage originators and the financial institutions that bankrolled them sought loan volume, not loan quality, in order to profit from the securitization market.

85. In addition, coincident with the widespread transfer to MBS purchasers of the default risk attached to mortgage loans, mortgage originators expanded the practice of originating highly risky nontraditional loans. In a marked departure from traditional mortgage origination procedures, originators offered a variety of reduced documentation programs in which the verification or substantiation of the applicant's statements as to income, assets and employment history was limited or non-existent. While these programs were touted as providing for "streamlined" underwriting, in fact they were devices whereby originators could make loans to borrowers who would never otherwise have qualified. When these loans were securitized, investors were assured that reduced documentation programs were available only where the borrower satisfied certain FICO criteria, such as minimum FICO scores, or loan-to-value and debt-to-income ratios. In fact, the originators lacked any principled basis on which to evaluate the increased credit risk posed by what would eventually become colorfully and generally accurately known as "Liar Loans," or "NINJA loans" (for "no income, no job or assets") loans.

Moreover, the widespread granting of exceptions to underwriting standards meant that the minimal safeguards associated with the reduced documentation programs were often abandoned in the headlong rush to maximize origination volume. Additionally, mortgage underwriters would often begin the underwriting of an applicant's loan under full documentation procedures, only to transfer the loan applicant to a "No Doc" program upon learning of information that would disqualify the applicant under the full documentation procedures.

86. Indeed, the President's Working Group on Financial Markets concluded in its Policy Statement on Financial Market Developments that, "[t]he turmoil in financial markets clearly was triggered by *a dramatic weakening of underwriting standards for U.S. subprime mortgages* beginning in late 2004 and extending into early 2007." (emphasis in original).

87. As John C. Dugan, Comptroller of the Currency testified to the FCIC on April 8, 2010, following his description of poor underwriting practices:

> The combination of all the factors I have just described produced, on a nationwide scale, the worst underwritten mortgages in our history. When house prices finally stopped rising, borrowers could not refinance their way out of financial difficulty. And not long after, we began to see the record levels of delinquency, default, foreclosures, and declining house prices that have plagued the United States for the last two years – both directly and through the spillover effects to financial institutions, financial markets, and the real economy.

3. Mortgage Originators Manipulated Appraisals of Collateralized Real Estate in Order to Initiate High Cost Loans for Securitization.

88. Accurate appraisals prepared in accordance with established appraisal standards are absolutely essential for MBS investors to evaluate the credit risk associated with their investment. Indeed, the loan-to-value metric is among the most significant characteristic of a mortgage pool because it defines the extent of the investors "equity cushion" (*i.e.,* the degree to which values may decline without the investor suffering a loss), and it is strongly indicative of the borrowers' likelihood of defaulting (because as a borrower's equity decreases, particularly to

single digit percentages or below, the borrower's incentive to keep the mortgage current, or the property in good condition, decreases dramatically). But in the absence of properly prepared appraisals, the value component of the loan-to-value metric is unreliable and the metric itself becomes meaningless. The appraisal practices of the mortgage originators who issued loans that back MBS, and the accuracy of the representations in the Offering Documents regarding those practices, were critically important to the value of the securities, and to the investors' decisions to purchase the securities.

89. Appraisers are governed by the Uniform Standards of Professional Appraisal Practice ("USPAP"), which is promulgated by the Appraisal Standards Board. The USPAP contains a series of ethical rules designed to ensure the integrity of the appraisal process. For example, the USPAP Ethics Conduct Rule provides: "An appraiser must perform assignments with impartiality, objectivity, and independence, and without accommodation of personal interests."

90. The USPAP Ethics Conduct Rule states: "An appraiser must not accept an assignment that includes the reporting of predetermined opinions and conclusions."

91. The USPAP Ethics Management Rule states:

> It is unethical for an appraiser to accept an assignment, or to have a compensation arrangement for an assignment, that is contingent on any of the following:
>
> 1. the reporting of a predetermined results (e.g. opinion of value);
>
> 2. a direction in assignment results that favors the cause of a client;
>
> 3. the amount of a value opinion;
>
> 4. the attainment of a stipulated results; or
>
> 5. the occurrence of a subsequent event directly related to the appraiser's opinions and specific to the assignment's purpose.

92. The Appraisal Standards Board also issues Advisory Opinions regarding appropriate appraisal conduct. For example, Advisory Opinion 19 states in part:

> Certain types of conditions are unacceptable in any assignment because performing an assignment under such condition violates USPAP. Specifically, an assignment condition is unacceptable when it:
>
> - precludes an appraiser's impartiality because such a condition destroys the objectivity and independence required for the development of credible results;
> - limits the scope of work to such a degree that the assignment results are not credible, given the intended use of the assignment; or
> - limits the content of a report in a way that results in the report being misleading.

93. Despite the importance of accurate appraisals and the requirements that are designed to ensure them, during the time frame that the Bank purchased the PLMBS at issue in this case, mortgage originators routinely manipulated the process for appraising the collateralized real estate properties. They did so by pressuring and coercing appraisers, and blacklisting those that would not "come back at value." The prevalence of this problem and its impact on the financial crisis has been extensively investigated and examined in the aftermath of the market collapse.

94. According to his statements submitted in connection with his April 7, 2010 testimony before the FCIC, Richard Bitner, a former executive of a subprime lender for 15 years and author of the book *Confessions of a Subprime Lender*, explains:

> [T]he appraisal process [was] highly susceptible to manipulation, lenders had to conduct business as though the broker and appraiser couldn't be trusted . . . .[and] either the majority of appraisers were incompetent or they were influenced by brokers to increase the value. . . . Throwing a dart at a board while blindfolded would've produced more accurate results.
>
> . . .

If the appraisal process had worked correctly, a significant percentage of subprime borrowers would've been denied due to lack of funds. Inevitably, this would have forced sellers to drop their exorbitant asking price to more reasonable levels. The rate of property appreciation experienced on a national basis from 1998 to 2006 was not only a function of market demand, but was due, in part, to the subprime industry's acceptance of overvalued appraisals, coupled with a high percentage of credit-challenged borrowers who financed with no money down.

...

[T]he demand from Wall Street investment banks to feed the securitization machine couple[d] with an erosion in credit standards led the industry to drive itself off the proverbial cliff.

The Financial Crisis Inquiry Commission, Official Transcript, Commission Hearing, Apr. 7, 2010, Session 2, at 9-10.

95. In her testimony before the FCIC, Patricia Lindsay, a former New Century Financial Corporation wholesale lender, described widespread appraisal fraud and abuse:

The role and practices of appraisers in subprime mortgage origination:

Properly valuing a property . . . is one of the most important components in a loan. In my experience at New Century, fee appraisers hired to go to the properties were often times pressured into coming in "at value", fearing if they didn't, they would lose future business and their livelihoods. They would charge the same fees as usual, but would find properties that would help support the needed value rather than finding the best comparables to come up with the most accurate value. Some appraisers would take boards off boarded up windows, to take the needed photos, then board the properties back up once the shots were taken. Or they would omit certain important elements of a property by angling the camera a certain way or zooming close in to make the property look the best possible. This level of appraiser activism compromises their objectivity.

96. Alan Hummel, Chair of the Appraisal Institute, testified before the Senate Committee on Banking that the dynamic between mortgage originators and appraisers created a "terrible conflict of interest" where appraisers "experience[d] systemic problems with coercion" and were "ordered to doctor their reports or else never see work from those parties again."

97. In his testimony before the House Financial Services Committee, Subcommittee on Financial Institutions and Consumer Credit, Jim Amorin, President of the Appraisal Institute, testified similarly that:

> In recent years, many financial institutions have lost touch with fundamental risk management practices, including the separation between loan production and risk management. Unfortunately, parties with a vested interest in a transaction are often the same people managing the appraisal process within many financial institutions: a flagrant conflict of interest. Appraisers are ordered to doctor their reports or else never receive work from those parties again. This was evident in a recent case involving nearly all state Attorneys General against Ameriquest, which resulted in an out-of-court settlement imposing new standards to prevent unfair and deceptive practices.
>
> ...
>
> Another coercion tactic is the threat of being placed on a — "blacklist: (aka — "exclusionary appraiser list"), commonly used to blackball appraisers. It is one thing to maintain a list of reputable businesses to work with, or to maintain a list of firms to avoid as a result of poor performance. However, [it] is another to place an appraiser on a blacklist for refusal to hit a predetermined value.

98. Confirming the extent of the problem, a survey of 1,200 appraisers conducted by October Research Corp., found that 90% of appraisers reported that mortgage brokers and others pressured them to raise property valuations to enable deals to go through during the relevant period. The study also "found that 75% of appraisers reported negative ramifications if they did not cooperate, alter their appraisal, and provide a higher valuation."

99. As a result of widespread appraisal abuse, the Dodd-Frank Wall Street Reform and Consumer Protection Act, § 1472, amended Chapter 2 of the Truth in Lending Act, 15 U.S.C. § 1631, *et seq.*, to specifically prohibit actions that violate "appraisal independence." Under the new Act, acts or practices that violate appraisal independence include:

> (1) any appraisal of a property offered as security for repayment of the consumer credit transaction that is conducted in connection with such transaction in which a person with an interest in the underlying transaction compensates, coerces, extorts, colludes, instructs, induces, bribes, or intimidates a person, appraisal

management company, firm, or other entity conducting or involved in an appraisal, or attempts, to compensate, coerce, extort, collude, instruct, induce, bribe, or intimidate such a person, for the purpose of causing the appraised value assigned, under the appraisal, to the property to be based on any factor other than the independent judgment of the appraiser;

(2) mischaracterizing, or suborning any mischaracterization of, the appraised value of the property securing the extension of the credit;

(3) seeking to influence an appraiser or otherwise to encourage a targeted value in order to facilitate the making or pricing of the transaction; and

(4) withholding or threatening to withhold timely payment for an appraisal report or for appraisal services rendered when the appraisal report or services are provided for in accordance with the contract between the parties.

100. All of the abuses targeted by the amended Truth in Lending Act were widespread during the time frame that the Bank purchased the PLMBS at issue, causing the appraisals of the collateralized real estate backing the PLMBS to be inflated.

4. Mortgage Originators Engaged in Predatory Lending in Order to Initiate High Cost Loans for Securitization.

101. Under state and federal predatory lending laws, predatory loans are characterized by excessively high interest rates or fees, and abusive or unnecessary provisions that do not benefit the borrower, including balloon payments, and underwriting that ignores a borrower's repayment ability. Moreover, according to the Comptroller of the Currency ("OCC"), "a fundamental characteristic of predatory lending is the aggressive marketing of credit to prospective borrowers who simply cannot afford the credit on the terms being offered." OCC Advisory Letter, Guidelines for National Banks to Guard Against Predatory and Abusive Lending Practices, AL 2003-2 at 2 (Feb. 21, 2003). The Defendants represented and warranted that the mortgage pools that backed the PLMBS purchased by the Bank did not contain predatory loans. This was false.

102. Predatory lending was part of the mortgage lenders' effort to increase volume at any cost. The Wall Street banks and other financial institutions that issued and underwrote PLMBS depended on a steady stream of higher interest subprime loans, which often were the result of predatory lending practices. As Federal Reserve Bank Chairman Bernanke explained: "[a]lthough the high rate of delinquency has a number of causes, it seems clear that unfair or deceptive acts and practices by lenders resulted in the extension of many loans, particularly high-cost loans, that were inappropriate for or misled the borrower." Written statement by Federal Reserve Bank Chairman Bernanke, July 14, 2008.

103. "The truth is that many of us in the industry were deeply distressed by the growing practice of pushing high risk loans on borrowers who had no reasonable expectation of being able to repay the mortgage. Disclosures were often less than adequate, and faced with a bewildering array of loan terms, borrowers tended to trust their mortgage banker or broker.... In our industry, we have frankly seen too much mortgage malpractice." Scott Stern, CEO of Lenders One, in Testimony before the Senate Banking Committee, April 10, 2008.

104. Too often, mortgage loans were issued to "a borrower who ha[d] little or no ability to repay the loan from sources other than the collateral pledged," a predatory practice explicitly identified by the Expanded Guidance for Subprime Lending Programs issued by the OCC, the Board of Governors of the Federal Reserve System, the FDIC, and the Office of Thrift Supervision. Expanded Guidance for Subprime Lending Programs at 10 (Jan. 31, 2001). The Expanded Guidance stated:

> Loans to borrowers who do not demonstrate the capacity to repay the loan, as structured, from sources other than the collateral pledged are generally considered unsafe and unsound. Such lending practices should be criticized in the Report of Examination as imprudent.

Expanded Guidance for Subprime Lending Programs at 11 (Jan. 31, 2001). Additionally, the OCC warned:

> When a loan has been made based on the foreclosure value of the collateral, rather than on a determination that the borrower has the capacity to make the scheduled payments under the terms of the loan, based on the borrower's current and expected income, current obligations, employment status, and other relevant financial resources, the lender is effectively counting on its ability to seize the borrower's equity in the collateral to satisfy the obligation and to recover the typically high fees associated with such credit. Not surprisingly, such credits experience foreclosure rates higher than the norm.
>
> "[S]uch disregard of basic principles of loan underwriting lies at the heart of predatory lending . . . ."

OCC Advisory Letter, Guidelines for National Banks to Guard Against Predatory and Abusive Lending Practices, AL 2003-2 at 2 (Feb. 21, 2003).

105. Numerous state, federal and private investigations have revealed the extent of predatory lending conduct amongst almost every significant mortgage originator, including those responsible for originating many of the loans underlying the securities at issue here.

106. In November 2007, the Office of the Attorney General for the Commonwealth of Massachusetts issued "*The American Dream Shattered: The Dream of Homeownership and the Reality of Predatory Lending.*" This Report explained how:

> Subprime ARM loans typically carry an artificially low, fixed interest rate for two or three years, sometimes called a "teaser" rate. That initial rate eventually adjusts to a higher, variable rate for the remaining term of the loan, causing monthly payments to increase, often dramatically. In recent years, many subprime lenders qualified borrowers based only on their ability to make payments during the "teaser" rate period, ignoring the fact that the borrowers would not be able to make payments when the rate adjusted upwards. As a result, many borrowers had to continually refinance. Borrowers were forced to obtain new loans, each one higher than the last, at increasingly high loan to value (LTV) ratios .... Exacerbating the effects of serial refinancing, subprime mortgages often carry burdensome prepayment penalties, as well as high transaction costs including lender and broker commissions and other fees.... [T]his cycle could continue only so long as home valuations continued to increase []. As soon as real estate prices

flattened, however, homeowners – especially those who used high LTV loans – no longer had the same options when monthly payments began to adjust upward.

107. The Report also notes that "lax or sometimes nonexistent underwriting ... fueled bad subprime loans."

108. The Report specifically lists numerous types of novel, risky mortgage loan features and explains that "The collection of layers of risk, however, into a single loan product – for instance, a stated income, 100 percent LTV loan with a 2/28 ARM, qualified only on the "teaser" rate – is usually so structurally unsound and so contrary to the borrower's ability to repay the loan over time, that *it can only be viewed as designed to fail*, resulting in widespread harm to the borrower and public alike." (emphasis added).

109. Singling out one specific common practice, the Report notes that "When lenders qualify borrowers for ARM loans based only on the 'teaser' rate period that reflects an utter lack of diligence in determining whether the borrower could actually pay back the loan. This problem is systemic." This practice was directly in violation of the Interagency Guidance on Nontraditional Mortgage Product Risks issued in 2006, which stated that for "nontraditional" loans, "analysis of a borrower's repayment capacity should include an evaluation of their ability to repay the debt by final maturity at the fully indexed rate, assuming a fully amortizing repayment schedule." 71 Fed. Reg. 58,609, 58,613 (Oct. 4, 2006).

110. The Massachusetts Attorney General specifically identified Countrywide as a lender which employed this practice of qualifying borrowers based only on their ability to pay based on 'teaser' rates. *Commonwealth of Massachusetts v. Countrywide Fin. Corp. et al.,* No. 10-1169 (Suffolk Cty Sup. Ct.)

111. Among the "Principal Findings" of the Massachusetts Office of Attorney General was that: "[t]oo often lenders made loans where they knew or should have known that the borrower could not repay the loan."

112. The Report includes specific examples of such conduct. In one instance, a single mother with three children who worked two jobs was "put into a loan where the lender knew, based on all the information she provided at the inception of the loan, that she could not afford the loan once the low 'teaser' rate [of 5 percent] expired and monthly payments increased ... when the higher interest rate of almost 13 percent kicked in ...." As another example, an unemployed woman just out of a homeless shelter whose partner made less than $30,000 a year, was approved for a $300,000 mortgage with a teaser rate of 4.95 percent adjustable with a cap over 15 percent. She defaulted within a year.

113. The Report also details multiple examples of how "some lenders and brokers steer borrowers into loans that are more expensive than ones for which they qualify based on their credit scores and financial picture."

114. As FDIC Chairman Sheila C. Bair explained in a speech before the before the FCIC:

> The well-publicized benefits associated with legitimate rate-reducing mortgage refinancing and rising housing prices conditioned consumers to actively manage their mortgage debt. An unfortunate consequence of this favorable environment for refinancing was fraud. Many consumers have only a limited ability to understand details of standard mortgage contracts let alone the complex mortgages that became common during this period. In this environment, unscrupulous mortgage providers capitalized on the widely advertised benefits associated with mortgage refinance, and took advantage of uniformed consumers by refinancing them into mortgage loans with predatory terms that were not readily transparent to many borrowers.

5. Widespread Delinquencies Reflected the Inevitable Consequence of Loans Issued Without Regard to Meaningful Underwriting.

115. High delinquency rates are reflective of a systematic disregard for underwriting guidelines by mortgage issuers. When effective underwriting occurs, poor credit risks are screened out. Indeed, that is the purpose of underwriting. In the absence of effective underwriting, loans are made to unqualified borrowers and fraud is not detected. When borrowers are loaned money without regard to their ability to repay it, loan delinquencies (and foreclosures) ensue. Hence, high delinquency rates in loans issued by an originator provides evidence that the originator failed to adhere to prudent underwriting practices.

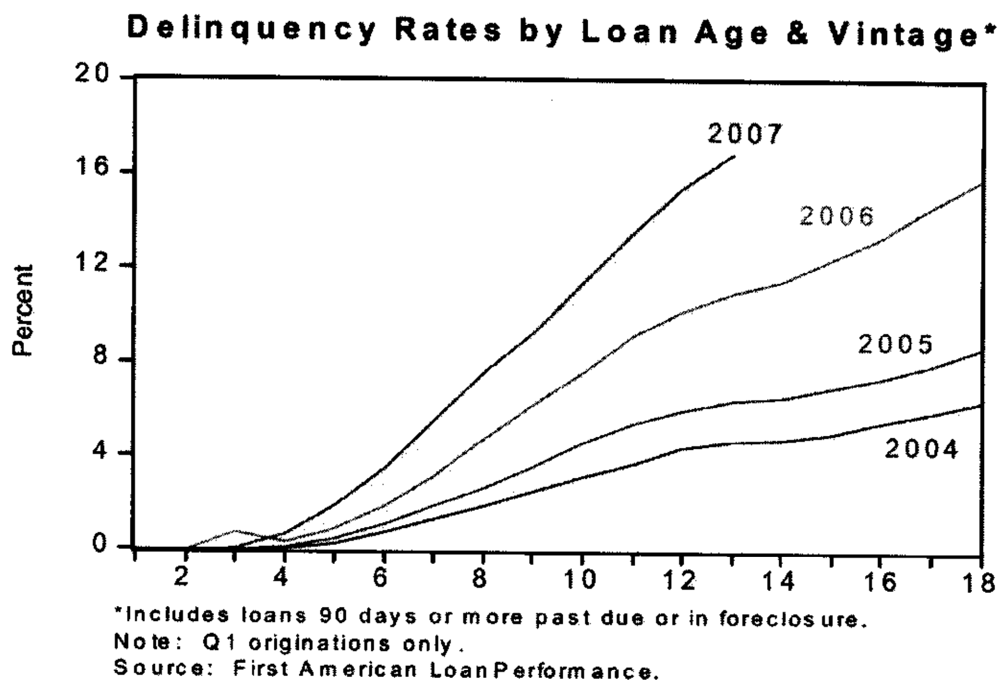
116. Numerous studies and analyses have traced the effect of poor underwriting on delinquency rates. For example, the Federal Bureau of Investigation Mortgage Fraud Reports of 2006 and 2007 reported on the results of a BasePoint Analytics study of three million residential mortgage loans which found that between 30% and 70% of early payment defaults were linked to significant misrepresentations in the original loan applications. The BasePoint Analytics study found that loans containing egregious misrepresentations were five times as likely to default in the first six months as loans that did not.

117. An analysis of the same BasePoint Analytics study by FitchRatings concludes that "[h]igh risk products, which require sound underwriting and which are easy targets for fraud, account for some of the largest variances to expected default rates." Fitch notes that "[i]n addition to the inherent risk in … [issuing loans with] the high-risk 'affordability' features in subprime mortgages …, evidence is mounting that in many instances these risks were not controlled through sound underwriting practices. Moreover, in the absence of effective underwriting, products such as 'no money down' and 'stated income' mortgages appear to have

become vehicles for misrepresentations or fraud by participants throughout the origination process."

118. Academic studies as well have shown that the departure from sound underwriting practices which accompanied the explosion in securitizations contributed to substantial increases in early payment defaults and delinquencies. *See* "Did Securitization Lead to Lax Screening? Evidence from Subprime Loans," 125 Quarterly Journal of Economics 307 (Feb. 2010) Benjamin J. Keys, Tanmoy K. Mukherjee, Amit Seru & Vikrant Vig ("[W]e show that a doubling of securitization volume is on average associated with about a 10%-25% increase in defaults … within two years of origination …[and] a decline in screening standards … .").

119. Data collected on the performance of loans over the past several years and analyzed in these studies show that early payment default and delinquency rates have in fact soared as a result of faulty underwriting:



120. Moreover, economic analysis of recent mortgage default rates has confirmed that increased delinquency rates during this period were not the result of deterioration in the credit characteristics of the borrowers that were disclosed to MBS investors – for example their FICO scores – but rather from deterioration in credit characteristics of the borrowers that were *not* disclosed to investors. Research by University of Michigan economists indicates that increased use of low documentation underwriting – with its higher potential for borrower fraud and other abuses not discernible by MBS investors – correlates to excessive default rates. In other words, even where disclosed characteristics are the same, the low-doc loans exhibit higher default rates, suggesting flaws in the underwriting process.

121. Review of current performance data of pools of loans securitized by the financial institutions who sponsored the PLMBS purchased by the Bank, as well as the specific loan pools backing the PLMBS purchased by the Bank, similarly show significantly increased incidence of default, delinquency, and foreclosure, indicating pervasive underwriting failures.

C. Federal and State Investigations, Press Reports, Publicly Available Documents Produced in Other Civil Lawsuits, and Analysis of the Loan Pools Underlying the Specific Securities at Issue Indicate Pervasive Violation of Underwriting Guidelines and Predatory Lending by Mortgage Originators Whose Loans Back the PLMBS in this Case.

122. There have been numerous investigations into the practices of the mortgage originators who issued loans backing the PLMBS purchased by the Bank. A review of these investigations and related litigation, as well as confidential witness testimony obtained during the Bank's investigation, demonstrate that mortgage originators in general, and those that issued loans that backed the PLMBS purchased by the Bank in particular, systematically violated and ignored their stated underwriting standards, rendering the statements in the Offering Documents with regard to underwriting standards of the mortgage originators misleading. This evidence is

reinforced further by the analysis of the performance of the actual loan pools backing the PLMBS purchased by the Bank.

123. Indeed, many of the mortgage originators who issued loans backing the PLMBS purchased by the Bank have been specifically identified as problem lenders. In materials presented to the FCIC on April 8, 2010, the OCC presented a list of the "Worst of the Subprime Lenders" based on their mortgage foreclosure rates in the hardest hit metropolitan areas of the country. *See* Activities of the National Banks Related to Subprime Lending, Attachment 2 "Worst Ten of the Worst Ten: Update." Eleven of the originators of mortgage loans that back the PLMBS purchased by the Bank were included on the list, with the following rankings:

1. New Century Mortgage Corp.
3. Argent Mortgage Co.
4. WMC Mortgage Corp.
5. Fremont Investment & Loan
6. Option One Mortgage Corp.
7. First Franklin Corp.
8. Countrywide
9. Ameriquest Mortgage Co.
12. IndyMac Bank, FSB
14. Wells Fargo
15. Ownit Mortgage Solutions, Inc.

124. Abundant additional information now available reveals the extent to which these and other mortgage originators abandoned sound underwriting practices and engaged in predatory lending, as follows.

1. Countrywide Home Loans, Inc. and Countrywide Home Loans Servicing LP

125. Countrywide Home Loans, Inc. and Countrywide Home Loans Servicing LP (collectively, "Countrywide") originated underlying mortgage loans securing at least 5 of the PLMBS purchased by the Bank. Countrywide was the nation's largest subprime loan originator

between 2005 and 2007. In 2010, Countrywide was identified by the OCC as the eighth worst subprime lender in the country based on the delinquency rates of the mortgages it originated in the ten metropolitan areas with the highest rates of delinquency.

a. Government actions against Countrywide demonstrate Countrywide's failure to adhere to sound underwriting practices.

126. On June 4, 2009, the SEC filed a complaint against certain senior Countrywide executives, including Countrywide's President, David Sambol, and its CEO, Angelo Mozilo, *SEC v. Mozilo et al.,* No. 09-3994 (C.D. Cal.). In the Complaint, the SEC alleged that these three senior officers committed securities fraud by hiding from investors "the high percentage of loans originated that were outside its already widened underwriting guidelines due to loans made as exceptions to guidelines." That SEC complaint detailed how Countrywide was aware internally that its own underwriting guidelines were being ignored and that borrowers were lying about their income in the reduced-documentation application process

127. For example, the SEC complaint detailed how "[o]n June 2, 2006, Sambol received an email reporting on the results of a quality control audit at Countrywide bank that showed that 50% of the stated income loans audited by the bank showed a variance in income from the borrowers' IRS filings of greater than 10%. Of those, 69% had an income variance of greater than 50%."

128. The SEC complaint explained how Countrywide adopted a "matching" strategy to always match whatever product was being offered by other originators in the marketplace. As part of that matching strategy, Countrywide also adopted a policy of underwriting ever more loans based on exceptions to their underwriting guidelines: "The elevated number of exceptions resulted largely from Countrywide's use of exceptions as part of its matching strategy to introduce new guidelines and product changes."

129. The SEC further explains how, by February of 2007, internal risk management at Countrywide "noted that the production divisions continued to advocate for, and operated pursuant to, an approach based upon the matching strategy alone. ... Additionally, [a senior risk manager] warned [Sambol] that 'I doubt this approach would play well with regulators, investors, rating agencies etc. To some, this approach might seem like we've simply ceded our risk standards and balance sheet to whoever has the most liberal guidelines."

130. In addition, according to the SEC:

> [T]he actual underwriting of exceptions was severely compromised. According to Countrywide's official underwriting guidelines, exceptions were only proper where "compensating factors" were identified which offset the risks caused by the loan being outside the guidelines. In practice, however, Countrywide used as "compensating factors" variables such as FICO and loan to value which had already been assessed [in determining the loan to be outside the guidelines].

131. The SEC complaint quoted an email from CEO Mozilo noting that "he had 'personally observed a serious lack of compliance with our origination system as it relates to documentation and generally a deterioration in the quality of loans originated versus the pricing of those loan[s]." Mozilo explained that Countywide was originating home mortgage loans "through our channels with disregard for process [and] compliance with guidelines."

132. A December 2007 internal Countrywide memorandum quoted by the SEC states that "a Countrywide review of loans issued in late 2006 and early 2007 resulted in ... the finding that borrower repayment capacity was not adequately assessed by the bank during the underwriting process .... More specifically, debt-to-income ratios did not consider the impact of principal [negative] amortization or any increase in interest."

133. Countrywide's widespread use of exceptions to its underwriting guidelines were well known within the Company, but permitted because, as recognized by John McMurray in 2005, "CW's approach to exceptions has been lucrative over the past several years."

134. On November 3, 2009, the District Court for the Central District of California denied a motion to dismiss the SEC complaint. Judge Walter specifically noted that "neither Countrywide's disclosures nor a careful review of the context of the statements convince this Court that the alleged omissions or misstatements were immaterial or not misleading as a matter of law." *SEC v. Mozilo, et al.*, No. 09-3994, slip op, at 10 (C.D. Cal. Nov. 3, 2009).

135. Subsequently, on September 16, 2010, Judge Walter denied Countrywide's motion for summary judgment. Among other key determinations, the court found:

> [The] SEC has also presented evidence that Countrywide routinely ignored its official underwriting guidelines to such an extent that Countrywide would underwrite *any* loan it could sell into the secondary mortgage market. According to the evidence presented by the SEC, Countrywide typically made four attempts to approve a loan. Countrywide first used an automated underwriting system known as "CLUES", which applied Countrywide's underwriting guidelines as set forth in Countrywide's technical manuals and loan program guides. SF 279....CLUES would either approve the loan or "refer" it to a loan officer for manual underwriting. SF 280. If that loan officer lacked the authority to make an exception to Countrywide's underwriting guidelines, the loan was referred to the Structured Lending Desk, where yet another underwriter, with even more authority to waive guideline requirements, attempted to make the loan. Adler Dep. 31:23-33:4, July 15, 2010. If that attempt failed, the loan was referred to Countrywide's Secondary Markets Structured Lending Desk. SF 282, Adler Dep. 32:9-33:4. According to the testimony of the Managing Director of Countrywide Home Loans' Secondary Marketing Division, once the loan was referred to Countrywide's Secondary Markets Structured Lending Desk, the sole criterion used for approving the loan was whether or not the loan could be sold into the secondary market. SF 282. As a result of this process, a significant percentage (typically in excess of 20%) of Countrywide's loans were issued as exceptions to its official underwriting guidelines. SF 293-294. As reported in one Corporate Credit Risk Committee meeting, one third of the loans referred from CLUES missed "major guidelines" and another one third missed "minor" guidelines. SF 289. In light of this evidence, a reasonable jury could conclude that Countrywide all but abandoned managing credit risk through its underwriting guidelines, that Countrywide would originate any loan it could sell, and therefore that the statements regarding the quality of Countrywide's underwriting and loan production were misleading.

SEC v. Mozilo, et al., No. 09-3994, slip op., at 11–12 (C.D. Cal. Sept. 16, 2010).

136. In short, evidence presented to the court supported the claim that "Countrywide routinely ignored its official underwriting guidelines, and in practice, Countrywide's only criterion for approving a loan was whether the loan could be sold into the secondary market." *Id.* at 12.

137. The Attorneys General from many states also filed complaints against Countrywide based on its abusive and predatory lending practices. Among them, the Attorney General of California alleged based on its extensive investigation of Countrywide that the company "viewed borrowers as nothing more than the means for producing more loans, originating loans with little or no regard to borrowers' long-term ability to afford them." Complaint at 5, *People of the State of Cal. v. Countrywide Fin. Corp.*, No. LC083076 (Super. Ct. Cal. L.A. Cty) ("Cal. AG Countrywide Complaint"). Countrywide, the California Attorney General found "did whatever it took to sell more loans, faster – including by ... disregarding the minimal underwriting criteria it claimed to require." Cal. AG Countrywide Complaint at 20.

138. For example, the Cal. AG Countrywide complaint quotes one former California loan officer explaining how stated income loans were sold, with a loan officer telling the borrower "with your credit score of X, for this house, and to make X payment, X is the income that you need to make"; after which the borrower would state that his or her income was X." *Id.* at 21.

139. A similar lawsuit instituted by the Illinois Attorney General, *People and State of Illinois v. Countrywide Financial Corporation,* No. 08-22994 (Cook County Ch. Ct), detailed how (a) one Countrywide employee estimated that approximately 90% of all reduced documentation loans sold out of the Chicago office had inflated incomes; and (b) one of

Countrywide's mortgage brokers, One Source Mortgage, Inc., routinely doubled the amount of the potential borrower's income on stated income mortgage applications.

140. The Illinois complaint also detailed how Countrywide created incentives for its employees to increase the number of loans without concern for ability of the borrower to repay the loan. The *New York Times* described the allegations in the complaint as "paint[ing] a picture of a lending machine that was more concerned with volume of loans than quality."

141. Among the many other abuses described in the Illinois complaint, the Attorney General found that:

> [t]hrough the securitization process, Countrywide extracted hefty over-head charges, then shifted the risk of the failure of these non-traditional loans to investors. Moreover, securitization allowed Countrywide to tap those investors for much needed capital to fuel its origination process and reach its goal of capturing more and more market share. To facilitate the increase in loan origination volume, Countrywide relaxed its underwriting standards even more and sold risky, unaffordable and unnecessarily more expensive mortgage loans to millions of American homeowners.

Testimony of Illinois Attorney General Lisa Madigan before the FCIC, Jan. 14, 2010.

142. Similar allegations appear in a complaint filed by the Connecticut Attorney General, *State of Connecticut v. Countrywide Financial Corporation*, No. 08-40390945 (Hartford Super Ct.).

143. On October 6, 2008, Countrywide entities settled lawsuits brought by *eleven* State Attorneys General and potential claims by 28 other states, including all of the States in which loans backing the PLMBS purchased by the Bank were issued. The settlement valued at $8.4 billion resolved charges of violations of predatory lending, unfair competition, false advertising, and violations of banking laws, and required Countrywide to implement a program to modify certain existing loans, particularly high risk loans and pay-option mortgages that were the subject of the Attorneys Generals' investigations.

b. **Private actions against Countrywide demonstrate Countrywide's failure to adhere to sound underwriting practices.**

144. A multitude of private class action and individual cases raise further challenges to Countrywide's underwriting practices - and substantiate the challenges with witness testimony and documentary evidence. For example, Mark Zachary, a former Regional Vice President of Countrywide's joint venture with KB Home, Countrywide Mortgage Ventures, LLC, detailed in the complaint filed in *Zachary v. Countrywide Fin. Corp.*, No. 08-0214 (S.D. Tex), how Countrywide blatantly ignored its underwriting policies and procedures. Mr. Zachary states that in September of 2006 he informed Countrywide executives that there was a problem with appraisals performed on KB Homes being purchased with Countrywide loans, specifically describing how loan officers would help loan applicants to submit applications with false income amounts.

145. Zachary's observations about problems with appraisals at KB Homes are confirmed by documents reflecting internal correspondence within and between KB Homes and Countrywide filed in *Johnson v. KB Homes et al*, No. 09-972 (D. Ariz.).

146. For example, on June 8, 2005, Christina Nickerson, a KB Home salesperson wrote: "We have an appraisal issue at IMR Mesa ... the [lender's] appraiser can not obtain value.... I have asked the [lender] for a copy of the appraisal, and I requested that she try a more aggressive appraiser.... My suggestion is that we have KBHMC order an appraisal from a KB friendly appraiser and see what happens." KB Home Director of Sales McLaury responds: "I agree, we need to order an appraisal from our KB friendly appraiser[.]" On June 16, the salesperson heard back: "Here's our appraisal at purchase price[,]" but McLaury complains: "It's $1,966 short isn't it? Can Ernie Carver bump it up?" Soon after, McLaury confirms that the

maneuvering has worked: "Christina and the Mesa Team, the appraisal will come in at the total sales price…."

147. In another instance, in July 2006, KB Home Phoenix Vice President Stacie McDonald asked a KB Home salesman about a home for which an appraisal was low. The salesman responded: "It was approved at $290,000 with a VC of 38%, however, we were able to push appraisal to $300,000 and the addendum for $300,000 was done yesterday."

148. Similarly, in October 2007, KB Home Director of Sales McLaury instructs "friendly" appraiser Scott Dugan: "Please base your appraisal on today's base sales price, the options/upgrades the buyer purchased ($40,777), and comps in the neighborhood/area, particularly the one lot 44 (66 Lions Den Avenue) that closed at $248,643." On 10/11/07, Dugan responds: "ok."

149. When KB Home salesperson, Peter Manesiotis, reported to his manger, Gregory Victors: "Appraisal came in low. This is a CW deal. How should we proceed?" Victors responded: "Have Countrywide order a second appraisal. KB will pay for it. Speak to [loan officer] or processor to get someone who knows area. This process just worked at Mesquite. Buyer did not know about first appraisal." Manesiotis then instructed that a new appraisal be ordered and "do not notify the buyer about the first appraisal."

150. Countrywide senior executives were apparently not just aware but actively involved in this conduct. In an August 9, 2006 email sent after an appraisal was below contract price and below the level that KB Home's hand-picked appraiser, Harry, could reach, Countrywide/CWKB Vice President, Tim Ryan writes: "Eric Sanford the western regional VP of landsafe is reviewing the appraisal – he is as high as it gets at landsafe…. As soon as I hear I will let you know. We are fighting all the way to the top for you …" Ryan later reports: "We were

just informed the original appraisal will be amended to Harry's appraisal.... So CW will be able to use the $687,000.00 value." On another occasion Ryan explained one scheme for generating self-perpetuating excessive appraisals: "Going forward I have asked ops to request Harry on homes that are 'decked' out – this way we know max value has been given. Under the new rules we cannot do it often, however once a few closing occur – we have comps!"

151. More information is provided by the Consolidated Complaint filed in *In re Countrywide Financial Corp. Derivative Litigation*, 07-6923 (C.D. Cal.) on February 15, 2008. The suit against certain Countrywide officers, Board members and others, alleged claims based upon, *inter alia*, a failure of "oversight of Countrywide's lending practices, financial reporting, and internal controls." That complaint details how, as to the specific mortgage backed securities at issue – all originated by Countrywide or affiliated entities – over 50% of the total mortgage loan balance in the underlying loans was severely delinquent, in default, repossessed, in bankruptcy, or in foreclosure. Consistent with the findings of the BasePoint Analytics study previously discussed and this 50% failure rate, the complaint quoted multiple former employees of Countrywide who detailed how Countrywide routinely ignored its own underwriting standards when the company needed to book loans to maintain earnings.

152. Countrywide's representations regarding its loan origination practices have also been challenged by the leading insurance companies that insured MBS securities sold by Countrywide. On September 30, 2008, MBIA Insurance, one of the largest providers of bond insurance, filed its complaint in *MBIA Insurance Corp. v. Countrywide Home Loans et al.* (Sup. Ct. Cty of New York). This complaint explains how MBIA "provide[d] credit enhancement on the [MBS] - in the form of guarantee of repayment of principal and interest for the [MBS] notes

in each securitization," and claims MBIA issued such insurance on the basis of fraudulent representations by Countrywide.

153. MBIA explains that:

> MBIA's re-underwriting review has revealed that 91% of defaulted or delinquent loans in these fifteen Countrywide securitizations show material discrepancies from underwriting guidelines. ... For example the loan documentation may (i) lack key documentation such as verification of borrower income or assets; (ii) include an invalid or incomplete appraisal; (iii) demonstrate fraud by the borrower on the face of the application; or (iv) reflect that any of the borrower income, FICO score, debt, DTI ["debt-to-income"] or CLTV ratios, fails to meet stated Countrywide guidelines (without any permissible exception).

MBIA specifically notes that "the Defective Loans run across Countrywide's securitizations from 2004-2007, demonstrating the consistency of Countrywide's disregard for its underwriting guidelines during this period." On April 27, 2010, the Court denied Countrywide's motion to dismiss MBIA's fraud claims.

c. Confidential witnesses provide further evidence of Countrywide's failure to adhere to sound underwriting practices.

154. Confidential witnesses provide additional evidence of Countrywide's failure to adhere to sound underwriting practices and guidelines. For example, Confidential Witness ("CW")-A, a loan officer who worked at Countrywide from 1997 through 2007, CW-B, a former branch manager and regional vice president for Countrywide Home Loans from September 2005 through December 2007, and CW-C, a loan specialist at Countrywide Home Loans' subprime lender, Full Spectrum Lending, from 2004 to 2005, all confirm that: (a) Countrywide employees faced intense pressure to close loans at any cost; (b) Countrywide increasingly approved risky, low- or no-documentation loans without adequate review; (c) Countrywide failed to adhere to underwriting guidelines; (d) Countrywide routinely approved loans that contained exceptions for which there were no reasonable compensating factors; (e) Countrywide employees pressured

appraisers to inflate home values; and (f) Countrywide employees manipulated loan data in order to close loans.

155. Specifically, CW-A stated that employees at Countrywide always faced pressure to produce and close more loans. Because CW-A's performance was judged only on how many loans he closed each month, and not on long-term performance, he used to joke to friends, "I'm fired every month, and then every month they re-hire me."

156. CW-A stated that from 2004 to 2006, Countrywide's underwriting guidelines became "looser and looser and looser." During this period, the minimum credit scores required for prime or Alt-A mortgages fell repeatedly, such that a borrower with a FICO score of 680 could get a mortgage with a 100% LTV ratio based upon stated income/stated assets documentation. CW-A also stated that Countrywide offered no income/no asset ("NINA") loans, whereby a borrower could obtain a loan without providing any employment, income, or asset documentation, and did so without any effort or for that matter way to determine whether the borrower had an ability to repay the loan. CW-A further stated that Countrywide frequently offered loans to borrowers who had been rejected by other mortgage providers. In fact, Countrywide loan officers often emphasized to prospective borrowers that Countrywide could do loans that other lenders could not.

157. According to CW-A, Countrywide had an "Exception Desk," whose purpose was to review loans which didn't strictly meet the underwriting guidelines. During the 2004-2006 time period, CW-A stated that, "It got to where loan approvals with exceptions were the norm."

158. According to both CW-A and CW-B, Countrywide loan officers pressured appraisers to return values which would allow the loans to be approved. For example,

Countrywide loan officers would tell the appraisers that if they did not provide the value the loan officers needed, Countrywide would not send any more work to the appraiser.

159. Even in circumstances where the appraisers were not directly threatened, Countrywide influenced their appraisal values by telling them exactly what value they needed in order to approve the loan; provided appraisers with the purchase price of the home and the loan amount so that the appraisers could extrapolate the minimum value needed for the appraisal; or sent the appraisers additional comparables that were higher than the ones the appraiser relied upon.

160. CW-B stated as well that Countrywide's underwriting guidelines became "way too easy" to meet. As a consequence, many of Countrywide's loans ended up in default. Numerous times, he recalled thinking to himself, "people making this kind of money shouldn't qualify for a $400,000 loan." For example, he recalled seeing loan applications for $350,000 homes, with $1,900/month loan payments, when the borrowers were making only $3,000/month. The DTI ("debt-to-income") ratio on such a loan was approximately 63%. He said such situations were "absurd, but I saw it all the time."

161. Additionally, CW-B said that most approved mortgages at Countrywide had 95-100% LTV ratios, and most borrowers only put down zero to five percent of the purchase price. Consequently, borrowers had "no skin in the game," and when home values started to drop and the borrowers' loans were for more than the homes were worth, they had no incentive to continue making their mortgage payments. Moreover, CW-B said that Countrywide granted numerous mortgages to borrowers with 65% DTI ratios, and that Countrywide did not require borrowers to have any "reserves" (*i.e.*, cash in their bank accounts) – or, at most, they only had to have one month's reserve – in order to be approved.

162. CW-B also stated that Countrywide offered a "Fast and Easy" loan program, which required minimal documentation and thereby allowed mortgages to be approved more quickly. It was Countrywide's version of the stated income/stated asset mortgage. In order to determine borrowers' eligibility for the Fast and Easy loan program, Countrywide employees entered data into Countrywide's internally-developed automated underwriting system, called CLUES. CLUES had a flagging mechanism whereby loan officers could not change borrower information and attempt to re-run it through CLUES in order to qualify borrowers for the Fast and Easy loan program. If a loan officer did change such information, CLUES would immediately flag it, decline it for the program, and require full documentation. However, CW-B stated that Countrywide employees bypassed this flagging mechanism by entering inflated borrower information in the first place. For example, they would report a higher monthly income than the borrower actually reported in his or her application. By entering such inflated information, there was no way for the CLUES system to know that the information was falsified. Thus, the loan would not be flagged.

163. CW-B had "no doubt" that there was a lot of upward manipulation of borrower income in order to qualify borrowers for a Fast and Easy loan. Indeed, CW-B reported one employee to Countrywide's Fraud Department when he caught the employee repeatedly entering fraudulently high income. However, the Countrywide human resources department said that such reported incidents were not enough to fire the employee, and the employee was simply suspended. While the employee was suspended, CW-B examined the employee's loan files and found four to five different applications in which the employee had nearly doubled the borrowers' reported income in order to get the loans approved.

164. CW-C also saw a practice of inflating incomes on stated-income loans when she worked at Countrywide's Full Spectrum Lending division. On instruction from the branch manager, CW-C said that loan officers "recalculated income and removed [any documents] they didn't want the underwriters to see" in order to push the loans through. In addition, CW-C knew that loan officers at Countrywide cut and pasted false information into loan documents in order to get loans approved. "It was a pretty common practice," she said.

d. The mortgages originated by Countrywide and securitized in the PLMBS purchased by the Bank provide further evidence of Countrywide's failure to adhere to sound underwriting practices.

165. Countrywide originated mortgages that secured at least Securities HVMLT 2006-2 2A1A, HVMLT 2006-2 3A1A, SEMT 2006-1 2A1, SEMT 2006-1 3A1, and SARM 2005-21 3A1. As discussed in detail below, the Offering Documents contained serious material misstatements regarding specific characteristics of the loan pools securing these Securities, including misstatements with respect to their weighted average LTV ratio, the percentages of loans with LTV ratios in excess of 100%, 90% and 80%, and the percentage of loans secured by property not the primary residence of the borrower. Moreover, as described in Paragraphs 470-71 below, these Securities have exhibited excessive delinquency and foreclosure rates. These circumstances are strong evidence of Countrywide's failure to observe its stated underwriting standards. Countrywide's actual practices – including use of unreliable appraisals, routine granting of underwriting exceptions and reliance on unverified borrower-supplied information – caused it to originate loans whose actual LTV ratios and primary residence rates were far different from that reported in the Offering Documents, and whose likelihood of default was much higher than that of loans issued under underwriting standards of the type described in the Offering Documents.

e. **Press reports, government investigations and related litigation, and confidential witnesses demonstrate that Countrywide engaged in predatory lending.**

166. The *New York Times* detailed Countrywide's abusive lending practices in a story entitled "Inside the Countrywide Lending Spree":

> On its way to becoming the nation's largest mortgage lender, the Countrywide Financial Corporation encouraged its sales force to court customers over the telephone with a seductive pitch that seldom varied. "I want to be sure you are getting the best loan possible," the sales representatives would say.
>
> But providing "the best loan possible" to customers wasn't always the bank's main goal, say some former employees. Instead, potential borrowers were often led to high-cost and sometimes unfavorable loans that resulted in richer commissions for Countrywide's smooth-talking sales force, outsize fees to company affiliates providing services on the loans, and a roaring stock price that made Countrywide executives among the highest paid in America.
>
> Countrywide's entire operation, from its computer system to its incentive pay structure and financing arrangements, is intended to wring maximum profits out of the mortgage lending boom no matter what it costs borrowers, according to interviews with former employees and brokers who worked in different units of the company and internal documents they provided. One document, for instance, shows that until last September the computer system in the company's subprime unit excluded borrowers' cash reserves, which had the effect of steering them away from lower-cost loans to those that were more expensive to homeowners and more profitable to Countrywide.

167. According to *The New York Times*, "Countrywide was willing to underwrite loans that left little disposable income for borrowers' food, clothing and other living expenses." The Company's incentive compensation system encouraged such loans – regardless of the inevitability that the borrower would default and the Company (and the borrower) would be severely harmed.

168. According to Mark Zachary, a former Regional Vice President of Countrywide's joint venture with KB Home, Countrywide Mortgage Ventures, LLC, the appraiser, as known to Countrywide executives, was being strongly encouraged to inflate appraisal values by as much as

6% to allow the homeowner to "roll up" all closing costs. Mr. Zachary explained that this resulted in the homeowner being "duped" as to the value of the home. According to Mr. Zachary, this inflated value put the buyer "upside down" on the home immediately after purchasing it, i.e. the borrower owed more than the home's worth. Thus, the buyer was set up to be more susceptible to defaulting on the loan. *See supra* ¶¶ 144-45 (citing to complaints filed in *Zachary v. Countrywide Fin. Corp.*, No. 08-0214 (S.D. Tex.), and *Johnson v. KB Homes et al*, No. 09-972 (D. Ariz.)).

169. Countrywide's incentive compensation system encouraged brokers and sales representatives to place borrowers into the sub-prime category even if they in fact qualified for other loans. As reported in *Bloomberg*, Charles Schumer, United States Senator for New York urged that "Countrywide, the biggest U.S. mortgage lender, should stop paying higher commissions to brokers who steer borrowers to high-cost loans that 'are designed to fail.'"

170. The Attorney General for the State of Massachusetts has detailed "Countrywide's indifference to its borrowers' inability to repay its loans." For example, while "[o]n its website, Countrywide's successor Bank of America suggests when obtaining a mortgage to purchase a home that a borrower have a maximum back-end [debt-to-income ("DTI")] ratio of 36%[,] Countrywide routinely approved loans for borrowers with back-end DTI ratios exceeding 50%."

171. The Massachusetts Attorney General complaint in *Commonwealth v. Countrywide Financial Corp.* (Sup. Ct. Suffolk Cty), details Countrywide loan practices that allegedly violated Massachusetts' Consumer Protection Law by "originat[ing] loans in such a manner that would lead predictably to a borrower's default and foreclosure," such as negative amortization loans, hybrid ARMs where borrowers were not qualified based on the post-teaser rate, stated income loans, and loans with these features plus prepayment penalties.

172. Among the conduct alleged and resolved in Countrywide's above-noted settlement with 39 states attorney-generals were violations of state predatory lending laws by (a) making loans it could not reasonably have expected borrowers to be able to repay; (b) using high pressure sales and advertising tactics designed to steer borrowers towards high-risk loans; and (c) failing to disclose to borrowers important information about loans, such as refinancing costs, the availability of lower cost products, the existence of prepayment penalties, and that advertised rates would adjust upwards sharply as soon as one month after closing.

f. Confidential witnesses provide further evidence of Countrywide's predatory lending practices.

173. Confidential witnesses also confirmed that Countrywide engaged in predatory lending practices. For example, CW-A said he knew a lot of Countrywide loan officers who misrepresented to borrowers how a negative amortization loan worked. On a negative amortization loan, the monthly payment covered an amount that was less than the total accrued interest on the loan; any unpaid interest was added on to the end of the loan. The interest rate on the negative amortization loans then adjusted upward periodically. Consequently, if a borrower continued to make monthly payments that were below the amount of the accrued interest, the amount of the unpaid interest would skyrocket. In approximately three years, the amount due would hit a "ceiling" of 110% to 115% of the original principal balance. Then Countrywide would "recast" the loan balance, and adjust the required monthly payment so that it would cover all of the previously-deferred interest. As a result, the borrower's monthly payment could rise to as much as two-and-a-half times the original monthly payment. Many borrowers fell into problems with such loans.

174. CW-A said he knew that Countrywide loan officers misrepresented how these types of loans worked because he used to make calls to Countrywide workers posing as a

prospective borrower. When the Countrywide officers explained the loans to him, their explanations were not accurate.

175. In summary, far from following its underwriting guidelines and making occasional, targeted and justified exceptions when other evidence of ability to repay justified a deviation from the guidelines, in fact at Countrywide variance from the stated standards was the norm, and many loans were made with essentially little to no underwriting or effort to evaluate ability to repay. Nowhere did any of the Offering Documents apprise the Bank of the extent to which Countrywide deviated from its guidelines and engaged in predatory lending.

2. New Century Mortgage Corp.

176. New Century Mortgage Corp. originated underlying mortgage loans securing at least seven of the PLMBS purchased by the Bank. New Century, which filed for bankruptcy on April 2, 2007, was at one time one of the country's largest mortgage origination companies, reporting over $56 billion of total mortgage originations and purchases in 2005 alone. New Century was identified by the OCC in 2010 as *the* worst subprime lender in the country based on the delinquency rates of the mortgages it originated in the ten metropolitan areas with the highest rates of delinquency. Like Countrywide and the other mortgage originators that issued loans that backed the PLMBS purchased by the Bank, New Century effectively abandoned underwriting guidelines in favor of loan volume.

a. Government actions and related lawsuits and investigations demonstrate New Century's failure to adhere to sound underwriting practices.

177. On February 29, 2008, Michael J. Missal, the Bankruptcy Court Examiner for New Century, issued a detailed report on the various deficiencies at New Century, including lax mortgage standards and a failure to follow its own underwriting guidelines. During the course of

his investigation the Examiner conducted 110 interviews of 85 witnesses and reviewed millions of pages of documents from New Century, its outside auditors, and others.

178. Among the findings in his 550 page Final Report, the Examiner noted:

> New Century had a brazen obsession with increasing loan originations without due regard for the risks associated with that business strategy. ... The Loan Production Department was the dominant force within the Company and trained mortgage brokers to originate New Century loans in the aptly named "CloseMore University." Although the primary goal of any mortgage banking company is to make more loans, New Century did so in an aggressive manner that elevated the risks to dangerous and ultimately fatal levels.
>
> New Century also made frequent exceptions to its underwriting guidelines for borrowers who might not otherwise qualify for a particular loan. A Senior Officer of New Century warned in 2004 that the 'number one issue is exceptions to the guidelines.' Moreover, many of the appraisals used to value the homes that secured the mortgages had deficiencies.
>
> New Century...layered the risks of loan products upon the risks of loose underwriting standards in its loan originations to high risk borrowers.
>
> Senior Management turned a blind eye to the increasing risks of New Century's loan originations ... [and] was aware of an alarming and steady increase in early payment defaults on loans originated by New Century beginning no later than mid-2004.

179. On May 7, 2007, a *Washington Post* front page story entitled "Pressure at Mortgage Firm Led to Mass Approval of Bad Loans," quoted former New Century appraiser Maggie Hardiman recounting how "[y]ou didn't want to turn away a loan because all hell would break loose" and that when she did reject a loan, "her bosses often overruled her and found another appraiser to sign off on it."

180. On December 7, 2009, the SEC charged three of New Century's top officers with violations of federal securities laws. The complaint detailed the falsity of New Century's assurances to the market about its commitment to "adhere to high origination standards in order

to sell [its] loan products in the secondary market" and its policy to "only approve subprime loan applications that evidence a borrower's ability to repay the loan."

181. Business Chief Underwriter for CitiFinancial Mortgage, Richard Bowen, testifying to the FCIC on April 7, 2010, specifically identified the inadequate underwriting standards employed by New Century. "A large New Century subprime pool was underwritten and purchased against their policy guidelines. The purchase approval rate under their guidelines was 93%. The approval rate under Citi guidelines would have been 83%."

182. In June 2010, Morgan Stanley agreed to pay $102 million to Massachusetts homeowners and the Commonwealth following the State Attorney General's investigation into Morgan Stanley's role in acting as a partner in financing mortgages issued by New Century, noting that "[t]hese loans often were unsustainable because of payment shock or poor underwriting," and that the lenders "should have known [the loans] were destined to fail."

183. The Massachusetts Attorney General identified how a Morgan Stanley review of New Century loans found that a large majority failed to meet New Century's underwriting guidelines. Further review disclosed that for 91% of those loans there was insufficient evidence of compensating factors to justify an exception to the underwriting guidelines and that for fully one third of a random sample of loans there was no compensating factor to justify the extension of credit. *See* Assurance of Discontinuance at 10, *In re Morgan Stanley, Inc.*, No. 10-2538 (Suffolk Cty Super. Ct. June 24, 2010).

184. Patricia Lindsey, a former risk manager at New Century testified before the FCIC in April of 2010 that starting in 2004, underwriting guidelines were all but abandoned. She explained how New Century was approving loans with 100% financing to borrowers with low credit scores and no supporting proof of income.

b. **Confidential witnesses provide further evidence of New Century's failure to adhere to sound underwriting practices.**

185. Confidential witnesses provided further evidence that New Century failed to adhere to sound underwriting practices, and created a culture in which exceptions to underwriting standards were the norm. Statements by confidential witnesses confirm that: (a) New Century underwriters faced intense pressure to close loans at any cost; (b) New Century increasingly approved risky, low- or no-documentation loans without adequate review; (c) New Century routinely approved loans that contained exceptions for which there were no reasonable compensating factors; (d) New Century employees approved loans with inflated appraisal values; and (e) New Century employees manipulated data in order to close loans.

186. Confidential witnesses include CW-D, a senior underwriter at New Century in Scottsdale, Arizona from March 2004 to 2006, who underwrote wholesale loans that independent brokers and brokerage firms brought to New Century account executives; CW-E, a risk manager at New Century from 2004 to 2005; CW-F, an operations manager who worked in New Century's Irvine, California branch for 11 years until the company closed its doors in May 2007; CW-G, a former loan officer and senior branch manager at New Century from December 2000 through December 2005; and CW-H, a loan officer at New Century from 2001 through 2004.

187. CW-D reported that in order to close the loans, managers would "rerun loans all kinds of ways . . . to get any form of an approval." CW-D recalled one particular instance in which a manager pressured her to approve a stated income loan for a C-rated borrower, when they "were not supposed to do anything below a B." Although she refused to sign off on the loan because the borrower was a retired person on a fixed income, the manager signed off on it and "rearrange[d] a bunch of stuff to get the loan to work."

188. Due to the pressures that New Century employees faced to generate loan volume, they increasingly approved risky, low- to no-documentation loans; approved "exception" loans for which there were no reasonable compensating factors; encouraged appraisers to inflate property values; and manipulated loan data in order to close loans. According to CW-F, New Century account executives (who brought in loans from independent brokers and brokerage firms) received commissions based on the number of loans they closed. CW-G, a branch manager at New Century, also confirmed that he was compensated based only on loan volume. CW-D said she was "always pressured to close loans" at New Century. She mentioned that account executives would yell at her for declining loans, and would often go to upper management to overturn her decisions to decline loans. CW-H, a loan officer for New Century from 2001 through 2004, said that if loan officers did not make at least five loan closings in a month, they were "put on a three-month program that put them on track for termination." Additionally, loan officers who did not meet their numbers were subject to verbal abuse and screaming.

189. CW-G ultimately resigned from the company because he "did not believe in the products being offered." Specifically, he disagreed with New Century's decision to offer a new mortgage product, called a "stated income W-2 loan." The problem was that in places like Las Vegas, many individuals frequently made money in the forms of tips, which were in cash and were often not reported as income on a W-2. Thus, it was difficult to reconcile the amount of money that the individuals stated that they were making, and the amount of income the W-2s reflected, and, as explained by CW-G, the loan files lacked "integrity."

190. According to CW-G, "low doc" loans were more likely to be approved at New Century than full-documentation loans. Moreover, CW-G said that New Century approved loans

with 100% LTV ratios all the time, and 100% LTV mortgages continued to increase as a percentage of the total loans approved in his branch during his time as branch manager. When CW-G complained to senior management that increasingly risky loans were being offered at New Century, senior management instructed him just to sell the products.

191. Confidential witnesses also described New Century's standard practice of deviating from prudent underwriting guidelines. As stated by CW-F, exceptions were made "all the time. It was the nature of subprime. They were granted frequently."

192. CW-D calculated that 50% of the loans that her branch underwrote each day contained exceptions. "Exceptions happened more often than not . . . . It was all about getting the loans approved." CW-D stated that New Century underwrote exception loans which had no reasonable compensating factors, and that exceptions were made to clear loans that might otherwise have been rejected.

193. Similarly, CW-E said that New Century did "goofy loans that were hugely non-compliant." As an example of a "goofy loan" that New Century approved, he described providing a stated loan to a landscaper who allegedly made $25,000 per month, but had a $500 Visa credit card limit.

194. Confidential witnesses further described the pressure employees placed on appraisers to inflate property values so that loans could be approved. CW-H said that New Century loan officers advised appraisers what specific dollar amount they needed in order for a loan to be approved by New Century underwriters; the appraiser then came up with that exact figure in his or her appraisal.

195. Similarly, CW-D explained that New Century managers frequently reworked appraisals which came in short of New Century's guidelines. The managers would try to find

something wrong with the comparable properties provided by the appraiser so that they could request new comparables. However, the new comparables generally were not true comparables because they inflated the value of the purchase property. Additionally, CW-D stated that New Century managers added "general inflation for the area" if the appraiser's comparables fell short on value and hindered the loans from closing.

196. According to confidential witnesses, New Century employees frequently manipulated loan data in order to close loans and generate volume. For example, CW-D stated that managers at New Century told underwriters to remove documents from the loan files or rerun credit reports in the hopes of improving credit scores. For example, underwriters were instructed to remove a wife's records from a loan file if she had bad credit and only rely on the husband's credit score, even though the individuals were married and were borrowing based on dual incomes.

197. CW-E also mentioned that, while at New Century, he reviewed a lot of loans with fake documents, including fake verifications of employment, fake green cards, and fake social security cards.

c. The mortgages originated by New Century and securitized in the PLMBS purchased by the Bank provide further evidence of New Century's failure to adhere to sound underwriting practices.

198. New Century originated mortgages that secured at least Securities CMLTI 2006-NC1 A2C, CMLTI 2006-NC2 A2B, GSAMP 2006-NC2 A2C, MABS 2006-NC1 A3, MSAC 2006-HE5 A2C, MSAC 2006-HE6 A2C, and SABR 2006-NC3 A2B. As discussed in detail below, the Offering Documents contained serious material misstatements regarding specific characteristics of the loan pools securing these Securities, including misstatements with respect to the percentages of loans with LTV ratios in excess of 100%, 90% and 80%, and the

percentage of loans secured by property not the primary residence of the borrower. Moreover, as described in Paragraphs 470-71 below, these Securities have exhibited excessive delinquency and foreclosure rates. These circumstances are strong evidence of NewCentury's failure to observe its stated underwriting standards. New Century's actual practices – including the use of unreliable appraisals, routine granting of underwriting exceptions and reliance on unverified borrower-supplied information – caused it to originate loans whose actual LTV ratios and primary residence rates were far different from that reported in the Offering Documents, and whose likelihood of default was much higher than that of loans issued under underwriting standards of the type described in the Offering Documents.

d. Confidential witnesses also provide evidence of predatory lending.

199. Confidential witnesses detailed predatory practices at New Century in which the originators failed to disclose the true terms of the loans to the buyers.

200. For example, CW-D estimated that half of her loans at New Century were stated income loans. She said, "It was really sad because a lot of the borrowers were uneducated" and did not understand the terms of the loan; she blamed the mortgage brokers for not explaining the terms of the loans to the borrowers.

201. Similarly, CW-H said that in the case of adjustable-rate mortgages, New Century employees only looked at the borrower's ability to make the initial monthly payment, and did not consider the fully-indexed rate over the life of the loan. Additionally, he said that loan officers were coached not to call them "adjustable rate loans" when speaking with borrowers. Instead, New Century's sales model was to put the borrower first into a "two-year fixed loan," and when the two years expired, New Century would target the borrower for conversion to another mortgage product.

202. In summary, far from following its underwriting guidelines and making occasional, targeted and justified exceptions when other evidence of ability to repay justified a deviation from the guidelines, in fact at New Century variance from the stated standards was the norm, and many loans were made with essentially little to no underwriting or effort to evaluate ability to repay. Nowhere did any of the Offering Documents apprise the Bank of the extent to which New Century deviated from its guidelines, and engaged in predatory lending.

3. IndyMac Bank, FSB

203. IndyMac Bank originated underlying mortgage loans securing at least four of the PLMBS purchased by the Bank. IndyMac as well abandoned sound underwriting practices.

a. Government actions and related lawsuits and investigations demonstrate IndyMac's failure to adhere to sound underwriting practices and predatory lending.

204. As reported in the Audit Report of the Office of Inspector General, Department of Treasury ("OIG"):

> IndyMac often made loans without verification of the borrower's income or assets, and to borrowers with poor credit histories. Appraisals obtained by IndyMac on underlying collateral were often questionable as well. As an Alt-A lender, IndyMac's business model was to offer loan products to fit the borrower's needs, using an extensive array of risky option-adjustable-rate-mortgages (option ARMs), subprime loans, 80/20 loans, and other nontraditional products. Ultimately, loans were made to many borrowers who simply could not afford to make their payments.

SAFETY AND SOUNDNESS: MATERIAL LOSS REVIEW OF INDYMAC BANK, FSB, OIG-09-032, (February 26, 2009).

205. In describing what it referred to as IndyMac's "Unsound Underwriting Practices," the OIG Audit explained:

> IndyMac encouraged the use of nontraditional loans. IndyMac's underwriting guidelines provided flexibility in determining whether, or how, loan applicants'

employment, income, and assets were documented or verified. The following procedures were used by the thrift:

- No doc: income, employment, and assets are not verified
- No income/no assets (NINA): income and assets are not verified; employment is verbally verified
- No ratio: no information about income is obtained; employment is verbally verified; assets are verified
- Stated income: income documentation is waived, employment is verbally verified, and assets are verified
- Fast forward: income documentation is sometimes waived, employment is verbally verified, and assets may or may not be verified.

206. The OIG also explained that:

among other things, we noted instances where IndyMac officials accepted appraisals that were not in compliance with the Uniform Standard of Professional Appraisal Practice (USPAP). We also found instances where IndyMac obtained multiple appraisals on a property that had vastly different values. There was no evidence to support, or explain why different values were determined. In other instances, IndyMac allowed the borrowers to select the appraiser. As illustrative of these problems, the file for one 80/20, $1.5 million loan we reviewed contained several appraisals with values ranging between $639,000 and $1.5 million. There was no support to show why the higher value appraisal was the appropriate one to use for approving the loan.

207. The OIG Audit contained 6 examples of examined loans with serious underwriting failings and questionable appraisals. These included the following examples of IndyMac's conduct and the losses resulting from IndyMac's violation of underwriting standards and reliance on faulty appraisals:

Loan 1

On May 2, 2007, IndyMac approved a $926,000 stated income loan for the borrower, ... an adjustable rate mortgage with a 5-year term and a beginning interest rate of 5.875 percent, which was subject to change monthly. ...

As a stated income loan, IndyMac performed no verification of the borrower's self-employment income of $50,000 a month ($600,000 annually). IndyMac also did not verify the borrower's assets. ...

The loan file contained an appraisal which indicated that the property value was $1.43 million. This value was based on comparable properties that had been

improved with single family residences. However, the comparable properties were located closer to the ocean and bay, and their values were based on listing price instead of the actual selling price. The appraised value also did not take in consideration a slowdown in the real estate market. We saw no evidence in the loan file that IndyMac resolved these and other anomalies with the appraisal.

The borrower made payments totaling $5,389 before defaulting on the loan. The unpaid principal and interest at the time of foreclosure totaled approximately $1.01 million. At the time of our review, the property was listed for sale for an asking price of $599,000.

Loan 2

In November 2007, IndyMac approved a $3 million stated income loan, secured by the borrower's primary residence in Scottsdale, Arizona. The loan proceeds were used to refinance the primary residence which the borrower had owned for 11 years and reported its value as $4.9 million.

As a stated income loan, IndyMac performed no verification of the borrower's reported self-employment income of $57,000 a month ($684,000 annually). Contrary to IndyMac policy, the borrower selected the appraiser who appraised the property at $4.9 million.

Notes in the loan file indicated that the borrower had listed the property for sale in November 2006, first at a price of $4.9 million that was later reduced to $4.5 million before the borrower pulled the property off the market. Despite this, the appraiser concluded that the value of $4.9 million appeared to be reasonable. IndyMac accepted the appraiser's value based on a review of online sale and public records. It did not physically inspect the property.

The borrower made no payments on the loan before default. The total delinquent loan amount as of November 2008 was $3,015,625. According to the IndyMac official, the property sold in October 2008 for $2.0 million.

Loan 3

In February 2007, IndyMac provided the borrower a stated income, 80/20 loan, for a combined total of $1.475 million, to purchase a property in Marco Island, Florida. The combined loan equaled the appraised value of the property.

As a stated income loan, IndyMac performed no verification of the borrower's reported income of $28,500 a month ($342,000 annually). For 80/20 loans, IndyMac allowed an $800,000/$200,000 maximum loan amount and a maximum combined loan amount of $1 million. This loan was an exception to IndyMac policy as the combined loan amount of $1,475,000 exceeded the maximum combined loan amount. The loan exception was approved anyway.

Various appraisals in the loan file contained significant differences with no indication of how they were resolved by IndyMac. A January 2007 appraisal valued the property at $1.48 million. A valuation analysis prepared by an IndyMac employee on January 25, 2007, stated that the skill level of the appraiser was unacceptable—the appraiser had not provided accurate comparable properties to the subject property and did not accurately consider the location of the property. The IndyMac employee estimated the property value at $1 million and recommended that another appraisal be obtained. Another note in the loan indicated that the IndyMac official overruled the employee's recommendation and the appraisal was accepted. The IndyMac official, however, adjusted the appraised value approximately 10 percent lower, to $1.33 million, citing as a justification that a property on the same street had sold for $1.97 million.

The borrower made no payments before defaulting on the combined $1.48 million loans. According to the IndyMac official, the borrower deeded the property to the thrift in lieu of foreclosure. The IndyMac official estimated in November 2008 that the property was worth about $700,000.

Loan 4

In April 2002, IndyMac approved the borrower for a stated income home equity line of credit of $550,000. This line of credit was in addition to a 80/20 loan for $3 million that the borrower already had with IndyMac. The borrower reported that the property was worth $5.2 million.

As a stated income loan, IndyMac performed no verification of the borrower's reported gross income of $95,000 a month ($1.14 million annually) as the owner/manager of a limited liability corporation. The loan notes history did not indicate how IndyMac resolved negative information revealed in credit reports on the borrower. Two credit reports obtained in March 2002 listed serious and frequent delinquencies. An earlier credit report had noted a discrepancy with the borrower's social security number.

Various appraisals in the loan file also contained significant discrepancies with no indication of how they were resolved by IndyMac. Specifically, the appraisal for the original 80/20 loan, dated in October 2001, valued the property which the appraisal described as new construction at $5.2 million. This same value was reported by a second appraisal dated in March 2002. A third appraisal, dated in April 2002, placed the market value of the home at $508,500. The appraisal stated that the home was less than ½ mile from a hazardous waste facility. A fourth appraisal, also prepared in April 2002, valued the property at $730,000, with the lowest reasonable value at $590,000 and the highest reasonable at $900,000. This appraiser also reported that the home was built in 1959.

> The borrower made payments totaling about $11,000 before defaulting on the $550,000 home equity line of credit loan. According to the IndyMac official, the thrift was able to recover approximately $600,000 on both loans. ....

208. A June 30, 2008 report issued by the Center for Responsible Lending entitled INDYMAC: WHAT WENT WRONG? HOW AN "ALT-A" LEADER FUELED ITS GROWTH WITH UNSOUND AND ABUSIVE MORTGAGE LENDING (the "CRL Report") concluded that IndyMac often ignored its stated underwriting and appraisal standards and encouraged its employees to approve loans regardless of the borrower's ability to repay.

209. The CRL Report quotes an IndyMac underwriting team leader, Audrey Streater, as stating of her time at IndyMac: "...I would reject a loan and the insanity would begin. It would go to upper management and the next thing you know it's going to closing."

210. The CRL Report describes the recollection of another former underwriter for IndyMac, Wesley Miller, interviewed by CRL:

> when he rejected a loan, sales managers screamed at him and then went up the line to a senior vice president and got it okayed. "There's a lot of pressure when you're doing a deal and you know it's wrong from the get-go – that the guy can't afford it," Miller told CRL. "And then they pressure you to approve it." The refrain from managers, Miller recalls, was simple: "Find a way to make this work."

211. As to the recollection of another former underwriter interviewed by the CRL,

> Scott Montilla, who worked as an underwriter for IndyMac in Arizona .... says that when salespeople went over his head to complain about loan denials, higher-ups overruled his decisions roughly half the time. "I would tell them: 'If you want to approve this, let another underwriter do it, I won't touch it – I'm not putting my name on it,' " Montilla says. "There were some loans that were just blatantly overstated. . . . Some of these loans are very questionable. They're not going to perform."

b. The mortgages originated by IndyMac and securitized in the PLMBS purchased by the Bank provide further evidence of IndyMac's failure to adhere to sound underwriting practices.

212. IndyMac originated mortgages that secured at least Securities HVMLT 2006-2 2A1A, HVMLT 2006-2 3A1A, INABS 2005-D AII3, INDX 2006-AR15 A2. As discussed in detail below, the Offering Documents contained serious material misstatements regarding specific characteristics of the loan pools securing these Securities, including misstatements with respect to their weighted average LTV ratio, the percentages of loans with LTV ratios in excess of 100%, 90% and 80%, and the percentage of loans secured by property not the primary residence of the borrower. Moreover, as described in Paragraphs 470-71 below, these Securities have exhibited excessive delinquency and foreclosure rates. These circumstances are strong evidence of IndyMac's failure to observe its stated underwriting standards. IndyMac's actual practices – including the use of unreliable appraisals, routine granting of underwriting exceptions and reliance on unverified borrower-supplied information – caused it to originate loans whose actual LTV ratios and primary residence rates were far different from that reported in the Offering Documents, and whose likelihood of default was much higher than that of loans issued under underwriting standards of the type described in the Offering Documents.

213. In summary, far from following its underwriting guidelines and making occasional, targeted and justified exceptions when other evidence of ability to repay justified a deviation from the guidelines, in fact at IndyMac variance from the stated standards was the norm, and many loans were made with essentially little to no underwriting or effort to evaluate ability to repay. Nowhere did any Offering Document apprise the Bank of the extent to which IndyMac deviated from its guidelines and engaged in predatory lending.

4. Fremont Investment & Loan

214. Fremont Investment & Loan originated underlying mortgage loans securing at least two of the PLMBS purchased by the Bank. Fremont as well abandoned sound underwriting practices. Fremont was identified by the OCC in 2010 as the sixth worst subprime lender in the country based on the delinquency rates of the mortgages it originated in the ten metropolitan areas with the highest rates of delinquency.

a. Government actions and related lawsuits and investigations demonstrate Fremont's failure to adhere to sound underwriting practices and predatory lending.

215. Fremont was one of the country's largest subprime lenders until it was forced out of the business by the Federal Deposit Insurance Corporation ("FDIC") in March of 2007.

216. In March 2007, the FDIC announced it had issued a cease and desist order against Fremont Investment & Loan, Brea, California, and its parent corporations, to resolve claims set forth in *In re Fremont Investment & Loan, Brea, California et al.*, No. FDIC-07-035b (F.D.I.C. Mar. 7, 2007). According to the FDIC's press release:

> The FDIC determined, among other things, that [Fremont] had been operating without adequate subprime mortgage loan underwriting criteria, and that it was marketing and extending subprime mortgages in a way that substantially increased the likelihood of borrower default ....

217. The FDIC Cease and Desist Order noted Fremont's "inadequate underwriting criteria and excessive risk in relation to the kind and quality of assets held," and that Fremont "had been operating without adequate subprime mortgage loan underwriting criteria."

218. The FDIC, in its Cease and Desist order and accompanying press release, also sets forth how Fremont "operated inconsistently with the FDIC's Interagency Advisory on Mortgage Banking and Interagency Expanded Guidance for Subprime Lending Programs" and "that it was

marketing and extending subprime mortgage loans in a way that substantially increased the likelihood of borrower default," including by:

- "qualifying borrowers for loans with low initial payments based on an introductory or 'start' rate that will expire after an initial period, without an adequate analysis of the borrower's ability to repay the debt at the fully-indexed rate";

- "making mortgage loans without adequately considering the borrower's ability to repay the mortgage according to its terms";

- "approving borrowers without considering appropriate documentation and/or verification of income";

- "approving borrowers for loans with inadequate debt-to-income analyses that do not properly consider the borrowers' ability to meet their overall level of indebtedness and common household expenses;"

- issued mortgages "containing product features likely to require frequent refinancing to maintain an affordable monthly payment and/or to avoid foreclosure;"

- "providing borrowers with inadequate and/or confusing information relative to product choices, material loan terms and product risks, prepayment penalties, and the borrower's obligations for property taxes and insurance;"

- "approving borrowers for loans with inadequate debt-to-income analyses that d[id] not properly consider the borrowers' ability to meet their overall level of indebtedness and common housing expenses;"

- issuing loans "including substantial prepayment penalties and/or prepayment penalties that extend beyond the initial interest rate adjustment period;" and

- "approving loans or 'piggyback' loan arrangements with loan-to-value ratios approaching or exceeding 100 percent of the value of the collateral."

219. On December 9, 2008, the Supreme Judicial Court of Massachusetts affirmed a preliminary injunction issued in *Commonwealth of Massachusetts v. Fremont Investment & Loan et al,* No. 07-4373 (Suffolk Cty), preventing Fremont from foreclosing on thousands of loans,

finding evidence that "Fremont made no effort to determine whether borrowers could 'make the scheduled payments under the term of the loan' [and] ma[de] loans based on information Fremont knew or should have known was inaccurate or false, including, but not limited to, borrowers' income, property appraisals, and credit scores."

220. In reaching its decision the Supreme Judicial Court relied on affidavits from two outside account executives who marketed Fremont loans. Each testified that Fremont purposefully relaxed its underwriting standards and made loans on documents known to contain false information.

221. In ruling on the preliminary injunction in *Commonwealth of Massachusetts v. Fremont Investment & Loan,* the Supreme Judicial Court held that certain Fremont loans were "presumptively unfair" because their very terms – low teaser rates followed by payment shock along with high loan-to-value and debt-to-income ratios – resulted in a package that Fremont should have known was "doomed to foreclosure." *Commonwealth v. Fremont Investment and Loan*, 897 N.E.2d 548, 558-59 (Mass. 2008).

222. Subsequently, Fremont agreed to pay the Commonwealth of Massachusetts $10 million in consumer relief, civil penalties and costs arising from its conduct related to the issuance of mortgage loans in Massachusetts.

223. In its complaint against Fremont, the Massachusetts Attorney General provided specific examples of Fremont's allegedly predatory practices, including:

- Approving loans worth over $800,000 to Frances Darden, a single mother of three with a monthly income of $1,800 from social security disability. Ms. Darden subsequently discovered that her application falsely stated that she worked for Philip Medical earning $10,760 per month. Fremont paid her broker a yield spread premium of $7,024 for originating these loans, a premium that specifically rewards brokers for placing borrowers in higher interest rate loans.

- Approving a mortgage for 100% of the property purchase price for Macdala Louis, who had provided proof of income of $2,000 a month. When, at closing Ms. Louis discovered her monthly payments (even at the low 'teaser' rate that would reset after two years) was over $3,600 she tried to back out but was told by Fremont's lawyer and her broker that it was too late to change her mind. She later discovered her loan papers falsely represented her income as $7,300 a month. She lost all her life savings trying to make payments until eventually the property was foreclosed.

224. In October 2007, Morgan Stanley Mortgage Capital Holdings, LLC sued Fremont, alleging that it had found "hundreds" of improperly underwritten loans that "fail[ed] to meet Fremont's underwriting guidelines" because Fremont had "fail[ed] to verify assets prior to closing," performed "defective verification of rent, fail[ed] to obtain the minimum credit history information, and [made] loans ... to borrowers that did not have the requisite credit score."

225. Fremont also was among 14 lenders named by the NAACP in a complaint alleging "systematic, institutionalized racism in sub-prime home mortgage lending." According to the lawsuit, African American homeowners who received sub-prime mortgage loans from these lenders were more than 30 percent more likely to be issued a higher rate loan than Caucasian borrowers with the same qualifications. In January 2009, the court denied a motion to dismiss, finding that the plaintiff had sufficiently pled a disparate impact claim, and also denied an individual motion to dismiss brought by Fremont, finding the claims were not moot as to Fremont.

b. The mortgages originated by Fremont and securitized in the PLMBS purchased by the Bank provide further evidence of Fremont's failure to adhere to sound underwriting practices.

226. Fremont originated mortgages that secured at least Securities FHLT 2005-E 2A3 and SABR 2006-FR3 A2. As discussed in detail below, the Offering Documents contained serious material misstatements regarding specific characteristics of the loan pools securing these

Securities, including misstatements with respect to the percentages of loans with LTV ratios in excess of 100%, 90% and 80%, and the percentage of loans secured by property not the primary residence of the borrower. Moreover, as described in Paragraphs 470-71 below, these Securities have exhibited excessive delinquency and foreclosure rates. These circumstances are strong evidence of Fremont's failure to observe its stated underwriting standards. Fremont's actual practices – including the use of unreliable appraisals, routine granting of underwriting exceptions and reliance on unverified borrower-supplied information – caused it to originate loans whose actual LTV ratios and primary residence rates were far different from that reported in the Offering Documents, and whose likelihood of default was much higher than that of loans issued under underwriting standards of the type described in the Offering Documents.

227. In summary, far from following its underwriting guidelines and making occasional, targeted and justified exceptions when other evidence of ability to repay justified a deviation from the guidelines, in fact at Fremont variance from the stated standards was the norm, and many loans were made with essentially little to no underwriting or effort to evaluate ability to repay. Nowhere did any Offering Document apprise the Bank of the extent to which Fremont deviated from its guidelines and engaged in predatory lending.

5. GMAC and Residential Funding Corp.

228. GMAC Mortgage Corporation, which is now known as GMAC Mortgage, LLC (together, "GMAC") was the originator of loans for at least three of the PLMBS purchased by the Bank and Residential Funding Corp. ("RFC"), a GMAC affiliate, was the sponsor and master servicer of at least one of the Bank's PLMBS investments. Both GMAC's representations regarding its loan origination practices and the representations of RFC, have been challenged by

MBIA Insurance, one of the largest providers of bond insurance, that insured MBS securities sold by GMAC and RFC.

229. As stated in its complaint in *MBIA Insurance Co. v. GMAC Mortgage Co.*, No. 600837-2010 (NY State Supreme Court), "To date, MBIA has been able to obtain and review loan files associated with 4,104 delinquent and charged-off loans. ... At least 89% of the 4,104 delinquent or charged off loans reviewed by MBIA were not originated in material compliance with GMAC Mortgage's Underwriting Guidelines or the contractual representations and warranties made by GMAC mortgage."

230. MBIA further explained that its review found that "A significant number of mortgage loans were made on the basis of 'stated incomes' that were grossly unreasonable or were approved despite DTI or CLTV ratios in excess of the cut-offs stated in GMAC Mortgage's Underwriting Guidelines or in the Purchase Agreements or Prospectus Supplements.... GMAC Mortgage used its proprietary automated electronic loan underwriting program known as 'Assetwise,' . . . Assetwise assisted in the underwriting of mortgage loans by automating the process of determining whether a loan met pre-specified underwriting criteria set up by the program. . . . Assetwise, however, failed to analyze proposed mortgage loans using criteria set forth in GMAC Mortgage's underwriting guidelines. As a result, GMAC Mortgage routinely contributed loans to the Transactions that failed to comply with its own underwriting standards."

231. Similarly, MBIA explains, in its complaint in *MBIA Insurance Co. v. Residential Funding Corp.*, No 603552-2008, (NY State Supreme Court): "Of the 1,847 mortgage loans [examined by MBIA] ... only 129 mortgage loans—less than 7% of the mortgage loans reviewed—were originated or acquired in material compliance with RFC's representations and warranties ... with respect to the underwriting of the mortgage loans contributed to the RFC

transactions." The complaint notes that "The Underwriting Guidelines ...only allowed RFC to make exceptions to the Underwriting Guidelines in very specifically defined and limited circumstances. . . . RFC's Underwriting guidelines required that a form—Form 1600—be completed and approve for any exceptions made to the Underwriting Guidelines in connection with the underwriting of purchase of a mortgage loan. [Yet, in fact f]or a significant number of non-compliant mortgage loans, RFC did not identify any specifically defined exception that was permitted under the underwriting Guidelines. Further for a significant number of mortgage loans, RFC failed to document the alleged exceptions on a form 1600 as required by the Underwriting Guidelines."

232. Confidential witness CW-I, who worked as a District Operations Manager for GMAC Mortgage from 2000 through 2007, provided further evidence of GMAC's failure to adhere to sound underwriting practices and guidelines. CW-I confirmed that 50% of the loans that were approved in his California branch were pursuant to GMAC's "reduced documentation" program. Additionally, CW-I stated that many prospective borrowers came to GMAC in the hopes of refinancing their ARM loans, which carried one- to three-year prepayment penalties of approximately $24,000 to $30,000. According to CW-I, GMAC refused to waive these penalties.

233. GMAC and Residential Funding originated mortgages that secured at least Securities GMACM 2006-AR2 2A1, GMACM 2006-AR2 4A1, RFMSI 2006-SA2 2A1 and RASC 2005-KS12 A2. As discussed in detail below, the Offering Documents contained serious material misstatements regarding specific characteristics of the loan pools securing these Securities, including misstatements with respect to the weighted average LTV ratios, the percentages of loans with LTV ratios in excess of 100%, 90% and 80%, and the percentage of

loans secured by property not the primary residence of the borrower. Moreover, these Securities have exhibited excessive delinquency and foreclosure rates. Securities GMACM 2006-AR2 2A1 and GMACM 2006-AR2 4A1 have experienced a delinquency rate as of January, 2010, that was over 50% higher than that of loans of comparable vintage with comparable FICO scores and LTV ratios. The cumulative loss rate on mortgages securing Security GMACM 2006-AR2 4A1 is more than double that of such comparable mortgages. Further information on the excessive delinquency and foreclosure rates of these securities is set forth in Paragraphs 470-71 below. These circumstances are strong evidence of GMAC's and Residential Funding's failure to observe its stated underwriting standards. GMAC's and Residential Funding's actual practices – including the use of unreliable appraisals, routine granting of underwriting exceptions and reliance on unverified borrower-supplied information – caused GMAC and Residential Funding to originate loans whose actual LTV ratios and primary residence rates were far different from that reported in the Offering Documents, and whose likelihood of default was much higher than that of loans issued under underwriting standards of the type described in the Offering Documents.

234. In summary, far from following its underwriting guidelines and making occasional, targeted and justified exceptions when other evidence of ability to repay justified a deviation from the guidelines, in fact at GMAC and RFC, variance from the stated standards was the norm, and many loans were made with essentially little to no underwriting or effort to evaluate ability to repay. Nowhere did any of the Offering Documents apprise the Bank of the extent to which GMAC and RFC deviated from their guidelines and engaged in predatory lending.

6. Wells Fargo

a. Other investigations and lawsuits and confidential witness testimony demonstrate that Wells Fargo abandoned underwriting guidelines.

235. Wells Fargo originated underlying mortgage loans securing at least 7 of the PLMBS purchased by the Bank. In 2010, Wells Fargo was identified by the OCC as the thirteenth worst subprime lender in the country based on the delinquency rates of the mortgages it originated in the ten metropolitan areas with the highest rates of delinquency. Wells Fargo as well abandoned sound underwriting practices. In denying in part a motion to dismiss in *In re Wells Fargo Mortgage-Backed Securities Litigation,* No. 3:09-1376 (N.D. Cal.) (the "*Wells Fargo* Complaint"), the court found that plaintiffs had adequately pled that "variance from the stated [underwriting] standards was essentially [Wells Fargo's] norm" and that this conduct "infected the entire underwriting process."

236. The *Wells Fargo* Complaint is supported by numerous confidential witness statements substantiating the allegations that Wells Fargo abandoned underwriting guidelines, increasingly made exceptions without compensating factors, sacrificed underwriting standards to loan volume, and manipulating loan information in order to close loans without regard to borrowers' ability to repay the loans.

237. Confidential witnesses contacted in connection with the Bank's investigation provide additional evidence of Wells Fargo's repeated failure to adhere to sound underwriting practices and guidelines. Statements by confidential witnesses confirm that: (a) Wells Fargo underwriters faced intense pressure to close loans at any cost; (b) Wells Fargo increasingly approved risky, low- or no-documentation loans without adequate review; (c) Wells Fargo routinely approved loans that contained exceptions for which there were no reasonable

compensating factors; (d) Wells Fargo employees approved loans with inflated appraisal values; and (e) Wells Fargo employees manipulated data in order to close loans.

238. Confidential witnesses include: CW-J, who worked as an underwriter at Wells Fargo for five years and left the company in approximately 2006. She helped start one of Wells Fargo's wholesale lending offices. The wholesale lending office received mortgage applications from various brokers in the area and then underwrote, approved, and funded such mortgages; and CW-K, an underwriting manager at a Wells Fargo branch in California from 2004 until late 2007, when Wells Fargo closed the branch. The branch was a "MAP" center, which was a location where Wells Fargo loans were registered, underwritten, processed, closed, and shipped out for sale in pools.

239. Wells Fargo employees increasingly disregarded the credit risk of loans and quality controls in favor of generating loan volume. According to CW-K, this was because loan officers and underwriters at Wells Fargo received commissions and/or bonuses based on the number of loans closed.

240. Among Wells Fargo's abuses of underwriting standards, confidential witnesses detailed a practice of approving risky loans based upon little or no documentation. CW-J explained that underwriters at Wells Fargo's branches used two automated underwriting systems ("AUS"), which were pre-programmed with the minimum credit scores, LTV and DTI ratios, cash reserve levels, and documentation levels needed for the borrower to qualify for the various mortgage products that Wells Fargo offered. If these AUS returned an "approve" or "accept" result, then Wells Fargo typically approved the application and funded the mortgage. CW-J commented that she was skeptical of the "approvals" that came from the AUS, and often thought

to herself, "How did it approve *this*?" The systems approved borrowers who "never should have been approved."

241. For example, the AUS would approve a borrower with recent late payments, a 50-55% DTI ratio, a 650 credit score, and no cash reserves. CW-J would have questioned such an application. However, so long as the AUS approved the loan, the underwriters in Wells Fargo's branches were not required to look any deeper. In CW-J's view, the integrity of mortgage origination "all fell apart when the AUS became the standard." She explained that by the mid-2000s, when the AUS were being relied upon almost exclusively, she no longer agreed with the loans that were being approved because the underwriting guidelines had become so loose.

242. According to CW-J, upper level management at Wells Fargo did not want to hear her concerns about mortgages being approved for borrowers with questionable credit, high debt levels, high LTV ratios, or minimal cash reserves. They were not concerned with such issues because, throughout her time with Wells Fargo, the origination and underwriting emphasis was completely sales-oriented. According to CW-J, the motto at the company was "sales rules," and underwriters had no say in the kinds of borrowers that the AUS approved.

243. The only time human underwriters were involved in the underwriting process was when the AUS recommended a loan for "refer" instead of "accept." A result of "refer" meant that the application did not meet the underwriting guidelines programmed into the AUS. These loans required manual underwriting, and most of the time they were still approved.

244. CW-J stated that underwriters at Wells Fargo were pressured to approve applications on which the AUS returned a "refer" result because "sales rules." Underwriters were pressured to approve the loans because if they did not, they were at risk of suddenly being fired. As stated by CW-J, "The loan officer or broker would go to the Operations Manager and

complain, and suddenly people [underwriters] were no longer there." Additionally, underwriters received e-mails directly from the outside mortgage brokers or loan officers indicating that they weren't happy with the underwriter's decision not to approve an application. Many mortgage brokers expected the underwriter to approve all of his or her loans. In general, CW-J stated that the mortgage brokers and loan officers "learned how to get away with what they needed in order to get the loans approved."

245. CW-J explained that, in deciding whether to approve loans, underwriters disregarded whether the borrower had the ability to repay the loan: "We were just supposed to ignore all the warning signs." Thus, even for government loan programs, LTV ratios were in the range of 95-100%, FICO scores were as low as 550 to 560, and DTI ratios were as high as 55%. Cash reserves were only required "sometimes." Many of the conventional loans that CW-J underwrote between 2004 and 2006 were stated income/stated asset or no-income/no-asset loans.

246. Confidential witnesses also described Wells Fargo's standard practice of approving exceptions which deviated from prudent underwriting guidelines. According to CW-K, 30-40% of the time, Wells Fargo loan officers issued exceptions to underwriting guidelines on loans that otherwise would have been rejected.

247. CW-K noticed that the exceptions that Wells Fargo granted increased in late 2006 or early 2007, in conjunction with Wells Fargo's decision to tighten its underwriting guidelines. Wells Fargo's sales staff could not understand why a loan that would have been approved the prior year could not be approved in the current year, and did not accept the tightened guidelines. According to CW-K, the sales staff "wouldn't take 'no' for an answer," and therefore placed tremendous pressure on the Wells Fargo underwriters to approve their loans. Even where the Wells Fargo underwriters would deny requests for exceptions, Wells Fargo's sales staff would

take their loans to lead underwriters and risk managers to have the decisions overridden. According to CW-K, the increase in exceptions countered Wells Fargo's efforts to tighten the underwriting guidelines.

248. Confidential witnesses further detailed how mortgages approved by Wells Fargo were based upon inflated appraisal values. According to CW-J, the outside mortgage brokers who brought the loans to her branch for approval chose the appraisers that they wanted to use. The outside brokers, loan officers, and appraisers all had a vested interest in the appraised value being accepted and the mortgage application being approved by Wells Fargo, since they all made money off of the transaction. Consequently, they all had a "let's make a deal mentality" about reaching an appraisal value that supported the amount of the mortgage and the home's value.

249. According to confidential witnesses, Wells Fargo employees manipulated loan data in order to close loans and generate volume. CW-K was aware of circumstances in which loan files were doctored in order for the loans to be approved.

b. The mortgages originated by Wells Fargo and securitized in the PLMBS purchased by the Bank provide further evidence of Wells Fargo's failure to adhere to sound underwriting practices.

250. Wells Fargo originated mortgages that secured at least Securities BAFC 2006-F 2A1, BAFC 2006-F 3A1, CMLTI 2006-WFH2 A2B, CMLTI 2006-WFH4 A3, NHELI 2006-WF1 A3, WFHET 2006-3 A2 and WFMBS 2006-AR3 A4. As discussed in detail below, the Offering Documents contained serious material misstatements regarding specific characteristics of the loan pools securing these Securities, including misstatements with respect to their weighted average LTV ratio, the percentages of loans with LTV ratios in excess of 100%, 90% and 80%, and the percentage of loans secured by property not the primary residence of the borrower. Moreover, as described in Paragraphs 470-71 below, these securities have exhibited

excessive delinquency and foreclosure rates. These circumstances are strong evidence of Wells Fargo's failure to observe its stated underwriting standards. Wells Fargo's actual practices – including the use of unreliable appraisals, routine granting of underwriting exceptions and reliance on unverified borrower-supplied information – caused it to originate loans whose actual LTV ratios and primary residence rates were far different from that reported in the Offering Documents, and whose likelihood of default was much higher than that of loans issued under underwriting standards of the type described in the Offering Documents.

251. Thus, far from following its underwriting guidelines and making occasional, targeted and justified exceptions when other evidence of ability to repay justified a deviation from the guidelines, at Wells Fargo, variance from the stated standards was the norm, and many loans were made with essentially little to no underwriting or effort to evaluate ability to repay. Nowhere did any Offering Document apprise the Bank of the extent to which Wells Fargo deviated from its underwriting guidelines.

c. Other investigations and lawsuits and confidential witness testimony demonstrate that Wells Fargo engaged in predatory lending.

252. In July 2009, the Attorney General for the State of Illinois brought a lawsuit in Cook County Circuit Court alleging that Wells Fargo "steer[ed minority applicants] into high cost subprime or riskier mortgage loans while White borrowers with similar incomes received lower cost or less risky mortgages" and that Wells Fargo "engaged in deceptive practices by misleading Illinois borrowers about their mortgage terms, misrepresenting the benefits of refinancing, and repeatedly refinancing borrowers' mortgages, also known as loan flipping, without any real benefit to consumers."

253. The Illinois Attorney General Complaint in *The People & State of Illinois v. Wells Fargo & Co.*, No. 09-26434 (Cir. Ct. Cook Cty.), detailed how borrowers were "plac[ed] into

subprime mortgages, even though they qualified for prime mortgages with better terms," with the result that "[i]nstead of the affordable mortgages that these borrowers should have received, they were sold mortgages that were unaffordable and unsuitable." The complaint also details how Wells Fargo rewarded its employees for steering borrowers away from prime mortgages and into subprime loans, creating an incentive to sell borrowers higher cost sub-prime loans even if they qualified for prime loans, and "failed to maintain proper controls to ensure that borrowers were not placed into mortgages that were riskier or more expensive than the mortgage loans for which they were qualified."

254. On April 7, 2010 the City of Memphis filed its First Amended Complaint in *City of Memphis v. Wells Fargo Bank et al,* No. 09-2857 (W.D. Tenn.), alleging violations of the Fair Housing Act and of the Tennessee Consumer Protection Act arising from Wells Fargo's discriminatory lending practices. The Complaint attaches sworn declarations from six former Wells Fargo employees providing evidence of discriminatory and predatory lending practices.

255. Doris Dancy, a former Wells Fargo credit manager explained how she was provided with lists of leads who were predominantly minorities despite her branch being "in an area where a lot of white people lived" and how she was required to present a misleading sales pitch that did not disclose that "we were actually just giving them a new more expensive loan that put their house at risk." She detailed how her "district manager pressured the credit managers ... to convince our leads to apply for a loan, even if we knew they could not afford the loan or did not qualify for the loan." She stated that "I knew that Wells Fargo violated its own underwriting guidelines in order to make these loans to these customers." She was instructed by her district manager "to conceal the details of the loan." Eventually she resigned because she "decided that the practices were too unethical for me to participate any longer. I hated to go to

work, and found myself crying at the end of the day." Another Wells Fargo credit manager, Mario Taylor, testified how:

> branch managers told us how to mislead borrowers. For example we were told to make 'teaser rate' loans without informing the borrower that the rate was adjustable. ... We were told not to tell the customer what was in the fine print. In many cases income documents were falsified in order to qualify a borrower for a loan. I know that some managers, including one of my branch managers, changed pay stubs and used white-out on documents to alter the borrower's income so it would look like the customer qualified for the loan. Borrowers were not told about prepayment penalties. [O]ne of my branch managers told me not to disclose ... fees to borrowers.

256. Camille Thomas, a Wells Fargo loan processor, explained that "[i]t was the practice at the Wells Fargo offices where I worked to target African Americans for subprime loans. ... Elderly African Americans were thought to be highly vulnerable and were frequently targeted for subprime loans with high interest rates." She confirmed Ms. Taylor's testimony that "credit managers and branch managers made 'teaser rate' loans without informing the borrower that the loan had an adjustable rate. ... In many cases documents were actually falsified to inflate a borrower's income so that the borrower would appear to meet the debt-to-income requirements. I know that at least one branch manager engaged in this practice."

257. Tony Pashal, a Wells Fargo loan officer, described the case of one borrower who had a two year old 2/28 subprime loan and was seeking to refinance in 2006 before his 'teaser rate' expired. He explained that:

> I determined that the borrower qualified for a prime loan. The borrower had an excellent credit score and for this reason I suspected that he had previously qualified for a prime loan in 2004 but had been inappropriately placed by Wells Fargo into a subprime ARM at that time. In working with the borrower in 2006, I informed my branch manager, Dave Zolnak, that the borrower qualified to refinance into a prime fixed-rate loan. Mr. Zolnak told me I should instead refinance the borrower into another subprime ARM. I refused [and was written up with] a negative performance evaluation in my personnel folder.

258. Elizabeth Jacobson, who "was the top subprime loans officer at Wells Fargo" for many years testified about how:

> the commission and referral system at Wells Fargo was set up to make it more profitable for a loan officer to refer a prime customer for a subprime loan than to make the prime loan directly to the customer. .. When I got referrals it was my job to figure out how to get the customer into a subprime loan. I knew that many of the referrals I received could qualify for a prime loan. … [Loan officers] used their discretion to steer loan customers to subprime loans by telling the customer, for example, that this was the only way for the loan to be processed quickly; that there would be less paperwork or documentation requirements; or that they would not have to put nay money down. Customers were not told about the added costs, or advised about what was in their best interest. … According to company policy, we were not supposed to solicit 2/28 customers for re-finance loans for two years after we made a 2/28 subprime loan. ..[M]y area manager told his subprime loan officers to ignore this rule and go ahead and solicit 2/28 customers within the two year period, even though this violated our agreement with secondary market investors. The result was that Wells Fargo was able to cash in on the pre-payment penalty by convincing the subprime customer to refinance his or her 2/28 loan within the initial two-year period. ... Wells Fargo qualified borrowers for subprime loans by underwriting all adjustable rate mortgage loans, including 2/28 loans, with the assumption that the borrower would pay the teaser rate for the full life of the loan even though this lower rate only applied during the first two or three years of the loan. … I learned of [loan officers] cutting and pasting credit reports from one applicant to another [and] subprime loan officers who would cut and paste W2 forms [to] increase the credit worthiness of the applicant so that Wells Fargo's underwriters would approve the loan. I reported this conduct to management. .. Underwriters, like loan officers, had a financial incentive to approve subprime loans than [sic], even if the customer could qualify for a prime loan, because they got paid more … if a subprime loan went through.

259. Confidential witnesses confirmed that Wells Fargo engaged in predatory lending practices. For example, CW-K mentioned that Wells Fargo's underwriters did not fully inform borrowers of the risks of the loans. In addition, as the above discussion shows, Wells Fargo routinely issued loans to borrowers who lacked the ability to repay the loans in violation of predatory lending restrictions.

7. **Decision One Mortgage Company, LLC**

260. Decision One Mortgage Company, LLC ("Decision One") originated underlying mortgage loans securing at least two of the PLMBS purchased by the Bank. Decision One as well abandoned sound underwriting practices.

261. CW-L was a senior underwriter at Decision One Mortgage from 2004 through 2007. During this period, CW-L's duties included underwriting broker and correspondent subprime, home equity, and Alt-A loans. CW-L also trained new underwriters and account managers, conducted second signature reviews and interacted with Decision One's corporate underwriting team on loans beyond his branch's authority.

262. In approximately 2006, CW-L recalls that Decision One released internal deficiency reports that showed quality issues in tens of millions of dollars worth of defaulted loans. During this internal audit, CW-L stated, "We tore these loans apart and found a lot of fraud." CW-L believes that the bulk of the loans that were the subject of this internal audit had been approved between 2001 and 2004. However, CW-L stated that many of the practices that led to the quality issues discovered in the loan audit continued at Decision One until late 2005 or 2006.

263. According to CW-L, the main quality issues discovered by the internal audit at Decision One in 2006 included: failure to properly confirm borrower income, fraudulent verification of rental payment history, and inadequate employment verification. Regarding borrower income, CW-L explained, underwriters in some of Decision One's branches would justify a borrower's stated income by assuming they were at the highest, management-level tier of any stated field, rather than verifying the actual applicable tier. Regarding rental payment verification, CW-L explained, inexperienced Decision One underwriters and support staff failed

to cross-reference landlord contact information to ensure they were contacting the borrower's actual landlord to confirm rental payment history and payment amounts. CW-L explained that similar problems occurred when supposedly verifying a borrower's employment history, but failing to verify that the underwriter was actually speaking to the borrower's employer. Instead, CW-L revealed, Decision One underwriting staff would call the borrower him or herself to "verify" the borrower's current employment.

264. CW-L further stated that based on these practices and end-of-month pressure at Decision One to close loans, "The loans just closed without verification." CW-L and a colleague brought many of these data verification issues to the attention of the branch office managers, but their concerns fell on deaf ears and "were left by the wayside."

265. In approximately 2006, the corporate office of Decision One issued a company-wide directive to increase loan data due diligence, "but there were probably still branches that were closing loans that should not have been closed," according to CW-L. As part of this directive, Decision One eliminated its "stated W2" or "stated income" program on which it relied through that time as a means of borrower income "verification."

266. CW-L reports that Decision One managers overturned underwriter's decisions to deny loans "more frequently than it should [have happened]." At Decision One, a manager's decision to overturn a loan denial was usually a "business decision," which meant that the loan was for a large broker client and the manager did not want to damage the company's relationship with the broker. For example, CW-L processed about six loans per day, and estimates that one out of six of those loans was a denial that management would subsequently overturn.

267. CW-L saw "a lot" of inflated appraisal values. "They were values that just weren't there . . . . We had some management overrides on [inflated] appraisal values that were

unwarranted." According to CW-L, Decision One managers also removed "derogatory" photos of properties from comparables supplied by appraisers. The company discovered this practice when investment banks occasionally requested copies of the original appraisals and noticed that Decision One had removed the photos. This practice of removing photos of comparables at Decision One occurred until some point in 2006.

268. Decision One originated mortgages that secured at least Securities MSAC 2006-HE5 A2C and MSAC 2006-HE6 A2C. As discussed in detail below, the Offering Documents contained serious material misstatements regarding specific characteristics of the loan pools securing these Securities, including misstatements with respect to the percentages of loans with LTV ratios in excess of 100%, 90% and 80%, and the percentage of loans secured by property not the primary residence of the borrower. Moreover, as described in Paragraphs 470-71 below, these securities have exhibited excessive delinquency and foreclosure rates. These circumstances are strong evidence of Decision One's failure to observe its stated underwriting standards. Decision One's actual practices – including the use of unreliable appraisals, routine granting of underwriting exceptions and reliance on unverified borrower-supplied information – caused it to originate loans whose actual LTV ratios and primary residence rates were far different from that reported in the Offering Documents, and whose likelihood of default was much higher than that of loans issued under underwriting standards of the type described in the Offering Documents.

269. In summary, far from following its underwriting guidelines and making occasional, targeted and justified exceptions when other evidence of ability to repay justified a deviation from the guidelines, in fact at Decision One, variance from the stated standards was the norm, and many loans were made with essentially little to no underwriting or effort to evaluate

ability to repay. Nowhere did any Offering Document apprise the Bank of the extent to which Decision One deviated from its underwriting guidelines.

8. Ameriquest and Argent

270. Ameriquest Mortgage Company originated underlying mortgage loans securing at least two of the PLMBS purchased by the Bank. Ameriquest was the wholly owned retail lending subsidiary of ACC Capital Holdings ("ACC"), one of the nation's largest subprime lenders. ACC also owned mortgage subsidiary, Argent. Argent originated underlying mortgage loans for at least one of the PLMBS purchased by the Bank.

271. Both Ameriquest and Argent abandoned sound underwriting practices and engaged in predatory lending during the relevant period. In 2010, Argent was identified by the OCC as the eighth worst subprime lender in the country, and Ameriquest was identified as the fourteenth worst, based on the delinquency rates of the mortgages they originated in the ten metropolitan areas with the highest rates of delinquency.

272. Ameriquest's management pressured employees to generate loan volumes at all costs: "Up and down the line, from loan officers to regional managers and vice presidents, Ameriquest's employees scrambled at the end of each month to push through as many loans as possible to pad their monthly production numbers, boost their commissions, and meet [founder] Roland Arnall's expectations. Arnall was a man 'obsessed with loan volume,' former aides recalled, a mortgage entrepreneur who believed 'volume solved all problems.'" Michael Hudson, *The Monster: How a Gang of Predatory Lenders and Wall Street Bankers Fleeced America – and Spawned a Global Crisis* (forthcoming from Times Books 2010), *excerpt available at* http://us.macmillan.com/BookCustomPage.aspx?isbn=9780805090468#Excerpt (last visited Oct. 12, 2010). As a result of such pressures at Ameriquest, employees falsified

documents, forged borrowers' signatures on government-required disclosure forms, and misrepresented the terms of loans in order to induce borrowers to take out loans they could not afford. *Id.* In fact, "Ameriquest's deals were so overpriced and loaded with nasty surprises that getting customers to sign often required an elaborate web of psychological ploys, outright lies, and falsified papers. 'Every closing that we had really was a bait and switch,' a loan officer who worked for Ameriquest in Tampa, Florida, recalled. "'Cause you could never get them to the table if you were honest.'" *Id.*

273. According to a December 8, 2007 *Miami Herald* article, various Argent employees, including former vice president Orson Bean who is currently in prison for his activities at Argent, actively assisted brokers in falsifying borrower information, inflating income, inventing jobs, and inflating net worth. Mr. Bean explained that "the accuracy of loan applications was not a priority." Unsurprisingly, then, when the *Miami Herald* examined loan applications it "found at least 103 [out of 129 examined] that contained false and misleading information" and "red flags [such as] non-existent employers, grossly inflated salaries and sudden drastic increases in a borrower's net worth." In one instance a "borrower [who] claimed to work a job that didn't exist ... got enough money to buy four houses."

274. The *Cleveland Plain Dealer*, in a May 2008 article entitled "The Subprime House of Cards," quoted Jacquelyn Fishwick, who worked for Argent for two years in the Chicago area as an underwriter and account manager, as stating that "some Argent employees played fast and loose with the rules." For instance she "saw account managers remove documents from files and create documents by cutting and pasting them."

275. Citibank's Business Chief Underwriter, Richard Bowen, testified before the FCIC in April 2010 that he advised against Citibank's 2007 acquisition of Argent because of the

number of fraudulent loan applications he saw in an Argent loan sampling prior to the acquisition.

276. Mr. Bowen testified before the FCIC that "we sampled loans that were originated by Argent and we found large numbers that did not – that were not underwritten according to the representations that were there."

277. An August 2007 *Business Week* article discusses the case of Mary Overton of Brooklyn, New York. Without her knowledge or understanding, Ameriquest created false tax returns, employment records, and a 401(k) to make her appear qualified for a loan as part of a scheme to coerce her to sign a loan which she could not afford.

278. A former Ameriquest loan officer interviewed on *National Public Radio* recalled how at her office in Tampa Florida, in order to close a loan "at any cost," "managers encouraged loan officers to conceal the actual cost and interest rate on loans" and would "white out income numbers on W2s and bank statements and fill in bigger amounts basically to qualify people for loans that they couldn't afford." This practice was known as "taking the loan to the Art Department." The *National Public Radio* broadcast stated that other former Ameriquest employees confirmed this same conduct occurring around the country.

279. In January of 2006, ACC Capital Holdings, on behalf of Ameriquest Mortgage Co. and other subsidiaries, entered into a Settlement Agreement with various State Attorneys General and Financial Regulators. ACC agreed to pay almost $300 million in restitution to mortgage borrowers, and to certain injunctive relief, including that "[t]he Ameriquest Parties shall take reasonable steps to ensure all Appraisals are accurate, that appraisers do not inflate property values and that no employee of an Ameriquest party attempts to influence the development, reporting, result or review of any Appraisal or otherwise interferes with an

appraiser's professional duty to perform the Appraisal impartially, objectively and independently. Further, the Ameriquest Parties were required to end practices of creating and steering loans to lists of approved appraisers, and to instead implement a neutral algorithmic system for assigning appraisals to qualified appraisers, which system was designed to remove appraiser selection from the discretion of Ameriquest Party employees.

280. The settlement also addressed Ameriquest's predatory lending practices. Specifically, it provided that "the Ameriquest Parties ... with respect to their origination and funding of [residential mortgage loans] shall not make false, misleading or deceptive representations regarding Loan terms," that Ameriquest will reimburse any prepayment penalty paid by a borrower to whom the existence of such penalties was not disclosed, that Ameriquest would not engage in "Repeat Refinancings" and to only propose refinancings that "provide a benefit" to the borrower.

281. Ameriquest was among 14 lenders named by the NAACP in a complaint alleging "systematic, institutionalized racism in sub-prime home mortgage lending." According to the lawsuit, African American homeowners who received sub-prime mortgage loans from these lenders were more than 30 percent more likely to be issued a higher rate loan than Caucasian borrowers with the same qualifications. In January of 2009 the court denied a motion to dismiss, finding that the plaintiff had sufficiently pled a disparate impact claim.

282. Ameriquest and Argent originated mortgages that secured at least Securities AMSI 2005-R10 A2B, ARSI 2005-W5 A2C and CBASS 2006-CB4 AV3. As discussed in detail below, the Offering Documents contained serious material misstatements regarding specific characteristics of the loan pools securing these securities, including misstatements with respect to their weighted average LTV ratio, the percentages of loans with LTV ratios in excess of 100%,

90% and 80%, and the percentage of loans secured by property not the primary residence of the borrower. Moreover, as described in Paragraphs 470-71 below, these securities have exhibited excessive delinquency and foreclosure rates. These circumstances are strong evidence of Ameriquest's and Argent's failures to observe their stated underwriting standards. Ameriquest's and Argent's actual practices – including the use of unreliable appraisals, routine granting of underwriting exceptions and reliance on unverified borrower-supplied information – caused it to originate loans whose actual LTV ratios and primary residence rates were far different from that reported in the Offering Documents, and whose likelihood of default was much higher than that of loans issued under underwriting standards of the type described in the Offering Documents.

283. In summary, far from following its underwriting guidelines and making occasional, targeted and justified exceptions when other evidence of ability to repay justified a deviation from the guidelines, variance from the stated standards was the norm at Ameriquest, and Ameriquest approved numerous loans with essentially little to no underwriting screens applied to the loans or effort to evaluate the borrowers' ability to repay. Similarly, Argent was widely engaged in actively falsifying borrower information, inflating income, inventing jobs, and inflating net worth on the mortgage loan applications it approved.

284. Nowhere did any Offering Document apprise the Bank of the extent to which Argent or Ameriquest deviated from their underwriting guidelines and the extent to which they engaged in predatory lending.

9. Downey Savings & Loan

285. Downey Savings & Loan originated underlying mortgage loans securing at least 2 of the PLMBS purchased by the Bank. Downey as well abandoned sound underwriting practices.

286. In its SAFETY AND SOUNDNESS: MATERIAL LOSS REVIEW OF DOWNEY SAVINGS AND LOAN, FA, OIG-09-039 (June 15, 2009), the OIG noted that:

> Downey's loan underwriting standards, in terms of income and asset documentation, became more lenient. Downey required no documentation for some borrowers. ... [T]he trend toward reduced documentation loans rose from an already high level of 60 percent of Downey's option ARM portfolio in 2000 to 91 percent of that portfolio in March 2008.

287. The OIG further explained how

> [i]n October 2003, Downey expanded use of ... Downey Express... stated income and stated assets loan[s]. Underwriting was limited to Downey's review of the property appraisal ... and the borrower's FICO score. At that same October 2003 meeting, the board agreed to ... expand[] the program to include subprime borrowers. ... Through Downey it was [therefore] possible for a subprime borrower to get an option ARM loan (with negative amortization potential) with reduced documentation.

288. Downey originated mortgages that secured at least Securities HVMLT 2006-2 2A1A and HVMLT 2006-2 3A1A. As discussed in detail below, the Offering Documents contained serious material misstatements regarding specific characteristics of the loan pools securing these securities, including misstatements with respect to their weighted average LTV ratio, the percentages of loans with LTV ratios in excess of 100%, 90% and 80%, and the percentage of loans secured by property not the primary residence of the borrower. Moreover, as described in Paragraphs 470-71 below, these securities have exhibited excessive delinquency and foreclosure rates. These circumstances are strong evidence of Downey's failure to observe its stated underwriting standards. Downey's actual practices – including the use of unreliable appraisals, routine granting of underwriting exceptions and reliance on unverified borrower-supplied information – caused it to originate loans whose actual LTV ratios and primary residence rates were far different from that reported in the Offering Documents, and whose

likelihood of default was much higher than that of loans issued under underwriting standards of the type described in the Offering Documents.

289. In summary, far from following its underwriting guidelines and making occasional, targeted and justified exceptions when other evidence of ability to repay justified a deviation from the guidelines, in fact at Downey variance from the stated standards was the norm, and many loans were made with essentially little to no underwriting or effort to evaluate ability to repay. Nowhere did any Offering Document apprise the Bank of the extent to which Downey deviated from its underwriting guidelines.

10. Option One Mortgage

290. Option One Mortgage Corporation ("Option One") originated underlying mortgage loans securing at least two of the PLMBS purchased by the Bank. Option One as well abandoned sound underwriting practices. Option One was identified by the OCC as the seventh worst subprime lender in the country based on the delinquency rates of the mortgages it originated in the ten metropolitan areas with the highest rates of delinquency.

291. In denying a Motion to Dismiss and approving a preliminary injunction against Option One and its parent H&R Block, the Superior Court for the Commonwealth of Massachusetts found that the defendants had issued loans for which there was "a substantial likelihood that the Commonwealth will prevail in proving that Option One and H&R Mortgage acted unfairly in violation of G.L. c. 93A, § 2 by issuing a significant number of home mortgage loans with reckless disregard of the risk of foreclosure" and further explained that there was substantial authority suggesting that "the issuance of [such a] loan is predatory lending." *Commonwealth of Massachusetts v. H&R Block, Inc.*, No. 08-2474, slip op. at 8, 48 (Suffolk Cty Super. Ct. Nov. 10, 2008) (order granting preliminary injunction).

292. According to the complaint filed by the Attorney General for the Commonwealth of Massachusetts, filed after a significant investigation, Option One "increasingly disregarded underwriting standards, created incentives for loan officers and brokers to disregard the interests of borrowers and steer them into high cost loans, and originated thousands of loans that [Option One] knew or should have known the borrowers would be unable to pay, all in an effort to increase loan origination volume so as to profit from the practice of packaging and selling the vast majority of its residential subprime loans to the secondary market."

293. The Massachusetts Attorney General's complaint alleges that Option One agents and brokers "frequently overstated an applicant's income and/or ability to pay, and inflated the appraised value of the applicant's home," and that these practices were allowed to continue because Option One "avoided implementing reasonable measures that would have prevented or limited these fraudulent practices."

294. In addition, Option One was among 14 lenders named by the NAACP in a complaint alleging "systematic, institutionalized racism in sub-prime home mortgage lending." In 2008, Option One settled all claims, agreeing to allow the NAACP to participate in the design of a training and testing program for its employees, to assist with various public education projects, and to contribute money to help pay for various NAACP programs.

295. Statements by confidential witnesses CW-M, a senior review appraiser at Option One in a California branch from April 2001 to December 2006, and CW-N, senior account manager at Option One in a Georgia branch from August 2005 until April 2006, confirm that: (a) Option One underwriters faced intense pressure to close loans at any cost; (b) Option One approved risky, low- or no-documentation loans without adequate review; and (c) Option One employees approved loans with inflated appraisal values.

296. CW-M explained that, due to high demand for securitized loans, Option One wanted its employees "to be more aggressive." When Option One employees told top level managers at the company that "investors will never buy this," the managers would reply, "Somebody will buy it." Consequently, Option One's focus was simply on generating loans for sale – "[a]s long as they could sell it, that's what mattered."

297. CW-N recalled one particular broker who insisted that Option One approve his loans, even though his loan files frequently did not contain the requisite documentation. Nevertheless, "[h]e was given preferential treatment and his loans were always pushed through" because he supplied the company with "lots and lots of loans."

298. Due to Option One's aggressive practices, CW-M also recalled situations in which Option One allowed loans with inflated appraisal values to be approved. She mentioned that underwriters often failed to spot "red flags" in the appraisal values on the loans, and therefore did not escalate the appraisals to CW-M's appraisal department for further review and due diligence. Moreover, during her tenure at Option One, CW-M recalled that Option One "watered down" its appraisal system so that fewer loans were "kicked over to the appraisal department."

299. According to CW-M, when Option One's staff appraisers did receive loans for review, they would "cut the value" of appraisals on loans that were "really bad." Nevertheless, Option One sometimes disregarded the appraisers' reports and made the loans anyway.

300. Option One originated mortgages that secured at least Securities OOMLT 2005-5 A3 and OOMLT 2006-2 2A3. As discussed in detail below, the Offering Documents contained serious material misstatements regarding specific characteristics of the loan pools securing these Securities, including misstatements with respect to the percentages of loans with LTV ratios in

excess of 100%, 90% and 80%, and the percentage of loans secured by property not the primary residence of the borrower. Moreover, as described in Paragraphs 470-71 below, these securities have exhibited excessive delinquency and foreclosure rates. These circumstances are strong evidence of Option One's failure to observe its stated underwriting standards. Option One's actual practices – including the use of unreliable appraisals, routine granting of underwriting exceptions and reliance on unverified borrower-supplied information – caused it to originate loans whose actual LTV ratios and primary residence rates were far different from that reported in the Offering Documents, and whose likelihood of default was much higher than that of loans issued under underwriting standards of the type described in the Offering Documents.

301. In summary, far from following its underwriting guidelines and making occasional, targeted and justified exceptions when other evidence of ability to repay justified a deviation from the guidelines, in fact at Option One variance from the stated standards was the norm, and many loans were made with essentially little to no underwriting or effort to evaluate ability to repay. Nowhere did any Offering Documents apprise the Bank of the extent to which Option One deviated from its underwriting guidelines.

11. First Franklin

302. First Franklin originated underlying mortgage loans for at least six of the PLMBS purchased by the Bank. Merrill Lynch acquired First Franklin Financial Corp. and affiliated lending units NationPoint and National City Home Loan Services Inc. on December 30, 2006. Like the other originators identified above, First Franklin also abandoned sound underwriting practices and engaged in predatory lending. First Franklin was identified by the OCC as the fifth worst subprime lender in the country based on the delinquency rates of the mortgages it originated in the ten metropolitan areas with the highest rates of delinquency.

303. Statements by confidential witnesses confirm that: (a) First Franklin underwriters faced intense pressure to close loans at any cost; (b) First Franklin increasingly approved risky, low- or no-documentation loans without adequate review; (c) First Franklin routinely approved loans that contained exceptions for which there were no reasonable compensating factors; (d) First Franklin employees approved loans with inflated appraisal values; and (e) First Franklin employees manipulated data in order to close loans.

304. Confidential witnesses include: CW-O, an underwriter at a First Franklin branch in Georgia from March 2004 to November 2007. He underwrote wholesale, subprime loans. The Georgia branch where he worked employed approximately 70 individuals, seven of which were underwriters. CW-P was an underwriter at a First Franklin branch in California between 2003 and 2007. In that capacity, CW-P checked loans that First Franklin had purchased from independent mortgage brokers to determine whether they met First Franklin's guidelines. After review, the loans were bundled and sold to investment banks for securitization. Similarly, CW-Q was an underwriter at a First Franklin branch in Florida from 1999 until 2007.

305. CW-R worked at a First Franklin branch in Utah from 1996 until March 2008. She began working in the shipping department, became a loan account manager (account executive), and then transitioned to underwriting. CW-R served as an underwriter between July 2006 and March 2008.

306. CW-S was an underwriter at a First Franklin branch in Washington from 2005 until November 2007. Her Washington branch received loan applications from across the country.

307. CW-T worked at First Franklin from 1998 until April 2007. Between 1998 and 1999, she worked in a Nevada branch of First Franklin as an underwriter. From 2000 until 2007,

she worked in First Franklin's branch in Ohio, first as an underwriter and then as an account executive. During her last four years as an account executive at the company, she also assisted with the underwriting of loans when the volume of loans was too much for the underwriters to handle.

308. According to CW-O, account executives received a monthly commission based on the dollar value of approved loans; the more loans that were approved, the higher the account executive's commission. Consequently, said CW-O, "Account executives were making $100,000 a month in commissions. They lived in Sugarloaf Country Club with baseball players and other celebrities. I couldn't get into Sugarloaf if I tried. I'd have to sneak in the back door."

309. Due to the commissions they stood to make, CW-O explained that account executives at First Franklin frequently pressured underwriters who declined loans. If the underwriter refused to change his or her mind, the account executives went to upper management to get the loan approved. As CW-O stated, "Nine out of ten times the loan went through." Upper management frequently overrode the underwriters' recommendations to decline loans because they "were making so much money" on the loans.

310. CW-P also confirmed that First Franklin employees received bonuses and compensation based upon production levels. Consequently, he said, "There were incentives to be more creative to mak[e] the loan work. You could step down a loan or modify a loan" so that it would be approved.

311. CW-T echoed the same comments, and said that the more loans First Franklin closed, the more money account executives received in commissions. She explained, "Account executives paid processors cash under the table to help them get loans closed." CW-T recalled

that one loan processor at her branch office, who worked for one of the top-producing account executives, was caught altering loan documents to get loans closed.

312. Similarly, as detailed by CW-S, after First Franklin acquired a company called "OwnIt Mortgage" (in the 2005/2006 time frame), non-compliant loans at her branch in Washington were frequently approved. The OwnIt underwriting manager became the manager at First Franklin's branch, and the OwnIt employees "were used to approving anything. They'd say, 'If we don't' approve it, somebody else will. So why lose the money?'" The new underwriting manager from OwnIt "overrode [loans] that we [the underwriters] declined." The manager told CW-S that she was overriding the underwriters' recommendations in order to grow business for the branch and make their numbers.

313. Among First Franklin's abuses of underwriting standards, confidential witnesses detailed a pervasive practice of approving risky loans based upon little to no documentation. According to CW-O, First Franklin underwrote tons of "stated loans," which he and colleagues referred to as "liar loans" because they understood that "the borrower could basically state whatever they wanted" on the loan application. He said that the problem became particularly bad between 2005 and 2007.

314. Additionally, CW-O said he underwrote many no-documentation loans for borrowers, even when such borrowers had W-2s. He knew that the borrowers had W-2s because the borrowers would mention them on their applications, which made him question their eligibility for the loans: "Why would you need a no-doc loan if you had the documents?"

315. By 2005 and continuing into 2007, CW-P said that most of the loans coming across his First Franklin desk in California were "stated loans," which required little to no documentation to support the stated income, assets, and employment data in the loan application.

316. CW-T said that, as stated loans grew in popularity at First Franklin in the early 2000s and particularly in 2005, all underwriting became credit score-oriented. As she said, "If the [credit] score was above 700, you used a no-doc loan and you could just give a loan away. It was basically a blank 1003 [the uniform residential loan application]."

317. Confidential witnesses also described First Franklin's standard practice of approving exception loans which deviated from prudent underwriting guidelines. According to CW-T, the pressure to grant exceptions increased significantly at the end of the month because the company wanted to reduce closing costs. In the 2005-2007 timeframe, "people were working until 8 p.m. on Saturdays and Sundays" in order to close the loans. Consequently, "a lot of loans slipped through. People were tired of being beat up. With the rush of loans, stuff could have been overlooked. Maybe the conditions didn't exactly meet the guidelines." Significantly, during the last crucial days of each month, employees were "begging for exceptions to close their loans." At times, employees formed a line outside the door of the branch manager's office in order to ask for exceptions to the guidelines. CW-T recalled one month when the branch manager, exhausted from having reviewed so many loans, came out of his office and yelled: "Oh f*** it! Just close the f***ing loans." The employees returned to their desks and closed their loans. According to CW-T, "It got out of hand."

318. CW-R detailed similar problems, and said that, at First Franklin, "some loans were approved that were not compliant with guidelines." She said it frequently happened that account executives would approach branch managers to ask for exceptions and to have the underwriters' decisions to decline overturned. The managers often approved the loans in order to maintain relationships with the mortgage brokers. Because the mortgage brokers were providing the supply of loans, they did not want to risk angering them and losing the business.

319. On March 5, 2008, Merrill Lynch announced that it was discontinuing mortgage origination at its first Franklin subsidiary and was planning to explore the sale of Home Loan Services, a mortgage loan servicing unit for First Franklin. According to a March 5, 2008 press release issued by Merrill Lynch:

> The company said it made the decision to discontinue lending by First Franklin because of the deterioration of the subprime lending market.
>
> "Since July, we have reduced staffing at First Franklin by nearly 70 percent, but after evaluating a number of strategies, we believe it is appropriate to discontinue mortgage origination," said David Sobotka, head of Fixed Income, Currencies & Commodities at Merrill Lynch.

320. According to CW-R, as part of the discontinuation of its mortgage origination operations, in November 2007, First Franklin shut down all but six of the company's branches and decided that all underwriters in the remaining branches would assist with loss mitigation. The purpose of the loss mitigation group was to review loans that the investment banks requested First Franklin to repurchase because the loans allegedly were not compliant with First Franklin's guidelines. The loss mitigation staff compared the loans to the guidelines that existed on the day the loan was approved in order to conduct their compliance review. CW-R found that fifty percent of the loans that she reviewed were not complaint with First Franklin's guidelines. Moreover, during her review, CW-R found examples of fraud and areas of non-compliance that the investment banks had missed: "We were finding more [non-compliance issues] than the banks were finding." Examples of non-compliance included inflated appraisal values, insufficient employment verification or no employment verification, and credit scores that fell short of First Franklin's guidelines. All of the non-compliant loans were stated loans. CW-R was not shocked that 50% of the loans she reviewed were not compliant: "We were doing so much volume. There were lots of chances for things to slip through."

321. CW-Q explained that First Franklin compromised loan quality for business growth: "If a loan was borderline compliant [with guidelines], we would approve the loan."

322. Confidential witnesses further explained that First Franklin approved loans based upon inflated appraisal values. CW-O said that First Franklin often hired contract appraisers to provide values on properties, and the appraisers inflated the values. As he said, "These were homes with busted out windows and the meter boxes were missing," but they were still appraised at $300,000. CW-O confirmed that it was the combination of stated income loans and inflated property values which "led to the mortgage crisis."

323. According to confidential witnesses, First Franklin employees frequently manipulated loan data in order to close loans and generate volume. CW-Q explained that, at First Franklin, "a lot of fraudulent loans were going through. There was tons of fraud going on." Even when the underwriters said loans weren't reasonable, the branch manager would override their opinions. According to CW-Q, "In 2005 . . . growth was the top priority for the company."

324. Similarly, while underwriting loans for First Franklin, CW-O "saw a lot of fake W-2s come through." He knew that the documents were fabricated because the tax withholdings did not match the stated income amounts. He knew that brokers were "whiting out or faxing over" the actual numbers, and writing in new numbers so that the loans would work. According to CW-O, "a lot of loans were getting through that had false incomes."

325. CW-O said that when loans defaulted before the first payment, the underwriters were tasked with finding out why the loan had defaulted. In some instances, CW-O went out to the property to try and speak with the borrowers. When he went, it was not uncommon for him to find an empty house that had been sold as an owner-occupied home. As he said, "There'd be a couch and a TV and no blinds on the windows." The problems were not isolated in his area:

"There was so much negligence and fraud in the Atlanta area, but it wasn't just Atlanta. It was all over."

326. CW-R confirmed that, at First Franklin, she came across fraudulent loan applications on a regular basis, typically with regard to the borrower's employment or income information. "I saw blatant fraud," she said, and recalled a borrower who was buying a $500,000 property as owner-occupied when the same borrower had just purchased a $1 million home in the same neighborhood a month earlier as owner-occupied. As CW-R stated, "You can't have two owner-occupied properties." Although that particular loan "ended up dying," First Franklin managers "were mad at [her] for catching it." And other similar loans "did get approved" because other underwriters were looser with their practices and guidelines than she was.

327. CW-P confirmed that these practices also occurred in California. Between 2005 and 2007, CW-P said he saw a lot of loan files that contained fraudulent information or documents. As he said, "I saw a lot of cut and pasted incomes" or "inflated incomes" on loan applications or loan documents. He thought most of the fraud was generated by the mortgage brokers who sent the loans to First Franklin.

328. Additionally, CW-P said that he heard from colleagues that branch managers at some First Franklin locations "scrubbed" loan files to help account executives improve their sales. To scrub a loan file, CW-P said that the employees would remove loan documents that would raise red flags about the quality of the loan or would cause the loan to be denied.

329. CW-T said that the mortgage brokers sent her a lot of fraudulent loans: "A lot of brokers sent me sh**. I could smell fraud a mile away." Although she said she declined fraudulent loan applications when she found them, she admitted that she didn't always examine the entire loan file because "there might be something in the file that would kill the loan."

330. CW-S also explained that employees manipulated loans so that they would be approved by First Franklin's systems. Thus, loans that had previously been declined were being approved, even though, according to CW-S, they "were not good loans to begin with."

331. Confidential witnesses also described predatory lending practices at First Franklin, where originators enticed borrowers into loans they could not afford and misrepresented the terms of adjustable-rate mortgages. CW-O said First Franklin employees frequently approved stated loans even when they were uncomfortable with the loans. After work on several occasions, CW-O met with his colleagues and they all discussed their level of discomfort with the loans that were being approved. "We had to go out collectively," he said. "We thought, 'This was ridiculous.'" They knew that First Franklin was approving loans for borrowers that the borrowers couldn't really afford. For example, "[Borrowers] had foreclosures and bankruptcies," yet underwriters approved their stated loan applications. CW-O also saw applications where a borrower had a 780 credit score, but only a $5,000 credit line, and was trying to buy a million dollar house.

332. Similarly, CW-R said that she saw loans which fit First Franklin's guidelines, but which nevertheless seemed beyond the borrower's ability to pay. Despite this problem, First Franklin's underwriters were expected to approve *any* loan which fit the guidelines. As CW-R said, "If it fit the guidelines, you can't not approve it."

333. CW-T said that mortgage brokers who sent loans to First Franklin to close did not explain to borrowers how adjustable-rate mortgages worked: "Brokers didn't give a sh**. They just wanted to do a loan. They didn't explain ARMs to borrowers."

334. In addition, First Franklin was among 14 lenders named by the NAACP in a complaint alleging "systematic, institutionalized racism in sub-prime home mortgage lending."

335. First Franklin originated mortgages that secured at least Securities FFML 2006-FF13 A2C, FFML 2006-FF8 IIA3, FFML 2006-FF12 A3, FFML 2006-FF12 A4, FFML 2006-FF14 A5, FFML 2006-FF10 A7. As discussed in detail below, the Offering Documents contained serious material misstatements regarding specific characteristics of the loan pools securing these securities, including misstatements with respect to their weighted average LTV ratio, the percentages of loans with LTV ratios in excess of 100%, 90% and 80%, and the percentage of loans secured by property not the primary residence of the borrower. Moreover, as described in Paragraphs 470-71 below, these securities have exhibited excessive delinquency and foreclosure rates. These circumstances are strong evidence of First Franklin's failure to observe its stated underwriting standards. First Franklin's actual practices – including the use of unreliable appraisals, routine granting of underwriting exceptions and reliance on unverified borrower-supplied information – caused it to originate loans whose actual LTV ratios and primary residence rates were far different from that reported in the Offering Documents, and whose likelihood of default was much higher than that of loans issued under underwriting standards of the type described in the Offering Documents.

336. In summary, far from following its underwriting guidelines and making occasional, targeted and justified exceptions when other evidence of ability to repay justified a deviation from the guidelines, in fact at First Franklin variance from the stated standards was the norm, and many loans were made with essentially little to no underwriting or effort to evaluate ability to repay. Nowhere did any Offering Document apprise the Bank of the extent to which First Franklin deviated from its guidelines and engaged in predatory lending.

12. WMC Mortgage Corp.

337. WMC Mortgage Corp, owned by General Electric as of 2004, originated underlying mortgage loans for at least three of the PLMBS purchased by the Bank. WMC was identified by the OCC as the second worst subprime lender in the country based on the delinquency rates of the mortgages it originated in the ten metropolitan areas with the highest rates of delinquency. Like the other originators identified above, WMC Mortgage Corp. abandoned sound underwriting practices and engaged in predator lending.

338. In June 2008, the Washington State Department of Financial Institutions filed a Statement of Charges and Notice of Intent to Enter Order to Revoke License, prohibit from Industry, Order Restitution and Collect Investigation Fees against WMC Mortgage, alleging multiple violations of Washington State deceptive and unfair practices laws, including multiple failures to make required disclosures to borrowers of essential terms of their loan.

339. The State of Washington Department of Financial Institutions also closed down a broker who worked to market WMC Loans for multiple instances of fraud, including "caus[ing] the preparation of false and fraudulent payment instruments such as cashier's checks, personal checks and business checks, which were submitted to mortgage lenders in support of loan applications for buyers of residential properties to obtain financing" and "caus[ing] the preparation of false and fraudulent loan documentation such as HUD-1 settlement statements, loan application forms, and gift letters in order to misrepresent that buyers/borrowers of residential properties had paid down payments as required by mortgage lenders, when in truth and in fact, buyers/borrowers had not provided the down payments required by the mortgage lenders."

340. A *New York Times* story reported of a WMC mortgage issued based on fraudulent income and asset disclosures unknown to the borrower, Ms. Philemond. The borrower, a receptionist whose husband owned a sign business was issued two mortgages with monthly payments of $3,800 prior to resetting to a higher level when the interest rate became adjustable early in 2008. The couple's income had been overstated on the mortgage application by brokers who had helped them buy the house and get a loan from WMC Mortgage, which said that it had granted Ms. Philemond the loan because the information on her application indicated that she and her husband had income of more than $100,000 a year, savings exceeding $60,000 and had a tenant. None of this was true. For Some Subprime Borrowers, Few Good Choices, *New York Times*, Mar. 22, 2007.

341. A *Reuters* Report states that:

> General Electric Co.'s subprime mortgage unit is responsible for some of the worst-performing loans in the benchmark index for the $575 billion market for home equity asset-backed securities, showing few lenders are immune to recent U.S. housing sector problems.
>
> Losses on more than $2.6 billion in loans issued by WMC Mortgage, a Burbank, California-based unit of GE Money Bank, are expected to top 15 percent, the highest projected rate of any bond in the widely watched ABX derivative index of bonds issued in early 2006, a UBS Securities model showed.
>
> Thirty-day delinquencies rose to 9.62 percent in February, from less than 2.0 percent six months ago, on WMC's loans backing one of the 20 bonds in the ABX 06-2 index, according to Morgan Stanley, whose Morgan Stanley ABS Capital I Trust packaged the loans into home equity ABS.
>
> WMC loans in Morgan Stanley's MSAC 2006-WMC2 bond carry characteristics of subprime issues that analysts have blamed for surging delinquencies.
>
> More than half the loans have "stated" income documentation that don't require borrowers to prove their ability to repay the loan, data on Morgan Stanley's Web site showed.
>
> First and second lien loans together cover more than 90 percent of the homes' values, making them riskier to investors since the homeowners have little equity

at stake. Most lenders have been paring back on such loans, especially those with "piggyback" second mortgages that help finance 100 percent of the home.

342. WMC was among 14 lenders named by the NAACP in a complaint alleging "systematic, institutionalized racism in sub-prime home mortgage lending." According to the lawsuit, African American homeowners who received sub-prime mortgage loans from these lenders were more than 30 percent more likely to be issued a higher rate loan than Caucasian borrowers with the same qualifications. In January of 2009 the court denied a motion to dismiss, finding that the plaintiff had sufficiently pled a disparate impact claim.

343. WMC originated mortgages that secured at least Securities MSAC 2006-WMC2 A2C, MSAC 2006-HE5 A2C, MSAC 2006-HE6 A2C. As discussed in detail below, the Offering Documents contained serious material misstatements regarding specific characteristics of the loan pools securing these Securities, including misstatements with respect to the percentages of loans with LTV ratios in excess of 100%, 90% and 80%, and the percentage of loans secured by property not the primary residence of the borrower. Moreover, as described in Paragraphs 470-71 below, these securities have exhibited excessive delinquency and foreclosure rates. These circumstances are strong evidence of WMC's failure to observe its stated underwriting standards. WMC's actual practices – including the use of unreliable appraisals, routine granting of underwriting exceptions and reliance on unverified borrower-supplied information – caused it to originate loans whose actual LTV ratios and primary residence rates were far different from that reported in the Offering Documents, and whose likelihood of default was much higher than that of loans issued under underwriting standards of the type described in the Offering Documents.

344. Accordingly, far from following their underwriting guidelines and making occasional, targeted and justified exceptions when other evidence of ability to repay justified a deviation from the guidelines, in fact at WMC Mortgage Corp. variance from the stated

standards was the norm, and many loans were made with essentially little to no underwriting or effort to evaluate ability to repay. Nowhere did any Offering Document apprise the Bank of the extent to which these mortgage originators deviated from its guidelines and engaged in predatory lending.

13. OwnIt Mortgage Solutions, Inc.

345. OwnIt Mortgage Solutions, Inc. ("OwnIt") originated underlying mortgage loans for bond CBASS 2006-CB4 AV3, purchased by the Bank.

346. OwnIt Mortgage Solutions, Inc. was located in Agoura Hills, California. It was the nation's sixteenth biggest issuer of subprime home loans, and in 2010, OwnIt was identified by the OCC as the fifteenth worst subprime lender in the country based on the delinquency rates of the mortgages it originated in the ten metropolitan areas with the highest rates of delinquency.

347. In 2005, OwnIt's 700 employees originated $8.3 billion in home mortgage loans.

348. OwnIt originated mortgages that secured at least Certificate CBASS 2006-CB4 AV3. As discussed in detail below, the Offering Documents contained serious material misstatements regarding specific characteristics of the loan pools securing this Security, including misstatements with respect to the percentages of loans with LTV ratios in excess of 100%, 90% and 80%, and the percentage of loans secured by property not the primary residence of the borrower. Moreover, as described in Paragraphs 470-71 below, this security has exhibited excessive delinquency and foreclosure rates. These circumstances are strong evidence of OwnIt's failure to observe its stated underwriting standards. OwnIt's actual practices – including the use of unreliable appraisals, routine granting of underwriting exceptions and reliance on unverified borrower-supplied information – caused it to originate loans whose actual LTV ratios and primary residence rates were far different from that reported in the Offering Documents, and

whose likelihood of default was much higher than that of loans issued under underwriting standards of the type described in the Offering Documents.

349. Further allegations relating to Ownit are *supra* at ¶ 312 and *infra* at ¶¶ 392-93.

14. First Horizon Home Loan Corporation

350. First Horizon Home Loan Corporation ("First Horizon") originated underlying mortgage loans securing at least one of the PLMBS purchased by the Bank.

351. Confidential witnesses provided evidence of First Horizon's failure to adhere to sound underwriting practices and guidelines. Statements by CW-U, an underwriter at First Horizon from August 2004 until May 2006, confirm that First Horizon pressured employees to meet high production volumes, to the detriment of quality control.

352. As an underwriter, CW-U said he found problems in the loans that he reviewed "almost daily." Most frequently, he saw loan files that were "missing pay stubs" or other documents. CW-U was required to bring serious errors to the attention of his supervisor, which he did approximately once per week.

353. In 2006, CW-U stated that his work-production quota doubled from reviewing 5 loans per day to reviewing 10 per day. Although First Horizon demanded that he review more loans, they did not provide any software or "anything that would make the job go faster." CW-U felt that he could perform a decent quality-control review of the loans when his quota was 5 per day, but when he was told to review 10 per day his "real fear was degradation of quality." Nevertheless, First Horizon's emphasis was solely on quantity: according to CW-U, "It was put to me that I had to meet the quota or I'd be let go." After CW-U regularly fell short of the 10-per-day quota in an attempt to perform a sufficient review, he was counseled for low production volume "two to three times" and ultimately terminated for failing to meet the quota.

354. First Horizon originated mortgages that secured at least Certificate FHASI 2006-AR1 2A1. As discussed in detail below, the Offering Documents contained serious material misstatements regarding specific characteristics of the loan pools securing this security, including misstatements with respect to their weighted average LTV ratio, the percentages of loans with LTV ratios in excess of 100%, 90% and 80%, and the percentage of loans secured by property not the primary residence of the borrower. Moreover, as described in Paragraphs 470-71 below, this security has exhibited excessive delinquency and foreclosure rates. These circumstances are strong evidence of First Horizon's failure to observe its stated underwriting standards. First Horizon's actual practices – including the use of unreliable appraisals, routine granting of underwriting exceptions and reliance on unverified borrower-supplied information – caused it to originate loans whose actual LTV ratios and primary residence rates were far different from that reported in the Offering Documents, and whose likelihood of default was much higher than that of loans issued under underwriting standards of the type described in the Offering Documents.

355. As detailed above, rather than follow its underwriting guidelines and perform a prudent review of the loans it was approving, First Horizon sacrificed quality for quantity. Consequently, many loans were made with essentially little to no underwriting. Nowhere did any of the Offering Documents apprise the Bank of the extent to which First Horizon deviated from its underwriting guidelines.

15. Bank of America, N.A.

356. Bank of America, N.A. ("Bank of America") originated underlying mortgage loans securing at least three of the PLMBS purchased by the Bank.

357. Confidential witnesses provided evidence of Bank of America's failure to adhere to sound underwriting practices and guidelines. Statements by CW-V, who worked for Bank of America from August 2004 through April 2008 as a bank teller, sales and service specialist, and personal banker, confirm that Bank of America: (a) adopted practices encouraging employees to disregard a borrower's ability to qualify for a loan; (b) pressured employees to generate large quantities of loans at any cost; (c) created an environment where employees manipulated loan data in order to get loans approved; and (d) failed to adhere to its own underwriting guidelines.

358. During his time at Bank of America, CW-V was involved in the bank's retail and consumer banking operations, including generating residential mortgages by taking mortgage applications from prospective borrowers who applied through his branch office. CW-V ultimately left Bank of America because of "unethical stuff" he observed in the mortgage lending side of Bank of America's business.

359. Specifically, CW-V said there was "horrible" pressure to generate quantities of loan applications and approved loans. According to CW-V, Bank of America imposed a *quarterly* requirement to book one million dollars in mortgage loans per banker. CW-V received a notice when mortgage applications that he prepared were approved for funding and were thus "booked" for purposes of meeting his one-million-dollar requirement. To meet these requirements, CW-V said he and his colleagues were told to enter mortgage applications regardless of whether it appeared the borrower would qualify for the loan. These practices led CW-V to view Bank of America's way of doing business as "fast food banking."

360. CW-V explained that there were times at quarter-end when Bank of America employees would believe that they weren't going to meet the million-dollar-per-quarter quota.

Suddenly, the employee's loan would be booked because the Branch Manager had gone to the Regional Manager, who "pulled some strings" to get the loan approved.

361. Additionally, CW-V believed that Bank of America was lax on enforcing its own credit guidelines. He recalled that borrowers with a lower FICO score than was required still obtained mortgages from his branch.

362. CW-V described other practices with which he was uncomfortable, including manipulating loan data to get loans approved. For example, CW-V said that he and other bankers in his branch regularly rounded up applicants' salaries on the loan applications. Specifically, if someone's income was $34,000 annually, Bank of America employees would round it up to $40,000 to make the figure look better for loan approval purposes. CW-V said that Bank of America employees also inflated how long an applicant had worked for his or her current employer. If the applicant had only worked for an employer for one year and the qualifications required two years with that employer, the Bank of America employee would input on the application that the person had worked for his or her company for three years.

363. CW-V said that he understood these practices were necessary in order to have greater success meeting the quarterly quota of one million dollars in booked mortgage volumes.

364. Bank of America originated mortgages that secured at least Certificates BAFC 2006-C 2A1, BAFC 2006-E 2A2, and BAFC 2006-E 3A1. As discussed in detail below, the Offering Documents contained serious material misstatements regarding specific characteristics of the loan pools securing these Securities, including misstatements with respect to their weighted average LTV ratio, the percentages of loans with LTV ratios in excess of 100%, 90% and 80%, and the percentage of loans secured by property not the primary residence of the borrower. Moreover, as described in Paragraphs 470-71 below, these securities have exhibited

excessive delinquency and foreclosure rates. These circumstances are strong evidence of Bank of America's failure to observe its stated underwriting standards. Bank of America's actual practices – including the use of unreliable appraisals, routine granting of underwriting exceptions and reliance on unverified borrower-supplied information – caused it to originate loans whose actual LTV ratios and primary residence rates were far different from that reported in the Offering Documents, and whose likelihood of default was much higher than that of loans issued under underwriting standards of the type described in the Offering Documents.

365. As detailed, far from following its underwriting guidelines and making occasional, targeted and justified exceptions when other evidence of ability to repay justified a deviation from the guidelines, in fact at Bank of America, N.A., variance from the stated standards was the norm, and many loans were made with essentially little to no underwriting or effort to evaluate ability to repay. Nowhere did any Offering Document apprise the Bank of the extent to which Bank of America, N.A. deviated from its underwriting guidelines.

16. HomeComings Financial Network, Inc.

366. HomeComings Financial Network, Inc. ("HomeComings") originated underlying mortgage loans securing at least one of the PLMBS purchased by the Bank.

367. Confidential witnesses provided evidence of HomeComings' failure to adhere to sound underwriting practices and guidelines. Statements by CW-W, an underwriter at HomeComings from January 2006 until December 2006, and CW-X, an underwriter for HomeComings from May 2005 until his office closed in October 2007, confirm that HomeComings: (a) engaged in predatory lending by making loans to borrowers when it was clear that they could not afford to make the monthly payments; (b) approved risky, low- or no-

documentation loans; (c) approved exception loans for which there were no reasonable compensating factors; and (d) abandoned sound underwriting practices.

368. CW-X said a lot of the problem with HomeComings' mortgages during his employment was due to "what became the norm" in the lending industry: underwriting guidelines became really loose, and "the gray areas became even grayer." According to CW-X, he and other underwriters thought the extent to which the guidelines relaxed was "ridiculous."

369. During his tenure at HomeComings, CW-X underwrote full documentation, stated income, stated income/stated asset ("SISA"), and no income/no asset ("NINA") documentation loans. Of these, the majority – 75% – were stated income loans. According to CW-X, it was the stated income and the option ARM (negative amortization) loans that "killed the industry."

370. Both CW-W and CW-X explained that HomeComings employed automated underwriting systems ("AUS") to underwrite loans. According to CW-X, HomeComings employees had the choice of two different options: (1) Desktop Underwriter ("DU"), and (2) Assetwise. As CW-X explained, HomeComings employees used DU for subprime applications from low-income applicants because it approved loans with higher debt-to-income ratios than Assetwise.

371. CW-W said that, with respect to Assetwise, HomeComings employees entered borrowers' information into the system and the computer provided its findings. As CW-W explained, "One of my problems was that [a loan application] would fit inside the guidelines, but if you read between the lines, you could see that the borrower was not going to be able to make the payments." Nevertheless, when CW-W raised such concerns to her supervisor, she was told: "It fits, you do the loan. We're going to do this deal."

372. Irrespective of which AUS HomeComings employees chose, CW-X said that virtually all of the loan applications ended up being approved. Moreover, said CW-X, once the AUS approved the application, the underwriters could not change the decision.

373. Besides approving loans that CW-W believed borrowers could not afford, CW-W also noted that mortgage brokers often appealed loans to CW-W's supervisor that had been denied by HomeComings' underwriters. CW-W's supervisor then instructed CW-W and other underwriters that they had to sign off on the loans.

374. CW-X also explained that underwriters searched for compensating factors which would enable them to approve loans, even in the presence of "red flags." For example, if a stated income application reflected a monthly income of $10,000 or more, that would be a "red flag," and the underwriter would review the loan application to find "contributing factors" which would nevertheless allow the loan to be approved.

375. HomeComings originated mortgages that secured at least Security RFMSI 2006-SA2 2A1. As discussed in detail below, the Offering Documents contained serious material misstatements regarding specific characteristics of the loan pools securing these Securities, including misstatements with respect to their weighted average LTV ratio, the percentages of loans with LTV ratios in excess of 100%, 90% and 80%, the percentage of loans secured by property not the primary residence of the borrower, and the percentage of the loans originated using full documentation. Moreover, as described in Paragraphs 470-71 below, this security has exhibited excessive delinquency and foreclosure rates. These circumstances are strong evidence of HomeComings's failure to observe its stated underwriting standards. HomeComings' actual practices – including the use of unreliable appraisals, routine granting of underwriting exceptions and reliance on unverified borrower-supplied information – caused it to originate loans whose

actual LTV ratios and primary residence rates were far different from that reported in the Offering Documents, and whose likelihood of default was much higher than that of loans issued under underwriting standards of the type described in the Offering Documents.

376. In summary, far from following its underwriting guidelines and making occasional, targeted and justified exceptions when other evidence of ability to repay justified a deviation from the guidelines, in fact at HomeComings variance from the stated standards was the norm, and many loans were made with essentially little to no underwriting or effort to evaluate ability to repay. Nowhere did any Offering Document apprise the Bank of the extent to which HomeComings deviated from its underwriting guidelines.

17. Other Mortgage Originators Also Abandoned Sound Underwriting Practices and Engaged in Predatory Lending in Order to Issue Loans for Securitization.

377. On information and belief, based on government reports and assessment of mortgage origination practices during the time period that the loans at issue were issued, as discussed above, *supra* § C.1-16, and the Bank's investigation, each of the other mortgage originators who issued loans that backed the PLMBS purchased by the Bank similarly abandoned their underwriting guidelines and engaged in predatory lending in order to increase loan volume. These abuses were pervasive in the mortgage origination industry and were the standard operating practice of mortgage originators who issued loans so that they could be sold and securitized either by their affiliates or other financial institutions who acted as Depositors/Issuers, and Underwriters of PLMBS.

378. Accordingly, instead of following their underwriting guidelines and making occasional, targeted and justified exceptions when other evidence of ability to repay justified a deviation from the guidelines, at these mortgage originators, variance from the stated standards

was the norm, and many loans were made with essentially little to no underwriting or effort to evaluate ability to repay. Nowhere did any Offering Document apprise the Bank of the extent to which these mortgage originators deviated from their underwriting guidelines.

D. The Securitization Process Was Plagued by Conflicts of Interest and Misplaced Incentives.

379. Investment banks dominated every aspect of the mortgage securitization process. They owned many of the mortgage originators themselves, and funded the lending activities of many of the originators they did not own outright. As a result, the investment banks – and the sponsors, depositors and underwriters that were divisions of the investment banks – were in a position to scrutinize the practices of the originators and examine closely the mortgages placed in the pools. Indeed, they had the legal responsibility to do so and to provide investors with complete and accurate information.

1. The Vertical Integration of Many of the Firms Involved in the Issuance of the PLMBS Purchased by the Bank Provided the Defendants with Knowledge of the Mortgage Originators' Failure to Adhere to Underwriting Guidelines and Engagement in Predatory Lending Practices.

380. Most of the PLMBS purchased by the Bank were issued by vertically-integrated firms which were involved in several if not all of the stages of the securitization of the PLMBS – loan origination, sponsoring, obtaining credit ratings, issuing, underwriting, and/or selling the securities. The following table summarizes the vertical integration of the entities involved in various of the PLMBS purchased by the Bank:

Sponsor	Security	Roles of Affiliated Entities
Bank of America, National Association	BAFC 2006-C 2A1 BAFC 2006-E 2A2 BAFC 2006-E 3A1 BAFC 2006-F 2A1 BAFC 2006-F 3A1	Originator: Bank of America, National Association Underwriter: Banc of America Securities LLC Depositor: Banc of America Funding Corporation Servicer: Bank of America, National Association
Citigroup Global Markets Realty Corporation	CMLTI 2006-NC1 A2C CMLTI 2006-WFH2 A2B CMLTI 2006-WFH4 A3 CMLTI 2006-NC2 A2B	Underwriter: Citigroup Global Markets, Inc. Depositor: Citigroup Mortgage Loan Trust Inc. Trust Administrator: Citibank, N.A.
Wells Fargo Bank, National Association	WFHET 2006-3 A2 WFMBS 2006-AR3 A4	Originator: Wells Fargo Bank, National Association Depositor: Wells Fargo Asset Securities Corp. Servicer: Wells Fargo Bank, National Association Securities Administrator: Wells Fargo Bank, National Association Custodian: Wells Fargo Bank, National Association
Morgan Stanley Mortgage Capital Inc.	MSAC 2006-WMC2 A2C MSAC 2006-HE5 A2C MSAC 2006-HE6 A2C	Underwriter: Morgan Stanley & Co. Incorporated Depositor: Morgan Stanley ABS Capital I Inc.
Goldman Sachs Mortgage Company	FFML 2006-FF13 A2C GSAMP 2006-NC2 A2C	Underwriter: Goldman Sachs & Co. Depositor: GS Mortgage Securities Corp.

Sponsor	Security	Roles of Affiliated Entities
Option One Mortgage Corporation	OOMLT 2005-5 A3 OOMLT 2006-2 2A3	Originator: Option One Mortgage Corp. Depositor: Option One Acceptance Corp. Underwriter: H&R Block Financial Advisors, Inc. (affiliated entity) Master Servicer: Option One Mortgage Corp.
IndyMac Bank	INDX 2006-AR15 A2 INABS 2005-D AII3	Originator: IndyMac Bank Depositor: IndyMac MBS, Inc. (INDX 2006-AR15 A2) Depositor: IndyMac ABS, Inc. (INABS 2005-D AII3) Master Servicer: IndyMac Bank
Residential Funding Corporation	RFMSI 2006-SA2 2A1 RASC 2005-KS12 A2	Originators: Homecomings Financial Network, Inc. GMAC Mortgage Corp. (affiliates of Residential Funding Corporation) Depositors: Residential Funding Mortgage Securities I, Inc. Residential Asset Securities Corporation Master Servicer: Residential Funding
First Horizon Home Loan Corporation	FHASI 2006-AR1 2A1	Originator: First Horizon Home Loan Corporation Underwriter: FTN Financial Capital Markets (affiliate of First Horizon) Depositor: First Horizon Asset Securities Inc. Master Servicer: First Horizon Home Loan Corporation
Greenwich Capital Financial Products, Inc.	HVMLT 2006-2 2A1A HVMLT 2006-2 3A1A	Depositor: Greenwich Capital Acceptance, Inc. Underwriter: Greenwich Capital Markets, Inc.

Sponsor	Security	Roles of Affiliated Entities
GMAC Mortgage Corporation	GMACM 2006-AR2 2A1	Originator: GMAC Mortgage Corporation Depositor: Residential Asset Mortgage Products, Inc. Underwriter: Residential Funding Securities Corporation (a/k/a GMAC RFC Securities) Master Servicer: GMAC Mortgage Corporation
Nomura Credit & Capital, Inc.	NHELI 2006-WF1 A3	Underwriter: Nomura Securities International, Inc. Depositor: Nomura Home Equity Loan, Inc.

381. Between 2005 and 2007, the number of vertically-integrated firms grew significantly because investment banks and other issuers of mortgage-backed securities sought to ensure a steady supply of mortgage loans for securitization and sale to investors. Yet, as a result of the direct involvement in the origination of the loans they securitized, the vertically integrated firms, and specifically, the Depositor/Issuer and Underwriter affiliates of the firms, had access to and often first-hand knowledge of the underwriting abuses of the mortgage originators.

382. For example, in GMACM 2006-AR2, GMAC RFC Securities as underwriter for the securities issuance, knew precisely what GMAC Mortgage Corporation as mortgage originator was doing when it issued loans to people without regard to their ability to pay, and without any meaningful mortgage underwriting. The same is true for the other vertically integrated entities listed above. Unfortunately, the vertical integration of these firms created enormous incentives to push their affiliated originators to loosen standards so that more loans could be issued and more securitizations sold. In this regard, the Depositor/Issuer Defendants and Underwriter Defendants themselves dictated and were well aware of the quality of the loans.

383. Rather than use their superior access to information about the underlying mortgage pools and unique ability to exert influence over the underwriting standards responsibly, the Depositor/Issuer and/or Underwriter Defendants at the vertically-integrated firms accepted defective loans that their affiliates originated. The reason was straightforward. They made more money that way on the front end, when issuing the loans, and on the back end, when securitizing them. Adequate due diligence and exclusion of defective loans would have cut into their profits and slowed down the securitization machine.

2. Financial Ties Between the Investment Banks and Non-Bank Lenders Provided the Defendants with Knowledge of the Mortgage Originators' Failure to Adhere to Underwriting Guidelines and Engagement in Predatory Lending Practices.

384. Even where the parties involved in the securitization were not all affiliated under a single parent (for example, where a sponsor purchased the loans from an unaffiliated mortgage originator) the Depositor/Issuer and Underwriter Defendants had abundant information about the mortgage originators' abandonment of underwriting guidelines and predatory lending practices. This was the result of the close financial ties between the unaffiliated mortgage lenders and the investment banks that funded them.

385. An example of this relationship is the credit facilities mortgage originators maintained with the investment banks that were involved in the securitization and underwriting of the PLMBS that were backed by those originators' loans. For example, Countrywide Financial Corp., collectively with its origination subsidiary, Countrywide Home Loans, Inc., had credit agreements with Bank of America, J.P. Morgan Chase, Citicorp USA (part of Citigroup), and Barclays, which funded Countrywide's origination business. Likewise, originator New Century Mortgage Corp., collectively with other subsidiaries of New Century Financial Corp., had credit agreements with Bank of America, Morgan Stanley, Citigroup, and Barclays, which

funded New Century's origination business. *See* John Dunbar and David Donald, *The Roots of the Financial Crisis: Who is to Blame?* (May 6, 2009), *available at* http://www.publicintegrity.org/investigations/economic_meltdown/articles/entry1286 (noting that 21 of the 25 largest subprime lenders were financed by Wall Street banks).

386. Non-bank mortgage originators, including those that issued loans backing the PLMBS purchased by the Bank, depended on credit facilities of this sort to fund their operations. The originators would borrow from these credit facilities, pursuant to "warehouse agreements" so that they could continue to make loans to home buyers. When loans were sold, the originators would repay the warehouse agreements. When loans serving as collateral lost value, the investment banks would make margin calls requiring the originators to pay cash to the investment banks. In connection with this process, the mortgage originators provided the investment banks with documents about the underlying loans, including performance characteristics and early warning signs of poor credit quality. The files were then passed to other divisions of the investment bank for review and securitization. *See* Mortgage Bankers Association Warehouse Flowchart: Securitization, *available at* http://www.mbaa.org/files/ResourceCenter/WarehouseLending/FlowchartSecuritization.pdf (last visited Sept. 15, 2010).

387. The investment banks also entered into purchase agreements with non-bank lenders so that the investment banks were assured access to a batch of mortgages to securitize, and the originators were guaranteed a buyer for the mortgages they made. As part of the agreement, the investment bank typically set the prices and quantities of the types of loans it wanted to buy, and also gained access to loan information prior to purchase.

388. The investment banks that operated credit facilities for non-bank lenders and entered into purchase agreements did not limit their activities to just funding the lenders. To the contrary, they funded the lenders so that the lenders could issue more loans for the investment banks to purchase and securitize. These inter-relationships are illustrated by the warehouse lines of credit which were extended to New Century Financial Corp. and its subsidiary, New Century Mortgage Corp., the originator of loans that backed the PLMBS in this case:

Certificate	****Warehouse Line of Credit with:**	**Sponsor of the PLMBS Certificate**	**Depositor/Issuer of the PLMBS Certificate**	**Underwriter Defendant for the PLMBS Certificate**
GSAMP 2006-NC2 A2C	Goldman Sachs Mortgage Co.	Goldman Sachs Mortgage Co.	GS Mortgage Securities Corp.	Goldman, Sachs & Co.
MSAC 2006-HE5 A2C MSAC 2006-HE6 A2C	Morgan Stanley Mortgage Capital Inc.	Morgan Stanley Mortgage Capital Inc.	Morgan Stanley ABS Capital I Inc.	Morgan Stanley & Co. Incorporated
CMLTI 2006-NC1 A2C CMLTI 2006-NC2 A2B	Citigroup Global Markets Realty Corp.	Citigroup Global Markets Realty Corp.	Citigroup Mortgage Loans Trust, Inc.	Citigroup Global Markets Inc.

***Source: Factbox: New Century Creditors Named in Bankruptcy Filing*, Reuters (April 2, 2007), *available at* http://www.reuters.com/assets/print?aid=USN0243292520070402 (last visited Sept. 14, 2010).

389. As the chart shows, the same investment banks that offered warehouse lines of credit to New Century purchased the loans as sponsor, deposited them into trusts as depositor, securitized and issued them as issuer, and underwrote the securities backed by the loans as

Underwriter. Because the investment banks were involved in several if not all of the steps of securitization, they had direct information and knowledge about the problems in the loan pools.

390. In addition, the sponsors, Depositor/Issuer and Underwriter Defendants were intimately aware of the mortgage originators' practices as a result of their direct role negotiating with the originators regarding the quality and characteristics of the loans in the mortgage pools they purchased. This is confirmed by confidential witness testimony. For example, CW-G, a branch manager at New Century from December 2000 through December 2005, indicated that not only did the investment banks know about the origination guidelines, they were the ones who designed them. The investment banks had the leverage to dictate the underwriting guidelines for the mortgage originators because they purchased the mortgage pools and packaged them for sale to investors. As CW-G explained, the investment banks took advantage of this leverage and "abused subprime" for their own purposes – to make profits by selling mortgage-backed securities to unsuspecting investors.

3. The Investment Banks' Conflicts of Interest Undermined Adequate Due Diligence and Disclosure to Investors.

391. The multiple roles of the investment banks in the securitization process created conflicts of interest that prevented the banks from engaging in adequate due diligence on the loan pools. For example, the investment banks did not use their influence and control over the mortgage origination process to ensure that underwriting guidelines were followed, because to do so would have jeopardized repayment of their warehouse lines of credit. By keeping the mortgage origination wheel turning, the investment banks (by and through the Certificate's sponsors, the Depositor/Issuer Defendants, and the Underwriter Defendants) not only secured repayment on existing warehouse lines, but also paved the way for ever increasing lines in the future, with additional short-term profits. While the investment banks eventually shut down their

lines of credit, they did so only after the originators' financial condition deteriorated to the point that the investment banks faced the risk of non-payment. Ironically, this risk was created by ever increasing numbers of repurchase demands by the investment banks themselves for defective loans sold to the banks by the originators.

392. For example, Merrill Lynch Mortgage Capital, an affiliate of Underwriter Defendant Merrill Lynch, Pierce, Fenner & Smith, Inc., provided warehouse lines of credit to subprime originator OwnIt Mortgage Solutions. Pleadings filed in OwnIt's bankruptcy reveal that Merrill Lynch Mortgage Capital was a secured creditor on its warehouse line of credit to OwnIt for $633 million. Bond CBASS 2006-CB4 AV3, which the Bank purchased from Defendant Underwriter Merrill Lynch, Pierce, Fenner & Smith, Inc. includes a substantial number of loans originated by OwnIt Mortgage Solutions – an entity with which investment bank and Defendant Underwriter Merrill Lynch was in a conflicted relationship in general, and with respect to Bond CBASS 2006-CB4 AV3, in particular.

393. Furthermore, papers filed in OwnIt's bankruptcy proceedings also show that Merrill Lynch LP Holdings, Inc., another affiliate of Defendant Underwriter Merrill Lynch, Pierce, Fenner & Smith, Inc., holds an unsecured mortgage repurchase claim against OwnIt, arising from its right to compel repurchases of mortgage loans it purchased from OwnIt. The amount of such claim is estimated at $92.96 million, which is 20% of the principal balance of the mortgages loans subject to repurchase.

394. Similar conflicts prevented the investment banks from insisting on compliance with underwriting guidelines when they purchased loans at "loan auctions." At the loan auctions, the mortgage originators would set a date and time for the sponsors to purchase a block of mortgage loans. In advance of the auction, the mortgage originator would provide certain

potential bidders with a bid stipulation sheet that described the general characteristics of the loan pool being auctioned and the variance rate of the pool. The investment banks depended on the auctions to feed loans into their securitization machines. But investment banks feared that they would lose access to the bid stipulations sheets and other information from mortgage originators if they conducted rigorous quality reviews of the subject mortgage and rejected loans as being non-compliant with the mortgage originators' stated guidelines. Thus, to curry favor with the mortgage originators and assure a continued pipeline of mortgages (however flawed) for securitization, the parties who should have protected the quality of the mortgages being deposited into the pools instead ignored the flaws with the mortgages.

395. Simply put, as a result of corporation affiliations and conflicted relationships in the industry, the investment banks, by and through the sponsors and affiliated Depositor/Issuer and Underwriter Defendants, failed to appropriately fulfill their due diligence function with respect to the mortgages placed in the pools. Instead, they utilized the securitization process to pass the risk of default down the line to investors, such as the Bank, through the use of materially false and misleading Offering Documents.

396. Confidential witnesses confirmed the failings of the Defendants' due diligence process, and their representations about the process. For example, statements by CW-Y, an associate in RBS Greenwich Capital's[3] asset-backed finance modeling group from October 2004 to February 2006, demonstrated that RBS Greenwich employees modeled the flow of funds for

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[3] Until April 1, 2009, RBS Greenwich Capital was the marketing name which encompassed The Royal Bank of Scotland's North American broker-dealer entities, including: (1) Underwriter Defendant Greenwich Capital Markets, Inc., n/k/a RBS Securities Inc.; (2) Controlling Person Defendant Greenwich Capital Holdings, Inc., n/k/a RBS Holdings USA Inc.; and (3) sponsor Greenwich Capital Financial Products, Inc., n/k/a RBS Financial Products Inc. *See* The Royal Bank of Scotland, "RBS Greenwich Capital Re-Name and Re-Brand FAQ's," March 6, 2009, *available at* http://www.rbsgc.com/images/panels/rbsm/document/faq.pdf (last visited Oct. 3, 2010). As used herein, "RBS Greenwich" is meant to encompass all of these entities.

the PLMBS based upon superficial information which did not adequately account for non-conformities in the underlying asset pools. CW-Y also described how employees at RBS Greenwich turned a blind eye to red flags regarding the quality of the loans that were being packaged into mortgage-backed securities. For example, when CW-Y tried to discuss an article with his boss regarding an investigation into Ameriquest's lending practices, his boss told him: "You need to sit down and shut the f*** up." CW-Y explained that employees at RBS Greenwich ignored red flags because they stood to gain significant profits from securitization: "I knew we were destroying the economy.... But if you're making $40 million a year, do you care? No."

397. Similarly, CW-Z, a capital markets analyst at Citigroup from July 2006 until November 2008, said that they did not review the underlying loan files when they were structuring and securitizing the mortgage pools, even though they had access to them. Instead, they simply "trust[ed]" the mortgage originator's data. CW-Z also explained that Citigroup's models for stress-testing the PLMBS were inadequate because the company "could model a bond to see how it performed under the stress of 50% losses, but it never took into account the possibility of house prices falling." As explained above and echoed by CW-Z, the monetary incentives that the originators, sponsors, Depositor/Issuer Defendants, and Underwriter Defendants stood to gain by securitizing mortgage pools "stimulated fraud."

4. Defendants Undermined and Misused Loan Pool Due Diligence Results Prepared by Third-Party Firms.

a. The Defendants directed the due diligence process and were provided with detailed reports describing the results of the process.

398. Information obtained from press reports, government investigations and confidential witnesses demonstrates that the investment banks that retained third-party due

diligence firms to conduct loan pool due diligence both manipulated the due diligence process and disregarded the results of the process. They did so in order to maximize the profits they made from issuing and selling mortgage-backed securities. Thus, in yet another way, the ability of investment banks to shift the risk of loss to downstream investors, such as the Bank, caused the Defendants to disregard problem loans.

399. The two firms that dominated the third-party due diligence market were Clayton Holdings, Inc. ("Clayton") and The Bohan Group ("Bohan"). Upon information and belief, both Clayton and Bohan were retained by Defendants or their affiliates to conduct third-party reviews of loans pools purchased by the sponsors of the PLMBS at issue. According to Clayton's Form 10-K for the fiscal year ended December 31, 2006, Clayton monitored over $418.0 billion in loans underlying mortgage-backed securities, which represented 22.8% of the total outstanding U.S. non-GSE mortgage-backed securities at such date. During 2006, 2005, and 2004, Clayton worked with each of the 10 largest non-agency mortgage-backed securities underwriters, as ranked by *Inside MBS & ABS,* which accounted for 73%, 73%, and 78% of total underwriting volume during those respective periods.

400. Confidential witnesses, who worked at Clayton during the relevant time period and were familiar with the identity of Clayton's clients and the due diligence performed by Clayton during the relevant time period, named several different entities which they knew had hired Clayton to perform due diligence on loan pools. These confidential witnesses include: CW-AA, an underwriting consultant at Clayton from 1999 until 2006, who underwrote mortgage-backed securities for a "lot of investment banks" that hired Clayton; CW-BB, an underwriter at Clayton from 2002 until 2008, who reviewed loans for investment banks which hired Clayton; and CW-CC, who worked as a valuation specialist at Clayton from January 2006

until March 2008 and reviewed appraisals and properties in loan files on behalf of investment banks that hired Clayton. Together, CW-AA, CW-BB, and CW-CC confirmed that Clayton was hired to perform due diligence on underlying loan pools by such sponsors/investment banks as Morgan Stanley, RBS Greenwich, Countrywide, Nomura, Washington Mutual, Webster Financial, National City, and Lehman Brothers.

401. Less information is publicly available about Bohan's due diligence business because it is a privately held company. However, press reports and confidential witnesses confirm that Bohan provided third-party loan pool due diligence to a large number of investment banks. For example, CW-DD, who worked as an underwriter at Bohan from 2003 to 2006 and reviewed loans that Bohan's clients were considering for securitization, said that Bohan's clients included Morgan Stanley, Chase, J.P. Morgan, and others.

402. Investment banks that retained Clayton and Bohan, and other third-party due diligence firms for loan pool review maintained close contact and control over the process. As explained by Vicki Beal, Senior Vice President of Clayton Holdings in her September 23, 2010 written testimony before the FCIC:

> The loan review process is conducted as follows:
>
> - A client reviews a pool of loans and selects a sample of loans for diligence review....
> - Client hires Clayton to perform diligence on the sample. Client gives Clayton's Client Services Manager instructions on the type and scope of review and the time frame for the deal.
> - Client sends or has sent to Clayton a tape containing loan information from the originator, which Clayton programmers "crack" and loads into our CLAS system.
> - At the end of each day, the lead underwriter generates reports for the client that summarizes Clayton's findings, including exception reports.

403. In addition, during the review process, the investment banks often put their own employees on-site to oversee the review process. For example, according to CW-BB, Morgan Stanley and RBS Greenwich always sent their own employees to the mortgage originator's site.

404. Numerous confidential witnesses confirm that due diligence reports are provided to the investment banks that retained the third-party due diligence firms. According to CW-CC, Clayton's clients "had access to our [Clayton's] databases," and "could see everything." CW-BB also explained that Clayton's lead underwriters could consult with the sponsor's representatives to determine if the sponsor wanted particular loans "kicked out" of the mortgage pools.

405. Indeed, as Ms. Beal reported to the FCIC: "The work product produced by Clayton is comprised of reports that include loan-level data reports and loan exception reports. Such reports are "works for hire," the property of our clients and provided exclusively to our clients." Thus, on information and belief, the investment banks that hired Clayton (including the Defendants) knew or should have known about the red flags that the third-party underwriters identified.

406. Similarly, Bohan employed "lead" underwriters, who communicated directly with the investment banks that retained them to review loan pools. As was the case with Clayton, CW-DD said that many of the sponsors sent their own employees to the originator's sites to review the loans that were being considered for inclusion in a mortgage pool and subsequent securitization. CW-DD also explained that the sponsors had access to Bohan's computer system and could view which loans were being approved or rejected. Thus, on information and belief, the investment banks (including the Defendants) knew or should have known about the red flags that the third-party underwriters identified.

b. The Defendants manipulated and misused due diligence results.

407. As Ms. Beal testified with regard to Clayton, the investment banks (referred to as "clients" in her testimony) determined the type and scope of review performed on the loan pools. Yet, rather than directing the firms to conduct thorough reviews that were most likely to identify defective loans, the investment banks pressured the loan reviewers to disregard problem loans through exceptions and offsets that did not satisfy the applicable underwriting guidelines.

408. According to confidential witnesses, third-party due diligence underwriters were pressured by the banks that hired them to depart from the standards so that loans were not tagged as defective. For example, CW-BB, a Clayton employee, stated that one out of every four or five loans that he reviewed on behalf of the investment banks did not meet the originator's guidelines. Although he felt many of the loans were "dead assets" (the lowest rating Clayton gave), he was required to provide "compensating factors," which were reasons why the loan should be considered for inclusion in the mortgage pool.

409. Similarly, CW-DD said that she reviewed many loans requiring no documentation at Bohan. Yet, she was not allowed to challenge the borrower's claims. As CW-DD said, "Whatever [the borrower] filled out on an application got through." When she informed a lead underwriter that she suspected the borrower's income was inflated, the lead underwriter pointed to the borrower's signature and fine print at the bottom of the loan application that indicated the borrower swore the information to be true. The lead underwriter told CW-DD, "You can't call the borrower a liar." Due to such actions by the lead underwriters, CW-DD received the impression that the investment banks who were buying the loans did not care about inflated income.

410. CW-DD also recalled other loans in the mortgage pools which included a credit score of 600, no income documentation, and no asset verification, but where the borrowers were receiving 100% financing. At the time, she recalled thinking: "Why would anybody in the world want these loans?" Nevertheless, the investment banks bought and packaged the loans for securitization.

411. Bohan employees were pressured by the investment banks who hired them to leave information out of their reports that detailed non-compliant or predatory loans that should have been excluded from the pool. For example, CW-DD explained that many underwriters at Bohan did not include in their reviews the borrower's fee associated with rebates on wholesale loans. A rebate is negative points on a loan, whereby a borrower pays the lender for a higher interest rate in order to have lower up-front costs. The Bohan employees left such information out of their reports because if they mentioned it, the loans would often be considered predatory. CW-DD recalled one rebate situation in which the borrower re-financed a property three times over a one-year period. When she reviewed the loan on the third refinancing, she discovered that the borrower was seeking the loan to pay off $5,000 in bills and to obtain $8,000 cash, but the rebate fees totaled $12,000. CW-DD thought the loan was ultimately included in the mortgage pool because nothing was wrong with the loan, except that the borrower was getting nothing out of it and was "an older person that was being taken advantage of."

412. Further compounding the problems, Clayton employees were instructed to review fewer loans in the loan pools as the securitization market grew. Frank P. Filipps, Clayton's chairman and CEO, stated that "[e]arly in the decade, a securities firm might have asked Clayton to review 25 to 40 percent of the sub-prime loans in a pool, compared with typically 10% in

2006." *See* E. Scott Reckard, *Sub-Prime mortgage watchdogs kept on leash; loan checkers say their warnings of risk were met with indifference*, *Los Angeles Times*, March 17, 2008, at C1.

413. According to Ms. Beal's 2010 testimony before the FCIC, as the securitization markets grew even more frenzied "when lenders and securitizers were trying to sell off as much as they could before the market collapsed, that figure reached as low as 5 percent."

414. Notably, according to Bohan President Mark Hughes: "By contrast, loan buyers who kept the mortgages as an investment instead of packaging them into securities would have 50% to 100% of the loans examined." *See* Reckard, *supra*, at C1.

415. As explained in Paul Muolo and Matthew Padilla, *Chain of Blame* 228 (2010):

> There were two reasons the [Wall] Street firms reviewed only a small sample of the loans they were buying . . . . The most important reason was the relationship with the lender. "The lower the sample you requested [of the lender], the more likely it was that you'd win the bid." . . . . Lenders like Aegis and First Franklin had so many Street firms interested in buying their subprime and alt-A mortgages they could tell potential suitors that if they wanted to win the bid for the loan pool they should agree to review just a fraction of the mortgages.

416. Even though the third-party due diligence providers were instructed to review smaller samples of the mortgage pools over time, the demand for mortgage-backed securities was so great that, in the aggregate, the third-party due diligence firms were reviewing staggering quantities of loans. According to *Chain of Blame* at 228, "In 2006, rank-and-file clerks hired by Clayton vetted a million individual mortgages for Wall Street firms . . . ." The pressure to review such large volumes of loans forced third-party employees to hurry and prevented them from adequately reviewing the loan files.

c. The Defendants knowingly included defective loans in the pools but concealed this information from investors.

417. Notwithstanding pressures on loan reviewers to look the other way, the third-party due diligence process provided the Defendants with extensive information about loan pool

defects. Yet, the Defendants to a large degree disregarded this information. As reported by the *Los Angeles Times*, Clayton and Bohan employees (including eight former loan reviewers who were cited in the article) "raised plenty of red flags about flaws so serious that mortgages should have been rejected outright – such as borrowers' incomes that seemed inflated or documents that looked fake – but the problems were glossed over, ignored, or stricken from reports." Reckard, *supra*, at C1.

418. Ironically, while the investment banks pressured third-party reviewers to make exceptions for defective loans, they often utilized information about bad loans to negotiate a lower price for the pool of loans from the seller (i.e. originator). Indeed, according to Clayton's former president, D. Keith Johnson's September 2010 testimony before the FCIC, this was one of the primary purposes of the due diligence review.

419. CW-DD, who worked at Bohan from 2003 to 2006, confirmed that Bohan's review was used by the investment banks in price negotiations between the sponsors and the mortgage originators. The sponsors could request a discount if Bohan's reviewers rejected a large number of the loans. This is not to say that the investment banks actually eliminated all of the defective loans from the pools. To the contrary, they obtained a lower price for the pools because the defective loans *stayed in the pools*.

420. Recent testimony before the FCIC reveals the extent of this contrivance with regard to loans reviewed by Clayton. During 2006 and the first half of 2007, Clayton reviewed 911,039 loans issued by originators including New Century Financial, Countrywide Financial, and Fremont Investment & Loan for securitization by its clients (Bank of America and JPMorgan Chase, Citigroup, Goldman Sachs, Morgan Stanley, Bear Stearns and Lehman Brothers). Clayton determined that 28% or 255,802 mortgages that they reviewed did not satisfy applicable

underwriting guidelines. Of this number, Clayton's Wall Street clients "waived" 100,653 of them, or 39 percent of those loans that did not meet basic standards. *See* Testimony of Beal, Johnson, and supporting waiver reports documents, attached hereto at Appendix II.

421. Clayton provided the FCIC with documents showing the defect and waiver rate of the main investment banks who had retained Clayton to conduct loan pool due diligence. Clayton's documents reveal the following rejection and waiver rates for entities who were involved in the securitization of the PLMBS purchased by the Bank:

Client:	**Percentage of Mortgages Rejected by Clayton:**	**Percentage of Rejected Mortgages Subsequently Waived by Client:**
Bank of America	30%	27%
Credit-Based Asset Servicing and Securitization LLC	29%	43%
Countrywide	26%	12%
Credit Suisse	37%	32%
Citigroup	42%	31%
Goldman Sachs	23%	29%
HSBC	27%	62%
JP Morgan Chase	27%	51%
Nomura	38%	58%
UBS	20%	33%

422. The investment banks, including the Defendants, however, did not disclose to investors, including the Bank, that (1) Clayton had informed their clients that a substantial percentage of loans in the loans pools backing PLMBS were defective; (2) that the Defendants, nonetheless, had waived the defects as to a substantial percentage of these loans; and (3) that the Defendants had used the due diligence reports to negotiate a lower price for the loans pools.

423. Indeed, as Keith Johnson, the former President of Clayton testified to the FCIC, Clayton "looked at a lot of prospectuses" and that the firm wasn't aware of any disclosure to

investors of Clayton's "alarming' findings." Similarly, Clayton Vice President Ms. Beal testified that:

> To our knowledge, prospectuses do not refer to Clayton and its due diligence work. Moreover, Clayton does not participate in the securities sales process, nor does it have knowledge of our loan exception reports being provided to investors or the rating agencies as part of the securitization process.

Beal, Sept. 23, 2010 FCIC Written Testimony at 3 (attached hereto at Appendix II).

5. Defendants' Own Due Diligence Identified a High Number of Defective Loans in the Mortgage Pools Backing PLMBS.

424. The investment banks that dominated the securitization markets did not just obtain information about defective loan pools from third-party due diligence firms, but also through their own in-house due diligence efforts. Wall Street banks in particular currently are facing a slew of investigations into their knowledge of the mortgage pool defects that were withheld from investors. As stated in a January 12, 2008 *New York Times* article titled, "Inquiry Focuses on Withholding of Data on Loans":

> An investigation into the mortgage crisis by New York state prosecutors is now focusing on whether Wall Street banks withheld crucial information about the risks posed by investments linked to subprime loans. Reports commissioned by the banks raised red flags about high-risk loans known as exceptions, which failed to meet even the lax credit standards of subprime mortgage companies and the Wall Street firms. ***But the [investment] banks did not disclose the details of these reports to credit-rating agencies or investors.*** The inquiry, which was opened last summer by New York's attorney general, Andrew M. Cuomo, centers on how the banks bundled billions of dollars of exception loans and other subprime debt into complex mortgage investments.

(emphasis added.)

425. Likewise, in its investigation into the "causes ... of the current financial and economic crisis in the United States," the FCIC examined in particular Citigroup's securitization practices. The FCIC heard testimony from Richard M. Bowen, III, the former Senior Vice President and Chief Underwriter for Correspondent and Acquisitions for CitiFinancial Mortgage

(Citigroup's subprime mortgage lending subsidiary from 2002-2005 and starting in 2006, Business Chief Underwriter for Correspondent Lending in Citigroup's Consumer Lending Group). In the latter position, Mr. Bowen supervised 220 professional underwriters and exercised direct oversight over the underwriting or more than $90 billion of mortgages annually.

426. Mr. Bowen testified that each year since 2005, Citigroup's mortgage operation systematically acquired tens of billions of dollars of risky loans that violated Citigroup's own underwriting criteria and were likely to default. He also testified that Citigroup's Wall Street Chief Risk Officer routinely overruled underwriters' rejections of pools of both prime and subprime mortgages that did not satisfy Citigroup's underwriting criteria for purchase, causing Citigroup to purchase billions of dollars of loan pools that fell far short of underwriting standards. Mr. Bowen testified that "[d]uring 2006 and 2007, I witnessed business risk practices which made a mockery of Citi credit policy. . . ."

427. Mr. Bowen reported that he discovered that of the $50 billion of prime mortgages purchased in 2006, "over 60% of these mortgages purchased and sold were defective." He testified further that he "started issuing warnings in June of 2006 and attempted to get management to address these critical risk issues. These warnings continued through 2007 and went to all levels of the Consumer Lending Group." Likewise, he reported systematic abuses in the subprime pools as well.

428. Mr. Bowen also testified that he recommended that Citigroup not purchase Ameriquest, because his due diligence found that Argent's loans did not meet the standards they had represented to Citigroup. Specifically, Mr. Bowen testified that "we sampled the loans that were originated by Argent and we found large numbers that did not – that were not underwritten according to the representations that were there."

429. Mr. Bowen submitted with his testimony email that he sent to Citigroup's then CEO, Robert Rubin in late 2007 documenting his concerns. One email indicated, among abundant other information of abuses that:

> During 2006-7 there were pools of mortgage loans aggregating $10 billion which were purchased from large mortgage companies with significant numbers of files identified as "exceptions" (higher risk and substantially outside of our credit policy criteria). These exceptions were approved by the Wall Street Channel Chief Risk Officer, many times over underwriting objections and with the files having been turned down by underwriting. These pools involved files aggregated and originated by Merrill Lynch, Residential Funding Corp, New Century, First NLC and others.

Available at http://www.fcic.gov/hearings/pdfs/2010-0407-Bowen.pdf. Citigroup disregarded the warnings and red flags and completed the acquisition.

430. On May 12, 2010, the Wall Street Journal reported that "[f]ederal prosecutors, working with securities regulators, are conducting a preliminary criminal probe into whether several major Wall Street banks misled investors about their roles in mortgage-bond deals, according to a person familiar with the matter." The article noted that:

> the banks under early-stage criminal scrutiny—J.P. Morgan Chase & Co., Citigroup Inc., Deutsche Bank AG and UBS AG—have also received civil subpoenas from the Securities and Exchange Commission as part of a sweeping investigation of banks' selling and trading of mortgage-related deals, the person says. Under similar preliminary criminal scrutiny are Goldman Sachs Group Inc. and Morgan Stanley, as previously reported by The Wall Street Journal.

431. As the pending criminal probe indicates, Citigroup's practices were not unique. For example, on June 24, 2010, the Massachusetts Attorney General announced that Morgan Stanley had agreed to pay $102 million to the Commonwealth and borrowers in the Commonwealth to settle charges related to "Morgan Stanley's role in facilitating predatory lending by New Century." The Attorney General reported that: "our investigation revealed that Morgan Stanley backed loans for homeowners that they knew, or should have known, were

destined to fail and they failed to disclose the riskiness of those loans to investors." She noted as well that:

> Morgan Stanley funded, purchased and securitized New Century loans. Morgan developed an intimate knowledge of New Century's business over time. And they uncovered signals pretty early on that the lending practices of New Century were not sound. Morgan Stanley continued to fund and securitize subprime loans even as New Century's bad loans were causing the lender to collapse . . . .

Available at
http://www.mass.gov/Cago/docs/press/2010_06_24_ms_settlement_attachment4.pdf

432. Upon information and belief, the other Depositor/Issuer and Underwriter Defendants similarly knew of and ignored red flags generated by their own due diligence as well by third-party due diligence firms hired by the Defendants indicating that the pools of loans they purchased and sold in securitizations were far riskier than was represented to investors, including the Bank.

E. The Vertical Integration of Many of the Firms Involved in the Issuance of the PLMBS Purchased by the Bank Enabled the Controlling Person Defendants to Control the Management and Policies of the Controlled Entities

433. The Controlling Person Defendants, which had a 100% or substantial majority direct or indirect ownership in the respective Depositor/Issuer Defendants, as well as the other entities identified herein, had the power to, and did, conduct and participate, directly and indirectly, in the management and control of all aspects of the management and policies of the Controlled Entities, as evidenced by, inter alia,

A. The Controlling Person Defendants created the respective Depositor/Issuer Defendants as their special purpose entities for the purpose of issuing the Certificates that are the subject of this action;

B. The Controlling Person Defendants played other vital roles regarding the structuring and administration of the issuing trusts and certificates, which allowed them to

exercise substantial control over many parties to the securitization, including the respective Depositor/Issuer and/or Underwriter Defendants;

C. Revenue from the securitizations inured to the benefit of the Controlling Person Defendants;

D. Statements in the Controlling Person Defendants' SEC filings show control through comprehensive involvement with the Controlled Entities' operations;

E. The Controlling Person Defendants directly participated in the issuance of the Certificates, including touting their extensive activity and experience in the securitization market, particularly in initiating securitization of the residential mortgage loans they originated or acquired in the secondary mortgage market and transferring those loans to Depositor Defendants, for sale through the trust to purchasers such as the Bank;

F. The Controlling Person Defendants frequently and prominently identified themselves in the Offering Documents; and

G. Officers and/or directors of the Controlling Person Defendant frequently signed the respective registration statements.

434. In addition, the Controlling Person Defendants were frequently parties to the agreements necessary to the securitizations, such as the Pooling and Servicing Agreement, Mortgage Loan Purchase Agreement, Servicing Agreement, Assignment, Assumption and Recognition Agreement, including amendments, restatements and exhibits thereto, which agreements frequently:

A. Were between vertically integrated entities;

B. Were signed by the same officer or director of the Controlling Person Defendant on behalf of the Controlled Entity;

C. For purposes of providing formal notice under the agreement, identified a single individual and/or address as the notice recipient for two or more parties to the agreement and;

D. Provided for indemnification by the Controlling Person Defendant.

435. The control over the vertically integrated firms in all aspects of the securitization is apparent in the following prospectus language:

> [Depositor Defendant] Citigroup Mortgage Loan Trust Inc., as depositor, was incorporated in the State of Delaware on July 16, 2003 as an indirect wholly-owned subsidiary of [Controlling Person Defendant] Citigroup Financial Products Inc. and is an affiliate of [Underwriter Defendant] Citigroup Global Markets Inc.
>
> * * *
>
> The depositor, the sponsor and the underwriter are direct wholly-owned subsidiaries of [Controlling Person Defendant] Citigroup Financial Products, Inc. The trust administrator is a direct wholly-owned subsidiary of Citicorp Holdings Inc., a Delaware corporation. Citigroup Financial Products Inc. and Citicorp Holdings Inc. are both wholly owned subsidiaries of [Controlling Person Defendant] Citigroup Inc.

Prospectus Supplement for Certificate CMLTI 2006-NC1 A2C, dated June 28, 2006.

436. In sum, the Controlling Person Defendants controlled, influenced, or participated in essentially all material aspects relating to the acquisition, structure and sale of the Certificates purchased by the Bank identified herein.

437. The Controlling Person Defendants' control, position and influence over the Controlled Defendants made them privy to, and provided them with actual knowledge of, the material facts and omissions concealed from the Bank with regard to the underlying mortgage pools.

F. The Securitization Process Was Supported by Credit Ratings that Materially Misstated the Credit Risk of the PLMBS.

438. The triple-A credit ratings of the PLMBS played a crucial role in the Bank's purchase of PLMBS; indeed, by policy, the Bank could only purchase triple-A rated tranches of

the Certificates. Hence, without the rating, no purchase would have occurred. Thus, the Bank relied to its detriment on the ratings and the Defendants' representations regarding the ratings in the Offering Documents.

439. The Defendants well understood (and banked on) the important role the credit ratings played in the PLMBS markets. They featured the ratings prominently in the Offering Documents and discussed at length the ratings received by the different tranches of the PLMBS, and the bases for the ratings. Yet, the Defendants knew that the ratings were not reliable. Those rating were bought and paid for and were supported by flawed information provided to the Credit Rating Agencies.

1. The Credit Ratings Were Compromised by Conflicts of Interest, Manipulation and Misinformation.

440. The Credit Rating Agencies received enormous revenues from the issuers who paid them for rating the products they sold.

441. Because the desired rating of a securitized product was the starting point for any securities offering, the Rating Agencies were actively involved in helping issuers structure the products to achieve the requested rating. As a result, the Rating Agencies essentially worked backwards, starting with the issuer's target rating and thereafter working toward a structure that could conceivably yield the desired rating.

442. A 2008 SEC Report entitled, "Summary Report of Issues Identified in the Commission Staff's Examinations of Select Credit Rating Agencies" ("Summary Report") revealed that the issuers and the Credit Rating Agencies worked together so that securities would receive the highest ratings:

> [t]ypically, if the analyst concludes that the capital structure of the RMBS does not support the desired ratings, this preliminary conclusion would be conveyed to the arranger. The arranger could accept that determination and have the trust issue

> the securities with the proposed capital structure and the lower rating or adjust the structure to provide the requisite credit enhancement for the senior tranche to get the desired highest rating. Generally, arrangers aim for the largest possible senior tranche, i.e., to provide the least amount of credit enhancement possible, since the senior tranche -- as the highest rated tranche -- pays the lowest coupon rate of the RMBS' tranches and, therefore, costs the arranger the least to fund.

443. As a result of this collaboration with the Credit Rating Agencies, issuers were able to manipulate the system to achieve inflated ratings. For example, through repeated interactions with the Credit Rating Agencies, issuers (and the underwriters working with them) could effectively reverse engineer aspects of the ratings models and then modify the structure of a financing to improve its ratings without actually improving its credit quality.

444. This rating process was further compromised by the practice of issuers "rating shopping." The issuers did not pay for the Credit Rating Agencies' services until after the Credit Rating Agencies gave a preliminary rating to the issuer. This practice created, essentially, bidding wars where the issuers would hire the agency that provided the highest rating for the lowest price. The Credit Rating Agencies were paid only if they provided the desired Investment Grade ratings, and only in the event that the transaction closed with those ratings. "Ratings shopping" jeopardized the integrity and independence of the rating process.

445. Raymond McDaniel, Moody's CEO, realized that the market-share war had undermined the Ratings Agencies' work product. In a presentation to Moody's Board of Directors in 2007, he stated,

> The real problem is not that the market does underweights [sic] ratings quality but rather that ... it actually penalizes quality by awarding rating mandates based on the lowest credit enhancement needed for the highest rating. Unchecked, competition on this basis can place the entire financial system at risk.[4]

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[4] Exhibit to October 22, 2008, hearing before the House Oversight Committee.

446. McDaniel described to the board how *Moody's* has "erected safeguards to keep teams from too easily solving the market share problem by lowering standards" but then stated, **"This does NOT solve the problem."** Turning then to a topic he referred to as "Rating Erosion by Persuasion," McDaniel observed, "Analysts and [managing directors] are continually 'pitched' by bankers, issuers, investors" and sometimes "we 'drink the kool-aid.'"

447. The credit ratings of the PLMBS were further compromised by misinformation provided by issuers, underwriters and others involved in the securitization process. Whether or not the Credit Rating Agencies should have ferreted out the truth, there is now little doubt that the issuers and affiliated entities sought to game the ratings.

448. Further confounding the credit rating process were outdated models used by the Credit Rating Agencies. The models depended on pre-2000 data that ignored the dramatic changes in the mortgage industry post-2000. Moreover, the ratings process failed to adequately protects against the risk of misinformation from issuers or borrowers. During a 2007 "Town Hall Meeting," hosted by Moody's CEO, Raymond McDaniel, Moody's executives acknowledged that the Credit Rating Agencies did not account for fraud in their ratings:

> We're on notice that a lot of things that we relied on before just weren't true ... [W]e relied on reps and warrantees that no loans were originated in violation of any state or federal law. We know that's a lie.
>
> We're being asked to figure out how much everyone lied ... [I]f all of the information was truthful and comprehensive and complete, we wouldn't have an issue here.
>
> What we're really being asked to do is figure out how much lying is going on and bake that into a credit [rating] ... which is a pretty challenging thing to do. I'm not sure how you tackle that from a modeling standpoint.[5]

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[5] Exhibit 98 to the April 23, 2010 Hearing before the Senate Subcommittee.

2. Subsequent Downgrades Confirm that the Investment Grade Ratings Reported in the Offering Documents Were Unjustifiably High and Misstated the True Credit Risk of the PLMBS Purchased by the Bank.

449. "Investment grade" products are understood in the marketplace to be stable, secure and safe. Using S&P's scale, "investment grade" ratings are AAA, AA, A and BBB, and represent, respectively, high credit quality, upper-medium credit quality and medium credit quality. Any instrument rated below BBB is considered below investment grade or "junk bond."

450. Each prospectus supplement states that the issuance of the PLMBS was conditioned on the assignment of particular, investment-grade ratings, and listed the ratings in a chart.

451. As noted, the Bank purchased only triple-A rated tranches of PLMBS. However, the triple-A ratings of the PLMBS misstated the credit quality of the underlying loans. The triple-A rating denotes "high credit-quality," and is the same rating as those typically assigned to bonds backed by the full faith and credit of the United States Government, such as Treasury Bills.

452. On or about July 10, 2007, S&P publicly announced it was revising the methodologies used to rate numerous MBS because the performance of the underlying collateral "called into question" the accuracy of the loan data. S&P announced it was revising its methodology assumption to require increased "credit protection" for rated transactions. S&P reiterated that it would seek in the future to review and minimize the incidence of potential underwriting abuse given "the level of loosened underwriting at the time of loan origination, misrepresentation and speculative borrow behavior reported for the 2006 ratings."

453. One day later, on July 11, 2007, Moody's announced it was also revising its methodology used to rate the MBS, and anticipated MBS downgrades in the future. Moody's

did in fact significantly downgrade most of the MBS, noting "aggressive underwriting" used in the origination of the collateral.

454. Yet, at the time these statements were made in July 2007, all of the PLMBS at issue in this case retained their investment-grade ratings.

455. Historically, investments with triple-A ratings had an expected loss rate of last than .05 percent. The default rate on investment grade corporate bonds from 1981 to 2008, for example, averaged about 0.106% with no year higher than .41%.

456. Beginning in the spring of 2008, the PLMBS purchased by the Bank also became subject to these rating agency downgrades. Forty of the forty-three triple-A rated securities at issue in this case (originally valued at over $3.3 billion) now have been downgraded to non-investment grade ratings, i.e. junk status.

457. The en masse downgrade of triple-A rated PLMBS indicates that the ratings set forth in the Offering Documents were false, unreliable and inflated. The Depositor/Issuer Defendants and the Underwriter Defendants knew the Offering Documents' statements with respect to these ratings were misleading because of their direct involvement in and manipulation of the rating process, and awareness of the poor credit quality of the underlying loan collateral.

3. The Bank Reasonably Relied on the Credit Ratings Reported in the Prospectuses.

458. The Bank did not know and reasonably could not have known that the credit ratings set forth in the Offering Documents were flawed. The Bank did not know that when they secured the credit ratings reported in the Offering Documents, the Depositor/Issuer Defendants and the Underwriter Defendants had done so through manipulation of the system, leveraging conflicts of interest, and supplying false and misleading information to the Credit Rating Agencies. Rather, the Bank reasonably relied on the credit ratings as reported in the Offering

Documents. No disclosure in any Offering Document called into question the validity of the credit ratings; instead, the Offering Documents stated that the ratings addressed the risk of the securities and the likelihood of payment by borrowers on the underlying mortgage loans.

459. The Credit Rating Agencies continued to assure the market of the integrity of their MBS ratings long after the PLMBS at issue here were purchased by the Bank. In a letter to the editor of The Wall Street Journal dated September 17, 2007, Vickie Tillman, then Executive Vice President of Credit Market Services at S&P, stated: "We have numerous safeguards in place that have helped us effectively manage" potential conflicts of interest. "Our credit ratings provide objective, impartial opinions on the credit quality of bonds." Tillman likewise testified before the Senate Committee on Banking, Housing and Urban Affairs on September 26, 2007:

> S&P maintains rigorous policies and procedures designed to ensure the integrity of our analytical processes. For example, analysts are not compensated based upon the amount of revenue they generate. Nor are analysts involved in negotiating fees. Similarly, individuals responsible for our commercial relationships with issuers are not allowed to vote at rating committees. These policies, and others, have helped ensure our long-standing track record of excellence.

460. At the time these statements were made in September 2007, all of the PLMBS at issue in this case retained their investment-grade ratings.

V. DEFENDANTS' MATERIAL UNTRUE STATEMENTS AND OMISSIONS IN CONNECTION WITH THE SALE OF PLMBS TO FHLBC

461. As detailed above, the Depositor/Issuer Defendants purchased mortgage loans and deposited them into issuing trusts, and issued the securities, and the Underwriter Defendants - Wall Street banks and other large financial institutions – offered and sold the PLMBS to the Bank through the Offering Documents. With respect to each securitization, the Depositor/Issuer and Underwriter Defendants drafted the Offering Documents. In addition, each Depositor/Issuer Defendant and Underwriter Defendant was identified in these documents as the depositor/issuer

or underwriter, respectively, of the Securities, and approved the versions of these documents that were delivered by the Underwriter Defendants to Plaintiff.

462. The Offering Documents contained extensive material misstatements and omissions of material facts with regard to the underwriting guidelines and practices purportedly applied by the mortgage originators whose loans backed the PLMBS purchased by the Bank, predatory lending abuses by the mortgage originators, and a number of key characteristics of the mortgage pools that pertain to the risk of the securities. Specifically, the misstatements and omissions of material fact are as follows:

A. Defendants Misrepresented Underwriting Guidelines Utilized by Mortgage Lenders

1. The Materiality of Underwriting Guidelines

463. As alleged above, the originator's underwriting standards, and the extent to which the originator departs from its standards, are key indicators of the risk of the mortgage loans made by the originator. And because the mortgage loans back the certificates that are issued to investors such as the Bank, the loan underwriting standards are also material to assessing the risk of the PLMBS certificates. For these reasons, the originator's underwriting standards as described in the Offering Documents were material to the Bank's decision to purchase the PLMBS certificates at issue here.

2. Misstatements Regarding Underwriting Guidelines

464. The Offering Documents contained material untrue or misleading statements and omissions regarding the underwriting guidelines allegedly employed in the origination of the mortgage loans that secure the PLMBS. Appendix III attached hereto and incorporated herein sets forth those statements and omissions and the reasons each is misleading. The following are examples of these materially misleading statements and omissions regarding mortgages

originated or acquired by Wells Fargo Bank, taken from the Banc of America Funding 2006-F Trust Prospectus Supplement (incorporated herein by this reference):

- That Wells Fargo's underwriting standards were used "*to evaluate the applicant's credit standing and ability to repay the loan, as well as the value and adequacy of the mortgaged property as collateral.*" BAFC 2006-F Pros. Sup. S-30.

- That Wells Fargo balanced the following factors in determining a mortgagor's eligibility for a mortgage:

> [T]he amount of the loan, the ratio of the loan amount to the property value (i.e., the lower of the appraised value of the mortgaged property and the purchase price), the borrower's means of support and the borrower's credit history. BAFC 2006-F Pros. Sup. S-30.

- That Wells Fargo "supplements the mortgage loan underwriting process with either its own proprietary scoring system or scoring systems developed by third parties," which scoring systems provided "***consistent, objective measures of borrower credit and certain loan attributes***" that were then "used to evaluate loan applications and assign each application a 'mortgage score.'" BAFC 2006-F Pros. Sup. S-31.

- That Wells Fargo required that "borrowers applying for loans must demonstrate that the ratio of their total monthly debt to their monthly gross income does not exceed a certain maximum level," which varies depending on the following factors:

> [L]oan-to-value ratio, a borrower's credit history, a borrower's liquid net worth, the potential of a borrower for continued employment advancement or income growth, the ability of the borrower to accumulate assets or to devote a greater portion of income to basic needs such as housing expense, a borrower's Mortgage Score and the type of loan for which the borrower is applying.

BAFC 2006-F Pros. Sup. S-32.

- That "[t]he Mortgage Score is used to determine the type of underwriting process and which level of underwriter will review the loan file." These levels were described as follows:

> For transactions which are determined to be low-risk transactions, based upon the Mortgage Score and other parameters (including the mortgage loan production source), the lowest underwriting authority is generally required. For moderate and higher risk transactions, higher level underwriters and a full review of the mortgage file are generally required. Borrowers who have a satisfactory Mortgage Score (based upon the mortgage loan production source) are generally subject to streamlined credit review (which relies on the scoring process for various elements of the underwriting assessments). Such borrowers may also be eligible for a reduced documentation program and are generally permitted a greater latitude in the application of borrower debt-to-income ratios.

BAFC 2006-F Pros. Sup. S-31.

- That "Wells Fargo Bank permits debt-to-income ratios to exceed guidelines when the applicant has ***documented compensating factors*** for exceeding ratio guidelines such as documented excess funds in reserves after closing, a history of making a similar sized monthly debt payment on a timely basis, substantial residual income after monthly obligations are met, evidence that ratios will be reduced shortly after closing when a financed property under contract for sale is sold, or additional income has been verified for one or more applicants that is ineligible for consideration as qualifying income." BAFC 2006-F Pros. Sup. S-32.

- The Supplement further asserts the following with regard to mortgages purchased from originators other than Wells Fargo:

> In order to qualify for participation in Wells Fargo Bank's mortgage loan purchase programs, lending institutions must (i) meet and maintain certain net worth and other financial standards, (ii) demonstrate experience in originating residential mortgage loans, (iii) meet and maintain certain operational standards, (iv) evaluate each loan offered to Wells Fargo Bank for consistency with Wells Fargo Bank's underwriting guidelines or the standards of a pool insurer and represent that each loan was underwritten

> in accordance with Wells Fargo Bank standards or the standards of a pool insurer and (v) utilize the services of qualified appraisers.

BAFC 2006-F Pros. Sup. S-30.

465. These statements were materially misleading for multiple reasons, which are described in detail on Appendix III hereto. Fundamentally, they grossly distort the underwriting process that was actually employed by indicating that it was a principled process that followed rigorous standards and employed numerous safeguards. Unfortunately, as described *supra* § IV.C., both Wells Fargo and the other originators of mortgage loans that secured the PLMBS purchased by the Bank effectively abandoned their stated underwriting standards in an effort to maximize their mortgage origination volume. "Exceptions" to standards became the rule. Reduced documentation was employed not to streamline the process where warranted, but instead to mask the borrower's disqualification. Inflated valuations were accepted, whether through appraisals performed without regard for applicable appraisal standards, or through alternative valuations processes aimed at producing the result necessary to permit the loan to be made. Requirements for verification of borrower income, assets or employment were routinely ignored. Loans were purchased in bulk from third parties without meaningful due diligence of their quality. Ratios of loan-to-value or debt-to-income were meaningless because the appraised values were unreliable and the borrowers' income assertions were unverified.

466. In addition, the statements were materially misleading because they fail to disclose that Wells Fargo had no reliable basis on which to conclude that the scoring systems allegedly employed provided the asserted "consistent, objective measures of borrower credit," or that the resulting "mortgage score" was a reliable indicator of the probability of default. Wells Fargo, like others in the industry, constructed "models" to justify their underwriting programs that were based on scant historical data and were therefore utterly unreliable. Indeed, the

explosion in Alt-A, subprime and other untraditional lending, described *supra* § IV.B.1., rendered irrelevant the industry's historical models based on traditional underwriting practices. But Wells Fargo and others continued to use this data to construct "models" to justify their ever-less rigorous underwriting programs, and continued to present these models and programs to investors as prudent, thoroughly tested and well-grounded in reliable and objective data.

467. The statements were further materially misleading because they fail to disclose that Wells Fargo, like the other originators of mortgages that secured the PLMBS purchased by the Bank, lacked adequate procedures and practices to monitor or evaluate its underwriters' exercise of judgment, or to provide appropriate training and education to its underwriters.

3. Evidence Demonstrating Misstatements in the Offering Documents Regarding the Originators' Underwriting Practices.

a. Government investigations, actions and settlements, confidential witnesses and evidence developed in other private lawsuits demonstrate systematic and pervasive abandonment of stated underwriting practices by the originators.

468. As alleged in detail above, the failure of the mortgage originators who issued the loans backing the PLMBS purchased by the Bank to apply their stated underwriting guidelines, ensure that compensating factors justified exceptions, and obtain accurate appraisals is well documented in government investigations and lawsuits, press reports, and statements of confidential witnesses who are former employees of the mortgage originators. Additional evidence has been generated by the many other private lawsuits against many of the same Defendants in connection with the sale of MBS and related securities. This evidence – and the allegations herein based on this evidence – demonstrates that the statements in the Offering Documents regarding the mortgage originators' underwriting and appraisal practices are false and misleading. Contrary to the representations in the Offering Documents, the mortgage

originators did not genuinely attempt to determine the borrowers' ability to pay, or the adequacy of the collateral provided for the loans they issued, but instead, abandoned these efforts in order to issue as many loans possible.

b. Analysis of loans that backed the PLMBS purchased by the Bank demonstrates the abandonment of stated underwriting practices by the originators.

469. Analysis of the specific loans that backed the PLMBS purchased by the Bank show high rates of delinquency and foreclosure, evidencing a pervasive disregard of sound underwriting practices.

470. For example, for the following PLMBS purchased by the Bank, ***the rate of delinquent loans as of September 2010 was 10 percent or greater***:

- Certificate AMSI 2005-R10 A2B, 30.22%
- Certificate ARSI 2005-W5 A2C, 46.52%
- Certificate BAFC 2006-C 2A1, 33.51%
- Certificate BAFC 2006-E 2A2, 33.24%
- Certificate BAFC 2006-E 3A1, 22.87%
- Certificate BAFC 2006-F 2A1, 22.35%
- Certificate BAFC 2006-F 3A1, 24.01%
- Certificate CBASS 2006-CB4 AV3, 49.77%
- Certificate CMLTI 2006-NC1 A2C, 51.10%
- Certificate CMLTI 2006-WFH2 A2B, 39.37%
- Certificate CMLTI 2006-WFH4 A3, 36.66%
- Certificate CMLTI 2006-NC2 A2B, 51.61%
- Certificate FFML 2006-FF13 A2C, 45.33%

- Certificate FFML 2006-FF8 IIA3, 44.63%
- Certificate FFML 2006-FF12 A3, 36.05%
- Certificate FFML 2006-FF12 A4, 36.05%
- Certificate FFML 2006-FF14 A5, 38.07%
- Certificate FFML 2006-FF10 A7, 37.76%
- Certificate FHASI 2006-AR1 2A1, 18.08%
- Certificate FHLT 2005-E 2A3, 61.16%
- Certificate GMACM 2006-AR2 2A1, 15.62%
- Certificate GMACM 2006-AR2 4A1, 25.39%
- Certificate GSAMP 2006-NC2 A2C, 45.20%
- Certificate HVMLT 2006-2 2A1A, 14.86%
- Certificate INABS 2005-D AII3, 36.96%
- Certificate INDX 2006-AR15 A2, 37.28%
- Certificate MABS 2006-NC1 A3, 42.36%
- Certificate MSAC 2006-WMC2 A2C, 53.24%
- Certificate MSAC 2006-HE5 A2C, 57.73%
- Certificate MSAC 2006-HE6 A2C, 69.42%
- Certificate NHELI 2006-WF1 A3, 36.61%
- Certificate OOMLT 2005-5 A3, 35.69%
- Certificate OOMLT 2006-2 2A3, 44.28%
- Certificate RFMSI 2006-SA2 2A1, 19.5%
- Certificate RASC 2005-KS12 A2, 35.77%
- Certificate SABR 2006-FR3 A2, 51.45%

- Certificate SABR 2006-NC3 A2B, 39.14%
- Certificate SEMT 2006-1 2A1, 21.47%
- Certificate SEMT 2006-1 3A1, 26.45%
- Certificate SARM 2005-21 3A1, 24.21%
- Certificate WFHET 2006-3 A2, 45.59%
- Certificate WFMBS 2006-AR3 A4, 13.43%

471. Similarly, for the following PLMBS purchased by the Bank, ***the rate of foreclosure as of September 2010 was 5 percent or greater***:

- Certificate AMSI 2005-R10 A2B, 12.82%
- Certificate ARSI 2005-W5 A2C, 27.64%
- Certificate BAFC 2006-C 2A1, 11.81%
- Certificate BAFC 2006-F 2A1, 7.56%
- Certificate BAFC 2006-F 3A1, 10.47%
- Certificate CBASS 2006-CB4 AV3, 21.49%
- Certificate CMLTI 2006-NC1 A2C, 23.08%
- Certificate CMLTI 2006-WFH2 A2B, 15.20%
- Certificate CMLTI 2006-WFH4 A3, 12.96%
- Certificate CMLTI 2006-NC2 A2B, 25.47%
- Certificate FFML 2006-FF13 A2C, 19.81%
- Certificate FFML 2006-FF8 IIA3, 19.16%
- Certificate FFML 2006-FF12 A3, 12.20%
- Certificate FFML 2006-FF12 A4, 12.20%
- Certificate FFML 2006-FF14 A5, 13.83%

- Certificate FFML 2006-FF10 A7, 13.92%
- Certificate FHASI 2006-AR1 2A1, 6.92%
- Certificate FHLT 2005-E 2A3, 26.78%
- Certificate GMACM 2006-AR2 2A1, 6.16%
- Certificate GMACM 2006-AR2 4A1, 11.39%
- Certificate GSAMP 2006-NC2 A2C, 17.07%
- Certificate INABS 2005-D AII3, 23.18%
- Certificate INDX 2006-AR15 A2, 19.20%
- Certificate MABS 2006-NC1 A3, 18.35%
- Certificate MSAC 2006-WMC2 A2C, 23.46%
- Certificate MSAC 2006-HE5 A2C, 19.13%
- Certificate MSAC 2006-HE6 A2C, 24.33%
- Certificate NHELI 2006-WF1 A3, 14.57%
- Certificate OOMLT 2005-5 A3, 16.5%
- Certificate OOMLT 2006-2 2A3, 20.88%
- Certificate RFMSI 2006-SA2 2A1, 10.15%
- Certificate RASC 2005-KS12 A2, 16.29%
- Certificate SABR 2006-FR3 A2, 22.24%
- Certificate SABR 2006-NC3 A2B, 14.24%
- Certificate SEMT 2006-1 2A1, 10.06%
- Certificate SEMT 2006-1 3A1, 7.67%
- Certificate SARM 2005-21 3A1, 11.16%
- Certificate WFHET 2006-3 A2, 16.17%

B. Defendants Misrepresented the Loan-to-Value Ratios ("LTV").

1. The Materiality of LTVs

472. The loan-to-value ratio of a mortgage loan is the ratio of the amount of the mortgage loan to the lower of the appraised value or the sale price of the mortgaged property when the loan is made. For example, a loan of $200,000 secured by property valued at $500,000 has an LTV of 40%; a loan of $450,000 on the same property has an LTV of 90%. The LTV is one of the most important measures of the risk of a mortgage loan because it is a primary determinant of the likelihood of default. The lower the LTV, the less likely it is that a decline in the property's value will wipe out the owner's equity and give the owner an incentive to stop making mortgage payments and abandon the property (a "strategic default"). Additionally, lower LTV ratios indicate that the losses on loans that do default will be less severe – *i.e.*, loans with lower LTVs provide greater "cushion" because there is an increased likelihood that the proceeds of foreclosure will cover the unpaid balance on the mortgage loan.

473. Because the riskiness of the underlying loans in the asset pool (including the risk of default and the severity of the losses on default) impacts the risk of the associated PLMBS securities, the weighted average LTV (*i.e.*, the average of the LTVs for the mortgages in the pool, weighted by the principal amount thereof) are material to an investor's decision to purchase PLMBS, and specifically, were material to the Bank. Indeed, credit rating agencies use LTVs to determine the proper structuring and credit enhancement necessary to assign a particular rating to a security. If the LTVs of the mortgage loans in the asset pool of the securitization are misrepresented or misstated, the ratings of the certificates sold in that securitization will also be incorrect. Investors will therefore be misled about the risk of investing in a particular PLMBS certificate.

474. The key to an accurate LTV is an accurate denominator (the value of the property). A denominator that is too high will understate, sometimes greatly, the risk of a loan. In the example above, if the property's actual value is $500,000, but is valued incorrectly at $550,000, then the LTV of the $200,000 loan falls from 40% to 36.4%, and the LTV of the $450,000 loan falls from 90% to 81.8%. In either case, an LTV that is based upon an improperly inflated appraisal value understates the risk of the loan.

475. Additionally, it is important to note that the higher the correct LTV, the more the risk is understated by an overstatement of value of any particular magnitude. In the example above, although the risk of a loan with an LTV of 40% is greater than the risk of one with an LTV of 36.4%, both imply a relatively safe loan because of the large equity cushions. By contrast, a loan with an LTV of 90% is much riskier than one with an LTV of 81.8%. In the case of a loan with an LTV of 81.8%, there is an equity cushion of 18.2% of the value of the property, while in the case of the 90% LTV loan, the equity cushion is only 10% -- just over half as much. Thus, in the example in the preceding paragraph, the $50,000 overstatement in the appraisal has a far more dramatic effect on the risk profile of the $450,000 loan than on the $200,000 loan.

476. LTVs also serve as indicators of prepayment patterns – that is, the number of borrowers who pay off their mortgage loans before maturity. LTVs thus predict the expected lives of the loans and the associated PLMBS certificates that are backed by the loans. Prepayment patterns affect many aspects of the PLMBS certificates that are material to the investors purchasing them, such as the life of the certificate and the timing and amount of cash that the investor will receive during that life.

477. The Offering Documents contained several statements regarding LTVs that were critical to the Bank's decision to purchase certificates in a securitization of mortgage loans.

These statements include: the weighted average LTV of the pool and the extent to which loans in the pool had an LTV in excess of 100%, 90% or 80%. Even seemingly minor differences in these metrics had a significant effect on both the risk and rating of each Certificate sold in the securitization. For example, if the offering documents asserted a weighted average LTV for a pool of 80%, if that true weighted average LTV (after correcting inaccuracies in appraisals that overstated the value of the properties securing the mortgages) was 82%, the offering documents' assertion would constitute a material misstatement of the risk profile of the mortgage pool and the PLMBS it secured because the investors' equity cushion (and the borrowers' equity interest in the properties) would be eroded by 10 percent.

2. Evidence Demonstrating Misstatements about LTV Ratios in the Offering Documents

478. As part of its investigation of the claims asserted herein, the Bank has analyzed the LTV ratios of mortgage loans that secure each of the PLMBS that it purchased. The Bank has tested the LTV ratios as represented in the Offering Documents against the LTV ratios that would have been calculated had the properties been valued at the time of loan origination in accordance with accepted and reliable appraisal practices (as was represented in the Offering Documents). To perform this analysis, the Bank has employed an industry-standard automated valuation model ("AVM") that reliably calculates the values of the subject properties as of the date of mortgage loan origination.

479. The results of this analysis are stark misstatements in the LTV ratio information as represented in the Offering Documents. Because the LTV calculation is simply a ratio of loan amount to value, and because the loan amounts are unquestioned, the reason for the discrepancies is inescapable: the LTV ratios represented in the Offering Documents were the result of inflated and unreliable appraisals. Had the appraisal practices comported with those

represented in the Offering Documents, the resulting LTV ratios would have been materially different from those represented in the Offering Documents. The LTV ratio representations in the Offering Documents were key metrics in the Bank's decision to purchase the PLMBS, and the Bank was materially misled by the inaccurate information reported in the Offering Documents. Through their participation in and/or knowledge of the manipulation of the appraisal process in the origination of mortgage loans as described herein, Defendants knew that the appraisals were unreliable and that statements made in the Offering Documents based in whole or in part on the appraised values, including statements regarding LTV ratios and credit ratings, were false and misleading.

480. The following summarizes four types of material LTV ratio understatements contained in the Offering Documents: the percentage of loans with over 100% LTV; the percentage of loans with over 90% LTV; the percentage of loans with over 80% LTV; and the weighted average LTV ratio for the mortgage pool. Each is a distinct and significant representation in the Offering Documents.

481. The 100% LTV representation is obviously significant because loans with over 100% LTV afford the lender no equity cushion and leave the lender with inadequate collateral from the outset of the lender. The Offering Documents consistently assured the Bank that there were no such loans in the mortgage pools. Unfortunately, as the following table indicates, the recalculated LTV ratios (which, based on the AVM, indicate what the reported LTV would have been had proper appraisal methods been employed) indicate that there were a material number of mortgage loans with LTV ratios in excess of 100%:

Security (Certificate)	% of Loans with Greater than 100% LTV Per the Prospectus	Recalculated % of Loans with Greater than 100% LTV	Prospectus Understatement
AMSI 2005-R10 (AMSI 2005-R10 A2B)	0.00%	27.18%	27.18%
Argent 2005-W05-2 (ARSI 2005-W5 A2C)	0.00%	16.96%	16.96%
BOA Funding2006C-2 (BAFC 2006-C 2A1)	0.00%	16.39%	16.39%
BOA Funding2006E-2 (BAFC 2006-E 2A2)	0.00%	16.67%	16.67%
BOA Funding2006E-3 (BAFC 2006-E 3A1)	0.00%	13.58%	13.58%
BOA Funding2006F-2 (BAFC 2006-F 2A1)	0.00%	14.71%	14.71%
BOA Funding2006F-3 (BAFC 2006-F 3A1)	0.00%	7.69%	7.69%
C-BASS 2006-CB4 (CBASS 2006-CB4 AV3)	.04%	15.81%	15.77%
Citigroup 06-NC1-2 (CMLTI 2006-NC1 A2C)	0.00%	14.29%	14.29%
Citigroup 06-WFHE2 (CMLTI 2006-WFH2 A2B)	0.00%	20.91%	20.91%
Citigroup 06-WFHE4 (CMLTI 2006-WFH4 A3)	0.00%	25.00%	25.00%
Citigroup 06-NC2-2 (CMLTI 2006-NC2 A2B)	0.00%	22.69%	22.69%
1st Frkln06-FF13-2 (FFML 2006-FF13 A2C)	0.00%	26.87%	26.87%
1st Frkln06-FF08-2 (FFML 2006-FF8 IIA3)	0.27%	20.73%	20.46%
1st Frkln06-FF12-2 (FFML 2006-FF12 A3)	0.00%	23.20%	23.20%
1st Frkln06-FF14-2 (FFML 2006-FF14 A5)	0.00%	24.00%	24.00%
1st Frkln06-FF10-2 (FFML 2006-FF10 A7)	0.00%	28.00%	28.00%
FirstHorizon06AR1-2 (FHASI 2006-AR1 2A1)	0.00%	9.09%	9.09%
Fremont 2005-E-2 (FHLT 2005-E 2A3)	0.00%	15.38%	15.38%
GSAMP 2006-NC2-2 (GSAMP 2006-NC2 A2C)	0.00%	18.33%	18.33%
Harborview2006-02-2 (HVMLT 2006-2 2A1A)	0.00%	3.49%	3.49%

Security (Certificate)	% of Loans with Greater than 100% LTV Per the Prospectus	Recalculated % of Loans with Greater than 100% LTV	Prospectus Understatement
Harborview2006-02-3 (HVMLT 2006-2 3A1A)	0.00%	3.57%	3.57%
INABS 2005-D-2 (INABS 2005-D (AII3)	0.00%	18.29%	18.29%
IndyMac 2006-AR15 (INDX 2006-AR15 A2)	0.00%	4.07%	4.07%
Master Asst06NC1 (MABS 2006-NC1 A3)	0.00%	21.68%	21.68%
Morgan Stan06WMC2-2 (MSAC 2006-WMC2 A2C)	0.00%	8.54%	8.54%
Morgan Stan06-HE5-2 (MSAC 2006-HE5 A2C)	0.00%	13.46%	13.46%
Morgan Stan06-HE6-2 (MSAC 2006-HE6 A2C)	0.00%	12.10%	12.10%
Nomura 2006-WF1 (NHELI 2006-WF1 A3)	0.00%	26.67%	26.67%
Option One 05-5-2 (OOMLT 2005-5 A3)	0.00%	25.61%	25.61%
Option One 06-2-2 (OOMLT 2006-2 2A3)	0.00%	18.24%	18.24%
RFC 2006-SA02-2 (RFMSI 2006-SA2 2A1)	0.00%	10.17%	10.17%
RFC 2005-KS12 (RASC 2005-KS12 A2)	0.00%	14.22%	14.22%
SABR 2006-FR3 (SABR 2006-FR3 A2)	0.04%	18.31%	18.27%
SABR 2006-NC3-2 (SABR 2006-NC3 A2B)	0.00%	6.15%	6.15%
Sequoia 2006-01-2 (SEMT 2006-1 2A1)	0.00%	16.07%	16.07%
Sequoia 2006-01-3 (SEMT 2006-1 3A1)	0.00%	11.00%	11.00%
WA Mutl 2006-AR12-1 (SARM 2005-21 3A1)	0.00%	10.00%	10.00%
WFHET 2006-3 (WFHET 2006-3 A2)	0.00%	35.29%	35.29%
WFMBS 2006-AR3 (WFMBS 2006-AR3 A4)	0.00%	5.65%	5.65%

482. The following table lists the securities purchased by the Bank in which the LTV calculated using the AVM exceeds 90%, and lists the representation in the associated Offering Documents with respect to the percentage of the mortgages in the subject pool with LTVs greater than 90%. An LTV in excess of 90% represents an extremely risky mortgage for the investor, as the borrower has little equity in the property and there is a significant risk that upon foreclosure the collateral will be inadequate to pay the debt. Accordingly, for each of the securities listed in the following table, the statement regarding the mortgages in the subject pool with LTVs in excess of 90% was materially misleading.

Security (Certificate)	% of Loans with Greater than 90% LTV Per the Prospectus	Recalculated % of Loans with Greater than 90% LTV	Prospectus Understatement
AMSI 2005-R10 (AMSI 2005-R10 A2B)	12.07%	42.72%	30.65%
Argent 2005-W05-2 (ARSI 2005-W5 A2C)	22.54%	37.66%	15.12%
BOA Funding2006C-2 (BAFC 2006-C 2A1)	0.00%	32.79%	32.79%
BOA Funding2006E-2 (BAFC 2006-E 2A2)	0.17%	25.00%	24.83%
BOA Funding2006E-3 (BAFC 2006-E 3A1)	0.00%	23.46%	23.46%
BOA Funding2006F-2 (BAFC 2006-F 2A1)	1.75%	26.47%	24.72%
BOA Funding2006F-3 (BAFC 2006-F 3A1)	2.04%	20.88%	18.84%
C-BASS 2006-CB4 (CBASS 2006-CB4 AV3)	15.83%	38.06%	22.23%
Citigroup 06-NC1-2 (CMLTI 2006-NC1 A2C)	24.14%	33.33%	9.19%
Citigroup 06-WFHE2 (CMLTI 2006-WFH2 A2B)	21.57%	35.45%	13.88%
Citigroup 06-WFHE4 (CMLTI 2006-WFH4 A3)	31.91%	48.33%	16.42%
Citigroup 06-NC2-2 (CMLTI 2006-NC2 A2B)	21.47%	40.34%	18.87%
1st Frkln06-FF13-2 (FFML 2006-FF13 A2C)	21.62%	41.79%	20.17%
1st Frkln06-FF08-2	17.30%	45.12%	27.82%

Security (Certificate)	% of Loans with Greater than 90% LTV Per the Prospectus	Recalculated % of Loans with Greater than 90% LTV	Prospectus Understatement
(FFML 2006-FF8 IIA3)			
1st Frkln06-FF12-2 (FFML 2006-FF12 A3)	18.81%	40.33%	21.52%
1st Frkln06-FF14-2 (FFML 2006-FF14 A5)	21.22%	50.00%	28.78%
1st Frkln06-FF10-2 (FFML 2006-FF10 A7)	19.11%	42.00%	22.89%
FirstHorizon06AR1-2 (FHASI 2006-AR1 2A1)	0.00%	22.73%	22.73%
Fremont 2005-E-2 (FHLT 2005-E 2A3)	25.98%	37.69%	11.71%
GSAMP 2006-NC2-2 (GSAMP 2006-NC2 A2C)	6.23%	35.00%	28.77%
Harborview2006-02-2 (HVMLT 2006-2 2A1A)	0.43%	11.05%	10.62%
Harborview2006-02-3 (HVMLT 2006-2 3A1A)	0.00%	5.36%	5.36%
INABS 2005-D-2 (INABS 2005-D AII3)	8.85%	36.59%	27.74%
IndyMac 2006-AR15 (INDX 2006-AR15 A2)	0.70%	21.14%	20.44%
Master Asst06NC1 (MABS 2006-NC1 A3)	15.95%	34.97%	19.02%
Morgan Stan06-HE5-2 (MSAC 2006-HE5 A2C)	23.24%	42.31%	19.07%
Morgan Stan06-HE6-2 (MSAC 2006-HE6 A2C)	22.82%	33.06%	10.24%
Nomura 2006-WF1 (NHELI 2006-WF1 A3)	31.00%	33.33%	2.33%
Option One 05-5-2 (OOMLT 2005-5 A3)	33.43%	40.24%	6.81%
RFC 2006-SA02-2 (RFMSI 2006-SA2 2A1)	0.54%	23.73%	23.19%
RFC 2005-KS12 (RASC 2005-KS12 A2)	20.26%	26.67%	6.41%
SABR 2006-FR3 (SABR 2006-FR3 A2)	24.11%	35.21%	11.10%
SABR 2006-NC3-2 (SABR 2006-NC3 A2B)	22.46%	30.77%	8.31%
Sequoia 2006-01-2 (SEMT 2006-1 2A1)	0.44%	30.36%	29.92%
Sequoia 2006-01-3 (SEMT 2006-1 3A1)	0.14%	25.00%	24.86%

Security (Certificate)	% of Loans with Greater than 90% LTV Per the Prospectus	Recalculated % of Loans with Greater than 90% LTV	Prospectus Understatement
WA Mutl 2006-AR12-1 (SARM 2005-21 3A1)	4.08%	28.00%	23.92%
WFHET 2006-3 (WFHET 2006-3 A2)	24.90%	48.04%	23.14%
WFMBS 2006-AR3 (WFMBS 2006-AR3 A4)	0.68%	14.69%	14.01%

483. The following table lists the securities purchased by the Bank in which the LTV calculated using the AVM exceeds 80%, and lists the representation in the associated Offering Documents with respect to the percentage of the mortgages in the subject pool with LTVs greater than 80%. The 80% LTV metric is very significant to an PLMBS investor such as the Bank, because in traditional mortgage underwriting an LTV in excess of 80% was generally considered as affording the lender little value cushion to protect against borrower default and loss upon foreclosure. Accordingly, for each of the securities listed in the following table, the statement regarding the percentage of mortgages in the subject pool with LTVs in excess of 80% was materially misleading.

Security (Certificate)	% of Loans with Greater than 80% LTV Per the Prospectus	Recalculated % of Loans with Greater than 80% LTV	Prospectus Understatement
AMSI 2005-R10 (AMSI 2005-R10 A2B)	54.65%	60.19%	5.54%
Argent 2005-W05-2 (ARSI 2005-W5 A2C)	43.32%	66.08%	22.96%
BOA Funding2006C-2 (BAFC 2006-C 2A1)	3.18%	81.25%	61.34%
BOA Funding2006E-2 (BAFC 2006-E 2A2)	1.53%	56.25%	54.72%
BOA Funding2006E-3 (BAFC 2006-E 3A1)	0.00%	54.32%	54.32%
BOA Funding2006F-2 (BAFC 2006-F 2A1)	3.51%	58.82%	56.19%
BOA Funding2006F-3 (BAFC 2006-F 3A1)	3.57%	61.54%	26.11%

Security (Certificate)	% of Loans with Greater than 80% LTV Per the Prospectus	Recalculated % of Loans with Greater than 80% LTV	Prospectus Understatement
C-BASS 2006-CB4 (CBASS 2006-CB4 AV3)	40.56%	59.68%	17.43%
Citigroup 06-NC1-2 (CMLTI 2006-NC1 A2C)	46.26%	55.95%	9.99%
Citigroup 06-WFHE2 (CMLTI 2006-WFH2 A2B)	48.32%	58.18%	9.86%
Citigroup 06-NC2-2 (CMLTI 2006-NC2 A2B)	44.38%	68.07%	23.69%
1st Frkln06-FF13-2 (FFML 2006-FF13 A2C)	36.37%	62.69%	27.81%
1st Frkln06-FF08-2 (FFML 2006-FF8 IIA3)	27.00%	80.49%	53.49%
1st Frkln06-FF12-2 (FFML 2006-FF12 A3)	32.64%	73.48%	39.74%
1st Frkln06-FF14-2 (FFML 2006-FF14 A5)	35.56%	84.00%	48.76%
1st Frkln06-FF10-2 (FFML 2006-FF10 A7)	34.06%	68.00%	35.94%
FirstHorizon06AR1-2 (FHASI 2006-AR1 2A1)	1.29%	53.03%	50.22%
Fremont 2005-E-2 (FHLT 2005-E 2A3)	43.65%	56.92%	13.60%
GSAMP 2006-NC2-2 (GSAMP 2006-NC2 A2C)	32.32%	63.33%	31.01%
Harborview2006-02-2 (HVMLT 2006-2 2A1A)	27.80%	30.81%	4.38%
Harborview2006-02-3 (HVMLT 2006-2 3A1A)	0.00%	25.00%	25.00%
INABS 2005-D-2 (INABS 2005-D AII3)	33.51%	59.76%	26.25%
IndyMac 2006-AR15 (INDX 2006-AR15 A2)	2.49%	58.54%	57.01%
Master Asst06NC1 (MABS 2006-NC1 A3)	45.90%	58.04%	15.72%
Morgan Stan06WMC2-2 (MSAC 2006-WMC2 A2C)	45.46%	50.00%	4.54%
Morgan Stan06-HE5-2 (MSAC 2006-HE5 A2C)	47.84%	65.38%	19.46%
Morgan Stan06-HE6-2 (MSAC 2006-HE6 A2C)	44.27%	60.48%	16.21%
Option One 05-5-2 (OOMLT 2005-5 A3)	56.07%	62.20%	6.13%

Security (Certificate)	% of Loans with Greater than 80% LTV Per the Prospectus	Recalculated % of Loans with Greater than 80% LTV	Prospectus Understatement
RFC 2006-SA02-2 (RFMSI 2006-SA2 2A1)	2.24%	48.24%	46.00%
RFC 2005-KS12 (RASC 2005-KS12 A2)	43.66%	54.24%	10.57%
SABR 2006-FR3 (SABR 2006-FR3 A2)	43.49%	52.89%	9.40%
SABR 2006-NC3-2 (SABR 2006-NC3 A2B)	47.62%	57.75%	10.13%
Sequoia 2006-01-2 (SEMT 2006-1 2A1)	3.07%	58.46%	55.39%
Sequoia 2006-01-3 (SEMT 2006-1 3A1)	0.95%	51.79%	50.84%
WA Mutl 2006-AR12-1 (SARM 2005-21 3A1)	10.58%	56.00%	45.42%
WFHET 2006-3 (WFHET 2006-3 A2)	47.12%	63.00%	15.88%
WFMBS 2006-AR3 (WFMBS 2006-AR3 A4)	1.70%	65.69%	63.99%

484. The following table lists mortgage pools securing the PLMBS purchased by the Bank in which the representation contained in the related Offering Documents with respect to the weighted average LTV of the mortgage pool securing those PLMBS was materially understated. The weighted average LTV representation is significant because it provides the investor with an important gauge as to the overall riskiness of the mortgage pool.

Security (Certificate)	Weighted Average LTV As Stated in Prospectus	Recalculated Weighted Average LTV	Prospectus Understatement
AMSI 2005-R10 (AMSI 2005-R10 A2B)	80.49%	83.39%	2.90%
BOA Funding2006C-2 (BAFC 2006-C 2A1)	72.79%	83.97%	11.18%
BOA Funding2006E-2 (BAFC 2006-E 2A2)	72.59%	85.24%	12.65%
BOA Funding2006E-3 (BAFC 2006-E 3A1)	69.84%	78.09%	8.25%
BOA Funding2006F-2 (BAFC 2006-F 2A1)	73.56%	80.70%	7.14%
BOA Funding2006F-3	73.15%	78.96%	5.81%

Security (Certificate)	Weighted Average LTV As Stated in Prospectus	Recalculated Weighted Average LTV	Prospectus Understatement
(BAFC 2006-F 3A1)			
1st Frkln06-FF13-2 (FFML 2006-FF13 A2C)	82.64%	87.73%	5.09%
1st Frkln06-FF08-2 (FFML 2006-FF8 IIA3)	82.02%	87.84%	5.82%
1st Frkln06-FF12-2 (FFML 2006-FF12 A3)	82.40%	87.35%	4.95%
1st Frkln06-FF14-2 (FFML 2006-FF14 A5)	82.89%	90.47%	7.58%
1st Frkln06-FF10-2 (FFML 2006-FF10 A7)	81.56%	87.93%	6.37%
FHASI2006AR1-2 (FHASI 2006-AR1 2A1)	74.07%	77.16%	3.09%
Harborview2006-02-2 (HVMLT 2006-2 2A1A)	66.85%	72.35%	5.50%
Harborview2006-02-3 (HVMLT 2006-2 3A1A)	60.41%	66.62%	6.21%
INABS 2005-D-2 (INABS 2005-D AII3)	78.84%	81.63%	2.79%
IndyMac 2006-AR15 (INDX 2006-AR15 A2)	75.97%	78.32%	2.35%
RFC 2006-SA02-2 (RFMSI 2006-SA2 2A1)	72.68%	75.40%	2.72%
Sequoia 2006-01-2 (SEMT 2006-1 2A1)	73.08%	82.59%	9.51%
Sequoia 2006-01-3 (SEMT 2006-1 3A1)	72.39%	80.17%	7.78%
WFMBS 2006-AR13 (WFMBS 2006-AR13 A2)	68.79%	78.43%	9.64%

C. Defendants Misrepresented the Occupancy Status Rates.

1. The Materiality of Occupancy Status Rates

485. Residential real estate can be divided into the following occupancy status categories: primary residences, second homes, and investment properties. Mortgages on primary residences are less risky because they are less likely to default than mortgages on non-owner-occupied residences. Thus, the percentage of loans in the asset pool of a securitization which are secured by mortgages on other than primary residences is a key indicator of the risk of

certificates sold in the securitization. Occupancy status rates also influence prepayment patterns (which in turn affects the timing and payments on the PLMBS certificates).

486. For these reasons, the occupancy status of the collateral backing the mortgages in loan pools was material to the Bank's decision to invest in the PLMBS certificates. The Offering Documents for each of the PLMBS the subject hereof contained specific assertions as to the occupancy status rates of the mortgages in the subject pools.

2. Evidence Demonstrating Misstatements about the Occupancy Status Rates

487. The following table lists mortgage pools securing the PLMBS purchased by the Bank, sets forth the assertion contained in the related Offering Documents with respect to the percentage of the mortgages that were on properties that were not the borrower's primary residence, and sets forth the non-primary residence occupancy status rates generated by a review of information contained in various public and private databases. The databases reviewed contain information regarding, *inter alia*, the address to which borrower's tax bills were sent, the addresses used by borrower's other creditors to send billings, whether borrowers claimed the property as a homestead under applicable law, and whether borrowers owned other properties of record and how the amount of the subject loan compared to the amounts of mortgage loans on other properties owned. As set forth in the following table, the occupancy status rates set forth in the Offering Documents for the PLMBS listed below were materially misstated, and materially misled the Bank regarding the true risk of the Certificates it purchased:

Security (Certificate)	% of Mortgage on Non-Primary Residence Per Prospectus	% of Mortgages on Non-Primary Residence Per Database Review	Prospectus Understatement
AMSI 2005-R10 (AMSI 2005-R10 A2B)	1.77%	7.50%	5.73%
Argent 2005-W05-2 (ARSI 2005-W5 A2C)	3.37%	14.31%	10.94%
BOA Funding2006E-2 (BAFC 2006-E 2A2)	12.93%	16.55%	3.62%
BOA Funding2006F-2 (BAFC 2006-F 2A1)	10.82%	12.99%	2.17%
C-BASS 2006-CB4 (CBASS 2006-CB4 AV3)	7.18%	10.11%	2.93%
Citigroup 06-NC1-2 (CMLTI 2006-NC1 A2C)	10.38%	16.09%	5.71%
Citigroup 06-WFHE2 (CMLTI 2006-WFH2 A2B)	8.48%	9.15%	0.67%
Citigroup 06-WFHE4 (CMLTI 2006-WFH4 A3)	10.08%	13.60%	3.52%
Citigroup 06-NC2-2 (CMLTI 2006-NC2 A2B)	10.49%	14.85%	4.36%
1st Frkln06-FF13-2 (FFML 2006-FF13 A2C)	5.57%	14.85%	9.28%
1st Frkln06-FF08-2 (FFML 2006-FF8 IIA3)	8.15%	13.79%	5.64%
1st Frkln06-FF12-2 (FFML 2006-FF12 A3)	5.41%	10.90%	5.49%
1st Frkln06-FF14-2 (FFML 2006-FF14 A5)	5.66%	10.96%	5.30%
1st Frkln06-FF10-2 (FFML 2006-FF10 A7)	5.94%	12.88%	6.94%
FirstHorizon06AR1-2 (FHASI 2006-AR1 2A1)	5.17%	11.37%	6.20%
Fremont 2005-E-2 (FHLT 2005-E 2A3)	2.09%	19.21%	17.12%
Harborview2006-02-3 (HVMLT 2006-2 3A1A)	1.10%	9.87%	8.77%
INABS 2005-D-2 (INABS 2005-D AII3)	5.20%	9.25%	4.05%
Morgan Stan06WMC2-2 (MSAC 2006-WMC2 A2C)	4.16%	22.76%	18.60%
Morgan Stan06-HE5-2 (MSAC 2006-HE5 A2C)	7.53%	9.60%	2.07%

Security (Certificate)	% of Mortgage on Non-Primary Residence Per Prospectus	% of Mortgages on Non-Primary Residence Per Database Review	Prospectus Understatement
Nomura 2006-WF1 (NHELI 2006-WF1 A3)	2.69%	11.24%	8.55%
Option One 05-5-2 (OOMLT 2005-5 A3)	8.45%	10.94%	2.49%
RFC 2006-SA02-2 (RFMSI 2006-SA2 2A1)	5.20%	9.42%	4.22%
SABR 2006-FR3 (SABR 2006-FR3 A2)	6.00%	12.24%	6.24%
SABR 2006-NC3-2 (SABR 2006-NC3 A2B)	9.58%	12.15%	2.57%
Sequoia 2006-01-2 (SEMT 2006-1 2A1)	6.14%	13.23%	7.09%
Sequoia 2006-01-3 (SEMT 2006-1 3A1)	6.40%	10.08%	3.68%
WFHET 2006-3 (WFHET 2006-3 A2)	10.39%	13.05%	2.66%
WFMBS 2006-AR3 (WFMBS 2006-AR3 A4)	5.78%	11.94%	6.16%

488. Furthermore, unbeknownst to the Bank, as described *supra* §§ IV.B. and IV.C., borrower deception with respect to occupancy status, often encouraged by unscrupulous loan originators, was commonplace during the period the PLMBS purchased by the Bank among the originators of the mortgages that secured the PLMBS.

D. Defendants' Statements Regarding the AAA Rating of the PLMBS Were False and Misleading.

1. The Materiality of the Credit Rating Process and Ratings

489. As discussed above, the Bank only was authorized to purchase investment grade, triple-A rated tranches of the Certificates. Hence, the ratings issued by the Credit Rating Agencies were manifestly material to the Bank's decision to purchase the PLMBS at issue in this case. The ratings, moreover, purported to assess the risk of the securities and the likelihood that

the bank would receive the payments contemplated by the securities. Thus, the ratings provided material information for investors, including the Bank.

2. Misstatements about the Credit Rating Process and Ratings

490. The Offering Documents misstated and omitted information about the ratings issued by the Credit Rating Agencies and the rating process. Each Prospectus contained disclosures regarding the ratings process, and the purpose and bases of the ratings. Appendix IV attached hereto and incorporated herein sets forth those statements and omissions. For example, see Ticker # JPMMT 2006-A5, Supplement to Prospectus, dated April 24, 2006, states:

> The ratings assigned to mortgage pass through certificates address the likelihood of the receipt of all payments on the mortgage loans by the related Certificate holders under the agreements pursuant to which such certificates are issued. Such ratings take into consideration the credit quality of the related mortgage pool, including any credit support providers, structural and legal aspects associated with such certificates, and the extent to which the payment stream on the mortgage pool is adequate to make the payments required by such certificates. Ratings on such certificates do not, however, constitute a statement regarding frequency of prepayments of the Mortgage Loans.

491. These disclosures, however, were incomplete, inaccurate and misleading. Specifically, the Offering Documents misrepresented and omitted the following material information:

- The Offering Documents did not disclose the Credit Rating Agencies' conflicts of interests, which compromised the rating process;
- The Offering Documents did not disclose the manipulation of the credit rating process and "ratings shopping" by issuers and underwriters;
- The Offering Documents did not disclose that the credit ratings were based on false and misleading information with respect to underwriting standards, loan-to-value ratios and other matters pertaining to the mortgages that secured the PLMBS purchased by the Bank;
- The Offering Documents did not disclose the scope and limitations of the Credit Rating Agencies' rating models, including that they relied on outdated data and

failed to adequately protect against misinformation provided by issuers and borrowers; and

- The Offering Documents did not disclose that the investment grade ratings stated and discussed in Offering Documents failed to reflect the true credit risk of the PLMBS purchased by the Bank.

492. In sum, the ratings provided by the Credit Rating Agencies did not in fact assess the likelihood of the receipt of all payments on the mortgage loans by the related Certificate holders under the agreements pursuant to which such certificates are issued, the credit quality of the related mortgage pool, or the extent to which the payment stream on the mortgage pool was adequate to make the payments required by such certificates. As a result, the statements in the Offering Documents regarding the ratings assigned by the Credit Rating Agencies and the rating process materially misled the Bank regarding the true risk of the Certificates it purchased.

3. Evidence Demonstrating Misstatements about the Ratings and Ratings Process

493. As alleged in detail above, *see supra* § IV.F., credit rating process was deeply flawed and plagued by conflicts of interest, issuer and underwriter manipulation, misinformation and faulty and outdated models, among other problems. Furthermore, as alleged above, the Depositor/Issuers manipulated the rating process through ratings shopping, through their direct involvement in the rating process, and their knowledge that the loan pools were of far worse quality than represented. As set forth above, these allegations are all well documented in government investigations, other litigation, and press reports. This evidence – and the allegations herein based on this evidence – demonstrates that the statements in the Offering Documents regarding the ratings and the rating process are false and misleading.

494. In addition, the en masse downgrade of the PLMBS purchased by the Bank from triple-A to junk status indicates that the initial ratings were incorrect and without any legitimate

basis. Likewise, delinquency and foreclosure rates indicate that the PLMBS were far riskier and more prone to loss than the initial ratings indicated. The Defendants possessed ample information about the quality of the loan pools to know that the bundled securities, even though tranched and credit enhanced, did not possess the characteristics of a triple-A rated investment, that the triple-A rating that was obtained as a result of the Depositor/Issuers' and the Underwriters' influence over the ratings process, and, as a result, misrepresented the risk of the PLMBS purchased by the Bank.

495. The following table sets forth the original face amounts and ratings of the PLMBS the subject of this action, and the first date on which such securities' ratings were downgraded to below investment grade:

Ticker	Original Face Value	Moody's Original Rating	S&P Original Rating	Fitch Original Rating	Date First Downgrade to Junk Status
AMSI 2005-R10 A2B	$10,000,000	Aaa	AAA	AAA	
ARSI 2005-W5 A2C	$25,000,000	Aaa	AAA	AAA	3/24/09
BAFC 2006-C 2A1	$159,073,000	n/a	AAA	AAA	7/21/09
BAFC 2006-E 2A2	$201,149,000	n/a	AAA	AAA	7/1/09
BAFC 2006-E 3A1	$72,054,000	n/a	AAA	AAA	7/1/09
BAFC 2006-F 2A1	$192,425,000	n/a	AAA	AAA	4/6/09
BAFC 2006-F 3A1	$97,840,000	n/a	AAA	AAA	7/8/09
CBASS 2006-CB4 AV3	$20,000,000	Aaa	AAA	AAA	3/16/09
CMLTI 2006-NC1 A2C	$20,000,000	Aaa	AAA	n/a	3/19/09
CMLTI 2006-WFH2 A2B	$141,817,000	Aaa	AAA	n/a	3/19/09
CMLTI 2006-WFH4 A3	$8,600,000	Aaa	AAA	n/a	3/19/09
CMLTI 2006-NC2 A2B	$60,000,000	Aaa	AAA	n/a	4/4/08
FFML 2006-FF13 A2C	$70,000,000	Aaa	AAA	n/a	12/16/08
FFML 2006-FF8 IIA3	$20,000,000	Aaa	AAA	n/a	3/19/09
FFML 2006-FF12 A3	$16,000,000	Aaa	AAA	AAA	
FFML 2006-FF12 A4	$96,096,000	Aaa	AAA	AAA	6/12/09
FFML 2006-FF14 A5	$70,000,000	Aaa	AAA	AAA	9/22/08
FFML 2006-FF10 A7	$73,031,000	Aaa	AAA	AAA	3/19/09
FHASI 2006-AR1 2A1	$85,111,000	n/a	AAA	AAA	7/8/09
FHLT 2005-E 2A3	$25,000,000	Aaa	AAA	AAA	6/12/09

Ticker	Original Face Value	Moody's Original Rating	S&P Original Rating	Fitch Original Rating	Date First Downgrade to Junk Status
GMACM 2006-AR2 2A1	$151,856,000	n/a	AAA	AAA	4/6/09
GMACM 2006-AR2 4A1	$42,060,700	n/a	AAA	AAA	9/10/09
GSAMP 2006-NC2 A2C	$36,900,000	Aaa	AAA	n/a	10/23/08
HVMLT 2006-2 2A1A	$235,610,000	n/a	AAA	AAA	7/8/09
HVMLT 2006-2 3A1A	$49,102,000	n/a	AAA	AAA	8/6/09
INABS 2005-D AII3	$12,500,000	Aaa	AAA	AAA	6/12/09
INDX 2006-AR15 A2	$60,000,000	Aaa	AAA	n/a	1/29/09
MABS 2006-NC1 A3	$19,650,000	Aaa	AAA	AAA	3/20/09
MSAC 2006-WMC2 A2C	$25,000,000	Aaa	AAA	AAA	4/16/08
MSAC 2006-HE5 A2C	$20,000,000	Aaa	AAA	AAA	11/24/08
MSAC 2006-HE6 A2C	$20,000,000	Aaa	AAA	AAA	10/30/08
NHELI 2006-WF1 A3	$31,357,000	Aaa	AAA	AAA	6/12/09
OOMLT 2005-5 A3	$15,000,000	Aaa	AAA	AAA	
OOMLT 2006-2 2A3	$36,552,000	Aaa	AAA	n/a	3/17/09
RFMSI 2006-SA2 2A1	$310,023,000	n/a	AAA	AAA	4/6/09
RASC 2005-KS12 A2	$50,000,000	Aaa	AAA	n/a	4/6/10
SABR 2006-FR3 A2	$30,000,000	Aaa	AAA	AAA	6/12/09
SABR 2006-NC3 A2B	$8,000,000	Aaa	AAA	AAA	11/21/08
SEMT 2006-1 2A1	$105,230,000	n/a	AAA	AAA	7/1/09
SEMT 2006-1 3A1	$378,716,000	n/a	AAA	AAA	7/1/09
SARM 2005-21 3A1	$67,709,000	Aaa	AAA	n/a	2/20/09
WFHET 2006-3 A2	$12,500,000	Aaa	AAA	AAA	3/23/09
WFMBS 2006-AR3 A4	$125,000,000	n/a	AAA	AAA	9/10/09

E. Defendants Misrepresented the Mortgage Originators' Compliance with Predatory Lending Restrictions.

1. The Materiality of Predatory Lending Practices and the Issuance of Loans that Violate Other State and Federal Lending Statutes.

496. As a matter of policy, the Bank was not permitted to purchase PLMBS backed by mortgage pools that contained predatory loans.

497. Accordingly, the Bank insisted as an absolute requirement that as to any security it purchased the issuer warrant that none of the underlying mortgages violated any state or federal law concerning predatory lending. Representations and warranties regarding compliance

with predatory lending laws are generally contained in either a Mortgage Loan Purchase Agreement (MLPA) or a Pooling and Service Agreement (PSA) executed prior to the securitization of the mortgages.

498. Prior to purchasing any of the subprime PLMBS, the Bank reviewed the "reps and warranties" contained in either the actual agreements for each bond or the agreements from prior closed transactions that were presented to the Bank as containing "reps and warranties" that would be substantially similar to those included in the final agreements executed for each PLMBS it purchased. Additionally, each subprime PLMBS Prospectus contained either the required "rep and warranty" regarding predatory lending or a representation that such a "rep and warrant" would be contained in the relevant MLPA or PSA for each bond.

499. Thus, statements in the Offering Documents representing and warranting that the subprime mortgage pools did not contain loans that violated state or federal predatory lending laws were material to the Bank's decision to purchase the PLMBS from Defendants.

2. Misstatements about Predatory Lending Compliance

500. The Offering Documents contained material untrue or misleading statements and omissions regarding compliance with applicable predatory lending laws. As an example of the type of representations and warranties reviewed by the Bank prior to the purchased of each PLMBS, Amendment No. 2 to the Flow Mortgage Loan Purchase and Warranties Agreement backing bond FFML 2006-FF13 A2C, dated January 20, 2006, between Goldman Sachs Mortgage Co., the Purchaser (the Sponsor), and First Franklin Financial Corp., the Seller (the Originator), includes a provision stating:

> Any and all requirements of any applicable federal, state or local law, including, without limitation, usury, truth-in-lending, real estate settlement procedures, consumer credit protection, equal credit opportunity and disclosure laws, all applicable predatory and abusive lending laws, or unfair and deceptive practice

laws applicable to the Mortgage Loans, including with limitation, any applicable provision relating to prepayment penalties, have been complied with …

501. Substantively identical provisions were included in the MLPAs and PSAs reviewed by the Bank prior to the purchase of each PLMBS. Additionally, representations that substantively similar "reps and warranties" would be included in the MLPAs and PSAs executed for each PLMBS purchased by the Bank were included in each Prospectus. Appendix V attached hereto and incorporated herein sets forth those statements.

3. Evidence Demonstrating Misstatements about Predatory Lending Practices of the Mortgage Originators

a. Government investigations, actions and settlements, confidential witnesses and evidence developed in other private lawsuits demonstrate predatory lending by the mortgage originators.

502. As alleged in detail above, predatory lending practices by mortgage originators, including those who issued the loans backing the PLMBS purchased by the Bank, is well documented in government investigations and lawsuits, press reports, and statements of confidential witnesses who are former employees of the mortgage originators. Additional evidence has been generated by the many other private lawsuits against many of the same Defendants in connection with the sale of MBS and related securities. This evidence – and the allegations herein based on this evidence – demonstrates that the statements in the Offering Documents regarding compliance with state and federal predatory lending rules are false and misleading. Contrary to the representations in the Offering Documents, the mortgage originators underlying these PLMBS engaged in predatory lending, and often issued loans to borrowers who lacked the ability to make the required payments. Indeed, eleven of the sixteen lenders classified by the OCC as the "worst of the worst" based on foreclosure rates in the ten hardest hit metropolitan areas issued loans that backed PLMBS purchased by the Bank

b. Analysis of loans that backed the PLMBS purchased by the Bank demonstrate that loans in the mortgage pools were the result of predatory lending.

503. An examination of the underlying mortgage loans that back the PLMBS purchased by the Bank provides strong evidence of the violation of predatory lending restrictions by the mortgage originators. This evidence takes several forms. First, given that the issuance of a loan to a borrower who is not qualified for the loan is itself a form of predatory lending, delinquency in the mortgage pools suggest predatory lending. Hence the data presented in Paragraphs 470-71 provides strong evidence of predatory lending practices of the mortgage originators who issued loans that back the PLMBS purchased by the Bank.

504. For many of the securities purchased by the Bank the data is telling. For example, with respect to the two securities that included loans originated by Fremont Savings & Loan, total delinquency for the Fremont loans averaged over 56%, and foreclosures averaged over 24%,. Likewise, for New Century, total delinquency averaged over 55% and foreclosures over 21%. Overall, for the loans (both prime and subprime) backing the PLMBS purchased by the Bank, delinquency averages were over 43%, and foreclosures were over 17%.

505. This analysis demonstrates that the representation and warranty of no predatory lending or High Cost loans made with respect to that pool are materially inaccurate and misleading.

F. Defendants Misrepresented the Due Diligence Performed on the Mortgage Pools that Backed the PLMBS Purchased by the Bank.

1. The Materiality of Due Diligence on the Mortgage Pools

506. As alleged in detail above, the Bank did not have access to the loan files generated at the time the loans were issued; only the Defendants had this information.

Consequently, the Bank was dependent on representations made by the Defendants regarding the quality of the mortgage loans backing the PLMBS it purchased.

507. Defendants made two types of representations regarding the acquisition of mortgages that were originated by third-party originators. First, the Defendants represented that certain of the Originators that are identified in the Offering Documents conducted post-purchase due diligence reviews of a sampling of mortgages they acquired from third-party originators. Second, with respect to certain PLMBS backed by mortgages acquired by Sponsors from unaffiliated originators, the Defendants represented that the Sponsors conducted due diligence reviews of the mortgages prior to their acquisition and securitization. In both cases, these due diligence reviews allegedly were undertaken to ensure that the mortgages were of adequate credit quality and that they were underwritten in compliance with applicable underwriting standards.

508. The representations regarding the underwriting standards employed by the unaffiliated originators and those regarding the due diligence reviews of the mortgage loans provided the Bank with critical reassurances that the overall credit quality of the mortgage pools securing the PLMBS it purchased were as represented in the Offering Documents. The Bank relied on these representations in making its decisions to purchase these securities.

2. Misstatements about Due Diligence

509. The Prospectuses provided to the Bank contained material untrue or misleading statements and omitted material information regarding the due diligence purportedly conducted by the Sponsors and Originators when they acquired mortgages from third-party originators. For example, Banc of America Funding 2006-F Trust Prospectus Supplement, provides the following with respect to mortgages acquired by Wells Fargo from third-parties:

> The contractual arrangements with Correspondents may . . . involve the delegation of all underwriting functions to . . . Correspondents, which will result in Wells Fargo Bank not performing any underwriting functions prior to acquisition of the loan but instead relying on . . . , in the case of bulk purchase acquisitions from such Correspondents, Wells Fargo Bank's post-purchase reviews of samplings of mortgage loans acquired from such Correspondents regarding the Correspondents' compliance with Wells Fargo Bank's underwriting standards. In all instances, however, acceptance by Wells Fargo Bank is contingent upon the loans being found to satisfy Wells Fargo Bank's program standards or the standards of a pool insurer.

BAFC 2006-F Pros. Sup. S-30. Substantively similar provisions regarding a mortgage Originator's due diligence reviews of acquired mortgages were included in the Prospectuses for many of the PLMBS purchased by the Bank. Appendix VI attached hereto and incorporated herein sets forth those statements.

510. Additionally, as an example of the representations made regarding a Sponsor's due diligence reviews of acquired mortgages, see Ticker # CBASS 2006-CB4 AV3, Supplement to Prospectus, dated April 24, 2006, provides:

> The Sponsor or a loan reviewer reviewed a substantial majority of the files related to the Mortgage Loans in connection with the acquisition of the Mortgage Loans by the Sponsor for credit, compliance and property value considerations. These files may include the documentation pursuant to which the mortgage loan was originally underwritten, as well as the mortgagor's payment history on the mortgage loan. In its review, the Sponsor evaluates the mortgagor's credit standing, repayment ability and willingness to repay debt, as well as the value and adequacy of the mortgaged property as collateral.

511. Substantively similar provisions were included in the Prospectuses for many of the PLMBS purchased by the Bank. Appendix VI attached hereto and incorporated herein sets forth those statements. These statements were materially misleading because they omit to state the following information:

- The Sponsors and Originators routinely manipulated the due diligence process by determining the type and scope of review performed and pressuring the third-party due diligence

firms to ignore deviations from the applicable underwriting criteria if alleged "compensating factors" were present;

- The Sponsors and Originators instructed the third-party originators to review fewer loans in loan pools as the securitization market grew, with the percentage of loans reviewed falling from between 25 and 40% early in the decade to between 5 and 10% by 2006;
- The level of due diligence performed by Sponsors and Originators of mortgages backing PLMBS deviated substantially from the level of due diligence performed by purchasers of mortgages who retained those mortgages as investments;
- Due diligence review conducted by third-party underwriters often overlooked questionable claims by borrowers in stated income and other reduced documentation loans;
- The third-party underwriters informed the Sponsors and Originators that a substantial percentage of loans in the loans pools backing PLMBS were defective;
- The Sponsors and Originators nonetheless waived the defects as to a substantial percentage of these loans;
- In many cases, these reportedly defective loans were not removed from PLMBS deals, but rather were used by the Sponsors to negotiate lower prices for the pools of mortgages they acquired and subsequently securitized; and
- Where defective loans in the sample were removed from the pool, no further review was conducted to ensure that none of the remaining 90% of the mortgages was plagued by similar defects as those in the sample.

3. Evidence of Misstatements about Due Diligence

512. As alleged in detail above, *see supra* §§ IV.D.4. and IV.D.5., the manipulation and disregard of the third-party due diligence process by Sponsors and Originators of mortgages

backing PLMBS, including those PLMBS purchased by the Bank, is documented in public testimony and press reports. This evidence – and the allegations herein based on this evidence – demonstrates that the statements in and omissions from the Offering Documents regarding the due diligence review process were materially false and misleading.

VI. COUNTS

FIRST CAUSE OF ACTION

UNTRUE OR MISLEADING STATEMENTS IN THE SALE OF SECURITIES

(Illinois Securities Law, 815 ILCS § 5/12(F) & (G))

513. This cause of action is alleged jointly and severally against the following Defendants in connection with the sale of the following securities:

Security	Against Defendant	As
AMSI 2005-R10 A2B	Barclays Capital Inc.	Underwriter
	Greenwich Capital Markets, Inc.	Underwriter
	J.P. Morgan Securities Inc.	Underwriter
ARSI 2005-W5 A2C	Banc of America Securities LLC	Underwriter
	Barclays Capital Inc.	Underwriter
	Greenwich Capital Markets, Inc.	Underwriter
BAFC 2006-C 2A1	Banc of America Funding Corporation	Depositor
	Banc of America Securities LLC	Underwriter
	Bank of America Corporation	Controlling Person
BAFC 2006-E 2A2	Banc of America Funding Corporation	Depositor
	Banc of America Securities LLC	Underwriter
	Bank of America Corporation	Controlling Person
BAFC 2006-E 3A1	Banc of America Funding Corporation	Depositor
	Banc of America Securities LLC	Underwriter
	Bank of America Corporation	Controlling Person
BAFC 2006-F 2A1	Banc of America Funding Corporation	Depositor
	Banc of America Securities LLC	Underwriter
	Bank of America Corporation	Controlling Person
BAFC 2006-F 3A1	Banc of America Funding Corporation	Depositor
	Banc of America Securities LLC	Underwriter
	Bank of America Corporation	Controlling Person
CBASS 2006-CB4 AV3	J.P. Morgan Acceptance Corporation I	Depositor
	J.P. Morgan Securities Inc.	Underwriter

Security	Against Defendant	As
	Merrill Lynch, Pierce, Fenner & Smith Incorporated	Underwriter
CMLTI 2006-NC1 A2C	Citigroup Mortgage Loan Trust Inc.	Depositor
	Citigroup Global Markets Inc.	Underwriter
	Citigroup Financial Products, Inc.	Controlling Person
	Citigroup Inc.	Controlling Person
CMLTI 2006-WFH2 A2B	Citigroup Mortgage Loan Trust Inc.	Depositor
	Citigroup Global Markets Inc.	Underwriter
	Citigroup Financial Products, Inc.	Controlling Person
	Citigroup Inc.	Controlling Person
CMLTI 2006-WFH4 A3	Citigroup Mortgage Loan Trust Inc.	Depositor
	Citigroup Global Markets Inc.	Underwriter
	Citigroup Financial Products, Inc.	Controlling Person
	Citigroup Inc.	Controlling Person
CMLTI 2006-NC2 A2B	Citigroup Mortgage Loan Trust Inc.	Depositor
	Citigroup Global Markets Inc.	Underwriter
	Citigroup Financial Products, Inc.	Controlling Person
	Citigroup Inc.	Controlling Person
FFML 2006-FF13 A2C	GS Mortgage Securities Corp.	Depositor
	Goldman, Sachs & Co.	Underwriter
	NatCity Investments, Inc.	Underwriter
	Goldman Sachs Mortgage Company	Controlling Person
	The Goldman Sachs Group Inc.	Controlling Person
	PNC Investments LLC	Successor
FFML 2006-FF8 IIA3	Financial Asset Securities Corp.	Depositor
	Greenwich Capital Markets, Inc.	Underwriter
	National City Corporation	Underwriter
	Greenwich Capital Holdings, Inc.	Controlling Person
	The PNC Financial Services Group, Inc.	Successor
FFML 2006-FF12 A3	NatCity Investments, Inc.	Underwriter
	PNC Investments LLC	Successor
FFML 2006-FF12 A4	NatCity Investments, Inc.	Underwriter
	PNC Investments LLC	Successor
FFML 2006-FF14 A5	NatCity Investments, Inc.	Underwriter
	PNC Investments LLC	Successor

Security	Against Defendant	As
FFML 2006-FF10 A7	NatCity Investments, Inc.	Underwriter
	PNC Investments LLC	Successor
FHASI 2006-AR1 2A1	First Horizon Asset Securities, Inc.	Depositor
	Banc of America Securities LLC	Underwriter
	First Tennessee Bank, National Association d/b/a FTN Financial Capital Markets	Underwriter
	First Tennessee Bank, National Association	Controlling Person
FHLT 2005-E 2A3	Barclays Capital Inc.	Underwriter
	Credit Suisse First Boston LLC	Underwriter
	Greenwich Capital Markets, Inc.	Underwriter
	UBS Securities LLC	Underwriter
GMACM 2006-AR2 2A1	Residential Asset Mortgage Products, Inc.	Depositor
	Residential Funding Securities Corporation	Underwriter
	GMAC Inc.	Controlling Person
	GMAC Mortgage Group, Inc.	Controlling Person
GMACM 2006-AR2 4A1	Residential Asset Mortgage Products, Inc.	Depositor
	Residential Funding Securities Corporation	Underwriter
	GMAC Inc.	Controlling Person
	GMAC Mortgage Group, Inc.	Controlling Person
GSAMP 2006-NC2 A2C	GS Mortgage Securities Corp.	Depositor
	Goldman, Sachs & Co.	Underwriter
	Goldman Sachs Mortgage Company	Controlling Person
	The Goldman Sachs Group Inc.	Controlling Person
HVMLT 2006-2 2A1A	Greenwich Capital Acceptance, Inc.	Depositor
	Countrywide Securities Corporation	Underwriter
	Greenwich Capital Markets, Inc.	Underwriter
	Greenwich Capital Holdings, Inc.	Controlling Person
HVMLT 2006-2 3A1A	Greenwich Capital Acceptance, Inc.	Depositor
	Countrywide Securities Corporation	Underwriter
	Greenwich Capital Markets, Inc.	Underwriter
	Greenwich Capital Holdings, Inc.	Controlling Person
INABS 2005-D AII3	Credit Suisse First Boston LLC	Underwriter
	Greenwich Capital Markets, Inc.	Underwriter
	Morgan Stanley & Co. Incorporated	Underwriter
	UBS Securities LLC	Underwriter
INDX 2006-AR15 A2	IndyMac MBS, Inc.	Depositor
MABS 2006-NC1 A3	Mortgage Asset Securitization Transactions, Inc.	Depositor

Security	Against Defendant	As
	UBS Securities LLC	Underwriter
	UBS Americas Inc.	Controlling Person
MSAC 2006-WMC2 A2C	Morgan Stanley ABS Capital I Inc.	Depositor
	Morgan Stanley & Co. Incorporated	Underwriter
	Morgan Stanley	Controlling Person
MSAC 2006-HE5 A2C	Morgan Stanley ABS Capital I Inc.	Depositor
	Morgan Stanley & Co. Incorporated	Underwriter
	Morgan Stanley	Controlling Person
MSAC 2006-HE6 A2C	Morgan Stanley ABS Capital I Inc.	Depositor
	Countrywide Securities Corporation	Underwriter
	Morgan Stanley & Co. Incorporated	Underwriter
	Morgan Stanley	Controlling Person
NHELI 2006-WF1 A3	Nomura Home Equity Loan, Inc.	Depositor
	Citigroup Global Markets Inc.	Underwriter
	Nomura Securities International, Inc.	Underwriter
	Nomura Holding America Inc.	Controlling Person
	Option One Mortgage Acceptance Corp.	Depositor
	Banc of America Securities LLC	Underwriter
	Citigroup Global Markets Inc.	Underwriter
	Greenwich Capital Markets, Inc.	Underwriter
	H&R Block Financial Advisors, Inc.	Underwriter
	HSBC Securities (USA) Inc.	Underwriter
	OOMLT 2005-5 A3	Underwriter
	H&R Block, Inc.	Controlling Person
	Option One Mortgage Corporation	Controlling Person
	American Enterprise Investment Services, Inc.	Successor
	Ameriprise Financial Services, Inc.	Successor
OOMLT 2006-2 2A3	Option One Mortgage Acceptance Corp.	Depositor
	Banc of America Securities LLC	Underwriter
	Greenwich Capital Markets, Inc.	Underwriter
	H&R Block Financial Advisors, Inc.	Underwriter
	HSBC Securities (USA) Inc.	Underwriter
	Merrill Lynch, Pierce, Fenner & Smith Incorporated	Underwriter
	H&R Block, Inc.	Controlling Person
	Option One Mortgage Corporation	Controlling Person
	American Enterprise Investment Services, Inc.	Successor
	Ameriprise Financial Services, Inc.	Successor
RFMSI 2006-SA2 2A1	Residential Funding Mortgage Securities I, Inc.	Depositor

Security	Against Defendant	As
	Goldman, Sachs & Co.	Underwriter
	GMAC Inc.	Controlling Person
	GMAC Mortgage Group, Inc.	Controlling Person
RASC 2005-KS12 A2	Residential Asset Securities Corporation	Depositor
	Banc of America Securities LLC	Underwriter
	Greenwich Capital Markets, Inc.	Underwriter
	Residential Funding Securities Corporation	Underwriter
	GMAC Inc.	Controlling Person
	GMAC Mortgage Group, Inc.	Controlling Person
SABR 2006-FR3 A2	Securitized Asset Backed Receivables, LLC	Depositor
	Barclays Capital Inc.	Underwriter
SABR 2006-NC3 A2B	Securitized Asset Backed Receivables, LLC	Depositor
	Barclays Capital Inc.	Underwriter
SARM 2005-21 3A1	UBS Securities LLC	Underwriter
SEMT 2006-1 2A1	Sequoia Residential Funding, Inc.	Depositor
	Banc of America Securities LLC	Underwriter
	Countrywide Securities Corporation	Underwriter
SEMT 2006-1 3A1	Sequoia Residential Funding, Inc.	Depositor
	Banc of America Securities LLC	Underwriter
	Countrywide Securities Corporation	Underwriter
WFHET 2006-3 A2	Wells Fargo Asset Securities Corporation	Depositor
	Barclays Capital Inc.	Underwriter
	Wells Fargo & Company	Controlling Person
	Wells Fargo Bank, National Association	Controlling Person
WFMBS 2006-AR3 A4	Wells Fargo Asset Securities Corporation	Depositor
	Morgan Stanley & Co. Incorporated	Underwriter
	Wells Fargo & Company	Controlling Person
	Wells Fargo Bank, National Association	Controlling Person

514. The Bank hereby incorporates by reference the above allegations, as though fully set forth herein.

515. The Bank expressly excludes from this cause of action any allegation that could be construed as alleging fraud or intentional reckless conduct.

516. In doing the acts alleged in connection with the offer and sale to the Bank of the Certificates in the securitizations referred to above, the Underwriter and Depositor/Issuer

Defendants violated 815 ILCS § 5/12(F) & (G) by: (i) engaging in transactions, practices, or courses of business which worked or tended to work a fraud or deceit upon the Bank as the purchaser of these securities; and (ii) obtaining money or property through the sale of securities by means of untrue statements of material fact or by omitting to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading.

517. Defendants solicited the sale of these securities in Illinois, the Bank accepted the offers of sale for these securities in Illinois, and the purchase and sale of these securities was made in Illinois.

518. In connection with their offer and sale of these securities to the Bank, Defendants made numerous Offering Documents available to the Bank at its office in Cook County. These documents included the prospectus and prospectus supplement filed with the SEC for each securitization, registration statements, summary term sheets, and other documents. In these Offering Documents, Defendants made untrue or false statements of material fact about the Certificates they offered and sold to the Bank.

519. In purchasing the Certificates that are the subject of this cause of action, the Bank reasonably relied on Defendants' business courses of action and the material misstatements and material omissions incorporated in the documents provided by Defendants to the Bank.

520. Defendants' deceptive business practices, misstatements, and omissions alleged herein were material and were the cause of the Bank's decision to purchase these Certificates. If Defendants had not engaged in these materially deceptive practices, material misstatements, or omission of material information, and had instead provided full and accurate disclosures, the

Bank would not have purchased – and in fact its own internal policies would have prevented it from purchasing – the Certificates at issue.

521. The Controlling Person Defendants named in this Count are "controlling persons" as defined by ILCS § 2.4, because these Defendants offered or sold the securities that are the subject of this action, or are members of a group of persons acting in concert in the offer or sale of these securities, and these Defendants own (and did own at the time of sale) beneficially either (a) 25% or more of the outstanding voting securities of the respective Depositor/Issuer Defendants as identified above where no other person owns or controls a greater percentage of such securities; and/or (b) such number of outstanding securities of the respective Depositor/Issuer Defendants as would enable such person, or group of persons, to elect a majority of the board of directors or other managing body of such issuer. In the case of unincorporated Depositor/Issuer Defendants, the Controlling Person Defendants offered or sold the securities that are the subject of this action, or are members of a group of persons acting in concert in the offer or sale of these securities, directly or indirectly control the activities of the respective Depositor/Issuer Defendants as identified above.

522. As controlling persons under ILCS § 2.4, pursuant to ILCS § 13(A), the Controlling Person Defendants are jointly and severally liable to the Bank for the violations of 815 ILCS § 5/12(F) & (G) by the Depositor/Issuer Defendants alleged herein.

523. With respect to the Successor Liability Defendants, this Count is alleged against: (1) Successor Liability Defendant American Enterprise Investment Services, Inc. and/or Ameriprise Financial Services, Inc. as the successor or successors in liability to underwriter H&R Block Financial Advisors, Inc. with respect to Securities OOMLT 2005-5 A3 and OOMLT 2006-2 2A3; (2) The PNC Financial Services Group, Inc., as the successor in liability to

underwriter National City Corporation, d/b/a National City Capital Markets with respect to Security FFML 2006-FF8 IIA3; and (3) PNC Investments LLC, as the successor in liability to underwriter NatCity Investments, Inc. with respect to Securities FFML 2006-FF13 A2C, FFML 2006-FF8 IIA3, FFML 2006-FF12 A3, FFML 2006-FF12 A4, and FFML 2006-FF10 A7. Underwriters H&R Block Financial Advisors, Inc., National City Corporation, d/b/a National City Capital Markets, and NatCity Investments, Inc. are collectively referred to herein as the "Succeeded Underwriters."

524. The Successor Liability Defendants are named herein by virtue of their assumption of the liabilities of the Succeeded Underwriters, and their status as successors-in-interest to the Succeeded Underwriters.

525. The Successor Liability Defendants are jointly and severally or otherwise vicariously liable for the wrongful conduct of their respective Succeeded Underwriters, as alleged herein, because they are the successors in liability to those entities by virtue of those entities' merger with and into the respective Successor Liability Defendants and the Successor Liability Defendants' integration of and assumption of responsibility for the business of the merged entities, including responsibility for pre-merger liabilities.

526. This action is brought within two years after the discovery of the untrue and misleading statements or omissions in the prospectus, prospectus supplements and other Offering Documents that the Defendants sent to the Bank, or within two years after notice of facts which in the exercise of reasonable diligence would lead to actual knowledge of the alleged violation, and within five years of the Bank's purchase of those Certificates, or within any applicable period as tolled by the pendency of other actions. Despite having exercised reasonable diligence, the Bank did not and could not reasonably have discovered earlier the untrue and misleading

statements or omissions in the prospectus, prospectus supplements and other Offering Documents and the other violations of the Illinois Securities Law alleged in this Count.

527. The Bank has timely given notice in accordance with 815 ILCS § 5/13B to Defendants of its election to void its purchases of the Certificates listed in this Count, and has offered to tender the securities to the seller or into court.

528. Under 815 ILCS § 5/13A(1), the Bank is entitled to void the transaction and have Defendants pay the Bank, jointly and severally, the amount paid for each Certificate, plus interest, as set forth in 815 ILCS § 5/13A(1), less any amounts received by the Bank with respect to that Certificate.

SECOND CAUSE OF ACTION

SIGNING OR CIRCULATING SECURITIES DOCUMENTS THAT CONTAINED MATERIAL MISREPRESENTATIONS

(Illinois Securities Law, 815 ILCS § 5/12(H))

529. This cause of action is alleged jointly and severally against the following Defendants in connection with the sale of the following securities:

Security	Against Defendant	As
AMSI 2005-R10 A2B	Barclays Capital Inc.	Underwriter
	Greenwich Capital Markets, Inc.	Underwriter
	J.P. Morgan Securities Inc.	Underwriter
ARSI 2005-W5 A2C	Banc of America Securities LLC	Underwriter
	Barclays Capital Inc.	Underwriter
	Greenwich Capital Markets, Inc.	Underwriter
BAFC 2006-C 2A1	Banc of America Funding Corporation	Depositor
	Banc of America Securities LLC	Underwriter
	Bank of America Corporation	Controlling Person
BAFC 2006-E 2A2	Banc of America Funding Corporation	Depositor
	Banc of America Securities LLC	Underwriter
	Bank of America Corporation	Controlling Person
BAFC 2006-E	Banc of America Funding Corporation	Depositor

Security	Against Defendant	As
3A1	Banc of America Securities LLC	Underwriter
	Bank of America Corporation	Controlling Person
BAFC 2006-F 2A1	Banc of America Funding Corporation	Depositor
	Banc of America Securities LLC	Underwriter
	Bank of America Corporation	Controlling Person
BAFC 2006-F 3A1	Banc of America Funding Corporation	Depositor
	Banc of America Securities LLC	Underwriter
	Bank of America Corporation	Controlling Person
CBASS 2006-CB4 AV3	J.P. Morgan Acceptance Corporation I	Depositor
	J.P. Morgan Securities Inc.	Underwriter
	Merrill Lynch, Pierce, Fenner & Smith Incorporated	Underwriter
CMLTI 2006-NC1 A2C	Citigroup Mortgage Loan Trust Inc.	Depositor
	Citigroup Global Markets Inc.	Underwriter
	Citigroup Financial Products, Inc.	Controlling Person
	Citigroup Inc.	Controlling Person
CMLTI 2006-WFH2 A2B	Citigroup Mortgage Loan Trust Inc.	Depositor
	Citigroup Global Markets Inc.	Underwriter
	Citigroup Financial Products, Inc.	Controlling Person
	Citigroup Inc.	Controlling Person
CMLTI 2006-WFH4 A3	Citigroup Mortgage Loan Trust Inc.	Depositor
	Citigroup Global Markets Inc.	Underwriter
	Citigroup Financial Products, Inc.	Controlling Person
	Citigroup Inc.	Controlling Person
CMLTI 2006-NC2 A2B	Citigroup Mortgage Loan Trust Inc.	Depositor
	Citigroup Global Markets Inc.	Underwriter
	Citigroup Financial Products, Inc.	Controlling Person
	Citigroup Inc.	Controlling Person
FFML 2006-FF13 A2C	GS Mortgage Securities Corp.	Depositor
	Goldman, Sachs & Co.	Underwriter
	NatCity Investments, Inc.	Underwriter
	Goldman Sachs Mortgage Company	Controlling Person
	The Goldman Sachs Group Inc.	Controlling Person
	PNC Investments LLC	Successor
FFML 2006-FF8 IIA3	Financial Asset Securities Corp.	Depositor
	Greenwich Capital Markets, Inc.	Underwriter
	Greenwich Capital Holdings, Inc.	Controlling Person
	National City Corporation	Underwriter
	The PNC Financial Services Group, Inc.	Successor
FFML 2006-FF12 A3	NatCity Investments, Inc.	Underwriter
	PNC Investments LLC	Successor
FFML 2006-	NatCity Investments, Inc.	Underwriter

Security	Against Defendant	As
FF12 A4	PNC Investments LLC	Successor
FFML 2006-FF14 A5	NatCity Investments, Inc.	Underwriter
	PNC Investments LLC	Successor
FFML 2006-FF10 A7	NatCity Investments, Inc.	Underwriter
	PNC Investments LLC	Successor
FHASI 2006-AR1 2A1	First Horizon Asset Securities, Inc.	Depositor
	Banc of America Securities LLC	Underwriter
	First Tennessee Bank, National Association d/b/a FTN Financial Capital Markets	Underwriter
	First Tennessee Bank, National Association	Controlling Person
FHLT 2005-E 2A3	Barclays Capital Inc.	Underwriter
	Credit Suisse First Boston LLC	Underwriter
	Greenwich Capital Markets, Inc.	Underwriter
	UBS Securities LLC	Underwriter
GMACM 2006-AR2 2A1	Residential Asset Mortgage Products, Inc.	Depositor
	Residential Funding Securities Corporation	Underwriter
	GMAC Inc.	Controlling Person
	GMAC Mortgage Group, Inc.	Controlling Person
GMACM 2006-AR2 4A1	Residential Asset Mortgage Products, Inc.	Depositor
	Residential Funding Securities Corporation	Underwriter
	GMAC Inc.	Controlling Person
	GMAC Mortgage Group, Inc.	Controlling Person
GSAMP 2006-NC2 A2C	GS Mortgage Securities Corp.	Depositor
	Goldman, Sachs & Co.	Underwriter
	Goldman Sachs Mortgage Company	Controlling Person
	The Goldman Sachs Group Inc.	Controlling Person
HVMLT 2006-2 2A1A	Greenwich Capital Acceptance, Inc.	Depositor
	Countrywide Securities Corporation	Underwriter
	Greenwich Capital Markets, Inc.	Underwriter
	Greenwich Capital Holdings, Inc.	Controlling Person
HVMLT 2006-2 3A1A	Greenwich Capital Acceptance, Inc.	Depositor
	Countrywide Securities Corporation	Underwriter
	Greenwich Capital Markets, Inc.	Underwriter
	Greenwich Capital Holdings, Inc.	Controlling Person
INABS 2005-D AII3	Credit Suisse First Boston LLC	Underwriter
	Greenwich Capital Markets, Inc.	Underwriter
	Morgan Stanley & Co. Incorporated	Underwriter
	UBS Securities LLC	Underwriter
INDX 2006-AR15 A2	IndyMac MBS, Inc.	Depositor
MABS 2006-NC1 A3	Mortgage Asset Securitization Transactions, Inc.	Depositor

Security	Against Defendant	As
	UBS Securities LLC	Underwriter
	UBS Americas Inc.	Controlling Person
MSAC 2006-WMC2 A2C	Morgan Stanley ABS Capital I Inc.	Depositor
	Morgan Stanley & Co. Incorporated	Underwriter
	Morgan Stanley	Controlling Person
MSAC 2006-HE5 A2C	Morgan Stanley ABS Capital I Inc.	Depositor
	Morgan Stanley & Co. Incorporated	Underwriter
	Morgan Stanley	Controlling Person
MSAC 2006-HE6 A2C	Morgan Stanley ABS Capital I Inc.	Depositor
	Countrywide Securities Corporation	Underwriter
	Morgan Stanley & Co. Incorporated	Underwriter
	Morgan Stanley	Controlling Person
NHELI 2006-WF1 A3	Nomura Home Equity Loan, Inc.	Depositor
	Citigroup Global Markets Inc.	Underwriter
	Nomura Securities International, Inc.	Underwriter
	Nomura Holding America Inc.	Controlling Person
OOMLT 2005-5 A3	Option One Mortgage Acceptance Corp.	Depositor
	Banc of America Securities LLC	Underwriter
	Citigroup Global Markets Inc.	Underwriter
	Greenwich Capital Markets, Inc.	Underwriter
	H&R Block Financial Advisors, Inc.	Underwriter
	HSBC Securities (USA) Inc.	Underwriter
	J.P. Morgan Securities Inc.	Underwriter
	Bank of America Corporation	Controlling Person
	Citigroup Inc.	Controlling Person
	Greenwich Capital Holdings, Inc.	Controlling Person
	H&R Block, Inc.	Controlling Person
	Option One Mortgage Corporation	Controlling Person
OOMLT 2006-2 2A3	Option One Mortgage Acceptance Corp.	Depositor
	Banc of America Securities LLC	Underwriter
	Greenwich Capital Markets, Inc.	Underwriter
	H&R Block Financial Advisors, Inc.	Underwriter
	HSBC Securities (USA) Inc.	Underwriter
	Merrill Lynch, Pierce, Fenner & Smith Incorporated	Underwriter
	Bank of America Corporation	Controlling Person
	Greenwich Capital Holdings, Inc.	Controlling Person
	H&R Block, Inc.	Controlling Person
	Option One Mortgage Corporation	Controlling Person
RFMSI 2006-SA2 2A1	Residential Funding Mortgage Securities I, Inc.	Depositor
	Goldman, Sachs & Co.	Underwriter

Security	Against Defendant	As
	GMAC Mortgage Group, Inc.	Controlling Person
	GMAC In.	Controlling Person
RASC 2005-KS12 A2	Residential Asset Securities Corporation	Depositor
	Banc of America Securities LLC	Underwriter
	Greenwich Capital Markets, Inc.	Underwriter
	Residential Funding Securities Corporation	Underwriter
	Bank of America Corporation	Controlling Person
	GMAC Mortgage Group, Inc.	Controlling Person
	Greenwich Capital Holdings, Inc.	Controlling Person
SABR 2006-FR3 A2	Securitized Asset Backed Receivables, LLC	Depositor
	Barclays Capital Inc.	Underwriter
SABR 2006-NC3 A2B	Securitized Asset Backed Receivables, LLC	Depositor
	Barclays Capital Inc.	Underwriter
SARM 2005-21 3A1	UBS Securities LLC	Underwriter
SEMT 2006-1 2A1	Sequoia Residential Funding, Inc.	Depositor
	Banc of America Securities LLC	Underwriter
	Countrywide Securities Corporation	Underwriter
SEMT 2006-1 3A1	Sequoia Residential Funding, Inc.	Depositor
	Banc of America Securities LLC	Underwriter
	Countrywide Securities Corporation	Underwriter
WFHET 2006-3 A2	Wells Fargo Asset Securities Corporation	Depositor
	Barclays Capital Inc.	Underwriter
	Wells Fargo & Company	Controlling Person
	Wells Fargo Bank, National Association	Controlling Person
WFMBS 2006-AR3 A4	Wells Fargo Asset Securities Corporation	Depositor
	Morgan Stanley & Co. Incorporated	Underwriter
	Morgan Stanley	Controlling Person
	Wells Fargo & Company	Controlling Person
	Wells Fargo Bank, National Association	Controlling Person

530. The Bank hereby incorporates by reference the above allegations, as though fully set forth herein.

531. The Bank expressly excludes from this cause of action any allegation that could be construed as alleging fraud or intentional reckless conduct.

532. In doing the acts alleged in selling to the Bank the Certificates in the securitizations referred to above, the Underwriter and Depositor/Issuer Defendants violated 815

ILCS § 5/12(H) by signing or circulating papers or documents pertaining to these securities which it knew, or as to which it reasonably should have known, contained material misrepresentations.

533. Defendants solicited the sale of these securities in Illinois, the Bank accepted the offers of sale for these securities in Illinois, and the purchase and sale of these securities was made in Illinois.

534. In connection with their offer and sale of these securities to the Bank, Defendants made numerous Offering Documents available to the Bank at its office in Cook County. These documents, which were signed by Defendants, included the prospectus, prospectus supplement filed with the SEC for each securitization, registration statements, summary term sheets, and other documents. In these Offering Documents, Defendants made untrue or false statements of material fact about the Certificates they offered and sold to the Bank.

535. In purchasing the Certificates that are the subject of this cause of action, the Bank reasonably relied on Defendants' untrue or false statements of material fact about the Certificates they offered and sold to the Bank, and which were incorporated in the documents provided by Defendants to the Bank.

536. Defendants' false or untrue statements alleged herein were material and were the cause of the Bank's decision to purchase these Certificates. If Defendants had made these false or untrue statements, and had instead provided full and accurate disclosures, the Bank would not have purchased – and in fact its own internal policies would have prevented it from purchasing – the Certificates at issue.

537. The Controlling Person Defendants named in this Count are "controlling persons" as defined by ILCS § 2.4, because these Defendants offered or sold the securities that are the

subject of this action, or are members of a group of persons acting in concert in the offer or sale of these securities, and these Defendants own (and did own at the time of sale) beneficially either (a) 25% or more of the outstanding voting securities of the respective Depositor/Issuer Defendants as identified above where no other person owns or controls a greater percentage of such securities; and/or (b) such number of outstanding securities of the respective Depositor/Issuer Defendants as would enable such person, or group of persons, to elect a majority of the board of directors or other managing body of such issuer. In the case of unincorporated Depositor/Issuer Defendants, the Controlling Person Defendants offered or sold the securities that are the subject of this action, or are members of a group of persons acting in concert in the offer or sale of these securities, directly or indirectly control the activities of the respective Depositor/Issuer Defendants as identified above.

538. As controlling persons under ILCS § 2.4, pursuant to ILCS § 13(A), the Controlling Person Defendants are jointly and severally liable to the Bank for the violations of 815 ILCS § 5/12(F) & (G) by the Depositor/Issuer Defendants alleged herein.

539. With respect to the Successor Liability Defendants, this Count is alleged against: (1) Successor Liability Defendant American Enterprise Investment Services, Inc. and/or Ameriprise Financial Services, Inc. as the successor or successors in liability to underwriter H&R Block Financial Advisors, Inc. with respect to Securities OOMLT 2005-5 A3 and OOMLT 2006-2 2A3; (2) The PNC Financial Services Group, Inc., as the successor in liability to underwriter National City Corporation, d/b/a National City Capital Markets with respect to Security FFML 2006-FF8 IIA3; and (3) PNC Investments LLC, as the successor in liability to underwriter NatCity Investments, Inc. with respect to Securities FFML 2006-FF13 A2C, FFML 2006-FF8 IIA3, FFML 2006-FF12 A3, FFML 2006-FF12 A4, and FFML 2006-FF10 A7.

Underwriters H&R Block Financial Advisors, Inc., National City Corporation, d/b/a National City Capital Markets, and NatCity Investments, Inc. are collectively referred to herein as the "Succeeded Underwriters."

540. The Successor Liability Defendants are named herein by virtue of their assumption of the liabilities of the Succeeded Underwriters, and their status as successors-in-interest to the Succeeded Underwriters.

541. The Successor Liability Defendants are jointly and severally or otherwise vicariously liable for the wrongful conduct of their respective Succeeded Underwriters, as alleged herein, because they are the successors in liability to those entities by virtue of those entities' merger with and into the respective Successor Liability Defendants and the Successor Liability Defendants' integration of and assumption of responsibility for the business of the merged entities, including responsibility for pre-merger liabilities.

542. This action is brought within two years after the discovery of the untrue and misleading statements or omissions in the prospectus supplements and other documents that the Defendants sent to the Bank, or within two years after notice of facts which in the exercise of reasonable diligence would lead to actual knowledge of the alleged violation, and within five years of the Bank's purchase of those Certificates, or within any applicable period as tolled by the pendency of other actions. Despite having exercised reasonable diligence, the Bank did not and could not reasonably have discovered earlier the untrue and misleading statements or omissions in the prospectus, prospectus supplements and other documents and the other violations of the Illinois Securities Law alleged in this Count.

543. The Bank has timely given notice in accordance with 815 ILCS § 5/13(B) to Defendants of its election to void its purchases of the Certificates listed in this Count, and has offered to tender the securities to the seller or into the court.

544. Under 815 ILCS § 5/12(H), the Bank is entitled to void the transaction and have Defendants pay the Bank, jointly and severally, the amount paid for each Certificate, plus interest at 10% per annum, less any amounts received by the Bank with respect to that Certificate.

THIRD CAUSE OF ACTION

NEGLIGENT MISREPRESENTATION

(Under Common Law and Seeking a Rescission Remedy)

545. This cause of action is alleged against the following Defendants in connection with the sale of the following securities:

Against Defendant:	As	In connection with Security No.:
Banc of America Funding Corporation	Depositor	BAFC 2006-C 2A1 BAFC 2006-E 2A2 BAFC 2006-E 3A1 BAFC 2006-F 2A1 BAFC 2006-F 3A1
Citigroup Mortgage Loan Trust Inc.	Depositor	CMLTI 2006-NC1 A2C CMLTI 2006-WFH2 A2B CMLTI 2006-WFH4 A3 CMLTI 2006-NC2 A2B
Financial Asset Securities Corp.	Depositor	FFML 2006-FF8 IIA3
First Horizon Asset Securities, Inc.	Depositor	FHASI 2006-AR1 2A1
Greenwich Capital Acceptance, Inc.	Depositor	HVMLT 2006-2 2A1A HVMLT 2006-2 3A1A
GS Mortgage Securities Corp.	Depositor	FFML 2006-FF13 A2C GSAMP 2006-NC2 A2C
IndyMac MBS, Inc.	Depositor	INDX 2006-AR15 A2
J.P. Morgan Acceptance Corporation I	Depositor	CBASS 2006-CB4 AV3

Against Defendant:	As	In connection with Security No.:
Morgan Stanley ABS Capital I Inc.	Depositor	MSAC 2006-WMC2 A2C MSAC 2006-HE5 A2C MSAC 2006-HE6 A2C
Mortgage Asset Securitization Transactions, Inc.	Depositor	MABS 2006-NC1 A3
Nomura Home Equity Loan, Inc.	Depositor	NHELI 2006-WF1 A3
Option One Mortgage Acceptance Corp.	Depositor	OOMLT 2005-5 A3 OOMLT 2006-2 2A3
Residential Asset Mortgage Products, Inc.	Depositor	GMACM 2006-AR2 2A1 GMACM 2006-AR2 4A1
Residential Asset Securities Corporation	Depositor	RASC 2005-KS12 A2
Residential Funding Mortgage Securities I, Inc.	Depositor	RFMSI 2006-SA2 2A1
Securitized Asset Backed Receivables, LLC	Depositor	SABR 2006-FR3 A2 SABR 2006-NC3 A2B
Sequoia Residential Funding, Inc.	Depositor	SEMT 2006-1 2A1 SEMT 2006-1 3A1
Wells Fargo Asset Securities Corporation	Depositor	WFHET 2006-3 A2 WFMBS 2006-AR3 A4
Banc of America Securities LLC	Underwriter	ARSI 2005-W5 A2C BAFC 2006-C 2A1 BAFC 2006-E 2A2 BAFC 2006-E 3A1 BAFC 2006-F 2A1 BAFC 2006-F 3A1 FHASI 2006-AR1 2A1 OOMLT 2005-5 A3 OOMLT 2006-2 2A3 RASC 2005-KS12 A2 SEMT 2006-1 2A1 SEMT 2006-1 3A1
Barclays Capital Inc.	Underwriter	AMSI 2005-R10 A2B ARSI 2005-W5 A2C FHLT 2005-E 2A3 SABR 2006-FR3 A2 SABR 2006-NC3 A2B WFHET 2006-3 A2

Against Defendant:	As	In connection with Security No.:
Citigroup Global Markets Inc.	Underwriter	CMLTI 2006-NC1 A2C CMLTI 2006-WFH2 A2B CMLTI 2006-WFH4 A3 CMLTI 2006-NC2 A2B NHELI 2006-WF1 A3 OOMLT 2005-5 A3
Countrywide Securities Corporation	Underwriter	HVMLT 2006-2 2A1A HVMLT 2006-2 3A1A MSAC 2006-HE6 A2C SEMT 2006-1 2A1 SEMT 2006-1 3A1
Credit Suisse First Boston LLC	Underwriter	FHLT 2005-E 2A3 INABS 2005-D AII3
First Tennessee Bank, National Association d/b/a FTN Financial Capital Markets	Underwriter	FHASI 2006-AR1 2A1
Goldman, Sachs & Co.	Underwriter	FFML 2006-FF13 A2C GSAMP 2006-NC2 A2C RFMSI 2006-SA2 2A1
Greenwich Capital Markets, Inc.	Underwriter	AMSI 2005-R10 A2B ARSI 2005-W5 A2C FFML 2006-FF8 IIA3 FHLT 2005-E 2A3 HVMLT 2006-2 2A1A HVMLT 2006-2 3A1A INABS 2005-D AII3 OOMLT 2005-5 A3 OOMLT 2006-2 2A3 RASC 2005-KS12 A2
H&R Block Financial Advisors, Inc.	Underwriter	OOMLT 2005-5 A3 OOMLT 2006-2 2A3
HSBC Securities (USA) Inc.	Underwriter	OOMLT 2005-5 A3 OOMLT 2006-2 2A3
J.P. Morgan Securities Inc.	Underwriter	AMSI 2005-R10 A2B CBASS 2006-CB4 AV3 OOMLT 2005-5 A3
Merrill Lynch, Pierce, Fenner & Smith Incorporated	Underwriter	CBASS 2006-CB4 AV3 OOMLT 2006-2 2A3
Morgan Stanley & Co. Incorporated	Underwriter	INABS 2005-D AII3 MSAC 2006-WMC2 A2C MSAC 2006-HE5 A2C MSAC 2006-HE6 A2C WFMBS 2006-AR3 A4

Against Defendant:	As	In connection with Security No.:
NatCity Investments, Inc.	Underwriter	FFML 2006-FF13 A2C FFML 2006-FF12 A3 FFML 2006-FF12 A4 FFML 2006-FF14 A5 FFML 2006-FF10 A7
National City Corporation	Underwriter	FFML 2006-FF8 IIA3
Nomura Securities International, Inc.	Underwriter	NHELI 2006-WF1 A3
Residential Funding Securities Corporation	Underwriter	GMACM 2006-AR2 2A1 GMACM 2006-AR2 4A1 RASC 2005-KS12 A2
UBS Securities LLC	Underwriter	FHLT 2005-E 2A3 INABS 2005-D AII3 MABS 2006-NC1 A3 SARM 2005-21 3A1
American Enterprise Investment Services, Inc.	Successor to H&R Block Financial Advisors, Inc.	OOMLT 2005-5 A3 OOMLT 2006-2 2A3
Ameriprise Financial Services, Inc.	Successor to H&R Block Financial Advisors, Inc.	OOMLT 2005-5 A3 OOMLT 2006-2 2A3
The PNC Financial Services Group, Inc.	Successor to National City Corporation, d/b/a National City Capital Markets	FFML 2006-FF8 IIA3
PNC Investments LLC	Successor to NatCity Investments, Inc.	FFML 2006-FF10 A7 FFML 2006-FF12 A3 FFML 2006-FF12 A4 FFML 2006-FF13 A2C FFML 2006-FF14 A5

546. The Bank hereby incorporates by reference all allegations above, as though fully set forth herein.

547. The Defendants are and were in the business of providing information for the guidance of others in their business transactions: namely they provided Offering Documents that were central to the business transaction of purchasing the Certificates. The information in the

Offering Documents was provided with full knowledge that it would be used in guiding the Bank in its business transaction of whether to purchase the offered Certificates.

548. In connection with their offer and sale of these securities to the Bank, Defendants made numerous documents available to the Bank at its office in Cook County, which documents Defendants drafted and/or signed. The documents that Defendants sent to the Bank included the prospectus and prospectus supplement filed with the SEC for each securitization, registration statements, summary term sheets, and other documents. In these Offering Documents, Defendants negligently misrepresented material facts about the Certificates they offered and sold to the Bank.

549. The Defendants had a duty to make accurate and truthful statements in the information they provided to the Bank.

550. As alleged above and incorporated herein, the Defendants breached this duty by making untrue or misleading statements of material facts in the Offering Documents. These material misrepresentations pertain to the following non-exclusive list: (a) adherence to the originators' stated underwriting guidelines; and related matters; (b) the LTVs of the mortgage loans in the collateral pools of these securitizations; (c) the occupancy status rates of properties that secured the mortgage loans in these securitizations; (d) the rating process by which AAA-ratings were assigned; (e) compliance with predatory lending restrictions; and (f) purported due diligence on the loan pools that backed the PLMBS.

551. When the Defendants made these representations, they had no reasonable ground for believing them to be true. The Bank is informed and believes, and based thereon alleges, that Defendants had access to the loan files on the mortgage loans in the collateral pools for these securitizations, and, had the Defendants inspected those files, they would have learned that the

information they gave the Bank contained untrue or misleading statements. In addition, Defendants were aware or should have been aware but for their negligence that the "due diligence" review of the loans that were being securitized and sold to the Bank identified serious concerns and that a significant percentage of these loans were identified as defective but were nonetheless bundled and sold to the Bank as part of the securitization. Thus, the Bank is informed and believes, and based thereon alleges, that Defendants had access to information that either did or should have made the Defendants aware, had they heeded that information; that the representations they made to the Bank contained material untrue or misleading statements about the mortgage loans in the collateral pools. The Defendants were careless or negligent in ascertaining the truth of their statements.

552. In making the representations referred to above, the Defendants intended to induce the Bank to rely on those representations in making its decision to purchase the Certificates.

553. The Bank did reasonably and justifiably rely on the truth of the representations described above and alleged herein in analyzing and decided to purchase these Certificates. The Bank did not have access to the underlying loan files, and therefore was justified in relying on the Defendants' statements regarding the credit quality of the mortgage pools. But for the Defendants making the false and misleading representations alleged herein, the Bank would not have purchased these Certificates.

554. As a direct and proximate result of the negligent misrepresentations by the Defendants, the Bank was damaged in an amount to be proven at trial.

555. With respect to the Successor Liability Defendants, this Count is alleged against: (1) Successor Liability Defendant American Enterprise Investment Services, Inc. and/or

Ameriprise Financial Services, Inc. as the successor or successors in liability to underwriter H&R Block Financial Advisors, Inc. with respect to Securities OOMLT 2005-5 A3 and OOMLT 2006-2 2A3; (2) The PNC Financial Services Group, Inc., as the successor in liability to underwriter National City Corporation, d/b/a National City Capital Markets with respect to Security FFML 2006-FF8 IIA3; and (3) PNC Investments LLC, as the successor in liability to underwriter NatCity Investments, Inc. with respect to Securities FFML 2006-FF13 A2C, FFML 2006-FF8 IIA3, FFML 2006-FF12 A3, FFML 2006-FF12 A4, and FFML 2006-FF10 A7. Underwriters H&R Block Financial Advisors, Inc., National City Corporation, d/b/a National City Capital Markets, and NatCity Investments, Inc. are collectively referred to herein as the "Succeeded Underwriters."

556. The Successor Liability Defendants are named herein by virtue of their assumption of the liabilities of the Succeeded Underwriters, and their status as successors-in-interest to the Succeeded Underwriters.

557. The Successor Liability Defendants are jointly and severally or otherwise vicariously liable for the wrongful conduct of their respective Succeeded Underwriters, as alleged herein, because they are the successors in liability to those entities by virtue of those entities' merger with and into the respective Successor Liability Defendants and the Successor Liability Defendants' integration of and assumption of responsibility for the business of the merged entities, including responsibility for pre-merger liabilities.

558. To the extent that 815 ILCS § 5/13(D) may apply, this action is brought within two years after the discovery of Defendants' negligent misrepresentations, or within two years after notice of facts which in the exercise of reasonable diligence would lead to actual knowledge of the alleged negligent misrepresentations, and within five years of the Bank's purchase of those

Certificates, or within any applicable period as tolled by the pendency of other actions. Despite having exercised reasonable diligence, the Bank did not and could not reasonably have discovered earlier Defendants' negligent misrepresentations alleged in this Count.

559. To the extent it was required to do so under Illinois law, the Bank has timely given notice in accordance with 815 ILCS § 5/13B to Defendants of its election to void its purchases of the Certificates listed in this Count, and has offered to tender the securities to the seller or into court.

560. The Bank seeks an order of rescission on this Count.

FOURTH CAUSE OF ACTION

NEGLIGENT MISREPRESENTATION

(Under Common Law and Seeking a Damages Remedy)

561. This cause of action is alleged against the following Defendants in connection with the sale of the following securities:

Against Defendant:	As	In connection with Security no.:
Banc of America Funding Corporation	Depositor	BAFC 2006-C 2A1 BAFC 2006-E 2A2 BAFC 2006-E 3A1 BAFC 2006-F 2A1 BAFC 2006-F 3A1
Citigroup Mortgage Loan Trust Inc.	Depositor	CMLTI 2006-NC1 A2C CMLTI 2006-WFH2 A2B CMLTI 2006-WFH4 A3 CMLTI 2006-NC2 A2B
Financial Asset Securities Corp.	Depositor	FFML 2006-FF8 IIA3
First Horizon Asset Securities, Inc.	Depositor	FHASI 2006-AR1 2A1
Greenwich Capital Acceptance, Inc.	Depositor	HVMLT 2006-2 2A1A HVMLT 2006-2 3A1A
GS Mortgage Securities Corp.	Depositor	FFML 2006-FF13 A2C GSAMP 2006-NC2 A2C
IndyMac MBS, Inc.	Depositor	INDX 2006-AR15 A2

Against Defendant:	As	In connection with Security no.:
J.P. Morgan Acceptance Corporation I	Depositor	CBASS 2006-CB4 AV3
Morgan Stanley ABS Capital I Inc.	Depositor	MSAC 2006-WMC2 A2C MSAC 2006-HE5 A2C MSAC 2006-HE6 A2C
Mortgage Asset Securitization Transactions, Inc.	Depositor	MABS 2006-NC1 A3
Nomura Home Equity Loan, Inc.	Depositor	NHELI 2006-WF1 A3
Option One Mortgage Acceptance Corp.	Depositor	OOMLT 2005-5 A3 OOMLT 2006-2 2A3
Residential Asset Mortgage Products, Inc.	Depositor	GMACM 2006-AR2 2A1 GMACM 2006-AR2 4A1
Residential Asset Securities Corporation	Depositor	RASC 2005-KS12 A2
Residential Funding Mortgage Securities I, Inc.	Depositor	RFMSI 2006-SA2 2A1
Securitized Asset Backed Receivables, LLC	Depositor	SABR 2006-FR3 A2 SABR 2006-NC3 A2B
Sequoia Residential Funding, Inc.	Depositor	SEMT 2006-1 2A1 SEMT 2006-1 3A1
Wells Fargo Asset Securities Corporation	Depositor	WFHET 2006-3 A2 WFMBS 2006-AR3 A4
Banc of America Securities LLC	Underwriter	ARSI 2005-W5 A2C BAFC 2006-C 2A1 BAFC 2006-E 2A2 BAFC 2006-E 3A1 BAFC 2006-F 2A1 BAFC 2006-F 3A1 FHASI 2006-AR1 2A1 OOMLT 2005-5 A3 OOMLT 2006-2 2A3 RASC 2005-KS12 A2 SEMT 2006-1 2A1 SEMT 2006-1 3A1
Barclays Capital Inc.	Underwriter	AMSI 2005-R10 A2B ARSI 2005-W5 A2C FHLT 2005-E 2A3 SABR 2006-FR3 A2 SABR 2006-NC3 A2B WFHET 2006-3 A2

Against Defendant:	As	In connection with Security no.:
Citigroup Global Markets Inc.	Underwriter	CMLTI 2006-NC1 A2C CMLTI 2006-WFH2 A2B CMLTI 2006-WFH4 A3 CMLTI 2006-NC2 A2B NHELI 2006-WF1 A3 OOMLT 2005-5 A3
Countrywide Securities Corporation	Underwriter	HVMLT 2006-2 2A1A HVMLT 2006-2 3A1A MSAC 2006-HE6 A2C SEMT 2006-1 2A1 SEMT 2006-1 3A1
Credit Suisse First Boston LLC	Underwriter	FHLT 2005-E 2A3 INABS 2005-D AII3
First Tennessee Bank, National Association d/b/a FTN Financial Capital Markets	Underwriter	FHASI 2006-AR1 2A1
Goldman, Sachs & Co.	Underwriter	FFML 2006-FF13 A2C GSAMP 2006-NC2 A2C RFMSI 2006-SA2 2A1
Greenwich Capital Markets, Inc.	Underwriter	AMSI 2005-R10 A2B ARSI 2005-W5 A2C FFML 2006-FF8 IIA3 FHLT 2005-E 2A3 HVMLT 2006-2 2A1A HVMLT 2006-2 3A1A INABS 2005-D AII3 OOMLT 2005-5 A3 OOMLT 2006-2 2A3 RASC 2005-KS12 A2
H&R Block Financial Advisors, Inc.	Underwriter	OOMLT 2005-5 A3 OOMLT 2006-2 2A3
HSBC Securities (USA) Inc.	Underwriter	OOMLT 2005-5 A3 OOMLT 2006-2 2A3
J.P. Morgan Securities Inc.	Underwriter	AMSI 2005-R10 A2B CBASS 2006-CB4 AV3 OOMLT 2005-5 A3
Merrill Lynch, Pierce, Fenner & Smith Incorporated	Underwriter	CBASS 2006-CB4 AV3 OOMLT 2006-2 2A3
Morgan Stanley & Co. Incorporated	Underwriter	INABS 2005-D AII3 MSAC 2006-WMC2 A2C MSAC 2006-HE5 A2C MSAC 2006-HE6 A2C WFMBS 2006-AR3 A4

Against Defendant:	As	In connection with Security no.:
NatCity Investments, Inc.	Underwriter	FFML 2006-FF13 A2C FFML 2006-FF12 A3 FFML 2006-FF12 A4 FFML 2006-FF14 A5 FFML 2006-FF10 A7
National City Corporation	Underwriter	FFML 2006-FF8 IIA3
Nomura Securities International, Inc.	Underwriter	NHELI 2006-WF1 A3
Residential Funding Securities Corporation	Underwriter	GMACM 2006-AR2 2A1 GMACM 2006-AR2 4A1 RASC 2005-KS12 A2
UBS Securities LLC	Underwriter	FHLT 2005-E 2A3 INABS 2005-D AII3 MABS 2006-NC1 A3 SARM 2005-21 3A1
American Enterprise Investment Services, Inc.	Successor to H&R Block Financial Advisors, Inc.	OOMLT 2005-5 A3 OOMLT 2006-2 2A3
Ameriprise Financial Services, Inc.	Successor to H&R Block Financial Advisors, Inc.	OOMLT 2005-5 A3 OOMLT 2006-2 2A3
The PNC Financial Services Group, Inc.	Successor to National City Corporation, d/b/a National City Capital Markets	FFML 2006-FF8 IIA3
PNC Investments LLC	Successor to NatCity Investments, Inc.	FFML 2006-FF10 A7 FFML 2006-FF12 A3 FFML 2006-FF12 A4 FFML 2006-FF13 A2C FFML 2006-FF14 A5

562. The Bank hereby incorporates by reference the above allegations, as though fully set forth herein.

563. The Defendants are and were in the business of providing information for the guidance of others in their business transactions: namely they provided Offering Documents that were central to the business transaction of purchasing the Certificates. The information in the

Offering Documents was provided with full knowledge that it would be used in guiding the Bank in its business transaction of whether to purchase the offered Certificates.

564. In connection with their offer and sale of these securities to the Bank, Defendants made numerous documents available to the Bank at its office in Cook County which documents Defendants drafted and/or signed. The documents that Defendants sent to the Bank included the prospectus and prospectus supplement filed with the SEC for each securitization, registration statements, summary term sheets, and other documents. In these Offering Documents, Defendants negligently misrepresented material facts about the Certificates they offered and sold to the Bank.

565. The Defendants had a duty to make accurate and truthful statements in and about the information they provided to the Bank.

566. As alleged above and incorporated herein, the Defendants breached this duty by making untrue or misleading statements of material facts in the Offering Documents. These material misrepresentations pertain to the following non-exclusive list: (a) adherence to the originators' stated underwriting guidelines; and related matters; (b) the LTVs of the mortgage loans in the collateral pools of these securitizations; (c) the occupancy status rates of properties that secured the mortgage loans in these securitizations; (d) the rating process by which AAA-ratings were assigned; (e) compliance with predatory lending restrictions; and (f) purported due diligence on the loan pools that backed the PLMBS.

567. When the Defendants made these representations, they had no reasonable ground for believing them to be true. The Bank is informed and believes, and based thereon alleges, that Defendants had access to the loan files on the mortgage loans in the collateral pools for these securitizations, and, had the Defendants inspected those files, they would have learned that the

information they gave the Bank contained untrue or misleading statements. In addition, Defendants were aware or should have been aware but for their negligence that the "due diligence" review of the loans that were being securitized and sold to the Bank identified serious concerns and that a significant percentage of these loans were identified as defective but were nonetheless bundled and sold to the Bank as part of the securitization. Thus, the Bank is informed and believes, and based thereon alleges, that Defendants had access to information that either did or should have made the Defendants aware, had they heeded that information; that the representations they made to the Bank contained material untrue or misleading statements about the mortgage loans in the collateral pools. The Defendants were careless or negligent in ascertaining the truth of their statements.

568. In making the representations referred to above, the Defendants intended to induce the Bank to rely on those representations in making its decision to purchase the Certificates.

569. The Bank did reasonably and justifiably rely on the truth of the representations described above and alleged herein in analyzing and decided to purchase these Certificates. The Bank did not have access to the underlying loan files, and therefore was justified in relying on the Defendants' statements regarding the credit quality of the mortgage pools. But for the Defendants making the false and misleading representations alleged herein, the Bank would not have purchased these Certificates.

570. As a direct and proximate result of the negligent misrepresentations by the Defendants, the Bank was damaged in an amount to be proven at trial.

571. With respect to the Successor Liability Defendants, this Count is alleged against: (1) Successor Liability Defendant American Enterprise Investment Services, Inc. and/or

Ameriprise Financial Services, Inc. as the successor or successors in liability to underwriter H&R Block Financial Advisors, Inc. with respect to Securities OOMLT 2005-5 A3 and OOMLT 2006-2 2A3; (2) The PNC Financial Services Group, Inc., as the successor in liability to underwriter National City Corporation, d/b/a National City Capital Markets with respect to Security FFML 2006-FF8 IIA3; and (3) PNC Investments LLC, as the successor in liability to underwriter NatCity Investments, Inc. with respect to Securities FFML 2006-FF13 A2C, FFML 2006-FF8 IIA3, FFML 2006-FF12 A3, FFML 2006-FF12 A4, and FFML 2006-FF10 A7. Underwriters H&R Block Financial Advisors, Inc., National City Corporation, d/b/a National City Capital Markets, and NatCity Investments, Inc. are collectively referred to herein as the "Succeeded Underwriters."

572. The Successor Liability Defendants are named herein by virtue of their assumption of the liabilities of the Succeeded Underwriters, and their status as successors-in-interest to the Succeeded Underwriters.

573. The Successor Liability Defendants are jointly and severally or otherwise vicariously liable for the wrongful conduct of their respective Succeeded Underwriters, as alleged herein, because they are the successors in liability to those entities by virtue of those entities' merger with and into the respective Successor Liability Defendants and the Successor Liability Defendants' integration of and assumption of responsibility for the business of the merged entities, including responsibility for pre-merger liabilities.

574. This action is brought within two years after the discovery of Defendants' negligent misrepresentations, or within two years after notice of facts which in the exercise of reasonable diligence would lead to actual knowledge of the alleged negligent misrepresentations, and within five years of the Bank's purchase of those Certificates, or within any applicable

period as tolled by the pendency of other actions. Despite having exercised reasonable diligence, the Bank did not and could not reasonably have discovered earlier Defendants' negligent misrepresentations alleged in this Count.

575. The Bank seeks an order awarding damages on this Count.

VII. PRAYER FOR RELIEF

WHEREFORE, the Bank respectfully demands judgment as follows:

A. On the first and second causes of action, an order voiding the transactions at issue and ordering Defendants to pay the Bank, jointly and severally, the amount paid for each Certificate, plus interest at 10% per annum, less any amounts received by the Bank with respect to that Certificate;

B. On the third cause of action, an order of rescission; and

C. On the fourth cause of action, damages in an amount to be determined at trial;

D. Reasonable attorneys' fees and expenses or costs of suit, including expert witness fees; and

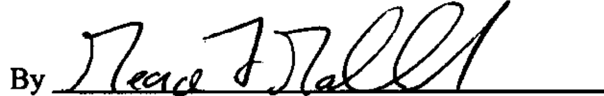
E. Such other and further relief as permitted by law or equity or as the Court may deem just.

VIII. JURY DEMAND

The Bank demands a jury on all issues triable to a jury either as of right or in the discretion of the Court pursuant to 735 ILCS § 5/2-1111.

RESPECTFULLY SUBMITTED this 15th day of October, 2010.

MINER, BARNHILL & GALLAND, PC

By 

George Galland
ggalland@lawmbg.com
Robert S. Libman
rlibman@lawmbg.com
14 West Erie
Chicago, IL 60654
(312) 751-1170 (Fax) (312) 715-0438

OF COUNSEL:

KELLER ROHRBACK L.L.P.
Lynn Lincoln Sarko
lsarko@kellerrohrback.com
Derek W. Loeser
dloeser@kellerrohrback.com
Amy Williams-Derry
awilliams-derry@kellerrohrback.com
Elizabeth A. Leland
bleland@kellerrohrback.com
1201 Third Avenue, Suite 3200
Seattle, Washington 98101
(206) 623-1900, Fax (206) 623-3384

KELLER ROHRBACK P.L.C.
Gary A. Gotto
ggotto@kellerrohrback.com
3101 North Central Avenue, Suite 1400
Phoenix, Arizona 85012
(602) 248-0088, Fax (602) 248-2822

Attorneys for Plaintiff Federal Home Loan Bank of Chicago