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September 30, 2010

**VIA ELECTRONIC AND OVERNIGHT MAIL**

Hon. Phil Angelides  
Chairman  
Financial Crisis Inquiry Commission  
1717 Pennsylvania Avenue, NW, Suite 800  
Washington, DC 20006-4614

RE: September 23, 2010 Sacramento Hearing

Dear Chairman Angelides:

I write to clarify and correct some of the testimony provided last Thursday during the Commission's hearing in Sacramento, California. As you recall, during a panel entitled "The Mortgage Securitization Chain: From Sacramento to Wall Street," you and your fellow Commissioners questioned Ms. Vicki Beal, a Senior Vice President in Transaction Management at Clayton, as well as Mr. Keith Johnson, the former President and Chief Executive Officer of Washington Mutual's Long Beach Mortgage and former President of Clayton from May 2006 through December 2008. Among the questions posed to Ms. Beal and Mr. Johnson were questions related to Clayton's meetings with various ratings agencies during 2006 and 2007, Clayton's Exception and Trending Reports, and the disclosure of Clayton's work to investors in prospectuses. Following the hearing, several media outlets have written about these topics and commented on some of the inaccurate testimony provided by Mr. Johnson. As the Commission is charged with accurately recording the causes of the current financial and economic crisis, an undertaking Clayton fully supports, it is imperative that the American people are not left with any misimpressions or erroneous conclusions. Accordingly, I will address each of these three topics and ask that you make this letter part of the Commission's permanent record.

**Rating Agency Meetings**

On several occasions, Mr. Johnson was asked about Clayton's meetings with Moody's, S&P and Fitch. In response to those questions, Mr. Johnson testified that in 2006 Clayton took its Exception Tracking reports to Fitch and S&P, and in 2007, Clayton did the same with Moody's along with the Trending Reports. These statements are inaccurate.

First, at no time did Clayton share any client reports or data, much less the beta Trending Reports, with any rating agency. Let me be clear, Clayton never shared any client reports or data with the rating agencies during a period when the rating agencies were reviewing securities for ratings issuance. Second, Clayton used these meetings solely to market its products. At no point did Clayton set up a meeting with a rating agency in an effort to discuss "concerns" Clayton had about the securitization process and the ratings being issued. Indeed, as detailed below, the only discussions Clayton had with the rating agencies regarding changes to the due diligence process occurred after the securitization market for new issues had collapsed in early 2007. Simply stated, there was nothing Clayton discussed with the various rating agencies prior to the collapse of the securitization market, that to Clayton's knowledge, would have lead the rating agencies to alter their approach.

Pursuant to a request from your staff, Clayton provided a chronology of all of its meetings with the various rating agencies, including the topics discussed and the participants from each firm, along with supporting documents. In addition, Mr. Filippis, Ms. O'Neill and Ms. Beal were interviewed by your staff about these meetings. In order to have an unambiguous record of these meetings, I have set forth for your convenience a summary of those meetings taken from the documents provided and the interviews conducted.

### **Fitch**

Clayton met with Fitch on two occasions in 2006. Mr. Johnson was present for neither meeting. Indeed, the first meeting occurred in January 2006, almost five months prior to Mr. Johnson's employment at Clayton. During that meeting, no client reports or data were shared with Fitch. The second occurred in late November 2006 in the United Kingdom and was not attended by Mr. Johnson. During that meeting, Clayton made a marketing presentation and discussed its products and exception tracking capabilities. At no time did Clayton share any client reports or data with Fitch.

In 2007, Clayton met with Fitch on November 9, long after the securitization market had collapsed. During that meeting, which was attended by Mr. Johnson and other senior Clayton officers, the two firms discussed reforms being considered and proposed by all of the rating agencies, including standardization of due diligence and disclosure of due diligence results to investors. Clayton produced to your staff the presentation materials provided to Fitch, which describe Clayton's exception tracking and trending capabilities using sample data. No client reports or data were shared.

### **S&P**

Clayton met with S&P only once in 2006, on April 26, the month prior to Mr. Johnson's arrival at Clayton. During that meeting, neither Exception Tracking nor trending was discussed nor were any client reports or data shared with S&P.

In 2007, Clayton held two meetings with S&P. The first of which occurred on July 27, 2007, after the securitization market had collapsed. This was a meeting during which Clayton discussed its capabilities. On October 10, 2007, Clayton made a formal marketing presentation to S&P, a copy of which was provided to your staff. Mr. Johnson attended both meetings, along with other senior Clayton officers. Once again, Clayton discussed its capabilities and how Clayton could be part of the reform process being considered by the rating agencies. At neither meeting were any client reports or data shared, and Clayton produced to your staff its materials from the October 10 presentation.

### **Moody's**

Clayton held one meeting with Moody's in April 2006, prior to Mr. Johnson's arrival. No client reports or data were disclosed.

Throughout 2007, Clayton met several times with Moody's. During the first half of 2007, Moody's held several meetings with Clayton as part of Moody's research for a White Paper they were preparing on due diligence. During these meetings with Clayton staff, which did not include Mr. Johnson, Clayton explained its operations and how it conducts a due diligence review, including the use of Exception Tracking. No client reports or data were shared with Moody's during any of these meetings.



In July 2007, once again after the securitization market had collapsed, Moody's held a meeting with Clayton at Moody's offices. Mr. Johnson, along with another Clayton senior officer, attended the meeting. The two firms discussed Clayton's Exception Tracking capabilities, but no client reports or data were shared.

On September 5, 2007, and later on October 17, 2007, the two companies discussed how Clayton's capabilities could be included in reforms being considered. Mr. Johnson and other senior Clayton officers attended both meetings. Once again, no client reports or data were shared.

Clayton produced to your staff all of the presentation materials from each of these meetings. Those materials contain example reports and sample data, and do not contain any actual client data or reports.

### **Trending Reports**

During your questioning of Ms. Beal, you entered into the record and asked Ms. Beal about the "All Clayton Trending Reports," reports specifically requested from Clayton by your staff. Prior to the September 23 hearing, your staff interviewed several senior Clayton officers who were directly responsible for the development of these reports. Specifically, your staff interviewed Frank Filippis, Chairman and Chief Executive Officer from April 2005 through July 2008, Kerry O'Neill, Executive Vice President Due Diligence and Platform Services from May 2004 through December 2007, and Ms. Beal. As detailed below, each of them advised against the Commission's reliance on the Trending Reports.

As Ms. Beal stated in her written testimony, "[b]eginning in 2003, Clayton worked to develop a more comprehensive scoring system for its clients, one which would allow Clayton to expand its exception review system to more specifically identify and track exceptions. The new system was called Exception Tracking and it allowed our clients to better manage exceptions (*E.g.*, show client what portfolio would look like if seller cured what it could) and it allowed for better reporting to clients." Clayton rolled out this system and its Exception Reports to our clients beginning in late 2005 and continuing throughout 2006.

In 2007, Ms. O'Neill's team worked to develop Trending Reports for our clients utilizing the Exception Tracking data that would enable us to identify trends in their deals with various originators that could be potentially useful for them in their own processes. The first step in that process was the creation of "beta" Trending Reports across all clients, as well as individual client beta Trending Reports, with which Ms. O'Neill and her team could work with each client to see if it was even possible to identify statistically significant and meaningful trends. The beta report she created was a data summary of the total number of Event Grades ("EV") 1, 2, 2W, 2T and 3 across all deals that had been reviewed using the Exception Tracking software.

Ms. O'Neill, Mr. Filippis and Ms. Beal informed your staff that the major impediment facing Clayton with respect to developing Trending Reports was the lack of standardization across our clients, both in terms of individual tolerances and scope of review. Additionally, Clayton was faced with variations in the loan products being originated and the underwriting guidelines for those loans. Thus, while each of the Exception Reports contain valid and relevant client-level data for each client's own purpose, when aggregated and measured across our clients, it is not possible to form a meaningful basis of comparison. Given these constraints, Ms. O'Neill stated that she expected it to take several years to complete this project. In short, because of the variation in client processes, scopes and tolerances, we believe that the Commission should not draw any conclusions from the Trending Reports. Should the Commission choose to reference or rely upon the Trending Reports in its findings, we request that the Commission provide these appropriate caveats so that the information is not misleading to the public.

Separately, during the hearing some of the percentages reflected on the Trending Report were inadvertently misstated. Specifically, you asked Ms. Beal about the 28% of EV-3 loans initially graded by Clayton and the final percent that remained EV-3. Both you and Ms. Beal mistakenly stated that the final number of EV-3 loans was 11%. 17%, not 11%, of the total loans reviewed remained as EV-3. The 11% referred to in the report is the percentage of loans that were EV-2W and EV-2T.

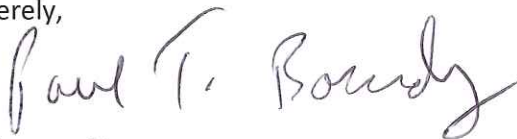
### **Prospectuses**

During your questioning of Mr. Johnson, you asked him about the disclosure statements contained within MBS prospectuses issued by our clients. Mr. Johnson stated that "we looked at a lot of prospectuses and [are] not aware of any information going through the prospectus." Mr. Johnson did not testify as to when and why this review occurred, and in the absence of this information, the public could be left with the mistaken impression that Clayton was actively reviewing prospectuses at the time of our due diligence reviews. As Mr. Johnson and our General Counsel informed your staff, Clayton began to review prospectus in the summer and fall of 2007 in response to specific questions from regulators about whether Clayton's due diligence results were set forth in MBS prospectuses. Prior to those requests, Clayton did not engage in prospectus reviews nor was Clayton asked by any client to review any prospectus prior to its issuance.

Finally, during much of Mr. Johnson's testimony, he used the terms "I", "we", and "ours" interchangeably, as he gave his personal opinions about the collapse of the securitization market and how it could have been prevented. I hope it is clear from this letter, Ms. Beal's written and oral testimony, and from the record previously provided by Clayton to the Commission, both documentary and testimonial, that Mr. Johnson's opinions do not represent those held by Clayton. Rather, they are his alone.

On behalf of Clayton, I thank you and the Commission for your attention to this important matter.

Sincerely,



Paul T. Bossidy  
Chief Executive Officer