

HEARING DATE: MARCH 18, 2013
OBJECTION DEADLINE: DECEMBER 3, 2012

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*Special Counsel for Wilmington Trust, National
Association, as Indenture Trustee for the Senior
Unsecured Notes Issued by Residential Capital, LLC*

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

-----X	:	
In re	:	
	:	Chapter 11 Case No.
RESIDENTIAL CAPITAL, LLC, <u>et al.</u>,	:	
	:	12-12020 (MG)
Debtors.	:	
	:	(Jointly Administered)
-----X	:	

**DECLARATION OF MARK A. LIGHTNER IN SUPPORT OF THE OBJECTION
OF WILMINGTON TRUST, NATIONAL ASSOCIATION TO THE DEBTORS’
SECOND SUPPLEMENTAL MOTION PURSUANT TO FED. R. BANKR. P. 9019
FOR APPROVAL OF RMBS TRUST SETTLEMENT AGREEMENTS**

MARK A. LIGHTNER declares as follows under penalty of perjury under the laws of the United States of America that the forgoing is true and correct:

1. I am an associate at the law firm of Cleary Gottlieb Steen & Hamilton LLP, special counsel for Wilmington Trust, National Association (the “Trustee”), solely in its capacity as indenture trustee for various series of senior unsecured notes issued by Residential Capital, LLC. I am admitted to practice before the courts of the State of New York and the United States District Court for the Southern District of New York. I make this declaration in support of the Trustee’s



Objection to the Debtors' Second Supplemental Motion Pursuant to Fed. R. Bankr. P. 9019 for Approval of RMBS Trust Settlement Agreements.

2. I am familiar with the facts and circumstances based on my knowledge, information and belief, and would so testify if called as a witness that they are true and correct.

3. True and correct copies of the following documents are attached as exhibits:

EXHIBIT A: Excerpts from the Ally Financial Inc. First Quarter Report (Form 10-Q), filed on April 27, 2012.

EXHIBIT B: Presentation Materials from the May 1, 2012 Meeting of the Residential Capital, LLC Audit Committee.

EXHIBIT C: Excerpts from the Deposition Testimony of John Mack, dated November 14, 2012.

EXHIBIT D: Excerpts from the Deposition Testimony of Timothy Devine, dated November 19, 2012.

EXHIBIT E: E-mail from Timothy Devine to Gary Lee et al., dated May 9, 2012.

EXHIBIT F: E-mail chain from Timothy Devine to Gary Lee et al., dated May 12, 2012.

EXHIBIT G: Letter from Kathy Patrick to William Solomon, dated October 17, 2011.

EXHIBIT H: Letter from Kathy Patrick to William Solomon, dated October 25, 2011.

EXHIBIT I: Letter from Talcott Franklin to Tammy Hamzhepour, dated November 18, 2011.

EXHIBIT J: Excerpts from the Deposition Testimony of Jeffrey Cancelliere, dated November 14, 2012.

EXHIBIT K: Excerpts from the Deposition Testimony of James Whitlinger, dated November 15, 2012.

EXHIBIT L: Presentation Materials from the May 9, 2012 Meeting of the Residential Capital, LLC Board of Directors.

EXHIBIT M: Excerpts from the Deposition Testimony of Thomas Marano, dated November 12, 2012.

EXHIBIT N: Bank of America Financial Release Regarding Legacy Countrywide Mortgage Repurchase and Servicing Claims, dated June 29, 2011.

EXHIBIT A

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UNITED STATES SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 10-Q

**QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d)
OF THE SECURITIES EXCHANGE ACT OF 1934**

For the quarterly period ended March 31, 2012, or

**TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d)
OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from _____ to _____

Commission file number: 1-3754

ALLY FINANCIAL INC.

(Exact name of registrant as specified in its charter)

Delaware

*(State or other jurisdiction of
incorporation or organization)*

38-0572512

*(I R S Employer
Identification No.)*

**200 Renaissance Center
P.O. Box 200, Detroit, Michigan
48265-2000**

*(Address of principal executive offices)
(Zip Code)*

(866) 710-4623

(Registrant's telephone number, including area code)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months, and (2) has been subject to such filing for the past 90 days.

Yes No

Indicate by checkmark whether the registrant has submitted electronically and posted on its corporate Web site, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for a shorter period that the registrant was required to submit and post such files).

Yes No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a nonaccelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer," and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one)

Large accelerated filer Accelerated filer Non-accelerated filer Smaller reporting company
(Do not check if a smaller reporting company)

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act)

Yes No

At April 27, 2012, the number of shares outstanding of the Registrant's common stock was 1,330,970 shares

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Notes to Condensed Consolidated Financial Statements (unaudited)

Ally Financial Inc • Form 10-Q

GSEs and generally impose higher burdens on parties seeking repurchase. In order to successfully assert a claim, it is our position that a claimant must prove a breach of the representations and warranties that materially and adversely affects the interest of the investor in the allegedly defective loan. Securitization documents typically provide the investors with a right to request that the trustee investigate and initiate a repurchase claim. However, a class of investors generally is required to coordinate with other investors in that class comprising not less than 25%, and in some cases, 50%, of the percentage interest constituting a class of securities of that class issued by the trust to pursue claims for breach of representations and warranties. In addition, our private-label securitizations generally require that the servicer or trustee give notice to the other parties whenever it becomes aware of facts or circumstances that reveal a breach of representation that materially and adversely affects the interest of the certificate holders.

Regarding our securitization activities, certain of our Mortgage Companies have exposure to potential losses primarily through two avenues. First, investors, through trustees to the extent required by the applicable agreements (or monoline insurers in certain transactions), may request pursuant to applicable agreements that the applicable Mortgage Company repurchase loans or make the investor whole for losses incurred if it is determined that the applicable Mortgage Company violated representations and warranties made at the time of the sale, provided that such violations materially and adversely impacted the interests of the investor. Contractual representations and warranties are different based on the specific deal structure and investor. It is our position that litigation of these matters must proceed on a loan by loan basis. This issue is being disputed throughout the industry in various pending litigation matters. Similarly in dispute, as a matter of law, is the degree to which claimants will have to prove that the alleged breaches of representations and warranties actually caused the losses they claim to have suffered. Ultimate resolution by courts of these and other legal issues will impact litigation and treatment of non-litigated claims pursuant to similar contractual provisions. Second, investors in securitizations may attempt to achieve rescission of their investments or damages through litigation by claiming that the applicable offering documents were materially deficient. If an investor properly made and proved its allegations, the investor might attempt to claim that damages could include loss of market value on the investment even if there were little or no credit loss in the underlying loans.

Insured PLS (Monolines)

Historically, the applicable Mortgage Companies securitized loans where the monolines insured all or some of the related bonds and guaranteed the timely repayment of bond principal and interest when the issuer defaults. Typically, any alleged breach requires the insurer to have both the ability to assert a claim as well as evidence that a defect has had a material and adverse effect on the interest of the security holders or the insurer. Generally, most claims in connection with private-label securitizations come from Monoline Insurers and continue to represent the majority of outstanding repurchase demands. For the period 2004 through 2007, the Mortgage Companies sold \$42.7 billion of loans into these monoline-wrapped securitizations. During the three months ended March 31, 2012, the Mortgage Companies received repurchase claims related to \$28 million of original unpaid principal balance from the monolines associated with the 2004 through 2007 securitizations. The Mortgage Companies have resolved repurchase demands through indemnification payments related to \$2 million of original unpaid principal balance.

We are currently in litigation with MBIA and FGIC, and additional litigation with other monolines is likely.

Uninsured PLS

Historically, the applicable Mortgage Companies securitized loans where all or some of the related bonds were uninsured. These entities are required to make customary representations and warranties about the loans to the investor and/or securitization trust. Though particular application of the language is in dispute in various litigation, the contracts typically require claimants to demonstrate that an alleged breach of representations and warranties has had a material and adverse effect on the interest of the security holder. During the period 2004 through 2007, the Mortgage Companies sold \$182.1 billion of loans into these uninsured private-label securitizations. Claims associated with uninsured PLS were historically self-identified and constituted an immaterial portion of new claims. They historically were included within the Whole loan/other category. During the three months ended March 31, 2012, we received a repurchase request from a bond trustee with respect to one uninsured PLS deal for loans originated in 2006 relating to \$70 million of original unpaid principal balance. The Mortgage Companies are currently reviewing this repurchase request.

Whole-loan Sales

In addition to the settlements with the GSEs noted earlier, certain of our Mortgage Companies have settled with whole-loan investors concerning alleged breaches of underwriting standards. For the three months ended March 31, 2012, certain of our Mortgage Companies have received \$22 million of original unpaid principal balance in repurchase claims, all of which are associated with the 2004 through 2008 vintages of loans sold to whole-loan investors. Certain of our Mortgage Companies resolved claims related to \$10 million of original unpaid principal balance, including settlements, repurchases, indemnification payments, and rescinded claims.

Private Mortgage Insurance

Mortgage insurance is required for certain consumer mortgage loans sold to the GSEs and certain securitization trusts and may have been in place for consumer mortgage loans sold to whole-loan investors. Mortgage insurance is typically required for first-lien consumer mortgage loans having a loan-to-value ratio at origination of greater than 80 percent. Mortgage insurers are, in certain circumstances, permitted to rescind existing mortgage insurance that covers consumer loans if they demonstrate certain loan underwriting requirements have not been met. Upon receipt of a rescission notice, the applicable Mortgage Companies will assess the notice and, if appropriate, refute the notice, or if the notice cannot be refuted, the applicable Mortgage Companies attempt to remedy the defect. In the event the mortgage insurance cannot be reinstated, the applicable Mortgage Companies may be obligated to repurchase the loan or provide an indemnification payment in the event of a loss, subject to contractual limitations. While the applicable Mortgage Companies make every effort to reinstate the mortgage insurance,

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they have had limited success and as a result, most of these requests result in rescission of the mortgage insurance. At March 31, 2012, the applicable Mortgage Companies have approximately \$173 million in original unpaid principal balance of outstanding mortgage insurance rescission notices where we have not received a repurchase demand. However, this unpaid principal amount is not representative of expected future losses.

Legal Proceedings

We are subject to potential liability under various governmental proceedings, claims, and legal actions that are pending or otherwise asserted against us. We are named as defendants in a number of legal actions, and we are involved in governmental proceedings arising in connection with our respective businesses. Some of the pending actions purport to be class actions, and certain legal actions include claims for substantial compensatory and/or punitive damages or claims for indeterminate amounts of damages. We establish reserves for legal claims when payments associated with the claims become probable and the payments can be reasonably estimated. Given the inherent difficulty of predicting the outcome of litigation and regulatory matters, it is generally very difficult to predict what the eventual outcome will be, and when the matter will be resolved. The actual costs of resolving legal claims may be higher or lower than any amounts reserved for the claims. The following information supplements the disclosures in Note 31 to the Consolidated Financial Statements in our 2011 Annual Report on Form 10-K.

FGIC Litigation

The Financial Guaranty Insurance Company (FGIC) filed three complaints on November 29, 2011, against several of Ally's mortgage subsidiaries in New York County Supreme Court. In two of these cases, both entitled Financial Guaranty Insurance Company v. Residential Funding Company LLC (RFC), et al., FGIC alleges that defendants RFC and ResCap breached their contractual representations and warranties relating to the characteristics of the mortgage loans contained in certain insured MBS offerings. FGIC further alleges that the defendants breached their contractual obligations to permit access to loan files and certain books and records.

In the third case, entitled Financial Guaranty Insurance Company v. GMAC Mortgage LLC (GMAC Mortgage), et al., FGIC makes similar contract allegations against GMAC Mortgage and ResCap, as well as a claim against GMAC Mortgage for fraudulent inducement. In addition, FGIC alleges aiding and abetting fraudulent inducement against Ally Bank, which originated a large portion of the loans in the disputed pool, and breach of the custodial agreement for failing to notify FGIC of the claimed breaches of representations and warranties. In each of these cases, FGIC seeks, among other relief, reimbursement of all sums it paid under the various policies and an award of legal, rescissory, equitable, and punitive damages.

On December 15, 2011, FGIC filed a fourth complaint in New York County Supreme Court related to insurance policies issued in connection with an RFC-sponsored transaction. This complaint, entitled Financial Guaranty Insurance Company v. Ally, et al., names Ally, RFC, and ResCap, and seeks various forms of declaratory and monetary relief. The complaint alleges that the defendants are alter egos of one another, fraudulently induced FGIC's agreement to provide insurance by misrepresenting the nature of RFC's business practices and the credit quality and characteristics of the underlying loans, and have now materially breached their agreement with FGIC by refusing its requests for information and documents.

On December 27, 2011, FGIC filed three additional complaints in New York County Supreme Court against Ally, RFC, and ResCap. These complaints seek relief nearly identical to that of FGIC's previously filed cases and contain substantially similar allegations. In particular, FGIC alleges that the defendants, acting as alter egos of each other, fraudulently induced FGIC to enter into seven separate insurance and indemnity agreements and breached their contractual obligations under same.

Since January 1, 2012, FGIC has filed five new complaints in federal court naming some combination of Ally, ResCap, Ally Bank, RFC, and GMAC Mortgage. The five complaints were filed on January 31, 2012, March 5, 2012, March 6, 2012, March 12, 2012 and March 13, 2012, respectively. These complaints seek relief nearly identical to that of FGIC's previously filed cases and contain substantially similar allegations. In particular, FGIC alleges that the defendants, acting as alter egos of each other, fraudulently induced FGIC to enter into seven separate insurance and indemnity agreements and breached their contractual obligations under same. In addition, FGIC amended its first-filed complaint to name Ally Financial as a defendant.

All of the FGIC cases are now venued in the U.S. District Court for the Southern District of New York, and the defendants have asked the Court for leave to file motions to dismiss each such case.

Mitchell Litigation

In this statewide class action, plaintiffs alleged that Mortgage Capital Resources, Inc. (MCR) violated the Missouri Second Mortgage Loan Act by charging Missouri borrowers fees and interest not permitted by the Act. RFC and Homecomings Financial LLC (HFN), among others, were named as defendants in their role as assignees of certain of the MCR loans. Following a trial concluded in January 2008, the jury returned verdicts against all defendants, including an award against RFC and HFN for \$4 million in compensatory damages (plus pre- and post-judgment interest and attorneys' fees) and against RFC for \$92 million in punitive damages. In a November 2010 decision, the Missouri Court of Appeals affirmed the compensatory damages but ordered a new trial on punitive damages. Upon remand, we paid \$12.8 million in compensatory damages (including interest and attorneys' fees). At the end of February 2012, RFC entered into an agreement in principle to settle all of plaintiffs' remaining claims, including plaintiffs' already-awarded attorneys' fees on appeal, for a total of \$17.3 million. The agreement was preliminarily approved on April 16, 2012. The hearing on final approval is scheduled for May 18, 2012.

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Potential Losses - Litigation, Repurchase Obligations, and Related Claims

Litigation

As described under Legal Proceedings above, Ally and certain of its subsidiaries have been named as defendants in several cases relating to their various roles in MBS offerings.

Private-label Securitizations — Other Potential Repurchase Obligations

When our Mortgage Companies sell mortgage loans through whole-loan sales or securitizations, these entities are required to make customary representations and warranties about the loans to the purchaser and/or securitization trust. These representations and warranties relate to, among other things, the ownership of the loan, the validity of the lien securing the loan, the loan's compliance with the criteria for inclusion in the transaction, including compliance with underwriting standards or loan criteria established by the buyer, ability to deliver required documentation, and compliance with applicable laws. Generally, the representations and warranties described above may be enforced against the applicable Mortgage Companies at any time over the life of the loan, subject to applicable statutes of limitations and other similar limitations. Breaches of these representations and warranties have resulted in a requirement that the applicable Mortgage Companies repurchase mortgage loans. As the mortgage industry continues to experience higher repurchase requirements and additional investors begin to attempt to put back loans, a significant increase in activity beyond that experienced today could occur, resulting in additional future losses at our Mortgage Companies.

Potential Losses

We currently estimate that ResCap's reasonably possible losses over time related to the litigation matters and potential repurchase obligations and related claims described above could be between \$0 and \$4 billion over existing accruals. This estimated range is based on significant judgment and numerous assumptions that are subject to change, and which could be material. However, as a result of ResCap's current financial position, we believe ResCap's ability to pay for any such losses is very limited. Refer to Note 1 to the Condensed Consolidated Financial Statements for a discussion of reasonably possible losses in connection with a ResCap bankruptcy filing.

Other Contingencies

We are subject to potential liability under various other exposures including tax, nonrecourse loans, self-insurance, and other miscellaneous contingencies. We establish reserves for these contingencies when the item becomes probable and the costs can be reasonably estimated. The actual costs of resolving these items may be substantially higher or lower than the amounts reserved for any one item. Based on information currently available, it is the opinion of management that the eventual outcome of these items will not have a material adverse impact on our results of operations, financial position, or cash flows.

25. Subsequent Events

Declaration of Quarterly Dividend Payments

On April 4, 2012, the Ally Board of Directors declared quarterly dividend payments on certain outstanding preferred stock. This included a cash dividend of \$1.125 per share, or a total of \$134 million, on Fixed Rate Cumulative Mandatorily Convertible Preferred Stock, Series F-2; a cash dividend of \$1.50 per share, or a total of \$45 million, on Fixed Rate Cumulative Perpetual Preferred Stock, Series G; and a cash dividend of \$0.53 per share, or a total of \$22 million, on Fixed Rate/Floating Rate Perpetual Preferred Stock, Series A. The dividends are payable on May 15, 2012.

Chrysler Exclusivity Agreement

We are currently party to an agreement with Chrysler, pursuant to which Chrysler is obligated to provide us with exclusivity privileges related to certain of its retail financing subvention programs. On April 25, 2012, Chrysler provided us with notification of non-renewal, and as a result the agreement will expire on April 30, 2013.

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Management's Discussion and Analysis

Ally Financial Inc • Form 10-Q

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

Selected Financial Data

The selected historical financial information set forth below should be read in conjunction with Management's Discussion and Analysis (MD&A) of Financial Condition and Results of Operations, our Condensed Consolidated Financial Statements, and the Notes to Condensed Consolidated Financial Statements. The historical financial information presented may not be indicative of our future performance.

The following table presents selected statement of income data.

(\$ in millions)	Three months ended March 31,	
	2012	2011
Total financing revenue and other interest income	\$ 2,400	\$ 2,478
Interest expense	1,438	1,664
Depreciation expense on operating lease assets	293	270
Net financing revenue	669	544
Total other revenue	1,187	1,008
Total net revenue	1,856	1,552
Provision for loan losses	140	113
Total noninterest expense	1,350	1,340
Income from continuing operations before income tax expense (benefit)	366	99
Income tax expense (benefit) from continuing operations	64	(70)
Net income from continuing operations	302	169
Income (loss) from discontinued operations, net of tax	8	(23)
Net income	\$ 310	\$ 146
Basic and diluted earnings per common share:		
Net income (loss) from continuing operations	\$ 76	\$ (2)
Net income (loss)	82	(19)
Non-GAAP financial measures (a):		
Net income	\$ 310	\$ 146
Add: Original issue discount amortization expense (b)	108	326
Add: Income tax expense (benefit) from continuing operations	64	(70)
Less: Income (loss) from discontinued operations, net of tax	8	(23)
Core pretax income (a)	\$ 474	\$ 425

(a) Core pretax income is not a financial measure defined by accounting principles generally accepted in the United States of America (GAAP). We define core pretax income as earnings from continuing operations before income taxes, original issue discount amortization expense primarily associated with our 2008 bond exchange, and the gain on extinguishment of debt related to the 2008 bond exchange. We believe that the presentation of core pretax income is useful information for the users of our financial statements in understanding the earnings from our core businesses. In addition, core pretax income is the primary measure that management uses to assess the performance of our operations. We believe that core pretax income is a useful alternative measure of our ongoing profitability and performance, when viewed in conjunction with GAAP measures. The presentation of this additional information is not a substitute for net income determined in accordance with GAAP.

(b) Primarily represents original issue discount amortization expense associated with the 2008 bond exchange, including accelerated amortization of \$30 million for the three months ended March 31, 2011 that was reported as a loss on extinguishment of debt in the Condensed Consolidated Statement of Comprehensive Income.

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Management's Discussion and Analysis

Ally Financial Inc • Form 10-Q

The following table presents selected balance sheet and ratio data

(\$ in millions)	At and for the three months ended March 31,	
	2012	2011
Selected period-end balance sheet data:		
Total assets	\$ 186,350	\$ 173,704
Long-term debt	\$ 93,990	\$ 88,139
Preferred stock/interests	\$ 6,940	\$ 6,940
Total equity	\$ 19,667	\$ 20,407
Financial ratios		
Efficiency ratio (a)	72.74%	86.34%
Core efficiency ratio (a)	68.74%	71.35%
Return on assets		
Net income from continuing operations	0.66%	0.39%
Net income	0.68%	0.34%
Core pretax income	1.03%	0.99%
Return on equity		
Net income from continuing operations	6.24%	3.36%
Net income	6.40%	2.90%
Core pretax income	9.78%	8.45%
Equity to assets	10.56%	11.72%
Net interest spread (b)	1.24%	0.85%
Net interest spread excluding original issue discount (b)	1.60%	1.86%
Net yield on interest-earning assets (c)	1.67%	1.46%
Net yield on interest-earning assets excluding original issue discount (c)	1.94%	2.26%
Regulatory capital ratios		
Tier 1 capital (to risk-weighted assets) (d)	13.50%	14.68%
Total risk-based capital (to risk-weighted assets) (e)	14.53%	15.97%
Tier 1 leverage (to adjusted quarterly average assets) (f)	11.65%	12.78%
Total equity	\$ 19,667	\$ 20,407
Goodwill and certain other intangibles	(494)	(533)
Unrealized gains and other adjustments	(317)	(272)
Trust preferred securities	2,542	2,541
Tier 1 capital (d)	21,398	22,143
Preferred equity	(6,940)	(6,940)
Trust preferred securities	(2,542)	(2,541)
Tier 1 common capital (non-GAAP) (g)	\$ 11,916	\$ 12,662
Risk-weighted assets (h)	\$ 158,460	\$ 150,814
Tier 1 common (to risk-weighted assets) (g)	7.52%	8.40%

- (a) The efficiency ratio equals total other noninterest expense divided by total net revenue. The core efficiency ratio equals total other noninterest expense divided by total net revenue excluding original issue discount amortization expense.
- (b) Net interest spread represents the difference between the rate on total interest-earning assets and the rate on total interest-bearing liabilities, excluding discontinued operations for the periods shown.
- (c) Net yield on interest-earning assets represents net financing revenue as a percentage of total interest-earning assets.
- (d) Tier 1 capital generally consists of common equity, minority interests, qualifying noncumulative preferred stock, and the fixed rate cumulative preferred stock sold to Treasury under TARP, less goodwill and other adjustments.
- (e) Total risk-based capital is the sum of Tier 1 and Tier 2 capital. Tier 2 capital generally consists of preferred stock not qualifying as Tier 1 capital, limited amounts of subordinated debt and the allowance for loan losses, and other adjustments. The amount of Tier 2 capital may not exceed the amount of Tier 1 capital.
- (f) Tier 1 leverage equals Tier 1 capital divided by adjusted quarterly average total assets (which reflects adjustments for disallowed goodwill and certain intangible assets). The minimum Tier 1 leverage ratio is 3% or 4% depending on factors specified in the regulations.
- (g) We define Tier 1 common as Tier 1 capital less noncommon elements, including qualifying perpetual preferred stock, minority interest in subsidiaries, trust preferred securities, and mandatorily convertible preferred securities. Ally considers various measures when evaluating capital utilization and adequacy, including the Tier 1 common equity ratio, in addition to capital ratios defined by banking regulators. This calculation is intended to complement the capital ratios defined by banking regulators for both absolute and comparative purposes. Because GAAP does not include capital ratio measures, Ally believes there are no comparable GAAP financial measures to these ratios. Tier 1 common equity is not formally defined by GAAP or codified in the federal banking regulations and, therefore, is considered to be a non-GAAP financial measure. Ally believes the Tier 1 common equity ratio is important because we believe analysts and banking regulators may assess our capital adequacy using this ratio. Additionally, presentation of this measure allows readers to compare certain aspects of our capital adequacy on the same basis to other companies in the industry.
- (h) Risk-weighted assets are defined by regulation and are determined by allocating assets and specified off-balance sheet financial instruments into several broad risk categories.

EXHIBIT B
(REDACTED)

ResCap

To: Members of the Residential Capital, LLC Audit Committee:

Jonathan Ilany
John Mack
Ted Smith
Pam West

cc: Steve Abreu
Tom Marano
Jim Whittlinger

Residential Capital, LLC Audit Committee Meeting

Tuesday, May 1, 2012, 12:00 – 2:00 pm (ET)

Dial-in No.: 866-203-0920 / International No.: 206-445-0056

Access Code: 53396-93036

A telephonic meeting of the ResCap Audit Committee will be held Tuesday, May 1, 2012, from 12:00 to 2:00 pm (ET). The purpose of the meeting is to review 2012 first quarter financial statements. An agenda and supporting materials are attached.

All directors are invited to attend the meeting. Please let me know if you are unable to participate. Feel free to contact me by phone (313-656-6301) or email (cathy.quenneville@ally.com) should you have any questions. Thank you.

Cathy Quenneville
Secretary
4/30/12

Attachments

Additional cc: Ann Cummings Jim Mackey
Cathy Dondzila Joe Moldovan
Tammy Hamzèhpour Tom Robinson
Carol Larson Bill Solomon
David Lerner Brad Stevenson
Jack Levy Dan Tucci

ResCap Audit Committee
May 1, 2012
12:00 – 2:00 pm (Eastern)

AGENDA

		<u>Start Time</u>
1. <u>Update on R&W Obligations, Litigation and Related Matters</u> <i>Tim Devine and Todd Kushman</i>	(20 min)	12:00 pm
2. <u>Approval of 2012 First Quarter Private Financial Statements and Review of Related Accounting Matters</u> <i>Cathy Dondzila</i>	(60 min)	12:20 pm
3. <u>Deloitte Report on 2012 First Quarter Review</u> <i>Tom Robinson and Brad Stevenson</i>	(20 min)	1:20 pm
4. <u>Executive Session:</u> i. Management ii. Deloitte iii. Audit Director	(20 min)	1:40 pm

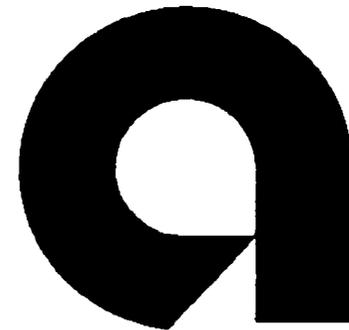
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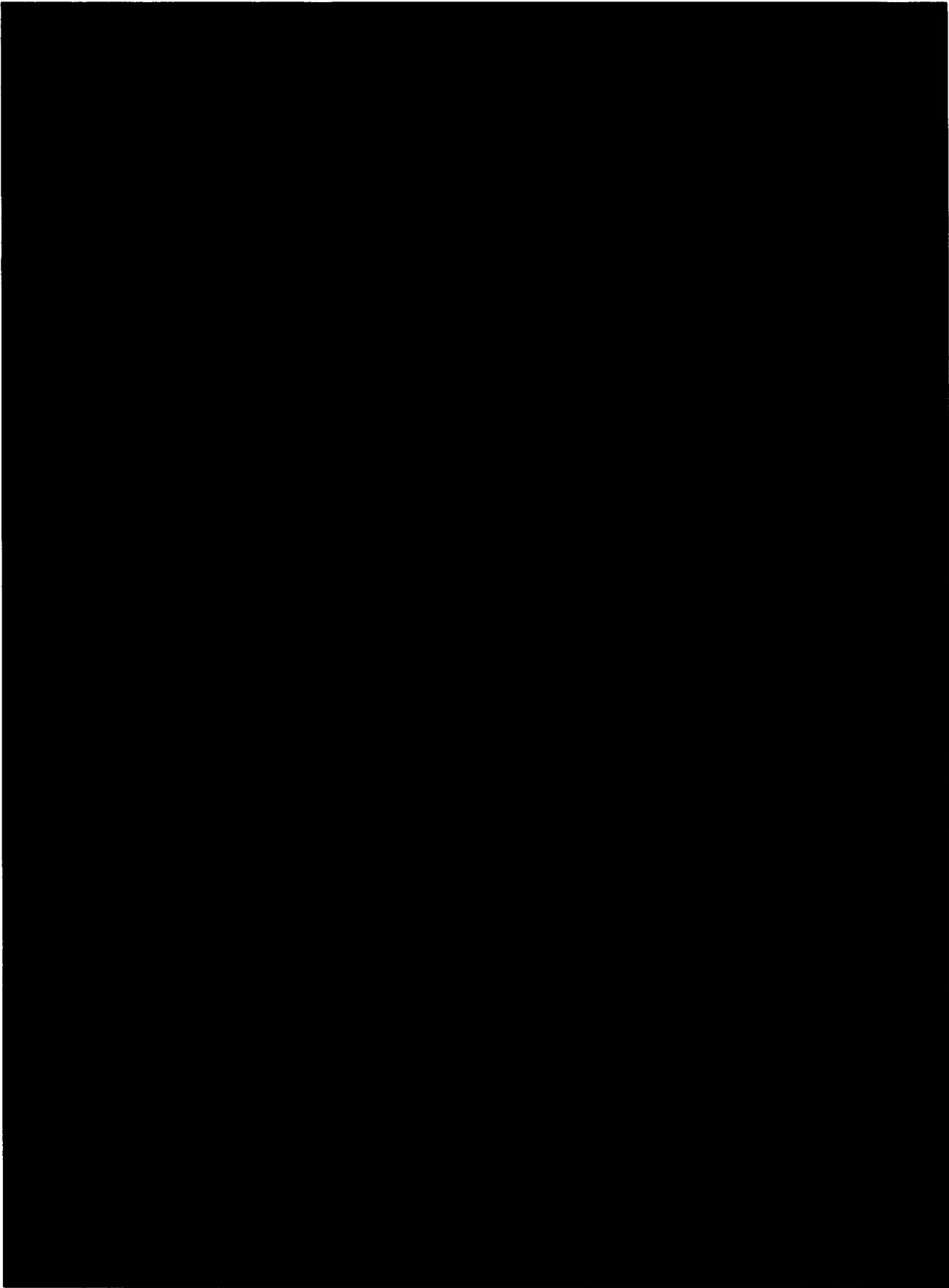
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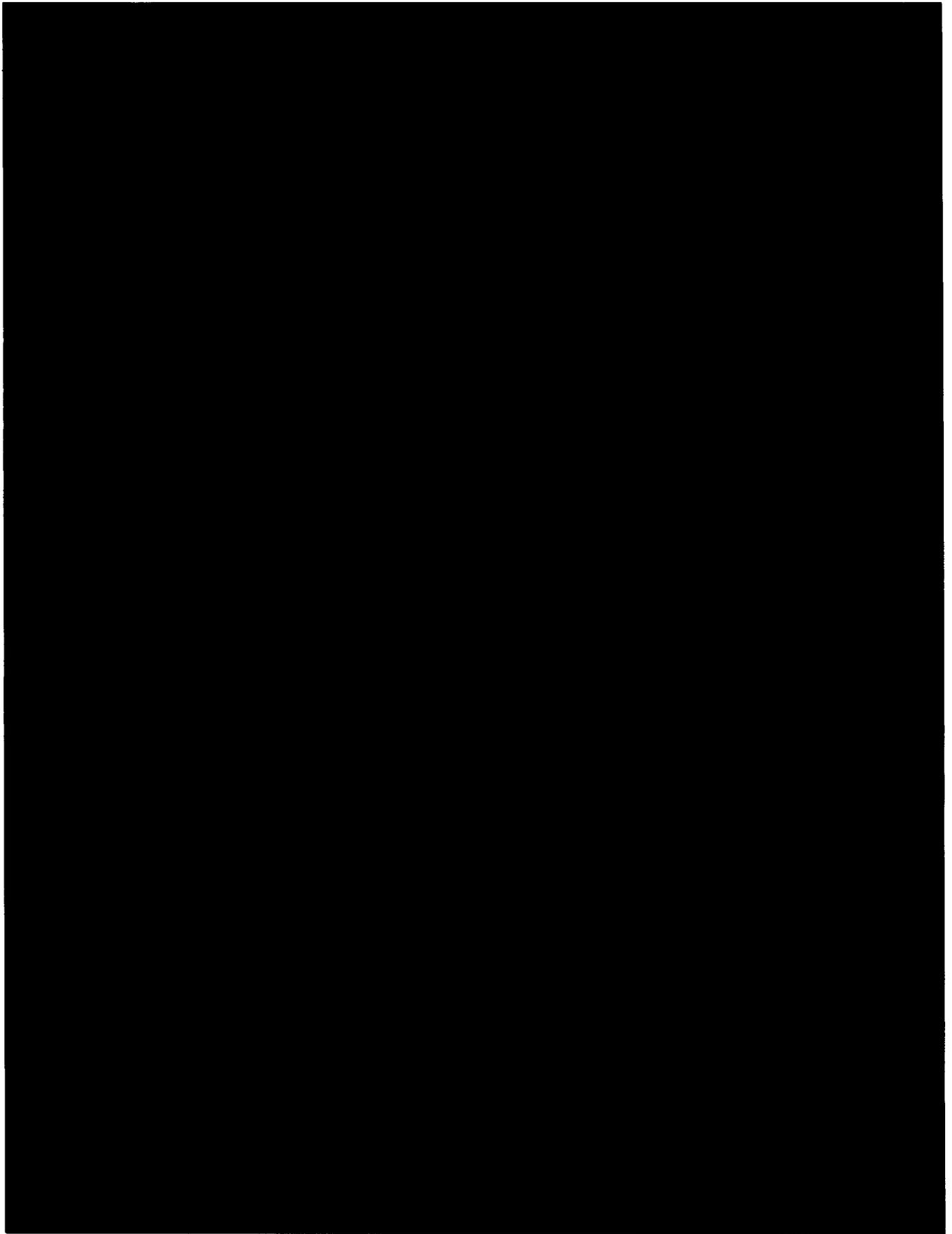
Audit Committee

Supplemental Materials

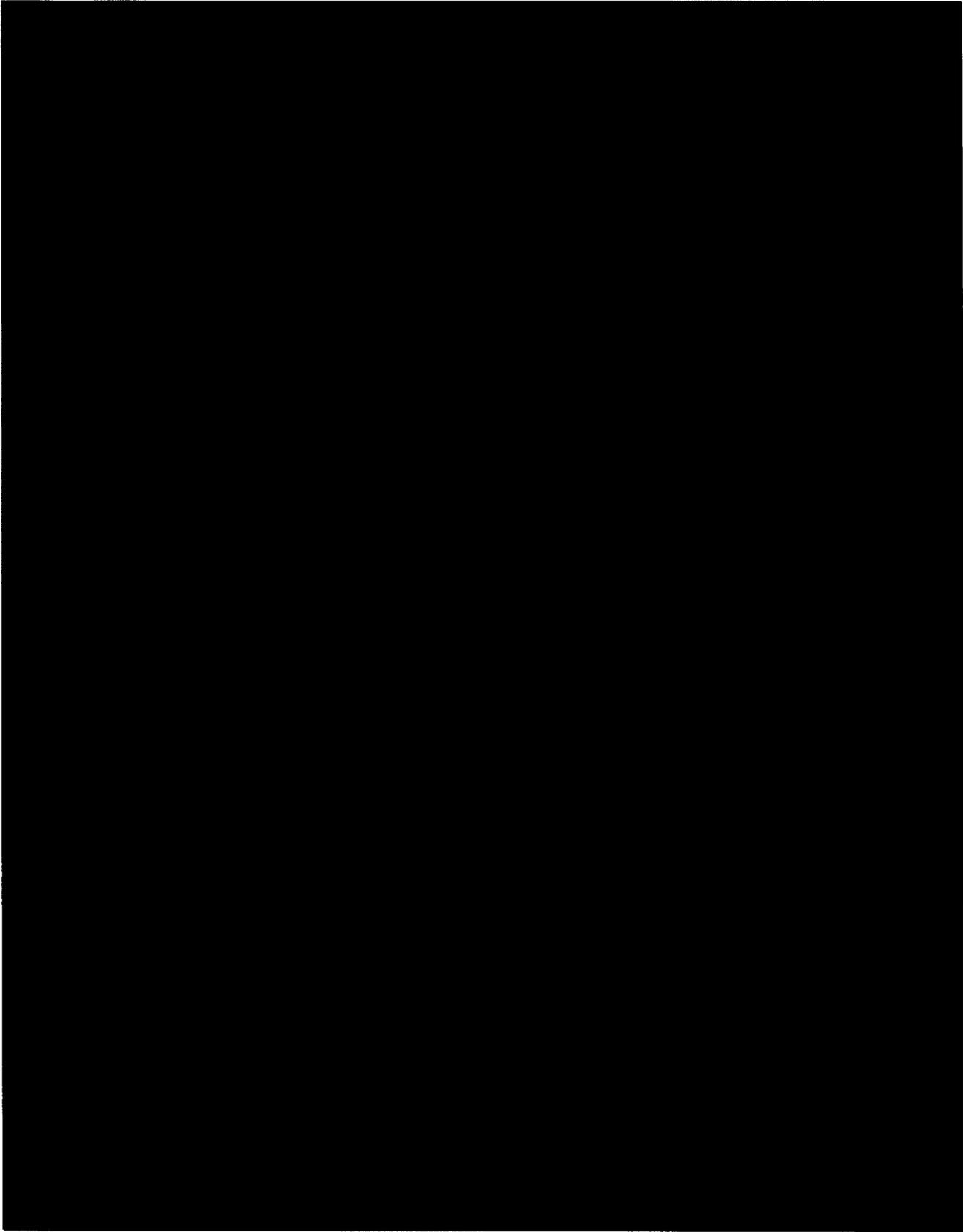
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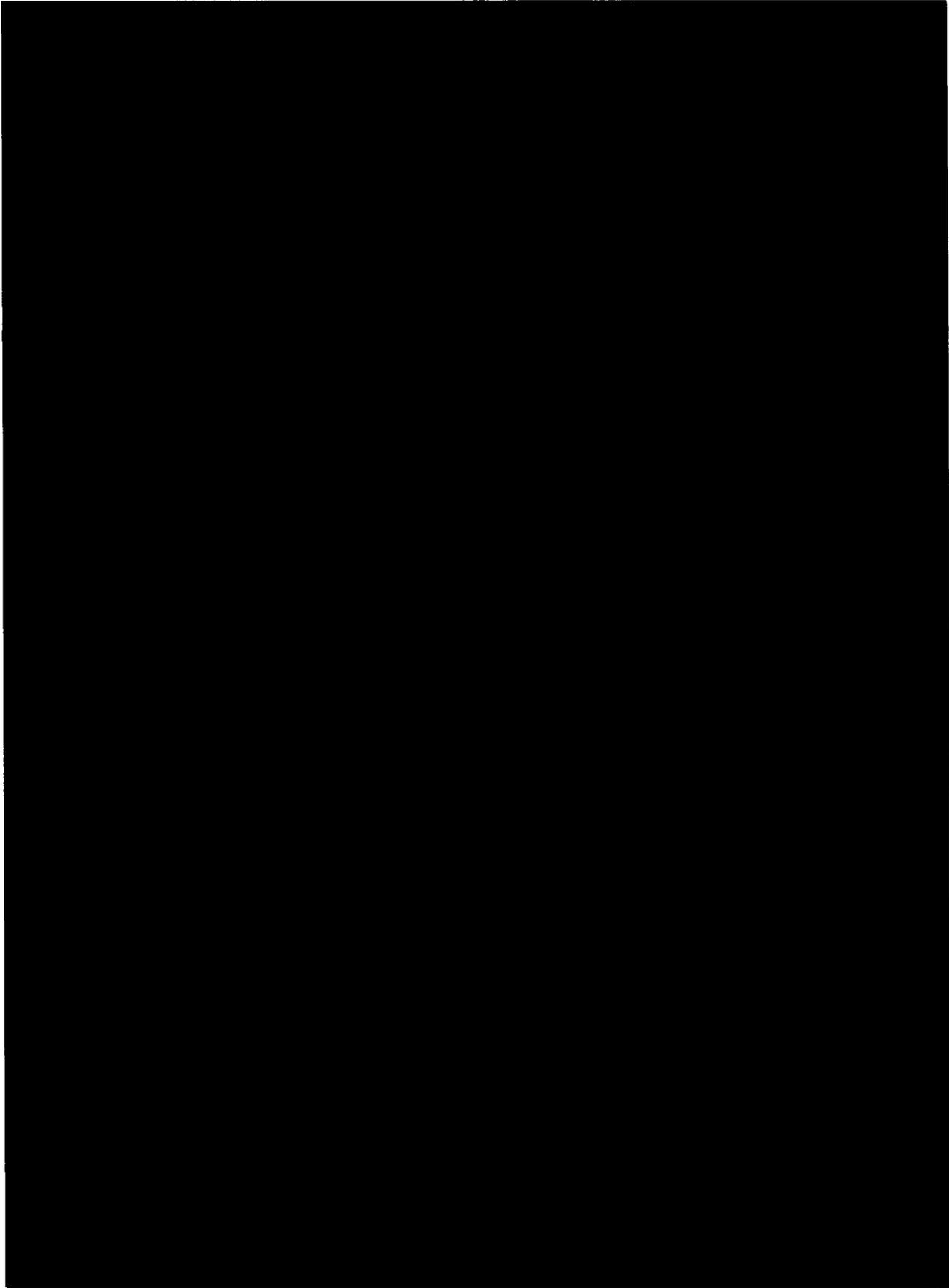




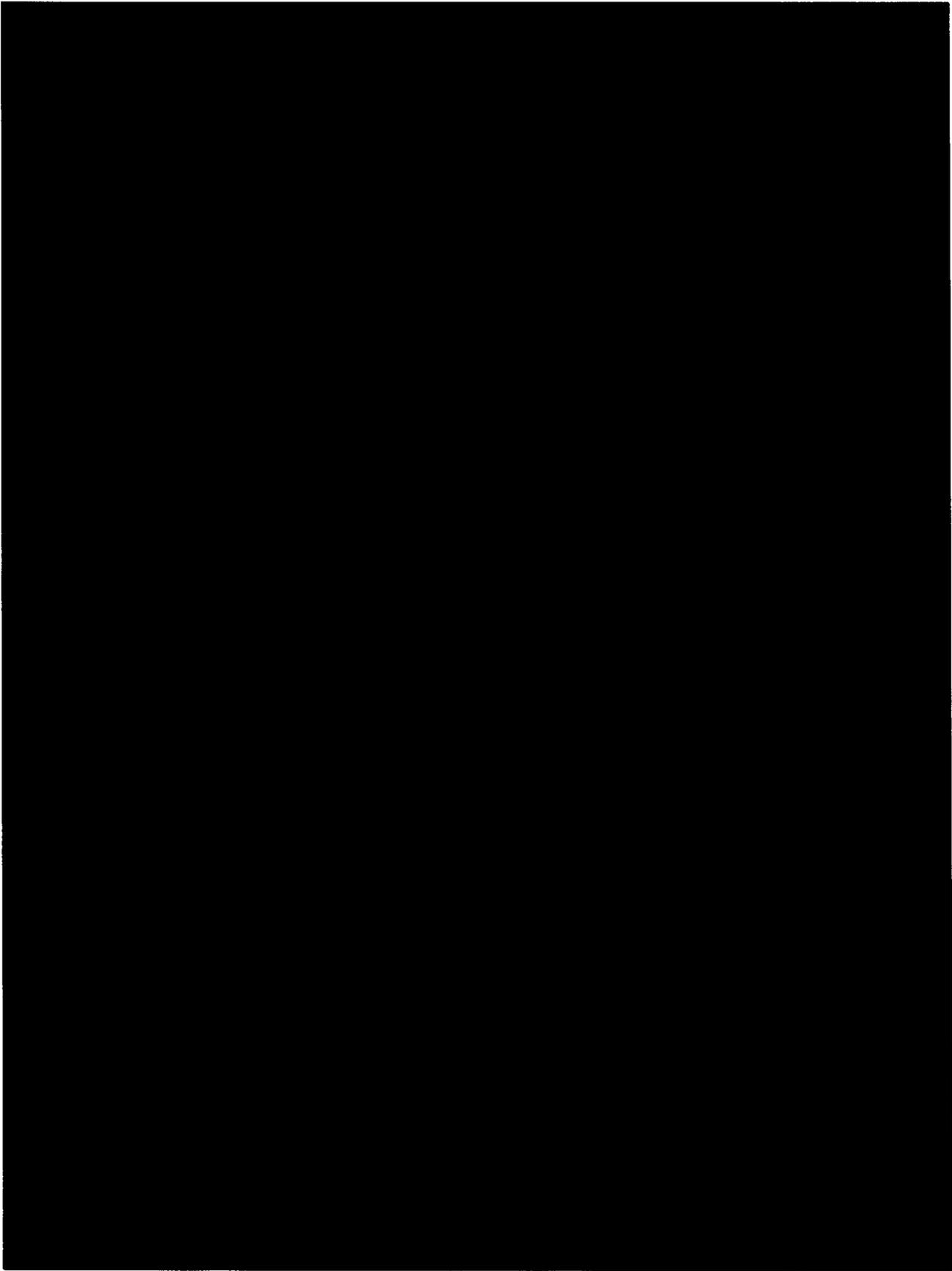
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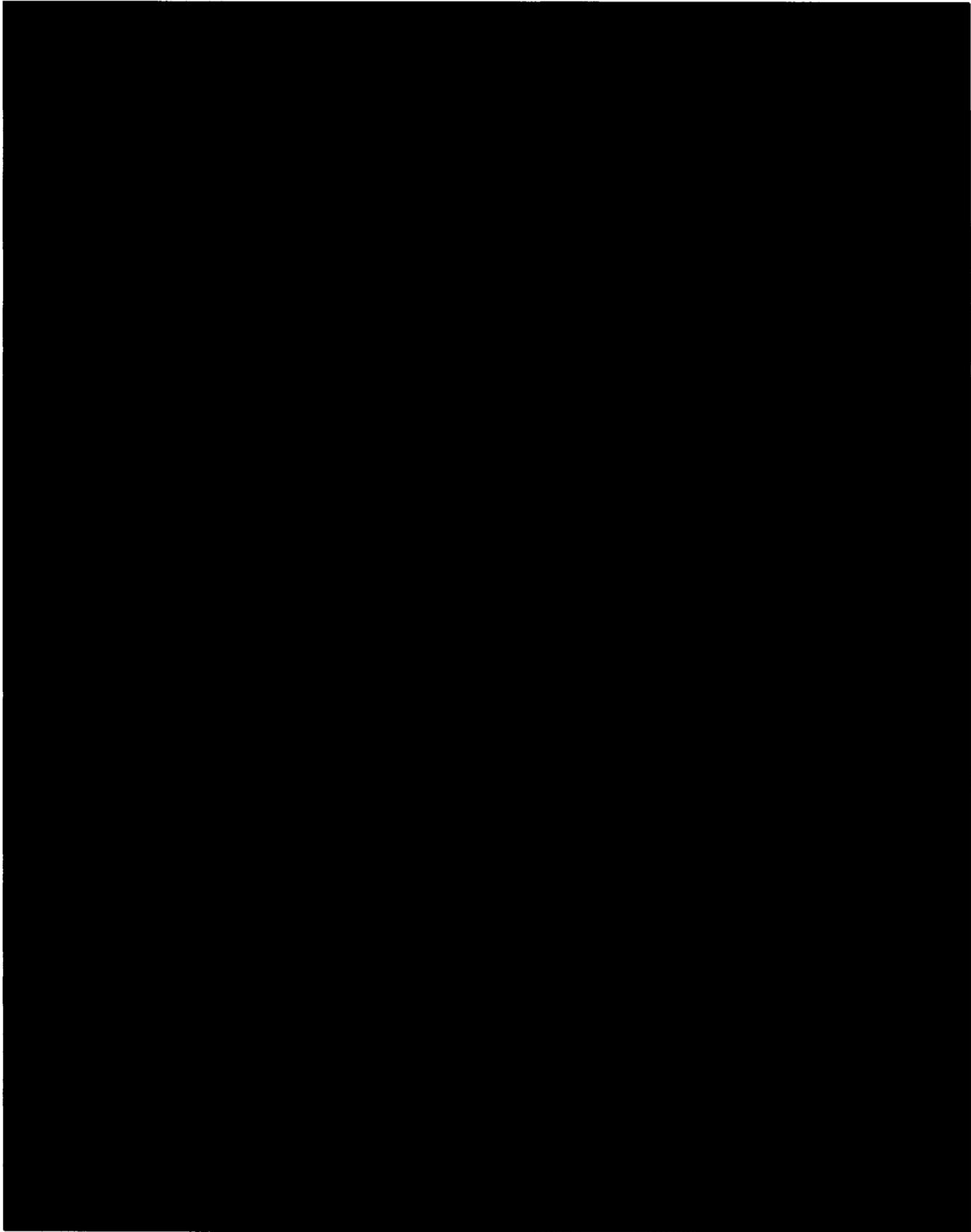
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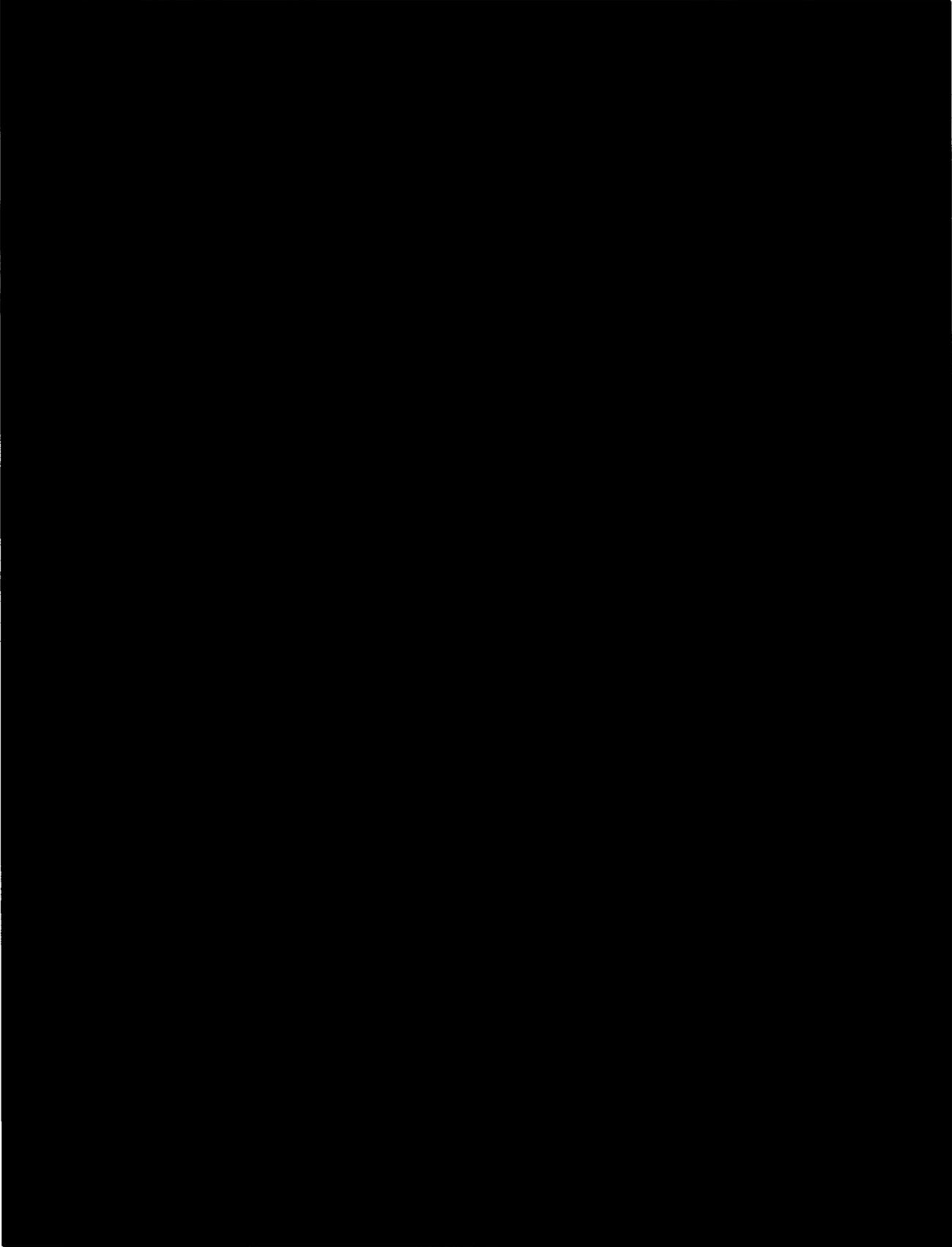


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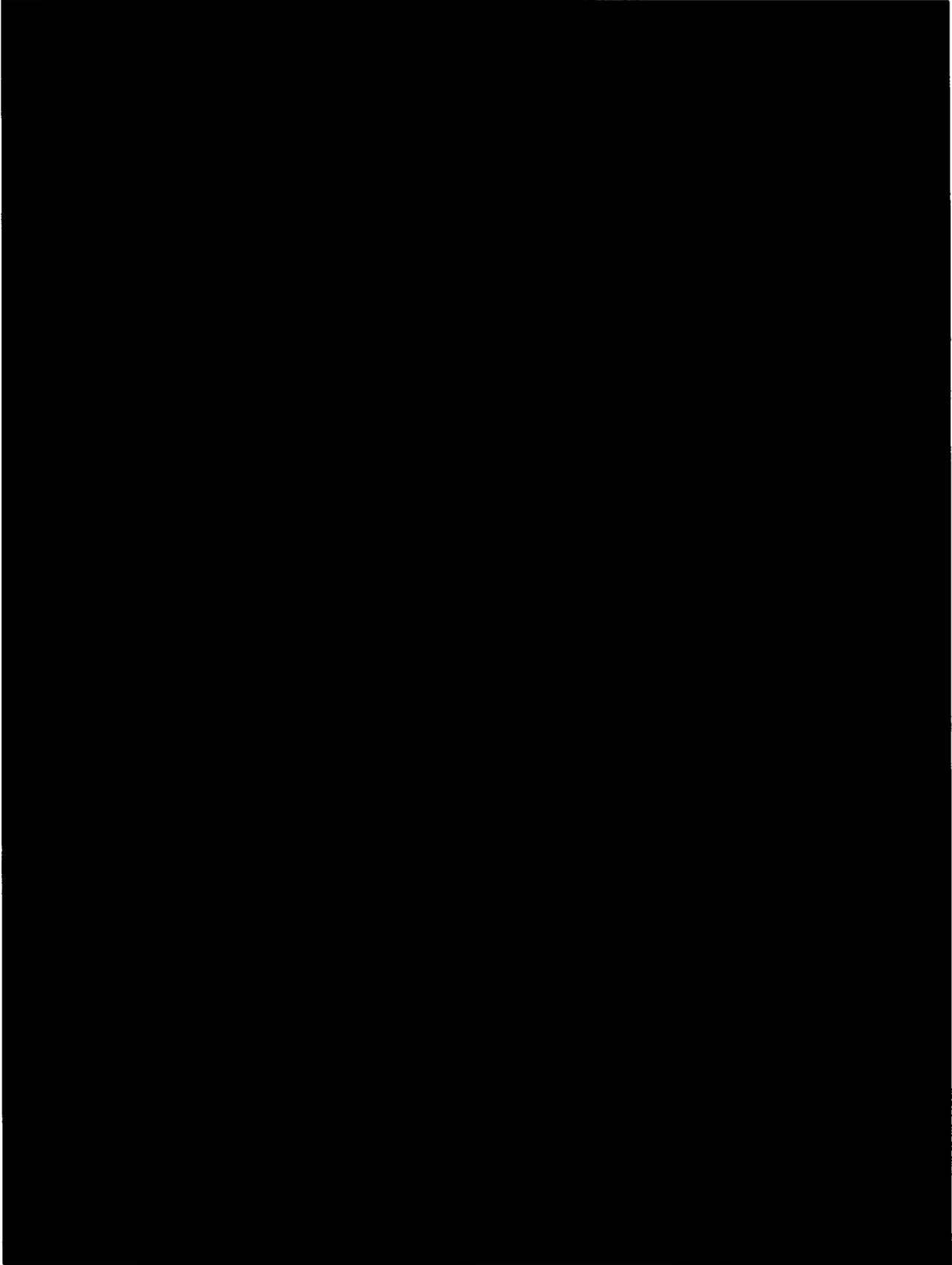


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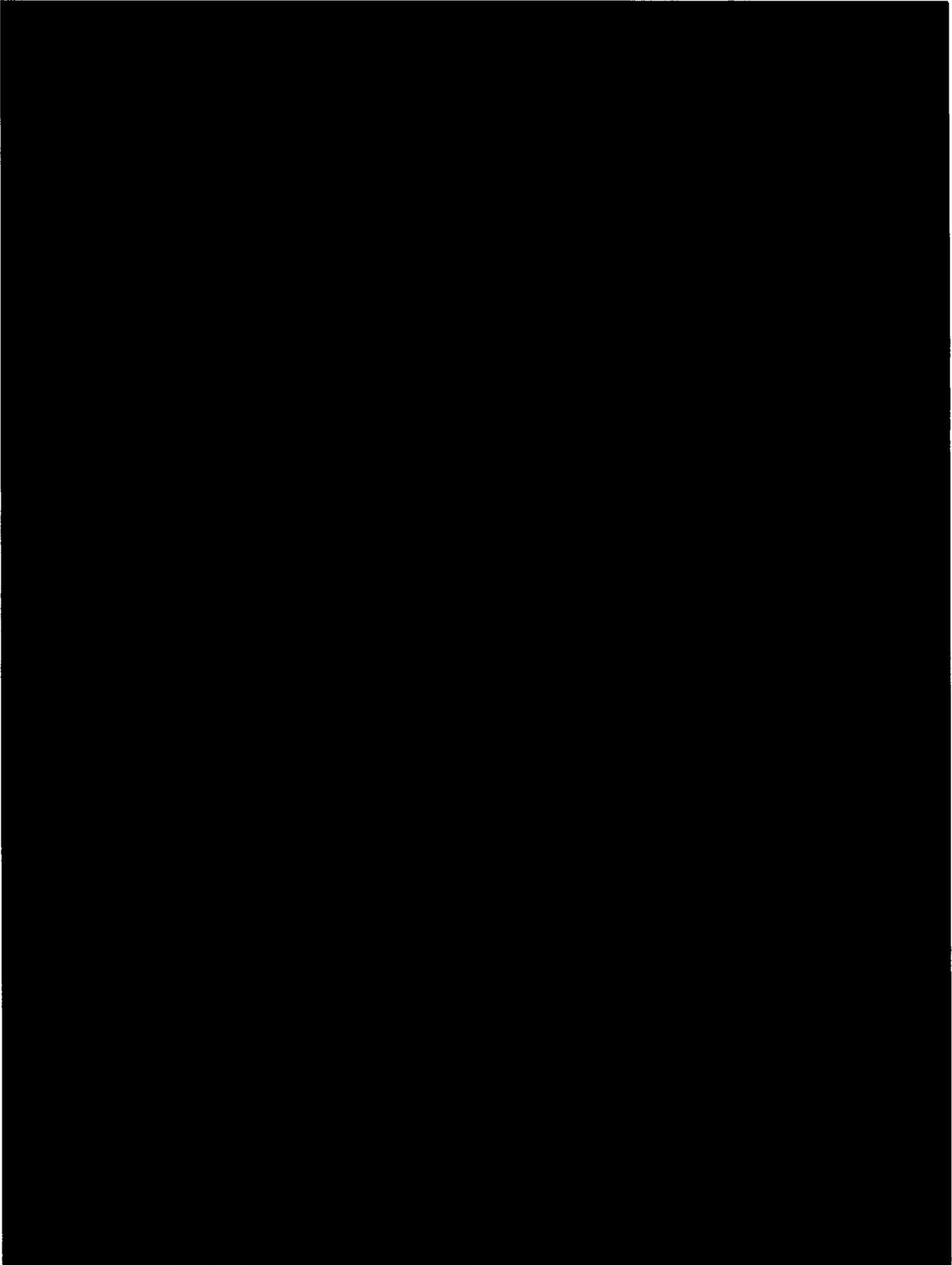




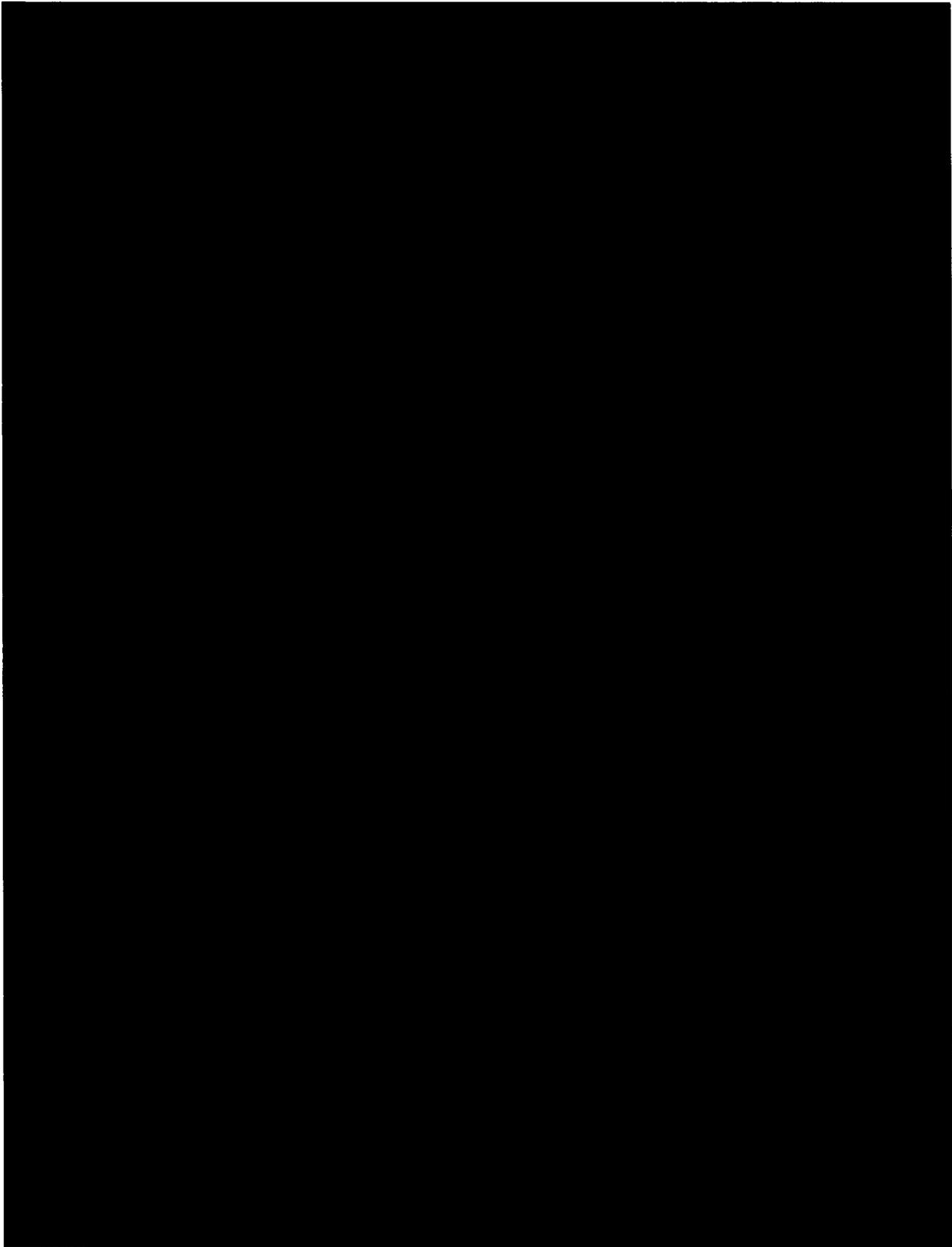
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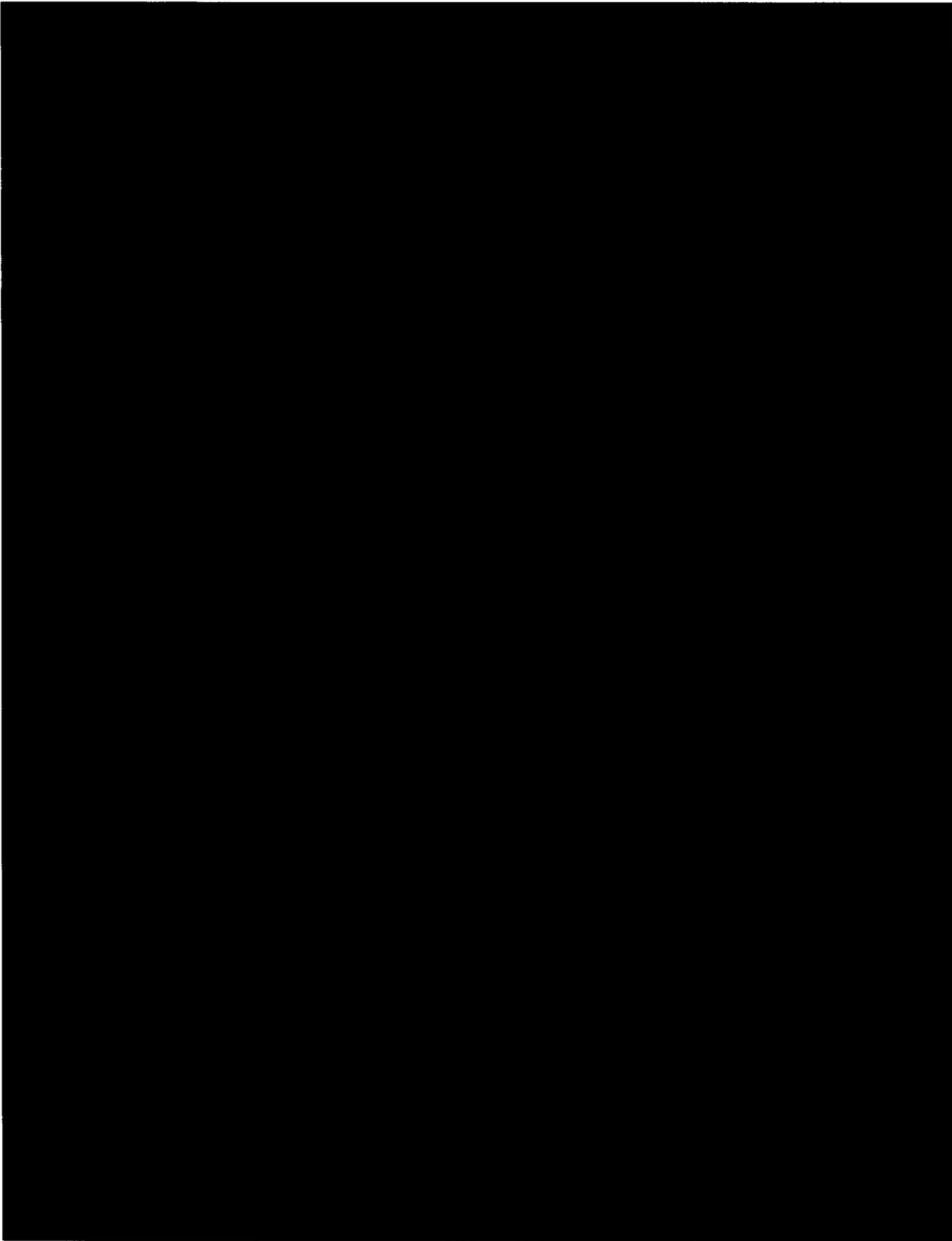
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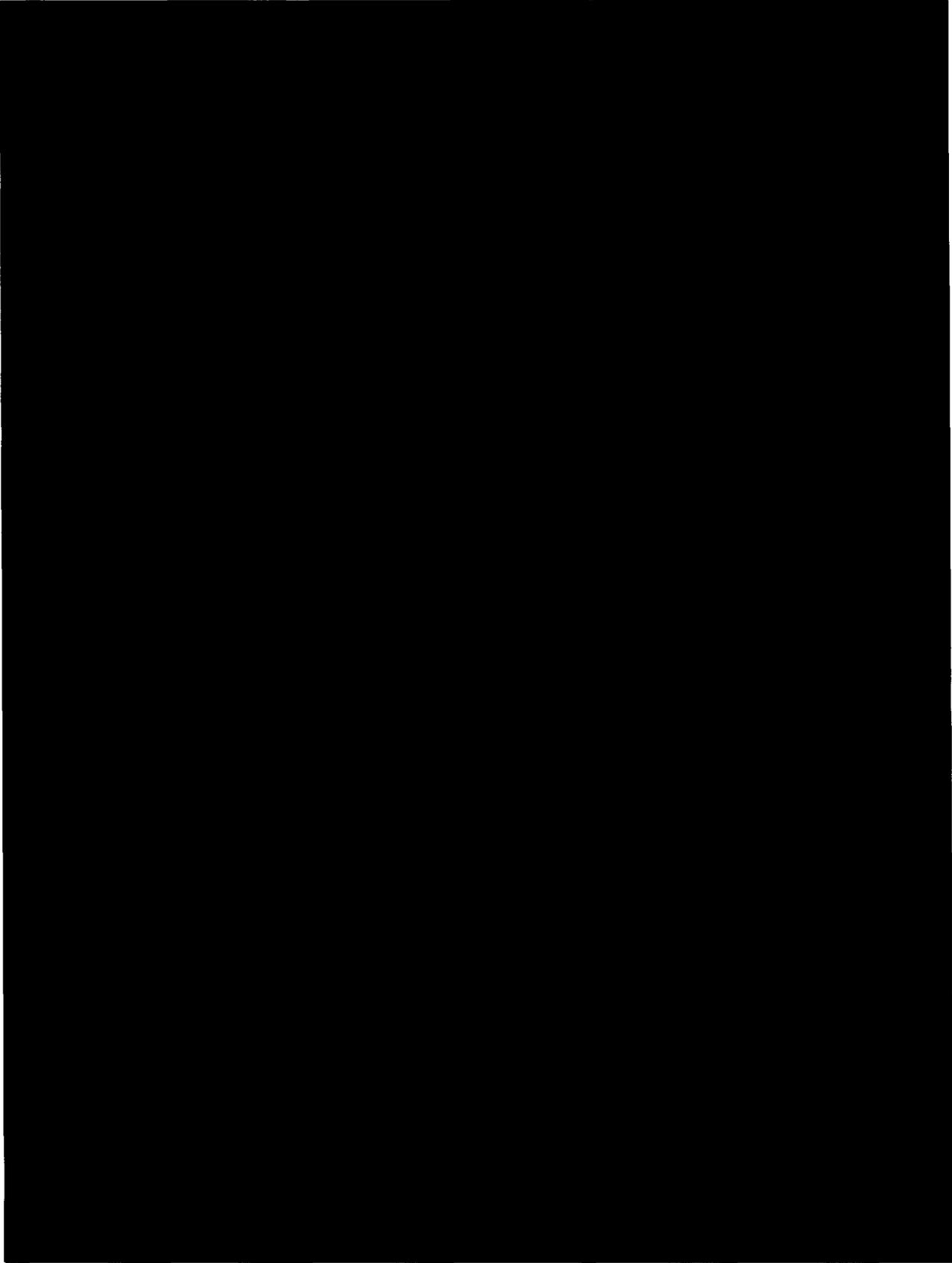
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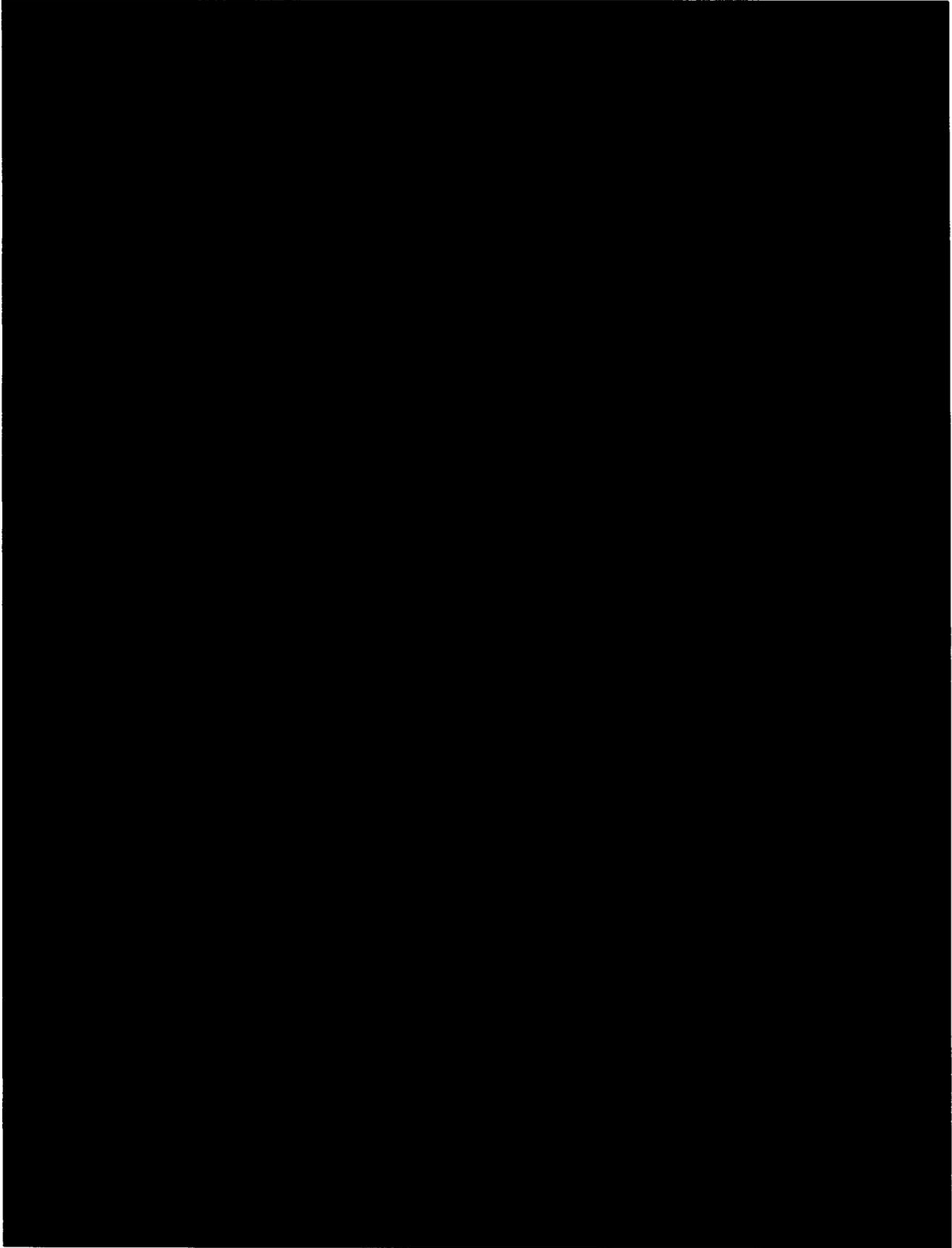
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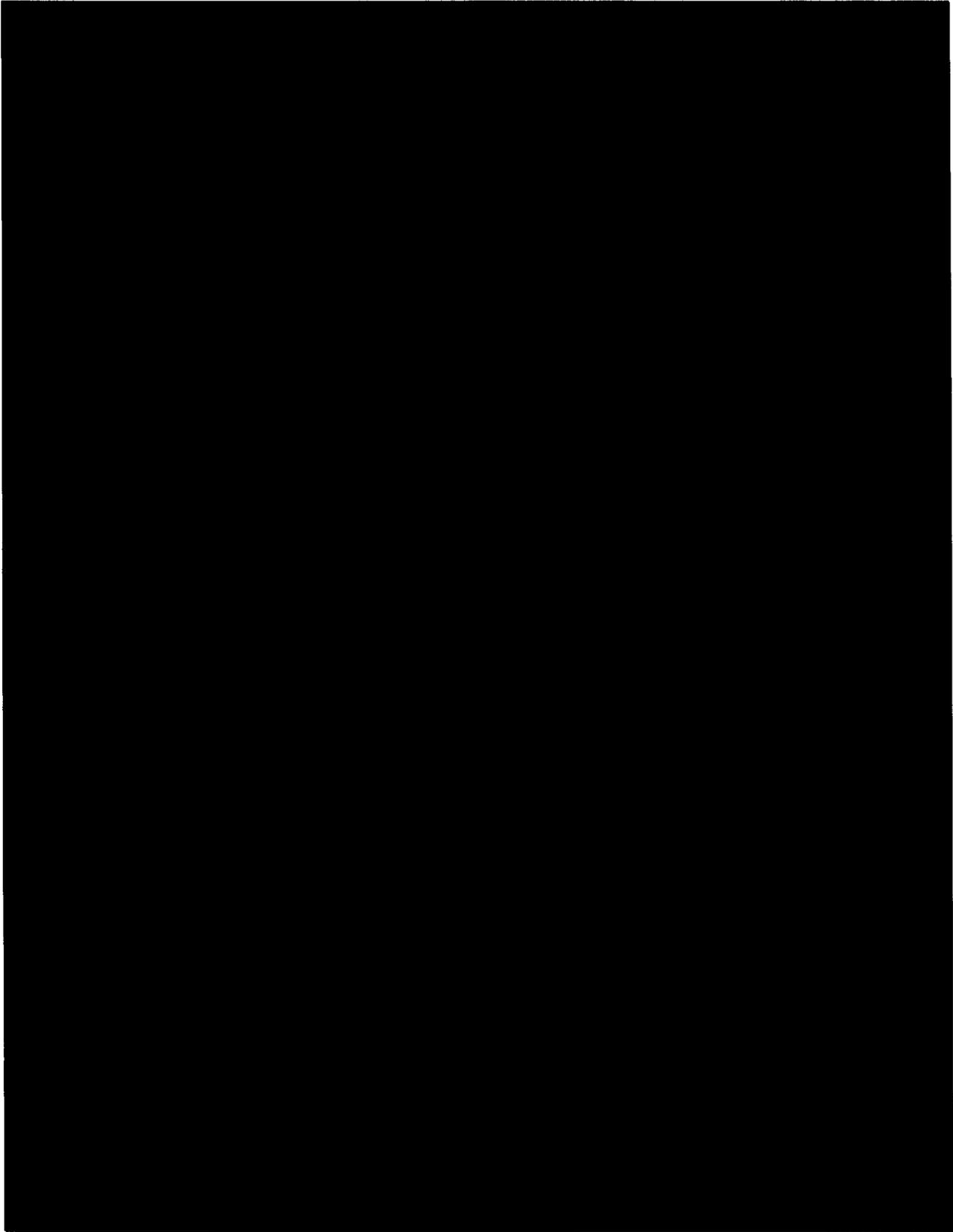
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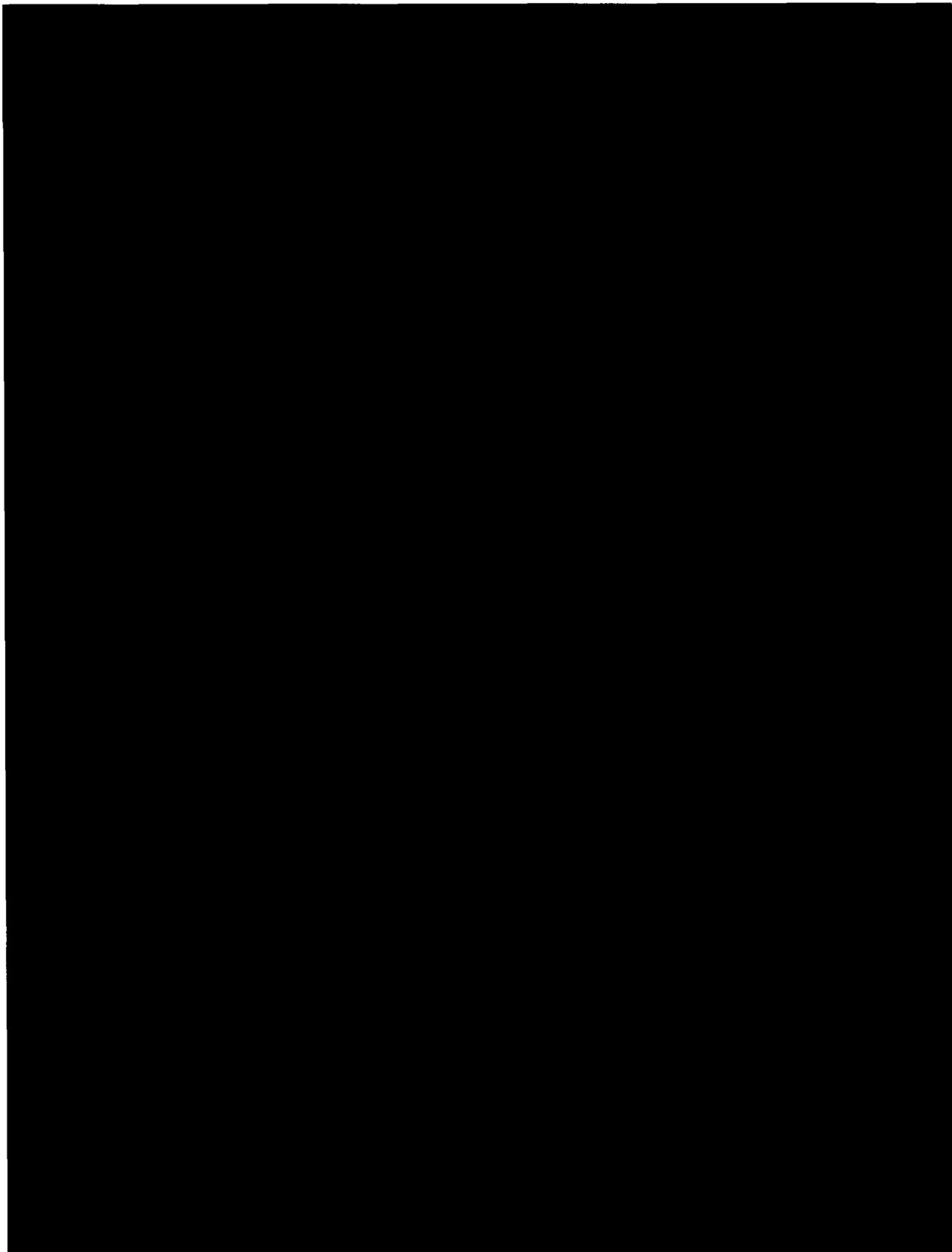


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RESIDENTIAL CAPITAL, LLC

**Condensed Consolidated Financial Statements for the Periods Ended
March 31, 2012 and 2011
(Unaudited)**

Condensed Consolidated Balance Sheet (unaudited)

Residential Capital, LLC

<i>(\$ in thousands)</i>	March 31, 2012	December 31, 2011
Assets		
Cash and cash equivalents	\$652,704	\$618,699
Mortgage loans held-for-sale (\$46,419 and \$56,976 fair value elected)	4,270,826	4,249,625
Finance receivables and loans, net		
Consumer (\$832,094 and \$835,192 fair value elected)	996,559	1,022,730
Commercial	41,145	38,017
Allowance for loan losses	(28,788)	(28,616)
Total finance receivables and loans, net	1,008,916	1,032,131
Mortgage servicing rights	1,254,497	1,233,107
Accounts receivable, net	3,157,256	3,051,748
Other assets	5,331,372	6,628,152
Total assets	\$15,675,571	\$16,813,462
Liabilities		
Borrowings		
Borrowings from parent and affiliate	\$1,409,873	\$1,189,364
Collateralized borrowings in securitization trusts (\$828,418 and \$829,940 fair value elected)	828,418	830,318
Other borrowings	4,468,776	4,705,404
Total borrowings	6,707,067	6,725,086
Other liabilities	8,569,161	9,996,026
Total liabilities	15,276,228	16,721,112
Equity		
Member's interest	11,630,276	11,433,776
Accumulated deficit	(11,166,544)	(11,279,560)
Accumulated other comprehensive loss	(64,389)	(61,866)
Total equity	399,343	92,350
Total liabilities and equity	\$15,675,571	\$16,813,462

The assets of consolidated variable interest entities that can be used only to settle obligations of the consolidated variable interest entities and the liabilities of these entities for which creditors (or beneficial interest holders) did not have recourse to our general credit at March 31, 2012 and December 31, 2011, were as follows.

<i>(\$ in thousands)</i>	March 31, 2012	December 31, 2011
Assets		
Mortgage loans held-for-sale	\$7,944	\$8,658
Finance receivables and loans, net		
Consumer (\$832,094 and \$835,192 fair value elected)	987,869	998,509
Allowance for loan losses	(8,732)	(10,126)
Total finance receivables and loans, net	979,137	988,383
Accounts receivable, net	1,026,867	1,027,411
Other assets	32,934	29,494
Total assets	\$2,046,882	\$2,053,946
Liabilities		
Borrowings		
Collateralized borrowings in securitization trusts (\$828,418 and \$829,940 fair value elected)	\$828,418	\$830,318
Other borrowings	806,292	855,631
Total borrowings	1,634,710	1,685,949
Other liabilities	28,833	29,099
Total liabilities	\$1,663,543	\$1,715,048

The Notes to the Condensed Consolidated Financial Statements (unaudited) are an integral part of these statements.

Condensed Consolidated Statement of Comprehensive Income (unaudited)

Residential Capital, LLC

Three months ended March 31, (\$ in thousands)	2012	2011
Revenue		
Interest income	\$94,605	\$110,240
Interest expense	103,218	116,991
Net financing revenue	(8,613)	(6,751)
Other revenue		
Servicing fees	188,941	217,664
Servicing asset valuation and hedge activities, net	115,316	48,911
Total servicing income, net	304,257	266,575
Gain on mortgage loans, net	106,493	35,200
Gain (loss) on foreclosed real estate	4,488	(2,702)
Other revenue, net	20,032	6,031
Total other revenue	435,270	305,104
Total net revenue	426,657	298,353
Provision for loan losses	(1,302)	5,632
Noninterest expense		
Representation and warranty expense, net	19,459	26,000
Compensation and benefits	103,233	81,676
Professional fees	57,343	18,962
Data processing and telecommunications	20,363	20,203
Occupancy	7,115	5,633
Advertising	2,046	8,747
Other noninterest expense, net	99,504	82,101
Total noninterest expense	309,063	243,322
Income before income taxes	118,896	49,399
Income tax expense	5,880	8,946
Net income	\$113,016	\$40,453
Other comprehensive income, net of tax	(2,523)	(2,397)
Comprehensive income	\$110,493	\$38,056

The Notes to the Condensed Consolidated Financial Statements (unaudited) are an integral part of these statements.

Condensed Consolidated Statement of Changes in Equity (unaudited)

Residential Capital, LLC

<i>(\$ in thousands)</i>	Member's interest	Accumulated deficit	Accumulated other comprehensive income	Total equity
Balance at January 1, 2011	\$11,324,371	(\$10,434,497)	(\$43,710)	\$846,164
Net income	—	40,453	—	40,453
Capital contribution	—	—	—	—
Other comprehensive income, net of tax	—	—	(2,397)	(2,397)
Balance at March 31, 2011	\$11,324,371	(\$10,394,044)	(\$46,107)	\$884,220
Balance at January 1, 2012	\$11,433,776	(\$11,279,560)	(\$61,866)	\$92,350
Net income	—	113,016	—	113,016
Capital contribution	196,500	—	—	196,500
Other comprehensive income, net of tax	—	—	(2,523)	(2,523)
Balance at March 31, 2012	\$11,630,276	(\$11,166,544)	(\$64,389)	\$399,343

The Notes to the Condensed Consolidated Financial Statements (unaudited) are an integral part of these statements.

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Condensed Consolidated Statement of Cash Flows (unaudited)

Residential Capital, LLC

Three months ended March 31, (\$ in thousands)	2012	2011
Operating activities		
Net income	\$113,016	\$40,453
Reconciliation of net income to net cash (used in) provided by operating activities		
Depreciation and amortization	10,449	7,004
Accretion of deferred concession on secured notes	(25,921)	(24,898)
Provision for loan losses	(1,302)	5,632
Gain on mortgage loans, net	(106,493)	(35,200)
Net (gain) loss on other assets	(1,861)	3,345
Change in fair value of mortgage servicing rights	(10,817)	(36,488)
Originations and purchases of mortgage loans held-for-sale	(10,908,385)	(15,483,820)
Proceeds from sales and repayments of mortgage loans held-for-sale	10,666,109	15,204,714
Net change in		
Deferred income taxes	1,251	(2,004)
Accounts receivable	244,337	250,806
Other assets	1,112,423	1,170,188
Other liabilities	(1,336,152)	(787,829)
Net cash (used in) provided by operating activities	(243,346)	311,903
Investing activities		
Net (increase) decrease in commercial finance receivables and loans	(497)	11,412
Net decrease in consumer mortgage finance receivables and loans	77,133	187,378
Net decrease in investments in real estate and other	—	3,085
Proceeds from sales of foreclosed and owned real estate	22,890	44,363
Other, net	72,016	(9,072)
Net cash provided by investing activities	171,542	237,166
Financing activities		
Net increase (decrease) in borrowings from parent and affiliate	417,009	(187,146)
Repayments of collateralized borrowings in securitization trusts	(82,842)	(140,203)
Proceeds from other long-term borrowings	849,685	519,362
Repayments of other long-term borrowings	(923,285)	(796,606)
Net (decrease) increase in other short-term borrowings	(165,464)	91,776
Net cash provided by (used in) financing activities	95,103	(512,817)
Effect of changes in foreign exchange rates on cash and cash equivalents	10,706	10,254
Net increase in cash and cash equivalents	34,005	46,506
Cash and cash equivalents at beginning of year	618,699	672,204
Cash and cash equivalents at March 31,	\$652,704	\$718,710

The Notes to the Condensed Consolidated Financial Statements (unaudited) are an integral part of these statements.

Condensed Consolidated Statement of Cash Flows (unaudited)

Residential Capital, LLC

Three months ended March 31, (\$ in thousands)	2012	2011
Supplemental disclosures		
Cash paid for		
Interest	\$38,443	\$91,379
Income taxes	18	17,642
Non cash items		
Mortgage loans held-for-sale transferred to consumer finance receivables and loans	461	1,113
Consumer finance receivables and loans transferred to mortgage loans held-for-sale	40,407	53,688
Consumer finance receivables and loans transferred to other assets	2,571	3,585
Mortgage loans held for sale transferred to other assets	47,073	15,637
Mortgage loans held-for-sale transferred to accounts receivable	349,436	214,932
Mortgage servicing rights recognized upon the transfer of financial assets	10,573	18,370
Capital contributions through forgiveness of borrowings from Ally Inc.	196,500	—
Other disclosures		
Proceeds from sales and repayments of consumer finance receivables and loans originally designated as mortgage loans held for sale	\$33,219	\$41,929

The Notes to the Condensed Consolidated Financial Statements (unaudited) are an integral part of these statements.

Notes to Condensed Consolidated Financial Statements

Residential Capital, LLC

1. Description of Business, Basis of Presentation and Changes in Significant Accounting Policies

Residential Capital, LLC (ResCap, we, our, or us) is a wholly owned subsidiary of GMAC Mortgage Group, LLC (GMAC Mortgage Group) which is a wholly owned subsidiary of Ally Financial Inc. (Ally Inc.). Our operations are principally conducted through our subsidiaries Residential Funding Company, LLC (RFC) and GMAC Mortgage, LLC (GMAC Mortgage). We broker, originate, purchase, sell, securitize, and service residential mortgage loans in the United States. We broker virtually all of the loan production from our origination channels to our affiliate, Ally Bank. Virtually all of our purchases are also executed with our affiliate, Ally Bank. Purchased loans are primarily agency eligible or government insured loans. Prime credit quality loans originated in conformity with the underwriting guidelines of Fannie Mae (formerly known as Federal National Mortgage Association) and Freddie Mac (formerly known as Federal Home Loan Mortgage Corporation) are generally sold to one of these government-sponsored entities in the form of agency-sponsored securitizations. Prime credit quality loans originated in conformity with the underwriting guidelines of the Federal Housing Administration (FHA) and Department of Veterans Affairs (VA) are generally sold into securitizations guaranteed by the Government National Mortgage Association (Ginnie Mae with Fannie Mae and Freddie Mac, collectively, the GSEs).

Ally Bank has recently undertaken actions that are expected to have a material adverse impact on our financial condition, results of operations and cash flows. These include the November 2011 decision to reduce its focus on its correspondent mortgage lending channel, and the decisions in April 2012 to significantly reduce its government production, including FHA and VA loans, from its correspondent mortgage lending channel, to become a direct seller of eligible loans to Fannie Mae and Freddie Mac effective May 1, 2012, and to terminate a number of its affiliate agreements with GMAC Mortgage effective April 30, 2012. We expect the level of mortgage loan purchases from Ally Bank to decline significantly in future periods. GMAC Mortgage will continue to purchase Ginnie Mae eligible loans from Ally Bank under the terms of an amended and restated master mortgage loan purchase and sale agreement executed in April 2012 effective May 1, 2012. Refer to Note 17 - Related Party Transactions for additional information.

Our legacy business included non-conforming domestic and international residential mortgage loan originations, purchases, sales, and securitization activities; our captive mortgage reinsurance portfolio; and our domestic and international commercial lending activities. The remaining legacy portfolios, which include limited international operations in Mexico, Canada and the United Kingdom, are being run-off, with periodic asset sales, workouts, or consideration and execution of other strategic disposition transactions to maximize our return.

We did not make a \$20.1 million semi-annual interest payment that was due on April 17, 2012, related to \$473.0 million outstanding senior unsecured notes maturing in June 2013. The indenture for the senior unsecured notes provides that a failure to pay interest on an interest payment date does not become an event of default unless such failure continues for a period of 30 days. We have projected interest payments due in May 2012 of \$136.5 million, including the \$20.1 interest payment due on April 17, 2012. We also have \$2.0 billion of debt maturing in 2012, including our \$158.0 million mortgage servicing rights secured funding facility, \$131.2 million in euro-denominated notes and \$1.4 billion in secured borrowings from Ally Inc. and its subsidiaries, all of which mature in May 2012.

We have been, and expect to continue to be, negatively impacted by exposure to representation and warranty obligations, adverse outcomes with respect to current or future litigation, fines, penalties or settlements related to our business activities and additional expenses to address regulatory requirements. We currently estimate that our reasonably possible losses related to litigation matters and potential repurchase obligations and related claims could be between \$0.0 billion and \$4.0 billion in excess of amounts recorded. See Note 16 - Contingencies and Other Risks for additional information. There can be no assurance that we will have the capital or liquidity sufficient to pay any significant portion of such estimated possible losses.

We remain heavily dependent on Ally Inc. and affiliates for funding and capital support. While Ally Inc. agreed to extend the maturity date for certain of its facilities with us until May 14, 2012, there can be no assurance that they will continue any such support or that they will choose to execute any further strategic transactions with respect to us or that any transactions undertaken will be successful. Should Ally Inc. no longer continue to support our capital or liquidity needs or should we be unable to successfully execute other initiatives, it would have a material adverse effect on our business, financial condition and results of operations. Consequently, there remains substantial doubt about our ability to continue as a going concern. If we do not receive the necessary support, we are determining whether it would be in the best interests of our creditors and other stakeholders to file for protection under the federal bankruptcy laws.

All of our credit facilities and certain other agreements contain covenants that require us to maintain consolidated tangible net worth of \$250.0 million as of each month end. At December 31, 2011, we were in default of this covenant, which was subsequently cured but it is possible defaults could occur in the future due to insufficient capital or liquidity. Failure to meet this covenant is an event of default and may result in, among other things, an acceleration of the facility's maturity and/or may trigger an early

Notes to Condensed Consolidated Financial Statements

Residential Capital, LLC

amortization event, under certain facilities. There are also cross default and cross acceleration provisions in our credit facilities, our junior secured debt and certain other agreements. A default under any one of these agreements can, through cross default and cross acceleration provisions create defaults in all of our other agreements. See Note 8 - Borrowings for additional information related to our financial covenants and counterparties remedies in an event of default.

Our consolidated tangible net worth, as defined, as of March 31, 2012 was \$399.3 million in compliance with our financial covenants. Our consolidated tangible net worth, as defined, as of December 31, 2011, was \$92.4 million, which constituted an event of default under our credit facilities and certain other agreements. We obtained waivers or acknowledgment letters from each of our liquidity providers in connection with our credit facilities and counterparties to agreements with financial covenants under which they agreed not to pursue their contractual remedies with respect to the default. These waivers were predicated, in part, on a January 30, 2012 capital contribution in the amount of \$196.5 million that we received from Ally Inc. We are in compliance with any conditions with respect to these waivers and acknowledgment letters.

Consolidation and Basis of Presentation

The accompanying Condensed Consolidated Financial Statements were prepared on a going concern basis, which contemplates the realization of assets and the satisfaction of liabilities in the normal course of business. The Condensed Consolidated Financial Statements include our accounts and accounts of our majority-owned subsidiaries after eliminating all significant intercompany balances and transactions and include all variable interest entities (VIEs) in which we are the primary beneficiary. See Note 4 — Securitization and Variable Interest Entities for additional information.

Our accounting and reporting policies conform to accounting principles generally accepted in the United States of America (GAAP). The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities at the date of the financial statements and that affect income and expenses during the reporting period. In developing the estimates and assumptions, management uses all available evidence; however, actual results could differ because of uncertainties associated with estimating the amounts, timing, and likelihood of possible outcomes.

The Condensed Consolidated Financial Statements at March 31, 2012 and for the three months ended March 31, 2012 and 2011, are unaudited but reflect all adjustments that are, in management's opinion, necessary for the fair presentation of the results for the interim periods presented. All such adjustments are of a normal recurring nature. These unaudited Condensed Consolidated Financial Statements should be read in conjunction with the audited Consolidated Financial Statements (and the related notes) for the year ended December 31, 2011.

We operate our international subsidiaries in a similar manner as we operate in the United States of America (U.S. or United States), subject to local laws or other circumstances that may cause us to modify our procedures accordingly. The financial statements of subsidiaries that operate outside of the United States are measured using the local currency as the functional currency. All assets and liabilities of foreign subsidiaries are translated into U.S. dollars using the period end exchange rates. The resulting translation adjustments are recorded in accumulated other comprehensive income, a component of equity. Income and expense items are translated at average exchange rates prevailing during the reporting period.

Recently Adopted Accounting Standards

Fair Value Measurement - Amendments to Achieve Common Fair Value Measurement and Disclosure Requirements in U.S. GAAP and IFRS (ASU 2011-04)

As of January 1, 2012, we adopted Accounting Standards Update (ASU) 2011-04, which amends ASC 820, *Fair Value Measurements*. The amendments in this ASU clarify how to measure fair value and it contains new disclosure requirements to provide more transparency into Level 3 fair value measurements. It is intended to improve the comparability of fair value measurements presented and disclosed in financial statements prepared in accordance with U.S. GAAP and IFRS. The ASU must be applied prospectively. The adoption did not have a material impact to our consolidated financial condition or results of operations.

Recently Issued Accounting Standards

Balance Sheet - Disclosures about Offsetting Assets and Liabilities (ASU 2011-11)

In December 2011, the Financial Asset Standards Board (FASB) issued ASU 2011-11, which amends ASC 210, *Balance Sheet*. This ASU contains new disclosure requirements regarding the nature of an entity's rights of setoff and related arrangements associated with its financial instruments and derivative instruments. The new disclosures will give financial statement users information about both gross and net exposures. ASU 2011-11 is effective for us on January 1, 2013, and retrospective application is required. Since the guidance relates only to disclosures, adoption is not expected to have a material effect on our consolidated financial condition or results of operations.

Notes to Condensed Consolidated Financial Statements

Residential Capital, LLC

2. Mortgage Loans Held-for-sale

The composition of residential mortgage loans held-for-sale reported at carrying value, were as follows.

<i>(\$ in thousands)</i>	March 31, 2012			December 31, 2011		
	Domestic (a) (b)	Foreign	Total	Domestic (a) (b)	Foreign	Total
1st Mortgage	\$3,523,013	\$35,297	\$3,558,310	\$3,497,392	\$12,011	\$3,509,403
Home equity	712,516	—	712,516	740,222	—	740,222
Total loans held-for-sale (c)	\$4,235,529	\$35,297	\$4,270,826	\$4,237,614	\$12,011	\$4,249,625

- (a) Includes mortgage loans subject to conditional repurchase options of \$2.3 billion and \$2.3 billion sold to Ginnie Mae guaranteed securitizations and \$99.3 million and \$105.8 million sold to off-balance sheet private-label securitization trusts at March 31, 2012 and December 31, 2011, respectively. The corresponding liability is recorded in other liabilities. See Note 4 — Securitizations and Variable Interest Entities for additional information.
- (b) Includes mortgage loans for which we have elected the fair value option of \$46.4 million and \$57.0 million at March 31, 2012 and December 31, 2011 respectively. See Note 13 — Fair Value for additional information.
- (c) The carrying values are net of discounts of \$320.4 million and \$313.1 million, fair value adjustments of \$(30.8) million and \$(28.0) million, lower of cost or fair value adjustments of \$56.8 million and \$60.2 million, and UPB write-downs of \$1.4 billion and \$1.5 billion at March 31, 2012 and December 31, 2011, respectively.

3. Finance Receivables and Loans, Net

The composition of finance receivables and loans, net reported at carrying value before allowance for loan losses, were as follows.

<i>(\$ in thousands)</i>	March 31, 2012			December 31, 2011		
	Domestic	Foreign	Total	Domestic	Foreign	Total
Consumer						
1st Mortgage	\$128,220	\$251,423	\$379,643	\$130,024	\$256,494	\$386,518
Home equity	616,916	—	616,916	636,212	—	636,212
Total consumer (a) (b)	745,136	251,423	996,559	766,236	256,494	1,022,730
Commercial						
Commercial and industrial	—	26,232	26,232	—	23,860	23,860
Commercial real estate	—	14,913	14,913	—	14,157	14,157
Total commercial	—	41,145	41,145	—	38,017	38,017
Total finance receivables and loans	\$745,136	\$292,568	\$1,037,704	\$766,236	\$294,511	\$1,060,747

- (a) Consumer mortgages include \$832.1 million and \$835.2 million at fair value as a result of fair value option elections as of March 31, 2012 and December 31, 2011, respectively. See Note 13 — Fair Value for additional information.
- (b) The gross carrying value is net of fair value adjustments of \$1.6 billion and \$1.6 billion and UPB write-downs of \$8.8 million and \$8.0 million at March 31, 2012 and December 31, 2011, respectively.

Notes to Condensed Consolidated Financial Statements

Residential Capital, LLC

The following table presents an analysis of the activity in the allowance for loan losses on finance receivables and loans, net.

(\$ in thousands)	2012			2011		
	Consumer	Commercial	Total	Consumer	Commercial	Total
Allowance at January 1,	\$13,638	\$14,978	\$28,616	\$17,681	\$25,129	\$42,810
Provision for loan losses	(548)	(754)	(1,302)	447	5,185	5,632
Charge-offs						
Domestic	(1,123)	—	(1,123)	(2,212)	—	(2,212)
Foreign	116	1,327	1,443	(218)	(14,579)	(14,797)
Total charge-offs	(1,007)	1,327	320	(2,430)	(14,579)	(17,009)
Recoveries						
Domestic	100	195	295	1,263	937	2,200
Foreign	—	859	859	—	781	781
Total recoveries	100	1,054	1,154	1,263	1,718	2,981
Net charge-offs	(907)	2,381	1,474	(1,167)	(12,861)	(14,028)
Allowance at March 31,	\$12,183	\$16,605	\$28,788	\$16,961	\$17,453	\$34,414
Allowance for loan losses						
Individually evaluated for	\$2,910	\$16,605	\$19,515	\$3,838	\$16,137	\$19,975
Collectively evaluated for	\$9,273	\$—	\$9,273	\$13,123	\$1,316	\$14,439
Finance receivables and loans						
Individually evaluated for	\$8,018	\$41,145	\$49,163	\$7,818	\$88,972	\$96,790
Collectively evaluated for impairment	\$156,447	\$—	\$156,447	\$232,724	\$3,279	\$236,003

The following table presents an analysis of our past due finance receivables and loans at gross carrying value.

(\$ in thousands)	30-59 days	60-89 days	90 days	Total	Current	Total
	past due	past due	or more			
March 31, 2012						
Consumer mortgage						
1st Mortgage	\$30,346	\$13,857	\$170,051	\$214,254	\$165,389	\$379,643
Home equity	11,122	5,208	10,813	27,143	589,773	616,916
Total consumer	41,468	19,065	180,864	241,397	755,162	996,559
Commercial						
Commercial and industrial	25,881	—	351	26,232	—	26,232
Commercial real estate	—	—	14,913	14,913	—	14,913
Total commercial	25,881	—	15,264	41,145	—	41,145
Total	\$67,349	\$19,065	\$196,128	\$282,542	\$755,162	\$1,037,704
December 31, 2011						
Consumer mortgage						
1st Mortgage	\$29,730	\$14,664	\$158,255	\$202,649	\$183,869	\$386,518
Home equity	13,064	6,488	11,850	31,402	604,810	636,212
Total consumer	42,794	21,152	170,105	234,051	788,679	1,022,730
Commercial						
Commercial and industrial	—	—	322	322	23,538	23,860
Commercial real estate	—	1,736	12,212	13,948	209	14,157
Total commercial	—	1,736	12,534	14,270	23,747	38,017
Total	\$42,794	\$22,888	\$182,639	\$248,321	\$812,426	\$1,060,747

Notes to Condensed Consolidated Financial Statements

Residential Capital, LLC

The following table presents the gross carrying value of our finance receivables and loans in nonaccrual status.

<i>(\$ in thousands)</i>	March 31, 2012	December 31, 2011
Consumer mortgage		
1st Mortgage	\$193,981	\$199,702
Home equity	30,329	36,651
Total consumer	224,310	236,353
Commercial		
Commercial and industrial	26,232	322
Commercial real estate	14,913	12,212
Total commercial	41,145	12,534
Total	\$265,455	\$248,887

Management performs a quarterly analysis of its consumer and commercial finance receivable and loan portfolios using a range of credit quality indicators to assess the adequacy of the allowance based on historical and current trends. Based on our allowance methodology, our credit quality indicators for consumer mortgage loans are performing and nonperforming and for commercial mortgage finance receivables and loans are pass and criticized.

The following table presents the credit quality indicators for our consumer mortgage loan portfolio at gross carrying value.

<i>(\$ in thousands)</i>	March 31, 2012			December 31, 2011		
	Performing	Nonperforming	Total	Performing	Nonperforming	Total
Consumer mortgage						
1st Mortgage	\$185,662	\$193,981	\$379,643	\$186,816	\$199,702	\$386,518
Home equity	586,587	30,329	616,916	599,561	36,651	636,212
Total consumer mortgage	\$772,249	\$224,310	\$996,559	\$786,377	\$236,353	\$1,022,730

The following table presents the credit quality indicators for our commercial finance receivable and loan portfolio at gross carrying value.

<i>(\$ in thousands)</i>	March 31, 2012			December 31, 2011		
	Pass	Criticized (a)	Total	Pass	Criticized (a)	Total
Commercial						
Commercial and industrial	\$—	\$26,232	\$26,232	\$—	\$23,860	\$23,860
Commercial real estate	—	14,913	14,913	209	13,948	14,157
Total commercial	\$—	\$41,145	\$41,145	\$209	\$37,808	\$38,017

(a) Includes loans classified as special mention, substandard, or doubtful. These classifications are based on regulatory definitions and generally represent loans in our portfolio that are of higher default risk.

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Residential Capital, LLC

Impaired Loans and Troubled Debt Restructurings**Impaired Loans**

Loans are considered impaired when we determine it is probable that we will be unable to collect all amounts due according to the terms of the loan agreement or if the loan has been modified under a troubled debt restructuring.

The following table presents information about our impaired finance receivables and loans recorded at historical cost.

<i>(\$ in thousands)</i>	Unpaid principal balance (a)	Carrying value before allowance	Impaired with no allowance	Impaired with an allowance	Allowance for impaired loans
March 31, 2012					
Consumer mortgage					
1st Mortgage	\$409	\$409	\$—	\$409	\$103
Home equity	7,609	7,609	160	7,450	2,807
Total consumer	8,018	8,018	160	7,859	2,910
Commercial					
Commercial and industrial	26,232	26,232	—	26,232	11,485
Commercial real estate	14,973	14,913	1,591	13,322	5,120
Total commercial	41,205	41,145	1,591	39,554	16,605
Total	\$49,223	\$49,163	\$1,751	\$47,413	\$19,515
December 31, 2011					
Consumer mortgage					
1st Mortgage	\$436	\$436	\$—	\$436	\$109
Home equity	7,619	7,619	173	7,446	2,926
Total consumer	8,055	8,055	173	7,882	3,035
Commercial					
Commercial and industrial	322	322	—	322	202
Commercial real estate	12,271	12,212	1,442	10,770	4,592
Total commercial	12,593	12,534	1,442	11,092	4,794
Total	\$20,648	\$20,589	\$1,615	\$18,974	\$7,829

(a) Unpaid principal balance represents the contractual principal balance adjusted for UPB write-downs on transfers or charge offs in accordance with our policy.

The following table presents information about our impaired finance receivables and loans excluding loans carried at fair value due to fair value option elections.

<i>Three months ended March 31, (\$ in thousands)</i>	2012			2011		
	Consumer	Commercial	Total	Consumer	Commercial	Total
Average balance of impaired loans	\$7,999	\$21,855	\$29,854	\$7,395	\$102,497	\$109,892
Interest income recognized on impaired loans	\$95	\$8	\$103	\$90	\$5,574	\$5,664

At March 31, 2012 and December 31, 2011, there were no commercial commitments to lend additional funds to debtors owing receivables whose terms have been modified in a troubled debt restructuring.

Troubled Debt Restructurings

As part of our loss mitigation efforts and participation in certain governmental programs (e.g., the Making Home Affordable Program), we may offer loan modifications to borrowers experiencing financial difficulties (TDRs). Loan modifications can include any or all of the following: principal forgiveness, maturity extensions, delinquent interest capitalization, and changes to contractual interest rates. Modifications can be either temporary or permanent. Temporary loan modifications are generally used to monitor the borrower's ability to perform under the revised terms over a specified trial period; if the borrower performs, it may become a permanent loan modification. Total TDRs recorded at historical cost and reported at gross carrying value are \$35.8 million and \$33.6 million at March 31, 2012 and December 31, 2011, respectively.

Notes to Condensed Consolidated Financial Statements

Residential Capital, LLC

The following table presents information related to finance receivables and loans recorded at historical cost modified in connection with a troubled debt restructuring during the period.

Three months ended March 31, 2012 (\$ in thousands)	Number of Loans	Pre-modification gross carrying value	Post-modification gross carrying value
Consumer mortgage			
1st Mortgage	—	\$—	\$—
Home equity	11	507	504
Total consumer mortgage	11	\$507	\$504

The following table presents information related to finance receivables and loans recorded at gross carrying value that redefaulted (180 days or more delinquent) on or before the one year anniversary of being modified. The charge-off amount is determined in accordance with our charge-off policy.

Three months ended March 31, 2012 (\$ in thousands)	Number of Loans	Gross carrying value	Charge-off amount
Consumer mortgage			
1st Mortgage	—	\$—	\$—
Home equity	1	10	10
Total consumer mortgage	1	\$10	\$10

4. Securitizations and Variable Interest Entities

Overview

We are involved in several types of securitization and financing transactions that utilize special-purpose entities (SPEs). A SPE is an entity that is designed to fulfill a specified limited need of the sponsor. Our principal use of SPEs is to obtain liquidity by securitizing certain of our financial assets.

The SPEs involved in securitization and other financing transactions are generally considered variable interest entities (VIEs). VIEs are entities that have either a total equity investment that is insufficient to permit the entity to finance its activities without additional subordinated financial support or whose equity investors lack the ability to control the entity's activities.

Securitizations

We provide a wide range of consumer mortgage loan products to a diverse customer base. We often securitize these loans through the use of securitization entities, which may or may not be consolidated on our Condensed Consolidated Balance Sheet. We securitize consumer mortgage loans through either the GSEs or private-label (nonagency) securitizations. For the periods presented, our consumer mortgage loans were securitized through the GSEs.

In executing a securitization transaction, we sell pools of financial assets to a wholly owned, bankruptcy-remote SPE, which then transfers the financial assets to a separate, transaction-specific securitization entity for cash, servicing rights, and in some transactions, other retained interests. The securitization entity is funded through the issuance of beneficial interests in the securitized financial assets. The beneficial interests take the form of either notes or trust certificates that are sold to investors and/or retained by us. These beneficial interests are collateralized by the transferred loans and entitle the investors to specified cash flows generated from the securitized loans. In the aggregate, these beneficial interests have the same average life as the transferred financial assets. In addition to providing a source of liquidity and cost-efficient funding, securitizing these financial assets also reduces our credit exposure to the borrowers beyond any economic interest we may retain. We securitize conforming residential mortgage loans through GSE securitizations and we historically securitized nonconforming mortgage loans through private-label securitizations.

Each securitization is governed by various legal documents that limit and specify the activities of the securitization entity. The securitization entity is generally allowed to acquire the loans, to issue beneficial interests to investors to fund the acquisition of the loans, and to enter into derivatives or other yield maintenance contracts (e.g., coverage by monoline bond insurers) to hedge or mitigate certain risks related to the financial assets or beneficial interests of the entity. A servicer, who is generally us, is appointed pursuant to the underlying legal documents to service the assets the securitization entity holds and the beneficial interests it issues. Servicing functions include, but are not limited to, making certain payments of property taxes and insurance premiums, default and property maintenance payments, as well as advancing principal and interest payments before collecting them from individual

Notes to Condensed Consolidated Financial Statements

Residential Capital, LLC

borrowers. Our servicing responsibilities, which constitute continued involvement in the transferred financial assets, consist of primary servicing (i.e., servicing the underlying transferred financial assets) and/or master servicing (i.e., servicing the beneficial interests that result from the securitization transactions). Certain securitization entities also require the servicer to advance scheduled principal and interest payments due on the beneficial interests issued by the entity regardless of whether cash payments are received on the underlying transferred financial assets. Accordingly, we are required to provide these servicing advances when applicable. See Note 5 — Servicing Activities for additional information regarding our servicing rights.

The GSEs provide a guarantee of the payment of principal and interest on the beneficial interests issued in securitizations. In private-label securitizations, cash flows from the assets initially transferred into the securitization entity represent the sole source for payment of distributions on the beneficial interests issued by the securitization entity and for payments to the parties that perform services for the securitization entity, such as the servicer or the trustee. In certain private-label securitization transactions, a liquidity facility may exist to provide temporary liquidity to the entity. The liquidity provider generally is reimbursed prior to other parties in subsequent distribution periods. Monoline insurance may also exist to cover certain shortfalls to certain investors in the beneficial interests issued by the securitization entity. As noted above, in certain private-label securitizations, the servicer is required to advance scheduled principal and interest payments due on the beneficial interests regardless of whether cash payments are received on the underlying transferred financial assets. The servicer is allowed to reimburse itself for these servicing advances. Additionally, certain private-label securitization transactions may allow for the acquisition of additional loans subsequent to the initial loan transfer. Principal collections on other loans and/or the issuance of new beneficial interests, such as variable funding notes, generally fund these loans; we are often contractually required to invest in these new interests.

We may retain beneficial interests in our private-label securitizations, which may represent a form of significant continuing economic interest. These retained interests include, but are not limited to, senior or subordinate mortgage- or asset-backed securities, interest-only strips, principal-only strips, and residuals. Certain of these retained interests provide credit enhancement to the trust as they may absorb credit losses or other cash shortfalls. Additionally, the securitization agreements may require cash flows to be directed away from certain of our retained interests due to specific over-collateralization requirements, which may or may not be performance-driven.

We generally hold certain conditional repurchase options that allow us to repurchase assets from the securitization entity. The majority of the securitizations provide us, as servicer, with a call option that allows us to repurchase the remaining transferred financial assets or outstanding beneficial interests at our discretion once the asset pool reaches a predefined level, which represents the point where servicing becomes burdensome (a clean-up call option). The repurchase price is typically the par amount of the loans plus accrued interest. Additionally, we may hold other conditional repurchase options that allow us to repurchase a transferred financial asset if certain events outside our control are met. The typical conditional repurchase option is a delinquent loan repurchase option that gives us the option to purchase the loan if it exceeds a certain prespecified delinquency level. We have discretion regarding when or if we will exercise these options, but generally, we would do so only when it is in our best interest.

Other than our customary representation and warranty obligations, these securitizations are nonrecourse to us, thereby transferring the risk of future credit losses to the extent the beneficial interests in the securitization entities are held by third parties. Representation and warranty provisions generally require us to repurchase loans or indemnify the investor or other party for incurred losses to the extent it is determined that the loans were ineligible or were otherwise defective at the time of sale. See Note 16 — Contingencies and Other Risks for detail on representation and warranty provisions. We did not provide any noncontractual financial support to any of these entities during the three months ended March 31, 2012 and 2011.

Other Variable Interest Entities

Servicer Advance Funding Entity — To assist in the financing of our servicer advance receivables, we formed a SPE that issues term notes and variable funding notes to third-party investors that are collateralized by servicer advance receivables. These servicer advance receivables are transferred to the SPE and consist of delinquent principal and interest advances we made as servicer to various investors; property taxes and insurance premiums advanced to taxing authorities and insurance companies on behalf of borrowers; and amounts advanced for mortgages in foreclosure. The SPE funds the purchase of the receivables through financing obtained from the third-party investors and subordinated loans or an equity contribution from us. This SPE is consolidated on our balance sheet at March 31, 2012 and December 31, 2011. The beneficial interest holder of this SPE does not have legal recourse to our general credit. We do not have a contractual obligation to provide any type of financial support in the future, nor have we provided noncontractual financial support to the entity during the three months ended March 31, 2012 and 2011.

Notes to Condensed Consolidated Financial Statements

Residential Capital, LLC

Home Equity Funding Entity — To assist in the financing of certain of our home equity mortgage loans, we formed a SPE that issued variable funding notes to third-party investors that are collateralized by home equity loans and revolving lines of credit. This SPE is consolidated on our balance sheet at March 31, 2012 and December 31, 2011. The beneficial interest holder of this VIE does not have legal recourse to our general credit. We do not have a contractual obligation to provide any type of financial support in the future, nor have we provided noncontractual financial support to the entity during the three months ended March 31, 2012 and 2011.

Other — We have involvement with other immaterial on-balance sheet VIEs. Most of these VIEs are used for additional liquidity whereby we sell certain financial assets to the VIE and issue beneficial interests to third parties for cash.

Involvement with Variable Interest Entities

The determination of whether financial assets transferred by us to VIEs (and related liabilities) are consolidated on our balance sheet (also referred to as on-balance sheet) or not consolidated on our balance sheet (also referred to as off-balance sheet) depends on the terms of the related transaction and our continuing involvement (if any) with the SPE. We are deemed the primary beneficiary and, therefore, consolidate VIEs for which we have both (a) the power through voting rights or similar rights to direct the activities that most significantly impact the VIE's economic performance, and (b) a variable interest (or variable interests) that (i) obligates us to absorb losses that could potentially be significant to the VIE and/or (ii) provides us the right to receive residual returns of the VIE that could potentially be significant to the VIE. We determine whether we hold a significant variable interest in a VIE based on a consideration of both qualitative and quantitative factors regarding the nature, size, and form of our involvement with the VIE. We assess whether we are the primary beneficiary of a VIE on an ongoing basis.

Our involvement with consolidated and nonconsolidated VIEs in which we hold a variable interest as of March 31, 2012 and December 31, 2011, is presented below.

<i>(\$ in thousands)</i>	Consolidated involvement with VIEs	Assets of nonconsolidated VIEs, net (a)	Maximum exposure to loss in nonconsolidated VIEs (b)
March 31, 2012			
On-balance sheet variable interest entities			
Private-label securitizations	\$933,317	\$—	\$—
Servicer Advance Funding	960,480	—	—
Home Equity Funding	150,607	—	—
Other	2,478	—	—
Off-balance sheet variable interest entities			
Ginnie Mae securitizations	2,664,512 (c)	43,317,031	43,317,031
Private-label securitizations	132,455 (d)	4,193,506	4,193,506
Total	\$4,843,849	\$47,510,537	\$47,510,537
December 31, 2011			
On-balance sheet variable interest entities			
Private-label securitizations	\$939,159	\$—	\$—
Servicer Advance Funding	955,823	—	—
Home Equity Funding	156,423	—	—
Other	2,541	—	—
Off-balance sheet variable interest entities			
Ginnie Mae securitizations	2,651,939 (c)	44,126,607	44,126,607
Private-label securitizations	140,709 (d)	4,408,206	4,408,206
Total	\$4,846,594	\$48,534,813	\$48,534,813

(a) Asset values represent the current UPB of outstanding consumer mortgage loans within the VIEs.

(b) Maximum exposure to loss represents the current UPB of outstanding consumer mortgage loans based on our customary representation and warranty provisions. This measure is based on the unlikely event that all of the loans have underwriting defects or other defects that trigger a representation and warranty provision and the collateral supporting the loans are worthless. This required disclosure is not an indication of our expected loss.

(c) Includes \$411.2 million and \$377.8 million classified as mortgage servicing rights and \$2.3 billion and \$2.3 billion of mortgage loans held-for-sale that are subject to conditional repurchase options at March 31, 2012 and December 31, 2011, respectively. The corresponding liability related to conditional repurchase option loans is recorded in other liabilities.

(d) Includes \$25.3 million and \$26.5 million classified as other assets, \$7.8 million and \$8.4 million classified as mortgage servicing rights and \$99.3 million and \$105.8 million of mortgage loans held-for-sale that are subject to conditional repurchase options at March 31, 2012 and December 31, 2011, respectively. The corresponding liability related to conditional repurchase option loans is recorded in other liabilities.

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Residential Capital, LLC

On-balance Sheet Variable Interest Entities

We engage in securitization and other financing transactions that do not qualify for off-balance sheet treatment. In these situations, we hold beneficial interests or other interests in the VIE, which represents a form of significant continuing economic interest. The interests held include, but are not limited to, senior or subordinate mortgage- or asset-backed securities, interest-only strips, principal-only strips, residuals, and servicing rights. Certain of these retained interests provide credit enhancement to the securitization entity as they may absorb credit losses or other cash shortfalls. Additionally, the securitization documents may require cash flows to be directed away from certain of our retained interests due to specific over-collateralization requirements, which may or may not be performance-driven. Because these securitization entities are consolidated, these retained interests and servicing rights are not recognized as separate assets on our Condensed Consolidated Balance Sheet.

We consolidate certain of these entities because we have a controlling financial interest in the VIE, primarily due to our servicing activities, and because we hold a significant variable interest in the VIE. We are the primary beneficiary of certain private-label securitization entities for which we perform servicing activities and have retained a significant variable interest in the form of a beneficial interest. In cases where we did not meet sale accounting under previous guidance, unless we have made modifications to the overall transaction, we do not meet sale accounting under current guidance as we are not permitted to revisit sale accounting guidelines under the current guidance. In cases where substantive modifications are made, we then reassess the transaction under the amended guidance based on the new circumstances.

Consolidated VIEs represent separate entities with which we are involved. The third-party investors in the obligations of consolidated VIEs have legal recourse only to the assets of the VIEs and do not have recourse to us, except for customary representation and warranty provisions or situations where we are the counterparty to certain derivative transactions involving the VIE. Cash flows from the assets are restricted only to pay such liabilities. Thus, our economic exposure to loss from outstanding third-party financing related to consolidated VIEs is significantly less than the carrying value of the consolidated VIE assets. All assets are restricted for the benefit of the beneficial interest holders. See Note 13 — Fair Value for discussion of the assets and liabilities for which the fair value option has been elected.

Off-balance Sheet Variable Interest Entities

The nature, purpose, and activities of nonconsolidated securitization entities are similar to those of our consolidated securitization entities with the primary difference being the nature and extent of our continuing involvement. The cash flows from the assets of nonconsolidated securitization entities generally are the sole source of payment on the securitization entities' liabilities. The creditors of these securitization entities have no recourse to us with the exception of market customary representation and warranty provisions as described in Note 16 — Contingencies and Other Risks.

Nonconsolidated VIEs include entities for which we either do not hold significant variable interests or do not provide servicing or asset management functions for the financial assets held by the securitization entity. Additionally, to qualify for off-balance sheet treatment, transfers of financial assets must meet sale accounting conditions in ASC 860. Our residential mortgage loan securitizations consist of GSE and private-label securitizations. We are not the primary beneficiary of any GSE loan securitization transaction because we do not have the power to direct the significant activities of such entities. Additionally, we do not consolidate certain private-label securitizations because we do not have a variable interest that could potentially be significant or we do not have power to direct the activities that most significantly impact the performance of the VIE.

For nonconsolidated securitization entities, the transferred financial assets are removed from our balance sheet provided the conditions for sale accounting are met. The financial assets obtained from the securitization are primarily reported as cash, servicing rights, or retained interests (if applicable). As an accounting policy election, we elected fair value treatment for our MSR portfolio. Liabilities incurred as part of these securitization transactions, such as representation and warranty provisions, are recorded at fair value at the time of sale and are reported as other liabilities on our Condensed Consolidated Balance Sheet. Upon the sale of the loans, we recognize a gain or loss on sale for the difference between the assets recognized, the assets derecognized, and the liabilities recognized as part of the transaction.

The following summarizes the pretax gains and losses recognized on financial assets sold into nonconsolidated securitization and similar asset-backed financing entities

Three months ended March 31, (\$ in thousands)	2012	2011
Consumer mortgage — GSEs	\$251,693	(\$61,504)
Total pretax gain (loss)	\$251,693	(\$61,504)

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The following table summarizes cash flows received from and paid to securitization entities that are accounted for as a sale and in which we have a continuing involvement with the transferred assets (e.g., servicing) that were outstanding during the three months ended March 31, 2012 and 2011. This table contains information regarding cash flows received from and paid to nonconsolidated securitization entities that existed during each period.

<i>Three months ended March 31, (\$ in thousands)</i>	Consumer mortgage	
	GSEs	Private-Label
2012		
Cash proceeds from transfers completed during the period	\$10,645,441	\$—
Cash flows received on retained interests in securitization entities	—	3,747
Servicing fees	117,166	43,182
Purchases of previously transferred financial assets		
Representation and warranty obligations	(19,005)	(4,038)
Other repurchases	(579,948)	(7,517) (a)
Other cash flows	8,596	23,100
Total net cash flows	\$10,172,250	\$58,474
2011		
Cash proceeds from transfers completed during the period	\$15,153,060	\$—
Cash flows received on retained interests in securitization entities	—	5,254
Servicing fees	103,041	41,720
Purchases of previously transferred financial assets		
Representation and warranty obligations	(43,582)	(14)
Other repurchases	(554,409)	
Other cash flows	67,929	62,014
Total net cash flows	\$14,726,039	\$108,974

(a) Includes repurchases in connection with clean up call options.

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The following table represents on-balance sheet mortgage loans held-for-sale and consumer finance receivable and loans, off-balance sheet securitizations, and whole-loan sales where we have continuing involvement. The table presents information about delinquencies and net credit losses. See Note 5 — Servicing Activities for further detail on total serviced assets.

(\$ in thousands)	Total UPB		Amount 60 days or more past due		Net credit losses (recoveries)	
	March 31, 2012	December 31, 2011	March 31, 2012	December 31, 2011	Three months ended March 31,	
					2012	2011
On-balance sheet loans						
Consumer mortgage held-for-sale	\$4,678,850 (a)	\$4,650,917 (a)	\$3,004,991 (a)	\$3,049,234 (a)	\$2,374	\$7,205 (b)
Consumer mortgage finance receivables and loans	2,550,117	2,623,763	440,072	422,017	26,454	37,634
Total on-balance sheet loans	7,228,967	7,274,680	3,445,063	3,471,251	28,828	44,839
Off-balance sheet securitization entities						
Consumer mortgage — GSEs (c)	124,446,063	131,751,844	7,155,304	7,675,811	n/m (c)	n/m (c)
Consumer mortgage — nonagency	58,555,428	60,768,935	11,027,854	11,232,126	749,429	1,288,842
Total off-balance sheet securitization entities	183,001,491	192,520,779	18,183,158	18,907,937	749,429	1,288,842
Whole-loan transactions (d)	16,628,200	17,516,446	2,080,368	2,209,088	133,919	188,971
Total	\$206,858,658	\$217,311,905	\$23,708,589	\$24,588,276	\$912,176	\$1,522,632

n/m = not meaningful

- (a) Includes loans subject to conditional repurchase options of \$2.3 billion and \$2.3 billion guaranteed by Ginnie Mae, and \$128.9 million and \$131.8 million sold to certain nonagency mortgage securitization entities at March 31, 2012 and December 31, 2011, respectively. The corresponding liability is recorded in other liabilities.
- (b) We determined the amount previously disclosed related to net credit losses for the three months ended March 31, 2011, were misstated. Previously disclosed net credit losses were \$37.3 million for on-balance sheet mortgage loans held for sale. These amounts were corrected in the presentation above. The misstatement had no impact on our consolidated financial conditions or results of operations.
- (c) Anticipated credit losses are not meaningful due to the GSEs guarantees.
- (d) Whole-loan transactions are not part of a securitization transaction, but represent pools of consumer mortgage loans sold to investors.

5. Servicing Activities

Mortgage Servicing Rights

The following table summarizes our activity related to MSR. Although there are limited market transactions that are directly observable, management estimates fair value based on the price it believes would be received to sell the MSR asset in an orderly transaction under current market conditions.

(\$ in thousands)	2012	2011
Estimated fair value at January 1,	\$1,233,107	\$1,991,586
Additions recognized on sale of mortgage loans	10,573	18,370
Subtractions from sales of servicing assets	—	(139)
Changes in fair value		
Due to changes in valuation inputs or assumptions used in the valuation model	86,900	120,806
Other changes in fair value	(76,083)	(84,318)
Estimated fair value at March 31,	\$1,254,497	\$2,046,305

Changes in fair value due to changes in valuation inputs or assumptions used in the valuation models include all changes due to a revaluation by a model or by a benchmarking exercise. Other changes in fair value primarily include the accretion of the present

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value of the discount related to forecasted cash flows and the economic run-off of the portfolio.

The key economic assumptions and the sensitivity of the fair value of MSRs to immediate 10% and 20% adverse changes in those assumptions were as follows.

<i>(\$ in thousands)</i>	March 31, 2012	December 31, 2011
Weighted average life (in years)	4.7	4.3
Weighted average prepayment speed	15.1%	18.0%
Impact on fair value of 10% adverse change	\$(111,808)	\$(71,223)
Impact on fair value of 20% adverse change	(211,799)	(135,292)
Weighted average discount rate	10.8%	9.5%
Impact on fair value of 10% adverse change	\$(24,107)	\$(25,396)
Impact on fair value of 20% adverse change	(46,384)	(48,913)

These sensitivities are hypothetical and should be considered with caution. Changes in fair value based on a 10% and 20% variation in assumptions generally cannot be extrapolated because the relationship of the change in assumptions to the change in fair value may not be linear. Also, the effect of a variation in a particular assumption on the fair value is calculated without changing any other assumption. In reality, changes in one factor may result in changes in another (e.g., increased market interest rates may result in lower prepayments and increased credit losses) that could magnify or counteract the sensitivities. Further, these sensitivities show only the change in the asset balances and do not show any expected change in the fair value of the instruments used to manage the interest rate and prepayment risks associated with these assets. Refer to Note 1 – Description of Business and Significant Accounting Policies, in our 2011 Annual Report for additional information regarding our significant assumptions and valuation techniques used in the valuation of mortgage servicing rights.

Risk-mitigation Activities

The primary economic risk related to our MSR is interest rate risk and the resulting impact on prepayment speeds. A significant decline in interest rates could lead to higher than expected prepayments that could reduce the value of the MSRs. We economically hedge the impact of this risk with both derivative and nonderivative financial instruments. These instruments include interest rate swaps, caps and floors, options to purchase these items, futures and forward contracts, constant monthly maturity (index trades), synthetic interest only and principal only securities and/or to-be-announced (TBAs) securities. The net fair value of derivative financial instruments used to mitigate this risk was \$(339.5) million and \$(199.8) million at March 31, 2012 and December 31, 2011, respectively. See Note 14 — Derivative Instruments and Hedging Activities for additional information.

The components of servicing valuation and hedge activities, net, were as follows.

Three months ended March 31, <i>(\$ in thousands)</i>	2012	2011
Change in estimated fair value of mortgage servicing rights	\$10,817	\$36,488
Change in fair value of derivative financial instruments	104,499	12,423
Service valuation and hedge activities, net	\$115,316	\$48,911

Mortgage Servicing Fees

The components of servicing fees were as follows.

Three months ended March 31, <i>(\$ in thousands)</i>	2012	2011
Contractual servicing fees (net of guarantee fees and including sub-servicing)	\$140,375	\$167,384
Late fees	16,806	18,991
Ancillary fees	31,760	31,289
Total	\$188,941	\$217,664

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Mortgage Servicer Advances

In connection with our primary servicing activities (i.e., servicing of mortgage loans), we make certain payments for property taxes and insurance premiums, default and property maintenance payments, as well as advances of principal and interest payments before collecting them from individual borrowers. Servicer advances, including contractual interest are priority cash flows in the event of a loan principal reduction or foreclosure and ultimate liquidation of the real estate owned property, thus making their collection reasonably assured. These servicer advances are included in accounts receivable and totaled \$1.8 billion and \$1.8 billion at March 31, 2012 and December 31, 2011, respectively. We maintain an allowance for uncollectible primary servicer advances, which totaled \$42.5 million and \$42.5 million at March 31, 2012 and December 31, 2011, respectively. Our potential advance obligation is influenced by a borrower's performance and credit quality.

We advance funds for various activities related to the foreclosure process principally related to attorney fees and costs, appraisals, escrow, insurance and property preservation, in the event we, or the investor, determine foreclosure is the most appropriate loss mitigation strategy. In the current environment, many states and local jurisdictions are requiring us to alter our processes in connection with foreclosures and in some circumstances this can result in restarting the foreclosure process entirely or repeating certain of the required steps (foreclosure restarts). To the extent we restart the process, in whole or in part, we will not be reimbursed for advances in connection with the original activities. The circumstances and extent of any foreclosure restart are specific and unique to each state and/or local jurisdiction. At March 31, 2012, we had an allowance for uncollectible advances in connection with estimated foreclosure restarts of \$10.4 million.

At March 31, 2012 and December 31, 2011 we had an allowance for uncollectible primary servicer advances of \$7.5 million, respectively, related to expected loan modification activities. See Note 16 — Contingencies and Other Risks for additional information. To the extent amounts had been advanced for loans that are expected to be modified in connection with our Settlement, these amounts will not be collected. The amount of this allowance is management's best estimate given the anticipated modification activity.

When we act as a subservicer of mortgage loans we perform the responsibilities of a primary servicer but do not own the corresponding primary servicing rights. We receive a fee from the primary servicer for such services. As the subservicer, we would have the same responsibilities of a primary servicer in that we would make certain payments of property taxes and insurance premiums, default and property maintenance, as well as advances of principal and interest payments before collecting them from individual borrowers. As of March 31, 2012 and December 31, 2011, outstanding servicer advances related to subserviced loans were \$127.1 million and \$124.9 million and we had a reserve for uncollectible subservicer advances of \$1.0 million and \$1.1 million, respectively.

In many cases where we act as master servicer we also act as primary servicer. In connection with our master servicing activities, we service the mortgage-backed and mortgage-related asset-backed securities and whole-loan packages sold to investors. As the master servicer, we collect mortgage loan payments from primary servicers and distribute those funds to investors in mortgage-backed and asset-backed securities and whole-loan packages. As the master servicer, we are required to advance scheduled payments to the securitization trust or whole-loan investors. To the extent the primary servicer does not advance the payments, we are responsible for advancing the payment to the trust or whole-loan investors. Master servicer advances, including contractual interest, are priority cash flows in the event of a default, thus making their collection reasonably assured. In most cases, we are required to advance these payments to the point of liquidation of the loan or reimbursement of the trust or whole loan investors. We had outstanding master servicer advances of \$189.9 million and \$158.2 million as of March 31, 2012 and December 31, 2011, respectively. We had no reserve for uncollectible master servicer advances at March 31, 2012 and December 31, 2011.

Notes to Condensed Consolidated Financial Statements

Residential Capital, LLC

Serviced Mortgage Assets

In many cases, we act as both the primary and master servicer. However, in certain cases, we also service loans that have been purchased and subsequently sold through a securitization trust or whole-loan sale whereby the originator retained the primary servicing rights and we retained the master servicing rights.

The unpaid principal balance of total serviced mortgage assets was as follows.

<i>(\$ in millions)</i>	March 31, 2012	December 31, 2011
On-balance sheet mortgage loans (a)		
Held-for-sale and investment	\$7,018	\$6,828
Off-balance sheet mortgage loans		
Loans held by third-party investors		
Consumer mortgage private-label	48,514	50,886
Consumer mortgage agency	124,339	131,635
Consumer mortgage whole-loan portfolios	14,484	15,104
Purchased servicing rights (b)	3,069	3,247
Total primary serviced mortgage loans	197,444	207,700
Subserviced mortgage loans (c)	169,223	169,531
Master servicing only mortgage loans	8,225	8,557
Total serviced mortgage loans	\$374,892	\$385,788

(a) Includes on-balance sheet securitization consumer finance receivables and loans. See Note 3 — Finance Receivables and Loans, net, for additional information.

(b) There is no recourse to us outside of customary contractual provisions relating to the execution of the services we provide.

(c) Includes loans where we act as a subservicer under contractual agreements with the primary servicer. As subservicer, there is no recourse to us outside of customary contractual provisions relating to the execution of the services we provide, except for loans subserviced on behalf of Ally Bank. See Note 17 — Related Party Transactions for additional information.

The following table sets forth information concerning the delinquency experience in our domestic consumer mortgage loan primary servicing portfolio, including pending foreclosures.

<i>(\$ in millions)</i>	March 31, 2012		December 31, 2011	
	Number of loans	Unpaid principal balance	Number of loans	Unpaid principal balance
Total U.S. mortgage loans primary serviced	1,517,358	\$197,171	1,587,113	\$207,380
Period of delinquency				
30 to 59 days	53,549	\$7,559	67,239	\$9,289
60 to 89 days	19,427	3,024	25,138	3,695
90 days or more	25,521	4,310	27,570	4,467
Foreclosures pending	67,843	12,947	68,166	13,018
Bankruptcies	33,807	4,758	34,956	4,869
Total delinquent loans	200,147	\$32,598	223,069	\$35,338
Percent of U.S. mortgage loans primary serviced	13.2%	16.5%	14.1%	17.0%

Certain of our subsidiaries which conduct our primary and master servicing activities are required to maintain certain servicer ratings in accordance with master agreements entered into with a GSE. At March 31, 2012, we are in compliance with the servicer rating requirements of the master agreements.

We are also required to maintain consolidated tangible net worth, as defined, of \$250.0 million, under our agreements with a GSE. In the event of default, the GSE could require posting collateral in an amount based on repurchase demands outstanding plus recourse obligations; termination or suspension of our selling and servicing contract; require additional or more frequent financial and operational reporting; limit early funding programs or trading desk transactions; accelerate rebuttal time periods for outstanding repurchase demands; or take other actions permitted by law. Should we or our subsidiaries fail to remain in compliance with these requirements and as a result should our mortgage selling and servicing contract be terminated, cross default provisions within certain credit and bilateral facilities could be triggered. At March 31, 2012, we had consolidated tangible net worth of \$399.3 million in compliance with our contractual covenant.

At March 31, 2012, domestic insured private-label securitizations with an unpaid principal balance of \$5.4 billion contain provisions entitling the monoline or other provider of contractual credit support (surety providers) to declare a servicer default and

Notes to Condensed Consolidated Financial Statements

Residential Capital, LLC

terminate the servicer upon the failure of the loans to meet certain portfolio delinquency and/or cumulative loss thresholds. Securitizations with an unpaid principal balance of \$4.8 billion had breached a delinquency and/or cumulative loss threshold. While we continue to service these loans and receive service fee income with respect to these securitizations, the value of the related MSR is zero at March 31, 2012. Securitizations with an unpaid principal balance of \$574.0 million have not yet breached a delinquency or cumulative loss threshold. The value of the related MSR is \$4.0 million at March 31, 2012.

6. Accounts Receivable, Net

<i>(\$ in thousands)</i>	March 31, 2012	December 31, 2011
Servicer advances, net (a)	\$2,050,651	\$2,045,446
Loan insurance guarantee receivable, net (b)	874,985	745,396
Servicing fees receivable	87,402	87,208
Due from brokers for derivative trades	54,294	94,024
Accrued interest receivable	36,883	37,962
Other	53,041	41,712
Total accounts receivable, net	\$3,157,256	\$3,051,748

(a) The allowance for uncollectible servicer advances was \$43.5 million and \$43.7 million at March 31, 2012 and December 31, 2011, respectively.

(b) Represents mortgage loans in foreclosure for which a guarantee from Ginnie Mae exists, net of a reserve for uncollectible guaranteed receivables of \$28.0 million and \$21.8 million at March 31, 2012 and December 31, 2011, respectively.

7. Other Assets

<i>(\$ in thousands)</i>	March 31, 2012	December 31, 2011
Property and equipment at cost	\$255,750	\$252,890
Accumulated depreciation and amortization	(212,771)	(207,645)
Net property and equipment	42,979	45,245
Fair value of derivative contracts in receivable position	3,621,448	4,877,197
Collateral placed with derivative counterparties	1,110,251	1,095,287
Restricted cash	397,494	448,819
Foreclosed assets	63,987	71,485
Receivables from Ally Bank	37,045	—
Trading securities	32,302	33,303
Interests retained in financial asset sales	—	23,102
Income taxes receivable	—	5,111
Other	25,866	28,603
Total other assets	\$5,331,372	\$6,628,152

Notes to Condensed Consolidated Financial Statements

Residential Capital, LLC

8. Borrowings

Borrowings were as follows.

(\$ in thousands)	Weighted average end of period interest rates		March 31, 2012			December 31, 2011		
	March 31, 2012	December 31, 2011	Unsecured	Secured	Total	Unsecured	Secured	Total
Short-term borrowings								
Borrowings from parent	3.0%	3.0%	\$—	\$410,000	\$410,000	\$—	\$183,595	\$183,595
Borrowings from affiliate	5.0%	5.1%	—	250,000	250,000	—	250,000	250,000
Other short-term borrowings	6.3%	6.3%	—	158,000	158,000	—	323,000	323,000
Total short-term borrowings	4.3%	5.1%	—	818,000	818,000	—	756,595	756,595
Long-term borrowings								
Borrowings from parent	3.0%	3.0%	—	749,873	749,873	—	755,769	755,769
Collateralized borrowings in securitization trusts (a)	4.6%	4.7%	—	828,418	828,418	—	830,318	830,318
Other long-term borrowings	8.2%	8.0%	1,112,587	3,198,189	4,310,776	1,096,789	3,285,615	4,382,404
Total long-term borrowings	7.0%	6.9%	1,112,587	4,776,480	5,889,067	1,096,789	4,871,702	5,968,491
Total borrowings	6.7%	6.7%	\$1,112,587	\$5,594,480	\$6,707,067	\$1,096,789	\$5,628,297	\$6,725,086

(a) Collateralized borrowings with an outstanding balance of \$2.5 billion and \$2.6 billion were recorded at fair value of \$828.4 million and \$829.9 million as of March 31, 2012 and December 31, 2011, respectively. See Note 13 — Fair Value for additional information.

The following table summarizes the maturity profile of our borrowings by type. Amounts represent the scheduled maturity of debt, assuming no early redemptions occur. For sources of borrowings without a stated maturity date (as is the case with uncommitted agreements), the maturities are assumed to occur within 2012.

(\$ in millions)	2012	2013	2014	2015	2016	2017 and thereafter	Total
Secured borrowings							
Borrowings from parent	\$1,159.9	\$—	\$—	\$—	\$—	\$—	\$1,159.9
Borrowings from affiliate	250.0	—	—	—	—	—	250.0
Collateralized borrowings in securitization trusts (a)	—	—	—	—	—	828.4	828.4
Other secured borrowings	239.7	789.3	805.1	719.3	—	802.8	3,356.2
Total secured borrowings	1,649.6	789.3	805.1	719.3	—	1,631.2	5,594.5
Unsecured borrowings	351.6	537.3	109.5	114.2	—	—	1,112.6
Total borrowings	\$2,001.2	\$1,326.6	\$914.6	\$833.5	\$—	\$1,631.2	\$6,707.1

(a) The principal on the debt securities is paid using cash flows from underlying collateral (mortgage loans). Accordingly, the timing of the principal payments on these debt securities is dependent on the payments received, and as such, we elected to represent the full term of the securities in the 2017 and thereafter time frame.

We did not make a \$20.1 million semi-annual interest payment that was due on April 17, 2012, related to \$473.0 million outstanding senior unsecured notes maturing in June 2013. The indenture provides that a failure to pay interest on an interest payment date does not become an event of default unless such failure continues for a period of 30 days.

Notes to Condensed Consolidated Financial Statements

Residential Capital, LLC

The most restrictive financial covenants in our credit facilities require us to maintain consolidated tangible net worth of \$250.0 million as of the end of each month, consolidated liquidity of \$250.0 million daily, and unrestricted liquidity of \$250.0 million daily. For these purposes, consolidated tangible net worth is defined as our consolidated equity excluding intangible assets. Unrestricted liquidity is defined as certain unrestricted and unencumbered cash balances in U.S. dollars and cash equivalents on a consolidated basis. We view unrestricted liquidity as cash readily available to cover operating demands across our business operations. These financial covenants are included in certain of our bilateral facilities. Should we fail to remain in compliance with these requirements, remedies include but are not limited to, at the option of the facility provider, termination of further funding, acceleration of outstanding obligations, rights to realize against the assets securing or otherwise supporting the facility, and other legal remedies. Our liquidity providers can waive their contractual rights in the event of a default.

We are required to maintain consolidated tangible net worth, as defined, of \$250.0 million, under our agreements with a GSE. In the event of default, the GSE could require posting collateral in an amount based on repurchase demands outstanding plus recourse obligations; termination or suspension of our selling and servicing contract; require additional or more frequent financial and operational reporting; limit early funding programs or trading desk transactions; accelerate rebuttal time periods for outstanding repurchase demands; or take other actions permitted by law. We and certain of our subsidiaries are also required to maintain certain servicer ratings. Should we or our subsidiaries fail to remain in compliance with these requirements and as a result should our mortgage selling and servicing contract be terminated, cross default provisions within certain credit and bilateral facilities could be triggered.

At March 31, 2012, our consolidated tangible net worth, as defined, was \$399.3 million, in compliance with all of our consolidated tangible net worth covenants. In addition we are in compliance with our consolidated and unrestricted liquidity requirements and required servicer ratings as of March 31, 2012. Refer to Note 1 – Description of Business, Basis of Presentation and Changes in Significant Accounting Policies for additional information.

The following table summarizes the outstanding, unused, and total capacity of our funding facilities at March 31, 2012. We use both committed and uncommitted credit facilities. The financial institutions providing the uncommitted facilities are not legally obligated to advance funds under them.

March 31, 2012 (\$ in thousands)	Outstanding	Unused capacity	Total capacity
Facilities with parent			
Ally Inc. Senior Secured Credit Facility	\$749,873	\$—	\$749,873
Ally Inc. LOC	410,000	1,190,000	1,600,000
Total facilities with parent	1,159,873	1,190,000	2,349,873
Facilities with affiliate			
Secured financing agreement - BMZ	250,000	—	250,000
Secured funding facilities - committed			
Mortgage servicing rights facility	158,000	—	158,000
Servicer advance funding facilities	727,838	197,162	925,000
Home equity funding facility	127,294	—	127,294
Other funding facilities	—	11,000	11,000
Total committed	1,263,132	208,162	1,471,294
Total funding facilities	\$2,423,005	\$1,398,162	\$3,821,167

Facilities with Parent and Affiliates

Ally Inc. Senior Secured Credit Facility

On April 10, 2012, this facility was amended and the maturity date was extended to May 14, 2012. The borrowers, RFC and GMAC Mortgage (collectively, the Borrowers), no longer have the ability to request revolving loans under the facility. The facility is secured by certain domestic whole loans, accounts receivable, notes receivable, securities, and equity investments of the Borrowers. The facility contains limitations on the use of proceeds from sales of pledged collateral with any such proceeds required to be paid to Ally Inc. to reduce the balance outstanding.

Ally Inc. Line of Credit (LOC)

At March 31, 2012, the maximum capacity of the LOC was \$1.6 billion, comprised of \$1.1 billion of secured capacity and \$500.0 million of unsecured capacity. On April 10, 2012, this facility was amended, extending the maturity date to May 14, 2012 and the \$500.0 million of unsecured capacity was terminated. Certain domestic whole loans, accounts receivable, notes receivable, mortgage servicing rights, securities, and equity investments of the Borrowers secure draws under the LOC, which are available to

Notes to Condensed Consolidated Financial Statements

Residential Capital, LLC

the extent there is sufficient collateral securing the draw. Draws under the LOC are available only if certain unrestricted and unencumbered balances in U.S. dollars and cash equivalents of us and our subsidiaries are less than \$300.0 million. The available amount and the borrowing base of the LOC will both be reduced by the amount of any collateral posted or delivered by Ally IM to the Borrowers or us pursuant to certain derivative transaction agreements with Ally IM. The obligations under the LOC and the Ally IM Derivative Agreements are cross-collateralized for the benefit of Ally Inc.

BMMZ Holdings, LLC Secured Financing Agreement (BMMZ Repo)

BMMZ Holdings LLC (BMMZ) is a wholly owned subsidiary of Ally Inc. The aggregate facility amount is \$250.0 million. The secured financing agreement is collateralized by domestic mortgage loan assets. The maturity date is the earlier of the maturity date of the LOC or December 19, 2012.

Secured Funding Facilities

Mortgage Servicing Rights Facility

On March 31, 2012, the facility was amended such that no additional draws can be made after that date, effectively reducing the maximum capacity to \$158.0 million. The facility maturity date was amended to the earlier of two days prior to the maturity of the Ally Inc. LOC or May 30, 2012.

Servicer Advance Funding Facilities

At March 30, 2012, the secured facility to fund mortgage servicer advances had total capacity of \$800.0 million, consisting of an \$800.0 million variable funding note which will begin amortizing on March 12, 2013 and has a stated final maturity of March 12, 2020. On March 13, 2012, the facility was amended whereby the new variable funding note was issued with the proceeds being used to pay down the then outstanding variable funding and term notes.

A second secured facility to fund mortgage servicer advances has capacity of \$125.0 million. On August 1, 2012, the scheduled revolving period will end, after which date no new advances will be funded and the 18-month repayment period will begin. Termination will occur upon the earlier of the end of the repayment period or the date the outstanding loan amount is paid in full.

Home Equity Funding Facility

The secured facility to fund home equity mortgage loans consisted of \$127.3 million in variable funding notes due to mature on February 25, 2031.

Collateralized Borrowings in Securitization Trusts

We previously sold pools of consumer mortgage loans through private-label securitization transactions. The purpose of these securitizations was to provide permanent funding and exit for these assets. Certain of these securitizations were accounted for as secured borrowings, and therefore, the debt is reflected on our Condensed Consolidated Balance Sheet.

Other Borrowings

Junior Secured Notes

The outstanding balance of the Junior Secured Notes at March 31, 2012, was \$2.1 billion with a final maturity on May 15, 2015. The unamortized balance of deferred concession recognized as a result of our 2008 exchange offer was \$220.2 million. The deferred concession is being amortized over the life of the secured notes using the effective yield method. For the three months ended March 31, 2012 and 2011, \$25.9 million and \$24.9 million, respectively, of deferred concession was amortized into earnings as a reduction of interest expense.

GMAC Mortgage, its immediate parent, GMAC Residential Holding Company, LLC (Res Holdings), RFC, its immediate parent, GMAC-RFC Holding Company, LLC (RFC Holdings), and Homecomings Financial, LLC (Homecomings), a wholly owned subsidiary of RFC, are all guarantors with respect to the junior secured notes.

Upon repayment in full of the Ally Inc. Senior Secured Credit Facility, net cash proceeds from sales of assets that were previously pledged as collateral to the Ally Inc. Senior Secured Credit Facility may be used to repurchase, optionally redeem or optionally prepay the junior secured notes. In the event net cash proceeds are not used to repurchase or optionally redeem or prepay the junior secured notes, or to reinvest in permissible collateral with a fair value substantially equivalent to the net cash proceeds (collectively, the Reinvested Proceeds), under certain circumstances, we may be required to make an offer to all holders of the junior secured notes to purchase notes in an amount equal to the excess of the net cash proceeds over the Reinvested Proceeds.

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Unsecured Notes

As of March 31, 2012, unsecured notes include \$673.3 million of U.S. dollar-denominated senior notes maturing between June 2012 and June 2015, \$131.2 million euro-denominated notes maturing in May 2012 and \$167.7 million U.K. sterling-denominated notes maturing between May 2013 and July 2014. We hedge a portion of the interest rate risk associated with our fixed-rate euro and U.K. sterling notes. As of March 31, 2012, we had interest rate swap agreements in place with notional amounts of \$147.2 million and \$103.9 million for our euro and U.K. sterling denominated notes, respectively.

We did not make a \$20.1 million semi-annual interest payment that was due on April 17, 2012, related to \$473.0 million outstanding senior unsecured notes maturing in June 2013. The indenture provides that a failure to pay interest on an interest payment date does not become an event of default unless such failure continues for a period of 30 days.

Medium-term Unsecured Notes

Represents \$140.4 million of peso-denominated notes issued by our wholly owned subsidiary GMAC Financiera S.A de C.V., SOFOM, ENR (GMAC Financiera) that mature in June 2012. ResCap, GMAC Mortgage, Res Holdings, RFC, RFC Holdings, and Homecomings are guarantors of the medium-term unsecured notes.

Collateral for Secured Debt

The following table summarizes the carrying value of assets that are restricted, pledged, or for which a security interest has been granted as collateral for the payment of certain debt obligations.

<i>(\$ in thousands)</i>	March 31, 2012	December 31, 2011
Cash and cash equivalents	\$85,628	\$82,389
Mortgage loans held-for-sale	1,610,350	1,688,037
Finance receivables and loans, net		
Consumer	979,137	1,005,982
Commercial	4,205	4,226
Total finance receivables and loans, net	983,342	1,010,208
Mortgage servicing rights	843,299	855,343
Accounts receivable, net	2,481,190	2,404,231
Other assets	77,676	81,960
Total assets restricted as collateral	\$6,081,485	\$6,122,168
Related secured debt	\$5,594,480	\$5,628,297

A portion of the assets included in the table above represent assets of subsidiaries whose equity has been pledged to secure the Ally Inc. Senior Secured Credit Facility and the Ally Inc. LOC. At March 31, 2012, there were \$3.0 million of equity interests of these subsidiaries pledged to the Ally Inc. Senior Secured Credit Facility. We have also provided a lien on certain of our consolidated assets, as specified in the Ally Inc. Senior Secured Credit Facility agreements, for the benefit of the Ally Inc. Senior Secured Credit Facility and the Junior Secured Notes. Included in the table above is \$1.9 billion and \$2.0 billion at March 31, 2012 and December 31, 2011, respectively, of collateral pledged that can be re-hypothecated or re-pledged by the secured party.

Notes to Condensed Consolidated Financial Statements

Residential Capital, LLC

The following table summarizes the carrying value of assets pledged and the amount of related debt outstanding by our secured borrowing types

<i>(\$ in thousands)</i>	March 31, 2012		December 31, 2011	
	Total assets restricted as collateral	Related secured debt	Total assets restricted as collateral	Related secured debt
Borrowings from parent and affiliate				
Ally Inc. Senior Secured Credit facility	\$1,326,032	\$749,873	\$1,340,954	\$755,769
Ally Inc. LOC	1,553,328	410,000	1,582,033	183,595
BMMZ Repo	377,645	250,000	401,118	250,000
Collateralized borrowings in securitization trusts	912,434	828,418	918,232	830,318
Other secured borrowings				
Junior Secured Notes (a)	—	2,340,680	—	2,366,600
Mortgage servicing rights facility	675,544	158,000	634,345	323,000
Servicer advance funding facilities	1,083,408	727,838	1,086,011	780,385
Home equity funding facility	147,042	127,294	153,191	135,800
Other secured facility	6,052	2,377	6,284	2,830
Total	\$6,081,485	\$5,594,480	\$6,122,168	\$5,628,297

(a) The Junior Secured Notes are secured by the same collateral that secures the Ally Inc. Senior Secured Credit facility

9. Other Liabilities

<i>(\$ in thousands)</i>	March 31, 2012	December 31, 2011
Fair value of derivative instruments	\$3,928,437	\$5,113,531
Liability for option to repurchase assets (a)	2,359,323	2,386,734
Liability for representation and warranty obligations	810,805	824,776
Collateral received from derivative counterparties	604,836	656,109
Accounts payable	317,493	360,726
Interest payable	126,803	62,225
Reserve for legal proceedings	99,646	94,516
Mortgage foreclosure settlement	92,061	204,000
Reserve for insurance losses	86,716	91,615
Employee compensation and benefits	67,966	87,542
Liability for assets sold with recourse	32,592	32,156
Ally Inc. management fee (b)	14,878	31,020
Income taxes	3,899	—
Restructuring reserve	1,901	4,342
Payable to Ally Bank	—	21,001
Other	21,805	25,733
Total other liabilities	\$8,569,161	\$9,996,026

(a) We recognize a liability for the conditional repurchase option on certain assets held by off-balance sheet securitization trusts. The corresponding asset is recorded in mortgage loans held for sale. See Note 2 — Mortgage Loans Held-for-Sale and Note 4 — Securitizations and Variable Interest Entities for additional information.

(b) Includes costs for personnel, information technology, communications, corporate marketing, procurement, and services related to facilities incurred by Ally Inc. and allocated to us. See Note 17 — Related Party Transactions for additional information.

Notes to Condensed Consolidated Financial Statements

Residential Capital, LLC

10. Other Revenue, net

Three months ended March 31, (\$ in thousands)	2012	2011
Change due to fair value option elections		
Consumer mortgage finance receivables and loans, net	\$36,037	\$19,246
Collateralized borrowings	(52,127)	(36,148)
Loan broker fee from Ally Bank	23,343	9,496
Insurance income	4,343	6,357
Gain on interests retained in financial assets sales	—	3,430
Other	8,436	3,650
Total other revenue, net	\$20,032	\$6,031

11. Other Noninterest Expense, net

Three months ended March 31, (\$ in thousands)	2012	2011
Ally Inc. management fees (a)	\$29,053	\$16,915
Legal fees	23,473	10,191
Loan administration fees	22,928	18,244
Equipment and supplies	6,868	8,126
Insurance losses	4,126	12,577
Other	13,056	16,048
Total other noninterest expense, net	\$99,504	\$82,101

(a) Includes allocated costs for personnel, information technology, communication, corporate marketing, procurement, and services related to facilities incurred by Ally Inc. and allocated to us. See Note 17 — Related Party Transactions for additional information.

12. Income Tax

We are a division of Ally Inc, a corporation, for income tax purposes. We are subject to corporate U.S. Federal, state and local taxes and are included in the consolidated Ally Inc. U.S. Federal and unitary and/or consolidated state income tax returns. We provide for our U.S. Federal and state taxes on a stand alone basis, which is consistent with the applicable tax sharing agreements with direct and indirect parent companies up through Ally Inc. The tax sharing agreement requires taxes to be based on the income tax liability determined as if we were a separate affiliated group of corporations filing consolidated U.S. Federal and state income tax returns. Our foreign businesses have been and continue to operate as corporations and are subject to, and provide for, U.S. Federal, state, and/or foreign income tax.

At March 31, 2012 and December 31, 2011 we have current income taxes payable of \$11.1 million and \$(1.7) million, respectively, to Ally Inc. pursuant to the tax sharing agreements.

We continue to be in a net deferred tax asset position, which is fully offset by a deferred tax asset valuation allowance. The net deferred tax asset includes a significant tax net operating loss carryforward. Thus, the year to date tax expense has been largely offset by the decrease of the applicable deferred tax asset valuation allowance. Tax expense from continuing operations of \$5.9 million and \$8.9 million for the three months ended March 31, 2012 and 2011 relates primarily to certain taxes that are not eligible for offset by U.S. net operating losses, including those on foreign income.

Gross unrecognized tax benefits totaled \$7.6 million and \$11.7 million at March 31, 2012 and 2011. The amount of unrecognized tax benefits that, if recognized, would affect our effective tax rate at March 31, 2012 and 2011 is approximately \$5.3 million and \$9.4 million, respectively. Related interest and penalties accrued for uncertain income tax positions are recorded in interest expense and other operating expenses, respectively. As of March 31, 2012 and 2011, we had approximately \$2.3 million and \$2.3 million, respectively, accrued for the payment of interest and penalties. We are generally no longer subject to U.S. federal, state, local, or foreign income tax examinations by tax authorities for years before 2007. A significant change in the unrecognized tax benefits is not expected within the next 12 months.

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13. Fair Value**Fair Value Measurements**

Fair value is defined as the exchange price that would be received to sell an asset or paid to transfer a liability (exit price) in the principal or most advantageous market in an orderly transaction between market participants at the measurement date. Fair value is based on the assumptions market participants would use when pricing an asset or liability. Additionally, entities are required to consider all aspects of nonperformance risk, including the entity's own credit standing, when measuring the fair value of a liability.

A three-level hierarchy is used when measuring and disclosing fair value. The fair value hierarchy gives the highest priority to quoted prices available in active markets (i.e., observable inputs) and the lowest priority to data lacking transparency (i.e., unobservable inputs). An instrument's categorization within the fair value hierarchy is based on the lowest level of significant input to its valuation. The following is a description of the three hierarchy levels.

- | | |
|-----------|---|
| Level 1 | Inputs are quoted prices in active markets for identical assets or liabilities at the measurement date. Additionally, we must have the ability to access the active market, and the quoted prices cannot be adjusted by us. |
| Level 2 | Inputs are other than quoted prices included in Level 1 that are observable for the asset or liability, either directly or indirectly. Level 2 inputs include quoted prices in active markets for similar assets or liabilities; quoted prices in inactive markets for identical or similar assets or liabilities; or inputs that are observable or can be corroborated by observable market data by correlation or other means for substantially the full term of the assets or liabilities. |
| Level 3 | Unobservable inputs are supported by little or no market activity. The unobservable inputs represent management's best assumptions of how market participants would price the assets or liabilities. Generally, Level 3 assets and liabilities are valued using pricing models, discounted cash flow methodologies, or similar techniques that require significant judgment or estimation. |
| Transfers | Transfers into or out of any hierarchy level are recognized at the end of the reporting period in which the transfer occurred. There were no material transfers between any levels during the three months ended March 31, 2012. |

Following are descriptions of the valuation methodologies used to measure material assets and liabilities at fair value and details of the valuation models, key inputs to those models and significant assumptions utilized.

- **Mortgage loans held-for-sale** – We originate and purchase residential mortgage loans that we intend to sell to the GSEs. We also own nonagency eligible residential mortgage loans that were originated or purchased in prior years. Consumer mortgage loans we intend to sell to the GSEs are carried at fair value as a result of a fair value election. Our nonagency eligible residential mortgage loans are accounted for at the lower of cost or fair value. We elected to fair value nongovernment eligible mortgage loans held for sale subject to conditional repurchase options recognized on or after January 1, 2011. Only those non-fair value elected loans that are currently being carried at fair value are included within our nonrecurring fair value measurement tables. Mortgage loans held-for-sale account for 9.7% of all recurring and nonrecurring assets reported at fair value at March 31, 2012.

Mortgage loans held-for-sale are typically pooled together and sold into certain exit markets, depending upon underlying attributes of the loan, such as agency eligibility, product type, interest rate, and credit quality. Two valuation methodologies are used to determine the fair value of mortgage loans held-for-sale. The methodology used depends on the exit market as described below.

Loans valued using observable market prices for identical or similar assets (a Level 2 fair value) - Includes all agency-eligible mortgage loans carried at fair value due to fair value option election, which are valued predominantly using published forward agency prices. Also includes any domestic loans and foreign loans where recently negotiated market prices for the loan pool exist with a counterparty (which approximates fair value) or quoted market prices for similar loans are available. As of March 31, 2012, we classified 34.3% of our mortgage loans held-for-sale that are being carried at fair value on a recurring basis as Level 2.

Loans valued using internal models (a Level 3 fair value) - Includes all conditional repurchase option loans carried at fair value due to the fair value option election and all nonagency eligible residential mortgage loans that are accounted for at the lower of cost or fair value. The fair value of these residential mortgage loans are determined using internally developed valuation models because observable market prices were not available. The loans are priced on a discounted cash flow basis utilizing cash flow projections from internally developed models that utilize prepayment, default, and discount rate assumptions. To the extent available, we utilize market observable inputs

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such as interest rates and market spreads. If market observable inputs are not available, we are required to utilize internal inputs, such as prepayment speeds, credit losses, and discount rates. While numerous controls exist to calibrate, corroborate, and validate the internal inputs, they require the use of judgment by us and can have a significant impact on the determination of the loan's fair value. As of March 31, 2012, 100.0% of our mortgage loans held-for-sale that are currently being carried at fair value on a nonrecurring basis and 65.7% of our mortgage loans held-for-sale that are carried at fair value on a recurring basis are classified as Level 3.

- **Consumer Finance receivables and loans, net** — We elected the fair value option for consumer mortgage finance receivables and loans related to our on-balance sheet securitizations. A complete description of these securitizations is provided in the *On-balance sheet securitization debt* section later in this Note. The remaining balance of our consumer finance receivables and loans are reported on the balance sheet at their principal amount outstanding, net of charge-offs, allowance for loan losses, and net premiums/discounts.

For the securitization trusts for which we elected fair value option, the loans are measured at fair value using a portfolio approach. The values for loans held on an in-use basis may differ considerably from loans held-for-sale that can be sold in the whole-loan market. This difference arises primarily due to the liquidity of the ABS/MBS market and is evident in the fact that spreads applied to lower rated ABS/MBS are considerably wider than spreads observed on senior bond classes and in the whole-loan market. The objective in linking the fair value of these loans to the fair value of the related securitization debt is to properly account for our retained economic interest in the securitizations. As of March 31, 2012, we classified 100.0% of our fair value elected consumer mortgage finance receivables and loans as Level 3. These loans account for 12.9% of all recurring and nonrecurring assets reported at fair value at March 31, 2012.

- **Mortgage servicing rights** — MSRs currently do not trade in an active market with observable prices, therefore we use internally developed discounted cash flow models to estimate the fair value of MSRs. These internal valuation models estimate net cash flows based on internal operating assumptions that we believe would be used by market participants combined with market-based assumptions for loan prepayment rates, interest rates, and discount rates that management believes approximate yields required by investors in this asset. Cash flows primarily include servicing fees, float income, and late fees, in each case less estimated operating costs to service the loans. The estimated cash flows are discounted using an option-adjusted spread derived discount rate. At March 31, 2012, 100.0% of our MSRs are classified as Level 3 and account for 19.5% of all recurring and nonrecurring assets reported at fair value.
- **Derivative instruments** — We enter into a variety of derivative financial instruments as part of our risk management strategies. Derivative assets account for 56.3% of all recurring and nonrecurring assets and derivative liabilities account for 82.1% of all recurring and nonrecurring liabilities reported at fair value at March 31, 2012.

Certain of these derivatives are exchange traded, such as Eurodollar futures. To determine the fair value of these instruments, we utilize the exchange prices for the particular derivative contract; therefore, we classified these contracts as Level 1. We classified less than 1% of the derivative assets and less than 1% of the derivative liabilities reported at fair value as Level 1 at March 31, 2012.

We also execute over-the-counter derivative contracts, such as interest rate swaps, swaptions, forwards, caps, floors and agency-to-be-announced (TBAs) securities. We utilize third-party-developed valuation models that are widely accepted in the market to value our over-the-counter derivative contracts. The specific terms of the contract and market observable inputs (such as interest rate forward curves and interpolated volatility assumptions) are used in the model. We classified 99.1% of the derivative assets and 98.8% of the derivative liabilities reported at fair value as Level 2 at March 31, 2012.

We also hold certain derivative contracts that are structured specifically to meet a particular hedging objective. These derivative contracts often are utilized to hedge risks inherent within certain on-balance sheet securitizations. To hedge risks on particular bond classes or securitization collateral, the derivative's notional amount is often indexed to the hedged item. As a result, we typically are required to use internally developed prepayment assumptions as an input into the model to forecast future notional amounts on these structured derivative contracts. Accordingly, we classified these derivative contracts as Level 3. These derivative contracts accounted for less than 1% of the derivative assets and less than 1% of the derivative liabilities reported at fair value at March 31, 2012.

At March 31, 2012, we were counterparty to a forward flow agreement with Ally Bank, which effectively transfers the exposure to changes in fair value of specified pools of Ally Bank's mortgage loans held-for-sale and interest rate lock commitments to us. In addition, at March 31, 2012 we were counterparty to a total return swap agreement with Ally Bank that effectively transfers the total economic return of a specified portfolio of mortgage servicing rights owned by Ally Bank to us in exchange for a variable payment based on a fixed spread to LIBOR. The underlying reference assets that

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support the value of the swap agreements are valued using internally developed valuation assumptions; therefore the swaps are classified as Level 3. These agreements accounted for less than 1% of the derivative assets and less than 1% of the derivative liabilities reported at fair value at March 31, 2012. Both of these agreements were terminated on April 30, 2012. See Note 17 — Related Party Transactions for additional information.

We are required to consider all aspects of nonperformance risk, including our own credit standing, when measuring fair value of a liability. We reduce credit risk on the majority of our derivatives by entering into legally enforceable agreements that enable the posting and receiving of collateral associated with the fair value of our derivative positions on an ongoing basis. In the event that we do not enter into legally enforceable agreements that enable the posting and receiving of collateral, we will consider our credit risk and the credit risk of our counterparties in the valuation of derivative instruments through a credit valuation adjustment (CVA), if warranted.

- *On-balance sheet securitizations* — We elected the fair value option for certain consumer mortgage finance receivables and loans, and securitization debt for certain of our on-balance sheet securitizations. The objective in measuring these loans and related securitization debt at fair value is to approximate our economic exposure to the collateral securing the securitization debt. The remaining on-balance sheet securitization debt that was not fair value option-elected is reported on the balance sheet at cost, net of premiums or discounts and all issuance costs.

We value securitization debt that was fair value option-elected, as well as any trading securities or interests retained in financial asset sales, using market observable prices whenever possible. The securitization debt is principally in the form of asset-backed and mortgage-backed securities collateralized by the underlying consumer mortgage finance receivables and loans. Due to the attributes of the underlying collateral and current capital market conditions, observable prices for these instruments are typically not available in active markets. We base valuations on internally developed discounted cash flow models that use a market-based discount rate. In order to estimate cash flows, we utilize various significant assumptions, including market observable inputs such as forward interest rates, as well as internally developed inputs such as prepayment speeds, delinquency levels, and credit losses. As a result of the reliance on significant assumptions and estimates for model inputs, at March 31, 2012, 100.0% of fair value option-elected securitization debt is classified as Level 3. On-balance sheet securitization debt accounts for 17.3% of all recurring and nonrecurring liabilities reported at fair value at March 31, 2012.

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Recurring Fair Value

The following tables display the assets and liabilities measured at fair value on a recurring basis, including financial instruments for which we elected the fair value option. In certain cases we economically hedge the fair value change of our assets or liabilities with derivatives and other financial instruments. The table below displays the hedges separately from the hedged items and, therefore, does not directly display the impact of our risk management activities.

March 31, 2012 (\$ in thousands)	Recurring fair value measurements			
	Level 1	Level 2	Level 3	Total
Assets				
Mortgage loans held-for-sale (a)	\$—	\$15,925	\$30,494	\$46,419
Consumer mortgage finance receivables and loans, net (a)	—	—	832,094	832,094
Mortgage servicing rights	—	—	1,254,497	1,254,497
Other assets				
Fair value of derivative contracts in receivable position				
Interest rate contracts	3,145	3,588,513	29,790	3,621,448
Trading securities				
Mortgage and asset backed residential	—	417	31,885	32,302
Total assets	\$3,145	\$3,604,855	\$2,178,760	\$5,786,760
Liabilities				
Collateralized borrowings				
On-balance sheet securitization debt (a)	\$—	\$—	(\$828,418)	(\$828,418)
Other liabilities				
Fair value of derivative contracts in liability position				
Interest rate contracts	(18,708)	(3,882,257)	(27,107)	(3,928,072)
Foreign currency contracts	—	(365)	—	(365)
Liability for option to repurchase assets (a)	—	—	(29,603)	(29,603)
Total liabilities	(\$18,708)	(\$3,882,622)	(\$885,128)	(\$4,786,458)

(a) Carried at fair value due to fair value option election.

December 31, 2011 (\$ in thousands)	Recurring fair value measurements			
	Level 1	Level 2	Level 3	Total
Assets				
Mortgage loans held-for-sale (a)	\$—	\$27,253	\$29,723	\$56,976
Consumer mortgage finance receivables and loans, net (a)	—	—	835,192	835,192
Mortgage servicing rights	—	—	1,233,107	1,233,107
Other assets				
Fair value of derivative contracts in receivable position				
Interest rate contracts	61,025	4,780,995	35,038	4,877,058
Foreign currency contracts	—	139	—	139
Trading securities				
Mortgage and asset backed residential	—	434	32,869	33,303
Interests retained in financial asset sales	—	—	23,102	23,102
Total assets	\$61,025	\$4,808,821	\$2,189,031	\$7,058,877
Liabilities				
Collateralized borrowings				
On-balance sheet securitization debt (a)	\$—	\$—	(\$829,940)	(\$829,940)
Other liabilities				
Fair value of derivative contracts in liability position				
Interest rate contracts	(18,445)	(5,089,201)	(24)	(5,107,670)
Foreign currency contracts	—	(5,861)	—	(5,861)
Liability for option to repurchase assets (a)	—	—	(28,504)	(28,504)
Total liabilities	(\$18,445)	(\$5,095,062)	(\$28,528)	(\$5,142,035)

(a) Carried at fair value due to fair value option election.

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The following table presents quantitative information regarding the significant unobservable inputs used in material Level 3 assets and liabilities measured at fair value on a recurring basis.

March 31, 2012 (\$ in thousands)	Level 3 recurring measurements	Valuation technique	Unobservable input	Range
Assets				
Consumer mortgage finance receivables and loans, net (a)	\$832,094	Discounted cash flow	Prepayment rate	2.52-12.91%
			Default rate	1.08-34.75%
			Loss severity	40.0-100.0%
Mortgage servicing rights	1,254,497	(b)	(b)	(b)
Liabilities				
Collateralized borrowings				
On-balance sheet securitization debt (a)	(\$828,418)	(a)	(a)	(a)

(a) A portfolio approach links the value of the consumer mortgage finance receivables and loans, net to the on-balance sheet securitization debt, therefore, the valuation technique, unobservable inputs, and related range for the debt is the same as the loans. Increases in prepayments, which would primarily be driven by any combination of lower projected mortgage rates and higher projected home values, would result in higher fair value measurement. These drivers of higher prepayments (increased ability to refinance due to lower rates and higher property values) have an opposite impact on the default rate, creating an inverse relationship between prepayments and default frequency on the fair value measurements. Generally factors that contribute to higher default frequency also contribute to higher loss severity.

(b) Refer to Note 5 – Servicing Activities for information related to the significant unobservable inputs and valuation techniques used in the mortgage servicing rights fair value measurement.

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The following tables present the reconciliation for all Level 3 assets and liabilities measured at fair value on a recurring basis. Transfers into or out of Level 3 are recognized as of the end of the reporting period in which the transfer occurred. In certain cases we economically hedge the fair value change of our assets or liabilities with derivatives and other financial instruments. The Level 3 items presented below may be hedged by derivatives and other financial instruments that are classified as Level 1 or Level 2. Thus, the following tables do not fully reflect the impact of our risk management activities.

Level 3 recurring fair value measurements

(\$ in thousands)	January 1, 2012 Level 3 fair value	Net gains/(losses) included in earnings		Other comprehensive income (loss)	Purchases	Sales	Issuances	Settlements	March 31, 2012 Level 3 fair value
		realized gains (losses)	unrealized gains (losses)						
Assets									
Mortgage loans held-for-sale	\$29,723	(\$37)	\$250	\$—	\$8,923 (a)	\$—	\$—	(\$8,365)	\$30,494
Consumer mortgage finance receivables and loans, net	835,192	51,328 (b)	35,448 (b)	—	—	—	—	(89,874)	832,094
Mortgage servicing rights	1,233,107	—	10,817 (c)	—	—	—	10,573	—	1,254,497
Other assets									
Fair value of derivative contracts in receivable position, net									
Interest rate contracts	35,014	66,983 (d)	(\$8,479) (d)	—	—	—	—	(40,835)	2,683
Trading securities									
Mortgage and asset backed residential	32,869	(1,214) (e)	3,627 (e)	—	—	—	103	(3,500)	31,885
Interests retained in financial asset sales	23,102	(501) (f)	(5) (f)	—	—	—	—	(22,596)	—
Total assets	\$2,189,007	\$116,559	(\$8,342)	\$—	\$8,923	\$—	\$10,676	(\$165,170)	\$2,151,653
Liabilities									
Collateralized borrowings									
On-balance sheet securitization debt	(\$829,940)	\$(43,820) (b)	\$(39,386) (b)	\$—	\$—	\$—	\$—	\$84,728	(\$828,418)
Other liabilities									
Liability for option to repurchase assets	(28,504)	37	(250)	—	(8,923) (a)	—	—	8,837	(29,603)
Total liabilities	(\$858,444)	(\$43,783)	(\$39,636)	\$—	(\$8,923)	\$—	\$—	\$92,765	(\$858,621)

(a) Includes newly recognized fair value option elected conditional repurchase loans and the related liability. See Note 4 — Securitizations and Variable Interest Entities for additional information.

(b) Fair value adjustment reported in other revenue, net, and related interest on loans and debt are reported in interest income and interest expense, respectively.

(c) Fair value adjustment reported in servicing asset valuation and hedge activities, net.

(d) See Note 14 — Derivative Instruments and Hedging Activities for location of fair value adjustments in our Condensed Consolidated Statement of Income.

(e) Fair value adjustment reported in gain (loss) on investment securities, net. Interest accretion on these assets is reported in interest income.

(f) Fair value adjustment reported in other revenue, net, and interest accretion on these assets is reported in interest income.

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Level 3 recurring fair value measurements

(\$ in thousands)	January 1, 2011 Level 3 fair value	Net gains/(losses) included in earnings		Other comprehensive income (loss)	Purchases	Sales	Issuances	Settle- ments	March 31, 2011 Level 3 fair value
		realized gains (losses)	unrealized gains (losses)						
Assets									
Mortgage loans held-for-sale	\$4,084	(\$27)	\$98	\$—	\$14,189 (a)	(\$388)	\$—	\$—	\$17,956
Consumer mortgage finance receivables and loans, net	1,014,703	57,458 (b)	15,809 (b)	—	—	—	—	(117,313)	970,657
Mortgage servicing rights	1,991,586	66 (c)	36,489 (c)	—	—	(139)	18,370	(67)	2,046,305
Other assets									
Fair value of derivative contracts in receivable (liability) position, net									
Interest rate contracts	69,353	212,905 (d)	137,723 (d)	—	—	—	—	(422,563)	(2,582)
Trading securities									
Mortgage- and asset- backed residential	44,128	(1,362) (e)	2,052 (e)	—	—	—	131	(4,871)	40,078
Available for sale securities									
Debt securities									
Mortgage-backed residential	989	—	—	543	—	—	—	(104)	1,428
Interests retained in financial asset sales	20,588	—	4,353 (f)	—	—	—	—	(599)	24,342
Total assets	\$3,145,431	\$269,040	\$196,524	\$543	\$14,189	(\$527)	\$18,501	(\$545,517)	\$3,098,184
Liabilities									
Collateralized borrowings									
On-balance sheet securitization debt	(\$972,068)	\$ (71,650) (b)	\$4,702 (b)	\$—	\$—	\$—	\$—	\$117,413	(\$921,603)
Other liabilities									
Liability for option to repurchase assets	—	—	—	—	(14,284) (a)	—	—	—	(14,284)
Total liabilities	(\$972,068)	(\$71,650)	\$4,702	\$—	(\$14,284)	\$—	\$—	\$117,413	(\$935,887)

(a) Includes newly recognized fair value option elected conditional repurchase loans and the related liability. See Note 4 — Securitizations and Variable Interest Entities for additional information.

(b) Fair value adjustment reported in other revenue, net, and related interest on loans and debt are reported in interest income and interest expense, respectively.

(c) Fair value adjustment reported in servicing asset valuation and hedge activities, net.

(d) See Note 14 — Derivative Instruments and Hedging Activities for location of fair value adjustments in our Condensed Consolidated Statement of Income.

(e) Fair value adjustment reported in gain (loss) on investment securities, net. Interest accretion on these assets is reported in interest income.

(f) Fair value adjustment reported in other revenue, net, and interest accretion on these assets is reported in interest income.

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Nonrecurring Fair Value

We may be required to measure certain assets or liabilities at fair value from time-to-time. These periodic fair value measures typically result from application of lower of cost or fair value or certain impairment measures. These items would constitute nonrecurring fair value measures. The table below presents those items which we measured at fair value on a nonrecurring basis.

March 31, (\$ in thousands)	Nonrecurring fair value measures			Total estimated fair value	Lower of cost or fair value or valuation allowance	Total gains included in income from continuing operations for the three months ended
	Level 1	Level 2	Level 3			
2012						
Mortgage loans held-for-sale (a)	\$—	\$—	\$579,914	\$579,914	(\$56,780)	n/m (e)
Commercial finance receivables and loans, net (h)	—	1,591	22,949	24,540	(16,605)	n/m (e)
Other assets						
Foreclosed assets (c)	—	30,091	13,830	43,921	(12,050)	n/m (e)
Total	\$—	\$31,682	\$616,693	\$648,375	(\$85,435)	\$—
2011						
Mortgage loans held-for-sale (a)	\$—	\$—	\$597,363	\$597,363	(\$50,477)	n/m (e)
Commercial finance receivables and loans, net (b)	—	13,042	59,793	72,835	(16,137)	n/m (e)
Other assets						
Foreclosed assets (c)	—	38,160	22,918	61,078	(8,776)	n/m (e)
Real estate and other investments (d)	—	1,579	—	1,579	n/m	16 (f)
Total	\$—	\$52,781	\$680,074	\$732,855	(\$75,390)	\$16

n/m - not meaningful

- (a) Represents loans or pools of loans held-for-sale that are required to be measured at lower of cost or fair value. Only loans or pools of loans with fair values below cost are included in the table above. The related valuation allowance represents the cumulative adjustment to fair value of those loans and pool of loans.
- (b) Represents the portion of the commercial portfolio that has been specifically impaired. The related valuation allowance represents the cumulative adjustment to fair value of those specific commercial finance receivables and loans and represents the most relevant indicator of the impact on earnings caused by the fair value measurement. The carrying values are inclusive of the respective loan loss allowance.
- (c) The allowance provided for foreclosed assets represents any cumulative valuation adjustments recognized to adjust the assets to fair value less costs to sell.
- (d) Certain assets within the model home portfolio have been impaired and are being carried at (a) estimated fair value if the model home is under lease or (b) estimated fair value less costs to sell if the model home is being marketed for sale.
- (e) We consider the applicable valuation to be the most relevant indicator of the impact on earnings caused by the fair value measurement. Accordingly, the table above excludes total gains and losses included in earnings for these items. The carrying values are inclusive of the respective valuation.
- (f) The total loss included in earnings is the most relevant indicator of the impact on earnings caused by the fair value measurement.

The following table presents quantitative information regarding the significant unobservable inputs used in significant Level 3 assets measured at fair value on a nonrecurring basis.

March 31, 2012 (\$ in thousands)	Level 3 nonrecurring measurements	Valuation technique	Unobservable input	Range (weighted average)
Assets				
Mortgage loans held-for-sale, net	\$ 579,914	Discounted cash flow	Prepayment speeds	0.0-13.8%
			Default rate	2.2-17.4%
			Loss severity	47.5-98.5%
			Discount Rate	14.55%

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Fair Value Option for Financial Assets and Financial Liabilities

We have elected to value certain financial assets and liabilities at fair value consistent with our intent to mitigate a divergence between our accounting results and our retained economic exposure related to these assets and liabilities.

Financial assets and liabilities elected to be measured at fair value are as follows.

- **On-balance sheet securitizations** – We elected the fair value option for domestic on-balance sheet securitization trusts in which we estimated that the credit reserves pertaining to securitized assets could have exceeded or already had exceeded our economic exposure or were required to be consolidated upon the adoption of ASU 2009-17. The fair value option election was made at a securitization level and thus the election was made for both the consumer mortgage finance receivable and loans and the related securitization debt.

The fair value elected loan balances are recorded within consumer finance receivables and loans, net, unless they are repurchased from a securitization trust in which case they are recorded in mortgage loans held-for-sale. Our policy is to separately record interest income on these fair value elected loans. The fair value adjustment recorded for consumer finance receivables and loans is classified as other revenue, net, and the fair value adjustment for mortgage loans held-for-sale is classified as gain on mortgage loans.

The fair value elected securitization debt balances are recorded within collateralized borrowings in securitization trusts. Our policy is to separately record interest expense on the fair value elected securitization debt, which is classified as interest expense. The fair value adjustment recorded for this debt is classified as other revenue, net.

- **Government – and agency – eligible loans** – We elected the fair value option for government– and agency–eligible consumer mortgage loans held–for–sale. This election includes government– and agency–eligible loans we fund directly to borrowers and government– and agency–eligible loans we purchase from Ally Bank. The fair value option was elected to mitigate earnings volatility by better matching the accounting for the assets with the related hedges and to maintain consistency with the fair value option election by Ally Bank given the level of affiliate loan purchase and sale activity between the entities. See Note 17 — Related Party Transactions for additional information.

We carry fair value option–elected government– and agency–eligible loans within mortgage loans held–for–sale. Our policy is to separately record interest income on these fair value elected loans. Upfront fees and costs related to the fair value elected loans are not deferred or capitalized. The fair value adjustment recorded for these fair value option–elected loans is reported in gain on mortgage loans, net. The fair value option election is irrevocable once the loan is funded even if it is subsequently determined that a particular loan cannot be sold.

- **Conditional repurchase option loans and liabilities** – As of January 1, 2011, we elected the fair value option for both nongovernment eligible mortgage loans held–for–sale subject to conditional repurchase options and the related liability. The conditional repurchase option allows us to repurchase a transferred financial asset if certain events outside our control are met. The typical conditional repurchase option is a delinquent loan repurchase option that gives us the option to purchase the loan if it exceeds a prespecified delinquency level. We have complete discretion regarding when or if we will exercise these options, but generally, we would do so only when it is in our best interest. We are required to record the asset and the corresponding liability on our balance sheet when the option becomes exercisable. The fair value option election must be made at initial recording. As such, the conditional repurchase option loans and liabilities that were recorded prior to January 1, 2011, were not fair value elected.

The fair value elected conditional repurchase option loans are recorded within mortgage loans held–for–sale. The fair value adjustment is classified as other revenue, net. We do not recognize interest income on conditional repurchase option loans until the option is exercised and the loan is repurchased.

The corresponding fair value elected liability is recorded in other liabilities. The fair value adjustment recorded for this liability is classified as other revenue, net.

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The following table summarizes the fair value option elections and information regarding the amounts recognized in earnings for each fair value option-elected item.

March 31, (\$ in thousands)	Changes included in our Condensed Consolidated Statement of Income				Change in fair value due to credit risk (b)
	Interest income (expense) (a)	Gain on mortgage loans, net	Other revenue, net	Total included in net income	
2012					
Assets					
Mortgage loans held-for-sale (c)	\$286	\$243,407	\$—	\$243,693	(\$490) (d)
Consumer mortgage finance receivables and loans, net	44,139	—	42,637	86,776	(27,220) (e)
Liabilities					
Collateralized borrowings					
On-balance sheet securitizations	(25,900)	—	(57,306)	(83,206)	(7,306) (f)
Liability for option to repurchase assets	—	—	(213)	(213)	490 (f)
Total				\$247,050	
2011					
Assets					
Mortgage loans held-for-sale (c)	\$221	\$51,498	\$98	\$51,817	(\$18) (d)
Consumer mortgage finance receivables and loans, net	54,021	—	19,246	73,267	(17,444) (e)
Liabilities					
Collateralized borrowings					
	(30,801)	—	(36,148)	(66,949)	26,927 (f)
Total				\$58,135	

(a) Interest income on consumer mortgage finance receivables and loans and mortgage loans held for sale is measured by multiplying the unpaid principal balance on the loans by the coupon rate and the number of days of interest due. Interest expense on the on-balance sheet securitizations is measured by multiplying the bond principal by the coupon rate and days interest due to the investor.

(b) Factors other than credit quality that impact the fair value include changes in market interest rates and the liquidity or marketability in the current marketplace. Lower levels of observable data points in illiquid markets generally result in wide bid/offer spreads.

(c) Includes the gain/loss recognized on fair value option-elected government- and agency-eligible assets purchased from Ally Bank.

(d) The credit impact for mortgage loans held-for-sale that are currently agency eligible is currently zero because the fair value option-elected GSE loans are salable, and any unsalable assets are currently covered by a government guarantee. The credit impact for non-agency eligible loans and related liability was quantified by applying internal credit loss assumptions to cash flow models.

(e) The credit impact for consumer mortgage finance receivables and loans was quantified by applying internal credit loss assumptions to cash flow models.

(f) The credit impact for on-balance sheet securitization debt is assumed to be zero until our economic interests in a particular securitization is reduced to zero, at which point the losses in the underlying collateral will be expected to be passed through to third-party bondholders. Losses allocated to third-party bondholders, including changes in the amount of losses allocated, will result in fair value changes due to credit. We also monitor credit ratings and may make credit adjustments to the extent any bond classes are downgraded by rating agencies.

Notes to Condensed Consolidated Financial Statements

Residential Capital, LLC

The table below provides the fair value and the unpaid principal balance for our fair value option-elected loans and related collateralized borrowings

<i>(\$ in thousands)</i>	March 31, 2012		December 31, 2011	
	Unpaid principal balance	Fair value (a)	Unpaid principal balance	Fair value (a)
Mortgage loans held-for-sale				
Total loans	\$76,796	\$46,419	\$84,099	\$56,975
Nonaccrual loans	57,916	28,293	53,502	27,297
Loans 90+ days past due (b)	57,789	28,140	53,312	27,179
Consumer mortgage finance receivables and loans, net				
Total loans	\$2,385,658	\$832,094	\$2,436,218	\$835,192
Nonaccrual loans	510,437	213,935 (c)	506,300	209,371 (c)
Loans 90+ days past due (b)	383,837	172,611 (c)	362,002	162,548 (c)
Collateralized borrowings				
On-balance sheet securitizations	(\$2,513,734)	(\$828,418)	(\$2,559,093)	(\$829,940)
Other liabilities				
Liability for option to repurchase assets	(\$61,490)	(\$29,603)	(\$56,568)	(\$28,504)

(a) Excludes accrued interest receivable.

(b) Loans 90+ days past due are also presented within the nonaccrual loans and total loans except those that are government insured and still accruing.

(c) The fair value of consumer mortgage finance receivables and loans is calculated on a pooled basis; therefore, we allocated the fair value of nonaccrual loans and 90+ days past due to individual loans based on the unpaid principal balances

14. Derivative Instruments and Hedging Activities

We transact interest rate and foreign currency swaps, futures, forwards, options, swaptions, and TBAs in connection with our risk management activities. Our primary objective for executing these financial instruments is to mitigate our economic exposure to future events that are outside our control. These financial instruments are utilized principally to manage market risk and cash flow volatility associated with mortgage loans held-for-sale and MSR, including our total return and forward flow agreements with Ally Bank. See Note 17 — Related Party Transactions for additional information. We do not transact derivative instruments for reasons beyond risk management.

In addition to derivatives transacted as part of our risk management activities, we create derivative contracts as part of our ongoing operations. In particular, we frequently execute forward mortgage loan purchase and sale commitments with Ally Bank and financial institutions, respectively, principally to provide a future source of mortgage volume and dedicated exit channels.

Additionally, we enter into commitments with mortgage borrowers that require us to originate a mortgage at a stated amount and rate; these are derivative contracts if our intent is ultimately to hold the originated loan for sale. We refer to commitments to purchase mortgage loans from Ally Bank and commitments to originate mortgage loans held-for-sale, collectively, as interest rate lock commitments (IRLCs).

The following summarizes our significant asset and liability classes, the risk exposures for these classes, and our risk management activities utilized to mitigate certain of these risks. The discussion includes both derivative and nonderivative financial instruments utilized as part of these risk management activities.

Interest Rate Sensitive Assets/Liabilities

- **Mortgage loan commitments and loans held-for-sale** — We are exposed to interest rate risk from the time an IRLC is made, either directly or indirectly through the forward flow agreement with Ally Bank, until the time the mortgage loan is sold. Changes in interest rates impact the market price for the mortgage loan; as market interest rates decline, the value of existing IRLCs and mortgage loans held-for-sale increase and vice versa. The primary objective of our risk management activities related to IRLCs and mortgage loans held-for-sale is to eliminate or reduce any interest rate risk associated with these assets.

We enter into forward sale contracts of mortgage-backed securities, primarily agency TBAs, as our primary strategy to mitigate this risk. These contracts are typically entered into at the time the interest rate lock commitment is made. The value of the forward sales contracts moves in the opposite direction of the value of our IRLCs and mortgage loans held-for-sale. We may also use other derivatives, such as options, and futures, to economically hedge certain portions of the portfolio. Nonderivative instruments, such as short positions on U.S. Treasuries, may also be used to economically hedge

Notes to Condensed Consolidated Financial Statements

Residential Capital, LLC

the portfolio. We monitor and actively manage our risk on a daily basis, therefore trading volume can be significant.

We do not apply hedge accounting to our derivative portfolio held to economically hedge our IRLCs and mortgage loans held-for-sale. Included in the derivatives on IRLCs and mortgage loans held-for-sale is the forward flow agreement with Ally Bank having a fair value of \$(27.1) million and an outstanding notional of \$6.3 billion at March 31, 2012. Under the terms of the forward flow agreement, Ally Bank transfers the exposure to changes in fair value of specified pools of assets, in this case IRLCs and mortgage loans held-for-sale, to us. This agreement was terminated on April 30, 2012. See Note 17 — Related Party Transactions for additional information.

- **Mortgage servicing rights and other retained interests** — Our MSR and retained interests are generally subject to loss in value when mortgage rates decline. Declining mortgage rates generally result in an increase in refinancing activity, which increases prepayments and results in a decline in the value of MSR and other retained interests. To mitigate the impact of this risk, we maintain a portfolio of financial instruments, primarily derivatives, which increase in value when interest rates decline. The primary objective is to minimize the overall risk of loss in the value of MSR and other retained interests due to the change in fair value caused by interest rate changes and their interrelated impact to prepayments.

We use a variety of derivative instruments to manage the interest rate risk related to MSR and other retained interests. These include, but are not limited to, interest rate futures, call or put options on U.S. Treasuries, swaptions, mortgage-backed securities (MBS) futures, U.S. Treasury futures, interest rate swaps, interest rate floors and caps. While we do not currently utilize nonderivative instruments (i.e., U.S. Treasuries) to hedge this portfolio, we have utilized them in the past and may utilize them again in the future. We monitor and actively manage our risk on a daily basis, and therefore trading volume can be significant.

Included in the derivatives hedging MSR and retained interests is a total return swap with Ally Bank having a fair value of \$29.4 million at March 31, 2012. Under the terms of the total return swap, Ally Bank transfers the total economic return of a specified portfolio of mortgage servicing rights owned by Ally Bank to us in exchange for a variable payment based on a fixed spread to LIBOR. This agreement was terminated on April 30, 2012. See Note 17 — Related Party Transactions for additional information.

- **Debt** — We monitor our mix of fixed and floating rate debt in relation to the rate profile of our assets. When it is cost effective to do so, we may enter into interest rate swaps to manage the interest rate composition of our debt portfolio. Typically, the significant terms of the interest rate swaps match the terms of the underlying debt resulting in an effective conversion of the rate of the related debt.

In addition to these economic hedges, we also hold interest rate swaps that are hedging a portion of our fixed-rate senior unsecured notes. We utilize the interest rate swaps to hedge the fair value of the hedged debt balances. We elected to designate these as fair value hedges at inception. At December 31, 2011, we dedesignated our fair value swaps due to ineffectiveness.

Foreign Currency Risk

We have operations outside the United States. Our foreign subsidiaries maintain both assets and liabilities in local currencies that are deemed to be the functional currencies of these subsidiaries for accounting purposes. Foreign currency exchange rate gains and losses arise when assets or liabilities are denominated in currencies that differ from the entities functional currency and are revalued into the functional currency. In addition, our equity is impacted by the cumulative translation adjustments recognized in other comprehensive income resulting from the translation of foreign subsidiary results to U.S. dollars. Foreign currency risk is reviewed as part of our risk management process. The principal currencies creating foreign exchange risk are the U.K. Sterling and the Euro.

Our current strategy is to economically hedge foreign currency risk related to assets and liabilities that are denominated in currencies on our U.S. dollar functional currency entities. The principal objective of the foreign currency hedges is to mitigate the earnings volatility specifically created by foreign currency exchange rate gains and losses. We hold forward currency contracts to mitigate risk against currency fluctuation in the U.K. Sterling and the Euro. We have not elected to treat any foreign currency swaps as hedges for accounting purposes, principally because the changes in the fair values of the foreign currency swaps are substantially offset by the foreign currency revaluation gains and losses of the underlying assets and liabilities.

Notes to Condensed Consolidated Financial Statements

Residential Capital, LLC

Credit Risk and Collateral Arrangements

Derivative financial instruments contain an element of credit risk if counterparties, including affiliates, are unable to meet the terms of their agreements. Credit risk associated with derivative financial instruments is measured as the net replacement cost should the counterparties that owe us under the contracts completely fail to perform under the terms of those contracts, assuming there are no recoveries of underlying collateral, as measured by the fair value of the derivative financial instruments. At March 31, 2012 and December 31, 2011, the fair value of derivative financial instruments in an asset, or receivable position, were \$3.6 billion and \$4.9 billion, including \$2.2 billion and \$3.2 billion with affiliates, respectively. See Note 17 — Related Party Transactions for additional information.

We minimize the credit risk exposure by limiting our counterparties to those major banks and financial institutions that meet established credit guidelines and transacting with and through affiliates. Additionally, we reduce credit risk on the majority of our derivative financial instruments by entering into legally enforceable agreements that permit the closeout and netting of transactions with the same counterparty upon occurrence of certain events. To further mitigate the risk of counterparty default, we execute collateral agreements with counterparties. The agreements require both parties to maintain cash deposits in the event the fair values of the derivative financial instruments meet established thresholds. We have received cash deposits from counterparties totaling \$578.7 million and \$656.1 million at March 31, 2012 and December 31, 2011, respectively, for derivative positions in an asset position to us. We have placed cash deposits totaling \$1.1 billion and \$1.1 billion at March 31, 2012 and December 31, 2011, respectively, in accounts maintained by counterparties for derivative positions in a liability position to us. The cash deposits placed and received are included in accounts receivable, other assets, and other liabilities.

We are not exposed to credit risk related contingent features in any of our derivative contracts that could be triggered and potentially could expose us to future loss.

Condensed Consolidated Balance Sheet Presentation

The following table summarizes the location and fair value amounts of derivative instruments reported on our Condensed Consolidated Balance Sheet. The fair value amounts are presented on a gross basis and are segregated between derivatives that are designated and qualifying as hedging instruments and those that are not and further segregated by type of contract within those two categories.

(\$ in thousands)	March 31, 2012			December 31, 2011		
	Fair value of derivative contracts in		Notional amount	Fair value of derivative contracts in		Notional amount
	receivable position (a)	payable position (b)		receivable position (a)	payable position (b)	
Economic hedges						
Interest rate risk						
MSRs and retained interests	\$3,554,216	(\$3,893,704)	\$418,931,706	\$4,811,804	(\$5,011,576)	\$523,142,192
Mortgage loans held-for-sale	16,115	(7,260)	9,040,618	8,770	(96,077)	17,323,000
Debt	18,887	—	251,122	21,066	—	251,790
Total interest rate risk	3,589,218	(3,900,964)	428,223,446	4,841,640	(5,107,653)	540,716,982
Foreign exchange risk	2,439	(365)	160,748	520	(5,873)	3,157,000
Non-risk management derivatives						
Bank MSR swap	29,442	—	1,407,351	17,681	—	1,384,835
Bank forward flow agreement	—	(27,105)	6,269,576	16,423	—	9,825,783
Mortgage loan commitments	349	(3)	27,542	933	(5)	77,633
Total derivatives	\$3,621,448	(\$3,928,437)	\$436,088,663	\$4,877,197	(\$5,113,531)	\$555,162,233

(a) Presented in other assets.

(b) Presented in other liabilities.

Notes to Condensed Consolidated Financial Statements

Residential Capital, LLC

Condensed Consolidated Statement of Income Presentation

The following table summarizes the location and amount of gains and losses from continuing operations reported in our Condensed Consolidated Statement of Income related to derivative instruments. Gains and losses are presented separately for derivative instruments designated and qualifying as hedging instruments in fair value hedges and non-designated hedging instruments. We currently do not have qualifying cash flow or foreign currency hedges.

Three months ended March 31, (\$ in thousands)	2012	2011
Qualifying accounting hedges		
Gain (loss) recognized in earnings on derivatives		
Interest rate contracts		
Interest income	\$—	(\$1,535)
Gain (loss) recognized in earnings on hedged item		
Interest rate contracts		
Interest expense	—	1,813
Total qualifying accounting hedges	—	278
Economic hedges		
Risk management derivatives		
Gain (loss) recognized in earnings on derivatives		
Interest rate contracts		
Interest expense	(1,633)	(1,672)
Gain on mortgage loans, net	(52,099)	(43,622)
Servicing asset valuation and hedge activities, net	8,075	(203,625)
Other revenue, net	(369)	—
Total interest rate contracts	(46,026)	(248,919)
Foreign exchange contracts		
Other noninterest expense, net	6,274	(1,298)
Non-risk management derivatives		
Gain on mortgage loans, net	(87,921)	134,512
Servicing asset valuation and hedge activities, net	96,424	216,048
Total derivatives	(\$31,249)	\$100,621

Our derivative portfolios generally are reflected in the operating activities section of our Condensed Consolidated Statement of Cash Flows. Derivative fair value adjustments are captured in our Condensed Consolidated Statement of Income line items described in the table above and, accordingly, are generally reflected within the respective line items within the reconciliation of net income (loss) to net cash provided by operating activities section of our Condensed Consolidated Statement of Cash Flows. The remaining changes in derivative portfolio values are generally reflected within the "net change in other assets" or "net change in other liabilities" line items on our Condensed Consolidated Statement of Cash Flows.

15. Higher Risk Mortgage Loans and Credit Quality

Historically, we originated and purchased mortgage loans that had contractual features that may increase our exposure to credit risk and thereby result in a concentration of credit risk. These mortgage loans include loans that may subject borrowers to significant payment increases in the future, have negative amortization of the principal balance or have high loan-to-value ratios.

The following table summarizes the gross carrying value of our higher-risk mortgage loans classified as held-for-sale and finance receivables and loans.

(\$ in thousands)	March 31, 2012	December 31, 2011
High loan-to-value (greater than 100%) mortgage loans	\$475,415	\$488,627
Payment option adjustable rate mortgage loans	13,176	12,140
Interest-only mortgage loans	286,740	293,975
Below market initial rate mortgage loans	250,517	259,177
Total carrying value of higher-risk mortgages	\$1,025,848	\$1,053,919

Included in the table above are \$350.7 million and \$362.5 million of high-risk mortgage loans held in on-balance sheet securitizations at March 31, 2012 and December 31, 2011, respectively. Our exposure on these loans is limited to the value of our retained interest.

Notes to Condensed Consolidated Financial Statements

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As part of our loss mitigation efforts and participation in certain governmental programs (e.g., the Making Home Affordable program), we may offer loan restructurings to borrowers. Due to the nature of restructurings, these loans are generally considered higher risk. Loan modifications can include any or all of the following; principal forgiveness, maturity extensions, delinquent interest capitalization and changes to contractual interest rates. Modifications can be either temporary or permanent. Temporary loan modifications are generally used to monitor the borrower's ability to perform under the revised terms over a specified trial period; if the borrower performs, it may become a permanent loan modification. We have historically performed loan modifications under our private modification program; however, more recently the majority of loan modifications are completed under government programs. The carrying value of our on-balance sheet modified mortgage loans was \$1.4 billion and \$1.2 billion as of March 31, 2012 and December 31, 2011, respectively. These modified mortgage loans are included within mortgage loans held-for-sale and consumer finance receivables and loans.

Nonperforming Assets

Nonperforming assets include nonaccrual loans and foreclosed assets. The classification of a loan as nonperforming does not necessarily indicate that the principal amount of the loan is ultimately uncollectible in whole or in part. In certain cases, borrowers make payments to bring their loans contractually current and, in all cases, our mortgage loans are collateralized by residential real estate. As a result, our experience has been that any amount of ultimate loss for mortgage loans other than home equity loans is substantially less than the unpaid principal balance of a nonperforming loan.

Delinquent loans expose us to higher levels of credit losses and therefore are considered higher risk loans. The determination as to whether a loan falls into a particular delinquency category is made as of the close of business on the balance sheet date. The following table sets forth information concerning the delinquency experience in our mortgage loans held-for-sale and consumer finance receivable and loans at carrying value.

(\$ in thousands)	March 31, 2012		December 31, 2011	
	Amount	% of total	Amount	% of total
Current	\$2,065,619	39.2%	\$2,003,928	38.0%
Past due				
30 to 89 days	136,907	2.6%	137,590	2.6%
90 days or more and still accruing interest (a)	72,727	1.4%	73,661	1.4%
90 days or more conditional repurchase option loans (b)	2,352,657	44.7%	2,379,926	45.1%
Nonaccrual	639,475	12.1%	677,250	12.9%
Total	5,267,385	100%	5,272,355	100%
Allowance for loan losses	(12,183)		(13,638)	
Total, net	\$5,255,202		\$5,258,717	

(a) Loans that are 90 days or more delinquent and still accruing interest are government insured.

(b) We do not record interest income on conditional repurchase option loans. If these options were exercised and we acquired the loans, \$2.3 billion and \$2.3 billion would be classified as 90 days or more and still accruing due to government guarantees at March 31, 2012 and December 31, 2011, respectively. The private-label conditional repurchase option loans of \$99.3 million and \$105.8 million would be classified as nonaccrual at March 31, 2012 and December 31, 2011, respectively.

The following table presents the net carrying value of nonperforming assets.

(\$ in thousands)	March 31, 2012	December 31, 2011
Nonaccrual consumer		
1st Mortgage	\$440,963	\$462,275
Home equity	57,823	71,787
Foreign	140,689	143,188
Total nonaccrual consumer (a)	639,475	677,250
Nonaccrual commercial		
Domestic	—	—
Foreign	41,145	12,534
Total nonaccrual commercial	41,145	12,534
Foreclosed assets	63,987	71,485
Total nonperforming assets	\$744,607	\$761,269

(a) Excludes loans subject to conditional repurchase options of \$2.3 billion and \$2.3 billion sold to Ginnie Mae guaranteed securitizations and \$99.3 million and \$105.8 million sold to off-balance sheet private-label securitization trusts at March 31, 2012 and December 31, 2011, respectively. The corresponding liability is recorded in other liabilities. See Note 5 — Securitizations and Variable Interest Entities for additional information.

Notes to Condensed Consolidated Financial Statements

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16. Contingencies and Other Risks

We currently estimate that it is reasonably possible losses over time related to the litigation matters and potential repurchase obligations and related claims described herein could be between \$0.0 billion and \$4.0 billion over amounts already recorded. This estimate is based on significant judgment and numerous assumptions that are subject to change, which could be material.

Mortgage Foreclosure Matters

Settlements with Federal Government and State Attorneys General

Agreement

On February 9, 2012, Ally Inc., ResCap, and certain of our subsidiaries reached an agreement in principle with respect to investigations into procedures followed by mortgage servicing companies and banks in connection with mortgage origination and servicing activities and foreclosure home sales and evictions (the Settlement). On March 12, 2012, the Settlement was filed as a consent judgment in the U.S. District Court for the District of Columbia. In addition, we separately reached an independent settlement with Oklahoma, which did not participate in the broader settlement described below, and agreements with two other states for other releases.

In connection with the settlement we paid \$109.6 million to a trustee, for distribution to federal and state governments in March 2012. In addition, we also paid \$2.3 million in connection with the separate state agreements. We are also obligated to provide \$200.0 million towards borrower relief, subject to possible upward adjustments as described below. This obligation for borrower relief will include loan modifications, including principal reductions, rate modifications, and refinancing for borrowers that meet certain requirements, and participation in certain other programs. Generally, if certain basic criteria are met, borrowers that are either delinquent or at imminent risk of default and owe more on their mortgages than their homes are worth could be eligible for principle reductions, and borrowers that are current on their mortgages but who owe more on their mortgage than their homes are worth could be eligible for refinancing opportunities. Further, we have agreed to solicit borrowers that are eligible for rate and principal modifications as of March 1, 2012. We are committed to provide loan modifications to all borrowers who accept a modification offer within three months of the solicitation. We have also agreed to provide loan modifications to borrowers who accept a modification offer within six months of the solicitation, unless and until total borrower relief provided exceeds \$250.0 million. As of March 31, 2012, no loan modifications have been completed. However, we are currently in the process of soliciting eligible borrowers and expect modifications to begin in the second quarter of 2012.

The Settlement provides incentives for borrower relief that is provided within the first twelve months, and all obligations must be met within three years from the date the consent judgment is filed. In addition to the foregoing, we will be required to implement new servicing standards relating to matters such as foreclosure and bankruptcy information and documentation, oversight, loss mitigation, limitations on fees, and related procedural matters. Compliance with these obligations will be overseen by an independent monitor, who will have authority to impose additional penalties and fines if we fail to meet established timelines or fail to implement required servicing standards.

The Settlement generally resolves potential claims arising out of origination and servicing activities and foreclosure matters, subject to certain exceptions. The Settlement does not prevent state and federal authorities from pursuing criminal enforcement actions, securities-related claims (including actions related to securitization activities and Mortgage Electronic Registration Systems, or MERS), loan origination claims, claims brought by the FDIC, and certain other matters. The Settlement also does not prevent claims that may be brought by individual borrowers.

Federal Reserve Board Civil Money Penalty

On February 9, 2012, Ally Inc. and ResCap agreed with the Board of Governors of the Federal Reserve (FRB) on a civil money penalty (CMP) of \$207.0 million related to the same activities that were the subject of the Settlement. This amount will be reduced dollar-for-dollar in connection with certain aspects of our satisfaction of the required monetary payment and borrower relief obligations included within the Settlement, as well as our participation in other similar programs that may be approved by the FRB. While additional future cash payments related to the CMP are possible if we are unable to satisfy the borrower relief requirements of the Settlement within two years, we currently expect that the full amount of the CMP will be satisfied through our commitments in connection with the Settlement.

Notes to Condensed Consolidated Financial Statements

Residential Capital, LLC

Other Mortgage Foreclosure Matters

Consent Order

As a result of an examination conducted by the FRB and FDIC, on April 13, 2011 we entered into a Consent Order (the Consent Order) with the FRB and the FDIC. The Consent Order requires that we make improvements to various aspects of our residential mortgage loan-servicing business, including compliance programs, internal audit, communications with borrowers, vendor management, management information systems, employee training, and oversight by our Board of Directors.

The Consent Order further requires GMAC Mortgage to retain independent consultants to conduct a risk assessment related to mortgage servicing activities and, separately, to conduct a review of certain past residential mortgage foreclosure actions. We cannot reasonably estimate the ultimate impact of any deficiencies that have been or may be identified in our historical foreclosure procedures. There are potential risks related to these matters that extend beyond potential liability on individual foreclosure actions. Specific risks could include, for example, claims and litigation related to foreclosure remediation and resubmission; claims from investors that hold securities that become adversely impacted by continued delays in the foreclosure process; the reduction in foreclosure proceeds due to delay, or by challenges to completed foreclosure sales to the extent, if any, not covered by title insurance obtained in connection with such sales; actions by courts, state attorneys general, or regulators to delay further the foreclosure process after submission of corrected affidavits, or to facilitate claims by borrowers alleging that they were harmed by our foreclosure practices (by, for example, foreclosing without offering an appropriate range of alternative home preservation options); additional regulatory fines, sanctions, and other additional costs; and reputational risks. To date we have borne all out-of-pocket costs associated with the remediation rather than passing any such costs through to investors for whom we service the related mortgages, and we expect that we will continue to do so.

Loan Repurchases and Obligations Related to Loan Sales

Overview

We sell loans that take the form of securitizations guaranteed by the GSEs, securitizations sold to private investors, and to whole-loan investors. In connection with a portion of our private-label securitizations, the monolines insured all or some of the related bonds and guaranteed timely repayment of bond principal and interest when the issuer defaults. In connection with securitizations and loan sales, the trustee for the benefit of the related security holders and, if applicable, the related monoline insurers are provided various representations and warranties related to the loans sold. The specific representations and warranties vary among different transactions and investors but typically relate to, among other things, the ownership of the loan, the validity of the lien securing the loan, the loan's compliance with the criteria for inclusion in the transaction, including compliance with underwriting standards or loan criteria established by the buyer, the ability to deliver required documentation and compliance with applicable laws. In general, the representations and warranties described above may be enforced at any time unless a sunset provision is in place. Upon discovery of a breach of a representation or warranty, the breach is corrected in a manner conforming to the provisions of the sale agreement. This may require us to repurchase the loan, indemnify the investor for incurred losses, or otherwise make the investor whole. We have entered into settlement agreements with both Fannie Mae and Freddie Mac that, subject to certain exclusions, limit our remaining exposure with the GSEs. See *Government-sponsored Enterprises* below. We assume all of the customary representation and warranty obligations for loans purchased from Ally Bank and subsequently sold into the secondary market, generally through securitizations guaranteed by the GSEs.

Originations

The total exposure to mortgage representation and warranty claims is most significant for loans originated and sold between 2004 through 2008, specifically the 2006 and 2007 vintages that were originated and sold prior to enhanced underwriting standards and risk-mitigation actions implemented in 2008 and forward. Since 2009, we have focused primarily on purchasing prime conforming and government-insured mortgages. In addition, we ceased offering interest-only jumbo mortgages in 2010. Representation and warranty risk mitigation strategies include, but are not limited to, pursuing settlements with investors where economically beneficial in order to resolve a pipeline of demands in lieu of loan-by-loan assessments that could result in repurchasing loans, aggressively contesting claims we do not consider valid (rescinding claims), and seeking recourse against correspondent lenders from whom we purchased loans wherever appropriate.

Demand/Claim Process

After receiving a claim under representation and warranty obligations, we review the claim to determine the appropriate response (e.g. appeal, and provide or request additional information) and take appropriate action (rescind, repurchase the loan, or remit indemnification payment). Historically, repurchase demands were generally related to loans that became delinquent within the first few years following origination. As a result of market developments over the past several years, investor repurchase demand behavior has changed significantly. GSEs and investors are more likely to submit claims for loans at any point in the loans life cycle. Representation and warranty claims are generally reviewed on a loan-by-loan basis to validate if there has been a breach requiring

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Residential Capital, LLC

a potential repurchase or indemnification payment. We actively contest claims to the extent they are not considered valid. We are not required to repurchase a loan or provide an indemnification payment where claims are not valid.

The risk of repurchase or indemnification, and the associated credit exposure, is managed through our underwriting and quality assurance practices and by servicing mortgage loans to meet investor standards. We believe that, in general, the longer a loan performs prior to default, the less likely it is that an alleged breach of representation and warranty will be found to have a material and adverse impact on the loan's performance. When loans are repurchased, we bear the related credit loss on the loans. Repurchased loans are classified as held-for-sale and initially recorded at fair value.

The following table includes amounts paid to investors and monolines with respect to representation and warranty obligations.

<i>Three months ended March 31, (\$ in thousands)</i>	2012	2011
Loan repurchases (UPB)		
GSEs	\$19,005	\$43,582
Private-label securitizations insured (monolines)	4,038	14
Private-label securitizations uninsured	—	—
Whole-loan investors	2,468	4,642
Total	\$25,511	\$48,238
Indemnifications (make wholes) by investor		
GSEs	\$20,971	\$15,517
Private-label securitizations insured (monolines)	—	1,835
Private-label securitizations uninsured	—	—
Whole-loan investors	6,402	24
Total	\$27,373	\$17,376

The following table presents the total number and original unpaid principal balance of loans related to unresolved representation and warranty demands (indemnification claims and/or repurchase demands). The table includes demands that we have requested be rescinded but which have not yet been agreed to by the investor.

<i>(\$ in millions)</i>	March 31, 2012		December 31, 2011 (a)	
	Number of loans	Original UPB of loans	Number of loans	Original UPB of loans
Unresolved repurchase demands previously received				
GSEs	457	\$89	357	\$71
Insured private-label securitizations				
MBIA Insurance Corporation	7,314	491	7,314	490
Financial Guaranty Insurance Company	4,826	382	4,608	369
Other	937	70	730	58
Uninsured private-label securitizations	294	78	38	7
Whole Loan Investors	561	85	475	74
Total unpaid principal balance	14,389	\$1,195	13,522	\$1,069

(a) Excludes \$59.0 million of original UPB on loans where counterparties have requested additional documentation as part of individual loan file reviews.

We are currently in litigation with MBIA Insurance Corporation (MBIA) and Financial Guaranty Insurance Company (FGIC) with respect to certain representation and warranty matters related to certain of our private-label securitizations. Historically we have requested that most of the demands be rescinded, consistent with the claim/demand process described above. As the litigation process proceeds, additional loan reviews are expected and will likely result in additional repurchase demands.

Liability for Representation and Warranty Obligations

The liability for representation and warranty obligations reflects management's best estimate of probable lifetime loss. We consider historical and recent demand trends in establishing the reserve. The methodology used to estimate the reserve considers a variety of assumptions including borrower performance (both actual and estimated future defaults), repurchase demand behavior, historical loan defect experience, historical mortgage insurance rescission experience, and historical and estimated future loss experience, which includes projections of future home price changes as well as other qualitative factors including investor behavior. In cases where we do not have or have limited current or historical demand experience with an investor, it is difficult to predict and estimate the level and timing of any potential future demands. In such cases, we may not be able to reasonably estimate losses, and a liability is not recognized. Management monitors the adequacy of the overall reserve and makes adjustments to the level of reserve,

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Residential Capital, LLC

as necessary, after consideration of other qualitative factors including ongoing dialogue and experience with counterparties.

At the time a loan is sold, an estimate of the fair value of the liability is recorded and classified in other liabilities and recorded as a component of gain on mortgage loans, net. We recognize changes in the liability when additional relevant information becomes available. Changes in the estimate are recorded as representation and warranty expense, net. At March 31, 2012, the liability relates primarily to non-GSE exposure.

The following table summarizes the changes in our liability for representation and warranty obligations.

<i>(\$ in thousands)</i>	2012	2011
Balance at January 1,	\$824,776	\$830,021
Provision for representation and warranty obligations		
Loan sales	4,410	5,895
Change in estimate	19,459	26,000
Total additions	23,869	31,895
Realized losses (a)	(42,181)	(33,692)
Recoveries	4,341	2,063
Balance at March 31,	\$810,805	\$830,287

(a) Includes principal losses and accrued interest on repurchased loans, indemnification payments, and settlements with investors.

Government-sponsored Entities

Between 2004 and 2012, we sold \$441.0 billion of loans to the GSEs. Each GSE has specific guidelines and criteria for sellers and servicers of loans underlying their securities. In addition, the risk of credit loss of the loans sold was generally transferred to investors upon sale of the securities into the secondary market. Conventional conforming loans were sold to either Freddie Mac or Fannie Mae, and government insured loans were securitized with Ginnie Mae. Our representation and warranty obligation liability with respect to the GSEs considers the existing unresolved claims and the best estimate of future claims that could be received. We consider our experiences with the GSEs in evaluating our liability.

The following table summarizes the changes in the original unpaid principal balance related to unresolved repurchase demands with respect our GSE exposure. The table includes demands that we have requested be rescinded but which have not been agreed to by the investor.

<i>(\$ in millions)</i>	2012	2011 (a)
Balance at January 1,	\$71	\$170
New claims	128	102
Resolved claims (b)	(60)	(133)
Rescinded claims/other	(50)	(41)
Balance at March 31,	\$89	\$98

(a) Excludes \$22.0 million of original UPB on loans where counterparties have requested additional documentation as part of individual loan file reviews.

(b) Includes settlements, repurchased loans and claims under which indemnification payments are made.

We have settled our repurchase obligations relating to most of the mortgage loans sold to Freddie Mac prior to January 1, 2009. This agreement does not release any of our obligations with respect to exposure for private-label MBS in which Freddie Mac had previously invested, loans where our affiliate, Ally Bank is the owner of the servicing, as well as defects in certain other specified categories of loans. Further, we continue to be responsible for other contractual obligations we have with Freddie Mac, including all indemnification obligations that may arise in connection with the servicing of the mortgages. These other specified categories include (i) loans subject to certain state predatory lending and similar laws; (ii) groups of 25 or more mortgage loans purchased, originated, or serviced by one of our subsidiaries, the purchase, origination, or sale of which all involve a common actor who committed fraud; (iii) "non-loan-level" representations and warranties which refer to representations and warranties that do not relate to specific mortgage loans (examples of such non-loan-level representations and warranties include the requirement that our subsidiaries meet certain standards to be eligible to sell or service loans for Freddie Mac or our subsidiaries sold or serviced loans for market participants that were not acceptable to Freddie Mac); and (iv) mortgage loans that are ineligible for purchase by Freddie Mac under its charter and other applicable documents. If, however, a mortgage loan was ineligible under Freddie Mac's charter solely because mortgage insurance was rescinded (rather than for example, because the mortgage loan is secured by a commercial property), and Freddie Mac required us or our subsidiary to repurchase that loan because of the ineligibility, Freddie Mac would pay any net loss we suffered on any later liquidation of that mortgage loan.

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We have received subpoenas from the Federal Housing Finance Agency (FHFA), which is the conservator of Fannie Mae and Freddie Mac. The subpoenas relating to Fannie Mae investments have been withdrawn with prejudice. The FHFA indicated that documents provided in response to the remaining subpoenas will enable the FHFA to determine whether they believe issuers of private-label MBS are potentially liable to Freddie Mac for losses they might have incurred. Although Freddie Mac has not brought any representation and warranty claims against us with respect to private-label securities subsequent to the settlement, they may do so in the future. The FHFA has commenced securities and related common law fraud litigation against us and certain of our subsidiaries with respect to certain of Freddie Mac's private-label securities investments.

We have settled our repurchase obligations related to most of the mortgage loans we sold to Fannie Mae prior to June 30, 2010. The agreement also covers potential exposure for private-label MBS in which Fannie Mae had previously invested. This agreement does not release any of our obligations with respect to loans where our affiliate, Ally Bank, is the owner of the servicing, as well as for defects in certain other specified categories of loans. Further, we continue to be responsible for other contractual obligations we have with Fannie Mae, including all indemnification obligations that may arise in connection with the servicing of the mortgages, and we continue to be obligated to indemnify Fannie Mae for litigation or third party claims (including by borrowers) for matters that may amount to breaches of selling representations and warranties. These other specified categories include, among others, (i) those that violate anti-predatory laws or statutes or related regulations or that otherwise violate other applicable laws and regulations; (ii) those that have non-curable defects in title to the secured property, or that have curable title defects, to the extent our subsidiaries do not cure such defects at our subsidiary's expense; (iii) any mortgage loan in which title or ownership of the mortgage loan was defective; (iv) groups of 13 or more mortgage loans, the purchase, origination, sale or servicing of which all involve a common actor who committed fraud; and (v) mortgage loans not in compliance with Fannie Mae Charter Act requirements (e.g., mortgage loans on commercial properties or mortgage loans without required mortgage insurance coverage). If a mortgage loan falls out of compliance with Fannie Mae Charter Act requirements because mortgage insurance coverage has been rescinded and not reinstated or replaced, upon the borrower's default our subsidiaries would have to pay to Fannie Mae the amount of insurance proceeds that would have been paid by the mortgage insurer with respect to such mortgage loan. If the amount of the loss exceeded the amount of insurance proceeds, Fannie Mae would be responsible for such excess.

Private-label Securitizations (PLS)

In general, representations and warranties provided as part of our private-label securitization activities are less rigorous than those provided to the GSEs and generally impose higher burdens on investors seeking repurchase. In order to successfully assert a claim, it is our position that a claimant must prove a breach of the representations and warranties that materially and adversely affects the interest of the investor in the allegedly defective loan. Securitization documents typically provide the investors with a right to request that the trustee investigate and initiate a repurchase claim. However, a class of investors generally are required to coordinate with other investors in that class comprising no less than 25% and in some cases 50% of the percentage interest constituting a class of securities of that class issued by the trust to pursue claims for breach of representations and warranties. In addition, our private-label securitizations generally require that the servicer or trustee give notice to the other parties whenever it becomes aware of facts or circumstances that reveal a breach of representation that materially and adversely affects the interest of the certificate holders.

Regarding our securitization activities, we have exposure to potential losses primarily through two avenues. First, investors, through trustees to the extent required by the applicable agreements (or monoline insurers in certain transactions), may request pursuant to applicable agreements that we repurchase loans or make the investor whole for losses incurred if it is determined that we violated representations and warranties made at the time of the sale, provided that such violations materially and adversely impacted the interest of the investor. Contractual representations and warranties are different based on the specific deal structure and investor. It is our position that litigation of these matters must proceed on a loan by loan basis. This issue is being disputed throughout the industry in various pending litigation matters. Similarly in dispute as a matter of law is the degree to which claimants will have to prove that the alleged breaches of representations and warranties actually caused the losses they claim to have suffered. Ultimate resolution by courts of these and other legal issues will impact litigation and treatment of non-litigated claims pursuant to similar contractual provisions. Second, investors in securitizations may attempt to achieve rescission of their investments or damages through litigation by claiming that the applicable offering documents were materially deficient. If an investor properly made and proved its allegations, the investor might attempt to claim that damages could include loss of market value on the investment even if there were little or no credit loss in the underlying loans.

Insured Private-label Securitizations (Monoline)

Historically, we have securitized loans where the monolines insured all or some of the related bonds and guaranteed the timely repayment of bond principal and interest when the issuer defaults. Typically, any alleged breach requires the insurer to have both the ability to assert a claim as well as evidence that a defect has had a material and adverse effect on the interest of the security holders or the insurer. Generally, most claims in connection with private-label securitizations come from Monoline Insurers and continue to represent the majority of outstanding repurchase demands. For the period 2004 through 2007, we sold \$42.7 billion of loans into these monoline-wrapped securitizations.

Notes to Condensed Consolidated Financial Statements

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We are currently in litigation with MBIA and FGIC in connection with our representation and warranty obligations, and additional litigation with other monolines is likely.

The following table summarizes the changes in the original unpaid principal balance related to unresolved repurchase demands with respect to our Monoline exposure. The table includes demands that we have requested be rescinded but which have not been agreed to by the investor.

<i>(\$ in millions)</i>	2012	2011 (a)
Balance at January 1,	\$917	\$661
New claims (b)	28	14
Resolved claims (c)	(2)	(8)
Rescinded claims/other	—	—
Balance at March 31,	\$943	\$667

(a) Excludes \$9.0 million of original UPB on loans where counterparties have requested additional documentation as part of individual loan file reviews.

(b) Substantially all relate to claims associated with the 2004 through 2007 vintages.

(c) Includes settlements, repurchased loans and claims under which indemnification payments are made.

Uninsured Private-label Securitizations

Historically, we securitized loans where all or some of the related bonds were uninsured. We are required to make customary representations and warranties about the loans to the investors and/or securitization trust. Typically, any alleged breach of representations and warranties requires the holder of the security to assert a claim as well as evidence that a defect has had a material and adverse effect on the interest of the security holder. During the period 2004 through 2007, we sold \$182.1 billion of loans into these uninsured private-label securitizations. Claims associated with uninsured PLS were historically self-identified and constituted an immaterial portion of new claims. These claims were historically included within the 'Whole loan/other' category. During the three months ended March 31, 2012, we received a repurchase request from a bond trustee with respect to one of our uninsured private-label securitizations for loans originated in 2006 with an original unpaid principal balance \$70.0 million. This unpaid principal balance is not representative of expected future losses.

The following table summarizes the changes in our original unpaid principal balance related to unresolved repurchase demands with respect to our uninsured PLS exposure. The table includes demands that we have requested be rescinded but which have not been agreed to by the investor.

<i>Three months ended March 31, (\$ in millions)</i>	2012	2011 (a)
Balance at January 1,	\$8	\$3
New claims	75	3
Resolved claims (b)	(4)	—
Rescinded claims/other	(1)	—
Balance at March 31,	\$78	\$6

(a) Excludes \$4.0 million of original UPB on loans where counterparties have requested additional documentation as part of individual loan file reviews.

(b) Includes losses, settlements, impairments on repurchased loans, and indemnification payments.

Whole-loan Sales

The following table summarizes the changes in the original unpaid principal balance related to unresolved repurchase demands with respect to our whole-loan exposure. The table includes demands that we have requested be rescinded but which have not been agreed to by the investor.

<i>(\$ in millions)</i>	2012	2011 (a)
Balance at January 1,	\$73	\$85
New claims (b)	22	13
Resolved claims (c)	(6)	(7)
Rescinded claims/other	(4)	(24)
Balance at March 31,	\$85	\$67

(a) Excludes \$25.0 million of original UPB on loans where counterparties have requested additional documentation as part of individual loan file reviews.

(b) Includes \$21.9 million and \$13.0 million in new claims associated with the 2004 through 2007 vintages in 2012 and 2011, respectively.

(c) Includes settlements, repurchased loans and claims under which indemnification payments are made.

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Private Mortgage Insurance

Mortgage insurance is required for certain consumer mortgage loans sold to the GSEs and certain securitization trusts and may have been in place for consumer mortgage loans sold to whole-loan investors. Mortgage insurance is typically required for first-lien consumer mortgage loans having a loan-to-value ratio at origination of greater than 80 percent. Mortgage insurers are, in certain circumstances, permitted to rescind existing mortgage insurance that covers consumer loans if they demonstrate certain loan underwriting requirements have not been met. Upon receipt of a rescission notice, we assess the notice and if appropriate, we refute the notice, or if the notice cannot be refuted, we attempt to remedy the defect. In the event the mortgage insurance cannot be reinstated, we may be obligated to repurchase the loan or provide an indemnification payment in the event of a loss, subject to contractual limitations. While we make every effort to reinstate the mortgage insurance, we have had limited success and as a result, most of these requests result in rescission of the mortgage insurance. At March 31, 2012, we have approximately \$173.4 million in original unpaid principal balance of outstanding mortgage insurance rescission notices where we have not received a repurchase demand. However, this unpaid principal amount is not representative of expected future losses.

Legal Proceedings

We are subject to potential liability under various governmental proceedings, claims, and legal actions that are pending or otherwise asserted against us. We are named as defendants in a number of legal actions, and we are occasionally involved in governmental proceedings arising in connection with our respective businesses. Some of the pending actions purport to be class actions, and certain legal actions include claims for substantial compensatory and/or punitive damages or claims for indeterminate amounts of damages. We establish reserves for legal claims when payments associated with the claims become probable and the payments can be reasonably estimated. Given the inherent difficulty of predicting the outcome of litigation and regulatory matters, it is generally very difficult to predict what the eventual outcome will be, and when the matter will be resolved. The actual costs of resolving legal claims may be higher or lower than any amounts reserved for the claims. We recorded a liability for probable legal claims of \$99.6 million and \$94.5 million at March 31, 2012 and December 31, 2011, respectively.

FGIC Litigation

On November 29, 2011, FGIC filed three complaints against ResCap in New York County Supreme Court. In two of these cases, both entitled Financial Guaranty Insurance Company v. RFC et al., FGIC alleges that defendants breached their contractual representations and warranties relating to the characteristics of the mortgage loans contained in certain insured MBS offerings. FGIC further alleges that the defendants breached their contractual obligations to permit access to loan files and certain books and records.

In the third case, entitled Financial Guaranty Insurance Company v. GMAC Mortgage LLC, et al., FGIC makes similar contract allegations against GMAC Mortgage and ResCap, as well as a claim against GMAC Mortgage for fraudulent inducement. In addition, FGIC alleges aiding and abetting fraudulent inducement against Ally Bank, which originated a large portion of the loans in the disputed pool, and breach of the custodial agreement for failing to notify FGIC of the claimed breaches of representations and warranties. In each of these cases, FGIC seeks, among other relief, reimbursement of all sums it paid under the various policies and an award of legal, rescissory, equitable, and punitive damages.

On December 15, 2011, FGIC filed a fourth complaint in New York County Supreme Court related to insurance policies issued in connection with a RFC-sponsored transaction. This complaint, entitled Financial Guaranty Insurance Company v. Ally Financial, Inc., et al., names RFC and ResCap, and seeks various forms of declaratory and monetary relief. The complaint alleges that the defendants are alter egos of one another, fraudulently induced FGIC's agreement to provide insurance by misrepresenting the nature of RFC's business practices and the credit quality and characteristics of the underlying loans, and have now materially breached their agreement with FGIC by refusing its requests for information and documents.

On December 27, 2011, FGIC filed three additional complaints in New York County Supreme Court against ResCap and RFC. These complaints seek relief nearly identical to that of FGIC's previously filed cases and contain substantially similar allegations. In particular, FGIC alleges that the defendants, acting as alter egos of each other, fraudulently induced FGIC to enter into seven separate insurance and indemnity agreements and breached their contractual obligations under same.

Since January 1, 2012, FGIC has filed five new complaints in federal court naming some combination of Ally Inc., ResCap, Ally Bank, RFC, and GMAC Mortgage. The five complaints were filed on January 31, 2012, March 5, 2012, March 6, 2012, March 12, 2012 and March 13, 2012, respectively. These complaints seek relief nearly identical to that of FGIC's previously filed cases and contain substantially similar allegations. In particular, FGIC alleges that the defendants, acting as alter egos of each other, fraudulently induced FGIC to enter into seven separate insurance and indemnity agreements and breached their contractual obligations under same. In addition, FGIC amended its first-filed complaint to name Ally Inc. as a defendant.

All of the FGIC cases are now venued in the U.S. District Court for the Southern District of New York, and the defendants have asked the Court for leave to file motions to dismiss each such case.

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Mitchell Litigation

In this statewide class action, plaintiffs alleged that Mortgage Capital Resources, Inc. (MCR) violated the Missouri Second Mortgage Loan Act by charging Missouri borrowers fees and interest not permitted by the Act. RFC and Homecomings, among others, were named as defendants in their role as assignees of certain of the MCR loans. Following a trial concluded in January 2008, the jury returned verdicts against all defendants, including an award against RFC and Homecomings for \$4.0 million in compensatory damages (plus pre- and post-judgment interest and attorneys' fees) and against RFC for \$92.0 million in punitive damages. In a November 2010 decision, the Missouri Court of Appeals affirmed the compensatory damages but ordered a new trial on punitive damages. Upon remand, we paid \$12.8 million in compensatory damages (including interest and attorneys' fees). At the end of February 2012, RFC entered into an agreement in principle to settle all of plaintiffs' remaining claims, including plaintiffs' already-awarded attorneys' fees on appeal, for a total of \$17.3 million. The agreement was preliminarily approved on April 16, 2012. The hearing on final approval is scheduled for May 18, 2012.

Private-label Securitizations – Other Potential Repurchase Obligations

When we sell mortgage loans through whole-loan sales or securitizations, we are required to make customary representations and warranties about the loans to the purchaser and/or securitization trust. These representations and warranties relate to, among other things, the ownership of the loan, the validity of the lien securing the loan, the loan's compliance with the criteria for inclusion in the transaction, including compliance with underwriting standards or loan criteria established by the buyer, ability to deliver required documentation, and compliance with applicable laws. Generally, the representations and warranties described above may be enforced at any time over the life of the loan. Breaches of these representations and warranties have resulted in a requirement that we repurchase mortgage loans. As the mortgage industry continues to experience higher repurchase requirements and additional investors begin to attempt to put back loans, a significant increase in activity beyond that experienced today could occur, resulting in additional future losses.

Private-label Securities Litigation

We and certain of our subsidiaries have been named as defendants in several cases relating to our various roles in MBS offerings. The plaintiffs generally allege that the defendants made misstatements and omissions in registration statements, prospectuses, prospectus supplements, and other documents related to the MBS offerings. The alleged misstatements and omissions typically concern underwriting standards for residential mortgage loans. Plaintiffs generally claim that such misstatements and omissions constitute violations of state and/or federal securities law and common law including negligent misrepresentation and fraud. Plaintiffs seek monetary damages and rescission. Set forth below are descriptions of the most significant of these legal proceedings.

Regulatory

Our origination, purchase, sale, securitization and servicing business activities expose us to risks of noncompliance with extensive federal, state, local and foreign laws, rules and regulations. Our business activities are also governed by, among other contracts, primary and master servicing agreements that contain covenants and restrictions regarding the performance of our servicing activities. Our failure to comply with these laws, rules, regulations and contracts can lead to, among other things, loss of licenses and approvals, an inability to sell or securitize loans, demands for indemnification or loan repurchases from purchasers of loans, demands for indemnification or other compensation from investors in our securitizations, fines, penalties, litigation, including class action lawsuits, and governmental investigations and enforcement actions, including, in the case of some violations of law, possible criminal liability.

GMAC Financiera, our wholly-owned subsidiary operating in Mexico, incurred losses during the year which reduced its capital stock and its shareholders equity by more than two-thirds. At March 31, 2012, the amount of the deficiency is \$71.4 million. Until this deficiency is cured, GMAC Financiera falls within one of the causes for dissolution under Mexican law.

Other Contingencies

We are subject to potential liability under various other exposures including tax, nonrecourse loans, self-insurance, and other miscellaneous contingencies. We establish reserves for these contingencies when the item becomes probable and the costs can be reasonably estimated. The actual costs of resolving these items may be substantially higher or lower than the amounts reserved for any one item. Based on information currently available, it is the opinion of management that the eventual outcome of these items will not have a material adverse effect on our consolidated financial condition, results of operations, or cash flows.

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17. Related Party Transactions

Balance Sheet

A summary of the balance sheet effect of our transactions with Ally Inc., Ally Bank, and other affiliates were as follows.

<i>(\$ in thousands)</i>	March 31, 2012	December 31, 2011
Assets		
Mortgage loans held-for-sale — purchased from Ally Bank	\$23,624	\$13,518
Mortgage loans held-for-sale — contributions from Ally Inc. (carry value) (a)	620,611	645,357
Other Assets		
Restricted cash deposits — Ally Bank	81,879	112,458
Derivative collateral placed with Ally IM	1,079,022	1,008,262
Fair value of derivative instruments		
MSR swap — Ally Bank	29,442	17,681
Receivable (Payable), net — Ally Bank	20,785	(21,001)
Receivable from other affiliates	2,125	2,046
Liabilities		
Borrowings — Ally Inc. Senior Secured Credit Facility (b)	\$751,849	\$757,767
Borrowings — Ally Inc. LOC (b)	430,696	185,064
Borrowings — BMMZ Repo (b)	250,416	250,351
Other Liabilities		
Liability for loans sold with recourse — Ally Bank (c)	5,976	6,773
Fair value of derivative instruments		
Forward flow agreement — Ally Bank	27,105	(16,423)
Ally IM (d)	954,824	1,049,420
Payable to Ally Inc. (e)	4,194	31,019
Other activity		
Loans (UPB) sub-serviced — Ally Bank	\$140,799,853	\$143,172,634
Servicing escrow/deposits for off-balance sheet loans — Ally Bank	2,273,975	2,003,745
Home Equity Loans (UPB) subject to indemnifications — Ally Bank (c)	56,571	58,512
Income tax (receipt) payment — Ally Inc. (f)	(4,550)	37,498

(a) Amount represents the carrying value of the loans contributed from Ally Inc. in 2009. The UPB of these loans is \$1.5 billion and \$1.6 billion at March 31, 2012 and December 31, 2011, respectively.

(b) Includes principal balance of debt outstanding plus accrued interest.

(c) Relates to an indemnification agreement with respect to a portfolio of second lien home equity loans with an original UPB of \$166.0 million. This agreement expired in April 2012.

(d) Includes the fair value of forwards, TBAs and swaptions executed in connection with hedging of our mortgage loans held-for-sale, retained interests and MSRs. Also includes the fair value of hedges related to our foreign currency exposure. See Note 14 — Derivative Instruments and Hedging Activities for additional information.

(e) Includes costs for personnel, information technology, communications, corporate marketing, procurement and services related to facilities incurred by Ally Inc. and allocated to us.

(f) See Note 12 - Income taxes for additional information.

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Statement of Comprehensive Income

A summary of the income statement effect of our transactions with Ally Inc., Ally Bank and other affiliates were as follows.

Three months ended March 31, (\$ in thousands)	2012	2011
Net financing revenue		
Interest income on cash deposits — Ally Bank	\$221	\$290
Interest expense — Ally Inc. Senior Secured Credit Facility	5,746	6,234
Interest expense — Ally Inc. LOC	2,223	4,177
Interest expense — BMMZ Repo	3,169	
Interest expense — Ally Bank	385	—
Other revenue		
(Loss) gain on mortgage loans, net — derivative instruments with Ally IM	(58,889)	56,980
(Loss) gain on mortgage loans, net — Ally Bank	(87,339)	134,468
Gain on mortgage loans, net — Ally Securities, LLC (c)	—	4,501
Servicing fees — Ally Bank	11,767	7,614
Servicing assets valuation and hedge activities, net — derivative instruments with Ally IM	(32,246)	(174,499)
Servicing assets valuation and hedge activities, net — derivative instruments with Ally Bank	96,424	216,048
Loan brokerage fees — Ally Bank (a)	23,343	9,496
Provision expense — Ally Bank (b)	(8)	860
Noninterest expense		
(Loss) on foreign currency — derivative instruments with Ally Inc.	(7,330)	(169)
Management fees — Ally Inc.	29,558	16,915
Custodial fees — Ally Bank	1,985	1,846
Allocated expenses — Ally Bank	72	125
Other activity		
Loans purchased (UPB) under the MMLPSA — Ally Bank (d)	\$10,137,301	\$14,640,058
Loans sold (UPB) under the MMLPSA — Ally Bank	43,052	7,543

(a) Under the terms of a broker agreement with Ally Bank, we provide loan processing services to support Ally's loan origination and purchase activities as well as loan closing services.

(b) Relates to provision expenses associated with the indemnification agreement with respect to a portfolio of second lien home equity loans. This agreement expired in April 2012.

(c) Relates to mortgage and asset-backed securities brokered to Ally Securities, LLC for underwriting, distribution and capital markets liquidity services.

(d) Includes repurchased loans of \$0.6 million and \$4.2 million as of March 31, 2012 and 2011, respectively.

Statement of Changes in Equity

A summary of the changes to the statement of equity related to our transactions with Ally Inc., Ally Bank and other affiliates were as follows.

Three months ended March 31, (\$ in thousands)	2012	2011
Equity		
Capital contributions — Ally Inc. (a)	\$196,500	\$109,405

(a) Represents capital contributions from Ally Inc. through the forgiveness of Ally Inc. LOC borrowings.

Other Significant Affiliate Agreements

We are party to an ISDA 2002 Master Agreement with Ally IM, a subsidiary of Ally Inc., whereby we enter into foreign exchange and interest rate hedging transactions (the ISDA Agreement) and a Master Securities Forward Transaction Agreement (the Forward Agreement) and with the ISDA Agreement, the Derivative Agreements) whereby we agree to sell certain mortgage-backed securities to Ally IM from time to time on a forward basis. We also entered into a Guarantee and Master Netting Agreement with Ally IM whereby the parties agreed to aggregate, net, and set off the Derivative Agreements and the Ally Inc. LOC. In connection with the Derivative Agreements, we cross-collateralize the respective obligations and have granted a security interest to Ally IM in any cash or other property posted, or required to be posted, as collateral by us. We expect to transact virtually all of our hedging transactions

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with Ally IM in the future.

On December 5, 2011, we entered into an agreement with Ally Inc. and GMAC Mortgage Group (the Agreement), whereby we agreed to certain terms and conditions in respect of ongoing loan sales by Ally Bank to us under the terms of our Master Mortgage Loan Purchase and Sale Agreement (MMLPSA) with Ally Bank. In accordance with the Agreement, we have instructed the GSEs to deliver, free and clear of all liens and encumbrances, mortgage-backed securities received from the GSEs in connection with our loan sales to them (New MBS) directly upon issuance into an account of Ally IM for the benefit of Ally Bank and GMAC Mortgage Group. We have granted Ally Bank and GMAC Mortgage Group security interests in loans purchased from Ally Bank and all proceeds from the sale of the New MBS. All proceeds from the sale of the New MBS are paid without setoff, recoupment or other reduction by Ally IM directly to Ally Bank. Ally Bank remits to us proceeds, if any, in excess of the purchase price of loans sold to us under the MMLPSA, and we remit to Ally Bank the amount of any shortfall in such proceeds necessary to pay the purchase price of the loans. On April 25, 2012, we entered into a Pledge and Security Agreement among ResCap, GMAC Mortgage, Ally Inc., GMAC Mortgage Group, Ally Bank and Ally IM (the Pipeline Security Agreement) in connection with these conditions. See *Transactions with Ally Bank*, below, for additional information regarding the MMLPSA agreements.

Transactions with Ally Bank

Under the terms of our Broker Agreement with Ally Bank, we act in a broker capacity and provide loan processing services to Ally Bank to support its origination and purchase of loans, as well as loan closing services. The Broker Agreement has no mandatory expiration date and can be terminated by either party with 30 days notice. Under the terms of the Broker Agreement, loans meeting the underwriting standards of Ally Bank are originated (funded) by Ally Bank, while loans not meeting those standards may be originated by us and sold directly into the secondary market. We also provide certain representations and warranties and indemnifications to Ally Bank with respect to brokered loans. The Broker Agreement was amended April 30, 2012 and is effective May 1, 2012.

Under the terms of the MMLPSA with Ally Bank, we purchase first- and second-lien mortgage loans held-for-sale from Ally Bank. We sell and deliver such mortgage loans into the secondary market primarily through Fannie Mae and Freddie Mac securitizations and Ginnie Mae insured securitizations. The MMLPSA has no mandatory expiration date and can be terminated on 30 days notice by Ally Bank or immediately if agreed by both parties. Under the MMLPSA, we purchase loans from Ally Bank and recognize gains or losses on the sale of mortgage loans as they are sold by us into the secondary market. Loans purchased by us pursuant to the MMLPSA include mortgage loans originated by third parties and purchased by Ally Bank (correspondent lending); loans originated directly by Ally Bank; and mortgage loans originated by us and sold to Ally Bank pursuant to a loan sale agreement (the Client Agreement). Effective May 1, 2012, the MMLPSA and Client Agreement were amended and restated. Under the terms of the New MMLPSA, effective May 2012, we have an obligation to purchase all FHA and VA Ginnie Mae insurable loans originated or purchased by Ally Bank. We will no longer purchase Fannie Mae and Freddie Mac eligible loans that Ally Bank originates or purchases. Loans purchased under the New MMLPSA are on a nonrecourse, service released basis. To the extent any loan purchased by us under the new MMLPSA is determined to be ineligible or uninsurable for purposes of Ginnie Mae certification, Ally Bank will cure the defect, if curable, or repurchase the loan at the current unpaid principal balance plus accrued interest.

We were counterparty to a forward flow agreement for mortgage loans held-for-sale and interest rate lock commitments held by Ally Bank that ultimately were sold to us under the MMLPSA. The forward flow agreement transferred the exposure to changes in fair value of Ally Bank's mortgage loans held-for-sale and interest rate lock commitments to us. We hedged our exposure to the forward flow agreement consistent with the hedging of our own mortgage loans held-for-sale and interest rate lock commitments. The forward flow agreement was terminated effective April 30, 2012.

We were counterparty to a MSR Total Return Swap (the MSR Swap) which transferred the total economic return of MSRs owned by Ally Bank to us in exchange for a variable payment based upon a fixed spread to LIBOR. The fixed spread to LIBOR is periodically evaluated against available market data. We hedged our exposure to the MSR Swap consistent with the hedging of our own MSRs. The MSR Swap was terminated effective April 30, 2012.

We were party to an ISDA 2002 Master Agreement with Ally Bank governing the forward flow agreement and MSR Swap. We also entered into an Agreement to Set Off Obligations (the Netting Agreement) which provided Ally Bank the right, but not the obligation, to set off any obligation that we had to Ally Bank against any obligation of Ally Bank to us. The ISDA 2002 Master Agreement and the Netting Agreement were terminated effective April 30, 2012.

Under the GSE servicer guides, the seller and servicer of mortgage loans equally share in customary representation and warranty obligations. We assume all of the representation and warranty obligations for loans we purchased from Ally Bank under the MMLPSA that we subsequently sell through an Agency securitization or otherwise sell into the secondary market. To the extent these loans were originated by third parties and purchased by Ally Bank and subsequently sold to us under the MMLPSA we pursue recovery of losses from the third parties under breach of customary representation and warranties. Pursuant to the Client Agreement, we also

Notes to Condensed Consolidated Financial Statements

Residential Capital, LLC

provide certain representations and warranties and indemnifications to Ally Bank with respect to those loan transactions. For loans that are not eligible to be sold to the GSEs that reach certain delinquency thresholds or which are otherwise in breach of sale representations and warranties contained in the Client Agreement, we repurchase loans from Ally Bank at their carrying cost.

GMAC Mortgage is designated as subservicer for loans held by Ally Bank and loans sold to us under the MMLPSA where Ally Bank retained the servicing rights (Servicing Agreement). Under the Servicing Agreement, GMAC Mortgage performs all customary mortgage loan servicing activities, including but not limited to, collection of borrower remittances, loss mitigation and foreclosure processing activities. The term of the Servicing Agreement automatically renews for a one year term on an annual basis, unless notice of termination is provided by either party with 120 days prior notice. We receive subservice fees which are generally based on the average daily balance of subserviced loans which differ by loan type and delinquency status.

In the first quarter of 2008, Ally Bank purchased a portfolio of second-lien home equity loans from us. We provided an indemnification to Ally Bank whereby we reimburse Ally Bank at such time as any of the loans covered by this agreement are charged off, typically when the loan becomes 180 days delinquent. The indemnification expired in April 2012.

In connection with our Settlement obligations Ally Bank has agreed to participate in borrower relief programs and activities with respect to their loan portfolios. We have recorded a liability of \$83.5 million at March 31, 2012, in connection with losses Ally Bank is expected to incur in connection with the programs. To the extent activities under the borrower relief programs are consistent with activities currently permitted under our sub-servicing agreement, Ally Bank will not seek to be reimbursed or indemnified for any losses it incurs in connection with these borrower relief activities. See Note 16 – Contingencies and Other Risks for additional information related to the Settlement.

18. Regulatory Matters

Certain subsidiaries associated with our mortgage and real estate operations are required to maintain regulatory net worth requirements. See Note 8 — Borrowings for additional information. Failure to meet minimum capital requirements can initiate certain mandatory actions by federal, state, and foreign agencies that could have a material effect on our results of operations and financial condition. These entities were in compliance with these requirements as of March 31, 2012.

Certain of our foreign subsidiaries operate in local markets as either banks or regulated finance companies and are subject to regulatory restrictions. These regulatory restrictions, among other things, require that our subsidiaries meet certain minimum capital requirements and may restrict dividend distributions and ownership of certain assets. As of March 31, 2012, compliance with these various regulations has not had a material adverse effect on our financial condition, results of operations or cash flows.

19. Subsequent Events

Events subsequent to March 31, 2012, were evaluated through May 1, 2012, the date on which these Condensed Consolidated Financial Statements were issued.



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**Residential Capital, LLC
Report on First Quarter Review**

Audit Committee Meeting

May 1, 2012

This document is intended solely for the information and internal use of Residential Capital, LLC and is not intended to be and should not be distributed to any other parties.

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Attachment I – Draft of Management Representation Letter for Q1, dated May 1, 2012

As used in this document, "Deloitte" means Deloitte LLP and its subsidiaries. Please see www.deloitte.com/us/about for a detailed description of the legal structure of Deloitte LLP and its subsidiaries.

Status of First Quarter Review



As of April 30 (the mailing date of this report), our review of Residential Capital, LLC's ("ResCap" or the Company") condensed consolidated interim financial statements for the period ended March 31, 2012 is substantially complete.

The most significant items that remain open as of April 30 are:

- Final review of the interim financial statements
- Inquiries of Management regarding subsequent events and strategic alternatives
- Receipt of Management's signed representation letter
- Receipt of our signed engagement letter

This document provides a summary of our status as of April 30. Matters discussed may change due to further analysis by Deloitte and Management, or additional matters may arise during the completion of our review procedures and through the date on which the financial statements are made available to the Company's bondholders. We will inform the Audit Committee of any significant matters that arise prior to the delivery of our review report.



Review Results

In accordance with standards established by the American Institute of Certified Public Accountants (AICPA), we have prepared the following comments to assist you in fulfilling your obligation to oversee the financial reporting and disclosure process for which Management of ResCap is responsible.

Matters to be Communicated	Results
Our responsibility under the standards of the AICPA	<p>Our responsibility under the standards of the AICPA with respect to a review of interim financial information has been described to you in our engagement letter dated April 20, 2012. As described in that letter, the objective of a review of interim financial information performed in accordance with interim review standards is to provide us with a basis for communicating whether we are aware of any material modifications that should be made to the interim financial information for it to conform with accounting principles generally accepted in the United States of America ("generally accepted accounting principles").</p> <p>Based on the results of our review procedures to date, we are not aware of any material modifications that should be made to the Company's interim financial statements or disclosures for them to be in conformity with generally accepted accounting standards.</p> <p>Appendix A contains a draft of the interim review report we expect to issue.</p>

Review Results (cont.)



Matters to be Communicated	Results
Selected critical accounting estimates and other matters	<p>We have comments on the following areas that Management has identified as critical accounting estimates, as well as other matters:</p> <p>Mortgage Servicing Rights (MSRs) The MSR asset value increased from \$1.23 billion at December 31, 2011 to \$1.25 billion at March 31, 2012. New production during the period resulted in a corresponding increase in the value of the asset. Changes in assumptions and other changes in fair value during the period did not have a material impact on the value of the MSR asset.</p> <p>Based on inquiries of Management and review of documentation, including MSR roll-forward schedules and Management's quarterly benchmarking presentation, we noted no significant changes to the methodology or process for developing assumptions used to estimate the MSR value.</p> <p>In addition, we have made inquiries of internal mortgage valuation specialists regarding their observations of market activity.</p>

Review Results (cont.)



Matters to be Communicated	Results
<p>Selected critical accounting estimates and other matters</p>	<p>Representation and Warranty Reserves The balance of the representation and warranty reserve decreased from \$825 million at December 31, 2011 to \$811 million at March 31, 2012. Representation and warranty expense was \$19 million for the three-months ended March 31, 2012, compared to \$26 million for the three-months ended March 31, 2011.</p> <p>Management's process for determining the reserve takes into account historic and recent demand trends, interactions with the monolines, private-label investors, and other parties, and various other assumptions. During the quarter, the Company received a demand request from a private-label trustee/investor, which was considered by Management in the determination of the reserve. Actual losses may differ significantly from the amounts recorded, based on the behavior of the counterparties in the future, including potential settlements, and industry, legal, and other developments.</p> <p>Based on our inquiries of management and review of documentation, no significant changes to the methodology for determining the reserve were made during the quarter.</p> <p>Management has determined that reasonably possible losses over time related to litigation matters and potential repurchase obligations and related claims could be between zero and \$4 billion over existing accruals.</p>

Review Results (cont.)

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Matters to be Communicated	Results
<p>Selected critical accounting estimates and other matters</p>	<p>Litigation As disclosed in Note 16 to the financial statements, the Company is subject to potential liability under various governmental proceedings, claims and legal actions that are pending or otherwise asserted. Management establishes reserves for such claims as they become probable and are reasonably estimable.</p> <p>During Q1 2012, the Company updated its estimate of probable loss associated with settlements reached with the federal government and various state attorneys generals which resulted in no significant change to management's estimate of loss.</p> <p>Management has determined that reasonably possible losses over time related to the litigation matters and potential repurchase obligations and related claims could be between zero and \$4 billion over existing accruals.</p>
<p>Transactions with affiliates</p>	<p>Parent Company Debt Forgiveness and Amendments to Affiliate Agreements During the quarter, Ally Financial Inc. contributed \$196.5 million to ResCap through forgiveness of indebtedness.</p> <p>As disclosed in the Notes to the financial statements, the Company has or is in the process of amending/terminating certain affiliate agreements.</p>

Review Results (cont.)

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Matters to be Communicated	Results
Selected critical accounting estimates and other matters	Accounting for Income Taxes At March 31, 2012, the Company's deferred tax asset was largely offset by a valuation allowance. Management has determined that the valuation allowance remains necessary, as the Company has not yet demonstrated the ability to generate taxable ordinary income or capital gains for a sustained period. There were no existing valuation allowances reversed or new valuation allowances recorded this quarter. We performed analytical review procedures on income tax related accounts and also reviewed the Company's schedules supporting the tax provision and related disclosures. Based on our inquiries of Management and review of documentation, no significant changes to the methodology for accounting for income taxes were made during the quarter.

Review Results (cont.)



Matters to be Communicated	Results
Significant accounting policies	No accounting policies with a material impact were adopted in the quarter ended March 31, 2012, other than those matters disclosed in the notes to the condensed consolidated interim financial statements.
Going Concern	Having taken ResCap's financial condition and other factors into consideration, Management has concluded and disclosed in the interim financial statements, that there remains substantial doubt about the Company's ability to continue as a going concern. Management has enhanced its disclosure regarding the Company's ability to continue as a going concern and has disclosed that is determining whether it would be in the best interests of its creditors and other stakeholders to file for protection under the federal bankruptcy laws.
Control Related Matters - Significant deficiencies or material weaknesses relating to internal control	Management has separately reported the status of significant deficiencies to you.
Communication of the auditors' internal quality control procedures	We reported such information to you at your meetings on April 3 and April 24, 2012.

Review Results (cont.)



Matters to be Communicated	Results
<p>Audit adjustments, either individually or in the aggregate, that we believe could have a significant effect on the Company's financial reporting and disclosure process</p>	<p>Our review was performed to provide limited assurance on the interim financial statements and not to form an opinion about whether the financial statements are free of material misstatement, whether caused by error or fraud.</p> <p>We have been provided with the Company's Preliminary Materiality Analysis as of, and for the period ended, March 31, 2012, which includes matters identified during our review. We have compared Management's analysis to our own and agree with their conclusions.</p>
<p>Disagreements with Management about matters that could be significant to the entity's financial statements or our audit reports</p>	<p>Nothing to report.</p>
<p>Alternative treatments in U.S. GAAP for accounting policies and practices related to material items that have been discussed with Management</p>	<p>We had no discussions with Management regarding alternative accounting treatments within U.S. GAAP for policies and practices related to material items, including recognition, measurement, and disclosure considerations related to the accounting for specific transactions as well as general accounting policies, related to the quarter ended March 31, 2012.</p>

Appendix A

Draft of Interim Review Report



To the Board of Directors of Residential Capital, LLC:

We have reviewed the condensed consolidated balance sheet of Residential Capital, LLC (the "Company") (a wholly-owned subsidiary of Ally Financial Inc.) as of March 31, 2012, and the related condensed consolidated statements of comprehensive income, changes in equity, and of cash flows for the three-month periods ended March 31, 2012 and March 31, 2011. This condensed financial information is the responsibility of the Company's management.

We conducted our reviews in accordance with standards established by the American Institute of Certified Public Accountants for reviews of interim financial information. A review of interim financial information consists principally of applying analytical procedures and making inquiries of persons responsible for financial and accounting matters. It is substantially less in scope than an audit conducted in accordance with auditing standards generally accepted in the United States of America, the objective of which is the expression of an opinion regarding the financial information taken as a whole. Accordingly, we do not express such an opinion.

Based on our reviews, we are not aware of any material modifications that should be made to such condensed consolidated interim financial information for it to be in conformity with accounting principles generally accepted in the United States of America.

The accompanying condensed consolidated interim financial information has been prepared assuming that the Company will continue as a going concern. As discussed in Note 1 to the condensed consolidated interim financial information, there remains substantial doubt about the Company's ability to continue as a going concern. Management's plans concerning this matter are also discussed in Note 1 to the condensed consolidated interim financial information.

We have previously audited, in accordance with generally accepted auditing standards as established by the Auditing Standards Board (United States), and in accordance with the auditing standards of the Public Company Accounting Oversight Board (United States), the consolidated balance sheet of the Company as of December 31, 2011, and the related consolidated statements of income, comprehensive income, changes in equity, and cash flows for the year then ended (not presented herein); and in our report dated March 28, 2012, we expressed an unqualified opinion on those consolidated financial statements and included explanatory paragraphs that stated (1) that the Company has entered into a number of significant agreements and transactions with its affiliates and (2) that the Company's liquidity and capital needs, combined with conditions in the marketplace, raise substantial doubt about its ability to continue as a going concern. In our opinion, the information set forth in the accompanying condensed consolidated balance sheet as of December 31, 2011 is fairly stated, in all material respects, in relation to the consolidated balance sheet from which it has been derived.

This report is intended solely for the information and use of management and the board of directors of the Company and is not intended to be and should not be used by anyone other than these specified parties.

May 1, 2012

Appendix B

Overview of Interim Review Procedures



A review of interim financial information is substantially less in scope than an audit conducted in accordance with auditing standards generally accepted in the United States of America, the objective of which is the expression of an opinion regarding the financial information taken as a whole. Accordingly, we will not express an opinion on the interim financial information.

The objective of a review of interim financial information performed in accordance with standards established by the AICPA is to provide us with a basis for communicating whether we are aware of any material modifications that should be made to the interim financial information for it to conform with accounting principles generally accepted in the United States of America (“generally accepted accounting principles”).

A review consists principally of performing analytical procedures and making inquiries of persons responsible for financial and accounting matters, and does not contemplate (a) tests of accounting records through inspection, observation, or confirmation; (b) tests of controls to evaluate their effectiveness; (c) the obtainment of corroborating evidence in response to inquiries; or (d) the performance of certain other procedures ordinarily performed in an audit. A review may bring to our attention significant matters affecting the interim financial information, but it does not provide assurance that we will become aware of all significant matters that would be identified in an audit.

A review also includes obtaining sufficient knowledge of the Company's business and its internal control as it relates to the preparation of both annual and interim financial information to:

- Identify the types of potential material misstatements in the interim financial information and consider the likelihood of their occurrence.
- Select the inquiries and analytical procedures that will provide us with a basis for communicating whether we are aware of any material modifications that should be made to the interim financial information for it to conform with generally accepted accounting principles.

A review is not designed to provide assurance on internal control or to identify significant deficiencies and material weaknesses in internal control.

Appendix C

Summary of Audit Committee Communications



Our formal communications will occur via periodic meetings with the Audit Committee at various stages during the year. In addition to our scheduled meetings, we are also available, at any time, to respond to Audit Committee members' questions. We anticipate the following topics will be discussed during the year:

Description of communications	2012										2013		
	M	A	M	J	J	A	S	C	N	D	J	F	M
Qualifications to serve ResCap		✓											
Status of interim review procedures			✓		☐			☐					
Results of interim review procedures			✓			☐			☐				
Required quarterly Audit Committee communications			✓			☐			☐				
Delivery of the audit service plan					☐								
Review estimated audit and audit related fees		✓											
Review progress of financial statement audit							☐			☐			
Required fraud inquiries							☐						
Review results of financial statement audit												☐	
Review Independence of audit firm												☐	
Required annual Audit Committee communications												☐	

✓ Communication completed

☐ Scheduled communication

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May 1, 2012

Deloitte & Touche LLP
200 Renaissance Center, Suite 3900
Detroit, Michigan 48243

We are providing this letter in connection with your review of the condensed consolidated balance sheet of Residential Capital, LLC (the "Company" or "ResCap") as of March 31, 2012, and the related condensed consolidated statements of comprehensive income, changes in equity, and of cash flows for the three-month periods ended March 31, 2012 and March 31, 2011, for the purpose of determining whether any material modifications should be made to the condensed consolidated interim financial statements for them to conform with accounting principles generally accepted in the United States of America ("generally accepted accounting principles" or "GAAP").

We confirm that we are responsible for the following:

- a. The fair presentation in the condensed consolidated interim financial statements in conformity with GAAP
- b. The design, implementation and maintenance of programs and controls to prevent and detect fraud
- c. Establishing and maintaining effective internal control over financial reporting.

Certain representations in this letter are described as being limited to matters that are material. Items are considered material, regardless of size, if they involve an omission or misstatement of accounting information that, in light of surrounding circumstances, makes it probable that the judgment of a reasonable person relying on the information would be changed or influenced by the omission or misstatement.

We confirm, to the best of our knowledge and belief, as of May 1, 2012, the following representations made to you during your review.

1. The interim financial statements referred to above have been prepared and presented in conformity with GAAP applicable to condensed consolidated interim financial information for a non-SEC (private) reporting entity.
2. Note 1 to the condensed consolidated financial statements discloses all pertinent facts related to the Company's ability to continue as a going concern.
3. Although management has determined that there is substantial doubt about the Company's ability to continue as a going concern, we have determined that the condensed consolidated financial statements should be prepared on a going concern basis. Management's plans for continuing as a going concern are disclosed in Note 1 to the condensed consolidated financial statements. Management and the Board have not approved a plan of liquidation and nor is liquidation of the Company anticipated. Additionally, Management has not filed for bankruptcy.
4. The Company has made available to you all relevant information and access granted in the

terms of the audit engagement letter including:

- a. Financial records and related data
 - b. Minutes of the meetings of the Board of Directors and Audit Committee; or drafts of minutes in cases where final minutes have not been approved; or agendas and meeting materials of meetings in cases where draft minutes have not yet been prepared
 - c. Regulatory examination reports, supervisory correspondence or agreements, enforcement actions, and similar materials from applicable regulatory agencies (particularly, communications concerning supervisory actions or noncompliance with, or deficiencies in, rules and regulations). Further, we have advised you of any regulatory examination in progress or completed for which reports have not yet been issued.
5. There have been no communications from regulatory agencies concerning noncompliance with or deficiencies in financial reporting practices. Further, we have advised you of any regulatory examination in progress or completed for which reports have not yet been issued.
 6. We have completed our procedures to evaluate the accuracy and completeness of the disclosures in our interim financial statements. There are no disclosures that while required by GAAP have been omitted from our condensed consolidated interim financial statements
 7. We have disclosed to you any significant change in the results, design, or operation of internal control over financial reporting as it relates to the preparation of the condensed consolidated interim financial information that has occurred during the most-recent fiscal quarter.
 8. We have no knowledge of any fraud or suspected fraud affecting the Company involving
 - a. Management
 - b. Employees who have significant roles in the Company's internal control over financial reporting.
 - c. Others where the fraud could have a material effect on the condensed consolidated interim financial statements which has not been previously disclosed.
 9. We have disclosed to you our knowledge of any allegations of fraud or suspected fraud affecting the Company received in communications from employees, former employees, analysts, regulators, or others.
 10. There are no unasserted claims or assessments that legal counsel has advised us are probable of assertion and must be disclosed in accordance with Financial Accounting Standards Board (FASB) Accounting Standards Codification (ASC) 450, *Contingencies*.
 11. Significant assumptions used by us with respect to our critical accounting estimates are reasonable.

Except where otherwise stated below, immaterial matters less than \$2,500,000 collectively are not considered to be exceptions that require disclosure for the purpose of the following

representations. This amount is not necessarily indicative of amounts that would require adjustment to or disclosure in the financial statements.

12. There are no transactions that have not been properly recorded in the accounting records underlying the condensed consolidated interim financial information.
13. The Company has no plans or intentions that may affect the carrying value or classification of assets and liabilities.
14. The following, to the extent applicable, have been appropriately identified, properly recorded, and disclosed in the condensed consolidated interim financial statements:
 - a. Related-party transactions and associated amounts receivable or payable, including sales, purchases, loans, transfers, leasing arrangements, and guarantees or other commitments (written or oral)
 - b. Guarantees, whether written or oral, under which the Company is contingently liable.
15. In preparing the condensed consolidated interim financial statements in conformity with GAAP, management uses estimates. All estimates have been disclosed in the condensed consolidated interim financial statements for which known information available prior to the issuance of the condensed consolidated interim financial statements indicates that both of the following criteria are met:
 - a. It is at least reasonably possible that the estimate of the effect on the financial statements of a condition, situation, or set of circumstances that existed at the date of the financial statements will change in the near term due to one or more future confirming events
 - b. The effect of the change would be material to the financial statements.
16. There are no:
 - a. Violations or possible violations of laws or regulations whose effects should be considered for disclosure in the condensed consolidated interim financial statements or as a basis for recording a loss contingency, except as disclosed in Note 16 to the condensed consolidated interim financial statements.
 - b. Other liabilities or gain or loss contingencies that are required to be accrued or disclosed by FASB ASC 450, *Contingencies*.
17. The Company has satisfactory title to all owned assets, and there are no liens or encumbrances on such assets nor has any asset been pledged as collateral, other than as disclosed in the condensed consolidated interim financial statements.
18. Except for the deferral of certain semi-annual interest payments as disclosed in Notes 1 and 8 to the condensed consolidated financial statements, the Company has complied with all aspects of contractual agreements that may have an effect on the condensed consolidated interim financial statements in the event of noncompliance.

Loans and Receivables

19. The Company has properly classified loans on the condensed consolidated interim balance sheets as held-for-sale or held-for-investment, based on the Company's intent with respect to those loans. Specifically, the Company classifies those loans that management has the intent to sell as held-for-sale. Loans for which the Company has the intent and ability to hold for the foreseeable future or until maturity are classified as held-for-investment.
20. All impaired loans receivables have been properly recorded and disclosed in the condensed consolidated interim financial statements.
21. Risks associated with concentrations (including but not limited to those related to high risk mortgage loans), based on information known to management, that meet all of the following criteria have been disclosed in the condensed consolidated interim financial statements:
 - a. The concentration exists at the date of the condensed consolidated interim financial statements
 - b. The concentration makes the Company vulnerable to the risk of a near-term severe impact

It is at least reasonably possible that the events that could cause the severe impact will occur in the near term.

Capitalized Servicing Rights

22. For transfers of financial assets where the right to service the transferred assets was retained, we have performed the servicing of these assets in accordance with the terms and provisions of the applicable agreement that governs the servicing of these assets.

Transfers and Servicing of Financial Assets and Extinguishment of Liabilities

23. The Company has accounted for all transfers of financial assets in accordance with FASB ASC 860, *Transfers and Servicing*, or previously applicable guidance as appropriate. The Company has taken no actions and no events have occurred that would necessitate a change in the accounting for the transfers of financial assets.
24. Provision has been made for any loss that is probable from representation and warranty obligations associated with the sale of mortgage loans. We believe that such estimate is reasonable based on available information.

Derivative Instruments

25. The Company has properly identified all derivative instruments and any financial instruments that contain embedded derivatives. The Company's hedging activities, if any, are in accordance with its documented and approved hedging and risk management policies, and all appropriate hedge documentation was in place at the inception of the hedge in accordance with FASB ASC 815, *Derivatives and Hedging*.
26. Financial instruments with significant individual or group concentration of credit risk have been properly identified, properly recorded and disclosed in the condensed consolidated interim financial statements.

Taxes

27. The valuation allowance has been determined pursuant to the provisions of FASB ASC 740, *Income Taxes*, including the Company's estimation of future taxable income, and is adequate to reduce the total deferred tax asset to an amount that will more likely than not be realized.

Other Liabilities

28. We are subject to potential liability under laws and government regulations, various claims, and legal actions that are pending or may be asserted against us. We are named as defendants in a number of legal actions and are, from time to time, involved in regulatory proceedings arising in connection with our various businesses. Some of the pending actions purport to be class actions. We establish reserves for litigation and regulatory matters when payments associated with the claims become probable and the costs can be reasonably estimated. The actual costs of resolving these claims may be substantially higher or lower than the amounts reserved for these claims. Provision has been made for all losses that are probable and estimable.

We have appropriately disclosed all such matters, where the possibility of loss is more than remote, in Note 16 to the condensed consolidated interim financial statements and have accrued our best estimate of the losses to be incurred as a result of these matters as of March 31, 2012 to the extent the loss is probable and estimable. Except as disclosed in Note 16, there are no unasserted claims or assessments that legal counsel has advised us are probable of assertion and must be disclosed in accordance with FASB ASC 450, *Contingencies*.

29. We believe it is reasonably possible that losses beyond amounts currently reserved for the litigation matters and potential repurchase obligations and related claims could occur, and such losses could have a material adverse impact on our results of operations, financial position, or cash flows. We currently estimate that the Company's reasonably possible losses over time related to the litigation matters and potential repurchase obligations and related claims could be between \$0 and \$4 billion over existing accruals.
30. A provision has been made by the Company for any loss that is probable and estimable from foreclosure related matters or exposures in accordance with GAAP. We believe that such estimate is reasonable based on available information and that the liabilities, related loss contingencies, and expected outcome of uncertainties have been adequately described in the financial statements.

Other

31. Arrangements with financial institutions involving compensating balances or other arrangements involving restrictions on cash balances, line of credit, or similar arrangements have been properly disclosed in the condensed consolidated interim financial statements.
32. Agreements (whether written, oral, or implied) to repurchase loans, real estate, or other assets previously sold have been properly disclosed in the condensed consolidated interim financial statements.
33. With regard to the fair value measurements and disclosures of certain assets, liabilities, and specific components of equity, we believe that:

- a. The measurement methods, including the related assumptions, used in determining fair value, consistent with market participant assumptions where available without undue cost and effort, were appropriate and consistently applied in accordance with GAAP.
- b. The completeness and adequacy of the disclosures related to fair values are in conformity with GAAP. The Company has appropriately classified its assets and liabilities into the appropriate levels (Levels 1, 2 and 3) as described in the condensed consolidated interim financial statements, as prescribed by FASB ASC 820, *Fair Value Measurements and Disclosures*.
- c. No events have occurred after March 31, 2012 but before the date of this letter that require adjustment to the fair value measurements and disclosures included in the condensed consolidated interim financial statements.

We have identified the significant assumptions and factors influencing the measurement of fair value as described in the condensed consolidated interim financial statements. The significant assumptions used in measuring fair value, taken individually and as a whole, provide a reasonable basis for the fair value measurements and disclosures in the condensed consolidated financial statements. The assumptions are reflective of management's intent and ability to carry out specific courses of action and the significant assumptions used are consistent with the Company's plans.

The methods and significant assumptions used to determine fair values of financial instruments are disclosed in the condensed consolidated interim financial statements. The descriptions are accurate and complete and the methods and the assumptions used result in a measure of fair value appropriate for financial statement measurement and disclosure purposes in accordance with GAAP.

34. We have disclosed to you all changes to affiliate agreements that may have a material impact on the Company.
35. To the best of our knowledge and belief, all events that have occurred subsequent to the balance-sheet date and through the date of this letter have been disclosed in the condensed consolidated interim financial statements.

Thomas F. Marano
Chairman and Chief Executive Officer
Residential Capital, LLC

James M. Whitlinger
Chief Financial Officer
Residential Capital, LLC

Catherine M. Dondzila
Controller and Chief Accounting Officer
Residential Capital, LLC

David J. DeBrunner
Controller and Chief Accounting Officer
Ally Financial, Inc.

ResCap

Executive Session:

- i. Management**
- ii. Deloitte**
- iii. Audit Director**

ResCap Audit Committee Meeting

May 1, 2012

ResCap Confidential

EXHIBIT C
(REDACTED)

UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF NEW YORK

-----x

In Re: Case No.
RESIDENTIAL CAPITAL, LLC, et. al, 12-12020 (MG)
Debtors.

-----x

VIDEOTAPE DEPOSITION OF JOHN MACK

New York, New York

November 14, 2012

9:53 a.m.

Reported by:
ERICA L. RUGGIERI, RPR
JOB NO: 27647-A

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JOHN MACK

because I'm a Comcast customer. I have another one at Microsoft that's 33 Iron Mask Road, something like that.

I don't use any of them, I just have them.

Q. Okay. Now, what e-mail address did you use for correspondence, e-mail correspondence related to ResCap?

A. Only John_E_Mack.

Q. As a matter of practice, being a director of a number of boards, how do you deal with, in terms of maintaining, if you do, the hard copy and electronic materials you receive related to the various board positions you hold?

A. It varies with boards. One of my boards uses a service called Board Books to provide board information to the directors. Otherwise, I just use the MSN e-mail address, and I would have folders within the MSN e-mail address to store items related to a particular company.

Q. How about physical materials that are sent out, like board books and

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JOHN MACK

things like that, what do you do with those?

A. Well, usually we get them at meetings, and I tend to just leave them at the meetings, so I don't have to carry them home.

Q. If they're sent to you in advance, what do you do with them?

A. I might still have them.

A lot of times I take the materials out and use the binders for other things.

Q. Do you maintain any type of notebook or diary?

A. No.

Q. Do you have a physical or electronic calendar?

A. Yes, I have, I use Outlook.

Q. And do you ever retain hard copy materials?

A. I won't say that I don't, but I generally speaking do not.

Q. Would you look at the subpoena which is Exhibit 91 in front of you, which

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JOHN MACK

is the second document.

(9019 Exhibit 91, subpoena,
marked for identification, as of this
date.)

A. This document, yes.

Q. Did you understand that you were
served a subpoena to appear today?

A. No, this is the first I heard
about it.

Q. Did you make an effort to look
for any of the documents that were called
for by the subpoena?

A. I have been asked by the
attorneys, do I have any documents, and I
have responded to that that I don't.

But I was not aware of the
subpoena per se, so.

Q. When you said you don't, you are
saying you didn't have an e-mail file that
related to your service on ResCap?

A. I usually delete the e-mails.

Q. I'm sorry, the question is, do
you have an e-mail file --

A. Yes, I do.

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JOHN MACK

Q. -- that relates to your service on ResCap.

A. Yes.

Q. And when did you delete the e-mails that were in that e-mail file?

MR. PIEDRA: Object to the form.

A. Well, I mean kind of as you go along.

Q. So you are saying it's a file that never has anything in it?

A. No, it has things in it. But, you know, a lot of it is just meeting notices and so on and so forth. When the meetings happened, I could delete it. I mean it's...

Q. Did you look at your computer and look at your, to see whether or not you had a file related to ResCap, in response to the subpoena?

A. No, because I didn't know I had the subpoena.

Q. Okay. So you've not searched your computer for that purpose; is that fair?

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JOHN MACK

A. For that purpose, yes.

Q. Okay.

RQ MR. MOLONEY: We would call for a review of those documents and their production.

Q. Did you look in your, to see whether or not you had any hard copy materials related to ResCap in your home?

A. No.

Q. Because you didn't know that you were subject to a subpoena request to do so?

A. Correct.

Q. How are you compensated for your ResCap-related work?

A. There is a fixed fee retainer paid monthly. There are meeting attendance fees. There are fees for committee memberships. And then, of course, we are reimbursed for our direct expenses, travel expenses and so forth.

Q. Do you have any additional incentive arrangements concerning other compensation?

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JOHN MACK

A. No.

Q. What type of insurance and/or indemnification arrangements are in place, related to your service on the ResCap board?

A. There is a D&O policy that all the board members have.

Q. Do you understand that you're, whether or not you are indemnified by Ally Financial, Inc. or AFI?

A. I believe they are part of the D&O policy.

Q. Do you understand whether or not you have an indemnity from them?

A. I believe we do, yes.

Q. Okay. If you look at, back at the prior exhibit.

A. Exhibit -- the first one?

Q. Exhibit 90.

A. Okay.

Q. This is an e-mail that relates to your appointment. And paragraph 2 at the bottom of the page says, "It will help insulate Ally Financial from liability for

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JOHN MACK

indemnifying these individuals, if they are ever sued in connection with their services as directors on the ResCap board."

He's talking about basically employment being done by ResCap itself, rather than Ally, because it goes on to say, under the AFI bylaws, if AFI asks someone to serve, they're covered.

Do you know whether or not you've secured a request from AFI that requested you to serve?

MR. PRINCI: Objection as to form.

If you understand the question, you can answer it.

A. Yes. I understood that the Ally board approved, and I don't want to be too technical here, approved my service as a director. They are the shareholder, or were the shareholder at the time.

Q. So it would be your position that they actually, you are serving at the request of Ally Financial and subject to

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JOHN MACK

Q. You may answer.

MR. PRINCI: You can answer, if you understand the question.

A. Yes, I knew that it was a difficult situation and that it would be challenging. But as I tell people, nobody invites me on the country club board. I get invited on the boards that need help.

Q. Help doing what, though?

A. Restructuring, if necessary, financial management, financing.

Q. Okay. I'd like to show you the next exhibit which is Exhibit 92.

(9019 Exhibit 92, 10/19/11 e-mail from Michael Carpenter, Bates ALLY 0142018 through 022, marked for identification, as of this date.)

A. Okay.

Q. You are not shown as being copied on this, but it creates a timeline. It's an e-mail from Michael Carpenter dated Wednesday, October 19, 2011. And you see he says, "This letter is from the law firm and the lawyer that pursued BofA

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JOHN MACK

and negotiated the \$8.5 billion
settlement. Let the games begin."

And you see it attaches a letter
from a woman by the name of Kathy Patrick.

A. Uh-hum.

Q. And so my question is, first,
have you ever seen this e-mail or letter
before?

A. No.

Q. Were you told, before joining
the ResCap board, about Ms. Patrick's
demand?

A. No.

Q. Were you told the games had
begun?

A. No.

MR. PRINCI: Objection as to
form.

Q. At what point after joining the
ResCap board did you learn about this
demand and about this issue?

A. Well, Ms. Patrick's name came
up, it would have been in late April, mid
to late April or early May of this year,

1 JOHN MACK

2 before the petition was filed.

3 Q. So between -- between
4 October 19th, 2011, when this e-mail,
5 which is Exhibit 92, is dated, and April
6 or May, you never heard that there was a
7 demand being made for a settlement of the
8 RMBS claims?

9 MR. PRINCI: Objection as to
10 form.

11 MR. PIEDRA: Objection to form.

12 A. Yeah, I think that's correct. I
13 don't think I knew about it, other than,
14 broadly speaking, that we would have been
15 in conversations with some investors; but
16 beyond that, no, nothing specific.

17 Q. When you say --

18 A. And nothing with her name
19 attached it to until very late in the
20 process.

21 Q. So you knew nothing specific and
22 nothing with her name attached to it,
23 until basically April, May; is that fair?

24 A. Correct.

25 Q. What did you know earlier than

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JOHN MACK

that, and when?

A. About?

Q. About this general topic of potential settlement of the RMBS claims.

A. Very little about settlement of the RMBS claims. That they were out there, yes.

Q. Right. Okay. And so when did you first learn that there was a serious effort being made to try to settle those claims?

A. That would have been --

MR. PRINCI: Objection as to form.

A. -- in late April or May.

Q. Thank you.

Now, were you ever involved in any negotiations with Ms. Patrick concerning the RMBS settlement?

A. No.

Q. Have you ever spoken to Ms. Patrick?

A. I introduced myself at the bankruptcy court hearing, first day or

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JOHN MACK

second day. I was introduced.

Q. So I take it it's fair to say you never directly participated in any of the negotiations of that settlement?

MR. PIEDRA: Objection to form.

A. That is correct.

Q. And did you indirectly participate in some way in those negotiations?

MR. PRINCI: Objection as to form.

A. No.

Q. Okay. When you learned about them in April or May, at that point it was -- is it fair to say, was it understood by the ResCap board that any resolution of these claims for a settlement would have to be accomplished in a Chapter 11 proceeding?

MR. PIEDRA: Object to the form.

A. They would have been part of the bankruptcy process. I think I can say that --

Q. Okay.

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JOHN MACK

A. -- from my standpoint as a director. I don't know what other members of the board thought.

Q. At that time you were already far along with something called Project Bounce, right?

A. Yes.

Q. And you had already been talking about DIP financing, and you had been talking about stalking horse bidders, right?

A. That's correct.

Q. So you understood this was going to be folded in, this was going to be part of a bankruptcy process, right?

A. It would have -- it was not certain until very close to the petition day. The sense that I had was that this was going to be difficult, if not, and was unlikely, until very close to the petition date, even though conversations had been going on.

Q. Okay. But if it happened, it was going to be part of the bankruptcy?

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JOHN MACK

A. It was desirable. It would be desirable, but it was not thought likely, until very close to the petition date.

Q. Is it also fair to say that by April or May, based on the stalking horse bids you had received and the information you knew about ResCap's financial situation at that point in time, that you knew that, as a result of this bankruptcy process, it was at least unlikely that AFI would end up being a shareholder of ResCap on a go-forward basis?

MR. PRINCI: Objection as to form.

MR. PIEDRA: Objection to form.

MR. PRINCI: If you understand the question, you can answer.

A. By mid-April, yes, that was well understood.

Q. Right. And so would you agree with me that in such circumstances, that there was at least a risk that AFI might perceive its primary objective to be obtaining a release from the RMBS

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JOHN MACK

claimants, even if the price for such a release was a higher-than-justified claim against ResCap's subsidiaries?

MR. PRINCI: Objection as to form.

MR. PIEDRA: Objection to form.

Q. You may answer.

A. I don't know that.

Q. Well, if ResCap is going to have no continuing interest in the company, what interest would they have, as a result of the outcome of these --

MR. MOLONEY: Rephrase.

Q. If AFI is going to have no continuing interest in ResCap, what interest would they have, other than obtaining a release from a settlement with Ms. Patrick's group?

MR. PRINCI: Objection as to form.

MR. PIEDRA: Objection to form.

A. I can't speak for them, being AFI.

Q. Okay. Did the board take any

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JOHN MACK

steps to protect against the risk that I
just identified?

MR. PIEDRA: Objection to form.

MR. PRINCI: Objection as to
form.

A. Could you -- I'm not sure I
understand your question.

Q. Okay. I identified what I
believe is a risk, which is, which is that
to the extent that AFI controlled the
negotiations with Ms. Patrick, their
primary objective would be to obtain a
settlement, rather than a lower claim.
And I'm asking whether the board took any
steps to protect against that risk.

MR. PRINCI: Objection, assumes
a facta not in evidence. Object to
the form.

But if you understand the
question, you may answer.

A. Well, I can't speak for AFI. I
can only say that at ResCap, I didn't know
AFI was having conversations with
Ms. Patrick. I had no idea.

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JOHN MACK

Q. Now, what did you understand --
who did you understand was the business
person that was taking the leading role in
the RMBS settlement negotiations with
Ms. Patrick?

A. At ResCap, it would have been
Tom Marano.

Q. Was your understanding that he
was the one taking the lead in the
negotiations?

A. No.

Q. Who did you understand was
taking the lead in the negotiations?

A. Our advisors. In this case, it
would have been people at, attorneys at
MoFo.

Q. Okay. And what attorney?

A. I don't recall, specifically,
but I would have to -- I would have to say
Gary Lee, probably.

Q. Is it fair to say that you
viewed MoFo and Gary Lee as the attorneys
for ResCap?

A. Oh, they are.

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JOHN MACK

Q. What about K&E and Timothy Devine, did you view them as your lawyers or as AFI's lawyers or something else?

MR. PRINCI: Objection as to form.

A. AFI's lawyers.

MR. PRINCI: Excuse me one second. Just pause for one second, Tom.

MR. MOLONEY: Wait a second. You can just tell them that he needs to wait -- I'll put it on the record that you need to wait to allow Mr. Princi to state his objection.

I think we should note now that counsel is conferring with the witness, and it's not appropriate.

Q. What did you understand Timothy Devine's position to be?

A. I don't know Timothy Devine.

Q. Okay. Do you know whether or not he had a role in negotiating the RMBS deal with Ms. Patrick?

A. No.

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JOHN MACK

Q. Did it concern you, if he was the chief of litigation for AFI, and he took the lead in the settlement negotiations and negotiated material terms of the RMBS with Kathy Patrick, without the involvement of Morrison & Foerster?

MR. PIEDRA: Objection to form.

MR. PRINCI: Objection to form.

MR. MOLONEY: Noted.

Q. You may answer.

A. Generically speaking, yes, I would not understand that.

Q. As of May 2012, was there any real connection between the amount that the ResCap board was going to require AFI to contribute to a Chapter 11 resolution and the size of the RMBS claim that was negotiated with Ms. Patrick?

A. No.

Q. So at least as of May 2012, there was no additional cost to AFI in agreeing to a larger claim from Ms. Patrick's clients, in return for an AFI release, correct?

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JOHN MACK

MR. PIEDRA: Objection to form.

MR. PRINCI: Objection to form.

A. I'm not sure I understand. I'm not -- I'm ResCap, I'm not part of AFI. So I don't understand why -- I just don't understand.

Q. That's okay. Let's change topics.

As a member of the ResCap audit committee, what involvement, if any, did you have in reviewing AFI or ResCap group financial statements?

A. We met at least quarterly to review that quarter's financial statements.

Q. And I take it when you joined the board in 2011, ResCap was no longer filing public financial statements itself, correct?

A. Correct.

Q. It was still preparing financial statements, correct?

A. Correct.

Q. Was it preparing stand-alone

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JOHN MACK

financial statements, as well as
consolidated financial statements?

MR. PIEDRA: Object to the form.

A. We prepared consolidated ResCap
financial statements.

Q. And was there also -- were
stand-alone ResCap financial statements
also prepared --

MR. PRINCI: Objection as to
form.

Q. -- and reviewed by the board
that showed nonconsolidated financial
statements for just the parent company?

A. For just -- no, not to my
knowledge.

Q. Okay.

A. They may be prepared, I just
don't know.

Q. Okay. Did you also, in your
capacity as a member of the ResCap audit
committee or otherwise, review the
publicly-filed financial statements of the
parent company, AFI?

A. No.

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JOHN MACK

Q. Okay. Now I'm going to ask you, you may not have seen it, but if you have, would you look at what we marked as Exhibit Number, what is it, 97?

MR. PIEDRA: 93.

MR. PRINCI: Tom, are you talking about this?

MR. MOLONEY: 93, yeah, 93.

(9019 Exhibit 93, Ally 10-Q, marked for identification, as of this date.)

Q. I'm just going to have -- first, you don't need to read the whole thing, but is this a document you would have reviewed, or no?

A. No.

Q. Okay. I'm going to focus you just on one page, which is at the end of the document which is page 73. Page 73.

A. Yes.

Q. Now, looking at page 73 you see the line that says "potential losses"?

A. Yes.

Q. Could you read that to yourself

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JOHN MACK

for a moment.

MR. PRINCI: You are talking about the heading "Potential Losses"?

MR. MOLONEY: Yeah, the paragraph that follows.

Q. Just read it to yourself.

(Witness complies.)

A. Okay.

Q. Were you aware that something like this was being put in AFI's public financial statements?

A. Yes, this has been brought to my attention. I can't remember under what the context was.

Q. Okay. Now, do you know what work was done to create this zero to \$4 billion estimate?

A. No.

Q. Okay. Let's look at the next document, which is a document I think you would have been familiar with, which is the ResCap board materials.

(9019 Exhibit 94, ResCap audit committee minute dated 5/1/12, Bates

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JOHN MACK

RC 40022273 through 367, marked for identification, as of this date.)

Q. This is Exhibit 94. And this is a minute of the audit committee that occurred on May 1, 2002?

A. Uh-hum -- 2002? 2012.

Q. 2012, thank you.

Now I'm going to focus in on the fourth page of the document, which is page number 2 of the audit committee.

First, did you attend this audit committee meeting?

A. Yes.

Q. You see the presentation of ResCap, "Reasonably possible range of loss"?

A. You are on which page?

Q. It's actually, starting from the front, go to the second page, the back of the second page. Page 2 of the presentation.

A. Yes, yes, I have it. Sorry.

Q. It's bearing Bates stamp number

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JOHN MACK

RC 40022276.

So looking at that page, do you know why that was prepared for the audit committee at this point in time?

A. This page was an explanation of the changes in the reported reserve that had been in the financial statements. Well, it says "Third quarter 2011." And then this was going to be the number that was then in the 4 billion, the zero to 4 billion change. This was the supporting document.

Q. So this was the supporting document for the AFI entry in their consolidated financial statements; is that fair?

MR. PRINCI: Objection as to the form.

A. Perhaps. Again, I'm focused more, as a director, I focused more on the ResCap number, as opposed to the AFI number.

Q. This number was really coming from ResCap, in terms of the R&W

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JOHN MACK

liability, right?

A. Yes. And if it ends up in AFI, that's one thing; but I'm focused on it as a ResCap number.

Q. Right. I take it you both used Deloitte as your accountants, that's both boards?

A. I don't know who they used. We used Deloitte.

Q. And this is giving you a range. Basically, the range of liability could be somewhere between 829 million, and outside range is going to be \$4 billion; is that fair?

A. Yes.

Q. And it says in footnote C, you see that? It says, "Estimated lifetime losses multiplied by risk funds' audit defect rate and adjusted for litigation defense."

That's how they computed the exposure behind 2013, of potentially 1.255 billion, do you see that?

A. Yes.

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JOHN MACK

Q. Can you tell us what they used as the audit defect rate?

A. No, I cannot tell you. From this schedule, I cannot tell you.

Our defect rate was a range of something like 9 to 29 percent.

Q. Okay. And there's a reference to adjusted for litigation defenses.

Do you know what litigation defenses are being referred to there?

A. No.

Q. Did you ever get an explanation as to what the litigation defenses were to this claim?

A. I don't recall.

Q. You don't recall ever receiving an explanation about the defenses to this claim?

MR. PRINCI: Objection, asked and answered.

You can answer again.

A. I don't specifically recall a number being attached to it.

Q. I'm not asking for a number.

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JOHN MACK

I'm asking, did you ever get an explanation of what litigation defenses might be available to ResCap to defend against these potential claims?

MR. PIEDRA: Object to the form.

A. No.

Q. For example, were you ever informed that a number of the claims could be eliminated, due to statute of limitations defenses?

MR. PRINCI: Just to the extent that you were informed of any such thing by counsel, then I'm going to direct you not to answer.

MR. MOLONEY: Okay. I'm just withdrawing my question. We will go on to another area.

Q. Now, if we look at the -- before we leave this page, if we look at the number 400, that's -- this estimate includes securities litigation, right?

A. Yes, it says so.

Q. Okay. Thank you.

And now, going on in the same

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JOHN MACK

MR. PIEDRA: Objection as to
form.

MR. PRINCI: Misstates the
facts.

A. Yes. I was going to say no,
that's not the liability to ResCap.

Q. Isn't that the amount that
ResCap is agreeing to pay, the settlement
plan the ResCap group is agreeing to pay
\$8.7 billion to settle the claim?

MR. PRINCI: Objection as to
form.

A. That is correct, they are
agreeing to pay that.

Q. Right. And why -- if their
maximum exposure could only be \$4 billion,
why would they agree to pay 8.7 billion?

MR. PRINCI: Objection as to
form.

A. I don't know that the 4 -- the 4
billion is not the maximum, that's just an
estimate. This number is supposed to be,
it is negotiated; it is a cap, in essence.

Q. Okay. You are saying the

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JOHN MACK

\$4 billion was an estimate, but this was a negotiated number, the 8.7?

A. Correct.

Q. Now, it wasn't determined by a court that ResCap was liable for \$8.7 billion, right?

A. That is correct.

Q. So it was just determined by two human beings who negotiated a number, \$8.7 billion, right?

MR. PRINCI: Objection as to form.

A. It was a negotiated number.

Q. Who were the two people who negotiated the number?

MR. PRINCI: Objection as to form.

A. Our advisors from MoFo, and Kathy Patrick, representing the investors.

Q. Now, the person who was representing you, your advisor for MoFo, you would think that they should negotiate a number that's consistent with what they think are their potential liabilities, if

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JOHN MACK

they go to court, right?

MR. PIEDRA: Objection to form.

MR. PRINCI: Objection as to

form.

A. No.

Q. No? Why?

A. They can negotiate a number that is in the best interests of trying to get a transaction accomplished.

Q. Even if it doesn't bear any resemblance to what the outcome would be, if the case was actually tried in court?

MR. PIEDRA: Objection to form.

A. I don't know that it would or wouldn't bear any resemblance to what the actual number would be. I couldn't predict the future like that.

Q. Did you get any guidance at the board meeting as to what the number would be, if this claim was actually litigated rather than settled?

A. No, not that I recall.

Q. So this was just a number needed to do a transaction, is what you are

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JOHN MACK

saying, like an M&A deal?

MR. PIEDRA: Objection to form.

MR. PRINCI: Objection as to

form.

A. No.

Q. How was it different?

A. It was different, because we were, we thought the number was -- well, it was, by evidence, lower than two other settlements, one of which Ms. Patrick had been engaged with. That was the Bank of America. And it was within the range of defects that we his -- we, ResCap, historically had. It was kind of the midpoint of that range. So in a market sense, it seemed to be a reasonable number.

Q. Other than those two criteria, were there any other criteria that you relied on, in terms of approving the settlement?

MR. PIEDRA: Object to the form.

MR. PRINCI: Objection as to

form.

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JOHN MACK

A. Not that I recall at the time.

Q. Okay. Let's see if we can understand whether it's lower than the BofA settlement.

[REDACTED]

Q. Okay. And now, when we looked at Exhibit -- the prior exhibit, there was also a further discount of the number for legal defenses.

Do you recall seeing that?

A. Uh-hum, uh-hum.

Q. Was a legal defense discount applied to the number that's on this page?

MR. PIEDRA: Object to the form.

A. Not that I recall.

Q. Okay. So no consideration of legal defenses?

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JOHN MACK

MR. PIEDRA: Objection to form.

MR. PRINCI: Objection.

A. No, I don't think that was part of what my consideration was.

Q. Now, you say it was less than the BofA settlement; is that what you are telling us?

A. The defect rate, our defect rate.

Q. I know your defect rate. But the settlement amount actually was, ironically, more than the BofA settlement, right?

MR. PIEDRA: Objection to the form.

Q. BofA settled for \$8.5 billion, we saw in the prior exhibit.

MR. PIEDRA: Do you want an answer to the last question?

MR. PRINCI: Which question do you want him to answer?

Q. The settlement amount proposed to be paid by ResCap is actually more than the amount proposed to be paid by BofA to

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JOHN MACK

settle its claims, correct?

MR. PIEDRA: Objection to form.

MR. PRINCI: Objection as to
form.

A. The BofA defect rate was higher.
That's what I was looking at.

Q. Putting aside -- that's not my
question.

Did you hear my question?

MR. PRINCI: You asked a
multiple number of questions.

MR. MOLONEY: I did not, I asked
one question.

Q. You may answer it.

A. I'm not sure I see on this
schedule what the BofA settlement number
was.

Q. Well, if you go back to the
prior -- you have an exhibit in your pile
that says that, for Michael Carpenter, the
one we looked at earlier. It says BofA
negotiated the \$8.5 billion settlement.

Do you recall seeing that?

A. In this room?

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JOHN MACK

Q. Yeah.

A. Yes.

Q. You know that as a matter of just public knowledge, that BofA settlement was for \$8.5 billion, right?

MR. PRINCI: Objection to form.

Q. You don't? You don't keep up with your old bank?

A. I actually don't.

Q. Okay, fair enough.

Now, it has a number here, next to BofA, of \$15 billion. BofA is -- assume it's correct, it's \$8.5 billion.

BofA is not settling its claim for \$15 billion, right?

MR. PIEDRA: Objection to form.

MR. PRINCI: Objection as to form.

A. I don't know.

Q. Take it as a given with the 8.5. So the \$15 billion number, what does that represent?

MR. PRINCI: Objection as to form.

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JOHN MACK

A. I'm assuming that is 36 percent times a protected loss number.

Q. Now, do you know whether or not the BofA settlement bore any resemblance to what you call the defect rate here, or is there any correlation between the defect rate and the amount that BofA actually paid to settle its lawsuit?

MR. PIEDRA: Objection to form.

MR. PRINCI: Objection as to form.

A. The answer is no.

Q. You don't know?

A. No.

Q. If there was no correlation between the amount that BofA paid to settle its lawsuit and the defect rate, then this chart is basically useless, right?

MR. PIEDRA: Objection to form.

MR. PRINCI: Objection as to form.

A. I don't know. I don't understand that.

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JOHN MACK

It's not useless, but...

Q. Well, let's take it logically, okay. The fact that there's a defect in a mortgage doesn't mean that the mortgage is actually -- there's going to be a loss associated with the mortgage, correct?

A. That is correct.

Q. And even if there's a loss associated with the mortgage and there's a defect, doesn't necessarily mean that ResCap is going to be liable to buy it back, right?

MR. PRINCI: Objection as to form.

Q. They could have legal defenses, statute of limitations, causation, right?

MR. PRINCI: Objection as to form.

Which question are you asking, the first one or the second one?

Q. The fact that there's a loss associated with the mortgage, which is a defect, doesn't necessarily mean that there's a liability to a ResCap group,

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JOHN MACK

with respect to that mortgage, to buy it
back, correct?

MR. PRINCI: Objection as to
form.

Q. You may answer.

A. We could be obligated to buy it
back. Depends on the agreements.

Q. Correct, you may or may not be,
right?

A. Right.

Q. I'm saying on the information
you have here, you can't draw any
correlation between defect rate and what
your liability is. There's no correlation
between those two variables, right?

MR. PIEDRA: Objection to form.

MR. PRINCI: Objection as to
form.

A. Well, the defect rate -- we have
a historical defect rate which is, created
actual losses.

Q. Okay. Let me try it a different
way.

Do you know BofA actually issued

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JOHN MACK

twice the amount of bonds that ResCap did
and the amount of home loans it had
outstanding was a number that was twice as
large as ResCap?

MR. PIEDRA: Objection to form.

MR. PRINCI: Objection as to

form.

Q. Did you know that?

A. No.

Q. Okay. Assume, for purposes of
my question, that that's a fact, okay?

A. Okay.

Q. And assume that their defect
rate is twice as -- for purposes of
analysis, it's almost as twice as high as
ours, right? ResCap's, right?

MR. PRINCI: Objection as to

form.

Q. Assume that, right?

A. Yes.

Q. They should have paid an amount
twice as large as ResCap, then, to settle
their liability, right?

MR. PRINCI: Objection as to

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JOHN MACK

form.

Q. It's a matter of logic, right?

MR. PRINCI: Objection as to
form.

A. I'm not sure that -- it would
have been negotiated. I'm not sure that
all the facts are totally comparable in
every respect, so.

Q. Sitting here today, do you
really feel that you can draw any comfort
from the fact that the defect rate was
35 percent for BofA, to justify the
settlement that occurred here?

MR. PIEDRA: Objection to the
form.

Q. What comfort do you get to
justify your settlement from the fact that
BofA settled for a different amount of
money involving a different amount of
bonds with a higher defect rate? What
comfort do you get that that supports your
settlement?

MR. PIEDRA: Objection.

MR. PRINCI: Hold on. There's

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JOHN MACK

three questions in sequence.

Which one do you want him to answer?

MR. MOLONEY: I'll rephrase.

Q. Assume BofA settled for a different amount of money than ResCap, had a larger amount of bonds, had a significantly larger amount of lifetime losses and was using a larger defect rate. And assume further that the amount of money was smaller, by BofA.

Why would that support this settlement?

MR. PRINCI: Objection as to form.

MR. PIEDRA: Objection as to the form.

A. I'm not sure that it would.

I was looking primarily at whether this number made sense for us, and I thought that it did.

Q. Why?

A. It seemed to be --

MR. PRINCI: Objection, asked

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JOHN MACK

and answered.

You may answer again.

A. It seemed to be, given our defect rate, it was within -- it was the average of our range of defect rates times our projected estimated lifetime losses.

MR. PRINCI: Tom, just --

Q. If you took that same analysis, and BofA had a larger set of estimated lifetime losses, if I were to tell you that the estimated lifetime losses for BofA were substantially higher than --

If I were to tell you, based on ResCap's own expert, the estimated lifetime losses for BofA were a number between \$61 billion and \$76.8 billion and that, as a percentage, its settlement of lifetime losses was between 11.1 to 13.9, while the percentage pursuant to lifetime losses of the ResCap settlement was between 17 and 19 percent, why would you draw any comfort from that?

MR. PIEDRA: Objection to form.

MR. PRINCI: Objection as to

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JOHN MACK

form.

A. Again, I think it's very difficult to compare to BofA, in some respects, because of their portfolio having been originated largely by the company they acquired.

Q. BofA had actually a worse portfolio than ResCap, right?

MR. PIEDRA: Objection to form.

MR. PRINCI: Objection as to form.

A. I would suspect so, but I don't have facts. I'm not...

Q. And the Lehman analysis, do you know whether Lehman has actually settled any claims on the basis of a 35 percent defect rate?

A. No, I do not.

MR. MOLONEY: Okay, you can take a break now.

MR. PRINCI: Thank you.

THE VIDEOGRAPHER: The time is 10:52 a.m. and we are off the record.

(Whereupon, there was a recess

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JOHN MACK

in the proceedings.)

THE VIDEOGRAPHER: The time is
11:04 a.m. and we are back on the
record.

Q. Are you ready, Mr. Mack?

A. Yes.

Q. Okay. Good. Looking still at
95. I want to go on to under the key
assumptions, the first key assumption,

[REDACTED]

Do you see that sentence?

A. Yes.

Q. Okay. Who negotiated that
number, the 1 million -- 1 billion 50
million dollar number?

MR. PRINCI: Objection as to
form.

A. The Ally settlement was
primarily Jonathan Ilany and myself. But
at this point this was an assumption.

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JOHN MACK

This was not an actual number. It was not a fact.

Q. Okay. Did this represent the settlement that was negotiated between you and -- who represented Ally in the negotiations or AFI?

MR. PRINCI: Objection. You got two questions again, Tom.

Q. Let me ask the question who represented AFI in the negotiation of the settlement?

A. Mike Carpenter and Lenard Tessler.

Q. And just for the record, who are they?

A. Mike Carpenter is the CEO. Lenard Tessler is with Cerberus and I believe is the director of AFI.

Q. And you are saying this assumption number is not the same as the number that you negotiated by way of the settlement; is that correct?

A. At this point in time it was still an assumption. We did not have an

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JOHN MACK

agreement.

Q. Okay. At this point in time what would have been the ask. What were you and Mr. Ilany asking for on behalf of -- of ResCap?

MR. PRINCI: Objection as to form.

A. I think that what I would say is that we were still in negotiation and that as opposed to having -- calling it an ask, let us say that I was -- my argument was that it needed to be a headline number that came in at about this range, about this size, to be credible. Now, you can call that an ask but I wasn't phrasing it as an ask.

Q. Okay. Now, I want to break that down. The headline number around this size, the "this" is referring to the billion 50?

A. About a billion. I wouldn't have been as precise as a billion 50.

Q. And when you say in order for it to be credible, credible to whom and based

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JOHN MACK

on what?

MR. PRINCI: Objection as to
form.

A. The overall idea here is that we were trying to do a more elegant, if that's a good word, bankruptcy. That we were trying to put together a package that included a plan, a contribution from Ally, a DIP financing, stalking horse bids, a transaction -- a deal with -- with the RMBS trustees so that we had a package that would accrete value to the process and ultimately to the creditors.

Q. Okay. And one element of that package was the -- was the Ally contribution, fair to say?

A. Correct.

Q. Now, in terms of -- in terms of how you figured out what the right amount for Ally to bid, what criteria -- to pay, what criteria did you use?

A. Well, I don't know that I would phrase it that way. It was a negotiation.

Q. What was the rationale for the

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JOHN MACK

payment?

A. Well, on our side we, we the estate, would be getting cash. And on their side they would be getting releases.

Q. Okay. Okay. And specifically what -- what claims of what ResCap entities and end creditors -- I want -- I want to get a list of what ResCap entity claims and what -- and what individual creditor claims were valued for purposes of this exercise by you?

MR. PRINCI: Objection as to form.

A. I think I'm answering your question here, I'm not sure. I was working in a consolidated sense not in any specific debtor. There are a number of subsidiaries in ResCap. I was thinking of this as a consolidated effort for ResCap.

Q. Well, did you give any consideration to the unique claims that the company which you were a director of might have against -- against AFI?

MR. PRINCI: Objection as to

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JOHN MACK

form.

A. I think, again, it was a consolidated thought process not a thought process of this particular legal entity against another company.

Q. Okay. What about in terms of the claims of individual creditors that were going to be settled by, as a part of this process, how did you value those?

MR. PRINCI: Objection as to form.

A. I was aware that there were a number of different classes of creditors. However, my thought process was to try to be as comprehensive as I could in terms of the amount of money we raised in the process without specific regard to any class of creditor.

Q. Okay. Without getting into a specific entity what were the -- what were the specific claims that you thought against AFI that you thought had value that they were paying to resolve, if any?

MR. PRINCI: Just want to make

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JOHN MACK

sure that if your answer comes from advice of counsel, I don't want you to share anything that's solely based on advice of counsel otherwise you can answer.

THE WITNESS: It pretty much is based on advice of counsel.

A. It was the result of a meeting in which we received a presentation by counsel as to the types of claims they thought they could bring.

Q. Okay. And beyond whatever you got in terms of types of claims at that meeting, was that the complete universe of claims that you had in your arsenal when you went to negotiate with Mr. Carpenter or did you think of additional claims or learn of other claims other than what you got at that meeting?

A. There would not have been -- that was a comprehensive presentation. So I would say there was nothing that would have been outside of that presentation.

Q. Now, when you joined the ResCap

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JOHN MACK

board, did you note that it had public debt outstanding?

A. Yes.

Q. Do you know about almost a billion dollars of unsecured notes were outstanding at ResCap LLC?

A. No.

Q. Do you know that now?

A. I know we had some, yes.

Q. Did you feel that you had a fiduciary -- when you were negotiating this deal, did you feel you had a fiduciary duty to those noteholders?

A. Specifically those noteholders?

Q. Yes.

A. No.

Q. Did you feel you had a specific duty specifically to creditors of the entity which you were a director of?

A. Again, I was not -- I was looking at it on a consolidated basis and not on a legal entity basis. The debt -- the debt that is on the balance sheet of ResCap is on a deconsolidated basis with

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JOHN MACK

several of our subs and with the parent company.

Q. But as a director of ResCap LLC wasn't it your primary duty to direct creditors of ResCap LLC?

MR. PRINCI: Objection as to form.

Q. You may answer.

A. I viewed our responsibility to the consolidated group, ResCap and its subsidiaries.

Q. Okay. In terms of thinking of claims, did you think of -- were you informed about a claim based on a breach of the indenture related to the unsecured notes, you can just answer yes or no, based on the sale of substantially all of the assets of ResCap LLC?

MR. PRINCI: I'm going to direct him not to answer. I think his earlier testimony was that his understanding of claims was comprehensive --

MR. MOLONEY: He can answer was

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JOHN MACK

he aware of this claim, he can say yes or no. I'm not asking for any legal advice.

MR. PRINCI: That would indicate information that was transmitted to him by counsel because he's testified that his basis for this came from counsel. So I'm instructing him not to answer that. But you can explore anything he said with the counterparty. Maybe it comes out that way.

Q. All right. When you met with Mr. Carpenter to negotiate this deal, what was your opening ask?

A. We did not make an opening ask.

Q. What did you tell him you wanted him to pay?

MR. PRINCI: Objection as to form.

A. At the meeting in which we started this conversation Mr. Carpenter made a presentation and we listened, Jonathan and I listened. We did not

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JOHN MACK

counter. We did not negotiate in that meeting.

Q. Okay. Let's see if we can put a time and place on this meeting.

MR. MOLONEY: Do we have this?

Is this part of the exhibits?

Q. Would you look at Exhibit 98 in your pile.

(9019 Exhibit 98, meeting minutes, Bates RC40020213-214, marked for identification, as of this date.)

A. Uh-hum.

MR. PRINCI: Excuse me. Just give me one second. Bear with me. Okay, Mr. Moloney.

Q. Did you attend this meeting on or about January 25, 2012?

A. Yes, I did.

Q. And did you -- if you look at the minutes of meeting there's a reference under Executive Session to the fact that there's a presentation given to the ResCap board essentially about potential claims against Ally and an indication of certain

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JOHN MACK

materials to provide to the board in
advance of the meeting.

Do you see that?

A. Yes.

Q. Did you obtain those materials?

A. If they were provided to the
board I did.

Q. Did you keep those materials?

A. No.

Q. What did you do with them?

A. I left them in the board room.

Q. You left them in the board room
when you left the meeting?

A. Yes.

Q. On a go-forward basis when you
were negotiating with Mr. Carpenter did
you need to consult the materials from
time to time?

A. No.

Q. Is it fair to say your
negotiations with Mr. Carpenter really had
nothing to do with the legal arguments in
those materials?

MR. PRINCI: Objection as to

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JOHN MACK

form.

A. Yes. I'm not going to negotiate on legal issues.

Q. Okay. And then there's a reference here to a meeting that occurs with Mr. Carpenter right after this board meeting. This board meeting starts at 12:25 and there's a reference to a meeting with Mr. Carpenter right after it, right? It says approximately 3:00 the meeting was adjourned. At approximately --

A. Yes, I see that.

Q. Half hour meeting with Carpenter. Is that the meeting -- does that kick it off, the process of these negotiations?

A. No.

Q. Okay. When was the kick-off meeting?

A. It was after this.

Q. Okay. I'm going to show you a document which we have marked as Exhibit 99.

(9019 Exhibit 99, series of

1 JOHN MACK

2 e-mails, Bates ALLY 0142489; 0142535;
3 0142547; 0142563-565, marked for
4 identification, as of this date.)

5 Q. Take a look at 99. It's just a
6 series of e-mails that indicate setting up
7 various meetings between yourself and
8 Mr. Ilany and Mr. Mack. And the reason
9 I'm just doing this is if it's helpful to
10 you in terms of the timeline. If it
11 doesn't help you -- but that's what we
12 found in terms of timeline.

13 A. Uh-hum.

14 Q. But can you tell us when
15 approximately the meeting, the first
16 kick-off meeting was that you had with
17 Mr. Mack to discuss -- with Mr. Carpenter
18 rather, to discuss the Ally contribution?

19 A. Well, I would have said March or
20 April. And I think that's about when we
21 started. As I say, it was after the
22 January meeting.

23 Q. There's one of the documents
24 refers to an April 4th -- if you look at
25 the third one in, it might be on the third

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JOHN MACK

tab in, refers to a meeting confirmation
on April 4, 2012, in this building
actually on the 16th floor?

A. Yes.

Q. Is that the kick-off meeting?

MR. PRINCI: Excuse me one
moment, Mr. Moloney. What Bates
number is --

MR. MOLONEY: Ally 014457.

MR. PRINCI: Just give me a
moment. I'm sorry. Go right ahead.

Q. Is that the kick-off meeting?

A. I don't recall. And I'm not
sure that this is clear enough for me to
say that it absolutely was the kick-off
meeting.

Q. But it's approximately around
this time period?

A. Yes.

Q. And did the meeting actually
take place in this building?

A. Yes.

Q. Okay. You don't need to look at
that any more then. Tell me best your

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JOHN MACK

Q. Now, the proposal. What was the numbers that he gave?

A. As I recall, he had a three -- \$350 million number. And again, there were some ancillary items which in our view ultimately didn't really have value -- add value, so.

Q. Did you take notes at this meeting?

A. Probably not.

Q. Did you report what was, what you learned at the meeting to the other directors or anyone else?

A. Yes.

Q. And in what format?

A. Verbal conversation with our attorneys at MoFo.

Q. So you reported verbally to the attorneys at MoFo. Anything else?

A. Well, Mr. Ilany was with me so the two of us made the report. We walked back up the street to MoFo's office to do that.

Q. And were the other directors

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JOHN MACK

present so that they heard the
presentation?

A. No.

Q. So how did other directors learn
about the status at that point?

MR. PRINCI: Objection as to
form.

Q. If they did.

A. Well, we would have discussed it
at a subsequent meeting of the directors.
I should have added we regularly had
director, independent director meetings
with our independent counsel. And so that
would have been a possible timeline. But
it was done -- we did communicate
verbally. I never put anything in
writing. I don't believe Jonathan did
either.

Q. Were you told not to put
anything in writing?

A. No.

Q. Now, you said you didn't make a
counter at this meeting; is that correct?

A. That's correct.

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JOHN MACK

Q. So what -- what happens next?

MR. PRINCI: Objection as to
form.

A. We discussed the proposal.

We -- there were -- again there was some
items in the proposal that he made that
were of no value as we -- as we viewed the
situation. And so at a subsequent meeting
Jonathan and I went back. Again, it was
the same four principals and only the four
principals. We went back with a
counterproposal seeking to emphasize that
we liked and preferred the third
alternative, that is I'm going to use the
word "elegant," the more elegant process,
involving a plan.

Q. And what was your
counterproposal?

A. Well, we wanted -- we pointed
out why we didn't contribute or didn't
assign value to certain parts of his
proposal. We discussed the need to have
a, you know, reasonable but I don't
believe we were specific as to number, a

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JOHN MACK

reasonable headline number in terms of achieving credibility. And we then encouraged, the four of us, encouraged the advisors who were actually sitting in the next room to work on an agreement that mirrored that.

Q. Now, what did you say in terms of the -- the reasons for a reasonable headline number? What reasons did you give to them in support of why it was in their reason for a reasonable headline number?

A. Well, it would have been very simple. If the plan was going to have any credibility at all, then we needed a reasonable headline number. Otherwise we'd just get mired into a process which isn't going anywhere and which would in fact not ascribe value to the estate and to the creditors.

Q. Okay. Now when you instructed the lawyers to -- to work on an agreement they weren't supposed to be working on the numbers, they were just working on the

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JOHN MACK

mechanics of implementing the deal, right?

A. Yeah. We were trying to direct them to the idea that we were going to go for a plan as opposed to a free fall 363 or something like that.

Q. What was -- what was his response to your request?

A. It was positive.

Q. And did you reach an agreement on a reasonable headline number at that meeting?

A. No.

Q. Or a range of reasonable headline numbers?

A. No, no.

Q. So what happened next in terms of these negotiations?

A. There would have been subsequent phone calls between the principals or among the principals to try to advance the ball.

Q. Okay. And did you have those calls?

A. I had calls with Mike Carpenter.

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JOHN MACK

And Jonathan had the calls with Lenard Tessler. There were times when I was not available and Jonathan would be on lead. And there would have been times when Jonathan was not available and I would be on lead.

Q. How did you get Carpenter and he got Tessler? Did you flip a coin or something else?

MR. PRINCI: Objection as to form.

A. I don't know.

Q. So was -- take me through toward when you think that this kind of came together in a kind of a meeting of the minds.

MR. PRINCI: Objection as to form.

A. It would have been in late April. And I pinpoint the time because I was traveling and I was dealing with this while riding in a shuttle the last weekend of April 2012, the last weekend. And it was awkward because I couldn't -- I could

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JOHN MACK

not be on the phone because it's a public shuttle. And so I was texting. And the deal had gotten a little off track and I had to bring it back.

Q. How did the deal -- how had the deal gotten off track?

A. Well, in an effort to bridge a difference of economics of about \$150 million, the advisors had proposed that each of three parties, that is Ally, ResCap and our leading stalking horse bidder at the time, Nationstar, each contribute not cash necessarily but in value 50 million each for a total of 150. That was not consistent with the understanding that Mike and I had discussed. So he got in touch with me and I got back to the lawyers and said no, that that was not the deal. This is the deal. Tom Marano -- I copied Tom on the e-mail. He confirmed that that was the deal, what I said, and that put people back on track.

Q. What involvement, if any, did

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JOHN MACK

Tom Marano have in these discussions?

A. None. Other than we would talk to Tom about it. But he was not involved in the conversation.

Q. Now, you say they had to bridge a \$150 million gap. What was the gap at that point in time? What was the bid and the ask at that point in time?

A. Well, it would have been around, you know, in the 750 to billion dollar or billion 1 range. That would have been the range. But obviously The Gap would be a little narrow. But they were still -- we were still working on some of the fine points. So we were in that range.

Q. Where did you end up in terms of a number or a range? Where did you end up in terms of --

A. Where did we end up?

Q. Yeah.

A. 750 of cash and then there were a couple of other components, some financing, some loan sales. So in total it was around a billion dollars.

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JOHN MACK

Q. So that was the headline number you were looking for a billion dollars, is that fair?

A. Yes. Yes.

Q. Okay. Just going back to the May 9 board meeting again. That's Exhibit --

A. The which one?

Q. The May 9 board meeting which is Exhibit --

MR. PRINCI: 95?

Q. -- 95. When -- when -- when you -- I take it the board approved this deal at this board meeting, is that fair?

A. Yes.

Q. And they approved the billion 50 Ally settlement?

A. That was not brought up at the May 9 board meeting to my knowledge.

Q. Well, it's part of the package right here.

A. It's part of the key assumptions.

Q. You are saying that wasn't --

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JOHN MACK

that wasn't approved, that was just an assumption?

A. That's correct.

[REDACTED]

MR. PRINCI: Objection as to form.

A. I actually don't know.

Q. Were you involved in negotiating the allocation?

A. No.

Q. Who negotiated the allocation?

MR. PRINCI: Objection as to form.

A. I don't know.

Q. Has that been approved by the board, the allocation?

A. Well, are you talking about subsequent to the filing of the petition?

Q. Well, at this point in time let's say was it approved?

A. No.

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JOHN MACK

Q. At any point in time did they,

[REDACTED]

[REDACTED]

[REDACTED]

to the Holdco, the company you were a
director of?

A. No.

Q. So you don't think that
allocation has ever been approved by the
board as we are sitting here today?

MR. PRINCI: Objection. Asked
and answered.

You can answer again.

A. There have been two amendments
to the agreement with the RMBS trustees.
The first agreement, which was deemed to
be administerial and therefore not
approved by the board, did have an
allocation to Holdco.

The second agreement, which is
the one that is currently in place,
specifically excludes an allocation to
Holdco.

Q. I think we are talking about

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JOHN MACK

apples and oranges. Let's see if we can

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

A. Okay.

Q. So just kind of retrace it.

A. To my knowledge, no part of the Ally settlement has been allocated to anybody.

Q. You certainly as a board didn't make a judgment that -- that weighing the relative merits of the claims of -- that belonged to ResCap LLC versus other claims that might belong to other entities that

[REDACTED]
[REDACTED]
[REDACTED]

MR. PRINCI: Objection as to form.

Q. You didn't make that judgment, right?

A. We did not make that judgment.

Q. Now, did you understand that as

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JOHN MACK

part of the settlement that was approved,
the \$8.7 million settlement, that you were
also settling securities claims?

A. Yes, it was reps and warranties
and securities claims.

Q. At any point in time did you
ever learn that securities claims were not
being picked up by this \$8.7 billion
settlement?

A. No.

Q. So as far as you are concerned,
the board has not approved the deal that
does not resolve securities claims as part
of the \$8.7 billion payment?

MR. PRINCI: Objection as to
form.

A. This is a slightly technical
matter. I don't know.

Q. Okay.

(9019 Exhibit 100, e-mail with
attachment, Bates RC 40088324-337,
marked for identification, as of this
date.)

Q. Please look at Exhibit 100 in

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JOHN MACK

your pile. Is this a document you've seen before?

A. Yes.

Q. Why did you ask for this to be prepared?

A. I was trying to understand --

MR. PRINCI: Just can you -- I need to consult with my partner for a second. Jamie, you got a moment? Excuse me before you go on. Excuse me one moment.

MR. MOLONEY: Why don't we just go off the record for a second.

THE VIDEOGRAPHER: The time is 11:37 a.m. We're off the record.

(Brief recess.)

THE VIDEOGRAPHER: The time is 11:42 a.m. and we are back on the record.

A. I was trying to understand the deconsolidated liability structure of ResCap. The schedule that I had really asked for was labeled page 8 -- is labeled page 8. And that's the one I actually

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JOHN MACK

focused on. They gave me a lot of other schedules, pages, in this process that I didn't really go through.

Q. Okay. We will go to that in a minute. But before we get to page 8 I have a couple of questions on -- on page 5. And it says, "The assumptions presented below are consistent with the assumptions used for recovery presented in the FTI's board presentation dated 4/4/12" -- do you see that? -- "with the exception of removing all intercreditor settlement assumptions."

Do you see that?

A. And where are you reading?

Q. At the top of page 5. Just so -- just so we can all locate ourselves.

A. Yes. Dated 4/4? I'm sorry. I thought I heard you say something different.

Q. Okay.

A. Yes, I see that.

Q. Now, look at what they have under Ally settlement. They have a

1 JOHN MACK

2 "payment of a billion dollars of cash;
3 assumption or payment by Ally of up to
4 \$400 million regulatory costs; value of
5 \$500 million provided by Ally via TSA
6 subservicing and parent financing;
7 purchase by Ally through credit bid of the
8 assets secured by Ally revolver facility."

9 Do you see those items?

10 A. Yes.

11 Q. What do they represent?

12 MR. PRINCI: Objection as to
13 form.

14 A. What do they represent. Well,
15 again, these were conceptual ideas of what
16 might be in a settlement with Ally. We
17 had not finalized it at this point.

18 Q. Had Ally provided any indication
19 it was willing to do a settlement of this
20 magnitude at this point in time?

21 A. Oh, no. No.

22 Q. Was this a proposal that you
23 were making at this point in time?

24 A. We never made this as a
25 proposal.

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JOHN MACK

Q. Where did FTI get the -- get the idea of this -- of this to include in this chart?

MR. PRINCI: Objection as to form.

A. We discussed it internally but we never made this as a proposal.

Q. And why not?

MR. PRINCI: Objection as to form.

A. I don't recall.

Q. Did you ask for more or less?

MR. PRINCI: Objection as to form.

A. Well, these are different -- these are different items. For instance, the second one, assumption of payment by Ally of up to 400 million of regulatory costs. This related to the obligations under the DoJ, AG, Fed settlement. We -- we were concerned about the actual amount of costs. And so that was where that -- that was where that concept came from.

Q. I know. Was it -- was it -- did

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JOHN MACK

you make that request to AFI, did they pick up those costs?

A. I don't know that we made the 400 million. We did -- we did discuss whether they should pick up the regulatory costs.

Q. What did they say?

A. Well, they probably said no. But then, again, we just racked it into the overall settlement.

Q. The overall settlement doesn't pick up this payment, right?

A. Doesn't specify that payment.

Q. And it's for less than a billion dollars in cash, right?

A. I'm sorry, yes.

Q. And you don't get the value of the \$500 million provided by the Ally value that's listed here until this deal is actually consummated?

A. Well, we do have a transaction services agreement and we do have subservicing. Whether you would assign 500 million to it or not is different.

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JOHN MACK

Q. You wouldn't -- you wouldn't assign a 500 million value, right?

MR. PRINCI: Objection as to form.

A. I don't think it was that much.

Q. No. And they didn't purchase through credit bid the assets secured by a revolver, right?

A. No. In the end we did a different structure. Those were assets that went to -- they did provide -- I'm sorry, they did provide a revolver as part of the facility. They just didn't purchase the assets necessarily.

Q. Now, did Mr. Marano indicate around this point in time that he thought \$2 billion was required as the headline number to resolve this problem?

A. I'm sorry, I didn't hear you.

Q. Did Mr. Marano indicate to you that he thought at around this point in time April of 2012 that he thought \$2 billion was the headline number that the settlement needed to have in order to

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JOHN MACK

have credibility?

A. I don't think I would characterize it that way but I do believe that he said, I know that he said \$2 billion but I don't believe I would characterize it that he said that's what it would need to be.

Q. How would you characterize it?

A. That it would be desirable.

Q. And did you disagree with him?

A. No. I didn't disagree with him.

Q. Why did you agree with a settlement that was worth less than half that amount?

A. Well, I didn't -- just because I didn't disagree with him doesn't mean I don't think that the number we got was the fair number. I think -- I think his number was -- could also be deemed to be fair. But I'm not saying that that was the only number that it could be.

Q. Okay. There's a discussion down here that the reps and warranties claims were estimated at 4.1 billion. Do you see

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JOHN MACK

that?

A. Yes.

Q. And was that -- was that the estimate that was given by FTI to the board in April 2012 or did that number come from somewhere else?

MR. PRINCI: Objection as to form.

A. I don't -- I don't know specifically what the source of that number was.

Q. I'd like to look at Exhibit 101. (9019 Exhibit 101, e-mail from Michael Carpenter dated April 12, 2012, Bates ALLY 0142576, marked for identification, as of this date.)

Q. This is an e-mail from Michael Carpenter dated April 12, 2012, to a Caribel Ortiz-Zorn with a couple of people copied. And it refers to a conversation that he purportedly had with you that day. So could you read it to yourself, please.

A. (Witness complies.)

Uh-hum.

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JOHN MACK

Q. Now, do you recall there being a meeting on or about April 11th where Mr. Marano was present with Mr. Mack and you were present?

A. No.

Q. Regardless of the date --

A. I don't -- the reason I'm -- is whether I was present. Tom and Mike could have had a meeting. I would not have been present necessarily.

Q. What do you understand he's talking about --

MR. PRINCI: Objection as to form.

Q. -- in this e-mail, if you do?

A. I don't, specifically, recall.

Q. Do you recall, were you ever present at a meeting where -- where Mr. Marano said that the proposal being made by -- by -- by AFI was -- was an opening low ball?

A. No.

Q. Was there -- were you at a meeting where you thought Mr. Marano

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JOHN MACK

30, 2012, Bates RC40020521-567, marked for identification, as of this date.)

Q. Did you attend this board meeting?

A. Yes.

Q. Now, if you look at the back of the document, I'm just going to focus on one document, which is a settlement agreement in the back of this package. Apparently it was part of the board package. And if you look at the black line document, you see under Ally contribution, which is page 6 of the black line document.

A. Yes.

Q. You see 750 is crossed out and 850 is inserted?

A. Yes.

Q. And this is at -- as of April 30th. How did the 850 number get moved down from 850 to 750?

MR. PRINCI: Objection as to form.

A. Well, the 850 number was our

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JOHN MACK

effort to get a greater contribution from Ally. They never agreed to it.

Q. You are saying when the 850 was actually put in the agreement and 750 was crossed out and delivered to the board meeting there was at that point there was no agreement to pay 850?

MR. PRINCI: Objection as to form.

A. That is correct. The 850 was a number that perhaps Jonathan had, but I'll take the credit for it or blame for it. It was our effort to get more money. It was never an agreement with Ally that it would be 850.

Q. Look at Exhibit 102 in your pile.

(9019 Exhibit 102, e-mail string, RC 901900062398-400, marked for identification, as of this date.)

Q. You are not copied on this.

A. Okay. I got 102.

Q. It's an e-mail from Tim

Devine --

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JOHN MACK

A. Okay.

Q. -- to Tammy Hamzephour.

A. Uh-hum.

Q. I think you indicated you don't know who Tim Devine is?

A. I have never met Tim Devine.

Q. Were you aware that he was a, the head of litigation for AFI?

MR. PRINCI: Objection. Asked and answered.

You can answer again.

A. No. I -- I -- I'm not sure I can tell you what he was or is.

Q. And you know who Tammy Hamzephour is, right?

A. I do know Tammy, yes.

Q. It says "Prep for KP," I think that probably means Kathy Patrick. But in any event, looking down it says in the -- this is dated April 23. It says, in the second paragraph it says, "Finally I recommend we use 750 rather than 1 billion as potentially AFI contribution. I don't have a basis to say it should be a

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JOHN MACK

billion, and we better leave some room for negotiation. If we want to use a billion, we will need clearance from AFI and I haven't spoken to Mike."

Do you see that?

A. Yes.

Q. Now, was Kathy Patrick recommending -- negotiating the AFI contribution or were you negotiating it?

MR. PRINCI: Objection as to form.

A. I thought I was.

Q. Okay.

A. I'm unaware of this.

Q. This seems to imply that they would have gone up higher if Kathy Patrick had asked for more, doesn't it?

MR. PRINCI: Objection as to form. Lack of foundation.

A. I -- I don't know.

Q. The language it would be better to have some room for negotiation implies that you are giving an offer less than your bottom line, right?

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JOHN MACK

MR. PRINCI: I'm not going to let you argue with him on this stuff.

MR. MOLONEY: He may answer.

MR. PRINCI: No, I'm going to direct him not to answer. Stop arguing with him.

Q. You may answer.

MR. PRINCI: Don't answer the question. Ask an intelligent question where you are not arguing with him.

Q. At this point in time, as of April 23, hadn't there been an agreement, general agreement, that they would put a billion dollars on the table to settle the ResCap situation?

MR. PRINCI: Objection as to form.

A. I don't think so.

Q. Okay. But you are not sure?

A. That's correct.

Q. Okay. I'd like to look at Exhibit 104.

(9019 Exhibit 104, two e-mails, Bates ALLY 0226069, marked for

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JOHN MACK

identification, as of this date.)

Q. And this is two e-mails. The first is dated May 5, 2012. It's from Darren M. Nashelsky to Ray Schrock at Kirkland & Ellis and there's a response from Kirkland & Ellis dated the same day, from Mr. Schrock the same day. You got to read the bottom first and then read the top to follow the chain.

A. Yes.

Q. Now, as of this point in time, May 5, had the contribution been fixed that was going to be paid by AFI?

A. I honestly can't tell you whether it was May 5 or a little bit later or a little bit earlier but it was all within the range of, you know, 750 to 850. That's the number here. I'm not sure why that's the way it is.

Q. Do you know, and I'm not sure you would know, but if you do know, tell us, do you know whether it was K&E who was turning the drafts of the settlement agreement as opposed to MoFo?

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JOHN MACK

A. No, I don't recall.

Q. Do you know why Marano would feel that he would need an explanation as to what the amount was at that point in time?

MR. PRINCI: Objection as to form. Lack of foundation.

A. No.

Q. Let's go to exhibit, next exhibit which is exhibit --

A. 105?

Q. Yes.

(9019 Exhibit 105, two e-mails, Bates ALLY 0141967, marked for identification, as of this date.)

A. Uh-hum.

Q. It's an e-mail, two e-mails the top one is from Dan Soto dated May 8, 2012. The bottom one is from Jeff Brown dated May 8, 2012. And I want to focus on the penultimate paragraph of the e-mail, of the bottom e-mail from Jeff Brown. It says "Also I think, even as Mike once shared to you and Jim, originally ResCap

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JOHN MACK

presented an 8 or \$9 billion claim against Ally that is now totally gone."

Do you see that statement?

A. Yes.

Q. What knowledge, if any, do you have of an 8 to \$9 billion claim that ResCap presented to Ally?

A. I would have to speculate that in an early meeting between MoFo and K&E, that that would have been a number that we presented them.

Q. Did MoFo -- did you ever present an 8 or \$9 billion ask?

A. Did I? No.

Q. Why not?

MR. PRINCI: Objection as to form.

A. These are legal matters. I'm not going to discuss legal matters with principals.

Q. Okay. So you weren't settling legal claims?

A. No.

MR. PRINCI: Objection as to

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JOHN MACK

form. Asked and answered.

Q. Thank you. Okay. Now --

MR. MOLONEY: Why don't we take
a short break.

THE VIDEOGRAPHER: The time is
12:05 p.m. and we are off the record.

(Whereupon, there is a recess in
the proceedings.)

THE VIDEOGRAPHER: The time is
12:13 p.m., and we are back on the
record.

Q. Would you look at Exhibit 108 in
your pile, please.

(9019 Exhibit 108, e-mail, Bates
RC 901900093502 through 503, marked
for identification, as of this date.)

A. Yes.

Q. It's an e-mail from Jamie
Levitt, copying a bunch of people. And
she's talking about a second amendment to
the settlement agreement. This is a topic
we covered, I think very briefly, earlier.

A. Yes.

Q. And in paragraph 1 it says --

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JOHN MACK

MR. PRINCI: This is an e-mail
from Jamie Levitt?

MR. MOLONEY: Yes.

MR. PRINCI: Sorry. Got it.

Q. Paragraph 1 you say, "We cannot
agree to your addition of additional
debtors to the allowed claim. Our deal is
that the allowed claim is against GMACM
and ROC. We allocated the settlement
based on origination, and it can dilute
and alter recoveries, if we give the
allowed claims as you proposed."

Do you see that?

A. Yes.

Q. That's consistent with your
understanding as well, is that the deal,
the initial deal as done, was that there
was not going to be any of the R&W claims
allocated to the holding company that you
were a director of, right?

MR. PRINCI: Objection as to
form, lack of foundation.

A. Yes. The Holdco was not going
to be engaged.

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JOHN MACK

Q. And did you ever approve a change to that original deal?

A. This was the change that we approved. There was a previous amendment which, as I say, was deemed administrative, we did not approve.

Q. You say the board actually approved the change to eliminate the -- to assume the liability for Holdco?

A. Yeah. Because, again, it was a capped claim of 8.7 billion. They were released, Holdco was both released and wasn't going to be engaged in the process.

So, yeah, that was the recommendation of our advisors, both sets of legal advisors, both the MoFo team and the Morrison & Cohen team.

Q. At what point in time did this happen?

A. I believe our approval, we had a meeting, and we approved this in September.

Q. In September of, of this year?

A. 2000 -- yes.

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JOHN MACK

Now, that's why this, the date on this e-mail makes me question whether this was the final.

Q. Okay. You approved the final deal?

A. We approved the final deal. We didn't approve any interim deals.

Q. There was an interim deal that provided for a Holdco, eliminated your release and provided for a Holdco election, a potential claim of \$1.7 million?

A. I don't recall.

Q. You didn't approve that deal?

A. I don't recall.

Q. Why did you approve any change from the original deal that allowed ResCap LLC to obtain a release?

MR. PRINCI: Objection as to form.

A. Again, you are into a little bit of a legal issue, and I relied on my advisors with regard to the legal issues. The economics didn't seem to change, to

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JOHN MACK

me.

Q. Well, from the perspective --
going back to the exhibit we looked at
earlier, the May 9th exhibit. Can you
pull that up again?

A. May 9th?

Q. Yeah.

A. What exhibit?

MR. PRINCI: Which exhibit
number?

MR. MOLONEY: It's the board
meeting. It's Exhibit Number 95.

A. Okay, I have 95.

Q. Look at the executive summary,
key assumptions.

Do you see that?

A. Yes.

[REDACTED]

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JOHN MACK

[REDACTED]

Q. Did you think you had a fiduciary duty to those bondholders?

A. I think I have a fiduciary duty to all bondholders, not specifically the senior unsecured noteholders.

Q. In terms of your duty -- but that duty didn't exclude them, I assume, right?

A. Correct. It did not exclude them, it would include, them, but.

Q. But you never thought about whether this deal was fair, from their perspective?

MR. PRINCI: Objection as to form, lack of foundation.

A. I never thought about the

EXHIBIT D

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----x

In Re: Cae No:

RESIDENTIAL CAPITAL, LLC, et. al, 12-12020 (MG)

Debtors.

-----x

VIDEOTAPE DEPOSITION OF TIMOTHY DEVINE

New York, New York

November 19, 2012

10:17 a.m.

Reported by:
ERICA L. RUGGIERI, RPR
JOB NO: 27973

1 TIMOTHY DEVINE

2 today, I don't remember what that set off
3 curve ball was but I was persuaded by my
4 own counsel that it was something
5 unfavorable to us and so I said it's out,
6 no value.

7 Q. At the time you sent your e-mail
8 at 10:05 on May 9th, did you understand
9 what setoff curve ball you were referring
10 to?

11 A. As I sit here today, I don't
12 remember. I confess I may very well not
13 have understood what I was talking about.

14 Q. Is it your testimony,
15 Mr. Devine, that you were sending e-mails
16 around at this point in the negotiations,
17 May 9th, 2012, without understanding what
18 it was you were talking about?

19 MR. BRYAN: Objection to form.
20 Argumentative. Misstates his
21 testimony.

22 A. What I mean to say is that it
23 occurs to me and appears to me based on
24 the cadence of these e-mails and the
25 timing, although frankly I don't -- I

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TIMOTHY DEVINE

don't remember sitting here today what the ultimate timing of a deal was, when hands were shaken on final language. I'm kind of eager to see where that -- where that goes and where it ends. I wonder how close we were at May 9th at 10:05. But I will tell you that I was, I had a sense that a deal was doable and I didn't want anything getting in the way of the essential deal as I had understood it to take shape.

So if somebody told me at some time before 10:05 on Wednesday, May 9th somebody was throwing a curve ball setoff or otherwise into the negotiations I may well have taken the time to figure out what they were talking about in consultation with my counsel. If it was too complicated or irrelevant to what my self understood scope was, maybe I listened and maybe I got half or more of it. I did recognize it as a potential obstacle of getting a deal done and so I was not ready to allow it to become part

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TIMOTHY DEVINE

of the conversation, at least from my perspective in the deal.

Q. Mr. Devine, given what you have claimed is your limited expertise, why were you injecting yourself into the discussion on these matters? Why didn't you just let Mr. Schrock and Mr. Lee hash it out?

MR. BRYAN: Objection as to form.

A. I was driving a deal to conclusion.

Q. What deal?

A. The deal that is represented in gross by the resolution between the ResCap estate and the RMBS claimants, both the Kathy Patrick and Talcott Franklin in the one sense and also the tripartite agreement between Ally, the ResCap entities and the claimants. And I thought it was a good deal and I still to this day think it's a good deal. And I saw that to my mind anyway the essential elements of a deal had been worked out that were

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TIMOTHY DEVINE

favorable and fair to all concerned and I wanted to get the deal done as I understood we were on a certain timeline.

Q. Looking at the top e-mail in the chain from Mr. Lee to yourself, among others, at 10:54 a.m. on May 9th, did you receive that e-mail?

A. It looks like I did, yes.

Q. And Mr. Lee wrote, "We will be seeking ResCap board approval today. Does Ally's board need to approve as it is signing the PSA and ResCap is agreeing to settle a claim in excess of 25 million, which requires Ally approval under Ally's governance framework. Please let us know."

Did AFI's board need to approve?

A. I don't know.

Q. Did Mr. Lee, to your knowledge, receive a response to his inquiry?

A. I don't know.

Q. Does Mr. Lee's reference to the ResCap board -- his reference to seeking ResCap board approval today, meaning

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TIMOTHY DEVINE

May 9th, refresh your recollection of the timeline in relation to the e-mails that appear below that e-mail?

A. Yes, it does.

Q. In what way?

A. Well, it looks like that ResCap or at least Gary Lee at that point intended to bring the ResCap board, if I understand correctly what he was referring to, the RMBS -- proposed RMBS settlement agreement and the PSA, on that day.

MR. KAUFMAN: Let's mark as the next exhibit, which is 150 an e-mail chain on May 9th and May 10th, 2012, between Mr. Devine and Ms. Patrick.

(9019 Exhibit 150, e-mail chain dated May 9th and May 10th, 2012, marked for identification, as of this date.)

A. Thank you.

Q. Directing your attention to the e-mail at the bottom of the first page of this exhibit, and continuing over to the second page, which is an e-mail from

1 TIMOTHY DEVINE

2 THE VIDEOGRAPHER: The time is
3 4:57 p.m. and we are off the record.

4 (Whereupon, there is a recess in
5 the proceedings.)

6 THE VIDEOGRAPHER: The time is
7 5:06 p.m. and we are back on the
8 record.

9 Q. Before we --

10 MR. PRINCI: Before you continue
11 with your questions, Mr. Kaufman, I
12 just want to note for the record that
13 when you went off the record, you
14 berated me and you said I was a jerk.
15 I believe that your conduct is
16 contrary to the rules of our
17 profession and the rules of court and
18 I would ask you not to address me like
19 that again, please, sir.

20 Q. Okay. Before we broke,
21 Mr. Devine, we were focusing on your
22 e-mail at 1:55 a.m. on Thursday, May 10th.
23 Let me ask it to you this way in that
24 e-mail you said "The KP settlement is for
25 everything" -- and you underlined and

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TIMOTHY DEVINE

italicized the word "everything" --
"except securities claims," do you see
that?

A. Yes, I do.

Q. So you were making clear in that
statement that the KP settlement and by
that I mean the RMBS Trust Settlement did
not include securities claims, right?

A. What I was saying was, it's my
understanding of from my perspective what
the proposed settlement in negotiation
represented was a release, the scope of
which was for everything except securities
claims. I wasn't trying to say what the
actual settlement was or wasn't, I was
stating what my understanding of the
settlement as it evolved as a proposed
negotiated settlement.

Q. By everything what did you
intend to encompass? What did you
understand was being released as part of
that settlement?

A. Any claim other than securities
claims that any signatory, any releasing

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TIMOTHY DEVINE

party to the agreement has or may have at any time up to and including the date of the release.

Q. Did you intend to include within the word "everything" claims that might be asserted by any of the monolines?

A. My understanding at the time was that the monolines would participate and were contemplated to participate in the settlement.

Q. But by May 10th the settlement was already signed up, wasn't it?

MR. PRINCI: Objection as to form.

A. I don't know.

Q. Okay. Let's put it this way. You knew it had been approved by the ResCap board, didn't you?

A. No.

Q. You didn't?

A. No.

Q. So when you said everything in this e-mail, did you intend or not intend to include a release by the monolines of

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TIMOTHY DEVINE

their claims?

MR. BRYAN: Object to form. I
knew -- I certainly knew that the
monolines were not a signatory party
to the settlement. But it was my
understanding that the claims that
they would or could enunciate in
connection with the securities subject
of the settlement would be included
within the scope of the allowed claim.

Q. You said, "And we can define
securities claims narrowly." What do you
mean by that?

A. What I meant by securities
claims was claims brought by securities
holders on traditional federal securities
law or state blue sky or the closely
Allied state common law fraud claims that
would be characterized typically as a
securities based claim.

Q. A bit further down in your
e-mail you said "The circle is squared at
the plan. KP can only get us the
everything but securities settlement

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TIMOTHY DEVINE

release because that is the full extent of her representation. She has been clear about that. Same as in her "BofA -- "B of New York Mellon work, etc."

Do you see that?

A. Yes, I do see that.

Q. And then you said "But notice, though her clients don't release securities claims, they sign plan support agreements and the plan includes very simple comprehensive releases, which of course include third-party release of all claims which of course includes securities claims. Presto. So while she can't represent parties in giving up their securities claims, clients face a choice, either sign up with the settlement to make sure your trust receives monies under the waterfall in which case you need to sign the plan support agreement and support the plan. And the plan wipes out all their claims of any sort. This is the beauty of it."

Do you see that?

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TIMOTHY DEVINE

going on at that time and I have no idea whether there were any intervening e-mails between me and Jamie that were responsive to this one before I received this.

Q. Whatever, Mr. Devine, did you receive the e-mail that Ms. Levitt sent at 1:16 a.m. on May 11th?

A. Looks like I did.

MR. KAUFMAN: Let's mark as Exhibit 154 another e-mail chain, this one on May 12, 2012.

(9019 Exhibit 154, e-mail chain dated May 12, 2012, marked for identification, as of this date.)

Q. Looking at the first e-mail in the chain, which begins at the bottom of the exhibit and continues over to the next page. Did you send that e-mail to Ms. Levitt, Mr. Lee, Mr. Ornstein and Mr. Ruckdaschel at 4:22 p.m. on May 12th?

A. It looks like I did.

Q. The subject of your e-mail was the question, "Has Talcott Franklin signed on without reservation to support the

1 TIMOTHY DEVINE

2 plan, including broad third-party release
3 of all claims against Ally, etc.,
4 including securities claims." Right?

5 A. That's what the subject line is.

6 Q. And did you receive Mr. Lee's
7 e-mail at 4:26 p.m. in response to that
8 e-mail?

9 A. I see that Gary Lee sent an
10 e-mail to pretty much the same group of
11 people at 4:26.

12 Q. And you received that e-mail
13 from Mr. Lee, didn't you?

14 A. That's what it looks like.

15 Q. Okay. And Mr. Lee said, "It's
16 complicated." And that, "We sent Talcott
17 the agreement the way we wanted it and
18 told him he couldn't really negotiate it.
19 But if KP doesn't sign, I don't know if he
20 will."

21 Do you see that?

22 A. I see that that's part of what
23 his e-mail says.

24 Q. Right. And the e-mail at the
25 top is your reply to Mr. Lee, correct?

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TIMOTHY DEVINE

A. Well, I sent an e-mail to Gary Lee, Jamie Levitt, Noah Ornstein and John Ruckdaschel, cc'd Cieri and Schrock at 4:29.

Q. Right. And you sent that e-mail in response to Mr. Lee's e-mail at 4:26 on May 12th, didn't you?

A. Yeah, I'm not sure if it's in response but I did send him an e-mail a couple minutes later.

Q. And you wrote, "Got it. Had call with KP. We told her PSA support whole hog is drop dead." That's what you wrote, right?

A. That's what I wrote.

Q. And is that what you told Ms. Patrick?

A. I don't remember if I told her whole hog but if I read this sitting here now, it looks like I was communicating to that group that I told her that she had to support the PSAs in full. And that that was a provision that Ally would insist on to the extent Ally could insist on

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TIMOTHY DEVINE

anything.

Q. And by using the phrase "drop dead" you meant it was nonnegotiable from Ally's perspective, right?

A. I meant that if she wanted our participation in the PSA she needed to support it.

MR. KAUFMAN: Let's mark as the next exhibit an e-mail chain on May 13, 2012 between Mr. Devine and Talcott Franklin.

(9019 Exhibit 155, e-mail chain dated May 13, 2012 between Mr. Devine and Talcott Franklin, marked for identification, as of this date.)

A. Okay.

Q. Looking at the first e-mail in this chain which starts at the bottom of the first page, did you send that e-mail to Mr. Franklin at 12:16 p.m. on May 13th -- I'm sorry -- at 1:28 p.m. on May 12th?

A. It looks like I did. Again, I'm not sure of the timing but it looks like I

1 TIMOTHY DEVINE

2 did.

3 Q. And Mr. Franklin responded for
4 you to call him, correct?

5 A. Yes. That looks right.

6 Q. And then you wrote back to
7 Mr. Franklin saying "I can try to call you
8 but on phone now with CEO and making range
9 of final decisions before 1:00 p.m. board
10 meeting. I can't expose Ally to any
11 claims however remote."

12 That's what you wrote, correct?

13 A. That's what that e-mail says.

14 Q. And were you referring to Mike
15 Carpenter when you referred to being on
16 the phone with the CEO?

17 A. I probably was, yeah.

18 Q. And were you referring to an AFI
19 board meeting in that e-mail?

20 A. I don't recall but that would --
21 that would make sense.

22 Q. When you said that you couldn't
23 expose Ally to any claims however remote,
24 what did you mean?

25 A. I just wanted to note on the

1 TIMOTHY DEVINE

2 timing here, I think my testimony was
3 probably incorrect earlier if I testified
4 that my e-mail to Talcott was at 1:28 p.m.
5 That might be an indication of his time
6 zone and not mine. Because if you see the
7 e-mail up the chain was sent Sunday at
8 12:35 p.m. I'm just not sure of the
9 timing. But inside that note, inside my
10 note to Talcott it says I can try to call
11 you but I'm on the phone right now with
12 CEO making range of final decisions before
13 1:00 p.m. board meeting. So I'm assuming
14 that the 12:35 was my time zone and that
15 the 1:00 p.m. was my time zone.

16 Q. In any event, Mr. Devine, when
17 you said you couldn't expose Ally to any
18 claims however remote, what did you mean?

19 A. So basically as I recall, and
20 there were a lot of moving parts at this
21 time, there were a lot of settlements
22 going on, there were a lot of
23 conversations but if I recall correctly,
24 the question was whether or not Talcott
25 Franklin could logistically accomplish

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TIMOTHY DEVINE

copy of Exhibit 58, a document that had been previously marked. And right now on the screen is Article 7 releases. Do you see that on the screen?

A. I see Article 7 releases on the screen. It's not the complete section 7.01 but there's a certain amount of 7.01 up there.

Q. Well, as you read can we scroll up and when you're done reading --

A. What's the question, please, so I'll know what to read?

Q. What is your understanding, the scope of the release as it relates to the monolines claims?

MR. BRYAN: Objection to form.

MR. PRINCI: Objection as to form.

A. If you are asking me what is my impression and understanding of what the language in this contract means, I'm struggling to find a way to answer that without violating the province of my client's attorney-client privilege.

1 TIMOTHY DEVINE

2 Q. So are you saying to me, sir,
3 that you told Ally what your understanding
4 of Article 7 is in the document that was
5 or the agreement entered between the
6 debtors and Ms. Patrick, is that the
7 nature or the basis, rather, for your
8 assertion of the privilege?

9 A. That's part of it.

10 Q. Okay. I don't want to know what
11 you told Ally. I want to understand your
12 understanding of this provision.

13 MR. BRYAN: Objection to form.

14 A. And so I'm trying to work with
15 you because I know you are not asking me
16 to violate the attorney-client privilege.

17 Q. I would not ask you to do that,
18 sir.

19 A. And so -- so that I understand
20 your question better in good faith, you
21 are asking me to comment on either a
22 present draft or a historical draft of an
23 agreement that has not been approved yet
24 and the nature of the scope of one of the
25 negotiated terms in -- in my capacity as

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TIMOTHY DEVINE

an attorney for Ally Financial?

Q. Yes.

A. And that's going to -- that's going to reveal attorney-client privilege communications.

Q. We reserve the rights --

MR. JURGENS: Are you instructing the witness not to answer the question?

MR. BRYAN: The witness answered your question.

MR. JURGENS: Are you instructing the witness not to answer?

MR. BRYAN: I instructed the witness not to answer to the extent it would reveal attorney-client communications.

Q. And, Mr. Devine, you are following that instruction?

A. Yes.

Q. Have you discussed the scope of the release as it relates to the monolines claims with anyone other than your client and your outside counsel?

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TIMOTHY DEVINE

A. Yes.

Q. With whom have you discussed the scope of the release with?

A. I believe I have discussed those terms with the parties to the agreement.

Q. And what were your discussions with respect to the scope of the releases as it relates to the monolines claims with those parties?

A. I can't speak about that with regard to the settlement that's currently subject to the hearing that's coming up. But as I recall in the negotiation I indicated to the parties that it would be my understanding that the monolines would participate in the allowed claim that is the subject of one term of that agreement.

Q. And when you say participate in the allowed claim, what do you mean by that?

A. That they would have cognizable claims within the disbursement of whatever funds were allocated to that allowed claim for distribution.

1 TIMOTHY DEVINE

2 Q. Was it your understanding
3 that -- let me withdraw that.

4 What was your understanding of
5 what would happen if the trusts in the
6 deals wrapped by the monolines didn't opt
7 into the settlement?

8 A. Are you asking me what sort of
9 scenario might ensue if after the parties
10 to the agreements agreed to them and they
11 were presented, at least those requiring
12 court an approval were presented to the
13 court for approval and were not approved?

14 Q. No.

15 A. Okay, sorry.

16 Q. Let's just cut to the chase.
17 There's two possibilities with respect to
18 the trusts in the deals that were wrapped,
19 right, either -- either those trusts will
20 opt in to the proposed settlement or the
21 trusts will opt out, right? Are there any
22 other options that I'm missing?

23 A. I suppose there's any other
24 number of negotiated options between
25 those.

1 TIMOTHY DEVINE

2 Q. But under the terms of
3 settlement agreement the trusts are
4 presented with the option to opt in or opt
5 out, right?

6 A. Well, I can't profess to have an
7 encyclopedic memory of what terms, what
8 the terms in the agreement indicate with
9 regard to the options that the trusts
10 faced. I just don't.

11 Q. Let's go back to your
12 understanding of the monolines for a
13 second. As you sit here today, are you
14 aware of anything in the agreement that
15 would carve the monolines claims out of
16 the scope of the settlement agreement that
17 was reached between the debtors and
18 Ms. Patrick?

19 A. I'm not aware of anything that
20 would carve the monolines claims out of
21 the \$8.7 billion allowed claim.

22 MR. JURGENS: Let's scroll to --
23 we have a hard copy now. That's
24 wonderful. So we don't have to
25 scroll.

EXHIBIT E

Outlook E-mail

Pg 2 of 2

From: Devine, Timothy
Sent: 5/9/2012 9:03:30 AM
To: Lee, Gary S.
Cc: Cieri, Richard M.; Schrock, Ray C.
Subject: KP

Gary: as I told you on the phone, Ally will support the \$8.7 billion allowed claim. There is no new Ally money. Hard stop at 750 + 200 + 100. Thanks. Tim

Timothy A. Devine
Chief Counsel - Litigation
Ally Financial Inc. Legal Staff
200 Renaissance Center
M/C: 482-B09-B11
Detroit, MI 48265
(313) 656-3477

EXHIBIT F

Outlook E-mail

Pg 2 of 3

From: Devine, Timothy
Sent: 5/12/2012 4:29:50 PM
To: Lee, Gary S.; Levitt, Jamie A.; Ornstein, Noah; Ruckdaschel, John
Cc: Cieri, Richard M.; Schrock, Ray C.
Subject: RE: Has Talcott Franklin signed on without reservation to support the Plan, including broad third party release of all claims against Ally etc including security claims?

Got it.

Had call with KP.

We told her PSA support – whole hog – is drop dead.

Her aversion to lock up is, she said, drop dead for her clients.

What are our best fall-backs on the lockup?

Thanks.

Tim

Timothy A. Devine
Chief Counsel - Litigation
Ally Financial Inc. Legal Staff
200 Renaissance Center
M/C: 482-B09-B11
Detroit, MI 48265
(313) 656-3477

From: Lee, Gary S. [mailto:GLee@mofo.com]
Sent: Saturday, May 12, 2012 4:26 PM
To: Devine, Timothy; Levitt, Jamie A.; Ornstein, Noah; Ruckdaschel, John
Subject: RE: Has Talcott Franklin signed on without reservation to support the Plan, including broad third party release of all claims against Ally etc including security claims?

Its complicated - they are trying to preserve lots of other claims, their clients dont seem to have brought equity claims. I dont even know whether their clients are 40 act advisors (anyone?). we sent Talcott the agreement the way we wanted it and told him he couldn't really negotiate it - but if KP doesnt sign I dont know if he will.

Gary S. Lee
Morrison & Foerster LLP
1290 Avenue of the Americas
New York, NY 10104-0050
T. 212.468.8042
F. 212.468.7900
glee@mofo.com

From: Devine, Timothy [mailto:Timothy.Devine@ally.com]
Sent: Saturday, May 12, 2012 4:22 PM
To: Levitt, Jamie A.; Lee, Gary S.; Ornstein, Noah; Ruckdaschel, John
Subject: Has Talcott Franklin signed on without reservation to support the Plan, including broad third party release of all claims against Ally etc including security claims?

RC-9019_00050455
RC-9019_00050455

Thanks.

Tim

Timothy A. Devine
Chief Counsel - Litigation
Ally Financial Inc. Legal Staff
200 Renaissance Center
M/C: 482-B09-B11
Detroit, MI 48265
(313) 656-3477

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For information about this legend, go to
<http://www.mofo.com/Circular230/>

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EXHIBIT G



Kathy D. Patrick
kpatrick@gibbsbruns.com
713.751.5253

October 17, 2011

Via Federal Express

William B. Solomon, Jr., Esq.
General Counsel
Ally Financial Inc.
200 Renaissance Center
Detroit, Michigan 48265

Dear Mr. Solomon:

This firm represents investment advisers and holders of Residential Mortgage Backed Securities (RMBS) issued and/ or underwritten by Ally Financial Inc. and/or its affiliates ("Ally"). The aggregate outstanding balance of the 242 Ally deals in which our clients collectively hold 25% or more of the voting rights of a class in that deal, exceeds \$51 billion. The aggregate outstanding balance of the 173 Ally deals in which our clients collectively hold 50% or more of the voting rights of a class in that deal, exceeds \$36 billion.

There is widespread, readily available evidence suggesting that large numbers of mortgages securing the certificates held by our clients were sold or deposited into the RMBS pools based on false and/or fraudulent representations and warranties by the mortgage originators, sellers and/or depositors. This evidence includes, but is certainly not limited to:

- excessive early default and foreclosure rates experienced in the underlying mortgage pools;
- a loan-level analysis of Ally RMBS conducted by the Federal Housing Finance Agency (FHFA), which revealed that up to 13% of the mortgage loans in Ally RMBS breached owner-occupancy representations and warranties, and that up to 49% of the mortgage loans in Ally RMBS breached Loan-to-Value representations and warranties¹;

¹ Our clients collectively hold 25% or more of the voting rights of a class in 18 of the 21 Ally deals which FHFA analyzed.

- MBIA's lawsuits against Ally, reporting that its loan-level analysis of various Ally RMBS showed that high numbers of mortgages in the pools were ineligible at origination²;
- detailed allegations in securities cases against Ally, which suggest widespread deficiencies in Ally's underwriting practices, including inaccurate representations and warranties regarding important loan characteristics such as borrower incomes and home appraisals³;
- substantial downgrades of the certificates by credit rating agencies; and
- Ally's own apparent acknowledgement that it is potentially liable for violations of representations and warranties in Ally RMBS, evidenced by its \$829 million reserve for repurchase liabilities as of June 30, 2011, which relates "primarily" to non-GSE exposure,⁴ as well as its statement that such liabilities are "most significant for loans originated and sold between 2004 through 2008, specifically the 2006 and 2007 vintages *that were originated and sold prior to enhanced underwriting standards and risk-mitigation actions implemented in 2008 and forward.*"⁵

In addition, there is widespread, readily available evidence suggesting that Ally, as servicer and/or master servicer of mortgage loans securing the certificates held by our clients, has failed to observe and perform the covenants and agreements imposed on it by the governing agreements, and has failed to meet its duty to prudently service those mortgage loans, including, but certainly not limited to:

- Ally's admittedly flawed and "embarrassing"⁶ mortgage loan servicing and foreclosure practices, including deficient document signing practices, leading to Ally's foreclosure suspension and review in Fall 2010;
- Ally's April 2011 consent order with the Board of Governors of the Federal Reserve System and the FDIC, which alleged that, in connection with certain

² MBIA has reported that 89% of adversely selected loans from 3 separate GMAC securitizations were not originated in material compliance with GMAC's underwriting guidelines or representations and warranties. *See* Complaint ¶ 6, *MBIA Ins. Co. v. GMAC Mortg., LLC*, No. 600837/2010 (N.Y. Sup. Ct.). MBIA has also reported that 93% of adversely selected loans from 5 separate RFC securitizations were not originated or acquired in material compliance with RFC's representations and warranties. *See* Complaint ¶ 46, *MBIA Ins. Co. v. Residential Funding Co., LLC*, No. 603552/2008 (N.Y. Sup. Ct.).

³ *See, e.g.,* Complaint, *Mass. Mut. Life Ins. Co. v. Residential Funding Co., LLC*, No. 3:11-cv-30035 (D. Mass.).

⁴ *See* Ally Financial Inc.'s Second Quarter 2011 Form 10-Q at 83.

⁵ *See id.* at 81 (emphasis added).

⁶ *See* Dakin Campbell and Natalie Doss, *Ally Will Keep ResCap, 'Screwed Up' Using Robosigners*, BLOOMBERG NEWS, Nov. 3, 2010.

foreclosures of loans in Ally's servicing portfolio, Ally engaged in "unsafe or unsound banking practices" because, among other reasons, Ally filed or caused to be filed in courts inaccurate affidavits, filed or caused to be filed in courts or in land record offices improperly notarized mortgage-related documents, litigated or initiated foreclosure proceedings without ensuring proper assignment and possession of promissory notes or mortgage documents, failed to devote adequate resources to foreclosure processes, failed to ensure timely, effective, and efficient communication with borrowers with respect to loss mitigation and foreclosure activities, failed to subject its foreclosure processes to adequate oversight, internal controls, policies, and procedures, and failed to sufficiently oversee third parties handling foreclosure-related services;

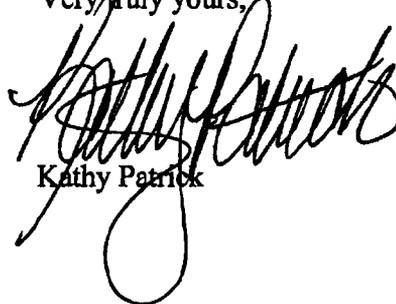
- ongoing investigations by state attorneys general and other government agencies into Ally's mortgage loan servicing and foreclosure-related practices;
- evidence of wholly avoidable and unnecessary servicing fees to maintain mortgaged property, which have resulted from Ally's flawed mortgage loan servicing and foreclosure practices; and
- Ally's apparent failure to notify other parties to the governing agreements of mortgage loans in the pools that violated representations and warranties at the time they were sold into the pools, and its apparent failure to enforce the sellers' obligations to cure, substitute, or repurchase such loans, as Ally is required to do under the governing agreements.

Based on this and other evidence, our clients believe that large numbers of ineligible loans were sold or deposited into, and remain in, the RMBS pools securing the certificates. Under the governing agreements, Ally has substantial repurchase liability for such loans. Our clients further believe that Ally's failure to observe and perform the covenants and agreements imposed on it by the governing agreements, and to meet its duty to prudently service those mortgages, may constitute a servicer event of default under the governing agreements.

Our clients are not willing to suffer further losses resulting from ineligible loans in the pools and improper servicing of the loans in the pools, and they wish to seek a resolution of repurchase and servicing claims with Ally. As such, our clients hope and anticipate that Ally will begin a constructive dialogue with them regarding the concerns raised by this letter. If, however, Ally proves to be an obstacle to their efforts to mitigate such losses, our clients fully intend to exercise their rights under the governing agreements—including the issuance of binding instructions to Trustees—to pursue enforcement of repurchase and servicing claims against Ally.

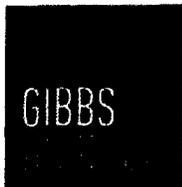
Should Ally wish to begin a constructive dialogue regarding these issues, please make appropriately senior legal and business personnel available to meet with me and various of our clients on Thursday, October 27, 2011. To arrange the details of this meeting, please contact me as soon as possible.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kathy Patrick", written in a cursive style.

Kathy Patrick

EXHIBIT H



Kathy D. Patrick
kpatrick@gibbsbruns.com
713.751.5253

October 25, 2011

Via Federal Express

William B. Solomon, Jr., Esq.
General Counsel
Ally Financial Inc.
200 Renaissance Center
Detroit, Michigan 48265

Dear Mr. Solomon:

I am in receipt of your October 21st, 2011 letter. As you know, Ally Financial Inc. ("Ally") is the parent and 100% owner of GMAC Mortgage Group, Inc. ("GMACM"). Residential Capital, LLC ("ResCap"), in turn, is a wholly-owned subsidiary of GMACM. ResCap is the direct or indirect parent of the parties to the pooling and servicing agreements at issue, including GMAC Mortgage and Residential Funding, to which you referred in your letter.

In response to your suggestion, I will forward my October 17th, 2011 letter to Ms. Hamzehpour, who appears to be the General Counsel of Ally's Mortgage Operations, as well as the General Counsel of ResCap.

Our clients do not, however, accept your assertion that Ally Financial Inc. does not ultimately bear the liability associated with the repurchase and servicing claims described in my October 17th letter. Ally does.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kathy Patrick", written over a printed name.

Kathy Patrick

EXHIBIT I

TALCOTT FRANKLIN P.C.
208 NORTH MARKET STREET
SUITE 200
DALLAS, TEXAS 75202
214.736.8730
WWW.TALCOTTFRANKLIN.COM

SENDER'S DIRECT DIAL:
214.321.3838

November 18, 2011

Tammy Hamzehpour, Esq.
General Counsel
Residential Capital, LLC
8400 Normandale Lakes Boulevard, Ste. 250
Minneapolis, MN 55437
Via Email to: Tammy.Hamzehpour@Ally.Com

Re: RALI 2005-QA13 & RALI 2006-QO3 (the "Trusts")

Dear Ms. Hamzehpour:

This firm represents a number of clients who hold ownership interests in the Trusts, which are backed by loans sold or serviced by Residential Funding Company, LLC and/or its affiliates ("RFC") and for which Deutsche Bank acts as Trustee. Together, these clients hold Certificates evidencing 25% or more of the Voting Rights in the Trusts, which you may confirm by contacting the Trustee's outside counsel copied on this letter, who has been receiving our communications on behalf of the Trustee. Capitalized terms not otherwise defined shall have the meanings ascribed them in the Trusts' pooling and servicing agreements.

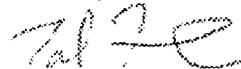
Our clients have serious concerns regarding the manner in which these Trusts have been serviced, including the negative impact certain RFC servicing practices may have had on the borrowers whose loans back our investments. Our clients also are concerned that RFC failed to use its best reasonable efforts to enforce the obligations of each Subservicer and Seller of loans.

As our clients and RFC have a mutual interest in finding a solution to these concerns, I would like to engage in a dialogue to be part of that solution. As a precursor to this dialogue, I ask that you enter a tolling agreement with the Trustee to allow the parties to work together in good faith. I have attached a copy of the tolling agreement, which has been reviewed by outside counsel for the Trustee.

We would certainly prefer tolling any claims and negotiating a solution to filing immediate litigation to preserve our rights. If you would like to open a dialogue, please contact me within three business days of your receipt of this letter.

I look forward to hearing from you.

Sincerely,



Talcott J. Franklin

TALCOTT FRANKLIN P.C.

November 17, 2011

Page 2

CC: Hu A. Benton, Chief Counsel
Via Email to: Hu.Benton@Ally.Com

John Rosenthal, Morgan Lewis & Bachius
Via Email to: jrosenthal@morganlewis.com

EXHIBIT J
(REDACTED)

UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF NEW YORK

-----x

In Re:

Case No:

RESIDENTIAL CAPITAL, LLC, et. al,

12-12020 (MG)

Debtors.

-----x

VIDEOTAPE DEPOSITION OF JEFFREY CANCELLIERI

New York, New York

November 14, 2012

2:03 p.m.

Reported by:
ERICA L. RUGGIERI, RPR
JOB NO: 27647-B

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JEFF CANCELLIERI

Q. Okay. Who do you believe engaged in that process?

A. I don't know who performed those functions.

Q. How often did they audit second mortgage loans?

A. I don't know. I believe it was monthly, but I don't know for sure. You'd have to talk to the folks in the quality assurance area.

Q. Do you know how many loans they audited on a monthly basis?

A. I do not.

Q. Did you ever heard of the term "target audits" within RFC?

A. I have not.

Q. Do you know whether target audits were done for second mortgage loans?

A. I do not.

Q. Were you aware, Mr. Cancelliere, that filter rules with respect to the stated income requirements for loans were, fluctuated within ResCap when they were

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JEFF CANCELLIERI

looking at loans?

MR. RAINS: Objection, assumes
facts not in evidence.

A. I was not.

Q. Now, Mr. Cancelliere, when you
were calculating reserves with respect to
potential ResCap exposure for inclusion in
public disclosures, did you ever set a
reserve for RMBS liability in excess of a
billion dollars?

MR. RAINS: Objection, assumes
facts not in evidence. Calls for
speculation.

MR. NATBONY: It has no fact --
well, you stated your objection.

Q. Go ahead.

A. Can you repeat the question.

Q. Sure. When you were calculating
reserves with respect to potential ResCap
exposure, you did you ever set a reserve
for RMBS liability in excess of a billion
dollars?

MR. RAINS: Same objections.

A. No.

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JEFF CANCELLIERI

Q. When you were calculating reserves with respect to potential ResCap exposure, did you ever set a reserve for RMBS liability in the range of \$8 billion?

MR. RAINS: Objection, assumes facts not in evidence.

A. No.

Q. In fact, Mr. Cancelliere, your reserve numbers were in the seven and \$800 million range, weren't they?

MR. RAINS: By "you," you mean ResCap, or do you mean him personally?

Q. Well, Mr. Cancelliere --

MR. NATBONY: I'll withdraw the question.

Q. Mr. Cancelliere, it was your group that was recommending reserves, correct?

A. Yes.

Q. So my question is, your group, in fact, recommended, in the third quarter of -- fourth quarter of 2011, let's say, reserves for RMBS liability of under a billion dollars; isn't that correct?

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JEFF CANCELLIERI

A. Yes.

Q. Let me just show you something
that I'm going to mark as Exhibit 111.

(9019 Exhibit 111, 4/19/12
reminder document about Kathy Patrick
prep meeting, with attachments, Bates
RC 9019 00047801-982, marked for
identification, as of this date.)

Q. I know you testified earlier --

MR. RAINS: Give the witness a
second to look at this document.

Thanks.

This is 111?

MR. NATBONY: Yes.

MR. RAINS: Thank you.

Q. I know you testified earlier,
Mr. Cancelliere, that you did not attend
any meeting with Kathy Patrick. I'm just
showing you this document.

Does this appear to be an
indication of a reminder for prep for a
Kathy Patrick meeting, that was sent to
you on or about April 18th of 2012?

A. Yes. This is a meeting request

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JEFF CANCELLIERI

for a prep for a discussion with Kathy
Patrick.

Q. Do you recall participating in
some sort of preparation for a Kathy
Patrick meeting in April of 2012?

A. Yes.

Q. What do you recall about that
meeting?

A. I believe it was high level
discussion on the deal information we may
have received from her and the topics that
they were going to discuss while meeting
with her.

Q. Other than your characterization
of high level discussions, do you recall
anything specific that was discussed at
this preparatory meeting for Kathy
Patrick's meeting?

A. I do not know.

Q. And looking at what's been
marked as Exhibit 111, does that refresh
your memory as to whether you, in fact,
attended a subsequent meeting with Kathy
Patrick?

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JEFF CANCELLIERI

A. No. I attended the prep meeting. I don't recall actually attending the meeting with Kathy Patrick.

Q. Do you recall being given any assignments at this preparatory meeting?

A. Only to provide similar information that I had provided to Tim Devine in the past, related to the deal level that Kathy Patrick was believed to represent and general ranges of exposure for counsel's use in discussions with Kathy Patrick.

Q. Now, you testified earlier that you provided to someone a range of lifetime losses and defect rate.

Do you recall that?

A. I did not provide a range of lifetime losses, I provided a single expected or estimated lifetime loss. I provided a range of potential exposure, related to the estimated lifetime loss.

Q. My apologies. You are correct, and I stand corrected.

Who did you provide that

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JEFF CANCELLIERI

Q. I'm sorry. I read back, looked at your answer and I'm not sure I understand it so maybe I can ask it a different way. What, if any, action did you take when learning of the \$10 billion and 22 percent numbers?

A. Ultimately I ended up having a conversation with Kathy Patrick discussing the assumptions that they use in order to calculate their allowed claim number for comparison to our assumptions, specifically their estimated lifetime loss levels, default rates, severity rates.

Q. Now, as to the \$10 billion number, were you aware of any concern that was expressed internally at ResCap that such a number might be seen as raising securities disclosure risks in view of the past 10-Q statements?

A. I am not aware.

Q. You're not aware of that today?

A. I don't recall that, no.

Q. You weren't aware of it back then?

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JEFF CANCELLIERI

A. No. I don't recall.

Q. You don't -- you don't recall Mr. Devine raising that issue?

A. I don't.

Q. Did you have a concern back in April or May of 2012 that agreeing to a \$10 billion number might be seen as raising securities disclosure risks in view of the past 10-Q statements?

A. No. My only concern was the default and loss assumptions that were being calculated by the counterparty in assessing their -- their allowed claim amount.

Q. You thought the 22 percent defect rate was too high, didn't you?

MR. RAINS: Objection.

Misstates the witness's testimony.

A. It's not my place in settlement negotiations to have an opinion on what numbers. The right number I leave that up to the lawyers to work through the potential risks of any of the settlement negotiations and inputs into their

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JEFF CANCELLIERI

discussions.

Q. I appreciate that. But you previously testified you had discussions with Kathy Patrick about her assumptions, correct?

A. That's correct.

Q. Did you challenge the 22 percent defect rate that Kathy Patrick was using in that discussion?

A. I challenged all of her assumptions.

Q. What assumptions did you challenge?

A. I challenged their use of role rates for projected defaults, which were based on history. I challenged their use of an average severity rate, historical severity rate for future losses. And as part of the discussion around how they were using the Bank of America defect rate I guess as some level of guide, I didn't get into specifics, but the fact that it was based on an adverse selection of loans.

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JEFF CANCELLIERI

Q. How was it based on an adverse selection of loans?

MR. RAINS: Objection. Vague and ambiguous.

A. Based on my discussion with her she mentioned that the 36 percent that was used in the Bank of America settlement was provided to her based on a review that Freddie Mac did of Countrywide's loans based on adverse selection. Adverse selection being loans that were nonperforming.

Q. And in fact the defect rates that ResCap was using was based on a selection of loans that is only loans that were sought to be repurchased, correct?

A. The defect rates were used as a guide. Specific defect rates were not used for any specific deals. They were used as a guide to create the range which was provided to our legal experts during our settlement negotiations.

Q. I understand that it was used at a guide. But you were complaining to

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JEFF CANCELLIERI

Ms. Patrick that Bank of America's defect rate was based on an adverse sample, correct?

A. I wouldn't categorize it as complaining. I was challenging.

Q. Challenging that their defect rate was based on an adverse sample, correct?

A. Challenging that it was based on an adverse sample in order to assist our legal experts to give them additional guidelines on information that they can use during their settlement negotiations.

Q. And in fact the defect rates that ResCap was using as a guide in the settlement discussions were based on only loans that were either sought to be repurchased or independently audited within ResCap, correct?

A. Can you repeat the question?

Q. And in fact the defect rates that ResCap was using as a guide in the settlement discussions were based on only loans that were either sought to be

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JEFF CANCELLIERI

repurchased or independently audited
within ResCap, correct?

MR. RAINS: Objection. Asked
and answered.

A. The defect rate ranges were used
as a guide to create ranges of exposure in
order for our legal experts to have tools
during our settlement negotiations.

Q. And those guides were based on
only loans that were either sought to be
repurchased or independently audited
within ResCap, right?

MR. RAINS: Objection. Asked
and answered.

MR. MOLONEY: No he didn't
answer the question.

MR. RAINS: He answered it 20
times today already.

A. The defect rates used were
guides.

MR. RAINS: He's asking you
where you got the defect rates.

A. The defect rates came from the
quality assurance group where they would

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JEFF CANCELLIERI

Q. Now this chart in Exhibit 60 is numbered along the left side lines 1 through 15, correct?

A. Correct. Looks like there's a number missing, but yes, you're correct.

Q. That's my next question. It goes from lines 1 through 6 but then line 6 skips to line 13; is that right?

A. That is right.

Q. So it looks like there is six lines missing from this chart, since there are no lines 7, 8, 9, 10, 11 or 12; is that right?

A. That appears to be the case.

Q. Why is that?

A. Most likely when this was created, it was using a format of a different file, and I deleted the rows from the other file format and never updated the actual numbering on the left side of this file.

Q. Do you recall what was contained in those six lines that you deleted?

A. I don't. I don't think it had

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JEFF CANCELLIERI

anything to do with this particular analysis. It was just the shell of the box that you see the information contained in.

Q. So you made the decision not to -- excuse me, you made the decision to delete whatever those six lines were, in connection with your preparation of this chart?

A. From whatever format those lines were for, yes; and never refreshed, apparently never refreshed the actual numbering.

Q. Now, turning back to what is included on this chart and what was presented to the board, I would like to call your attention to line 13 of this chart. This indicates that the ResCap settlement was for \$8.7 billion, correct?

A. Correct.

Q. With a 19.7 -- 19.72 percent defect, correct?

A. Correct.

Q. And in the context of this

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JEFF CANCELLIERI

chart, would you please explain what "defect" means?

A. In this instance, defect would be -- the 19.72 percent was a backed-into number, based on our estimated lifetime losses, to get to the \$8.7 billion. A defect would be a potential breach of a representation and warranty.

Q. Now, was there any discussion at the board meeting about the 19.72 percent defect?

A. I don't recall specifics of what was discussed. There was a lot going on at that point. I'm not sure exactly how much detail we went into regarding that number.

Q. Do you recall any detail about that number being presented to the board?

A. I recall the number being presented, but I don't recall any specific discussions surrounding that number.

Q. Do you recall any questions asked surrounding that number?

A. I don't.

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JEFF CANCELLIERI

Q. Now, just under the 19.72 defect, the very next line, line 14 states, "A Lehman claim amount with a 35 percent defect rate," right?

A. Correct.

Q. And then the next line after that, line 15, states, "BofA baseline, 36 percent defect," correct?

A. Correct.

Q. Now, starting with that line 15, "BofA baseline, 36 percent defect," was there any discussion at the board meeting about the 36 percent defect?

A. From what I can recall the meeting, it was put in there and described as a comparative point to the ResCap settlement.

Q. How was it described as a comparative point?

A. Using the 30 percent defect from the BofA baseline settlement, compared to where ResCap was settling, was, I guess, a piece of information that was provided, at the direction of our legal counsel, to

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JEFF CANCELLIERI

provide our settlement in context with
other settlements in the market.

Q. Who directed you to provide that
context and that comparison?

A. Gary Lee.

Q. And did Gary Lee direct you to
include that figure, that BofA baseline
36 percent defect, in this chart?

A. Yes.

Q. Do you recall any questions
being asked about the 36 percent defect at
the board meeting?

A. I don't.

Q. Is it fair to say the board
accepted this figure at face value?

MR. RAINS: Objection, calls for
speculation.

A. I don't know what the board's
thought process was.

Q. Well, to your knowledge, did you
or anyone else do any independent
examination of the 36 percent defect rate?

A. The only discussions I had on
the 36 percent defect rate were the

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JEFF CANCELLIERI

initial conversations I had with Kathy Patrick on the assumptions they were applying to our portfolio.

Q. And that was the conversation you testified to earlier, on which you challenged those assumptions?

A. That's correct.

Q. Now, did you or anyone else reach out to Bank of America to confirm that figure of 36 percent?

A. I did not.

Q. So you just relied on the figure that Kathy Patrick provided?

A. I relied on the information that my legal counsel provided to me.

Q. And it was your understanding that the 36 percent stemmed from Kathy Patrick?

A. Correct.

Q. Now, I have the same question with respect to line 14, that's the line that says "Lehman claim 35 percent defect."

Was there any discussion at the

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JEFF CANCELLIERI

board meeting about the 35 percent defect?

A. Similar discussion, as just a comparative point to the BofA 36 percent.

Q. And, again, did Gary Lee direct you to include the Lehman claim amount 35 percent defect in this chart?

A. Yes.

Q. Where did the Lehman figure come from, to your knowledge?

A. To my knowledge, it came from legal documents that were a part of the Lehman bankruptcy process.

Q. And to your knowledge, did you or anyone else do any independent examination of the 35 percent defect rate for Lehman?

A. I did not.

Q. Now, with respect to this chart that you prepared in Exhibit 60, that was presented to the board, just under the chart in small fonts there's a list of nine footnotes called Keynotes, accompanying the chart; is that correct?

A. That's correct.

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JEFF CANCELLIERI

Q. Did you prepare these notes to the chart?

A. That's correct.

Q. Did you draft the language in these notes?

A. I drafted a portion of the language, with assistance from our legal team.

Q. Do you recall any discussion at the board meeting about these footnotes?

A. I don't recall any discussions, specifically, about any one footnote.

Q. Any questions asked about any of the footnotes?

A. Not that I can recall.

Q. Okay. Let's talk about key footnote number 3 in Exhibit 60. Note 3 states, "ResCap historical post-fund-audit defect rate range is nine percent to 29 percent, varying by product/vintage, with the weighted average defect rate at 19.3 percent."

Did I read that correctly?

A. Yes.

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JEFF CANCELLIERI

It's the exhibit marked 39.

A. Yes.

Q. Now, this is a chart, again,
followed by 100 pages of a spreadsheet.
For the sake of efficiency, I'm only going
to ask you about the first page. This
chart called "PLS Summary" -- excuse me,
"PLS Demand Data Summary," which,
according to the first line, purports to
summarize put-back demands received late
2007 to May 2012, correct?

A. Correct.

Q. To your knowledge, were the
demands summarized in Exhibit 39 included
in the defect rate range in keynote 3 of
Exhibit 60?

A. The only way there would be an
overlap would be is if, in the Exhibit 39,
there were loans that were part of the
post-fund-audit process that were
ultimately identified as a breach and
repurchased, or I should say they were
identified via the post-fund-audit process
that were repurchased, would have ended up

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JEFF CANCELLIERI

in Exhibit 39.

The post-fund-audit defect rates that are noted in that footnote 3 are from the quality assurance group's report around their audit rates.

Q. Now, turning back to the footnotes in Exhibit 60 that were shown to the board. Drawing your attention to keynote 6, note 6 states, "There could be amounts conceded, if the true defect rate is below the 19.72 percent, based on actual loan file reviews and application of litigation defenses."

Now, it's fair to say that the 19.72 defect rate underlying the \$8.7 billion settlement was derived without conducting a loan-by-loan analysis, correct?

A. Correct.

Q. Without conducting a review of the loan files, correct?

A. That's correct.

Q. And without taking into account potential litigation defenses, correct?

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JEFF CANCELLIERI

A. That's correct.

Q. And with respect to the statement presented to the board in footnote 3 that there could be amounts conceded, if the true defect rate is below the 19. -- 19.72 percent, what was your understanding of that?

A. That was language that was developed by legal counsel, understanding being if you were to go through the full litigation process and full repurchase claim process to calculate true repurchase or defect rates within each individual trust, you may come out to a number that is different than the 19.72 percent.

Q. And in fact, this suggests that the true defect rate was lower than 19.27 percent, correct?

A. Can you repeat the question.

(Record read.)

A. I wouldn't say it suggested it is lower. What it's saying is, if you were going through the full process of reviewing all the loans within each trust,

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JEFF CANCELLIERI

based on the reps and warranties in those trusts, you come out to a number that's different from the 19.72 percent.

Q. But footnote 6 states, "If the true defect rate is below the 19.72 percent," correct?

MR. RAINS: It says, "If the true defect rate is below."

Q. It says, "There could be amounts conceded if the true defect rate is below the 19.72 percent, based on actual loan file reviews and application of litigation defenses," correct?

A. Correct. It says if it were to be below that number.

Q. Now, I just want to make sure I understand footnote 6.

Who would be conceding what?

A. I don't know, specifically, who would be conceding. The comment is noted to say that the settlement number could be below the 8.7 billion, if the true defect rate is below the 19.72 percent.

Q. Now, do you recall any board

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JEFF CANCELLIERI

members asking about footnote 6?

A. I don't recall that.

Q. And again, after this presentation in Exhibit 60 was made at the board meeting on May 9th, the board approved the \$8.7 million settlement, correct?

A. That's my understanding.

Q. Now, Mr. Cancelliere, are you aware that you've been identified as a trial witness for the debtors in this proceeding?

A. Yes.

Q. And on what subject or subjects will you be testifying?

A. My understanding is specifically to the estimated lifetime losses and the analysis that I have provided to our legal experts during their settlement negotiations.

Q. And what is the substance of your testimony concerning the estimates that you provided during the settlement negotiations?

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JEFF CANCELLIERI

MR. RAINS: Objection, calls for speculation.

A. I'm not sure what it's going to include.

MS. KATZ: Thank you, Mr. Cancelliere, I don't have any further questions.

EXAMINATION BY

MR. DAILEY:

Q. Good evening. My name is Mike Dailey. I represent FGIC in these proceedings.

Mr. Cancelliere, you mentioned that the defect rate of 19.72 percent was backed into; is that correct?

A. That's correct.

Q. Who told you to back into that amount?

A. Legal counsel.

Q. Who in legal counsel?

A. Gary Lee.

Q. Did Tim Devine ever tell you to back into that amount, sir?

A. Not that I'm aware of.

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JEFF CANCELLIERI

Q. Is there anything -- let's do
this. Can you mark --

MR. RAINS: So we think it's
117.

(9019 Exhibit 117, 5/7/12
e-mail, Bates RC901900060360, marked
for identification, as of this date.)

Q. Mr. Cancelliere, I'm handing you
what has been marked as deposition
Exhibit 117.

MR. RAINS: Thank you.

Q. It's an e-mail from you to Tim
Devine, responding to an earlier e-mail
sent by Tim Devine.

Do you recognize this the
document?

A. I recognize the e-mail, yes.

Q. Do you recall receiving this
e-mail from Tim Devine?

A. Vaguely, yes.

Q. And this e-mail is dated
May 9th, at 5:50 a.m., correct?

A. Correct.

Q. The subject line is "Defect

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JEFF CANCELLIERI

Rate," correct?

A. Correct.

Q. And in that, he asks you a question, doesn't he?

A. He does.

Q. And that question is, "What is the defect rate at 8.7 billion, according to her severities, et cetera, and according to ours? Thanks, Tim."

Is that a fair reading, sir?

A. Yes.

Q. And you understood that to mean, "her severities" meaning Kathy Patrick, correct?

A. Correct.

Q. And you respond over about an hour later, correct?

A. Yes.

Q. And you say that, "Using our 44.1 billion losses, the defect rate would be about 19.7"; is that correct?

A. That's correct.

Q. And that 44.1 billion losses, that's the estimated lifetime loss that

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JEFF CANCELLIERI

you've calculated, correct?

A. Correct.

Q. And that's the number that you said never changed during your entire -- during your entire analysis, correct?

A. Correct.

Q. But Kathy Patrick calculated a separate lifetime loss, correct?

A. Yes.

Q. And her loss method was \$48.7 billion, correct?

A. Yes.

Q. So that number wasn't actually a fixed number, was it?

MR. RAINS: Which number?

A. Which number?

Q. Pardon. The \$44.1 billion loss was not a fixed number, was it?

A. My 44.1 billion was a fixed number.

Q. And using that number, you backed into a defect rate of 19.7 percent, approximately, correct?

A. Approximately, yes.

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JEFF CANCELLIERI

Q. And that was done at the direction of Timothy Devine; is that correct?

A. That appears to be correct.

Q. And that 19.7 approximate number, that actually turned out to be 19.72 percent, when you got -- when you don't round, correct?

A. I would assume so, yes. The 19.72 is what showed up in the board presentation.

Q. So that same defect rate is what's shown up in the board presentation, correct?

A. Correct.

Q. And using -- but was the board ever told that, using Kathy Patrick's analysis, you could come up with a 17.9 percent defect rate?

A. Not that I'm aware of.

Q. Was the board ever told that a two percent difference in the defect rate is about a billion dollar difference?

A. Not that I'm aware of.

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JEFF CANCELLIERI

Q. So it wasn't actually to calculate the footprint, it was now to refresh the analysis, correct?

A. Correct.

Q. And that was being done by the direct -- at the direction of Tim Devine, yes?

A. It was at the direction of Tim Devine and Gary Lee. On the second page of this e-mail, Gary asked Tim Devine if he could speak to Kathy Patrick.

Q. And then Tim Devine responds to you, and says he volunteered you, correct?

A. I would say he volunteered John Ruckdaschel and myself to work on refreshing the footprint.

Q. I just have a few more questions.

During the May 9th board meeting in which the settlement, the \$8.7 billion settlement was agreed upon, Mr. Marano asked for additional information, didn't he?

A. I don't recall.

1 JEFF CANCELLIERI

2 Q. If you refer to deposition
3 Exhibit 61 in your pile. It's the minutes
4 from the board meeting that day. If you
5 notice at the bottom of the first page,
6 the second-to-last paragraph, Mr. Renzi
7 reviewed and discussed the key assumptions
8 and preliminary economic recovery analysis
9 of preliminary agreements reached in
10 certain constituencies. During that
11 discussion Mr. Marano requested a report
12 with separate line I amounts be prepared
13 to provide the board with additional
14 details on the settlements."

15 Do you recall now that
16 Mr. Marano asked for additional
17 information regarding the proposed
18 settlement?

19 A. I recall that was a question
20 directed to Mr. Renzi.

21 Q. And do you recall, though, that
22 at the conclusion of the board meeting,
23 the board voted in favor of that
24 settlement?

25 A. I believe so.

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JEFF CANCELLIERI

Q. And that was at the board meeting before, before it concluded at 4:00 p.m., correct?

A. As far as I can recall.

Q. Do you recall if Mr. Marano ever received any additional information?

A. I don't recall.

Q. Just give me one moment.

MR. DAILEY: That's all I have thank you.

EXAMINATION BY

MR. DOLAN:

Q. Mr. Cancelliere, I'm Matt Dolan, from Cleary Gottlieb, on behalf of Wilmington Trust.

You previously testified that you had a call with Kathy Patrick on May 8th, during which you challenged a number of assumptions that she had, related to the defect rate?

MR. RAINS: Misstates the witness's testimony.

A. I had a conversation with her around their assumptions and discussed and

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JEFF CANCELLIERI

challenged all of their assumptions.

Q. And you also discussed and challenged her use of the 36 percent Bank of America default -- defect rate?

A. In some form, yes. And used that information to provide our legal team, who was working through the negotiations, to have discussions with Kathy Patrick.

Q. So you relayed to the legal team that you had challenged her use of that?

A. I had relayed to the legal team the items where I believe we could challenge her assumptions.

Q. And included in that list of items was the 36 percent?

A. It was all of her assumptions, yes.

Q. Was anyone else on that call, besides you and Ms. Patrick?

A. I believe David Sheeren, from Kathy Patrick's side, was on the call as well.

Q. Do you know why you were on that

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JEFF CANCELLIERI

call?

A. Gary Lee had asked me to talk to Kathy about her specific assumptions, to get an idea of their calculated numbers.

Q. And after that call, you relayed to Gary Lee and others on the legal team your concerns you had with her assumptions?

A. Yes. I relayed to Gary Lee her assumptions and potential concerns with her assumptions.

Q. And then you were shown a second ago Exhibit 60, which is the board presentation from May 9th.

Do you recall that?

A. I do recall that.

Q. And that presentation includes the 36 percent Bank of America default rate?

Do you recall that?

A. It includes, yes, the baseline Bank of America defect rate.

Q. Was the board of directors of ResCap ever informed that you had raised

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JEFF CANCELLIERI

concerns about using that 36 percent
defect rate?

A. I don't know.

Q. But no -- you don't recall from
that --

A. I don't recall from that
meeting.

Q. Nothing, there was no discussion
of that?

MR. RAINS: He says he doesn't
recall.

A. I don't recall.

Q. But as you previously testified,
that 36 percent was used as a comparison.
It was presented to the board as a
comparison to the 19.72 defect rate?

A. That is correct, at the
direction of our legal counsel.

MR. DOLAN: I don't have
anything else. Thank you,
Mr. Cancelliere.

MR. RAINS: Any other takers?

MR. SHEEREN: David Sheeren from
Gibbs & Bruns. Can we just take a

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JEFF CANCELLIERI

quick break?

MR. RAINS: Sure. We are going to count it against your time, though.

Okay, what do we have, 10 more minutes? 15 minutes, I guess.

THE VIDEOGRAPHER: The time is 6:21 p.m., and we are off the record.

(Whereupon, there is a recess in the proceedings.)

THE VIDEOGRAPHER: The time is 6:26 p.m., and we are back on the record.

MR. RAINS: No further questions. Thank you.

THE VIDEOGRAPHER: The time is 6:26 p.m., and this marks the end of today's videotaped deposition.

(Time noted: 6:26 p.m.)

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STATE OF _____)
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COUNTY OF _____)

I, JEFFREY CANCELLIERI, the witness
herein, having read the foregoing
testimony of the pages of this deposition,
do hereby certify it to be a true and
correct transcript, subject to the
corrections, if any, shown on the attached
page.

JEFFREY CANCELLIERI

Sworn and subscribed to before
me, this _____ day of
_____, 2012.

Notary Public

EXHIBIT K

UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF NEW YORK

-----x

In Re: Case No:

RESIDENTIAL CAPITAL, LLC, et. al, 12-12020(MG)

Debtors.

-----x

VIDEOTAPE DEPOSITION OF JAMES WHITLINGER

New York, New York

November 15, 2012

9:39 a.m.

Reported by:
ERICA L. RUGGIERI, RPR
JOB NO: 27649

1 JAMES WHITLINGER

2 has had plenty of experience around this
3 discussion with our advisors, with our
4 accounting policy teams and in-house
5 counsel.

6 Q. When you say on a timing
7 perspective you agree that the board had
8 only about 22 minutes to consider this
9 before the board meeting started, right?

10 A. Yeah. That's what the timing of
11 the e-mail stated.

12 Q. And what's your understanding
13 generally of the chart attached to the
14 e-mail that's entitled 2004-2007 PLS R&W
15 analysis?

16 MR. RAINS: I'm going to have
17 to -- I apologize I'm going to stand
18 over your shoulder and look at the
19 document. We weren't given copies so
20 I'm sorry to interrupt but this is the
21 only way I can see it.

22 A. So this schedule shows the
23 ResCap issued deals and the original with
24 principal balance of the loans. And so
25 that was about \$226 billion. The current

1 JAMES WHITLINGER

2 balance of the unpaid principal balance
3 was \$63.3 billion. It shows a percentage
4 of loans that were delinquent and then it
5 showed that we had had just under
6 \$30 billion of -- of losses that were
7 incurred on the original \$226 billion of
8 principal. And that, you know, we
9 believed that \$14.2 billion would be
10 losses that would potentially be incurred
11 in the future from this point in time. So
12 the total lifetime losses were going to
13 be, you know, \$44.1 billion. And
14 essentially that equated to a 19.5 percent
15 lifetime loss of the \$226 billion.

16 The next column over is, you
17 know, Kathy Patrick's group and it showed
18 what portion of the original 226 billion
19 for all the same -- same buckets. And
20 then it just has a percentage of total
21 issued. So this is what the schedule was,
22 that the ResCap settlement amount of
23 \$8.7 billion was the dollar amount that --
24 that would agreed to be the claim on the
25 potential losses of \$44.1 billion.

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Q. What's your understanding of the items in the rows that refer to a ResCap, Lehman and Bank of America percentage defect rate?

A. Right. So the \$8.7 billion divided by \$44 billion I believe is the agreed rate of, you know, 19.7. And the Lehman claim amount in the BofA baseline I think were data points or observations that said that potentially those were rates that were in those specific deals.

Q. What are those specific deals?

A. You know, I don't -- I don't know their deals.

Q. Do you know who provided the 35 percent and 36 percent, as you called them, data points for this chart?

A. I'm not sure. I believe that Jeff Cancelliere may have helped provide information on this.

Q. Who is Jeff Cancelliere?

A. Jeff Cancelliere is a direct report of mine today. Jeff worked on the risk team and was our number cruncher,

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number expert for valuing loans. And so, you know, the 226 billion, identifying those, identifying the current balance, cumulative losses that had occurred to date, you know, what projected losses could be, he would be our person that was the numbers expert on that.

Q. And was Mr. Cancelliere your direct report on May 9, 2012?

A. Somewhere in the month of, you know, somewhere in thereabouts, you know, Jeff was reappointed to -- to be a direct report of mine.

Q. And on and after the time that he was appointed as a direct report of yours you were responsible for supervising and overseeing an ensuring the accuracy of his work?

A. Can you repeat or rephrase that?

Q. Sure. Once he be- -- once he was appointed as a direct report of yours you were then responsible for supervising and ensuring the accuracy of his work?

A. Yes.

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JAMES WHITLINGER

Q. And who appointed him as a direct report of you?

A. You know, I was obviously party to that conversation and Tom Marano.

Q. Had Mr. -- Mr. Cancelliere before he was a direct report to you, was he a direct report to someone who was employed by AFI?

A. Yes. There was dotted line relationships.

Q. And so Mr. Marano then decided that Mr. Cancelliere would no longer report to somebody at AFI but would now report to you, correct?

A. Generally speaking, you know, we were separating the centers of excellence that had been created over time. We had shared services. And so we -- there was an alignment process going on in April, May, maybe sooner, I don't remember the exact timelines, where we made sure that the shared service people were repointed to ResCap for our areas.

Q. So it's your understanding that

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Mr. Cancelliere prepared the information in this chart for delivery to the board?

A. Again, I know that Jeff worked on this type of information. I don't know that he actually created this chart.

Q. And to the extent there's any information in this chart that Mr. Cancelliere provided, that was misleading or mistaken, you would take responsibility for his work in that regard, correct?

MR. RAINS: Objection. Assumes facts not in evidence. Calls for speculation.

Q. You can answer.

MR. RAINS: You can still answer.

A. You know -- you know, we have employees that work for all of us that ultimately the buck stops with me.

Q. Which means that if Mr. Cancelliere put information in to this document that was provided to the board, information that was either misleading or

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and who provided them is -- is important
and a consideration but it's -- it's just
a consideration. Whether it came from
Kathy or -- or Jeff, you know, it's a data
point.

Q. Was it important for the board
to determine whether or not these
35 percent, 36 percent defect rates were
valid?

MR. RAINS: Objection. Calls
for speculation.

Q. Let me withdraw that. Was it
important for the board to determine where
the 35 percent and 36 percent defect rates
came from and how they were arrived at?

MR. RAINS: Objection. Calls
for speculation. Calls for a legal
conclusion.

You can still answer.

A. Yeah, I don't know how to answer
it any different. That when you consider
a settlement and you consider all the
facts and circumstances and things that
are presented, everything is a data point

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and it goes into the overall
consideration. So --

Q. Right.

A. -- I don't know how to answer
your question any different than I've
answered it.

Q. So it wasn't important to you
where the 35 percent and 36 percent came
from, it was just important to you that it
was there?

MR. RAINS: Objection. That

misstates his testimony. Go ahead.

A. I don't know how to answer the
question any different.

Q. During the May 9th board meeting
did you know that before the meeting your
direct report Mr. Cancelliere told Mr. Lee
that he had challenged certain of
Ms. Patrick's assumptions concerning
defect rates, including the validity of
using the 36 percent defect rate for Bank
of America that's in Exhibit 60?

MR. RAINS: Objection. Assumes

facts not in evidence.

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Go ahead.

A. Can you re- -- rephrase the question? I'm sorry.

Q. That's okay. During the May 9th board meeting did you know that before the meeting Mr. Cancelliere told Mr. Lee that he had challenged certain of Ms. Patrick's assumptions about defect rates including the validity of using a 36 percent defect rate for Bank of America that's referenced and included in -- in Exhibit 60?

MR. RAINS: So object to the question as vague and ambiguous and it also misstates the evidence.

A. Okay. So -- so my answer to that is I don't recall at May 9th if I knew if Jeff had conversations as I sit here today. I know that there were conversations with the parties on assumptions that were made throughout the process.

Q. On May 9th as a board member of deciding whether or not to approve ResCap entering into this settlement agreement,

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would you have liked to know on or before the meeting that Mr. Cancelliere had concerns about the validity of the 36 percent defect rate?

MR. RAINS: Objection. The form of the question is confusing and it assumes facts not in evidence. The question is would you have liked to have known.

A. You know, it would be helpful to know all the conversations that took place.

Q. Wouldn't it be particularly important to know that Jeff Cancelliere, your -- your numbers cruncher, who reports directly to you was presenting a 36 percent number to the board that he thought perhaps was not the proper number?

MR. RAINS: Objection. Assumes facts not in evidence.

A. I don't -- I don't know that we didn't talk about that at the board meeting or not. So I -- I just don't recall. But as far as -- and whether or

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not it's important to know where the data came from and how -- how people discussed it, those were all good things to -- to -- to have information on.

Q. And if Jeff had -- Cancelliere had doubts about the 36 percent, you would have -- you would have wanted to know that before you made your decisions on May 9th, right?

A. No.

MR. RAINS: Again it assumes facts not in evidence.

Q. So --

A. No. I stated earlier that that's a data point for those pieces. We had, you know, conversations regarding the types of claims that could be brought forth. Our lawyers and our advisors and our numbers people had talked about what types of risk could come from litigation and our advisors told us that this settlement was a good settlement based on all those risks. It wasn't pointed to just saying this Lehman claim amount

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defect rate or this BofA baseline defect rate is the most important thing on this page. It's a data point.

You know, we have multiple legal entities that our -- our deals were issued off of. These deals were issued in 2004 to 2007, some through GMAC Mortgage, some through RFC. I don't know how Lehman did their deals. I don't know how BofA did their -- their deals, their shelves. These are data points we don't know how to process. So these are data points.

Q. If Mr. Cancelliere thought the 36 percent defect rate was wrong, you would have wanted -- you would have wanted him to tell you that before the board meeting, right?

MR. RAINS: Again it misstates the evidence, assumes facts not in evidence. Calls for speculation.

Go ahead.

MR. SIEGEL: It's a very simple question.

A. I don't know if we talked about

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that or we didn't talk about it is my first point. If he -- if he challenged it, would I want to know that? Yes. That's fine. I would want to know.

Q. But you didn't know that on or before the May 9th board meeting?

A. I already answered that that I don't know that we did or didn't.

Q. But you have no recollection of that?

A. I have no recollection.

Q. Was the first time that you learned that the proposed settlement amount was 8.7 billion the time when you received this -- this board material from Mr. Lee?

A. Can you repeat the question?

Q. Sure. Did you first learn that the proposed settlement amount that's in the RMBS Trust Settlement Agreement was \$8.7 billion when you received Exhibit 60?

A. Yes, that -- that -- that's my recollection.

Q. And it's your recollection that

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when the board received Exhibit 60 that's the first time that the board was informed as a group that the settlement amount, the proposed settlement amount was 8.7 billion?

A. That's my recollection.

Q. Now, as of May 9, 2012, you had never spoken directly with Ms. Patrick, is that true?

A. I have never spoken with Ms. Patrick.

Q. May I ask you to take a look at Exhibit 61. Those are the board minutes for May 9th.

A. Okay.

Q. And you recognize those as the final minutes of the ResCap board meeting from May 9, 2012, that began at 3:00?

A. Yes.

Q. And does Exhibit 61 accurately -- accurately reflect what occurred at the meeting?

A. Yes. It's an -- an executive summary of the -- of the meeting.

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JAMES WHITLINGER

Q. But you've just read the exhibit, correct?

A. Yes. I've just read it.

Q. And to your understanding is everything in there accurate?

A. Yes, I -- I believe it's accurate.

Q. Did you participate in this meeting by phone?

A. I don't recall. I believe I was in person.

Q. And now, the minutes say it was a telephonic meeting.

A. Yeah.

Q. Does that affect your recollection?

A. Well, what I mean by that is I work out of both New York and Fort Washington. And I -- we were having a lot of our board meetings at Morrison & Foerster. And I believe I was present in Morrison & Foerster when we had the meeting.

Q. And you were in a conference

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room at Morrison & Foerster?

A. That's my recollection.

Q. And do you recall who else was
in the conference room with you?

A. I don't remember.

Q. Do you recall whether any other
board members were in the conference room
at the time?

A. No. I --

Q. Mr. Marano?

A. I believe Tom would have been
there. Steve would have been there.

Q. When you say Steve you mean
Steve Abreu?

A. Yes.

Q. And is he -- he's not a member
of ResCap's board of directors, is he?

A. No, he is.

Q. You're correct. I was
momentarily confused.

MR. RAINS: He's always correct.

No worries there.

MR. SIEGEL: Depending upon his
testimony that may be true.

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JAMES WHITLINGER

Q. And the independent -- do you recall whether any of the independent board members, Mr. Smith, Ms. West, Mr. Mack or Mr. Ilany were at MoFo during the board meeting?

A. I don't recall.

Q. Your best recollection is that to the extent they participated, they par- -- those independent board members participated by phone?

MR. RAINS: Objection.

Misstates his testimony.

A. You know, we had -- you know, we have had so many meetings and oftentimes they are there. Oftentimes people participate by phone, depending on where they are at. I just don't -- don't recall.

Q. During the portion of the board meeting that was dedicated to discussing the RMBS Trust Settlement, did you speak at all?

A. I don't -- I don't recall. I speak out, you know, in almost every board

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meeting asking questions so I would presume that I did.

Q. But you don't recall saying anything during that portion of the meeting, right?

A. Nothing -- I don't recall.

Q. Do you recall whether -- whether the call started promptly or the meeting started promptly at 3:00 or whether it was delayed?

A. I don't recall.

Q. Okay. And the meeting lasted for about an hour and adjourned at 4:00; is that right?

A. The minutes indicate it adjourned at 4:00 p.m.

Q. Did you have any understanding at the time why Mr. Ilany was unable to attend the meeting?

A. I don't recall.

Q. Do you recall whether any of the other three independent directors, Mr. Smith, Ms. West and Mr. Mack, were actually on a telephone conference call

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with the rest of the board members during the board meeting?

A. I don't -- I don't recall. As I said, there's -- there's -- we have had so many meetings and oftentimes people are in person, oftentimes people participate by phone.

Q. And so you don't -- so you don't know whether any of those three independent board members actually participated by phone for any or part of the meeting?

A. Yeah, again, I don't -- I don't recall.

Q. And it's at this meeting that the board approved entering into the RMBS Settlement Trust Agreement, correct?

A. Yes. With -- with -- subject to counsel making some changes.

Q. Do you know what those changes were?

A. I -- you know, I think there were still some finer points being worked out that were delegated to the ResCap

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management with the advice and legal
counsel. I -- I can't recall specifically
which -- which ones they were.

Q. The board resolved that if any
of those changes would be material, that
they would have to be brought back before
the board for the board's approval?

A. Yes.

THE WITNESS: Can we take a
break?

MR. SIEGEL: Oh, yeah. Sure.

THE VIDEOGRAPHER: The time is
10:30 a.m. and we are off the record.

(Whereupon, there is a recess in
the proceeding.)

THE VIDEOGRAPHER: The time is
10:42 a.m. We are back record.

(Whereupon, there is a recess in
the proceedings.)

THE VIDEOGRAPHER: The time is
10:42 a.m. We are back on the record.

Q. Welcome back, Mr. Whitlinger.
Right before the break you testified that
at the May 9th board meeting the board

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JAMES WHITLINGER

Q. But you don't have a specific recollection of discussing the board's fiduciary duties during the half an hour or so that the board discussed the settlement agreement on May 9th?

A. Yeah, I -- I don't recall specific to that.

Q. And on May 9th as a board member when you were considering the settlement, in your own words what was your understanding of your fiduciary duty as a ResCap board member in deciding whether to approve the settlement agreement?

A. Generally speaking, you know, as a director we have a duty of care and duty of loyalty to ResCap and all its affiliates or subsidiaries. And we needed to consider all creditors when making any decision that we would make at all, you know, that that's part of that -- that process. So.

Q. So you understood on May 9th that you had a fiduciary duty of care and loyalty -- loyalty to ResCap and all of

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its creditors during that meeting?

A. Yes. And to ResCap's subsidiaries.

Q. Just to be clear, your answer to the question was "Yes. And to ResCap's subsidiaries"?

A. Yes.

Q. And did that fiduciary duty extend to the creditors of not just ResCap but also ResCap's subsidiaries?

A. Yes.

Q. If a conflict arose during the May 9th board meeting between the best interests of ResCap's different subsidiaries or the different creditors of those different subsidiaries, what was your understanding of how the board was supposed to resolve that conflict?

MR. RAINS: I object to the question on the grounds that it's a hypothetical and it assumes facts not in evidence and so it will cause you to speculate.

If you can answer the question,

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go ahead.

A. Can you say it one more time?

Q. Sure.

MR. SIEGEL: Let me withdraw the question. I'm going to ask you a different question.

Q. During the May 9th board meeting did you or anybody on the board determine or discuss whether the settlement agreement was in your view in the best interests of not only the creditors of ResCap but also the creditors -- creditors of each of ResCap's subsidiaries?

A. I don't recall specific conversation. But again, you know, we've had many discussions and presentations about our fiduciary responsibility for all the subsidiaries of ResCap.

Q. If the settlement agreement that you were considering on May 9th caused a conflict between the interests of the creditors of one ResCap subsidiary and another ResCap subsidiary, how would you as a board member, what's your

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understanding of how that conflict would
be resolved?

MR. RAINS: The question assumes
facts not in evidence. It's a
hypothetical question so it calls for
the witness to speculate.

A. You know, if there was perceived
conflict of interest we'd have discussion
about it and talk to -- talk to counsel.

Q. And you don't recall any such
discussion about that during the May 9th
board meeting, right?

A. Yes. As I said, I don't recall
having a specific conversation about it.

Q. On or before May 9th did you
read or review a copy of the RMBS Trust
Settlement Agreement?

A. On or before May 9th?

Q. Uh-hum.

A. I don't -- I don't recall.

Q. Do you recall ever reading or
reviewing it before the petition date?

A. I believe I did.

Q. But it's possible that as of

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May 9th when you participated in this board meeting you might not have actually read the trust settlement agreement?

A. I don't recall.

Q. Is your answer the same with respect to the plan support agreement between ResCap and the institutional investors?

A. Yeah, I don't -- I don't recall specifically what date I read this.

Q. But it's possible that you might not have read that plan support agreement as of May 9th, correct?

A. I -- I don't -- it's possible. I don't recall.

Q. Do you recall whether during the May 9th board meeting, whether any board member asked to -- asked for a copy of the RMBS settlement agreement before the board was to vote on approving ResCap entering into that agreement?

A. I don't recall.

Q. Is it your understanding that on May 9th the board was presented with and

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the board considered all material information about the terms of the RM -- RMBS Trust Settlement Agreement?

A. Yes, the board -- the board discussed, you know, the -- the terms of the settlement.

Q. And to the best of your recollection on May 9th what were all the material terms in your mind as a board member, what were all the material terms of the settlement agreement?

MR. RAINS: You are asking him to do this by memory?

MR. SIEGEL: I'm asking if he recalls what he viewed on May 9th to be all the material terms of the settlement agreement.

MR. RAINS: Then you might want to show him the document. Okay.

So do it by memory, that's fine. As best you can.

A. So it's hard to put myself back on May 9th but clearly knowing the amount of the allowed claim was important.

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those securitizations. And then we have our litigation team and lawyers negotiating.

Q. What analysis of the potential losses that you just discussed did the board consider on May 9th?

A. We went through the -- the page that showed the potential losses in the deal.

Q. Was that Exhibit 60?

A. That's Exhibit 60.

Q. Where -- where does -- where does Exhibit 60 show potential losses in the deal?

A. B5, estimated lifetime loss, 44 billion.

Q. Turning back to Exhibit 61. On the first page in the second-to-last paragraph.

MR. RAINS: Sorry to look over your shoulder.

Q. Do you see where it states, "During the discussion Mr. Marano requested that a report with separate line

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items identifying the different settlement amounts be prepared to provide the board with additional details on the settlements."

Did I read that correctly?

A. Yes.

Q. When Mr. Marano made that request, did you have an understanding as to what he was requesting?

A. I don't recall exactly what the different settlement amounts with the additional details on the settlements at that time were.

Q. As you are sitting here right now and reading that, what is your best understanding as to what that means?

A. At that point in time, you know, showing what -- what the AFI settlement would be and the dollar amounts associated with that and likely what the agreements that had been negotiated up to that point in time with other parties for the JSBs. So those would probably be some of them.

Q. Does -- does the chart on

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Exhibit 60 disclose to the board the amount of the settlement between Bank of America and institutional investors that were represented by Kathy Patrick?

A. This page?

Q. Yes.

A. And what was the question again?

MR. SIEGEL: Just for the record, we are referring to the page of Exhibit 60 with the Bates number that ends in 93182.

Q. And the question was, does the chart on that page disclose to the board the amount of Bank of America's settlement with institutional investors who were represented by Ms. Patrick?

A. It -- the -- you know, the report is what the report is. It has ResCap settlement and then it has a Lehman claim amount and a BofA baseline defect rates that are noted.

Q. But it doesn't disclose the amount that Ms. Patrick and her client settled with Bank of America, correct?

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JAMES WHITLINGER

A. I don't see that.

Q. And that information was not disclosed to the board during the May 9th meeting, correct?

A. Again, I don't -- I don't recall all the points that were discussed on that.

Q. Now during the meeting did the board receive the report that Mr. Marano requested before the board decided to approve the settlement?

A. So which settlement are you referring to?

Q. I'm referring to on Exhibit 61 Mr. Marano requested a report, right?

A. Mr. Marano requested that a report that separates line items identifying different settlements but I don't know which -- you know, are you talking about the RMBS trust settlement?

Q. I'm asking -- I'll -- I'll try to state the question more clearly.

Before this meeting adjourned at 4:00 was the board provided with the

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JAMES WHITLINGER

report that Mr. Marano requested?

A. I don't -- I don't know. I don't recall. I wouldn't believe so though.

Q. Do you recall whether anybody asked to adjourn the meeting or defer the board's decision until that information was provided to the board?

A. I don't really understand the thought process on the question. This relates to waterfall analyses. It doesn't relate to the RMBS agreement.

Q. But isn't that under the section of the board minutes that's entitled Proposed Legal Settlement?

A. You know, the proposed legal settlement was the PLS. This -- this Mr. Renzi discussing was talking about the waterfall.

Q. Well, you see on the first page -- withdrawn.

You agree that the board meeting covered two agenda items, right, one was the proposed legal settlement and that was

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JAMES WHITLINGER

the RMBS Trust Settlement Agreement,
right?

A. Yes.

Q. Okay. And then on the second
page you see that there was a project
bounce update?

A. Yes.

Q. And is that the second agenda
item for the meeting?

A. Yes.

Q. So everything that's under the
section that's Proposed Legal Settlement
obviously concerns the RMBS Trust
Settlement Agreement, right?

A. No.

MR. RAINS: Assumes facts not in
evidence.

Go ahead.

A. No.

Q. You testified before that
everything in here is accurate, correct?

A. My statements in here are
accurate, yes.

Q. And isn't it true that

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JAMES WHITLINGER

that accept and determine what portion of claims they would get.

Q. Do you know how the expert will make that determination of what portion of the claim will be allocated?

MR. RAINS: Objection. The document speaks for itself.

A. I mean, you know, the document lays out in some of these buckets how -- how to actually determine who is accepting and then how the -- the claim will be calculated.

Q. Your understanding is just based on what's in the document?

A. Yeah. I -- I -- that's my understanding.

Q. You can set that exhibit aside for a second. I'm going to ask you to turn your attention back to Exhibit 60. That's the board material that was provided to the board for the May 9th meeting. And if you could take a look again at the chart in Exhibit 60. What is your understanding of footnote 6 which

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JAMES WHITLINGER

states there could be amounts conceded if the true defect rate is below the 19.72 percent based on actual loan file reviews and application of litigation defenses?

A. I don't recollect what that related to.

Q. Doesn't that mean that the 19.72 percent defect rate here is not the true defect rate because its not based on an actual loan file review and it doesn't consider litigation defenses against claims that purportedly could be brought by the institutional investors?

MR. RAINS: Objection. Asked and answered. Calls for speculation.

A. Can you rephrase?

Q. Was there something you didn't understand?

A. Yeah. I didn't -- I'm not able to get the full gist of what you are asking.

Q. Doesn't footnote 6 mean that the 19.72 percent is not the true defect rate

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JAMES WHITLINGER

because it's not based on an actual loan file review and it's not based on an application of litigation defenses?

MR. RAINS: Objection. Calls for speculation.

A. Yeah. I stated earlier that the 8.7 and that 19.72 is a calculation of 8.7 divided by 44. And so application of litigation defenses, you know, again that would have been all considered as part of what our professionals determined in negotiating and coming up with \$8.7 billion.

Q. Was it your understanding on May 9th that the 19.72 percent number reflected the application of litigation defenses?

A. I don't know how to answer it different than I have answered it before that the 8.7 is, you know, the 19.72 relates to the loss -- the lifetime loss dollars. And the 8.7 divided by that number is 19.72 and yes, that considers litigation defenses, what claims could be

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JAMES WHITLINGER

brought by the other parties, how to consider them and probabilities of winning/losing in court where somebody else decides -- you know, my understanding was there wasn't going to be an actual loan file review because the, that's what a settlement is for.

Q. Would an actual loan file review give you a more accurate understanding of what the proper defect rate would be for the loans in the Kathy Patrick group?

A. You know, I would defer to our -- our lawyers on that. My business opinion would be, you know, when you look at actual loan files and you have a party on both sides, nobody is ever going to agree on what was a defect rate. One side is going to say it's a defect. The other side is going to say it's not a defect. And they are going to argue, argue, argue, argue. That's the whole point of settling.

Q. So is it your testimony that the 19.72 percent defect rate in Exhibit 60

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JAMES WHITLINGER

takes into consideration the litigation defenses and the other litigation issues that you just testified about?

MR. RAINS: Objection. Asked and answered.

A. Again, I don't know how to answer your question any differently than I have -- I have answered before.

Q. Did the board consider or get any information about the specific litigation defenses against these rep and warranty claims?

A. I -- I don't recall.

Q. Do you recall whether or not the board was given any information about whether or not there were any statutes of limitation that might bar some of Ms. Patrick's clients purported claims?

A. If -- if you're -- are you asking me in this -- in the May 9th, if we talked about statute of limitations, I don't recall. I know that we have always talked about statute of limitations when talking about rep and warrant claims.

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JAMES WHITLINGER

Q. But you had no recollection of a discussion about statute of limitations during the May 9th meeting?

A. I don't recall.

Q. Is it your understanding that just because there's a loss associated with the mortgage that is considered a defect but that doesn't necessarily mean that ResCap or its affiliates are liable for any or all of the loss?

A. Since you used the word "liable" I'm going to again defer to our -- our counsel. Lawyers determine liability.

Q. So was it your understanding on May 9th -- withdrawn.

Did anyone provide the board on May 9th with an analysis of how much it might cost to litigate the claims Ms. Patrick was -- was asserting as compared to settling the claims around May of 2012?

A. Can you repeat the first part of the question?

Q. Sure. Did anyone advise or

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JAMES WHITLINGER

discuss with the board on May 9th or provide an analysis of how much it might cost to litigate the claims being asserted by Ms. Patrick rather than settling in May 2012?

A. I -- I don't -- the reason I ask, I don't recall if it was discussed but I know for sure I don't recollect seeing a litigation presentation analysis embedded in this -- this -- this list of materials.

Q. You agree it would have been helpful for the board to know on May 9th what counsel estimated or anticipated it might cost to litigate the claims as compared to settling them in the settlement agreement?

A. You know, again, that would be a data point. And I relied on our professionals and our legal teams in litigation in how those matters evolve. So I think that's a data point, how much would it cost, how many loan files if I was going to review it. Again, I -- I

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JAMES WHITLINGER

Q. -- as a result of a settlement?

MR. RAINS: Objection. Asked
and answered.

A. I don't recall. As I stated, I
don't have an analysis that I -- that I
know was presented on May 9th.

Q. On May 9th did you know whether
or not any of Ms. Patrick's clients had
filed any rep and warranty claims against
ResCap or any of its affiliates?

A. Can you repeat the question
again?

Q. On May 9th did you know whether
or not any of Ms. Patrick's clients, the
institutional investors or the trusts had
actually filed any rep and warranty claims
or other claims against ResCap or its
affiliates?

A. I don't know for sure. We
obviously had multiple rep and warrant
claim -- claims outstanding. So I presume
that some of them would have been part of
that Kathy Patrick group.

Q. When -- when you say that there

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JAMES WHITLINGER

are obviously multiple rep and warranty claims outstanding, you mean claims that have actually been filed or filed against ResCap, litigations that have been filed against ResCap or its affiliates?

A. I'm sorry. I was referring to a request for a repurchase. So a repurchase request claim was made to the company in following our business process to evaluate the claim.

Q. So you believe that some of the claims you just described would have been part of the Kathy Patrick group, correct?

A. Yeah. I believe it's -- it's certainly possible that some of those investors would have to be the same investors that are bringing forth claims of specific loan rep and warrant requests.

Q. Do you know if any of those claims to which you just referred also resulted in any litigation being filed against ResCap or any of its affiliates?

A. I don't know for sure. I know we've had -- we have multiple cases filed.

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JAMES WHITLINGER

I'd have to talk to counsel.

Q. During the May 9th board meeting did the board discuss that the settlement agreement would provide for ResCap to pay Ms. Patrick's legal fees?

A. I don't recall discussing that component specifically but ResCap, my understanding on the contract is that those legal fees would be deducted from the overall \$8.7 billion amount.

Q. You say the contract, you mean the settlement agreement?

A. Yeah. The RMBS Trust Settlement Agreement.

Q. But the board didn't discuss this on May 9th and --

A. I don't know if we did or didn't. It didn't really matter to me because it's -- yeah, that was between her and the institutional investors. The 8.7 billion is their allowed claim. And so if it's deducted from that I'm indifferent on how the agreement that she may have reached or not reached with the

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JAMES WHITLINGER

institutional investors.

Q. Would it have been more reasonable and fair to the creditors of ResCap and its affiliates for the \$8.7 billion amount to be reduced by the amount of Ms. Patrick's fees -- Ms. Patrick's fees?

MR. RAINS: Objection. Vague and ambiguous. Calls for speculation.

A. I have already told you that as a board member in and the process that was followed I'm comfortable with the \$8.7 billion. I don't have an opinion on how the institutional investors and Kathy Patrick negotiated, what portion she should get. My view as a board member was that is the 8.7 billion reasonable for the claims that could be brought, the litigation issues and -- and that's what I relied on.

Q. Were you aware during the May 9th board meeting that the RMBS Trust Settlement Agreement provided releases to inside directors like yourself and not to

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JAMES WHITLINGER

the independent directors?

A. Can you repeat that, please?

Q. Yeah. Were you aware during the May 9th board meeting that the settlement agreement provided releases to management directors like yourself and Mr. Abreu and Mr. Marano but not to the other board members who were considered independent directors?

A. I don't recall that.

Q. You didn't know that on May 9th?

A. I don't know if I did or didn't.

Q. Is that -- is that information something that you think the board members, including yourself, would want to know and consider in making this decision on May 9th?

MR. RAINS: Objection. Assumes facts not in evidence. Calls for speculation.

A. Again, it's another component of when our lawyers talked to us about the releases and the types of claims, and what they considered and how they thought about

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JAMES WHITLINGER

them and the probabilities of court outcomes and whatnot -- probabilities of outcome of the case, how that would work. And so I think that's another consideration.

Q. Did the GMAC Mortgage LLC board meet separately to approve the RMBS Trust Settlement Agreement?

A. I don't believe so.

Q. Do you agree that Ally Bank underwrote a significant percentage of the loans giving rise to the rep and warranty and PLS claims against ResCap?

A. I agree that Ally Bank underwrote loans that were subsequently sold to GMAC Mortgage and potentially RFC, that were subsequently part of a securitization.

Q. So do you disagree that Ally bank underwrote a significant percentage of the loans that give rise to the rep and warranty claims against ResCap?

MR. RAINS: Objection. Asked and answered. Misstates his

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JAMES WHITLINGER

you earlier was the process for how Ally reported information as well. Same process.

Q. And were you responsible as CFO of mortgage operations for AFI for overseeing that process?

A. I -- no. The -- the governing committee had ultimate -- no one person is allowed to control a process. That's why we have a governance committee. So I am a piece of a governance component.

Q. How did you prepare for your deposition today?

A. I met with my counsel here and I reviewed a -- the RMBS Trust Settlement Agreement, reviewed my first day affidavit. Took a look at our, you know, accounting policy memos.

Q. When you met with your counsel to prepare for the deposition, was anybody present on behalf of Ally or Ally Bank?

A. No.

Q. Did you review any of the deposition transcripts from this matter in

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JAMES WHITLINGER

including Mr. Marano and Mr. Mack?

A. No.

Q. Before your deposition today did you discuss with anyone what anyone else had testified to in depositions in this matter, including testimony by Mr. Marano or Mr. Mack or Mr. Cancelliere?

A. No.

MR. SIEGEL: Let's take a break.

MR. RAINS: All right.

THE VIDEOGRAPHER: The time is 12:57 p.m. and we are off the record.

(Whereupon, there is a recess in the proceedings.)

THE VIDEOGRAPHER: The time is 1:08 p.m. and we are back on the record.

EXAMINATION BY

MR. DENMAN:

Q. Mr. Whitlinger, I'm Harrison Denman from White & Case for the ad hoc group of junior secured noteholders. Earlier you mentioned you are both an officer and a director for Residential

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JAMES WHITLINGER

Capital LLC and for GMAC Mortgage LLC,
correct?

A. Yes.

Q. And do you also hold positions
at Residential Funding Company, LLC?

A. Residential Funding I'm also a
board member and a chief financial officer
as Craig had asked.

Q. Okay. And can you identify the
other members of the board for GMAC
Mortgage?

A. Steve Abreu and, you know, Joe
Pensabene, who is the head of our
servicing is currently a -- and is also a
board member.

Q. And is the same individuals that
are members of the board of Residential
Funding Company?

A. I believe it's only Steve Abreu
and myself for -- for RFC.

Q. And earlier you said that you
don't recall there being any meetings of
the board of GMAC Mortgage with respect to
the RMBS settlement, correct?

1 JAMES WHITLINGER

2 A. Correct.

3 Q. And do you recall if there were
4 any such meetings of the board by -- of
5 the board for Residential Funding Company?

6 A. No. I would say the same, I
7 don't recall.

8 Q. Being that you are one of only
9 two, or in the case of GMAC Mortgage
10 three, directors for each entity you would
11 obviously -- your attendance would be
12 necessary for any board meeting of those
13 two entities, correct?

14 A. Yes.

15 Q. So it's safe to assume that your
16 not recalling means that those meetings
17 never occurred?

18 MR. RAINS: Objection.

19 Misstates his testimony.

20 A. I don't -- I don't recall having
21 a meeting and I don't believe we had a
22 separate meeting but I don't -- I don't
23 re- -- I don't recall.

24 Q. Okay. Now, you attended the
25 May 9th board meeting, correct?

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JAMES WHITLINGER

A. Yes.

Q. And that was a board meeting for Residential Capital LLC, correct?

A. Yes.

Q. And your attendance there was in your capacity as officer and director of Residential Capital LLC, correct?

A. Yes. But I was also there with respect to the plan support agreement that all the debtor entities were listed as part of the plan support agreement. So -- so I was also considering the other entities in my decision.

Q. But only with respect to the plan support agreement because that was the agreement to which those entities were parties?

A. That's -- that's correct.

Q. Was it customary for you to attend a board meeting for one entity and make decisions that related to the affairs of another entity at that meeting?

A. I would say this, you know, generally speaking, because RFC and GMAC

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JAMES WHITLINGER

Mortgage are guarantors to many of the facilities that we have that we're -- we're always thinking about all the -- the entities that are -- that are subsidiaries of the company.

Q. So do those subsidiary entities ever have board meetings?

A. We do -- we do occasionally have board meetings, you know, that -- that, you know, that I would generalize as things that are specific to that entity for maybe a state licensing issue.

Q. Okay. Earlier you mentioned that the \$8.7 billion allowed claim -- well, let me put it different.

What was your understanding with respect to the entities that would be liable for the \$8.7 billion claim as of the May 9th?

A. My understanding that at that point in time all the entities were part of the release and that the claim, generally speaking, would be allocated based on where the loans were at by the

EXHIBIT L
(REDACTED)

ResCap

Steve Abreu
Jonathan Ilany
John Mack
Tom Marano
Ted Smith
Pam West
Jim Whitlinger

Residential Capital, LLC Board of Directors Meeting

Wednesday, May 9, 2012, 3:00 pm (ET)

Dial-in No.: 866-203-0920 / International No.: 206-445-0056

Conference Code: 53396-93036

A special telephonic meeting of the ResCap Board of Directors will be held Wednesday, May 9, 2012, at 3:00 pm (ET). An agenda is attached. Supporting materials will be distributed just before the meeting.

Please let me know if you are unable to participate. Feel free to contact me by phone (313.656.6301) or email (cathy.quenneville@ally.com) should you have any questions. Thank you.

Cathy Quenneville
Secretary
5/9/12

cc: Tammy Hamzhepour
Morrison Cohen
Morrison & Foerster

ResCap Confidential

**Residential Capital, LLC
Board of Directors
Wednesday, May 9, 2012, 3:00 pm (ET)**

Agenda

	<u>Length</u>	<u>Start</u>
1. <u>Proposed Legal Settlement</u>	(30 min)	3:00 pm
2. <u>Project Bounce Update</u>	(30 min)	3:30 pm

ResCap Private Label Securities
Rep & Warrant Settlement Discussion
Supporting Information
May 9th, 2012

Confidential



RESCAP

Privileged and Confidential
For Settlement Purposes Only

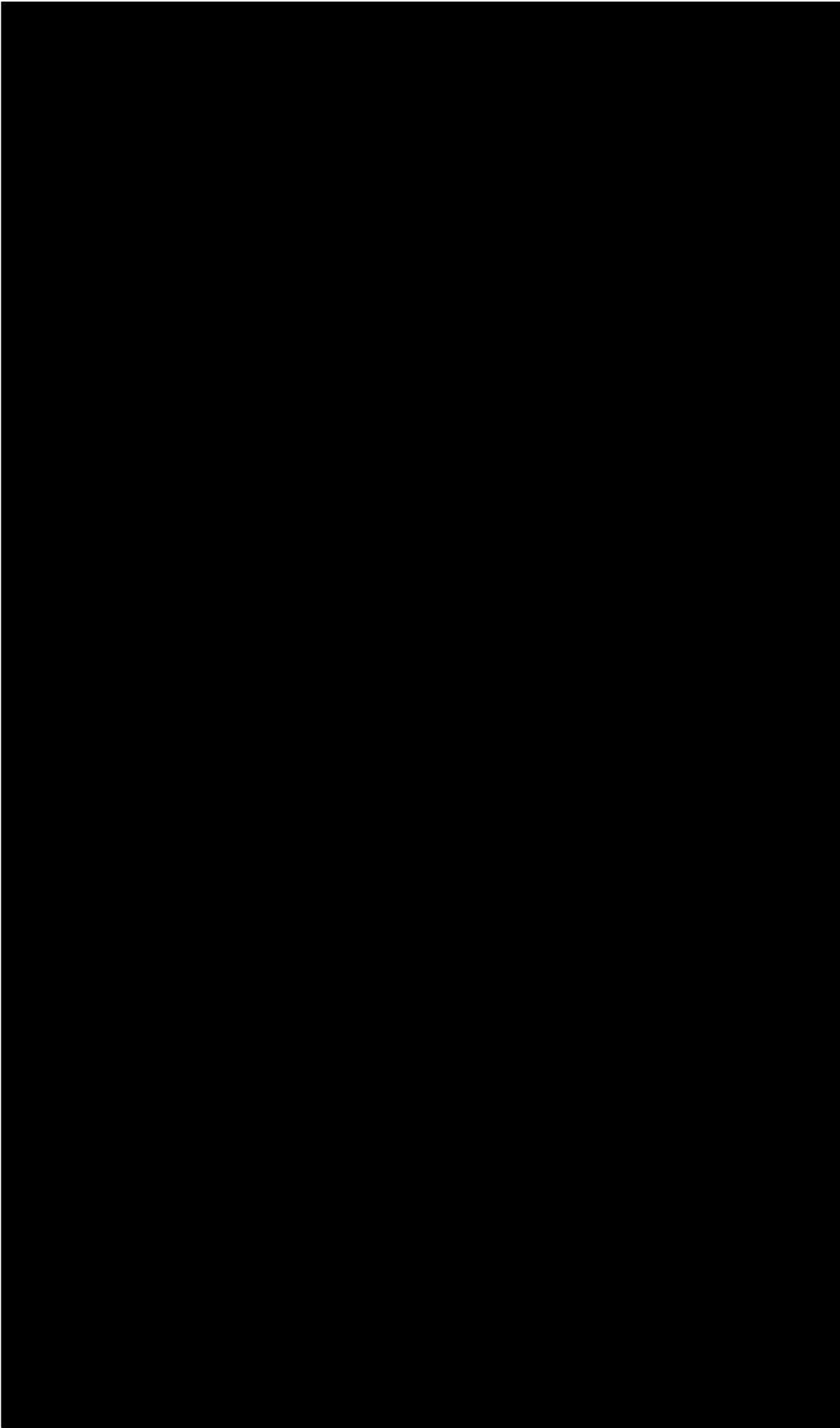
2004-2007 PLS R&W Analysis

	A	B	C	D
	ResCap Issued Deals			
	ResCap Issuance	KP Group	% of Total Issue	
1	Original Balance	226,029.3	171,250.8	76%
2	Current Balance	63,284.8	49,238.1	78%
3	% Delinquent	28%	29%	
4	Cume Loss To Date	29,891.9	22,694.1	76%
5	Projected Loss	14,225.7	10,937.4	77%
6	Est Lifetime Loss	44,117.5	33,631.5	76%
	Est Lifetime Loss % of Orig Bal	19.5%	19.6%	
13	ResCap Settlement - 19.72% Defect	8,700.0	6,632.1	76%
14	Lehman Claim Amount - 35% Defect	15,441.1	11,771.0	76%
15	BofA Baseline - 36% Defect	15,882.3	12,107.4	76%

(a) Collateral and Bond information sourced from Intex files

Key Notes:

- 1) KP's Investor group covers 82% of RFC issued non-wrapped deals and 88% of GMACM issued non-wrapped deals
- 2) KP's Investor group covers 63% of RFC issued wrapped deals and 28% of GMACM issued wrapped deals
- 3) [REDACTED]
- 4) ResCap projected losses based on third party vendor model (ADCO LDM), and the model was calibrated to fit ResCap collateral performance by product/vintage
- 5) ResCap projected severity based on Moody's baseline HPI forecast and ADCO model loss estimations
- 6) There could be amounts conceded if the true defect rate is below the 19.72% based on actual loan file reviews and application of litigation defenses
- 7) Lehman bankruptcy estimated claim amount for plan voting based on 35% defect rate. The defect rate could be higher as claims are resolved.
- 8) BofA proposed settlement defect rate set at 36% prior to litigation adjustments
- 9) KP has factored into the analysis the estimated recovery amount through bankruptcy, as well as third party releases.



**ATTORNEY - CLIENT PRIVILEGE
PREPARED IN ANTICIPATION OF LITIGATION**

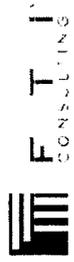


EXHIBIT M

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In Re:	Case No.
RESIDENTIAL CAPITAL, LLC, et. al,	12-12020(MG)
Debtors.	

-----x

VIDEOTAPE DEPOSITION OF THOMAS MARANO

New York, New York

November 12, 2012

9:56 a.m.

Reported by:
ERICA L. RUGGIERI, RPR
JOB NO: 27645

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THOMAS MARANO

Q. Did Mr. Mack and Mr. Ilany inform you of their discussions with Mr. Carpenter concerning discussions about an AFI/ResCap settlement of claims?

A. While they were working on it, they never gave me specific details. They would tell me they had meetings and were having phone calls, but I never got any of the real details of what they discussed.

Q. Are you saying that you didn't learn the details or the terms of the deal until one was struck?

A. I was informed of what Ally was willing to take at a presentation, but the to and fro for the many weeks beforehand that they were negotiating, I was really not involved in that.

Q. So what I'm saying is, when did you first learn of the terms that had been negotiated between AFI and ResCap concerning the settlement between the two?

A. When the outside directors got to the point where they felt they got the best deal they could --

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THOMAS MARANO

Q. When was that?

A. -- I was informed.

I don't recall the day. I'm
sure there's a board meeting for it.

Q. Was it in or about May of this
year?

A. I would say it would be
potentially April or May. Certainly prior
to the bankruptcy.

Q. Did you ever express your view
to Mr. Carpenter, or anyone else at AFI,
that AFI should make a higher payment to
ResCap for a settlement of claims between
the two?

MR. PRINCI: Objection as to
form.

A. No matter what number Michael
Carpenter offered, I always asked for
more, including as it relates to this.
Always asked for more.

Q. In connection with a settlement
of claims by ResCap against AFI, what did
you ask him for?

A. Because I didn't do the

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THOMAS MARANO

negotiation, I didn't ask him, you know,
for this specific number. So I can't -- I
just don't know.

Q. I thought you testified a minute
ago that you always asked him for more.

Are you saying just generally?

A. Whenever I negotiated anything
with Michael, I always asked for more.

Q. Okay. So are you saying that
you never had occasion to discuss with
Mr. Carpenter the amount that AFI was
willing to pay or that you thought should
be paid by AFI to ResCap to settle claims?

A. Not in the context of
negotiating the deal. But I had expressed
numbers that I felt were, you know, higher
than we were able to get.

Q. What numbers did you express?

A. Now, my general view was it
probably would take something close to
\$2 billion to settle this.

Q. And you expressed that to
Mr. Carpenter?

A. I expressed that to

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Mr. Carpenter, definitely.

Q. Did you express it to other members of the ResCap board?

A. Yes.

Q. Did you express it to all of the other members of the ResCap board?

A. I was fairly vocal in what I thought it would take to get a deal done. My view is it would take a couple billion dollars, that no one was going to do a deal for 750.

Q. And during what period of time or over what period of time did you advocate for a number in the range of \$2 billion from AFI?

A. I wouldn't use the phrase "advocate." I would say expressed my view of how to get a settlement --

Q. Fine.

A. -- or, pardon me, a deal. And in that context, I would say, you know, over the spring of this year.

MR. KAUFMAN: Let's mark as the next exhibit, Ally Financial, Inc.'s

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10-Q for the first quarter 2012.

(9019 Exhibit 54, Ally
Financial, Inc.'s 10-Q for first
quarter 2012, marked for
identification, as of this date.)

MR. KAUFMAN: Just for the
record, this document is an as-filed
version. It does not have Bates
numbers. This is the one that was
pulled off the actual filing.

Q. Let me show you what we have
marked as Exhibit 54.

Do you recognize this as the
form 10-Q filed by AFI for the quarter
ending March 31, 2012?

A. Yes.

Q. And am I correct that the 10-Q
was filed on April 27, 2012, with the SEC?

A. Yes.

Q. And am I correct that the 10-Q
presented consolidated statements for AFI
and its subsidiaries, including ResCap?

A. Yes.

Q. Did you participate in the

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preparation of the 10-Q?

A. It was prepared by professionals; however, I did, I did review it.

Q. You reviewed it before it was filed, right?

A. Yes.

Q. Did you believe its contents to be true and accurate at the time it was filed?

A. At the time it was filed, yes, I did believe the contents were true and accurate.

Q. Let me direct your attention to page 73. There is a section describing the company's private label securitizations and its possible exposure to liability, as a result of those activities.

Do you see that?

A. Yes.

Q. Under the heading Potential Losses, the 10-Q stated, "We currently estimate that ResCap's reasonably possible

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and answered.

You can answer again.

A. It's my understanding that Kathy Patrick had assembled a large enough group to achieve her objective and it was in the interest of the estate to settle.

Q. That wasn't my question. I want to know whether you understood when you were asked to approve the settlement on May 9th, that Ms. Patrick and her clients had the power to force the trustees to act?

MR. PRINCI: Objection. Asked and answered. Last go round on this one.

Do it again.

A. My understanding was she had enough people to get done what she wanted to get done.

MR. PRINCI: Can we take a break?

MR. KAUFMAN: You want a break?

MR. PRINCI: Yes, I do.

MR. KAUFMAN: Then you can have

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THOMAS MARANO

one.

MR. PRINCI: Thank you.

THE VIDEOGRAPHER: The time is
2:56 p.m. and we are off the record.

(Whereupon, there is a recess in
the proceedings.)

THE VIDEOGRAPHER: The time is
3:09 p.m., and we are back on the
record.

MR. KAUFMAN: Let's mark as the
next exhibit the minutes of a special
meeting of the board on May 9, 2012,
Bates numbers 54006 to 54007.

(9019 Exhibit 61, minutes of
5/9/12 special meeting of board, Bates
numbers 54006 to 54007, marked for
identification, as of this date.)

Q. Showing you what we have just
marked, Mr. Marano, are these the minutes
of the board meeting on May 9, 2012?

A. Yes, these appear to be the
minutes.

Q. And was the meeting held by
telephone?

1 THOMAS MARANO

2 A. I have to rely on the minutes.

3 I can't recall.

4 The minutes suggest that it was
5 held by telephone.

6 Q. Do the minutes accurately
7 reflect what occurred at the May 9th
8 meeting?

9 A. Yes.

10 Q. The minutes say that one of the
11 board's members, Mr. Ilany, was unable to
12 attend.

13 Why couldn't he attend?

14 A. I'm -- I don't know why he was
15 not there. I don't remember.

16 Q. The minutes also reflect that
17 two matters were addressed at the meeting,
18 the proposed RMBS settlements and the
19 Project Bounce update; is that correct?

20 A. Yes.

21 Q. How much time was devoted to
22 each of those matters?

23 A. There was, you know, there was a
24 considerable amount of time, you know,
25 dedicated to both matters. I can't tell

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you within the hour that the board meeting transpired, whether it was 50/50; but there was, you know, a fair amount of time.

Q. The entire meeting, according to the minutes, lasted an hour, correct?

A. Correct. I just can't tell you whether it was 30 and 30. I don't recall.

Q. Is it your best recollection that it was split approximately equally between the two matters?

A. I don't recall how much time was spent on each matter.

Q. In the next-to-last paragraph on the first page, the minutes say that during the discussion you requested that a report with separate line items identifying the different settlement amounts be prepared to provide the board with additional details on the settlements.

Do you see that?

A. Yes.

Q. Why did you want that

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information?

A. For purposes of clarity.

Q. Clarifying what?

A. To help to make sure the board understood, you know, the components that made up the rep and warrant and PLS settlement.

Q. Was that report provided during the course of the hour meeting?

A. I do not believe it was.

Q. Why didn't you adjourn the meeting until you got the information you were looking for?

A. I think -- my recollection of this meeting is that we had enough of a basis to determine whether or not the settlement agreement was fair, and this was just clarifying details.

Q. Was there a written presentation that accompanied the May 9th meeting?

A. I don't recall if there was a presentation.

Q. Wasn't it the two-page document we looked at before that you got --

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THOMAS MARANO

A. Oh, yes.

Q. -- just about 20 minutes before?

A. Yes. This is the same meeting.

Q. So that's the information that the board was looking at, when it was considering, on May 9th, whether to approve the settlement?

A. That is -- that is correct.

Q. Was there anything other than that two-page presentation the board was looking at, when it was asked to consider whether to approve the settlement?

A. Not that I recall.

Q. On the second page of the minutes regarding the Project Bounce update, it says that you and Mr. Nashelsky briefed the board on the status of various matters related to a potential ResCap Chapter 11 filing, including but not limited to the AFI settlement agreement.

Do you see that?

A. Yes.

Q. And that refers to the settlement agreement between ResCap and

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THOMAS MARANO

releases to AFI as well as full releases
from ResCap, right?

A. That's right.

Q. Tell me how you thought the
component of the settlement securing
third-party releases to, for AF -- for AFI
benefitted ResCap.

MR. PRINCI: Just a
clarification. ResCap referring now
to what company?

Earlier in the deposition I
asked you if ResCap would be presumed
to be defined to represent one
company, and you said no.

MR. KAUFMAN: Stop talking.

MR. PRINCI: So I just want to
know what it refers to.

MR. KAUFMAN: Stop talking.

MR. PRINCI: I need to know the
clarification; otherwise, I can't have
him answer.

MR. KAUFMAN: Stop talking.

MR. PRINCI: Can you answer that
question, please.

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THOMAS MARANO

MR. KAUFMAN: Stop talking.

DIR MR. PRINCI: Don't answer the question.

Q. From which companies did AFI get releases?

All the debtors, right?

A. Yeah, all of them.

Q. How did the component of the settlement securing third-party releases, third-party releases for AFI, benefit ResCap?

MR. PRINCI: By ResCap, you mean all the companies?

MR. KAUFMAN: Yes.

MR. PRINCI: Okay.

A. We would not have been able to get the settlement, unless Ally received something in return. Ally paid good money to get the settlement.

We also knew there would be an opportunity to challenge that settlement and to have another bite at the apple.

Q. What did you understand the opportunity to be to challenge the

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settlement between ResCap and Ally?

A. We were going to go before a judge, and if the judge wasn't comfortable with the arrangement, he would absolutely have us try and revise it or come to a new agreement.

Q. And was that a consideration of yours and the board, in approving the settlement?

A. We knew we got the best deal we could get from Ally at the time we filed or were about to file. And we knew that there would be an opportunity for it to be reviewed and challenged.

But we felt like we had gotten a very good deal for all parties and helped preserve value for the platform.

Q. Okay. Mr. Marano, you did understand from your advisors, didn't you, that ResCap had potential claims against AFI for the full amount of whatever settlement amount you might agree to pay to Ms. Patrick and other creditors, right?

A. We knew -- we certainly knew we

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THOMAS MARANO

had that possibility. We felt at the time this was the best deal we could get, and it was reasonably fair.

Q. You didn't believe it was reasonably fair. You told us before you thought the number should have been \$2 billion, didn't you?

MR. PRINCI: Objection, misstates his testimony. That's not what he testified to.

A. With respect to my comment on the \$2 billion, my view was, what would it take to get all of the investors or vulture funds in the deal to go away. That was based on 30 years of Wall Street. That's a number of what I think it would take to buy peace. Doesn't mean it isn't fair.

Q. Isn't that what you told Carpenter and what you said you repeatedly told others, that that was the right number?

MR. PRINCI: Misstates his testimony. Objection.

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THOMAS MARANO

A. What I told Carpenter was it would take a lot more than 750 million to get a quick resolution. Doesn't mean it was fair for it to be a 2 billion charge to Ally; 750 was fair. But people are going to want more.

Q. What made you think that 750 was the top dollar you were going to be able to get from AFI?

A. The -- I relied on the independent directors who, you know, spent weeks, if not months, negotiating with Carpenter; and they told us this was the best deal they could get. And we looked at what the legal professionals said were valid claims, and we concluded at the board meeting this was fair.

Q. Based on a two-page presentation you got 22 minutes before, in an hour meeting?

MR. PRINCI: Objection, that's just argumentative. Is there a question? Excuse me, is there a question?

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THOMAS MARANO

form.

A. You know, I believe what this is saying and -- 8.02 basically releases -- it says that the financial guarantors are not released by the waivers in Article 7.

Q. I see you are reading the agreement. I don't want to interrupt. Is that your answer?

A. Yes.

Q. So do you have an understanding as to whether if the settlement agreement that's Exhibit 58 becomes, is approved by the court and becomes effective that financial guarantee providers like MBIA still will have claims to pursue against the debtors?

MR. PRINCI: Objection, the document speaks for itself but you can answer to the extent you --

A. I believe you can file your own claim.

Q. Do you have an understanding as to what types of claims financial guarantee providers like MBIA could file?

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THOMAS MARANO

A. I can't tell you the nuances of the claims because I'm not a lawyer.

Q. What is your understanding as to why section 8.02 of the settlement agreement was included in the RMBS settlement?

A. I believe that Kathy Patrick had not actually signed up the monolines as I refer to them so the MBIA's and the FGICs and this way you had the -- or the monolines had flexibility.

Q. Let's talk about another provision in Exhibit 58, the settlement agreement. Are you aware that pursuant to the settlement agreement if it gets approved and it is effective that counsel for the institutional -- the RMBS institutional investors will have their fees paid by the debtors?

A. Say that last part again.

MS. PATRICK: Objection, form.

Q. Let me restate the question. Are you aware that if the RMBS settlement agreement is approved and becomes a factor

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THOMAS MARANO

that counsel for the institutional investors will have their fees paid by the debtors?

MS. PATRICK: Objection to form.

MR. PRINCI: Objection to form.

A. Yeah. I believe that the fees will be paid, yes.

Q. Do you have an understanding as to the amount of those fees that would be paid by the debtors?

A. I don't recall. And it may be in the document. I just don't recall.

Q. Okay. When the -- I think you previously discussed the May 9th board meeting at which the settlement agreement was considered. Was there any discussion at that meeting regarding the payment of the institutional investors' counsel fees?

A. I don't recall if that was a matter of discussion at the board meeting.

Q. Okay. Have you or anyone else on behalf of the debtors evaluated the reasonableness of the fees that would be paid to counsel to the institutional

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THOMAS MARANO

investors pursuant to the settlement
agreement?

MS. PATRICK: Objection to form.

A. I have not looked at the
reasonableness. I'm not -- again, I don't
recall that I even knew what that number
was.

Q. Are you aware whether anyone on
behalf of the debtors has requested either
bills or time sheets from counsel to the
RMBS investors to substantiate fees that
will be paid to them under the settlement
agreement?

MR. PRINCI: Objection to form.

MS. PATRICK: Same objection.

A. I'm not the best person to
answer that. My chief financial officer
keeps track of all that information. If
we received it, he'll have it.

Q. Okay. Is that -- that's
Mr. Whitlinger?

A. Whitlinger.

Q. Okay. Whitlinger. I'm sorry.
Give me one moment.

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THOMAS MARANO

MS. BAGBY: I think that's all we have. Thank you very much.

EXAMINATION BY

MR. SHORE:

Q. Good afternoon, sir. I'm Chris Shore from White & Case on behalf of the junior secured notes. I really have two short pages of questions. First of all, do you hold a position with Residential Funding Company, LLC?

A. No.

Q. And do you hold a position with GMAC Mortgage, LLC?

A. No.

Q. I want to focus on the board meetings with respect to the settlement, one of which was talked about, one of which wasn't. But first, yes or no, were you advised at any time in your capacity as an officer or director of Residential Capital, LLC as to any fiduciary duties you owed as an officer or director?

A. Yeah, I was advised as to my fiduciary responsibilities by counsel.

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THOMAS MARANO

Q. And when was that?

A. Periodically over the years as I have worked for Residential Capital.

Q. Okay. Has Morrison & Foerster ever advised you as to your fiduciary duties, and let me limit that in time in the time, from the time they came up onto the scene up until the filing of the bankruptcy?

MR. PRINCI: What -- what's the significance of whether Morrison & Foerster has advised him. He told you he's been advised by counsel. Why does it make a difference what law firm did or didn't advise him on that?

Q. Can you answer the question?

MR. PRINCI: Don't answer it. You have to answer my question first.

MR. SHORE: You are going to instruct him not to answer?

MR. PRINCI: I'm going to have to know how that question and the answer you are seeking to elicit falls

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THOMAS MARANO

advised as to your fiduciary duties in the context of a potential insolvency?

A. Yes.

Q. And when was that? In relation to the ResCap fund.

A. Within the past year or so.

Q. Drawing your attention to the May 9th board meeting, which is 9019 Exhibit 61. You can look at the minutes if you want.

A. You said 61, right?

Q. 61, yes. I'm not asking you for your legal advice but rather your state of mind as an officer of ResCap LLC. What was the understanding of your fiduciary duties at the time of this meeting?

A. At this point in time my fiduciary obligations were to the creditors of ResCap.

Q. And when you say ResCap, do you mean ResCap LLC?

A. ResCap and its subsidiaries.

Q. Did you understand that you owed a fiduciary duty to Ally?

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A. At this point in time I believe my obligations to Ally were not there.

Q. And what's your basis for understanding that you, as an officer and director of ResCap LLC, owed fiduciary duties to creditors' entities other than ResCap LLC?

A. My understanding was that I was responsible for the ResCap legal entity and all of its subsidiaries. And so that would have included RFC and GMAC. And again, I felt at this point in time I really had no obligation to Ally whatsoever.

Q. And if there were a conflict between what would benefit creditors of ResCap LLC versus what would benefit creditors of RFC, what was your understanding as to how you were to resolve that conflict?

A. Well, I feel like the deals we struck were for everybody. And all of us, not only ResCap, but all of its subsidiaries got the same deal. So I was

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THOMAS MARANO

focused on getting the same deal for everybody.

Q. Okay. Can you answer my question. And maybe you just did. But just to make clear, what was your understanding of what you were supposed to do in the event of a conflict between what would benefit creditors of ResCap LLC versus what would benefit creditors, for example, of RFC?

A. I -- I never thought about it in the context of a conflict.

Q. Did you understand at the time of the May 9th board meeting that there were certain structures that might benefit one group of creditors over another group of creditors?

MR. PRINCI: Objection.

References facts not in evidence but you can answer if you understand the question.

A. I'm not sure I do follow.

Q. Okay. At the time of the May 9th board meeting did you understand

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THOMAS MARANO

that ResCap LLC was committing itself to pay anything in connection with the proposed settlement?

MR. PRINCI: Objection as to form.

A. What -- with respect to the settlement what I recall is trying to get a global -- essentially buy global peace for all the entities. How any allocation of monies would be, you know, chopped up, I was not thinking about that.

Q. At the time of the May 9th board meeting did you understand that there was even an assertion that ResCap LLC was a potential, owed a potential claim to any of the settling funds?

A. I'm not sure I thought about it in that context.

Q. And so when the number was reached, 8.7 billion, was it your understanding that that 8.7 billion could be asserted against every entity within the ResCap enterprise?

A. I believe that could have. I

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THOMAS MARANO

wasn't really focused on it, you know,
other than to get everybody the same deal.

Q. So getting back to this conflict
point. Do you understand that as between
ResCap LLC and Residential Funding
Company, LLC, there might be a
disagreement between those two entities as
to who was the proper party to pay the
claim?

A. Today or back then?

Q. Back then.

A. Again, I don't recall thinking
about it at the time.

Q. Okay. Who made the decision to
enter into the settlement on behalf of
Residential Funding Company, LLC?

A. That would have been the
directors of that entity.

Q. And how was that effectuated?

A. You'd have to talk to those
directors.

Q. And who were those directors?

A. I believe you've got Steve Abreu
and -- and Jim Whitlinger,

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THOMAS MARANO

W-h-i-t-l-i-n-g-e-r.

Q. And who acted on behalf of GMAC
Mortgage, LLC?

A. I believe that was Steve Abreu
and Joe Pensabene, P-e-n-s-a-b-e-n-e.

Q. And did you understand in
connection with the May 9th board meeting
that you were acting at all on behalf of
Residential Funding Company, LLC in a
legal capacity?

MR. PRINCI: Objection. Calls
for an expert opinion.

If you understand the question,
you can answer it.

A. I'm not really sure what you
mean by a legal capacity. I mean from a
fiduciary point of view I was trying to
settle for everybody, get the biggest deal
for the family. How the mechanics of that
worked out I was not, you know, worried
about that detail.

Q. I don't know if it has been
marked. I apologize. Let's mark this as
9019-62.

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THOMAS MARANO

(9019 Exhibit 62, minutes of an
April 13, 2012 board meeting, Bates
9019_54008 through 54022, marked for
identification, as of this date.)

Q. There's one extra one on the
bottom, I think.

A. No.

Q. No. Here it is, sorry. It's
Bates numbers of 9019-62 run from
9019_54008 through 54022.

And have you seen that document
before?

A. I'm familiar with this agreement
or these minutes, I'm sorry.

Q. Do you recall being in
attendance at a board meeting on April 13,
2012?

A. Yes.

Q. As between the board meeting on
April 13th and the board meeting on
May 9th, do you recall when it was
determined that the ResCap entities would
agree to an \$8.7 billion claim?

A. I believe the ResCap entities

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THOMAS MARANO

MS. PATRICK: Objection to form.

A. No, I never thought about that.

Q. And I asked before about considering the \$8.7 billion in formal meetings. Has there been any informal discussions within the ResCap enterprise since the May 9th meeting as to agreeing on a different number than 8.7 billion?

A. I don't recall any, no.

Q. As you sit here today, do you have any basis for believing that ResCap LLC is indebted in the amount of \$8.7 billion to the settling parties?

A. Until this is approved I don't think we technically are. I'd have to -- I'd have to defer to an expert on that.

Q. All right. And as you sit here today, do you have any basis for believing that ResCap LLC should be held liable to the settling parties for an \$8.7 billion claim?

MS. PATRICK: Objection, form.

MR. PRINCI: Object. It calls for a legal conclusion.

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THOMAS MARANO

A. Yeah. I'd have to get an expert.

Q. So independent any legal counsel you -- legal advice you don't have any view?

A. No.

RQ MR. SHORE: Let me ask because I don't know that we have seen them, can we get copies of any minutes or resolutions for both the Residential Funding Company, LLC entity and the GMAC Mortgage, LLC entity in relation to the entry into the settlement agreement. But then, in addition, to the extent any other entity within the ResCap group as defined by the witness has either minutes or resolutions or shareholder consents or other formal documentation with respect to that we'd like to get that as well.

MR. PRINCI: I'm not going to engage in discovery requests at a deposition but you can proceed with

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THOMAS MARANO

respect to requests for documents you believe are appropriate.

MR. SHORE: Thank you.

Q. Were you present at any post-petition board meeting to discuss an amendment to the settlement agreement or any amendments to the settlement agreement?

A. Yeah, I was at one. There was one time where the agreement came in -- there was one board meeting where we talked about an amendment to the agreement.

Q. Okay. And then independent of that one board meeting, that aside, has there been any other post petition board meeting at any ResCap entities as far as you know to discuss the settlement agreement?

A. Not that I'm aware of.

Q. So what do you recall about the meeting with respect to the amendment?

A. There -- there were actually a couple of attempts to amend the agreement

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THOMAS MARANO

in an effort to deal with some complaints between some of the various bondholders. And in the end there was sort of a technical agreement to eliminate a release from one legal entity and to adjust the allocation. I'm not sure if the allocation was completely eliminated or not but there was a discussion about it. And the change was material enough including the release that -- that we made a decision that we needed to go to the board.

Q. And that went to the board?

A. Yes.

Q. Again, because I'm going to ask for legal advice let me just ask you to answer yes or no to this. Actually, let me step back.

In connection with acting as an officer and director of a corporate entity within a family do you understand that at certain times certain legal entities may be the actual party on the hook with respect to a claim even though they are

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THOMAS MARANO

part of another enterprise?

MR. PRINCI: Objection as to
form.

Q. Or a larger enterprise?

MR. PRINCI: Objection as to
form.

A. The answer is yes.

Q. So for example if one of your
subsidiaries entered into a contract, that
subsidiary might be liable on the contract
and that wouldn't necessarily make the
rest of the entities within the enterprise
liable on that claim, right?

MR. PRINCI: Objection. Calls
for a legal conclusion.

But you can answer if you
understand the question.

A. Yeah, I mean, I would -- I would
get a lawyer to look at it because I would
assume whoever signed the contract may
want to go back up to the parent.

Q. Right. And in connection, this
is the yes or no question, in connection
with the entry into the settlement

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THOMAS MARANO

agreement did you ever go to the lawyers
and ask them to tell you who within the
organization was liable on the -- liable
for the settlement?

DI MR. PRINCI: I'm going to direct
the witness not to the answer the
question on the grounds it calls for
communications with counsel.

Q. Can you answer that question yes
or no?

MR. PRINCI: I'm going to direct
you not to answer the question on the
grounds that it calls for a
communication with counsel.

Q. Are you going to follow your
counsel's advice?

A. I'm going to follow his advice.

MR. SHORE: And the basis for
that, just so we are clear on the
record?

MR. PRINCI: Attorney-client
privilege.

MR. SHORE: And for which entity
are you asserting that?

EXHIBIT N



Financial Releases

BANK OF AMERICA ANNOUNCES AGREEMENT ON LEGACY COUNTRYWIDE MORTGAGE REPURCHASE AND SERVICING CLAIMS

***Agreement Covers Nearly All Legacy Countrywide-Issued First-Lien Private-Label RMBS Exposure, Represents 530 Trusts With Original Principal Balance of \$424 Billion
Bank of America and Countrywide to Pay \$8.5 Billion to Settle Claims; Will Provide an Additional \$5.5 Billion in the Second Quarter of 2011 for Representations and Warranties Exposure***

***At Quarter End Will Have Settled or Provided Additional Reserves for a Substantial Portion of the Original Principal Balance of Representations and Warranties Exposure
With Settlement and Additional Mortgage-Related Costs, Company Expects to Report Second-Quarter 2011 Loss of \$0.88 to \$0.93 Per Share, Including a Goodwill Impairment Charge of \$2.6 Billion***

Excluding Mortgage Items and Other Non-Operating Items, Company Expects to Report Second-Quarter 2011 Net Income of \$0.28 to \$0.33 Per Share

CHARLOTTE, N.C., Jun 29, 2011 (BUSINESS WIRE) -- Bank of America Corporation today announced that it has reached an agreement to resolve nearly all of the legacy Countrywide-issued first-lien residential mortgage-backed securitization (RMBS) repurchase exposure, representing 530 trusts with original principal balance of \$424 billion.

The settlement with The Bank of New York Mellon (BNY Mellon), the trustee for the RMBS trusts covered by the settlement, is supported by a group of major institutional investors represented by Gibbs & Bruns LLP, and is subject to final court approval and certain other conditions. With this agreement and other mortgage-related actions in the second quarter of 2011, the company believes it will have recorded reserves in its financial statements for a substantial portion of its representations and warranties exposure as measured by original unpaid principal balance. The company also is estimating a range of possible loss for the remainder.

"This is another important step we are taking in the interest of our shareholders to minimize the impact of future economic uncertainty and put legacy issues behind us," said Bank of America Chief Executive Officer Brian Moynihan. "We will continue to act aggressively, and in the best interest of our shareholders, to clean up the mortgage issues largely stemming from our purchase of Countrywide."

The agreement includes a cash payment of \$8.5 billion to the covered trusts to be made after final court approval of the settlement. Bank of America also intends to record an additional \$5.5 billion provision to its representations and warranties liability for both Government-Sponsored Enterprises (GSE) and non-GSE exposures in the second quarter of 2011.

Over the last six months, Bank of America and Countrywide have announced three agreements aimed at reducing exposure to legacy Countrywide mortgage issues.

In January, Bank of America announced agreements with two of its largest counterparties, Fannie Mae and Freddie Mac. The agreement with Fannie Mae substantially resolved the existing pipeline of repurchase and make-whole claims outstanding as of September 20, 2010 arising from alleged breaches of selling representations and warranties related to loans sold by legacy Countrywide to Fannie Mae. The agreement with Freddie Mac extinguished substantially all outstanding and potential mortgage repurchase and make-whole claims arising from any alleged breaches of selling representations and warranties related to loans sold by legacy Countrywide to Freddie Mac through 2008.

In April, the company and Countrywide signed an agreement with Assured Guaranty Ltd. to resolve the monoline insurer's outstanding and potential repurchase claims related to alleged representations and warranties breaches on 29 RMBS trusts where Assured provided financial guarantee insurance.

And today, the company and Countrywide announced an agreement that covers nearly all of the legacy Countrywide-issued first-lien private-label RMBS repurchase exposure.

Second-quarter results to reflect higher mortgage-related costs

As a result of the settlement, and other mortgage-related matters, Bank of America expects to report a net loss in the range of \$8.6 billion to \$9.1 billion in the second quarter of 2011, or \$0.88 to \$0.93 per diluted share. Excluding the settlement, other mortgage-related charges, and proceeds from asset sales, the company expects to report net income in the range of \$3.2 billion to \$3.7 billion in the second quarter of 2011, or \$0.28 to \$0.33 per fully diluted share.

The key driver of the expected loss is the representations and warranties provision of \$14.0 billion, including \$8.5 billion for the settlement agreement on legacy Countrywide mortgage repurchase and servicing claims, and an additional \$5.5 billion increase in the company's representations and warranties liability for non-GSE exposures and, to a lesser extent, GSE exposures.

The company also expects to record \$6.4 billion in other mortgage-related charges in the second quarter of 2011, including a non-cash, non-tax deductible impairment charge of \$2.6 billion to write off the balance of goodwill in the Consumer Real Estate Services business, as well as charges related to additional litigation costs, a write-down in the value of mortgage servicing rights, and additional assessment and waiver costs for compensatory fees associated with foreclosure delays. The impairment charge will have no impact on reported Tier 1 and tangible equity capital ratios.

Settlement covers 530 RMBS trusts

The settlement covers 525 legacy Countrywide first-lien RMBS trusts and five legacy Countrywide second-lien RMBS trusts with mortgage loans principally originated between 2004 and 2008 for which BNY Mellon acts as trustee or indenture trustee. The settlement resolves representations and warranties claims, as well as substantially all historical servicing-related claims, including claims related to foreclosure delays and alleged mortgage documentation issues.

These trusts had an original principal balance of approximately \$424 billion and total current unpaid principal balance of approximately \$221 billion.

The 22 investors that have committed to support the settlement include many of the major U.S. and foreign institutional investors in RMBS:

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

Settlement includes agreement to implement servicing improvements

BAC Home Loans Servicing (BAC HLS) has agreed to implement certain servicing changes, including transferring certain high-risk loans owned by the covered trusts to qualified subservicers, benchmarking loan servicing against defined industry standards regarding default-servicing timelines (with the payment of agreed-upon fees if such benchmarks are not met), and addressing certain mortgage documentation issues. The trustee and BAC HLS have also agreed, with the support of the

investor group, to clarify loss mitigation standards, reflecting a shared commitment to efficient and timely procedures to assist distressed borrowers.

Certain servicing and documentation obligations begin upon signing of the settlement agreement, while others, including potential payment of servicing-related fees, are conditioned on final court approval of the settlement. The company estimates the costs associated with additional servicing obligations under the settlement agreement to be approximately \$400 million, which will contribute to the second-quarter 2011 valuation charge related to the mortgage servicing rights asset. The additional servicing actions are consistent with the recently announced orders with the Office of the Comptroller of the Currency (OCC) and the Federal Reserve.

Settlement subject to final court approval

The obligation of Bank of America and Countrywide to make the \$8.5 billion settlement payment and to pay certain other money or fees under the settlement is subject to final court approval of the settlement and certain other conditions. In addition, the obligations of the trustee are subject to the satisfaction of the conditions in the settlement agreement.

BNY Mellon, as trustee, has determined that the settlement is in the best interests of the covered trusts and is seeking the necessary court approval of the settlement by commencing a judicial proceeding, requesting that the court approve the settlement as to all of the covered trusts. It is expected that the court will schedule a hearing on the settlement and direct a notice program pursuant to which BNY Mellon will notify certificateholders and noteholders in the covered trusts of the settlement terms. It is expected that certificateholders and noteholders will be given the opportunity to file objections to the settlement before a final hearing is held on the settlement.

The institutional investors involved in negotiating the settlement have committed to support the settlement by, among other things, requesting that BNY Mellon enter into the settlement, moving to intervene as parties in the settlement approval court proceeding in support of the settlement, and using reasonable best efforts to obtain final court approval of the settlement.

It is not possible to predict whether and to what extent challenges will be made to the settlement or the timing or ultimate outcome of the court approval process, which can include appeals and could take a substantial period of time. There can be no assurance that final court approval of the settlement will be obtained, that all conditions will be satisfied, or if certain conditions in the settlement agreement permitting withdrawal are met, that Bank of America and legacy Countrywide will not determine to withdraw from the settlement.

Other matters

After giving effect to the settlement and the additional representations and warranties charges expected to be recorded in the second quarter of 2011, the company currently estimates that the range of possible loss with respect to non-GSE investor representations and warranties expense could be up to \$5 billion over expected accruals at quarter end. After giving effect to the additional GSE representations and warranties charges expected to be taken in the second quarter of 2011, based on its past experience with the GSEs, the company believes that its remaining exposure to repurchase obligations for first-lien residential mortgage loans sold directly to the GSEs will be accounted for in the recorded liability for representations and warranties for these loans at quarter end. The company is not currently able to reasonably estimate the possible loss or range of loss with respect to any such

potential impact in excess of current reserves on future GSE provisions if the GSE behaviors change from past experience. In addition, future provisions associated with representations and warranties for both non-GSE and GSE exposures and range of loss estimates with respect to non-GSE exposures may be materially impacted if actual results are different from our assumptions regarding economic conditions, home prices and other matters, including counterparty behavior and estimated repurchase rates.

For more information about the terms of the settlement, the mortgage-related charges being taken in the second quarter of 2011 and the estimated range of possible loss related to non-GSE representations and warranties expense, see Bank of America's Current Report on Form 8-K filed today.

Note: Bank of America Chief Executive Officer Brian Moynihan will discuss the above matters in a conference call at 8 a.m. ET today. Supporting materials and a live webcast can be accessed on the Bank of America Investor Relations Web site at <http://investor.bankofamerica.com>. For a listen-only connection to the conference call, dial 1.877.200.4456 (U.S.) or 1.785.424.1732 (international) and the conference ID: 79795.

Bank of America

Bank of America is one of the world's largest financial institutions, serving individual consumers, small - and middle-market businesses and large corporations with a full range of banking, investing, asset management and other financial and risk management products and services. The company provides unmatched convenience in the United States, serving approximately 58 million consumer and small business relationships with approximately 5,800 retail banking offices and approximately 18,000 ATMs and award-winning online banking with 30 million active users. Bank of America is among the world's leading wealth management companies, and is a global leader in corporate and investment banking and trading across a broad range of asset classes, serving corporations, governments, institutions and individuals around the world. Bank of America offers industry-leading support to approximately 4 million small business owners through a suite of innovative, easy-to-use online products and services. The company serves clients through operations in more than 40 countries. Bank of America Corporation stock (NYSE: BAC) is a component of the Dow Jones Industrial Average and is listed on the New York Stock Exchange.

Forward-Looking Statements

Certain statements in this press release represent the current expectations, plans or forecasts of Bank of America and are forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995.

Forward-looking statements can be identified by the fact that they do not relate strictly to historical or current facts. These statements often use words like "expects," "anticipates," "believes," "estimates," "targets," "intends," "plans," "predict," "goal" and other similar expressions or future or conditional verbs such as "will," "may," "might," "should," "would" and "could." The forward-looking statements made in this press release include, without limitation, statements concerning: the preliminary information about Bank of America's results of operations and financial condition for the quarter ending June 30, 2011 and related trends, including Bank of America's expected net loss and including Bank of America's expected net income if the settlement, other mortgage-related charges, and proceeds from asset sales are excluded, the expected amount and sufficiency of the charges to be recorded in the quarter ending June 30, 2011 related to the settlement agreement, the related

expected increase in the reserve for representations and warranties expense and the estimated costs associated with the additional servicing and documentation obligations undertaken in connection with the settlement and the corresponding expected write-down of the valuation of the mortgage servicing rights, the expected amount and sufficiency of the additional charge for representation and warranty expense in the quarter ending June 30, 2011 for both GSE and non-GSE exposures, the expected mortgage-related costs to be recorded in the quarter ending June 30, 2011, including the expected elimination in the quarter ending June 30, 2011 of the balance of the goodwill in the Consumer Real Estate Services business segment and the amount of the goodwill impairment charge expected to be recorded, Bank of America's expected tangible common equity ratio and Tier 1 common ratio (Basel I) for the quarter ending June 30, 2011, and the statement that Bank of America "will continue to act aggressively, and in the best interest of our shareholders, to clean up the mortgage issues largely stemming from our purchase of Countrywide"; the portion of Bank of America's repurchase obligations for residential mortgage obligations sold by Bank of America and its affiliates to investors that has been paid or reserved after giving effect to the settlement agreement and the expected charges in the quarter ending June 30, 2011; the estimated range of possible loss over existing accruals related to non-GSE representation and warranty exposure; the expected impact of the settlement agreement; the actions expected to be taken by the institutional investors who support the settlement; whether and to what extent challenges will be made to the settlement and the timing of the court approval process, including the nature and timing of any appeals that may follow an initial court decision; whether the conditions to the settlement will be satisfied, including the receipt of final court approval; whether conditions in the settlement agreement that would permit Bank of America and legacy Countrywide to withdraw from the settlement will occur and whether Bank of America and legacy Countrywide will determine to withdraw from the settlement pursuant to the terms of the settlement agreement; and the potential assertion and impact of claims not addressed by the settlement agreement. Forward-looking statements speak only as of the date they are made, and Bank of America undertakes no obligation to update any forward-looking statement to reflect the impact of circumstances or events that arise after the date the forward-looking statement was made.

These statements are not guarantees of future results or performance and involve certain risks, uncertainties and assumptions that are difficult to predict and are often beyond Bank of America's control. Actual outcomes and results may differ materially from those expressed in, or implied by, any of these forward-looking statements. You should not place undue reliance on any forward-looking statement and should consider all of the following uncertainties and risks, as well as those more fully discussed under Item 1A. "Risk Factors" of Bank of America's 2010 Annual Report on Form 10-K and in any of Bank of America's other subsequent Securities and Exchange (SEC) filings: the accuracy and variability of estimates and assumptions in determining the expected total cost of the settlement to Bank of America; the adequacy of the liability reserves for the representations and warranties exposures to the GSEs, monolines and private-label and other investors; the accuracy and variability of estimates and assumptions in determining the estimated range of possible loss over existing accruals related to non-GSE representation and warranty exposure; the accuracy and variability of estimates and assumptions in determining the portion of Bank of America's repurchase obligations for residential mortgage obligations sold by Bank of America and its affiliates to investors that has been paid or reserved after giving effect to the settlement agreement and the expected charges in the quarter ending June 30, 2011; whether and to what extent challenges will be made to the settlement and the timing of the court approval process, including the nature and timing of any appeals that may follow an initial court decision; whether the conditions to the settlement will be satisfied, including the receipt of final court approval and private letter rulings from the IRS and other tax rulings and

opinions; whether conditions in the settlement agreement that would permit Bank of America and legacy Countrywide to withdraw from the settlement will occur and whether Bank of America and legacy Countrywide will determine to withdraw from the settlement pursuant to the terms of the Settlement Agreement; the impact of performance and enforcement of obligations under, and provisions contained in, the settlement agreement and the institutional investor agreement, including performance of obligations under the settlement agreement by Bank of America (and certain of its affiliates) and the Trustee and the performance of obligations under the institutional investor agreement by Bank of America (and certain of its affiliates) and the investor group; Bank of America's and certain of its affiliates' ability to comply with the servicing and documentation obligations under the settlement agreement; the potential assertion and impact of additional claims not addressed by the settlement agreement or any of the prior agreements entered into between Bank of America (and/or certain of its affiliates) and the GSEs, monoline insurers and other investors; Bank of America's mortgage modification policies, loss mitigation strategies and related results; the foreclosure review and assessment process, the effectiveness of Bank of America's response to such process, and any governmental or private third-party claims asserted in connection with these foreclosure matters; and any measures or steps taken by federal regulators or other governmental authorities with regard to mortgage loans, servicing agreements and standards, or other matters.

<http://www.bankofamerica.com>

SOURCE: Bank of America Corporation

Investors May Contact:

Kevin Stitt, Bank of America, 1.980.386.5667

Lee McEntire, Bank of America, 1.980.388.6780

Reporters May Contact:

Jerry Dubrowski, Bank of America, 1.980.388.2840

jerome.f.dubrowski@bankofamerica.com

EXHIBIT O
(REDACTED)

Outlook E-mail

Pg 2 of 5

From: Lee, Gary S.
Sent: 5/9/2012 11:08:24 PM
To: 'Kathy D. Patrick'
Subject: RMBS Stipulated Claim
Attachments: Bounce - Discussion Materials (05-09-12)_KP (3).pdf

Kathy, the waterfall is attached. It is not yet ready for distribution beyond the two of us. [REDACTED]
[REDACTED]

[REDACTED] That is clearly and materially better than where we were.

There seems to be disagreement (based on our call with Ropes) on one fundamental point. So we are clear, I am writing it down so you and I can discuss.

My understanding of our deal is that the \$8.7bn number settles all claims arising from the sale and servicing of the RMBS. That's what I was agreeing to when I said "8.7 to be all deals wrapped and unwrapped as per all our waterfalls" in response to your email to me. The waterfall clearly delineates and separates pls and rw claims from all other unsecured claims (that's the purpose of the separate categories). The pls and rw lines cover all claims of any kind by that creditor class - we don't distinguish between servicing claims, contract breach claims, fraud claims or securities. These claims are - simply - claims arising from wrapped and unwrapped securitisations and nothing more. That's why I said everyone gets one claim full stop.

So if your clients do not or can not release their securities claims through you, and we cannot defeat them entirely in the bk court, then they get a share in the \$8.7bn. But either way, the \$8.7bn is the number for wrapped and unwrapped deals.

So when Ross tells me an unknown amount of securities claims comes on top of this I get spooked - because that renders a deal at \$8.7bn illusory. And if you ask why I care - which is what Ross screamed at me this evening - beyond the fact that this is the deal I sold to our board and thought we had, it (a) gives everyone an incentive to manage attacks by other claimants to get into the class or attempt to get a bigger share and (b) is consistent with the need to maintain recoveries for other constituents who are key to the success of the plan.

Aside from my lack of interest in aggressive behavior from counsel, I like you don't expect to be re-traded. I remind you I said I would get you \$8.7bn and that's what I did. Please call me after you have reviewed. There are some other smaller points that fall into this category and we can discuss those as well.

Gary S. Lee
Morrison & Foerster LLP
1290 Avenue of the Americas
New York, NY 10104-0050
T. 212.468.8042
F. 212.468.7900
glee@mof.com

From: Kathy D. Patrick [mailto:kpatrick@gibbsbruns.com]
Sent: Wednesday, May 09, 2012 8:52 PM
To: Ross.Martin@ropesgray.com; Lee, Gary S.; Wishnew, Jordan A.; Kathy D. Patrick
Cc: Keith.Wofford@ropesgray.com; Levitt, Jamie A.; David Sheeren
Subject: Re: RMBS Stipulated Claim

We do. David, what's the total holdings number (not just our holdings in deals where we have 25 per cent)?

Kathy D. Patrick
Gibbs & Bruns, L.L.P.

From: Martin, D. Ross [mailto:Ross.Martin@ropesgray.com]

[REDACTED]

RC-9019_00049381

Sent: Wednesday, May 09, 2012 04:57 PM

Pg 3 of 5

To: 'Lee, Gary S.' <GLee@mofo.com>; Wishnew, Jordan A. <JWishnew@mofo.com>; Kathy D. Patrick

Cc: Wofford, Keith H. <Keith.Wofford@ropesgray.com>; Levitt, Jamie A. <JLevitt@mofo.com>

Subject: RE: RMBS Stipulated Claim

I think Kathy is in transit at the moment, but I do believe we have a number like that.

D. Ross Martin

ROPES & GRAY LLP

T(BOS) +1 617 951 7266 | T(NY) +1 212 596 9177 | M +1 617 872 1574 | F +1 617 235 0454

Prudential Tower, 800 Boylston Street

Boston, MA 02199-3600

ross.martin@ropesgray.com

www.ropesgray.com

From: Lee, Gary S. [mailto:GLee@mofo.com]

Sent: Wednesday, May 09, 2012 5:56 PM

To: Wishnew, Jordan A.; kpatrick@gibbsbruns.com; Martin, D. Ross

Cc: Wofford, Keith H.; Levitt, Jamie A.; Lee, Gary S.

Subject: Re: RMBS Stipulated Claim

If possible we would like to say investors holding x dollars in aggregate.

Gary S. Lee

Morrison & Foerster LLP

1290 Avenue of the Americas

New York, NY 10104-0050

T. 212.468.8042

F. 212.468.7900

glee@mofo.com

----- Original Message -----

From: Wishnew, Jordan A.

To: 'kpatrick@gibbsbruns.com' <kpatrick@gibbsbruns.com>; 'ross.martin@ropesgray.com' <ross.martin@ropesgray.com>

Cc: 'Keith.Wofford@ropesgray.com' <Keith.Wofford@ropesgray.com>; Levitt, Jamie A.; Lee, Gary S.

Sent: Wed May 09 17:47:33 2012

Subject: RE: RMBS Stipulated Claim

Kathy:

One question - in our documents, we want to note that the Debtors have come to terms with your clients as memorialized in a plan support agreement. We would propose to refer to your clients as "investors in residential mortgage-backed securities", but are open to any other suggestions that you may have or prefer.

The sentence would read, in part, "The debtors intend to implement a comprehensive reorganization by consummating the Asset Sales through a plan of reorganization consistent with the terms of a plan support agreement with ...] ."

We look forward to hearing from you.

Thank you.

Regards,

Jordan

Jordan A. Wishnew

jwishnew@mofo.com

212-336-4328

-----Original Message-----

From: Lee, Gary S.

Sent: Wednesday, May 09, 2012 4:28 PM

To: 'kpatrick@gibbsbruns.com'; 'ross.martin@ropesgray.com' Pg 4 of 5
Cc: 'Keith.Wofford@ropesgray.com'; Levitt, Jamie A.; Wishnew, Jordan A.; Lee, Gary S.
Subject: Re: RMBS Stipulated Claim

Jordan, let Kathy and Ross know when we get a time. Kathy, we will want to talk about messaging and preparation for your remarks at the hearing. Pick a time Saturday afternoon.

-----Original Message-----

From: Kathy D. Patrick
To: Gary Lee
To: Ross Martin
To: Kathy D. Patrick
Cc: Keith.Wofford@ropesgray.com
Cc: Jamie A. Levitt
Subject: Re: RMBS Stipulated Claim
Sent: May 9, 2012 4:13 PM

Before you do, who on your team will let us know time to show up for first day? Thanks. Kathy D. Patrick Gibbs & Bruns, L.L.P. From: Lee, Gary S. [<mailto:GLee@mofo.com>] Sent: Wednesday, May 09, 2012 03:10 PM To: ross.martin@ropesgray.com <ross.martin@ropesgray.com>; Kathy D. Patrick Cc: Keith.Wofford@ropesgray.com <Keith.Wofford@ropesgray.com>; Levitt, Jamie A. <JLevitt@mofo.com> Subject: Re: RMBS Stipulated Claim Jamie and Tony Princi. I am slowly vanishing. Gary S. Lee Morrison & Foerster LLP 1290 Avenue of the Americas New York, NY 10104-0050 T. 212.468.8042 F. 212.468.7900 glee@mofo.com
From: Martin, D. Ross To: Lee, Gary S.; kpatrick@gibbsbruns.com Cc: Wofford, Keith H. Sent: Wed May 09 16:05:44 2012 Subject: RE: RMBS Stipulated Claim Obviously you've been tied up; just let us know when (and with whom) you want to discuss the Plan Support Agreement.

D. Ross Martin ROPES & GRAY LLP T(BOS) +1 617 951 7266 | T(NY) +1 212 596 9177 | M +1 617 872 1574 | F +1 617 235 0454
Prudential Tower, 800 Boylston Street Boston, MA 02199-3600 ross.martin@ropesgray.com www.ropesgray.com Circular 230 Disclosure (R&G): To ensure compliance with Treasury Department regulations, we inform you that any U.S. tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of avoiding U.S. tax-related penalties or promoting, marketing or recommending to another party any tax-related matters addressed herein.

This message

Gary S. Lee
Morrison & Foerster LLP
1290 Avenue of the Americas
New York, NY 10104-0050
T. 212.468.8042
F. 212.468.7900
glee@mofo.com

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RC-9019_00049384

EXHIBIT P
(REDACTED)

Outlook E-mail

From: Levitt, Jamie A.
Sent: 5/10/2012 7:02:56 AM
To: 'Timothy.Devine@ally.com'; Lee, Gary S.; 'rcieri@kirkland.com'; Nashelsky, Darren M.; 'nornstein@kirkland.com'
Cc: 'William.b.Solomon@ally.com'
Subject: Re: RMBS Stipulated Claim

I apologize, but with the lateness of the hour I believe I sent a confusing email, so I will clarify:

1. First, we have NOT sent anything back yet to Ropes or KP re these revisions. They are for your review and further revision.
2. Although we know we will have to eventually trade this point, based on the deal Gary discussed with KP, the agreement currently makes the \$8.7B a cap, such that all claims including securities claims, come out of it.
3. Once we reach agreement on the rest of the terms, we will eventually give on the point that KP's clients are not releasing securities claims, but for now we are going to put the full release back into the draft settlement agreement. In other words we will, for this turn state that all claims, including securities claims are released.

Sorry if I created any confusion.

Jamie

From: Levitt, Jamie A.
To: 'Timothy.Devine@ally.com'; Lee, Gary S.; 'rcieri@kirkland.com'; Nashelsky, Darren M.; 'nornstein@kirkland.com'
Cc: 'William.b.Solomon@ally.com'
Sent: Thu May 10 02:01:17 2012
Subject: Re: RMBS Stipulated Claim

Tim,

Consistent with what you state below, we have accepted their revision to the release in the settlement agreement to exclude securities law claims. We are marking up the settlement agr and PSA based on our discussions tonight with Ropes and will circulate internally before sending back to them.

Assume we should agree to the same change for Talcott when we talk to them tomorrow?

Jamie

From: Devine, Timothy
To: Lee, Gary S.; rcieri@kirkland.com; Nashelsky, Darren M.; nornstein@kirkland.com; Levitt, Jamie A.
Cc: Solomon, William Legal
Sent: Thu May 10 01:55:08 2012
Subject: RE: RMBS Stipulated Claim

CONFIDENTIAL

Folks:

The KP settlement is for everything except securities claims. And we can define securities claims narrowly.

Is that what the language in the current/final draft settlement agreement reads? Remember, we talked about this in some detail.

Please let me know what the main remaining arguments are and I will weigh in. I want to read the drafts before Ally agrees to them.

The circle is squared at the Plan. KP can only get us the "everything-but-securities" settlement release because that is the full extent of her representation. She has been clear about that. Same as in her BoA/BoNYM work. Etc.

But notice: though her clients don't release securities claims, they sign Plan Support Agreements, and the Plan includes very simple comprehensive releases, which of course include third party release of all claims, which of course includes securities

claims.

Pg 3 of 7

Presto.

So while she can't represent parties in giving up their securities claims, clients face a choice: either sign up with the settlement to make sure your trust receives monies under the waterfall, in which case you need to sign the Plan Support Agreement and support the Plan. And the Plan wipes out all their claims of any sort.

This is the beauty of it.

It is also the reason that FHFA/Freddie probably can't sign the settlement agreement. They believe their securities law claims are worth something, even in the filing; and they are also hedging against the contingency that the Plan fails, in which case they would like to be able to get on with a lawsuit against Ally Financial Inc. on the \$1 billion loss on Freddie's securities.

Timothy A. Devine
Chief Counsel - Litigation
Ally Financial Inc. Legal Staff
200 Renaissance Center
M/C: 482-B09-B11
Detroit, MI 48265
(313) 656-3477

From: Lee, Gary S. [mailto:GLee@mofo.com]
Sent: Wednesday, May 09, 2012 11:35 PM
To: Devine, Timothy; rcieri@kirkland.com; Nashelsky, Darren M.; nornstein@kirkland.com; Levitt, Jamie A.
Subject: Re: RMBS Stipulated Claim

I'm around.

Gary S. Lee
Morrison & Foerster LLP
1290 Avenue of the Americas
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glee@mofo.com

From: Devine, Timothy
To: Lee, Gary S.; rcieri@kirkland.com ; Nashelsky, Darren M.; nornstein@kirkland.com
Sent: Wed May 09 23:26:53 2012
Subject: RE: RMBS Stipulated Claim
Can we pull a call together this evening?

Would folks be available at 11:45?

Tim

Timothy A. Devine
Chief Counsel - Litigation
Ally Financial Inc. Legal Staff
200 Renaissance Center
M/C: 482-B09-B11
Detroit, MI 48265
(313) 656-3477

From: Lee, Gary S. [mailto:GLee@mofo.com]
Sent: Wednesday, May 09, 2012 11:17 PM
To: rcieri@kirkland.com; Nashelsky, Darren M.; Devine, Timothy; nornstein@kirkland.com

RC-9019_00049487

Subject: Fw: RMBS Stipulated Claim

Pg 4 of 7

Fyi

Gary S. Lee
Morrison & Foerster LLP
1290 Avenue of the Americas
New York, NY 10104-0050
T. 212.468.8042
F. 212.468.7900
glee@mofo.com

From: Lee, Gary S.
To: 'Kathy D. Patrick'
Sent: Wed May 09 23:08:24 2012
Subject: RMBS Stipulated Claim

Kathy, the waterfall is attached. It is not yet ready for distribution beyond the two of us. [REDACTED]
we provided except we brought [REDACTED]

[REDACTED] That is clearly and materially better than where we were.

There seems to be disagreement (based on our call with Ropes) on one fundamental point. So we are clear, I am writing it down so you and I can discuss.

My understanding of our deal is that the \$8.7bn number settles all claims arising from the sale and servicing of the RMBS. That's what I was agreeing to when I said "8.7 to be all deals wrapped and unwrapped as per all our waterfalls" in response to your email to me. The waterfall clearly delineates and separates pls and rw claims from all other unsecured claims (that's the purpose of the separate categories). The pls and rw lines cover all claims of any kind by that creditor class - we don't distinguish between servicing claims, contract breach claims, fraud claims or securities. These claims are - simply - claims arising from wrapped and unwrapped securitisations and nothing more. That's why I said everyone gets one claim full stop.

So if your clients do not or can not release their securities claims through you, and we cannot defeat them entirely in the bk court, then they get a share in the \$8.7bn. But either way, the \$8.7bn is the number for wrapped and unwrapped deals.

So when Ross tells me an unknown amount of securities claims comes on top of this I get spooked - because that renders a deal at \$8.7bn illusory. And if you ask why I care - which is what Ross screamed at me this evening - beyond the fact that this is the deal I sold to our board and thought we had, it (a) gives everyone an incentive to manage attacks by other claimants to get into the class or attempt to get a bigger share and (b) is consistent with the need to maintain recoveries for other constituents who are key to the success of the plan.

Aside from my lack of interest in aggressive behavior from counsel, I like you don't expect to be re-traded. I remind you I said I would get you \$8.7bn and that's what I did. Please call me after you have reviewed. There are some other smaller points that fall into this category and we can discuss those as well.

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[REDACTED] RC-9019_00049488

From: Kathy D. Patrick [mailto:kpatrick@gibbsbruns.com] Pg 5 of 7
Sent: Wednesday, May 09, 2012 8:52 PM
To: Ross.Martin@ropesgray.com; Lee, Gary S.; Wishnew, Jordan A.; Kathy D. Patrick
Cc: Keith.Wofford@ropesgray.com; Levitt, Jamie A.; David Sheeren
Subject: Re: RMBS Stipulated Claim

We do. David, what's the total holdings number (not just our holdings in deals where we have 25 per cent)?

Kathy D. Patrick
Gibbs & Bruns, L.L.P.

From: Martin, D. Ross [mailto:Ross.Martin@ropesgray.com]
Sent: Wednesday, May 09, 2012 04:57 PM
To: 'Lee, Gary S.' <GLee@mofo.com>; Wishnew, Jordan A. <JWishnew@mofo.com>; Kathy D. Patrick
Cc: Wofford, Keith H. <Keith.Wofford@ropesgray.com>; Levitt, Jamie A. <JLevitt@mofo.com>
Subject: RE: RMBS Stipulated Claim

I think Kathy is in transit at the moment, but I do believe we have a number like that.

D. Ross Martin
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Prudential Tower, 800 Boylston Street
Boston, MA 02199-3600
ross.martin@ropesgray.com
www.ropesgray.com

From: Lee, Gary S. [mailto:GLee@mofo.com]
Sent: Wednesday, May 09, 2012 5:56 PM
To: Wishnew, Jordan A.; kpatrick@gibbsbruns.com; Martin, D. Ross
Cc: Wofford, Keith H.; Levitt, Jamie A.; Lee, Gary S.
Subject: Re: RMBS Stipulated Claim

If possible we would like to say investors holding x dollars in aggregate.

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glee@mofo.com

----- Original Message -----

From: Wishnew, Jordan A.
To: 'kpatrick@gibbsbruns.com' <kpatrick@gibbsbruns.com>; 'ross.martin@ropesgray.com' <ross.martin@ropesgray.com>
Cc: 'Keith.Wofford@ropesgray.com' <Keith.Wofford@ropesgray.com>; Levitt, Jamie A.; Lee, Gary S.
Sent: Wed May 09 17:47:33 2012
Subject: RE: RMBS Stipulated Claim

Kathy:

One question - in our documents, we want to note that the Debtors have come to terms with your clients as memorialized in a plan support agreement. We would propose to refer to your clients as "investors in residential mortgage-backed securities", but are open to any other suggestions that you may have or prefer.

The sentence would read, in part, "The debtors intend to implement a comprehensive reorganization by consummating the Asset Sales through a plan of reorganization consistent with the terms of a plan support agreement with ...[]."

We look forward to hearing from you.

Thank you.

Regards,

Jordan

Jordan A. Wishnew
jwishnew@mofocom
212-336-4328

-----Original Message-----

From: Lee, Gary S.
Sent: Wednesday, May 09, 2012 4:28 PM
To: 'kpatrick@gibbsbruns.com'; 'ross.martin@ropesgray.com'
Cc: 'Keith.Wofford@ropesgray.com'; Levitt, Jamie A.; Wishnew, Jordan A.; Lee, Gary S.
Subject: Re: RMBS Stipulated Claim

Jordan, let Kathy and Ross know when we get a time. Kathy, we will want to talk about messaging and preparation for your remarks at the hearing. Pick a time Saturday afternoon.

-----Original Message-----

From: Kathy D. Patrick
To: Gary Lee
To: Ross Martin
To: Kathy D. Patrick
Cc: Keith.Wofford@ropesgray.com
Cc: Jamie A. Levitt
Subject: Re: RMBS Stipulated Claim
Sent: May 9, 2012 4:13 PM

Before you do, who on your team will let us know time to show up for first day? Thanks. Kathy D. Patrick Gibbs & Bruns, L.L.P. From: Lee, Gary S. [<mailto:GLee@mofocom>] Sent: Wednesday, May 09, 2012 03:10 PM To: ross.martin@ropesgray.com <ross.martin@ropesgray.com>; Kathy D. Patrick Cc: Keith.Wofford@ropesgray.com <Keith.Wofford@ropesgray.com>; Levitt, Jamie A. <JLevitt@mofocom> Subject: Re: RMBS Stipulated Claim Jamie and Tony Princi. I am slowly vanishing. Gary S. Lee Morrison & Foerster LLP 1290 Avenue of the Americas New York, NY 10104-0050 T. 212.468.8042 F. 212.468.7900 glee@mofocom
From: Martin, D. Ross To: Lee, Gary S.; kpatrick@gibbsbruns.com Cc: Wofford, Keith H. Sent: Wed May 09 16:05:44 2012 Subject: RE: RMBS Stipulated Claim Obviously you've been tied up; just let us know when (and with whom) you want to discuss the Plan Support Agreement.

D. Ross Martin ROPES & GRAY LLP T(BOS) +1 617 951 7266 | T(NY) +1 212 596 9177 | M +1 617 872 1574 | F +1 617 235 0454
Prudential Tower, 800 Boylston Street Boston, MA 02199-3600 ross.martin@ropesgray.com www.ropesgray.com Circular 230 Disclosure (R&G): To ensure compliance with Treasury Department regulations, we inform you that any U.S. tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of avoiding U.S. tax-related penalties or promoting, marketing or recommending to another party any tax-related matters addressed herein.

This message

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EXHIBIT Q
(REDACTED)

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----x

In Re:	Case No.
RESIDENTIAL CAPITAL, LLC, et. al,	12-12020 (MG)
Debtors.	

-----x

VIDEOTAPE DEPOSITION OF MARK RENZI

New York, New York

November 7, 2012

1:08 p.m.

Reported by:
ERICA L. RUGGIERI, RPR
JOB NO: 27640

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MARK RENZI

A. We were presenting ranges.

Q. What was the high end of debtors' range when Kathy Patrick was at \$10 billion?

MR. RAINS: Same objection. No foundation. Calls for speculation.

A. [REDACTED]

[REDACTED]

[REDACTED]

Q. [REDACTED]

A. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Q. But at that point in time, to the best of your recollection, the number that debtors were presenting to Kathy Patrick was less than \$8 billion, it was 7.8 billion; is that correct?

MR. RAINS: Calls for speculation. No foundation.

MR. JURGENS: I'm asking for the witness's recollection.

Q. Is it 7.08?

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MARK RENZI

A. That's what -- yeah. Just say seven -- I would say 7.1 is what you are referring to in terms of the number but your question is the final -- I believe you asked me if I was there for the final part of the negotiations to arrive at 8.7 and I was not present for -- for that portion.

Q. But am I correct that the debtors were at 7.1, Kathy Patrick was at 10 and in some way they met at 8.7; is that correct?

MR. RAINS: Objection. Calls for speculation. No foundation.

Q. To the best of your understanding.

A. We were presenting a range. So we didn't present a number. I did not present a number, just as Kathy Patrick. I believe MoFo was the one describing the final portions of the negotiation. So you are asking me if it's one number. On May 8th we were presenting a range of numbers.

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MARK RENZI

Q. Correct. But \$8.7 billion falls outside that range that you presented to Kathy Patrick on May 8th, correct?

A. Yes, it does.

Q. Did you do any subsequent analysis after that May 8th analysis that created ranges where the \$8.7 billion fell within the range discussed with Kathy Patrick?

A. I don't remember a specific chronology at that point in time but certainly we were evaluating other ranges at that point in time.

Q. Did debtors' counsel ever ask you to come up with an analysis to justify settling at \$8.7 billion?

A. I would say debtors' counsel said if you hold other levers constant, what does that mean for an implied defect rate.

Q. Was the total allowed claim that was going to be agreed with Kathy Patrick a lever in that analysis that you just described?

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MARK RENZI

A. Could you -- it --

Q. You just focused on the defect rate. I know from reading e-mails that Kathy Patrick's crew was very focused on defect rates. My question is, did you move -- let me withdraw that.

Was one of the levers that you were moving to reach a 22 percent defect rate --

A. I don't recognize 22 percent.

Q. The total allowed claim.

A. I don't recognize 22 percent.

Q. You don't recall Kathy Patrick requesting a, that the final total allowed claim reflect a 22 percent defect rate?

A. I recollect an \$8.7 billion claim.

Q. Did anybody ask you to conduct an analysis that would allow the debtors to back into the \$8.7 billion number?

A. Well, we had done analyses prior to the settlement based on the range of defect rates that showed numbers higher than \$8.7 billion.

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MARK RENZI

Q. But not in the context of presenting those ranges to Kathy Patrick, correct?

A. Correct. We were in negotiation -- we were negotiating. So in the process of negotiating she had a higher number and we had a lower number. The information we presented was a range of reasonable numbers to continue with negotiations.

Q. Okay.

MR. JURGENS: I'll use the balance of my time --

MR. RAINS: You've used eight minutes of your five, so I don't think you have more time.

MR. JURGENS: Well, Mr. Rains, I believe there is one question.

MR. RAINS: Go ahead.

EXAMINATION BY

MR. DENMAN:

Q. Very quickly, Harrison Denman from White & Case on behalf of the ad hoc junior secured bondholders.

EXHIBIT R

Outlook E-mail

Pg 2 of 2

From: Kathy D. Patrick
Sent: 5/7/2012 8:57:15 PM
To: Lee, Gary S.; Kathy D. Patrick
Subject: Re: I'm on with client now. Free up at 9.

OK. Just got off with my clients.

Please flag for yours that the number you suggested is a problem. At a defect rate of 22 percent, the stated claim is 10.0 billion. That insulates the settlement substantially from objectors because it is certainly within the realm of reason. I can deliver a deal at 10 bn. Please get your last and best.

Kathy D. Patrick
Gibbs & Bruns, L.L.P.

From: Lee, Gary S. [mailto:GLee@mofo.com]
Sent: Monday, May 07, 2012 07:40 PM
To: Kathy D. Patrick
Subject: I'm on with client now. Free up at 9.

Gary S. Lee
Morrison & Foerster LLP
1290 Avenue of the Americas
New York, NY 10104-0050
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EXHIBIT S

From: Lee, Gary S.
Sent: 4/24/2012 9:18:43 AM
To: 'kchopra@centerviewpartners.com'; 'mark.renzi@fticonsulting.com'; 'william.nolan@fticonsulting.com'
Cc: Levitt, Jamie A.; Nashelsky, Larren M.; 'Filip.Szymik@fticonsulting.com'; 'liz.park@fticonsulting.com'
Subject: Re: Prep for KP

REDACTED

Gary S. Lee
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1290 Avenue of the Americas
New York, NY 10104-0050
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glee@mofo.com

From: Karn Chopra
To: Lee, Gary S.; mark.renzi@fticonsulting.com ; william.nolan@fticonsulting.com
Cc: Levitt, Jamie A.; Nashelsky, Larren M.; Filip.Szymik@fticonsulting.com ; liz.park@fticonsulting.com
Sent: Tue Apr 24 09:17:26 2012
Subject: RE: Prep for KP

REDACTED

From: Lee, Gary S. [mailto:GLee@mofo.com]
Sent: Tuesday, April 24, 2012 9:16 AM
To: mark.renzi@fticonsulting.com; william.nolan@fticonsulting.com
Cc: Karn Chopra; Levitt, Jamie A.; Nashelsky, Larren M.; Filip.Szymik@fticonsulting.com; liz.park@fticonsulting.com
Subject: Re: Prep for KP

REDACTED

Gary S. Lee
Morrison & Foerster LLP
1290 Avenue of the Americas
New York, NY 10104-0050
T. 212.468.8042
F. 212.468.7900
glee@mofo.com

From: Renzi, Mark
To: Lee, Gary S.; Nolan, William
Cc: kchopra@centerviewpartners.com ; Levitt, Jamie A.; Nashelsky, Larren M.; Szymik, Filip ; Park, Liz
Sent: Tue Apr 24 09:06:16 2012
Subject: RE: Prep for KP

REDACTED

Mark A. RENZI

617.897.1528 direct
617.785.0177 mobile

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From: Lee, Gary S. [mailto:GLee@mofo.com]
Sent: Tuesday, April 24, 2012 9:01 AM
To: Nolan, William; Renzi, Mark
Cc: kchopra@centerviewpartners.com; Levitt, Jamie A.; Lee, Gary S.; Nashelsky, Darren M.
Subject: Fw: Prep for KP

REDACTED

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1290 Avenue of the Americas
New York, NY 10104-0050
T. 212.468.8042
F. 212.468.7900
glcc@mofo.com

----- Original Message -----

From: Hamzehpour, Tammy <Tammy.Hamzehpour@ally.com>
To: Lee, Gary S.
Sent: Tue Apr 24 08:55:22 2012
Subject: FW: Prep for KP

REDACTED

-----Original Message-----

From: Devine, Timothy
Sent: Monday, April 23, 2012 8:38 PM
To: Hamzehpour, Tammy
Subject: Prep for KP

Tammy:

Thinking of waterfall for KP.

Would like to recommend 3, 4, 6 rather than 4, 5, 6 as low medium high. Thought is that we create flexibility for discussion re potential losses beyond reserves. I will provide analytics to demonstrate how one could get to 3, 4 or 6. Point is not to persuade KP that such range is correct. She will have strong instinct to dispute it as unrealistically low. We are ok with her informing us otherwise, so long as she comes away knowing that ratcheting up those ranges leads automatically to lower percentage recoveries, by simple math in light of a fact that there will only be X or Y real dollars available. What we will sell, though, is based on strength of Gary's waterfall presentation as btwn GMACM and RFC in the two scenarios. The message to her will be clear - get on board.

Finally, I recommend we use 750 million rather than one billion as potential AFI contribution. I don't have basis to say it should be a billion, and it would be better to leave some room for negotiation. If we want to use a billion we will need clearance from AFI and I haven't spoken to Mike.

I recommend we take advantage of tomorrow's meeting of you, me, Kirkland and MoFo to run through the KP draft slides. Your thoughts?

Thanks.

Tim

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EXHIBIT T

Outlook E-mail

Pg 2 of 2

From: Cancelliere, Jeff - PA
Sent: 5/9/2012 7:16:02 AM
To: Devine, Timothy
Subject: Re: Defect rate

Using our 44.1B losses the defect rate would be about 19.7. Using her loss method which puts me at 48.7B the defect rate would be around 17.9

----- Original Message -----

From: Devine, Timothy
Sent: Wednesday, May 09, 2012 05:50 AM
To: Cancelliere, Jeff - PA
Subject: Defect rate

Jeff: what is the defect rate at 8.7 billion, according to her severities etc and according to ours? Thanks. Tim.

EXHIBIT U
(REDACTED)

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

EXHIBIT V
(REDACTED)

[REDACTED]

EXHIBIT W
(REDACTED)

[REDACTED]

[REDACTED]

EXHIBIT X

Outlook E-mail

Pg 2 of 3

From: Levitt, Jamie A.
Sent: 8/9/2012 6:00:44 PM
To: Lee, Gary S.; Princi, Anthony
Cc: Clark, Daniel E.
Subject: FW: 2nd Amendment to Settlement Agreement
Attachments WSComparison_Active_31451210_2_SECOND AMENDMENT TO RMBS TRUST SETTLEMENT AGREEMENT-NEW YORK-#1053253-v1-ResCap_-_Second_Amendment_to_the_RMBS_Trust_Settlement_Agreements.doc; Change-Pro Redline - 31494704-v2-RMBS Trust Settlement (incorporating first amendment) and 31494704-v5-RMBS Trust Settlement (incorporating second ame.pdf
This message was sent with High Importance

REDACTED

From: Levitt, Jamie A.
Sent: Thursday, August 09, 2012 5:00 PM
To: keith.wofford@ropesgray.com; kpatrick@gibbsbruns.com; Ross.Martin@ropesgray.com; rmadden@gibbsbruns.com
Cc: Clark, Daniel E.; Princi, Anthony
Subject: 2nd Amendment to Settlement Agreement

Kathy and Keith et al,

RC-9019_00093502

Attached is a redline of the amendments to the settlement agreement – to avoid confusion please note the redline is based off the initial version Andrew sent on Aug. 3. So it includes our changes and those we accepted from those you sent last night.

Couple of points:

1. We cannot agree to your addition of additional debtors to the Allowed Claim. Our deal was that the Allowed Claim is against GMACM and RFC. We allocated the settlement based on origination – and it could dilute and alter recoveries if we give the allowed claims as you proposed.
2. We changed the court order date to “the later of November 12, 2012, or five (5) days after the close of the Court's hearing on such motion” Your Nov. 9 proposal is not realistic and potentially annoying to the Judge. The hearing starts on Nov. 5, court is closed Nov. 6 and we'll likely need at least another day that week. So implying the court should rule in a day or so seems inappropriate. The way we have drafted it works with the opt-in date of “November 12, 2012 or five business days after the entry of an order approving the RMBS Trust Settlement.”

We are of course waiting for comments from Glen on the Agreement – which I think he was going to or has run by you.

Thanks.

Jamie

EXHIBIT Y

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----x

In Re: Case No:

RESIDENTIAL CAPITAL, LLC, et. al, 12-12020 (MG)

Debtors.

-----x

VIDEOTAPE DEPOSITION OF TAMMY HAMZEPHOUR

New York, New York

November 13, 2012

9:43 a.m.

Reported by:
ERICA L. RUGGIERI, RPR
JOB NO: 27903

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TAMMY HAMZEPHOUR

(9019 Exhibit 88, e-mail chain dated August 15, 2012, Bates RC 9019_00093188, marked for identification, as of this date.)

Q. Did you receive a copy of each of the two e-mails in this exhibit?

A. Yes, I did.

Q. In the earlier e-mail from Gary Lee, Mr. Lee reported on the court's approval of an amendment to the RMBS trust settlement agreement, correct?

A. I think it's a court order, not a court approval of agreement. I don't know what the distinguishing factor is.

Q. Okay. He reported to an order by the court with respect to an amendment to the RMBS trust settlement agreement, right?

MR. RAINS: Misstates the document.

A. The order is the scheduling order on hearing dates and things. I think that's what the order is referring to here.

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TAMMY HAMZEPHOUR

Q. Okay. You understood Mr. Lee was at least talking about or writing about an amendment to the RMBS trust settlement agreement?

A. Yes.

Q. Are we in agreement on that?

A. Yes.

Q. Okay. And the amendment he was describing allowed ResCap to sell its platform and HFS book with limited objections from the trustees; is that right?

A. Yes.

Q. In the next to last paragraph of his e-mail Mr. Lee also made note of what he referred to as one "interesting change." Do you see that?

A. Yes.

Q. And there he said, "Previously the settlement agreement left open the allocation of the RMBS claim between the different ResCap legal entities. The agreement now allows the settling trusts to elect to allocate no more than

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TAMMY HAMZEPHOUR

20 percent of their allowed claim to ResCap LLC. This provision was added to protect the investors in the event that a larger than expected portion of the Ally settlement proceeds is allocated to ResCap LLC based on alter ego type claims (as opposed to RFC and GMACM as we anticipate)."

Do you see that?

A. Yes.

Q. That was a description of the so-called Holdco election, wasn't it?

A. Yes.

Q. Was ResCap's board of directors asked to consider and approve that amendment to the RMBS trust settlement agreement?

A. I don't remember that there were.

Q. Weren't you the one who approved that?

A. I approved it -- I signed it after discussing with counsel and Mr. Marano.

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TAMMY HAMZEPHOUR

Q. Who authorized you to sign it?

A. I don't think anyone gave a specific direction to sign it.

MR. KAUFMAN: Just take a few minute break.

THE VIDEOGRAPHER: The time is 11:36 a.m. and we are off the record.

(Whereupon, there is a recess in the proceedings.)

THE VIDEOGRAPHER: The time is 11:55 a.m. and we are back on the record.

Q. Ms. Hamzephour, I just have a couple of questions more.

A. Sure.

Q. I understand that you may have had one or two telephone calls with Ms. Patrick in or around November of 2011 in connection with the first meeting with her in Minneapolis. Did you have any telephone calls with her in 2012?

A. Not one-on-one that I remember.

Q. You have been identified as the debtors -- one of the debtors fact

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TAMMY HAMZEPHOUR

witnesses at the hearing of the 9019 motion. What exactly is going to be the substance of your testimony?

A. I don't know. I'll answer whatever questions I'm asked I suppose.

MR. KAUFMAN: Okay. I have nothing further.

EXAMINATION BY

MR. DENMAN:

Q. Harrison Denman from White & Case for the ad hoc secured junior noteholders. I just have a few quick questions.

Ms. Hamzephour, your title is that of general counsel of Residential Capital, LLC, correct?

A. Yes.

Q. Do you have any titles or positions with respect to subsidiaries GMAC Mortgage or Residential Funding?

A. Yes. Also general counsel.

Q. Okay. And at the beginning of this deposition you mentioned that you had attended a meeting with Kathy Patrick in

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TAMMY HAMZEPHOUR

November 2011, correct?

A. Yes.

Q. And you mentioned that at that meeting Kathy Patrick had informed you that she believed her clients had claims against GMAC Mortgage, Residential Funding and I believe you included Ally, correct?

A. Yes.

Q. Did she inform you at that meeting that she believed her clients had claims against Residential Capital?

A. Yes. She included ResCap debtors, the ResCap family of companies. And she didn't have an organizational chart. Her goal was to be communicating with both Ally and ResCap.

Q. And was it your understanding at the time of that meeting that her clients possessed claims against Residential Capital, LLC as opposed to GMAC Mortgage and RFC?

A. There wasn't a distinction drawn at that meeting. She was saying she had claims against the entire enterprise.

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TAMMY HAMZEPHOUR

Q. And when was that?

A. It was in early May.

Q. And how many drafts of this agreement did you read?

A. I don't remember.

Q. Was it more than five? Less than five?

A. I don't remember how many drafts.

Q. Okay. I'm going to turn your attention to section 6.04, which is on page 7. And the section is entitled Legal Fees.

A. Yes.

Q. Do you recall reviewing this section of the agreement?

A. I remember this section of the agreement, yes.

Q. And what does this section generally provide?

A. It provides for counsel to the Steering Committee of investors to receive legal fee payments.

Q. And what is your understanding

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TAMMY HAMZEPHOUR

of how that -- how those legal fee payments work?

A. That they come out of the allowed claim.

Q. And do you have an understanding of the amount of those legal fees?

A. It's some percentage. I don't recall.

Q. Did you provide any comments or edits or other instructions with respect to the legal fees section of the RMBS settlement?

A. I don't -- I don't believe I did.

Q. Who negotiated the legal fees section of the RMBS settlement agreement?

A. That would be Morrison & Foerster.

Q. Do you know if they commented or provided any edits or other communications with respect to the legal fees section?

A. I don't remember. There were a number of drafts. I don't remember what the markups were of each one.

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TAMMY HAMZEPHOUR

Q. Do you recall -- withdrawn.

In reviewing the settlement agreement and section 6.04, did you make any assessment of whether or not the legal fees provided for for the Steering Committee counsel were reasonable?

A. No. I didn't -- I didn't determine it one way or the other.

Q. You didn't do it at all?

A. No. I mean I didn't -- I didn't consider an analysis of whether I thought they were reasonable fees.

Q. Do you think that was an important thing to do?

A. No.

Q. Why not?

A. They weren't -- they weren't fees that the debtors were paying. So I'm not sure why I would set the fees for these investors between themselves and their lawyer.

Q. Right. But you testified earlier that the fees that they received were going to come out of the allowed

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TAMMY HAMZEPHOUR

claim.

A. That's right.

Q. Okay. Do you know if anybody at ResCap made any determination as to whether the legal fees in provision RMBS settlement agreement was -- provided reasonable fees for the Steering Committee's counsel?

A. I don't believe so.

Q. Let's turn to section 8.02. Are you familiar with -- section 8.02 is entitled Financial Guarantee Provider Rights and Obligations. Do you see that?

A. Yes.

Q. Are you familiar with this section of the agreement?

A. Yes.

Q. What is your understanding of this section of the agreement.

A. That the releases provided don't act to release claims of financial guarantee providers.

Q. Is that any claims of financial guarantee providers or certain claims?

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TAMMY HAMZEPHOUR

A. That relate to the settlement trust.

Q. So any claims of the financial guarantee providers that relate to the settlement trust, it is your understanding that section 8.02 carves those out of the agreement?

MR. RAINS: Objection. Calls for a legal conclusion.

MR. SIDMAN: I'm just asking her to clarify her statement.

MR. RAINS: My objection stands. You can go ahead and answer.

A. I think the language speaks for itself.

Q. What is your understanding of the claims of financial guarantee providers?

A. My understanding is that there were certain securitizations that had bond insurance coverage. And that as those trusts took losses, some of the insurers paid out claims. And so they have made claims against us with respect to their

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TAMMY HAMZEPHOUR

insurance contracts as well as representation and warranty claims under those pooling and servicing agreements.

Q. So you talk about two sets of claims. You are talking about claims under the insurance contracts and then claims with respect -- representation and warranty claims --

A. Yes.

Q. -- under the PSA?

A. Right.

Q. Let's break that down. What is your understanding with respect to the financial guarantee with respect to their insurance agreements?

A. The insurance carriers have alleged that they were fraudulently induced to issue those insurance policies.

Q. Any other claims based on the insurance agreement that you are aware of?

A. I don't recall all the claims that were spelled out in the complaints.

Q. Sure. Who has filed complaints if you recall?

EXHIBIT Z

Outlook E-mail

Pg 2 of 2

From: Princi, Anthony
Sent: 8/15/2012 9:18:19 PM
To: Lee, Gary S.; john_e_mack@msn.com; jonathan@ilany.net; alemapew45@bellsouth.net; efs345@gmail.com; Steve.abreu@gmacrescap.com; jim.whitlinger@gmacrescap.com; tom.marano@ally.com; joldovan@morrisoncohen.com; mconnolly@morrisoncohen.com; tammy.hamzhepour@gmacrescap.com
Cc: Tanenbaum, James R.; Goren, Todd M.
Subject: Re: RMBS Settlement Update

All, there is an additional amendment to the Settlement Agreement that is of note. Previously in the release provisions, the Institutional Investors had refused to extend the scope of the releases to cover ResCap's non-interlocking (i.e. non-AFI) Ds and Os. In this amended agreement we were able to get the Institutional Investors to expand the scope of the releases to cover such Ds and Os, and, importantly, this was done with the consent of the trustees.

----- Original Message -----

From: Lee, Gary S.

Sent: Wednesday, August 15, 2012 07:00 PM

To: 'john_e_mack@msn.com'; 'jonathan@ilany.net'; 'alemapew45@bellsouth.net'; 'efs345@gmail.com'; 'Steve.abreu@gmacrescap.com'; 'jim.whitlinger@gmacrescap.com'; 'tom.marano@ally.com'; 'joldovan@morrisoncohen.com'; 'mconnolly@morrisoncohen.com'; 'tammy.hamzhepour@gmacrescap.com'

Cc: Tanenbaum, James R.; Goren, Todd M.

Subject: RMBS Settlement Update

As I mentioned at the end of last month, we reached an agreement with the RMBS Trustees, the Creditors Committee, Kathy Patrick and Nationstar on a structure that will allow Rescap to sell the platform and HFS book with limited objections from the Trustees.

Judge Glenn has blessed this approach and entered an Order (attached) that sets out dates for hearings on the KP Settlement and Rescap sales, the way the limited objections from the Trustees will be dealt with and the cap on claims they have agreed to.

The Order calls for us to file a revised settlement agreement with the Institutional Investors (attached). The changes to the settlement agreement were made to match the terms of the agreement with the Trustees as reflected in the Order.

There is one "interesting" change - previously the settlement agreement left open the allocation of the RMBS claim between the different Rescap legal entities. The agreement now allows the settling trusts to elect to allocate no more than 20% of their allowed claim to ResCap LLC. This provision was added to protect the investors in the event that a larger than expected portion of the Ally settlement proceeds is allocated to ResCap LLC based on alter ego type claims (as opposed to RFC and GMACM as we anticipate).

The Order also provides that the RMBS Trustees have until August 23 to file the limited sale objections that they have preserved (servicing indemnity). We are getting closer to a conceptual agreement with the trustees, Committee and Nationstar relating to these limited objections in exchange for the trustees agreement to amend the PSA's to allow Nationstar to finance them. If there is no deal by that date, we will let you know.

Regards,

Gary S. Lee
Morrison & Foerster LLP
1290 Avenue of the Americas
New York, NY 10104-0050
T. 212.468.8042
F. 212.468.7900
glee@mofo.com

RC-9019_00053781