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Plaintiff Federal Housing Finance Agency ("Plaintiff" or "FHFA"), as Conservator of the Federal National Mortgage Association ("Fannie Mae") and the Federal Home Loan Mortgage Corporation ("Freddie Mac"), by its attorneys Kasowitz, Benson, Torres & Friedman LLP, for its Complaint against the defendants named herein ("Defendants"), alleges as follows:

NATURE OF ACTION

1. This action arises from false and misleading statements and omissions in registration statements, prospectuses, and other offering materials pursuant to which certain residential mortgage-backed securities ("RMBS") were purchased by Fannie Mae and Freddie Mac (together, the "Government-Sponsored Enterprises" or "GSEs"). Among other things, these documents falsely represented that the mortgage loans underlying the RMBS complied with certain underwriting guidelines and standards, and presented a false picture of the characteristics and riskiness of those loans. These representations were material to the GSEs, as they would have been to any reasonable investor, and their falsity violates Sections 11, 12(a)(2), and 15 of the Securities Act of 1933, 15 U.S.C. § 77a *et seq.*, as well as Sections 13.1-522(A)(ii) and 13.1-522(C) of the Virginia Code and Sections 31-5606.05(a)(1)(B) and 31-5606.05(c) of the District of Columbia Code. The GSEs justifiably relied on Defendants' misrepresentations and omissions of material fact to their detriment. In addition to their strict statutory liability under federal securities law and liability under state law, Defendants' statements and omissions give rise to liability under state common law.

2. Between September 12, 2005 and September 27, 2007, Fannie Mae and Freddie Mac purchased over \$10.58 billion in Certificates issued in connection with 33 securitizations that were virtually all sponsored and underwritten by Morgan Stanley entities.¹

3. The Certificates were offered for sale pursuant to one of seven shelf registration statements (the "Shelf Registration Statements") filed with the Securities and Exchange Commission (the "SEC"). For each of the 33 securitizations sold to Fannie Mae and Freddie Mac (the "Securitizations"), a prospectus ("Prospectus") and prospectus supplement ("Prospectus Supplement") were filed with the SEC as part of the Registration Statement for that Securitization.² The Certificates were marketed and sold to Fannie Mae and Freddie Mac pursuant to the Registration Statements.

4. The Registration Statements contained representations concerning, among other things, the characteristics and credit quality of the mortgage loans underlying the Securitizations, the creditworthiness of the borrowers on those underlying mortgage loans, and the origination and underwriting practices used to make and approve the loans. Such representations were material to a reasonable investor's decision to invest in the Certificates, and they were material to the GSEs. Unbeknownst to Fannie Mae and Freddie Mac, those representations were false because, among other reasons, material percentages of the underlying mortgage loans were not originated in accordance with the represented underwriting standards and origination practices, and did not have the credit and other characteristics set forth in the Registration Statements.

¹ For purposes of this Complaint, the securities issued under the Registration Statements (defined in note 2, *infra*) are generally referred to as "Certificates." Holders of Certificates are referred to as "Certificateholders."

² The term "Registration Statement" as used herein and in Appendix A incorporates the Shelf Registration Statement, the Prospectus and the Prospectus Supplement for each referenced Securitization, except where otherwise indicated.

5. Among other things, the Registration Statements presented the loan origination guidelines of the mortgage loan originators who originated the loans that underlay the Certificates. The Registration Statements falsely represented that those guidelines were adhered to except in specified circumstances, when in fact the guidelines systematically were disregarded in that the loans were not originated in accordance with those guidelines.

6. The Registration Statements also set forth for each Securitization statistical summaries of the characteristics of the underlying mortgage loans, such as the percentage of loans secured by owner-occupied properties and the percentage of the loan group's aggregate principal balance with loan-to-value ratios within specified ranges. This information was material to reasonable investors, and it was material to the GSEs. However, a loan-level analysis of a sample of loans for each Securitization -- a review that encompassed in the aggregate thousands of mortgages across all of the Securitizations -- has revealed that for each Securitization the statistical summaries were false and misleading. The statistics reflected or were based upon misrepresentations of other key characteristics of the mortgage loans and inflated property values.

7. For example, the percentage of owner-occupied properties in the loan pool underlying a RMBS is a material risk factor to the purchasers of certificates, such as Fannie Mae and Freddie Mac, because a borrower who actually lives in a mortgaged property is generally less likely to stop paying the mortgage and more likely to take care of the property. The loan-level review revealed that the true percentage of owner-occupied properties for the loans supporting the Certificates was materially lower than that represented in the Prospectus Supplements. Likewise, the Prospectus Supplements misrepresented such material information as loan-to-value ratios -- that is, the relationship between the principal amount of the loans and

the true value of the mortgaged properties securing those loans -- and the ability of the individual mortgage holders to satisfy their debts.

8. The Registration Statements also set forth ratings for each of the Securitizations. Those AAA ratings were material to a reasonable investor's decision to purchase the Certificates, and they were material to the GSEs. The ratings for the Securitizations were materially inaccurate and were based upon false information supplied by Defendants. Upon information and belief, neither the Defendants nor the rating agencies who issued the ratings believed or had any sound basis to believe in their truthfulness.

9. Defendants, who are issuers, sponsors, and/or underwriters of the Certificates purchased by the GSEs, or signatories of the Registration Statements pursuant to which the Certificates purchased by the GSEs were offered, are liable for the misstatements and omissions of material fact contained in the Registration Statements and other offering materials because they prepared, signed, filed and/or used these documents to market and sell the Certificates to Fannie Mae and Freddie Mac, or because they directed and controlled the entities that did so.³

10. Defendants' misstatements and omissions of material facts have caused loss and injury to the GSEs. The GSEs purchased the highest tranches of Certificates offered for sale by Defendants. Fannie Mae and Freddie Mac would not have purchased these Certificates but for Defendants' material misrepresentations and omissions concerning the mortgage loans underlying the RMBS. As the truth concerning the misrepresented and omitted facts has come to light, and as the hidden risks have materialized, the market value of Certificates purchased by Fannie Mae and Freddie Mac has declined. Fannie Mae and Freddie Mac have suffered

³ The Certificates purchased by Fannie Mae and Freddie Mac are identified *infra* in Tables 10 and 11.

enormous financial losses as a result of the Defendants' misrepresentations and omissions.

FHFA, as Conservator for the GSEs, now seeks rescission and damages for those losses.

PARTIES

Plaintiff and the GSEs

11. Plaintiff Federal Housing Finance Agency is a federal agency located at 1700 G Street, NW in Washington, D.C. FHFA was created on July 30, 2008, pursuant to the Housing and Economic Recovery Act of 2008 (HERA), Pub L. No. 110-289, 122 Stat. 2654, codified at 12 U.S.C. § 4617 *et seq.* ("HERA"), to oversee Fannie Mae, Freddie Mac and the Federal Home Loan Banks. On September 6, 2008, the Director of FHFA, also pursuant to HERA, placed Fannie Mae and Freddie Mac into conservatorship and appointed FHFA as Conservator. In that capacity, FHFA has the authority to exercise all rights and remedies of Fannie Mae and Freddie Mac, including but not limited to, the authority to bring suits on behalf of and/or for the benefit of the GSEs. 12 U.S.C. § 4617(b)(2).

12. Fannie Mae and Freddie Mac are government-sponsored enterprises chartered by Congress with a mission to provide liquidity, stability and affordability to the United States housing and mortgage markets. As part of this mission, Fannie Mae and Freddie Mac invested in RMBS. Fannie Mae is located at 3900 Wisconsin Avenue, NW in Washington, D.C. Freddie Mac is located at 8200 Jones Branch Drive in McLean, Virginia.

Defendants

Morgan Stanley Defendants

13. Defendant Morgan Stanley ("MS") is a financial holding company regulated by the Board of Governors of the Federal Reserve System, and an SEC-registered broker-dealer. Morgan Stanley is a Delaware corporation with its principal place of business at 1585 Broadway, New York, New York 10036. MS is a global financial services firm that trades on the New York

Stock Exchange under the ticker "MS." MS's business units include its Institutional Securities division which, among other things, acts as an underwriter of RMBS, provides warehouse lending to subprime and other mortgage originators, trades, makes markets and takes proprietary positions in RMBS, and structures debt securities and derivatives involving mortgage-related securities.

14. Defendant Morgan Stanley & Co., Inc. ("MS&Co.") is a wholly-owned subsidiary of MS, incorporated in the State of Delaware, with its principal offices at 1585 Broadway, New York, New York 10036. Defendant MS&Co. was the lead or co-lead underwriter for 30 of the 33 Securitizations. Fannie Mae and Freddie Mac purchased the Certificates for 30 of the 33 Securitizations from MS&Co. in its capacity as lead or co-lead underwriter for the Securitizations.

15. Defendant Morgan Stanley ABS Capital I, Inc. ("MSAC") is a wholly-owned subsidiary of MS, incorporated in the State of Delaware, with its principal offices at 1585 Broadway, New York, New York 10036. Defendant MSAC was the depositor for 16 of the 33 Securitizations. As depositor, MSAC was responsible for preparing and filing reports required under the Securities Exchange Act of 1934.

16. Defendant Morgan Stanley Capital I, Inc. ("MSC") is a wholly-owned subsidiary of MS incorporated in the State of Delaware with its principal offices located at 1585 Broadway, New York, New York 10036. Defendant MSC was the depositor for 10 Securitizations. As depositor, MSC was responsible for preparing and filing reports required under the Securities Exchange Act of 1934 with respect to the Securitizations.

17. Defendant Morgan Stanley Mortgage Capital Holdings LLC d/b/a Morgan Stanley Mortgage Capital, Inc. ("MSMC") is a New York limited liability company, and a

wholly-owned subsidiary of MS with its principal offices at 1221 Avenue of the Americas, New York, New York 10020. Defendant MSMC was the sponsor of one of the Securitizations. By virtue of a June 17, 2007 merger, Defendant MSMC became the successor-in-interest to Morgan Stanley Mortgage Capital, Inc. ("MCI") (the term "MSMC/MCI" is used herein to refer to MSMC on its own behalf and as successor-in-interest to MCI), which was the sponsor of 20 of the Securitizations. Defendant MSMC is liable as a matter of law as successor to MCI as the surviving entity in its direct merger with MCI. Defendant MSMC is also the direct parent and sole owner of Defendant Saxon Capital, Inc. ("SCI"). Defendant MS is the direct parent and sole owner of Defendants MS&Co., MSAC, MSC, and MSMC.

18. SCI is a Maryland corporation with an office located at 300 International Drive, 100, Williamsville, New York 14421. On December 4, 2006, SCI merged with Angle Merger Subsidiary Corporation, which was a wholly-owned subsidiary of MCI. As Defendant MSMC is the successor-in-interest to MCI, Defendant SCI is now a wholly-owned subsidiary of MSMC. Defendant SCI is the sole owner and direct parent of Defendant Saxon Funding Management LLC ("SFM").

19. SFM, a wholly-owned subsidiary of Defendant SCI, is a Delaware limited liability company registered to do business in New York. Prior to December 4, 2006 when Defendant SCI merged with a MS subsidiary, SFM was known as Saxon Funding Management, Inc. Defendant SFM was the sponsor of two Securitizations.

20. Defendant Saxon Asset Securities Company ("SASC") is a wholly-owned subsidiary of Defendant SFM incorporated in the State of Virginia. Defendant SASC was the depositor for four Securitizations and transacted business in New York. SASC, as depositor, was also responsible for preparing and filing reports required under the Securities Exchange Act of

1934. Defendants MS, MS&Co., MSAC, MSC, MSMC, SCI, SFM and SASC are referred to together herein as “Morgan Stanley.”

Non-MS Defendants

21. Defendant Credit Suisse Securities (USA) LLC (“Credit Suisse”) is a corporation organized and existing under the laws of the State of Delaware with its principal place of business at 11 Madison Ave., New York, New York 10010. Prior to January 16, 2006, Credit Suisse was known as Credit Suisse First Boston LLC. Credit Suisse is an SEC-registered broker-dealer, and was the co-lead underwriter for four of the Securitizations. The GSEs purchased the Certificates for two Securitizations from Credit Suisse.

22. Defendant RBS Securities, Inc., doing business as RBS Greenwich Capital (“RBS”), is an SEC-registered broker-dealer incorporated in the State of Delaware with offices located at 101 Park Avenue, New York, New York 10178. Prior to April 2009, RBS was known as Greenwich Capital Markets, Inc. RBS was co-lead underwriter for three Securitizations and sold the Certificates for one Securitization to Freddie Mac.

Individual Defendants

23. Defendant Gail P. McDonnell (“Ms. McDonnell”) is an individual residing in New York, New York. Ms. McDonnell was a Managing Director and Head of the Securitized Products group at Defendant MS. She also served as a Director at Defendant MSAC. Ms. McDonnell signed two of the Shelf Registration Statements and the amendments thereto.

24. Defendant Howard Hubler (“Mr. Hubler”) is an individual residing in Rumson, New Jersey. Mr. Hubler was a Managing Director at the Proprietary Trading group at Defendant MS and transacted business in New York. He also served as a Director at Defendant MSAC. Mr. Hubler signed one Shelf Registration Statement and the amendments thereto.

25. Defendant Craig S. Phillips ("Mr. Phillips") is an individual residing in New Canaan, Connecticut. Mr. Phillips was a Managing Director and Global Head of the Securitized Products group at Defendant MS and transacted business in New York. He also served as President and Director at Defendant MSAC. Mr. Phillips signed two of the Shelf Registration Statements and the amendments thereto.

26. Defendant Alexander C. Frank ("Mr. Frank") is an individual residing in New York, New York. Mr. Frank was a Treasurer, a Managing Director and the Head of Operational Risk Management at Defendant MS from 1985 through 2008. He also served as Treasurer at Defendant MSAC. Mr. Frank signed one Shelf Registration Statement and the amendment thereto.

27. Defendant David R. Warren ("Mr. Warren") is an individual residing in New York, New York. Mr. Warren was a Managing Director in the Mortgage Capital Markets group and the Global Head of the Structured Credit Trading group at Defendant MS. He also served as President and Director at Defendant MSC. Mr. Warren signed three of the Shelf Registration Statements and the amendments thereto.

28. Defendant John E. Westerfield ("Mr. Westerfield") is an individual residing in Bronxville, New York. Mr. Westerfield was Global Head of Real Estate Lending and Global Head of Commercial Mortgage Backed Securities at Defendant MS from 1985 through 2008. He also served as a Director at Defendant MSC. Mr. Westerfield signed one Shelf Registration Statement and the amendments thereto.

29. Defendant Steven S. Stern ("Mr. Stern") is an individual residing in Connecticut. Mr. Stern was Global Head of Real Estate Lending at Defendant MS, is currently employed in the Global Commercial Mortgage-Backed Securities group at Defendant MS, and transacted

business in New York. He also served as a Director at Defendant MSC. Mr. Stern signed one Shelf Registration Statement and the amendments thereto. Messrs. Hubler, Phillips, Frank, Warren, Westerfield, and Stern, and Ms. McDonnell are together referred to herein as the “Individual Defendants.”

Non-Party Originators

30. The loans underlying the Certificates were acquired by the sponsor for each Securitization from third-party mortgage originators, including Aames Capital Corporation (“Aames Capital”); Accredited Home Lenders, Inc. (“Accredited Home”); Wilmington Finance Inc. (“Wilmington”); American Home Mortgage Corporation (“American Home”); Decision One Mortgage Company, LLC (“Decision One”); First National Bank of Nevada (“First National”); First NLC Financial Services LLC (“First NLC”); GreenPoint Mortgage Funding Inc. (“GreenPoint”); Hemisphere National Bank (“Hemisphere”); New Century Mortgage Corporation (“New Century”) and its subsidiary Home 123 Corporation (“Home123”); IndyMac Federal Savings Bank (“IndyMac”); Meritage Mortgage Corporation (“Meritage”); MortgageIT, Inc. (“MortgageIT”); Wachovia Mortgage Corporation (“Wachovia”); and WMC Mortgage Corp. (“WMC”). Morgan Stanley Credit Corporation (“MSCC”) and SMI, both subsidiaries of MS, also originated some of the loans underlying the Certificates for the Securitizations. Together, the entities identified in this paragraph are referred to as the “Non-Party Originators.”

JURISDICTION AND VENUE

31. This Court has jurisdiction over this action pursuant to Section 22 of the Securities Act of 1933, 15 U.S.C. § 77v, and Section 7 of Article VI of the New York State Constitution.

32. This Court has personal jurisdiction over the Defendants pursuant to C.P.L.R. §§ 301 and 302.

33. Venue is proper in this district pursuant to C.P.L.R. § 503 because one or more of the parties resides in New York County, New York. The underwriters reside or have their principal place of business in this district and many of the alleged acts and transactions, including the preparation and dissemination of the Registration Statements, occurred in substantial part within New York County, New York.

FACTUAL ALLEGATIONS

I. FACTUAL ALLEGATIONS APPLICABLE TO ALL CLAIMS

34. The factual allegations set forth in paragraphs 35 through 133 below are made with respect to all causes of action against Defendants and are sufficient to establish Defendants' strict statutory liability under the federal Securities Act, and the Securities Acts of the District of Columbia and Virginia. With respect to such liability, no allegations are made or intended, and none are necessary, concerning Defendants' state of mind. Defendants are strictly liable, without regard to intent on their part or reliance on Freddie Mac's part, for the misstatements in, and material omissions from, the Registration Statements under Sections 11 and 12 and, for control person defendants, under Section 15, of the Securities Act, as well as Sections 13.1-522(A)(ii) and 13.1-522(C) of the Virginia Code and Sections 31-5606.05(a)(1)(B) and 31-5606.05(c) of the District of Columbia Code.

A. The Securitizations

1. Residential Mortgage-Backed Securitizations Generally

35. Asset-backed securitization involves pooling cash-producing financial assets and issuing securities backed by those pools of assets. In residential mortgage-backed securitizations, the cash-producing financial assets are residential mortgage loans.

36. In the most common form of securitization of mortgage loans, a sponsor -- the entity that acquires or originates the mortgage loans and initiates the securitization -- directly or indirectly transfers a portfolio of mortgage loans to a trust. In many instances, the transfer of assets to the trust is a two-step process in which the sponsor first transfers the financial assets to an intermediate entity, typically referred to as a "depositor," and then the depositor transfers the assets to a trust. The trust is established pursuant to a pooling and servicing agreement or trust indenture entered into by, among others, the depositor for that securitization.

37. RMBS are the securities backed by the underlying mortgage loans in the trust. Some residential mortgage-backed securitizations are created from more than one cohort of loans, called collateral groups, in which case the trust issues different tranches of securities backed by different groups of loans. For example, a securitization may involve two groups of mortgages, with some securities backed primarily by the first group, and others primarily by the second group. Purchasers of the securities (in the form of certificates) acquire an ownership interest in the assets of the trust, which in turn owns the loans. These purchasers are thus dependent for repayment of principal and payment of interest upon the cash-flows from the designated group of mortgage loans -- primarily mortgagors' payments of principal and interest on the mortgage loans held by the related trust.

38. RMBS are generally issued and sold pursuant to registration statements filed with the SEC. These registration statements include prospectuses, which describe the general structure of the investment, and prospectus supplements, which set forth detailed descriptions of, among other things, the mortgage groups underlying the certificates. Certificates are issued by the trust and sold pursuant to the registration statement, the prospectus and prospectus

supplement. Underwriters purchase the certificates from the trust and then offer, sell or distribute the certificates to investors.

39. A mortgage servicer manages the collection of proceeds from the mortgage loans. The servicer is responsible for collecting homeowners' mortgage loan payments, which the servicer remits to the trustee after deducting a monthly servicing fee. The servicer's duties include making collection efforts on delinquent loans, initiating foreclosure proceedings, and determining when to charge off a loan by writing down its balance. The servicer is required to report key information about the loans to the trustee. The trustee (or trust administrator) administers the trust funds and delivers payments due each month on the certificates to the investors.

2. Securitizations At Issue In This Case

40. This case involves the following 33 Securitizations:

- i. Aames Mortgage Investment Trust 2005-4, Mortgage Backed Notes ("AMIT 2005-4");
- ii. Morgan Stanley ABS Capital I Inc. Trust, Mortgage Pass-Through Certificates, Series 2005-HE5 ("MSAC 2005-HE5");
- iii. Morgan Stanley ABS Capital I Inc. Trust, Mortgage Pass-Through Certificates, Series 2005-HE6 ("MSAC 2005-HE6");
- iv. Morgan Stanley ABS Capital I Inc. Trust, Mortgage Pass-Through Certificates, Series 2006-HE6 ("MSAC 2006-HE3");
- v. Morgan Stanley ABS Capital I Inc. Trust, Mortgage Pass-Through Certificates, Series 2006-HE5 ("MSAC 2006-HE5");
- vi. Morgan Stanley ABS Capital I Inc. Trust, Mortgage Pass-Through Certificates, Series 2006-HE6 ("MSAC 2006-HE6");
- vii. Morgan Stanley ABS Capital I Inc. Trust, Mortgage Pass-Through Certificates, Series 2006-HE8 ("MSAC 2006-HE8");
- viii. Morgan Stanley Capital I Inc. Trust, Mortgage Pass-Through Certificates, Series 2006-NC2 ("MSC 2006-NC2");

- ix. Morgan Stanley ABS Capital I Inc. Trust, Mortgage Pass-Through Certificates, Series 2006-NC3 ("MSAC 2006-NC3");
- x. Morgan Stanley ABS Capital I Inc. Trust, Mortgage Pass-Through Certificates, Series 2006-NC4 ("MSAC 2006-NC4");
- xi. Morgan Stanley ABS Capital I Inc. Trust, Mortgage Pass-Through Certificates, Series 2006-WMC2 ("MSAC 2006-WMC2");
- xii. Morgan Stanley ABS Capital I Inc. Trust, Mortgage Pass-Through Certificates, Series 2007-HE1 ("MSAC 2007-HE1");
- xiii. Morgan Stanley ABS Capital I Inc. Trust, Mortgage Pass-Through Certificates, Series 2007-HE5 ("MSAC 2007-HE5");
- xiv. Morgan Stanley ABS Capital I Inc. Trust, Mortgage Pass-Through Certificates, Series 2007-HE7 ("MSAC 2007-HE7");
- xv. Morgan Stanley ABS Capital I Inc. Trust, Mortgage Pass-Through Certificates, Series 2007-NC1 ("MSAC 2007-NC1");
- xvi. Morgan Stanley Capital I Inc. Trust, Mortgage Pass-Through Certificates, Series 2006-HE2 ("MSC 2006-HE2");
- xvii. Morgan Stanley Mortgage Loan Trust, Mortgage Pass-Through Certificates, Series 2005-10 ("MSM 2005-10");
- xviii. Morgan Stanley Mortgage Loan Trust, Mortgage Pass-Through Certificates, Series 2005-7 ("MSM 2005-7");
- xix. Morgan Stanley Mortgage Loan Trust, Mortgage Pass-Through Certificates, Series 2006-2 ("MSM 2006-2");
- xx. Morgan Stanley Mortgage Loan Trust, Mortgage Pass-Through Certificates, Series 2006-16AX ("MSM 2006-16AX");
- xxi. Morgan Stanley Mortgage Loan Trust, Mortgage Pass-Through Certificates, Series 2007-2AX ("MSM 2007-2AX");
- xxii. Morgan Stanley Mortgage Loan Trust, Mortgage Pass-Through Certificates, Series 2007-7AX ("MSM 2007-7AX");
- xxiii. Morgan Stanley Mortgage Loan Trust, Mortgage Pass-Through Certificates, Series 2007-5AX ("MSM 2007-5AX");
- xxiv. Morgan Stanley Home Equity Loan Trust, Mortgage Pass-Through Certificates, Series 2005-4 ("MSHEL 2005-4");

- xxv. New Century Home Equity Loan Trust, Asset Backed Pass-Through Certificates, Series 2005-B (“NCHET 2005-B”);
- xxvi. New Century Home Equity Loan Trust, Asset Backed Pass-Through Certificates, Series 2005-C (“NCHET 2005-C”);
- xxvii. New Century Home Equity Loan Trust, Asset Backed Pass-Through Certificates, Series 2005-D (“NCHET 2005-D”);
- xxviii. Saxon Asset Securities Trust, Mortgage Loan Asset Backed Notes, Series 2005-3 (“SAST 2005-3”);
- xxix. Saxon Asset Securities Trust, Mortgage Loan Asset Backed Notes, Series 2006-1 (“SAST 2006-1”);
- xxx. Saxon Asset Securities Trust, Mortgage Loan Asset Backed Notes, Series 2006-2 (“SAST 2006-2”);
- xxxi. Saxon Asset Securities Trust, Mortgage Loan Asset Backed Notes, Series 2007-1 (“SAST 2007-1”);
- xxxii. Saxon Asset Securities Trust, Mortgage Loan Asset Backed Notes, Series 2007-2 (“SAST 2007-2”); and
- xxxiii. Saxon Asset Securities Trust, Mortgage Loan Asset Backed Notes, Series 2007-3 (“SAST 2007-3”).

41. For each of the 33 Securitizations, Table 1 identifies the: (1) sponsor; (2) depositor; (3) underwriter; (4) principal amount issued for the tranches⁴ purchased by the GSEs; (5) date of issuance; and (6) the loan group or groups backing the Certificate for that Securitization (referred to as the “Supporting Loan Groups”).

⁴ A tranche is one of the classes of debt securities issued as part of a single bond or instrument. Securities are often issued in tranches to meet different investor objectives for portfolio diversification.

Table 1

| Transaction | Tranche | Sponsor | Depositor | Underwriters | Principal Amount Issued (\$) | Date of Issuance | Supporting Loan Group(s) |
|----------------|---------|------------------------|---------------------------------------|---|------------------------------|------------------|--------------------------|
| AMIT 2005-4 | 1A1 | Aames Investment | MSAC | MS&Co. Bear RBS Citi | 446,899,000.00 | 09/12/05 | Group 1 |
| MSAC 2005-HE5 | A1 | MSMC | MSAC | MS&Co. | 441,470,000.00 | 10/28/05 | Group I |
| MSAC 2005-HE6 | A1 | MSMC | MSAC | MS&Co. | 337,122,000.00 | 11/29/05 | Group I |
| MSAC 2006-HE3 | A1 | MSMC | MSAC | MS&Co. | 381,635,000.00 | 05/25/06 | Group I |
| MSAC 2006-HE5 | A1 | MSMC | MSAC | MS&Co. | 319,485,000.00 | 06/30/06 | Group I |
| MSAC 2006-HE6 | A1 | MSMC | MSAC | MS&Co. | 324,649,000.00 | 09/27/06 | Group I |
| MSAC 2006-HE8 | A1 | MSMC | MSAC | MS&Co. | 226,710,000.00 | 11/29/06 | Group I |
| MSC 2006-NC2 | A1 | MSMC | MSC | MS&Co. | 430,640,000.00 | 03/30/06 | Group I |
| MSAC 2006-NC3 | A1 | MSMC | MSAC | MS&Co. | 426,670,000.00 | 04/28/06 | Group I |
| MSAC 2006-NC4 | A1 | MSMC | MSAC | MS&Co. | 536,150,000.00 | 06/23/06 | Group I |
| MSAC 2006-WMC2 | A1 | MSMC | MSAC | MS&Co. | 581,960,000.00 | 06/28/06 | Group I |
| MSAC 2007-HE1 | A1 | MSMC | MSAC | MS&Co. | 309,100,000.00 | 01/26/07 | Group I |
| MSAC 2007-HE5 | A1 | MSMC | MSAC | MS&Co. | 119,919,000.00 | 04/26/07 | Group I |
| MSAC 2007-HE7 | A1 | MSMC | MSAC | MS&Co. | 670,205,000.00 | 09/28/07 | Group I |
| MSAC 2007-NC1 | A1 | MSMC | MSAC | MS&Co. | 320,559,000.00 | 01/26/07 | Group I |
| MSC 2006-HE2 | A1 | MSMC | MSC | MS&Co. | 435,720,000.00 | 04/28/06 | Group I |
| MSHEL 2005-4 | A1 | MSMC | MSAC | MS&Co. | 335,337,000.00 | 11/29/05 | Group I |
| MSM 2005-10 | 3A | MSMC | MSC | MS&Co. | 40,296,000.00 | 11/30/05 | Group 3 |
| MSM 2005-7 | 5A | MSMC | MSC | MS&Co. | 26,951,000.00 | 10/31/05 | Group 5 |
| MSM 2006-16AX | 1A | MSMC | MSC | MS&Co. | 182,501,000.00 | 10/31/06 | Group 1 |
| MSM 2006-2 | 7A1 | MSMC | MSC | MS&Co. | 31,903,000.00 | 01/31/06 | Group 7 |
| | 7A2 | MSMC | MSC | MS&Co. | 3,545,000.00 | 01/31/06 | Group 7 |
| MSM 2007-2AX | 1A | MSMC | MSC | MS&Co. | 157,974,000.00 | 01/31/07 | Group 1 |
| MSM 2007-5AX | 1A | MSMC | MSC | MS&Co. | 127,608,000.00 | 02/28/07 | Group 1 |
| MSM 2007-7AX | 1A | MSMC | MSC | MS&Co. | 177,425,000.00 | 04/30/07 | Group 1 |
| NCHET 2005-B | A1 | NC Capital Corporation | New Century Mortgage Securities, Inc. | MS&Co. Bear | 590,249,000.00 | 09/29/05 | Group I |
| NCHET 2005-C | A1 | NC Capital Corporation | New Century Mortgage Securities, Inc. | MS&Co. | 549,534,000.00 | 12/06/05 | Group I |
| NCHET 2005-D | A1 | NC Capital Corporation | New Century Mortgage Securities, Inc. | MS&Co. Credit Suisse Deutsche Bank | 411,566,000.00 | 12/28/05 | Group I |
| SAST 2005-3 | A1A | SFM | SASC | RBS BOA Credit Suisse Merrill | 360,900,000.00 | 09/29/05 | Group 1 |
| SAST 2006-1 | A1 | SFM | SASC | Credit Suisse BOA RBS JPM Merrill | 199,612,000.00 | 05/02/06 | Group 1 |

| Transaction | Tranche | Sponsor | Depositor | Underwriters | Principal Amount Issued (\$) | Date of Issuance | Supporting Loan Group(s) |
|-------------|---------|---------|-----------|---|------------------------------|------------------|--------------------------|
| SAST 2006-2 | A2 | SFM | SASC | Credit Suisse BOA RBS JPM Merrill | 197,374,000.00 | 06/07/06 | Group 2 |
| | A1 | SFM | SASC | Credit Suisse BOA RBS JPM Merrill | 197,376,000.00 | 06/07/06 | Group 1 |
| SAST 2007-1 | A1 | SFM | SASC | MS&Co. | 209,071,000.00 | 03/07/07 | Group 1 |
| SAST 2007-2 | A1 | SFM | SASC | MS&Co. | 192,705,000.00 | 04/30/07 | Group 1 |
| SAST 2007-3 | 1A | SFM | SASC | MS&Co. | 569,917,000.00 | 08/03/07 | Group 1 |
| | 1M1 | SFM | SASC | MS&Co. | 36,690,000.00 | 08/03/07 | Group 1 |
| | 1M2 | SFM | SASC | MS&Co. | 33,021,000.00 | 08/03/07 | Group 1 |
| | 1M3 | SFM | SASC | MS&Co. | 21,198,000.00 | 08/03/07 | Group 1 |
| | 1M4 | SFM | SASC | MS&Co. | 17,937,000.00 | 08/03/07 | Group 1 |
| | 1M5 | SFM | SASC | MS&Co. | 17,937,000.00 | 08/03/07 | Group 1 |
| | 1M6 | SFM | SASC | MS&Co. | 16,307,000.00 | 08/03/07 | Group 1 |

3. Securitization Process

a. The Sponsors Grouped Mortgage Loans in Special Purpose Trusts

42. In each case the sponsor purchased the mortgage loans underlying the Certificates purchased by the GSEs for its Securitizations either directly from the originators or through affiliates of the originators. Defendant MSMC/MCI sponsored 23 Securitizations; Defendant SFM sponsored six Securitizations; and the remaining four Securitizations were sponsored by non-parties.

43. For the 20 Securitizations that they sponsored, MSMC and SFM sold the mortgage loans to Defendants MSAC, MSC and SASC, the depositors. MSAC also acted as the depositor for one additional Securitization sponsored by non-party Aames Investment Corporation.

44. As depositors for 30 of the 33 Securitizations, Defendants MSC, MSAC and SASC transferred the relevant mortgage loans to the respective trusts for each of those

Securitizations, in each case pursuant to Assignment and Recognition Agreements or Mortgage Loan Purchase Agreements that contained various representations and warranties regarding the mortgage loans for the Securitizations.

45. As part of each Securitization, the trustee for that Securitization, on behalf of the Certificateholders, executed a Pooling and Servicing Agreement (“PSA”) with the relevant depositor and the relevant servicer. In each case, the trust, administered by the trustee, was required to hold the mortgage loans, pursuant to the related PSA and issued Certificates backed by such loans.

b. The Trusts Issued Securities Backed by the Loans

46. Once the mortgage loans were transferred to the trusts in accordance with the PSAs, each trust issued Certificates backed by the underlying mortgage loans. The Certificates were then sold to investors, including Fannie Mae and Freddie Mac, who purchased the highest tranches of the Certificates. Each Certificate entitles its holder to a specified portion of the cash flows from the underlying mortgages in the supporting loan group for that Certificate. Therefore, the value of the Certificates, derived in part from the likelihood of payment of principal and interest on the Securitizations, depends upon the credit quality of the underlying mortgages, *i.e.*, the risk of default by borrowers and the recovery value upon default of foreclosed-upon properties.

47. The Certificates purchased by the GSEs were issued and sold pursuant to Shelf Registration Statements filed with the SEC on a Form S-3.⁵ The Shelf Registration Statements

⁵ Defendant MSAC filed two Shelf Registration Statements that were used to market 16 of the Securitizations; Defendant MSC filed two Shelf Registration Statements that were used to market eight of the Securitizations; and Defendant SASC filed two Shelf Registration Statements that were used to market six of the Securitizations. The remaining Registration Statement was

("S-3") were amended by one or more Forms S-3/A (the "Amendments" or "S-3/A") filed with the SEC. The Individual Defendants signed six of the seven total Shelf Registration Statements (and amendments thereto) that were filed, in each case, by MSAC, MSC or SASC. The SEC filing number, registrants, signatories, and filing dates for all seven Shelf Registration Statements with Amendments, as well as the Certificates purchased by the GSEs covered by each Shelf Registration Statement, are reflected in Table 2 below.

filed by non-party New Century Mortgage Securities, Inc. and was used to market three of the Securitizations.

Table 2

| SEC File No. | Date S-3 Filed | Date(s) S-3/A(s) Filed | Registrants | Covered Certificates | Signatories of S-3 | Signatories of S-3/A(s) ⁶ |
|--------------|----------------|------------------------|-------------|--|---|--|
| 333-130694 | 12/23/05 | 02/21/06 03/10/06 | MSAC | MSAC 2006-HE3 MSAC 2006-HE5 MSAC 2006-HE6 MSAC 2006-HE8 MSAC 2006-NC3 MSAC 2006-NC4 MSAC 2006-WMC2 MSAC 2007-HE1 MSAC 2007-HE5 MSAC 2007-HE7 MSAC 2007-NC1 | Steven Shapiro Anthony Tufariello William Forsell Gail P. McDonnell Howard Hubler | Steven Shapiro Anthony Tufariello William Forsell Gail P. McDonnell Howard Hubler |
| 333-121914 | 01/07/05 | 05/06/05 | MSAC | MSAC 2005-HE5 MSAC 2005-HE6 MSHEL 2005-4 AMIT 2005-4 | Steven Shapiro Craig S. Phillips Alexander C. Frank Gail P. McDonnell David R. Warren | Steven Shapiro Craig S. Phillips Alexander C. Frank Gail P. McDonnell David R. Warren |
| 333-125593 | 06/07/05 | 06/28/05 06/30/05 | MSC | MSC 2006-HE2 MSC 2006-NC2 MSM 2005-10 MSM 2005-7 MSM 2006-2 | David R. Warren Craig S. Phillips John E. Westerfield William J. Forsell | David R. Warren Craig S. Phillips John E. Westerfield William J. Forsell |
| 333-130684 | 12/23/05 | 02/17/06 03/14/06 | MSC | MSM 2006-16AX MSM 2007-2AX MSM 2007-5AX MSM 2007-7AX | David R. Warren William J. Forsell Anthony B. Tufariello Steven S. Stern | Anthony B. Tufariello William J. Forsell Steven S. Stern |
| 333-123394 | 03/17/05 | | New Century | NCHET 2005-B NCHET 2005-C NCHET 2005-D | Kevin Cloyd Brad A. Morrice Patrick J. Flanagan Edward F. Gotschall | |
| 333-111832 | 01/09/04 | 01/21/04 | SASC | SAST 2005-3 | Ernest G. Bretana Michael L. Sawyer Dean A. Christiansen | Ernest G. Bretana |
| 333-131712 | 02/09/06 | 03/17/06 03/30/06 | SASC | SAST 2006-1 SAST 2006-2 SAST 2007-1 SAST 2007-2 SAST 2007-3 | Ernest G. Bretana Michael L. Sawyer Orlando Figueroa | Ernest G. Bretana Michael L. Sawyer Orlando Figueroa Robert B. Eastep Jennifer Sebastian |

48. The Prospectus Supplement for each Securitization describes the loan underwriting guidelines that purportedly were used in connection with the origination of the underlying mortgage loans. In addition, the Prospectus Supplements purport to provide accurate

⁶ Some Individual Defendants signed certain S-3/As through a power of attorney.

statistics regarding the mortgage loans in each group, including: the ranges of and weighted average FICO credit scores of the borrowers, the ranges of and weighted average loan-to-value (“LTV”) ratios of the loans, the ranges of and weighted average outstanding principal balances of the loans, the debt-to-income ratios of the borrowers, the geographic distribution of the loans, the extent to which the loans were for purchase or refinance purposes, information concerning whether the loans were secured by a property to be used as a primary residence, second home, or investment property, and information concerning whether the loans were delinquent.

49. The Prospectus Supplement for each Securitization was filed with the SEC as part of the Registration Statements. The Form 8-Ks attaching the PSAs for each Securitization were also filed with the SEC. The date on which the Prospectus Supplement and Form 8-K were filed for each Securitization, as well as the filing number of the Shelf Registration Statement related to each, are set forth in Table 3 below.

Table 3

| Transaction | Date Prospectus Supplement Filed | Date Form 8-K Attaching PSA | Filing No. of Related Registration Statement |
|----------------|----------------------------------|-----------------------------|--|
| AMIT 2005-4 | 09/13/05 | 09/26/05 | 333-121914 |
| MSAC 2005-HE5 | 10/31/05 | 11/15/05 | 333-121914 |
| MSAC 2005-HE6 | 11/29/05 | 12/12/05 | 333-121914 |
| MSAC 2006-HE3 | 05/26/06 | 06/09/06 | 333-130694 |
| MSAC 2006-HE5 | 06/30/06 | 07/17/06 | 333-130694 |
| MSAC 2006-HE6 | 09/22/06 | 10/13/06 | 333-130694 |
| MSAC 2006-HE8 | 11/22/06 | 12/14/06 | 333-130694 |
| MSC 2006-NC2 | 03/30/06 | 04/14/06 | 333-125593 |
| MSAC 2006-NC3 | 04/26/06 | 05/15/06 | 333-130694 |
| MSAC 2006-NC4 | 06/20/06 | 07/11/06 | 333-130694 |
| MSAC 2006-WMC2 | 06/23/06 | 07/20/06 | 333-130694 |
| MSAC 2007-HE1 | 01/26/07 | 02/12/07 | 333-130694 |
| MSAC 2007-HE5 | 04/25/07 | 05/16/07 | 333-130694 |
| MSAC 2007-HE7 | 09/28/07 | 10/16/07 | 333-130694 |
| MSAC 2007-NC1 | 01/26/07 | 02/12/07 | 333-130694 |
| MSC 2006-HE2 | 04/26/06 | 05/15/06 | 333-125593 |
| MSHEL 2005-4 | 11/23/05 | 12/14/05 | 333-121914 |
| MSM 2005-10 | 12/01/05 | 01/13/06 | 333-125593 |
| MSM 2005-7 | 10/31/05 | 01/13/06 | 333-125593 |
| MSM 2006-16AX | 10/30/06 | 01/25/07 | 333-130684 |

| Transaction | Date Prospectus Supplement Filed | Date Form 8-K Attaching PSA | Filing No. of Related Registration Statement |
|----------------------------|----------------------------------|-----------------------------|--|
| MSM 2006-2 (7A1 & 7A2) | 02/02/06 | 01/24/07 | 333-125593 |
| MSM 2007-2AX | 01/29/07 | 02/16/07 | 333-130684 |
| MSM 2007-5AX | 02/28/07 | 04/17/07 | 333-130684 |
| MSM 2007-7AX | 04/30/07 | 09/19/07 | 333-130684 |
| NCHET 2005-B | 09/28/05 | 10/17/05 | 333-123394 |
| NCHET 2005-C | 12/05/05 | 12/23/05 | 333-123394 |
| NCHET 2005-D | 12/27/05 | 01/09/06 | 333-123394 |
| SAST 2005-3 | 09/30/05 | 10/13/05 | 333-111832 |
| SAST 2006-1 | 05/01/06 | 05/08/06 | 333-131712 |
| SAST 2006-2 (A1 & A2) | 06/07/06 | 06/21/06 | 333-131712 |
| SAST 2007-1 | 06/07/06 | 06/21/06 | 333-131712 |
| SAST 2007-2 | 03/07/07 | 03/22/07 | 333-131712 |
| SAST 2007-3 (1A & 1M1-1M6) | 04/27/07 | 05/11/07 | 333-131712 |

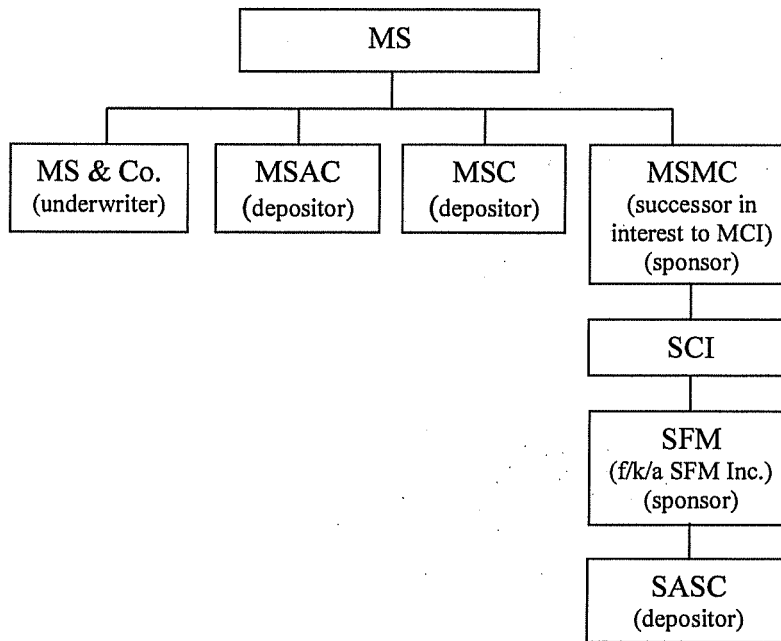
**B. DEFENDANTS' PARTICIPATION
IN THE SECURITIZATION PROCESS**

50. Each of the Defendants, including the Individual Defendants, played a role in the securitization process and the marketing for some or all of the Certificates purchased by the GSEs, which included purchasing the mortgage loans from the originators, arranging the Securitizations, selling the mortgage loans to the depositor, transferring the mortgage loans to the trustee on behalf of the Certificateholders, underwriting the public offering of the Certificates, structuring and issuing the Certificates, and marketing and selling the Certificates to Fannie Mae and Freddie Mac.

51. The Defendants are liable, jointly and severally, as participants in the registration, issuance and offering of the Certificates purchased by the GSEs, including issuing, causing, or making materially misleading statements in the Registration Statements, and omitting material facts required to be stated therein or necessary to make the statements contained therein not misleading.

1. Defendant MS

52. Defendant MS wholly owns Defendants MS&Co., MSAC, MSC and MSMC, and is the ultimate parent of Defendants SCI, SFM and SASC. The chart below indicates the corporate structure of the Morgan Stanley Defendants.



53. MS employed its subsidiaries or affiliates, MS&Co., MSAC, MSC, MSMC, SCI, SFM and SASC to effectuate the securitization process. Unlike typical arms-length transactions, the Securitizations here involved MS subsidiaries or affiliates at virtually each step in the chain. For 29 of the 33 Securitizations, MSMC/MCI or SFM served as the sponsor, and MSAC, MSC or SASC served as the depositor. For 26 of those 29 Securitizations, and the remaining four of the 33 total Securitizations, MS&Co. was also the selling underwriter.

54. As the corporate parent of MS&Co., MSAC, MSC and MSMC, and the ultimate parent of SCI, SFM and SASC, MS had the practical ability to direct and control the actions of

these subsidiaries in issuing and selling the Certificates purchased by the GSEs, and in fact exercised such direction and control over the activities of these entities related to the Securitizations, and the issuance and sale of the Certificates purchased by the GSEs.

55. As detailed, *supra*, the Securitizations involved MS-related entities at virtually each step in the process, and MS profited substantially from this vertically-integrated approach to mortgage-backed securitization. Furthermore, on information and belief, MS currently shares, and at all relevant times shared, overlapping management with the other Morgan Stanley entities. For instance, Defendant Phillips was, at all relevant times, the Global Head of Securitized Products at MS while also serving as the President and CEO at Defendant MSAC. Similarly, Defendant Warren was, at all relevant times, the Global Head of Structured Credit Trading at Defendant MS while also serving as the President and Director at Defendant MSC.

2. Defendant SCI

56. SCI is the corporate parent of SFM and SASC and controlled the business operations of SFM and SASC. As the corporate parent of SFM and SASC, SCI had the practical ability to direct and control the actions of SFM and SASC in issuing and selling the Certificates purchased by the GSEs, and in fact exercised such direction and control over the activities of SFM and SASC in connection with the issuance and sale of the Certificates purchased by the GSEs.

3. Defendants MSMC and SFM

57. MSMC was the sponsor of one Securitization. Through a June 17, 2007 merger, MSMC became the successor-in-interest to MCI, which served as the sponsor of 20 of the Securitizations. SFM was the sponsor of six of the 33 Securitizations. MSMC and SFM are referred to herein together as the "Sponsors."

58. MCI was formed in 1985 as a wholly-owned subsidiary of MS for the sole purpose of issuing RMBS through its affiliates MSAC and MSC and during the relevant time period, MCI was a leading sponsor of RMBS in the nation. As stated in the September 28, 2007 Prospectus Supplement for the MSAC 2007-HE7 Securitization, from the period January 2000 through August 2007, MCI securitized residential mortgage loans with an aggregate principal balance of \$116.2 billion, including securitizing residential mortgage loans totaling \$11.32 billion in 2003, \$27.02 billion in 2004, \$23.09 billion in 2005, and \$29.99 billion in 2006.

59. As the sponsor of 27 of the 33 Securitizations, MSMC/MCI and SFM determined the structure of the Securitizations, initiated the Securitizations, purchased the mortgage loans to be securitized, determined distribution of principal and interest, and provided data to the rating agencies to secure investment grade ratings for the Certificates purchased by the GSEs. MSMC/MCI and SFM also selected MSAC, MSC, or SASC as the special-purpose vehicles that would be used to transfer the mortgage loans from MSMC, MCI or SFM to the trusts, and selected MS&Co. Credit Suisse, or RBS as the selling underwriter for the Securitizations. In its role as sponsor, MSMC/MCI and SFM knew and intended that the mortgage loans it purchased would be sold in connection with the securitization process, and that certificates representing such loans would be issued by the relevant trusts.

60. For the 27 Securitizations that they sponsored, MSMC/MCI and SFM also conveyed the mortgage loans to MSAC, MSC, and SASC as depositors, pursuant to an Assignment and Recognition Agreement or a Mortgage Loan Purchase Agreement. In these agreements, MSMC/MCI and SFM made certain representations and warranties to MSAC, MSC, and SFM regarding the groups of loans collateralizing the Certificates purchased by the GSEs.

These representations and warranties were assigned by MSAC, MSC, and SFM to the trustees for the benefit of the Certificateholders.

4. Defendants MSAC, MSC, and SASC

61. MSAC and MSC are wholly-owned subsidiaries of MS, and SASC is a subsidiary of MS and a wholly-owned subsidiary of SFM. MSAC, MSC and SASC (together, the “Depositors”) were all formed as special-purpose entities for the sole purpose of purchasing mortgage loans, filing registration statements with the SEC, forming issuing trusts, assigning mortgage loans and all of its rights and interests in such mortgage loans to the trustee for the benefit of the Certificateholders, and depositing the underlying mortgage loans into the issuing trusts. MSAC, MSC and SASC were the depositors for 30 of the 33 Securitizations. In their capacity as depositors, MSAC, MSC and SASC purchased the mortgage loans from MSMC/MCI and SFM, pursuant to the applicable Assignment and Recognition Agreement or a Mortgage Loan Purchase Agreement. MSAC, MSC, and SASC then sold, transferred, or otherwise conveyed the mortgage loans to be securitized to the trusts. Together with the other Defendants, MSAC, MSC and SASC also were responsible for preparing and filing the Registration Statements pursuant to which the Certificates purchased by the GSEs were offered for sale. The trusts, in turn held the mortgage loans for the benefit of the Certificateholders, and issued the Certificates in public offerings for sale to investors, including Fannie Mae and Freddie Mac.

5. Defendant MS&Co.

62. MS&Co. is a wholly-owned subsidiary of MS. MS&Co. is and was, at all relevant times, an SEC-registered broker-dealer and one of the leading underwriters of mortgage and other asset-backed securities in the United States. According to *Inside Mortgage Finance*, MS&Co. was the 10th largest non-agency RMBS underwriter in 2006, underwriting over \$53.9

billion of RMBS, and the 8th largest RMBS underwriter in 2007, underwriting over \$39.9 billion.⁷

63. As co-lead underwriter -- and the selling underwriter -- for 30 of the 33 Securitizations MS&Co. was responsible for underwriting and managing the offer and sale of Certificates to Fannie Mae and Freddie Mac and other investors. MS&Co. was also obligated to conduct due diligence to ensure that the Registration Statements did not contain any material misstatements or omissions, including misstatements or omissions concerning the origination, transfer, and underwriting.

6. Non-MS Defendants

64. Credit Suisse and RBS were among the nation's largest non-agency mortgage-backed securities underwriters between 2004 through 2007. Credit Suisse and RBS were the selling underwriters for three Securitizations in which SFM was the sponsor and SASC was the depositor. Credit Suisse and RBS were responsible for underwriting and managing the offer and sale of Certificates to the GSEs. These underwriter Defendants also were obligated to conduct due diligence to ensure that the Registration Statements did not contain any material misstatements or omissions, including as to the manner in which the underlying mortgage loans were originated, transferred and underwritten.

7. Individual Defendants

65. Each of the Individual Defendants signed at least one of the seven Shelf Registration Statements and/or the amendments thereto. Because they prepared, signed, filed and/or used these documents to market and sell Certificates to Fannie Mae and Freddie Mac,

⁷ "Agency" mortgage-backed securities are guaranteed by a government agency or government-sponsored enterprise such as Fannie Mae or Freddie Mac, while "non-agency" mortgage-backed securities are issued by banks and financial companies not associated with a government agency or government sponsored enterprise.

each Individual Defendant is directly responsible for misstatements and omissions of material fact contained in the Registration Statements.

66. Further, certain of the Individual Defendants, through their positions at Morgan Stanley, including Defendants MS, MSAC, MSC, SCI, and SASC had the practical ability to direct and control the actions of the Morgan Stanley Defendants and Defendants SCI, SFM, and SASC in issuing and selling the Certificates, and in fact, exercised such direction and control over the activities of these entities in connection with the issuance and sale of Certificates to the GSEs.

67. As alleged *supra*, many of the Individual Defendants simultaneously held management positions at MS and MSAC or MSC, or SCI and SASC. For example, during the relevant period, Ms. McDonnell, and Messrs. Hubler, Phillips, Frank, Warren, Westerfield, and Stern all simultaneously held management positions at both MS and MS's subsidiaries, MSAC or MSC, and signed the Registration Statements filed by MSAC or MSC.

C. STATEMENTS IN THE PROSPECTUS SUPPLEMENTS

68. Plaintiff relies for its claims, in part, upon the Registration Statements in their entirety. Specific representations and warranties in the Registration Statements that form the basis for the claims herein are set forth for each Securitization in Appendix A hereto.

1. Compliance With Underwriting Guidelines

69. The Prospectus Supplement for each of the Securitizations contained detailed descriptions of the underwriting guidelines used to originate the mortgage loans included in the Securitizations. Because payment on, and the value of, the Certificates is based on the cash flows from the underlying mortgage pool, representations concerning compliance with the stated underwriting guidelines were material to reasonable investors. Investors, including the GSEs,

did not have access to information concerning the collateral pool, and were required to rely on the representations in the Prospectus Supplements concerning that collateral.

70. Among other consequences, the failure to originate mortgage loans in accordance with stated guidelines diminishes the value of the Certificates by increasing the risk that an investor will not be paid its principal and interest. Misrepresentations concerning, or failure accurately to disclose, borrower, loan and property characteristics bearing on the risk of default by the borrower as well as the severity of losses given default can artificially inflate the perceived value of the securities. Without complete and accurate information regarding the collateral pool, reasonable investors, including the GSEs, are unable accurately and independently to assess whether the price of an RMBS adequately accounts for the risks they are assuming when they purchase the security.

71. The Prospectus Supplements for each of the Securitizations contained several key statements with respect to the loan purchasing and underwriting standards of the entities that originated the loans in the Securitizations. For example, with respect to the MSAC 2006-HE8 Securitization -- for which MS&Co. was the underwriter, MSAC was the depositor, and New Century was the originator -- the Prospectus Supplement states:

The mortgage loans will have been originated in accordance with the New Century Underwriting Guidelines” and that “[t]he New Century Underwriting Guidelines are primarily intended to assess the borrower’s ability to repay the mortgage loan, to assess the value of the mortgaged property and to evaluate the adequacy of the property as collateral for the mortgage loan. (Emphasis added).

72. With respect to the information evaluated by the originator (in this example, New Century), the Prospectus Supplement for the MSAC 2006-HE8 Securitization stated that:

Each applicant completes an application which includes information with respect to the applicant’s liabilities, income, credit history, employment history and personal information. The New Century Underwriting Guidelines require a credit report on each applicant from a credit reporting

company. The report typically contains information relating to matters such as credit history with local and national merchants and lenders, installment debt payments and any record of defaults, bankruptcies, repossessions or judgments. (Emphasis added).

73. The Prospectus Supplement for the MSAC 2006-HE8 Securitization further states:

The New Century Underwriting Guidelines require that mortgage loans be underwritten in a standardized procedure which complies with applicable federal and state laws and regulations and requires New Century's underwriters to be satisfied that the value of the property being financed, as indicated by an appraisal and a review of the appraisal, currently supports the outstanding loan balance.

74. The Prospectus Supplements for each of the Securitizations made similar representations with respect to the underwriting guidelines employed by each of the originators in the Securitizations, which included: Aames Capital, Accredited Home, Wilmington, American Home, Decision One, First National, First NLC, GreenPoint, Hemisphere, New Century and its subsidiary, Home123, IndyMac, Meritage, MortgageIT, Wachovia, WMC, MSCC and SMI. *See* Appendix A.

75. Contrary to those representations, however, these originators routinely and egregiously departed from, or abandoned completely, their stated underwriting guidelines, as discussed in Section (I)(D)(2), *infra*. As a result, the representations concerning compliance with underwriting guidelines and the inclusion and descriptions of those guidelines in the Prospectus Supplements were false and misleading, and the actual mortgages underlying each Securitization exposed the purchasers, including the GSE's, to a materially greater risk to investors than that represented in the Prospectus Supplements.

76. As reflected more fully in the Appendix, for the vast majority of the Securitizations, the Prospectus Supplements included representations that: (i) the mortgage loans were underwritten in accordance with each originator's underwriting guidelines in effect at the

time of origination, subject only to limited exceptions; and (ii) the origination and collection practices used by the originator with respect to each mortgage note and mortgage were in all respects legal, proper and customary in the mortgage origination and servicing business.

77. The inclusion of these representations in the Prospectus Supplements had the purpose and effect of providing assurances to investors regarding the quality of the mortgage collateral underlying the Securitizations. These representations were material to a reasonable investor's decisions to purchase the Certificates, and they were material to the GSEs. As alleged more fully below, Defendants' representations were materially false.

2. Occupancy Status of Borrower

78. The Prospectus Supplements for each Securitization set forth information about the occupancy status of the borrowers of the loans underlying the Securitization; that is, whether the property securing a mortgage is (i) the borrower's primary residence; (ii) a second home, or (iii) an investment property. This information was presented in tables, typically titled "Occupancy Status of the Mortgage Loans," that assigned all the properties in the collateral group to one of the following categories: (i) "Primary," or "Owner-Occupied;" (ii) "Second Home," or "Secondary"; and (iii) "Investor" or "Non-Owner." For each category, the table stated the number of loans purportedly in that category. Occupancy statistics for the Supporting Loan Groups for each Securitization were reported in the Prospectus Supplements as follows:⁸

Table 4

| Transaction | Supporting Loan Group | Primary or Owner-Occupied | Second Home / Secondary | Investor |
|---------------|-----------------------|---------------------------|-------------------------|----------|
| AMIT 2005-4 | Group I | 94.48% | 0.88% | 4.64% |
| MSAC 2005-HE5 | Group I | 94.14% | 2.58% | 3.28% |

⁸ Each Prospectus Supplement provides the total number of loans and the number of loans in the following categories: owner-occupied, investor, and second home. These numbers have been converted to percentages for ease of comparison.

| Transaction | Supporting Loan Group | Primary or Owner-Occupied | Second Home / Secondary | Investor |
|----------------------------|-----------------------|---------------------------|-------------------------|----------|
| MSAC 2005-HE6 | Group I | 92.66% | 1.02% | 6.32% |
| MSAC 2006-HE3 | Group I | 94.93% | 0.64% | 4.43% |
| MSAC 2006-HE5 | Group I | 95.02% | 0.73% | 4.25% |
| MSAC 2006-HE6 | Group I | 87.61% | 4.01% | 8.38% |
| MSAC 2006-HE8 | Group I | 92.06% | 1.02% | 6.92% |
| MSC 2006-NC2 | Group I | 86.31% | 3.94% | 9.75% |
| MSAC 2006-NC3 | Group I | 83.30% | 3.03% | 13.67% |
| MSAC 2006-NC4 | Group I | 87.40% | 3.79% | 8.81% |
| MSAC 2006-WMC2 | Group I | 93.64% | 4.24% | 2.12% |
| MSAC 2007-HE1 | Group I | 84.76% | 2.68% | 12.56% |
| MSAC 2007-HE5 | Group I | 96.87% | 1.50% | 1.63% |
| MSAC 2007-HE7 | Group I | 88.98% | 1.35% | 9.67% |
| MSAC 2007-NC1 | Group I | 84.87% | 4.46% | 10.67% |
| MSC 2006-HE2 | Group I | 97.59% | 0.82% | 1.59% |
| MSHEL 2005-4 | Group I | 96.17% | 0.96% | 2.87% |
| MSM 2005-10 | Group 3 | 100.00% | 0.00% | 0.00% |
| MSM 2005-7 | Group 5 | 100.00% | 0.00% | 0.00% |
| MSM 2006-16AX | Group 1 | 53.46% | 5.72% | 40.82% |
| MSM 2006-2 (7A1 & A2) | Group 7 | 100.00% | 0.00% | 0.00% |
| MSM 2007-2AX | Group 1 | 44.72% | 8.31% | 46.97% |
| MSM 2007-5AX | Group 1 | 54.19% | 6.29% | 39.52% |
| MSM 2007-7AX | Group 1 | 68.30% | 5.14% | 26.56% |
| NCHET 2005-B | Group I | 85.20% | 4.59% | 10.21% |
| NCHET 2005-C | Group I | 83.31% | 2.75% | 13.94% |
| NCHET 2005-D | Group I | 86.02% | 3.50% | 10.49% |
| SAST 2005-3 | Group 1 | 96.50% | 0.46% | 3.03% |
| SAST 2006-1 | Group 1 | 94.53% | 1.18% | 4.30% |
| SAST 2006-2 | Group 2 | 91.88% | 0.70% | 7.42% |
| SAST 2006-2 | Group 1 | 94.07% | 0.35% | 5.58% |
| SAST 2007-1 | Group 1 | 92.83% | 0.66% | 6.51% |
| SAST 2007-2 | Group 1 | 91.53% | 0.30% | 8.17% |
| SAST 2007-3 (1A & 1M1-1M6) | Group 1 | 90.37% | 0.97% | 8.66% |

79. As Table 4 makes clear, the Prospectus Supplements reported that 30 of the 34 Supporting Loan Groups contained at least 80 percent owner-occupied loans, and 20 of the 34 Supporting Loan Groups contained at least 90 percent owner-occupied loans.

80. Because information about occupancy status is an important factor in determining the credit risk associated with a mortgage loan -- and, therefore, the securitization that it backs -- the statements in the Prospectus Supplements concerning occupancy status were material to a reasonable investor's decision to invest in the Certificates, and they were material to the GSEs.

These statements were material because, among other reasons, borrowers who live in mortgaged properties are substantially less likely to default and more likely to care for their primary residence than borrowers who purchase properties as second homes or investments and live elsewhere. For example, as stated in the Prospectus Supplement for the SAST 2006-1 Securitization and other Securitizations: "Mortgage loans secured by properties acquired by investors for the purpose of rental income or capital appreciation, or properties acquired as second homes, tend to have higher severities of default than properties that are regularly occupied by the related borrowers." Accordingly, the percentage of loans in the collateral group of a securitization that are secured by mortgage loans on owner-occupied residences is an important measure of the risk of the certificates sold in that securitization.

81. Other things being equal, the lower the percentage of loans secured by owner-occupied residences, the greater the risk of loss to Certificateholders. Even modest differences in the percentages of primary/owner-occupied, second home/secondary, and investment properties in the collateral group of a securitization can have a significant effect on the risk of each certificate sold in that securitization, and thus, are important to the decision of a reasonable investor whether to purchase any such certificate. As discussed *infra* at paragraphs 94 through 97, the Prospectus Supplements for each Securitization materially overstated the percentage of loans in the Supporting Loan Groups that were owner-occupied, thereby misrepresenting the degree of risk of the Certificates purchased by the GSEs.

3. Loan-to-Value Ratios

82. The loan-to-value ratio of a mortgage loan, or LTV ratio, is the ratio of the balance of the mortgage loan to the value of the mortgaged property when the loan is made.

83. The denominator in the LTV ratio is the value of the mortgaged property, and is generally the lower of the purchase price or the appraised value of the property. In a refinancing

or home-equity loan, there is no purchase price to use as the denominator, so the denominator is often equal to the appraised value at the time of the origination of the refinanced loan or home-equity loan. Accordingly, an accurate appraisal is essential to an accurate LTV ratio. In particular, an inflated appraisal will understate, sometimes greatly, the credit risks associated with a given loan.

84. The Prospectus Supplements for the Securitizations contain information about the LTV ratio for each Supporting Loan Group. Table 5 below reflects two categories of important information reported in the Prospectus Supplements concerning the LTV ratios for each Supporting Loan Group: (i) the percentage of loans with an LTV ratio of 80 percent or less; and (ii) the percentage of loans with an LTV ratio greater than 100 percent.⁹

Table 5

| Transaction | Supporting Loan Group | Percentage of loans, by aggregate principal balance, with LTV less than or equal to 80% | Percentage of loans, by aggregate principal balance, with LTV greater than 100% |
|----------------|-----------------------|---|---|
| AMIT 2005-4 | Group I | 77.40% | 0.00% |
| MSAC 2005-HE5 | Group I | 59.42% | 0.00% |
| MSAC 2005-HE6 | Group I | 64.31% | 0.00% |
| MSAC 2006-HE3 | Group I | 60.73% | 0.00% |
| MSAC 2006-HE5 | Group I | 51.21% | 0.00% |
| MSAC 2006-HE6 | Group I | 62.20% | 0.00% |
| MSAC 2006-HE8 | Group I | 56.24% | 0.00% |
| MSC 2006-NC2 | Group I | 57.13% | 0.00% |
| MSAC 2006-NC3 | Group I | 53.43% | 0.00% |
| MSAC 2006-NC4 | Group I | 60.48% | 0.00% |
| MSAC 2006-WMC2 | Group I | 70.46% | 0.00% |
| MSAC 2007-HE1 | Group I | 52.24% | 0.00% |

⁹ As used in this Complaint, “LTV” refers to the loan-to-value ratio for first lien mortgages and for properties with second liens subordinate to the lien included in the securitization (*i.e.*, only the securitized lien is included in the numerator of the LTV calculation). Where the securitized lien is junior to another loan, the more senior lien has been added to the securitized one to determine the numerator in the LTV calculation (this latter calculation is sometimes referred to as the combined-loan-to-value ratio, or “CLTV”).

| Transaction | Supporting Loan Group | Percentage of loans, by aggregate principal balance, with LTV less than or equal to 80% | Percentage of loans, by aggregate principal balance, with LTV greater than 100% |
|----------------------------|-----------------------|---|---|
| MSAC 2007-HE5 | Group I | 54.79% | 0.00% |
| MSAC 2007-HE7 | Group I | 51.48% | 0.00% |
| MSAC 2007-NC1 | Group I | 56.89% | 0.00% |
| MSC 2006-HE2 | Group I | 66.14% | 0.00% |
| MSHEL 2005-4 | Group I | 59.99% | 0.00% |
| MSM 2005-10 | Group 3 | 97.71% | 0.00% |
| MSM 2005-7 | Group 5 | 97.49% | 0.00% |
| MSM 2006-16AX | Group 1 | 92.54% | 0.00% |
| MSM 2006-2 (7A1 & A2) | Group 7 | 95.03% | 0.00% |
| MSM 2007-2AX | Group 1 | 96.65% | 0.00% |
| MSM 2007-5AX | Group 1 | 90.17% | 0.00% |
| MSM 2007-7AX | Group 1 | 83.36% | 0.00% |
| NCHET 2005-B | Group I | 61.84% | 0.00% |
| NCHET 2005-C | Group I | 54.64% | 0.00% |
| NCHET 2005-D | Group I | 58.60% | 0.00% |
| SAST 2005-3 | Group 1 | 57.66% | 0.00% |
| SAST 2006-1 | Group 1 | 59.06% | 0.00% |
| SAST 2006-2 | Group 2 | 61.06% | 0.00% |
| SAST 2006-2 | Group 1 | 61.77% | 0.00% |
| SAST 2007-1 | Group 1 | 54.21% | 0.00% |
| SAST 2007-2 | Group 1 | 45.15% | 0.00% |
| SAST 2007-3 (1A & 1M1-1M6) | Group 1 | 53.38% | 0.00% |

85. The LTV ratio is among the most important measures of the risk of a mortgage loan for several reasons. First, the LTV ratio is a strong indicator of the likelihood of default, because a higher LTV ratio makes it more likely that a decline in the value of a property will completely eliminate a borrower's equity, and will incentivize the borrower to stop making mortgage payments and abandon the property. Second, the LTV ratio is a strong predictor of the severity of loss in the event of a default because the higher the LTV ratio, the smaller the "equity cushion," and the greater the likelihood that the proceeds of foreclosure will not cover the unpaid balance of the mortgage loan.

86. Thus, the LTV ratios were material to a reasonable investor's investment decision with respect to the Certificates, and they were material to the GSEs. Even small differences between the LTV ratios of the mortgage loans in the collateral group of a securitization have a significant effect on the likelihood that collateral groups will generate sufficient funds to pay certificateholders in that securitization. Such differences are important to the decision of a reasonable investor on whether to purchase any such certificate, and they affect the intrinsic value of the certificate.

87. As Table 5 makes clear, the Prospectus Supplements for all of the Securitizations reported that the majority of the mortgage loans in the Supporting Loan Groups had an LTV ratio of 80 percent or less. The Prospectus Supplements also reported that *none* of the Supporting Loan Groups contained a single loan with an LTV ratio over 100 percent.

88. As discussed *infra* at paragraphs 98 through 103, the Prospectus Supplements for the Securitizations materially *overstated* the percentage of loans in the Supporting Loan Groups with an LTV ratio at or less than 80 percent, and materially *understated* the percentage of loans in the Supporting Loan Groups with an LTV ratio over 100 percent, thereby misrepresenting the degree of risk to Certificateholders.

4. Credit Ratings

89. Credit ratings are assigned to the tranches of mortgage-backed securitizations by the credit rating agencies, including Standard & Poor's, Moody's Investors Service, and Fitch Ratings. Each credit rating agency uses its own scale with letter designations to describe various levels of risk. In general, AAA or its equivalent ratings are at the top of the credit rating scale and are intended to designate the safest investments. C and D ratings are at the bottom of the scale and refer to investments that are currently in default and exhibit little or no prospect for recovery. At the time Fannie Mae and Freddie Mac purchased the Certificates, investments with

AAA or its equivalent ratings historically experienced a loss rate of less than .05 percent.

Investments with a BBB rating, or its equivalent, historically experienced a loss rate of less than one percent. As a result, securities with credit ratings between AAA or its equivalent through BBB- or its equivalent were generally referred to as “investment grade.”

90. Rating agencies determine the credit rating for each tranche of a mortgage-backed securitization by comparing the likelihood of contractual principal and interest repayment to the “credit enhancements” available to protect investors. Rating agencies determine the likelihood of repayment by estimating cash flows based on the quality of the underlying mortgages by using sponsor-provided loan-level data. Credit enhancements, such as subordination, represent the amount of “cushion” or protection from loss incorporated into a given securitization.¹⁰ This cushion is intended to improve the likelihood that holders of highly-rated certificates receive the interest and principal to which they are contractually entitled. The level of credit enhancement offered is based on the composition of the loans in the underlying collateral group and entire securitization. Riskier loans underlying the securitization necessitate higher levels of credit enhancement to insure payment to senior certificate holders. If the collateral within the deal is of a higher quality, then rating agencies require less credit enhancement for an AAA or its equivalent rating.

91. For almost a hundred years, investors like pension funds, municipalities, insurance companies, and university endowments have relied heavily on credit ratings to assist them in distinguishing between safe and risky investments.

¹⁰ “Subordination” refers to the fact that the certificates for a mortgage-backed securitization are issued in a hierarchical structure, from senior to junior. The junior certificates are “subordinate” to the senior certificates in that, should the underlying mortgage loans become delinquent or default, the junior certificates suffer losses first. These subordinate certificates thus provide a degree of protection to the senior certificates from certain losses on the underlying loans.

92. Each tranche of the Securitizations received a credit rating before issuance, which purported to describe the riskiness of that tranche. Defendants reported the credit ratings for each tranche in the Prospectus Supplements. For each of the Certificates purchased by the GSEs the credit rating provided was virtually always AAA or its equivalent.¹¹ The accuracy of these ratings was material to a reasonable investor's decision to purchase the Certificates, and it was material to the GSEs. Among other things, the ratings provided additional assurance that investors in the Certificates would receive the expected interest and principal payments. As set forth in Table 8, *infra* at paragraph 125, the ratings for most of the Securitizations were severely downgraded to well below "investment grade" after the GSEs' purchase of the Certificates. Upon information and belief, the initial ratings were based in substantial part upon the materially inaccurate and incomplete information in the Registration Statements and related information provided to the ratings agencies.

D. FALSITY OF STATEMENTS IN THE REGISTRATION STATEMENTS AND PROSPECTUS SUPPLEMENTS

1. The Statistical Data Provided in the Prospectus Supplements Concerning Owner-Occupancy and Loan-To-Value Ratios Was Materially False

93. A review of loan-level data was conducted to assess whether the statistical information provided in the Prospectus Supplements was true and accurate. For each Securitization, the review included an analysis either of: (i) a sample of 1,000 loans randomly selected from the Supporting Loan Group; or (ii) all the loans in the Supporting Loan Group, if there were fewer than 1,000 such loans. The review of sample data has confirmed, on a statistically-significant basis, that the data provided in the Prospectus Supplements concerning

¹¹ With the exception of six tranches of SAST 2007-3 Certificates, as noted in Table 8 *infra*, all of which were rated higher than A3/A-/A.

owner-occupancy and LTV ratios was materially false, and that the Prospectus Supplements contained material misrepresentations with respect to the underwriting standards employed by the originators, and certain key characteristics of the mortgage loans across the Securitizations.

a. Owner-Occupancy Data was Materially False

94. The data review has revealed that the owner-occupancy statistics reported in the Prospectus Supplements were materially false and inflated. Indeed, the Prospectus Supplements over-reported the number of underlying properties that were occupied by their owners, and underreported the number of underlying properties held as second homes or investment properties.

95. To determine whether a given borrower actually occupied the property as claimed, a number of tests were conducted, including, *inter alia*, whether, months after the loan closed, the borrower's tax bill was being mailed to the property or to a different address, whether the borrower had claimed a tax exemption on the property, and whether the mailing address of the property was reflected in the borrower's credit reports, tax records, or lien records. Failing two or more of these tests constitutes strong evidence that the borrower did not live at the mortgaged property and instead used it as a second home or an investment property, rendering it much more likely that a borrower will not repay the loan.

96. For each Securitization, a significant number of the underlying loans failed two or more of these tests, indicating that the owner-occupancy statistics provided to investors, such as Fannie Mae and Freddie Mac, were materially false and misleading. For example, the Prospectus Supplement for the MSAC 2006-HE8 Securitization -- for which MCI was the sponsor and MS&Co. was the underwriter -- stated that 7.94 percent of the underlying properties by loan count in the Supporting Loan Group were second homes or investment properties. But the data review revealed that the true percentage of non-owner-occupied properties was 20.19

percent,¹² over 250 percent greater than the percentage reported in the Prospectus Supplement because for 13.3 percent of the properties represented as owner-occupied, the owners lived elsewhere

97. The data review revealed that for each Securitization, the Prospectus Supplement misrepresented the percentage of non-owner-occupied properties. The true percentage of non-owner-occupied properties, as determined by the data review, versus the percentage stated in the Prospectus Supplement for each Securitization, is reflected in Table 6 below. Table 6 demonstrates that the Prospectus Supplements for each Securitization significantly understated the percentage of non-owner-occupied properties.

Table 6

| | | A | B | C | D |
|----------------|-----------------------|--|--|--|---|
| Transaction | Supporting Loan Group | Reported Percentage of Non-Owner-Occupied Properties | % of Properties Reported as Owner-Occupied in the Offering Materials with Strong Indication of Non-Owner-Occupancy | Actual Percentage of Non-Owner-Occupied Properties | Understatement of Non-Owner-Occupied Properties in the Offering Materials |
| AMIT 2005-4 | Group I | 5.52% | 8.66% | 13.70% | 8.18% |
| MSAC 2005-HE5 | Group I | 5.86% | 14.38% | 19.40% | 13.54% |
| MSAC 2005-HE6 | Group I | 7.34% | 11.66% | 18.15% | 10.81% |
| MSAC 2006-HE3 | Group I | 5.07% | 13.12% | 17.53% | 12.46% |
| MSAC 2006-HE5 | Group I | 4.98% | 11.80% | 16.19% | 11.21% |
| MSAC 2006-HE6 | Group I | 12.39% | 11.58% | 22.54% | 10.15% |
| MSAC 2006-HE8 | Group I | 7.94% | 13.30% | 20.19% | 12.25% |
| MSC 2006-NC2 | Group I | 13.69% | 11.03% | 23.21% | 9.52% |
| MSAC 2006-NC3 | Group I | 16.70% | 11.11% | 25.95% | 9.25% |
| MSAC 2006-NC4 | Group I | 12.60% | 10.07% | 21.40% | 8.80% |
| MSAC 2006-WMC2 | Group I | 6.36% | 12.49% | 18.05% | 11.69% |
| MSAC 2007-HE1 | Group I | 15.24% | 8.66% | 22.59% | 7.35% |
| MSAC 2007-HE5 | Group I | 3.13% | 10.60% | 13.40% | 10.27% |
| MSAC 2007-HE7 | Group I | 11.02% | 12.02% | 21.71% | 10.69% |
| MSAC 2007-NC1 | Group I | 15.13% | 9.48% | 23.18% | 8.05% |

¹² The true percentage of non-owner-occupied properties (Table 6 Column C) is calculated by adding the percentage reported in the Prospectus Supplement (Table 6 Column A) to the product of owner-occupied properties reported in the Prospectus Supplement (100 minus Column A) and the percentage of properties reported as owner-occupied but with strong indication of non-owner occupancy (Table 6 Column B).

| Transaction | Supporting Loan Group | A | B | C | D |
|----------------------------|-----------------------|--|--|--|---|
| | | Reported Percentage of Non-Owner-Occupied Properties | % of Properties Reported as Owner-Occupied in the Offering Materials with Strong Indication of Non-Owner-Occupancy | Actual Percentage of Non-Owner-Occupied Properties | Understatement of Non-Owner-Occupied Properties in the Offering Materials |
| MSC 2006-HE2 | Group I | 2.41% | 11.74% | 13.86% | 11.45% |
| MSHEL 2005-4 | Group I | 3.83% | 11.54% | 14.93% | 11.10% |
| MSM 2005-10 | Group 3 | 0.00% | 14.35% | 14.35% | 14.35% |
| MSM 2005-7 | Group 5 | 0.00% | 11.45% | 11.45% | 11.45% |
| MSM 2006-16AX | Group 1 | 46.54% | 14.03% | 54.04% | 7.50% |
| MSM 2006-2 (7A1 & 7A2) | Group 7 | 0.00% | 15.15% | 15.15% | 15.15% |
| MSM 2007-2AX | Group 1 | 55.28% | 14.03% | 61.55% | 6.27% |
| MSM 2007-5AX | Group 1 | 45.81% | 14.23% | 53.52% | 7.71% |
| MSM 2007-7AX | Group 1 | 31.70% | 13.82% | 41.14% | 9.44% |
| NCHET 2005-B | Group I | 14.80% | 13.09% | 25.95% | 11.15% |
| NCHET 2005-C | Group I | 16.69% | 12.12% | 26.78% | 10.09% |
| NCHET 2005-D | Group I | 13.98% | 11.80% | 24.14% | 10.16% |
| SAST 2005-3 | Group 1 | 3.50% | 8.81% | 12.00% | 8.50% |
| SAST 2006-1 | Group 1 | 5.47% | 9.92% | 14.85% | 9.38% |
| SAST 2006-2 | Group 2 | 8.12% | 10.93% | 18.16% | 10.04% |
| SAST 2006-2 | Group 1 | 5.93% | 8.73% | 14.14% | 8.21% |
| SAST 2007-1 | Group 1 | 7.17% | 10.74% | 17.14% | 9.97% |
| SAST 2007-2 | Group 1 | 8.46% | 9.32% | 16.99% | 8.53% |
| SAST 2007-3 (1A & 1M1-1M6) | Group 1 | 9.63% | 9.66% | 18.36% | 8.73% |

b. Loan-to-Value Data was Materially False

98. The data review has further revealed that the LTV ratios disclosed in the Prospectus Supplements were materially false and understated, as more specifically set out below. For each of the sampled loans, an industry standard automated valuation model ("AVM") was used to calculate the value of the underlying property at the time the mortgage loan was originated. AVMs are routinely used in the industry as a way of valuing properties during prequalification, origination, portfolio review, and servicing. AVMs rely upon similar data as appraisers -- primarily county assessor records, tax rolls, and data on comparable properties. AVMs produce independent, statistically-derived valuation estimates by applying modeling techniques to this data.

99. Applying the AVM to the available data for the properties securing the sampled loans shows that the retroactive appraised value given to such properties was significantly higher than the actual value of such properties. The result of this overstatement of property values is a material understatement of LTV. That is, if a property's true value is significantly less than the value used in the loan underwriting, then the loan represents a significantly higher percentage of the property's value. This, of course, increases the risk a borrower will not repay the loan and the risk of greater losses in the event of a default. As stated in the Prospectus Supplement for MSAC 2006-HE8: "Mortgage loans with higher loan-to-value ratios may present a greater risk of loss than mortgage loans with loan-to-value ratios of 80 percent or below."

100. For example, for the MSAC 2007-HE5 Securitization, which was sponsored by MCI and underwritten by MS&Co., the Prospectus Supplement stated that no LTV ratios for the Supporting Loan Group were above 100 percent. In fact, 31.13 percent of the sample of loans included in the data review had LTV ratios above 100 percent; that is, mortgage loans with no equity cushion whatsoever. The Prospectus Supplement for the MSAC 2007-HE5 Securitization contained equally false statements with respect to the percentage of loans with an equity cushion of 20 percent or more. Specifically, whereas the Prospectus Supplement stated that 54.79 percent of the loans had LTV ratios at or below 80 percent, the data review indicated that only 28.12 percent of the loans had LTV ratios at or below 80 percent.

101. The data review revealed that for each Securitization, the Prospectus Supplement misrepresented the percentage of loans with an LTV ratio that were above 100 percent, as well the percentage of loans that had an LTV ratio at or below 80 percent. Table 7 reflects (i) the true percentage of mortgages in the Supporting Loan Group with LTV ratios above 100 percent, versus the percentage reported in the Prospectus Supplement; and (ii) the true percentage of

mortgages in the Supporting Loan Group with LTV ratios at or below 80 percent, versus the percentage reported in the Prospectus Supplement. The percentages listed in Table 7 were calculated by aggregated principal balance.

Table 7

| Transaction | Supporting Loan Group | PROSPECTUS | DATA REVIEW | PROSPECTUS | DATA REVIEW |
|----------------------------|-----------------------|--|---|--|---|
| | | Percentage of Loans reported to Have LTV Ratio at or Less than 80% | True Percentage of Loans with LTV Ratio at or Less than 80% | Percentage of Loans Reported to have LTV Ratio Over 100% | True Percentage of Loans with LTV Ratio Over 100% |
| AMIT 2005-4 | Group I | 77.40% | 46.39% | 0.00% | 7.82% |
| MSAC 2005-HE5 | Group I | 59.42% | 41.78% | 0.00% | 12.07% |
| MSAC 2005-HE6 | Group I | 64.31% | 49.07% | 0.00% | 11.96% |
| MSAC 2006-HE3 | Group I | 60.73% | 43.14% | 0.00% | 12.10% |
| MSAC 2006-HE5 | Group I | 51.21% | 32.43% | 0.00% | 21.00% |
| MSAC 2006-HE6 | Group I | 62.20% | 40.66% | 0.00% | 18.89% |
| MSAC 2006-HE8 | Group I | 56.24% | 36.37% | 0.00% | 22.65% |
| MSC 2006-NC2 | Group I | 57.13% | 42.29% | 0.00% | 15.57% |
| MSAC 2006-NC3 | Group I | 53.43% | 41.33% | 0.00% | 17.45% |
| MSAC 2006-NC4 | Group I | 60.48% | 42.18% | 0.00% | 14.01% |
| MSAC 2006-WMC2 | Group I | 70.46% | 38.82% | 0.00% | 16.08% |
| MSAC 2007-HE1 | Group I | 52.24% | 32.48% | 0.00% | 19.28% |
| MSAC 2007-HE5 | Group I | 54.79% | 28.12% | 0.00% | 31.13% |
| MSAC 2007-HE7 | Group I | 51.48% | 32.73% | 0.00% | 22.18% |
| MSAC 2007-NC1 | Group I | 56.89% | 33.41% | 0.00% | 20.12% |
| MSC 2006-HE2 | Group I | 66.14% | 41.00% | 0.00% | 16.50% |
| MSHEL 2005-4 | Group I | 59.99% | 40.31% | 0.00% | 12.66% |
| MSM 2005-10 | Group 3 | 97.71% | 64.07% | 0.00% | 3.12% |
| MSM 2005-7 | Group 5 | 97.49% | 56.49% | 0.00% | 3.46% |
| MSM 2006-16AX | Group 1 | 92.54% | 51.38% | 0.00% | 8.29% |
| MSM 2006-2 (7A1 & 7A2) | Group 7 | 95.03% | 57.69% | 0.00% | 1.11% |
| MSM 2007-2AX | Group 1 | 96.65% | 57.18% | 0.00% | 10.50% |
| MSM 2007-5AX | Group 1 | 90.17% | 45.69% | 0.00% | 12.77% |
| MSM 2007-7AX | Group 1 | 83.36% | 46.71% | 0.00% | 15.20% |
| NCHET 2005-B | Group I | 61.84% | 41.58% | 0.00% | 11.73% |
| NCHET 2005-C | Group I | 54.64% | 42.36% | 0.00% | 13.73% |
| NCHET 2005-D | Group I | 58.60% | 44.33% | 0.00% | 12.71% |
| SAST 2005-3 | Group 1 | 57.66% | 46.69% | 0.00% | 13.95% |
| SAST 2006-1 | Group 1 | 59.06% | 42.54% | 0.00% | 15.46% |
| SAST 2006-2 | Group 2 | 61.06% | 42.29% | 0.00% | 17.07% |
| SAST 2006-2 | Group 1 | 61.77% | 40.62% | 0.00% | 17.03% |
| SAST 2007-1 | Group 1 | 54.21% | 36.30% | 0.00% | 21.96% |
| SAST 2007-2 | Group 1 | 45.15% | 27.43% | 0.00% | 31.79% |
| SAST 2007-3 (1A & 1M1-1M6) | Group 1 | 53.38% | 35.17% | 0.00% | 27.46% |

102. As Table 7 demonstrates, the Prospectus Supplements for all of the Securitizations falsely reported that *none* of the mortgage loans in the Supporting Loan Groups had an LTV ratio over 100 percent: the data review revealed that: (i) for 29 of the 34 Supporting Loan Groups, at least 10 percent of the loans had an LTV ratio over 100 percent; and (ii) for 18 of the 33 Supporting Loan Groups, at least 15 percent of the loans had an LTV ratio over 100 percent.

103. These misrepresentations with respect to reported LTV ratios also demonstrate that the representations in the Registration Statements relating to appraisal practices were false, and that the appraisers, in many instances, furnished appraisals that they understood were inaccurate and that they knew bore no reasonable relationship to the actual value of the underlying properties. Indeed, independent appraisers following proper practices, and providing genuine estimates as to valuation, would not systematically generate appraisals that deviate so significantly (and so consistently upward) from the true values of the appraised properties. The Financial Crisis Inquiry Commission (“FCIC”), created by Congress to investigate the mortgage crisis and attendant financial collapse in 2008, identified “inflated appraisals” as a pervasive problem during the period of the Securitizations, and determined through its investigation that appraisers were often pressured by mortgage originators, among others, to produce inflated results. (See Financial Crisis Inquiry Commission, Final Report of the National Commission on the Causes of the Financial and Economic Crisis in the United States (2011) (“FCIC Report”), at 91.)

2. The Originators of the Underlying Mortgage Loans Systematically Disregarded Their Underwriting Guidelines

104. The Prospectus Supplements each contained numerous material misstatements and omissions concerning the underwriting guidelines used by the originators of the loans

included in the Securitizations, defined herein as the Non-Party Originators. Among other things, the Prospectus Supplements stated that the Non-Party Originators underwrote all loans in compliance with their respective underwriting guidelines. *See* Appendix A, Sections I-XXXIII at Subsections B. These statements were materially false.

105. The Non-Party Originators -- companies such as New Century, WMC, Decision One, and others -- systematically disregarded their respective underwriting guidelines, as confirmed not only by the pervasively false owner-occupancy and LTV figures alleged *supra*, but also by: (1) government investigations and private actions relating to their underwriting practices, which have revealed widespread abandonment of their reported underwriting guidelines during the period of the Securitizations; (2) the collapse of the credit ratings of Certificates purchased by the GSEs; and (3) the surge in delinquencies and defaults in the mortgages in the Securitizations.

a. Government and Private Investigations Confirm That the Originators of the Loans in the Securitizations Systematically Failed to Adhere to Their Underwriting Guidelines

106. An extraordinary volume of publicly-available information, including government reports and investigations, confirms that the originators whose loans were included by the Defendants in the Securitizations abandoned their loan origination guidelines throughout the period of the Securitizations.

107. For example, in November 2008, the Office of the Comptroller of the Currency (“OCC”), an office within the United States Department of the Treasury, issued a report identifying the “Worst Ten” mortgage originators in the “Worst Ten” metropolitan areas. The worst originators were defined as those with the largest number of non-prime mortgage foreclosures for 2005-2007 originations. New Century, WMC, IndyMac, Decision One, GreenPoint and American Home -- the companies that originated the loans for two-thirds of the

Securitizations at issue here -- were all on that list. *See* “Worst Ten in the Worst Ten,” Office of the Comptroller of the Currency Press Release, November 13, 2008. Several of the Non-Party Originators -- including New Century, WMC, IndyMac, and Wilmington -- have been the target of government investigations or private actions that allege a complete abandonment of their reported underwriting guidelines.

i. New Century Violated Its Underwriting Guidelines

108. New Century and its subsidiary, Home123, originated loans for at least 14 of the 33 Securitizations. As stated in the Prospectus Supplement for the 2007-NC1 Securitization, “[f]or the nine months ending September 20, 2006, New Century Financial Corporation originated \$45.4 billion in mortgage loans.” By the end of 2006, New Century was the third largest subprime mortgage loan originator in the United States, with a loan production volume that year of \$51.6 billion. And before its collapse in the first half of 2007, New Century was one of the largest subprime lenders in the country. New Century filed for protection from its creditors under Chapter 11 of the federal Bankruptcy Code on April 2, 2007.

109. In 2010, the OCC identified New Century as *the* worst subprime lender in the country based on the delinquency rates of the mortgages it originated in the 10 metropolitan areas between 2005 and 2007 with the highest rates of delinquency. *See* “Worst Ten in the Worst Ten: Update,” Office of the Comptroller of Currency Press Release, March 22, 2010. Further, in January 2011, the FCIC Report detailed, among other things, the collapse of mortgage underwriting standards and subsequent collapse of the mortgage market and wider economy. *See* FCIC Report. The FCIC Report singled out New Century for its role:

New Century—once the nation’s second-largest subprime lender—ignored early warnings that its own loan quality was deteriorating and stripped power from two risk-control departments that had noted the evidence. In a June 2004 presentation, the Quality Assurance staff reported they had found severe underwriting errors, including evidence of predatory lending,

federal and state violations, and credit issues, in 25% of the loans they audited in November and December 2003. In 2004, Chief Operating Officer and later CEO Brad Morrice recommended these results be removed from the statistical tools used to track loan performance, and in 2005, the department was dissolved and its personnel terminated. The same year, the Internal Audit department identified numerous deficiencies in loan files; out of nine reviews it conducted in 2005, it gave the company's loan production department "unsatisfactory" ratings seven times. Patrick Flanagan, president of New Century's mortgage-originating subsidiary, cut the department's budget, saying in a memo that the "group was out of control and tries to dictate business practices instead of audit."

110. On February 29, 2008, after an extensive document review and conducting over 100 interviews, Michael J. Missal, the Bankruptcy Court Examiner for New Century, issued a detailed report on the various deficiencies at New Century, including lax mortgage standards and a failure to follow its own underwriting guidelines. Among his findings, the Examiner reported:

New Century had a brazen obsession with increasing loan originations without due regard for the risks associated with that business strategy. . . . Although the primary goal of any mortgage banking company is to make more loans, New Century did so in an aggressive manner that elevated the risks to dangerous and ultimately to fatal levels.

New Century also made frequent exceptions to its underwriting guidelines for borrowers who might not otherwise qualify for a particular loan. A Senior Officer of New Century warned in 2004 that the "number one issue is exceptions to the guidelines." Moreover, many of the appraisals used to value the homes that secured the mortgages had deficiencies.

New Century . . . layered the risks of loan products upon the risks of loose underwriting standards in its loan originations to high risk borrowers.

Final Report of Michael J. Missal, Bankruptcy Examiner, *In re New Century TRS Holdings, Inc.*, No. 07-10416 (KJC) (Bankr. Del. Feb. 29, 2008).

111. On December 9, 2009, the SEC charged three of New Century's top officers with violations of federal securities laws. The SEC's complaint details the falsity of New Century's representations regarding its underwriting guidelines -- for example, its representations that it was committed to "adher[ing] to high origination standards in order to sell [its] loan products in

the secondary market” and to “only approv[ing] subprime loan applications that evidence a borrower’s ability to repay the loan.”

112. New Century’s failure to adhere to its underwriting guidelines is further reflected in allegations made by the Attorney General of Massachusetts in *In re: Morgan Stanley & Co. Inc.*, Civil Action No. 10-2538 (Suffolk Cnty. Super. Ct. June 24, 2010). The Massachusetts Attorney General alleged in his “Assurance of Discontinuance” that:

- New Century’s “stretch[ed] ... underwriting guidelines to encompass or approve loans not written in accordance with the guidelines.” (*Id.* ¶¶ 17, 23.)
- “One recurring issue identified by Morgan Stanley was New Century’s origination of loans that violated Massachusetts Division of Banks’ borrower’s best interest standard [].” (*Id.* ¶18.)
- During the period 2006-2007, 91 percent of the loans approved for securitization that did not meet New Century’s underwriting guidelines did not have “sufficient compensating factors to offset such exceptions.” (*Id.* ¶ 27.)
- “In the last three quarters of 2006, Morgan Stanley waived more than half of all material exceptions found by Clayton . . . , and purchased a substantial number of New Century loans found by Clayton to violate guidelines without sufficient compensating factors.” (*Id.* ¶ 28.)
- The loans originated by New Century were “unfair loans to Massachusetts borrowers” and “were in violation of Massachusetts law” (*Id.* ¶ 43-44.)

113. In settlement of the Massachusetts Attorney General’s charges, on or about June 24, 2010, Morgan Stanley agreed to drastic changes in its underwriting practices and paid \$102 million.

114. Patricia Lindsay, a former Vice President of Corporate Risk at New Century, testified before the FCIC in April 2010 that, beginning in 2004, underwriting guidelines had been all but abandoned at New Century. Ms. Lindsay further testified that New Century systematically approved loans with 100 percent financing to borrowers with extremely low credit scores and no supporting proof of income. (*See* Written Testimony of Patricia Lindsay for the

FCIC Hearing, April 7, 2010 (“Lindsay Testimony”), <http://fcic-static.law.stanford.edu/cdn-media/fcic.testimony/2010-0407-Lindsay.pdf>, at 3.)

115. Ms. Lindsay also testified that appraisers “fear[ed]” for their “livelihoods,” and therefore cherry-picked data “that would help support the needed value rather than finding the best comparables to come up with the most accurate value.” (See Written Testimony of Patricia Lindsay to the FCIC, April 7, 2010, at 5.) Indeed, on May 7, 2007, *The Washington Post* reported that a former New Century appraiser, Maggie Hardiman, recounted how she “didn’t want to turn away a loan because all hell would break loose” and that when she did reject a loan, “her bosses often overruled her and found another appraiser to sign off on it.” (David Cho, *Pressure at Mortgage Firm Led to Mass Approval of Bad Loans*, *The Washington Post* (May 7, 2007).)

ii. WMC Violated Its Underwriting Guidelines

116. WMC, which originated the loans for nine of the 33 Securitizations, employed reckless underwriting standards and practices, as described more fully below, that resulted in a huge number of foreclosures, ranking WMC fourth in the report presented to the FCIC in April 2010 identifying the “Worst Ten” mortgage originators in the “Worst Ten” metropolitan areas. (See “Worst Ten in the Worst Ten,” Office of the Comptroller of the Currency Press Release, November 13, 2008.) General Electric, which had purchased WMC in 2004, closed down operations at WMC in late 2007 and took a \$1.4 billion charge in the third quarter of that year. (See, e.g., Diane Brady, *Adventures of a Subprime Survivor*, *Bloomberg Businessweek*, Oct. 29, 2007 (available at http://www.businessweek.com/magazine/content/07_44/b4056074.htm).)

117. WMC’s reckless loan originating practices were noticed by regulatory authorities. In June 2008, the Washington State Department of Financial Institutions, Division of Consumer Services filed a Statement of Charges and Notice of Intention to Enter an Order to Revoke

License, Prohibit From Industry, Impose Fine, Order Restitution and Collect Investigation Fees (the “Statement of Charges”) against WMC Mortgage and its principal owners individually. (*See* Statement of Charges, No. C-07-557-08-SC01, Jun. 4, 2008.) The Statement of Charges included 86 loan files, which revealed that at least 76 loans were defective or otherwise in violation of Washington State law. (*Id.*) Among other things, the investigation uncovered that WMC had originated loans with unlicensed or unregistered mortgage brokers, understated amounts of finance charges on loans, understated amounts of payments made to escrow companies, understated annual percentage rates to borrowers and committed many other violations of Washington State deceptive and unfair practices laws. (*Id.*)

iii. **IndyMac Violated Its Underwriting Guidelines**

118. IndyMac, which originated the loans for one of the Securitizations, was the subject of a February 26, 2009 report issued by the Office of Inspector General (“OIG”) of the U.S. Department of Treasury entitled “Safety and Soundness: Material Loss Review of IndyMac Bank, FSB” (the “OIG Report”). The OIG Report found that IndyMac Bank had “embarked on a path of aggressive growth” that was supported by its high-risk business strategy of “originating ... Alt-A loans on a large scale” and then “packag[ing] them together in securities” and selling “them on the secondary market” to investors. (OIG Report at 2, 6, 7.) The OIG Report further stated that: “To facilitate this level of [loan] production . . . *IndyMac often did not perform adequate underwriting.*” (*Id.* at 2 (emphasis added).)

119. A June 30, 2008 report by the Center for Responsible Lending found that IndyMac Bank often ignored its stated underwriting and appraisal standards and encouraged its employees to approve loans regardless of a borrower’s ability to repay them. (*See* IndyMac: What Went Wrong? How an ‘Alt-A’ Leader Fueled its Growth with Unsound and Abusive Mortgage Lending (the “CRL Report”).) The CRL Report noted that IndyMac Bank “engaged in

unsound and abusive lending practices” and “allowed outside mortgage brokers and in-house sales staffers to inflate applicants’ [financial information] . . . [to] make them look like better credit risks.” (*See* CRL Report at 2, 8.)

iv. Wilmington Violated Its Underwriting Guidelines

120. Wilmington was an originator for three of the Securitizations purchased by the GSEs. As disclosed in the Prospectus Supplement to the MSHEL 2005-4 Securitization, Wilmington originated \$2.2 billion in mortgage loans in 2003, \$10.3 billion in mortgage loans in 2004 and \$7.2 billion in mortgage loans during the period commencing on January 1, 2005 and ending on June 30, 2005.

121. Wilmington and other affiliated companies, including its parent company AIG Federal Savings Bank (“AIG FSB”), were the subject of a government investigation into their lending practices. The Office of Thrift Supervision, based on the exercise of its regulatory responsibilities, determined that AIG FSB “failed to manage and control the mortgage lending activities outsourced to [Wilmington] in a safe and sound manner” (Supervisory Agreement at 1.) The stated purpose of the Supervisory Agreement was, among other things, to “correct and remediate the negative financial impact to certain borrowers from the insufficiently supervised lending activities of [AIG FSB] outsourced to [Wilmington]. . . .” (*Id.* at 2.) Thus, pursuant to that agreement, Wilmington and its affiliates established a \$128 million reserve to cover, among other things, costs associated with providing affordable loans to borrowers whose creditworthiness was not adequately evaluated at the time the loan was originated. (*Id.*) Moreover, AIG FSB agreed to improving its mortgage loan origination policies “to enhance its compliance with applicable laws and regulations.” (*Id.*)

b. The Collapse of the Certificates' Credit Ratings Further Shows that the Mortgage Loans were not Originated in Adherence to the Stated Underwriting Guidelines

122. The total collapse in the credit ratings of the Certificates invested in by the GSEs, typically from AAA or its equivalent to non-investment speculative grade, is further evidence of the originators' systematic disregard of underwriting guidelines, underscoring that these Certificates were impaired from the start.

123. The Certificates purchased by the GSEs originally were assigned credit ratings of AAA or its equivalent, which purportedly reflected the description of the mortgage loan collateral and underwriting practices set forth in the Registration Statements. Those ratings artificially were inflated, however, upon information and belief in part as a result of the same misrepresentations that the Defendants made to investors in the Prospectus Supplements.

124. Upon information and belief, Morgan Stanley provided information to the rating agencies, including LTV ratios, owner-occupancy rates and other loan statistics, that the agencies used in part to calculate the assigned ratings of the Certificates purchased by the GSEs. Upon information and belief, because the information that Morgan Stanley provided, which information included, among other things, the Registration Statements or portions thereof, the ratings were inflated. As a result, the Certificates were offered and purchased at prices suitable for "investment grade" securities, when in fact the Certificates carried a severe risk of loss and inadequate credit enhancement.

125. Since the issuance of the Certificates purchased by the GSEs, the ratings agencies have downgraded their ratings dramatically to reflect the revelations regarding the true

underwriting practices used to originate the mortgage loans, and the true value and credit quality of the mortgage loans. Table 8 details the extent of the downgrades.¹³

Table 8

| Transaction | Tranche | Rating at Issuance (Moody's/S&P/Fitch) | Rating as of July 31, 2011 (Moody's/S&P/Fitch) |
|----------------|---------|---|---|
| AMIT 2005-4 | 1A1 | Aaa/AAA/-- | Aaa/AAA/-- |
| MSAC 2005-HE5 | A1 | Aaa/AAA/AAA | Aa1/AAA/AAA |
| MSAC 2005-HE6 | A1 | Aaa/AAA/AAA | A1/AAA/A |
| MSAC 2006-HE3 | A1 | Aaa/AAA/AAA | Caa2/CCC/CC |
| MSAC 2006-HE5 | A1 | Aaa/AAA/AAA | Ca/B-/C |
| MSAC 2006-HE6 | A1 | Aaa/AAA/AAA | Ca/CCC/C |
| MSAC 2006-HE8 | A1 | Aaa/AAA/-- | Ca/CCC/-- |
| MSC 2006-NC2 | A1 | Aaa/AAA/AAA | Caa3/B-/CC |
| MSAC 2006-NC3 | A1 | Aaa/AAA/AAA | Caa1/B+/CC |
| MSAC 2006-NC4 | A1 | Aaa/AAA/AAA | Caa3/CCC/CC |
| MSAC 2006-WMC2 | A1 | Aaa/AAA/AAA | Ca/CCC/C |
| MSAC 2007-HE1 | A1 | Aaa/AAA/-- | Ca/CCC/-- |
| MSAC 2007-HE5 | A1 | Aaa/AAA/-- | Ca/CCC/-- |
| MSAC 2007-HE7 | A1 | Aaa/AAA/-- | Caa3/CCC/-- |
| MSAC 2007-NC1 | A1 | Aaa/AAA/-- | Ca/CCC/-- |
| MSC 2006-HE2 | A1 | Aaa/AAA/AAA | Caa2/CCC/CC |
| MSHEL 2005-4 | A1 | Aaa/AAA/AAA | A2/AAA/A |
| MSM 2005-10 | 3A | Aaa/AAA/-- | Caa2/CC/-- |
| MSM 2005-7 | 5A | Aaa/AAA/-- | Caa2/CC/-- |
| MSM 2006-16AX | 1A | Aaa/AAA/-- | Ca/CCC/-- |
| MSM 2006-2 | 7A1 | Aaa/AAA/-- | Caa2/CC/-- |
| MSM 2006-2 | 7A2 | Aaa/AAA/-- | C/CC/-- |
| MSM 2007-2AX | 1A | Aaa/AAA/-- | Ca/CCC/-- |
| MSM 2007-5AX | 1A | Aaa/AAA/-- | Ca/CCC/-- |
| MSM 2007-7AX | 1A | Aaa/AAA/-- | Ca/CCC/-- |
| NCHET 2005-B | A1 | Aaa/AAA/-- | Ba1/AA/-- |
| NCHET 2005-C | A1 | Aaa/AAA/-- | B3/CCC/-- |
| NCHET 2005-D | A1 | Aaa/AAA/-- | Caa2/B/-- |
| SAST 2005-3 | A1A | Aaa/AAA/AAA | Aaa/AAA/AA |
| SAST 2006-1 | A1 | Aaa/AAA/-- | Aa2/A/-- |
| SAST 2006-2 | A2 | Aaa/AAA/AAA | Ba3/BB+/CCC |

¹³ Applicable ratings are shown in sequential order separated by forward slashes: S&P/Moody's/Fitch. A double-hyphen indicates that the relevant agency did not provide a rating at issuance.

| Transaction | Tranche | Rating at Issuance (Moody's/S&P/Fitch) | Rating as of July 31, 2011 (Moody's/S&P/Fitch) |
|-------------|---------|---|---|
| SAST 2006-2 | A1 | Aaa/AAA/AAA | Ba3/BB/CCC |
| SAST 2007-1 | A1 | Aaa/AAA/-- | Caa3/CCC/-- |
| SAST 2007-2 | A1 | Aaa/AAA/-- | Caa2/CCC/-- |
| SAST 2007-3 | 1A | Aaa/AAA/AAA | Caa2/CCC/CC |
| SAST 2007-3 | 1M1 | Aa1/AA+/AA+ | C/CCC/C |
| SAST 2007-3 | 1M2 | Aa2/AA/AA+ | C/CCC/C |
| SAST 2007-3 | 1M3 | Aa3/AA-/AA | C/CCC/C |
| SAST 2007-3 | 1M4 | A1/A+/AA- | C/CCC/C |
| SAST 2007-3 | 1M5 | A2/2/A+ | C/CCC/C |
| SAST 2007-3 | 1M6 | A3/A-/A | C/CC/C |

c. The Surge in Mortgage Delinquency and Default Further Demonstrates that the Mortgage Loans Were Not Originated in Adherence to the Stated Underwriting Guidelines

126. Even though the Certificates were marketed as long-term, stable investments, a significant percentage of the mortgage loans backing the Certificates have defaulted, have been foreclosed upon, or are delinquent, resulting in massive losses to the Certificateholders. The overall poor performance of the mortgage loans is a direct consequence of the fact that their underlying mortgage loans were not underwritten in accordance with applicable underwriting guidelines as represented in the Prospectus Supplements.

127. Loan groups that were underwritten properly and contained loans with the characteristics represented in the Prospectus Supplements would have experienced substantially fewer payment problems and substantially lower percentages of defaults, foreclosures, and delinquencies than occurred here. Table 9 reflects the percentage of loans in the Supporting Loan Groups that are in default, have been foreclosed upon, or are delinquent as of July 2011.

Table 9

| Transaction | Supporting Loan Group | Percentage of Delinquent/Defaulted/Foreclosed Loans |
|---------------|-----------------------|---|
| AMIT 2005-4 | Group I | 42.6% |
| MSAC 2005-HE5 | Group I | 53.4% |

| Transaction | Supporting Loan Group | Percentage of Delinquent/Defaulted/Foreclosed Loans |
|---------------------------|-----------------------|---|
| MSAC 2005-HE6 | Group I | 45.6% |
| MSAC 2006-HE3 | Group I | 42.8% |
| MSAC 2006-HE5 | Group I | 62.9% |
| MSAC 2006-HE6 | Group I | 70.0% |
| MSAC 2006-HE8 | Group I | 42.0% |
| MSC 2006-NC2 | Group I | 39.9% |
| MSAC 2006-NC3 | Group I | 33.3% |
| MSAC 2006-NC4 | Group I | 45.4% |
| MSAC 2006-WMC2 | Group I | 49.8% |
| MSAC 2007-HE1 | Group I | 53.8% |
| MSAC 2007-HE5 | Group I | 56.4% |
| MSAC 2007-HE7 | Group I | 50.0% |
| MSAC 2007-NC1 | Group I | 54.0% |
| MSC 2006-HE2 | Group I | 44.3% |
| MSHEL 2005-4 | Group I | 33.7% |
| MSM 2005-10 | Group 3 | 19.7% |
| MSM 2005-7 | Group 5 | 11.8% |
| MSM 2006-16AX | Group 1 | 47.1% |
| MSM 2006-2 (7A1) | Group 7 | 16.1% |
| MSM 2006-2 (7A2) | Group 7 | 16.1% |
| MSM 2007-2AX | Group 1 | 33.9% |
| MSM 2007-5AX | Group 1 | 49.7% |
| MSM 2007-7AX | Group 1 | 44.2% |
| NCHET 2005-B | Group I | 37.3% |
| NCHET 2005-C | Group I | 47.1% |
| NCHET 2005-D | Group I | 50.6% |
| SAST 2005-3 | Group 1 | 35.5% |
| SAST 2006-1 | Group 1 | 39.8% |
| SAST 2006-2 | Group 2 | 39.3% |
| SAST 2006-2 | Group 1 | 39.8% |
| SAST 2007-1 | Group 1 | 41.2% |
| SAST 2007-2 | Group 1 | 31.0% |
| SAST 2007-3 (A1, 1M1-1M6) | Group 1 | 39.8% |

128. The confirmed misstatements concerning owner-occupancy and LTV ratios; the confirmed systematic underwriting failures by the originators responsible for the mortgage loans across the Securitizations; and the extraordinary drop in credit rating and rise in delinquencies across those Securitizations all indicate that the mortgage loans in the Supporting Loan Groups,

contrary to the representations in the Registration Statements, were not originated in accordance with the stated underwriting guidelines.

**E. FANNIE MAE'S AND FREDDIE MAC'S
PURCHASES OF THE CERTIFICATES**

129. Between September 12, 2005 and September 28, 2007, Freddie Mac and Fannie Mae purchased over \$10.58 billion in RMBS issued in connection with the Securitizations.

Tables 10 and 11 reflect each of Freddie Mac's and Fannie Mae's purchases of the Certificates, respectively.¹⁴ To date, the GSEs have not sold any of the Certificates.

Table 10

| Transaction | Tranche | CUSIP | Settlement Date of Purchase by Freddie Mac | Initial Unpaid Principal Balance | Purchase Price (% of Par) | Seller to Freddie Mac |
|----------------|---------|-----------|---|--|---------------------------------|--------------------------|
| AMIT 2005-4 | 1A1 | 00252FDF5 | 09/12/05 | 446,899,000.00 | 100 | MS&Co. |
| MSAC 2005-HE5 | A1 | 61744CUN4 | 10/28/05 | 441,470,000.00 | 100 | MS&Co. |
| MSAC 2005-HE6 | A1 | 61744CVT0 | 11/29/05 | 337,122,000.00 | 100 | MS&Co. |
| MSAC 2006-HE6 | A1 | 61750FAA8 | 09/27/06 | 324,649,000.00 | 100 | MS&Co. |
| MSC 2006-NC2 | A1 | 617451EB1 | 03/30/06 | 886,897.00 | 100 | MS&Co. |
| MSAC 2006-NC3 | A1 | 61744CYZ3 | 04/28/06 | 426,670,000.00 | 100 | MS&Co. |
| MSAC 2006-NC4 | A1 | 61748LAA0 | 06/23/06 | 536,150,000.00 | 100 | MS&Co. |
| MSAC 2006-WMC2 | A1 | 61749KAA1 | 06/28/06 | 581,960,000.00 | 100 | MS&Co. |
| MSAC 2007-HE1 | A1 | 617526AA6 | 01/26/07 | 309,100,000.00 | 100 | MS&Co. |
| MSAC 2007-NC1 | A1 | 617505AA0 | 01/26/07 | 320,559,000.00 | 100 | MS&Co. |
| MSHEL 2005-4 | A1 | 61744CVE3 | 11/29/05 | 335,337,000.00 | 100 | MS&Co. |
| MSM 2005-10 | 3A | 61748HSG7 | 11/30/05 | 40,296,000.00 | 99.7421875 | MS&Co. |
| MSM 2005-7 | 5A | 61748HPE5 | 10/31/05 | 26,951,000.00 | 99.640625 | MS&Co. |
| MSM 2006-16AX | 1A | 617487AA1 | 10/31/06 | 182,501,000.00 | 100 | MS&Co. |
| MSM 2006-2 | 7A1 | 61748HVV4 | 02/28/06 | 31,903,000.00 | 100.265625 | MS&Co. |
| MSM 2006-2 | 7A2 | 61748HVZ1 | 02/28/06 | 3,545,000.00 | 100.265625 | MS&Co. |
| MSM 2007-2AX | 1A | 61751TAA7 | 01/31/07 | 157,974,000.00 | 100 | MS&Co. |
| MSM 2007-7AX | 1A | 61754HAA0 | 04/30/07 | 177,425,000.00 | 100 | MS&Co. |
| NCHET 2005-B | A1 | 64352VNE7 | 09/29/05 | 590,249,000.00 | 100 | MS&Co. |
| NCHET 2005-C | A1 | 64352VNU1 | 12/06/05 | 549,534,000.00 | 100 | MS&Co. |
| NCHET 2005-D | A1 | 64352VPK1 | 12/28/05 | 411,566,000.00 | 100 | MS&Co. |
| SAST 2005-3 | A1A | 805564SM4 | 09/29/05 | 360,900,000.00 | 100 | RBS |
| SAST 2006-1 | A1 | 80556UAA1 | 05/02/06 | 199,612,000.00 | 100 | Credit Suisse |
| SAST 2006-2 | A2 | 80556XAB3 | 06/07/06 | 197,374,000.00 | 100 | Credit Suisse |
| SAST 2007-1 | A1 | 80556BAA3 | 03/07/07 | 209,071,000.00 | 100 | MS&Co. |

¹⁴ Purchases and holdings of securities in Table 10 are stated in terms of UPB of the relevant Certificates. Purchase prices are stated in terms of percentage of par.

Table 11

| Transaction | Tranche | CUSIP | Settlement Date of Purchase by Fannie Mae | Initial Unpaid Principal Balance | Purchase Price (% of Par) | Seller to Fannie Mae |
|---------------|---------|-----------|--|--|---------------------------------|-------------------------|
| MSAC 2006-HE3 | A1 | 61749HAA8 | 05/25/06 | 381,635,000.00 | 100 | MS&Co. |
| MSAC 2006-HE5 | A1 | 61749NAA5 | 06/30/06 | 319,485,000.00 | 100 | MS&Co. |
| MSAC 2006-HE8 | A1 | 61750SAA0 | 11/29/06 | 226,710,000.00 | 100 | MS&Co. |
| MSAC 2007-HE5 | A1 | 61753KAA4 | 04/26/07 | 119,919,000.00 | 100 | MS&Co. |
| MSAC 2007-HE7 | A1 | 61756YAA1 | 09/28/07 | 670,205,000.00 | 100 | MS&Co. |
| MSC 2006-HE2 | A1 | 617451ER6 | 04/28/06 | 435,720,000.00 | 100 | MS&Co. |
| MSM 2007-5AX | 1A | 61751GAA5 | 02/28/07 | 127,608,000.00 | 100 | MS&Co. |
| SAST 2006-2 | A1 | 80556XAB3 | 06/07/06 | 197,374,000.00 | 100 | Credit Suisse |
| SAST 2007-2 | A1 | 80556YAA3 | 04/30/07 | 192,705,000.00 | 100 | MS&Co. |
| SAST 2007-3 | 1A | 80557BAA2 | 08/03/07 | 569,917,000.00 | 100 | MS&Co. |
| SAST 2007-3 | 1M1 | 80557BAF1 | 08/03/07 | 36,690,000.00 | 100 | MS&Co. |
| SAST 2007-3 | 1M2 | 80557BAH7 | 08/03/07 | 33,021,000.00 | 100 | MS&Co. |
| SAST 2007-3 | 1M3 | 80557BAK0 | 08/03/07 | 21,198,000.00 | 100 | MS&Co. |
| SAST 2007-3 | 1M4 | 80557BAM6 | 08/03/07 | 17,937,000.00 | 100 | MS&Co. |
| SAST 2007-3 | 1M5 | 80557BAP9 | 08/03/07 | 17,937,000.00 | 100 | MS&Co. |
| SAST 2007-3 | 1M6 | 80557BAR5 | 08/03/07 | 16,307,000.00 | 98.9544 | MS&Co. |

**F. FANNIE MAE AND FREDDIE MAC WERE
DAMAGED BY DEFENDANTS' VIOLATIONS
OF SECTIONS 11, 12, AND 15 OF THE SECURITIES ACT**

130. The statements and information in the Registration Statements regarding the credit quality and characteristics of the mortgage loans underlying the GSE-purchased Certificates, and the origination and underwriting practices pursuant to which the mortgage loans purportedly were originated, were material to a reasonable investor. But for the misrepresentations and omissions in the Registration Statements concerning those matters, Fannie Mae and Freddie Mac would not have purchased the Certificates.

131. Based upon sales of the Certificates or similar certificates in the secondary market, or other indications of value, the GSEs have incurred substantial losses on the Certificates due to a decline in value that is directly attributable to Defendants' material misrepresentations and omissions. Among other things, the mortgage loans underlying the Certificates experienced defaults and delinquencies at a higher rate than would have been the

case had the loans underlying the Certificates actually conformed to the origination guidelines, and had the Certificates merited the credit ratings set forth in the Registration Statement.

132. Defendants' misstatements and omissions in the Registration Statement were the direct, proximate and actual cause of the GSEs' losses resulting from their purchase of the Certificates. Although clearly significant, the precise extent of Freddie Mac's injuries will be proven at trial.

133. At the time of their purchases of the Certificates, Fannie Mae and Freddie Mac were unaware of Defendants' misrepresentations, omissions and/or untrue statements. Plaintiff was appointed Conservator of Fannie Mae and Freddie Mac less than one year after the discovery of the untrue statements and omissions contained in the Registration Statements and within three years of the Certificates being offered for sale to the public. Despite the exercise of reasonable diligence, Fannie Mae and Freddie Mac could not reasonably have discovered the untrue statements and omissions in the Registration Statements more than one year prior to the appointment of the Plaintiff as Conservator. This action is timely pursuant to 12 U.S.C. §§ 4617(b)(12) and (13), which provides for extension and tolling of all time periods applicable to the claims brought herein. Moreover, the time period since June 5, 2009 has been tolled for statute of limitations purposes by virtue of a tolling agreement entered into between Fannie Mae and Defendants MS&Co., MSAC, MSMC, SFM and SCI.

II. ADDITIONAL FACTUAL ALLEGATIONS

134. The allegations in paragraphs 135 through 138 below addressing Defendants' knowledge or recklessness concerning the information set forth in or omitted from the Registration Statements and any other materials provided to Freddie Mac are made solely with respect to Plaintiff's common law claims.

A. Defendants Were Incentivized to Fund Risky Residential Mortgage Loans and To Securitize and Sell Them to Investors

135. Securitizing large volumes of loans was a highly lucrative and competitive business for the Defendants. All of the underwriter defendants engaged in this business on a massive scale, each doing multiple billions of dollars worth of securitizations during the period when they sold the Certificates to the GSEs. Fees, which were a percentage of the balance of the loan pool being purchased, and other transaction revenues associated with the Certificates at issue here, and the RMBS securitization business generally, accounted for a substantial portion of the underwriter (and other) Defendants' earnings in the relevant time period. The more and the larger the securitizations the Defendants arranged and participated in, the greater their earnings. This financial motive accounts for Defendants' willingness, intentionally or recklessly, to make false statements in, or to omit material facts from, the Registration Statements and other offering materials. In furtherance of this motive, the Defendant underwriters took measures and entered into arrangements designed to ensure that a continuous and high volume of mortgage loans would be available for securitization.

136. Thus, among other things, the Defendant banks provided "warehouse" funding to mortgage originators to enable these originators to make, and to continue to make, loans. These subprime mortgage originators used those funds to make large numbers of loans, which they then turned around and sold back to the banks whose funds enabled them to make the loans in the first place. The banks then securitized the loans they effectively funded, and transferred the risk to investors like Fannie Mae and Freddie Mac through the sale of the RMBS resulting from the securitizations.

137. These arrangements between the banks and loan originators undermined the underwriting process for the Certificates because the Defendant underwriters had no incentive to

identify and exclude from the securitizations loans that did not conform to the loan originators' stated guidelines. To the contrary, the Defendants had the motive to, and did, include loans that they knew -- or were reckless in not knowing -- did not conform to those guidelines, and that lacked the characteristics or merited the ratings set forth in the Registration Statement.

138. The originator responsible for the largest of loans underlying the Certificates was New Century, now known to be one of the worst subprime lenders.

139. MS&Co., Credit Suisse, Citigroup, Bear Stearns, Merrill Lynch, Bank of America, and Deutsche Bank -- all of whom were underwriters of the Securitizations -- provided billions of dollars of warehouse lending to New Century. In 2006, MS&Co. provided \$3 billion and \$650 million in warehouse loans to New Century and American Home, respectively. (Assurance of Discontinuance ¶ 12.)

140. In addition to MS&Co., the other underwriters of the Securitizations engaged in warehouse lending as well. From 2000 to 2010, Citi extended warehouse lines of credit of up to \$7 billion to unaffiliated originators, including \$950 million to New Century and over \$3.5 billion to Ameriquest. (FCIC Report at 113.) Citi and JPM lent their own mortgage origination subsidiaries at least \$26.3 billion and \$30 billion, respectively, between 2005 and 2007. (See "Who is Behind The Financial Meltdown: The Top 25 Subprime Lenders and their Wall Street Backers," The Center for Integrity, available at http://www.publicintegrity.org/investigations/economic_meltdown/the_subprime_25/.) Upon information and belief, RBS also engaged in the same warehouse lending practices.

141. The lending relationship between the investment banks and the originators did not merely assure that there would be a high volume of loans generally available to securitize. It also gave the banks the inside track on acquiring for securitization the loans generated with their

funds. Thus, for example, according to the Assurance of Discontinuance filed by the Massachusetts Attorney General, Morgan Stanley sometimes would commit to buying loans from New Century months in advance, such that New Century was often originating loans *for the purpose* of fulfilling its commitment to Morgan Stanley. (Assurance of Discontinuance ¶ 12). Morgan Stanley's warehouse loan was then repaid when the originator's loan pool was sold to Morgan Stanley for securitization.

142. To make matters worse, upon information and belief, because Morgan Stanley had agreed in advance to buy the loans securing its warehouse lines, it was committed to purchasing the loans regardless of their credit quality or despite the results of its own due diligence. If Morgan Stanley were to reject too many loans, it would jeopardize its relationship with lenders, such as New Century, and also decrease its own profits because of the resulting reduction in the size of the securitizations. Thus, for example, in one instance, after New Century complained to Morgan Stanley about the rate of loan rejection and suggested that New Century would shift its business to other buyers, Morgan Stanley purchased the loans that its internal due diligence team initially had rejected. (Assurance of Discontinuance ¶¶ 24-25.)

143. In a March 21, 2007 earnings conference call, Morgan Stanley highlighted its integrated approach to RMBS, without disclosing the inherent conflicts of interest:

We participate in the subprime mortgage market in a number of ways. Through our securitized product groups we purchased loans from originators and originate loans, including through Saxon, which closed this quarter. We are active in the structuring, securitization, and distribution of subprime products, including CLOs and CDOs. Third, we manage our risk through a variety of hedging strategies and we also take proprietary risk positions. In the aggregate, these activities were a significant contributor to our results this quarter. In addition, we extend loans and lending commitments to clients that are secured by assets of the borrower such as loan pools. At the end of the quarter, whereas [sic] lending commitments to the subprime lenders totaled \$5.2 billion, of which \$2.3 billion was funded and fully collateralized. The largest component of this was the New Century. Our current

funded balance with New Century is \$2.5 billion. Finally, through our acquisition of Saxon, we have servicing capabilities.

(Morgan Stanley F1Q07 (Qtr End 2/28/07) Earnings Call Transcript, March 21, 2007, <http://seekingalpha.com/article/30299-morgan-stanley-flq07-qtr-end-2-28-07-earnings-call-transcript> (last visited Aug. 19, 2011).)

144. Morgan Stanley and other underwriters of the Securitizations were therefore motivated to churn out and securitize as many mortgages as possible because they earned so much in revenues on both ends of the securitization process, without bearing the ultimate risk of default. Indeed, MS&Co. and each of the other underwriters ranked in the top ten of the nation's largest underwriters of RMBS between 2004 and 2007, according to Inside Mortgage Finance. The three underwriters that sold the Certificates to Fannie Mae and Freddie Mac -- Morgan Stanley, Credit Suisse, and RBS -- were especially prolific.

145. From 2005 through 2007, when the Certificates were issued and subsequently purchased by Fannie Mae and Freddie Mac, Morgan Stanley greatly increased the volume of RMBS it issued by, among other things, acquiring Defendant SCI and its subsidiaries SMI, SFM, and SASC, which acted as originator, sponsor, and depositor for RMBS, respectively. Thus, whereas the approximate initial principal amount of securities backed by mortgage loans that Morgan Stanley initially issued was relatively small -- roughly \$0.4 billion in 2000 -- by 2006, the amount had ballooned to \$26 billion. By 2007, Morgan Stanley ranked tenth with \$26.8 billion in transactions, RBS was fifth with \$50.3 billion, and Credit Suisse ranked sixth with \$44.1 billion. (*2011 Mortgage Market Statistical Annual*, Vol. II (Inside Mortgage Finance Publ'ns, Inc., 2011).)

**B. Defendants' Material Misrepresentations
and Omissions in the Offering Materials**

146. In connection with the sale of the Certificates, the selling underwriters MS&Co., Credit Suisse and RBS; the depositors MSAC, MSC and SASC; and the sponsors MSMC and SFM (together, the "Fraud Defendants") each made misrepresentations and omissions of material fact to Fannie Mae and Freddie Mac in term sheets, Registration Statements, Prospectuses, Prospectus Supplements, and other draft and final written offering documents (the "Offering Materials") These Offering Materials described the credit quality and other characteristics of the underlying mortgage loans on an aggregate basis and were provided to investors, including the GSEs.

147. Accordingly, Fannie Mae and Freddie Mac required the Fraud Defendants to provide representations and warranties regarding the origination and quality of the mortgage loans, including that the mortgage loans had been underwritten by the loan originators pursuant to extensive guidelines.

148. Through term sheets or other offering documents, the Fraud Defendants also furnished the GSEs with anticipated credit ratings on the proposed pool of mortgage loans intended for securitization.

149. On information and belief, the Fraud Defendants solicited anticipated ratings from credit rating agencies based on misrepresentations by Defendants as to the credit quality of the proposed pool of mortgage loans intended for securitization, and the amount of the overcollateralization in the deal. Virtually all the Securitizations had anticipated ratings of at least AAA or its equivalent.

150. Furthermore, the Fraud Defendants delivered Prospectus Supplements to the GSEs that included more specific information about the loans underlying the Certificates in each Securitization.

151. The materially false and misleading information contained in the initial and final Prospectus Supplements that the Fraud Defendants provided to the GSEs included reproductions of the same schedules that the Fraud Defendants provided to the GSEs, containing false data about LTV ratios and owner-occupancy statistics.

152. The Offering Materials, among other things, (1) misrepresented the loans and loan originators' adherence to the stated underwriting guidelines; (2) overstated the number of loans for owner-occupied properties; (3) understated the loan pools' average LTV ratios; and (4) failed to disclose that the credit ratings of the Certificates were based on false information. Each misrepresentation and omission created an additional, hidden layer of risk well beyond that known to be associated with non-agency loans or subprime loans.

153. First, the Fraud Defendants' statements regarding the mortgage pools' compliance with stated underwriting guidelines were false. The falsity of such representations is evident from disclosures concerning the originators' systematic disregard of their stated underwriting guidelines, as well as the Certificates' high default rates and plummeting credit ratings. Indeed, of the 18 originators whose loans were sold into the Securitizations, six were cited as one of the "worst ten" in the "worst ten" metropolitan areas: American Home, Decision One, Greenpoint, IndyMac, New Century, and WMC. Government and private investigations have confirmed that these originators failed to apply any standards at all when making high-risk loans. Moreover, the subsequent high default rates and ultimately lowered credit ratings on the Certificates confirm that the loans were not properly underwritten in the first place. As shown in Tables 8 and 9, the

average rate of default across the Securitizations is 41.7 percent, and although 35 of the tranches of Certificates purchased by the GSEs had been rated AAA (or its equivalent) at the time of purchase, by July 31, 2011, all but two had been downgraded, and most had been downgraded to junk or nearly junk-bond status, with 25 downgraded to CCC (or its equivalent), the lowest rating above junk. *See supra* Part (I)(D)(2).

154. These misstatements were material because as discussed above, the quality of loans in the pool determined the risk of the Certificates backed by those loans. Because a reasonable underwriting process had not been followed, the entire loan pool was much riskier and more prone to default and market losses than represented. The systemic underwriting failures decreased the reliability of *all* the information provided to the GSEs about the loans, and thus increased the actual risk to investors. As a result of those failures, the value of the Certificates was substantially lower than the price paid by Fannie Mae and Freddie Mac for those Certificates.

155. Second, as shown in Table 6, the Fraud Defendants materially understated the non-owner-occupied status for each Securitization by an average of 10.1 percent.

156. Third, the Fraud Defendants understated the loan pools' average LTV ratios, which overstated the borrowers' equity "cushion" in the property. As Table 7 demonstrates, on average, only 42.4 percent of the loans actually had LTV ratios of less than 80 percent, as opposed to 65.7 percent as represented in the Prospectus Supplements. Moreover, while all of the Certificates purchased by the GSEs were represented to have no loans with an LTV over 100 percent, in reality, all but five deals contained at least 10.5 percent loans with greater than 100 percent LTV, with an average of 15.55 percent. In other words, in almost all of the Securitizations, a significant percentage of the mortgage loans either were under-secured or

“under water” from the start. The understatement of LTV ratios was misleading because it misrepresented the risk of a borrower abandoning a property if the value dropped below the unpaid balance of the loan, as well as the risk that proceeds from a foreclosure sale would fail to cover the unpaid balance.

157. Further, the Fraud Defendants failed to disclose that the Certificates’ credit ratings were false and misleading because Defendants provided to the ratings agencies the same misinformation found in the Offering Materials in an attempt to manufacture predetermined ratings. In testimony before the Senate Permanent Subcommittee on Investigations (“SPSI”), Susan Barnes, the North American Practice Leader for RMBS at S&P from 2005 to 2008, confirmed that the rating agencies relied upon investment banks to provide accurate information about the loan pools:

The securitization process relies on the quality of the data generated about the loans going into the securitizations. *S&P relies on the data produced by others and reported to both S&P and investors about those loans S&P does not receive the original loan files for the loans in the pool.* Those files are reviewed by the arranger or sponsor of the transaction, who is also responsible for reporting accurate information about the loans in the deal documents and offering documents to potential investors.

(SPSI hearing testimony, April 23, 2010) (emphasis added). As a result, the ratings failed to reflect accurately the actual risk underlying the Certificates purchased by the GSEs because the ratings agencies were analyzing a mortgage pool that had no relation to the pool that actually backed the Certificates purchased by the GSEs.

158. Senior executives at Moody’s also confirmed that they were fed and relied on false information that affected their ratings:

- “We’re on notice that a lot of the things that we relied on before just weren’t true.”
- “There’s a lot of fraud that’s involve there, things we don’t see. . . . We’re sort of retooling [our methodologies and approaches] to make sure that we capture a lot

of things that we relied on in the past that we can't rely on, on a going forward basis."

- "It's actually quite interesting that we're being asked to figure out how much everybody lied. . . . I mean, if all of the information was truthful and comprehensive and complete, we wouldn't have an issue here."

159. The AAA (or equivalent) anticipated and final credit ratings were material to Fannie Mae and Freddie Mac, because the ratings provided additional assurances that the GSEs would receive the expected interest and principal payments. Fannie Mae and Freddie Mac would not have purchased the Certificates without the proper ratings and would not have paid as much for them without the investment grade status.

160. Each of the Fraud Defendants is responsible for the representations made in or omitted from the Offering Materials. Specific false and misleading statements in the Registration Statements for the Certificates purchased by the GSEs are detailed in Parts (I)(C) and (I)(D), *supra* and Appendix A, which is incorporated by reference.

161. Because payment on the Certificates ultimately was funded by payments from the mortgagors, Fannie Mae and Freddie Mac faced a risk of non-payment if too many borrowers defaulted on their loans and the value of the mortgaged properties was insufficient to cover the unpaid principal balance. By misrepresenting the true risk profile of the underlying loan pools, the Fraud Defendants defrauded Fannie Mae and Freddie Mac.

162. As the FCIC found:

The Commission concludes that firms securitizing mortgages failed to perform adequate due diligence on the mortgages they purchased and at times knowingly waived compliance with underwriting standards. *Potential investors were not fully informed or were misled* about the poor quality of the mortgages contained in some mortgage-related securities. *These problems appear to have been significant.*

(FCIC Report at 187 (emphasis added).)

C. The Fraud Defendants Knew or Were Reckless in Not Knowing That Their Representations Were False and Misleading

163. The Fraud Defendants knew or were reckless in not knowing that their representations in the Offering Materials were false, and that the information they omitted from those documents rendered them materially misleading. The consistency of the misrepresentations and omissions across all of the 33 Securitizations is strong evidence that the Fraud Defendants did not innocently make materially false statements and omissions, but actually knew or were reckless in not knowing that (1) the loan originators systemically disregarded their own underwriting guidelines, (2) the LTV ratios presented in the Offering Materials were materially inaccurate, (3) the owner-occupancy rates presented in the Offering Materials were materially inaccurate, and (4) the credit ratings for the Certificates were based on incomplete and inaccurate information and were not believed by the ratings agencies when provided. In the case of the Morgan Stanley Defendants -- which structured, implemented, or underwrote all of the Securitizations -- the securities underwriting due diligence process was so compromised that Morgan Stanley cannot have believed in the truth of, or had a sound basis for believing, the representations in the Offering Materials, and had to have known that the information omitted therefrom was material and rendered the information provided misleading. Thus, for example, the FCIC, in its report on the financial crisis, expressly found that Morgan Stanley's due diligence apparatus was inadequate both in its size and geographic location, stating:

At Morgan Stanley, the head of due diligence was based not in New York but rather in Boca Raton, Florida. He had, at any one time, two to five individuals reporting to him directly -- but they were actually employees of a personnel consultant. . .

(FCIC Report at 168) (footnote omitted).)

164. Thus, Morgan Stanley had two to five people in Boca Raton, Florida performing due diligence on tens of billions of dollars worth of securitizations being originated and run from New York. This alone renders it more likely than not that Morgan Stanley lacked capacity and controls to determine that the representations in the Registration Statements concerning the securitizations were true. As described below, Morgan Stanley hired a third-party due-diligence firm to supplement their inadequately staffed due-diligence team, then ignored that firm's warnings about loans that became part of RMBS, including the Certificates.

165. Morgan Stanley's lax due diligence standards, and its failure to present accurate and complete information concerning the loan origination practices of the originators whose loans underlie the Certificates, were likely attributable at least in part to the warehouse lending relationships it had with several of those originators, and to the fact that Morgan Stanley was dependent on those originators to feed it the high volume of loans it needed to keep churning out securitizations. The FCIC found that underwriter/originator warehouse lending relationships led to an environment in which "financial institutions ineffectively sampled loans they were purchasing to package and sell to investors," and "knew a significant percentage of the sampled loans did not meet their own underwriting standards or those of the originators. Nonetheless, they sold those securities to investors. The Commission's review of many prospectuses provided to investors found that this critical information was not disclosed." (FCIC Report at xii.)

166. Given Morgan Stanley's close relationships with the originators for the Certificates at issue here, it had a unique window into the true credit quality of the loans backing the Certificates and undue influence over the loan origination process. As one industry publication explained, warehouse loan providers had "detailed knowledge of the [mortgage]

lender's operations." (Kevin Connor, *Wall Street and the Making of the Subprime Disaster*, November 2007 at 11.)

167. Morgan Stanley's warehouse lending and other relationships with New Century were particularly close (and were the subject of the Massachusetts AG investigation and Morgan Stanley settlement already alleged). New Century's former president testified before the Bankruptcy Examiner appointed by the Bankruptcy Court overseeing New Century's Chapter 11 proceeding that New Century often reached deals with loan purchasers to limit the percentage of loans the purchaser would "kickout" of the loan pool due to the poor quality of the loan. (See, Final Report of Michael J. Missal Bankruptcy Court Examiner, Case No. 07-10416(KJC) (D.Del. Feb. 29, 2008) at 135.) That admission, the warehouse lending relationship between New Century and Morgan Stanley and the fact that Morgan Stanley did more business with this "worst of the worst" originator than any other bank, strongly suggest that Morgan Stanley and New Century had such a deal.

168. Morgan Stanley was not the only Defendant with a particularly close relationship with New Century. According to the FCIC, Morgan Stanley and Credit Suisse together accounted for three-quarters of all deals securitized using New Century mortgage loans as early as 2003. (FCIC Report, at 89.) New Century's systematic departure from its stated loan origination guidelines has come to light in recent years. That departure has been extensively investigated and reported on by, among others, the Bankruptcy Examiner in the New Century Chapter 11 proceeding, the Massachusetts AG and the FCIC, as well as in the financial press. Upon information and belief Morgan Stanley, Credit Suisse and other Defendants knew the falsity of the representations in the Registration Statements that New Century loans underlying various of the Certificates were originated in accordance with its underwriting guidelines, or at a

minimum these Defendants knew that neither they nor New Century had any basis to represent otherwise. These Defendants also intentionally or recklessly omitted the truth about New Century's origination practices.

169. Morgan Stanley's knowledge concerning New Century's origination practices went far beyond a general awareness that New Century was systematically disregarding its own guidelines. During the 2005 to 2006 period, Morgan Stanley had determined, in reviewing and rejecting loans for purchase, that the stated income on a number of New Century loans was unreasonable and that stated income credit had not been adequately evaluated by New Century. This raised red flags because approximately 36 percent of the loans originated by New Century were stated income loans. A Morgan Stanley employee described the stated income method of verifying borrower income as overused to the point of abuse. (Assurance of Discontinuance ¶ 38.) On average, the stated income of the borrowers for these New Century loans was approximately 42 percent higher than the income of borrowers who did not merely "state" their income but rather submitted full documentation reflecting it; this discrepancy strongly indicated that the stated income borrowers were materially overstating their income. (Assurance of Discontinuance ¶ 39.)

170. The other Fraud Defendants, Credit Suisse and RBS, joined the Morgan Stanley Defendants in consciously disregarding and departing from sound securities underwriting standards, and in failing to disclose that they had done so and the fact that doing so rendered information provided in the Registration Statements false, misleading and unreliable. These Defendants' intent or recklessness is further evidenced by their conduct in relation to third-party due diligence providers.

171. Among the third-party due diligence experts engaged by the Fraud Defendants was Clayton Holdings, Inc. ("Clayton").¹⁵ Clayton was "hired to identify, among other things, whether the loans met the originators' stated underwriting guidelines and, in some measure, to enable clients to negotiate better prices on pools of loans." (FCIC Report at 166 (footnote omitted).) Yet, upon information and belief, the Fraud Defendants routinely disregarded and manipulated Clayton's findings.

172. In January 2008, Clayton disclosed that it had entered into an agreement with the New York Attorney General ("NYAG") to provide documents and testimony regarding its due diligence reports, including copies of the actual reports provided to its clients. According to *The New York Times*, as reported on January 27, 2008, Clayton told the NYAG "that starting in 2005, it saw a significant deterioration of lending standards and a parallel jump in lending expectations" and "some investment banks directed Clayton to halve the sample of loans it evaluated in each portfolio." Upon information and belief, Morgan Stanley, Credit Suisse and RBS were included in that group of investment banks. Thus, these Defendants made a conscious decision *not to* avail themselves of comprehensive due diligence regarding the loans they were securitizing, which alone renders their misrepresentations concerning those loans knowing or reckless.

173. For the 18 month period ending on June 31, 2007, a significant percentage of the loans sampled by Clayton at the direction of the selling underwriters failed to meet the various

¹⁵ Clayton was the leading provider of third-party due diligence during the relevant time period. In 2006, Clayton analyzed over \$418 billion in loans underlying mortgage-backed securities, which represented 22.8% of the total outstanding U.S. non-agency mortgage-backed securities for that year. (Clayton, Form 10-K.) During 2004, 2005, and 2006, Clayton worked with each of the ten largest non-agency mortgage-backed securities underwriters, as ranked by *Inside MBS & ABS*, which accounted for 73% to 78% of the total underwriting volume during those years.

loan originators' underwriting guidelines. This information was provided to Morgan Stanley, RBS, and Credit Suisse, but they overruled Clayton's findings and "waived in" substantial percentages of those loans (approximately 56 percent for Morgan Stanley, 53 percent for RBS, and 33 percent for Credit Suisse).

174. Upon information and belief, these Defendants waived in these loans, found by Clayton to be non-compliant with the relevant originator's origination guidelines, without taking any adequate steps of their own to verify Clayton's findings. These loans then found their way into RMBS that were sold to investors like the GSEs. (See Clayton Trending Reports, available at <http://fcic.law.stanford.edu/hearings/testimony/the-impact-of-the-financial-crisis-sacramento#documents>; FCIC Report, 167.)

175. The revelations concerning the Defendants' routine disregard of Clayton's due diligence findings and recommendations further supports an inference of intent or recklessness on the part of these Defendants with respect to the misrepresentations in and omissions from the Offering Materials concerning adherence to loan origination standards, LTV ratios, owner-occupancy rates, and credit ratings (among others).

176. Morgan Stanley personnel have admitted to Congressional investigators that Morgan Stanley's loan review process was defective. In an interview with the FCIC, Tony Peterson, a Vice President in Morgan Stanley's due diligence group, stated that Morgan Stanley routinely rejected Clayton's findings with respect to sampled loans. Mr. Peterson further admitted that Morgan Stanley traders who created Morgan Stanley's RMBS deals had information concerning the inferior quality of the loans they were securitizing and that significant aspects of the due diligence process, including which loans were to be sampled, were dictated by Morgan Stanley traders in New York.

177. Like the NYAG, the Massachusetts Attorney General also “undertook an investigation into the financing, purchase, and securitization of allegedly unfair residential mortgage loans during the period late 2005 through the first half of 2007” by Morgan Stanley. Although Morgan Stanley did not admit the allegations in the “Assurance of Discontinuance” filed by the Massachusetts AG in resolution of that investigation, Morgan Stanley settled the charges against it in exchange for a payment of \$102 million. The core of the Massachusetts AG’s findings was that New Century systematically disregarded its own underwriting standards, that Morgan Stanley had a “partner”-like relationship with New Century by virtue of the warehouse lending relationship alleged above and otherwise, that Morgan Stanley routinely disregarded Clayton’s findings with respect to New Century’s loan practices and New Century-originated loans, and that New Century’s origination practices violated Massachusetts’s law. The Massachusetts AG’s investigation and allegations, and Morgan Stanley’s willingness to settle the matter for a sum in excess of one hundred million dollars, further support the allegations herein of knowledge or recklessness on the part of Morgan Stanley.

178. The Fraud Defendants also knew or recklessly disregarded that the owner-occupancy statistics and LTV ratios reported in the Offering Materials were false and misleading. Given their role as underwriters of the Certificates, the relationships they had with loan originators and their expertise in underwriting and securitizing RMBS, the Fraud Defendants had the practical ability to gain access to loan files and the ability and resources to test the reported data points, such as owner-occupancy rates and LTV ratios. They intentionally elected not to do so, rendering their representations concerning those data knowingly or recklessly false.

179. Moreover, upon information and belief, underwriters, including certain of the Fraud Defendants, influenced the appraisals used to determine LTV ratios. Government investigations have uncovered widespread evidence of appraisers being pressured to overvalue properties so more loans could be originated. For instance, several witnesses, ranging from the President of the Appraisal Institute to appraisers and lenders on the ground, confirmed that appraisers felt compelled to come in "at value" -- *i.e.*, at least the amount needed for the loan to be approved -- or face losing future business or their livelihoods. Given the systemic pressure applied to appraisers, upon information and belief, the appraisers themselves, the originators, and the underwriters did not believe that the appraised values of the properties -- and therefore LTV ratios -- were true and accurate at the time they communicated the information to potential investors, including the GSEs.

180. Further, the Fraud Defendants knew or were reckless in not knowing that the credit ratings reported for the Certificates failed to reflect the actual risk of the Certificates, and that the ratings agencies had no basis to believe in the accuracy of those ratings. Not only did these Defendants provide the ratings agencies with false loan-level information, but they also routinely engaged in "ratings shopping" -- *i.e.*, pressuring the ratings agencies for favorable ratings and playing the rating agencies off one another with the threat of withholding future business if the sponsoring bank was not given favorable treatment. As detailed in the SPSI Report:

At the same time Moody's and S&P were pressuring their RMBS and CDO analysts to increase market share and revenues, the investment banks responsible for bringing RMBS and CDO business to the firms were pressuring those same analysts to ease rating standards. Former Moody's and S&P analysts and managers interviewed by the Subcommittee described, for example, how investment bankers pressured them to get their deals done quickly, increase the size of the tranches that received AAA ratings, and reduce the credit enhancements protecting the AAA tranches from loss. They also pressed the CRA analysts and managers to ignore a host of factors that could be seen as

increasing credit risk. Sometimes described as “ratings shopping,” the analysts described how some investment bankers threatened to take their business to another credit rating agency if they did not get the favorable treatment they wanted. The evidence collected by the Subcommittee indicates that the pressure exerted by investment banks frequently impacted the ratings process, enabling the banks to obtain more favorable treatment than they otherwise would have received.

(See Sen. Levin, Carl and Sen. Coburn, Tom, U.S. Senate Permanent Subcommittee on Investigations, *Wall Street and the Financial Crisis: Anatomy of a Financial Collapse* (Committee on Homeland Security and Governmental Affairs, April 13, 2011) (the “SPSI Report”), at 278.)

181. As one S&P director put it in an August 8, 2006 email: “[Our RMBS friends have] become so beholden to their top issuers for revenue [that] they have all developed a kind of Stockholm syndrome which they mistakenly tag as Customer Value creation.” Ratings analysts who complained about the pressure, or did not do as they were told, were quickly replaced on deals or terminated.

182. Summarizing the intense pressure investment banks put on ratings analysts to provide favorable ratings, a former Moody’s VP and Senior Credit Officer testified before the FCIC that “[t]he willingness to decline to rate, or to just say no to proposed transactions, steadily diminished over time. That unwillingness to say no grew in parallel with the company’s share price and the proportion of total firm revenues represented by structured finance transactions . . . coincident with the steady drive toward commoditization of the instruments we were rating The threat of losing business . . . even if not realized, absolutely tilted the balance away from independent arbiter of risk towards a captive facilitator of risk transfer The message from management was . . . ‘Must say yes.’” (See Written Testimony of Richard Michalek (FCIC Hearing, June 2, 2010), available at http://fcic-static.law.stanford.edu/cdn_media/fcic-testimony/2008-0602-Michalek-corrected-oral.pdf; see also Written Statement of Eric

Kolchinsky, Managing Director, Moody's Derivatives Group (SPSI Hearing, Apr. 23, 2011) ("Managers of rating groups were expected by their supervisors and ultimately the Board of Directors . . . to build, or at least maintain, market shares. It was an unspoken understanding that loss of market share would cause a manager to lose his or her job;" "[L]owering credit standards . . . was one easy way for a managing director to regain market share."), available at http://hsgac.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore_id=bd65f802-961c-4727-b176-72ece145baef.)

D. Fannie Mae and Freddie Mac Justifiably Relied on the Misrepresentations and Omissions in the Offering Materials and Were Damaged by Defendants' Fraudulent Conduct

183. Fannie Mae and Freddie Mac are government-sponsored enterprises chartered by Congress to provide liquidity, stability, and affordability to the U.S. housing and mortgage markets. In furtherance of this mission, the GSEs purchase mortgages and invest in RMBS.

184. Generally, when purchasing RMBS, the GSEs require compliance with their investment requirements, as well as various representations and warranties concerning, among other things, the credit quality of the underlying loans, evaluation of the borrower's ability to pay, the accuracy of loan data provided, and adherence to applicable local, state, and federal law. Such representations and warranties were material to the GSEs' decisions to purchase RMBS, including the Certificates.

185. The Fraud Defendants intended for investors, including Fannie Mae and Freddie Mac, to rely on their representations of material facts about the assets backing the Certificates. These Defendants regularly provided prospective RMBS investors with information concerning the volume of their annual securitization business to assure investors that, by virtue of their expertise in and share of the RMBS market, Fannie Mae and Freddie Mac should rely upon the

representations and warranties in their Offering Materials. (*See, e.g.* Prospectus Supplement to the MSAC 2006-HE8 Securitization, filed November 22, 2006.)

186. The Fraud Defendants knew that Fannie Mae and Freddie Mac had specific requirements for investing in non-agency mortgage-backed securities and intended for the GSEs to rely on their fraudulent misstatements as shown by their provision of representations, warranties and anticipated credit ratings in connection with the Certificates, and their repetition of false loan statistics in the term sheets, free writing prospectuses, and Prospectus Supplements, among other materials.

187. In fact, Fannie Mae and Freddie Mac did rely to their detriment on the Fraud Defendants' misrepresentations and material omissions in the Offering Materials.

188. The GSEs' reliance was justifiable because the GSEs necessarily were required to rely upon the Fraud Defendants to provide accurate information regarding the loans. The GSEs lacked access to the actual loan files and the loan-level data essential to perform statistical tests with respect to, among other things, owner-occupancy and LTV ratios.

189. The GSEs' reliance also was justifiable because industry practice was for an investor to rely upon the representations and warranties of the sponsors and underwriters regarding the quality of the mortgage loans and the standards under which they were originated. Information regarding the originators' compliance with underwriting guidelines, owner-occupancy rates, LTV ratios, and the information provided to credit ratings agencies, was peculiarly within the knowledge of the Fraud Defendants.

190. The GSEs were induced into buying the Certificates based on the false and misleading Offering Materials. They would not have purchased the Certificates had they known

the truth concerning the matters alleged herein. Alternatively, the GSEs suffered damages because the price they paid for the Certificates was higher than their actual value.

191. From the day the GSEs purchased the Certificates, they suffered injury. As a result of Defendants' misrepresentations, the true value of the Certificates on the date of purchase was far lower than the price paid for them by the GSEs.

FIRST CAUSE OF ACTION

**Violation of Section 11 of the Securities Act of 1933
(Against MS&Co., MSAC, MSC, SASC,
Credit Suisse, RBS and the Individual Defendants)**

192. Plaintiff realleges paragraphs 1 through 133 as if fully set forth herein. For purposes of this cause of action, Plaintiff hereby expressly excludes any allegation that could be construed as sounding in fraud.

193. This claim is brought by FHFA pursuant to Section 11 of the Securities Act of 1933 and is asserted on behalf of Fannie Mae and Freddie Mac, which purchased the Certificates issued pursuant to the Registration Statements for the Securitizations listed in paragraph 40.

194. This claim is for strict liability based on the material misstatements and omissions in the Registration Statements for the 33 Securitizations (as specified in Table 1, *supra* at paragraph 41), and is asserted against MS&Co., MSAC, MSC, and SASC, Credit Suisse, RBS and the Individual Defendants (together, the "Section 11 Defendants").

195. MS&Co., Credit Suisse, and/or RBS acted as underwriter in connection with the sale of the Certificates for each of the 33 Securitizations (as specified in Table 1, *supra* at paragraph 41), directly and indirectly participated in distributing the Certificates, and directly and indirectly participated in drafting and disseminating the Registration Statements. MS&Co., Credit Suisse, and/or RBS were underwriters for the Certificates, and are strictly liable for the

misstatements and omissions in the Registration Statements under Section 11 of the Securities Act.

196. Depositors MSAC, MSC and SASC filed Shelf Registration Statements (as specified in Table 2, *supra* at paragraph 47) pursuant to which the Securitizations were carried out, and are the “issuers” of the Certificates issued pursuant to the Registration Statements within the meaning of Section 2(a)(4) of the Securities Act, 15 U.S.C. § 77b(a)(4), and in accordance with Section 11(a), 15 U.S.C. § 77k(a).

197. At the time Depositors MSAC, MSC and SASC filed the relevant Shelf Registration Statements, the Individual Defendants were officers and/or directors of MSAC, MSC and SASC (as specified in Table 2, *supra* at paragraph 47). The Individual Defendants signed the Shelf Registration Statements, and either signed (or authorized another to sign on their behalf) the amendments to the Shelf Registration Statements. As such, the Individual Defendants are strictly liable for the misstatements and omissions in the Shelf Registration Statements under Section 11 of the Securities Act.

198. At the time that they became effective, each of the Registration Statements, as set forth above, contained material misstatements of fact and omitted information necessary to make the facts stated therein not misleading. The facts misstated or omitted were material to a reasonable investor in the Certificates sold pursuant to the Registration Statements.

199. The untrue statements of material facts and omissions of material fact in the Registration Statements are principally those set forth herein in Parts (I)(C) and (D) and Appendix A, and pertain to purported compliance with underwriting guidelines, occupancy status, loan-to-value ratios and credit ratings.

200. Fannie Mae and Freddie Mac purchased or otherwise acquired the Certificates pursuant to the false and misleading Registration Statements and in the primary market. At the time they purchased the Certificates, Fannie Mae and Freddie Mac were unaware of the false and misleading statements and omissions alleged herein, and if they had known those facts, they would not have purchased the Certificates.

201. MS&Co., Credit Suisse, and RBS were obligated to make a reasonable investigation of the statements contained in the Registration Statements at the time they became effective to ensure that such statements were true and correct, and that there were no omissions of material facts required to be stated in order to make the statements contained therein not misleading. The Individual Defendants owed the same duty with respect to the Shelf Registration Statements that they signed, which are applicable to all 33 of the Securitizations.

202. MS&Co., Credit Suisse, RBS and the Individual Defendants did not exercise such due diligence and failed to conduct a reasonable investigation, as alleged in paragraphs 38 through 128. In the exercise of reasonable care, these Defendants should have known of the false statements and omissions contained in or omitted from the Registration Statements filed in connection with the Securitizations, as set forth herein. In addition, although the performance of due diligence is not an affirmative defense available to the Depositors on this strict liability claim, they nonetheless also failed to take reasonable steps to ensure the accuracy of the representations made in the Registration Statements.

203. By virtue of the foregoing, Fannie Mae and Freddie Mac sustained substantial damages, including depreciation in the value of the Certificates, as a result of the misstatements and omissions in the Registration Statements. Plaintiff is entitled to damages, jointly and severally, from each of the Section 11 Defendants.

204. Based on the foregoing, MS&Co., MSAC, MSC SASC, Credit Suisse, RBS, and the Individual Defendants are jointly and severally liable for their wrongdoing.

SECOND CAUSE OF ACTION

**Violation of Section 12(a)(2) of the Securities Act of 1933
(Against Defendants MS&Co., MSAC, MSC SASC, Credit Suisse, and RBS)**

205. Plaintiff realleges paragraphs 1 through 133 above as if fully set forth herein. For purposes of this cause of action, Plaintiff hereby expressly excludes any allegation that could be construed as sounding in fraud.

206. This claim is brought by Plaintiff pursuant to Section 12(a)(2) of the Securities Act of 1933 and is asserted on behalf of Fannie Mae and Freddie Mac, which purchased the Certificates issued pursuant to the Registration Statements in the Securitizations listed in paragraph 40.

207. MS&Co., Credit Suisse, and RBS are prominently identified as underwriters in the Prospectuses used to sell the Certificates. MS&Co., Credit Suisse, and RBS offered, promoted, and/or sold the Certificates publicly, including selling to Fannie Mae and Freddie Mac their Certificates, as set forth in the "Plan of Distribution" or "Underwriting" sections of the Prospectuses. MS&Co., Credit Suisse, and RBS offered, promoted, and/or sold the Certificates to Fannie Mae and Freddie Mac as specified in Table 2, *supra* at paragraph 47.

208. MS&Co., Credit Suisse, and RBS offered, promoted, and/or sold the Certificates to Fannie Mae and Freddie Mac by means of the Prospectuses that contained untrue statements of material facts and omitted to state material facts necessary to make the statements, in light of the circumstances under which they were made, not misleading. MS&Co., Credit Suisse, and RBS successfully solicited Fannie Mae and Freddie Mac's purchases of the Certificates, and generated millions of dollars in commissions in connection with the sale of the Certificates.

209. MS&Co., Credit Suisse, and RBS offered the Certificates for sale, sold them, and distributed them by the use of means or instruments of transportation and communication in interstate commerce.

210. The Depositors are prominently identified in the Prospectuses for the Securitizations carried out under the Registration Statements that they filed. These Prospectuses were the primary documents each used to sell the Certificates for the 30 Securitizations under those Registration Statements. MSAC, MSC and SASC offered the Certificates publicly and actively solicited their sale, including to Fannie Mae and Freddie Mac.

211. With respect to the Securitizations for which they filed Registration Statements, the Depositors offered the Certificates to Fannie Mae and Freddie Mac by means of Prospectuses that contained untrue statements of material facts and omitted to state material facts necessary to make the statements, in the light of the circumstances under which they were made, not misleading. Upon information and belief, the Depositors reviewed and participated in drafting the Prospectuses.

212. The Depositors offered the Certificates for sale by the use of means or instruments of transportation and communication in interstate commerce.

213. MS&Co., Credit Suisse, and RBS actively participated in the solicitation of Fannie Mae and Freddie Mac's purchase of the Certificates, and did so in order to benefit themselves. Such solicitation included assisting in preparing the Registration Statements, filing the Registration Statements, and/or assisting in marketing and selling the Certificates.

214. Each of the Prospectuses contained material misstatements of fact and omitted information necessary to make the facts stated therein not misleading. The facts misstated and omitted were material to a reasonable investor reviewing the Prospectuses.

215. The untrue statements of material facts and omissions of material fact in the Registration Statements, which include the Prospectuses, are set forth above in Parts (I)(C) and (D) and Appendix A and pertain to compliance with underwriting guidelines, occupancy status, and loan-to-value ratios.

216. MS&Co., Credit Suisse, RBS and the Depositors offered and sold the Certificates offered pursuant to the Registration Statements directly to Fannie Mae and Freddie Mac, pursuant to the false and misleading Prospectuses.

217. MS&Co., Credit Suisse, and RBS owed Freddie Mac and Fannie Mae a duty to make a reasonable and diligent investigation of the statements contained in the Prospectuses, to ensure that such statements were true, and to ensure that there was no omission of a material fact required to be stated in order to make the statements contained therein not misleading. MS&Co., Credit Suisse, and RBS failed to exercise such reasonable care, and in the exercise of reasonable care should have known that the Prospectuses contained untrue statements of material facts and omissions of material facts at the time of the Securitizations as set forth above.

218. Fannie Mae and Freddie Mac did not know of the misstatements and omissions contained in the Prospectuses at the time they purchased the Certificates. If Fannie Mae and Freddie Mac had known of those misstatements and omissions, they would not have purchased the Certificates.

219. Fannie Mae and Freddie Mac acquired the Certificates in the primary market pursuant to the Prospectuses.

220. Fannie Mae and Freddie Mac sustained substantial damages in connection with their investments in the Certificates and have the right to rescind and recover the consideration paid for the Certificates, with interest thereon. Plaintiff hereby seeks rescission and makes any

necessary tender of its Certificates. In the alternative, Plaintiff seeks damages according to proof.

THIRD CAUSE OF ACTION

Violation of Section 15 of the Securities Act of 1933 (Against MS, MSMC, SCI, SFM, and the Individual Defendants)

221. Plaintiff realleges paragraphs 1 through 133 above as if fully set forth herein. For purposes of this cause of action, Plaintiff hereby expressly excludes any allegation that could be construed as sounding in fraud.

222. This claim is brought under Section 15 of the Securities Act of 1933, 15 U.S.C. §77o ("Section 15"), against Defendants MS, MSMC, SCI, SFM, and the Individual Defendants for controlling-person liability with regard to the Section 11 and Section 12(a)(2) causes of actions set forth above.

223. The Individual Defendants at all relevant times participated in the operation and management of the Depositors, and conducted and participated, directly and indirectly, in the conduct of the Depositors' business affairs. Specifically: Steven Shapiro was Vice President at MSAC; Gail P. McDonald was a Director at MSAC; Howard Hubler was a Director at MSAC; Craig S. Phillips was President and Director at MSAC; Alexander Frank was Treasurer at MSAC.; David Warren was President and Director at MSC; John E. Westerfield was a Director at MSC; Steven S. Stern was a Director at MSC; Michael L. Sawyer was President and Director at SASC; Ernest G. Bretana was Vice President or a Director at SASC; Dean A. Christiansen was a Director and Board Member at SASC; Orlando Figueroa was a Director at SASC; Robert B. Eastep was Executive Vice President and CFO at SASC; and Jennifer Sebastian was Vice President and Treasurer at SASC.

224. SFM and MSMC (on its own behalf and as the successor in interest to MCI) were sponsors for the Securitizations carried out pursuant to Registration Statements filed by MSAC, MSC and SASC (as specified in Table 2, *supra* at paragraph 47), and culpably participated in their violations of Sections 11 and 12(a)(2) by initiating these Securitizations, purchasing the mortgage loans to be securitized, determining the structure of the Securitizations, selecting the Depositors as special-purpose vehicles, and selecting MS&Co. or the Non-MS Underwriters as underwriters. As sponsors, SFM and MSMC/MCI knew and intended that the mortgage loans they purchased would be sold in connection with the securitization process, and that certificates representing the ownership interests of investors in the mortgages would be issued by the relevant trusts.

225. SFM and MSMC/MCI sold the mortgage loans to the Depositors (as specified in Table 1, *supra* at paragraph 40), and conveyed the mortgage loans to the Depositors pursuant to an Assignment and Recognition Agreement or a Mortgage Loan Purchase Agreement. SFM and MSMC/MCI controlled all aspects of the business of the Depositors, who were special-purpose entities created for the purpose of acting as a pass-through for the issuance of the Certificates. Upon information and belief, the officers and directors of MSMC and SFM overlapped with the officers and directors of the Depositors. SFM and MSMC/MCI were able to, and did in fact, control the contents of the Registration Statements filed by the Depositors, including the Prospectuses and Prospectus Supplements that contained material misstatements of fact and omitted facts necessary to make the facts stated therein not misleading.

226. Defendant MS wholly owns MS&Co., MSAC, MSC and MSMC and is the ultimate parent of SCI, SFM, and SASC. MS, as the sole corporate parent of MS&Co., MSAC, MSC, and MSMC, had the practical ability, in connection with the Securitizations and the

issuance and sale of the Certificates, to direct and control the actions of MS&Co., MSAC, MSC, and MSMC, and in fact exercised such discretion and control over these activities.

227. MS culpably participated in the violations of Section 11 and 12(a)(2) set forth above. It oversaw the actions of its subsidiaries and allowed them to misrepresent the mortgage loans' characteristics in the Registration Statements and established special-purpose financial entities such as the Depositors and the issuing trusts to serve as conduits for the mortgage loans.

228. Further, the officers and directors of MS significantly overlapped with the officers and directors of the Depositors. For example, Defendant Phillips was, at all relevant times, the Global Head of Securitized Products at MS while also serving as the President and CEO at MSAC. Similarly, Defendant Warren was, at all relevant times, the Global Head of Structured Credit Trading at MS while also serving as the President and Director at MSC.

229. MS, MSMC, SCI, and SFM, and the Individual Defendants are controlling persons within the meaning of Section 15 by virtue of their actual power over, control of, ownership of, and/or directorship of the Depositors at the time of the wrongs alleged herein and as set forth herein, including their control over the content of the Registration Statements.

230. Fannie Mae and Freddie Mac purchased the Certificates in the primary market, which were issued pursuant to the Registration Statements, including the Prospectuses and Prospectus Supplements, which, at the time they became effective, contained material misstatements of fact and omitted facts necessary to make the facts stated therein not misleading. The facts misstated and omitted were material to a reasonable investor reviewing the Registration Statements.

231. Fannie Mae and Freddie Mac did not know of the misstatements and omissions in the Registration Statements; had they known of those misstatements and omissions, they would not have purchased the Certificates.

232. Fannie Mae and Freddie Mac have sustained damages as a result of the misstatements and omissions in the Registration Statements, for which they are entitled to compensation.

233. Plaintiff hereby tenders the Certificates in connection with its request for rescission.

FOURTH CAUSE OF ACTION

Primary Violations of the Virginia Securities Act (Against MS&Co., Credit Suisse, RBS, MSAC, MSC, and SASC)

234. Plaintiff re-alleges paragraphs 1 through 133 above as if fully set forth herein. For purposes of this cause of action, Plaintiff hereby expressly excludes any allegation that could be construed as sounding in fraud.

235. This claim is brought by Plaintiff pursuant to Section 13.1-522(A)(ii) of the Virginia Code and is asserted on behalf of Freddie Mac with respect to the Certificates identified above that were purchased by Freddie Mac and issued pursuant to the Registration Statements.

236. Defendants MSAC, MSC, and SASC made false and materially misleading statements in the Prospectuses (as supplemented by the Prospectus Supplements, hereinafter referred to in this Section as "Prospectuses") for each Securitization (as specified in Table 2, *supra*). Defendants MS&Co., Credit Suisse, and RBS made false and materially misleading statements in the Prospectuses for the Securitizations effected under the Shelf Registration Statements.

237. MS&Co., Credit Suisse, and RBS are prominently identified in the Prospectuses, the primary documents it used to sell the Certificates. MS&Co., Credit Suisse, and RBS offered the Certificates publicly, including selling to Freddie Mac the Certificates, as set forth in the "Method of Distribution" or equivalent underwriting section of each Prospectus.

238. MS&Co., Credit Suisse, and RBS offered and sold the Certificates to Freddie Mac by means of the Prospectuses, which contained untrue statements of material facts and omitted to state material facts necessary to make the statements, in light of the circumstances under which they were made, not misleading. MS&Co., Credit Suisse, and RBS reviewed and participated in drafting the Prospectuses.

239. MS&Co., Credit Suisse, and RBS successfully solicited Freddie Mac's purchases of the Certificates. As underwriters, MS&Co., Credit Suisse, and RBS were paid a substantial commission based on the amount it received from the sale of the Certificates to the public.

240. MS&Co., Credit Suisse, and RBS offered the Certificates for sale, sold them, and distributed them to Freddie Mac in the State of Virginia.

241. MSAC, MSC, and SASC are prominently identified in the Prospectuses for the Securitizations carried out under the Registration Statements. These Prospectuses were the primary documents used to sell Certificates for the Securitizations under the Registration Statements. MSAC, MSC, and SASC offered the Certificates publicly and actively solicited their sale, including to Freddie Mac. MSAC, MSC, and SASC were paid a percentage of the total dollar amount of the offering upon completion of the Securitizations effected pursuant to the Shelf Registration Statements.

242. With respect to the Securitizations for which it filed the Shelf Registration Statements, including the related Prospectus Supplements, MSAC, MSC, and SASC offered the

Certificates to Freddie Mac by means of Prospectuses which contained untrue statements of material facts and omitted to state material facts necessary to make the statements, in the light of the circumstances under which they were made, not misleading. MSAC, MSC, and SASC reviewed and participated in drafting the Prospectuses.

243. Each of MS&Co., Credit Suisse, and RBS, and MSAC, MSC, and SASC, actively participated in the solicitation of Freddie Mac's purchase of the Certificates, and did so in order to benefit itself. Such solicitation included assisting in preparing the Registration Statements, filing the Registration Statements, and assisting in marketing the Certificates.

244. Each of the Prospectuses contained material misstatements of fact and omitted facts necessary to make the facts stated therein not misleading. The facts misstated and omitted were material to a reasonable investor reviewing the Prospectuses, and specifically to Freddie Mac.

245. The untrue statements of material facts and omissions of material facts in the Registration Statements, which include the Prospectuses, are set forth above, and include compliance with underwriting guidelines, occupancy status, loan-to-value ratios, and accurate credit ratings.

246. MS&Co., Credit Suisse, and RBS, and MSAC, MSC, and SASC offered and sold the Certificates directly to Freddie Mac pursuant to the materially false, misleading, and incomplete Prospectuses.

247. MS&Co., Credit Suisse, and RBS owed to Freddie Mac, as well as to other investors in these trusts, a duty to make a reasonable and diligent investigation of the statements contained in the Prospectuses, to ensure that such statements were true, and to ensure that there was no omission of a material fact required to be stated in order to make the statements

contained therein not misleading. MSAC, MSC, and SASC owed the same duty with respect to the Prospectuses for the Securitizations effected under the Shelf Registration Statements.

248. MS&Co., Credit Suisse, RBS, MSAC, MSC, and SASC failed to exercise such reasonable care. These Defendants in the exercise of reasonable care should have known that the Prospectuses contained untrue statements of material facts and omissions of material facts at the time of the Securitizations, as set forth above.

249. In contrast, Freddie Mac did not know, and in the exercise of reasonable diligence could not have known, of the untruths and omissions contained in the Prospectuses at the time it purchased the Certificates. If Freddie Mac had known of those untruths and omissions, it would not have purchased the Certificates.

250. Freddie Mac sustained substantial damages in connection with its investments in the Certificates and has the right to rescind and recover the consideration paid for the Certificates, with interest thereon. Plaintiff hereby seeks rescission and makes any necessary tender of its Certificates. In the alternative, Plaintiff seeks damages according to proof.

FIFTH CAUSE OF ACTION

Controlling Person Liability Under the Virginia Securities Act (Against MS, MSMC, SCI, SFM, and the Individual Defendants)

251. Plaintiff realleges paragraphs 1 through 133 above as if fully set forth herein. For purposes of this cause of action, Plaintiff hereby expressly excludes any allegation that could be construed as sounding in fraud.

252. This claim is brought under Section 13.1-522(C) of the Virginia Code and is asserted on behalf of Freddie Mac, which purchased the Certificates (identified in Table 10 above) that were issued pursuant to the Registration Statements. This claim is brought against Defendants MS, MSMC, SCI, SFM, and the Individual Defendants (the "Control Persons") for

controlling-person liability with regard to the claim brought by Plaintiff pursuant to Section 13.1-522(A)(ii).

253. The Individual Defendants at all relevant times participated in the operation and management of the Depositors, and conducted and participated, directly and indirectly, in the conduct of the Depositors' business affairs. Specifically: Mr. Shapiro was Vice President at MSAC; Ms. P. McDonald was a Director at MSAC; Mr. Hubler was a Director at MSAC; Mr. Phillips was President and Director at MSAC; Mr. Frank was Treasurer at MSAC; Mr. Warren was President and Director at MSC; Mr. E. Westerfield was a Director at MSC; Mr. Stern was a Director at MSC.

254. SFM and MSMC (on its own behalf and as the successor in interest to MCI) were sponsors for the Securitizations carried out pursuant to Registration Statements filed by MSAC, MSC and SASE (as specified *supra*), and culpably participated in their violations of Section 13.1-522(A)(ii) by initiating these Securitizations, purchasing the mortgage loans to be securitized, determining the structure of the Securitizations, selecting the Depositors as special-purpose vehicles, and selecting MS&Co. or the Non-MS Underwriters as underwriters. As sponsors, SFM and MSMC/MCI knew and intended that the mortgage loans they purchased would be sold in connection with the securitization process, and that certificates representing the ownership interests of investors in the mortgages would be issued by the relevant trusts.

255. SFM and MSMC/MCI sold the mortgage loans to the Depositors (as specified *supra*), and conveyed the mortgage loans to the Depositors pursuant to an Assignment and Recognition Agreement or a Mortgage Loan Purchase Agreement. SFM and MSMC/MCI controlled all aspects of the business of the Depositors, who were special-purpose entities created for the purpose of acting as a pass-through for the issuance of the Certificates. Upon information

and belief, the officers and directors of MSMC and SFM overlapped with the officers and directors of the Depositors. SFM and MSMC/MCI were able to, and did in fact, control the contents of the Registration Statements filed by the Depositors, including the Prospectuses and Prospectus Supplements that contained material misstatements of fact and omitted facts necessary to make the facts stated therein not misleading.

256. Defendant MS wholly owns MS&Co., MSAC, MSC and MSMC and is the ultimate parent of SCI, SFM, and SASC. MS, as the sole corporate parent of MS&Co., MSAC, MSC, and MSMC, had the practical ability, in connection with the Securitizations and the issuance and sale of the Certificates, to direct and control the actions of MS&Co., MSAC, MSC, and MSMC, and in fact exercised such discretion and control over these activities.

257. MS culpably participated in the violations of Section 13.1-522(A)(ii) set forth above. It oversaw the actions of its subsidiaries and allowed them to misrepresent the mortgage loans' characteristics in the Registration Statements and established special-purpose financial entities such as the Depositors and the issuing trusts to serve as conduits for the mortgage loans.

258. Further, the officers and directors of MS significantly overlapped with the officers and directors of the Depositors. For example, Defendant Mr. Phillips was, at all relevant times, the Global Head of Securitized Products at MS while also serving as the President and CEO at MSAC. Similarly, Defendant Mr. Warren was, at all relevant times, the Global Head of Structured Credit Trading at MS while also serving as the President and Director at MSC.

259. MS, MSMC, SCI, and SFM, and the Individual Defendants are controlling persons within the meaning of Section 13.1-522(C) by virtue of their actual power over, control of, ownership of, and/or directorship of the Depositors at the time of the wrongs alleged herein and as set forth herein, including their control over the content of the Registration Statements.

260. Freddie Mac purchased the Certificates, which were issued pursuant to the Registration Statements, including the Prospectuses and Prospectus Supplements, which contained material misstatements of fact and omitted facts necessary to make the facts stated therein not misleading. The facts misstated and omitted were material to a reasonable investor reviewing the Registration Statements, and specifically to Freddie Mac.

261. Freddie Mac did not know, and in the exercise of reasonable diligence could not have known, of the misstatements and omissions in the Registration Statements; had Freddie Mac known of those misstatements and omissions, it would not have purchased the Certificates.

262. Freddie Mac has sustained substantial damages as a result of the misstatements and omissions in the Registration Statements, for which it is entitled to compensation, and for which the Control Persons are jointly and severally liable.

SIXTH CAUSE OF ACTION

Primary Violations of the District of Columbia Securities Act (Against Defendants MS&Co., MSAC, MSC, SASC, Credit Suisse and RBS)

263. Plaintiff realleges paragraphs 1 through 133 above as if fully set forth herein. For purposes of this cause of action, Plaintiff hereby expressly excludes any allegation that could be construed as sounding in fraud.

264. This claim is brought by Plaintiff pursuant to Section 31-5606.05(a)(1)(B) of the District of Columbia Code and is asserted on behalf of Fannie Mae, which purchased the Certificates issued pursuant to the Registration Statements in the Securitizations listed in paragraph 40.

265. MS&Co., Credit Suisse, and RBS are prominently identified as underwriters in the Prospectuses that were used to sell the Certificates. MS&Co., Credit Suisse, and RBS offered, promoted, and/or sold the Certificates publicly, including selling to Fannie Mae its

Certificates, as set forth in the "Plan of Distribution" or "Underwriting" sections of the Prospectuses. MS&Co., Credit Suisse, and RBS offered, promoted, and/or sold the Certificates to Fannie Mae as specified in Tables 10 and 11, *supra* at paragraph 129.

266. MS&Co., Credit Suisse, and RBS offered, promoted, and/or sold the Certificates to Fannie Mae by means of the Prospectuses that contained untrue statements of material facts and omitted to state material facts necessary to make the statements, in light of the circumstances under which they were made, not misleading. MS&Co., Credit Suisse, and RBS successfully solicited Fannie Mae's purchases of the Certificates, and generated millions of dollars in commissions in connection with the sale of the Certificates.

267. MS&Co., Credit Suisse, and RBS offered the Certificates for sale, sold them, and distributed them to Fannie Mae in the District of Columbia.

268. The Depositors are prominently identified in the Prospectuses for the Securitizations carried out under the Registration Statements that they filed. These Prospectuses were the primary documents each used to sell the Certificates for the 30 Securitizations under those Registration Statements. MSAC, MSC and SASC offered the Certificates publicly and actively solicited their sale, including to Fannie Mae. MSAC, MSC and SASC were paid a percentage of the total dollar amount of the offering upon completion of the Securitizations effected pursuant to the Registration Statements that they filed.

269. With respect to the Securitizations for which they filed Registration Statements, the Depositors offered the Certificates to Fannie Mae by means of Prospectuses that contained untrue statements of material facts and omitted to state material facts necessary to make the statements, in the light of the circumstances under which they were made, not misleading. Upon information and belief, the Depositors reviewed and participated in drafting the Prospectuses.

270. MS&Co., Credit Suisse, and RBS actively participated in the solicitation of Fannie Mae's purchase of the Certificates, and did so in order to benefit themselves. Such solicitation included assisting in preparing the Registration Statements, filing the Registration Statements, and/or assisting in marketing and selling the Certificates.

271. Each of the Prospectuses contained material misstatements of fact and omitted facts necessary to make the facts stated therein not misleading. The facts misstated and omitted were material to a reasonable investor reviewing the Prospectuses.

272. The untrue statements of material facts and omissions of material facts in the Registration Statements, which include the Prospectuses, are set forth above in Parts (I)(C) and (D) and Appendix A and pertain to compliance with underwriting guidelines, occupancy status, loan-to-value ratios, and accurate credit ratings.

273. MS&Co., Credit Suisse, RBS and the Depositors offered and sold the Certificates offered pursuant to the Registration Statements directly to Fannie Mae, pursuant to the false and misleading Prospectuses.

274. MS&Co., Credit Suisse, and RBS owed Fannie Mae a duty to make a reasonable and diligent investigation of the statements contained in the Prospectuses, to ensure that such statements were true, and to ensure that there was no omission of a material fact required to be stated in order to make the statements contained therein not misleading. MS&Co., Credit Suisse, and RBS failed to exercise such reasonable care, and in the exercise of reasonable care should have known that the Prospectuses contained untrue statements of material facts and omissions of material facts at the time of the Securitizations as set forth above.

275. Fannie Mae did not know of the misstatements and omissions contained in the Prospectuses at the time they purchased the Certificates. If Fannie Mae had known of those misstatements and omissions, they would not have purchased the Certificates.

276. Fannie Mae sustained substantial damages in connection with their investments in the Certificates and have the right to rescind and recover the consideration paid for the Certificates, with interest thereon. Plaintiff hereby seeks rescission and makes any necessary tender of its Certificates. In the alternative, Plaintiff seeks damages according to proof.

SEVENTH CAUSE OF ACTION

Controlling Person Liability Under the District of Columbia Securities Act (Against MS, MSMC, SCI, SFM, and the Individual Defendants)

277. Plaintiff realleges paragraphs 1 through 133 above as if fully set forth herein. For purposes of this cause of action, Plaintiff hereby expressly excludes any allegation that could be construed as sounding in fraud.

278. This claim is brought under Section 31-5606.05(c) of the District of Columbia Code against Defendants MS, MSMC, SCI, SFM, and the Individual Defendants for controlling-person liability with regard to the Section 31-5606.05(a)(1)(B) causes of action set forth above.

279. The Individual Defendants at all relevant times participated in the operation and management of the Depositors, and conducted and participated, directly and indirectly, in the conduct of the Depositors' business affairs. Specifically: Steven Shapiro was Vice President at MSAC; Gail P. McDonald was a Director at MSAC; Howard Hubler was a Director at MSAC; Craig S. Phillips was President and Director at MSAC; Alexander Frank was Treasurer at MSAC.; David Warren was President and Director at MSC; John E. Westerfield was a Director at MSC; Steven S. Stern was a Director at MSC; Michael L. Sawyer was President and Director at SASC; Ernest G. Bretana was Vice President or a Director at SASC; Dean A. Christiansen

was a Director and Board Member at SASC; Orlando Figueroa was a Director at SASC; Robert B. Eastep was Executive Vice President and CFO at SASC; and Jennifer Sebastian was Vice President and Treasurer at SASC.

280. SFM and MSMC (on its own behalf and as the successor in interest to MCI) were sponsors for the Securitizations carried out pursuant to Registration Statements filed by MSAC, MSC and SASE (as specified in Table 2, *supra* at paragraph 47), and culpably participated in their violations of Section 31-5606.05(a)(1)(B) by initiating these Securitizations, purchasing the mortgage loans to be securitized, determining the structure of the Securitizations, selecting the Depositors as special purpose vehicles, and selecting MS&Co. or the Non-MS Underwriters as underwriters. As sponsors, SFM and MSMC (on its own behalf and as successor-in-interest to MCI) knew and intended that the mortgage loans they purchased would be sold in connection with the securitization process, and that certificates representing the ownership interests of investors in the mortgages would be issued by the relevant trusts.

281. SFM and MSMC (on its own behalf and as successor-in-interest to MCI) sold the mortgage loans to the Depositors (as specified in Table 1, *supra* at paragraph 41), and conveyed the mortgage loans to the Depositors pursuant to an Assignment and Recognition Agreement or a Mortgage Loan Purchase Agreement. SFM and MSMC (on its own behalf and as successor-in-interest to MCI) controlled all aspects of the business of the Depositors, who were special purpose entities created for the purpose of acting as a pass-through for the issuance of the Certificates. Upon information and belief, the officers and directors of MSMC and SFM overlapped with the officers and directors of the Depositors. SFM and MSMC (on its own behalf and as successor-in-interest to MCI) were able to, and did in fact, control the contents of the Registration Statements filed by the Depositors, including the Prospectuses and Prospectus

Supplements that contained material misstatements of fact and omitted facts necessary to make the facts stated therein not misleading.

282. Defendant MS wholly owns MS&Co., MSAC, MSC and MSMC and is the ultimate parent of SCI, SFM, and SASC. As the sole corporate parent of MS&Co., MSAC, MSC, and MSMC, MS had the practical ability to direct and control the actions of MS&Co., MSAC, MSC, and MSMC in issuing and selling the Certificates, and in fact, exercised such discretion and control over the activities of MS&Co., MSMC, MSAC, and MSC.

283. MS culpably participated in the violations of Section 31-5606.05(a)(1)(B) set forth above. It oversaw the actions of its subsidiaries and allowed them to misrepresent the mortgage loans' characteristics in the Registration Statements and established special-purpose financial entities such as the Depositors and the issuing trusts to serve as conduits for the mortgage loans.

284. Further, the officers and directors of MS significantly overlapped with the officers and directors of the Depositors. For example, Defendant Phillips was, at all relevant times, the Global Head of Securitized Products at MS while also serving as the President and CEO at MSAC. Similarly, Defendant Warren was, at all relevant times, the Global Head of Structured Credit Trading at MS while also serving as the President and Director at MSC.

285. MS, MSMC, SCI, and SFM, and the Individual Defendants are controlling persons within the meaning of Section 31-5606.05(c) of the District of Columbia Code by virtue of their actual power over, control of, ownership of, and/or directorship of the Depositors at the time of the wrongs alleged herein and as set forth herein, including their control over the content of the Registration Statements.

286. Fannie Mae purchased the Certificates in the primary market, which were issued pursuant to the Registration Statements, including the Prospectuses and Prospectus Supplements, which, at the time they became effective, contained material misstatements of fact and omitted facts necessary to make the facts stated therein not misleading. The facts misstated and omitted were material to a reasonable investor reviewing the Registration Statements.

287. Fannie Mae did not know of the misstatements and omissions in the Registration Statements; had they known of those misstatements and omissions, they would not have purchased the Certificates.

288. Fannie Mae has sustained damages as a result of the misstatements and omissions in the Registration Statements, for which they are entitled to compensation.

289. Plaintiff hereby tenders the Certificates in connection with its request for rescission.

EIGHTH CAUSE OF ACTION

(Common Law Fraud Against MS&Co, MSAC, MSC, MSMC, SASC, SFM, Credit Suisse, and RBS)

290. Plaintiff realleges paragraphs 1 through 191 as if fully set forth herein.

291. The material representations set forth in Parts (I)(C) and (D) and in Appendix A were fraudulent, and the Fraud Defendants' representations falsely and misleadingly misrepresented and omitted material statements of fact. The representations at issue are identified in Parts (I)(C) and (D) above and further identified in Appendix A.

292. The Fraud Defendants knew their representations and omissions were false and/or misleading at the time they were made, or made such representations and omissions recklessly without knowledge of their truth or falsity.

293. Each of the Fraud Defendants made the misleading statements with the intent and for the purpose of inducing Fannie Mae or Freddie Mac to purchase the Certificates.

294. Fannie Mae and Freddie Mac justifiably relied on the Fraud Defendants' false representations and misleading omissions.

295. But for the Fraud Defendants' fraudulent misrepresentations and omissions regarding the Fraud Defendants' underwriting practice and quality of the loans making up the securitizations, Fannie Mae and Freddie Mac would not have purchased the Certificates.

296. As a result of the foregoing, Fannie Mae and Freddie Mac have suffered damages in an amount to be proven at trial. Plaintiff hereby demands rescission and makes any necessary tender of the Certificates.

297. Because the Fraud Defendants defrauded Fannie Mae and Freddie Mac willfully and wantonly, and because, by their acts, the Fraud Defendants knowingly affected the general public, including but not limited to all persons with interest in the Certificates, Plaintiff is entitled to recover punitive damages.

NINTH CAUSE OF ACTION

(Aiding and Abetting Against MSMC, SFM, MSAC, MSC, and SASC)

298. Plaintiff realleges paragraphs 1 through 191 as if fully set forth herein.

299. This is a claim for aiding and abetting fraud, in the alternative, should it be found that the Underwriting Defendants alone are liable for fraud. This claim is brought against MSMC, SFM, MSAC, MSC, and SASC arising from the intentional and substantial assistance each rendered to MS&Co., Credit Suisse, and RBS (the "Selling Underwriters") to advance the fraud on Fannie Mae and Freddie Mac.

300. Through overlapping personnel, strategies, and intertwined business operations, and the fluid transfer of information among the Defendants, each of MSMC, SFM, MSAC, MSC, and SASC knew of the Selling Underwriters' fraudulent scheme to offload the credit risks of non-agency loans to investors, including Fannie Mae and Freddie Mac. Each of these Defendants acted in concert to defraud Fannie Mae and Freddie Mac.

301. MSMC, SFM, MSAC, MSC, and SASC through their employees and representatives, substantially assisted in, among other things: (a) the extension of warehouse loans to originators; (b) acquiring the underlying mortgage loans from the originators; (c) packaging up those loans into pools which were deposited into the Trust; (d) waiving into the collateral pools of the Trusts loans previously rejected by Clayton or otherwise non-compliant loans, despite the lack of compensating factors; (e) creating and structuring the Trusts whose Certificates would be sold to investors including Fannie Mae and Freddie Mac and (f) preparing the Registration Statements which would be used to market the Certificates.

302. The Selling Underwriters would not have been able to implement their fraud against Fannie Mae and Freddie Mac without such substantial assistance.

303. Through overlapping personnel, strategies, and intertwined business operations, and the fluid transfer of information among the Defendants, each of the Morgan Stanley Defendants knew of the fraud perpetrated on Fannie Mae and Freddie Mac.

304. Defendants could not have perpetrated their fraud without the substantial assistance of each other defendant, and they all provided financial, strategic, and marketing assistance for their scheme. Defendants are highly intertwined and interdependent businesses and each benefitted from the success of the scheme. Through the fraudulent sale of the Certificates to the GSEs, the Selling Underwriters were able to materially improve their financial

condition by reducing their exposure to declining subprime-related assets and garnering millions of dollars in fees from the structuring and sale of the Certificates.

305. As a direct, proximate, and foreseeable result of the conduct of MSMC, SFM, MSAC, MSC, and SASC Fannie Mae and Freddie Mac have suffered and will continue to suffer damages in an amount to be proven at trial. Plaintiff hereby demands rescission and makes any necessary tender of the Certificates.

306. Because the Fraud Defendants defrauded Fannie Mae and Freddie Mac willfully and wantonly, and because, by their acts, the Fraud Defendants knowingly affected the general public, including but not limited to all persons with interest in the Certificates, Plaintiff is entitled to recover punitive damages.

TENTH CAUSE OF ACTION

(Negligent Misrepresentation Against the Selling Underwriters, MSAC, MSC, and SASC)

307. Plaintiff realleges paragraphs 1 through 191 as if fully set forth herein.

308. Between September 12, 2005 and September 28, 2007, the Selling Underwriters and MSAC, MSC, and SASC (the "Depositor Defendants") sold the Certificates to the GSEs as described above. Because the Depositor Defendants owned and then conveyed the underlying mortgage loans to the issuing trusts, the Depositor Defendants had unique, exclusive, and special knowledge about the mortgage loans in the Securitizations through their possession of the loan files and other documentation.

309. Likewise, as underwriters of the Securitizations, the Selling Underwriters had the access to and ability to review loan file information and were obligated to perform adequate due diligence to ensure the accuracy of the Offering Materials. Accordingly, the Selling Underwriters had unique, exclusive, and special knowledge about the underlying mortgage loans in the Securitizations.

310. The Selling Underwriters and the Depositor Defendants also had unique, exclusive, and special knowledge of the work of third-party due diligence providers, such as Clayton, who identified significant failures of originators to adhere to the underwriting standards represented in the Registration Statements. The GSEs lacked access to borrower loan files prior to the closing of the Securitizations and their purchase of the Certificates. Accordingly, when determining whether to purchase the Certificates, the GSEs could not evaluate the underwriting quality or the servicing practices of the mortgage loans in the Securitizations on a loan-by-loan basis. The GSEs reasonably relied on the knowledge and representations of the Selling Underwriters and Depositor Defendants regarding the underlying mortgage loans.

311. The Selling Underwriters and Depositor Defendants were aware that the GSEs reasonably relied on these Defendants for complete, accurate, and timely information. The standards under which the underlying mortgage loans were actually originated were known to these Defendants and were not known, and could not be determined, by the GSEs prior to the closing of the Securitizations. The GSEs therefore reasonably relied upon these Defendants' misrepresentations and omissions in the Offering Materials.

312. The Selling Underwriters and Depositor Defendants breached their duty of disclosure by making false or misleading statements of material facts to the GSEs when they knew or should have known of the falsity of their statements. The misrepresentations are set forth in Parts (I)(C) and (D) above and Appendix A.

313. In addition, having false or misleading representations about the underlying collateral in the Securitizations and the facts bearing on the riskiness of the Certificates, the Selling Underwriters and Depositor Defendants had a duty to correct the misimpressions left by their statements, including with respect to any "half truths." The Selling Underwriters and

Depositor Defendants failed to correct in a timely manner any of their misstatements or half truths.

314. The GSEs reasonably relied on the information provided by the Selling Underwriters and Depositor Defendants, and as a result, the GSEs suffered damages in an amount to be determined at trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief as follows:

An award in favor of Plaintiff against all Defendants, jointly and severally, for::

- a. Rescission and recovery of the consideration paid for the Certificates, with interest thereon (in connection with this request for rescission, the Certificates are hereby tendered to the Defendants);
- b. Each GSE's monetary losses, included any diminution in value of the Certificates, as well as lost principal and lost interest payments thereon;
- c. Punitive damages;
- d. Attorneys' fees and costs;
- e. Prejudgment interest at the maximum legal rate; and
- f. Such other and further relief as the Court may deem just and proper.

DATED: New York, New York
September 2, 2011

KASOWITZ, BENSON, TORRES
& FRIEDMAN LLP

By: /s/ Marc E. Kasowitz
Marc E. Kasowitz (mkasowitz@kasowitz.com)
Hector Torres (htorres@kasowitz.com)
Michael S. Shuster (mshuster@kasowitz.com)
Christopher P. Johnson (cjohnson@kasowitz.com)
Michael Hanin (mhanin@kasowitz.com)
Kanchana Wangkeo Leung (kleung@kasowitz.com)

1633 Broadway
New York, New York 10019
(212) 506-1700

Attorneys for the Plaintiff
Federal Housing Finance Agency

Appendix A¹

I. AMIT 2005-4

Misrepresentations in the prospectus supplement and/or prospectus filed September 27, 2006 for the AMIT 2005-4 Securitization

A. Untrue or misleading statements about underwriting guidelines

1. Untrue or misleading statements about conformity with underwriting guidelines

- (a) "The Mortgage Loans were originated or acquired by Aames Investment Corporation (the "Seller") in the ordinary course of its business and were underwritten or re-underwritten by the Seller or its affiliates, in accordance with the Seller's "Super Aim" underwriting standards as described under "The Seller and the Underwriting Guidelines" below." (at S-51)
- (b) "All mortgage loans are underwritten generally in accordance with underwriting guidelines developed by ACC and the affiliated originator, as described below, subject to certain exceptions with respect to individual mortgage loans." (at S-57)
- (c) "All loan applications and all closed loans offered to ACC for purchase must be approved by ACC in accordance with its underwriting criteria." (at S-58)

2. Untrue or misleading statements about borrower's ability to repay the loan:

- (a) "ACC's underwriting guidelines are designed to assess the borrower's creditworthiness and the adequacy of the real property as collateral for the loan. The borrower's creditworthiness is assessed by examination of a number of factors, including calculation of debt-to-income ratios, which is the sum of the borrower's monthly debt payments divided by the borrower's monthly income before taxes and other payroll deductions, an examination of the borrower's credit history and credit score through standard credit reporting bureaus, and by evaluating the borrower's payment history with respect to existing mortgages, if any, on the property." (at S-57)

¹ Although specific representations and warranties in the Registration Statements that form the basis for Plaintiff's claims are set forth herein, Plaintiff relies for its claims upon the Registration Statements in their entirety.

3. Untrue or misleading statements about evaluation of exceptions and compensating factors:

- (a) "ACC's underwriting policy is to analyze the overall situation of the borrower and to take into account compensating factors that may be used to offset certain areas of weakness. These compensating factors include the borrower's history of payments on his prior mortgage, credit scores, proposed reductions in the borrower's debt service expense, employment stability, number of years in residence and net disposable income. A critical function of ACC's underwriting process is to identify the level of credit risk associated with each applicant for a mortgage loan. ACC has established six principal classifications, with respect to the credit profile of potential borrowers, and has assigned a rating to each loan based upon these classifications. ACC assigns credit grades by analyzing mortgage payment history, consumer credit history, credit score, bankruptcy history and debt-to-income ratio. If an individual loan application does not meet ACC's formal written underwriting guidelines, its underwriters can make underwriting exceptions up to certain limits within its formal exception policies and approval authorities." (at S-57)

4. Untrue or misleading statements about quality control procedures:

- (a) "ACC regularly reviews its underwriting guidelines and makes changes when appropriate to respond to market conditions, the performance of loans representing a particular loan product or changes in laws or regulations." (at S-58)

B. Untrue or misleading statements about owner-occupancy status

1. Defendants represented that the number of mortgage loans secured by properties used as primary residences in Supporting Loan Group 1 was 4,090 out of a total pool of 4,329 loans (94.48%). (See S-B-13)

C. Untrue or misleading statements about LTV ratios

1. "Approximately 21.16% of the Mortgage Loans have original Combined Loan-to-Value Ratios in excess of 80%." (at S-52)
2. "The weighted average Combined Loan-to-Value Ratio at origination of the Mortgage Loans is approximately 79.12%, and approximately 21.16% of the Mortgage Loans have a Combined Loan-to-Value Ratio at origination exceeding 80%." (at S-54)
3. "The weighted average Combined Loan-to-Value Ratio at origination of the Pool 1 Mortgage Loans is approximately 77.87%, and approximately 22.60% of the Pool 1 Mortgage Loans have a Combined Loan-to-Value Ratio at origination exceeding 80%." (at S-55)

4. "An assessment of the adequacy of the real property as collateral for the loan is primarily based upon an appraisal of the property and a calculation of the loan-to-value ratios of the loan applied for and of all mortgages existing on the property, including the loan applied for the combined loan-to-value ratio, to the appraised value of the property at the time of origination. Appraisers determine a property's value by reference to the sales prices of comparable properties recently sold, adjusted to reflect the condition of the property as determined through inspection." (at S-58)

D. Untrue or misleading statements about credit ratings

1. Defendants represented that Certificates in the 1A1 tranche would be assigned a rating of not lower than the following by Moody's Investors Service, Standard & Poor's Ratings services, and Fitch, Inc., respectively: Aaa/AAA/ --. (at S-9)

E. Additional untrue or misleading statements

1. "Pursuant to the terms of the Mortgage Loan Purchase Agreement, the Seller will make to the Depositor certain representations and warranties concerning the Mortgage Loans; including representations that (i) each Mortgage Loan is covered by a title insurance policy and each Mortgaged Property was covered by a standard hazard insurance; (ii) immediately prior to the transfer and assignment of each Mortgage Loan, the Seller had good title to and was sole owner of each such Mortgage Loan; (iii) each Mortgage constituted a valid lien on the related Mortgaged Property (subject only to permissible title insurance exceptions) and that the related Mortgaged Property was free of material damage; (iv) each Mortgage Loan was current as to all required payments; (v) each Mortgage Loan at the time it was made complied in all material respects with applicable local, state and federal laws, including but not limited to, usury, equal credit opportunity, and truth-in-lending or similar disclosure laws and all applicable anti-predatory and anti-abusive lending laws; (vi) none of the Mortgage Loans constitute "high-cost loans" as defined by applicable anti-predatory and anti-abusive lending laws; (vii) no proceeds from any Mortgage Loan were used to finance single premium credit insurance policies; and (viii) no Mortgage Loan imposes a prepayment premium for a term in excess of three years. The Depositor will assign its rights under the Mortgage Loan Purchase Agreement to the Trust pursuant to the Transfer and Servicing Agreement. The Trust will in turn pledge its rights in the Seller's representations and warranties to the Indenture Trustee for the benefit of holders of Notes. Within the period of time specified in the Transfer and Servicing Agreement following discovery or notification of a breach of any representation or warranty that materially and adversely affects the interests of Noteholders in a Mortgage Loan or receipt of notice of such breach, the Seller will be obligated to cure such breach or purchase the affected Mortgage Loan from the Trust for a price equal to the unpaid principal balance thereof plus accrued interest thereon plus, if applicable, the fair market value of the REO Property and all other property being purchased, any unreimbursed servicing advances and any costs and damages incurred by the Trust associated with any

violation of applicable federal, state or local anti-predatory or abusive lending laws (or, in certain circumstances, to substitute another mortgage loan).

2. "The Depositor will purchase the Mortgage Loans from the Seller on the Closing Date pursuant to a Mortgage Loan Purchase and Assignment Agreement dated as of the Cut-off Date (the "Mortgage Loan Purchase Agreement"), between the Seller and the Depositor. Pursuant to an Amended and Restated Trust Agreement dated as of the Cut-off Date (the "Trust Agreement"), among the Depositor, the Owner Trustee, and the Trust Administrator, the Depositor will assign its rights, title and interest in the Mortgage Loans and the Mortgage Loan Purchase and Assignment Agreement to the Indenture Trustee for the benefit of Noteholders. See "The Mortgage Loan Purchase Agreement and the Transfer and Servicing Agreement--Assignment of the Mortgage Loans" below." (at S-51)
3. "As to each Mortgage Loan, the following documents, to the extent applicable, are generally required to be delivered to the Indenture Trustee (or its custodian): (1) the related original Mortgage Note, endorsed without recourse to the Indenture Trustee or in blank, or a lost note affidavit conforming to the requirements of the Transfer and Servicing Agreement, together with a copy of the related Mortgage Note, (2) the original recorded Mortgage with evidence of recording indicated thereon (or, if the original recorded Mortgage has not yet been returned by the recording office, a copy thereof certified to be a true and complete copy of such Mortgage sent for recording), (3) an original assignment of the Mortgage to the Indenture Trustee or in blank in recordable form (except as described below), (4) any related documents showing a complete chain of assignment, (5) the policies of title insurance issued with respect to each Mortgage Loan and (6) the originals of any assumption, modification, extension or guaranty agreements." (at S-69)
4. "Pursuant to mortgage loan purchase and warranties agreements between the applicable responsible party and MSMC (with respect to each responsible party, the "Original Seller Agreement"), NC Capital, Decision One and WMC sold the mortgage loans, without recourse, to MSMC, and MSMC will sell and convey mortgage loans, including all principal outstanding as of, and interest due and accruing on or after, the close of business on the cut-off date, without recourse, to the depositor on the closing date. Pursuant to the pooling and servicing agreement, the depositor will sell, without recourse, to the trust, all right, title and interest in and to each mortgage loan, including all principal outstanding as of, and interest due on or after, the close of business on the cut-off date. Each such transfer will convey all right, title and interest in and to (a) principal outstanding as of the close of business on the cut-off date (after giving effect to payments of principal due on or prior to that date, whether or not received) and (b) interest due and accrued on each such mortgage loan after the cut-off date (or, if the due date for a mortgage loan is other than on the first day of the month, after the due date immediately preceding the cut-off date). However, MSMC will not convey to the depositor, and will retain all of its right, title and interest in and to (x) principal due on each mortgage loan on or prior to the cut-off date and principal prepayments in full and curtailments (i.e., partial prepayments) received on each

such mortgage loan prior to the cut-off date and (y) interest due and accrued on each mortgage loan on or prior to the cut-off date (or, if the due date for a mortgage loan is other than on the first day of the month, on or prior to the due date immediately preceding the cut-off date)." (at S-60.)

II. MSAC 2005-HE5

Misrepresentations in the prospectus supplement and/or prospectus filed October 31, 2005 for the MSAC 2005-HE5 Securitization

A. Untrue or misleading statements about underwriting guidelines

1. Untrue and misleading statements about conformity with underwriting guidelines:

- (a) "The mortgage loans have been either (i) originated generally in accordance with the underwriting guidelines established by it (collectively, the "WMC UNDERWRITING GUIDELINES") or (ii) purchased by WMC after re-underwriting the mortgage loans generally in accordance with the WMC Underwriting Guidelines." (at S-23)
- (b) "Each seller or originator will represent and warrant that all loans originated and/or sold by it to the depositor or one of its affiliates will have been underwritten in accordance with standards consistent with those utilized by lenders generally during the period of origination for similar types of loans." (Prospectus at 33)
- (c) "The mortgage loans were originated consistent with and generally conform to the Decision One Underwriting Guidelines' full documentation, limited documentation and stated income documentation residential loan programs." (at S-34)
- (d) "The mortgage loans were originated consistent with and generally conform to the New Century Underwriting Guidelines' full documentation, limited documentation and stated income documentation residential loan programs." (at S-37)

2. Untrue or misleading statements about borrower's ability to repay the loan:

- (a) "The WMC Underwriting Guidelines are primarily intended to (a) determine that the borrower has the ability to repay the mortgage loan in accordance with its terms and (b) determine that the related mortgaged property will provide sufficient value to recover the investment if the borrower defaults." (at S-23)
- (b) "The Decision One Underwriting Guidelines are primarily intended to assess the borrower's ability to repay the mortgage loan, to assess the value of the mortgaged property and to evaluate the adequacy of the property as collateral for the mortgage loan." (at S-33)
- (c) "The New Century Underwriting Guidelines are primarily intended to assess the borrower's ability to repay the mortgage loan, to assess the

value of the mortgaged property and to evaluate the adequacy of the property as collateral for the mortgage loan.” (at S-36)

3. Untrue or misleading statements about information evaluated in the loan application:

- (a) “The WMC Underwriting Guidelines are applied in accordance with a procedure which complies with applicable federal and state laws and regulations and require, among other things, (1) an appraisal of the mortgaged property which conforms to Uniform Standards of Professional Appraisal Practice and (2) an audit of such appraisal by a WMC-approved appraiser or by WMC’s in-house collateral auditors (who may be licensed appraisers), which audit may in certain circumstances consist of a second appraisal, a field review, a desk review or an automated valuation model.” (at S-24)
- (b) “WMC verifies the loan applicant’s eligible sources of income for all products, calculates the amount of income from eligible sources indicated on the loan application, reviews the credit and mortgage payment history of the applicant and calculates the Debt Ratio to determine the applicant’s ability to repay the loan, and reviews the mortgaged property for compliance with the WMC Underwriting Guidelines.” (at S-23)
- (c) “The Decision One Underwriting Guidelines require that the income of each applicant for a mortgage loan be verified. The income documentation required for Decision One Mortgage’s various programs is as follows: under the full documentation program, applicants are required to submit one form of verification from their employer(s) of stable income for at least 24 months; under the Bank Statement and Lite documentation programs, applicants are required to submit verification of stable income for at least 24 months along with consecutive and complete personal checking account bank statements; and under the stated income documentation program, an applicant may be qualified based upon monthly income as stated on the mortgage loan application/form 1003 if the applicant meets certain criteria. All the abovementioned programs require telephone verification of all the applicants’ employment.” (at S-34)
- (d) “Each applicant completes an application which includes information with respect to the applicant’s liabilities, income, credit history, employment history and personal information. The Decision One Underwriting Guidelines require a credit report on each applicant from a credit reporting company. The report typically contains information relating to matters such as credit history with local and national merchants and lenders, installment debt payments and any record of defaults, bankruptcies, repossessions or judgments.” (at S-34)

- (e) "Decision One Mortgage reviews the applicant's source of income, calculates the amount of income from sources indicated on the loan application or similar documentation, reviews the credit history of the applicant, calculates the debt service to income ratio to determine the applicant's ability to repay the loan, reviews the type and use of the property being financed, and reviews the property." (at S-34)
- (f) "Each applicant completes an application which includes information with respect to the applicant's liabilities, income, credit history, employment history and personal information. The New Century Underwriting Guidelines require a credit report on each applicant from a credit reporting company. The report typically contains information relating to matters such as credit history with local and national merchants and lenders, installment debt payments and any record of defaults, bankruptcies, repossessions or judgments." (at S-36)

4. Untrue or misleading statements about evaluation of exceptions and compensating factors:

- (a) "On a case-by-case basis WMC may determine that, based upon compensating factors, a prospective mortgagor not strictly qualifying under the underwriting risk category or other guidelines described below warrants an underwriting exception compensating factors may include, but are not limited to, low debt-to-income ratio ("DEBT RATIO"), good mortgage payment history, an abundance of cash reserves, excess disposable income, stable employment and time in residence at the applicant's current address. It is expected that a substantial number of the mortgage loans to be included in the trust will represent such underwriting exceptions." (at S-23)
- (b) The mortgage loans will have been originated in accordance with the Decision One Underwriting Guidelines. On a case by case basis, exceptions to the Decision One Underwriting Guidelines are made where compensating factors exist." (at S-34)

B. Untrue or misleading statements about owner-occupancy status

- 1. Defendants represented that the number of mortgage loans secured by properties used as primary residences in Supporting Loan Group 1 was 3,874 out of a total pool of 4,115 loans (94.14%). (See S-54)

C. Untrue or misleading statements about LTV ratios

- 1. "Approximately 40.58% and approximately 34.86% of the group I mortgage loans and group II mortgage loans, respectively, had loan-to-value ratios at origination, or with respect to second-lien mortgage loans, combined loan-to-value ratios at origination, in excess of 80% but not more than 100% at origination." (at S-15)

2. "Approximately 37.03% of the mortgage loans have loan-to-value ratios at origination, or with respect to second-lien mortgage loans, combined loan-to-value ratios at origination, in excess of 80%. None of the mortgage loans have loan-to-value ratios at origination, or with respect to second-lien mortgage loans, combined loan-to-value ratios at origination, in excess of 100%." (at S-21)
3. "The weighted average loan-to-value ratio (or, with respect to second-lien mortgage loans, combined loan-to-value ratio) at origination of the group I mortgage loans is approximately 81.91% and approximately 40.58% of the group I mortgage loans have loan-to-value ratios (or, with respect to second-lien mortgage loans, combined loan-to-value ratios) at origination exceeding 80%." (at S-41)
4. "Each appraisal includes a market data analysis based on recent sales of comparable homes in the area. The general collateral requirements in the WMC Underwriting Guidelines specify conditions and parameters relating to zoning, land-to-improvement ratio, special hazard zones, neighborhood property value trends, whether the property site is too isolated, whether the property site is too close to commercial businesses, whether the property site is rural, city or suburban, whether the property site is typical for the neighborhood in which it is located and whether the property site is sufficient in size and shape to support all improvements." (at S-24)
5. "Mortgaged properties that are to secure mortgage loans are appraised by qualified independent appraisers. These appraisers inspect and appraise the subject property and verify that the property is in acceptable condition. Following each appraisal, the appraiser prepares a report which includes a market value analysis based on recent sales of comparable homes in the area, and when deemed appropriate, replacement cost analysis based on the current cost of constructing a similar home. All appraisals are required to conform to the Uniform Standards of Professional Appraisal Practice adopted by the Appraisal Standards Board of the Appraisal Foundation and are generally on forms acceptable to Fannie Mae and Freddie Mac." (at S-34)

D. Untrue or misleading statements about credit ratings

1. Defendants represented that Certificates in the A1 tranche would be assigned a rating of not lower than the following by Moody's Investors Service, Standard & Poor's Ratings services, and Fitch, Inc., respectively: Aaa/AAA/AAA. (at S-7)

E. Additional untrue or misleading statements

1. "Each of WMC Mortgage Corp., Decision One Mortgage Company, LLC and NC Capital Corporation has represented or will represent with respect to each mortgage loan sold by it that none of the group I mortgage loans sold by it is (a) covered by the Home Ownership and Equity Protection Act of 1994 or (b) classified as a "high cost home," "threshold," "covered," "high risk home" or

“predatory” loan under any other applicable federal, state or local law; none of the group I mortgage loans has a Prepayment Premium period at origination in excess of three years;” (at S-41)

2. Pursuant to the pooling and servicing agreement, each of WMC Mortgage Corp., Decision One Mortgage Company, LLC and NC Capital Corporation will make or has made certain representations and warranties with respect to each mortgage loan transferred by it to MSMC as of the closing date (or an earlier date specified in the pooling and servicing agreement, which may be the cut-off date, the date on which the servicing of the mortgage loan was transferred or the date on which MSMC purchased the mortgage loan from the applicable original loan seller). These representations and warranties include, among other things:

- (a) (6) “Any and all requirements of any federal, state or local law, including, without limitation, usury, truth-in-lending, real estate settlement procedures, consumer credit protection, equal credit opportunity and disclosure and all predatory and abusive lending laws applicable to the mortgage loan (including, without limitation, any provisions relating to Prepayment Premiums) have been complied with;” (at S-93)
- (b) (9) “The mortgage note and the mortgage and any other agreement executed and delivered by a mortgagor in connection with a mortgage loan are genuine, and each is the legal, valid and binding obligation of the signatory enforceable in accordance with its terms (including, without limitation, any provisions relating to Prepayment Premiums), subject to bankruptcy, equitable principles and laws affecting creditor rights generally. All parties to the mortgage note, the mortgage and any other such related agreement had legal capacity to enter into the mortgage loan and to execute and deliver the mortgage note, the mortgage and any such agreement, and the mortgage note, the mortgage and any other such related agreement have been duly and properly executed by other such related parties. No fraud, error, omission, misrepresentation, negligence or similar occurrence with respect to a mortgage loan has taken place on the part of the responsible party, other than any error, omission or negligence in the origination of a mortgage loan that may have occurred despite the responsible party’s conformance with the underwriting guidelines (as in effect at the time that mortgage loan was made). No fraud, misrepresentation or similar occurrence or, to the responsible party’s knowledge, error, omission or negligence with respect to a mortgage loan has taken place on the part of any other person, including without limitation, the mortgagor, any appraiser, any builder or developer, or any other party involved in the origination of the mortgage loan;” (at S-94)
- (c) (17) “None of the mortgage loans is (a) covered by the Home Ownership and Equity Protection Act of 1994 or (b) classified as a “high cost home,” “threshold,” “covered,” “high risk home” or “predatory” loan under any other applicable federal, state or local law (or a similarly classified loan

using different terminology under law imposing heightened regulatory scrutiny or additional legal liability for residential mortgage loans having high interest rates, points and/or fees;" (at S-95)

3. "Pursuant to mortgage loan purchase and warranties agreements, WMC Mortgage Corp., Decision One Mortgage Company, LLC and NC Capital Corporation sold the mortgage loans, without recourse, to Morgan Stanley Mortgage Capital Inc. ("MSMC"), an affiliate of the depositor, and MSMC will sell, transfer, assign, set over and otherwise convey the mortgage loans, including all principal outstanding as of, and interest due and accruing on or after, the close of business on the cut-off date, without recourse, to the depositor on the closing date. Pursuant to the pooling and servicing agreement, the depositor will sell, without recourse, to the trust, all right, title and interest in and to each mortgage loan, including all principal outstanding as of, and interest due on or after, the close of business on the cut-off date. Each such transfer will convey all right, title and interest in and to (a) principal outstanding as of the close of business on the cut-off date (after giving effect to payments of principal due on that date, whether or not received) and (b) interest due and accrued on each such mortgage loan after the cut-off date. However, MSMC will not convey to the depositor, and will retain all of its right, title and interest in and to (x) principal due on each mortgage loan on or prior to the cut-off date and principal prepayments in full and curtailments (i.e., partial prepayments) received on each such mortgage loan prior to the cut-off date and (y) interest due and accrued on each mortgage loan on or prior to the cut-off date." (At S-91.)

III. MSAC 2005-HE6

Misrepresentations in the prospectus supplement and/or prospectus filed November 29, 2005 for the MSAC 2005-HE6 Securitization

A. Untrue or misleading statements about underwriting guidelines

1. Untrue and misleading statements about conformity with underwriting guidelines:

- (a) "The mortgage loans were originated or acquired generally in accordance with the underwriting guidelines described in this prospectus supplement. See "--Underwriting Guidelines" below." (at S-21)
- (b) "The mortgage loans were originated or acquired generally in accordance with the underwriting guidelines described in this prospectus supplement." (at S-21)
- (c) "The mortgage loans originated or acquired by New Century Mortgage Corporation, referred to in this section as the originator, were done so in accordance with the underwriting guidelines established by it (collectively, the "NEW CENTURY UNDERWRITING GUIDELINES"). The following is a general summary of the New Century Underwriting Guidelines believed by the depositor to have been generally applied, with some variation, by the originator. This summary does not purport to be a complete description of the underwriting standards of the New Century Mortgage Corporation." (at S-24)
- (d) "The New Century Underwriting Guidelines require that mortgage loans be underwritten in a standardized procedure which complies with applicable federal and state laws and regulations and requires the New Century Mortgage Corporation's underwriters to be satisfied that the value of the property being financed, as indicated by an appraisal and a review of the appraisal, currently supports the outstanding loan balance." (at S-25)
- (e) "Approximately 23.54% of the mortgage loans were originated by Accredited Home Lenders, Inc. ("ACCREDITED") under the following underwriting guidelines." (at S-28)
- (f) "Accredited's underwriting standards are applied in a standardized manner which complies with applicable federal and state laws and regulations." (at S-28)
- (g) "Mortgage loans originated or acquired by Decision One Mortgage, referred to in this section as the originator, were done so in accordance with the underwriting guidelines established by it (collectively, the "DECISION ONE UNDERWRITING GUIDELINES"). The following is

a general summary of the Decision One Underwriting Guidelines believed to be generally applied, with some variation, by Decision One Mortgage. This summary does not purport to be a complete description of the underwriting standards of Decision One Mortgage.” (at S-30)

- (h) “The mortgage loans were originated consistent with and generally conform to the Decision One Underwriting Guidelines’ full documentation, limited documentation and stated income documentation residential loan programs.” (at S-31)
- (i) “The Decision One Underwriting Guidelines require that mortgage loans be underwritten in a standardized procedure which complies with applicable federal and state laws and regulations and requires Decision One Mortgage’s underwriters to be satisfied that the value of the property being financed, as indicated by an appraisal and a review of the appraisal, currently supports the outstanding loan balance.” (at S-31)
- (j) “The mortgage loans have been either (i) originated generally in accordance with the underwriting guidelines established by it (collectively, the “WMC UNDERWRITING GUIDELINES”) or (ii) purchased by WMC after re-underwriting the mortgage loans generally in accordance with the WMC Underwriting Guidelines.” (at S-33)
- (k) “The WMC Underwriting Guidelines are applied in accordance with a procedure which complies with applicable federal and state laws and regulations and require, among other things, (1) an appraisal of the mortgaged property which conforms to Uniform Standards of Professional Appraisal Practice and (2) an audit of such appraisal by a WMC-approved appraiser or by WMC’s in-house collateral auditors (who may be licensed appraisers), which audit may in certain circumstances consist of a second appraisal, a field review, a desk review or an automated valuation model.” (at S-33)
- (l) “The WMC Underwriting Guidelines permit mortgage loans with LTVs and CLTVs (in the case of mortgaged properties which secure more than one mortgage loan) of up to 100% (which is subject to reduction depending upon credit-grade, loan amount and property type).” (at S-33)
- (m) “All mortgage loans originated by affiliated originators are underwritten generally in accordance with underwriting guidelines developed by Aames and the related affiliated originator, subject to certain exception with respect to individual mortgage loans. The mortgage loans originated by unaffiliated originators are re-underwritten in accordance with the applicable underwriting guidelines. In connection with certain purchases of mortgage loans from unaffiliated originators, Aames will re-underwrite all of the loans in that portfolio to confirm compliance with Aames’s underwriting guidelines.” (at S-43)

2. Untrue or misleading statements about borrower's ability to repay the loan:

- (a) "The New Century Underwriting Guidelines are primarily intended to assess the borrower's ability to repay the mortgage loan, to assess the value of the mortgaged property and to evaluate the adequacy of the property as collateral for the mortgage loan." (at S-24)
- (b) "Accredited's underwriting process is intended to assess a loan applicant's credit standing and repayment ability and the value and adequacy of the real property security as collateral for the proposed loan." (at S-28)
- (c) "The Decision One Underwriting Guidelines are primarily intended to assess the borrower's ability to repay the mortgage loan, to assess the value of the mortgaged property and to evaluate the adequacy of the property as collateral for the mortgage loan." (at S-30)
- (d) "The WMC Underwriting Guidelines are primarily intended to (a) determine that the borrower has the ability to repay the mortgage loan in accordance with its terms and (b) determine that the related mortgaged property will provide sufficient value to recover the investment if the borrower defaults." (at S-33)
- (e) "Aames underwriting process and guidelines require a rigorous application review and documentation designed to determine the borrower's ability to repay the loan and maximize the value of our mortgage loans. Aames also evaluates each loan that it originates to ensure that it provides a benefit to the borrower in accordance with regulatory requirements." (at S-43)
- (f) "Credit scores are obtained by Aames in connection with mortgage loan applications to help assess a borrower's creditworthiness." (at S-43)

3. Untrue or misleading statements about information evaluated in the loan application:

- (a) "While the New Century Mortgage Corporation's primary consideration in underwriting a mortgage loan is the value of the mortgaged property, the New Century Mortgage Corporation also considers, among other things, a mortgagor's credit history, repayment ability and debt service-to-income ratio, as well as the type and use of the mortgaged property." (at S-24)
- (b) "Each applicant completes an application which includes information with respect to the applicant's liabilities, income, credit history, employment history and personal information. The New Century Underwriting Guidelines require a credit report on each applicant from a credit reporting company. The report typically contains information relating to matters such as credit history with local and national merchants and lenders, installment debt payments and any record of defaults, bankruptcies, repossessions or judgments." (at S-24)

- (c) “The mortgage loans were originated consistent with and generally conform to the New Century Underwriting Guidelines’ full documentation, limited documentation and stated income documentation residential loan programs. Under each of the programs, the New Century Mortgage Corporation reviews the applicant’s source of income, calculates the amount of income from sources indicated on the loan application or similar documentation, reviews the credit history of the applicant, calculates the debt service-to-income ratio to determine the applicant’s ability to repay the loan, reviews the type and use of the property being financed, and reviews the property.” (at S-24-25)
- (d) “Accredited’s underwriting guidelines require verification or evaluation of the income of each applicant pursuant to Accredited’s “Full Documentation,” “Lite Documentation” or “Stated Income” programs. Under each of these programs, Accredited reviews the loan applicant’s source of income, calculates the amount of income from sources indicated on the loan application or similar documentation, and calculates debt service-to-income ratios to determine the applicant’s ability to repay the loan.” (at S-29)
- (e) “Verification of the source of funds (if any) required to be paid by the applicant at closing is generally required under all documentation programs in the form of a standard verification of deposit, two months’ consecutive bank statements or other acceptable documentation. On Accredited’s core mortgage loan products and on some of its specialty products, twelve months’ mortgage payment or rental history must be verified by the related lender or landlord.” (at S-29)
- (f) “Each applicant completes an application which includes information with respect to the applicant’s liabilities, income, credit history, employment history and personal information. The Decision One Underwriting Guidelines require a credit report on each applicant from a credit reporting company. The report typically contains information relating to matters such as credit history with local and national merchants and lenders, installment debt payments and any record of defaults, bankruptcies, repossessions or judgments.” (at S-31)
- (g) “Decision One Mortgage reviews the applicant’s source of income, calculates the amount of income from sources indicated on the loan application or similar documentation, reviews the credit history of the applicant, calculates the debt service to income ratio to determine the applicant’s ability to repay the loan, reviews the type and use of the property being financed, and reviews the property.” (at S-31)
- (h) “WMC verifies the loan applicant’s eligible sources of income for all products, calculates the amount of income from eligible sources indicated on the loan application, reviews the credit and mortgage payment history

of the applicant and calculates the Debt Ratio to determine the applicant's ability to repay the loan, and reviews the mortgaged property for compliance with the WMC Underwriting Guidelines." (at S-33)

- (i) "In the case of mortgage loans originated under the Full Documentation category, the WMC Underwriting Guidelines require documentation of income (which may consist of (1) a verification of employment form covering a specified time period which varies with LTV, (2) two most recent pay stubs and one or two years of tax returns or W-2s, (3) verification of deposits and/or (4) bank statements) and telephonic verification." (at S-34)
- (j) "A critical function of our underwriting process is to identify the level of credit risk associated with each applicant for a mortgage loan. (at S-43)

4. Untrue or misleading statements about evaluation of exceptions and compensating factors:

- (a) "The mortgage loans will have been originated in accordance with the New Century Underwriting Guidelines. On a case by case basis, exceptions to the New Century Underwriting Guidelines are made where compensating factors exist. It is expected that a substantial portion of the mortgage loans in the mortgage pool will represent these exceptions." (at S-24)
- (b) "Accredited may allow exceptions to its underwriting guidelines in accordance with Accredited's established exception policy. Exceptions may be allowed based upon the presence of compensating factors such as a low LTV, demonstrated pride of ownership and stability of employment." (at S-30)
- (c) "The mortgage loans will have been originated in accordance with the Decision One Underwriting Guidelines. On a case by case basis, exceptions to the Decision One Underwriting Guidelines are made where compensating factors exist." (at S-31)
- (d) "Aames's underwriting policy is to analyze the overall situation of the borrower and to take into account compensating factors that may be used to offset certain areas of weakness. These compensating factors include proposed reductions in the borrower's debt service expense, employment stability, number of years in residence and net disposable income. Based upon this analysis, Aames can determine loan terms and conditions to produce loans that it believes are appropriately priced, meet its quality standards, and are profitable. Aames underwriting process and guidelines require a rigorous application review and documentation designed to determine the borrower's ability to repay the loan and maximize the value of our mortgage loans. Aames also evaluates each loan that it originates to

ensure that it provides a benefit to the borrower in accordance with regulatory requirements.” (at S-43)

5. Untrue or misleading statements about quality control procedures:

- (a) Accredited periodically reviews each of its mortgage broker’s and correspondent’s performance relative to issues disclosed by Accredited’s quality control review, and discontinues relationships with unacceptable performers.” (at S-28)
- (b) All loan applications and all closed loans offered to Aames for purchase must be approved by Aames in accordance with its underwriting criteria. Aames regularly reviews its underwriting guidelines and makes changes when appropriate to respond to market conditions, the performance of loans representing a particular loan product or changes in laws or regulations.” (at S-44)

B. Untrue or misleading statements about owner-occupancy status

- 1. Defendants represented that the number of mortgage loans secured by properties used as primary residences in Supporting Loan Group 1 was 2,814 out of a total pool of 3,037 loans (92.66%). (See S-60)

C. Untrue or misleading statements about LTV ratios

- 1. “Approximately 35.69% and approximately 35.34% of the group I mortgage loans and group II mortgage loans, respectively, had loan-to-value ratios at origination, or with respect to second-lien mortgage loans, combined loan-to-value ratios at origination, in excess of 80% but not more than 100% at origination.” (at S-16)
- 2. “Approximately 35.48% of the mortgage loans have loan-to-value ratios at origination, or with respect to second-lien mortgage loans, combined loan-to-value ratios at origination, in excess of 80%. None of the mortgage loans have loan-to-value ratios at origination, or with respect to second-lien mortgage loans, combined loan-to-value ratios at origination, in excess of 100%.” (at S-22)
- 3. “The weighted average loan-to-value ratio (or, with respect to second-lien mortgage loans, combined loan-to-value ratio) at origination of the group I mortgage loans is approximately 78.61% and approximately 35.69% of the group I mortgage loans have loan-to-value ratios (or, with respect to second-lien mortgage loans, combined loan-to-value ratios) at origination exceeding 80%.” (at S-46)
- 4. “Mortgaged properties that are to secure mortgage loans are appraised by qualified independent appraisers. These appraisers inspect and appraise the subject property and verify that the property is in acceptable condition.” (at S-24)

5. "All appraisals are required to conform to the Uniform Standards of Professional Appraisal Practice adopted by the Appraisal Standards Board of the Appraisal Foundation and are on forms acceptable to Fannie Mae and Freddie Mac. The New Century Underwriting Guidelines require a review of the appraisal by a qualified employee of the New Century Mortgage Corporation or by an appraiser retained by the New Century Mortgage Corporation." (at S-24)
6. "Appraisals are performed by licensed, third-party, fee-based appraisers and include, among other things, an inspection of the exterior and interior of the subject property." (at S-29)
7. "All appraisals are required to conform to the Uniform Standards of Professional Appraisal Practice adopted by the Appraisal Standards Board of the Appraisal Foundation and are generally on forms acceptable to Fannie Mae and Freddie Mac." (at S-31)
8. "An assessment of the adequacy of the real property as collateral for the loan is primarily based upon an appraisal of the property and a calculation of the loan-to-value ratios of the loan applied for and of all mortgages existing on the property, including the loan applied for the combined loan-to-value ratio, to the appraised value of the property at the time of origination. Appraisers determine a property's value by reference to the sales prices of comparable properties recently sold, adjusted to reflect the condition of the property as determined through inspection." (at S-44)

D. Untrue or misleading statements about credit ratings

1. Defendants represented that Certificates in the A1 tranche would be assigned a rating of not lower than the following by Moody's Investor Service, Standard & Poor's Ratings services, and Fitch, Inc., respectively: Aaa/AAA/AAA. (at S-8)

E. Additional untrue or misleading statements

1. "Each of WMC Mortgage Corp., Accredited Home Lenders, Inc., Decision One Mortgage Company, LLC, Aames Capital Corporation and NC Capital Corporation has represented or will represent with respect to each mortgage loan sold by it that none of the group I mortgage loans sold by it is (a) covered by the Home Ownership and Equity Protection Act of 1994 or (b) classified as a "high cost home," "threshold," "covered," "high risk home" or "predatory" loan under any other applicable federal, state or local law;" (at S-46)
2. Pursuant to the pooling and servicing agreement, each of WMC Mortgage Corp., Accredited Home Lenders, Inc., Decision One Mortgage Company, LLC, Aames Capital Corporation and NC Capital Corporation will make or has made certain representations and warranties with respect to each mortgage loan transferred by it to MSMC as of the closing date (or an earlier date specified in the pooling and servicing agreement, which may be the cut-off date, the date on which the servicing of the mortgage loan was transferred or the date on which MSMC

purchased the mortgage loan from the applicable original loan seller). These representations and warranties include, among other things:

- (a) “(6) Any and all requirements of any federal, state or local law, including, without limitation, usury, truth-in-lending, real estate settlement procedures, consumer credit protection, equal credit opportunity and disclosure and all predatory and abusive lending laws applicable to the mortgage loan (including, without limitation, any provisions relating to Prepayment Premiums) have been complied with; (at S-95)
 - (b) (9) “The mortgage note and the mortgage and any other agreement executed and delivered by a mortgagor in connection with a mortgage loan are genuine, and each is the legal, valid and binding obligation of the signatory enforceable in accordance with its terms (including, without limitation, any provisions relating to Prepayment Premiums), subject to bankruptcy, equitable principles and laws affecting creditor rights generally. All parties to the mortgage note, the mortgage and any other such related agreement had legal capacity to enter into the mortgage loan and to execute and deliver the mortgage note, the mortgage and any such agreement, and the mortgage note, the mortgage and any other such related agreement have been duly and properly executed by other such related parties. No fraud, misrepresentation or similar occurrence or, to the responsible party’s knowledge, error, omission or negligence with respect to a mortgage loan has taken place on the part of any other person, including without limitation, the mortgagor, any appraiser, any builder or developer, or any other party involved in the origination of the mortgage loan;” (at S-96)
 - (c) “(17) None of the mortgage loans is (a) covered by the Home Ownership and Equity Protection Act of 1994 or (b) classified as a “high cost home,” “threshold,” “covered,” “high risk home” or “predatory” loan under any other applicable federal, state or local law (or a similarly classified loan using different terminology under a law imposing heightened regulatory scrutiny or additional legal liability for residential mortgage loans having high interest rates, points and/or fees.” (at S-97)
3. “Pursuant to mortgage loan purchase and warranties agreements, WMC Mortgage Corp., Accredited Home Lenders, Inc. Decision One Mortgage Company, LLC, Aames Capital Corporation and NC Capital Corporation sold the mortgage loans, without recourse, to Morgan Stanley Mortgage Capital Inc. (“MSMC”), an affiliate of the depositor, and MSMC will sell, transfer, assign, set over and otherwise convey the mortgage loans, including all principal outstanding as of, and interest due and accruing on or after, the close of business on the cut-off date, without recourse, to the depositor on the closing date. Pursuant to the pooling and servicing agreement, the depositor will sell, without recourse, to the trust, all right, title and interest in and to each mortgage loan, including all principal outstanding as of, and interest due on or after, the close of business on the cut-off

date. Each such transfer will convey all right, title and interest in and to (a) principal outstanding as of the close of business on the cut-off date (after giving effect to payments of principal due on that date, whether or not received) and (b) interest due and accrued on each such mortgage loan after the cut-off date. However, MSMC will not convey to the depositor, and will retain all of its right, title and interest in and to (x) principal due on each mortgage loan on or prior to the cut-off date and principal prepayments in full and curtailments (i.e., partial prepayments) received on each such mortgage loan prior to the cut-off date and (y) interest due and accrued on each mortgage loan on or prior to the cut-off date.” (at S-93.)

4. “If so specified in the related prospectus supplement, the representations and warranties of a seller or originator in respect of a loan will be made not as of the cut-off date but as of the date on which the applicable originator sold the loan to the seller or the depositor or the applicable seller sold the loan to the depositor or one of its affiliates. Under those circumstances, a substantial period of time may have elapsed between the sale date and the date of initial issuance of the series of securities evidencing an interest in the loan. Since the representations and warranties of a seller or originator do not address events that may occur following the sale of a loan by that seller or originator, its repurchase obligation described in this prospectus will not arise if the relevant event that would otherwise have given rise to a repurchase obligation with respect to a loan occurs after the date of sale of the loan by the applicable originator or seller. However, the depositor will not include any loan in the trust fund for any series of securities if anything has come to the depositor’s attention that would cause it to believe that the representations and warranties of a seller or originator will not be accurate and complete in all material respects in respect of the loan as of the date of initial issuance of the related series of securities. If the master servicer is also a seller or originator of loans with respect to a particular series of securities, the representations will be in addition to the representations and warranties made by the master servicer in its capacity as a master servicer.” (Prospectus at 43)

IV. MSAC 2006-HE3

Misrepresentations in the prospectus supplement and/or prospectus filed September 27, 2006 for the MSAC 2006-HE3 Securitization

A. Untrue or misleading statements about underwriting guidelines

1. Untrue or misleading statements about conformity with underwriting guidelines

- (a) “The mortgage loans were originated or acquired generally in accordance with the underwriting guidelines described in this prospectus supplement.” (at S-25)
- (b) “The mortgage loans originated or acquired by New Century Mortgage Corporation, referred to in this section as the originator, were done so in accordance with the underwriting guidelines established by it (collectively, the “NEW CENTURY UNDERWRITING GUIDELINES”). The following is a general summary of the New Century Underwriting Guidelines believed to be generally applied, with some variation, by the originator. This summary does not purport to be a complete description of the underwriting standards of New Century Mortgage Corporation.” (at S-28)
- (c) “The New Century Underwriting Guidelines require that mortgage loans be underwritten in a standardized procedure which complies with applicable federal and state laws and regulations and requires New Century Mortgage Corporation’s underwriters to be satisfied that the value of the property being financed, as indicated by an appraisal and a review of the appraisal, currently supports the outstanding loan balance.” (at S-29)
- (d) “The mortgage loans have been either (i) originated generally in accordance with the underwriting guidelines established by WMC (collectively, the “WMC UNDERWRITING GUIDELINES”) or (ii) purchased by WMC after re-underwriting the mortgage loans, generally in accordance with the WMC Underwriting Guidelines.” (at S-32)

2. Untrue or misleading statements about borrower’s ability to repay the loan:

- (a) “The New Century Underwriting Guidelines are primarily intended to assess the borrower’s ability to repay the mortgage loan, to assess the value of the mortgaged property and to evaluate the adequacy of the property as collateral for the mortgage loan.” (at S-28)
- (b) “The WMC Underwriting Guidelines are primarily intended to (a) determine that the borrower has the ability to repay the mortgage loan in accordance with its terms and (b) determine that the related mortgaged

property will provide sufficient value to recover the investment if the borrower defaults.” (at S-32)

- (c) “Under the WMC Underwriting Guidelines, various risk categories are used to grade the likelihood that the mortgagor will satisfy the repayment conditions of the mortgage loan.” (at S-34)

3. Untrue or misleading statements about information evaluated in the loan application:

- (a) “While New Century Mortgage Corporation’s primary consideration in underwriting a mortgage loan is the value of the mortgaged property, New Century Mortgage Corporation also considers, among other things, a mortgagor’s credit history, repayment ability and debt service-to-income ratio, as well as the type and use of the mortgaged property.” (at S-28)
- (b) “Each applicant completes an application which includes information with respect to the applicant’s liabilities, income, credit history, employment history and personal information. The New Century Underwriting Guidelines require a credit report on each applicant from a credit reporting company. The report typically contains information relating to matters such as credit history with local and national merchants and lenders, installment debt payments and any record of defaults, bankruptcies, repossessions or judgments.” (at S-28)
- (c) “The mortgage loans were originated consistent with and generally conform to the New Century Underwriting Guidelines’ full documentation, limited documentation and stated income documentation residential loan programs. Under each of the programs, New Century Mortgage Corporation reviews the applicant’s source of income, calculates the amount of income from sources indicated on the loan application or similar documentation, reviews the credit history of the applicant, calculates the debt service-to-income ratio to determine the applicant’s ability to repay the loan, reviews the type and use of the property being financed, and reviews the property.” (at S-28-29)
- (d) “The New Century Underwriting Guidelines require that the income of each applicant for a mortgage loan under the full and limited documentation programs be verified. The specific income documentation required for New Century Mortgage Corporation’s various programs is as follows: under the full documentation program, applicants usually are required to submit one written form of verification from the employer of stable income for at least 12 months for salaried employees and 24 months for self-employed applicants or for any special program applicant with a credit score of less than 580; under the limited documentation program, applicants usually are required to submit verification of stable income for at least 6 months, such as 6 consecutive months of complete personal

checking account bank statements. Under the stated income program, an applicant may be qualified based upon monthly income as stated on the mortgage loan application if the applicant meets certain criteria. All the foregoing programs require that, with respect to salaried employees, there be a telephone verification of the applicant's employment. Verification of the source of funds, if any, required to be deposited by the applicant into escrow in the case of a purchase money loan is required." (at S-29)

- (e) "Under the WMC Underwriting Guidelines, WMC verifies the loan applicant's eligible sources of income for all products, calculates the amount of income from eligible sources indicated on the loan application, reviews the credit and mortgage payment history of the applicant and calculates the Debt Ratio to determine the applicant's ability to repay the loan, and reviews the mortgaged property for compliance with the WMC Underwriting Guidelines." (at S-33)

4. Untrue or misleading statements about evaluation of exceptions and compensating factors:

- (a) "The mortgage loans will have been originated in accordance with the New Century Underwriting Guidelines. On a case by case basis, exceptions to the New Century Underwriting Guidelines are made where compensating factors exist. It is expected that a substantial portion of the mortgage loans in the mortgage pool will represent these exceptions. (at S-28)
- (b) "On a case-by-case basis WMC may determine that, based upon compensating factors, a prospective mortgagor not strictly qualifying under the underwriting risk category or other guidelines described below warrants an underwriting exception. Compensating factors may include, but are not limited to, low debt-to-income ratio ("DEBT RATIO"), good mortgage payment history, an abundance of cash reserves, excess disposable income, stable employment and time in residence at the applicant's current address. It is expected that a substantial number of the mortgage loans to be included in the trust will represent such underwriting exceptions" (at S-32)

B. Untrue or misleading statements about owner-occupancy status

- 1. Defendants represented that the number of mortgage loans secured by properties used as primary residences in Supporting Loan Group 1 was 2,679 out of a total pool of 2,822 loans (94.93%). (See III-34)

C. Untrue or misleading statements about LTV ratios

- 1. "Approximately 39.27% and approximately 35.75% of the group I mortgage loans and group II mortgage loans, respectively, had loan-to-value ratios at origination,

or with respect to second-lien mortgage loans, combined loan-to-value ratios at origination, in excess of 80% but not more than 100% at origination.” (at S-20)

2. “Approximately 36.56% of the mortgage loans have loan-to-value ratios at origination, or with respect to second-lien mortgage loans, combined loan-to-value ratios at origination, in excess of 80%. None of the mortgage loans have loan-to-value ratios at origination, or with respect to second-lien mortgage loans, combined loan-to-value ratios at origination, in excess of 100%.” (at S-25)
3. “The weighted average loan-to-value ratio (or, with respect to second-lien mortgage loans, combined loan-to-value ratio) at origination of the group I mortgage loans is approximately 78.76% and approximately 39.27% of the group I mortgage loans have loan-to-value ratios (or, with respect to second-lien mortgage loans, combined loan-to-value ratios) at origination exceeding 80.00%.” (at S-44)
4. “Mortgaged properties that are to secure mortgage loans are appraised by qualified independent appraisers. These appraisers inspect and appraise the subject property and verify that the property is in acceptable condition. Following each appraisal, the appraiser prepares a report which includes a market value analysis based on recent sales of comparable homes in the area and, when deemed appropriate, replacement cost analysis based on the current cost of constructing a similar home. All appraisals are required to conform to the Uniform Standards of Professional Appraisal Practice adopted by the Appraisal Standards Board of the Appraisal Foundation and are on forms acceptable to Fannie Mae and Freddie Mac. The New Century Underwriting Guidelines require a review of the appraisal by a qualified employee of New Century Mortgage Corporation or by an appraiser retained by New Century Mortgage Corporation.” (at S-28)
5. “The WMC Underwriting Guidelines are applied in accordance with a procedure which complies with applicable federal and state laws and regulations and requires, among other things, (1) an appraisal of the mortgaged property which conforms to Uniform Standards of Professional Appraisal Practice and (2) an audit of such appraisal by a WMC-approved appraiser or by WMC’s in-house collateral auditors (who may be licensed appraisers) and such audit may in certain circumstances consist of a second appraisal, a field review, a desk review or an automated valuation model.” (at S-33)

D. Untrue or misleading statements about credit ratings

1. Defendants represented that Certificates in the A1 tranche would be assigned a rating of not lower than the following by Moody’s Investor Service, Standard & Poor’s Ratings services, and Fitch, Inc., respectively: Aaa/AAA/AAA. (at S-12)

E. Additional untrue or misleading statements

1. “Pursuant to the pooling and servicing agreement, each of NC Capital, WMC and Decision One, the responsible parties, will make representations and warranties

with respect to each mortgage loan transferred by it as of the closing date (or an earlier date specified in the pooling and servicing agreement, which may be the cut-off date, the date on which the servicing of the mortgage loan was transferred or the date on which MSMC purchased the mortgage loan from the applicable responsible party), including, but not limited to:

- (a) “(6) Any and all requirements of any federal, state or local law, including, without limitation, usury, truth-in-lending, real settlement procedures, consumer credit protection, equal credit opportunity, disclosure and all predatory and abusive lending laws applicable to the mortgage loan have been complied with, including, without limitation, any provisions therein relating to Prepayment Premiums. (at S-60)
- (b) (9) “The mortgage note and the mortgage and any other agreement executed and delivered by a mortgagor in connection with a mortgage loan are genuine, and each is the legal, valid and binding obligation of the signatory enforceable in accordance with its terms (including, without limitation, any provisions relating to Prepayment Premiums), subject to bankruptcy, equitable principles and laws affecting creditor rights generally. All parties to the mortgage note, the mortgage and any other such related agreement had legal capacity to enter into the mortgage loan and to execute and deliver the mortgage note, the mortgage and any such agreement, and the mortgage note, the mortgage and any other such related agreement have been duly and properly executed by other such related parties. No fraud, misrepresentation or similar occurrence or, to the responsible party’s knowledge, error, omission or negligence with respect to a mortgage loan has taken place on the part of any other person, including without limitation, the mortgagor, any appraiser, any builder or developer, or any other party involved in the origination of the mortgage loan;” (at S-61)
- (c) “(17) None of the mortgage loans is (a) covered by the Home Ownership and Equity Protection Act of 1994 or (b) classified as a “high cost home,” “threshold,” “covered,” “high risk home,” “predatory” or similar loan under any other applicable federal, state or local law (or a similarly classified loan using different terminology under a law imposing heightened regulatory scrutiny or additional legal liability for residential mortgage loans having high interest rates, points and/or fees) . . .” (at S-62)

2. “Pursuant to mortgage loan purchase and warranties agreements, NC Capital, WMC and Decision One sold the mortgage loans, without recourse, to MSMC, and MSMC will sell and convey the mortgage loans, including all principal outstanding as of, and interest due and accruing on or after, the close of business on the cut-off date, without recourse, to the depositor on the closing date. Pursuant to the pooling and servicing agreement, the depositor will sell, without recourse, to the trust, all right, title and interest in and to each mortgage loan,

including all principal outstanding as of, and interest due on or after, the close of business on the cut-off date. Each such transfer will convey all right, title and interest in and to (a) principal outstanding as of the close of business on the cut-off date (after giving effect to payments of principal due on that date, whether or not received) and (b) interest due and accrued on each such mortgage loan after the cut-off date. However, MSMC will not convey to the depositor, and will retain all of its right, title and interest in and to (x) principal due on each mortgage loan on or prior to the cut-off date and principal prepayments in full and curtailments (i.e., partial prepayments) received on each such mortgage loan prior to the cut-off date and (y) interest due and accrued on each mortgage loan on or prior to the cut-off date.” (at S-58.)

3. “Prior to acquiring any residential mortgage loans, MSMC conducts a review of the related mortgage loan seller that is based upon the credit quality of the selling institution. MSMC’s review process may include reviewing select financial information for credit and risk assessment and conducting an underwriting guideline review, senior level management discussion and/or background checks. The scope of the loan due diligence varies based on the credit quality of the mortgage loans. The underwriting guideline review entails a review of the mortgage loan origination processes and systems. In addition, such review may involve a consideration of corporate policy and procedures relating to state and federal predatory lending, origination practices by jurisdiction, historical loan level loss experience, quality control practices, significant litigation and/or material investors.” (at S-47)
4. “If so specified in the related prospectus supplement, the representations and warranties of a seller or originator in respect of a loan will be made not as of the cut-off date but as of the date on which the applicable originator sold the loan to the seller or the depositor or the applicable seller sold the loan to the depositor or one of its affiliates. Under those circumstances, a substantial period of time may have elapsed between the sale date and the date of initial issuance of the series of securities evidencing an interest in the loan. Since the representations and warranties of a seller or originator do not address events that may occur following the sale of a loan by that seller or originator, its repurchase obligation described in this prospectus will not arise if the relevant event that would otherwise have given rise to a repurchase obligation with respect to a loan occurs after the date of sale of the loan by the applicable originator or seller. However, the depositor will not include any loan in the trust fund for any series of securities if anything has come to the depositor’s attention that would cause it to believe that the representations and warranties of a seller or originator will not be accurate and complete in all material respects in respect of the loan as of the date of initial issuance of the related series of securities. If the master servicer is also a seller or originator of loans with respect to a particular series of securities, the representations will be in addition to the representations and warranties made by the master servicer in its capacity as a master servicer.” (Prospectus at 43)

V. MSAC 2006-HE5

Misrepresentations in the prospectus supplement and/or prospectus filed June 30, 2006 for the MSAC 2006-HE5 Securitization

A. Untrue or misleading statements about underwriting guidelines

1. Untrue or misleading statements about conformity with underwriting guidelines

- (a) “The Initial Mortgage Loans were, and the Subsequent Mortgage Loans will be, originated or acquired generally in accordance with the underwriting guidelines of the responsible parties.” (at S-28)
- (b) “The mortgage loans originated or acquired by New Century Mortgage Corporation, referred to in this section as the originator, were done so in accordance with the underwriting guidelines established by it (collectively, the “New Century Underwriting Guidelines”). The following is a general summary of the New Century Underwriting Guidelines believed to be generally applied, with some variation, by the originator. This summary does not purport to be a complete description of the underwriting standards of New Century Mortgage Corporation.” (at S-31)
- (c) “The New Century Underwriting Guidelines require that mortgage loans be underwritten in a standardized procedure which complies with applicable federal and state laws and regulations and requires New Century Mortgage Corporation’s underwriters to be satisfied that the value of the property being financed, as indicated by an appraisal and a review of the appraisal, currently supports the outstanding loan balance.” (at S-32)
- (d) “Mortgage loans originated or acquired by Decision One, referred to in this section as the originator, were done so in accordance with the underwriting guidelines established by it (collectively, the “Decision One Underwriting Guidelines”). The following is a general summary of the Decision One Underwriting Guidelines believed to be generally applied, with some variation, by Decision One.” (at S-35)

2. Untrue or misleading statements about borrower’s ability to repay the loan:

- (a) “The New Century Underwriting Guidelines are primarily intended to assess the borrower’s ability to repay the mortgage loan, to assess the value of the mortgaged property and to evaluate the adequacy of the property as collateral for the mortgage loan.” (at S-30)
- (b) “The Decision One Underwriting Guidelines are primarily intended to assess the borrower’s ability to repay the mortgage loan, to assess the

value of the mortgaged property and to evaluate the adequacy of the property as collateral for the mortgage loan.” (at S-35)

3. Untrue or misleading statements about information evaluated in the loan application:

- (a) “While New Century Mortgage Corporation’s primary consideration in underwriting a mortgage loan is the value of the mortgaged property, New Century Mortgage Corporation also considers, among other things, a mortgagor’s credit history, repayment ability and debt service-to-income ratio, as well as the type and use of the mortgaged property.” (at S-30)
- (b) “Each applicant completes an application which includes information with respect to the applicant’s liabilities, income, credit history, employment history and personal information. The New Century Underwriting Guidelines require a credit report on each applicant from a credit reporting company. The report typically contains information relating to matters such as credit history with local and national merchants and lenders, installment debt payments and any record of defaults, bankruptcies, repossessions or judgments.” (at S-31-32)
- (c) “The mortgage loans were originated consistent with and generally conform to the New Century Underwriting Guidelines’ full documentation, limited documentation and stated income documentation residential loan programs. Under each of the programs, New Century Mortgage Corporation reviews the applicant’s source of income, calculates the amount of income from sources indicated on the loan application or similar documentation, reviews the credit history of the applicant, calculates the debt service-to-income ratio to determine the applicant’s ability to repay the loan, reviews the type and use of the property being financed, and reviews the property.” (at S-32)
- (d) “The New Century Underwriting Guidelines require that the income of each applicant for a mortgage loan under the full and limited documentation programs be verified. The specific income documentation required for New Century Mortgage Corporation’s various programs is as follows: under the full documentation program, applicants usually are required to submit one written form of verification from the employer of stable income for at least 12 months for salaried employees and 24 months for self-employed applicants or for any special program applicant with a credit score of less than 580; under the limited documentation program, applicants usually are required to submit verification of stable income for at least 6 months, such as 6 consecutive months of complete personal checking account bank statements. Under the stated income program, an applicant may be qualified based upon monthly income as stated on the mortgage loan application if the applicant meets certain criteria. All the foregoing programs require that, with respect to salaried employees, there

be a telephone verification of the applicant's employment. Verification of the source of funds, if any, required to be deposited by the applicant into escrow in the case of a purchase money loan is required." (at S-32)

- (e) "The mortgage loans were originated consistent with and generally conform to the Decision One Underwriting Guidelines' full documentation, limited documentation and stated income documentation residential loan programs. Under each of the programs, Decision One reviews the applicant's source of income, calculates the amount of income from sources indicated on the loan application or similar documentation, reviews the credit history of the applicant, calculates the debt service to income ratio to determine the applicant's ability to repay the loan, reviews the type and use of the property being financed, and reviews the property. The Decision One Underwriting Guidelines require that mortgage loans be underwritten in a standardized procedure which complies with applicable federal and state laws and regulations and requires Decision One's underwriters to be satisfied that the value of the property being financed, as indicated by an appraisal and a review of the appraisal, currently supports the outstanding loan balance." (at S-36)
- (f) "The Decision One Underwriting Guidelines require that the income of each applicant for a mortgage loan be verified. The income documentation required for Decision One's various programs is as follows: under the full documentation program, applicants are required to submit one form of verification from their employer(s) of stable income for at least 24 months; under the Bank Statement and Lite documentation programs, applicants are required to submit verification of stable income for at least 24 months along with consecutive and complete personal checking account bank statements; and under the stated income documentation program, an applicant may be qualified based upon monthly income as stated on the mortgage loan application/form 1003 if the applicant meets certain criteria. All the abovementioned programs require telephone verification of all the applicants' employment." (at S-36)

4. Untrue or misleading statements about evaluation of exceptions and compensating factors:

- (a) "The mortgage loans will have been originated in accordance with the New Century Underwriting Guidelines. On a case by case basis, exceptions to the New Century Underwriting Guidelines are made where compensating factors exist. It is expected that a substantial portion of the mortgage loans in the mortgage pool will represent these exceptions." (at S-31)
- (b) "On a case by case basis, it may be determined that an applicant warrants a debt service-to-income ratio exception, a pricing exception, a loan-to-value ratio exception, an exception from certain requirements of a

particular risk category, etc. An exception may be allowed if the application reflects compensating factors, such as: low loan-to-value ratio; pride of ownership; a maximum of one 30 day late payment on all mortgage loans during the last 12 months; and stable employment or ownership of current residence of four or more years. An exception may also be allowed if the applicant places a down payment through escrow of at least 20% of the purchase price of the mortgaged property or if the new loan reduces the applicant's monthly aggregate mortgage payment by 25% or more." (at S-34)

- (c) "The mortgage loans will have been originated in accordance with the Decision One Underwriting Guidelines. On a case by case basis, exceptions to the Decision One Underwriting Guidelines are made where compensating factors exist." (at S-36)
- (d) "Each applicant completes an application which includes information with respect to the applicant's liabilities, income, credit history, employment history and personal information. The Decision One Underwriting Guidelines require a credit report on each applicant from a credit reporting company. The report typically contains information relating to matters such as credit history with local and national merchants and lenders, installment debt payments and any record of defaults, bankruptcies, repossessions or judgments." (at S-36)
- (e) "On a case by case basis, it may be determined that an applicant warrants a debt service to income ratio exception, a pricing exception, a loan-to-value ratio exception, an exception from certain requirements of a particular risk category, etc. An exception may be allowed if the application reflects compensating factors, such as: low loan-to-value ratio, pride of ownership, a maximum of one 30-day late payment on all mortgage loans during the last 12 months, stable employment, and longevity of current residence ownership." (at S-37)

B. Untrue or misleading statements about owner-occupancy status

- 1. Defendants represented that the number of mortgage loans secured by properties used as primary residences in Supporting Loan Group 1 was 2,481 out of a total pool of 2611 loans (95.02%). (See III-34)

C. Untrue or misleading statements about LTV ratios

- 1. "Approximately 48.79% of the initial group I mortgage loans and approximately 42.28% of the initial group II had loan-to-value ratios at origination, or with respect to second-lien mortgage loans, combined loan-to-value ratios at origination, in excess of 80% but not more than 100% at origination." (at S-22)
- 2. "Approximately 44.35% of the Initial Mortgage Loans have loan-to-value ratios at origination, or with respect to second-lien mortgage loans, combined loan-to-

value ratios at origination, in excess of 80%. None of the Initial Mortgage Loans have loan-to-value ratios at origination, or with respect to second-lien mortgage loans, combined loan-to-value ratios at origination, in excess of 100%.” (at S-29)

3. “The weighted average loan-to-value ratio (or, with respect to second-lien mortgage loans, combined loan-to-value ratio) at origination of the group I mortgage loans is approximately 80.46% and approximately 48.79% of the group I Initial Mortgage Loans have loan-to-value ratios (or, with respect to second-lien mortgage loans, combined loan-to-value ratios) at origination exceeding 80%.” (at S-39)
4. “Mortgaged properties that are to secure mortgage loans are appraised by qualified independent appraisers. These appraisers inspect and appraise the subject property and verify that the property is in acceptable condition. Following each appraisal, the appraiser prepares a report which includes a market value analysis based on recent sales of comparable homes in the area, and when deemed appropriate, replacement cost analysis based on the current cost of constructing a similar home. All appraisals are required to conform to the Uniform Standards of Professional Appraisal Practice adopted by the Appraisal Standards Board of the Appraisal Foundation and are on forms acceptable to Fannie Mae and Freddie Mac. (at S-32)
5. “Mortgaged properties that are to secure mortgage loans are appraised by qualified independent appraisers. These appraisers inspect and appraise the subject property and verify that the property is in acceptable condition. Following each appraisal, the appraiser prepares a report which includes a market value analysis based on recent sales of comparable homes in the area, and when deemed appropriate, replacement cost analysis based on the current cost of constructing a similar home. All appraisals are required to conform to the Uniform Standards of Professional Appraisal Practice adopted by the Appraisal Standards Board of the Appraisal Foundation and are generally on forms acceptable to Fannie Mae and Freddie Mac.” (at S-36)

D. Untrue or misleading statements about credit ratings

1. Defendants represented that Certificates in the A1 tranche would be assigned a rating of not lower than the following by Moody’s Investor Service, Standard & Poor’s Ratings services, and Fitch, Inc., respectively: Aaa/AAA/AAA. (at S-14)

E. Additional untrue or misleading statements

1. Pursuant to the pooling and servicing agreement, each of NC Capital, Decision One and WMC, the responsible parties, will make representations and warranties with respect to each mortgage loan transferred by it as of the closing date (or an earlier date specified in the pooling and servicing agreement, which may be the cut-off date, the date on which the servicing of the mortgage loan was transferred

or the date on which MSMC purchased the mortgage loan from the applicable responsible party), including, but not limited to:

- (a) “(6) Any and all requirements of any federal, state or local law, including, without limitation, usury, truth-in-lending, real settlement procedures, consumer credit protection, equal credit opportunity, disclosure and all predatory and abusive lending laws applicable to the mortgage loan have been complied with, including, without limitation, any provisions therein relating to Prepayment Premiums. (at S-65)
- (b) (9) “The mortgage note and the mortgage and any other agreement executed and delivered by a mortgagor in connection with a mortgage loan are genuine, and each is the legal, valid and binding obligation of the signatory enforceable in accordance with its terms (including, without limitation, any provisions relating to Prepayment Premiums), subject to bankruptcy, equitable principles and laws affecting creditor rights generally. All parties to the mortgage note, the mortgage and any other such related agreement had legal capacity to enter into the mortgage loan and to execute and deliver the mortgage note, the mortgage and any such agreement, and the mortgage note, the mortgage and any other such related agreement have been duly and properly executed by other such related parties. No fraud, misrepresentation or similar occurrence or, to the responsible party’s knowledge, error, omission or negligence with respect to a mortgage loan has taken place on the part of any other person, including without limitation, the mortgagor, any appraiser, any builder or developer, or any other party involved in the origination of the mortgage loan;” (at S-66)
- (c) “(17) None of the mortgage loans is (a) covered by the Home Ownership and Equity Protection Act of 1994 or (b) classified as a “high cost home,” “threshold,” “covered,” “high risk home,” “predatory” or similar loan under any other applicable federal, state or local law (or a similarly classified loan using different terminology under a law imposing heightened regulatory scrutiny or additional legal liability for residential mortgage loans having high interest rates, points and/or fees) . . .” (at S-67)

2. “Pursuant to mortgage loan purchase and warranties agreements, NC Capital, Decision One and WMC sold the Initial Mortgage Loans, without recourse, to MSMC, and MSMC will sell and convey Initial Mortgage Loans, including all principal outstanding as of, and interest due and accruing on or after, the close of business on the cut-off date, without recourse, to the depositor on the closing date. Pursuant to the pooling and servicing agreement, the depositor will sell, without recourse, to the trust, all right, title and interest in and to each Initial Mortgage Loan, including all principal outstanding as of, and interest due on or after, the close of business on the cut-off date. Each such transfer will convey all right, title and interest in and to (a) principal outstanding as of the close of business on the

cut-off date (after giving effect to payments of principal due on that date, whether or not received) and (b) interest due and accrued on each such mortgage loan after the cut-off date. However, MSMC will not convey to the depositor, and will retain all of its right, title and interest in and to (x) principal due on each Initial Mortgage Loan on or prior to the cut-off date and principal prepayments in full and curtailments (i.e., partial prepayments) received on each such Initial Mortgage Loan prior to the cut-off date and (y) interest due and accrued on each mortgage loan on or prior to the cut-off date.” (at S-62.)

3. “Prior to acquiring any residential mortgage loans, MSMC conducts a review of the related mortgage loan seller that is based upon the credit quality of the selling institution. MSMC’s review process may include reviewing select financial information for credit and risk assessment and conducting an underwriting guideline review, senior level management discussion and/or background checks. The scope of the loan due diligence varies based on the credit quality of the mortgage loans. The underwriting guideline review entails a review of the mortgage loan origination processes and systems. In addition, such review may involve a consideration of corporate policy and procedures relating to state and federal predatory lending, origination practices by jurisdiction, historical loan level loss experience, quality control practices, significant litigation and/or material investors.” (at S-43)
4. “If so specified in the related prospectus supplement, the representations and warranties of a seller or originator in respect of a loan will be made not as of the cut-off date but as of the date on which the applicable originator sold the loan to the seller or the depositor or the applicable seller sold the loan to the depositor or one of its affiliates. Under those circumstances, a substantial period of time may have elapsed between the sale date and the date of initial issuance of the series of securities evidencing an interest in the loan. Since the representations and warranties of a seller or originator do not address events that may occur following the sale of a loan by that seller or originator, its repurchase obligation described in this prospectus will not arise if the relevant event that would otherwise have given rise to a repurchase obligation with respect to a loan occurs after the date of sale of the loan by the applicable originator or seller. However, the depositor will not include any loan in the trust fund for any series of securities if anything has come to the depositor’s attention that would cause it to believe that the representations and warranties of a seller or originator will not be accurate and complete in all material respects in respect of the loan as of the date of initial issuance of the related series of securities. If the master servicer is also a seller or originator of loans with respect to a particular series of securities, the representations will be in addition to the representations and warranties made by the master servicer in its capacity as a master servicer.” (Prospectus at 45)

VI. MSAC 2006-HE6

Misrepresentations in the prospectus supplement and/or prospectus filed September 22, 2006 for the MSAC 2006-HE6 Securitization

A. Untrue or misleading statements about underwriting guidelines

1. Untrue and misleading statements about conformity with underwriting guidelines:

- (a) “The mortgage loans were originated or acquired generally in accordance with the underwriting guidelines of the responsible parties.” (at S-26)
- (b) “The mortgage loans originated or acquired by New Century Mortgage Corporation, referred to in this section as the originator, were done so in accordance with the underwriting guidelines established by it (collectively, the “NEW CENTURY UNDERWRITING GUIDELINES”). The following is a general summary of the New Century Underwriting Guidelines believed to be generally applied, with some variation, by the originator. This summary does not purport to be a complete description of the underwriting standards of New Century Mortgage Corporation.” (at S-29)
- (c) “The mortgage loans have been either (i) originated generally in accordance with the underwriting guidelines established by WMC (collectively, the “WMC UNDERWRITING GUIDELINES”) or (ii) purchased by WMC after re-underwriting the mortgage loans generally in accordance with the WMC Underwriting Guidelines.” (at S-33)
- (d) “Mortgage loans originated or acquired by Decision One, referred to in this section as the originator, were done so in accordance with the underwriting guidelines established by it (collectively, the “DECISION ONE UNDERWRITING GUIDELINES”). The following is a general summary of the Decision One Underwriting Guidelines believed to be generally applied, with some variation, by Decision One.” (at S-44)

2. Untrue or misleading statements about borrower’s ability to repay the loan:

- (a) “The New Century Underwriting Guidelines are primarily intended to assess the borrower’s ability to repay the mortgage loan, to assess the value of the mortgaged property and to evaluate the adequacy of the property as collateral for the mortgage loan.” (at S-29)
- (b) “The WMC Underwriting Guidelines are primarily intended to (a) determine that the borrower has the ability to repay the mortgage loan in accordance with its terms and (b) determine that the related mortgaged property will provide sufficient value to recover the investment if the borrower defaults.” (at S-33)

- (c) “The Decision One Underwriting Guidelines are primarily intended to assess the borrower’s ability to repay the mortgage loan, to assess the value of the mortgaged property and to evaluate the adequacy of the property as collateral for the mortgage loan.” (at S-44)

3. Untrue or misleading statements about information evaluated in the loan application:

- (a) “New Century Mortgage Corporation also considers, among other things, a mortgagor’s credit history, repayment ability and debt service-to-income ratio, as well as the type and use of the mortgaged property.” (at S-29)
- (b) “Each applicant completes an application which includes information with respect to the applicant’s liabilities, income, credit history, employment history and personal information. The New Century Underwriting Guidelines require a credit report on each applicant from a credit reporting company. The report typically contains information relating to matters such as credit history with local and national merchants and lenders, installment debt payments and any record of defaults, bankruptcies, repossessions or judgments.” (at S-29)
- (c) “The mortgage loans were originated consistent with and generally conform to the New Century Underwriting Guidelines’ full documentation, limited documentation and stated income documentation residential loan programs. Under each of the programs, New Century Mortgage Corporation reviews the applicant’s source of income, calculates the amount of income from sources indicated on the loan application or similar documentation, reviews the credit history of the applicant, calculates the debt service-to-income ratio to determine the applicant’s ability to repay the loan, reviews the type and use of the property being financed, and reviews the property.” (at S-30)
- (d) “The New Century Underwriting Guidelines require that the income of each applicant for a mortgage loan under the full and limited documentation programs be verified. The specific income documentation required for New Century Mortgage Corporation’s various programs is as follows: under the full documentation program, applicants usually are required to submit one written form of verification from the employer of stable income for at least 12 months for salaried employees and 24 months for self-employed applicants or for any special program applicant with a credit score of less than 580; under the limited documentation program, applicants usually are required to submit verification of stable income for at least 6 months, such as 6 consecutive months of complete personal checking account bank statements. Under the stated income program, an applicant may be qualified based upon monthly income as stated on the mortgage loan application if the applicant meets certain criteria. All the foregoing programs require that, with respect to salaried employees, there

be a telephone verification of the applicant's employment. Verification of the source of funds, if any, required to be deposited by the applicant into escrow in the case of a purchase money loan is required." (at S-30)

- (e) "Under the WMC Underwriting Guidelines, WMC verifies the loan applicant's eligible sources of income for all products, calculates the amount of income from eligible sources indicated on the loan application, reviews the credit and mortgage payment history of the applicant and calculates the Debt Ratio to determine the applicant's ability to repay the loan, and reviews the mortgaged property for compliance with the WMC Underwriting Guidelines." (at S-33)
- (f) "All mortgage loans originated or purchased under the WMC Underwriting Guidelines are based on loan application packages submitted through mortgage brokerage companies or on loan files (which include loan application documentation) submitted by correspondents." (at S-34)
- (g) "Each applicant completes an application which includes information with respect to the applicant's liabilities, income, credit history, employment history and personal information. The Decision One Underwriting Guidelines require a credit report on each applicant from a credit reporting company. The report typically contains information relating to matters such as credit history with local and national merchants and lenders, installment debt payments and any record of defaults, bankruptcies, repossessions or judgments." (at S-44-45)
- (h) "The Decision One Underwriting Guidelines require that the income of each applicant for a mortgage loan be verified. The income documentation required for Decision One's various programs is as follows: under the full documentation program, applicants are required to submit one form of verification from their employer(s) of stable income for at least 24 months; under the Bank Statement and Lite documentation programs, applicants are required to submit verification of stable income for at least 24 months along with consecutive and complete personal checking account bank statements; and under the stated income documentation program, an applicant may be qualified based upon monthly income as stated on the mortgage loan application/form 1003 if the applicant meets certain criteria. All the abovementioned programs require telephone verification of all the applicants' employment" (at S-45)

4. Untrue or misleading statements about evaluation of exceptions and compensating factors:

- (a) "The mortgage loans will have been originated in accordance with the New Century Underwriting Guidelines. On a case by case basis, exceptions to the New Century Underwriting Guidelines are made where compensating factors exist. It is expected that a substantial portion of the

mortgage loans in the mortgage pool will represent these exceptions.” (at S-29)

- (b) “On a case by case basis, it may be determined that an applicant warrants a debt service-to-income ratio exception, a pricing exception, a loan-to-value ratio exception, an exception from certain requirements of a particular risk category, etc. An exception may be allowed if the application reflects compensating factors, such as: low loan-to-value ratio; pride of ownership; a maximum of one 30 day late payment on all mortgage loans during the last 12 months; and stable employment or ownership of current residence of four or more years. An exception may also be allowed if the applicant places a down payment through escrow of at least 20% of the purchase price of the mortgaged property or if the new loan reduces the applicant’s monthly aggregate mortgage payment by 25% or more.” (at S-33)
- (c) “On a case-by-case basis WMC may determine that, based upon compensating factors, a prospective mortgagor not strictly qualifying under the underwriting risk category or other guidelines described below warrants an underwriting exception. Compensating factors may include, but are not limited to, low debt-to-income ratio (“**Debt Ratio**”), good mortgage payment history, an abundance of cash reserves, excess disposable income, stable employment and time in residence at the applicant’s current address. It is expected that a substantial number of the mortgage loans to be included in the trust will represent such underwriting exceptions.” (at S-33)
- (d) ““The mortgage loans will have been originated in accordance with the Decision One Underwriting Guidelines. On a case by case basis, exceptions to the Decision One Underwriting Guidelines are made where compensating factors exist.” (at S-44)

B. Untrue or misleading statements about owner-occupancy status

- 1. Defendants represented that the number of mortgage loans secured by properties used as primary residences in Supporting Loan Group 1 was 2,142 out of a total pool of 2,445 loans (87.61%). (See III-34)

C. Untrue or misleading statements about LTV ratios

- 1. “Approximately 36.96% of the mortgage loans have loan-to-value ratios at origination, or with respect to second-lien mortgage loans, combined loan-to-value ratios at origination, in excess of 80%. None of the mortgage loans have loan-to-value ratios at origination, or with respect to second-lien mortgage loans, combined loan-to-value ratios at origination, in excess of 100%.” (at S-26-27)
- 2. The weighted average loan-to-value ratio (or, with respect to second-lien mortgage loans, combined loan-to-value ratio) at origination of the group I

mortgage loans is approximately 79.56% and approximately 37.80% of the group I mortgage loans have loan-to-value ratios (or, with respect to second-lien mortgage loans, combined loan-to-value ratios) at origination exceeding 80%.” (at S-48)

3. “Mortgaged properties that are to secure mortgage loans are appraised by qualified independent appraisers. These appraisers inspect and appraise the subject property and verify that the property is in acceptable condition. Following each appraisal, the appraiser prepares a report which includes a market value analysis based on recent sales of comparable homes in the area, and when deemed appropriate, replacement cost analysis based on the current cost of constructing a similar home. All appraisals are required to conform to the Uniform Standards of Professional Appraisal Practice adopted by the Appraisal Standards Board of the Appraisal Foundation and are on forms acceptable to Fannie Mae and Freddie Mac.” (at S-28)
4. “The WMC Underwriting Guidelines are applied in accordance with a procedure which complies with applicable federal and state laws and regulations and requires, among other things, (1) an appraisal of the mortgaged property which conforms to Uniform Standards of Professional Appraisal Practice and (2) an audit of such appraisal by a WMC-approved appraiser or by WMC’s in-house collateral auditors (who may be licensed appraisers) and such audit may in certain circumstances consist of a second appraisal, a field review, a desk review or an automated valuation model.” (at S-33)
5. “Mortgaged properties that are to secure mortgage loans are appraised by qualified independent appraisers. These appraisers inspect and appraise the subject property and verify that the property is in acceptable condition. Following each appraisal, the appraiser prepares a report which includes a market value analysis based on recent sales of comparable homes in the area, and when deemed appropriate, replacement cost analysis based on the current cost of constructing a similar home. All appraisals are required to conform to the Uniform Standards of Professional Appraisal Practice adopted by the Appraisal Standards Board of the Appraisal Foundation and are on forms acceptable to Fannie Mae and Freddie Mac” (at S-45)

D. Untrue or misleading statements about credit ratings

1. Defendants represented that Certificates in the A1 tranche would be assigned a rating of not lower than the following by Moody’s Investor Service, Standard & Poor’s Ratings services, and Fitch, Inc., respectively: Aaa/AAA/AAA. (at S-13)

E. Additional untrue or misleading statements

1. “Pursuant to the pooling and servicing agreement, each of NC Capital, WMC and Decision One, the responsible parties, will make representations and warranties with respect to each mortgage loan transferred by it as of the closing date (or an

earlier date specified in the pooling and servicing agreement, which may be the cut-off date, the date on which the servicing of the mortgage loan was transferred or the date on which MSMC purchased the mortgage loan from the applicable responsible party), including, but not limited to:

- (a) “(6) Any and all requirements of any federal, state or local law, including, without limitation, usury, truth-in-lending, real settlement procedures, consumer credit protection, equal credit opportunity, disclosure and all predatory and abusive lending laws applicable to the mortgage loan have been complied with, including, without limitation, any provisions therein relating to Prepayment Premiums; (at S-67)
- (b) (9) “The mortgage note and the mortgage and any other agreement executed and delivered by a mortgagor in connection with a mortgage loan are genuine, and each is the legal, valid and binding obligation of the signatory enforceable in accordance with its terms (including, without limitation, any provisions relating to Prepayment Premiums), subject to bankruptcy, equitable principles and laws affecting creditor rights generally. All parties to the mortgage note, the mortgage and any other such related agreement had legal capacity to enter into the mortgage loan and to execute and deliver the mortgage note, the mortgage and any such agreement, and the mortgage note, the mortgage and any other such related agreement have been duly and properly executed by other such related parties. No fraud, misrepresentation or similar occurrence or, to the responsible party’s knowledge, error, omission or negligence with respect to a mortgage loan has taken place on the part of any other person, including without limitation, the mortgagor, any appraiser, any builder or developer, or any other party involved in the origination of the mortgage loan;” (at S-67-68)
- (c) “(17) None of the mortgage loans is (a) covered by the Home Ownership and Equity Protection Act of 1994 or (b) classified as a “high cost home,” “threshold,” “covered,” “high risk home,” “predatory” or similar loan under any other applicable federal, state or local law (or a similarly classified loan using different terminology under a law imposing heightened regulatory scrutiny or additional legal liability for residential mortgage loans having high interest rates, points and/or fees) . . .” (at S-69)

2. “Pursuant to mortgage loan purchase and warranties agreements, NC Capital, WMC and Decision One sold the mortgage loans, without recourse, to MSMC, and MSMC will sell and convey mortgage loans, including all principal outstanding as of, and interest due and accruing on or after, the close of business on the cut-off date, without recourse, to the depositor on the closing date. Pursuant to the pooling and servicing agreement, the depositor will sell, without recourse, to the trust, all right, title and interest in and to each mortgage loan, including all principal outstanding as of, and interest due on or after, the close of

business on the cut-off date. Each such transfer will convey all right, title and interest in and to (a) principal outstanding as of the close of business on the cut-off date (after giving effect to payments of principal due on or prior to that date, whether or not received) and (b) interest due and accrued on each such mortgage loan after the cut-off date (or, if the due date for a mortgage loan is other than on the first day of the month, after the due date immediately preceding the cut-off date). However, MSMC will not convey to the depositor, and will retain all of its right, title and interest in and to (x) principal due on each mortgage loan on or prior to the cut-off date and principal prepayments in full and curtailments (i.e., partial prepayments) received on each such mortgage loan prior to the cut-off date and (y) interest due and accrued on each mortgage loan on or prior to the cut-off date (or, if the due date for a mortgage loan is other than on the first day of the month, on or prior to the due date immediately preceding the cut-off date)." (at S-65.)

3. "Prior to acquiring any residential mortgage loans, MSMC conducts a review of the related mortgage loan seller that is based upon the credit quality of the selling institution. MSMC's review process may include reviewing select financial information for credit and risk assessment and conducting an underwriting guideline review, senior level management discussion and/or background checks. The scope of the loan due diligence varies based on the credit quality of the mortgage loans. The underwriting guideline review entails a review of the mortgage loan origination processes and systems. In addition, such review may involve a consideration of corporate policy and procedures relating to state and federal predatory lending, origination practices by jurisdiction, historical loan level loss experience, quality control practices, significant litigation and/or material investors." (at S-51)
4. "If so specified in the related prospectus supplement, the representations and warranties of a seller or originator in respect of a loan will be made not as of the cut-off date but as of the date on which the applicable originator sold the loan to the seller or the depositor or the applicable seller sold the loan to the depositor or one of its affiliates. Under those circumstances, a substantial period of time may have elapsed between the sale date and the date of initial issuance of the series of securities evidencing an interest in the loan. Since the representations and warranties of a seller or originator do not address events that may occur following the sale of a loan by that seller or originator, its repurchase obligation described in this prospectus will not arise if the relevant event that would otherwise have given rise to a repurchase obligation with respect to a loan occurs after the date of sale of the loan by the applicable originator or seller. However, the depositor will not include any loan in the trust fund for any series of securities if anything has come to the depositor's attention that would cause it to believe that the representations and warranties of a seller or originator will not be accurate and complete in all material respects in respect of the loan as of the date of initial issuance of the related series of securities. If the master servicer is also a seller or originator of loans with respect to a particular series of securities, the representations will be in

addition to the representations and warranties made by the master servicer in its capacity as a master servicer.” (Prospectus at 44)

VII. MSAC 2006-HE8

Misrepresentations in the prospectus supplement and/or prospectus filed November 22, 2006 for the MSAC 2006-HE8 Securitization

A. Untrue or misleading statements about underwriting guidelines

1. Untrue and misleading statements about conformity with underwriting guidelines:

- (a) “The mortgage loans were originated or acquired generally in accordance with the underwriting guidelines of the responsible parties.” (at S-28)
- (b) “The mortgage loans originated or acquired by New Century, referred to in this section as the originator, were done so in accordance with the underwriting guidelines established by it (collectively, the “New Century Underwriting Guidelines”). The following is a general summary of the New Century Underwriting Guidelines believed to be generally applied, with some variation, by the originator. This summary does not purport to be a complete description of the underwriting standards of New Century Mortgage Corporation.” (at S-31)
- (c) “The New Century Underwriting Guidelines require that mortgage loans be underwritten in a standardized procedure which complies with applicable federal and state laws and regulations and requires New Century’s underwriters to be satisfied that the value of the property being financed, as indicated by an appraisal and a review of the appraisal, currently supports the outstanding loan balance.” (at S-32)
- (d) “Mortgage loans originated or acquired by Decision One, referred to in this section as the originator, were done so in accordance with the underwriting guidelines established by it (collectively, the “Decision One Underwriting Guidelines”). The following is a general summary of the Decision One Underwriting Guidelines believed to be generally applied, with some variation, by Decision One.” (at S-35)
- (e) “The Decision One Underwriting Guidelines require that mortgage loans be underwritten in a standardized procedure which complies with applicable federal and state laws and regulations and requires Decision One’s underwriters to be satisfied that the value of the property being financed, as indicated by an appraisal and a review of the appraisal, currently supports the outstanding loan balance.” (at S-36)

2. Untrue or misleading statements about borrower’s ability to repay the loan:

- (a) “The New Century Underwriting Guidelines are primarily intended to assess the borrower’s ability to repay the mortgage loan, to assess the

value of the mortgaged property and to evaluate the adequacy of the property as collateral for the mortgage loan.” (at S-31)

- (b) “The Decision One Underwriting Guidelines are primarily intended to assess the borrower’s ability to repay the mortgage loan, to assess the value of the mortgaged property and to evaluate the adequacy of the property as collateral for the mortgage loan.” (at S-35)

3. Untrue or misleading statements about information evaluated in the loan application:

- (a) “Each applicant completes an application which includes information with respect to the applicant’s liabilities, income, credit history, employment history and personal information. The New Century Underwriting Guidelines require a credit report on each applicant from a credit reporting company. The report typically contains information relating to matters such as credit history with local and national merchants and lenders, installment debt payments and any record of defaults, bankruptcies, repossessions or judgments.” (at S- 31)
- (b) “New Century also considers, among other things, a mortgagor’s credit history, repayment ability and debt service-to-income ratio, as well as the type and use of the mortgaged property.” (at S-31)
- (c) “The mortgage loans were originated consistent with and generally conform to the New Century Underwriting Guidelines’ full documentation, limited documentation and stated income documentation residential loan programs. Under each of the programs, New Century reviews the applicant’s source of income, calculates the amount of income from sources indicated on the loan application or similar documentation, reviews the credit history of the applicant, calculates the debt service-to-income ratio to determine the applicant’s ability to repay the loan, reviews the type and use of the property being financed, and reviews the property.” (at S-32)
- (d) “The New Century Underwriting Guidelines require that mortgage loans be underwritten in a standardized procedure which complies with applicable federal and state laws and regulations and requires New Century’s underwriters to be satisfied that the value of the property being financed, as indicated by an appraisal and a review of the appraisal, currently supports the outstanding loan balance.” (at S-32)
- (e) “The New Century Underwriting Guidelines require that the income of each applicant for a mortgage loan under the full and limited documentation programs be verified. The specific income documentation required for New Century Mortgage Corporation’s various programs is as follows: under the full documentation program, applicants usually are

required to submit one written form of verification from the employer of stable income for at least 12 months for salaried employees and 24 months for self-employed applicants or for any special program applicant with a credit score of less than 580; under the limited documentation program, applicants usually are required to submit verification of stable income for at least 6 months, such as 6 consecutive months of complete personal checking account bank statements. Under the stated income program, an applicant may be qualified based upon monthly income as stated on the mortgage loan application if the applicant meets certain criteria. All the foregoing programs require that, with respect to salaried employees, there be a telephone verification of the applicant's employment. Verification of the source of funds, if any, required to be deposited by the applicant into escrow in the case of a purchase money loan is required." (at S-32)

- (f) "Each applicant completes an application which includes information with respect to the applicant's liabilities, income, credit history, employment history and personal information. The Decision One Underwriting Guidelines require a credit report on each applicant from a credit reporting company. The report typically contains information relating to matters such as credit history with local and national merchants and lenders, installment debt payments and any record of defaults, bankruptcies, repossessions or judgments." (at S-34)
- (g) "The mortgage loans were originated consistent with and generally conform to the Decision One Underwriting Guidelines' full documentation, limited documentation and stated income documentation residential loan programs. Under each of the programs, Decision One reviews the applicant's source of income, calculates the amount of income from sources indicated on the loan application or similar documentation, reviews the credit history of the applicant, calculates the debt service to income ratio to determine the applicant's ability to repay the loan, reviews the type and use of the property being financed, and reviews the property." (at S-36)
- (h) "The Decision One Underwriting Guidelines require that the income of each applicant for a mortgage loan be verified. The income documentation required for Decision One's various programs is as follows: under the full documentation program, applicants are required to submit one form of verification from their employer(s) of stable income for at least 24 months; under the Bank Statement and Lite documentation programs, applicants are required to submit verification of stable income for at least 24 months along with consecutive and complete personal checking account bank statements; and under the stated income documentation program, an applicant may be qualified based upon monthly income as stated on the mortgage loan application/form 1003 if the applicant meets certain criteria. All the abovementioned programs require telephone verification of all the applicants' employment." (at S-36)

4. Untrue or misleading statements about evaluation of exceptions and compensating factors:

- (a) "The mortgage loans will have been originated in accordance with the New Century Underwriting Guidelines. On a case by case basis, exceptions to the New Century Underwriting Guidelines are made where compensating factors exist. It is expected that a substantial portion of the mortgage loans in the mortgage pool will represent these exceptions." (at S-31)
- (b) "On a case by case basis, it may be determined that an applicant warrants a debt service-to-income ratio exception, a pricing exception, a loan-to-value ratio exception, an exception from certain requirements of a particular risk category, etc. An exception may be allowed if the application reflects compensating factors, such as: low loan-to-value ratio; pride of ownership; a maximum of one 30 day late payment on all mortgage loans during the last 12 months; and stable employment or ownership of current residence of four or more years. An exception may also be allowed if the applicant places a down payment through escrow of at least 20% of the purchase price of the mortgaged property or if the new loan reduces the applicant's monthly aggregate mortgage payment by 25% or more." (at S-35)
- (c) "The mortgage loans will have been originated in accordance with the Decision One Underwriting Guidelines. On a case by case basis, exceptions to the Decision One Underwriting Guidelines are made where compensating factors exist." (at S-35)
- (d) "On a case by case basis, it may be determined that an applicant warrants a debt service to income ratio exception, a pricing exception, a loan-to-value ratio exception, an exception from certain requirements of a particular risk category, etc. An exception may be allowed if the application reflects compensating factors, such as: low loan-to-value ratio, pride of ownership, a maximum of one 30-day late payment on all mortgage loans during the last 12 months, stable employment, and longevity of current residence ownership." (at S-37)

B. Untrue or misleading statements about owner-occupancy status

- 1. Defendants represented that the number of mortgage loans secured by properties used as primary residences in Supporting Loan Group 1 was 1,263 out of a total pool of 1,372 loans (92.06%). (See IV-34)

C. Untrue or misleading statements about LTV ratios

- 1. "Approximately 43.76% of the group I mortgage loans and approximately 42.52% of the group II had loan-to-value ratios at origination, or with respect to second-

lien mortgage loans, combined loan-to-value ratios at origination, in excess of 80% but not more than 100% at origination.” (at S-23)

2. “Approximately 42.76% of the mortgage loans have loan-to-value ratios at origination, or with respect to second-lien mortgage loans, combined loan-to-value ratios at origination, in excess of 80%. None of the mortgage loans have loan-to-value ratios at origination, or with respect to second-lien mortgage loans, combined loan-to-value ratios at origination, in excess of 100%.” (at S-28-29)
3. “The weighted average loan-to-value ratio (or, with respect to second-lien mortgage loans, combined loan-to-value ratio) at origination of the group I mortgage loans is approximately 78.09% and approximately 43.76% of the group I mortgage loans have loan-to-value ratios (or, with respect to second-lien mortgage loans, combined loan-to-value ratios) at origination exceeding 80%.” (at S-39)
4. “Mortgaged properties that are to secure mortgage loans are appraised by qualified independent appraisers. These appraisers inspect and appraise the subject property and verify that the property is in acceptable condition. Following each appraisal, the appraiser prepares a report which includes a market value analysis based on recent sales of comparable homes in the area, and when deemed appropriate, replacement cost analysis based on the current cost of constructing a similar home. All appraisals are required to conform to the Uniform Standards of Professional Appraisal Practice adopted by the Appraisal Standards Board of the Appraisal Foundation and are on forms acceptable to Fannie Mae and Freddie Mac.” (at S-31)
5. “Mortgaged properties that are to secure mortgage loans are appraised by qualified independent appraisers. These appraisers inspect and appraise the subject property and verify that the property is in acceptable condition. Following each appraisal, the appraiser prepares a report which includes a market value analysis based on recent sales of comparable homes in the area, and when deemed appropriate, replacement cost analysis based on the current cost of constructing a similar home. All appraisals are required to conform to the Uniform Standards of Professional Appraisal Practice adopted by the Appraisal Standards Board of the Appraisal Foundation and are generally on forms acceptable to Fannie Mae and Freddie Mac.” (at S-35-36)

D. Untrue or misleading statements about credit ratings

1. Defendants represented that Certificates in the A1 tranche would be assigned a rating of not lower than the following by Moody’s Investor Service, Standard & Poor’s Ratings services, and Fitch, Inc., respectively: Aaa/AAA/--. (at S-14)

E. Additional untrue or misleading statements

1. “Pursuant to the pooling and servicing agreement, each of NC Capital, Decision One and WMC, the responsible parties, will make representations and warranties

with respect to each mortgage loan transferred by it as of the closing date (or an earlier date specified in the pooling and servicing agreement, which may be the cut-off date, the date on which the servicing of the mortgage loan was transferred or the date on which MSMC purchased the mortgage loan from the applicable responsible party), including, but not limited to:

- (a) “(6) Any and all requirements of any federal, state or local law, including, without limitation, usury, truth-in-lending, real settlement procedures, consumer credit protection, equal credit opportunity, disclosure and all predatory and abusive lending laws applicable to the mortgage loan have been complied with, including, without limitation, any provisions therein relating to Prepayment Premiums; (at S-62)
 - (b) (9) “The mortgage note and the mortgage and any other agreement executed and delivered by a mortgagor in connection with a mortgage loan are genuine, and each is the legal, valid and binding obligation of the signatory enforceable in accordance with its terms (including, without limitation, any provisions relating to Prepayment Premiums), subject to bankruptcy, equitable principles and laws affecting creditor rights generally. All parties to the mortgage note, the mortgage and any other such related agreement had legal capacity to enter into the mortgage loan and to execute and deliver the mortgage note, the mortgage and any such agreement, and the mortgage note, the mortgage and any other such related agreement have been duly and properly executed by other such related parties. No fraud, misrepresentation or similar occurrence or, to the responsible party’s knowledge, error, omission or negligence with respect to a mortgage loan has taken place on the part of any other person, including without limitation, the mortgagor, any appraiser, any builder or developer, or any other party involved in the origination of the mortgage loan;” (at S-63)
 - (c) “(17) None of the mortgage loans is (a) covered by the Home Ownership and Equity Protection Act of 1994 or (b) classified as a “high cost home,” “threshold,” “covered,” “high risk home,” “predatory” or similar loan under any other applicable federal, state or local law (or a similarly classified loan using different terminology under a law imposing heightened regulatory scrutiny or additional legal liability for residential mortgage loans having high interest rates, points and/or fees) . . .” (at S-64)
2. “Pursuant to mortgage loan purchase and warranties agreements between the applicable responsible party and MSMC (with respect to each responsible party, the “Original Seller Agreement”), NC Capital, Decision One and WMC sold the mortgage loans, without recourse, to MSMC, and MSMC will sell and convey mortgage loans, including all principal outstanding as of, and interest due and accruing on or after, the close of business on the cut-off date, without recourse, to the depositor on the closing date. Pursuant to the pooling and servicing

agreement, the depositor will sell, without recourse, to the trust, all right, title and interest in and to each mortgage loan, including all principal outstanding as of, and interest due on or after, the close of business on the cut-off date. Each such transfer will convey all right, title and interest in and to (a) principal outstanding as of the close of business on the cut-off date (after giving effect to payments of principal due on or prior to that date, whether or not received) and (b) interest due and accrued on each such mortgage loan after the cut-off date (or, if the due date for a mortgage loan is other than on the first day of the month, after the due date immediately preceding the cut-off date). However, MSMC will not convey to the depositor, and will retain all of its right, title and interest in and to (x) principal due on each mortgage loan on or prior to the cut-off date and principal prepayments in full and curtailments (i.e., partial prepayments) received on each such mortgage loan prior to the cut-off date and (y) interest due and accrued on each mortgage loan on or prior to the cut-off date (or, if the due date for a mortgage loan is other than on the first day of the month, on or prior to the due date immediately preceding the cut-off date)." (at S-60.)

3. "Prior to acquiring any residential mortgage loans, MSMC conducts a review of the related mortgage loan seller that is based upon the credit quality of the selling institution. MSMC's review process may include reviewing select financial information for credit and risk assessment and conducting an underwriting guideline review, senior level management discussion and/or background checks. The scope of the loan due diligence varies based on the credit quality of the mortgage loans. The underwriting guideline review entails a review of the mortgage loan origination processes and systems. In addition, such review may involve a consideration of corporate policy and procedures relating to state and federal predatory lending, origination practices by jurisdiction, historical loan level loss experience, quality control practices, significant litigation and/or material investors." (at S-42)
4. "If so specified in the related prospectus supplement, the representations and warranties of a seller or originator in respect of a loan will be made not as of the cut-off date but as of the date on which the applicable originator sold the loan to the seller or the depositor or the applicable seller sold the loan to the depositor or one of its affiliates. Under those circumstances, a substantial period of time may have elapsed between the sale date and the date of initial issuance of the series of securities evidencing an interest in the loan. Since the representations and warranties of a seller or originator do not address events that may occur following the sale of a loan by that seller or originator, its repurchase obligation described in this prospectus will not arise if the relevant event that would otherwise have given rise to a repurchase obligation with respect to a loan occurs after the date of sale of the loan by the applicable originator or seller. However, the depositor will not include any loan in the trust fund for any series of securities if anything has come to the depositor's attention that would cause it to believe that the representations and warranties of a seller or originator will not be accurate and complete in all material respects in respect of the loan as of the date of initial issuance of the related series of securities. If the master servicer is also a seller or originator of

loans with respect to a particular series of securities, the representations will be in addition to the representations and warranties made by the master servicer in its capacity as a master servicer.” (Prospectus at 45)

VIII. MSAC 2006-NC2

Misrepresentations in the prospectus supplement and/or prospectus filed March 30, 2006 for the MSAC 2006-NC2 Securitization

A. Untrue or misleading statements about underwriting guidelines

1. Untrue and misleading statements about conformity with underwriting guidelines:

- (a) The mortgage loans originated or acquired by New Century Mortgage Corporation, referred to in this section as the originator, were done so in accordance with the underwriting guidelines established by it (collectively, the "New Century Underwriting Guidelines"). The following is a general summary of the New Century Underwriting Guidelines believed to be generally applied, with some variation, by the originator. This summary does not purport to be a complete description of the underwriting standards of New Century Mortgage Corporation." (at S-27)

2. Untrue or misleading statements about borrower's ability to repay the loan:

- (a) "The New Century Underwriting Guidelines are primarily intended to assess the borrower's ability to repay the mortgage loan, to assess the value of the mortgaged property and to evaluate the adequacy of the property as collateral for the mortgage loan." (at S-27-28)

3. Untrue or misleading statements about information evaluated in the loan application:

- (a) "Each applicant completes an application which includes information with respect to the applicant's liabilities, income, credit history, employment history and personal information. The New Century Underwriting Guidelines require a credit report on each applicant from a credit reporting company. The report typically contains information relating to matters such as credit history with local and national merchants and lenders, installment debt payments and any record of defaults, bankruptcies, repossessions or judgments." (at S-28)
- (b) "The mortgage loans were originated consistent with and generally conform to the New Century Underwriting Guidelines' full documentation, limited documentation and stated income documentation residential loan programs. Under each of the programs, the New Century Mortgage Corporation reviews the applicant's source of income, calculates the amount of income from sources indicated on the loan application or similar documentation, reviews the credit history of the applicant, calculates the debt service-to-income ratio to determine the applicant's ability to repay the loan, reviews the type and use of the property being financed, and reviews the property. In determining the

ability of the applicant to repay the loan, a qualifying rate has been created under the New Century Underwriting Guidelines that generally is equal to the interest rate on that loan. The New Century Underwriting Guidelines require that mortgage loans be underwritten in a standardized procedure which complies with applicable federal and state laws and regulations and requires the New Century Mortgage Corporation's underwriters to be satisfied that the value of the property being financed, as indicated by an appraisal and a review of the appraisal, currently supports the outstanding loan balance." (at S-28)

- (c) "The New Century Underwriting Guidelines require that the income of each applicant for a mortgage loan under the full and limited documentation programs be verified. The specific income documentation required for New Century Mortgage Corporation's various programs is as follows: under the full documentation program, applicants usually are required to submit one written form of verification from the employer of stable income for at least 12 months for salaried employees and 24 months for self-employed applicants or for any special program applicant with a credit score of less than 580; under the limited documentation program, applicants usually are required to submit verification of stable income for at least 6 months, such as 6 consecutive months of complete personal checking account bank statements. Under the stated income program, an applicant may be qualified based upon monthly income as stated on the mortgage loan application if the applicant meets certain criteria. All the foregoing programs require that, with respect to salaried employees, there be a telephone verification of the applicant's employment. Verification of the source of funds, if any, required to be deposited by the applicant into escrow in the case of a purchase money loan is required." (at S-29)

4. Untrue or misleading statements about evaluation of exceptions and compensating factors:

- (a) "The mortgage loans will have been originated in accordance with the New Century Underwriting Guidelines. On a case by case basis, exceptions to the New Century underwriting Guidelines are made where compensating factors exist. It is expected that a substantial portion of the mortgage loans in the mortgage pool will represent these exceptions." (at S-28)
- (b) "On a case by case basis, it may be determined that an applicant warrants a debt service-to-income ratio exception, a pricing exception, a loan-to-value ratio exception, an exception from certain requirements of a particular risk category, etc. An exception may be allowed if the application reflects compensating factors, such as: low loan-to-value ratio; pride of ownership; a maximum of one 30 day late payment on all mortgage loans during the last 12 months; and stable employment or ownership of current residence of four or more years. An exception may

also be allowed if the applicant places a down payment through escrow of at least 20% of the purchase price of the mortgaged property or if the new loan reduces the applicant's monthly aggregate mortgage payment by 25% or more." (at S-31)

B. Untrue or misleading statements about owner-occupancy status

1. Defendants represented that the number of mortgage loans secured by properties used as primary residences in Supporting Loan Group 1 was 2,497 out of a total pool of 2,893 loans (86.21%). (See III-30)

C. Untrue or misleading statements about LTV ratios

1. "Approximately 42.87% and approximately 34.94% of the group I mortgage loans and group II mortgage loans, respectively, had loan-to-value ratios at origination, or with respect to second-lien mortgage loans, combined loan-to-value ratios at origination, in excess of 80% but not more than 100% at origination." (at S-20)
2. "Approximately 37.93% of the mortgage loans have loan-to-value ratios at origination, or with respect to second-lien mortgage loans, combined loan-to-value ratios at origination, in excess of 80%. None of the mortgage loans have loan-to-value ratios at origination, or with respect to second-lien mortgage loans, combined loan-to-value ratios at origination, in excess of 100%." (at S-25)
3. "The weighted average loan-to-value ratio (or, with respect to second-lien mortgage loans, combined loan-to-value ratio) at origination of the group I mortgage loans is approximately 78.91% and approximately 42.87% of the group I mortgage loans have loan-to-value ratios (or, with respect to second-lien mortgage loans, combined loan-to-value ratios) at origination exceeding 80.00%." (at S-30)
4. "Mortgaged properties that are to secure mortgage loans generally are appraised by qualified independent appraisers. These appraisers inspect and appraise the subject property and verify that the property is in acceptable condition. Following each appraisal, the appraiser prepares a report which includes a market value analysis based on recent sales of comparable homes in the area, and when deemed appropriate, replacement cost analysis based on the current cost of constructing a similar home. All appraisals are required to conform to the Uniform Standards of Professional Appraisal Practice adopted by the Appraisal Standards Board of the Appraisal Foundation and are generally on forms acceptable to Fannie Mae and Freddie Mac." (at S-28)

D. Untrue or misleading statements about credit ratings

1. Defendants represented that Certificates in the A1 tranche would be assigned a rating of not lower than the following by Moody's Investor Service, Standard & Poor's Ratings services, and Fitch, Inc., respectively: Aaa/AAA/AAA. (at S-12)

E. Additional untrue or misleading statements

1. "NC Capital has represented or will represent with respect to each mortgage loan sold by it that none of the group I mortgage loans sold by it is (a) covered by the Home Ownership and Equity Protection Act of 1994 or (b) classified as a "high cost home," "threshold," "covered," "high risk home" or "predatory" loan under any other applicable federal, state or local law" (at S-32)
2. "Pursuant to the pooling and servicing agreement, NC Capital, the responsible party, will make representations and warranties with respect to each mortgage loan, as of the closing date, including, but not limited to: (1) Except with respect to the Delinquent mortgage loans described under "The Mortgage Loan Pool--General" in
 - (a) "(6) Any and all requirements of any federal, state or local law, including, without limitation, usury, truth-in-lending, real settlement procedures, consumer credit protection, equal credit opportunity, disclosure and all predatory and abusive lending laws applicable to the mortgage loan have been complied with, including, without limitation, any provisions therein relating to Prepayment Premiums, and the consummation of the transactions contemplated by the pooling and servicing agreement will not involve the violation of any such laws or regulations; (at S-48)
 - (b) (9) "The mortgage note and the mortgage and any other agreement executed and delivered by a mortgagor in connection with a mortgage loan are genuine, and each is the legal, valid and binding obligation of the signatory enforceable in accordance with its terms (including, without limitation, any provisions relating to Prepayment Premiums), subject to bankruptcy, equitable principles and laws affecting creditor rights generally. All parties to the mortgage note, the mortgage and any other such related agreement had legal capacity to enter into the mortgage loan and to execute and deliver the mortgage note, the mortgage and any such agreement, and the mortgage note, the mortgage and any other such related agreement have been duly and properly executed by other such related parties. No fraud, misrepresentation or similar occurrence or, to the responsible party's knowledge, error, omission or negligence with respect to a mortgage loan has taken place on the part of any other person, including without limitation, the mortgagor, any appraiser, any builder or developer, or any other party involved in the origination of the mortgage loan;" (at S-49)
 - (c) "(17) None of the mortgage loans is (a) covered by the Home Ownership and Equity Protection Act of 1994 or (b) classified as a "high cost home," "threshold," "covered," "high risk home," "predatory" or similar loan under any other applicable federal, state or local law (or a similarly classified loan using different terminology under a law imposing heightened regulatory scrutiny or additional legal liability for residential

mortgage loans having high interest rates, points and/or fees) . . .” (at S-50)

3. “Pursuant to a mortgage loan purchase and warranties agreement, NC Capital Corporation (“NC Capital”) sold the mortgage loans, without recourse, to MSMC, and MSMC will sell and convey the mortgage loans, including all principal outstanding as of, and interest due and accruing on or after, the close of business on the cut-off date, without recourse, to the depositor on the closing date. Pursuant to the pooling and servicing agreement, the depositor will sell, without recourse, to the trust, all right, title and interest in and to each mortgage loan, including all principal outstanding as of, and interest due on or after, the close of business on the cut-off date. Each such transfer will convey all right, title and interest in and to (a) principal outstanding as of the close of business on the cut-off date (after giving effect to payments of principal due on that date, whether or not received) and (b) interest due and accrued on each such mortgage loan after the cut-off date. However, MSMC will not convey to the depositor, and will retain all of its right, title and interest in and to (x) principal due on each mortgage loan on or prior to the cut-off date and principal prepayments in full and curtailments (i.e., partial prepayments) received on each such mortgage loan prior to the cut-off date and (y) interest due and accrued on each mortgage loan on or prior to the cut-off date.” (at 46-47)

4. In connection with the transfer and assignment of each mortgage loan to the trust, the depositor will cause to be delivered to the trustee, on or before the closing date, the following documents with respect to each mortgage loan which constitute the mortgage file: (a) the original mortgage note, endorsed without recourse in blank by the last endorsee, including all intervening endorsements showing a complete chain of endorsement from the originator to the last endorsee; (b) the original of any guaranty executed in connection with the mortgage note; (c) the related original mortgage and evidence of its recording or, in certain limited circumstances, a copy of the mortgage certified by the originator, escrow company, title company, or closing attorney; (d) the mortgage assignment(s), or copies of them certified by the applicable originator, escrow company, title company, or closing attorney, if any, showing a complete chain of assignment from the originator of the related mortgage loan to the last endorsee - which assignment may, at the originator’s option, be combined with the assignment referred to in clause (e) below; (e) a mortgage assignment in recordable form, which, if acceptable for recording in the relevant jurisdiction, may be included in a blanket assignment or assignments, of each mortgage from the last endorsee in blank; (f) originals or certified copies of all assumption, modification, consolidation and extension agreements, with evidence of recording on them; (g) an original title insurance policy or, in the event the original policy is unavailable, a certified true copy of the related policy binder, preliminary report or commitment for title certified to be true and complete by the title insurance company; and (h) the original of any security agreement, chattel mortgage or equivalent document executed in connection with the mortgage (if provided).” (at S-47)

5. "Prior to acquiring any residential mortgage loans, MSMC conducts a review of the related mortgage loan seller that is based upon the credit quality of the selling institution. MSMC's review process may include reviewing select financial information for credit and risk assessment and conducting an underwriting guideline review, senior level management discussion and/or background checks. The scope of the loan due diligence varies based on the credit quality of the mortgage loans. The underwriting guideline review entails a review of the mortgage loan origination processes and systems. In addition, such review may involve a consideration of corporate policy and procedures relating to state and federal predatory lending, origination practices by jurisdiction, historical loan level loss experience, quality control practices, significant litigation and/or material investors." (at S-36)

IX. MSAC 2006-NC3

Misrepresentations in the prospectus supplement and/or prospectus filed April 26, 2006 for the MSAC 2006-NC3 Securitization

A. Untrue or misleading statements about underwriting guidelines

1. Untrue and misleading statements about conformity with underwriting guidelines:

- (a) "The mortgage loans were originated or acquired generally in accordance with the underwriting guidelines described in this prospectus supplement."
- (b) "The New Century Underwriting Guidelines require that mortgage loans be underwritten in a standardized procedure which complies with applicable federal and state laws and regulations and requires New Century's underwriters to be satisfied that the value of the property being financed, as indicated by an appraisal and a review of the appraisal, currently supports the outstanding loan balance."

2. Untrue or misleading statements about borrower's ability to repay the loan:

- (a) "The New Century Underwriting Guidelines are primarily intended to assess the borrower's ability to repay the related mortgage loan, to assess the value of the mortgaged property and to evaluate the adequacy of the property as collateral for the mortgage loan."

3. Untrue or misleading statements about information evaluated in the loan application:

- (a) "While New Century's primary consideration in underwriting a mortgage loan is the value of the mortgaged property, New Century also considers, among other things, a mortgagor's credit history, repayment ability and debt service-to-income ratio, as well as the type and use of the mortgaged property."
- (b) "Each applicant completes an application which includes information with respect to the applicant's liabilities, income, credit history, employment history and personal information. The New Century Underwriting Guidelines require a credit report on each applicant from a credit reporting company. The report typically contains information relating to matters such as credit history with local and national merchants and lenders, installment debt payments and any record of defaults, bankruptcies, repossessions or judgments."
- (c) "The mortgage loans were originated consistent with and generally conform to the New Century Underwriting Guidelines' full documentation, limited documentation and stated income documentation

residential loan programs. Under each of the programs, New Century reviews the applicant's source of income, calculates the amount of income from sources indicated on the loan application or similar documentation, reviews the credit history of the applicant, calculates the debt service-to-income ratio to determine the applicant's ability to repay the loan, reviews the type and use of the property being financed, and reviews the property."

- (d) "The New Century Underwriting Guidelines require that the income of each applicant for a mortgage loan under the full documentation program be verified. The specific income documentation required for New Century Mortgage Corporation's various programs is as follows: under the full documentation program, applicants usually are required to submit one written form of verification from the employer of stable income for at least 12 months for salaried employees and 24 months for self-employed applicants or for any special program applicant with a credit score of less than 580; under the limited documentation program, applicants usually are required to submit verification of stable income for at least 6 months, such as 6 consecutive months of complete personal checking account bank statements. Under the stated income program, an applicant may be qualified based upon monthly income as stated on the mortgage loan application if the applicant meets certain criteria. All the foregoing programs require that, with respect to salaried employees, there be a telephone verification of the applicant's employment. Verification of the source of funds, if any, required to be deposited by the applicant into escrow in the case of a purchase money loan is required."

4. Statements concerning evaluation of exceptions and compensating factors:

- (a) "The mortgage loans will have been originated in accordance with the New Century Underwriting Guidelines. On a case-by-case basis, exceptions to the New Century Underwriting Guidelines are made where compensating factors exist. It is expected that a substantial portion of the mortgage loans in the mortgage pool will represent these exceptions."
- (b) "On a case by case basis, it may be determined that an applicant warrants a debt service-to-income ratio exception, a pricing exception, a loan-to-value ratio exception, an exception from certain requirements of a particular risk category, etc. An exception may be allowed if the application reflects compensating factors, such as: low loan-to-value ratio; pride of ownership; a maximum of one 30 day late payment on all mortgage loans during the last 12 months; and stable employment or ownership of current residence of four or more years. An exception may also be allowed if the applicant places a down payment through escrow of at least 20% of the purchase price of the mortgaged property or if the new loan reduces the applicant's monthly aggregate mortgage payment by 25% or more."

B. Untrue or misleading statements about owner-occupancy status

1. Defendants represented that the number of mortgage loans secured by properties used as primary residences in Supporting Loan Group 1 was 2,749 out of a total pool of 3,300 loans (83.30%).

C. Untrue or misleading statements about LTV ratios

1. "Approximately 46.57% and approximately 37.73% of the group I mortgage loans and group II mortgage loans, respectively, had loan-to-value ratios at origination, or with respect to second-lien mortgage loans, combined loan-to-value ratios at origination, in excess of 80% but not more than 100% at origination."
2. "Approximately 41.10% of the mortgage loans have loan-to-value ratios at origination, or with respect to second-lien mortgage loans, combined loan-to-value ratios at origination, in excess of 80%. None of the mortgage loans have loan-to-value ratios at origination, or with respect to second-lien mortgage loans, combined loan-to-value ratios at origination, in excess of 100%."
3. "The weighted average loan-to-value ratio (or, with respect to second-lien mortgage loans, combined loan-to-value ratio) at origination of the group I mortgage loans is approximately 80.02% and approximately 46.57% of the group I mortgage loans have loan-to-value ratios (or, with respect to second-lien mortgage loans, combined loan-to-value ratios) at origination exceeding 80.00%."
4. "Mortgaged properties that are to secure mortgage loans generally are appraised by qualified independent appraisers. These appraisers inspect and appraise the subject property and verify that the property is in acceptable condition. Following each appraisal, the appraiser prepares a report which includes a market value analysis based on recent sales of comparable homes in the area, and when deemed appropriate, replacement cost analysis based on the current cost of constructing a similar home. All appraisals are required to conform to the Uniform Standards of Professional Appraisal Practice adopted by the Appraisal Standards Board of the Appraisal Foundation and are generally on forms acceptable to Fannie Mae and Freddie Mac."

D. Untrue or misleading statements about credit ratings

1. Defendants represented that Certificates in the A1 tranche would be assigned a rating of not lower than the following by Moody's Investor Service, Standard & Poor's Ratings services, and Fitch, Inc., respectively: Aaa/AAA/AAA.

E. Additional untrue or misleading statements

1. "NC Capital Corporation has represented or will represent that each mortgage loan is in compliance with applicable federal, state and local laws and regulations. In addition, NC Capital Corporation has also represented or will represent that none of the mortgage loans are covered by the Home Ownership and Equity

Protection Act of 1994 or is classified as a "high cost home," "threshold," "covered," "high risk home" or "predatory" loan under any other applicable federal, state or local law."

2. "NC Capital has represented or will represent with respect to each mortgage loan sold by it that none of the group I mortgage loans sold by it is (a) covered by the Home Ownership and Equity Protection Act of 1994 or (b) classified as a "high cost home," "threshold," "covered," "high risk home" or "predatory" loan under any other applicable federal, state or local law;"
3. "Pursuant to the pooling and servicing agreement, NC Capital, the responsible party, will make representations and warranties with respect to each mortgage loan, as of the closing date, including, but not limited to:
 - (a) "(6) Any and all requirements of any federal, state or local law, including, without limitation, usury, truth in lending, real estate settlement procedures, consumer credit protection, equal credit opportunity, disclosure and all predatory and abusive lending laws applicable to the mortgage loan have been complied with, including, without limitation, any provisions therein relating to Prepayment Premiums, and the consummation of the transactions contemplated by the pooling and servicing agreement will not involve the violation of any such laws or regulations;"
 - (b) "(9) The mortgage note and the mortgage and any other agreement executed and delivered by a mortgagor in connection with a mortgage loan are genuine, and each is the legal, valid and binding obligation of the signatory enforceable in accordance with its terms (including, without limitation, any provisions relating to Prepayment Premiums), subject to bankruptcy, equitable principles and laws affecting creditor rights generally. All parties to the mortgage note, the mortgage and any other such related agreement had legal capacity to enter into the mortgage loan and to execute and deliver the mortgage note, the mortgage and any such agreement, and the mortgage note, the mortgage and any other such related agreement have been duly and properly executed by other such related parties. No fraud, misrepresentation or similar occurrence or, to the responsible party's knowledge, error, omission or negligence with respect to a mortgage loan has taken place on the part of any other person, including without limitation, the mortgagor, any appraiser, any builder or developer, or any other party involved in the origination of the mortgage loan;"
 - (c) "(17) None of the mortgage loans is (a) covered by the Home Ownership and Equity Protection Act of 1994, or (b) classified as a "high cost home," "threshold," "covered," "high risk home," "predatory" or similar loan under any other applicable federal, state or local law (or a similarly classified loan using different terminology under a law imposing

heightened regulatory scrutiny or additional legal liability for residential mortgage loans having high interest rates, points and/or fees);”

4. “Pursuant to a mortgage loan purchase and warranties agreement, NC Capital Corporation (“NC Capital”) sold the mortgage loans, without recourse, to MSMC, and MSMC will sell and convey the mortgage loans, including all principal outstanding as of, and interest due and accruing on or after, the close of business on the cut-off date, without recourse, to the depositor on the closing date. Pursuant to the pooling and servicing agreement, the depositor will sell, without recourse, to the trust, all right, title and interest in and to each mortgage loan, including all principal outstanding as of, and interest due on or after, the close of business on the cut-off date. Each such transfer will convey all right, title and interest in and to (a) principal outstanding as of the close of business on the cut-off date (after giving effect to payments of principal due on that date, whether or not received) and (b) interest due and accrued on each such mortgage loan after the cut-off date. However, MSMC will not convey to the depositor, and will retain all of its right, title and interest in and to (x) principal due on each mortgage loan on or prior to the cut-off date and principal prepayments in full and curtailments (*i.e.*, partial prepayments) received on each such mortgage loan prior to the cut-off date and (y) interest due and accrued on each mortgage loan on or prior to the cut-off date.”
5. “Prior to acquiring any residential mortgage loans, MSMC conducts a review of the related mortgage loan seller that is based upon the credit quality of the selling institution. MSMC’s review process may include reviewing select financial information for credit and risk assessment and conducting an underwriting guideline review, senior level management discussion and/or background checks. The scope of the loan due diligence varies based on the credit quality of the mortgage loans. The underwriting guideline review entails a review of the mortgage loan origination processes and systems. In addition, such review may involve a consideration of corporate policy and procedures relating to state and federal predatory lending, origination practices by jurisdiction, historical loan level loss experience, quality control practices, significant litigation and/or material investors.”
6. “If so specified in the related prospectus supplement, the representations and warranties of a seller or originator in respect of a loan will be made not as of the cut-off date but as of the date on which the applicable originator sold the loan to the seller or the depositor or the applicable seller sold the loan to the depositor or one of its affiliates. Under those circumstances, a substantial period of time may have elapsed between the sale date and the date of initial issuance of the series of securities evidencing an interest in the loan. Since the representations and warranties of a seller or originator do not address events that may occur following the sale of a loan by that seller or originator, its repurchase obligation described in this prospectus will not arise if the relevant event that would otherwise have given rise to a repurchase obligation with respect to a loan occurs after the date of sale of the loan by the applicable originator or seller. However, the depositor will not

include any loan in the trust fund for any series of securities if anything has come to the depositor's attention that would cause it to believe that the representations and warranties of a seller or originator will not be accurate and complete in all material respects in respect of the loan as of the date of initial issuance of the related series of securities. If the master servicer is also a seller or originator of loans with respect to a particular series of securities, the representations will be in addition to the representations and warranties made by the master servicer in its capacity as a master servicer."

X. MSAC 2006-NC4

Misrepresentations in the prospectus supplement and/or prospectus filed June 20, 2006 for the MSAC 2006-NC4 Securitization

A. Untrue or misleading statements about underwriting guidelines

1. Untrue and misleading statements about conformity with underwriting guidelines:

- (a) “The mortgage loans were originated or acquired generally in accordance with the underwriting guidelines described in this prospectus supplement.”
- (b) “All of the mortgage loans will be acquired on the closing date by the depositor from the sponsor and were acquired by the sponsor from New Century prior to the closing date. All of the mortgage loans were originated or acquired by New Century in accordance with the “New Century Underwriting Guidelines.” The following is a general summary of the New Century Underwriting Guidelines as generally applied, with some variation, by New Century. This summary does not purport to be a complete description of the underwriting standards of New Century.”
- (c) “The New Century Underwriting Guidelines require that mortgage loans be underwritten in a standardized procedure which complies with applicable federal and state laws and regulations and requires New Century’s underwriters to be satisfied that the value of the property being financed, as indicated by an appraisal and a review of the appraisal, currently supports the outstanding loan balance.”

2. Untrue or misleading statements about borrower’s ability to repay the loan:

- (a) “The New Century Underwriting Guidelines are primarily intended to assess the borrower’s ability to repay the related mortgage loan, to assess the value of the mortgaged property and to evaluate the adequacy of the property as collateral for the mortgage loan. All of the mortgage loans were also underwritten with a view toward the resale of the mortgage loans in the secondary mortgage market.”

3. Untrue or misleading statements about information evaluated in the loan application:

- (a) “While New Century’s primary consideration in underwriting a mortgage loan is the value of the mortgaged property, New Century also considers, among other things, a mortgagor’s credit history, repayment ability and debt service-to-income ratio, as well as the type and use of the mortgaged property.”

- (b) "Each applicant completes an application which includes information with respect to the applicant's liabilities, income, credit history, employment history and personal information. The New Century Underwriting Guidelines require a credit report on each applicant from a credit reporting company. The report typically contains information relating to matters such as credit history with local and national merchants and lenders, installment debt payments and any record of defaults, bankruptcies, repossessions or judgments."
- (c) "The mortgage loans were originated consistent with and generally conform to the New Century Underwriting Guidelines' full documentation, limited documentation and stated income documentation residential loan programs. Under each of the programs, New Century reviews the applicant's source of income, calculates the amount of income from sources indicated on the loan application or similar documentation, reviews the credit history of the applicant, calculates the debt service-to-income ratio to determine the applicant's ability to repay the loan, reviews the type and use of the property being financed, and reviews the property. In determining the ability of the applicant to repay the loan, a qualifying rate has been created under the New Century Underwriting Guidelines that generally is equal to the interest rate on that loan."
- (d) "The New Century Underwriting Guidelines require that the income of each applicant for a mortgage loan under the full documentation program be verified. The specific income documentation required for New Century's various programs is as follows: under the full documentation program, applicants usually are required to submit one written form of verification of stable income for at least 12 months from the applicant's employer for salaried employees and 24 months for self-employed applicants; under the limited documentation program, applicants usually are required to submit verification of stable income for at least 6 months, such as 6 consecutive months of complete personal checking account bank statements, and under the stated income documentation program, an applicant may be qualified based upon monthly income as stated on the mortgage loan application if the applicant meets certain criteria. All the foregoing programs require that, with respect to salaried employees, there be a telephone verification of the applicant's employment. Verification of the source of funds, if any, that are required to be deposited by the applicant into escrow in the case of a purchase money loan is required."

4. Statements concerning evaluation of exceptions and compensating factors:

- (a) "The mortgage loans will have been originated in accordance with the New Century Underwriting Guidelines. On a case-by-case basis, exceptions to the New Century Underwriting Guidelines are made where compensating factors exist. It is expected that a substantial portion of the mortgage loans will represent these exceptions."

- (b) “On a case by case basis, it may be determined that an applicant warrants a debt service-to-income ratio exception, a pricing exception, a loan-to-value ratio exception, an exception from certain requirements of a particular risk category, etc. An exception may be allowed if the application reflects compensating factors, such as: low loan-to-value ratio; pride of ownership; a maximum of one 30 day late payment on all mortgage loans during the last 12 months; and stable employment or ownership of current residence of four or more years. An exception may also be allowed if the applicant places a down payment through escrow of at least 20% of the purchase price of the mortgaged property or if the new loan reduces the applicant’s monthly aggregate mortgage payment by 25% or more.”

B. Untrue or misleading statements about owner-occupancy status

1. Defendants represented that the number of mortgage loans secured by properties used as primary residences in Supporting Loan Group 1 was 3,066 out of a total pool of 3,508 loans (87.40%).

C. Untrue or misleading statements about LTV ratios

1. “Approximately 39.52% and approximately 41.67% of the group I mortgage loans and group II mortgage loans, respectively, had loan-to-value ratios at origination, or with respect to second-lien mortgage loans, combined loan-to-value ratios at origination, in excess of 80% but not more than 100% at origination.”
2. “Approximately 40.98% of the mortgage loans have loan-to-value ratios at origination, or with respect to second-lien mortgage loans, combined loan-to-value ratios at origination, in excess of 80%. None of the mortgage loans have loan-to-value ratios at origination, or with respect to second-lien mortgage loans, combined loan-to-value ratios at origination, in excess of 100%.”
3. “The weighted average loan-to-value ratio (or, with respect to second-lien mortgage loans, combined loan-to-value ratio) at origination of the group I mortgage loans is approximately 78.60% and approximately 39.52% of the group I mortgage loans have loan-to-value ratios (or, with respect to second-lien mortgage loans, combined loan-to-value ratios) at origination exceeding 80.00%.”
4. “Mortgaged properties that are to secure mortgage loans generally are appraised by qualified independent appraisers. These appraisers inspect and appraise the subject property and verify that the property is in acceptable condition. Following each appraisal, the appraiser prepares a report which includes a market value analysis based on recent sales of comparable homes in the area, and when deemed appropriate, replacement cost analysis based on the current cost of constructing a similar home. All appraisals are required to conform to the Uniform Standards of Professional Appraisal Practice adopted by the Appraisal Standards Board of the

Appraisal Foundation and are generally on forms acceptable to Fannie Mae and Freddie Mac.”

D. Untrue or misleading statements about credit ratings

1. Defendants represented that Certificates in the A1 tranche would be assigned a rating of not lower than the following by Moody’s Investor Service, Standard & Poor’s Ratings services, and Fitch, Inc., respectively: Aaa/AAA/AAA.

E. Additional untrue or misleading statements

1. Pursuant to the pooling and servicing agreement, NC Capital, the responsible party, will make representations and warranties with respect to each mortgage loan, as of the closing date, including, but not limited to:
 - (a) “(6) Any and all requirements of any federal, state or local law, including, without limitation, usury, truth-in-lending, real settlement procedures, consumer credit protection, equal credit opportunity, disclosure and all predatory and abusive lending laws applicable to the mortgage loan have been complied with, including, without limitation, any provisions therein relating to Prepayment Premiums, and the consummation of the transactions contemplated by the pooling and servicing agreement will not involve the violation of any such laws or regulations;
 - (b) “(9) The mortgage note and the mortgage and any other agreement executed and delivered by a mortgagor in connection with a mortgage loan are genuine, and each is the legal, valid and binding obligation of the signatory enforceable in accordance with its terms (including, without limitation, any provisions relating to Prepayment Premiums), subject to bankruptcy, equitable principles and laws affecting creditor rights generally. All parties to the mortgage note, the mortgage and any other such related agreement had legal capacity to enter into the mortgage loan and to execute and deliver the mortgage note, the mortgage and any such agreement, and the mortgage note, the mortgage and any other such related agreement have been duly and properly executed by other such related parties. No fraud, misrepresentation or similar occurrence or, to the responsible party’s knowledge, error, omission or negligence with respect to a mortgage loan has taken place on the part of any other person, including without limitation, the mortgagor, any appraiser, any builder or developer, or any other party involved in the origination of the mortgage loan;
 - (c) “(17) None of the mortgage loans is (a) covered by the Home Ownership and Equity Protection Act of 1994 or (b) classified as a “high cost home,” “threshold,” “covered,” “high risk home,” “predatory” or similar loan under any other applicable federal, state or local law (or a similarly classified loan using different terminology under a law imposing

heightened regulatory scrutiny or additional legal liability for residential mortgage loans having high interest rates, points and/or fees);”

2. “Pursuant to a mortgage loan purchase and warranties agreement, NC Capital Corporation (“NC Capital”) sold the mortgage loans, without recourse, to MSMC, and MSMC will sell and convey the mortgage loans, including all principal outstanding as of, and interest due and accruing on or after, the close of business on the cut-off date, without recourse, to the depositor on the closing date. Pursuant to the pooling and servicing agreement, the depositor will sell, without recourse, to the trust, all right, title and interest in and to each mortgage loan, including all principal outstanding as of, and interest due on or after, the close of business on the cut-off date. Each such transfer will convey all right, title and interest in and to (a) principal outstanding as of the close of business on the cut-off date (after giving effect to payments of principal due on that date, whether or not received) and (b) interest due and accrued on each such mortgage loan after the cut-off date. However, MSMC will not convey to the depositor, and will retain all of its right, title and interest in and to (x) principal due on each mortgage loan on or prior to the cut-off date and principal prepayments in full and curtailments (*i.e.*, partial prepayments) received on each such mortgage loan prior to the cut-off date and (y) interest due and accrued on each mortgage loan on or prior to the cut-off date.”
3. “Prior to acquiring any residential mortgage loans, MSMC conducts a review of the related mortgage loan seller that is based upon the credit quality of the selling institution. MSMC’s review process may include reviewing select financial information for credit and risk assessment and conducting an underwriting guideline review, senior level management discussion and/or background checks. The scope of the loan due diligence varies based on the credit quality of the mortgage loans. The underwriting guideline review entails a review of the mortgage loan origination processes and systems. In addition, such review may involve a consideration of corporate policy and procedures relating to state and federal predatory lending, origination practices by jurisdiction, historical loan level loss experience, quality control practices, significant litigation and/or material investors.”
4. “If so specified in the related prospectus supplement, the representations and warranties of a seller or originator in respect of a loan will be made not as of the cut-off date but as of the date on which the applicable originator sold the loan to the seller or the depositor or the applicable seller sold the loan to the depositor or one of its affiliates. Under those circumstances, a substantial period of time may have elapsed between the sale date and the date of initial issuance of the series of securities evidencing an interest in the loan. Since the representations and warranties of a seller or originator do not address events that may occur following the sale of a loan by that seller or originator, its repurchase obligation described in this prospectus will not arise if the relevant event that would otherwise have given rise to a repurchase obligation with respect to a loan occurs after the date of sale of the loan by the applicable originator or seller. However, the depositor will not

include any loan in the trust fund for any series of securities if anything has come to the depositor's attention that would cause it to believe that the representations and warranties of a seller or originator will not be accurate and complete in all material respects in respect of the loan as of the date of initial issuance of the related series of securities. If the master servicer is also a seller or originator of loans with respect to a particular series of securities, the representations will be in addition to the representations and warranties made by the master servicer in its capacity as a master servicer."

XI. MSAC 2006-WMC2

Misrepresentations in the prospectus supplement and/or prospectus filed June 23, 2006 for the MSAC 2006-WMC2 Securitization with respect to the underwriting standards of WMC Mortgage Corp. in the MSAC 2006-WMC2 Securitization -

A. Untrue or misleading statements about underwriting guidelines

1. Untrue and misleading statements about conformity with underwriting guidelines:

- (a) "The mortgage loans were originated or acquired generally in accordance with the underwriting guidelines described in this prospectus supplement."
- (b) "The mortgage loans have been either (i) originated generally in accordance with the underwriting guidelines established by WMC (collectively, the "Underwriting Guidelines") or (ii) purchased by WMC after re-underwriting the mortgage loans, generally in accordance with the Underwriting Guidelines."
- (c) "The Underwriting Guidelines are applied in accordance with a procedure which complies with applicable federal and state laws and regulations and requires, among other things, (1) an appraisal of the mortgaged property which conforms to Uniform Standards of Professional Appraisal Practice and (2) an audit of such appraisal by a WMC-approved appraiser or by WMC's in-house collateral auditors (who may be licensed appraisers) and such audit may in certain circumstances consist of a second appraisal, a field review, a desk review or an automated valuation model."

2. Untrue or misleading statements about borrower's ability to repay the loan:

- (a) "The Underwriting Guidelines are primarily intended to (a) determine that the borrower has the ability to repay the mortgage loan in accordance with its terms and (b) determine that the related mortgaged property will provide sufficient value to recover the investment if the borrower defaults."

3. Untrue or misleading statements about information evaluated in the loan application:

- (a) "All mortgage loans originated or purchased under the Underwriting Guidelines are based on loan application packages submitted through mortgage brokerage companies or on loan files (which include loan application documentation) submitted by correspondents. Loan application packages submitted through mortgage brokerage companies, containing in each case relevant credit, property and underwriting information on the loan request, are compiled by the applicable mortgage brokerage company and submitted to WMC for approval and funding. The mortgage brokerage

companies receive a portion of the loan origination fee charged to the mortgagor at the time the loan is made and/or a yield-spread premium for services provided to the borrower. No single mortgage brokerage company accounts for more than 3%, measured by outstanding principal balance, of the mortgage loans originated by WMC.

- (b) “In the case of purchase money mortgage loans, WMC generally validates the source of funds for the down payment. In the case of mortgage loans originated under the Full Documentation category, the Underwriting Guidelines require documentation of income (which may consist of (1) a verification of employment form covering a specified time period which varies with LTV, (2) two most recent pay stubs and two years of tax returns or W-2s, (3) verification of deposits and/or (4) bank statements) and telephonic verification. Under the Full-Alternative Documentation category, only 24 months of bank statements are required (depending upon the LTV) and telephonic verification of employment, under the Limited Documentation category only 12 months of bank statements (or a W-2 for the most current year and a current pay stub) are required, and under the Lite Documentation category only six months of bank statements (or a current pay stub covering the six month period) are required. For mortgage loans originated under the Stated Income/Verified Assets (Streamlined) Documentation category, WMC requires verification of funds equal to two months of principal, interest, taxes and insurance, sourced and seasoned for at least sixty days. In the case of mortgage loans originated under the Stated Income Documentation and Stated Income/Verified Assets (Streamlined) Documentation categories, the Underwriting Guidelines require (1) that income be stated on the application, accompanied by proof of self employment in the case of self-employed individuals, (2) that a WMC pre-funding auditor conduct telephonic verification of employment, or in the case of self-employed individuals, telephonic verification of business line and (3) that stated income be consistent with type of work listed on the application.”

4. Statements concerning evaluation of exceptions and compensating factors:

- (a) “On a case-by-case basis WMC may determine that, based upon compensating factors, a prospective mortgagor not strictly qualifying under the underwriting risk category or other guidelines described below warrants an underwriting exception. Compensating factors may include, but are not limited to, low debt-to-income ratio (“Debt Ratio”), good mortgage payment history, an abundance of cash reserves, excess disposable income, stable employment and time in residence at the applicant’s current address. It is expected that a substantial number of the mortgage loans to be included in the trust will represent such underwriting exceptions.”

5. Untrue or misleading statements about quality control procedures:

- (a) "Under the Underwriting Guidelines, WMC verifies the loan applicant's eligible sources of income for all products, calculates the amount of income from eligible sources indicated on the loan application, reviews the credit and mortgage payment history of the applicant and calculates the Debt Ratio to determine the applicant's ability to repay the loan, and reviews the mortgaged property for compliance with the Underwriting Guidelines."

B. Untrue or misleading statements about owner-occupancy status

1. Defendants represented that the number of mortgage loans secured by properties used as primary residences in Supporting Loan Group 1 was 4,195 out of a total pool of 4,480 loans (93.64%).

C. Untrue or misleading statements about LTV ratios

1. "Approximately 29.54% and approximately 28.65% of the group I mortgage loans and group II mortgage loans, respectively, had loan-to-value ratios at origination, or with respect to second-lien mortgage loans, combined loan-to-value ratios at origination, in excess of 80% but not more than 100% at origination."
2. "Approximately 28.90% of the mortgage loans have loan-to-value ratios at origination, or with respect to second-lien mortgage loans, combined loan-to-value ratios at origination, in excess of 80%. None of the mortgage loans have loan-to-value ratios at origination, or with respect to second-lien mortgage loans, combined loan-to-value ratios at origination, in excess of 100%."
3. "The weighted average loan-to-value ratio (or, with respect to second-lien mortgage loans, combined loan-to-value ratio) at origination of the group I mortgage loans is approximately 80.84% and approximately 29.54% of the group I mortgage loans have loan-to-value ratios (or, with respect to second-lien mortgage loans, combined loan-to-value ratios) at origination exceeding 80.00%."
4. "The Underwriting Guidelines are applied in accordance with a procedure which complies with applicable federal and state laws and regulations and requires, among other things, (1) an appraisal of the mortgaged property which conforms to Uniform Standards of Professional Appraisal Practice and (2) an audit of such appraisal by a WMC-approved appraiser or by WMC's in-house collateral auditors (who may be licensed appraisers) and such audit may in certain circumstances consist of a second appraisal, a field review, a desk review or an automated valuation model."

D. Untrue or misleading statements about credit ratings

1. Defendants represented that Certificates in the A1 tranche would be assigned a rating of not lower than the following by Moody's Investor Service, Standard & Poor's Ratings services, and Fitch, Inc., respectively: Aaa/AAA/AAA.

E. Additional untrue or misleading statements

1. "Pursuant to the pooling and servicing agreement, WMC, the responsible party, will make representations and warranties with respect to each mortgage loan as of the closing date (or an earlier date specified in the pooling and servicing agreement, which may be the cut-off date, the date on which the servicing of the mortgage loan was transferred or the date on which MSMC purchased the mortgage loan from the responsible party), including, but not limited to:
 - (a) "(6) Any and all requirements of any federal, state or local law, including, without limitation, usury, truth-in-lending, real settlement procedures, consumer credit protection, equal credit opportunity, disclosure and all predatory and abusive lending laws applicable to the mortgage loan have been complied with, including, without limitation, any provisions therein relating to Prepayment Premiums;
 - (b) "(9) The mortgage note and the mortgage and any other agreement executed and delivered by a mortgagor in connection with a mortgage loan are genuine, and each is the legal, valid and binding obligation of the signatory enforceable in accordance with its terms (including, without limitation, any provisions relating to Prepayment Premiums), subject to bankruptcy, equitable principles and laws affecting creditor rights generally. All parties to the mortgage note, the mortgage and any other such related agreement had legal capacity to enter into the mortgage loan and to execute and deliver the mortgage note, the mortgage and any such agreement, and the mortgage note, the mortgage and any other such related agreement have been duly and properly executed by other such related parties. No fraud, misrepresentation or similar occurrence or, to the responsible party's knowledge, error, omission or negligence with respect to a mortgage loan has taken place on the part of any other person, including without limitation, the mortgagor, any appraiser, any builder or developer, or any other party involved in the origination of the mortgage loan;
 - (c) "(17) None of the mortgage loans is (a) covered by the Home Ownership and Equity Protection Act of 1994 or (b) classified as a "high cost home," "threshold," "covered," "high risk home," "predatory" or similar loan under any other applicable federal, state or local law (or a similarly classified loan using different terminology under a law imposing heightened regulatory scrutiny or additional legal liability for residential mortgage loans having high interest rates, points and/or fees);"
2. "Pursuant to a mortgage loan purchase and warranties agreement, WMC Mortgage Corp. ("WMC") sold the mortgage loans, without recourse, to MSMC, and MSMC will sell and convey the mortgage loans, including all principal outstanding as of, and interest due and accruing on or after, the close of business on the cut-off date, without recourse, to the depositor on the closing date.

Pursuant to the pooling and servicing agreement, the depositor will sell, without recourse, to the trust, all right, title and interest in and to each mortgage loan, including all principal outstanding as of, and interest due on or after, the close of business on the cut-off date. Each such transfer will convey all right, title and interest in and to (a) principal outstanding as of the close of business on the cut-off date (after giving effect to payments of principal due on that date, whether or not received) and (b) interest due and accrued on each such mortgage loan after the cut-off date. However, MSMC will not convey to the depositor, and will retain all of its right, title and interest in and to (x) principal due on each mortgage loan on or prior to the cut-off date and principal prepayments in full and curtailments (*i.e.*, partial prepayments) received on each such mortgage loan prior to the cut-off date and (y) interest due and accrued on each mortgage loan on or prior to the cut-off date.”

3. “Prior to acquiring any residential mortgage loans, MSMC conducts a review of the related mortgage loan seller that is based upon the credit quality of the selling institution. MSMC’s review process may include reviewing select financial information for credit and risk assessment and conducting an underwriting guideline review, senior level management discussion and/or background checks. The scope of the loan due diligence varies based on the credit quality of the mortgage loans. The underwriting guideline review entails a review of the mortgage loan origination processes and systems. In addition, such review may involve a consideration of corporate policy and procedures relating to state and federal predatory lending, origination practices by jurisdiction, historical loan level loss experience, quality control practices, significant litigation and/or material investors.”
4. “If so specified in the related prospectus supplement, the representations and warranties of a seller or originator in respect of a loan will be made not as of the cut-off date but as of the date on which the applicable originator sold the loan to the seller or the depositor or the applicable seller sold the loan to the depositor or one of its affiliates. Under those circumstances, a substantial period of time may have elapsed between the sale date and the date of initial issuance of the series of securities evidencing an interest in the loan. Since the representations and warranties of a seller or originator do not address events that may occur following the sale of a loan by that seller or originator, its repurchase obligation described in this prospectus will not arise if the relevant event that would otherwise have given rise to a repurchase obligation with respect to a loan occurs after the date of sale of the loan by the applicable originator or seller. However, the depositor will not include any loan in the trust fund for any series of securities if anything has come to the depositor’s attention that would cause it to believe that the representations and warranties of a seller or originator will not be accurate and complete in all material respects in respect of the loan as of the date of initial issuance of the related series of securities. If the master servicer is also a seller or originator of loans with respect to a particular series of securities, the representations will be in addition to the representations and warranties made by the master servicer in its capacity as a master servicer.”

XII. MSAC 2007-HE1

Misrepresentations in the prospectus supplement and/or prospectus filed January 26, 2007 for the MSAC 2007-HE1 Securitization

A. Untrue or misleading statements about underwriting guidelines

1. Untrue and misleading statements about conformity with underwriting guidelines:

- (a) “The mortgage loans were originated or acquired generally in accordance with the underwriting guidelines of the responsible parties.” (at S-27)
- (b) “The mortgage loans originated or acquired by New Century, referred to in this section as the originator, were done so in accordance with the underwriting guidelines established by it (collectively, the “New Century Underwriting Guidelines”). The following is a general summary of the New Century Underwriting Guidelines believed to be generally applied, with some variation, by the originator. This summary does not purport to be a complete description of the underwriting standards of New Century Mortgage Corporation.” (at S-30)
- (c) “Mortgage loans originated or acquired by Decision One, referred to in this section as the originator, were done so in accordance with the underwriting guidelines established by it (collectively, the “Decision One Underwriting Guidelines”). The following is a general summary of the Decision One Underwriting Guidelines believed to be generally applied, with some variation, by Decision One.” (at S-34)
- (d) “The Decision One Underwriting Guidelines require that mortgage loans be underwritten in a standardized procedure which complies with applicable federal and state laws and regulations and requires Decision One’s underwriters to be satisfied that the value of the property being financed, as indicated by an appraisal and a review of the appraisal, currently supports the outstanding loan balance.” (at S-35)

2. Untrue or misleading statements about borrower’s ability to repay the loan:

- (a) “The New Century Underwriting Guidelines are primarily intended to assess the borrower’s ability to repay the mortgage loan, to assess the value of the mortgaged property and to evaluate the adequacy of the property as collateral for the mortgage loan.” (at S-30)
- (b) “The Decision One Underwriting Guidelines are primarily intended to assess the borrower’s ability to repay the mortgage loan, to assess the value of the mortgaged property and to evaluate the adequacy of the property as collateral for the mortgage loan.” (at S-34)

3. Untrue or misleading statements about information evaluated in the loan application:

- (a) “New Century also considers, among other things, a mortgagor’s credit history, repayment ability and debt service-to-income ratio, as well as the type and use of the mortgaged property.” (at S-30)
- (b) “Each applicant completes an application which includes information with respect to the applicant’s liabilities, income, credit history, employment history and personal information. The New Century Underwriting Guidelines require a credit report on each applicant from a credit reporting company. The report typically contains information relating to matters such as credit history with local and national merchants and lenders, installment debt payments and any record of defaults, bankruptcies, repossessions or judgments.” (at S-30)
- (c) “The mortgage loans were originated consistent with and generally conform to the New Century Underwriting Guidelines’ full documentation, limited documentation and stated income documentation residential loan programs. Under each of the programs, New Century reviews the applicant’s source of income, calculates the amount of income from sources indicated on the loan application or similar documentation, reviews the credit history of the applicant, calculates the debt service-to-income ratio to determine the applicant’s ability to repay the loan, reviews the type and use of the property being financed, and reviews the property.” (at S-30-31)
- (d) “The New Century Underwriting Guidelines require that the income of each applicant for a mortgage loan under the full documentation program be verified. The specific income documentation required for New Century’s various programs is as follows: under the full documentation program, applicants usually are required to submit one written form of verification of stable income for at least 12 months from the applicant’s employer for salaried employees and 24 months for self-employed applicants; under the limited documentation program, applicants usually are required to submit verification of stable income for at least 6 months, such as 6 consecutive months of complete personal checking account bank statements, and under the stated income documentation program, an applicant may be qualified based upon monthly income as stated on the mortgage loan application if the applicant meets certain criteria. All the foregoing programs require that, with respect to salaried employees, there be a telephone verification of the applicant’s employment. Verification of the source of funds, if any, that are required to be deposited by the applicant into escrow in the case of a purchase money loan is required.” (at S-31)

- (e) “While Decision One’s primary consideration in underwriting a mortgage loan is the value of the mortgaged property, Decision One also considers, among other things, a mortgagor’s credit history, repayment ability and debt service to income ratio, as well as the type and use of the mortgaged property.” (at S-34)
- (f) “The mortgage loans were originated consistent with and generally conform to the Decision One Underwriting Guidelines’ full documentation, limited documentation and stated income documentation residential loan programs. Under each of the programs, Decision One reviews the applicant’s source of income, calculates the amount of income from sources indicated on the loan application or similar documentation, reviews the credit history of the applicant, calculates the debt service to income ratio to determine the applicant’s ability to repay the loan, reviews the type and use of the property being financed, and reviews the property.” (at S-35)
- (g) “The Decision One Underwriting Guidelines require that the income of each applicant for a mortgage loan be verified. The income documentation required for Decision One’s various programs is as follows: under the full documentation program, applicants are required to submit one form of verification from their employer(s) of stable income for at least 24 months; under the Bank Statement and Lite documentation programs, applicants are required to submit verification of stable income for at least 24 months along with consecutive and complete personal checking account bank statements; and under the stated income documentation program, an applicant may be qualified based upon monthly income as stated on the mortgage loan application/form 1003 if the applicant meets certain criteria. All the abovementioned programs require telephone verification of all the applicants’ employment.” (at S-35)

4. Statements concerning evaluation of exceptions and compensating factors:

- (a) “The mortgage loans will have been originated in accordance with the New Century Underwriting Guidelines. On a case by case basis, exceptions to the New Century Underwriting Guidelines are made where compensating factors exist. It is expected that a substantial portion of the mortgage loans in the mortgage pool will represent these exceptions.” (at S-30)
- (b) “On a case by case basis, it may be determined that an applicant warrants a debt service-to-income ratio exception, a pricing exception, a loan-to-value ratio exception, an exception from certain requirements of a particular risk category, etc. An exception may be allowed if the application reflects compensating factors, such as: low loan-to-value ratio; pride of ownership; a maximum of one 30 day late payment on all mortgage loans during the last 12 months; and stable employment or

ownership of current residence of four or more years. An exception may also be allowed if the applicant places a down payment through escrow of at least 20% of the purchase price of the mortgaged property or if the new loan reduces the applicant's monthly aggregate mortgage payment by 25% or more. Accordingly, a mortgagor may qualify in a more favorable risk category than, in the absence of compensating factors, would satisfy only the criteria of a less favorable risk category." (at S-33-34)

- (c) "The mortgage loans will have been originated in accordance with the Decision One Underwriting Guidelines. On a case by case basis, exceptions to the Decision One Underwriting Guidelines are made where compensating factors exist." (at S-34)
- (d) "On a case by case basis, it may be determined that an applicant warrants a debt service to income ratio exception, a pricing exception, a loan-to-value ratio exception, an exception from certain requirements of a particular risk category, etc. An exception may be allowed if the application reflects compensating factors, such as: low loan-to-value ratio, pride of ownership, a maximum of one 30-day late payment on all mortgage loans during the last 12 months, stable employment, and longevity of current residence ownership." (at S-36)

B. Untrue or misleading statements about owner-occupancy status

- 1. Defendants represented that the number of mortgage loans secured by properties used as primary residences in Supporting Loan Group 1 was 2,085 out of a total pool of 2,460 loans (84.76%). (See IV-34)

C. Untrue or misleading statements about LTV ratios

- 1. "Approximately 47.76% of the group I mortgage loans and approximately 41.14% of the group II had loan-to-value ratios at origination, or with respect to second-lien mortgage loans, combined loan-to-value ratios at origination, in excess of 80% but not more than 100% at origination." (at S-23)
- 2. "Approximately 43.17% of the mortgage loans have loan-to-value ratios at origination, or with respect to second-lien mortgage loans, combined loan-to-value ratios at origination, in excess of 80%. None of the mortgage loans have loan-to-value ratios at origination, or with respect to second-lien mortgage loans, combined loan-to-value ratios at origination, in excess of 100%." (at S-28)
- 3. "The weighted average loan-to-value ratio (or, with respect to second-lien mortgage loans, combined loan-to-value ratio) at origination of the group I mortgage loans is approximately 81.40% and approximately 47.76% of the group I mortgage loans have loan-to-value ratios (or, with respect to second-lien mortgage loans, combined loan-to-value ratios) at origination exceeding 80%." (at S-38)

4. "Mortgaged properties that are to secure mortgage loans are appraised by qualified independent appraisers. These appraisers inspect and appraise the subject property and verify that the property is in acceptable condition. Following each appraisal, the appraiser prepares a report which includes a market value analysis based on recent sales of comparable homes in the area, and when deemed appropriate, replacement cost analysis based on the current cost of constructing a similar home. All appraisals are required to conform to the Uniform Standards of Professional Appraisal Practice adopted by the Appraisal Standards Board of the Appraisal Foundation and are on forms acceptable to Fannie Mae and Freddie Mac." (at S-30)
5. "Mortgaged properties that are to secure mortgage loans are appraised by qualified independent appraisers. These appraisers inspect and appraise the subject property and verify that the property is in acceptable condition. Following each appraisal, the appraiser prepares a report which includes a market value analysis based on recent sales of comparable homes in the area, and when deemed appropriate, replacement cost analysis based on the current cost of constructing a similar home. All appraisals are required to conform to the Uniform Standards of Professional Appraisal Practice adopted by the Appraisal Standards Board of the Appraisal Foundation and are generally on forms acceptable to Fannie Mae and Freddie Mac." (at S-34)

D. Untrue or misleading statements about credit ratings

1. Defendants represented that Certificates in the A1 tranche would be assigned a rating of not lower than the following by Moody's Investor Service, Standard & Poor's Ratings services, and Fitch, Inc., respectively: Aaa/AAA/-. (at S-14)

E. Additional untrue or misleading statements

1. "Pursuant to the pooling and servicing agreement, each of NC Capital and Decision One, the responsible parties, will make representations and warranties with respect to each mortgage loan transferred by it as of the closing date (or an earlier date specified in the pooling and servicing agreement, which may be the cut-off date, the date on which the servicing of the mortgage loan was transferred or the date on which MSMC purchased the mortgage loan from the applicable responsible party), including, but not limited to: (at S-57)
 - (a) "(6) Any and all requirements of any federal, state or local law, including, without limitation, usury, truth-in-lending, real settlement procedures, consumer credit protection, equal credit opportunity, disclosure and all predatory and abusive lending laws applicable to the mortgage loan have been complied with, including, without limitation, any provisions therein relating to Prepayment Premiums; (at S-58)
 - (b) "(9) The mortgage note and the mortgage and any other agreement executed and delivered by a mortgagor in connection with a mortgage loan

are genuine, and each is the legal, valid and binding obligation of the signatory enforceable in accordance with its terms (including, without limitation, any provisions relating to Prepayment Premiums), subject to bankruptcy, equitable principles and laws affecting creditor rights generally. All parties to the mortgage note, the mortgage and any other such related agreement had legal capacity to enter into the mortgage loan and to execute and deliver the mortgage note, the mortgage and any such agreement, and the mortgage note, the mortgage and any other such related agreement have been duly and properly executed by other such related parties. No fraud, misrepresentation or similar occurrence or, to the responsible party's knowledge, error, omission or negligence with respect to a mortgage loan has taken place on the part of any other person, including without limitation, the mortgagor, any appraiser, any builder or developer, or any other party involved in the origination of the mortgage loan;" (at S-58)

- (c) "(17) None of the mortgage loans is (a) covered by the Home Ownership and Equity Protection Act of 1994 or (b) classified as a "high cost home," "threshold," "covered," "high risk home," "predatory" or similar loan under any other applicable federal, state or local law (or a similarly classified loan using different terminology under a law imposing heightened regulatory scrutiny or additional legal liability for residential mortgage loans having high interest rates, points and/or fees) ;" (at S-59-60)

2. "Pursuant to mortgage loan purchase and warranties agreements between the applicable responsible party and MSMC (with respect to each responsible party, the "Original Seller Agreement"), NC Capital and Decision One sold the mortgage loans, without recourse, to MSMC (which subsequently sold certain NC Capital mortgage loans to MSSA), and MSMC and MSSA will each sell and convey mortgage loans, including all principal outstanding as of, and interest due and accruing on or after, the close of business on the cut-off date, without recourse, to the depositor on the closing date. Pursuant to the pooling and servicing agreement, the depositor will sell, without recourse, to the trust, all right, title and interest in and to each mortgage loan, including all principal outstanding as of, and interest due on or after, the close of business on the cut-off date. Each such transfer will convey all right, title and interest in and to (a) principal outstanding as of the close of business on the cut-off date (after giving effect to payments of principal due on or prior to that date, whether or not received) and (b) interest due and accrued on each such mortgage loan after the cut-off date (or, if the due date for a mortgage loan is other than on the first day of the month, after the due date immediately preceding the cut-off date). However, MSMC and MSSA will not convey" (at S-55)
3. "In connection with the transfer and assignment of each mortgage loan to the trust, the depositor will cause to be delivered to (i) LaSalle Bank National Association, as custodian on behalf of the trustee with respect to the Decision One

mortgage loans, and (ii) the trustee with respect to the NC Capital mortgage loans, on or before the closing date, the following documents with respect to each mortgage loan which constitute the mortgage file: (a) the original mortgage note, endorsed without recourse in blank by the last endorsee, including all intervening endorsements showing a complete chain of endorsement from the originator to the last endorsee; (b) the original of any guaranty executed in connection with the mortgage note; (c) the related original mortgage and evidence of its recording or, in certain limited circumstances, a copy of the mortgage certified by the originator, escrow company, title company, or closing attorney; (d) the mortgage assignment(s), or copies of them certified by the applicable originator, escrow company, title company, or closing attorney, if any, showing a complete chain of assignment from the originator of the related mortgage loan to the last endorsee - which assignment may, at the originator's option, be combined with the assignment referred to in clause (e) below; (e) a mortgage assignment in recordable form, which, if acceptable for recording in the relevant jurisdiction, may be included in a blanket assignment or assignments, of each mortgage from the last endorsee in blank; (f) originals or copies of all assumption, modification, consolidation and extension agreements, if any, with evidence of recording on them; (g) an original title insurance policy or, in the event the original policy is unavailable, a certified true copy of the related policy binder or commitment for title certified to be true and complete by the title insurance company; and (h) the original or, if unavailable, a copy of any security agreement, chattel mortgage or equivalent document executed in connection with the mortgage (if provided)." (at S-56)

4. "Prior to acquiring any residential mortgage loans, MSMC conducts a review of the related mortgage loan seller that is based upon the credit quality of the selling institution. MSMC's review process may include reviewing select financial information for credit and risk assessment and conducting an underwriting guideline review, senior level management discussion and/or background checks. The scope of the loan due diligence varies based on the credit quality of the mortgage loans. The underwriting guideline review entails a review of the mortgage loan origination processes and systems. In addition, such review may involve a consideration of corporate policy and procedures relating to state and federal predatory lending, origination practices by jurisdiction, historical loan level loss experience, quality control practices, significant litigation and/or material investors." (at S-41)
5. "If so specified in the related prospectus supplement, the representations and warranties of a seller or originator in respect of a loan will be made not as of the cut-off date but as of the date on which the applicable originator sold the loan to the seller or the depositor or the applicable seller sold the loan to the depositor or one of its affiliates. Under those circumstances, a substantial period of time may have elapsed between the sale date and the date of initial issuance of the series of securities evidencing an interest in the loan. Since the representations and warranties of a seller or originator do not address events that may occur following the sale of a loan by that seller or originator, its repurchase obligation described in

this prospectus will not arise if the relevant event that would otherwise have given rise to a repurchase obligation with respect to a loan occurs after the date of sale of the loan by the applicable originator or seller. However, the depositor will not include any loan in the trust fund for any series of securities if anything has come to the depositor's attention that would cause it to believe that the representations and warranties of a seller or originator will not be accurate and complete in all material respects in respect of the loan as of the date of initial issuance of the related series of securities. If the master servicer is also a seller or originator of loans with respect to a particular series of securities, the representations will be in addition to the representations and warranties made by the master servicer in its capacity as a master servicer." (Prospectus at 45)

XIII. MSAC 2007-HE5

Misrepresentations in the prospectus supplement and/or prospectus filed April 25, 2007 for the MSAC 2007-HE5 Securitization

A. Untrue or misleading statements about underwriting guidelines

1. Untrue and misleading statements about conformity with underwriting guidelines:

- (a) “The WMC mortgage loans have been either (i) originated generally in accordance with the underwriting guidelines established by WMC (collectively, the “WMC Underwriting Guidelines”) or (ii) purchased by GE Money Bank or WMC Mortgage Corp. after re-underwriting the mortgage loans generally in accordance with the WMC Underwriting Guidelines.” (at S-31)
- (b) “The WMC Underwriting Guidelines are applied in accordance with a procedure which complies with applicable federal and state laws and regulations and require, among other things, (1) an appraisal of the mortgaged property which conforms to Uniform Standards of Professional Appraisal Practice and (2) an audit of such appraisal by a WMC-approved appraiser or by WMC’s in-house collateral auditors (who may be licensed appraisers) and such audit may in certain circumstances consist of a second appraisal, a field review, a desk review or an automated valuation model.” (at S-32)
- (c) “Mortgage loans originated or acquired by Decision One, referred to in this section as the originator, were done so in accordance with the underwriting guidelines established by it (collectively, the “Decision One Underwriting Guidelines”). The following is a general summary of the Decision One Underwriting Guidelines believed to be generally applied, with some variation, by Decision One.” (at S-42-43)
- (d) “The Decision One Underwriting Guidelines require that mortgage loans be underwritten in a standardized procedure which complies with applicable federal and state laws and regulations and requires Decision One’s underwriters to be satisfied that the value of the property being financed, as indicated by an appraisal and a review of the appraisal, currently supports the outstanding loan balance.” (at S-43)

2. Untrue or misleading statements about borrower’s ability to repay the loan:

- (a) “The WMC Underwriting Guidelines are primarily intended to (a) determine that the borrower has the ability to repay the mortgage loan in accordance with its terms and (b) determine that the related mortgaged property will provide sufficient value to recover the investment if the borrower defaults.” (at S-31-32)

- (b) “Under the WMC Underwriting Guidelines, various risk categories are used to grade the likelihood that the mortgagor will satisfy the repayment conditions of the mortgage loan.” (at S-33)
- (c) “The Decision One Underwriting Guidelines are primarily intended to assess the borrower’s ability to repay the mortgage loan, to assess the value of the mortgaged property and to evaluate the adequacy of the property as collateral for the mortgage loan.” (at S-43)

3. Untrue or misleading statements about information evaluated in the loan application:

- (a) “Under the WMC Underwriting Guidelines, WMC verifies the loan applicant’s eligible sources of income for all products, calculates the amount of income from eligible sources indicated on the loan application, reviews the credit and mortgage payment history of the applicant and calculates the Debt Ratio to determine the applicant’s ability to repay the loan, and reviews the mortgaged property for compliance with the WMC Underwriting Guidelines.” (at S-32)
- (b) “In the case of mortgage loans originated under the Full Documentation category, the WMC Underwriting Guidelines require documentation of income (which may consist of (1) a verification of employment form covering a specified time period which varies with LTV, (2) two most recent pay stubs and two years of tax returns or W-2s, (3) verification of deposits and/or (4) bank statements) and telephonic verification. Under the Full-Alternative Documentation category, only 24 months of bank statements are required (depending upon the LTV) and telephonic verification of employment, under the Limited Documentation category only 12 months of bank statements (or a W-2 for the most current year and a current pay stub) are required, and under the Lite Documentation category only six months of bank statements (or a current pay stub covering the six month period) are required. For mortgage loans originated under the Stated Income/Verified Assets (Streamlined) Documentation category, WMC requires verification of funds equal to two months of principal, interest, taxes and insurance, sourced and seasoned for at least sixty days. In the case of mortgage loans originated under the Stated Income Documentation and Stated Income/Verified Assets (Streamlined) Documentation categories, the WMC Underwriting Guidelines require (1) that income be stated on the application, accompanied by proof of self employment in the case of self-employed individuals, (2) that a WMC pre-funding auditor conduct telephonic verification of employment, or in the case of self-employed individuals, telephonic verification of business line and (3) that stated income be consistent with type of work listed on the application.” (at S-33)

- (c) "Decision One also considers, among other things, a mortgagor's credit history, repayment ability and debt service to income ratio, as well as the type and use of the mortgaged property." (at S-43)
- (d) "Each applicant completes an application which includes information with respect to the applicant's liabilities, income, credit history, employment history and personal information. The Decision One Underwriting Guidelines require a credit report on each applicant from a credit reporting company. The report typically contains information relating to matters such as credit history with local and national merchants and lenders, installment debt payments and any record of defaults, bankruptcies, repossessions or judgments." (at S-43)
- (e) "The mortgage loans were originated consistent with and generally conform to the Decision One Underwriting Guidelines' full documentation, limited documentation and stated income documentation residential loan programs. Under each of the programs, Decision One reviews the applicant's source of income, calculates the amount of income from sources indicated on the loan application or similar documentation, reviews the credit history of the applicant, calculates the debt service to income ratio to determine the applicant's ability to repay the loan, reviews the type and use of the property being financed, and reviews the property." (at S-43)
- (f) "The Decision One Underwriting Guidelines require that the income of each applicant for a mortgage loan be verified. The income documentation required for Decision One's various programs is as follows: under the full documentation program, applicants are required to submit one form of verification from their employer(s) of stable income for at least 24 months; under the Bank Statement and Lite documentation programs, applicants are required to submit verification of stable income for at least 24 months along with consecutive and complete personal checking account bank statements; and under the stated income documentation program, an applicant may be qualified based upon monthly income as stated on the mortgage loan application/form 1003 if the applicant meets certain criteria. All the abovementioned programs require telephone verification of all the applicants' employment." (at S-43)

4. Statements concerning evaluation of exceptions and compensating factors:

- (a) "On a case-by-case basis WMC may determine that, based upon compensating factors, a prospective mortgagor not strictly qualifying under the underwriting risk category or other guidelines described below warrants an underwriting exception. Compensating factors may include, but are not limited to, low debt-to-income ratio ("Debt Ratio"), good mortgage payment history, an abundance of cash reserves, excess disposable income, stable employment and time in residence at the

applicant's current address. It is expected that a substantial number of the mortgage loans to be included in the trust will represent such underwriting exceptions" (at S-32)

- (b) "The mortgage loans will have been originated in accordance with the Decision One Underwriting Guidelines. On a case by case basis, exceptions to the Decision One Underwriting Guidelines are made where compensating factors exist." (at S-43)
- (c) "On a case by case basis, it may be determined that an applicant warrants a debt service to income ratio exception, a pricing exception, a loan-to-value ratio exception, an exception from certain requirements of a particular risk category, etc. An exception may be allowed if the application reflects compensating factors, such as: low loan-to-value ratio, pride of ownership, a maximum of one 30-day late payment on all mortgage loans during the last 12 months, stable employment, and longevity of current residence ownership." (at S-44)

B. Untrue or misleading statements about owner-occupancy status

- 1. Defendants represented that the number of mortgage loans secured by properties used as primary residences in Supporting Loan Group 1 was 773 out of a total pool of 798 loans (96.87%). (See IV-31)

C. Untrue or misleading statements about LTV ratios

- 1. "Approximately 45.21% of the group I mortgage loans and approximately 38.16% of the group II mortgage loans had loan-to-value ratios at origination, or with respect to second-lien mortgage loans, combined loan-to-value ratios at origination, in excess of 80% but not more than 100% at origination." (at S-23)
- 2. "Approximately 39.07% of the mortgage loans have loan-to-value ratios at origination, or with respect to second-lien mortgage loans, combined loan-to-value ratios at origination, in excess of 80%. None of the mortgage loans have loan-to-value ratios at origination, or with respect to second-lien mortgage loans, combined loan-to-value ratios at origination, in excess of 100%." (at S-28-29)
- 3. "The weighted average loan-to-value ratio (or, with respect to second-lien mortgage loans, combined loan-to-value ratio) at origination of the group I mortgage loans is approximately 81.60% and approximately 45.21% of the group I mortgage loans have loan-to-value ratios (or, with respect to second-lien mortgage loans, combined loan-to-value ratios) at origination exceeding 80.00%." (at S-46)
- 4. "Mortgaged properties that are to secure mortgage loans are appraised by qualified independent appraisers. These appraisers inspect and appraise the subject property and verify that the property is in acceptable condition. Following each appraisal, the appraiser prepares a report which includes a market value

analysis based on recent sales of comparable homes in the area, and when deemed appropriate, replacement cost analysis based on the current cost of constructing a similar home. All appraisals are required to conform to the Uniform Standards of Professional Appraisal Practice adopted by the Appraisal Standards Board of the Appraisal Foundation and are generally on forms acceptable to Fannie Mae and Freddie Mac.” (at S-43)

D. Untrue or misleading statements about credit ratings

1. Defendants represented that Certificates in the A1 tranche would be assigned a rating of not lower than the following by Moody’s Investor Service, Standard & Poor’s Ratings services, and Fitch, Inc., respectively: Aaa/AAA/--. (at S-14)

E. Additional untrue or misleading statements

1. “Pursuant to the pooling and servicing agreement, each of WMC and Decision One, the responsible parties, will make representations and warranties with respect to each mortgage loan transferred by it as of the closing date (or an earlier date specified in the pooling and servicing agreement, which may be the cut-off date, the date on which the servicing of the mortgage loan was transferred or the date on which MSMC purchased the mortgage loan from the applicable responsible party), including, but not limited to: (at S-64)
 - (a) “(6) Any and all requirements of any federal, state or local law, including, without limitation, usury, truth-in-lending, real settlement procedures, consumer credit protection, equal credit opportunity, disclosure and all predatory and abusive lending laws applicable to the mortgage loan have been complied with, including, without limitation, any provisions therein relating to Prepayment Premiums; (at S-64)
 - (b) “(9) The mortgage note and the mortgage and any other agreement executed and delivered by a mortgagor in connection with a mortgage loan are genuine, and each is the legal, valid and binding obligation of the signatory enforceable in accordance with its terms (including, without limitation, any provisions relating to Prepayment Premiums), subject to bankruptcy, equitable principles and laws affecting creditor rights generally. All parties to the mortgage note, the mortgage and any other such related agreement had legal capacity to enter into the mortgage loan and to execute and deliver the mortgage note, the mortgage and any such agreement, and the mortgage note, the mortgage and any other such related agreement have been duly and properly executed by other such related parties. No fraud, misrepresentation or similar occurrence or, to the responsible party’s knowledge, error, omission or negligence with respect to a mortgage loan has taken place on the part of any other person, including without limitation, the mortgagor, any appraiser, any builder or developer, or any other party involved in the origination of the mortgage loan;” (at S-65)

(c) “(17) None of the mortgage loans is (a) covered by the Home Ownership and Equity Protection Act of 1994 or (b) classified as a “high cost home,” “threshold,” “covered,” “high risk home,” “predatory” or similar loan under any other applicable federal, state or local law (or a similarly classified loan using different terminology under a law imposing heightened regulatory scrutiny or additional legal liability for residential mortgage loans having high interest rates, points and/or fees);” (at S-66)

2. Pursuant to mortgage loan purchase and warranties agreements between the applicable responsible party and MSMC (with respect to each responsible party, the “Original Seller Agreement”), WMC and Decision One sold the mortgage loans, without recourse, to MSMC, and MSMC will sell and convey the mortgage loans, including all principal outstanding as of, and interest due and accruing on or after, the close of business on the cut-off date, without recourse, to the depositor on the closing date. Pursuant to the pooling and servicing agreement, the depositor will sell, without recourse, to the trust, all right, title and interest in and to each mortgage loan, including all principal outstanding as of, and interest due on or after, the close of business on the cut-off date. Each such transfer will convey all right, title and interest in and to (a) principal outstanding as of the close of business on the cut-off date (after giving effect to payments of principal due on or prior to that date, whether or not received) and (b) interest due and accrued on each such mortgage loan after the cut-off date (or, if the due date for a mortgage loan is other than on the first day of the month, after the due date immediately preceding the cut-off date). However, MSMC will not convey to the depositor, and will retain all of its right, title and interest in and to (x) principal due on each mortgage loan on or prior to the cut-off date and principal prepayments in full and curtailments (i.e., partial prepayments) received on each such mortgage loan prior to the cut-off date and (y) interest due and accrued on each mortgage loan on or prior to the cut-off date (or, if the due date for a mortgage loan is other than on the first day of the month, on or prior to the due date immediately preceding the cut-off date).” (at S-62)
3. “In connection with the transfer and assignment of each mortgage loan to the trust, the depositor will cause to be delivered to (i) Wells Fargo Bank, National Association, as custodian on behalf of the trustee with respect to the WMC mortgage loans, and (ii) LaSalle Bank National Association, as custodian on behalf of the trustee with respect to the Decision One mortgage loans, on or before the closing date, the following documents with respect to each mortgage loan which constitute the mortgage file: (a) the original mortgage note, endorsed without recourse in blank by the last endorsee, including all intervening endorsements showing a complete chain of endorsement from the originator to the last endorsee; (b) the original of any guaranty executed in connection with the mortgage note; (c) the related original mortgage and evidence of its recording or, in certain limited circumstances, a copy of the mortgage certified by the originator, escrow company, title company, or closing attorney; (d) the mortgage assignment(s), or copies of them certified by the applicable originator, escrow company, title company, or closing attorney, if any, showing a complete chain of

assignment from the originator of the related mortgage loan to the last endorsee - which assignment may, at the originator's option, be combined with the assignment referred to in clause (e) below; (e) a mortgage assignment in recordable form, which, if acceptable for recording in the relevant jurisdiction, may be included in a blanket assignment or assignments, of each mortgage from the last endorsee in blank; (f) originals or copies of all assumption, modification, consolidation and extension agreements, if any, with evidence of recording on them; (g) an original title insurance policy or, in the event the original policy is unavailable, a certified true copy of the related policy binder or commitment for title certified to be true and complete by the title insurance company; and (h) the original or, if unavailable, a copy of any security agreement, chattel mortgage or equivalent document executed in connection with the mortgage (if provided)." (at S-62-63)

4. "Prior to acquiring any residential mortgage loans, MSMC conducts a review of the related mortgage loan seller that is based upon the credit quality of the selling institution. MSMC's review process may include reviewing select financial information for credit and risk assessment and conducting an underwriting guideline review, senior level management discussion and/or background checks. The scope of the loan due diligence varies based on the credit quality of the mortgage loans. The underwriting guideline review entails a review of the mortgage loan origination processes and systems. In addition, such review may involve a consideration of corporate policy and procedures relating to state and federal predatory lending, origination practices by jurisdiction, historical loan level loss experience, quality control practices, significant litigation and/or material investors." (at S-49)
5. "If so specified in the related prospectus supplement, the representations and warranties of a seller or originator in respect of a loan will be made not as of the cut-off date but as of the date on which the applicable originator sold the loan to the seller or the depositor or the applicable seller sold the loan to the depositor or one of its affiliates. Under those circumstances, a substantial period of time may have elapsed between the sale date and the date of initial issuance of the series of securities evidencing an interest in the loan. Since the representations and warranties of a seller or originator do not address events that may occur following the sale of a loan by that seller or originator, its repurchase obligation described in this prospectus will not arise if the relevant event that would otherwise have given rise to a repurchase obligation with respect to a loan occurs after the date of sale of the loan by the applicable originator or seller. However, the depositor will not include any loan in the trust fund for any series of securities if anything has come to the depositor's attention that would cause it to believe that the representations and warranties of a seller or originator will not be accurate and complete in all material respects in respect of the loan as of the date of initial issuance of the related series of securities. If the master servicer is also a seller or originator of loans with respect to a particular series of securities, the representations will be in addition to the representations and warranties made by the master servicer in its capacity as a master servicer."

XIV. MSAC 2007-HE7

Misrepresentations in the prospectus supplement and/or prospectus filed September 28, 2007 for the MSAC 2007-HE7 Securitization

A. Untrue or misleading statements about underwriting guidelines

1. Untrue and misleading statements about conformity with underwriting guidelines:

- (a) "The mortgage loans were originated or acquired generally in accordance with the underwriting guidelines of the original loan sellers." (at S-31)
- (b) "The mortgage loans originated or acquired by New Century were done so in accordance with the underwriting guidelines established by it (collectively, the "New Century Underwriting Guidelines"), subject to exceptions described in this section. The following is a general summary of the New Century Underwriting Guidelines believed to be generally applied, with some variation, by New Century. This summary does not purport to be a complete description of the underwriting standards of New Century. These underwriting standards do not necessarily describe the actual underwriting standards applied to any particular mortgage loan to be included as part of the mortgage loan pool." (at S-52)
- (c) "The New Century Underwriting Guidelines require that mortgage loans be underwritten in a standardized procedure which complies with applicable federal and state laws and regulations and requires New Century's underwriters to be satisfied that the value of the property being financed, as indicated by an appraisal and a review of the appraisal, currently supports the outstanding loan balance." (at S-53)

2. Untrue or misleading statements about borrower's ability to repay the loan:

- (a) "The New Century Underwriting Guidelines are primarily intended to assess the borrower's ability to repay the related mortgage loan, to assess the value of the mortgaged property and to evaluate the adequacy of the property as collateral for the mortgage loan." (at S-52)

3. Untrue or misleading statements about information evaluated in the loan application:

- (a) "While New Century's primary consideration in underwriting a mortgage loan is the value of the mortgaged property, New Century also considers, among other things, a borrower's credit history, repayment ability and debt service-to-income ratio, as well as the type and use of the mortgaged property." (at S-52)

- (b) "Each applicant completes an application which includes information with respect to the applicant's liabilities, income, credit history, employment history and personal information. The New Century Underwriting Guidelines require a credit report on each applicant from a credit reporting company. The report typically contains information relating to matters such as credit history with local and national merchants and lenders, installment debt payments and any record of defaults, bankruptcies, repossessions or judgments." (at S-52)
- (c) "The mortgage loans were originated consistent with and generally conform to the New Century Underwriting Guidelines' full documentation, limited documentation and stated income documentation residential loan programs. Under each of the programs, New Century reviews the applicant's source of income, calculates the amount of income from sources indicated on the loan application or similar documentation, reviews the credit history of the applicant, calculates the debt service-to-income ratio to determine the applicant's ability to repay the loan, reviews the type and use of the property being financed, and reviews the property. In determining the ability of the applicant to repay the loan, a qualifying rate has been created under the New Century Underwriting Guidelines that generally is equal to the interest rate on that loan." (at S-53)
- (d) "The New Century Underwriting Guidelines require that the income of each applicant for a mortgage loan under the full documentation program be verified. The specific income documentation required for New Century Mortgage Corporation's various programs is as follows: under the full documentation program, applicants usually are required to submit one written form of verification from the employer of stable income for at least 12 months for salaried employees and 24 months for self-employed applicants or for any special program applicant with a credit score of less than 580; under the limited documentation program, applicants usually are required to submit verification of stable income for at least 6 months, such as 6 consecutive months of complete personal checking account bank statements. Under the stated income program, an applicant may be qualified based upon monthly income as stated on the mortgage loan application if the applicant meets certain criteria. All the foregoing programs require that, with respect to salaried employees, there be a telephone verification of the applicant's employment. Verification of the source of funds, if any, required to be deposited by the applicant into escrow in the case of a purchase money loan is required." (at S-53)

4. Statements concerning evaluation of exceptions and compensating factors:

- (a) "The mortgage loans will have been originated in accordance with the New Century Underwriting Guidelines. On a case by case basis, exceptions to the New Century Underwriting Guidelines are made where compensating factors exist. It is expected that a substantial portion of the

mortgage loans in the mortgage pool will represent these exceptions.” (at S-52)

- (b) “On a case by case basis, it may be determined that an applicant warrants a debt service-to-income ratio exception, a pricing exception, a loan-to-value ratio exception, an exception from certain requirements of a particular risk category, etc. An exception may be allowed if the application reflects compensating factors, such as: low loan-to-value ratio; a maximum of one 30 day late payment on all mortgage loans during the last 12 months; and stable employment or ownership of current residence of four or more years. An exception may also be allowed if the applicant places a down payment through escrow of at least 20% of the purchase price of the mortgaged property or if the new loan reduces the applicant’s monthly aggregate mortgage payment by 25% or more. Accordingly, a borrower may qualify in a more favorable risk category than, in the absence of compensating factors, would satisfy only the criteria of a less favorable risk category.” (at S-56)

B. Untrue or misleading statements about owner-occupancy status

- 1. Defendants represented that the number of mortgage loans secured by properties used as primary residences in Supporting Loan Group 1 was 5,595 out of a total pool of 6,288 loans (88.98%). (See IV-36)

C. Untrue or misleading statements about LTV ratios

- 1. “Approximately 48.52% of the group I mortgage loans and approximately 55.96% of the group II mortgage loans had loan-to-value ratios at origination, or with respect to second-lien mortgage loans, combined loan-to-value ratios at origination, in excess of 80% but not more than 100% at origination.” (at S-28)
- 2. “Approximately 50.71% of the mortgage loans have loan-to-value ratios at origination, or with respect to second-lien mortgage loans, combined loan-to-value ratios at origination, in excess of 80%. None of the mortgage loans have loan-to-value ratios at origination, or with respect to second-lien mortgage loans, combined loan-to-value ratios at origination, in excess of 100%.” (at S-32)
- 3. “The weighted average loan-to-value ratio (or, with respect to second-lien mortgage loans, combined loan-to-value ratio) at origination of the group I mortgage loans is approximately 82.17% and approximately 48.52% of the group I mortgage loans have loan-to-value ratios (or, with respect to second-lien mortgage loans, combined loan-to-value ratios) at origination exceeding 80.00%.” (at S-58)
- 4. “Mortgaged properties that are to secure mortgage loans generally are appraised by qualified independent appraisers. These appraisers inspect and appraise the subject property and verify that the property is in acceptable condition. Following each appraisal, the appraiser prepares a report which includes a market value

analysis based on recent sales of comparable homes in the area, and when deemed appropriate, replacement cost analysis based on the current cost of constructing a similar home. All appraisals are required to conform to the Uniform Standards of Professional Appraisal Practice adopted by the Appraisal Standards Board of the Appraisal Foundation and are generally on forms acceptable to Fannie Mae and Freddie Mac.” (at S-52-53)

D. Untrue or misleading statements about credit ratings

1. Defendants represented that Certificates in the A1 tranche would be assigned a rating of not lower than the following by Moody’s Investor Service, Standard & Poor’s Ratings services, and Fitch, Inc., respectively: Aaa/AAA/--. (S-15)

E. Additional untrue or misleading statements

1. “Accredited Home Lenders, Inc. has represented or will represent with respect to each mortgage loan sold by it, and the sponsor will represent with respect to all other mortgage loans, that each such mortgage loan is in compliance with applicable federal, state and local laws and regulations. In addition, Accredited Home Lenders, Inc. In addition, Accredited Home Lenders, Inc. or the sponsor, as applicable, has also represented or will represent that none of such mortgage loans is covered by the Home Ownership and Equity Protection Act of 1994 or is classified as a “high cost home,” “threshold,” “covered,” “high risk home” or “predatory” loan under any other applicable federal, state or local law.” (at S-18)
2. “Pursuant to the Accredited Agreements, Accredited has made or will make certain representations and warranties with respect to each mortgage loan transferred by it as of the cut-off date, the date on which the servicing of the mortgage loan was transferred, or the date on which the sponsor purchased the mortgage loan from Accredited. Pursuant to a representation and warranties agreement (the “MSMCH Representations Agreement”), the sponsor will make certain representations and warranties as of the closing date with respect to all mortgage loans other than the Accredited mortgage loans. These representations and warranties include, but are not limited to: (at S-74)
 - (a) “(6) Any and all requirements of any federal, state or local law, including, without limitation, usury, truth-in-lending, real settlement procedures, consumer credit protection, equal credit opportunity, disclosure and all predatory and abusive lending laws applicable to the mortgage loan have been complied with, including, without limitation, any provisions therein relating to Prepayment Premiums; (at S-75)
 - (b) “(8) The mortgage note and the mortgage and any other agreement executed and delivered by a mortgagor in connection with a mortgage loan are genuine, and each is the legal, valid and binding obligation of the signatory enforceable in accordance with its terms (including, without limitation, any provisions relating to Prepayment Premiums), subject to

bankruptcy, equitable principles and laws affecting creditor rights generally. All parties to the mortgage note, the mortgage and any other such related agreement had legal capacity to enter into the mortgage loan and to execute and deliver the mortgage note, the mortgage and any such agreement, and the mortgage note, the mortgage and any other such related agreement have been duly and properly executed by other such related parties. No fraud, misrepresentation or similar occurrence or, to the responsible party's knowledge, error, omission or negligence with respect to a mortgage loan has taken place on the part of any other person, including without limitation, the mortgagor, any appraiser, any builder or developer, or any other party involved in the origination of the mortgage loan;" (at S-75)

- (c) "(14) None of the mortgage loans is (a) covered by the Home Ownership and Equity Protection Act of 1994 or (b) classified as a "high cost home," "threshold," "covered," "high risk home," "predatory" or similar loan under any other applicable federal, state or local law (or a similarly classified loan using different terminology under a law imposing heightened regulatory scrutiny or additional legal liability for residential mortgage loans having high interest rates, points and/or fees) ;" (at S-)
3. "Pursuant to mortgage loan purchase and warranties agreements, the original loan sellers sold the mortgage loans, without recourse, to MSMCH and MSMCH will sell and convey the mortgage loans, including all principal outstanding as of, and interest due and accruing on or after, the close of business on the cut-off date, without recourse, to the depositor on the closing date. Pursuant to the pooling and servicing agreement, the depositor will sell, without recourse, to the issuing entity, all right, title and interest in and to each mortgage loan, including all principal outstanding as of, and interest due on or after, the close of business on the cut-off date. Each such transfer will convey all right, title and interest in and to (a) principal outstanding as of the close of business on the cut-off date (after giving effect to payments of principal due on or prior to that date, whether or not received) and (b) interest due and accrued on each such mortgage loan after the cut-off date (or, if the due date for a mortgage loan is other than on the first day of the month, after the due date immediately preceding the cut-off date). However, MSMCH will not convey to the depositor, and will retain all of its right, title and interest in and to (x) principal due on each mortgage loan on or prior to the cut-off date and principal prepayments in full and curtailments (i.e., partial prepayments) received on each such mortgage loan prior to the cut-off date and (y) interest due and accrued on each mortgage loan on or prior to the cut-off date (or, if the due date for a mortgage loan is other than on the first day of the month, on or prior to the due date immediately preceding the cut-off date)." (at S-72)
 4. "In connection with the transfer and assignment of each mortgage loan to the issuing entity, the depositor will cause to be delivered to the trustee and the custodians on behalf of the trustee, on or before the closing date, the following documents with respect to each mortgage loan which constitute the mortgage file:

(a) the original mortgage note, endorsed without recourse in blank by the last endorsee, including all intervening endorsements showing a complete chain of endorsement from the originator to the last endorsee; (b) the original of any guaranty executed in connection with the mortgage note; (c) the related original mortgage and evidence of its recording or, in certain limited circumstances, a copy of the mortgage certified by the originator, escrow company, title company, or closing attorney; (d) the mortgage assignment(s), or copies of them certified by the applicable originator, escrow company, title company, or closing attorney, if any, showing a complete chain of assignment from the originator of the related mortgage loan to the last endorsee – which assignment may, at the originator's option, be combined with the assignment referred to in clause (e) below; (e) a mortgage assignment in recordable form, which, if acceptable for recording in the relevant jurisdiction, may be included in a blanket assignment or assignments, of each mortgage from the last endorsee in blank; (f) originals or copies of all assumption, modification, consolidation and extension agreements, if any, with evidence of recording on them; (g) an original title insurance policy or, in the event the original policy is unavailable, a certified true copy of the related policy binder or commitment for title certified to be true and complete by the title insurance company; and (h) the original or, if unavailable, a copy of any security agreement, chattel mortgage or equivalent document executed in connection with the mortgage (if provided).” (at S-73)

5. “Prior to acquiring any residential mortgage loans, MSMC conducts a review of the related mortgage loan seller that is based upon the credit quality of the selling institution. MSMC’s review process may include reviewing select financial information for credit and risk assessment and conducting an underwriting guideline review, senior level management discussion and/or background checks. The scope of the loan due diligence varies based on the credit quality of the mortgage loans. The underwriting guideline review entails a review of the mortgage loan origination processes and systems. In addition, such review may involve a consideration of corporate policy and procedures relating to state and federal predatory lending, origination practices by jurisdiction, historical loan level loss experience, quality control practices, significant litigation and/or material investors.” (at S-61)
6. “If so specified in the related prospectus supplement, the representations and warranties of a seller or originator in respect of a loan will be made not as of the cut-off date but as of the date on which the applicable originator sold the loan to the seller or the depositor or the applicable seller sold the loan to the depositor or one of its affiliates. Under those circumstances, a substantial period of time may have elapsed between the sale date and the date of initial issuance of the series of securities evidencing an interest in the loan. Since the representations and warranties of a seller or originator do not address events that may occur following the sale of a loan by that seller or originator, its repurchase obligation described in this prospectus will not arise if the relevant event that would otherwise have given rise to a repurchase obligation with respect to a loan occurs after the date of sale of the loan by the applicable originator or seller. However, the depositor will not

include any loan in the trust fund for any series of securities if anything has come to the depositor's attention that would cause it to believe that the representations and warranties of a seller or originator will not be accurate and complete in all material respects in respect of the loan as of the date of initial issuance of the related series of securities. If the master servicer is also a seller or originator of loans with respect to a particular series of securities, the representations will be in addition to the representations and warranties made by the master servicer in its capacity as a master servicer." (Prospectus at 46)

XV. MSAC 2007-NC1

Misrepresentations in the prospectus supplement and/or prospectus filed January 26, 2007 for the MSAC 2007-NC1 Securitization

A. Untrue or misleading statements about underwriting guidelines

1. Untrue and misleading statements about conformity with underwriting guidelines:

- (a) "The mortgage loans were originated or acquired generally in accordance with the underwriting guidelines described in this prospectus supplement."
- (b) "The mortgage loans originated or acquired by New Century were done so in accordance with the underwriting guidelines established by it (collectively, the "New Century Underwriting Guidelines"). The following is a general summary of the New Century Underwriting Guidelines believed to be generally applied, with some variation, by the originator. This summary does not purport to be a complete description of the underwriting standards of New Century Mortgage Corporation."
- (c) "The New Century Underwriting Guidelines require that mortgage loans be underwritten in a standardized procedure which complies with applicable federal and state laws and regulations and requires New Century's underwriters to be satisfied that the value of the property being financed, as indicated by an appraisal and a review of the appraisal, currently supports the outstanding loan balance."

2. Untrue or misleading statements about borrower's ability to repay the loan:

- (a) "The New Century Underwriting Guidelines are primarily intended to assess the borrower's ability to repay the related mortgage loan, to assess the value of the mortgaged property and to evaluate the adequacy of the property as collateral for the mortgage loan."

3. Untrue or misleading statements about information evaluated in the loan application:

- (a) "While New Century's primary consideration in underwriting a mortgage loan is the value of the mortgaged property, New Century also considers, among other things, a mortgagor's credit history, repayment ability and debt service-to-income ratio, as well as the type and use of the mortgaged property."
- (b) "Each applicant completes an application which includes information with respect to the applicant's liabilities, income, credit history, employment history and personal information. The New Century Underwriting Guidelines require a credit report on each applicant from a credit reporting

company. The report typically contains information relating to matters such as credit history with local and national merchants and lenders, installment debt payments and any record of defaults, bankruptcies, repossessions or judgments.”

- (c) “The mortgage loans were originated consistent with and generally conform to the New Century Underwriting Guidelines’ full documentation, limited documentation and stated income documentation residential loan programs. Under each of the programs, New Century reviews the applicant’s source of income, calculates the amount of income from sources indicated on the loan application or similar documentation, reviews the credit history of the applicant, calculates the debt service-to-income ratio to determine the applicant’s ability to repay the loan, reviews the type and use of the property being financed, and reviews the property. In determining the ability of the applicant to repay the loan, a qualifying rate has been created under the New Century Underwriting Guidelines that generally is equal to the interest rate on that loan.”
- (d) “The New Century Underwriting Guidelines require that the income of each applicant for a mortgage loan under the full documentation program be verified. The specific income documentation required for New Century Mortgage Corporation’s various programs is as follows: under the full documentation program, applicants usually are required to submit one written form of verification from the employer of stable income for at least 12 months for salaried employees and 24 months for self-employed applicants or for any special program applicant with a credit score of less than 580; under the limited documentation program, applicants usually are required to submit verification of stable income for at least 6 months, such as 6 consecutive months of complete personal checking account bank statements. Under the stated income program, an applicant may be qualified based upon monthly income as stated on the mortgage loan application if the applicant meets certain criteria. All the foregoing programs require that, with respect to salaried employees, there be a telephone verification of the applicant’s employment. Verification of the source of funds, if any, required to be deposited by the applicant into escrow in the case of a purchase money loan is required.”

4. Statements concerning evaluation of exceptions and compensating factors:

- (a) “The mortgage loans will have been originated in accordance with the New Century Underwriting Guidelines. On a case-by-case basis, exceptions to the New Century Underwriting Guidelines are made where compensating factors exist. It is expected that a substantial portion of the mortgage loans will represent these exceptions.”
- (b) “On a case by case basis, it may be determined that an applicant warrants a debt service-to-income ratio exception, a pricing exception, a loan-to-

value ratio exception, an exception from certain requirements of a particular risk category, etc. An exception may be allowed if the application reflects compensating factors, such as: low loan-to-value ratio; a maximum of one 30 day late payment on all mortgage loans during the last 12 months; and stable employment or ownership of current residence of four or more years. An exception may also be allowed if the applicant places a down payment through escrow of at least 20% of the purchase price of the mortgaged property or if the new loan reduces the applicant's monthly aggregate mortgage payment by 25% or more."

B. Untrue or misleading statements about owner-occupancy status

1. Defendants represented that the number of mortgage loans secured by properties used as primary residences in Supporting Loan Group 1 was 2,036 out of a total pool of 2,399 loans (84.87%).

C. Untrue or misleading statements about LTV ratios

1. "Approximately 43.11% of the group I mortgage loans and approximately 41.87% of the group II mortgage loans had loan-to-value ratios at origination, or with respect to second-lien mortgage loans, combined loan-to-value ratios at origination, in excess of 80% but not more than 100% at origination."
2. "Approximately 42.28% of the mortgage loans have loan-to-value ratios at origination, or with respect to second-lien mortgage loans, combined loan-to-value ratios at origination, in excess of 80%. None of the mortgage loans have loan-to-value ratios at origination, or with respect to second-lien mortgage loans, combined loan-to-value ratios at origination, in excess of 100%."
3. "The weighted average loan-to-value ratio (or, with respect to second-lien mortgage loans, combined loan-to-value ratio) at origination of the group I mortgage loans is approximately 79.20% and approximately 43.11% of the group I mortgage loans have loan-to-value ratios (or, with respect to second-lien mortgage loans, combined loan-to-value ratios) at origination exceeding 80.00%."
4. "Mortgaged properties that are to secure mortgage loans generally are appraised by qualified independent appraisers. These appraisers inspect and appraise the subject property and verify that the property is in acceptable condition. Following each appraisal, the appraiser prepares a report which includes a market value analysis based on recent sales of comparable homes in the area, and when deemed appropriate, replacement cost analysis based on the current cost of constructing a similar home. All appraisals are required to conform to the Uniform Standards of Professional Appraisal Practice adopted by the Appraisal Standards Board of the Appraisal Foundation and are generally on forms acceptable to Fannie Mae and Freddie Mac."

D. Untrue or misleading statements about credit ratings

1. Defendants represented that Certificates in the A1 tranche would be assigned a rating of not lower than the following by Moody's Investor Service, Standard & Poor's Ratings services, and Fitch, Inc., respectively: Aaa/AAA/--.

E. Additional untrue or misleading statements

1. "Pursuant to the pooling and servicing agreement, NC Capital, the responsible party, will make representations and warranties with respect to each mortgage loan, as of the closing date (or an earlier date specified in the pooling and servicing agreement, which may be the cut-off date, the date on which the servicing of the mortgage loan was transferred or the date on which MSMC purchased the mortgage loan from the responsible party), including, but not limited to:
 - (a) "(6) Any and all requirements of any federal, state or local law, including, without limitation, usury, truth-in-lending, real settlement procedures, consumer credit protection, equal credit opportunity, disclosure and all predatory and abusive lending laws applicable to the mortgage loan have been complied with, including, without limitation, any provisions therein relating to Prepayment Premiums, and the consummation of the transactions contemplated by the pooling and servicing agreement will not involve the violation of any such laws or regulations;;
 - (b) "(9) The mortgage note and the mortgage and any other agreement executed and delivered by a mortgagor in connection with a mortgage loan are genuine, and each is the legal, valid and binding obligation of the signatory enforceable in accordance with its terms (including, without limitation, any provisions relating to Prepayment Premiums), subject to bankruptcy, equitable principles and laws affecting creditor rights generally. All parties to the mortgage note, the mortgage and any other such related agreement had legal capacity to enter into the mortgage loan and to execute and deliver the mortgage note, the mortgage and any such agreement, and the mortgage note, the mortgage and any other such related agreement have been duly and properly executed by other such related parties. No fraud, misrepresentation or similar occurrence or, to the responsible party's knowledge, error, omission or negligence with respect to a mortgage loan has taken place on the part of any other person, including without limitation, the mortgagor, any appraiser, any builder or developer, or any other party involved in the origination of the mortgage loan;"
 - (c) "(17) None of the mortgage loans is (a) covered by the Home Ownership and Equity Protection Act of 1994 or (b) classified as a "high cost home," "threshold," "covered," "high risk home," "predatory" or similar loan under any other applicable federal, state or local law (or a similarly classified loan using different terminology under a law imposing

heightened regulatory scrutiny or additional legal liability for residential mortgage loans having high interest rates, points and/or fees);”

2. “Pursuant to a mortgage loan purchase and warranties agreement, between NC Capital Corporation (“NC Capital”) and MSMC (the “Original Seller Agreement”), NC Capital sold the mortgage loans, without recourse, to MSMC (which subsequently transferred certain NC Capital mortgage loans to MSSA), and MSMC and MSSA will sell and convey the mortgage loans, including all principal outstanding as of, and interest due and accruing on or after, the close of business on the cut-off date, without recourse, to the depositor on the closing date. Pursuant to the pooling and servicing agreement, the depositor will sell, without recourse, to the trust, all right, title and interest in and to each mortgage loan, including all principal outstanding as of, and interest due on or after, the close of business on the cut-off date. Each such transfer will convey all right, title and interest in and to (a) principal outstanding as of the close of business on the cut-off date (after giving effect to payments of principal due on or prior to that date, whether or not received) and (b) interest due and accrued on each such mortgage loan after the cut-off date (or, if the due date for a mortgage loan is other than on the first day of the month, after the due date immediately preceding the cut-off date). However, MSMC and MSSA will not convey to the depositor, and will retain all of its right, title and interest in and to (x) principal due on each mortgage loan on or prior to the cut-off date and principal prepayments in full and curtailments (*i.e.*, partial prepayments) received on each such mortgage loan prior to the cut-off date and (y) interest due and accrued on each mortgage loan on or prior to the cut-off date (or, if the due date for a mortgage loan is other than on the first day of the month, on or prior to the due date immediately preceding the cut-off date).”

3. “In connection with the transfer and assignment of each mortgage loan to the trust, the depositor will cause to be delivered to the trustee, on or before the closing date, the following documents with respect to each mortgage loan which constitute the mortgage file: (a) the original mortgage note, endorsed without recourse in blank by the last endorsee, including all intervening endorsements showing a complete chain of endorsement from the originator to the last endorsee; (b) the original of any guaranty executed in connection with the mortgage note; (c) the related original mortgage and evidence of its recording or, in certain limited circumstances, a copy of the mortgage certified by the originator, escrow company, title company, or closing attorney; (d) the mortgage assignment(s), or copies of them certified by the applicable originator, escrow company, title company, or closing attorney, if any, showing a complete chain of assignment from the originator of the related mortgage loan to the last endorsee - which assignment may, at the originator’s option, be combined with the assignment referred to in clause (e) below; (e) a mortgage assignment in recordable form, which, if acceptable for recording in the relevant jurisdiction, may be included in a blanket assignment or assignments; of each mortgage from the last endorsee in blank; (e) a mortgage assignment in recordable form, which, if acceptable for recording in the relevant jurisdiction, may be included in a blanket assignment or

assignments, of each mortgage from the last endorsee in blank; (f) originals or copies of all assumption, modification, consolidation and extension agreements, with evidence of recording on them; (g) an original title insurance policy or, in the event the original policy is unavailable, a copy of the related policy binder, preliminary report or commitment for title issued by the title insurance company; and (h) the original of any security agreement, chattel mortgage or equivalent document executed in connection with the mortgage (if provided)."

4. "Prior to acquiring any residential mortgage loans, MSMC conducts a review of the related mortgage loan seller that is based upon the credit quality of the selling institution. MSMC's review process may include reviewing select financial information for credit and risk assessment and conducting an underwriting guideline review, senior level management discussion and/or background checks. The scope of the loan due diligence varies based on the credit quality of the mortgage loans. The underwriting guideline review entails a review of the mortgage loan origination processes and systems. In addition, such review may involve a consideration of corporate policy and procedures relating to state and federal predatory lending, origination practices by jurisdiction, historical loan level loss experience, quality control practices, significant litigation and/or material investors."
5. "If so specified in the related prospectus supplement, the representations and warranties of a seller or originator in respect of a loan will be made not as of the cut-off date but as of the date on which the applicable originator sold the loan to the seller or the depositor or the applicable seller sold the loan to the depositor or one of its affiliates. Under those circumstances, a substantial period of time may have elapsed between the sale date and the date of initial issuance of the series of securities evidencing an interest in the loan. Since the representations and warranties of a seller or originator do not address events that may occur following the sale of a loan by that seller or originator, its repurchase obligation described in this prospectus will not arise if the relevant event that would otherwise have given rise to a repurchase obligation with respect to a loan occurs after the date of sale of the loan by the applicable originator or seller. However, the depositor will not include any loan in the trust fund for any series of securities if anything has come to the depositor's attention that would cause it to believe that the representations and warranties of a seller or originator will not be accurate and complete in all material respects in respect of the loan as of the date of initial issuance of the related series of securities. If the master servicer is also a seller or originator of loans with respect to a particular series of securities, the representations will be in addition to the representations and warranties made by the master servicer in its capacity as a master servicer."

XVI. MSC 2006-HE2

Misrepresentations in the prospectus supplement and/or prospectus filed April 26, 2006 for the MSC 2006-HE2 Securitization

A. Untrue or misleading statements about underwriting guidelines

1. Untrue and misleading statements about conformity with underwriting guidelines:

- (a) "The mortgage loans were originated or acquired generally in accordance with the underwriting guidelines described in this prospectus supplement. (at S-25)"
- (b) "The mortgage loans have been either (i) originated generally in accordance with the underwriting guidelines established by WMC (collectively, the "WMC Underwriting Guidelines") or (ii) purchased by WMC after re-underwriting the mortgage loans, generally in accordance with the WMC Underwriting Guidelines." (at S-28)
- (c) "The WMC Underwriting Guidelines are applied in accordance with a procedure which complies with applicable federal and state laws and regulations and requires, among other things, (1) an appraisal of the mortgaged property which conforms to Uniform Standards of Professional Appraisal Practice and (2) an audit of such appraisal by a WMC-approved appraiser or by WMC's in-house collateral auditors (who may be licensed appraisers) and such audit may in certain circumstances consist of a second appraisal, a field review, a desk review or an automated valuation model." (at S-28)
- (d) "Mortgage loans originated or acquired by Decision One Mortgage, referred to in this section as the originator, were done so in accordance with the underwriting guidelines established by it (collectively, the "Decision One Underwriting Guidelines"). The following is a general summary of the Decision One Underwriting Guidelines believed to be generally applied, with some variation, by Decision One." (at S-38)
- (e) "Each applicant completes an application which includes information with respect to the applicant's liabilities, income, credit history, employment history and personal information. The Decision One Underwriting Guidelines require a credit report on each applicant from a credit reporting company. The report typically contains information relating to matters such as credit history with local and national merchants and lenders, installment debt payments and any record of defaults, bankruptcies, repossessions or judgments." (at S-38-39)
- (f) "The Decision One Underwriting Guidelines require that mortgage loans be underwritten in a standardized procedure which complies with

applicable federal and state laws and regulations and requires Decision One Mortgage's underwriters to be satisfied that the value of the property being financed, as indicated by an appraisal and a review of the appraisal, currently supports the outstanding loan balance." (at S-39)

2. Untrue or misleading statements about borrower's ability to repay the loan:

- (a) "The WMC Underwriting Guidelines are primarily intended to (a) determine that the borrower has the ability to repay the mortgage loan in accordance with its terms and (b) determine that the related mortgaged property will provide sufficient value to recover the investment if the borrower defaults." (at S-28)
- (b) "Under the WMC Underwriting Guidelines, various risk categories are used to grade the likelihood that the mortgagor will satisfy the repayment conditions of the mortgage loan." (at S-29)
- (c) "The Decision One Underwriting Guidelines are primarily intended to assess the borrower's ability to repay the mortgage loan, to assess the value of the mortgaged property and to evaluate the adequacy of the property as collateral for the mortgage loan." (at S-38)

3. Untrue or misleading statements about information evaluated in the loan application:

- (a) "In the case of purchase money mortgage loans, WMC generally validates the source of funds for the down payment. In the case of mortgage loans originated under the Full Documentation category, the WMC Underwriting Guidelines require documentation of income (which may consist of (1) a verification of employment form covering a specified time period which varies with LTV, (2) two most recent pay stubs and two years of tax returns or W-2s, (3) verification of deposits and/or (4) bank statements) and telephonic verification. Under the Full-Alternative Documentation category, only 24 months of bank statements are required (depending upon the LTV) and telephonic verification of employment, under the Limited Documentation category only 12 months of bank statements (or a W-2 for the most current year and a current pay stub) are required, and under the Lite Documentation category only six months of bank statements (or a current pay stub covering the six month period) are required. For mortgage loans originated under the Stated Income/Verified Assets (Streamlined) Documentation category, WMC requires verification of funds equal to two months of principal, interest, taxes and insurance, sourced and seasoned for at least sixty days. In the case of mortgage loans originated under the Stated Income Documentation and Stated Income/Verified Assets (Streamlined) Documentation categories, the WMC Underwriting Guidelines require (1) that income be stated on the application, accompanied by proof of self employment in the case of self-

employed individuals, (2) that a WMC pre-funding auditor conduct telephonic verification of employment, or in the case of self-employed individuals, telephonic verification of business line and (3) that stated income be consistent with type of work listed on the application.” (at S-29)

- (b) “While Decision One Mortgage’s primary consideration in underwriting a mortgage loan is the value of the mortgaged property, Decision One Mortgage also considers, among other things, a mortgagor’s credit history, repayment ability and debt service to income ratio, as well as the type and use of the mortgaged property.” (at S-38)
- (c) “The mortgage loans were originated consistent with and generally conform to the Decision One Underwriting Guidelines’ full documentation, limited documentation and stated income documentation residential loan programs. Under each of the programs, Decision One Mortgage reviews the applicant’s source of income, calculates the amount of income from sources indicated on the loan application or similar documentation, reviews the credit history of the applicant, calculates the debt service to income ratio to determine the applicant’s ability to repay the loan, reviews the type and use of the property being financed, and reviews the property.” (at S-39)
- (d) “The Decision One Underwriting Guidelines require that the income of each applicant for a mortgage loan be verified. The income documentation required for Decision One’s various programs is as follows: under the full documentation program, applicants are required to submit one form of verification from their employer(s) of stable income for at least 24 months; under the Bank Statement and Lite documentation programs, applicants are required to submit verification of stable income for at least 24 months along with consecutive and complete personal checking account bank statements; and under the stated income documentation program, an applicant may be qualified based upon monthly income as stated on the mortgage loan application/form 1003 if the applicant meets certain criteria. All the abovementioned programs require telephone verification of all the applicants’ employment.” (at S-39)

4. Statements concerning evaluation of exceptions and compensating factors:

- (a) “On a case-by-case basis WMC may determine that, based upon compensating factors, a prospective mortgagor not strictly qualifying under the underwriting risk category or other guidelines described below warrants an underwriting exception. Compensating factors may include, but are not limited to, low debt-to-income ratio (“Debt Ratio”), good mortgage payment history, an abundance of cash reserves, excess disposable income, stable employment and time in residence at the applicant’s current address. It is expected that a substantial number of the

mortgage loans to be included in the trust will represent such underwriting exceptions” (at S-28)

- (b) “The mortgage loans will have been originated in accordance with the Decision One Underwriting Guidelines. On a case by case basis, exceptions to the Decision One Underwriting Guidelines are made where compensating factors exist.” (at S-38)
- (c) “On a case by case basis, it may be determined that an applicant warrants a debt service to income ratio exception, a pricing exception, a loan-to-value ratio exception, an exception from certain requirements of a particular risk category, etc. An exception may be allowed if the application reflects compensating factors, such as: low loan-to-value ratio, pride of ownership, a maximum of one 30-day late payment on all mortgage loans during the last 12 months, stable employment, and longevity of current residence ownership.” (at S-40)

5. Untrue or misleading statements about quality control procedures:

- (a) “Under the WMC Underwriting Guidelines, WMC verifies the loan applicant’s eligible sources of income for all products, calculates the amount of income from eligible sources indicated on the loan application, reviews the credit and mortgage payment history of the applicant and calculates the Debt Ratio to determine the applicant’s ability to repay the loan, and reviews the mortgaged property for compliance with the WMC Underwriting Guidelines.” (at S-28)

B. Untrue or misleading statements about owner-occupancy status

- 1. Defendants represented that the number of mortgage loans secured by properties used as primary residences in Supporting Loan Group 1 was 2,754 out of a total pool of 2,822 loans (97.59%). (See III-30)

C. Untrue or misleading statements about LTV ratios

- 1. “Approximately 33.86% and approximately 31.79% of the group I mortgage loans and group II mortgage loans, respectively, had loan-to-value ratios at origination, or with respect to second-lien mortgage loans, combined loan-to-value ratios at origination, in excess of 80% but not more than 100% at origination.” (at S-20)
- 2. “Approximately 32.29% of the mortgage loans have loan-to-value ratios at origination, or with respect to second-lien mortgage loans, combined loan-to-value ratios at origination, in excess of 80%. None of the mortgage loans have loan-to-value ratios at origination, or with respect to second-lien mortgage loans, combined loan-to-value ratios at origination, in excess of 100%.” (at S-25)
- 3. “The weighted average loan-to-value ratio (or, with respect to second-lien mortgage loans, combined loan-to-value ratio) at origination of the group I

mortgage loans is approximately 78.96% and approximately 33.86% of the group I mortgage loans have loan-to-value ratios (or, with respect to second-lien mortgage loans, combined loan-to-value ratios) at origination exceeding 80.00%.” (at S-42)

4. “Mortgaged properties that are to secure mortgage loans are appraised by qualified independent appraisers. These appraisers inspect and appraise the subject property and verify that the property is in acceptable condition. Following each appraisal, the appraiser prepares a report which includes a market value analysis based on recent sales of comparable homes in the area, and when deemed appropriate, replacement cost analysis based on the current cost of constructing a similar home. All appraisals are required to conform to the Uniform Standards of Professional Appraisal Practice adopted by the Appraisal Standards Board of the Appraisal Foundation and are generally on forms acceptable to Fannie Mae and Freddie Mac.” (at S-39)

D. Untrue or misleading statements about credit ratings

1. Defendants represented that Certificates in the A1 tranche would be assigned a rating of not lower than the following by Moody’s Investor Service, Standard & Poor’s Ratings services, and Fitch, Inc., respectively: Aaa/AAA/AAA. (at S-116)

E. Additional untrue or misleading statements

1. “Pursuant to the pooling and servicing agreement, each of WMC and Decision One Mortgage, the responsible parties, will make representations and warranties with respect to each mortgage loan transferred by it as of the closing date (or an earlier date specified in the pooling and servicing agreement, which may be the cut-off date, the date on which the servicing of the mortgage loan was transferred or the date on which MSMC purchased the mortgage loan from the applicable responsible party), including, but not limited to:
 - (a) “(6) Any and all requirements of any federal, state or local law, including, without limitation, usury, truth-in-lending, real settlement procedures, consumer credit protection, equal credit opportunity, disclosure and all predatory and abusive lending laws applicable to the mortgage loan have been complied with, including, without limitation, any provisions therein relating to Prepayment Premiums; (at S-57)
 - (b) “(9) The mortgage note and the mortgage and any other agreement executed and delivered by a mortgagor in connection with a mortgage loan are genuine, and each is the legal, valid and binding obligation of the signatory enforceable in accordance with its terms (including, without limitation, any provisions relating to Prepayment Premiums), subject to bankruptcy, equitable principles and laws affecting creditor rights generally. All parties to the mortgage note, the mortgage and any other such related agreement had legal capacity to enter into the mortgage loan

and to execute and deliver the mortgage note, the mortgage and any such agreement, and the mortgage note, the mortgage and any other such related agreement have been duly and properly executed by other such related parties. No fraud, misrepresentation or similar occurrence or, to the responsible party's knowledge, error, omission or negligence with respect to a mortgage loan has taken place on the part of any other person, including without limitation, the mortgagor, any appraiser, any builder or developer, or any other party involved in the origination of the mortgage loan;" (at S-58)

- (c) "(17) None of the mortgage loans is (a) covered by the Home Ownership and Equity Protection Act of 1994 or (b) classified as a "high cost home," "threshold," "covered," "high risk home," "predatory" or similar loan under any other applicable federal, state or local law (or a similarly classified loan using different terminology under a law imposing heightened regulatory scrutiny or additional legal liability for residential mortgage loans having high interest rates, points and/or fees) ;" (at S-59)

2. "Pursuant to mortgage loan purchase and warranties agreements, WMC Mortgage Corp. ("WMC") and Decision One Mortgage Company, LLC ("Decision One Mortgage") sold the mortgage loans, without recourse, to MSMC, and MSMC will sell and convey the mortgage loans, including all principal outstanding as of, and interest due and accruing on or after, the close of business on the cut off date, without recourse, to the depositor on the closing date. Pursuant to the pooling and servicing agreement, the depositor will sell, without recourse, to the trust, all right, title and interest in and to each mortgage loan, including all principal outstanding as of, and interest due on or after, the close of business on the cut off date. Each such transfer will convey all right, title and interest in and to (a) principal outstanding as of the close of business on the cut off date (after giving effect to payments of principal due on that date, whether or not received) and (b) interest due and accrued on each such mortgage loan after the cut off date. However, MSMC will not convey to the depositor, and will retain all of its right, title and interest in and to (x) principal due on each mortgage loan on or prior to the cut off date and principal prepayments in full and curtailments (i.e., partial prepayments) received on each such mortgage loan prior to the cut off date and (y) interest due and accrued on each mortgage loan on or prior to the cut-off date." (at S-55)
3. "In connection with the transfer and assignment of each mortgage loan to the trust, the depositor will cause to be delivered (i) to Wells Fargo Bank, National Association, as custodian on behalf of the trustee with respect to the mortgage loans sold to MSMC by WMC, (ii) to LaSalle Bank National Association, as custodian on behalf of the trustee with respect to the mortgage loans sold to MSMC by Decision One Mortgage, on or before the closing date, the following documents with respect to each mortgage loan which constitute the mortgage file: (a) the original mortgage note, endorsed without recourse in blank by the last endorsee, including all intervening endorsements showing a complete chain of

endorsement from the originator to the last endorsee; (b) the original of any guaranty executed in connection with the mortgage note; (c) the related original mortgage and evidence of its recording or, in certain limited circumstances, a copy of the mortgage certified by the originator, escrow company, title company, or closing attorney; (d) the mortgage assignment(s), or copies of them certified by the applicable originator, escrow company, title company, or closing attorney, if any, showing a complete chain of assignment from the originator of the related mortgage loan to the last endorsee - which assignment may, at the originator's option, be combined with the assignment referred to in clause (e) below; (e) a mortgage assignment in recordable form, which, if acceptable for recording in the relevant jurisdiction, may be included in a blanket assignment or assignments, of each mortgage from the last endorsee in blank; (f) originals of all assumption, modification, consolidation and extension agreements, if any, with evidence of recording on them; (g) an original title insurance policy or, in the event the original policy is unavailable, a certified true copy of the related policy binder or commitment for title certified to be true and complete by the title insurance company; and (h) the original or, if unavailable, a copy of any security agreement, chattel mortgage or equivalent document executed in connection with the mortgage (if provided)." (at S-56)

4. "Prior to acquiring any residential mortgage loans, MSMC conducts a review of the related mortgage loan seller that is based upon the credit quality of the selling institution. MSMC's review process may include reviewing select financial information for credit and risk assessment and conducting an underwriting guideline review, senior level management discussion and/or background checks. The scope of the loan due diligence varies based on the credit quality of the mortgage loans. The underwriting guideline review entails a review of the mortgage loan origination processes and systems. In addition, such review may involve a consideration of corporate policy and procedures relating to state and federal predatory lending, origination practices by jurisdiction, historical loan level loss experience, quality control practices, significant litigation and/or material investors." (at S-43)

XVII. MSHEL 2005-4

Misrepresentations in the prospectus supplement and/or prospectus filed November 23, 2005 for the MSHEL 2005-4 Securitization

A. Untrue or misleading statements about underwriting guidelines

1. Untrue and misleading statements about conformity with underwriting guidelines:

- (a) Each of First NLC Financial Services, LLC, Meritage Mortgage Corporation and AIG Federal Savings Bank (through its Wilmington Finance division) has represented or will represent that each mortgage loan sold by it is in compliance with applicable federal, state and local laws and regulations. (at S-17)
- (b) "The mortgage loans were originated or acquired generally in accordance with the underwriting guidelines described in this prospectus supplement. See "--Underwriting Guidelines" below." (at S-21)
- (c) "Approximately 45.57% of the mortgage loans were originated by First NLC Financial Services, LLC ("First NLC") under the following underwriting guidelines. " (at S-23)
- (d) "Approximately, 35.50% of the mortgage loans were originated by AIG Federal Savings Bank, acting through its Wilmington Finance division ("Wilmington Finance") under the following underwriting guidelines." (at S-29)
- (e) "All of the mortgage loans were underwritten and originated by Meritage, generally in accordance with the underwriting criteria described herein." (at S-32)

2. Untrue or misleading statements about borrower's ability to repay the loan:

- (a) "First NLC's underwriting guidelines are designed to evaluate a borrower's credit history, his or her capacity, willingness and ability to repay the loan and the value and adequacy of the collateral." (at S-23)
- (b) "The Wilmington Finance underwriting process is intended to assess a loan applicant's credit standing and repayment ability and the value and adequacy of the real property security as collateral for the proposed loan." (at S-29)
- (c) "Meritage's underwriting standards are primarily intended to assess the ability and willingness of the borrower to repay the debt and to evaluate the adequacy of the mortgaged property as collateral for the mortgage loan." (at S-32)

3. Untrue or misleading statements about information evaluated in the loan application:

- (a) "First NLC's underwriting guidelines require verification of the borrower's income. First NLC has two levels of income documentation requirements, referred to as "full documentation" and "stated income documentation" programs. Under each of these programs, First NLC reviews the loan applicant's source of income, calculate the amount of income from sources indicated on the loan application or similar documentation and calculate debt-to-income ratios to determine the applicant's ability to repay the loan. Under the full documentation program, applicants are required to submit income verification for the previous two calendar years as well as year-to-date information. Under the stated income documentation program, First NLC evaluates applicants based upon income as stated in the mortgage loan application. Under both programs, First NLC generally verifies by telephone employment and/or proof of business existence and income, and self-employed applicants may be required to submit a business license. Verification of the source of funds, if any, required to be paid by the applicant at closing is generally required under both documentation programs in the form of a standard verification of deposit, two months' consecutive bank statements or other acceptable documentation. First NLC verifies twelve months' mortgage payment or rental history with the related lender or landlord." (at S-24)
- (b) "Wilmington Finance underwriting guidelines require verification or evaluation of the income of each applicant pursuant to the Wilmington Finance "Full Documentation" or "Stated Income" programs. Under each of these programs, Wilmington Finance reviews the loan applicant's source of income, calculates the amount of income from sources indicated on the loan application or similar documentation, and calculates debt service-to-income ratios to determine the applicant's ability to repay the loan." (at S-30-31)
- (c) "A critical function of the Wilmington Finance underwriting process is to identify the level of credit risk associated with each applicant for a mortgage loan." (at S-31)
- (d) "Meritage considers, among other things, a mortgagor's credit history, repayment ability and debt service-to-income ratio ("Debt Ratio"), as well as the value, type and use of the mortgaged property." (at S-32)
- (e) "Meritage's underwriters verify the income of each applicant under various documentation programs as follows: under the Full Documentation Program, applicants are generally required to submit verification of stable income for the periods of two years preceding the application; and under the Stated Program, applicants are qualified based on monthly income as stated on the mortgage application. For all

Meriscore(R) mortgage loans, bank statements for 12 or 24 months qualify as Full Documentation. In all cases, the income stated must be reasonable and customary for the applicant's line of work. Although the income is not verified under the Stated Program, a preclosing audit generally will confirm the borrower's employment or, if self employed, that the business exists. Verification may be made through phone contact to the place of business, obtaining a valid business license, CPA/Enrolled Agent letter or through Dun and Bradstreet Information Services." (at S-33)

4. Statements concerning evaluation of exceptions and compensating factors:

- (a) "First NLC may make exceptions and upgrades to its underwriting guidelines on a case-by-case basis where compensating factors exist. For example, it may determine that an applicant warrants one of the following upgrades or exceptions: a risk category upgrade; debt-to-income ratio exception; a pricing exception; a loan-to-value ratio exception; or an exception from certain requirements of a particular risk category. An exception or upgrade may be allowed if the application reflects certain compensating factors, including: a low loan-to-value ratio; a maximum of one 30-day late payment on all mortgage loans during the last 12 months; stable employment; ownership of the current residence for five or more years; or above average physical condition of the property securing the loan. An exception or upgrade may also be allowed if the applicant places a downpayment through escrow of at least 20% of the purchase price of the mortgaged property or if the new loan reduces the applicant's monthly aggregate mortgage payment by 25% or more. Accordingly, certain applicants may qualify in a more favorable risk category than would apply in the absence of such compensating factors. All exceptions and upgrades are subject to the approval of a senior credit officer or a chief credit officers" (at S-29)
- (b) "On a case-by-case basis, Wilmington Finance makes exceptions to the underwriting guidelines, typically where compensating factors exist, including, but not limited to, reduced LTV, demonstrated pride of ownership, stability of employment, and stability of residence. It is expected that at least some of the mortgage loans in the mortgage loan pool that were originated by Wilmington Finance will represent these exceptions." (at S-31)
- (c) "On a case by case basis, Meritage may determine that, based upon compensating factors, a prospective mortgagor not strictly qualifying under the underwriting risk category guidelines described below warrants an underwriting exception. Compensating factors may include, but are not limited to, low loan-to-value ratio, low Debt Ratio, substantial liquid assets, good credit history, stable employment and time in residence at the applicant's current address. It is not expected that a significant portion of

the mortgage loans would represent such underwriting exceptions.” (at S-33)

5. Untrue or misleading statements about quality control procedures:

- (a) “First NLC reviews its loans for compliance with applicable legal requirements and its underwriting guidelines. First NLC’s legal review staff consists of nine auditors and one supervisor, and its credit review staff consists of six credit analysts and one supervisor. Each loan it funds is reviewed for the accuracy of the income documentation, completeness of loan application information and appraisal conformity. Additionally, all loans are reviewed to ensure that prudent underwriting procedures have been followed and sound underwriting judgments have been made. Executed loan packages are reviewed upon return from the closing agent for accuracy and completeness. All loans are subjected to specific post-funding loan tests, including high-cost tests, to verify that First NLC’s originations comply with any applicable laws or regulatory requirements. Any corrective measures that are required are promptly initiated.” (at S-29)
- (b) “If fraud is suspected or there has been a default in payments, the loan is subject to further investigation, including re-verification of income and employment and re-appraisal to confirm the value of the collateral.” (at S-29)
- (c) “Meritage conducts a number of quality control procedures, including a post-funding compliance audit as well as a full re-underwriting of a random selection of mortgage loans to assure asset quality. Under the compliance audit, all selected mortgage loans are reviewed for compliance with all applicable state and federal rules and regulations. The asset quality loan review confirms the existence and accuracy of legal documents, credit documentation, appraisal analysis, underwriting decision, credit grading, document compliance and data accuracy. A report detailing audit findings and level of error is sent monthly to a Regional Operations Center for response. The trends are then reviewed by Meritage’s senior management. This review procedure allows Meritage to assess programs for potential guideline changes, program enhancements, appraisal policies, areas of risk to be reduced or eliminated and the need for additional staff training.” (at S-33-34)

B. Untrue or misleading statements about owner-occupancy status

- 1. Defendants represented that the number of mortgage loans secured by properties used as primary residences in Supporting Loan Group 1 was 2,914 out of a total pool of 3,030 loans (96.17%). (See S-47)

C. Untrue or misleading statements about LTV ratios

1. "Approximately 40.01% and approximately 34.26% of the group I mortgage loans and group II mortgage loans, respectively, had loan-to-value ratios at origination, or with respect to second-lien mortgage loans, combined loan-to-value ratios at origination, in excess of 80% but not more than 100% at origination." (at S-16)
2. Approximately 36.89% of the mortgage loans have loan-to-value ratios at origination, or with respect to second-lien mortgage loans, combined loan-to-value ratios at origination, in excess of 80%. None of the mortgage loans have loan-to-value ratios at origination, or with respect to second-lien mortgage loans, combined loan-to-value ratios at origination, in excess of 100%." (at S-21)
3. The weighted average loan-to-value ratio (or, with respect to second-lien mortgage loans, combined loan-to-value ratio) at origination of the group I mortgage loans is approximately 81.64% and approximately 40.01% of the group I mortgage loans have loan-to-value ratios (or, with respect to second-lien mortgage loans, combined loan-to-value ratios) at origination exceeding 80%." (at S-35)
4. "Appraisals generally conform to the Uniform Standards of Professional Appraisal Practice and must be on forms acceptable to Fannie Mae and Freddie Mac." (at S-30)
5. "Meritage's guidelines are applied in accordance with a procedure which complies with applicable federal and state laws and regulations and generally require an appraisal of the mortgaged property which conforms to Freddie Mac and/or Fannie Mae standards; and if appropriate, a review appraisal." (at S-33)

D. Untrue or misleading statements about credit ratings

1. Defendants represented that Certificates in the A1 tranche would be assigned a rating of not lower than the following by Moody's Investor Service, Standard & Poor's Ratings services, and Fitch, Inc., respectively: Aaa/AAA/AAA. (at S-134)

E. Additional untrue or misleading statements

1. "Pursuant to the pooling and servicing agreement, First NLC will make certain representations and warranties with respect to each mortgage loan transferred by it as of the closing date (or an earlier date specified in the pooling and servicing agreement, which may be the date on which the servicing of the mortgage loan was transferred or the date on which MSMC purchased the mortgage loan from First NLC). Pursuant to the Meritage Agreements, Meritage will make or has made certain representations and warranties with respect to each mortgage loan transferred by it as of the closing date (or an earlier date specified in the Meritage Agreements, which may be the date on which the servicing of the mortgage loan was transferred or the date on which MSMC purchased the mortgage loan from Meritage). Pursuant to the Wilmington Finance Agreements, Wilmington Finance will make or has made certain representations and warranties with respect to each

mortgage loan transferred by it as of the date on which MSMC purchased the mortgage loan from Wilmington Finance or the date on which the servicing of the mortgage loan was transferred. These representations and warranties include, among other things:

- (a) “(6) Any and all requirements of any federal, state or local law, including, without limitation, usury, truth-in-lending, real estate settlement procedures, consumer credit protection, equal credit opportunity and disclosure and all predatory and abusive lending laws applicable to the mortgage loan (including, without limitation, any provisions relating to Prepayment Premiums) have been complied with” (at S-79-80)
 - (b) “(9) The mortgage note and the mortgage and any other agreement executed and delivered by a mortgagor in connection with a mortgage loan are genuine, and each is the legal, valid and binding obligation of the signatory enforceable in accordance with its terms (including, without limitation, any provisions relating to Prepayment Premiums), subject to bankruptcy, equitable principles and laws affecting creditor rights generally. All parties to the mortgage note, the mortgage and any other such related agreement had legal capacity to enter into the mortgage loan and to execute and deliver the mortgage note, the mortgage and any such agreement, and the mortgage note, the mortgage and any other such related agreement have been duly and properly executed by other such related parties. No fraud, misrepresentation or similar occurrence or, to the responsible party’s knowledge, error, omission or negligence with respect to a mortgage loan has taken place on the part of any other person, including without limitation, the mortgagor, any appraiser, any builder or developer, or any other party involved in the origination of the mortgage loan;” (at S-80)
 - (c) “(17) None of the mortgage loans is (a) covered by the Home Ownership and Equity Protection Act of 1994 or (b) classified as a “high cost home,” “threshold,” “covered,” “high risk home,” “predatory” or similar loan under any other applicable federal, state or local law (or a similarly classified loan using different terminology under a law imposing heightened regulatory scrutiny or additional legal liability for residential mortgage loans having high interest rates, points and/or fees);” (at S-81)
2. “Pursuant to mortgage loan purchase and warranties agreements, First NLC Financial Services, LLC, Meritage Mortgage Corporation and AIG Federal Savings Bank (through its Wilmington Finance division) sold substantially all of the mortgage loans, without recourse, to Morgan Stanley Mortgage Capital Inc. (“MSMC”), an affiliate of the depositor, and MSMC will sell, transfer, assign, set over and otherwise convey the mortgage loans, including all principal outstanding as of, and interest due and accruing on or after, the close of business on the cut-off date, without recourse, to the depositor on the closing date. Pursuant to the pooling and servicing agreement, the depositor will sell, without recourse, to the

trust, all right, title and interest in and to each mortgage loan, including all principal outstanding as of, and interest due on or after, the close of business on the cut-off date. Each such transfer will convey all right, title and interest in and to (a) principal outstanding as of the close of business on the cut-off date (after giving effect to payments of principal due on that date, whether or not received) and (b) interest due and accrued on each such mortgage loan after the cut-off date. However, MSMC will not convey to the depositor, and will retain all of its right, title and interest in and to (x) principal due on each mortgage loan on or prior to the cut-off date and principal prepayments in full and curtailments (i.e., partial prepayments) received on each such mortgage loan prior to the cut-off date and (y) interest due and accrued on each mortgage loan on or prior to the cut-off date.” (at S-77)

3. In connection with the transfer and assignment of each mortgage loan to the trust, the depositor will cause to be delivered to the trustee, on or before the closing date, the following documents with respect to each mortgage loan which constitute the mortgage file: (a) the original mortgage note, endorsed without recourse in blank by the last endorsee, including all intervening endorsements showing a complete chain of endorsement from the originator to the last endorsee; (b) the original of any guaranty executed in connection with the mortgage note; (c) the related original mortgage and evidence of its recording or, in certain limited circumstances, a copy of the mortgage certified by the originator, escrow company, title company, or closing attorney; (d) the mortgage assignment(s), or copies of them certified by the applicable originator, escrow company, title company, or closing attorney, if any, showing a complete chain of assignment from the originator of the related mortgage loan to the last endorsee - which assignment may, at the originator's option, be combined with the assignment referred to in clause (e) below; (e) a mortgage assignment in recordable form, which, if acceptable for recording in the relevant jurisdiction, may be included in a blanket assignment or assignments, of each mortgage from the last endorsee in blank; (f) originals or certified copies of all assumption, modification, consolidation and extension agreements, with evidence of recording on them; (g) an original title insurance policy or, in the event the original policy is unavailable, a certified true copy of the related policy binder, preliminary report or commitment for title certified to be true and complete by the title insurance company; and (h) the original of any security agreement, chattel mortgage or equivalent document executed in connection with the mortgage (if provided).” (at S-77-78)
4. “Each seller or originator will represent and warrant that all loans originated and/or sold by it to the depositor or one of its affiliates will have been underwritten in accordance with standards consistent with those utilized by lenders generally during the period of origination for similar types of loans.” (at S-32)

XVIII. MSM 2005-10

Misrepresentations in the prospectus supplement and/or prospectus filed December 1, 2005 for the MSM 2005-10 Securitization

A. Untrue or misleading statements about underwriting guidelines

1. Untrue and misleading statements about conformity with loan purchasing guidelines / underwriting guidelines:

- (a) "All of the Mortgage Loans were underwritten by the Originators substantially in accordance with the related underwriting criteria specified herein." (at S-23)
- (b) "Each of the Originators, and in certain circumstances the Seller, will represent and warrant each of the Mortgage Loans originated and/or sold by it was underwritten in accordance with standards consistent with those utilized by mortgage lenders generally during the period of origination. The Seller will represent and warrant that each of the Mortgage Loans sold by it conformed to the requirements of its seller guide." (at S-49)
- (c) "FNBN's underwriting guidelines are applied in a standard procedure that is intended to comply with applicable federal and state laws and regulations. However, the application of FNBN's underwriting guidelines does not imply that each specific criterion was satisfied individually." (at S-51)

2. Untrue or misleading statements about borrower's ability to repay the loan:

- (a) "Based on the data provided in the application and certain verification (if required), a determination is made by the original lender that the mortgagor's monthly income (if required to be stated) will be sufficient to enable the mortgagor to meet its monthly obligations on the mortgage loan and other expenses related to the property such as property taxes, utility costs, standard hazard insurance and other fixed obligations other than housing expenses." (at S-49-50)
- (b) "FNBN's underwriting guidelines are primarily intended to evaluate the prospective borrower's credit standing and ability to repay the loan, as well as the value and adequacy of the proposed mortgaged property as collateral." (at S-50)
- (c) "MortgageIT underwrites a borrower's creditworthiness based solely on information that MortgageIT believes is indicative of the applicant's willingness and ability to pay the debt they would be incurring." (at S-52)
- (d) "When evaluating the ratio of all monthly debt payments to the borrower's monthly income (debt-to-income ratio), the underwriter should be aware

of the degree and frequency of credit usage and its impact on the borrower's ability to repay the loan." (at S-53)

3. Untrue or misleading statements about information evaluated in the loan application:

- (a) Generally, each mortgagor will have been required to complete an application designed to provide to the original lender pertinent credit information concerning the mortgagor. As part of the description of the mortgagor's financial condition, the mortgagor will have furnished information with respect to its assets, liabilities, income (except as described below), credit history, employment history and personal information, and furnished an authorization to apply for a credit report which summarizes the mortgagor's credit history with local merchants and lenders and any record of bankruptcy. The mortgagor may also have been required to authorize verifications of deposits at financial institutions where the mortgagor had demand or savings accounts." (at S-49)
- (b) "In addition to reviewing the borrower's credit history and credit score, MortgageIT underwriters closely review the borrower's housing payment history. In general, for non-conforming loans the borrower should not have made any mortgage payments over 30 days after the due date for the most recent 24 months. In general, for Alt-A loans the borrower may have no more than one payment that was made over 30 days after the due date for the most recent 24 months." (at S-53)

4. Statements concerning evaluation of exceptions and compensating factors:

- (a) "In addition, certain exceptions to the loan purchasing guidelines described herein are made in the event that compensating factors are demonstrated by a prospective borrower." (at S-49)
- (b) "FNBN will have considered a mortgage loan to be originated in accordance with a given set of underwriting guidelines if, based on an overall qualitative evaluation, such mortgage loan is in substantial compliance with such underwriting guidelines. A mortgage loan may be considered to comply with a set of underwriting standards, even if one or more specific criteria included in such underwriting standards were not satisfied, if other factors compensated for the criteria that were not satisfied or the mortgage loan is considered to be in substantial compliance with the underwriting standards." (at S-51)
- (c) "MortgageIT realizes that there may be some acceptable quality loans that fall outside published guidelines and encourages "common sense" underwriting. Because a multitude of factors are involved in a loan transaction, no set of guidelines can contemplate every potential situation. Therefore, exceptions to these underwriting guidelines are considered, so