SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

ROYAL PARK INVESTMENTS SA/NV,

Plaintiff,

vs.

DEUTSCHE BANK AG, DEUTSCHE BANK SECURITIES, INC., DB STRUCTURED PRODUCTS, INC., DEUTSCHE ALT-A SECURITIES, INC. and ACE SECURITIES CORP.,

Defendants.

Index No.

SUMMONS

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TO: THE ABOVE NAMED DEFENDANTS

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on plaintiff's attorneys within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Plaintiff designates New York County as the place of trial. Venue is proper because the defendants do business in or derive substantial revenue from activities carried out in this County, and many of the wrongful acts alleged herein occurred in this County.

DATED: August 5, 2013

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COUNTY OF NEW YORK

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I. SUMMARY OF THE ACTION

1. This action arises out of plaintiff's purchases of more than $535 million worth of residential mortgage-backed securities ("RMBS").[1] The specific RMBS at issue are generally referred to as "certificates." The certificates are essentially bonds backed by a large number of residential real estate loans, which entitle their holders to receive monthly distributions derived from the payments made on those loans. The claims at issue herein arise from 27 separate certificate purchases made in 18 different offerings (the "Deutsche Bank Offerings"), all of which were structured, marketed, and sold by defendants during the period from 2005 through 2007. *See* Appendix A hereto.

2. Defendants used U.S. Securities and Exchange Commission ("SEC") forms, such as registration statements, prospectuses and prospectus supplements, as well as other documents – such as pitch books, term sheets, loan tapes, offering memoranda, draft prospectus supplements, "red," "pink" and "free writing" prospectuses and electronic summaries of such materials – to market and sell the certificates to plaintiff. In addition, defendants also disseminated the key information in these documents to third parties – such as the rating agencies (the "Credit Rating Agencies"), broker-dealers and analytics firms, like Intex Solutions, Inc. ("Intex") – for the express purpose of marketing the certificates to plaintiff and other investors. Collectively, all of the documents and information disseminated by defendants for the purpose of marketing and/or selling the certificates

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[1] As explained more fully *infra*, at §II.A., plaintiff obtained its claims through assignment. The certificates were initially purchased by subsidiaries of Fortis Bank SA/NV, but all rights, title, interest and causes of action to the certificates were assigned to plaintiff. Accordingly, all references herein to plaintiff's purchases of certificates refer to plaintiff's claims arising by assignment.

to plaintiff are referred to herein as the "Offering Documents." Each purchase at issue herein was made in direct reliance on the information contained in the Offering Documents.[2]

3. As further detailed herein, the Offering Documents were materially false and misleading at the time they were issued by defendants and relied on by plaintiff and/or its assignors. Specifically, the Offering Documents both failed to disclose and affirmatively misrepresented material information regarding the very nature and credit quality of the certificates and their underlying loans. The Offering Documents further failed to disclose that, at the same time defendants were offering the certificates for sale to plaintiff, they were privately betting that similar certificates would soon default at significant rates. Defendants used these Offering Documents to defraud plaintiff and its assignors into purchasing supposedly "investment grade" certificates at falsely inflated prices. Plaintiff's certificates are now all rated at junk status or below, and are essentially worthless investments, while defendants, on the other hand, have profited handsomely – both from their roles in structuring, marketing and selling the certificates, and from their massive "short" bets against the certificates they, themselves, sold to plaintiff.

II. PARTIES

A. Plaintiff

4. Plaintiff Royal Park Investments SA/NV ("RPI"), is a limited liability company incorporated under the laws of Belgium, with its principal place of business at Van Orley 15, 1000 Brussels, Belgium. RPI was created by the Belgian State, Ageas (formerly known as Fortis Holding

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[2] As further detailed *infra*, at §V.B, some of the purchase decisions at issue herein were made prior to the date of the final prospectus supplements for the offerings from which such certificates were purchased. On information and belief, however, all such purchases were made in direct reliance upon draft prospectus supplements that were distributed by defendants and were identical in all material respects to the final prospectus supplements for such offerings.

SA/NV), and BNP Paribas for the purpose of acquiring and managing a portion of Fortis Bank SA/NV's ("Fortis Bank") structured credit portfolio. The special purpose and mission statement of RPI is to minimize the downside risk and maximize recoveries on the legacy portfolio.

5. RPI brings its claims against defendants as an assignee of causes of action regarding securities that were initially purchased by Fortis Bank and two of its subsidiaries. The three original purchasers of the securities at issue herein are identified below:

(a) Fortis Bank is a Belgian limited liability company with its registered office at Montagne du Parc 3, 1000 Brussels, Belgium, and its principal place of business in Brussels, Belgium. Fortis Bank was the banking arm of Fortis Holding SA/NV ("Fortis Holding"), a Belgian insurance, banking, and investment management company. In 2008, Fortis Holding sold Fortis Bank to the Belgian State, which then sold 75% of Fortis Bank to BNP Paribas. Fortis Bank is now a subsidiary of BNP Paribas.

(b) Fortis Bank SA/NV, Cayman Islands Branch ("Fortis Cayman"), is a branch of, and wholly owned by, Fortis Bank.

(c) Scaldis Capital Limited ("Scaldis") is a conduit special purpose vehicle, created, along with co-issuer Scaldis Capital LLC, for placement of commercial paper in both the United States and European markets. Scaldis was created, fully controlled, and sponsored by Fortis Bank. All of Scaldis's assets, including the securities at issue herein, were consolidated into the balance sheet of Fortis Bank, and all losses on the securities were incurred by Fortis Bank. As the sponsor of Scaldis, Fortis Bank provided both credit and liquidity support for Scaldis and managed all its operations. During the relevant period, the individuals conducting the administrative duties of Scaldis's business (including the purchasing of the securities at issue herein) were Fortis Bank employees located in Amsterdam, the Netherlands. All decisions to purchase the securities at issue herein were made on behalf of Scaldis in Belgium by employees of Fortis Bank.

6. Fortis Bank, Fortis Cayman, and Scaldis are referred to collectively herein as the "assigning entities."

7. RPI acquired the legal claims at issue in this case in exchange for good and valuable consideration. The certificates at issue in this case were severely damaged on or before the day they were transferred to RPI, and continued to be damaged, in an amount to be proven at trial. RPI has standing to sue defendants to recover those damages as an assignee of claims regarding securities initially purchased by the three assigning entities identified above. As a result, use of the terms "plaintiff" and "RPI" herein shall also refer to each of the above-identified assigning entities.

B. The "Deutsche Bank Defendants"

8. As further set forth below, each of the following defendants was actively involved with and/or liable for some or all of the Deutsche Bank Offerings at issue herein, which are identified in §V, *infra*. Additional detailed information concerning each Deutsche Bank Offering is also set forth in Appendix A, attached hereto.

9. Defendant Deutsche Bank AG (referred to herein as either "DB Parent" or "Deutsche Bank AG") is an entity formed under the laws of Germany, with its principal place of business in Frankfurt, Germany. DB Parent does substantial business within the State of New York and maintains its U.S. headquarters at 60 Wall Street, New York, New York. DB Parent raises money in debt and equity markets, and uses that money to fund the rest of its operations. DP Parent owned and controlled all of the other "Deutsche Bank Defendants" identified in ¶¶10-13 during all relevant times herein.

10. Defendant Deutsche Bank Securities, Inc. (referred to herein as either "DB Investment Bank" or "DBSI") is a Delaware corporation with its principal place of business located at 60 Wall Street, New York, New York. It is a wholly-owned subsidiary of co-defendant DB Parent, the investment banking and securities arm of DB Parent in the United States, and a broker-

dealer registered with the SEC. Among other things, DBSI underwrote all of the Deutsche Bank Offerings at issue in this case. Plaintiff purchased all but 3 of the 27 certificates it purchased in the Deutsche Bank Offerings directly from defendant DBSI in its capacity as underwriter and broker-dealer of such offerings.

11. Defendant DB Structured Products, Inc. (referred to herein as either "DB Sponsor" or "DBSP") is a Delaware corporation with its principal place of business located at 60 Wall Street, New York, New York. DB Sponsor is a wholly-owned subsidiary of co-defendant DB Parent. Among other things, DB Sponsor acquired the mortgage loans for most of the Deutsche Bank Offerings at issue in this case directly from mortgage originators and, in at least 13 of the Deutsche Offerings, purported to ensure such loans conformed to the underwriting guidelines stated in the prospectus supplements. DB Sponsor also acted as a loan originator for certain of the Deutsche Bank Offerings at issue herein.

12. Defendant Deutsche Alt-A Securities, Inc. ("Deutsche Alt-A") is a Delaware corporation with its principal place of business located at 60 Wall Street, New York, New York. Deutsche Alt-A is a wholly owned subsidiary of co-defendant DB Parent. Deutsche Alt-A served as the depositor for 10 of the certificates plaintiff purchased in the Deutsche Bank Offerings alleged herein. Accordingly, under the U.S. securities laws Deutsche Alt-A was the "issuer" of all of the certificates sold to plaintiff in these Deutsche Bank Offerings.

13. Defendant ACE Securities Corp. ("ACE") is a Delaware corporation with its principal place of business located at 6525 Morrison Boulevard, Suite 318, Charlotte, North Carolina. According to a letter dated March 2, 2011 written by attorneys for "Deutsche Bank" to the Senate Permanent Subcommittee on investigations, ACE is a "special purpose corporation" that "Deutsche Bank" created, with help, in 1998 "to act as a registrant and depositor in connection with RMBS offerings sponsored and/or underwritten by Deutsche Bank." According to the same letter, ACE

used co-defendant DB Sponsor as its "agent" and "in that role [DB Sponsor] ha[d] authority to act on behalf of [ACE] in connection with asset-backed securities, including RMBS offerings."[3] In sum, ACE was dominated and controlled by other Deutsche Bank affiliates and was in form and substance a Deutsche Bank affiliate. ACE served as the depositor for five of the Deutsche Bank Offerings at issue herein. Accordingly, under the U.S. securities laws, ACE was the "issuer" of all of the certificates sold to plaintiff in these Deutsche Bank Offerings.

14. Defendants DB Parent, DBSI, DBSP, Deutsche Alt-A and ACE are collectively referred to herein as either the "Deutsche Bank Defendants" or "Deutsche Bank."

III. JURISDICTION AND VENUE

15. This Court has subject matter jurisdiction over this action pursuant to Article VI, §7 of the New York State Constitution, which authorizes it to serve as a court of "general [and] original jurisdiction in law and equity." The amount in controversy exceeds the minimum threshold of $150,000 pursuant to §202.70(a) of the Uniform Civil Rules of the New York Supreme Court.

16. The Court's personal jurisdiction over defendants is founded upon C.P.L.R. §§301 and 302, as each defendant transacts business within the State of New York within the meaning of C.P.L.R. §302(a)(1), and each of them committed a tortious act inside the State of New York within the meaning of C.P.L.R. §302(a)(2).

17. Defendants regularly and systematically transact business within the State of New York and derive substantial revenue from activities carried out in New York. A majority of defendants' acts pertaining to the securitization of the RMBS giving rise to the causes of action

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[3] Carl Levin & Tom Coburn, *Wall Street and the Financial Crisis: Anatomy of a Financial Collapse*, Majority and Minority Staff Report, Permanent Subcommittee on Investigations, United States Senate, 112th Congress (Apr. 13, 2011) ("Levin-Coburn Report"), at 338 n.1278.

alleged herein occurred in New York. Each defendant was actively involved in the creation, solicitation and/or sale of the subject certificates to plaintiff in the State of New York. Specifically, defendants originated and/or purchased the loans at issue, prepared, underwrote, negotiated, securitized and marketed the offerings, and sold and/or marketed the certificates to plaintiff, in substantial part, in New York County, New York.

18. Since numerous witnesses with information relevant to the case and key documents are located within the State of New York, any burdens placed on defendants by being brought under the State's jurisdiction will not violate fairness or substantial justice.

19. This Court also has personal jurisdiction over many of the defendants based on consent under C.P.L.R. §301 due to their unrevoked authorization to do business in the State of New York and their designations of registered agents for service of process in New York.

20. This Court has personal jurisdiction over any foreign defendants because they transact business within the State of New York either directly or through their wholly-owned subsidiaries, by selling securities in the State, and/or maintaining offices in the State. Any subsidiaries, affiliates and/or agents of such foreign defendants conducting business in this State are organized and operated as instrumentalities and/or alter egos of such foreign defendants. Such foreign defendants are the direct or indirect holding companies that operate through their subsidiaries, affiliates and/or agents in this State.

21. Venue is proper in this Court pursuant to C.P.L.R. §503(c) because most of the defendants maintain their principal place of business in New York County, and pursuant to C.P.L.R. §503(a) as designated by plaintiff. Many of the alleged acts and transactions, including the preparation and dissemination of the Offering Documents, also occurred in substantial part in New York County, New York.

IV. BACKGROUND ON RMBS OFFERINGS IN GENERAL AND DEFENDANTS' INVOLVEMENT IN THE PROCESS

A. The Mortgage-Backed Securities Market

22. This case involves securities that are supported by residential mortgages. Residential mortgages are loans made to homeowners that are secured by a piece of collateral – a residence. The loans generate specific, periodic payments, and the related collateral interest gives the lender the right to "foreclose" on the loan by seizing and selling the property to recover the amount of money that was loaned.

23. The mortgage-backed securities market has existed for decades. In 1980, the market's size was about $100 billion. By 2004, the size of that market had reached over $4.2 trillion. To place this figure in context, in 2004 the total size of the U.S. corporate debt market was $4.6 trillion. Investors from all over the world purchased mortgage-backed securities, and that demand drove down mortgage borrowing costs in the United States.

24. Creating RMBS involves a process called "securitization."

B. Organizations and Defendant Entities Involved in the Securitization Process

25. The securitization process requires a number of parties, including: (1) mortgage originators; (2) borrowers; (3) RMBS sponsors (or "sellers"); (4) mortgage depositors; (5) securities underwriters; (6) trusts that issue certificates backed by mortgages; (7) Nationally Recognized Statistical Rating Organizations ("NRSROs"), three of which are the Credit Rating Agencies; and (8) investors. Following is a description of their roles in order.

26. ***Mortgage originators*** accept mortgage applications and other information from prospective borrowers. They set borrowing standards, purport to evaluate a borrower's ability to repay, and appraise the value of the collateral supporting the borrower's obligations. This process is

called "underwriting" a mortgage. The key mortgage originators at issue herein are set forth in §VI.B, *infra*.

27. ***Borrowers*** who purport to satisfy the originators' underwriting criteria sign documentation memorializing the terms and conditions of the mortgages. Those documents typically include a promissory note and lien securing repayment – which together form what is known as the mortgage. Originators are then able to sell such mortgages to securitization sponsors in a large secondary market.

28. ***Sponsors*** (or "sellers") typically organize and initiate the securitization aspect of the process by acquiring large numbers of mortgages, aggregating them, and then selling them through an affiliated intermediary into an issuing trust. In this case, the sponsor for most of the RMBS offerings at issue herein was defendant DBSP. DBSP was generally responsible for pooling the mortgage loans to be securitized by the depositors, negotiating the principal securitization transaction documents and participating with the underwriters to structure the RMBS offerings.

29. ***Depositors*** typically buy the pools of mortgages from the sponsors (or "sellers"), settle the trusts, and deposit the mortgages into those trusts in exchange for the certificates to be offered to investors, which the depositors in turn sell to the underwriters, for ultimate sale to investors. Under the U.S. securities laws, depositors are technically considered "issuers" of the securities, and are strictly liable for material misrepresentations and omissions in any registration statement under the Securities Act of 1933. Defendant Deutsche Alt-A acted as depositor in most of the RMBS offerings at issue herein. A more detailed summary of the role of that Deutsche Alt-A performed in connection with plaintiff's certificates follows:

(a) First, Deutsche Alt-A acquired discrete pools of mortgages from the offering's "sponsor," in most cases, DBSP. The sponsor typically transferred those mortgages to the depositor

via written mortgage purchase agreements that typically contained written representations and warranties about the mortgages ("Mortgage Purchase Agreements").

(b) Second, the depositor settled the issuing trusts, and "deposited" the discrete pools of mortgages acquired from the offering sponsor, along with their rights under the Mortgage Purchase Agreements, into the issuing trusts, in exchange for the certificates, which were then transferred to the underwriter for ultimate sale to investors such as plaintiff. The sponsor was responsible for making sure title to the mortgage loans was properly and timely transferred to the trusts and/or trustees of the trusts. The mortgages and their rights, among other things, constitute the trusts' res. The trusts – their res, trustee and beneficiaries – are defined by a written pooling and servicing agreement ("Pooling Agreement").

(c) Third, the depositor, who is technically the "issuer" under the U.S. securities laws, filed a "shelf" registration statement with the SEC, which enabled the depositor to issue securities rapidly in "shelf take-downs." In order to be offered through this method, it was necessary for the certificates to be deemed "investment grade" quality by the NRSRO processes described herein.

30. Securities ***underwriters*** purchase the certificates from the depositors and resell them to investors, such as plaintiff. The terms of a particular underwriter's liabilities and obligations in connection with the purchase, sale and distribution of RMBS certificates are typically set forth in a written agreement between the depositor and the underwriter ("Underwriting Agreement"). Moreover, the underwriters also have obligations and responsibilities placed upon them by U.S. securities laws, including, without limitation, that they investigate the loans and ensure representations about the loans in the offering documents are true and correct. The "underwriter defendant" at issue herein is DBSI, which served as underwriter in all of the RMBS offerings at issue herein.

31. ***Issuing trusts*** hold the mortgages and all accompanying rights under the Mortgage Purchase Agreements. Pursuant to the terms of the Pooling Agreements, the issuing trusts issue the certificates to the depositors, for ultimate sale to investors by the securities underwriters. The certificates entitle the investors to principal and interest payments from the mortgages held by the trusts. Trustees voluntarily agree to administer the trusts and voluntarily agree to satisfy contractual and common law duties to trust beneficiaries – the plaintiff certificate investor in this case.

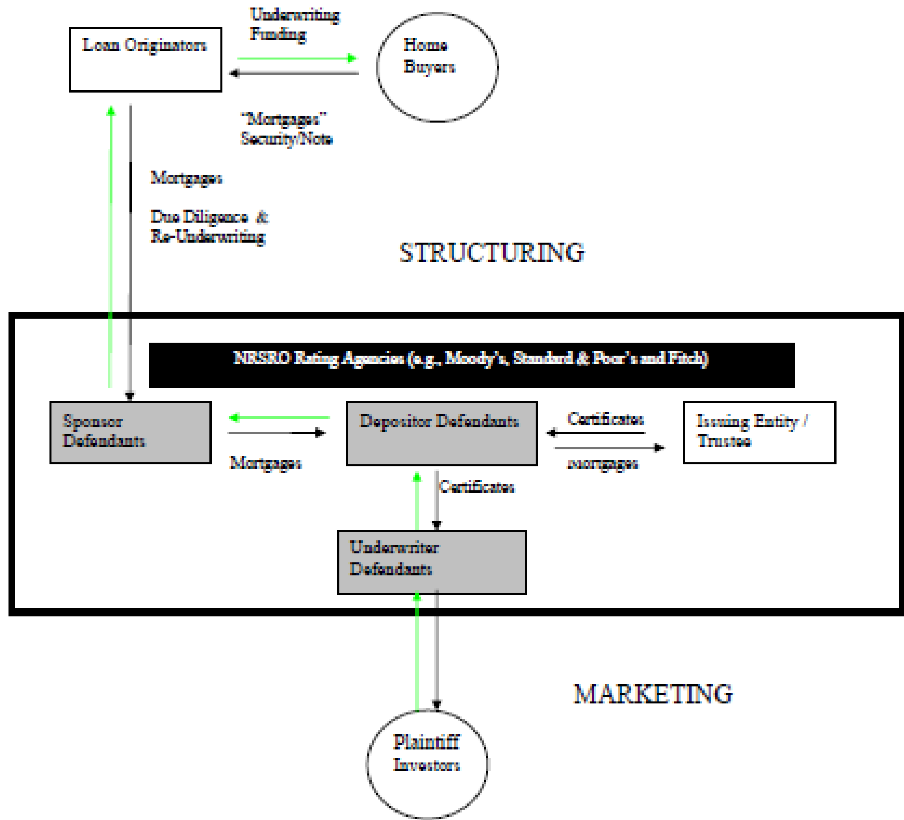
32. ***NRSROs***, which include the Credit Rating Agencies herein, analyze performance data on mortgage loans of every type and use that information to build software programs and models that are ultimately used to assign credit ratings to RMBS. These computer models generate various "levels" of subordination and payment priorities that are necessary to assign "investment grade" credit ratings to the certificates that the RMBS trusts issue. The rules generated by the NRSRO models are then written into the Pooling Agreements drafted by the sponsor and the securities underwriter(s). As alleged above, in order to be issued pursuant to a "shelf take-down," the certificates must receive "investment grade" credit ratings from the NRSROs.

33. ***Investors***, like plaintiff, purchase the RMBS certificates, and thus, provide the funding that compensates all of the securitization participants identified above.

34. The illustration below further summarizes the roles of the various parties in an RMBS securitization. In this illustration, the green arrows – moving from investors to home buyers or borrowers – illustrate funds flow, and the grey cells identify certain defendant entities in the context of their roles in the securitization process:

SECURITIZATION – THREE MAJOR COMPONENTS

ORIGINATION



C. To Market the Certificates, Defendants Registered Them with the SEC on "Investment Grade" Shelves

35. Receiving strong credit ratings assigned to a particular RMBS is what enables securities dealers, like defendants, to register those securities on a "shelf" with the SEC. Issuing securities in this way involves two steps. First, an issuer must file a "shelf" registration statement with the SEC, governing potentially dozens of individual issuances of securities, or "shelf take-downs," that the issuer plans to conduct in the future. Second, to market a particular issuance, the issuer must file a prospectus "supplement" to the registration statement. The registration statement describes the shelf program in general, while the prospectus supplement and other offering documents describe in detail the particular securities offered to investors at that time.

36. Many of the securities at issue in this case were "taken down" from shelves that defendants created, in most cases, a process that never would have been possible without investment grade ratings from the Credit Rating Agencies.

V. C.P.L.R. §3016 PARTICULARITY ALLEGATIONS

37. As detailed immediately below, all of the Offering Documents distributed by defendants and relied on by plaintiff's assignors were materially false and misleading, as they omitted and affirmatively misrepresented material information regarding the certificates and their underlying loans. Moreover, as set forth *infra*, defendants were well aware of each of the following material misrepresentations and omissions. *See* §VII, *infra.*

A. Each of the Offering Documents Omitted Material Information

38. The Offering Documents for each of the 18 offerings at issue failed to disclose critical information within defendants' possession regarding the certificates and their underlying loans. Specifically, prior to selling the certificates to plaintiff, defendants hired Clayton Holdings, Inc. ("Clayton") and/or other due diligence providers to re-underwrite samples of the loans underlying each of the specific certificates purchased by plaintiff.[4] For each of the 18 offerings, Clayton and/or the other due diligence providers determined that a significant percentage of the loans had been defectively underwritten and/or were secured by inadequate collateral, and were thus likely to default. In aggregate, during 2006 and 2007 – the time period during which the vast majority of offerings at issue here occurred – Clayton determined that ***35% of all loans it reviewed for Deutsche***

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[4] During the relevant time frame, Clayton reviewed loan samples for approximately 50% to 70% of all RMBS offerings brought to market by third-party investment banks, including Deutsche Bank. Based upon Clayton's re-underwriting of sampled loans, the due diligence firm was able to establish, at a 95% confidence level, the overall defect rate for the specific pools of loans underlying the offerings at issue.

Bank's offerings were defective. This information was directly provided to the defendants prior to the offerings, but defendants affirmatively chose ***not*** to include it in the Offering Documents, even though Clayton expressly recommended that it be so included.

39. The Offering Documents also failed to disclose what defendants did with the material, undisclosed information they received from Clayton and/or their other due diligence providers. Specifically, with regard to the test samples of loans that were reviewed by Clayton, defendants actually "waived" back into the purchase pools for their offerings approximately ***50% of the specific loans that had been affirmatively identified as defective***. In addition, former employees of Bohan Group ("Bohan"), another firm who performed due diligence of loans purchased by Deutsche Bank, have confirmed that from 2005 through 2007 Deutsche Bank ignored Bohan's findings that loans did not meet underwriting guidelines, exerted constant pressure to stop Bohan underwriters from removing defective loans from pools, and would even alter underwriting guidelines to allow more defective loans into loan pools. One former Bohan due diligence underwriter from 2005 through 2007 who reviewed loans purchased by Deutsche Bank stated that 50% of the loans she reviewed were defective, that "you would have to be an idiot not to know that the loans were no good," and that the Wall Street banks – including Deutsche Bank – knew they were purchasing defective loans because they received daily reports summarizing the due diligence findings.

40. With regard to the unsampled portion of the purchase pools – *i.e.*, the vast majority of the loans – defendants simply purchased the loans in their entirety, ***sight unseen***. Moreover, on information and belief, defendants also used the significant, undisclosed material defect rates uncovered by their due diligence providers as leverage to force their loan suppliers to accept lower purchase prices for the loans, without passing the benefits of such discounts onto plaintiff and other investors. None of the foregoing information was disclosed in the Offering Documents relied on by plaintiff and its assignors, making such documents materially misleading.

41. The Offering Documents also failed to disclose that, at the same time Deutsche Bank was offering the certificates for sale to plaintiff, the bank was also acquiring a massive "short" position on the RMBS market, through the use of credit default swaps ("CDSs") and other similar instruments, essentially betting that the very same certificates they were selling would default at significant rates.[5] *See* §VII.D, *infra*. Indeed, defendants internally called RMBS investments such as those sold to plaintiff "pigs," "crap" and "generally horrible" at the time they sold the certificates to plaintiff. Levin-Coburn Report at 10-11, 319, 330-31, 338-40, 347, 359-62. Indeed, starting in November of 2005 – before defendants sold the first certificate to plaintiffs – defendants purchased $1 billion in CDS on RMBS. During 2006, while the majority of the certificates were being sold to plaintiffs, defendants increased their CDS purchases, growing their short position to $2 billion. And by the time defendants sold the last certificate to plaintiffs in early 2007, defendants' CDS short position had grown to $4-$5 billion. ***At the direction of Deutsche Bank AG's senior management***, Deutsche Banks' traders gradually cashed in defendants' short position, and made a profit of approximately $1.5 billion on Deutsche Bank's shorting of the RMBS market. Levin-Coburn Report at 10, 320, 331, 333, 346; *see* §VII.D, *infra*.

42. Defendants also never disclosed to plaintiff that they were simultaneously shorting the very same type of securities that they were selling to plaintiff. Had plaintiff known or been so advised, it would never have purchased the certificates. As a result of defendants' intentional

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[5] A CDS is a financial swap agreement in which the seller of the CDS agrees it will compensate the buyer in the event of a default or other credit event. Much like an insurance contract, the buyer of the CDS makes a series of payments to the seller and, in exchange, receives a payoff if the credit event occurs. Deutsche Bank used CDS to bet certain RMBS would suffer credit events and decline in value.

concealment of their short positions and their true assessment of the certificates, plaintiff was defrauded.

B. Each of the Offering Documents Contained Material Misrepresentations

1. The DBALT 2007-AR1 Certificates

43. The Deutsche Alt-A Securities Mortgage Loan Trust, Series DBALT 2007-AR1, Mortgage Pass-Through Certificates ("DBALT 2007-AR1 Certificates") were issued pursuant to a Prospectus Supplement dated January 29, 2007. The following defendants played critical roles in the fraudulent structuring, offering and sale of the DBALT 2007-AR1 Certificates: Deutsche Alt-A (depositor); DBSP (sponsor); DBSI (underwriter).

44. Plaintiff purchased the following DBALT 2007-AR1 Certificates:

Original Purchaser	Tranche Purchased	CUSIP	Purchase Date	Original Face Amount	Purchased From
Fortis Bank	A2	25151RAB0	1/12/2007	$29,390,000	DBSI
Fortis Bank	A5	25151RAG9	1/12/2007	$16,272,000	DBSI

45. The decision to purchase the above securities was made by Fortis Bank in direct reliance upon the DBALT 2007-AR1 Offering Documents, including draft and/or final DBALT 2007-AR1 Prospectus Supplements, all of which were distributed by the defendants associated with the DBALT 2007-AR1 offering. Fortis Bank's diligent investment processes are described in great detail in §VIII.A, *infra*.

a. Underwriting Guidelines

46. The DBALT 2007-AR1 Offering Documents disclosed that: approximately 39.33% of the DBALT 2007-AR1 Certificates' underlying loans were acquired by the sponsor, DBSP, from loan originator MortgageIT, Inc. ("MortgageIT"); approximately 25.28% of the DBALT 2007-AR1 Certificates' underlying loans were acquired by the sponsor, DBSP, from loan originator IndyMac

Bank, F.S.B. ("IndyMac"); approximately 22.78% of the DBALT 2007-AR1 Certificates' underlying loans were acquired by the sponsor, DBSP, from loan originator American Home Mortgage Corp. ("AHM"); and approximately 12.61% of the DBALT 2007-AR1 Certificates' underlying loans were acquired by the sponsor, DBSP, from "other" "various originators, each of which has originated less than 10% of the Mortgage Loans." *See* DBALT 2007-AR1 Prospectus Supplement ("Pros. Supp.") at S-37, S-40-S-41.

47. With regard to the MortgageIT loans, the DBALT 2007-AR1 Offering Documents represented that "MortgageIT's underwriting philosophy is to weigh all risk factors inherent in the loan file, giving consideration to the individual transaction, borrower profile, the level of documentation provided and the property used to collateralize the debt," and that "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." *Id.* at S-41. The DBALT 2007-AR1 Offering Documents also represented that "[i]n addition to reviewing the borrower's credit history and credit score, MortgageIT underwriters closely review the borrower's housing payment history." *Id.* at S-42. The DBALT 2007-AR1 Offering Documents further represented that: "For manually underwritten loans, the underwriter must ensure that the borrower's income will support the total housing expense on an ongoing basis. Underwriters may give consideration to borrowers who have demonstrated an ability to carry a similar or greater housing expense for an extended period. In addition to the monthly housing expense the underwriter must evaluate the borrower's ability to manage all recurring payments on all debts, including the monthly housing expense. 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. For example, borrowers

who lower their total obligations should receive favorable consideration and borrowers with a history of heavy usage and a pattern of slow or late payments should receive less flexibility." *Id.* at S-43.

48. The DBALT 2007-AR1 Offering Documents further represented that, under MortgageIT's underwriting guidelines, "[e]very MortgageIT mortgage loan is secured by a property that has been appraised by a licensed appraiser in accordance with the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation." *Id*. at S-41. As further detailed *infra*, these representations were false and misleading at the time they were made. Contrary to defendants' affirmative representations, the truth was that MortgageIT had completely abandoned its stated underwriting guidelines and was simply seeking to originate as many loans as possible, ***without*** any regard for its borrowers' actual repayment ability or the true value and adequacy of the mortgaged properties to serve as collateral. *See* §VI.A.2, *infra*.

49. With regard to the IndyMac loans, the DBALT 2007-AR1 Offering Documents represented that "IndyMac Bank's underwriting criteria for traditionally underwritten mortgage loans includes an analysis of the borrower's credit history, ability to repay the mortgage loan and the adequacy of the mortgaged property as collateral." DBALT 2007-AR1 Pros. Supp. at S-44. The DBALT 2007-AR1 Offering Documents also represented that, under IndyMac's underwriting guidelines, "[t]o determine the adequacy of the property to be used as collateral, an appraisal is generally made of the subject property in accordance with the Uniform Standards of Profession Appraisal Practice." *Id*. at S-45. As further detailed *infra*, these representations were false and misleading at the time they were made. Contrary to defendants' affirmative representations, the truth was that IndyMac had completely abandoned its stated underwriting guidelines and was simply seeking to originate as many loans as possible, ***without*** any regard for its borrowers' actual repayment ability or the true value and adequacy of the mortgaged properties to serve as collateral. *See* §VI.A.4, *infra*.

50. With regard to the AHM loans, the DBALT 2007-AR1 Offering Documents represented that AHM's "underwriting philosophy is to weigh all risk factors inherent in the loan file, giving consideration to the individual transaction, borrower profile, the level of documentation provided and the property used to collateralize the debt," and that AHM "underwrites a borrower's creditworthiness based solely on information that [AHM] believes is indicative of the applicant's willingness and ability to pay the debt they would be incurring." *See* DBALT 2007-AR1 Pros. Supp. at S-47-S-48. The DBALT 2007-AR1 Offering Documents also represented that, "[i]n addition to reviewing the borrower's credit history and credit score, [AHM] underwriters closely review the borrower's housing payment history." *Id.* at S-48. The DBALT 2007-AR1 Offering Documents further represented that: "For manually underwritten loans, the underwriter must ensure that the borrower's income will support the total housing expense on an ongoing basis. Underwriters may give consideration to borrowers who have demonstrated an ability to carry a similar or greater housing expense for an extended period. In addition to the monthly housing expense, the underwriter must evaluate the borrower's ability to manage all recurring payments on all debts, including the monthly housing expense. 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. For example, borrowers who lower their total obligations should receive favorable consideration and borrowers with a history of heavy usage and a pattern of slow or late payments should receive less flexibility." *Id.* The DBALT 2007-AR1 Offering Documents further represented that, under AHM underwriting guidelines, "[e]very mortgage loan is secured by a property that has been appraised by a licensed appraiser in accordance with the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation." *Id.* As further detailed *infra*, these representations were false and misleading at the time they were made. Contrary to defendants' affirmative representations, the

truth was that AHM had completely abandoned its stated underwriting guidelines and was simply seeking to originate as many loans as possible, ***without*** any regard for its borrowers' actual repayment ability or the true value and adequacy of the mortgaged properties to serve as collateral. *See* §VI.A.6, *infra.*

b. Loan-to-Value Ratios

51. The DBALT 2007-AR1 Offering Documents also made certain misrepresentations regarding the loan-to-value ("LTV") ratios associated with the loans supporting the DBALT 2007-AR1 Certificates purchased by plaintiff.[6] Specifically, the DBALT 2007-AR1 Offering Documents represented that only a very small percentage of the loans supporting plaintiff's DBALT 2007-AR1 Certificates had LTV ratios over 80%, and that ***none*** of the loans supporting plaintiff's DBALT 2007-AR1 Certificates had LTV ratios over 100%.

52. Plaintiff, however, has performed an industry-accepted historical valuation analysis on the actual loans underlying plaintiff's DBALT 2007-AR1 Certificates, which reveals that the LTV ratio percentages stated in the DBALT 2007-AR1 Offering Documents were materially false ***at the time they were made***. The following chart summarizes the LTV ratio percentages stated in the DBALT 2007-AR1 Offering Documents, and the actual percentages that should have been stated according to plaintiff's industry-accepted analysis:[7]

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[6] For the reasons set forth *infra*, LTV ratios are very important to RMBS investors. *See* §VI.B, *infra*.

[7] Consistent with defendants' representations in the Offering Documents, all LTV ratio percentages herein are stated as a percentage of the aggregate outstanding loan balance of the supporting loan group or groups at issue.

Tranche Purchased	CUSIP	Applicable Supporting Loan Group	Stated Percentage of Loans Having LTV Ratios Over 80%	Actual Percentage of Loans Having LTV Ratios Over 80%	Stated Percentage of Loans Having LTV Ratios Over 100%	Actual Percentage of Loans Having LTV Ratios Over 100%
A2	25151RAB0	All	0.75%	41.02%	0.00%	7.63%
A5	25151RAG9	All	0.75%	41.02%	0.00%	7.63%

c. Owner Occupancy Rates

53. The DBALT 2007-AR1 Offering Documents also made certain misrepresentations regarding the owner occupancy rates ("OOR" or "Primary Residence Percentages") associated with the loans supporting the DBALT 2007-AR1 Certificates purchased by plaintiff.[8] Specifically, the DBALT 2007-AR1 Offering Documents represented that a large percentage of the loans supporting plaintiff's DBALT 2007-AR1 Certificates were issued to borrowers that actually lived in the properties serving as collateral for their loans, significantly decreasing the likelihood that such borrowers would default on their loans.

54. Plaintiff, however, has performed an in-depth investigation of the actual borrowers, loans and properties underlying plaintiff's DBALT 2007-AR1 Certificates, which reveals that the OOR percentages stated in the DBALT 2007-AR1 Offering Documents were materially false ***at the time they were made***. The following chart summarizes the OOR percentages stated in the DBALT 2007-AR1 Offering Documents, and the actual percentages that should have been stated according to plaintiff's investigation:[9]

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[8] For the reasons set forth *infra*, OOR percentages are very important to RMBS investors. *See* §VI.C, *infra*.

[9] Consistent with defendants' representations in the Offering Documents, all Primary Residence Percentages herein are stated as a percentage of the aggregate outstanding loan balance of the supporting loan group or groups at issue.

Tranche Purchased	CUSIP	Applicable Supporting Loan Group	Primary Residence Percentage Stated in the Offering Documents	Actual Primary Residence Percentage	Percent Overstatement of Actual Primary Residence Percentage
A2	25151RAB0	All	87.54%	78.13%	12.05%
A5	25151RAG9	All	87.54%	78.13%	12.05%

d. Credit Ratings

55. The DBALT 2007-AR1 Offering Documents also represented that the DBALT 2007-AR1 Certificates purchased by plaintiff had been assigned certain high "investment grade" credit ratings by Standard & Poor's ("S&P") and Moody's Investor Services ("Moody's"), indicating that the securities were very strong, safe investments with an extremely low probability of default.[10] Specifically, the DBALT 2007-AR1 Offering Documents represented that plaintiff's DBALT 2007-AR1 Certificates had each been assigned AAA/Aaa ratings – the highest, safest credit ratings available, which are in fact the same as, or even higher than, the current credit rating of U.S. Treasury debt.[11]

56. These representations, however, were false and misleading when made. In truth, plaintiff's DBALT 2007-AR1 Certificates should not have received AAA/Aaa credit ratings, because they were ***not*** safe, "investment grade" securities with a "less than 1% probability of incurring defaults." Rather, as defendants were well aware, plaintiff's DBALT 2007-AR1 Certificates were extremely risky, speculative grade "junk" bonds, or worse, backed by low credit quality, extremely risky loans. Indeed, one of the primary reasons that S&P and Moody's had

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[10] For the reasons set forth *infra*, credit ratings are very important to RMBS investors. *See* §VI.D, *infra*.

[11] As explained *infra*, "[t]raditionally, investments holding AAA ratings have had ***a less than 1% probability of incurring defaults***." *See* §VI.D, *infra* (citing Levin-Coburn Report at 6).

assigned such high ratings to plaintiff's DBALT 2007-AR1 Certificates was because defendants had fed them falsified information regarding the DBALT 2007-AR1 Certificates' underlying loans, including, without limitation, false loan underwriting guidelines, false LTV ratios, false borrower FICO scores, false borrower debt-to-income ("DTI") ratios, and false OOR percentages.

57. The falsity of the credit ratings set forth in the DBALT 2007-AR1 Offering Documents is confirmed by subsequent events. Specifically, ***more than 47%***[12] ***of the loans supporting plaintiff's DBALT 2007-AR1 Certificates are currently in default*** because they were made to borrowers who either could not afford them or never intended to repay them.[13] Moreover, plaintiff's "investment grade" DBALT 2007-AR1 Certificates are now rated at "junk" status or below. Clearly, plaintiff's DBALT 2007-AR1 Certificates were not the highly rated, "investment grade" securities defendants represented them to be. The evidence supporting the falsity of the DBALT 2007-AR1 Certificates' credit ratings is set forth in further detail in §VI.D, *infra*, and summarized by the following chart:

Tranche Purchased	**CUSIP**	**Applicable Supporting Loan Group**	**Current Percentage of Outstanding Loan Balance in Default**	**Moody's Ratings**		**S&P's Ratings**	
				Initial	**Current**	**Initial**	**Current**
A2	25151RAB0	All	47.31%	Aaa	Ca	AAA	NR
A5	25151RAG9	All	47.31%	Aaa	C	AAA	NR

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[12] The default rates for all offerings at issue herein were obtained from trustee reports which were generally issued in or about May 2013.

[13] When used herein to describe the status of a loan or group of loans, the terms "in default," " into default" or "defaulted" are defined to include any loan or group of loans that is delinquent, in bankruptcy, foreclosed or bank owned.

e. Transfer of Title

58. The DBALT 2007-AR1 Offering Documents also represented that the loans underlying the DBALT 2007-AR1 Certificates would be timely transferred to the issuing trust, so that the trust would obtain good title to the mortgage loans comprising the pool for the offering.[14] Specifically, the DBALT 2007-AR1 Offering Documents stated "[o]n the Closing Date, the depositor will transfer to the trust all of its right, title and interest in and to each Initial Mortgage Loan, the related mortgage note, mortgage, assignment of mortgage in recordable form to the trustee and other related documents . . . , including all scheduled payments with respect to each such Mortgage Loan due after the Cut-Off Date." DBALT 2007-AR1 Pros. Supp. at S-98. These statements were false and misleading. Defendants failed to legally and properly transfer the promissory notes and security instruments to the trusts. *See* §VI.E, *infra*.

2. The ACE 2005-RM2 Certificates

59. The Ace Securities Corp. Home Equity Loan Trust, Series 2005-RM2, Asset Backed Pass-Through Certificates ("ACE 2005-RM2 Certificates") were issued pursuant to a Prospectus Supplement dated May 23, 2005. The following defendants played critical roles in the fraudulent structuring, offering and sale of the ACE 2005-RM2 Certificate: ACE (depositor); DBSP (seller) and DBSI (underwriter).

60. Plaintiff purchased the following ACE 2005-RM2 Certificate:

Original Purchaser	Tranche Purchased	CUSIP	Purchase Date	Original Face Amount	Purchased From
Fortis Cayman	M5	004421NX7	7/23/2007	$4,626,000	Goldman Sachs & Co.

[14] For the reasons set forth *infra*, transfer of title of the underlying loans was very important to RMBS investors. *See* §VI.E, *infra*.

61. The decision to purchase the above security was made by Fortis Cayman in direct reliance upon the ACE 2005-RM2 Offering Documents, including draft and/or final ACE 2005-RM2 Prospectus Supplements, all of which were distributed by the defendants associated with the ACE 2005-RM2 offering. Fortis Cayman's diligent investment processes are described in great detail in §VIII.B, *infra*.

a. Underwriting Guidelines

62. The ACE 2005-RM2 Offering Documents disclosed that 100% of the ACE 2005-RM2 Certificates' underlying loans were acquired by the seller, DBSP, from loan originators Residential Mortgage Assistance Enterprise, LLC ("RMAE") and ResMae Mortgage Corporation ("ResMae"). *See* ACE 2005-RM2 Pros. Supp. at S-19.

63. With regard to both the RMAE and ResMae loans, the ACE 2005-RM2 Offering Documents represented that "[t]he underwriting standards of the Originators are primarily intended to assess the ability and willingness of the mortgagor to repay the debt and to evaluate the adequacy of the property as collateral for the mortgage loan." *Id.* at S-49. The ACE 2005-RM2 Offering Documents further represented that RMAE and ResMae "consider, among other things, a mortgagor's credit history, repayment ability and debt service-to-income ratio (referred to herein as the Debt Ratio), as well as the value, type and use of the mortgaged property," and that "an appraisal of the mortgaged property which conforms to Freddie Mac and/or Fannie Mae standards, and if appropriate, a review appraisal" are generally required. *Id.* at S-49-S-50. The ACE 2005-RM2 Offering Documents further represented that "[f]or all FICO Programs, Debt Ratios must be 55% or less on loan-to-value ratios of 85%, or less. Debt Ratios of 50% or less are required on loan-to-value ratios greater than 85%," and that "[g]enerally, for all Traditional Programs, Debt Ratios must be 55% or less and Debt Ratios of 50% or less are required on the A1 and A2 programs." *Id.* at S-52-S-53. As further detailed *infra*, these representations were false and misleading at the time they were

made. Contrary to defendants' affirmative representations, the truth was that RMAE and ResMae had both completely abandoned their stated underwriting guidelines and were simply seeking to originate as many loans as possible, ***without*** any regard for their borrowers' actual repayment ability or the true value and adequacy of the mortgaged properties to serve as collateral. *See* §VI.A.11, *infra*.

b. Loan-to-Value Ratios

64. The ACE 2005-RM2 Offering Documents also made certain misrepresentations regarding the LTV ratios associated with the loans supporting the ACE 2005-RM2 Certificate purchased by plaintiff. Specifically, the ACE 2005-RM2 Offering Documents represented that less than 40% of the loans supporting plaintiff's ACE 2005-RM2 Certificate had LTV ratios over 80%, and that ***none*** of the loans supporting plaintiff's ACE 2005-RM2 Certificate had LTV ratios over 100%.

65. Plaintiff, however, has performed an industry-accepted historical valuation analysis on the actual loans underlying plaintiff's ACE 2005-RM2 Certificate, which reveals that the LTV ratio percentages stated in the ACE 2005-RM2 Offering Documents were materially false ***at the time they were made***. The following chart summarizes the LTV ratio percentages stated in the ACE 2005-RM2 Offering Documents, and the actual percentages that should have been stated according to plaintiff's industry-accepted analysis:

Tranche Purchased	CUSIP	Applicable Supporting Loan Group	Stated Percentage of Loans Having LTV Ratios Over 80%	Actual Percentage of Loans Having LTV Ratios Over 80%	Stated Percentage of Loans Having LTV Ratios Over 100%	Actual Percentage of Loans Having LTV Ratios Over 100%
M5	004421NX7	All	35.35%	73.28%	0.00%	28.09%

c. Owner Occupancy Rates

66. The ACE 2005-RM2 Offering Documents also made certain misrepresentations regarding the OOR percentages associated with the loans supporting the ACE 2005-RM2 Certificate purchased by plaintiff. Specifically, the ACE 2005-RM2 Offering Documents represented that a large percentage of the loans supporting plaintiff's ACE 2005-RM2 Certificate were issued to borrowers that actually lived in the properties serving as collateral for their loans, significantly decreasing the likelihood that such borrowers would default on their loans.

67. Plaintiff, however, has performed an in-depth investigation of the actual borrowers, loans and properties underlying plaintiff's ACE 2005-RM2 Certificate, which reveals that the OOR percentages stated in the ACE 2005-RM2 Offering Documents were materially false ***at the time they were made***. The following chart summarizes the OOR percentages stated in the ACE 2005-RM2 Offering Documents, and the actual percentages that should have been stated according to plaintiff's investigation:

Tranche Purchased	CUSIP	Applicable Supporting Loan Group	Primary Residence Percentage Stated in the Offering Documents	Actual Primary Residence Percentage	Percent Overstatement of Actual Primary Residence Percentage
M5	004421NX7	All	95.97%	87.04%	10.26%

d. Credit Ratings

68. The ACE 2005-RM2 Offering Documents also represented that the ACE 2005-RM2 Certificate purchased by plaintiff had been assigned certain high "investment grade" credit ratings by S&P and Moody's, indicating that the security was a very strong, safe investment with an extremely low probability of default. Specifically, the ACE 2005-RM2 Offering Documents represented that plaintiff's ACE 2005-RM2 Certificate had been assigned A+/Ba3 ratings – signifying an extremely safe and stable security.

69. These representations, however, were false and misleading when made. In truth, plaintiff's ACE 2005-RM2 Certificate should not have received A+/Ba3 credit ratings, because it was ***not*** a safe, "investment grade" security. Rather, as defendants were well aware, plaintiff's ACE 2005-RM2 Certificate was an extremely risky, speculative grade "junk" bond, backed by low credit quality, extremely risky loans. Indeed, one of the primary reasons that S&P and Moody's had assigned such high ratings to plaintiff's ACE 2005-RM2 Certificate was because defendants had fed them falsified information regarding the ACE 2005-RM2 Certificate's underlying loans, including, without limitation, false loan underwriting guidelines, false LTV ratios, false borrower FICO scores, false borrower DTI ratios, and false OOR percentages.

70. The falsity of the credit ratings set forth in the ACE 2005-RM2 Offering Documents is confirmed by subsequent events. Specifically, ***approximately 30% of the loans supporting plaintiff's ACE 2005-RM2 Certificate are currently in default*** because they were made to borrowers who either could not afford them or never intended to repay them. Moreover, plaintiff's "investment grade" ACE 2005-RM2 Certificate is now rated at "junk" status. Clearly, plaintiff's ACE 2005-RM2 Certificate was not the highly rated, "investment grade" security defendants represented it to be. The evidence supporting the falsity of the ACE 2005-RM2 Certificate's credit ratings is set forth in further detail in §VI.D, *infra*, and summarized by the following chart:

Tranche Purchased	**CUSIP**	**Applicable Supporting Loan Group**	**Current Percentage of Outstanding Loan Balance in Default**	**Moody's Ratings**		**S&P's Ratings**	
				Initial	**Current**	**Initial**	**Current**
M5	004421NX7	All	29.92%	Ba3	Caa3	A+	CCC

e. Transfer of Title

71. The ACE 2005-RM2 Offering Documents also represented that the loans underlying the ACE 2005-RM2 Certificates would be timely transferred to the issuing trust, so that the trust would obtain good title to the mortgage loans comprising the pool for the offering. Specifically, the

ACE 2005-RM2 Offering Documents stated that "[o]n the Closing Date, the Depositor will transfer to the trust all of its right, title and interest in and to each Mortgage Loan, the related mortgage note, mortgage, assignment of mortgage in recordable form to the Trustee and other related documents . . . , including all scheduled payments with respect to each such Mortgage Loan due after the Cut-off Date." *See* ACE 2005-RM2 Pros. Supp. at S-128. These statements were false and misleading. Defendants failed to legally and properly transfer the promissory notes and security instruments to the trusts. *See* §VI.E, *infra*.

3. The ACE 2006-ASAP3 Certificates

72. The ACE Securities Corp. Home Equity Loan Trust, Series 2006-ASAP3, Asset-Backed Pass-Through Certificates ("ACE 2006-ASAP3 Certificates") were issued pursuant to a Prospectus Supplement dated May 25, 2006. The following defendants played critical roles in the fraudulent structuring, offering and sale of the ACE 2006-ASAP3 Certificates: ACE (depositor); DBSP (sponsor); DBSI (underwriter).

73. Plaintiff purchased the following ACE 2006-ASAP3 Certificates:

Original Purchaser	Tranche Purchased	CUSIP	Purchase Date	Original Face Amount	Purchased From
Fortis Bank	A2D	00442VAE7	5/25/2006	$8,000,000	DBSI
Fortis Bank	M1	00442VAF4	5/25/2006	$10,000,000	DBSI

74. The decision to purchase the above securities were made by Fortis Bank in direct reliance upon the ACE 2006-ASAP3 Offering Documents, including draft and/or final ACE 2006-ASAP3 Prospectus Supplements, all of which were distributed by the defendants associated with the ACE 2006-ASAP3 offering. Fortis Bank's diligent investment processes are described in great detail in §VIII.A, *infra*

a. Underwriting Guidelines

75. The ACE 2006-ASAP3 Offering Documents disclosed that 100% of the ACE 2006-ASAP3 Certificates' underlying loans were acquired by the sponsor, DBSP, from "various third party originators." *See* ACE 2006-ASAP3 Pros. Supp. at S-61.

76. The ACE 2006-ASAP3 Offering Documents represented that the "various third party originators" originated the ACE 2006-ASAP3 Certificates' underlying loans in accordance with the underwriting standards of the sponsor, DBSP, who reviewed the loans "to ensure conformity with such underwriting standards." *Id.* at S-23, S-61. The ACE 2006-ASAP3 Offering Documents represented that "[t]he Sponsor's underwriting standards are primarily intended to assess the ability and willingness of a borrower to repay the debt of the mortgage loan and to evaluate the adequacy of the related mortgaged property as collateral for the mortgage loan." *Id.* The ACE 2006-ASAP3 Offering Documents further represented that "[i]n underwriting a mortgage loan, the Sponsor considers, among other things, a mortgagor's credit history, repayment ability and debt service-to-income ratio . . . , as well as the value, type and use of the mortgaged property," and that "an appraisal of the mortgaged property which conforms to Freddie Mac and/or Fannie Mae standards and, if appropriate, a review appraisal" are generally required. *Id.* at S-62, S-64. The ACE 2006-ASAP3 Certificates further represented that "[t]he Debt Ratio generally may not exceed 50.49% for all credit scores on Full Documentation Program and Limited Income Verification Program mortgage loans. Loans meeting the residual income requirements may have a maximum Debt Ratio of 55.49%. The Debt Ratio for No Income Verification Program mortgage loans may not exceed 50.49%." *Id.* at S-64. As further detailed *infra*, these representations were false and misleading at the time they were made. Contrary to defendants' affirmative representations, the truth was that DBSP had completely abandoned its stated underwriting guidelines and was simply seeking to

originate as many loans as possible, ***without*** any regard for it borrowers' actual repayment ability or the true value and adequacy of the mortgaged properties to serve as collateral. *See* §VI.A.2, *infra*.

b. Loan-to-Value Ratios

77. The ACE 2006-ASAP3 Offering Documents also made certain misrepresentations regarding the LTV ratios associated with the loans supporting the ACE 2006-ASAP3 Certificates purchased by plaintiff. Specifically, the ACE 2006-ASAP3 Offering Documents represented that only a small percentage of the loans supporting plaintiff's ACE 2006-ASAP3 Certificates had LTV ratios over 80%, and that ***none*** of the loans supporting plaintiff's ACE 2006-ASAP3 Certificates had LTV ratios over 100%.

78. Plaintiff, however, has performed an industry-accepted historical valuation analysis on the actual loans underlying plaintiff's ACE 2006-ASAP3 Certificates, which reveals that the LTV ratio percentages stated in the ACE 2006-ASAP3 Offering Documents were materially false ***at the time they were made***. The following chart summarizes the LTV ratio percentages stated in the ACE 2006-ASAP3 Offering Documents, and the actual percentages that should have been stated according to plaintiff's industry-accepted analysis:

Tranche Purchased	CUSIP	Applicable Supporting Loan Group	Stated Percentage of Loans Having LTV Ratios Over 80%	Actual Percentage of Loans Having LTV Ratios Over 80%	Stated Percentage of Loans Having LTV Ratios Over 100%	Actual Percentage of Loans Having LTV Ratios Over 100%
A2D	00442VAE7	Group 2	14.46%	84.74%	0.00%	35.50%
M1	00442VAF4	All	16.15%	79.31%	0.00%	32.41%

c. Owner Occupancy Rates

79. The ACE 2006-ASAP3 Offering Documents also made certain misrepresentations regarding the OOR percentages associated with the loans supporting the ACE 2006-ASAP3 Certificates purchased by plaintiff. Specifically, the ACE 2006-ASAP3 Offering Documents represented that a large percentage of the loans supporting plaintiff's ACE 2006-ASAP3 Certificates

were issued to borrowers that actually lived in the properties serving as collateral for their loans, significantly decreasing the likelihood that such borrowers would default on their loans.

80. Plaintiff, however, has performed an in-depth investigation of the actual borrowers, loans and properties underlying plaintiff's ACE 2006-ASAP3 Certificates, which reveals that the OOR percentages stated in the ACE 2006-ASAP3 Offering Documents were materially false ***at the time they were made***. The following chart summarizes the OOR percentages stated in the ACE 2006-ASAP3 Offering Documents, and the actual percentages that should have been stated according to plaintiff's investigation:

Tranche Purchased	**CUSIP**	**Applicable Supporting Loan Group**	**Primary Residence Percentage Stated in the Offering Documents**	**Actual Primary Residence Percentage**	**Percent Overstatement of Actual Primary Residence Percentage**
A2D	00442VAE7	Group 2	97.39%	85.33%	14.13%
M1	00442VAF4	All	97.31%	86.09%	13.04%

d. Credit Ratings

81. The ACE 2006-ASAP3 Offering Documents also represented that the ACE 2006-ASAP3 Certificates purchased by plaintiff had been assigned certain high "investment grade" credit ratings by S&P and Moody's, indicating that the securities were very strong, safe investments with an extremely low probability of default. Specifically, the ACE 2006-ASAP3 Offering Documents represented that plaintiff's ACE 2006-ASAP3 Certificates had been assigned AAA/Aaa and AA+/Aa1 ratings – signifying extremely safe and stable securities.

82. These representations, however, were false and misleading when made. In truth, plaintiff's ACE 2006-ASAP3 Certificates should not have received AAA/Aaa, AA+/Aa1 credit ratings, because they were ***not*** safe, "investment grade" securities. Rather, as defendants were well aware, plaintiff's ACE 2006-ASAP3 Certificates were extremely risky, speculative grade "junk" bonds or worse, backed by low credit quality, extremely risky loans. Indeed, one of the primary

reasons that S&P and Moody's had assigned such high ratings to plaintiff's ACE 2006-ASAP3 Certificates was because defendants had fed them falsified information regarding the ACE 2006-ASAP3 Certificates' underlying loans, including, without limitation, false loan underwriting guidelines, false LTV ratios, false borrower FICO scores, false borrower DTI ratios, and false OOR percentages.

83. The falsity of the credit ratings set forth in the ACE 2006-ASAP3 Offering Documents is confirmed by subsequent events. Specifically, ***approximately 30% of the loans supporting plaintiff's ACE 2006-ASAP3 Certificates are currently in default*** because they were made to borrowers who either could not afford them or never intended to repay them. Moreover, plaintiff's "investment grade" ACE 2006-ASAP3 Certificates are now rated at "junk" status or below. Clearly, plaintiff's ACE 2006-ASAP3 Certificates were not the highly rated, "investment grade" securities defendants represented them to be. The evidence supporting the falsity of the ACE 2006-ASAP3 Certificates' credit ratings is set forth in further detail in §VI.D, *infra*, and summarized by the following chart:

Tranche Purchased	**CUSIP**	**Applicable Supporting Loan Group**	**Current Percentage of Outstanding Loan Balance in Default**	**Moody's Ratings**		**S&P's Ratings**	
				Initial	**Current**	**Initial**	**Current**
A2D	00442VAE7	Group 2	29.43%	Aaa	Ca	AAA	CCC
M1	00442VAF4	All	30.30%	Aa1	C	AA+	D

e. Transfer of Title

84. The ACE 2006-ASAP3 Offering Documents also represented that the loans underlying the ACE 2006-ASAP3 Certificates would be timely transferred to the issuing trust, so that the trust would obtain good title to the mortgage loans comprising the pool for the offering. Specifically, the ACE 2006-ASAP3 Offering Documents stated that "[o]n the Closing Date, the Depositor will transfer to the trust all of its right, title and interest in and to each Mortgage Loan, the

related mortgage note, mortgage, assignment of mortgage in recordable form in blank and other related documents . . . , including all scheduled payments with respect to each such Mortgage Loan due after the Cut-off Date." *See* ACE 2006-ASAP3 Pros. Supp. at S-155. These statements were false and misleading. Defendants failed to legally and properly transfer the promissory notes and security instruments to the trusts. *See* §VI.E, *infra*.

4. The ACE 2006-ASAP6 Certificates

85. The ACE Securities Corp. Home Equity Loan Trust, Series 2006-ASAP6, Asset-Backed Certificates ("ACE 2006-ASAP6 Certificates") were issued pursuant to a Prospectus Supplement dated November 28, 2006. The following defendants played critical roles in the fraudulent structuring, offering and sale of the ACE 2006-ASAP6 Certificates: ACE (depositor); DBSP (sponsor); DBSI (underwriter).

86. Plaintiff purchased the following ACE 2006-ASAP6 Certificates:

Original Purchaser	Tranche Purchased	CUSIP	Purchase Date	Original Face Amount	Purchased From
Scaldis	A2D	00443KAF7	11/22/2006	$25,000,000	DBSI
Fortis Bank	M1	00443KAG5	11/22/2006	$7,000,000	DBSI

87. The decision to purchase the above securities was made by Fortis Bank, including on behalf of Scaldis, in direct reliance upon the ACE 2006-ASAP6 Offering Documents, including draft and/or final ACE 2006-ASAP6 Prospectus Supplements, all of which were distributed by the defendants associated with the ACE 2006-ASAP6 offering. Fortis Bank's diligent investment processes are described in great detail in §VIII.A, *infra*

a. Underwriting Guidelines

88. The ACE 2006-ASAP6 Offering Documents disclosed that all of the ACE 2006-ASAP6 Certificates' underlying loans were acquired by the sponsor, DBSP, from "various third party originators." *See* ACE 2006-ASAP6 Pros. Supp. at S-71.

89. The ACE 2006-ASAP6 Offering Documents represented that the "various third party originators" originated the ACE 2006-ASAP6 Certificates' underlying loans pursuant to the underwriting standards of the sponsor, DBSP, who reviewed the loans "to ensure conformity with such underwriting standards." *Id.* at S-71. The ACE 2006-ASAP6 Offering Documents represented that "[t]he Sponsor's underwriting standards are primarily intended to assess the ability and willingness of a borrower to repay the debt of the mortgage loan and to evaluate the adequacy of the related mortgaged property as collateral for the mortgage loan." *Id.* The ACE 2006-ASAP6 Offering Documents further represented that "[i]n underwriting a mortgage loan, the Sponsor considers, among other things, a mortgagor's credit history, repayment ability and debt service-to-income ratio . . . , as well as the value, type and use of the mortgaged property," and that "an appraisal of the mortgaged property which conforms to Freddie Mac and/or Fannie Mae standards and, if appropriate, a review appraisal" are generally required. *Id.* at S-71, S-74. The ACE 2006-ASAP6 Offering Documents further represented that "[t]he Debt Ratio generally may not exceed 50.49% for all credit scores on Full Documentation Program and Limited Income Verification Program mortgage loans. Loans meeting the residual income requirements may have a maximum Debt Ratio of 55.49%. The Debt Ratio for No Income Verification Program mortgage loans may not exceed 50.49%." *Id.* at S-74. As further detailed *infra*, these representations were false and misleading at the time they were made. Contrary to defendants' affirmative representations, the truth was that DBSP had completely abandoned its stated underwriting guidelines and was simply seeking to originate as many loans as possible, ***without*** any regard for its borrowers' actual repayment ability or the true value and adequacy of the mortgaged properties to serve as collateral. *See* §VI.A.2, *infra*.

b. Loan-to-Value Ratios

90. The ACE 2006-ASAP6 Offering Documents also made certain misrepresentations regarding the LTV ratios associated with the loans supporting the ACE 2006-ASAP6 Certificates purchased by plaintiff. Specifically, the ACE 2006-ASAP6 Offering Documents represented that approximately 20% and 30%, respectively, of the loans supporting each of plaintiff's ACE 2006-ASAP6 Certificates had LTV ratios over 80%, and that ***none*** of the loans supporting plaintiff's ACE 2006-ASAP6 Certificates had LTV ratios over 100%.

91. Plaintiff, however, has performed an industry-accepted historical valuation analysis on the actual loans underlying plaintiff's ACE 2006-ASAP6 Certificates, which reveals that the LTV ratio percentages stated in the ACE 2006-ASAP6 Offering Documents were materially false ***at the time they were made***. The following chart summarizes the LTV ratio percentages stated in the ACE 2006-ASAP6 Offering Documents, and the actual percentages that should have been stated according to plaintiff's industry-accepted analysis:

Tranche Purchased	**CUSIP**	**Applicable Supporting Loan Group**	**Stated Percentage of Loans Having LTV Ratios Over 80%**	**Actual Percentage of Loans Having LTV Ratios Over 80%**	**Stated Percentage of Loans Having LTV Ratios Over 100%**	**Actual Percentage of Loans Having LTV Ratios Over 100%**
A2D	00443KAF7	Group 2	23.16%	86.47%	0.00%	38.09%
M1	00443KAG5	All	30.37%	82.13%	0.00%	34.63%

c. Owner Occupancy Rates

92. The ACE 2006-ASAP6 Offering Documents also made certain misrepresentations regarding the OOR percentages associated with the loans supporting the ACE 2006-ASAP6 Certificates purchased by plaintiff. Specifically, the ACE 2006-ASAP6 Offering Documents represented that a large percentage of the loans supporting plaintiff's ACE 2006-ASAP6 Certificates were issued to borrowers that actually lived in the properties serving as collateral for their loans, significantly decreasing the likelihood that such borrowers would default on their loans.

93. Plaintiff, however, has performed an in-depth investigation of the actual borrowers, loans and properties underlying plaintiff's ACE 2006-ASAP6 Certificates, which reveals that the OOR percentages stated in the ACE 2006-ASAP6 Offering Documents were materially false ***at the time they were made***. The following chart summarizes the OOR percentages stated in the ACE 2006-ASAP6 Offering Documents, and the actual percentages that should have been stated according to plaintiff's investigation:

Tranche Purchased	CUSIP	Applicable Supporting Loan Group	Primary Residence Percentage Stated in the Offering Documents	Actual Primary Residence Percentage	Percent Overstatement of Actual Primary Residence Percentage
A2D	00443KAF7	Group 2	99.26%	88.94%	11.61%
M1	00443KAG5	All	97.86%	88.40%	10.70%

d. Credit Ratings

94. The ACE 2006-ASAP6 Offering Documents also represented that the ACE 2006-ASAP6 Certificates purchased by plaintiff had been assigned certain high "investment grade" credit ratings by S&P and Moody's, indicating that the securities were very strong, safe investments with an extremely low probability of default. Specifically, the ACE 2006-ASAP6 Offering Documents represented that plaintiff's ACE 2006-ASAP6 Certificates had been assigned AAA/Aaa and AA+/Aa1 ratings – signifying extremely safe and secure securities.

95. These representations, however, were false and misleading when made. In truth, plaintiff's ACE 2006-ASAP6 Certificates should not have received AAA/Aaa, AA+/Aa1 credit ratings, because they were ***not*** safe, "investment grade" securities. Rather, as defendants were well aware, plaintiff's ACE 2006-ASAP6 Certificates were extremely risky, speculative grade "junk" bonds or worse, backed by low credit quality, extremely risky loans. Indeed, one of the primary reasons that S&P and Moody's had assigned such high ratings to plaintiff's ACE 2006-ASAP6 Certificates was because defendants had fed them falsified information regarding the ACE 2006-

ASAP6 Certificates' underlying loans, including, without limitation, false loan underwriting guidelines, false LTV ratios, false borrower FICO scores, false borrower DTI ratios, and false OOR percentages.

96. The falsity of the credit ratings set forth in the ACE 2006-ASAP6 Offering Documents is confirmed by subsequent events. Specifically, approximately ***30% of the loans supporting plaintiff's ACE 2006-ASAP6 Certificates are currently in default*** because they were made to borrowers who either could not afford them or never intended to repay them. Moreover, plaintiff's "investment grade" ACE 2006-ASAP6 Certificates are now rated at "junk" status or below. Clearly, plaintiff's ACE 2006-ASAP6 Certificates were not the highly rated, "investment grade" securities defendants represented them to be. The evidence supporting the falsity of the ACE 2006-ASAP6 Certificates' credit ratings is set forth in further detail in §VI.D, *infra*, and summarized by the following chart:

Tranche Purchased	**CUSIP**	**Applicable Supporting Loan Group**	**Current Percentage of Outstanding Loan Balance in Default**	**Moody's Ratings**		**S&P's Ratings**	
				Initial	**Current**	**Initial**	**Current**
A2D	00443KAF7	Group 2	32.41%	Aaa	Ca	AAA	CCC
M1	00443KAG5	All	29.80%	Aa1	WR	AA+	D

e. Transfer of Title

97. The ACE 2006-ASAP6 Offering Documents also represented that the loans underlying the ACE 2006-ASAP6 Certificates would be timely transferred to the issuing trust, so that the trust would obtain good title to the mortgage loans comprising the pool for the offering. Specifically, the ACE 2006-ASAP6 Offering Documents stated that "[o]n the Closing Date, the Depositor will transfer to the trust all of its right, title and interest in and to each Mortgage Loan, the related mortgage note, mortgage, assignment of mortgage in recordable form in blank and other related documents . . . , including all scheduled payments with respect to each such Mortgage Loan

due after the Cut-off Date." *See* ACE 2006-ASAP6 Pros. Supp. at S-178. These statements were false and misleading. Defendants failed to legally and properly transfer the promissory notes and security instruments to the trusts. *See* §VI.E, *infra*.

5. The ACE 2006-HE4 Certificates

98. The ACE Securities Corp. Home Equity Loan Trust, Series 2006-HE4, Asset-Backed Pass-Through Certificates ("ACE 2006-HE4 Certificates") were issued pursuant to a Prospectus Supplement dated September 25, 2006. The following defendants played critical roles in the fraudulent structuring, offering and sale of the ACE 2006-HE4 Certificates: ACE (depositor); DBSP (sponsor); DBSI (underwriter).

99. Plaintiff purchased the following ACE 2006-HE4 Certificate:

Original Purchaser	Tranche Purchased	CUSIP	Purchase Date	Original Face Amount	Purchased From
Scaldis	A2D	00442BAE1	9/19/2006	$20,901,000	DBSI

100. The decision to purchase the above security was made by Fortis Bank, on behalf of Scaldis, in direct reliance upon the ACE 2006-HE4 Offering Documents, including draft and/or final ACE 2006-HE4 Prospectus Supplements, all of which were distributed by the defendants associated with the ACE 2006-HE4 offering. Fortis Bank's diligent investment processes are described in great detail in §VIII.A, *infra*

a. Underwriting Guidelines

101. The ACE 2006-HE4 Offering Documents disclosed that approximately 22.90% of the loans underlying plaintiff's ACE 2006-HE4 Certificate were acquired by the sponsor, DBSP, from loan originator First NLC Financial Services, LLC ("First NLC"); approximately 21.18% of the loans underlying plaintiff's ACE 2006-HE4 Certificate were acquired by the sponsor, DBSP, from loan originator Chapel Funding Corporation ("Chapel"); and approximately 55.92% of the loans underlying plaintiff's ACE 2006-HE4 Certificate were acquired by the sponsor, DBSP, from

"various originators," none of which originated more than 10% of the loans. *See* ACE 2006-HE4 Pros. Supp. at S-25, S-61, S-65.

102. With regard to the First NLC loans, the ACE 2006-HE4 Offering Documents represented that "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." *Id.* at S-65. The ACE 2006-HE4 Offering Documents further represented that "[u]nder each of these programs, First NLC reviews the loan applicant's source of income, calculate[s] the amount of income from sources indicated on the loan application or similar documentation and calculate[s] debt-to-income ratios to determine the applicant's ability to repay the loan," and that "First NLC also requires an appraisal." *Id.* at S-66-S-67. As further detailed *infra*, these representations were false and misleading at the time they were made. Contrary to defendants' affirmative representations, the truth was that First NLC had completely abandoned its stated underwriting guidelines and was simply seeking to originate as many loans as possible, ***without*** any regard for its borrowers' actual repayment ability or the true value and adequacy of the mortgaged properties to serve as collateral. *See* §VI.A.8, *infra*.

103. With regard to the Chapel loans and the loans originated by "various originators," the ACE 2006-HE4 Offering Documents represented that "[t]he underwriting standards of the Originators are intended to assess the ability and willingness of the mortgagor to repay the debt and to evaluate the adequacy of the property as collateral for the mortgage loan." *See* ACE 2006-HE4 Pros. Supp. at S-14. The ACE 2006-HE4 Offering Documents further represented that "[t]he Originators consider, among other things, a mortgagor's credit history, repayment ability and debt service-to-income ratio, as well as the value, type and use of the mortgaged property." *Id.* As further detailed *infra*, these representations were false and misleading at the time they were made.

Contrary to defendants' affirmative representations, the truth was that Chapel and the "various originators" had completely abandoned their stated underwriting guidelines and were simply seeking to originate as many loans as possible, ***without*** any regard for their borrowers' actual repayment ability or the true value and adequacy of the mortgaged properties to serve as collateral. *See* §VI.A.2, *infra*.

b. Loan-to-Value Ratios

104. The ACE 2006-HE4 Offering Documents also made certain misrepresentations regarding the LTV ratios associated with the loans supporting the ACE 2006-HE4 Certificate purchased by plaintiff. Specifically, the ACE 2006-HE4 Offering Documents represented that less than a third of the loans supporting plaintiff's ACE 2006-HE4 Certificate had LTV ratios over 80%, and that ***none*** of the loans supporting plaintiff's ACE 2006-HE4 Certificate had LTV ratios over 100%.

105. Plaintiff, however, has performed an industry-accepted historical valuation analysis on the actual loans underlying plaintiff's ACE 2006-HE4 Certificate, which reveals that the LTV ratio percentages stated in the ACE 2006-HE4 Offering Documents were materially false ***at the time they were made***. The following chart summarizes the LTV ratio percentages stated in the ACE 2006-HE4 Offering Documents, and the actual percentages that should have been stated according to plaintiff's industry-accepted analysis:

Tranche Purchased	**CUSIP**	**Applicable Supporting Loan Group**	**Stated Percentage of Loans Having LTV Ratios Over 80%**	**Actual Percentage of Loans Having LTV Ratios Over 80%**	**Stated Percentage of Loans Having LTV Ratios Over 100%**	**Actual Percentage of Loans Having LTV Ratios Over 100%**
A2D	00442BAE1	Group 2	30.07%	81.97%	0.00%	38.56%

c. **Owner Occupancy Rates**

106. The ACE 2006-HE4 Offering Documents also made certain misrepresentations regarding the OOR percentages associated with the loans supporting the ACE 2006-HE4 Certificate purchased by plaintiff. Specifically, the ACE 2006-HE4 Offering Documents represented that a large percentage of the loans supporting plaintiff's ACE 2006-HE4 Certificate were issued to borrowers that actually lived in the properties serving as collateral for their loans, significantly decreasing the likelihood that such borrowers would default on their loans.

107. Plaintiff, however, has performed an in-depth investigation of the actual borrowers, loans and properties underlying plaintiff's ACE 2006-HE4 Certificate, which reveals that the OOR percentages stated in the ACE 2006-HE4 Offering Documents were materially false ***at the time they were made***. The following chart summarizes the OOR percentages stated in the ACE 2006-HE4 Offering Documents, and the actual percentages that should have been stated according to plaintiff's investigation:

Tranche Purchased	**CUSIP**	**Applicable Supporting Loan Group**	**Primary Residence Percentage Stated in the Offering Documents**	**Actual Primary Residence Percentage**	**Percent Overstatement of Actual Primary Residence Percentage**
A2D	00442BAE1	Group 2	95.79%	84.86%	12.87%

d. **Credit Ratings**

108. The ACE 2006-HE4 Offering Documents also represented that the ACE 2006-HE4 Certificate purchased by plaintiff had been assigned certain high "investment grade" credit ratings by S&P and Moody's, indicating that the security was a very strong, safe investment with an extremely low probability of default. Specifically, the ACE 2006-HE4 Offering Documents represented that plaintiff's ACE 2006-HE4 Certificate had been assigned AAA/Aaa ratings, the highest, safest credit

ratings available, which are in fact the same as, or even higher than, the current credit rating of U.S. Treasury debt.

109. These representations, however, were false and misleading when made. In truth, plaintiff's ACE 2006-HE4 Certificate should not have received AAA/Aaa credit ratings, because it was ***not*** a safe, "investment grade" security with a "less than 1% probability of incurring defaults." Rather, as defendants were well aware, plaintiff's ACE 2006-HE4 Certificate was an extremely risky, speculative grade "junk" bond backed by low credit quality, extremely risky loans. Indeed, one of the primary reasons that S&P and Moody's had assigned such high ratings to plaintiff's ACE 2006-HE4 Certificate was because defendants had fed them falsified information regarding the ACE 2006-HE4 Certificate's underlying loans, including, without limitation, false loan underwriting guidelines, false LTV ratios, false borrower FICO scores, false borrower DTI ratios, and false OOR percentages.

110. The falsity of the credit ratings set forth in the ACE 2006-HE4 Offering Documents is confirmed by subsequent events. Specifically, ***approximately 30% of the loans supporting plaintiff's ACE 2006-HE4 Certificate are currently in default*** because they were made to borrowers who either could not afford them or never intended to repay them. Moreover, plaintiff's "investment grade" ACE 2006-HE4 Certificate is now rated at "junk" status. Clearly, plaintiff's ACE 2006-HE4 Certificate was not the highly rated, "investment grade" security defendants represented it to be. The evidence supporting the falsity of the ACE 2006-HE4 Certificate's credit ratings is set forth in further detail in §VI.D, *infra*, and summarized by the following chart:

Tranche Purchased	**CUSIP**	**Applicable Supporting Loan Group**	**Current Percentage of Outstanding Loan Balance in Default**	**Moody's Ratings**		**S&P's Ratings**	
				Initial	**Current**	**Initial**	**Current**
A2D	00442BAE1	Group 2	29.95%	Aaa	Ca	AAA	CCC

e. Transfer of Title

111. The ACE 2006-HE4 Offering Documents also represented that the loans underlying the ACE 2006-HE4 Certificates would be timely transferred to the issuing trust, so that the trust would obtain good title to the mortgage loans comprising the pool for the offering. Specifically, the ACE 2006-HE4 Offering Documents stated that "[o]n the Closing Date, the Depositor will transfer to the trust all of its right, title and interest in and to each Mortgage Loan, the related mortgage note, mortgage, assignment of mortgage in recordable form in blank and other related documents . . . , including all scheduled payments with respect to each such Mortgage Loan due after the Cut-off Date." See ACE 2006-HE4 Pros. Supp. at S-172. These statements were false and misleading. Defendants failed to legally and properly transfer the promissory notes and security instruments to the trusts. *See* §VI.E, infra.

6. The DBALT 2006-AF1 Certificates

112. The Deutsche Alt-A Securities, Inc. Mortgage Loan Trust, Series 2006-AF1, Mortgage Pass-Through Certificates ("DBALT 2006-AF1 Certificates") were issued pursuant to a Prospectus Supplement dated March 29, 2006. The following defendants played critical roles in the fraudulent structuring, offering and sale of the DBALT 2006-AF1 Certificates: Deutsche Alt-A (depositor); DBSP (sponsor); DBSI (underwriter).

113. Plaintiff purchased the following DBALT 2006-AF1 Certificate:

Original Purchaser	Tranche Purchased	CUSIP	Purchase Date	Original Face Amount	Purchased From
Fortis Bank	A4	251510NC3	3/23/2006	$16,000,000	DBSI

114. The decision to purchase the above security was made by Fortis Bank in direct reliance upon the DBALT 2006-AF1 Offering Documents, including draft and/or final DBALT 2006-AF1 Prospectus Supplements, all of which were distributed by the defendants associated with

the DBALT 2006-AF1 offering. Fortis Bank's diligent investment processes are described in great detail in §VIII.A, *infra*.

a. Underwriting Guidelines

115. The DBALT 2006-AF1 Offering Documents disclosed that: approximately 23.39% of the DBALT 2006-AF1 Certificates' underlying loans were acquired by the sponsor, DBSP, from loan originator GreenPoint Mortgage Funding, Inc. ("GreenPoint"); approximately 17.73% of the DBALT 2006-AF1 Certificates' underlying loans were acquired by the sponsor, DBSP, through loan originator IndyMac; approximately 16.12% of the DBALT 2006-AF1 Certificates' underlying loans were acquired by the sponsor, DBSP, from loan originator AHM; approximately 8.70% of the DBALT 2006-AF1 Certificates' underlying loans were acquired by the sponsor, DBSP, from loan originator Pinnacle Financial Corporation ("Pinnacle"); approximately 6.20% of the DBALT 2006-AF1 Certificates' underlying loans were acquired by the sponsor, DBSP, from loan originator Ohio Savings Bank; approximately 5.06% of the DBALT 2006-AF1 Certificates' underlying loans were acquired by the sponsor, DBSP, from loan originator Fidelity Trust Mortgage, Inc.; and approximately 22.80% of the DBALT 2006-AF1 Certificates' underlying loans were acquired by the sponsor, DBSP, from "other" "various originators, none of which originated more than 10.00% of the mortgage loans." *See* DBALT 2006-AF1 Pros. Supp. at S-1, S-34, S-37.

116. With regard to the GreenPoint loans, the DBALT 2006-AF1 Offering Documents represented that "the GreenPoint underwriting guidelines are applied to evaluate the prospective mortgagor's credit standing and repayment ability and the value and adequacy of the mortgaged property as collateral." *Id.* at S-39. The DBALT 2006-AF1 Offering Documents also represented that "[i]n determining whether a prospective mortgagor has sufficient monthly income available to meet the mortgagor's monthly obligation on the proposed mortgage loan and monthly housing expenses and other financial obligations, GreenPoint generally considers the ratio of those amounts

to the proposed mortgagor's monthly gross income." *Id.* The DBALT 2006-AF1 Offering Documents further represented that "[i]n determining the adequacy of the property as collateral, an independent appraisal is generally made of each property considered for financing." *Id.* at S-40. As further detailed *infra*, these representations were false and misleading at the time they were made. Contrary to defendants' affirmative representations, the truth was that GreenPoint had completely abandoned its stated underwriting guidelines and was simply seeking to originate as many loans as possible, ***without*** any regard for its borrowers' actual repayment ability or the true value and adequacy of the mortgaged properties to serve as collateral. *See* §VI.A.5, *infra*.

b. Loan-to-Value Ratios

117. The DBALT 2006-AF1 Offering Documents also made certain misrepresentations regarding the LTV ratios associated with the loans supporting the DBALT 2006-AF1 Certificate purchased by plaintiff. Specifically, the DBALT 2006-AF1 Offering Documents represented that only a very small percentage of the loans supporting plaintiff's DBALT 2006-AF1 Certificate had LTV ratios over 80%, and that ***none*** of the loans supporting plaintiff's DBALT 2006-AF1 Certificate had LTV ratios over 100%.

118. Plaintiff, however, has performed an industry-accepted historical valuation analysis on the actual loans underlying plaintiff's DBALT 2006-AF1 Certificate, which reveals that the LTV ratio percentages stated in the DBALT 2006-AF1 Offering Documents were materially false ***at the time they were made***. The following chart summarizes the LTV ratio percentages stated in the DBALT 2006-AF1 Offering Documents, and the actual percentages that should have been stated according to plaintiff's industry-accepted analysis:

Tranche Purchased	CUSIP	Applicable Supporting Loan Group	Stated Percentage of Loans Having LTV Ratios Over 80%	Actual Percentage of Loans Having LTV Ratios Over 80%	Stated Percentage of Loans Having LTV Ratios Over 100%	Actual Percentage of Loans Having LTV Ratios Over 100%

Tranche Purchased	CUSIP	Applicable Supporting Loan Group	Stated Percentage of Loans Having LTV Ratios Over 80%	Actual Percentage of Loans Having LTV Ratios Over 80%	Stated Percentage of Loans Having LTV Ratios Over 100%	Actual Percentage of Loans Having LTV Ratios Over 100%
A4	251510NC3	All	10.16 %	47.64%	0.00%	11.55%

c. Owner Occupancy Rates

119. The DBALT 2006-AF1 Offering Documents also made certain misrepresentations regarding the OOR percentages associated with the loans supporting the DBALT 2006-AF1 Certificate purchased by plaintiff. Specifically, the DBALT 2006-AF1 Offering Documents represented that a large percentage of the loans supporting plaintiff's DBALT 2006-AF1 Certificate were issued to borrowers that actually lived in the properties serving as collateral for their loans, significantly decreasing the likelihood that such borrowers would default on their loans.

120. Plaintiff, however, has performed an in-depth investigation of the actual borrowers, loans and properties underlying plaintiff's DBALT 2006-AF1 Certificate, which reveals that the OOR percentages stated in the DBALT 2006-AF1 Offering Documents were materially false ***at the time they were made***. The following chart summarizes the OOR percentages stated in the DBALT 2006-AF1 Offering Documents, and the actual percentages that should have been stated according to plaintiff's investigation:

Tranche Purchased	CUSIP	Applicable Supporting Loan Group	Primary Residence Percentage Stated in the Offering Documents	Actual Primary Residence Percentage	Percent Overstatement of Actual Primary Residence Percentage
A4	251510NC3	All	73.94%	64.93%	13.89%

d. Credit Ratings

121. The DBALT 2006-AF1 Offering Documents also represented that the DBALT 2006-AF1 Certificate purchased by plaintiff had been assigned certain high "investment grade" credit ratings by S&P and Moody's, indicating that the security was a very strong, safe investment with an

extremely low probability of default. Specifically, the DBALT 2006-AF1 Offering Documents represented that plaintiff's DBALT 2006-AF1 Certificate had been assigned AAA/Aaa ratings – the highest, safest credit ratings available, which are in fact the same as, or even higher than, the current credit rating of U.S. Treasury debt.

122. These representations, however, were false and misleading when made. In truth, plaintiff's DBALT 2006-AF1 Certificate should not have received AAA/Aaa credit ratings, because it was ***not*** a safe, "investment grade" security with a "less than 1% probability of incurring default." Rather, as defendants were well aware, plaintiff's DBALT 2006-AF1 Certificate was an extremely risky, speculative grade "junk" bond or worse, backed by low credit quality, extremely risky loans. Indeed, one of the primary reasons that S&P and Moody's had assigned such high ratings to plaintiff's DBALT 2006-AF1 Certificate was because defendants had fed them falsified information regarding the DBALT 2006-AF1 Certificate's underlying loans, including, without limitation, false loan underwriting guidelines, false LTV ratios, false borrower FICO scores, false borrower DTI ratios, and false OOR percentages.

123. The falsity of the credit ratings set forth in the DBALT 2006-AF1 Offering Documents is confirmed by subsequent events. Specifically, ***more than 28% of the loans supporting plaintiff's DBALT 2006-AF1 Certificate are currently in default*** because they were made to borrowers who either could not afford them or never intended to repay them. Moreover, plaintiff's "investment grade" DBALT 2006-AF1 Certificate is now rated at "junk" status or below. Clearly, plaintiff's DBALT 2006-AF1 Certificate was not the highly rated, "investment grade" security that defendants represented it to be. The evidence supporting the falsity of the DBALT 2006-AF1 Certificate's credit ratings is set forth in further detail in §VI.D, *infra*, and summarized by the following chart:

Tranche	CUSIP	Applicable Supporting Loan Group	Current Percentage of Outstanding Loan Balance in Default	Moody's Ratings		S&P's Ratings	
				Initial	Current	Initial	Current
A4	251510NC3	All	28.54%	Aaa	Ca	AAA	D

e. Transfer of Title

124. The DBALT 2006-AF1 Offering Documents also represented that the loans underlying the DBALT 2006-AF1 Certificates would be timely transferred to the issuing trust, so that the trust would obtain good title to the mortgage loans comprising the pool for the offering. Specifically, the DBALT 2006-AF1 Offering Documents stated that "[o]n the Closing Date, the Depositor will transfer to the trust all of its right, title and interest in and to each Initial Mortgage Loan, the related mortgage note, mortgage, assignment of mortgage in recordable form to the Trustee and other related documents." *See* DBALT 2006-AF1 Pros. Supp. at S-83. These statements were false and misleading. Defendants failed to legally and properly transfer the promissory notes and security instruments to the trusts. *See* §VI.E, *infra*.

7. The DBALT 2006-AR1 Certificates

125. The Deutsche Alt-A Securities, Inc. Mortgage Loan Trust, Series 2006-AR1, Mortgage Pass-Through Certificates ("DBALT 2006-AR1 Certificates") were issued pursuant to a Prospectus Supplement dated January 31, 2006. The following defendants played critical roles in the fraudulent structuring, offering and sale of the DBALT 2006-AR1 Certificates: Deutsche Alt-A (depositor); DBSP (sponsor); DBSI (underwriter).

126. Plaintiff purchased the following DBALT 2006-AR1 Certificate:

Original Purchaser	Tranche Purchased	CUSIP	Purchase Date	Original Face Amount	Purchased From
Scaldis	1A2	251510LC5	1/26/2006	$22,000,000	DBSI

127. The decision to purchase the above security was made by Fortis Bank, on behalf of Scaldis, in direct reliance upon the DBALT 2006-AR1 Offering Documents, including draft and/or

final DBALT 2006-AR1 Prospectus Supplements, all of which were distributed by the defendants associated with the DBALT 2006-AR1 offering. Fortis Bank's diligent investment processes are described in great detail in §VIII.A, *infra*.

a. Underwriting Guidelines

128. The DBALT 2006-AR1 Offering Documents disclosed that: approximately 25.67% of the loans underlying plaintiff's DBALT 2006-AR1 Certificate were acquired by the sponsor, DBSP, from loan originator GreenPoint; approximately 11.21% of the loans underlying plaintiff's DBALT 2006-AR1 Certificate were acquired by the sponsor, DBSP, from loan originator Sierra Pacific Mortgage, Inc. ("Sierra"); approximately 14.87% of the loans underlying plaintiff's DBALT 2006-AR1 Certificate were acquired by the sponsor, DBSP, from loan originator IndyMac; approximately 6.21% of the loans underlying plaintiff's DBALT 2006-AR1 Certificate were acquired by the sponsor, DBSP, from Pinnacle; approximately 5.98% of the loans underlying plaintiff's DBALT 2006-AR1 Certificate were acquired by the sponsor, DBSP, from loan originator National City Mortgage Co.; and approximately 36.05% of the loans underlying plaintiff's DBALT 2006-AR1 Certificate were acquired by the sponsor, DBSP, from "other" "various originators, none of which have originated 10% or more of the Group I Mortgage Loans." *See* DBALT 2006-AR1 Pros. Supp. at S-1, S-50.

129. With regard to the GreenPoint loans, the DBALT 2006-AR1 Offering Documents represented that "the GreenPoint underwriting guidelines are applied to evaluate the prospective borrower's credit standing and repayment ability and the value and adequacy of the mortgaged property as collateral." *Id.* at S-93. The DBALT 2006-AR1 Offering Documents also stated that "[i]n determining whether a prospective borrower has sufficient monthly income available to meet the borrower's monthly obligation on the proposed mortgage loan and monthly housing expenses and other financial obligations, GreenPoint generally considers the ratio of those amounts to the

proposed borrower's monthly gross income." *Id.* The DBALT 2006-AR1 Offering Documents further stated that "[i]n determining the adequacy of the property as collateral, an independent appraisal is generally made of each property considered for financing." *Id.* at S-94. As further detailed *infra*, these representations were false and misleading at the time they were made. Contrary to defendants' affirmative representations, the truth was that GreenPoint had completely abandoned its stated underwriting guidelines and was simply seeking to originate as many loans as possible, ***without*** any regard for its borrowers' actual repayment ability or the true value and adequacy of the mortgaged properties to serve as collateral. *See* §VI.A.5, *infra*.

130. With regard to the Sierra loans, the DBALT 2006-AR1 Offering Documents represented that Sierra's "underwriting standards are applied to evaluate the prospective borrower's credit standing and willingness and ability to repay along with the value and adequacy of the mortgaged property as collateral." *See* DBALT 2006-AR1 Pros. Supp. at S-92. The DBALT 2006-AR1 Offering Documents further stated that "[u]nder those standards, a prospective borrower must generally demonstrate that the ratio of the borrower's monthly housing expenses (including principal and interest, property taxes and as applicable, hazard insurance, flood insurance, mortgage insurance and homeowner association dues) to the borrower's gross income (housing ratio) and [the] ratio of the total monthly debt to the borrower's gross monthly income (debt to income ratio) are within acceptable tolerances." *Id.* As further detailed *infra*, these representations were false and misleading at the time they were made. Contrary to defendants' affirmative representations, the truth was that Sierra had completely abandoned its stated underwriting guidelines and was simply seeking to originate as many loans as possible, ***without*** any regard for its borrowers' actual repayment ability or the true value and adequacy of the mortgaged properties to serve as collateral. *See* §VI.A.1, *infra*.

b. Loan-to-Value Ratios

131. The DBALT 2006-AR1 Offering Documents also made certain misrepresentations regarding the LTV ratios associated with the loans supporting the DBALT 2006-AR1 Certificate purchased by plaintiff. Specifically, the DBALT 2006-AR1 Offering Documents represented that only a very small percentage of the loans supporting plaintiff's DBALT 2006-AR1 Certificate had LTV ratios over 80%, and that ***none*** of the loans supporting plaintiff's DBALT 2006-AR1 Certificate had LTV ratios over 100%.

132. Plaintiff, however, has performed an industry-accepted historical valuation analysis on the actual loans underlying plaintiff's DBALT 2006-AR1 Certificate, which reveals that the LTV ratio percentages stated in the DBALT 2006-AR1 Offering Documents were materially false ***at the time they were made***. The following chart summarizes the LTV ratio percentages stated in the DBALT 2006-AR1 Offering Documents, and the actual percentages that should have been stated according to plaintiff's industry-accepted analysis:

Tranche Purchased	CUSIP	Applicable Supporting Loan Group	Stated Percentage of Loans Having LTV Ratios Over 80%	Actual Percentage of Loans Having LTV Ratios Over 80%	Stated Percentage of Loans Having LTV Ratios Over 100%	Actual Percentage of Loans Having LTV Ratios Over 100%
1A2	251510LC5	Group 1	10.65 %	46.78%	0.00%	11.02%

c. Owner Occupancy Rates

133. The DBALT 2006-AR1 Offering Documents also made certain misrepresentations regarding the OOR percentages associated with the loans supporting the DBALT 2006-AR1 Certificate purchased by plaintiff. Specifically, the DBALT 2006-AR1 Offering Documents represented that a large percentage of the loans supporting plaintiff's DBALT 2006-AR1 Certificate were issued to borrowers that actually lived in the properties serving as collateral for their loans, significantly decreasing the likelihood that such borrowers would default on their loans.

134. Plaintiff, however, has performed an in-depth investigation of actual borrowers, loans and properties underlying plaintiff's DBALT 2006-AR1 Certificate, which reveals that the OOR percentages stated in the DBALT 2006-AR1 Offering Documents were materially false ***at the time they were made***. The following chart summarizes the OOR percentages stated in the DBALT 2006-AR1 Offering Documents, and the actual percentages that should have been stated according to plaintiff's investigation:

Tranche Purchased	CUSIP	Applicable Supporting Loan Group	Primary Residence Percentage Stated in the Offering Documents	Actual Primary Residence Percentage	Percent Overstatement of Actual Primary Residence Percentage
1A2	251510LC5	Group 1	75.67%	64.52%	17.29%

d. Credit Ratings

135. The DBALT 2006-AR1 Offering Documents also represented that the DBALT 2006-AR1 Certificate purchased by plaintiff had been assigned certain high "investment grade" credit ratings by S&P and Moody's, indicating that the security was a very strong, safe investment with an extremely low probability of default. Specifically, the DBALT 2006-AR1 Offering Documents represented that plaintiff's DBALT 2006-AR1 Certificate had been assigned AAA/Aaa ratings – the highest, safest credit ratings available, which are in fact the same as, or even higher than, the current credit rating of U.S. Treasury debt.

136. These representations, however, were false and misleading when made. In truth, plaintiff's DBALT 2006-AR1 Certificate should not have received AAA/Aaa credit ratings, because it was ***not*** a safe, "investment grade" security with a "less than 1% probability of incurring default." Rather, as defendants were well aware, plaintiff's DBALT 2006-AR1 Certificate was an extremely risky, speculative grade "junk" bond, backed by low credit quality, extremely risky loans. Indeed, one of the primary reasons that S&P and Moody's had assigned such high ratings to plaintiff's

DBALT 2006-AR1 Certificate was because defendants had fed them falsified information regarding the DBALT 2006-AR1 Certificate's underlying loans, including, without limitation, false loan underwriting guidelines, false LTV ratios, false borrower FICO scores, false borrower DTI ratios, and false OOR percentages.

137. The falsity of the credit ratings set forth in the DBALT 2006-AR1 Offering Documents is confirmed by subsequent events. Specifically, ***approximately 29% of the loans supporting plaintiff's DBALT 2006-AR1 Certificate are currently in default*** because they were made to borrowers who either could not afford them or never intended to repay them. Moreover, plaintiff's "investment grade" DBALT 2006-AR1 Certificate is now rated at "junk" status. Clearly, plaintiff's DBALT 2006-AR1 Certificate was not the highly rated, "investment grade" security that defendants represented it to be. The evidence supporting the falsity of the DBALT 2006-AR1 Certificate's credit ratings is set forth in further detail in §VI.D, *infra*, and summarized by the following chart:

Tranche	**CUSIP**	**Applicable Supporting Loan Group**	**Current Percentage of Outstanding Loan Balance in Default**	**Moody's Ratings**		**S&P's Ratings**	
				Initial	**Current**	**Initial**	**Current**
1A2	251510LC5	Group 1	28.86%	Aaa	B3	AAA	NR

e. Transfer of Title

138. The DBALT 2006-AR1 Offering Documents also represented that the loans underlying the DBALT 2006-AR1 Certificates would be timely transferred to the issuing trust, so that the trust would obtain good title to the mortgage loans comprising the pool for the offering. Specifically, the DBALT 2006-AR1 Offering Documents stated that "[o]n the Closing Date, the Depositor will transfer to the trust all of its right, title and interest in and to each Mortgage Loan, the related mortgage note, mortgage, assignment of mortgage in recordable form to the Trustee and

other related documents." *See* DBALT 2006-AR1 Pros. Supp. at S-170. These statements were false and misleading. Defendants failed to legally and properly transfer the promissory notes and security instruments to the trusts. *See* §VI.E, *infra*.

8. The DBALT 2006-AR3 Certificates

139. The Deutsche Alt-A Securities Mortgage Loan Trust, Series 2006-AR3, Mortgage Pass-Through Certificates ("DBALT 2006-AR3 Certificates") were issued pursuant to a Prospectus Supplement dated July 28, 2006. The following defendants played critical roles in the fraudulent structuring, offering and sale of the DBALT 2006-AR3 Certificates: Deutsche Alt-A (depositor); DBSP (sponsor); DBSI (underwriter).

140. Plaintiff purchased the following DBALT 2006-AR3 Certificate:

Original Purchaser	**Tranche Purchased**	**CUSIP**	**Purchase Date**	**Original Face Amount**	**Purchased From**
Scaldis	A1	25151AAA9	7/25/2006	$30,000,000	DBSI

141. The decision to purchase the above security was made by Fortis Bank, on behalf of Scaldis, in direct reliance upon the DBALT 2006-AR3 Offering Documents, including draft and/or final DBALT 2006-AR3 Prospectus Supplements, all of which were distributed by the defendants associated with the DBALT 2006-AR3 offering. Fortis Bank's diligent investment processes are described in great detail in §VIII.A, *infra*.

a. Underwriting Guidelines

142. The DBALT 2006-AR3 Offering Documents disclosed that: approximately 44.70% of the loans underlying the DBALT 2006-AR3 Certificates were acquired by the sponsor, DBSP, from loan originator MortgageIT; approximately 19.10% of the loans underlying the DBALT 2006-AR3 Certificates were acquired by the sponsor, DBSP, from loan originator Countrywide Home Loans, Inc. ("Countrywide"); approximately 7.07% of the of the loans underlying the DBALT 2006-AR3 Certificates were acquired by the sponsor, DBSP, from loan originator Aegis Mortgage

Corporation; approximately 2.97% of the loans underlying the DBALT 2006-AR3 Certificates were acquired by the sponsor, DBSP, from loan originator Metrociti LLC; approximately 2.45% of the loans underlying the DBALT 2006-AR3 Certificates were acquired by the sponsor, DBSP, from loan originator Chapel; and approximately 23.72% of the loans underlying the DBALT 2006-AR3 Certificates were acquired by the sponsor, DBSP, from "other" "various originators, each of which has originated less than 10.00% of the mortgage loans by aggregate principal balance as of the cut-off date." *See* DBALT 2006-AR3 Pros. Supp. at S-1, S-37.

143. With regard to the MortgageIT loans, the DBALT 2006-AR3 Offering Documents represented that "MortgageIT's underwriting philosophy is to weigh all risk factors inherent in the loan file, giving consideration to the individual transaction, borrower profile, the level of documentation provided and the property used to collateralize the debt." *Id.* at S-42. The DBALT 2006-AR3 Offering Documents further stated that "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." *Id.* The DBALT 2006-AR3 Offering Documents also represented that "[e]very MortgageIT mortgage loan is secured by a property that has been appraised by a licensed appraiser in accordance with the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation." *Id.* As further detailed *infra*, these representations were false and misleading at the time they were made. Contrary to defendants' affirmative representations, the truth was that MortgageIT had completely abandoned its stated underwriting guidelines and was simply seeking to originate as many loans as possible, ***without*** any regard for its borrowers' actual repayment ability or the true value and adequacy of the mortgaged properties to serve as collateral. *See* §VI.A.2, *infra*.

144. With regard to the Countrywide loans, the DBALT 2006-AR3 Offering Documents represented that "Countrywide Home Loans' underwriting standards are applied by or on behalf of

Countrywide Home Loans to evaluate the prospective borrower's credit standing and repayment ability and the value and adequacy of the mortgaged property as collateral." DBALT 2006-AR3 Pros. Supp. at S-44. The DBALT 2006-AR3 Offering Documents also represented that "a prospective borrower must generally demonstrate that the ratio of the borrower's monthly housing expenses (including principal and interest on the proposed mortgage loan and, as applicable, the related monthly portion of property taxes, hazard insurance and mortgage insurance) to the borrower's monthly gross income and the ratio of total monthly debt to the monthly gross income (the 'debt-to-income' ratios) are within acceptable limits." *Id.* at S-44-S-45. The DBALT 2006-AR3 Offering Documents further represented that, "[e]xcept with respect to the mortgage loans originated pursuant to its Streamlined Documentation Program, whose values were confirmed with a Fannie Mae proprietary automated validation model, Countrywide Home Loans obtains appraisals from independent or appraisal services for properties that are to secure mortgage loans." *Id.* at S-45. In addition, the DBALT 2006-AR3 Offering Documents represented that "[u]nder its Standard Underwriting Guidelines, Countrywide Home Loans generally permits a debt-to-income ratio based on the borrower's monthly housing expenses of up to 33% and a debt-to-income ratio based on the borrower's total monthly debt of up to 38%," and that "[u]nder its Expanded Underwriting Guidelines, Countrywide Home Loans generally permits a debt-to-income ratio based on the borrower's monthly housing expenses of up to 36% and a debt-to-income ratio based on the borrower's total monthly debt of up to 40%; provided, however, that if the Loan-to-Value Ratio exceeds 80%, the maximum permitted debt-to-income ratios are 33% and 38%, respectively." *Id.* at S-46, S-48. As further detailed *infra*, these representations were false and misleading at the time they were made. Contrary to defendants' affirmative representations, the truth was that Countrywide had completely abandoned its stated underwriting guidelines and was simply seeking to originate as

many loans as possible, ***without*** any regard for its borrowers' actual repayment ability or the true value and adequacy of the mortgaged properties to serve as collateral. *See* §VI.A.3, *infra*.

b. Loan-to-Value Ratios

145. The DBALT 2006-AR3 Offering Documents also made certain misrepresentations regarding the LTV ratios associated with the loans supporting the DBALT 2006-AR3 Certificate purchased by plaintiff. Specifically, the DBALT 2006-AR3 Offering Documents represented that only a very small percentage of the loans supporting plaintiff's DBALT 2006-AR3 Certificate had LTV ratios over 80%, and that ***none*** of the loans supporting plaintiff's DBALT 2006-AR3 Certificate had LTV ratios over 100%.

146. Plaintiff, however, has performed an industry-accepted historical valuation analysis on the actual loans underlying plaintiff's DBALT 2006-AR3 Certificate, which reveals that the LTV ratio percentages stated in the DBALT 2006-AR3 Offering Documents were materially false ***at the time they were made***. The following chart summarizes the LTV ratio percentages stated in the DBALT 2006-AR3 Offering Documents, and the actual percentages that should have been stated according to plaintiff's industry-accepted analysis:

Tranche Purchased	CUSIP	Applicable Supporting Loan Group	Stated Percentage of Loans Having LTV Ratios Over 80%	Actual Percentage of Loans Having LTV Ratios Over 80%	Stated Percentage of Loans Having LTV Ratios Over 100%	Actual Percentage of Loans Having LTV Ratios Over 100%
A1	25151AAA9	All	1.42 %	36.18%	0.00%	7.95%

c. Owner Occupancy Rates

147. The DBALT 2006-AR3 Offering Documents also made certain misrepresentations regarding the OOR percentages associated with the loans supporting the DBALT 2006-AR3 Certificate purchased by plaintiff. Specifically, the DBALT 2006-AR3 Offering Documents represented that a large percentage of the loans supporting plaintiff's DBALT 2006-AR3 Certificate

were issued to borrowers that actually lived in the properties serving as collateral for their loans, significantly decreasing the likelihood that such borrowers would default on their loans.

148. Plaintiff, however, has performed an in-depth investigation of the actual borrowers, loans and properties underlying plaintiff's DBALT 2006-AR3 Certificate, which reveals that the OOR percentages stated in the DBALT 2006-AR3 Offering Documents were materially false ***at the time they were made***. The following chart summarizes the OOR percentages stated in the DBALT 2006-AR3 Offering Documents, and the actual percentages that should have been stated according to plaintiff's investigation:

Tranche Purchased	CUSIP	Applicable Supporting Loan Group	Primary Residence Percentage Stated in the Offering Documents	Actual Primary Residence Percentage	Percent Overstatement of Actual Primary Residence Percentage
A1	25151AAA9	All	84.29%	74.89%	12.55%

d. Credit Ratings

149. The DBALT 2006-AR3 Offering Documents also represented that the DBALT 2006-AR3 Certificate purchased by plaintiff had been assigned certain high "investment grade" credit ratings by S&P and Moody's, indicating that the security was a very strong, safe investment with an extremely low probability of default. Specifically, the DBALT 2006-AR3 Offering Documents represented that plaintiff's DBALT 2006-AR3 Certificate had been assigned AAA/Aaa ratings – the highest, safest credit ratings available, which are in fact the same as, or even higher than, the current credit rating of U.S. Treasury debt.

150. These representations, however, were false and misleading when made. In truth, plaintiff's DBALT 2006-AR3 Certificate should not have received AAA/Aaa credit ratings, because it was ***not*** a safe, "investment grade" security with a "less than 1% probability of incurring default." Rather, as defendants were well aware, plaintiff's DBALT 2006-AR3 Certificate was an extremely

risky, speculative grade "junk" bond, backed by low credit quality, extremely risky loans. Indeed, one of the primary reasons that S&P and Moody's had assigned such high ratings to plaintiff's DBALT 2006-AR3 Certificate was because defendants had fed them falsified information regarding the DBALT 2006-AR3 Certificate's underlying loans, including, without limitation, false loan underwriting guidelines, false LTV ratios, false borrower FICO scores, false borrower DTI ratios, and false OOR percentages.

151. The falsity of the credit ratings set forth in the DBALT 2006-AR3 Offering Documents is confirmed by subsequent events. Specifically, ***approximately 31% of the loans supporting plaintiff's DBALT 2006-AR3 Certificate are currently in default*** because they were made to borrowers who either could not afford them or never intended to repay them. Moreover, plaintiff's "investment grade" DBALT 2006-AR3 Certificate is now rated at "junk" status. Clearly, plaintiff's DBALT 2006-AR3 Certificate was not the highly rated, "investment grade" security that defendants represented it to be. The evidence supporting the falsity of the DBALT 2006-AR3 Certificate's credit ratings is set forth in further detail in §VI.D, *infra*, and summarized by the following chart:

Tranche	CUSIP	Applicable Supporting Loan Group	Current Percentage of Outstanding Loan Balance in Default	Moody's Ratings		S&P's Ratings	
				Initial	Current	Initial	Current
A1	25151AAA9	All	30.93%	Aaa	Ca	AAA	NR

e. Transfer of Title

152. The DBALT 2006-AR3 Offering Documents also represented that the loans underlying the DBALT 2006-AR3 Certificates would be timely transferred to the issuing trust, so that the trust would obtain good title to the mortgage loans comprising the pool for the offering. Specifically, the DBALT 2006-AR3 Offering Documents stated that "[o]n the Closing Date, the

Depositor will transfer to the trust all of its right, title and interest in and to each Initial Mortgage Loan, the related mortgage note, mortgage, assignment of mortgage in recordable form to the trustee and other related documents." DBALT 2006-AR3 Pros. Supp. at S-97. These statements were false and misleading. Defendants failed to legally and properly transfer the promissory notes and security instruments to the trusts. *See* §VI.E, *infra*.

9. The DBALT 2006-AR6 Certificates

153. The Deutsche Alt-A Securities Mortgage Loan Trust, Series 2006-AR6, Mortgage Pass-Through Certificates ("DBALT 2006-AR6 Certificates") were issued pursuant to a Prospectus Supplement dated December 14, 2006. The following defendants played critical roles in the fraudulent structuring, offering and sale of the DBALT 2006-AR6 Certificates: Deutsche Alt-A (depositor); DBSP (sponsor); DBSI (underwriter).

154. Plaintiff purchased the following DBALT 2006-AR6 Certificates:

Original Purchaser	Tranche Purchased	CUSIP	Purchase Date	Original Face Amount	Purchased From
Scaldis	A4	25150RAD7	11/21/2006	$24,500,000	DBSI
Scaldis	A6	25150RAF2	11/21/2006	$24,500,000	DBSI
Scaldis	A7	25150RAG0	11/21/2006	$19,600,000	DBSI

155. The decision to purchase the above security was made by Fortis Bank, on behalf of Scaldis, in direct reliance upon the DBALT 2006-AR6 Offering Documents, including draft and/or final DBALT 2006-AR6 Prospectus Supplements, all of which were distributed by the defendants associated with the DBALT 2006-AR6 offering. Fortis Bank's diligent investment processes are described in great detail in §VIII.A, *infra*.

a. Underwriting Guidelines

156. The DBALT 2006-AR6 Offering Documents disclosed that: approximately 36.40% of the loans underlying plaintiff's DBALT 2006-AR6 Certificates were acquired by the sponsor, DBSP, from loan originator MortgageIT; approximately 11.59% of the loans underlying plaintiff's

DBALT 2006-AR6 Certificates were acquired by the sponsor, DBSP, from loan originator Countrywide; approximately 9.30% of the loans underlying plaintiff's DBALT 2006-AR6 Certificates were acquired by the sponsor, DBSP, from loan originator IndyMac; approximately 6.89% of the loans underlying plaintiff's DBALT 2006-AR6 Certificates were acquired by the sponsor, DBSP, from loan originator GreenPoint; approximately 6.82% of the loans underlying plaintiff's DBALT 2006-AR6 Certificates were acquired by the sponsor, DBSP, from loan originator DHI Mortgage Company, Ltd.; and approximately 29.01% of the loans underlying plaintiff's DBALT 2006-AR6 Certificates were acquired by the sponsor DBSP, from "other" "various originators, each of which has originated less than 10.00% of the mortgage loans by aggregate principal balance as of the cut-off date." *See* DBALT 2006-AR6 Pros. Supp. at S-1, S-35.

157. With regard to the MortgageIT loans, the DBALT 2006-AR6 Offering Documents represented that "MortgageIT's underwriting philosophy is to weigh all risk factors inherent to the loan file, giving consideration to the individual transaction, borrower profile, the level of documentation provided and the property used to collateralize the debt." *Id.* at S-40. The DBALT 2006-AR6 Offering Documents also represented that "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." *Id.* The DBALT 2006-AR6 Offering Documents further represented that: "For manually underwritten loans, the underwriter must ensure that the borrower's income will support the total housing expense on an ongoing basis. Underwriters may give consideration to borrowers who have demonstrated an ability to carry a similar or greater housing expense for an extended period. In addition to the monthly housing expense the underwriter must evaluate the borrower's ability to manage all recurring payments on all debts, including the monthly housing expense. 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. For example, borrowers who lower their total obligations should receive favorable consideration and borrowers with a history of heavy usage and a pattern of slow or late payments should receive less flexibility." *Id.* at S-41. The DBALT 2006-AR6 Offering Documents further represented that "[e]very MortgageIT mortgage loan is secured by a property that has been appraised by a licensed appraiser in accordance with the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation." *Id.* at S-40. As further detailed *infra*, these representations were false and misleading at the time they were made. Contrary to defendants' affirmative representations, the truth was that MortgageIT had completely abandoned its stated underwriting guidelines and was simply seeking to originate as many loans as possible, ***without*** any regard for its borrowers' actual repayment ability or the true value and adequacy of the mortgaged properties to serve as collateral. *See* §VI.A.2, *infra*.

b. Loan-to-Value Ratios

158. The DBALT 2006-AR6 Offering Documents also made certain misrepresentations regarding the LTV ratios associated with the loans supporting the DBALT 2006-AR6 Certificates purchased by plaintiff. Specifically, the DBALT 2006-AR6 Offering Documents represented that only a very small percentage of the loans supporting plaintiff's DBALT 2006-AR6 Certificates had LTV ratios over 80%, and that ***none*** of the loans supporting plaintiff's DBALT 2006-AR6 Certificates had LTV ratios over 100%.

159. Plaintiff, however, has performed an industry-accepted historical valuation analysis on the actual loans underlying plaintiff's DBALT 2006-AR6 Certificates, which reveals that the LTV ratio percentages stated in the DBALT 2006-AR6 Offering Documents were materially false ***at the time they were made***. The following chart summarizes the LTV ratio percentages stated in the

DBALT 2006-AR6 Offering Documents, and the actual percentages that should have been stated according to plaintiff's industry-accepted analysis:

Tranche Purchased	CUSIP	Applicable Supporting Loan Group	Stated Percentage of Loans Having LTV Ratios Over 80%	Actual Percentage of Loans Having LTV Ratios Over 80%	Stated Percentage of Loans Having LTV Ratios Over 100%	Actual Percentage of Loans Having LTV Ratios Over 100%
A4	25150RAD7	All	4.10 %	45.17%	0.00%	9.69%
A6	25150RAF2	All	4.10 %	45.17%	0.00%	9.69%
A7	25150RAG0	All	4.10 %	45.17%	0.00%	9.69%

c. Owner Occupancy Rates

160. The DBALT 2006-AR6 Offering Documents also made certain misrepresentations regarding the OOR percentages associated with the loans supporting the DBALT 2006-AR6 Certificates purchased by plaintiff. Specifically, the DBALT 2006-AR6 Offering Documents represented that a large percentage of the loans supporting plaintiff's DBALT 2006-AR6 Certificates were issued to borrowers that actually lived in the properties serving as collateral for their loans, significantly decreasing the likelihood that such borrowers would default on their loans.

161. Plaintiff, however, has performed an in-depth investigation of the actual borrowers, loans and properties underlying plaintiff's DBALT 2006-AR6 Certificates, which reveals that the OOR percentages stated in the DBALT 2006-AR6 Offering Documents were materially false ***at the time they were made***. The following chart summarizes the OOR percentages stated in the DBALT 2006-AR6 Offering Documents, and the actual percentages that should have been stated according to plaintiff's investigation:

Tranche Purchased	CUSIP	Applicable Supporting Loan Group	Primary Residence Percentage Stated in the Offering Documents	Actual Primary Residence Percentage	Percent Overstatement of Actual Primary Residence Percentage
A4	25150RAD7	All	82.42%	73.78%	11.71%
A6	25150RAF2	All	82.42%	73.78%	11.71%
A7	25150RAG0	All	82.42%	73.78%	11.71%

d. Credit Ratings

162. The DBALT 2006-AR6 Offering Documents also represented that the DBALT 2006-AR6 Certificates purchased by plaintiff had been assigned certain high "investment grade" credit ratings by S&P and Moody's, indicating that the securities were very strong, safe investments with an extremely low probability of default. Specifically, the DBALT 2006-AR6 Offering Documents represented that plaintiff's DBALT 2006-AR6 Certificates had each been assigned AAA/Aaa ratings – the highest, safest credit ratings available, which are in fact the same as, or even higher than, the current credit rating of U.S. Treasury debt.

163. These representations, however, were false and misleading when made. In truth, plaintiff's DBALT 2006-AR6 Certificates should not have received AAA/Aaa credit ratings, because they were ***not*** safe, "investment grade" securities with a "less than 1% probability of incurring defaults." Rather, as defendants were well aware, plaintiff's DBALT 2006-AR6 Certificates were extremely risky, speculative grade "junk" bonds or worse, backed by low credit quality, extremely risky loans. Indeed, one of the primary reasons that S&P and Moody's had assigned such high ratings to plaintiff's DBALT 2006-AR6 Certificates was because defendants had fed them falsified information regarding the DBALT 2006-AR6 Certificates' underlying loans, including, without limitation, false loan underwriting guidelines, false LTV ratios, false borrower FICO scores, false borrower DTI ratios, and false OOR percentages.

164. The falsity of the credit ratings set forth in the DBALT 2006-AR6 Offering Documents is confirmed by subsequent events. Specifically, ***more than 38% of the loans supporting plaintiff's DBALT 2006-AR6 Certificates are currently in default*** because they were made to borrowers who either could not afford them or never intended to repay them. Moreover, plaintiff's "investment grade" DBALT 2006-AR6 Certificates are now rated at "junk" status or lower. Clearly, plaintiff's DBALT 2006-AR6 Certificates were not the highly rated, "investment

grade" securities that defendants represented them to be. The evidence supporting the falsity of the DBALT 2006-AR6 Certificates' credit ratings is set forth in further detail in §VI.D, *infra*, and summarized by the following chart:

Tranche	CUSIP	Applicable Supporting Loan Group	Current Percentage of Outstanding Loan Balance in Default	Moody's Ratings		S&P's Ratings	
				Initial	Current	Initial	Current
A4	25150RAD7	All	38.56%	Aaa	Caa3	AAA	D
A6	25150RAF2	All	38.56%	Aaa	Caa3	AAA	D
A7	25150RAG0	All	38.56%	Aaa	C	AAA	D

e. Transfer of Title

165. The DBALT 2006-AR6 Offering Documents also represented that the loans underlying the DBALT 2006-AR6 Certificates would be timely transferred to the issuing trust, so that the trust would obtain good title to the mortgage loans comprising the pool for the offering. Specifically, the DBALT 2006-AR6 Offering Documents stated that "[o]n the Closing Date, the depositor will transfer to the trust all of its right, title and interest in and to each Initial Mortgage Loan, the related mortgage note, mortgage, assignment of mortgage in recordable form to the trustee and other related documents." DBALT 2006-AR6 Pros. Supp. at S-87. These statements were false and misleading. Defendants failed to legally and properly transfer the promissory notes and security instruments to the trusts. *See* §VI.E, *infra*.

10. The DBALT 2007-AR2 Certificate

166. The Deutsche Alt-A Securities Mortgage Loan Trust, Series 2007-AR2, Mortgage Pass-Through Certificates ("DBALT 2007-AR2 Certificates") were issued pursuant to a Prospectus Supplement dated February 26, 2007. The following defendants played critical roles in the

fraudulent structuring, offering and sale of the DBALT 2007-AR2 Certificates: Deutsche Alt-A (depositor); DBSP (sponsor); DBSI (underwriter).

167. Plaintiff purchased the following DBALT 2007-AR2 Certificate:

Original Purchaser	Tranche Purchased	CUSIP	Purchase Date	Original Face Amount	Purchased From
Scaldis	A3	25151UAC1	2/20/2007	$22,840,000	DBSI

168. The decision to purchase the above security was made by Fortis Bank, on behalf of Scaldis, in direct reliance upon the DBALT 2007-AR2 Offering Documents, including draft and/or final DBALT 2007-AR2 Prospectus Supplements, all of which were distributed by the defendants associated with the DBALT 2007-AR2 offering. Fortis Bank's diligent investment processes are described in great detail in §VIII.A, *infra*.

a. Underwriting Guidelines

169. The DBALT 2007-AR2 Offering Documents disclosed that: approximately 38.69% of the DBALT 2007-AR2 Certificates' underlying loans were acquired by the sponsor, DBSP, from loan originator AHM; approximately 32.29% of the DBALT 2007-AR2 Certificates' underlying loans were acquired by the sponsor, DBSP, from loan originator MortgageIT; approximately 6.87% of the DBALT 2007-AR2 Certificates' underlying loans were acquired by the sponsor, DBSP, from loan originator GreenPoint; approximately 3.46% of the DBALT 2007-AR2 Certificates' underlying loans were acquired by the sponsor, DBSP, from loan originator Plaza Home Mortgage; approximately 3.29% of the DBALT 2007-AR2 Certificates' underlying loans were acquired by the sponsor, DBSP, from loan originator Alliance Banc Corp; and approximately 15.39% of the DBALT 2007-AR2 Certificates' underlying loans were acquired by the sponsor, DBSP, from "other" "various originators, each of which has originated less than 10% of the Mortgage Loans." *See* DBALT 2007-AR2 Pros. Supp. at S-35, S-39.

170. With regard to AHM loans, the DBALT 2007-AR2 Offering Documents represented that AHM's "underwriting philosophy is to weigh all risk factors inherent in the loan file, giving consideration to the individual transaction, borrower profile, the level of documentation provided and the property used to collateralize the debt," and that AHM "underwrites a borrower's creditworthiness based solely on information that [AHM] believes is indicative of the applicant's willingness and ability to pay the debt they would be incurring." *Id.* at S-40. The DBALT 2007-AR2 Offering Documents also represented that "[i]n addition to reviewing the borrower's credit history and credit score, [AHM] underwriters closely review the borrower's housing payment history." *Id.* at S-40. The DBALT 2007-AR2 Offering Documents further represented that: "For manually underwritten loans, the underwriter must ensure that the borrower's income will support the total housing expense on an ongoing basis. Underwriters may give consideration to borrowers who have demonstrated an ability to carry a similar or greater housing expense for an extended period. In addition to the monthly housing expense, the underwriter must evaluate the borrower's ability to manage all recurring payments on all debts, including the monthly housing expense. 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. For example, borrowers who lower their total obligations should receive favorable consideration and borrowers with a history of heavy usage and a pattern of slow or late payments should receive less flexibility." *Id.* at S-41. The DBALT 2007-AR2 Offering Documents also represented that, under AHM's underwriting guidelines, "[e]very mortgage loan is secured by a property that has been appraised by a licensed appraiser in accordance with the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation." *Id*. at S-41. As further detailed *infra*, these representations were false and misleading at the time they were made. Contrary to defendants' affirmative representations, the truth was that AHM had completely

abandoned its stated underwriting guidelines and was simply seeking to originate as many loans as possible, ***without*** any regard for its borrowers' actual repayment ability or the true value and adequacy of the mortgaged properties to serve as collateral. *See* §VI.A.6, *infra.*

171. With regard to MortgageIT loans, the DBALT 2007-AR2 Offering Documents represented that "MortgageIT's underwriting philosophy is to weigh all risk factors inherent in the loan file, giving consideration to the individual transaction, borrower profile, the level of documentation provided and the property used to collateralize the debt," and that "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." DBALT 2007-AR2 Pros. Supp. at S-42. The DBALT 2007-AR2 Offering Documents also represented that "[i]n addition to reviewing the borrower's credit history and credit score, MortgageIT underwriters closely review the borrower's housing payment history." *Id.* at S-43. The DBALT 2007-AR2 Offering Documents further represented that: "For manually underwritten loans, the underwriter must ensure that the borrower's income will support the total housing expense on an ongoing basis. Underwriters may give consideration to borrowers who have demonstrated an ability to carry a similar or greater housing expense for an extended period. In addition to the monthly housing expense the underwriter must evaluate the borrower's ability to manage all recurring payments on all debts, including the monthly housing expense. 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. For example, borrowers who lower their total obligations should receive favorable consideration and borrowers with a history of heavy usage and a pattern of slow or late payments should receive less flexibility." *Id.* at S-43-S-44. The DBALT 2007-AR2 Offering Documents further represented that, under MortgageIT's underwriting guidelines, "[e]very MortgageIT

mortgage loan is secured by a property that has been appraised by a licensed appraiser in accordance with the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation." *Id*. at S-42. As further detailed *infra*, these representations were false and misleading at the time they were made. Contrary to defendants' affirmative representations, the truth was that MortgageIT had completely abandoned its stated underwriting guidelines and was simply seeking to originate as many loans as possible, ***without*** any regard for its borrowers' actual repayment ability or the true value and adequacy of the mortgaged properties to serve as collateral. *See* §VI.A.2, *infra*.

b. Loan-to-Value Ratios

172. The DBALT 2007-AR2 Offering Documents also made certain misrepresentations regarding the LTV ratios associated with the loans supporting the DBALT 2007-AR2 Certificate purchased by plaintiff. Specifically, the DBALT 2007-AR2 Offering Documents represented that only a very small percentage of the loans supporting plaintiff's DBALT 2007-AR2 Certificate had LTV ratios over 80%, and that ***none*** of the loans supporting plaintiff's DBALT 2007-AR2 Certificate had LTV ratios over 100%.

173. Plaintiff, however, has performed an industry-accepted historical valuation analysis on the actual loans underlying plaintiff's DBALT 2007-AR2 Certificate, which reveals that the LTV ratio percentages stated in the DBALT 2007-AR2 Offering Documents were materially false ***at the time they were made***. The following chart summarizes the LTV ratio percentages stated in the DBALT 2007-AR2 Offering Documents, and the actual percentages that should have been stated according to plaintiff's industry-accepted analysis:

Tranche Purchased	CUSIP	Applicable Supporting Loan Group	Stated Percentage of Loans Having LTV Ratios Over 80%	Actual Percentage of Loans Having LTV Ratios Over 80%	Stated Percentage of Loans Having LTV Ratios Over 100%	Actual Percentage of Loans Having LTV Ratios Over 100%
A3	25151UAC1	All	2.16%	44.02%	0.00%	10.17%

c. Owner Occupancy Rates

174. The DBALT 2007-AR2 Offering Documents also made certain misrepresentations regarding the OOR percentages associated with the loans supporting the DBALT 2007-AR2 Certificate purchased by plaintiff. Specifically, the DBALT 2007-AR2 Offering Documents represented that a large percentage of the loans supporting plaintiff's DBALT 2007-AR2 Certificate were issued to borrowers that actually lived in the properties serving as collateral for their loans, significantly decreasing the likelihood that such borrowers would default on their loans.

175. Plaintiff, however, has performed an in-depth investigation of the actual borrowers, loans and properties underlying plaintiff's DBALT 2007-AR2 Certificate, which reveals that the OOR percentages stated in the DBALT 2007-AR2 Offering Documents were materially false ***at the time they were made***. The following chart summarizes the OOR percentages stated in the DBALT 2007-AR2 Offering Documents, and the actual percentages that should have been stated according to plaintiff's investigation:

Tranche Purchased	CUSIP	Applicable Supporting Loan Group	Primary Residence Percentage Stated in the Offering Documents	Actual Primary Residence Percentage	Percent Overstatement of Actual Primary Residence Percentage
A3	25151UAC1	All	84.12%	75.11%	11.99%

d. Credit Ratings

176. The DBALT 2007-AR2 Offering Documents also represented that the DBALT 2007-AR2 Certificate purchased by plaintiff had been assigned certain high "investment grade" credit ratings by S&P and Moody's, indicating that the security was a very strong, safe investment with an extremely low probability of default. Specifically, the DBALT 2007-AR2 Offering Documents represented that plaintiff's DBALT 2007-AR2 Certificate had been assigned AAA/Aaa ratings – the

highest, safest credit ratings available, which are in fact the same as, or even higher than, the current credit rating of U.S. Treasury debt.

177. These representations, however, were false and misleading when made. In truth, plaintiff's DBALT 2007-AR2 Certificate should not have received AAA/Aaa credit ratings, because it was ***not*** a safe, "investment grade" security with a "less than 1% probability of incurring defaults." Rather, as defendants were well aware, plaintiff's DBALT 2007-AR2 Certificate was an extremely risky, speculative grade "junk" bond, or worse, backed by low credit quality, extremely risky loans. Indeed, one of the primary reasons that S&P and Moody's had assigned such high ratings to plaintiff's DBALT 2007-AR2 Certificate was because defendants had fed them falsified information regarding the DBALT 2007-AR2 Certificate's underlying loans, including, without limitation, false loan underwriting guidelines, false LTV ratios, false borrower FICO scores, false borrower DTI ratios, and false OOR percentages.

178. The falsity of the credit ratings set forth in the DBALT 2007-AR2 Offering Documents is confirmed by subsequent events. Specifically, ***approximately 46% of the loans supporting plaintiff's DBALT 2007-AR2 Certificate are currently in default*** because they were made to borrowers who either could not afford them or never intended to repay them. Moreover, plaintiff's "investment grade" DBALT 2007-AR2 Certificate is now rated at "junk" status or below. Clearly, plaintiff's DBALT 2007-AR2 Certificate was not the highly rated, "investment grade" security defendants represented it to be. The evidence supporting the falsity of the DBALT 2007-AR2 Certificates' credit ratings is set forth in further detail in §VI.D, *infra*, and summarized by the following chart:

Tranche Purchased	**CUSIP**	**Applicable Supporting Loan Group**	**Current Percentage of Outstanding Loan Balance in Default**	**Moody's Ratings**		**S&P's Ratings**	
				Initial	**Current**	**Initial**	**Current**
A3	25151UAC1	All	45.93%	Aaa	C	AAA	D

e. Transfer of Title

179. The DBALT 2007-AR2 Offering Documents also represented that the loans underlying the DBALT 2007-AR2 Certificates would be timely transferred to the issuing trust, so that the trust would obtain good title to the mortgage loans comprising the pool for the offering. Specifically, the DBALT 2007-AR2 Offering Documents stated that "[o]n the Closing Date, the depositor will transfer to the trust all of its right, title and interest in and to each Initial Mortgage Loan, the related mortgage note, mortgage, assignment of mortgage in recordable form to the trustee and other related documents . . . , including all scheduled payments with respect to each such Mortgage Loan due after the Cut-Off Date." *See* DBALT 2007-AR2 Pros. Supp. at S-88. These statements were false and misleading. Defendants failed to legally and properly transfer the promissory notes and security instruments to the trusts. *See* §VI.E, *infra*.

11. The DBALT 2007-AR3 Certificates

180. The Deutsche Alt-A Securities Mortgage Loan Trust, Series 2007-AR3, Mortgage Pass-Through Certificates ("DBALT 2007-AR3 Certificates") were issued pursuant to a Prospectus Supplement dated April 30, 2007. The following defendants played critical roles in the fraudulent structuring, offering and sale of the DBALT 2007-AR3 Certificates: Deutsche Alt-A (depositor); DBSP (sponsor); DBSI (underwriter).

181. Plaintiff purchased the following DBALT 2007-AR3 Certificates:

Original Purchaser	Tranche Purchased	CUSIP	Purchase Date	Original Face Amount	Purchased From
Fortis Bank	2A3	25150VAK2	4/24/2007	$51,747,000	DBSI
Fortis Bank	2A6	25150VAN6	4/24/2007	$24,652,000	DBSI

182. The decision to purchase the above securities was made by Fortis Bank in direct reliance upon the DBALT 2007-AR3 Offering Documents, including draft and/or final DBALT

2007-AR3 Prospectus Supplements, all of which were distributed by the defendants associated with the DBALT 2007-AR3 offering. Fortis Bank's diligent investment processes are described in great detail in §VIII.A, *infra*.

a. Underwriting Guidelines

183. The DBALT 2007-AR3 Offering Documents disclosed that: approximately 40.52% of the DBALT 2007-AR3 Certificates' Group I underlying loans were acquired by the sponsor, DBSP, from loan originator AHM; approximately 37.85% of the DBALT 2007-AR3 Certificates' Group I underlying loans were acquired by the sponsor, DBSP, from loan originator IndyMac; approximately 16.13% of the DBALT 2007-AR3 Certificates' Group I underlying loans were acquired by the sponsor, DBSP, from loan originator Countrywide; and approximately 5.50% of the DBALT 2007-AR3 Certificates' Group I underlying loans were acquired by the sponsor, DBSP, from loan originator GreenPoint. *See* DBALT 2007-AR3 Pros. Supp. at S-54, S-69. In addition, approximately 28.08% of the DBALT 2007-AR3 Certificates' Group II underlying loans were acquired by the sponsor, DBSP, from loan originator MortgageIT; approximately 15.96% of the DBALT 2007-AR3 Certificates' Group II underlying loans were acquired by the sponsor, DBSP, from loan originator Home123 Corporation; approximately 8.08% of the DBALT 2007-AR3 Certificates' Group II underlying loans were acquired by the sponsor, DBSP, from loan originator IndyMac; and approximately 47.88% of the DBALT 2007-AR3 Certificates' Group II underlying loans were acquired by the sponsor DBSP, from "other" "various originators, each of which has originated less than 10.00% of the Group II mortgage loans by aggregate principal balance as of the Cut-Off date." *Id.* at S-63, S-69.

184. With regard to the AHM loans, the DBALT 2007-AR3 Offering Documents represented that AHM's "underwriting philosophy is to weigh all risk factors inherent in the loan file, giving consideration to the individual transaction, borrower profile, the level of documentation

provided and the property used to collateralize the debt," and that AHM "underwrites a borrower's creditworthiness based solely on information that [AHM] believes is indicative of the applicant's willingness and ability to pay the debt they would be incurring." *Id.* at S-70. The DBALT 2007-AR3 Offering Documents also represented that "[i]n addition to reviewing the borrower's credit history and credit score, [AHM] underwriters closely review the borrower's housing payment history." *Id.* at S-71. The DBALT 2007-AR3 further represented that: "For manually underwritten loans, the underwriter must ensure that the borrower's income will support the total housing expense on an ongoing basis. Underwriters may give consideration to borrowers who have demonstrated an ability to carry a similar or greater housing expense for an extended period. In addition to the monthly housing expense, the underwriter must evaluate the borrower's ability to manage all recurring payments on all debts, including the monthly housing expense. 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. For example, borrowers who lower their total obligations should receive favorable consideration and borrowers with a history of heavy usage and a pattern of slow or late payments should receive less flexibility." *Id.* The DBALT 2007-AR3 Offering Documents further represented that, under AHM's underwriting guidelines, "[e]very mortgage loan is secured by a property that has been appraised by a licensed appraiser in accordance with the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation." *Id*. As further detailed *infra*, these representations were false and misleading at the time they were made. Contrary to defendants' affirmative representations, the truth was that AHM had completely abandoned its stated underwriting guidelines and was simply seeking to originate as many loans as possible, ***without*** any regard for its borrowers' actual repayment ability or the true value and adequacy of the mortgaged properties to serve as collateral. *See* §VI.A.6, *infra*.

185. With regard to the IndyMac loans, the DBALT 2007-AR3 Offering Documents represented that "IndyMac Bank's underwriting criteria for traditionally underwritten mortgage loans includes an analysis of the borrower's credit history, ability to repay the mortgage loan and the adequacy of the mortgaged property as collateral." *See* DBALT 2007-AR3 Pros. Supp. at S-73. The DBALT 2007-AR3 Offering Documents also represented that, under IndyMac's underwriting guidelines, "[t]o determine the adequacy of the property to be used as collateral, an appraisal is generally made of the subject property in accordance with the Uniform Standards of Profession Appraisal Practice." *Id*. at S-74. As further detailed *infra*, these representations were false and misleading at the time they were made. Contrary to defendants' affirmative representations, the truth was that IndyMac had completely abandoned its stated underwriting guidelines and was simply seeking to originate as many loans as possible, ***without*** any regard for its borrowers' actual repayment ability or the true value and adequacy of the mortgaged properties to serve as collateral. *See* §VI.A.4, *infra*.

186. With regard to the MortgageIT loans, the DBALT 2007-AR3 Offering Documents represented that "MortgageIT's underwriting philosophy is to weigh all risk factors inherent in the loan file, giving consideration to the individual transaction, borrower profile, the level of documentation provided and the property used to collateralize the debt," and that "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." *See* DBALT 2007-AR3 Pros. Supp. at S-76. The DBALT 2007-AR3 Offering Documents also represented that, "[i]n addition to reviewing the borrower's credit history and credit score, MortgageIT underwriters closely review the borrower's housing payment history." *Id.* at S-77. The DBALT 2007-AR3 further represented that: "For manually underwritten loans, the underwriter must ensure that the borrower's income will support the total housing expense on an ongoing basis.

Underwriters may give consideration to borrowers who have demonstrated an ability to carry a similar or greater housing expense for an extended period. In addition to the monthly housing expense the underwriter must evaluate the borrower's ability to manage all recurring payments on all debts, including the monthly housing expense. 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. For example, borrowers who lower their total obligations should receive favorable consideration and borrowers with a history of heavy usage and a pattern of slow or late payments should receive less flexibility." *Id.* at S-77-S-78. The DBALT 2007-AR3 Offering Documents also represented that, under MortgageIT's underwriting guidelines, "[e]very MortgageIT mortgage loan is secured by a property that has been appraised by a licensed appraiser in accordance with the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation. The appraisers perform on site inspections of the property and report on the neighborhood and property condition in factual and specific terms." *Id*. at 76. As further detailed *infra*, these representations were false and misleading at the time they were made. Contrary to defendants' affirmative representations, the truth was that MortgageIT had completely abandoned its stated underwriting guidelines and was simply seeking to originate as many loans as possible, ***without*** any regard for its borrowers' actual repayment ability or the true value and adequacy of the mortgaged properties to serve as collateral. *See* §VI.A.2, *infra*.

b. Credit Ratings

187. The DBALT 2007-AR3 Offering Documents also represented that the DBALT 2007-AR3 Certificates purchased by plaintiff had been assigned certain high "investment grade" credit ratings by S&P and Moody's, indicating that the securities were very strong, safe investments with an extremely low probability of default. Specifically, the DBALT 2007-AR3 Offering Documents represented that plaintiff's DBALT 2007-AR3 Certificates had each been assigned AAA/Aaa ratings

– the highest, safest credit ratings available, which are in fact the same as, or even higher than, the current credit rating of U.S. Treasury debt.

188. These representations, however, were false and misleading when made. In truth, plaintiff's DBALT 2007-AR3 Certificates should not have received AAA/Aaa credit ratings, because they were ***not*** safe, "investment grade" securities with a "less than 1% probability of incurring defaults." Rather, as defendants were well aware, plaintiff's DBALT 2007-AR3 Certificates were extremely risky, speculative grade "junk" bonds, or worse, backed by low credit quality, extremely risky loans. Indeed, one of the primary reasons that S&P and Moody's had assigned such high ratings to plaintiff's DBALT 2007-AR3 Certificates was because defendants had fed them falsified information regarding the DBALT 2007-AR3 Certificates' underlying loans, including, without limitation, false loan underwriting guidelines, false borrower FICO scores and false borrower DTI ratios.

189. The falsity of the credit ratings set forth in the DBALT 2007-AR3 Offering Documents is confirmed by subsequent events. Specifically, ***more than 41% of the loans supporting plaintiff's DBALT 2007-AR3 Certificates are currently in default*** because they were made to borrowers who either could not afford them or never intended to repay them. Moreover, plaintiff's "investment grade" DBALT 2007-AR3 Certificates are now rated at "junk" status or below. Clearly, plaintiff's DBALT 2007-AR3 Certificates were not the highly rated, "investment grade" securities defendants represented them to be. The evidence supporting the falsity of the DBALT 2007-AR3 Certificates' credit ratings is set forth in further detail in §VI.D, *infra*, and summarized by the following chart:

Tranche Purchased	**CUSIP**	**Applicable Supporting Loan Group**	**Current Percentage of Outstanding Loan Balance in Default**	**Moody's Ratings**		**S&P's Ratings**	
				Initial	**Current**	**Initial**	**Current**
2A3	25150VAK2	All	41.64%	Aaa	C	AAA	D

Tranche Purchased	CUSIP	Applicable Supporting Loan Group	Current Percentage of Outstanding Loan Balance in Default	Moody's Ratings		S&P's Ratings	
				Initial	Current	Initial	Current
2A6	25150VAN6	All	41.64%	Aaa	C	AAA	D

c. Transfer of Title

190. The DBALT 2007-AR3 Offering Documents also represented that the loans underlying the DBALT 2007-AR3 Certificates would be timely transferred to the issuing trust, so that the trust would obtain good title to the mortgage loans comprising the pool for the offering. Specifically, the DBALT 2007-AR3 Offering Documents stated that "[o]n the Closing Date, the depositor will transfer to the trust all of its right, title and interest in and to each Mortgage Loan, the related mortgage note, mortgage, assignment of mortgage in recordable form to the trustee and other related documents . . . , including all scheduled payments with respect to each such Mortgage Loan due after the applicable cut-off date." *See* DBALT 2007-AR3 Pros. Supp. at S-161. These statements were false and misleading. Defendants failed to legally and properly transfer the promissory notes and security instruments to the trusts. *See* §VI.E, *infra*.

12. The DBALT 2007-OA1 Certificates

191. The Deutsche Alt-A Securities Mortgage Loan Trust, Series 2007-OA1, Mortgage Pass-Through Certificates ("DBALT 2007-OA1 Certificates") were issued pursuant to a Prospectus Supplement dated February 28, 2007. The following defendants played critical roles in the fraudulent structuring, offering and sale of the DBALT 2007-OA1 Certificates: Deutsche Alt-A (depositor); DBSP (sponsor); DBSI (underwriter).

192. Plaintiff purchased the following DBALT 2007-OA1 Certificates:

Original Purchaser	Tranche Purchased	CUSIP	Purchase Date	Original Face Amount	Purchased From
Scaldis	A2	25151VAB1	2/23/2007	$20,125,000	DBSI
Scaldis	A3	25151VAC9	2/23/2007	$10,062,500	DBSI

193. The decision to purchase the above securities was made by Fortis Bank, on behalf of Scaldis, in direct reliance upon the DBALT 2007-OA1 Offering Documents, including draft and/or final DBALT 2007-OA1 Prospectus Supplements, all of which were distributed by the defendants associated with the DBALT 2007-OA1 offering. Fortis Bank's diligent investment processes are described in great detail in §VIII.A, *infra*.

a. Underwriting Guidelines

194. The DBALT 2007-OA1 Offering Documents disclosed that: approximately 60.86% of the DBALT 2007-OA1 Certificates' underlying loans were acquired by the sponsor, DBSP, from loan originator Residential Funding Company, LLC ("Residential"); and approximately 39.14% of the DBALT 2007-OA1 Certificates' underlying loans were acquired by the sponsor, DBSP, from loan originator Countrywide. *See* DBALT 2007-OA1 Pros. Supp. at S-1, S-38.

195. With regard to the Residential loans, the DBALT 2007-OA1 Offering Documents represented that Residential "expects that the originator of each of the mortgage loans will have applied, consistent with applicable federal and state laws and regulations, underwriting procedures intended to evaluate the borrower's credit standing and repayment ability and/or the value and adequacy of the related property as collateral." *Id.* at S-39. The DBALT 2007-OA1 Offering Documents further represented that: "Based on the data provided in the application and certain verifications, if required, and the appraisal or other valuation of the mortgaged property, a determination will have been made by the original lender that the mortgagor's monthly income, if required to be stated, would be sufficient to enable the mortgagor to meet its monthly obligations on the Mortgage Loan and other expenses related to the property. Examples of other expenses include property taxes, utility costs, standard hazard and primary mortgage insurance, maintenance fees and other levies assessed by a cooperative, if applicable, and other fixed obligations other than housing expenses. Generally, scheduled payments on a Mortgage Loan during the first year of its term plus

taxes and insurance and all scheduled payments on obligations that extend beyond ten months, including those mentioned above and other fixed obligations, must equal no more than specified percentages of the prospective mortgagor's gross income." *Id.* at S-40. The DBALT 2007-OA1 Offering Documents also represented that under Residential's underwriting guidelines, "[t]he adequacy of the mortgaged property as security for repayment of the related Mortgage Loan generally is determined by an appraisal in accordance with appraisal procedure guidelines described in the Seller Guide." *Id.* As further detailed *infra*, these representations were false and misleading at the time they were made. Contrary to defendants' affirmative representations, the truth was that Residential had completely abandoned its stated underwriting guidelines and was simply seeking to originate as many loans as possible, ***without*** any regard for its borrowers' actual repayment ability or the true value and adequacy of the mortgaged properties to serve as collateral. *See* §VI.A.1, *infra*.

196. With regard to the Countrywide loans, the DBALT 2007-OA1 Offering Documents represented that Countrywide's "underwriting standards are applied by or on behalf of Countrywide . . . to evaluate the prospective borrower's credit standing and repayment ability and the value and adequacy of the mortgaged property as collateral," and that "[u]nder those standards, a prospective borrower must generally demonstrate that the ratio of the borrower's monthly housing expenses (including principal and interest on the proposed mortgage loan and, as applicable, the related monthly portion of property taxes, hazard insurance and mortgage insurance) to the borrower's monthly gross income and the ratio of total monthly debt to the monthly gross income (the 'debt-to-income' ratios) are within acceptable limits." *See* DBALT 2007-OA1 Pros. Supp. at S-44. The DBALT 2007-OA1 Offering Documents further represented that "[u]nder its Standard Underwriting Guidelines, Countrywide . . . generally permits a debt-to-income ratio based on the borrower's monthly housing expenses of up to 33% and a debt-to-income ratio based on the borrower's total monthly debt of up to 38%," and "[u]nder its Expanded Underwriting Guidelines, Countrywide

. . . generally permits a debt-to-income ratio based on the borrower's monthly housing expenses of up to 36% and a debt-to-income ratio based on the borrower's total monthly debt of up to 40%; provided, however, that if the Loan-to-Value Ratio exceeds 80%, the maximum permitted debt-to-income ratios are 33% and 38%, respectively." *Id.* at S-46. The DBALT 2007-OA1 Offering Documents also represented that, under Countrywide's underwriting guidelines, Countrywide "obtains appraisals from independent appraisers or appraisal services for properties that are to secure mortgage loans." *Id*. at S-45. As further detailed *infra*, these representations were false and misleading at the time they were made. Contrary to defendants' affirmative representations, the truth was that Countrywide had completely abandoned its stated underwriting guidelines and was simply seeking to originate as many loans as possible, ***without*** any regard for its borrowers' actual repayment ability or the true value and adequacy of the mortgaged properties to serve as collateral. *See* §VI.A.3, *infra*.

b. Loan-to-Value Ratios

197. The DBALT 2007-OA1 Offering Documents also made certain misrepresentations regarding the LTV ratios associated with the loans supporting the DBALT 2007-OA1 Certificates purchased by plaintiff. Specifically, the DBALT 2007-OA1 Offering Documents represented that only a very small percentage of the loans supporting plaintiff's DBALT 2007-OA1 Certificates had LTV ratios over 80%, and that ***none*** of the loans supporting plaintiff's DBALT 2007-OA1 Certificates had LTV ratios over 100%.

198. Plaintiff, however, has performed an industry-accepted historical valuation analysis on the actual loans underlying plaintiff's DBALT 2007-OA1 Certificates, which reveals that the LTV ratio percentages stated in the DBALT 2007-OA1 Offering Documents were materially false ***at the time they were made***. The following chart summarizes the LTV ratio percentages stated in the

DBALT 2007-OA1 Offering Documents, and the actual percentages that should have been stated according to plaintiff's industry-accepted analysis:

Tranche Purchased	CUSIP	Applicable Supporting Loan Group	Stated Percentage of Loans Having LTV Ratios Over 80%	Actual Percentage of Loans Having LTV Ratios Over 80%	Stated Percentage of Loans Having LTV Ratios Over 100%	Actual Percentage of Loans Having LTV Ratios Over 100%
A2	25151VAB1	All	12.25%	46.33%	0.00%	12.43%
A3	25151VAC9	All	12.25%	46.33%	0.00%	12.43%

c. Owner Occupancy Rates

199. The DBALT 2007-OA1 Offering Documents also made certain misrepresentations regarding the OOR percentages associated with the loans supporting the DBALT 2007-OA1 Certificates purchased by plaintiff. Specifically, the DBALT 2007-OA1 Offering Documents represented that a large percentage of the loans supporting plaintiff's DBALT 2007-OA1 Certificates were issued to borrowers that actually lived in the properties serving as collateral for their loans, significantly decreasing the likelihood that such borrowers would default on their loans.

200. Plaintiff, however, has performed an in-depth investigation of the actual borrowers, loans and properties underlying plaintiff's DBALT 2007-OA1 Certificates, which reveals that the OOR percentages stated in the DBALT 2007-OA1 Offering Documents were materially false ***at the time they were made***. The following chart summarizes the OOR percentages stated in the DBALT 2007-OA1 Offering Documents, and the actual percentages that should have been stated according to plaintiff's investigation:

Tranche Purchased	CUSIP	Applicable Supporting Loan Group	Primary Residence Percentage Stated in the Offering Documents	Actual Primary Residence Percentage	Percent Overstatement of Actual Primary Residence Percentage
A2	25151VAB1	All	80.34%	75.56%	6.34%
A3	25151VAC9	All	80.34%	75.56%	6.34%

d. Credit Ratings

201. The DBALT 2007-OA1 Offering Documents also represented that the DBALT 2007-OA1 Certificates purchased by plaintiff had been assigned certain high "investment grade" credit ratings by S&P and Moody's, indicating that the securities were very strong, safe investments with an extremely low probability of default. Specifically, the DBALT 2007-OA1 Offering Documents represented that plaintiff's DBALT 2007-OA1 Certificates had each been assigned AAA/Aaa ratings – the highest, safest credit ratings available, which are in fact the same as, or even higher than, the current credit rating of U.S. Treasury debt.

202. These representations, however, were false and misleading when made. In truth, plaintiff's DBALT 2007-OA1 Certificates should not have received AAA/Aaa credit ratings, because they were ***not*** safe, "investment grade" securities with a "less than 1% probability of incurring defaults." Rather, as defendants were well aware, plaintiff's DBALT 2007-OA1 Certificates were extremely risky, speculative grade "junk" bonds, or worse, backed by low credit quality, extremely risky loans. Indeed, one of the primary reasons that S&P and Moody's had assigned such high ratings to plaintiff's DBALT 2007-OA1 Certificates was because defendants had fed them falsified information regarding the DBALT 2007-OA1 Certificates' underlying loans, including, without limitation, false loan underwriting guidelines, false LTV ratios, false borrower FICO scores, false borrower DTI ratios, and false OOR percentages.

203. The falsity of the credit ratings set forth in the DBALT 2007-OA1 Offering Documents is confirmed by subsequent events. Specifically, ***approximately 43% of the loans***

supporting plaintiff's DBALT 2007-OA1 Certificates are currently in default because they were made to borrowers who either could not afford them or never intended to repay them. Moreover, plaintiff's "investment grade" DBALT 2007-OA1 Certificates are now rated at "junk" status or below. Clearly, plaintiff's DBALT 2007-OA1 Certificates were not the highly rated, "investment grade" securities defendants represented them to be. The evidence supporting the falsity of the DBALT 2007-OA1 Certificates' credit ratings is set forth in further detail in §VI.D, *infra*, and summarized by the following chart:

Tranche Purchased	CUSIP	Applicable Supporting Loan Group	Current Percentage of Outstanding Loan Balance in Default	Moody's Ratings		S&P's Ratings	
				Initial	Current	Initial	Current
A2	25151VAB1	All	42.93%	Aaa	C	AAA	D
A3	25151VAC9	All	42.93%	Aaa	C	AAA	D

e. Transfer of Title

204. The DBALT 2007-OA1 Offering Documents also represented that the loans underlying the DBALT 2007-OA1 Certificates would be timely transferred to the issuing trust, so that the trust would obtain good title to the mortgage loans comprising the pool for the offering. Specifically, the DBALT 2007-OA1 Offering Documents stated that "[o]n the Closing Date, the depositor will transfer to the trust all of its right, title and interest in and to each Mortgage Loan, the related mortgage note, mortgage, assignment of mortgage in recordable form to the trustee and other related documents . . . , including all scheduled payments with respect to each such Mortgage Loan due after the Cut-Off Date." *See* DBALT 2007-OA1 Pros. Supp. at S-102. These statements were false and misleading. Defendants failed to legally and properly transfer the promissory notes and security instruments to the trusts. *See* §VI.E, *infra*.

13. The DBALT 2007-OA2 Certificates

205. The Deutsche Alt-A Securities Mortgage Loan Trust, Series 2007-OA2, Mortgage Pass-Through Certificates ("DBALT 2007-OA2 Certificates") were issued pursuant to a Prospectus Supplement dated March 30, 2007. The following defendants played critical roles in the fraudulent structuring, offering and sale of the DBALT 2007-OA2 Certificates: Deutsche Alt-A (depositor); DBSP (sponsor); DBSI (underwriter).

206. Plaintiff purchased the following DBALT 2007-OA2 Certificate:

Original Purchaser	Tranche Purchased	CUSIP	Purchase Date	Original Face Amount	Purchased From
Fortis Bank	A3	25150UAC2	3/22/2007	$24,974,000	DBSI

207. The decision to purchase the above security was made by Fortis Bank in direct reliance upon the DBALT 2007-OA2 Offering Documents, including draft and/or final DBALT 2007-OA2 Prospectus Supplements, all of which were distributed by the defendants associated with the DBALT 2007-OA2 offering. Fortis Bank's diligent investment processes are described in great detail in §VIII.A, *infra*.

a. Underwriting Guidelines

208. The DBALT 2007-OA2 Offering Documents disclosed that: approximately 66.61% of the DBALT 2007-OA2 Certificates' underlying loans were acquired by the sponsor, DBSP, from loan originator IndyMac; approximately 21.23% of the DBALT 2007-OA2 Certificates' underlying loans were acquired by the sponsor, DBSP, from loan originator Impac Funding Corporation ("Impac"); and approximately 12.16% of the DBALT 2007-OA2 Certificates' underlying loans were acquired by the sponsor, DBSP, from "other" "various originators, each of which has originated less than 10.00% of the mortgage loans by aggregate principal balance as of the cut-off date." DBALT 2007-OA2 Pros. Supp. at S-1, S-39.

209. With regard to the IndyMac loans, the DBALT 2007-OA2 Offering Documents represented that "IndyMac Bank's underwriting criteria for traditionally underwritten mortgage loans includes an analysis of the borrower's credit history, ability to repay the mortgage loan and the adequacy of the mortgaged property as collateral." *Id.* at S-42. The DBALT 2007-OA2 Offering Documents also represented that, under IndyMac's underwriting guidelines, "[t]o determine the adequacy of the property to be used as collateral, an appraisal is generally made of the subject property in accordance with the Uniform Standards of Profession Appraisal Practice." *Id.* at S-44. As further detailed *infra*, these representations were false and misleading at the time they were made. Contrary to defendants' affirmative representations, the truth was that IndyMac had completely abandoned its stated underwriting guidelines and was simply seeking to originate as many loans as possible, ***without*** any regard for its borrowers' actual repayment ability or the true value and adequacy of the mortgaged properties to serve as collateral. *See* §VI.A.4, *infra*.

210. With regard to the Impac loans, the DBALT 2007-OA2 Offering Documents represented that "[t]he underwriting guidelines utilized in the Progressive Series Program, as developed by Impac Funding, are intended to assess the borrower's ability and willingness to repay the mortgage loan obligation and to assess the adequacy of the mortgaged property as collateral for the mortgage loan." *See* DBALT 2007-OA2 Pros. Supp. at S-46. The DBALT 2007-OA2 Offering Documents also represented that "[t]he concept of the Progressive Express™ Program is to underwrite the loan focusing on the borrower's Credit Score, ability and willingness to repay the mortgage loan obligation, and assess the adequacy of the mortgaged property as collateral for the loan." *Id.* at S-50. The DBALT 2007-OA2 Offering Documents further represented that, under the underwriting guidelines, "[w]ith respect to Impac Funding's Progressive Series Program or Progressive Express™ Program in general one full appraisal is required on each loan." *Id.* at S-46. As further detailed *infra*, these representations were false and misleading at the time they were made.

Contrary to defendants' affirmative representations, the truth was that Impac had completely abandoned its stated underwriting guidelines and was simply seeking to originate as many loans as possible, ***without*** any regard for its borrowers' actual repayment ability or the true value and adequacy of the mortgaged properties to serve as collateral. *See* §VI.A.9, *infra.*

b. Loan-to-Value Ratios

211. The DBALT 2007-OA2 Offering Documents also made certain misrepresentations regarding the LTV ratios associated with the loans supporting the DBALT 2007-OA2 Certificate purchased by plaintiff. Specifically, the DBALT 2007-OA2 Offering Documents represented that only a very small percentage of the loans supporting plaintiff's DBALT 2007-OA2 Certificate had LTV ratios over 80%, and that ***none*** of the loans supporting plaintiff's DBALT 2007-OA2 Certificate had LTV ratios over 100%.

212. Plaintiff, however, has performed an industry-accepted historical valuation analysis on the actual loans underlying plaintiff's DBALT 2007-OA2 Certificate, which reveals that the LTV ratio percentages stated in the DBALT 2007-OA2 Offering Documents were materially false ***at the time they were made***. The following chart summarizes the LTV ratio percentages stated in the DBALT 2007-OA2 Offering Documents, and the actual percentages that should have been stated according to plaintiff's industry-accepted analysis:

Tranche Purchased	CUSIP	Applicable Supporting Loan Group	Stated Percentage of Loans Having LTV Ratios Over 80%	Actual Percentage of Loans Having LTV Ratios Over 80%	Stated Percentage of Loans Having LTV Ratios Over 100%	Actual Percentage of Loans Having LTV Ratios Over 100%
A3	25150UAC2	All	1.07%	59.74%	0.00%	17.42%

c. Owner Occupancy Rates

213. The DBALT 2007-OA2 Offering Documents also made certain misrepresentations regarding the OOR percentages associated with the loans supporting the DBALT 2007-OA2

Certificate purchased by plaintiff. Specifically, the DBALT 2007-OA2 Offering Documents represented that a large percentage of the loans supporting plaintiff's DBALT 2007-OA2 Certificate were issued to borrowers that actually lived in the properties serving as collateral for their loans, significantly decreasing the likelihood that such borrowers would default on their loans.

214. Plaintiff, however, has performed an in-depth investigation of the actual borrowers, loans and properties underlying plaintiff's DBALT 2007-OA2 Certificate, which reveals that the OOR percentages stated in the DBALT 2007-OA2 Offering Documents were materially false ***at the time they were made***. The following chart summarizes the OOR percentages stated in the DBALT 2007-OA2 Offering Documents, and the actual percentages that should have been stated according to plaintiff's investigation:

Tranche Purchased	**CUSIP**	**Applicable Supporting Loan Group**	**Primary Residence Percentage Stated in the Offering Documents**	**Actual Primary Residence Percentage**	**Percent Overstatement of Actual Primary Residence Percentage**
A3	25150UAC2	All	95.31%	88.99%	7.10%

d. Credit Ratings

215. The DBALT 2007-OA2 Offering Documents also represented that the DBALT 2007-OA2 Certificate purchased by plaintiff had been assigned certain high "investment grade" credit ratings by S&P and Moody's, indicating that the security was a very strong, safe investment with an extremely low probability of default. Specifically, the DBALT 2007-OA2 Offering Documents represented that plaintiff's DBALT 2007-OA2 Certificate had been assigned AAA/Aaa ratings – the highest, safest credit ratings available, which are in fact the same as, or even higher than, the current credit rating of U.S. Treasury debt.

216. These representations, however, were false and misleading when made. In truth, plaintiff's DBALT 2007-OA2 Certificate should not have received AAA/Aaa credit ratings, because

it was ***not*** a safe, "investment grade" security with a "less than 1% probability of incurring defaults." Rather, as defendants were well aware, plaintiff's DBALT 2007-OA2 Certificate was an extremely risky, speculative grade "junk" bond, or worse, backed by low credit quality, extremely risky loans. Indeed, one of the primary reasons that S&P and Moody's had assigned such high ratings to plaintiff's DBALT 2007-OA2 Certificate was because defendants had fed them falsified information regarding the DBALT 2007-OA2 Certificate's underlying loans, including, without limitation, false loan underwriting guidelines, false LTV ratios, false borrower FICO scores, false borrower DTI ratios, and false OOR percentages.

217. The falsity of the credit ratings set forth in the DBALT 2007-OA2 Offering Documents is confirmed by subsequent events. Specifically, ***more than 42% of the loans supporting plaintiff's DBALT 2007-OA2 Certificate are currently in default*** because they were made to borrowers who either could not afford them or never intended to repay them. Moreover, plaintiff's "investment grade" DBALT 2007-OA2 Certificate is now rated at "junk" status or below. Clearly, plaintiff's DBALT 2007-OA2 Certificate was not the highly rated, "investment grade" security defendants represented it to be. The evidence supporting the falsity of the DBALT 2007-OA2 Certificates' credit ratings is set forth in further detail in §VI.D, *infra*, and summarized by the following chart:

Tranche Purchased	**CUSIP**	**Applicable Supporting Loan Group**	**Current Percentage of Outstanding Loan Balance in Default**	**Moody's Ratings**		**S&P's Ratings**	
				Initial	**Current**	**Initial**	**Current**
A3	25150UAC2	All	42.41%	Aaa	C	AAA	D

e. Transfer of Title

218. The DBALT 2007-OA2 Offering Documents also represented that the loans underlying the DBALT 2007-OA2 Certificates would be timely transferred to the issuing trust, so that the trust would obtain good title to the mortgage loans comprising the pool for the offering.

Specifically, the DBALT 2007-OA2 Offering Documents stated that "[o]n the Closing Date, the depositor will transfer to the trust all of its right, title and interest in and to each Mortgage Loan, the related mortgage note, mortgage, assignment of mortgage in recordable form to the trustee and other related documents . . . , including all scheduled payments with respect to each such Mortgage Loan due after the Cut-Off Date." DBALT 2007-OA2 Pros. Supp. at S-103. These statements were false and misleading. Defendants failed to legally and properly transfer the promissory notes and security instruments to the trusts. *See* §VI.E, *infra*.

14. The INDX 2006-AR27 Certificate

219. The IndyMac INDX Mortgage Loan Trust 2006-AR27, Mortgage Pass-Through Certificates ("INDX 2006-AR27 Certificates") were issued pursuant to a Prospectus Supplement dated August 29, 2006. Defendant DBSI, as the primary underwriter, played a critical role in the fraudulent structuring, offering and sale of the INDX 2006-AR27 Certificates.

220. Plaintiff purchased the following INDX 2006-AR27 Certificate:

Original Purchaser	Tranche Purchased	CUSIP	Purchase Date	Original Face Amount	Purchased From
Scaldis	1A3	45661LAC2	8/23/2006	$35,262,600	DBSI

221. The decision to purchase the above security was made by Fortis Bank, on behalf of Scaldis, in direct reliance upon the INDX 2006-AR27 Offering Documents, including draft and/or final INDX 2006-AR27 Prospectus Supplements, all of which were distributed by the defendant associated with the INDX 2006-AR27 offering. Fortis Bank's diligent investment processes are described in great detail in §VIII.A, *infra*.

a. Underwriting Guidelines

222. The INDX 2006-AR27 Offering Documents disclosed that 100% of the INDX 2006-AR27 Certificates' underlying loans were originated or acquired by the sponsor, IndyMac, according to IndyMac's guidelines. *See* INDX 2006-AR27 Pros. Supp. at S-66-S-67.

223. The INDX 2006-AR27 Offering Documents represented that "[m]ortgage loans that are acquired by IndyMac Bank are underwritten by IndyMac Bank according to IndyMac Bank's underwriting guidelines," and that "IndyMac Bank's underwriting criteria for traditionally underwritten mortgage loans includes an analysis of the borrower's credit history, ability to repay the mortgage loan and the adequacy of the mortgaged property as collateral." *Id.* at S-67. The INDX 2006-AR27 Offering Documents also represented that, under IndyMac's underwriting guidelines, "[t]o determine the adequacy of the property to be used as collateral, an appraisal is generally made of the subject property in accordance with the Uniform Standards of Profession Appraisal Practice." *Id*. at S-68. As further detailed *infra*, these representations were false and misleading at the time they were made. Contrary to defendant's affirmative representations, the truth was that IndyMac had completely abandoned its stated underwriting guidelines and was simply seeking to originate as many loans as possible, ***without*** any regard for its borrowers' actual repayment ability or the true value and adequacy of the mortgaged properties to serve as collateral. *See* §VI.A.4, *infra*.

b. Loan-to-Value Ratios

224. The INDX 2006-AR27 Offering Documents also made certain misrepresentations regarding the LTV ratios associated with the loans supporting the INDX 2006-AR27 Certificate purchased by plaintiff. Specifically, the INDX 2006-AR27 Offering Documents represented that only a very small percentage of the loans supporting plaintiff's INDX 2006-AR27 Certificate had LTV ratios over 80%, and that ***none*** of the loans supporting plaintiff's INDX 2006-AR27 Certificate had LTV ratios over 100%.

225. Plaintiff, however, has performed an industry-accepted historical valuation analysis on the actual loans underlying plaintiff's INDX 2006-AR27 Certificate, which reveals that the LTV ratio percentages stated in the INDX 2006-AR27 Offering Documents were materially false ***at the time they were made***. The following chart summarizes the LTV ratio percentages stated in the

INDX 2006-AR27 Offering Documents, and the actual percentages that should have been stated according to plaintiff's industry-accepted analysis:

Tranche Purchased	CUSIP	Applicable Supporting Loan Group	Stated Percentage of Loans Having LTV Ratios Over 80%	Actual Percentage of Loans Having LTV Ratios Over 80%	Stated Percentage of Loans Having LTV Ratios Over 100%	Actual Percentage of Loans Having LTV Ratios Over 100%
1A3	45661LAC2	All	2.03%	36.94%	0.00%	8.31%

c. Owner Occupancy Rates

226. The INDX 2006-AR27 Offering Documents also made certain misrepresentations regarding the OOR percentages associated with the loans supporting the INDX 2006-AR27 Certificate purchased by plaintiff. Specifically, the INDX 2006-AR27 Offering Documents represented that a large percentage of the loans supporting plaintiff's INDX 2006-AR27 Certificate were issued to borrowers that actually lived in the properties serving as collateral for their loans, significantly decreasing the likelihood that such borrowers would default on their loans.

227. Plaintiff, however, has performed an in-depth investigation of the actual borrowers, loans and properties underlying plaintiff's INDX 2006-AR27 Certificate, which reveals that the OOR percentages stated in the INDX 2006-AR27 Offering Documents were materially false ***at the time they were made***. The following chart summarizes the OOR percentages stated in the INDX 2006-AR27 Offering Documents, and the actual percentages that should have been stated according to plaintiff's investigation:

Tranche Purchased	CUSIP	Applicable Supporting Loan Group	Primary Residence Percentage Stated in the Offering Documents	Actual Primary Residence Percentage	Percent Overstatement of Actual Primary Residence Percentage
1A3	45661LAC2	All	86.16%	78.15%	10.25%

d. Credit Ratings

228. The INDX 2006-AR27 Offering Documents also represented that the INDX 2006-AR27 Certificate purchased by plaintiff had been assigned certain high "investment grade" credit ratings by S&P and Moody's, indicating that the security was a very strong, safe investment with an extremely low probability of default. Specifically, the INDX 2006-AR27 Offering Documents represented that plaintiff's INDX 2006-AR27 Certificate had been assigned AAA/Aaa ratings – the highest, safest credit ratings available, which are in fact the same as, or even higher than, the current credit rating of U.S. Treasury debt.

229. These representations, however, were false and misleading when made. In truth, plaintiff's INDX 2006-AR27 Certificate should not have received AAA/Aaa credit ratings, because it was ***not*** a safe, "investment grade" security with a "less than 1% probability of incurring defaults." Rather, as defendants were well aware, plaintiff's INDX 2006-AR27 Certificate was an extremely risky, speculative grade "junk" bond backed by low credit quality, extremely risky loans. Indeed, one of the primary reasons that S&P and Moody's had assigned such high ratings to plaintiff's INDX 2006-AR27 Certificate was because defendant had fed them falsified information regarding the INDX 2006-AR27 Certificate's underlying loans, including, without limitation, false loan underwriting guidelines, false LTV ratios, false borrower FICO scores, false borrower DTI ratios, and false OOR percentages.

230. The falsity of the credit ratings set forth in the INDX 2006-AR27 Offering Documents is confirmed by subsequent events. Specifically, ***approximately 28% of the loans supporting plaintiff's INDX 2006-AR27 Certificate are currently in default*** because they were made to borrowers who either could not afford them or never intended to repay them. Moreover, plaintiff's "investment grade" INDX 2006-AR27 Certificate is now rated at "junk" status. Clearly, plaintiff's INDX 2006-AR27 Certificate was not the highly rated, "investment grade" security

defendant represented it to be. The evidence supporting the falsity of the INDX 2006-AR27 Certificates' credit ratings is set forth in further detail in §VI.D, *infra*, and summarized by the following chart:

Tranche Purchased	**CUSIP**	**Applicable Supporting Loan Group**	**Current Percentage of Outstanding Loan Balance in Default**	**Moody's Ratings**		**S&P's Ratings**	
				Initial	**Current**	**Initial**	**Current**
1A3	45661LAC2	All	27.84%	Aaa	Caa3	AAA	CCC

e. Transfer of Title

231. The INDX 2006-AR27 Offering Documents also represented that the loans underlying the INDX 2006-AR27 Certificates would be timely transferred to the issuing trust, so that the trust would obtain good title to the mortgage loans comprising the pool for the offering. Specifically, the INDX 2006-AR27 Offering Documents stated that "[t]he seller represents that immediately before the assignment of the Mortgage Loans to the depositor, it will have good title to, and will be the sole owner of, each Mortgage Loan free and clear of any pledge, lien, encumbrance or security interest and will have full right and authority, subject to no interest or participation of, or agreement with, any other party, to sell and assign the Mortgage Loans pursuant to the pooling and servicing agreement." *See* INDX 2006-AR27 Pros. Supp. at S-69-S-70. These statements were false and misleading. Defendants failed to legally and properly transfer the promissory notes and security instruments to the trusts. *See* §VI.E, *infra*.

15. The PHHAM 2007-2 Certificates

232. The PHH Alternative Mortgage Trust, Series 2007-2, Mortgage Pass-Through Certificates ("PHHAM 2007-2 Certificates") were issued pursuant to a Prospectus Supplement dated April 25, 2007. The following defendants played critical roles in the fraudulent structuring, offering and sale of the PHHAM 2007-2 Certificates: Deutsche Alt-A (depositor) and DBSI (underwriter).

233. Plaintiff purchased the following PHHAM 2007-2 Certificates:

Original Purchaser	Tranche Purchased	CUSIP	Purchase Date	Original Face Amount	Purchased From
Fortis Bank	1A3	69337HAC5	4/16/2007	$21,000,000	DBSI
Fortis Bank	1A5	69337HAE1	4/16/2007	$30,762,000	DBSI

234. The decision to purchase the above securities was made by Fortis Bank in direct reliance upon the PHHAM 2007-2 Offering Documents, including draft and/or final PHHAM 2007-2 Prospectus Supplements, all of which were distributed by the defendants associated with the PHHAM 2007-2 offering. Fortis Bank's diligent investment processes are described in great detail in §VIII.A, *infra*.

a. Underwriting Guidelines

235. The PHHAM 2007-2 Offering Documents disclosed that: approximately 85.51% of the loans underlying plaintiff's PHHAM 2007-2 Certificates were originated or acquired from loan originator PHH Mortgage Corporation ("PHH"); and the remaining loans underlying plaintiff's PHHAM 2007-2 Certificates were originated by from "various originators, none of which have originated more than 10% of the mortgage loans by aggregate principal balance as of the Cut-Off date." *See* PHHAM 2007-2 Pros. Supp. at S-1, S-47.

236. With regard to the PHH loans, the PHHAM 2007-2 Offering Documents represented that PHH's "underwriting guidelines are applied to evaluate an applicant's credit standing, financial condition, and repayment ability, as well as the value and adequacy of the mortgaged property as collateral for any loan made." *Id.* at S-72. The PHHAM 2007-2 Offering Documents also represented that "[t]he application of the underwriting standards represent a balancing of several factors that may affect the ultimate recovery of the loan amount, including but not limited to, the applicant's credit standing and ability to repay the loan, as well as the value and adequacy of the mortgaged property as collateral." *Id.* at S-71. The PHHAM 2007-2 Offering Documents further represented that "[o]nce sufficient employment, credit and property information is obtained, the

decision as to whether to approve the loan is based on the applicant's income and credit history, the status of title to the mortgaged property, and the appraised value of the mortgaged property." *Id.* at S-73. In addition, the PHHAM 2007-2 Offering Documents represented that "[i]n determining the adequacy of the property as collateral for a first lien mortgage loan, a Fannie Mae/Freddie Mac conforming appraisal of the property is performed by an independent appraiser selected by PHH Mortgage, except as noted in this prospectus supplement." *Id.* at S-72. As further detailed *infra*, these representations were false and misleading at the time they were made. Contrary to defendants' affirmative representations, the truth was that PHH had completely abandoned its stated underwriting guidelines and was simply seeking to originate as many loans as possible, ***without*** any regard for its borrowers' actual repayment ability or the true value and adequacy of the mortgaged properties to serve as collateral. *See* §VI.A.10, *infra*.

b. Loan-to-Value Ratios

237. The PHHAM 2007-2 Offering Documents also made certain misrepresentations regarding the LTV ratios associated with the loans supporting the PHHAM 2007-2 Certificates purchased by plaintiff. Specifically, the PHHAM 2007-2 Offering Documents represented that only a small percentage of the loans supporting plaintiff's PHHAM 2007-2 Certificates had LTV ratios over 80%, and that ***none*** of the loans supporting plaintiff's PHHAM 2007-2 Certificates had LTV ratios over 100%.

238. Plaintiff, however, has performed an industry-accepted historical valuation analysis on the actual loans underlying plaintiff's PHHAM 2007-2 Certificates, which reveals that the LTV ratio percentages stated in the PHHAM 2007-2 Offering Documents were materially false ***at the time they were made***. The following chart summarizes the LTV ratio percentages stated in the PHHAM 2007-2 Offering Documents, and the actual percentages that should have been stated according to plaintiff's industry-accepted analysis:

Tranche Purchased	CUSIP	Applicable Supporting Loan Group	Stated Percentage of Loans Having LTV Ratios Over 80%	Actual Percentage of Loans Having LTV Ratios Over 80%	Stated Percentage of Loans Having LTV Ratios Over 100%	Actual Percentage of Loans Having LTV Ratios Over 100%
1A3	69337HAC5	Group I	14.01 %	52.94%	0.00%	16.16%
1A5	69337HAE1	Group I	14.01 %	52.94%	0.00%	16.16%

c. Owner Occupancy Rates

239. The PHHAM 2007-2 Offering Documents also made certain misrepresentations regarding the OOR percentages associated with the loans supporting the PHHAM 2007-2 Certificates purchased by plaintiff. Specifically, the PHHAM 2007-2 Offering Documents represented that a large percentage of the loans supporting plaintiff's PHHAM 2007-2 Certificates were issued to borrowers that actually lived in the properties serving as collateral for their loans, significantly decreasing the likelihood that such borrowers would default on their loans.

240. Plaintiff, however, has performed an in-depth investigation of the actual borrowers, loans and properties underlying plaintiff's PHHAM 2007-2 Certificates, which reveals that the OOR percentages stated in the PHHAM 2007-2 Offering Documents were materially false ***at the time they were made***. The following chart summarizes the OOR percentages stated in the PHHAM 2007-2 Offering Documents, and the actual percentages that should have been stated according to plaintiff's investigation:

Tranche Purchased	CUSIP	Applicable Supporting Loan Group	Primary Residence Percentage Stated in the Offering Documents	Actual Primary Residence Percentage	Percent Overstatement of Actual Primary Residence Percentage
1A3	69337HAC5	Group I	77.59%	71.07%	9.17%
1A5	69337HAE1	Group I	77.59%	71.07%	9.17%

d. Credit Ratings

241. The PHHAM 2007-2 Offering Documents also represented that the PHHAM 2007-2 Certificates purchased by plaintiff had been assigned certain high "investment grade" credit ratings

by S&P and Moody's, indicating that the securities were very strong, safe investments with an extremely low probability of default. Specifically, the PHHAM 2007-2 Offering Documents represented that plaintiff's PHHAM 2007-2 Certificates had been assigned AAA/Aaa ratings – the highest, safest credit ratings available, which are in fact the same as, or even higher than, the current credit rating of U.S. Treasury debt.

242. These representations, however, were false and misleading when made. In truth, plaintiff's PHHAM 2007-2 Certificates should not have received AAA/Aaa credit ratings, because they were ***not*** safe, "investment grade" securities with a "less than 1% probability of incurring defaults." Rather, as defendants were well aware, plaintiff's PHHAM 2007-2 Certificates were extremely risky, speculative grade "junk" bonds or worse, backed by low credit quality, extremely risky loans. Indeed, one of the primary reasons that S&P and Moody's had assigned such high ratings to plaintiff's PHHAM 2007-2 Certificates was because defendants had fed them falsified information regarding the PHHAM 2007-2 Certificates' underlying loans, including, without limitation, false loan underwriting guidelines, false LTV ratios, false borrower FICO scores, false borrower DTI ratios, and false OOR percentages.

243. The falsity of the credit ratings set forth in the PHHAM 2007-2 Offering Documents is confirmed by subsequent events. Specifically, ***more than 26% of the loans supporting plaintiff's PHHAM 2007-2 Certificates are currently in default*** because they were made to borrowers who either could not afford them or never intended to repay them. Moreover, plaintiff's "investment grade" PHHAM 2007-2 Certificates are now rated at "junk" status or below. Clearly, plaintiff's PHHAM 2007-2 Certificates were not the highly rated, "investment grade" securities that defendants represented them to be. The evidence supporting the falsity of the PHHAM 2007-2 Certificates' credit ratings is set forth in further detail in §VI.D, *infra*, and summarized by the following chart:

Tranche	CUSIP	Applicable Supporting Loan Group	Current Percentage of Outstanding Loan Balance in Default	Moody's Ratings		S&P's Ratings	
				Initial	Current	Initial	Current
1A3	69337HAC5	Group I	26.76%	Aaa	Caa2	AAA	CCC
1A5	69337HAE1	Group I	26.76%	Aaa	C	AAA	CCC

e. Transfer of Title

244. The PHHAM 2007-2 Offering Documents also represented that the loans underlying the PHHAM 2007-2 Certificates would be timely transferred to the issuing trust, so that the trust would obtain good title to the mortgage loans comprising the pool for the offering. Specifically, the PHHAM 2007-2 Offering Documents stated that "[o]n the Closing Date, the depositor will transfer to the trust all of its right, title and interest in and to each Mortgage Loan, the related mortgage note, mortgage, assignment of mortgage in recordable form to the trustee and other related documents." PHHAM 2007-2 Pros. Supp. at S-140. These statements were false and misleading. Defendants failed to legally and properly transfer the promissory notes and security instruments to the trusts. *See* §VI.E, *infra*.

16. The PHHAM 2007-3 Certificates

245. The PHH Alternative Mortgage Trust, Series 2007-3, Mortgage Pass-Through Certificates ("PHHAM 2007-3 Certificates") were issued pursuant to a Prospectus Supplement dated June 25, 2007. The following defendants played a critical role in the fraudulent offering and sale of the PHHAM 2007-3 Certificates: ACE (depositor) and DBSI (underwriter).

246. Plaintiff purchased the following PHHAM 2007-3 Certificate:

Original Purchaser	Tranche Purchased	CUSIP	Purchase Date	Original Face Amount	Purchased From
Fortis Bank	A4	69337MAD2	6/20/2007	$20,000,000	DBSI

247. The decision to purchase the above security was made by Fortis Bank in direct reliance upon the PHHAM 2007-3 Offering Documents, including draft and/or final PHHAM 2007-

3 Prospectus Supplements, all of which were distributed by DBSI in its direct offering and sale of the PHHAM 2007-3 Certificate to plaintiff. Fortis Bank's diligent investment processes are described in great detail in §VIII.A, *infra*.

a. Underwriting Guidelines

248. The PHHAM 2007-3 Offering Documents disclosed that: approximately 80.69% of the loans underlying plaintiff's PHHAM 2007-3 Certificate were originated or acquired by loan originator PHH; and the remaining loans underlying plaintiff's PHHAM 2007-3 Certificate were originated by "various originators, none of which have originated more than 10% of the mortgage loans by aggregate principal balance as of the cut-off date." *See* PHHAM 2007-3 Pros. Supp. at S-1, S-33, S-34.

249. With regard to the PHH loans, the PHHAM 2007-3 Offering Documents represented that PHH's "underwriting guidelines are applied to evaluate an applicant's credit standing, financial condition, and repayment ability, as well as the value and adequacy of the mortgaged property as collateral for any loan made." *Id.* at S-37. The PHHAM 2007-3 Offering Documents also represented that "[t]he application of the underwriting standards represent a balancing of several factors that may affect the ultimate recovery of the loan amount, including but not limited to, the applicant's credit standing and ability to repay the loan, as well as the value and adequacy of the mortgaged property as collateral." *Id.* at S-36. The PHHAM 2007-3 Offering Documents further represented that "[o]nce sufficient employment, credit and property information is obtained, the decision as to whether to approve the loan is based on the applicant's income and credit history, the status of title to the mortgaged property, and the appraised value of the mortgaged property." *Id.* at S-38. The PHHAM 2007-3 Offering Documents further represented that, "[i]n determining the adequacy of the property as collateral for a first lien mortgage loan, a Fannie Mae/Freddie Mac conforming appraisal of the property is performed by an independent appraiser selected by PHH

Mortgage, except as noted in this prospectus supplement." *Id.* at S-37. As further detailed *infra*, these representations were false and misleading at the time they were made. Contrary to DBSI's affirmative representations, the truth was that PHH had completely abandoned its stated underwriting guidelines and was simply seeking to originate as many loans as possible, ***without*** any regard for its borrowers' actual repayment ability or the true value and adequacy of the mortgaged properties to serve as collateral. *See* §VI.A.10, *infra*.

b. Loan-to-Value Ratios

250. The PHHAM 2007-3 Offering Documents also made certain misrepresentations regarding the LTV ratios associated with the loans supporting the PHHAM 2007-3 Certificate purchased by plaintiff. Specifically, the PHHAM 2007-3 Offering Documents represented that only a small percentage of the loans supporting plaintiff's PHHAM 2007-3 Certificate had LTV ratios over 80%, and that ***none*** of the loans supporting plaintiff's PHHAM 2007-3 Certificate had LTV ratios over 100%.

251. Plaintiff, however, has performed an industry-accepted historical valuation analysis on the actual loans underlying plaintiff's PHHAM 2007-3 Certificate, which reveals that the LTV ratio percentages stated in the PHHAM 2007-3 Offering Documents were materially false ***at the time they were made***. The following chart summarizes the LTV ratio percentages stated in the PHHAM 2007-3 Offering Documents, and the actual percentages that should have been stated according to plaintiff's industry-accepted analysis:

Tranche Purchased	**CUSIP**	**Applicable Supporting Loan Group**	**Stated Percentage of Loans Having LTV Ratios Over 80%**	**Actual Percentage of Loans Having LTV Ratios Over 80%**	**Stated Percentage of Loans Having LTV Ratios Over 100%**	**Actual Percentage of Loans Having LTV Ratios Over 100%**
A4	69337MAD2	All	10.22 %	51.27%	0.00%	16.56%

c. Owner Occupancy Rates

252. The PHHAM 2007-3 Offering Documents also made certain misrepresentations regarding the OOR percentages associated with the loans supporting the PHHAM 2007-3 Certificate purchased by plaintiff. Specifically, the PHHAM 2007-3 Offering Documents represented that a large percentage of the loans supporting plaintiff's PHHAM 2007-3 Certificate were issued to borrowers that actually lived in the properties serving as collateral for their loans, significantly decreasing the likelihood that such borrowers would default on their loans.

253. Plaintiff, however, has performed an in-depth investigation of the actual borrowers, loans and properties underlying plaintiff's PHHAM 2007-3 Certificate, which reveals that the OOR percentages stated in the PHHAM 2007-3 Offering Documents were materially false ***at the time they were made***. The following chart summarizes the OOR percentages stated in the PHHAM 2007-3 Offering Documents, and the actual percentages that should have been stated according to plaintiff's investigation:

Tranche Purchased	CUSIP	Applicable Supporting Loan Group	Primary Residence Percentage Stated in the Offering Documents	Actual Primary Residence Percentage	Percent Overstatement of Actual Primary Residence Percentage
A4	69337MAD2	All	81.47%	72.68%	12.10%

d. Credit Ratings

254. The PHHAM 2007-3 Offering Documents also represented that the PHHAM 2007-3 Certificate purchased by plaintiff had been assigned certain high "investment grade" credit ratings by S&P and Moody's, indicating that the security was a very strong, safe investment with an extremely low probability of default. Specifically, the PHHAM 2007-3 Offering Documents represented that plaintiff's PHHAM 2007-3 Certificate had been assigned AAA/Aaa ratings – the highest, safest

credit ratings available, which are in fact the same as, or even higher than, the current credit rating of U.S. Treasury debt.

255. These representations, however, were false and misleading when made. In truth, plaintiff's PHHAM 2007-3 Certificate should not have received AAA/Aaa credit ratings, because it was ***not*** a safe, "investment grade" security with a "less than 1% probability of incurring default." Rather, as DBSI was well aware, plaintiff's PHHAM 2007-3 Certificate was an extremely risky, speculative grade "junk" bond or worse, backed by low credit quality, extremely risky loans. Indeed, one of the primary reasons that S&P and Moody's had assigned such high ratings to plaintiff's PHHAM 2007-3 Certificate was because DBSI had fed them falsified information regarding the PHHAM 2007-3 Certificate's underlying loans, including, without limitation, false loan underwriting guidelines, false LTV ratios, false borrower FICO scores, false borrower DTI ratios, and false OOR percentages.

256. The falsity of the credit ratings set forth in the PHHAM 2007-3 Offering Documents is confirmed by subsequent events. Specifically, ***more than 22% of the loans supporting plaintiff's PHHAM 2007-3 Certificate are currently in default*** because they were made to borrowers who either could not afford them or never intended to repay them. Moreover, plaintiff's "investment grade" PHHAM 2007-3 Certificate is now rated at "junk" status or below. Clearly, plaintiff's PHHAM 2007-3 Certificate was not the highly rated, "investment grade" security that DBSI represented it to be. The evidence supporting the falsity of the PHHAM 2007-3 Certificates' credit ratings is set forth in further detail in §VI.D, *infra*, and summarized by the following chart:

Tranche	**CUSIP**	**Applicable Supporting Loan Group**	**Current Percentage of Outstanding Loan Balance in Default**	**Moody's Ratings**		**S&P's Ratings**	
				Initial	**Current**	**Initial**	**Current**
A4	69337MAD2	All	22.64%	Aaa	C	AAA	CCC

e. Transfer of Title

257. The PHHAM 2007-3 Offering Documents also represented that the loans underlying the PHHAM 2007-3 Certificates would be timely transferred to the issuing trust, so that the trust would obtain good title to the mortgage loans comprising the pool for the offering. Specifically, the PHHAM 2007-3 Offering Documents stated that "[o]n the Closing Date, the depositor will transfer to the trust all of its right, title and interest in and to each Mortgage Loan, the related mortgage note, mortgage, assignment of mortgage in recordable form to the trustee and other related documents." *See* PHHAM 2007-3 Pros. Supp. at S-80. These statements were false and misleading. Defendants failed to legally and properly transfer the promissory notes and security instruments to the trusts. *See* §VI.E, *infra*.

17. The POPLR 2007-A Certificates

258. The Popular ABS Mortgage Pass-Through Trust Series 2007-A, Mortgage Pass-Through Certificates ("POPLR 2007-A Certificates") were issued pursuant to a Prospectus Supplement dated May 25, 2007. DBSI, as the primary underwriter, played a critical role in the fraudulent structuring, offering and sale of the POPLR 2007-A Certificates.

259. Plaintiff purchased the following POPLR 2007-A Certificate:

Original Purchaser	Tranche Purchased	CUSIP	Purchase Date	Original Face Amount	Purchased From
Fortis Cayman	M1	73316NAD7	5/30/2007	$4,000,000	DBSI

260. The decision to purchase the above security was made by Fortis Cayman in direct reliance upon the POPLR 2007-A Offering Documents, including draft and/or final POPLR 2007-A Prospectus Supplements, all of which were distributed by the defendant associated with the POPLR 2007-A offering. Fortis Cayman's diligent investment processes are described in great detail in §VIII.B, *infra*.

a. Underwriting Guidelines

261. The POPLR 2007-A Offering Documents disclosed that the POPLR 2007-A Certificates' underlying loans were originated by "one or more of" Equity One, Inc., a Delaware corporation; Equity One, Inc., a Minnesota corporation; Equity One Consumer Loan Company, Inc., a New Hampshire corporation; Equity One, Incorporated, a Pennsylvania corporation (collectively "Equity One"); and Popular Financial Services, LLC ("PFS"). *See* POPLR 2007-A Pros. Supp. at S-6. The POPLR 2007-A Offering Documents also disclosed that other than Equity One and PFS, no entity (or group of affiliated entities) originated 10% or more of the POPLR 2007-A Certificates' underlying loans. *Id.*

262. The POPLR 2007-A Offering Documents represented that the Equity One loans, the PFS loans and any loans originated by unidentified originators, were originated in accordance with underwriting standards established by the sponsor, Equity One, which are "primarily intended to evaluate the value and adequacy of the mortgaged property as collateral for the proposed mortgage loan, but also take into consideration the borrower's credit standing and repayment ability." *See* POPLR 2007-A Pros. Supp. at S-51. The POPLR 2007-A Offering Documents also represented that "[i]n determining the adequacy of the property to be used as collateral, a full or drive by appraisal will generally be made of each property considered for financing in an amount in excess of $15,000," and that "[o]nce all applicable employment, credit and property information is received, a determination generally is made, with the assistance of a Debt-to-Income Ratio, as to whether the prospective borrower has sufficient monthly income available." *See* POPLR 2007-A Prospectus at 20. As further detailed *infra*, these representations were false and misleading at the time they were made. Contrary to defendant's affirmative representations, the truth was that Equity One, PFS and any other unidentified originator(s) had completely abandoned their stated underwriting guidelines and were simply seeking to originate as many loans as possible, ***without*** any regard for their

borrowers' actual repayment ability or the true value and adequacy of the mortgaged properties to serve as collateral. *See* §VI.A.1, *infra*.

b. Credit Ratings

263. The POPLR 2007-A Offering Documents also represented that the POPLR 2007-A Certificate purchased by plaintiff had been assigned certain high "investment grade" credit ratings by S&P and Moody's, indicating that the security was a very strong, safe investment with an extremely low probability of default. Specifically, the POPLR 2007-A Offering Documents represented that plaintiff's POPLR 2007-A Certificate had been assigned AA/Aa2 ratings – signifying an extremely safe and stable security.

264. These representations, however, were false and misleading when made. In truth, plaintiff's POPLR 2007-A Certificate should not have received AA/Aa2 credit ratings, because it was ***not*** a safe, "investment grade" security. Rather, as defendants were well aware, plaintiff's POPLR 2007-A Certificate was an extremely risky, speculative grade "junk" bond or worse, backed by low credit quality, extremely risky loans. Indeed, one of the primary reasons that S&P and Moody's had assigned such high ratings to plaintiff's POPLR 2007-A Certificate was because defendant had fed them falsified information regarding the POPLR 2007-A Certificate's underlying loans, including, without limitation, false loan underwriting guidelines, false borrower FICO scores and false borrower DTI ratios.

265. The falsity of the credit ratings set forth in the POPLR 2007-A Offering Documents is confirmed by subsequent events. Specifically, ***approximately 31% of the loans supporting plaintiff's POPLR 2007-A Certificate are currently in default*** because they were made to borrowers who either could not afford them or never intended to repay them. Moreover, plaintiff's "investment grade" POPLR 2007-A Certificate is now rated at "junk" status or below. Clearly, plaintiff's POPLR 2007-A Certificate was not the highly rated, "investment grade" security defendant

represented it to be. The evidence supporting the falsity of the POPLR 2007-A Certificate's credit ratings is set forth in further detail in §VI.D., *infra*, and summarized by the following chart:

Tranche Purchased	CUSIP	Applicable Supporting Loan Group	Current Percentage of Outstanding Loan Balance in Default	Moody's Ratings		S&P's Ratings	
				Initial	Current	Initial	Current
M1	73316NAD7	All	31.03%	Aa2	C	AA	D

c. Transfer of Title

266. The POPLR 2007-A Offering Documents also represented that the loans underlying the POPLR 2007-A Certificates would be timely transferred to the issuing trust, so that the trust would obtain good title to the mortgage loans comprising the pool for the offering. Specifically, the POPLR 2007-A Offering Documents stated that "[t]he Depositor will then convey without recourse to the Trustee in trust for the benefit of the certificateholders all right, title and interest of the Depositor in and to the Loans, including the related mortgage files." *See* POPLR 2007-A Pros. Supp. at S-49. These statements were false and misleading. Defendants failed to legally and properly transfer the promissory notes and security instruments to the trusts. *See* §VI.E, *infra*.

18. The SGMS 2006-FRE1 Certificates

267. The SG Mortgage Securities Trust 2006-FRE1, Asset-Backed Certificates, Series 2006-FRE1 ("SGMS 2006-FRE1 Certificates") were issued pursuant to a Prospectus Supplement dated March 27, 2006. DBSI, as the primary underwriter, played a critical role in the fraudulent structuring, offering and sale of the SGMS 2006-FRE1 Certificates.

268. Plaintiff purchased the following SGMS 2006-FRE1 Certificates:

Original Purchaser	Tranche Purchased	CUSIP	Purchase Date	Original Face Amount	Purchased From
Fortis Bank	A2C	81879MAW9	3/28/2006	$4,000,000	Societe Generale
Fortis Bank	M1	81879MAX7	3/28/2006	$8,000,000	Societe Generale

269. The decision to purchase the above securities was made by Fortis Bank in direct reliance upon the SGMS 2006-FRE1 Offering Documents, including draft and/or final SGMS 2006-FRE1 Prospectus Supplements, all of which were distributed by the defendant associated with the SGMS 2006-FRE1 offering. Fortis Bank's diligent investment processes are described in great detail in §VIII.A, *infra*.

a. Underwriting Guidelines

270. The SGMS 2006-FRE1 Offering Documents disclosed that Fremont Investment & Loan ("Fremont") originated or acquired 100% of the SGMS 2006-FRE1 Certificates' underlying loans. *See* SGMS 2006-FRE1 Pros. Supp. at S-37, S-62.

271. The SGMS 2006-FRE1 Offering Documents represented that "Fremont's underwriting guidelines 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." *Id.* at S-62-S-63. The SGMS 2006-FRE1 Offering Documents also represented that "Fremont currently has two programs for the origination of second lien mortgage loans," which are both "limited to borrowers with . . . debt to income ratios not greater than 50%," and that Fremont had "recently discontinued an additional second lien mortgage program" that was also "limited to . . . debt ratios not greater than 50%." *Id.* at S-65. The SGMS 2006-FRE1 Offering Documents further represented that "an appraisal of the mortgage property, and if appropriate, a review appraisal" was required. *Id.* at S-64. As further detailed *infra*, these representations were false and misleading at the time they were made. Contrary to defendant's affirmative representations, the truth was that Fremont had completely abandoned its stated underwriting guidelines and was simply seeking to originate as many loans as possible, ***without*** any regard for its borrowers' actual repayment ability or the true value and adequacy of the mortgaged properties to serve as collateral. *See* §VI.A.7, *infra*.

b. Loan-to-Value Ratios

272. The SGMS 2006-FRE1 Offering Documents also made certain misrepresentations regarding the LTV ratios associated with the loans supporting the SGMS 2006-FRE1 Certificates purchased by plaintiff. Specifically, the SGMS 2006-FRE1 Offering Documents represented that about a third of the loans supporting plaintiff's SGMS 2006-FRE1 Certificates had LTV ratios over 80%, and that ***none*** of the loans supporting plaintiff's SGMS 2006-FRE1 Certificates had LTV ratios over 100%.

273. Plaintiff, however, has performed an industry-accepted historical valuation analysis on the actual loans underlying plaintiff's SGMS 2006-FRE1 Certificates, which reveals that the LTV ratio percentages stated in the SGMS 2006-FRE1 Offering Documents were materially false ***at the time they were made***. The following chart summarizes the LTV ratio percentages stated in the SGMS 2006-FRE1 Offering Documents, and the actual percentages that should have been stated according to plaintiff's industry-accepted analysis:

Tranche Purchased	**CUSIP**	**Applicable Supporting Loan Group**	**Stated Percentage of Loans Having LTV Ratios Over 80%**	**Actual Percentage of Loans Having LTV Ratios Over 80%**	**Stated Percentage of Loans Having LTV Ratios Over 100%**	**Actual Percentage of Loans Having LTV Ratios Over 100%**
A2C	81879MAW9	Group 2	33.07%	85.23%	0.00%	26.53%
M1	81879MAX7	All	34.17%	76.00%	0.00%	24.47%

c. Owner Occupancy Rates

274. The SGMS 2006-FRE1 Offering Documents also made certain misrepresentations regarding the OOR percentages associated with the loans supporting the SGMS 2006-FRE1 Certificates purchased by plaintiff. Specifically, the SGMS 2006-FRE1 Offering Documents represented that a large percentage of the loans supporting plaintiff's SGMS 2006-FRE1 Certificates were issued to borrowers that actually lived in the properties serving as collateral for their loans, significantly decreasing the likelihood that such borrowers would default on their loans.

275. Plaintiff, however, has performed an in-depth investigation of the actual borrowers, loans and properties underlying plaintiff's SGMS 2006-FRE1 Certificates, which reveals that the OOR percentages stated in the SGMS 2006-FRE1 Offering Documents were materially false ***at the time they were made***. The following chart summarizes the OOR percentages stated in the SGMS 2006-FRE1 Offering Documents, and the actual percentages that should have been stated according to plaintiff's investigation:

Tranche Purchased	CUSIP	Applicable Supporting Loan Group	Primary Residence Percentage Stated in the Offering Documents	Actual Primary Residence Percentage	Percent Overstatement of Actual Primary Residence Percentage
A2C	81879MAW9	Group 2	93.14%	75.70%	23.04%
M1	81879MAX7	All	93.35%	79.85%	16.90%

d. Credit Ratings

276. The SGMS 2006-FRE1 Offering Documents also represented that the SGMS 2006-FRE1 Certificates purchased by plaintiff had been assigned certain high "investment grade" credit ratings by S&P and Moody's, indicating that the securities were very strong, safe investments with an extremely low probability of default. Specifically, the SGMS 2006-FRE1 Offering Documents represented that plaintiff's SGMS 2006-FRE1 Certificates had been assigned AAA/Aaa and AA+/Aa1 ratings, signifying extremely safe and stable securities.

277. These representations, however, were false and misleading when made. In truth, plaintiff's SGMS 2006-FRE1 Certificates should not have received AAA/Aaa and AA+/Aa1 credit ratings, because they were ***not*** safe, "investment grade" securities. Rather, as defendants were well aware, plaintiff's SGMS 2006-FRE1 Certificates were extremely risky, speculative grade "junk" bonds or worse, backed by low credit quality, extremely risky loans. Indeed, one of the primary reasons that S&P and Moody's had assigned such high ratings to plaintiff's SGMS 2006-FRE1 Certificates was because defendants had fed them falsified information regarding the SGMS 2006-

FRE1 Certificates' underlying loans, including, without limitation, false loan underwriting guidelines, false LTV ratios, false borrower FICO scores, false borrower DTI ratios, and false OOR percentages.

278. The falsity of the credit ratings set forth in the SGMS 2006-FRE1 Offering Documents is confirmed by subsequent events. Specifically, ***approximately 60% of the loans supporting plaintiff's SGMS 2006-FRE1 Certificates are currently in default*** because they were made to borrowers who either could not afford them or never intended to repay them. Moreover, plaintiff's "investment grade" SGMS 2006-FRE1 Certificates are now rated at "junk" status or below. Clearly, plaintiff's SGMS 2006-FRE1 Certificates were not the highly rated, "investment grade" securities defendant represented them to be. The evidence supporting the falsity of the SGMS 2006-FRE1 Certificates' credit ratings is set forth in further detail in §VI.D, *infra*, and summarized by the following chart:

Tranche Purchased	CUSIP	Applicable Supporting Loan Group	Current Percentage of Outstanding Loan Balance in Default	Moody's Ratings		S&P's Ratings	
				Initial	Current	Initial	Current
A2C	81879MAW9	Group 2	60.36%	Aaa	Ca	AAA	CCC
M1	81879MAX7	All	59.85%	Aa1	C	AA+	D

e. **Transfer of Title**

279. The SGMS 2006-FRE1 Offering Documents also represented that the loans underlying the SGMS 2006-FRE1 Certificates would be timely transferred to the issuing trust, so that the trust would obtain good title to the mortgage loans comprising the pool for the offering. Specifically, the SGMS 2006-FRE1 Offering Documents stated that "[o]n the Closing Date, the Depositor will transfer to the Trust all of its right, title and interest in and to each Mortgage Loan, the related mortgage note, Mortgage, assignment of Mortgage in recordable form in blank or to the Trustee and other related documents . . . , including all scheduled payments with respect to each such

Mortgage Loan due after the Cut-off Date." *See* SGMS 2006-FRE1 Pros. Supp. at S-72. These statements were false and misleading. Defendants failed to legally and properly transfer the promissory notes and security instruments to the trusts. *See* §VI.E, *infra*.

VI. DEFENDANTS' STATEMENTS AND OMISSIONS WERE MATERIALLY FALSE AND MISLEADING

A. Defendants' Statements that the Loan Underwriting Guidelines Were Designed to Assess a Borrower's Ability to Repay the Loan and to Evaluate the Adequacy of the Property as Collateral for the Loan Were Materially False and Misleading

280. As set forth above in §V, the Offering Documents for each Deutsche Bank Offering represented that the underlying loans were originated pursuant to specific, prudent, underwriting guidelines, which the Offering Documents represented were generally intended to: (1) assess the borrowers' creditworthiness and/or ability to repay the loans; and/or (2) evaluate the adequacy of the underlying properties to serve as security for the loans.

281. These representations were incredibly material to plaintiff because they confirmed that, regardless of the technical guidelines being applied, the certificates' underlying loans were generally being originated on the basis of a valid determination that the borrower would be able to repay his or her loan and that the property serving as collateral would provide adequate security in the event of a default. In other words, these representations assured plaintiff that the loans supporting their investments were unlikely to default, and further, unlikely to incur a loss in the unlikely event of default. As such, they were material to plaintiff's investment decision.

282. Unfortunately for plaintiff, however, defendants' material representations regarding the underwriting guidelines purportedly being used to originate the certificates' underlying loans were false and misleading at the time defendants made them. As set forth immediately below, the originators of the certificates' underlying loans had, in fact, completely abandoned their stated underwriting guidelines and were simply seeking to originate as many loans as possible, ***without*** any

regard for the borrowers' actual repayment ability or the true value and adequacy of the mortgaged properties to serve as collateral.

1. The Loan Originators Had Systematically Abandoned the Underwriting Guidelines Set Forth in the Deutsche Bank Offering Documents

283. The representations in the Offering Documents for the Deutsche Bank Offerings concerning the loan originators' underwriting guidelines were false and misleading when made. In reality, the loan originators at issue herein were ***not*** originating loans in accordance with their stated underwriting guidelines and were ***not*** evaluating their borrowers' true repayment ability or assessing the actual value of the properties serving as collateral. Instead, during the relevant time period, 2004-2007 – when the loans underlying the offerings at issue herein were originated – the loan originators identified herein had abandoned their stated underwriting guidelines, and were simply making loans to nearly anyone they could, without regard for the borrowers' repayment ability or the adequacy of the mortgaged properties as collateral. These lenders made loans as fast as they possibly could and ignored the borrowers' true repayment ability because they knew defendants would purchase the loans ***regardless*** of whether the lenders had given any consideration to the borrowers' ability to repay, and ***regardless*** of whether the loans otherwise complied with the lenders' stated underwriting guidelines. This was the case because the demand for RMBS was skyrocketing during the relevant time period and defendants were making billions of dollars by satisfying that demand. Thus, defendants were scrambling to buy as many loans as they could, as fast as they could, so that they could quickly bundle the loans into RMBS offerings like those at issue herein, and sell them to unsuspecting investors like plaintiff.

284. Defendants knew that, contrary to their affirmative representations in the Offering Documents, the certificates' underlying loans had not been originated pursuant to underwriting guidelines that were designed to evaluate the borrowers' ability to repay or assess the adequacy of

the mortgaged properties to serve as collateral. Defendants also knew, as a result, that the loans were not likely to be repaid. Defendants, however, failed to disclose any of this information. Instead, they simply packaged the defective loans as quickly as they could, concealing them within the offerings, and passed the risk of default on to plaintiff.

285. Contrary to their affirmative representations in the Offering Documents, defendants knew that the loan originators had, in fact, implemented loan underwriting policies that were simply designed to extend mortgages to as many borrowers as possible, regardless of whether those borrowers could actually repay them. These policies included, among other things:

- Falsifying borrowers' incomes and/or coaching borrowers to misstate their income on loan applications to qualify them for loans they could not afford to repay, while making it appear the loans complied with the stated underwriting guidelines;
- Coaching borrowers to omit or understate debts and expenses on loan applications to qualify them for loans they could not afford to repay, while making it appear the loans complied with the stated underwriting guidelines;
- Steering borrowers to loans that exceeded their borrowing capacity;
- Approving borrowers based on "teaser rates" for loans, despite knowing that the borrower would not be able to afford the fully indexed rate when the loan rate adjusted; and
- Approving non-qualifying borrowers for loans under "exceptions" to the originators' underwriting standards based on purported "compensating factors," when no such compensating factors ever existed.

286. Further, the loan originators and their agents had become so aggressive at improperly approving and funding mortgage loans that many of the loans underlying the certificates at issue herein were made to borrowers who had either not submitted required documents or had falsely altered the required documentation. In many instances, required income/employment verifications were improperly performed because the lenders' clerical staff either did not have adequate verification skills or did not care to exercise such skills, and oftentimes verifications were provided by inappropriate contacts at a borrower's place of employment (*e.g.*, a friend of the borrower would

complete the verification instead of the human resources department at the borrower's employer). In this way, many suspect and false income verifications and loan applications were accepted by the originators at issue herein.

287. In addition, borrowers who submitted "stated income" loan applications were routinely approved on the basis of stated income levels that were inflated to extreme levels relative to their stated job titles, in order to give the appearance of compliance with stated underwriting guidelines. In many cases, the loan originators herein actually coached the borrowers to falsely inflate their stated incomes in order to qualify under the originators' underwriting guidelines. Inflation of stated income was so rampant that a study cited by Mortgage Asset Research Institute later found that almost ***all*** stated income loans exaggerated the borrowers' actual income by 5% or more ***and more than half overstated income by at least 50%***.

288. This type of income inflation was a direct result of the loan originators' abandonment of their stated underwriting guidelines and their complete disregard for their borrowers' true repayment ability. For instance, many "stated income" borrowers were actually wage earners who could have supplied Internal Revenue Service ("IRS") Forms W-2 or other income-verifying documentation, but were not required to do so. Instead, they were steered to stated income loans by the lenders at issue herein, who then helped the borrowers "state" falsely inflated incomes. Originators also routinely issued loans without requiring the borrower to execute an IRS Form 4506, which would have allowed the lender to access such borrower's tax returns from the IRS, because the originators simply did not want to know that the borrower's true income level was less than the income level reported on the loan application. In other cases, lenders removed documentation of a borrower's income from loan files, because such documentation revealed that the borrower's stated income was falsely inflated. The falsification of income levels by the borrowers and the loan originators at issue herein was rampant.

289. The originators at issue herein also routinely violated their stated underwriting guidelines by using falsely inflated appraisals and other valuations – which, in turn, resulted in falsely understated LTV ratios – in order to approve loans that otherwise would have never been made. The U.S. Government's Financial Crisis Inquiry Commission ("FCIC") investigation confirmed that, during the time the loans underlying plaintiff's certificates were originated, the lenders at issue herein were regularly pressuring appraisers to falsely inflate their appraisals in order to meet or exceed the amount needed for the subject loans to be approved. This was especially true for loans, such as the ones at issue here that were originated by lenders with the intention of being pooled and sold to defendants for eventual re-sale to investors like plaintiff, who would ultimately bear the risk of default.

290. The constant pressure appraisers routinely faced from originators such as those at issue herein was described by Jim Amorin, President of the Appraisal Institute, who stated in his April 23, 2009 FCIC testimony that, "***[i]n many cases, appraisers are ordered or severely pressured to doctor their reports and to convey a particular, higher value for a property, or else never see work from those parties again***. . . . ***[T]oo often state licensed and certified appraisers are forced into making a 'Hobson's Choice***.'" This complete lack of independence by appraisers was also noted by Alan Hummel, Chair of the Appraisal Institute, in his testimony before the U.S. Senate, where Hummel noted that the dynamic between lenders and appraisers created a "terrible conflict of interest" by which ***appraisers "experience[d] systemic problems with coercion" and were "ordered to doctor their reports" or else they would never "see work from those parties again" and were placed on "'exclusionary appraiser lists***.'" Testimony on "Legislative Proposals on Reforming Mortgage Practices" presented by Alan E. Hummel before the House Committee on Financial Services, at 5 (Oct. 24, 2007).

291. As a result of such pressures, appraisers routinely provided the originators at issue herein with falsely inflated appraisals that had no reasonable basis in fact, in direct contravention of the Offering Documents' false and misleading representations that the certificates' underlying loans had been originated pursuant to underwriting guidelines that required the lenders to evaluate the adequacy of the mortgaged properties to serve as collateral for the loans. Moreover, the falsely inflated property values also resulted in artificially understated LTV ratios, which caused the loans and certificates to appear to plaintiff to be of much higher credit quality and to be much less risky than they actually were.

292. Following below are detailed allegations demonstrating that the loan originators for the offerings at issue herein did not comply with the loan underwriting guidelines stated in the Offering Documents, thereby rendering the Offering Documents false and misleading. While the allegations concerning these originators cover most of the offerings, plaintiff has not provided such allegations for every originator at issue herein, in an attempt to streamline the allegations. Nonetheless, on information and belief, plaintiff alleges that ***all*** of the loan originators at issue herein engaged in similar conduct, and that such allegations are factually supported by both the investigations of the FCIC and the U.S. Senate, each of which concluded, after extensive investigations, that the breakdown in residential loan underwriting standards alleged herein was systemic in the lending industry during the relevant time period (2004-2007). *See* The Financial Crisis Inquiry Report ("FCIC Report") at 125 ("***Lending standards collapsed, and there was a significant failure of accountability and responsibility throughout each level of the lending system***."); Levin-Coburn Report at 12 (One of four major causes of worldwide financial collapse was that "***[l]enders introduced new levels of risk into the U.S. financial system by selling . . . home loans with . . . poor underwriting***."); *id.* at 50 ("***The Subcommittee investigation indicates that"***

there were "a host of financial institutions that knowingly originated, sold, and securitized billions of dollars in high risk, poor quality home loans.").

293. In fact, in 2005, federal examiners and agencies conducted a "confidential . . . study of mortgage practices at six companies that together had originated . . . almost half the national total" of mortgages in that year. ***The study "'showed a very rapid increase in the volume of these irresponsible, very risky loans***,'" according to Sabeth Siddique, then head of credit risk at the Federal Reserve Board's Division of Banking Supervision and Regulation. ***For "[a] large percentage of the[] loans" reviewed, "the underwriting standards . . . had deteriorated***." FCIC Report at 172.

294. In addition, on December 30, 2007, *The Kansas City Star* published an article titled "American Dreams Built on a Shaky Foundation of Subprime Loans," analyzing the Nation's mortgage meltdown and the reasons behind it. The news article painted a picture of systematic abandonment of underwriting guidelines by lenders during the relevant time period (2004-2007). Kurt Eggert, a law professor and member of the Federal Reserve's Consumer Advisory Panel, was quoted: "'***Originators were making loans based on quantity rather than quality. . . . They made loans even when they didn't make sense from an underwriting standpoint***.'" The news article further stated: "Mark Duda, a research affiliate at Harvard University's Joint Center for Housing Studies, said that because ***brokers were so intent to quickly sell off loans to investors, they had little incentive to make sure the loans were suitable for borrowers. 'They were setting people up to fail***,' Duda said." A news article in the *San Diego Union-Tribune* on November 16, 2008 echoed these sentiments, stating: "Bankruptcy specialists say part of what led to the housing market collapse ***was systemic. Lenders set themselves up for problems by not requiring buyers to prove they could afford the loans*** . . . ."

295. At a March 11, 2009 hearing of the U.S. House of Representatives Subcommittee investigating the Nation's mortgage meltdown, Representative Jeb Hensarling from the State of Texas was even more blunt about the pervasive abandonment of underwriting guidelines: "***Mortgage fraud ran rampant for a decade, on the lenders' side and on the borrower side . . . . We know that mortgage fraud ran rampant*** . . . ."

296. The systemic abandonment of stated underwriting guidelines by all of the originators identified herein during the period 2004-2007, which included the originators' complete failure to evaluate their borrowers' repayment ability, is further corroborated by the following allegations, which demonstrate that the abandonment of loan underwriting guidelines was rampant, pervasive and commonplace in the residential lending industry during 2004-2007.

2. The Offering Documents Misrepresented the DB Originators' Underwriting Standards

297. Defendant DBSP purchased and re-underwrote loans, and MortgageIT and DB Home (formerly known as Chapel Funding Corporation) originated loans for several of the offerings at issue herein. DBSP was part of Deutsche Bank, and acted as a sponsor/originator for two of the Deutsche Bank Offerings at issue herein. In addition, in 2006, Deutsche Bank acquired MortgageIT and DB Home, which acted as originators for several of the offerings at issue herein. Given that Deutsche Bank owned and controlled defendant DBSP, MortgageIT and DB Home, and acted as a loan originator through them, DBSP, MortgageIT and DB Home are collectively referred to herein as the "DB Originators."

298. As detailed *supra*, the DB Originators' supposed underwriting guidelines were described by defendants in the Offering Documents. *See* §V, *supra*. For the reasons set forth immediately below, these representations were false and misleading at the time defendants made them. In truth, the DB Originators had completely abandoned their stated underwriting guidelines

and were routinely originating loans without any regard for their borrowers' true repayment ability or the actual adequacy of the mortgaged properties to serve as collateral.

299. In the Offering Documents describing the DB Originators' underwriting guidelines, defendants represented that such guidelines were generally designed to evaluate a borrower's ability to repay the loan and the adequacy of the property as collateral for the loan. These statements were false and misleading when made, for the following reasons.

300. Controlling mortgage originators such as MortgageIT and DB Home, and essentially acting as an originator through DBSP, allowed the Deutsche Bank Defendants to formulate and dictate the underwriting standards at the origination level and guarantee a constant stream of loans to securitize and sell to investors and other investment banks. Because Deutsche Bank needed high volumes of loans to securitize – and because it passed off the default risk to investors – Deutsche Bank had every incentive to, and in fact did, lower the underwriting standards at the DB Originators.

301. The U.S. Senate's Levin-Coburn Report summarized the overwhelming evidence that the Deutsche Bank Defendants did not comply with their stated underwriting guidelines: "***Deutsche Bank underwrote securities using loans from subprime lenders known for issuing high risk, poor quality mortgages, and sold risky securities to investors across the United States and around the world. They also enabled the lenders to acquire new funds to originate still more high risk, poor quality loans***." Levin-Coburn Report at 11. In addition, the FCIC, after concluding its own, separate investigation, also issued a report of its findings concerning the financial crisis brought about by Deutsche Bank's RMBS chicanery. *See generally* FCIC Report. In its report, the FCIC specifically found that Deutsche Bank's due diligence practices were insufficient: "Some mortgage securitizers did their own due diligence, but seemed to devote only limited resources to it. . . . Deutsche Bank . . . had only small due diligence teams." FCIC Report at 168.

302. As documented in the corrected complaint filed in the action titled *Dexia SA/NV v. Deutsche Bank AG*, No. 11-cv-5672 (S.D.N.Y. Sept. 15, 2011) (removed from Supreme Court, County of New York, No. 657918-11) (the "*Dexia* Complaint"), DBSP acquired loans it knew did not meet underwriting guidelines. The *Dexia* Complaint quotes a former Director of Risk and Compliance from June 2003 to October 2005 at a subsidiary of Lydian Trust Co. ("Lydian"), which audited and underwrote loans purchased by DBSP. According to the *Dexia* Complaint, the witness stated that DBSP would purchase loans even when it knew of problems with the origination of the loans, and '"[i]f deficiencies were found [DBSP] tried to find a signature here, a stamp there, and that was really the end of it.'" *Dexia* Complaint at 38. According to the witness, DBSP '"really didn't care'" about the findings of the Lydian diligence team, and would purchase loans regardless of its findings. *Id.* The witness also stated that his underwriting reviews were completely disregarded by loan purchasers and if anything, were '"smoke and mirrors,'" because whatever findings Lydian reported, DBSP would buy the loans anyway. *Id.* The witness stated at least 80% of the loans he reviewed while employed by Lydian contained deficiencies, including forged income documentation, forged IRS Forms W2, or inflated appraisal valuations, because the loans were originated '"quicker than could be imagined.'" *Id.* According to this witness, the quality of the loan underwriting was not a concern to DBSP.

303. In addition, as detailed by the August 22, 2011 complaint filed by the DOJ against defendants Deutsche Bank AG, DBSP, DBSI and lender MortgageIT, the companies were accused of "knowingly, wantonly, and recklessly" permitting violations of underwriting guidelines. *See United States v. Deutsche Bank AG*, No. 11-cv-2976-LAK (S.D.N.Y. Aug. 22, 2011) (the "DOJ Complaint"). According to the DOJ Complaint, Deutsche Bank and MortgageIT "failed to implement basic quality control" procedures to ensure that the loans they originated conformed to these requirements. DOJ Complaint at 29. The DOJ further detailed MortgageIT's lax underwriting

processes over several years. Among other things, the DOJ reported that MortgageIT had no in-house quality control procedures in place until late 2005; that it instead contracted with a vendor who prepared letters detailing "serious underwriting violations"; and that MortgageIT employees, rather than reviewing and acting upon those findings, "stuffed the letters, unopened and unread, in a closet in MortgageIT's Manhattan headquarters." *Id.* at 31-32. Moreover, as early as May 2006, Deutsche Bank was aware of serious lapses in MortgageIT's underwriting practices, including its chronic failure to verify basic information concerning its subprime borrowers, such as income and employment status, and to review early payment defaults in the subprime loans it originated. *Id.* at 53-56. Deutsche Bank was aware of MortgageIT's underwriting failures through its due diligence of MortgageIT's operations, which included access to MortgageIT's books, records and personnel, as well as direct communication with MortgageIT management. *Id.*

304. According to the DOJ, these fundamental lapses in underwriting standards not only continued after Deutsche Bank acquired MortgageIT, they got worse. Beginning in 2006, during the period in which defendants initially announced the planned acquisition and performed their due diligence for that transaction, Mortgage IT, in an effort "[t]o increase sales," further cut down its quality control procedures, shifting the work of quality control personnel "from quality control reviews of closed mortgages . . . to assistance with production." ***This led the DOJ to conclude that "after Deutsche Bank acquired MortgageIT, it not only failed to fix the existing quality control deficiencies at MortgageIT, but it made a very bad problem even worse***." *Id.* at 35-36.

305. On May 10, 2012, MortgageIT and Deutsche Bank agreed to pay $202.3 million to settle the allegations in the DOJ Complaint. As part of the settlement, MortgageIT "***admit[ted], acknowledge[d], and accept[ed] responsibility***" that it: (1) did not maintain a quality control program that complied with HUD-FHA requirements; and (2) did not conduct a full review of all early payment defaults on loans endorsed for FHA insurance, and as a result, "contrary to the

representations in MortgageIT's annual certifications, MortgageIT did not conform to all applicable HUD-FHA regulations" from 1999 through 2009. The HUD-FHA requirements that MortgageIT now admits it violated relate to the adequacy of the borrower's ability to repay the loan, the borrower's creditworthiness, and the appropriate valuation of the property subject to the mortgage. DOJ Complaint at 13. In addition, MortgageIT admitted it issued loans which "did not meet all underwriting requirements contained in HUD's handbooks and mortgagee letters, and therefore were not eligible for FHA mortgage insurance" from 1999 through 2009. Deutsche Bank AG, DBSP and DBSI also "***admit[ted], acknowledge[d], and accept[ed] responsibility***" as part of the settlement "for the fact" that after MortgageIT was acquired by the Deutsche Bank Defendants, they "***were in a position to know that the operations of MortgageIT did not conform fully to all of HUD-FHA's regulations, policies, and handbooks***" and that "contrary to the representations in MortgageIT's annual certifications, MortgageIT did not conform to all applicable HUD-FHA regulations."

306. In addition, it was well known within Deutsche Bank as early as 2005 that MortgageIT was a horribly managed company that generated numerous loans that would default. The reason the loans defaulted was because they had not been originated in conformance with the underwriting guidelines stated in the Offering Documents. Nonetheless, the Deutsche Bank Defendants continued buying defective loans from MortgageIT and continued to include them into their RMBS offerings.

3. The Offering Documents Misrepresented Countrywide's Underwriting Standards

307. As detailed *supra*, Countrywide's supposed underwriting guidelines were described by defendants in the Offering Documents. *See* §V, *supra*. For the reasons set forth immediately below, these representations were false and misleading at the time defendants made them. In truth, Countrywide had completely abandoned its stated underwriting guidelines and was routinely

originating loans without any regard for its borrowers' true repayment ability or the actual adequacy of the mortgaged properties to serve as collateral.

308. During the relevant time period, Countrywide was the largest independent mortgage lender and loan originator for RMBS offerings in the United States. Unfortunately for plaintiff, it was also one of the worst, as it repeatedly originated loans in violation of its stated loan underwriting guidelines and routinely extended loans to borrowers without any regard for such borrowers' true repayment ability, oftentimes relying on falsely inflated appraisals (and thus false LTV ratios), falsified occupancy data and other false information to do so.

309. In June 2009, the SEC initiated a securities fraud action in the United States District Court for the Central District of California against former Countrywide executives Angelo Mozilo ("Mozilo"), David Sambol ("Sambol") and Eric Sieracki ("Sieracki"). On September 16, 2010, the court denied the Countrywide executives' motions for summary judgment and held that ***the SEC had raised genuine issues of fact*** as to whether the defendants had misrepresented the quality of Countrywide's underwriting processes from 2005-2007. Specifically, the court held that ***the SEC presented evidence that Countrywide "routinely ignored its official underwriting guidelines to such an extent that Countrywide would underwrite any loan it could sell into the secondary mortgage market," and that "a significant percentage (typically in excess of 20%) of Countrywide's loans were issued as exceptions to its official underwriting guidelines***." *SEC v. Mozilo*, No. CV 09-3994-JFW (MANx), 2010 U.S. Dist. LEXIS 98203, at *33-*34 (C.D. Cal. Sept. 16, 2010). ***The court held that the evidence presented was such that "a reasonable jury could conclude that Countrywide all but abandoned managing credit risk through its underwriting guidelines***." *Id*. at *35. In 2010, Mozilo, Sambol and Sieracki paid over $73.1 million to settle the SEC action.

310. The testimony and documents made available to plaintiff by way of the SEC's investigation confirm that Countrywide was systematically abusing "exceptions" and low-documentation processes in order to circumvent its own underwriting guidelines. For example, in an April 13, 2006 e-mail, Mozilo, who was Countrywide's co-founder and Chief Executive Officer ("CEO"), wrote to Sieracki and others that he was concerned that certain subprime loans had been originated "***with serious disregard for process [and] compliance with guidelines***," resulting in the delivery of loans "with deficient documentation." Mozilo further stated that "***I have personally observed a serious lack of compliance within our origination system as it relates to documentation and generally a deterioration in the quality of loans originated versus the pricing of those loan[s]***."

311. The testimony and documents produced in the SEC action also show that, on June 28, 2005, Sieracki attended a Corporate Credit Risk Committee meeting, "in which he was informed that ***1/3 of the loans which were referred from CLUES [Countrywide's automated underwriting system] violated 'major' underwriting guidelines and 1/3 violated 'minor' guidelines***." At a similar meeting on March 12, 2007, "Risk Management reported that 12% of the loans reviewed through Countrywide's internal quality control process were rated ***severely unsatisfactory*** or high risk, and that one of ***the principal causes for such a rating was that loans had debt-to-income, loan to value, or FICO scores outside Countrywide's underwriting guidelines***."

312. A separate False Claims Act lawsuit brought by the U.S. Government against Countrywide and appraisal firm Land Safe Appraisal Services, Inc. ("Land Safe") confirms that Countrywide routinely violated its stated underwriting guidelines by using falsely inflated appraisals. *See* Complaint, *United States, ex rel. Kyle W. Lagow v. Countrywide Fin. Corp.*, No. 1:09-cv-02040-RJD-JMA (E.D.N.Y. May 13, 2009) ("*Lagow* Complaint"). According to the allegations of this action, which are based on the testimony of Kyle Lagow, a former Land Safe employee,

Countrywide and Land Safe conspired together to systematically inflate appraisals. According to Lagow, Countrywide and Land Safe systematically inflated appraisals for Countrywide loans by, among other things: (a) paying above-market fees to appraisers who provided inflated appraisals; (b) rewarding appraisers that provided inflated appraisals with significant amounts of additional work; (c) black-listing, retaliating against and firing appraisers that refused to provide inflated appraisals; (d) improperly requiring appraisers to rely on information outside the relevant market that justified inflated appraisals; (e) providing appraisers with false information concerning "comparable" properties that led to inflated appraisals; and (f) retaliating against anyone who questioned or criticized Countrywide and Land Safe's appraisal inflation scheme. *Lagow* Complaint, ¶9. This action was settled, as part of a global $1 billion settlement, with Countrywide's parent company, Bank of America Corp.

313. In addition, the FCIC's report, which was issued in January 2011, also set forth, *inter alia*, findings regarding Countrywide's key role in the financial crisis and the lender's general failure to evaluate its borrowers' repayment ability. Specifically, the FCIC Report stated:

> ***Lenders made loans that they knew borrowers could not afford and that could cause massive losses to investors in mortgage securities. As early as September 2004, Countrywide executives recognized that many of the loans they were originating could result in "catastrophic consequences." Less than a year later, they noted that certain high-risk loans they were making could result not only in foreclosures but also in "financial and reputational catastrophe" for the firm. But they did not stop.***

See FCIC Report at xxii.

314. According to evidence in the FCIC Report, Countrywide's loan products were simply not designed to evaluate its borrowers' repayment ability. Indeed, one of Countrywide's loan products was described as "***poison***" by the lender's own co-founder and CEO, Mozilo, who stated in an April 17, 2006 e-mail: "'***In all my years in the business I have never seen a more toxic [product]*** . . . .'" FCIC Report at 20. According to information contained in the FCIC Report, the

reason Countrywide was willing to offer such products was because its sole focus was "'originating what was salable in the secondary market,'" *i.e.*, to Wall Street banks such as defendants. *Id*. at 105. According to the FCIC Report, Countrywide "sold or securitized 87% of the $1.5 trillion in mortgages it originated between 2002 and 2005." *Id*.

315. Moreover, former Countrywide employee Eileen Foster ("Foster") confirmed, in an interview with the FCIC, that fraud was rampant in connection with Countrywide's origination of loans. Foster worked as a mortgage fraud investigator at Countrywide, and confirmed that loans that Countrywide's fraud investigators or underwriters rejected due to fraud or non-conformance with the underwriting guidelines were routinely overruled and approved by Countrywide's sales unit, as "***the rules were bent and broken and twisted regularly and it was . . . an accepted mode of doing business***." July 30, 2010 FCIC Staff Interview of Eileen Foster. Foster further stated that "all of the fraud that may have been taking place [was] being managed out by the sales units," or in other words, "'***concealed***.'" *Id*. She suspected that "there was quite a bit of fraud taking place" in connection with Countrywide's loan originations, which her audit manager "confirmed to [her]." *Id*.

316. In fact, according to the FCIC, Countrywide had tens of thousands of internal company referrals of potentially fraudulent activity in connection with its mortgage business during the period from 2005-2007. FCIC Report at 162.

317. Other former Countrywide employees have confirmed that Countrywide originated loans that did not comply with its stated underwriting criteria because its employees were incentivized to increase the number of loan originations without concern for borrowers' repayment ability. Instead of evaluating repayment ability, ***Countrywide's Sales Training Facilitator Guide instructed originators to "look for ways to make the loan rather than turn it down***."

318. According to another former Countrywide manager, the mindset at the company was "***if you had a pulse, Countrywide gave you a loan***."

319. Countrywide's loan originators would "coach" borrowers as to the level of falsely inflated incomes they should claim in order to qualify for loans they could not otherwise afford. Countrywide itself also falsified borrowers' incomes, or facilitated falsified incomes by steering otherwise ineligible borrowers to "stated income" loans. According to a former Countrywide account manager, the company was "infested" with employees that ignored the company's underwriting guidelines.

320. Former Countrywide employees have revealed that as many as 80% of the loans originated by a Countrywide office in Florida did not meet loan underwriting guidelines. According to another former Countrywide employee, approximately 90% of all reduced documentation loans sold out of a Chicago office had falsely inflated incomes and one of Countrywide's mortgage brokers, One Source Mortgage Inc., routinely doubled the amount of the potential borrowers' income on stated income mortgage applications in order to qualify borrowers for loans they could not afford.

321. Moreover, even in the cases where Countrywide employees actually obtained written income documentation (*i.e.*, a Form W-2) demonstrating that the borrower did not qualify for a loan, the documentation was ignored by Countrywide and the loan was re-submitted as a stated income loan with an inflated income number so as to obtain approval of the loan – a loan which the borrower could not afford to repay. These problems were systemic within Countrywide at the time the loans in the offerings at issue herein were originated.

322. Countrywide's general abandonment of its stated underwriting guidelines has also been the subject of numerous civil complaints and investigations by state attorneys general, each of which has alleged facts supporting plaintiff's allegations here that Countrywide's underwriting practices were not intended to evaluate borrowers' repayment ability. *See*, *e.g.*, *In re Countrywide Fin. Corp. Derivative Litig.*, No. 07-CV-06923-MRP (MANx) (C.D. Cal.); *In re Countrywide Fin.*

Corp. Sec. Litig., No. 07-CV-05295 MRP (MANx) (C.D. Cal.); *The People of the State of Illinois v. Countrywide Fin. Corp.*, No. 2008-CH-22994 (Cook Cty. Cir. Ct., Ch. Div. Ill.); *The People of the State of California v. Countrywide Fin. Corp.*, No. LC081846 (Cal. Super. Ct., Los Angeles Cty.); *State of Connecticut, et al. v. Countrywide Fin. Corp., et al.*, No. 08-cv-01301 (D. Conn.) (originally filed in Conn. Super. Ct., Hartford Jud. Dist.); *MBIA Ins. Corp. v. Countrywide*, No. 602825/2008 (N.Y. Sup. Ct., N.Y. Cty.). The sheer volume of the lawsuits, all alleging that Countrywide systematically abandoned its underwriting guidelines, is strong evidence that that is what in fact occurred.

323. Countrywide, unsurprisingly, made the list in the "Worst Ten in the Worst Ten" report by the U.S. Government's Office of the Comptroller of the Currency ("OCC"), which identified the lenders with the highest number of foreclosures for loans originated between 2005 and 2007 in the ten metropolitan areas with the highest rates of foreclosures. The extremely high foreclosure rates for Countrywide's loans corroborate that the company did ***not*** comply with its purported underwriting guideline to evaluate borrowers' repayment ability. In addition, the U.S. Senate confirmed that Countrywide had abandoned its purported underwriting guidelines stated in the Offering Documents: ***Countrywide and other "lenders issued billions of dollars in high risk, poor quality home loans***." Levin-Coburn Report at 239.

4. The Offering Documents Misrepresented IndyMac's Underwriting Guidelines

324. As detailed *supra*, IndyMac's supposed underwriting guidelines were described by defendants in the Offering Documents. *See* §V, *supra*. For the reasons set forth immediately below, these representations were false and misleading at the time defendants made them. In truth, IndyMac had completely abandoned its stated underwriting guidelines and was routinely originating

loans without any regard for its borrowers' true repayment ability or the actual adequacy of the mortgaged properties to serve as collateral.

325. IndyMac's concerted effort to fund as many loans as possible led it to become one of the country's largest and fastest-growing mortgage lenders from 2003-2006. Indeed, during this period, IndyMac's loan volume tripled, going from $29 billion to $90 billion in three short years. By 2008, however, IndyMac's reckless lending practices finally caught up with it, causing the bank to experience excessive losses that ultimately led to its undoing. On July 11, 2008, IndyMac was closed by the Office of Thrift Supervision ("OTS") and taken under the control of the Federal Deposit Insurance Corporation ("FDIC").[15]

326. On June 30, 2008, the Center for Responsible Lending ("CRL") issued a report by Mike Hudson, entitled "IndyMac: What Went Wrong? How an 'Alt-A' Lender Fueled its Growth with Unsound and Abusive Mortgage Lending" (the "CRL Report"). The CRL Report, which was based on information obtained from 19 former IndyMac employees, concluded that IndyMac "engaged in ***unsound and abusive lending***" and "***routinely [made] loans without regard to borrowers' ability to repay***." CRL Report at 2.

327. According to the CRL Report, IndyMac's regular practice of originating loans that disregarded borrowers' ability to repay and failed to comply with the bank's stated underwriting and appraisal guidelines was ***not*** "caused by rogue brokers or by borrowers who lied." *Id*. at 1. Instead, this institutionalized practice was "spawned by top-down pressures that valued short-term growth over protecting borrowers and shareholders' interests over the long haul." *Id.* Indeed, the CRL Report describes the atmosphere at IndyMac as one "where the hunger to close loans ruled." *Id*. at 2.

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[15] On March 19, 2009, the FDIC completed the sale of IndyMac's "assuming institution"– IndyMac Federal Bank, F.S.B. – to OneWest Bank, F.S.B.

According to the CRL Report, this "hunger" led IndyMac to routinely "push[] through loans based on ***bogus appraisals*** and income data that ***exaggerated borrowers' finances***." *Id.*

328. The CRL Report details several accounts from former IndyMac employees which clearly demonstrate the bank's institutional disregard for its own stated underwriting and appraisal guidelines and borrowers' ability to repay their loans. Among other things, the CRL Report provides the following information:

- Audrey Streater, a former underwriter and underwriting team leader for IndyMac in New Jersey, stated in an interview: "'I would reject a loan and the insanity would begin . . . It would go to upper management and the next thing you know it's going to closing. . . . I'm like, "What the Sam Hill? There's nothing in there to support this loan."'" *Id.* at 3.

- According to a former IndyMac vice president, former IndyMac CEO Michael Perry ("Perry") and other top managers "focused on increasing loan volume 'at all costs,' putting pressure on subordinates to disregard company policies and simply 'push loans through.'" *Id.*

- According to another former IndyMac employee, Perry once told him "'business guys rule'" and "'[expletive deleted] you to compliance guys,'" from which this former employee concluded that IndyMac was about "'production and nothing else.'" *Id.* at 4.

- According to Wesley E. Miller, a former underwriter for IndyMac in California, "when he rejected a loan, sales managers screamed at him and then went up the line to a senior vice president and got it okayed." *Id.* at 9.

- According to Scott Montilla, a former underwriter for IndyMac in Arizona, "when salespeople went over his head to complain about loan denials, higher-ups overruled his decisions roughly half of the time." *Id.*

- Montilla further stated in an interview: "'I would tell them: "If you want to approve this, let another underwriter do it, I won't touch it – I'm not putting my name on it" . . . . There were some loans that were just blatantly overstated.'" *Id.* at 10.

329. On February 26, 2009, the Office of Inspector General ("OIG") of the U.S. Department of Treasury issued a report entitled "Safety and Soundness: Material Loss Review of IndyMac Bank, FSB" (the "OIG Report"). The OIG Report found that "IndyMac's business model was to produce as many loans as possible and sell them in the secondary market," *i.e.*, to banks such

as defendants. OIG Report at 21. According to the OIG Report, "[t]o facilitate this level of [loan] production . . . IndyMac often did not perform adequate underwriting." *Id.* Indeed, IndyMac frequently made loans with "little, if any, review of borrower qualifications, including income, assets, and employment." *Id.* at 11. As a result, the OIG concluded that IndyMac's loans "were made to many borrowers who simply could not afford to make their payments." *Id.* at 2.

330. Moreover, according to the OIG Report, "[a]ppraisals obtained by IndyMac on underlying collateral were often questionable as well." *Id.* The OIG Report found that "IndyMac officials accepted appraisals that were not in compliance with [the industry standard,] the Uniform Standard of Professional Appraisal Practice," and in some instances, IndyMac even "allowed the borrowers to select the appraiser" and/or accepted "appraisals where the property valuation was made without physical site inspection of the subject property or comparable properties." *Id.* at 12, 26.

331. IndyMac's improper and fraudulent lending practices were also documented in a separate action, *Fin. Guar. Ins. Co. v. IndyMac Bank, F.S.B.*, No. 08-CV-06010-LAP (S.D.N.Y. July 1, 2008) (the "*Fin. Guar.* Complaint"), where the complaint relied on the following information from former IndyMac employees:

- According to a former IndyMac central banking group vice president, IndyMac concocted "exceptions to its own underwriting guidelines that allowed IndyMac to make and approve mortgage loans that should have been denied under the actual guidelines and that direct fraud by IndyMac loan sales representatives was rampant in the mortgage loan origination process at IndyMac." *Fin. Guar.* Complaint, ¶37(b)(i).

- According to a former IndyMac loan underwriter, IndyMac's loan origination process had evolved into organized chaos where, at management's direction, any concessions or adjustments were made in order to close loans that would not normally be made, including inflating appraisals to make the loan work. *Id.*

- According to a former IndyMac vice president in IndyMac's mortgage banking segment, "in order to keep pace with its competition, IndyMac greatly loosened its underwriting guidelines in order to bring in more loans." *Id.*, ¶37(b)(iii).

- According to a former IndyMac senior auditor in IndyMac's central mortgage operations, "an increasing number of loans were made through apparently fraudulent or misrepresented documentation and there was an increase in defaults because of": (1) "these misrepresentations in the underwriting process"; (2) "the relaxation of the underwriting guidelines"; and (3) "approval of borderline loans." *Id.*, ¶37(b)(iv).

- According to a former IndyMac senior loan processor, "the increase in the number of IndyMac originated delinquent loans was due to misrepresentations and fraud occurring in the mortgage loan origination process." *Id.*, ¶37(b)(vi) [sic].

332. That IndyMac was not following its underwriting guidelines and attempting to determine whether its borrowers could actually afford to repay their loans is further corroborated by the fact that IndyMac made the OCC's "Worst Ten in the Worst Ten" list. If, as defendants represented, IndyMac was actually attempting to determine whether its borrowers could afford to repay their loans, the lender would not have experienced so many loan foreclosures.

5. The Offering Documents Misrepresented GreenPoint's Underwriting Standards

333. As detailed *supra*, GreenPoint's supposed underwriting guidelines were described by defendants in the Offering Documents. *See* §V. For the reasons set forth immediately below, these representations were false and misleading at the time defendants made them. In truth, GreenPoint had completely abandoned its stated underwriting guidelines and was routinely originating loans without any regard for its borrowers' true repayment ability or the actual adequacy of the mortgaged properties to serve as collateral.

334. GreenPoint's underwriting guidelines were not applied to evaluate prospective borrowers' credit standing, repayment ability, or the value and adequacy of the mortgaged properties as collateral. Rather, GreenPoint systematically ignored its stated underwriting guidelines and instead used guidelines which were unsound and failed to truly evaluate the borrowers' repayment ability or the value and adequacy of the loans' collateral. ***As a former GreenPoint VP/Wholesale Branch Operations Manager – who worked for GreenPoint from July 2003 to January 2008 –***

explained, from GreenPoint's perspective repayment ability was irrelevant as long as a loan met the guidelines provided by the investment bank.

335. GreenPoint's Wall Street-based underwriting guidelines were woefully inadequate. As described by a former GreenPoint Account Executive – who worked in the Queens, New York branch from July 2003 through September 2007 – beginning in 2005, GreenPoint's underwriting standards became increasingly lenient, especially towards higher-risk borrowers. This Account Executive characterized GreenPoint's underwriting guidelines as "loose" and becoming progressively "looser" during the 2005-2006 timeframe. This Account Executive attributed GreenPoint's loosening of its underwriting standards to its desire to remain competitive in the lending market, explaining that as other lenders relaxed their loan underwriting standards and began extending loans to people who were unlikely to repay their loans, GreenPoint had to do the same in order to remain competitive. GreenPoint began to significantly relax the requirements that borrowers would have to satisfy to qualify for a given loan program, including relaxing requirements involving documentation of repayment ability, maximum LTV ratios and minimum credit scores.

336. Additionally, GreenPoint did not limit its granting of exceptions to circumstances where actual compensating factors existed. Rather, it was systematically granting exceptions even in the absence of any real compensating factors. Many of the loans were granted by the over 18,000 brokers that were approved to transact with GreenPoint – a large enough number that GreenPoint could not exercise any degree of realistic control or supervision. Typically, new brokers were actively monitored for only the first five to seven loans submitted, usually during only the first ninety days of work. This lack of monitoring was particularly problematic because, as noted by many regulators, brokers were interested mainly in generating upfront fees triggered by making the loans, and did not determine whether borrowers were actually qualified for the loans or whether there were exceptions to the guidelines due to compensating factors.

337. GreenPoint did not verify the income of borrowers as represented and cut corners on loan underwriting. In addition, many of GreenPoint's loans were actually subprime loans in disguise, a practice later copied by others. GreenPoint's practice of disguising subprime loans was confirmed by the former GreenPoint Account Executive mentioned above. This former Account Executive stated that GreenPoint offered loans it represented to be of higher quality even though their qualifying requirements were those of "junk" loans.

338. Additional corroboration of the fact that GreenPoint did not originate loans pursuant to its stated underwriting guidelines and failed to evaluate its borrowers' true repayment ability comes from a lawsuit filed in February 2009 by U.S. Bank against GreenPoint. *See* Complaint, *U.S. Bank, N.A., et al. v. GreenPoint Mortgage Funding, Inc.*, No. 600352/2009 (N.Y. Sup. Ct., N.Y. Cty. Feb. 5, 2009). In that case, the trustee of an RMBS trust sued GreenPoint alleging that the loans in the trust, which were originated by GreenPoint, were not originated pursuant to GreenPoint's underwriting guidelines, as previously represented. A sample of GreenPoint's loans were reviewed in this case and it was found that an astounding ***93% of the loans primarily contained underwriting defects***. *Id.*, ¶2.

339. That GreenPoint was not complying with the underwriting guidelines set forth in the Offering Documents is further confirmed by the fact that GreenPoint was one of the lenders on the OCC's "Worst Ten in the Worst Ten" foreclosure list. If GreenPoint was truly evaluating its borrowers' repayment ability, it would not have had so many foreclosures.

6. The Offering Documents Misrepresented AHM's Underwriting Standards

340. As detailed *supra*, AHM's supposed underwriting guidelines were described by defendants in the Offering Documents. *See* §V, *supra*. For the reasons set forth immediately below, these representations were false and misleading at the time defendants made them. In truth, AHM

had completely abandoned its stated underwriting guidelines and was routinely originating loans without any regard for its borrowers' true repayment ability or the actual adequacy of the mortgaged properties to serve as collateral.

341. The SEC instituted fraud charges against the former top executives of AHM's parent company, American Home Investment Corp. ("American Home Investment"), for their role in misleading investors regarding AHM's systematic disregard of sound underwriting standards and risky lending practices that ultimately led to the lender's bankruptcy on August 6, 2007. "'These senior executives did not just occupy a front row seat to the mortgage meltdown – they were part of the show,'" said Robert Khuzami, Director of the SEC's Division of Enforcement in a press release.[16] ***The SEC charged that AHM was not the "prime" lender it claimed to be, but rather routinely issued high-risk loans to borrowers with poor credit in order to drive growth and capture additional market share***. American Home Investment's former CEO paid $2.5 million to settle the SEC's fraud charges.

342. Numerous statements from former AHM employees confirm that, in order to increase the volume of loan originations, AHM disregarded its stated underwriting guidelines, failing to evaluate its borrowers' true repayment abilities and failing to obtain appraisals that complied with AHM's stated appraisal standards. A former Wholesale Account Executive, who worked at AHM from January 2005 through July 2007, stated that ***at AHM "anybody could buy a house with zero percent down and no proof of ability to pay [the loan] back***." According to this former employee, AHM regularly extended loans that are now classified as predatory. Likewise, a former Operations

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[16] SEC Press Release 2009-92, "SEC Charges Former American Home Mortgage Executives for Misleading Investors About Company's Financial Condition"(Apr. 28, 2009).

Manager in the lending division from 2002 through December 2006 stated that ***the borrower's ability to repay the loan was not a consideration at AHM***.

343. Moreover, another former AHM Vice President from March 2003 through May 2007 confirmed that appraisal fraud was commonplace at AHM. Specifically, this former Vice President recounted how loan officers regularly pressured appraisers to falsely inflate their valuations in order to come up with the "right number." As a result, the appraisals upon which AHM's loans were based, as well as their resultant LTV ratios, falsely misrepresented the true level of risk associated with such loans.

344. Contrary to AHM's stated underwriting policy, AHM was not weighing all risk factors inherent in a loan file. Instead, according to former underwriters who worked at AHM, loans that were initially rejected for failing to comply with the underwriting guidelines were frequently approved by AHM's automated underwriting software.

345. According to former AHM loan underwriters during the relevant time period, AHM used automated underwriting software provided by Wall Street banks like defendants that approved loans that would not have been approved under AHM's stated underwriting guidelines. According to a former Level 5 Underwriter who worked at AHM from 2004 until December 2006, AHM's initial rejections of loans because they did not comply with the stated underwriting guidelines were frequently overridden by defendants' automated underwriting software. Defendants' "guidelines" were based on what they could ultimately resell regardless of quality. This Underwriter pointed to a number of instances where the automated program approved loans that made no financial sense and were not likely to be paid back. As a result, AHM management routinely approved risky loans. This situation caused the underwriter to "lose respect" for AHM, as the underwriter believed that an underwriter's role was to look at the totality of the information in the loan application and ask "Does

it fit?" and "Is it logical?" The Underwriter said that many of the loans approved by the automated underwriting software were loans on which he "would not have lent a dime."

346. In addition, although AHM's underwriting guidelines for stated income applications allowed for loans where there were "other compensating factors," such as higher credit scores or lower LTV ratios, in fact: (i) AHM allowed credit scores to be manipulated by the borrower, who would become an approved user on another person's credit card or other account who had better credit ratings; and (ii) AHM had no reasonable basis to believe that lower LTV ratios were accurate because AHM was aware that the appraisals being used by the company were inflated (thus leading to false, lower LTV ratios). Further, in order to achieve desired loan production, ***AHM was as a matter of course granting exceptions to its underwriting guidelines, even where actual "compensating factors" did not exist***. Because AHM's business was dependent on continually increasing volume, ***AHM granted exceptions as a matter of course, even when no real exception existed***.

347. In an effort to keep loan volume up despite a slowdown in activity, AHM's brokers became so aggressive that borrowers were given loans with different terms than they were originally promised. Borrowers have, in fact, complained that loans were switched on them by AHM, leaving them with mortgages they could not pay. Further evidence of AHM's poor underwriting practices appeared when IndyMac hired over 1,400 of AHM's former employees. According to a former Senior IndyMac Underwriter, some of the AHM employees that IndyMac took in operated a "fraud shop" within IndyMac.

348. AHM also landed on the OCC's "Worst Ten in the Worst Ten" list of lenders with the highest numbers of foreclosures, further confirming that AHM did not originate loans pursuant to underwriting guidelines designed to evaluate repayment ability, as represented in the Offering Documents.

7. The Offering Documents Misrepresented Fremont's Underwriting Standards

349. As detailed *supra*, Fremont's supposed underwriting guidelines were described by defendants in the Offering Documents. *See* §V. For the reasons set forth immediately below, these representations were false and misleading at the time defendants made them. In truth, Fremont had completely abandoned its stated underwriting guidelines and was routinely originating loans without any regard for its borrowers' true repayment ability or the actual adequacy of the mortgaged properties to serve as collateral.

350. The U.S. Senate investigation found that Fremont "became known inside the industry for issuing high risk, poor quality loans yet during the years leading up to the financial crisis [Fremont was] able to securitize and sell [its] home loans with few problems." Levin-Coburn Report at 21. Moreover, "[d]espite [Fremont's] reputation[] for poor quality loans, leading investment banks [such as Deutsche Bank] continued to do business with [Fremont] and helped [it] sell or securitize hundreds of billions of dollars in home mortgages." *Id.*

351. In March 2007, the FDIC issued a "cease and desist" order against Fremont (the "FDIC March 7 Order"), requiring the lender to end its subprime loan business, due to '"unsafe and unsound banking practices and violations of law,'" including operating with '"a large volume of poor quality loans'"; '"unsatisfactory lending practices'"; '"excessive risk'"; and "inadequate capital." Levin-Coburn Report at 238; FDIC March 7 Order at 2-3. The FDIC determined that Fremont lacked effective risk management practices, lacked adequate mortgage underwriting criteria, and was '"approving loans with loan to-value ratios approaching or exceeding 100 percent of the value of the collateral.'" Levin-Coburn Report at 238; FDIC March 7 Order at 4. In addition, the FDIC concluded that Fremont had been engaging in unsatisfactory lending practices by "***marketing and extending [ARM] products to subprime borrowers in an unsafe and unsound***

manner" that "greatly increase[d] the risk that borrowers will default." FDIC March 7 Order at 3. The FDIC further found that Fremont was "***approving borrowers without considering appropriate documentation and/or verification of their income . . . [and] making mortgage loans without adequately considering the borrower's ability to repay the mortgage according to its terms***." *Id.* at 3-4.

352. In addition, on October 4, 2007, the Massachusetts Attorney General brought an enforcement action against Fremont. The action was for "unfair and deceptive business conduct" "on a broad scale" against Fremont. Complaint, *Commonwealth of Mass. v. Fremont Investment & Loan, et al.*, No. SUCV2007-4373 (Mass. Super. Ct., Suffolk Cty. Oct. 4, 2007) (the "*Fremont* Complaint"). According to the *Fremont* Complaint, ***Fremont (a) "approve[ed] borrowers without considering or verifying the relevant documentation related to the borrower's credit qualifications, including the borrower's income"; (b) "approv[ed] borrowers for loans with inadequate debt-to-income analyses that do not properly consider the borrowers' ability to meet their overall level of indebtedness and common housing expenses"; (c) "failed to meaningfully account for [ARM] payment adjustments in approving and selling loans"; (d) "approved borrowers for these ARM loans based only on the initial fixed 'teaser' rate, without regard for borrowers' ability to pay after the initial two year period"; (e) "consistently failed to monitor or supervise brokers' practices or to independently verify the information provided to Fremont by brokers"; and (f) "ma[de] loans based on information that Fremont knew or should have known was inaccurate or false, including, but not limited to, borrowers' income, property appraisals, and credit scores***." *Fremont* Complaint, ¶¶24, 25, 35, 139.

353. On December 9, 2008, a Massachusetts appeals court affirmed the lower court's order enjoining Fremont from foreclosing on thousands of its loans issued to Massachusetts residents. The court found that the ***factual record*** supported the lower court's conclusions that "***Fremont made no***

effort to determine whether borrowers could 'make the scheduled payments under the terms of the loan,'" and that "***Fremont knew or should have known that [its lending practices and loan terms] would operate in concert essentially to guarantee that the borrower would be unable to pay and default would follow***." *Commonwealth v. Fremont Inv. & Loan*, 897 N.E.2d 548, 556, 558 (Mass. 2008). The terms of the preliminary injunction were made permanent by a settlement reached on June 9, 2009.

354. In addition, the FCIC found that Fremont had a company policy whereby any loan that was rejected by a securitizer because it did not comply with Fremont's underwriting guidelines was nonetheless put into a subsequent pool of Fremont loans and offered for sale to another securitizer. These defective loans remained in the pools offered for sale until they were either sold or were rejected by securitizers at least three times. D. Keith Johnson, the former president of Clayton, the firm that sampled such loan pools for defendants, called this practice the "'three strikes, you're out rule.'" FCIC Report at 168.

355. In another instance, the FCIC reported on the case of a real estate appraiser in Bakersfield, California who had discovered multiple instances of lending fraud. When he contacted a quality assurance officer at Fremont to inform them of the fraudulent activity he was told: "'Don't put your nose where it doesn't belong.'" *Id.* at 14-15.

356. The findings of the Levin-Coburn Report, the FDIC, the FCIC, and the Commonwealth of Massachusetts are confirmed by statements from former Fremont employees in several complaints alleging that Fremont disregarded its established underwriting guidelines in order to increase the volume of its loan originations. For example, in *Teachers Insurance & Annuity Ass'n v. Deutsche Bank AG, et al.*, No. 11-cv-6141 (S.D.N.Y. Aug. 1, 2011) (the "*TIAA* Complaint"), the plaintiffs cited statements from a senior underwriter for Fremont from September 2002 to August 2007. This former underwriter reported that Fremont engaged in unsatisfactory lending practices,

and that its primary concern was increasing the volume of mortgage loans that it issued and sold to Wall Street, ***regardless of the borrowers' ability to repay***. The senior underwriter further revealed that exceptions to Fremont's stated underwriting guidelines were a "'standing joke'" and "'the exception was the rule.'" *TIAA* Complaint, ¶98 n.8. Another former underwriter at Fremont's Anaheim, California office from May 2005 until March 2007 stated that exceptions to the underwriting guidelines "'were done on a daily basis'" and estimated that 30% of Fremont's loans contained some sort of exception. *Id.* The *TIAA* Complaint also cites another Fremont employee who stated that outright fraud occurred at Fremont from at least 2002-2007, including instances where Fremont brokers would cut and paste bank statements and forge letters of reference for prospective borrowers. According to this witness, ***the fraud was so blatant that "'you ha[d] to be brain dead if you didn't see it***,'" and that ***Fremont was "'just giv[ing] anyone a loan who wants one***.'" *Id.*, ¶¶5, 99. In addition, in another case, *Dexia SA/NV, et al. v. Deutsche Bank AG, et al.*, No. 11-05672 (S.D.N.Y.), these same former Fremont employees are cited to support other claims that Fremont did not comply with its stated underwriting guidelines.

357. Fremont also made the OCC's "Worst Ten in the Worst Ten" list of originators with the most foreclosures. Fremont had the fifth-highest number of foreclosures on loans originated between 2005 and 2007. This corroborates that Fremont had abandoned its purported underwriting guidelines, which were supposedly designed to evaluate the borrowers' repayment ability.

358. Indeed, the U.S. Senate confirmed as much in its report: "[L]enders [such as Fremont] issued billions of dollars in high risk, poor quality home loans." Levin-Coburn Report at 239.

8. The Offering Documents Misrepresented First NLC's Underwriting Standards

359. As detailed *supra*, First NLC's supposed underwriting guidelines were described by defendants in the Offering Documents. *See* §V. For the reasons set forth immediately below, these

representations were false and misleading at the time defendants made them. In truth, First NLC had completely abandoned its stated underwriting guidelines and was routinely originating loans without any regard for its borrowers' true repayment ability or the actual adequacy of the mortgaged properties to serve as collateral.

360. The fact that First NLC did ***not*** comply with its stated underwriting guidelines was confirmed by a former Quality Control Supervisor with First NLC from November 2004 through April 2007, who worked in First NLC's Florida headquarters and ran the company's quality control department, which was responsible for auditing samples of loans that had already been closed and funded by First NLC throughout the United States. In this role, this former First NLC employee saw many "underwriting errors" in the originated loans, including routinely finding "a lot of fraud in the loan files." Specifically, the fraud included numerous instances of appraisers who had been "paid off to bring in the value" of a property higher than it actually merited, problems verifying a borrower's employment, numerous stated income claims that were clearly unverified and insupportable by the background information available about the borrower, and discrepancies related to borrowers' credit and assets. This former employee routinely found falsified IRS Forms W-2, pay stubs and bank statements. Despite these numerous instances of fraud, the witness stated that First NLC operations managers would grant exceptions to these loan applications. ***This former employee stated that by the time she found problems with the loans, it was too late, and nothing was done to prevent the loans being sold to investors***. First NLC's Loan Processors handling the pre-funding audit were under intense pressure from the company's Sales Managers at the wholesale branches to get the loans funded.

361. First NLC's improper and fraudulent lending practices were also documented in a complaint filed in the action titled *Allstate Ins. Co., et al. v. Morgan Stanley, et al.*, No. 651840/2011

(N.Y. Sup. Ct., N.Y. Cty. July 5, 2011) (the "*Allstate* Complaint"). The complaint in that case quotes former First NLC employees as stating:

- According to a former underwriter for First NLC in Deerfield Beach, Florida, from April 2004 until November 2006, "'every loan had a problem with it. Every loan seemed to have an exception on it.'" Between half and three-quarters of the mortgage loans that were initially denied by the former underwriter and other First NLC underwriters were subsequently overruled and approved by First NLC management because the loans could be sold to purchasers such as defendants. This former underwriter also stated that if a prospective borrower's tax return appeared to be fraudulent and the underwriter sought to request further documentation to verify the submitted information, First NLC account representatives would "'scream bloody murder.'" A loan application with this type of questionable documentation would still be approved by First NLC's underwriting manager or Vice President of Operations/Underwriting, who decided no further due diligence was necessary. In regards to verifying the borrower's ability to repay the mortgage loan, this underwriter stated they were told by First NLC management that "'[w]e don't need this, so just don't dig,'" and that verifying borrowers' income was discouraged, as it was considered "'digging for problems.'"

- According to another former senior underwriter for First NLC in Deerfield Beach, Florida, from August 2004 until September 2005, First NLC made numerous unwarranted exceptions to its stated underwriting guidelines, including appraisal exceptions and income exceptions. Instead of denying the loan in accordance with First NLC's stated underwriting guidelines, according to the former senior underwriter, employees at First NLC would institute "'premium pricing'" and charge the prospective borrower a higher price to compensate for "'overlook[ing] things.'" This senior underwriter believed that 80% of First NLC's stated income loans contained inflated borrower incomes.

- According to another First NLC senior underwriter in Anaheim, California, from September 2005 to December 2007, and whose unit was overseen by Charles Bryson, the former Chief Financial Officer of First NLC, the underwriter once alerted Bryson that a stated loan file lacked a signed income statement. Bryson directed the underwriter to "make one up."

Allstate Complaint, ¶¶108-111.

9. The Offering Documents Misrepresented Impac's Underwriting Guidelines

362. As detailed *supra*, Impac Mortgage Holdings, Inc.'s or its subsidiary, Impac Funding Corporation's (collectively, "Impac") supposed underwriting guidelines were described by defendants in the Offering Documents. *See* §V. For the reasons set forth immediately below, these

representations were false and misleading at the time defendants made them. In truth, Impac had completely abandoned its stated underwriting guidelines and was routinely originating loans without any regard for its borrowers' true repayment ability or the actual adequacy of the mortgaged properties to serve as collateral.

363. Former Impac employees have confirmed that Impac violated and ignored its stated underwriting guidelines. For example, according to a former Impac Team Leader and Senior Account Executive, who worked for the company from 2000 through 2005, in late 2004 or early 2005 Impac brought in new management at his lending division. The new management was from infamous lender Countrywide (discussed *supra*), and Impac's standards immediately went from originating only high quality loans to originating as many loans as possible without regard to quality. According to this former employee, Impac's new management's attitude was "make exceptions" to the underwriting guidelines (even where no compensating factors existed) and do "whatever it takes to get deals done."

364. According to this former Impac employee, Impac began producing high volumes of risky loans and considered it irrelevant whether the loans complied with Impac's underwriting guidelines. As a result, many loans were made which did not comply with the guidelines. In fact, "many exceptions needed to be made" to the underwriting guidelines in order to approve the loans. So many defective loans were approved that they flooded Impac's processing pipeline causing delays, according to this former employee.

365. This former Impac employee resigned in 2005 because he simply "couldn't stay in an outfit" in which the culture had become "too pushy, not nice, and all they cared about was making money" by selling defective loans. The former Impac employee could no longer deal with the shady lending practices, stating: "I d[id not] want to be any part of it."

366. The foregoing demonstrates that Impac abandoned its stated underwriting guidelines during the relevant time period (2004-2007). However, further corroboration follows.

367. In October 2008, shareholders of Impac Mortgage Holdings, Inc. filed a Third Amended Consolidated Class Action Complaint against Impac Mortgage Holdings, Inc. and its officers and directors, alleging that Impac Mortgage Holdings, Inc. and its executives committed securities fraud by lying about the company's financial results and operations. *See* Third Amended Class Action Complaint, *Pittleman v. Impac Mortgage Holdings, Inc., et al.*, No. SACV07-970 AG (MLGx) (C.D. Cal. Oct. 27, 2008). In the complaint, the shareholders cited to five former Impac employees that recounted events at the company during the relevant time period (2004-2007). The former employees confirmed that Impac routinely originated and sold loans which did not comply with its stated underwriting guidelines during the relevant time period. Those former employees reported the following:

- ***According to a former Impac underwriting manager for bulk loan purchases from October 2003 until July 2006, Impac originated many of its loans by buying them in bulk from other lenders. The former Impac employee provided due diligence on the bulk loan purchases and he reported that even when the bulk loans did not comply with Impac's underwriting guidelines, Impac regularly purchased them anyway and then sold them to "investors," i.e., Wall Street banks like defendants. He recalled that the majority of loans he recommended rejecting because they did not comply with Impac's underwriting guidelines were regularly approved for purchase and resale to investors. According to this former employee, Impac regularly purchased loans from dubious lenders like Countrywide and AHM, which subsequently led to tens of millions of dollars in repurchase demands to Impac by the purchasers of the defective loans. He recalled one instance where he recommended rejecting a pool of loans from a seller who was known to originate fraudulent loans, but that he was overruled by the President of Impac, William Ashmore, and the loans were purchased by Impac nonetheless. The former employee stated that Ashmore and other top Impac executives were well aware that Impac was buying and selling bad or fraudulent loans***. *Id.*, ¶¶46-55.

- ***A former employee that worked at Impac from January 2005 through October 2007 reported that Impac routinely approved loans where borrowers had insufficient incomes or unacceptable credit scores. This former employee reported that Impac repeatedly inflated the incomes of borrowers to make them appear to qualify for loans***. *Id.*, ¶¶56-57.

- ***A former Impac Quality Control employee from May 2004 through October 2007 reported that the overstating of borrowers' incomes "made everyone happy" at Impac, and that management encouraged the making of loans to borrowers that "should not have been eligible" for the loans.*** *Id.*, ¶¶59-60.

- ***A former underwriter at Impac from June 1997 through July 2007 stated that Impac "did not abide by its stated underwriting guidelines." This former employee stated that all underwriting guidelines except one – credit score – were routinely ignored and overridden by Impac management. He stated that he "'saw it all the time where we'd deny it [a loan] and they [management] say, yeah, we could do this.'"*** *Id.*, ¶65.

368. By the end of 2007, Impac's systematic abandonment of its underwriting guidelines had resulted in it facing over $155 million in repurchase demands from hundreds of buyers of its loans, because Impac's loans were not originated pursuant to its stated underwriting guidelines.

10. The Offering Documents Misrepresented PHH's Underwriting Standards

369. As detailed *supra*, PHH's supposed underwriting guidelines were described by defendants in the Offering Documents. *See* §V. For the reasons set forth immediately below, these representations were false and misleading at the time defendants made them. In truth, PHH had completely abandoned its stated underwriting guidelines and was routinely originating loans without any regard for its borrowers' true repayment ability or the actual adequacy of the mortgaged properties to serve as collateral.

370. PHH systematically disregarded its underwriting standards, granted exceptions in the absence of compensating factors, required less documentation, and granted no or limited-documentation loans to individuals without good credit histories. In addition, PHH consistently inflated appraisals on mortgaged properties and informed new appraisers that if they appraised under certain levels they would not be hired by PHH again. ***In its SEC Form 10-Q filed August 8, 2008, PHH admitted to making "loans with origination flaws,"*** and that the demand for its mortgages in the secondary market had therefore declined.

371. The fact that PHH did not follow its own underwriting standards when originating the loans was confirmed by a former PHH Manager and Vice President of Trading and Structured Finance, who worked out of PHH's headquarters in New Jersey, and who worked for PHH for over 15 years. This former PHH employee had direct knowledge of PHH's underwriting practices, was directly involved in PHH's structured finance and mortgage securitizations from 1996-2007, and witnessed PHH's origination, closing and funding of high-risk mortgages used to collateralize RMBS. This former PHH employee stated that for at least one RMBS offering in which PHH was the loan originator, the mortgage loan collateral underlying the offering was "very weak," as the loans were made to borrowers who qualified by having only a "***heartbeat and a pen***," and that "this was all the qualification [PHH required] to get a mortgage." ***PHH did this because it was not interested in whether the borrower could repay the loans***. Rather, PHH's objective was simply to maximize the value of the loans it could sell. This former employee also stated that virtually all of the loans underlying the particular offering were "liar loans" for which PHH did not require any documentation of the borrowers' income or assets. This former PHH employee stated that the collateral for the offering was "not right" and that "the fall would come," and he expressed his opinion to the members of PHH management ultimately responsible for overseeing the assembly of the loan pools for the offerings. The warnings, however, were ignored.

372. PHH's improper and fraudulent lending practices were also documented in the complaint filed in the action titled *Federal Home Loan Bank of Boston v. Ally Fin. Inc.*, No. 11-cv-10952-GAO (D. Mass.) (removed from Massachusetts Superior Court, original case number 11-1533, filed April 20, 2011) (the "*FHLB* Complaint"). The *FHLB* Complaint cites statements from a former loan counselor and junior underwriter at PHH from 1997 until October 2007 who revealed that: (1) PHH employees faced intense pressure to close loans at any cost; (2) PHH increasingly approved risky, low or no-documentation loans without adequate review; and (3) PHH employees

manipulated data in order to close loans. *FHLB* Complaint, Appendix IX, ¶116, at 37 (Dkt. No. 1-10, at 39). The *FHLB* Complaint cited this former PHH employee as stating:

- "[She] worked directly with borrowers and financial advisors to process loans. When she became an underwriter in May 2005, she transitioned to evaluating high-risk mortgage loan applications to determine whether the loans met PHH Mortgage's guidelines. Loan officers at PHH Mortgage received commissions based on the number of loans closed. As a result, employees were pressured to value quantity over quality." *Id.*, ¶117, at 37.

- "[S]he underwrote loans that clearly contained inflated income values. She knew that the values were inflated because the stated incomes seemed unreasonable; for example, a hairstylist would be making a lot more money per month than was typical for someone in that industry." *Id.*, ¶118, at 37.

- "[She] said that she looked at the loans and thought, 'There's no way.' Nevertheless, [the witness] approved the loans because the income was 'stated and we had to take [the borrower's] word for it.'" *Id.*

- "PHH Mortgage had a policy which prohibited underwriters from investigating the veracity of stated income. Consequently, underwriters at PHH Mortgage did not use any tools like Salary.com to verify the borrowers' income. Between 2005 and 2007, [the former employee] explained that it was common practice across the mortgage industry to accept stated income without further investigation. 'They called them liar loans for a reason,' said [the former employee], 'It was the nature of the beast back then.'" *Id.*, ¶119, at 38.

- "[The former employee] also reviewed loan documents that she knew had been altered by the borrower or a loan officer at PHH Mortgage because 'the data did not match up.' As an example, [the former employee] recalled situations in which the borrower's bank statements did not agree with other documents in the loan file." *Id.*, ¶120, at 38.

373. The fact that PHH did not follow its own underwriting guidelines is confirmed by statements from former PHH employees in another lawsuit, *Allstate Bank v. JPMorgan Chase Bank, NA*, No. 650398/2011 (N.Y. Sup. Ct., N.Y. Cty.) (the "*Allstate Bank* Complaint"). The *Allstate Bank* Complaint alleges that ***PHH employees revealed that they "faced intense pressure to close loans at any cost***, primarily because their commissions were based on the number of loans they closed." *Allstate Bank* Complaint, ¶331. The *Allstate Bank* Complaint further alleges that "***PHH employees manipulated data in order to close loans, and knowingly included false information***

and inflated values in loan applications." The PHH employees further stated that "PHH had a policy that prohibited underwriters from investigating the veracity of the income stated on loan applications[ ]; and PHH increasingly approved risky, low- or no-documentation loans without adequate review." *Id.* The *Allstate Bank* Complaint also alleges that:

> PHH's defective underwriting practices have been confirmed by extensive empirical studies of mortgage loans made and sold into securitizations during this period. For example, economists at the University of Michigan and elsewhere have found that the number of loans relating to PHH or its affiliates that suffered from a particular performance problem – 60 or more days delinquent as of six months after origination – skyrocketed beginning in mid-2006, *i.e.*, around the exact time many of the mortgage loans at issue here were being originated and securitized.

Id., ¶332.

374. PHH did not follow its own underwriting guidelines and instead of making only occasional and justified exceptions to the guidelines, variance from the stated standards was the normal practice. Quantity of loans was emphasized over quality, and most loans were made with little-to-no underwriting or effort to evaluate the borrower's ability to repay.

11. The Offering Documents Misrepresented ResMae's Underwriting Standards

375. As detailed *supra*, defendants' Offering Documents purported to describe the underwriting guidelines that were supposedly used by ResMae in originating loans underlying plaintiffs' certificates. *See* §V. For the reasons set forth immediately below, these representations were false and misleading at the time defendants made them. In truth, ResMae had completely abandoned its stated underwriting guidelines and was routinely originating loans without any regard for its borrowers' true repayment ability or the actual adequacy of the mortgaged properties to serve as collateral.

376. ResMae was a wholesale subprime lender that originated loans through outside independent mortgage brokers. Those brokers brought loan applications to ResMae, and ResMae

underwrote and funded the loans. Thereafter, ResMae would sell the loans to Wall Street banks like defendants. ***ResMae's ignoring of borrowers' creditworthiness and repayment ability was a function of ResMae following the underwriting guidelines supplied to it by defendants. ResMae followed guidelines provided by a number of Wall Street banks. Accordingly, defendants also knew that creditworthiness and repayment ability were not considered since they had supplied ResMae with the underwriting guidelines that ResMae used***.

377. According to former ResMae employees, during the period from 2004 through early 2007, the same time period within which plaintiff's purchase of RMBS containing ResMae loans occurred, ResMae was ignoring its stated underwriting guidelines. ResMae was not evaluating its borrowers' repayment ability as represented in the Offering Documents. Instead, it was focused only on originating loans defendants were willing to purchase, and defendants' lax purchasing requirements did not require a focus on repayment ability. As a result, ResMae originated extremely risky loans.

378. According to a former ResMae Director of Secondary Marketing/Capital Markets, who worked at the company from early 2006 until early 2008 when the company was finally shut down, ResMae "underwrote [loans pursuant] to the investment bank guidelines" and "the specifications they gave" ResMae. Therefore, rather than following the underwriting guidelines stated in the Offering Documents, ResMae "created pools [of loans] that would satisfy the contractual requirements of the investment banks" that bought its loans. As a result, according to this former employee, ***ResMae originated very risky loans with multiple "layer[s] of risk***." This meant that ResMae's loans – which were based on Wall Street's reckless underwriting guidelines rather than those stated in the Offering Documents – had multiple risky features built into each loan. ResMae's loans contained multiple risky features, such as extremely low minimum FICO score

requirements, much less required documentation, and much higher acceptable LTV and DTI ratios, according to this former employee.

379. Contrary to ResMae's stated underwriting guidelines, ResMae did not evaluate the repayment ability of its borrowers. According to the former Director of Secondary Marketing/Capital Markets, ***at ResMae the "creditworthiness of the borrower was not the primary goal***." Rather, the emphasis at ResMae was on whether ResMae could sell the loans to defendants at a profit. Accordingly, ***ResMae did not focus on whether borrowers could repay their loans, according to this former employee; instead the focus was on how much ResMae could profit by selling the loans to defendants. And, as the former Director of Secondary Marketing/Capital Markets acknowledged, defendants were similarly not focused on repayment ability of borrowers in deciding to purchase ResMae's loans, and instead were only concerned about their ability to resell the loans to investors like plaintiff, at a profit***.

380. The former ResMae Director of Secondary Marketing/Capital Markets recalled a conversation he had with ResMae's CEO, Ed Resendez, wherein the former employee asked Resendez why ResMae was originating such risky loans. Resendez responded with words to the effect of: "***Don't ask any questions. If the investment bank wants to buy the loans, then it is okay. Don't ask questions, if they want to buy them, let them***."

381. A former ResMae Quality Control & Audit Manager, who worked at the company from 2003 until November or December 2007, confirmed that ResMae made numerous loans that that did not comply with both its stated-income loan underwriting guidelines and other loan underwriting guidelines and the even more lax guidelines supplied by defendants. This former employee performed audits of ResMae loans that had already been funded, and in some cases sold to Wall Street banks, such as Deutsche Bank, to determine whether the loans had been properly originated. This former employee stated that the post-funding audits revealed that ***ResMae had***

made many loans that "should not have been funded." She recalled finding a variety of violations of the underwriting guidelines. She found some funded loans that did not comply with ResMae's policies and procedures, loan files that had missing documentation, files containing applications with inaccurate or potentially fraudulent information, loan files with altered documents in them, loans that had deficiencies and discrepancies concerning appraisal amounts and procedures, loans that had questionable borrower income amounts and proof of such amounts, loans with credit disclosure discrepancies, and loans that were made via questionable "exceptions" to the guidelines.

382. This former ResMae Quality Control & Audit Manager reported that because of all the foregoing violations found in ResMae's loans that were already funded, in early 2007, before plaintiff bought its certificate with underlying ResMae loans, ResMae began performing ***pre***-funding audits of its loan files, in an attempt to alleviate the funding of loans that did not meet its underwriting guidelines.

383. A former ResMae Senior Quality Control Auditor, who worked for the company from 2005 until February 2008, confirmed that there were numerous loans made by ResMae before early 2007 that did not comply with the underwriting guidelines. The former ResMae Senior Quality Control Auditor reported that many of the loans ResMae originated were stated income loans and such loans were very problematic. This former employee conducted "an ad hoc review of the stated-income loans" at ResMae and discovered they had a much higher rate of early payment defaults, or EPDs, compared to other loans. EPDs are an indicator that the loans were not originated pursuant to the underwriting guidelines. Because of this, Bonnie Kerivan, the head of Post-Funding Audits at ResMae, complained to ResMae CEO Resendez about ResMae's laxness in adhering to the underwriting guidelines for stated income loans.

384. ***The former ResMae Senior Quality Control Auditor reported that ResMae's laxness in adhering to the underwriting guidelines, and ResMae's senior management's constant***

overruling of underwriters' decisions to reject loans, resulted in ResMae originating "bad loans [that] were obvious, predictable, and foreseeable." The former employee stated that senior management "made decisions that overturned the underwriting decisions made by underwriters within their guidelines to not fund certain loans," and thereby "took it [ResMae] beyond the limit."

385. During the relevant time period, appraisal inflation was rampant. As alleged more fully elsewhere, appraisers were either being bribed or strong-armed into providing inflated property appraisals. Because appraisals were determined in large part based on "comps," or comparable properties that were recently sold, and because many of the "comps" were based on "appraisals that were inflated by the frenzy of the boiling up of values," during the 2005-2006 time period, appraisals rose at "an alarming rate," and were in fact "incredible," in that there was no reasonable explanation for such steep escalations in value, according to a former Chief Appraiser at ResMae from 2003 until September 2007. According to this former employee, "the comps were the problem, because the comps established the value." Because there were unjustifiably inflated comps being used as a basis for subsequent unjustifiably inflated appraisals, "[i]t was a dog chasing its tail," according to the former employee, describing the vicious cycle of ever escalating appraisals.

386. The former Chief Appraiser reported that ResMae was subjected to great pressure by both mortgage brokers and the Wall Street banks to approve appraisals so that the loans could be funded. According to this former employee, if ResMae withheld approval, the mortgage brokers would take their loan applications to other lenders, and the Wall Street banks, such as Deutsche Bank, would go to other sources to purchase loans. In fact, according to this former employee, the defendants "were ok with increasing appraisal values, based on comps, because that would reduce the [calculated] LTV and permit more loans to be approved." As a result, ***according to this former Chief Appraiser, inflated appraisals "slipped through the cracks" and "got through" at ResMae***.

387. Moreover, this former employee stated that ResMae's lending policies continued to become more and more lax over time, because "if our guidelines [we]re too tight, we los[t] business." This resulted in very risky loans, where little consideration was given to whether the property value would cover the loan amount, due to the inflated appraisals, and further, little consideration was given to whether borrowers could afford to repay the loans, according to this former employee. This former employee singled out stated income loans as particularly egregious, stating that such loans were "crazy [and] did not make sense, because it was so difficult for underwriters to verify the stated income."

388. ResMae made the OCC's list of lenders with the most foreclosures on loans originated between 2005-2007. ResMae was ranked tenth by the OCC. Obviously, if ResMae had not been ignoring its underwriting guidelines and instead had attempted to determine whether its borrowers could afford to repay their loans, ResMae would not have had so many foreclosures.

12. Clayton Holdings Confirmed that the Offering Documents Were False and Misleading

389. As previously alleged, from at least January 1, 2006 through June 30, 2007, defendants hired Clayton to test samples of the loans defendants were placing into their offerings to determine whether the loans met the stated underwriting guidelines or had compensating factors meriting approval, were supported by valid appraisals/valuations, and had other valid characteristics. Clayton tested small samples of loans and provided written reports (daily reports in most cases) to defendants with the testing results. This was first made public in late September 2010, when the FCIC released testimony and documents from Clayton.

390. In September 2010, Clayton provided to the FCIC trending reports it created, which summarized its work for various Wall Street banks, including defendants herein. These reports established that, during the period from January 1, 2006 through June 30, 2007, when most of the

loans at issue herein were being originated, and when most of the certificates were being sold to plaintiff, ***34.9% of the mortgage loans Clayton tested for the Deutsche Bank Defendants did not comply with the stated underwriting guidelines and did not have compensating factors that would merit approval. The trending reports also revealed that defendants "waived" back in 50.1% of the defective loans; that is, defendants included 50.1% of those defective loans into the RMBS offerings defendants sold to the plaintiff***! *See* Clayton Trending Reports, *available at* http://fcic.law.stanford.edu/hearings/testimony/the-impact-of-the-financial-crisis-sacramento#documents (last visited June 24, 2013).

391. The forgoing information from Clayton undisputedly establishes that defendants' representations in the Offering Documents – namely that the certificates' underlying loans complied with the stated underwriting guidelines – were false and misleading at the time defendants made them.

392. Not only did defendants knowingly include in the offerings loans that had been affirmatively identified as defective, they also did no further testing on the vast majority of unsampled loans, even in the face of Clayton's reports indicating – at a 95% confidence level – that the unsampled loans possessed the same defect rate. In fact, defendants, fully aware of the situation, turned a blind eye to the information, did no further testing, and then ***included these defective loans into the offerings***, thereby rendering the Offering Documents materially false and misleading. As the FCIC later pointed out, "***one could reasonably expect [the untested loans] to have many of the same deficiencies, and at the same rate, as the sampled loans,***" and that defendants' failure to do any further testing or disclose Clayton's findings "***rais[ed] the question of whether" the Offering Documents "were materially misleading, in violation of the securities laws***." FCIC Report at 170.

393. Moreover, recently discovered evidence establishes that the above Clayton defect rates and numbers of defective loans that were "waived" into defendants' offerings were actually

understated. In a lawsuit entitled *Ambac Assurance Corp. v. EMC Mortgage LLC, et al*., No. 650421/2011 (N.Y. Sup. Ct., N.Y. Cty.), excerpts of a deposition transcript of a former Clayton employee were recently filed. The former Clayton employee (whose identity was redacted) testified that ***all*** of Clayton's Wall Street clients (including Deutsche Bank, a client of Clayton's) ***instructed Clayton to ignore defective loans, to code defective loans as non-defective, and to change loans that had been graded as defective to non-defective***. The essence of the former Clayton employee's testimony was that defendants instructed Clayton to fraudulently change defective, non-complying loans into compliant loans. The effect of such efforts was that Clayton's reports ***understated*** the number of loans that were defective and which were included in defendants' offerings.

13. Actual Loan and Borrower Information Confirms that the Offering Documents Were False and Misleading

394. Plaintiff has obtained information concerning loans within the offerings at issue herein and the attendant borrowers from public bankruptcy filings and other sources. This information confirms that there was a systemic abandonment of the stated loan underwriting guidelines in this case by the loan originators at issue in this action. The following examples conclusively demonstrate that the loan originators used by the Deutsche Bank Defendants did not originate loans in conformance with the underwriting guidelines set forth in the Offering Documents, and did not evaluate either the creditworthiness of the borrowers or their ability to repay the loans. Because of the large number of offerings at issue in this action, plaintiff has not provided examples from every offering. However, the examples provided are not aberrations or outliers. Rather, they are an accurate representative sample of the underwriting defects that permeated all of the loans and offerings at issue herein and loan originators in general during the relevant time period. Indeed, as previously alleged, former Clayton executive D. Keith Johnson confirmed in his testimony to the FCIC that the breakdown in lending standards was "systemic."

395. The systemic breakdown in loan underwriting guidelines with respect to the loans at issue in this action is further confirmed by, among many other things, the huge numbers of loans at issue herein that have subsequently defaulted. Indeed, as alleged more fully at §V, *supra*, nearly all of the loan groups supporting plaintiff's certificates have double-digit default rates, ***with the vast majority of the loan groups having stunning defaults rates between 29%-43%, and with many having default rates in excess of 43%.*** The fact that so many loans have defaulted is strong evidence that the lenders at issue herein did not follow their loan origination guidelines and did not determine, or care, whether borrowers could afford to repay their loans.

396. The following information concerns loans and borrowers from the Deutsche Bank Offerings at issue herein:

a. ACE 2006-HE4 Offering

397. A borrower obtained a loan for $420,000 in 2006 that was included in the ACE 2006-HE4 offering. This borrower had a loss of $110,000 and ***no*** income for 2006, according to the borrower's sworn bankruptcy filings. Moreover, this borrower had monthly debt payments of at least $4,104, far in excess of the borrower's monthly income. Thus, this borrower had an incalculable DTI ratio, given that the borrower had no income at the time of the loan. The borrower's monthly debt payments were in addition to the borrower's monthly expenses for things such as taxes, utilities, groceries, health care, transportation, and the like. Clearly, this borrower did not have the ability to repay the loan. This is confirmed by the fact that the borrower declared bankruptcy shortly after obtaining the loan at issue, in 2007.

b. DBALT 2006-AF1 Offering

398. A borrower obtained a loan for $540,000 in 2005 that was contained in the DBALT 2006-AF1 offering. This borrower had income in 2005 of only $955 per month, according to the borrower's sworn bankruptcy filings. However, this borrower had monthly debt payments at the

time the loan was completed that exceeded the borrower's monthly income by over 300%, that is the borrower had a DTI ratio in excess of 300%. The borrower's DTI ratio was far in excess of the 50% DTI ratio which Deutsche Bank had stated "le[ft] little for the borrower to pay other expenses." *Shorting Home Equity Mezzanine Tranches*, at 23 (Deutsche Bank RMBS shorting presentation). The borrower's monthly debt payments were in addition to the borrower's monthly expenses for things such as taxes, utilities, groceries, health care, transportation, and the like. Clearly, this borrower did not have the ability to repay the loan. This is confirmed by the fact that the borrower declared bankruptcy after obtaining the loan at issue, in 2007.

c. DBALT 2006-AR3 Offering

399. A borrower obtained a $548,000 loan in 2006 that was contained within the DBALT 2006-AR3 offering. The loan was originated by MortgageIT, an originator with which Deutsche Bank had a close relationship and which Deutsche Bank ultimately acquired. ***This borrower had no income in 2006 and monthly debt payments equal to at least $4,234 at the time the loan was made***, according to the borrower's sworn bankruptcy filings. Thus, this borrower had an incalculably high DTI ratio, given that the borrower had no income. The borrower's monthly debt payments were in addition to the borrower's monthly expenses for things such as taxes, utilities, groceries, health care, transportation, and the like. Clearly, this borrower did not have the ability to repay the loan. This is confirmed by the fact that the borrower declared bankruptcy shortly after obtaining the loan at issue, in 2007.

d. DBALT 2006-AR6 Offering

400. A borrower obtained a $517,500 loan in 2006 that was contained within the DBALT 2006-AR6 offering. ***This borrower had no income in 2006 and at least $1,454,900 in debts at the time of the loan***, according to the borrower's sworn bankruptcy filings. Thus, the borrower's monthly debts were far in excess of the borrower's monthly income, thereby creating an incalculably

high DTI ratio. The borrower's monthly debt payments were in addition to the borrower's monthly expenses for things such as taxes, utilities, groceries, health care, transportation, and the like. Clearly, this borrower did not have the ability to repay the loan. This is confirmed by the fact that the borrower declared bankruptcy shortly after obtaining the loan at issue, in 2007.

e. DBALT 2007-AR1 Offering

401. A husband and wife obtained a $326,400 loan in 2006 that was contained within the DBALT 2007-AR1 offering. The loan was originated by IndyMac, one of the loan originators identified in the Offering Documents and whose underwriting guidelines were described therein. ***These borrowers had joint income in 2006 of only $94.15 per month, according to their sworn bankruptcy filings. Nonetheless, they were loaned $326,400, which resulted in monthly debts far in excess of their monthly income, and far in excess of the 50% DTI ratio which Deutsche Bank had stated "le[ft] little for the borrower[s] to pay other expenses."*** *Shorting Home Equity Mezzanine Tranches*, at 23 (Deutsche Bank RMBS shorting presentation). The borrowers' monthly debt payments were in addition to the borrowers' monthly expenses for things such as taxes, utilities, groceries, health care, transportation, and the like. Clearly, these borrowers did not have the ability to repay the loan. This is confirmed by the fact that the borrowers declared bankruptcy shortly after obtaining the loan at issue, in 2007.

f. DBALT 2007-AR2 Offering

402. A borrower obtained a loan for $720,000 in 2006 which was contained within the DBALT 2007-AR2 offering. The loan was originated through MortgageIT, one of the loan originators identified in the Offering Documents. At the time this loan was originated, the Deutsche Bank Defendants had acquired MortgageIT and were in control of MortgageIT and its lending practices. This borrower had income in 2006 of $2,966 per month, according to the borrower's sworn bankruptcy filings. ***However, the borrower's monthly debt payments were at least $18,045,***

far in excess of the borrower's monthly income. The borrower's monthly debt payments were in addition to the borrower's monthly expenses for things such as taxes, utilities, groceries, health care, transportation, and the like. Clearly, this borrower could not afford to repay the loan. This is confirmed by the fact that the borrower declared bankruptcy shortly after obtaining the loan at issue, in 2007.

B. Defendants Made Material Misrepresentations Regarding the Underlying Loans' LTV Ratios

403. As set forth *supra*, defendants' Offering Documents affirmatively misrepresented the LTV ratios associated with the certificates' underlying loans. *See* §V. For the reasons set forth immediately below, these misrepresentations were material to plaintiff's investments in the certificates.

404. An LTV ratio is calculated by dividing the loan amount into the value of the mortgaged property. LTV ratios are extremely important to both investors and the Credit Rating Agencies, because they are indicative of the credit quality and safety of a particular loan or group of loans. Generally speaking, a lower LTV ratio indicates a higher credit quality, safer loan. Conversely, a higher LTV ratio indicates a lower quality, riskier loan.

405. To explain, the mortgaged property serves as collateral and security for the repayment of the loan. If the borrower defaults on the loan, foreclosure occurs and the property is sold, with the proceeds of the sale going toward paying the outstanding loan balance, but only after all other expenses are paid. If there is insufficient collateral, *i.e.*, the sale proceeds (minus all expenses) are less than the outstanding loan balance, the investor suffers a loss. A low LTV ratio indicates that there is more collateral, or security, for the loan in the event of a foreclosure. In other words, the investor is less likely to face a situation where the sale proceeds net of expenses are less than the outstanding loan amount, and therefore the investor is less likely to suffer a loss. In addition, a lower

LTV ratio indicates that the borrower has more "equity" committed to the property, and is thus less likely to default on the loan compared to a borrower with little or less equity, who consequently has less financial incentive to avoid defaulting on the loan. As a result, the lower the LTV ratio, the more likely it is the borrower will repay the loan, and the more likely it is that there will be sufficient security to make the investor whole, and avoid a loss, in the event of a default and/or a decline in real estate values.

406. In any case, an investor ***never*** wants a group of loans with a large number of loans with LTV ratios over 100%, as that implies a ***certain loss*** in the event of foreclosure. Moreover, a group of loans with a high number of loans with LTV ratios over 100% is highly susceptible to default, because the borrowers have little financial incentive to continue making payments if their financial circumstances change or the value of the properties decline. An understanding of the true LTV ratios associated with the loans underlying a given RMBS is thus essential to an investor, as it allows the investor to properly gauge the risk associated with the investment.

407. Because LTV ratios are critically important to the risk analysis for a given RMBS, they also constitute one of the critical pieces of information used by the Credit Rating Agencies' computerized rating models to determine what credit ratings should be assigned to RMBS certificates. Generally, the lower the LTV ratios, the higher the ratings the Credit Rating Agencies assign to the certificates. Moreover, the lower the LTV ratios, the less credit enhancement the Credit Rating Agencies generally require to obtain "investment grade" credit ratings. And the less credit enhancement that is required, the less costly, and more profitable, the RMBS offering is to the entities for structuring, marketing and selling the RMBS (*i.e.*, defendants here).[17]

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[17] "Credit enhancements" can take numerous forms, but one common form is to require the sellers (defendants in this case) to include additional collateral, *i.e.*, additional loans or better credit quality

408. Defendants were very aware of the foregoing. Accordingly, defendants affirmatively misrepresented the actual percentages of the certificates' underlying loans that had LTV ratios in excess of 80% and 100%. These representations were intended to convey that there was sufficient protection against losses in the event of defaults, and that the loans (and therefore the certificates) were of high credit quality, and were safe, solid investments. Unfortunately for plaintiff, defendants' representations concerning the LTV ratios associated with the certificates' underlying loans were false and misleading when made. *See* §V, *supra*.

409. Defendants accomplished their deception by using false and inflated appraisals and valuations for the relevant properties, as alleged above. Because false and inflated appraisals were used, defendants were able to generate artificially understated LTV ratios, which were then included in the Offering Documents.

410. The appraisers knew that their appraisals were false and inaccurate, and did not believe them to be true. The appraisers, and others providing valuations, were being strong-armed into providing inflated valuations by the lenders, who threatened the appraisers with being black-balled in the industry and excluded from future work unless the inflated valuations were provided. In other instances, appraisers were being bribed into providing inflated valuations by lenders who paid the appraisers above-market fees for inflated valuations and/or rewarded appraisers with substantial additional work for inflated appraisals. In yet other instances, lenders intentionally provided appraisers with false sales information designed to generate inflated appraisals and valuations. Lenders also required appraisers to rely on information outside the relevant market to

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loans, in the offering to help ensure the expected cash flow. Either way, the practical effect is that additional credit enhancements represent additional costs and/or decreased profit margins to the entities responsible for the offering.

support inflated valuations. Lenders and some appraisers further retaliated against any appraisers that questioned or criticized their corrupt practices.

411. Defendants were well aware that the appraisal valuation process was being actively manipulated by loan originators and appraisers, and therefore also knew that the reported property valuations and LTV ratios for the loans did not reflect accurate information. Defendants learned such facts when they performed due diligence on the loans, as well as through Clayton, and by virtue of their participation in originating the loans, and through their ownership and control of lenders and their close relationships with them. Defendants had little incentive to correct the inflated appraisals – and did not – because inflated appraisals led to larger loan amounts, thereby increasing the size of defendants' RMBS offerings, and decreased credit enhancement requirements, all of which, in turn, increased defendants' compensation and profits. Accordingly, defendants knew that the LTV ratios reported in the Offering Documents were not accurate or reliable indicators of the credit quality of the loans, and that such LTV ratios had no reasonable basis in fact.

C. Defendants Made Material Misrepresentations Regarding the Underlying Loans' Owner Occupancy Rates

412. As set forth *supra*, the Offering Documents misrepresented the OOR percentages, or Primary Residence Percentages, associated with the loan groups supporting plaintiff's certificates. *See* §V. For the reasons set forth immediately below, these misrepresentations were material to plaintiff's investments in the certificates.

413. The purpose behind disclosing the OOR percentages associated with a particular group of loans supporting RMBS is to identify the percentage of such loans that are owner occupied or primary residences – that is, the percentage of loans issued to borrowers who purportedly lived in the mortgaged properties. Primary Residence Percentages are extremely important to investors like plaintiff, because borrowers are much less likely to default on loans secured by their primary homes,

as opposed to loans secured by investment properties or second homes. Accordingly, higher Primary Residence Percentages indicate safer loans, and thus safer RMBS certificates, while lower Primary Residence Percentages indicate riskier loans, and thus lower credit quality certificates.

414. Because Primary Residence Percentages are critically important to the risk analysis for a given RMBS, they also constitute one of the critical pieces of information used by the Credit Rating Agencies' computerized rating models to determine what credit ratings should be assigned to RMBS certificates. Generally, the higher the Primary Residence Percentages, the higher the ratings the Credit Rating Agencies assign to the certificates. Moreover, the higher the Primary Residence Percentages, the less credit enhancement the Credit Rating Agencies generally require to obtain "investment grade" credit ratings. And the less credit enhancement that is required, the less costly, and more profitable, the RMBS offering is to the entities responsible for structuring, marketing and selling the RMBS (*i.e.*, defendants here).

415. Well aware of this dynamic, defendants systematically overstated the Primary Residence Percentages associated with plaintiff's certificates, as set forth *supra*. As a result, defendants created the false impression that the loans and certificates were of higher credit quality than they in fact were. Indeed, in most instances, defendants materially overstated the actual Primary Residence Percentages by double-digit percentages. *See* §V, *supra*.

416. Defendants knew, based on their due diligence of the loans, Clayton's reports and their own active role in the loan origination process, that the Primary Residence Percentages for the certificates' underlying loans were being actively manipulated by loan originators and borrowers. Specifically, defendants were well aware that borrowers were misrepresenting their residency status in order to obtain lower interest rates and/or eligibility for higher LTV or DTI ratio loans. Defendants were further aware that the originators were also actively manipulating the Primary Residence Percentages in order to receive higher prices when selling their loans. Even though

defendants were aware that the Primary Residence Percentages were falsely inflated, they did not challenge them or change them to reflect the true OORs because defendants knew that higher Primary Residence Percentages for the loans would result in higher credit ratings from the Credit Rating Agencies and less additional credit enhancement requirements for their offerings, thereby increasing defendants' profits in selling the certificates. As a result of the foregoing, defendants knew that the Primary Residence Percentages stated in the Offering Documents were false and had no reasonable basis in fact.

D. Defendants Made Material Misrepresentations Regarding the Credit Ratings for the Certificates

417. As set forth *supra*, in each of the Offering Documents at issue herein, defendants represented that the certificates plaintiff was purchasing had or would have certain high, safe, "investment grade" credit ratings from at least two of the three major Credit Rating Agencies (S&P, Moody's and/or Fitch). *See* §V. For the reasons set forth *supra* and immediately below, these representations were both material and false.

418. Credit ratings are extremely important to investors in assessing the quality and safety of RMBS certificates. Credit ratings on such securities indicate how reliable and safe the investments are, and are used to predict the likelihood that they will perform, *i.e.*, pay, as expected and return the investors' principal at the end of the lending term. The credit ratings of the certificates were very important to plaintiff, as plaintiff was required to purchase only certificates that were rated "investment grade" by the Credit Rating Agencies. Indeed, many of the certificates purchased by plaintiff received the highest, safest credit ratings available – "Aaa" by Moody's or "AAA" by S&P and Fitch. These credit ratings indicated that the certificates were the "safest of the safe," as such ratings were ***the same as, or even higher than, the current credit rating of U.S. Treasury debt***. Indeed, "[t]raditionally, investments holding AAA ratings have had a ***less than 1%***

probability of incurring defaults." Levin-Coburn Report at 6. Below is a chart setting forth the Credit Rating Agencies' credit grading systems, denoting the various investment grade and speculative grade ratings they provided:

Moody's Grades	**S&P's Grades**	**Fitch's Grades**
Aaa	AAA	AAA
Aa1	AA+	AA+
Aa2	AA	AA
Aa3	AA-	AA-
A1	A+	A+
A2	A	A
A3	A-	A-
Baa1	BBB+	BBB+
Baa2	BBB	BBB
Baa3	BBB-	BBB-
↑Investment Grade		
Speculative Grade↓		
Ba1	BB+	BB+
Ba2	BB	BB
Ba3	BB-	BB-
B1	B+	B+
B2	B	B
B3	B-	B-
Caa1	CCC+	CCC+
Caa2	CCC	CCC
Caa3	CCC-	CCC-
Ca	CC	CC
C	C	C
	D	D

419. As previously discussed, the certificates never should have received the safe, "investment grade" ratings touted by defendants in the Offering Documents. In truth, the certificates were anything but safe, "investment grade" securities, as defendants well knew. In fact, the certificates were exactly the opposite – extremely risky, speculative grade "junk" bonds or worse, backed by low credit quality, extremely risky loans. As defendants were well aware, each of the certificates was backed by numerous loans that had not been originated pursuant to the stated underwriting guidelines, with many loans being made without any regard for the borrowers' true repayment ability, and/or on the basis of falsely inflated incomes and property values, as alleged

above. Moreover, as also alleged above, the LTV ratios and Primary Residence Percentages for the loans had been falsified so as to make the loans (and thus, the certificates) appear to be of much higher credit quality than they actually were.

420. In order to obtain "investment grade" credit ratings for the certificates, defendants were required to work with the Credit Rating Agencies. Specifically, defendants were required to provide the Credit Rating Agencies with information concerning the underlying loans, which the Credit Rating Agencies then put into their computerized ratings models to generate the credit ratings. In order to procure the falsely inflated ratings defendants desired for the certificates, defendants fed the Credit Rating Agencies falsified information on the loans, including, without limitation, false loan underwriting guidelines, false LTV ratios, false borrower FICO scores, false borrower DTI ratios, and false Primary Residence Percentages. Among other things, defendants falsely represented to the Credit Rating Agencies that virtually none of the loans in any of the offerings had LTV ratios in excess of 100%. Defendants also misrepresented and underreported the numbers of loans that had LTV ratios in excess of 80% in many cases. Defendants further misrepresented that the loans had much higher Primary Residence Percentages than they actually did. Defendants also concealed from the Credit Rating Agencies that most of the loans were not originated pursuant to the underwriting guidelines stated in the Offering Documents and/or were supported by falsely inflated incomes, appraisals and valuations. Defendants also never informed the Credit Rating Agencies that Clayton had detected defect rates of 34.9% in the samples of loans it tested for defendants, or that defendants had put 50.1% of those identifiably defective loans into the offerings. Defendants also never told the Credit Rating Agencies that defendants did no further testing on the vast majority of loans, despite their awareness that there were significant numbers of defective loans detected by the test samples.

421. That the credit ratings stated in the Offering Documents were false and misleading is confirmed by subsequent events, as set forth *supra*. Specifically, after the sale of the certificates to

plaintiff was completed, staggering percentages of the loans underlying the certificates began to go into default, because they had been made to borrowers who either could not afford them or never intended to pay them. Indeed, ***in a majority of the loan groups at issue herein, at least 30% of the loans currently in the trusts are in default***.

422. ***The average default rate for all the offerings at issue herein currently hovers at around 38%***. It is also important to understand that these reported default rates are for loans that are ***currently*** still in the trusts. Any ***prior*** loans that were in default and which had been previously liquidated or sold, and thus written off and taken out of the trusts, have not been included in the calculations. Therefore, the foregoing default rates do not include earlier defaults, and thus ***understate*** the cumulative default rates for all of the loans that were originally part of the trusts.

423. Further proving that the credit ratings stated in the Offering Documents were false and misleading is the fact that ***all*** of the certificates have since been downgraded to reflect their true credit ratings, now that the true credit quality (or more accurately, lack of quality) and riskiness of their underlying loans is known. Indeed, ***all of the 27 certificates plaintiff bought have now been downgraded to speculative "junk" status or below by Moody's and/or S&P***. Moreover, ***17 of the 27 certificates plaintiff bought now have a credit rating of "D" by S&P and/or "C" by Moody's, which means they are in "default***," and reflects that they have suffered losses and/or writedowns, and/or have completely stopped paying. In other words, approximately ***63% of plaintiff's certificates are in default***. This is strong evidence that defendants lied about the credit ratings. This is so because the high, "investment grade" credit ratings assigned to plaintiff's certificates had a probability of default of between "less than 1%" (Levin-Coburn Report at 6) for the highest rated certificates and 2.6% (according to Moody's) for certificates rated even lower than plaintiff's. The huge discrepancy in the actual default rates and the historically expected default rates (less than 2.6%) demonstrates the falsity of defendants' statements regarding the credit ratings.

424. These massive downgrades – in many cases, from "safest of the safe" "AAA" ratings to "junk" (anything below Baa3 or BBB-) – show that, due to defendants' knowing use of bogus loan data, the initial ratings for the certificates, as stated in the Offering Documents, were false. Indeed, the fact that ***all*** of the certificates are now rated at "junk" status or below, and ***more than 63% of the certificates are now in default***, is compelling evidence that the initial high ratings touted by defendants in the Offering Documents were grossly overstated and false.

E. Defendants Materially Misrepresented that Title to the Underlying Loans Was Properly and Timely Transferred

425. An essential aspect of the mortgage securitization process is that the issuing trust for each RMBS offering must obtain good title to the mortgage loans comprising the pool for that offering. This is necessary in order for the plaintiff and other certificate holders to be legally entitled to enforce the mortgage and foreclose in case of default. Two documents relating to each mortgage loan must be validly transferred to the trust as part of the securitization process – a promissory note and a security instrument (either a mortgage or a deed of trust).

426. The rules for these transfers are governed by the law of the state where the property is located, by the terms of the pooling and servicing agreement ("PSA") for each securitization, and by the law governing the issuing trust (with respect to matters of trust law). Generally, state laws and the PSAs require that the trustee have physical possession of the original, manually signed note in order for the loan to be enforceable by the trustee against the borrower in case of default.

427. In addition, in order to preserve the bankruptcy-remote status of the issuing trusts in RMBS transactions, the notes and security instruments are generally not transferred directly from the mortgage loan originators to the trusts. Rather, the notes and security instruments are generally initially transferred from the originators to the sponsors of the RMBS offerings. After this initial transfer to the sponsor, the sponsor in turn transfers the notes and security instruments to the

depositor. The depositor then transfers the notes and security instruments to the issuing trust for the particular securitization. This is done to protect investors from claims that might be asserted against a bankrupt originator. Each of these transfers must be valid under applicable state law in order for the trust to have good title to the mortgage loans.

428. Moreover, the PSAs generally require the transfer of the mortgage loans to the trusts to be completed within a strict time limit – three months – after formation of the trusts in order to ensure that the trusts qualify as tax-free real estate mortgage investment conduits ("REMICs"). In order for the trust to maintain its tax free status, the loans must have been transferred to the trust no later than three months after the "startup day," *i.e.*, the day interests in the trust are issued. *See* Internal Revenue Code §860D(a)(4). That is, the loans must generally have been transferred to the trusts within at least three months of the "closing" dates of the offerings. In this action, all of the closing dates occurred in 2005, 2006 or 2007, as the offerings were sold to the public. If loans are transferred into the trust after the three-month period has elapsed, investors are injured, as the trusts lose their tax-free REMIC status and investors like plaintiff face several adverse draconian tax consequences: (1) the trust's income is subject to corporate "double taxation"; (2) the income from the late-transferred mortgages is subject to a 100% tax; and (3) if late-transferred mortgages are received through contribution, the value of the mortgages is subject to a 100% tax. *See* Internal Revenue Code §§860D, 860F(a), 860G(d).

429. In addition, applicable state trust law generally requires strict compliance with the trust documents, including the PSAs, so that failure to strictly comply with the timeliness, endorsement, physical delivery, and other requirements of the PSAs with respect to the transfers of the notes and security instruments means the transfers would be void and the trust would ***not*** have good title to the mortgage loans.

430. To this end, all of the Offering Documents relied upon by plaintiff stated that the loans would be timely transferred to the trusts. For example, in the DBALT 2006-AR6 Pros. Supp. at S-87, the Deutsche Bank Defendants represented that "[o]n the Closing Date, the depositor will transfer to the trust all of its right, title and interest in and to each Initial Mortgage Loan, the related mortgage note, mortgage, assignment of mortgage in recordable form to the trustee and other related documents." The Offering Documents for each of the offerings at issue herein contained either the same or very similar language, uniformly representing that defendants would ensure that the proper transfer of title to the mortgage loans to the trusts occurred in a timely fashion.

431. However, defendants' statements were materially false and misleading when made. Rather than ensuring that they legally and properly transferred the promissory notes and security instruments to the trusts, as they represented they would do in the Offering Documents, defendants instead did not do so. This failure was driven by defendants' desire to complete securitizations as fast as possible and maximize the fees they would earn on the deals they closed. Because ensuring the proper transfer of the promissory notes and mortgages hindered and slowed defendants' securitizations, defendants deliberately chose to disregard their promises to do so to plaintiff.

432. Defendants' failure to ensure proper transfer of the notes and the mortgages to the trusts at closing has already resulted in damages to investors in securitizations underwritten by defendants. Trusts are unable to foreclose on loans because they cannot prove they own the mortgages, due to the fact that defendants never properly transferred title to the mortgages at the closing of the offerings. Moreover, investors are only now becoming aware that, while they thought they were purchasing "***mortgaged-backed***" securities, in fact they were purchasing ***non***-mortgaged-backed securities.

433. Meanwhile, Attorneys General from 49 states have investigated foreclosure practices after the discovery that mortgage servicers used faulty or falsified paperwork to improperly seize

homes from borrowers. The investigation culminated in a huge settlement of $25 billion with five large banks.

434. Facts disclosed in recent news reports and uncovered through government investigations and home owner foreclosure litigation over securitizations confirm widespread problems with the failure to ensure proper transfer of the required mortgage documents, and highlight the damage that failure has caused to plaintiff's investments. In an interview on *60 Minutes*, Lynn Szymoniak, a lawyer and fraud investigator who has uncovered instances in which banks appear to have manufactured mortgage documentation, explained the issue as follows:

> "When you could make a whole lotta money through securitization. And every other aspect of it could be done electronically, you know, key strokes. This was the only piece where somebody was supposed to actually go get documents, transfer the documents from one entity to the other. And it looks very much like they just eliminated that stuff all together."

435. As part of its exposé, *60 Minutes* interviewed Chris Pendley, a temporary employee of a company called Docx. Pendley was paid $10 per hour to sign the name "Linda Green" who, on paper, purportedly served as vice president of at least 20 different banks at one time, to thousands of mortgage documents that were later used in foreclosure actions. Pendley said he and other employees of Docx were expected to sign at least 350 documents per hour using the names of other individuals on documents used to establish valid title. Asked if he understood what these documents were, Pendley said, "[n]ot really." He then explained that he signed documents as a "vice president" of five to six different banks per day. Purported transfers bearing the signature of "Linda Green" were used to transfer mortgages from major originators to the depositors.

436. Further illustrating the falsity of defendants' representations in the Offering Documents regarding proper transfer of the mortgage documents to the issuing trusts is attorney Szymoniak's letter to the SEC (the "SEC Letter"). In the SEC Letter, Szymoniak detailed the fraudulent alteration and manufacture of mortgage documents by employees of Lender Processing

Services, Inc. ("LPS"). LPS is a mortgage default company located in Jacksonville, Florida that, according to Szymoniak, "produced several missing Mortgage Assignments, using its own employees to sign as if they were officers of the original lenders." Szymoniak observed instances of mortgage transfers prepared by LPS employees that contained forged signatures, signatures of individuals as corporate officers on behalf of a corporation that never employed the individuals in any such capacity, and signatures of individuals as corporate officers on behalf of mortgage companies that had been dissolved by bankruptcy years prior to the transfers, among other things.

437. The fabrication of the mortgage transfers appears to have been intended to conceal the actual date that interests in the properties were acquired by the RMBS trusts. The fraudulent transfers uncovered in foreclosure litigation often show that the transfers were prepared and filed in 2008 and 2009, when, in reality, the mortgages and notes were intended and should have been transferred prior to the closing date of the trusts, in 2005, 2006 and 2007, as stated in the Offering Documents relied on by plaintiff. Moreover, Szymoniak published an article on *Phil's Stock World* on July 20, 2011, setting forth the huge numbers of "trusts that closed in 2005, 2006 and 2007 [that have] repeatedly filed mortgage assignments signed and notarized in 2011," years after the closing dates. Nearly all of the securitizers at issue in this case are identified in Szymoniak's article. These late transfers of mortgages are an obvious improper attempt by defendants to untimely transfer the mortgage loans to the trusts after-the-fact. As discussed above, even if such transfers are valid, plaintiff has been severely damaged because of defendants' failure to timely transfer the loans, as the trusts have potentially lost their tax-free status and the payments to investors might now be subject to various forms of draconian taxation.

438. Other public reports corroborate the fact that the loans were not properly transferred. For example, Cheryl Samons, an office manager for the Law Office of David J. Stern, a "foreclosure mill" under investigation by the Florida Attorney General for mortgage foreclosure fraud that was

forced to shut down in March 2011, signed tens of thousands of documents purporting to establish mortgage transfers for trusts that closed in 2005 and 2006 in 2008, 2009 and 2010 from Mortgage Electronic Registration Services, an electronic registry that was intended to eliminate the need to file transfers in the county land records. In depositions in foreclosure actions, Samons has admitted that she had no personal knowledge of the facts recited on the mortgage transfers that were used in foreclosure actions to recover the properties underlying the mortgages backing RMBS. *See, e.g.*, Deposition of Cheryl Samons, *Deutsche Bank Nat'l Trust Co., as Trustee for Morgan Stanley ABS Capital 1 Inc. Trust 2006-HE4 v. Pierre*, No. 50-2008-CA-028558-XXX-MB (Fla. Cir. Ct., 15th Jud. Cir., Palm Beach City, May 20, 2009).

439. Further confirming the endemic problems of defective transfers in the defendants' RMBS, servicers that act on behalf of trustees have also been unable to properly foreclose on mortgaged properties serving as collateral for plaintiff's investments. For example, sworn deposition testimony from a longtime Countrywide employee (Countrywide is one of the key originators at issue in this case) regarding Countrywide-originated loans demonstrates that Countrywide systematically failed to properly transfer or assign the mortgage documents. In *Kemp v. Countrywide Home Loans, et al.*, No. 08-02448-JHW (Bankr. D.N.J.), Linda DeMartini, a ten-year employee of Countrywide's servicing division, testified that not delivering the original note to the trustee was standard Countrywide practice, stating that the "normal course of business . . . would include retaining the documents," and that Countrywide "transferred the rights . . . not the physical documents." Based on this testimony, Chief Bankruptcy Judge Judith Wizmur held that the fact that the issuing trustee "never had possession of the note[] is fatal to its enforcement" and, thus, that the trustee could not enforce the mortgage loan. *Kemp v. Countrywide Home Loans, Inc.*, No. 08-02448-JHW, slip op. at *10-*11 (Bankr. D.N.J. Nov. 16, 2010). Countrywide originated loans in many of the offerings at issue herein.

440. The need to fabricate or fraudulently alter mortgage assignment documentation provides compelling evidence that, in many cases, title to the mortgages backing the certificates plaintiff purchased was never properly or timely transferred. In fact, plaintiff has conducted investigations on the loans underlying several of the offerings at issue herein to determine whether the loans were properly transferred to the trusts. In each case investigated, the vast majority of loans underlying the offerings were not properly or timely transferred to the trusts.

441. For example, plaintiff performed an investigation concerning the mortgage loans purportedly transferred to the trust for the Deutsche Bank Defendants' DBALT 2006-AR6 offering. The closing date for this offering was on or about December 15, 2006. Plaintiff reviewed the transfer history for 310 loans that were supposed to be timely transferred to this trust. Only two (2) loans were timely transferred to the trust. Thirty-five (35) other loans were not and have never been transferred to the trust. Thirty-seven (37) additional loans were never assigned to the trust, and were paid in full in the name of the originator (or a third party). In addition, thirty-nine (39) other loans that were supposed to be transferred to the trust were transferred to entities other than the trust, but not to the trust. Five (5) deeds of trust were foreclosed in the name of a party other than the trust, without an assignment of record of the note and mortgage (deed of trust) to that party or the trust. The remainder of the loans (192) were eventually transferred to the trust, but all such transfers occurred between mid-2007 and the present, well beyond the three-month time period required by the trust documents. ***In other words, only 2 of the 310 reviewed loans were timely transferred to the trust, a failure rate of 99.4%***.

442. The foregoing example, coupled with the public news, lawsuits and settlements discussed above, establish that defendants failed to properly and timely transfer title to the mortgage loans to the trusts. Moreover, they show that defendants' failure to do so was widespread and pervasive. In fact, the specific examples discussed above show that defendants utterly and

completely failed to properly and timely transfer title. Defendants' failure has caused plaintiff (and other RMBS investors) massive damages. As noted by law professor Adam Levitin of Georgetown University Law Center on November 18, 2010, in testimony he provided to the a U.S. House Subcommittee investigating the mortgage crisis, "[i]f the notes and mortgages were not properly transferred to the trusts, then the mortgage-backed securities that the investors[] purchased were in fact ***non-mortgaged-backed securities***" (emphasis in original), and defendants' failure "ha[d] profound implications for [R]MBS investors" like plaintiff. Indeed, Professor Levitin noted in his testimony that widespread failures to properly transfer title would appear to provide investors with claims for rescission that could amount to trillions of dollars in claims.

VII. THE DEUTSCHE BANK DEFENDANTS KNEW THAT THE REPRESENTATIONS IN THE OFFERING DOCUMENTS WERE FALSE AND MISLEADING

443. Defendants' representations in the Offering Documents were not only false and misleading, but defendants also ***knew***, or were reckless in disregarding, that they were falsely misrepresenting the underwriting guidelines used and the risk profiles of the loans and certificates.

A. The Deutsche Bank Defendants Knew, Based on Their Own Due Diligence, that the Loans Were Not Adequately Underwritten

444. In the Offering Documents, the Deutsche Bank Defendants assured investors that they had "quality control procedures" in place whereby the Deutsche Bank Defendants re-underwrote sample pools of the loans they purchased from originators to ensure that those loans were originated in compliance with the stated underwriting guidelines. For example, in the ACE 2006-ASAP3 Prospectus Supplement, the Deutsche Bank Defendants represented that:

> [Defendant DBSP] conducts a number of quality control procedures, including a full re-underwriting of a random selection of mortgage loans to assure asset quality. Under the asset quality procedure, a random selection of each month's originations is reviewed. The mortgage loan review confirms the existence and

> accuracy of legal documents, credit documentation, appraisal analysis and underwriting decision. A report detailing audit findings and level of error is sent monthly to management for response. The audit findings and management responses are then reviewed by [DBSP's] senior management. Adverse findings are tracked monthly and over a rolling six month period.

ACE 2006-ASAP3 Pros. Supp. at S-64. Similar representations were made in the Offering Documents for the other offerings.

445. This protocol was confirmed by the FCIC's interview of Joseph Swartz, a former vice president of Deutsche Bank's due diligence department, which oversaw the due diligence for all of the Deutsche Bank Defendants' residential mortgage business. According to Swartz:

> We did kind of a pre-due diligence review inside Deutsche Bank. I had a team of people that assisted me and I liked to try to find underwriters to bring in for my team, people that understand how to look at loans and credit bureaus and we would run through credit bureaus hour after hour through hundreds and hundreds of loans, on loans that had drifted to see if there [is] anything about this credit of the borrower that is alarming.

See July 21, 2010 FCIC Staff Interview of Joseph Swartz ("Swartz Interview").

446. The Deutsche Bank Defendants, through co-defendant DBSI, also served as the "underwriters" for each of the Deutsche Bank Offerings at issue herein. In this capacity, ***the Deutsche Bank Defendants were required under U.S. securities laws to "perform a review of the pool assets underlying the [certificates]," and had a legal duty to ensure that the information they reported about the loans in the offering documents "[wa]s accurate in all material respects***." 17 C.F.R. §230.193. As such, the Deutsche Bank Defendants, through DBSI, had a legal duty to ensure that the statements in the Offering Documents were true and accurate, and had a corresponding duty to investigate the underlying loans to ensure statements made about them in the Offering Documents were not false.

447. Indeed, in connection with a July 2010 FINRA disciplinary proceeding (wherein DBSI was fined $7.5 million for misleading investors), the Deutsche Bank Defendants

acknowledged that "[a]s the underwriter and seller of [RMBS], ***DBSI was responsible for reviewing the offering materials to ensure that they did not contain any inaccurate information***." *See* July 7, 2010 "Letter of Acceptance, Waiver, Consent" ("FINRA Letter") at 5. As previously noted, the FINRA proceedings involved at least five of the offerings at issue herein. ***The Deutsche Bank Defendants also knew that "[p]rospective investors [such as plaintiff] look to the underwriter – a fact well known to all concerned and especially to the underwriter – to pass on the soundness of the security and the correctness of the . . . prospectus [supplements]***." *Chris-Craft Indus. v. Piper Aircraft Corp.*, 480 F.2d 341, 370 (2d Cir. 1973).

448. Given the Deutsche Bank Defendants' legal duties to conduct due diligence to ensure that the prospectus supplements were accurate, as well as their concessions that they did such investigations, the Deutsche Bank Defendants undoubtedly became aware that there was a system-wide breakdown in residential loan underwriting. The Deutsche Bank Defendants' due diligence necessarily revealed to them that there were numerous, risky, defective loans that were supported by inflated appraisals/valuations and not originated pursuant to the stated underwriting guidelines set forth in the Offering Documents at issue herein. As a result, such due diligence would have revealed to the Deutsche Bank Defendants that the Offering Documents contained numerous misstatements regarding the LTV ratios, Primary Residence Percentages, and DTI ratios associated with the certificates' underlying loans. Based on all of the above, the Deutsche Bank Defendants also learned that the certificates' credit ratings were grossly inflated. Alternatively, given DBSI's strict legal due diligence duties and the massive numbers of defective loans within the offerings, the Deutsche Bank Defendants were reckless in disregarding such large, eye-popping, systematic underwriting failures.

449. The Deutsche Bank Defendants' "pre-review" investigation and due diligence duties mandated by law necessarily would have revealed to them that the loan underwriting performed with respect to a significant portion of the loans was shockingly deficient, and that numerous loans failed

to meet the specific criteria described in the Offering Documents. Indeed, as set forth in §V, the LTV ratios and Primary Residence Percentages reported in the Offering Documents were not just misstated in a few offerings – rather, that ***data was grossly and systematically misrepresented in nearly every one of the Deutsche Bank Offerings at issue herein***. The magnitude of the errors was very large, as were the discrepancies in borrowers' DTI ratios, as set forth in §VI, thus indicating that a reasonable person conducting reasonable due diligence would have certainly and undoubtedly discovered such large errors. In addition, the misstated data was suspiciously misstated in only one way – a way that, ***in nearly every offering***, made the loans look to be of higher credit quality, and safer and less risky, than they actually were. Given this, it is improbable that the Deutsche Bank Defendants' misrepresentations were innocent or negligent. Rather, the inescapable conclusion is that the Deutsche Bank Defendants purposefully, intentionally, and systematically understated and concealed the lack of credit quality and the riskiness of the loans in order to make the certificates look like prudent investments to facilitate their sale to plaintiff. In fact, given the Deutsche Bank Defendants' involvement in every step of the RMBS securitization process – as a loan originator, loan purchaser, sponsor, depositor, and seller of RMBS (as alleged more fully *infra*) – the Deutsche Bank Defendants were racked with conflicts of interest and incentives to lie about the loans and certificates they sold to plaintiff. The Deutsche Bank Defendants had huge incentives to encourage and endorse inflated appraisals, loose underwriting standards, and falsified LTV ratios, DTI ratios and OOR percentages, because they allowed the Deutsche Bank Defendants to securitize numerous loans that should never have been securitized, and then sell them to unsuspecting investors and make obscene profits.

B. The Deutsche Bank Defendants Were Informed by Their Hired Due Diligence Providers that the Mortgage Loans Were Not Originated Pursuant to the Stated Underwriting Guidelines

450. As alleged above, the Deutsche Bank Defendants, in addition to performing their own due diligence, retained an outside vendor, Clayton, to review samples of the loans. In connection with its sampling of loans for the Deutsche Bank Defendants, Clayton provided the Deutsche Bank Defendants with reports of its findings. Clayton provided such reports to the Deutsche Bank Defendants as it sampled loans throughout 2006 and 2007. According to Clayton Vice President Vicki Beal ("Beal"), Clayton provided the Deutsche Bank Defendants with daily reports concerning the loans it tested during this time period and Deutsche Bank reviewed all such reports.

451. Clayton's reports to the Deutsche Bank Defendants revealed that, from January 2006 through June 2007, the same period within which the Deutsche Bank Defendants sold the certificates to plaintiff, ***nearly 35% of the mortgages the Deutsche Bank Defendants submitted to Clayton for review did not comply with the stated underwriting guidelines and did not have compensating factors otherwise justifying approval of the loans***. Nonetheless, of the mortgages that Clayton found defective, ***50% were subsequently "waived" back into the offerings by the Deutsche Bank Defendants and passed on to unsuspecting investors like plaintiff***. This undisputedly demonstrates that ***the Deutsche Bank Defendants knew the loans in the offerings did not comply with the stated underwriting guidelines – the Deutsche Bank Defendants were specifically informed that the loans did not comply by Clayton – and yet the Deutsche Bank Defendants deliberately and intentionally put defective loans into the offerings, while affirmatively representing that the loans did comply***. This unambiguously indicates intentional, fraudulent conduct on the Deutsche Bank Defendants' part.

452. As the foregoing demonstrates, the Deutsche Bank Defendants systematically purchased and included into their RMBS offerings loans that their own hired vendor had determined

– and advised the Deutsche Bank Defendants – were not properly underwritten. Clayton's personnel provided insight into the Deutsche Bank Defendants' state of mind in testimony before the FCIC. Clayton's Beal agreed during her testimony that the Deutsche Bank Defendants' "waivers" of a high number of non-conforming loans into their RMBS offerings created the impression that the Deutsche Bank Defendants were "trying to get this stuff out the door," *i.e.*, the Deutsche Bank Defendants were attempting to sell it as fast as possible to unsuspecting investors, like plaintiff. *See* July 22, 2010 FCIC Staff Interview of Vicki Beal ("Beal Interview"). According to Beal, the perception created by the Deutsche Bank Defendants' conduct was that the Deutsche Bank Defendants were "not holding [the loans] on our books. We're pushing it out. We'll take anything [any loan and do it]." *Id.*

453. Further establishing the Deutsche Bank Defendants' fraudulent intent, in 2007, Clayton began to produce trending reports to the Deutsche Bank Defendants which summarized the extent to which Clayton was detecting defective loans, as well as the extent to which the Deutsche Bank Defendants were "waiving" such loans into their RMBS offerings. Beal recalled that Deutsche Bank's Managing Director Michael Commaroto did not "receive" the first trending report "well." *See* Beal Interview. In fact, Commaroto was alarmed that Clayton would document the Deutsche Bank Defendants' waivers of loans into offerings, and expressed concern that "in the hands of the wrong people it could be misunderstood." *Id.* According to Beal, Commaroto was "probably . . . defensive about" the fact that the Deutsche Bank Defendants were securitizing into their offerings loans that did not comply with stated underwriting guidelines. *Id.* A former Executive Vice President of Clayton, Kerry O'Neill ("O'Neill"), reported to the FCIC that not only did the meeting with Commaroto not "go over so well," but that it was "explosive." *See* August 5, 2010 FCIC Staff Interview of Kerry O'Neill ("O'Neill Interview"). According to O'Neill, Commaroto "was displeased – certainly unhappy." *Id.* O'Neill revealed the Deutsche Bank Defendants' state of mind

and their fraudulent intent by telling the FCIC that ***Commaroto "was very upset that we had brought the reports and were talking about those reports," as he "was concerned about how those reports could be interpreted . . . and the light it might put Deutsche Bank in***." *Id.* According to O'Neill, Commaroto was principally concerned with the high percentages of "waivers" shown in the reports, *i.e.*, the high number of non-conforming loans the Deutsche Bank Defendants bought and put into their RMBS offerings. *Id.* Commaroto was particularly concerned with "how that data might be interpreted" and was upset because "right around the same time . . . the New York Attorney General's office was issuing a subpoena," *id.*, to the Deutsche Bank Defendants and others seeking information about potential fraud or other malfeasance by investment banks concerning their RMBS offerings. This clearly demonstrates the Deutsche Bank Defendants' state of mind – they were very upset that Clayton had documented the Deutsche Bank Defendants' undisclosed practice of putting defective loans into their RMBS offerings, while making contradictory representations to investors in the Offering Documents.

454. In response to Clayton's findings, the Deutsche Bank Defendants did not improve their practices by excluding the faulty loans from their offerings, or by expanding the number of loans that were subject to review. In fact, just the opposite occurred. ***The sample size of loans reviewed by Clayton was decreased and no expanded testing was done***. According to Deutsche Bank's Swartz, the sample size was negotiated between the Deutsche Bank Defendants' traders and the loan sellers – neither of which had any incentive to increase the sample size because it could result in more loans being rejected from the pool. Indeed, according to Swartz, the sellers were "very, very sensitive about sample sizes" and "[t]hey always wanted . . . to sample less." However, as the ***FCIC pointed out, "one could reasonably expect [the untested loans] to have many of the same deficiencies, and at the same rate, as the sampled loans***." FCIC Report at 170. In fact, it was highly probable, given the large defect rates detected in the sampled loans, that the massive numbers

of untested loans would have similar defect rates. Nonetheless, the Deutsche Bank Defendants consciously and intentionally avoided confirming it by refusing to expand their testing. In fact, the Deutsche Bank Defendants did no further testing on the vast majority of loans that supported the offerings, thereby effectively ***ensuring*** there would be large numbers of defective, non-compliant loans in each offering. The FCIC concluded that the failure by the Deutsche Bank Defendants and other investment banks to disclose the Clayton findings in the Offering Documents or do further testing on the loans "rais[ed] the question of whether the disclosures were ***materially misleading, in violation of the securities laws***." *Id.*

455. Moreover, the Deutsche Bank Defendants were not content simply letting the defective loans pass into their offerings and the unsuspecting hands of investors like plaintiff. The Deutsche Bank Defendants – in an appalling display of greed and disregard for the interests of plaintiff – took the fraud further, affirmatively seeking to profit from their inside knowledge. Rather than rejecting the loans that Clayton identified as defective, as they should have, the Deutsche Bank Defendants instead used the evidence of underwriting defects to negotiate lower prices for the loans, and thus boosted the Deutsche Bank Defendants' own profits when they resold the loans – via the certificates – to unsuspecting investors, like plaintiff. As alleged above, according to the September 2010 FCIC testimony of Clayton's former President Johnson, the Deutsche Bank Defendants used the defect reports to force a lower price for themselves, and not for the benefit of investors.

456. Indeed, former employees of Deutsche Bank confirmed that the Deutsche Bank Defendants did just that. According to another former Deutsche Bank Vice President and National Accounts Director, who worked at the company from 2004 through August 2007, and who bought loans from originators for inclusion into Deutsche Bank's RMBS securitizations, the Deutsche Bank Defendants frequently and knowingly purchased loans for securitizations that did not comply with their stated underwriting guidelines, using Clayton's test results to negotiate lower sales prices. As

this former Vice President described the process, sometimes Deutsche Bank "kicked the pieces of poop, ***but sometimes we bought pieces of poop***." Further, and more disturbingly, regardless of what the Deutsche Bank Defendants did with the "pieces of poop" they affirmatively identified from Clayton's due diligence process, they did ***nothing further*** to identify and remove other problem loans from the pool. As noted above, Clayton did not examine every loan in a pool – instead it merely sampled small parts of the pool. Clayton would then send the results of this sample back to Deutsche Bank, and, as noted above, Deutsche Bank would then essentially stop examining the pool, making no further efforts to identify "pieces of poop" in other parts of the pool. In such a manner, the Deutsche Bank Defendants knowingly and intentionally included non-conforming loans into the Deutsche Bank Offerings.

457. Employees of Bohan, another third-party due diligence firm that Deutsche Bank used during 2005-2008, have also confirmed that Deutsche Bank knew the loans it was buying did not meet the stated underwriting guidelines. One former due diligence underwriter for Bohan from 2005 to 2008, who performed due diligence on loans purchased by Deutsche Bank, has stated that Deutsche Bank often ignored underwriters' findings that loans were defective. This former due diligence underwriter stated that Bohan was instructed by the Wall Street banks (specifically including Deutsche Bank) to "make it work" – meaning find a way to permit the loan to remain in the pool, even when the due diligence underwriter found that the loan did not conform to the underwriting guidelines. The Wall Street banks instructed Bohan that loan rejections should be held to a minimum. Bohan was also instructed by the Wall Street banks to find a way to interpret the loan file as meeting the underwriting guidelines, regardless of the actual quality of the loan, and that underwriters could not consider the fact that loans with several questionable characteristics were particularly risky because those characteristics comprised a layering of risk. Each night, Bohan would provide the Wall Street banks with current reports of the daily underwriting results, and the

banks would review the reports and direct Bohan to make adjustments. This former due diligence underwriter stated that often loan files were adjusted-up and remained in the loan pool even after a Bohan underwriter had removed them from the pool.

458. Another former due diligence underwriter for Bohan from 2005 through 2007, who performed due diligence on loans purchased by Deutsche Bank, has estimated that 50% of the loans she reviewed were defective, and that "you would have to be an idiot not to know that the loans were no good." Deutsche Bank "had to know that they were buying defective loans," because they received daily reports from Bohan which provided the clients with knowledge of the quality of the loans under examination, and informed the clients of the extent to which the clients were purchasing defective loans. This former underwriter stated that the Wall Street banks would use the daily reports to amend the underwriting standards to permit acceptance of more, rather than fewer, loans, stating, "[i]f we had a lot of kicks, the client would change our guidelines," in other words "massaging or manipulating" the guidelines. Specifically, this former underwriter stated that problems often arose with loans in which the stated maximum LTV ratio was exceeded or it was clear the property would not be owner occupied, but that Bohan was instructed by its clients that they wanted the loans to remain in the pool they were purchasing, and that they generally found ways to resolve the issue so that such loans could remain in the pool.

459. The Deutsche Bank Defendants operated – and made huge profits – on every level of the securitization process, acting as originators, underwriters, sponsors, sellers and depositors. As a result of this "vertical integration," the Deutsche Bank Defendants were able to maximize the profitability of their RMBS business, while also being informed and made aware of the underwriting failures that permeated the loans underlying the certificates.

C. Other Investigations Confirm that the Deutsche Bank Defendants Knew that the Mortgage Loans Did Not Conform to the Stated Underwriting Guidelines

460. As alleged above, defendant DBSI was subject to FINRA disciplinary proceedings in July 2010, with respect to several of the offerings at issue here. The FINRA proceedings confirmed not only that several Offering Documents contained material misrepresentations, but also that the Deutsche Bank Defendants had made these misrepresentations intentionally. Indeed, FINRA found that with respect to 16 offerings, including three of the offerings at issue in this action,[18] ***the Deutsche Bank Defendants "continued to refer customers in its prospectus materials to the erroneous [delinquency] data" even "[a]fter [DBSI] became aware that the static pool information underreported historical delinquency rates***." FINRA Letter at 2. Again, as with the misstated data concerning LTV ratios and Primary Residence Percentages alleged herein, the Deutsche Bank Defendants misstated the delinquency loan data in such a way that always falsely understated the loans' risk and overstated the loans' credit quality. Thus, the FINRA investigation establishes that the Deutsche Bank Defendants had no compunction when it came to deliberately overstating the credit quality and understating the riskiness of loans in their RMBS offerings.

461. The DOJ has reached similar conclusions. On August 22, 2011, the DOJ filed a complaint against MortgageIT and defendants Deutsche Bank AG, DBSP and DBSI, accusing them of "knowingly, wantonly, and recklessly" permitting violations of underwriting guidelines. *See* DOJ Complaint. MortgageIT was an originator of loans in at least five of the offerings at issue herein. The DOJ alleged that MortgageIT and Deutsche Bank Defendants Deutsche Bank AG, DBSP and DBSI, falsely represented that mortgages included in certain Deutsche Bank and

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[18] Those offerings are DBALT 2007-AR1, DBALT 2007-AR2, and DBALT 2007-AR3.

MortgageIT offerings complied with certain federal origination requirements, materially similar to the underwriting standards applicable here.

462. According to the DOJ Complaint, Deutsche Bank and MortgageIT "failed to implement basic quality control" procedures to ensure that the loans they originated conformed to those requirements. DOJ Complaint at 29. The DOJ further detailed MortgageIT's lax underwriting processes over several years. Among other things, the DOJ claimed that MortgageIT had no in-house quality control procedure in place until late 2005; that it instead contracted with a vendor who prepared letters detailing "serious underwriting violations"; and that MortgageIT employees, rather than reviewing and acting upon those findings, "stuffed the letters, unopened and unread, in a closet in MortgageIT's Manhattan headquarters." *Id.* at 31-32.

463. Beginning in December 2004, MortgageIT's quality control manager attempted to implement MortgageIT's first quality control system. However, according to the DOJ Complaint, that system "quickly proved dysfunctional" and "never worked." *Id.* at 33. For example, in late 2004-early 2005, the quality control manager identified a MortgageIT underwriter who "engaged in a pattern of serious underwriting violations with common brokers," which included "submitting ineligible and/or fraudulent mortgages." *Id.* at 37. The quality control manager asked MortgageIT's President and other senior executives to take action, but neither the President nor other executives acted on the report. *Id.* at 33.

464. The situation did not improve with Deutsche Bank's acquisition of MortgageIT. In fact, beginning in 2006, during the period in which Deutsche Bank initially announced the planned acquisition and performed its due diligence for that transaction, MortgageIT, in an effort "[t]o increase sales," further cut down its quality control procedures, shifting the work of quality control personnel "from quality control reviews of closed mortgages . . . to assistance with production." This led the DOJ to conclude that "***after Deutsche Bank acquired MortgageIT, it not only failed to***

fix the existing quality control deficiencies at MortgageIT, but it made a very bad problem even worse." DOJ Complaint at 35-36. As a result, according to the DOJ Complaint, more than 12,500 loans by the Deutsche Bank Defendants and MortgageIT had defaulted by February 2011, basically one in every three loans.

D. Multiple Witnesses, Including Former Personnel of the Deutsche Bank Defendants, Confirmed that the Deutsche Bank Defendants Knew that the Loans Did Not Conform to the Stated Underwriting Guidelines and that the Credit Ratings Were False

465. As set forth in the U.S. Senate's Levin-Coburn Report, at the time the Deutsche Bank Defendants were selling the certificates to plaintiff's assignors, the Deutsche Bank Defendants were simultaneously referring, amongst themselves, and with a few select clients, to the certificates and other similar RMBS investments as "pigs," "crap" and "generally horrible." Levin-Coburn Report at 10-11, 319, 330-31, 338-40, 347, 359-62. But not only were the Deutsche Bank Defendants being frankly honest with each other about the true nature of these investments, the ***Deutsche Bank Defendants were also simultaneously betting that investments like the ones they were selling to plaintiff would fail***. The Deutsche Bank Defendants never disclosed to plaintiff's assignors that the certificates were "pigs," or that they were betting the certificates would fail at the same time the Deutsche Bank Defendants sold them to plaintiff's assignors while portraying them as safe, investment grade securities.

466. According to the Levin-Coburn Report, starting in the fall of 2005, ***before*** the Deutsche Bank Defendants sold most of the certificates at issue to plaintiff's assignors, the Deutsche Bank Defendants, through high-ranking Deutsche Bank trader Greg Lippmann and the highest-ranking executives of Deutsche Bank, developed a large short position in the RMBS market. Levin-Coburn Report at 10, 330, 342-43. Lippmann was described in the U.S. Senate's Levin-Coburn Report as Deutsche Bank's "top CDO trader." *Id.* at 319. "CDOs" are "collateralized debt

obligations," and are essentially collections of RMBS certificates from various RMBS offerings. Deutsche Bank's "CDO Trading Desk" was headed by Lippmann, who was the "global head of Deutsche Bank's CDO, ABS,[19] and ABS Correlation Trading Desks." *Id.* at 336. Those desks traded a variety of RMBS, CDOs and other ABS. Lippmann oversaw a staff of approximately 30 employees, 20 in the United States and 10 in London. Lippmann was also the head of Deutsche Bank's "risk management for all new issue CDOs and described himself as 'involved in underwriting, structuring, marketing and hedging [Deutsche Bank's] . . . risk for new issue cdo's.'" *Id.*

467. The Deutsche Bank Defendants accomplished their short position in 2005 by entering into CDS agreements with others, whereby the Deutsche Bank Defendants essentially invested in the failure of RMBS. Levin-Coburn Report at 330-31, 342, 344. Basically, the Deutsche Bank Defendants paid a relatively small sum to the counterparty of the CDS agreement, and in exchange, the counterparty was required to make huge payments to Deutsche Bank if the RMBS securities defaulted, declined in value and/or had credit downgrades. *Id.* In the fall of 2005, Lippmann had to obtain approval from high-ranking Deutsche Bank executive Richard D'Albert ("D'Albert") before Lippmann could acquire a $1 billion short position in RMBS for Deutsche Bank. *Id.* at 342 n.1300. At the time Lippmann sought D'Albert's approval to short RMBS, D'Albert was Deutsche Bank's Managing Director and Global Head of the Securitized Product Group. D'Albert approved Lippmann's short position. Lippmann also sought and obtained the approval of Deutsche Bank executive Rajeev Misra, Deutsche Bank's Global Head of Credit Trading, Securitization and Commodities, before the $1 billion short position was taken. *Id.* at 343. Thus, top Deutsche Bank

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[19] "ABS" are "asset-backed securities," such as RMBS.

executives were aware of, involved in, and approved of Lippmann's huge Deutsche Bank bet that RMBS would decline in value.

468. Unbeknownst to plaintiff's assignors, throughout 2006, when Deutsche Bank sold most of the certificates at issue, the Deutsche Bank Defendants continued to build Deutsche Bank's short position. *Id.* In 2006, Deutsche Bank's short position grew to $2 billion. *Id.*

469. During 2006 and early 2007, Deutsche Bank AG's top executives were expressly made aware of Lippmann's extremely negative views of RMBS (which are alleged immediately below) and approved Deutsche Bank's growing short position. For example, in December 2006, Lippmann met with Anshu Jain ("Jain"), a member of Deutsche Bank AG's Group Executive Committee, the group of Deutsche Bank AG's top executives that ran the Deutsche Bank family of companies and reported to Deutsche Bank AG's Management Board. During the meeting, Lippmann discussed and defended Deutsche Bank's large short position. Levin-Coburn Report at 344. Lippmann again discussed and defended Deutsche Bank's short position with Jain and others during a January 2007 meeting, and again Jain allowed Lippmann to maintain and build Deutsche Bank's large short position. Lippmann met to discuss and defend the large short position with Jain again in February 2007, and the result of that meeting was to maintain the large short position yet again. In late February or early March 2007, Lippmann met again with Deutsche Bank AG's executive committee to discuss and defend Deutsche Bank's short position. As a result, Deutsche Bank's large short position was again maintained. *Id*. at 344-45. As the foregoing demonstrates, Lippmann's negative views of RMBS were well known to the highest-ranking executives of defendant Deutsche Bank AG and those same executives discussed and approved of Deutsche Bank's large bet against RMBS.

470. By March 2007, after all the meetings with the top executives of Deutsche Bank AG alleged above, the Deutsche Bank Defendants' short position had grown to a massive amount – approximately $4-$5 billion in size. *Id.* at 10, 320, 331, 333, 337, 341, 345-46.

471. While Deutsche Bank was amassing its gigantic short position, which it concealed from plaintiff's assignors, the Deutsche Bank Defendants were also internally discussing and assessing certificates like plaintiff's, as well as the loan originators and the loans that were underlying the offerings at issue herein. The Deutsche Bank Defendants had reached the conclusion that certificates like those purchased by plaintiff's assignors were terrible investments and that the loan originators and the loans they produced were awful as well. But the Deutsche Bank Defendants never disclosed this to plaintiff's assignors.

472. For example, four offerings at issue in this action were "ACE" offerings. ACE RMBS were one of the Deutsche Bank Defendants' primary RMBS offerings. In fact, the Deutsche Bank Defendants have admitted that ACE is one of "'Deutsche Bank's own . . . offerings.'" Levin-Coburn Report at 338 n.1278. Nonetheless, in a September 21, 2006 e-mail to another Deutsche Bank employee, Lippmann stated that "'***ace is generally horrible***'" when discussing which RMBS offerings were risky offerings. *Id.* at 339 n.1283. In his testimony to the Senate, "***Lippmann confirmed to the [Senate] Subcommittee that he believed ACE was 'horrible***.'" *Id.* at 360 n.1409. That Lippmann considered ACE horrible was corroborated by his other e-mails to colleagues. In a March 1, 2007 e-mail, Lippmann referred to another ACE offering as follows: "'***[D]eal is a pig!***'" *Id.* at 340. With respect to another ACE offering, Lippmann said in a May 19, 2006 e-mail to a Deutsche Bank colleague: "'***We traded that ACE piece of crap***.'" *Id.* at 360 n.1409. A few days later, Lippmann e-mailed another Deutsche Bank employee and discussed another ACE offering: "'***this stinks though I didn't mention it***.'" *Id.* at 360-61 n.1409. Moreover, in an August 1, 2006 e-mail to one of his traders, Lippmann wrote with regard to a list of offerings that included ACE

offerings, "'***who has all this crap and let me know which ones to look at looks like a lot of crappy deals***.'" *Id.* at 347 n.1325. In another instance, in an August 4, 2006 e-mail, Lippmann advised a banker at Oppenheimer Funds that "'***you can certainly build a [short] portfolio by picking only bad names***,'" such as ACE. *Id*. at 338.

473. Lippmann's verbal assault on the ACE offerings even included an attack on one specific ACE offering which Lippmann said "blew." Specifically, in connection with an instant message conversation between Lippmann and another Deutsche Bank employee in December 2006, Lippmann referred to the ACE offering and asked: "'***DOESNT THIS DEAL BLOW***,'" to which his fellow employee replied "'***yes it blows I am seeing 20-40% writedowns***,'" meaning he saw huge losses forthcoming. *Id.* at 361. In another e-mail, Lippmann advised a banker at Oppenheimer Funds which ACE RMBS he could "short." ***He advised the banker to short*** the ACE deal, despite the fact the Deutsche Bank Defendants were selling the offering to their clients.

474. Further disparaging ACE, on March 27, 2007, Lippmann received an e-mail from a client that stated: "'[T]hey are claiming that [Deutsche Bank] was one of the last ones to tighten standards on buying loans to securitize. [Y]ou were right – ACE is crap.'" Lippmann responded: "INDEED . . . IT IS." *Id.* at 360-61.

475. Lippmann did not limit his criticism only to Deutsche Bank's ACE offerings. He also described approximately $27 million in other RMBS which "came from ***Deutsche Bank's own inventory***" with "words like '***crap***' and '***pig***' to describe the assets." *Id.* at 359.

476. In addition, Fremont originated all the loans for one of the Deutsche Offerings at issue herein – the SGMS 2006-FRE1 offering. In an August 4, 2006 e-mail discussing bad RMBS, Lippmann stated that Fremont "'***is considered bad***.'" *Id.* at 338. In a September 1, 2006 e-mail, Lippmann referred to another RMBS offering containing Fremont loans as a "'***crap bond***.'" *Id.* at 339. With respect to a different RMBS offering in which Fremont was a loan originator, Lippmann

called the offering a "'***pig***,'" when discussing it with a Deutsche Bank colleague in November 2006. *Id.* at 359-60. Lippmann similarly called yet another RMBS offering with Fremont loans in it a "'***pig***'" on the same day. *Id.* at 360. Finally, in a January 2007 e-mail, Lippmann concisely summed up his assessment of Fremont: "'***Fr[emont] blows***.'" *Id.* at 360 n.1401.

477. During the same time the Deutsche Bank Defendants were selling plaintiff's assignors the certificates at issue herein, Lippmann sent or received numerous e-mails to or from other Deutsche Bank employees or customers that desired to short RMBS. In these e-mails, Lippmann or others derogatorily described RMBS investments, like the certificates, as follows:

- "' ***[H]alf of these are crap***'" (*id.* at 338);
- "' ***[T]his bond blows***'" (*id.*);
- "'***crap we shorted***'" (*id.* at 339);
- "' ***[T]his bond sucks but we are short***'" (*id.*);
- "'***crap bond***'" (*id.*);
- "'***u have picked some crap***'" (*id.*);
- "' ***[T]his is an absolute pig***'" (id. at 340, 360);
- "'***crap deal***'" (*id.* at 340);
- "'***This is a real pig***'" (*id.* at 359);
- "'***crap***'" (*id.* at 361);
- "'***a piece of crap***'" (*id.*); and
- "'***crap name***'" (*id.* at 362).

478. That Lippmann communicated these negative views of RMBS – which contradicted the Offering Documents – to Deutsche Bank AG's top executives is indisputable. As previously alleged, Lippmann met numerous times with top Deutsche Bank AG executive Jain in 2006 and 2007 to discuss and defend Deutsche Bank's huge (and ultimately profitable) short position.

Lippmann even met with Deutsche Bank AG's executive committee – Deutsche Bank AG's top management – in early 2007 to discuss Lippmann's negative RMBS views and the large short position Deutsche Bank had taken against RMBS.

479. While Lippmann realized the RMBS Deutsche Bank was selling into the market would ultimately lose value, Lippmann and the other Deutsche Bank traders also believed investment banks would do all they could to sustain the mortgage market for as long as possible due to the fees, prestige, market share and jobs at stake. The head of Deutsche Bank's CDO Group, Michael Lamont, sent an e-mail to the CDO Group banker assigned lead responsibility for structuring a CDO called Gemstone 7, acknowledging the risk the bank took on by purchasing the earlier unsold securities, but also noting the "nice" fee being paid to the bank: "'[T]hat is part of the risk we took when we were awarded the mandate and we are still making a nice all in fee.'" Levin-Coburn Report at 364. One of Lippmann's top traders, Rocky Kurita, put it this way in mid-2005: "'[W]e have to make money. Customer happiness is a secondary goal but we cannot lose sight of the trading desk[']s other role of supporting new issue and the customer franchise.'" *Id.* at 344. In a 2007 e-mail to a client, Lippmann wrote: "'[P]lease please do not forward these emails outside of your firm. . . . I do not want to be blamed by the new issue people for destroying their business.'" *Id.* In another 2006 e-mail, Lippmann wrote: "'Why have we done this? It is not without reluctance and we are looking for ways to get out of this risk, but for now the view has been, we like the fees and the league table credit (and dammit we have a budget to make).'" *Id.* at 347. When asked what he meant by saying "'we have a budget to make,'" Lippmann explained to the Senate Subcommittee that new mortgage deals had to be completed continuously to produce the revenues needed to support the budgets of the desks and departments involved with their creation. *Id.*

480. The foregoing demonstrates that, contrary to what the Deutsche Bank Defendants were representing in the Offering Documents, they knew the certificates plaintiff's assignors bought

were not investment grade securities, but rather, "horrible," "crap" and "pig" investments. The Deutsche Bank Defendants never disclosed this to plaintiff's assignors (or plaintiff), and had they known or been so advised, they would never have purchased the certificates.

481. As the prices of RMBS began to subsequently plummet, plaintiff suffered billions of dollars in losses. The Deutsche Bank Defendants, on the other hand, cashed in on their gigantic short position. ***At the direction of Deutsche Bank AG's senior management***, Lippmann gradually cashed in Deutsche Bank's short position. In all, the Deutsche Bank Defendants made a profit of approximately $1.5 billion on Deutsche Bank's shorting of the RMBS market. Levin-Coburn Report at 10, 320, 331, 333, 346. Lippmann bragged that he believed it was the largest profit ever made on a single position in Deutsche Bank AG's 142-year history. *Id.* at 10, 331, 346 n.1321.

482. Indeed, Lippmann revealed that the Deutsche Bank Defendants knew the certificates' credit ratings were false in his testimony before the U.S. Senate by testifying that, although he was aware that an unusually high number of RMBS were rated "AAA" in 2006, he did not believe the ratings were accurate. Levin-Coburn Report at 340. Lippmann further testified that, although he knew the credit ratings were false, he also knew that "***most people believed in the ratings***." *Id.* Lippmann also told others that he knew that investors such as the "***[s]tupid Germans** . . . **t[ook] [the credit] rating agencies seriously [and] believe[d] in the rules***."

E. Deutsche Bank Knowingly Misrepresented that Title to the Certificates' Underlying Loans Was Properly and Timely Transferred

483. As previously alleged, defendants represented in the Offering Documents that they would properly and timely transfer title to the mortgage loans to the trusts that issued plaintiff's certificates. The Offering Documents represented that the depositor defendant would ensure that all right, title and interest in the mortgage loans would be transferred to the trusts at or about the "closing" or "cut-off" dates of the offerings, to ensure that plaintiff's certificates would be

"mortgage-backed," as opposed to "***non***-mortgaged-backed" securities, as well as to ensure the trust maintained its tax-free status as a REMIC mortgage pass-through conduit.

484. However, as is now evident, defendants, notwithstanding their promises, did not timely and/or effectively transfer title to the mortgage loans. This is evidenced by the news reports and lawsuits concerning the problems trustees are having with foreclosing on defaulting loans, the news reports of large scale forgeries and bogus assignments of loans after-the-fact, the mega-settlement with the Attorneys General of 49 states for $25 billion over such practices, and plaintiff's representative investigation concerning the loans in at least one of the trusts at issue herein, which revealed that nearly all of the loans were never properly or timely transferred to the trusts. See §VI.E., *supra*.

485. The foregoing shows that defendants did not timely or effectively transfer title to the mortgage loans to plaintiff's trusts. Of course, defendants were aware of this failure, as it was they, themselves, who were responsible for carrying out such conduct. Defendants obviously know what they did or did not do, it is obvious they did nothing, and equally obvious that they are aware of that fact. This is evidenced by the fact that years after the offerings closed, defendants attempted to scramble and create assignments after-the-fact, once they realized the implications of their earlier failures to act. The mass of late assignments, forged assignments and bogus assignment documents is just further evidence of defendants' attempts to cover up their fraudulent scheme.

F. Plaintiff Did Not and Could Not Have Discovered Defendants Were Acting Fraudulently Until Late 2010

486. Plaintiff could not have learned and did not learn that defendants were defrauding them until late September 2010, when the FCIC investigation revealed for the first time that defendants: (1) were told by Clayton in 2006 and 2007 that significant portions of the loans within the offerings did not comply with the underwriting guidelines stated in the Offering Documents; and

(2) ***defendants then knowingly included large numbers of those defective loans into the offerings***. It was only at that time that plaintiff learned that defendants' misrepresentations and omissions were ***intentional***, thereby informing plaintiff that defendants had acted fraudulently.

487. Indeed, it was not until September 2010 that the public first learned that defendants were intentionally defrauding investors in connection with RMBS offerings. That was when the U.S. Government, acting through the FCIC, released testimony and documents to the public showing for the first time that the Deutsche Bank Defendants received the Clayton reports, were informed that loans did not comply with stated underwriting guidelines, and intentionally included large numbers of defective loans into RMBS offerings sold to the investing public. These reports revealed for the first time that defendants were expressly aware that their RMBS offerings were filled with defective loans, and that defendants knew so:

(a) ***before*** marketing the RMBS;

(b) ***before*** describing the collateral underlying the RMBS;

(c) ***before*** writing the prospectuses, prospectus supplements and other Offering Documents they used to market the certificates;

(d) ***before*** "structuring" the RMBS with the Credit Rating Agencies' data-sensitive models;

(e) ***before*** "pricing" the subject RMBS; and

(f) ***before*** conveying the false information to plaintiff or its agents.

488. Defendants hid Clayton's findings from plaintiff, just as they hid those findings from other investors, and never disclosed the foregoing in the Offering Documents or anywhere else.

489. Moreover, it was not until late 2010, when the FCIC and U.S. Senate revealed that defendants were shorting investments like the certificates at the same time that defendants were

selling the certificates to plaintiff and others, that the investing public first learned that defendants were profiting from their short sales, at plaintiff's and other investors' expense.

VIII. DEFENDANTS' MISREPRESENTATIONS AND OMISSIONS WERE MADE FOR THE PURPOSE OF INDUCING RPI TO RELY ON THEM AND RPI ACTUALLY AND JUSTIFIABLY RELIED ON DEFENDANTS' MISREPRESENTATIONS AND OMISSIONS

490. RPI, through its assigning entities,[20] actually and justifiably relied upon the false information that defendants knowingly wrote into the Offering Documents and that was used to market the certificates.

491. The Offering Documents contained detailed descriptions of the mortgage pools underlying the certificates. The Offering Documents provided the specific terms of the particular offerings. They included data concerning the loans underlying the offerings, including, without limitation: the types of loans; the number of loans; the mortgage rate; the aggregate scheduled principal balance of the loans; the LTV ratios; the OOR percentages, including the Primary Residence Percentages; the credit enhancements; and the geographic concentration of the mortgaged properties. The Offering Documents also contained a description of the loan originators' underwriting and appraisal/valuation standards, guidelines and practices. The Offering Documents further contained the investment grade credit ratings assigned to the certificates by the Credit Rating Agencies, and a promise that the relevant mortgage loans would be properly and timely transferred to the trusts.

492. In deciding to purchase the certificates, the assigning entities actually relied on each of defendants' false representations and omissions of material fact in the prospectuses, pitch books,

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[20] In this section of the Complaint alleging justifiable reliance, all references to RPI include the entities that assigned their claims to RPI alleged herein and include those entities' justifiable reliance.

term sheets, loan tapes, "free writing" prospectuses, "red" and "pink" prospectuses, prospectus supplements and other offering documents alleged herein that defendants provided to the assigning entities, including the representations regarding the loan underwriting guidelines, the characteristics of the underlying mortgage loans (such as the LTV ratios and OOR percentages, including the Primary Residence Percentages), the credit ratings assigned by the Credit Rating Agencies, and the transfer of title to the mortgage loans. But for defendants' misrepresentations and omissions in the Offering Documents, plaintiff's assignors would not have purchased the certificates.

493. RPI, through the assigning entities, reasonably and justifiably relied upon the information that defendants wrote into the Offering Documents and could not have discovered that defendants – some of the most sophisticated and then-respected commercial actors in the world – were omitting and misrepresenting material information exclusively within their possession, custody and control. RPI, through the assigning entities, performed a diligent investigation concerning the offerings, certificates and the underlying loans before purchasing the certificates and could not have learned that defendants were making material misrepresentations and omissions about the offerings, certificates and loans.

A. Fortis Bank Actually and Justifiably Relied on the False Information that Defendants Used to Sell the Subject Certificates

494. Assigning entity Fortis Bank made the decisions to purchase certain of the certificates at issue for itself, and for its affiliate Scaldis. All of the certificates purchased by Fortis Bank and Scaldis were purchased for those entities' own accounts, with the intention to hold the certificates on their balance sheets.

495. Fortis Bank employed highly qualified, conscientious, and experienced investment professionals to make investments on its behalf. The process involved screening and testing the quality of potential investments, which included portfolio and RMBS-level analyses. This process

was diligently followed by Fortis Bank in purchasing the securities at issue and was eminently reasonable.

496. Fortis Bank was only permitted to purchase securities for its asset-backed security ("ABS") portfolio that conformed to numerous investment parameters. For example, the security had to be a debt security, which, unlike equity, requires the obligor to return 100% of the invested principal amount by a date certain. Further, each debt security must have passed the major Credit Rating Agencies' own tests, qualifying as "investment grade" securities under those tests and analyses. Only if the particular security satisfied such portfolio-level criteria could it be considered for further review. Any security affected by defendants' misrepresentations and omissions would have been rejected at this first screening ***if*** defendants' misrepresentations and omissions ***could have*** been detected.

497. After putting in place reasonable portfolio-level screens to weed out risky investments, Fortis Bank conducted a detailed, three-tiered analysis of each RMBS. This analysis consisted of analyzing: (1) the capital structure of the particular security; (2) the quality of the underlying collateral, including the loans' LTV ratios, OOR percentages, DTI ratios, underwriting standards, and types of loans; and (3) the parties participating in the creation of the RMBS, including the originator of the loans, the servicer, the manager, and the underwriter. Investment professionals at Fortis Bank reviewed term sheets or similar summary materials that defendants wrote and provided (including pitch books, offering circulars, draft and final prospectuses, and investor presentations) regarding a particular RMBS, analyzed the RMBS's yield and price relative to similar securities in the market, and made an initial recommendation about whether to purchase the RMBS.

498. Fortis Bank also took into consideration which companies were originating the loans underlying the RMBS, based upon the originators' underwriting guidelines and historical performance. Fortis Bank regularly met with loan originators to discuss underwriting guidelines, at

conferences and on-site. Fortis Bank continued to meet with both defendants and originators after purchasing the securities at issue, and both defendants and those originators continued to provide assurances that the loans underlying the securities were originated pursuant to underwriting guidelines. Fortis Bank relied upon the statements regarding the originators' underwriting guidelines in the Offering Documents in making its investment decisions.

499. The next step in Fortis Bank's investment process involved conducting further credit analyses on the proposed RMBS. In that process, a credit analyst read marketing materials that defendants wrote, including the prospectus supplements and other Offering Documents. The process also involved using an expensive database and software system to detect any anomalies in a particular offering and to model the particular offering under various economic assumptions. This credit analysis further considered the level of structural subordination (or credit enhancement) supporting the proposed RMBS, and how sensitive the particular RMBS security was to various cashflow assumptions. The credit analysis focused on underwriting criteria, LTV ratios, FICO scores, OOR percentages, geographic dispersion, and the quality of the loan servicer supporting the transaction, among other pertinent credit characteristics.

500. Following its credit analysis, Fortis Bank subjected a proposed RMBS purchase to even more screening. Fortis Bank gathered the foregoing portfolio-level data, pricing information and credit analysis data, including LTVs, OORs, credit ratings, and originator information, and subjected all of that data to review by Fortis Bank's investment committee. The investment committee was comprised of experienced senior investment professionals and a risk management officer, who were required to approve the particular RMBS prior to purchase.

501. In fact, there were at least four different screens that Fortis Bank employed that would have rejected defendants' "junk" securities that were falsely masquerading as investment grade bonds. ***First***, the certificates at issue in this case never should have been rated "investment grade,"

because, as defendants knew, those ratings were based on "garbage in" the Credit Rating Agencies' rating models, resulting naturally in "garbage out" of those models. Thus, the certificates would have failed Fortis Bank's portfolio-level screening had the truth about defendants' misrepresentations been known. ***Second***, the subject certificates would have failed the initial RMBS-level screening, because the true qualitative and quantitative data would have exposed the certificates as being massively mispriced had it been accurately set forth in the certificates' Offering Documents. ***Third***, the subject certificates would have been thoroughly rejected by Fortis Bank's robust credit analysis, which, as noted, served to double check prior analyses and dive even deeper into the credit characteristics of the particular bond. ***Fourth***, if Fortis Bank's personnel had detected defendants' use of phony data, they would have rejected the certificates at every stage noted above and would have rejected the certificates at the investment committee phase of the investment process.

502. In the end, none of Fortis Bank's expertise, databases, software, investment personnel, quality control checks or substantial investment in all of these processes really mattered. Indeed, where highly sophisticated commercial actors like defendants have material non-public information about a security and a premeditated plan to commit fraud, such as was the case here, even the most sophisticated systems in the world are insufficient to detect those misrepresentations and omissions. That is one of the many reasons why it has taken the full force of the U.S. Government and its agencies, exercising their subpoena power, through the U.S. Senate and the FCIC, to alert investors to the fact that defendants received reports from Clayton showing that the loans they were selling to investors – including plaintiff and its assigning entities – via the certificates were ***defective on the day they were made***.

B. Fortis Cayman Actually and Justifiably Relied on the False Information that Defendants Used to Sell the Subject Certificates

503. Assigning entity Fortis Cayman hired professional asset investment managers, such as Fortis Investment Management ("FIM") and FSI Capital LLC ("FSI"), to conduct its investment activities. On information and belief, these investment managers, in turn, employed highly qualified, conscientious, and experienced investment professionals to make investments on behalf of their clients, reviewed the term sheets and/or similar summary materials that defendants wrote and provided (including pitch books, offering circulars, draft and final prospectuses, and investor presentations) regarding a particular RMBS, analyzed the RMBS's yield and price relative to similar securities in the market, and made a decision to purchase the RMBS based on that information.

504. Fortis Cayman's investment managers, such as FIM and FSI, were only permitted to purchase securities for Fortis Cayman's portfolio that conformed to numerous investment parameters and criteria contained in the engagement letters between Fortis Cayman and its investment managers. Further, each debt security must have passed the major Credit Rating Agencies' own tests, qualifying as an "investment grade" security under those tests and analyses. Any security affected by defendants' misrepresentations and omissions would have been rejected at this first screening if defendants' misrepresentations and omissions could have been detected.

505. In the end, none of Fortis Cayman's or its professional investment managers' expertise, investment personnel, quality control checks or substantial investment in all of these processes really mattered. Indeed, where highly sophisticated commercial actors like defendants have material non-public information about a security and a premeditated plan to commit fraud, such as was the case here, even the most sophisticated systems in the world are insufficient to detect those misrepresentations and omissions. That is one of the many reasons why it has taken the full force of the U.S. Government and its agencies, exercising their subpoena power, through the U.S. Senate and

the FCIC, to alert investors to the fact that defendants received reports from Clayton showing that the loans they were selling to investors – including plaintiff through the assigning entities – via the certificates were ***defective on the day they were made***.

IX. DEFENDANTS' MATERIAL MISREPRESENTATIONS AND OMISSIONS CAUSED INJURY TO PLAINTIFF

506. Defendants' material misrepresentations and omissions relate directly to plaintiff's economic losses. Sophisticated securities dealers like defendants have long known about the relationship between LTV ratios, OORs, credit ratings, title and ownership, and underwriting criteria on the one hand, and the price and performance of an RMBS certificate on the other hand. Defendants' misrepresentations were the actual and proximate causes of plaintiff's injuries.

A. The Relationship Between Original LTV Ratios, Owner Occupancy Data and RMBS Performance

507. Original LTV or "OLTV" metrics are among the most important variables indicating whether a loan will default. Studies conducted by one industry participant, Smith Barney, demonstrate that there is a strong correlation between the likelihood of default of a mortgage loan and the loan's OLTV ratio. When home prices decrease, borrowers with lower OLTV ratios are more likely to retain more equity in their homes ***even if*** housing prices generally decline. Retaining such equity provides borrowers a powerful incentive to make loan payments, which reduces the propensity of a loan to default. Retaining such equity also enables the borrower to sell the property, repay the loan and recover value in the event of default.

508. Conversely, if a borrower has a higher OLTV ratio, like those that were concealed in this case, there is much less incentive for the borrower to repay the loan if home prices decline or a borrower's financial condition changes, because such borrower would have little equity at risk of loss and therefore far less economic incentive to pay the loan. As a consequence, from an investor's perspective, a loan with a higher OLTV ratio is a much riskier investment, as there is a much higher

chance of default and a much higher risk of incurring a loss because of insufficient collateral for the loan.

509. When defendants misrepresented the OLTV ratios associated with the RMBS at issue in this case, they knew that they were also misrepresenting both the propensity of the loans to default ***and*** their propensity to recover any value and avoid a loss in the event of default.

510. Defendants had actual knowledge of the relationship between the OLTV ratios and the value of the RMBS certificates at issue in this case. For example, in the ACE 2006-HE4 Prospectus Supplement, the Deutsche Bank Defendants warned that, "[i]f there is a reduction in the value of the mortgaged property, the combined loan-to-value ratio may increase over what it was at the time the Mortgage Loan was originated. Such an increase may reduce the likelihood of liquidation or other proceeds being sufficient to satisfy the Mortgage Loan, and any losses to the extent not covered by the credit enhancement may affect the yield to maturity of your certificates." *Id.* at S-14. Thus, the very documents that defendants wrote to market the RMBS at issue in this case demonstrate that defendants understood the relationship between the misrepresentations that defendants made concerning LTV ratios and plaintiff's economic harm: an increase in LTV ratios creates a greater risk of loss on the RMBS certificates.

511. The foregoing demonstrates that defendants clearly knew that the false OLTV ratios, and the related inflated appraisals they used to sell the certificates, would cause plaintiff's damages. The relationship between those inaccurate numbers and plaintiff's harm is immediate and clear. Just as industry literature shows a direct relationship between OLTV ratios, defaults and loss severity, that literature shows the same relationship between OOR percentages and default probabilities. Under every market condition, the OLTV ratios and OOR percentages drive the probability of a loan defaulting. Under every market condition, OLTV ratios and OOR percentages also drive the degree

of loss that will be suffered in the event of a loan default. As illustrated above, defendants say as much in their own Offering Documents.

512. But that is not the full extent of defendants' fraud as it relates to OLTV ratios and OOR percentages in this case. Defendants further inflated the prices of the RMBS in this case by entering inaccurate OLTV and OOR numbers into the Credit Rating Agencies' computerized ratings models to secure artificially inflated ratings. This misconduct also relates to plaintiff's losses.

B. The Relationship Between Credit Ratings and RMBS Performance

513. It is already clear that defendants used "garbage" data to get overrated, inflated credit ratings assigned to the certificates at issue in this case. These false credit ratings, based on false facts, also contributed directly to plaintiff's damages.

514. When the Credit Rating Agencies began downgrading the certificates at issue in this case to speculative or "junk" grade levels and below because of escalating default rates, it became apparent that the certificates did not have the creditworthiness defendants had portrayed. As a result, the market value of the certificates plummeted. Because of defendants' misrepresentations and omissions, plaintiff suffered damages in the form of overpaying for the certificates in the first instance. Plaintiff also suffered damages as a result of defendants' misrepresentations and omissions when the risky loans defaulted, causing plaintiff to lose principal and interest payments and incur writedowns to the loan pools underlying the certificates. Seventeen of the 27 certificates are now in default.

515. Industry executives have explained how false credit ratings relate to losses on RMBS products like those defendants sold in this case. According to Charles Prince, the former CEO of Citigroup, the largest bank in the world, the Credit Rating Agencies' downgrades were "the precipitating event in the financial crisis."

516. Returning to the very documents that defendants wrote and used to market the securities at issue in this case, the Deutsche Bank Defendants admit that a downgrade in credit ratings could affect the value of the certificates:

> Each rating agency rating the Offered Certificates may change or withdraw its initial ratings at any time in the future if, in its judgment, circumstances warrant a change. No person is obligated to maintain the ratings at their initial levels. If a rating agency ***reduces*** or withdraws its rating on one or more classes of the Offered Certificates, the liquidity and ***market value of the affected certificates is likely to be reduced***.

See ACE 2006-ASAP3 Pros. Supp. at S-22.

517. Defendants had actual knowledge on the day they wrote falsified credit ratings into the Offering Documents at issue in this case that there was an immediate and direct relationship between credit ratings and market values. Defendants clearly foresaw the harm they would inflict on plaintiff by misrepresenting those ratings. When the credit ratings were downgraded, the certificates' market values predictably dropped – just as defendants said they would. Yet defendants elected not to balance their "risk" factor about credit ratings with a "reality" factor disclosing the truth that they had intentionally misrepresented those ratings in this case.

518. Defendants warped those ratings so that they could sell the subject certificates at inflated values, and pocket a larger profit or "spread" between the amount of money they paid their originators for defective loans and the amount of money they received by selling those defective loans to plaintiff, via securitizations. Quite simply, defendants used inaccurate data to make and market the certificates so that they could make more money.

519. Downgrades to junk revealed the truth that the original ratings – like the OLTV and OOR data – were based on false and inaccurate information on the day they were issued. It is not possible to ascribe this inaccurate information to mistakes in the origination or structuring processes outside of defendants' control. Rather, as revealed by the government's disclosure of the Clayton

data in September 2010, defendants were well aware of reports detailing the inaccurate OLTV, OOR and ratings data used to structure the RMBS at issue in this case ***before*** making, structuring and selling their RMBS to plaintiff, and defendants nonetheless deliberately decided to misrepresent that data to plaintiff, the Credit Rating Agencies, and other investors, so that they could profit.

C. The Relationship Between Underwriting and RMBS Performance

520. Defendants also concealed rampant, systematic violations of stated loan underwriting standards to maximize their profits at plaintiff's expense. Underwriting, by definition, refers to the process of determining a borrower's ability and willingness to repay a loan. As with LTV ratios, OORs and credit ratings, defendants' decision to misrepresent underwriting standards relates directly to plaintiff's economic damages.

521. Government investigations demonstrate the direct link between defendants' misrepresentations about underwriting standards and plaintiff's economic harm. On or about March 13, 2008, for example, after a seven-month investigation requested by the President of the United States, a working group led by the Secretary of Treasury and including the chairmen of the Federal Reserve, the SEC, and the Commodities Futures Trading Commission, issued a report finding that: (i) "a significant erosion of market discipline by those involved in the securitization process, including originators, underwriters, credit rating agencies and global investors, related in part to failures to provide adequate risk disclosures"; and (ii) "[t]he turmoil in financial markets clearly was triggered by a dramatic weakening of underwriting standards for U.S. subprime mortgages."

522. Indeed, contrary to defendants' expected efforts to claim that plaintiff's certificates declined in value because of this Nation's economic collapse, in fact, the opposite is true – defendants' systemic misrepresentations in the Offering Documents caused plaintiff's and many other investors' certificates to plummet in value, which in turn caused this Nation's financial collapse. Defendants' systemic misrepresentations and omissions concerning the loans at issue

caused plaintiff's damages, and thereafter "***the high risk loans [defendants] issued became the fuel that ignited the financial crisis***." Levin-Coburn Report at 50; *see also id.* at 475 ("***The widespread losses caused by . . . RMBS securities originated by investment banks [which contained 'poor quality assets'] are a key cause of the financial crisis that affected the global financial system in 2007 and 2008***.").

523. When it became known that the loans in the offerings were much riskier than represented, through skyrocketing default rates that led to major credit downgrades to the certificates, it also became apparent that the loans had not been originated pursuant to the underwriting standards represented in the Offering Documents. It became apparent then that the loans had been originated in a slipshod fashion, with little regard to the most basic underwriting guideline of all – determining whether the borrower could repay the loan. This fact too was a cause of the plummeting value of plaintiff's certificates, and a contributing cause of plaintiff's damages. Therefore, defendants' misrepresentations about underwriting standards directly and proximately caused plaintiff's injuries.

D. The Relationship Between Proper and Timely Transfer of Title and Plaintiff's Damages

524. Defendants' misrepresentations that the loans would be properly and timely transferred to the trusts were also a proximate cause of plaintiff's economic damages. Plaintiff believed it was purchasing mortgage-***backed*** securities. Given that the certificates are lacking much of the backing or collateral that was supposed to be providing security, and guaranteeing a source of funds if the loans defaulted, the certificates have lost value as it has become known that the RMBS might actually be ***non***-mortgage-backed securities. In other words, the lack of collateral underlying the certificates has caused an understandable and logical diminution in the value of the certificates. As Professor Levitin noted in his testimony to Congress in November 2010, the failure to properly or

timely transfer title would have "profound implications for [R]MBS investors," and would cause trillions of dollars in damages. Defendants' misrepresentations concerning the transfer of title proximately caused plaintiff's damages.

FIRST CAUSE OF ACTION

(Common Law Fraud Against All Defendants)

525. Plaintiff repeats and realleges the allegations set forth in the preceding paragraphs, as if fully set forth herein.

526. As alleged above, in the Offering Documents, defendants made false and misleading statements of material fact, and omitted material facts necessary in order to make their statements, in light of the circumstances under which the statements were made, not misleading.

527. As the corporate parent of its wholly-owned subsidiaries, defendant Deutsche Bank AG directed and controlled the activities of its respective co-defendants, and used them as conduits to conduct the RMBS offerings alleged herein.

528. Defendants knew at the time they sold and marketed each of the certificates that the foregoing statements were false and misleading or, at the very least, were made recklessly.

529. Defendants made these materially false and misleading statements and omissions for the purpose of inducing plaintiff (and the assigning entities) to purchase the certificates. Furthermore, these statements related to these defendants' own acts and omissions.

530. Defendants knew or recklessly disregarded that investors like plaintiff (and the assigning entities) were relying on defendants' expertise, and defendants encouraged such reliance through the Offering Documents, as described herein. Defendants knew or recklessly disregarded that investors like plaintiff (and the assigning entities) would rely upon defendants' representations in connection with their decisions to purchase the certificates. As alleged herein, defendants were in

a position of unique and superior knowledge regarding the true facts concerning the foregoing material misrepresentations and omissions.

531. It was only by making such misrepresentations and omissions that defendants were able to induce plaintiff (and the assigning entities) to buy the certificates. Plaintiff (and the assigning entities) would not have purchased or otherwise acquired the certificates but for defendants' fraudulent representations and omissions about the quality of the certificates and the underlying loans.

532. Plaintiff (and the assigning entities) actually, justifiably, reasonably, and foreseeably relied upon defendants' false and misleading representations and omissions regarding the certificates and the underlying loans.

533. As a result of defendants' false and misleading statements and omissions, as alleged herein, plaintiff (and the assigning entities) have suffered substantial damages.

534. The Deutsche Bank Defendants also defrauded plaintiff (and the assigning entities) by concealing from plaintiff (and the assigning entities) that they were "shorting" RMBS like the certificates sold to plaintiff (and the assigning entities) at the same time defendants sold the certificates at issue to plaintiff (and the assigning entities). The Deutsche Bank Defendants further defrauded plaintiff (and the assigning entities) by concealing that they called the certificates and other RMBS "pigs," "crap" and "generally horrible" at the same time they sold the certificates to plaintiff (and the assigning entities) while also shorting them.

535. Because defendants committed these acts and omissions maliciously, wantonly and oppressively, and because the consequences of these acts knowingly affected the general public, including, but not limited to, all persons with interests in the RMBS, plaintiff (through itself and the assigning entities) is entitled to recover punitive damages.

SECOND CAUSE OF ACTION

(Fraudulent Inducement Against All Defendants)

536. Plaintiff repeats and realleges the allegations set forth in the preceding paragraphs, as if fully set forth herein.

537. As alleged above, in the Offering Documents defendants made fraudulent, false and misleading statements of material fact, and omitted material facts necessary in order to make their statements, in light of the circumstances under which the statements were made, not misleading. The Deutsche Bank Defendants also omitted that they were "shorting" RMBS like plaintiff's (and the assigning entities') at the same time those defendants sold the certificates at issue herein to plaintiff (and the assigning entities). The Deutsche Bank Defendants also omitted that they called RMBS like the certificates sold to plaintiff (and the assigning entities) "pigs," "crap" and "generally horrible" at the time they sold them to plaintiff (and the assigning entities) while also shorting them.

538. This is a claim for fraudulent inducement against all of the defendants. As the corporate parent, defendant Deutsche Bank AG directed the activities of its respective co-defendant subsidiaries and used them as conduits to conduct the RMBS offerings alleged herein.

539. Defendants knew at the time they sold and marketed each of the certificates that the foregoing statements were false and misleading or, at the very least, were made recklessly.

540. Defendants made these materially false and misleading statements and omissions for the purpose of inducing plaintiff (and the assigning entities) to purchase the certificates. Furthermore, these statements related to defendants' own acts and omissions.

541. Defendants knew or recklessly disregarded that investors like plaintiff (and the assigning entities) were relying on defendants' expertise, and defendants encouraged such reliance through the Offering Documents, as described herein. Defendants knew or recklessly disregarded that investors like plaintiff (and the assigning entities) would rely upon defendants' representations

in connection with their decisions to purchase the certificates. As alleged herein, defendants were in a position of unique and superior knowledge regarding the true facts concerning the foregoing material misrepresentations and omissions.

542. It was only by making such misrepresentations and omissions that defendants were able to induce plaintiff (and the assigning entities) to buy the certificates. Plaintiff (and the assigning entities) would not have purchased or otherwise acquired the certificates but for defendants' fraudulent representations and omissions about the certificates and the underlying loans.

543. Plaintiff (and the assigning entities) actually, justifiably, reasonably, and foreseeably relied upon defendants' false and misleading representations and omissions regarding the certificates and underlying loans.

544. By virtue of defendants' false and misleading statements and omissions, as alleged herein, plaintiff (and the assigning entities) has suffered substantial damages and is also entitled to rescission or rescissory damages.

545. In addition, because defendants acted maliciously, wantonly and oppressively, and defendants' acts affected the general public, plaintiff is entitled to recover punitive damages.

THIRD CAUSE OF ACTION

(Aiding and Abetting Fraud Against All Defendants)

546. Plaintiff repeats and realleges the allegations set forth in the preceding paragraphs, as if fully set forth herein.

547. This is a claim against each of the defendants for aiding and abetting the fraud by their co-defendants. Specifically, each of the Deutsche Bank Defendants aided and abetted each of the other Deutsche Bank Defendants.

548. Each of the defendants knew of the fraud perpetrated by the each of their co-defendants on plaintiff (and the assigning entities). As alleged in detail above, each of the

defendants knew that the certificates were not backed by loans of the quality represented by defendants, and were not underwritten according to the originators' stated underwriting standards. In fact, defendants owned originators and/or conducted due diligence on the loan pools securitized into the offerings purchased by plaintiff (and the assigning entities) and identified the originators' deviations from the loan underwriting and appraisal standards set forth in the Offering Documents and knew that the LTV ratios, OOR percentages (including the Primary Residence Percentages) and credit ratings in the Offering Documents were false. Each of the defendants also knew that their representations that they had timely and properly transferred title to the mortgage loans were false. Each of the defendants concealed from plaintiff (and the assigning entities) that some of their co-defendants thought that RMBS, like the certificates, were "pigs," "crap" and "generally horrible" and were simultaneously "shorting" the same types of investments that they were selling to plaintiff (and the assigning entities). Each of the defendants participated in those violations by their co-defendants, and had actual knowledge of their own acts and participated in and had actual knowledge of their co-defendants' fraudulent acts alleged herein.

549. Furthermore, each of the defendants provided their co-defendants with substantial assistance in advancing the commission of their frauds. As alleged in detail above, each of the defendants participated in the following acts constituting the fraud with their co-defendants: making false and misleading statements and omissions in the Offering Documents about the originators' loan underwriting and appraisal standards, the loans' LTV ratios, the loans' OOR percentages (including the Primary Residence Percentages), the certificates' credit ratings, and the transfer of title of the mortgage loans; providing false information about the loans underlying the certificates to the Credit Rating Agencies; providing false information for use in the Offering Documents; concealing from plaintiff (and the assigning entities) the originators' deviations from their stated mortgage loan underwriting and appraisal standards; concealing from plaintiff (and the assigning entities) that some

of their co-defendants called RMBS like the certificates sold to plaintiff (and the assigning parties) "pigs," "crap" and "generally horrible"; and concealing from plaintiff (and the assigning entities) that some of their co-defendants were shorting investments like the certificates.

550. It was foreseeable to each of the defendants at the time they actively assisted in the commission of their co-defendants' frauds that plaintiff (and the assigning entities) would be harmed as a result of each defendant's assistance of their co-defendants.

551. As a direct and natural result of the frauds committed by each defendant and each defendant's knowing and active participation in each fraud committed by such defendant's co-defendants, plaintiff (and the assigning entities) has suffered substantial damages.

552. In addition, because defendants acted maliciously, wantonly and oppressively, and defendants' acts affected the general public, plaintiff is entitled to recover punitive damages.

FOURTH CAUSE OF ACTION

(Negligent Misrepresentation Against All Defendants)

553. Plaintiff repeats and realleges the allegations set forth in the preceding paragraphs, as if fully set forth herein, except any allegations that defendants made any untrue statements and omissions intentionally or recklessly. For the purposes of this cause of action, plaintiff expressly disclaims any claim of fraud or intentional or reckless misconduct.

554. This is a claim for negligent misrepresentation against all defendants.

555. Plaintiff (and the assigning entities) made 27 separate investments in 18 offerings of RMBS that the defendants securitized and sold.

556. It is a required industry practice for underwriters of RMBS offerings to perform an investigation of the loans backing the certificates to ensure that the quality of the loans is as represented in the offering documents provided to investors. In fact, U.S. securities laws require defendants to "***perform a review of the pool assets underlying the asset-backed security***" and

ensure that such information shall be disclosed in the offering documents and "***is accurate in all material respects***." 17 C.F.R. §230.193. In addition, "[p]rospective investors look to the underwriter – a fact well known to all concerned and ***especially to the underwriter*** – to pass on the soundness of the security and the correctness of the [offering documents]." *Chris-Craft*, 480 F.2d at 370.

557. Because of the foregoing, defendants conducted due diligence and investigated the loans that backed their RMBS offerings. The purpose and effect of defendants' legal obligations as underwriters to conduct due diligence and ensure the correctness of the statements in the Offering Documents, as well as the investing public's understanding that the RMBS underwriters perform such due diligence to ensure the accuracy of statements made in the Offering Documents, was to assure plaintiff (and the assigning entities) that it could reasonably rely upon the Offering Documents. Moreover, by virtue of the due diligence defendants performed, and their extensive role in originating, purchasing, securitizing and selling the certificates that plaintiff (and the assigning entities) purchased, defendants had extremely unique and special knowledge and expertise regarding the loans backing those certificates, including the loans' quality, the nature of their underwriting, their value and adequacy as collateral, their LTV ratios, their OOR percentages, and the title to such loans.

558. In particular, because plaintiff (and the assigning entities) did not have access to the loan files for the mortgage loans, or defendants' due diligence and valuation reports, while only defendants did, and because plaintiff (and the assigning entities) could not examine the underwriting quality of the mortgage loans underlying the offerings on a loan-by-loan basis, plaintiff (and the assigning entities) was heavily dependent on defendants' unique and special knowledge and expertise regarding the loans that backed the certificates at issue herein when determining whether to invest in each certificate. Plaintiff (and the assigning entities) was entirely dependent on defendants

to provide accurate and truthful information regarding the loans because plaintiff (and the assigning entities) had no access to the loan files, which were completely within defendants' control. Moreover, as alleged above, at the time plaintiff (and the assigning entities) purchased the certificates, plaintiff (and the assigning entities) had no ability to test the veracity of defendants' representations in the Offering Documents concerning the loans because there were no loan databases available in the 2005 to 2007 time period which would allow plaintiff (or the assigning entities) to conduct sufficient analyses, like the analyses plaintiff performed prior to filing this complaint. Accordingly, defendants were uniquely situated to evaluate the safety and economics of each certificate sold to plaintiff (and the assigning entities) and the loans underlying them.

559. Because plaintiff (and the assigning entities) was without access to critical information regarding the loans backing the certificates, and defendants had a legal obligation to perform due diligence on the loans and ensure any statements made about the loans in the Offering Documents were truthful and accurate, and plaintiff (and the assigning entities) had the understanding that RMBS underwriters performed due diligence to ensure the accuracy of the Offering Documents, defendants had a duty to plaintiff (and the assigning entities) to verify the accuracy and truthfulness of the Offering Documents.

560. Over the course of at least five years, plaintiff (and the assigning entities) relied on defendants' unique and special knowledge regarding the quality of the underlying mortgage loans and defendants' underwriting when determining whether to invest in the certificates. These longstanding relationships, coupled with defendants' unique and special position of knowledge about the underlying loans, created a special relationship of trust, confidence, and dependence between defendants and plaintiff (and the assigning entities).

561. Defendants were aware that plaintiff (and the assigning entities) relied on defendants' unique and special position, expertise and experience, and depended upon defendants for accurate

and truthful information. Defendants also knew that the actual true statistics regarding the loans and the loans' compliance with the stated underwriting standards were exclusively within defendants' knowledge.

562. Based on defendants' expertise, superior knowledge, legal duties, and relationship with plaintiff (and the assigning entities), defendants owed a duty to plaintiff (and the assigning entities) to provide complete, accurate, truthful and timely information regarding the mortgage loans and the certificates. Defendants breached their duty to provide such information to plaintiff (and the assigning entities).

563. Defendants likewise made misrepresentations which they knew, or were negligent in not knowing at the time, to be false and misleading in order to induce plaintiff's (and the assigning entities') investment in the certificates. Defendants provided the Offering Documents to plaintiff (and the assigning entities) in connection with the sale of the certificates for the purpose of informing plaintiff (and the assigning entities) of material facts necessary to make an informed judgment about whether to purchase the certificates in the offerings. In providing these documents, defendants knew that the information contained and incorporated therein would be used for a serious purpose, and that plaintiff (and the assigning entities), like other reasonably prudent investors, intended to rely on the information contained in the Offering Documents.

564. As alleged above, the Offering Documents contained materially false and misleading information and omissions, including, without limitation, misrepresentations concerning the underwriting guidelines, appraisals, LTV ratios, Primary Residence Percentages, credit ratings, and the transfer of title to the loans, and the omissions that the Deutsche Bank Defendants were selling RMBS like the ones sold to plaintiff (and the assigning entities) "short" at the same time those defendants sold plaintiff (and the assigning entities) the certificates, and which those defendants called "pigs," "crap" and "generally horrible."

565. Defendants acted negligently in making the materially false and misleading statements and omissions to plaintiff (and the assigning entities).

566. Unaware that the Offering Documents contained materially false and misleading statements and omissions, plaintiff (and the assigning entities) reasonably relied on those false and misleading statements and omissions when deciding to purchase the certificates.

567. Plaintiff (and the assigning entities) purchased certificates from defendant DBSI in the offerings, and is therefore in privity with them.

568. Based on defendants' expertise and specialized knowledge, and in light of the false and misleading representations and omissions in the Offering Documents, defendants owed plaintiff (and the assigning entities) a duty to provide it with complete, accurate, truthful and timely information regarding the quality of the certificates and underlying loans, and their title, and defendants breached their duty to provide such information to plaintiff (and the assigning entities).

569. Plaintiff (and the assigning entities) reasonably relied on the information provided by defendants and has suffered substantial damages as a result of defendants' misrepresentations.

FIFTH CAUSE OF ACTION

(Rescission Based upon Mutual Mistake Against Defendant DBSI)

570. Plaintiff repeats and realleges the allegations set forth in the preceding paragraphs, as if fully set forth herein.

571. Based on the representations in the Offering Documents, both the underwriter defendant, DBSI, which sold the certificates, and the plaintiff (and the assigning entities), which purchased them, believed that the mortgages and notes described in the Offering Documents had been validly assigned to the trusts and/or trustees at the time the certificates were initially purchased.

572. As alleged above, however, the vast majority of the mortgages and notes were, in fact, not timely or properly assigned to the trusts and/or trustees at the time the certificates were initially purchased by plaintiff (through the assigning entities).

573. Therefore, a mutual mistake existed at the time that plaintiff (through the assigning entities) contracted for the sale of the certificates.

574. The assignment of the mortgages and notes to the trusts and/or trustees was a crucial fact that went to the heart of each of the offerings at issue here. Without proper assignments, the trustees for the trusts have no legal right to foreclose on the collateral in the event a borrower defaults, the trusts do not own the mortgages and the notes, and the trusts may not qualify for REMIC tax classification.

575. These were significant risks that were undisclosed due to the misrepresentations in the Offering Documents, and were neither part of plaintiff's (through the assigning entities') investment objectives, nor defendant's purported investment offer. Had plaintiff (and the assigning entities) known that the mortgages and notes had not been properly and timely assigned to the trusts, it would not have purchased the certificates.

576. Because a mutual mistake of a material fact existed at the time plaintiff (through the assigning entities) contracted for the sale of the certificates, the transactions are void and plaintiff is therefore entitled to rescission.

PRAYER FOR RELIEF

WHEREFORE, plaintiff prays for relief and judgment, as follows:

(a) Awarding compensatory damages in favor of plaintiff against all defendants, jointly and severally, for all damages sustained as a result of defendants' wrongdoing, in an amount to be proven at trial, including interest thereon;

(b) Awarding punitive damages for plaintiff's common-law fraud claims;

(c) Alternatively, awarding plaintiff the right of rescission and/or rescissory damages, as to all defendants, sustained as a result of defendants' wrongdoing and/or mutual mistake;

(d) Awarding plaintiff its reasonable costs and expenses incurred in this action, including counsel fees and expert fees; and

(e) Such other relief, including equitable relief, as the Court may deem just and proper.

JURY DEMAND

Plaintiff demands a trial by jury on all claims so triable.

DATED: August 5, 2013

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Appendix A

Offering	Issue Date	Depositor	Sponsor	Defendant Underwriter	Tranche Purchased	CUSIP	Purchase Date	Original Face Amount	Assigning Entity	Seller
ACE 2005-RM2	5/26/2005	ACE	DBSP	DBSI	M5	004421NX7	7/23/2007	$4,626,000	Fortis Cayman	Goldman Sachs & Co.
ACE 2006-ASAP3	5/30/2006	ACE	DBSP	DBSI	A2D	00442VAE7	5/25/2006	$8,000,000	Fortis Bank	DBSI
					M1	00442VAF4	5/25/2006	$10,000,000	Fortis Bank	DBSI
ACE 2006-ASAP6	11/29/2006	ACE	DBSP	DBSI	A2D	00443KAF7	11/22/2006	$25,000,000	Scaldis	DBSI
					M1	00443KAG5	11/22/2006	$7,000,000	Fortis Bank	DBSI
ACE 2006-HE4	9/28/2006	ACE	DBSP	DBSI	A2D	00442BAE1	9/19/2006	$20,901,000	Scaldis	DBSI
DBALT 2006-AF1	3/30/2006	Deutsche Alt-A	DBSP	DBSI	A4	251510NC3	3/23/2006	$16,000,000	Fortis Bank	DBSI
DBALT 2006-AR1	1/31/2006	Deutsche Alt-A	DBSP	DBSI	1A2	251510LC5	1/26/2006	$22,000,000	Scaldis	DBSI
DBALT 2006-AR3	7/31/2006	Deutsche Alt-A	DBSP	DBSI	A1	25151AAA9	7/25/2006	$30,000,000	Scaldis	DBSI
DBALT 2006-AR6	12/15/2006	Deutsche Alt-A	DBSP	DBSI	A4	25150RAD7	11/21/2006	$24,500,000	Scaldis	DBSI
					A6	25150RAF2	11/21/2006	$24,500,000	Scaldis	DBSI
					A7	25150RAG0	11/21/2006	$19,600,000	Scaldis	DBSI
DBALT 2007-AR1	1/31/2007	Deutsche Alt-A	DBSP	DBSI	A2	25151RAB0	1/12/2007	$29,390,000	Fortis Bank	DBSI
					A5	25151RAG9	1/12/2007	$16,272,000	Fortis Bank	DBSI
DBALT 2007-AR2	2/28/2007	Deutsche Alt-A	DBSP	DBSI	A3	25151UAC1	2/20/2007	$22,840,000	Scaldis	DBSI
DBALT 2007-AR3	4/30/2007	Deutsche Alt-A	DBSP	DBSI	2A3	25150VAK2	4/24/2007	$51,747,000	Fortis Bank	DBSI
					2A6	25150VAN6	4/24/2007	$24,652,000	Fortis Bank	DBSI
DBALT 2007-OA1	2/28/2007	Deutsche Alt-A	DBSP	DBSI	A2	25151VAB1	2/23/2007	$20,125,000	Scaldis	DBSI
					A3	25151VAC9	2/23/2007	$10,062,500	Scaldis	DBSI
DBALT 2007-OA2	3/30/2007	Deutsche Alt-A	DBSP	DBSI	A3	25150UAC2	3/22/2007	$24,974,000	Fortis Bank	DBSI
INDX 2006-AR27	8/30/2006	IndyMac MBS	IndyMac	DBSI	1A3	45661LAC2	8/23/2006	$35,262,600	Scaldis	DBSI
PHHAM 2007-2	4/26/2007	Deutsche Alt-A	PHH	DBSI	1A3	69337HAC5	4/16/2007	$21,000,000	Fortis Bank	DBSI
					1A5	69337HAE1	4/16/2007	$30,762,000	Fortis Bank	DBSI
PHHAM 2007-3	6/28/2007	ACE	PHH	DBSI	A4	69337MAD2	6/20/2007	$20,000,000	Fortis Bank	DBSI
POPLR 2007-A	5/30/2007	Popular ABS	Equity One	DBSI	M1	73316NAD7	5/30/2007	$4,000,000	Fortis Cayman	DBSI
SGMS 2006-FRE1	5/11/2006	SG Mortg. Secs.	SG Mortg.	DBSI	A2C	81879MAW9	3/28/2006	$4,000,000	Fortis Bank	Societe Generale
					M1	81879MAX7	3/28/2006	$8,000,000	Fortis Bank	Societe Generale