Filed
12 August 17 P3:28
Amalia Rodriguez-Mendoza
District Clerk
Travis District
D-1-GN-12-002517

CAUSE NO. _____

FEDERAL DEPOSIT INSURANCE CORPORATION AS RECEIVER FOR GUARANTY BANK,	§	IN THE DISTRICT COURT OF
Plaintiff,	§	
v.	§	_____JUDICIAL DISTRICT
J.P. MORGAN SECURITIES LLC; MERRILL LYNCH, PIERCE, FENNER & SMITH INC.; RBS SECURITIES INC.; WAMU ASSET ACCEPTANCE CORP.; and WAMU CAPITAL CORP.;	§	
Defendants.	§	TRAVIS COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION FOR DAMAGES

TO THE HONORABLE JUDGES OF SAID COURT:

Comes now Plaintiff, Federal Deposit Insurance Corporation as Receiver for Guaranty Bank, and files this Petition against J.P. Morgan Securities LLC (formerly known as Bear, Stearns & Co. Inc. and referred to in this Petition as **Bear Stearns**); Merrill Lynch, Pierce, Fenner & Smith Inc. (successor by merger to Banc of America Securities LLC, which is referred to in this Petition as **Banc of America**); RBS Securities Inc. (formerly known as Greenwich Capital Markets, Inc. and doing business as RBS Greenwich Capital, and referred to in this Petition as **RBS**); WaMu Asset Acceptance Corp. (**WaMu Acceptance**); and WaMu Capital Corp. (**WaMu Capital**), and as grounds therefor shows as follows:

I. DISCOVERY CONTROL PLAN

1. Plaintiff intends that discovery be conducted under Level 3 of Rule 190.4 of the Texas Rules of Civil Procedure.

II. NATURE OF THIS ACTION

2. This is an action for damages caused by violation of the Texas Securities Act (**TSA**) and the Securities Act of 1933 (**1933 Act**) by the defendants. As alleged in detail below, defendants issued, underwrote, or sold 20 securities known as "certificates," which were backed by collateral pools of residential mortgage loans in 18 securitizations. Guaranty Bank (**Guaranty**) paid approximately $2.1 billion for the 20 certificates. When they issued, underwrote, or sold the certificates, the defendants made numerous statements of material fact about the certificates and, in particular, about the credit quality of the mortgage loans that backed them. Many of those statements were untrue. Moreover, the defendants omitted to state many material facts that were necessary in order to make their statements not misleading. For example, the defendants made untrue statements or omitted important information about such material facts as the loan-to-value ratios of the mortgage loans, the extent to which appraisals of the properties that secured the loans were performed in compliance with professional appraisal standards, the number of borrowers who did not live in the houses that secured their loans (that is, the number of properties that were not primary residences), and the extent to which the entities that made the loans disregarded their own standards in doing so.

3. Based on an analysis of a random sample of the loans that backed the certificates that Guaranty purchased, the defendants made such untrue or misleading statements about at least the following numbers of loans.

Securitization No.[1]	Number of Loans about Which Defendants Made Material Untrue or Misleading Statements[2]	Number of Loans that Backed the Certificates	Percentage of Loans about Which Defendants Made Material Untrue or Misleading Statements
1	645	973	66.3%
2	1,470	1,940	75.8%
3	550	714	77.0%
4	328	456	71.9%
5	871	1,216	71.6%
6	1,961	2,742	71.5%
7	1,444	2,591	55.7%
8	938	2,073	45.2%
9	192	401	47.9%
10	210	393	53.4%
11	265	757	35.0%
12	130	263	49.4%
13	162	330	49.1%
14	299	578	51.7%
15	234	473	49.5%
16	410	773	53.0%
17	1,425	2,426	58.7%
18	354	659	53.7%

4. The certificates are "securities" within the meaning of the TSA and the 1933 Act.

5. The defendants are liable under the following provisions of the TSA and the 1933 Act:

As issuer: WaMu Acceptance is liable as an "issuer" under Section 11 of the 1933 Act in connection with issuing nine certificates that Guaranty purchased.

[1] Guaranty purchased two certificates in Securitization No. 11 and two certificates in Securitization No. 16.

[2] The method of random sampling that Plaintiff used ensures that conclusions about the entire collateral pool have a margin of error of no more than plus or minus 5% at a confidence level of 95% (that is, one can be 95% certain that the true percentage in the collateral pool as a whole is within 5% of the percentage measured in the sample). For example, one can be 95% certain that the number of loans in Securitization No. 1 about which Banc of America, which sold to Guaranty the certificate in Securitization No. 1, made untrue or misleading statements or omissions is within 5% of 645, that is, between 613 and 677. The same margin of error should be applied to all information in this Petition and accompanying Schedules that is based on a random sample of loans in a collateral pool.

As underwriter: WaMu Capital is liable as an "underwriter" under Section 11 of the 1933 Act in connection with underwriting nine certificates that Guaranty purchased.

As sellers: The following defendants, which sold the certificates that Guaranty purchased when they were initially offered to the public, are liable as "sellers" under Article 581-33 of the TSA: Banc of America, which sold one certificate; Bear Stearns, which sold five certificates; RBS, which sold two certificates; and WaMu Capital, which sold 12 certificates.

WaMu Capital is also liable as a seller under Section 12(a)(2) of the 1933 Act in connection with selling nine certificates that Guaranty purchased when they were initially offered to the public.

WaMu Acceptance is also liable as a seller under Section 12(a)(2) of the 1933 Act in connection with issuing nine certificates that Guaranty purchased when they were initially offered to the public.

III. PARTIES

6. The Federal Deposit Insurance Corporation (**FDIC**) is a corporation organized and existing under the laws of the United States of America. Under the Federal Deposit Insurance Act, the FDIC is authorized to be appointed as receiver for failed depository institutions. On August 21, 2009, the FDIC was duly appointed the receiver for Guaranty. Under the Federal Deposit Insurance Act, the FDIC as receiver succeeds to, and is empowered to sue and complain in any court of law to pursue, all claims held by banks for which it is the receiver. 12 U.S.C. §§ 1819, 1821(d)(2)(A)(i). Thus, the FDIC as Receiver for Guaranty has authority to pursue claims held by Guaranty, including the claims made against the defendants in this action.

7. Defendant Bear Stearns is a limited liability company organized under the laws of Delaware and is authorized to do business in Texas. Bear Stearns may be served through its registered agent, CT Corporation, 350 North Saint Paul Street, Suite 2900, Dallas, Texas 75201.

8. Defendant Merrill Lynch, Pierce, Fenner & Smith Inc. is a corporation organized under the laws of Delaware and is authorized to do business in Texas. It is the successor by merger to Banc of America. Merrill Lynch, Pierce, Fenner & Smith Inc. succeeded to all of the

liabilities of Banc of America. Merrill Lynch, Pierce, Fenner & Smith Inc. may be served through its registered agent, CT Corporation, 350 North Saint Paul Street, Suite 2900, Dallas, Texas 75201.

9. Defendant RBS is a corporation organized under the laws of Delaware and is authorized to do business in Texas. RBS may be served through its registered agent, Corporation Service Company d/b/a CSC - Lawyers Incorporating Service Company, 211 East 7th Street, Suite 620, Austin, Texas 78701.

10. Defendant WaMu Acceptance is a corporation organized under the laws of Delaware. WaMu Acceptance may be served through the Texas Secretary of State because it is a nonresident corporation, it engaged in business in Texas but did not maintain a regular place of business in Texas nor a designated agent in Texas for service of process, this proceeding arises out of the business conducted in Texas, and WaMu Acceptance is a party to this proceeding. The Secretary of State may serve WaMu Acceptance through its registered agent, The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801.

11. Defendant WaMu Capital is a corporation organized under the laws of Washington and is authorized to do business in Texas. WaMu Capital may be served through its registered agent, CT Corporation, 350 North Saint Paul Street, Suite 2900, Dallas, Texas 75201.

IV. JURISDICTION AND VENUE

12. The Court has jurisdiction because the amount in controversy in this action falls within the minimum jurisdictional limits of the Court.

13. All of the defendants are subject to personal jurisdiction in Texas because they offered and sold, or controlled persons that offered and sold, the certificates to Guaranty in Texas within the meaning of Article 581-33 of the TSA.

14. Venue is proper in this County under Section 15.002(a)(4) of the Texas Civil Practice & Remedies Code because Travis County was the principal residence of Guaranty at the time the claims accrued.

V. SECURITIZATION OF MORTGAGE LOANS

15. The securities that Guaranty purchased are so-called **residential mortgage-backed securities**, or **RMBS**, created in a process known as **securitization**. Securitization begins with loans on which the borrowers are to make payments, usually monthly. The entity that makes the loans is known as the **originator** of the loans. The process by which the originator decides whether to make particular loans is known as the **underwriting** of loans. The purpose of underwriting is to ensure that loans are made only to borrowers of sufficient credit standing to repay them and only against sufficient collateral. In the loan underwriting process, the originator applies its **underwriting standards**.

16. In general, residential mortgage lenders may hold some of the mortgage loans they originate in their own portfolios and may sell other mortgage loans they originate into securitizations.

17. In a securitization, a large number of loans, usually of a similar type, are grouped into a **collateral pool**. The originator of those loans sells them (and, with them, the right to receive the cash flow from them) to a **trust**. The trust pays the originator cash for the loans. The trust raises the cash to pay for the loans by selling **securities**, usually called **certificates**, to investors such as Guaranty. Each certificate entitles its holder to an agreed part of the cash flow from the loans in the collateral pool.

18. In a simple securitization, the holder of each certificate is entitled to a *pro rata* part of the overall monthly cash flow from the loans in the collateral pool.

19. In a more complex securitization, the cash flow is divided into different parts, usually called **tranches** ("tranche" is "slice" in French), and the certificates are divided into different **classes**, each with different rights. Each class of certificates is entitled to the cash flow in the tranche corresponding to that class.

20. One way in which the cash flow is divided — and the rights of different classes of certificates distinguished — is by priority of payment or, put differently, risk of nonpayment. The most **senior** class of certificates usually is entitled to be paid in full before the next most senior class, and so on. Conversely, losses from defaults in payment of the loans in the collateral pool are allocated first to the most **subordinate** class of certificates, then to the class above that, and so on. The interest rate on each class of certificates is usually proportional to the amount of risk that that class bears; the most senior certificates bear the least risk and thus pay the lowest rate of interest, the most subordinate, the opposite. This hierarchy of rights to payment is referred to as the **waterfall**.

21. The risk of a particular class of certificate is a function of both the riskiness of the loans in the collateral pool and the seniority of that class in the waterfall. Even if the underlying loans are quite risky, the certificates may bear so little of that risk that they may be rated as **triple-A**. (According to Moody's, "[o]bligations rated Aaa are judged to be of the highest quality, with minimal credit risk.") For example, assume a securitization of $100 million of risky loans, on which the historical loss rate is 5%. Assume that there are two classes of certificates, a senior class of $50 million and a subordinate class of $50 million. Even though the underlying loans are quite risky, the senior class of certificates would be paid in full as long as the $100 million of loans produced payments of at least $50 million plus interest, that is, unless the loss rate on those loans exceeded 50%, fully ten times the historical average. All of the certificates referred to in this Petition were rated triple-A when Guaranty purchased them.

22. Each securitization has a **sponsor**, the prime mover of the securitization. Sometimes the sponsor is the originator or an affiliate. In originator-sponsored securitizations, the collateral pool usually contains loans made by the originator that is sponsoring the securitization. Other times, the sponsor may be an investment bank, which purchases loans from one or more originators, aggregates them into a collateral pool, sells them to a trust, and securitizes them. The sponsor arranges for title to the loans to be transferred to an entity known as the **depositor**, which then transfers title to the loans to the trust.

23. The obligor of the certificates in a securitization is the trust that purchases the loans in the collateral pool. Because a trust has few assets other than the loans that it purchased, it may not be able to satisfy the liabilities of an issuer of securities (the certificates). The law therefore treats the depositor as the **issuer** of a residential mortgage-backed certificate.

24. **Securities underwriters**, like Banc of America, Bear Stearns, RBS, and WaMu Capital, play a critical role in the process of securitization. They underwrite the sale of the certificates, that is, they purchase the certificates from the trust and then sell them to investors. Equally important, securities underwriters provide to potential investors the information that they need to decide whether to purchase certificates.

25. Because the cash flow from the loans in the collateral pool of a securitization is the source of funds to pay the holders of the certificates issued by the trust, the credit quality of those certificates is dependent upon the credit quality of the loans in the collateral pool (and upon the place of each certificate in the waterfall). The most important information about the credit quality of those loans is contained in the files that the originator develops while making the loans, the so-called "loan files." For residential mortgage loans, each loan file normally contains comprehensive information from such important documents as the borrower's application for the loan, credit reports on the borrower, and an appraisal of the property that will secure the loan. The loan file may also include notes from the person who underwrote the loan about whether and how the loan complied with the originator's underwriting standards, including documentation of any "compensating factors" that justified any departure from those standards.

26. Potential investors in certificates are not given access to loan files. Instead, the securities underwriters are responsible for gathering, verifying, and presenting to potential investors the information about the credit quality of the loans that will be deposited into the trust. They do so by using information about the loans that has been compiled into a database known as a **loan tape**. The securities underwriters use the loan tape to compile numerous statistics about the loans, which are presented to potential investors in a **prospectus supplement**, a disclosure document that the underwriters are required to file with the Securities and Exchange

Commission. (Guaranty did not have access to the loan tapes before it purchased the certificates, but Plaintiff has reviewed data from the loan tapes in preparing this Petition.)

27. As alleged in detail below, the information in the prospectus supplements and other offering documents about the credit quality of the loans in the collateral pools of the trusts contained many statements that were material to the credit quality of those loans, but were untrue or misleading.

VI. THE SALES OF THE CERTIFICATES

28. Guaranty purchased 20 certificates in 18 securitizations (referred to in this Petition as Securitizations Nos. 1 through 18). Details of each securitization and each certificate are stated in Item 28 of Schedules 1 through 18 of this Petition, which correspond to Securitizations Nos. 1 through 18. Plaintiff incorporates into this paragraph 28, and alleges as though fully set forth in this paragraph, the contents of Item 28 of the Schedules.

29. Banc of America sold one certificate directly to Guaranty; Bear Stearns sold five certificates directly to Guaranty; RBS sold two certificates directly to Guaranty; and WaMu Capital sold 12 certificates directly to Guaranty. For each of the 20 certificates, the defendants sent documents to Guaranty in Texas. These documents included one or more of the following: a term sheet (or its equivalent), the prospectus supplement for the certificate that was filed with the SEC, and drafts of some of the statistical tables to be included in the prospectus supplement. In each of these documents, the defendants made statements of material fact about the certificate that they offered and sold to Guaranty.

VII. DEFENDANTS' MATERIAL UNTRUE OR MISLEADING STATEMENTS ABOUT THE CERTIFICATES

30. The prospectus supplement for each of the 18 securitizations is available from the SEC's website. A URL for each prospectus supplement is included in Item 28 of the Schedules. The prospectus supplements are incorporated into this Petition by reference.

31. In general, Plaintiff drew and analyzed a random sample of 400 loans from the collateral pools of each securitization in which Guaranty purchased a certificate.[3]

32. Many of the statements of material fact that the defendants made in the prospectus supplements were untrue or misleading. These untrue or misleading statements included the following.

A. Untrue or Misleading Statements About the Loan-to-Value Ratios (LTVs) of the Mortgage Loans, and the Appraisals of the Properties, in the Collateral Pools

1. LTVs

(a) The materiality of LTVs

33. The loan-to-value ratio of a mortgage loan, or LTV, is the ratio of the amount of the mortgage loan to the lower of the appraised value or the sale price of the mortgaged property when the loan is made. For example, a loan of $300,000 secured by a property valued at $500,000 has an LTV of 60%; a loan of $450,000 on the same property has an LTV of 90%. LTV is one of the most crucial measures of the risk of a mortgage loan, and the LTVs of the mortgage loans in the collateral pool of a securitization are therefore one of the most crucial measures of the risk of certificates sold in that securitization. LTV is a primary determinant of the likelihood of default. The lower the LTV, the lower the likelihood of default. For example, the lower the LTV, the less likely it is that a decline in the value of the property will wipe out the owner's equity and thereby give the owner an incentive to stop making mortgage payments and abandon the property, a so-called strategic default. LTV also is a primary determinant of the

[3] The group of loans that backed the certificate that Guaranty purchased in Securitization No. 9 only had 401 loans. For that group, Plaintiff analyzed the 385 loans on which data were available. The group of loans that backed the certificate that Guaranty purchased in Securitization No. 10 only had 393 loans. For that group, Plaintiff analyzed the 375 loans on which data were available. The group of loans that backed the certificate that Guaranty purchased in Securitization No. 12 only had 263 loans. For that group, Plaintiff analyzed the 242 loans on which data were available. The group of loans that backed the certificate that Guaranty purchased in Securitization No. 13 only had 330 loans. For that group, Plaintiff analyzed the 301 loans on which data were available.

severity of losses on a loan that defaults. The lower the LTV, the lower the severity of losses if the loan defaults. Loans with lower LTVs provide greater "cushion," thereby increasing the likelihood that the proceeds of foreclosure will cover the unpaid balance of the mortgage loan.

34. Beyond these fundamental effects on the likelihood and severity of default, LTVs also affect prepayment patterns (that is, the number of borrowers who pay off their mortgage loans before maturity and when they do so) and therefore the expected lives of the loans. Prepayment patterns therefore affect many aspects of certificates that are material to the investors that purchase them, including the life of the certificate and the timing and amount of cash that the investor will receive during that life.

35. In addition, rating agencies use LTVs to determine the proper structuring and credit enhancement necessary for securities, such as the certificates that Guaranty purchased, to receive a particular rating. If the LTVs of the mortgage loans in the collateral pool of a securitization are incorrect, the ratings of certificates sold in that securitization will also be incorrect.

36. An accurate denominator (that is, the value of the property) is essential to an accurate LTV. In particular, an inflated denominator will understate, sometimes greatly, the risk of a loan. To return to the example above, if the property whose actual value is $500,000 is valued incorrectly at $550,000, then the ostensible LTV of the $300,000 loan falls from 60% to 54.5%, and the ostensible LTV of the $450,000 loan falls from 90% to 81.8%. In either case, the LTV based on the incorrect appraised value understates the risk of the loan.

37. For these reasons, a reasonable investor considers LTV critical to the decision whether to purchase a certificate in a securitization of mortgage loans. Even small differences in the weighted average LTVs of the mortgage loans in the collateral pool of a securitization have a significant effect on both the risk and the rating of each certificate sold in that securitization and, thus, are essential to the decision of a reasonable investor whether to purchase any such certificate.

(b) Untrue or misleading statements about the LTVs of the mortgage loans in the collateral pools of these securitizations

38. In the prospectus supplements, the defendants made material untrue or misleading statements about the LTVs of the mortgage loans in the collateral pools of these securitizations. Each such statement is identified in Item 38 of the Schedules of this Petition. Plaintiff incorporates into this paragraph 38, and alleges as though fully set forth in this paragraph, the contents of Item 38 of the Schedules.

39. The defendants made these statements as statements of fact. Plaintiff is informed and believes, and based thereon alleges, that the defendants intended that these statements be understood as statements of fact. Guaranty did understand the statements about the LTVs as statements of fact. Guaranty had no access to appraisal reports or other documents or information from which it could verify the LTVs of the mortgage loans other than the statements that the defendants made about those LTVs.

(c) An automated valuation model demonstrates that the defendants' statements about the LTVs were untrue because they were based on overstated valuations of the properties in the collateral pools.

40. The stated LTVs of many of the mortgage loans in the securitizations were significantly lower than the true LTVs because the denominators (that is, the value of the properties that secured those loans) that were used to determine the disclosed LTVs were overstated to a material extent. The weighted-average LTVs presented in the prospectus supplements were, therefore, untrue and misleading.

41. Using a comprehensive, industry-standard automated valuation model (**AVM**), it is possible to determine the true market value of a certain property as of a specified date. An AVM is based on objective criteria like the condition of the property and the actual sale prices of comparable properties in the same locale shortly before the specified date, and is more consistent, independent, and objective than other methods of appraisal. AVMs have been in widespread use for many years. The AVM on which these allegations are based incorporates a database of 500 million sales covering ZIP codes that represent more than 97% of the homes,

occupied by more than 99% of the population, in the United States. Independent testing services have determined that this AVM is the most accurate of all such models.

42. For many of the properties that secured the mortgage loans, the model determined that the LTVs presented in the prospectus supplements were understated. In particular, for many of the properties, the model determined that the denominator (that is, the appraised value of the property as stated in the loan tape and compiled into the tables in the prospectus supplement) that was used in the disclosed LTV was 105% or more of the true market value as determined by the model as of the date on which each individual mortgage loan closed. (The model considered no transactions that occurred after that date.) In contrast, the model determined that the denominator that was used in the disclosed LTV was 95% or less of the true market value on a much smaller number of properties. Thus, the number of properties on which the value was overstated exceeded by far the number on which the value was understated, and the aggregate amount overstated exceeded by far the aggregate amount understated.

43. For example, in Securitization No. 1, there were 973 mortgage loans that backed the certificate that Guaranty purchased. On 268 of the properties that secured those loans, the model determined that the denominator that was used in the disclosed LTV was 105% or more of the true market value, and the amount by which the stated values of those properties exceeded their true market values in the aggregate was $42,631,023. The model determined that the denominator that was used in the disclosed LTV was 95% or less of true market value on only 105 properties, and the amount by which the true market values of those properties exceeded the values reported in the denominators was $12,774,212. Thus, the number of properties on which the value was overstated was more than two-and-a-half times the number on which the value was understated, and the aggregate amount overstated was more than three times the aggregate amount understated.

44. On one of the loans in Securitization No. 1, the amount of the loan was $560,000 and the stated value of the property was $700,000, resulting in a stated LTV of 80%. The model, however, determined that the true value of the property was $465,000, resulting in a true LTV of

120.4%. Thus, the stated value was higher than the true value by 50.5% and the stated LTV was lower than the true LTV by 40.4%. Both of these were huge discrepancies that were material to the credit quality of the loan.

45. The overstated values of 268 properties in Securitization No. 1 made virtually every statement by Banc of America, which sold to Guaranty the certificate in Securitization No. 1, about the LTVs of the mortgage loans untrue or misleading. For example, Banc of America stated that all mortgage loans had an LTV of 95% or less. In fact, 92 of the mortgage loans had LTVs of over 95%. Banc of America also stated that the weighted-average LTV of the loans in the collateral pool was 72.73%. In fact, the weighted-average LTV of the loans was 86.8%. These differences were material for the reasons stated above.

46. The results of the valuations by the automated model in this example are summarized in the following table.

Number of loans that backed the certificate	973
Number of loans for which the stated value was 105% or more of the true market value as determined by the model	268
Aggregate amount by which the stated values of those properties exceeded their true market values as determined by the model	$42,631,023
Number of loans for which the stated value was 95% or less of the true market value as determined by the model	105
Aggregate amount by which the true market values of those properties exceeded their stated values	$12,774,212
Number of loans with LTVs over 95%, as stated by the defendant	0
Number of loans with LTVs over 95%, as determined by the model	92
Weighted-average LTV, as stated by the defendant	72.73%
Weighted-average LTV, as determined by the model	86.8%

47. The model produced similar results for the mortgage loans in the collateral pools of each securitization. Details of the results of the model for each securitization are stated in Item 47 of the Schedules of this Petition. Plaintiff incorporates into this paragraph 47, and alleges as though fully set forth in this paragraph, the contents of Item 47 of the Schedules.

(d) These statements also were misleading because the defendants omitted to state that there were additional liens on a material number of the properties that secured the mortgage loans in the collateral pools.

48. As mentioned above, the LTV of a mortgage loan is a key determinant of the likelihood that the mortgagor will default in payment of the mortgage. The lower the LTV, the less likely that a decline in the value of the property will wipe out the owner's equity and thereby give the owner an incentive to stop making mortgage payments and abandon the property. Because LTV affects the behavior of borrowers so profoundly, accurate LTVs are essential to predicting defaults and prepayments by borrowers. Also, as mentioned above, LTV affects the severity of loss on those loans that do default. The power of LTV to predict defaults, prepayments, and severities is a major reason why reasonable investors consider the LTVs of mortgage loans important to the decision whether to purchase a certificate in the securitization of those loans.

49. The predictive power of the LTV of a mortgage loan is much reduced if there are additional liens on the same property. Additional liens reduce the owner's equity in the property and thereby increase the owner's incentive to stop making mortgage payments and abandon the property if the value of the property falls below the combined amount of all of the liens on the property (a strategic default). Additional liens also exacerbate delinquencies and defaults because they complicate the servicing of mortgage loans and the management of delinquencies and defaults. Servicers of the first-lien mortgage must then deal not only with the borrower, but also with the servicer of the second-lien mortgage. For example, the servicer of a single mortgage may want to grant a borrower forbearance while the borrower is unemployed and allow him or her to add missed payments to the principal of the loan and to resume payments when he or she is employed again. But the servicer of the second-lien mortgage may refuse such forbearance and initiate foreclosure and thereby force the borrower into default on the first mortgage as well.

50. According to land records, many of the properties that secured mortgage loans in the collateral pools of the securitizations were subject to liens in addition to the lien of the

mortgage in the pool at the time of the closing of these securitizations.[4] The defendants failed to disclose in the prospectus supplements any of these additional liens. These additional liens increased the risk that those owners would default in payment of the mortgage loans.

51. To take an example, of the 973 properties that secured the mortgage loans that backed the certificate that Guaranty purchased in Securitization No. 1, at least 294 were subject to liens in addition to the lien represented by the mortgage in the collateral pool. Banc of America did not disclose in the prospectus supplement that those liens existed. Banc of America stated that the weighted-average LTV of the properties was 72.73%, when, solely because of the additional liens on these 294 properties, the weighted-average combined LTV was 75.8%.[5] This is a significant difference.

52. On one of the loans, the original balance of the mortgage loan was $344,000, the represented value of the property was $430,000, and the reported LTV was 80%. On the date of the closing of this securitization, however, there were undisclosed additional liens on this property of $64,500. Thus, when all liens on the property were taken into account, the combined LTV of the loan was 95%, which was 15% higher than the stated LTV on that loan. This was a huge discrepancy that was material to the credit quality of the loan. In many cases, the amount of the undisclosed additional liens was much greater than the owner's ostensible equity, putting the owner "under water" on the day on which this securitization closed.

53. Details of the undisclosed additional liens in the securitizations are stated in Item 53 of the Schedules of this Petition. Plaintiff incorporates into this paragraph 53, and alleges as though fully set forth in this paragraph, the contents of Item 53 of the Schedules. Plaintiff is informed and believes, and based thereon alleges, that discovery will demonstrate that the

[4] In order to ensure that this calculation did not include liens that were paid off but were not promptly removed from land records, the additional liens referred to in this Petition and the Schedules do not include liens that were originated on or before the date on which each mortgage loan in the pools was closed.

[5] The combined LTV is the ratio of all loans on a property to the value of the property.

number of loans with additional liens is substantially higher than those disclosed in the Schedules.

54. Because the defendants did not disclose the existence or the amounts of these additional liens, all of the statements that they made about the LTVs of the mortgage loans were misleading.

2. Appraisals

55. As discussed above in paragraph 36, an accurate denominator (value of the mortgaged property) is essential to calculating an accurate LTV. An accurate appraisal of the property, in turn, is essential to identifying an accurate denominator.

56. In connection with these securitizations, there was undisclosed upward bias in appraisals of properties that secured mortgage loans and consequent understatement of the LTVs of those loans. This upward bias in appraisals caused the denominators that were used to calculate the LTVs of many mortgage loans to be overstated and, in turn, the LTVs to be understated. The defendants' statements regarding the LTVs of the mortgage loans in the collateral pools were misleading because they omitted to state that the appraisals of a material number of the properties that secured those loans were biased upwards. In addition, the defendants stated that the appraisals conformed to the Uniform Standards of Professional Appraisal Practice (**USPAP**), the professional standards that govern appraisers and appraisals (or to the standards of Fannie Mae and Freddie Mac, which required compliance with USPAP). Those statements were false because upwardly biased appraisals do not conform to USPAP.

(a) The statements that the defendants made about the LTVs of the mortgage loans in the collateral pools were misleading because they omitted to state that the appraisals of a large number of the properties that secured those loans were biased upward, so that stated LTVs based on those appraisals were lower than the true LTVs of those mortgage loans.

57. The defendants omitted to state that the appraisals in these securitizations used inaccurate property descriptions, ignored recent sales of the subject and comparable properties, and used sales of properties that were not comparable, all in order to inflate the values of the

appraised properties. The appraisals used to compute the LTVs of many of the mortgage loans in the collateral pools were biased upwards. As alleged in paragraphs 41 through 47, in each trust, the number of properties for which the value was overstated exceeded by far the number for which the value was understated, and the aggregate amount overstated exceeded by far the aggregate amount understated. These ratios for each trust are summarized in the following table.

Securitization No.	Ratio of Number of Properties Whose Value Was Overstated to Number Whose Value Was Understated	Ratio of Amount of Overvaluation to Amount of Undervaluation
1	2.6	3.3
2	4.7	5.1
3	2.9	3.2
4	5.1	6.7
5	2.9	4.9
6	9.6	13.0
7	4.9	8.4
8	2.0	1.5
9	6.5	8.0
10	7.6	8.1
11	2.8	1.9
12	6.5	7.8
13	4.2	4.8
14	4.1	6.8
15	4.7	6.5
16	4.6	4.0
17	2.0	3.7
18	7.0	12.9

These lopsided results demonstrate the upward bias in appraisals of properties that secured the mortgage loans in the collateral pools.

58. Plaintiff is informed and believes, and based thereon alleges, that a material number of the upwardly biased appraisals were not statements of the appraisers' actual findings of the values of the properties based on their objective valuations.

(b) The statements by the defendants about compliance with USPAP were untrue because the appraisals of a large number of the properties that secured the mortgage loans were biased upward.

59. Appraisers and appraisals are governed by USPAP, which is promulgated by the Appraisal Standards Board. The Preamble to USPAP states that its purpose "is to promote and maintain a high level of public trust in appraisal practice." Both Fannie Mae and Freddie Mac require that appraisals comply with USPAP.

60. USPAP includes the following provisions:

(a) USPAP Standards Rule 2-1(b)(iii) requires that "Each written or oral real property appraisal report must clearly and accurately set forth the appraisal in a manner that will not be misleading."

(b) USPAP Standards Rule 1-4(a) provides that "When a sales comparison approach is necessary for credible assignment results, an appraiser must analyze such comparable sales data as are available to indicate a value conclusion."

(c) USPAP Standards Rule 1-4(b) provides that "When a cost approach is necessary for credible assignment results, an appraiser must:

(i) develop an opinion of site value by an appropriate appraisal method or technique;

(ii) analyze such comparable cost data as are available to estimate the cost new of the improvements (if any); and

(iii) analyze such comparable data as are available to estimate the difference between the cost new and the present worth of the improvements (accrued depreciation)."

61. The Appraisal Standards Board, which promulgates USPAP, also issues Advisory Opinions. Although the Advisory Opinions do not establish new standards or interpret USPAP, they "are issued to illustrate the applicability of appraisal standards in specific situations." Advisory Opinion 1 discussing "Sales History" states that "The requirement for the appraiser to

analyze and report sales history and related information is fundamental to the appraisal process. Just as the appraiser must analyze pending and recent sales of comparable properties, the appraiser must take into account all pending and recent sales of the subject property itself."

62. In the prospectus supplements, the defendants made statements that the appraisals of properties that secured the mortgage loans in the collateral pools were made in compliance with USPAP or with the appraisal standards of Fannie Mae and Freddie Mac, which required compliance with USPAP. Details of each such statement are stated in Item 62 of the Schedules of this Petition. Plaintiff incorporates into this paragraph 62, and alleges as though fully set forth in this paragraph, the contents of Item 62 of the Schedules.

63. Plaintiff is informed and believes, and based thereon alleges, that a material number of mortgage loans in the collateral pools had appraisals conducted that deviated from USPAP.

64. Each of the statements referred to in paragraph 62 was untrue because the appraisals of a material number of the properties referred to in each such statement did not conform to USPAP.

65. By each of the untrue and misleading statements referred to in paragraphs 38 and 62 above, the defendants materially understated the risk of the certificates that they issued, underwrote, or sold.

B. Untrue or Misleading Statements About the Occupancy Status of the Properties That Secured the Mortgage Loans in the Collateral Pools

1. The materiality of occupancy status

66. Residential real estate is usually divided into primary residences, second homes, and investment properties. Mortgages on primary residences are less likely to default than mortgages on non-owner-occupied residences and therefore are less risky. Occupancy status also influences prepayment patterns.

67. Occupancy status (that is, whether the property that secures a mortgage is to be the primary residence of the borrower, a second home, or an investment property) is an important

measure of the risk of a mortgage loan. The percentage of loans in the collateral pool of a securitization that are not secured by mortgages on primary residences is an important measure of the risk of certificates sold in that securitization. Other things being equal, the higher the percentage of loans not secured by primary residences, the greater the risk of the certificates. A reasonable investor considers occupancy status important to the decision whether to purchase a certificate in a securitization of mortgage loans.

2. Untrue or misleading statements about the occupancy status of the properties that secured the mortgage loans in the collateral pools of these securitizations

68. In the prospectus supplements, the defendants made statements about the number of properties in the collateral pools of the securitizations that were the primary residences of their owners. To return to the example of Securitization No. 1, Banc of America stated that, of the 973 mortgage loans that backed the certificate that Guaranty purchased, 859 were secured by primary residences and 114 were not. Details of each such statement in the securitizations are stated in Item 68 of the Schedules of this Petition. Plaintiff incorporates into this paragraph 68, and alleges as though fully set forth in this paragraph, the contents of Item 68 of the Schedules.

69. These statements were untrue or misleading because (i) the stated number of mortgage loans secured by primary residences was higher than the actual number of loans in that category or (ii) the stated number of mortgage loans not secured by primary residences was lower than the actual number of loans in that category.

3. Basis of the allegations above that these statements about the occupancy status of the properties that secured the mortgage loans in the collateral pools were untrue or misleading

70. Because they are less risky than other mortgage loans, mortgage loans on primary residences usually have more favorable terms, including lower interest rates and more lenient underwriting standards, than mortgage loans on second homes and investment properties. Applicants for loans on second homes and investment properties therefore have an incentive to

state that the property will be their primary residence even when it will not. Plaintiff is informed and believes, and based thereon alleges, that borrowers of many securitized loans did so.

71. A significant number of the properties in the collateral pools of the securitizations that were stated to be primary residences actually were not. Moreover, Plaintiff is informed and believes, and based thereon alleges, that there is additional evidence of occupancy fraud in the loan files of many more of the mortgage loans in the collateral pools.

72. With respect to some of the properties that were stated to be primary residences, the borrower instructed local tax authorities to send the bills for the taxes on the property to the borrower at an address other than the property itself. This is strong evidence that the mortgaged property was not the borrower's primary residence.

73. In some states and counties, the owner of a property is able to designate whether that property is his or her "homestead," which may reduce the taxes on that property or exempt the property from assets available to satisfy the owner's creditors, or both. An owner may designate only one property, which he or she must occupy, as his or her homestead. The fact that an owner in one of these jurisdictions does not designate a property as his or her homestead when he or she can do so is strong evidence that the property was not his or her primary residence. With respect to some of the properties that were stated to be primary residences, the owner could have but did not designate the property as his or her homestead. That omission is strong evidence that the property was not the borrower's primary residence.

74. When a borrower actually occupies a newly mortgaged property, he or she normally notifies entities that send bills to him or her (such as credit card companies, utility companies, and local merchants) to send his or her bills to the address of the newly mortgaged property. Six months after the closing of the mortgage is ample time to complete this process. Six months after the closing of the mortgage, if the borrower is still receiving his or her bills at a different address, it is very likely that the borrower does not occupy the mortgaged property. For each securitization, a credit reporting agency specializing in mortgage loans compared the addresses in the borrowers' credit reports to the addresses of the mortgaged properties six

months after the closing of the mortgage loans. Many borrowers whose mortgage loans were secured by properties that were stated in the loan tapes to be owner-occupied did not receive any bills at the address of the mortgaged property but did receive their bills at another address or addresses. It is very likely that each of these borrowers did not occupy the mortgaged property.

75. In Securitization No. 1, 73 owners of properties that were stated to be primary residences instructed local tax authorities to send the bills for the taxes on those properties to them at different addresses; 199 owners of properties that were stated to be primary residences could have, but did not, designate those properties as their homesteads; and 78 owners of properties that were stated to be primary residences did not receive any of their bills there six months after the mortgages were originated. Eliminating duplicates, for one or more of these reasons, 285 of the 859 properties that were stated to be primary residences actually were not. Thus, the number of properties that were not primary residences was not 114, as Banc of America stated, but at least 399, a material difference. The numbers of such loans in the collateral pools of the securitizations are stated in Item 75 of the Schedules of this Petition. Plaintiff incorporates into this paragraph 75, and alleges as though fully set forth in this paragraph, the contents of Item 75 of the Schedules.

76. By each of the untrue and misleading statements referred to in paragraph 68, the defendants materially understated the risk of the certificates that they issued, underwrote, or sold.

C. Untrue or Misleading Statements About the Underwriting Standards of the Originators of the Mortgage Loans in the Collateral Pools

1. The materiality of underwriting standards and the extent of an originator's disregard of them

77. Originators of mortgage loans have written standards by which they underwrite applications for loans. An important purpose of underwriting is to ensure that the originator makes mortgage loans only in compliance with those standards and that its underwriting decisions are properly documented. An even more fundamental purpose of underwriting mortgage loans is to ensure that loans are made only to borrowers with credit standing and financial resources to repay the loans, and only against collateral with value, condition, and

marketability sufficient to secure the loans. An originator's underwriting standards, and the extent to which the originator does not follow its standards, are important indicators of the risk of mortgage loans made by that originator and of certificates sold in a securitization in which mortgage loans made by that originator are part of the collateral pool. A reasonable investor considers the underwriting standards of originators of mortgage loans in the collateral pool of a securitization, and whether an originator disregards its standards, important to the decision whether to purchase a certificate in that securitization.

2. Untrue or misleading statements about the underwriting standards of originators of the mortgage loans

78. In the prospectus supplements, the defendants made statements about the underwriting standards of the originators of the mortgage loans in the collateral pools. Details of each such statement are stated in Item 78 of the Schedules of this Petition. They included statements that the originators made mortgage loans in compliance with their underwriting standards and made exceptions to those standards only when compensating factors were present. Plaintiff incorporates into this paragraph 78, and alleges as though fully set forth in this paragraph, the contents of Item 78 of the Schedules.

79. Plaintiff is informed and believes, and based thereon alleges, that these statements were untrue or misleading because the defendants omitted to state that: (a) the originators were disregarding those underwriting standards; (b) the originators were making extensive exceptions to those underwriting standards when no compensating factors were present; (c) the originators were making wholesale, rather than case-by-case, exceptions to those underwriting standards; (d) the originators were making mortgage loans that borrowers could not repay; and (e) the originators were failing frequently to follow quality-assurance practices necessary to detect and prevent fraud intended to circumvent their underwriting standards.

3. Basis of the allegations that these statements about the underwriting standards of the originators of the mortgage loans in the collateral pools were untrue or misleading

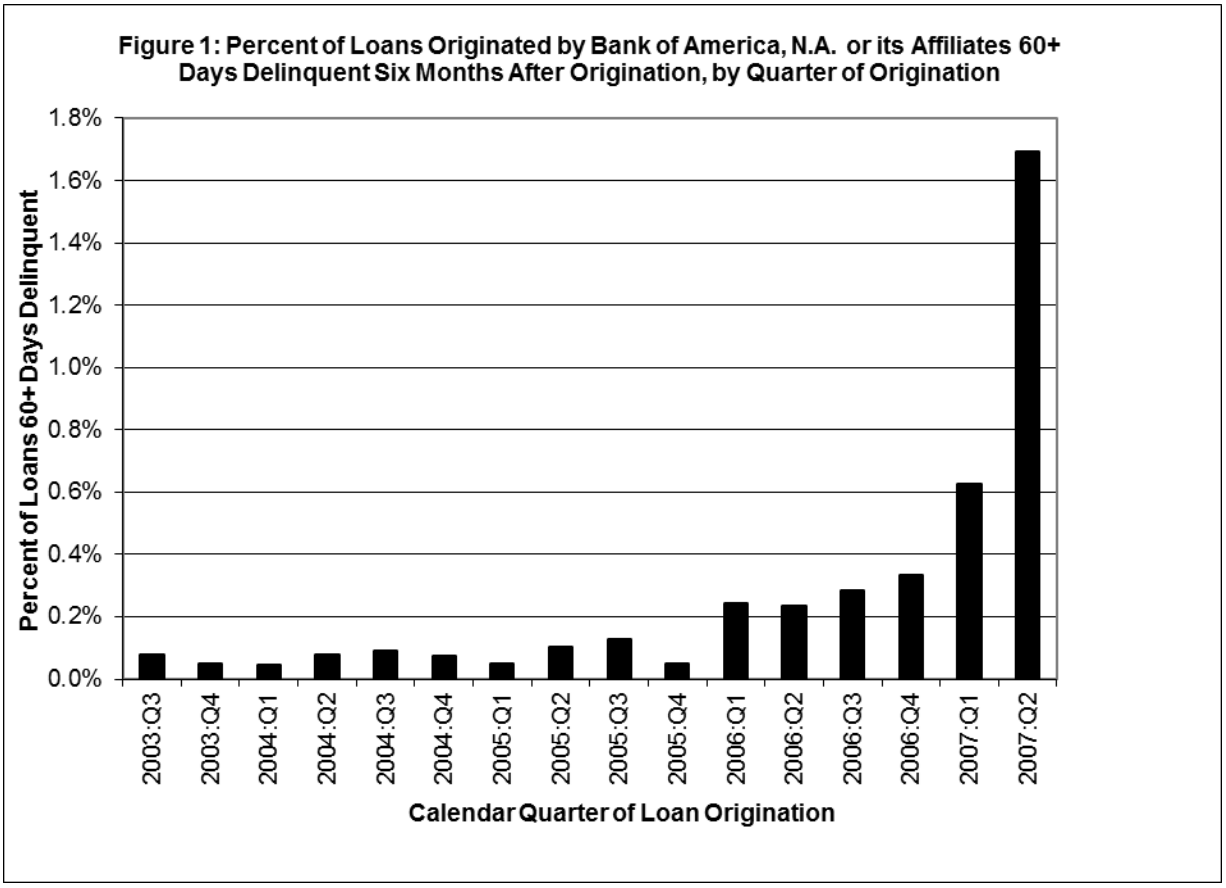
(a) The deterioration in undisclosed credit characteristics of mortgage loans made by these originators

80. Plaintiff is informed and believes, and based thereon alleges, that before and during the time of these securitizations, the originators of the loans in these securitizations disregarded their stated underwriting standards. As a result, securitized mortgage loans made between 2004 and the dates of these securitizations have experienced high rates of delinquency and default.

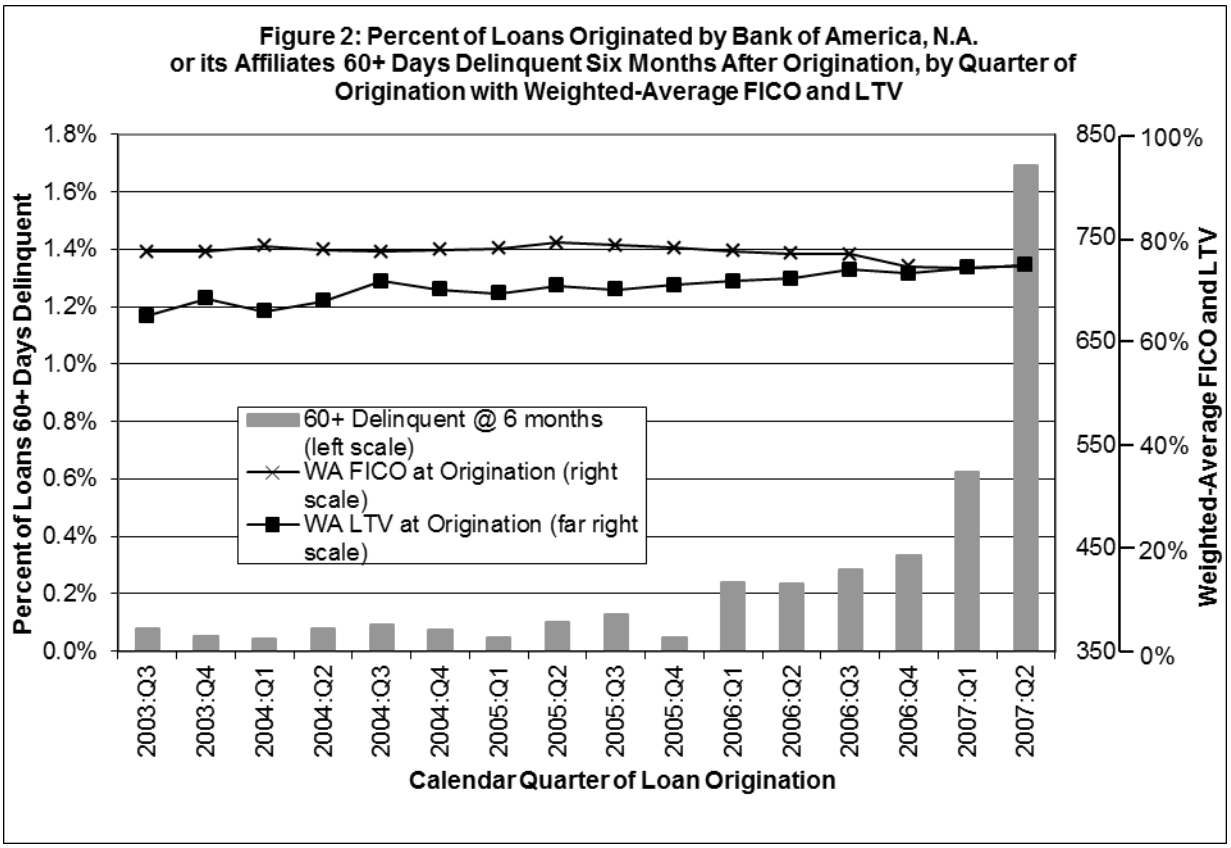
81. The high rates of delinquency and default were caused not so much by any deterioration in credit characteristics of the loans that were expressly embodied in underwriting standards and disclosed to investors, but rather by deterioration in credit characteristics that were not disclosed to investors.

82. Plaintiff is informed and believes that what was true about recently securitized mortgage loans in general was true in particular of loans originated by the entities that originated the loans in the collateral pools of these securitizations, as the following figures demonstrate. Taking the originator Bank of America, N.A., Figure 1 shows the rising incidence of early payment defaults (or **EPDs**), that is, the percent of loans (by outstanding principal balance) that were originated and sold into securitizations by Bank of America, N.A. and that became 60 or more days delinquent within six months after they were made. An EPD is strong evidence that the originator did not follow its underwriting standards in making the loan. Underwriting standards are intended to ensure that loans are made only to borrowers who can and will make their mortgage payments. Because an EPD occurs so soon after the mortgage loan was made, it is much more likely that the default occurred because the borrower could not afford the payments in the first place (and thus that the underwriting standards were not followed), than because of changed external circumstances unrelated to the underwriting of the mortgage loan (such as that the borrower lost his or her job). The bars in Figure 1 depict the incidence of EPDs in loans

originated by Bank of America, N.A. that were sold into securitizations. The steady increase in EPDs is further evidence that the deterioration in the credit quality of those loans was caused by disregard of underwriting standards.



83. Figure 2 shows the weighted-average disclosed LTVs of the same loans and weighted-average disclosed credit scores of the borrowers. These were nearly constant, showing that the deterioration in the credit quality of the loans was caused not by these disclosed factors, but rather by undisclosed factors.



84. Substantially the same facts are true of the mortgage loans originated and sold into securitizations by each of the originators of mortgage loans in the collateral pools of these securitizations. Figures for Countrywide Home Loans, Inc. are presented in Figures 1 and 2 of Exhibit A of this Petition.

(b) The poor performance of the loans in these pools demonstrates that the originators disregarded their underwriting guidelines when making these loans.

85. As noted above, an EPD is evidence that the originator may have disregarded its underwriting standards in making the loan. The mortgage loans in some of the collateral pools of these securitizations experienced EPDs. These EPDs are evidence that the originators of those loans may have disregarded their underwriting standards when making those loans. The number and percent of the loans in each pool that suffered EPDs are stated in Item 85 of the Schedules of

this Petition. Plaintiff incorporates into this paragraph 85, and alleges as though fully set forth in this paragraph, the contents of Item 85 of the Schedules.

86. A high rate of delinquency at any time in a group of mortgage loans is also evidence that the originators of those loans may have disregarded their underwriting standards in making the loans. A common measure of serious delinquency is the number of loans on which the borrowers were ever 90 or more days delinquent in their payments. The mortgage loans in the collateral pools have experienced very high rates of delinquencies by this measure. These high rates of delinquencies are strong evidence that the originators of those loans may have disregarded their underwriting standards when making those loans. The number and percent of the loans in each pool that suffered delinquencies of 90 days or more are stated in Item 86 of the Schedules of this Petition. Plaintiff incorporates into this paragraph 86, and alleges as though fully set forth in this paragraph, the contents of Item 86 of the Schedules.

87. A second common measure of delinquency is the number of loans on which the borrowers are 30 or more days delinquent at a given point in time. The mortgage loans in the collateral pools have experienced very high rates of delinquencies by this measure. These high rates of delinquencies are strong evidence that the originators of those loans may have disregarded their underwriting standards when making those loans. The number and percent of the loans in each pool that were 30 or more days delinquent on March 31, 2012, are stated in Item 87 of the Schedules of this Petition. Plaintiff incorporates into this paragraph 87, and alleges as though fully set forth in this paragraph, the contents of Item 87 of the Schedules.

88. By each of the untrue and misleading statements referred to in paragraph 78 above, the defendants materially understated the risk of the certificates that they issued, underwrote, or sold. Moreover, Plaintiff is informed and believes, and based thereon alleges, that discovery will yield additional evidence that the originators disregarded their underwriting guidelines when making the mortgage loans in the collateral pools of these securitizations.

D. The Large Number of Mortgage Loans in the Collateral Pools About Which the Defendants Made Material Untrue or Misleading Statements Made Their Statements About the Ratings of Guaranty's Certificates Untrue and Misleading.

89. In the prospectus supplements, the defendants made statements about the ratings of the certificates by ratings agencies. They stated that the ratings agencies rated each such certificate triple-A. Details of each such statement are stated in Item 89 of the Schedules of this Petition. Plaintiff incorporates into this paragraph 89, and alleges as though fully set forth in this paragraph, the contents of Item 89 of the Schedules.

90. The ratings were important to the decision of any reasonable investor whether to purchase the certificates. Many investors, including Guaranty, have investment policies that require a certain minimum rating for all investments. The policy of Guaranty was to purchase only certificates that were rated triple-A.

91. These statements by the defendants about the ratings of the certificates they issued, underwrote, or sold were misleading because the defendants omitted to state that the ratings were affected by all of the material untrue or misleading statements about specific mortgage loans in the collateral pools. These include:

(a) loans in which the LTVs were materially understated as shown by the AVM;

(b) loans in which the LTVs were misleading as a result of undisclosed additional liens;

(c) loans in which the properties were stated to be owner-occupied, but were not; and

(d) loans that suffered EPDs, strong evidence that the originators may have disregarded the underwriting standards in making those loans.

92. In Securitization No. 1, there were 268 loans in which the LTVs were materially understated as shown by the AVM, 294 loans in which the LTVs were misleading because of undisclosed additional liens, and 285 loans in which the properties were stated to be owner-occupied but were not. Eliminating duplicates, there were 645 loans (or 66.3% of the loans that backed the certificate that Guaranty purchased) about which Banc of America made untrue or

misleading statements. The numbers of such loans in the collateral pools of the securitizations are stated in Item 92 of the Schedules of this Petition. Plaintiff incorporates into this paragraph 92, and alleges as though fully set forth in this paragraph, the contents of Item 92 of the Schedules.

93. Plaintiff is informed and believes, and based thereon alleges, that loan files and other documents available only through discovery will prove that those statements were untrue or misleading with respect to many more loans as well.

94. By these untrue and misleading statements, the defendants materially understated the risk of the certificates that they issued, underwrote, or sold.

VIII. STATUTES OF LIMITATIONS

95. All of the claims in this Petition are timely. Plaintiff became receiver for Guaranty on August 21, 2009. Under 12 U.S.C. § 1821(d)(14), the statutes of limitations on all of Guaranty's claims asserted in this Petition that had not expired as of August 21, 2009, are extended to no less than three years from that date. This Petition was filed less than three years from August 21, 2009.

96. The statutes of limitations applicable to the claims asserted in this Petition had not expired as of August 21, 2009, because a reasonably diligent plaintiff would not have discovered until later than August 21, 2008, facts that show that the particular statements referred to in Items 28, 38, 62, 68, 78, and 89 of the Schedules to this Petition were untrue or misleading. Those are statements about the 19,758 specific mortgage loans in the collateral pools of the securitizations involved in this action, not about residential mortgage loans or any type of residential mortgage loan (e.g., prime, Alt-A, subprime, etc.) in general. A reasonably diligent plaintiff did not have access until after August 21, 2008, to facts about those specific loans that show that the statements that defendants made about those specific loans were untrue or misleading. A reasonably diligent plaintiff did not have access to the loan files compiled by the originators of those specific mortgage loans nor to records maintained by the servicers of those specific mortgage loans (from either or both of which a reasonably diligent plaintiff may have discovered

facts that show that the statements that defendants made about those specific loans were untrue or misleading) because originators and servicers of loans and securitization trustees do not make those files available to certificateholders. Moreover, on and prior to August 21, 2008, there were not available to a reasonably diligent plaintiff, even at considerable expense, data about those specific loans that show that the statements that defendants made about those specific loans were untrue or misleading. Such data became available for the first time in early 2010.

97. When Guaranty purchased the certificates involved in this action, all of them were rated triple-A, the highest possible rating, by at least two of Fitch, Moody's, and Standard & Poor's, all Nationally Recognized Statistical Rating Organizations (**NRSROs**) accredited by the SEC. Sponsors of securitizations submitted to the NRSROs the same information about the loans in the collateral pools of proposed securitizations that they included in the prospectus supplements for those securitizations, including in particular statements of the type referred to in Items 28, 38, 62, 68, 78, and 89 of the Schedules to this Petition. The NRSROs used and relied on that information in rating the certificates to be issued in each securitization.

98. The NRSROs monitored the certificates that they rated after those certificates were issued. If an NRSRO discovers facts that show that there was an untrue or misleading statement about a material fact in the information submitted to it for its use in rating a certificate, then the NRSRO will withdraw its rating of that certificate while it considers the impact of the untrue or misleading statement, or it will downgrade the rating of the certificate, usually to a rating below investment grade.

99. As noted above, all of the certificates involved in this action were rated triple-A at issuance by at least two of Fitch, Moody's, and Standard & Poor's. Not one of those NRSROs withdrew any of those ratings, or downgraded any of them to below investment grade, before August 21, 2008. The date on which each certificate was first downgraded below investment grade is stated in Item 28 of the Schedules.

100. If a reasonably diligent plaintiff would have discovered before August 21, 2008, facts that show that the particular statements referred to in Items 28, 38, 62, 68, 78, and 89 of the

Schedules to this Petition were untrue or misleading, then the NRSROs, which were monitoring the certificates and are much more sophisticated than a reasonably diligent plaintiff, would also have discovered such facts and withdrawn or downgraded their ratings on the certificates to below investment grade. The fact that none of the NRSROs did so demonstrates that, before August 21, 2008, a reasonably diligent plaintiff could not have discovered facts that show that those statements were untrue or misleading.

101. The claims on Securitizations Nos. 11 through 15 are also timely for another reason. As a purchaser of the certificates, Guaranty was, and Plaintiff as Receiver for Guaranty is, a member of the proposed class in *Boilermakers National Annuity Trust Fund v. WaMu Mortgage Pass Through Certificates, Series AR1* (*In re WaMu*), United States District Court for the Western District of Washington, No. C 09-00037 MJP. The pendency of *In re WaMu* has tolled the running of the statutes of limitations on the claims in this Petition.

102. Five of the securitizations from which Guaranty purchased certificates, Securitizations Nos. 11 through 15, were included in the original class action Complaint filed in *In re WaMu* on January 12, 2009. Securitizations Nos. 11, 13, 14, and 15 were dismissed from that action on September 28, 2010. Claims on Securitization No. 12 were narrowed to a tranche other than the one from which Guaranty purchased a certificate on October 21, 2011.

IX. CAUSES OF ACTION

A. Untrue or Misleading Statements in the Sale of Securities Under Article 581-33 of the TSA

103. Plaintiff hereby incorporates by reference, as though fully set forth, paragraphs 1 through 102.

104. Banc of America sold one certificate in Securitization No. 1 that Guaranty purchased when it was initially offered to the public. Banc of America sent communications and solicitations to Guaranty in Texas for the purpose of inducing Guaranty to purchase the certificate. The sale of the certificate occurred in Texas because employees or agents of Banc of America directed communications about the certificate and solicitations to purchase the

certificate to Guaranty there, and because Guaranty received those communications and solicitations there.

105. In doing the acts alleged in the sale to Guaranty of the certificate in Securitization No. 1, Banc of America violated Article 581-33 of the TSA by offering or selling a security in this State by means of written communications that included untrue statements of material fact or omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading.

106. Bear Stearns sold five certificates in Securitizations Nos. 2, 3, 6, 7, and 8 that Guaranty purchased when they were initially offered to the public. Bear Stearns sent communications and solicitations to Guaranty in Texas for the purpose of inducing Guaranty to purchase the certificates. The sale of these certificates occurred in Texas because employees or agents of Bear Stearns directed communications about the certificates and solicitations to purchase the certificates to Guaranty there, and because Guaranty received those communications and solicitations there.

107. In doing the acts alleged in the sale to Guaranty of the five certificates in Securitizations Nos. 2, 3, 6, 7, and 8, Bear Stearns violated Article 581-33 of the TSA by offering or selling securities in this State by means of written communications that included untrue statements of material fact or omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading.

108. RBS sold two certificates in Securitizations Nos. 4 and 5 that Guaranty purchased when they were initially offered to the public. RBS sent communications and solicitations to Guaranty in Texas for the purpose of inducing Guaranty to purchase the certificates. The sale of these certificates occurred in Texas because employees or agents of RBS directed communications about the certificates and solicitations to purchase the certificates to Guaranty there, and because Guaranty received those communications and solicitations there.

109. In doing the acts alleged in the sale to Guaranty of the two certificates in Securitizations Nos. 4 and 5, RBS violated Article 581-33 of the TSA by offering or selling

securities in this State by means of written communications that included untrue statements of material fact or omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading.

110. WaMu Capital sold 12 certificates in Securitizations Nos. 9 through 18 that Guaranty purchased when they were initially offered to the public. WaMu Capital sent communications and solicitations to Guaranty in Texas for the purpose of inducing Guaranty to purchase the certificates. The sale of these certificates occurred in Texas because employees or agents of WaMu Capital directed communications about the certificates and solicitations to purchase the certificates to Guaranty there, and because Guaranty received those communications and solicitations there.

111. In doing the acts alleged in the sale to Guaranty of the 12 certificates in Securitizations Nos. 9 through 18, WaMu Capital violated Article 581-33 of the TSA by offering or selling securities in this State by means of written communications that included untrue statements of material fact or omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading.

112. Plaintiff has disposed of all of the certificates.

113. Under Article 581-33 of the TSA, Plaintiff is entitled to recover the consideration paid for each of these certificates, plus interest at the legal rate from the date of purchase to the date on which it recovers the purchase price, minus the amount of income received on the certificate, minus the greater of the value of the security when the plaintiff disposed of it or the consideration that the plaintiff received for the security.

B. Untrue or Misleading Statements in the Sale of Securities Under Section 12(a)(2) of the 1933 Act

114. Plaintiff hereby incorporates by reference, as though fully set forth, paragraphs 1 through 113.

115. Guaranty purchased nine certificates in Securitizations Nos. 9 through 15, and 18, that WaMu Capital sold to Guaranty when they were initially offered to the public.

116. WaMu Capital solicited Guaranty to purchase the certificates, and sold the certificates to Guaranty, by means of the prospectus supplements and other written offering materials and oral communications.

117. The prospectus supplements and other written offering materials and oral communications that WaMu Capital sent to Guaranty contained untrue statements of material fact and omitted to state material facts necessary in order to make the statements, in the light of the circumstances in which they were made, not misleading.

118. Guaranty did not know when it purchased the certificates that the statements in the prospectus supplements and other written offering materials and oral communications that WaMu Capital sent to Guaranty were untrue or misleading.

119. In doing the acts alleged in the sale to Guaranty of the certificates in Securitizations Nos. 9 through 15, and 18, WaMu Capital violated Section 12(a)(2) of the 1933 Act.

120. WaMu Acceptance was the depositor of Securitizations Nos. 9 through 15, and 18, and therefore is the issuer of nine certificates that Guaranty purchased.

121. WaMu Acceptance prepared and signed the registration statements for the certificates for the purpose of soliciting investors, including Guaranty, to purchase certificates when they were initially offered to the public, motivated at least in part by its own financial interest or that of the direct seller.

122. These sales were in the initial offering of the certificates and the certificates were sold by means of prospectus supplements. Therefore, under 17 C.F.R. § 230.159A(a), WaMu Acceptance is considered to have offered or sold the certificates to Guaranty.

123. In doing the acts alleged in the offer or sale to Guaranty of nine certificates in Securitizations Nos. 9 through 15, and 18, WaMu Acceptance violated section 12(a)(2) of the 1933 Act.

124. Plaintiff expressly excludes from this cause of action any allegation that could be construed as alleging fraud or intentional or reckless conduct. This cause of action is based solely on allegations of strict liability or negligence under the 1933 Act.

125. When it failed on August 21, 2009, Guaranty had not discovered that the defendants made untrue or misleading statements about the certificates. Plaintiff discovered that the defendants made untrue or misleading statements in the sale of each security in the course of its investigation in 2012.

126. Plaintiff has suffered a loss on each of these certificates.

127. Plaintiff is entitled to recover damages.

C. Untrue or Misleading Statements in a Registration Statement Under Section 11 of the 1933 Act

128. Plaintiff hereby incorporates by reference, as though fully set forth, paragraphs 1 through 127.

129. WaMu Acceptance is the depositor of Securitizations Nos. 9 through 15, and 18, and therefore is the issuer of nine certificates that Guaranty purchased. In doing the acts alleged, WaMu Acceptance violated Section 11 of the 1933 Act in connection with issuing the certificates in Securitizations Nos. 9 through 15, and 18.

130. WaMu Capital underwrote Securitizations Nos. 9 through 15, and 18. In doing the acts alleged, WaMu Capital violated Section 11 of the 1933 Act in connection with underwriting the certificates in Securitizations Nos. 9 through 15, and 18.

131. The certificates in these securitizations were issued pursuant or traceable to registration statements. Details of each registration statement and each certificate are stated in Item 28 of the Schedules.

132. The registration statements, as amended by the prospectus supplements, contained untrue statements of material fact and omitted to state material facts necessary in order to make the statements, in the light of the circumstances under which they were made, not misleading.

These untrue and misleading statements included all of the untrue and misleading statements described in paragraphs 33 through 94.

133. Guaranty purchased each certificate before the issuer made generally available an earning statement covering a period of at least twelve months.

134. Plaintiff expressly excludes from this cause of action any allegation that could be construed as alleging fraud or intentional or reckless conduct. This cause of action is based solely on allegations of strict liability or negligence under the 1933 Act.

135. Guaranty did not know when it purchased the certificates that the statements in the registration statements, as amended by the prospectus supplements, were untrue or misleading.

136. When it failed on August 21, 2009, Guaranty had not discovered that the defendants made untrue or misleading statements about the certificates. Plaintiff discovered that the defendants made untrue or misleading statements about each security in the course of its investigation in 2012.

137. Plaintiff has suffered a loss on each of these certificates.

138. Plaintiff is entitled to recover damages as described in 15 U.S.C. § 77k(e).

X. CONDITIONS PRECEDENT

139. Pursuant to Texas Rule of Civil Procedure 54, all conditions precedent to Plaintiff's right to recover on all causes of action pleaded herein have been performed or have occurred.

XI. REQUEST FOR A JURY TRIAL

140. Plaintiff requests a jury trial on all allegations and causes of action set forth herein as allowed by Texas law.

XII. ATTORNEYS' FEES, COSTS, AND INTEREST

141. Plaintiff is entitled to recover reasonable and necessary attorneys' fees in accordance with Article 581-33 of the TSA.

142. Plaintiff further prays that the court award it all costs of court and expenses. Plaintiff further prays that the court award Plaintiff all pre- and post-judgment interest under the applicable legal rates.

XIII. PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, Plaintiff be awarded a judgment over and against defendants as set forth in this Petition and for damages in an amount to be determined at trial, but not less than $677.4 million, plus attorneys' fees, costs of court, and pre- and post-judgment interest at the appropriate allowable rates. Plaintiff further requests that the Court order any and all other relief at law and in equity to which Plaintiff may show itself to be justly entitled.

Dated: August 17, 2012

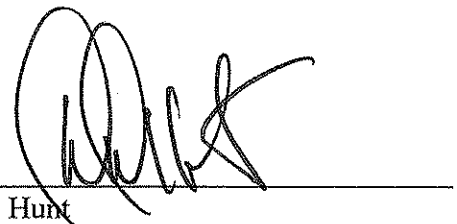


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EXHIBIT A

Figure 1: Percent of Loans Originated by Countrywide Home Loans, Inc. or its Affiliates 60+ Days Delinquent Six Months After Origination, by Quarter of Origination

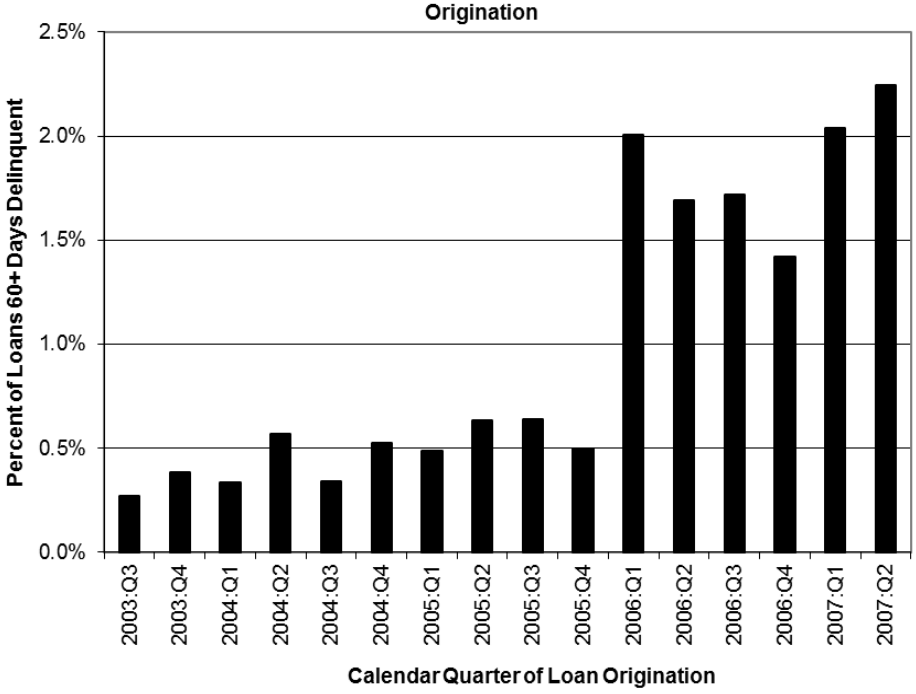

Figure 2: Percent of Loans Originated by Countrywide Home Loans, Inc. or its Affiliates 60+ Days Delinquent Six Months After Origination, by Quarter of Origination with Weighted-Average FICO and LTV