

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

BANK HAPOALIM B.M.,

Plaintiff,

-against-

MORGAN STANLEY; MORGAN STANLEY & CO.,  
INCORPORATED; MORGAN STANLEY  
MORTGAGE CAPITAL HOLDINGS LLC d/b/a  
MORGAN STANLEY MORTGAGE CAPITAL, INC.;  
MORGAN STANLEY CAPITAL I, INC.;

Defendants.

Index No.

**Summons with Notice**

**TO THE ABOVE NAMED DEFENDANTS:**

PLEASE TAKE NOTICE THAT YOU ARE HEREBY SUMMONED and required to serve upon Plaintiff's attorneys a notice of appearance or demand for a complaint within twenty (20) days after service of this Summons, exclusive of the day of service, or within thirty (30) days after service is complete if this Summons is not personally delivered to you within the State of New York. In case of your failure to appear or answer, judgment will be taken against you on default for the relief demanded herein.

Plaintiff designates New York County as the place of trial. Venue is proper because Defendants are principally located in this County, and many of the wrongful acts alleged herein occurred in this County.

**NOTICE**

This is an action for damages, or equitable relief, and/or a declaratory judgment arising from Plaintiff's investment in residential mortgage-backed securities (the "Securities") which

were securitized by Defendants and sold to Plaintiff by Defendants. Plaintiff purchased \$140,507,000 in Securities in the offerings listed on Exhibit A attached hereto (the “Offerings”).

Defendants were actively involved in each step of the securitization and sale of the Securities to Plaintiff. Defendants acted as depositor, underwriter, seller, sponsor, and/or broker-dealer for the Offerings.

The offering materials issued by Defendants for the Offerings (the “Offering Materials”) contained material misrepresentations and omissions regarding the underwriting standards used to issue the mortgage loans that were pooled together into the Offerings, the transfer of those mortgage loans to trusts formed to hold the pooled loans and to collect interest and principal payments due on the loans, and the legal validity of the trusts and their legal entitlement to receive interest and principal payments on the loans.

The Offering Materials also contained material misrepresentations and omissions regarding key statistical characteristics of the mortgage loans underlying the Securities, including the loans’ loan-to-value ratios and combined loan-to-value ratios, as well as the percentage of owner-occupied properties. The Offering Materials also contained material misrepresentations about the Securities’ credit ratings, which understated the Securities’ risk profile.

Each of the Defendants knew, or at a minimum was negligent in not knowing, that its representations and omissions were false and/or misleading at the time they were made. Each Defendant made the false and/or misleading statements with the intent for Plaintiff to rely upon those statements.

Defendants obtained mortgage loans from the originators and created securities from them. The underwriter underwrote the Offerings and sold the Securities to Plaintiff by means of Offering Materials which contained knowing material misrepresentations and omissions.

Plaintiff did not know the true facts regarding Defendants' misrepresentations and omissions in the Offering Materials, and justifiably relied on those misrepresentations and omissions. Defendants' wrongdoing has led directly to Plaintiff's damages, which include loss of market value on the Securities.

Plaintiff's causes of action against Morgan Stanley are at law and at equity for claims including common-law fraud, fraudulent inducement, negligent misrepresentation, aiding and abetting fraud, declaratory judgment, and contract claims, including equitable relief such as rescissory damages. The depositors identified in Exhibit A are liable for claims including common law fraud, fraudulent inducement, and negligent misrepresentation and, for at least certain of the Securities, violations of the federal Securities Act of 1933 (the "Securities Act"). The sponsors identified in Exhibit A are liable for claims including common law fraud, fraudulent inducement, and negligent misrepresentation. The underwriters/counterparties identified in Exhibit A are liable for claims including common law fraud, aiding and abetting fraud, negligent misrepresentation, contract claims, including equitable relief such as rescissory damages, and, for at least certain of the Securities, violations of the Securities Act.

Upon your failure to appear, judgment will be taken against you by default for money damages in an amount of at least \$140,507,000, and interest thereon, together with punitive damages of \$140,507,000, rescissory damages, legal fees, and the costs of this action.

Dated: New York, New York  
August 29, 2012

**LABATON SUCHAROW LLP**

By: /s/ Joel H. Bernstein  
Joel H. Bernstein

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*Attorneys for Bank Hapoalim B.M.*