

33 East Main Street  
Suite 500  
Madison, WI 53703-3095

**Mailing Address:**  
P.O. Box 2038  
Madison, WI 53701-2038

**Phone:**  
608.257.7181

**Fax:**  
608.257.2508

www.murphydesmond.com

Jennifer M. Krueger  
Direct Line 608.268.5577  
Facsimile 608.257.4333  
jkrueger@murphydesmond.com



31 May 2012

**VIA HAND-DELIVERY**

Dane County Clerk of Court  
Dane County Circuit Court  
215 S. Hamilton Street  
Madison, WI 53703

Re: *In the Matter of the Rehabilitation of:  
Segregated Account of Ambac Assurance Corporation  
Dane County Case No. 10 CV 1576*

Dear Clerk:

Enclosed for filing is the Statement of Wells Fargo Bank, National Association, in its Capacity as Trustee for the LVM Bondholders, Regarding the Rehabilitator's Motion for Approval to Commence Making Interim Cash Payments on Permitted Policy Claims in the above-referenced matter:

Please return a file-stamped copy to my courier, Mr. Jim Berger.

A courtesy copy of this filing is being sent to Judge Johnston.

Thank you for your assistance. If you should have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "Jennifer M. Krueger".

Jennifer M. Krueger

JMK:kmk  
25107.100766  
Clerk It 05312012  
Enc.

cc: Honorable William D. Johnston (w/enc. via U.S. mail)  
All Counsel of Record (w/enc. via email)

4818-6423-5279, v. 0

STATE OF WISCONSIN

: CIRCUIT COURT

: DANE COUNTY

---

In the Matter of the Rehabilitation of:

Case No. 10-CV-1576

Segregated Account of Ambac Assurance Corporation

---

**STATEMENT OF WELLS FARGO BANK, NATIONAL  
ASSOCIATION, IN ITS CAPACITY AS TRUSTEE FOR THE LVM  
BONDHOLDERS, REGARDING THE REHABILITATOR'S MOTION  
FOR APPROVAL TO COMMENCE MAKING INTERIM CASH  
PAYMENTS ON PERMITTED POLICY CLAIMS**

---

Dated: May 31, 2012

**MURPHY DESMOND S.C.**

Stephen L. Morgan, SBN 1015099  
Jennifer M. Krueger, SBN 1030962  
33 East Main Street, Suite 500  
Madison, Wisconsin 53703  
Telephone: (608) 807-0262  
Facsimile: (608) 257-2508

**LOCKE LORD LLP**

Steven T. Whitmer  
Kevin A. Wisniewski  
111 South Wacker Drive  
Chicago, Illinois 60606  
Telephone: (312) 443-1869  
Facsimile: (312) 443-0336

*Attorneys for Wells Fargo Bank,  
National Association, in its Capacity  
As Trustee for the LVM Bondholders*

Wells Fargo Bank, National Association (the “Trustee”), in its capacity as trustee for the benefit and protection of certain bondholders of Las Vegas Monorail Project Revenue Bonds (the “LVM Bondholders”), submits this Statement in response to the Rehabilitator’s May 16, 2012 Motion for Approval To Commence Making Interim Cash Payments On Permitted Policy Claims (the “Motion”).

The Trustee previously filed objections to the Plan of Rehabilitation that this Court confirmed on January 24, 2011 (the “Plan”) because, among other things, the Plan impermissibly discriminates against holders of long-dated claims like the LVM Bondholders. *See* the Trustee’s November 8, 2010 Objection to the Rehabilitator’s Proposed Plan of Rehabilitation (Ex. A), and the Trustee’s November 29, 2010 Post-Confirmation Hearing Brief (Ex. B) (collectively, the “Trustee’s Objections”).<sup>1</sup> Specifically, the Plan does not ensure that the LVM Bondholders – the majority of whose claims accrue *after* 2030 – will be paid on par (*i.e.* receive a 25% cash payment on their claims) with holders of short-dated claims. Because of this material deficiency, the Trustee previously requested that the Court modify the Plan to require the Rehabilitator to set aside 25% in cash – through a reserve, trust account or another similar vehicle – for claims he has reason to believe will come due under the LVM Bonds. Although this Court denied the Trustee’s request for a reserve, the Trustee has appealed that ruling to the Wisconsin Court of Appeals. *See In the Matter of the Rehabilitation of: Segregated Account of Ambac Assurance Corporation*, Consolidated Appeal Nos. 2010-AP-1291 and 2010-AP-2022 (Consolidated), 2010-AP-2835, 2011-AP-561 and 2011-AP-2708. Those appeals remain pending.

The Rehabilitator’s current Motion confirms that the Plan is not “effective,” yet proposes making cash payments equal to 25% of the permitted amount of each policy claim that has accumulated during the payment moratorium (*i.e.* short-dated claims). The Rehabilitator further

---

<sup>1</sup> The Trustee incorporates the Trustee’s Objections, as if set forth in full herein.

proposes that cash payments for these short-dated claims would “continue prospectively as new policyholder claims are submitted” and approved by the Rehabilitator. (Motion at 5). Like the Plan, the Rehabilitator’s Motion fails to establish a reserve or set aside funds specifically designated for the payment of the LVM Bondholders’ long-dated policy claims. Thus, for the reasons stated in the Trustee’s Objections, the Rehabilitator should be required to establish the reserve before any payments are made. *See, e.g., In re Western Asbestos Co.*, 313 B.R. 832, 842-43 (Bankr. N.D. Cal. 2003) (in order to ensure that reorganization plan treated holders of long-dated claims (unliquidated claims) on par with holders of short-dated claims (liquidated claims), the court required the plan to “reserve a sufficient amount from any distribution made to liquidated claims so that an equivalent percentage payment may be made to any claims liquidated in the future”).

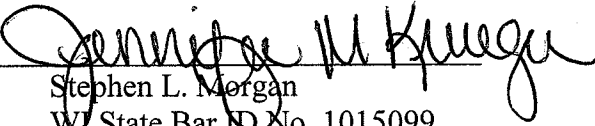
Because the dispute over whether a reserve is required has been fully briefed and is currently before the Wisconsin Court of Appeals, that court has exclusive jurisdiction over this issue, and the Motion therefore cannot affect the Trustee’s pending appeals. *See Wis. Stat. § 808.075; State ex rel. Freeman Printing Co. v. Luebke*, 36 Wis. 2d 298, 303, 152 N.W.2d 861, 863 (Wis. 1967) (explaining a trial court only retains the power to hear matters that are not directly concerned with the appeal, but are still part of the case). Indeed, the Motion confirms this point, by providing that “the Rehabilitator does not intend to moot any of the issues relating to this rehabilitation that are presently pending before the Wisconsin Court of Appeals.” (Motion at 7). Nonetheless, out of an abundance of caution, the Trustee files this Statement to preserve its rights in the pending appeals and its rights in any future matters in these rehabilitation proceedings or any other proceedings.

Dated: May 31, 2012

**MURPHY DESMOND S.C.**

*Attorneys for Wells Fargo Bank,  
National Association, in its Capacity  
As Trustee for the LVM Bondholders*

By:



Stephen L. Morgan  
WI State Bar ID No. 1015099  
Jennifer M. Krueger  
WI State Bar ID No. 1030962  
33 East Main Street, Suite 500  
Madison, Wisconsin 53703  
Telephone: (608) 807-0262  
Facsimile: (608) 257-2508

*Of Counsel*

Steven T. Whitmer  
Kevin A. Wisniewski  
LOCKE LORD LLP  
111 South Wacker Drive  
Chicago, Illinois 60606  
Telephone: (312) 443-1869  
Facsimile: (312) 443-0336

4810-9228-6735, v. 1