

In the Matter of the Rehabilitation of:

Case No. 10 CV 1576

Segregated Account of Ambac Assurance Corporation

**ELEVENTH AFFIDAVIT OF ROGER A. PETERSON
Special Deputy Commissioner for the Rehabilitation of the
Segregated Account of Ambac Assurance Corporation**

IN SUPPORT OF REHABILITATOR’S MOTION TO CONFIRM AND DECLARE THE REIMBURSEMENT AMOUNTS DUE WITH RESPECT TO CASH CLAIM PAYMENTS MADE BY AMBAC AND THE SEGREGATED ACCOUNT ON POLICY NOS. AB1014BE AND AB1037BE

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

Roger A. Peterson, being first duly sworn on oath, deposes and states as follows:

1. I am the Special Deputy Commissioner (“SDC”) for the rehabilitation of the Segregated Account of Ambac Assurance Corporation (“Segregated Account”). I make this affidavit based on my personal knowledge. As the SDC, I work for and report to the Wisconsin Commissioner of Insurance as the Rehabilitator (“Rehabilitator”) of the Segregated Account. I have primary responsibility for the day-to-day oversight and management of the rehabilitation of the Segregated Account, including management of the financial and legal advisors retained by the Rehabilitator to assist with the rehabilitation. Prior to being appointed SDC, I worked at the Wisconsin Office of the Commissioner of Insurance (“OCI”) for more than 20 years and had significant responsibility for OCI’s efforts to rehabilitate the Segregated Account. In my role as SDC, I communicate regularly with the Rehabilitator and/or OCI employees responsible for the

rehabilitation of the Segregated Account and regulation of Ambac Assurance Corporation (“AAC”) about matters relevant to the rehabilitation.

2. My statements in this affidavit are offered in support of the Rehabilitator’s Motion To Confirm and Declare the Reimbursement Amounts Due With Respect To Cash Claim Payments Made By Ambac and the Segregated Account on Policy Nos. AB1014BE and AB1037BE (the “Motion”).

3. The Motion relates to two financial guaranty insurance policies that have been allocated to the Segregated Account: Policy Nos. AB1014BE and AB1037BE (collectively, the “Policies”). Copies of the Policies are attached as **Exhibits A and B**.

4. The Policies were issued to insure the payment of principal and interest to the holders of certain certificates issued in two residential mortgage-backed securities transactions: 1) HarborView Mortgage Loan Trust Pass-Through Certificates, Series 2006-7 (the “2006-7 Transaction”); and 2) HarborView Mortgage Loan Trust Pass-Through Certificates, Series 2006-9 (the “2006-9 Transaction”) (together, the “HarborView Transactions” or “Transactions”). All liabilities associated with the Policies were allocated to the Segregated Account effective March 24, 2010.

5. In each of the two Transactions, numerous residential mortgage loans were pooled and deposited into a separate trust created for each Transaction. Certificates were then issued, entitling the certificate holders to a portion of the cash flows received by the respective trust. Cash flows, in the form of monthly mortgage payments of principal and interest by individual borrowers, are deposited into each trust. Each of the Transactions consists of several distinct classes of certificates. Ambac insures only the Class 2A-1C certificates in the 2006-7 Transaction and the Class 2A-1C2 certificates in the 2006-9 Transaction.

6. For each Transaction, the collection of principal and interest payments from borrowers and the subsequent distribution of those funds to certificate holders and Ambac are governed by a Pooling and Servicing Agreement (“PSA”). The PSA for the 2006-7 Transaction (the “2006-7 PSA”) is dated as of July 1, 2006, and amended and restated as of January 5, 2007. The PSA for the 2006-9 Transaction (the “2006-9 PSA”) is dated as of September 1, 2006. The Trustee, Deutsche Bank National Trust Company (“DBNTC”), is responsible under the PSA for the 2006-9 Transaction for calculating and submitting claims to Ambac and, since this rehabilitation started on March 24, 2010, to the Segregated Account, as the certificate insurers. For that Transaction, the Trustee similarly is responsible for calculating the amount of reimbursements due with respect to claim payments made by the insurer. With respect to the 2006-7 Transaction, DBNTC is the Trustee and custodian, but Wells Fargo Bank, N.A. is the master servicer and securities administrator (the “Administrator”) responsible for calculating and submitting Policy claims and calculating insurer reimbursements. Ambac is an express third-party beneficiary of both PSAs. (See PSAs § 12.10.) Copies of the PSAs are attached as **Exhibits C and D.**

7. Ambac began paying claims for the 2006-7 Transaction in early 2010 and paid two claims in full as submitted on that Policy before the commencement of this rehabilitation proceeding on March 24, 2010. The Segregated Account continued to make partial interim cash payments on the 2006-7 Transaction claims submitted with respect to the Policy for that Transaction following this Court’s June 4, 2012 order that authorized the Rehabilitator to commence making 25% cash payments on all permitted claims starting in August 2012. The 2006-9 Transaction went into active claim status during the post-rehabilitation claims payment moratorium. The Segregated Account also started making partial interim cash payments on the

claims submitted by the Trustee with respect to the 2006-9 Transaction in August 2012. Timely reimbursement payments have been made back to Ambac and the Segregated Account under the waterfalls for each Transaction following each such payment.

8. The Rehabilitator discussed the significance of such reimbursements in connection with the Rehabilitator's July 11, 2013 Motion for Approval to Make Supplemental Cash Payments as to Certain Policy Claims for the Purpose of Maximizing Reimbursements for the Benefit of All Policyholders (the "Supplemental Payments Motion"). The Court granted that motion on August 3, 2013. I personally attended that hearing and had personal knowledge of the facts discussed in that motion. In the Supplemental Payments Motion, the Rehabilitator sought authorization from the Court to make payments on permitted claims in excess of the 25% permitted cash payment percentage for certain Segregated Account policies where there is cash available under the insured transaction's payment waterfall to reimburse Ambac and the Segregated Account for claims paid pursuant to the financial guaranty policies.

9. In the Supplemental Payments Motion, the Rehabilitator explained that, for certain insured transactions, making cash payments in excess of 25% would enable Ambac and the Segregated Account to receive equivalent reimbursements through certain available cash flows in the transactions. As a result, those supplemental claims payments are accretive to the estate of the Segregated Account, by reducing the outstanding unpaid permitted policy claims owed on those policies while not decreasing the claims-paying resources available in the future for other Segregated Account policy claimants.

10. In the Supplemental Payments Motion, the Rehabilitator specifically identified the two Policies at issue in the present Motion as being among those on which Supplemental Payments would be made.

11. In total, as of March 2014, since Ambac and the Segregated Account began paying on the claims submitted with respect to the 2006-7 and 2006-9 Policies, I have been informed by the Segregated Account's Management Services Provider (Ambac) that Ambac and the Segregated Account have received the following reimbursements with respect to each Policy:

a. Policy AB1014BE for Transaction 2006-7	\$23,046,527
b. Policy AB1037BE for Transaction 2006-9	\$27,659,972
Sub-Total	<hr/> \$50,706,499

12. Based on information provided by its Management Services Provider (Ambac), the Rehabilitator projects that it will receive the following additional reimbursements for each Policy if the Trustee and Administrator continue to reimburse Ambac consistent with their historic construction of the reimbursement provisions of the PSAs:

a. Policy AB1014BE for Transaction 2006-7	\$21,325,251 (present valued at 5.1%)
b. Policy AB1037BE for Transaction 2006-9	\$49,192,532 (also present valued at 5.1%)
Sub-Total	<hr/> \$70,517,783

13. The grand total of already received reimbursements on the Policies and additional projected reimbursements (at present value) is: \$121,224,282. These projected reimbursements will not be changed by virtue of the pending amendments to the Rehabilitation Plan because the Segregated Account is already making Supplemental Payments on the Policies in accordance with the Court's prior order in excess of the 45% cash payment level proposed in the pending Plan Amendments' Motion for other policy claims. All claims submitted by the Trustee to date

have been with respect solely to shortfalls in principal, and none with respect to shortfalls in interest.

14. Since the Court's granting of the Supplemental Payments Motion, I have reviewed and approved \$10,380,000 in Supplemental Payments with respect to the Harborview Transactions, and the Segregated Account has received approximately equivalent amounts in reimbursements.

15. The approach to the reimbursements taken to date by the Trustee, Ambac and the Segregated Account with respect to the 2006-9 Transaction has recently been questioned by Axonic Capital LLC ("Axonic"), an asset-management and trading firm representing undisclosed holders of uninsured certificates in the 2006-9 Transaction. On March 25, 2014, Axonic sent the Trustee a letter asserting that the Trustee has been making "improper and unauthorized payments to [Ambac] as reimbursement for payments made by Ambac for the benefit of the Class 2A-1C2 holders in violation of the payment priorities set forth in the governing documents" for the 2006-9 Transaction. A copy of Axonic's letter to the Trustee is attached as **Exhibit E**.

16. Axonic has focused its challenge on the Trustee's application of Section 5.01(a)(i)(C) of the 2006-9 PSA. The Trustee has consistently construed that provision as entitling Ambac to reimbursement for amounts Ambac and the Segregated Account have paid with respect to both principal and interest. The Rehabilitator and Ambac believe that the Trustee's construction of the provision at issue is correct because it comports with the plain meaning of Section 5.01(a)(i)(C).


17. The Axonic letter also mentions a statement about the payment waterfalls contained in the prospectus supplements that were distributed in connection with the public offering of the certificates for each transaction. The Axonic letter fails to mention that each

prospectus supplement expressly states in the Section titled "Description of the Certificates" that it:

is subject to, and is qualified in its entirety by reference to, the actual provisions of the [PSA]. When particular provisions or terms used in the [PSA] are referred to, the provisions or terms are as specified in the [PSA].

18. The Rehabilitator has initiated this Motion to confirm and declare the correctness of the long-standing construction of the provisions in the PSAs dealing with the reimbursements due the insurer as discussed above so as to be able to move forward most efficiently with the rehabilitation in the best interest of the Segregated Account's many policyholders and their holders.

Dated this 9th day of June, 2014.


Roger A. Peterson

Subscribed and sworn to before me this 9th day of June, 2014.

JEFFREY SIMMONS
Notary Public, State of Wisconsin
My Commission: PERMANENT