

November 29, 2010

**VIA MESSENGER**

Honorable William D. Johnston  
Lafayette County Circuit Court  
Lafayette County Courthouse  
626 Main Street  
Post Office Box 40  
Darlington, Wisconsin 53530-0040

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

Dear Judge Johnston:

Along with the law firm of Manatt, Phelps & Phillips, we represent the Federal Home Loan Mortgage Corporation, in Conservatorship ("Freddie Mac"). Freddie Mac joins in the following proposed Orders and modification to the Plan submitted today by the RMBS Policyholders: (1) proposed Order Denying the Rehabilitator's Motion for Confirmation of the Plan of Rehabilitation of the Segregated Account of Ambac Assurance Corporation, which includes proposed findings and conclusions in support of denial of that motion; (2) proposed Order Denying Rehabilitator's Motion for Confirmation of Plan of Rehabilitation for Lack of Jurisdiction, in the event that the Court decides to revisit its prior November 15 ruling on the jurisdiction question now that the confirmation hearing has been completed; and (3) in the event the Court decides to approve confirmation of the Plan, the RMBS Policyholders' proposal to add a new Section 2.04 to Article II of the Plan.

In addition, in the event that the Court decides to approve confirmation of the Plan, Freddie Mac respectfully requests that the Court also include the following two additional modifications in its Order:

1. The following text is added, in bold font, to the end the sixth paragraph of Section V.F of the Disclosure Statement (as modified by the Rehabilitator's November 12, 2010 Amendment No. 2 to the Disclosure Statement):

**In addition, for the period between the establishment of the Segregated Account and confirmation of the Plan, the Rehabilitator will not object in the event that any trustees are able to apply any such excess cash flows in such period to offset losses relating to the Ambac-insured tranches(s) for such period rather than pay such excess cash flows directly to AAC.**

This clarification is appropriate for the following reasons:

The Rehabilitator states that the additional language in Amendment No. 2 is meant “to clarify the Rehabilitator’s intent with respect to Sections 4.04(g) (“Recoveries and Reimbursements on Policy Claims”) and 4.04(h) (“Assignment of Rights”) of the Plan[.]” (Amendment No. 2, at p.4.) Among other things, the Rehabilitator adds text stating that:

. . . “In the majority of transactions, the . . . [Transaction Documents] provide that any such excess cash flows [(i.e., cash flows in excess of current interest) generated by the RMBS trust] are first applied to offset losses for the current period. . . . Section 4.04(g) of the Plan is not intended to require the payment of such excess cash flow amounts directly to AAC or the Segregated Account, but is intended to preserve the status quo with respect to any such excess cash flow.

However, in a minority of transactions, the Transaction Documents do not provide for the application of excess cash flows to offset losses for the current period. . . . Such transactions are informally referred to as “non-netting” transactions. The payment of claims in part with Surplus Notes in non-netting deals presents a complication, as AAC benefits from receiving 100% of the excess cash flow in cash, while the Segregated Account is paying 25% of claims in cash. . . .

As a potential solution to this issue, the Rehabilitator will not object in the event that any trustees are able to apply any such excess cash flows in a given month to offset losses relating to the Ambac-insured tranche(s) for such month rather than pay such excess cash flows directly to AAC (e.g., modify the minority of transactions with the identified complication to operate in the same manner as the majority of transactions).”

(*Id.* at pp.4-5.)

The Rehabilitator should be required to add the bold-faced text above to further clarify how this proposed solution will work. The bold-faced text applies the Rehabilitator’s intended solution to the period between the establishment of the Segregated Account and confirmation of the Plan, during which losses were accumulating and not being paid and excess cash flows were not being applied to those losses. This further clarification is necessary for uniformity and fair treatment, and to fully effectuate the intent of the proposed solution.

2. The Plan should be modified to add a new Section 8.03 to Article 8 of the Plan (“Discharge, Release and Injunction”):

**8.03 Modification of Injunction.** The Injunction is modified to permit the cancellation of Policies by policyholders in accordance with contractual rights under the Policies or applicable law.

This modification is appropriate for the following reasons:

Honorable William D. Johnston

November 29, 2010

Page 3

Section 10.02 of the Plan provides that: "Unless modified by this Plan, the prior orders of this Court shall remain in full force and effect throughout the period of administration of this Plan. These orders include, without limitation, the Rehabilitation Order and the Injunction."

The Injunction currently requires a policyholder to continue paying premiums on Policies in a new company, the Segregated Account, even if the policyholder determines that it would be in the policyholder's best interest to walk away from (*i.e.*, cancel) such Policies rather than accept the benefits of the Plan. For example, a policyholder may perceive that its net recovery on a Policy under the Plan would be less than the amount of future premiums that the policyholder would pay to maintain the Policy. By precluding a policyholder from cancelling such Policies where the policyholder otherwise would have the contractual right to do so, the Injunction unlawfully impairs the policyholder's contractual rights. *Cf. Neblett v. Carpenter*, 305 U.S. 297, 305 (1938) (rejecting contention that the rehabilitation plan in question unlawfully impaired contract rights where policyholders were not bound to accept the obligation of the new company). Accordingly, modification of the Plan to add new Section 8.03 above, is constitutionally required.

Freddie Mac does not believe that these two additional modifications will cure all deficiencies in the Plan, and reserves all of its rights with respect to the Plan, including each of its objections to the Plan and its right to raise those objections with the Court of Appeals. Freddie Mac further reserves the right to raise or join in additional proposed modifications to the Plan after it reviews today's submissions by other parties.

Respectfully submitted,



Christopher J. Stroebel

*Of Counsel:*

Craig S. Bloomgarden  
Manatt, Phelps & Phillips, LLP  
11355 W. Olympic Boulevard  
Los Angeles, California 90064  
Telephone: (310) 312-4000  
Facsimile: (310) 312-4224

and

Honorable William D. Johnston

November 29, 2010

Page 4

Marcia D. Alazraki

Manatt, Phelps & Phillips, LLP

7 Times Square

New York, New York 10036

Telephone: (212) 790-4500

Facsimile: (212) 790-4545

cc: Service List (by email)

21999624\_2.DOC