

1 Brian E. Pastuszewski (*pro hac vice*)
 2 *bpastuszewski@goodwinprocter.com*
 3 Inez H. Friedman-Boyce (*pro hac vice*)
 4 *ifriedmanboyce@goodwinprocter.com*
 5 **GOODWIN PROCTER LLP**
 Exchange Place
 6 Boston, MA 02109-2802
 7 Tel.: 617-570-1000
 8 Fax: 617-523-1231

9 John O. Farley (*pro hac vice*)
 10 *jfarley@goodwinprocter.com*
 11 **GOODWIN PROCTER LLP**
 12 620 Eighth Avenue
 13 New York, NY 10018
 14 Tel.: 212-813-8800
 15 Fax: 212-355-3333

16 Daniel J. Tyukody (SBN 123323)
 17 *dtyukody@goodwinprocter.com*
 18 **GOODWIN PROCTER LLP**
 19 601 South Figueroa Street, 41st Floor
 20 Los Angeles, California 90017
 21 Tel.: 213-426-2500
 22 Fax: 213-623-1673

23 *Attorneys for Defendants*
 24 Countrywide Financial Corporation, Countrywide
 25 Securities Corporation, Countrywide Capital
 26 Markets, LLC, Countrywide Home Loans, Inc.,
 27 CWALT, Inc., CWABS, Inc., CWMBS, Inc., and
 28 CWHEQ, Inc.

**UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA**

29 In Re: Countrywide Financial
 30 Corporation Mortgage-Backed Securities
 31 MDL

2:11-ml-2265-MRP-(MANx)
 MDL No. 2265

**ORDER GOVERNING THE
 TREATMENT OF
 CONFIDENTIAL DISCOVERY
 MATERIAL**

Courtroom: 12
 Judge: Hon. Mariana R. Pfaelzer

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ALLSTATE INSURANCE COMPANY,
et al.,

Plaintiffs,

v.

COUNTRYWIDE FINANCIAL
CORPORATION, *et al.*,

Defendants.

2:11-cv-005236-MRP (MANx)

BANK HAPOALIM B.M.,

Plaintiff,

v.

BANK OF AMERICA CORPORATION,
et al.,

Defendants.

2:12-cv-04316-MRP (MANx)

MINNESOTA LIFE INSURANCE
COMPANY, *et al.*,

Plaintiffs,

v.

COUNTRYWIDE FINANCIAL
CORPORATION, *et al.*,

Defendants.

2:12-cv-06149-MRP (MANx)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

NATIONAL INTEGRITY LIFE
INSURANCE COMPANY,

Plaintiff,

v.

COUNTRYWIDE FINANCIAL
CORPORATION, *et al.*,

Defendants.

2:11-cv-09889-MRP (MANx)

FEDERAL DEPOSIT INSURANCE
CORPORATION AS RECEIVER FOR
UNITED WESTERN BANK, F.S.B.

Plaintiff,

v.

COUNTRYWIDE FINANCIAL
CORPORATION, *et al.*,

Defendants.

2:11-cv-10400-MRP (MANx)

MASSACHUSETTS MUTUAL LIFE
INSURANCE COMPANY,

Plaintiff,

v.

COUNTRYWIDE FINANCIAL
CORPORATION, *et al.*,

Defendants.

2:11-cv-10414-MRP (MANx)

1 After consideration of the terms of the foregoing Stipulation Regarding
2 Governing of the Treatment of Confidential Discovery Material (“Stipulation”), and
3 good cause appearing therefore,

4 IT IS HEREBY ORDERED that:

5 1. The Order Governing the Treatment of Confidential Discovery
6 Material (the “Order”) shall govern the disclosure and use of Confidential Discovery
7 Material (as defined below) and all other discovery material (as applicable) provided
8 during the course of the above-captioned actions (the “Actions”), by the Parties to
9 the Actions or by nonparties, either voluntarily or as required by requests for
10 discovery made pursuant to the Federal Rules of Civil Procedure, by subpoena, or
11 by order of the Court.

12 2. Nothing in the Order shall apply to documents, information, material,
13 or any portion thereof obtained by any Receiving Person on a non-confidential basis
14 from an unrelated person or entity (“Independently Obtained Documents”), provided
15 that if an Independently Obtained Document duplicates, in whole or in part,
16 documents produced to the Receiving Person and designated as Confidential
17 Discovery Material, and the Independently Obtained Document was obtained
18 directly or indirectly by the unrelated person or entity as a result of discovery from
19 any Producing Person or affiliated person or entity in any litigation or proceeding
20 involving any Party or affiliated person or entity, such Independently Obtained
21 Document, or the duplicative portion thereof, shall be treated by the Receiving
22 Person as Confidential Discovery Material. Nothing in this paragraph shall be
23 deemed to relieve any unrelated person or entity from complying with its obligations
24 under any agreement or court order that is otherwise applicable to that person or
25 entity.

26 3. As used in the Order, “person” includes any individual, entity, natural
27 person, or any business, legal or governmental entity or association. “Producing
28 Person” refers to any person that produces discovery material. “Receiving Person”

1 refers to any person that receives discovery material subject to the Order.

2 4. The Order designates as “Confidential Discovery Material” documents
3 or discovery responses that may be produced during discovery that are designated as
4 such by a Producing Person because they contain any of the following: confidential,
5 sensitive, or nonpublic financial information and statements; proprietary business
6 information, including business plans and records of internal deliberations and
7 decision-making; policies and procedures not generally published, including those
8 concerning business operations, employee benefits and risk management
9 procedures; surveys concerning customers, competitors and employees; and
10 individual personal information that is protected from disclosure under state or
11 federal law, including identifying personal information and personal financial
12 information, about any Party, any employee of any Party, or any nonparty. It is
13 possible that disclosure of this Confidential Discovery Material may cause harm to
14 the Producing Persons and their employees, as well as to nonparties.

15 The Order also designates as “Confidential Discovery Material” any
16 document or other discovery material produced in the Actions pursuant to an
17 agreement or order requiring the reproduction of such discovery material from other
18 litigations or proceedings (the “Reproduced Discovery Material”) where such
19 Reproduced Discovery Material was marked or designated confidential (or a similar
20 designation) in the litigation or proceeding in which such Reproduced Discovery
21 Material was originally produced.

22 As required by plaintiff Federal Deposit Insurance Corporation (“FDIC”) in
23 its capacity as Receiver for United Western Bank¹ (“FDIC-R”), Confidential
24 Discovery Material shall also include the following in *Federal Deposit Insurance*
25 *Corporation as Receiver for United Western Bank, F.S.B. v. Countrywide Financial*
26 *Corp.*, et al. (Case No. 2:11-cv-10400):

27 (a) Regulatory information: Material related in any way to the

28 ¹ United Western Bank is referred to in this Order as “the Bank”.

1 regulation or supervision of the Bank, in whatever form, whether preliminary
2 or final, including reports of examination or inspection, regulatory
3 correspondence, reports, orders, memoranda, or agreements by, from or with
4 the FDIC, the board of Governors of the Federal Reserve System, the Office
5 of Financial and Insurance Regulation (“OFIR”), or any other federal or state
6 regulatory authority, and any documents containing confidential information
7 obtained from any documents or records related to the supervision or
8 regulation of the Bank. The release of any such regulatory documents may
9 require prior approval from other government agencies, including but not
10 limited to the FDIC in its corporate capacity (“FDIC-C”). No regulatory
11 material, however obtained, shall be disclosed to anyone other than the Parties
12 and other persons or entities identified in paragraph 10 below without prior
13 approval by the respective regulatory authority or a court order. Confidential
14 Discovery Material also includes documents that are exempt from disclosure
15 as provided in the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”), the
16 regulations governing the disclosure of information, 12. C.F.R. Parts 261 and
17 309, the laws of the State of Texas, or any other applicable federal or state
18 laws.

19 (b) Information Protected by Law: Any information that a disclosing
20 party is obligated by law to keep confidential, including but not limited to,
21 nonpublic personal information such as social security numbers, home
22 telephone numbers and addresses, tax returns, medical information, credit
23 information, banking information, documents or data that constitute
24 “consumer reports,” as that term is defined in the Fair Credit Reporting Act,
25 15 U.S.C. § 1681a, and other sensitive personally identifiable information,
26 other than information for which applicable federal or state law requires
27 confidential treatment, and/or “Nonparty Borrower Information,” which for
28 purposes of this Order shall mean any information that constitutes “nonpublic

1 personal information” within the meaning of Section 509(4) of the Gramm-
2 Leach-Bliley Act, 15 U.S.C. § 6809 and its implementing regulations,
3 including, but not limited to, any portion of a mortgage loan file or other
4 document that includes financial or credit information for any person
5 (including any credit history, report, or score obtained on any such person to
6 determine the individual’s eligibility for credit) together with personally
7 identifiable information with respect to such person, including, but not limited
8 to, name, address, social security number, loan numbers, telephone number,
9 or place or position of work. As set forth in paragraph 25 below, this Order
10 authorizes the disclosure of such Nonparty Borrower Information in the
11 above-captioned action.

12 (c) Bank Information: Material related to the Bank, including but not
13 limited to: chargebacks, merchant processing , bank account information,
14 customer bank records, signature cards, bank statements, general ledger
15 entries, deposit or reserve information, trading statements and records, loans
16 and lending transactions, loan applications, financial statements and credit
17 reports, business and personal state and federal income tax forms,
18 correspondence, and loan documentation relating to any extension of credit or
19 loan to any borrower.

20 (d) Receivership Information: Material related to the receivership of
21 the Bank, including any information on loss or estimates of such loss on the
22 Bank’s assets that is not publicly available. Notwithstanding any other
23 provision of this Order, no confidential material shall be disclosed to any
24 person or entity known to have any current or prospective interest in such
25 assets, whether or not that person or entity would otherwise be allowed access
26 to material under the terms of this Order.

27 (e) Trade Secret/Proprietary Information: Material that the
28 producing party reasonably believes constitutes, reflects, or discloses trade

1 secrets, proprietary data or commercially sensitive information.

2 (f) Except as provided by the express terms of this Order, all
3 persons subject to this Order shall refrain from disclosing in any manner any
4 information set forth in any confidential material. However, the transmission
5 of confidential material between the FDIC-R and the FDIC acting in any
6 other capacity shall not constitute a violation of this paragraph or of any other
7 provision of this Order. Any confidential material transmitted among various
8 capacities of the FDIC shall remain subject to this Order and its prohibition
9 on disclosure.

10 (g) Nothing in paragraphs 4(a)-(g) or any other provision of this
11 Order, shall constitute a waiver by FDIC, FDIC-R, FDIC-C or FDIC in any
12 other capacity, of any privilege, doctrine or other objection to production of
13 any Regulatory Information, Information Protected by Law, Bank
14 Information, Receivership Information, Trade Secret/Proprietary Information
15 or any other Information.

16 5. Further, this Protective Order permits the designation as “Confidential
17 – Attorneys and Experts Only” of documents or information produced during
18 discovery that contain sensitive, proprietary, confidential, and personal information
19 which a Producing Person in good faith believes constitute Confidential Discovery
20 Material but for which “Confidential Discovery Material” status may not provide
21 sufficient protection. Material that is designated “Confidential – Attorneys and
22 Experts Only” shall be subject to all the protective terms applicable to “Confidential
23 Discovery Material” as well as the more protective measures expressly set forth
24 herein. The limitations set forth under this paragraph shall only be modified by
25 agreement among the Parties and Order of the Court.

26 The Order hereby designates as “Confidential – Attorneys and Experts Only”
27 any Reproduced Discovery Material where such Reproduced Discovery Material
28 was marked or designated highly confidential (or a similar designation) in the

1 litigation or proceeding in which such Reproduced Discovery Material was
2 originally produced.

3 6. All documents designated as Confidential Discovery Material shall be
4 so designated, by Bates range, in a letter accompanying their production to a
5 Receiving Person, and/or by stamping the media in which the documents are
6 transmitted, and/or by stamping each page of a document “CONFIDENTIAL,”
7 “CONFIDENTIAL DISCOVERY MATERIAL,” or “CONFIDENTIAL
8 TREATMENT REQUESTED BY [name of the Producing Person].” Documents
9 may be designated as Confidential Discovery Material at any time. Without limiting
10 the foregoing sentence in any way, a Producing Person may designate a document as
11 Confidential Discovery Material after it was earlier produced without such a
12 designation, and such production, in and of itself, shall not prejudice or otherwise
13 constitute a waiver of, or estoppel as to, any claim of confidentiality to which the
14 Producing Person would otherwise be entitled. Any documents designated as
15 Confidential Discovery Material prior to entry of this Order shall be treated the
16 same in all respects as documents designated as Confidential Discovery Material
17 after the entry of this Order. This Order also treats as Confidential Discovery
18 Material oral communications designated as confidential either orally (provided that
19 such designation was recorded by a court reporter) or in writing. Materials
20 designated as CONFIDENTIAL pursuant to this Order shall be designated and
21 marked as follows:

22 (a) Documents or TIFF Images: Documents or TIFF
23 images may be designated as Confidential Discovery Material or
24 Highly Confidential Discovery Material by placing the legend
25 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL,” or an equivalent
26 thereof, on any such document or image. Unless the Parties otherwise
27 agree, such legend shall be placed upon every page of each document
28 or image containing CONFIDENTIAL INFORMATION or HIGHLY

1 CONFIDENTIAL INFORMATION. In lieu of marking the originals
2 of documents, the disclosing party may mark the copies that are
3 produced or exchanged. Notwithstanding the foregoing, Excel
4 documents or any other type of electronically stored information
5 produced in native format (together, “Natively Produced ESI”)
6 containing CONFIDENTIAL INFORMATION or HIGHLY
7 CONFIDENTIAL INFORMATION need not be produced using a
8 means sufficient to ensure that every page of such document, when
9 printed, contains the appropriate mark or stamp. Instead, the disclosing
10 party shall use reasonable means to designate as “CONFIDENTIAL” or
11 “HIGHLY CONFIDENTIAL” such Natively Produced ESI, including,
12 where applicable and/or practicable, by (i) producing a TIFF
13 placeholder image corresponding to the Natively Produced ESI that
14 includes the “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL”
15 mark; (ii) including “CONFIDENTIAL” or “HIGHLY
16 CONFIDENTIAL” in the file name of the Natively Produced ESI; or
17 (iii) including “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL”
18 on the label of the media or in the production letter for the Natively
19 Produced ESI.

20
21 (b) Non-Paper Media: Where CONFIDENTIAL
22 INFORMATION or HIGHLY CONFIDENTIAL INFORMATION is
23 produced in a non-paper medium (e.g., video tape, audio tape,
24 computer disks, etc.) that does not include TIFF images, the appropriate
25 confidentiality notice as described in paragraph 4(a) above should be
26 placed on the medium, if possible, and its container, if any, so as to
27 give clear notice of the designation. To the extent that any receiving
28 party prints any of the information contained on non-paper media that

1 is designated as containing CONFIDENTIAL INFORMATION or
2 HIGHLY CONFIDENTIAL INFORMATION, such printouts will be
3 marked as described in paragraph 4(a) above by the receiving party.

4 (c) Physical Exhibits: The confidential or highly
5 confidential status of a physical exhibit shall be indicated by placing a
6 label on said physical exhibit with the appropriate confidentiality notice
7 as described in paragraph 4(a) above.

8 (d) Written Discovery: In the case of
9 CONFIDENTIAL INFORMATION or HIGHLY CONFIDENTIAL
10 INFORMATION incorporated in answers to interrogatories, responses
11 to requests for admission, or other written discovery, the appropriate
12 confidentiality designation as described in paragraph 4(a) above shall
13 be placed on the first page of the document and on each page
14 containing answers or responses that contain CONFIDENTIAL
15 INFORMATION or HIGHLY CONFIDENTIAL INFORMATION.

16 7. Confidential Discovery Material also includes those portions of any
17 notes, work papers or other work product that contain information from documents
18 designated as Confidential Discovery Material without the need for a separate
19 confidential designation on the notes, work paper, or other work product.

20 8. If discovery material is inspected at the Producing Person's choice of
21 location, all such discovery material shall be presumed at such inspection to have
22 been designated as Confidential Discovery Material by the Producing Person until
23 such time as the Producing Person provides copies to the Party that requested the
24 discovery material. Production of Confidential Discovery Material for inspection
25 and copying shall not constitute a waiver of confidentiality.

26 9. Nonparty Borrower Information Designation. The Parties have agreed
27 to produce or have served or intend to serve document requests, interrogatories or
28 other requests, and/or have issued or intend to issue subpoenas to nonparties for

1 documents and other information, which require production of certain records
2 relating to individual mortgage loans (“loan files”) and/or to the servicing of those
3 loans (“servicing records”). The loan files, servicing records, and related documents
4 contain non-public personal information and/or other sensitive personally
5 identifying information pertaining to individual borrowers, and information that
6 constitutes “nonpublic personal information” within the meaning of the Gramm
7 Leach Bliley Act, 15 U.S.C. § 6802, *et seq.* and its implementing regulations,
8 including, but not limited to, any portion of a loan file or other document which
9 includes financial and/or credit information pertaining to individual borrowers
10 (including any credit history, report or score obtained on any such borrowers to
11 determine the individual’s eligibility for credit) together with personally identifying
12 information with respect to such borrowers, which may include, but is not limited to,
13 names, addresses, Social Security numbers, telephone numbers, and places or
14 positions of work (“Nonparty Borrower Information”).

15 (a) Any Person (including nonparties) producing materials through
16 discovery may designate loan files, servicing records, or related documents
17 that it discloses during discovery in this matter, including, but not limited to,
18 the Nonparty Borrower Information contained therein, as Confidential
19 Discovery Material because the materials constitute, contain, reveal or
20 evidence “non-public personal information.”

21 (b) Any Person (including nonparties) receiving non-public personal
22 information consisting of, derived from, or related to loan files or servicing
23 records produced in discovery, regardless of whether such material is
24 designated with the appropriate designation, shall use that material solely for
25 the purpose of conducting these Actions. Notwithstanding the foregoing,
26 nothing in this Order shall require any Receiving Person to disregard or
27 violate any order, direction, or regulatory requirement of any governmental
28 authority, subject to the provisions set forth in paragraph 16.

1 (c) In order to expedite production of loan files and servicing
2 records, a Producing Person may, at its sole option, produce materials without
3 a detailed or any review, subject to the “clawback” procedures in this Order
4 (paragraph 17) or as otherwise agreed to. In doing so, the Producing Person
5 may designate the contents of loan files, servicing records, or related
6 documents that by their nature contain Nonparty Borrower Information with
7 the appropriate designation even if some of the documents in the collection
8 may not, considered individually, qualify for such designation.

9 (d) The Producing Person shall designate Nonparty Borrower
10 Information material as follows:

11 (i) In the case of information in documentary form, the
12 Producing Person shall designate the documents as Confidential
13 Discovery Material in the manner described above in paragraph 6,
14 except that bulk productions may be designated as set forth in
15 paragraph 9(d)(iii).

16 (ii) Nonparty Borrower Information may be used in
17 depositions. The party using such information in a deposition should
18 designate any portion of the deposition testimony discussing such
19 information as Confidential Discovery Material pursuant to the
20 procedure outlined in paragraph 12.

21 (iii) Any Nonparty Borrower Information produced in a non-
22 paper media (*e.g.*, computer disks or drives) and/or bulk productions in
23 native format or without Bates numbers may be designated as such by
24 affixing the legend CONFIDENTIAL in a prominent place on the
25 exterior of the container in which the information is stored and/or on
26 the first page of a document and/or on the relevant page(s) of the
27 document. In the event a Receiving Person generates any electronic
28 copy, hard copy, transcription, or printout from any such designated

1 non-paper media, that Receiving Person must treat each copy,
2 transcription, or printout as confidential pursuant to the terms of this
3 Order.

4 10. Treatment of Confidential Discovery Material. Confidential Discovery
5 Material shall be subject to the following restrictions:

6 (a) Confidential Discovery Material shall be used solely for the
7 purpose of preparing for, and conducting, the prosecution or defense of these
8 Actions,² including any appeals thereof, and shall not be used by the Parties
9 or any other person for any commercial, business, competitive or other
10 purpose. Absent consent from a Producing Person, which shall be given
11 solely in that Producing Person's discretion, no Confidential Discovery
12

13 ² The Confidential Discovery Material of the Underwriter Defendants (*i.e.*, UBS
14 Securities LLC, Deutsche Bank Securities Inc., and J.P. Morgan Securities LLC)
15 may only be used for the purpose of preparing for, and conducting, the prosecution
16 or defense of the Action(s) in which they are named as Defendants. Plaintiffs
17 reserve the right to seek agreement or an Order providing that Confidential
18 Discovery Material produced in this action may also be used in the following
19 actions: (i) *MassMutual v. Residential Funding Company, LLC, et al.*, Case No. 11-
20 cv-30035-MAP; (ii) *MassMutual v. DB Structured Products, Inc., et al.*, Case No.
21 11-cv-30039-MAP; (iii) *MassMutual v. RBS Financial Products Inc., et al.*, Case
22 No. 11-cv-30044-MAP; (iv) *MassMutual v. DLJ Mortgage Capital, Inc., et al.*, Case
23 No. 11-cv-30047-MAP; (v) *MassMutual v. Credit Suisse First Boston Mortgage*
24 *Securities Corp., et al.*, Case No. 11-cv-30048-MAP; (vi) *MassMutual v. JPMorgan*
25 *Chase Bank, NA, et al.*, Case No. 11-cv-30094-MAP; (vii) *MassMutual v. Goldman*
26 *Sachs Mortgage Company, et al.*, Case No. 11-cv-30126-MAP; (viii) *MassMutual v.*
27 *Impac Funding Corporation, et al.*, Case No. 11-cv-30127-MAP; (ix) *MassMutual*
28 *v. HSBC Bank, USA, National Association, et al.*, Case No. 11-cv-30141-MAP; (x)
MassMutual v. Countrywide Financial Corp., et al., Case No. 11-cv-30215-MAP;
(xi) *MassMutual v. Merrill Lynch, Pierce, Fenner & Smith Inc., et al.*, Case No. 11-
cv-30285-MAP, all pending in the District of Massachusetts; (xii) *MassMutual v.*
Angelo Mozilo, et al., Case No. BC482950, pending in California Superior Court,
County of Los Angeles; (xiii) *Bank Hapoalim v. Goldman Sachs Group, Inc., et al.*,
Case No. 650319/2013; (xiv) *Bank Hapoalim v. JP Morgan Chase & Co., et al.*,
Case No. 652799/2012; (xv) *Bank Hapoalim v. Morgan Stanley, et al.*, Case No.
653036/2012; (xvi) *Bank Hapoalim v. Royal Bank of Scotland Group PLC, et al.*,
Case No. 653673/2012; and (xvii) *Bank Hapoalim v. UBS AG, et al.*, Case No.
650320/2013, all pending in New York Supreme Court, New York County; (xviii)
The Western and Southern Life Ins. Co. et al. v. Bank of New York Mellon, No.
A1302490; (xix) *The Western and Southern Life Ins. Co., et al. v. GS Mortgage*
Securities Corp., et al., No. A1106193; (xx) *The Western and Southern Life Ins.*
Co., et al. v. DLJ Mortgage Capital, Inc., et al., No. A1105352; and (xxi) *The*
Western and Southern Life Ins. Co., et al. v. Bank of America, N.A., et al., No.
A1106524, all pending in the Ohio Court of Common Pleas, Hamilton County.

1 Material produced by such Producing Person may be used in connection with
2 any other litigation, matter, or proceeding.

3 (b) Confidential Discovery Material shall not be given, shown, made
4 available or communicated in any way to anyone except those persons
5 specified in subparagraph (c) below to whom it is reasonably necessary that
6 such Confidential Discovery Material be given or shown for the purposes
7 permitted under subparagraph (a) above, and shall not be disclosed by them,
8 subject to the provision at the end of this paragraph governing further
9 restrictions on dissemination of material designated Confidential – Attorneys
10 and Experts Only.

11 (c) Confidential Discovery Material may be disclosed, for the
12 purposes set forth in subparagraph (a) above, only to a “Qualified Person,”
13 defined as follows:

14 (i) counsel of record for the Parties, and attorneys,
15 paralegal, clerical and other staff employed or retained by such
16 counsel who are assisting in the conduct of the respective Actions;

17 (ii) those officers, directors, and representatives (including
18 legal representatives) of the Parties deemed necessary to aid counsel
19 in the conduct of the Actions;

20 (iii) any and all individual Defendants in the respective
21 Actions;

22 (iv) witnesses and prospective witnesses (other than
23 Parties) at any deposition or hearing in any of the Actions, *provided,*
24 *however,* that the witness shall not retain any documents marked as
25 Confidential Discovery Material;

26 (v) consultants, experts, and investigators (including their
27 professional staffs) retained by the Parties, or their respective
28 counsel, as they in good faith deem necessary to provide assistance

1 in connection with the conduct of the respective Actions;

2 (vi) the Court, court personnel, and jurors, potential jurors
3 or alternate jurors;

4 (vii) court reporters and videographers used in connection
5 with the conduct of these Actions;

6 (viii) outside photocopying services, graphic production
7 services, litigation support services, and document hosting vendors
8 retained by the Parties, or their respective counsel, as they in good
9 faith deem necessary to provide assistance in connection with the
10 conduct of the respective Actions;

11 (ix) persons who are or were authors or recipients of the
12 Confidential Discovery Material;

13 (x) any person carrying on an insurance business that may
14 be liable to satisfy part or all of any judgment which may be entered
15 in the Action(s) or to indemnify or reimburse for payments made to
16 satisfy a judgment;

17 (xi) mediators, arbitrators, or discovery masters (and their
18 support staff), if any, assisting in these Actions;

19 (xii) any nonparty reasonably believed to have originated a
20 loan at issue in the Action(s) or to be in possession, custody, or
21 control of a loan file at issue in the Action(s), which may receive
22 Nonparty Borrower Information for that loan for the purpose of
23 locating the loan file; and

24 (xiii) any nonparty reasonably believed to have conducted
25 due diligence on the securitizations or mortgage loans at issue in the
26 Action(s) or to be in possession, custody, or control of documents
27 related to such due diligence, but such nonparty may only receive
28 the specific Nonparty Borrower Information that it represents is

1 necessary for it to locate documents relating to such due diligence.

2 (d) Documents or information designated as “Confidential –
3 Attorneys and Experts Only” shall be disclosed only to attorneys of record
4 and in-house or other retained counsel for the Parties to the respective
5 Actions, the authorized secretarial and legal assistance staff of such attorneys
6 and counsel, photocopying and litigation support services as provided in
7 paragraph 10(c)(viii), witnesses as provided in paragraph 10(c)(iv), the Court
8 and Court personnel as provided in paragraph 10(c)(vi), and, subject to
9 paragraph 10(c)(v), to consultants, experts, and their staff retained by the
10 Parties or their attorneys for purposes of these Actions. No documents or
11 information designated as “Confidential – Attorneys and Experts Only” shall
12 be disclosed to any third party or to any Party of these Actions, other than the
13 Producing Person, except by written stipulation of the Parties, by order of the
14 Court, or as otherwise provided herein. Documents or things designated as
15 “Confidential – Attorneys and Experts Only” shall not be retained, filed, or
16 stored on the premises of any Party.

17 (e) Each person described in subparagraph 10(c)(iv), (v), (x), (xi)
18 and (xii) to whom Confidential Discovery Material is disclosed shall first be
19 advised that such material is being disclosed pursuant and subject to the terms
20 of the Order and that it may not be disclosed other than pursuant to the terms
21 hereof. Prior to disclosing Confidential Discovery Material to any person
22 described in subparagraph 10(c)(iv), (v), (x), (xi) and (xii) above, counsel
23 shall cause each such person to execute a certificate in the form annexed
24 hereto as Exhibit A, although no Exhibit A shall be required from persons or
25 entities that receive only such Confidential Discovery Material to which they
26 are reasonably believed to have had prior access. Counsel shall be
27 responsible for retaining executed certificates. Any person receiving
28 Confidential Discovery Material is enjoined from disclosing that information

1 to any other person, except in accordance with this Order.

2
3 11. Inadvertent Disclosure of Confidential Discovery Material. If any
4 Receiving Person inadvertently discloses Confidential Discovery Material to
5 persons who are not Qualified Persons, counsel for the Receiving Person shall make
6 all reasonable efforts to retrieve the Confidential Discovery Material and to obtain
7 the agreement of persons to whom inadvertent disclosure was made to treat the
8 Confidential Discovery Material in accordance with the terms of the Order. Such
9 disclosure shall also be reported in writing, via overnight delivery service or email,
10 to the Producing Person who produced such inadvertently disclosed Confidential
11 Discovery Material promptly, and in no event later than three business days from the
12 discovery of such disclosure.

13 12. Confidential Discovery Material and Depositions. Information or
14 testimony disclosed at a deposition may be designated as Confidential Discovery
15 Material by the person providing such testimony, by a Party, or by a Producing
16 Person if such person either:

- 17 (a) identifies on the record at the deposition those portions of the
18 testimony that are designated as Confidential Discovery Material; or
19 (b) provides written notification to all Parties within thirty days of
20 the court reporter's release of the transcript of the deposition as to those
21 portions of the transcript that are designated as Confidential Discovery
22 Material.

23 Except to the extent the Parties otherwise agree, the entire transcript of any
24 deposition shall be treated as Confidential Discovery Material until thirty (30) days
25 after the court reporter's release of the transcript of the deposition. The deposition
26 transcript that contains Confidential Discovery Material designated pursuant to
27 subparagraph (a) above shall be stamped, as set forth in paragraph 10 above, by the
28 court reporter or by counsel. If counsel for any Party believes that a question put to

1 a witness being examined in deposition will disclose Confidential Discovery
2 Material, or that the answer to any question or questions requires such disclosure, or
3 if documents to be used as exhibits during the examination contain such
4 Confidential Discovery Material, such counsel may so notify the examining counsel,
5 and, in that event, that portion of the deposition shall be taken in the presence only
6 of counsel, Parties to the Litigation, the court reporter, video operator and their
7 assistants. The court reporter shall indicate in the transcript the portion of the
8 transcript that is to be kept confidential, and shall mark the cover page of the
9 transcript accordingly.

10 13. Filing Confidential Discovery Material. In the event that any person
11 discloses Confidential Discovery Material in any pleading, court filing, attachment
12 or exhibit thereto, or other papers filed with the Court prior to trial, the disclosing
13 person shall conditionally file the documents containing Confidential Discovery
14 Material under seal with the Clerk of this Court pursuant to Local Rule 79-5. The
15 Parties understand that designation of materials as Confidential Discovery Material
16 or as Confidential – Attorneys and Experts Only does not automatically entitle the
17 Parties to have such information kept under seal and that any submission of
18 documents under seal should seek to file under seal only those portions of the
19 documents that contain Confidential Discovery Material, *see, e.g., Kamaka v. City*
20 *& County of Honolulu*, 447 F.3d 1172, 1178-81 (9th Cir. 2006), and should be made
21 to the judicial officer presiding over the proceedings in question. To the extent
22 documents containing Nonparty Borrower Information are to be filed with the Court
23 or used as exhibits in any hearing, unless otherwise ordered by the Court, the filing
24 party must either exclude from the exhibits or redact any Nonparty Borrower
25 Information sufficiently to ensure that nonparty borrower identities, or information
26 from which their identities could be ascertained, is masked and not discernible. This
27 Order does not address the use of Confidential Discovery Material for use at trial.
28 The Parties agree to meet and confer regarding use of Confidential Discovery

1 Material in connection with trial and to raise the issue with the Court at an
2 appropriate time.

3 14. Objections to Confidential Classification. No Party concedes that any
4 discovery material designated by any other person as Confidential Discovery
5 Material under any provision of the Order in fact contains or reflects trade secrets,
6 proprietary or confidential information, or has been properly designated as
7 Confidential Discovery Material, and entering into the Stipulation shall not
8 prejudice the right of a Party to seek, at any time, a determination by the Court of
9 whether any particular document or information should be subject to the terms of
10 the Order. Nor does the availability of Confidential Discovery Material status or
11 Confidential - Attorneys and Experts Only status suggest that all documents or other
12 materials are properly discoverable, and shall not affect any other valid objection to
13 production of documents or other materials.

14 A Receiving Person shall not be obliged to challenge the propriety of a
15 designation of documents or other material as Confidential Discovery Material at
16 the time made or thereafter, and failure to do so shall not preclude a subsequent
17 challenge thereof. If at any time a Receiving Person objects to a designation under
18 the Order (an “Objecting Party”), the Objecting Party shall notify the Producing
19 Person in writing. The Objecting Party shall identify the information in question
20 and shall specify in reasonable detail the reason or reasons for the objection, and
21 shall otherwise comply with Local Civil Rule 37-1. Within ten (10) calendar days
22 of the receipt of such written notice, the Producing Person and Objecting Party shall
23 meet and confer in an effort to resolve their differences. If the disagreement cannot
24 be resolved, the Objecting Party may apply to the Court within ten (10) calendar
25 days for an order overruling the Producing Person’s designation. The application of
26 the Objecting Party shall comply with Local Civil Rules 37-2 and 37-3, and the
27 Producing Person shall have the burden of demonstrating that the document or
28 material designated as Confidential Discovery Material is deserving of confidential

1 treatment or other protection under the terms of the Order. If the Objecting Party
2 does not make such an application to the Court, the documents or material to which
3 an objection was directed will still be considered Confidential Discovery Material
4 under the Order. While any such application is pending, the documents or material
5 subject to that application will remain Confidential Discovery Material until the
6 Court rules.

7 Notwithstanding any other provision of this Order, no person shall challenge
8 in any way any confidentiality designation placed on Reproduced Discovery
9 Material if such designation was previously challenged and upheld in the matter in
10 which it was originally produced. With respect to Reproduced Discovery Material
11 that is subsequently designated confidential (or highly confidential or any similar
12 designation) in the litigation or proceedings in which such Reproduced Discovery
13 Material was originally produced, the Producing Person shall promptly notify any
14 Receiving Person of such subsequent designation. In such case, within fourteen (14)
15 days of such subsequent designation, the Producing Person shall provide the
16 Receiving Person with corrected copies of such Reproduced Discovery Material,
17 bearing the subsequently designated confidentiality designation. If any person
18 challenges any confidentiality designation placed on Reproduced Discovery
19 Material, the Parties should cooperate to accommodate the terms of the protective
20 order or confidentiality stipulation that governed in the litigation or proceeding in
21 which such Reproduced Discovery Material was originally produced, but the Court
22 will ultimately apply this Protective Order to Confidential Discovery Material
23 produced in the Actions.

24 15. Breach of Confidentiality. In the event that the Court determines that
25 there is an actual or threatened violation of this Order by a Receiving Person, the
26 Parties agree that the Producing Person would not have an adequate remedy at law
27 and would be entitled to specific performance, and/or injunctive relief, to enforce
28 the terms of the Order, in addition to any other remedy to which the Producing

1 Person may be entitled at law or in equity.

2 16. Legal Process. If any Receiving Person (a) is subpoenaed in another
3 action, (b) is served with a demand in another action to which he, she, or it is a
4 party, or (c) receives a demand or request for documents from a legal or regulatory
5 organization with jurisdiction over it and such subpoena, demand, or request seeks
6 Confidential Discovery Material, the Receiving Person shall (unless prohibited by
7 law or regulation) give written notice, by hand or by e-mail, within the earlier of (i)
8 seven business days of receipt of such subpoena, demand, or request for documents
9 or (ii) no fewer than seven business days before any response to the subpoena,
10 demand, or request is due, to all Parties, and to any nonparty who produced or
11 designated the discovery material as Confidential Discovery Material, and in no
12 event shall produce such requested material prior to providing such notice. Any
13 Party or Producing Person may seek a protective order or other court-ordered relief
14 to prevent the requested production. Should a Party or Producing Person seek a
15 protective order or other court-ordered relief, then the Receiving Person shall not
16 produce any of the Producing Person's Confidential Discovery Material, until a final
17 decision that is no longer subject to appellate review orders such production,
18 provided that a Party or Producing Person must file any a Notice of Appeal or
19 Motion for permission to Appeal from a lower court order not later than thirty (30)
20 days after Notice of Entry of that order is served. If a Receiving Person is
21 subpoenaed or requested to produce Confidential Discovery Material by a regulatory
22 or self-regulatory agency with jurisdiction over it, through a process which by law,
23 regulation, interpretive letter, regulatory policy, or compulsory process requires the
24 Receiving Person to produce requested materials without objection, without notice
25 to other Parties, or without delay, the Receiving Person shall be permitted to do so
26 notwithstanding any provisions of this Order, including the advance notice
27 provisions, to the contrary.

28 17. Clawback of Protected Produced Documents. Upon notification that a

1 document or other discovery material has been inadvertently produced and/or that a
2 claim of attorney-client privilege, attorney work product, or other applicable
3 privilege or protection will be made with regard to such document or other
4 discovery material, the party receiving such notice shall promptly return or, at the
5 Producing Person's option, destroy any and all copies of such document or other
6 discovery material and shall refrain from reading or reviewing said document or
7 discovery material beyond the extent necessary to identify it as the inadvertently
8 produced material, or from utilizing it in any manner or form including without
9 limitation, use during the course of a deposition, review with witnesses, use by
10 counsel or otherwise to prosecute this or any other action, or any other use,
11 disclosure or review whatsoever. The Receiving Person shall also remove all
12 references to such material from any attorney work product. The inadvertent
13 production of any document or discovery that is subsequently retrieved or destroyed
14 pursuant to this paragraph shall not be deemed to be a waiver of the claim of
15 privilege or protection asserted in these Actions or in any other proceeding,
16 including in Federal or State proceedings. Notwithstanding the foregoing, nothing
17 in this paragraph shall prevent a Receiving Person, after promptly returning or
18 destroying the discovery material, from challenging the Producing Person's
19 designation of the document or discovery as subject to attorney-client privilege,
20 attorney work product, or other applicable privilege or protection or otherwise not
21 subject to production, provided that (a) such challenge complies with Local Rules
22 37-1 through 37-4, (b) any review by the Court of the materials in question is
23 conducted *in camera*, and (c) the challenge shall not assert as ground or basis that
24 the Producing Person waived any privilege or protection because of the inadvertent
25 disclosure.

26 A Receiving Person may obtain from a Producing Person any privilege log(s)
27 relating to any Reproduced Discovery Material, but only to the extent such privilege
28 log exists, and the Producing Person shall use its best efforts to provide such

1 privilege log(s) to the Receiving Person within fourteen (14) calendar days of
2 production of the Reproduced Discovery Material or within fourteen (14) calendar
3 days of when a privilege log is provided in the litigation or proceeding in which
4 such Reproduced Discovery Material was originally produced. A Receiving Person
5 may not demand the creation of a privilege log in connection with Reproduced
6 Discovery Material, nor shall any a Producing Person be required to create any such
7 privilege log, and the failure to create or provide one shall not constitute a waiver of
8 any privilege or protection. No person shall challenge privilege log(s) relating to
9 any Reproduced Discovery Material or any designation of Reproduced Discovery
10 Material as subject to the attorney-client privilege, attorney work product, or any
11 other privilege or protection, or as otherwise not subject to production, except in
12 accordance with the instructions given by this Court during the May 10, 2013 status
13 conference. With respect to Reproduced Discovery Material that is subsequently
14 designated as privileged or otherwise not subject to production in the litigation or
15 proceedings in which such Reproduced Discovery Material was originally produced,
16 the Producing Person shall promptly notify any Receiving Person of such
17 subsequent designation, and such Receiving Person shall, within fourteen (14)
18 calendar days, destroy all such subsequently designated Reproduced Discovery
19 Material and certify to the Producing Person that it has done so.

20 18. The Order shall be without prejudice to the rights of a Producing
21 Person to seek further limits on disclosure or protections for the confidentiality of
22 any discovery material (whether or not designated as Confidential Discovery
23 Material) in addition to the limits and protections provided herein, including,
24 without limitation, that access to or disclosure of any discovery material be limited
25 solely to counsel for a Party or to other specified persons and without prejudice to
26 the rights of any other person to contest such application.

27 19. Any additional parties that join or are joined in any of the Actions, may
28 have access to materials produced pursuant to this Order only after the party

1 executes and files with the Court a stipulation agreeing to be fully bound by the
2 Order. Nonparties producing discovery materials may gain the benefits of this
3 Order with respect to any discovery materials they produce by designating as
4 “CONFIDENTIAL” the discovery material they produce.

5 20. Final Disposition. Unless otherwise ordered or agreed in writing by the
6 Producing Person, within sixty (60) days after the final termination of an Action in
7 which a Producing Person produced discovery materials pursuant to this Order,
8 including any appeals, each Receiving Person in that terminated Action must take
9 commercially reasonable efforts to either return all Confidential Discovery Material
10 to the Producing Person, or, at its option, destroy it. Notwithstanding this provision,
11 counsel for the Parties may retain an archival copy of all pleadings, motion papers,
12 transcripts, legal memoranda, correspondence, or attorney work product, even if
13 such materials contain Confidential Discovery Material. Any such archival copies
14 that contain or constitute Confidential Discovery Material remain subject to this
15 Order until the Producing Person agrees otherwise in writing or this Court orders
16 otherwise.

17 21. This Order shall survive the termination of each of the Actions. No
18 part of the restrictions imposed by this Order may be waived or terminated, except
19 by written stipulation executed by outside counsel of record for each Producing
20 Person or by an Order of the Court.

21 22. The Parties may jointly seek to amend or modify this Order, subject to
22 Court approval.

23 23. Notwithstanding any provision contained herein, nothing in this Order
24 shall restrict in any way the right of a Party to make use of its own discovery
25 material in any way it deems fit.

26 24. Nothing in this Order shall be deemed a waiver of any of the Parties’
27 rights to oppose any discovery on any grounds or to object on any ground to the
28 admission in evidence at any motion hearing or the trial of these Actions of any

1 matter discovered.

2 25. Disclosure of Nonparty Borrower Information. To the extent any
3 federal or state law or other legal authority governing the disclosure or use of
4 Nonparty Borrower Information (“Nonparty Borrower Information Law”) permits
5 disclosure of such information pursuant to an order of a court, this Order shall
6 constitute compliance with such requirement. To the extent any Nonparty Borrower
7 Information Law requires a party to obtain a court-ordered subpoena or give notice
8 to or obtain consent, in any form or manner, from any person or entity before
9 disclosure of any Nonparty Borrower Information, the Court finds that, in view of
10 the protections provided for the information disclosed in this Order, the volume of
11 documents to be produced and the ongoing oversight of the Court, there is good
12 cause to excuse such requirement, and the Court hereby **Orders** that the party is
13 exempted from obtaining a court-ordered subpoena or having to notify or obtain
14 consent from any person or entity prior to the disclosure of Nonparty Borrower
15 Information. To the extent that any Nonparty Borrower Information Law requires
16 that any person or entity be notified prior to disclosure of Nonparty Borrower
17 Information except where such notice is prohibited by court order, the Court hereby
18 **Orders**, in view of the protections provided for the information disclosed in this
19 Order, the volume of documents to be produced and the ongoing oversight of the
20 Court, that the Parties are explicitly prohibited from providing such notice;
21 *provided, however*, that this Order shall not prohibit any party from contacting any
22 person or entity for any other purpose. Any Producing Person may seek additional
23 orders from this Court that it believes may be necessary to comply with any
24 Nonparty Borrower Information Law.

25 IT IS SO ORDERED

26
27 Dated: May 20, 2013



Hon. Mariana R. Pfaelzer
United States District Judge

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ACKNOWLEDGMENT

I have been informed that on _____, the United States District Court for the Central District of California entered an ORDER GOVERNING THE TREATMENT OF CONFIDENTIAL DISCOVERY MATERIAL in *Allstate Insurance Company v. Countrywide Financial Corporation*, 2:11-cv-005236-MRP (MANx); *Bank Hapoalim B.M. v. Bank of America Corporation*, 2:12-cv-04316-MRP (MANx); *Minnesota Life Insurance Company v. Countrywide Financial Corporation*, 2:12-cv-06149-MRP (MANx); *National Integrity Life Insurance Company v. Countrywide Financial Corporation*, 2:11-cv-09889-MRP (MANx); *Federal Deposit Insurance Corporation as receiver for United Western Bank, F.S.B. v. Countrywide Financial Corporation*, 2:11-cv-10400-MRP (MANx); and *Massachusetts Mutual Life Insurance Company v. Countrywide Financial Corporation*, 2:11-cv-10414-MRP (MANx (the “Order”). I have read the Order, agree to abide by the terms of the Order as they apply to me, and voluntarily submit to the jurisdiction of the United States District Court for the Central District of California for purposes of any proceeding related to the Order, including my receipt or review of information that has been designated as CONFIDENTIAL.

(Signature)

(Printed Name)