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Attorneys for the Federal Deposit Insurance Corporation,
as Receiver for Defendant Washington Mutual Bank

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

FELTON A. SPEARS, JR. and SIDNEY)
SCHOLL, on behalf of themselves and all others) Case No. 5:08-cv-00868 (RMW)
similarly situated,)
) CLASS ACTION
Plaintiffs,)
) **STIPULATION AND ~~PROPOSED~~**
v.) **ORDER TO STAY PROCEEDINGS**
)
WASHINGTON MUTUAL, INC., a Washington)
corporation; WASHINGTON MUTUAL BANK,)
FA (aka WASHINGTON MUTUAL BANK);)
FIRST AMERICAN EAPPRAISEIT, a Delaware)
corporation; and LENDER'S SERVICE, INC.,)
)
Defendants.)
)
)

This stipulation is entered into by and among the Federal Deposit Insurance Corporation ("FDIC"), as the duly appointed Receiver for defendant Washington Mutual Bank ("WMB"), defendant First American eAppraiseIT ("EA"), defendant Lender's Services, Inc. ("LSI") and plaintiffs Sidney Scholl and Felton A. Spears, Jr. ("Plaintiffs"), as follows:

WHEREAS, on September 25, 2008, the Office of Thrift Supervision ("OTS") closed WMB;

1 WHEREAS, pursuant to Section 1821(c) of the Federal Deposit Insurance Act (the "Act"),
2 12 U.S.C. § 1821(c), the OTS duly appointed the FDIC as Receiver for WMB;

3 WHEREAS, pursuant to stipulation of the parties and court order, the FDIC has been
4 substituted for WMB as the real party in interest;

5 WHEREAS, pursuant to Section 1821(d)(12) of the Act, the FDIC is entitled to a stay of
6 up to ninety days of any civil action or legal proceeding to which an insured depository institution,
7 for which the FDIC has been appointed Receiver, is a party;

8 WHEREAS, none of Plaintiffs, EA and LSI have any objection to staying this action for 90
9 days pursuant to the Act.

10 **NOW, THEREFORE, IT IS HEREBY STIPULATED** by the parties, through their
11 respective counsel of record, that:

12 1. Pursuant to the agreed stay, (i) oral argument on Defendants' motions to dismiss
13 Plaintiffs' First Amended Complaint and the case management conference, both currently
14 scheduled for November 21, 2008, (ii) briefing on Plaintiffs' Motion for Jurisdictional Discovery,
15 and (iii) oral argument on Plaintiffs' Motion for Jurisdictional Discovery, currently scheduled for
16 December 16, 2008, shall be adjourned.

17 2. This action shall be stayed for 90 days from the date of entry of the Order set forth
18 below and (i) oral argument on Defendants' motions to dismiss Plaintiffs' First Amended
19 Complaint, previously set for November 21, 2008, shall be adjourned to February 13, 2009 at 9:00
20 a.m.; (ii) the case management conference, previously set for November 21, 2008, shall be
21 adjourned to February 13, 2009 at 10:30 a.m.; (iii) oral argument on Plaintiffs' Motion for
22 Jurisdictional Discovery, previously set for December 16, 2008, shall be adjourned to March 10,
23 2009 at 9:00 a.m.; and (iv) briefing on Plaintiffs' Motion for Jurisdictional Discovery shall be
24 stayed until February 13, 2009.

25 3. This stipulation does not prejudice or otherwise affect any party's right to seek or
26 oppose any additional relief from the Court, including a further stay of proceedings.

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DAVIS WRIGHT TREMAINE LLP

Dated: November 3, 2008

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SPECTER, SPECTER EVANS & MANOGUE, P.C.

Dated: November 3, 2008

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MCDONOUGH HOLLAND & ALLEN PC

Dated: November 3, 2008

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DEWEY & LEBOEUF LLP

Dated: November 3, 2008

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Attorneys for Lender's Services, Inc.


ORDER

Based on the foregoing stipulation of the Parties,

IT IS HEREBY ORDERED THAT:

1. This action shall be stayed for 90 days from the date of entry of this Order. All deadlines and hearing dates falling within the stay shall be vacated, as set forth in the Stipulation.
2. Oral argument on Defendants' motions to dismiss Plaintiffs' First Amended Complaint, previously set for November 21, 2008, shall be adjourned to February 13, 2009 at 9:00 a.m.
3. The case management conference, previously set for November 21, 2008, shall be adjourned to February 13, 2009 at 10:30 a.m.
4. Oral argument on Plaintiffs' Motion for Jurisdictional Discovery, previously set for December 16, 2008, shall be adjourned to March 10, 2009 at 9:00 a.m. (*before Mag. Lloyd*)
5. Briefing on Plaintiffs' Motion for Jurisdictional Discovery shall be stayed until February 13, 2009.
6. This order does not prejudice or otherwise affect any party's right to seek or oppose any additional relief from the Court, including a further stay of proceedings.

Dated: 11/18/08


Honorable Ronald M. Whyte
United States District Court Judge

CERTIFICATE OF SERVICE

I hereby certify that on November 3, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

- Robert Ira Spiro - Ira@SpiroMoss.com
- Janet Lindner Spielberg - jlsplberg@jlsplp.com
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and I hereby certify that I have mailed by United States Postal Service the document to the following non CM/ECF participants:

Kerry Ford Cunningham
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Two World Financial Center
New York, NY 10281

DATED this 3rd day of November, 2008.

Davis Wright Tremaine LLP
Attorneys for the Federal Deposit Insurance
Corporation, as Receiver for Washington Mutual
Bank

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