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Creditors' Trust, Summit Securities, Inc. and the
Summit Creditors' Trust

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WASHINGTON

In re

**METROPOLITAN MORTGAGE &
SECURITIES CO., INC.,**

Debtor.

In re

SUMMIT SECURITIES, INC.,

Debtor.

Jointly Administered Under:
No. **04-00757-W11**
Chapter **11**

**DECLARATION OF MAGGIE LYONS
IN SUPPORT OF MOTION FOR
ORDER AUTHORIZING
COMPROMISE OF CLAIMS,
APPROVING SETTLEMENT
AGREEMENT WITH
PRICEWATERHOUSECOOPERS, LLP,
ESTABLISHING BAR ORDER, AND
SHORTENING TIME**

1. INTRODUCTION. I, Maggie Lyons, submit this Declaration (the
"Declaration") under penalty of perjury. I am the Trustee of the Metropolitan
Creditors' Trust and the Summit Creditors' Trust. This Declaration sets forth
facts that are within my knowledge, and as to which I am competent to testify.
This Declaration is in support of the Motion for Order Authorizing Compromise of
Claims, Approving Settlement Agreement with PricewaterhouseCoopers, LLP,
Establishing Bar Order, and Shortening Time (the "Motion") filed by Metropolitan

1 Mortgage & Securities Co., Inc. and the Metropolitan Creditors' Trust (collectively,
2 "Metropolitan") and Summit Securities, Inc. and the Summit Creditors' Trust
3 (collectively, "Summit") (together, "Movants").
4

5 2. BACKGROUND AND SETTLEMENT AGREEMENT. I am familiar with
6 the facts set forth in the Motion, which I believe are accurately stated in the
7 Motion. On behalf of Metropolitan and Summit, I have worked closely with
8 Metropolitan and Summit's litigation counsel in prosecuting the claims for
9 negligence and breach of contract asserted against PricewaterhouseCoopers, LLP
10 ("PwC") in litigation pending in the United States District Court for the Eastern
11 District of Washington, encaptioned *Metropolitan Creditors' Trust, Metropolitan*
12 *Mortgage & Securities Co., Inc., Summit Creditors' Trust and Summit Securities, Inc.*
13 *v. PricewaterhouseCoopers, LLP*, Case No. CV-05-290-FVS (the "Litigation").
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16 My understanding is that Coopers and Lybrand and its successor, PwC,
17 served as the independent auditor for Metropolitan and Summit from 1993 until
18 June 2001, when the companies replaced PwC with Ernst & Young. In the
19 Litigation, Metropolitan and Summit have alleged that PwC was negligent in its
20 audit of Metropolitan's and Summit's financial statements for fiscal years 1999
21 and 2000, and for those fiscal years breached the terms of its written engagement
22 contracts with the companies and made negligent misrepresentations in its audit
23 opinions and reports to management. Metropolitan and Summit also have
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1 alleged that PwC was negligent in its provision of tax advice in connection with an
2 off-shore tax shelter program in which Metropolitan invested in 1998. PwC has
3 denied all liability and asserted a number of affirmative defenses.
4

5 The parties conducted extensive discovery in the Litigation from
6 approximately February 2006 to October 5, 2007, the court-ordered date for
7 completion of all discovery. The parties produced hundreds of thousands of
8 documents and took more than 50 depositions. PwC filed two motions for
9 summary judgment, one which argued that Movants had failed to present
10 sufficient evidence of causation and damages in support of their claims arising
11 from PwC's audit work, and one which argued that Movants were precluded by
12 judicial estoppel from seeking damages on the tax malpractice claim. Movants
13 also filed a motion seeking judgment as a matter of law that PwC was negligent in
14 its provision of tax advice.
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17 The District Court issued tentative opinions prior to hearing argument on
18 the summary judgment motions. The Court indicated that it was inclined to deny
19 both Movants' motion and the PwC motion directed to the claim for negligent tax
20 advice. However, the Court stated that it was inclined to grant PwC's motion for
21 summary judgment on Movants' causes of action arising from PwC's audit work.
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23 Following oral argument on the summary judgment motions, which
24 occurred on February 5, 2008, the District Court announced that it had decided
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1 to deny all of the summary judgment motions, but in doing so continued to
2 express “serious concerns” about the issues raised by PwC’s summary judgment
3 motion on the audit claims.
4

5 Trial in the Litigation was scheduled to begin on March 3, 2008, before the
6 Honorable Fred Van Sickle, sitting without a jury. The trial was scheduled to
7 conclude on April 10, 2008. On the eve of trial, with the assistance of a
8 nationally recognized mediator, Metropolitan, Summit, and PwC (the “Settling
9 Parties”) reached a settlement in principle and announced the settlement in open
10 court on the day trial was to begin. A written Settlement Agreement was executed
11 later that day, and the parties filed a joint motion to stay the Litigation pending
12 action by this Court on the Motion.
13

14 Subject to the terms and conditions set forth therein, the Settlement
15 Agreement provides for compromise of the Litigation in exchange for a substantial
16 settlement payment (the “Settlement Payment”).
17

18 The Settlement Agreement is the result of exhaustive good faith arms-
19 length negotiations between the Settling Parties, with each party represented by
20 counsel. In the considered independent business judgment of Metropolitan and
21 Summit, the Settlement Agreement is fair and equitable, in their respective best
22 interests, and is a reasonable resolution of the claims of Metropolitan and
23 Summit in light of the risks, expense, and uncertain results of continuing the
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1 Litigation through trial. The Settlement Agreement and the amount of the
2 Settlement Payment have been approved by the Metropolitan Executive Board
3 and the Summit Executive Board. A true and complete copy of the Settlement
4 Agreement is attached as Exhibit A to this Declaration.
5

6 3. FACTORS RELEVANT TO APPROVAL OF THE SETTLEMENT.

7 Pursuing claims against PwC through judgment in the District Court and possible
8 appeal from that judgment would result in potentially significant depletion of the
9 Trusts' assets and delay any potential recovery. Although the Trusts' litigation
10 attorneys (from the Susman Godfrey firm) have been working on a contingent fee,
11 continued out-of-pocket litigation expenses to be funded by the Trusts would be
12 significant, and any recovery for the benefit of creditors would be delayed. By
13 contrast, under the Settlement Agreement, the Trusts will receive a substantial
14 settlement payment contingent only upon Final Approval by this Court, without
15 the need to engage in further protracted litigation with an uncertain outcome. In
16 addition, the proposed settlement is of such a magnitude as to justify the expense
17 of a distribution to creditors under the Plan that otherwise would be deferred.
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21 If the proposed settlement is not consummated, I have no doubt that PwC
22 will mount a vigorous defense at trial. Although Metropolitan and Summit
23 strongly believe in the merit of the claims they have litigated against PwC, the
24 District Court – which would act as the trier of fact in a bench trial of those
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1 claims – has expressed “serious concerns” about the strength of movants’
2 evidence concerning causation and damages, even as that Court determined that
3 a trial was necessary and therefore denied PwC’s motion for summary judgment
4 on those issues. Thus, the outcome of a full trial is uncertain and it would pose
5 significant risks for both Movants and PwC.
6

7 I believe the settlement is fair and reasonable and in the best interests of
8 the Trusts and the estates in bankruptcy. In addition, the Settlement Agreement
9 has been approved as fair and reasonable by the Executive Boards of the Trusts.
10 Those Boards consist of creditors of Metropolitan and Summit who are former
11 members of the Creditors’ Committees in the bankruptcy cases. The Settlement
12 Agreement reflects their collective judgment, as representatives of creditors
13 entitled to distributions under the Plan, that the settlement is in the best
14 interests of all creditors.
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17 The reasonableness of the settlement is also supported by the fact that it
18 was not the result of bad faith or collusion, but was instead the product of
19 intensive, arms-length negotiations conducted on the eve of trial with the
20 assistance of a nationally recognized mediator. I consulted closely with our
21 counsel as those negotiations unfolded. Before reaching the settlement, the
22 parties had engaged in exhaustive discovery and were prepared to begin trial. It
23 is fair to say that but for the active participation of the mediator, the case would
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Maggie Lyons

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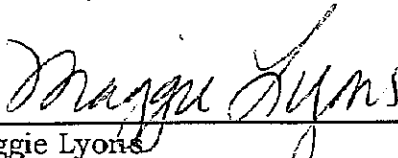
1 not have settled.

2 In sum, the Settlement Agreement produces significant immediate benefits
3 for the Trusts, enables a distribution to creditors that otherwise would be
4 deferred, avoids the continued significant expenditure of estate resources on
5 litigation, and avoids the risk of an adverse outcome at the conclusion of trial.

6
7 4. SHORTENING TIME. The Motion, if granted will provide substantial
8 funds for distribution to Metropolitan and Summit creditors. Metropolitan and
9 Summit seek entry of an order shortening time for notice of the Motion to a period
10 of eighteen (18) days, including time for mailing, to expedite such a distribution.

11
12 5. REQUESTED RELIEF. I am asking the Court to enter the requested
13 Order Authorizing Compromise of Claims, Approving Settlement Agreement with
14 PricewaterhouseCoopers, LLP, Establishing Bar Order, and Shortening Time.

15 SIGNED under penalty of perjury this 14th day of March 2008.

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19 Maggie Lyons
20 Trustee of the Metropolitan Creditors' Trust

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22 Maggie Lyons
23 Trustee of the Summit Creditors' Trust

24
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Declaration in Support of Motion for Order
Authorizing Compromise of Claims, Approving
Settlement Agreement with PricewaterhouseCoopers, LLP,
Establishing Bar Order and Shortening Time
Metropolitan Mortgage Pleadings on

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Exhibit A

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SETTLEMENT AGREEMENT

WHEREAS **Metropolitan Mortgage & Securities Co., Inc.** ("Metropolitan") and **Summit Securities, Inc.** ("Summit") (collectively the "Debtors") are affiliated corporations that filed for bankruptcy protection on or about February 4, 2004, in the United States Bankruptcy Court for the Eastern District of Washington (the "Bankruptcy Court"); and

WHEREAS by order dated February 13, 2006, the Bankruptcy Court confirmed the Debtors' Third Amended Joint Reorganization Plan (the "Confirmation Order"), which became effective on or about February 24, 2006; and

WHEREAS, pursuant to the Debtors' Third Amended Joint Reorganization Plan (the "Plan") and the Confirmation Order, all property of the Debtors' estates vested in the **Metropolitan Creditors' Trust** and the **Summit Creditors' Trust** (the "Trusts") as provided in the Plan and Confirmation Order; and

WHEREAS, through a First Amended Complaint, the Debtors and the Trusts (collectively, the "Plaintiffs") have asserted claims against **PricewaterhouseCoopers LLP** ("PwC") in the lawsuit styled *Metropolitan Creditors' Trust, et al. v. PricewaterhouseCoopers LLP*, Case No. CV-05-290-FVS (E.D. Wash.) (the "Litigation"); and

WHEREAS, trial of the Litigation is scheduled to begin on March 3, 2008; and

WHEREAS the Plaintiffs and PwC (the "Settling Parties") seek to avoid the expense, risks, and uncertainty posed by the Litigation and wish to compromise and settle their disputes;

NOW, THEREFORE, Plaintiffs and PwC hereby memorialize the terms of a binding settlement through the execution of this Settlement Agreement.

I. ADDITIONAL DEFINITIONS

In addition to the capitalized terms defined above and at other places in this Settlement Agreement, the capitalized terms below shall have the following meanings:

A. **Final Approval.** "Final Approval" means that the Bankruptcy Court has entered an order approving this Settlement Agreement as reasonable (the "Approval Order") and that one of the following events has occurred: (1) the time for appeal of the Approval Order has expired without any appeal having been filed; (2) following a final affirmance on appeal of the Approval Order, the time to seek further discretionary review (including, without limitation, from the United States Supreme Court) has expired without such further relief being sought, or if discretionary review is allowed, such discretionary review proceedings are subsequently dismissed with prejudice or there is an affirmance on discretionary review; or (3) following a final dismissal of an appeal of the Approval Order, the time to seek further discretionary review (including, without limitation, from the United States Supreme Court) has expired without such further relief being sought, or if discretionary review is allowed, such discretionary review proceedings are subsequently dismissed with prejudice or the dismissal being challenged is itself finally affirmed on discretionary review.

B. **Escrow Account.** "Escrow Account" means an interest-bearing account to be established at U.S. Bank (the "Escrow Agent") promptly following execution of this Settlement Agreement. Plaintiffs shall make the arrangements, draft the associated documents, and pay the expenses associated with the establishment of the Escrow Account. Documents necessary to establish the Escrow Account shall be provided to PwC in advance for review and approval; provided that PwC shall provide any comments by close of business on the next business day following its receipt of the draft documents, and provided further that PwC shall not unreasonably withhold its approval.

II. SETTLEMENT PAYMENT

A. Not later than five (5) business days following the later of (i) complete execution of this Settlement Agreement, or (ii) Plaintiffs' notification to PwC of the account and taxpayer

identification information for the Escrow Account, PwC shall wire transfer the sum of **Thirty Million Dollars (\$30,000,000)** into the Escrow Account.

B. Not later than three (3) business days following Final Approval, PwC shall instruct the Escrow Agent to pay all funds in the Escrow Account, including accrued interest, by wire transfer to the Trusts in an account to be identified by them in the documentation establishing the Escrow Account.

III. THE LITIGATION

A. Not later than the first business day following complete execution of this Settlement Agreement, the Settling Parties shall jointly move the Court in the Litigation to vacate the trial setting and to stay further proceedings in the Litigation, pending either the occurrence of Final Approval or the failure of Final Approval to occur.

B. In the alternative, if the Court declines to stay the Litigation and instead requires that it be dismissed, the Settling Parties shall jointly stipulate to entry of an order dismissing the Litigation without prejudice and providing that it may be reinstated on the Court's docket as an active matter in the event Final Approval is not obtained. In the event the Litigation is dismissed without prejudice, the running of time with respect to all statutes of limitations applicable to plaintiffs' claims in the Litigation shall be deemed tolled from the entry of the dismissal order until such time as the suit is reinstated or dismissed with prejudice.

C. Within five (5) business days following the occurrence of Final Approval and the Trusts' receipt of the settlement payment described in Section II above, the Settling Parties shall jointly move the Court in the Litigation for entry of an order dismissing all claims asserted by any party, with prejudice, and providing that each party shall bear its own costs and expenses of litigation. In the event the case has been dismissed without prejudice pursuant to Subpart B of this Section, and reinstatement of the case is necessary before an order of dismissal with

prejudice may be entered, then the Settling Parties shall first take such steps as may be required to obtain reinstatement, and then move for dismissal with prejudice.

D. If Final Approval does not occur, within fourteen (14) business days following the failure to obtain Final Approval, the Settling Parties (i) shall jointly move the Court in the Litigation to lift the stay referred to in Subpart A of this Section and establish a new trial setting or, if the Litigation has been dismissed without prejudice rather than stayed, (ii) shall jointly take such action as may be necessary to have the Litigation reinstated on the Court's docket as an active matter and request that the Court establish a new trial setting.

IV. RELEASES

A. **Scope of Releases.** Effective only upon (i) the occurrence of Final Approval, and (ii) PwC instructing the Escrow Agent to pay all funds as required in Section II(B), the Settling Parties release each other as follows:

1. **Release by the Plaintiffs.** Plaintiffs release PwC from any and all claims, demands, causes of action, actions, rights, liabilities, contract obligations, damages, attorneys' fees, costs, torts, suits, debts, sums of money, accountings, reckonings, bills, covenants, controversies, agreements, and promises whatsoever, at law or in equity or otherwise, whether direct or indirect, known or unknown, which the Plaintiffs now own or hold, or have at any time heretofore owned or held, or may in the future own or hold, against PwC in any capacity, which are or may be based upon any facts, acts, omissions, conduct, representations, contracts, events, causes or matters of any kind occurring or existing at any time on or before the date of this Settlement Agreement, including, without limitation, all claims that were or could have been asserted by Plaintiffs in the Litigation.

As to matters relating to PwC's work for Metropolitan or Summit, the Litigation, and/or this settlement, and except to the extent otherwise provided in this Settlement Agreement, Plaintiffs' release of PwC shall extend to, and inure to the benefit of, PwC's predecessors,

successors and assigns and all of their current, former, and future partners, principals, and employees and any other person whose liability on any of the released claims would subject PwC to liability under the doctrines of agency or respondeat superior.

2. Release by PwC. PwC releases Plaintiffs from any and all claims, demands, causes of action, actions, rights, liabilities, contract obligations, damages, attorneys' fees, costs, torts, suits, debts, sums of money, accountings, reckonings, bills, covenants, controversies, agreements, and promises whatsoever, at law or in equity or otherwise, whether direct or indirect, known or unknown, which PwC now owns or holds, or has at any time heretofore owned or held, or may in the future own or hold, against Plaintiffs or any of them, in any capacity, which are or may be based upon any facts, acts, omissions, conduct, representations, contracts, events, causes or matters of any kind occurring or existing at any time on or before the date of this Settlement Agreement.

As to matters relating to PwC's work for Metropolitan or Summit, the Litigation and/or this settlement, and except to the extent otherwise provided in this Settlement Agreement, PwC's release of Plaintiffs shall extend to, and inure to the benefit of, Plaintiffs' predecessors, successors and assigns, and all of their current, former, and future officers, directors, employees, the Trusts' Executive Boards and Trustee, and any other person whose liability on any of the released claims would subject Plaintiffs or any of them to liability under the doctrines of agency or respondeat superior.

PwC's release shall not be construed to affect any right PwC may have to seek and obtain allocation of fault or proportionate liability in *In re Metropolitan Securities Litigation*, No. CV-04-0025-FVS (E.D. Wash.), it being understood and acknowledged by the Settling Parties that any such right to allocation will not entail any claim by PwC for relief against Plaintiffs.

3. **No Other Beneficiaries.** Notwithstanding any other provision of this Section IV(A) that could be construed to the contrary, and without otherwise purporting to limit the generality of those provisions, nothing herein shall be construed to release or waive any claims the Settling Parties may have against Ernst & Young, LLP; Quellos Group, LLC; Quadra Capital Management, LP; or QA Investments, LLC.

4. **Bar Order Request.** In connection with the request for Final Approval of this Settlement under Section V below, Plaintiffs shall seek the Bankruptcy Court's entry of a bar order pursuant to which any and all claims for contribution or indemnification against PwC (or any other claim against PwC where the claimant's injury is the claimant's liability to Plaintiffs) that arise out of or relate to the claims released in Section IV(A)(1) above, are permanently barred, extinguished, discharged, satisfied and unenforceable to the maximum extent permitted by law.

B. **Unknown Claims Released.** With respect to the releases specified in Section IV(A) above, the Settling Parties hereby waive any and all rights which they may have against each other under or pursuant to (i) the provisions of section 1542 of the Civil Code of the State of California and/or (ii) the provisions of any other similar statutory, regulatory or common law of any state, or of the United States. Section 1542 of the Civil Code of the State of California provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

The Settling Parties understand fully the statutory language of section 1542 of the Civil Code of the State of California and, having been so apprised, nevertheless release all unknown released claims as provided in Section IV(A) above. This reference to California law shall not be construed as indicating an intent that California law should apply to this Settlement Agreement.

V. FINAL APPROVAL

A. As a condition to this Settlement Agreement, Plaintiffs shall promptly request expedited Final Approval from the Bankruptcy Court. In connection with the approval request, Plaintiffs shall seek a finding that the settlement is reasonable pursuant to RCW 4.22.060. PwC shall have the right to review and comment on the motion and any other supporting papers requesting Bankruptcy Court approval of the Settlement Agreement before such papers are filed. PwC shall provide its comments with reasonable promptness, and Plaintiffs shall not unreasonably withhold their consent to changes proposed by PwC. Notwithstanding PwC's rights to review and comment, no statement by Plaintiffs filed in the Bankruptcy Court shall be construed as a statement or admission by PwC. To the extent permitted by the rules of the Bankruptcy Court of the Eastern District of Washington and governing law, Plaintiffs shall not, in the motion requesting approval of the Settlement Agreement or in other papers supporting the motion, publicly disclose the amount of the Settlement Payment identified in Section II, except to the extent the Bankruptcy Court may otherwise require.

B. In the event Final Approval is not obtained, (a) this Settlement Agreement shall become null and void; (b) all funds in the Escrow Account, including accrued interest, shall be paid over to PwC within three (3) business days following the failure to obtain Final Approval; and (c) within fourteen (14) business days following the failure to obtain Final Approval, the Settling Parties shall jointly move the Court in the Litigation to lift the stay referred to in Section III of this Settlement Agreement, or reinstate the case on the Court's docket if it has been dismissed, and establish a new trial setting.

VI. ADDITIONAL PROVISIONS

A. **No Admission of Liability.** This Settlement Agreement is the result of a compromise to resolve pending litigation and disputes. It does not constitute, and shall not at any time or for any purpose be construed or considered as, any concession, admission, or belief

by any of the Settling Parties that they have any liability, fault or responsibility for any of the claims, damages, or liabilities from which they are being released pursuant to this Settlement Agreement. The Settling Parties enter into this Settlement Agreement solely for the purpose of avoiding the costs and risks of litigation.

B. Restriction on Public Statements. Any statement by Plaintiffs or PwC to the press or the general public about the settlement shall be limited to the disclosure that the Settling Parties have reached a settlement of the Litigation on terms agreeable to all parties. The Settling Parties further agree that neither Plaintiffs nor PwC shall make any statement to the press or other comment intended for dissemination to the general public disparaging the other regarding this settlement, the Litigation, or PwC's work for Metropolitan and Summit that was the subject of the Litigation; however, none of the Settling Parties is precluded in any way from describing or characterizing the conduct of the other in any litigation where such conduct may be relevant.

C. Settlement Communications. Any statements made during the negotiation of this Settlement Agreement and any statements made or pleadings filed in furtherance of the settlement reflected in this Settlement Agreement or to implement its terms by the Settling Parties or their attorneys, agents, or representatives are settlement communications subject to Federal Rule of Evidence 408 and Washington Evidence Rule 408. In the event Final Approval of this Settlement Agreement cannot be achieved, the Settling Parties agree that nothing contained in this Settlement Agreement, any subsequent writings intended to implement this Settlement Agreement, or any pleadings or oral statements submitted or made by the Settling Parties in negotiations regarding, pursuant to, or in furtherance of this Settlement Agreement may be used, quoted, referenced, or admitted in any litigation or proceeding that is unrelated to the consummation, approval, or enforcement of the Settlement Agreement.

D. PwC Confidential Information. The terms of the Protective Orders entered in the Litigation remain in full force and effect. Notwithstanding anything to the contrary in the

Protective Orders, however, Plaintiffs agree that, except as may be required by subpoena or court order, they will not in the future share with plaintiffs' counsel in *In re Metropolitan Securities Litigation*, CV-04-0025-FVS (E.D. Wash.) any of the following: (1) PwC documents or information produced in the Litigation and designated as Confidential or Confidential Information, or (2) transcripts, exhibits, expert reports, attorney work product, or other materials or information containing, referencing, or discussing such PwC documents or information. In the event Plaintiffs receive a subpoena or other formal process seeking production of any of the documents identified in the preceding sentence, Plaintiffs agree to notify PwC promptly in order to give it an opportunity to object or move to quash.

E. **No Assignments.** The parties each represent and warrant that they have not assigned or transferred any of the claims they are releasing pursuant to Section IV(A)(1) and (2) of this Settlement Agreement, except to the extent that the vesting of Metropolitan and Summit claims in the Trusts pursuant to the Plan and the Confirmation Order can be construed as an assignment or transfer.

F. **Integration.** This Settlement Agreement replaces and supersedes all prior agreements, discussions, and representations on these specific subjects, and represents the complete agreement of the Settling Parties with respect to the specific subject matter hereof.

G. **Choice of Law and Venue.** This Settlement Agreement and its validity, construction, interpretation, and/or performance shall be governed by the laws and precedents of the State of Washington without reference to its choice of law rules. Any suit brought to interpret or enforce this Settlement Agreement shall be brought in the United States District Court for the Eastern District of Washington or, in the event that court shall determine that it lacks subject matter jurisdiction of such an action, in the Superior Court of Spokane County, Washington, and the Settling Parties hereby waive any objections to the personal jurisdiction or venue of those courts for such purposes.

H. Subsequent Modification or Waiver. This Settlement Agreement may not be changed, amended, modified, terminated, waived or discharged except in a subsequent written agreement signed by the Settling Parties.

I. Construction. This Settlement Agreement has been negotiated by the Settling Parties and their respective counsel and shall be interpreted fairly in accordance with its terms and without any strict construction in favor of or against either Plaintiffs or PwC.

J. Execution. This Settlement Agreement is executed by all Settling Parties as of the date stated below. This Settlement Agreement can be executed in counterparts that, taken together, will be effective as if they were a single document.

K. Authority. Each individual signing this Settlement Agreement warrants and represents that he or she has the full authority, and is duly authorized and empowered, to execute this Settlement Agreement on behalf of the Settling Party for which he or she signs, and that it represents the binding obligation of that Settling Party. This Settlement Agreement shall be binding upon and inure to the benefit of the Settling Parties hereto and their respective predecessors, successors, assigns, and representatives.

DATED this 3rd day of March 2008.

METROPOLITAN MORTGAGE & SECURITIES
CO., INC.

By: Maggie G. Lyons
Title: Sole Officer and Director

SUMMIT SECURITIES, INC.

By: Maggie G. Lyons
Title: Sole Officer and Director

METROPOLITAN CREDITORS' TRUST

By: Maggie G. Lyons
Title: Plan Administrator and Trustee

SUMMIT CREDITORS' TRUST

By: Maggie G. Lyons
Its: Plan Administrator and Trustee

PRICEWATERHOUSECOOPERS LLP

By: Daniel Weiss
Title: Counsel for PricewaterhouseCoopers LLP