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<ul><li>2</li><li>3</li><li>4</li><li>5</li><li>6</li></ul>	FRANK J. GEBHARDT (WSBA No. 483) FELTMAN, GEBHARDT, GREER & ZH 14th Floor Paulsen Center 421 West Riverside Avenue Spokane, WA 99201-0495 Telephone: (509) 838-6800 Facsimile: (509) 744-3436	
7 8 9 10	ROBERT P. VARIAN (pro hac vice) KENNETH P. HERZINGER (pro hac vice) ORRICK, HERRINGTON & SUTCLIFF The Orrick Building 405 Howard Street San Francisco, CA 94105-2669 Telephone: (415) 773-5700 Facsimile: (415)773-5759	re) E LLP
12 13	Attorneys for Defendant PricewaterhouseCoopers LLP	
14 15 16	UNITED STATES DISTRICT COURT EASTERN DISTRICT OF WASHINGTON	
17 18 19 20 21 22 23 24 25	METROPOLITAN MORTGAGE & SECURITIES CO., INC. and SUMMIT SECURITIES, INC.,  Plaintiffs,  v.  PRICEWATERHOUSECOOPERS, LLP,  Defendant.	Case No. CV-05-0290-FVS  DEFENDANT PRICEWATERHOUSECOOPERS LLP'S MOTION TO DISMISS COMPLAINT FOR PROFESSIONAL NEGLIGENCE, NEGLIGENT MISREPRESENTATION, AND BREACH OF CONTRACT  (ORAL ARGUMENT REQUESTED)
26 27 28		

1	Defendant PricewaterhouseCoopers LLP ("PwC") moves to dismiss	
2	Metropolitan Mortgage & Securities Co., Inc. and Summit Securities, Inc.'s	
3	(Plaintiffs") Complaint for Professional Negligence, Negligent Misrepresentation,	
4	and Breach of Contract ("Complaint"), without further leave to amend, pursuant to	
5	Rule 12(b)(6) of the Federal Rules of Civil Procedure, on the following grounds:	
6	(1) the Complaint fails to state a claim upon which relief can be granted, (2)	
7	Plaintiffs' claims are barred by the doctrines of <i>in pari delicto</i> and imputation, (3)	
8	Plaintiffs' claims are time-barred by Washington's three-year statute of limitations	
9	(4) Plaintiffs' claims fail because they cannot establish causation, damages or	
10	injury, and (5) Plaintiffs' negligent misrepresentation claim fails because they	
11	cannot establish the required element of reliance.	
12	This motion is based on the attached Memorandum of Points and Authorities	
13	in Support of the Motion to Dismiss, the accompanying Request for Judicial Notice	
14	in support of the motion and Proposed Order and judgment of dismissal, the	
15	argument of counsel (if permitted by the Court), all other pleadings in this action,	
16	and any other materials properly before the Court.	
17	Dated: October 26, 2005 Respectfully submitted,	
18	ORRICK, HERRINGTON & SUTCLIFFE LLP	
19		
20	Robert P. Varian, pro hac vice	
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22	FELTMAN, GEBHARDT, GREER & ZEIMANTZ, P.S.	
23	ZEIMAN1Z, P.S.	
24	/s/	
25	Frank J. Gebhardt, WSBA #4854	
26	Attorneys for Defendant PricewaterhouseCoopers LLP	
27	I ficewaternouseCoopers LLF	
28		

PwC'S MOTION TO DISMISS (CASE No. CV-05-0290-FVS)

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