

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

In the Matter of the Application of

U.S. BANK NATIONAL ASSOCIATION,
WELLS FARGO BANK, NATIONAL
ASSOCIATION, WILMINGTON TRUST,
NATIONAL ASSOCIATION, WILMINGTON
TRUST COMPANY, AND CITIBANK, N.A. (as
Trustees, Indenture Trustees, Securities
Administrators, Paying Agents, and/or Calculation
Agents of Certain Residential Mortgage-Backed
Securitization Trusts),

Petitioners,

For Judicial Instructions under CPLR Article 77
on the Administration and Distribution of a
Settlement Payment.

Index No. 651625/2018

**NOTICE OF [PROPOSED]
PARTIAL SEVERANCE
ORDER AND PARTIAL
FINAL JUDGMENT (LXS
2007-17H)**

TO THE HONORABLE MARCY FRIEDMAN:

Ambac Assurance Corporation (“Ambac”) moves for the entry of judgment issuing a judicial instruction to Petitioners concerning the administration and distribution of the Allocable Share of the Settlement Payment for the Undisputed Trust (the “Subject Allocable Share”) identified in the proposed judgment attached as Exhibit “A”. Ambac is the only party claiming an interest in the Subject Allocable Share in this proceeding and respectfully urges the Court to enter the attached proposed judgment. As there is no triable issue of fact as to the Undisputed Trust or the entry of this judgment, Ambac requests that the judgment be entered without further delay so that the Subject Allocable Share can promptly be paid to the Undisputed Trust.

Dated: New York, NY
July 31, 2018

**PATTERSON BELKNAP WEBB & TYLER
LLP**

By: Henry J. Ricardo
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Exhibit A

At IAS Part 60 of the Supreme Court of the State of New York, held in and for the County of New York, at the Courthouse located at 60 Centre Street, New York, New York on the ___ day of _____, 2018

P R E S E N T : Hon. Marcy S. Friedman, Justice.

In the matter of the application of

U.S. BANK NATIONAL ASSOCIATION, WELLS FARGO BANK, NATIONAL ASSOCIATION, WILMINGTON TRUST, NATIONAL ASSOCIATION, WILMINGTON TRUST COMPANY, AND CITIBANK, N.A. (as Trustees, Indenture Trustees, Securities Administrators, Paying Agents, and/or Calculation Agents of Certain Residential Mortgage-Backed Securitization Trusts),

Petitioners,

For Judicial Instructions under CPLR Article 77 on the Distribution of a Settlement Payment.

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[PROPOSED] PARTIAL SEVERANCE ORDER AND PARTIAL FINAL JUDGMENT

WHEREAS, the Petitioners identified in the above case caption commenced this proceeding under CPLR Article 77 by filing a petition (the “Petition”) seeking judicial instructions concerning the administration and distribution of settlement payments (the “Settlement Payments”) for residential mortgage-backed securities trusts identified in Exhibit A to the Petition (the “Settlement Trusts”) under a settlement agreement entered into as of November 30, 2016 and modified as of March 17, 2017 (the “Covered Loan Settlement Agreement”); and

WHEREAS, pursuant to the Covered Loan Settlement Agreement the Settlement Payments are to be apportioned among the Settlement Trusts, including the individual loan

groups therein and classes of principal only certificates therein, based on “Allocable Shares” calculated in an expert report as indicated in Exhibit F to the Petition¹; and

WHEREAS, by Order to Show Cause dated April 20, 2018 (the “Order to Show Cause”) and Interim Order dated May 30, 2018 (collectively, the “Escrow Orders”), the Court authorized and directed the Petitioners to place the Allocable Shares for the Settlement Trusts in escrow; and

WHEREAS, the Court has been advised that the escrow provisions of the Escrow Orders have been complied with and that the Allocable Shares for the Settlement Trusts, plus any investment earnings thereon, are currently invested as directed in the Escrow Orders; and

WHEREAS, under the Order to Show Cause, the Court directed the Petitioners to provide notice of this proceeding pursuant to the notice program described in the Order to Show Cause (the “Notice Program”), and the Court found that the Notice Program was the best notice practicable, was reasonably calculated to put interested persons on notice of the proceeding, and constituted due and sufficient notice of the proceeding in satisfaction of federal and state due process requirements and other applicable laws; and

WHEREAS, the Order to Show Cause directed that interested persons respond to the Petition on or before May 30, 2018, and only Ambac Assurance Corporation (the “Subject Insurer”) has asserted an interest in LXS 2007-17H (the “Undisputed Trust”); and

WHEREAS, the Undisputed Trust is governed by a Trust Agreement; and

WHEREAS the Subject Insurer agrees and consents to this [proposed] Partial Severance Order and Partial Final Judgment (the “Order”), which resolves the issues for which judicial

¹ The term “loan group” as used herein refers to any loan group, loan subgroup, loan pool, loan subpool, or any other applicable grouping, pooling, or other assemblage of loans.

instruction was sought concerning the administration and distribution of the Allocable Share for the Undisputed Trust (the “Subject Allocable Share”); and

WHEREAS, U.S. Bank National Association is the Trustee for the Undisputed Trust (in such capacity, the “Subject Petitioner”); and

WHEREAS, the Subject Insurer raised with the Subject Petitioner the subject of application of the Subject Allocable Share to reimburse the Subject Insurer for claims paid with respect to certain losses incurred by the Trust, and such subject was not expressly raised in the Petition; and

WHEREAS, by notice dated June 25, 2018, the Subject Petitioner caused notice to be provided to Certificateholders and other interested parties of the Subject Insurer’s proposed relief, and no interested party has contacted the Trustee or appeared in this proceeding to oppose such relief; and

WHEREAS, as used herein, the term “Judgment Entry Date” means the date on which the Clerk’s docketing of this Order first appears publicly on the New York State Court Electronic Filing System, without regard to when the Court actually signs or the Clerk actually enters this Order; and

WHEREAS, as used herein, the term “Transfer Month” means the month of the Judgment Entry Date if the Judgment Entry Date is on or before the eighth calendar date of that month, and otherwise the month immediately following; and

WHEREAS, as used herein, the term “Transfer Target Date” means the fifteenth day of the Transfer Month; and

WHEREAS, as used herein, the term “AS Distribution Date” means the Distribution Date (as that term is defined in the applicable Trust Agreement) for the Undisputed Trust occurring in the Transfer Month,

WHEREAS, the Subject Insurer has reimbursed Applied Loss Amounts under the Certificate Insurance Policy,

WHEREAS, the definition of Certificate Principal Amount in the Trust Agreement includes the following, “to the extent that any Applied Loss Amount was reimbursed under the Certificate Insurance Policy, any Subsequent Recovery otherwise payable on the Insured Certificates shall instead be payable to the Certificate Insurer (the “Subject Certificate Principal Amount Definition”), and

WHEREAS, all capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Petition and the Trust Agreement;

NOW, THEREFORE, on the motion of Patterson Belknap Webb & Tyler LLP, attorneys for the Subject Insurer, it is hereby

ORDERED, ADJUDGED and DECREED that, on or before the Transfer Target Date, the Subject Petitioner shall cause escrowed assets to be liquidated with a value equal to the Subject Allocable Share plus any investment earnings thereon, and shall cause such amounts to be deposited in the distribution account of the Undisputed Trust. From the time of the aforescribed deposit, the amount so deposited shall be deemed the Subject Allocable Share for the Undisputed Trust for all purposes under the Covered Loan Settlement Agreement and this Order; and it is further

ORDERED, ADJUDGED and DECREED that sums representing investment earnings accrued on the Subject Allocable Share not received by the Subject Petitioner at the time escrowed assets are liquidated to cash pursuant to the immediately preceding paragraph (“Trailing Interest”) shall be distributed on the Distribution Date for the month following the month such Trailing Interest is received by the Subject Petitioner. Any Trailing Interest shall be deemed a Subject Allocable Share for the Undisputed Trust on which such Trailing Interest was accrued, and any Trailing Interest shall be administered and distributed as a Subject Allocable Share subject to the terms of the Covered Loan Settlement Agreement and this Order; and it is further

ORDERED, ADJUDGED and DECREED that in administrating and distributing the Subject Allocable Share for the Undisputed Trust, the Subject Petitioner shall apply the Subject Certificate Principal Amount Definition in a manner that causes the portion of the Subject Allocable Share that would otherwise be payable under the Trust Agreement to the Insured Certificates to instead be paid to the Certificate Insurer; and it is further

ORDERED, ADJUDGED and DECREED that this Order is not applicable to, shall be without prejudice to, and shall have no precedential effect on (i) any argument of any party concerning the appropriate administration and distribution of the Settlement Payments where there is a dispute among the parties regarding how the Settlement Payments should be administered or distributed; (ii) Settlement Trusts for which no investors have appeared in this proceeding or any trust, indenture, or other securitization other than the Undisputed Trust, (iii) any applications to certificate balances (*e.g.*, write-ups) or distributions of payments or funds

other than the Subject Allocable Share, or (iv) any trust that is not the subject of the Petition; and it is further

ORDERED, ADJUDGED and DECREED that any aspects of the administration and distribution of the Subject Allocable Share not expressly addressed in this Order shall be performed as provided for in the Trust Agreement and the Covered Loan Settlement Agreement; and it is further

ORDERED, ADJUDGED and DECREED that certificateholders, noteholders, insurers, and any other parties claiming rights or interests in the Undisputed Trust are barred from asserting claims against the Subject Petitioner with respect to any conduct taken to implement and comply with the terms of this Order and with respect to the Subject Petitioner's administration and distribution of the Subject Allocable Share, so long as such conduct is performed in accordance with the terms of this Order; and it is further

ORDERED that the Clerk of New York County be, and he hereby is, directed to enter this Order forthwith and without delay.

Dated: New York, New York

_____, 2018

Hon. Marcy Friedman, J.S.C.

Judgment signed and entered this _____ day of _____ 2018.

Clerk of New York County