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NYSCEF DOC. NO. 527

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

In the matter of the application of

U.S. BANK NATIONAL ASSOCIATION, THE BANK OF NEW YORK: MELLON, THE BANK OF NEW YORK MELLON TRUST COMPANY,: N.A., WILMINGTON TRUST, NATIONAL ASSOCIATION, LAW: DEBENTURE TRUST COMPANY OF NEW YORK, WELLS FARGO: BANK, NATIONAL ASSOCIATION, HSBC BANK USA, N.A., and: DEUTSCHE BANK NATIONAL TRUST COMPANY (as Trustees under: various Pooling and Servicing Agreements and Indenture Trustees under: various Indentures), AEGON USA Investment Management, LLC: (intervenor), Bayerische Landesbank (intervenor), BlackRock Financial: Management, Inc. (intervenor), Cascade Investment, LLC (intervenor), the: Federal Home Loan Bank of Atlanta (intervenor), the Federal Home Loan: Mortgage Corporation (Freddie Mac) (intervenor), the Federal National: Mortgage Association (Fannie Mae) (intervenor), Goldman Sachs Asset: Management L.P. (intervenor), Voya Investment Management LLC (f/k/a: ING Investment LLC) (intervenor), Invesco Advisers, Inc. (intervenor), Kore: Advisors, L.P. (intervenor), Landesbank Baden-Wurttemberg (intervenor),: Metropolitan Life Insurance Company (intervenor), Pacific Investment: Management Company LLC (intervenor), Sealink Funding Limited: (intervenor), Teachers Insurance and Annuity Association of America: (intervenor), The Prudential Insurance Company of America (intervenor), the: TCW Group, Inc. (intervenor), Thrivent Financial for Lutherans (intervenor),: and Western Asset Management Company (intervenor),

Petitioners,

-against-

TRIAXX PRIME CDO 2006-1, LTD., TRIAXX PRIME CDO 2006-2, LTD., TRIAXX PRIME CDO 2007-1, LTD. (intervenors), QVT FUND V LP, QVT: FUND IV LP, QUINTESSENCE FUND L.P., QVT FINANCIAL LP. (intervenors), BREVAN HOWARD CREDIT CATALYSTS MASTER. FUND LIMITED AND BREVAN HOWARD CREDIT VALUE MASTER: FUND LIMITED (intervenor), THE NATIONAL CREDIT UNION: ADMINISTRATION BOARD AS LIQUIDATING AGENT FOR U.S.: CENTRAL FEDERAL CREDIT UNION, WESTERN CORPORATE FEDERAL CREDIT UNION, MEMBERS UNITED CORPORATE FEDERAL CREDIT UNION, SOUTHWEST CORPORATE FEDERAL: CREDIT UNION, AND CONSTITUTION CORPORATE FEDERAL: CREDIT UNION (intervenor), and AMBAC **ASSURANCE** CORPORATION, AND THE SEGREGATED ACCOUNT OF AMBAC ASSURANCE CORPORATION (intervenors), AND W&L INVESTMENTS, LLC (intervenor), :

## Respondents,

for an order, pursuant to CPLR § 7701, seeking judicial instruction, and	:
approval of a proposed settlement.	:
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Index No. 652382/2014

Part 60

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Motion Sequence No. 24

The Honorable Marcy S. Friedman, J.S.C.

## AFFIDAVIT OF JAMES H. BYRNES

STATE OF MASSACHUSETTS

COUNTY OF SUFFOLK

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James H. Byrnes, being duly sworn, deposes and says:

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1. I am a Vice President in Global Corporate Trust Services of U.S. Bank.<sup>1</sup>

2. I submit this affidavit in opposition to the QVT Funds' Motion for Partial Summary Judgment, NYSCEF Doc. 491.

3. I have personal knowledge concerning the facts stated herein.

4. On July 16, 2014, I spoke with Joel Wollman of QVT regarding JPMAC 2006-WMC1. During this conversation, Joel Wollman never offered to provide an indemnity to U.S. Bank in connection with QVT's purported direction to reject the Settlement for JPMAC 2006-WMC1, nor did he discuss U.S. Bank's proposed direction and indemnity forms.

5. In all of my communications with Joel Wollman, both orally and in writing, he never offered to provide U.S. Bank with an indemnity in connection with QVT's purported direction to reject the Settlement for JPMAC 2006-WMC1.

6. On August 1, 2014, U.S. Bank as trustee and certain other trustees negotiated an extension of the Acceptance Date for the Settlement to October 1, 2014 for twenty-seven trusts subject to the Settlement offer.

7. JPMAC 2006-WMC1 was not covered by the extension.

8. With respect to the trusts for which U.S. Bank is trustee, if Prof. Fischel recommended acceptance of the Settlement, such trusts were covered by the extension only if

<sup>&</sup>lt;sup>1</sup> Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in U.S. Bank National Association's Opposition to QVT's Motion for Partial Summary Judgment. The term "trust" is used herein to refer to a loan group within a trust where applicable.

they were subject to active negotiations with certificateholders over direction and indemnity agreements (unlike JPMAC 2006-WMC1).

Dated: October 5, 2015 Boston, Massachusetts

James H. Byrnes

Sworn to and subscribed before me, A Notary Public, this 5th day of October 2015.

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Ann M. Cappelletti Notary Public, Commonwealth of Massachusetts My Commission Expires May 15, 2020