

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

In the matter of the application of

WELLS FARGO BANK, NATIONAL ASSOCIATION,
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,
HSBC BANK USA, N.A. and DEUTSCHE BANK
NATIONAL TRUST COMPANY (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. 657387/2017

Honorable Melissa Crane
IAS Part 60

Motion Seq. No. 15

**NOVER VENTURES LLC’S
SUPPLEMENTAL MEMORANDUM ON WELLS FARGO’S OBJECTION**

Pursuant to this Court’s October 4, 2022 Order (Dkt. No. 1001), and the one-week extension granted by this Court on November 3, 2022, Nover Ventures LLC (“Nover”) submits this Supplemental Memorandum addressing the two additional instructions sought by Wells Fargo in its September 19, 2022 Objection: “(i) how to apply provisions in the governing PSAs that require write-ups to be made according to ‘payment priority’ or similar undefined terms; and (ii) how to apply provisions controlling distributions made after the occurrence of the ‘Cross-Over Date.’” (Dkt. No. 988 at ¶15.)

In its Objection, and at the October 4th hearing, Wells Fargo represented that it was ambivalent as to how the two above issues were resolved and requested that the Court “delay [Wells Fargo’s] obligation to make distributions to the Affected Trusts until those instructions

are received, or *until all interested parties are able to consensually resolve these issues.*” (*Id.* at ¶6 (emphasis added).)

The two primary parties that disputed these issues—the Institutional Investors and Nover—have now reached an understanding in principle that would “consensually resolve these issues.” (*See id.*) Specifically:

- The “payment priority” for the settlement write-up is the priority of payment for principal funds as of the Allocable Shares Distribution Date as if no Cross-Over Date has occurred; and
- For certificates impacted by the perceived “Cross-Over Date” issue, trust proceeds (including Allocable Shares, as well as normal course principal and interest) are to be distributed as though no Cross-Over Date has occurred.

This understanding in principle is expressly subject to the successful negotiation of the final language in a proposed judgment and confirmation from Wells Fargo that the agreed upon language will actually result in the intended distributions as set forth above. As of the time of this submission, Nover understands that no other interested party opposes the understanding in principle between Nover and the Institutional Investors.

In addition to the foregoing, in the course of working through the details of a potential resolution, Wells Fargo has raised additional issues that it thinks may require resolution prior to implementing the severance order. With the Interested Parties having “consensually resolved” the substantive distribution terms, as set forth above, Wells Fargo has been asked to circulate to all parties a proposed judgment and order to show cause implementing those terms and identifying any additional issues that it believes may need to be resolved to affect the proposed severance order. Wells Fargo has represented that it is working on that request and will circulate the documents as soon as practicable.

Nover otherwise reserves all rights.

DATED: November 10, 2022
New York, New York

Respectfully submitted,

MCKOOL SMITH, P.C.

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