

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 5th day of December, 2023

PRESENT: Hon. Melissa A. Crane, Justice.

In the matter of the application of

WELLS FARGO BANK, NATIONAL ASSOCIATION, U.S. BANK NATIONAL ASSOCIATION, U.S. BANK TRUST COMPANY, 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 Distribution of a Settlement Payment.

Index No. 657387/2017

~~PROPOSED~~ PARTIAL SEVERANCE ORDER AND PARTIAL FINAL JUDGMENT (GPMF 2005-ARI)

MS 20

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 a settlement payment (the "Settlement Payment") for 270 residential mortgage-backed securities trusts identified in Exhibit A to the Petition (the "Settlement Trusts") under a settlement agreement dated as of November 15, 2013 and modified as of July 29, 2014 (the "Settlement Agreement"); and

WHEREAS, all capitalized terms used and not otherwise defined in this Final Judgment and Order (the "Order") shall have the meanings ascribed to such terms in the Petition; and

WHEREAS, pursuant to the Settlement Agreement, the Settlement Payment is to be apportioned among the Settlement Trusts, including the individual loan groups therein, based on “Allocable Shares” calculated in an expert report filed with the Court at NYSCEF Nos. 178 and 179;¹ and

WHEREAS, by Order to Show Cause dated December 19, 2017 and Interim Order dated December 20, 2017 (collectively, the “December 2017 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 December 2017 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 December 2017 Orders; and

WHEREAS, under the December 2017 Orders, the Court directed the Petitioners to provide notice of this proceeding pursuant to the notice program described in the December 2017 Orders (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 law; and

WHEREAS, the Notice Program directed that interested persons respond to the Petition on or before January 29, 2018; and

¹ Additionally, the term “certificate” as used herein refers to certificates, notes, or other applicable securities.

WHEREAS, the following are the only remaining parties with standing to appear with respect to GPMF 2005-AR1 (the “Undisputed Trust” or “GPMF 2005-AR1”): AEGON USA Investment Management, LLC, BlackRock Financial Management, Inc., Cascade Investment, LLC, the Federal Home Loan Bank of Atlanta, the Federal Home Loan Mortgage Corporation (Freddie Mac), the Federal National Mortgage Association (Fannie Mae), Goldman Sachs Asset Management L.P., Voya Investment Management LLC, Invesco Advisors, Inc., Kore Advisors, L.P., Metropolitan Life Insurance Company, Pacific Investment Management Company LLC, Teachers Insurance and Annuity Association of America, the TCW Group, Inc., Thrivent Financial for Lutherans, and Western Asset Management Company (each for themselves and, to the extent applicable, as investment managers of funds and accounts, and collectively, the “Institutional Investors”); Tilden Park Investment Master Fund LP, Tilden Park Management I LLC, and Tilden Park Capital Management LP, on behalf of themselves and their advisory clients (collectively, “Tilden”), and Ellington Management Group L.L.C.; (collectively, “Interested Persons”); and

WHEREAS, on February 13, 2020, the Court issued a Decision and Order on the Petition (the “Merits Ruling”), and Ordered, among other things, that “as to any Settlement Trust in which all interested respondents are able, after the issuance of this decision and in consultation with the Trustees, to resolve a dispute as to any issue that is the subject of this proceeding, they may do so independent of the court’s ultimate determination as to how such issue should be resolved among parties that continue to dispute the issue”; and

WHEREAS, the Interested Persons agree and consent to this [proposed] Partial Severance Order and Partial Final Judgment (the “Order”), which resolves the issues for

which judicial instructions were sought concerning the administration and distribution of the Allocable Share for the Undisputed Trust (the “Subject Allocable Share”); and

WHEREAS, in the Affirmation of Clay J. Pierce in Partial Opposition to the Institutional Investors’ Order to Show Cause Seeking Entry of Final Judgment and Order for **(MS 15)** 37 Trusts (NYSCEF No. 988)[^](the “Wells Fargo Objection”), Wells Fargo Bank, National Association (“Wells Fargo”) raised issues concerning the “Cross-Over Date” and regarding allocation in connection with distributions in some of the Settlement Trusts (the “Cross-Over Date Issue” and the “Allocation Issue”); and

WHEREAS, the provisions in the relevant Governing Agreements related to the Cross-Over Date and Allocation Issues for which Wells Fargo sought instruction in the Wells **in MS 15** **here;** Fargo Objection[^]are present in the Governing Agreement for the Undisputed Trust[^]; and

WHEREAS, the Interested Persons holding interests in the Undisputed Trust have informed Wells Fargo that they are unable to reach a negotiated resolution of the Cross-Over Date Issue, and that a dispute remains regarding how Wells Fargo should treat the Cross-Over Date Issue in connection with the distribution of the Allocable Share and normal course distributions; and

WHEREAS, the Interested Persons holding interests in the Undisputed Trust have requested that this Order be entered notwithstanding the parties’ continued dispute regarding the Cross-Over Date Issue; and

WHEREAS, the Interested Persons holding interests in the Undisputed Trust agree that they will not seek sanctions or any other relief against Wells Fargo based on it initiating a separate proceeding on the Cross-Over Date Issue raised in the Wells Fargo Objection or

on any other unforeseen consequences that may arise due to the implementation of the Merits Ruling or this Order; and

WHEREAS, the Undisputed Trust is governed by a Pooling and Servicing Agreement in which Wells Fargo serves as securities administrator (the “Subject Payment Administrator”) and The Bank of New York Mellon serves as Trustee (the “Subject Trustee” and collectively, the “Subject Petitioners”); and

WHEREAS, as used herein, the term “Judgment Entry Date” means the date on which counsel of record to the parties hereto receive a copy of this Order signed by the Court by email, NYSCEF service, or other means, 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 second month after the month in which the Judgment Entry Date occurs; 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 Governing Agreements) for each of the Subject Trusts occurring in the Transfer Month; and

unopposed
NOW, THEREFORE, on the motion of Warner Partners, P.C. and Gibbs & Bruns LLP, attorneys for the Institutional Investors, it is hereby:

ORDERED, ADJUDGED and DECREED that, on or before the Transfer Target Date, the Subject Trustee is to (i) cause escrowed assets to be liquidated to cash with a value equal to the Subject Allocable Share plus any investment earnings thereon, and (ii) cause the Subject Allocable Share and investment earnings thereon 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 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 at the time escrowed assets are liquidated to cash pursuant to the immediately preceding paragraph (“Trailing Interest”) shall be transferred from the Subject Trustee to the Subject Payment Administrator promptly following the Subject Trustee’s receipt of such Trailing Interest and be distributed on the Distribution Date for the month the Trailing Interest is transferred so long as such transfer takes place on or before the fifteenth day of the month or, if the Trailing Interest is transferred after the fifteenth day of the month, be distributed on the Distribution Date for the immediately following month. Any Trailing Interest shall be deemed a Subject Allocable Share for the Subject Trust on whose Allocable Share 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 Settlement Agreement and this Order; and it is further

ORDERED, ADJUDGED and DECREED that the Subject Payment Administrator shall administer and distribute the Subject Allocable Share on the AS Distribution Date; and it is further

ORDERED, ADJUDGED and DECREED that in administering and distributing the Subject Allocable Share for the Undisputed Trust, the Subject Payment Administrator (i) shall first increase the applicable certificate principal balances in the amount of the Settlement Payment Write-Up (the “Written-Up Certificate Principal Balances”), and, after applying the Settlement Payment Write-Up, (ii) shall then distribute the Subject Allocable

Share to certificateholders based on the Written-Up Certificate Principal Balances, in each of the cases of (i) and (ii) above in a manner consistent with the other terms in this Order; and it is further

ORDERED, ADJUDGED and DECREED that in administering and distributing the Subject Allocable Share for the Undisputed Trust, the Subject Payment Administrator shall increase the certificate principal balances of the applicable classes of certificates in the amount of the Settlement Payment Write-Up in accordance with the subsequent recovery write up provisions in the Governing Agreement (the "Governing Agreement Write-Up Instructions"); provided, however, that the Governing Agreement Write-Up Instructions shall be applied in conjunction with the Settlement Agreement Write-Up Instruction in a manner that causes all classes of certificates, specifically including any senior certificates, as defined in the Governing Agreement, with outstanding unpaid realized losses to be eligible to be increased by the amount of the Settlement Payment Write-Up (without regard to any language in the Governing Agreement that could be construed as rendering any classes of certificates ineligible to be increased by the Settlement Payment Write-Up); and it is further

ORDERED, ADJUDGED and DECREED that in administering and distributing the Subject Allocable Share, the Subject Payment Administrator shall increase the certificate principal balances for the applicable classes of certificates eligible to be written up consistent with this Order in the amount of the Settlement Payment Write-Up using the applicable Governing Agreement Write-Up Instructions. Where the Governing Agreements provide for certificate writeups to be performed according to "payment priority," "order of seniority," or "sequentially," the terms "payment priority," "order of seniority," or "sequentially" shall

mean in the reverse order in which Realized Losses are allocated under the Governing Agreements. The provisions of this paragraph were not expressly addressed by, and thus do not implement or modify, the Merits Ruling, and accordingly this paragraph is strictly limited to, and will have no application beyond, the distribution of the Allocable Share to the Undisputed Trust; 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 Governing Agreement and the Settlement Agreement; and it is further

ORDERED, ADJUDGED and DECREED that this Order is not applicable to, and shall be without prejudice to and shall have no precedential effect on, (i) any argument of any party concerning any other issue in this proceeding not explicitly provided for in this Order; (ii) the Settlement Trusts for which no investors have appeared in this proceeding or any trust, indenture, or other securitization other than for the Undisputed Trust, or (iii) any applications to certificate balances (*e.g.*, write-ups) or distributions of payments or funds other than the Subject Allocable Share; and it is further

ORDERED, ADJUDGED and DECREED that the Interested Persons forfeit, surrender, and waive any and all rights to appeal or review of this Order or the Merits Ruling solely as it applies to the Undisputed Trust (provided that, for the avoidance of doubt, the Interested Persons otherwise reserve and retain any rights of appeal or further review with respect to any disputed Settlement Trusts that remain in this action); and it is further

ORDERED, ADJUDGED and DECREED that certificateholders, noteholders, and any other parties claiming rights or interests in the Undisputed Trust are barred from

asserting claims against the Subject Petitioners with respect to any conduct taken to implement and comply with the terms of this Order and with respect to the Subject Petitioners' 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

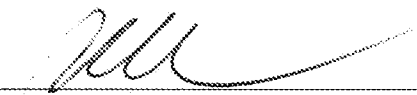
ORDERED, ADJUDGED and DECREED that certificateholders, noteholders, and any other parties claiming rights or interests in the Undisputed Trust are barred from seeking sanctions or any other relief against Wells Fargo based on its initiation of a new Petition seeking instruction regarding the Cross-Over Date Issue raised in the Wells Fargo Objection (to the extent it pertains to the Undisputed Trust) or any other unforeseen consequences that may arise with respect to the Undisputed Trust due to the implementation of the Merits Ruling or this Order; and it is further

ORDERED, ADJUDGED and DECREED that following the entry of this Order on the Court's docket, the Subject Petitioners shall promptly post a copy of this Order, bearing the Court's signature, on <http://rmbstrusteesettlement.com/>, the website established by Petitioners; 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

December 5, 2023



Hon. Melissa Crane, J.S.C.

Judgment signed and entered this 10 th day of Jan. 2024

FILED
JAN 10 2024
AT 12:29 P M
N.Y. CO. CLK'S OFFICE

FILED
Jan 10 2024
NEW YORK
COUNTY CLERK'S OFFICE



Clerk of New York County