

1 Maddin, Hauser, Wartell, Roth & Heller, PC
Michael S. Leib (P30470)
2 28400 Northwestern Hwy., 3rd Floor
Southfield, MI 48034
3 Telephone: (248) 827-1874/ Fax: (248) 359-6174
Email: msl@maddinhauser.com

4 Attorney for Flagstar Bank, FSB

5 Peter A. Davidson (SBN 76194)
Ervin Cohen & Jessup LLP
6 9401 Wilshire Boulevard, Ninth Floor
Beverly Hills, CA 90212-2974
7 Telephone: (310) 273-6333/ Fax: (310) 859-2325
8 Email: pdavidson@ecjlaw.com

9 Local Counsel for Flagstar Bank, FSB

10 **UNITED STATES DISTRICT COURT**

11 **CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION (LOS ANGELES)**

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14 **SECURITIES AND EXCHANGE
COMMISSION,**

15 **Plaintiff,**

16 **v.**

17 **CHARLES P. COPELAND, COPELAND
WEALTH MANAGEMENT, A FINANCIAL
ADVISORY COROPORATION, and
18 COPELAND WEALTH MANAGEMENT, A
REAL ESTATE CORPORATION,**

19 **Defendants.**
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CASE NO.: 2:11-cv-08607-R -DTB

**OPPOSITION OF FLAGSTAR BANK,
FSB TO LATE FILED "NOTICE OF
MOTION AND MOTION TO (1)
CONSOLIDATE RECEIVERSHIP
ENTITIES; AND (2) POOL ASSETS
AND LIABILITIES OF THE VARIOUS
RECEIVERSHIP ENTITIES"**

**Date: November 5, 2012
Time: 10:00 a.m.
Ctrm: 8
Judge: Hon. Manuel L. Real**

14365.1:1700292.1

**OPPOSITION OF FLAGSTAR BANK, FSB TO LATE FILED "NOTICE OF MOTION AND MOTION TO (1)
CONSOLIDATE RECEIVERSHIP ENTITIES; AND (2) POOL ASSETS AND LIABILITIES OF THE VARIOUS
RECEIVERSHIP ENTITIES"**

1 Flagstar Bank, FSB ("Flagstar") hereby opposes and objects to the late filed and served
2 "Notice of Motion and Motion to (1) Consolidate Receivership Entities; and (2) Pool Assets and
3 Liabilities of the Various Receivership Entities" filed by the Receiver. The Notice of Motion and
4 Motion are not timely and violate Local Rule 6-1 and, therefore, the motion should be denied and
5 the late filed Notice of Motion and Motion should be rejected.

6 As pointed out in Flagstar's Opposition to the Receiver's purported motion to consolidate
7 the receivership entities, the Receiver did not comply with Local Rule 6-1, Local Rule 7-3, Local
8 Rule 7-4 and Local Rule 7-5. Apparently, having reviewed Flagstar's Opposition, the Receiver
9 decided to file a late Notice of Motion and Motion (Doc. 147). The Notice of Motion and Motion
10 was not filed, and hence not served electronically, until October 17, 2012 as reflected on the
11 Notice of Motion and the Court's docket. As a result, the late filed Notice of Motion and Motion
12 is not timely and does not comply with Local Rule 6-1 which specifically states: "every motion
13 shall be presented by written notice of motion. The notice of motion shall be filed with the Clerk
14 not later than twenty eight (28) days before the date set for the hearing, and shall be served on
15 each of the parties electronically or, if excepted from electronic filing, either by deposit in the
16 mail or by personal service." Because the Notice of Motion and Motion was not filed with the
17 Clerk until October 17, 2012, it was not filed within 28 days of the hearing which is set for
18 November 5, 2012 – it was filed 19 prior to the hearing. The Notice of Motion was also not
19 served 28 days before the hearing as also required by Local Rule 6-1.

20 Compounding this error, the Receiver's counsel has now filed a false Certificate of
21 Service. The Certificate of Service (Doc. 147-1) represents, falsely, that On "October 5, 2012" the
22 Notice of Motion and Motion was served electronically via the ECF system on various parties,
23 including counsel for Flagstar. This is simply not true. The only way the Notice of Motion and
24 Motion could have been served via the ECF system was for the document to have been filed
25 electronically with the Clerk. As indicated, and as the Court's docket will reflect, the Notice of
26 Motion and Motion was not filed on October 5, 2012. It was not filed until October 17, 2012.
27 Such a blatant false representation to the Court by counsel for the Receiver should not condoned.

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1 For the reasons set forth above, this Court should deny the Receiver's Motion and reject
2 the late filed notice of Motion and Motion.

3 Further, the late filed Notice of Motion and Motion do not appear to have been served on
4 all the parties and creditors that will be affected by the Receiver's purported motion to consolidate
5 the receivership entities and pool their assets and liabilities. As explained in Flagstar's Opposition
6 to the Receiver's Motion, that is a violation of their due process rights.

7 DATED: October 22, 2012

Respectfully submitted,

8 ERVIN COHEN & JESSUP LLP
9 Peter A. Davidson

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11 By: /s/ Peter A. Davidson
12 Peter A. Davidson
13 Attorneys for Flagstar Bank, FSB
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PROOF OF SERVICE**STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of Los Angeles, State of California. My business address is 9401 Wilshire Boulevard, Ninth Floor, Beverly Hills, CA 90212-2974.

On **October 22, 2012**, I served true copies of the following document(s) described as **OPPOSITION OF FLAGSTAR BANK, FSB, TO LATE FILED "NOTICE OF MOTION AND MOTION TO (1) CONSOLIDATE RECEIVERSHIP ENTITIES; AND (2) POOL ASSETS AND LIABILITIES OF THE VARIOUS RECEIVERSHIP ENTITIES"** on the interested parties in this action as follows:

SEE ATTACHED SERVICE LIST

BY MAIL: I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with Ervin Cohen & Jessup LLP's practice for collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

X BY CM/ECF NOTICE OF ELECTRONIC FILING: I electronically filed the document(s) with the Clerk of the Court by using the CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system. Participants in the case who are not registered CM/ECF users will be served by mail or by other means permitted by the court rules.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on October 22, 2012, at Beverly Hills, California.

/s/ Lore Pekrul
Lore Pekrul

ERVIN COHEN & JESSUP LLP

SERVICE LIST

BY ELECTRONIC FILING

David M Rosen Rosend@sec.gov
David R Moore davidr@mooreskiljan.com
Douglas D Guy dguy@gogglaw.com, bjackalone@gogglaw.com
Edward G Fates tfates@allenmatkins.com, bcrfilings@allenmatkins.com, jbatiste@allenmatkins.com
Everett G Barry ebarry@mulvaneybarry.com, gcurtis@mulvaneybarry.com
Francis Emmet Quinlan, Jr Frank.Quinlan@ndlf.com, sue.love@ndlf.com
Jeffrey Scott Goodfried jgoodfried@perkinscoie.com
John H Stephens jstephens@mulvaneybarry.com, cjennings@mulvaneybarry.com, thebrank@ethreadvisors.com
John M McCoy, III mccoyj@sec.gov
Lisa Torres ltorres@gogglaw.com, lgodat@gogglaw.com, tscutti@gogglaw.com
Marcus O Colabianchi mcolabianchi@duanemorris.com
Mark J Furuya mfuruya@archernorris.com
Meagen Eileen Leary meleary@duanemorris.com, jnazzal@duanemorris.com
Michael B Garfinkel mgarfinkel@perkinscoie.com, mbaggett@perkinscoie.com
Michael S Leib mleib@maddinhauser.com, bwislinski@maddinhauser.com
Michael T O'Callaghan mocallaghan@sollp.com
Patrick L Prindle pprindle@mulvaneybarry.com, cjennings@mulvaneybarry.com
Peter Alan Davidson pdavidson@ecjlaw.com, lpekrul@ecjlaw.com
Phillip K Wang pwang@duanemorris.com, jnazzal@duanemorris.com
Spencer E Bendell bendells@sec.gov, LAROFiling@sec.gov, marcelom@sec.gov
William P Tooke wtooke@mechlaw.com

ERVIN COHEN & JESSUP LLP