



## **INTRODUCTION**

1. This is a securities class action on behalf of all persons who purchased or otherwise acquired the common stock of Washington Mutual, Inc. (“WaMu” or the “Company”) between October 18, 2006 to November 1, 2007 (the “Class Period”), against WaMu and certain of its officers and/or directors for violations of the Securities Exchange Act of 1934 (“1934 Act”).

2. WaMu is a financial services company and the largest savings and loan bank in the United States. The Company was founded in 1889 and provides financial products and services to consumers and small to mid-sized businesses. The Company offers consumer banking, mortgage lending, commercial banking, and consumer finance throughout the United States.

3. During the Class Period, defendants issued materially false and misleading statements regarding the Company’s business and financial results. WaMu’s loan portfolio contained more than \$57 billion in adjustable-rate mortgages or Option-ARM loans. As the real estate and credit markets continued to soften, defendants repeatedly assured WaMu investors that the Company had undertaken significant preparations and implemented defensive measures to weather the deteriorating real estate and credit markets and strengthen its loan portfolio.

4. As a result of defendants’ false statements, WaMu stock traded at artificially inflated prices during the Class Period, reaching a high of \$46.29 per share in December 2006. The top officers of WaMu benefited from the false statements and inflated earnings as their compensation was based in large measure on WaMu’s reported financial results. The three officers named as defendants herein received more than \$27 million in compensation for 2006.

5. As late as the summer of 2007, as the housing and credit crisis deepened, defendants continued to conceal WaMu's growing exposure to these problems. As a result, WaMu's stock continued to be artificially inflated due to defendants' false statements.

6. In early October 2007, WaMu began to acknowledge the serious problems with its loan portfolio and admitted it would have to set aside as much as \$1.3 billion in the coming quarter to cover anticipated loan losses.

7. On October 5, 2007, the Company issued a press release entitled "Washington Mutual Q3 Net Income Impacted by Market and Credit Environments." The press release stated in part:

Washington Mutual, Inc. announced today that a weakening housing market and disruptions in the secondary market through the end of the third quarter will result in a decline in net income of approximately 75% from the prior year quarter, subject to the finalization of third-quarter 2007 results.

The expected decline in third quarter net income results principally from the following items that are reported on a pre-tax basis:

- The third-quarter loan loss provision will be approximately \$975 million, which exceeds net charge-offs for the quarter by approximately \$550 million. The provision reflects ongoing weakness in the housing market, primarily as it affects subprime and home equity loans, as well as growth in the company's loan portfolio;
- Downward adjustments of approximately \$150 million, related to approximately \$17 billion in held-for-sale mortgage loans that were transferred to the company's investment portfolio due to secondary market conditions;
- Net losses of approximately \$150 million in the company's trading securities portfolio, including market valuation adjustments on capital markets assets, retained interests on credit cards and other residual interests; and,
- Impairment losses of approximately \$110 million on investment grade mortgage-backed securities in the company's available for sale portfolio.

WaMu Chairman and CEO Kerry Killinger said, “While we’re disappointed with our anticipated third-quarter results, we look forward to an improved fourth quarter as we continue to see good operating performance in our Retail Banking, Card Services and Commercial Group businesses.”

Killinger added that the company continues to have the liquidity and capital necessary to grow the company’s businesses and support its current dividend, as it continues to execute its long-term strategic plans.

8. Then, on October 17, 2007, after the market closed, WaMu stunned investors by disclosing that it had suffered a 72% drop in third quarter of 2007 net income and would have to set aside up to \$1.3 billion in the fourth quarter of 2007 to cover its loan losses. WaMu subsequently issued a press release entitled “WaMu Reports Third Quarter Earnings Per Share of \$0.23; Declares Cash Dividend of 56 Cents,” which stated in part:

WaMu announced today third quarter 2007 net income of \$210 million, or \$0.23 per diluted share, compared with net income of \$748 million, or \$0.77 per diluted share, in the third quarter of 2006. The company attributed the decline to a weaker housing market and disruptions in the capital markets.

“We’re disappointed with our third quarter results but they reflect the increasingly difficult market conditions that are challenging the banking industry,” said WaMu Chairman and Chief Executive Officer Kerry Killinger. “Despite these challenges, our Retail Banking, Card Services and Commercial businesses delivered good operating performance during the quarter, and we continued to adapt our Home Loans business to meet market conditions.” Killinger added that the company remains focused on executing its long-term growth plans.

The company also announced its Board of Directors declared a quarterly cash dividend on the company’s common stock of 56 cents per share.

\* \* \*

- Increase in provision reflects further weakness in the housing market. The quarter’s provisions increased to \$967 million from \$372 million in the prior quarter in response to higher delinquencies and impacts from recent house price trends, as well as the \$22.1 billion, or 10 percent, growth in the company’s loan portfolio during the quarter. The increase in the non-card portion of the provision to \$644 million from \$143 million in the second quarter was driven by further

weakening in the housing market, primarily as it affects subprime and home equity loans.

9. On this news, WaMu's stock dropped from \$33.07 per share to as low as \$30 per share, closing at \$30.52 per share on October 18, 2007 on volume of more than 36 million shares.

10. Then on November 1, 2007, News York's Attorney General issued a press release entitled "NY Attorney General Sues First American and its Subsidiary for Conspiring with Washington Mutual to Inflate Real Estate Appraisals; Washington Mutual (WaMu) Demanded Appraisers Who Inflated Property Values; Internal E-Mails Show eAppraiseIT Executives Knew Their Scheme Was Illegal: 'We have agreed to roll over and just do it.'"

The press release stated in part:

Attorney General Andrew M. Cuomo today announced that he is suing one of the nation's largest real estate appraisal management companies and its parent corporation for colluding with the largest savings and loan in the country to inflate the appraisal values of homes.

In a scheme detailed in numerous e-mails, eAppraiseIT ("EA"), a subsidiary of First American Corporation, caved to pressure from Washington Mutual ("WaMu") to use a list of preferred "Proven Appraisers" who provided inflated appraisals on homes. The e-mails also show that executives at EA knew their behavior was illegal, but intentionally broke the law to secure future business with WaMu.

"The independence of the appraiser is essential to maintaining the integrity of the mortgage industry. First American and eAppraiseIT violated that independence when Washington Mutual strong-armed them into a system designed to rip off homeowners and investors alike," said Attorney General Cuomo. "The blatant actions of First American and eAppraiseIT have contributed to the growing foreclosure crisis and turmoil in the housing market. By allowing Washington Mutual to hand-pick appraisers who inflated values, First American helped set the current mortgage crisis in motion."

As First American acknowledged in its 2006 annual report, appraisal fraud can damage the entire housing market, including consumers and investors alike. Consumers are harmed because they are misled as to the value of their homes, increasing the risk of foreclosure and hindering their ability to

make sound economic decisions. Investors are hurt by such fraud because it skews the value and risk of loans that are sold in financial markets.

In April 2006, EA began providing appraisal services for WaMu, which became EA's biggest client. Within weeks, WaMu began complaining to EA that its appraisals were not high enough. WaMu pressured EA to employ exclusively a new panel of appraisers that WaMu hand-selected as "Proven Appraisers." This set of appraisers was chosen by WaMu specifically because they inflated property appraisals. WaMu profited from these higher appraisals because they could close more home loans, at greater values. Over the course of their relationship, between April 2006 and October 2007, EA provided approximately 262,000 appraisals for WaMu.

11. Following this disclosure, WaMu's stock dropped to as low as \$23.59 per share before closing at \$23.81 per share, on volume of 31 million shares.

12. The true facts, which were known by defendants but concealed from the investing public during the Class Period, were as follows:

(a) The Company had far greater exposure to anticipated losses and defaults in its home loan portfolio, particularly with Option-ARMs, than it had previously disclosed;

(b) Defendants' Class Period statements about the Company undertaking significant preparations and implementing defensive measures to weather the increasingly difficult credit and housing markets were patently false;

(c) Defendants had engaged in a conspiracy and scheme to inflate the appraisal value of homes with the intent to artificially increase the estimated loan-to-value ratio of its Option-ARM portfolio; and

(d) Due to the Company's improper appraisal practices, the mortgages it had issued were much riskier than represented.

13. As a result of defendants' false statements and omissions, WaMu's stock traded at artificially inflated prices during the Class Period. However, after the above

revelations seeped into the market, the Company's shares were hammered by massive sales, sending them down more than 40% from their Class Period high.

### **JURISDICTION AND VENUE**

14. Jurisdiction is conferred by §27 of the 1934 Act. The claims asserted herein arise under §§10(b) and 20(a) of the 1934 Act and SEC Rule 10b-5.

15. Venue is proper in this District pursuant to §27 of the 1934 Act. Many of the false and misleading statements were made in or issued from this District. WaMu has offices in this District and many of the acts and transactions giving rise to the violations of law complained of occurred here. WaMu's principal executive offices are located at 1301 Second Avenue, Seattle, Washington.

16. In connection with the acts alleged in this complaint, defendants, directly or indirectly, used the means and instrumentalities of interstate commerce, including, but not limited to, the mails, interstate telephone communications and the facilities of the national securities markets.

### **THE PARTIES**

17. (a) Plaintiff Joel Abrams purchased WaMu common stock as described in the attached certification and was damaged thereby.

(b) Plaintiff Brian Roffe purchased WaMu common stock as described in the attached certification and was damaged thereby.

18. Defendant WaMu is a consumer and small business bank in the United States. The Company was founded in 1889 and is headquartered in Seattle, Washington.

19. Defendant Kerry K. Killinger ("Killinger") is, and at all relevant times was, a director, Chairman of the Board and Chief Executive Officer ("CEO") of WaMu. In 2006, Killinger received \$14,245,859 in total compensation based in large part on the Company's

purported performance. During the Class Period, Killinger sold 150,000 shares of WaMu stock for over \$6.4 million in insider trading proceeds.

20. Defendant Stephen J. Rotella (“Rotella”) is, and at all relevant times was, President and Chief Operating Officer (“COO”) of WaMu. In 2006, Rotella received \$8,452,994 in total compensation based in large part on the Company’s purported performance.

21. Defendant Thomas W. Casey (“Casey”) is, and at all relevant times was, Executive Vice President and Chief Financial Officer (“CFO”) of WaMu. In 2006, Casey received \$4,565,581 in total compensation based in large part on the Company’s purported performance.

22. Defendants Killinger, Rotella and Casey (the “Individual Defendants”), because of their positions with the Company, possessed the power and authority to control the contents of WaMu’s quarterly reports, press releases and presentations to securities analysts, money and portfolio managers and institutional investors, *i.e.*, the market. They were provided with copies of the Company’s reports and press releases alleged herein to be misleading prior to or shortly after their issuance and had the ability and opportunity to prevent their issuance or cause them to be corrected. Because of their positions with the Company, and their access to material non-public information available to them but not to the public, the Individual Defendants knew that the adverse facts specified herein had not been disclosed to and were being concealed from the public and that the positive representations being made were then materially false and misleading. The Individual Defendants are liable for the false statements pleaded herein at ¶¶24-29.

## FRAUDULENT SCHEME AND COURSE OF BUSINESS

23. Defendants are liable for: (i) making false statements; or (ii) failing to disclose adverse facts known to them about WaMu. Defendants' fraudulent scheme and course of business that operated as a fraud or deceit on purchasers of WaMu common stock was a success, as it: (i) deceived the investing public regarding WaMu's prospects and business; (ii) artificially inflated the price of WaMu's common stock; and (iii) caused plaintiffs and other members of the Class to purchase WaMu common stock at inflated prices.

24. Defendants were also motivated by the performance-based compensation arrangements of WaMu. For instance, the Company's 2007 Proxy states, "approximately 94% of our CEO's total direct compensation, was variable and dependent on the Company's performance." For 2006, defendants received the following amounts:

### Summary Compensation Table

Name and Principal Position	Year	Salary (\$)	Stock Awards (\$)	Option Awards (\$)	Non-Equity Incentive Plan Compensation (\$)	Change in Pension Value and Nonqual. Deferred Comp. Earnings (\$)	All Other Compensation (\$)	Total (\$)
Kerry K. Killinger Chairman and Chief Executive Officer	2006	\$1,000,000	\$2,251,139	\$5,148,464	\$4,074,000	\$1,270,684	\$501,572	\$14,245,859
Thomas W. Casey Executive Vice President and Chief Financial Officer	2006	\$620,000	\$878,838	\$1,517,087	\$1,356,060	\$97,613	\$95,983	\$4,565,581
Stephen J. Rotella President and Chief Operating Officer	2006	\$900,000	\$2,126,040	\$1,514,458	\$3,142,800	\$639,692	\$130,004	\$8,452,994

## BACKGROUND

25. WaMu, together with its subsidiaries, operates as a consumer and small business banking company in the United States. It operates in four segments: Retail Banking, Card Services, Commercial, and Home Loans. The Retail Banking segment offers deposit

and other retail banking products and services, which include checking and interest-bearing checking accounts, personal checking, savings, money market deposit, and time deposit accounts to consumers and small businesses; loan products comprising home loans, home equity loans, lines of credit, and mortgage loans; and investment advisory and brokerage services. The Card Services segment's operations consist of issuing credit cards, holding outstanding balances on credit cards in portfolio or securitizing and selling them, servicing credit card accounts, and providing other cardholder services. The Commercial segment provides finance to developers and investors for multi-family dwellings and other commercial properties, services multi-family and other commercial real estate loans, and provides limited deposit services to commercial customers. The Home Loans segment originates and services home loans, manages capital market operations, fulfillment and servicing of portfolio of home equity loans and lines of credit, originates and purchases mortgage loans to higher risk borrowers, provides financing and other banking services to mortgage bankers for the origination of mortgage loans, and offers insurance-related products and reinsurance services. This segment offers various real estate secured residential loan products and services primarily consisting of fixed-rate home loans, adjustable-rate home loans, hybrid home loans, Option-ARM loans, and mortgage loans to higher risk borrowers. As of December 31, 2006, the Company operated 2,225 retail banking stores and 472 lending stores and centers in 36 states.

**DEFENDANTS' FALSE AND MISLEADING  
STATEMENTS ISSUED DURING THE CLASS PERIOD**

26. On October 18, 2006, the Company issued a press release entitled "Washington Mutual Reports Third Quarter Earnings Per Share of 77 Cents; Results Included Charges

Associated with the Sale of Mortgage Servicing Rights and Efficiency Initiatives; Board of Directors Increases Cash Dividend to 53 Cents.” The press release stated in part:

Washington Mutual, Inc. today reported third quarter 2006 net income of \$748 million, or \$0.77 per diluted share compared with net income of \$821 million, or \$0.92 per diluted share, in the third quarter of 2005.

Third quarter 2006 earnings included net after tax charges of \$31 million, or \$0.03 per diluted share, related to the previously announced sale of \$2.53 billion of mortgage servicing rights, and after tax charges of \$33 million, or \$0.04 per diluted share, related to the company’s ongoing efficiency initiatives, which are expected to continue into the fourth quarter.

“We continue to focus on the successful execution of our strategic plan despite the challenging operating environment,” said Kerry Killinger, WaMu Chairman and CEO, noting that, as anticipated, the costs associated with the MSR sale announced in the second quarter and the company’s ongoing efficiency initiatives impacted third quarter results. “Retail Banking, Card Services and the Commercial Group produced solid results, and we continue to aggressively attack our expense base by taking out excess capacity and reducing our overall cost structure.”

Killinger added, “We remain confident in our strategy to reposition the company and set the stage for stronger performance in 2007.”

WaMu’s Board of Directors declared a cash dividend of 53 cents per share on the company’s common stock, up from 52 cents per share in the previous quarter. Dividends on the common stock are payable on November 15, 2006 to shareholders of record as of October 31, 2006.

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- Credit exposure continues to be proactively managed. The provision for loan and lease losses of \$166 million in the third quarter reflected a slight decline in the loan portfolio and net charge-offs of \$54 million. The third quarter provision also reflected refinements to the company’s reserve methodology and adjustment of the provision related to the planned sale of \$403 million of higher risk credit card accounts. Without the impact of these two items, the provision would have been similar to that of the second quarter. The provision was up compared with the third quarter of last year as prior years results did not include the company’s credit card business acquired October 1, 2005. Nonperforming assets were up during the quarter and as a percentage of total assets totaled 69 basis points at quarter end,

compared with 62 basis points at the end of the prior quarter and 52 basis points at the end of last year's third quarter.

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- Company conservatively manages balance sheet. With the company held average assets essentially flat with the prior quarter, it modestly grew balances of its targeted products of home equity lending, multi-family loans and credit cards, while reducing prime single-family residential loans. Compared with the third quarter of 2005, average assets were up 7 percent reflecting growth in targeted products and the addition of Card Services receivables. During the quarter, the company repurchased 18.8 million shares of its common stock.

27. On the same day the Company held a conference call where defendants stated

in part:

[KILLINGER:] Despite the challenging environment impacting the mortgage banking industry, *we feel good about the proactive steps that we have taken*. Our portfolio remains in very good shape and nonperforming assets remain very low. *The housing market is clearly weakening*, with the pace of housing price appreciation slowing in most regions of the country. *We are also experiencing somewhat higher delinquencies and loan losses. However, we began preparing for this possibility quite some time ago and took defensive actions to strengthen our portfolio. So we believe we are well prepared to weather the more difficult credit environment*. We also believe that the expansion in our net interest margin should more than offset the higher credit card costs, as Tom will review with you later in his guidance for 2007.

In the meantime, we continued to aggressively attack the cost structure in our Home Loans business during the quarter and reduced noninterest expense by 21% over the same period a year ago, and this was achieved through key productivity and efficiency initiatives. Technology and offshoring initiatives currently underway are expected to result in further expense reductions in future quarters.

*We have significantly modified our Home Loans strategy to be consistent with our overall business model and continue to take appropriate actions to right-size the business for the contracting mortgage lending market.*

\* \* \*

***The quality of our Option ARM portfolio remains strong. At the end of the third quarter, the current estimated loan-to-value ratio of our Option ARM portfolio was 57%, with an average FICO of 707.***

28. On January 17, 2007, the Company issued a press release entitled “WaMu Reports Fourth Quarter Earnings Per Share of \$1.10 and 2006 Earnings Per Share of \$3.64; Announces \$2.7 Billion Accelerated Share Repurchase and Increases Cash Dividend to 54 Cents.” The press release stated in part:

Washington Mutual, Inc. today reported fourth quarter 2006 net income of \$1.06 billion, or \$1.10 per diluted share, compared with net income of \$865 million, or \$0.85 per diluted share, in the fourth quarter of 2005. Net income for 2006 was \$3.56 billion, or \$3.64 per diluted share, compared with net income of \$3.43 billion, or \$3.73 per diluted share, in 2005.

Fourth quarter 2006 earnings included an after tax gain of \$415 million on the previously announced sale of WM Advisors, Inc., the company’s retail mutual fund asset-management company. The gain from the sale of WM Advisors more than offset fourth quarter and full year after tax charges of \$100 million and \$202 million, respectively, related to the company’s ongoing efficiency initiatives and after tax charges of \$137 million associated with the sale in 2006 of a significant portion of the company’s mortgage servicing rights and the related facility and employee transfers.

On Jan. 3, 2007, the company entered into an accelerated share repurchase agreement with a dealer, buying back \$2.7 billion of its common stock. The company also increased its cash dividend to 54 cents per common share, up from 53 cents per share in the previous quarter.

“We achieved solid performances in our Retail Banking, Card Services and Commercial Group businesses in the fourth quarter and for the full year despite a difficult interest rate and operating environment, which particularly impacted the results in our Home Loans business,” said Kerry Killinger, WaMu Chairman and CEO. “For the full year, we successfully reduced our cost structure and repositioned the balance sheet while continuing to expand our consumer and small business banking franchise. In 2006, we opened a record 1.23 million net new checking accounts, added a record 848,000 net new retail households and experienced strong cross-sales of the Washington Mutual credit card to our retail banking customers.”

Killinger noted that opportunities to grow the balance sheet at attractive risk-adjusted returns are limited, making the accelerated share repurchase transaction a superior use of capital.

***“Our outlook for 2007 reflects the strategic actions we took in 2006 to prepare the company for the future,” Killinger added. “Those decisive actions have positioned us well to deliver stronger operating performance in 2007.”***

29. On April 17, 2007, the Company issued a press release entitled “WaMu Reports First Quarter Earnings Per Share of \$0.86 and Increases Cash Dividend to 55 Cents.”

The press release stated in part:

Washington Mutual, Inc. reported first quarter 2007 net income of \$784 million, or \$0.86 per diluted share, compared with net income of \$985 million, or \$0.98 per diluted share, in the first quarter of 2006, a period that included an \$85 million after tax partial settlement related to Home Savings goodwill litigation.

Based on these earnings and the company’s strong financial position, the Board of Directors increased the cash dividend on the company’s common stock for the 47th consecutive quarter to 55 cents per share.

“Our Retail Banking, Card Services, and Commercial groups continued to post strong results in the first quarter as we successfully attracted a growing number of new customers to our expanding national banking franchise,” said Kerry Killinger, the company’s chairman and CEO. “Overall, we delivered solid results in the first quarter despite the challenging interest rate environment and slowing housing market.”

“Our Home Loans business was challenged during the first quarter by difficult market conditions,” he added. ***“Over the past 12 months, we have taken a number of prudent actions to reduce our exposure to the subprime mortgage industry. These actions, along with a diversified business mix, limited our exposure to the mortgage market’s downturn and position us well to expand and grow as market conditions improve.”***

30. On July 18, 2007, the Company issued a press release entitled “WaMu Reports Second Quarter Earnings Per Share of \$0.92, up 16 Percent; Increases Cash Dividend to 56 Cents.” The press release stated in part:

WaMu announced today that second quarter 2007 earnings per share increased 16 percent from a year ago. Continued strong performance led to net income of \$830 million, or \$0.92 per diluted share, compared with net income of \$767 million, or \$0.79 per diluted share, in the second quarter of 2006. Second quarter net income was also up from \$784 million, or \$0.86 per share, in the prior quarter.

“We delivered record growth in our retail banking, credit card and commercial businesses during the second quarter. *Our Home Loans’ results improved from the first quarter and we are targeting a return to profitability by the end of the year,*” said *Chairman and CEO Kerry Killinger*. “I’m pleased with the job our employees are doing in growing the franchise, delivering best-in-class customer service, as evidenced by our recent J.D. Power award recognition, and focusing on improving our operating efficiency.”

Based on the quarter’s solid performance and the company’s strong financial position, the Board of Directors increased the cash dividend on the company’s common stock for the 48th consecutive quarter to 56 cents per share.

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- Home Loans’ results improve. Second quarter results for Home Loans were a loss of \$37 million, an improvement from a loss of \$113 million in the prior quarter as a result of more stable market conditions for subprime loans in the second quarter. Net losses from the sales of subprime mortgage loans and adjustments to reflect changes in market values of loans held for sale totaled \$38 million. In addition, the company decreased the value of its subprime residuals by \$93 million for a combined total loss for the quarter of \$131 million, or about half the \$252 million in losses recognized in the first quarter.

31. On October 5, 2007, the Company issued a press release entitled “Washington Mutual Q3 Net Income Impacted by Market and Credit Environments.” The press release stated in part:

Washington Mutual, Inc. announced today that a weakening housing market and disruptions in the secondary market through the end of the third quarter will result in a decline in net income of approximately 75% from the prior year quarter, subject to the finalization of third-quarter 2007 results.

The expected decline in third quarter net income results principally from the following items that are reported on a pre-tax basis:

- The third-quarter loan loss provision will be approximately \$975 million, which exceeds net charge-offs for the quarter by approximately \$550 million. The provision reflects ongoing weakness in the housing market, primarily as it affects subprime and home equity loans, as well as growth in the company’s loan portfolio;

- Downward adjustments of approximately \$150 million, related to approximately \$17 billion in held-for-sale mortgage loans that were transferred to the company's investment portfolio due to secondary market conditions;
- Net losses of approximately \$150 million in the company's trading securities portfolio, including market valuation adjustments on capital markets assets, retained interests on credit cards and other residual interests; and,
- Impairment losses of approximately \$110 million on investment grade mortgage-backed securities in the company's available for sale portfolio.

WaMu Chairman and CEO Kerry Killinger said, "While we're disappointed with our anticipated third-quarter results, we look forward to an improved fourth quarter as we continue to see good operating performance in our Retail Banking, Card Services and Commercial Group businesses."

Killinger added that the company continues to have the liquidity and capital necessary to grow the company's businesses and support its current dividend, as it continues to execute its long-term strategic plans.

32. On October 17, 2007, after the market closed, WaMu issued a press release entitled "WaMu Reports Third Quarter Earnings Per Share of \$0.23; Declares Cash Dividend of 56 Cents," which stated in part:

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"We're disappointed with our third quarter results but they reflect the increasingly difficult market conditions that are challenging the banking industry," said WaMu Chairman and Chief Executive Officer Kerry Killinger. "Despite these challenges, our Retail Banking, Card Services and Commercial businesses delivered good operating performance during the quarter, and we continued to adapt our Home Loans business to meet market conditions." Killinger added that the company remains focused on executing its long-term growth plans.

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market. By allowing Washington Mutual to hand-pick appraisers who inflated values, First American helped set the current mortgage crisis in motion.”

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35. Following this disclosure, WaMu’s stock dropped to as low as \$23.59 per share before closing at \$23.81 per share, on volume of 31 million shares.

36. The true facts, which were known by defendants but concealed from the investing public during the Class Period, were as follows:

(a) The Company had far greater exposure to anticipated losses and defaults in its home loan portfolio, particularly with Option-ARMs, than it had previously disclosed;

(b) Defendants’ Class Period statements about the Company undertaking significant preparations and implementing defensive measures to weather the increasingly difficult credit and housing markets were patently false;

(c) Defendants had engaged in a conspiracy and scheme to inflate the appraisal value of homes with the intent to artificially increase the estimated loan-to-value ratio of its Option-ARM portfolio; and

(d) Due to the Company's improper appraisal practices, the mortgages it had issued were much riskier than represented.

37. As a result of defendants' false statements and omissions, WaMu's stock traded at artificially inflated prices during the Class Period. However, after the above revelations seeped into the market, the Company's shares were hammered by massive sales, sending them down more than 40% from their Class Period high.

### **LOSS CAUSATION/ECONOMIC LOSS**

38. By misrepresenting WaMu's business, the defendants presented a misleading picture of the Company's business and prospects. Thus, instead of truthfully disclosing during the Class Period that WaMu's business was not as healthy as represented, WaMu falsely overstated its net income, and falsely concealed the problems with its loan portfolio.

39. These omissions caused and maintained the artificial inflation in WaMu's stock price throughout the Class Period and until the truth about its future earnings was revealed to the market.

40. Defendants' false and misleading statements had the intended effect and caused WaMu stock to trade at artificially inflated levels throughout the Class Period, reaching as high as \$46.29 per share.

41. On October 17, 2007, before the market opened, defendants stunned investors by publicly disclosing massive anticipated losses in its home loan portfolio, causing its stock to drop to as low as \$30 per share on October 18, 2007 – a one day decline of \$3.07 per share. Then, on November 1, 2007, WaMu's improper appraisal practices were disclosed causing the Company's stock to drop to \$23.81 per share. As a direct result of defendants' admissions and the public revelations regarding the truth about WaMu's profitability and its actual business prospects going forward, WaMu's stock price dropped more than \$10 per share from

the time prior to the October 17, 2007 disclosure. This drop removed artificial inflation from WaMu's stock price, causing real economic loss to investors who had purchased the stock during the Class Period.

## **COUNT I**

### **For Violation of §10(b) of the 1934 Act and Rule 10b-5 Against All Defendants**

42. Plaintiffs incorporate ¶¶1-41 by reference.

43. During the Class Period, defendants disseminated or approved the false statements specified above, which they knew or deliberately disregarded were misleading in that they contained misrepresentations and failed to disclose material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

44. Defendants violated §10(b) of the 1934 Act and Rule 10b-5 in that they:

(a) employed devices, schemes and artifices to defraud;

(b) made untrue statements of material facts or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or

(c) engaged in acts, practices and a course of business that operated as a fraud or deceit upon plaintiffs and others similarly situated in connection with their purchases of WaMu common stock during the Class Period.

45. Plaintiffs and the Class have suffered damages in that, in reliance on the integrity of the market, they paid artificially inflated prices for WaMu common stock. Plaintiffs and the Class would not have purchased WaMu common stock at the prices they

paid, or at all, if they had been aware that the market prices had been artificially and falsely inflated by defendants' misleading statements.

## **COUNT II**

### **For Violation of §20(a) of the 1934 Act Against All Defendants**

46. Plaintiffs incorporate ¶¶1-45 by reference.

47. The Individual Defendants acted as controlling persons of WaMu within the meaning of §20(a) of the 1934 Act. By reason of their positions with the Company, and their ownership of WaMu stock, the Individual Defendants had the power and authority to cause WaMu to engage in the wrongful conduct complained of herein. WaMu controlled the Individual Defendants and all of its employees. By reason of such conduct, defendants are liable pursuant to §20(a) of the 1934 Act.

### **CLASS ACTION ALLEGATIONS**

48. Plaintiffs bring this action as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure on behalf of all persons who purchased or otherwise acquired WaMu common stock during the Class Period (the "Class"). Excluded from the Class are defendants.

49. The members of the Class are so numerous that joinder of all members is impracticable. The disposition of their claims in a class action will provide substantial benefits to the parties and the Court. WaMu has in excess of 862 million shares of common stock outstanding, owned by hundreds if not thousands of persons.

50. There is a well-defined community of interest in the questions of law and fact involved in this case. Questions of law and fact common to the members of the Class which predominate over questions which may affect individual Class members include:

- (a) whether the 1934 Act was violated by defendants;

- (b) whether defendants omitted and/or misrepresented material facts;
- (c) whether defendants' statements omitted material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading;
- (d) whether defendants knew or deliberately disregarded that their statements were false and misleading;
- (e) whether the price of WaMu common stock was artificially inflated; and
- (f) the extent of damage sustained by Class members and the appropriate measure of damages.

51. Plaintiffs' claims are typical of those of the Class because plaintiffs and the Class sustained damages from defendants' wrongful conduct.

52. Plaintiffs will adequately protect the interests of the Class and have retained counsel who are experienced in class action securities litigation. Plaintiffs have no interests which conflict with those of the Class.

53. A class action is superior to other available methods for the fair and efficient adjudication of this controversy.

### **PRAYER FOR RELIEF**

WHEREFORE, plaintiffs pray for judgment as follows:

- A. Declaring this action to be a proper class action pursuant to Fed. R. Civ. P. 23;
- B. Awarding plaintiffs and the members of the Class damages, including interest;
- C. Awarding plaintiffs' reasonable costs and attorneys' fees; and
- D. Awarding such equitable/injunctive or other relief as the Court may deem just and proper.

**JURY DEMAND**

Plaintiffs demand a trial by jury.

DATED: November 5, 2007

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