

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

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MBIA INSURANCE CORPORATION,	:
	:
Plaintiff,	:
	:
v.	:
	:
J.P. MORGAN SECURITIES LLC (formerly	:
known as BEAR, STEARNS & CO. INC.),	:
	:
Defendant.	:
	:
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Index No. 64676/2012

**ANSWER TO MBIA’S
SECOND AMENDED
COMPLAINT**

Defendant J.P. Morgan Securities LLC (“JPMS”), formerly known as Bear, Stearns & Co. Inc. (“Bear Stearns”), by and through its attorneys, Greenberg Traurig LLP, answers the second amended complaint filed by Plaintiff MBIA Insurance Corporation (“MBIA”) on February 24, 2017 (the “Second Amended Complaint”) as follows:

NATURE OF THE ACTION

1. Paragraph 1 consists of legal assertions and a generalized summary of MBIA’s allegations to which no response is required. To the extent a response is required, JPMS denies the allegations of Paragraph 1, except admits that Bear Stearns served as the lead underwriter for the GMAC Mortgage Corporation Home Equity Loan Trust 2006-HE4 Securitization (the “2006-HE4 Securitization”).

2. JPMS denies the allegations of Paragraph 2, except: (i) admits that GMAC Mortgage Corporation (“GMAC Mortgage”) served as the sponsor of the 2006-HE4 Securitization, and that MBIA issued financial guaranty insurance in connection with the 2006-HE4 Securitization; (ii) denies knowledge or information sufficient to form a belief as to the truth of the allegations concerning the actions or motivations of GMAC Mortgage; and (iii)

refers the Court to the Transaction Documents (as defined below) for a complete and accurate description of their contents, including any representations and warranties made therein by GMAC Mortgage.¹

3. JPMS denies the allegations of Paragraph 3, except admits that: (i) Mortgage Data Management Corporation (“MDMC”) performed a due-diligence review on a sample of loans in the collateral pool in connection with the 2006-HE4 Securitization; and (ii) the bid letter dated September 19, 2006 from MBIA to GMAC Mortgage (the “Bid Letter”) included a request that “GMAC Mortgage and Bear Stearns agree to share loan file diligence results with MBIA,” but denies that the allegations of Paragraph 3 completely and accurately describe the content of the Bid Letter and refers the Court to the Bid Letter for a complete and accurate description of its content.

4. JPMS denies the allegations of Paragraph 4, except admits that MDMC provided results of its due-diligence review to Bear Stearns and GMAC Mortgage in the form of electronic spreadsheets, and refers the Court to those spreadsheets for a complete and accurate description of their contents.

5. JPMS denies the allegations of Paragraph 5, except admits that Bear Stearns provided a spreadsheet containing due-diligence results to MBIA on or about September 27, 2006 prior to the closing of the 2006-HE4 Securitization, but denies that the allegations of

¹ The Transaction Documents include: (i) the prospectus supplement to the 2006-HE4 Securitization, dated September 25, 2006 (the “Prospectus Supplement”); (ii) the original prospectus to the 2006-HE4 Securitization, dated August 9, 2006 (the “Prospectus” and, together with the Prospectus Supplement, the “Offering Documents”); (iii) the Mortgage Loan Purchase Agreement (the “Purchase Agreement”), dated September 27, 2006, entered into by and among Residential Asset Mortgage Products, Inc. (“RAMP”) as Purchaser, GMAC Mortgage as Seller and Servicer, Walnut Grove Mortgage Loan Trust 2003-A (“Walnut Grove”) as Seller, GMACM Home Equity Loan Trust 2006-HE4 (the “GMAC Mortgage Trust”) as Issuer, and JPMorgan Chase Bank, N.A. (“JPMCB”) as Indenture Trustee; and (iv) the Insurance Agreement (the “Insurance Agreement”), dated September 1, 2006, entered into by and among MBIA as Insurer, GMAC Mortgage as Seller and Servicer, Walnut Grove as Seller, the GMAC Mortgage Trust as Issuer, RAMP as Depositor, Wilmington Trust Company as Owner Trustee, and JPMCB as Indenture Trustee.

Paragraph 5 completely and accurately describe the content of that spreadsheet and refers the Court to that spreadsheet for a complete and accurate description of its content.

6. JPMS denies the allegations of Paragraph 6, and avers that (i) there is no evidence that MBIA relied on “Bear Stearns as underwriter to inform” it of alleged due diligence issues, and (ii) MBIA initially alleged that MBIA relied on a due diligence spreadsheet provided to it by Bear Stearns, and MBIA only now claims that it relied on “Bear Stearns as underwriter to inform” it of alleged due diligence issues after the Court dismissed MBIA’s complaint on the grounds that there was “absolutely no evidence that anyone at MBIA as much as glanced at the content of the spreadsheet.”

7. JPMS denies the allegations of Paragraph 7, except admits that securities issued in connection with the 2006-HE4 Securitization and insured by MBIA received a AAA credit rating from certain credit rating agencies, as reflected in the Prospectus Supplement.

8. JPMS denies the allegations of Paragraph 8, except: (i) admits that (a) certain mortgage loans included in the 2006-HE4 Securitization have defaulted or are delinquent, as reflected in publicly available trustee remittance reports or other deal performance data relating to the 2006-HE4 Securitization, and refers the Court to those reports and data for information regarding the performance of the 2006-HE4 Securitization, and (b) MBIA reportedly has made certain payments in connection with insurance claims arising out of the 2006-HE4 Securitization; and (ii) states that the allegations of the final sentence of Paragraph 8 consist of legal assertions to which no response is required.

9. Paragraph 9 contains no factual allegations regarding JPMS or Bear Stearns requiring a response. JPMS avers that at the time of the 2006-HE4 Securitization, MBIA was a large and sophisticated monoline insurer with extensive experience in analyzing loan-level due

diligence results.

10. JPMS denies the allegations of Paragraph 10, except admits that: (i) JPMS is a Delaware limited liability company; (ii) on or about September 1, 2010, J.P. Morgan Securities Inc. became J.P. Morgan Securities LLC; (iii) JPMorgan Chase & Co. is the ultimate corporate parent of JPMS; and (iv) JPMS is a registered broker-dealer and investment adviser with the United States Securities and Exchange Commission. JPMS states that the last sentence of Paragraph 10 consists of a legal assertion to which no response is required. To the extent a response is required, JPMS admits that on or about October 1, 2008, J.P. Morgan Securities Inc. merged with and into Bear Stearns.

11. JPMS denies the allegations of Paragraph 11, except admits that: (i) Bear Stearns was an SEC-registered broker-dealer and wholly owned subsidiary of The Bear Stearns Companies Inc., principally located at 383 Madison Avenue, New York, New York, 10179; and (ii) Bear Stearns served as the lead underwriter for the 2006-HE4 Securitization.

12. JPMS denies the allegations of Paragraph 12, except: (i) admits that, on or about October 1, 2008, J.P. Morgan Securities Inc. merged with and into Bear Stearns, and the surviving entity changed its name to J.P. Morgan Securities Inc., but denies that MBIA has completely and accurately characterized this transaction; (ii) refers the Court to the 2008 Annual Report referenced in Paragraph 12 for a complete and accurate description of its content; and (iii) states that the last two sentences of Paragraph 12 consist of legal assertions to which no response is required.

JURISDICTION AND VENUE

13. Paragraph 13 consists of legal assertions to which no response is required. To the extent a response is required, JPMS admits that: (i) it is authorized to do business within New

York; and (ii) it regularly transacts business within the State.

14. Paragraph 14 consists of legal assertions and allegations about MBIA as to which no response is required.

15. Paragraph 15 contains no factual allegations regarding JPMS or Bear Stearns requiring a response. To the extent a response is required, JPMS states that Paragraph 15 does not completely and accurately describe the asset-backed securitization process, but admits that, in very simple and general terms, asset-backed securitization involves the issuance of securities that are backed by various types of cash-producing assets, including mortgage loans.

16. JPMS denies that the allegations of Paragraph 16 completely and accurately describe the 2006-HE4 Securitization, and refers the Court to the Transaction Documents for a complete and accurate description of their contents, including the structure of the 2006-HE4 Securitization.

17. JPMS admits that Bear Stearns served as the lead underwriter for the 2006-HE4 Securitization, but denies that the allegations of Paragraph 17 completely and accurately describe Bear Stearns's responsibilities and underwriting fees in connection with the 2006-HE4 Securitization. JPMS refers the Court to the Transaction Documents for a complete and accurate description of the 2006-HE4 Securitization, including Bear Stearns's rights and obligations in connection therewith.

18. JPMS denies the allegations of Paragraph 18, and refers the Court to the Transaction Documents for a complete and accurate description of the 2006-HE4 Securitization, including Bear Stearns's responsibilities in connection therewith.

19. JPMS admits that MBIA issued financial guaranty insurance for the 2006-HE4 Securitization, and that securities issued in connection with the 2006-HE4 Securitization and

insured by MBIA received a AAA credit rating from certain credit rating agencies, but otherwise denies that the allegations of Paragraph 19 completely and accurately describe the 2006-HE4 Securitization or the respective roles and responsibilities of the parties thereto. JPMS refers the Court to MBIA's insurance policy for the 2006-HE4 Securitization (the "Policy") and the Transaction Documents for a complete and accurate description of their contents, including MBIA's rights and obligations in connection therewith.

20. JPMS denies the allegations of Paragraph 20, except denies knowledge and information sufficient to form a belief as to the truth of the allegations concerning any action of GMAC Mortgage or MBIA. JPMS admits that (i) Bear Stearns transmitted to MBIA certain preliminary information, which Bear Stearns had received from GMAC Mortgage, regarding the collateral underlying the 2006-HE4 Securitization; (ii) Bear Stearns received a copy of the Bid Letter from MBIA, which Bear Stearns then transmitted to GMAC Mortgage; and (iii) Bear Stearns was listed secondarily after GMAC Mortgage as a party responsible for selecting a monoline insurer on a GMAC Mortgage document titled "Time and Responsibility Schedule," but denies that this document fully and accurately describes the role of Bear Stearns in connection with the 2006-HE4 Securitization.

21. Paragraph 21 contains no factual allegations regarding JPMS or Bear Stearns requiring a response. To the extent a response is required, JPMS denies knowledge or information sufficient to form a belief as to the truth of any allegations concerning an insurer's assessment of risk or decision-making process.

22. Paragraph 22 contains no factual allegations regarding JPMS or Bear Stearns requiring a response. To the extent a response is required, JPMS denies knowledge or information sufficient to form a belief as to the truth of the allegations concerning how "the

market” or a “potential financial guaranty insurer” assesses risk.

23. Paragraph 23 contains no factual allegations regarding JPMS or Bear Stearns requiring a response. To the extent a response is required, JPMS denies the allegations of Paragraph 23, except admits that loan origination files compiled by mortgage originators contain various types of information regarding mortgage loans.

24. Paragraph 24 contains no factual allegations regarding JPMS or Bear Stearns requiring a response. To the extent a response is required, JPMS denies the allegations of Paragraph 24, except admits that a loan origination file compiled by a mortgage originator may contain various types of information and documents relating to the underwriting and/or origination of the loan depending on the underwriting guidelines and origination program that were used to underwrite the loan.

25. JPMS denies the allegations of Paragraph 25, except (i) admits that Bear Stearns provided MBIA with certain results of a due diligence review prepared by MDMC in connection with the 2006-HE4 Securitization; and (ii) avers that MBIA had the opportunity to review loan files in advance of the 2006-HE4 Securitization and that, based on information and belief, MBIA did in fact perform (or retain a third party to perform) its own independent loan-level due diligence in connection with other RMBS transactions, but chose not to conduct its own loan level due diligence on the 2006-HE4 Securitization.

26. JPMS denies the allegations of Paragraph 26, except admits that the 2006-HE4 Securitization included approximately 17,342 loans at the time of closing.

27. JPMS denies the allegations of Paragraph 27, and avers that (i) there is no evidence that MBIA relied on “Bear Stearns as underwriter to inform” it of alleged due diligence issues; (ii) MBIA initially alleged that MBIA relied on a due diligence spreadsheet provided to it

by Bear Stearns, and MBIA only now claims that it relied on “Bear Stearns as underwriter to inform” it of alleged due diligence issues after the Court dismissed MBIA’s complaint on the grounds that there was “absolutely no evidence that anyone at MBIA as much as glanced at the content of the spreadsheet”; and (iii) MBIA had the opportunity to review loan files in advance of the 2006-HE4 Securitization and that, based on information and belief, MBIA did in fact perform (or retain a third party to perform) its own independent loan-level due diligence in connection with other RMBS transactions, but chose not to conduct its own loan-level due diligence on the 2006-HE4 Securitization.

28. JPMS denies the allegations of Paragraph 28, except admits that Bear Stearns provided certain MDMC due-diligence results to MBIA in connection with the 2006-HE4 Securitization.

29. JPMS denies the allegations of Paragraph 29, and refers the Court to documents referenced in Paragraph 29 for a complete and accurate description of their contents.

30. JPMS denies that the allegations of Paragraph 30 completely and accurately describe the Prospectus Supplement, and refers the Court to the Prospectus Supplement for a complete and accurate description of its content.

31. JPMS denies that the allegations of Paragraph 31 completely and accurately describe the Prospectus Supplement, and refers the Court to the Prospectus Supplement for a complete and accurate description of its content.

32. JPMS denies that the allegations of Paragraph 32 completely and accurately describe the GMAC Mortgage Underwriting Guidelines that were used to originate the loans included in the 2006-HE4 Securitization, and refers the Court to the GMAC Mortgage Underwriting Guidelines for a complete and accurate description of their content.

33. JPMS denies the allegations of Paragraph 33, and refers the Court to the Prospectus Supplement for a complete and accurate description of its content.

34. JPMS denies the allegations of Paragraph 34, except denies knowledge or information sufficient to form a belief as to the truth of the allegations concerning MBIA's purported intentions and/or motivations.

35. JPMS denies the allegations of Paragraph 35, and refers the Court to the Purchase Agreement for a complete and accurate description of its content.

36. JPMS denies the allegations of Paragraph 36, except: (i) denies knowledge or information sufficient to form a belief as to the truth of the allegations concerning MBIA's purported intentions and/or motivations; and (ii) admits that the Bid Letter submitted by MBIA included a request that "GMAC Mortgage and Bear Stearns agree to share loan file diligence results with MBIA," but denies that the allegations of Paragraph 36 completely and accurately describe the content of the Bid Letter and refers the Court to the Bid Letter for a complete and accurate description of its content.

37. JPMS denies the allegations of Paragraph 37, except admits and avers that securitization sponsors, underwriters and/or insurers typically performed (or retained third parties to perform) loan-level due diligence in connection with RMBS transactions.

38. JPMS denies the allegations of Paragraph 38, except admits that MDMC performed a due diligence review on a sample of loans in the collateral pool in connection with the 2006-HE4 Securitization.

39. JPMS denies the allegations of Paragraph 39, except admits that MDMC performed a due-diligence review on a sample of loans in the collateral pool in connection with the 2006-HE4 Securitization, but denies that the allegations of Paragraph 39 completely and

accurately describe the due diligence review performed by MDMC, including the meaning of any grades assigned by MDMC to individual mortgage loans.

40. JPMS admits that Bear Stearns provided certain MDMC due-diligence results to MBIA on or about September 27, 2006 prior to the closing of the 2006-HE4 Securitization.

41. JPMS denies the allegations of Paragraph 41, except: (i) admits that certain emails were sent on or about September 21, 2006 and on or about September 26, 2006 regarding the due diligence review for the 2006-HE4 Securitization, but denies that the allegations of Paragraph 41 completely and accurately describe the contents of these emails and refers the Court to these emails for a complete and accurate description of their contents; (ii) avers that there is no evidence that MBIA relied on “Bear Stearns as underwriter to inform” it of alleged due diligence issues; (iii) avers that MBIA only now claims that it relied on “Bear Stearns as underwriter to inform” it of alleged due diligence issues after the Court dismissed MBIA’s complaint on the grounds that there was “absolutely no evidence that anyone at MBIA as much as glanced at the content of the spreadsheet”; and (iv) avers that MBIA had the opportunity to review loan files in advance of the 2006-HE4 Securitization, and that, based on information and belief, MBIA did in fact perform (or retain a third party to perform) its own independent loan-level due diligence in connection with other RMBS transactions, but chose not to conduct its own loan-level due diligence on the 2006-HE4 Securitization.

42. JPMS denies the allegations of Paragraph 42, except admits that (i) the Insurance Agreement was dated as of September 1, 2006, (ii) the Closing Date of the 2006-HE4 Securitization was September 27, 2006, and (iii) MBIA provided financial guaranty insurance for the 2006-HE4 Securitization. JPMS further avers that (i) there is no evidence that MBIA relied on “Bear Stearns as underwriter to inform” it of alleged due diligence issues, and (ii) MBIA

initially alleged that MBIA relied on a due diligence spreadsheet provided to it by Bear Stearns, and MBIA only now claims that it relied on “Bear Stearns as underwriter to inform” it of alleged due diligence issues after the Court dismissed MBIA’s complaint on the grounds that there was “absolutely no evidence that anyone at MBIA as much as glanced at the content of the spreadsheet.” JPMS also denies that the allegations of Paragraph 42 completely and accurately describe the contents of the Insurance Agreement, the Policy, the Underwriting Agreement, and the Indemnification Agreement, and refers the Court to those documents for a complete and accurate description of their contents.

43. JPMS denies the allegations of Paragraph 43, except: (i) denies knowledge or information sufficient to form a belief as to the truth of the allegations regarding the premium received by MBIA in connection with the 2006-HE4 Securitization; and (ii) refers the Court to the Insurance Agreement and Policy for a complete and accurate description of their contents.

44. JPMS denies the allegations of Paragraph 44, except: (i) admits that on April 1, 2010, MBIA sued GMAC Mortgage in the GMAC Mortgage Action for allegedly inducing it to insure the 2006-HE4 Securitization; and (ii) denies knowledge or information sufficient to form a belief as to the truth of the allegations concerning the discovery proceedings in the GMAC Mortgage Action.

45. JPMS admits that on April 1, 2010, MBIA brought fraud and breach-of-contract claims against GMAC Mortgage in the GMAC Mortgage Action, in which it alleged that GMAC Mortgage—not Bear Stearns—induced it to insure the 2006-HE4 Securitization, but otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations concerning the nature or results of MBIA’s purported review of “a number of the delinquent and charged-off loans in transactions including the 2006-HE4 Securitization.”

46. JPMS denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 46 concerning the discovery allegedly obtained by MBIA in connection with the GMAC Mortgage Action.

47. JPMS denies knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of Paragraph 47 concerning information supposedly discovered by MBIA. JPMS otherwise denies the allegations of Paragraph 47, except refers the Court to the due-diligence spreadsheets referenced in Paragraph 47 for a complete and accurate description of their contents.

48. JPMS denies the allegations of Paragraph 48, except admits that MDMC performed a due-diligence review in connection with the 2006-HE4 Securitization on a sample of approximately 150 mortgage loans but otherwise denies knowledge or information sufficient to form a belief as to truth of any allegations regarding the practices or procedures employed by MDMC in conducting that review.

49. JPMS denies the allegations of Paragraph 49 except admits that MDMC performed a due-diligence review on a sample of approximately 150 loans in the collateral pool in connection with the 2006-HE4 Securitization.

50. JPMS denies the allegations of Paragraph 50, except: (i) admits that Bear Stearns received an email attaching preliminary due-diligence results from MDMC on or around September 18, 2006, and refers the Court to that email and those results for a complete and accurate description of their contents, and (ii) avers that loan level due-diligence review was an iterative process, that final grades were often different from preliminary grades as a result of further analysis and/or the discovery of additional information, that even the final grades of a due diligence provider were based on subjective judgments to which reasonable underwriters may

disagree, and that Bear Stearns was not obligated to provide MBIA with preliminary due-diligence results.

51. JPMS denies the allegations of Paragraph 51, except: (i) denies knowledge or information sufficient to form a belief as to the truth of the allegations concerning the motivations and/or actions of GMAC Mortgage; and (ii) refers the Court to the emails referenced in Paragraph 51 for a complete and accurate description of their contents.

52. JPMS denies the allegations of Paragraph 52, except: (i) admits that Bear Stearns transmitted to MBIA certain preliminary information regarding the collateral underlying the 2006-HE4 Securitization, which Bear Stearns had received from GMAC Mortgage; (ii) admits that Bear Stearns received a copy of the Bid Letter from MBIA on or around September 19, 2006, which Bear Stearns then transmitted to GMAC Mortgage; (iii) admits that the Bid Letter included a request that “GMAC Mortgage and Bear Stearns agree to share loan file diligence results with MBIA” and stated that “This bid is based upon the accuracy of the data file provided to MBIA by Bear Stearns & Co.,” but denies that the allegations of Paragraph 52 completely and accurately describe the content of the Bid Letter and refers the Court to the Bid Letter for a complete and accurate description of its content.

53. JPMS denies the allegations of Paragraph 53, except: (i) admits that MDMC sent preliminary due-diligence spreadsheets to Bear Stearns on or about September 19, 20, and 25 of 2006; and (ii) refers the Court to the documents referenced in Paragraph 53 for a complete and accurate description of their contents.

54. JPMS denies the allegations of Paragraph 54.

55. JPMS denies the allegations of Paragraph 55, except admits that on or about September 27, 2006, Robert Durden sent an email to John Mongelluzzo regarding the due-

diligence review for the 2006-HE4 Securitization, but denies that the allegations of Paragraph 55 completely and accurately describe the content of that email and refers the Court to that email for a complete and accurate description of its content.

56. JPMS denies that the allegations of Paragraph 56 completely and accurately describe the due-diligence spreadsheets prepared by MDMC, and refers the Court to the spreadsheets for a complete and accurate description of their contents.

57. JPMS denies the allegations of Paragraph 57, and further denies that allegations of Paragraph 57 completely and accurately describe the due-diligence spreadsheets prepared by MDMC, and refers the Court to the spreadsheets for a complete and accurate description of their contents.

58. JPMS denies the allegations of Paragraph 58, except admits that on or about September 27, 2006, John Mongelluzzo sent an email to Robert Durden attaching certain due-diligence results for the 2006-HE4 Securitization, but denies that the allegations of Paragraph 58 completely and accurately describe the contents of that email and its attachments and refers the Court to that email and its attachments for a complete and accurate description of their contents.

59. JPMS denies the allegations of Paragraph 59, except admits that Bear Stearns sent an email to MBIA attaching a due-diligence spreadsheet on or about September 27, 2006 prior to the closing the 2006-HE4 Securitization, but denies that the allegations of Paragraph 59 completely and accurately describe the contents of that email and its attachment, and refers the Court to that email and its attachment for a complete and accurate description of their contents.

60. JPMS denies the allegations of Paragraph 60.

61. Paragraph 61 consists of legal assertions and a generalized summary of MBIA's claims to which no response is required. To the extent a response is required, JPMS denies the

allegations of Paragraph 61.

62. JPMS denies the allegations of Paragraph 62, except (i) avers that no response is required to the legal assertions included therein, (ii) avers that the Court dismissed MBIA's initial complaint on the grounds that there was "absolutely no evidence that anyone at MBIA as much as glanced at the content of the spreadsheet," and (iii) denies knowledge or information sufficient to form a belief as to truth of the allegations concerning the supposed actions, beliefs or conclusions of MBIA.

63. Paragraph 63 consists of legal assertions and a generalized summary of MBIA's claims to which no response is required. To the extent a response is required, JPMS denies the allegations of Paragraph 63, and avers that (i) there is no evidence that MBIA relied on "Bear Stearns as underwriter to inform" it of alleged due diligence issues, and (ii) MBIA initially alleged that MBIA relied on a due diligence spreadsheet provided to it by Bear Stearns, and MBIA only now claims that it relied on "Bear Stearns as underwriter to inform" it of alleged due diligence issues after the Court dismissed MBIA's complaint on the grounds that there was "absolutely no evidence that anyone at MBIA as much as glanced at the content of the spreadsheet."

64. JPMS denies the allegations of Paragraph 64, except: (i) admits that certain mortgage loans included in the 2006-HE4 Securitization have defaulted or are delinquent, as reflected in publicly available trustee reports and other deal performance data relating to the 2006-HE4 Securitization; and (ii) refers the Court to the publicly available deal performance data for information about the performance of the 2006-HE4 Securitization.

65. JPMS denies knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 65.

CAUSE OF ACTION NO. 1**(Fraudulent Concealment)**

66. JPMS incorporates its responses to Paragraphs 1 through 65 as if fully set forth herein.

67. Paragraph 67 consists of legal assertions to which no response is required. To the extent a response is required, JPMS denies the allegations of Paragraph 67, except admits that on or about October 1, 2008, J.P. Morgan Securities Inc. merged with and into Bear Stearns.

68. Paragraph 68 consists of legal assertions to which no response is required. To the extent a response is required, JPMS denies the allegations of Paragraph 68, and refers the Court to the documents referenced in Paragraph 68 for a complete and accurate description of their contents.

69. Paragraph 69 consists of legal assertions to which no response is required. To the extent a response is required, JPMS denies the allegations of Paragraph 69, and refers the Court to the documents referenced in Paragraph 69 for a complete and accurate description of their contents

70. JPMS denies the allegations of Paragraph 70.

71. Paragraph 71 consists of legal assertions to which no response is required. To the extent a response is required, JPMS denies the allegations of Paragraph 71, and refers the Court to the documents referenced in Paragraph 71 for a complete and accurate description of their contents.

72. Paragraph 72 consists of legal assertions to which no response is required. To the extent a response is required, JPMS denies the allegations of Paragraph 72, and refers the Court to the documents referenced in Paragraph 72 for a complete and accurate description of their

contents.

73. Paragraph 73 consists of legal assertions to which no response is required. To the extent a response is required, JPMS denies the allegations of Paragraph 73.

74. Paragraph 74 consists of legal assertions to which no response is required. To the extent a response is required, JPMS denies the allegations of Paragraph 74.

75. Paragraph 75 consists of legal assertions to which no response is required. To the extent a response is required, JPMS denies the allegations of Paragraph 75, and refers the Court to the documents referenced in Paragraph 75 for a complete and accurate description of their contents.

76. Paragraph 76 consists of legal assertions to which no response is required. To the extent a response is required, JPMS denies the allegations of Paragraph 76.

77. Paragraph 77 consists of legal assertions to which no response is required. To the extent a response is required, JPMS denies the allegations of Paragraph 77, and avers that MBIA obtained substantial recoveries of its alleged losses through claims it asserted in the GMAC Mortgage bankruptcy, *In re Residential Capital, LLC*, No. 12-12020 (Bankr. S.D.N.Y.).

78. Paragraph 78 consists of legal assertions to which no response is required. To the extent a response is required, JPMS denies the allegations of Paragraph 78.

CAUSE OF ACTION NO. 2

(Material Misrepresentation in the Procurement of an Insurance Contract)

79. JPMS incorporates its responses to Paragraphs 1 through 78 as if fully set forth herein.

80. Paragraph 80 consists of legal assertions to which no response is required. To the extent a response is required, JPMS denies the allegations of Paragraph 80, and refers the Court

to the documents referenced in Paragraph 80 for a complete and accurate description of their contents.

81. JPMS denies the allegations of Paragraph 81, and refers the Court to the documents referenced in Paragraph 81 for a complete and accurate description of their contents.

82. JPMS denies the allegations of Paragraph 82, and refers the Court to the documents referenced in Paragraph 82 for a complete and accurate description of their contents.

83. Paragraph 83 consists of legal assertions to which no response is required. To the extent a response is required, JPMS denies the allegations of Paragraph 83, and refers the Court to the documents referenced in Paragraph 83 for a complete and accurate description of their contents.

84. Paragraph 84 consists of legal assertions to which no response is required. To the extent a response is required, JPMS denies the allegations of Paragraph 84, except denies knowledge and information sufficient to form a belief as to the truth of the allegations concerning any action of GMAC Mortgage or MBIA. JPMS admits that (i) Bear Stearns transmitted to MBIA certain preliminary information, which Bear Stearns had received from GMAC Mortgage, regarding the collateral underlying the 2006-HE4 Securitization; and (ii) Bear Stearns received a copy of the Bid Letter from MBIA, which Bear Stearns then transmitted to GMAC Mortgage.

85. JPMS denies the allegations of Paragraph 85.

86. Paragraph 86 consists of legal assertions to which no response is required. To the extent a response is required, JPMS denies the allegations of Paragraph 86, and refers the Court to the documents referenced in Paragraph 86 for a complete and accurate description of their contents.

87. Paragraph 87 consists of legal assertions to which no response is required. To the extent a response is required, JPMS denies the allegations of Paragraph 87.

88. Paragraph 88 consists of legal assertions to which no response is required. To the extent a response is required, JPMS denies the allegations of Paragraph 88.

AFFIRMATIVE DEFENSES

JPMS states the following affirmative defenses without assuming the burden of proof on any such defenses that would otherwise rest with MBIA.

FIRST AFFIRMATIVE DEFENSE

MBIA's claims are barred, in whole or in part, as a result of certain judicial admissions made by MBIA in connection with the GMAC Mortgage Action. *See MBIA Insurance Corp. v. GMAC Mortgage, LLC*, No. 600837/2010 (Sup. Ct. N.Y. Cnty. Apr. 1, 2010). It was only after GMAC Mortgage filed for bankruptcy that MBIA filed an action against JPMS. The allegations set forth in the GMAC Mortgage Action are devoid of any mention that MBIA relied on diligence of any sort, or upon Bear Stearns as underwriter, in deciding to insure the 2006-HE4 Securitization; indeed, MBIA exclusively alleges reliance on statements and information from GMAC Mortgage in the GMAC Mortgage Action.

SECOND AFFIRMATIVE DEFENSE

MBIA's claims are barred, in whole or in part, by the absence of reasonable or justifiable reliance. As a sophisticated monoline insurance company, MBIA was obligated and had a duty to undertake an independent due-diligence review. Further, MBIA did not in fact rely on any due-diligence results, or upon Bear Stearns as underwriter, in deciding to insure the 2006-HE4 Securitization.

THIRD AFFIRMATIVE DEFENSE

MBIA's claims are barred, in whole or in part, due to a lack of causation. Bear Stearns was not the cause of any alleged injury or loss or damages suffered by MBIA. Rather, Plaintiff's alleged losses were instead caused by macroeconomic forces and mortgage industry events, including, but not limited to, declining real estate prices and limitations on credit.

FOURTH AFFIRMATIVE DEFENSE

MBIA's claims are barred, in whole or in part, by the absence of fraudulent intent or scienter on the part of Bear Stearns.

FIFTH AFFIRMATIVE DEFENSE

MBIA's claims are barred, in whole or in part, because the alleged misrepresentations and/or omissions were not material.

SIXTH AFFIRMATIVE DEFENSE

MBIA's claims are barred, in whole or in part, because JPMS had no duty to disclose any facts allegedly not disclosed.

SEVENTH AFFIRMATIVE DEFENSE

MBIA's claims are barred, in whole or in part, by the doctrine of unclean hands because: (i) it entered into the 2006-HE4 Securitization with actual knowledge of the underwriting and due-diligence standards that were applied to the underlying loans; (ii) it failed to undertake its own due-diligence review; and/or (iii) it had actual or constructive knowledge of the due-diligence results that it alleges were omitted and/or represented by Bear Stearns.

EIGHTH AFFIRMATIVE DEFENSE

MBIA's claims are barred, in whole or in part, by the doctrine of waiver because: (i) it entered into the 2006-HE4 Securitization with actual knowledge of the underwriting and due-

diligence standards that were applied to the underlying loans; (ii) it failed to undertake its own due-diligence review; and/or (iii) it had actual or constructive knowledge of the due-diligence results that it alleges were omitted and/or represented by Bear Stearns.

NINTH AFFIRMATIVE DEFENSE

MBIA is barred, in whole or in part, from recovery by the doctrine of estoppel because: (i) it entered into the 2006-HE4 Securitization with actual knowledge of the underwriting and due-diligence standards that were applied to the underlying loans; (ii) it failed to undertake its own due-diligence review; and/or (iii) it had actual or constructive knowledge of the due-diligence results that it alleges were omitted and/or represented by Bear Stearns.

TENTH AFFIRMATIVE DEFENSE

MBIA assumed the risk of all alleged acts, injuries, and damages.

ELEVENTH AFFIRMATIVE DEFENSE

The Amended Complaint fails to state a claim upon which relief may be granted.

TWELFTH AFFIRMATIVE DEFENSE

MBIA is barred from recovery by the applicable statute of limitations and/or doctrine of laches.

THIRTEENTH AFFIRMATIVE DEFENSE

MBIA's claims are barred, in whole or in part, by the doctrine of *in pari delicto*.

FOURTEENTH AFFIRMATIVE DEFENSE

MBIA's claims are barred, in whole or in part, by MBIA's failure to mitigate or to take reasonable efforts to mitigate, minimize, or avoid the alleged damages.

FIFTEENTH AFFIRMATIVE DEFENSE

MBIA's claims are barred, in whole or in part, by limitations on the scope of any award of punitive damages against JPMS.

SIXTEENTH AFFIRMATIVE DEFENSE

MBIA's claims are barred, in whole or in part, because this action is duplicative of the claims brought by MBIA against GMAC Mortgage in the GMAC Mortgage Action, for which MBIA has now recovered all of its alleged losses concerning the HE4 Securitization in the GMAC Mortgage bankruptcy proceedings, *In re Residential Capital*, LLC, No. 12-12020 (Bankr. S.D.N.Y.).

SEVENTEENTH AFFIRMATIVE DEFENSE

MBIA's claims are barred, in whole or in part, by principles of *res judicata*, claim preclusion, law of the case, or issue preclusion.

EIGHTEENTH AFFIRMATIVE DEFENSE

MBIA's claims and damages should be reduced pursuant to N.Y. Gen. Ob. Law § 15-108 because MBIA has already released another person claimed to be liable in tort for the same injury, and has received consideration for its release.

NINETEENTH AFFIRMATIVE DEFENSE

MBIA's claims under New York Insurance Law Section 3105 are barred, in whole or in part, because (i) MBIA is not entitled to rescind the Policy; (ii) Bear Stearns is not an applicant for insurance; and (iii) the supposedly concealed due diligence information was not material to MBIA's insurance decision.

* * *

JPMS hereby gives notice that it intends to rely upon such other and further defenses as may become available or apparent during pretrial proceedings in this action and hereby reserves the right to amend this Answer to assert all such defenses.

Dated: New York, New York
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Respectfully submitted,

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