

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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NATIONAL CREDIT UNION ADMINISTRATION :
BOARD, etc., :
Plaintiff, : 13cv6705 (DLC)
-v- : 13cv6719 (DLC)
: 13cv6721 (DLC)
MORGAN STANLEY & CO., et al., : 13cv6726 (DLC)
: 13cv6727 (DLC)
Defendants. : 13cv6731 (DLC)
: 13cv6736 (DLC)
And other NCUA Actions. :
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UNITED STATES DISTRICT COURT
DISTRICT OF KANSAS

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NATIONAL CREDIT UNION ADMINISTRATION :
BOARD, etc., :
Plaintiff, : 11cv2340 (JWL)
-v- : 11cv2649 (JWL)
: 12cv2591 (JWL)
RBS SECURITIES, INC., f/k/a GREENWICH : 12cv2648 (JWL)
CAPITAL MARKETS, INC., et al., : 13cv2418 (JWL)
: 13cv2418 (JWL)
Defendants. :
: 13cv2418 (JWL)
And other NCUA Actions. :
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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

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NATIONAL CREDIT UNION ADMINISTRATION :
BOARD, etc., :
Plaintiff, :
-v- : 11cv5887 (GW)
 : 11cv6521 (GW)
RBS SECURITIES, INC., f/k/a GREENWICH :
CAPITAL MARKETS, INC., et al., :
 : ORDER
Defendants. :
 :
And other NCUA Actions. :
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HON. DENISE COTE, HON. JOHN W. LUNGSTRUM, and HON. GEORGE H. WU,
District Judges; and HON. JAMES P. O'HARA, Magistrate Judge:

This Order addresses a November 14 request from the
defendants for additional document discovery from NCUA itself.
The request is denied.

Discovery in these fourteen actions has been coordinated to
promote efficiency and the fair administration of justice. On
April 9, 2014, our Courts adopted a Master Discovery Protocol
("MDP") and ordered that document discovery in these actions be
substantially completed by October 31, 2014. The parties were
required to use their best efforts to agree upon a set of search
terms and relevant time periods for document production and to
inform our Courts of any disagreement by April 18.

Between April 18 and May 2, the parties presented their
disputes to our Courts. For example, in their letter of May 2,
the defendants requested that NCUA be required to identify more

than the two document custodians from which it had agreed to produce documents. In an Order of May 6, we denied the defendants' request for additional custodians from NCUA. Following further discussion among the parties, a list of the search terms that NCUA would use for its document production to the defendants was adopted by NCUA as of June 6.

Every party in these coordinated actions has now certified that it met the October 31 date for substantial completion of document discovery. On November 14, the defendants utilized the procedures in the MDP to raise this dispute over the scope of the document production made by plaintiff NCUA.

In their November 14 letter request, the defendants seek further documents from NCUA to be produced from centralized NCUA files and the files of its two designated document custodians, including documents related to the timing and bases of the four credit unions' awareness of potential claims against the defendants, the causes of their RMBS losses, and their awareness of RMBS-related risks. The November 14 letter presents many of the arguments that appeared in the defendants' May 2 letter. It appears from the attachments to the defendants' November 14 letter and NCUA's responsive submission of November 19, that the parties discussed a further document production from NCUA in a September 12 conference call and exchanged two brief email communications on September 29 and October 6. It does not

appear that the defendants represented to NCUA that they had completed their review of the plaintiff's document production or were able to identify any material deficiency in that production.

NCUA became the conservator for the four failed credit unions at issue here beginning in 2009. The investments in the defendants' securitizations spanned the years 2005 to 2007. Relying on our understanding of the claims and defenses in these actions, our Courts have restricted document discovery of NCUA itself in these strict liability actions. Accordingly, it is hereby

ORDERED that the defendants' November 14 request for a further document production from NCUA is denied.

IT IS FURTHER ORDERED that any party may make a request for further targeted productions of documents if

- 1) it represents that it has substantially completed review of produced documents and uncovered material deficiencies;
- 2) it explains why the request is timely and could not have been made earlier; and

3) it represents that it has exhausted the meet and confer process on the issue.

Dated: November 21, 2014 /s/ Denise Cote
United States District Judge

Dated: November 21, 2014 /s/ George H. Wu
United States District Judge

Dated: November 21, 2014 /s/ John W. Lungstrum
United States District Judge

Dated: November 21, 2014 /s/ James P. O'Hara
United States Magistrate Judge