UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No.

ADMINISTRATIVE PROCEEDING
File No.

In the Matter of **BANK OF AMERICA CORPORATION,** **Respondent.**	**ORDER INSTITUTING CEASE-AND-DESIST PROCEEDINGS PURSUANT TO SECTION 21C OF THE SECURITIES EXCHANGE ACT OF 1934, MAKING FINDINGS, AND IMPOSING CEASE-AND-DESIST ORDER AND CIVIL PENALTY**

I.

The Securities and Exchange Commission ("Commission") deems it appropriate that public cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 21C of the Securities Exchange Act of 1934 ("Exchange Act"), against Bank of America Corporation ("Respondent" or "Bank of America").

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the "Offer") which the Commission has determined to accept. Bank of America admits the facts contained in Annex A attached hereto and acknowledges that its conduct as set forth in Annex A violated the federal securities law, admits the Commission's jurisdiction over it and the subject matter of these proceedings, and consents to the entry of this Order Instituting Cease-and-Desist Proceedings Pursuant to Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing a Cease-and-Desist Order and Civil Penalty ("Order") as set forth below.

III.

On the basis of this Order and the Respondent's Offer, the Commission finds[1] that:

A. SUMMARY

1. This matter involves the failure by Bank of America to make required disclosures in the Management's Discussion and Analysis and Results of Operations ("MD&A") sections of periodic filings. Regulation S-K Item 303 requires a registrant to disclose in its MD&A sections "any known trends or uncertainties that have had or that the registrant reasonably expects will have a material … unfavorable impact on net sales or revenues or income from continuing operations." The failure to comply with Regulation S-K constitutes a violation of Section 13(a) of the Exchange Act.

2. Between 2004 and the first half of 2008, Bank of America and certain companies that it acquired in the second half of 2008 (the "acquired companies") sold approximately $2.1 trillion of mortgage loans and residential mortgage backed securities ("RMBS"). Of the $2.1 trillion total, approximately $1.1 trillion were mortgage loans sold to Government-Sponsored Enterprises ("GSEs"), primarily the Federal National Mortgage Association ("Fannie Mae") and Federal Home Loan Mortgage Corporation ("Freddie Mac"). The remaining $963 billion were sold to whole loan investors and into private label securitizations, frequently bought by large institutions. Roughly $160 billion of mortgage loans were sold into private label securitizations containing a credit enhancement provided by a monoline insurer. Approximately $1.8 trillion of the overall loan amounts remained outstanding as of December 31, 2009.

3. In connection with the sale of these mortgage loans and RMBS securitizations, and credit enhancements provided by monoline insurers, Bank of America, or the acquired companies, made contractual representations and warranties regarding the underlying mortgage loans. While terms varied by agreement and counterparty, examples of the types of representations and warranties upon which claims could be based included good title, conformity with underwriting guidelines, enforceability of mortgage documents, lien position, and compliance with applicable laws.

4. If a purchaser of these loans or RMBS securitizations determined that there had been a breach of a representation and warranty, the purchaser could assert a claim against Bank of America or the acquired companies and demand that the related mortgage loan be repurchased at its outstanding unpaid principal balance. Bank of America or the acquired companies would review such claims and either agree to repurchase the loan or deny the claim. Pursuant to the review process, Bank of America or the acquired companies might request that the purchaser reconsider that claim. Negotiations could lead

[1] The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity, in this or any other proceeding.

the counterparty to rescind the claim. When the parties could not reach an agreement as to the resolution of the claim, the claim was considered to be at an impasse.

5. Following the appointment of a conservator for Fannie Mae in September 2008, Bank of America received information indicating that Fannie Mae may be adopting a more aggressive approach to asserting and contesting repurchase claims. Through the second and third quarters of 2009, Fannie Mae increased its rate and volume of repurchase requests. Fannie Mae submitted a combined $3 billion of claims during the final quarter of 2008 and the first three quarters of 2009. During this same time period, Fannie Mae's rescission rate (the percentage of claims appealed by Bank of America and subsequently rescinded by Fannie Mae) declined. As a result, the number of "contested" or "impasse" Fannie Mae claims grew from $41 million at Q3 2008 to $512 million at Q3 2009 and continued to rise steadily thereafter. During the second and third quarters of 2009, a known uncertainty existed as to whether future repurchase obligations to Fannie Mae would have a material effect on Bank of America's future income from continuing operations.

6. Between 2004 and 2008, Bank of America and the acquired companies sold approximately $160 billion of RMBS with monoline insurance. Bank of America did not reserve for claims not yet submitted by the monoline insurers, or for claims submitted and rejected by Bank of America, but not rescinded by the monoline insurers. These contested claims increased from $203 million at September 30, 2008 to nearly $1.7 billion at September 30, 2009. During the second and third quarters of 2009, there was a known uncertainty as to whether future costs related to loans Bank of America would ultimately be required to repurchase from the monolines would have a material effect on Bank of America's future income from continuing operations.

7. Bank of America failed to disclose these known uncertainties in its Forms 10-Q for the second and third quarters of 2009 (filed on August 7, and November 6, 2009). A Bank of America registration statement supplement effective in December 2009 incorporated by reference the periodic filings. In each of these filings, Bank of America's MD&A failed to comply with the disclosure requirements of Item 303 of Regulation S-K. As a result of its failure to comply with Regulation S-K, Bank of America violated Section 13(a) of the Exchange Act and Rules 12b-20 and 13a-13 thereunder.

B. RESPONDENT

8. **Bank of America Corporation**, a Delaware corporation, is a bank holding company and a financial holding company under the Gramm-Leach-Bliley Act. Bank of America's principal offices are located in Charlotte, North Carolina. Bank of America's common stock is registered with the Commission pursuant to Section 12(b) of the Exchange Act and trades on the New York Stock Exchange. Bank of America acquired Countrywide Financial Corporation ("Countrywide") in a transaction which was completed as of July 2008.

C. UNCERTAINTIES REGARDING CLAIMS

Fannie Mae

9. Between 2004 and 2008, Bank of America sold approximately $1.1 trillion of mortgage loans to the GSEs, including Fannie Mae, which purchased $826 billion or 75% of that amount.

10. The GSEs purchased and securitized mortgage loans as part of their goal to provide government supported funding to the housing market. They were the largest purchasers of mortgage loans and they also had the strongest representations and warranties contact rights. The GSEs had a long history with Countrywide of asserting and resolving repurchase claim requests.

11. Bank of America reserved for GSE repurchase expenses using historical loss experience, including past GSE repurchase rates.

12. From at least 2005 through mid-2008, Fannie Mae served as Countrywide's GSE "alliance partner." Under this arrangement, which Bank of America later continued, Countrywide sold most of its mortgage inventory to Fannie Mae. Based on that relationship, Fannie routinely rescinded certain types of claims rather than fully assert its contractual rights to have the repurchase claims paid.

13. By the time Bank of America completed its Countrywide acquisition in July 2008, housing market conditions had deteriorated. On September 6, 2008, the Federal Housing Finance Agency placed both Fannie Mae and Freddie Mac into conservatorship.

14. Through the first three quarters of 2009, Fannie Mae greatly increased the amount of repurchase claims submitted to Bank of America and increased the claim rate per loan default at which it was submitting claims. The claims continued to increase thereafter. Fannie Mae also became more restrictive in rescinding those requests.

15. In addition, there was a continuing increase in accumulated "contested" or "impasse" claims—Fannie Mae repurchase claims reviewed and denied by Bank of America, but which Fannie Mae did not rescind. The cumulative amount of Fannie Mae contested claims grew from $41 million at Q3 2008 to $512 million at Q3 2009 and continued to rise steadily thereafter.

16. Bank of America managers in the Home Loans & Insurance ("HL&I") division, which was responsible for handling the repurchase claims, were aware of other information which also indicated that Fannie Mae might be adopting a more aggressive repurchase policy. During February 2009, Fannie Mae circulated a draft policy to Bank of America, enunciating a more aggressive approach to repurchase claims. Although that policy did not become effective, Fannie Mae conveyed its intention to alter its position on the resolution of certain types of repurchase claims by promulgating and implementing new policies. In the second and third quarter of 2009, Fannie Mae began to promulgate and implement these new policies, which took a harder line and more contractual rights based

approach to certain types of repurchase claims. As a result, Bank of America observed the increase in Fannie Mae contested claims and received reports that detailed the status of representation and warranty repurchase claims.

17. In a letter received by Bank of America on October 20, 2009, Fannie Mae documented its position on "policy misalignments" i.e., disagreements as to the standards which should be applied in resolving claims. The letter stated that Fannie Mae "expects and requires all lenders to honor the terms of their contracts and to abide by the rep and warrant policies."

Monolines

18. Monoline insurers provided credit enhancement in connection with RMBS in the form of a guarantee to RMBS investors that principal and interest payments would be made in the event there was insufficient cash flow from mortgage payments to meet the RMBS obligations. As part of the insurance agreement, Bank of America or the acquired companies made representations and warranties to the monoline insurance company regarding the mortgage loans that made up each insured securitization.

19. Monoline insurance companies insured approximately 17% of the mortgage loans sold by Bank of America and its acquired companies to private label investors, mostly large financial institutions. Between 2004 and 2008, Bank of America and the acquired companies sold approximately $160 billion of RMBS with monoline insurance.

20. Managers in the HL&I division, which was responsible for handling the repurchase claims, received reports that detailed the status of representation and warranty repurchase claims and observed the increase in contested monoline claims. By at least as early as November 24, 2008, Bank of America's internal auditors identified monoline repurchase claims exposure as an "emerging risk." Bank of America management was aware of the increasing claims. As one example, in June 2009, an internal Bank of America report contained a "Trends Summary" showing monoline claims outstanding trending up from $326 million in May 2008 to $2.3 billion in May 2009.

21. Bank of America did not reserve for claims not yet submitted, or for claims submitted and rejected by Bank of America, but not rescinded by monolines. The number of defaulted loans within the securitizations was steadily increasing and was forecasted by Bank of America to continue increasing.

D. BANK OF AMERICA'S REPRESENTATIONS AND WARRANTIES RESERVING PROCESS

22. Bank of America, at all relevant times, established a reserve for its representations and warranties liability. Bank of America calculated its repurchase reserve using default and severity models, past repurchase data and experience relating to sold loans, and various current conditions—home price index, interest rates, and unemployment rates, for example—existing as of the quarter close.

23. The repurchase reserve was calculated by the HL&I line of business, with oversight from the Finance and Accounting team, Risk team, and Internal Audit. Representatives from HL&I and each of these oversight teams participated in twice monthly meetings at which the reserve process and calculation was discussed and evaluated.

24. During the relevant period, Bank of America used one process to calculate a reserve for loans sold to most counterparties and used a different process to calculate its repurchase reserve for the monolines.

GSEs

25. The calculation for the reserve associated with GSEs and private investors, including whole loan sales and securitizations, was based on an estimate of lifetime collateral losses calculated for sold loans based on the probability of default, the probability of repurchase, and expected severity. This calculation of expected lifetime repurchase losses was not based on claims that were actually asserted as of any given point in time, or possible future changes in repurchase or rescission rates, but was based on historical loss experience, including past GSE repurchase rates.

Monolines

26. During the relevant period, the monoline reserve was calculated differently. Bank of America lacked historical repurchase experience with monoline insurers. Moreover, some of the monolines had begun to resort to litigation. As a result, the monoline reserve was calculated by applying the actual experienced repurchase rate to all approved and "under review" repurchase requests. The expected repurchase rate applied was different for each monoline, based upon the actual computed repurchase rate for prior claims reviewed and adjudged. During the relevant period, the monoline reserve did not include a projection of expected losses for "contested" claims, that is, claims that had been reviewed by Bank of America and refused for repurchase, but not rescinded by the monolines; nor did it anticipate future projected losses on monoline repurchase requests not yet received.

E. BANK OF AMERICA'S DISCLOSURE PROCESS

Reporting Structure

27. Bank of America was structured for management and disclosure purposes around its various business units. The business units were supported by enterprise control functions, including Finance, Risk, and Legal, and also by Internal Audit. HL&I was one of Bank of America's business lines. Within the MD&A section of Bank of America's 2008 Form 10-K, Bank of America described how it managed the various types of risks to which it was subject, identifying the line of business as the first line of defense, enterprise control functions as the second line of defense, and Internal Audit, as the third.

28. Each enterprise control organization had its own reporting line, separate and apart from the business it supported. The Risk organization reported up to the Chief Risk

Officer. The Legal Department reported up to the Chief Legal Officer. Each line of business had a Chief Financial Officer and Controller assigned to support the business and those individuals ultimately reported up to Bank of America's Chief Financial Officer and Chief Accounting Officer, respectively.

29. Representatives of the enterprise control functions participated in HL&I business meetings.

Financial Reporting

30. Bank of America had a formal financial reporting process. The financial reporting process began with the preparation of a forecast for the year. Each business line's Finance and Accounting team prepared an annual forecast, and then undertook weekly and monthly re-forecasting based on the actual data. These data were reviewed and/or incorporated in successive processes until they were aggregated at the corporate level.

31. At month-end and at quarter-end, Bank of America closed its books. During this time, data from across Bank of America were collected. Like every other line of business, HL&I provided monthly written financial reports. In addition, at quarter end, each business line presented its financial results, as well as operational activities, opportunities, and risks.

32. Shortly after the quarter close, the Bank reported its earnings and provided information to analysts and interested parties through the earnings release process. Preparation for the earnings release presentation and filing served as the starting place for the quarterly financial disclosure filing process, which followed immediately thereafter. The analysis for these disclosure efforts was based on the actual data gathered in closing the Bank's books.

33. During the Relevant Period, after quarter close, relevant Bank personnel evaluated what the Bank needed to disclose in the upcoming quarterly filing.

F. THE RELEVANT DISCLOSURES

34. The Forms 10-Q for the second and third quarters of 2009 included a Risk Factor addressing the severe downturn in the United States economy and the impact that falling housing prices, unemployment and underemployment levels, and increasing foreclosures was having on the credit performance of mortgage loans generally and on Bank of America's business overall.

35. In addition, those periodic filings included a financial statement disclosure that described the nature of the repurchase liability and the dollar amount of loans repurchased from securitization trusts for the period. (Most of the loans, including loans sold to GSEs, were securitized.) The text of the disclosure during this period stated, in relevant part:

> The Corporation sells loans with various representations and warranties related to, among other things, the ownership of the loan, validity of the lien securing the loan,

> absence of delinquent taxes or liens against the property securing the loan, the process used in selecting the loans for inclusion in a transaction, the loan's compliance with any applicable loan criteria established by the buyer, and the loan's compliance with applicable local, state and federal laws. Under the Corporation's representations and warranties, the Corporation may be required to either repurchase the mortgage loans with the identified defects or indemnify the investor or insurer. In such cases, the Corporation bears any subsequent credit loss on the mortgage loans. The Corporation's representations and warranties are generally not subject to stated limits. However, the Corporation's contractual liability arises only when the representations and warranties are breached.

A review of the repurchase amounts disclosed each quarter shows that the amount of repurchased loans from all counterparties was $448 million for 2008 (which comprised only the last two quarters of 2008), reported in the 2008 Form 10-K; $360 million in the first quarter of 2009, $222 million in the second quarter of 2009, and $340 million in the third quarter of 2009.

36. In addition, each quarter's disclosure noted where in Bank of America's consolidated financial statement the repurchase reserve and provision was recorded: "The Corporation records its liability for representations and warranties, and corporate guarantees in accrued expenses and other liabilities and records the related expense through mortgage banking income."

37. The MD&A for the second and third quarter of 2009 included a discussion and table for Mortgage Banking Income, which noted that Mortgage Banking production income included "costs related to representations and warranties given in the sales transaction and other obligations incurred in the sales of mortgage loans."

38. The Forms 10-Q for the second and third quarters of 2009 did not identify or describe uncertainties relating to (1) Fannie Mae's more aggressive approach to asserting and contesting repurchase claims and the increasing number of claims and increasing inventory of contested claims from Fannie Mae; or (2) repurchase claims from monoline insurance companies or the amount of future claims and pending contested claims.

39. Bank of America's 2009 Form 10-K included a Risk Factor relating to the economic conditions, which also added a note disclosing, for the first time, an overall increase in repurchase demands from, and increasing disputes with, loan purchasers and monoline insurers. The same language was included in the MD&A, with the additional bracketed language, which did not appear in the Risk Factor:

> We have experienced and continue to experience increasing repurchase and similar demands from, and disputes with buyers and insurers. {We expect to contest such demands that we do not believe are valid.} In the event that we are required to repurchase loans that have been the subject of repurchase demands or otherwise provide indemnification or other recourse, this could significantly increase our losses and thereby affect our future earnings.

G. APPLICABLE LAW

Section 13(a) of the Exchange Act and Rules 12b-20 and 13a-13 require every issuer of a security registered pursuant to Section 12 of the Exchange Act to file with the Commission information, documents, and quarterly reports as the Commission may require, and mandate that periodic reports contain such further material information as may be necessary to make the required statements not misleading. "The reporting provisions of the Exchange Act are clear and unequivocal, and they are satisfied only by the filing of complete, accurate, and timely reports." *SEC v. Savoy Industries*, 587 F.2d 1149, 1165 (D.C. Cir. 1978). Rule 12b-20 of the Exchange Act requires an issuer to include in a statement or report filed with the Commission any information necessary to make the required statements in the filing not materially misleading.

Item 303 of Regulation S-K requires MD&A as a part of reports filed pursuant to Section 13(a). Item 303(a) of Regulation S-K requires registrants to disclose in annual filings "any known trends or uncertainties that have had or that the registrant reasonably expects will have a material favorable or unfavorable impact on net sales or revenues or income from continuing operations" and "information that the registrant believes to be necessary to an understanding of its financial conditions [or] changes in [its] financial conditions." Instruction 3 to Item 303(a) further provides that "[t]he discussion and analysis shall focus specifically on material events and uncertainties known to management that would cause reported financial information not to be necessarily indicative of future operating results or of future financial condition. This would include descriptions and amounts of…matters that would have an impact on future operations and have not had an impact in the past…."

Item 303(b) applies the identical disclosure requirements to interim reports, specifically stating that MD&A relating to interim period financial statements "shall include a discussion of material changes in those items specifically listed in paragraph (a) of this Item, except that the impact of inflation and changing prices on operations for interim periods need not be addressed." The Commission reiterated and emphasized these interim period disclosure requirements in an Interpretive Release issued in 1989, stating: "The second sentence of Item 303(b) states that MD&A relating to interim period financial statements 'shall include a discussion of material changes in those items specifically listed in paragraph (a) of this Item, except that the impact of inflation and changing prices on operations for interim periods need not be addressed.' As this sentence indicates, material changes to *each and every* specific disclosure requirement contained in paragraph (a), with the noted exception, should be discussed (emphasis added). The purpose of MD&A is "to give the investor an opportunity to look at the company through the eyes of management by providing both a short and long-term analysis of the business of the company." *SEC Interpretation: Management's Discussion and Analysis of Financial Condition and Results of Operations; Certain Investment Company Disclosures*, Exchange Act Release No. 26831 (May 18, 1989) ("MD&A Release").

The MD&A Release also sets forth a test concerning these disclosure requirements. If a trend, demand, commitment, event or uncertainty is known, management must make two assessments:

> (1) Is the known trend, demand, commitment, event or uncertainty likely to come to fruition? If management determines that it is not reasonably likely to occur, no disclosure is required; and
>
> (2) If management cannot make that determination, it must evaluate objectively the consequences of the known trend, demand, commitment, event or uncertainty, on the assumption that it will come to fruition. Disclosure is then required unless management determines that a material effect on the registrant's financial condition or results of operations is not reasonably likely to occur.

The Commission also has explained that "reasonably likely" is a lower disclosure threshold than "more likely than not." *Commission Statement About Management's Discussion and Analysis of Financial Condition and Results of Operations*, Release Nos. 33-8056 and 34-45321 (January 25, 2002).

During the relevant period, Bank of America failed to disclose known material uncertainties relating to (1) whether Fannie Mae had changed their repurchase practices after being put into conservatorship, and the increasing number of claims and increasing inventory of contested claims from Fannie Mae; and (2) the future volume of repurchase claims from monoline insurers and the ultimate resolution of mounting contested monoline claims. With regard to these uncertainties, Bank of America neither determined that they were not reasonably likely to come to fruition, nor determined that, if they came to fruition, they would not have a material impact on income from continuing operations. These uncertainties indicated a material risk to future income from continuing operations. Accordingly, disclosure was required. *See Panther Partners, Inc. v. Ikanos Communications, Inc*., 681 F.3d 114, 122 (2d Cir. 2012) (concluding that Item 303 required disclosure of known uncertainty regarding potential returns of product and risk to future income).

H. VIOLATIONS

Based on the foregoing conduct, Bank of America violated Section 13(a) of the Exchange Act and Rules 12b-20 and 13a-13.

IV.

In view of the foregoing, the Commission deems it appropriate, to impose the sanctions agreed to in Respondent Bank of America's Offer.

Accordingly, pursuant to Section 21C of the Exchange Act, it is hereby ORDERED that**:**

A. Respondent Bank of America cease and desist from committing or causing any violations and any future violations of Section 13(a) of the Exchange Act and Rules 12b-20 and 13a-13 promulgated thereunder.

B. Respondent shall, within ten days of the entry of this Order, pay a civil money penalty in the amount of $20 million to the Securities and Exchange Commission. Such payment will be deemed satisfied by Respondents' payment in accordance with the terms of the agreement dated August 20, 2014 among Bank of America, the United States Department of Justice, and certain States.

By the Commission.

Jill M. Peterson
Assistant Secretary

ANNEX A

Bank of America admits to the facts set forth below and acknowledges that its conduct violated the federal securities laws.

1. Between 2004 and the first half of 2008, Bank of America and certain companies that it acquired in the second half of 2008 (the "acquired companies") created and sold approximately 1,300 securitizations comprised of first and second lien residential mortgages. Bank of America and the acquired companies also sold whole loans to investors. The total unpaid principal balance of these mortgage loans at securitization and/or sale during the period was approximately $2.1 trillion. Approximately $1.8 trillion of the overall loan amounts remained outstanding as of December 31, 2009. In connection with the sale of these mortgage loans and RMBS securitizations, and the obtaining of related credit enhancements provided by monoline insurance companies, Bank of America, or the acquired companies, made contractual representations and warranties regarding the underlying mortgage loans. Generally, in response to a claimed breach of a representation or warranty, Bank of America or the acquired companies evaluated whether to repurchase the related mortgage loan at its outstanding unpaid principal balance.

2. Between 2004 and the first half of 2008, Bank of America and the acquired companies sold approximately $826 billion of mortgage loans to Fannie Mae. Beginning in the third quarter of 2008, Bank of America recorded an accounting reserve for its expected liability related to future representation and warranty expenses for these loans based, in part, upon its past loss experience, including experienced Fannie Mae repurchase rates. On September 6, 2008, the Federal Housing Finance Agency placed Fannie Mae into conservatorship. Through the second and third quarters of 2009, Bank of America became aware of information creating uncertainty as to whether Fannie Mae was adopting an approach to representation and warranty repurchase claims which would increase the future costs of Bank of America in connection with such claims. During that period, Fannie Mae greatly increased the amount of repurchase claims submitted to Bank of America and began rescinding claims at a lower rate than it had during previous periods.

3. Monoline insurers provided credit enhancement in connection with RMBS in the form of a guarantee to RMBS investors that principal and interest payments would be made in the event there was insufficient cash flow from mortgage payments to meet the RMBS obligations. Monoline insurance companies insured approximately 17% of the mortgage loans sold by Bank of America and the acquired companies to private investors, mostly large financial institutions. During the period from the third quarter of 2008 through at least the third quarter of 2009, Bank of America did not reserve for claims not yet submitted by the monolines, or for claims received, reviewed and rejected by Bank of America but not rescinded by the monolines. As of the second quarter of 2009, Bank of America was aware of an uncertainty regarding the future costs related to monoline repurchase claims alleging breaches of representations and warranties. Bank of America was aware of an increase in contested monoline claims and had identified monoline repurchase claims exposure as an emerging risk. The number of defaulted loans within the securitizations was forecasted by Bank of America to continue increasing.

4. During the second and third quarters of 2009, Bank of America did not disclose that there were known uncertainties relating to (1) whether Fannie Mae had changed its repurchase practices after being put into conservatorship, and the increasing number of overall claims and contested claims from Fannie Mae; and (2) the future volume of repurchase claims from monoline insurers and the ultimate resolution of monoline claims that Bank of America had reviewed and refused to repurchase, but had not been rescinded.

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

SECURITIES AND EXCHANGE COMMISSION,		
Plaintiff,	:	**Civil Action No. 3:13-cv-447**
v.		
BANK OF AMERICA, N.A., BANC OF AMERICA MORTGAGE SECURITIES, INC., and MERRILL LYNCH, PIERCE, FENNER & SMITH INC. f/k/a BANC OF AMERICA SECURITIES LLC,		
Defendants.		

CONSENT OF BANK OF AMERICA, N.A.

1. Defendant Bank of America, N.A. ("Defendant") acknowledges having been served with the complaint in this action, has entered a general appearance, and admits the Court's jurisdiction over Defendant and over the subject matter of this action.

2. Without admitting or denying the allegations in the complaint (except as provided herein in paragraph 12 and except as to personal and subject matter jurisdiction, which Defendant admits), Defendant hereby consents to the entry of the final Judgment in the form attached hereto (the "Final Judgment") and incorporated by reference herein, which, among other things:

(a) permanently restrains and enjoins Defendant from violation of Sections 17(a)(2) and 17(a)(3) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. §§ 77q(a)(2) & 77q(a)(3)];

(b) orders Defendant to pay disgorgement, prejudgment interest thereon, and a civil monetary penalty under Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)], with the payment of such disgorgement, prejudgment interest, and a civil monetary penalty satisfied in full by the payment of Bank of America Corp. to the United States Department of Justice in accordance with the terms of the agreement dated August __, 2014 among Bank of America Corp., the United States Department of Justice, and certain States.

3. Defendant acknowledges that the civil penalty paid pursuant to the Final Judgment may be distributed pursuant to the Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act of 2002. Regardless of whether any such Fair Fund distribution is made, the civil penalty shall be treated as a penalty paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Defendant agrees that it shall not, after offset or reduction of any award of compensatory damages in any Related Investor Action based on Defendant's payment of disgorgement in this action, argue that it is entitled to, nor shall it further benefit by, offset or reduction of such compensatory damages award by the amount of any part of Defendant's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Defendant agrees that it shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the United States Treasury or to a Fair Fund, as the Commission directs. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this action. For purposes of this paragraph, a "Related Investor Action"

means a private damages action brought against Defendant by or on behalf of one or more investors based on substantially the same facts as alleged in the Complaint in this action.

4. Defendant agrees that it shall not seek or accept, directly or indirectly, reimbursement or indemnification from any source, including but not limited to payment made pursuant to any insurance policy, with regard to any civil penalty amounts that Defendant pays pursuant to the Final Judgment, regardless of whether such penalty amounts or any part thereof are added to a distribution fund or otherwise used for the benefit of investors. Defendant further agrees that it shall not claim, assert, or apply for a tax deduction or tax credit with regard to any federal, state, or local tax for any penalty amounts that Defendant pays pursuant to the Final Judgment, regardless of whether such penalty amounts or any part thereof are added to a distribution fund or otherwise used for the benefit of investors.

5. Defendant waives the entry of findings of fact and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure.

6. Defendant waives the right, if any, to a jury trial and to appeal from the entry of the Final Judgment.

7. Defendant enters into this Consent voluntarily and represents that no threats, offers, promises, or inducements of any kind (specifically including but not limited to any offers, promises, or inducements related to any application for waivers from disqualification or exemptive orders from Defendant or its parent or affiliates related to the entry of the injunctions described herein) have been made by the Commission or any member, officer, employee, agent, or representative of the Commission to induce Defendant to enter into this Consent.

8. Defendant agrees that this Consent shall be incorporated into the Final Judgment with the same force and effect as if fully set forth therein.

9. Defendant will not oppose the enforcement of the Final Judgment on the ground, if any exists, that it fails to comply with Rule 65(d) of the Federal Rules of Civil Procedure, and hereby waives any objection based thereon.

10. Defendant waives service of the Final Judgment and agrees that entry of the Final Judgment by the Court and filing with the Clerk of the Court will constitute notice to Defendant of its terms and conditions. Defendant further agrees to provide counsel for the Commission, within thirty days after the Final Judgment is filed with the Clerk of the Court, with an affidavit or declaration stating that Defendant has received and read a copy of the Final Judgment.

11. Consistent with 17 C.F.R. § 202.5(f), this Consent resolves only the claims asserted against Defendant in this civil proceeding. Defendant acknowledges that no promise or representation has been made by the Commission or any member, officer, employee, agent, or representative of the Commission with regard to any criminal liability that may have arisen or may arise from the facts underlying this action or immunity from any such criminal liability. Defendant waives any claim of Double Jeopardy based upon the settlement of this proceeding, including the imposition of any remedy or civil penalty herein. Defendant further acknowledges that the Court's entry of a permanent injunction may have collateral consequences under federal or state law and the rules and regulations of self-regulatory organizations, licensing boards, and other regulatory organizations. Such collateral consequences include, but are not limited to, a statutory disqualification with respect to membership or participation in, or association with a member of, a self-regulatory organization. This statutory disqualification has consequences that are separate from any sanction imposed in an administrative proceeding. In addition, in any disciplinary proceeding before the Commission based on the entry of the injunction in this

action, Defendant understands that it shall not be permitted to contest the factual allegations of the complaint in this action.

12. Defendant understands and agrees to comply with the terms of 17 C.F.R. § 202.5(e), which provides in part that it is the Commission's policy "not to permit a defendant or respondent to consent to a judgment or order that imposes a sanction while denying the allegations in the complaint or order for proceedings," and "a refusal to admit the allegations is equivalent to a denial, unless the defendant or respondent states that he neither admits nor denies the allegations." As part of Defendant's agreement to comply with the terms of Section 202.5(e), Defendant: (i) will not take any action or make or permit to be made any public statement denying, directly or indirectly, any allegation in the complaint or creating the impression that the complaint is without factual basis; (ii) will not make or permit to be made any public statement to the effect that Defendant does not admit the allegations of the complaint, or that this Consent contains no admission of the allegations, without also stating that Defendant does not deny the allegations; (iii) upon the filing of this Consent, Defendant hereby withdraws any papers filed in this action to the extent that they deny any allegation in the complaint; and (iv) stipulates solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. §523, that the allegations in the complaint are true, and further, that any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Defendant under the Final Judgment or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Defendant of the federal securities laws or any regulation or order issued under such laws. If Defendant breaches this agreement, the Commission may petition the Court to vacate the Final Judgment and restore this action to its active docket. Nothing in this paragraph affects Defendant's: (i) testimonial

obligations; or (ii) right to take legal or factual positions in litigation or other legal proceedings in which the Commission is not a party.

13. Defendant hereby waives any rights under the Equal Access to Justice Act, the Small Business Regulatory Enforcement Fairness Act of 1996, or any other provision of law to seek from the United States, or any agency, or any official of the United States acting in his or her official capacity, directly or indirectly, reimbursement of attorney's fees or other fees, expenses, or costs expended by Defendant to defend against this action. For these purposes, Defendant agrees that Defendant is not the prevailing party in this action since the parties have reached a good faith settlement.

14. Defendant agrees that the Commission may present the Final Judgment to the Court for signature and entry, no sooner than 45 days after the agreement between Bank of America Corp., the United States Department of Justice, and certain States dated August __, 2014 is signed, without further notice.

15. Defendant agrees that this Court shall retain jurisdiction over this matter for the purpose of enforcing the terms of the Final Judgment.

Dated: August 15, 2014

Bank of America, N.A.

Bank of America, N.A.

By: J. David Montague

[Name of person signing for entity]

[Title] Associate General Counsel + SVP

[Address] 50 Rockefeller Plaza
NY, NY 10020

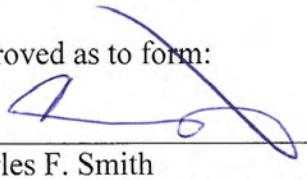
On Aug 15, 2014, 2014, J. DAVID MONTAGUE, a person known to me, personally appeared before me and acknowledged executing the foregoing Consent with full authority to do so on behalf of Bank of America, NA as its Associate General Counsel + SVP

Notary Public

Commission expires:

PETER JAMES ACKERMANN
COMM. EXP.
NOTARY
PUBLIC
JUNE 08, 2019
NEW JERSEY

Approved as to form:



Charles F. Smith
Skadden, Arps, Slate, Meagher & Flom, LLP
155 North Wacker Drive
Suite 2700
Chicago, Illinois 60606
(312) 407-0700
Attorney for Defendant

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

SECURITIES AND EXCHANGE COMMISSION,	:	
Plaintiff,	:	**Civil Action No. 3:13-cv-447**
v.	:	
BANK OF AMERICA, N.A., BANC OF AMERICA MORTGAGE SECURITIES, INC., and MERRILL LYNCH, PIERCE, FENNER & SMITH INC. f/k/a BANC OF AMERICA SECURITIES LLC,	:	
Defendants.	:	

CONSENT OF MERRILL LYNCH, PIERCE, FENNER & SMITH INC.
f/k/a BANC OF AMERICA SECURITIES LLC

1. Defendant Merrill Lynch, Pierce, Fenner & Smith Inc. f/k/a Banc of America Securities LLC ("Defendant") acknowledges having been served with the complaint in this action, has entered a general appearance, and admits the Court's jurisdiction over Defendant and over the subject matter of this action.

2. Without admitting or denying the allegations in the complaint (except as provided herein in paragraph 12 and except as to personal and subject matter jurisdiction, which Defendant admits), Defendant hereby consents to the entry of the final Judgment in the form attached hereto (the "Final Judgment") and incorporated by reference herein, which, among other things:

(a) permanently restrains and enjoins Defendant from violation of Sections 17(a)(2) and 17(a)(3) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. §§ 77q(a)(2) & 77q(a)(3)];

(b) permanently restrains and enjoins Defendant from violation of Section 5(b)(1) of the Securities Act [15 U.S.C. § 77e(b)(1)];

(c) orders Defendant to pay disgorgement, prejudgment interest thereon, and a civil monetary penalty under Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)], with the payment of such disgorgement, prejudgment interest, and a civil monetary penalty satisfied in full by the payment of Bank of America Corp. to the United States Department of Justice in accordance with the terms of the agreement dated August __, 2014 among Bank of America Corp., the United States Department of Justice, and certain States.

3. Defendant acknowledges that the civil penalty paid pursuant to the Final Judgment may be distributed pursuant to the Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act of 2002. Regardless of whether any such Fair Fund distribution is made, the civil penalty shall be treated as a penalty paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Defendant agrees that it shall not, after offset or reduction of any award of compensatory damages in any Related Investor Action based on Defendant's payment of disgorgement in this action, argue that it is entitled to, nor shall it further benefit by, offset or reduction of such compensatory damages award by the amount of any part of Defendant's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Defendant agrees that it

shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the United States Treasury or to a Fair Fund, as the Commission directs. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this action. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Defendant by or on behalf of one or more investors based on substantially the same facts as alleged in the Complaint in this action.

4. Defendant agrees that it shall not seek or accept, directly or indirectly, reimbursement or indemnification from any source, including but not limited to payment made pursuant to any insurance policy, with regard to any civil penalty amounts that Defendant pays pursuant to the Final Judgment, regardless of whether such penalty amounts or any part thereof are added to a distribution fund or otherwise used for the benefit of investors. Defendant further agrees that it shall not claim, assert, or apply for a tax deduction or tax credit with regard to any federal, state, or local tax for any penalty amounts that Defendant pays pursuant to the Final Judgment, regardless of whether such penalty amounts or any part thereof are added to a distribution fund or otherwise used for the benefit of investors.

5. Defendant waives the entry of findings of fact and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure.

6. Defendant waives the right, if any, to a jury trial and to appeal from the entry of the Final Judgment.

7. Defendant enters into this Consent voluntarily and represents that no threats, offers, promises, or inducements of any kind (specifically including but not limited to any offers, promises, or inducements related to any application for waivers from disqualification or

exemptive orders from Defendant or its parent or affiliates related to the entry of the injunctions described herein) have been made by the Commission or any member, officer, employee, agent, or representative of the Commission to induce Defendant to enter into this Consent.

8. Defendant agrees that this Consent shall be incorporated into the Final Judgment with the same force and effect as if fully set forth therein.

9. Defendant will not oppose the enforcement of the Final Judgment on the ground, if any exists, that it fails to comply with Rule 65(d) of the Federal Rules of Civil Procedure, and hereby waives any objection based thereon.

10. Defendant waives service of the Final Judgment and agrees that entry of the Final Judgment by the Court and filing with the Clerk of the Court will constitute notice to Defendant of its terms and conditions. Defendant further agrees to provide counsel for the Commission, within thirty days after the Final Judgment is filed with the Clerk of the Court, with an affidavit or declaration stating that Defendant has received and read a copy of the Final Judgment.

11. Consistent with 17 C.F.R. § 202.5(f), this Consent resolves only the claims asserted against Defendant in this civil proceeding. Defendant acknowledges that no promise or representation has been made by the Commission or any member, officer, employee, agent, or representative of the Commission with regard to any criminal liability that may have arisen or may arise from the facts underlying this action or immunity from any such criminal liability. Defendant waives any claim of Double Jeopardy based upon the settlement of this proceeding, including the imposition of any remedy or civil penalty herein. Defendant further acknowledges that the Court's entry of a permanent injunction may have collateral consequences under federal or state law and the rules and regulations of self-regulatory organizations, licensing boards, and other regulatory organizations. Such collateral consequences include, but are not limited to, a

statutory disqualification with respect to membership or participation in, or association with a member of, a self-regulatory organization. This statutory disqualification has consequences that are separate from any sanction imposed in an administrative proceeding. In addition, in any disciplinary proceeding before the Commission based on the entry of the injunction in this action, Defendant understands that it shall not be permitted to contest the factual allegations of the complaint in this action.

12. Defendant understands and agrees to comply with the terms of 17 C.F.R. § 202.5(e), which provides in part that it is the Commission's policy "not to permit a defendant or respondent to consent to a judgment or order that imposes a sanction while denying the allegations in the complaint or order for proceedings," and "a refusal to admit the allegations is equivalent to a denial, unless the defendant or respondent states that he neither admits nor denies the allegations." As part of Defendant's agreement to comply with the terms of Section 202.5(e), Defendant: (i) will not take any action or make or permit to be made any public statement denying, directly or indirectly, any allegation in the complaint or creating the impression that the complaint is without factual basis; (ii) will not make or permit to be made any public statement to the effect that Defendant does not admit the allegations of the complaint, or that this Consent contains no admission of the allegations, without also stating that Defendant does not deny the allegations; (iii) upon the filing of this Consent, Defendant hereby withdraws any papers filed in this action to the extent that they deny any allegation in the complaint; and (iv) stipulates solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. §523, that the allegations in the complaint are true, and further, that any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Defendant under the Final Judgment or any other judgment, order, consent order, decree or settlement agreement

entered in connection with this proceeding, is a debt for the violation by Defendant of the federal securities laws or any regulation or order issued under such laws. If Defendant breaches this agreement, the Commission may petition the Court to vacate the Final Judgment and restore this action to its active docket. Nothing in this paragraph affects Defendant's: (i) testimonial obligations; or (ii) right to take legal or factual positions in litigation or other legal proceedings in which the Commission is not a party.

13. Defendant hereby waives any rights under the Equal Access to Justice Act, the Small Business Regulatory Enforcement Fairness Act of 1996, or any other provision of law to seek from the United States, or any agency, or any official of the United States acting in his or her official capacity, directly or indirectly, reimbursement of attorney's fees or other fees, expenses, or costs expended by Defendant to defend against this action. For these purposes, Defendant agrees that Defendant is not the prevailing party in this action since the parties have reached a good faith settlement.

14. Defendant agrees that the Commission may present the Final Judgment to the Court for signature and entry, no sooner than 45 days after the agreement between Bank of America Corp., the United States Department of Justice, and certain States dated August __, 2014 is signed, without further notice.

15. Defendant agrees that this Court shall retain jurisdiction over this matter for the purpose of enforcing the terms of the Final Judgment.

Dated: August 15, 2014

Merrill Lynch, Pierce, Fenner & Smith Inc.
Merrill Lynch, Pierce, Fenner & Smith Inc., f/k/a
Banc of America Securities LLC

By: T. David Mantzy
[Name of person signing for entity]

[Title] Associate General Counsel & SVP
[Address] 50 Rockefeller Plaza
New York, NY 10020

On August 15, 2014, J.D. MONTAGUE, a person known to me, personally appeared before me and acknowledged executing the foregoing Consent with full authority to do so on behalf of Merrill Lynch, Pierce, Fenner & Smith Inc as its Associate General Counsel & SVP

Notary Public
Commission expires:

PETER JAMES ACKERMANN
COMM. EXP.
NOTARY
PUBLIC
JUNE 08, 2019
NEW JERSEY

Approved as to form:

Charles F. Smith
Skadden, Arps, Slate, Meagher & Flom, LLP
155 North Wacker Drive
Suite 2700
Chicago, Illinois 60606
(312) 407-0700
Attorney for Defendant

[Title]
[Address]

On _____, 2014, _____, a person known to me, personally appeared before me and acknowledged executing the foregoing Consent with full authority to do so on behalf of _____ as its _____.

_____
Notary Public
Commission expires:

Approved as to form:

_____
Charles F. Smith
Skadden, Arps, Slate, Meagher & Flom, LLP
155 North Wacker Drive
Suite 2700
Chicago, Illinois 60606
(312) 407-0700
Attorney for Defendant

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

SECURITIES AND EXCHANGE COMMISSION,	:	
Plaintiff,	:	**Civil Action No. 3:13-cv-447**
v.	:	
BANK OF AMERICA, N.A., BANC OF AMERICA MORTGAGE SECURITIES, INC., and MERRILL LYNCH, PIERCE, FENNER & SMITH INC. f/k/a BANC OF AMERICA SECURITIES LLC,	:	
Defendants.	:	

CONSENT OF BANC OF AMERICA MORTGAGE SECURITIES, INC.

1. Defendant Banc of America Mortgage Securities, Inc. ("Defendant") acknowledges having been served with the complaint in this action, has entered a general appearance, and admits the Court's jurisdiction over Defendant and over the subject matter of this action.

2. Without admitting or denying the allegations in the complaint (except as provided herein in paragraph 12 and except as to personal and subject matter jurisdiction, which Defendant admits), Defendant hereby consents to the entry of the final Judgment in the form attached hereto (the "Final Judgment") and incorporated by reference herein, which, among other things:

(a) permanently restrains and enjoins Defendant from violation of Sections 17(a)(2) and 17(a)(3) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. §§ 77q(a)(2) & 77q(a)(3)];

(b) permanently restrains and enjoins Defendant from violation of Section 5(b)(1) of the Securities Act [15 U.S.C. § 77e(b)(1)];

(c) orders Defendant to pay disgorgement, prejudgment interest thereon, and a civil monetary penalty under Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)], with the payment of such disgorgement, prejudgment interest, and a civil monetary penalty satisfied in full by the payment of Bank of America Corp. to the United States Department of Justice in accordance with the terms of the agreement dated August __, 2014 among Bank of America Corp., the United States Department of Justice, and certain States.

3. Defendant acknowledges that the civil penalty paid pursuant to the Final Judgment may be distributed pursuant to the Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act of 2002. Regardless of whether any such Fair Fund distribution is made, the civil penalty shall be treated as a penalty paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Defendant agrees that it shall not, after offset or reduction of any award of compensatory damages in any Related Investor Action based on Defendant's payment of disgorgement in this action, argue that it is entitled to, nor shall it further benefit by, offset or reduction of such compensatory damages award by the amount of any part of Defendant's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Defendant agrees that it

shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the United States Treasury or to a Fair Fund, as the Commission directs. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this action. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Defendant by or on behalf of one or more investors based on substantially the same facts as alleged in the Complaint in this action.

4. Defendant agrees that it shall not seek or accept, directly or indirectly, reimbursement or indemnification from any source, including but not limited to payment made pursuant to any insurance policy, with regard to any civil penalty amounts that Defendant pays pursuant to the Final Judgment, regardless of whether such penalty amounts or any part thereof are added to a distribution fund or otherwise used for the benefit of investors. Defendant further agrees that it shall not claim, assert, or apply for a tax deduction or tax credit with regard to any federal, state, or local tax for any penalty amounts that Defendant pays pursuant to the Final Judgment, regardless of whether such penalty amounts or any part thereof are added to a distribution fund or otherwise used for the benefit of investors.

5. Defendant waives the entry of findings of fact and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure.

6. Defendant waives the right, if any, to a jury trial and to appeal from the entry of the Final Judgment.

7. Defendant enters into this Consent voluntarily and represents that no threats, offers, promises, or inducements of any kind (specifically including but not limited to any offers, promises, or inducements related to any application for waivers from disqualification or

exemptive orders from Defendant or its parent or affiliates related to the entry of the injunctions described herein) have been made by the Commission or any member, officer, employee, agent, or representative of the Commission to induce Defendant to enter into this Consent.

8. Defendant agrees that this Consent shall be incorporated into the Final Judgment with the same force and effect as if fully set forth therein.

9. Defendant will not oppose the enforcement of the Final Judgment on the ground, if any exists, that it fails to comply with Rule 65(d) of the Federal Rules of Civil Procedure, and hereby waives any objection based thereon.

10. Defendant waives service of the Final Judgment and agrees that entry of the Final Judgment by the Court and filing with the Clerk of the Court will constitute notice to Defendant of its terms and conditions. Defendant further agrees to provide counsel for the Commission, within thirty days after the Final Judgment is filed with the Clerk of the Court, with an affidavit or declaration stating that Defendant has received and read a copy of the Final Judgment.

11. Consistent with 17 C.F.R. § 202.5(f), this Consent resolves only the claims asserted against Defendant in this civil proceeding. Defendant acknowledges that no promise or representation has been made by the Commission or any member, officer, employee, agent, or representative of the Commission with regard to any criminal liability that may have arisen or may arise from the facts underlying this action or immunity from any such criminal liability. Defendant waives any claim of Double Jeopardy based upon the settlement of this proceeding, including the imposition of any remedy or civil penalty herein. Defendant further acknowledges that the Court's entry of a permanent injunction may have collateral consequences under federal or state law and the rules and regulations of self-regulatory organizations, licensing boards, and other regulatory organizations. Such collateral consequences include, but are not limited to, a

statutory disqualification with respect to membership or participation in, or association with a member of, a self-regulatory organization. This statutory disqualification has consequences that are separate from any sanction imposed in an administrative proceeding. In addition, in any disciplinary proceeding before the Commission based on the entry of the injunction in this action, Defendant understands that it shall not be permitted to contest the factual allegations of the complaint in this action.

12. Defendant understands and agrees to comply with the terms of 17 C.F.R. § 202.5(e), which provides in part that it is the Commission's policy "not to permit a defendant or respondent to consent to a judgment or order that imposes a sanction while denying the allegations in the complaint or order for proceedings," and "a refusal to admit the allegations is equivalent to a denial, unless the defendant or respondent states that he neither admits nor denies the allegations." As part of Defendant's agreement to comply with the terms of Section 202.5(e), Defendant: (i) will not take any action or make or permit to be made any public statement denying, directly or indirectly, any allegation in the complaint or creating the impression that the complaint is without factual basis; (ii) will not make or permit to be made any public statement to the effect that Defendant does not admit the allegations of the complaint, or that this Consent contains no admission of the allegations, without also stating that Defendant does not deny the allegations; (iii) upon the filing of this Consent, Defendant hereby withdraws any papers filed in this action to the extent that they deny any allegation in the complaint; and (iv) stipulates solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. §523, that the allegations in the complaint are true, and further, that any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Defendant under the Final Judgment or any other judgment, order, consent order, decree or settlement agreement

entered in connection with this proceeding, is a debt for the violation by Defendant of the federal securities laws or any regulation or order issued under such laws. If Defendant breaches this agreement, the Commission may petition the Court to vacate the Final Judgment and restore this action to its active docket. Nothing in this paragraph affects Defendant's: (i) testimonial obligations; or (ii) right to take legal or factual positions in litigation or other legal proceedings in which the Commission is not a party.

13. Defendant hereby waives any rights under the Equal Access to Justice Act, the Small Business Regulatory Enforcement Fairness Act of 1996, or any other provision of law to seek from the United States, or any agency, or any official of the United States acting in his or her official capacity, directly or indirectly, reimbursement of attorney's fees or other fees, expenses, or costs expended by Defendant to defend against this action. For these purposes, Defendant agrees that Defendant is not the prevailing party in this action since the parties have reached a good faith settlement.

14. Defendant agrees that the Commission may present the Final Judgment to the Court for signature and entry, no sooner than 45 days after the agreement between Bank of America Corp., the United States Department of Justice, and certain States dated August __, 2014 is signed, without further notice.

15. Defendant agrees that this Court shall retain jurisdiction over this matter for the purpose of enforcing the terms of the Final Judgment.

Dated: August 15, 2014

Banc of America Mortgage Securities, Inc.
Banc of America Mortgage Securities, Inc.

By: T. David Mooney
[Name of person signing for entity]
[Title] Attorney-in-Fact

[Address] 50 Rockefeller Plaza
New York, NY 10020

On August 15, 2014, J. DAVID MONTAGUE, a person known to me, personally appeared before me and acknowledged executing the foregoing Consent with full authority to do so on behalf of Banc of America Mortgage Securities, Inc as its ~~Attorney~~ Attorney-in-Fact.

Notary Public
Commission expires:

PETER JAMES ACKERMANN
COMM. EXP.
NOTARY
PUBLIC
JUNE 08, 2019
NEW JERSEY

Approved as to form:

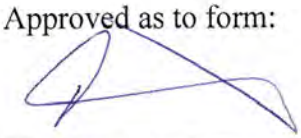
Charles F. Smith
Skadden, Arps, Slate, Meagher & Flom, LLP
155 North Wacker Drive
Suite 2700
Chicago, Illinois 60606
(312) 407-0700
Attorney for Defendant

[Address]

On _____, 2014, _____, a person known to me, personally appeared before me and acknowledged executing the foregoing Consent with full authority to do so on behalf of _____ as its _____.

_____
Notary Public
Commission expires:

Approved as to form:



_____
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Attorney for Defendant