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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

IN RE WACHOVIA PREFERRED SECURITIES AND  
BOND/NOTES LITIGATION

Master File No. 09 Civ. 6351  
(RJS)

ECF CASE

**PROTECTIVE ORDER**

**SUPPLEMENTAL STIPULATION AND [REDACTED] PROTECTIVE ORDER**

This Order supplements this Court's Protective Order of May 4, 2011 (the "May 4<sup>th</sup> Protective Order"). All terms not defined herein have the same meaning as set forth in the May 4<sup>th</sup> Protective Order. To protect personal information consistent with the requirements of federal and/or state law, including, but not limited to, the Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq. and the Gramm-Leach-Bliley Act, 15 U.S.C. § 6801 et seq., and consistent with the public's right of access to the Court's records and processes, the Court hereby enters the following Stipulation and Protective Order (the "Order") pursuant to Fed. R. Civ. P. 26(c), which binds Lead Plaintiffs and the Wachovia Defendants<sup>1</sup> in *In re Wachovia Preferred Securities & Bond/Notes Litigation* 09 Civ. 6351 (RJS) (the "Action"):

<sup>1</sup> The term "Party" or "Parties" as used herein refers to the Wachovia Defendants (Wachovia Corporation, Wachovia Capital Trust IV, Wachovia Capital Trust IX, Wachovia Capital Trust X, Wells Fargo & Company (as successor-in-interest to Wachovia Corporation), Wachovia Capital Markets, LLC (d/b/a Wachovia Securities), Wells Fargo Securities, LLC, G. Kennedy Thompson, Peter M. Carlson, Ross E. Jeffries, Jr., David M. Julian, Mark C. Treanor, Donald K. Truslow, Thomas J. Wurtz, John D. Baker, II, Robert J. Brown, Peter C. Browning, John T. Casteen, III, Jerome A. Gitt, William H. Goodwin, Jr., Maryellen C. Herringer, Robert A. Ingram, Donald M. James, Mackey J. McDonald, Joseph Neubauer, Timothy D. Proctor, Ernest

**I. Information That May Be Designated Highly Confidential**

1. "Highly Confidential" Information is Information that the Producing Party reasonably and in good faith believes contains extremely sensitive, non-public personal information relating to borrowers, consumers and/or other persons, disclosure of which to another Party or Non-Party would create a substantial risk of serious harm, including but not limited to Social Security numbers, home telephone numbers and addresses, tax returns, and medical, credit and banking information.

2. "Personally Identifiable Information" is information, as defined in 16 C.F.R. § 313.3(o) and/or documents or data which may constitute "consumer reports" as defined in the Fair Credit Reporting Act, 15 U.S.C. § 1681, etc.

3. Any copies or reproductions, excerpts, summaries or other documents or media (e.g., electronic, video, or audio) that excerpt, contain, or otherwise reveal the substance of (other than in general terms) Highly Confidential Information shall also be treated as Highly Confidential Information pursuant to this Order.

**II. Designation of Discovery Materials as Highly Confidential**

4. Information may be designated by any Party that has produced such Information (the "Producing Person") as "Highly Confidential" within the meaning of this Order.

5. Information shall be designated "Highly Confidential" only if the Producing Person has a reasonable, good faith belief that the Information so designated is "Highly Confidential" as further defined herein.

6. Any Information that is to be designated "Highly Confidential" may be so designated by the Producing Person by (i) providing copies of the Information so designated,

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S. Rady, Van L. Richey, Ruth G. Shaw, Lanty L. Smith, John C. Whitaker, Jr., and Dona Davis Young) and the Lead Plaintiffs.

stamped or electronically tagged with the legend "HIGHLY CONFIDENTIAL"; or (ii) designating, in a cover letter accompanying a production, the enclosed materials as "HIGHLY CONFIDENTIAL". Information stamped or designated "HIGHLY CONFIDENTIAL," including Information produced in prior litigation, or governmental or regulatory proceeding or investigation bearing such stamp or designation (or any similar designation) and subsequently made available in this Action, shall be treated as Highly Confidential for the purposes of this Order. To the extent a Producing Person makes documents available for inspection and copying prior to affixing (by stamping or electronically tagging) a confidentiality designation to the documents produced, such materials shall nonetheless be treated as Highly Confidential until such time as an appropriate confidentiality designation is affixed to them in accordance with this Order (at the Producing Person's expense), provided that such documents are otherwise clearly identified at the time they are produced (e.g., by descriptive cover letter) as being subject to Highly Confidential treatment under the terms of this Order.

7. If Highly Confidential Information is disclosed to any person in violation of this Order, the Party or non-party responsible for the disclosure shall, upon learning of such disclosure, immediately (but in no event more than five business days after learning of such disclosure) inform the Producing Person of all pertinent facts relating to such disclosure and shall make every reasonable effort to retrieve the designated material and to prevent the occurrence of any further disclosure in violation of this Order.

8. In the event that a Producing Person produces two or more identical or substantially identical copies of a document or other Information, and any copy is designated Highly Confidential while other copies are not so designated, all such identical or substantially identical documents or other Information shall be treated as Highly Confidential once notice is

given of the inconsistent designation. The Producing Person shall be responsible for giving notice of the inconsistent designation.

**III. Procedures Concerning Inadvertent Disclosure**

9. Failure to designate any Information as Highly Confidential shall not be deemed a waiver of the Producing Person's claim of confidentiality or other applicable privilege as to such Information or as to the subject matter of such information. A Party or other Producing Person that has inadvertently produced Highly Confidential Information without designating it as Highly Confidential may at any time redesignate such Information as Highly Confidential. The Party receiving such redesignated Highly Confidential Information shall make a reasonable good faith effort to ensure that any analysis, memoranda, notes, or other material that were generated based upon such Information shall immediately be treated in conformity with any such redesignation. Persons who obtain access to such Information prior to its redesignation shall, from the time of notice to them of the Information's redesignation, restrict their review or use of that Information in accordance with the higher protection level.

**IV. Permissible Uses of Discovery**

10. All Highly Confidential Information shall be used by the Party or Parties to whom the information is produced solely for the purpose of this Action and no other litigation or proceeding.

11. Notwithstanding any other provision in this Order to the contrary, nothing herein shall impose any restrictions on the use or disclosure by a Party, non-party or witness of documents, materials or information obtained by such Party, non-party or witness independently of the proceedings in this Action, whether or not such documents, material or information are also obtained through proceedings in this Action.

12. Disclosure of "Highly Confidential" Information (without acknowledgment).

Unless otherwise ordered by the Court or permitted in writing by the Producing Party, a recipient of Highly Confidential Information (a "Receiving Party") may disclose Highly Confidential Information only to:

- a. the Court and any appellate court, and any mediator or arbitrator engaged by the Parties or appointed by the Court; and
- b. outside counsel for the Parties, regardless of whether they appear, and their secretaries, legal assistants, or other support personnel as reasonably necessary to assist outside counsel for the Parties in this litigation.

13. Disclosure of "Highly Confidential" Information (with acknowledgement).

Outside counsel for a Receiving Party may disclose Highly Confidential Information to the following persons only as reasonably necessary to the conduct of the Action and only if outside counsel for the Receiving Party has redacted from the Highly Confidential Information the material or information that it believes in good faith constitutes Personally Identifiable Information.

- a. named individual Parties and representatives of the named entity Parties responsible for overseeing the Litigation to whom disclosure is reasonably necessary for this litigation and who have signed the "Acknowledgment and Agreement to Be Bound" that is attached hereto as Exhibit A;

- b. outside experts and/or consultants who are not Parties or employees of any Party (nor known to the engaging Party to have accepted an offer to become an employee of a Party), and who are expressly retained to assist counsel for a Party (collectively "Outside Litigation Assistants") and who have signed the

“Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit A, provided that any report created by such expert or consultant relying on or incorporating Highly Confidential Information in whole or in part shall be designated as “Highly Confidential” by the Party responsible for having such report created;

c. litigation support vendors and copy services, court reporters, data entry, and computer support services retained by a Party in connection with this Litigation and who have signed the “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit A, but only to the extent disclosure to such vendors is reasonably necessary to a Party’s rendering of professional services in this Litigation;

d. during their depositions or at a hearing, witnesses in this Action, but only to the extent disclosure to such witnesses is reasonably necessary and provided that such witnesses have signed the “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit A; and

e. any person who is identified, by the Highly Confidential Information itself, testimony, metadata, or otherwise, as the author or recipient of the Highly Confidential Material to be disclosed to that person.

14. All Parties and persons or entities receiving Highly Confidential Information through outside counsel under Paragraph 13 (“Secondary Recipients”) shall be provided with a copy of this Order, shall hold the Highly Confidential Information in strict compliance with this Order, and shall take appropriate measures to control and restrict access to and/or use of such

Highly Confidential Information in this action to those situations authorized in this Order and to prevent the unauthorized disclosure of such Highly Confidential Information.

15. If Highly Confidential Information is disclosed to or comes into the possession of any person other than in a manner authorized in this Order, whether intentionally, negligently, or inadvertently (“Unauthorized Disclosure”), the Receiving Party or Secondary Recipient from whose possession, custody or control the Protected Material was obtained shall, upon discovery of any Unauthorized Disclosure, immediately inform the Producing Party of all pertinent facts relating to the Unauthorized Disclosure and the nature and extent of the Highly Confidential Information involved. If an Unauthorized Disclosure occurs, the Receiving Party and Secondary Recipient(s) shall take all necessary and appropriate actions to retrieve physically or otherwise control all Highly Confidential Information that was part of the Unauthorized Disclosure and to prevent further disclosure by each and every unauthorized person who may have received such Highly Confidential Information.

16. If an Unauthorized Disclosure of Highly Confidential Information occurs, the Producing Party shall be responsible for determining, within its sole discretion, whether notification of law enforcement and/or regulatory authorities is appropriate and for providing any such notification. At the request of the Producing Party, the Receiving Party and Secondary Recipient(s) shall cooperate and provide information so that the Producing Party can make such determination, provide such notice, and comply with the Producing Party’s obligations following such notice.

17. Nothing in this Order shall prevent any counsel from advising his or her client concerning this Action and, in the course of providing such advice, from referring generally to Highly Confidential Information, so long as he or she does not disclose its specific contents.

18. Nothing in this Order shall prevent a Producing Person from using the Highly Confidential Information that they produced in any way that they so choose.

**V. Challenges to Highly Confidential Designations**

19. If any Party disagrees with the designation by the Producing Person of any Information as Highly Confidential, the disputing Party may seek appropriate relief by motion under the Court's Individual practices for discovery disputes. Until the dispute is resolved, the material shall be treated consistent with the protocol set forth in Paragraphs 12-13 of this Order. The Producing Person bears the burden of persuading the Court that the Information is in fact Highly Confidential within the definition of that term set forth above. Information shall not be entitled to a Highly Confidential designation where such material was in the public domain at the time of, or has become public since, its designation, so long as the Information did not become public in violation of this Order. Nothing in this Order precludes any Party from challenging a confidentiality designation on any other ground.

**VI. Efforts by Non-Parties to Obtain Highly Confidential Information**

20. If any Party has obtained Highly Confidential Information under the terms of this Order and receives a subpoena or other compulsory process commanding the production of such Highly Confidential Information, except as otherwise provided by law, such Party shall notify the Producing Person as soon as practicable but in no event later than two business days following receipt of the subpoena or other compulsory process, including in such notice the date set for the production of such Information (and include, together with such notice, a copy of the subpoena or other compulsory process), so that the Producing Person may file a motion for a protective order to quash the subpoena or other compulsory process. In the event that the Producing Person files such a motion, the Party that received the subpoena or other compulsory

process shall not produce any Highly Confidential Information in response thereto without the prior written consent of the Producing Person, unless in response to an order of a court of competent jurisdiction.

21. Except as otherwise provided by law, the Parties will not object to the Producing Person having a reasonable opportunity to appear in the litigation or process commanding disclosure of such Highly Confidential Information for the sole purpose of seeking to prevent or restrict disclosure thereof.

**VII. Filing Under Seal**

22. All Highly Confidential Information filed with the Court shall be filed under seal pursuant to the following procedures:

a. Where possible, only Highly Confidential portions of filings with the Court shall be filed under seal. Documents or other materials filed under seal shall be placed in sealed envelopes, on which shall be the title to the applicable action(s), the words "FILED UNDER SEAL," and a statement substantially in the following form:

"This envelope is sealed pursuant to order of the Court and contains Highly Confidential Information filed in this case by [name of Party] and is not to be opened or the contents thereof to be displayed or revealed except by order of the Court."

The envelope shall not be opened without further order of the Court. Any envelope containing documents or other materials filed under seal that is an exhibit to a pleading shall also bear the name of the pleading. Where documents or other materials filed under seal are transmitted between the Parties by facsimile, the above message shall be placed on the facsimile cover sheet or on a sheet directly following the facsimile cover sheet. A full and unredacted copy of any such

submissions may be provided directly to chambers, marked "Chambers Copy" and "Contains Highly Confidential Information Subject to Protective Order."

b. If any Party objects to identified portions of the documents or other materials remaining under seal, it shall, within ten business days of filing of the documents or other materials, state its objections in a faxed letter to counsel for all Parties. The interested Parties shall promptly meet and confer to attempt to resolve those objections and, if they cannot be resolved, shall promptly tender those objections to the Court for resolution. In any such judicial proceeding, the Party seeking to maintain the documents or other Information under seal shall bear the burden of persuading the Court that the Information warrants remaining under seal.


c. Highly Confidential Information filed with an appellate court shall be filed in conformance with that court's rules for filing documents under seal.

**VIII. Procedures Upon Termination of Action**

23. All provisions of this Order restricting the use of Highly Confidential Information shall continue to be binding after the conclusion of this Action, including settlement or judgment and all appeals, until further order of the Court, unless the Parties agree otherwise in writing, and except to the extent necessary for counsel to defend its conduct if such conduct is challenged in a collateral or pending action. Any and all originals and copies of documents or other Information deemed to be Highly Confidential shall be destroyed or (at the expense of the Producing Person) be returned to the Producing Person, within 60 days after a final judgment and all appeals herein, or settlement of this Action except that outside counsel for each Party (whether or not counsel of record) may maintain in its files copies of each pleading and litigation document filed with the Court, each written discovery request and written response thereto (but

not Highly Confidential Information produced in response to a request for production of documents, which must be returned to the Producing Person or destroyed in accordance with the procedure identified elsewhere in this Paragraph), and deposition testimony. If the possessing Party elects to destroy the Information rather than return it, the possessing Party shall, upon the request of the Producing Person, provide the Producing Person written certification that the destruction has been completed using commercially reasonable efforts. Nothing in this Paragraph shall require any Party to destroy attorney work product or attorney-client communication that contains or reflects Highly Confidential Information. Nothing in this provision shall limit the right, if any, of any Party or other Producing Person to object to, and seek a ruling of the Court concerning, such Party's or Person's retention of any Highly Confidential Information produced. To the extent any person or entity retains copies of Highly Confidential Information pursuant to the terms of this Paragraph, such Information shall continue to be subject to the protections provided by this Order. In addition, all restrictions in this Order regarding the use by any person or entity of anything contained in or obtained from the Information shall continue even after such Information is returned or destroyed.

**IX. Miscellaneous**

24. The Parties  expressly agree and acknowledge that any party may seek to modify the terms of this Order by motion and upon such notice as permitted by the applicable rules of Court. The Parties further acknowledge that the modifications to this Order will likely be necessary to provide new or different procedures with respect to Highly Confidential Information that may be sought to be introduced at trial, and that absent agreement amongst the Parties hereto concerning such new or different procedures, any Party on motion may seek to impose, or the Court on its own motion may impose, such new or different procedures as the

Court may deem just and proper with respect to the treatment and use of Highly Confidential Information at trial.

25. This Order shall not affect or be deemed to be relevant to the appropriate scope of discovery by any Party under the Federal Rules of Civil Procedure.

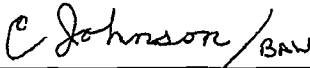
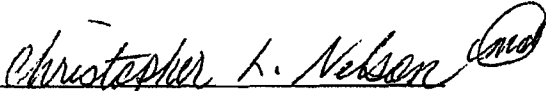
26. The signatories to this Order may modify the provisions of the Order at any time by written stipulation and court order, except the Parties and Producing Persons may extend any of the time limits contained herein by written agreement.

27. Entering into, agreeing to and/or producing or receiving Highly Confidential Information pursuant to, or otherwise complying with the terms of this Protective Order shall not:

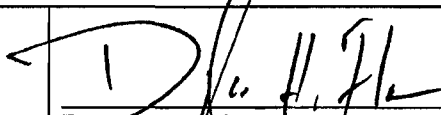
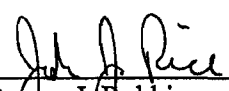
- A. operate as an admission by any Party or Producing Person that any particular Highly Confidential Information contains or reflects such information;
- B. prejudice in any way the rights of the Parties or Producing Persons to object to the production of documents they consider not subject to discovery, or operate as an admission by any Party that the restrictions and procedures set forth herein constitute adequate protection for any particular information deemed by any Party to be Highly Confidential Information;
- C. prejudice in any way the rights of any Party or Producing Person to object to the relevancy, authenticity, or admissibility into evidence of any document, testimony or other evidence subject to this Order;
- D. prejudice in any way the rights of a Party or Producing Person to seek a determination by the Court whether any Information, whether Highly Confidential or not, should be subject to the terms of this Order;
- E. prejudice in any way the rights of a Party or Producing Person to petition the Court for a further protective order relating to any purportedly Highly Confidential Information;
- F. prejudice the right of any Party or Producing Person to move the Court to broaden or restrict the rights of access to and use of particular Information;

G. prevent the Parties to this Order from agreeing to alter or waive the provisions or protections provided for herein with respect to any particular Information; or

H. be construed as an agreement by any person or entity to produce or supply any document, or as a waiver by any person or entity of his its right to object to the production of any document, or as a waiver of any claim of privilege with respect to the production of any document.

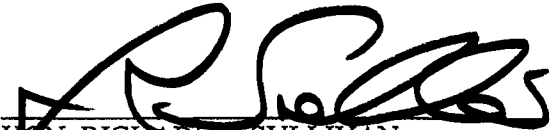
<p> William C. Fredericks Chad Johnson Kurt Hunciker John Rizio-Hamilton Jeroen van Kwawegen <b>BERNSTEIN LITOWITZ BERGER &amp; GROSSMANN LLP</b> 1285 Avenue of the Americas, 38th Floor New York, New York 10019 Tel: 212-554-1400 Fax: 212-554-1444 Bill@blbglaw.com Chad@blbglaw.com Kurt@blbglaw.com Johnr@blbglaw.com Jeroen@blbglaw.com</p> <p><i>Co-Lead Counsel for Plaintiffs</i></p>	<p>Douglas H. Flaum Israel David Eric Hirsch <b>FRIED, FRANK, HARRIS, SHRIVER &amp; JACOBSON LLP</b> One New York Plaza New York, New York 10004-1980 Tel. (212) 859-8000 Fax (212) 859-4000 douglas.flaum@friedfrank.com israel.david@friedfrank.com eric.hirsch@friedfrank.com</p> <p><i>Counsel for the Wachovia Defendants</i></p>
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H. be construed as an agreement by any person or entity to produce or supply any document, or as a waiver by any person or entity of his its right to object to the production of any document, or as a waiver of any claim of privilege with respect to the production of any document.

<hr/> <p>William C. Fredericks Chad Johnson Kurt Hunciker John Rizio-Hamilton Jeroen van Kwawegen <b>BERNSTEIN LITOWITZ BERGER &amp; GROSSMANN LLP</b> 1285 Avenue of the Americas, 38th Floor New York, New York 10019 Tel: 212-554-1400 Fax: 212-554-1444 Bill@blbglaw.com Chad@blbglaw.com Kurt@blbglaw.com Johnr@blbglaw.com Jeroen@blbglaw.com</p> <p><i>Co-Lead Counsel for Plaintiffs</i></p>	 <hr/> <p>Douglas H. Flaum Israel David Eric Hirsch <b>FRIED, FRANK, HARRIS, SHRIVER &amp; JACOBSON LLP</b> One New York Plaza New York, New York 10004-1980 Tel. (212) 859-8000 Fax (212) 859-4000 douglas.flaum@friedfrank.com israel.david@friedfrank.com eric.hirsch@friedfrank.com</p> <p><i>Counsel for the Wachovia Defendants</i></p>
<hr/>  <p>Darren J. Robbins John J. Rice Lucas F. Olts Maureen E. Mueller <b>ROBBINS GELLER RUDMAN &amp; DOWD, LLP</b> 65 West Broadway, Suite 1900 San Diego, CA 92101 Tel: 619-231-1058</p> <p><i>Co-Lead Counsel for Plaintiffs</i></p>	<hr/> <p>David Kessler John A. Kehoe Christopher L. Nelson Alessandra C. Phillips <b>KESSLER TOPAZMELTZER &amp; CHECK, LLP</b> 280 King of Prussia Road Radnor, PA 19087 Tel: 610-667-7706</p> <p><i>Co-Lead Counsel for Plaintiffs</i></p>

8178255

SO ORDERED:



HON. RICHARD J. SULLIVAN  
UNITED STATES DISTRICT JUDGE

Dated: New York, New York

*July 6*, 2011

EXHIBIT A

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

IN RE WACHOVIA PREFERRED SECURITIES AND  
BOND/NOTES LITIGATION

Master File No. 09 Civ. 6351  
(RJS)

ECF CASE

**CERTIFICATION**

I, \_\_\_\_\_ hereby certify that: (i) I have read the Protective Order governing Confidential Material (the "Order") that has been entered by the Court in *In re Wachovia Preferred Securities & Bond/Notes Litigation* 09 Civ. 6351 (RJS) (the "Action"), and I understand its terms; (ii) I understand that Highly Confidential Material may be provided to me pursuant to the terms of the Order; (iii) I agree to be fully bound by the provisions of the Order, including its provisions restricting disclosure of material designated as Highly Confidential under the Order and limiting the use of such material to the conduct of this Action; and (iv) I hereby submit to the jurisdiction of the United States District Court for the Southern District of New York for purposes of enforcing the Order.

Dated:

Signature: \_\_\_\_\_