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Lead Plaintiffs, W. Allen Gage, individually and on behalf of J. David Wrather, Harry Rhodes, FFF Investments, LLC, Robert Ippolito, individually and as Trustee for the Family Limited Partnership Trust, and Nicholas F. Aldrich, Sr., individually and behalf of the Aldrich Family, Plaintiff Betty L. Manning, Plaintiff John Learch and Plaintiff Boilermakers Lodge 154 Retirement Plan (collectively, "Plaintiffs"), individually, and on behalf of all others similarly situated, allege the following based upon Lead Plaintiffs’ individual and personal knowledge and Lead Plaintiffs’ own acts, and upon the investigation of Lead Plaintiffs’ counsel as to all other matters, which includes, *inter alia*, a review of public documents published or disseminated by or on behalf of, or concerning Thornburg Mortgage, Inc. ("TMI" or the "Company") and/or any of its competitors or peers, and any of the individual defendants named herein, including, *inter alia*, United States Securities and Exchange Commission ("SEC") filings, wire and press releases and other announcements, transcripts or wire broadcasts of conference calls, securities analysts’ reports and advisories, and information readily available on the Internet. Lead Plaintiffs believe that substantial additional evidentiary support will exist for the allegations set forth herein after a reasonable opportunity for discovery.

**NATURE OF THE ACTION**

1. This is a federal securities class action that sets forth claims under the Securities Act of 1933 (the “Securities Act”) and under the Securities Exchange Act of 1934 (the “Exchange Act”).

2. Lead Plaintiffs allege that certain defendants acted knowingly or with recklessness in issuing materially false or misleading statements and/or failing to disclose material facts concerning the Company’s business and financial condition between April 19, 2007 and March 19, 2008, inclusive (the “Class Period”) and, thus, are liable to purchasers of
TMI common stock during the Class Period, for violations of Sections 10(b) and 20(a) of the “Exchange Act”, 15 U.S.C. §§ 78j(b) and 78t(a), respectively (the “Exchange Act Action”).

3. The Securities Act claims (the “Securities Act Action”) are pled separate and apart from the Exchange Act Action and are contained in ¶¶42-50, 457-550. Plaintiffs allege that the Securities Act Defendants (defined infra) issued materially false and misleading statements in the Offering Documents (defined infra), in violation of Sections 11 and 15 of the Securities Act, 15 U.S.C. §§ 77k and 77o. The Securities Act Action does not incorporate by reference, or otherwise rely upon, any allegations pled in support of the Exchange Act claims, except those non-fraud based allegations that are specifically incorporated. Pursuant to the Tenth Circuit’s decision in Schwartz v. Celestial Seasonings, Inc., 124 F.3d 1246, 1251-1252 (10th Cir. 1997), and recent decisions from this District, Plaintiffs’ non-fraud allegations in support of the Securities Act Action are pled as separate, stand-alone claims under the notice-pleading standards of Fed. R. Civ. P. 8(a).

I. The Exchange Act Action

4. The fraud-based Exchange Act Action arises out of a scheme orchestrated by TMI and certain of its officers (defined infra as the “Individual Defendants”) to create and/or maintain artificial inflation in the price of TMI common stock throughout the Class Period, to the detriment of ordinary investors who were damaged when the truth began to be revealed to the market.

5. As alleged herein, TMI and the Individual Defendants made a series of affirmative statements during the Class Period, in TMI’s SEC filings, prospectuses and registration statements, and during TMI conference calls with analysts and investors, that were materially false and misleading when made. In addition, TMI and the Individual Defendants
omitted material information regarding the litany of liquidity issues facing TMI that they were required to disclose pursuant to relevant GAAP provisions and SEC regulations – specifically, Item 303 of Regulation S-K, 17 C.F.R. § 229.303, which requires the disclosure of any known trends that were reasonably likely to affect TMI’s income and liquidity; and (2) Regulation S-X, 17 C.F.R. § 210.4-01, which mandates the disclosure of significant concentrations of credit risk.

6. Prior to filing for bankruptcy protection on May 1, 2009, TMI was a publicly-traded residential mortgage lender that claimed to focus primarily on the “jumbo” or “super-jumbo” segment (i.e. loans totaling over $417,000) of the adjustable-rate mortgage (“ARM”) market. The Company describes its business as analogous to a depository bank, such that it generates income from the small, net spread between the interest income it earns on its assets and the cost of its borrowings.

7. Therefore, to show profitability during the Class Period, TMI had to exponentially “grow” the size of its balance sheet through the purchase and origination of mortgage-backed-assets -- a business model that required the Company to have continuous access to capital. TMI historically acquired capital through public offerings of its securities, short-term borrowings, including reverse repurchase agreements (“RPAs”) (described infra), the issuance of asset-backed commercial paper (“ABCP”) (described infra) and the issuance of collateralized debt obligations, (also known as Collateralized Mortgage Debt), (“CDOs”) (described infra).

8. TMI relied heavily upon the use of leverage in order to grow its balance sheet during the Class Period. While the Company compared its business to that of a depository bank, its use of leverage was more aggressive. For example, depository banks are subject to Federal Reserve rules mandating 10% cash reserves, or $1 of actual cash for every $10 they lend; whereas TMI’s internal policy allowed it to borrow $12.50 for every $1 it held in actual equity –
an 8% equity reserve position. Despite questions from analysts about TMI’s aggressive use of leverage during the Class Period, the Company assured its investors that its liquidity was not at risk, boasting as late as July 20, 2007 that its unencumbered assets securing TMI’s highly-leveraged financing were at their highest level “in the history of the organization.”

9. In addition to growing the Company’s balance sheet to obtain corporate profitability, TMI and the Individual Defendants also were motivated during the Class Period to increase the size of the Company’s asset portfolio and revenues as a result of the Company’s compensation policy. TMI’s compensation policy provided financial incentives to TMI executives to grow TMI’s balance sheet at any cost and without regard for business conditions. As analysts pointed out, this compensation policy created a natural conflict of interest between the Company’s managers and its shareholders in periods of economic risk.

10. In light of the foregoing, effective cash and risk management during the Class Period were critical to the Company’s success. The Company paid lip-service to such throughout the Class Period. For example, the Company repeatedly stated in its filings with the Securities and Exchange Commission (“SEC”) that its “primary focus was to acquire and originate high quality, highly liquid mortgage assets such that sufficient assets could be readily converted to cash, if necessary, in order to meet [its] financial obligations.” (Emphasis added.)

11. In furtherance of TMI’s claim that it originated and acquired “high quality” mortgage assets, TMI and the Individual Defendants claimed throughout the Class Period that the Company was “exclusively” focused on originating “prime” mortgage loans, which are loans made to borrowers with a credit score above 620, a debt-to-income ratio no greater than 75% and a combined loan-to-value ratio of 90%.
12. Indeed, TMI's highest-ranking executives repeatedly denied that the Company originated lower quality "subprime" or Alternative-A ("Alt-A") loans, and distanced its multi-billion dollar portfolio of mortgage-backed securities from the Alt-A and subprime-backed securities that had suffered marked deteriorations in value beginning in 2007, stating, *inter alia*, that the Company (1) was "exclusively" a prime originator; and (2) had "benefited" from "credit concerns concentrated in the subprime and Alt A segments of the mortgage market." Thus, TMI and the Individual Defendants left investors with the impression that the Company's asset base and earnings potential were not financially exposed to the decline in the subprime and Alt-A mortgage markets.

13. Alt-A loans, described in detail at ¶¶141-142 below, are mortgage loans to borrowers who do not qualify for a conventional prime mortgage loan. Often an Alt-A borrower is unable to provide the proof of income or the verification of assets necessary to obtain a prime mortgage, but has a satisfactory credit score, or vice versa. Alt-A or "alternative" loans are associated with and defined by a higher level of risk than prime loans.

14. TMI's multi-billion dollar asset portfolio during the Class Period was comprised of various mortgage-related assets. TMI possessed mortgages on loans it originated and acquired. In addition, TMI's mortgage-based holdings included both loans it acquired or purchased. TMI also purchased mortgage-backed securities ("MBS"), a series of fixed-income assets that were bundled and sold as securities (see ¶¶119, 121-122). In addition, the Company posted these MBS assets as the collateral under its billions of dollars in short-term borrowing agreements – the lifeblood of its business. The Company would also originate loans, securitize them, and sell off interests in the securitized assets to obtain additional financing.
15. As the markets for subprime and Alt-A mortgages began to decline and subprime and Alt-A borrowers began to default with increased frequency in 2006 and 2007, as described in detail at ¶¶132-147 below, many mortgage lenders, such as Countrywide and New Century Financial, announced that they were experiencing serious financial and operational problems. For example, on February 7, 2007, New Century Financial, the second largest subprime mortgage originator in the United States in 2006, announced it would restate its financial reports for the first three quarters of 2006. TMI and the Individual Defendants remained steadfast, however, that the Company’s stringent underwriting standards and “high quality” assets, including MBS assets, insulated it from the market downturn and, in fact, positioned TMI to benefit from the challenging mortgage environment in which competitor mortgage companies were suffering. In fact, as early as April 2007, the Company acknowledged burgeoning concerns with the Alt-A mortgage market as investors flocked out of a quickly-declining MBS market, but assured investors that TMI was “different” than the typical mortgage company and, thus, shareholders’ investments in TMI were safe.

16. As prices for MBS backed by Alt-A loans as collateral continued their steep decline throughout 2007, TMI and the Individual Defendants never disclosed that the Company was then holding billions of dollars worth of MBS backed by risky, Alt-A collateral on its balance sheet. Additionally, notwithstanding TMI and the Individual Defendants repeated representations that TMI “focused exclusively on prime mortgage loan originations,” the Company was originating Alt-A loans throughout the Class Period, according to several confidential witnesses with direct knowledge of TMI’s Class Period loan origination practices.

17. While TMI’s Alt-A-backed asset portfolio was, unbeknownst to investors, adversely affecting its balance sheet throughout the Class Period (e.g., TMI’s Alt-A backed MBS
were illiquid/non-salable, and the decline in the value of the Alt-A assets triggered margin calls from RPA counter-parties on RPAs in which these Alt-A assets were held as collateral), TMI ran into another problem in 2007 – a key source of TMI’s funding, the ABCP market, became illiquid. Indeed, as early as May 2007, TMI – through its subsidiary Thornburg Mortgage Finance – encountered significant disruptions in the ABCP market, according to TMI’s bankruptcy court filings. By no later than June 2007, TMI and the Individual Defendants knew, but failed to disclose, that the ABCP market was shrinking rapidly and, by July 2007, had completely “dried up.” Indeed, Defendant Goldstone admitted as much to Lead Plaintiffs’ confidential sources during a private meeting on August 8, 2007. This private admission came just two and a half weeks after the Company represented on July 20, 2007 that its liquidity position was at its highest level “in the history of the organization.”

18. At or about the same time, another source of financing – RPAs – dwindled. Indeed, by July 2007, the RPA market became an increasingly more costly source of financing due, in part, to a combination of declining asset values and the illiquidity of the ABCP market. Third party lenders became reluctant to lend money collateralized by MBS and began to increase the cost to TMI of entering onto RPAs. Furthermore, after early-July, the Company was unable to complete any securitization transactions due to a lack of buyers in the marketplace.

19. Unable to conceal the full effect of (1) the Company’s inability to obtain funding through the ABCP market, (2) an increase in cost to obtain funding in the RPA market; (3) the Company’s inability to securitize loans to obtain permanent financing in August 2007; and (4) the increase in margin calls that resulted from TMI’s high-risk, multi-billion dollar Alt-A mortgage backed asset portfolio, TMI and the Individual Defendants engaged in a campaign of
selective disclosure, which damaged investors, but continued to conceal the full truth from investors to their detriment.

20. For example, on August 14, 2007, the Company advised the market, without any warning, that due to liquidity concerns, it was “exploring” the “potential” sale of assets. Unbeknownst to investors, however, the Company had in truth already completed sales of its assets by August 10, 2007. In fact, the Company would admit on August 20, 2007 that it had completed forced asset sales of $20.5 billion of its highest-rated mortgage-backed assets – 35% of its entire portfolio -- to meet margin calls on its RPA agreements and to satisfy its maturing ABCP obligations, at discount prices (i.e., less than their carrying or book value) beginning on August 10, 2007.

21. Furthermore, the Company continued to conceal that it held billions in MBS backed by risky Alt-A collateral on its balance sheet -- assets that (1) contributed to the liquidity issues raised in the August 14, 2007 announcement, and (2) represented a material portion of TMI’s remaining asset portfolio following the August 10, 2007 $22 billion discount sale which further financially exposed TMI in the rapidly declining real estate market.

22. TMI and the Individual Defendants’ partial disclosure caused the price of TMI common stock to fall 43% or $5.92 per share, from its closing price of $13.81 on August 13, 2007, to at $7.89 on August 14, 2007, on heavy volume of 27,293,100 shares traded – before the Company halted trading completely that day.

23. Following the Company’s discounted sale of its highest-rated mortgage backed assets, TMI operated under the threat of imminent bankruptcy, as described herein. The constant fear of bankruptcy further motivated TMI and the Individual Defendants to engage in a deliberate pattern of concealment and selective disclosure that continued to harm investors.
24. Furthermore, TMI's continued selective disclosure throughout the fall of 2007 and into early 2008 enabled it to obtain hundreds of millions of dollars through securities offerings. For example, the Company completed a preferred stock offering in early September 2007, garnering proceeds of $500 million, as well as two securities offerings in January 2008, garnering additional total proceeds of $212 million. At no time during the course of the securities offerings did TMI and the Individual Defendants reveal that the Company was subject to multi-billion dollar Alt-A MBS exposure, or that the Company's liquidity problems grew exponentially as the MBS and ABCP markets deteriorated.

25. Then, on February 28, 2008, just three weeks after the Company represented that it had "return[ed] to profitability," TMI shocked the market once again when it announced in its Annual Report on Form 10-K for 2007 that it was forced to "meet" more than $300 million in margin calls under its RPAs. As part of the February 28, 2008 announcement, the Company revealed for the first time that it possessed $2.9 billion in MBS backed by risky Alt-A collateral, and that declining values of its MBS backed by Alt-A loan collateral were "specifically" to blame for the margin calls.

26. The price of TMI's common stock dropped again in response to this news, falling more than 15% or $1.78, from its closing price of $11.54 on February 27, 2008, to close at $9.76 on February 28, 2008, on heavy trading volume of 21,012,500 shares.

27. In fact, the Company's February 28, 2008 announcement was yet another in the string of half-truths and falsehoods. Specifically, the Company had not in fact "met" all of its margin calls as of February 28, 2008. In truth, JP Morgan Chase ("JP Morgan") notified TMI that same day that TMI had defaulted on a $320 million loan after it failed to meet an earlier margin call of $28 million. Furthermore, TMI and the Individual Defendants failed to disclose
that the JP Morgan default had triggered cross-defaults in all of TMI's other RPA agreements, exposing TMI to hundreds of millions of dollars in additional liability.

28. TMI and the Individual Defendants' pattern of selective disclosure continued on March 3, 2008. While the Company finally disclosed that it had "been subject to additional margin calls of approximately $270 million ... as of February 29, 2008" and that the Company was "currently in default with one [RPA] counterparty," i.e., JP Morgan, TMI and the Individual Defendants' misrepresented that (1) "the lender ha[d] not yet exercised its right to liquidate pledged collateral," and (2) "to the extent any other [RPA] contains a cross-default provision, the related lender ... could declare an event of default at any time."

29. In fact, and unbeknownst to investors, on March 3, 2008 (1) the Company had received approximately $1.2 billion in margin calls; (2) JP Morgan had already informed the Company in the default notice of its intent to exercise its rights under the RPA, and (3) the cross-default provisions were already triggered in all of the Company's other RPAs, exposing TMI to "material" liquidity concerns.

30. Again, notwithstanding the selective disclosure, TMI's common stock plummeted in response to this news – losing more than 51% of its value over the course of just one trading day. Specifically, the Company's stock price fell $4.58 per share from its closing price of $8.90 on February 29, 2008, to close at $4.32 on March 3, 2008, on extremely heavy volume of 76,858,800 shares traded.

31. The next day, March 4, 2008, TMI's auditor, KPMG, LLP ("KPMG"), sent the Company a letter (the "KPMG Letter") informing the Company that it was withdrawing its unqualified audit opinion contained in the Company's Form 10-K for the year ending December 31, 2007, filed with the SEC on February 28, 2007. KPMG stated, inter alia, that due to
“conditions and events that were known or should have been known to the Company,” the Company’s 2006 and 2007 year-end financial statements “contain material misstatements associated with available for sale securities” and that “substantial doubt exists relative to the Company’s ability to continue as a going concern.” (Emphasis added.) KPMG further demanded that the Company “make appropriate disclosure of the newly discovered facts” because its opinion letter “could no longer be relied upon.” In other words, KPMG was demanding that the Company restate its financial statements for the periods ending December 31, 2006 and December 31, 2007 because they contained material misstatements that “were known or should have been known to the Company.”

32. The timing of the KPMG Letter was highly suspicious in light of the fact that KPMG had issued an unqualified or “clean” audit opinion less than one week earlier.

33. Fearing that news of the KPMG Letter and its demand for a two-year restatement of the Company’s financials would further harm the Company’s beleaguered stock price or, worse yet, send TMI careening into bankruptcy, TMI and the Individual Defendants elected to conceal its existence from investors until March 7, 2008.

34. Moreover, TMI and the Individual Defendants had ample opportunity to disclose the existence of the KPMG Letter on the following day, March 5, 2008, when TMI finally revealed that the February 28, 2008 JP Morgan default had triggered cross-defaults in all of the Company’s RPAs -- events that had a “material” and adverse financial effect on TMI.

35. The Company’s common stock price fell in response to the March 5, 2008 announcement, losing another 54.4% of its value. Specifically, TMI’s common stock fell from its closing price of $3.40 on March 5, 2008, to close at $1.26 on March 6, 2008, on particularly heavy volume of 60,344,600 shares traded.
36. TMI's pattern of concealment continued the next day, March 6, 2008, with the receipt of a letter from the New York Stock Exchange ("NYSE") informing the Company that it had commenced an investigation into transactions in TMI's common stock in January 2008. Faced with the perils of a plummeting stock price and potential bankruptcy, TMI and the Individual Defendants recklessly concealed the NYSE investigation from investors until April 28, 2008 – more than seven weeks after TMI received the letter.

37. As noted above, TMI revealed its receipt of the KPMG Letter on March 7, 2008, stating that it would restate its 2007 – but not its 2006 – financial statements due to a "significant deterioration of prices of [MBS], combined with a liquidity position under unprecedented pressure from increased margin calls ... a portion of which the Company has been unable to meet ... ." The Company stated that the restatement would result in a $427.8 million impairment charge on its balance sheet to reflect the fact that it may not have the ability to hold certain ARM assets to maturity. On March 11, 2008, the Company filed the restatement but revealed that the impairment charge would actually be $676.6 million, an increase of $248.8 million. The restatement further resulted in a $300,000 reduction in management fees and a $5.4 million reduction in fourth-quarter performance fees.

38. Because the restatement was necessarily indicative of events that the Company "knew or should have known" as of December 31, 2007, it raised the obvious question of whether the referenced margin calls and other liquidity issues were known to the Company as of December 31, 2007, yet concealed from investors. No disclosure to investors of pending margin calls of a scope that would potentially require the Company to sell its ARM assets was made by the Company in December 2007. Neither the Company nor KPMG has explained the series of events further.
39. In response to the announcement of the Company’s need to restate, which should have been disclosed days earlier, the Company’s stock price fell another 36%, from its closing price of $1.08 on Friday March 7, 2008, to close at $0.69 per share on Monday March 10, 2008, on heavy volume of 34,591,800 shares traded.

40. Problems stemming from TMI’s undisclosed Alt-A backed MBS portfolio, lack of saleable liquid assets, and RPAs subject to cross-defaults continued to emerge. For example, on March 12, 2008, TMI announced that it had defaulted on a $49 million RPA with Morgan Stanley because it could not meet a $9 million margin call, leading to a further decline in TMI’s stock price.

41. Then, on March 19, 2008 – one and a half months after TMI and the Individual Defendants boasted that the Company had “return[ed] to profitability” – TMI announced that it had entered into a bailout agreement with five of its remaining lenders to obtain approximately $5.8 billion in financing. TMI’s bailout came at a very high price. In fact, Defendant Goldstone conceded that the deal would significantly dilute the value of TMI common stock and admitted that the deal was the only way to “give the company the liquidity and staying power to remain afloat.” Upon this news, shares of TMI fell by almost 50%, to close at just $1.50 on March 19, 2008, on extremely heavy trading volume.

II. THE SECURITIES ACT ACTION

42. As noted above and alleged more fully below at ¶¶452-550, Plaintiffs allege that the Securities Act Defendants (defined infra) are strictly liable for violations of Sections 11 and 15 of the Securities Act, 15 U.S.C. §§ 77k and 77o, respectively for omissions from and material misstatements issued in connection with TMI’s: (1) May 4, 2007, public offering of 4.5 million shares of common stock at $27.05 per share for gross proceeds of $121.7 million (the “May 2007
Offering”); (2) June 19, 2007, public offering of 2.75 million shares of 7.5% Series E Cumulative Convertible Redeemable Preferred Stock (“Series E Preferred Stock”) at $25 per share for gross proceeds of $68.8 million (the “June 2007 Offering”); (3) September 7, 2007, public offering of 20 million shares of 10% Series F Cumulative Convertible Redeemable Preferred Stock (“Series F Preferred Stock”) at $25 per share, for gross proceeds of $500 million (the “September 2007 Offering”); and (4) January 15, 2008, concurrent public offerings of 8,000,000 shares of Series F Preferred Stock at $19.50 per share, for gross proceeds of $156 million, and 7,000,000 shares of common stock at $8.00 per share for gross proceeds of $56 million (the “January 2008 Offerings”).

43. The May 2007 Offering, June 2007 Offering September 2007 Offering and January 2008 Offerings are collectively referred to herein as the “Offerings.”

44. Each of the public offerings described above were made pursuant to a Shelf Registration Statement filed with the SEC on Form S-3 on May 20, 2005, and a Prospectus that became effective June 16, 2005 (collectively, the “Shelf Registration Statement”). The Shelf Registration Statement prospectively incorporated by reference, among other things, “any documents [the Company] file[s] pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act after the date of this prospectus and prior to the termination of the offering of the securities to which this prospectus relates will automatically be deemed to be incorporated by reference in this prospectus and to be part hereof from the date of filing those documents.” Thus, certain quarterly, annual, and current reports filed with the SEC were incorporated by reference into the Shelf Registration Statement.

45. The May 2007 Offering was made pursuant to the Shelf Registration Statement, a Preliminary Prospectus Supplement filed with the SEC on Form 424B5 on May 3, 2007, and a
Prospectus Supplement filed with the SEC on Form 424B2 on May 7, 2007 (the “May 2007 Offering Documents”).

46. The June 2007 Offering was made pursuant to the Shelf Registration Statement, a Preliminary Prospectus Supplement filed with the SEC on Form 424B5 on June 11, 2007, a Final Term Sheet filed with the SEC as a Free Writing Prospectus on June 15, 2007, and a Definitive Prospectus Supplement filed with the SEC on Form 424B2 on June 18, 2007 (the “June 2007 Offering Documents”).

47. The September 2007 Offering was made pursuant to the Shelf Registration Statement, a Free Writing Prospectus filed with the SEC on August 30, 2007, announcing the offering, a Preliminary Prospectus Supplement dated and filed with the SEC on Form 424B5 on August 30, 2007, a Final Term Sheet dated August 30, 2007, and filed with the SEC as a Free Writing Prospectus on August 31, 2007, and a Prospectus Supplement dated August 30, 2007, and filed with the SEC on Form 424B2 on September 4, 2007 (the “September 2007 Offering Documents”).

48. The January 2008 Offerings were made pursuant to the Shelf Registration Statement, two Preliminary Prospectus Supplements filed with the SEC on Forms 424B5 on January 9, 2008, and two Prospectus Supplements filed with the SEC on Forms 424B2 on January 15, 2008 (the “January 2008 Offering Documents”).

49. The May 2007 Offering Documents, the June 2007 Offering Documents, the September 2007 Offering Documents, and the January 2008 Offering Documents are collectively referred to herein as the “Offering Documents.”

50. As is more fully alleged below, the Offering Documents were materially false and/or misleading because they contained affirmative misstatements by TMI and the Individual
Defendants. In addition, the Offering Documents omitted material information that was required to be disclosed pursuant to relevant GAAP provisions and SEC regulations. Specifically, Item 303 of Regulation S-K, 17 C.F.R. § 229.303, required TMI and the Individual Defendants to disclose any known trends that were reasonably likely to affect, *inter alia*, TMI’s income and/or liquidity; and (2) Regulation S-X, 17 C.F.R. § 210.4-01, required TMI and the Individual Defendants to disclose, *inter alia*, significant concentrations of credit risk. Despite these legal duties to disclose such material information, and during a time when TMI and the Individual Defendants claimed that the Company was not an Alt-A originator and generally used the term “Alt-A” as a pejorative, the Offering Documents failed to disclose, *inter alia*, that (1) the Company originated Alt-A mortgage loans; (2) the Company possessed a multi-billion-dollar MBS portfolio backed by Alt-A loans which exposed TMI to financial ruin in the declining mortgage financing market; (3) the ABCP market had ceased to be an available source of financing with TMI; (4) the Company increasingly relied upon RPA financing, and Alt-A backed MBS were being used exclusively to collateralize such financings; and (5) the Company’s RPAs contained cross-default provisions. In addition, the Offering Documents contained affirmative materially false and/or misleading statements including, *inter alia*: (1) TMI’s fiscal year (“FY”) 2006 financial results which, as determined by TMI’s auditor KPMG, were materially false and required restatement; and (2) the Company’s statement that it had access to multiple sources of financing when, in fact, TMI had become increasingly reliant on costly and risky RPA financing.

**JURISDICTION AND VENUE**

51. This action and the claims asserted herein arise under and pursuant to Sections 11 and 15 of the Securities Act, 15 U.S.C. §§ 77k and 77o, respectively, as well as Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 (the “Exchange Act”), 15 U.S.C. §§ 78j(b) and
78t(a), and the rules and regulations promulgated thereunder, including SEC Rule 10b-5, 17 C.F.R. § 240.10b-5.

52. This Court has jurisdiction over the subject matter of this action pursuant to § 22 of the Securities Act, Section 27(a) of the Exchange Act, 15 U.S.C. § 78aa, and 28 U.S.C. § 1331.

53. Venue is proper in the District of New Mexico pursuant Section 22 of the Securities Act, 15 U.S.C. § 77v, Section 27 of the Exchange Act, 15 U.S.C. § 78aa, and 28 U.S.C. § 1391(b), because Defendant TMI is headquartered in Santa Fe, New Mexico, and because many of the acts, transactions and omissions alleged herein, including the preparation and dissemination of materially false and misleading information, took place in substantial part within the District of New Mexico.

54. In connection with the actions alleged in this Complaint defendants named herein, directly and/or indirectly, used means and instrumentalities of interstate commerce, including, but not limited to, the United States mails, telephonic communications, and the national securities exchange.

PARTIES

I. PLAINTIFFS

55. Lead Plaintiffs W. Allen Gage, individually and on behalf of J. David Wrather, Harry Rhodes, FFF Investments, LLC, Robert Ippolito, individually and as Trustee for the Family Limited Partnership Trust, and Nicholas F. Aldrich, Sr., individually and behalf of the Aldrich Family (collectively “Lead Plaintiffs”), purchased shares of TMI publicly traded common stock during the Class Period at artificially inflated prices, as set forth in their
certifications previously filed with the Court, and were damaged thereby. Lead Plaintiffs were appointed by Order of the Court dated February 8, 2008.

56. Plaintiff Betty L. Manning (“Manning”) acquired 550 shares of TMI common stock in the May 2007 Offering. Plaintiff Manning purchased her shares on May 4, 2007, at $27.05 per share, as set forth in her certification attached hereto as Exhibit A. As a result of the misstatements and omissions described herein, Plaintiff Manning suffered damages in connection with her purchase of TMI common stock pursuant to the May 2007 Offering.

57. Plaintiff John Learch (“Learch”), trustee for the Learch Trust, purchased 400 shares of 7.5% Series E Cumulative Convertible Redeemable Preferred Stock in the June 2007 Offering. Plaintiff Learch purchased these shares on June 19, 2007 at $25 per share, as set forth in her certification attached hereto as Exhibit A. As a result of the misstatements and omissions described herein, Plaintiff Learch suffered damages in connection with his purchase of TMI common stock pursuant to the June 2007 Offering.

58. Plaintiff Boilermakers Lodge 154 Retirement Plan (“Boilermakers”) purchased 860 shares of TMI Series F Preferred Stock in the September 2007 Offering. Plaintiff Boilermakers purchased these shares on the date of the September 2007 Offering, August 30, 2007, at $25.00 per share, as set forth in its certification previously filed with this Court, see Doc. 160. Plaintiff Boilermakers purchased these shares directly from defendant Friedman Billings Ramsey. As a result of the misstatements and omissions described herein, Plaintiff Boilermakers suffered damages in connection with its purchase of TMI common stock pursuant to the September 2007 Offering. On February 27, 2010, the Court granted Plaintiffs’ motion to add Boilermakers as a party to this action.
59. Lead Plaintiffs, Manning, Learch and Boilermakers are collectively referred to herein as “Plaintiffs.”

II. DEFENDANTS

60. Prior to filing for bankruptcy protection on May 1, 2009, Defendant TMI was a publicly held corporation organized and existing under the laws of the State of Maryland, with its principal place of business at 150 Washington Ave., Santa Fe, New Mexico. During the Class Period, the Company’s securities traded in an orderly and efficient market on the New York Stock Exchange (“NYSE”) under the symbol “TMA.”

61. Defendant Garrett Thornburg, (“Mr. Thornburg”) founded the Company in 1993 and at all relevant times served as the Chairman of the Board of Directors. Until December 18, 2007, Defendant Mr. Thornburg also served as Chief Executive Officer of the Company. Defendant Mr. Thornburg signed the Company’s quarterly reports on Forms 10-Q for the periods ending March 31, 2007, June 30, 2007 and September 30, 2007; the Company’s Annual Report on Form 10-K for the year-ended December 31, 2006; and the Shelf Registration Statement filed to authorize the issuance and sale of up to $1,500,000,000 in TMI securities.

Defendant Joseph H. Badal ("Badal") has served as a Director, Chief Lending Officer and Executive Vice President of the Company throughout the Class Period until his retirement on December 31, 2007. Defendant Badal signed the Shelf Registration Statement.

Defendant Paul G. Decoff ("Decoff") has served as Senior Executive Vice President and Chief Lending Officer of the Company since January 1, 2008.


Defendants Mr. Thornburg, Goldstone, Badal, Decoff and Simmons are hereinafter referred to collectively as the "Individual Defendants."

III. **CONTROL PERSON/GROUP PUBLISHED INFORMATION ALLEGATIONS**

Section 20(a) of the Exchange Act states in pertinent part:

> Every person who, directly or indirectly, controls any person liable under any provision of this chapter or of any rule or regulation thereunder shall also be liable jointly and severally with and to the same extent as such controlled person to any person whom such controlled person is liable, unless the controlling person acted in good faith and did not directly or indirectly induce the act or acts constituting the violation or cause of action.


The Individual Defendants, by virtue of their positions, exercised control and authority over TMI's internal operations, as well as the Company's dissemination of information to investors, the public and the financial markets. In addition, each of the Individual Defendants
exercised direct control over the accounting practices and procedures employed by TMI throughout the Class Period. Therefore, by virtue of their authority, control and positions officers and/or directors of TMI, the Individual Defendants directly controlled the content of the various SEC filings, press releases and other public statements made by TMI executives pertaining to the Company during the Class Period.

69. As alleged herein, the Individual Defendants are liable for violation of § 10(b) of the Exchange Act for fraudulent statements made to investors during the relevant Class Period. This includes, inter alia, Defendant Goldstone’s false and misleading statements made on behalf of TMI and during TMI’s earnings conference calls on June 6, 2007 and July 20, 2007 and the TMI March 3, 2008 Form 8-K filing (the “Primary Violations”). At the time of the Primary Violations, Defendants Mr. Thornburg, Goldstone, Simmons, Decoff and/or Badal were employed by TMI and held executive positions of control and authority over TMI’s business and operations. Further, each of the Individual Defendants had the opportunity and ability to influence the content of TMI’s public statements and SEC filings, including statements made in conjunction with the Primary Violations (inter alia, TMI’s earnings conference calls on June 6, 2007 and July 20, 2007 and the TMI March 3, 2008 Form 8-K filing).

70. Also, the Primary Violations arose out of an agency relationship with TMI, rendering those statements attributable to each of the Individual Defendants. Defendant Goldstone’s false and misleading June 6, 2007 and July 20, 2007 statements were not ‘informal’ or ‘off the cuff.’ Instead, those statements were a reflection of TMI’s corporate position as to the state of affairs at TMI at that point in time. In that regard, Defendant Goldstone was not simply stating his personal opinion on TMI’s prospects, but was stating the false and misleading

1 As noted above, Defendant Badal retired on December 31, 2007, and was replaced by Defendant Decoff on January 1, 2008.
financial condition of TMI. Each of the Individual Defendants—who were directly responsible for shaping, approving and steering TMI’s public statement—were responsible for the content of those statements. Conversely, each of the Individual Defendants had it within their ability to either: (a) correct the false and misleading statements after they were made; or (b) urge that the false and misleading statements not be disseminated to the investing public. The Individual Defendants failure to exercise this power and discretion renders them culpable under § 20(a).

71. Because each of the Individual Defendants are control persons within the meaning of 20(a) of the Exchange Act, they are liable for damages thereunder.

Section 20(a) Allegations Concerning Defendant Mr. Thornburg

72. Throughout the Class Period, Defendant Mr. Thornburg, as Chairman of the Board and/or CEO, exerted day-to-day control over the entirety of the operations at TMI. Further, at all times relevant to this Complaint, Defendant Mr. Thornburg had—and routinely exercised—the ability to influence the employees and operations of TMI.

73. Defendant Mr. Thornburg is the corporate namesake and founder of TMI. TMI traces its roots back to two entities formed by Defendant Mr. Thornburg in 1982; Thornburg Investment Management and Thornburg Securities.

74. TMI itself was formed by Defendant Mr. Thornburg in 1993, structured as a REIT to take advantage of favorable tax laws. From its formation, until December 17, 2007, Defendant Mr. Thornburg served as both the Chairman of the Board of Directors and CEO of TMI (Defendant Goldstone was a member of the Board of Directors, President and COO of TMI from 1993, took over as CEO on December 17, 2007). At its inception TMI did not originate home loans—what would later become its primary business. Instead, from 1993 thru 1998, TMI focused almost exclusively on purchasing home loans originated by other lenders (such as
Countrywide, etc) and securitizing those loans, earning profits on the ‘spread’ in interest rates (i.e., the difference between the interest rate on the mortgage notes and the prevailing market interest rate).

75. It was not until 1998, following a spike in interest rates and prepayments by note holders, that Defendant Mr. Thornburg stewarded TMI into the loan origination business. TMI began originating large home loans to wealthy buyers, colloquially referred to as “super-prime” loans, resulting from the low risk of default due to the socioeconomic status of the borrowers.

76. As an originator of “super-prime” loans, TMI and Defendant Mr. Thornburg’s status and image were elevated, and by 2004 Defendant Mr. Thornburg was being called the “best financial mind in [A]merica,” due to his hands-on approach at TMI.

77. In late 2003, as TMI’s CEO and Chairman of the Board of Directors, Defendant Mr. Thornburg personally oversaw the purchase of land for TMI’s new headquarters, on Ridge Top Road in Albuquerque. Over the next three years Defendant Mr. Thornburg personally lobbied civic leaders from the city counsel to New Mexico’s Governor Bill Richardson in order to gain key tax breaks and approvals for the construction project.

78. In 2007, as market conditions for began to worsen, Defendant Mr. Thornburg was still firmly in control of the day-to-day operations of TMI. Indeed, a number of filings late into 2007 bear Defendant Mr. Thornburg’s signature, such as TMI’s August 8, 2007 Quarterly Report. See Thornburg Mortgage, Inc., Quarterly Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 (Form 10-Q), at *62 (Aug. 8, 2007) (bearing the signature of “Garrett Thornburg, Chairman of the Board and Chief Executive Officer (Principal Executive Officer).” Moreover, at all times relevant to this Complaint, Defendant Mr. Thornburg was Defendant Goldstone’s direct superior. Accordingly, not only was Defendant Mr. Thornburg
personally responsible for TMI's public statements to investors, he was a controlling person—
with direct managerial authority over TMI—during the time when the Primary Violations
occurred in 2007.

79. It was not until December 17, 2007 that TMI announced that Defendant
Goldstone would be assuming the duties of CEO of TMI. Nonetheless, even the press release and
corresponding Current Report, filed with the SEC, announcing Defendant Mr. Thornburg's
relinquishment of the CEO title stated that he would “remain Chairman of the Board of Directors
and continue to be actively involved with the Company.” Thornburg Mortgage, Inc., Current
Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 (Form 8-K), at *2
(Dec. 20, 2007) (emphasis added).

80. Defendant Mr. Thornburg did remain actively involved with TMI after December
17, 2007 and through TMI’s filing for bankruptcy. Evidence submitted in conjunction with
TMI's bankruptcy suggests that Defendant Mr. Thornburg continued to exert considerable day-
to-day control over TMI employees, directors and executives even after the Company had
entered bankruptcy. For example, Defendant Mr. Thornburg routinely intervened in the day-to-
day running of TMI, going so far as to make calls concerning internal TMI operations from
Paris, where he was vacationing:

Q [question by Mr. Gendron of Venable, LLP] Ma'am, taking you
back to September 2nd, please tell the Court how it was that you
came to be involved on a daily basis with the affairs of the debtors
on that date?
A [by witness Defendant Anderson] On September the 2nd, when I
woke up, I had a -- an urgent message from -- at 5 A.M. from
Garrett Thornburg asking -- he was in -- he lives for much of the
year in Paris, and he was on Paris time, and he was asking me to
get in touch with him immediately.
Q [Mr. Gendron] And what did Mr. Thornburg wish to discuss
with you?
A [Defendant Anderson] He wanted to talk with me about taking
over the day-to-day management of the debtor.


Moreover, as testimony in the bankruptcy proceedings reflects, Defendant Mr. Thornburg was intimately involved in the day-to-day management of Thornburg's operations. This includes, inter alia: (1) ensuring the payment of management fees to TMAC by resisting the implementation of additional controls which would have put future payments to TMAC under more scrutiny; (2) taking a salary for his day-to-day duties at TMI, legal expenses and various other expenses (airfare, tax preparation fees, etc) related to his involvement in routine TMI business; and (3) maintaining an office at the TMI headquarters on Ridge Top Road. See id. at 33-34, 106-07, 111-12, 115-16, 185-86, 190.

Indeed, it was commonplace for persons at TMI—even as late as post-bankruptcy—to refer to Defendants Mr. Thornburg, Goldstone and Simmons specifically as the "management" at TMI. See id. at 190 ("she felt that it was appropriate for management to -- and in that case, she meant Garrett [Thornburg], Larry [Goldstone], and Clay [Simmons].").

Accordingly, throughout the Class Period, at the time of the Primary Violations and at all times relevant to this Complaint, Defendant Mr. Thornburg was a control person within the meaning of § 20(a) of the Exchange Act.

Section 20(a) Allegations Concerning Defendants Goldstone

Throughout the Class Period, Defendant Goldstone, as a Director, President, COO and later CEO, exerted day-to-day control over the entirety of the operations at TMI. Further, at all times relevant to this Complaint, Defendant Goldstone had—and routinely exercised—the ability to influence the public image, statements and operations of TMI.
85. As noted above, Defendant Goldstone has been an employee of TMI since its inception in 1993. Throughout his tenure at TMI, Defendant Goldstone held the titles of Director and COO, ending with his being named CEO in place of Defendant Thornburg on December 17, 2007. The following is the biography of Defendant Goldstone from a TMI proxy solicitation filed with the SEC:

Larry A. Goldstone, our co-founder, has been our President, Chief Operating Officer and one of our directors since we commenced operations in June 1993. Mr. Goldstone is also a Managing Director of the Manager. From November 1991 until August 1992, Mr. Goldstone was employed at Downey Savings and Loan Association, where he was a Senior Vice President and Treasurer primarily responsible for cash and liquidity management, mortgage portfolio management, wholesale funding and interest rate risk management. Prior to his employment at Downey Savings, Mr. Goldstone was employed by Great American Bank, a federal savings bank, for a period of eight years where he held a variety of increasingly responsible positions, including Senior Vice President, and manager in the Treasury Department and in the Mortgage Portfolio Management Department. Mr. Goldstone has extensive experience in all facets of mortgage finance, interest rate risk management and hedging. Mr. Goldstone has a degree in economics from New Mexico State University, B.A. and received his M.B.A. from the University of Arizona.


86. Defendant Goldstone, as a Director, President and COO of TMI at the time of the July 6, 2007 and July 20, 2007—as well as the orator of the false and misleading statements made on those dates on TMI’s behalf—is necessarily a control person for purposes of § 20(a), as well as being primarily responsible for the Primary Violations. See infra ¶¶286, et seq.; Thomson StreetEvents, TMA - Thornburg Mortgage, Inc. at NAREIT’s Investor Forum, at *1
87. Likewise, Defendant Goldstone, as a Director, President and CEO of TMI at the time of the false and misleading March 3, 2008 Current Report, was a control person for purposes of § 20(a) for the purposes of those false and misleading statements. In fact, Defendant Goldstone personally signed the Current Report filing on behalf of TMI, certifying that “[p]ursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.”


88. Defendant Goldstone was the top of the managerial tree at Thornburg, second only to Defendant Thornburg, throughout the Class Period. Thus, at all times relevant to this Complaint, Defendant Goldstone was responsible for all of the activities of TMI personally. As TMI’s annual report, states:

We are dependent upon the efforts of Garrett Thornburg, the Chairman of our Board of Directors and our Chief Executive Officer, Larry A. Goldstone, our President and Chief Operating Officer, Clarence G. Simmons, III, our Senior Executive Vice President and Chief Financial Officer and Joseph H. Badal, our Senior Executive Vice President and Chief Lending Officer, all of whom are also key officers and employees of the Manager. The loss of any of their services could have an adverse effect on our operations.

Thornburg Mortgage, Inc., Annual Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 (Form 10-K), at *18 (March 1, 2007) (emphasis added).

89. Moreover, even before he was named CEO of TMI, Defendant Goldstone as Director, President and COO was signing SEC documents on behalf of TMI. See id. at *57 (“Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by . . . . Larry A. Goldstone,
President and Chief Operating Officer (authorized officer of registrant”). While he was President and COO, Goldstone was directly responsible for all of the day-to-day operations of TMI. As his company profile at that time stated: “Larry Goldstone, a founder of Thornburg Mortgage, Inc., oversees all day-to-day operations of the company, from mortgage portfolio management to marketing.” Larry Goldstone Biography, Walker’s Research, available at http://www.walkersresearch.com/profilePages/Show_Executive_Title/Executiveprofile/L/Larry_A_Goldstone_100021186.html (last visited July 6, 2010).

90. Accordingly, throughout the Class Period, at the time of the Primary Violations and at all times relevant to this Complaint, Defendant Goldstone was a control person within the meaning of § 20(a) of the Exchange Act.

Section 20(a) Allegations Concerning Defendant Simmons

91. Throughout the Class Period, Defendant Simmons, as a Senior Executive Vice President and TMI’s CFO, exerted day-to-day control over the financial operations at TMI. Further, at all times relevant to this Complaint, Defendant Simmons had the ability to influence the financial direction and general operations of TMI, including the decision to enter into the RPAs which ultimately led to the downfall of TMI.

92. Defendant Simmons was hired by TMI in 2005. His previous employer was Countrywide Financial Corporation, where he was a managing director. As his biography from a TMI proxy filing in March of 2007 sets forth:

Mr. Simmons has been one of our Senior Executive Vice Presidents since March 2005 and our Chief Financial Officer since April 2005. Mr. Simmons is also a Managing Director of the Manager. He was a Managing Director at Countrywide Financial Corporation (“CFC”) in Calabasas, California, from 1999 until 2005. During his tenure at CFC, Mr. Simmons was a founder of CFC’s bank subsidiary, Treasury Bank, N.A. and served as chief operating officer, chief risk oversight officer and chief accounting officer of the unit. In these capacities, Mr. Simmons was responsible for building the bank’s lending, financial management, strategic
planning and credit risk management infrastructure. From 1997 to 1999, Mr. Simmons served as Senior Vice President and Chief Operating and Financial Officer at CanadaTrust USA, Inc. in Rochester, New York. From 1984 to 1997, Mr. Simmons worked at First Federal Savings and Loan Association in Rochester, New York, where he held a variety of increasingly responsible positions, including Senior Vice President and Chief Financial Officer. Mr. Simmons is a graduate of Bowdoin College, B.A., and State University of New York, Binghamton, M.B.A.


93. Defendant Simmons was responsible for the entirety of TMI’s financial health, direction and future. In fact, Defendant Simmons held such a position of high authority at TMI that he was listed among TMI’s key executives in numerous SEC filings. As TMI’s annual report, filed in March of 2007, states:

    We are dependent upon the efforts of Garrett Thornburg, the Chairman of our Board of Directors and our Chief Executive Officer, Larry A. Goldstone, our President and Chief Operating Officer, Clarence G. Simmons, III, our Senior Executive Vice President and Chief Financial Officer and Joseph H. Badal, our Senior Executive Vice President and Chief Lending Officer, all of whom are also key officers and employees of the Manager. The loss of any of their services could have an adverse effect on our operations.

 Thornburg Mortgage, Inc., Annual Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 (Form 10-K), at *18 (Mar. 1, 2007) (emphasis added). Accordingly, Defendant Simmons had the power to control TMI, and not only would have known of the falsity of the statements constituting the Primary Violations, but would have had the opportunity and ability to correct those statements or prevent them from being made in the first instance.

94. Moreover, Defendant Simmons –as CFO and Senior Executive Vice President – was principally involved in the Primary Violations alleged herein, with the ability, option and opportunity to change the course or tenor of any of the false and misleading public statements made with regard to the financial standing and prospects of TMI.
95. Defendant Simmons, side-by-side with Defendant Goldstone, participated and presented both the June 6, 2008 NAREIT Investor Forum presentation and the July 20, 2007 TMI second quarter earnings conference call, during which false and misleading statements were made to investors. See infra ¶¶286, et seq.; Thomson StreetEvents, TMA - Thornburg Mortgage, Inc. at NAREIT’s Investor Forum, at *1 (June 6, 2007) (“Corporate Participants . . . Clay Simmons, Thornburg Mortgage, Inc. - Senior EVP & CFO”).

96. Also, Defendant Simmons was present--and even participated in the discussions--during the July 20, 2007 second quarter earnings conference call, during which Defendant Goldstone falsely stated, inter alia, that TMI was “not an Alt-A originator.” See Thomson StreetEvents, TMA - Q2 2007 Thornburg Mortgage, Inc. Earnings Conference Call (Jul. 20, 2007) (“Corporate Participants . . . Larry Goldstone . . . Jane Starrell . . . Clarence Simmons III”) (emphasis added).

97. Likewise, Defendant Simmons is the contact person on the press release attached to TMI’s false and misleading March 3, 2008 Form 8-K filing, which distorts the vulnerability of TMI to cross-default provisions in its RPAs. See Thornburg Mortgage, Inc., Current Report (Form 8-K), Ex. 99.1, at *3 (Mar. 3, 2008) (signed “Thornburg Mortgage, Inc., Santa Fe, Clay Simmons or Suzanne O’Leary Lopez”) (emphasis added).

98. Accordingly, throughout the Class Period, at the time of the Primary Violations and at all times relevant to this Complaint, Defendant Simmons was a control person within the meaning of § 20(a) of the Exchange Act.

Section 20(a) Allegations Concerning Defendant Badal

99. Throughout the Class Period, Defendant Badal, as Senior Executive Vice President and Chief Lending Officer, exerted day-to-day control over the entirety of the
operations at TMI. Further, at all times relevant to this Complaint, Defendant Badal had—and routinely exercised—the ability to influence the direction and operations of TMI, including the decision, among other things, to originate risky Alt-A loans.

100. In addition to being a Senior Executive Vice President and Chief Lending Officer, Defendant Badal was also a member of the TMI Board. As such, he was required to stand for election before the shareholders of TMI. The following is Defendant Badal’s biography from a proxy filed on March 13, 2007 with the SEC:

Joseph H. Badal has been one of our directors since we commenced operations in June 1993. In December 2001, he became our Executive Vice President/Single Family Residential Lending and the Chief Executive Officer of Thornburg Mortgage Home Loans, Inc. ("TMHL"), our wholly-owned mortgage loan origination and acquisition subsidiary. In July 2004, he was promoted to Senior Executive Vice President, Chief Lending Officer. He is also a Managing Director of the Manager. From 1994 through 2001, Mr. Badal was Senior Vice President of Residential Loan Production with Charter Mortgage Company, headquartered in Albuquerque, New Mexico. From 1980 to 1994, Mr. Badal was the President of Merit Southwest Development Company, Inc., a consulting and commercial and industrial real estate development firm headquartered in Albuquerque, New Mexico. He also worked with Norwest Mortgage in Albuquerque from 1992 to 1994. Mr. Badal is a former member of the New Mexico House of Representatives and former Chairman of the New Mexico Mortgage Finance Authority. Mr. Badal is a graduate of Temple University, B.S., and the University of New Mexico, M.B.A.


101. At all times relevant to this Complaint, Defendant Badal – as Director, Chief Lending Officer and Senior Executive Vice President – was a primary decision maker at TMI, with specific authority over the entirety of TMI’s mortgage loan portfolio. Indeed, Defendant Badal often held himself out as an “expert” on the home loan and mortgage industry, authoring and contributing to articles on the subject in a variety of news sources. See, e.g., Badal Joseph, “Mortgage Matters: Is this 2007 . . . or 1929?”, Santa Fe New Mexican Real Estate Guide, at
RE-17 (Oct. 17, 2007) ("There is no question that there have been abuses in the sub-prime arena, and curtailing funds to that sector makes sense."). Some of these articles, such as one authored in the midst of the 'mortgage meltdown' in August of 2007, encouraged real estate agents to help sell more mortgages (for companies such as Thornburg) by being “creative” and encouraging the acquisition of property with "no money down" and with a “second mortgage.” Badal, Joseph, Mortgage Matters: "In Hard Times, What’s a Realtor to do?”, Santa Fe New Mexican Real Estate Guide, at RE-82 (Aug. 5, 2007) (“It’s markets like this that differentiate the creative agents from the mere ordertakers.”); see also Badal, Joseph, “Mortgage Matters: Using Home Equity Wisely,” Santa Fe New Mexican Real Estate Guide, at RE-126 (June 3, 2007) (“For a self-employed borrower or a savvy investor, using mortgage debt to finance the borrower's personal business or to finance an investment can be very economical methods of generating investible funds.”).

102. Also, as a top executive at TMI, Defendant Badal was listed among TMI's key executives in official SEC filings which were disseminated to investors. As TMI's annual report for fiscal year 2006 states:

We are dependent upon the efforts of Garrett Thornburg, the Chairman of our Board of Directors and our Chief Executive Officer, Larry A. Goldstone, our President and Chief Operating Officer, Clarence G. Simmons, III, our Senior Executive Vice President and Chief Financial Officer and Joseph H. Badal, our Senior Executive Vice President and Chief Lending Officer, all of whom are also key officers and employees of the Manager. The loss of any of their services could have an adverse effect on our operations.


103. The Primary Violations which occurred in 2007 – prior to Defendant Badal’s retirement – constituted false and misleading statements relating to TMI's portfolio of loans, i.e.,
whether those loans were "exclusively" prime and not "Alt-A" as was falsely stated. See infra ¶ 286, et seq. This is a subject over which Defendant Badal would have had primary responsibility as Chief Loan Officer. Accordingly, Defendant Badal not only would have known the falsity of the statements constituting the Primary Violations, but would have had the opportunity and ability to correct those statements or prevent them from being made in the first instance.

104. In addition, Defendant Badal, along with Defendants Mr. Thornburg and Goldstone, Simmons was – at all relevant times – a Managing Director of TMAC. A 2007 proxy filing by TMI described Defendant Simmons’ position with TMAC and the conflicts of interests in which that relationship resulted:

In addition to being our Chairman of the Board, our Chief Executive Officer and one of our directors, Mr. Thornburg is Chairman of the Board, Chief Executive Officer and sole director of the Manager and owns all of the voting shares of the Manager. Mr. Goldstone, in addition to being our President, our Chief Operating Officer and one of our directors, is a Managing Director of the Manager. Mr. Badal, one of our Senior Executive Vice Presidents, our Chief Lending Officer and one of our directors, is also a Managing Director of the Manager. Mr. Simmons, one of our Senior Executive Vice Presidents and our Chief Financial Officer, is also a Managing Director of the Manager. As such, Messrs. Thornburg, Goldstone, Badal and Simmons are paid employees of the Manager. Messrs. Goldstone, Badal and Simmons own minority interests in the Manager. Mr. Jeffers, one of our non-management directors, also owns a minority interest in the Manager.

We pay the Manager an annual base management fee based on average shareholders’ equity, adjusted for liabilities that are not incurred to finance assets (“Average Historical Equity” as defined in the Management Agreement) payable monthly in arrears as follows: 1.3636% of the first $300 million of Average Historical Equity, plus 1.00% of that portion above $300 million but less than $1.5 billion. The additional fee earned on Average Historical Equity over $1.5 billion is limited to 0.88% with the fee decreasing an additional 0.05% for each additional $0.5 billion in Average Historical Equity thereafter until reaching a fee of 0.72% on any Average Historical Equity greater than $3.0 billion. These percentages are subject to annual inflation adjustments. For the year ended December 31, 2006, the Manager earned $24,698,032 in base management fees in accordance with the terms of the Management Agreement. In addition, our wholly-owned subsidiaries, including TMHL and its wholly-owned subsidiaries, have entered into separate management agreements with the Manager for
additional management services for a combined amount of $850 per month, paid in arrears.


105. Accordingly, throughout the Class Period, at the time of the 2007 Primary Violations and at all relevant times, Defendant Badal was a control person within the meaning of § 20(a) of the Exchange Act.

Section 20(a) Allegations Concerning Defendant Decoff

106. Throughout the Class Period, Defendant Decoff, as Senior Executive Vice President and Chief Lending Officer, exerted day-to-day control over the entirety of the operations at TMI. Further, at all relevant times, Defendant Decoff had—and routinely exercised—the ability to influence the direction and operations of TMI, including the decision, among other things, to hold and originate loans and securities made of risky Alt-A loans.

107. Defendant Decoff was hired in 2007 by TMI as Executive Vice President and Chief Lending Operating Officer. Also, upon the retirement of Defendant Badal, effective December 31, 2008, Defendant Decoff took over as Chief Lending Officer at TMI (including Badal’s position as a Managing Director of TMAC). The following is Defendant Decoff’s biography from a TMI proxy filed on April 29, 2008 with the SEC:

Paul G. Decoff . . . joined Thornburg Mortgage in January 2007 as Chief Operating Officer of TMHL and Executive Vice President and Chief Lending Operating Officer of the Company. In October 2007, he was promoted to Senior Executive Vice President and successor Chief Lending Officer. He became our Chief Lending Officer effective December 31, 2007. Mr. Decoff is also a Managing Director of the Manager. He has more than 15 years of experience in the mortgage industry, as well as experience in information technology, operations development, financial engineering and organizational management in mortgage lending. Prior to joining Thornburg Mortgage, Mr. Decoff was employed for 13 years at Countrywide Financial Corporation, where he most recently served as a managing director and chief operations officer at
Countrywide Bank, N.A. Prior to that, he served in multiple capacities at Countrywide Home Loans including executive vice president and corporate operations officer. In addition to his extensive mortgage industry experience, he also worked as a management consultant for Deloitte & Touche Management Consulting for nine years in which he managed and performed a large number of information technology, operations improvement, and financial consulting engagements. Mr. Decoff is a graduate of Boston College, B.A. and Southern Methodist University, M.B.A.


108. At all relevant times, Defendant Decoff – as Director, Chief Lending Officer and Executive Vice President – was a primary decision maker at TMI, with specific authority over the entirety of TMI's mortgage loan portfolio and financing activities. Indeed, Defendant Decoff often held himself out as an ‘expert’ on the home loan and mortgage industry, authoring and contributing to articles on the subject in a variety of news sources – even predicting a strengthening mortgage market on the eve of Thornburg's downfall. See, e.g., Kate Berry, Jumbo Loan Market Again Competitive, 7 American Banker 173, at 1 (Jan. 10, 2008) (“Paul Decoff, an executive vice president at the Santa Fe, N.M., jumbo lender Thornburg Mortgage Inc., said in an interview Wednesday that competition is returning to the market on the retail side.”).

109. Indeed, Defendant Decoff towed the misleading ‘company line’ by making public statements in early 2008 which parroted false and misleading statements made by Defendant Goldstone in mid-2007 regarding the credit quality of TMI's mortgage assets. See, e.g., Stovall, Nathan, Thornburg Mortgage swings back to profitability in Q4, SNL Financial Services Daily (Feb. 5, 2008) (“We expect our jumbo and super-jumbo loan origination volumes to rebound in the coming year, and we believe the company’s long-standing reputation as a prime, high credit-
quality focused lender in the jumbo sector gives us a competitive advantage,' Paul Decoff senior executive vice president and chief lending officer, said in a news release.

110. Also, as a top executive at TMI, Defendant Decoff was listed among TMI's key executives in official SEC filings which were disseminated to investors. As TMI's annual report for fiscal year 2007 states:

We are dependent upon the efforts of Garrett Thornburg, the Chairman of our Board of Directors, Larry A. Goldstone, our President and our Chief Executive Officer, Clarence G. Simmons, III, our Senior Executive Vice President and Chief Financial Officer, and Paul G. Decoff, our Senior Executive Vice President and Chief Lending Officer, all of whom are also key officers and employees of the Manager. The loss of any of their services could have an adverse effect on our operations.

Thornburg Mortgage, Inc., Amendment No. 1 to Form 10-K, Annual Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 (Form 10-K/A), at *23 (Mar. 11, 2008) (emphasis added).

111. Accordingly, throughout the Class Period, at the time of the 2008 Primary Violations and at all times relevant to this Complaint, Defendant Decoff was a control person within the meaning of § 20(a) of the Exchange Act.

112. Among other actionable conduct detailed herein, the Individual Defendants, inter alia: (1) failed to timely disclose that TMI originated a material amount of Alt-A mortgages and acquired billions of dollars in assets backed by risky Alt-A mortgage collateral in its portfolio at a time when TMI claimed not to be an Alt-A originator, not to be impacted by the subprime crisis, and used the term Alt-A as a pejorative; (2) failed to timely disclose that the Company was subject to billions of dollars in margin calls under its lender agreements collateralized by Alt-A backed MBS, which would ultimately cause forced sales of more than 35% of the Company's assets; (3) failed to timely disclose that TMI had defaulted on a RPA agreement with JP Morgan
on February 28, 2008, thereby triggering cross-default provisions in all of its other RPAs; and (4) failed to disclose that beginning in early-2007, rapidly deteriorating conditions in the ABCP and mortgage finance markets threatened the Company’s ability to raise the necessary cash to fund its ongoing operations, ultimately leading to forced sales of the Company’s highest-rated mortgage assets and leaving the Company with lower-rated, less valuable and less liquid mortgage assets.

SUBSTANTIVE ALLEGATIONS

I. BACKGROUND

113. On May 1, 2009, after numerous attempts to stave off its creditors, TMI filed for bankruptcy protection in the United States Bankruptcy Court for the District of Maryland. TMI’s bankruptcy proceedings are ongoing. The entire course of conduct alleged herein occurred prior to the filing of TMI’s bankruptcy petition.

114. Until filing for bankruptcy protection, TMI, founded in 1993, operated as a publicly traded single-family residential mortgage lender operating in all 50 states. During the Class Period, the Company claimed to focus principally on the niche jumbo and super-jumbo segment of the ARM market, lending directly to high net-worth clients as well as purchasing mortgage products from lending partners across the country. Jumbo mortgages are defined as mortgages in excess of $417,000.

115. TMI is classified as a Real Estate Investment Trust (“REIT”) for federal income tax purposes – meaning that it is not subject to federal or state income tax at the corporate level on that portion of REIT taxable income or capital gain that it distributes to its shareholders. In order to qualify for tax treatment as a REIT, TMI must: (i) distribute at least 85% of its taxable income by the end of each calendar year, and (ii) declare dividends of at least 90% of its income
by the time it files its tax return for such year, and pay such dividends no later than the date of
the first regular dividend payment after such declaration. Thus, the regular payment of dividends
is an expectation for TMI’s shareholders, underscoring the importance of continuous balance
sheet growth and profitability to the Company and its management.

II. **THE COMPANY GENERATES REVENUE BASED UPON THE SMALL SPREAD BETWEEN ITS INVESTMENTS AND THE COST OF BORROWING**

116. While TMI is not a bank or savings and loan institution, the Company describes
its business purpose, strategy and method of operation as best understood in comparison to such
institutions. Like traditional banking institutions, TMI generates its income primarily from the
net spread or difference between the interest income it earns on its assets and the cost of its
borrowings. Unlike a bank or savings and loan institution, however, TMI finances the purchases
and originations of its ARM assets with equity capital, unsecured debt, CDOs and short-term
borrowings instead of deposits or Federal Home Loan Bank advances. As Defendant Goldstone
explained during a November 27, 2007 earnings conference call with investors:

> We are a jumbo originator. We have for example, no relationship with Fannie Mae or Freddie Mac so we’re not trying to compete in the conforming eligible space within the mortgage origination business. We are a portfolio lender. I would contrast that with a mortgage banking strategy. By mortgage banker, I mean that’s a company who is in the business of originating mortgages and they then turn around and sell them to third parties and they book gain on sale, present value future cash flows as part of that gain on sale.

> That’s not the business that we are in. We’re a portfolio lender. We originate loans and acquire assets principally to hold on our balance sheet and our income and profitability is generated by the spread or the net difference between the income that we earn, or the interest that we earn on our assets, and our cost of funds.

117. TMI therefore profits by growing the size and scope of its balance sheet, whether
through mortgage originations or acquisition of mortgage-based assets. This business model
requires the Company to have ready and widespread access to cash in order to both achieve
growth and maintain stability during market downturns. TMI accesses the cash needed to fund its operations in primarily three ways: (1) equity offerings, including common and preferred stock offerings; (2) short term borrowings, such as RPAs and ABCP; and (3) CDOs.

118. RPAs involve a simultaneous sale of pledged securities to a lender at an agreed-upon price in return for an agreement to repurchase the same securities at a future date (the maturity of the borrowing) at a higher price. Most RPAs, including the mortgage backed security RPAs that TMI entered into during the Class Period, could require the borrower (in this case TMI) to post additional collateral should the value of the original collateral decline.

119. CDOs are a form of long-term, non-recourse financing, issued by trusts and secured by ARM Loans originated or purchased by TMI. CDOs are constructed from a portfolio of fixed income assets and divide the credit risk among different tranches: senior tranches (rated “AAA”), mezzanine tranches (“AA” to “BB”), and equity tranches (unrated). Losses are applied in reverse order of seniority, so junior tranches offer higher coupons (interest rates) to compensate for the added risk. Sales of CDOs were a significant source of funding for TMI, but became more difficult to consummate as the mortgage financing market declined during the Class Period, particularly for those securities rated less than AAA. Indeed, TMI encountered difficulties selling even its AAA-rated CDOs during the Class Period.

120. During the Class Period, TMI held itself out exclusively as a “prime” loan originator. As Defendant Goldstone stated during a June 6, 2007 North America REIT’s (“NAREIT”) Investor Forum, TMI occupies a niche in the mortgage finance market, focusing “exclusively on prime mortgage loan originations, as opposed to subprime,” and focusing “on the jumbo sector and in fact super jumbo sector of the mortgage origination space.” (Emphasis added.) According to Defendant Goldstone, the jumbo and super jumbo-type mortgage “is the...
niche in the market that [TMI] want[s] to serve," citing “an economy of scale argument in the loan origination business.” Defendant Goldstone further explained that:

underwriting a $100,000 loan and underwriting a $1 million loan is essentially the same process. So if you can spread your underwriting costs over a $1 million loan as opposed to over a $100,000 loan, you’ve got a more profitable transaction... [TMI] actually spend[s] more money than most people in the industry underwriting loans [to] get the credit quality and the portfolio correct, [and] to do [its] due diligence [it] can justify that incremental or additional expense from an underwriting perspective because [it is] amortizing or capitalizing that expense against a much larger average loan size. So consequently, it actually end[s] up with a competitive advantage as it relates to everybody else in the industry.

121. As noted above, the Company derives income from both the loans and MBS it originates, as well as from MBS it acquires. Throughout the Class Period, the Company repeatedly touted the superior quality of both its originated portfolio and its acquired MBS asset portfolio. Indeed, according to the Company’s Class Period SEC filings, TMI’s investments in purchased assets are concentrated in so-called “prime,” “high quality” ARM securities that meet TMI’s “High Quality” criteria.

122. While mortgage origination is a part of TMI’s business, in a December 19, 2005, Investment Dealers Digest article titled, “A Mortgage REIT Looks for More CDOs,” Defendant Goldstone described the importance of the Company’s acquired assets to its financial growth: “Our originations are not a small part of our business, but we acquire a lot of assets, the majority of which we acquire in the open market. So we’re really not dependent on originations for growth. It helps, but if our originations were to decrease, it wouldn’t be a struggle.” Thus, the Company’s acquired asset portfolio was a material aspect of its business plan prior to and throughout the Class Period.

123. Recognizing that liquidity of TMI’s mortgage-asset portfolio is essential for the Company’s continued growth and survival, the Company stated in its Class Period SEC filings
that its “primary focus is to acquire and originate high quality, highly liquid mortgage assets such that sufficient assets could be readily converted to cash, if necessary, in order to meet our financial obligations.” (Emphasis added.)

III. THE COMPANY RELIED EXTENSIVELY ON AND TOUTED THE BENEFITS OF LEVERAGING ITS ASSETS TO GROW ITS BUSINESS

124. Throughout the Class Period, the Company relied heavily upon leveraging its assets in order to grow its balance sheet and fund its growth. Indeed, while TMI compared its operations to traditional depository banking institutions, unlike depository banks, which are required by the Federal Reserve to hold at minimum 10% cash reserves on loaned capital, or $1 for every $10 it lends, TMI’s self-imposed leverage restrictions were less conservative.

125. In fact, Company operating policy only required TMI to maintain an Adjusted Equity-to-Assets Ratio of 8%. According to Company SEC filings, this ratio reflects the relationship between those ARM assets financed with borrowings that are subject to margin calls and the Company’s long-term capital position. The 8% ratio roughly translates that debt equals 92% of assets, meaning that for every $12.50 of assets on TMI’s books, only $1 is funded through actual equity.

126. Throughout the Class Period, analysts questioned TMI about its aggressive use of leverage. Specifically, beginning in December 2006 analysts asked the Company whether its limited equity provided sufficient insurance against a real estate market downturn. TMI and the Individual Defendants publicly recognized the theoretical risk, but assured analysts and the market that TMI was insulated from such risk.

127. For example, during a July 20, 2007 earnings conference call, Defendant Goldstone conceded that the Company’s leverage position theoretically put it at risk, but assured
investors that the Company’s “highest” level of unencumbered assets left it in a superior liquidity position:

From a leverage perspective, our adjusted equity to asset ratio was 8.19%, up from 8.01% in the first quarter, so we did deleverage a little bit during the quarter, and my suspicion is that we will deleverage a little bit further as we move -- as we go through the second quarter. We are a little bit nervous about the liquidity issues and the skittishness in the mortgage market, and this might just be an environment to be a little bit more cautious and a little more prudent.

**However, our unencumbered asset portfolio continues to be very, very strong. That number is, I think we closed the quarter with the highest level of unencumbered assets in the history of the organization, $1.6 billion of unencumbered assets, so we have plenty of liquidity as our hedge strategy, our duration management and interest rate risk strategy, and the high credit quality of our portfolio performs as we would have expected it to perform.**

Emphasis added.

128. Thus, by late July 2007 in the midst of the rapidly declining mortgage market and only a few days before TMI and the Individual Defendants commenced a discount sale of 35% of the Company’s highest rated assets, they told investors that the Company’s liquidity position was not only solid but at “the highest level in the history of the organization.”

129. Unbeknownst to investors, however, TMI’s aggressive use of leverage, coupled with its undisclosed possession of billions in illiquid mortgage backed securities collateralized by high-risk Alt-A loans, left the Company vulnerable to liquidity concerns in the rapidly declining mortgage market. Indeed, by this time the Company had lost access to the ABCP market – one of its major sources of financing – due in material part to the fact that over 40% of its acquired whole loan portfolio consisted of less-than-prime stated income loans. The loss of access to ABCP materially impaired the Company’s liquidity position.

130. Further concealed from investors were the effect of and the fact that many of TMI’s RPA agreements contained so-called “cross-default” provisions. A cross-default
provision operated such that if the borrower, TMI, defaulted on one of its RPAs, the default provisions in other agreements were automatically triggered, subjecting TMI to exponential liquidity concerns. In the case of a heavily-leveraged company like TMI that relies upon borrowed capital to fund its operations and growth, one default can trigger a “domino effect” of cross-defaults across its myriad lender agreements, effecting a “run” on the Company’s assets, and extinguishing a key source of funding for its ongoing operations.

131. Indeed, a downturn in the value of assets pledged as collateral to lenders as part of TMI’s 21 RPA agreements could cause the lenders to demand that the Company post additional collateral to secure the loan. Given TMI’s extraordinary leverage and undisclosed possession of MBS backed by Alt-A loan collateral, and notwithstanding its liquidity assurances to investors during the Class Period, TMI had difficulty meeting its additional collateral requirements, triggering defaults under its RPAs and, ultimately, “cross-defaults” as described above.

Following the undisclosed cross-defaults and August 2007 asset sale, TMI’s relationship with its lender banks suffered. At August 2007, TMI had established RPAs with 21 different financial institutions from which it had obtained RPA financing capacity. By December 31, 2007, however, TMI had agreements with only 13 financial institutions.

IV. TMI AND THE MORTGAGE MARKET MELTDOWN

132. As with all financial markets, the United States’ real estate and housing markets historically cycle from periods of growth to periods of decline. Between 2002 and late 2005, the real estate and housing market expanded. During these years, property values rapidly appreciated, and a record number of Americans became homeowners.

133. As more and more first-time buyers sought to purchase homes, lenders faced ever-increasing competitive pressure to supply these buyers with mortgages. In an effort to stay
competitive, lenders began relaxing their underwriting guidelines, and many started offering loans to borrowers with credit scores that would otherwise disqualify them from receiving a conforming mortgage loan. Loans made to such individuals were termed “subprime” mortgages. Because the borrowers’ low credit scores made subprime loans riskier investments, lenders generally charged subprime borrowers higher interest rates. Moreover, many loans offered to subprime borrowers were ARMs that included low introductory “teaser” interest rates. After the ARMs’ introductory periods expired, the higher, adjustable-rates applied and the borrowers’ monthly mortgage payments significantly increased. Lenders offered these loans to subprime borrowers on the faulty premise that appreciating housing prices would provide sufficient equity for the borrowers to refinance prior to the rate resetting.

134. Also eager to profit from the housing boom, financial institutions began pooling groups of mortgage loans together and securitizing them into MBS. Often, pools of MBS were grouped together and securitized into CDOs. As described above, CDOs were a source of cash for TMI. The cash flows for each of these securitized products originated from the underlying mortgage payments. Investors flocked to MBS and CDOs in part because many received top “AAA” ratings from the credit rating agencies, and because these investments typically paid higher interest rates than similarly-rated corporate bonds.

135. When the housing market leveled off and began to decline, however, real estate value appreciation slowed considerably and, in some sectors, began to recede. Unfortunately for borrowers, the market downturn coincided with the expiration of the “teaser” rates on many ARMs, leaving subprime homeowners with unaffordable mortgage payments and without any equity in their homes. Unable to refinance, a large number of subprime borrowers defaulted on their mortgage payments.
136. As the number of defaults increased, the amount of cash being paid into the MBS and CDOs backed by subprime mortgages declined precipitously. Additionally, rating agencies began downgrading securities collateralized by subprime mortgages, and investors that at one time flocked to these securities were now attempting to liquidate their positions as quickly as possible. The rush of sellers into the market and the lack of willing purchasers caused the value of the securities to plummet as the secondary markets effectively shut down.

A. The Implosion of Heavily Leveraged Subprime Backed Hedge Funds Due to Lender Margin Calls

137. By way of example, in June 2007, two Bear, Stearns & Co. Inc. ("Bear Stearns") hedge funds fell victim to the rapidly deteriorating mortgage market. Both hedge funds were created using large quantities of leverage to invest heavily in AAA-rated tranches of MBS backed by subprime collateral and collateralized debt obligations. As an increasing number of subprime borrowers began defaulting on their mortgage obligations, the value of the hedge funds' securities declined dramatically.

138. By June 2007, the lenders to the Bear Stearns hedge funds began instituting margin calls. Because the funds were so highly leveraged, they lacked sufficient capital to meet the lenders' demands.

139. On June 22, 2007, Bear Stearns agreed to provide approximately $3.2 billion in an attempt to bailout the fledgling hedge funds. Nevertheless, on July 18, 2007, Bear Stearns informed investors that the funds had little if any remaining value due to "unprecedented declines" in the value of subprime MBS. The company stated that it intended to "seek an orderly wind-down" of the funds over time. Subsequently, the two hedge funds filed for bankruptcy protection on July 31, 2007. Similarly, on July 30, 2007, IKB Deutsche Industrie Bank ("IKB") announced that it had to provide liquidity support to its Rhineland Funding SIV due to
unspecified losses in its subprime-related mortgage positions. On August 9, BNP Paribas announced that it could not reliably value its portfolio due to market illiquidity. Thus, as early as mid-June 2007, lenders such as TMI knew that the less-than-prime MBS market was in decline.

B. High Risk Alt-A Loans Contribute to Mortgage Market Failures

140. It was initially thought that the increased incidence of foreclosures in the U.S. real estate market, and the adverse financial effects that arose therefrom, was limited to subprime loans. However, beginning in late-2006, it became apparent that the increased incidence of mortgage defaults and the illiquidity of the paper collateralized by those mortgages was spilling over into the next level of high-risk mortgages – Alt-A.

141. Alt-A loans are mortgage loans to borrowers who do not qualify for a conventional, prime mortgage loan. Within the U.S. mortgage industry, different mortgage products are generally defined by how they differ from the types of “conforming” mortgages that are guaranteed by the Government-Sponsored Entities (“GSEs”) of Fannie Mae and Freddie Mac.

142. Alt-A loans are “alternatives” to the gold standard of conforming, GSE-backed mortgages. Often an Alt-A borrower is unable to provide the proof of income or the verification of assets necessary to obtain a prime mortgage, but has a satisfactory credit score, or vice versa. In other words, Alt-A or “alternative” loans are associated with and defined by a higher level of risk than prime loans due to a borrower’s inability to provide these fundamental guarantees.

quoted Glenn Costello, managing director of the U.S. MBS at Fitch Ratings, as explaining that "all of the things that make people worry about subprime deals – softer home prices, changes in interest rates – also affect Alt-A deals.” (Emphasis added.) The 10/16/06 Dow Jones Report also reported that, according to Mark Adelson, head of structured finance research at Nomura Securities in New York, "lower levels of investor safeguards on Alt-A securities make them even riskier than subprime deals.” (Emphasis added.)

144. Indeed, in early 2007 analysts began noting that Alt-A delinquency rates were strikingly similar to those found in the subprime arena. In February 2007, S&P analyst Ernestine Warner, stated in a Los Angeles Times article titled, “S&P to Speed Mortgage Warnings," “In terms of performance, I’d say there are equal concerns’ about Alt-A loans and sub-prime loans at S&P based on early delinquencies.” (Emphasis added.)

145. Similarly, according to a February 16, 2007, Market News International article by Alyce Andres-Frantz titled, “U.S. Swaps: Spreads Wider on Payers v. MBS, Rate Locks, Alt-As" “U.S. medium-term interest rate swaps had widened amid better paying mortgage-backed securities, rate locks and amid concerns about not only sub-prime but also Alt-A lenders.” (Emphasis added.)

146. In a research report by UBS Securities LLC ("UBS") analyst David Liu, titled “Alt-A Credit – The Other Shoe Drops?” published in March 2007, Liu commented on the similar credit risks between subprime and Alt-A, noting, inter alia:

- Alt-A credit has shown signs of weakness similar to those being seen in the subprime market.

- Subprime and Alt-A delinquency rates have roughly doubled over the past year and show no signs of moderation.

- The 60+ day delinquency rate of 2006 Alt-A ARM Interest Only mortgages is running at 4X the level of 2003-2004 vintages.
• The 2006 vintage Alt-A is on track to be one of the worst vintages in recent years – and the 2006 Alt-A ARM IO is running neck to neck with some of the worst Alt-A credit performance we have on record.

147. As 2007 progressed, analyst concerns were realized as delinquency rates associated with Alt-A mortgages and securities backed by Alt-A mortgages ballooned. Accordingly, the market dislocation that at one time affected only subprime mortgages spread to the Alt-A market. Just as with subprime, there was an overabundance of sellers and a shortage of buyers in the secondary market for securities backed by Alt-A mortgages. Thus, commencing in early 2007, the market value of these securities declined dramatically, with no price recovery in sight. In addition, as these credit concerns reached the broader market, the market for ABCP effectively shut down.

C. Agency Ratings Begin To Lose Market Credibility In Early 2007

148. In addition, much of the blame for the recent credit crisis has been laid at the feet of the credit rating agencies that invariably provided ratings to MBS collateralized by risky less-than-prime mortgages.

149. The ratings agencies were tasked with assessing the riskiness of the collateral backing MBS and then assigning a credit rating to the security that accurately reflected its underlying risk. Beginning in March 2007, the ratings agencies’ share prices began to fall as the market began to question the agencies’ valuation methodologies with respect to MBS. Moreover, many began to suspect that conflicts of interest may have led to the agencies to assign unreasonably high ratings to these securities.

150. According to a March 22, 2007 Wall Street Journal article titled “Moving the Market: Credit-Ratings Firms Get Caught Up in Subprime Meltdown,” Moody’s and McGraw Hill’s shares had fallen 11% and 6%, respectively, in the past month amid concerns regarding
their role in the subprime crisis. The article noted that the agencies possessed a conflict of interest, as they “were at least as interested as the investment banks in getting the deals done because they would get paid for rating them.”

151. Further, over a two-week period in June 2007, Moody’s share price fell 15% amid fears that the company may face lawsuits related to inaccurate assessment of the risks associated with some mortgage-backed packaged loans, according to a June 27, 2007 article by Steven Smith of theStreet.com.

152. In early July 2007, the Attorney General of Ohio also targeted the ratings agencies as part of an investigation into the causes of the mortgage market crisis. According to the Attorney General, the agencies “aided and abetted the process by blessing these issues, even though they knew, or should have known, that many of these bonds were backed by mortgages that had been fraudulently made.” Shortly thereafter, in August 2007, Senate Banking Committee Chairman Christopher Dodd requested an examination into the ratings agencies role in the mortgage market crisis. Senator Dodd noted his “great concern” about how credit rating agencies assessed and rated MBS. Against this backdrop, by the spring of 2007, TMI and the Individual Defendants were on notice that there was general market skepticism regarding the validity of the ratings attributed to less-than-prime MBS.

D. TMI and the Individual Defendants Repeatedly Tout the Invincibility of the Company’s MBS Asset Portfolio While at the Same Time Concealing That It Held Billions in Assets Backed by Risky Alt-A Loans

153. Throughout the Class Period, the Company (1) acknowledged the serious difficulties in the Alt-A segment of the market, and (2) distinguished itself from those heavily invested in the Alt-A space. Indeed, TMI and the Individual Defendants embarked on a campaign to extol the purported credit quality and low delinquency rates of the Company’s ARM
loans, the Company's underwriting standards, and the marketability of the ARM portfolio; all the
while they concealed that the Company's existing mortgage-asset portfolio contained billions of
dollars in risky MBS backed by Alt-A collateral.

154. Specifically, the Company boasted repeatedly that its underwriting standards and
the credit quality of its borrowers left it uniquely positioned to benefit from the declines in the
subprime and Alt-A markets. The Company further stated that is was a prime originator, was
focused only on prime, jumbo loans, and did not originate subprime or Alt-A loans, leading
investors to believe that the Company was immune from the mounting subprime and Alt-A
crises.

155. On April 19, 2007, when reporting first quarter earnings, Defendant Goldstone
stated that, “in the first quarter, we benefited from wider spreads on new prime quality mortgage
assets caused by credit concerns concentrated in the subprime and Alt A segments of the
mortgage market. . . .” (Emphases added.) Defendant Goldstone misleadingly distanced TMI
from the troubled subprime and Alt-A markets while making no mention of the fact that the
Company originated Alt-A loans and held billions in MBS backed by Alt-A loans.

156. Less than a month later, on May 15, 2007, during an A.G. Edwards & Sons, Inc.
(“AG Edwards”) Investment Conference, Defendant Goldstone described the Company's
business, stating “we are a single-family residential mortgage lender. We are exclusively a
residential mortgage lender. But we are not all things to all people. We have a very niche or
focused strategy within the single-family residential space. Our focus is on prime origination,
not subprime or Alt A.” (Emphasis added.) Again, Defendant Goldstone failed to disclose that
the Company possessed billions in MBS backed by Alt-A collateral. Furthermore, Defendant
Goldstone misleadingly represented that the Company did not focus on Alt-A originations when,
in fact, a material amount of TMI’s loan originations consisted of Alt-A mortgages. In addition, a material portion of TMI’s acquired home loans – over 40% by December 31, 2007 – constituted less-than-prime stated income loans.

157. Later, on June 6, 2007, during the NAREIT Investor Forum, Defendant Goldstone stated again that the Company was positioned to benefit from the downturn in the subprime and Alt-A markets. He stated, “[t]hat business has not changed in rate, but what has been interesting is we have received more phone calls from more lenders wanting to [do] financing for us in the last three or four months because as the Alt-A and the subprime lending business has sort of gone away, financing opportunities for banking at banks has gone away and they are looking to replace that lost business with a good quality lender and we have probably the premier reputation in the industry today. So all in all on balance, the fundamentals of the business are much improved as a result of this credit deterioration that we have seen in the subprime space.” (Emphasis added.) Again, Defendant Goldstone misleadingly set TMI apart from Alt-A lenders by claiming that the subprime and Alt-A crisis had caused TMI’s business prospects to be “much improved” while failing to disclose the existence of significant Alt-A exposure in the Company’s MBS portfolio.

158. During an earnings conference call with analysts on July 20, 2007, Defendant Goldstone further distanced TMI from the burgeoning subprime and Alt-A crises:

We are behaving substantially differently than subprime originators because we are not that. We are not an Alt-A originator. We are not -- we are a prime adjustable rate mortgage originator, but even our delinquency characteristics as compared to other prime adjustable rate mortgage originators are so far superior as to not even be worth a whole lot of conversation.

Emphasis added.
159. During the same conference call, Defendant Goldstone also boasted that the tightening credit environment was an extremely positive and anticipated development for TMI:

*The current credit crisis in the market environment today, the liquidity issues in the marketplace today, are creating a very, very nice opportunity for us.* This is not a big surprise to us. We’ve been talking about this and anticipating this for awhile, and as credit continues to perform poorly, as investors continue to realize that mortgage investing, whether it is loans or mortgage-backed securities, have risks associated with them, we don’t think the risk premium was appropriate in prior years, but we’re seeing some reestablishment of a risk premium there, and consequently we’re the beneficiary as we put new money to work and raise new capital for our balance sheet.

Emphasis added.

160. Unbeknownst to shareholders, TMI’s purportedly high-quality, prime mortgage-based asset portfolio actually was made up in large part by MBS backed by high-risk Alt-A collateral.

**E. TMI’s Significant Involvement With Originated and Purchased Alt-A Loans**

161. Unbeknownst to investors, TMI was involved in (1) the purchase of securities backed by Alt-A collateral and (2) the origination of Alt-A loans during the Class Period, according to several confidential witnesses. Confidential Witness 3 (“CW3”), a Wholesale Operations Manager for AmFirst Wholesale Lending, a division of AmTrust Mortgage Corporation (“Amtrust”), from May 2004 through December 2006, and who underwrote loans for TMI, stated that the Company originated a material amount of Alt-A loans.

162. CW3 further reported that Amtrust handled Alt-A loans for TMI where documentation standards were either “waived or reduced.” CW3 further stated that from 2004 onward, Amtrust originated “stated income loans,” or loans where no income verification was required, for TMI, although the Company did verify borrower assets. CW3 stated that TMI’s “stated income” loans usually required “six to twelve months of debt service,” which was
generally more stringent than other lenders. Nonetheless, CW3 stated that these loans were clearly Alt-A loans as income verification must be obtained to achieve a “prime” rating.

163. Confidential Witness 4 ("CW4"), a Senior Underwriter for Plaza Mortgage Inc. ("Plaza") from 2004 to 2007 in San Diego who sold ARM assets to TMI during the Class Period, confirmed that “Thornburg did do stated income loans” during the Class Period. CW4 explained that in order to overlook income verification requirements, TMI required a borrower to demonstrate that he had “six to twelve months of assets” in reserve, but the loans were still considered Alt-A.

164. Confidential Witness 5 ("CW5") worked in the “Secondary Markets” area of American Home Mortgage ("American") as a Senior Best Efforts Trader from April 2000 until August 2007. CW5 reported that s/he worked directly with TMI and had underwritten loans for the Company while at American. In addition, CW5 stated that TMI purchased loans from American. CW5 also confirmed that the Company originated “stated income” loans, which s/he specifically described as “Alt-A” loans, during the Class Period.

165. Confidential Witness 6 ("CW6") was employed by Adfitech as a Team Manager in charge of the Non-Performing Loan Department, a department with 45 employees, from May 1992 until February 2008. Adfitech, which provided post-closing audit and document delivery services within the mortgage industry, was acquired by TMI in August 2006. Shortly after TMI acquired Adfitech, CW6 began underwriting mortgage loans for TMI.

166. CW6 stated that s/he believes that TMI originated Alt-A loans. CW6 reported that “anything goes for Thornburg loans,” suggesting that TMI’s purportedly strict Class Period loan origination and purchasing standards were not followed. CW6 confirmed that as long as a borrower had enough money or stock to put up as collateral, his or her loan was approved –
regardless of the borrower’s ability to satisfy other conforming loan requirements such as verified income. Often this occurred even though the loan would not be approved “under normal circumstances,” either because of a low FICO score, a high loan-to-value ratio, lack of income verification or problems with collateral.

167. In addition, according to CW6, in August 2007, s/he attended a meeting of department managers held by Adfitech’s President Sam Meek, Executive Vice President Drew Jacobs, Assistant Vice President Robbie Williams, and Senior Vice President in charge of underwriting Mike Elliott. During the meeting, the Adfitech executives ordered the attendees to process more loans for TMI, and claimed that Adfitech employees were “spending too much time on details.” CW6 and the other department managers were told “to get more loans out of here,” and that they would “have to sacrifice something,” i.e., standards, so that the Company could earn more revenue. According to CW6, this order was directed at all managers in attendance.

168. CW6 further stated that Defendant Goldstone visited Adfitech’s offices once or twice and that Defendant Badal visited Adfitech’s offices every other week and routinely met with Adfitech’s President Sam Meek. In addition, TMI touted its awareness of Adfitech’s activities throughout the Class Period. For example, TMI’s quarterly report filed with the SEC on November 9, 2007 stated, in pertinent part:

Post-funding, TMHL’s wholly owned subsidiary, Adfitech, reviews 100% of our wholesale loans, 100% of loans originated through correspondents with delegated underwriting status and a 10% – 15% sample of our direct retail and correspondent loans, generally within one month of funding. In the future, it is likely we will decrease the number of reviews performed by Adfitech on wholesale loans once we have sufficient evidence of the effectiveness of our underwriting and operating guidelines. These are extensive audits that involve a full evaluation of the underwriting decision and a re-verification of loan documentation. Our internal quality control department reviews all findings. Significant findings are circulated within relevant departments and provided to
applicable correspondents and mortgage brokerage firms. Summary reports are prepared for management and the Board of Directors.

Emphasis added.

169. In reality, according to CW6, Adfitech employees only audited 10% of the loans presented to them.

170. Confidential Witness 7 ("CW7") was employed by United Pacific Mortgage ("United Pacific") as an underwriter from September 2003 until July 2007, who originated mortgages that were purchased by TMI. CW7 recalled that she underwrote approximately fifty loans during her four-year tenure at United Pacific. CW7 had periodic contact with TMI manager in connection with underwriting mortgage loans for the Company.

171. CW7 stated that during his/her tenure at United Pacific, TMI invested in "stated income" or "Alt-A" loans. CW7 defined Alt-A loans as loans that were "more flexible with guidelines" than traditional loans that fell within typical Fannie Mae/Freddie Mac guidelines. CW7 further stated that Alt-A loans were synonymous with stated-income loans. Indeed, as set forth in TMI’s 2007 10-K, at year-end 2007 over 40% of the Company’s portfolio of acquired whole loans consisted of such stated income loans.

172. CW7 recalled that of the fifty or so loans that s/he underwrote for TMI while working for United Pacific, approximately twenty-five percent were stated-income or Alt-A loans. CW7 further recalled that TMI purchased stated income loans throughout the four years s/he worked for United Pacific.

F. Unbeknownst to Shareholders, the ABCP Market Dries Up, Leaving TMI Forced Asset Sales as Only Viable Liquidity Option

173. As late as June 7, 2007, Defendant Goldstone stated that the Company “finances itself in the commercial paper market.” In fact, as of June 30, 2007, the Company held $8.9
billion of ABCP and $20.7 billion in loans from RPAs with over 20 different lenders. These representations advised reasonable investors that the Company continued to access financing in the ABCP market as of June 2007. Indeed, coupled with Defendant Goldstone’s July 20, 2007 statement that the Company’s unencumbered (and, thus, liquid) assets were at an all-time high, no reasonable investor would have believed that the Company was facing a crippling liquidity problem at that time.

174. Notwithstanding the assurances by TMI and the Individual Defendants that the Company was financing itself through the ABCP market and that its ABCP was liquid, TMI has since admitted that the lack of liquidity in the ABCP market began to affect the Company in early 2007. In its bankruptcy court filings, TMI admitted that by May 26, 2007 there existed disruption in the ABCP markets, such that Thornburg Mortgage Finance, LLC, a subsidiary TMI formed in 2007 to purchase whole loans and issue ABCP, never became operational (i.e., it never purchased any loans from TMI and it never issued any ABCP). See In re Thornburg Mortgage, Inc., Debtor, No. 09-17787 (D. Md. Bankr. Jun. 26, 2009) (Doc. 205). TMI’s bankruptcy filings also demonstrate that Thornburg Mortgage Capital Resources, LLC, a subsidiary TMI also formed to issue ABCP, shrunk its ABCP issuance from $9.2 billion to $300 million during the second and third quarters of 2007, thereby reducing TMI’s access to this financing source and reducing its liquidity “due to a lack of liquidity in the ABCP market that began in 2Q07.” See id. The inability of these subsidiaries to issue ABCP was due, in material part, to TMI’s increasing reliance on the acquisition of less-than-prime whole loans during a period when the less-than-prime loan sector was under severe distress, according to TMI’s own disclosures. Indeed, TMI’s restated 2007 Form 10-K disclosed for the first time that 41% of the whole loans TMI held from acquisition activity during 2007 were less-than-prime, stated income loans.
Furthermore, on or about August 8, 2007, Defendant Goldstone met with three TMI investors at his office in Santa Fe. According to two attendees of the meeting, Confidential Witnesses 1 and 2 ("CW1"), ("CW2"), Defendant Goldstone admitted during the meeting that "the commercial paper market has dried up." CW1 and CW2 each interpreted Defendant Goldstone’s comment to mean that the ABCP that TMI relied on to obtain the financing necessary to support its debt obligations was no longer liquid. Defendant Goldstone assured CW1 and CW2, however, that such illiquidity would not pose a problem with the Company’s lenders as the Company’s relationships with its lender banks “were fine.” Unbeknownst to the attendees of the meeting and investors at large, TMI was just two days away from commencing the sale of 35% of its highest quality mortgage-backed assets to meet margin calls by those very same lender banks.

That same day, TMI filed its quarterly report on Form 10-Q ("2Q07 10-Q") for the quarter-ended June 30, 2007. TMI and the Individual Defendants made no mention of the Company’s Alt-A exposure, nor of the fact that, according to Defendant Goldstone, the Company’s “commercial paper market [had] dried up,” or that TMI was in the middle of talks to negotiate rapid sales of 35% of its portfolio to meet lender margin calls, which sales commenced just two days later.

With the ABCP sputtering to a halt by no later than July 2007, the Company’s sole remaining financing option for quick cash was funding from its RPAs using TMI’s purportedly “superior” MBSs as collateral. This last financing option disappeared as well, however, in July and August 2007, as the value of TMI’s MBS declined significantly.

G. TMI Commences an Undisclosed Discount Sale of Its Highest-Rated Assets While Informing the Market It Was Only “Exploring” Such Sales
178. With the ABCP market no longer a viable option for financing by mid-2007, TMI quickly found itself in dire need of cash. In July 2007, as MBS prices declined further, TMI’s RPA lenders began to demand that the Company put up more collateral under the terms of its agreements. As a result of these events, and unbeknownst to investors, the Company began to negotiate the sale of its highest-rated, “AAA” assets. The cash from these sales was used to meet RPA margin calls and to pay off TMI’s maturing ABCP obligations that it was unable to roll over into new ABCP securities as pre-existing ones matured due to the dried-up ABCP market.

179. On August 14, 2007, the Company stunned the market when it announced that it was exploring the “potential” sale of its assets due to liquidity concerns. In fact, however, sales of what ultimately amounted to $22 billion in TMI’s AAA-rated mortgage assets—35% of its total portfolio—were effectuated beginning on August 10, 2007—four days before the August 14, 2007 press release reporting that asset sales were only a “potential[ity]” that the Company was then exploring.

H. TMI Fails to Disclose That It Still Holds Billions in Illiquid MBS Backed by Risky Alt-A Collateral

180. TMI and the Individual Defendants’ pattern of selective disclosure continued throughout 2007. For example, when first disclosing the $22 billion sale of the Company’s highest-rated assets, which the Company claimed “underscore[ed] the salability of the company’s high credit quality portfolio,” TMI and the Individual Defendants neglected to inform investors that the Company was still left with billions of dollars in lower-rated MBS backed by risky Alt-A collateral.

181. Far from “saleable,” such MBS backed by Alt-A collateral were nearly impossible to sell by mid-2007 and would in fact form the basis for an additional liquidity crisis just a few months later given that (1) the Company was only able to negotiate sales of its highest-rated,
AAA assets for the discounted price of 95 cents on the dollar in August 2007; (2) the market for all MBS, and especially Alt-A-backed MBS, was in rapid decline; and (3) the Company’s remaining RPA agreements contained margin call requirements and related cross-default provisions that would trigger with the decline in the value of the underlying Alt-A collateral. As such and unbeknownst to investors, these assets constituted a veritable Trojan horse that would ultimately cause a second liquidity crisis and further damage to the Company. In addition, the declining prices of TMI’s MBS backed by risky Alt-A collateral was very likely itself a contributing factor to at least some of the RPA margin calls experienced by the Company in July and August 2007.

I. Asset Sales Do Not Fully Absolve the Company of Liquidity Issues

182. Even the massive asset sales did not fully absolve the Company of its liquidity issues. On August 30, 2007, the Company announced its intent to secure additional financing through the issuance of a $1.44 billion CDO, collateralized by the Company’s hybrid ARM loans. The transaction was completed on September 4, 2007, and was used to reduce borrowings under the Company’s ARM warehouse financing lines by $1.37 billion. Notably, the Company had tried to effectuate this financing arrangement earlier in August in order to avoid having to sell assets, but was unable to do so.

183. Also on August 30, 2007, the Company announced a preferred stock offering of 20,000,000 shares of the Company’s Series F Preferred Stock. The offering was completed on September 7, 2007, for gross proceeds of $500 million.

J. Adjustments to Loss Estimates Trigger SEC Inquiry

184. On September 6, 2007, the Company filed a Current Report on Form 8-K (“9/6/07 8-K”) with the SEC, updating its estimate of expected losses incurred on the sale of assets in
August 2007. Specifically, the 9/6/07 8-K revised TMI’s loss estimate downward from $930 million expected as of August 20, 2007, to $863 million.

185. On September 28, 2007, the SEC sent TMI a letter, inquiring about the discrepancy. Specifically, the SEC asked the Company to confirm whether the additional $230 million loss noted in its Form 8-K filing dated August 20, 2007, in excess of the $700 million that was already reflected as an accumulated comprehensive loss on the company’s consolidated balance sheet at June 30, 2007, arose from losses in value occurring after the June 30, 2007 balance sheet date.

186. On October 9, 2007, the Company issued a press release reporting that the expected loss on the Company’s sale of assets in August would actually be $1.1 billion – $236 million in excess of the $863 million accumulated comprehensive loss already reflected on its books, as mentioned above. The October 9th press release said nothing of the SEC inquiry.

187. When TMI and the Individual Defendants finally responded to the September 28, 2007, SEC letter on October 15, 2007, the Company stated that, “[i]n early August 2007, the secondary market for financing prime quality mortgage assets and rated mortgage-backed securities (“MBS”) came under severe pressure for a number of reasons. During 2007, lower credit quality loans and securities backed by subprime mortgage loans and, to a lesser extent, Alt-A mortgage loans were downgraded by rating agencies as the credit performance of the underlying loans deteriorated and, as a result, the prices of securities backed by those loans declined.” Essentially, TMI blamed the additional loss to its purported “high quality” asset portfolio on a spill-over effect as a result of the deterioration in the subprime and Alt-A loan markets. The Company made no mention that (1) TMI itself continued to hold billions in MBS backed by risky Alt-A loans; (2) these risky Alt-A assets were the collateral put up to secure the
Company’s RPAs; or (3) the RPAs – by this time the Company’s sole remaining financing option – contained cross-default provisions which would be triggered in the event of a decline in the value of the Alt-A collateral, and which would, in turn, trigger defaults in all of the Company’s RPAs, causing an immediate liquidity crisis. Defendants’ failure to disclose these adverse trends violated Item 303 of Regulation S-K.

K. Effects of the Liquidity Crisis Continued to Plague TMI throughout the Fall of 2007 and Into 2008

188. Liquidity concerns remained at the fore in October and November. As a result, on October 16, 2007, the Company issued a press release announcing that its Board of Directors was forced to forgo declaring a common stock dividend for the third quarter in order to “enhance liquidity until finance markets stabilize.”

189. On November 9, 2007, the Company filed a Quarterly Report on Form 10-Q with the SEC for the quarter-ended September 30, 2007 (“3Q07 10-Q”), in which TMI and the Individual Defendants again discussed the negative effect Alt-A loans were having on the market at large, but failed to mention that the Company held billions in Alt-A backed securities within its portfolio – securities that were collateralizing its RPAs.

190. Market conditions did not improve by the start of 2008 and the Company once again needed to raise cash to fund its ongoing business operations. In addition, according to a January 9, 2008 article in the Mortgage REIT Journal, TMI was required to raise this capital to meet margin calls without having to sell assets again. On January 9, 2008, TMI announced two concurrent public offerings of TMI securities to raise approximately $200 million of additional long-term capital for the Company. Specifically, the Company commenced an offering of 4,500,000 shares of the Company’s Series F Preferred Stock, and another offering for 11,000,000 shares of Company Common Stock. In a press release announcing the offerings, the Company
stated that, “[t]he company intends to use the majority of the net proceeds of these offerings to finance the acquisition or origination of additional ARM Assets. The company will use the remainder of the proceeds for liquidity needs and for working capital, which may include the repayment of maturing obligations.”

191. The quantity of the shares offered under each public offering changed by the time the offerings were priced and, on January 15, 2008, TMI issued a press release announcing that 7,000,000 shares of Company common stock had been priced at $8.00 per share and 8,000,000 shares of its existing Series F Preferred Stock had been priced at $19.50 per share. In total, the Company raised $212 million in gross proceeds from these offerings. In the January 15, 2008, press release, TMI and the Individual Defendants again stated that “Thornburg Mortgage intends to use the majority of the net proceeds to finance the acquisition or origination of adjustable rate mortgage (ARM) assets. The Company will use the remainder of the proceeds for liquidity needs and working capital, which may include the repayment of maturing obligations.”

192. The documents underlying the January 2008 Offerings said nothing of, inter alia, TMI’s high-risk multi-billion dollar Alt-A backed asset portfolio.

L. Company Touts 4Q07 Return to Profitability

193. Following the January 2008 Offerings, TMI needed to and did condition the market to believe (1) that the August 2007 crisis had been a one-time event, the major effects of which had abated; (2) the Company, as a result of its purported “high quality” asset portfolio, was returning to profitability; (3) TMI’s liquidity concerns had largely abated; and (4) TMI was actually in a good position to profit on greater interest rate spreads that were increasingly available as market conditions fluctuated.
194. On February 4, 2008, the Company issued a press release announcing fourth quarter and full-year earnings, and touted its “return to profitability in the fourth quarter during a period of continued unprecedented industry turmoil [as] testament to the strength of [its] business model and [its] conservative approach to risk management, as well as further validation of [its] focus on quality across all aspects of [its] business.” Further, Defendants explained that their “decisive actions to opportunistically raise capital and adapt [the Company’s] hedging and financing strategies in the face of difficult market conditions” enabled the Company “to manage successfully through the market’s turmoil in the fourth quarter.” The Company again said nothing of its multi-billion exposure to Alt-A backed assets.

195. TMI and the Individual Defendants acknowledged that:

Financing mortgage assets will remain a challenge particularly for investment grade mortgage backed securities (MBS) rated AA to BBB, even for those backed by prime jumbo ARM loans. However, we have begun to see financing conditions improve and, despite these challenges, we successfully continue to maintain existing short-term financing facilities with our existing finance counterparties and have successfully added new financing capacity since year end.

196. In effect, the Company reassured investors that despite continued trouble in the MBS market, TMI’s short-term financing facilities would provide adequate access to cash to weather any future difficulties. As such, TMI and the Individual Defendants reassured investors that their “primary focus over the coming months remains increasing our access to diversified and attractively priced financing for our portfolio of high quality ARM assets.”

197. TMI even fooled analysts into believing that its liquidity position had markedly improved. For example, on February 6, 2008, Jefferies & Co. analyst Richard Shane Jr. upgraded the Company’s common stock to “Buy” from “Hold,” citing the lender’s “improved” liquidity position. Similarly, on February 8, 2008, Credit Suisse analyst Moshe Orenbuch issued
a report upgrading the Company from “Neutral” to “Underperform,” saying that TMI would benefit from lower interest rates. Mr. Orenbuch explained that, with Federal Reserve (the “Fed”) rate cuts over the past several months impacting other rates that follow the Fed funds rate downward, “Thornburg is raising money less expensively. This has led to a fatter spread on the lender’s portfolio.”

M. **February 2008 Announcement of Alt-A Portfolio and Margin Calls Stuns the Market**

198. On February 28, 2008 – just 3 weeks after TMI’s claim that it had returned to profitability – the TMI and the Individual Defendants shocked the market once again when TMI announced in its fiscal 2007 Form 10-K filing with the SEC (“2007 10-K”), that it was forced to meet more than $300 million in margin calls over the prior two weeks. Moreover, TMI revealed for the first time that these margin calls were on $2.9 billion in MBS backed by risky Alt-A loans.

199. Notwithstanding the foregoing disclosure, the February 28, 2008 announcement was yet another partial disclosure that did not reveal the full truth about the Company’s financial condition, and in fact, further deceived investors.

200. For example, in the 2007 10-K, signed by Defendants Goldstone and Simmons, TMI represented that “since February 14, 2008” – and through the date of filing the 2007 10-K on February 28, 2008 – the Company had received and met $300 million in margin calls.

201. However, while touting the amount of margin calls the Company had been able to satisfy, the Company failed to disclose any information about margin calls that it had been unable to satisfy. Indeed, prior to March 3, 2008, investors were under the false impression that the Company had been able to satisfy all outstanding and imminent margin call obligations.
202. Unbeknownst to investors, and as TMI and the Individual Defendants later admitted, the Company had received at least an additional $270 million in margin calls between Thursday, February 28, 2008 – the day of the 2007 10-K filing touting the Company’s ability to satisfy margin calls – and Monday, March 3, 2008, that it had been unable to satisfy. In fact, as Defendant Goldstone later admitted in a bankruptcy court filing, during the first quarter of 2008 through March 6, 2008, TMI was subject to “a total of $1.2 billion [in] margin calls under [its RPAs].” (Emphasis added.)

203. Moreover, TMI and the Individual Defendants knew well before February 28, 2008 that TMI was in default of an RPA with JP Morgan that would trigger cross defaults with other RPAs.

204. Specifically, TMI received a notice of default that very same day – February 28, 2008 – from JP Morgan, one of its RPA lenders, which it chose not to disclose to investors at that time. Indeed, JP Morgan notified the Company that it had defaulted on a $320 million loan, after failing to meet an earlier margin call of $28 million.

205. Moreover, the TMI and the Individual Defendants failed to disclose that the JP Morgan default notice also triggered cross-default provisions in agreements with other lenders.

206. Rather than disclose this information in the 2007 10-K or even the next day, TMI and the Individual Defendants waited until March 3, 2008 to reveal that it had received a “notice of default from one of its lenders.”

207. TMI and the Individual Defendants also waited until March 3, 2008 to address the issue of cross-default provisions in agreements with other RPA lenders and, even then, the Company was not completely truthful. Specifically, while knowing full-well that each and every RPA it had entered into had cross-default provisions as a term of their respective financing
agreements, and that each of these provisions was triggered immediately upon the February 28, 2008, JP Morgan default notice, the TMI and the Individual Defendants only told investors that, 

"[t]o the extent that any other [RPA] contains a cross-default provision, the related lender ... could declare an event of default at any time." (Emphasis added.)

N. **Company Faces Additional Margin Calls**

208. The March 3, 2008, press release titled, “Thornburg Mortgage Provides Update on Company’s Liquidity,” announced that TMI had “been subject to additional margin calls of approximately $270 million on its RPA borrowings outstanding as of February 29, 2008,” and that the Company had not been able to meet the majority of these margin calls. Defendant Goldstone signed the March 3, 2008 press release.

209. Further, the TMI and Defendant Goldstone revealed that the Company was in default with one RPA counterparty. However, notwithstanding that the notice of default indicated that JP Morgan intended to exercise its rights under the RPA, which included liquidating pledged collateral, the Company and Goldstone represented that it was still in talks with the lender to negotiate resolving the default. Further, as set forth above, the TMI and Defendant Goldstone indicated that, "[t]o the extent that any other [RPA] contains a cross-default provision, the related lender ... could declare an event of default at any time," when in fact they knew and did not disclose that a default in one agreement triggered cross-default provisions in all of its other RPAs. Indeed, like JP Morgan, at least four other lenders acted upon these provisions and issued similar notices of default to TMI. Thus, the undisclosed cross-default provisions contained in TMI’s RPA agreements sent the Company into an instant liquidity crisis, and forced the Company to enter into the highly dilutive forbearance agreements discussed in ¶¶388-400, below.
210. Later, on March 3, 2008, the Company announced that it was able to finance $1 billion in mortgages which, according to the Associated Press State & Local Wire, would “help improve its liquidity and provide long-term financing.” These mortgage financings were made possible, at least in part, by the Company’s reckless or knowing concealment of the full adverse effects arising from the JP Morgan default.

211. In fact, it would not be until late in the day on March 5, 2008, that TMI would fully disclose the JP Morgan default and the related cross-defaults on all of its RPA financing and secured loan agreements. TMI admitted that (1) JP Morgan told the company on Feb. 28 that it had defaulted on a $320 million financing agreement after missing a $28 million margin call, (2) the notice of default letter “notified the Company that JPMorgan will exercise its rights under the Agreement, (3) TMI’s “receipt of a notice of event of default has triggered more defaults under all of the Company’s other [RPAs] and secured loan agreements,” and (4) TMI’s “obligations under those agreements are material.” During TMI’s bankruptcy proceedings, Defendant Goldstone admitted that by March 6, 2008, the Company had in fact received approximately $1.2 billion in margin calls from its RPA lenders.

O. KPMG Demands that TMI Restate its FY 2006 and 2007 Financial Statements

212. On March 4, 2008, KPMG, the Company’s independent auditor, sent the Audit Committee of the Company’s Board of Directors a letter (the “KMPG Letter”) indicating that the Company’s financial results for the years-ended December 31, 2006 and 2007, were materially misstated and required restatement. The KPMG Letter stated:

(KPMG Letterhead)

March 4, 2008

Audit Committee
Ladies and Gentlemen:

This letter serves as notice that our independent auditors’ report, dated of February 27, 2008, on Thornburg Mortgage, Inc.’s consolidated financial statements as of December 31, 2007 and 2006, and for each of the years in the two-year period ended December 31, 2007, its financial statement schedule – mortgage loans on real estate and its effectiveness of internal control over financial reporting as of December 31, 2007, should no longer be relied upon.

Under our professional standards, we have considered conditions and events that were known or should have been known to the Company as of the date of our auditors’ report and have concluded that the aforementioned financial statements contain material misstatements associated with available for sale securities and that our auditors’ report should have contained an explanatory paragraph indicating that substantial doubt exists relative to the Company’s ability to continue as a going concern for a reasonable period of time. Accordingly, the Company should take appropriate actions to prevent future reliance on our auditors’ report, and we advise that the Company make appropriate disclosures of the newly discovered facts and their impact on the financial statements to persons who are known to be currently relying or who are likely to rely on the financial statements and the related auditors’ report.

Very truly yours,

/s/ KPMG LLP

Emphasis added.

213. The timing of the KPMG Letter was particularly suspicious in light of the fact that, less than one week earlier, KPMG had issued an unqualified audit opinion on Thornburg’s 2007 10-K. In addition, the KPMG Letter specifically stated that it was based upon “conditions and events that were known or should have been known to the Company....” (Emphasis added.)

214. Fearing that disclosure of news of the KPMG Letter and its demand for a two-year restatement would further depress TMI’s already dismal share price or, worse, thrust the
Company into bankruptcy, the TMI and the Individual Defendants withheld its existence from the market.

P. TMI Delays Disclosure of the NYSE Investigation

215. By way of letter dated March 6, 2008, the NYSE informed the Company that it had commenced an investigation into transactions in TMI’s common stock prior to the Company’s January 9, 2008 disclosure of the impact of recent market events in the mortgage industry on the Company’s GAAP book value. Faced with the looming possibility of bankruptcy, the TMI and the Individual Defendants elected to conceal the NYSE investigation from its investors and the market. The Company would not disclose receipt of the letter or the NYSE investigation until April 28, 2008 -- more than seven weeks after it received the letter.

Q. Company Finally Announces That It Must Restate

216. After the market closed on March 7, 2008, the Company filed a Current Report on Form 8-K with the SEC, revealing for the first time the existence of the KPMG Letter and that TMI would restate its “available for sale securities” for the year-ended December 31, 2007. Notably, TMI said nothing about addressing KPMG’s demand that TMI restate its 2006 financial statements.

217. Furthermore, while restatements arise when previously issued financial statements are deemed to have been materially false and misleading at the time they were issued – in this case on December 31, 2006 and 2007 – TMI claimed that the 2007 restatement was the result of a drop in asset value as of March 5, 2008. Specifically, the Company stated that it was restating its “available for sale securities” for the year-ended December 31, 2007 because market

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2 On May 1, 2008, Co-Lead Counsel wrote to the NYSE seeking information concerning its investigation of TMI. To date, no information has yet been received.
conditions as of March 5, 2008 demonstrated that the December 31, 2007 amount was overstated by $427.8 million.

218. TMI's claim that the restatement arose because the FY 2007 financial statements were deemed to be false in March 2008 as opposed to being false as of December 31, 2007 is belied by the plain language of the KPMG Letter. Indeed, the KPMG Letter states that the Company's "consolidated financial statements as of December 31, 2007 and 2006 ... should no longer be relied upon." (Emphasis added.) As such, the KPMG Letter concludes that TMI's financial statements for FY 2006 and 2007 were materially misstated at the time those statements were issued.

219. On March 11, 2008, the Company filed a restated Form 10-K for the year-ended December 31, 2007. The restated Form 10-K disclosed:

On March 5, 2008, the Board of Directors decided that we should restate these financial statements after concluding that there was substantial doubt as to our ability to continue as a going concern at December 31, 2007, and that therefore, losses on our available for sale securities and our Securitized ARM Loans that are currently pledged as collateral for Reverse Repurchase Agreements were considered to be other than temporary impairments as of December 31, 2007 since we may not be able to hold these securities for the foreseeable future because we may sell them to satisfy margin calls from our lenders or to otherwise manage our liquidity position.

220. Despite disclosing, just two business days prior, that it would record a $427.8 million charge as a result of the restatement, TMI and the Individual Defendants shocked investors again by revealing that the charge would be 58% greater or $676.6 million. The March 11, 2008 amended Form 10-K did not address KPMG's demand that TMI restate its fiscal year 2006 financial statements. To date, the Company has provided no explanation for its decision to disregard the express advice of its own independent auditor.
221. Financial commentators blistered TMI for the suspicious timing of the restatement. For example, on March 12, 2008, Bloomberg’s Jonathan Weil issued a report stating, in part, “[w]hen a major accounting firm’s audit-opinion letter goes bad so quickly, it cries out for an explanation. Even fresh milk lasts longer than this.” Weil further stated, in response to Defendant Goldstone’s attempt to blame the crisis on a purportedly “irrational” market, that “Goldstone must have known this before accepting the kind of financing that exposed Thornburg to the risk of huge margin calls. Thornburg’s shareholders surely get it now.” (Emphasis added.)

222. TMI benefitted from the Federal Reserve announcement that it would infuse more than $200 billion into credit markets in a coordinated move with other central banks. As the Santa Fe New Mexican reported on March 12, 2008, “Thornburg shares rebounded Tuesday after the Federal Reserve said it would provide more cash for the banking system to try to lessen the damage caused by the credit crisis.”

R. Lender Bailout Comes at Heavy Price

223. On March 19, 2008, the last day of the Class Period, the full ramifications of the Individual Defendants’ fraud were laid bare when TMI announced the terms of a “bailout” that materially diluted the interests of current investors. Specifically, the Company revealed that TMI had reached an agreement with its remaining lenders and their affiliates, including Bear Stearns, Citigroup Global Markets, Inc. (“Citi”), Credit Suisse, Greenwich Capital, RBS and UBS, whereby the lenders would stop issuing margin calls or demanding the return of capital in exchange for TMI (1) granting these lenders options to buy 47 million shares of the Company’s common stock at a penny per share (more than a quarter of the shares outstanding); (2) paying off $680 million in debt; (3) suspending its common dividend and imposing restrictions on is
preferred dividends; (4) maintaining a $350 million “liquidity fund”; and (5) selling $1 billion in bonds bearing an interest rate of 12%, which could be converted to TMI common stock at a rate of 75 cents per share, and allowing lenders to collect some of the payments on the bonds held as collateral. The investors who were to buy these bonds were entitled to buy TMI common stock representing 5 percent of outstanding shares at a penny per share.

224. Defendant Goldstone admitted that the deal was the only way to “give the company the liquidity and staying power to remain afloat” while at the same time acknowledging that it would significantly dilute the value of the stock currently held by unsuspecting investors.

225. Investor and analyst reactions to the details of the deal were swift and severe. Rick Stine of Dow Jones Newswires reported on March 19, 2008 that the “one big loser” in the deal was “[t]he existing REIT shareholders who experience one of the most incredible dilutive transactions of all time. The 160 million Thornburg shares owned by the public today balloons to well over a billion shares.” [“Thornburg Holders Have Backs to the Wall,” Dow Jones Newswires, March 19, 2008].

226. Similarly, Forbes reporter Carl Gutierrez quoted Jason Arnold (“Arnold”), an RBC Capital Markets analyst, as saying: “With this deal I think it rescues them from bankruptcy, but I’m not sure going forward that the company has a lot to look forward to when you have such serious dilution of equity.” [“Thornburg Moves One Third of the Way Away from Bankruptcy,” Forbes, March 25, 2008]. Finally, billionaire investor Richard Rainwater, who invested approximately $100 million in TMI, was even less charitable, calling his 6 percent stake in the Company “the single worst investment in my career.”

227. TMI’s common stock plummeted from a prior-day close of $2.98 to close at $1.50 on March 19, 2008, a one-day decline of 49%.
228. On April 3, 2008, an article entitled “Market losses put Thornburg Mortgage vote in danger: Shareholders’ votes could increase common shares” appeared in the Santa Fe New Mexican. The article also discussed that TMI’s financing plan was necessary to stave off bankruptcy – the concern that led TMI and the Individual Defendants to conceal material information from investors throughout the Class Period. The article stated in pertinent part:

Thornburg Mortgage lost ground again in the stock market Wednesday, a day after the company said it could be jeopardized if a vote by shareholders to increase the number of outstanding shares fails or is delayed.

The assessment was in a letter dated Tuesday that Thornburg Mortgage submitted to the Securities and Exchange Commission as part of a regulatory filing.

The vote is expected to take place “as promptly as possible, but no later than June 15,” a recent news release from Thornburg Mortgage said.

Shares of Thornburg Mortgage fell 16 cents in Wednesday's trading, closing at $1.29, which marked an 11 percent drop.

The vote to increase the number of common shares is required of Thornburg Mortgage’s capital raising plan. The plan was formalized earlier this week and will allow Thornburg to meet its margin calls and repurchase agreements.

Thornburg Mortgage is raising $1.35 million through the sale of secured notes that come with warrants to purchase shares of common stock for 1 cent per share.

If the share increase is approved, existing common shareholders would find their shares diluted and their ownership position reduced to only about 5 percent of the common stock.

Thornburg Mortgage has already suspended payment of dividends to its shareholders.

In the letter, Larry Goldstone, Thornburg Mortgage’s president and chief executive officer, said failure to raise the funds “would seriously jeopardize the financial viability of the company.”

SUMMARY OF SCIENTER ALLEGATIONS
I. TMI AND THE INDIVIDUAL DEFENDANTS KNEW AND/OR RECKLESSLY DISREGARDED THE FALSITY OF THEIR CLASS PERIOD STATEMENTS AND OMISSIONS

229. As explained in detail above, the TMI and the Individual Defendants engaged in a pattern of knowing and/or reckless deception throughout the Class Period and beyond, whereby they (1) failed to disclose material information; and/or (2) failed to disclose all material truth while issuing partial negative disclosures. This scheme had the purpose and effect of artificially inflating the price of TMI common stock throughout the Class Period. TMI and the Individual Defendants, inter alia:

(a) falsely stated that TMI was not an Alt-A originator when in fact several confidential witnesses with direct knowledge of TMI’s loan activity confirm that the Company did in fact underwrite Alt-A loans during the Class Period, as described in ¶¶161-172 above;

(b) falsely stated that the Company was in a position to benefit from the credit and liquidity crisis plaguing the mortgage financing market, that it was in a superior cash position, that its unencumbered assets were at the best level “in the history of the organization” on July 20, 2007, when, in fact, TMI and the Individual Defendants admitted that the “current credit crisis in the market environment today [and] the liquidity issues in the market place today,” were “not a big surprise to us,” and that “[w]e’ve been talking about this and anticipating this for a while” and the Company began to effectuate the sale of more than one-third of its total assets just three weeks later;

(c) failed to disclose that a default in one of its RPA agreements immediately triggered cross-defaults in all of its RPA agreements, causing the Company exponential liquidity concerns, as described at ¶¶206-211 above; and

(d) failed to disclose that the Company had billions in MBS backed by Alt-A collateral that would expose TMI to margin calls in 2008, as this MBS was used as collateral to
secure financing, as described in detail above.

II. **Defendants Were Motivated to Commit Fraud**

230. In addition, throughout the Class Period, the Individual Defendants were well-motivated to conceal and misrepresent the financial condition of the Company in at least three ways: (1) the prospect of ever-greater compensation; (2) the looming threat of bankruptcy; and (3) that the Company’s financing woes caused it to conceal its myriad problems in order to access cash through public securities offerings.

A. **TMI’s “Manager” Is Paid To Grow the Company’s Balance Sheet Without Regard For Market Conditions**

231. TMI’s Class Period compensation policy incentivized its executives to grow the Company’s balance sheet with monetary rewards. TMI is managed by a “Manager” – Thornburg Mortgage Advisory Corporation (“TMAC” or the “Manager”). During the Class Period, the sole director, CEO and majority shareholder of TMAC was Defendant Mr. Thornburg. Defendants Mr. Thornburg, Goldstone, Badal, Simmons and Decoff were all employees of TMAC during the Class Period. Indeed, all of the Individual Exchange Act Defendant held executive positions in TMAC and Defendant Goldstone also held an ownership interest in TMAC.

232. TMAC’s primary source of income during the Class Period was from TMI, amounting to many millions of dollars during the Class Period. TMAC compensates TMI’s executives with income that the Manager receives under certain management agreements with TMI that are amended from time to time.

233. Under the management agreements in place during the Class Period TMAC was contractually entitled to receive an annual base management fee, equal to approximately $24,000,000 or $2,000,000 per month. According to the terms of the management agreement, the precise base fee was based upon the Company’s “Average Historical Equity” or average
shareholders’ equity, less liabilities not incurred to finance assets, calculated on a consolidated basis each month. In addition, TMAC was to be paid a bonus or “performance-based compensation equal to 20% of [TMI’s] net income, above an annualized return on equity equal to the ten year U.S. Treasury Rate plus 1%.” Thus, throughout the Class Period, the Company’s Manager, TMAC, was motivated to grow the size of TMI’s balance sheet assets and seek higher short-term profit margins by the prospect of ever-larger management fees.

234. The management fee agreements between TMI and the Individual Defendants—who controlled TMAC—were not the result of arms-length bargaining, as Defendants Mr. Thornburg and Goldstone sat on both sides of the agreements (as officers/directors of both TMI and TMAC). Therefore, Defendants Goldstone and Mr. Thornburg were able to set up TMAC compensation terms that would maximize their reward for: (1) growing TMI’s balance sheet by originating as many loans as possible (including risky Alt-A loans); and (2) purchasing risky CDOs and MBSs backed by subprime and Alt-A assets (which serve the dual purpose of growing the balance sheet and increasing short-term income by paying large margins).

235. During fiscal years 2006 and 2007, respectively, TMI paid TMAC and its TMI-controlled management team approximately $24.7 million and $26.1 million in base management fees, and $34.7 million and $23.1 million in performance-based fees, respectively.

236. This management fee structure, which incentivized the TMAC executives to increase the Company’s balance sheet without regard to other market factors, created an inherent conflict of interest between the Manager and shareholders under certain factual circumstances, as described in an August 30, 2007 AG Edwards analyst report:

Also, Thornburg Mortgage is externally managed, with performance fees tied to the size of shareholders’ equity and the return on equity (above a hurdle rate). In our view, this management structure could produce a potential conflict of interest between the external manager and shareholders, particularly about
appropriate size of assets during different phases of a business cycle.

Emphasis added.

237. As such, the Manager was motivated to grow the Company’s asset base through the use of excessive leverage, or other means, during periods in which the mortgage industry experienced uncertain and/or deteriorating market conditions and a more conservative course of action would have been appropriate.

238. The foregoing financial motivation played a role in TMI’s decision to continue underwriting Alt-A loans in mid-2007 notwithstanding the precipitous drop in the value of Alt-A mortgage backed assets.

B. The Individual Defendants were Motivated to Conceal the Entire Truth From Investors Due to the Imminent Threat of Bankruptcy

239. Following the August 14, 2007 announcement concerning the Company’s liquidity issues through the end of the Class Period, TMI operated under the constant and real threat of imminent bankruptcy, as noted by numerous commentators and analysts. This omnipresent threat motivated TMI and the Individual Defendants to conceal material information from TMI shareholders and the market at large for fear that full and timely disclosure of the financial problems affecting the Company during the Class Period would result in the Company’s bankruptcy.

240. On August 17, 2007, the Fed cut the discount rate to 5.75% from 6.25%, in attempt to keep the credit crunch in the mortgage markets from spreading to the broader economy. Shares of TMI rose $2.66, or 21.5 percent, to $15.04, in response to the Fed rate cut. TheStreet.com's Jim Cramer stated in an August 20, 2007, Midnight Trader article that Fed rate cut “saved” TMI, which was “within days of failing.”
241. In an August 23, 2007 article titled “Credit Crunch Rattles System; Banks Weather Financial Storm,” Patrice Hill of The Washington Times reported that “[t]he sudden pullback by money-market funds and other bond investors had pushed teetering mortgage lenders like American Home Mortgage into bankruptcy and is threatening the solvency of...Thornburg Mortgage.”

242. On February 28, 2008 the Associated Press reported that while the Company had met $300 million in margin calls, future margins calls may force a run on TMI assets.

243. Additionally, in an Explanatory Note to the 2007 10-K/A, TMI stated that, “On March 5, 2008, the Board of Directors decided that we should restate these financial statements after concluding that there was substantial doubt as to our ability to continue as a going concern at December 31, 2007 ...” (Emphasis added.)

244. In early March 2008, analysts such as Citi Investment Research and RBC Capital Markets, and rating agencies including Fitch, Moody’s, and S&P downgraded the Company due, in part, to the risk of bankruptcy. For example, Donald Fandetti of Citi stated that a “dire turn in the market could lead to [TMI’s] bankruptcy.” See March 4, 2008, American Banker Echoes of August Heard in Thornburg’s Downturn.

C. TMI and the Individual Defendants Were Motivated to Conceal the Truth to Raise Cash Through Public Offerings

245. During the Class Period, TMI and the Individual Defendants were motivated to continue to misrepresent and conceal material facts concerning the Company’s ARM portfolio, liquidity, and access to financing in order to artificially inflate and/or maintain artificial inflation in the price of the Company’s securities to raise cash through public offerings, particularly when the Company faced precarious liquidity positions and the capital markets were one of the few remaining options for the Company to generate funds to facilitate ongoing operations. For
example, on May 4, 2007, the Company received $121.7 million in gross proceeds by selling 4.5 million shares of its common stock to investors at $27.05 per share. On June 14, 2007, the Company received $68.8 million by selling 2.75 million shares of Series E Preferred stock to investors at $25.00 per share. On September 7, 2007, the Company received $500 million in gross proceeds by selling 20 million shares of its Series F Preferred Stock at $25.00 per share. On January 15, 2008, the Company received $212 in total gross proceeds by concurrently selling 8 million shares of its Series F Preferred Stock at $19.50 per share and 7 million shares of TMI common stock at $8.00 per share.

D. TMI and the Individual Defendants were Motivated to Conceal the Truth to Complete Securitization Transactions to Fund Loan Originations When Borrowings Were Increasingly Difficult to Obtain

246. During the Class Period, TMI and the Individual Defendants were motivated to continue to misrepresent and conceal material facts concerning the Company’s ARM portfolio, liquidity, and access to financing in order to artificially inflate and/or maintain artificial inflation in the value of its assets in order to facilitate necessary securitization transactions and attain long-term financing of its assets in exceedingly volatile liquidity markets.

247. For example, when TMI’s asset values and stock price had plummeted in August 2007, the Company was unable to complete a securitization transaction when it so desired. In fact, it was not until the TMI and the Individual Defendants had conditioned the market to believing that it had satisfied all outstanding margin calls and stabilized its liquidity position, that the Company was able to complete a securitization transaction on September 4, 2007.

248. Following the September 4, 2007 securitization, the Company was unable to issue any CDOs between October 2007 and late February 2008, as asset values continued to decline throughout the fall.
III. **ADDITIONAL INDICIA OF SCIENTER**

A. **The Magnitude of the Funds Required to Meet Margin Calls Also Raises an Inference of Scienter**

249. The magnitude of the asset sales conducted in August 2007 to satisfy outstanding margin calls and maturing ABCP borrowings – totaling 35% of the Company’s total assets – raises an inference of scienter regarding the selective disclosures the Company made in the 2Q07 10-Q and throughout August 2007.

250. Similarly, the magnitude of capital required to be raised to meet margin calls in 2008 – $1.35 billion – raises an inference of scienter. By no later than February 14, 2008, the Company faced a series of dramatic margin calls from its lenders, forcing the company to raise $1.35 billion via a private placement of senior subordinated secured notes and warrants that severely diluted the value of its shares to existing shareholders.

B. **The Timing and Magnitude of the Company’s Restatement Raises a Strong Inference of Scienter**

251. The period of time over which the Company misstated its financial results, and which KPMG indicated required restatement – two years – also raises an inference of TMI and the Individual Defendants’ scienter. Furthermore, the short amount of time between KPMG’s issuance of its initial audit report (February 28, 2008) and its demand that TMI restate (March 4, 2008) strongly infers that TMI issued a knowing misstatement. Additionally, KPMG demanded the restatement because TMI “knew or should have known” the FY 2006 and FY 2007 financial statements were materially false and misleading. The magnitude of the restatement itself – $676 million – also raises an inference of TMI and the Individual Defendants’ scienter.

**DEFENDANTS’ GAAP VIOLATIONS**
252. GAAP are those principles recognized by the accounting profession as the conventions, rules and procedures necessary to define accepted accounting practice at a particular time.³

253. Throughout the Class Period, TMI and the Individual Defendants represented that TMI’s financial statements were prepared in conformity with GAAP.

254. In truth, throughout the Class Period, TMI and the Individual Defendants engaged in various improper accounting practices, in violation of GAAP, that were designed to (1) manipulate the Company’s reported financial results; (2) misrepresent and conceal the true state of TMI’s financial condition; (3) bolster artificially the market price of TMI’s securities; and (4) stave off bankruptcy.

255. AU 411 defines GAAP in the following manner:

The phrase “generally accepted accounting principles” is a technical accounting term that encompasses the conventions, rules, and procedures necessary to define accepted accounting practice at a particular time. It includes not only broad guidelines of general application, but also detailed practices and procedures. Those conventions, rules, and procedures provide a standard by which to measure financial presentations. (AU 411.02)

256. Financial statements are a central feature of GAAP financial reporting, and are a principal means of communicating accounting information to parties external to an entity, such as investors.⁴ The fair presentation of financial statements in conformity with GAAP is the responsibility of a Company’s management and a Company’s auditor. SEC Regulation S-X states that financial statements filed with the SEC that are not prepared in compliance with

³ The American Institute of Certified Public Accountants (“AICPA”) Auditing Standards Board (“ASB”), in Statement on Auditing Standards § 411, The Meaning of Present Fairly in Conformity with Generally Accepted Accounting Principles (“AU 411”).

GAAP are presumed to be misleading or inaccurate, despite footnote or other disclosure.\(^5\) SEC Regulation S-X additionally requires that interim financial statements must also comply with GAAP, with the exception that interim financial statements need not include disclosures that would be duplicative of disclosures accompanying the latest annual financial statements.\(^6\)

257. The Financial Accounting Standards Board (the “FASB”) communicated the following regarding financial reporting in FASCON 1, in relevant part:

Financial reporting should provide information about an enterprise’s financial performance during a period. Investors and creditors often use information about the past to help in assessing the prospects of an enterprise. (FASCON 1, ¶ 42).

Additionally, reliability is a primary quality that makes accounting information useful for decision making. To be reliable, information must have representational faithfulness as well as be verifiable and neutral. (FASCON No. 2, Qualitative Characteristics of Accounting Information (“FASCON 2”), ¶¶ 58-59, 62) Further, FASCON 2, paragraph 79 states that the fundamental accounting principle of “completeness” requires that nothing material is left out of the information presented in a company’s financial statements that may be necessary to ensure that the financial statements validly represent underlying events and conditions.

258. Footnote disclosures in financial statements are an essential element of financial statements that are purportedly prepared in accordance with GAAP and serve, often, to satisfy the completeness assertion introduced above. FASCON No. 5, Recognition and Measurement in Financial Statements of Business Enterprises (“FASCON 5”), paragraph 7 specifically states, in relevant part:

Information disclosed in notes . . . amplifies or explains information recognized in the financial statements. That sort of information is essential to understanding the information recognized in financial statements and has long been viewed as an integral part of financial statements prepared in accordance with generally accepted accounting principles.

\(^5\) 17 C.F.R. § 210.4-01(a)(1).
\(^6\) 17 C.F.R. § 210.10-01(a).
259. The SEC has also provided specific guidance regarding the importance of disclosures by a company, although its comments are centered more on filings made by registrants and the requirements pertaining thereto. Specifically, SEC Regulation S-K states that the MD&A section of a company's filings with the SEC (i.e., on Forms 10-Q and 10-K) shall:

(1) . . . Identify any known trends or any known demands, commitments, events or uncertainties that will result in or that are reasonably likely to result in the registrant's liquidity increasing or decreasing in any material way. If a material deficiency is identified, indicate the course of action that the registrant has taken or proposes to take to remedy the deficiency. Also identify and separately describe internal and external sources of liquidity, and briefly discuss any material unused sources of liquid assets.

* * *

(i) Describe any unusual or infrequent events or transactions or any significant economic changes that materially affected the amount of reported income from continuing operations and, in each case, indicate the extent to which income was so affected. In addition, describe any other significant components of revenues or expenses that, in the registrant's judgment, should be described in order to understand the registrant's results of operations.

(ii) Describe 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. If the registrant knows of events that will cause a material change in the relationship between costs and revenues (such as known future increases in costs of labor or materials or price increases or inventory adjustments), the change in the relationship shall be disclosed.7

Emphases added.

260. Regulation S-K also states that “[t]he discussion and analysis [section] shall focus specifically on material events and uncertainties known to management that would cause

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reported financial information not to be necessarily indicative of future operating results or of future financial condition.8

I. SUBSEQUENT EVENTS

261. In the context of the disclosures described above, which are required by GAAP and the SEC, particular guidance resides within GAAP and generally accepted auditing standards ("GAAS") regarding the obligation of a company (and its independent auditor) to consider the effect that events that have occurred subsequent to the balance sheet date of a subject company’s financial statements may have on either (a) those financial statements or (b) the future operations of the company.

262. In Emerging Issues Task Force ("EITF") Topic D-86, Issuance of Financial Statements ("EITF D-86"), the FASB provided the following, in relevant part, regarding a company’s obligation to refrain from issuing information, especially in public filings with the SEC, that is misleading:

[T]he SEC staff observed that Rules 10b-5 and 12b-20 under the Securities Exchange Act of 1934 and General Instruction C(3) to Form 10-K specify that financial statements must not be misleading as of the date they are filed with the Commission. For example, assume that a registrant widely distributes its financial statements but, before filing them with the Commission, the registrant or its auditor becomes aware of an event or transaction that existed at the date of the financial statements that causes those financial statements to be materially misleading. If a registrant does not amend those financial statement or omissions when they are filed with the Commission, the registrant will be knowingly filing a false and misleading document. In addition, registrants are reminded of their responsibility to, at a minimum, disclose subsequent events, while independent auditors are reminded of their responsibility to assess subsequent events and evaluate the impact of the events or transactions or their audit report.

Emphases added and footnotes omitted.

8 17 C.F.R. § 229.303, Instructions to Paragraph 303(a), (3).
263. Auditing Standard ("AU") 560, *Subsequent Events* ("AU 560"), is the pre-eminent accounting guidance regarding subsequent events and the considerations to be made thereof by both an auditor and a company to whom such events might occur. According to AU 560, "events or transactions sometimes occur subsequent to the balance-sheet date, but prior to the issuance of the financial statements, that have a material effect on the financial statements and therefore require adjustment or disclosure in the statements . . . referred to as ‘subsequent events.'" (AU 560.01). The standard then distinguishes between two particular types of subsequent events: type I, and type II – each of which would warrant particular treatment by both the company and its independent auditor.

264. The first type of subsequent event is described by AU 560 in the following manner:

The first type consists of those events that provide additional evidence with respect to conditions that existed at the date of the balance sheet and affect the estimates inherent in the process of preparing financial statements. All information that becomes available prior to the issuance of the financial statements should be used by management in its evaluation of the conditions on which the estimates were based. The financial statements should be adjusted for any changes in estimates resulting from the use of such evidence. (AU 560.03)

265. A second type of subsequent event is described as follows:

The second type consists of those events that provide evidence with respect to conditions that did not exist at the date of the balance sheet being reported on but arose subsequent to that date. These events should not result in adjustment of the financial statements. Some of these events, however, may be of such a nature that disclosure of them is required to keep the financial statements from being misleading. Occasionally such an event may be so significant that disclosure can best be made by supplementing the historical financial statements with pro forma financial data giving effect to the event as if it had occurred on the date of the balance sheet. (AU 560.05)

Emphasis added and footnote removed.
266. EITF D-86, therefore, also addresses the various measurement points by which a company and/or its independent auditor might determine which events are to be considered subsequent events under the definitions set forth within AU 560. It provides, in relevant part:

Generally, [FASB] believes that financial statements are "issued" as of the date they are distributed for general use and reliance in a form and format that complies with generally accepted accounting principles (GAAP) and, in the case of annual financial statements, that contain an audit report that indicates that the auditors have complied with generally accepted auditing standards (GAAS) in completing their audit. Issuance of financial statements then would generally be the earlier of when the annual or quarterly financial statements are widely distributed to all shareholders and other financial statement users or filed with the Commission. Furthermore, the issuance of an earnings release does not constitute issuance of financial statements because the earnings release would not be in form and format that complies with GAAP and GAAS.

II. TMI AND THE INDIVIDUAL DEFENDANTS FAILED TO DISCLOSE ADVERSE FACTS AND EVENTS DURING THE CLASS PERIOD IN VIOLATION OF GAAP AND SEC REGULATION S-K

267. As discussed in ¶¶173-183, during the Class Period, TMI and the Individual Defendants were faced with increasing liquidity issues as a result of market factors and the means through which they financed TMI’s business operations. Specifically, the Company was (1) facing an increasing level of margin calls, (2) experiencing increasing difficulties in funding its operations and selling its securities, (3) facing a precarious liquidity position due to reduced financing options, and (4) forced to sell more than $22 billion of its highest-rated ARM assets to cover the aforementioned margin calls at prices below their carrying value, leaving the Company with less valuable Alt-A backed MBS assets at its disposal to support its financing attempts in declining credit and real estate markets.

268. On August 8, 2007, the Company filed with the SEC its financial statements and related financial information and disclosures for the quarter ended June 30, 2007, on Form 10-Q. As explained in greater detail in ¶¶173-183 above, given what would be required of the
Company to field and respond to margin calls, it is apparent that certain of the factors which caused the Company on August 10, 2007 to sell what would ultimately total more than $20 billion of its highest-rated assets -- or approximately 35% of the Company's total assets -- at prices below book value were known, or should have been known, by TMI and the Individual Defendants as of August 8, 2007, the date it filed its 2Q07 10-Q. Indeed, finding buyers and facilitating the sale of 35% of the Company's total assets simply could not have been achieved solely in the short 2-day period between the date of the Form 10-Q filing and the sale of assets on August 10, 2007. Accordingly, TMI's 2Q07 10-Q violated GAAP by failing to disclose the margin calls and impending assets sales.

269. In addition, during a September 12, 2007, conference call, Defendant Goldstone stated that the Company had taken actions over the past “45 days” to address its problems stemming from the mortgage market meltdown, a disclosure which demonstrates that these market difficulties, which led directly to the August 10, 2007 discount asset sale, were known to TMI and the Individual Defendants at least as early as July 2007. In fact, as described above, problems in the ABCP markets were known to Defendants by no later than May 2007.

270. There is no mention, however, in the Company's 2Q07 10-Q, which was filed on August 8, 2007 and incorporated by reference into the September 2007 Offering and January 2008 Offering, of the liquidity issues the Company had been facing since May 2007, or of the sales of $22 billion in Company assets that were consummated within two days of this filing. Nor is there any mention that the Company then faced margin calls from any of its 21 RPA lenders.
271. GAAP includes certain particular guidance regarding the types of information that require a company to adjust its financial statements or, at a minimum, make disclosure of a specific event or scenario expected to impact that company. It states, in relevant part:

Subsequent events affecting the realization of assets such as receivables and inventories or the settlement of estimated liabilities ordinarily will require adjustment of the financial statements (see paragraph 03) because such events typically represent the culmination of conditions that existed over a relatively long period of time. (AU 560.07) (Emphasis added.)

272. As explained in greater detail at ¶¶178-183 above, when the Company negotiated the sale of, and subsequently sold, its highest-rated mortgage assets to improve its liquidity situation and to address pending margin calls, it could obtain only 95% of the value of those assets. TMI and the Individual Defendants therefore knew, or should have known, as of the filing of its Form 10-Q on August 8, 2007, that the recoverability of the full value of TMI’s remaining assets was highly questionable, as TMI’s highest-rated assets yielded only 95% and the remaining assets were of a lower quality.

273. AU 560 also provides specific instructions to an independent auditor regarding the types of things he or she should do, in the period between the balance sheet date and the issuance of the financial statements, to identify potential subsequent events and to determine whether or not disclosure of certain of those events might be required under GAAP. Specifically, AU 560 provides that the following should be determined, amongst other things:

(i) whether any substantial contingent liabilities or commitments existed at the date of the balance sheet being reported on or at the date of inquiry.

(ii) whether there was any significant change in the capital stock, long-term debt, or working capital to the date of inquiry.

(iii) the current status of items, in the financial statements being reported on, that were accounted for on the basis of tentative, preliminary, or inconclusive data.

(iv) whether any unusual adjustments had been made during the period from
274. Because of the pending margin calls, both types of subsequent event considerations enunciated in AU 560 were applicable to TMI as of the filing of its 2Q07 10-Q on August 8, 2007. Again, no particular disclosures were made therein regarding any of the known and material subsequent events described above.

III. VIOLATIONS OF SEC REGULATION S-K AND S-X

275. SEC Regulation S-K, 17 C.F.R. § 229.303, and Regulation S-X, 17 C.F.R. § 210.4-01, require the independent disclosure of specific information in SEC filings, prospectuses and registration statements – regardless of whether the omission of such information renders an affirmative statement in the offering documents materially misleading.

276. As noted above, Item 303 of Regulation S-K requires the disclosure of, *inter alia,* “any known trends or any known demands, commitments, events or uncertainties that will result in or that are reasonably likely to result in the registrant’s liquidity increasing or decreasing in any material way.” 17 C.F.R. §§ 229.303(a)(1).

277. Similarly, Regulation S-X, 17 C.F.R. § 210.4-01, requires that disclosures in TMI’s SEC filings, prospectuses and registration statements comply with Generally Accepted Accounting Principles (“GAAP”). One such GAAP provision, Financial Account Standards (“FAS”) 107, at ¶ 15A, *Disclosures About Fair Value of Financial Instruments,* as amended by FAS 161, *Disclosures About Derivative Instruments and Hedging Activities* (2008), requires the disclosure of “significant concentrations of credit risk arising from all financial instruments, whether from an individual counterparty or groups of counterparties.”

278. TMI and the Individual Defendants violated the affirmative disclosure duties imposed by Regulations S-K by failing to disclose, *inter alia,* the following information in the
Company’s relevant SEC filings and the May 2007, June 2007, September 2007 and January 2008 Offering Documents: (1) TMI’s origination of Alt-A mortgages; (2) TMI’s acquisition and possession of a multi-billion dollar portfolio of MBS backed by high-risk Alt-A assets; and (3) TMI’s increased reliance on RPAs collateralized by the aforementioned Alt-A backed MBS for financing – which contained cross-default provisions that were likely to be, and were in fact, triggered due to known market conditions and because TMI used Alt-A assets to collateralize its RPAs at a time when the Alt-A market was deteriorating, causing a run on TMI’s assets. These facts had a material adverse impact on TMI’s business in general, and income and liquidity specifically, and were required to be disclosed at the time the market for mortgage-backed securities collateralized by Alt-A mortgages was under severe distress.

279. In addition, TMI’s multi-billion dollar portfolio of mortgage-backed securities collateralized by Alt-A assets constituted a “financial instrument” and a “significant concentration[] of credit risk” requiring disclosure in the Offering Documents pursuant to Regulation S-X. The failure of TMI and the Individual Defendants to disclose in the Offering Documents the existence of this portfolio constituted a violation of FAS 107/161 and, accordingly, Regulation S-X. 17 C.F.R. § 210.4-01.

IV. THE 2008 RESTATEMENT

280. According to the Company’s March 2008 restatement, TMI’s 2007 financial statements did not contain a sufficient impairment loss on TMI’s ARM Assets and Securitized ARM Loans (TMI’s “available-for-sale” assets) for the period ending December 31, 2007. In TMI’s restated financial statements, included in the 2007 10-K/A filed on March 11, 2008, the Company recorded impairment on its “available-for-sale” assets in the amount of $676.6 million. The restatement was an admission by TMI and the Individual Defendants that the Company’s
financial statements for the fiscal year ended December 31, 2007, as originally-issued, were materially false and misleading, and had materially departed from GAAP.

281. GAAP, in the form of FAS No. 154, Accounting Changes and Error Corrections ("FAS 154") provides that "restatement" of an entity's financial statements is only appropriate to correct an error in previously issued financial statements. (FAS 154 ¶¶ 7, 23, 25). FAS 154 applies only to those items which are determined by the company to be material.

282. FASCON 2 defines the concept of materiality in its Glossary of Terms as:

The magnitude of an omission or misstatement of accounting information that, in the light of surrounding circumstances, makes it probable that the judgment of a reasonable person relying on the information would have been changed or influenced by the omission or misstatement.

283. The SEC, in SAB No. 99 ("SAB 99"), similarly concluded the following, in relevant part, regarding materiality in the context of a registrant’s financial statements:

Materiality concerns the significance of an item to users of a registrant’s financial statements. A matter is "material" if there is a substantial likelihood that a reasonable person would consider it important. In [FASCON 2], the FASB stated the essence of the concept of materiality as follows:

The omission or misstatement of an item in a financial report is material if, in the light of surrounding circumstances, the magnitude of the item is such that it is probable that the judgment of a reasonable person relying upon the report would have been changed or influenced by the inclusion or correction of the item.

This formulation in the accounting literature is in substance identical to the formulation used by the courts in interpreting the federal securities laws. The Supreme Court has held that a fact is material if there is –

a substantial likelihood that the . . . fact would have been viewed by the reasonable investor as having significantly altered the "total mix" of information made available.

Footnotes omitted.
284. The Company’s restatement thus represents an admission that past errors were material to the Company’s previously-issued financial statements. TMI and the Individual Defendants had an obligation, under GAAP, to amend or correct the Company’s financial statements for such errors.

285. As a result of the accounting improprieties described above, TMI and the Individual Defendants caused the Company’s reported financial results to violate the following provisions of GAAP:

(a) The principle that financial reporting should provide information that is useful to present and potential investors in making rational investment decisions and that information should be comprehensible to those who have a reasonable understanding of business and economic activities. (FASCON No. 1, ¶ 34);

(b) The principle that financial reporting should provide information about the economic resources of an enterprise, the claims to those resources, and the effects of transactions, events and circumstances that change resources and claims to those resources (FASCON No. 1, ¶ 40);

(c) The principle that financial reporting should provide information about how management of an enterprise has discharged its stewardship responsibility to owners (stockholders) for the use of enterprise resources entrusted to it. To the extent that management offers securities of the enterprise to the public, it voluntarily accepts wider responsibilities for accountability to prospective investors and to the public in general (FASCON No. 1, ¶ 50);

(d) The principle that financial reporting should provide information about an enterprise’s financial performance during a period. Investors and creditors often use information about the past to help in assessing the prospects of an enterprise. Thus, although investment and
credit decisions reflect investors' expectations about future enterprise performance, those expectations are commonly based at least partly on evaluations of past enterprise performance (FASCON No. 1, ¶ 42);

(e) The principle that financial reporting should be reliable in that it represents what it purports to represent. The notion that information should be reliable as well as relevant is central to accounting (FASCON No. 2, ¶¶ 58-59);

(f) The principle of completeness, which means that nothing is left out of the information that may be necessary to ensure that it validly represents underlying events and conditions. (FASCON No. 2, ¶ 79); and

(g) The principle that conservatism be used as a prudent reaction to uncertainty to try to ensure that uncertainties and risks inherent in business situations are adequately considered. The best way to avoid injury to investors is to try to ensure that what is reported represents what it purports to represent (FASCON No. 2, ¶¶ 95, 97).

MATERIALLY FALSE AND MISLEADING STATEMENTS DURING THE CLASS PERIOD

I. APRIL 2007 MISREPRESENTATIONS AND OMISSIONS

A. TMI and the Individual Defendants Tout TMI's Credit Quality and Asset Liquidity Due to TMI's Purported Focus on "Prime" Mortgages, While Concealing Billions of Dollars in Alt-A Mortgage Backed Assets

286. On April 19, 2007, after the market closed, the Company issued a press release and filed a Current Report on Form 8-K with the SEC reporting the issuance of the press release (collectively, the “4/19/07 8-K”) entitled, “Thornburg Mortgage Reports 1Q EPS of $0.62; Declares $0.68 1Q Dividend; Company’s Disciplined and Efficient Strategies Result in Solid First Quarter Results; Industry Subprime Problems Improve Opportunities.”

287. Therein, Defendant Goldstone stated, in relevant part, that:
In the first quarter, we benefited from wider spreads on new prime quality mortgage assets caused by credit concerns concentrated in the subprime and Alt A segments of the mortgage market, and also from reduced premium amortization as the current interest rate environment led to continued slower-than-projected prepayments. As a result, our outlook for 2007 and 2008 continues to improve.

Emphasis added.

288. The next day, on April 20, 2007, Defendant Goldstone participated in an interview with the Financial Times, during which the interviewer questioned whether “the subprime thing [has] run its course, [or] is it going to continue to leak into the so-called Alt-A” market. In response, Defendant Goldstone stated, in relevant part, that:

I don’t think that the stories are over, as it relates to subprime and Alt-A. I think some of the higher risk sectors, including home equity lending, all of those sectors I think are going to have some more news coming out over the next several quarters. But the prime space continues to be pretty good and certainly in our business, we’re not seeing any deterioration or material deterioration in the credit performance of our portfolio.

Emphasis added

289. Moreover, the interviewer asked whether “there [was] liquidity for creditworthy borrowers,” to which Defendant Goldstone responded:

Absolutely, there is. There is plenty of liquidity for credit-worthy borrowers, and I think that’s going to continue to be the case, albeit I think that underwriting standards, generally, across the industry, are going to become a little bit more conservative, which is probably a positive thing for the environment.

290. The foregoing statements were materially misleading at the time they were made. Specifically, in representing that the Company benefitted from uncertainties in the subprime and Alt-A mortgage markets, TMI and Defendant Goldstone distanced TMI from those troubled markets, thus creating the misleading impression that TMI was a prime lender with little or no exposure to Alt-A mortgages. In reality, however, TMI was materially exposed to downturns in the Alt-A market because it not only originated a material amount of Alt-A loans, but it held
billions of dollars in ARM assets backed by risky Alt-A loans on its balance sheet at the time this statement was made. Defendant Goldstone’s – and thus TMI’s -- failure to disclose this material information to investors rendered this statement materially misleading.

291. These material misstatements and omissions had the desired effect. Following issuance of these statements, the price of TMI common stock rose from its closing price of $26.87 on April 19, 2008 to close at $27.91 on April 20, 2008.

292. Indeed, following dissemination of these misstatements, analysts raised their estimates for the Company. For example, in an April 19, 2007, research report, Bear Stearns analysts Scott Coren and Michael Nannizzi raised their 2007 EPS estimates for TMI to $2.32 from $2.28, citing “upbeat” and even “fairly bullish” management commentary in the Company’s press release, despite their belief that “quality of the quarter was just okay.”

293. AG Edwards analyst Gregg Mason also raised his estimates for the Company for 2007 to $2.45, up from $2.40, and for 2008 to $2.85, up from $2.80, citing Defendant Goldstone’s statement during the 4/20/07 Conference Call that he was “highly confident” in the stability of the dividend.

II. MAY 2007 MISREPRESENTATIONS AND OMISSIONS

A. TMI and the Individual Defendants Disseminate Materially False and Misleading Offering Documents to Raise $121.7 Million in Capital and Fuel Liquidity

294. On May 4, 2007, the Company issued a press release titled, “Thornburg Mortgage Raises $121.7 Million in Equity Offering,” wherein the Company announced that “it priced a follow on offering of 4,500,000 shares of common stock at $27.05 per share. Gross proceeds from the transaction were $121.7 million and will be primarily used to fund adjustable-rate loans originated by the company and to purchase additional adjustable-rate mortgage securities. The
aggregate net proceeds to the company are estimated to be approximately $116.4 million taking into account costs of issuance.

295. The May 2007 Offering described above, was made pursuant to the Shelf Registration Statement, and a Prospectus Supplement dated May 4, 2007, and filed with the SEC on May 7, 2007.

296. The May 2007 Offering Documents were materially misleading because they incorporated by reference the 4/19/07 8-K, which was materially false and misleading for the reasons stated above at ¶¶286-287, 290.

297. In addition, pursuant to the “disclose or abstain” rule, which requires that a corporate issuer disclose all material non-public information prior to trading in a company’s securities, TMI and the Individual Defendants were required to disclose all material, non-public information in their possession prior consummating the May 2007 Offering. By failing to disclose that billions of dollars of the Company’s originated loans were Alt-A loans and acquired ARM assets were collateralized by high-risk Alt-A mortgage loans, TMI and the Individual Defendants violated the “disclose or abstain” rule. This material omission rendered the May 2007 Offering Documents materially false and misleading.

298. The May 2007 Offering Documents also were materially false and misleading because they failed to comply with the disclosure requirements of Item 303 of Regulation S-K, 17 C.F.R. § 229.303, and Regulation S-X, 17 C.F.R. § 210.4-01, as set forth herein. Specifically, in violation of Item 303 of Regulation S-K, as well as Regulation S-X, the May 2007 Offering Documents failed to disclose: (1) TMI’s origination of Alt-A mortgages; (2) TMI’s acquisition and possession of a multi-billion portfolio of MBS backed by high-risk Alt-A assets; and (3) TMI’s increased reliance on RPAs collateralized by the aforementioned Alt-A backed MBS for
financing – which contained cross-default provisions that were likely to be, and were in fact, triggered due to known market conditions and because TMI used Alt-A assets to collateralize its RPAs at a time when the Alt-A market was deteriorating, causing a run on TMI’s assets. These facts had a material adverse impact on TMI’s business in general, and income and liquidity specifically, and were required to be disclosed in the Offering Documents at the time the market for mortgage-backed securities collateralized by Alt-A mortgages was under severe distress.

299. These material misstatements and omissions had their desired effect, causing the price of TMI common stock to rise $0.35 between May 4, 2007 and May 7, 2007, from $26.90 to $27.25.

B. TMI’s First Quarter 2007 Form 10-Q

300. On May 9, 2007, TMI filed its Quarterly Report with the SEC on Form 10-Q (“1Q07 10-Q”). The Company’s 1Q07 10-Q was signed by Defendants Mr. Thornburg, Goldstone, and Simmons. The Company’s 1Q07 10-Q also contained Sarbanes-Oxley required certifications, signed by Defendants Mr. Thornburg, Goldstone and Simmons, which stated:

I, [Garrett Thornburg, Larry A. Goldstone, and Clarence G. Simmons, III], certify that:

1. I have reviewed this report on Form 10-Q of Thornburg Mortgage, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant’s other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)), and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and
have:

a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

c) evaluated the effectiveness of the registrant’s disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

d) disclosed in this report any change in the registrant’s internal control over financial reporting that occurred during the registrant’s most recent fiscal quarter (the registrant’s fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant’s internal control over financial reporting; and

5. The registrant’s other certifying officers and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant’s auditors and the audit committee of the registrant’s board of directors (or persons performing the equivalent function):

a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant’s ability to record, process, summarize and report financial information; and

b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant’s internal control over financial reporting.

***

In connection with the Quarterly Report of Thornburg Mortgage, Inc. (the “Company”) on Form 10-Q for the period ending March 31, 2007 as filed with the Securities and Exchange Commission on the date hereof (the “Report”), I, [Garrett Thornburg, Chief Executive Officer / Larry A. Goldstone, President and Chief Operating Officer / Clarence G. Simmons, III, Senior Executive Vice President and Chief Financial Officer] of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

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(1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

301. The 1Q07 10-Q is actionable because it failed to comply with the disclosure requirements of Item 303 of Regulation S-K, 17 C.F.R. § 229.303, and Regulation S-X, 17 C.F.R. § 210.4-01, as set forth above. Specifically, in violation of Item 303 of Regulation S-K, as well as Regulation S-X, the May 2007 Offering Documents failed to disclose: (1) TMI’s origination of Alt-A mortgages; (2) TMI’s acquisition and possession of a multi-billion portfolio of MBS backed by high-risk Alt-A assets; and (3) TMI’s increased reliance on RPAs collateralized by the aforementioned Alt-A backed MBS for financing – which contained cross-default provisions that were likely to be, and were in fact, triggered due to known market conditions and because TMI used Alt-A assets to collateralize its RPAs at a time when the Alt-A market was deteriorating, causing a run on TMI’s assets. These facts had a material adverse impact on TMI’s business in general, and income and liquidity specifically, and were required to be disclosed at the time the market for mortgage-backed securities collateralized by Alt-A mortgages was under severe distress.

302. Following issuance of the 1Q07 10-Q, the price of TMI common stock rose from its closing price of $27.20 on May 8, 2007 to close at $27.37 on May 9, 2007.

III. JUNE 2007 MISREPRESENTATIONS AND OMISSIONS

A. TMI and Defendant Goldstone Tout “Prime” Originations But Continue To Conceal Alt-A Origination Activity And Exposure

303. On June 6, 2007, Defendant Goldstone participated in a NAREIT Investor’s Conference. During the conference, Defendant Goldstone represented that the Company was “focused exclusively on prime mortgage loan originations as opposed to subprime.”
Further, Defendant Goldstone stated that, “the subprime meltdown that has been occurring in the marketplace over the last four or five months and is likely to continue in our view through the balance of this year has given us an opportunity to differentiate our strategy from a lot of other lending strategies out there.” (Emphasis added.)

304. The foregoing statements, in which Defendant Goldstone and TMI – which is liable for the statements of its CEO under basic principles of agency law – characterized the Company as “exclusively” focused on prime mortgage origination and touted its ability to capitalize on the meltdown in the subprime and Alt-A markets, were materially false and misleading when made because (1) the Company was in fact originating Alt-A loans, according to several Confidential Witnesses; and (2) TMI at the time was dangerously exposed to the Alt-A mortgage market because it held a multi-billion dollar securities portfolio that was collateralized by Alt-A assets.

B. TMI and the Individual Defendants Disseminate Materially False and Misleading Offering Documents in Order to Raise $68.8 Million in Capital to Fuel Liquidity

305. On June 15, 2007, the Company issued a press release titled, “Thornburg Mortgage Raises $68.8 Million in a Convertible Preferred Equity Offering,” wherein the Company “announced that it priced an underwritten public offering of 2,750,000 shares of 7.50% Series E Cumulative Convertible Redeemable Preferred Stock at $25.00 per share.” Further, the Company reported that “[g]ross proceeds from the transaction were $68.8 million and will be primarily used to finance the acquisition or origination of additional adjustable-rate mortgage assets and for working capital. The aggregate net proceeds to the company are estimated to be approximately $66.2 million taking into account costs of issuance.”

306. The June 2007 Offering was made pursuant to the Shelf Registration Statement and a Prospectus Supplement dated June 14, 2007, and filed with the SEC on June 18, 2007.
307. The June 2007 Offering Documents were materially false and misleading because they incorporated, *inter alia*, the 1Q07 10-Q, and the 4/19/07 8-K, which were materially false and misleading for the reasons set forth above at ¶¶286-287, 290, 301.

308. The June Offering Documents also touted the Company’s “Operating Efficiencies” and “Exceptional Credit Quality and Securitization,” stating, in relevant part, that:

*Exceptional Credit Quality and Securitization.* One of our strategic focuses is high credit quality assets. We believe this strategy keeps our credit losses and financing costs low. It also creates significant portfolio liquidity and low portfolio price volatility, which gives us access to financing through the credit cycle and contributes to maintaining consistent profitability. As of March 31, 2007, 95.3% of our ARM Asset portfolio was High Quality. Many of our High Quality ARM Assets consist of “A quality” ARM loans that we have purchased or originated and securitized either into ARM pass-through certificates or into Collateralized Mortgage Debt financings for our own portfolio. We retain the risk of potential credit losses on all of these loans…. We did not experience any credit losses on our ARM Loans during the first quarter of 2007 or during 2006.

309. The foregoing statement was materially false and misleading because, at this time, TMI was unable to access several of its major financing sources. Indeed, by May of 2007, Thornburg Mortgage Finance, LLC – subsidiary of TMI that was formed to purchase whole loans and issue ABCP – was unable to access the ABCP market, according to court filings in the TMI bankruptcy action. In fact, throughout 2007, another subsidiary of TMI – Thornburg Mortgage Capital Resources, LLC – shrunk its ABCP issuances from $9.2 billion to $300 million due to market disruptions, according to TMI bankruptcy court filings. This was due, in material part, to the fact that over 40% of the Company’s purchased whole loans – which were being used to secure ABCP – consisted of less-than-prime, stated income loans.

310. In addition, pursuant to the “disclose or abstain” rule, which requires that a corporate issuer disclose all material non-public information prior to trading in a company’s securities, TMI and the Individual Defendants were required to disclose all material, non-public information in their possession prior to consummating the June 2007 Offering. TMI and the
Individual Defendants violated the "disclose or abstain" rule by failing to disclose that the Company originated and acquired billions of dollars in Alt-A loans and acquired a multi-billion dollar securities portfolio that was collateralized by high-risk Alt-A assets. This material omission rendered the June 2007 Offering Documents materially false and misleading.

311. The June 2007 Offering Documents also are actionable because they failed to comply with the disclosure requirements of Item 303 of Regulation S-K, 17 C.F.R. § 229.303, and Regulation S-X, 17 C.F.R. § 210.4-01, as set forth herein. Specifically, in violation of Item 303 of Regulation S-K, as well as Regulation S-X, the June 2007 Offering Documents failed to disclose: (1) TMI’s origination of Alt-A mortgages; (2) TMI’s acquisition and possession of a multi-billion portfolio of MBS backed by high-risk Alt-A assets; (3) that, beginning in May 2007, the Company lost access to the ABCP market, and that a contributing factor to this loss of access was the fact that more than 40% of the acquired whole loan portfolio used to issue ABCP consisted of less-than-prime, stated income loans during a period when the less-than-prime sector was under severe distress; and (4) TMI’s increased reliance on RPAs collateralized by the aforementioned Alt-A backed MBS for financing – which contained cross-default provisions that were likely to be, and were in fact, triggered due to known market conditions and because TMI used Alt-A assets to collateralize its RPAs at a time when the Alt-A market was deteriorating, causing a run on TMI’s assets. These facts had a material adverse impact on TMI’s business in general, and income and liquidity specifically, and were required to be disclosed in the Offering Documents at the time the market for mortgage-backed securities collateralized by Alt-A mortgages was under severe distress.
312. These continued misstatements and omissions had the desired effect, causing the price of TMI common stock to rise between $0.23 and $0.40 per share between June 14, 2007 and June 18, 2007.

313. Indeed, as Defendant Goldstone admitted on July 19, 2007, “A relatively strong common stock price during the second quarter allowed us to opportunistically issue new common equity through our diverse capital-raising programs. We received net proceeds of $189.0 million from these equity issuances at an average net price of $26.12 per share. These issuances are a powerful tool to increase book value and earnings given we issued these shares at 1.3x our book value.” Further, Defendant Goldstone admitted that:

These common and preferred issuances provide another avenue to enhance earnings for common shareholders, strengthen our balance sheet and achieve financing diversification. By successfully executing a number of financing and alternative capital-raising transactions, we enhanced our earnings prospects and strengthened our balance sheet in an environment where our core spread-lending business has been stressed by competitive market and interest rate pressures.

IV. JULY 2007 MISREPRESENTATIONS AND OMISSIONS

A. TMI and the Individual Defendants Report 2Q EPS and that Dividend Will be Maintained, But Continue to Conceal Alt-A Holdings and Problems in the ABCP Market

314. On July 20, 2007, Defendant Goldstone participated in a conference call with analysts and investors to discuss the Company’s second quarter 2007 results. During the call, Defendant Goldstone also falsely stated that, “We are behaving substantially differently than subprime originators because we are not that. We are not an Alt-A originator. We are not — we are a prime adjustable rate mortgage originator…. .”

315. Defendant Goldstone’s statement was materially false and misleading when made because he – and thus TMI – misled investors into believing that the Company originated only prime loans when, according to several confidential witnesses (CW3, CW4, CW5, CW6 and
CW7), the Company had been originating a material amount of Alt-A loans continuously since at least 2004 and throughout the Class Period. Moreover, at the time Defendant Goldstone used the term “Alt-A” pejoratively, the Company held a multi-billion dollar securities portfolio that was collateralized by high-risk Alt-A assets. The failure to disclose this material information thus rendered the statement made by Defendant Goldstone and TMI materially false and misleading.

316. These misstatements and omissions had their intended effect. For example, in a July 20, 2007, research report, AG Edwards analyst Greg Mason increased his 2007 earnings estimate for the Company to $2.58, up from $2.45.

317. Similarly, Bear Stearns analysts David Hochstim and Michael Nannizzi increased their estimates for the third and fourth quarters to $0.65 and $0.62 from $0.57 and $0.56, respectively, and increased their full-year 2007 estimate from $2.32 to $2.54.

318. Furthermore, the misstatements and omissions caused the price of TMI common stock to rise $1.46 in pre-market trading from its closing price of $25.53 on July 19, 2007, and then another $0.27 during the day to close at $27.19 on July 20, 2007.

V. **AUGUST 2007 MISSTATEMENTS AND OMISSIONS – TMI AND THE INDIVIDUAL DEFENDANTS BEGIN A CAMPAIGN OF SELECTIVE DISCLOSURE**

A. **TMI Files 2Q07 10-Q Concealing Asset Illiquidity and Billions in Alt-A Exposure**

319. On August 8, 2007, the Company filed its Quarterly Report on Form 10-Q for the period-ended June 30, 2007, with the SEC (“2Q07 10-Q”). The 2Q07 10-Q was signed by Defendants Mr. Thornburg, Goldstone and Simmons, and contained Sarbanes-Oxley required certifications substantially similar to those set forth above at ¶300.

320. The 2Q07 10-Q touted the Company’s liquidity and financing options. For example, in Note 4 to the Unaudited Consolidated Financial Statements, concerning the
Company’s Borrowings, the 2Q07 10-Q touted the fact that “[t]he Company ha[d] arrangements to enter into Reverse Repurchase Agreements … with 21 different financial institutions” outstanding – but failed to disclose that by that date, several of these institutions had collectively instituted billions of dollars of margin calls to the Company that necessitated the sale of billions of dollars of the Company’s assets just two days later.

321. Similarly, in touting the Company’s “Funding Diversification,” the 2Q07 10-Q stated, in relevant part, that:

Another long-term objective is to achieve a more balanced funding mix between Asset-backed CP, Collateralized Mortgage Debt and Reverse Repurchase Agreements in order to reduce our reliance on any one funding source. Historically, we have relied principally on Reverse Repurchase Agreements for our funding needs. Since year end 2002, we have been actively working towards diversifying our financing sources. At that time, 91% of our borrowings were provided through Reverse Repurchase Agreements. At June 30, 2007, Reverse Repurchase Agreements accounted for only 45% of our borrowings, while Collateralized Mortgage Debt represented 35% and our Asset-backed CP facility accounted for 15%.

322. Regarding the Company’s “Financing Strategies,” the 2Q07 10-Q stated, in relevant part, that:

Importantly, over time we have diversified our funding sources by replacing a portion of our Reverse Repurchase Agreement borrowings with the issuance of Asset-backed CP.

Because we borrow money under Reverse Repurchase Agreements and Asset-backed CP based on the fair value of our ARM Assets, our borrowing ability under these agreements could be limited and lenders could initiate margin calls in the event of interest rate changes or if the value of our ARM Assets declines for other reasons.

323. The foregoing statements were materially misleading when made. While the Company represented that it had diversified – or would be able to diversify – its funding sources, in reality its available funding sources had become increasingly concentrated and less diverse. In TMI’s bankruptcy proceedings, court filings reveal that beginning as early as May 2007,
disruptions in the ABCP market affected the ability of Thornburg Mortgage Financial – a TMI subsidiary – to access the ABCP market. ABCP thus dwindled as a percentage of the Company’s borrowings as outstanding commercial paper issuances began to mature and could not be rolled-over in the ABCP market. Id. In addition, the Company was unsuccessful in efforts to secure CDO financing and was unable to complete a desired securitization transaction until September 4, 2007. As a result, TMI had become more reliant on increasingly costly RPA financing secured by high-risk MBS backed by Alt-A assets, despite representations that it had worked towards diversifying its financing sources.

324. The 2Q07 10-Q also is actionable because it failed to comply with the disclosure requirements of Item 303 of Regulation S-K, 17 C.F.R. § 229.303, and Regulation S-X, 17 C.F.R. § 210.4-01, as set forth herein. Specifically, in violation of Item 303 of Regulation S-K, as well as Regulation S-X, the June 2007 Offering Documents failed to disclose: (1) TMI’s origination of Alt-A mortgages; (2) TMI’s acquisition and possession of a multi-billion portfolio of MBS backed by high-risk Alt-A assets; and (3) TMI’s increased reliance on RPAs collateralized by the aforementioned Alt-A backed MBS for financing – which contained cross-default provisions that were likely to be, and were in fact, triggered due to known market conditions and because TMI used Alt-A assets to collateralize its RPAs at a time when the Alt-A market was deteriorating, causing a run on TMI’s assets. These facts had a material adverse impact on TMI’s business in general, and income and liquidity specifically, and were required to be disclosed at the time the market for mortgage-backed securities collateralized by Alt-A mortgages was under severe distress.

325. The Company’s failure to disclose this information to investors rendered the 2Q07 materially false and misleading. Further, by virtue of these misstatements and omissions,
the Sarbanes-Oxley certifications set forth above, which certified, *inter alia*, that there were no material omissions contained in the 2Q07 10-Q, were also materially false and misleading.

326. As a result of the foregoing misrepresentations and omissions, the price of TMI common stock rose $0.57 from its closing price of $21.95 on August 7, 2007, to close at $22.52 on August 8, 2007.

327. On August 10, 2007, Moody’s, Standard & Poor’s (“S&P”) and AG Edwards downgraded the Company on a belief that it was not immune from the problems plaguing the mortgage finance market.

328. The Associated Press commented on the S&P downgrade in an August 10, 2007, article titled “S&P Lowers Thornburg Mortgage Rating,” stating that S&P had “lowered its long-term credit rating on Thornburg Mortgage Inc., a prime mortgage lender, and placed the rating on CreditWatch Negative to reflect the unsteady state of the secured financing capital market.” The Associated Press also quoted S&P credit analyst Adom Rosengarten as having stated that, “[w]hile the company’s balance sheet is comprised of high-quality assets, dislocation in pricing of all mortgage assets has restricted Thornburg’s access to repo funding and the company is facing increasing margin calls,” and “Thornburg’s reliance on short-term funding is further restricting its access to liquidity.”

329. On this news, shares of the Company’s common stock fell $3.17 or 14.9% percent in pre-market trading, from its closing price on August 9, 2007, to close at $18.06 on August 10, 2007 on heavy volume of 8,483,000 shares traded, compared to only 3,344,100 shares traded the previous day.

330. Shares of TMI continued to fall on August 13, 2007 in response to the downgrades, losing another 20.93% of its value, falling $3.78, from its closing price of $18.06
per share on August 10, 2007, to close at $14.28 per share on August 13, 2007, on particularly heavy trading volume of 13,136,500 shares traded.

331. Then, before the markets opened on August 14, 2007, four other analysts covering the Company – Piper Jaffray, Jefferies & Co, Friedman Billings Ramsey & Co. ("Friedman"), RBC Capital Markets, and Credit Suisse – downgraded the Company’s stock. Also before the market opened on August 14, 2007, Moody’s cut the Company’s credit ratings two levels to B2, its fifth-highest speculative-grade ranking, and left the ratings on review for another downgrade.

332. On this news, the Company’s shares declined an additional $3.43 per share from its closing price of $14.28 on August 13, 2007, to open at $10.85 on August 15, 2007.

B. TMI and the Individual Defendants Disseminate Materially False and Misleading Offering Documents in Order to Raise $500 Million in Necessary Capital to Keep Company Afloat Following Liquidity Crisis

333. On August 30, 2007, the Company announced its intent to secure additional financing through the issuance of a $1.44 billion CDO, collateralized by the Company’s hybrid ARM loans. The transaction was completed on September 4, 2007, and was used to reduce borrowings under the Company’s ARM warehouse financing lines by $1.37 billion.

334. Also on August 30, 2007, the Company announced a preferred stock offering of 20,000,000 shares of the Company’s Series F Preferred Stock. The offering was completed on September 7, 2007, for gross proceeds of $500 million.

335. The September 2007 Offering was made pursuant to the Shelf Registration Statement and prospectus supplements filed with the SEC on August 30, 2007 and September 4, 2007. The September 2007 Offering Documents incorporated, inter alia, the (i) 1Q07 10-Q, (ii) 2Q07 10-Q, and (iii) 4/19/07 8-K, which were materially false and misleading for the reasons set forth above at ¶¶286-287, 290, 301, 319-324.
336. In addition, the September 2007 Offering Documents stated, in a section entitled "Recent Events," *inter alia*, that:

During 2007, lower credit quality loans and securities backed by subprime mortgage loans and, to a lesser extent, *Alt-A mortgage loans were downgraded by ratings agencies as the credit performance of the underlying loans deteriorated and, as a result, the prices of securities backed by those loans declined*. In late July and early August, concerns were fueled among mortgage investors owning MBS as a result of ... public announcements by several large mortgage originators that they were planning to cease lending in the prime jumbo segment of the mortgage market because of a lack of ability to sell those mortgages in the secondary market.

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A number of Alt-A lenders and subprime lenders that had been using the commercial paper market to fund their loans and securities went out of business or declared bankruptcy in 2007. As many of these commercial paper issuers ran into their own financing difficulties, they exercised extendable maturity features instead of paying off maturing amounts on their commercial paper. As a result, commercial paper investors stopped investing in mortgage-backed commercial paper with extendable maturities. As an issuer of commercial paper with an extendable maturity feature, we were unable to continue rolling over our maturing commercial paper as a result of the general disruption in the commercial paper market. To date ... we are not currently able to issue new commercial paper as that market is still not functioning.

Emphasis added.

337. The foregoing statements in the September 2007 Offering Documents were materially misleading. Specifically, because the Company undertook to discuss the deteriorating market for securities backed by Alt-A mortgages, it assumed a duty to speak fully and truthfully. Therefore, its failure to disclose the fact that TMI itself held billions of dollars in MBS backed by Alt-A collateral and was in the process of originating additional risky Alt-A loans is actionable.

338. In addition, pursuant to the "disclose or abstain" rule, which requires that a corporate issuer disclose all material non-public information prior to trading in a company's securities, TMI and the Individual Defendants were required to disclose all material, non-public
information in their possession prior to consummating the September 2007 Offering. TMI and the Individual Defendants violated the “disclose or abstain” rule by failing to disclose that the Company originated and acquired billions of dollars in Alt-A loans and held a multi-billion dollar securities portfolio that was collateralized by high-risk Alt-A assets. This material omission rendered the September 2007 Offering Documents materially false and misleading.

339. The September 2007 Offering Documents also are actionable because they failed to comply with the disclosure requirements of Item 303 of Regulation S-K, 17 C.F.R. § 229.303, and Regulation S-X, 17 C.F.R. § 210.4-01, as set forth herein. Specifically, in violation of Item 303 of Regulation S-K, as well as Regulation S-X, the September 2007 Offering Documents failed to disclose: (1) TMI’s origination of Alt-A mortgages; (2) TMI’s acquisition and possession of a multi-billion portfolio of MBS backed by high-risk Alt-A assets; and (3) TMI’s increased reliance on RPAs collateralized by the aforementioned Alt-A backed MBS for financing – which contained cross-default provisions that were likely to be, and were in fact, triggered due to known market conditions and because TMI used Alt-A assets to collateralize its RPAs at a time when the Alt-A market was deteriorating, causing a run on TMI’s assets. These facts had a material adverse impact on TMI’s business in general, and income and liquidity specifically, and were required to be disclosed in the Offering Documents at the time the market for mortgage-backed securities collateralized by Alt-A mortgages was under severe distress.

VI. **Misrepresentations and Omissions in TMI's 3Q07 Form 10-Q**

341. On November 9, 2007, the Company filed the 3Q07 10-Q with the SEC. The 3Q07 10-Q was signed by Defendants Mr. Thornburg, Goldstone and Simmons and contained Sarbanes-Oxley certifications substantially similar to those set forth above at ¶300.

342. In the Management Discussion and Analysis of Financial Condition and Results of Operations ("MD&A") section of the 3Q07 10-Q, the TMI and the Individual Defendants discussed how deteriorations in credit performance of Alt-A mortgage loans, which TMI purportedly did not possess, led to rating agency downgrades during the quarter and a decline in the prices of securities backed by these loans. TMI and the Individual Defendants revealed that, as a result of this credit and liquidity crisis, and contrary to prior representations that there was a liquid market for the Company’s AAA-rated securities and that it had even been successful in obtaining financing for its lower-rated securities, “many traditional buyers [] were suddenly unwilling to buy at any price regardless of the quality of the underlying loans.”

343. The 3Q07 10-Q is actionable because it failed to comply with the disclosure requirements of Item 303 of Regulation S-K, 17 C.F.R. § 229.303, and Regulation S-X, 17 C.F.R. § 210.4-01, as set forth herein. Specifically, in violation of Item 303 of Regulation S-K, as well as Regulation S-X, the 3Q07 10-Q failed to disclose: (1) TMI’s origination of Alt-A mortgages; (2) TMI’s acquisition and possession of a multi-billion portfolio of MBS backed by high-risk Alt-A assets; and (3) TMI’s increased reliance on RPAs collateralized by the aforementioned Alt-A backed MBS for financing – which contained cross-default provisions that were likely to be, and were in fact, triggered due to known market conditions and because TMI used Alt-A assets to collateralize its RPAs at a time when the Alt-A market was deteriorating, causing a run on TMI’s assets. These facts had a material adverse impact on TMI’s business in general, and income and liquidity specifically, and were required to be disclosed at the time the
market for mortgage-backed securities collateralized by Alt-A mortgages was under severe distress.

344. Further, by virtue of the foregoing misstatements and omissions, the Sarbanes-Oxley certifications set forth above, which certified, *inter alia*, that there were no material omissions contained in the 3Q07 10-Q, were also materially false and misleading.

VII. **January 2008 Misrepresentations and Omissions**

A. **January 2008 Offering**

345. On January 9, 2008, TMI issued a press release announcing the commencement of two concurrent public offerings of TMI securities, to raise approximately $200 million of additional long-term capital for the Company (the “1/9/08 Press Release”). Specifically, the Company commenced an offering of 4,500,000 shares of the Company’s 10% Series F Preferred Stock, and another offering for 11,000,000 shares of Company common stock. As the 1/9/08 Press Release stated, the Company needed to conduct the offering in order to obtain proceeds with which “to finance the acquisition or origination of additional ARM Assets … [and] for liquidity needs and for working capital....”

346. The quantity of the shares offered under each public offering changed by the time the offerings were priced and, on January 15, 2008, TMI issued a press release announcing that 7,000,000 shares of Company common stock had been priced at $8.00 per share and that 8,000,000 shares of its existing 10% Series F Preferred Stock had been priced at $19.50 per share. In total, the Company raised $212 million in gross proceeds from these offerings.

347. As set forth above, the January 2008 Offerings were made pursuant to the Shelf Registration Statement and the January 2008 Offering Documents, which incorporated, *inter alia*, the: (i) 1Q07 10-Q, (ii) 2Q07 10-Q, (iii) 3Q07 10-Q, and (iv) 4/19/07 8-K, which were still
materially false and misleading at the time the January Offering Documents were issued, for the
reasons set forth above at ¶¶286-287, 290, 301, 319-324, 341-344.

348. In addition, pursuant to the “disclose or abstain” rule, which requires that a
corporate issuer disclose all material non-public information prior to trading in a company’s
securities, TMI and the Individual Defendants were required to disclose all material, non-public
information in their possession prior to consummating the January 2008 Offerings. TMI and the
Individual Defendants violated the “disclose or abstain” rule by failing to disclose that the
Company originated and acquired billions of dollars in Alt-A loans and held a multi-billion
dollar securities portfolio that was collateralized by high-risk Alt-A assets. This material
omission rendered the January 2008 Offering Documents materially false and misleading.

349. The January 2008 Offering Documents also are actionable because they failed to
comply with the disclosure requirements of Item 303 of Regulation S-K, 17 C.F.R. § 229.303,
and Regulation S-X, 17 C.F.R. § 210.4-01, as set forth herein. Specifically, in violation of Item
303 of Regulation S-K, as well as Regulation S-X, the January 2008 Offering Documents failed
to disclose: (1) TMI’s origination of Alt-A mortgages; (2) TMI’s acquisition and possession of a
multi-billion portfolio of MBS backed by high-risk Alt-A assets; and (3) TMI’s increased
reliance on RPAs collateralized by the aforementioned Alt-A backed MBS for financing – which
contained cross-default provisions that were likely to be, and were in fact, triggered due to
known market conditions and because TMI used Alt-A assets to collateralize its RPAs at a time
when the Alt-A market was deteriorating, causing a run on TMI’s assets. These facts had a
material adverse impact on TMI’s business in general, and income and liquidity specifically, and
were required to be disclosed in the Offering Documents at the time the market for mortgage-
backed securities collateralized by Alt-A mortgages was under severe distress.
Moreover, TMI's restatement of its 2007 financial results constituted an acknowledgment that the Company was experiencing such a severe liquidity crisis by December 31, 2007 that it may not be able to continue as a going concern. This information, which was in fact and, thus, was "reasonably likely" to affect TMI’s liquidity in a material way, was required to be disclosed to investors prior to the January 2008 Offering, and Defendants’ failure to do so constitutes an additional actionable violation of Item 303 and the "disclose or abstain" rule.

VIII. February 2008 Misrepresentations and Omissions

A. The Undisclosed JP Morgan Default, Cross-Defaults, and First Disclosure of ARM Assets Backed by Alt-A Loans

Despite representing just three weeks earlier that TMI had ample liquidity to grow its balance sheet, on February 28, 2008, the Company received a notice of event of default from JP Morgan for failing to meet a margin call of approximately $28 million, on a RPA entered into between the Company and JP Morgan. In line with their history of selective disclosure, TMI and the Individual Defendants concealed the margin call and subsequent notice of event of default from investors until March 3, 2008, notwithstanding that TMI filed its 2007 10-K on the same day – February 28, 2008 – that TMI received the notice of default and well-after it received the margin call from JP Morgan that it was unable to meet and that precipitated the notice of default. Moreover, despite even TMI’s selective disclosure on March 3, 2008, TMI and the Individual Defendants concealed from investors until March 5, 2008, the fact that the JP Morgan default notice triggered cross-default provisions in RPAs with all of its other RPA lenders, exposing the Company to the very real threat that it would be required to immediately liquidate billions of dollars of collateral at the whim of the lenders.

Indeed, on February 28, 2008, the Company filed the 2007 10-K. The 2007 10-K was signed by Defendants Goldstone, Simmons, Mr. Thornburg, Anderson, Ater, Cutler, Jeffers,
Kalangis, Lopez, Mullin, and Sherman. In addition, Defendants Mr. Thornburg, Goldstone and Simmons signed Sarbanes-Oxley certifications similar to that set forth above at ¶300.

353. While the 2007 10-K omitted the JP Morgan default, it revealed, for the first time, the existence of MBS backed by Alt-A collateral in the Company’s ARM portfolio. The 2007 10-K further revealed that these high-risk Alt-A backed MBS were being used to collateralize TMI’s RPAs. Specifically, under the section titled “Recent Developments,” the 2007 10-K stated:

Beginning on February 14, 2008, there was once again a sudden adverse change in mortgage market conditions in general and more specifically in the valuations of mortgage securities backed by Alt-A mortgage loan collateral. As of February 15, 2008, our Purchased ARM Assets included approximately $2.9 billion of super senior, credit-enhanced mortgage securities, all of which are AAA-rated and 

backed by Alt-A mortgage collateral. Our current credit assessment of these mortgage securities in our portfolio suggests a low possibility of future downgrades and even less risk of actual losses. We have not realized any losses on these mortgage securities to date. However, we have observed deterioration in the liquidity for these securities and increased difficulty in obtaining market prices. Accordingly, market valuations of these securities have decreased between 10 and 15 percent since January 31, 2008, and as a result, we have been subject to margin calls on this collateral. Since February 14, 2008, we have met margin calls in excess of $300 million on our Reverse Repurchase Agreements, the substantial majority of which is related to the decline in valuations placed on these securities.

Emphases added.

354. In addition, the 2007 10-K discussed the following relevant risk factors which, unbeknownst to investors, had already come to pass:

The occurrence of recent adverse developments in the mortgage finance and credit markets has affected our business and our stock price.

* * *

We faced significant challenges during the second half of 2007 due to these adverse conditions in the mortgage industry and the difficulties we experienced in pricing and financing our mortgage assets, and are continuing to face these challenges in 2008. There is no assurance that these conditions have stabilized or that they will not worsen. Recent adverse changes in the mortgage finance and credit markets have eliminated or reduced the availability, or increased the cost,
of significant sources of funding for us. Beginning in August 2007, the fair value of our ARM Assets as well as our Hedging Instruments declined, our margin requirements on our financing increased.... There is no assurance that the value of our Purchased ARM Assets and Hedging Instruments will not decline further, that lenders will not make additional margin calls or that we will be able to satisfy additional margin calls.

355. The disclosures made in the 2007 10-K, however, only partially removed the artificial inflation in the Company's common stock price. Indeed, the 2007 10-K still misrepresented or omitted that:

(a) the Company's FY 2007 financial results, as set forth and/or referenced in the 2007 10-K, were materially false because they did not properly reflect the value of the Company's ARM portfolio as of December 31, 2007, as demonstrated by KPMG's demand that TMI restate its FY 2007 financial statements; and

(b) while the Company had met margin calls in excess of $300 million since February 14, 2008 and had reduced readily availability liquidity to meet future margin calls, the Company did not disclose that it had defaulted on its RPA with JP Morgan after being unable to meet an earlier margin call of $28 million, or that the default triggered cross-default provisions under all remaining RPAs exposing the Company to demands for the repurchase of billions of dollars in underlying collateral.

356. TMI common stock lost more than 15% of its value in response to this news, falling from its closing price of $11.54 on February 27, 2008, to close at $9.76 on February 28, 2008, down $1.78 on heavy trading volume of 21,012,500 shares. In contrast, trading volume on February 27, 2008, was only 4,513,700 shares. Moreover, the price of TMI common stock would likely have declined even further had investors been made aware of the JP Morgan default, as well as the cross-defaults triggered with other lenders.
On March 2, 2008, in response to the $300 million in disclosed margin calls, S&P lowered its counterparty rating of TMI to “B-” from “B.”

IX. MARCH 2008 MISSTATEMENTS AND OMISSIONS

A. TMI and the Individual Defendants Reveal Company’s Inability to Meet $270 Million in Margin Calls Would Have a “Material” Impact on its Borrowing Position

On March 3, 2008, TMI filed a Current Report on Form 8-K (“3/3/08 8-K”) with the SEC incorporating a press release the Company had issued that same day titled, “Thornburg Mortgage Provides Update on Company’s Liquidity,” in which it made new disclosures about “recent material developments to its outstanding borrowings position” and the Company’s ability to satisfy margin calls received to date. The 3/3/08 8-K stated, in relevant part, that:

As of February 27, 2008, we had met all margin calls, including margin calls received between February 14 and February 27, 2008 in an amount in excess of $300 million, on our reverse repurchase agreements, the substantial majority of which were related to the decline in valuations placed on these securities. However, after February 27, 2008 we saw further continued deterioration in prices of mortgage securities and we have incurred additional margin calls in an amount in excess of $270 million. As a result of margin calls prior to February 27, 2008, we have limited available liquidity to meet these recent margin calls as well as any future margin calls. Consequently, to date, we have not met the substantial majority of the most recent margin calls. On Thursday, February 28, 2008, one lender delivered a notice of event of default under a reverse repurchase agreement after we failed to satisfy a margin call in the amount of approximately $28 million. We have been continuing discussions with this lender, and the lender has not yet exercised its right to liquidate pledged collateral. To the extent that any other reverse repurchase agreement contains a cross-default provision, the related lender, which may be an underwriter or its affiliate, could declare an event of default at any time.

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The turmoil in the mortgage financing market that began last summer continues to be exacerbated by the mark-to-market accounting rules which are forcing companies to take unrealized write-downs on assets they have no intention of selling. In this environment, the current market price of assets has become disconnected from their underlying recoverable value, resulting in increased volatility and imprecise quarter-to-quarter comparisons of asset valuations.
Emphases added.

359. TMI common stock lost more than 51% of its value in response to this news, falling from its closing price of $8.90 on February 29, 2008, to close at $4.32 on March 3, 2008, down $4.58 on heavy trading volume of 76,858,800 shares. In contrast, trading volume on February 29, 2008, was only 7,412,800 shares.

360. Analysts also were weary. For example, a Keefe, Bruyette & Woods Inc. ("KBW") analyst noted that "[c]ontinued deterioration in the market throughout the week could lead to more margin calls, placing further stress on Thornburg." According to KBW, "[t]he two portfolios causing Thornburg the most difficulty include alt-A and jumbo loans," of which "Thornburg has about $3 billion in the alt-A portfolio and $10 billion in the jumbo portfolio." RBC Capital Markets ("RBC") analyst Arnold also downgraded the Company, citing RBC’s concern that "TMI now has much more limited resources to meet margin demands, so more may now be at stake." Citi Investment Research analyst Donald Fandetti also downgraded the Company citing a risk of bankruptcy if the Company continued to fail to meet the calls. Indeed, a March 4, 2008 article titled Echoes of August Heard in Thornburg’s Downturn, by American Banker reporter Kate Berry quoted Donald Fandetti of Citi as stating: "Another downturn in the market could lead to significant risk to the company; a more dire turn in the market could lead to bankruptcy."

361. Rating agencies, including Fitch, Moody’s, and S&P likewise downgraded the Company in response to the Company’s failure to meet margin calls. In particular, Moody’s stated that "the current prices at which Thornburg’s assets are marked may not reflect the prices available in the market and therefore current haircuts may be inadequate." Shares of TMI closed down further on March 4, 2008, at $3.56 per share, a one-day decline of more than 21 percent.
362. The 3/3/08 8-K was materially false and misleading, and did not reveal the full truth about TMI’s business and financial conditions because TMI and the Individual Defendants misrepresented that, to the extent that cross-default provisions existed in the Company’s other RPAs – which they knew in fact did – then additional defaults under other outstanding RPAs were possible, when they knew, and concealed that the JP Morgan default triggered cross defaults in all of the Company’s other RPAs, exponentially increasing the Company’s financial exposure.

363. The Company’s March 3, 2008 statement also failed to disclose the true extent of the margin calls received by TMI. Specifically, in connection with an adversary proceeding related to TMI’s bankruptcy, Defendant Goldstone submitted a declaration in which stated that during the first quarter of 2008 “through March 6, 2008,” Thornburg met “in the aggregate, a total of $1.2 billion [in] margin call[s] under [its RPAs].” See Credit Suisse Sec. (USA) LLC, as Collateral Agent v. TMST, Inc., No. 09-00574 (D. Md. Bankr. Sept. 2, 2009 (Doc. 11 at ¶12) (Emphasis added.) Defendant Goldstone’s admission further underscores the misleading nature of TMI’s March 3, 2008 statement by suggesting that, in fact, the Company faced hundreds of millions of dollars in additional, undisclosed margin calls during this time period.

364. Finally, TMI’s representation that it was working to meet all margin calls and that JP Morgan had “not yet exercised its right to liquidate pledged collateral” is significantly undermined by a Statement of Financial Affairs filed in connection with TMI’s bankruptcy proceedings. The Statement of Financial Affairs noted that, in fact, JP Morgan liquidated 31 different securities (amounting to more than $168 million) in transactions that closed only one day after the press release was issued, on March 4, 2008.
365. As a result of this and other non-disclosures, later on March 3, 2008, the Company announced that it was able to finance $1 billion in mortgages which, according to the Associated Press State & Local Wire, would “help improve its liquidity and provide long-term financing.”

B. **TMI and the Individual Defendants Admit that the JP Morgan Default Triggered Cross-Default Provisions with All Other RPA Lenders**

366. On March 5, 2008, the Company filed a Current Report on Form 8-K with the SEC (“3/5/08 8-K”), finally fully reporting on the February 28, 2008 notice of event of default it had received from JP Morgan, after failing to meet a margin call of approximately $28 million on a $320 million lending agreement entered into between the Company and JP Morgan. In the 3/5/08 8-K, TMI and the Individual Defendants reported that JP Morgan had indicated in its February 28, 2008, notice of default letter that it would be exercising its rights under the agreement. Lastly, the Company reported that (1) the notice of an event of default received by JP Morgan triggered cross-defaults under all of the Company’s other RPAs and its secured loan agreements; and (2) the Company’s obligations under those agreements were “material.”

367. This announcement came after the close of market on Wednesday, March 5, 2008. A March 6, 2008 CNNMoney.com article titled, “Stocks set for another bumpy ride,” which stated that “[p]roblems in the mortgage markets were in the news again as Thornburg Mortgage said late Wednesday that it was notified by JP Morgan Chase that is was in default on a $320 million financing agreement after missing a $28 million margin call. That default notice triggered more defaults for Thornburg’s other lending agreements.”

368. “Thornburg Mortgage’s shares dropped sharply Thursday morning after the company said it failed meet to meet a margin call of about $28 million. The shares were off about 60 percent, trading at $1.37 shortly after 9 a.m,” reported Bob Quick in a March 6, 2008,
article in the *Santa Fe New Mexican*, titled, “Troubles mount for Thornburg Mortgage as stock plummets.”

369. In total, TMI common stock lost **54.4%** of its value in response to the disclosure of the Company’s defaults on its financing agreements and “worries the ‘jumbo’ mortgage lender might go bankrupt,” reported *National Post’s Financial Post & FP Investing (Canada)*, in a March 7, 2008, article titled “Thornburg Mortgage misses margin call, shares plummet.” Specifically, the price of TMI common stock fell $2.14 from its closing price of $3.40 on March 5, 2008, to close at $1.26 on March 6, 2008 on particularly heavy volume of 60,344,600 shares traded.

370. Analysts such as Jefferies & Co.’s Richard B. Shane, Jr. also seized upon the default notice as evidence that “Thornburg Mortgage Inc. faces a one-in-four chance of going bankrupt.” Similarly, in downgrading the Company, RBC’s Arnold warned that the default notices could lead TMI into bankruptcy and said, “Thornburg now appears to be on the ropes, and barring a sizable capital injection (which is possible but seems very unlikely at this point, in our view) we see little in the form of upside,” and that “there was limited value remaining for shareholders.” KBW analyst Bose George echoed these sentiments, saying “bankruptcy risk is material” as he slashed the Company’s price target by 75% to $1.

371. In the wake of this announcement, on March 6, 2008, Fitch Ratings also downgraded TMI, reported the *Associated Press Financial Wire* in an article titled, “Thornburg Mortgage shares lose more than 50 percent after JPMorgan notice; downgrades.”

**C. TMI and the Individual Defendants Finally Reveal Existence of KPMG Letter and Requirement to Restate**

8-K the Company revealed that, as a result of the KPMG Letter, the Company's Board of Directors had likewise concluded that the financial statements for the year ended December 31, 2007, were false and were required to be restated. The Company further admitted in the 3/7/08 8-K that, "difficult market conditions that have resulted in a significant deterioration of prices of mortgage-backed collateral, combined with a liquidity position under unprecedented pressure from increased margin calls by its reverse repurchase agreement lenders, a portion of which the company has been unable to meet, have raised substantial doubt about the company's ability to continue as a going concern."

373. In addition, the Company revealed, in relevant part:

The Company may not have the ability to hold certain of its purchased ARM assets to recovery and, accordingly, on March 5, 2008, the Company concluded that a $427.8 million charge for impairment on its purchased ARM assets is required as of December 31, 2007, in accordance with generally accepted accounting principles.

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Through the close of business on March 6, 2008, the company had received $1.777 billion in margin calls since December 31, 2007, and had satisfied $1.167 billion of those margin calls primarily by using its available liquidity, principal and interest payments and proceeds from the sale of assets. As of close of business on March 6, 2008, the company had outstanding margin calls of $610.0 million which significantly exceeded its available liquidity at that date.

374. In response to this news, Jefferies & Co. cut its rating of TMI to "underperform" from "hold," citing "increased financing risks" and "unreliable results."

375. Upon this news, TMI stock opened down from a close of $1.79 per share on March 7, 2008 to open at $1.34 per share at the start of the next trading session on March 10, 2008. At the close of the March 10, 2008 trading session, TMI stock was down to just $0.71 per share, on heavy volume of 34,591,800 shares traded – reflecting a total decline from the time of the disclosure of more than 60 percent.
376. The 3/7/08 8-K announcing the restatement, however, still did not reveal the full truth about the Company’s financial condition. Specifically, as set forth below, the 3/7/08 8-K materially understated the loss that the Company would record on its assets by $248.8 million.

D. **Company Issues Restated Financial Results and Reports Greater Loss than Estimated Just Two Days Prior**

377. On March 11, 2008, the Company filed an Amended Annual Report on Form 10-K/A for the fiscal year-ended December 31, 2007 (the “2007 10-K/A”). The 2007 10-K/A contained the Company’s restated financial results for the year-ended December 31, 2007. In the 2007 10-K/A, the Company reported, for the first time, a $676 million loss for FY2007 – $248.8 million more than the Company reported it would record just two business days prior.

378. In addition, in an Explanatory Note to the 2007 10-K/A, the TMI and the Individual Defendants admitted that:

On March 5, 2008, the Board of Directors decided that we should restate these financial statements after concluding that there was substantial doubt as to our ability to continue as a going concern at December 31, 2007, and that therefore, losses on our available for sale securities and our Securitized ARM Loans that are currently pledged as collateral for Reverse Repurchase Agreements were considered to be other than temporary impairments as of December 31, 2007 since we may not be able to hold these securities for the foreseeable future because we may sell them to satisfy margin calls from our lenders or to otherwise manage our liquidity position.

379. Further, as TMI and the Individual Defendants reported, in a press release issued that same day, announcing the filing of the restatement, “[t]he company recognized this additional impairment charge in accordance with generally accepted accounting principles because it may not have the ability to hold certain of its securitized ARM loans to maturity.”

380. TMI and the Individual Defendants’ explanation of the need to restate appears to be at odds with the KPMG Letter and the principles governing restatements. While TMI and the Individual Defendants tried to convince the market that recent events in 2008 led to the
restatement of the Company’s FY 2007 financials, GAAP requires restatements only when financial statements are materially misleading upon issuance. Accordingly, KPMG’s restatement demand was the result of TMI’s financial statements for FY 2006 and FY 2007 being materially misleading upon issuance.

381. TMI and the Individual Defendants’ self-serving explanations, suggesting that the restatement occurred as a result of 2008 events constitutes yet another materially misleading statement.

382. In addition, TMI has not restated its FY 2006 financials, despite KPMG’s clear recommendation that it do so. Once again, the Company has provided no explanation for its decision to disregard the express advice of its own independent auditor.

383. That same day, March 11, 2008, the Fed also announced that it would lend banks up to $200 billion of U.S. Treasuries and accept as collateral, mortgage-backed securities, for which there currently was no market, thus providing much-needed liquidity to the cash-strapped mortgage finance market.

384. In response to the foregoing disclosures, the price of TMI common stock actually increased from its closing price of $0.69 per share on March 10, 2008, to close at $1.25 per share on March 11, 2008. However, the increase was caused by the Fed announcement, which was so material that it mitigated the effect that the disclosure of the additional asset impairment recorded in the restated financial statements would otherwise have had on investors. Indeed, it was widely reported that the stock market as a whole had its biggest one-day gain in five years as a result of the Fed announcement. For example, a March 12, 2008, New Mexico Business Weekly article titled, “Thornburg Mortgage rises again,” reported, in relevant part, that, “Thornburg stock gained dramatically Tuesday on news that the Fed would loan $200 billion to banks to increase
liquidity and would accept mortgage loans as collateral, news that buoyed the entire market to its biggest percentage gain since March 2003. The stock closed at $1.56 on Tuesday.”

385. The March 12, 2008, New Mexico Business Weekly article further reported that “on Wednesday morning came the news that Bear Stearns had upgraded TMI from “underperform” to “Peers Perform,” and the “stock shot up again and stood at $3.01, up 93 percent from Tuesday’s close, in mid-afternoon trading.” In upgrading the Company, Bear Stearns stated, in relevant part, that:

The Federal Reserve’s Term Securities Lending Facility (TSLF) should provide a significant benefit to Thornburg as liquidity is restored to the non-Agency mortgage market (along with the Agency mortgage market). High quality non-Agency mortgage securities appear to have benefited even more from the Fed’s actions than other types of assets because liquidity had been so restricted despite a lack of concern about credit.

* * *

Just as price declines were compounded by a reduction in the liquidity available to finance the company’s low risk assets, the Fed’s willingness to lend against these securities for 28 days instead of only overnight appears to be dramatically improving the liquidity and valuation of these mortgage securities.

E. Company Continues to Default on Repurchase Agreements

386. After the close of market on March 12, 2008, the Company filed a Current Report on Form 8-K with the SEC, in which it reported that on March 11, 2008, the Company received a notice of event of default from Morgan Stanley & Co. Incorporated (“Morgan Stanley”), dated March 6, 2008, after failing to meet a margin call of approximately $9 million on a $49 million repurchase agreement, and informing the Company that Morgan Stanley has exercised or will exercise its rights under the agreement.

387. The price of TMI common stock fell $0.59 per share or 20.70%, from its closing price of $2.85 on March 12, 2008, to close at $2.26 on March 13, 2008. According to a March 13, 2008, MarketWatch report TMI common stock “fell almost 20% in early trading Thursday on
news that it had received a default notice from Morgan Stanley after failing to meet a $9 million margin call. Morgan Stanley had lent Thornburg $49 million and now says it ‘has exercised or will exercise its rights under the agreement.’ … Shares of Thornburg had been up almost 90% in Wednesday trading on news of an analyst upgrade and had almost quadrupled in value in the 48 hours after the Federal Reserve said it would inject $200 billion into the struggling mortgage securities market.”

F. Company Announces Lender Bailout

388. The final shoe dropped on March 19, 2008, when the Company issued a press release (“3/19/08 Press Release”) titled, “Thornburg Mortgage Announces One-Year Reverse Repurchase Override Agreement and Proposed $1 Billion Public Offering of Convertible Notes,” in which it announced that it had entered into an agreement with five of its remaining RPA lenders, including Bear Stearns Investment Products Inc., Citi, Credit Suisse Securities (USA) LLC, Credit Suisse International, Greenwich Capital Markets Inc., Greenwich Capital Derivatives, Royal Bank of Scotland PLC, and UBS, whereby these lenders agreed to reduce margin requirements and suspend margin calls for up to one year on $5.8 billion in RPA financing.

389. The lender bailout provided a reprieve for the Company; albeit at a very steep price. As the 3/19/08 Press Release reported:

The continued effectiveness of this agreement is contingent upon a variety of factors that are specified in the agreement, the most urgent of which requires that within seven business days Thornburg Mortgage raise a minimum of net proceeds of $948 million in new capital. … Absent this agreement, the company would be obligated to pay an additional $90 million in margin calls and would also be responsible for meeting any additional margin calls that might have occurred as a result of the continued decline in mortgage securities prices that have occurred since March 5, 2008.

The agreement also requires the company to establish and maintain a liquidity fund in the amount of $350 million, and to maintain an amount in that fund equal
to 5% of the monthly outstanding borrowings of its [RPA] counterparties in investments that are either Treasury securities, agency [MBS] or retained classes of mortgage securities that arise from the company’s loan origination business.

In order to continue to pay down its existing [RPA] agreement borrowings, the company has agreed to allow the [RPA] counterparties who are party to this agreement to capture 100% of the monthly principal payments that they receive on the collateral they are holding plus 20% of the monthly interest. These funds will be applied to reduce the outstanding balance on these borrowings monthly. Further, the company has agreed that it will not borrow any additional funds in the [RPA] market during the term of this agreement.

In order to preserve cash, the company has also agreed to suspend its common stock dividend during the term of the agreement, although it will be permitted to declare a dividend in December 2008, payable in January 2009, of up to 87% of its taxable income for 2008. In addition, the company will suspend its preferred dividend if the amount in the liquidity reserve falls below 5% of the outstanding balance of the reverse repurchase agreement borrowings for three consecutive months.

In connection with the agreement, the company will also issue to the parties of this agreement warrants to purchase approximately 47 million shares of the company’s common stock at an exercise price of $0.01 per share, exercisable for a period of five years. The common stock issuable upon exercise of these warrants would be equal to approximately 27% of the company’s outstanding common stock.

* * *

The convertibility of the notes into common stock will be contingent upon shareholder approval of an increase in the authorized capital stock of the company. Shareholders will vote on this authorization at the company’s annual meeting, which is intended to take place on or before May 22, 2008. If shareholder approval is obtained, the notes will be convertible, at the option of the holder, at an initial conversion rate of 1,333.3333 shares per $1,000 of principal amount of the notes, which represents a conversion price of $0.75 per share. Issuance of the common stock upon conversion of the notes could result in the issuance of more than 500% of our currently outstanding common stock. If shareholder approval is not obtained, the interest rate payable on the notes will increase to 25% and the company will be obligated to issue additional warrants to note holders as described below.

If shareholder approval of the increase in authorized shares is not obtained, each purchaser would also then receive additional warrants to purchase additional shares of common stock equal to the then remaining available authorized but unissued shares of common stock, exercisable from May 22, 2008 to April 1, 2015, at an exercise price of $0.01 per share.
These agreements virtually diluted any value remaining in the Company’s shares for existing shareholders. As Defendant Goldstone explained:

After careful consideration of our available options given the continued challenges in the mortgage securities markets, the company’s board of directors determined that the override agreement and this proposed capital raise and warrants offerings, though highly dilutive for existing shareholders, are in the best long-term interest of the company. By placing a one-year moratorium on margin calls and raising the required amount of capital specified in this agreement, we believe we will have the necessary liquidity and staying power to manage through this highly volatile and uncertain mortgage market environment.

Furthermore, in order to enter into certain of these agreements, TMI and the Individual Defendants agreed to relinquish shareholder voting rights. The press release reported, *inter alia*:

The issuance of the securities pursuant to the override agreement and the note offering described above would normally require approval of the company’s shareholders in accordance with the shareholder approval policy of the New York Stock Exchange. However, after a careful review of the facts, the members of the Audit Committee of Thornburg Mortgage’s Board of Directors determined that any delay caused by securing shareholder approval prior to the issuance of these securities would seriously jeopardize the financial viability of the company. Pursuant to an exception in the New York Stock Exchange’s shareholder approval policy, the company’s audit committee members approved the company’s omission to seek the shareholder approval that would otherwise have been required under that policy. The New York Stock Exchange has accepted the company’s application of the exception. In reliance upon this exception, the company is mailing a letter to all shareholders notifying them of its intention to issue the securities without prior shareholder approval.

As a result of these shocking revelations, the price of TMI common stock plummeted 41.86%, from its closing price of $2.58 on March 18, 2008, to close at $1.50 on March 19, 2008, on heavy volume of 73,329,700 shares traded, thus removing all the remaining artificial inflation in the Company’s stock price.

**POST CLASS-PERIOD DISCLOSURES/EVENTS**
393. On April 4, 2008, the SEC issued a letter of investigation to TMI, indicating that it was initiating an investigation into the margin calls received by the Company during March 2008 that pushed the Company to the brink of bankruptcy.

394. TMI did not reveal the existence of this letter to the market until April 28, 2008. On that date, TMI filed a Current Report on Form 8-K with the SEC ("4/28/08 8-K") announcing, inter alia, that "the Company had received a notice from the SEC that it is conducting an investigation relating to the restatement of the Company’s financial statements for fiscal year 2007, margin calls that the Company received (or which were threatened) pursuant to its reverse repurchase agreements and related disclosures, and the valuation, impairment and/or disclosures concerning the accounting treatment for the Company’s mortgage-backed securities addressed in the restatement." 9

395. The 4/28/08 8-K also revealed, for the first time that, “[b]y letter dated March 6, 2008, the Company received notice from the NYSE that it is reviewing transactions in the Common Stock prior to the Company’s January 9, 2008 disclosure of the impact of recent market events in the mortgage industry on the Company’s GAAP book value.”

396. Shares of TMI fell three cents, or 2.33%, to $1.26 in midday trading on Wall Street after these disclosures.

397. Throughout the remainder of 2008, TMI teetered on the brink of bankruptcy. On March 18, 2008, TMI announced that it had entered into an override agreement with its RPA lenders and their affiliates, whereby the lenders agreed to cease issuing margin calls and

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9 On April, 29, 2008, Co-Lead Counsel filed a request for information under the Freedom of Information Act, 5 U.S.C. § 552 et seq. and 40 C.F.R. § 2.101 et seq., with the SEC concerning its investigation of Thornburg Mortgage. To date, Co-Lead Counsel has not received any information in response to the request.
demanding the return of capital, in exchange for several costly concessions by TMI. Notably, TMI (1) granted its lenders options to buy 47 million shares of the Company’s common stock at a penny per share; (2) paid off $680 million in debt; suspended its common dividend and imposed restrictions on its preferred dividends; (3) maintained a $350 million liquidity fund; (4) sold $1 billion in convertible bonds bearing an interest rate of 12%, which could be converted to TMI common stock at a rate of 75 cents per share; and (5) allowed lenders to collect some of the payments on the bonds held as collateral. Though these moves allowed the Company to temporarily stave off bankruptcy, the deal caused significant dilution to TMI’s existing shareholders, reducing their stake in the Company to a mere 5%.

398. TMI’s initial override agreement with its creditors proved to be a temporary fix for the liquidity issues plaguing the Company resulting from the toxic assets on its balance sheet. On December 12, 2008, the Company entered into an amended override agreement with its creditors, whereby the lenders again agreed to abstain from issuing further margin calls on the Company – this time until March 16, 2009 – in exchange for further concessions from TMI and its unwitting shareholders.

399. After the amended override agreement expired, the Company still faced dire liquidity issues. It then entered into a forbearance agreement with certain creditors, pursuant to which each of those counterparties agreed to (1) provide the Company with yet more time to restructure its debt obligations and (2) abstain from issuing further margin calls through March 31, 2009. Further, the Company contracted individually with other creditors in a final attempt to allow it additional time to satisfy its financial obligations.

400. On March 31, 2009, the Company and its creditors entered into a final set of forbearance agreements, which expired on April 30, 2009. This time, in exchange for the
lenders' continued cooperation, the Company permitted the entities to take possession of and sell any TMI assets they held as collateral.

401. Thereafter, according to a Form 8-K filed with the SEC by TMI, on April 30, 2009 the Company announced that its board of directors had approved certain amendments to TMI’s Amended and Restated Bylaws “to provide the Company with additional flexibility in its corporate governance structure as it winds down its operations and prepares for the filing of a petition in bankruptcy.”

402. On May 1, 2009, TMI succumbed to its high-risk assets and over-leveraged balance sheet. On that day, the Company and certain of its wholly-owned direct and indirect subsidiaries filed a voluntary petition for relief under Chapter 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for the District of Maryland.

LOSS CAUSATION/ECONOMIC LOSS

403. Exchange Act Action Class members were damaged as a result of TMI and the Individual Defendants’ fraudulent conduct as set forth herein. During the Class Period, as detailed herein, TMI and the Individual Defendants engaged in a scheme to deceive the market and a course of conduct that artificially inflated TMI’s stock price and operated as a fraud or deceit on Class Period purchasers of TMI common stock by misrepresenting to and concealing material information from the public about, inter alia: (1) the Company’s mortgage origination practices; (2) the composition of the Company’s ARM portfolio; (3) the Company’s liquidity and diminished ability to fund operations; (4) the Company’s ability to secure financing arrangements to fund operations; (5) the timing of forced asset sales; (6) the Company’s ability to meet margin calls; (7) notices of default received from the Company’s lenders; and (8) the magnitude of Class Period asset sales, losses incurred on such sales, and asset impairment that necessitated the Company’s restatement.
404. These misstatements and omissions caused and maintained artificial inflation in TMI’s stock price throughout the Class Period until the truth was fully, albeit slowly, revealed to the market. As the price of TMI’s stock increased, Exchange Act Action Class members, unwittingly and in reliance on TMI and the Individual Defendants’ false and misleading statements and/or omissions purchased TMI stock at artificially inflated prices. But for TMI and the Individual Defendants’ misrepresentations, omissions and fraudulent acts, Lead Plaintiffs and other Exchange Act Action Class members would not have purchased TMI stock, or would not have purchased it at the artificially inflated prices at which it traded during the Class Period. As TMI and the Individual Defendants’ prior misrepresentations and omissions were disclosed and became apparent to the market in a piecemeal fashion throughout the Class Period, TMI stock fell precipitously as the prior artificial inflation bled from TMI’s stock price. Due to their Class Period purchases of TMI stock during the Class Period, Lead Plaintiffs and other members of the Exchange Act Action Class suffered economic loss, i.e., damages under the federal securities laws.

405. The following examples support a showing of loss causation pursuant to Rule 8(a) of the Federal Rules of Civil Procedure in accordance with the United States Supreme Court’s decision in Dura Pharms. v. Broudo, 544 U.S. 336 (2005).

406. As detailed above, the TMI and the Individual Defendants’ false and misleading statements and omissions caused TMI stock to trade at artificially inflated levels throughout the Class Period, reaching as high as $28.40 per share before the first series of truth-revealing disclosures came to light; causing the artificial inflation to leak from TMI’s stock price.

407. For example, on August 14, 2007, the Company shocked investors when it announced the delay of payment of its second quarter dividend and acknowledged “significant
disruptions in the mortgage market,” an “increase in margin calls related to its repurchase agreement financings” and “disruptions in the company’s ability to fund its mortgage assets in the commercial paper and the asset-backed securities markets.” Lead Plaintiffs allege that the August 14, 2007 partial disclosure revealed partial truths about the Company that had previously remained undisclosed, thereby damaging investors.

408. Indeed, the market reacted quickly and severely to this adverse news, falling $5.92 or nearly 43%, from its closing price of $13.81 on August 13, 2007, to close at $7.89 on August 14, 2007, on heavy volume of 27,293,100 shares traded – before the Company halted trading completely.

409. In addition, on August 20, 2007, the Company announced the forced sale of $20.5 billion of its ARM portfolio at a discount to pay down debt. Further, the Company reported that it would record a loss of $930 million on the sale.

410. On this news, the Company’s shares declined an additional $1.54, or 10.2 percent, to close on August 20, 2007, at $13.50 per share, on heavy trading volume.

411. Investors suffered further damages when the Company reported on October 9, 2007, that the Company had actually sold $22 billion in assets – $1.5 million more than previously reported, and that the loss recorded these asset sales was actually $1.1 billion – $236 million more than the revised estimate of $863 million previously reported.

412. The price of TMI shares dropped $1.17 from its closing price of $13.46 on October 8, 2007, to close at $12.29 on October 9, 2007, further damaging investors.

413. Later, on February 28, 2008, the Company filed the 2007 10-K revealing, for the first time (1) that the Company had been experiencing problems because of significant Alt-A exposure within its MBS portfolio; (2) that the Company had experienced a 10-15% decline in
the value of its purportedly low-risk securities since January 31, 2008; and (3) that the Company had received $300 million in margin calls since February 14, 2008.

414. TMI common stock lost more than 15% of its value in response to this news, falling from its closing price of $11.54 on February 27, 2008, to close at $9.76 on February 28, 2008, down $1.78 on heavy trading volume of 21,012,500 shares. In contrast, trading volume on February 27, 2008, was only 4,513,700 shares.

415. The disclosures made in the 2007 10-K, however, did not reveal the full truth about TMI’s business and financial condition and, thus, only partially removed the artificial inflation in the Company’s common stock price.

416. Later, on March 3, 2008, announced that there were material developments to its outstanding borrowings position as of December 31, 2007, as compared to that which it had previously reported just four days earlier when TMI filed the 2007 10-K.

417. TMI common stock lost more than 51% of its value in response to this news, falling from its closing price of $8.90 on February 29, 2008, to close at $4.32 on March 3, 2008, down $4.58 on heavy trading volume of 76,858,800 shares. In contrast, trading volume on February 29, 2008, was only 7,412,800 shares.

418. Despite this partial disclosure, the 3/3/08 8-K still did not disclose the full truth about TMI’s business and financial condition and, thus, only partially removed the artificial inflation in the Company’s common stock price.

419. After the close of market on March 5, 2008, TMI and the Individual Defendants finally revealed the true facts surrounding the JP Morgan default notice that it received on February 28, 2008. Specifically, TMI and the Individual Defendants revealed, for the first time, the falsity of their prior statements concerning the effect of the JP Morgan default on other
RPAs, including in particular that they knew, by February 28, 2008, that (1) the mere receipt of the notice of event of default by JP Morgan had triggered cross-defaults under all of the Company’s other RPAs and secured loan agreements; and (2) the Company’s obligations under those agreements were material.

420. TMI common stock lost a total of 54.4% of its value in response to this news, falling from its closing price of $3.40 on March 5, 2008, to close at $1.26 on March 6, 2008, on particularly heavy volume of 60,344,600 shares traded.

421. Still, this announcement did not remove all the artificial inflation from the Company’s stock price, as it misrepresented and/or failed to disclose the receipt of the March 4, 2008, KPMG Letter, or the Company’s need to restate its FY2006 and FY2007 financial results.

422. On March 7, 2008, TMI again shocked investors when it revealed, for the first time (1) receipt of the KPMG Letter, three days earlier, in which KPMG indicated (a) the Company’s financial results for FY2006 and FY2007 were materially misstated and required restatement, (b) that KPMG’s audit opinion on these financial statements should no longer be relied upon, (c) that the Company should take all necessary steps to ensure that investors would not rely on KPMG’s audit report; and (d) that KPMG had doubts as to the Company’s ability to continue as a going concern; (2) that the Company’s Board of Directors had determined that it was required to restate its FY2007 financial results; and (3) that it would record a $427.8 million impairment charge on its assets.

423. TMI common stock lost more than 36% of its value in response to this news, falling from its closing price of $1.08 per share on Friday, March 7, 2008, to close at $0.69 per share on Monday, March 10, 2008, down $0.39 per share on heavy trading volume of 34,591,800 shares.
424. Even the Company’s announcement of the restatement, however, still did not reveal the full truth about the Company’s financial condition and, thus, did not remove all the artificial inflation in the Company’s common stock price.

425. In fact, as described above, the full truth was finally revealed, and all the artificial inflation came out of the Company’s stock price on March 19, 2008, when the Company announced that it had entered into an agreement with five of its remaining RPA lenders and their affiliates, whereby these lenders agreed to reduce margin requirements and suspend margin calls for up to one year – if TMI was able to meet certain conditions. While this arrangement may have provided a reprieve for the Company’s management, it came at a huge price to shareholders. Specifically, these agreements virtually diluted any value remaining in the Company’s shares for existing shareholders. Furthermore, and as set forth above, in order to enter into certain of these agreements, TMI and the Individual Defendants agreed to relinquish shareholder voting rights.

426. As a result of these shocking revelations, the price of TMI common stock plummeted 41.86%, from its closing price of $2.58 on March 18, 2008, to close at $1.50 on March 19, 2008, on heavy volume of 73,329,700 shares traded, thus removing all the remaining artificial inflation in the Company’s stock price, and damaging investors.

427. The Company’s stock price never recovered from these disclosures.

FRAUD-ON-THE-MARKET PRESUMPTION OF RELIANCE

428. The market for TMI’s common stock in the Exchange Act Action was open, well-developed and efficient at all relevant times. TMI’s stock met the requirements for listing, and was listed and actively traded on the NYSE, a highly efficient and automated market. As a regulated issuer, TMI filed periodic public reports with the SEC and the NYSE. TMI and the Individual Defendants regularly communicated with public investors via established market
communication mechanisms, including through regular disseminations of press releases on the national circuits of major newswire services and through other wide-ranging public disclosures, such as communications with the financial press and other similar reporting services. TMI was followed by several securities analysts employed by major brokerage firms who wrote reports which were distributed to the sales force and certain customers of their respective brokerage firms. Each of these reports was publicly available and entered the public marketplace.

429. As alleged herein, the change in the price of TMI's stock – compared to the changes in the peer group and NYSE – in response to the release of unexpected material positive and negative information about the Company, shows there was a cause and effect relationship between the public release of the unexpected information about TMI and the price movement in the Company’s stock. The average weekly trading volume of TMI’s stock during the Class Period was approximately 5,778,000 shares. Numerous analysts followed TMI, attended the Company’s conference calls and issued reports throughout the Class Period. The Company was eligible to – and did – register securities on Form S-3 during the Class Period. There were numerous market makers for TMI’s stock.

430. As a result of the foregoing, the market for TMI common stock promptly digested current information regarding TMI from all publicly available sources and reflected such information in the Company’s stock price. Under these circumstances, all purchasers of TMI common stock during the Class Period suffered similar injury through their purchase of TMI common stock at artificially inflated prices and the subsequent revelations concerning declines in price, and a presumption of reliance applies.

**NO SAFE HARBOR**

431. The statutory safe harbor provided for forward-looking statements under certain circumstances does not apply to any of the allegedly false statements pled in this Complaint.
Some of the specific statements pled herein were not "forward-looking statements" when made, nor were they adequately identified as such. To the extent there were any forward-looking statements, there were no meaningful cautionary statements identifying important factors that could cause actual results to differ materially from those in the purportedly forward-looking statements. Alternatively, to the extent that the statutory safe harbor does apply to any forward-looking statements pled herein, TMI and the Individual Defendants are liable for those false forward-looking statements because at the time each of those forward-looking statements was made, TMI and the Individual Defendants knew that the particular forward-looking statement was materially false and/or misleading when made.

CLASS ACTION ALLEGATIONS

432. Plaintiffs bring this action as a class action pursuant to Federal Rules of Civil Procedures 23(a) and 23(b)(3) on behalf of the following Class: all persons and entities who purchased or otherwise acquired TMI common stock and/or securities in the open market and/or in or traceable to the Offerings during the Class Period and who were damaged thereby.

433. Excluded from the Class are the Defendants, the directors and officers of TMI, members of their immediate families and their legal representatives, heirs, successors or assigns, and any entity in which any of the defendants have or had a controlling interest.

434. The members of the Class are so numerous that joinder of all members is impracticable. Throughout the Class Period, TMI's securities were actively traded on the NYSE. While the exact number of Class members is unknown to Plaintiffs at this time and can only be ascertained through appropriate discovery, Plaintiffs believe that there are hundreds or thousands of members in the proposed Class. During the Class Period, there were hundreds of millions of outstanding shares owned by hundreds, if not thousands, of persons. Thus, the disposition of their claims in a class action will provide substantial benefits to the parties and the Court.
Record owners and other members of the Class may be identified from records maintained by TMI or its transfer agent and may be notified of the pendency of this action by mail, using the form of notice similar to that customarily used in securities class actions.

435. Common questions of law and fact exist as to all members of the Class and predominate over any questions solely affecting individual members of the Class. Among the questions of law and fact common to the members of the Class are:

(a) whether the federal securities laws were violated by Defendants;

(b) whether TMI and the Individual Defendants engaged in a fraudulent scheme and omitted and/or misrepresented material facts;

(c) whether TMI and the Individual Defendants’ statements omitted material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading;

(d) whether TMI and the Individual Defendants knew or recklessly disregarded that their statements were materially false and/or misleading;

(e) whether the prices of TMI common stock and TMI preferred stock were artificially inflated during the Class Period;

(f) whether the Offering Documents contained materially false and misleading statements;

(g) whether TMI and the Individual Defendants’ fraudulent scheme, misrepresentations and omissions caused Class members to suffer economic losses, i.e. damages; and

(h) the extent of damage sustained by Class members and the appropriate measure of damages.
436. Plaintiffs' claims are typical of those claims of the members of the Class because
Plaintiffs and the members of the Class purchased TMI common stock during the Class Period 
and/or purchased TMI preferred stock pursuant to the Offering Documents and sustained 
damages as a result of TMI and the Individual Defendants' wrongful conduct alleged herein.

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

438. A class action is superior to other available methods for the fair and efficient 
adjudication of this controversy. A class action will achieve economies of time, effort and 
expense and provide uniformity of decision to the similarly situated members of the Class 
without sacrificing procedural fairness or bringing about other undesirable results. Class 
members have not indicated an interest in prosecuting separate actions as none have been filed. 
The number of Class members and the relatively small amounts at stake for individual Class 
members make separate suits impracticable. No difficulties are likely to be encountered in the 
management of this action as a class action.

439. In addition, a class action is superior to other methods of fairly and efficiently 
adjudicating this controversy because the questions of law and fact common to the Class 
predominate over any questions affecting only individual Class members. Although individual 
Class members have suffered disparate damages, the fraudulent scheme and the 
 misrepresentations and omissions causing damages are common to all Class members. Further, 
there are no individual issues of reliance that could make this action unsuited for treatment as a 
class action because all Class members relied on the integrity of the market and are entitled to 
the fraud-on-the-market presumption of reliance.
FIRST CLAIM FOR RELIEF
For Violation of Section 10(b) of the Exchange Act and Rule 10b-5 Against TMI and the Individual Defendants

440. Lead Plaintiffs incorporate ¶¶1-41, 51-439, set forth above, as if set forth in full herein.

441. During the Class Period, the Individual Defendants participated in and otherwise carried out a plan, scheme, and course of conduct which was intended to and, throughout the Class Period, did: (i) deceive or otherwise defraud the investing public, including Lead Plaintiffs and other Class members, as alleged herein, including via the dissemination or approval of the false statements specified above, which they knew or recklessly disregarded were materially false and misleading because they contained material misrepresentations and failed to disclose material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading; and (ii) caused Lead Plaintiffs and other members of the Class to purchase TMI’s common stock at artificially inflated prices. In furtherance of this unlawful scheme, plan and course of conduct, the Individual Defendants, and each of them, took the actions set forth herein.

442. The Individual Defendants violated §10(b) of the 1934 Act and Rule 10b-5 because they:

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

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

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

443. All Individual Defendants are sued either as primary participants in the wrongful and illegal conduct charged herein or as controlling persons as alleged below.

444. The Individual Defendants, individually and in concert, directly and indirectly, by the use, means or instrumentalities of interstate commerce and/or of the mails, engaged and participated in a continuous course of conduct to conceal adverse material information about TMI's financial well-being and prospects, as specified herein.

445. These Individual Defendants employed devices, schemes and artifices to defraud, while in possession of material adverse non-public information and engaged in acts, practices, and a course of conduct as alleged herein in an effort to assure investors of TMI's value and performance and continued substantial growth, which included the making of, or the participation in the making of, untrue statements of material facts and/or omitting to state material facts necessary in order to make the statements made about TMI and its business operations and future prospects in light of the circumstances under which they were made, not misleading, as set forth more particularly herein, and engaged in transactions, practices and a course of business which operated as a fraud and deceit upon the purchasers of TMI's securities during the Class Period.

446. Each of the Individual Defendants' primary liability, and controlling person liability, arises from the following facts: (i) the Individual Defendants were high-level executives and/or directors at the Company during the Class Period and members of the Company's management team or had control thereof; (ii) each of the Individual Defendants, by virtue of his responsibilities and activities as a senior officer and/or director of the Company was privy to and participated in the creation, development and reporting of the Company's internal budgets, plans,
projections and/or reports; (iii) each of the Individual Defendants enjoyed significant personal contact and familiarity with the other Defendants and was advised of, and had access to, other members of the Company’s management team, internal reports and other data and information about the Company’s finances, operations, and sales at all relevant times; and (iv) each of these defendants was aware of the Company's dissemination of information to the investing public which they knew or recklessly disregarded was materially false and misleading.

447. The Individual Defendants had actual knowledge of the misrepresentations and omissions of material facts set forth herein, or acted with reckless disregard for their truth in that they failed to ascertain and to disclose such facts, even though such facts were available to them. The Individual Defendants’ material misrepresentations and/or omissions were done knowingly and/or recklessly and for the purpose and effect of concealing TMI’s financial well-being, business relationships and prospects from the investing public and supporting the artificially inflated price of its securities. As demonstrated by the Individual Defendants’ overstatements and misstatements of the Company’s financial well-being and prospectus throughout the Class Period, the Individual Defendants, if they did not have actual knowledge of the misrepresentations and omissions alleged, were reckless in failing to obtain such knowledge by deliberately refraining from taking those steps necessary to discover whether those statements were false or misleading when made.

448. As a result of the dissemination of the materially false and misleading information and failure to disclose material facts, as set forth above, the market price of TMI’s common stock was artificially inflated during the Class Period. In ignorance of the fact that market prices of TMI’s common stock were artificially inflated, and relying directly or indirectly on the false and misleading statements made by the Individual Defendants, or upon the integrity of the market in
which the common stock trades, and/or in the absence of material adverse information that was known to or recklessly disregarded by the Individual Defendants, but not disclosed in public statements by the Individual Defendants during the Class Period, Lead Plaintiffs and the other members of the Class acquired TMI's common stock during the Class Period at artificially high prices and were damaged thereby.

449. At the time of said misrepresentations and omissions, Lead Plaintiffs and other members of the Class were ignorant of their falsity, and believed them to be true. Had Lead Plaintiffs and the other members of the Class and the marketplace known the truth regarding the problems that TMI was experiencing, as alleged herein, which were not disclosed by the Individual Defendants, Lead Plaintiffs and other members of the Class would not have purchased or otherwise acquired their TMI common stock, or, if they had acquired such stock during the Class Period, they would not have done so at the artificially inflated prices which they paid.

450. By virtue of the foregoing, the Individual Defendants have violated Section 10(b) of the Exchange Act and Rule 10b-5, promulgated thereunder.

451. As a direct and proximate result of the Individual Defendants' wrongful conduct, Lead Plaintiffs and the other members of the Class suffered damages in connection with their respective purchases and sales of the Company's securities during the Class Period.

SECOND CLAIM FOR RELIEF
For Violation of Section 20(a) of the Exchange Act Against the Individual Defendants

452. Lead Plaintiffs repeat and reallege each and every allegation contained in ¶¶1-41, 51-451 above as if fully set forth herein.

453. As set forth herein, TMI is liable as a primary violator under §10(b) of the Exchange Act, and Rule 10b-5 promulgated thereunder, for the material misstatements and
omissions in its periodic SEC filings, prospectuses and registration statements, and for the material misstatements and omissions of its highest ranking executives, including Defendant Goldstone.

454. The Individual Defendants acted as controlling persons of TMI within the meaning of §20(a) of the Exchange Act, as alleged herein. By reason of their positions as officers and/or directors of TMI, and their ownership of and/or contractual rights to TMI stock, participation in and/or awareness of the Company’s operations and/or intimate knowledge of the false financial statements filed by the Company with the SEC and disseminated to the investing public, the Individual Defendants had the power and authority to influence and control, and did influence and control, directly or indirectly, the decision-making of the Company, including the wrongful conduct complained of herein, including the content and dissemination of the various statements which Lead Plaintiffs contend are materially false and misleading. The Individual Defendants were provided with or had unlimited access to copies of the Company’s reports, press releases, public filings and other statements alleged by Lead Plaintiffs to be misleading prior to and/or shortly after these statements were issued and had the ability to prevent the issuance of the statements or cause the statements to be corrected.

455. Each of the Individual Defendants had direct and supervisory involvement in the day-to-day operations of the Company and, therefore, is presumed to have had the power to control or influence the conduct giving rise to the violations of the federal securities laws alleged herein, and exercised the same. They prepared, or were responsible for preparing, the Company’s press releases and SEC filings and made statements during the Company’s conference calls.
456. As set forth above, the Individual Defendants each violated Section 10(b) and Rule 10b-5 by their acts and omissions as alleged in this Complaint. By virtue of their positions as controlling persons, and by reason of the conduct described in this Count, the Individual Defendants are liable pursuant to §20(a) of the Exchange Act. As a direct and proximate result of the Individual Defendants’ wrongful conduct, Lead Plaintiffs and other members of the Class suffered damages in connection with their purchases of the Company’s securities during the Class Period.

ALLEGATIONS SPECIFIC TO THE SECURITIES ACT ACTION

457. By way of context, Plaintiffs incorporate by reference each and every non-fraud based allegation set forth above. Indeed, for purposes of the Securities Act Action, Plaintiffs are not alleging that the Securities Act Defendants (defined below) committed fraud or acted with deceitful intent. To the contrary, Plaintiffs allege that the alleged violations of the Securities Act are the result of innocent and negligent conduct that triggers the strict liability provisions of the Securities Act.

458. In connection with the Securities Act claims, Plaintiffs allege that the Offering Documents contained certain affirmative material misstatements and, independently, omitted material information that was required to be disclosed pursuant to relevant GAAP provisions and SEC Regulations – specifically, Regulations S-K and S-X. The material misstatements and omissions in the Offering Documents related to, inter alia: (1) TMI’s fiscal year (“FY”) 2006 financial results which, as determined by TMI’s independent auditor KPMG, were materially false and required restatement; (2) the failure to disclose that the Company (a) originated Alt-A mortgage loans, and (b) possessed a multi-billion-dollar MBS portfolio backed by Alt-A loans that exposed the Company to financial ruin in the declining mortgage financing market, despite a statutory duty to provide investors with this material information; and (3) representations that the
Company had access to multiple sources of financing when, in fact, TMI had become increasingly reliant on costly RPA financing.

459. In addition to the Individual Defendants, the following parties are named herein as defendants to the Securities Act Action. The following defendants are not defendants to the Exchange Act Action.

I. ADDITIONAL SECURITIES ACT PARTIES

A. The Underwriter Defendants

460. Defendant AG Edwards (defined supra) was one of three lead underwriters for the May 2007 Offering (defined supra). Defendant AG Edwards is a nationally recognized investment banking and asset management firm. As one of the underwriters for the May 2007 Offering, Defendant AG Edwards sold and distributed 1,800,000 shares of TMI common stock to the investing public pursuant to the May 2007 Offering Documents (defined supra). Defendant AG Edwards was also one of five lead underwriters for the June 2007 Offering (defined supra). As one of the underwriters for the June 2007 Offering, Defendant AG Edwards sold and distributed 825,000 shares of Series E Preferred Stock (defined supra) to the investing public pursuant to the June 2007 Offering Documents (defined supra).

461. Defendant Bear Stearns (defined supra) was one of four lead underwriters for the January 2008 Offerings (defined supra). Defendant Bear Stearns is a nationally recognized investment banking and asset management firm. As one of the underwriters for the January 2008 Offerings, Defendant Bear Stearns sold and distributed 1,600,000 shares of TMI common stock and 1,400,000 shares of Series F Preferred Stock (defined supra) to the investing public pursuant to the January 2008 Offering Documents (defined supra).
462. Defendant BB&T Capital Markets, a division of Scott & Stringfellow, Inc. ("BB&T") was one of five lead underwriters for the June 2007 Offering. Defendant BB&T is a nationally recognized investment banking and asset management firm. As one of the underwriters for the June 2007 Offering, Defendant BB&T sold and distributed 275,000 shares of Series E Preferred Stock to the investing public pursuant to the June 2007 Offering Documents.

463. Defendant Citi (defined supra) was one of three lead underwriters for the May 2007 Offering. Defendant Citi is a nationally recognized investment banking and asset management firm. As one of the underwriters for the May 2007 Offering, Defendant Citi sold and distributed 1,800,000 shares of TMI common stock to the investing public pursuant to the May 2007 Offering Documents.

464. Defendant Friedman (defined supra) was the sole underwriter for the September 2007 Offering (defined supra). Defendant Friedman is a nationally recognized investment banking and asset management firm. As the sole underwriter for the September 2007 Offering, Defendant Friedman sold and distributed 20,000,000 shares of Series F Preferred Stock to the investing public pursuant to the September 2007 Offering Documents (defined supra). Defendant Friedman was also one of four lead underwriters for the January 2008 Offerings. As one of the underwriters for the January 2008 Offerings, Defendant Friedman sold and distributed 3,000,000 shares of TMI common stock and 2,450,000 shares of Series F Preferred Stock to the investing public pursuant to the January 2008 Offering Documents.

465. Defendant Oppenheimer & Co. Inc. ("Oppenheimer") was one of five lead underwriters for the June 2007 Offering. Defendant Oppenheimer is a nationally recognized investment banking and asset management firm. As one of the underwriters for the June 2007
Offering, Defendant Oppenheimer sold and distributed 275,000 shares of Series E Preferred Stock to the investing public pursuant to the June 2007 Offering Documents.

466. Defendant RBC Dain Rauscher Inc. ("RBC") was one of five lead underwriters for the June 2007 Offering. Defendant RBC is a nationally recognized investment banking and asset management firm. As one of the underwriters for the June 2007 Offering, Defendant RBC sold and distributed 550,000 shares of Series E Preferred Stock to the investing public pursuant to the June 2007 Offering Documents.

467. Defendant Stifel Nicolaus & Company, Incorporated ("Stifel") was one of three lead underwriters for the May 2007 Offering. Defendant Stifel is a nationally recognized investment banking and asset management firm. As one of the underwriters for the May 2007 Offering, Defendant Stifel sold and distributed 900,000 shares of TMI common stock to the investing public pursuant to the May 2007 Offering Documents. Defendant Stifel was also one of five lead underwriters for the June 2007 Offering. As one of the underwriters for the June 2007 Offering, Defendant Stifel sold and distributed 825,000 shares of Series E Preferred Stock to the investing public pursuant to the June 2007 Offering Documents. Defendant Stifel was also one of four lead underwriters for the January 2008 Offerings. As one of the underwriters for the January 2008 Offerings, Defendant Stifel sold and distributed 400,000 shares of TMI common stock and 700,000 shares of Series F Preferred Stock to the investing public pursuant to the January 2008 Offering Documents.

468. Defendant UBS (defined supra) was one of four lead underwriters for the January 2008 Offerings. Defendant UBS is a nationally recognized investment banking and asset management firm. As one of the underwriters for the January 2008 Offerings, Defendant UBS
sold and distributed 3,000,000 shares of TMI common stock and 2,450,000 shares of Series F Preferred Stock to the investing public pursuant to the January 2008 Offering Documents.

469. Defendants AG Edwards, Bear Stearns, BB&T, Citi, Friedman, Oppenheimer, RBC, Stifel and UBS are hereinafter referred to collectively as the "Underwriter Defendants." The Underwriter Defendants, by virtue of their respective roles in the various Offerings, were responsible for conducting a reasonable and diligent investigation of the statements contained in the May 2007, June 2007, September 2007 and January 2008 Offering Documents at the time those documents became effective, to ensure their truth and accuracy.

B. The Director Defendants

470. Defendant Anne-Drue M. Anderson ("Anderson") has been a Director of the Company since December 2003. Defendant Anderson was a signatory to the Shelf Registration Statement, which was incorporated by reference in the Offering Documents.

471. Defendant David A. Ater ("Ater") has been a Director of the Company since March 1995. Defendant Ater was a signatory to the Shelf Registration Statement, which was incorporated by reference in the Offering Documents.

472. Defendant Eliot R. Cutler ("Cutler") has been a Director of the Company since December 2003. Defendant Cutler was a signatory to the Shelf Registration Statement, which was incorporated by reference in the Offering Documents.

473. Defendant Ike Kalangis ("Kalangis") has been a Director of the Company since January 2001. Defendant Kalangis was a signatory to the Shelf Registration Statement, which was incorporated by reference in the Offering Documents.

474. Defendant Owen M. Lopez ("Lopez") has been a Director of the Company since December 1996. Defendant Lopez was a signatory to the Shelf Registration Statement, which was incorporated by reference in the Offering Documents.
475. Defendant Francis I. Mullin, III ("Mullin") has been a Director of the Company since January 2001. Defendant Mullin was a signatory to the Shelf Registration Statement, which was incorporated by reference in the Offering Documents.

476. Defendant Stuart C. Sherman ("Sherman") has been a Director of the Company since June 1993. Defendant Sherman was a signatory to the Shelf Registration Statement, which was incorporated by reference in the Offering Documents.

477. Defendants Anderson, Ater, Cutler, Kalangis, Lopez, Mullin, and Sherman are collectively referred to herein as the "Director Defendants."

478. The Individual Defendants, the Underwriter Defendants, and the Director Defendants are collectively referred to herein as the "Securities Act Defendants."

C. 
Duty to Conduct a Reasonable and Diligent Investigation

479. The Securities Act Defendants each owed to the purchasers of TMI securities in the Offerings, including Plaintiffs and the other Class members, the duty to make a reasonable and diligent investigation of the statements contained in the Offering Documents at the time they became effective. This duty included performing an appropriate investigation to ensure that the statements contained therein were true, and that there were no omissions of material fact required to be stated in order to make the statements contained in the Offering Documents not misleading. As herein alleged, each of the Securities Act Defendants failed to fulfill these specific duties and obligations. As a result of these failures, the offering prices of TMI securities in the Offerings were artificially inflated, and when the truth began to emerge, the stock price fell, causing injury to Plaintiffs and the Class.

II. THE OFFERINGS

A. The May 2007 Offering
480. On or about May 4, 2007, TMI issued 4,500,000 of Company common stock at $27.05 per share in a public offering, capturing $121.7 million in gross proceeds ($116.4 aggregate net proceeds). The May 2007 Offering was underwritten by Defendants Citi (1,800,000 shares), AG Edwards (1,800,000 shares) and Stifel (900,000 shares).

481. As noted above, the May 2007 Offering was made pursuant to the May 2007 Offering Documents, which included the Shelf Registration Statement, a Preliminary Prospectus Supplement filed with the SEC on Form 424B5 on May 3, 2007, and a Prospectus Supplement filed with the SEC on Form 424B2 on May 7, 2007.


**B. The June 2007 Offering**

483. On or about June 19, 2007, TMI issued 2,750,000 shares of 7.5% Series E Cumulative Convertible Redeemable Preferred Stock at $25.00 per share in a public offering, capturing $68.75 million in gross proceeds. The June 2007 Offering was underwritten by Defendants Stifel (825,000 shares), AG Edwards (825,000 shares), RBC (550,000 shares), BB&T (275,000 shares) and Oppenheimer (275,000 shares).

484. As noted above, the June 2007 Offering was made pursuant to the June 2007 Offering Documents, which included the Shelf Registration Statement, a Preliminary Prospectus Supplement filed with the SEC on Form 424B5 on June 11, 2007, a Final Term Sheet filed with the SEC as a Free Writing Prospectus on June 15, 2007, and a Definitive Prospectus Supplement filed with the SEC on Form 424B2 on June 18, 2007.

485. The June 2007 Offering Documents incorporated by reference, *inter alia*, the 2006 10-K and 4/19/07 8-K, as well as the 1Q07 10-Q.

**C. The September 2007 Offering**
486. On or about September 7, 2007, TMI issued 20,000,000 shares of 10% Series F Cumulative Convertible Redeemable Preferred Stock at $25.00 per share in a public offering, capturing $500 million in gross proceeds. The September 2007 Offering was underwritten by Defendant Friedman (20 million shares).

487. As noted above, the September 2007 Offering was made pursuant to the September 2007 Offering Documents, which included the Shelf Registration Statement, a Free Writing Prospectus filed with the SEC on August 30, 2007, announcing the offering, a Preliminary Prospectus Supplement dated and filed with the SEC on Form 424B5 on August 30, 2007, a Final Term Sheet dated August 30, 2007, and filed with the SEC as a Free Writing Prospectus on August 31, 2007, and a Prospectus Supplement dated August 30, 2007, and filed with the SEC on Form 424B2 on September 4, 2007.

488. The September 2007 Offering Documents incorporated by reference, *inter alia*, the 2006 10-K, 1Q07 10-Q, and 4/19/07 8-K, as well as the 2Q07 10-Q, 8/15/07 8-K, and 8/21/07 8-K.

D. The January 2008 Offerings

489. On or about January 15, 2008, TMI concurrently issued 8,000,000 shares of 10% Series F Cumulative Convertible Redeemable Preferred Stock at $19.50 per share in a public offering, capturing $156 million in gross proceeds, and 7,000,000 shares of common stock at $8.00 per share in a public offering, capturing $56 million in gross proceeds. The January 2008 Offerings were concurrently underwritten by Defendant Friedman (3,000,000 shares common stock; 2,450,000 shares Series F Preferred Stock), UBS (3,000,000 shares common stock; 2,450,000 shares Series F Preferred Stock), Bear Stearns (1,600,000 shares common stock; 1,400,000 shares Series F Preferred Stock), and Stifel (400,000 shares common stock; 700,000 shares Series F Preferred Stock).
490. As noted above, the January 2008 Offerings were made pursuant to the January 2008 Offering Documents, which included the Shelf Registration Statement, two Preliminary Prospectus Supplements filed with the SEC on Forms 424B5 on January 9, 2008, and two Prospectus Supplements filed with the SEC on Forms 424B2 on January 15, 2008.

491. The January 2008 Offering Documents incorporated by reference, inter alia, the 2006 10-K, 1Q07 10-Q, 2Q07 10-Q, 4/19/07 8-K, 8/15/07 8-K and 8/21/07 8-K, as well as the 3Q07 10-Q and the Company’s Current Report on Form 8-K filed October 16, 2007, which incorporated, as an exhibit thereto, the 10/16/07 Press Release (“10/16/07 8-K”).

III. THE REVELATION OF ALT-A EXPOSURE IN THE COMPANY’S PORTFOLIO AND OF MISSTATED FY2006 FINANCIAL RESULTS

492. Certain material information concerning TMI was not disclosed in the Offering Documents in violation of (1) the Securities Act, (2) the disclosure obligations by, inter alia, Item 303 of Regulation S-K, and Regulation S-X; and (3) the “disclose or abstain” rule. As evidenced by the following paragraphs, on February 28, 2008, the Company filed the 2007 10-K. The 2007 10-K revealed that the at least $2.9 billion of the Company’s ARM portfolio consisted of MBS backed by Alt-A collateral. Specifically, under the section titled “Recent Developments,” the 2007 10-K stated:

Beginning on February 14, 2008, there was once again a sudden adverse change in mortgage market conditions in general and more specifically in the valuations of mortgage securities backed by Alt-A mortgage loan collateral. As of February 15, 2008, our Purchased ARM Assets included approximately $2.9 billion of super senior, credit-enhanced mortgage securities, all of which are AAA-rated and backed by Alt-A mortgage collateral. Our current credit assessment of these mortgage securities in our portfolio suggests a low possibility of future downgrades and even less risk of actual losses. We have not realized any losses on these mortgage securities to date. However, we have observed deterioration in the liquidity for these securities and increased difficulty in obtaining market prices. Accordingly, market valuations of these securities have decreased between 10 and 15 percent since January 31, 2008, and as a result, we have been subject to margin calls on this collateral. Since February 14, 2008, we
have met margin calls in excess of $300 million on our Reverse Repurchase Agreements, the substantial majority of which is related to the decline in valuations placed on these securities.

(Emphases added.)

493. As set forth above, the existence of Alt-A exposure in the Company’s portfolio was not previously disclosed, and was a material fact to investors as there had been ongoing credit and liquidity problems for MBS, particularly those backed by Alt-A collateral, since at least April 2007. Moreover, the Securities Act Defendants possessed an affirmative legal duty to disclose this information in the Offering Documents because its Alt-A exposure: (1) constituted a “significant concentration of credit risk,” and was thus required to be disclosed pursuant to Regulation S-X; and (2) was reasonably likely to have a material unfavorable impact on TMI’s income and liquidity, and was thus required to be disclosed pursuant to Item 303 of Regulation S-K and the “disclose or abstain” rule.

494. On March 4, 2008, KPMG sent a letter to the Company’s Audit Committee notifying it that KPMG’s February 27, 2008, audit report, on TMI’s: (1) consolidated financial statements as of December 31, 2007 and 2006, and for each of the years in the two-year period ended December 31, 2007; (2) financial statements schedule – mortgage loans on real estate; and (3) effectiveness of internal control over financial reporting as of December 31, 2007, should no longer be relied upon. The KPMG Letter (defined supra) explained that, “the aforementioned financial statements contain material misstatements associated with available for sale securities and that [its] auditors’ report should have contained an explanatory paragraph indicating that substantial doubt exists relative to the Company’s ability to continue as a going concern for a reasonable period of time. Accordingly, the Company should take appropriate actions to prevent future reliance on our auditors’ report, and we advise that the Company make appropriate disclosures of the newly discovered facts and their impact on the financial statements to persons
who are known to be currently relying or who are likely to rely on the financial statements and
the related auditors’ report.”

495. On March 7, 2008, TMI filed the 3/7/08 8-K (defined supra), disclosing the
aforementioned March 4, 2008, KPMG Letter. The 3/7/08 8-K revealed that the Company’s
Board of Directors likewise concluded that the Company’s FY 2007 financial results were
materially misstated and required restatement. Specifically, the 3/7/08 8-K reported that, “in
accordance with generally accepted accounting principles,” “a $427 million charge for
impairment on its purchased ARM assets [wa]s required as of December 31, 2007.”

496. On March 11, 2008, the Company filed the 2007 10-K/A. The 2007 10-K/A
reported a 58 percent increase in write-downs for its adjustable-rate mortgages to $676.6 million,
bringing its net loss for the year to $1.55 billion and increasing the loss per common share from
$7.48 to $12.97. As a result of the restatement, the Company’s previously reported fourth-
quarter profit became a $605.9 million loss.

IV. MATERIALLY FALSE STATEMENTS IN AND OMISSIONS FROM THE OFFERING
DOCUMENTS

A. The Shelf Registration Statement

497. On or about May 20, 2005, the Company filed with the SEC on Form S-3, a Shelf
Registration Statement, registering for sale 12 million shares of Company common stock and 2
million shares of 8% Series C preferred stock.

498. The Shelf Registration Statement was signed by Defendants Mr. Thornburg,
Goldstone, Simmons, Badal, Anderson, Ater, Cutler, Kalangis, Lopez, Mullin and Sherman.

499. The Shelf Registration Statement was deemed effective on June 16, 2005.

500. The Shelf Registration Statement also incorporated by reference, among other
things, “any documents [the Company] file[s] pursuant to Sections 13(a), 13(c), 14 or 15(d) of
the Exchange Act after the date of this prospectus and prior to the termination of the offering of
the securities to which this prospectus relates will automatically be deemed to be incorporated by
reference in this prospectus and to be part hereof from the date of filing those documents."

B. The May 2007 Offering Documents Were Materially False or
Misleading

501. On or about May 4, 2007, the Company effectuated the May 2007 Offering of
4,500,000 of Company Common Stock at $27.05 per share, capturing $121.7 million in gross
proceeds. As set forth above, the May 2007 Offering was made pursuant to the May 2007
Offering Documents, which incorporated by reference the Shelf Registration Statement.

502. Furthermore, by virtue of the Shelf Registration Statement language incorporating
“any documents [the Company] file[s] pursuant to Sections 13(a), 13(c), 14 or 15(d) of the
Exchange Act after the date of this prospectus and prior to the termination of the offering of the
securities to which this prospectus relates will automatically be deemed to be incorporated by
reference in this prospectus and to be part hereof from the date of filing those documents,” the
May 2007 Offering Documents also incorporated by reference, inter alia, the 2006 10-K and the
4/19/07 8-K.

503. The 2006 10-K reported, inter alia, the Company’s financial results for the year-
ended December 31, 2006.

504. The 4/19/07 8-K reported, in relevant part:

In the first quarter, we benefited from wider spreads on new prime quality
mortgage assets caused by credit concerns concentrated in the subprime and Alt
A segments of the mortgage market, and also from reduced premium amortization
as the current interest rate environment led to continued slower-than-projected
prepayments. Premium amortization in the first quarter was $7.9 million, down
62% from $20.7 million in the first quarter of 2006. Going forward, and based on
the current level of prepayment rates, yield curve shape and the improved market
for new ARM assets, our portfolio margin and earnings should continue to benefit
from better spreads and reduced premium amortization. As a result, our outlook
for 2007 and 2008 continues to improve.
505. The 2006 10-K and the 4/19/07 8-K and, thus, the May 2007 Offering Documents, were materially misleading at the time they were made. Specifically, in representing that the Company *benefitted* from uncertainties in the subprime and Alt-A mortgage markets, TMI and Defendant Goldstone distanced TMI from those troubled markets, thus creating the misleading impression that TMI was a prime lender with no exposure to the credit concerns concentrated in the Alt-A mortgage market. In reality, however, TMI was significantly exposed to the Alt-A market because it not only originated Alt-A loans, according to numerous confidential witnesses (*see supra* ¶¶161-172), but – at the time these statements were made – owned a multi-billion dollar securities portfolio of purchased and acquired securities that were collateralized by risky Alt-A assets, and used these Alt-A assets as collateral to secure lending under its RPAs.

506. The May 2007 Offering Documents also are actionable because they failed to comply with the disclosure requirements of Item 303 of Regulation S-K, 17 C.F.R. § 229.303, and Regulation S-X, 17 C.F.R. § 210.4-01, as set forth herein. Specifically, in violation of Item 303 of Regulation S-K, as well as Regulation S-X, the May 2007 Offering Documents failed to disclose: (1) TMI's origination of Alt-A mortgages; (2) TMI's acquisition and possession of a multi-billion portfolio of MBS backed by high-risk Alt-A assets; and (3) TMI's increased reliance on RPAs collateralized by the aforementioned Alt-A backed MBS for financing – which contained cross-default provisions that were likely to be, and were in fact, triggered due to known market conditions and because TMI used Alt-A assets to collateralize its RPAs at a time when the Alt-A market was deteriorating, causing a run on TMI's assets. These facts had a material adverse impact on TMI's business in general, and income and liquidity specifically, and
were required to be disclosed in the Offering Documents at the time the market for mortgage-­backed securities collateralized by Alt-A mortgages was under severe distress.

507. In addition, pursuant to the “disclose or abstain” rule, which requires that a corporate issuer disclose all material non-public information prior to trading in a company’s securities, TMI and the Individual Defendants were required to disclose all material, non-public information in their possession prior to consummating the May 2007 Offering. TMI and the Individual Defendants violated the “disclose or abstain” rule by failing to disclose that the Company originated and acquired billions of dollars in Alt-A loans and held a multi-billion dollar securities portfolio that was collateralized by high-risk Alt-A assets. This material omission rendered the May 2007 Offering Documents materially false and misleading.

C. The June 2007 Offering Documents Were Materially False or Misleading

508. On or about June 19, 2007, Company effectuated the June 2007 Offering of 2,750,000 shares of 7.5% Series E Cumulative Convertible Redeemable Preferred Stock, at $25 per share, capturing $68.75 million in gross proceeds. As set forth above, the June 2007 Offering was made pursuant the June 2007 Offering Documents, which incorporated by reference the Shelf Registration Statement.

509. Furthermore, by virtue of the Shelf Registration Statement language incorporating “any documents [the Company] file[s] pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act after the date of this prospectus and prior to the termination of the offering of the securities to which this prospectus relates will automatically be deemed to be incorporated by reference in this prospectus and to be part hereof from the date of filing those documents,” the June 2007 Offering Documents also incorporated by reference, *inter alia*, the 2006 10-K, the 1Q07 10-Q, and the 4/19/07 8-K.
510. As noted above, the 2006 10-K and 4/19/07 8-K and, thus, the June 2007 Offering Documents, were materially misleading when issued for the reasons stated in ¶¶503-507.

511. The 1Q07 10-Q contained Sarbanes-Oxley required certifications substantially similar to those set forth above at ¶300, signed by Defendants Mr. Thornburg, Goldstone and Simmons.

512. In addition, the 1Q07 10-Q stated, *inter alia*, TMI’s “interim financial information should be read in conjunction with Thornburg Mortgage, Inc.’s 2006 Annual Report on Form 10-K,” which included the materially false and misleading FY 2006 financial results.

513. The 1Q07 10-Q, and the June 2007 Offering Documents also are actionable because they failed to comply with the disclosure requirements of Item 303 of Regulation S-K, 17 C.F.R. § 229.303, and Regulation S-X, 17 C.F.R. § 210.4-01, as set forth herein. Specifically, in violation of Item 303 of Regulation S-K, as well as Regulation S-X, the June 2007 Offering Documents failed to disclose: (1) TMI’s origination of Alt-A mortgages; (2) TMI’s acquisition and possession of a multi-billion portfolio of MBS backed by high-risk Alt-A assets; (3) that, beginning in May 2007, the Company lost access to the ABCP market, and that a contributing factor to this loss of access was the fact that more than 40% of the acquired whole loan portfolio used to issue ABCP consisted of less-than-prime, stated income loans during a period when the less-than-prime sector was under severe distress; and (4) TMI’s increased reliance on RPAs collateralized by the aforementioned Alt-A backed MBS for financing – which contained cross-default provisions that were likely to be, and were in fact, triggered due to known market conditions and because TMI used Alt-A assets to collateralize its RPAs at a time when the Alt-A market was deteriorating, causing a run on TMI’s assets. These facts had a material adverse impact on TMI’s business in general, and income and liquidity specifically, and were required to
be disclosed in the Offering Documents at the time the market for mortgage-backed securities collateralized by Alt-A mortgages was under severe distress.

514. In addition, pursuant to the “disclose or abstain” rule, which requires that a corporate issuer disclose all material non-public information prior to trading in a company’s securities, TMI and the Individual Defendants were required to disclose all material, non-public information in their possession prior to consummating the June 2007 Offering. TMI and the Individual Defendants violated the “disclose or abstain” rule by failing to disclose that the Company originated and acquired billions of dollars in Alt-A loans and held a multi-billion dollar securities portfolio that was collateralized by high-risk Alt-A assets. This material omission rendered the June 2007 Offering Documents materially false and misleading.

515. By virtue of the foregoing omissions, the Sarbanes-Oxley certifications set forth above, which certified, *inter alia*, that there were no material misstatements and omissions contained in the 1Q07 10-Q, were also materially false and misleading.

516. The June Offering Documents also stated, in sections titled “Operating Efficiencies” and “Exceptional Credit Quality and Securitization,” that:

One of our strategic focuses is high credit quality assets. We believe this strategy keeps our credit losses and financing costs low. *It also creates significant portfolio liquidity and low portfolio price volatility, which gives us access to financing through the credit cycle and contributes to maintaining consistent profitability.* As of March 31, 2007, 95.3% of our ARM Asset portfolio was High Quality. Many of our High Quality ARM Assets consist of “A quality” ARM loans that we have purchased or originated and securitized either into ARM pass-through certificates or into Collateralized Mortgage Debt financings for our own portfolio. We retain the risk of potential credit losses on all of these loans…. We did not experience any credit losses on our ARM Loans during the first quarter of 2007 or during 2006.

517. The foregoing statement was materially false and misleading because, by May of 2007, TMI was unable to access several of its major financing sources. Indeed, by May of 2007, Thornburg Mortgage Finance, LLC – subsidiary of TMI that was formed to purchase whole
loans and issue ABCP – was unable to access the ABCP market. Moreover, throughout 2007, another subsidiary of TMI – Thornburg Mortgage Capital Resources, LLC – shrunk its ABCP issuances from $9.2 billion to $300 million due to these significant market disruptions.

D. The September 2007 Offering Documents Were Materially False or Misleading

518. On or about September 7, 2007, the Company effectuated the September 2007 Offering of 20,000,000 shares of 10% Series F Cumulative Convertible Redeemable Preferred Stock at $25.00 per share, capturing gross proceeds of $500 million. As set forth above, the September 2007 Offering was made pursuant to the September 2007 Offering Documents, which incorporated by reference the Shelf Registration Statement.

519. By virtue of the Shelf Registration Statement language incorporating “any documents [the Company] file[s] pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act after the date of this prospectus and prior to the termination of the offering of the securities to which this prospectus relates will automatically be deemed to be incorporated by reference in this prospectus and to be part hereof from the date of filing those documents,” the September 2007 Offering Documents also incorporated, inter alia, the 2006 10-K, 1Q07 10-Q, 2Q07 10-Q, 4/19/07 8-K, 8/15/07 8-K, and the 8/21/07 8-K.

520. The 2006 10-K, 1Q07 10-Q and 4/19/07 8-K and, thus, the September 2007 Offering Documents, were materially false and misleading for the reasons set forth above at ¶¶503-507, 511-515.

521. The 2Q07 10-Q contained Sarbanes-Oxley required certifications substantially similar to those set forth above at ¶300, signed by Defendants Mr. Thornburg, Goldstone and Simmons.
522. In addition, the 2Q07 10-Q stated, *inter alia*, TMI's "interim financial information should be read in conjunction with Thornburg Mortgage, Inc.'s 2006 Annual Report on Form 10-K," which included the materially false and misleading FY 2006 financial results.

523. The September 2007 Offering Documents also stated, in a section entitled "Recent Events," *inter alia*, that:

During 2007, lower credit quality loans and securities backed by subprime mortgage loans and, to a lesser extent, *Alt-A mortgage loans were downgraded by ratings agencies as the credit performance of the underlying loans deteriorated and, as a result, the prices of securities backed by those loans declined*. In late July and early August, concerns were fueled among mortgage investors owning MBS as a result of ... public announcements by several large mortgage originators that they were planning to cease lending in the prime jumbo segment of the mortgage market because of a lack of ability to sell those mortgages in the secondary market.

* * *

A number of Alt-A lenders and subprime lenders that had been using the commercial paper market to fund their loans and securities went out of business or declared bankruptcy in 2007. As many of these commercial paper issuers ran into their own financing difficulties, they exercised extendable maturity features instead of paying off maturing amounts on their commercial paper. As a result, commercial paper investors stopped investing in mortgage-backed commercial paper with extendable maturities. As an issuer of commercial paper with an extendable maturity feature, we were unable to continue rolling over our maturing commercial paper as a result of the general disruption in the commercial paper market. To date ... we are not currently able to issue new commercial paper as that market is still not functioning.

(Emphasis added.)

524. The foregoing statements in the September 2007 Offering Documents were materially misleading because at the time it was made, TMI itself (1) held on its balance sheet a multi-billion dollar securities portfolio that was collateralized by risky Alt-A assets, and (2) originated risky Alt-A loans, according to several confidential witnesses (*see supra ¶¶ 161-172*).

525. The September 2007 Offering Documents also are actionable because they failed to comply with the disclosure requirements of Item 303 of Regulation S-K, 17 C.F.R. § 229.303,
and Regulation S-X, 17 C.F.R. § 210.4-01, as set forth herein. Specifically, in violation of Item 303 of Regulation S-K, as well as Regulation S-X, the September 2007 Offering Documents failed to disclose: (1) TMI’s origination of Alt-A mortgages; (2) TMI’s acquisition and possession of a multi-billion portfolio of MBS backed by high-risk Alt-A assets; and (3) TMI’s increased reliance on RPAs collateralized by the aforementioned Alt-A backed MBS for financing – which contained cross-default provisions that were likely to be, and were in fact, triggered due to known market conditions and because TMI used Alt-A assets to collateralize its RPAs at a time when the Alt-A market was deteriorating, causing a run on TMI’s assets. These facts had a material adverse impact on TMI’s business in general, and income and liquidity specifically, and were required to be disclosed in the Offering Documents at the time the market for mortgage-backed securities collateralized by Alt-A mortgages was under severe distress.

526. In addition, pursuant to the “disclose or abstain” rule, which requires that a corporate issuer disclose all material non-public information prior to trading in a company’s securities, TMI and the Individual Defendants were required to disclose all material, non-public information in their possession prior to consummating the September 2007 Offering. TMI and the Individual Defendants violated the “disclose or abstain” rule by failing to disclose that the Company originated and acquired billions of dollars in Alt-A loans and held a multi-billion dollar securities portfolio that was collateralized by high-risk Alt-A assets. This material omission rendered the September 2007 Offering Documents materially false and misleading.

527. By virtue of the foregoing omissions, the Sarbanes-Oxley certifications set forth above, which certified, inter alia, that there were no material misstatements or omissions contained in the 2Q07 10-Q, were also materially false and misleading.

E. The January 2008 Offering Documents Were Materially False or Misleading
528. On or about January 15, 2008, the Company concurrently effectuated the January 2008 Offerings, of 8,000,000 shares of 10% Series F Series F Preferred Stock at $19.50 per share, capturing $156 million in gross proceeds, and of 7,000,000 shares of common stock at $8.00 per share, capturing $56 million in gross proceeds. As set forth above, the January 2008 Offerings were made pursuant to the January 2008 Offering Documents, which incorporated by reference the Shelf Registration Statement.

529. By virtue of the Shelf Registration Statement language incorporating "any documents [the Company] file[s] pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act after the date of this prospectus and prior to the termination of the offering of the securities to which this prospectus relates will automatically be deemed to be incorporated by reference in this prospectus and to be part hereof from the date of filing those documents," the January 2008 Offering Documents also incorporated by reference, inter alia, the 2006 10-K, 1Q07 10-Q, 2Q07 10-Q, 3Q07 10-Q, 4/19/07 8-K, 8/15/07 8-K, and 10/16/07 8-K.

530. The 2006 10-K, 1Q07 10-Q, 2Q07 10-Q, and 4/19/07 8-K, and, thus, the January 2008 Offering Documents, were materially false or misleading for the reasons set forth above at ¶¶503-507, 511-515, 521-527.

531. In addition, the 10/16/07 8-K the Company reported that "factors negatively affected the company's earnings and balance sheet" during the quarter, and represented that "that these events, especially as they relate to Thornburg Mortgage, reflected investor perception, not investment reality. Fearing that the credit deterioration in the sub-prime mortgage markets would spread to the prime mortgage space, investors completely lost confidence in all mortgage-related investments." Emphasis added.
532. The foregoing statement in the 10/16/07 8-K was materially misleading because at the time it was made, TMI itself (1) held on its balance sheet a multi-billion dollar securities portfolio that was collateralized by risky Alt-A assets, and (2) originated risky Alt-A loans, according to several confidential witnesses (see supra ¶¶161-172).

533. In addition, the 3Q07 10-Q contained Sarbanes-Oxley required certifications substantially similar to those set forth above at ¶300, signed by Defendants Mr. Thornburg, Goldstone and Simmons.

534. The 3Q07 10-Q also stated that the Company’s “interim financial information should be read in conjunction with [TMI’s] 2006 Annual Report on Form 10-K,” which included the materially false and misleading FY 2006 financial results.

535. The 3Q07 10-Q and the January 2008 Offering Documents also are actionable because they failed to comply with the disclosure requirements of Item 303 of Regulation S-K, 17 C.F.R. § 229.303, and Regulation S-X, 17 C.F.R. § 210.4-01, as set forth herein. Specifically, in violation of Item 303 of Regulation S-K, as well as Regulation S-X, the January 2008 Offering Documents failed to disclose: (1) TMI’s origination of Alt-A mortgages; (2) TMI’s acquisition and possession of a multi-billion portfolio of MBS backed by high-risk Alt-A assets; and (3) TMI’s increased reliance on RPAs collateralized by the aforementioned Alt-A backed MBS for financing – which contained cross-default provisions that were likely to be, and were in fact, triggered due to known market conditions and because TMI used Alt-A assets to collateralize its RPAs at a time when the Alt-A market was deteriorating, causing a run on TMI’s assets. These facts had a material adverse impact on TMI’s business in general, and income and liquidity specifically, and were required to be disclosed in the Offering Documents at the time the market for mortgage-backed securities collateralized by Alt-A mortgages was under severe distress.
536. In addition, pursuant to the "disclose or abstain" rule, which requires that a corporate issuer disclose all material non-public information prior to trading in a company's securities, TMI and the Individual Defendants were required to disclose all material, non-public information in their possession prior to consummating the January 2008 Offering. TMI and the Individual Defendants violated the "disclose or abstain" rule by failing to disclose that the Company originated and acquired billions of dollars in Alt-A loans and held a multi-billion dollar securities portfolio that was collateralized by high-risk Alt-A assets. This material omission rendered the January 2008 Offering Documents materially false and misleading.

537. Moreover, TMI's restatement of its 2007 financial results constituted an acknowledgment that the Company was experiencing such a severe liquidity crisis by December 31, 2007 that it may not be able to continue as a going concern. This information, which was in fact and, thus, was "reasonably likely" to affect TMI's liquidity in a material way, was required to be disclosed to investors prior to the January 2008 Offering, and Defendants' failure to do so constitutes an additional actionable violation of Item 303 and the "disclose or abstain" rule.

538. By virtue of the foregoing omissions, the Sarbanes-Oxley certifications set forth above, which certified, inter alia, that there were no material misstatements or omissions contained in the 3Q07 10-Q, were also materially false and misleading.

THIRD CLAIM FOR RELIEF

For Violation of Section 11 of the Securities Act Against TMI, the Individual Defendants, the Director Defendants, and the Underwriter Defendants

539. Plaintiffs incorporate ¶¶457-547, set forth above, as if set forth in full herein.

540. This Claim for Relief is brought pursuant to Section 11 of the Securities Act, 15 U.S.C. 77k, on behalf of all persons or entities who acquired TMI securities pursuant to, or
traceable to, the Offering Documents. Plaintiffs bring this claim against each of the Securities Act Defendants.

541. As alleged above at ¶¶497-538, the Offering Documents were materially false and misleading, contained untrue statements of material fact; omitted to state material facts necessary to make the statements contained therein not misleading, and/or failed to disclose material facts.

542. All defendants named in this Claim for Relief owed to the acquirers of the securities, including Plaintiffs and the other members of the Class who acquired TMI securities pursuant to or traceable to the Offering Documents, the duty to make a reasonable and diligent investigation of the statements contained in the Offering Documents at the time they became effective, to assure that those statements were true and that there was no omission of material facts required to be stated in order to make the statements contained therein not misleading.

543. All of the defendants named in this Claim for Relief: (i) signed the Offering Documents; (ii) were directors of TMI at the time the Offering Documents were filed with the SEC; and/or (iii) served as underwriters for the Offerings. None of the defendants named in this Claim for Relief made a reasonable investigation or possessed reasonable grounds for believing that certain statements contained in the Offering Documents were true, complete and devoid of any misstatements or omissions of material fact. Therefore, each of the defendants named in this Claim for Relief is liable to Plaintiffs and the other members of the Class who acquired TMI securities pursuant to or traceable to the Offering Documents for the various misstatements and omissions contained therein under Section 11 of the Securities Act.

544. This lack of a reasonable investigation is essentially apparent as:

(a) the Offering Documents represented that the Company was a prime loan originator while failing to disclose, as required by Regulations S-K and S-X, that it originated
Alt-A loans, and held billions in MBS backed by risky Alt-A collateral; and

(b) the Offering Documents incorporated the Company’s financial results for the year-ended December 31, 2006, which the Company’s independent auditors later reported were materially misstated and required restatement.

545. In light of the foregoing and because the Securities Act Defendants owed Plaintiffs and other members of the Class a duty to commence a reasonable investigation of the truth of the statements made in the Offering Documents.

546. Plaintiffs and other members of the Class purchased TMI securities pursuant to or traceable to the Offering Documents. At the time they purchased TMI securities, Plaintiffs and the other members of the Class were without knowledge of the facts concerning the inaccurate and misleading statements and omissions alleged herein.

547. By reason of the conduct alleged herein, each defendant named in this Claim for Relief violated Section 11 of the Securities Act. As a direct and proximate result of the conduct engaged in by each of the defendants named in this Claim for Relief, Plaintiffs and the other members Class have sustained substantial damage in connection with the purchase of the securities issued pursuant to or traceable to the Offering Documents.
FOURTH CLAIM FOR RELIEF

For Violation of Section 15 of the Securities Act Against the Individual Defendants

548. Plaintiffs incorporate ¶¶457-547, set forth above, as if set forth in full herein. This Claim for Relief is brought pursuant to Section 15 of the Securities Act on behalf of all persons who acquired TMI securities pursuant to, or traceable to, the Offering Documents.

549. The Individual Defendants named in this Claim for Relief were each control persons of TMI by virtue of their executive and/or directorial positions and/or their ownership of a significant percentage of the Company’s outstanding stock. The Individual Defendants named in this Claim for Relief had the power, and exercised the same, to cause TMI to engage in the violations of law complained of herein and were able to and did control the contents of the Offering Documents.

550. None of the Individual Defendants named in this Claim for Relief made a reasonable or diligent investigation or possessed reasonable grounds for the belief that the statements contained in the Offering Documents were true and devoid of any omissions of material fact. By reason of their top executive positions at TMI, ownership of a significant percentage of the Company’s stock and their actual control over the Company’s day-to-day operations, financial statements, public filings and their intimate involvement and control over the Offering Documents, each of the Individual Defendants named in this Claim for Relief is jointly and severally liable to Plaintiffs and the other members of the Class as a result of the conduct alleged herein.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for relief and judgment, including preliminary and permanent injunctive relief, as follows:

A. Determining that this action is a proper class action, and certifying Plaintiffs as
class representatives under Rule 23 of the Federal Rules of Civil Procedure;

B. Awarding preliminary and permanent injunctive relief in favor of Plaintiffs and the Class against all defendants and their counsel, agents and all persons acting under, in concert with or for them;

C. Restitution of investors’ monies of which they were defrauded;

F. Awarding compensatory damages in favor of Plaintiffs and the other Class members against all defendants, jointly and severally, for all damages sustained as a result of defendants’ conduct set forth herein, in an amount to be proven at trial, including interest thereon;

G. Awarding Plaintiffs and the Class their reasonable costs and expenses incurred in this action, including counsel fees and expert fees; and

H. Such other and further relief as the Court may deem just and proper.
JURY DEMAND

Plaintiffs demand a trial by jury.

DATED: June 14, 2011

Respectfully Submitted,

/s/ Turner W. Branch

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