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In the Matter of the Rehabilitation of:

Case No. 10 CV 1576

SEGREGATED ACCOUNT OF AMBAC ASSURANCE CORPORATION

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**ALL STUDENT LOAN AND LLOYDS BANK, TSB BANK PLC'S  
MOTION FOR AN INFORMATION SHARING ORDER, OR IN THE ALTERNATIVE FOR  
LIMITED DISCOVERY, AND TO INTERVENE TO THE EXTENT SO NECESSARY**

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**PLEASE TAKE NOTICE** that Access to Loans for Learning Student Loan Corporation (“ALL Student Loan”), in its capacity as a Obligor and policyholder, under Financial Guaranty Insurance Policies issued by Ambac Assurance Corporation (“Ambac”) that have been placed into the Segregated Account, and Lloyds TSB Bank plc (“Lloyds Bank”), in its capacity as bondholder under various bonds issued by ALL Student Loan and purchased by Lloyds Bank (hereinafter “Movants”) will and do hereby move the Court for an Order, substantially in the form as the proposed Order submitted by the “RMBS Policyholders” in the Motion of RMBS Policyholders filed July 16, 2010, which Motion and attachments Movants fully adopt and incorporate herein by reference as their own (a copy of which is attached hereto as Exhibit A):

1. Directing the Wisconsin Office of the Commissioner of Insurance (“OCI”) and Ambac to establish an electronic database or physical data room, and access procedures to be approved by the Court, which provides documents and information to policyholders and other interested parties on the subject of the rehabilitation plan for the Segregated Account of Ambac (the “Segregated Account”), including documents identified in the requests in Attachments 1 and 2 hereto and information to be submitted by OCI in any application for approval of such plan.
2. In the alternative, authorizing Movants to obtain specific and targeted discovery on the

subject of the rehabilitation plan for the Segregated Account as set forth in Attachments 1 and 2 hereto.

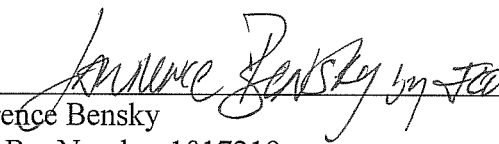
3. Permitting Movants to intervene in these proceedings should it be necessary for them to do so in order to obtain the discovery requested herein.

WHEREFORE, for the reasons stated in the RMBS Policyholders' Memorandum of Law filed July 16, 2010 adopted by Movants, which are incorporated by reference, Movants respectfully request that the Court grant their Motion for an Information Sharing Order, Or In The Alternative For Limited Discovery, And To Intervene To The Extent Necessary and such other and further relief as is just and proper.

Dated this 24<sup>th</sup> day of August, 2010.

**Law Office of Lawrence Bensky. LLC**

*Attorney for* ALL Student Loan and Lloyds TSB  
Bank plc

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In the Matter of the Rehabilitation of:

DANE CO. CIRCUIT COURT

SEGREGATED ACCOUNT OF  
AMBAC ASSURANCE  
CORPORATION

Case No. 10 CV 1576

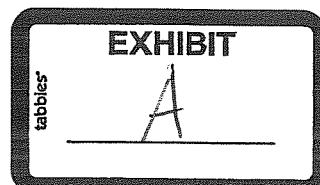
**RMBS POLICYHOLDERS' NOTICE OF MOTION AND  
MOTION FOR AN INFORMATION SHARING ORDER, OR IN THE  
ALTERNATIVE FOR LIMITED DISCOVERY, AND TO INTERVENE TO THE  
EXTENT NECESSARY**

PLEASE TAKE NOTICE that Aurelius Capital Management, LP, Fir Tree, Inc., King Street Capital, L.P., King Street Capital Master Fund, Ltd., Monarch Alternative Capital LP, and Stonehill Capital Management LLC (collectively, the "RMBS Policyholders"), by their attorneys, will move and do hereby move the Court for an Order, substantially in the form of the proposed order attached hereto:

1. Directing the Wisconsin Office of the Commissioner of Insurance ("OCI") and Ambac Assurance Corporation ("AAC") to establish an electronic database or physical data room, and access procedures to be approved by the Court, which provides documents and information to policyholders and other interested parties on the subject of the rehabilitation plan for the Segregated Account of Ambac Assurance Corporation (the "Segregated Account"), including documents identified in the requests in Attachments 1 and 2 hereto and information to be submitted by OCI in any application for approval of such plan.

2. In the alternative, authorizing the RMBS Policyholders to obtain specific and targeted discovery on the subject of the rehabilitation plan for the Segregated Account as set forth in Attachments 1 and 2 hereto.

COPY



3. Permitting the RMBS Policyholders to intervene in these proceedings should it be necessary for them to do so in order to obtain the discovery requested herein.

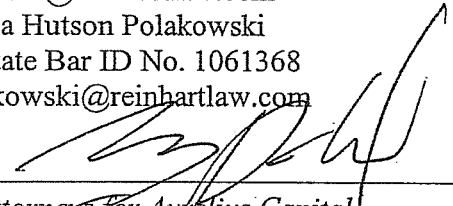
WHEREFORE, for the reasons stated in the RMBS Policyholders' accompanying Memorandum of Law, which they hereby incorporate by reference, the RMBS Policyholders respectfully request that the Court grant their Motion for an Information Sharing Order, Or In The Alternative For Limited Discovery, And To Intervene To The Extent Necessary and such other and further relief as is just and proper.

Dated this 16th day of July, 2010.

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# ATTACHMENT 1

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In the Matter of the Rehabilitation of:

SEGREGATED ACCOUNT OF  
AMBAC ASSURANCE  
CORPORATION

Case No. 10 CV 1576

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**RMBS POLICYHOLDERS' DOCUMENT REQUESTS TO OFFICE OF THE  
WISCONSIN COMMISSIONER OF INSURANCE**

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Pursuant to Wis. Stat. § 804.09, Aurelius Capital Management, LP, Fir Tree, Inc., King Street Capital, L.P., King Street Capital Master Fund, Ltd., Monarch Alternative Capital LP, and Stonehill Capital Management LLC (collectively, the "RMBS Policyholders"), by their attorneys, hereby submit these Document Requests ("Requests") and ask that the Wisconsin Office of the Commissioner of Insurance ("OCI") produce all documents described herein within thirty (30) days of service, or within such shorter time period as may be ordered by the Court, to the offices of Jenner & Block, LLP, 353 N. Clark Street, Chicago, Illinois 60654, or at such other place or time as may be mutually agreed upon.

**REQUESTS**

The RMBS Policyholders request that OCI produce the following documents and other information pursuant to the definitions and instructions that follow these Requests:

1. Documents sufficient to show loss expectation estimates, and calculation (including any supporting assumptions and analyses under base and stress test conditions) and timing thereof, for each of the financial guaranty insurance policies and surety bonds allocated to the Segregated Account, including but not limited to policies insuring or relating to credit default

swaps, residential mortgage backed securities, student loans, and other policies expected to suffer material losses.

2. Documents sufficient to show the value or anticipated value, and calculation and timing thereof, of remediation claims, defenses, offsets, and/or credits, with respect to policies allocated to the Segregated Account, including those now existing or hereafter arising.

3. Copies of the articles of organization and any amendments thereto, the operating agreements and any amendments thereto, and Financial Statements as of the end of each fiscal year and as of March 31, 2010, and June 30, 2010, for the companies whose limited liability interest has been allocated to the Segregated Account.

4. Documents sufficient to show the estimated liabilities, and calculation and timing thereof, assumed by AAC as reinsurer under the reinsurance agreements listed on Exhibit F to the Plan of Operation, which liabilities were allocated to the Segregated Account.

5. Documents sufficient to show the financial condition of the Segregated Account of AAC as of March 24, 2010 and through the date of OCI's response to these requests. This includes, but is not limited to: Financial Statements; documents concerning the calculation of any net par exposure identified in AFG's securities filings since March 24, 2010; documents, including any models prepared by Advisors to OCI, concerning estimated losses, timing of losses, and loss reserves for all exposures allocated to the Segregated Account in the aggregate and according to policy, category, asset, asset class, or any other grouping; documents concerning estimated or projected premiums, and timing thereof, received by AAC or the Segregated Account in conjunction with policies and reinsurance agreements allocated to the Segregated Account; any evaluation, analysis, or calculation of the value of the Secured Note and the Reinsurance Agreement; and documents concerning any surplus notes to be paid to

holders of any policies, contracts, or agreements allocated to the Segregated Account, including the terms and estimated recoveries of those notes.

6. Documents sufficient to show the financial condition of AAC and the General Account as of (i) December 31, 2009, (ii) March 24, 2010, and (iii) the date of OCI's response to these requests. This includes, but is not limited to: Financial Statements; documents concerning claims-paying resources, including the value and liquidity of long-term investments; documents concerning investments; documents concerning the establishment and calculation of losses and loss adjustment expenses and contingency reserves in the aggregate and according to: (i) policy, and (ii) category; documents concerning the calculation of any statutory surplus; documents concerning projected losses, including any analysis of the timing and magnitude of losses on AAC's insured portfolio, in the aggregate and according to policy, category, asset, asset class, or any other grouping; and documents concerning the calculation, computation, valuation, or analysis of net operating losses carry forward, including but not limited to any analysis regarding any and all tax sharing agreements entered into between AAC and any other member(s) of AFG's consolidated group.

7. Documents sufficient to show AAC's Fiscal Year 2010 annual budget and projections for AAC and its subsidiaries, including a comparison of (i) actual expenses incurred through the first quarter of 2010 and expenses expected to be incurred until the end of that fiscal year and (ii) the projected expenses as set forth on the annual budget.

8. Any tax analyses or calculations regarding the creation of the Segregated Account that were performed by AAC, OCI, or their respective Advisors.

9. Any existing tax sharing agreements to which AFG is a party, amendments thereto and analysis supporting any amendments.

## INSTRUCTIONS

1. In responding to each request, OCI shall furnish all documents and information responsive to each request that are within its possession, custody, or control, including those that are in the possession, custody or control of its affiliates, predecessors, agents, employees, managing agents, representatives, consultants, Advisors, and, unless privileged, its attorneys.

2. Documents shall be produced as they are kept in the usual course, or organized and labeled to correspond to the categories in these document requests.

3. In responding to the following requests, if any privilege or immunity is alleged as to information or documents or if a request is otherwise not answered or responded to in full, explain the specific grounds for not answering or responding in full; identify all information or documents for which privilege or immunity is claimed; and produce all documents to the extent to which there is no objection. If any information or documents are withheld from production on the alleged grounds of privilege or immunity, identify on a proper privilege log each such document and all information withheld on privilege grounds. For each entry, provide the following information: (i) the name and address of each person(s) who possesses or controls the document or any copy of it; (ii) the name of the author of the document; (iii) the name of the sender of the document if different than the author; (iv) the name of the person(s) to whom the document or copies of the document were sent or otherwise made available; (v) the job title of each person identified in (i)-(iv) above; (vi) the date of the document; (vii) a brief description of the nature (e.g., letter, memorandum) and subject matter of the document; and (viii) the legal and factual basis for the claim of privilege or attorney work product.

4. These requests shall be construed to be inclusive rather than exclusive. For example, the past tense shall be construed to include the present tense, and vice versa; the singular shall include the plural, and vice versa; “and” and “or” shall be construed both

conjunctively and disjunctively; and “any” or “each” shall mean “each and every” as well as “any one.”

5. All responsive information contained in computerized or other electronic media shall be produced electronically pursuant to the terms of specifications to be agreed upon and memorialized in a separate agreement between the RMBS Policyholders and OCI.

6. If any portion of any document is responsive to these requests, the entire document shall be produced, including, but not limited to, all cover sheets, appendices, or attachments. For example, if an e-mail is deemed responsive but an attachment to that e-mail is non-responsive, both the e-mail and the attachment shall be produced.

7. These requests are deemed to be continuing, and OCI must file and serve supplemental answers should it learn of additional information that is responsive to these requests after it has filed its responses.

8. Unless otherwise stated, the relevant time period for these requests is January 1, 2008 to the present.

#### DEFINITIONS

1. “AAC” refers to Ambac Assurance Corporation and its predecessors, affiliates, subsidiaries, officers, directors, agents, attorneys, employees, and its internal and external Advisors.

2. “Advisor” refers to any individual or entity that a party relies on for advice, information, analysis, or financial modeling, and includes, but is not limited to, any inside or outside accountants, consultants, industry experts, staff members and other employees, members of the OCI Advisor Council, and, unless privileged, attorneys. “Advisors” to OCI include, but are not limited to, BlackRock, Todd Cooper, Gordian Group, LLC, Jeffries & Company, Foley & Lardner LLP, Sitrick & Company, Inc., the Robert E. Nolan Company, Standard Risk Consulting

I, LLC, and Eric Kolchinsky. "Advisors" to AAC include, but are not limited to, KPMG, Dewey & LeBouef, and Blackstone Group.

3. "AFG" refers to Ambac Financial Group, Inc.

4. "Communication" means any writing transmitted between persons or any oral conversation of any kind or character, including, by way of example and without limitation, personal conversations, telephone conversations, letters, meetings, memoranda, telegraphic, telex, computer, email and facsimile communications or transmittals of documents, and all documents concerning such writings or oral conversations. "Communication" as used herein specifically includes internal writings, oral conversations or meetings among your officers, board members, employees, agents, or other representatives.

5. "Concerning" means relating to, referring to, describing, evidencing, supporting, or constituting.

6. "Document" is used in the broadest sense permissible under Wisconsin law and means any writing (whether printed, typed, photocopied, handwritten, recorded, stored, produced or reproduced by any other process), tangible thing, or any other compilation of information that is within your possession, custody or control. This definition includes copies or duplicates of documents contemporaneously or subsequently created that have any non-conforming notes or other markings, regardless of origin or location. Without limiting the generality of the foregoing, the term "document" includes, but is not limited to, e-mails, whether in electronic or hard copy form, electronically stored information, correspondence, memoranda, notes, records, letters, messages, studies, analyses, contracts, agreements, working papers, summaries, statistical statements, financial statements or work papers, accounts, analytical records, reports and/or summaries of investigations, trade letters, press releases, comparisons, books, calendars, diaries, articles, magazines, newspapers, booklets, brochures, pamphlets, circulars, bulletins, notices,

drawings, diagrams, instructions, notes or minutes of meetings, or other communications of any type, including inter- and intra-office communications, questionnaires, surveys, charts, graphs, films, tapes, computer and word processor disks, data cells, print-outs, all other data from which information can be obtained (translated, if necessary, into usable form), and any preliminary versions, drafts or revisions of any of the foregoing, of which you have possession, custody or control.

7. "Financial Statements" are documents sufficient to show the financial condition of a particular entity and include, but are not limited to, balance sheets, profit and loss statements, income statements, cash flow statements and forecasts and statements of comprehensive income, budgets, expense estimates, and financial projections and forward-looking analyses. Financial Statements include documents prepared in accordance with GAAP and any other applicable statutory accounting principles.

8. "General Account" refers to AAC's general account, as distinguished from the Segregated Account, and any policies, contracts, assets, equity ownership interests, and rights or liabilities held in or allocated to the general account.

9. "OCI" refers to the Office of the Wisconsin Commissioner of Insurance.

10. "OCI Advisor Council" refers to the group of individuals and/or entities identified in a press release issued on June 28, 2010 by OCI regarding the appointment of a council of advisors to OCI, and any individuals or entities who join or otherwise participate in that group.

11. "Person" includes both the singular and the plural, and means any natural person, business entity, corporation, cooperative, bureau, public corporation, partnership, joint venture, group, club, association, institute, society, office, organization, and any governmental entity or department, agency, bureau, or political subdivision thereof.

12. "Plan of Operation" refers to the Plan of Operation for the Segregated Account of Ambac Assurance Corporation, which was attached as Tab 1 to the Verified Petition for Order of Rehabilitation that OCI filed with the Court in the above-captioned proceedings on March 24, 2010.

13. The terms "relate to," "relating to," and "related to" mean all information constituting or comprising, concerning, referring or relating in any way, directly or indirectly, to the subject matter of the Request.

14. "Segregated Account" refers to the account that AAC established pursuant to Wis. Stat. § 611.24, and to any policies, contracts, rights, assets, equity ownership interests, and liabilities specifically held in or allocated to it.

15. "You" or "your" refer to OCI.

16. To the extent a term is not defined in these filings, it shall be read to provide the broadest possible meaning of the Request in which it is contained.

Dated: July \_\_\_\_\_, 2010

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## ATTACHMENT 2

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In the Matter of the Rehabilitation of:

SEGREGATED ACCOUNT OF  
AMBAC ASSURANCE  
CORPORATION

Case No. 10 CV 1576

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**RMBS POLICYHOLDERS' DOCUMENT REQUESTS TO  
AMBAC ASSURANCE CORPORATION**

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Pursuant to Wis. Stat. § 804.09, Aurelius Capital Management, LP, Fir Tree, Inc., King Street Capital, L.P., King Street Capital Master Fund, Ltd., Monarch Alternative Capital LP, and Stonehill Capital Management LLC (collectively, the "RMBS Policyholders"), by their attorneys, hereby submit these Document Requests ("Requests") and ask that Ambac Assurance Corporation ("AAC") produce all documents described herein within thirty (30) days of service, or within such shorter time period as may be ordered by the Court, to the offices of Jenner & Block, LLP, 353 N. Clark Street, Chicago, Illinois 60654, or at such other place or time as may be mutually agreed upon.

**REQUESTS**

The RMBS Policyholders request that AAC produce the following documents and other information pursuant to the definitions and instructions that follow these Requests:

1. Documents sufficient to show loss expectation estimates, and calculation (including any supporting assumptions and analyses under base and stress test conditions) and timing thereof, for each of the financial guaranty insurance policies and surety bonds allocated to the Segregated Account, including but not limited to policies insuring or relating to credit default

swaps, residential mortgage backed securities, student loans, and other policies expected to suffer material losses.

2. Documents sufficient to show the value or anticipated value, and calculation and timing thereof, of remediation claims, defenses, offsets, and/or credits, with respect to policies allocated to the Segregated Account, including those now existing or hereafter arising.

3. Copies of the articles of organization and any amendments thereto, the operating agreements and any amendments thereto, and Financial Statements as of the end of each fiscal year and as of March 31, 2010, and June 30, 2010, for the companies whose limited liability interest has been allocated to the Segregated Account.

4. Documents sufficient to show the estimated liabilities, and calculation and timing thereof, assumed by AAC as reinsurer under the reinsurance agreements listed on Exhibit F to the Plan of Operation, which liabilities were allocated to the Segregated Account.

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any policies, contracts, or agreements allocated to the Segregated Account, including the terms and estimated recoveries of those notes.

6. Documents sufficient to show the financial condition of AAC and the General Account as of (i) December 31, 2009, (ii) March 24, 2010, and (iii) the date of AAC's response to these requests. This includes, but is not limited to: Financial Statements; documents concerning claims-paying resources, including the value and liquidity of long-term investments; documents concerning investments; documents concerning the establishment and calculation of losses and loss adjustment expenses and contingency reserves in the aggregate and according to policy, category, asset, asset class, or any other grouping; documents concerning the calculation of any statutory surplus; documents concerning projected losses, including any analysis of the timing and magnitude of losses on AAC's insured portfolio, in the aggregate and according to: (i) policy, and (ii) category; and documents concerning the calculation, computation, valuation, or analysis of net operating losses carry forward, including but not limited to any analysis regarding any and all tax sharing agreements entered into between AAC and any other member(s) of AFG's consolidated group.

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9. Any existing tax sharing agreements to which AFG is a party, amendments thereto and analysis supporting any amendments.

## INSTRUCTIONS

1. In responding to each request, AAC shall furnish all documents and information responsive to each request that are within its possession, custody, or control, including those that are in the possession, custody or control of its affiliates, predecessors, agents, employees, managing agents, representatives, consultants, Advisors, and, unless privileged, its attorneys.

2. Documents shall be produced as they are kept in the usual course, or organized and labeled to correspond to the categories in these document requests.

3. In responding to the following requests, if any privilege or immunity is alleged as to information or documents or if a request is otherwise not answered or responded to in full, explain the specific grounds for not answering or responding in full; identify all information or documents for which privilege or immunity is claimed; and produce all documents to the extent to which there is no objection. If any information or documents are withheld from production on the alleged grounds of privilege or immunity, identify on a proper privilege log each such document and all information withheld on privilege grounds. For each entry, provide the following information: (i) the name and address of each person(s) who possesses or controls the document or any copy of it; (ii) the name of the author of the document; (iii) the name of the sender of the document if different than the author; (iv) the name of the person(s) to whom the document or copies of the document were sent or otherwise made available; (v) the job title of each person identified in (i)-(iv) above; (vi) the date of the document; (vii) a brief description of the nature (e.g., letter, memorandum) and subject matter of the document; and (viii) the legal and factual basis for the claim of privilege or attorney work product.

4. These requests shall be construed to be inclusive rather than exclusive. For example, the past tense shall be construed to include the present tense, and vice versa; the singular shall include the plural, and vice versa; "and" and "or" shall be construed both

conjunctively and disjunctively; and “any” or “each” shall mean “each and every” as well as “any one.”

5. All responsive information contained in computerized or other electronic media shall be produced electronically pursuant to the terms of specifications to be agreed upon and memorialized in a separate agreement between the RMBS Policyholders and AAC.

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7. These requests are deemed to be continuing, and AAC must file and serve supplemental answers should it learn of additional information that is responsive to these requests after it has filed its responses.

8. Unless otherwise stated, the relevant time period for these requests is January 1, 2008 to the present.

#### DEFINITIONS

1. “AAC” refers to Ambac Assurance Corporation and its predecessors, affiliates, subsidiaries, officers, directors, agents, attorneys, employees, and its internal and external Advisors.

2. “Advisor” refers to any individual or entity that a party relies on for advice, information, analysis, or financial modeling, and includes, but is not limited to, any inside or outside accountants, consultants, industry experts, staff members and other employees, members of the OCI Advisor Council, and, unless privileged, attorneys. “Advisors” to OCI include, but are not limited to, BlackRock, Todd Cooper, Gordian Group, LLC, Jeffries & Company, Foley & Lardner LLP, Sitrick & Company, Inc., the Robert E. Nolan Company, Standard Risk Consulting

I, LLC, and Eric Kolchinsky. “Advisors” to AAC include, but are not limited to, KPMG, Dewey & LeBouef, and Blackstone Group.

3. “AFG” refers to Ambac Financial Group, Inc.

4. “Communication” means any writing transmitted between persons or any oral conversation of any kind or character, including, by way of example and without limitation, personal conversations, telephone conversations, letters, meetings, memoranda, telegraphic, telex, computer, email and facsimile communications or transmittals of documents, and all documents concerning such writings or oral conversations. “Communication” as used herein specifically includes internal writings, oral conversations or meetings among your officers, board members, employees, agents, or other representatives.

5. “Concerning” means relating to, referring to, describing, evidencing, supporting, or constituting.

6. “Document” is used in the broadest sense permissible under Wisconsin law and means any writing (whether printed, typed, photocopied, handwritten, recorded, stored, produced or reproduced by any other process), tangible thing, or any other compilation of information that is within your possession, custody or control. This definition includes copies or duplicates of documents contemporaneously or subsequently created that have any non-conforming notes or other markings, regardless of origin or location. Without limiting the generality of the foregoing, the term “document” includes, but is not limited to, e-mails, whether in electronic or hard copy form, electronically stored information, correspondence, memoranda, notes, records, letters, messages, studies, analyses, contracts, agreements, working papers, summaries, statistical statements, financial statements or work papers, accounts, analytical records, reports and/or summaries of investigations, trade letters, press releases, comparisons, books, calendars, diaries, articles, magazines, newspapers, booklets, brochures, pamphlets, circulars, bulletins, notices,

drawings, diagrams, instructions, notes or minutes of meetings, or other communications of any type, including inter- and intra-office communications, questionnaires, surveys, charts, graphs, films, tapes, computer and word processor disks, data cells, print-outs, all other data from which information can be obtained (translated, if necessary, into usable form), and any preliminary versions, drafts or revisions of any of the foregoing, of which you have possession, custody or control.

7. "Financial Statements" are documents sufficient to show the financial condition of a particular entity and include, but are not limited to, balance sheets, profit and loss statements, income statements, cash flow statements and forecasts and statements of comprehensive income, budgets, expense estimates, and financial projections and forward-looking analyses. Financial Statements include documents prepared in accordance with GAAP and any other applicable statutory accounting principles.

8. "General Account" refers to AAC's general account, as distinguished from the Segregated Account, and any policies, contracts, assets, equity ownership interests, and rights or liabilities held in or allocated to the general account.

9. "OCI" refers to the Office of the Wisconsin Commissioner of Insurance.

10. "OCI Advisor Council" refers to the group of individuals and/or entities identified in a press release issued on June 28, 2010 by OCI regarding the appointment of a council of advisors to OCI, and any individuals or entities who join or otherwise participate in that group.

11. "Person" includes both the singular and the plural, and means any natural person, business entity, corporation, cooperative, bureau, public corporation, partnership, joint venture, group, club, association, institute, society, office, organization, and any governmental entity or department, agency, bureau, or political subdivision thereof.

12. "Plan of Operation" refers to the Plan of Operation for the Segregated Account of Ambac Assurance Corporation, which was attached as Tab 1 to the Verified Petition for Order of Rehabilitation that OCI filed with the Court in the above-captioned proceedings on March 24, 2010.

13. The terms "relate to," "relating to," and "related to" mean all information constituting or comprising, concerning, referring or relating in any way, directly or indirectly, to the subject matter of the Request.

14. "Segregated Account" refers to the account that AAC established pursuant to Wis. Stat. § 611.24, and to any policies, contracts, rights, assets, equity ownership interests, and liabilities specifically held in or allocated to it.

15. "You" or "your" refer to AAC.

16. To the extent a term is not defined in these filings, it shall be read to provide the broadest possible meaning of the Request in which it is contained.

Dated: July \_\_\_\_\_, 2010

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In the Matter of the Rehabilitation of:

DANE CO. CIRCUIT COURT

SEGREGATED ACCOUNT OF  
AMBAC ASSURANCE  
CORPORATION

Case No. 10 CV 1576

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**MEMORANDUM OF LAW IN SUPPORT OF  
RMBS POLICYHOLDERS' MOTION FOR AN INFORMATION SHARING ORDER,  
OR IN THE ALTERNATIVE FOR LIMITED DISCOVERY, AND TO INTERVENE  
TO THE EXTENT NECESSARY**

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Aurelius Capital Management, LP, Fir Tree, Inc., King Street Capital, L.P., King Street Capital Master Fund, Ltd., Monarch Alternative Capital LP, and Stonehill Capital Management LLC (collectively, the "RMBS Policyholders"), by their attorneys, submit this Memorandum of Law in support of their Motion for an Information Sharing Order, Or In The Alternative For Limited Discovery, And To Intervene To The Extent Necessary (the "Motion") and respectfully request that the Court grant an Order, substantially in the form of the proposed order attached to the Motion: (1) directing the Wisconsin Office of the Commissioner of Insurance ("OCI") and Ambac Assurance Corporation ("AAC") to establish an electronic database or physical data room, and access procedures to be approved by the Court, which provides documents and information to policyholders and other interested parties on the subject of the rehabilitation plan for the Segregated Account of Ambac Assurance Corporation (the "Segregated Account"), including documents identified in the requests in Attachments 1 and 2 to the Motion and information to be submitted by OCI in any application for approval of such plan; (2) in the alternative, authorizing the RMBS Policyholders to obtain specific and targeted discovery on the subject of the rehabilitation plan for the Segregated Account as set forth in Attachments 1 and 2

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to the Motion; and (3) permitting the RMBS Policyholders to intervene in these proceedings should it be necessary for them to obtain the discovery requested by the Motion.

### PRELIMINARY STATEMENT

This Motion is different from the other motions previously filed in this case. The information requested is limited solely to information directly relevant to the analysis of a proposed rehabilitation plan. By this Motion, the RMBS Policyholders are not seeking information that they previously sought regarding the propriety of the formation of the Segregated Account or of the CDS Settlement. Those issues are on appeal, and the RMBS Policyholders are not revisiting them by this Motion. Instead, the RMBS Policyholders seek information that they, and other policyholders in the Segregated Account, need in order to have a meaningful opportunity to evaluate and be heard regarding the rehabilitation of the Segregated Account. The RMBS Policyholders have attached to the Motion the specific documents that they are requesting, and have proposed a process (a secure data room) that will streamline the process and address concerns that OCI has previously raised.

Any rehabilitation plan requires Court approval before it can be put into effect. Wis. Stat. § 645.33(5). Such approval can be granted only after notice and a hearing. *Id.* OCI recognized these requirements when it advised the Court that OCI will present its proposed rehabilitation plan to the Court later this summer. OCI also has stated that it will give notice to all interested parties “so they have the opportunity to come before the court and give their opinions and communicate with OCI and the company and the court ultimately.” Transcript of March 24, 2010 Hearing, at p. 16.<sup>1</sup>

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<sup>1</sup> See also Transcript of June 4, 2010 Status Conference, at p. 11 (“The other area where we will come back to the court is our plan of rehabilitation, and that will be something that’s filed and

OCI needs to begin sharing information about the plan and the analysis supporting the plan *now*. OCI has been closely monitoring and analyzing AAC's deteriorating financial condition for more than two years. At the first-day hearing in this case, OCI advised the Court that it has "come a long way in developing [a plan of rehabilitation]" and that it "will come back to the court hopefully in around, you know, 180 days or so" to seek approval of the plan. Transcript of March 24, 2010 Hearing, at p. 15. OCI also has acknowledged that this task is "an enormously complex undertaking," Transcript of March 24, 2010 Hearing, at p. 4, and OCI has continued to increase the number of advisors to help it prepare its rehabilitation plan and analyze the issues involved.

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Despite all of this work and analysis, OCI – a public regulatory agency of the state of Wisconsin – has provided scant information to policyholders who are the ones most affected by the rehabilitation.<sup>2</sup> This formal rehabilitation process under Chapter 645 of the Wisconsin Code is unlike summary proceedings provided for elsewhere in the same chapter.<sup>3</sup> Section 645.24 of the Wisconsin Code provides that court hearings in summary proceedings may be confidential and all documents filed shall be confidential unless ordered otherwise. In contrast, as noted in the official legislative comments to that section, formal rehabilitation proceedings are to be open:

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shared and undoubtedly will stimulate discussion and comment by policyholders and other parties.”).

<sup>2</sup> The only parties who appear to be “inside the tent” with OCI are AAC and AAC’s parent, Ambac Financial Group, Inc. (“AFGI”), whose interests as equity holder are subordinate to, and in conflict with, policyholders under the Wisconsin insurance statute. *See* Wis. Stat. § 645.68.

<sup>3</sup> *Compare* Wis. Stats. §§ 645.31-77 (Subchapter III - Formal Proceedings) *with* Wis. Stats. §§ 645.21-24 (Subchapter II - Summary Proceedings).

[I]f a formal proceeding is needed and is commenced, it is neither possible nor desirable for it to be anything other than completely public. No proceeding so far-reaching and with so much latent capacity for harm to the public should be tolerated without the public having full access to information about it.<sup>4</sup>

Transparency in the process needs to begin now so that parties whose rights will be directly affected by the rehabilitation plan will have a reasonable opportunity to analyze the information that is available and that OCI is relying on to craft the rehabilitation plan and will have a meaningful opportunity to participate in any hearings on OCI's application to approve the plan. Policyholders will need a substantial amount of time to review the understandably complex analyses and financial information produced by OCI based on more than two-and-a-half years of work. By creating a secure electronic database or physical data room, OCI and AAC will only be required to gather and organize the relevant information one time, and they will be able to ensure that non-public data is treated with the appropriate confidentiality. This method will be significantly less burdensome on this Court, OCI, and AAC because it will obviate the need for multiple separate productions to multiple parties. It will also facilitate the discovery process generally and will mitigate concerns already raised by OCI, AAC, and many policyholders.

#### STATEMENT OF FACTS

The RMBS Policyholders are holders of residential mortgage-backed securities ("RMBS") or managers of funds that hold RMBS insured by AAC. When the Segregated Account was created on March 24, 2010, OCI allocated to it certain policies that it determined had "material projected impairments," including those for RMBS, collateralized debt obligations, and municipal bonds. *See* OCI's Brief in Support of Entry of Order for Rehabilitation, at pp. 3-4. The RMBS Policyholders' insurance policies were among this group. Although that

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<sup>4</sup> Wis. Stats. § 645.24 cmt.

same day the Segregated Account was officially placed into rehabilitation proceedings pursuant to Wisconsin Statute § 645.32, OCI has yet to release its proposed plan of rehabilitation. *See* Order for Rehabilitation, at pp. 1, 3.

The RMBS Policyholders have previously requested information regarding the Segregated Account from OCI and AAC. The RMBS Policyholders first sent letters to OCI and AAC on April 6, 2010, requesting certain limited categories of documents that would contain information relevant to the rehabilitation of the Segregated Account. *See* Affidavit of Dan Gropper, filed on April 30, 2010 with the Emergency Motion to Modify Order for Temporary Injunctive Relief Filed by Certain RMBS Policyholders and Motion Seeking Expedited Relief, ¶ 4. The RMBS Policyholders subsequently met with AAC and OCI's counsel on April 13, 2010, and were told that they would not be given access to any non-public information without a confidentiality agreement. *Id.* ¶ 5. The RMBS Policyholders sent a proposed confidentiality agreement to OCI's counsel on April 19, 2010. *See id.* ¶ 6. Because no agreement had been reached, the RMBS Policyholders sent a revised proposed confidentiality agreement to the Commissioner on May 7, 2010, but received no response.

On May 14, 2010, the RMBS Policyholders propounded document requests on OCI and AAC. On May 23, 2010, counsel for AAC sent a letter to the RMBS Policyholders refusing to provide discovery to the RMBS Policyholders. As for OCI, OCI has filed briefs with the Court taking the position that policyholders are not entitled to any discovery. *See* OCI's Brief in Opposition to RMBS Policyholders' and LVM Bondholders' Emergency Motions for Injunctive and Other Relief, filed May 20, 2010, at pp. 14-15; OCI's Brief in Opposition to the LVM Movants' Various Motions Pertaining to Inclusion of the LVM Bond Policy in the Segregated Account, filed June 30, 2010, at pp. 16-19.

In its order dated May 27, 2010, the Court denied the RMBS Policyholders' requests for discovery in connection with their Emergency Motion to Modify Order for Temporary Injunctive Relief and Motion Seeking Expedited Relief. *See* Findings of Fact and Conclusions of Law Regarding Motions of Certain RMBS Policyholders and Certain LVM Bondholders, entered May 27, 2010, at pp. 16-17. While the RMBS Policyholders reserve their rights to challenge and appeal that ruling, they bring this Motion for a different purpose and here seek discovery related *solely* to the rehabilitation of the Segregated Account. The merits of a rehabilitation plan and related discovery were not at issue in the earlier proceedings, in which the RMBS Policyholders and others sought information regarding the formation of the Segregated Account and proposed CDS settlement only, and this Motion is therefore not foreclosed by the May 27, 2010 Order.

#### **RELIEF REQUESTED**

While the RMBS Policyholders are entitled to discovery related to the rehabilitation plan under the terms of the Wisconsin discovery statutes, in light of the prior positions taken by OCI and AAC, the RMBS Policyholders present this Motion to clarify the limited scope of their proposed discovery and to seek an order from the Court clarifying that the RMBS Policyholders have a right to obtain discovery relating to the rehabilitation of the Segregated Account.<sup>5</sup> By this motion, the RMBS Policyholders request that the Court enter an order directing OCI and AAC to

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<sup>5</sup> The RMBS Policyholders are aware that at the July 9, 2010 hearing, the Court stated, "there isn't a right to discovery under 645." Transcript of July 9, 2010 Hearing, at p. 50. However, this statement was made in the context of policyholders seeking intervention and discovery on the subject of OCI's decision to allocate certain policies to the Segregated Account. As explained above, by this Motion, the RMBS Policyholders request information directly relevant to the analysis of a rehabilitation plan to be proposed by OCI and have attached a list of the specific documents that they are requesting. The RMBS Policyholders respectfully submit that the Court's comments at the July 9 hearing were not intended to foreclose the specific and narrow relief requested by this Motion. *See, e.g.*, Transcript of July 9, 2010 Hearing, at p. 23 (the Court stating, "[a] lot of the arguments that are surfacing now are things that we would more likely expect to see [in connection with a rehabilitation plan].").

share information with policyholders regarding the rehabilitation plan being developed, or, in the alternative, to permit the RMBS Policyholders to seek limited discovery that will permit them to evaluate OCI's rehabilitation plan, to determine its impact on their policies, and to provide input to the Court in response to OCI's eventual application to approve such rehabilitation plan. Given the financial complexity of the issues relating to the Segregated Account and the expected proposed rehabilitation plan, starting the information sharing process now will enable policyholders to respond more promptly to OCI's motion for approval.

### ARGUMENT

#### ~~I. POLICYHOLDERS ARE ENTITLED TO INFORMATION ON A PLAN OF REHABILITATION THAT WILL IMPACT THEIR INSURANCE RIGHTS.~~

The RMBS Policyholders (and other policyholders) are entitled to discovery under Wisconsin Statute § 804.01(2)(a), which permits parties to obtain discovery regarding any issue relevant to the subject matter involved in a pending action.<sup>6</sup>

The heart of these proceedings is the rehabilitation of the Segregated Account, and the RMBS Policyholders are entitled to discovery on this subject to enable them to participate in the statutory plan approval process. The RMBS Policyholders, and other parties whose policies have been allocated to the Segregated Account, continue to pay premiums on their policies, and their ability to collect on their current and future policy claims will be directly affected by the terms of the rehabilitation plan. The RMBS Policyholders seek information that will permit

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<sup>6</sup> Wisconsin Statute § 601.465(1m)(a) permits OCI to withhold "reports, records and information that are obtained, produced or created" pursuant to an inquiry, as defined under Section 601.42, or an examination, as defined in Section 601.43. Nowhere in this proceeding has OCI indicated that it conducted such an inquiry or examination, so OCI has not met its burden to demonstrate that this statutory privilege applies to any of the information sought by the RMBS Policyholders. *See Davison v. St. Paul Fire & Marine Ins. Co.*, 75 Wis. 2d 190, 197, 248 N.W.2d 433 (1977) (statutory privileges are construed narrowly). The RMBS Policyholders do not intend to seek any information that is legitimately protected by this privilege, to the extent that OCI demonstrates that the privilege applies to specific requests.

them to understand OCI's plans with respect to the rehabilitation, and to participate in the plan approval process to protect and preserve their interests. The specific information that the RMBS Policyholders seek in the requests attached to their Motion is targeted and directly relevant to these rehabilitation proceedings. The RMBS Policyholders respectfully request that the Court grant their Motion and direct OCI and AAC to provide the documents identified in the requests in Attachments 1 and 2 to the Motion, as well as information that OCI uses or relies on in any application for approval of such plan.

Moreover, the rehabilitation statute specifically requires that policyholders have notice and a hearing before any rehabilitation plan may be approved. Wis. Stat. § 645.33(5). In order to satisfy due process, the policyholders must therefore have a *meaningful* opportunity to be heard on the merits of the proposed plan. *In re Liquidation of Am. Eagle Ins. Co.*, 286 Wis. 2d 689, 717, 704 N.W.2d 44, 57 (Wis. Ct. App. 2005) (“The fundamental requirement of procedural due process is the opportunity to be heard at a meaningful time and in a meaningful manner.”); *see also Grode v. Mut. Fire, Marine & Inland Ins. Co.*, 572 A.2d 798, 801-802 (Pa. Commw. Ct. 1990) (Because the rehabilitator “had released no financial information or documentation to substantiate” the projected payments to policyholders under the plan, the Court ordered the rehabilitator “to allow the Policyholders Committee and all interested persons access to [the insurer’s] books and records.”). As “the right to a hearing embraces not only the right to present evidence but also reasonable opportunity to learn the claims of the opposing party and to meet them,” it is essential that the RMBS Policyholders have sufficient information to understand and evaluate the plan. *Brotherhood of R.R. Trainmen v. Swan*, 214 F.2d 56, 59 (7th Cir. 1954) (citation omitted); *see also In re Am. Eagle*, 286 Wis. 2d at 717-18, 704 N.W.2d at 57-58 (concluding that the Wisconsin Insurance Security Fund afforded a party sufficient procedural

protections where, among other things, it offered to respond to the party's requests for information). Because the information the RMBS Policyholders need to evaluate the plan is in OCI's and AAC's hands, OCI and AAC must provide them with this information in advance of the hearing so that they may review it fully and participate in the hearing in a meaningful and productive manner.

To facilitate efficient production of this information, the RMBS Policyholders propose that the Court direct OCI and AAC to establish a secure, electronic database or physical data room that will include responsive documents and other information relevant to the proposed

~~rehabilitation plan. Subject to procedures that could be approved by this Court, the RMBS~~

Policyholders (and any other parties who are interested in and entitled to review this information) may then access this information remotely and electronically (or in person should a physical data room be established). Creating an electronic database or physical data room will be significantly less burdensome on this Court, OCI, and AAC because the need to address multiple discovery requests will be obviated. Creation of this database is also consistent with the notion of flexible procedures for a Chapter 645 proceeding and will ensure that all parties receive information in a timely manner and that their participation in the rehabilitation process will be meaningful. This procedure has been followed in bankruptcy cases and provides a streamlined and secure means of providing information to interested parties. In the alternative, the RMBS Policyholders request that the Court permit them to seek discovery from OCI and AAC in the form of the document requests attached to the Motion as Attachments 1 and 2.

## **II. THE RMBS POLICYHOLDERS ARE ENTITLED TO INTERVENE TO THE EXTENT NECESSARY.**

The RMBS Policyholders respectfully submit that, as interested parties with policies in the Segregated Account, they are entitled to be heard, obtain discovery, and otherwise participate

in proceedings regarding the rehabilitation of the Segregated Account without formally intervening. Indeed, the rehabilitation statutes specifically contemplate that interested parties will be involved in the proceedings, and counsel for OCI stated at the June 4, 2010 status conference that policyholders will be participating in the rehabilitation plan approval process. *See, e.g.*, Wis. Stat. § 645.33(5) (requiring notice and a hearing before a court may approve certain activities in rehabilitation); Transcript of June 4, 2010 Status Conference, at pp. 10-11. Moreover, this Court has already invited interested parties to participate. Order for Temporary Injunctive Relief, at p. 13, ¶ 12. Courts in similar insolvency cases have also recognized the ~~substantial interest that stakeholders like the RMBS Policyholders have in the outcome of the~~ proceedings, and have permitted them to participate without formally intervening. *See, e.g., In re Liquidation of Midland Ins. Co.*, No. 41294/1986, 2008 WL 151786, at \*3-6 (N.Y. Sup. Ct. Jan. 14, 2008) (recognizing court's right as overseer of liquidation proceedings to permit policyholders to participate without formal intervention for issues affecting their interests); *see also Grode*, 572 A.2d at 801 (approving formation of a policyholders' committee "with the express intent of assuring that policyholders *first and foremost* suffered the least amount of harm resulting from the unfortunate series of events culminating in this insurance company's reorganization effort.") (emphasis in the original). As owners or managers of funds that own in excess of \$1 billion face amount of RMBS policies and other liabilities that have been allocated to the Segregated Account, there can be no legitimate dispute that the RMBS Policyholders have a substantial interest in the rehabilitation proceedings and any rehabilitation plan, and should be treated as parties and permitted to obtain discovery.

Nevertheless, to the extent the Court deems it necessary for the RMBS Policyholders to intervene officially to obtain the discovery requested by the Motion, they respectfully submit that they may do so as of right pursuant to Wisconsin Statute § 803.09(1), which provides that:

upon timely motion, anyone shall be permitted to intervene in an action when [A] the movant claims an interest relating to the property or transaction which is the subject of the action and [B] the movant is so situated that the disposition of the action may as a practical matter impair or impede the movant's ability to protect that interest, unless [C] the movant's interest is adequately represented by existing parties.

Each of these requirements is satisfied here for the RMBS Policyholders.<sup>7</sup> By virtue of

~~their ownership of RMBS that are insured by policies currently allocated to the Segregated~~  
Account, the RMBS Policyholders plainly have an "interest relating to the property or transaction which is the subject of the [proceeding]." Wis. Stat. § 803.09(1). OCI's plan to rehabilitate the Segregated Account will determine whether and under what conditions the RMBS Policyholders' claims will be satisfied, so it is clear that "a disposition of the [proceeding] may as a practical matter impair or impede [the RMBS Policyholders'] ability to protect that interest." *Id.* Finally, OCI cannot adequately represent the RMBS Policyholders' interests because it is obligated to consider and address many competing and mutually exclusive claims in rehabilitating the Segregated Account, and therefore will have to make decisions that are potentially adverse to the RMBS Policyholders. *Id.*; *see also* Wis. Stat. § 645.01(4) (in rehabilitation proceedings, the interests of insureds, creditors, and the public generally must be

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<sup>7</sup> In its May 27, 2010 Order, the Court denied the RMBS Policyholders' request to intervene to challenge the creation of the Segregated Account and the consummation of a settlement with certain credit default swap counterparties. The Court's denial of that motion to intervene is currently on appeal. By this Motion, the RMBS Policyholders do not intend to reopen the issues presented in their Emergency Motion to Modify Order for Temporary Injunctive Relief and Motion Seeking Expedited Relief, which was filed on April 30, 2010. Instead, the current motion relates solely to the rehabilitation of the Segregated Account.

protected). OCI does not adequately represent the RMBS Policyholders' interests simply because it seeks to achieve a successful rehabilitation of the Segregated Account for policyholders generally; to the extent the rehabilitation comes at the expense of the RMBS Policyholders' interests, OCI is a decidedly inadequate representative. The RMBS Policyholders are therefore entitled to intervene as of right should the Court deem it necessary for them to do so in order to obtain the discovery requested by the Motion. *See, e.g., Neblett v. Carpenter*, 305 U.S. 297, 300-01 (1938) (policyholders intervened in a proceeding and participated in an evidentiary hearing regarding the propriety of a proposed rehabilitation plan); *Koken v. Legion Ins. Co.*, 831 A.2d 1196, 1202 (Pa. Commw. Ct. 2003) (policyholders permitted to intervene in rehabilitation proceeding); *In re Ambassador Ins. Co.*, 184 Vt. 408, 413 n.4, 965 A.2d 486, 489 n.4 (Vt. 2008) (policyholder permitted to intervene in liquidation proceeding).<sup>8</sup>

### CONCLUSION

The Court should enter an order, substantially in the form of the proposed order attached to the Motion: (i) directing OCI and AAC to establish an electronic database or physical data room, and access procedures to be approved by the Court, which provides documents and information to policyholders and other interested parties on the subject of the rehabilitation plan for the Segregated Account of Ambac Assurance Corporation, including documents identified in the requests in Attachments 1 and 2 to the Motion and information to be submitted by OCI in any application for approval of such plan; (ii) in the alternative, permit the RMBS Policyholders to obtain discovery related to the proposed rehabilitation plan, as set forth in Attachments 1 and 2

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<sup>8</sup> To the extent the Court disagrees that the RMBS Policyholders are entitled to intervene as of right, they respectfully request that it grant them permission to intervene pursuant to Wis. Stat. § 809.03(2) for all of the reasons stated above.

to the Motion; and (iii) to the extent necessary, permit the RMBS Policyholders to intervene to obtain the discovery requested by the Motion.

Dated this 16th day of July, 2010.

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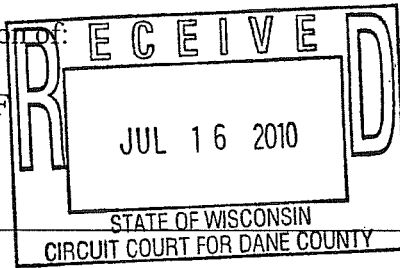
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In the Matter of the Rehabilitation of:

SEGREGATED ACCOUNT OF  
AMBAC ASSURANCE  
CORPORATION



Case No. 10 CV 1576

**[PROPOSED] ORDER GRANTING RMBS POLICYHOLDERS'  
MOTION FOR AN INFORMATION SHARING ORDER, OR IN THE  
ALTERNATIVE FOR LIMITED DISCOVERY, AND TO INTERVENE TO THE  
EXTENT NECESSARY**

This matter came before the Court on the motion (the "Motion") of Aurelius Capital Management, LP, Fir Tree, Inc., King Street Capital, L.P., King Street Capital Master Fund, Ltd., Monarch Alternative Capital LP, and Stonehill Capital Management LLC (collectively, the "RMBS Policyholders"), requesting the Court to direct the Wisconsin Office of the Commissioner of Insurance ("OCI") and Ambac Assurance Corporation ("AAC") to share information with policyholders regarding the rehabilitation plan being developed, or, in the alternative, to permit the RMBS Policyholders to obtain limited discovery that will permit them to evaluate OCI's rehabilitation plan. Based upon the briefing of the parties, other materials and affidavits on file, oral argument presented, and for other good cause, IT IS HEREBY ORDERED THAT:

1. No later than 10 days after the entry of this Order, OCI and AAC shall establish an electronic database or physical data room which will include responsive documents and other information, and which will be accessible to policyholders and other interested parties, on the subject of the rehabilitation plan for the Segregated Account of Ambac Assurance Corporation (the "Segregated Account"), including documents responsive to the requests in

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Attachments 1 and 2 to the Motion and information to be submitted by OCI in any application for approval of such plan.

2. No later than 10 days after the entry of this Order, OCI shall file with this Court for its approval, after notice and a hearing, a set of proposed procedures for (i) OCI and AAC to make the requested documents available in the electronic database or physical data room, and (ii) policyholders and other interested parties to access the documents and information available in the electronic database or physical data room. Policyholders and other interested parties may file objections or proposed modifications to the procedures proposed by OCI.

3. In the event that OCI and AAC fail to comply with the provisions of this Order, the RMBS Policyholders are hereby permitted to intervene in this case to serve OCI and AAC with the document requests attached to the Motion as Attachments 1 and 2.

Dated: \_\_\_\_\_

BY THE COURT

\_\_\_\_\_  
Honorable William D. Johnston  
Lafayette County Circuit Court Judge  
Presiding by Judicial Appointment

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