

STATE OF WISCONSIN SUPREME COURT

No. 2011AP000987

**In the Matter of the Rehabilitation of:
Segregated Account of Ambac Assurance Corporation:**

**Ted Nickel and Office of the Insurance Commissioner,
Petitioners-Respondents,**

**Ambac,
Interested Party-Respondent,**

**United States of America,
Interested Party-Appellant-Petitioner,**

Access To Loans for Student Loan Corporation, Assured Guaranty Corporation, Aurelis Capital Management LP, Bank of America, N.A., Bank of New York Mellon, Countrywide Home Loans Servicing L.P., Customer Asset Protection Company (“CAPCO”), Depfa Bank, plc, Deutsche Bank National Trust Company, Deutsche Bank Trust Company Americas, Eaton Vance, Federal Home Loan Mortgage Corporation (“Freddie Mac”), Federal National Mortgage Association (“Fannie Mae”), Fir Tree Inc., Goldman Sachs & Co., Inc., HSBC Bank USA, National Association, King Street Capital Master Fund, Ltd., King Street Capital, L.P., Knowledgeworks Foundation, Lloyds TSB Bank plc, Monarch Alternative Capital LP, Nuveen Asset Management, One State Street LLC, PNC Bank, Restoration Capital Management LLC, Stone Lion Capital Partners LP, Stonehill Capital Management LLC, Treasurer of the State of Ohio, U. S. Bank National Association, Wells Fargo Bank, N.A., Wells Fargo Bank, National Association as Trustee for the LVM

**Bondholders, Wilmington Trust Company and Wilmington
Trust FSB,
Interested Parties.**

**UNITED STATES' MOTION TO ALLOW ELECTRONIC
SERVICE IN LIEU OF PAPER SERVICE ON PARTIES
NOT DIRECTLY INVOLVED IN THE INSTANT APPEAL**

The United States, the appellant in the above-captioned appeal, through its counsel Richard D. Humphrey and Anthony T. Sheehan, respectfully requests that it be allowed, for the remainder of the proceedings before this Court, to effect only e-mail service, except for paper service on counsel for the Wisconsin insurance commissioner, counsel for Ambac Assurance Corporation, entities at physical addresses for which the United States lacks a corresponding e-mail address, and entities requesting paper service.

1. In an August 31, 2011 Order, this Court granted the United States' petition for review in the above-captioned case. The United States' opening brief is due to be filed and served on September 30, 2011.

2. Wisconsin Statute § 809.19(8)(a)(1) requires the service of three paper copies of each brief or appendix on each party to an appeal. For all other papers, Wis. Stat. § 809.80(2)(a) refers to Wis. Stat. § 801.14(1), (2), and (4). The referenced portions of § 801.14 require, in pertinent part, that all written motions and similar papers be served on each of the parties, “unless the court otherwise orders because of numerous defendants.”

3. The Court’s order lists 52 addresses for entities related to this appeal. Setting aside the three entries for Federal Government counsel leaves 49 addresses to be served with all filings, including three paper copies of the United States’ opening and reply briefs. Effecting paper service, especially of the briefs, on all 49 addresses would be costly. For example, the United States’ petition for review was 105 pages long, including the record appendix, all formal parts, and covers. Making 147 photocopies (49 addresses multiplied by three copies each) of the petition would have consumed 15,435 sheets of paper and cost over \$925 at our in-house rate of 6¢ per page (more if outsourcing

had been necessary). It would then have cost at least \$6.70 to mail three copies of the petition (at a weight of over three pounds per set) to each of the 49 addresses, for a postage bill of over \$325. We anticipate that the United States' opening and reply briefs, taken together, will be longer than the petition, and we note that the opening and reply briefs will require two rounds of mailing.

3. The United States effected paper service of one copy of its petition on all 55 non-federal addresses in the then-current mailing list. Counsel for only two parties, however, responded to the petition, *viz.*, counsel for Wisconsin Insurance Commissioner Theodore Nickel (Foley & Lardner LLP in Madison, Wisconsin) and counsel for Ambac Assurance Corporation (Stafford Rosenbaum LLP in Madison, Wisconsin and Dewey & Leboeuf LLP in New York, New York).

4. During the course of these proceedings, a comprehensive e-mail list has been compiled and used by the parties to effect service in addition to, or in lieu of, paper service. The insurance commissioner also maintains a publicly available web site at

<http://ambacpolicyholders.com/court-filings> containing all documents of import to these proceedings.

5. In light of the above, the United States respectfully requests that it be allowed to limit paper service of all future filings to the above-noted counsel for the responding parties, to any physical address for which we do not have a corresponding e-mail address, and to any other entity who requests paper service. The United States will serve an electronic copy of each of its future filings on each e-mail address in the list compiled for these proceedings. The past practice of the insurance commissioner has also given us reason to believe that all briefs and other important filings will be posted on the above-noted web site. Resources will be conserved while giving interested entities ready access to each of the United States' future filings.

6. The United States would not oppose similar relief for any other entity that wishes to file documents in this case.

7. I spoke with Matthew R. Lynch of Foley & Lardner, the law firm that represents Insurance Commissioner Nickel and

that has taken the lead in opposing the United States in these proceedings. Mr. Lynch stated that his client does not oppose the relief requested herein.

For the foregoing reasons, we respectfully request that the Court partially waive the paper-service requirements for the remainder of this case so as to allow electronic service on all entities, except for paper service on counsel for the Wisconsin insurance commissioner, on counsel for Ambac Assurance Corporation, on entities at a physical address for which the United States lacks a corresponding e-mail address, and on entities requesting paper service.

Respectfully submitted,

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Dated: September 7, 2011

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**Access To Loans for Student Loan Corporation, Assured
Guaranty Corporation, Aurelis Capital Management LP,
Bank of America, N.A., Bank of New York Mellon,
Countrywide Home Loans Servicing L.P., Customer Asset
Protection Company (“CAPCO”), Depfa Bank, plc,
Deutsche Bank National Trust Company, Deutsche Bank
Trust Company Americas, Eaton Vance, Federal Home
Loan Mortgage Corporation (“Freddie Mac”), Federal
National Mortgage Association (“Fannie Mae”), Fir Tree
Inc., Goldman Sachs & Co., Inc., HSBC Bank
USA, National Association, King Street Capital Master
Fund, Ltd., King Street Capital, L.P., Knowledgeworks
Foundation, Lloyds TSB Bank plc, Monarch Alternative
Capital LP, Nuveen Asset Management, One State Street
LLC, PNC Bank, Restoration Capital Management LLC,
Stone Lion Capital Partners LP, Stonehill Capital
Management LLC, Treasurer of the State of Ohio, U. S.
Bank National Association, Wells Fargo Bank, N.A., Wells
Fargo Bank, National Association as Trustee for the LVM**

**Bondholders, Wilmington Trust Company and Wilmington
Trust FSB,
Interested Parties.**

DECLARATION

Anthony T. Sheehan, of the Department of Justice,
Washington, D.C., states as follows:

1. I am an attorney employed in the Appellate Section, Tax Division, United States Department of Justice.
2. The facts recited in the foregoing motion are true and correct to the best of my knowledge and belief.

I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct. Executed this 7th day of September, 2011, in Washington, D.C.

ANTHONY T. SHEEHAN
Attorney

CERTIFICATE OF SERVICE

I hereby certify that, on this 7th day of September, 2011, a true and correct copy of the foregoing document was served upon all interested entities listed in the August 31, 2011 Order of the Supreme Court of Wisconsin, via First Class Mail, with postage prepaid, in envelopes addressed as stated on the attached list. A courtesy copy was also sent to all of the e-mail addresses on the list compiled by the Circuit Court for Dane County, Wisconsin.

ANTHONY T. SHEEHAN
Attorney