

COURT OF APPEALS OF WISCONSIN  
DISTRICT IV

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

TED NICKEL and OFFICE OF THE  
COMMISSIONER OF INSURANCE,

Appeal No. 2011-AP-561

Petitioners-Respondents,

AMBAC ASSURANCE,

Interested Party-Respondent,

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DEPFA BANK, PLC,

Interested Party-Appellant,

ACCESS TO LOANS FOR LEARNING  
STUDENT LOAN CORPORATION,  
AURELIS CAPITAL MANAGEMENT  
LP, BANK OF AMERICA, N.A.,  
CUSTOMER ASSET PROTECTION  
COMPANY ("CAPCO"), 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., KING STREET CAPITAL  
MASTER FUND, LTD., KING STREET  
CAPITAL, L.P., LLOYDS TSB BANK  
PLC, MONARCH ALTERNATIVE  
CAPITAL LP, ONE STATE STREET  
LLC, STONEHILL CAPITAL  
MANAGEMENT LLC, 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-Co-Appellants,

ASSURED GUARANTY  
CORPORATION, BANK OF NEW  
YORK MELLON, COUNTRYWIDE  
HOME LOANS SERVICING L.P.,  
GOLDMAN SACHS & CO., INC.,  
HSBC BANK USA, NATIONAL  
ASSOCIATION,  
KNOWLEDGEWORKS  
FOUNDATION, NUVEEN ASSET  
MANAGEMENT, PNC BANK,  
RESTORATION CAPITAL  
MANAGEMENT LLC, STONE LION  
CAPITAL PARTNERS LP and  
TREASURER OF THE STATE OF  
OHIO, UNITED STATES OF  
AMERICA,

Interested Parties.

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**MOTION TO SUPPLEMENT THE RECORD**

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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"), the  
Federal National Mortgage Association ("Fannie Mae"), and the Federal Home  
Loan Mortgage Corporation ("Freddie Mac"), by their attorneys, shall and hereby  
move the Court to supplement the record pursuant to Wis. Stat. §§ 809.14 and

809.15 with the transcript of the November 30, 2010 closing arguments from the Circuit Court proceedings in this case. Attached is a true copy of that transcript.

Pursuant to Wis. Stat. § 809.15(13), transcripts of proceedings are considered part of the record on appeal. Accordingly, this court routinely considers transcripts of closing argument as evidence of what occurred during circuit court proceedings. *See, e.g., Grice Eng'g, Inc. v. Szyjewski*, 2002 WI App 104, ¶ 4, 254 Wis. 2d 743, 648N.W.2d 487.

Fannie Mae and the RMBS Policyholders each filed a Statement on Transcript in connection with the above-captioned appeal in which they indicated that “all transcripts for this appeal appear to already be on file in the Dane County Circuit Court.” *See Fannie Mae’s Statement on Transcript, In re: Segregated Account of Ambac Assurance Corporation*, Case No. 2010-cv-1576 (Dane County Cir. Ct. Mar. 10, 2011); *RMBS Policyholders Statement on Transcript, In re: Segregated Account of Ambac Assurance Corporation*, Case No. 2010-cv-1576 (Dane County Cir. Ct. Mar. 10, 2011); *see generally* Wis. Stat. § 809.11(4). However, it has recently come to the movants’ attention that the November 30, 2010 hearing transcript – which was prepared and circulated to participants shortly after the hearing date – was not actually in the record that the Circuit Court transmitted to this Court.

The November 30, 2010 hearing transcript should be included in the appellate record so that this Court has a complete record of the proceedings that led to the Circuit Court’s confirmation of the Rehabilitation Plan. The November

30, 2010 transcript should also be included because it will allow parties to demonstrate that they properly raised and preserved issues in the Circuit Court for this appeal.

Therefore, the movants respectfully request that the Court grant this Motion and direct the clerk to include the attached transcript in the record transmitted to the Court of Appeals in Appeal No. 2011 AP 561. To avoid any delay arising from this request, the movants waive their right to have any portion of these proceedings tolled pursuant to Wis. Stat. § 809.14 in connection with this Motion.


Dated this 23rd day of May, 2011.

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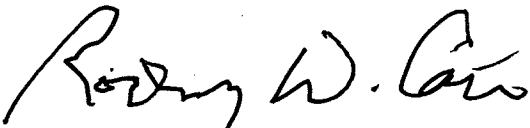
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**ORDER**

IT IS ORDERED that the record in these proceedings include the transcript of the November 30, 2010 hearing, a copy of which is attached hereto. For purposes of citation, the transcript shall be identified as Document No. 613. The deadlines for this appeal, including the briefing schedule set in this Court's May 3, 2011 Order, shall not be tolled or otherwise affected by this Order.

Dated this \_\_\_ day of May, 2011.

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BY THE COURT: