

UNITED STATES DISTRICT COURT

DISTRICT OF NEW MEXICO

**IN RE THORNBURG MORTGAGE, INC.  
SECURITIES LITIGATION**

CASE NO. CIV 07-815JB/WDS

THIS DOCUMENT RELATES TO:

ALL ACTIONS

**DECLARATION OF MICHAEL S. ETKIN IN SUPPORT OF  
CO-LEAD COUNSEL'S MOTION FOR AN AWARD OF ATTORNEYS' FEES  
AND REIMBURSEMENT OF EXPENSES FILED ON BEHALF OF  
LOWENSTEIN SANDLER PC**

Michael S. Etkin, declares as follows:

1. I am a member of the law firm of Lowenstein Sandler PC ("LS"). I submit this declaration in support of my firm's application for an award of attorneys' fees in connection with services rendered in the above-captioned litigation (the "Litigation") from the inception of this case through July 15, 2012 (the "Time Period"), as well as the attorneys' fees and reimbursement of expenses incurred by our local bankruptcy counsel in connection with the Litigation.<sup>1</sup>

2. My firm, which served as bankruptcy counsel in this Litigation, performed the following services: prepare submissions to District Court regarding impact of Chapter 11 filing; coordinate and communicate with lead counsel concerning the identification of issues and need to respond to activity in the Chapter 11 proceeding; monitor the Chapter 11 proceeding and prepare submissions and responses in connection with motions and relevant pleadings to protect the interests of the class; review adversary proceeding seeking to enjoin securities litigation in

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<sup>1</sup> Time and expenses incurred in connection with the ongoing appeal against the non-settling, Underwriter Defendants are not reflected in this declaration.

the Chapter 11 proceeding; prepare answer to adversary complaint; extensive legal research on bankruptcy related issues; review motion to appoint Chapter 11 Trustee and prepare and file responsive pleading; multiple appearances in Bankruptcy Court in Baltimore, MD; work with lead counsel with respect to PSLRA stay relief motion; review motions regarding D&O Insurance Policies and prepare and file responses to said motions; draft motion for summary judgment to dismiss adversary complaint; communicate with Trustee's counsel and counsel for the Official Committee of Unsecured Creditors in the Chapter 11 proceeding; review motions regarding sales of Debtor's assets and file responses thereto; review pleadings in connection with former officers and directors of Debtor; review pleadings and file responses relevant to preservation of Debtor's documents; multiple conference calls and other communications with lead counsel.

3. The schedule attached hereto as Exhibit 1 is a summary indicating the amount of time spent by each attorney and professional support staff of my firm who was involved in this Litigation during the Time Period, and the lodestar calculation based on my firm's current billing rates. For attorneys and professional support staff who are no longer employed by my firm, the lodestar calculation is based upon the billing rates for such personnel in his or her final year of employment by my firm. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm, which are available at the request of the Court. Time expended in preparing this application for fees and reimbursement of expenses has not been included in this request.

4. The hourly rates for the attorneys and professional support staff in my firm set forth in Exhibit 1 are the same as the regular current rates charged for their services in non-contingent matters and/or which have been accepted in other securities or shareholder litigation.

5. The total number of hours expended on this Litigation by my firm during the Time Period is 465.2 hours. The total lodestar for that work is \$207,344.50, consisting of \$203,516.50 for attorneys' time and \$3,828.00 for professional support staff time. These figures exclude time incurred by my firm that was solely related to the ongoing litigation against the non-settling, Underwriter Defendants or any time incurred in preparing this application for fees and expenses.

6. My firm's lodestar figures are based upon the firm's billing rates, which rates do not include charges for expenses items. Expense items are billed separately and such charges are not duplicated in my firm's billing rates.

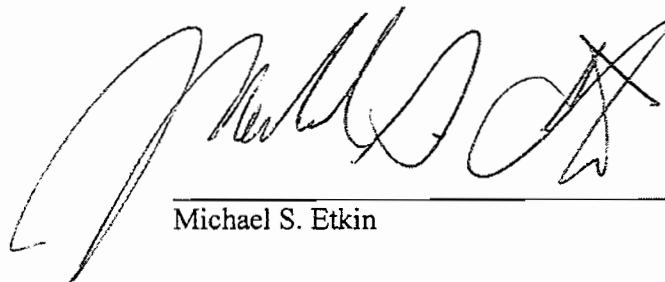
7. The statement attached hereto as Exhibit 2 represents the time and expenses incurred by local bankruptcy counsel in Baltimore, Maryland retained by my firm as required by the local rules of the Bankruptcy Court. The services rendered by local bankruptcy counsel included the following: preparing and filing pro hac vice motions; communications with primary bankruptcy counsel; review various relevant bankruptcy pleadings; attend certain hearing and conferences before the Bankruptcy Court; miscellaneous docket review; prepare pleadings for service and filing. The total number of hours expended on this Litigation by local bankruptcy counsel is 70.4 hours. The total lodestar for that work is \$17,559.00, all of which was attorneys' time. I am advised that those lodestar figures are based upon local bankruptcy counsel's billing rates which do not include charges for expense items.

8. The \$5,191.14 in unreimbursed expenses incurred in this Litigation by local bankruptcy counsel set forth in Exhibit 2 are reflected on that firm's books and records. Those books and records are prepared from expense vouchers, check records, invoices and other source

materials and I am advised are an accurate record of the expenses incurred in connection with the prosecution of this Litigation during that Time Period.

10. With respect to the standing of my firm, attached hereto as Exhibit 3 is a brief biography of my firm and the undersigned who was principally involved and responsible for the bankruptcy related services provided in connection with this Litigation.

I declare, under penalty of perjury, that the foregoing facts are true and correct. Executed on July 23, 2012.



Michael S. Etkin

**Exhibit 1****IN RE THORNBURG MORTGAGE, INC. SECURITIES LITIGATION  
Case No. Civ. 07-815JB/WDS****LOWENSTEIN SANDLER, PC****TIME REPORT  
APRIL 1, 2009 – JULY 15, 2012**

NAME		TIME	BILLING RATE	TOTAL
Michael S. Etkin, Esq.	P	79.00	\$755.00	\$ 59,645.00
S. Jason Teele, Esq.	P	103.10	585.00	60,313.50
David M. Banker, Esq.	C	19.40	540.00	10,476.00
Ira M. Levee, Esq.	OC	1.60	510.00	816.00
Cassandra M. Porter, Esq.	A	116.80	470.00	54,896.00
Jonathan A. Kaplan, Esq.	A	45.00	350.00	15,750.00
Thomas Livolsi, Esq.	A	2.70	350.00	945.00
Steven A. Munson, Esq.	A	1.80	375.00	675.00
Lisa Marie Bonito	PL	12.80	185.00	2,368.00
Gina C. Buccellato	PL	3.60	185.00	666.00
Denise Toulson*	PA	79.40	100.00	794.00
<b>TOTALS</b>		465.20		<b>\$207,344.50</b>

**Legend:**

**P** = **PARTNER**  
**C** = **COUNSEL**  
**OC** = **OF COUNSEL**  
**A** = **ASSOCIATE**  
**PL** = **PARALEGAL**  
**PA** = **PROJECT ASSISTANT**

Exhibit 2

Federal Identification Number: 23-1416352

Accounting Phone: 215-972-7708

www.saul.com

Class In re Thornburg Mortgage, Inc. Securities Litigation  
 c/o Michael S. Etkin, Esquire  
 Lowenstein Sandler PC  
 65 Livingston Avenue  
 Roseland, NJ 07068

Invoice Number 2085814  
 Invoice Date 01/20/10  
 Client Number 359585  
 Matter Number 00001

Re: Thornburg Mortgage, Inc.

FOR PROFESSIONAL SERVICES RENDERED THROUGH 12/31/09:

Date	Tkpr	Description	Hours	Value
08/19/09	JAK	Review and revise notice of appearance; request dockets; e-mail with J. Teele	0.6	312.00
08/20/09	JAK	Supervise revisions to filing and execution of pro hacs	0.6	312.00
08/20/09	PJC	Review and filing of notice of appearance and pro hac motions in main and adversary matters	1.0	185.00
08/28/09	PJC	Docket review and pleading pull for J. Kuhns and E. Altice	0.5	92.50
09/18/09	JAK	E-mails re: TMST answer	0.2	104.00
09/21/09	EKA	Review answer and certificate of service	0.5	157.50
09/21/09	EKA	E-mails with J. Kuhns, J. Teele and P. Coolbaugh re: answer and status conference	0.4	126.00
09/21/09	EKA	E-mails with J. St. John and G. Gamble re: status conference on U.S. Trustee's motion for examiner or trustee	0.5	157.50
09/21/09	GMG	Conference with J. St. John re: status conference	0.2	47.00
09/21/09	GMG	Attend hearing on status conference for U.S. Trustee's Motion to Appoint a Chapter 11 trustee or, in the alternative, an examiner and on the Application to Employ IMA as Broker in the Sale of TMST's mortgage servicing business; travel to and from courthouse; conference with E. Altice re: outcome of status conference	3.4	799.00

P.O. Box 1266 • Wilmington, DE 19899-1266 • Phone: (302) 421-6800 • Fax: (302) 421-6813

Courier Address: 222 Delaware Avenue, Suite 1200 • Wilmington, DE 19801-1611

DELAWARE MARYLAND NEW JERSEY NEW YORK PENNSYLVANIA WASHINGTON, DC

A DELAWARE LIMITED LIABILITY PARTNERSHIP



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Thornburg Class Plaintiffs - W. Allen Gage, individually  
and on behalf of J. David Writher  
Thornburg Mortgage, Inc.

Invoice Number 2085814  
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Date	Tkpr	Description	Hours	Value
09/21/09	PJC	Filing of answer and certificate of service in adversary proceeding	0.5	92.50
09/22/09	JAK	E-mails re: answer; attend hearing on U.S. Trustee's motion	0.2	104.00
09/22/09	JAK	E-mails re: Thornburg discovery and scheduling order	0.3	156.00
09/22/09	GMG	Review of e-mail from E. Altice re: discovery deadlines to U.S. Trustee's Motion; draft e-mail re: same; review and respond to e-mail from J. Telle re: discovery responses	0.3	70.50
10/02/09	EKA	E-mail to and from J. Teele re: hearing on U.S. Trustee's motion	0.2	63.00
10/06/09	JAK	E-mail re: attend hearing regarding U.S. Trustee motion	0.1	52.00
10/06/09	GMG	Draft e-mails to J. Teele, J. Kuhns and E. Altice re: hearing tomorrow	0.2	47.00
10/07/09	JAK	Telephone call to Venable re: continuance request agreement	0.1	52.00
10/08/09	JAK	Telephone call from Plaintiff's counsel re: continuance of pre-trial conference and e-mail with J. Teele re: agreement	0.2	104.00
10/13/09	PJC	Docket review and pleading retrieval for J. Kuhns	0.5	92.50
10/14/09	JAK	Review of continuance request; Telephone call to Venable re: entry; forward to J. Teele	0.3	156.00
10/16/09	JAK	E-mail and telephone call from J. Teele re: continuance/transcript	0.2	104.00
10/27/09	PJC	Docket review and pleading pull for J. Kuhns	0.5	92.50
11/18/09	PJC	Review of dockets and update pleadings binder for the adversary proceeding	0.5	92.50
02/08/10	EKA	Telephone calls and e-mails with C. Porter re: objection to sale of servicing business; telephone calls and e-mails with J. Kuhns and P. Coolbaugh re: objection to sale of servicing business; review objection to sale of servicing business	1.3	409.50
02/08/10	PJC	Preparation, filing, and creation of service copies for class plaintiffs objection to motions of trustee	4.0	740.00

359585 Thornburg Class Plaintiffs - W. Allen Gage, individually Invoice Number 2085814  
 00001 and on behalf of J. David Writher Page 3  
 Thornburg Mortgage, Inc.  
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Date	Tkpr	Description	Hours	Value
02/09/10	PJC	Completion of sending service copies of objection to trustee's motions	1.0	185.00
02/15/10	EKA	E-mails with C. Porter re: hearing and pro hac motion; Conference with G. Gamble re: hearing; draft pro hac motion	0.7	220.50
02/15/10	GMG	Conference with E. Altice re: hearing on objection to Debtor's motion to sell business; review Objection document as background to hearing	0.4	102.00
02/16/10	EKA	E-mails with C. Porter and G. Gamble re: hearing on objection to sale motion	0.2	63.00
02/16/10	GMG	Attend hearing on Lead Plaintiffs' Limited Objection to the Notice of Sale and Sale Hearing; travel to and from Courthouse; review draft Order prepared by Trustee; conference with C. Porter and R. Goldberg re: alterations to Order to reflect Judge's ruling	5.3	1,351.50
03/01/10	GMG	Conference call with C. Porter re: Notice of Requirement to Review Transcript	0.1	25.50
04/30/10	EKA	Email from and to C. Porter re: objection deadline for Motion for Entry of Protective Order	0.2	63.00
05/11/10	EKA	E-mails with C. Porter re: objection to amended protective order	0.4	126.00
05/11/10	EKA	Review of Trustee's motion re: amended protective order	0.4	126.00
05/11/10	EKA	Review objection to Trustee's motion re: amended protective order	0.4	126.00
05/11/10	PJC	Editing, organizing, filing and service of Objection to Trustee's Motion for Amended Protective Order	3.0	555.00
05/13/10	EKA	E-mails from and to C. Porter re: opposition to relief from stay	0.3	94.50
05/17/10	JAK	Review of lift stay response; telephone call with E. Altice	0.3	156.00
05/17/10	EKA	Telephone call and e-mails with C. Porter re: hearing and objection to D&O insurance motion (.8); review of D&O insurance motion (.5); e-mails with J. Kuhns re: objection to D&O insurance motion (.3); review of Response to D&O insurance motion (1.0)	2.6	819.00



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Thornburg Class Plaintiffs - W. Allen Gage, individually  
and on behalf of J. David Writher  
Thornburg Mortgage, Inc.

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Date	Tkpr	Description	Hours	Value
05/17/10	GMG	Review of e-mail messages from C. Porter and E. Altice re: hearing scheduled for 9/17 (.2); briefly review briefs filed re: subject matter of 9/17 hearing (.3); attend hearing at USDC for MD – travel to and from the courthouse (1.9) draft e-mail to C. Porter re: outcome of hearing, adjournment until 2:00 (.1); attend hearing at 2:00 p.m. (cancelled) (.7); draft e-mail to C. Porter re: hearing did not go forward (.1)	3.3	841.50
05/17/10	PJC	Editing, organizing, filing and service of response to motion for relief from automatic stay	3.7	684.50
05/18/10	PJC	Editing, organizing, filing and service of response to motion for incurred defense costs	3.5	647.50
05/20/10	JAK	E-mails with E. Altice et al. re: status	0.2	104.00
05/20/10	EKA	Review of D&O reply to objections and response	0.2	63.00
05/26/10	EKA	E-mails to and from C. Porter re: resolution of objection to amended protective order	0.2	63.00
06/07/10	EKA	Correspond with C. Porter and P. Coolbaugh re: substitute order regarding D&O Insurance	0.8	252.00
06/07/10	EKA	Review certificate of counsel regarding substitute order re: D&O Insurance	0.2	63.00
06/07/10	PJC	Edit file and service of certification of counsel in support of counter proposed order re: payment of defense costs; wait for directions and final document from outside counsel	6.9	1,276.50
06/09/10	KSC	Telephone calls with court clerk re: clarification of relief requested and proposed Order; telephone call and e-mail to C. Porter re: court clarifications needed on documents e-filed and provide phone number for Ms. Oliver	0.5	95.00
06/09/10	PJC	Review materials filed on June 6 and forward request from Clerks' office to Lowenstein Sandler	0.2	37.00
07/07/10	EKA	Conference with P. Coolbaugh re: response to show cause order	0.2	70.00
07/07/10	EKA	Review of response to show cause order	0.2	70.00
07/07/10	PJC	Edit file and service of lead plaintiffs' reply to trustee's response to show cause order in adversary case	1.5	300.00

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Thornburg Class Plaintiffs - W. Allen Gage, individually  
and on behalf of J. David Wriether  
Thornburg Mortgage, Inc.

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Date	Tkpr	Description	Hours	Value
02/24/11	EKA	Emails to/from J. Teele re: objection to Trustee's motion to file 2004 motion under seal; review Trustee's motion; review and prepare for filing objection	1.0	350.00
02/24/11	PJC	Editing of brief; filing and service of plaintiffs objection to trustee's motion seeking an examination of certain former officers	2.5	537.50
03/07/11	PJC	Docket review and pull pleading for E. Altice	0.5	107.50
03/08/11	PJC	Docket review and pull pleading for E. Altice in main and adversary cases	0.5	107.50
03/22/11	PJC	E-mails re: pro hac motion; revise pro hac motion; e-mails with outside counsel re: same; filing and service of pro hac vice motion of D. Banker	1.1	236.50
03/23/11	EKA	Review and revise Objection to Emergency Motion of Trustee re Zuni Agreement	0.5	175.00
03/23/11	PJC	Edit, file and service of Lead Plaintiffs' Objection To Emergency Motion Of Trustee For Order Authorizing The Filing Under Seal Of A motion Seeking Approval Of A Joint Prosecution And Cooperation Agreement with Zuni Investors	2.5	537.50
03/24/11	EKA	E-mails to and from D. Banker re: hearing on seal motions (.4); prepare for and attend hearing on seal motions (3.5)	3.9	1,365.00
03/24/11	PJC	Assist with preparation for 3/24 hearing; deliver documents to Court per E. Altice	2.1	451.50
03/31/11	PJC	Docket review and pull pleading to be loaded to repository	0.4	86.00
04/20/11	PJC	Docket review and pleading review for E. Altice	0.5	107.50
08/29/11	EKA	E-mail with C. Porter and P. Coolbaugh re motion to amend insurance order	0.3	111.00
08/29/11	PJC	Docket review and pleading retrieval for E. Altice	0.4	86.00
TOTAL HOURS			70.4	

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and on behalf of J. David Writher  
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## TIMEKEEPER TIME SUMMARY:

<u>Timekeeper</u>	<u>Hours</u>		<u>Rate</u>		<u>Value</u>
Edith K. Altice	9.5	at	\$315.00	=	2,992.50
Edith K. Altice	5.8	at	\$350.00	=	2,030.00
Edith K. Altice	0.3	at	\$370.00	=	111.00
Geoffrey M. Gamble	4.1	at	\$235.00	=	963.50
Geoffrey M. Gamble	9.1	at	\$255.00	=	2,320.50
Peter J. Coolbaugh	25.8	at	\$185.00	=	4,773.00
Peter J. Coolbaugh	1.5	at	\$200.00	=	300.00
Peter J. Coolbaugh	10.5	at	\$215.00	=	2,257.50
Joyce A. Kuhns	3.3	at	\$520.00	=	1,716.00
Kimberly S. Crampton	0.5	at	\$190.00	=	95.00

## CURRENT FEES

17,559.00

## FOR COSTS ADVANCED AND EXPENSES INCURRED:

Pacer Research	107.12
Photocopying	4,083.50
Telephone	14.12
Filing Fees	50.00
Postage	899.40
Cab Fare	15.00
Parking	22.00

## CURRENT EXPENSES

5,191.14

## TOTAL AMOUNT OF THIS INVOICE

22,750.14

# Lowenstein Sandler

ATTORNEYS AT LAW

## Exhibit 3



MICHAEL S. ETKIN

Michael S. Etkin is a senior bankruptcy practitioner and commercial litigator with significant experience in complex business reorganizations and litigation as well as securities and ERISA class action litigation. Mr. Etkin graduated from Boston University, *cum laude*, in 1975, and received his law degree, *with honors*, from St. John's University in 1978. He is admitted to practice in the state and federal courts of New York and New Jersey. Mr. Etkin is listed in the 2012 and 2011 editions of *Chambers USA: America's Leading Lawyers for Business*, which has noted his "constructive approach to adversarial matters" and skill in "anticipating all the key issues that are likely to arise." In addition, he is also featured in the 2006-2012 editions of *The Best Lawyers in America* and the 2005-2011 issues of *Super Lawyers* in the Bankruptcy and Creditors' Rights section of the publication.

Mr. Etkin practices in Lowenstein Sandler's Bankruptcy, Financial Reorganization & Creditors' Rights and its Complex Business Litigation groups. Mr. Etkin's bankruptcy practice includes the representation of debtors, trustees, secured and unsecured creditors and investors in a variety of complex bankruptcies and bankruptcy related litigation. On the creditor/investor side, Mr. Etkin has had significant involvement in many of the largest and most complex Chapter 11 proceedings where he represented the interests of major creditors, bondholders and/or shareholders. Mr. Etkin is currently representing shareholder and investor interests in the SemGroup, Lehman Brothers, Washington Mutual, Advanta, Colonial BancGroup, Corus BancShares, Ambac Financial Group, Tronox and Point Blank Solutions Chapter 11 proceedings. He is a recognized national expert in the representation of defrauded investors and class action claimants in bankruptcy proceedings and has lectured on the rights of securities fraud claimants and class action plaintiffs in a Chapter 11 context. Mr. Etkin has also lectured on the interplay between bankruptcy law and product liability litigation.

Mr. Etkin also represents major energy companies in connection with bankruptcy proceedings involving their customers and counterparties. He has been invited to speak before financial institutions, bar association groups and credit associations regarding the rights of counterparties to derivatives in a bankruptcy context, including cutting edge issues emerging from the Lehman Brothers Chapter 11 and SIPC proceedings.

Mr. Etkin has represented both debtors and purchasers in acquisitions of assets of Chapter 11 and Chapter 7 bankruptcy estates. He has been retained as creditors' committee counsel in the Chapter 11 proceedings of retailers, telecommunications companies, and manufacturers and as special counsel on behalf of Chapter 7 and Chapter 11 trustees to prosecute fraud and similar claims. He has also been retained as debtors' counsel in the Chapter 11 proceedings of several industrial manufacturers and contractors, a major book publisher, a California shopping center, a software manufacturer, a converter, marketer and distributor of paper products and a discount retail store chain and has represented plan proponents in pre-packaged Chapter 11 proceedings.

### PUBLICATIONS

- Where to Litigate: Litigation Forum Choices in a Bankruptcy Proceeding  
*New Jersey State Bar Association Seventh Annual Bankruptcy Bench-Bar Conference*, April 1, 2005  
Michael Etkin, Eric Horn
- Automatic Stay Doctrine Applies to Certain Related Nondebtors  
*New Jersey Law Journal*, February 5, 2001  
Michael Etkin, Ira Levee

### PRESS MENTIONS

In *Law 360*, Michael S. Etkin is highlighted for representing George Darwin, the proposed lead plaintiff in a securities fraud class action against three executives of the bankrupt oil and gas company Delta Petroleum. On May 8, 2012, Mr. Etkin convinced the bankruptcy court after oral argument to deny Delta's motion to extend the bankruptcy automatic stay to shield the executives from the litigation. *Law 360*, May 8, 2012

In *Law 360*, Michael Etkin and Ira Levee are highlighted as bankruptcy counsel for the proposed lead plaintiff in a putative securities fraud class action against three executives of the bankrupt oil and gas exploration company Delta Petroleum Corp. *Law 360*, May 7, 2012

Michael S. Etkin comments on Judge Mary Walrath's decision to reject confirmation of Washington Mutual Inc.'s Chapter 11 plan. *Dow Jones Daily Bankruptcy Review*, January 19, 2011

Michael S. Etkin featured in an article describing his success in striking a deal for securities claimants in the WorldCom Chapter 11

### RELATED PRACTICES

- Bankruptcy, Financial Reorganization & Creditors' Rights

### EDUCATION

- St. John's University School of Law (J.D., 1978), *with honors*
- Boston University (B.S., 1975), *cum laude*

### BAR ADMISSIONS

- New York
- New Jersey

### COURT ADMISSIONS

- 1979, U.S. District Court, Southern District of New York
- 1979, U.S. District Court, Eastern District of New York
- 1980, U.S. Tax Court
- 1980, U.S. Court of International Trade
- 1981, U.S. District Court, District of New Jersey
- 1993, U.S. District Court, Northern District of New York
- 1997, U.S. Court of Appeals, Second Circuit
- 2008, U.S. Court of Appeals, Sixth Circuit
- 2008, U.S. District Court, Western District of New York
- 2010, U.S. Court of Appeals, Seventh Circuit

### AFFILIATIONS

- American Bar Association
- New Jersey State Bar Association
- New York State Bar Association
- American Bankruptcy Institute
- International Energy Credit Association



# Lowenstein Sandler

ATTORNEYS AT LAW

## MICHAEL S. ETKIN

Member of the Firm

Michael S. Etkin comments on the \$208.5 million settlement of the consolidated shareholder class-action lawsuit against former officers, directors, underwriters and auditors of Washington Mutual, Inc. alleging misrepresentations and failures to disclose relating to Washington Mutual's financial condition. Lowenstein Sandler is bankruptcy counsel to the lead institutional plaintiff and the class. *Dow Jones Newswire and The Wall Street Journal*, July 1, 2011

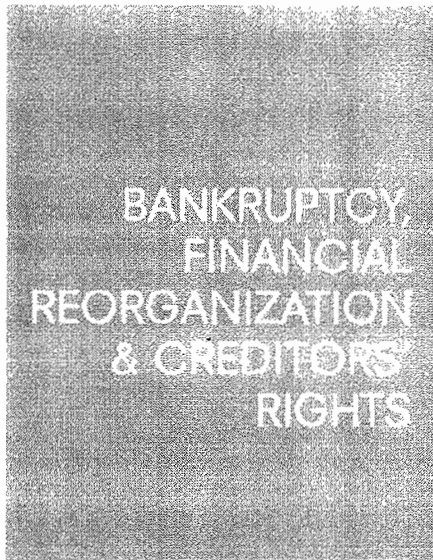
Michael S. Etkin and Ira M. Lovoe are highlighted for representing the securities plaintiffs in Colonial BancGroup Inc.'s Chapter 11 proceedings. *Law360*, June 3, 2011

litigation. *New Jersey Law Journal*, August 15, 2005

Michael S. Etkin discusses the decrease of bankruptcy filings in 2005. *Philadelphia Inquirer*, June 2005







**Lowenstein Sandler's attorneys represent public and private companies, financial institutions, investors, entrepreneurs, governmental agencies, universities, and private clients in complex and sophisticated corporate and litigation matters throughout the country. To work with our firm is to work with legal and business visionaries who are committed to our clients.**

Lowenstein Sandler's commitment to our business clients leads us to proactively identify and minimize any weaknesses in their ventures. For clients in the midst of crises, we strive to alleviate their situations and set them on realistic, forward-looking paths.

Our Bankruptcy, Financial Reorganization & Creditors' Rights practice combines customized strategies with big-picture business counseling and crisis management. Our group's size and reputation reflect its national scope. *Bankruptcy Insider* ranked the firm second nationwide for representing committees of unsecured creditors, and the *Deal* ranked us among the country's most active bankruptcy practices. Our group's chairperson ranked third among the top unsecured creditor attorneys in the country.

Our attorneys represent debtors and creditors' committees in Chapter 11 proceedings nationwide, as well as diverse financial institutions managing troubled credit. We prosecute and defend all types of litigation related to bankruptcy proceedings. Some recent undertakings underscore our prominence. Our work on behalf of shareholders and bondholders in connection with a recent major corporate bankruptcy contributed to a record multibillion-dollar recovery for a securities class. We represent a major labor union in several of the country's largest airline bankruptcies and the creditors' committees in many of the largest Chapter 11 cases. Our premise in these and every other engagement is that financial difficulties should not mean the end of a business or a business relationship. Our clients' successes support our view.



## Bankruptcy

### Practice Details

A reorganization often is the most practical and promising strategy for a troubled company. Our attorneys represent debtors, creditors' committees, and trustees in formal Chapter 11 proceedings throughout the United States. We advise on "prepackaged" and "prenegotiated" plans, which implement quick restructurings that otherwise would take years to complete. We also advise debtors and financial institutions in nonjudicial debt restructurings or workouts that involve publicly and privately held instruments. In addition, our group works with healthy companies seeking to retire debt at a discount, restructure operations, or recapitalize.

A company's fiscal difficulty impacts various other parties, such as those who have provided loans, supplied goods and services, or invested capital. Lowenstein Sandler represents official and unofficial creditors' committees and equity committees in diverse Chapter 11 and other insolvency matters. We work with commercial and investment banks, savings institutions, mutual funds, and other financial firms in their management of troubled credit. Our attorneys also advise clients who are interested in buying assets from Chapter 11 debtors. We help structure and secure bankruptcy court approval of debtor-in-possession financing, and we represent lenders in exploring and establishing these and other financing opportunities.

Whenever possible, we consult with our firm's corporate attorneys in diverse disciplines to structure transactions that minimize future complications and liability, and to avoid the domino effect that one bad deal can have on a company's overall well-being. We also advise

on the significant bankruptcy aspects of various transactions, including commercial finance transactions, as well as mergers, acquisitions, and divestitures of solvent, insolvent, and other highly leveraged companies. We are involved in large and complex commercial, industrial, and residential real estate insolvencies, and we help companies emerge from bankruptcy with controlled environmental liabilities.

Lowenstein Sandler attorneys prosecute and defend all types of litigation related to bankruptcy proceedings. We have developed a niche practice representing the interests of shareholders and investors in securities fraud class actions against corporate defendants in bankruptcy. Such representation helps protect a class of creditors that generally receives little or no recovery in Chapter 11 reorganizations or liquidations.

Our Bankruptcy, Financial Reorganization & Creditors' Rights practice navigates smoothly through the complicated bankruptcy process to ease our clients' most serious concerns. Our extensive knowledge of the insolvency landscape, our ingenuity and foresight, our negotiation and trial skills, all work to inspire our clients' trust.

For more information about our Bankruptcy, Financial Reorganization & Creditors' Rights practice, contact Kenneth A. Rosen at 973 597 2548 or [krosen@lowenstein.com](mailto:krosen@lowenstein.com)



## **Bankruptcy, Financial Reorganization & Creditors' Rights Services**

### **Chapter 11 reorganizations**

- Out-of-court workouts
- Prepackaged plans

### **Workouts**

- Construction loans
- Monosides
- Leveraged buyouts
- ESOPs
- Commercial finance loans
- Asset-based loans

### **Litigation**

- Tender liability
- Fraudulent transfer
- Preference
- Extent of security interest and liens
- Lien avoidance actions

### **Purchase/sale of assets, securities, or obligations of a Chapter 11 debtor**

### **Restructuring of publicly held debt and equity securities**

### **Recovery of leased or financed property**

### **Debtor-in-possession lending, financing, and use of cash collateral**

### **Recovery of rents; assumption/rejection of leases**

### **Refinancing/renegotiation of privately held debt**

### **Issue tender/exchange offers for publicly held debt securities**

### **Solicitations of bondholder consents to covenant relief**

### **Cash infusions from existing or new investors**

### **Asset sales, swaps, and spin-offs**

THE RIGHT ANSWER

# **Lowenstein Sandler**

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