UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

ARGENT CLASSIC CONVERTIBLE ARBITRAGE FUND (BERMUDA) LTD. and ARGENT CLASSIC CONVERTIBLE ARBITRAGE FUND L.P., Individually and On Behalf of All Others Similarly Situated,	MDL 2003 (Civil Action No. 1:08-nc-70016) (Judge Solomon Oliver, Jr.)
Plaintiffs,	
vs.	**<u>JURY TRIAL DEMANDED</u>**
NATIONAL CITY CORPORATION, PETER E. RASKIND, DAVID A. DABERKO, JEFFREY D. KELLY, JON E. BARFIELD, JAMES S. BROADHURST, CHRISTOPHER M. CONNOR, BERNADINE P. HEALY, ALLEN H. KORANDA, MICHAEL B. MCCALLISTER, PAUL ORMOND, GERALD L. SHAHEEN, JERRY SUE THORNTON, and MORRY WEISS,	
Defendants.	

SECOND AMENDED CLASS ACTION COMPLAINT FOR VIOLATIONS OF THE FEDERAL SECURITIES LAWS

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Plaintiffs Argent Classic Convertible Arbitrage Fund (Bermuda) Ltd. and Argent Classic Convertible Arbitrage Fund L.P. ("Plaintiffs"), for their Second Amended Class Action Complaint ("Complaint") against defendant National City Corporation ("National City" or the "Company") and the individual defendants named herein, allege the following upon information and belief, except for those facts pertaining to Plaintiffs, of which they have personal knowledge. Plaintiffs' information and belief is based upon, among other things, a continuing investigation, conducted by and under the supervision of undersigned counsel, into the facts and circumstances alleged herein including, without limitation, a review and analysis of:

- the Registration Statement, dated January 18, 2008 ("Registration Statement"), filed by National City with the Securities and Exchange Commission ("SEC") on January 22, 2008 in connection with the offering of National City 4.0% Convertible Senior Notes Due 2011;

- the Prospectus, dated January 18, 2008 ("Prospectus"), filed by National City with the SEC on January 22, 2008 in connection with the notes offering ("Prospectus") and included as part of the related Registration Statement;

- the Prospectus Supplement, dated January 23, 2008 ("Prospectus Supplement"), filed by National City with the SEC and included as part of the Registration Statement;

- National City's filings with the SEC that were incorporated by reference into the Prospectus and Registration Statement (collectively, with the Prospectus and Prospectus Supplement, the "Prospectus Materials");

- press releases and other public statements issued by National City and certain of the individual defendants;

- news articles and analyst reports concerning National City;

- materials provided by experts in the area of financial accounting; and

- information provided by Confidential Source 1, a former National City employee who, during the relevant time

period, was responsible for reviewing loan files for complete documentation.

Many additional relevant facts and documents supporting Plaintiffs' allegations are known only to defendants and/or are within their exclusive custody or control. Plaintiffs believe that additional evidentiary support for the allegations herein will be developed after a reasonable opportunity to conduct discovery.

I. SUMMARY OF THE ACTION

1. This action arises out of National City's near collapse in 2008 due to its extensive -- but undisclosed -- history of grossly imprudent lending and underwriting practices.

2. Plaintiffs commenced this putative class action on behalf of themselves and all similarly situated persons who purchased National City's 4.0% Convertible Senior Notes Due 2011 (the "Notes") pursuant to and/or traceable to the January 18, 2008 Registration Statement filed in connection with this $1.4 billion offering on or about January 22, 2008 (the "Offering") and who sustained damages as a result of the conduct alleged herein (the "Class").

3. During the year-long run up to the Offering, defendants caused National City to make a series of representations in public filings incorporated into the Registration Statement that contained untrue statements of material fact and/or omitted material facts necessary to make the statements therein not misleading. In particular, defendants caused the Company to represent to investors that National City:

a. extended mortgage loans only pursuant to conservative underwriting standards, including careful evaluation of repayment likelihood, and in compliance with strict standards set by certain government sponsored entities, including careful documentation requirements;

b. carefully evaluated myriad factors, including the credit quality of its loan portfolio and market conditions, in setting its allowances for loan losses,

and as such its allowances were adequate to cover potential future losses; and

c. was well-capitalized and had adequate liquidity to fund its operations.

4. These statements were inaccurate and painted a picture of National City's underwriting practices and financial condition that, unbeknownst to investors, had no basis in reality.

5. Thus, at a time of economic uncertainty during the run up to the Offering when housing prices were plummeting, mortgage delinquencies were soaring and investors were highly sensitive to credit risk at major mortgage lenders, defendants caused National City to make inaccurate representations that falsely assured investors that the Company had limited exposure to loan losses and was financially secure.

6. In truth, and unbeknownst to its investors, National City long had been making billions of dollars in high risk real estate loans pursuant to reckless underwriting standards that virtually disregarded any meaningful consideration of whether the loan would be repaid. Among other things, National City totally ignored conforming standards in the mortgage industry that contemplated careful documentation of a borrower's ability to repay loans.

7. Moreover, due to National City's reckless underwriting and defendants' failure to properly account for losses resulting from those unsound practices, the Company's loan loss reserves and liquidity position were drastically compromised and defendants' representations about them were untrue. Indeed, on the heels of the Offering, National City was forced to raise its loss reserves more than <u>44 percent</u> to <u>$2.6 billion</u> and regulators compelled the Company to shore up its liquidity by raising an additional <u>$7 billion</u> in the capital markets.

8. In the end, even the $7 billion capital infusion was not enough to salvage the Company. Instead, National City was forced to merge with PNC Bank N.A. ("PNC") to save

itself from collapse -- but not before revelations concerning the truth about the Company's imprudent underwriting, inadequate loan loss reserves and sorry state of its liquidity position rocked the market and caused the price of the Notes to free fall.

9. At bottom, defendants failed to investigate or establish an adequate basis for the representations they made concerning the quality of National City's underwriting or the adequacy of the Company's loan loss reserves and liquidity position. By causing National City to issue the Registration Statement and Prospectus Materials in connection with the Offering that mischaracterized and/or failed to accurately report the truth of these matters, defendants violated Sections 11 and 15 of the Securities Act of 1933 ("Securities Act").

II. JURISDICTION AND VENUE

10. The claims asserted herein arise under and pursuant to Sections 11 and 15 of the Securities Act.

11. This Court has jurisdiction over the subject matter of this action pursuant Section 22(a) of the Securities Act.

12. Venue is proper in this District pursuant to Section 22(a) of the Securities Act and 28 U.S.C. §1391(b) as a substantial part of the events and omissions complained of herein occurred in this District.

13. In connection with the acts alleged in this Complaint, defendants either directly or indirectly used the means and instrumentalities of interstate commerce, including but not limited to, the United States mails, interstate telephone communications and the facilities of the national securities markets.

III. PARTIES

A. Plaintiffs

14. Plaintiff Argent Classic Convertible Arbitrage Fund (Bermuda) Ltd. ("Argent Bermuda") is a limited company organized under the laws of Bermuda and has management offices at 500 West Putnam Avenue, Greenwich, Connecticut.

15. As set forth in its certification attached hereto as Exhibit 1, Argent Bermuda purchased the Notes pursuant and traceable to the Registration Statement, which included the Prospectus Materials and which contained untrue statements of material fact and/or omitted material facts necessary to make the Prospectus Materials not misleading, and was damaged thereby.

16. Plaintiff Argent Classic Convertible Arbitrage Fund L.P. ("Argent") is a limited partnership organized under the laws of Delaware and has a principal place of business at 500 West Putnam Avenue, Greenwich, Connecticut.

17. As set forth in its certification attached hereto as Exhibit 2, Argent purchased the Notes pursuant and traceable to the Registration Statement, which included the Prospectus Materials and which contained untrue statements of material fact and/or omitted material facts necessary to make the Prospectus Materials not misleading, and was damaged thereby.

18. The Notes were registered with the SEC at the time of the Offering pursuant to the false and misleading Registration Statement and incorporated Prospectus Materials. No additional Notes were issued pursuant to any other registration statement. The Notes have a specific, unique CUSIP number (635405AW3) identifying these Notes from their inception and distinguishing them from other National City securities.

19. Accordingly, as a result of the Notes' unique CUSIP number and because the Notes were issued only once, Plaintiffs' purchases of the Notes are easily traceable to the Registration Statement on the Offering.

B. National City

20. At all relevant times, Defendant National City was a financial holding company incorporated in the state of Delaware with its principal executive offices located at 1900 East Ninth Street, Cleveland, Ohio. It provided commercial and retail banking, mortgage financing and servicing, customer finance and asset management services through 1,400 branches in a nine-state footprint in the mid-west and Florida. It engaged in mortgage lending in 410 addition retail locations throughout the United States. National City's common stock was publicly traded on the New York Stock Exchange under the symbol "NCC."

C. The Officer Defendants

21. Defendant Peter E. Raskind ("Raskind") was Chief Executive Officer of National City from July 2007 to December 2008 and served as the Company's President from December 2006 to December 2008. In addition, Raskind was Chairman of the Board of Directors of National City at the time of the Offering. Raskind assisted in the preparation of and signed the Registration Statement. He signed -- and certified the accuracy of pursuant to the Sarbanes-Oxley Act of 2002 ("Sarbanes-Oxley") -- many of National City's SEC filings incorporated by reference into the Prospectus Materials, including the Company's SEC 10-K for the year ending December 31, 2006 (the "2006 10-K") and SEC 10-Qs for the second and third quarters of 2007 (the "Second Quarter 2007 10-Q" and "Third Quarter 2007 10-Q", respectively).

22. Defendant David A. Daberko ("Daberko") was Chairman of the Board of National City until December 2007 and Chief Executive Officer of National City until July 2007.

Daberko assisted in the preparation of the Registration Statement. He signed -- and certified the accuracy of pursuant to Sarbanes-Oxley -- many of National City's SEC filings incorporated by reference into the Prospectus Materials, including the 2006 10-K and the Company's SEC 10-Q for the first quarter of 2007 (the "First Quarter 2007 10-Q").

23. Defendant Jeffrey D. Kelly ("Kelly") was, at all relevant times, a Director, Vice Chairman and Chief Financial Officer of National City. Kelly "retired" from these positions on September 30, 2008. Kelly assisted in the preparation of and signed the Registration Statement. He signed -- and certified the accuracy of pursuant to Sarbanes-Oxley -- many of National City's SEC filings incorporated by reference into the Prospectus Materials, including the 2006 10-K, First Quarter 2007 10-Q, Second Quarter 2007 10-Q and Third Quarter 2007 10-Q.

24. Defendant Thomas A. Richlovsky ("Richlovsky") was, at all relevant times, Senior Vice President and Treasurer and Principal Accounting Officer of National City. Richlovsky was appointed interim Chief Financial Officer from September 30, 2008 until the Company was acquired by PNC in October 2008. Richlovsky assisted in the preparation of and signed the Registration Statement. He and signed National City's 2006 10-K incorporated by reference into the Prospectus Materials.

25. Defendants Raskind, Daberko, Kelly and Richlovsky are collectively referred to herein as the "Officer Defendants."

26. Each of the Officer Defendants had the duty to make full, candid and timely disclosures of all material facts relating to the business, operations, performance and prospects of National City during the period leading up to the Offering. In particular, the Officer Defendants had the duty to supervise the preparation of the Registration Statement, Prospectus

and the Company's SEC filings incorporated therein to ensure that the Prospectus Materials did not contain untrue statements of material fact or omit material facts necessary to make the Prospectus Materials not misleading. They failed to do so.

27. The Officer Defendants are liable for the untrue statements of material fact and/or the omissions of material facts in the Prospectus Materials issued by the Company. The Prospectus Materials were "group-published" information resulting from the collective actions of the Officer Defendants, each of whom was intimately involved in the day-to-day operations of National City and involved in the creation and issuance of the Prospectus Materials.

28. The Officer Defendants were involved in drafting, reviewing and/or disseminating the Prospectus Materials issued by National City and approved or ratified the untrue statements and/or omissions of material fact contained there, thereby adopting them as their own. Accordingly, it is appropriate to treat the Officer Defendants as a group for pleading purposes.

D. The Director Defendants

29. Defendants Jon E. Barfield ("Barfield "), James S. Broadhurst ("Broadhurst"), Christopher M. Connor ("Connor"), Bernadine P. Healy ("Healy"), Allen H. Koranda ("Koranda"), Michael B. McCallister ("McCallister"), Paul A. Ormond ("Ormond"), Gerald L. Shaheen ("Shaheen"), Jerry Sue Thornton ("Thornton") and Morry Weiss ("Weiss"), along with Kelly and Raskind, were, at all relevant times, Directors of National City.

30. Defendants Barfield, Broadhurst, Connor, Healy, Koranda, McCallister, Ormond, Shaheen, Thornton and Weiss are referred to herein as the "Director Defendants."

31. Each of the Director Defendants signed the Registration Statement that contained untrue statements and/or omissions of material fact, as well as the 2006 10-K incorporated by reference into the Prospectus Materials.

32. The Director Defendants are liable to Plaintiffs and the class pursuant to Section 11 of the Securities Act as signatories to the Registration Statement that contained untrue statements and/or omissions of material fact and by virtue of their position as Directors of National City at the time the Registration Statement was filed with the SEC.

33. The Officer Defendants and the Directors Defendants are referred to herein as the "Individual Defendants." The Individual Defendants and National City are referred to herein as the "Defendants."

IV. FACTUAL BACKGROUND

34. Prior to its merger with PNC in October 2008, National City was a $150 billion financial holding company headquartered in Cleveland, Ohio. The primary source of National City's revenue was the net interest income generated from loans and deposits, revenue from loan sales and servicing, and fees from financial services provided to its customers.

35. The Company's business operations were primarily conducted through more than 1,400 branch banking offices located within National City's nine-state footprint and through more than 410 retail mortgage offices located throughout the United States. The Company also originated mortgages nationwide through the so-called "correspondent channel" of mortgage brokers.

36. National City managed its business through five separate segments. This action focuses on the operations of one of those segments -- the Mortgage Banking unit.

A. National City's Residential Real Estate Lending

37. Prior to the period running from January 3, 2007 to January 23, 2008 (the "Pre-Offering Period"), National City's Mortgage Banking unit was comprised of three primary

businesses: National City Mortgage ("NCM"), National Home Equity ("NHE") and First Franklin Financial Corporation ("First Franklin").[1]

38. These businesses, directly and through the correspondent channel, originated a variety of real estate loans, including "conforming" and "nonconforming" mortgages (including now-infamous "subprime" mortgages), home equity installment loans ("HEILs"), home equity lines of credit ("HELOCs") and construction loans.

39. According to SEC filings Defendants caused National City to make during the Pre-Offering Period: (i) NCM primarily originated putatively "conforming" first-lien mortgages, including construction loans; (ii) NHE originated primarily home equity loans, including putatively "prime-quality" HEILs and HELOCs; and (iii) First Franklin originated "subprime" loans.

40. The terms "conforming," "prime-quality," and "subprime" were well known in the lending industry, and denoted specific meaning with respect to credit quality of each type of loan.

41. Significantly, regardless of credit type, National City's SEC filings that were incorporated by reference into the Prospectus Materials assured investors that the Company "require[d] all loans to have viable repayment sources" and each lending division "evaluated for the adequacy of these repayment sources at the time of approval, using such factors as credit scores, debt-to-income ratios, and collateral values." (See 2006 10-K at p. 20.)

[1] On September 5, 2006, National City announced a definitive agreement between National City and Merrill, Lynch Pierce Fenner & Smith, Inc. ("Merrill Lynch") whereby Merrill Lynch agreed to purchase the Company's First Franklin business for $1.3 billion, approximately 1.7 times its book value. However, after the sale, billions of dollars of subprime First Franklin loans remained at National City.

42. In other words, Defendants represented to investors that National City's loan underwriters at NCM, NHE and First Franklin carefully considered the likelihood of repayment on any loan they extended -- including borrowers' repayment capability and the value of the collateral -- before making a loan and did so regardless of the business division and/or type of loan.

43. These putatively conservative lending policies were material to investors. On the eve of the Pre-Offering Period, the United States housing market was in turmoil. At the time, National City had more than $59.630 billion in loans on its balance sheet -- including more than $40.09 billion in residential mortgages and more than $19.53 billion in home equity loans.

44. Contrary to these putatively conservative lending policies, however, National City's Mortgage Banking unit originated tens of billions of dollars in real estate loans without regard to the borrowers' ability to repay the loans and, indeed, often without ever securing basic documentations necessary to evaluate the quality of the loan.

45. By the end of 2006, the Mortgage Banking unit originated more than 35 percent of National City's billions of dollars of real estate loans under "exceptions" to the underwriting standards the Company reported in its public filings. Indeed, as much as 70 percent of the loans required some form of "exception" to those standards. In essence, at the Mortgage Banking unit, "exceptions" became the rule.

1. Mortgage and Construction Loans

46. NCM was the primary originator at National City of first-lien mortgages. First-lien mortgages are the most traditional and commonly known class of residential real estate loans. They are loans with a first-priority security interest in the value of the underlying real estate collateral.

47. First-lien mortgages traditionally present the least risk to lenders of any residential real estate loans because, if properly underwritten, they are given only to highly creditworthy borrowers willing and able to make a sufficient down payment to ensure that the value of the property exceeds the loan amount (commonly known as the loan-to-value ratio ("LTV")). Thus, even if a highly creditworthy borrower defaults, the LTV is low enough that there is sufficient equity in the property for the lender to recover the loan amount if foreclosure becomes necessary.

48. Before and during the Pre-Offering Period, NCM originated billions of dollars worth of first-lien mortgages on existing properties where the Company had first priority security interests in the collateral trumping the interests of any other creditor.

49. In addition, although not separately identified as such in the Company's public filings, before and during the Pre-Offering Period, NCM's originated billions of dollars worth of construction loans.[2] These loans, typically for a period of 12-18 months, were used to finance new home construction.

50. In the mortgage industry, the gold standard for mortgages is loans that conform to strict underwriting standards set by Government Sponsored Entities ("GSEs") such as the Federal National Mortgage Association ("Fannie Mae"), Federal Home Loan Mortgage Corporation ("Freddie Mac") and Government National Mortgage Association ("Ginnie Mae"). GSE guidelines limit the size of loans and require lenders to evaluate a potential borrower's credit history, assets, financial reserves, employment, income, debt-to-income ratio and the history of payment delinquencies or bankruptcies.

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[2] The Company did not separately identify residential construction loans as a component of prime residential real estate mortgage loans in its filings with the SEC until the 2007 10-K, filed with the SEC on February 13, 2008.

51. Significantly, GSE guidelines require lenders to secure from prospective borrowers documentation confirming every component of the loan applications, such as bank statements, pay stubs or payroll earnings statements, W-2 forms and credit reports from established reporting agencies. While GSE standards are strict, the upside for lenders is that because of their stringent underwriting standards "conforming loans" are eligible for sale to GSEs, thus effectively guaranteeing the loan originator will be able to sell the loan at a profit. The upside for investors in entities extending such "conforming loans" is that they can be virtually assured that lender will not sustain significant losses on these loans.

52. During the Pre-Offering Period, Defendants repeatedly represented that NCM's residential real estate loans were "originated in accordance with underwriting standards set forth" by Fannie Mae, Freddie Mac and Ginnie Mae and that such loans were "made to borrowers in good credit standing." (See, e.g., 2006 10-K at p. 20.)

53. In other words, Defendants repeatedly represented that NCM's loan portfolio complied with the stringent GSE lending standards. In the face of troublesome market trends, Defendants continually assured investors that National City's loans were high credit quality and/or could or would be sold to GSEs. In doing so, National City indicated that the Company was unlikely to suffer substantial losses from these loans.

54. National City also repeatedly represented that NCM's mortgages were not only conforming but were also "prime" (see, e.g., 2006 10-K at p. 21), suggesting that they were only given to highly creditworthy borrowers who met very specific credit score thresholds. These representations were material to investors because, as of December 31, 2006, National City held approximately $15.3 billion of purported "conforming" and "prime" residential real estate loans on its books.

55. After the Offering, however, it became evident that billions of dollars of these mortgages were made to borrowers virtually without regard to their credit scores and certainly without the documentation that would have made them conform with GSE standards. These lax underwriting standards meant that these loans had an inherently high risk of loss and they could not be sold to GSEs.

56. Compounding the problem, the vast majority of National City's construction loans provided to non-creditworthy borrowers were loans that -- because the Company did not require the borrower to pay for acquisition or pre-construction costs -- provided every incentive for borrowers to walk away from their loan commitments when times got tough.

57. Defendants' representations regarding National City's "conforming" and "prime" mortgages contained untrue statements of and/or omissions of material fact and thus violated Section 11 of the Securities Act. Beginning in the 2006 10-K and continuing through the Third Quarter 2007 10-Q, these statements created an incorrect and misleading impression that the credit quality of National City's loan portfolio was high -- an impression that lasted until National City began to suffer massive loan losses after the Offering.

2. Home Equity Loans

58. Prior to and during the Pre-Offering Period, National City's NHE unit originated billions of dollars of home equity loans, including HEILs and HELOCs secured by real estate. A HEIL is a loan that -- like a typical mortgage -- is amortized and repaid in monthly installments over a fixed term. In contrast, HELOCs are loans that act more like a credit card or bank account, meaning the borrower can continually draw on and pay back the loan.

59. Unlike traditional mortgages, NHE's HEILs and HELOCs typically were second-lien loans, which placed National City's interest in the collateral behind the first-lien

holder. These loans carried significant risk because, in the event of a default, they likely would be a total loss because the first-lien holder typically would take all of the proceeds from the sale of the home that collateralized the loan, leaving NHE with nothing. For this reason, traditionally lenders would only extend these inherently risking home equity loans to the most creditworthy borrowers.

60. The most widely accepted measure for determining the creditworthiness of a borrower is the "FICO" score developed by the Fair Isaac Corporation. Under the FICO scoring system, borrowers are assigned a credit score ranging from 300 to 850, with 850 indicating the most creditworthiness.

61. The FICO score takes into account, among other things, the borrower's payment history, length of credit history and current debt-to-income ratio. Although it varies slightly, the mortgage industry generally considers "prime" borrowers to be those with credit scores above 660. "Nonprime" or "subprime" borrowers are those with credit scores below 660. Thus, in industry parlance, mortgages made to the former group are "prime mortgages."

62. During the Pre-Offering Period, Defendants caused National City to represent that the Company's home equity loans were made only after a careful evaluation of repayment sources. This was a material representation to investors given the inherent risk in <u>second-lien</u> loans.

63. Equally material to investors were National City's representations that NHE's HEILs were "<u>prime-quality</u>" loans. These representations suggested the Company made such loans only to the most creditworthy borrowers as indicated by FICO score. (<u>See, e.g.</u>, 2006 10-K at p. 21.) Such representations were material to investors because, as of the date of the Offering, the Company held approximately $8.9 billion of HEILs on its balance sheet.

64. During the Pre-Offering Period, Defendants also represented that NHE's HELOCs were of high credit quality. Defendants represented that National City's HELOCs were "governed by the same lending policies and subject to credit risk as described above for prime mortgage loans." (See, e.g., 2006 10-K at p. 21.) In other words, according to Defendants, the credit quality of NHE's HELOCs was similar to that of "prime" and "conforming" loans. Such representations were material to investors because, as of the date of the Offering, the Company held approximately $7.5 billion of HELOCs in its portfolio with a purported average credit score of 725.

65. Defendants' representations about National City's HEILs and HELOCs were untrue. As investors would eventually learn, contrary to Defendants' representations, the objective credit quality and characteristics of these loans were fundamentally worse than even the Company's subprime loans. In contrast to subprime loans that typically have first-liens on at least some collateral, National City's HEILs and HELOCs were being provided to non-creditworthy borrowers with little or no collateral and/or without documentation that would permit the Company to evaluate the quality of the loan. As such, they were far from the high credit quality loans the Defendants claimed.

66. Moreover, a significant amount of National City's HEILs loans were "piggyback loans" used by borrowers to fund down-payments on the real estate in question. When National City permitted its borrowers to use HEILs to fund down payments, the Company -- as grantor of both the first and second mortgages -- effectively financed 100 percent of the home purchase. As a result, borrowers had little or no equity in the property, further exacerbating the significant risks inherent in home equity loans.

67. Defendants' representations regarding the putatively high quality of National City's HEILs and HELOCs contained untrue statements of and/or omissions of material fact and thus violated Section 11 of the Securities Act.

3. Subprime Mortgage Loans

68. In 1999, National City acquired First Franklin, a California-based mortgage company that operated almost exclusively in the subprime area. As a result of this acquisition, National City became the nation's largest originator of subprime first and second-lien mortgages.

69. These subprime loans were originated principally through correspondent channels, including a nationwide network of brokers and mortgage bankers. National City's First Franklin subprime loans were particularly risky because those loans typically carried high interest rates and were provided to borrowers with substandard credit histories.

70. According to the Expanded Guidance for Subprime Lending Programs issued jointly on January 31, 2001 by the Office of the Comptroller of the Currency ("OCC"), the Board of Governors of the Federal Reserve System and the Federal Deposit Insurance Corporation ("FDIC"), subprime loans are loans to borrowers with one or more of the following characteristics: (i) FICO score of 660 or below; (ii) certain amounts of payment delinquencies over the previous 12 months or 24 months; (iii) foreclosure, repossession or charge-off of debts in the past 24 months; (iv) bankruptcy in the past five years; or (v) debt service-to-income ratio of 50 percent or greater.

71. Like many other lenders, National City in 2003 began focusing on originating subprime loans because those loans were highly lucrative and comprised a significant portion of the then untapped mortgage lending market. Subprime borrowers generally paid more in interest and fees than a prime borrower. This allowed the Company to garner additional

interest income on loans it kept and the loans it sold brought higher returns in the secondary market (generally .25 percent or .5 points more than the same loan would cost if it were conforming). David Hendler, an analyst at CreditSights Inc., described subprime mortgages in a September 5, 2006 Bloomberg News article as "the sweet spot of the market" because "[t]he way you get more yield is to go for higher-risk borrowers."

72. The Company's subprime loans were comprised of first-lien and second-lien mortgage loans and included adjustable rate mortgages ("ARMs"). ARMs are inherently risky loans that carry low introductory "teaser" rates for a predetermined period of time. Those rates can double or triple after the introductory rate expires, often resulting in payments that borrowers cannot afford. Interest rates on ARMs are typically tied to an index. Payments may go up or down over time, but the payments always increase when the introductory rate expires.

73. Defendants represented in National City's SEC filings at the date of the Offering that the average FICO scores associated with the Company's first-lien and second-lien subprime loans were 616 and 637, respectively. While these numbers are indeed subprime, the Company represented that all of National City's loans were extended only after a careful evaluation of the repayment sources and likelihood of repayment. Thus, even if the FICO scores were low, Defendants were assuring investors that the Company had carefully evaluated the loans at the time of origination.

74. These representations were material to investors because, on the date of the Offering, the Company's subprime loan portfolio balance was approximately $6 billion, of which $4.5 billion were first-lien mortgages and $1.5 billion were second-lien mortgages.

75. As investors would only learn after the Offering, First Franklin had long been originating subprime mortgages to virtually anyone and often without any documentation as

to income or even employment. These reckless underwriting practices were directly at odds with the Company's representations regarding its underwriting practices.

76. Moreover, the interest rates on a significant portion of these subprime ARMs were scheduled to reset imminently to fully indexed interest rates. This would cause "payment shock" to borrowers who could not afford the increased payment and only "qualified" for the loans in the first place at the low, introductory teaser rates.

77. Thus, National City's subprime portfolio at the Offering date consisted of loans made virtually without regard to the likelihood of repayment. It consisted of loans to many subprime borrowers trapped in mortgages they could not afford who were virtually guaranteed to default once the interest rates reset to the much higher rates. Defendants' representations regarding the putative safety of National City's subprime loans contained untrue statements of and/or omissions of material fact and thus violated Section 11 of the Securities Act.

4. National City's Reckless Loan Underwriting

78. Historically viewed as a conservative commercial lender, National City in 2002 made an ill-fated move to become a dominant mortgage lender. In connection with the Company's goal to become a top ten mortgage lender and reap significant profits from riding the home-buying and refinancing wave underway at that time, National City shifted its focus away from conservative retail banking operations and toward far riskier mortgage lending activities. Indeed, in order to compete in the mortgage lending market, National City abandoned the Company's stated lending practices and began sacrificing loan quality for quantity by originating the inherently high-risk loans discussed above -- ARMs, HEILs, HELOCs, subprime loans and construction loans.

79. The systemic changes in National City's underwriting and lending practices were widespread throughout the Company. Such lending practices, by their very

nature, resulted in high-risk loans that, at inception, were virtually guaranteed to default and likely to cause significant losses to the Company if the Company was unable to sell the loans.

80. According to Confidential Source 1, National City significantly loosened its underwriting practices at or around the time of the onset of the housing boom in 2002. Confidential Source 1 is a former senior funder of the Wholesale Correspondent Division of NCM. From 1993 through 2005, Confidential Source 1 was a funder responsible for reviewing loan files to ensure such files were complete prior to approving funding of the loans. In late 2005, Confidential Source 1 was promoted to senior funder responsible for supervising the employees who reviewed loan files.

81. Confidential Source 1 stated that from approximately 2002 forward, National City's lending practices grew increasingly lax and reckless to the point that, by 2006, "anyone could get a loan" from the Company.

82. Indeed, according to Confidential Source 1, near the end of each month when volume targets were imminent, Confidential Source 1's boss, Dave Hardwick, Vice President of the mortgage division, would instruct the funder's department to "fund everything" -- including loans the funders had placed in hold files to await further documentation.

83. Confidential Source 1 stated that by 2006 and 2007 approximately 70 percent of the loan files this source reviewed lacked some necessary documentation. Management instructed Confidential Source 1's department to fund virtually all of these loans anyway under "exceptions" to National City's alleged policies, unless it was absolutely clear that a fraud was occurring.

84. The volume strategy was a success, at least in the short-term. At its height, National City's mortgage machine reaped in excess of $2.6 million in profits on a daily

basis and $1 billion in profits annually. This windfall accounted for approximately one-half of the Company's total profits.

85. National City's profits, however, came with an enormous price -- the massive risk of credit losses of which investors had no knowledge. Unbeknownst to investors, National City provided its inherently high-risk loans, home equity loans and construction loans primarily to subprime borrowers with FICO scores well below the industry standard for classifying borrowers as prime. In addition, the Company provided loans without any documentation (on a "stated income" basis) and/or as "piggyback" loans, adding multiple layers of additional risk to the loans.

86. "Stated income" loans are loans in which the borrower provides little or no documentation to substantiate his income and assets and, thus, creditworthiness and ability to repay the loan. Such loans are based upon the borrower's bare representations about the borrower's ability to repay the loan. As reported in a September 19, 2007 Los Angeles Times article, such loans were known in the mortgage lending industry as "liar loans" because "[i]t was widely assumed that many of the borrowers didn't document their incomes because they were lying."

87. As noted above, "piggyback" loans allow borrowers to finance up to 100 percent of a home's value without making a significant down payment or paying for private mortgage insurance. In essence, the borrower finances the home purchase through two loans instead of the traditional combination of a cash down payment and a first mortgage.

88. For example, National City would give the borrower one mortgage for 80 percent of the home's value and a second mortgage (i.e. a home equity loan) for the remaining

20 percent of the purchase price, for a combined loan-to-value ratio of 100 percent. Essentially, National City allowed borrowers to finance even the down payment of a loan.

89. Piggyback loans are inherently high-risk loans because the borrower invests little or none of his own money and, thus, the loss severity on such loans is extremely high. The borrowers are also particularly vulnerable to any downturn in the housing market given that they have little or no equity in the property. Accordingly, the borrowers are more likely to default on the loans than borrowers who paid a down payment of 20 percent or more and, therefore, have a significant investment in the home. Moreover, piggyback loans typically carry a much larger interest rate, adding a further risk of default.

90. Confidential Source 1 stated that prior to the Offering date, the Company originated an increasing volume of its inherently high-risk residential real estate loans on a stated income basis. According to Confidential Source 1, by 2006 and 2007, the Company was originating “tons” of stated income loans and the majority of the Company’s loans were provided to subprime borrowers.

91. Confidential Source 1 also stated that many loans funded through the funder’s unit had loan-to-value ratios of up to 120 percent of the property value where, in many instances, the borrowers’ debt-to-income ratios were over 45 percent. According to Confidential Source 1, approximately 35 percent of loans processed by the funder’s division (Wholesale Correspondent Division) in 2007 were non-conforming loans, including piggyback loans, which comprised 30 percent of total loan volume processed by the unit.

92. According to Confidential Source 1, National City processed and approved all new loans and refinancings through an internal computer system called the loan origination, processing and tracking computer system (the “LPT System”). The LPT System

was designed to accept only loans that met the Company's purportedly strict underwriting standards. However, according to Confidential Source 1, when a loan processor tried to process a loan that did not meet loan criteria -- e.g., the borrower's credit score was too low, the LTV was too high, or there was insufficient documentation -- an underwriting manager or other higher ranking executive effected a system "override" to accept the loan notwithstanding the fact that it did not comply with the Company's stated underwriting standards.

93. Confidential Source 1 stated that underwriting managers routinely approved such "exceptions" and underwriters who rejected nonconforming loans were told by their supervisors to push the loans through anyway. Moreover, the volume of high-risk loans materially increased at the end of each month when employees were trying to make their loan volume quotas. Confidential Source 1 stated that, in order to make monthly quotas, it was basically anything goes -- David Hardwick, Confidential Source 1's supervisor, approved any and all loans in order to meet volume quotas.

94. Confidential Source 1 further stated that there were numerous reports that could be generated by the LPT System. In particular, an "Exception Report" detailed all of the specific exceptions to the Company's stated underwriting guidelines for a specified time period. Confidential Source 1 personally reviewed Exception Reports detailing the numerous undisclosed exceptions to the Company's underwriting standards.

B. National City's Inadequate Loan Loss Reserves During the Pre-Offering Period

95. An allowance for loan losses, or loan loss reserve, is a negative-asset account with a running balance estimated to cover maximum potential loan losses and is utilized to report loans receivable at their net realizable value (i.e., loans receivable - allowance for loan losses = net realizable value of loans receivable). When a loan or portfolio of loans is written off

as uncollectible or impaired, the loan loss reserve is reduced by the amount of the realized impairment or loss. Loan loss reserves are an important indicator of a company's assessment of the credit quality of its receivables and the likelihood its loans or receivables will be collectible.

96. As required by Generally Accepted Accounting Principles ("GAAP") and controlling SEC regulations, during the Pre-Offering Period, National City reported its quarterly allowance for loan losses in each of its 10-K and 10-Qs. Indeed, National City's annual and quarterly reports during 2007 characterized the Company's allowance for loan losses as a "critical" accounting policy with respect to assessing credit risk, and represented that management established loan loss reserves through careful evaluation of certain factors in compliance with GAAP.

97. National City represented in each of its annual and quarterly SEC filings that the loan loss reserves were "based upon the size and risk characteristics of the loan portfolio" as determined through assessment of (i) "individual impaired loans;" (ii) "historical loss experience on pools of homogeneous loans;" (iii) "specific environmental factors;" and (iv) "factors to account for estimated imprecision in forecasting losses." (See, e.g., 2006 10-K at p. 25.)

98. One element of National City's allowance for loan losses was its "provision for loan losses." The provision for loan losses is the current period (for example, quarter or year) expense for loan losses established during that period -- e.g., the amount that is added to the allowance for loan losses in the current reporting period based on likely or established losses.

99. Putatively as a result of the foregoing criteria, National City reported loan loss reserves during the Pre-Offering Period as follows:

a. $1.104 billion as of March 31, 2007, with a provision for loan losses of $107 million for the first quarter of 2007;

b. $1.136 billion as of June 30, 2007, with a provision for loan losses of $143 million for the second quarter of 2007;

c. $1.4 billion as of September 30, 2007, with a provision for loan losses of $361 million for the third quarter of 2007; and

d. $1.8 billion as of December 31, 2007, with a provision for loan losses of $691 million for the third quarter 2007.

100. As would become apparent only after the Offering, National City's allowance for loan losses during the Pre-Offering Period were negligently evaluated and woefully under-reserved. The Company's management did not carefully evaluate the aforementioned factors in any detail. It had no incentive to do so because disclosure of the Company's true potential loan losses would have seriously jeopardized the Company's access to the capital markets -- including a successful consummation of the Offering.

101. Indeed, less than three months after the Offering, Defendants reported an increase in National City's allowance for loan losses of approximately $800 million and the Company's provisions for loan losses increased by more than $700 million. Defendants' representations concerning the evaluation and adequacy of National City's loan loss reserves contained untrue statements of and/or omissions of material fact and thus violated Section 11 of the Securities Act.

C. National City's Reckless Underwriting Caused a Liquidity Crisis

102. As a top-ten mortgage lender during the Pre-Offering Period, National City had substantial financing needs in order to conduct its business operations. The credit quality of the mortgage loans the Company originated was a critical factor affecting the

Company's ability to sell its loans to investors and, thus, maintain sufficient liquidity levels. Moreover, the Company's reported loan loss reserves -- an indication to the market of management's view of the credit quality of the Company's portfolio -- was paramount in enabling National City to raise money from the capital markets.

103. In order to fund the billions of dollars of loans that it originated and sold, the Company was required to maintain the highest level of liquidity. National City's short-term financing needs arose primarily from the Company's holding of mortgage loans pending sale and funding cash flow requirements of depositors. The Company typically met its short-term financing needs through the sale of loans into the secondary market.

104. Due to the importance of liquidity, during the Pre-Offering Period the Defendants repeatedly caused the Company to represent that it carefully monitored liquidity risks. For example, it represented that:

> The Corporation maintains a liquidity risk management policy which identifies the primary sources of liquidity, establishes procedures for monitoring and measuring liquidity, and establishes minimum liquidity requirements in compliance with regulatory guidance. The policy also includes a contingency funding plan to address liquidity needs in the event of an institution-specific or a systemic financial crisis. The liquidity position is continually monitored and reviewed by [the Asset/Liability Management Committee].

(See, e.g., 2006 10-K at p. 28).

105. These statements were untrue. The Company and its management did not adhere to such risk management policies to preserve liquidity. Indeed, management allowed the Company to engage in reckless lending.

106. Due to National City's imprudent lending standards before and during the Pre-Offering Period, the Company was unable sell or otherwise unload its high-risk loans,

which -- particularly during the critical stage right before the Offering -- triggered a liquidity crisis. Indeed, in the weeks immediately following the Offering, National City's liquidity position was so dire that regulators forced the Company to raise even more capital beyond the $1 billion raised through the Offering.

107. Nor, as Defendants represented, was National City "well-capitalized." (See 2006 10-K at 23.) As a bank, National City was subject to certain minimum regulatory capitalization requirements. Such regulatory standards required National City to maintain a Tier 1 capital ratio of at least 6 percent -- the threshold for being considered "well-capitalized" and a measurement of a company's ability to withstand losses.

108. As demonstrated in the chart below, the Company's Tier 1 capital ratio during the Pre-Offering Period teetered at the regulatory limit.

	3/31/08	12/31/07	9/30/07	6/30/07	3/31/07	12/31/06
Tier 1 Capital (in billions)	$9.5	$9.4	$9.7	$8.7	$9.2	$11.5
Tier 1 Ratio	6.67%	6.53%	6.78%	6.56%	7.08%	8.93%

109. However, these numbers were themselves misleading. They reflected the Company's negligent assessment of potential losses in its mortgage portfolio and the inadequately established loan loss reserves. Indeed, in April 2008, regulators forced the Company to slash its common stock dividend and secure approximately $7 billion in additional funding from investors in order to raise its liquidity and Tier 1 capital ratio.

110. Finally, in order to maintain ongoing access to the capital markets and credit lines from counter-parties, it was critical for National City to maintain an investment-grade credit rating. Any downgrade in the Company's credit rating below "investment-grade" -- or even the risk of such a downgrade -- could limit National City's access to the capital markets and

increase the cost of debt, thereby adversely affecting liquidity and the Company's overall financial condition.

111. Unbeknownst to investors, National City's liquidity position at the time of the Offering was at crisis levels. Indeed, shortly after the Offering regulators demanded that the Company raise additional capital prior to announcing first quarter 2007 financial results. Shortly thereafter, the Company's credit rating was downgraded.

112. Defendants' representations concerning National City's liquidity position -- particularly in and after the third quarter of 2007 -- contained untrue statements of and/or omissions of material fact and thus violated Section 11 of the Securities Act.

D. National City Announces the $1 Billion Notes Offering

113. On January 22, 2008, National City announced its intention to sell $1 billion aggregate principal amount of the Notes. The next day the Company issued the Prospectus Supplement describing the value of the Notes at an aggregate principal amount of $1.25 billion, with a $187.5 million aggregate principal amount overallotment option to the sole underwriter.

114. On January 23, 2008, Defendants caused National City to issue the Prospectus Supplement, the last document comprising the Prospectus Materials. The Prospectus Supplement incorporated by reference the Company's:

- 2006 10-K;
- Quarterly Reports on 10-Q for the quarters ended March 31, 2007; June 30, 2007 and September 30, 2007;
- Current Reports on Form 8-K filed on January 3, 2007, January 8, 2007, January 23, 2007, January 25, 2007, February 6, 2007, March 2, 2007, March 23, 2007, April 24, 2007, May 1, 2007, May 25, 2007, July 25, 2007, August 16,

2007, August 30, 2007 September 4, 2007, September 6, 2007, October 26, 2007, November 21, 2007, December 7, 2007 and December 18, 2007; and

- description of its common stock.

115. Many of the aforementioned documents incorporated into the Prospectus Materials -- most prominently the annual and quarterly reports filed during 2007 -- contained untrue statements of material facts and omitted material information necessary to make the Prospectus not misleading in violation of Section 11 of the Securities Act with respect to:

a. the quality of National City's loan portfolio and the adequacy of its underwriting practices;

b. the evaluation and adequacy of National City's loan loss reserves; and

c. the adequacy of National City's liquidity and capitalization.

116. Moreover, the Prospectus Supplement -- Defendants' last chance to correct any untrue or misleading statements made in the incorporated materials -- failed to correct or materially elaborate on any of the inaccurate representations in SEC filings during the 2007 Pre-Offering Period.

V. DEFENDANTS' VIOLATIONS OF SECTION 11

117. By no later than the beginning of 2006, serious storm clouds had appeared on the horizon for the United States housing market. Residential real estate prices -- which had been steadily increasing since 2000 due to low interest rates and readily available mortgages -- had largely leveled off. Indeed, in a January 2, 2006 New York Times column, Noble Prize-winning economist Paul Krugman concluded that a substantial negative correction was imminent and inevitable:

> Part of the rise in housing values since 2000 was justified given the fall in interest rates, but at this point the overall market value of housing has lost touch with economic reality. And there is a nasty correction ahead.

118. Against the backdrop of such dire predictions regarding the United States housing market and the increased likelihood of a wave of delinquencies on prime and non-prime mortgages, in early 2007 National City filed its 2006 10-K. This 10-K was the first major SEC filing of the two dozen the Company would make over the course of the year that would ultimately be incorporated into the Prospectus Materials.

119. The 2006 10-K marked the beginning of a year-long series of untrue representations concerning the quality and composition of National City's loan portfolio, potential losses and capital position. Of particular significance amid the declining housing and mortgage markets, the 2006 10-K and subsequent 2007 10-Qs contained representations that:

a. NCM and NHE extended real estate loans only to prime borrowers in accordance with traditional underwriting standards set by the GSEs, such loans were "prime" or "prime-quality," and National City (including First Franklin) evaluated all its loans at origination to ensure they had viable repayment sources, all of which putatively minimized the Company's credit exposure;

b. National City's management established the Company's allowance for loan losses in its portfolio through careful evaluation of internal and external factors -- including customer and loan attributes and economic conditions -- that gauged whether the Company would be able to collect all amounts contractually due on loans, thus ensuring that it had adequate loss reserves to cover likely credit losses; and

c. National City was well-capitalized and its liquidity position was sufficient to fund the Company's operations.

120. Defendants' representations in the 2006 10-K, and the substantially similar representations in each of the 2007 10-Qs incorporated by reference into the Prospectus Materials, contained untrue statements of material fact and/or omitted material facts that made the SEC filings and Prospectus Materials misleading. Defendants' representations failed to account for the fact that National City:

a. was and for some time had been extending loans without regard to borrower creditworthiness, likelihood of repayment, collateral value or loan composition -- in contravention of the standards established by the GSEs and the assertions that its loans were "prime" or "prime-quality" -- thereby obscuring the true risk of losses in its loan portfolio;

b. failed to establish appropriate allowances for loan losses by negligently failing adequately to consider the composition of its loan portfolios and borrowers and failing to account for economic conditions in the housing and mortgage markets; and

c. was undergoing a liquidity crisis that shortly after the Offering would prompt regulators to demand that the Company raise additional capital -- resulting in a $7 billion stock offering in April 2008.

121. Had Defendants investigated and/or attempted to confirm the facts underlying their representations, they would not have caused the Company to make such representations and the Prospectus Materials would not have created the false impression among investors that National City's loan portfolio was sound and that the Company was adequately capitalized.

A. Untrue Statements Concerning <u>National City's Loan Underwriting Standards</u>

122. On January 23, 2007, Defendants caused National City to issue its fourth quarter 2006 earnings release that was ultimately incorporated by reference into the Prospectus

Materials (the "Fourth Quarter 2006 Earnings Release"). Amid market-wide fears over increasing mortgage delinquencies and defaults, Defendant Deberko represented in the Fourth Quarter 2006 Earnings Release that the "credit quality in the core consumer and commercial portfolios continues to be good."

123. Deberko's statement was the first in a pattern of representations during the Pre-Offering Period wherein Defendants made untrue statements of material fact regarding the credit quality of National City's loans.

124. Shortly thereafter, on February 8, 2007, Defendants caused National City to issue its 2006 10-K. Therein, National City portrayed its loan portfolio as being comprised of mortgages originated pursuant traditional and conservative lending activities.

125. Specifically, in a section entitled "Residential Real Estate" -- the first and most complete discussion of National City's lending activities in any of the Prospectus Materials -- the 2006 10-K represented that the Company's portfolio was populated with loans made pursuant to lending policies that required each of the Company's lending units to carefully evaluate repayment sources before extending any residential real estate loan:

> The residential real estate category includes loans to consumers secured by residential real estate, including home equity installment loans, and loans to residential real estate developers. The Corporation's residential real estate lending policies <u>require all loans to have viable repayment sources. Residential real estate loans are evaluated for the adequacy of these repayment sources at the time of approval, using such factors as credit scores, debt-to-income ratios, and collateral values. . . . These loans were originated by National City Mortgage, National Home Equity, and the now divested First Franklin unit</u>."

(<u>See</u> 2006 10-K at p. 20) (emphasis supplied).

126. In other words, in the 2006 10-K, Defendants caused the Company to represent that each of its distinct mortgage lending units, including First Franklin, extended loans

only after careful evaluation of the likelihood of repayment, and only after careful evaluation of factors such as credit scores and loan-to-value ratios.

127. These representations regarding National City's overall loan portfolio and its lending policies contained untrue statements of material fact and omitted material facts necessary to make the representations not misleading. At the time Defendants caused National City to issue the 2006 10-K:

a. subprime lender First Franklin had long been originating low or no documentation loans that made it impossible for First Franklin's employees to evaluate the adequacy of repayment sources; and

b. a material portion of the Company's residential real estate loans were comprised of loans to subprime borrowers and/or loans with little or no collateral or documentation to verify borrower repayment capacity.

128. Only after the Offering did investors learn that National City's loan portfolio as of January 2008 was populated by loans originated pursuant to careless standards and without documentation. National City's statement that the repayment capabilities of all borrowers had been reviewed when National City's units made the loans was not true. Through First Franklin, NCM and NHE, National City originated billions of dollars of loans with little or no documentation or evaluation -- indeed the Company was very nearly buried under such loans.

129. At bottom, Defendants failed to evaluate the true composition of the Company's portfolio and the evaluations already being conducted by underwriters in its mortgage units. They failed to investigate the bases for or accuracy of the statements. Thus they lacked a reasonable basis to cause National City to make the aforementioned representations.

130. Although National City made these representations more than a year before the Offering, Defendants incorporated such statements into the Prospectus Materials

without a reasonable basis for the statements, and never materially corrected them in any filing leading up to and including the Offering.

131. Defendants' representations regarding National City's putatively conservative loan portfolio and lending policies in the 2006 10-K did not end with the foregoing representations as to all the Company's mortgage units. Indeed, beginning with the 2006 10-K, and continuing in each subsequent quarterly 10-Q filed in 2007, Defendants specifically represented that NCM originated its residential real estate loans "in accordance with underwriting standards set forth by the government-sponsored entities."

132. The 2006 10-K provided:

> National City Mortgage's residential real estate production is primarily originated in accordance with underwriting standards set forth by the government-sponsored entities (GSEs) of the Federal National Mortgage Association (FNMA), the Federal Home Loan Mortgage Corporation (Freddie Mac), and the Government National Mortgage Association (GNMA). . . . These loans are generally collateralized by one-to-four-family residential real estate, have loan-to-collateral value ratios of 80% or less, and are made to borrowers in good credit standing.

(See 2006 10-K at p. 20.)

133. Moreover, Defendants represented that NCM's loans were made with conservative LTV ratios and to borrowers with good credit standing:

> These loans are generally collateralized by one-to-four-family residential real estate, have loan-to-collateral value ratios of 80% or less, and are made to borrowers in good credit standing.

(See, 2006 10-K at p. 20.)

134. Thus, amid industry concerns regarding declining housing prices and increasing delinquencies, Defendants represented that NCM loans (including, by implication, its construction loans) were made in compliance with the traditional industry gold-standard, namely,

the lending standards set by the GSEs, and that they were made with good LTV ratios and to good borrowers.

135. Even with respect to loans NCM originated with components such as interest-only or adjustable-rate terms that fell outside traditional GSE standards, Defendants represented that such loans were made to "prime borrowers" and pursuant to National City's putatively conservative evaluation of borrowing repayment capabilities:

> National City Mortgage also originates certain nontraditional interest-only and payment option adjustable-rate mortgage (ARM) loans, which allow borrowers to exchange lower payments during an initial period for higher payments later. <u>The loans are originated principally to prime borrowers and are underwritten in accordance with bank regulatory guidelines, which includes evaluating borrower repayment capacity based on the fully indexed rate and a fully amortizing repayment schedule</u>.

(<u>See</u> 2006 10-K at p. 20) (emphasis supplied).

136. As they had with the Company's general portfolio of loans (including those originated by subprime lender First Franklin), Defendants specifically represented that NCM originated loans, including construction loans and loans with non-traditional components, pursuant to conservative underwriting standards and only after evaluating the likelihood of repayment.

137. Had they been true, these representations would leave little doubt that the Company's loan portfolio contained largely prime-quality loans. But they were not true. NCM often originated loans without adequate documentation -- as required by GSEs -- to evaluate the likelihood of repayment, including loans made on a stated-income basis. Defendants often were issuing first-lien loans in conjunction with piggyback loans such that, while the LTV on the first-lien loan may have been 80 percent, in reality the Company was financing 100 percent of the purchase.

138. Moreover, the Company was originating billions of dollars in construction loans -- to all classes of borrowers -- in which it funded all pre-construction.

139. National City also was not carefully evaluating its ARM borrowers to determine whether they could meet the payment obligations under the reset rates. Indeed, many of these loans defaulted when the rates reset.

140. Similarly, in the 2006 10-K, Defendants specifically represented that National City's putatively conservative lending standards applied in equal regard to NHE -- the business unit responsible for home equity loans. Specifically, Defendants represented that NHE originated HEILs and HELOCs pursuant to the same conservative lending standards employed by NCM, and as such these types of loans contained in National City's portfolio were "prime-quality":

> The residential real estate portfolio also includes prime-quality home equity installment loans. These loans are originated through the retail branch network of the Consumer and Small Business Financial Services line of business and nationally through National Consumer Finance's National Home Equity business unit.
>
> * * *
>
> The home equity category consists mainly of revolving lines of credit secured by residential real estate. Home equity lines of credit are generally governed by the same lending policies and subject to credit risk as described above for residential real estate loans.

(See 2006 10-K at p. 21) (emphasis supplied).

141. Defendants represented that HEILs and HELOCs were made by NHE pursuant to conservative underwriting standards and were thus "prime-quality." However, as with its other loans, National City frequently was extending HEILs and HELOCs to subprime borrowers and/or without documentation that would allow the Company to evaluate the credit

characteristics of the borrowers. Moreover, many of the HEILs were piggyback loans that were highly risky. Thus, the foregoing representations contained untrue statements of and/or omitted material facts rendering the Prospectus misleading.

142. Although the foregoing representations were made more than a year before the Offering, Defendants caused them to be incorporated into the Prospectus Materials. They failed to materially correct them at any time leading up to and including the Offering. Indeed, at the time of the Offering, the 2006 10-K still contained the most complete discussion of National City's lending of any document in the Prospectus Materials.

143. Moreover, Defendants caused National City to make similar representations regarding both NCM's and NHE's putatively conservative underwriting standards in each of its 10-Qs filed during the Pre-Offering Period, including the Third Quarter 2007 10-Q issued mere months before the Offering:

> Mortgage banking originates residential mortgage, home equity lines and loans both within National City's banking footprint and on a nationwide basis. Mortgage loans generally represent loans collateralized by one-to-four-family residential real estate and are made to borrowers in good credit standing.

(See Third Quarter 2007 10-Q at p. 52) (emphasis supplied).

144. Similarly, the Third Quarter 2007 10-Q reiterated the 2006 10-K's representations that National City's loans were primarily conforming loans that could be or would be sold to GSEs:

> These loans are typically sold to primary mortgage market aggregators (Fannie Mae, Freddie Mac, Ginnie Mae, or the Federal Home Loan Banks) and jumbo loan investors.[3]

[3] Jumbo loans are loans in an amount too larger to be "conforming" loans eligible for purchase by GSEs.

(See Third Quarter 2007 10-Q at p. 52.)

145. Once again, Defendants' representations regarding National City's putatively conservative underwriting standards were not true. National City was extending loans to subprime borrowers and/or without documentation that would allow the Company to evaluate the credit characteristics of the borrowers.

146. In this regard, Confidential Source 1 confirmed that by 2006 and continuing into the fourth quarter of 2007, the majority of new loans that National City originated were made to subprime or stated-income borrowers or pursuant to documentation "exceptions." Indeed, very soon after the Offering, National City's financial condition deteriorated under the weight of billions of dollars of inherently high-risk loans that were made to subprime borrowers with multiple layers of risk (e.g., stated income loans, piggyback loans and loans with high loan-to-value ratios).

147. Just months after the Offering, regulators pressured National City to raise additional liquidity beyond the $1 billion raised through the Offering, resulting in a transaction that raised an additional $7 billion in operating capital.

148. Defendants belatedly admitted that a substantial amount of National City's portfolio of loans it was holding for liquidation or "run-off" -- which comprised a substantial portion of the Company's residential real estate loans -- was populated with risky nonconforming loans. On September 30, 2008, the Cleveland Plain Dealer published an article entitled, "Local Bank's Stock Plunges 63 Percent," wherein Defendant Richlovsky, National City's then-interim CFO, admitted that National City's "run off" loans were "considered riskier because most were made to people who didn't have good credit scores or down payments."

149. Defendants' representations that NCM and NHE were extending primarily "conforming," "prime" and "prime-quality" loans were untrue statements of material fact and omitted material facts necessary to make the representations not misleading.

150. Defendants negligently failed to monitor National City's lending practices or inform themselves of the underwriting standards NCM and NHE were actually employing before they caused National City to make the foregoing representations about its underwriting standards. By failing to investigate the bases or accuracy of these statements, Defendants lacked a reasonable basis to cause National City to make the aforementioned representations. Moreover, Defendants made the representations in each annual or quarterly report filed during the Pre-Offering Period and failed in their duty to correct the untrue statements and/or omissions of material facts before they incorporated such filings into the Prospectus Materials.

B. <u>Untrue Statements Concerning the Company's Loan Loss Reserves</u>

151. Defendants' representations concerning National City's loan portfolio contained untrue statements of and/or omissions of material fact that rendered the Prospectus Materials misleading. Such misrepresentations dovetailed into Defendants' representations concerning National City's allowance for loan losses, which, while detailed and specific, nonetheless contained material statements of and/or omissions of current facts that rendered those representations misleading.

152. For example, the Third Quarter 2007 10-Q characterized National City's allowance for loan losses as a "critical" accounting policy with respect to assessing credit risk, and represented that management established loan loss reserves through careful evaluation of certain factors and that National City's loan loss reserves complied with GAAP. Specifically, under a heading entitled "Credit Risk," the Third Quarter 2007 10-Q represented that National

City's allowances for loan losses were "based upon the size and risk characteristics of the loan portfolio," and risk of loss in the portfolio was putatively evaluated by assessing four factors:

a. individual impaired loans;

b. historical loss experience on pools of homogeneous loans;

c. factors to account for estimated imprecision in forecasting losses; and

d. specific environmental factors.

(See Third Quarter 2007 10-Q at p. 68.) Each of National City's other filings during the 2007 Pre-Offering Period to the Notes Offering contained virtually identical representations. See 2006 10-K at p. 25; First Quarter 2007 10-Q at p. 61; Second Quarter 2007 10-Q at p. 64.

153. The Third Quarter 2007 10-Q issued only months before the Offering elaborated on the Company's "assessment" of the four factors relevant to National City's loan loss reserves. For example, with respect to assessing individual impaired loans, Defendants represented that this assessment was based largely on reviewing potentially impaired loans identified based on National City's policy thresholds:

> An allowance is established for probable credit losses on impaired loans. Nonperforming commercial loans and leases exceeding policy thresholds are regularly reviewed to identify impairment. A loan or lease is impaired when, based on current information and events, it is probable that the Corporation will not be able to collect all amounts contractually due.

(See Third Quarter 2007 10-Q at p. 76.) Each of National City's other SEC filings during the Pre-Offering Period contained virtually identical representations. See 2006 10-K at p. 30-31; First Quarter 2007 10-Q at p. 67; Second Quarter 2007 10-Q at p. 70.

154. With respect to evaluating loss experience on pools of homogeneous loans, Defendants represented that the assessment of potential losses in pools rather than in individual loans based on historical performance of customer attributes:

> Pools of homogeneous loans with similar risk and loss characteristics are also assessed for probable losses. These loan pools include all other loans and leases not individually evaluated for impairment and discussed above. For consumer loans, average historical losses are utilized to estimate losses currently inherent in the portfolio. Consumer loans are pooled by probability of default within product segments. The probability of default is based on historical performance of customer attributes, such as credit score, loan-to-value, origination date, collateral type, worst delinquency, and other relevant factors.

(See Third Quarter 2007 10-Q at p. 76.) Each of National City's other SEC filings during the Pre-Offering Period contained virtually identical representations, see 2006 10-K at p. 31; First Quarter 2007 10-Q at p. 68; Second Quarter 2007 10-Q at p. 71, although the quarterly reports each contained a description of a new policy National City instituted with respect to migration analysis.

155. Specifically, the Company implemented a new policy apparently to allow it to assign recoveries on loans to all categories of loans, rather than just nonperforming loans. In other words, the new policy only affected accounting for recoveries. It did not cure the inaccuracies in its representations concerning loan loss reserves.

156. With respect to the imprecision inherent in forecasting, Defendants represented that National City's loss reserves accounted for such things as changes in economic conditions and difficulty identifying triggering events:

> An allowance is also recognized for imprecision inherent in loan loss migration models and other estimates of loss. Imprecision occurs because historic loss patterns may not be representative of losses inherent in the current portfolio. Reasons for imprecision include expansion of the

> Corporation's footprint, changes in economic conditions, and difficulty identifying triggering events, among other factors.

(See Third Quarter 2007 10-Q at p. 76.) Each of National City's other SEC filings during the Pre-Offering Period contained virtually identical representations. See 2006 10-K at p. 31; First Quarter 2007 10-Q at p. 68; Second Quarter 2007 10-Q at p. 71.

157. With respect to environmental facts, Defendants represented that environmental factors allowed the Company to account for factors not captured above, including incomplete documentation in acquired mortgages:

> Finally, the allowance considers specific environmental factors which pose additional risks that may not have been adequately captured in the elements described above. . . Historically, this element of the allowance has provided for losses on loans acquired in acquisitions where loss history and underwriting information were incomplete or materially different than that of the Corporation's existing portfolio, as well as expected losses on certain credit risks in excess of the amounts predicted using the methods described above.

(See Third Quarter 2007 10-Q at p. 76.) Each of National City's other SEC filings during the Pre-Offering Period contained virtually identical representations. See 2006 10-K at p. 31; First Quarter 2007 10-Q at p. 68; Second Quarter 2007 10-Q at p. 71.

158. Finally, under "Significant Accounting Policies," Defendants reiterated that loan loss reserves were adequate and determined by assessing the aforementioned factors, with an added emphasis on regulatory guidance and current economic conditions:

> The allowance for loan losses is maintained at a level believed adequate by management to absorb probable losses inherent in the loan portfolio and is based on the size and current risk characteristics of the loan portfolio, an assessment of individual problem loans and actual loss experience, probably recoveries under lender paid mortgage insurance, current economic events in specific industries and geographical areas . . . and other pertinent

> factors, including regulatory guidance and general economic conditions.

(See Third Quarter 2007 10-Q at p. 10.) Each of National City's quarterly SEC filings during the Pre-Offering Period contained virtually identical representations. See 2006 10-K at p. 45; First Quarter 2007 10-Q at p. 10; Second Quarter 2007 10-Q at p. 10.

159. Putatively as a result of the foregoing criteria, National City reported loan loss reserves during the Pre-Offering Period of (i) $1.104 billion as of March 31, 2007, with a provision for loan losses of $107 million for the first quarter; (ii) $1.136 billion as of June 30, 2007, with a provision for loan losses of $143 million for the second quarter; (iii) $1.400 billion as of September 30, 2007, with a provision for loan losses of $361 million for the third quarter; and (iv) $1.800 billion as of December 31, 2007, with a provision for loan losses of $691 million for the third quarter.

160. In each of these instances, Defendants represented that these reserves were "maintained at a level believed adequate by management to absorb probable losses inherent in the loan portfolio[.]" (See, e.g., 2006 10-K at p. 45).

161. National City's representations in each of its quarterly or annual financial statements during the Pre-Offering Period concerning the adequacy of the Company's allowance for loan losses and, significantly, the criteria National City purportedly employed in setting such allowances were not predictions of future events or the opinions of management. During the skittish real estate and mortgage markets in 2007, the Company's statements factually portrayed Defendants as diligently setting loan losses based on National City's current credit portfolio and a careful evaluation of portfolio history and market conditions.

162. These representations contained untrue statements of and/or omitted material facts necessary to make the representations not misleading -- indeed, National City's

management was not adequately evaluating the factors Defendants identified as the basis for the Company's loan loss reserves.

163. Shortly after the Offering, National City conceded that its loan loss reserves were inadequate to cover the losses the Company was experiencing and/or would experience. For example, on April 21, 2008, just three months after the Offering, National City issued its earnings release for first quarter 2008 reflecting a drastic spike in the Company's loan loss reserves and provision for loan losses. Specifically, National City raised its loan loss reserves to a staggering $2.6 billion -- a 44 percent increase. Moreover, the Company's provision for loan losses more than doubled from the previous quarter, climbing from $691 million to an unprecedented $1.4 billion -- greater that the entire increase in 2007.

164. Significantly, National City itself attributed its inadequate loan loss reserves in large part to the very factors complained of herein -- specifically, increased delinquencies due to the poor quality of the Company's portfolio.

165. For example, National City's First Quarter 2008 10-Q attributed the drastic increase in loan losses in part to a decision in the first quarter of 2008 to reclassify $762 million in loans from 90-day delinquent to non-performing -- including $294 million in subprime loans. Thus, National City's massive increase in loan loss reserves did not arise from unknown loans in the Company's portfolio that defaulted suddenly; instead, it arose from the belated decision to reclassify loans about which the Company was aware -- and from which it had plainly been at risk for losses for at least 90-days -- from delinquent to non-performing.

166. Defendants also acknowledged in April 2008 that National City's dire credit condition had caused the Company to anticipate during the first quarter of 2008 (at the latest) that counterparties would likely abandoned any new business with the Company given its

poor financial condition. These admissions further reflect that the Company's pre-Offering loan loss reserves did not accurately reflect its true financial condition.

167. Defendants at best were not aware of and/or did not reasonably investigate the underwriting standards being employed by the Company's mortgage units. Without an accurate gauge of the state of National City's loan portfolio in any of the regards noted above, Defendants could not and did have an adequate basis for establishing National City's allowance for loan loss reserves. They thus had no reasonable basis for their repeated representations that National City was adequately evaluating and setting its loan loss reserves.

168. Moreover, National City's loan loss reserves were not established in accordance with GAAP despite Defendants' representations to the contrary, as discussed more fully below in Section VII.

C. Untrue Statements Concerning the Company's Liquidity Position

169. Defendants also made untrue representations concerning National City's liquidity position. For example, in the Third Quarter 2007 10-Q, Defendants represented that National City was adequately capitalized and had controls in place to manage and mitigate credit and liquidity risk:

> The Corporation has consistently maintained regulatory capital ratios at or above the "well-capitalized standards.
>
> * * *
>
> National City management, with the oversight of the Board of Directors, has in place enterprise-wide structures, processes and controls for managing and mitigating risk, with particular emphasis on credit, market and liquidity risk.

(See Third Quarter 2007 10-Q at p. 66.)

170. Defendants further stated that the Company had controls in place to monitor liquidity risk:

> Management adheres to a liquidity risk management policy which identifies the primary sources of liquidity, establishes procedures for monitoring and measuring liquidity, and establishes minimum liquidity requirements in compliance with regulatory guidance. The policy also includes a contingency funding plan to address liquidity needs in the event of an institution-specific or a systemic financial crisis. The liquidity position is continually monitored and reviewed by [the Asset/Liability Management Committee].

(See Third Quarter 2007 10-Q at p. 72.)

171. In this regard, a few months before the Offering, the Third Quarter 2007 10-Q reported the Company's Tier 1 capital as 9.7 billion and Tier 1 capital ratio as 6.78 percent for the third quarter ended September 30, 2007.

172. The foregoing representations concerning the adequacy of the Company's liquidity position and Tier 1 capital ratio contained untrue statements of material fact and omitted material facts necessary to make them not misleading.

173. The Company's liquidity and capital ratio depended on correct evaluations of its portfolio quality and loan loss reserves. As discussed above, those evaluations were negligently performed. Indeed, a short time after the Offering regulators pressured National City to raise additional liquidity to shore up the Company's cash position -- leading to a $7 billion offering in April 2008.

174. Defendants' statements were untrue or omitted the materials facts that:

a. National City was not "well-capitalized" as a result of the significant unrecognized losses sitting in its residential real estate loan portfolio;

b. the Company's liquidity position would have been below regulatory standards had it properly set loan loss reserves;

c. management did not have adequate procedures in place to monitor, manage and mitigate liquidity risk; and

d. National City did not have sufficient capital or liquidity to absorb the massive losses the Company was experiencing or was likely to realize in its residential loan portfolio.

175. Moreover, as a result of the foregoing, National City's financial statements concerning its capitalization were not in accordance with GAAP, as discussed more fully below in Section VII.A.

D. The Prospectus Supplement and National City's Fourth Quarter and Year-End 2007 Results

176. On January 23, 2008, Defendants caused National City to issue the Prospectus Supplement. The Prospectus Supplement incorporated by reference the 10-Ks, 10-Qs and 8-Ks filed by Defendants in 2007, in addition to a number of other SEC filings.

177. The Prospectus Supplement announced that the Company's allowance for loan losses as of December 31, 2007 was $1.8 billion, compared to $1.1 billion the prior year (approximately a 63 percent increase for all of 2007) and the provision for loan losses was $691 million for fourth quarter 2007, compared to $325 million for the same quarter of 2006 (approximately a 112 percent increase over fourth quarter 2006).

178. Significantly, the Prospectus Supplement failed to correct or materially elaborate on any of the representations in its SEC filings during the Pre-Offering Period, including the Third Quarter 2007 10-Q filed just months before the Offering. Therefore, the documents incorporated by reference into the Registration Statement, including the Prospectus

and Prospectus Materials, contained untrue statements of material fact and omitted material facts necessary to make the Registration Statement not misleading.

179. Indeed, the Registration Statement and Prospectus Supplement and other Prospectus Materials, when read as a whole, negligently distorted the true nature of National City's financial condition, particularly with respect to its core mortgage operations and mortgage credit risk.

180. Plaintiffs were entitled to rely on the Prospectus Materials. The Prospectus Supplement stated that prospective investors "should rely only on the information contained or incorporated by reference in [the] prospectus supplement." Plaintiffs and the Class were not required to research other publicly available materials in making any investment decisions concerning the Notes.

181. The same day that Defendants caused National City to issue the Prospectus Supplement containing, among other things, National City's loan loss reserves for 2007, the Company held a conference call with analysts in conjunction with its earnings release for fourth quarter and year ending December 31, 2007. The contents of the call were not incorporated into the Prospectus Materials, however the call did reflect a number of representations concerning National City's mortgage portfolio and loss reserves. Those statements downplayed credit problems and characterized the worst as over and the loss reserves as adequate. For example, Defendant Kelly stated:

> First, by way of completing the shutdown of the National Home Equity Business, the curtailment of non-agency eligible mortgage production, and an aggressive effort to clean up the mortgage warehouse, we incurred charges in the held-for-sale portfolio from trade fallout, scratch-and-dent losses, and mark to market adjustments totaling around $150 million pretax, or $0.16 per share.

* * *

> As the result of settlement of trades, continued product constraints, and movement of loans into the portfolio, the warehouse balance as at December 31 of $3.7 billion is dramatically smaller and now contains only high quality, first mortgages

182. Similarly, Robert Rowe, National City's Chief Credit Officer, indicated that the Company had adequately raised loss reserves to cover increased delinquencies in NHE's home equity portfolio:

> Results for the National Home Equity portfolio deteriorated significantly for the '06, '07 vintages. The 2005 and earlier vintages have performed reasonably close to our expectations. As a result, we substantially increased reserve levels in the fourth quarter, taking the allowance to 1.52% of loans, up from 1.18% at 12/06.

183. Specifically with respect to NHE's portfolio, Rowe minimized potential losses in what he described as the three basic segments (direct home equity, loans originated for portfolio, and loans originated for sale), and indicated that the Company's new loan loss reserves accounted for any increasing delinquencies:

> First . . . the $15.5 billion direct home equity portfolio in our retail bank. This product is integral to our overall retail strategy of expanding household relationships. It is a growing portfolio with very strong credit performance. Approximately one-third of these loans are in a first lien position.
>
> Delinquency trends have increased slightly from a very low base. As stated before, net charge-offs at 36 basis points remain at a very low level and are up 4 basis points from fourth quarter '06. To be sure, this portfolio would not be totally immune to pressures related to job losses created by a recession, but it has exhibited far more stability than the broker-based National Home Equity portfolio.
>
> Second . . . the portion of the National Home Equity book that was originated for the loan portfolio . . . consisting entirely of loans originated and underwritten specifically to our loan portfolio. These earlier vintages included only a minimal amount of stated income products, have

> substantially more balances above 730 FICO, and less balances where the loan-to-value was greater than 90% than the 2006-2007 vintages. . .. we have trended charge-offs in 90-plus delinquencies, which have increased slightly during the second half of 2007.
>
> Third . . . the more recent National Home Equity vintages. Again, this segment represents loans originated for sale and underwritten to capital markets standards but which could not be sold or were kicked out of trade and were transferred from the held for sale warehouse to the portfolio. The quality and other characteristics of these loans are visibly worse than those underwritten for our portfolio. Again, compared to the older vintages, this portion of the portfolio has fewer balances above 730 FICO and more balances above 90% loan-to-value.
>
> As you can see by the trending provided, this segment has exhibited meaningful deteriorating conditions. <u>We have increased the reserve significantly during the fourth quarter for this portfolio to reflect our view of much higher loss in the future</u>.

184. The foregoing representations did not correct Defendants' previous misleading statements or give investors sufficient information regarding the performance of the loan portfolio. Indeed, National City again represented that its loan loss reserves would cover any problems. This was not true.

185. As a result of Defendants' inaccurate statements of material fact concerning the true lending practices and financial status of National City, the Company was able to consummate the Offering and the sell of the Notes at an artificially inflated price. Once the truth regarding National City's actual lending practices and financial condition was disclosed, the price of the Notes fell precipitously.

186. Plaintiffs and other investors in the Notes sustained significant damages from their purchases of Notes traceable to the Registration Statement.

VI. POST-OFFERING EVENTS

187. Shortly after the Offering, facts began to surface in the market demonstrating that National City's previous representations were replete with inaccurate statements and/or omissions of material fact. Indeed, less than two months after the Offering, National City's credit rating was reduced due to concerns regarding its residential real estate exposure. A month later the Company announced that it was seeking a capital infusion of $7 billion.

A. National City's Liquidity Crisis Continues And the Company Is Downgraded

188. On March 13, 2008, Moody's Investors Services ("Moody's") announced that it had downgraded National City's investment-grade senior rating to A3 from A2 reflecting Moody's expectation that "National City's very sizable second-lien home equity exposure will result in significant losses that will further weaken National City's capital position." According to Moody's, the Company's loss exposure "indicates that National City is likely to face more pronounced weakness in its capital position in the near-term."

189. Also on March 13, 2008, The Wall Street Journal reported that National City began "seeking prospective buyers" after the Company incurred significant fourth quarter 2007 losses in its residential loan portfolio. The Wall Street Journal described National City as a "troubled lender" reportedly under regulatory pressure to find a buyer or bolster its capital position before the Company reported first quarter 2008 financial results. According to Oppenheimer & Co. analyst Terry McEvoy, the makeup of National City's loan portfolio "suggests things get worse before they get better."

190. On March 14, 2008, the Cleveland Plain Dealer reported on rumors that National City was putting itself up for sale. In the article, RBC Capital Markets analyst Gerard

Cassidy observed that Defendants' decision to sell the Company when its share price was at near-record lows could only mean that its financial predicament was greater than previously-represented:

> I find it hard to believe [National City] put themselves up for sale. . . You're not going to receive top value. . . .
>
> * * *
>
> If they do sell out, it tells you the severity of the situation they're facing.
>
> * * *
>
> I don't believe anyone on the board or the management team would sell in this credit cycle . . . unless there are greater problems.

191. Four days later, a March 18, 2008 Ohio.com story reported that shares of National City common stock had fallen 43 percent -- the largest decline in 24 years -- on waning prospects for takeovers. Analysts commented that the plunge was due to investor concerns regarding the credit quality of National City's loan portfolio and fear of more severe losses resulting from the Company's imprudent lending practices.

192. On March 22, 2008, Standard & Poor's Rating Services ("S&P") lowered its outlook on National City to negative, citing the Company's credit risk and resulting loss exposure with respect to National City's commercial and residential construction and high-risk home equity loans.

193. Oppenheimer & Co. analyst Terry McEvoy reached a similar conclusion after National City announced on April 1, 2008 that its Board of Directors was "reviewing a range of strategic alternatives for the company." In this regard, McEvoy stated in an April 2, 2008 Cleveland Plain Dealer article that:

> [T]he announcement shows National City is desperate . . . because it indicates the bank might sell itself for perhaps half of what it was worth a year ago. . . .
>
> * * *
>
> It's telling me that National City thinks there's no light at the end of the tunnel.

B. National City Is Forced to Dilute Shareholders to Raise $7 Billion in Additional Capital

194. On April 21, 2008, Defendants issued a press release announcing earnings for the period-ended March 31, 2008. In the release, the Company simultaneously disclosed that the Board of Directors had unanimously approved the raising of $7 billion of additional equity capital and announced the Company's financial results for the first quarter 2008.

195. In its First Quarter earnings release, National City announced that it had secured a $7 billion equity infusion needed to absorb the enormous losses in National City's residential loan portfolio and to maintain the Company's capital and debt ratios above requisite regulatory levels.

196. The $7 billion equity infusion had a massively dilutive effect on existing common shareholders. Pursuant to the terms of the capital raise, National City would issue and sell 1.4 billion new shares of the Company's stock at $5 per share. As of April 20, 2008, the Company had approximately 650 million outstanding shares. With the addition of 1.4 billion new shares, existing holders of the Company's common stock saw their ownership interest decline from 100 percent to about 33 percent.

197. This dilution also had a profound affect on the value of the Notes. The original terms of the Notes permitted them to be converted to common stock at a specific ratio at a specific time. As a result of the $7 billion offering, owners of the Notes were only able to

covert the Notes to common stock that had been massively diluted and was thus substantially less valuable. The day after the announcement, the Notes dropped 2.6 percent in price.

C. National City Makes Added Corrective Disclosures <u>Regarding Its Residential Real Estate Portfolio Exposure</u>

198. In the First Quarter earnings release, Defendants also made several startling <u>admissions</u>. First, the Company announced it was increasing its loan loss reserves to a staggering $2.6 billion -- a 44 percent increase and only slightly less than the entire increase for all of 2007. The Company further stated that its provision for loan losses <u>more than doubled</u> from the previous quarter, climbing from $691 million to an unprecedented $1.4 billion -- greater that the entire increase in 2007.

199. In addition, the Company disclosed <u>for the first time</u> that National City did not have adequate capital and liquidity to absorb losses incurred in its residential loan portfolio. For example, during the Company's first quarter 2008 earnings call, Defendants Raskind and Kelly revealed that analyst speculation in mid-March 2008 that the Company's loss exposure was far greater than represented had been correct. Defendants revealed that the Company's "real estate exposures" were feared to be so severe that the Company was unable to continue to do business because counterparties were not willing to lend it money or grant credit:

> GERARD CASSIDY - RBC CAPITAL: If you can give us more color, I think in your prepared remarks you guys mentioned that some lenders backed away from lending to you during the recent crisis? Can you give us more color of what went on there?
>
> KELLY: [W]e have anecdotally heard through brokers that some lines to us had been cut by other counterparties and some direct dealings had occurred or have encountered that. So I don't think that was terribly surprising given the downgrade and review from downgrade from Moody's at the beginning of March. That seems to have stabilized here of late, but it was a fact. We anticipated that but we did

> hear some money market lines and counterparty lines having been reduced or eliminated.

200. In addition, in its 8-K filed on April 21, 2008, the Company revealed that Merrill Lynch was seeking indemnity pursuant to the First Franklin purchase agreement (as discussed above in footnote 1) against the Company for losses Merrill Lynch had sustained due to repurchase obligations to third parties for bad First Franklin mortgages. In other words, National City was still on the hook for some toxic loans First Franklin had originated at least 15 months prior.

201. National City filed its 10-Q for the period ended March 31, 2008 on May 12, 2008 (the "First Quarter 2008 10-Q"). In the First Quarter 2008 10-Q, Defendants made several additional admissions concerning the Company's loan quality and underwriting practices.

202. Specifically, Defendants disclosed that the residential real estate loan portfolio on National City's books -- specifically, its construction loans, home equity loans and Firsts Franklin subprime loans -- were far riskier than previously represented:

> Management has identified certain loan portfolios as higher credit risks in the current environment. These portfolios include construction loans to residential real estate developers and consumers, nonprime mortgage loans, and broker-sourced home equity loans and lines of credit, all of which have been adversely affected by the decline in the housing market. . . .
>
> * * *
>
> Nonprime mortgage loans and broker-sourced home equity loans and lines of credit are all liquidating. . . . Performance of these portfolios is worse than the rest of the residential real estate portfolio due to a range of factors, including origination method, nature of the borrowers, the purpose of the loans, and declines in the housing market.

(<u>See</u> First Quarter 2008 10-Q at p. 73-74.)

D. National City's Disastrous Financial Condition Becomes Increasingly Apparent

203. On June 6, 2008, The Wall Street Journal reported that National City had entered into a Memorandum of Understanding ("MOU") with the OCC, a division of the Treasury Department that regulates national banks, to address serious financial problems at the Company. This effectively put National City on probation.

204. According to The Wall Street Journal article, the confidential agreement constituted a rare regulatory enforcement remedy. Under such agreements, banks are given an opportunity to work with federal regulators to address serious financial problems. Defendants later confirmed on June 10, 2008 that National City had, indeed, entered into the MOU described above.

205. On July 9, 2008, Reuters reported that Merrill Lynch had cut National City's rating from "neutral" to "underperform," citing, in part, credit quality deterioration and profit dilution by the Company's $7 billion capital raise. Merrill Lynch stated: ". . . recently there is evidence that conditions [at National City has] taken a decided turn for the worst," with the brokerage seeing cumulative credit losses of more than $10 billion at National City.

206. On July 16, 2008, a New York Times article commented on the Company's $7 billion capital raise in April in an article entitled, "Seeing Bad Loans, Investors Flee From Bank Shares." Therein, the New York Times commented that, despite the Company's assurances that its Tier 1 capital ratio ranked among the highest in its class, the Company had lost nearly 90 percent of its value in the last year.

207. On July 24, 2007, the Company issued a press release announcing its second quarter 2008 earnings. That same day, the Company held a conference call with analysts to discuss National City's second quarter 2008 financial results. During the Second Quarter

conference call, Defendants admitted for the first time that the Company's loss exposure to residential real estate loans held in its liquidating portfolios was far greater than represented just one quarter earlier. Accordingly, National City was forced to revise upward its second quarter 2008 charge-off projections from $2-$2.4 billion to $2.5-$2.9 billion.

208. On July 25, 2008, RBC Capital Markets issued an analyst report (the "July 25, 2008 RBC Report") citing serious concerns relating to the credit quality of National City's residential loans and lowering its 2008 and 2009 earnings estimates for the Company to a loss of $2.36 and $.25 per share, respectively, from prior forecasted losses of $1.05 and $.20 per share, respectively. The July 25, 2008 RBC Report stated:

> Reported EPS [for the second quarter 2008] was much worse than we expected, due to a loan loss provision that was more than 3 times higher than we anticipated, a steep decline in net interest margin and much higher nonperforming assets and net charge-offs in the quarter. . . These issues indicate that the pipeline of problems is profound and there are more challenging times ahead for the company, in our opinion. We believe the company's construction loan portfolio will lead to higher credit costs throughout 2008 and 2009. (emphasis supplied).

209. The July 25, 2008 RBC Report further noted that National City's "nonperforming asset ratio remains the highest among the banks covered by RBC Capital Markets research." (emphasis supplied). RBC questioned the adequacy of National City's allowance for loan losses stating "we are not sure whether or not this will be enough to handle the potential problems in a recessionary environment." The report further noted that according to the "Eyles Test, the company's loan loss reserves are not being conservatively maintained." (emphasis supplied). RBC estimated that "NCC is under-reserved on an after-tax basis by an estimated $0.8 billion or $1.07 per share."

210. Moreover, the July 25, 2008 RBC Report characterized the "credit quality" of National City's loans as a "disaster," noting "the company's construction loan portfolio is loaded with high risk assets within some of the weakest markets in the country."

211. On August 8, 2008, National City filed its 10-Q for the period ended June 30, 2008 (the "Second Quarter 2008 10-Q"). Therein, Defendants disclosed for the first time that the Company was the subject of an informal SEC investigation into, among other things, its lending practices:

> On June 30, 2008, National City Corporation was notified that the Chicago Regional Office of the U.S. Securities and Exchange Commission (the "SEC") is conducting an informal investigation of National City Corporation. The SEC has requested that National City provide the SEC with certain documents concerning its loan underwriting experience, dividends, bank regulatory matters and the sale of First Franklin Financial Corporation. The SEC has not asserted that the Company has acted improperly or illegally. National City intends to cooperate with the SEC in connection with this investigation, and at this time, the scope or outcome of the matter cannot be determined.

212. The SEC investigation is, upon information and belief, still pending.

213. In the Second Quarter 2008 10-Q, Defendants also noted that the Company's imprudent lending practices and subprime borrowers were among the primary reasons that the performance of its residential real estate loans was far worse than previously disclosed:

> Performance of liquidating mortgage and home equity portfolios is worse than the rest of the loan portfolio due to a range of factors, including the origination method, nature of the borrowers, the purpose of the loans, and home price declines in the respective markets.

214. Defendants also disclosed for the first time the portion of the Company's allowance for loan losses allocated to each specific category of high-risk residential real estate

loan portfolio -- construction loans, home equity loans and subprime loans -- as demonstrated in the chart below:

(in millions)	**June 30, 2008**		**Dec. 31, 2007**		**June 30, 2007**	
	Balance	% of Portfolio	Balance	% of Portfolio	Balance	% of Portfolio
Liquidating Portfolio:						
Residential Real Estate Loans:						
- Nonprime	$545	11.34%	$266	4.42%	$172	2.32%
- Construction	$404	17.24%	$161	5.24%	$36	.94%
- Other	$433	12.94%	$98	2.63%	$8	.64%
HELOCs and Other Consumer Loans	$449	4.84%	$212	3.42%	$64	.78%
Total Liquidating Portfolio Allowance	**$1,831**	**9.26%**	**$737**	**3.21%**	**$280**	**1.35%**
Total Allowance for Loan Losses	**$3,434**	**3.03%**	**$1,762**	**1.52%**	**$1,136**	**1.14%**

215. Prior to these disclosures, investors had no means of determining how grossly deficient the Company's reserves truly were because previously Defendants always lumped the total reserve for all loans into one big allowance. As demonstrated in the chart above, and as discussed more fully below in Section VII.A, the Company's reserves for its liquidating portfolio were woefully inadequate under GAAP in 2007, requiring National City to double or triple reserve levels in 2008. Moreover, even the increases in 2008 were insufficient to absorb the near total loss the Company would have to absorb as a result of its "bad" loans.

216. On September 3, 2008, S&P cut National City's counter-party rating citing "concerns about the ongoing deterioration in the mortgage and housing sectors." National City's rating was cut to A-/A-2 from A/A-1 and the outlook was reportedly "negative." S&P analyst John Bartko wrote that National City's portfolio of impaired home equity, subprime mortgages

and construction loans "still contains a significant level of losses which will need to be recognized over time." (emphasis supplied).

217. On September 26, 2008, Reuters reported on investor worries of imminent heavy mortgage loan losses, particularly with respect to the Company's exposure in Florida, one of the highest mortgage default states in the country. Reuters further reported that National City said the Company might face charge-offs on about 20 percent of the $17.4 billion portfolio of businesses it had exited, including broker-sold home equity, subprime and residential construction loans, representing approximately 15 percent of National City's total loan portfolio. Moreover, Reuters quoted one portfolio manager, James Ellman of Seacliff Capital, as stating that "National City is likely either a candidate for FDIC seizure, or it's a candidate for a dilutive capital raise."

218. On September 27, 2008, The New York Times published an article reporting on the potential impact on troubled banks, such as National City, if the $700 billion government bailout plan was not approved. Therein, Defendant Richlovsky, National City's interim CFO, admitted that the Company was "selling off a portfolio of troubled home equity, subprime mortgage and other bad loans." Just one month later, in the third quarter of 2008, National City recorded a provision for loan losses of $1.18 billion of such loans.

219. As a result of the above disclosures, on September 29, 2008, a Bloomberg News article, entitled "Moody's May Downgrade National City's Ratings," reported that Moody's had placed the ratings of National City and it subsidiaries on review for possible downgrade, with the review focusing on the implications of National City's exposure to significant real estate related costs. Moody's noted that the magnitude of these credit costs relative to the firm's earnings from its core banking franchise may make the timing of its return

to profitability uncertain, which had weakened investor confidence and could ultimately impact National City's core franchise stability.

220. On September 30, 2008, the Cleveland Plain Dealer published an article entitled, "Local Bank's Stock Plunges 63 Percent." Therein, Defendants confirmed their early disclosures on September 27, 2008 that National City's $17 billion liquidating portfolio (construction loans, home equity loans and lines of credit and subprime loans) was comprised almost entirely of bad loans. Richlovsky was quoted as admitting that such loans were "considered riskier because most were made to people who didn't have good credit scores or down payments." (emphasis supplied).

E. PNC Rescues National City From Collapse

221. On October 10, 2008, a Cleveland Ohio Business News article, entitled "More Market Fallout: Is National City for Sale?," disclosed that National City was shopping for bidders, amid speculation that the Company would not remain viable for longer than a year. The timing of the sale, the article reported, had been moved up drastically in light of the bank's plunging stock price and downgrades to its credit ratings caused by risky mortgages and mounting losses on its books. The article also cited recent downgrades, also known as "the kiss of death," by Fitch Ratings Ltd., S&P and Moody's, which rated certain of the Company's debt just one notch above junk status.

222. On October 10, 2008, an Associated Press article, entitled "National City Mum on Talk of Sale," highlighted National City's refusal to discuss reports that the bank was looking for a buyer. One analyst said it would be absurd for "National City weighed down by high-risk mortgage loans not to at least consider a sale." Another analyst noted National City was "definitely keeping their options open because of the state of their industry and their own position. It'd be foolish if you didn't look at all your options, including a sale."

223. On October 21, 2008, the Company issued a press release for the period ending September 30, 2008. It reported a third quarter net loss of $729 million, compared to a net loss of $19 million in the third quarter of 2007, attributed to higher loan loss reserves. The release disclosed that the Company had provisions for loan losses of $1.18 billion, up from $368 million a year earlier, relating primarily to the Company's home equity loans, First Franklin Loans and residential construction loans.

224. In conjunction with the press release announcing third quarter 2008 financial results, National City also conducted a conference call with analysts, during which the Company's management answered questions from analysts -- including questions submitted via e-mail prior to the call. In response to one written question, as read to him by Jill Hennessey, National City's Manager of Investors Relations, Joe Carloney of the Mortgage Banking unit specifically acknowledged that the Company had in the past originated stated income loans and allowed borrowers to finance down payments:

> **Jill Hennessey:**
>
> The next question is for Joe of our mortgage company. Joe, over time the fundamentals of our mortgage lending have strayed from the fundamentals of lending. What are the guidelines being followed in your direct mortgage channel relative to debt-to-income ratio, written income verification and non-borrowed down payments. [sic].
>
> **Joe Carloney:**
>
> . . . We do not originate any stated income loans, those have been ceased. As far as down payment programs, the only programs that allow any non-borrower funded down payment programs and it's only partial non-funded is the FHA so according to HUD guidelines those programs are in place but it's clearly more stringent than it had been.

225. In other words, Mr. Carloney acknowledged that -- far from lending conservatively and putatively only after careful evaluation of borrowers' repayment ability as Defendants repeatedly represented -- during the Pre-Offering Period the Company was originating loans without documentation as to borrower income and was financing 100 percent of the purchase, creating dangerous LTV.

226. But unfortunately for investors, National City's new putatively more conservative lending standards were too late -- the damage had been done before and during the Pre-Offering Period. Three days after the conference call with analysts, on October 24, 2008, National City announced that it had agreed to be acquired by PNC at the fire sale price of $2.23 per share, or an aggregate fixed amount of approximately $5.2 billion in PNC stock.

VII. DEFENDANTS' GAAP VIOLATIONS

227. In connection with the Offering, National City issued financial statements that were materially misstated and not presented in accordance with GAAP. GAAP are those principles recognized by the accounting profession as conventions, rules and procedures necessary to define accounting practices at a particular time. SEC regulation S-X (17 C.F.R. § 210.4-01 (a)(1)) provides that financial statements filed with the SEC which are not presented in accordance with GAAP "will be presumed to be misleading or inaccurate, despite footnotes of other disclosures. . . ." Regulation S-X also requires that interim financial statements comply with GAAP, with the exception that interim financial statements need not include disclosures, which would be duplicative of disclosures accompanying annual financial statements. 17 C.F.R. § 210.10-01(a).

228. The responsibility for preparing financial statements in conformity with GAAP rests with corporate management, as set forth in Section 110.03 of the AICPA Auditing Standards:

> The financial statements are management's responsibility. . . Management is responsible for adopting sound accounting policies and for establishing and maintaining internal controls that will, among other things, record, process, summarize, and report transactions (as well as events and conditions) consistent with management's assertions embodied in the financial statements. The entity's transactions and related assets, liabilities and equity are within the direct knowledge and control of management . . . Thus, the fair presentation of financial statements in conformity with [GAAP] is an implicit and integral part of management's responsibility.

Each of the negligent accounting practices in which the Company engaged, as well as Defendants' misrepresentations and omissions, standing alone, was a material breach of GAAP and/or SEC regulations.

229. As discussed below, the financial statements and related footnotes contained in National City's 2006 10-K, First Quarter 2007 10-Q, Second Quarter 2007 10-Q and Third Quarter 2007 10-Q, (collectively, the "False Financial Statements") incorporated into the Prospectus Supplement by reference violated GAAP by misrepresenting that National City adequately: (1) disclosed the significant risks embedded in National City's residential real estate and HELOC loan portfolios; and (2) reserved for losses in the Company's residential real estate and HELOC loan portfolios. As a result of the above misrepresentations, National City was required by GAAP to restate the False Financial Statements.

230. GAAP requires an entity to restate previously filed quarterly and annual financial statements to correct material errors in those previously reported financial statements and related footnote disclosures. Statement of Financial Accounting Standards ("FAS") No. 154, Accounting Changes and Error Corrections ("FAS 154"). FAS 154, ¶¶ 2, 25, B30. According to FAS 154, a Company is required to restate its previously issued financial statements as a "prior-period adjustment" by "restating the prior period [sic] financial statements." FAS 154, ¶¶ 25,

B30; see also FAS 16, Prior Period Adjustments, ¶ 41. Defendants violated GAAP by failing to correct the prior material errors in the Company's False Financial Statements, including its footnote disclosures, described above.

A. Defendants Understated National City's Allowance and Provision for Loan Losses

231. GAAP, specifically the AICPA Statement of Position ("SOP") No. 01-6, Accounting by Certain Entities (Including Entities With Trade Receivables) That Lend to or Finance the Activities of Others ("SOP 01-6"), requires that loans held for investment (portfolio loans) be carried at amortized cost, and reduced by an allowance for estimated loan losses:

> Loans and Trade Receivables Not Held For Sale. Loans and trade receivables that management has the intent and ability to hold for the foreseeable future or until maturity or payoff should be reported in the balance sheet at outstanding principal adjusted for any charge-offs, the allowance for loan losses (or the allowance for doubtful accounts), and any deferred fees or costs on originated loans, and any unamortized premiums or discounts on purchased loans. (footnotes omitted, emphasis supplied).

232. A loan is impaired, according to GAAP, "when, based on current information and events, it is probable that a creditor will [be unable] to collect all amounts due according to the contractual terms of the loan agreement," which includes both the contractual interest payments and contractual principal payments. FAS No. 5 ("FAS 5"), Accounting for Contingencies, ¶ 23, as amended by FAS No. 114 ("FAS114"), Accounting by Creditors for Impairment of a Loan, ¶¶ 8, 21. When an entity determines that it is probable that an asset (e.g., loan receivable) has been impaired, FAS 5 requires the entity to record an allowance for estimated losses and a corresponding charge against income if, as of the balance sheet date, the losses are both "probable" and "reasonably estimable." FAS 5, ¶¶ 8, 22. Moreover, with respect to loss contingencies relating to the collectibility of receivables, FAS 5 requires an entity to

accrue for probable losses "even though the particular receivables that are uncollectible may not be identifiable." Id., ¶ 22,

233. Defendants violated the GAAP principles described above, resulting in a material understatement of the Company's provision and allowance for loan losses reported in the False Financial Statements by failing to adequately reserve for probable losses resulting from the poor credit quality and excessive risk layering of the Company's residential real estate loans and HELOCs, particularly in light of declining collateral values and deteriorating market conditions.

234. In the False Financial Statements, National City reflected on its books, both for investment and for sale, a portfolio of inherently risky residential loans (e.g., ARM, construction, HEILS and subprime) and HELOCs, which were provided primarily to non-creditworthy borrowers, without requiring supporting documentation to verify the borrower's income or collateral on the loan. National City's negligent lending practices prior to the Offering (Section IVA, supra) rendered many of the Company's residential real estate loans and HELOCs of little or no market value and otherwise un-saleable in the secondary market beginning in the spring of 2007. Thus, by the end of the fourth quarter 2007, the Company was forced to retain a material portion of its "run off" loans in its loan portfolio held for investment, thereby increasing the Company's credit risk and loss exposure.

235. In this regard, National City negligently failed to consider the increased credit risk in determining adequate reserve levels in the False Financial Statements and instead represented that "[t]he allowance for loan losses [was] maintained at a level believed adequate by management to absorb probable incurred losses within the loan portfolio…" Defendants further represented in the False Financial Statements that "[t]he probability of default [for residential

real estate loans, including home equity loans and lines of credit was] based on historical performance of customer attributes, such as credit score, loan-to-value, origination date, collateral type, worst delinquency, and other relevant factors." See 2006 10-K at 31; First Quarter 2007 10-Q at 68; Second Quarter 2007 10-Q at 71; and Third Quarter 2007 10-Q at 76.

236. These statements were false. As demonstrated in the chart below, National City's allowance for loan losses for the Company's residential real estate loans and HELOCs reported in the False Financial Statements was materially understated. In this regard, despite the material increased credit risk that existed in the Company's residential real estate loans and HELOCs, National City maintained an allowance for loan losses for such loans during the Pre-Offering Period and up to the Offering at constant levels averaging approximately 1.3 percent for mortgages and 0.8 percent for HELOCs and other consumer loans.

National City Analysis of Allowance for Loan Losses (in millions)							
For the period-ended	12/31/06	1Q07	2Q07	3Q07	12/31/07	1Q08	2Q08
Residential Loan Allowance allocation	$280	$283	$286	$342	$597	$1,131	$1,618
Residential Portfolio Loans	24,776	27,956	27,550	29,242	30,243	28,699	26,988
Allowance as a % of Residential Loan	1.13%	1.01%	1.04%	1.17%	1.97%	3.94%	6.00%
Allowance allocation for HELOCs and other Consumer Loans	$102	$111	$114	$175	$278	$437	$552
HELOCs and other Consumer Loans	19,955	19,811	18,635	22,076	22,579	22,645	22,409
Allowance as a % of HELOCs and other Consumer Loans	0.51%	0.56%	0.61%	0.79%	1.23%	1.93%	2.46%

237. Under GAAP, National City was required to adequately increase the Company's allowance for loan losses during 2007 to accrue losses resulting from the significant

credit risk embedded in the "run off" portfolios described above, particularly in light of worsening economic and housing conditions and the Company's inability to sell its risky, non-conforming loans in the secondary market. Defendants' failure to increase the Company's allowance sufficient to absorb the probable and estimable losses related to these high-risk residential loans and HELOCs violated GAAP.

238. Furthermore, such practice was inconsistent with regulatory guidance issued on December 13, 2006 by the OCC, Board of Governors of the Federal Reserve System, FDIC, National Credit Union Administration ("NCUA"), Office of Thrift Supervision ("OTS"), entitled Interagency Policy Statement on the Allowance for Loan and Lease Losses ("Interagency Guidance"), which specifically emphasized that when declining credit quality trends are evident in a loan portfolio, the total allowance as a percentage of the loan portfolio should generally increase. The Interagency Guidance stated, in relevant part:

> …changes in the level of the ALLL should be directionally consistent with changes in the factors, taken as a whole, that evidence credit losses, keeping in mind the characteristics of an institution's loan portfolio. For example, if declining credit quality trends relevant to the types of loans in an institution's portfolio are evident, the ALLL level as a percentage of the portfolio should generally increase, barring unusual charge-off activity. Similarly, if improving credit quality trends are evident, the ALLL level as a percentage of the portfolio should generally decrease. (p. 9) (Emphasis supplied).

239. The severe and material inadequacy of National City's allowance for loan losses during the Pre-Offering Period and at the time of the Offering is evidenced by the unprecedented amount of charge-offs the Company took on its residential loans and HELOCs in the first two quarters of 2008 of $1.0 billion, net of recoveries. Specifically, the $1.0 billion in charge-offs taken in the first half of 2008 was more than: (1) the total residential real estate loans and HELOCs that the Company charged-off the entire year ended December 31, 2007; and

(2) the total allowance related to such loans (of approximately $875 million) recorded at December 31, 2007.

B. Defendants' Failure to Disclose the True Risk Arising From the Company's Inherently High-Risk Loans

240. Defendants' failure to disclose the true loan quality and credit risk of National City's residential real estate loan and HELOC portfolios and resulting significant loss exposure resulted in violations of the most fundamental principles of financial reporting articulated by GAAP and SEC regulations. Specifically, in addition to the accounting violations noted above, the Company presented its financial statements in a manner that also violated at least the following provisions of GAAP:

- the concept that financial reporting should provide information that is useful to present and potential investors and creditors and other users in making rational investment, credit and similar decisions (Statement of Financial Accounting Concepts ("FASCON") No. 1, Objectives of Financial Reporting by Business Enterprises ("FASCON 1"), ¶ 34);

- the concept that financial reporting should provide information about the economic resources of an enterprise, the claims to those resources, and the effects of transactions, events and circumstances that change resources and claims to those resources (FASCON 1, ¶ 40);

- the concept that financial reporting should provide information about how management of an enterprise has discharged its stewardship responsibility to owners (stockholders) for the use of enterprise resources entrusted to it. To the extent that management offers securities of the enterprise to the public, it voluntarily accepts wider responsibilities for accountability to prospective investors and to the public in general. (FASCON 1, ¶ 50);

- the concept that financial reporting should provide information about an enterprise's financial performance during a period. Investors and creditors often use information about the past to help in assessing the prospects of an enterprise. Thus, although investment and credit decisions reflect investors' expectations about future enterprise performance, those expectations are commonly based at least partly on evaluations of past enterprise performance (FASCON 1, ¶ 42);

- the concept that financial reporting should be reliable in that it represents what it purports to represent. That information should be reliable as well as relevant is a notion that is central to accounting (FASCON No. 2, Qualitative Characteristics of Accounting Information, ("FASCON 2"), ¶¶ 15, 33, 47, 58-59, 62, 97);

- the concept of completeness, which means that nothing is left out of the information that may be necessary to ensure that it validly represents underlying events and conditions (FASCON 2, ¶ 79); and

- the concept that footnote disclosures in financial statements is "essential to understanding the information recognized in financial statements and has long been viewed as an integral part of financial statements prepared in accordance" with GAAP. FASCON 5, Recognition and Measurement in Financial Statements of Business Enterprises, ¶ 7.

241. GAAP also provides specific guidance on required disclosures concerning loss contingencies and exposure to risk, including credit risk. Specifically, FAS 5 requires disclosure of loss contingencies that have been recorded in the financial statements, or, if there is a reasonable possibility that a loss, or additional loss, may have been incurred, in order for the financial statements to not be misleading.

242. Additionally, AICPA Statement of Position No. 94-6, Disclosure of Certain Significant Risks and Uncertainties ("SOP 94-6"), paragraph .08 requires disclosure of risks and uncertainties existing as of the date of those financial statements in the following areas: (a) nature of operations; (b) use of estimates in the preparation of financial statements; (c) certain significant estimates; and (d) current vulnerability due to certain concentrations.

243. With respect to the above areas, SOP 94-6 requires disclosure of an entity's current vulnerability from concentration of risks and uncertainties, where:

> a. The concentration exists at the date of the financial statements.
>
> b. The concentration makes the enterprise vulnerable to the risk of a near-term severe impact.
>
> c. It is at least reasonably possible that the events that could cause the severe impact will occur in the near term.

244. FASB Staff Position ("FSP") SOP 94-6-1, Terms of Loan Products That May Give Rise to a Concentration of Credit Risk ("FSP SOP 94-6-1"), tailored the guidance in SOP 94-6, described above, to specific disclosure requirements for entities that originate, hold, guarantee, service or invest in loan products whose terms may give rise to a concentration of credit risk. In this regard, SOP 94-6-1 states, in relevant part:

> The terms of certain loan products may increase a reporting entity's exposure to credit risk and thereby may result in a concentration of credit risk . . . either as an individual product type or as a group of products with similar features. . . . Possible shared characteristics on which significant concentrations may be determined include, but are not limited to:
>
> a. Borrowers subject to significant payment increases;
>
> b. Loans with terms that permit negative amortization; and

c. Loans with high loan-to-value ratios.

245. In addition to the GAAP requirements discussed above, SEC Regulation S-K required National City to disclose in the Management's Discussion and Analysis of Financial Condition and Results of Operations ("MD&A") section of its filing with the SEC "material events and uncertainties known to management that would cause reported financial information not to be necessarily indicative of future operating results or of future financial condition." 17 C.F.R. § 229.303.

246. Regulation S-K also required Defendants to disclose in the Company's MD&A section, a discussion of "significant economic changes," "unusual or infrequent events or transactions" and "known trends or uncertainties," such as major changes in lending practices, significantly increasing delinquencies and loan defaults and rapid declines in the market (e.g., declining home values) that would materially affect the Company's financial statements. 17 C.F.R. § 229.303(a)(3)(i)-(ii).

247. In violation of these principles, Defendants reassured investors in the False Financial Statements that the Company's residential real estate loan and HELOC portfolios (excluding subprime), consisted of "prime" quality loans originated in accordance with underwriting standards set forth by the GSEs and that the Company maintained adequate loan loss reserves and was "well-capitalized" -- sufficient to absorb potential losses in National City's residential real estate and HELOC portfolios.

248. In violation of the GAAP and SEC disclosure requirements set forth above, Defendants failed to disclose the Company's true credit risk, National City's significant loss exposure embedded in its residential real estate loan and HELOC portfolios and prior imprudent lending practices in either National City's MD&A section and/or in the footnotes to the False Financial Statements. The Company's failure to disclose these key facts concealed the

true nature, risk and performance of its residential loans and HELOCs and allowed Defendants to report inflated values for such loans in the Company's False Financial Statements -- leaving investors with the misleading impression such loans were performing significantly better than actual performance.

249. Had Defendants made such disclosures, it would have informed investors that the Company's allowance for loan losses for its "run off" portfolios was woefully inadequate. Defendants' failure to make such disclosures violated the most basic principles of financial reporting under GAAP and SEC Regulations.

VIII. THE PRICE OF THE NOTES DROPPED DUE TO POST-OFFERING REVELATIONS ABOUT NATIONAL CITY'S FINANCIAL CONDITION

250. As a result of post-offering revelations of facts relevant to the misstatements in the Prospectus Materials, including National City's loan quality, underwriting standards, precarious liquidity position and inadequate allowances for loan losses, the Notes steadily lost value in response to each new admission. For example:

a. March 13-18, 2008 – Rating agency and analysts covering the Company reported major concerns that the Company was facing a crippling liquidity crisis, causing the price of the Notes to drop $254.33 per Note, or 26%, from $981.25 per Note on March 13, 2008 to $726.92 per Note on March 18, 2008.

b. May 12, 2008 – National City disclosed that its loss exposure in the construction loan portfolio actually extended to the entire portfolio and that the Company had failed to timely recognize $688 million of losses for nonperforming loans, causing the price of the Notes to drop $31.67 per Note, or 3.6%, from $882.50 per Note on May 9, 2008 to $850.83 per Note on May 13, 2008.

c. June 6, 2008 – The Wall Street Journal reported that National City entered into a MOU with the OCC to address serious financial problems at the Company. As a result of this disclosure, the price of the Notes

dropped $35.00 per Note, or 4%, from $870.00 per Note on June 6, 2008 to $835.00 per Note on June 9, 2008.

d. September 15, 2008 – National City announced the Company had increased the number of shares authorized to sell under the April 2008 $7 billion capital infusion agreement to 5 billion shares, causing the price of the Notes to drop $140.00 per Note, or 18.9%, from $740.00 per Note on September 10, 2008 to $600.00 per Note on September 17, 2008.

e. September 25-29, 2008 - Reuters published an article reporting on concerns of imminent heavy mortgage loan losses and the Cleveland Plain Dealer published an article describing the Company's admission that $17 billion of high-risk residential real estate loans were comprised entirely of "bad loans," to subprime borrowers with little or no down payment, causing the price of the Notes to drop $310.00 per Note, or 45%, from $695.00 per Note on September 25, 2008 to $385.00 per Note on September 29, 2008.

IX. CLASS ACTION ALLEGATIONS

251. Plaintiffs bring this action pursuant to Rule 23 of the Federal Rules of Civil Procedure on behalf of themselves and the Class who purchased the Notes pursuant and/or traceable to the Company's false and misleading Registration Statement, Prospectus, Prospectus Supplement and Prospectus Materials issued in connection with the Offering and sustained damages as a result of the conduct alleged herein. Excluded from the Class are Defendants, the officers and directors of the Company, at all relevant times, members of their immediate families and their legal representatives, heirs, successors or assigns and any entity in which Defendants have or had a controlling interest or of which the Company is a parent or subsidiary.

252. The members of the Class are located in geographically diverse areas and are so numerous that joinder of all members is impracticable. While the exact number of Class

members is unknown to Plaintiffs at this time and can only be ascertained through appropriate discovery, Plaintiffs believe that there are thousands of members in the proposed Class. Record owners and other members of the Class may be identified from records maintained by National City or its transfer agent, and may be notified of the pendency of this action by mail, using the form of notice similar to that customarily used in securities class actions.

253. Plaintiffs' claims are typical of the claims of the members of the Class as Plaintiffs and members of the Class sustained damages arising out of Defendants' conduct in violation of federal laws as complained herein.

254. Plaintiffs will fairly and adequately protect the interests of the members of the Class and has retained counsel competent and experienced in class and securities litigation. Plaintiffs have no interests antagonistic to, or in conflict with, those of the Class. Common questions of law and fact exist as to all members of the Class and predominate over any questions solely affecting individual members of the Class. Among the questions of law and fact common to the Class are:

a. whether Defendants violated the Securities Act by their acts as alleged herein;

b. whether the Registration Statement and Prospectus Materials incorporated therein contained untrue statements of material facts and/or omitted material facts necessary to make the statements contained therein not misleading, concerning the business, operations and management of National City; and

c. to what extent the members of the Class have sustained damages and the proper measure of those damages.

255. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy since joinder of all members is impracticable. Furthermore, as the damages suffered by individual Class members may be relatively small, the

expense and burden of individual litigation make it impossible for members of the Class to individually redress the wrongs done to them.

256. There will be no difficulty in the management of this action as a class action.

X. CAUSES OF ACTION

COUNT I
(VIOLATIONS OF SECTION 11 OF THE SECURITIES ACT)

257. Plaintiffs repeat and reallege each and every allegation contained in the foregoing paragraphs as if fully set forth herein. However, for purposes of this cause of action, Plaintiffs expressly exclude and disclaim any allegation that could be construed as alleging fraud, as this cause of action is based solely on claims of strict liability and/or negligence under the Securities Act. This cause of action is brought pursuant to Section 11 of the Securities Act, on behalf of the Class against all Defendants.

258. The Registration Statement and Prospectus Materials for the Offering were inaccurate and misleading, contained untrue statements of material facts, omitted to state other facts necessary to make the statements made not misleading, and omitted to state material facts required to be states therein.

259. Each of the Defendants is strictly liable to Plaintiffs and the Class for the misstatements and omissions complained of herein.

260. The Director Defendants, along with Defendants Raskind, Kelly and Richlovsky, signed the Registration Statement which was false due to the misstatements described above.

261. None of the Defendants made a reasonable investigation into whether it possessed reasonable grounds for the belief that the statements contained in the Registration

Statement and Prospectus Materials were not false and misleading or did not omit material facts that rendered statements made therein not false and misleading.

262. By reason of the conduct herein alleged, the Defendants violated Section 11 of the Securities Act.

263. Plaintiffs acquired the Notes pursuant and/or traceable to the Registration Statement.

264. Plaintiffs and the Class have sustained damages as the value of the Notes declined substantially subsequent to the disclosures of Defendants' misconduct.

265. At the time of their purchases of the Notes, Plaintiffs and other members of the Class were without knowledge of the facts concerning the wrongful conduct alleged herein and could not have reasonably discovered those facts prior to September 29, 2008. Less than one year has elapsed between the time that the securities upon which this count is brought were offered to the public and the time this action was filed.

COUNT II
(VIOLATIONS OF SECTION 15 OF THE SECURITIES ACT)

266. Plaintiffs repeat and reallege each and every allegation contained in the foregoing paragraphs as if fully set forth herein. However, for purposes of this cause of action, Plaintiffs expressly exclude and disclaim any allegation that could be construed as alleging fraud, as this cause of action is based solely on claims of strict liability and/or negligence under the Securities Act. This cause of action is brought pursuant to Section 15 of the Securities Act, against the Individual Defendants.

267. The Individual Defendants, as senior executive officers and/or Directors of National City, had regular access to non-public information about the Company's business, operations, performance and prospects through access to internal corporate documents and

information, attendance at meetings of management and the Company's Board of Directors, and reports and other information provided to them in connection therewith.

268. The Individual Defendants, because of their high-level positions with the Company, controlled and/or possessed the authority to control the content of the various SEC filings and earnings incorporated by reference into the Registration Statement and Prospectus Materials. By reason of their high-level management and Director positions, the Individual Defendants had the obligation, ability and opportunity to review copies of National City's SEC filings and earnings releases alleged herein to contain untrue statements and/or omissions of material fact prior to, or shortly after, their issuance, or to prevent their issuance or cause them to be corrected, and thus ensure the accuracy of the Registration Statement and Prospectus Materials. Accordingly, the Individual Defendants participated in the issuance of the Registration Statement and Prospectus Materials that contained untrue statements and/or omissions of material fact.

269. Given their possession of the information described above, the Individual Defendants negligently disregarded risks associated with originating non-prime and subprime loans without supporting documentation to verify income levels or collateral and, consequently, the liability the Company faced as a result of sharply rising default and delinquency rates associated with such loans. Accordingly, the Individual Defendants participated in the issuance of the Registration Statement and Prospectus Materials that contained untrue statements and/or omissions of material fact.

270. By reason of their positions as directors of National City, the Director Defendants were at all relevant times controlling persons of National City within the meaning of Section 15 of the Securities Act. Each of the Director Defendants is liable as a direct participant

and primary violator with respect to the wrongdoing complained of herein. Because of their positions with National City, the Director Defendants had access to adverse, non-public information about the financial condition, operations, and future business prospects of National City as particularized herein. Any acts attributed to National City were caused and/or influenced by the Director Defendants by virtue of their domination and control thereof.

271. Similarly, by reason of their positions as officers and/or directors of National City, the Officer Defendants were at all relevant times controlling persons of National City within the meaning of Section 15 of the Securities Act. Each of the Officer Defendants is liable as a direct participant and primary violator with respect to the wrongdoing complained of herein. Because of their executive, managerial, and/or directorial positions with National City, the Officer Defendants had access to adverse, non-public information about the financial condition, operations, and future business prospects of National City as particularized herein. Any acts attributed to National City were caused and/or influenced by the Officer Defendants by virtue of their domination and control thereof.

XI. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, on their own behalf and on behalf of all other members of the Class, pray for relief and judgment, as follows:

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

B. awarding compensatory damages in favor of Plaintiffs and the other members of the Class against all Defendants, jointly and severally, for all of the damages sustained as a result of the wrongdoings of Defendants, in an amount to be proven at trial, including interest thereon;

C. awarding Plaintiffs and other members of the Class the fees and expenses incurred in this action including reasonable allowance of fees for Plaintiffs' attorneys and experts;

D. granting extraordinary equitable and/or injunctive relief as permitted by law, the equity and federal provisions sued hereunder; and

E. granting such other and further relief as the Court may deem just and proper.

XII. JURY DEMAND

Plaintiffs hereby demand a trial by jury.

Dated: February 19, 2010

Respectfully submitted,

/s/ Richard S. Wayne
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Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been filed electronically with the U.S. District Court this 19th day of February, 2010. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system. If a party is not given notice electronically through the Court's system a copy will be served by ordinary United States mail, first class postage prepaid, this 19th day of February, 2010.

/s/ Richard S. Wayne
Richard S. Wayne (Ohio Bar #0022390)

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