

FILED

APR 27 2010

UNITED STATES
BANKRUPTCY COURT
FOR THE DISTRICT OF ARIZONA

1 **ANDREW C. BAILEY**
2500 N. Page Springs Rd
2 Cornville, AZ 86325
3 928 634-4335
4 *Self-Represented Litigant*

5 **IN THE UNITED STATES BANKRUPTCY COURT**
6 **FOR THE DISTRICT OF ARIZONA**

7 **ANDREW C. BAILEY**
8 **Plaintiff**

Chapter 11
BK Case #: 2:09-bk-06979-PHX-RTBP
AP Case #: 2:09-ap-01728-RTBP

9 vs

10 THE BANK OF NEW YORK MELLON, F/K/A
11 THE BANK OF NEW YORK (BONY)

12 CWALT, INC. ALTERNATIVE LOAN TRUST
13 2007- HY4 MORTGAGE PASS-THROUGH
CERTIFICATES, SERIES 2007-HY4
(CWALT)

14 BAC HOME LOANS SERVICING LP
15 F/K/A COUNTRYWIDE HOME LOANS
(BAC)

16 COUNTRYWIDE HOME LOANS a/k/a
17 COUNTRYWIDE BANK FSB a/k/a
18 COUNTRYWIDE HOME LOANS
SERVICING LP (CHL)

19 MORTGAGE ELECTRONIC
20 REGISTRATION SYSTEMS, INC (MERS)

21 JOHN DOES "1001-2000"

**OBJECTION TO DEFENDANTS'
RESPONSE TO PLAINTIFF'S
FIRST SET OF
INTERROGATORIES AND FIRST
REQUEST TO PRODUCE
DOCUMENTS**

Related to
Subject property:
2560 N. Page Springs Rd,
Cornville, AZ 86325
Countrywide Account #: 164999184

22
23 Plaintiff OBJECTS to Defendant's Response to Plaintiff's First Set of Interrogatories and
24 First Request to Produce Documents and OBJECTS to each and every item in Defendant's
25 Response to Plaintiff's First Set of Interrogatories and First Request to Produce Documents
for reasons including but not limited to the following:

1
2 1. Defendant's "response" is a cursory, partial, insufficient, incomplete and non-compliant
3 document which was prepared (by his own admission) by Defendant's attorney Kyle Hirsch
4 Esq and not by an officer or employee of any Defendant or other person or persons with
5 first hand personal knowledge of the facts or circumstances. Mr. Hirsch cannot claim to be
6 a competent witness in these matters. The statements in his document are mere hearsay and
7 are not based on any personal knowledge as required by the Federal Rules of Evidence. His
8 representations must not be admitted or considered as evidence and should be stricken from
9 the record.

10 2. Defendant's "response" (attached as EXHIBIT "A") is in no sense a proper, sufficient,
11 complete or compliant response, in violation of statutory and other duties owed by
12 Defendants. It is effectively a blanket avoidance and refusal to answer the Interrogatories
13 and Request to Produce Documents. It merely and repetitively objects to [plaintiff's]
14 request item by item and avoids answering or complying in any meaningful or material
15 way, asserting attorney-client privilege and confidentiality among its many reasons for non-
16 response or partial response.

17 3. Defendant's "response" purports to provide answers and documentation from BONY and
18 BONY only. BONY is not the only Defendant in this action. Mr. Hirsch and his law firm
19 Bryan Cave LLP allegedly represent and are authorized to accept service for ALL of the
20 Defendants [including presumably the unknown and undisclosed "John Does", several of
21 whom are now identified but not noticed or joined in the instant action. Plaintiff does not
22 know whether the "new" parties are necessary and indispensable pursuant to FRCP Rule
23 19.] According to Mr. Hirsch, all of the Defendants are "aligned" and there is no possibility
24 of any conflict of interest among them. Plaintiff takes issue with this statement, pointing to
25 the lawsuit just filed in Los Angeles, California in which investors (bondholders) in

1 Defendant CWALT are suing CWALT and co-Defendants CHL, BAC, BONY et al in the
2 instant complaint.*

3
4 4. Defendant's "response" provides none of the requested documents or accounting other
5 than a purported "pooling and servicing agreement", [which interestingly, identifies a
6 number of previously undisclosed parties. See EXHIBIT "B"]. The alleged pooling and
7 servicing agreement is but one of the many documents sought. On information and belief,
8 there were numerous agreements and contracts in place between and among the Defendants
9 prior to and subsequent to the "closing". Documents concerning those agreements and
10 contracts, when disclosed, will go a long way toward resolving the questions of fact raised
11 by Plaintiff.

12 5. Defendant's "response" affirmatively alleges that BONY is the holder in due course of
13 the note but fails to explain how BONY became the alleged holder in due course of the
14 note, which is in any event impossible, given the mechanism of the securitization process.
15 BONY may conceivably have an agency relationship with the holder in due course, if such
16 could be found and the agency relationship proven, but BONY is not and cannot be the
17 holder in due course.

18 **Legal Proceeding. March 9, 2010.** A complaint filed in state superior court in Los Angeles, California
19 alleges violations of the federal securities laws by various parties who participated in certain securitization
20 transactions effected by CWALT, Inc. between January 2005 and June 2007, (specifically Defendant
21 CWALT, INC. ALTERNATIVE LOAN TRUST 2007- HY4 MORTGAGE PASS-THROUGH
22 CERTIFICATES, SERIES 2007-HY4). The complaint names as defendants Countrywide Home Loans, Inc.,
23 Countrywide Home Loans Servicing LP, Countrywide Securities Corporation, CWALT, Inc. and certain
24 individuals who served as directors of CWALT, Inc. during the applicable period, along with other
25 unaffiliated entities. [t]he plaintiff alleges violations of the Securities Act of 1933 by issuing the above
named certificates that contained materially false and misleading statements and omitted material
information in violation of Sections 11, 12(a)(2) and 15 of the Securities Act. The Complaint alleges various
misrepresentations and omissions as to the underwriting practices employed in originating the mortgages,
the sufficiency of the collateral and the appraisal practices used to support the mortgages. The plaintiff
alleges, among other things, that as a result of the material misrepresentations and omissions in the
Registration Statements and Prospectus Supplements, investors purchased securities that were far riskier
than represented.

1 6. Defendant has filed a number of documents with the court claiming that it has complied
2 with Plaintiff's discovery requests (Doc # 23 filed 3.22.2010 in 2:09-ap-01728-RTBP and
3 Doc #162 in 2:09-bk-06979-PHX-RTBP) but has not filed any such "response" with the
4 court in either the administrative or the adversary case.

5 7. Defendant's "response" was e-mailed to Plaintiff but was not filed with the Court. It does
6 not appear in the ECF records. Mr. Hirsch says there is no requirement or responsibility on
7 Defendants' part to file such response with the Court. Plaintiff wonders, if that is the case,
8 how and when the Court is to know and assess what has been said or asserted in the alleged
9 "response".

10 8. Defendant asserts that the requests are burdensome. There are only eleven carefully
11 chosen interrogatories. The Truth in Lending Act requires that information, accounting and
12 documentation such as that sought in the requests be kept on hand and provided within five
13 days when demanded. The requirements of TILA are not time-barred in this matter. The
14 retention period is five years.

15
16
17 There are other objections to and problems with Defendant's "response". Plaintiff reserves
18 the right to bring additional objections in the future as and when that becomes necessary.

19
20 **Relief Sought**

21 For the foregoing reasons and for cause shown, Plaintiff respectfully asks the Court to

- 22
23 1. Compel Defendants to fully and completely answer the Interrogatories.
24 2. Compel Defendants to fully and completely produce the requested Documents.

1 3. Rule on whether Defendants, each and any of them, and/or their attorney law firm Bryan
2 Cave LLP violated a statutory, fiduciary or other duty by failing to properly and timely
3 answer the [plaintiff's] requests.

4 4. Strike Defendants "notices of compliance" from the record.

5 5. Grant any other relief which may be just and proper.

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9
10
11 Respectfully submitted this 26th day of April, 2010

12
13
14 
15 **Andrew C. Bailey, Plaintiff**

16
17
18
19
20
21 COPY of the foregoing was mailed
22 This 26th day of April, 2010 to:

23 Kyle S. Hirsch, Esq.
24 Bryan Cave, LLP
25 Two North Central Avenue, Suite 2200
Phoenix, Arizona 85004

Attorney for Defendants

1 Robert J. Miller (#013334)
Kyle S. Hirsch (#024155)
2 BRYAN CAVE LLP
Two N. Central Avenue, 22nd Floor
3 Phoenix, Arizona 85004-4406
Telephone: (602) 364-7000
4 Telecopier: (602) 364-7070
Internet: rjmiller@bryancave.com
5 kyle.hirsch@bryancave.com

6 Counsel for Defendants

7 **IN THE UNITED STATES BANKRUPTCY COURT**
8 **FOR THE DISTRICT OF ARIZONA**
9

10 In re:

11 ANDREW C. BAILEY,
12
13 Debtor

Chapter 11 Proceedings

Case No. 2:09-bk-06979-PHX-RTBP

14
15 ANDREW C. BAILEY,
16
17 Plaintiff

Adv. Proceeding No. 2:09-ap- 01728-RTBP

18 vs.

19 THE BANK OF NEW YORK MELLON,
f/k/a THE BANK OF NEW YORK; CWALT
20 INC. ALTERNATIVE LOAN TRUST; BAC
21 HOME LOANS SERVICING LP, f/k/a
COUNTRYWIDE HOMES LOANS;
22 COUNTRYWIDE HOME LOANS; THE
MORTGAGE ELECTRONIC
23 REGISTRATION SERVICE,
24
25 Defendants.

**DEFENDANT BANK OF NEW YORK
MELLON'S RESPONSE TO
DEBTOR'S/PLAINTIFF'S FIRST SET
OF INTERROGATORIES AND FIRST
REQUEST FOR PRODUCTION OF
DOCUMENTS**

26
27 Defendant The Bank of New York Mellon, in its capacity as trustee of the
28 CWALT, Inc. Alternative Loan Trust 2007-HY4 Mortgage Pass-Through Certificates,

BRYAN CAVE LLP
TWO NORTH CENTRAL AVENUE, SUITE 2200
PHOENIX, ARIZONA 85004-4406
(602) 364-7000

Exhibit A

1 Series 2007-HY4 (erroneously named as "CWALT Inc. Alternative Loan Trust")
2 ("Defendant"), pursuant to Federal Rules of Civil Procedure 33 and 34, hereby answers,
3 objects and otherwise responds to Plaintiff's/Debtor's¹ First Set of Interrogatories and
4 First Request for Production of Documents as follows:

5 **I. GENERAL OBJECTIONS.**

6
7 1. Defendant objects to the "Definitions" and "Instructions" to the extent that
8 they purport to require Defendant to produce documents that, in whole or in part, consist
9 of (i) trial preparation material not discoverable under Federal Rule of Civil Procedure
10 26(b); (ii) material protected by the attorney-client privilege or other privilege(s); or (iii)
11 material that Defendant, by law or agreement, is required to maintain in confidence.

12 2. Defendant objects to the "Definitions" and "Instructions" to the extent that
13 they seek to impose obligations and duties on Defendant beyond those imposed by the
14 Federal Rules of Civil Procedure or the Federal Rules of Bankruptcy Procedure.

15 3. Defendant objects to the Interrogatories and Requests as vague and
16 ambiguous to the extent that they contain terms that Defendant cannot interpret or
17 understand. Where possible, Defendant has made reasonable assumptions as to the
18 intended meaning of such vagueness and ambiguity and has responded accordingly while
19 preserving the objections thereto.

20 4. Defendant objects to the Interrogatories and Requests to the extent that they
21 seek information and documents that are already in the possession, custody or control of
22 Plaintiff/Debtor or are readily ascertainable from sources other than Defendant.

23 5. Defendant objects to the Interrogatories and Requests to the extent that they
24 seek information and documents that are not in Defendant's possession, custody or

25 ¹ Plaintiff/Debtor Andrew C. Bailey filed notice of two separate sets of production
26 requests addressed to Defendant. The only difference between the two sets of requests is
27 that one refers to Mr. Bailey as "Plaintiff" and the other refers to Mr. Bailey as "Debtor."
28 To the extent a response is required to each set of production requests, Defendant
considers these Responses its consolidated responses thereto.

1 control. Defendant's statements herein do not constitute an admission that any
2 responsive documents exist or are in its possession, custody or control.

3 6. Defendant objects to the Interrogatories and Requests to the extent that they
4 seek information and documents that are neither relevant to the subject matter of this
5 litigation nor reasonably calculated to lead to the discovery of admissible evidence.

6 7. Defendant objects to the Interrogatories and Requests to the extent that they
7 are cumulative and/or duplicative of one another.

8 8. Nothing herein is intended to waive the following objections, which are
9 expressly reserved: all objections as to competency, relevancy, materiality and
10 admissibility of the subject matter of the Interrogatories and Requests.

11 9. In making production of documents, Defendant reserves the right to recall
12 any document inadvertently produced which is protected by the attorney-client, work
13 product or other privilege or immunity from discovery. Moreover, production of any
14 privileged document or relevance of any document otherwise properly subject to
15 objection on any ground, including, without limitation, relevance, does not, and shall not
16 be deemed to, constitute a waiver of any privilege or other objection which may apply to
17 the production of such document or any class or category of document from which it has
18 been drawn.

19 10. Defendant's failure to object to an individual Interrogatory or Request or its
20 agreement to provide information or produce documents does not constitute a
21 representation that the information provided or documents produced are all of the
22 information or documents responsive to the Interrogatory or Request in Defendant's
23 possession, custody and control, but only that Defendant has made, and will continue to
24 make, a good-faith effort to search for and retrieve such information and documents, and,
25 subject to any and all general and specific objections, to provide such information and
26 produce such documents when and if they are located.

27
28

1 11. Defendant reserves the right to revise, correct, add to or clarify any of the
2 responses contained herein.

3 **RESPONSES TO INTERROGATORIES**

4 1. State the name, job title and business address of each person providing
5 information in response to these discovery requests:

6 **RESPONSE: Subject to and without waiving any of the foregoing objections,**
7 **Defendant hereby responds that it will present its authorized representative**
8 **pursuant to Federal Rule of Civil Procedure 30(b)(6) as required under the Federal**
9 **Rules of Civil Procedure and/or the Federal Rules of Bankruptcy Procedure.**

10 2. State the type of business organization BANK OF NEW YORK MELLON,
11 f/k/a BANK OF NEW YORK is, and name each State of the Union in which BANK OF
12 NEW YORK MELLON, f/k/a BANK OF NEW YORK is chartered or registered:

13 **RESPONSE: Objection: Vague and ambiguous, not relevant, and not likely to lead**
14 **to the discovery of admissible evidence. Subject to and without waiving any of the**
15 **foregoing objections, Defendant hereby responds that it is a corporation, and that**
16 **either Defendant or a subsidiary or affiliate of Defendant is registered to do business**
17 **in all states of the United States of America relevant to this action.**

18 3. State the name, job title, and business address of each person who has first-
19 hand personal knowledge of the time and circumstances under which the promissory note
20 obligating Andrew C. Bailey and/or alienable in this instant case was created, sold,
21 transferred and/or assigned for value:

22 **RESPONSE: Objection: Vague and ambiguous, not relevant, overly broad and**
23 **unduly burdensome, and not likely to lead to the discovery of admissible evidence.**
24 **Subject to and without waiving any of the foregoing objections, Defendant hereby**
25 **responds that it will present its authorized representative pursuant to Federal Rule**
26 **of Civil Procedure 30(b)(6) as required under the Federal Rules of Civil Procedure**
27 **and/or the Federal Rules of Bankruptcy Procedure.**

28 4. State the name and contact information of the creditor in the instant case.
(NOTE: The creditor is the person who actually provided the money for the Debtor loan
in expectation of payment, and who stands to lose money in the event of default.)

RESPONSE: Objection: Vague and ambiguous. Subject to and without waiving
any of the foregoing objections, Defendant hereby responds that it is the legitimate
holder in due course of that certain InterestOnly ADJUSTABLE RATE NOTE in
the original principal amount of \$425,000 dated March 29, 2007 made by Andrew C.
Bailey, as borrower, to the order of Countrywide Bank, FSB, as Lender (referred to
hereinafter as the "Note").

1 5. State the names and contact information of all persons or entities, in order
2 of assignment, who at any time were constructive holders or holders in due course of the
promissory note obligating Andrew C. Bailey and/or alienable in this instant case:

3 **RESPONSE: Objection: Vague and ambiguous, overly broad and unduly**
4 **burdensome, not relevant, and not likely to lead to the discovery of admissible**
5 **evidence. Subject to and without waiving any of the foregoing objections, Defendant**
hereby responds that it is presently the legitimate holder in due course of the Note.

6 6. State the name and contact information of the current beneficiary under the
7 promissory note obligating Andrew C. Bailey and/or alienable in this instant case:

8 **RESPONSE: Objection: Vague and ambiguous. Subject to and without waiving**
9 **any of the foregoing objections, Defendant hereby responds that it is the legitimate**
holder in due course of the Note.

10 7. If the name of the current beneficiary under the promissory note obligating
11 Andrew C. Bailey and/or alienable in this instant case in Item (6) above is different from
12 you name BANK OF NEW YORK MELLON, f/k/a BANK OF NEW YORK explain
why:

13 **RESPONSE: Objection: Vague and ambiguous. Subject to and without waiving**
14 **any of the foregoing objections, Defendant responds that no response to this**
Interrogatory No. 7 is required.

15 8. BAC HOME LOANS SERVICING LP has filed with the Bankruptcy Court
16 a Proof of Claim with respect to the subject promissory note. Explain the nature of
17 BANK OF NEW YORK MELLON, f/k/a BANK OF NEW YORK's relationship with
BAC HOME LOANS SERVICING LP in this instant case. If none, state "none".

18 **RESPONSE: Objection: Vague and ambiguous, and assumes facts that are**
19 **unproven and not established conclusively as true and accurate. Subject to and**
20 **without waiving any of the foregoing, Defendant hereby responds that BAC Home**
21 **Loans Servicing LP is authorized by Defendant as the Master Servicer to engage in**
certain servicing activities relating to the Note on behalf of Defendant.

22 9. Explain why the alleged copy of the promissory note submitted as Exhibit
23 "A" attached to BANK OF NEW YORK MELLON, f/k/a BANK OF NEW YORK's
24 Motion for Lift from Stay includes no allonge or endorsement showing any assignment of
the note to BANK OF NEW YORK MELLON, f/k/a BANK OF NEW YORK:

25 **RESPONSE: Objection: Vague and ambiguous. Subject to and without waiving**
26 **any of the foregoing, Defendant hereby responds that the copy of the InterestOnly**
27 **ADJUSTABLE RATE NOTE attached as Exhibit A to the Motion For Relief From**
28 **Automatic Stay filed on November 12, 2009 was attached to evidence the**
indebtedness due and owing by the debtor, Andrew C. Bailey.

1 10. If BANK OF NEW YORK MELLON, f/k/a BANK OF NEW YORK did
2 not keep or cannot produce a copy of an allonge or other paper showing assignment to
3 BANK OF NEW YORK MELLON, f/k/a BANK OF NEW YORK of the promissory
4 note obligating Andrew C. Bailey and/or alienable in this instant case, explain why:

5 **RESPONSE: Objection: Vague and ambiguous. Subject to and without waiving**
6 **any of the foregoing, and to the extent that a response to this Interrogatory No. 10 is**
7 **required, Defendant hereby responds that it is the legitimate holder in due course of**
8 **the Note as set forth in the Pooling and Servicing Agreement dated as of May 1,**
9 **2007.**

10 11. Identify the name, address and telephone number of each person or entity
11 likely to have discoverable information relevant to the foregoing or that you may use to
12 support your action.

13 **RESPONSE: Subject to and without waiving any of the foregoing objections,**
14 **Defendant hereby responds that it will present its authorized representative**
15 **pursuant to Federal Rule of Civil Procedure 30(b)(6) as required under the Federal**
16 **Rules of Civil Procedure and/or the Federal Rules of Bankruptcy Procedure.**

17 **RESPONSE TO REQUESTS FOR PRODUCTION OF DOCUMENTS**

18 1. Produce the original promissory note signed by Andrew C. Bailey and/or
19 alienable in this instant case. If none, state "none."

20 **RESPONSE: Objection: Beyond the scope of the Federal Rules of Civil Procedure**
21 **and the Federal Rules of Bankruptcy Procedure. Subject to and without waiving**
22 **any of the foregoing objections, Defendant hereby responds that it is the legitimate**
23 **holder in due course of the InterestOnly ADJUSTABLE RATE NOTE dated March 29,**
24 **2007, and a true and correct copy of the same is attached hereto as Exhibit "A."**

25 2. Produce all documents identified by you in response to each interrogatory
26 set forth above. If none, state "none".

27 **RESPONSE: Objection: Vague and ambiguous. Beyond the scope of the Federal**
28 **Rules of Civil Procedure and the Federal Rules of Bankruptcy Procedure. Subject**
29 **to and without waiving any of the foregoing objections, Defendant hereby responds**
30 **that the only non-privileged documents responsive to this Request No. 2 consist of**
31 **the Pooling and Servicing Agreement dated as of May 1, 2007, a copy of which is**
32 **attached hereto as Exhibit "B."**

33 3. Produce all documents associated with BAC HOME LOANS SERVICING
34 LP's authorization of BANK OF NEW YORK MELLON, f/k/a BANK OF NEW
35 YORK's right to enforce the promissory note obligating Andrew C. Bailey and/or
36 alienable in this instant case. If none, state "none".

1 **RESPONSE: Objection: Vague and ambiguous, overly broad and unduly**
2 **burdensome, and assumes facts that are unproven and not established conclusively**
3 **as true and accurate. Subject to and without waiving any of the foregoing**
4 **objections, Defendant hereby responds that the Note attached hereto as Exhibit "A"**
5 **and the Pooling and Servicing Agreement dated as of May 1, 2007 attached hereto**
6 **as Exhibit "B" are responsive to this request.**

7 4. Produce a copy of the allonge or endorsement attached to the promissory
8 note obligating Andrew C. Bailey and/or alienable in this instant case showing an
9 assignment of the promissory note from MORTGAGE ELECTRONIC REGISTRATION
10 SYSTEMS, INC to BANK OF NEW YORK MELLON, f/k/a BANK OF NEW YORK.
11 If none, state "none."

12 **RESPONSE: Objection: Vague and ambiguous, and assumes facts that are**
13 **unproven and not established conclusively as true and accurate. Subject to and**
14 **without waiving any of the foregoing objections, Defendant hereby responds that the**
15 **Note attached hereto as Exhibit "A" and the Pooling and Servicing Agreement**
16 **dated as of May 1, 2007 attached hereto as Exhibit "B" are responsive to this**
17 **request.**

18 5. Produce any and all Pooling and Servicing Agreement or other contractual
19 agreement or memo involved in the "securitization" of the subject promissory note. If
20 none, state "none."

21 **RESPONSE: Objection: Vague and ambiguous, calls for documents that are**
22 **protected from disclosure as confidential proprietary and/or trade secrets. Subject**
23 **to and without waiving any of the foregoing objections, Defendant hereby responds**
24 **that a copy of the relevant Pooling and Servicing Agreement dated as of May 1, 2007**
25 **is attached hereto as Exhibit "B".**

26 6. Produce the account and general ledger statement of each transaction
27 BANK OF NEW YORK MELLON, f/k/a BANK OF NEW YORK alleges Andrew C.
28 Bailey has made with BANK OF NEW YORK MELLON, f/k/a BANK OF NEW YORK
with respect to the promissory note alienable in this instant case, showing all receipts and
disbursements. If none, state "none".

29 **RESPONSE: Objection: Vague and ambiguous. Subject to and without waiving**
30 **any of the foregoing, Defendant hereby responds that it has assigned the rights to**
31 **service the Note, and accordingly no documents responsive to this request No. 6**
32 **exist.**

33 7. Produce all bills of sale and allonges and agreements illustrating where the
34 promissory note alienable in this instant case was sold or assigned for value, from
35 inception to the present. If none, state "none".

1 **RESPONSE: Objection: Vague and ambiguous, and assumes facts that are**
2 **unproven and not established conclusively as true and accurate. Subject to and**
3 **without waiving any of the foregoing objections, Defendant hereby responds that to**
4 **the extent any non-privileged documents responsive to this Request No. 7 exist, such**
5 **documents are produced herewith or were previously produced to the Plaintiff.**

6 8. Produce all insurance claim information and credit default claim or
7 settlement or payment records relative to any alleged default under the promissory note
8 alienable in this instant case. If none, state "none".

9 **RESPONSE: Objection: Vague and ambiguous, and assumes facts that are**
10 **unproven and not established conclusively as true and accurate. Subject to and**
11 **without waiving any of the foregoing objections, Defendant hereby responds that no**
12 **non-privileged documents responsive to this Request No. 8 exist.**

13 9. Produce all information pertaining to Federal TARP or other bailout
14 settlements or payments relative to any alleged default under the promissory note
15 alienable in this instant case. If none, state "none".

16 **RESPONSE: Objection: Vague and ambiguous, overbroad and unduly**
17 **burdensome, not likely to lead to the discovery of admissible evidence, calls for**
18 **documents that are protected from disclosure as confidential proprietary and/or**
19 **trade secrets, and assumes facts that are unproven and not established conclusively**
20 **as true and accurate. Subject to and without waiving any of the foregoing**
21 **objections, Defendant hereby responds that no non-privileged documents responsive**
22 **to this Request No. 9 exist.**

23 10. Produce all contracts, agreements, and/or memos illustrating that law firm
24 Gust Rosenfeld, PLC has authority to represent BANK OF NEW YORK MELLON, f/k/a
25 BANK OF NEW YORK in this instant case. If none, state "none".

26 **RESPONSE: Objection: Not likely to lead to the discovery of admissible evidence,**
27 **and calls for documents protected by the attorney-client and other applicable**
28 **privilege. Subject to and without waiving any of the foregoing objections,**
29 **Defendant hereby responds that no non-privileged documents responsive to this**
30 **Request No. 10 exist.**

31 11. Produce all assignments, contracts, agreements, and/or memos identifying
32 both the creditor and the current beneficiary in this instant case. If none, state "none".

33 **RESPONSE: Objection: Vague and ambiguous, overbroad and unduly**
34 **burdensome, not likely to lead to the discovery of admissible evidence, and calls for**
35 **documents that are protected from disclosure as privileged confidential proprietary**
36 **and/or trade secrets. Subject to and without waiving any of the foregoing**
37 **objections, Defendant hereby responds that to the extent any non-privileged**
38

1 documents responsive to this Request No. 11 exist, such documents are produced
2 herewith or were previously produced to the Plaintiff.

3 12. Produce all contracts, agreements, and/or memos illustrating that BANK
4 OF NEW YORK MELLON, f/k/a BANK OF NEW YORK or its attorney law firm Gust
5 Rosenfeld, PLC has authority to represent the creditor and/or the current beneficiary in
6 this instant case. If none, state "none".

7 **RESPONSE: Objection: Not likely to lead to the discovery of admissible evidence,**
8 **calls for documents protected by the attorney-client and other applicable privilege,**
9 **and assumes facts that are unproven and not established conclusively as true and**
10 **accurate. Subject to and without waiving any of the foregoing objections, Defendant**
11 **hereby responds that to the extent any non-privileged documents responsive to this**
12 **Request No. 12 exist, such documents are produced herewith or were previously**
13 **produced to the Plaintiff.**

14 13. Produce all contracts, agreements, and/or memos illustrating that BANK
15 OF NEW YORK MELLON, f/k/a BANK OF NEW YORK has authority to represent
16 CWALT, Inc., Alternative Loan Trust 007-HY4 Mortgage Pass-Through Certificates,
17 Series 2007-HY4, its assignees and/or successors in interest in this instant case. If none,
18 state "none".

19 **RESPONSE: Objection: Vague and ambiguous, calls for documents that are**
20 **protected from disclosure as confidential proprietary and/or trade secrets. Subject**
21 **to and without waiving any of the foregoing objections, Defendant hereby responds**
22 **that to the extent any non-privileged documents responsive to this Request No. 13**
23 **exist, such documents are produced herewith or were previously produced to the**
24 **Plaintiff.**

25 14. Produce all contracts, agreements, and/or memos illustrating that BANK
26 OF NEW YORK MELLON, f/k/a BANK OF NEW YORK has authority to represent the
27 bondholders or certificateholders of CWALT, Inc., Alternative Loan Trust 007-HY4
28 Mortgage Pass-Through Certificates, Series 2007-HY4, its assignees and/or successors in
interest in this instant case. If none, state "none".

RESPONSE: Objection: Vague and ambiguous, calls for documents that are
protected from disclosure as confidential proprietary and/or trade secrets. Subject
to and without waiving any of the foregoing objections, Defendant hereby responds
that to the extent any non-privileged documents responsive to this Request No. 14
exist, such documents are produced herewith or were previously produced to the
Plaintiff.

1 15. Produce all documents or data compilations that are in your possession,
2 custody or control that you may use in support of your action.

3 **RESPONSE: Defendant hereby responds that it has not yet identified the**
4 **documents that it intends to use in this adversary beyond those documents that are**
5 **produced or have already been produced.**

6 RESPECTFULLY SUBMITTED this 22nd day of March, 2010.

7
8 **BRYAN CAVE LLP**

9
10 By: 

11 Robert J. Miller

12 Kyle S. Hirsch

13 Two North Central Avenue, Suite 2200

14 Phoenix, Arizona 85004

15 Attorneys for Defendants

16 COPY of the foregoing served via email
17 this 22nd day of March, 2010, upon:


18 Andrew C. Bailey

19 2500 N. Page Springs Rd.

20 Cornville, AZ 86325

21 Email: andrew@cameronbaxter.net

22 Debtor in Pro Per

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BRYAN CAVE LLP
TWO NORTH CENTRAL AVENUE, SUITE 2200
PHOENIX, ARIZONA 85004-4406
(602) 364-7000

EX-99.1 2 efc7-1722_6225455ex991.htm

EXHIBIT 99.1

The Pooling and Servicing Agreement

Exhibit B

EXECUTION COPY

CWALT, INC.,
Depositor

COUNTRYWIDE HOME LOANS, INC.,
Seller

PARK GRANADA LLC,
Seller

PARK MONACO INC.,
Seller

PARK SIENNA LLC,
Seller

EMC MORTGAGE CORPORATION,
Seller

COUNTRYWIDE HOME LOANS SERVICING LP,
Master Servicer

and

THE BANK OF NEW YORK,
Trustee

POOLING AND SERVICING AGREEMENT

Dated as of May 1, 2007

ALTERNATIVE LOAN TRUST 2007-HY4

MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2007-HY4
