January 3, 2011

Judge Rejects WaMu Exit from Bankruptcy

US Bankruptcy Court Judge Mary F. Walrath rejected Washington Mutual Inc.'s plan to exit bankruptcy and repay more than $7 billion to creditors over the number of parties being protected from lawsuits by the plan. Speaking from Wilmington, Delaware, Judge Walrath said she agreed with the central feature of the plan which would end legal disputes between Washington Mutual, J Morgan Chase & Co and the Federal Deposit Insurance Corporation (FDIC) over who was responsible for the failure of Washington Mutual, the nation's largest bank.

However, the attorney for the bondholders who had initially opposed the exit plan, Evan Flaschen, said in a phone interview that it would be an easy thing for Washington Mutual to alter the plan to gain the judge's eventual approval. Sure enough, in a statement over email, WaMu said it would modify its plan according to the court's suggestions in order to obtain the approval of the judge.

September 26, 2008 was the day WaMu filed for bankruptcy, the day after its banking unit was taken over by regulators and sold to JPMorgan for $1.9 billion, a figure its shareholders contend was too low. They are also of the opinion that federal regulators were too quick to close down the bank that had 2,200 branches nationwide and held $188 billion in deposits. JPMorgan, which is based in New York, is the nation's second largest bank in terms of assets.

Provisions in the plan, called releases, protect those who receive them from being sued. These releases where given to parties that did not deserve them, according to the judge. The main hindrance that stopped the plan from being approved was the fact that the plan released the official creditors committee and trustees in the case from all legal liability. So although the court agreed with the global settlement, it found the releases to be unreasonable.

According to the plan, WaMu, JPMorgan and the FDIC agree to divide $10 billion in cash and tax refunds. WaMu said it would bring as much as $6.8 billion to creditors.

Bondholders of Washington Mutual's former bank initially did not approve of the plan because they say that it gave WaMu more of the tax refunds than the bank deserved to get. According to Flaschen, the bank bondholders lost about $1 billion because the FDIC agreed to split the tax refunds with WaMu instead of fighting to keep the money for creditors of the defunct bank.

If you or your company are considering bankruptcy as an option for overcoming your debt problems, give us a call at (813) 200-4133 for a free consultation.