

ATTORNEYS

Scott C. Budlong
Eva Marie Carney
Michael D. Mann

PRACTICE AREAS

Civil Litigation
Corporate and Business
Transactions
Regulation and
Compliance
Restructuring and
Bankruptcy
Securities Enforcement,
Internal and
Government
Investigations and
Criminal Defense

"Deconstructing *WaMu*: Managing Insider Trading Risks as an Ad Hoc Committee Member" by Eva Marie Carney, Michael Mann and Scott Budlong

January 6, 2012

The recent, unexpected rejection by a U.S. Bankruptcy Court of the modified plan of reorganization of Washington Mutual, Inc. on the ground of a "colorable claim" of insider trading has raised questions about the standards of conduct for members of ad hoc creditors committees during corporate reorganizations. Some commentators have suggested that the *WaMu* opinion stakes out significant new legal ground and will render service on ad hoc committees untenably risky.

In this memorandum, Richards Kibbe & Orbe LLP attorneys Eva Marie Carney, Michael D. Mann, and Scott C. Budlong, partners in the firm's Regulation and Compliance practice, explain that, while the language of *WaMu* is provocative, the analysis offered is not particularly groundbreaking. They deconstruct the opinion, yielding an approach to analyzing duties, materiality, nonpublic information, and the ability to trade that can be constructively applied by ad hoc committee members determined to avoid the type of attention paid to the noteholders who participated in the *WaMu* ad hoc committee.

[Download memorandum](#)