

Finding Investor Restrictions on Loan Modifications



CT FAIR HOUSING CENTER

Pooling and Servicing Agreements (PSAs)

- ❑ Agreement formed at creation of mortgage pool
 - Details the servicer's duties to the pool's investor
- ❑ Most are public documents
 - Filed with the SEC along with other documents intended for investor restrictions
- ❑ Not proprietary or confidential
- ❑ Contain any and/or all investor restrictions

PSAs and HAMP

- ❑ HAMP is a servicer-based program. Servicers must modify eligible loans.
- ❑ But...non-GSE investors may have a contractual right to object to a HAMP modification
 - “There’s an investor restriction”
 - “Investor isn’t participating”
- ❑ Evaluate the claim by reviewing the PSA
 - There might be no restriction (e.g., permits servicer to modify loans in default), or
 - The restriction isn’t as broad as claimed.

Investor Names

- ❑ Trustees for mortgage pools or the pools themselves are often named as plaintiffs in foreclosure actions. Check the summons or the affidavit of debt.
 - US Bank N.A. as Trustee for [Investor name]
- ❑ If not in foreclosure or you haven't received the affidavit of debt, you can send a "QWR" to the servicer
 - Response time = 60 business days.

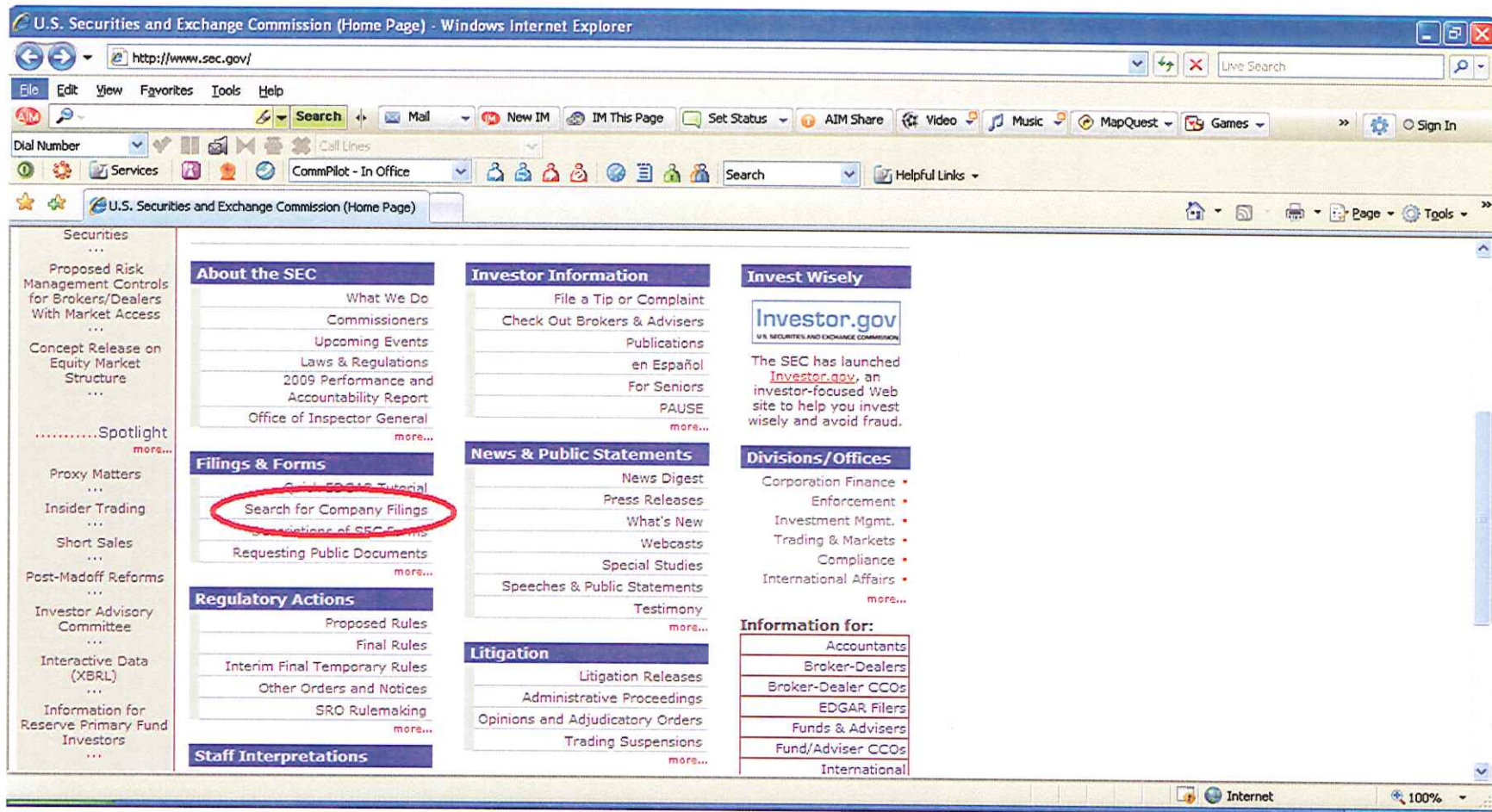
Finding a PSA via SEC.gov

(a/k/a EDGAR)

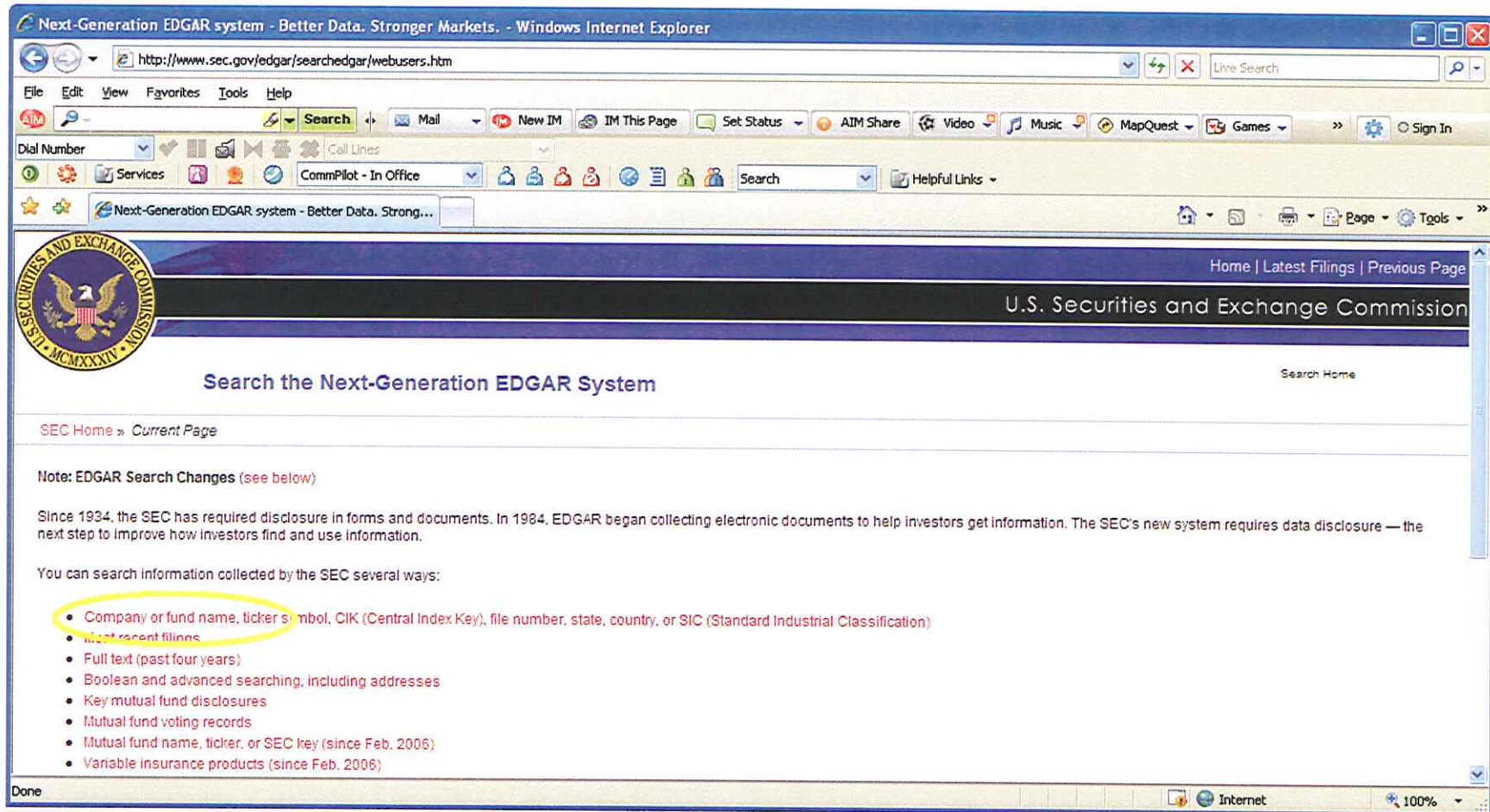
Sample Plaintiff (includes Investor Name):
"HSBC Bank USA, National Association, as
Trustee for **WFASC Home Equity Asset-
Backed Certificates, Series 2007-1**"

Servicer = Wells Fargo

1. Go to www.sec.gov and click on “Search for Company Filings” under “Filings & Forms”



2. Click on the top listed link – the one that begins with “Company or fund name”



3. Under “Company Name,” enter part of what follows the “Trustee for” and click on “Contains”

HSBC Bank USA, National Association, as Trustee for WFASC Home Equity Asset-Backed Certificates, Series 2007-1

Company Search - Mozilla Firefox

http://www.sec.gov/edgar/searchedgar/companysearch.html

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Company Search

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U.S. Securities and Exchange Commission

Search Home

SEC Home > Search the Next-Generation EDGAR System > Current Page

Note: EDGAR Search Changes (see below)

From this page you can search for company information. Company filings are available starting in 1994. See also [full text search](#).

Enter your search information.

Company name: ☐ Starts with ☒ Contains

or [CIK](#) or Ticker Symbol:

Tickers for 10,000 largest publicly traded companies

or File Number:

State:

Country:

and/or [SIC](#):

and Ownership Forms 3, ☐ Include ☒ Exclude ☐ Only

Helpful Information

- If your search is "John Smith" and you didn't get the results you expected, please try "Smith John."
- The SEC does not require companies that are raising less than \$1 million under [Rule 504 of Regulation D](#) to be "registered" with the SEC, but these companies are required to file a [Form D](#) with the SEC. The Form D serves as a brief notice that provides information about the company and the offering.

Done

4. Find the particular trust you are looking for and click on the “CIK” link.

HSBC Bank USA, National Association, as Trustee for WFASC Home Equity Asset-Backed Certificates, Series 2007-1

The screenshot shows a Mozilla Firefox browser window displaying the SEC EDGAR search results. The address bar shows the URL: <http://www.sec.gov/cgi-bin/browse-edgar?company=Home+Equity+Asset-Backed&match=contains&CIK=&file>. The search results are for companies with names matching "HOME EQUITY ASSET-BACKED". The results table lists 10 items, each with a CIK number, company name, and state/country.

Search Results

SEC Home > Search the Next-Generation EDGAR System > Company Search > Current Page

Companies with names matching "HOME EQUITY ASSET-BACKED"
Click on [CIK](#) to view company filings

Items 1 - 40

CIK	Company	State/Country
0001356242	ACE Securities Corp. Home Equity Loan Trust, Series 2006-SL2 Asset Backed Pass-Through Certificates SIC: 6189 - ASSET-BACKED SECURITIES	NC
0001258736	ASSET BACKED SEC CORP HOME EQUITY LN TR SER 2003HE4 SIC: 6189 - ASSET-BACKED SECURITIES	NY
0001122951	ASSET BACKED SEC CORP HOME EQUITY LOAN SERIES 2000 LB1 SIC: 6189 - ASSET-BACKED SECURITIES	NY
0001075909	ASSET BACKED SEC CORP HOME EQUITY LOAN TR 1998-LB1 SIC: 6189 - ASSET-BACKED SECURITIES	NY
0001091605	ASSET BACKED SEC CORP HOME EQUITY LOAN TR 1999-LB1 SIC: 6189 - ASSET-BACKED SECURITIES	NY
0001137274	ASSET BACKED SEC CORP HOME EQUITY LOAN TR 2001-HE1 SIC: 6189 - ASSET-BACKED SECURITIES	NY
0001160309	ASSET BACKED SEC CORP HOME EQUITY LOAN TRUST SERIES 2001 HE3 SIC: 6189 - ASSET-BACKED SECURITIES	NY
0001272329	ASSET BACKED SEC CORP HOME EQUITY LOAN TRUST SERIES 2003 HE7 SIC: 6189 - ASSET-BACKED SECURITIES	NY
0001260617	ASSET BACKED SECURITIES CORP HOME EQUITY SER 2003-HE5 SIC: 6189 - ASSET-BACKED SECURITIES	NY

Done

5. Under “Filings,” click on each 8-K until you find the Pooling and Servicing Agreement.

Search Results - Mozilla Firefox

File Edit View History Bookmarks Tools Help

http://www.sec.gov/cgi-bin/browse-edgar?action=getcompany&CIK=0001393976&owner=exclude&count=

attys Connecticut General ... Dinkytown jud M title ins calculator w w-law zillow

Search Results

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U.S. Securities and Exchange Commission

Search Results

Search the Next-Generation EDGAR System

SEC Home > Search the Next-Generation EDGAR System > Company Search > Current Page

Wells Fargo Home Equity Asset-Backed Securities 2007-1 Trust CIK#: 0001393976 Business Address: 7485 NEW HORIZON WAY, FREDERICK MD 21703, 3018468881 Mailing Address: 7485 NEW HORIZON WAY, FREDERICK MD 21703

(see all company filings)

SIC: 6189 - ASSET-BACKED SECURITIES
State location: MD | State of Inc.: DE | Fiscal Year End: 1231
(Assistant Director Office No 5)

Filter Results: Filing Type: Prior to: (YYYYMMDD) Ownership? ☐ include ☒ exclude ☐ only Limit Results Per Page: 40 Entries Search Show All

Items 1 - 18 RSS Feed

Filings	Format	Description	Filing Date	File/Film Number
10-K	Documents	Annual report [Section 13 and 15(d), not S-K Item 405] Acc-no: 0001056404-08-000844 (34 Act) Size: 115 KB	2008-03-27	333-131594-04 08713459
15-15D	Documents	Suspension of duty to report [Section 13 and 15(d)] Acc-no: 0001056404-08-000400 (34 Act) Size: 4 KB	2008-01-25	333-131594-04 08550464
10-D	Documents	Asset-Backed Issuer Distribution Report [Section 13 or 15(d) of the Securities Exchange Act of 1934] Acc-no: 0001056404-08-000137 (34 Act) Size: 189 KB	2008-01-04	333-131594-04 08511967
10-D	Documents	Asset-Backed Issuer Distribution Report [Section 13 or 15(d) of the Securities Exchange Act of 1934] Acc-no: 0001056404-07-003801 (34 Act) Size: 175 KB	2007-11-29	333-131594-04 071273671
10-D	Documents	Asset-Backed Issuer Distribution Report [Section 13 or 15(d) of the Securities Exchange Act of 1934] Acc-no: 0001056404-07-003458 (34 Act) Size: 167 KB	2007-11-02	333-131594-04 071209834

http://www.sec.gov/index.htm

...you find one that has “Pooling and Servicing Agreement” listed as an exhibit (usually Form 4.1).

EDGAR Filing Documents for 0000914121-07-001022 - Mozilla Firefox

File Edit View History Bookmarks Tools Help

http://www.sec.gov/Archives/edgar/data/1393976/000091412107001022/0000914121-07-001022-index.htm

attys Connecticut General ... Dinkytown jud M title ins calculator TWC w w-law zillow

EDGAR Filing Documents for 000091...

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U.S. Securities and Exchange Commission

Filing Detail

Search the Next-Generation EDGAR System

SEC Home > Search the Next-Generation EDGAR System > Company Search > Current Page

Form 8-K - Current report

Filing Date
2007-04-13

Accepted
2007-04-13 15:42:45

Documents
5

Period of Report
2007-03-30

Filing Date Changed
2007-04-13

Items
Item 8.01: Other Events
Item 9.01: Financial Statements and Exhibits

SEC Accession No. 0000914121-07-001022

Document Format Files

Seq	Description	Document	Type	Size
1	CURRENT REPORT	we8220839-8k.bt	8-K	7822
2	UNDERWRITING AGREEMENT	we8220839-ex1_1.bt	EX-1.1	110242
3	POOLING AND SERVICING AGREEMENT	we8220839-ex4_1.bt	EX-4.1	939013
4	MORTGAGE LOAN PURCHASE AGREEMENT	we8220839-ex10_1.bt	EX-10.1	14158
5	INTEREST RATE SWAP AGREEMENT	we8220839-ex10_2.bt	EX-10.2	126486
	Complete submission text file	0000914121-07-001022.bt		1199338

Wells Fargo Home Equity Asset-Backed Securities 2007-1 Trust (Filer) CIK: 0001393976 (see all company filings)

State of Incorp.: DE | Fiscal Year End: 1231

Type: 8-K | Act: 34 | File No.: 333-131594-04 | Film No.: 07765861

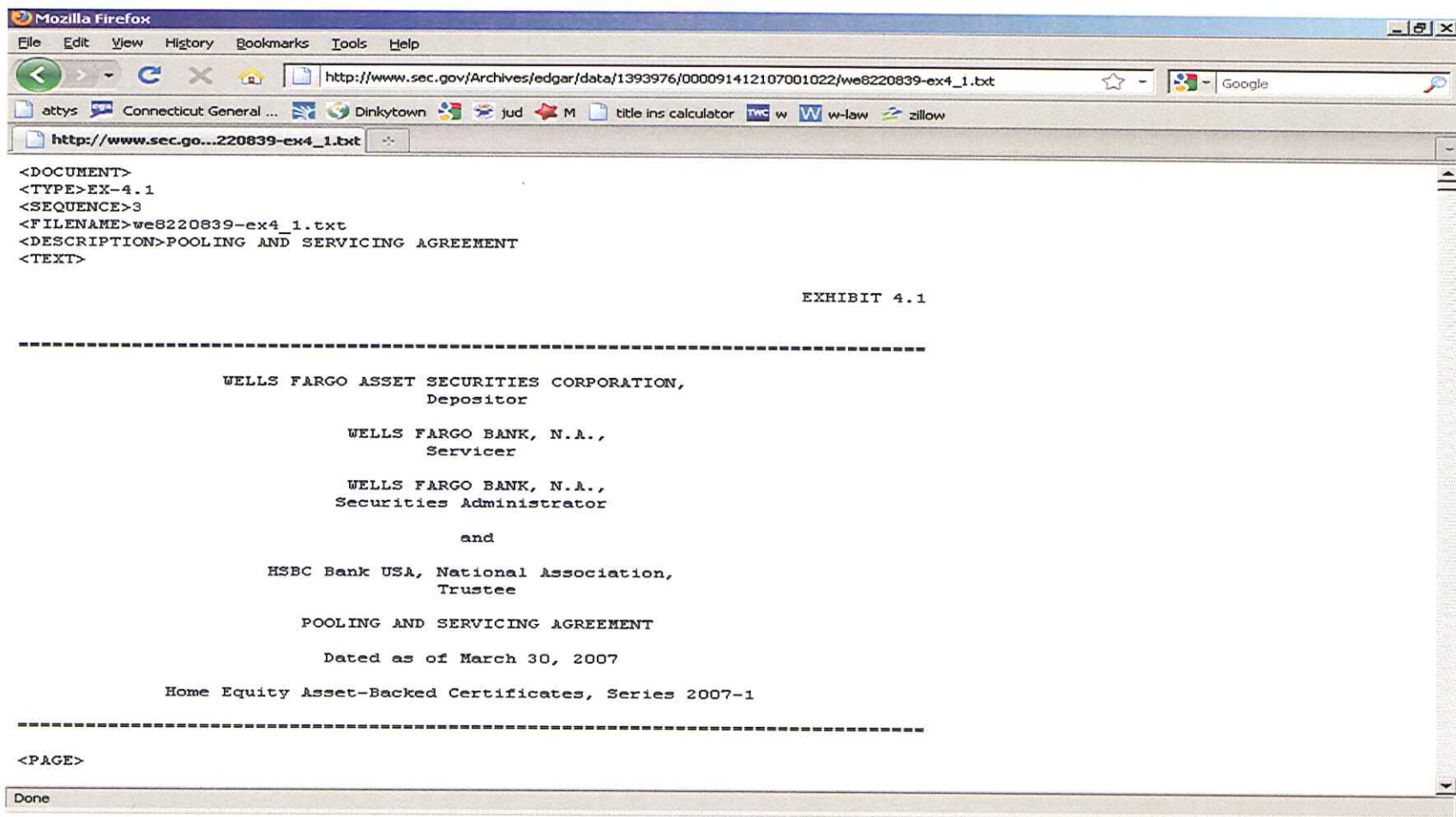
Business Address
7485 NEW HORIZON WAY
FREDERICK MD 21703
3018468881

Mailing Address
7485 NEW HORIZON WAY
FREDERICK MD 21703

Done

6. Clicking on the .txt link will bring you to the PSA. The first page should list the servicer.

HSBC Bank USA, National Association, as Trustee for WFASC Home Equity Asset-Backed Certificates, Series 2007-1



If EDGAR doesn't work...

- Google the Loan Number along with "Pooling and Servicing Agreement"
 - This might also help you find the name of the Trust
- Google the name of the Trust
- File a discovery request (if you're in litigation)

Once You've Found The PSA

- It's long. Use Search/Find – Ctrl+F on PCs
 - Terms like “modify,” “waive,” and “forgive” should help you find the relevant section – it's usually Section 3.01
 - Alleged restriction:

“...the Servicer may waive, modify or vary any term of any Mortgage Loan [which is in default or for which default is reasonably foreseeable] or consent to the postponement of strict compliance with any such term or in any manner grant indulgence to any Mortgagor if in the Servicer's reasonable determination such waiver, modification, postponement or indulgence is not materially adverse to the Certificateholders...”

Other Helpful Documents Besides PSAs

- ❑ Prospectus Supplement (424B5) from the Filings on Slide 10
 - Not itself a contract with the servicer
 - But it may describe restrictions on loan modifications in easier-to-read language
- ❑ Investor guidelines are arguably not contractual restrictions on loan modifications
 - They could be restrictions if the PSA provides for binding investor guidelines (uncommon)

Final Note: Reasonable Efforts

- Even if there are contractual restrictions preventing a HAMP-participating servicer from modifying a loan, the servicer must:
 - “make reasonable efforts to remove any prohibitions and obtain waivers or approvals from all necessary parties in order to carry out any modification under HAMP”
- Eff. June 1- has a letter been sent?