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UNITED STATES TAX COURT

GWA, LLC,
GEORGE A. WEISS, Tax Matters Partner,

Petitioner,

v.

COMMISSIONER OF INTERNAL
REVENUE,

Respondent.

Docket No.

6981-19

**PETITION FOR READJUSTMENT OF PARTNERSHIP ITEMS
UNDER CODE SECTION 6226**

GWA, LLC, by and through George A. Weiss, Tax Matters Partner (“petitioner”) hereby petitions for readjustment of the partnership items and penalties set forth by respondent, Commissioner of Internal Revenue (“respondent”) in his Notices of Final Partnership Administrative Adjustment for the years ended December 31, 2009 and December 31, 2010. As a basis for this case, petitioner alleges as follows:

1. **GWA.** Petitioner is GWA, LLC (the “Partnership”), a Connecticut limited liability company, by and through George A. Weiss, Tax Matters Partner. The Partnership is treated as a partnership for U.S. federal income tax purposes, and subject to the TEFRA Unified Partnership Procedures of section 6221-6234¹

¹ All “section” references are to the Internal Revenue Code of 1986 (26 U.S.C.) (I.R.C.), as amended and in effect for the years in issue, unless otherwise stated.

for the tax years ended 2009 and 2010. The Partnership's principal place of
Address Used By Court
business and mailing address is One State Street, 20th Floor, Hartford, CT, 06103-3100. The Partnership timely filed its Forms 1065, U.S. Returns of Partnership Income, for 2009 and 2010 with the Internal Revenue Service in Ogden, Utah.

2. **Tax Matters Partner.** George A. Weiss ("Mr. Weiss") is the tax matters partner of the Partnership for the years at issue. Mr. Weiss's current address is Tax Matters Partner, c/o GWA, LLC, One State Street, 20th Floor, Hartford, CT, 06103-3100.

2.a. Mr. Weiss is also a notice partner of the Partnership within the meaning of section 6231(b)(8). Mr. Weiss's State of legal residence is Florida.

2.b. Mr. Weiss has an ownership interest in the Partnership and has an interest in the outcome of this matter within the meaning of section 6226(d).

2.c. The tax matters partner did not file a petition for readjustment of partnership items within the period specified in section 6226(a).

3. **Notices of Final Partnership Administrative Adjustment.** The Notices of Final Partnership Administrative Adjustment, each of which is dated December 3, 2018, were issued by the Appeals Office of the Internal Revenue Service at Philadelphia, Pennsylvania. The FPAAs propose adjustments to partnership items of the Partnership for 2009 (the "2009 FPAAs") and 2010 (the "2010 FPAAs") (collectively, the "FPAAs"). Copies of the

FPAAs are attached as Exhibit A. Pursuant to Rule 241(h) of the Tax Court Rules of Practice and Procedure, petitioner is filing this petition seeking readjustments with respect to the FPAAs.

4. **Amounts in Dispute.** In the 2009 FPAA, respondent adjusted the Partnership's ordinary income in the amount of \$509,966,645, its portfolio income in the amount of \$8,838,781, and its portfolio interest income in the amount of \$1,925,846. In the 2010 FPAA, respondent adjusted the Partnership's ordinary income in the amount of \$3,300,827 and its portfolio income in the amount of \$3,327,781. All of the amounts in the FPAAs are in dispute. Respondent also imposed accuracy-related penalties under section 6662, all of which are also in dispute. In the FPAAs, respondent made a number of overlapping alternative adjustments, all of which are in dispute.

5. **Assignments of Error.** The adjustments set forth in the FPAAs are based on the following errors:

5.a. Respondent erred in determining that derivative contracts between the Partnership and Deutsche Bank (the "Contracts") were neither contracts subject to section 1234A nor options subject to section 1234.

5.b. Respondent erred in attributing to the Partnership direct ownership of securities positions referenced by the Contracts (the "Reference Portfolios").

5.c. Respondent erred in attributing to the Partnership income, gains and losses that the Partnership would have realized if the Partnership had directly owned and traded securities referenced by the Reference Portfolios.

5.d. Respondent erred in creating items of income and deduction that were not realized by either Deutsche Bank or the Partnership and attributing such created items to the Partnership.

5.e. Respondent erred in failing to treat each Contract termination that occurred in 2009 and 2010 as a sale or exchange of a capital asset, as required by section 1234 or section 1234A.

5.f. Respondent erred in determining, under various alternative theories, that, if the Partnership did not own and directly trade positions referenced by the Reference Portfolios, then changes in security positions referenced by the Reference Portfolios were discrete sales or exchanges of all or a portion of the Contracts under section 1001.

5.g. Respondent erred in determining that the Partnership was required to mark to market under section 475 any security positions imputed to the Partnership under respondent's alternative theories.

5.h. Respondent erred in determining that the Partnership was subject to an election under section 475(f).

5.i. Respondent was arbitrary, capricious, and unreasonable and

erred in determining that his primary and alternative adjustments constitute a change in the Partnership's accounting method.

5.j. Respondent was arbitrary, capricious, and unreasonable and erred in determining that reporting each Contract termination as a sale or exchange of a capital asset under section 1001 was an improper method of accounting.

5.k. Respondent was arbitrary, capricious, and unreasonable and erred in determining that attributing ownership of securities to the Partnership and correspondingly creating thousands of imputed items of income, gain, loss, and expense constituted a change in the Partnership's accounting method.

5.l. Respondent was arbitrary, capricious, and unreasonable and erred in determining that requiring the Contracts or any other securities to be marked to market constituted a change in the Partnership's accounting method.

5.m. Because none of respondent's adjustments constituted a change in accounting method, respondent erred in determining a section 481 adjustment in 2009.

5.n. Based on the foregoing errors, respondent erred in adjusting section 734(b) basis adjustments.

5.o. Respondent erred in asserting accuracy-related penalties under section 6662.

5.p. Respondent erred in proposing a series of alternative

adjustments as set forth on pages ten through twelve of the 2009 FPAA and pages nine and ten of the 2010 FPAA, for the same reasons as explained in paragraphs 5.a through 5.o of this petition.

6. **Facts Relied Upon**. The facts upon which the Partnership relies as the basis for this case are as follows:

The Partnership

6.a. The Partnership was formed in 1996. Since its formation, the Partnership has been classified as a partnership for U.S. federal income tax purposes.

6.b. At all relevant times, the Partnership's activities were limited to holding certain nonmarketable securities positions (including the Contracts); holding interests in subsidiary entities (including entities that were classified for U.S. federal income tax purposes as partnerships and disregarded entities); receiving contributions from, and making distributions to, its partners; and investing its equity either directly or through wholly or partially owned subsidiary entities. At no relevant time did the Partnership trade securities for its own account.

6.c. At all relevant times, the partners of the Partnership consisted of Mr. Weiss, persons and entities related to Mr. Weiss, and principals or employees of subsidiary entities that were engaged in investment advisory and

securities trading business conducted by the Partnership's wholly or partially owned subsidiary entities.

Weiss Multi-Strategy Advisers LLC

6.d. At all relevant times, Weiss Multi-Strategy Advisers LLC ("Advisers") was a partnership in which the Partnership held the majority of the outstanding interests.

6.e. Advisers' principal activity was developing investment strategies and implementing them on behalf of other persons. Advisers did not invest its own equity, but served as an investment advisor with the authority to trade investments owned by others.

OGI Associates, LLC

6.f. OGI Associates, LLC ("OGI") was formed in 1994. OGI is a limited liability company organized under the laws of the State of Connecticut. Since June 1, 1998, the Partnership has owned all of OGI's membership interests. Since June 1, 1998, OGI has been classified as a disregarded entity for U.S. federal income tax purposes.

6.g. While OGI is classified as a disregarded entity for purposes of Treas. Reg. § 301.7701-2, it is a regarded entity for legal and commercial purposes. It contracts in its own name and for its own account. It maintained separate bank and investment accounts and traded securities in its own name and

for its own account.

6.h. OGI has never been a dealer in securities. Since June 1, 1998, OGI has actively conducted a trade or business of trading in securities.

The Barrier Option Contracts

6.i. Between 2003 through 2006, the Partnership entered into the Contracts with Deutsche Bank. The Contracts were bilateral contracts between the Partnership and Deutsche Bank. Under the Contracts, the Partnership made a single cash payment to Deutsche Bank. In exchange, on the termination date of the Contract, Deutsche Bank agreed to make a single payment to the Partnership in an amount (which might have been zero) determined in part by reference to cumulative changes in the value of a notional portfolio of reference securities (i.e., the Reference Portfolios).

6.j. Specifically, the Partnership and Deutsche Bank entered into a Contract on April 15, 2003, which was terminated on April 30, 2009. The Partnership and Deutsche Bank entered into four additional Contracts on December 12, 2006, which were terminated in May of 2010.

6.k. A principal benefit of entering into the Contracts, as compared to directly buying and selling securities, is that various margin limitations imposed by regulations governing extensions of credit by financial institutions did not apply. Thus, the amount of leverage that Deutsche Bank could provide through the

Contracts enabled the Partnership to achieve returns on its equity that could not have been produced by direct investment and ownership of securities.

6.l. The regulations also prohibited financial institutions from financing the acquisition of securities with nonrecourse margin loans. Leverage provided through the Contracts, however, was nonrecourse, limiting the Partnership's downside risk and providing an additional benefit of entering into the Contracts, as compared to directly buying and selling securities.

6.m. For each Contract, the Partnership was required to make a payment of only ten percent of the initial notional value of the Reference Portfolio. Thus, the Contracts allowed the Partnership to leverage its equity investment in the Contracts, while limiting its downside risk to that amount.

6.n. The economic leverage that Deutsche Bank provided to the Partnership under a Contract was not enforceable as a debt of the Partnership to Deutsche Bank. The Partnership had no contractual obligation to make any additional payment to Deutsche Bank.

6.o. No Contract required Deutsche Bank to hold physical securities that corresponded to the securities referenced by the Reference Portfolios. No Contract required Deutsche Bank to pledge any securities to secure Deutsche Bank's obligation to the Partnership under a Contract.

6.p. The Contracts were "cash settled," in that any obligation of

Deutsche Bank on termination of a Contract could be satisfied only by paying cash in the amount of the cash settlement value determined under the Contract.

Deutsche Bank did not have the right to settle any Contract by delivery of securities. The Partnership had no right to require Deutsche Bank to settle a Contract by delivering securities.

6.q. The cash settlement value of the Contracts was not the same as the value of the underlying positions referenced by the Reference Portfolios. Rather, the cash settlement value reflected, *inter alia*, the appreciation in the value of the underlying positions referenced by the Reference Portfolios.

6.r. If the cash settlement value of a Contract was positive on the termination date, Deutsche Bank was required to pay the cash settlement value to the Partnership. If Deutsche Bank failed to make payment, the Partnership's recourse was to sue for payment as a general unsecured creditor of Deutsche Bank.

6.s. If the cash settlement value was negative, the Contract would expire and the Partnership would not receive (or pay) anything.

6.t. On settlement of a Contract, the Partnership would not (and did not) receive sufficient cash to replicate the Reference Portfolios.

6.u. Each Contract had a barrier provision, which provided that the Contract would automatically terminate if the fair market value of the positions referenced by the Reference Portfolio fell below ninety-four percent of the initial

notional value of the Reference Portfolio.

6.v. Under the Contracts, Deutsche Bank had the right to select an investment advisor to manage the composition of the securities positions referenced by the Reference Portfolios. Deutsche Bank indirectly retained Advisers to manage the composition of the securities positions referenced by the Reference Portfolios. Any physical securities resulting from managing the composition of the Reference Portfolios were allocated to Deutsche Bank accounts in which the Partnership had no right or interest.

6.w. Advisers had no right to require that Deutsche Bank hold physical positions that corresponded to the securities referenced by the Reference Portfolios.

6.x. Deutsche Bank created and maintained a list of securities that could not be referenced by the Reference Portfolios (the "Restricted List"). Deutsche Bank updated the Restricted List during the terms of the Contracts. Deutsche Bank enforced compliance with the Restricted List during the terms of the Contracts. The Restricted List would not have been necessary if the Partnership had maintained a prime brokerage account with Deutsche Bank and traded any securities it owned through such an account.

6.y. Deutsche Bank also required an investment advisory agreement (the "IAA") that imposed detailed restrictions on the types and amounts of

securities that could be referenced by the Reference Portfolio (the “Investment Guidelines”). The Investment Guidelines governed, for example, the types of positions in securities that could be referenced by the Reference Portfolios, the necessary diversification in the Reference Portfolios from an industry, issuer, and sector standpoint, and the balance between long and short positions in equity securities in the Reference Portfolios.

6.z. Deutsche Bank enforced compliance with the Investment Guidelines during the terms of the Contracts.

6.aa. The Restricted List and Investment Guidelines allowed Deutsche Bank to manage its regulatory compliance obligations and market risk.

6.bb. The Partnership did not hold title to any of the securities referenced by the Reference Portfolios. The Partnership had no right to vote any of the securities referenced by the Reference Portfolios.

6.cc. Deutsche Bank had the right to sell, lend, pledge, or hypothecate any position referenced by the Reference Portfolios that Deutsche Bank in fact owned at any time, without any obligation to replace the position. The Partnership had no authority to require Deutsche Bank to take any action with regard to any securities referenced by the Reference Portfolios that Deutsche Bank in fact owned.

6.dd. The Partnership could not trade, transfer, pledge, or

hypothecate the Contracts without Deutsche Bank's prior, written consent except where the Partnership was amalgamated with, consolidated with, merged with or into, or transferred substantially all of its assets to, another entity.

The Partnership's Financial Reporting

6.ee. The Partnership's audited financial statements reflected each Contract as a separate asset labeled as an option. The Partnership's books and records specifically identified the Contracts as the Partnership's assets.

6.ff. The Partnership's audited financial statements listed the Contracts as securities that were not readily marketable. The Partnership's audited financial statements stated that the Contracts could not be offered or sold.

6.gg. The Partnership's audited financial statements and books and records did not include as assets any securities referenced by the Reference Portfolios.

The Partnership's and OGI's Tax Reporting

6.hh. The Contracts were terminated in 2009 and 2010. On the Partnership's federal income tax returns for 2009 and 2010, the Partnership reported capital gain under section 1001 equal to the excess of the cash settlement payment received from Deutsche Bank over the Partnership's basis in such Contract.

6.ii. The Partnership is a person within the meaning of section

7701(a)(1). OGI is a person within the meaning of section 7701(a)(1).

6.jj. At all relevant times, OGI has directly engaged, in its own name and for its own account, in a trade or business of trading in securities.

6.kk. As a disregarded entity, OGI was not required to file a separate federal income tax return.

6.ll. Section 475(f) was enacted in 1997 to allow a person who is engaged in the business of trading securities to elect to report trading gains and losses on securities held at the end of the year by marking them to market. In 1998, OGI was a person engaged in a securities trading business, and it desired to report its trading gains and losses under the mark-to-market method.

6.mm. Under the guidance available at the time, a trader desiring to make a mark-to-market election under section 475 was required to attach an election statement to its income tax return.

6.nn. Because OGI was a person entitled to make a mark-to-market election but was not required to file a separate income tax return, OGI included its election on the Partnership's Form 1065 (U.S. Return of Partnership Income) for the 1998 tax year. The election states "OGI, LLC is engaged in a trade or business as a trader in securities and elects to have Internal Revenue Code Section 475(f)(1) apply to such trade or business."

6.oo. Since OGI made its election under section 475(f)(1), it has

applied the mark-to-market method of accounting to its trading activities.

6.pp. The Partnership has never engaged in the trade or business of trading securities. The Partnership was not eligible to make an election under section 475(f)(1). The Partnership has never marked to market any of its securities.

6.qq. The limitations period under section 6501 has expired for all of the Partnership's tax years prior to 2009, including 2003, 2004, 2005, 2006, 2007, and 2008.

6.rr. Respondent's adjustments change the lifetime income of the Partnership and its partners.

6.ss. Respondent's attribution to the Partnership of direct ownership of securities positions referenced by the Reference Portfolios could not legally occur under various margin limitations governing extensions of credit by financial institutions.

Respondent's Assertion of Penalties

6.tt. The Partnership's tax treatment of the Contracts is supported by substantial authority.

6.uu. The Partnership's tax treatment of the Contracts has a reasonable basis.

6.vv. The Partnership adequately disclosed the relevant facts

affecting the tax treatment of the Contracts on its partnership tax returns or statements attached to its partnership tax returns.

6.ww. The Contracts were not tax shelters under section 6662(d)(2)(C)(ii). The avoidance or evasion of federal income tax was not a significant purpose of the Partnership's investments in the Contracts.

6.xx. No penalty can apply to any amount attributable to an adjustment under section 481.

6.yy. Respondent did not comply with section 6751.

WHEREFORE, the Partnership requests that this Court hear this case and determine that:

1. The Partnership correctly reported all partnership items of the Partnership on its 2009 and 2010 tax returns;
2. The adjustments to the partnership items of the Partnership as determined by respondent for 2009 and 2010 are erroneous;
3. No adjustment of any partnership items is appropriate for tax years 2009 and 2010;
4. No section 6662 penalty is warranted on any underpayment for 2009 and 2010; and
5. The Partnership is entitled to such other and further relief as this Court deems just and proper.


Respectfully submitted,

 ADMITTED

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Tax Court Bar No: DS0248
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 ADMITTED

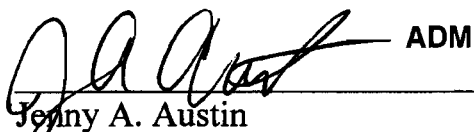
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Counsel for GWA, LLC and
George A. Weiss, Tax Matters Partner

Dated: May 1, 2019

Exhibit A



**Department of the Treasury
Internal Revenue Service**

Appeals Office
701 Market Street
Suite 2200
Philadelphia, PA 19106

GEORGE A WEISS,
TAX MATTERS PARTNER of
GWA LLC
ONE STATE STREET 20TH FLOOR
HARTFORD CT 06103-3100

Date: DEC 03 2018

Person to contact:
Michael A Anello
Employee ID number: 1000212274
Telephone: 267-941-7022
Fax: 267-941-7186
Partnership ID number:
[REDACTED]
Tax year ended:
December 31, 2009

7015 1520 0002 0554 8571

TMP Notice Of Final Partnership Administrative Adjustment

Dear Tax Matters Partner:

The law requires us to send a Notice of Final Partnership Administrative Adjustment (FPAA) to the partnership named above, for the tax year listed above, and to each partner who is entitled to receive this letter.

We determined that adjustments are necessary to certain partnership items for the partnership and tax year listed above. You are receiving this letter because you were identified as the Tax Matters Partner (TMP) for this tax year. Because we made adjustments to these items on the partnership return, these adjustments will flow to the partners' returns as well. The enclosed schedule of adjustments outlines the changes. We will provide a similar letter to those partners entitled to receive it.

The adjustments to the partnership items on the partnership return may include partnership level determinations on penalties and additions to tax that relate to adjustments to partnership items. Form 870-PT, *Agreement for Partnership Items and Partnership Level Determinations as to Penalties, Additions to Tax, and Additional Amounts*, contains the adjustments to the partnership return.

What you need to do

If you agree with the adjustments and want to bind the non-notice partners

As the TMP, you can enter into an agreement that binds yourself and non-notice partners to the treatment of the partnership items as shown on the enclosed schedule of adjustments. We will also send you a separate letter as a partner (if you are entitled to one), which you can sign if you only want to agree to your share of the adjustments and not bind the non-notice partners. For this purpose, a non-notice partner is a direct partner with less than a one percent interest in a partnership having more than 100 direct partners. You must add the following statement above the signature blocks on the Form 870-PT:

The undersigned tax matters partner is signing this offer on behalf of himself (herself or itself) and all other partners whom he (she or it) has the authority to bind; a final agreement resulting from the co-signature of the Commissioner of Internal Revenue will be binding on all such other partners.

If you want to bind yourself and the non-notice partners to the partnership item adjustments, add the language above and sign and return the enclosed Form 870-PT within 150 days of the date of this letter.

We will send you a separate letter as a partner (if you are entitled to one), which you can sign if you only want to agree to your share of the adjustments and not bind the non-notice partners.

When you sign Form 870-PT to bind the non-notice partners, you are:

- Agreeing to the partnership item adjustments
- Agreeing that the non-notice partners are subject to any partnership level determinations as to penalties, additions to tax, and additional amounts that relate to adjustments to partnership items
- Agreeing that the non-notice partners are subject to additional tax and interest resulting from their share of the adjustments to the partnership return
- Waiving the rights of the non-notice partners to participate in any administrative or judicial proceedings affecting the adjustment of partnership items or partnership level determinations as to penalties, additions to tax, and additional amounts for the tax year in question.

This agreement is binding only if you sign and return Form 870-PT, and we sign on behalf of the Commissioner of the Internal Revenue Service. When we sign the agreement form, the one-year extension of the period of limitations on assessments will begin under Internal Revenue Code Section 6229(f).

Within one year of that agreement date, all impacted non-notice partners will receive a final report as to what adjustments we made to their individual, partnership, or corporate returns with a total due or refund amount, including penalties and interest (if applicable).

Once both parties sign the agreement, non-notice partners can't file a claim to:

- Change the items in question
- Claim a refund or credit based on a readjustment

However, they can file a claim to raise:

- Math errors
- Partner level defenses to partnership level determinations of penalties

If you don't agree with the adjustments

As the partnership TMP, if you want to contest the adjustments in court, you must file a petition within 90 days from the date of this letter. During this 90-day period, no other partner can file a petition for judicial review.

You can file your petition for readjustment of partnership items with one of the following courts:

- United States Tax Court
- United States Court of Federal Claims
- District Court of the United States, in the district of the partnership's principal place of business

A petition the TMP files in the first 90 days precludes all other actions and covers all partners still in the proceeding. If the TMP doesn't file a petition by the 90th day from the date we mailed the FPAA, any partner entitled to receive this letter, or any 5 percent group, can petition one of these courts. A "5 percent group" includes any group of partners who together have an interest of five percent or more in profits of the partnership. Five percent groups must file the petition after the 90th day, but on or before the 150th day from the date we mailed the FPAA to the TMP. If more than one petition is filed in Tax Court, the first petition filed will go forward. All other petitions (even those filed earlier in one of the other courts) will be dismissed. If no one files a petition in Tax Court, the first petition filed in one of the other courts will go forward and subsequent petitions will be dismissed. All partners still subject to the partnership proceeding will be parties to the petition that is not dismissed. Petitions filed with the United States Tax Court must be mailed to:

United States Tax Court
400 Second Street, NW
Washington, DC 20217

When you mail the petition, you must attach a copy of this letter to the petition. The timeframe for filing a petition with the court is fixed by law, and the court can't consider your case if your petition is late.

If you do nothing

If neither you, as the TMP, nor any partner file a petition for readjustment in any of the courts listed in this letter, the FPAA becomes final, and we will bill all partners for any additional tax plus interest they may owe under the FPAA. Once final, the treatment of the partnership items of the partnership under the FPAA can't be contested in any refund claim or suit.

You may want to contact a tax advisor to discuss this matter.

If you have questions, you can contact the person listed at the top of this letter. If you write, enclose a copy of this letter and include your telephone number and the most convenient time for us to call if we need additional information.

Thank you for your cooperation.

Sincerely,

Charles P. Rettig
Commissioner

By



Michael A Anello
Appeals Team Case Leader

Enclosures:
Form 870-PT
Form 886-A

Form **870-PT**
(Rev. 4-2012)
For partnership
taxable years ending
after August 5, 1997

Department of the Treasury — Internal Revenue Service
**Agreement for Partnership Items and Partnership Level
Determinations as to Penalties, Additions to Tax, and
Additional Amounts**

IN REPLY
REFER TO:
AP:EX:PA:PHI:MAA

Taxpayer(s) name(s), address and zip code: GEORGE A WEISS, TAX MATTERS PARTNER of GWA LLC ONE STATE STREET 20TH FLOOR HARTFORD CT 06103-3100	Name of Partnership: GWA LLC	Tax Year(s) Ended: 12/31/2009
	EIN: [REDACTED]	
TIN:	Name of Tax Matters Partner: GEORGE A WEISS	

Offer of Agreement to Partnership Items and Partnership Level Determinations as to Penalties, Additions to Tax, and Additional Amounts & Waiver of Restrictions on Assessment for Partnership Items, Penalties, Additions to Tax, and Additional Amounts

Under the provisions of sections 6224(c) and 7121 of the Internal Revenue Code (IRC), the Commissioner of the Internal Revenue Service and the undersigned taxpayer(s) agree to the determination of partnership items and partnership level determinations as to penalties, additions to tax, and additional amounts that relate to adjustments to partnership items as shown on the attached Schedule of Adjustments.

The undersigned taxpayer(s), in accordance with IRC sections 6224(b) and 6213(d), also waive(s) the restrictions provided by IRC sections 6225(a) and 6213(a) and consent(s) to the assessment and collection of any deficiency attributable to partnership items, penalties, additions to tax, and additional amounts that relate to partnership items, as set forth in the attached Schedule of Adjustments (plus any interest provided by law). IRC Section 6651 late filing penalty applies to any late filed (or non-filed) returns that are required to report the partnership item adjustments.

This agreement is conditional and will not become effective or final until this agreement form is returned to the Commissioner and is signed on his or her behalf. The one-year extension of the period of limitations on assessments under IRC section 6229(f) will not begin to run until the date the Commissioner's representative signs this form on the Commissioner's behalf. If this is a partial agreement, the period of limitations for assessing any tax attributable to the settled items shall be determined as if this agreement had not been entered into.

If this part of this agreement form is signed for the Commissioner, the treatment of partnership items and partnership level determinations as to penalties, additions to tax and additional amounts that relate to adjustments to partnership items under this agreement will not be reopened in the absence of fraud, malfeasance, or misrepresentation of fact. In addition, no claim for an adjustment of partnership items, refund or credit based on any change in the treatment of partnership items or partnership level determinations as to penalties, additions to tax, and additional amounts may be filed or prosecuted.

Once the taxpayer signs such a waiver and it is countersigned by the Commissioner, the taxpayer cannot file an Administrative Adjustment Request (AAR) on any partnership items for the related TEFRA entity. This includes partnership items not specifically addressed on the attached Schedule of Adjustments.

Signature of Taxpayer	Date Signed	Phone Number
Signature of Taxpayer	Date Signed	Phone Number
By (Signature and Title)	Date Signed	Phone Number
FOR INTERNAL REVENUE USE ONLY	Date accepted for Commissioner	Signature
	Office Philadelphia, PA	Title Appeals Team Case Leader

INSTRUCTIONS FOR SIGNING FORM 870-PT

1. Sign the agreement if you wish to agree to the partnership items and partnership level determinations as to penalties, additions to tax, and additional amounts, as shown on the attached Schedule of Adjustments. The execution and filing of this offer will expedite the adjustment of tax liability.
2. If a JOINT RETURN OF A HUSBAND AND WIFE was filed and both spouses intend to agree, both spouses should sign Form 870-PT. One spouse may sign as agent for the other if acting under a power of attorney, which, if not previously filed, must accompany this form. The IRS may accept the signature of only one spouse at its discretion. However, the agreement will only be binding on the signing spouse.
3. If the taxpayer is a corporation, the agreement should be signed with the corporate name followed by the signature and title of the officer authorized to sign Form 870-PT.
4. Your attorney or agent may sign for you if this action is specifically authorized by a power of attorney, which if not previously filed, must accompany this form.
5. If this offer is signed by a trust, the agreement must be signed with the trust name, followed by the signature and title of the person authorized to sign on behalf of the trust. If the trustee is signing this agreement on behalf of the trust and all beneficiaries, a Form 56 must be signed by the trustee. If an individual beneficiary is signing the agreement to bind themselves to the agreement, no Form 56 is needed.
6. If the partner is an LLC, the agreement should be signed by the manager of the LLC or other authority as authorized by State law. The signature line should show: [Name of LLC], by [Name of Manager], Followed by the title [Manager].
7. For a partner who is a subsidiary corporation in a consolidated group:
 - If the agreement is for a partnership year(s) ending on or before the last day of a consolidated return year beginning before June 28, 2002, the agreement should be signed by a currently authorized officer of the corporation who was the common parent corporation of the consolidated group for the relevant consolidated return year(s). The common parent corporation signs the agreement in its own name. The signature and title of a current officer of the common parent corporation, who is authorized to bind the common parent corporation, should be displayed in the signature block. See Treas. Reg. § 1.1502-77A(a).
 - If the agreement is for a partnership year(s) ending on or before the last day of a consolidated return year beginning on or after June 28, 2002, then a currently authorized officer of the subsidiary corporation should sign the agreement and should do so in the name of the subsidiary corporation. See Treas. Reg. § 1.1502-77(a)(6)(iii). The signature and title of a current officer of the subsidiary corporation, who is authorized to bind the corporation, should be displayed in the signature block. The agreement should also be signed by a currently authorized officer of the corporation who was the common parent corporation of the consolidated group for the relevant consolidated return year(s). The signature and title of a current officer of the common parent corporation, who is authorized to bind the common parent corporation, should also be displayed in the signature block.
8. For a partner who is the common parent corporation of a consolidated group, a currently authorized officer of the corporation who was the common parent corporation of the consolidated group for such consolidated return year(s) should sign the agreement in the name of the common parent corporation. See Treas. Reg. § 1.1502-77(a).
9. If the Tax Matters Partner signs this offer, please include the title with the signature.
10. If the Tax Matters Partner is a subsidiary corporation in a consolidated group:
 - If the agreement is for a partnership year(s) ending on or before the last day of a consolidated return year beginning before June 28, 2002, then a currently authorized officer of the corporation who was the common parent corporation of the consolidated group for such consolidated return year should sign the agreement on behalf of the Tax Matters Partner. The signature and title of a current officer of the common parent corporation, who is authorized to bind the common parent corporation, should be displayed in the signature block. See Treas. Reg. § 1.1502-77A(a). An authorized officer for the subsidiary corporation should also sign if it, as the Tax Matters Partner, is binding non-notice partners under the agreement. The signature and title of a current officer of the subsidiary corporation, who is authorized to bind the corporation, should be displayed in the signature block.
 - If the agreement is for a partnership year(s) ending on or before the last day of a consolidated return year beginning on or after June 28, 2002, then a currently authorized officer of the subsidiary corporation should sign the agreement in the name of the subsidiary corporation. See Treas. Reg. § 1.1502-77(a)(3)(v). The agreement should also be signed by a currently authorized officer of the corporation who was the common parent corporation of the consolidated group for the relevant consolidated return year(s). The signature and title of a current officer of the common parent corporation, who is authorized to bind the common parent corporation, should also be displayed in the signature block.

NOTE: The submission of this offer by you and the acceptance of the offer for the Commissioner may result in an additional tax liability to you plus interest as provided by law. If the result is a decrease in tax, the amount of the decrease will be sent to you with interest as provided by law.

Department of the Treasury — Internal Revenue Service
**Agreement for Partnership Items and Partnership Level
Determinations as to Penalties, Additions to Tax, and
Additional Amounts**

SCHEDULE OF ADJUSTMENTS

NAME OF PARTNERSHIP GWA LLC	TAX YEAR(S) ENDED		
	12/31/2009		
EIN [REDACTED]			
DETAIL OF ADJUSTMENTS TO ORDINARY INCOME			
(1) Net gain			
(a) § 475(f) Mark to market gain ("Unrealized P/(L)")	2,777,305		
(b) Securities Gain ("Realized P/(L)")	187,527,684		
(c) § 734(b) basis adjustment	(364,306)		
(2) Other income - IRC § 481(a) Adjustment	337,170,142		
(3) Other income - ("Bond Interest Expense" gain)	41,974		
(4) Other deductions			
(a) "Dividend Expense"	(13,210,899)		
(b) Loss from "Financing Interest Income"	(3,534)		
(c) "Short Rebates"	(1,854,891)		
(d) "Financing Interest Expense"	(924,008)		
(e) "Management Fees"	(1,192,822)		
TOTAL ADJUSTMENTS TO ORDINARY INCOME	509,966,645		
OTHER ADJUSTMENTS			
A. (5) Portfolio Income Ordinary Dividends ("Dividend Income")			
(1) ADJUSTMENT	8,838,781		
(2) AS REPORTED	1,842,129		
(3) CORRECTED	10,680,910		
B. (6) Portfolio Interest Income ("Bond Interest Income")			
(1) ADJUSTMENT	1,925,846		
(2) AS REPORTED	54,883		
(3) CORRECTED	1,980,729		

REMARKS

(7) Penalties under IRC § 6662 will be added to any partner-level liability resulting from the partnership-level adjustments. Partner level defenses to such penalties can only be asserted through refund actions following assessment and payment.
- If the above adjustments are agreed to or sustained in full, the partnership's 2009 "Net long-term capital gain" reported on Schedule K should be decreased by \$334,142,118 for long-term capital gain reported by the partnership on its 2009 Schedule D for "Deutsche Bank Barrier Option 1."
- See Attached Form 886-A for Explanations of the Adjustments and Alternative Positions

Form 886-A (Rev. May 1980)	Department of the Treasury - Internal Revenue Service EXPLANATION OF ADJUSTMENTS	Schedule No.
Name of Taxpayer(s) GWA LLC		Year/Period 200912

Option Treatment for Basket Option Contracts and Mark to Market Election

It is determined that the transaction reported as "Deutsche Bank Barrier Option 1" and other similar transactions involving the establishment of alleged options on baskets of security positions (collectively, the "Basket Option Contracts," and the baskets referenced in the Basket Option Contracts, the "Reference Baskets") are not options for federal tax purposes, and that the partnership is the owner of the security positions in the Reference Baskets for federal tax purposes.

It is determined that the I.R.C. § 475(f)(1) election filed in 1999 by the partnership applied to both the partnership and its disregarded entity, OGI Associates, LLC ("OGI").

It is further determined that the partnership elected to apply the provisions of I.R.C. § 475(f)(1) to the securities trading business and is required to mark-to-market all securities at the end of each taxable year, including the security positions held in the Reference Baskets.

It is further determined that the Basket Option Contracts and the securities trading activity conducted through the partnership's disregarded entity, OGI, are part of the same trade or business and that the I.R.C. § 475(f)(1) election applies to both GWA LLC and OGI (as GWA LLC's disregarded entity).

It is further determined that the partnership has not established that either the Basket Option Contracts or the underlying security positions held in the Reference Baskets: 1) had no connection to the activities of the securities trading business for which the I.R.C. § 475(f) election applies, or 2) were clearly identified in the partnership's records as having no connection with such securities trading business.

(1) Net gain

- (a) **§ 475(f) Mark to market gain ("Unrealized P/(L)")** - It is determined that the Basket Option Contracts are not options for federal tax purposes. For federal tax purposes, the partnership is treated as the owner of the security positions in the Reference Baskets and must recognize the gains and losses associated with the security positions in the Reference Baskets. As determined above, the partnership elected to apply the provisions of I.R.C. § 475(f)(1) to the securities trading business and that election extends to the security positions held in the Reference Baskets. Accordingly, the partnership's ordinary business income for its taxable year ending December 31, 2009 is increased by \$2,777,305, which equals the mark-to-market net gain for the Reference Basket security positions

determined as of the end of the partnership's 2009 taxable year. (See Attachment A for the computation of this adjustment.)

- (b) **Securities Gain ("Realized P/(L)")** - It is determined that the Basket Option Contracts are not options for federal tax purposes. For federal tax purposes, the partnership is treated as the owner of the security positions in the Reference Baskets and must recognize the gain and loss from the Reference Basket security positions sold or disposed of during the taxable year pursuant to I.R.C. § 1001. As determined above, the partnership elected to apply the provisions of I.R.C. § 475(f)(1) to the securities trading business and that election extends to the security positions in the Reference Baskets. Under I.R.C. § 475(d)(3)(A)(ii) and (f)(1)(D), the partnership is required to treat any recognized gain or loss from the security positions as ordinary income or loss. Accordingly, the partnership's ordinary business income for the taxable year ending December 31, 2009 is increased by \$187,527,684 for the net gain from security positions held in the Reference Baskets that were sold or disposed of during its 2009 taxable year. (See Attachment A for the computation of this adjustment.)
- (c) **§ 734(b) basis adjustment** - The I.R.C. § 481 adjustment (see no. 2 below) has the effect of increasing partnership income for certain partners who received liquidating distributions during 2009 and eliminates a portion of the tax basis increases claimed by the partnership under I.R.C. § 734(b). It is determined that the partnership's I.R.C. § 734(b) adjustment for its 2009 taxable year is reduced from \$902,161 to \$364,306 for the 2009 tax year. It is further determined that the \$364,306 I.R.C. § 734(b) adjustment allowed for the partnership's 2009 taxable year is allocated to, and increases, the adjusted bases of the security positions held in the Reference Baskets during 2009, and not of the Basket Option Contracts, as reported by the partnership. As a result of this adjustment, the partnership's ordinary business income is decreased by \$364,306 for its tax year ending December 31, 2009. (See Attachment B for the I.R.C. § 734(b) computation.)

(2) Other income - IRC § 481(a) Adjustment

It is determined that requiring the partnership to account for gains and losses from the security positions in the Reference Baskets under the I.R.C. § 475 mark-to-market method of accounting, to recognize realized gains and losses under I.R.C. § 1001, and to account for income and expenses under the accrual method, constitutes a change to the partnership's method of accounting to clearly reflect income under I.R.C. § 446. It is further determined that an adjustment under I.R.C. § 481 is necessary solely by reason of the change in order to prevent amounts from being duplicated or omitted. Accordingly, the partnership's ordinary business income for its taxable year ending December 31, 2009 is increased by an I.R.C. § 481 adjustment in the amount of \$337,170,142. (See Attachment A for the calculation of the I.R.C. § 481 adjustment.)

(3) Other income – ("Bond Interest Expense" gain)

It is determined that the Basket Option Contracts are not options for federal tax purposes. For federal tax purposes, the partnership is treated as the owner of the security positions in the Reference Baskets and must account for "Bond Interest

Expense" gain associated with and/or derived from the Reference Baskets and/or underlying security positions under the accrual method of accounting. Accordingly, the partnership's ordinary business income for tax year ending December 31, 2009 is increased by \$41,974 for income from "Bond Interest Expense." (See Attachment A for the computation of this adjustment.)

(4) Other Deductions

It is determined that the Basket Option Contracts are not options for federal tax purposes. For federal tax purposes, the partnership is treated as the owner of the security positions in the Reference Baskets and must account for expenses associated with the Reference Baskets and/or underlying security positions under the accrual method of accounting. Accordingly, the partnership's ordinary business income for its taxable year ending December 31, 2009 is decreased by the following items of expense:

(a) "Dividend Expense"	\$13,210,899
(b) Loss from "Financing Interest Income"	3,534
(c) "Short Rebates"	1,854,891
(d) "Financing Interest Expense"	924,008
(e) "Management Fees"	1,192,822

(See Attachment A for the computation of these adjustments.)

(5) Portfolio Income Ordinary Dividends ("Dividend Income")

It is determined that the Basket Option Contracts are not options for federal tax purposes. For federal tax purposes, the partnership is treated as the owner of the security positions in the Reference Baskets and must account for "Dividend Income" associated with and/or derived from the Reference Baskets and/or underlying security positions under the accrual method of accounting. Accordingly, the partnership's ordinary dividends for tax year ending December 31, 2009 are increased by \$8,838,781 for "Dividend Income." (See Attachment A for the computation of this adjustment.)

(6) Portfolio Interest Income ("Bond Interest Income")

It is determined that the Basket Option Contracts are not options for federal tax purposes. For federal tax purposes, the partnership is treated as the owner of the security positions in the Reference Baskets and must account for "Bond Interest Income" associated with and/or derived from the Reference Baskets and/or underlying security positions under the accrual method of accounting. Accordingly, the partnership's interest income for tax year ending December 31, 2009 is increased by \$1,925,846 for "Bond Interest Income." (See Attachment A for the computation of this adjustment.)

(7) Accuracy Penalty

It is determined that a 20-percent penalty under I.R.C. § 6662(a) applies to underpayments of tax resulting from the adjustments and determinations made in this

Notice because such tax underpayments are attributable to negligence, disregard of rules or regulations, and/or substantial understatement of income tax under I.R.C. § 6662(b)(1), I.R.C. § 6662(b)(2), I.R.C. § 6662(c) and/or I.R.C. § 6662(d).

Alternative Positions

(8) In the alternative, in the event it is determined that the partnership held the Basket Option Contracts as options for federal tax purposes, it is determined that, pursuant to I.R.C. § 475, the partnership must apply the mark-to-market accounting method to any Basket Option Contracts held at the end of the partnership's 2009 tax year, and recognize ordinary income from the Basket Option Contracts terminated, disposed of, or closed during 2009. Accordingly, in the alternative, the partnership's ordinary business income for tax year ending December 31, 2009 is increased by \$183,561,130, which equals the increase in the value of the Basket Option Contracts that the partnership held at the end of its 2009 tax year, plus any income from Basket Option Contracts terminated, disposed of, or closed during 2009, less the allowable increase to the tax bases of the Basket Option Contracts under I.R.C. § 734(b).

It is further determined that computing the partnership's income as specified above under this alternative position constitutes a change in the partnership's method of accounting under I.R.C. § 446 to clearly reflect income. It is further determined that an adjustment under I.R.C. § 481 is necessary solely by reason of the change in order to prevent amounts from being duplicated or omitted. Accordingly, under this alternative position, the partnership's ordinary business income for the taxable year ending December 31, 2009 is further increased by an I.R.C. § 481 adjustment in the amount of \$337,170,142.

(9) In the alternative, in the event that the partnership is treated as holding the Basket Option Contracts as options for federal tax purposes, and if the application of the I.R.C. § 475 mark-to-market method of accounting to the Basket Option Contracts is not treated as a change to the partnership's accounting method, it is determined that the partnership must recognize ordinary income pursuant to I.R.C. § 475(d)(3) and (f)(1)(D) in the amount of gain realized and reported by the partnership as capital gain for the termination of the "Deutsche Bank Barrier Option 1" transaction during 2009 to conform to its existing mark-to-market method of accounting for securities. It is further determined, in connection with this alternative position, that the partnership must also mark-to-market under I.R.C. § 475 its remaining Basket Option Contracts that the partnership held at the end of its 2009 tax year.

Under this alternative position, the partnership's ordinary business income for taxable year ending December 31, 2009 is increased by \$334,142,118 for the "Deutsche Bank Barrier Option 1" transaction terminated in 2009 (which equals the \$387,324,387 that the partnership reported as "sales price" for the "Deutsche Bank Barrier Option 1" transaction on Schedule D, less the partnership's \$53,182,269 reported tax basis in the "Deutsche Bank Barrier Option 1" transaction as of the reported termination date).

Under this alternative position, the partnership's ordinary business income for the taxable year ending December 31, 2009 is also increased by \$186,051,301 for marking to market the Basket Option Contracts that were treated by the partnership as being still open and remaining in effect as of December 31, 2009. This \$186,051,301 amount

equals the \$279,382,798 reflected in the partnership's records as the value of the open Basket Option Contracts as of December 31, 2009, less the \$93,331,497 tax basis of the open Basket Option Contracts as determined by the partnership as of December 31, 2009.

(10) In the alternative, in the event that the partnership is treated as holding the Basket Option Contracts as options for federal tax purposes, and if I.R.C. § 475 does not apply to the Basket Option Contracts, it is determined that each security position within the Reference Baskets represents a separate option, and the partnership must recognize gain or loss from any such position terminated, disposed of, or closed during the taxable year pursuant to I.R.C. § 1001. Accordingly, in the alternative, the partnership's short-term capital gain income for tax year ending December 31, 2009 is increased by \$162,872,968, which equals the amount of taxable gain from options on security positions terminated, disposed of, or closed during that taxable year.

Computing the partnership's income in this manner constitutes a change to the partnership's method of accounting under I.R.C. § 446 to clearly reflect income, for which an adjustment under I.R.C. § 481 is necessary solely by reason of the change in order to prevent amounts from being duplicated or omitted. Accordingly, in the alternative, the partnership's income for its tax year ending December 31, 2009 is increased by an I.R.C. § 481 adjustment in the amount of \$355,080,998.

(11) In the alternative, if I.R.C. § 475 does not apply to the security positions in the Reference Baskets, it is determined that the partnership is treated as the owner of the security positions in the Reference Baskets for federal tax purposes and must recognize gain or loss from security positions sold, closed, or disposed of during the taxable year pursuant to I.R.C. § 1001. The partnership must also account for the other items of income and expense associated with the Reference Baskets and underlying security positions under the accrual method of accounting. Applying I.R.C. § 1001 and the accrual method of accounting, the partnership must recognize income, gain, loss, and expense associated with the Reference Baskets and underlying security positions as noted below.

Computing the partnership's income in this manner constitutes a change to the partnership's method of accounting under I.R.C. § 446 to clearly reflect income, for which an adjustment under I.R.C. § 481 is necessary in the amount noted below solely by reason of the change in order to prevent amounts from being duplicated or omitted. Accordingly, under this alternative position, the following adjustments are made to gain, loss, income, and expense for the partnership's taxable year ending December 31, 2009:

Item	Adjustment
(a) I.R.C. § 481 Adjustment	\$355,080,998.49
(b) I.R.C. § 734(b) Adjustment	(364,306.34)
(c) Short-term capital gain	169,616,827.96
(d) Dividend Income	8,838,781.18
(e) Dividend Expense	(13,210,899.99)
(f) Bond Interest Income	1,925,846.58
(g) Bond Interest Expense	41,974.18

(h) Financing Interest Income	(3,534.78)
(i) Financing Interest Expense	(924,007.64)
(j) Short Rebates	(1,854,890.87)
(k) Management Fees	(1,192,821.92)

(12) In the alternative, in the event that the partnership is treated as holding the Basket Option Contracts as options for federal tax purposes, and if I.R.C. § 475 does not apply to the Basket Option Contracts, it is determined that the changes to the composition of the Reference Baskets during the partnership's 2009 tax year resulted in taxable exchanges of the Basket Option Contracts pursuant to I.R.C. § 1001. Accordingly, in the alternative, the partnership's short-term capital gain income for tax year ending December 31, 2009 is increased by \$183,561,130, which equals the increase in the value of the Basket Option Contracts during the partnership's 2009 tax year, less the allowable increase to the tax bases of the Basket Option Contracts under I.R.C. § 734(b).

Computing the partnership's income in this manner constitutes a change to the partnership's method of accounting under I.R.C. § 446 to clearly reflect income, for which an adjustment under I.R.C. § 481 is necessary solely by reason of the change in order to prevent amounts from being duplicated or omitted. Accordingly, in the alternative, the partnership's income for its tax year ending December 31, 2009 is increased by an I.R.C. § 481 adjustment in the amount of \$337,170,142.

Attachment A

Computation of Adjustments for GWA LLC's 2009 tax year

Pre-2009 Gain/Loss/Income/Expense Per GWA LLC's "Option Account Profile[s]"

	Basket 1	Basket 7	Basket 8	Basket 9	Basket 10	Combined Baskets
Unrealized P/(L)	(\$12,626,983.43)	(\$1,056,974.68)	(\$1,585,461.81)	(\$1,056,974.53)	(\$1,585,461.80)	(\$17,910,856.25)
Realized P/(L)	\$296,199,080.02	\$14,573,893.41	\$21,860,836.82	\$14,573,891.06	\$21,860,836.58	369,068,537.89
Dividend Income	\$60,428,125.96	\$2,756,888.21	\$4,135,031.76	\$2,756,687.81	\$4,135,031.72	74,211,565.46
Dividend Expense	(\$70,884,493.93)	(\$3,455,366.43)	(\$5,183,048.95)	(\$3,455,365.94)	(\$5,183,048.90)	(\$88,161,324.15)
Bond Interest Income	\$1,549,577.11	\$1,039,417.76	\$1,559,128.63	\$1,039,417.78	\$1,559,126.63	6,746,666.89
Bond Interest Expense	(\$1,879,299.51)	(\$105,050.42)	(\$157,575.62)	(\$105,050.42)	(\$157,575.62)	(2,404,551.59)
Financing Interest Income	\$414,530.04	\$3,818.54	\$5,727.81	\$3,818.54	\$5,727.81	433,522.74
Financing Interest Expense	(\$75,640,967.01)	(\$4,480,410.86)	(\$6,690,615.58)	(\$4,460,410.35)	(\$6,690,615.53)	(\$97,943,019.33)
Short Rebates	\$81,769,171.49	\$4,140,461.84	\$6,210,691.85	\$4,140,461.06	\$6,210,691.59	102,471,477.43
Stock Loan Fees	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0.00
Transaction Charges	(\$653,567.49)	(\$16,585.84)	(\$24,876.75)	(\$16,585.83)	(\$24,876.75)	(736,496.66)
Management Fees	(\$3,995,787.45)	(\$199,617.02)	(\$298,425.48)	(\$199,616.99)	(\$299,425.48)	(4,993,872.42)
Other P/(L)	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0.00
Net Basket Increase	\$274,680,385.80	\$13,220,274.31	\$19,830,408.48	\$13,220,272.17	\$19,830,408.25	\$340,781,749.01
				§ 734(b) Adj. Per Audit from Sch. B:		(3,611,606.77)
				Total 481 Adjustment:		\$337,170,142.24

2009 Gain/Loss/Income/Expense per GWA LLC's "Option Account Profile[s]"

	Basket 1	Basket 7	Basket 8	Basket 9	Basket 10	Combined Baskets
Unrealized P/(L)		\$556,461.13	\$833,191.72	\$556,461.15	\$833,191.72	\$2,777,305.72
Realized P/(L)*	64,501,261.71	24,605,285.29	36,907,926.52	24,605,284.27	36,907,926.42	187,527,884.21
Dividend Income	1,555,342.93	1,456,687.66	2,185,031.47	1,456,687.65	2,185,031.47	8,838,781.18
Dividend Expense	(2,516,999.20)	(2,138,780.19)	(3,208,170.23)	(2,138,780.14)	(3,208,170.23)	(13,210,896.99)
Bond Interest Income	0.00	385,169.31	577,753.98	385,169.31	577,753.98	1,925,846.58
Bond Interest Expense	0.00	8,394.84	12,582.25	8,394.84	12,582.25	41,974.18
Financing Interest Income	(2,297.62)	(247.43)	(371.15)	(247.43)	(371.15)	(3,534.78)
Financing Interest Expense	(1,199.24)	(184,561.68)	(276,842.52)	(184,561.68)	(276,842.52)	(924,007.64)
Short Rebates	(434,400.36)	(284,098.11)	(426,147.15)	(284,098.10)	(426,147.15)	(1,854,890.87)
Stock Loan Fees	0.00	0.00	0.00	0.00	0.00	0.00
Transaction Charges	0.00	0.00	0.00	0.00	0.00	0.00
Management Fees	(457,706.85)	(147,023.02)	(220,534.52)	(147,023.01)	(220,534.52)	(1,192,821.92)
Other P/(L)	0.00	0.00	0.00	0.00	0.00	0.00
Net Basket Increase	\$62,844,001.37	\$24,256,287.80	\$36,384,430.37	\$24,256,286.86	\$36,384,430.27	\$183,925,436.67
				§ 734(b) Adj. Per Audit from Exh. B:		(364,306.34)
				2009 Net Income:		\$183,561,130.33

*Realized P/(L) is adjusted for basis increases/decreases to security positions that were marked-to-market the previous year. The Basket 1 Realized P/(L) is increased by \$8,281,301.01 reported as "Unrealized P/(L)" on partnership's "Option Account Profile" since that Basket was terminated on 4/30/2009.

Attachment B									
734(b) Adjustments Per Audit:									
2005 -2008 § 734(b) Adjustments									
	Basket 1	Basket 7	Basket 8	Basket 9	Basket 10	Baskets combined	Total § 734(b) Adj. Per Audit	Total § 734(b) Adj. Per Return	Difference Between Audit and Return
Total § 734(b) Adj. Reported by GWA LLC on 2005-2008 Forms 1066 and Included In § 481 Adjustment	\$ 3,090,280	\$ 104,265	\$ 156,398	\$ 104,268	\$ 156,398	\$ 3,611,607	\$ 3,611,607	\$ 3,611,607	
2009 § 734(b) Adjustments									
	Basket 1	Basket 7	Basket 8	Basket 9	Basket 10	Baskets combined			
Total § 734(b) Adj. Reported by GWA LLC on 2009 Form 1065	\$ 91,988	\$ 182,035	\$ 243,052	\$ 182,035	\$ 243,052	\$ 982,161		\$ 982,161	
§ 734(b) adjustment eliminated by Change in Accounting Method		(8,770)	(13,155)	(8,770)	(13,155)	(43,851)			
§ 734(b) adjustment eliminated by Change in Accounting		(88,801)	(148,201)	(88,801)	(148,201)	(484,004)			
Total 2009 § 734(b) Adj. To Basis of Basket Securities	\$ 91,988	\$ 54,463	\$ 81,696	\$ 54,463	\$ 81,696	\$ 384,306	\$ 384,306		
							\$ 3,975,913	\$ 4,613,768	\$ 537,855



**Department of the Treasury
Internal Revenue Service**

Appeals Office
701 Market Street
Suite 2200
Philadelphia, PA 19106

GEORGE A WEISS,
TAX MATTERS PARTNER of
GWA LLC
ONE STATE STREET 20TH FLOOR
HARTFORD CT 06103-3100

Date: DEC 03 2018

Person to contact:
Michael A Anello
Employee ID number: 1000212274
Telephone: 267-941-7022
Fax: 267-941-7186
Partnership ID number:
[REDACTED]
Tax year ended:
December 31, 2010

7015 1520 0002 0554 8595

TMP Notice Of Final Partnership Administrative Adjustment

Dear Tax Matters Partner:

The law requires us to send a Notice of Final Partnership Administrative Adjustment (FPAA) to the partnership named above, for the tax year listed above, and to each partner who is entitled to receive this letter.

We determined that adjustments are necessary to certain partnership items for the partnership and tax year listed above. You are receiving this letter because you were identified as the Tax Matters Partner (TMP) for this tax year. Because we made adjustments to these items on the partnership return, these adjustments will flow to the partners' returns as well. The enclosed schedule of adjustments outlines the changes. We will provide a similar letter to those partners entitled to receive it.

The adjustments to the partnership items on the partnership return may include partnership level determinations on penalties and additions to tax that relate to adjustments to partnership items. Form 870-PT, *Agreement for Partnership Items and Partnership Level Determinations as to Penalties, Additions to Tax, and Additional Amounts*, contains the adjustments to the partnership return.

What you need to do

If you agree with the adjustments and want to bind the non-notice partners

As the TMP, you can enter into an agreement that binds yourself and non-notice partners to the treatment of the partnership items as shown on the enclosed schedule of adjustments. We will also send you a separate letter as a partner (if you are entitled to one), which you can sign if you only want to agree to your share of the adjustments and not bind the non-notice partners. For this purpose, a non-notice partner is a direct partner with less than a one percent interest in a partnership having more than 100 direct partners. You must add the following statement above the signature blocks on the Form 870-PT:

The undersigned tax matters partner is signing this offer on behalf of himself (herself or itself) and all other partners whom he (she or it) has the authority to bind; a final agreement resulting from the co-signature of the Commissioner of Internal Revenue will be binding on all such other partners.

If you want to bind yourself and the non-notice partners to the partnership item adjustments, add the language above and sign and return the enclosed Form 870-PT within 150 days of the date of this letter.

We will send you a separate letter as a partner (if you are entitled to one), which you can sign if you only want to agree to your share of the adjustments and not bind the non-notice partners.

When you sign Form 870-PT to bind the non-notice partners, you are:

- Agreeing to the partnership item adjustments
- Agreeing that the non-notice partners are subject to any partnership level determinations as to penalties, additions to tax, and additional amounts that relate to adjustments to partnership items
- Agreeing that the non-notice partners are subject to additional tax and interest resulting from their share of the adjustments to the partnership return
- Waiving the rights of the non-notice partners to participate in any administrative or judicial proceedings affecting the adjustment of partnership items or partnership level determinations as to penalties, additions to tax, and additional amounts for the tax year in question.

This agreement is binding only if you sign and return Form 870-PT, and we sign on behalf of the Commissioner of the Internal Revenue Service. When we sign the agreement form, the one-year extension of the period of limitations on assessments will begin under Internal Revenue Code Section 6229(f).

Within one year of that agreement date, all impacted non-notice partners will receive a final report as to what adjustments we made to their individual, partnership, or corporate returns with a total due or refund amount, including penalties and interest (if applicable).

Once both parties sign the agreement, non-notice partners can't file a claim to:

- Change the items in question
- Claim a refund or credit based on a readjustment

However, they can file a claim to raise:

- Math errors
- Partner level defenses to partnership level determinations of penalties

If you don't agree with the adjustments

As the partnership TMP, if you want to contest the adjustments in court, you must file a petition within 90 days from the date of this letter. During this 90-day period, no other partner can file a petition for judicial review.

You can file your petition for readjustment of partnership items with one of the following courts:

- United States Tax Court
- United States Court of Federal Claims
- District Court of the United States, in the district of the partnership's principal place of business

A petition the TMP files in the first 90 days precludes all other actions and covers all partners still in the proceeding. If the TMP doesn't file a petition by the 90th day from the date we mailed the FPAA, any partner entitled to receive this letter, or any 5 percent group, can petition one of these courts. A "5 percent group" includes any group of partners who together have an interest of five percent or more in profits of the partnership. Five percent groups must file the petition after the 90th day, but on or before the 150th day from the date we mailed the FPAA to the TMP. If more than one petition is filed in Tax Court, the first petition filed will go forward. All other petitions (even those filed earlier in one of the other courts) will be dismissed. If no one files a petition in Tax Court, the first petition filed in one of the other courts will go forward and subsequent petitions will be dismissed. All partners still subject to the partnership proceeding will be parties to the petition that is not dismissed. Petitions filed with the United States Tax Court must be mailed to:

United States Tax Court
400 Second Street, NW
Washington, DC 20217

When you mail the petition, you must attach a copy of this letter to the petition. The timeframe for filing a petition with the court is fixed by law, and the court can't consider your case if your petition is late.

If you do nothing

If neither you, as the TMP, nor any partner file a petition for readjustment in any of the courts listed in this letter, the FPAA becomes final, and we will bill all partners for any additional tax plus interest they may owe under the FPAA. Once final, the treatment of the partnership items of the partnership under the FPAA can't be contested in any refund claim or suit.

You may want to contact a tax advisor to discuss this matter.

If you have questions, you can contact the person listed at the top of this letter. If you write, enclose a copy of this letter and include your telephone number and the most convenient time for us to call if we need additional information.

Thank you for your cooperation.

Sincerely,
Charles P. Rettig
Commissioner

By



Michael A. Anello
Appeals Team Case Leader

Enclosures:
Form 870-PT
Form 886-A

Form **870-PT**
(Rev. 4-2012)
For partnership
taxable years ending
after August 5, 1997

Department of the Treasury — Internal Revenue Service
**Agreement for Partnership Items and Partnership Level
Determinations as to Penalties, Additions to Tax, and
Additional Amounts**

IN REPLY
REFER TO:
AP:EX:PA:PHI:MAA

Taxpayer(s) name(s), address and zip code: GEORGE A WEISS, TAX MATTERS PARTNER of GWA LLC ONE STATE STREET 20TH FLOOR HARTFORD CT 06103-3100	Name of Partnership: GWA LLC	Tax Year(s) Ended: 12/31/2010
	EIN: [REDACTED]	
TIN:	Name of Tax Matters Partner: GEORGE A WEISS	

Offer of Agreement to Partnership Items and Partnership Level Determinations as to Penalties, Additions to Tax, and Additional Amounts & Waiver of Restrictions on Assessment for Partnership Items, Penalties, Additions to Tax, and Additional Amounts

Under the provisions of sections 6224(c) and 7121 of the Internal Revenue Code (IRC), the Commissioner of the Internal Revenue Service and the undersigned taxpayer(s) agree to the determination of partnership items and partnership level determinations as to penalties, additions to tax, and additional amounts that relate to adjustments to partnership items as shown on the attached Schedule of Adjustments.

The undersigned taxpayer(s), in accordance with IRC sections 6224(b) and 6213(d), also waive(s) the restrictions provided by IRC sections 6225(a) and 6213(a) and consent(s) to the assessment and collection of any deficiency attributable to partnership items, penalties, additions to tax, and additional amounts that relate to partnership items, as set forth in the attached Schedule of Adjustments (plus any interest provided by law). IRC Section 6651 late filing penalty applies to any late filed (or non-filed) returns that are required to report the partnership item adjustments.

This agreement is conditional and will not become effective or final until this agreement form is returned to the Commissioner and is signed on his or her behalf. The one-year extension of the period of limitations on assessments under IRC section 6229(f) will not begin to run until the date the Commissioner's representative signs this form on the Commissioner's behalf. If this is a partial agreement, the period of limitations for assessing any tax attributable to the settled items shall be determined as if this agreement had not been entered into.

If this part of this agreement form is signed for the Commissioner, the treatment of partnership items and partnership level determinations as to penalties, additions to tax and additional amounts that relate to adjustments to partnership items under this agreement will not be reopened in the absence of fraud, malfeasance, or misrepresentation of fact. In addition, no claim for an adjustment of partnership items, refund or credit based on any change in the treatment of partnership items or partnership level determinations as to penalties, additions to tax, and additional amounts may be filed or prosecuted.

Once the taxpayer signs such a waiver and it is countersigned by the Commissioner, the taxpayer cannot file an Administrative Adjustment Request (AAR) on any partnership items for the related TEFRA entity. This includes partnership items not specifically addressed on the attached Schedule of Adjustments.

Signature of Taxpayer	Date Signed	Phone Number
Signature of Taxpayer	Date Signed	Phone Number
By (Signature and Title)	Date Signed	Phone Number

FOR INTERNAL REVENUE USE ONLY	Date accepted for Commissioner	Signature
	Office Philadelphia, PA	Title Appeals Team Case Leader

INSTRUCTIONS FOR SIGNING FORM 870-PT

1. Sign the agreement if you wish to agree to the partnership items and partnership level determinations as to penalties, additions to tax, and additional amounts, as shown on the attached Schedule of Adjustments. The execution and filing of this offer will expedite the adjustment of tax liability.
 2. If a JOINT RETURN OF A HUSBAND AND WIFE was filed and both spouses intend to agree, both spouses should sign Form 870-PT. One spouse may sign as agent for the other if acting under a power of attorney, which, if not previously filed, must accompany this form. The IRS may accept the signature of only one spouse at its discretion. However, the agreement will only be binding on the signing spouse.
 3. If the taxpayer is a corporation, the agreement should be signed with the corporate name followed by the signature and title of the officer authorized to sign Form 870-PT.
 4. Your attorney or agent may sign for you if this action is specifically authorized by a power of attorney, which if not previously filed, must accompany this form.
 5. If this offer is signed by a trust, the agreement must be signed with the trust name, followed by the signature and title of the person authorized to sign on behalf of the trust. If the trustee is signing this agreement on behalf of the trust and all beneficiaries, a Form 56 must be signed by the trustee. If an individual beneficiary is signing the agreement to bind themselves to the agreement, no Form 56 is needed.
 6. If the partner is an LLC, the agreement should be signed by the manager of the LLC or other authority as authorized by State law. The signature line should show: [Name of LLC], by [Name of Manager], Followed by the title [Manager].
 7. For a partner who is a subsidiary corporation in a consolidated group:
 - If the agreement is for a partnership year(s) ending on or before the last day of a consolidated return year beginning before June 28, 2002, the agreement should be signed by a currently authorized officer of the corporation who was the common parent corporation of the consolidated group for the relevant consolidated return year(s). The common parent corporation signs the agreement in its own name. The signature and title of a current officer of the common parent corporation, who is authorized to bind the common parent corporation, should be displayed in the signature block. See Treas. Reg. § 1.1502-77A(a).
 - If the agreement is for a partnership year(s) ending on or before the last day of a consolidated return year beginning on or after June 28, 2002, then a currently authorized officer of the subsidiary corporation should sign the agreement and should do so in the name of the subsidiary corporation. See Treas. Reg. § 1.1502-77(a)(6)(iii). The signature and title of a current officer of the subsidiary corporation, who is authorized to bind the corporation, should be displayed in the signature block. The agreement should also be signed by a currently authorized officer of the corporation who was the common parent corporation of the consolidated group for the relevant consolidated return year(s). The signature and title of a current officer of the common parent corporation, who is authorized to bind the common parent corporation, should also be displayed in the signature block.
 8. For a partner who is the common parent corporation of a consolidated group, a currently authorized officer of the corporation who was the common parent corporation of the consolidated group for such consolidated return year(s) should sign the agreement in the name of the common parent corporation. See Treas. Reg. § 1.1502-77(a).
 9. If the Tax Matters Partner signs this offer, please include the title with the signature.
 10. If the Tax Matters Partner is a subsidiary corporation in a consolidated group:
 - If the agreement is for a partnership year(s) ending on or before the last day of a consolidated return year beginning before June 28, 2002, then a currently authorized officer of the corporation who was the common parent corporation of the consolidated group for such consolidated return year should sign the agreement on behalf of the Tax Matters Partner. The signature and title of a current officer of the common parent corporation, who is authorized to bind the common parent corporation, should be displayed in the signature block. See Treas. Reg. § 1.1502-77A(a). An authorized officer for the subsidiary corporation should also sign if it, as the Tax Matters Partner, is binding non-notice partners under the agreement. The signature and title of a current officer of the subsidiary corporation, who is authorized to bind the corporation, should be displayed in the signature block.
 - If the agreement is for a partnership year(s) ending on or after June 28, 2002, then a currently authorized officer of the subsidiary corporation should sign the agreement in the name of the subsidiary corporation. See Treas. Reg. § 1.1502-77(a)(3)(v). The agreement should also be signed by a currently authorized officer of the corporation who was the common parent corporation of the consolidated group for the relevant consolidated return year(s). The signature and title of a current officer of the common parent corporation, who is authorized to bind the common parent corporation, should also be displayed in the signature block.
- NOTE:** The submission of this offer by you and the acceptance of the offer for the Commissioner may result in an additional tax liability to you plus interest as provided by law. If the result is a decrease in tax, the amount of the decrease will be sent to you with interest as provided by law.

Department of the Treasury — Internal Revenue Service
**Agreement for Partnership Items and Partnership Level
Determinations as to Penalties, Additions to Tax, and
Additional Amounts**

SCHEDULE OF ADJUSTMENTS

NAME OF PARTNERSHIP GWA LLC	TAX YEAR(S) ENDED		
	12/31/2010		
EIN [REDACTED]			
DETAIL OF ADJUSTMENTS TO ORDINARY INCOME			
(1) Net gain	9,179,892		
(2) Other deductions			
(a) "Dividend Expense"	(4,295,366)		
(b) "Short Rebates"	(577,532)		
(c) "Financing Interest Expense"	(470,802)		
(d) "Management Fees"	(458,740)		
(e) Final Management Fee (not reflected on reports)	(76,625)		
TOTAL ADJUSTMENTS TO ORDINARY INCOME	3,300,827		
OTHER ADJUSTMENTS			
A. (3) Portfolio Income Ordinary Dividends ("Dividend Income")			
(1) ADJUSTMENT	3,327,781		
(2) AS REPORTED	6,184,295		
(3) CORRECTED	9,512,076		
B.			
(1) ADJUSTMENT			
(2) AS REPORTED			
(3) CORRECTED			

REMARKS

(4) Penalties under IRC § 6662 will be added to any partner-level liability resulting from the partnership-level adjustments. Partner level defenses to such penalties can only be asserted through refund actions following assessment and payment.
- If the adjustments asserted above and in the FPAA for the partnership's 2009 tax year are agreed to or sustained in full, the partnership's 2010 Schedule K "Net long-term capital gain" should be decreased by \$192,679,910 for gain reported on Schedule D for "Deutsche Bank Barrier Options."
- See Attached Form 886-A for Explanations of the Adjustments and Alternative Positions

Form 886-A (Rev. May 1980)	Department of the Treasury - Internal Revenue Service EXPLANATION OF ADJUSTMENTS	Schedule No.
Name of Taxpayer(s) GWA LLC		Year/Period 201012

Option Treatment for Basket Option Contracts and Mark to Market Election

It is determined that the transactions reported as "Deutsche Bank Barrier Options" involving the establishment of alleged options on baskets of security positions (collectively, the "Basket Option Contracts," and the baskets referenced in the Basket Option Contracts, the "Reference Baskets") are not options for federal tax purposes, and that the partnership is the owner of the security positions in the Reference Baskets for federal tax purposes.

It is determined that the I.R.C. § 475(f)(1) election filed in 1999 by the partnership applied to both the partnership and its disregarded entity, OGI Associates, LLC ("OGI").

It is further determined that the partnership elected to apply the provisions of I.R.C. § 475(f)(1) to the securities trading business and is required to mark-to-market all securities at the end of each taxable year, including the security positions held in the Reference Baskets.

It is further determined that the Basket Option Contracts and the securities trading activity conducted through the partnership's disregarded entity, OGI, are part of the same trade or business and that the I.R.C. § 475(f)(1) election applies to both GWA LLC and OGI (as GWA LLC's disregarded entity).

It is further determined that the partnership has not established that either the Basket Option Contracts or the underlying security positions held in the Reference Baskets: 1) had no connection to the activities of the securities trading business for which the I.R.C. § 475(f) election applies, or 2) were clearly identified in the partnership's records as having no connection with such securities trading business.

(1) Net gain

It is determined that the Basket Option Contracts are not options for federal tax purposes. For federal tax purposes, the partnership is treated as the owner of the security positions in the Reference Baskets and must recognize the gains or losses from the Reference Basket security positions sold or disposed of during the taxable year pursuant to I.R.C. § 1001. As determined above, the partnership elected to apply the provisions of I.R.C. § 475(f)(1) to the securities trading business and that election extends to the security positions held in the Reference Baskets. Under I.R.C. § 475 (d)(3)(A)(ii) and (f)(1)(D), the partnership is required to treat any recognized gain or loss from the security positions as ordinary income or loss. Accordingly, the partnership's ordinary business income for its taxable year ending December 31, 2010 is increased

by \$9,179,892 for security positions sold or disposed of in the Reference Baskets during its 2010 taxable year. (See Attachment A for the computation of this adjustment.)

(2) Other Deductions

It is determined that the Basket Option Contracts are not options for federal tax purposes. For federal tax purposes, the partnership is treated as the owner of the security positions in the Reference Baskets and must account for expenses associated with the Reference Baskets and/or underlying security positions under the accrual method of accounting. Accordingly, the partnership's ordinary business income for its taxable year ending December 31, 2010 is decreased by the following items of expense:

(a) "Dividend Expense"	\$4,295,366
(b) "Short Rebates"	577,532
(c) "Financing Interest Expense"	470,802
(d) "Management Fees"	458,740
(e) Final Management Fee (not reflected on reports)	76,625

(See Attachment A for the computation of this adjustment.)

(3) Portfolio Income Ordinary Dividends ("Dividend Income")

It is determined that the Basket Option Contracts are not options for federal tax purposes. For federal tax purposes, the partnership is treated as the owner of the security positions in the Reference Baskets and must account for "Dividend Income" associated with and/or derived from the Reference Baskets and/or underlying security positions under the accrual method of accounting. Accordingly, the partnership's ordinary dividends for tax year ending December 31, 2010 are increased by \$3,327,781 for "Dividend Income." (See Attachment A for the computation of this adjustment.)

(4) Accuracy Penalty

It is determined that a 20-percent penalty under I.R.C. § 6662(a) applies to underpayments of tax resulting from the adjustments and determinations made in this Notice because such tax underpayments are attributable to negligence, disregard of rules or regulations, and/or substantial understatement of income tax under I.R.C. § 6662(b)(1), I.R.C. § 6662(b)(2), I.R.C. § 6662(c) and/or I.R.C. § 6662(d).

(5) Change in Accounting Method

It is determined that requiring the partnership to account for gains and losses from the security positions in the Reference Baskets under the I.R.C. § 475 mark-to-market method of accounting, to recognize realized gains and losses under I.R.C. § 1001, and to account for other income and expenses under the accrual method, constitutes a change to the partnership's method of accounting to clearly reflect income under I.R.C.

§ 446. An adjustment under I.R.C. § 481 is asserted in the partnership's 2009 tax year in order to prevent amounts from being duplicated or omitted.

Alternative Positions

(6) In the alternative, in the event it is determined that the partnership held the Basket Option Contracts as options for federal tax purposes, it is determined that, pursuant to I.R.C. § 475, the partnership must apply the mark-to-market accounting method to any Basket Option Contracts held at the end of the partnership's 2010 tax year and recognize ordinary income from the Basket Option Contracts terminated, disposed of, or closed during 2010. Computing the partnership's income in this manner constitutes a change to the partnership's method of accounting under I.R.C. § 446 to clearly reflect income. Accordingly, in the alternative, the partnership's ordinary business income for tax year ending December 31, 2010 is increased by \$6,628,608, which equals the gain the partnership would have recognized upon terminating, disposing of, or closing the Basket Option Contracts during the partnership's 2010 tax year. Under this alternative position, an adjustment under I.R.C. § 481 is asserted in the partnership's 2009 tax year in order to prevent amounts from being duplicated or omitted.

(7) In the alternative, in the event that the partnership is treated as holding the Basket Option Contracts as options for federal tax purposes, and if I.R.C. § 475 does not apply to the Basket Option Contracts, it is determined that each security position within the Reference Baskets represents a separate option, and the partnership must recognize gain or loss from any such position terminated, disposed of, or closed during the taxable year pursuant to I.R.C. § 1001. Accordingly, in the alternative, the partnership's short term capital gain for tax year ending December 31, 2010 is increased by \$9,405,914.66.

Computing the partnership's income in this manner constitutes a change to the partnership's method of accounting under I.R.C. § 446 to clearly reflect income, for which an adjustment under I.R.C. § 481 is necessary solely by reason of the change in order to prevent amounts from being duplicated or omitted. Under this alternative position, an adjustment under I.R.C. § 481 is asserted in the partnership's 2009 tax year in order to prevent amounts from being duplicated or omitted.

(8) In the alternative, if I.R.C. § 475 does not apply to the security positions in the Reference Baskets, it is determined that the partnership is treated as the owner of the security positions in the Reference Baskets for federal tax purposes and must recognize gain or loss from security positions sold, closed, or disposed of during the taxable year pursuant to I.R.C. § 1001. The partnership must also account for the other items of income and expense associated with the Reference Baskets and underlying security positions under the accrual method of accounting. Applying I.R.C. § 1001 and the accrual method of accounting, the partnership must recognize income, gain, loss, and expense associated with the Reference Baskets and underlying security positions as noted below. Computing the partnership's income in this manner constitutes a change to the partnership's method of accounting under I.R.C. § 446 to clearly reflect income. An adjustment under I.R.C. § 481 is necessary in the partnership's 2009 taxable year solely by reason of the change in order to prevent amounts from being duplicated or omitted. Accordingly, under this alternative position, the following adjustments are made to gain, loss, income, and expense for the partnership's taxable year ending December 31, 2010:

Item	Adjustment
(a) Short-term capital gain	11,957,198.00
(b) Dividend Income	3,327,781.72
(c) Dividend Expense	(4,295,366.36)
(d) Financing Interest Expense	(470,802.32)
(e) Short Rebates	(577,532.12)
(f) Management Fees	(458,739.73)
(g) Final Management Fee paid May 2010	(76,624.66)

(9) In the alternative, in the event that the partnership is treated as holding the Basket Option Contracts as options for federal tax purposes, and if I.R.C. § 475 does not apply to the Basket Option Contracts, it is determined that the changes to the composition of the Reference Baskets during the partnership's 2010 tax year resulted in taxable exchanges of the Basket Option Contracts pursuant to I.R.C. § 1001. Accordingly, in the alternative, the partnership's short-term capital gain income for tax year ending December 31, 2010 is increased by \$6,628,608.

Computing the partnership's income in this manner constitutes a change to the partnership's method of accounting under I.R.C. § 446 to clearly reflect income, for which an adjustment under I.R.C. § 481 is necessary solely by reason of the change in order to prevent amounts from being duplicated or omitted. Under this alternative position, an adjustment under I.R.C. § 481 is asserted in the partnership's 2009 tax year in order to prevent amounts from being duplicated or omitted.

Attachment A

Computation of Adjustment for GWA LLC's 2010 tax year

2010 Gain/Loss/Income/Expense per GWA LLC's "Option Account Profile[s]"						
	Basket 1	Basket 7	Basket 8	Basket 9	Basket 10	Combined Baskets
Unrealized P/(L)	-	\$952,504.18	\$1,428,756.29	(\$3,810,056.24)	\$1,428,756.29	(\$39.48)
Realized P/(L)*	-	1,122,829.34	1,883,943.97	4,689,414.80	1,883,943.98	9,179,931.89
Dividend Income	-	667,766.52	1,001,649.77	656,715.67	1,001,649.76	3,327,781.72
Dividend Expense	-	(856,658.82)	(1,284,988.23)	(868,731.08)	(1,284,988.23)	(4,295,366.36)
Bond Interest Income	-	0.00	0.00	0.00	0.00	0.00
Bond Interest Expense	-	0.00	0.00	0.00	0.00	0.00
Financing Interest Income	-	0.00	0.00	0.00	0.00	0.00
Financing Interest Expense	-	(90,325.49)	(135,488.24)	(109,500.35)	(135,488.24)	(470,802.32)
Short Rebates	-	(111,362.72)	(187,044.09)	(132,081.22)	(187,044.09)	(577,532.12)
Stock Loan Fees	-	0.00	0.00	0.00	0.00	0.00
Transaction Charges	-	0.00	0.00	0.00	0.00	0.00
Management Fees	-	(91,747.94)	(137,621.92)	(91,747.95)	(137,621.92)	(458,739.73)
Other P/(L)	-	0.00	0.00	0.00	0.00	0.00
Final Management Fee paid May 2010 (Not on Account Profiles)				(76,624.66)		(76,624.66)
Net Basket Increase		\$1,592,805.07	\$2,389,207.55	\$257,388.77	\$2,389,207.55	\$6,628,608.94

*Realized P/(L) is adjusted for basis increases/decreases to security positions that were marked-to-market the previous year. Unrealized P/L and Realized P/(L) are combined for purposes of calculating the adjustment to "Net Gain"