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In re American Home Mortgage Holdings, Inc.

February 22, 2011 | Client Update

On February 16, 2011 the Third Circuit Court of Appeals affirmed a Delaware bankruptcy court's 2009 ruling that "commercially reasonable determinants of value" for purposes of measuring damages resulting from the rejection of a repurchase agreement were not limited to the actual sale or market value of an asset; a discounted cash flow valuation can also be utilized. This significant decision, one of first impression, provides helpful guidance in the determination of damages resulting from the termination of a safe harbor contract, such as a repo, in distressed market conditions, but also leaves a number of important questions unanswered.

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