

Edgar Filing: NEW YORK MORTGAGE TRUST INC - Form S-11/A

NEW YORK MORTGAGE TRUST INC
Form S-11/A
June 18, 2004

AS FILED WITH THE SECURITIES AND EXCHANGE COMMISSION ON JUNE 18, 2004

REGISTRATION NO. 333-111668

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

AMENDMENT NO. 6

TO
FORM S-11
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

NEW YORK MORTGAGE TRUST, INC.
(Exact Name of Registrant as Specified in its Governing Instruments)

1301 AVENUE OF THE AMERICAS
NEW YORK, NEW YORK 10019
(212) 634-9400
(Address, Including Zip Code, and Telephone Number, including
Area Code, of Registrant's Principal Executive Offices)

STEVEN B. SCHNALL
DAVID A. AKRE
CO-CHIEF EXECUTIVE OFFICERS
NEW YORK MORTGAGE TRUST, INC.
1301 AVENUE OF THE AMERICAS
NEW YORK, NEW YORK 10019
(212) 634-9400
(212) 655-6269 (TELECOPY)
(Name, Address, Including Zip Code, and Telephone
Number, Including Area Code, of Agent for Service)

COPIES TO:

DANIEL M. LEBEY, ESQ.
HUNTON & WILLIAMS LLP
RIVERFRONT PLAZA, EAST TOWER
951 E. BYRD STREET
RICHMOND, VIRGINIA 23219-4074
(804) 788-8200
(804) 788-8218 (TELECOPY)

KAREN A. DEWIS, ESQ.
CHRISTOPHER E. BROWN, ESQ.
MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON, D.C. 20005-3096
(202) 756-8000
(202) 756-8087 (TELECOPY)

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APPROXIMATE DATE OF COMMENCEMENT OF PROPOSED SALE TO THE PUBLIC: As soon as practicable after the effective date of this Registration Statement.

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. []

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration number of the earlier effective registration statement for the same offering. []

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. []

If delivery of the prospectus is expected to be made pursuant to Rule 434, please check the following box. []

THE REGISTRANT HEREBY AMENDS THIS REGISTRATION STATEMENT ON SUCH DATE OR DATES AS MAY BE NECESSARY TO DELAY ITS EFFECTIVE DATE UNTIL THE REGISTRANT SHALL FILE A FURTHER AMENDMENT WHICH SPECIFICALLY STATES THAT THIS REGISTRATION STATEMENT SHALL THEREAFTER BECOME EFFECTIVE IN ACCORDANCE WITH SECTION 8(a) OF THE SECURITIES ACT OF 1933 OR UNTIL THE REGISTRATION STATEMENT SHALL BECOME EFFECTIVE ON SUCH DATES AS THE COMMISSION, ACTING PURSUANT TO SAID SECTION 8(a), MAY DETERMINE.

PART II

INFORMATION NOT REQUIRED IN PROSPECTUS

ITEM 36. FINANCIAL STATEMENTS AND EXHIBITS.

(b) Exhibits

The following exhibits, as noted, are filed herewith or previously have been filed.

EXHIBIT NUMBER -----	EXHIBIT TITLE -----
----------------------------	------------------------

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- 1.01 Form of Underwriting Agreement.*****
- 3.01 Articles of Amendment and Restatement of New York Mortgage Trust, Inc.*****
- 3.02 Bylaws of New York Mortgage Trust, Inc.*****
- 4.01 Form of Common Stock Certificate.*****
- 5.01 Opinion of Venable LLP.*****
- 8.01 Opinion of Hunton & Williams LLP with respect to certain tax matters.*****
- 10.01 Promissory Note, issued by The New York Mortgage Company, LLC on August 31, 2003, as amended and restated, on December 23, 2003, in the principal amount of \$2,574,352.00, payable to Joseph V. Fierro.*
- 10.02 Promissory Note, issued by The New York Mortgage Company, LLC on August 31, 2003, as amended and restated, on December 23, 2003, in the principal amount of \$12,132,550.00 payable to Steven B. Schnall.*
- 10.03 Master Repurchase Agreement between Credit Suisse First Boston Mortgage Capital LLC, The New York Mortgage Company, LLC, Steven B. Schnall and Joseph V. Fierro, dated October 2, 2002.*
- 10.04 Amendment No. 1 to Master Repurchase Agreement between Credit Suisse First Boston Mortgage Capital LLC, The New York Mortgage Company, LLC, Steven B. Schnall and Joseph V. Fierro, dated December 4, 2002.*
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- 10.06 Amendment No. 3 to Master Repurchase Agreement between Credit Suisse First Boston Mortgage Capital LLC, The New York Mortgage Company, LLC, Steven B. Schnall and Joseph V. Fierro, dated April 22, 2003.*
- 10.07 Amendment No. 4 to Master Repurchase Agreement between Credit Suisse First Boston Mortgage Capital LLC, The New York Mortgage Company, LLC, Steven B. Schnall and Joseph V. Fierro, dated July 1, 2003.*
- 10.08 Amendment No. 5 to Master Repurchase Agreement between Credit Suisse First Boston Mortgage Capital LLC, The New York Mortgage Company, LLC, Steven B. Schnall and Joseph V. Fierro, dated July 7, 2003.*
- 10.09 Amendment No. 6 to Master Repurchase Agreement between Credit Suisse First Boston Mortgage Capital LLC, The New York Mortgage Company, LLC, Steven B. Schnall and Joseph V. Fierro, dated July 31, 2003.*
- 10.10 Amendment No. 7 to Master Repurchase Agreement between Credit Suisse First Boston Mortgage Capital LLC, The New York Mortgage Company, LLC, Steven B. Schnall and Joseph V. Fierro, dated August 4, 2003.*
- 10.11 Amendment No. 8 to Master Repurchase Agreement between Credit Suisse First Boston Mortgage Capital LLC, The New York Mortgage Company, LLC, Steven B. Schnall and Joseph V. Fierro, dated August 9, 2003.*

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10.12	Amendment No. 9 to Master Repurchase Agreement between Credit Suisse First Boston Mortgage Capital LLC, The New York Mortgage Company, LLC, Steven B. Schnall and Joseph V. Fierro, dated August 28, 2003.*
10.13	Amendment No. 10 to Master Repurchase Agreement between Credit Suisse First Boston Mortgage Capital LLC, The New York Mortgage Company, LLC, Steven B. Schnall and Joseph V. Fierro, dated September 17, 2003.*
10.14	Amendment No. 11 to Master Repurchase Agreement between Credit Suisse First Boston Mortgage Capital LLC, The New York Mortgage Company, LLC, Steven B. Schnall and Joseph V. Fierro, dated October 1, 2003.*
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10.17	Credit Note between HSBC Bank USA and The New York Mortgage Company LLC, dated as of March 30, 2001.*
10.18	Credit and Security Agreement between HSBC Bank USA and The New York Mortgage Company LLC, dated as of March 30, 2001.*
10.19	First Amended Credit Note, dated as of May 24, 2001, between HSBC Bank USA and The New York Mortgage Company LLC, dated as of March 30, 2001.*
10.20	First Amended Credit and Security Agreement, dated as of May 24, 2001, between HSBC Bank USA and The New York Mortgage Company LLC, dated as of March 30, 2001.*
10.21	Second Amended Credit Note, dated as of June 18, 2001, between HSBC Bank USA and The New York Mortgage Company LLC, dated as of March 30, 2001.*
10.22	Second Amended Credit and Security Agreement, dated June 18, 2001, between HSBC Bank USA and The New York Mortgage Company LLC, dated as of March 30, 2001.*
10.23	Third Amended Credit Note, dated as of November 13, 2001, between HSBC Bank USA and The New York Mortgage Company LLC, dated as of March 30, 2001.*
10.24	Third Amended Credit and Security Agreement, dated as of November 13, 2001, between HSBC Bank USA and The New York Mortgage Company LLC, dated as of March 30, 2001.*
10.25	Fourth Amended Credit Note, dated as of January 16, 2002, between HSBC Bank USA and The New York Mortgage Company LLC, dated as of March 30, 2001.*
10.26	Fourth Amended Credit and Security Agreement, dated as of January 16, 2002, between HSBC Bank USA and The New York Mortgage Company LLC, dated as of March 30, 2001.*
10.27	Fifth Amended Credit Note, dated as of April 29, 2002, between HSBC Bank USA and The New York Mortgage Company LLC, dated as of March 30, 2001.*
10.28	Fifth Amended Credit and Security Agreement, dated as of April 29, 2002, between HSBC Bank USA and The New York Mortgage Company LLC, dated as of March 30, 2001.*
10.29	Extension Letter, dated August 26, 2002, to Credit and Security Agreement between HSBC Bank USA and The New York Mortgage Company LLC, dated as of March 30, 2001, as amended.*
10.30	Extension Letter, dated September 11, 2002, to Credit and

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- Security Agreement between HSBC Bank USA and The New York Mortgage Company LLC, dated as of March 30, 2001, as amended.*
- 10.31 Extension Letter, dated October 28, 2002, to Credit and Security Agreement between HSBC Bank USA and The New York Mortgage Company LLC, dated as of March 30, 2001, as amended.*
- 10.32 Extension Letter, dated November 27, 2002, to Credit and Security Agreement between HSBC Bank USA and The New York Mortgage Company LLC, dated as of March 30, 2001, as amended.*

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EXHIBIT
NUMBER

EXHIBIT TITLE

- 10.33 Extension Letter, dated April 15, 2003, to Credit and Security Agreement between HSBC Bank USA and The New York Mortgage Company LLC, dated as of March 30, 2001, as amended.*
- 10.34 Extension Letter, dated June 24, 2003, to Credit and Security Agreement between HSBC Bank USA and The New York Mortgage Company LLC, dated as of March 30, 2001, as amended.*
- 10.35 Guaranty between HSBC Bank USA, The New York Mortgage Company LLC and Steven Schnall, dated as of March 30, 2001.**
- 10.36 Guaranty between HSBC Bank USA, The New York Mortgage Company LLC and Joseph V. Fierro, dated as of March 30, 2001.**
- 10.37 First Amended Guaranty between HSBC Bank USA, The New York Mortgage Company LLC and Steven Schnall, dated as of May 24, 2001.*
- 10.38 First Amended Guaranty between HSBC Bank USA, The New York Mortgage Company LLC and Joseph V. Fierro, dated as of May 24, 2001.*
- 10.39 Warehousing Credit Agreement, among The New York Mortgage Company LLC, Steven B. Schnall, Joseph V. Fierro and National City Bank of Kentucky, dated January 25, 2002.*
- 10.40 First Amendment, dated April 2002, to Warehousing Credit Agreement, among The New York Mortgage Company LLC, Steven B. Schnall, Joseph V. Fierro and National City Bank of Kentucky, dated January 25, 2002.*
- 10.41 Second Amendment, dated June 3, 2002, to Warehousing Credit Agreement, among The New York Mortgage Company LLC, Steven B. Schnall, Joseph V. Fierro and National City Bank of Kentucky, dated January 25, 2002.*
- 10.42 Third Amendment, dated November , 2002, to Warehousing Credit Agreement, among The New York Mortgage Company LLC, Steven B. Schnall, Joseph V. Fierro and National City Bank of Kentucky, dated January 25, 2002.*
- 10.43 Fourth Amendment, dated June 15, 2003, to Warehousing Credit Agreement, among The New York Mortgage Company LLC, Steven B. Schnall, Joseph V. Fierro and National City Bank of Kentucky, dated January 25, 2002.*
- 10.44 Warehouse Promissory Note, between The New York Mortgage

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- 10.45 Company, LLC and National City Bank of Kentucky, dated January 25, 2002.*
Amended and Restated Warehouse Promissory Note, between The New York Mortgage Company, LLC and National City Bank of Kentucky, dated June 3, 2002.*
- 10.46 Warehousing Credit Agreement, between New York Mortgage Company, LLC, Steven B. Schnall, Joseph V. Fierro and National City Bank of Kentucky, dated as of January 25, 2002.*
- 10.47 Pledge and Security Agreement, between The New York Mortgage Company, LLC and National City Bank of Kentucky, dated as of January 25, 2002.*
- 10.48 Unconditional and Continuing Guaranty of Payment by Steven B. Schnall to National City Bank of Kentucky, dated January 25, 2002.*
- 10.49 Unconditional and Continuing Guaranty of Payment by Joseph V. Fierro to National City Bank of Kentucky, dated January 25, 2002.*
- 10.50 Amended and Restated Unconditional and Continuing Guaranty of Payment by Steven B. Schnall to National City Bank of Kentucky, dated June 15, 2003.*
- 10.51 Amended and Restated Unconditional and Continuing Guaranty of Payment by Joseph V. Fierro to National City Bank of Kentucky, dated June 15, 2003.*
- 10.52 Inter-Creditor Agreement, between National City Bank of Kentucky and HSBC Bank USA, dated January 25, 2002.*
- 10.53 Whole Loan Purchase and Sale Agreement/Mortgage Loan Purchase and Sale Agreement between The New York Mortgage Company, LLC and Greenwich Capital Financial Products, Inc., dated as of September 1, 2003.*
- 10.54 Whole Loan Custodial Agreement/Custodial Agreement between Greenwich Capital Financial Products, Inc., The New York Mortgage Company, LLC and LaSalle Bank National Association, dated as of September 1, 2003.*

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EXHIBIT NUMBER -----	EXHIBIT TITLE -----
10.55	Form of New York Mortgage Trust, Inc. 2004 Stock Incentive Plan.***
10.56	Contribution Agreement by and among Steven B. Schnall and Joseph V. Fierro and New York Mortgage Trust, Inc., dated December 22, 2003.**
10.57	Agreement by and among New York Mortgage Trust, Inc., The New York Mortgage Company, LLC, Steven B. Schnall and Joseph V. Fierro, dated December 23, 2003.**
10.58	Sixth Amended Credit and Security Agreement, dated as of August 11, 2003, between HSBC Bank USA and The New York Mortgage Company LLC, dated as of March 30, 2001.**
10.59	Temporary Overadvance Note, dated as of August 11, 2003, between HSBC Bank USA and The New York Mortgage Company LLC.**
10.60	Second Amended Guaranty between HSBC Bank USA, The New York Mortgage Company LLC and Steven Schnall, dated as of June 18, 2001.**

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- 10.61 Second Amended Guaranty between HSBC Bank USA, The New York Mortgage Company LLC and Joseph V. Fierro, dated as of June 18, 2001.**
- 10.62 Third Amended Guaranty between HSBC Bank USA, The New York Mortgage Company LLC and Steven Schnall, dated as of November 13, 2001.**
- 10.63 Third Amended Guaranty between HSBC Bank USA, The New York Mortgage Company LLC and Joseph V. Fierro, dated as of November 13, 2001.**
- 10.64 Fourth Amended Guaranty between HSBC Bank USA, The New York Mortgage Company LLC and Steven Schnall, dated as of January 16, 2002.**
- 10.65 Fourth Amended Guaranty between HSBC Bank USA, The New York Mortgage Company LLC and Joseph V. Fierro, dated as of January 16, 2002.**
- 10.66 Fifth Amended Guaranty between HSBC Bank USA, The New York Mortgage Company LLC and Steven Schnall, dated as of April 29, 2002.**
- 10.67 Fifth Amended Guaranty between HSBC Bank USA, The New York Mortgage Company LLC and Joseph V. Fierro, dated as of April 29, 2002.**
- 10.68 Sixth Amended Guaranty between HSBC Bank USA, The New York Mortgage Company LLC and Steven Schnall, dated as of August 11, 2003.**
- 10.69 Sixth Amended Guaranty between HSBC Bank USA, The New York Mortgage Company LLC and Joseph V. Fierro, dated as of August 11, 2003.**
- 10.70 Credit and Security Agreement by and among HSBC Bank USA, National City Bank of Kentucky and The New York Mortgage Company LLC, dated as of December 15, 2003.**
- 10.71 Guaranty between HSBC Bank USA, National City Bank of Kentucky, The New York Mortgage Company LLC and Steven B. Schnall, dated as of December 15, 2003.**
- 10.72 Guaranty between HSBC Bank USA, National City Bank of Kentucky, The New York Mortgage Company LLC and Joseph V. Fierro, dated as of December 15, 2003.**
- 10.73 Credit Note by and between HSBC Bank USA and The New York Mortgage Company LLC, dated as of December 15, 2003.**
- 10.74 Credit Note by and between National City Bank of Kentucky and The New York Mortgage Company LLC, dated as of December 15, 2003.**
- 10.75 Swingline Note by and between HSBC Bank USA and The New York Mortgage Company LLC, dated as of December 15, 2003.**
- 10.76 Custodial Agreement by and among Greenwich Capital Financial Products, Inc., The New York Mortgage Corporation LLC and Deutsche Bank Trust Company Americas, dated as of August 1, 2003.**
- 10.77 Master Mortgage Loan Purchase and Interim Servicing Agreement by and between The New York Mortgage Company L.L.C. and Greenwich Capital Financial Products, Inc., dated as of August 1, 2003.**
- 10.78 Subordination and Pledge Agreement by and between HSBC Bank USA and Steven B. Schnall, dated as of December 15, 2003.**

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NUMBER -----	EXHIBIT TITLE -----
10.79	Subordination and Pledge Agreement by and between HSBC Bank USA and Joseph V. Fierro, dated as of December 15, 2003.**
10.80	Second Amended and Restated Promissory Note, issued by The New York Mortgage Company, LLC on August 31, 2003, as further amended and restated, on December 23, 2003 and February 26, 2004, in the principal amount of \$11,432,550 payable to Steven B. Schnall.***
10.81	Second Amended and Restated Promissory Note, issued by The New York Mortgage Company, LLC on August 31, 2003, as further amended and restated, on December 23, 2003 and February 26, 2004, in the principal amount of \$2,274,352, payable to Joseph V. Fierro.***
10.82	Promissory Note, issued by New York Mortgage Funding, LLC on January 9, 2004 in the principal amount of \$100,000,000.00, payable to Greenwich Capital Financial Products, Inc.***
10.83	Guaranty between the New York Mortgage Company, LLC and Greenwich Capital Financial Products, Inc., dated as of January 9, 2004.***
10.84	Master Loan and Security Agreement between New York Mortgage Funding, LLC and Greenwich Capital Financial Products, Inc., dated as of January 9, 2004.***
10.85	Custodial Agreement between New York Mortgage Funding, LLC, Deutsche Bank Trust Company Americas and Greenwich Capital Financial Products, Inc., dated as of January 9, 2004.
10.86	Amendment Number One, dated November 24, 2003, to the Master Mortgage Loan Purchase and Interim Servicing Agreement, dated as of August 1, 2003.***
10.87	Amended and Restated Contribution Agreement, by and among Steven B. Schnall, Steven B. Schnall Annuity Trust U/A 3/25/04, Joseph V. Fierro, 2004 Joseph V. Fierro Grantor Retained Annuity Trust and New York Mortgage Trust, Inc., dated March 25, 2004.***
10.88	Second Amended and Restated Contribution Agreement, by and among Steven B. Schnall, Steven B. Schnall Annuity Trust U/A 3/25/04, Joseph V. Fierro, 2004 Joseph V. Fierro Grantor Retained Annuity Trust and New York Mortgage Trust, Inc., dated April 29, 2004.****
10.89	Amended and Restated Agreement by and among New York Mortgage Trust, Inc., The New York Mortgage Company, LLC, Steven B. Schnall and Joseph V. Fierro, dated April 29, 2004.****
10.90	Third Amended and Restated Promissory Note, issued by The New York Mortgage Company, LLC on August 31, 2003, as further amended and restated on December 23, 2003, February 26, 2004 and May 26, 2004, in the principal amount of \$11,432,550 payable to Steven B. Schnall.*****
10.91	Third Amended and Restated Promissory Note, issued by the New York Mortgage Company, LLC on August 31, 2003, as further amended and restated, on December 23, 2003, February 26, 2004 and May 26, 2004, in the principal amount of \$2,274,352 payable to Joseph V. Fierro. *****
10.92	Form of Employment Agreement between New York Mortgage Trust, Inc. and Steven B. Schnall.*****
10.93	Form of Employment Agreement between New York Mortgage Trust, Inc. and David A. Akre.*****
10.94	Form of Employment Agreement between New York Mortgage Trust, Inc. and Raymond A. Redlingshafer, Jr.*****
10.95	Form of Employment Agreement between New York Mortgage Trust, Inc. and Michael I. Wirth.*****

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10.96 Form of Employment Agreement between New York Mortgage Trust, Inc. and Joseph V. Fierro.*****
10.97 Form of Employment Agreement between New York Mortgage Trust, Inc. and Steven R. Mumma.*****
21.01 List of Subsidiaries of the Registrant.**
23.01 Consent of Deloitte & Touche LLP.*****
23.02 Consent of Venable LLP (included in Exhibit 5.01).*****

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EXHIBIT
NUMBER

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23.03 Consent of Hunton & Williams LLP (included in Exhibit 8.01).*****
24.01 Power of Attorney (included on signature page of the Registration Statement filed with the Securities and Exchange Commission on December 31, 2003).
99.01 Consent of David R. Bock to being named as a director.***
99.02 Consent of Alan L. Hainey to being named as a director.***
99.03 Consent of Steven G. Norcutt to being named as a director.***
99.04 Consent of Mary Dwyer Pembroke to being named as a director.***
99.05 Consent of Jerome F. Sherman to being named as a director.***
99.06 Consent of Thomas W. White to being named as a director.***

* Previously filed as an exhibit to the Company's Registration Statement on Form S-11, Registration No. 333-111668, and incorporated by reference herein.

** Previously filed as an exhibit to Amendment No. 1 to the Company's Registration Statement on Form S-11, Registration No. 333-111668, and incorporated by reference herein.

*** Previously filed as an exhibit to Amendment No. 2 to the Company's Registration Statement on Form S-11, Registration No. 333-111668, and incorporated by reference herein.

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***** Previously filed as an exhibit to Amendment No. 5 to the Company's Registration Statement on Form S-11, Registration No. 333-111668, and incorporated by reference herein.

***** Filed herewith.

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SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, as amended, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-11 and has duly caused this Amendment No. 6 to the registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of New York, State of New York on June 18, 2004.

NEW YORK MORTGAGE TRUST, INC.
(Registrant)

By: /s/ STEVEN B. SCHNALL

Name: Steven B. Schnall
Title: Co-Chief Executive Officer

Pursuant to the requirements of the Securities Act of 1933, as amended, this Amendment No. 6 to the registration statement has been signed by the following persons in the capacities and on the dates indicated.

SIGNATURE -----	TITLE -----	DATE ----
/s/ STEVEN B. SCHNALL ----- Steven B. Schnall	Chairman of the Board and Co-Chief Executive Officer (Principal Executive Officer)	June 18, 2004
/s/ DAVID A. AKRE ----- David A. Akre	Director and Co-Chief Executive Officer	June 18, 2004
/s/ MICHAEL I. WIRTH ----- Michael I. Wirth	Chief Financial Officer, Vice President, Secretary and Treasurer (Principal Financial and Accounting Officer)	June 18, 2004
/s/ RAYMOND A. REDLINGSHAFFER,	Director, President and Chief	June 18, 2004

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JR.

Investment Officer

Raymond A. Redlingshafer, Jr.

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- 10.31 Extension Letter, dated October 28, 2002, to Credit and Security Agreement between HSBC Bank USA and The New York Mortgage Company LLC, dated as of March 30, 2001, as amended.*
- 10.32 Extension Letter, dated November 27, 2002, to Credit and Security Agreement between HSBC Bank USA and The New York Mortgage Company LLC, dated as of March 30, 2001, as amended.*
- 10.33 Extension Letter, dated April 15, 2003, to Credit and Security Agreement between HSBC Bank USA and The New York Mortgage Company LLC, dated as of March 30, 2001, as amended.*
- 10.34 Extension Letter, dated June 24, 2003, to Credit and Security Agreement between HSBC Bank USA and The New York Mortgage Company LLC, dated as of March 30, 2001, as amended.*
- 10.35 Guaranty between HSBC Bank USA, The New York Mortgage Company LLC and Steven Schnall, dated as of March 30, 2001.**
- 10.36 Guaranty between HSBC Bank USA, The New York Mortgage Company LLC and Joseph V. Fierro, dated as of March 30, 2001.**
- 10.37 First Amended Guaranty between HSBC Bank USA, The New York Mortgage Company LLC and Steven Schnall, dated as of May 24, 2001.*

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- 10.38 First Amended Guaranty between HSBC Bank USA, The New York Mortgage Company LLC and Joseph V. Fierro, dated as of May 24, 2001.*
- 10.39 Warehousing Credit Agreement, among The New York Mortgage Company LLC, Steven B. Schnall, Joseph V. Fierro and National City Bank of Kentucky, dated January 25, 2002.*
- 10.40 First Amendment, dated April 2002, to Warehousing Credit Agreement, among The New York Mortgage Company LLC, Steven B. Schnall, Joseph V. Fierro and National City Bank of Kentucky, dated January 25, 2002.*

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- 10.41 Second Amendment, dated June 3, 2002, to Warehousing Credit Agreement, among The New York Mortgage Company LLC, Steven B. Schnall, Joseph V. Fierro and National City Bank of Kentucky, dated January 25, 2002.*
- 10.42 Third Amendment, dated November , 2002, to Warehousing Credit Agreement, among The New York Mortgage Company LLC, Steven B. Schnall, Joseph V. Fierro and National City Bank of Kentucky, dated January 25, 2002.*
- 10.43 Fourth Amendment, dated June 15, 2003, to Warehousing Credit Agreement, among The New York Mortgage Company LLC, Steven B. Schnall, Joseph V. Fierro and National City Bank of Kentucky, dated January 25, 2002.*
- 10.44 Warehouse Promissory Note, between The New York Mortgage Company, LLC and National City Bank of Kentucky, dated January 25, 2002.*
- 10.45 Amended and Restated Warehouse Promissory Note, between The New York Mortgage Company, LLC and National City Bank of Kentucky, dated June 3, 2002.*
- 10.46 Warehousing Credit Agreement, between New York Mortgage Company, LLC, Steven B. Schnall, Joseph V. Fierro and National City Bank of Kentucky, dated as of January 25, 2002.*
- 10.47 Pledge and Security Agreement, between The New York Mortgage Company, LLC and National City Bank of Kentucky, dated as of January 25, 2002.*
- 10.48 Unconditional and Continuing Guaranty of Payment by Steven B. Schnall to National City Bank of Kentucky, dated January 25, 2002.*
- 10.49 Unconditional and Continuing Guaranty of Payment by Joseph V. Fierro to National City Bank of Kentucky, dated January 25, 2002.*
- 10.50 Amended and Restated Unconditional and Continuing Guaranty of Payment by Steven B. Schnall to National City Bank of Kentucky, dated June 15, 2003.*
- 10.51 Amended and Restated Unconditional and Continuing Guaranty of Payment by Joseph V. Fierro to National City Bank of Kentucky, dated June 15, 2003.*
- 10.52 Inter-Creditor Agreement, between National City Bank of Kentucky and HSBC Bank USA, dated January 25, 2002.*
- 10.53 Whole Loan Purchase and Sale Agreement/Mortgage Loan Purchase and Sale Agreement between The New York Mortgage Company, LLC and Greenwich Capital Financial Products, Inc., dated as of September 1, 2003.*
- 10.54 Whole Loan Custodial Agreement/Custodial Agreement between Greenwich Capital Financial Products, Inc., The New York Mortgage Company, LLC and LaSalle Bank National Association, dated as of September 1, 2003.*
- 10.55 Form of New York Mortgage Trust, Inc. 2004 Stock Incentive Plan.***
- 10.56 Contribution Agreement by and among Steven B. Schnall and Joseph V. Fierro and New York Mortgage Trust, Inc., dated December 22, 2003.**
- 10.57 Agreement by and among New York Mortgage Trust, Inc., The New York Mortgage Company, LLC, Steven B. Schnall and Joseph V. Fierro, dated December 23, 2003.**
- 10.58 Sixth Amended Credit and Security Agreement, dated as of August 11, 2003, between HSBC Bank USA and The New York Mortgage Company LLC, dated as of March 30, 2001.**
- 10.59 Temporary Overadvance Note, dated as of August 11, 2003, between HSBC Bank USA and The New York Mortgage Company LLC.**
- 10.60 Second Amended Guaranty between HSBC Bank USA, The New York

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Mortgage Company LLC and Steven Schnall, dated as of June 18, 2001.**

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10.61	Second Amended Guaranty between HSBC Bank USA, The New York Mortgage Company LLC and Joseph V. Fierro, dated as of June 18, 2001.**
10.62	Third Amended Guaranty between HSBC Bank USA, The New York Mortgage Company LLC and Steven Schnall, dated as of November 13, 2001.**
10.63	Third Amended Guaranty between HSBC Bank USA, The New York Mortgage Company LLC and Joseph V. Fierro, dated as of November 13, 2001.**
10.64	Fourth Amended Guaranty between HSBC Bank USA, The New York Mortgage Company LLC and Steven Schnall, dated as of January 16, 2002.**
10.65	Fourth Amended Guaranty between HSBC Bank USA, The New York Mortgage Company LLC and Joseph V. Fierro, dated as of January 16, 2002.**
10.66	Fifth Amended Guaranty between HSBC Bank USA, The New York Mortgage Company LLC and Steven Schnall, dated as of April 29, 2002.**
10.67	Fifth Amended Guaranty between HSBC Bank USA, The New York Mortgage Company LLC and Joseph V. Fierro, dated as of April 29, 2002.**
10.68	Sixth Amended Guaranty between HSBC Bank USA, The New York Mortgage Company LLC and Steven Schnall, dated as of August 11, 2003.**
10.69	Sixth Amended Guaranty between HSBC Bank USA, The New York Mortgage Company LLC and Joseph V. Fierro, dated as of August 11, 2003.**
10.70	Credit and Security Agreement by and among HSBC Bank USA, National City Bank of Kentucky and The New York Mortgage Company LLC, dated as of December 15, 2003.**
10.71	Guaranty between HSBC Bank USA, National City Bank of Kentucky, The New York Mortgage Company LLC and Steven B. Schnall, dated as of December 15, 2003.**
10.72	Guaranty between HSBC Bank USA, National City Bank of Kentucky, The New York Mortgage Company LLC and Joseph V. Fierro, dated as of December 15, 2003.**
10.73	Credit Note by and between HSBC Bank USA and The New York Mortgage Company LLC, dated as of December 15, 2003.**
10.74	Credit Note by and between National City Bank of Kentucky and The New York Mortgage Company LLC, dated as of December 15, 2003.**
10.75	Swingline Note by and between HSBC Bank USA and The New York Mortgage Company LLC, dated as of December 15, 2003.**
10.76	Custodial Agreement by and among Greenwich Capital Financial Products, Inc., The New York Mortgage Corporation LLC and Deutsche Bank Trust Company Americas, dated as of August 1, 2003.**
10.77	Master Mortgage Loan Purchase and Interim Servicing Agreement by and between The New York Mortgage Company L.L.C. and Greenwich Capital Financial Products, Inc., dated as of August 1, 2003.**

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- 10.78 Subordination and Pledge Agreement by and between HSBC Bank USA and Steven B. Schnall, dated as of December 15, 2003.**
- 10.79 Subordination and Pledge Agreement by and between HSBC Bank USA and Joseph V. Fierro, dated as of December 15, 2003.**
- 10.80 Second Amended and Restated Promissory Note, issued by The New York Mortgage Company, LLC on August 31, 2003, as further amended and restated, on December 23, 2003 and February 26, 2004, in the principal amount of \$11,432,550 payable to Steven B. Schnall.***
- 10.81 Second Amended and Restated Promissory Note, issued by The New York Mortgage Company, LLC on August 31, 2003, as further amended and restated, on December 23, 2003 and February 26, 2004, in the principal amount of \$2,274,352, payable to Joseph V. Fierro.***
- 10.82 Promissory Note, issued by New York Mortgage Funding, LLC on January 9, 2004 in the principal amount of \$100,000,000.00, payable to Greenwich Capital Financial Products, Inc.***
- 10.83 Guaranty between the New York Mortgage Company, LLC and Greenwich Capital Financial Products, Inc., dated as of January 9, 2004.***

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- 10.84 Master Loan and Security Agreement between New York Mortgage Funding, LLC and Greenwich Capital Financial Products, Inc., dated as of January 9, 2004.***
- 10.85 Custodial Agreement between New York Mortgage Funding, LLC, Deutsche Bank Trust Company Americas and Greenwich Capital Financial Products, Inc., dated as of January 9, 2004.***
- 10.86 Amendment Number One, dated November 24, 2003, to the Master Mortgage Loan Purchase and Interim Servicing Agreement, dated as of August 1, 2003.***
- 10.87 Amended and Restated Contribution Agreement, by and among Steven B. Schnall, Steven B. Schnall Annuity Trust U/A 3/25/04, Joseph V. Fierro, 2004 Joseph V. Fierro Grantor Retained Annuity Trust and New York Mortgage Trust, Inc., dated March 25, 2004.***
- 10.88 Second Amended and Restated Contribution Agreement, by and among Steven B. Schnall, Steven B. Schnall Annuity Trust U/A 3/25/04, Joseph V. Fierro, 2004 Joseph V. Fierro Grantor Retained Annuity Trust and New York Mortgage Trust, Inc., dated April 29, 2004.****
- 10.89 Amended and Restated Agreement by and among New York Mortgage Trust, Inc., The New York Mortgage Company, LLC, Steven B. Schnall and Joseph V. Fierro, dated April 29, 2004.****
- 10.90 Third Amended and Restated Promissory Note, issued by The New York Mortgage Company, LLC on August 31, 2003, as further amended and restated on December 23, 2003, February 26, 2004 and May 26, 2004, in the principal amount of \$11,432,550 payable to Steven B. Schnall.*****
- 10.91 Third Amended and Restated Promissory Note, issued by the New York Mortgage Company, LLC on August 31, 2003, as further amended and restated, on December 23, 2003, February 26, 2004 and May 26, 2004, in the principal amount of

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\$2,274,352 payable to Joseph V. Fierro. *****
10.92 Form of Employment Agreement between New York Mortgage
Trust, Inc. and Steven B. Schnall.*****
10.93 Form of Employment Agreement between New York Mortgage
Trust, Inc. and David A. Akre.*****
10.94 Form of Employment Agreement between New York Mortgage
Trust, Inc. and Raymond A. Redlingshafer, Jr.*****
10.95 Form of Employment Agreement between New York Mortgage
Trust, Inc. and Michael I. Wirth.*****
10.96 Form of Employment Agreement between New York Mortgage
Trust, Inc. and Joseph V. Fierro.*****
10.97 Form of Employment Agreement between New York Mortgage
Trust, Inc. and Steven R. Mumma.*****
21.01 List of Subsidiaries of the Registrant.**
23.01 Consent of Deloitte & Touche LLP.*****
23.02 Consent of Venable LLP (included in Exhibit 5.01).*****
23.03 Consent of Hunton & Williams LLP (included in Exhibit
8.01).*****
24.01 Power of Attorney (included on signature page of the
Registration Statement filed with the Securities and
Exchange Commission on December 31, 2003).
99.01 Consent of David R. Bock to being named as a director.***
99.02 Consent of Alan L. Hainey to being named as a director.***
99.03 Consent of Steven G. Norcutt to being named as a
director.***
99.04 Consent of Mary Dwyer Pembroke to being named as a
director.***
99.05 Consent of Jerome F. Sherman to being named as a
director.***
99.06 Consent of Thomas W. White to being named as a director.***

* Previously filed as an exhibit to the Company's Registration Statement
on Form S-11 Registration No. 333-111668, and incorporated by reference
herein.

** Previously filed as an exhibit to Amendment No. 1 to the Company's
Registration Statement on Form S-11, Registration No. 333-111668, and
incorporated by reference herein.

*** Previously filed as an exhibit to Amendment No. 2 to the Company's
Registration Statement on Form S-11, Registration No. 333-111668, and
incorporated by reference herein.

**** Previously filed as an exhibit to Amendment No. 4 to the Company's
Registration Statement on Form S-11, Registration No. 333-111668, and
incorporated by reference herein.

***** Previously filed as an exhibit to Amendment No. 5 to the Company's
Registration Statement on Form S-11, Registration No. 333-111668, and
incorporated by reference herein.

***** Filed herewith.