

ML MANAGER LLC

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April 1, 2014

ML MANAGER LLC NEWSLETTER #34

Dear Investors:

The following are the significant events that have occurred since our last newsletter.

**Theft Loss Information**

In Newsletter #32, posted on our webpage on September 24, 2013, we informed MP Fund investors that the IRS had issued an "Allowance Letter" (IRS Letter 3906) to each MP Fund that approved an amendment to the MP Fund's 2009 tax return that reported theft losses for the 2009 tax year. The Allowance Letters (copies of which are posted on our webpage) indicate that MP Fund investors have until April 14, 2014, to file amended tax returns claiming their allocable shares of the MP Funds' 2009 theft losses. IF YOU ARE AN INDIVIDUAL MP FUND INVESTOR AND HAVE NOT FILED AN AMENDED TAX RETURN CLAIMING THEFT LOSSES FOR THE 2009 TAX YEAR, IT IS IMPERATIVE THAT YOU DO SO BY APRIL 14, 2014, OR YOUR ABILITY TO CLAIM SUCH A THEFT LOSS MAY BE FOREVER BARRED.

In materials posted on our webpage in February of 2013 (and due to the then-existing uncertainty of whether or not the IRS would approve the MP Funds' amended tax returns claiming theft losses for 2009), we recommended that MP Fund investors consider filing protective refund claims reporting theft losses for the 2009 tax year. We have been informed that there is a considerable amount of confusion regarding how the IRS is handling these protective refund claims. We believe that many MP Fund investors have already received refunds based on their protective refund claims. We have been informed, however, that at least some MP Fund investors have been told by the IRS that they must file new amended tax returns for 2009, without a legend indicating that they are protective refund claims, in order for their refund claims to be processed. IF YOU ARE AN MP FUND INVESTOR WHO FILED A PROTECTIVE REFUND CLAIM REPORTING THEFT LOSSES FOR 2009 AND IF YOU HAVE NOT RECEIVED A REFUND BASED ON THAT CLAIM, IT IS POSSIBLE THAT THE IRS WILL DISALLOW YOUR REFUND UNLESS YOU FILE A NEW AMENDED 2009 TAX RETURN BY APRIL 14, 2014, REPORTING THE THEFT LOSS (WITHOUT A PROTECTIVE REFUND CLAIM LEGEND ON THAT RETURN).

ANY MP FUND INVESTORS WHO FILE AMENDED TAX RETURNS CLAIMING THEFT LOSSES FOR 2009 SHOULD STRONGLY CONSIDER ATTACHING TO

THOSE AMENDED RETURNS A COPY OF THE ALLOWANCE LETTER FOR EACH MP FUND IN WHICH THEY HOLD AN INTEREST.

The Allowance Letters do not apply to Loan LLC investors or to "pass-through investors" who held or continue to hold loan interests outside of the MP Funds and Loan LLCs, but they should nevertheless consult with their tax advisors to confirm whether any current action may be required.

Included with each MP Fund's Allowance Letter is an IRS Form 886-A which, among other matters, confirms the allowance of theft losses claimed by the MP Fund and addresses the reporting of additional theft losses (or the reporting of theft loss recoveries) as a result of post-2009 foreclosures by Loan LLCs. In this regard, the IRS Form 886-A provided to each MP Fund reads in part as follows:

The MP Funds are entitled to claim theft losses in accordance with Revenue Procedure 2009-20, as amended by Revenue Procedure 2011-58, with 2009 as the year of discovery and allowing a 75% theft loss on their loan interests (investments). The MP Funds reduce their basis in the loan interests by the 75% theft loss.

The MP Funds' theft losses are increased or decreased by their allocable shares of the Loan LLCs' gains or losses on foreclosures of property. A Loan LLC's foreclosure gain or loss is equal to (i) the Loan LLC's respective share of the bid price at foreclosure, minus (ii) the Loan LLC's basis in the loan (after reduction for the 75% theft loss). A foreclosure terminates the calculation of the theft loss.

The MP Funds are in the process of filing amendments to their 2010 tax returns that will report additional theft losses and/or theft loss recoveries consistently with the foregoing excerpts from the IRS Form 886-A. There are a number of pending issues with the IRS relating to the MP Funds' 2010 tax returns and amendments thereto, which will not be resolved until after April 15 of this year. Amended Schedule K-1s will not be issued with respect to the MP Funds' amended 2010 tax returns until these issues have been resolved. If the IRS approves the MP Funds' 2010 amended tax returns, MP Funds investors should be permitted to amend their 2010 personal tax returns after April 15, 2014 to report their allocable shares of any adjustments to MP Fund tax items that are approved by the IRS. We will provide updates to MP Fund investors regarding timing and deadlines as the 2010 amendments move forward with the IRS.

As mentioned in prior communications, the Allowance Letters do not apply to Loan LLC investors or to pass-through investors, but the analysis in the Allowance Letters (specifically including the provisions from the IRS Form 886-A that are quoted above) should be useful to Loan LLC investors and pass-through investors in reporting the tax consequences of post-2009 foreclosures. THE FILING BY THE MP FUNDS OF AMENDMENTS TO THEIR 2010 TAX RETURNS WILL HAVE NO EFFECT ON THE STATUE OF LIMITATIONS FOR AMENDMENTS BY LOAN LLC INVESTORS OR PASS-THROUGH INVESTORS TO THEIR 2010 TAX RETURNS, WHICH WILL GENERALLY EXPIRE ON APRIL 15, 2014. ACCORDINGLY, IF INDIVIDUAL LOAN LLC INVESTORS OR PASS-THROUGH INVESTORS DESIRE TO REPORT ADDITIONAL THEFT LOSSES AS A RESULT OF FORECLOSURES THAT OCCURRED IN 2010, THEY WILL NEED TO DO SO ON AMENDMENTS TO THEIR

PERSONAL TAX RETURNS FILED BY NO LATER THAN APRIL 15, 2014. THE LOAN LLCs WILL NOT BE FILING AMENDMENTS TO THEIR 2010 TAX RETURNS TO REPORT ANY THEFT LOSSES AS A RESULT OF FORECLOSURES.

AS HAS BEEN CONSISTENTLY NOTED IN OUR PRIOR COMMUNICATIONS, MATTERS RELATING TO THE PROPER REPORTING OF THEFT LOSSES ARE COMPLEX. INVESTORS ARE URGED TO CONSULT WITH THEIR TAX ADVISORS REGARDING THE MATTERS SET FORTH ABOVE, AS WELL AS REGARDING ALL OTHER TAX MATTERS RELATING TO THEIR INTERESTS IN EITHER MP FUNDS OR LOAN LLCs.

Some investors continue to receive phone calls and mass mailing solicitations from groups (including a group called Investment Tax Recovery, Inc.) wanting to represent them in connection with tax matters. We have not provided your names or addresses to any of these groups and are not endorsing their proposed services or those of any other potential tax advisors. We urge you to use caution as you select your tax advisors, to confirm their credentials and to obtain recommendations from people you know and trust to assist in your selection. There are significant tax issues to address and individual circumstances may vary, so it is important to obtain individual advice that is tailored to your specific needs.

#### **Distributions**

Our seventh distribution was made on February 27, 2014. Almost \$1.7 million was distributed to investors in the MK I loan. We continue in our efforts to sell properties and collect moneys for the investors and we anticipate having another distribution during the summer of 2014. The exact date will be dependant upon the timing of the sales of additional properties.

#### **K-1s**

Our outside CPA firm is finalizing the K-1s for the 2013 tax year. The K-1s continue to be complicated. We are required to send out the K-1 tax returns to all MP Fund and Loan LLC members on or before April 15th and we anticipate sending out the K-1s within the next two weeks. At the time that the 2013 Schedule K-1s are complete, they will be distributed by regular mail only to the primary contact's mailing address that we have on file for each investor. Our limited staff will not be able to distribute copies of the tax documentation by either email or facsimile. Thank you for your understanding.

#### **Central & Monroe (Loan 858606)**

The sale of this property located in downtown Phoenix was consummated on December 20, 2013 for a price of \$7,850,000. A settlement agreement has been signed to resolve the litigation with the mechanic lienholders that affect this property by the payment of \$2 million out of the sales proceeds to the mechanic lienholders. Additionally, a settlement agreement was signed with Fidelity Title Insurance Company to facilitate the settlement with the mechanic lienholders. Both of the settlement agreements were approved by the investors in C&M Loan LLC and the Bankruptcy Court. The \$2 million settlement will not be funded unless and until the mechanic lienholders comply with certain requirements, including obtaining releases for all of the recorded liens. The sales proceeds are being held in escrow and we are not entitled to receive the net sales proceeds unless and until the settlement with the mechanic lienholders is consummated. Naturally, there can be no distribution of funds to investors until the funds are released to us out of escrow. Fidelity Title is seeking a declaratory judgment that they have no liability to cover the \$2

million loss under the lenders title insurance policy. We will aggressively oppose the declaratory judgment and will seek to recover the \$2 million from Fidelity Title, plus attorneys fees.

**Rightpath II (Loan 859806)**

We have entered into a new sale agreement for the approximately 60 acre unimproved property in far west Phoenix, just north of the Dodgers/White Sox spring training facilities, for the price of \$4,440,000, with Bela Flor Communities. The prior approvals of the sale by the members of RLD II Loan LLC and the Bankruptcy Court will apply to this sale. It will be necessary for the buyer to rezone the property prior to the closing. If the buyer proceeds with the sale, the closing is scheduled for the fall of 2014.

**Vistoso Partners, LLC (Loan 857406)**

We entered into a sale agreement for the remaining 26 acre parcel located in Oro Valley, Arizona, for a price of \$4,900,000 with Mattamy Homes. This will likely be a short sale. The prior approvals of the sale by the members of VP I Loan LLC and the Bankruptcy Court will apply to this sale. The buyer is addressing some issues that affect the property that required an extension of the closing date. If the buyer proceeds with the sale, the closing is scheduled for June 4, 2014.

**Vistoso Partners, LLC (Loan 858006)**

We entered into a sale agreement for this 136 acre unimproved property in Oro Valley, Arizona, for a price of \$20.4M with Mattamy Homes. The sale is subject to the affirmative vote of the members of VP II Loan LLC and the Bankruptcy Court. The buyer needs to rezone the property prior to closing. If the buyer elects to proceed with the sale, the closing is scheduled for December 19, 2014.

**Vanderbilt Farms, L.L.C (Loan No. 859606)**

We have identified a new buyer for this property containing approximately 115 acres located in Queen Creek, Arizona. We are attempting to resolve some remaining issues and enter into a definitive sale agreement. The sale would be subject to the affirmative vote of the members of VF I Loan LLC and the approval of the Bankruptcy Court.

**HH20 (Loan 858305)**

We continue our efforts to market this property for sale.

**Rightpath II Loan 859806)**

We continue to work to eliminate or amend a significant land use restriction that was recorded against the approximately 16.7 acre property many years ago. The property probably cannot be sold unless and until this land use restriction is eliminated or significantly modified.

**Updating Account Information.**

Many investors have changed their addresses, phone numbers, and e-mail addresses. Please make sure that our records reflect your current information. In order to update your information it is necessary to complete an account change request form. These forms can be obtained by contacting us at [mortgagesinfo@mtgltd.com](mailto:mortgagesinfo@mtgltd.com).

**If you have any questions, you may contact our office at 623-234-9560 or via email at [mortgagesinfo@mtgltd.com](mailto:mortgagesinfo@mtgltd.com).** It is much more efficient for us to respond to written

questions and we ask whenever possible, please communicate with us via email. Also, please also feel free to contact Karen Epstein at 480-948-6777.

Thank you for your support of our efforts.

Best Regards,

Elliott Pollack

Chairman