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6  
7 **IN THE UNITED STATES BANKRUPTCY COURT**  
8 **FOR THE DISTRICT OF ARIZONA**

9 In re: ) Chapter 11 Proceedings  
10 )  
11 Mortgages Ltd., ) Case No. 2:08-bk-07465-RJH  
12 )  
13 Debtor. ) **OBJECTIONS OF MAYER,**  
14 ) **HOFFMAN, McCANN, P.C. TO**  
15 ) **SUBPOENA FOR RULE 2004**  
16 ) **EXAMINATION FOR**  
17 ) **PRODUCTION OF BUSINESS**  
18 ) **RECORDS**  
19 )  
20 ) **DATE: October 16, 2009**  
21 ) **TIME: 10:00 am**  
22 ) **PLACE: Nussbaum & Gillis**  
23 ) **14500 N. Northsight Blvd.**  
24 ) **Suite 116**  
25 ) **Scottsdale, AZ 85260**  
26 )

18 **PLEASE TAKE NOTICE** that Mayer, Hoffman, McCann, P.C. (“MHM”) asserts the following objections to the 2004 Examination subpoena for production of business records (“subpoena”) served on October 2, 2009:

21 1. MHM objects to the subpoena on the grounds that the subpoena fails  
22 to allow reasonable time to comply and accordingly subjects MHM to undue burden.  
23 (Fed. Rules of Civil Procedure, Rule 45(c)(1).)

24 2. MHM objects to the subpoena on the grounds that the subpoena is so  
25 broad as to call for production of documents well outside the scope of examination allowable under the Federal Rules of Bankruptcy Procedure, Rule 2004. (*In re: Good*

1 *Hope Refineries, Inc.* 9 B.R. 421, 421-423 (Bankr. Mass. 1981); *see also* F.R.C.P., Rule  
2 26; *In re: GHR Energy Corp.*, 33 B.R. 451, 454 (Bankr. D. Mass. 1983); *In re: Isis*  
3 *Foods, Inc.*, 33 B.R. 45 (Bankr. W.D. Mo. 1983); *Matter of Wilcher*, 56 B.R. 428, 433-  
4 434 (Bankr. N.D. Ill., 1985).)

5 3. MHM objects to the subpoena on the grounds that the subpoena is so  
6 broad as to call for production of certain financial information and tax related  
7 documents of a third party. MHM is precluded from disclosing any tax related  
8 documents or information, either by document production or testimony, pursuant to  
9 Internal Revenue Code §§ 7216, 6713, Treas. Regs. § 301.7216, absent a court order permitting  
10 them to do so or the taxpayer's consent. Furthermore, the same tax-related documents  
11 and information is entitled to privacy protection under the United States and Arizona  
12 Constitutions. (*Griswold v. Connecticut*, 381 U.S. 479 (1965); *Premium Service Corp.*  
13 *v. Sperry & Hutchinson*, 511 F.2d 225 (9th Cir. 1975); *see also*, Constitution of the  
14 State of Arizona, Article II, Section 8.)

15 4. MHM further objects on the grounds the documents and information  
16 requested in the subpoena, financial and otherwise, are entitled to privacy protection  
17 under both federal and state law. (*Premium Service Corp. v. Sperry & Hutchinson*, 511  
18 F.2d 225 (9th Cir. 1975); *Johnson by Johnson v. Thompson*, 971 F.2d 1487, 1497;  
19 *DeMasi v. Weiss*, 669 F.2d 114, 119-120 (3<sup>rd</sup> Cir. 1982); *see also* prohibitions against  
20 disclosure of personal financial information under 15 USC §6802; 16 CFR § 313.3  
(k)(2)(viii).)

21 MHM also objects to specific requests as follows:

22 **Request No. 1.**

23 The request is overbroad and vague. The request is also oppressive and  
24 overly burdensome in that it requires the extensive compilation and evaluation of  
25 documents which will require undue effort or expense. The request seeks production  
well beyond the scope of examination allowed under FRBP, Rule 2004. Moreover, the

1 request seeks production of information protected by the right of privacy guaranteed  
2 under both the United States and Arizona Constitutions.

3 **Request No. 2.**

4 The request is overbroad and vague. The request is also oppressive and  
5 overly burdensome in that it requires the extensive compilation and evaluation of  
6 documents which will require undue effort or expense. The request seeks production  
7 well beyond the scope of examination allowed under FRBP, Rule 2004. Moreover, the  
8 request seeks production of information protected by the right of privacy guaranteed  
9 under both the United States and Arizona Constitutions.

10 **Request No. 3.**

11 The request is overbroad and vague. The request is also oppressive and  
12 overly burdensome in that it requires the extensive compilation and evaluation of  
13 documents which will require undue effort or expense. The request seeks production  
14 well beyond the scope of examination allowed under FRBP, Rule 2004. Moreover, the  
15 request seeks production of information protected by the right of privacy guaranteed  
16 under both the United States and Arizona Constitutions.

17 **Request No. 4.**

18 The request is overbroad and vague. The request is also oppressive and  
19 overly burdensome in that it requires the extensive compilation and evaluation of  
20 documents which will require undue effort or expense. The request seeks production  
21 well beyond the scope of examination allowed under FRBP, Rule 2004.

22 **Request No. 5.**

23 The request is overbroad and vague. The request is also oppressive and  
24 overly burdensome in that it requires the extensive compilation and evaluation of  
25 documents which will require undue effort or expense. The request seeks production  
well beyond the scope of examination allowed under FRBP, Rule 2004.

**Request No. 6.**

1           The request is overbroad and vague. The request is also oppressive and  
2 overly burdensome in that it requires the extensive compilation and evaluation of  
3 documents which will require undue effort or expense. The request seeks production  
4 well beyond the scope of examination allowed under FRBP, Rule 2004.

5 **Request No. 7.**

6           The request is overbroad and vague. The request is also oppressive and  
7 overly burdensome in that it requires the extensive compilation and evaluation of  
8 documents which will require undue effort or expense. The request seeks production  
9 well beyond the scope of examination allowed under FRBP, Rule 2004.

10 **Request No. 8.**

11           The request is overbroad and vague. The request is also oppressive and  
12 overly burdensome in that it requires the extensive compilation and evaluation of  
13 documents which will require undue effort or expense. The request seeks production  
14 well beyond the scope of examination allowed under FRBP, Rule 2004.

15 **Request No. 9.**

16           The request is overbroad and vague. The request is also oppressive and  
17 overly burdensome in that it requires the extensive compilation and evaluation of  
18 documents which will require undue effort or expense. The request seeks production  
19 well beyond the scope of examination allowed under FRBP, Rule 2004.

20 **Request No. 10.**

21           The request is overbroad and vague. The request is also oppressive and  
22 overly burdensome in that it requires the extensive compilation and evaluation of  
23 documents which will require undue effort or expense. The request seeks production  
24 well beyond the scope of examination allowed under FRBP, Rule 2004.

25 **Request No. 11.**

          The request is overbroad and vague. The request is also oppressive and  
overly burdensome in that it requires the extensive compilation and evaluation of

1 documents which will require undue effort or expense. The request seeks production  
2 well beyond the scope of examination allowed under FRBP, Rule 2004.

3 **Request No. 12.**

4 The request is overbroad and vague. The request is also oppressive and  
5 overly burdensome in that it requires the extensive compilation and evaluation of  
6 documents which will require undue effort or expense. The request seeks production  
7 well beyond the scope of examination allowed under FRBP, Rule 2004.

8 **Request No. 13.**

9 The request is overbroad and vague. The request is also oppressive and  
10 overly burdensome in that it requires the extensive compilation and evaluation of  
11 documents which will require undue effort or expense. The request seeks production  
12 well beyond the scope of examination allowed under FRBP, Rule 2004.

13 **Request No. 14.**

14 The request is overbroad and vague. The request is also oppressive and  
15 overly burdensome in that it requires the extensive compilation and evaluation of  
16 documents which will require undue effort or expense. The request seeks production  
17 well beyond the scope of examination allowed under FRBP, Rule 2004.

18 **Request No. 15.**

19 The request is overbroad and vague. The request is also oppressive and  
20 overly burdensome in that it requires the extensive compilation and evaluation of  
21 documents which will require undue effort or expense. The request seeks production  
22 well beyond the scope of examination allowed under FRBP, Rule 2004.

23 **Request No. 16.**

24 The request is overbroad and vague. The request is also oppressive and  
25 overly burdensome in that it requires the extensive compilation and evaluation of  
documents which will require undue effort or expense. The request seeks production  
well beyond the scope of examination allowed under FRBP, Rule 2004.

1 **Request No. 17.**

2 The request is overbroad and vague. The request is also oppressive and  
3 overly burdensome in that it requires the extensive compilation and evaluation of  
4 documents which will require undue effort or expense. The request seeks production  
5 well beyond the scope of examination allowed under FRBP, Rule 2004.

6 **Request No. 18.**

7 The request is overbroad and vague. The request is also oppressive and  
8 overly burdensome in that it requires the extensive compilation and evaluation of  
9 documents which will require undue effort or expense. The request seeks production  
10 well beyond the scope of examination allowed under FRBP, Rule 2004.

11 **Request No. 19.**

12 The request is overbroad and vague. The request is also oppressive and  
13 overly burdensome in that it requires the extensive compilation and evaluation of  
14 documents which will require undue effort or expense. The request seeks production  
15 well beyond the scope of examination allowed under FRBP, Rule 2004.

16 **Request No. 20.**

17 The request is overbroad and vague. The request is also oppressive and  
18 overly burdensome in that it requires the extensive compilation and evaluation of  
19 documents which will require undue effort or expense. The request seeks production  
20 well beyond the scope of examination allowed under FRBP, Rule 2004.

21 **Request No. 21.**

22 The request is overbroad and vague. The request is also oppressive and  
23 overly burdensome in that it requires the extensive compilation and evaluation of  
24 documents which will require undue effort or expense. The request seeks production  
25 well beyond the scope of examination allowed under FRBP, Rule 2004.

1 **Request No. 22.**

2 The request is overbroad. The request is also oppressive and overly  
3 burdensome in that it requires the extensive compilation and evaluation of documents  
4 which will require undue effort or expense. The request is vague in its use of the term  
5 “procedural manuals.” The request seeks production well beyond the scope of  
6 examination allowed under FRBP, Rule 2004. Moreover, the request seeks production  
7 of information protected by the right of privacy guaranteed under both the United States  
8 and Arizona Constitutions.

9 **Request No. 22.**

10 The request is overbroad. The request is also oppressive and overly  
11 burdensome in that it requires the extensive compilation and evaluation of documents  
12 which will require undue effort or expense. The request is vague in its use of the term  
13 “procedural manuals.” The request seeks production well beyond the scope of  
14 examination allowed under FRBP, Rule 2004. Moreover, the request seeks production  
15 of information protected by the right of privacy guaranteed under both the United States  
16 and Arizona Constitutions.

16 **Request No. 23.**

17 The request is overbroad. The request is also oppressive and overly  
18 burdensome in that it requires the extensive compilation and evaluation of documents  
19 which will require undue effort or expense. The request is vague in its use of the term  
20 “procedural manuals.” The request seeks production well beyond the scope of  
21 examination allowed under FRBP, Rule 2004. Moreover, the request seeks production  
22 of information protected by the right of privacy guaranteed under both the United States  
23 and Arizona Constitutions.

24 **Request No. 24:**

25 The request is overbroad and vague. The request is also oppressive and  
overly burdensome in that it requires the extensive compilation and evaluation of

1 documents which will require undue effort or expense. The request seeks production  
2 well beyond the scope of examination allowed under FRBP, Rule 2004. Moreover, the  
3 request is vague in its use of the term “tax-related services.”

4 **Request No. 25.**

5 The request is overbroad and vague. The request is also oppressive and  
6 overly burdensome in that it requires the extensive compilation and evaluation of  
7 documents which will require undue effort or expense. The request seeks production  
8 well beyond the scope of examination allowed under FRBP, Rule 2004. Moreover, the  
9 request is vague in its use of the term “tax-related services.”

10 **Request No. 26.**

11 The request is overbroad and vague. The request is also oppressive and  
12 overly burdensome in that it requires the extensive compilation and evaluation of  
13 documents which will require undue effort or expense. The request seeks production  
14 well beyond the scope of examination allowed under FRBP, Rule 2004.

15 **Request No. 27.**

16 The request is overbroad and vague. The request is also oppressive and  
17 overly burdensome in that it requires the extensive compilation and evaluation of  
18 documents which will require undue effort or expense. The request seeks production  
19 well beyond the scope of examination allowed under FRBP, Rule 2004.

20 **Request No. 28.**

21 The request is overbroad and vague. The request is also oppressive and  
22 overly burdensome in that it requires the extensive compilation and evaluation of  
23 documents which will require undue effort or expense. The request seeks production  
24 well beyond the scope of examination allowed under FRBP, Rule 2004.

25 **Request No. 29.**

The request is overbroad and vague. The request is also oppressive and  
overly burdensome in that it requires the extensive compilation and evaluation of



1 documents which will require undue effort or expense. The request seeks production  
2 well beyond the scope of examination allowed under FRBP, Rule 2004.

3 **Request No. 30.**

4 The request is overbroad and vague. The request is also oppressive and  
5 overly burdensome in that it requires the extensive compilation and evaluation of  
6 documents which will require undue effort or expense. The request seeks production  
7 well beyond the scope of examination allowed under FRBP, Rule 2004.

8 **Request No. 31.**

9 The request is overbroad. The request is also oppressive and overly  
10 burdensome in that it requires the extensive compilation and evaluation of documents  
11 which will require undue effort or expense. The request is also vague in its use of the  
12 terms “performance reviews” and “personnel files.” The request seeks production well  
13 beyond the scope of examination allowed under FRBP, Rule 2004. Moreover, the  
14 request seeks production of information protected by the right of privacy guaranteed  
15 under both the United States and Arizona Constitutions. (See *Matter of Hawaii Corp.*,  
16 88 F.R.D. 518, 524 (WD. TN. 1999); *Miller v. Federal Express Corp.*, 186 F.R.D. 376,  
17 384 (WD TN 1999); *Knoll v. American Tel. & Tel. Co.*, 176 F.3d 359, 365 (6<sup>th</sup> Cir.  
1999).)

18 **Request No. 32.**

19 The request is overbroad. The request is also oppressive and overly  
20 burdensome in that it requires the extensive compilation and evaluation of documents  
21 which will require undue effort or expense. The request is also vague in its use of the  
22 terms “performance reviews” and “personnel files.” The request seeks production well  
23 beyond the scope of examination allowed under FRBP, Rule 2004. Moreover, the  
24 request seeks production of information protected by the right of privacy guaranteed  
25 under both the United States and Arizona Constitutions. (See *Matter of Hawaii Corp.*,  
88 F.R.D. 518, 524 (WD. TN. 1999); *Miller v. Federal Express Corp.*, 186 F.R.D. 376,

1 384 (WD TN 1999); *Knoll v. American Tel. & Tel. Co.*, 176 F.3d 359, 365 (6<sup>th</sup> Cir.  
2 1999).)

3 **Request No. 33.**

4 The request is overbroad and vague. The request is also oppressive and  
5 overly burdensome in that it requires the extensive compilation and evaluation of  
6 documents which will require undue effort or expense. The request seeks production  
7 well beyond the scope of examination allowed under FRBP, Rule 2004. Moreover, the  
8 request seeks production of information protected by the right of privacy guaranteed  
9 under both the United States and Arizona Constitutions. (See *Matter of Hawaii Corp.*,  
10 88 F.R.D. 518, 524 (WD. TN. 1999); *Miller v. Federal Express Corp.*, 186 F.R.D. 376,  
11 384 (WD TN 1999); *Knoll v. American Tel. & Tel. Co.*, 176 F.3d 359, 365 (6<sup>th</sup> Cir.  
12 1999).)

13 **Request No. 34.**

14 The request is overbroad and vague. The request is also oppressive and  
15 overly burdensome in that it requires the extensive compilation and evaluation of  
16 documents which will require undue effort or expense. The request seeks production  
17 well beyond the scope of examination allowed under FRBP, Rule 2004. Moreover, the  
18 request seeks production of information protected by the right of privacy guaranteed  
19 under both the United States and Arizona Constitutions. (See *Matter of Hawaii Corp.*,  
20 88 F.R.D. 518, 524 (WD. TN. 1999); *Miller v. Federal Express Corp.*, 186 F.R.D. 376,  
21 384 (WD TN 1999); *Knoll v. American Tel. & Tel. Co.*, 176 F.3d 359, 365 (6<sup>th</sup> Cir.  
22 1999).)

23 **Request No. 35.**

24 The request is overbroad and vague. The request is also oppressive and  
25 overly burdensome in that it requires the extensive compilation and evaluation of  
documents which will require undue effort or expense. Moreover, the request goes well  
beyond the scope of examination allowable under FRBP, Rule 2004

1 **Request No. 36.**

2 The request is overbroad and vague. The request is also oppressive and  
3 overly burdensome in that it requires the extensive compilation and evaluation of  
4 documents which will require undue effort or expense.

5 **Request No. 37.**

6 The request is overbroad and vague. The request is also oppressive and  
7 overly burdensome in that it requires the extensive compilation and evaluation of  
8 documents which will require undue effort or expense. The request seeks production  
9 well beyond the scope of examination allowed under FRBP, Rule 2004. Moreover, the  
10 request seeks production of information protected by the right of privacy guaranteed  
11 under both the United States and Arizona Constitutions.

12 **Request No. 38.**

13 The request is overbroad and vague. The request is also oppressive and  
14 overly burdensome in that it requires the extensive compilation and evaluation of  
15 documents which will require undue effort or expense. The request seeks production  
16 well beyond the scope of examination allowed under FRBP, Rule 2004. Moreover, the  
17 request seeks production of information protected by the right of privacy guaranteed  
18 under both the United States and Arizona Constitutions.

19 **Request No. 39.**

20 The request is overbroad and vague. The request is also oppressive and  
21 overly burdensome in that it requires the extensive compilation and evaluation of  
22 documents which will require undue effort or expense. Moreover, the request goes well  
23 beyond the scope of examination allowable under F.R.B.P., Rule 2004.

24 **Request No. 40.**

25 The request is overbroad and vague. The request is also oppressive and  
overly burdensome in that it requires the extensive compilation and evaluation of

1 documents which will require undue effort or expense. The request seeks production  
2 well beyond the scope of examination allowed under FRBP, Rule 2004.

3 **Request No. 41.**

4 The request is overbroad and vague. The request is also oppressive and  
5 overly burdensome in that it requires the extensive compilation and evaluation of  
6 documents which will require undue effort or expense. The request seeks production  
7 well beyond the scope of examination allowed under FRBP, Rule 2004. Moreover, the  
8 request seeks production of information protected by the right of privacy guaranteed  
9 under both the United States and Arizona Constitutions.

10 **Request No. 42.**

11 The request is overbroad and vague. The request is also oppressive and  
12 overly burdensome in that it requires the extensive compilation and evaluation of  
13 documents which will require undue effort or expense. The request seeks production  
14 well beyond the scope of examination allowed under FRBP, Rule 2004. Moreover, the  
15 request seeks production of information protected by the right of privacy guaranteed  
16 under both the United States and Arizona Constitutions.

17 **Request No. 42.**

18 The request is overbroad and vague. The request is also oppressive and  
19 overly burdensome in that it requires the extensive compilation and evaluation of  
20 documents which will require undue effort or expense.

21 **Request No. 43.**

22 The request is overbroad and vague. The request is also oppressive and  
23 overly burdensome in that it requires the extensive compilation and evaluation of  
24 documents which will require undue effort or expense.

25 **Request No. 44.**

The request is overbroad and vague. The request is also oppressive and  
overly burdensome in that it requires the extensive compilation and evaluation of

1 documents which will require undue effort or expense. The request seeks production  
2 well beyond the scope of examination allowed under FRBP, Rule 2004. Moreover, the  
3 request seeks production of information protected by the right of privacy guaranteed  
4 under both the United States and Arizona Constitutions.

5 **Request No. 45.**

6 The request is overbroad and vague. The request is also oppressive and  
7 overly burdensome in that it requires the extensive compilation and evaluation of  
8 documents which will require undue effort or expense. The request seeks production  
9 well beyond the scope of examination allowed under FRBP, Rule 2004. Moreover, the  
10 request seeks production of information protected by the right of privacy guaranteed  
11 under both the United States and Arizona Constitutions.

12 Dated this 15<sup>th</sup> day of October, 2009.

13 **JARDINE, BAKER, HICKMAN & HOUSTON,**  
14 **P.L.L.C.**

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