

**IT IS HEREBY ADJUDGED  
and DECREED this is SO  
ORDERED.**

The party obtaining this order is responsible for  
noticing it pursuant to Local Rule 9022-1.

**Dated: October 28, 2009**



1 Kendall D. Steele,  
2 **JARDINE, BAKER, HICKMAN & HOUSTON**  
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9 Attorney for Mayer Hoffman McCann, P.C.

*Randolph J. Haines*

**RANDOLPH J. HAINES  
U.S. Bankruptcy Judge**

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

9 In re: ) Chapter 11 Proceedings  
10 Mortgages Ltd., ) Case No. 2:08-bk-07465-RJH  
11 Debtor. ) **STIPULATED PROTECTIVE**  
12 ) **ORDER RE MOTION FOR ORDER**  
13 ) **FOR EXAMINATION AND**  
14 ) **PRODUCTION OF DOCUMENTS**  
15 ) **PURSUANT TO FEDERAL RULE**  
16 ) **OF BANKRUPTCY PROCEDURE**  
17 ) **2004**

16 IT IS HEREBY STIPULATED AND AGREED by and between ML Liquidating Trust  
17 and Mayer Hoffman McCann P.C (collectively "the Parties") through their undersigned  
18 counsel of record as follows:

19 WHEREAS, on or about September 14, 2009 ML Liquidating Trust filed a Motion for  
20 Order of Examination of Mayer Hoffman McCann P.C and production of documents pursuant  
21 to Federal Rule of Bankruptcy Procedure 2004 ("Motion for FRBP 2004 Examination") in the  
22 above captioned matter,

23 WHEREAS, this Motion for FRBP 2004 Examination does, and future discovery  
24 requests might, seek production of documents and disclosure of other evidence or testimony  
25

1 by Mayer Hoffman McCann P.C. regarding accounting, tax and auditing services rendered by  
2 on behalf of Mortgages, Ltd., including, among other things, work papers, and audit programs.

3 WHEREAS, it is the desire of Mayer Hoffman McCann P.C to comply with the rules  
4 applicable to this proceeding, and at the same time protect and preserve its rights and interests,  
5 including, without limitation, all privileges, rights of privacy and proprietary interests, which  
6 are recognized by the law,

7  
8 IT IS HEREBY STIPULATED as follows.

9 1 The production or disclosure of any document, tangible thing, testimony,  
10 evidence or information by Mayer Hoffman McCann P.C in the course of the above captioned  
11 action shall be without prejudice to any claim that such material is privileged as confidential or  
12 proprietary business information. Mayer Hoffman McCann P.C shall not be held to have  
13 waived any privilege, right or interest which might be applicable by any production or  
14 disclosure in this case. Mayer Hoffman McCann P.C shall indicate at or before the time of  
15 disclosure that it asserts documents or information are confidential by marking it "Confidential  
16 Subject to Protective Order" or putting some other similar designation thereon.

17 2. All documents in Mayer Hoffman McCann P.C's possession, custody or control  
18 which reflect, relate, refer, pertain to, or evidence Mayer Hoffman McCann P.C's work papers,  
19 audit programs, and services, and other documents relating to same, are subject to this  
20 protective order. It is understood that Mayer Hoffman McCann P.C asserts all of its work  
21 papers, audit programs and documents relating to Mortgages, Ltd. or otherwise are confidential  
22 property, in regard to the production of documents by Mayer Hoffman McCann P.C pursuant  
23 to FRBP 2004 Examination of Mayer Hoffman McCann P.C. and Production of Documents  
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1 Pursuant to Federal Rule of Bankruptcy Procedure 2004 and future discovery requests and  
2 testimony and otherwise.

3 3. Any deposition, witness examination or other testimony elicited by any person  
4 which reflect, relate, refer or pertain to, or evidence of Mayer Hoffman McCann P.C's work  
5 papers, audits and other documents relating to same, is confidential and subject to this  
6 protective order, including but not limited to testimony regarding the documents identified in  
7 paragraph 2 above.

8 4. Upon application of any party and for good cause shown, the Protective Order  
9 entered upon this Stipulation may be modified. Any of the Parties may challenge the  
10 designation as confidential of any documents, tangible thing, testimony, evidence or  
11 information by motion filed with the court. Pending decision on the motion, the document,  
12 tangible thing, testimony, evidence or information shall be treated as confidential pursuant to  
13 the terms is of this Order

14 5. All documents and tangible things produced pursuant to this Stipulation and  
15 designated as "Confidential Subject to Protective Order" shall be used for the purpose of the  
16 above captioned action only, absent Mayer Hoffman McCann P.C's consent or order of a court.  
17 No document, tangible thing, testimony or information produced or disclosed and designated  
18 as confidential may be introduced in evidence in any other proceeding by any person subject to  
19 the provisions of this Stipulation without consent or order of the Court. However, such  
20 documents, tangible things, testimony, evidence or information may be used in other litigation  
21 between the parties hereto, subject to the same conditions and restrictions set forth in this  
22 agreement.  
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1           6. All documents and tangible things produced pursuant to this Stipulation shall be  
2 made available only to Qualified Persons. The term "Qualified Persons" as used herein shall  
3 mean:

4                   (a) Counsel and support staff of counsel for ML Liquidating Trust;

5                   (b) Experts retained by ML Liquidating Trust in the course of the action and/or  
6 any litigation between the parties (including experts retained as consultants for  
7 preparation, evaluation and investigatory purposes, as well as experts retained to  
8 testify at any trial, hearing or other proceeding in the action);

9                   (c) The Parties or representatives of those Parties who may be called  
10 as a witness at any trial, deposition, hearing or other proceeding in the action  
11 and/or any litigation between the parties, provided, however, that any such  
12 representative must be or have been at the relevant time an officer or employee  
13 of the party and not a third-party witness unless such third party witness is an  
14 expert authorized by subparagraph (b) above;

15                   (d) The Court or any personnel engaged to assist the Court in connection with  
16 any proceeding in this action; (e) Any other person to whom the parties may  
17 hereafter agree in writing; and

18                   (f) Any member or employee of ML Liquidating Trust that is essential to the  
19 respective parties' handling of this matter.  
20

21  
22           7. Any document, tangible thing or information produced pursuant to this  
23 Stipulation which may subsequently be sought to be filed or introduced in the action or any  
24 other litigation between the Parties must be filed or introduced under seal. Counsel for the  
25 respective parties shall be directed to place any documents to be filed under seal with the Clerk

1 of the Court in an envelope marked "Sealed" and to file said documents directly with the  
2 Court.

3 8. Mayer Hoffman McCann P.C. will meet any requirement to show, prove, or  
4 establish the confidential nature or any other particularized showing necessary to file or  
5 introduce a document, tangible thing, or information produced pursuant to this stipulation  
6 under seal, whether filed or introduced under seal by the ML Liquidating Trust or Mayer  
7 Hoffman McCann P.C.

8  
9 9. Each Qualified Person under paragraphs 6(c), 6(e), and 6(d) above, to whom  
10 any document, tangible thing or information protected by this Stipulation is disclosed, shall be  
11 advised that the same is being disclosed pursuant to and subject to the terms of this Stipulated  
12 Protective Order. He or she shall be advised of the terms of this Stipulated Protective Order,  
13 supplied with a copy thereof, and advised that the sanctions for any violation of the order  
14 entered upon this Stipulation include the penalties which the Court may impose for contempt.  
15 In the event information protected by this order is disclosed to such person other than in a  
16 deposition or other proceeding under oath in this matter, such person shall also execute a  
17 declaration in the form set out immediately below, an executed copy of which shall be retained  
18 by counsel of record for the party who has made such material available to that person. Such  
19 declaration shall be filed with the Court under seal in connection with any proceeding  
20 regarding any claimed violation of this Order.  
21

22 DECLARATION

23 I \_\_\_\_\_, reside at \_\_\_\_\_ and am \_\_\_[position]\_. I have been  
24 provided with a copy of the Stipulated Protective Order so ordered by the Court on  
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1 \_\_\_\_\_ . I have read and understand the "Stipulated Protective Order" and agree that I shall  
2 be bound by its prohibitions and restrictions unless and until the same are modified or  
3 eliminated by subsequent written agreement of the parties or a further court order, I agree with  
4 respect to all documents, tangible things and information produced pursuant to the "Stipulated  
5 Protective Order" under a claim of privilege and/or Confidentiality which are made available to  
6 me that I shall maintain the same in confidence, shall not disclose the same to anyone except as  
7 authorized by the "Stipulated Protective Order" or by subsequent written agreement of the  
8 parties thereto or a subsequent order of a court, and shall use the same only in connection with  
9 this action or any litigation between the Parties (unless otherwise agreed to in writing by the  
10 parties to the 'Stipulated Protective Order' or a subsequent order of a court). At the conclusion  
11 of all proceedings, I agree that I will return all documents, tangible things and information  
12 produced pursuant to the 'Stipulated Protective Order' under a claim of privilege and/or  
13 confidentiality, and all copies thereof and all summaries thereof or written comments to the  
14 person or entity employing me, for further disposition consistent with the terms of the  
15 'Stipulated Protective Order.'

16  
17 Dated \_\_\_\_\_


18  
19 10. Upon final termination of this matter or any litigation between the Parties  
20 insofar as it concerns Mortgages, Ltd. after the conclusion of any and all appeals, unless  
21 otherwise agreed to in writing by an attorney of record for Mayer Hoffman McCann P.C., upon  
22 receipt of thirty (30) days prior written notice from ML Liquidating Trust and any person who  
23 is in possession of information protected by this order shall destroy the copies produced to the  
24 ML Liquidating Trust or assemble and return all material produced pursuant to this Order to  
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1 Mayer Hoffman McCann P.C. Mayer Hoffman McCann P.C shall acknowledge receipt of  
2 such material in writing within thirty (30) days of such receipt.

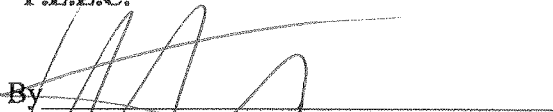
3 11. No part of the provisions of the Order entered upon this Stipulation may be  
4 terminated, except by written stipulation executed by counsel, or by subsequent Order of the  
5 Court. The termination of this bankruptcy proceeding shall not terminate the effectiveness of  
6 the Order entered upon this Stipulation.

7  
8 Dated this 15th day of October, 2009

9 **DIAMOND MCCARTHY**

10 By   
11 Craig Boneau  
12 Josh Bruckerhoff  
13 6504 Bridgepoint Parkway, Suite 400  
14 Austin, TX 78730  
15 Special Litigation Counsel to  
16 ML Liquidating Trust

17 **JARDINE, BAKER, HICKMAN & HOUSTON,**  
18 **P.L.L.C.**

19 By   
20 Kendall D. Steele  
21 3300 North Central Avenue, #2600  
22 Phoenix, Arizona 85012  
23 Attorneys for Mayer Hoffman McCann, P.C.

24 **IT IS SO ORDERED,**

25 Dated this \_\_\_ day of \_\_\_\_\_, 2009

\_\_\_\_\_  
Judge of the United States Bankruptcy Court