

1 AIKEN SCHENK HAWKINS & RICCIARDI P.C.
4742 North 24th Street Suite 100
2 Phoenix, Arizona 85016-4859
Telephone: (602) 248-8203
3 Facsimile: (602) 248-8840
D. Lamar Hawkins – 013251
4 Chris Chicoine - 025260
Email: dlh@ashrlaw.com
5 Attorneys for Creditor

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.	RESPONSE TO OMNIBUS CLAIMS OBJECTION

12
13 Eric and Cheryl Faas and HH 20 LLC (“Faases” and “HH20” and collectively as the “Faas
14 Creditors”) by and through their undersigned counsel, hereby files their joint response to the “*ML*
15 *Liquidating Trust’s Omnibus Objection to Claims and Motion to Expunge, Reduce or Reclassify Such*
16 *Claims*”[Docket No. 2306] (“Objection”). The Faas Creditors are listed on the Exhibit K filed with the
17 Objection and represent as follows in support of their Response.

18 Eric Faas is a member of HH20. HH20 executed and delivered a Note to Mortgages Ltd
19 (“ML”) on or about April 14, 2007 and the Faases guaranteed the same. HH20 was induced to execute
20 the Note and Deed of Trust, and the Faases were induced to execute the Guaranty, based upon ML’s
21 representations that \$6,900,000 would be available to HH20 for a real estate development project. ML
22 dispersed \$3,600,000 in initial funding. ML failed and/or refused to fund the additional \$3,300,000 in
23 monies it promised to the Faas Creditors. The Faas Creditors would not have executed the above-
24 referenced loan documents had ML revealed the financial difficulties it knew it was facing. ML had a
25 duty to disclose this information to the Faas Creditors as it was material to the loan transaction.
26 Accordingly, HH 20 and the Faases filed proofs of claims numbers 305 and 308 each in the amount of
27 \$3,300,000 based on the above-described claims against ML, its successors and/or assigns. The Faas
28 Creditors’ documentation to support their claims is essentially the loan documentation related to the

1 April 14, 2007 loan transaction which is likely in the possession of ML and/or the ML Liquidating
2 Trustee.

3 Moreover, the Omnibus Objection is itself is improper and raises serious due process concerns
4 in that it seeks a disallowance of claims without a hearing. *See 11 U.S.C. §502(b); Fed.R.Bank.P.*
5 *3007.* The Faas Creditors request a hearing on the validity of their proofs of claims, as it is well within
6 their right.

7 DATED this ____ day of November, 2009.

8 AIKEN SCHENK HAWKINS & RICCIARDI P.C.

9
10 By CRC 025260
11 D. Lamar Hawkins
12 Chris Chicoine
13 4742 North 24th St., Suite 100
14 Phoenix, Arizona 85016
15 Attorneys for Faas Creditors

14 COPY of the foregoing mailed or served
15 via (fax* or electronic notification** if so marked)
16 this 20th day of ~~February~~, 2009, to:

16 ^{November}
17 Fennemore Craig, P.C.
18 Cathy Reece
19 Keith Hendricks
20 3003 N. Central Ave., Ste 2600
21 Phoenix, AZ 85012
22 Official Investors' Committee

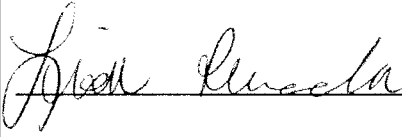
23 Myers & Jenkins, PC
24 One East Camelback Road, Suite 500
25 Phoenix, AZ 85012
26 Attorneys for Trustee of the ML Liquidating Trust

27 US Trustee
28 Jonathan E. Hess
29 230 N. 1st Avenue, Ste 204
30 Phoenix, AZ 85003

31 Committee Unsecured Creditors
32 c/o Randy Nussbaum
33 Nussbaum & Gillis, P.C.
34 14500 N. Northsight Blvd., Ste 116
35 Scottsdale, AZ 85260

36 Jennings Strouss & Salmon, P.L.C.
37 Bradley Jay Stevens
38 Carolyn Johnsen

1 Collier Center, 11th Floor
2 201 E. Washington Street
3 Phoenix, AZ 85004-2385
4 Attorneys for Debtor

5  _____
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28