1	Greg S. Como (State Bar No.: 013187)	
2	como@lbbslaw.com Kristen DeWitt-Lopez (State Bar No.: 024245)	
3	dewitt-lopez@lbbslaw.com LEWIS BRISBOIS BISGAARD & SMITH LLP	
4	Phoenix Plaza Tower II 2929 North Central Avenue, Suite 1700	• •
5	Phoenix, Arizona 85012-2761 Telephone: (602) 385-1040	
6	Facsimile: (602) 385-1051 Attorneys for Hebets & Maguire, LLC	
7		
8		
9	<u> </u>	
10	IN THE UNITED STATES BANKRUPTCY COURT	
11	FOR THE DISTRICT OF ARIZONA	
12	· .	In Proceedings Under Chapter 11
13	In re:	Case No. 2:08-bk-07465-RJH
14	·	Case No. 2.08-DR-0/405-RJ11
15	MORTGAGES, LTD.,	
16	Debtor.	NOTICE OF LODGING PROTECTIVE ORDER RE: PRODUCTION OF
17		DOCUMENTS BY HEBETS &
18		MAGUIRE, LLC AND SHELLEY HARTSUIKER PURSUANT TO COURT
19		ORDER
20		
21		
22	NOTICE IS HEREBY GIVEN that Hebets & Maguire, LLC, has this date lodged a	
23	Protective Order Re: Production of Documents by Hebets & Maguire, LLC and Shelley	
24		
25	Hartsuiker Pursuant to Court Order. (copy attached).	
26		
27	•••	
28		
_0		

LEWIS BRISBOIS BISGAARD & SMITH LLP ATTORNEYS AT LAW

4845-8606-6181.1815-4905-3445.1

RESPECTFULLY SUBMITTED this /s/20<sup>th</sup> day of January, 2010. LEWIS BRISBOIS BISGAARD & SMITH LLP By: /s/ Kristen DeWitt-Lopez
Greg Como
Kristen DeWitt-Lopez
Attorneys for Hebets & Maguire, LLC and Shelley Hartsuiker 

LEWIS BRISBOIS BISGAARD & SMITH LLP ATTORNEYS AT LAW 

## IN THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF ARIZONA

In re:

Debtor.

MORTGAGES, LTD.,

In Proceedings Under Chapter 11

Case No. 2:08-bk-07465-RJH

PROTECTIVE ORDER RE: PRODUCTION OF DOCUMENTS BY HEBETS & MAGUIRE, LLC AND SHELLEY HARTSUIKER PURSUANT TO COURT ORDER

Pursuant to Rules 2004 and 9018 of the Federal Rules of Bankruptcy Procedure and Rules 26(c) and 45(d)(2) of the Federal Rules of Civil Procedure, and based upon the Stipulated Motion of Kevin T. Halloran, as Liquidating Trustee of the ML Liquidating Trust (the "Liquidating Trustee"). and Hebets & Maguire, LLC and Shelley Hartsuiker (hereinafter collectively referred to as "H&M") for Protective Order Re: Production of Documents by Hebets & Maguire, LLC and Shelley Hartsuiker Pursuant to Court Order ("Motion").

IT IS HEREBY ORDERED granting the Stipulated Motion and entering the following Protective Order to govern confidential information produced by H&M, or either of them, in response to the 2004 Examination Orders (as defined in the Motion) that the Liquidating Trustee has served upon non-party H&M.

## PROTECTIVE ORDER

- 1. <u>Confidential Information</u>: The phrase "confidential information" shall mean proprietary, private, sensitive, or competitive information that could cause Hebets & Maguire, or the family of Scott Coles competitive disadvantage, public embarrassment, or other significant inconvenience if disclosed. It shall also include information protected by applicable state and federal privacy laws, including, but not limited to, Health Insurance Portability and Accountability Act (Pub. Law No. 104-191 §§ 262, 264: 45 C.F.R. §§ 160-164) and the Graham-Leach-Bliley Act (15 U.S.C. §§ 6801 et seq.). Confidential Information may consist of documents or other information in tangible or electronic form. In the event any person is deposed or gives testimony in this case concerning the Confidential Information, the provisions of this Protective Order shall apply to the transcript thereof.
- 2. <u>Production of Confidential Information</u>: The parties agree that non-party H&M will produce the records requested, so long as any personally identifiable information (other than name), including addresses, telephone numbers, dates of birth and social security numbers, is reducted if further disseminated by or at the direction of the Liquidating Trustee. Notwithstanding the foregoing, the Liquidating Trustee shall have the right to disseminate such information in its original form without reduction to its

attorneys and advisors, so long as such attorneys and advisors are provided with a copy of the Protective Order and agree to be bound by its provisions to keep such information confidential.

- 3. Non-Production of Certain Information and Preservation of Right to Challenge: H&M believes certain documents set forth on the Privilege Log attached hereto as Exhibit 3, and incorporated herein by this reference, are protected from production by Arizona Rule of Evidence 408 and A.R.S. § 12-2238. The parties agree that H&M's current non-production of the documents listed on Exhibit 3 shall not constitute a violation of the 2004 Examination Orders. The parties further agree that nothing contained herein shall limit or waive the Liquidating Trustee's right to challenge the privilege asserted as to any document(s) listed on Exhibit 3 and move the Court for an order requiring the production of such document(s) at a later date.
- 4. <u>Designation of Confidential Information</u>: At the time H&M produces documents pursuant to the 2004 Examination Orders, H&M shall designate all information it deems to be confidential as "Confidential" by (1) placing such designation conspicuously on the information, in the case of a document; and (2) stating the designation on the deposition or hearing/trial record, in the case of testimony from a representative, agent, or employee of H&M.
- 5. <u>Use of Confidential Information</u>: The parties stipulate and agree that they will use the Confidential Information solely for purposes of these proceedings, including any adversary proceedings that may be filed in the future. In so stipulating, no party waives his/her/their rights to request that particularly sensitive documents be sealed and

not be made a part of the public record. Further, no party waives his/her/their rights to claim privilege pursuant to Rules 26(b)(5) and 45(d)(2) of the Federal Rules of Civil Procedure. In addition, nothing contained herein to the contrary shall limit or waive the Liquidating Trustee's right to request the Court's authorization to allow the disclosure and/or use of any information or documentation produced in accordance with the 2004 Examination Orders for the purposes of any existing or future judicial proceedings.

- 6. <u>Destruction of Confidential Information</u>: At such time as all of the matters in the above-captioned pleadings have been concluded, all information produced by H&M will be either destroyed or returned to H&M. The word "destroyed" means the destruction of paper documents and any electronic means of storing protected health information regarding Scott Coles. The parties may retain logs of the information that was received and destroyed, including any Bates numbers, for purposes of their law firm's document retention.
- 7. <u>Challenge to Designation</u>: If any party disputes the designation of any information hereunder, counsel for that party shall first attempt to resolve the dispute as required by the Federal Rules of Civil Procedure. If, after good faith efforts to resolve the dispute have failed, the party challenging the designation may move the Court for a determination of the propriety of the designation.
- 8. <u>Expert Witnesses</u>: Any expert witnesses or consultants retained by any party to these proceedings are to be provided with a copy of this Protective Order and are bound by its provisions, including but not limited to the requirement that any designated

Confidential Information produced by H&M be destroyed at such time as all of the matters in the above-captioned proceedings have been concluded. DATED this \_\_ day of \_\_ Honorable Randolph J. Haines Bankruptcy Judge 

BRISBOIS
BISGAARD
& SMITH LLP

4811-6671-6933.1