1 2 3 4 5	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: January 27, 2010
6 7	IN THE UNITED STATES BANKRUPTCY COURT
8	FOR THE DISTRICT OF ARIZONA
9	
10	In Proceedings Under Chapter 11
11	In re: Case No. 2:08-bk-07465-RJH
12	MORTGAGES, LTD.,
13	Debtor. PROTECTIVE ORDER RE:
14 15	PRODUCTION OF DOCUMENTS BY HEBETS & MAGUIRE, LLC AND SHELLEY HARTSUIKER PURSUANT
13 16	TO COURT ORDER
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18	
19	Pursuant to Rules 2004 and 9018 of the Federal Rules of Bankruptcy Procedure and
20	Rules 26(c) and 45(d)(2) of the Federal Rules of Civil Procedure, and based upon the
21	Stipulated Motion of Kevin T. Halloran, as Liquidating Trustee of the ML Liquidating
22	
23	Trust (the "Liquidating Trustee"). and Hebets & Maguire, LLC and Shelley Hartsuiker
24	(hereinafter collectively referred to as "H&M") for Protective Order Re: Production of
25	Documents by Hebets & Maguire, LLC and Shelley Hartsuiker Pursuant to Court Order
26	("Motion").
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LEWIS BRISBOIS BISGAARD & SMITH LLP ATTORNEYS AT LAW

IT IS HEREBY ORDERED granting the Stipulated Motion and entering the 1 2 following Protective Order to govern confidential information produced by H&M, or either 3 of them, in response to the 2004 Examination Orders (as defined in the Motion) that the 4 Liquidating Trustee has served upon non-party H&M. 5

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PROTECTIVE ORDER

7 1. Confidential Information: The phrase "confidential information" shall 8 mean proprietary, private, sensitive, or competitive information that could cause Hebets & 9 Maguire, or the family of Scott Coles competitive disadvantage, public embarrassment, or 10 other significant inconvenience if disclosed. It shall also include information protected by 11 12 applicable state and federal privacy laws, including, but not limited to, Health Insurance 13 Portability and Accountability Act (Pub. Law No. 104-191 §§ 262, 264: 45 C.F.R. §§ 160-14 164) and the Graham-Leach-Bliley Act (15 U.S.C. §§ 6801 et seq.). Confidential 15 16 Information may consist of documents or other information in tangible or electronic form. 17 In the event any person is deposed or gives testimony in this case concerning the 18 Confidential Information, the provisions of this Protective Order shall apply to the 19 transcript thereof. 20

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23 information (other than name), including addresses, telephone numbers, dates of birth and 24 social security numbers, is redacted if further disseminated by or at the direction of the 25 Liquidating Trustee. Notwithstanding the foregoing, the Liquidating Trustee shall have 26 27 the right to disseminate such information in its original form without redaction to its 28

H&M will produce the records requested, so long as any personally identifiable

Production of Confidential Information: The parties agree that non-party

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.

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3 Non-Production of Certain Information and Preservation of Right to 5 Challenge: H&M believes certain documents set forth on the Privilege Log attached 6 7 hereto as Exhibit 3, and incorporated herein by this reference, are protected from 8 production by Arizona Rule of Evidence 408 and A.R.S. § 12-2238. The parties agree that 9 H&M's current non-production of the documents listed on Exhibit 3 shall not constitute a 10 violation of the 2004 Examination Orders. The parties further agree that nothing contained 11 12 herein shall limit or waive the Liquidating Trustee's right to challenge the privilege 13 asserted as to any document(s) listed on Exhibit 3 and move the Court for an order 14 requiring the production of such document(s) at a later date. 15

4. Designation of Confidential Information: 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.

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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 1 2 claim privilege pursuant to Rules 26(b)(5) and 45(d)(2) of the Federal Rules of Civil 3 Procedure. In addition, nothing contained herein to the contrary shall limit or waive the 4 Liquidating Trustee's right to request the Court's authorization to allow the disclosure 5 and/or use of any information or documentation produced in accordance with the 2004 6 7 Examination Orders for the purposes of any existing or future judicial proceedings.

8 6. Destruction of Confidential Information: At such time as all of the matters 9 in the above-captioned pleadings have been concluded, all information produced by H&M 10 11 will be either destroyed or returned to H&M. The word "destroyed" means the destruction 12 of paper documents and any electronic means of storing protected health information 13 regarding Scott Coles. The parties may retain logs of the information that was received 14 and destroyed, including any Bates numbers, for purposes of their law firm's document 15 16 retention.

- 17 7. Challenge to Designation: If any party disputes the designation of any 18 information hereunder, counsel for that party shall first attempt to resolve the dispute as 19 required by the Federal Rules of Civil Procedure. If, after good faith efforts to resolve the 20 dispute have failed, the party challenging the designation may move the Court for a 21 22 determination of the propriety of the designation.
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8. Expert Witnesses: 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 25 bound by its provisions, including but not limited to the requirement that any designated 26



1	Confidential Information produced by H&M be destroyed at such time as all of the matters
2	in the above-captioned proceedings have been concluded.
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5	DATED this,
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8	Honorable Randolph J. Haines
9	Bankruptcy Judge
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LEWIS BRISBOIS BISGAARD & SMITH LLP ATTORNEYS AT LAW