

1 Michael P. Anthony (006658)
Michael Nevels (010685)
2 Daniel L. Hulsizer (022509)
Matthew H. Mason (025616)
3 **CARSON MESSINGER ELLIOTT LAUGHLIN**
& RAGAN, P.L.L.C.
4 3300 North Central Avenue, Suite 1900
Phoenix, Arizona 85012
5 Telephone: (602) 264-2261
manthony@carsonlawfirm.com
6 mnevels@carsonlawfirm.com
dhulsizer@carsonlawfirm.com
7 mmason@carsonlawfirm.com

8 Attorneys for ML Liquidating Trust

9 **UNITED STATES BANKRUPTCY COURT**
10 **DISTRICT OF ARIZONA**

11 In re
12 MORTGAGES LTD.,
13 Debtor.

Chapter 11
Case No. 2:08-bk-07465-RJH
ML Liquidating Trust's:

**OBJECTION TO DISTRIBUTION OF
PROCEEDS TO INSIDERS PURSUANT TO
THE NOTICE OF INTENT TO
DISTRIBUTE PROCEEDS IN
ACCORDANCE WITH ALLOCATION
MODEL AND JOINDER TO MOTION TO
APPROVE TREATMENT OF
DISTRIBUTION OF DISPUTED
PROCEEDS**

22 Matthew R. Hartley, Liquidating Trustee of the ML Liquidating Trust (the "**Liquidating**
23 **Trust**"), for the Liquidating Trust hereby objects to the Notice of Intent to Distribute Proceeds in
24 Accordance with Allocation Model and Motion to Approve Treatment of Distribution of Disputed
25 Proceeds ("Notice of Intent to Distribute") filed by ML Manager, as to distribution to Insiders as
26 defined below.

27 ///
28 ///

1 **I. DISTRIBUTION TO INVESTORS WHO ARE THE SUBJECT OF**
2 **PREFERENCE CLAIMS**

3 As proposed by ML Manager in the Notice of Intent to Distribute, the Liquidating Trust
4 urges the Court to escrow any distributions for the Insiders, as defined below, pending resolution
5 of the Preference Claims. The Court previously ordered:

6 Until further order of this Court, Debtor shall not pay any payments of principal
7 due on account of such Investors' ownership interest in any Borrower payments,
8 shall not make any payments to the Value-To-Loan Fund or investors in the
9 Value-To-Loan Fund, shall process, but hold in escrow and not pay, any insiders
10 of the Debtor who are or were officers (other than Chris Olson, George Everette
11 and Nechelle Wimmer, Ron Anatole and Ann Flaherty and their related trusts or
12 entities), directors shareholders of the Debtor or spouses, relatives, trusts or other
13 entities that may have been formed on behalf of, associated with or otherwise
14 related to such insiders, and shall continue to hold the principal portion of such
15 Borrower payments in the appropriate Borrower segregated account and not
16 disburse them at this time.

17 See Amended Interim ORDER Concerning Payment of Interest Collected from
18 Borrowers to Investors signed on 8/28/2008 (Docket 458).

19 The prior order provided that distributions owed to insiders of the Debtor would be
20 escrowed. Insider distributions, both principal and interest in Borrower payments, should continue
21 to be escrowed until final disposition of the adversarial case. The Liquidating Trustee identifies
22 the following parties as insiders ("Insiders"):

- 23 1. Defendant Julie B. Coles, Defendant John Doe Coles, and Defendant Perry L.
24 Coles, Trustee of the Julie B. Coles Irrevocable Trust, and any amendments
25 thereto;
 - 26 2. Defendants Michael Denning and Donna Denning, and the marital community
27 property of Michael Denning and his spouse;
- 28

- 1 3. Defendant Lisa A. Katz and John Doe Katz, husband and wife, and Defendant
- 2 Lisa A. Katz, Trustee of the Lisa A. Katz Trust;
- 3 4. Defendants George A. Everette and Mary J. Everette, husband and wife, and
- 4 Defendants George A. Everette and Mary J. Everette, Trustees of the GEME
- 5 Revocable Trust, Dated December 19, 2005;
- 6 5. Defendant Perry L. Coles, Trustee of the Scott M. Coles Trust, Dated March 28,
- 7 2004;
- 8 6. Defendant Robert G. Furst and Jane Doe First, husband and wife, and Defendant
- 9 Robert G. Furst, Trustee of The Robert G. Furst & Associates Defined Benefit
- 10 Pension Plan; and
- 11 7. Defendants Ryan P. Walter and Jeanne M. Walter, husband and wife.

12 The Liquidating Trustee urges the Court to continue in place its prior order with regard to
13 the Insiders. The Liquidating Trustee is currently involved in adversarial cases with each of the
14 Insiders. Because the distribution of funds to the Insiders is at issue in each of the respective
15 cases, any net proceeds to which Insiders may be entitled should be escrowed. Insiders should be
16 entitled to their respective proceeds only upon favorable and final disposition of each of the Insider
17 adversarial cases, if at all. It would not serve the investors, and will cost time and expense, if net
18 proceeds are distributed to an Insider only to have a judgment entered against the same Insider and
19 then require the Liquidating Trust to attempt to collect the judgment from the Insider.

20 **II. TREATMENT OF DISTRIBUTIONS OF THE INSIDER ESCROW**

21 As to treatment of the “Insider Escrow” as defined by the Notice of Intent to Distribute,
22 the Liquidating Trustee joins ML Manager’s requests: (1) that the Insider Escrow be subject to
23 the Allocation Model (as defined by the Notice of Intent to Distribute), (2) that for any “Insiders”,
24 as defined by the Notice of Intent to Distribute, (other than the Scott Coles estate or an assignee
25 of Scott Coles) where there is not a dispute as to the distribution, their share of the net amount
26 (after application of the Allocation Model) be distributed, and (3) as to the Insiders named above
27 that the distribution of money from the Insider Escrow be postponed, and that such funds
28 continue to be held in Insider Escrow pending the resolution of the respective adversarial cases.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

III. CONCLUSION

For the above reasons, the Insiders should receive no distribution under the Notice of Intent to Distribute Proceeds in Accordance with Allocation Model and Motion to Approve Treatment of Distribution of Disputed Proceeds.

Dated this 5th Day of January, 2011.

**CARSON MESSINGER ELLIOTT
LAUGHLIN & RAGAN, P.L.L.C.**

/s/ Matthew H. Mason (025616)
Michael P. Anthony
Michael Nevels
Daniel L. Hulsizer
Matthew H. Mason
Attorneys for ML Liquidating Trust

1 ORIGINAL E-FILED this 5th day of January,
2 2011 and COPY of the foregoing mailed or
emailed this 6th day of January, 2011, to:

3 Robert J. Miller
4 Bryce A. Suzuki
5 Bryan Cave, LLP
6 One Renaissance Square
7 Two North Central Ave., Suite 2200
8 Phoenix, Arizona 85004-4406
9 rjmiller@bryancave.com
10 bryce.suzuki@bryancave.com

11 Michael McGrath
12 David J. Hindman
13 Mesch, Clark & Rothschild, P.C.
14 259 North Meyer Avenue
15 Tucson, AZ 85701
16 mmcgrath@mcranzlaw.com
17 dhindman@mcranzlaw.com

18 Gary A. Gotto
19 James A. Bloom
20 Keller Rohrback, P.L.C.
21 3101 N. Central Avenue, Ste. 1400
22 Phoenix, AZ 85012-2643
23 ggotto@krplc.com
24 jbloom@krplc.com

25 Dale C. Schian
26 Scott R. Goldberg
27 Schian Walker, P.L.C.
28 3550 N. Central Avenue, Ste. 1700
Phoenix, AZ 85012-2115
ecfdocket@swazlaw.com

S. Cary Forrester
Forrester & Worth, PLLC
3636 N. Central Avenue, Ste. 700
Phoenix, AZ 85012
scf@forresterandworth.com

Robert G. Furst
4201 North 57th Way
Phoenix, AZ 85018

Sternberg Enterprises Profit Sharing Plan
Sheldon H. Sternberg, Trustee
5730 N. Echo Canyon Drive
Phoenix, AZ 85018
ssternberg@q.com

///
///

28

1 Richard R. Thomas
2 Thomas Shern Richardson, PLLC
3 1640 S. Stapley Drive
4 Suite 132
5 Mesa, AZ 85204-0001
6 rthomas@thomas-schern.com

7 Alan Bickart
8 812 Clubhouse Drive
9 Prescott, AZ 86303-5235
10 bickartlaw@aol.com

11 Wm. Scott Jenkins
12 One East Camelback Road
13 Suite 500
14 Phoenix, AZ 85012-2910
15 wsj@mjlegal.com

16 Sean P. O'Brien
17 One East Washington Street
18 Suite 1600
19 Phoenix, AZ 85004-2553
20 spobrien@gustlaw.com

21 Joel Mickelson, CFO
22 SMDI Company
23 joelm@smdico.com

24 Jimmie Klatt
25 Jimmie000@gmail.com

26 Christopher McCarthy
27 Buchatler Nemer
28 16435 N. Scottsdale Rd.
Suite 440
Scottsdale, AZ 85254
cmcarthy@buchatler.com

29 Ron Barness is the general partner
30 Barness Investment Limited Partnership, an Arizona Limited Partnership
31 ronbarness@aol.com

32 Perry L. Coles,
33 Trsutee of The Julie B. Coles Irrevocable Trust
34 2081 Elevado Road
35 Vista, California 92084

36 Julie B. Coles
37 2914 North 48th Street
38 Phoenix, Arizona 85018

39 Michael M. and Donna J. Denning
40 17 West Sierra Vista Drive
41 Phoenix, Arizona 85013

42

- 1 Lisa A. Katz, Trustee of The Lisa A Katz Trust
5250 East Wagoner Road
- 2 Scottsdale, Arizona 85254-7636
- 3 George A. and Mary Jane L. Everette,
Trustees of GEME Revocable Trust
- 4 6918 South Onyx Drive
Chandler, Arizona 85249-7204

- 5 Perry L. Coles, Trustee of the Scott M. Coles Trust
2081 Elevado Road
- 6 Vista, California 92084

- 7 Jeanne M. and Ryan P. Walter
661 East Stottler Drive
- 8 Gilbert, Arizona 85296

- 9 Jeanne M. and Ryan P. Walter
2825 East Libra Street
- 10 Gilbert, Arizona 85296

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28