Gary A. Gotto, 007401
James A. Bloom, 026643
KELLER ROHRBACK, P.L.C.
3101 North Central Avenue, Suite 1400
Phoenix, Arizona 85012-2643
602-248-0088
ggotto@krplc.com
jbloom@krplc.com

Attorneys for Mortgages Ltd. 401(k) Plan

IN THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF ARIZONA

In re

MORTGAGES LTD.,

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

MORTGAGES LTD. 401(K)
PLAN'S OBJECTION TO
MOTION FOR ORDER OF
DISCHARGE

The Mortgages Ltd. 401(k) Plan (the "401(k) Plan") respectfully requests that this Court deny the Motion for Order of Discharge of Original Trustee and for Release of Trustee's Bond (the "Motion") made by the Original Liquidating Trustee, Kevin O'Halloran, dated January 5, 2011 (Dkt. 3023), for the reasons set forth below.

Mr. O'Halloran seeks, by the Motion, "the release and discharge of any and all claims that might be asserted by any party against Mr. O'Halloran arising out of his service as Liquidating Trustee or Chief Executive Officer and President of Servicing...." (Motion at 5.) No legal basis exists for granting such an extraordinary request.

In effect, Mr. O'Halloran asks the court to truncate the statute of limitations in his

favor, apparently because he is uncomfortable with his insurance coverage or indemnity

entitlements. Mr. O'Halloran points to no authority that suggests that such relief is even

within the Court's power. If someone has a claim against the Original Liquidating

Trustee, that person is entitled to the period of the statute of limitations to bring the claim.

Potential claimants may not yet know of their claims, or there may be other good reasons

that they have not yet brought them. In any event, it would be extremely unfair to them

were the Court to grant Mr. O'Halloran a release before the statute has run.

Moreover, with respect to the 401(k) Plan, Mr. O'Halloran's request violates

ERISA. The 401(k) Plan is currently investigating claims against Mr. O'Halloran arising

out of actions he took with respect to assets of the 401(k) Plan in 2009. These actions

may constitute breaches of fiduciary duty under ERISA that caused a loss to the 401(k)

Plan. Claims to recover these losses are subject to a 3 or 6 year statute of limitations,

which cannot run until 2012 or later. See ERISA § 413, codified at 29 U.S.C. § 1113.

Further, the exculpatory clauses of the Trust Agreement that Mr. O'Halloran cites are

ineffective under ERISA to limit his liability. See ERISA § 410, 29 U.S.C. § 1110.

Accordingly, the 401(k) Plan respectfully requests that the Court deny the release

sought by Mr. O'Halloran.

DATED this 20th day of January, 2011.

KELLER ROHRBACK, P.L.C.

By: /s/ Gary A. Gotto

Gary A. Gotto

James A. Bloom

3101 North Central Avenue, Suite 1400

Phoenix, Arizona 85012

Attorneys for Mortgages Ltd. 401(k) Plan

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CERTIFICATION

I hereby certify that this NOTICE OF APPEARANCE AND REQUEST FOR NOTICE was filed through the ECF system for the United States Bankruptcy Court in Arizona, and will be sent electronically to the registered participants on the Notice of Electronic Filing on January 20, 2011. Paper copies, if any, will be sent by first class mail to those indicated as non-registered participants on January 20, 2011.

By _/s/ Karen L. Trumpower