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AMERICAN NATIONAL MORTGAGE PARTNERS
UNSECURED CREDITORS' COMMITTEE

INFORMATION MEETING
May 6, 2004

FIESTA INN RESORT
Conference Center
2100 South Priest Drive
Tempe, Arizona

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136
137
138

I N D E X

STATEMENTS BY:

PAGE

Mike Carmel, Esq. 5
Larry E. Wilk, Esq. 9
James C. Sell, CPA 20
David W. Dow, Esq. 24

QUESTIONS BY:

Mr. Brangaccio 25,26 ,35
Ms. Debbie Christofferson 26, 28, 32
Mr. Robert Horan 29, 30
Mr. Boyd Mathes 30, 31
Mr. Victor Larosa 33
Mr. Bernard Salinas 33
Mr. John Boening 33
Mr. Jerry Zwack 34

PROCEEDINGS

139

140

141 MR. DAVIS: My name is Lyman Davis. I'm the chairman of the ANMP
142 Unsecured Creditors Committee. Jerry Zwack is my cochairman in the
143 back.

144 We'd like to welcome you and thank you for taking the time to come out
145 tonight to get the information that we have to disseminate to you.

146 I'd like to introduce the head table. Mike Carmel is the bankruptcy attorney
147 for Jim Sell

148 PARTICIPANT: You're going to have to speak up.

149 MR. DAVIS: You can't hear us?

150 PARTICIPANT: No. You're competing with noise outside here.

151 MR. DAVIS: Well, close the door.

152 Mike Carmel is the attorney, bankruptcy attorney for Jim Sell, the receiver.

153 Larry Wilk is the attorney for Jim Sell, the receiver.

154 And Jim Sell, the receiver for ANMP, he's the one that's taking care
155 of the reorganization to get our money back.

156 David Dow is our attorney for the ANMP Unsecured Creditors Committee.

157 What we've asked them to do tonight is to come in and give us an overview of
158 what's happening.

159 We also have our court reporter, Clark, who is taking the information down
160 and what's happening at the meeting tonight.

161 We'd like to ask you, when you have questions, to stand up, state your name,
162 and then go ahead and state your question. And if you're not talking loud
163 enough, Clark will interrupt and ask you to speak up.

164 PARTICIPANT: If this is an information meeting, why is there a court reporter
165 here?

166 MR. SELL: Good question. I'll answer the question. The reason why there's a
167 court reporter here this time is because after the last meeting we had, there
168 were a lot of misrepresentations about what was said at that meeting, and I
169 didn't want that to occur again.

170 So what I wanted to do is to have an accurate record of what the comments
171 were, what the presentation was, and the questions and responses to those
172 questions. I didn't want a repeat of what occurred last time.

173 PARTICIPANT: What happened last time, as a result, after the meeting?

174 MR. SELL: After the meeting last time there were a number of representations
175 that people were told that they could only vote one way; they were never
176 told their options on how to vote; they were never told the ramifications of
177 what a vote was.

178 And that's simply not true because the attorneys were there for both
179 myself and for Castle, and they explained what the options were. And more
180 than one person explained the options. And that's not what was
181 disseminated out to a number of the investors.

182 MR. WILK: And let me just add that, as a result of what was purportedly said or
183 not said, the estate incurred a lot more expense than it needed to incur.

184 There were various motions that went out to people to sign. There were

185 various accusations made that ultimately had to be heard by the
186 judge. And every time that any of the lawyers or Jim has to show up in
187 court, it costs money.

188 And so we want to make sure that what we say is correct, number one, but
189 number two, that if people have questions as to what was said, we have a
190 record of it.

191 It's not to try to, you know, put people in a bad position. We're comfortable
192 that what we tell you is what's happening. And hopefully if there's any
193 questions, we can help confirm it by the record that was made.

194 At this time I'd like to turn the mike over to Mike Carmel who represents Jim
195 Sell in the bankruptcy proceedings. And after Mike's done, I'll try to give
196 you an overview of why there are bankruptcy proceedings and why there are
197 State Court proceedings.

198 But I think one of the things that I want to make sure everybody understands
199 and what Mike is going to tell you is what happened in Castle and what is
200 coming out of Castle for the benefit of the people sitting in this room.

201 PARTICIPANT: From the court reporter, is this
202 going to be mailed out, then, as a record for everybody?

203 MR. CARMEL: No. But if you want to get a copy of it, I'm sure that he'll be
204 more than happy to send you a bill.

205 MR. DAVIS: We have already talked about the possibility of putting it on the
206 web site.

207 MR. CARMEL: That would be fine too.

208 MR. DAVIS: We'll try to get a PDF file, and we'll post it on the web site so
209 everybody will have access to it.

210 MR. CARMEL: The idea of a court reporter, frankly, is just to make sure that, as
211 Larry said, that there's no misrepresentations to the Court about what is said
212 and what's not said tonight. It's just that simple. It's just to have an accurate
213 record. Nothing more, nothing less.

214 I'm going to assume that at least some of the people in this room are not at all
215 familiar with what went on in the Castle bankruptcy proceedings.

216 There are a number of people here who I recognize, and there are a lot people
217 here who I don't recognize. So I'm just going to assume, for purposes of that
218 I'm going to say, that no one -- well, that at least some people are not at all
219 familiar with the details of what occurred in the Castle bankruptcy
220 proceedings.

221 About a little over a year ago, Castle, the Castle stores, filed a Chapter 11
222 proceeding. There are a lot of allegations of -- or were, at least, a lot of
223 allegations of fraud that went on within the Castle operations before the case
224 was filed.

225 There were a lot of allegations about the dealings between the principals of
226 Castle, specifically Mr. Coleman and the principals of American National
227 Mortgage Partners.

228 There was an independent party appointed to basically run the Castle
229 operations, and that individual is Vern Schweigert. Mr. Schweigert had no
230 connection to the Castle operations prior to the bankruptcy proceedings

231 being filed.
232 During the early stages of that case -- basically it was late June of last year --
233 Castle filed a Plan of Reorganization. That's what you're supposed to do in
234 a Chapter 11 case. And the plan provided for your constituency to receive 4
235 million dollars.
236 Mr. Sell had run some numbers at that time and felt that between the principal
237 amount of loans that were advanced to Castle as well as the interest that was
238 accruing at the rate which was, what, three percent a month?
239 MR. SELL: Or more.
240 MR. CARMEL: Or more, that approximately 23 to 25 million dollars was owed
241 from Castle to ANMP. So we had a broad range, 4 million to 25 million.
242 There was a hearing in front of the Court early on after that plan was filed,
243 and I made it abundantly clear that the proposal that they made was totally
244 unacceptable. There's another constituency that was represented by a
245 lawyer, and that's the unsecured creditors of Castle.
246 So there was a group of vendors who had provided materials, inventory,
247 whatever the case may be, to Castle. And they were represented by one
248 constituency, and that was the Unsecured Creditors' Committee. And they
249 had already negotiated a deal that they were going to get paid 100 cents on
250 the dollar plus interest. They never came to us to try to negotiate a deal.
251 So after that proposal was filed with the Court and after we pretty much laid
252 out our position clearly, that they were going to have a big problem with us,
253 the debtors' counsel and Mr. Schweigert asked to have a meeting with Mr.
254 Sell and myself to try to resolve our dispute.
255 And we met. And, to say the least, it was, atleast in the beginning, a
256 cantankerous meeting. There were all sorts of statements made about how
257 we weren't even entitled to the 4 million dollars because of the shenanigans
258 that were alleged to have gone on.
259 But the bottom line at the end of the day was that we agreed with Mr.
260 Schweigert to settle the dispute for 14 million dollars.
261 That number was not just pulled out of the air and it wasn't just a matter of
262 splitting it in half, but it was derived by looking at what payments had been
263 made to ANMP, the ANMP constituency, over the time period that
264 the loans had been made to Castle.
265 And it was also arrived at by taking into consideration the position that Mr.
266 Schweigert was going to be asserting which was that there was a Ponzi
267 scheme.
268 So we worked out a deal that we would settle for 14 million dollars. That
269 settlement was ultimately approved by the Bankruptcy Court after many
270 pleadings were filed after a trial that was held out at ASU. And with that
271 settlement, Castle was then able to move towards a plan of reorganization
272 and get a plan confirmed.
273 And let me just say this. It was not an easy process. The unsecured creditors
274 were very unhappy with paying 14 million dollars to you folks in the
275 aggregate. They were unhappy with a lot of the terms of the deal, including
276 that we were going to be getting some interest after a period of time. They

277 were unhappy with the payout. They were just unhappy.
278 And so they put up a lot of hurdles for us to overcome. Separate from that,
279 there were at least a few investors represented by one attorney who made the
280 task difficult as well. And, in fact, that group, what we refer to as the
281 Dellheim creditors, has taken an appeal from the plan that was ultimately
282 approved by the Court.
283 The trial, on confirmation of the Castle plan, was conducted over several days
284 in early January. And the judge, in late January, ruled from the bench that
285 the plan would be confirmed. And what that means to you people is that 14
286 million dollars will be paid out over a period of time.
287 Now, there are a couple of creditors who have claims that total 2 million
288 dollars, and they were split out for different reasons. So really what it
289 means is there's going to be 12 million dollars, and that's going to be paid
290 out from the Castle operations.
291 One of the other things that we negotiated and that we insisted on is that our
292 constituency would have a voice in management until you're paid. So we
293 just didn't hand the keys back to the people who were running the show and
294 before the case got filed.
295 In fact, there's going to be a board of directors that consists of five people, one
296 of which is Mr. Schweigert. He's going to remain on; two representatives
297 from the unsecured creditors group; and then two from our constituency.
298 And that's Mr. Sell and Mr. Davis.
299 And they will be intimately involved in overseeing the operations, not the
300 day-to-day operations, but overseeing it as a board of directors typically
301 would do. So they are going to be looking out for your interests as the
302 payments are made.
303 Now, the payment structure is as follows:
304 Every quarter, every calendar quarter there's going to be a minimum of
305 \$500,000 that's going to be paid out to both the unsecured creditors and your
306 constituency. And it's split -- this is negotiated -- percent to the unsecured
307 creditors or \$275,000, and 45 percent to your constituency or \$225,000.
308 The unsecured creditors will be paid off relatively quick because they are, in
309 the aggregate or in the total amount, owed about 3 million dollars at this
310 stage. It's a little bit less than that, but roughly 3 million dollars. So as that
311 gets paid off relatively quick, then there will be additional monies that will
312 be paid to us, at least that 500.
313 Now, remember I said a minimum of 500. It's really the greater of \$500,000
314 or 60 percent of cash flow, of the net cash flow. And that's a defined term.
315 I'm not going to get into how that number is really calculated.
316 But let's just assume that, instead of there being cash flow, that the cash flow
317 is a million dollars for that particular quarter. There would be \$600,000
318 paid instead of 500,000.
319 Based on the debtors' projections that were filed with the Court, it's estimated
320 that the payment of the amount of money that's due your group will be paid
321 in about five years.
322 Starting in year three, there will be interest that accrues on whatever balance is

323 outstanding, and that interest rate will be eight percent. So that plan was
324 fully approved. All the payments that they were required to make so far
325 have been made.

326 There's a term in bankruptcy that's called "going effective" which means that
327 everything has been approved and they are now going forward. That
328 happened on March 31st. The payments that were to have been made
329 on March 31st were made without problem.

330 The first payment in the \$500,000 tronage that I referred to is due July 1st.
331 We have no reason to expect other than that it will be paid.
332 So that, in a nutshell, is what occurred in the Castle proceedings.
333 Does anybody have any questions? Sir?

334 PARTICIPANT: How does 14 million dollars compare to the aggregate?

335 MR. CARMEL: His question was, "How does 14 million dollars compare to the
336 aggregate?"

337 MR. WILK: Why don't we hold the questions until the end so that we can answer
338 all the questions based upon knowledge of the whole case.

339 MR. CARMEL: Okay. I spoke too soon. Hold your questions. Mr. Wilk and
340 Mr. Dow and Mr. Sell will present a little bit, and then, in the context of the
341 entire case, some of it might make better sense to you for a question like
342 that.

343 Fair enough?

344 MR. DAVIS: We have passed out three-by-five cards so you can write down
345 your questions. If you need any, just let us know and we'll get some to you.

346 MR. WILK: In order to keep this moving in an orderly fashion, I think the best
347 way to do it is to accept Mike's presentation for now. And we'll go through
348 the rest of the case and explain why the rest of us are here, and maybe that'll
349 answer a lot of questions. Then we'll open up the floor for questions people
350 have.

351 I want to explain why there's a bankruptcy and why there's not a bankruptcy.
352 At the inception of this case --

353 PARTICIPANT: We can't hear you.

354 MR. WILK: You can't hear me?

355 PARTICIPANT: Hold it closer to your mouth.

356 MR. WILK: I will do that. Is that better?

357 PARTICIPTANT: Yes.

358 MR. WILK: At the inception of the case, the State of Arizona, through the
359 Corporation Commission, filed the action that led to the receivership.
360 And at the time that they filed the Complaint, they named approximately
361 100 entities, two of which are American National Mortgage Partners and
362 an entity called ANMP 74th Street had actually filed bankruptcy prior to
363 the date of the receivership.

364 At that time those two companies were represented by Larry Dunning's
365 attorney, Stan Lerch, and he put those two entities in bankruptcy.
366 American National Mortgage, at the time, really had nothing except its
367 structure and was created for the purpose of serving as trustee for a number
368 of the entities collecting monies that were coming in, and dealings with

369 investors' payouts.
370 ANMP 74th Street was created because Mr. Dunning foresaw that Castle was
371 about to file bankruptcy. So he took all the trusts that had been created to
372 hold title to Castle entities and transferred all the properties into ANMP 74th
373 Street and then filed bankruptcy for those entities, believing that that would
374 slow the Castle process down.
375 At the time the State of Arizona filed the receiverships, since two of the
376 entities were in bankruptcy and there's a automatic stay which is an
377 injunction that precludes creditors from going after a debtor without Court
378 approval in place, the State could not further the action against those two
379 entities.
380 But those two entities were very critical to any chance of reorganizing or
381 recouping money for the investors in this room.
382 The State got the order that appointed Jim Sell as receiver over all the entities
383 except those two. And we went into the Bankruptcy Court, and it was by
384 luck because the draw of who, as a judge, hears the Bankruptcy Court is at
385 random and there's numerous judges.
386 The ANMP and ANMP 74th Street cases and Castle were all before the same
387 judge, Judge Randy Haines.
388 And so we went into the Bankruptcy Court. Judge Haines had a very good
389 idea of what was going on in Castle and understood the ramifications of that
390 case upon American National and ANMP 74th Street.
391 And he issued an order lifting the automatic stay to allow the State of Arizona
392 to go back into State
393 Court and get Jim Sell appointed as receiver for those two entities.
394 So now all 100 entities were part of the receivership and allowed Jim then to
395 be the operating person or the responsible person for the two bankrupt
396 entities. It all gets very confusing, but the nice part is, we have a very good
397 judge that has both these cases.
398 And I don't know if Lyman put the transcript of the confirmation hearing on
399 the web site. But if you read or have the chance to read that transcript,
400 you'll
401 see a number of things that were very --
402 MR. DAVIS: The summations.
403 MR. WILK: There are various aspects of the judge's ruling that have been very
404 valuable to the investors sitting in this room.
405 One of the things Mike did not mention is that, in addition to the 12 million
406 dollars that was awarded to the ANMP investors, the judge also awarded
407 \$167,000 in attorney fees in addition to the 12 million that was paid by the
408 Castle estate to the attorneys for the receiver in going forward with the
409 reorganization process.
410 This is somewhat out of the ordinary that a creditor gets paid its attorney fees
411 in a bankruptcy proceeding.
412 But if you read the transcript, you'll see that Judge Haines acknowledged that,
413 in a fraud case like the one before him, an early settlement is the best way to
414 assure that the investors get anything back.

415 Long, drawn-out litigation in the Castle Boutique case would have resulted in
416 the Castle entities going down the tube. There is no doubt about it.
417 You can't continue to run an entity in bankruptcy while litigating and
418 incurring 5- to \$600,000 a month in fees, in litigation, and still expect to be
419 profitable enough in order to fund a reorganization to the investors.
420 So at the time the discussions took place as to how much the investors would
421 get back from Castle, one of the notions that was kept in the back of
422 everybody's mind at this table was, the longer this proceeding went on, the
423 less chance there was of a large recovery for the investors.
424 And the 14-million-dollar number, as the judge pointed out, was a very fair
425 settlement, based upon what the judge knew about the case, which was
426 significant.
427 That's Castle.
428 We have now been in the process of demanding funds from all the other
429 investments that were made. Every one of the borrowers has been
430 contacted. Demand has been made. And there have been lawsuits filed in
431 numerous cases in order to attempt to collect the funds back.
432 We try to look at the investments as which ones were going to be the most
433 profitable to the investors and had the greatest return. And those were the
434 areas where we centered our attention first.
435 And for many of you who understand this case and know what's going on,
436 Penthouse was one of the major borrowers of this estate. 5.5 million dollars
437 was loaned to Bob Guccione and various of his entities.
438 For those of you who are aware of what's going on with Penthouse,
439 Penthouse, the magazine, filed its own Chapter 11 bankruptcy proceeding.
440 Unfortunately there's a harsh reality that I hope, if there's one thing that you
441 walk out of this room understanding, the higher the return, the greater the
442 risk.
443 When a borrower is agreeing to pay back anywhere between 5 and 8 percent
444 per month, which is what the loans were in Penthouse, you got to assume
445 that there's a large risk factor that goes along with that.
446 Unfortunately, I perceive that many of you did not understand that and made
447 the investments.
448 As an overview -- and Mr. Sell can tell you more about this than I can -- every
449 file that we looked at that the people had inherited from Dunning was a
450 mess. There were files where the loan documents, the security documents
451 were never recorded.
452 So if you pulled up a title report to see what our lien position was on a piece
453 of property or whether we owned a piece of property, we didn't show up at
454 all.
455 If there has been what people perceive as a veil of secrecy over what we're
456 doing, part of the reason for that veil of secrecy is, we didn't want the
457 borrowers to know what actions we were taking in order to make sure we
458 had perfected interests in the properties.
459 And in at least one case, John Wanek, our mortgage was not recorded. I didn't
460 want Mr. Wanek to run down to the Bankruptcy Court and file bankruptcy

461 before we got our lien recorded.
462 There's a statutory provision in the Bankruptcy Code that says if you do
463 something like perfecting a lien within 90 days of the filing of a bankruptcy,
464 it can be set aside. I didn't want him to know what we were doing. I didn't
465 want him to run down to bankruptcy and try to set aside the lien we
466 recorded.
467 We now have a valid perfected lien against that property just for that fact.
468 There were other borrowers where the loan documents were problems. And
469 for us to disclose to all of the investors on a web site what we were doing or
470 what the problems with the given case may be would have been disastrous
471 for the investors.
472 And so there has been no veil of secrecy for us to the investors. It has been
473 for the reason of trying to protect the investors.
474 And I recognize a lot of faces in this room. I have gotten calls from people
475 that I don't recognize their faces, and I think I have been very up front and I
476 think the receiver has attempted to be very up front in conversations to try to
477 advise you of what we're doing.
478 Now let me get back to Penthouse.
479 Penthouse had its own problems. For those of you who invested in Penthouse,
480 my guess is, every one of you was told that you were secured by the
481 Penthouse Mansion, 108 acres of land in Hyde Park which was the country
482 estate for Bob Guccione, and a 40-million-dollar art collection.
483 And many of you were probably told that the reason this loan would be a low
484 risk is because the art collection was going up for sale.
485 Well, the art collection was noticed by Southeby's to go to sale.
486 Unfortunately it was after September 11th. It was in October. And every
487 piece of art sold for the minimum bid which did not satisfy the
488 first lien holder on the artwork.
489 There was a 3-million-dollar deficiency. Now, my guess is that many of you
490 didn't even know that you were a junior lien holder on that artwork.
491 Okay. As to the mansion, we looked at the documentation and nothing's
492 recorded. Not only is it not recorded, but the original documents are not in
493 our file. They are supposedly being held by Guccione's lawyers.
494 Not only that, if that was the worst that would have occurred, we probably
495 could have resolved some of the issues.
496 But one of the problems that existed was the loan documents, by the very
497 nature of the agreement that Mr. Dunning entered into, or the other
498 principals of ANMP at the time provided that the loan documents, security
499 documents were not to be recorded for at least 90 days because there was an
500 issue of whether or not recording the loan documents would put the first
501 loan into default, which was Kennedy Funding.
502 Now, had ANMP done its due diligence, they would have found out that not
503 only was the first loan already in default, but it was already subject to a
504 foreclosure proceeding by Kennedy Funding and very close to having a
505 judgment of foreclosure entered.
506 So you made a loan for 5.5 million dollars that was placed, at very best, in a

507 junior position, had everything been done correctly behind Kennedy unding,
508 which was already in default, and at the very worst, because it was never
509 recorded, was totally unsecured.

510 In addition, there was to be security in the Hyde Park property. Needless to
511 say, that wasn't recorded either. That was cross collateralized by Kennedy
512 Funding and was the subject of a foreclosure proceeding also. So when we
513 came into the picture, there were no liens recorded against the property.
514 We immediately retained New York counsel because, as Arizona lawyers, we
515 were not in a position to represent the investors in New York.

516 We filed a lawsuit in which we recorded what's called a lis pendens against
517 the property, and we put a cloud on the title which allowed us to at least
518 assert we had liens against the properties.

519 We have also filed a second lawsuit against Bob Guccione personally and
520 various of the other principals of Penthouse.

521 We have named the law firm that was supposedly involved on behalf of
522 American National Mortgage Partners in setting up this transaction for their
523 lack of due diligence in assuring that these loans were recorded.

524 You can, I hope, visualize that the law firm isn't going to just turn over a
525 check to us. We're going to end up in some heated litigation.

526 The lawsuit against Guccione has gotten his attention. We have had at least
527 one meeting where the receiver and his attorneys have gone up to Las Vegas
528 and met with some of the principals.

529 And we are hoping to receive a settlement proposal shortly from Bob
530 Guccione. Whether that settlement proposal will be acceptable or not is yet
531 to be seen.

532 We have litigation pending. If we have to go after him, we will.

533 Unfortunately, if you read the press that's come out, Bob Guccione is broke.
534 He lives very well for being broke, though. I should tell you that.

535 His company, he no longer is majority shareholder of the Penthouse
536 magazine. The Penthouse magazine reorganization, which is not the entity
537 that we have our loan with, has reorganized.

538 There has been a third party that's come in and taken over the stock and has
539 bought the mansion back from the foreclosing party, Kennedy Funding.

540 And Bob Guccione is now a tenant in that building.

541 For those of you who don't know what that building is, it's 20,000 square feet
542 one block off of Central Park. And it is the most expensive piece of
543 residential property in Manhattan.

544 So we have not given up. We have lawsuits pending. We have named, as I
545 said, the law firm that was involved. We have named Charlie Samel who
546 was the chief operating officer. We have named Guccione. We have
547 named some fictitious parties because we believe as we do further discovery
548 we are going to find additional people.

549 As I told you, every case had a mess in it. Just to give you an idea of where
550 we are in collecting assets, Lungaro was a piece of property in Medina,
551 Ohio. We have a settlement agreement that's pending before the Court right
552 now. There are various hearings coming up.

553 I would suggest if you have questions that you go to the web site because
554 everything we're doing that's filed with the Court is put on the web site. It's
555 a \$400,000 settlement. It's been approved by the Bankruptcy Court. We
556 have a hearing -- I believe it's next week -- to get the State Court to approve
557 it.

558 We have Secluded Lane. Secluded Lane is Black Mountain. It's a house and
559 a lot up in north Maricopa County. We have various appraisals on it. The
560 appraisals are anywhere between 3 and 4 million dollars. There is a first lien
561 on the property to a bank out of Nevada for approximately 2 million dollars.
562 The borrower on that loan was a gentleman by the name of Ken Magill. Ken
563 Magill pretty much vacated the property and abandoned it. The ANMP
564 entity took over possession of the property.

565 Magill then filed his own bankruptcy proceeding. A trustee has been
566 appointed. And we are now in a dispute with the trustee over what our
567 interest is in the property.

568 Now, the good news, once again, is the Magill bankruptcy, by chance, also
569 has Judge Haines as the judge in the case. And so a lot of the issues that
570 were addressed in Castle regarding the nature of the documentation used by
571 the entities has already been heard by the Court.

572 The Court has made some preliminary determinations which have been
573 favorable to the investors within this room.

574 And that property is scheduled to be auctioned with a reserve bid to be
575 determined by the receiver on May 18th. And if the auction is successful,
576 we're hoping to raise anywhere between 1 and 2 million dollars in proceeds.
577 And then we will fight with the Magill estate over who gets those proceeds.

578 Our interest in that property, at a minimum, is approximately 1 million dollars
579 in principal and anywhere upwards of 3 million dollars when you add the
580 interest. But there will be a dispute over whether that goes to the Magill
581 estate or our estate that will still have to be resolved.

582 I'm going to step back a second because this is very important.

583 I don't know what investors were told. I don't know what investors
584 understood from the standpoint of the type of documentation that was being
585 used.

586 How many people heard the term Illinois land trust?
587 (Response)

588

589 MR. WILK: In the best of all worlds, the Illinois land trust was enforceable in
590 Illinois. Okay?

591 In the worst of all worlds, it's enforceable nowhere else except maybe Florida.
592 By way of background, Mr. Dunning went to a seminar, and he heard a lawyer
593 from Ohio speak about the wonders of doing Illinois land trusts.

594 And what he tried to accomplish is to create a lending entity and a borrowing
595 entity. The borrowing entity would be the person that owned the property.
596 The lending entity would be an LLC that would be created, and investors
597 would be sought to fund the LLC.

598 The borrower would then deed the property to a trust, and in return they

599 would get what's called a beneficial interest in the trust.
600 The lender would loan the money to the borrower. And, if documented
601 correctly, the borrower would give a deed of trust to the property back to the
602 lending LLC and then transfer the property into the trust.
603 The trust would then give a second beneficial interest to the lending entity.
604 If that had been done, we'd all be sitting here in a lot better shape than we are
605 right now because we could forego any arguments of the Illinois land trust
606 and say we at least had mortgages against the property.
607 But most of the deeds of trust were not recorded. So now we have to argue
608 the enforceability of an Illinois land trust.
609 In Arizona there are four recognized methods of securing your interest in a
610 piece of property.
611 One is a mortgage which is a document I'm sure you've all heard of.
612 One is a deed of trust which alternately is sometimes called a mortgage by
613 people that don't understand the differences, but they are both security
614 devices that, when recorded, show up against the piece of property.
615 Third is an agreement for sale or a land sale contract.
616 And the fourth is a nebulous term called an equitable lien, which is, if it
617 smells, looks, and tastes like a mortgage but it doesn't say it on its face,
618 we're going to treat it like one.
619 Conspicuously missing from those four documents is an Illinois land trust.
620 Illinois land trusts are really not recognized here.
621 What Dunning tried to do is create a situation where the real property went
622 into this entity, and so all the borrower now had was a personal property
623 interest in the entity, the trust.
624 He no longer owned the property. What the lending entity had was the right
625 to foreclose out the personal property interest of the borrower.
626 Now, this gets confusing, but what it results in is, instead of having to wait 90
627 days or six months to do a foreclosure like you normally have to do under a
628 personal property security interest, like in a car, like in receivables, you do a
629 10-day notice and they are gone.
630 Well, there are going to be various aspects of that transaction that are going to
631 come under strict scrutiny by way of public policy arguments by way of the
632 fact that Arizona doesn't recognize it.
633 And what Judge Haines, to this point of time has said, is that it smells, looks,
634 and tastes like a mortgage so it must be an equitable mortgage which will
635 give us a security interest in the property.
636 But it doesn't make them enforceable as to ownership. And that's a distinct
637 difference from what everybody in this room thought they were getting.
638 So you start with the premise that you were promised that you were going to
639 get interest in properties that this entity couldn't deliver to you.
640 The second problem that you people in this room did not recognize or realize,
641 and nobody would unless you have a legal knowledge of what's going on is,
642 once this property went into the trust and the trust got recorded, there was
643 nothing else on the records at the county recorder that reflected that any of
644 you had interest in these properties.

645 All that showed up was that this trust owned the property. There was no
646 mortgage that showed you loaned \$800,000 to the borrower. It just showed
647 this property free and clear of liens.

648 So, as Mr. Sell will tell you, there were properties that, by these UCC sales,
649 were foreclosed upon, and the people in this room never knew it. You
650 continued to receive payments but the borrower wasn't making any
651 payments.

652 One of the things that happened in Castle that Mike was aware of is that
653 Taylor Coleman wrote 1.8 million dollars in checks that were no good.
654 And yet investors continued to get their money.

655 You continued to get your interest payments as if those payments were
656 coming from the borrower.

657 Thus, the term Ponzi scheme.

658 Ponzi scheme is where there is no genuine business being conducted, where
659 other people's monies are being used to fund older investors. And because
660 there's a continuous flow of cash, investors keep investing.

661 I'm sure there are people in this room that rolled over their investments into
662 other investments because they thought they got paid. And as long as you
663 thought you got paid and as long as you thought you were getting your
664 guaranteed returns, this was one heck of an investment at three percent per
665 month.

666 Unfortunately, these loans were not generating the funds to pay those
667 investments.

668 So what would happen?

669 I'll use an example. 998 East Indian School Road. 998 East Indian School
670 Road, investors were brought in. The trust was created. The trust
671 purportedly paid off.

672 The property went from 998 to an entity referred to as Western Plus Golf.
673 Western Plus Golf, through various transactions, went and borrowed money.
674 It was easy to get lenders to fund money because the property appeared free
675 and clear of liens. None of the investors' monies that were in this
676 investment showed up against the property.

677 So now the investors, at best, have a junior position to that of the new lender.
678 And these were not investors in this case. These were recognized lending
679 institutions that go through a loan transaction the way a loan's supposed to
680 be done.

681 They get title insurance. They appraise the property. They make sure that
682 what they are getting is what they are supposed to get.

683 So now this piece of property that's worth \$500,000 in which, through various
684 transactions, has been funded to the tune of what, \$800,000, has a \$400,000
685 mortgage against it and is really now only worth 400,000 because the true
686 appraisal of the property is somewhere in that vicinity.

687 And where are the investors left?

688 And I'll use one more example to show you the egregiousness of what was
689 going on. You've got the property up in Sedona, part of Boat, Bed &
690 Breakfast.

691 Same thing. The property was transferred out of the trust, was encumbered by
692 a bank, and any equity that was there for the investors was eaten up by the
693 cash that came in.
694 And why did they get cash coming in?
695 Because they had investors that needed to be paid. They had to keep this
696 going forward, and the only way they could do it is to keep cash coming in.
697 So that gives you a little bit of the overview of what we encountered when we
698 came in.
699 We started, and for those of you who were at meetings at the inception of this
700 case, we started with a clean slate. We said, you know, the State made all of
701 these allegations, and until they are either proven by the State or Mr. Sell
702 has the opportunity to go in and look at the records and determine the
703 veracity of those allegations, we perceive that this was a bona fide company.
704 As we sit here today -- and I'll let Mr. Sell give his opinion, but that wasn't the
705 case. This was a mess. It was a Ponzi scheme. And it's going to be our
706 position throughout this case from here on out that it was a Ponzi scheme.
707 I talked about Penthouse. I talked about Secluded Lane, what we are doing to
708 recover.
709 We have got Wanek which is a million-dollar loan in Ohio. We are in the
710 middle of a workout trying to resolve that situation.
711 The only problem we have got there is there's a bona fide first lien on that
712 property that has been the subject of a foreclosure proceeding. The property
713 is subject now to a 12-million-dollar judgment by the first lien holder, and
714 the property's appraised at 3 million dollars.
715 We have a proposal that we're reviewing that may generate enough money to
716 get us paid off. But it's going to be risky. What we have been able to do is
717 stop all those foreclosures by using the order that's been entered in the State
718 Court and in the Bankruptcy Court, and we have used that to protect the
719 rights of the investors.
720 The only properties that have been lost to this point of time are properties that
721 have been noticed out, and we have determined there is no equity in the
722 property and there's no hope for return to the investors. We have no right to
723 keep bona fide secured lenders from going forward against those properties.
724 In addition, we have met with the borrowers in various other transactions:
725 Flynn Jackson, FutureCom Global. And we are working on settlement
726 agreements with those parties. If they are not reached, there will be
727 lawsuits.
728 We understand that litigation costs money. The money to pay the fees of the
729 parties that are sitting before you comes out of the estate.
730 It's not our goal to have unfounded litigation. It's our goal to get money in as
731 quickly as we can. The problem is, when you have messy transactions, it's
732 not easy to recover the money.
733 Every borrower has raised the defense of usury, has raised the defense of
734 fraud. And, you know, to be honest with you, we have to take those claims
735 very seriously based upon what we see in the files.
736 Other demands that have been made in which settlements have been discussed

737 are Sultan Al Shaie.
738 We have Stan Lerch who is one of the borrowers who also was the attorney
739 for Dunning. He's a borrower. We have been in negotiations to try to
740 resolve his issues.
741 We have Atlas Mines in which we drafted a complaint. We forwarded it to
742 them. We told them, you're a public company that has reporting
743 requirements. If you don't resolve this with us, this is something that's going
744 to seriously affect your stock price.
745 They made an initial proposal. We turned it down. We are waiting for their
746 proposal to come back to us. So we are moving forward.
747 By way of past experience, I have been involved in the Baptist Foundation. I
748 have been involved in a mortgage scam called Avanti Mortgage. I have
749 been involved in a mortgage scam called Lemons and Associates. And
750 between there, I have probably been involved in 10 to 15 other mortgage
751 Ponzi schemes.
752 What you realize when you get involved in these cases is that third-party
753 sources of recovery are going to be very important. The investments
754 themselves in a lot of cases have turned out to be not beneficial towards
755 recovery.
756 So we have looked to third parties as to who may have liability. We have
757 researched. We have determined that there may be at least two banks that
758 have been involved in the transactions that may have led to the losses
759 incurred by the parties sitting in this room. Those banks have been
760 contacted.
761 I have been practicing 24 years. I have never seen the CEO or CFO of a bank
762 come to the table as quickly as they have in these cases. And we are moving
763 forward to see what we can do to get some sort of recovery from those
764 entities.
765 As I stated, we have gone after at least one law firm that was involved in the
766 transactions. And that was the Penthouse case.
767 As this case goes on, we discover something almost every day. And we
768 continue to look to those third-party sources. So we are moving forward to
769 collect what we can from the assets that exist.
770 We will keep you advised as to where we are going with the collection efforts.
771 Any decision that's made to settle with any of the borrowers is going to be
772 the subject matter of a petition to both the Bankruptcy Court and State Court
773 and an attempt to seek an order from the Court after notice and hearing.
774 The web site that's been prepared by the investors committee has all of the
775 pleadings that we file on them.
776 The receivership web site, which is AmericanNationalReceivership.com has
777 all of the pleadings that we file on it.
778 So if you ever have a question and you haven't gotten a physical piece of
779 paper that shows what's going on, if you go to the web site, you can find out
780 what's going on.
781 MR. DAVIS: It's www.2beam.com/ANMP.
782 PARTICIPANT: Could you write that on the board?

783 MR. DAVIS: It's www.2beam.com/ANMP.
784 MR. WILK: The other one is www.AmericanNationalReceivership.com.
785 PARTICIPANT: Who maintains that?
786 MR. WILK: The receiver. While Jerry does that, I want to keep this meeting
787 going forward.
788 Lawyers sometimes should be seen and not heard. So I'm going to close my
789 remarks with three additional comments.
790 First of all, there are two proceedings now pending as I insinuated before.
791 There is a bankruptcy proceeding which two of the entities are in, and then
792 there is the State Court proceeding.
793 For the time being, we have maintained both of those actions in place because
794 we have a judge in the Bankruptcy Court who is very receptive to what's
795 going on in this case, but he does not have jurisdiction over all of the
796 entities.
797 And so there are reasons why keeping the bankruptcy in place serves a
798 purpose to the people sitting in this room.
799 Eventually it is our hope to consolidate all of the actions before one of the
800 courts. That will happen very shortly. There are provisions in the
801 Bankruptcy Code that may make it more beneficial to be there for
802 jurisdiction purposes.
803 The Bankruptcy Court is a Federal Court. It has a wide-reaching jurisdiction
804 throughout the country. And since a lot of the properties are in outlying
805 areas such as Minnesota, Colorado, and so forth, having the expanded
806 jurisdiction and control of the Bankruptcy Court may serve very beneficial.
807 It also, within the Bankruptcy Code, has provisions that deal with preferences
808 and fraudulent conveyances which may be very useful in orderly
809 distribution to all investors. For that reason, it's beneficial, the bankruptcy.
810 The bankruptcy also provided another benefit to the people in this room. It
811 created what's called a creditors' committee. It is unwieldy to try to get 300
812 investors to come to the table to negotiate a deal.
813 The Bankruptcy Code allows for the creation of a committee to represent the
814 interests of the investors as a whole. And for that reason, the bankruptcy
815 served a very beneficial purpose to us because it allowed us to hear the
816 voices of the investors through the committee which is what Dave Dow
817 represents.
818 And Dave will fill you in more on what his roll is and what the committee is
819 doing and how he represents you. But I think it's important that you
820 understand how important his roll has been to the reorganization process.
821 There are two questions that I know are going to be asked tonight. And I'm
822 not going to answer them. I'm going to let Jim answer them.
823 One is, you're all going to want to know, is anybody going to jail? Okay?
824 If there is anything I hope you get out of this discussion, it's that we believe,
825 the people sitting up in front of you, that you've been defrauded.
826 And to the extent that we can aid the State of Arizona in any way in going
827 forward with criminal prosecutions, we will do that. And I'll let Jim discuss
828 that area.

829 The second question you're going to have is, what is your recovery? What is
830 best case scenario? What is worst case scenario?
831 My two cents are that, we can't guarantee you anything. If Castle were to fold
832 tomorrow, there's 14 million dollars out the window, and the recovery may
833 be 2 to 4 million dollars.
834 If they perform to their utmost, we can guarantee you that you're going to get
835 14 million dollars and some interest. And assuming that there's going to be
836 an equitable distribution, that's about a 56 percent return on your dollars on
837 your principal that you invested.

838 PARTICIPANT: Is that off the 12 or the 14?
839 MR. WILK: It's off the 12. And I'll let Jim explain to you what that number really
840 is because it's going to be different than I think you consider. It's going to
841 be your net investment return.
842 If we recover from these other entities, if Penthouse were to pay 5.5 million
843 dollars, that would substantially increase your return.
844 Just so there's no misunderstanding, and I hope you read the decision of Judge
845 Haines, a 56 percent return in a Ponzi scheme case is considered a windfall
846 for investors.
847 You've been defrauded. Anything around 56 percent, as Judge Haines will
848 tell you, that's a remarkable recovery in a Ponzi scheme.
849 It's our goal to get much more than that. We have other investments out there.
850 If we can get the money back for you, we're going to get it for you.
851 And now to Jim Sell who is the court-appointed receiver.

852 MR. SELL: When Larry said that he was going to leave two questions for me to
853 answer, I thought they were going to be the tough questions, and they are ones
854 that are different than what Larry mentioned. And they are questions that
855 perplexed me throughout both my business and personal life. And that's,
856 "Are we there yet?" and "How much longer?"
857 It was easier to answer those questions to my kids. They never understood the
858 answer because every five minutes I would get the same question until they
859 either fell asleep or we got there.
860 I have been asked questions numerous times by numerous investors not only
861 in this case but in other cases. It's hard for most people to comprehend why
862 it takes so long to get resolution in these types of cases.
863 I have been doing this type of work for about 30 years. I still don't understand
864 why it takes so long to get resolution, and I have dealt with this virtually
865 every day for almost the past 30 years in one case or another.
866 When litigation occurs, it takes on a life of its own. And the more contentious
867 it becomes, the longer it takes. And there's a lot of different parties and a lot
868 of different interests that can try to slow the process down and try to get
869 some type of advantage for themselves out of it.
870 In the Castle case, I believe that if some of the contention hadn't existed there
871 that the plan would have gone effective three months earlier, and it probably
872 would have reduced the legal costs from somewhere between a half a
873 million dollars and three quarters of a million dollars.
874 Now, every dollar that is paid out in administrative costs, as far as I'm

875 concerned from a business standpoint, is nonproductive expenses. It does
876 nothing to enhance the investment. It really doesn't do anything to get you
877 your money back.

878 And the one thing that you have to understand in cases like this, there's really
879 only one source of money that made this whole thing go. And it was your
880 money. And every cent that gets spent on administrative costs comes out of
881 your pockets.

882 One way or the other, that's the bottom line. It comes out of your pockets
883 because every cent that Castle pays reduces their ability to pay you.

884 And had this gone on for another three months, I doubt that Castle could have
885 survived. I believe it probably would have been liquidated. And that's why
886 I did everything I could to push to get this resolved.

887 And had Castle been liquidated, I would have been surprised if there would
888 have been 2 million dollars at the end of the day to distribute to investors
889 because anything that would have been recovered would have been paid out
890 in legal fees and would have been paid to first lien holders and some that
891 were in second position.

892 And we were behind them. Some of the properties we would have gotten
893 nothing out of.

894 And so the recovery that we would have gotten under a liquidation scenario
895 would have been extremely limited. And depending on how long the battle
896 went on, it could have been zero that you ended up getting because it could
897 have very easily been eaten up in administrative costs.

898 And I have seen that happen in other cases where at the end of the day, you
899 know, the attorneys and the trustee and the receiver were the only ones that
900 get paid and the investors get nothing.

901 And my goal is to see and has been from the beginning to see that that doesn't
902 happen. It doesn't mean that I'm doing this for free. But, you know, I have
903 no great desire to stretch this out.

904 But I still have a hard time answering the question "How much longer?"
905 because there's a lot of unknowns out there.

906 If somebody can tell me how hard the other side on the various issues are
907 going to fight, I could probably give you a better idea of how much longer.

908 But I can tell you that I'm doing everything that I can to shorten the process
909 and to get these issues resolved. And sometimes, in accomplishing that, you
910 end up settling for a little bit less than maybe you would have got in total
911 had you gone to the fight.

912 That's unlikely because, yes, ultimately the dollar value of the settlement may
913 have been higher, but how much did you spend to get it? And are you ever
914 really going to collect that amount?

915 Because particularly in the Castle case, based on my analysis, there was really
916 only so much they could afford to pay. And I believe I squeezed about
917 everything out of them I could over the time period that they are going to
918 pay it.

919 And there's going to be a lot of work that it's going to take to insure that they
920 do pay that amount, and there's a lot of pitfalls out there that could occur

921 that could scuttle the plans and reduce the amount that we ultimately collect.
922 I'm going to do everything I can to help prevent that from occurring, but
923 there's no guarantees on the ultimate amount that we collect.
924 We have it. It's not guaranteed, but I'm going to push to see that we do
925 everything we can to collect it.
926 The other question that I get is, "When am I going to start getting money?"
927 And let me explain to you the process that's going to have to occur before
928 there's a distribution to the investors.
929 If somebody came in tomorrow and dropped ten million dollars on my desk
930 and said, here, here's the money to settle the claims you have against me, I
931 can't distribute it even though it's sitting there on the desk and I can put it in
932 the bank.
933 What has to occur first is, I have to submit a plan to the Court in the American
934 National bankruptcy and also in the State Receivership Court that says,
935 okay, who's entitled to receive how much?
936 And there will be people, I'm sure, that will say, wait a minute, I think I'm
937 entitled to more than that, that I shouldn't be treated as everybody else. I
938 shouldn't be pooled with everybody else. I should be treated on a net
939 investment basis. And I'm going to argue this. I'm going to fight it because
940 I think I deserve more.
941 And depending on how long that takes, that process, how many people are
942 objecting to the plan that's submitted, depending on what the judge's ruling
943 --because the judge is going to be the one that determines exactly what the
944 distribution plan is.
945 And one of the things that I can tell you that's going to happen in the plan I
946 submit is, those people I believe are insiders, my plan will be that they get
947 nothing, that they get excluded from any distributions, and only the true
948 victims of this Ponzi scheme receive payment.
949 Now, I had, because I was required to, send out preliminary notices to some
950 people telling them that I may consider them to be insiders.
951 A number of those people that were on that list won't be on the ultimate list
952 that gets submitted to the Court, and some of the people that weren't on the
953 original list will be on the list when I submit it to the Court, depending on
954 the information as it develops in the investigation.
955 So the intent is to limit the recovery because I expect ultimately the recovery
956 is going to be something less than the amount that you believe you're
957 entitled to.
958 And I know that a lot of people believe that they should not only get their
959 principal amount back but they should get interest and default interest rate
960 and everything else plus, you know, costs back.
961 That seldom occurs. You know, if we get all of your principal back, as far as
962 I'm concerned, that's a home run. And if we get something beyond that, you
963 know, that's kind of off the charts. It doesn't mean that we aren't going to
964 push for that, but I'm just telling you what my experience has been in these
965 types of cases.
966 So far I think we're probably further ahead in this type of case than any other

967 case than I have ever been involved in. And the prospects for recovery are
968 better in this case than most of the cases I have seen.
969 The other question comes down to, "Well, how much am I going to participate
970 in these distributions?"
971 The plan that I'm going to submit is based on the information that's been
972 provided to you that's been submitted to the Court that has to do with net
973 investment.
974 And basically the way the formula works is, you take the amount you
975 invested, you subtract from it all the payments you received, whether they
976 were referred to as interest or anything else.
977 The net effect is, cash in minus cash back to you. And that's your net
978 investment.
979 That's the initial formula. If we achieve 100 percent recovery on that basis,
980 then the formula reverts to what your initial capital investment was. And at
981 that point, anything you get is a return on your original investment.
982 Another question that has come up quite frequently here is, "Well, can I
983 deduct my loss on my tax return?"
984 The biggest problem you have, in my experience with the IRS is, before you
985 can deduct a loss, you have to know what it is. And right now we don't
986 know whether or not you've incurred a loss or will incur a loss.
987 And I know some people have received different advice that, you know, to go
988 and take their deduction now.
989 I'm not going to give anybody specific tax advice on it. They can go talk to
990 their own tax adviser. I can tell you what the results is of conversations I
991 have had with the IRS over the years and the way they treat it.
992 And the way they treat it is, until you know what your loss is going to be or
993 you have a real good idea of what your loss is going to be, you can't deduct
994 it.
995 And in the year that you do know what your loss is -- and we won't know that
996 until we have substantially completed settling on the debts of the
997 receivership estate. And at that point we'll have a good idea whether or not
998 there is going to be a loss.
999 And in the year that that determination is made, that's the year that you can
1000 deduct the loss.
1001 Now, the people that ultimately are determined to be insiders, their case is
1002 easy. They're not going to get any return. So they'll know what their loss is
1003 if they are determined to be an insider by the Court.
1004 And anybody that ends up on the list that I believe is an insider will have the
1005 opportunity to make an argument to the Court. I'm not the final person that
1006 determines whether someone's an insider or not. That'll be the judge that
1007 makes that decision, and everybody has the right to object to it.
1008 The Castle settlement. You've heard figures of 14 million dollars. You've
1009 heard figures of 12 million dollars. You've heard figures of 56 percent.
1010 Let me explain what those numbers are.
1011 Originally the settlement was 14 million dollars. There were a couple direct
1012 investors that were included in that figure because, at the time, I had not

1013 made a determination of whether they were American National investors or
1014 they were independent investors that were outside of American National that
1015 had some other investments through American National.
1016 During the course of the investigation it was determined that they were
1017 independent investments that were direct investments between them and
1018 Castle.
1019 And so the 2 million dollars represented by those investments is carved out of
1020 that 14 million dollars.
1021 Now, they were claiming more than the 2 million dollars, but that was
1022 basically the amount that was carved out. That left 12 million dollars,
1023 potentially, for distribution to the investors.
1024 From that I estimated that administrative costs in the American National case
1025 was going to be about a million dollars. And so I deducted that from that,
1026 and I ended up with 11 million dollars that I estimated that I would be able
1027 to distribute to the investors.
1028 Now, that 11 million dollars, when I went on to the other side of the ledger
1029 and said, okay, who's entitled to receive it, and I reduced the investors'
1030 amount by the people that I ultimately believed would be insiders, that was
1031 the figure that I used to distribute that over, that 11 million dollars over.
1032 That 11 million dollars represents 56 percent of all of the net investment of all
1033 investors, whether they believed they were in Castle or Guccione or
1034 Secluded Lane or any of a number of other investments.
1035 And so when you talk about the 56 percent, that 56 percent is recovery of your
1036 net investment. When you go back to net investment, net investment is the
1037 amount you invested less any amount you receive back.
1038 And typically in a Ponzi scheme the Court treats the investors' money on a net
1039 investment basis because, by the very nature of a Ponzi scheme, one
1040 investor's money is used to pay another investor.
1041 It's, you know, robbing Peter to pay Paul. And ultimately I believe that will
1042 be the findings of the Court, that this was a Ponzi scheme.
1043 I have done quite a bit of work on demonstrating that it was a Ponzi scheme.
1044 And I'm confident that that's what the Court's finding is going to be and that
1045 the ultimate distribution formula will be based on a net investment basis.
1046 Now, the problem that I have seen in cases is, some people want to argue that,
1047 you know, well, I was really just in Secluded Lane, so anything you get
1048 from there, I should get my money and the heck with anybody else, as long
1049 as I get mine, you know.
1050 And the history of net investment treatment of investors in a Ponzi scheme is
1051 more of an equitable solution because the investors could sue each other
1052 back and forth and allege claims that somebody else's money was paid to
1053 them and that their money was paid to someone else.
1054 In the end you end up paying everything to the attorneys and there's nothing
1055 left for the investors.
1056 And so what I'm going to propose is a plan that treats everybody equitably.
1057 And in my mind, the only ones that may have an argument that they aren't
1058 being treated equitably are insiders because they are getting nothing, but in

1059 my mind they are being equitably treated.
1060 Larry had stated that he doesn't know what the investors were told.
1061 I don't know what the investors were told either. But I do know, based on
1062 conversations that I have had with investors and written responses that I
1063 have had is, I have yet to find an investor that was actually told the truth.
1064 Now, some of them may not have been told a material fact. And as far as I'm
1065 concerned, you know, that's still a fraud by omission by failing to tell
1066 somebody a material fact that would alter their investment decision if they
1067 knew it.
1068 And then there's the other ones where there's just an outright
1069 misrepresentation of what the truth is.
1070 And I think in this case we have got every shade of misrepresentation that you
1071 possibly could have.
1072 The question as to whether somebody's going to go to jail, I don't know. I'm
1073 not privy to that information, but I am a betting man and I would give odds
1074 on it.
1075 I have no access to that information, but I can tell you that I know that the
1076 State of Arizona is spending a tremendous amount of money and effort in
1077 developing a database to be used in this case. And it certainly would be
1078 something that would be a great aid in a criminal case if one were filed.
1079 Now, I get the same answer you'll get if you call down to the State and ask
1080 them if they are going to file criminal charges. And they can't comment on
1081 whether there's a criminal investigation even underway.
1082 And that's the same answer that I get.
1083 But based on doing this for 30 years, I'll give odds on whether somebody goes
1084 to jail in this one because I believe they will. And that's my personal
1085 opinion.
1086 I may be cheating a little bit here by giving you odds because I should
1087 disclose, to make full disclosure, that I have been contacted by both Federal
1088 and State authorities regarding this case, and I have provided them with
1089 substantial amounts of information.
1090 But that still doesn't mean that criminal charges will be filed against anyone.
1091 With that, I think I will turn it over to Dave, and then we will be open for
1092 questions after he finishes.
1093 MR. DOW: I'll try to keep this short. For those of you that don't know, my name
1094 is David Dow. I'm the attorney for the ANMP Unsecured Creditors'
1095 Committee.
1096 The committee members make up the whole spectrum of ANMP investors,
1097 from Castle investors to Secluded Lane to 998. Our people, the committee
1098 members, got put in a lot of different investments, so I think it's a fairly
1099 broad group.
1100 Essentially, the group and myself, we meet relatively regularly with Jim Sell,
1101 Mike Carmel, and Larry Wilk. We review what's going on in the case. We
1102 advocate positions for the investors. We also meet with potential witnesses
1103 in the case. Sometimes we meet together with Jim Sell. Sometimes we
1104 don't.

1105 We are particularly interested at this time with those of you who have not met
1106 with us who had any dealings with banks, in terms of recommending that
1107 you invest in any ANMP entity, or any recommendations that you deal with
1108 Larry Dunning or anyone else.
1109 We are developing a fairly good case against some of the banks.
1110 And several of you, I noticed in here today, have already met with us. But
1111 anybody else, please feel free to contact me or Jim Sell or Larry Wilk. We
1112 are going down that trail, and we are developing quite a bit of substantial
1113 evidence in that regard.
1114 We are also meeting with Jim and Larry, pursuing some of the other third
1115 parties out there. And hopefully we will get a decent recovery for
1116 everybody in this room.
1117 Again, there are no guarantees, but we are hopeful of moving us closer to
1118 above that 56 percent net recovery number, closer to try to make everybody
1119 whole at the end of the day.
1120 With that, I think it probably is an appropriate time to take a little break right
1121 now.
1122 We also are, in addition to Castle, and I don't know how many people -- Mike
1123 Carmel gave you an excellent overview, and that's where we are in Castle.
1124 We are negotiating with the former owner of Castle, Taylor Coleman, who
1125 happens to also be in a bankruptcy proceeding, in a Chapter 13, in an
1126 attempt to obtain additional funds for the ANMP investors.
1127 At this point we have been going back and forth and had several meetings
1128 within the last week in an attempt to reach a settlement.
1129 I don't want to disclose where we are at the settlement at this point because we
1130 have not reached a settlement.
1131 There is a gap to be bridged. And if we can move closer to bridging it, it
1132 would be helpful at this time, because I'm sure everybody would like to get
1133 additional monies out of Mr. Coleman who at least met with certain
1134 individual ANMP investors and, we believe, induced them to invest in
1135 ANMP.
1136 MR. WILK: Let's take a break.
1137 (Meeting break)
1138 MR. CARMEL: All right. Anybody that has a question, you're going to need to
1139 stand up and spell your last name so that we have got a clear record of this.
1140 Sir, go ahead.
1141 MR. BRANGACCIO: My last name is Brangaccio, B-r-a-n-g-a-c-c-i-o.
1142 MR. CARMEL: Okay. Go ahead, sir.
1143 MR. BRANGACCIO: My question is, what happened to the warehouse on
1144 Roosevelt, 7402?
1145 MR. SELL: It was sold.
1146 MR. BRANGACCIO: What happened to the funds from that?
1147 MR. SELL: It was a net loss.
1148 MR. DAVIS: And it wasn't owned by us, anyway.
1149 MR. SELL: Yes. It was owned by Castle. We had no recorded interest in that
1150 property because Mr. Dunning had turned over your interest in that property

1151 to Castle. And that property was sold, and it ends up with a net loss.
1152 MR. WILK: There's one clarification. The building itself was sold. But my
1153 recollection is, there's an adjacent lot that hasn't been sold. To the extent
1154 that lot later gets sold, that goes into the operating capital of Castle.
1155 That operating capital is what's going to, on a quarterly basis, determine
1156 what the distributions are.
1157 So when the remaining portion of the lot is sold, to the extent it creates any
1158 additional funds, those funds will be used to pay the expenses necessary in
1159 order to get you paid.
1160 MR. BRANGACCIO: That was the 28 acres that was contiguous to the building?
1161 Right?
1162 MR. WILK: Right. The building is gone but the acreage still exists.
1163 MR. BRANGACCIO: I have one more question for Dave Dow. Are we still on
1164 contingency?
1165 MR. DOW: That's kind of a tough question to say. I have tried not to, in terms of
1166 billing people on a contingency and saying, hey, look, you're going to have
1167 to pay one third. I have been trying not to do that.
1168 I'm trying to be very, I'll call it generous, and not do that, because I think that
1169 that ends up being a little bit unfair to everybody at the end of the day. I
1170 would rather not do that just as a sake of me being fair to everybody in this
1171 room.
1172 MR. BRANGACCIO: And what's the total people you're representing now?
1173 MR. DOW: The Unsecured Creditors' Committee consists of five people. The
1174 other group consists of 38 on that, I believe.
1175 MR. DAVIS: You represent everybody.
1176 MR. DOW: Well, technically -- that's a little broader than I like to say, but, in
1177 essence, we're trying to work for everybody and end up with a bigger pot for
1178 everybody out there.
1179 MR. BRANGACCIO: Now it's going in one big pool. Right?
1180 MR. DOW: Mr. Sell is probably going to be correct at that. At the end of the day,
1181 from the evidence that I've seen so far, without having the full evidence out
1182 there, it does appear like this has all the earmarks of a Ponzi scheme which
1183 would end up being put into a big pool.
1184 MR. BRANGACCIO: Okay. Thank you.
1185 MR. CARMEL: Ma'am.
1186 MS. CHRISTOFFERSON: My name's Debbie Christofferson, C-h-r-i-s-t-o-f-f-e-
1187 r-s-o-n. And I'm so happy I invested.
1188 I want to know, what does the fraud claim that we're talking about have to do
1189 with the people who borrowed money?
1190 I mean, why do they have a legal claim, just because Larry Dunning did fraud,
1191 that they shouldn't have to repay the money they borrowed?
1192 I don't get that. I know we don't have a lien against them because Larry
1193 Dunning didn't do his job.
1194 But why should they have a legal case against us in court not to repay what
1195 they legally borrowed?
1196 Because Larry Coleman's signature -- I'm not Larry Coleman. I'm mixing up

1197 the little funny people -- is on my loan documents.
1198 MR. WILK: Well, let's start with the premise that in any litigation, people are
1199 always going to raise any defense that they think they have a good-faith
1200 reason or, in some cases, not even have a good-faith reason to raise.
1201 So one of the first claims we hear is usury.
1202 And we have heard this on every loan that I've tried to collect.
1203 Usury is when you charge interest far in excess of what the State -- the Feds
1204 believe is a reasonable rate. It's often called loansharking.
1205 So we hear that on every loan that's been created. When you look at an eight
1206 percent loan per month, that comes out to 96 percent per annum.
1207 Now, the good news is, in Arizona there is no usury law. Well, there is a
1208 usury law, but it says you can charge whatever interest you want to charge
1209 as long as you fully disclose the amount you're charging and you set forth
1210 every fee that's going to be charged.
1211 So if the loan documents themselves had been very specific and said:
1212 We're going to collect this charge for assisting and setting up the loan; we're
1213 going to chart this charge for continuing to collect on the loan; we're going
1214 to have this charge that goes to deferred interest and so forth, we would be
1215 able to defend these cases based upon the fact that there's a statute that says
1216 there is no usury.
1217 Well, if that was the way these loans came down, we could do that in every
1218 case. I don't want to sit here and tell you that's not the way the loans came
1219 down because there may be a borrower sitting in this room and we believe
1220 we can defend that position, but I guarantee you it's going to be raised by
1221 every borrower.
1222 We have borrowers out of state, one in Minnesota in particular, that I got a
1223 letter from their attorney saying it's usury.
1224 Well, if they can get this matter to be heard under Minnesota law, Minnesota
1225 has a usury statute. So that will affect the recovery.
1226 There were statements made to borrowers, you know: We'll make you the
1227 loan but you have to give some of the money back to us and we'll invest it
1228 for you.
1229 There was one borrower in particular that borrowed money, and then
1230 \$100,000 of the money he borrowed got loaned out to a Castle entity so that
1231 payments could be made to Castle. The defense was raised that: I don't owe
1232 that \$100,000. I never got the money.
1233 There are loans that have a face value of "X" amount of dollars but they were
1234 never funded. Borrowers would come and say they wanted money, they
1235 needed money. And the ANMP group would go out and raise funds, and
1236 they'd start dispersing monies as they got them with no guarantee that they
1237 would raise enough to fully fund the loans. There are various State laws that
1238 exist that we had raised as defenses such as truth in lending.
1239 So the answer to your question is, we will defend every loan as if it's an
1240 enforceable, valid loan.
1241 Do I perceive we'll get defenses?
1242 Yes.

1243 Have we gotten defenses?
1244 Yes.
1245 And those are the kind of defenses we're getting.
1246 MS. CHRISTOFFERSON: But the bottom line is, all of the loans weren't funded
1247 anyway, and in the ones that were funded, they are going to get out of it how
1248 ever they can, if they can.
1249 MR. WILK: A lot of the loans were funded in full. I mean, Penthouse got 5.5
1250 million dollars.
1251 MS. CHRISTOFFERSON: Taylor Coleman was funded too; wasn't he?
1252 MR. WILK: To some degree.
1253 MS. CHRISTOFFERSON: Don't buy Taylor Coleman's pornography.
1254 MR. WILK: I'd like to say that I disagree with this lady. Buy a lot of it and
1255 convince all of your friends to buy a lot of it.
1256 MS. CHRISTOFFERSON: I'm not going to. Okay. And then the second piece of
1257 the question is, regarding the money I'm owed, which sounds like it's a lot
1258 less than a lot of these people that I've heard talking, my \$50,000, which I
1259 really couldn't afford to lose regardless of anything, when can we expect to
1260 get any money back on whatever our investment is considered to be which,
1261 of course, I'm grateful to get anything back.
1262 And I certainly won't be making any investments like this in the future.
1263 Anyway, thank you.
1264 And I don't have any opinion about Taylor Coleman except at the bottom of
1265 the pile.
1266 MR. SELL: I am projecting that the soonest, and this is going to depend on a
1267 number of things happening, but the soonest that I believe a distribution can
1268 be made would be in October of this year. That's the soonest.
1269 And it may end up being in April of next year. And that's the range that I'm
1270 working with right now. You know, it depends on a lot of things.
1271 What are we going to get from Secluded Lane? Are we going to get a deal
1272 with Penthouse?
1273 MS. CHRISTOFFERSON: Well, it's best to know, anyway.
1274 MR. SELL: And I'm giving you the range because you have to understand that the
1275 three of us aren't working for nothing. And the way the system works is, we
1276 get paid off the top. We get paid before you get a distribution.
1277 And that's why one of the things that I believe was real important was to get
1278 the agreement that Castle was going to pick up a portion of the legal fees as
1279 part of the settlement because that's not coming out of the settlement
1280 proceeds.
1281 And we got, what, \$160,000 from Castle.
1282 And that means that the administrative expenses get reduced by that amount.
1283 I mean, you don't get charged twice for it.
1284 And while I'm on that subject, I know that there's been some rumors going
1285 around that, since I'm on the Board of Castle, that I'm going to get paid by
1286 Castle and, you know, and that's just another way to get some more money
1287 out of it.
1288 And the reality is, yes, I am going to get paid by Castle for the Board

1289 meetings. And I don't remember what the amount was that we set at this
1290 point.
1291 But that's going to be deducted from my bill in the American National
1292 bankruptcy.
1293 And so that's coming out of Castle and, you know, it's not coming directly out
1294 of your pockets. Certainly you share in a portion of it because it reduces
1295 the net amount of distributable cash.
1296 MR. CARMEL: But it has no impact on the 12 million.
1297 MR. SELL: Yes. That's right. It has absolutely no impact on the 12 million
1298 overall. It's more of a timing thing than a direct impact.
1299 And one of the things I tried to do was to shift some of the expenses that
1300 would have been born by American National, by you directly, and would
1301 have come out of that 12 million, and shift it to Castle and leave that 12
1302 million unaffected.
1303 MR. WILK: And as Jim Sell's attorney, I can tell you, I have told him a number of
1304 times that I'm not sure, as his attorney, I would ever recommend that he sit
1305 on a board of this company.
1306 You know, directors have potential exposure. And believe me, what he's
1307 getting paid to go to a board meeting nowhere compares to the potential
1308 exposure that may exist for sitting on the board.
1309 But he has a fiduciary duty to the people sitting in this room. And in order to
1310 assure that the company does what it's supposed to do -- it doesn't mean it
1311 will survive, but does what it's supposed to do, he's there. Mr. Horan.
1312 MR. HORAN: Al Horan, H-o-r-a-n. First name, Robert. Question for Mr. Sell.
1313 Could you define "insider" to me?
1314 You kept referring to "insider." Please define what an insider is.
1315 MR. SELL: I will let Larry Wilk give you the legal definition of what an insider
1316 is.
1317 MR. WILK: Our position is, an insider is anybody who had the type of
1318 relationship with either the entities or principals that clouds our belief that
1319 they did not have either inside information or were actively involved in the
1320 fraud or helped facilitate the fraud.
1321 And that is very broad. I will give you some examples of people that we
1322 perceive are insiders.
1323 The trusts were created, and there were various people that served as the
1324 trustees. They may not have known that there was a fraud going on, but the
1325 fact they served as a trustee for those entities helped facilitate the fraud.
1326 They should have known better. That's one.
1327 Two. There are people that actively were involved in the fraud. These were
1328 the principals of American National Mortgage. These were some of the
1329 employees, if not all of the employees.
1330 There are investors that had what I would refer to as a distinct relationship
1331 with either the principals or some of the third parties that may have been
1332 involved in the fraud, such as various bankers from banks. They had
1333 relationships that were created.
1334 There are people that are still actively involved with some of the principals,

1335 despite everything that we have put forth before everybody.
1336 And let me say, you're hearing Mr. Sell talk today in an unsworn manner. I
1337 mean, he's sitting up here just telling you what he thinks from his
1338 observations or what his observations are, looking at the records.
1339 But Mr. Sell gave testimony under sworn oath in front of the Bankruptcy
1340 Court. That sworn testimony is on the web site. It was taken down by a
1341 court reporter. It is open to the public.
1342 At that time Mr. Sell set forth his findings and what he believes happened
1343 here. And yet there are still people that continue to do business with these
1344 principals.
1345 There are people that have invested with Helen Hartze after the fact. There
1346 are people that have invested or have done dealings with Larry Dunning
1347 after the fact. To us that creates the potential for an insider.
1348 Now, let me tell you what being designated as an insider means. One, it
1349 means, if you're proven to be an insider, you don't get any of the recovery
1350 that's gotten from the other parties.
1351 It could mean that we go after you to get back what you put into it and have
1352 already gotten out.
1353 It could mean that the creditors in this case, represented by Mr. Dow or the
1354 receiver, go after those people for affirmative relief for having been
1355 involved and caused the fraud which could be punitive damages too.
1356 We were required by the Bankruptcy Court to set forth who we believed were
1357 insiders at the time of the Dexter confirmation proceedings so that people
1358 could vote with knowledge of how they thought they'd be treated.
1359 So we sent out letters to everybody we thought were insiders. That doesn't
1360 mean you'll ultimately be treated as an insider. That decision is not going to
1361 be Mr. Sell's arbitrary and capricious decision.
1362 It's going to be after either you consent to be treated as an insider or there's a
1363 court hearing to determine whether you're an insider. We will designate it.
1364 We will let you know.
1365 To people that have been designated as insiders already, Mr. Sell has already
1366 said to this crowd, we have met with a number of those people.
1367 And after having discussed the situations with them and being given
1368 additional facts, we have either changed our position or have decided that
1369 we will withhold that position until we get further information. But there
1370 are people, as we sit here today, that we can tell you most definitely are
1371 insiders.
1372 Did I answer your question?
1373 MR. HORAN: And then some.
1374 MR. MATHES: Boyd Mathes, M-a-t-h-e-s.
1375 I have a question regarding the tax issues. Some of us had what we thought
1376 was interest payments that we paid taxes on, income taxes.
1377 Mr. Sell has indicated that that should be considered principal, not interest
1378 income. He said that here again tonight.
1379 But until the Court does something, it's questionable whether the IRS would
1380 accept that we can go back and revise our income tax forms and indicate

1381 that that was principal rather than interest. Do you have any input that you
1382 can give us as to when that might get resolved and how?

1383 MR. SELL: Well, the first thing is, I did say that it would be treated as a return of
1384 capital.
1385 But what will be done is, I will submit a plan, and that's the effect that that
1386 plan that I submit will have.
1387 Now, whether or not that plan gets approved, I can't answer that question.
1388 Whether or not what I submit gets modified and comes out in some different
1389 form gets approved, I can't answer that either. I can only tell you what my
1390 experience has been in these kind of cases and what I reasonably expect to
1391 see happen in this case.
1392 And what I reasonably expect to see happen in this case is that everybody gets
1393 treated on a net investment basis.
1394 Now, you have -- one additional problem is, okay, you're going to get treated
1395 on a net investment basis. That does not mean that you are going to receive
1396 all of that money or more than that net investment.
1397 And the dilemma that you have is, the IRS's historic position has been, until
1398 you can reasonably estimate what your loss is, you can't take a deduction.
1399 You can't go back and amend your return. You have to have something that
1400 fixes what the loss is before you can go back and recharacterize income.

1401 MR. MATHES: There's a difference between taking a deduction and revising
1402 your income tax for past years to not call what you've got interest and,
1403 therefore, pay taxes on it.

1404 MR. SELL: And what I'm telling you is, we're not even at that point, and we won't
1405 be at that point until there's an approved plan.

1406 MR. WILK: Let me add something because I think I have a more specific answer,
1407 timing-wise, for you.
1408 Here's the dilemma that Mike and I have in this case. We have a Bankruptcy
1409 Court with jurisdiction. We have a State Court with jurisdiction.
1410 We have roughly 103 or 4 entities that are not included in the bankruptcy. We
1411 have got two entities that are in the bankruptcy. We need to consolidate
1412 everything in order to get across the point that we're trying to get across.
1413 We believe this is a Ponzi scheme.
1414 We, sitting up here, have a lot more information than any of you sitting out
1415 there.
1416 Mr. Sell. I don't know if you in the audience know what his credentials are.
1417 But this is what he does for a living. He's a Certified Fraud Investigator.
1418 He's a CPA. He served as receiver before. If Jim Sell tells me that he's
1419 reviewed the records of the case and he thinks it's a Ponzi scheme, I, as a
1420 lawyer, feel pretty confident that when I put on the case and have Jim
1421 testify, we're going to win.
1422 When he was asked by Judge Haines what his expertise in Ponzi schemes was,
1423 Mr. Sell replied that while he worked at the Securities Division he had
1424 overseen the investigation of over 100 Ponzi schemes, at which case Judge
1425 Haines, who's a very smart, very articulate lawyer who knows everything
1426 about anything, said, "That's far more than I've ever done, and I thought I

1427 knew this area."
1428 And so I'm convinced that if we have to put on a case and actually try the case
1429 of whether there's a Ponzi scheme or not and whether the distribution should
1430 be on an equitable basis, *pari passu*, all investors, that we're going to be
1431 successful.
1432 There have been a group of investors that have fought us every step of the
1433 way. And as we sit here today, I will tell you they lost every step of the
1434 way.
1435 If we have to litigate this issue, it's going to be, first of all, a half a million
1436 dollars in attorney fees. It's going to protract this case out much longer than
1437 it need be.
1438 MS. CHRISTOFFERSON: Are you talking about Dellheim?
1439 MR. WILK: I'm not going to throw out any names. I'll just say that --
1440 MR. CARMEL: The record speaks for itself.
1441 MR. WILK: The record speaks for itself. And because of that, it's our belief that
1442 the committee should have a substantial say in what's going on here. And I
1443 would request that all of you at some point get a chance to talk to the
1444 committee and see what their impression is of this.
1445 This committee has been actively involved in this case since day one that we
1446 have been involved. And they have been at the meetings we have been at.
1447 They have had access to the records that we have gotten. They have had
1448 access to meeting with the Corporation Commission who initiated all of this.
1449 And the committee needs to represent you. And the committee, as you will
1450 find out, I believe supports the position of the receiver.
1451 And so we need a unified front in order to move this case forward quickly.
1452 We will be filing pleadings shortly to consolidate what's going on here, to get
1453 this heard by one judge, and to move this case forward.
1454 The stumbling block is going to be whether we have protracted litigation on
1455 whether this case is a Ponzi scheme or not.
1456 And just so we're all clear and it needs to be understood, if this is a Ponzi
1457 scheme, the money, no matter what source it comes from, goes into a pot.
1458 And it gets distributed to all investors, not just those investors that contributed
1459 to that investment.
1460 MR. DAVIS: Except insiders.
1461 MR. WILK: Except insiders. I'm just saying, those people that get to share in the
1462 pot are going to share in a pot of money from every investment.
1463 Now, if you want to know why, this was a fraud. Where you thought your
1464 money went, more than likely, your money didn't go. More than likely,
1465 you're all in investments besides Castle.
1466 If you're in an investment other than Castle, you know, the source of recovery
1467 for that investment's going to be questionable. It's there and we think we're
1468 going to get money, but how much, we don't know.
1469 Part of the order that appointed Jim Sell required an equitable distribution. It
1470 required him to decide what was going to be an equitable distribution.
1471 And as we sit here today, I'm going to tell you that the net investment return is
1472 what Mr. Sell is going to push for which is based upon the Ponzi scheme.

1473 MR. LAROSA: Victor Larosa, L-a-r-o-s-a. The monies that we're all going to
1474 receive October, April, whenever that may be, how will that be reported to
1475 the IRS?

1476 MR. WILK: I'm going to turn this over to Jim, but let me make it real clear,
1477 you all need to speak to your own independent accountants.

1478 MR. SELL: Generally what will happen is -- I'm not sure what the form of the
1479 ultimate entity is going to be, but let's assume that you're going to get a K-1.
1480 And the distributions up to the point of recoupment are going to be return of
1481 capital.
1482 Now, after recoupment, if there is additional distributions, they may represent
1483 what you've already reported as interest income.
1484 And so at that point there would be nothing for you to claim since you've
1485 already paid taxes on that.
1486 And you know, and this is why I say the historical position the IRS has taken
1487 is that, until you know what your loss is, you can't deduct it. Even though
1488 you paid taxes on that income before, until you know you truly haven't
1489 received it, you don't get to make an adjustment or deduct it.
1490 Once you know what your loss is, once you can quantify your loss, then
1491 there's a remedy for you. And the remedy could be an amended return or
1492 the remedy could be, depending on the timing, a deduction in that year that
1493 there's a determination that you had a loss.

1494 MR. SALINAS: Bernard Salinas, S-a-l-i-n-a-s.
1495 With respect to the third-party liability and the lawyers who gave the
1496 blessings to these particular things, how does one establish their limits of
1497 liability if they are going to the errors and omissions policy?

1498 MR. SELL: Well, from my perspective, they don't have any limit but --

1499 MR. SALINAS: So the errors and omissions have no limits?

1500 MR. SELL: No. The errors and omission policy is whatever the limit is on it.
1501 The only time you get beyond that, if there's bad faith involved, then, you
1502 know, settlement attempts.

1503 MR. DOW: We're hoping it's a large policy from the firm that we have spent
1504 most of our efforts on. We're hoping it's a rather large policy.

1505 MR. SALINAS: Is it a large firm?

1506 MR. DOW: I would use the word medium-size firm.

1507 MR. BOENING: John Boening, B-o-e-n-i-n-g. I came in a little bit late so I may
1508 not have heard this. Has the plan been approved? And if it has been
1509 approved, has there been any monies set aside from the Castle stores yet to
1510 start providing us with income or return?

1511 MR. WILK: So I don't seem repetitive, I'll make a very quick answer.
1512 The plan's been approved. About 1.6 million dollars was paid on the effective
1513 date that needed to be paid in order for this to move forward.
1514 Those monies did not go to either ANMP or the unsecured creditors. They
1515 were what are referred to as expenses that, under the Bankruptcy Code, are
1516 required to be paid at closing.

1517 MR. BOENING: To who?

1518 MR. WILK: Oh, that's right. I'm sorry. I apologize. 500,000 of the initial 1.6

1519 million dollars went to the unsecured creditors to pay down part of the 3
1520 million we talked about.

1521 And one thing that might have been stepped over when we talked about this,
1522 one of the goals is to get the unsecured creditors paid off as quickly as
1523 possible because at that point in time their representatives on the board
1524 leave.

1525 And we hold two of the three seats that remain on the board so we control the
1526 board.

1527 The investors in this body right here will control the board and the
1528 management of Castle until they get paid in full, the 12 million dollars.

1529 MR. SELL: I want to add one thing to this discussion, and that is, I want you to
1530 understand – you know, we have talked about when I think the first
1531 distribution is going to be. I gave you a range.

1532 But I want you to understand is, if we get into trench warfare over the plan,
1533 you know, that could run a year. That could be two years. It could be three
1534 years before there's a decision as to what the plan is going to be. And I can
1535 tell you, there won't be any distributions until there's an approved plan.

1536 And so it doesn't make any difference how much money we collect. It'll just
1537 sit there. And if it is a protracted war, it'll get eaten up by the legal costs.

1538 And it could be that not only are the legal fees on my side of the battle paid
1539 from those funds, but the people that are bringing the opposition, their
1540 attorneys may well get paid from the same pot of money.

1541 And so, you know, if you can tell me when the plan's going to be approved,
1542 whether there's going to be active opposition to it, then I can give you a
1543 better idea when the distributions are going to be.

1544 But I just want you to understand the reality of it is, once you get into the legal
1545 system, there's a lot of wild cards out there that can adversely affect when
1546 and how much you ultimately get back.

1547 MR. ZWACK: Jerry Zwack, Z-w-a-c-k.

1548 Jim, who is likely to be the opponents in this trench warfare, this hypothetical
1549 trench warfare?

1550 Who are the people that would make this up?

1551 And what can we do to indirectly help you or assist you?

1552 What can we best do to stay out of the way but still help minimize the
1553 possibility of this happening?

1554 Because it directly affects when we get our money back.

1555 MR. CARMEL: I'm not going to name names. You can anticipate that some of
1556 the people that have been hurdles in the Castle litigation, it's a good chance
1557 that they will continue to be hurdles.

1558 You can anticipate that people that have been named or that will ultimately be
1559 identified as insiders, for very obvious reasons, because their ox is going to
1560 be gored even more so, will put up resistance.

1561 And so it's those people that you can anticipate, at least in the first instance,
1562 will be problematic.

1563 There will be other people who might take a position that they invested in
1564 Secluded Lane, for example, and so that they should get the proceeds of

1565 Secluded Lane at the expense of everybody else.
1566 And, you know, where they may get 100 percent recovery if that were the
1567 case, they may only get a 55 percent recovery. They feel that they are being
1568 wronged.
1569 So those are the type of people that you could potentially, at least, predict will
1570 be objecting.
1571 As to what you can do, I would say the message is, be equitable because at the
1572 end of the day, no one really knows where the money went and whose
1573 money was used to pay what.
1574 It could be that on this side of the room money was used to satisfy these
1575 people's obligation. We don't know. And so really at the end of the day the
1576 message is, we're going to be very fair, bottom line.
1577 MR. SELL: Let me add one thing. At the end of the day, I believe I'm going to be
1578 able to demonstrate that this was one large Ponzi scheme. I mean -- and if
1579 it's determined to be a Ponzi scheme, it's going to get pooled.
1580 And I'll ask everybody one question.
1581 Where did the 1.8 million dollars come from for the bad checks that Taylor
1582 Coleman wrote that ended up being distributed to investors?
1583 MR. BRANGACCIO: Where did that money come from? Is that what you're
1584 asking?
1585 MR. SELL: That's what I'm asking. Where did that money come from that was
1586 distributed to the investors?
1587 (Multiple speakers simultaneously)
1588 MR. SELL: Well, like I said, there's been a lot of people that have been told
1589 various stories from the insiders. I have yet to find one that was completely
1590 true.
1591 And I have yet to find any investor that did not receive a material
1592 misrepresentation, either by commission or omission.
1593 And if Mr. Caspare put 1.8 million dollars in there, I would like to see the
1594 check or checks, because my review of the records tells me that there was
1595 only one source of money in this entire operation.
1596 And it was from you.
1597 It wasn't from Larry Dunning. It wasn't from Frank Caspare. It wasn't from
1598 Greg Harrington.
1599 It was from you.
1600 And anybody that tells you any different, I think I'd call them a liar.
1601 MR. BRANGACCIO: And it wasn't from the Credit Enhancement Fund?
1602 MR. SELL: You mean Guaranteed Performance?
1603 MR. BRANGACCIO: Yes, right.
1604 MR. SELL: Well, Guaranteed Performance was just basically a shell corporation
1605 that never had the ability to perform on any guarantee that it ever made.
1606 MR. CARMEL: I want to make sure that everybody understands that we have --
1607 this is information tonight. We have not definitely formulated a plan.
1608 Nothing's been filed with the Court.
1609 We are not asking you tonight to go along with anything that we are
1610 suggesting or to accept it as the gospel. This is the information that we have

1611 been able to present to you so far.
1612 We are not in any way attempting to encourage you to agree with anything
1613 that we have said. This is not any type of a solicitation.
1614 We are just trying to provide information to you so that you can have a status
1615 of what has happened so far and where we think that we're heading.
1616 There will be an appropriate time for us to get a plan on file with the Court,
1617 depending on the way that we're going to decide to go.
1618 We have a pretty good idea how we're going to proceed, but that has not been
1619 finalized yet.
1620 And when we get to that point, papers will be filed with the Court. They will
1621 be part of the public record. They will be on web sites.
1622 Only after the Court approves the process of going forward will there be any
1623 attempt at all to, quote, unquote, solicit.
1624 But as of now there is no solicitation going on. That would be totally
1625 inappropriate.
1626 We're just trying to explain some of the facts. And everybody will have their
1627 opportunity to decide how they want to go forward.
1628 MR. WILK: I hope this has been informative. It's 8:15. And thank you for
1629 coming.
1630 MR. DAVIS: Wait a minute. Before we leave, I think we ought to give these
1631 gentlemen a round of applause and thank these gentlemen for coming.
1632 (Applause)
1633 MR. DAVIS: We will post the information on our web site of this meeting. We'll
1634 put it on the web site as soon as we can get it. We'll have it there as soon as
1635 we can.
1636 (Meeting Adjourned at or about 8:15 p.m.)
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C E R T I F I C A T E

I HEREBY CERTIFY that the proceedings had upon the foregoing hearing
are contained in the shorthand record made by me thereof and that the
foregoing pages constitute a full true and correct transcript of said shorthand
record all done to the best of my skill and ability
DATED at Phoenix, Arizona this 7th day of June, 2004.

Clark L. Edwards
Certified Court Reporter
Certificate No. 50425