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7 SUPERIOR COURT OF ARIZONA

8 MARICOPA COUNTY

9 ARIZONA CORPORATION COMMISSION,

Case No: CV2003-005724

10 Plaintiff,

**MOTION TO AUTHORIZE
SETTLEMENT REGARDING AURALYN
METHOD**

11 v.

12 AMERICAN NATIONAL MORTGAGE
13 PARTNERS, L.L.C., et al.

(Assigned to the Honorable J. Richard Gama)

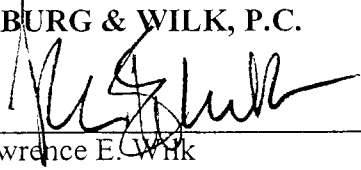
14 Defendants.

15 James C. Sell, the court appointed Receiver in the above-referenced matter, through
16 counsel of record undersigned, hereby requests that this Court enter an order authorizing the
17 Receiver to settle a claim against Auralyn Method, a creditor of American National Mortgage
18 Partners.

19 This motion is based upon the following Memorandum of Points and Authorities.

20 DATED this 27 day of January, 2004.

21 **JABURG & WILK, P.C.**

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23 _____
24 Lawrence E. Wilk
25 Attorneys for James C. Sell

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1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I. Procedural Background

3 1. On or about March 24, 2003, the Arizona Corporation Commission caused to be
4 filed, in the Superior Court in and for the State of Arizona, a Complaint in the above-captioned
5 matter against numerous individual defendants and entities, seeking the appointment of a
6 Receiver over the named Defendants.

7 2. After notice and hearing, the Court, on April 2, 2003, issued its Order Appointing
8 Receiver, appointing James C. Sell as Receiver for the approximately 100 entities named in the
9 Receivership Complaint.

10 3. American National Mortgage Partners, LLC and ANMP 74th ST., LLC were
11 specifically excluded from the Order due to the filing of Chapter 11 bankruptcy proceedings
12 initiated in the United States Bankruptcy Court for the District of Arizona, on behalf of each
13 entity, Cause Nos. 03-03803 PHX RJH and 03-03799 PHX RJH respectively.

14 4. On or about May 15, 2003, after having obtained Orders Lifting the Automatic
15 Stay of 11 U.S.C. § 362 in the Bankruptcy Proceedings, this Court issued its First Amended
16 Order Appointing Receiver for the sole purpose of including American National Partners, LLC
17 and ANMP 74TH ST., LLC as additional parties subject to the Receivership Order. James C. Sell
18 was appointed under the First Amended Order as Receiver for these two entities, and was to serve
19 as the responsible party for these entities in the pending bankruptcy proceedings.

20 5. On or about August 22, 2003, the Court entered the Second Order Appointing
21 Receiver, which was entered for the specific purpose of naming additional parties.

22 6. Paragraph 17 of the Receivership Order provides as follows:

23 17. The Receiver is hereby authorized and directed to receive
24 and collect any and all sums of money due or owing to the
25 Receivership Defendants, whether the same are now due or
26 shall hereafter become due and payable, and is authorized to
27 incur such reasonable expenses and make such
28 disbursements as are necessary and proper for the collection,
preservation, maintenance and operation of the Receivership
Assets.

1 II. Settlement Terms

2 1. On or about January 7, 2003, Auralyn Method ("Method") executed a Promissory
3 Note in the original principal amount of \$113,500.00 in favor of American National Mortgage
4 Partners, L.L.C. as Trustee for the Joshua Lane Lenders, L.L.C. ("ANMP") (the "Note"). The
5 principal balance on the Note is currently \$35,000.00.

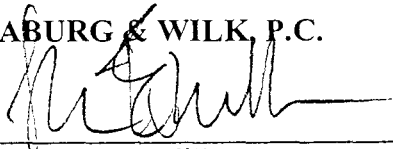
6 2. Method made payments on the Note through April, 2003 and seeks to satisfy the
7 outstanding balance on the Note at this time.

8 3. In pursuit of his duties under the terms of the Receivership Order, the Receiver as
9 Receiver for ANMP, and Method agreed to a payoff figure on the Note. Specifically, the
10 Receiver has agreed to accept a total payment of \$55,037.50 in full and final settlement of the
11 Note, if said sum is received on or before January 31, 2004. This amount consists of \$35,000 for
12 principal; \$3,500 for origination; and \$16,537.50 for interest and fees under the Note.

13 4. In consideration of receiving a payoff on the Note, the Receiver has, subject to
14 court approval, agreed to waive the default interest rate and the late fees which could have been
15 charged under the Note.

16 5. Based upon the foregoing, the Receiver believes that it is in the best interest
17 of the Receivership Estate to authorize the Receiver to accept \$55,037.50 in full and final
18 settlement of the Method Note.

19 DATED this 27 day of January, 2004.

20 JABURG & WILK, P.C.
21 
22 _____
23 Lawrence E. Wilk
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25 ORIGINAL filed and COPY
26 of the foregoing hand-delivered
27 this 28~~th~~ day of January, 2004 to:

27 The Honorable Richard J. Gama
28 MARICOPA COUNTY SUPERIOR COURT
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