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Co Counsel for James C. Sell, Court appointed Receiver/Debtor

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF ARIZONA

In re:  
  
AMERICAN NATIONAL MORTGAGE  
PARTNERS, LLC,  
  
Debtor.

In Proceedings Under  
Chapter 11  
  
Case No: 03-03803 PHX RJH

\_\_\_\_\_  
In re:  
  
ANMP 74<sup>TH</sup> ST., LLC,  
  
Debtor.

In Proceedings Under  
Chapter 11  
  
Case No: 03-03799 PHX RJH

**MOTION TO ABANDON PROPERTY**

James C. Sell, the court appointed Receiver for American National Mortgage Partners, the above-referenced Debtor, and related entities in State Court Action No. CV2003-005724 in the above-referenced matter, through counsel of record undersigned, hereby requests that this Court enter an order authorizing the Receiver to abandon property of the estate; specifically, the property located at 300 Acacia Drive, Sedona, Arizona (the "Property").

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JABURG & WILK, P.C.  
ATTORNEYS AT LAW  
3200 NORTH CENTRAL AVENUE  
SUITE 2000  
PHOENIX, ARIZONA 85012

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

2 DATED this 23rd day of July, 2004.

3  
4 **JABURG & WILK, P.C.**

5 /s/ 006510

6 Lawrence E. Wilk

7 Attorneys for James C. Sell

8 **MEMORANDUM OF POINTS AND AUTHORITIES**

9 I. Procedural Background

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

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

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

21 4. On or about May 15, 2003, after having obtained Orders Lifting the Automatic  
22 Stay of 11 U.S.C. § 362 in the Bankruptcy Proceedings, this Court issued its First Amended  
23 Order Appointing Receiver for the sole purpose of including American National Partners, LLC  
24 and ANMP 74<sup>TH</sup> ST., LLC as additional parties subject to the Receivership Order. James C. Sell  
25 was appointed under the First Amended Order as Receiver for these two entities, and was to serve  
26 as the responsible party for these entities in the pending bankruptcy proceedings.<sup>1</sup>

27 <sup>1</sup> On or about August 22, 2003, the Court entered the Second Order Appointing Receiver, which was entered  
28 for the specific purpose of naming additional parties. The terms of this Order do not affect the pending Motion.

1           5.       The intent of the Receivership Order was to allow for the Receiver to marshal and  
2 to protect the assets of the Receivership Estate and to preserve their value for the benefit of the  
3 investors.

4           6.       Paragraph 2 of the Receivership Order provides as follows:

5                   5. . . . until further Order of this Court, the Receiver shall have  
6 complete and exclusive control, possession, and custody of all  
7 receivership assets.

8       II.       Settlement Terms

9           1.       On or about September 28, 2000, National Bank of Arizona, a National Banking  
10 Association and Robert Rehm entered into a lending transaction whereby Robert Rehm borrowed  
11 \$838,860.00 from National Bank of Arizona, which loan was secured by property located at 300  
12 Acacia, Sedona, Arizona. The Note was secured by a Deed of Trust on the property recorded  
13 October 3, 2000 at Instrument No. 3066525 in the Records of the Coconino County Recorder.  
14 Said loan was subsequently assigned to Zion's Mortgage Company.

15           2.       On or about October 12, National Bank of Arizona, a National Banking  
16 Association and Robert Rehm entered into a lending transaction whereby Robert Rehm borrowed  
17 \$161,000.00 from National Bank of Arizona, which loan was secured by a second lien on the  
18 property. The Note was secured by a Deed of Trust recorded October 16, 2000 at Instrument No.  
19 3067996 in the Records of the Coconino County Recorder.

20           3.       In addition to the foregoing liens, the following liens may show up of record  
21 against the Property:

22                                   3<sup>rd</sup> Lien

23           Amount	\$135,000.00
24           Dated	August 16, 2000
25           Trustor	Richard I. Shear
26           Trustee	Richard Spector
27           Beneficiary	Indra and Mary Jhaveri, husband and wife
28           Recorded	March 5, 2001, Instrument No. 3082818



1 COPY of the foregoing  
2 Mailed this 23rd day of  
3 July, 2004.

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