

1 Lawrence E. Wilk, #006510
2 **JABURG & WILK, P.C.**
3 3200 North Central Avenue, Suite 2000
4 Phoenix, Arizona 85012
5 (602) 248-1000
6 e-mail lew@jaburgwilk.com

7 Michael Carmel, Esq. #007356
8 Law Offices of MICHAEL W. CARMEL, LTD
9 80 East Columbus Avenue
10 Phoenix, Arizona 85012-2334
11 (602) 264-4965
12 e-mail michael@mcarmellaw.com

13 Co Counsel for James C. Sell, Court appointed Receiver

14 UNITED STATES BANKRUPTCY COURT
15 DISTRICT OF ARIZONA

16 In re:
17 AMERICAN NATIONAL MORTGAGE
18 PARTNERS, LLC,
19 Debtor.

In Proceedings Under
Chapter 11

Case No: 03-03803 PHX RJH

**MOTION TO APPROVE SALE OF
SECLUDED LANE PROPERTY**

20 James C. Sell, the State Court appointed Receiver in the above-referenced matter, through
21 counsel of record undersigned, hereby requests that this Court enter an order authorizing the sale
22 of the Secluded Lane property located at 35824 N. Secluded Lane, Carefree, Arizona (the
23 "Secluded Lane Property") in accordance with the auction procedures previously approved by
24 this Court in the Kenneth Magill Bankruptcy, Case No. 03-4095 PHX RJH. Pursuant to Order
25 dated January 6, 2004, this Court authorized the Magill Estate to employ Sheldon Good &
26 Company to auction real property in which the above estate claims an interest. An auction sale
27 has been scheduled for May 18, 2004. The Receiver respectfully requests that this Court approve
28 and adopt any and all Orders entered in the Magill Bankruptcy allowing for the sale of the
property.

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

2 DATED this 30th day of April, 2004.

JABURG & WILK, P.C.

/s/ 006510

Lawrence E. Wilk
Attorneys for James C. Sell,
Court appointed Receiver

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7 I. Procedural Background

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

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

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

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

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27 ¹ 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 7. In order to preserve the assets from accruing interest on secured liens, taxes and
9 depreciation, the Receiver previously requested the Court for authorization to obtain funds to
10 finance the auction of certain real property commonly referred to as the Secluded Lane property.

11 8. Title to the property is vested in the Kenneth Magill Trustee as a result of a
12 previous Order entered in the State Court proceeding. Title to the property is in dispute and will
13 be subject to further proceedings. However, in order to protect the asset from foreclosure of prior
14 liens, the Magill Trustee has requested authority to retain an auctioneer to sell the subject
15 property.

16 9. An auction sale is currently scheduled for May 18, 2004.

17 10. To assure finality of the sale, the Receiver is petitioning both the State Court and
18 Bankruptcy Court for approval of the Magill auction and would request that this Court approve
19 and adopt all Orders entered in the Magill bankruptcy proceeding authorizing the sale.

20 11. Accordingly, the Receiver hereby requests that this Court approve the anticipated
21 sale, and payment of all expenses incurred therein and approved by the Court, of the Secluded
22 Lane property in accordance with such Orders as may be entered in the Magill bankruptcy
23 proceeding.

24 DATED this 30th day of April, 2004.

JABURG & WILK, P.C.

/s/ 006510

Lawrence E. Wilk
Attorneys for James C. Sell,
Court appointed Receiver

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

1 COPY of the foregoing
Mailed this 30th day of April, 2004.

2 Alan A. Meda
3 OSBORN MALEDON
2929 N. Central Ave., #2100
4 Phoenix, AZ 85012
Attorney for 3270 Gateway Street

5
6 Stanford E. Lerch, Esq.
Anthony E. DePrima, Esq.
7 LERCH & DEPRIMA, P.L.C.
1700 East Thomas Road, Suite B
8 Phoenix, Arizona 85016-0001

9 Joshua S. Berger, Esq.
Buckingham, Doolittle & Burroughs, LLP
10 50 S. Main Street
P.O. Box 1500
11 Akron, Ohio 44309-1500
Attorneys for Tony Lungaro and TN Corporation

12 Michael W. Carmel
13 80 E. Columbus Ave.
Phoenix, AZ 85012-4965

14 Mark S. Sifferman
15 NORLING, KOLSRUD, SIFFERMAN & DAVIS
3101 N. Central Ave., #690
16 Phoenix, AZ 85012

17 Michael W. Chen
COOPER, CHRISTENSEN & DREITZER
18 820 S. Valley View Blvd.
Las Vegas, NV 89107

19 Alan A. Meda
20 OSBORN MALEDON
2929 N. Central Ave., #2100
21 Phoenix, AZ 85012

22 Michael E. Neuman
HAHN, HOWARD & GREENE
23 3200 N. Central Ave., #1560
Phoenix, AZ 85012

24 Sean P. O'Brien
25 GUST ROSENFELD
201 E. Washington, #800
26 Phoenix, AZ 85004-2327

27
28

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

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24
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26
27
28

Dillon E. Jackson
FOSTER PEPPER 7 SHEFELMAN
1111 3rd Ave., #3400
Seattle, WA 98101

Trudy A. Nowak
Office of the U.S. Trustee
P.O. Box 36170
Phoenix, AZ 85067-6170

Wendy L. Coy, Esq.
Arizona Corporation Commission, Securities Division
1300 West Washington, 3rd Floor
Phoenix, Arizona 85007

Tonica R. Swan