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6 Attorneys for James C. Sell, Receiver

7 SUPERIOR COURT OF ARIZONA
8 MARICOPA COUNTY

9 ARIZONA CORPORATION
10 COMMISSION,

11 Plaintiff,

12 v.

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

15 Defendants.

Case No: CV2003-005724

**MOTION TO AUTHORIZE
RECEIVER TO ABANDON INTEREST
IN PROPERTY**

**(8152 S. STEPHANIE LANE
TEMPE, ARIZONA 85284)**

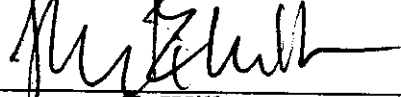
(Assigned to the Honorable J. Richard
Gama)

15 James C. Sell, the court appointed Receiver in the above-referenced matter,
16 through counsel of record undersigned, hereby requests that this Court enter an order
17 authorizing the Receiver to abandon his interest in property of the estate; specifically, the
18 property located at 8152 S. Stephanie Lane, Tempe, Arizona 85284 (the "Property").

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

20 DATED this 31 day of January, 2005.

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

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23 Lawrence E. Wilk
24 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
4 to be filed, in the Superior Court in and for the State of Arizona, a Complaint in the
5 above-captioned matter against numerous individual defendants and entities, seeking the
6 appointment of a Receiver over the named Defendants.

7 2. After notice and hearing, the Court, on April 2, 2003, issued its Order
8 Appointing Receiver, appointing James C. Sell as Receiver for the approximately 100
9 entities named in the 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
12 proceedings initiated in the United States Bankruptcy Court for the District of Arizona, on
13 behalf of each entity, Cause Nos. 03-03803 PHX RJH and 03-03799 PHX RJH
14 respectively.

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

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

25 6. Paragraph 10 of the Receivership Order provides as follows:

26 10. . . . To this purpose, in those instances in which
27 Receivership Assets serve as collateral to secured
28 creditors, the Receiver may surrender such assets to
secured creditors. . .

1 II. Settlement Terms

2 1. On or about October 1, 2002, Finance America and Ben Jackson entered
3 into a lending transaction whereby Ben Jackson ("Jackson") borrowed \$552,000.00 from
4 Finance America (the "Senior Lien Holder"), which loan was secured by the Property.
5 The Note was secured by a Deed of Trust on the Property recorded on October 7, 2002 as
6 Instrument No. 1041026 in the Records of the Maricopa County Recorder.

7 2. On October 2, 2002, Jackson executed another Deed of Trust on the
8 Property in favor of Corporate Fiducial Services, Inc. ("CFS"), secured by the Property, in
9 the amount of \$97,500 and recorded as Instrument No. 1041027 in the Records of the
10 Maricopa County Recorder on October 7, 2002.

11 3. On our about October 3, 2002, Jackson entered into a transaction as
12 borrower, with Corporate Fiducial Services Inc., as lender, wherein Jackson borrowed
13 \$150,000 (the "Loan").

14 4. As security for the Loan, Jackson executed yet another Deed of Trust on the
15 Property, which by Agreement, was not to be recorded unless or until Jackson was in
16 breach of his Agreement with CFS.

17 5. Subsequently, Jackson breached his Agreement, and CFS recorded the Deed
18 of Trust on April 29, 2003 as Instrument No. 0538306 in the Records of the Maricopa
19 County Recorder.

20 6. The Senior Lien Holder is in the process of foreclosing on the Property. At
21 the present time, the Receiver believes that there is no equity in the Property in excess of
22 that due the Senior Lien Holder.

23 7. To protect any interests of the Receivership Estate, pursuant to the
24 confirming Letter Agreement attached hereto, counsel for the Senior Lien Holder has
25 agreed to advise the Receiver of any excess proceeds from the foreclosure sale, so that a
26 claim may be asserted on behalf of the Receivership Entities.

27 8. Based upon the fact that the Receiver does not believe that there is any
28 equity in the Property in excess of that due the Senior Lien Holder, and that it would be

1 burdensome to the estate to continue to pursue its interest in the Property, the Receiver
2 respectfully requests this Court to issue an Order authorizing the Receiver to abandon its
3 interest in the Property, subject to the terms and conditions of the letter agreement
4 attached hereto.

5 DATED this 31 day of January, 2005.

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

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8
9 Lawrence E. Wilk
Attorneys for James C. Sell, Receiver

10 **ORIGINAL** filed and **COPY**
11 of the foregoing hand-delivered
this day of January, 2005 to:

12 The Honorable Richard J. Gama
13 MARICOPA COUNTY SUPERIOR COURT
101 West Jefferson, ECB 611
14 Phoenix, Arizona 85003-2243

15 **COPIES** of the foregoing mailed
this day of January, 2005 to:

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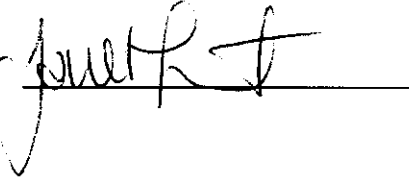
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