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8 UNITED STATES BANKRUPTCY COURT  
9 DISTRICT OF ARIZONA

10 In re:  
11 AMERICAN NATIONAL MORTGAGE  
12 PARTNERS, LLC,  
13 Debtor.

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

14 In re:  
15 ANMP 74<sup>TH</sup> ST., LLC,  
16 Debtor.

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

**MOTION TO ABANDON INTEREST IN  
PROPERTY**

17 James C. Sell, the court appointed Receiver for American National Mortgage Partners, the  
18 above-referenced Debtor, and related entities in State Court Action No. CV2003-005724 in the  
19 above-referenced matter, through counsel of record undersigned, hereby requests that this Court  
20 enter an order authorizing the Receiver to abandon interest in property of the estate; specifically,  
21 the property located at 8152 S. Stephanie Lane, Tempe, Arizona 85284 (the "Property").

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

23 DATED this 3<sup>rd</sup> day of February, 2005.

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

/s/ Lawrence E. Wilk, # 006510

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Lawrence E. Wilk  
Attorneys for James C. Sell

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 74<sup>th</sup> 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 74<sup>TH</sup> 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.<sup>1</sup>

20 5. The intent of the Receivership Order was to allow for the Receiver to marshal and  
21 to protect the assets of the Receivership Estate and to preserve their value for the benefit of the  
22 investors.

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

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

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

1       II.       Settlement Terms

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

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

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

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

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

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

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

27              8.       This Motion is filed to assure that, to the extent that the Bankruptcy Estate may  
28       have an interest in the property, an appropriate Order abandoning the property is obtained.



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13 /s/ Janet Forster  
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