

1 **LAW OFFICES OF CONSTANCE SUTTON, P.C.**
5025 N. Central Ave., #631
2 Phoenix, Arizona 85012
(602) 263-0070
3 Constance E. Sutton, Bar No. 006982
Attorney for Camelback Stone Canyon LLC
4 [FILE 093103]

5 **UNITED STATES BANKRUPTCY COURT**
DISTRICT OF ARIZONA

6 In re:
7 ANMP 74th ST., LLC
8
9 DEBTOR.

Chapter 11

CASE NO. 03-03799-RJH
(Jointly Administered)

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

CASE NO. 03-03803-RJH

OBJECTION TO DISCLOSURE STATEMENT

Hearing scheduled:
September 19, 2005 @ 10:00 a.m.

13
14 Comes now, Rachelle Smith, Rachelle Smith Living Trust,
15 Richard and Shirley Smith, designated in the Disclosure
16 Statement as Class 3C Creditors, by and through counsel
17 undersigned submit their objection to Debtor's Disclosure
18 Statement upon the grounds that: 1) the members of classes 3A
19 and 3B and the amount of their claims are not identified in the
20 Disclosure Statement; and 2) the Disclosure Statement fails to
21 identify the properties that were actually secured by Debtors
22 and the Claimants who hold perfected security interests; 3) the
23 claim amounts listed for Rachelle Smith, Rachelle Smith Living
24 Trust and Richard and Shirley Smith are incorrect and are much

1 less than the filed Proof of Claim amounts. This Objection is
2 based upon the following Memorandum of Points and Authorities
3 attached hereto and incorporated herein by reference.

4 DATED this 9 day of September, 2005.

5 /s/ Constance Sutton, #006982
6 Constance Sutton
Attorney for Rachelle Smith et al.

7 **Memorandum of Points & Authorities**

8 Classes 3A and 3B

9 In the Disclosure Statement, the Debtors identify the
10 members of the administrative claim holders and their estimated
11 claims. The administrative class members consist of the
12 Debtor's attorney, special counsel to Debtors, the Creditor's
13 Committee Counsel, the Receiver's counsel and the Receiver.
14 The estimated amounts of their future claims are set forth in
15 the Disclosure Statement.

16 Class 3A and 3B creditors consist of general unsecured
17 claims and deficiency claims, respectively. The Debtor's state
18 that each class is impaired; however, neither class members nor
19 estimated claim amounts are identified.

20 In order for Class 3C Creditors to vote on the Plan, the
21 Debtors and/or Receiver need to identify any known claimants and
22 the estimated amounts of each claim. The Plan states that
23 Classes 3A and 3B will be paid, pari passu, with creditors in
24 Class 3C and some Class 3D claimants. Since the Class 3A and 3B

1 claims are only identified as impaired, the Debtor and/or
2 Receiver should identify the potential claimants and claim
3 amounts in each class in order for full Disclosure to be made to
4 creditors.

5 Secured Properties

6 The Disclosure Statement states that many of the loans made
7 by Class 3C and 3D Creditors were not properly securitized.
8 Some creditors appear to have perfected security interests;
9 however, the Debtor/ Receiver has not identified which creditors
10 hold security. Since the Debtor knows which Deeds and Deeds of
11 Trust were recorded, it is incumbent upon the Debtor to identify
12 which creditors hold security. Similarly, the Debtor should
13 also be aware of which deals were collateralized with, for
14 example, invalid Deeds and/or Deeds of Trust.

15 This lack of information makes it impossible for Creditors
16 to know if any creditor holds a secured interest. In order to
17 collect any funds, a Class 3C Creditor is required to relinquish
18 any asserted secured claim (Disclosure Statement, p.12).
19 Creditors should be told what secured claims exist in order to
20 make an informed decision on whether each Creditor wants Class
21 3C treatment or plans to resort to its security.

22 The Disclosure Statement makes it clear that the Receiver
23 plans to sell real properties owned by the Debtor to fund the
24 Plan. Thus, it is obvious that the Debtor and Receiver want

1 secured creditors to relinquish their security interests, as
2 required by the Plan in order for a creditor to receive 3C
3 treatment. In order for a creditor to obtain knowingly waive or
4 relinquish its secured claim, the security held by each/any
5 Creditor needs to be identified.

6 Incorrect Creditor Information

7 The Debtor/Receiver classifies the Smith Creditors as
8 holding 3C claims in amounts well below their filed Proof of
9 Claims amounts. No explanation is given as to how the amounts
10 were calculated in the Disclosure Statement.

11 Rachelle Smith and the Rachelle Smith Living Trust have
12 filed claims for the net amounts of \$180,000, \$89,000, \$89,000
13 (Rachelle Smith) and \$180,000 (Smith Living Trust). Richard and
14 Shirley Smith have filed a Proof of Claim for \$145,000. The
15 Debtor lists Rachelle Smith as having no claim, and the Rachelle
16 Smith Living Trust having a claim for \$94,783.31. Richard and
17 Shirley Smith are shown as having a claim of \$56,373.33. Both
18 amounts are inaccurate and well below the net amount of funds
19 loaned to Debtor.

20 Conclusion

21 If the Smith creditors are the holders of secured claims,
22 this information will have an effect on how they vote on the
23 Plan. If they are secured creditors, they should be in a
24 different class. The Disclosure Statement fails to furnish

1 sufficient information on the Smith's claims and furnished
2 incorrect net claim amounts so that informed decisions can be
3 made as to how the Smith creditors will vote. At a minimum, the
4 Disclosure Statement should: 1) identify the creditors and
5 claim amounts in Classes 3A and 3B; 2) identify each secured
6 creditor and identify each security; 3) set forth the correct
7 net amounts loaned by the Smith Creditors.

8 Dated this 9 day of September 2005

9 /s/ Constance Sutton #006982
10 Constance Sutton
11 Attorney for Rachelle Smith et al.

12 Original filed this 9 day
13 of September, 2005 with:

14 Electronic Filing
15 U.S. Bankruptcy Court

16 Copy of the foregoing was mailed
17 this 9 day of September, 2005 to:

18 Michael W Carmel
19 80 E Columbus Ave.
20 Phoenix AZ 85012-4965

21 Elizabeth Amorosi
22 Office of the US Trustee
23 PO Box 36170
24 Phoenix AZ 85067-6170

Stanford E Lerch, Esq.
Anthony E DePrima, Esq
Lerch & DePrima, PLC
4000 N Scottsdale Rd., Suite 107
Scottsdale AZ 85251

1 Wendy L Coy, Esq
Arizona Corporation Commission
2 Securities Division
1300 W Washington, 3rd Floor
3 Phoenix AZ 85007

4 J Phillip Glasscock, Esq
13430 N Scottsdale Rd., Suite 106
5 Scottsdale AZ 85254

6 Alan A Meda, Esq.
Stinson Morrison Hecker
7 1850 N Central Ave #2100
Phoenix AZ 85067-6379

8
Thomas A Draghi
9 Western Ball Ederer, et al
170 Old Country Road, Suite 400
10 Mineola, New York 11501

11 Patricia A Premeau
Combs Law Group PC
12 2200 E Camelback Rd #221
Phoenix AZ 85016

13
James C Sell
14 2222 E Camelback Rd., #110
Phoenix AZ 85016

15
16 By /s/ Carye Chubick

17

18

19

20

21

22

23

24