

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Lawrence E. Wilk, #006510
Jonathan P. Ibsen, #023284
JABURG & WILK, P.C.
3200 North Central Avenue, Suite 2000
Phoenix, Arizona 85012
(602) 248-1000
e-mail lew@jaburgwilk.com
*Counsel for American National Mortgage Partners and
Counsel for the Receiver*

UNITED STATES BANKRUPTCY COURT
DISTRICT OF ARIZONA

In re:

AMERICAN NATIONAL MORTGAGE
PARTNERS, LLC,

Debtor.

In Proceedings Under
Chapter 11

Case Nos: 03-03803 PHX RJH
03-03799 PHX RJH

In re:

ANMP 74TH ST., LLC,

Debtor.

**DEBTORS' FIRST POST
CONFIRMATION REPORT
TO CREDITORS' COMMITTEE**

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

American National Mortgage Partners, LLC (“ANMP”) and James C. Sell, the Court appointed Receiver (the “Receiver”), submit the following Post Confirmation Report (the “Report”) to inform this Court and all parties in interest of the present status of the Debtors’ reorganization, and post confirmation activities. This Report shall supplement the Response to Order to Show Cause filed with this Court on March 5, 2010 (which can be viewed on both the Receiver’s and Investor’s websites) and the Quarterly Post Confirmation Reports on file with the Clerk of the United States Bankruptcy Court.

I. INTRODUCTION.

On March 10, 2010, the Court held a hearing at the request of certain ANMP Investors regarding the Post-Confirmation Status of this Case. Specifically, the Investors had questions regarding the progress of the Case since Confirmation, and ANMP’s Professionals’ services, fees and strategies regarding collection.

1 Prior to the Hearing, the Receiver filed a detailed response to the Investors'
2 Inquiries (“Response to Order to Show Cause”) (Docket No. 723) and several filings
3 under seal (Docket Nos. 724 & 725) (the “Sealed Documents”). The Sealed Documents
4 set forth detailed accountings of the Estates revenue and expenses - including professional
5 fees. The filings under seal were necessitated by confidentiality provisions of various
6 settlements entered into by ANMP and approved by this Court.

7 After considering the Investor’s inquiries and comments, and after reviewing the
8 Response and other Documents filed in connection with the Hearing, the Court was
9 satisfied with the progress since confirmation. (Minutes of Hearing, Docket No. 727).
10 The Court specifically recognized the inherent difficulties with the assets the Receiver and
11 ANMP are pursuing, stating:

12 And, I mean, I’ve seen the detailed report that Mr. Sell has
13 provided, detailing the work that’s gone on and the nature of
14 the litigation that’s gone on both in Castle – well, in all of
15 these sources of recovery, for example, primarily the Castle
16 litigation has been very long and protracted and I’m extremely
17 familiar with that. And from the report – I mean, I’ve not
18 been directly involved – but from the report I’m seeing, the
19 financial institution litigation has been extremely long and
20 protracted. And these financial institutions are mounting
extremely vigorous defenses, as you might assume that they
would. And unfortunately, we’ve simply got to work through
the processes. They do take skilled attorneys to work through
them. (Docket No. 727, pg 35).

21 The Court also noted the complexity of the litigation required to pursue these
22 assets, the fact that this process could take years, the costs involved¹, and even
23 complimented the Estate’s Professionals, stating:

24 It’s going to be a substantial time. And it’s going to take a lot
25 of attorneys fees and it’s precisely because it’s difficult,
26 complex litigation that you need highly qualified attorneys to

27 ¹ The Court made these comments even in light of the fact that Investor Frederick O’Connell had
28 misstated the hourly rate of Lawrence Wilk, Esq., Lead Counsel for ANMP. Mr. O’Connell had
represented to the Court that Mr. Wilk charges the Estate \$1,800/hour, (Docket No. 727 pg. 33),
when in fact, Mr. Wilk’s hourly rate is \$350.00.

1 manage it under the market these days those attorneys charge
2 hefty hourly rates. That's just a fact of the market. And
3 you're not going to get the job done and you probably
4 wouldn't be as well off as you are today if you didn't have the
5 kind of attorneys that you've got involved in this case
6 pursuing this kind of litigation. And frankly, it appears to me
7 that the Receiver is pursuing a lot of this at his own risk, as
8 well. (Docket No. 727, pg. 36).

9 Additionally, the Court set forth a periodic reporting structure to be provided by the
10 Estate detailing changes/progress as to anticipated sources of recovery. The Court
11 suggested that the reports include:

- 12 ➤ Descriptions of the known sources of recovery;
- 13 ➤ Amount being sought; and
- 14 ➤ A timeline of where the Estate is in the Process. (Docket No. 727, pg 7).

15 This periodic reporting is in addition to the Quarterly Post Confirmation Reports
16 filed with this Court each quarter, which include fees, expenses and disbursements. The
17 Quarterly Post Confirmation Reports filed in 2010 are Docket Nos. 714, 740 and 754.

18 Finally, the Court also required that the Creditors Committee post this report on its
19 Website (Docket No. 727, pg 16), and that for this first report, the Committee should also
20 provide a summary of its members and their responsibilities (Docket No. 727, pg 31)².

21 **II. CURRENT STATUS OF PURSUIT OF MAJOR ASSETS.**

22 During the Hearing, the Court identified and discussed the status of ANMP's four
23 major sources of recovery: (A) the recovery from the Castle Plan of Reorganization; (B)
24 the Financial Institution Litigation; (C) the Guccione Judgment; and (D) Collections. The
25 Court also discussed the basis of the claims, amounts being sought and timelines at the
26 Hearing.

27 To fully comprehend the current status of ANMP, the Transcript and Response to
28 the Order to Show Cause should be reviewed prior to continuing with this update.
29 Additionally, statements of the Sources and Uses of Funds of the Receivership Estate are
30 annexed hereto as Exhibit "A".

² The full transcript of the March 10, 2010 Hearing is available on the Receiver's and Committee's websites.

1 The following is a summary of the change in status of each of these major sources
2 of recovery, since the Hearing:

3 **A. The Castle Plan of Reorganization.**

4 The details regarding the Estate's claims in the Castle Plan of Reorganization were
5 set forth at the Hearing (Docket No. 727, pgs 25-27). Since that time the most significant
6 progress that has been made regards the Castle Liquidating Trust's negotiations to sell a
7 parcel of its real property. The transaction is in process, and not yet finalized. No further
8 information is available at this time.

9 Taylor Coleman has appealed the Order confirming the Plan. The initial Appellate
10 review by the District Court resulted in a ruling upholding the Plan. Taylor Coleman has
11 sought review by the Ninth Circuit of Appeals. There have been several attempts to
12 resolve the Ninth Circuit Appeal through mandatory Mediation. These attempts have
13 been unsuccessful and the Appeal is pending.

14 **B. The Financial Institution Litigation.**

15 The details regarding the Estate's claims in the Financial Institutions Litigation
16 were set forth at the Hearing (Docket No. 727, pgs 21-23). Since that time, this Court
17 approved two Settlements under Seal (Dockets Nos. 735, 736 & 737). These Settlements
18 resolved the claims against:

- 19 ➤ The Estate of Darrell Coulter; and
20 ➤ Western Security Bank.

21 Additionally, discovery has been proceeding. Since the Hearing, the Estate has
22 conducted the following Depositions:

- 23 ➤ Larry Dunning;³
24 ➤ Shelia Dunning;
25 ➤ Paul Muscenti;

26 The Defendants have conducted the following Depositions since the hearing:

- 27 ➤ Cathy Ghiglieri; and

28 ³ Larry Dunning is in the process of finalizing a plea agreement in his related criminal proceedings.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

➤ Gary Freed.⁴

There are no dispositive motions pending before the State Court and the anticipated trial date has not changed.

Presently, the following are the Deadlines pending with the Court:

- Deadline to Complete Fact and Expert Witnesses: December 17, 2010
- Deadline to Complete Discovery: December 23, 2010
- Deadline For Filing Dispositive Motions: February 18, 2010

C. The Guccione Judgment.

The details regarding the Estate's claims with respect to the Guccione Judgment were set forth at the Hearing (Docket No. 727, pgs 19-20). Since that time, Richard Taxe, the proposed purchaser of the Guccione Residence in New Jersey, failed to consummate the transaction.

As discussed at the Hearing, absent a sale to Mr. Taxe, the Receiver could seek the re-opening of Mr. Guccione's personal Bankruptcy Case in New Jersey to compel a sale of the Residence.

Mr. Guccione's personal Bankruptcy Case has been re-opened, and the Trustee of his Estate is moving forward with marketing the sale of the Guccione Residence. Appropriate marketing alternatives are being discussed but have not been finalized.

D. Collections.

The following is a summary of the pending judgments:

Judgment Debtor	
Beckwith	244,279.00
Caspere	402,955.78
Dedmon	183,577.00
Ron Kelly	5,539,343.26
FutureCom	1,461,271.60
Riesterer	3,115,932.50

⁴ Cathy Ghiglieri and Gary Freed are expert witnesses hired on behalf of the ANMP Investors to establish bank liability and damages.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Wanek	4,221,700.90
Isaacs	85,000.00
TOTAL	15,169,060.04

Post judgment collection efforts are proceeding with respect to these matters. Judgment Debtors' examinations are scheduled and are ongoing, as well as requests for production of documents.

Mr. Wanek has been convicted of mortgage fraud and is presently incarcerated. Similarly, Mr. Isaacs is also incarcerated. Consequently, it is not likely that there will be any recoveries from either Wanek or Isaacs.

III. SUMMARY OF COMMITTEE MEMBERSHIP AND RESPONSIBILITIES.

Pursuant to the Court's request, the Creditors' Committee has supplied the information on its membership annexed hereto collectively as Exhibit "B."

DATED this 2nd day of September, 2010.

JABURG & WILK, P.C.

/s/Lawrence E. Wilk

Lawrence E. Wilk
Jonathan P. Ibsen

American National Mortgage Partners, LLC
Source of Funds To date
August 24, 2010

Accounting	Amount
Funds Transferred from 1st Receiver	291,067.70
Funds Transferred from Other ANMP Entities	28,852.39
Total Opening Balance	<u>319,920.09</u>
Settlements	6,117,615.34
Sale of Asset (Net) - 36th Street	4,285.37
Sale of Asset - Stan Learch Property at 5th Avenue	25,000.00
Sale of Asset - Atlas Mining Co. Stock	66,487.27
Sale of Asset - F&F	1,808.80
Sale of Asset - Guccione	966,724.09
Sale of Asset (Net) - Secluded Lane	730,391.22
Sale of Asset - Why USA stock	3,174.62
Total Sale of Assets	<u>1,797,871.37</u>
Loans Payable	504,323.00
Storage Fee Income	24,007.03
Interest Income	14,740.51
Dunning Retainer	14,000.00
Castle Board Fees	20,000.00
Refunds	5,786.93
Grand Total	<u><u>8,818,264.27</u></u>

American National Mortgage Partners, LLC
Use of Funds ToDate
August 24, 2010

Accounting	Amount
Jaburg & Wilk - Expenses	942,267.76
Jaburg & Wilk - Legal Fees	2,796,736.41
Jaburg & Wilk - Trust	59,477.77
Michael Carmel - Legal Fees	565,973.10
Legal Fees - All Other	652,754.40
Total Legal Fees & Expenses	5,017,209.44
Receiver Fees - 1st Receiver	32,751.75
Receiver Fees - James C. Sell	1,831,261.56
Receiver Expenses	63,874.76
Total Receiver Fees & Expenses	1,927,888.07
Investor Distributions	626,105.61
Accounting	12,961.25
Accounting - Lois Folk	96,424.01
Accounting - Robert C. Hubbard	202,173.44
Other Professional Fees	44,371.76
Total Accounting & Other Professional	355,930.46
Loan Repayment	502,575.00
Computer/Technical	81,619.49
Storage Fees	81,151.53
Interest Expense	70,547.25
Bankruptcy Trustee Fees	69,275.00
Bond Insurance	25,000.00
Travel Expense	14,692.94
ANMP Committee Expense Reimbursement	12,860.92
Bank Service Charges	1,863.64
Building Repairs	791.62
Conference/Meeting Expense	612.39
Filing & Recording Fees	100.00
Miscellaneous Expense	1,090.83
Postage and Delivery	1,752.86
Printing and Reproduction	254.69
Supplies	771.52
Other Operating Expenses	7,237.55
Wages Due to Mary Barton	5,377.12
Flora Schule Settlement	5,000.00
Income Tax	2,004.20
Grand Total	8,804,474.58

LYMAN DAVIS

4538 East Jude lane Gilbert, Arizona 85298 480-926-8830 fax 480-545-8814

August 24, 2010

Lyman E. Davis, 71

Co Chairman of the ANMP Investors Committee is president of Main Lube, Inc. dba as USA Lubrications, he also was president of USA Tune Up and Fast Lube for 13 ½ years. The business was sold in 2004. Mr. Davis worked for 25 years with Mountain Bell and US West as a Marketing representative for them handling major accounts such as Morrison Knudsen Construction Company, JC Penny Corp., and Sears Roebuck Company.

His primary duties included analyzing Customers Business Operations and applying business applications that assisted the customers in improving their communications and the profitability of their Businesses. In 1981 Mr. Davis transferred to Mountain Bell's Corporate Offices in Denver, Colorado becoming a Product Manager managing Custom Calling Services. When AT&T divested the Baby Bells Mr. Davis assisted in the development of new reporting, tracking and management programs for all services provided by US West.

He has been President of the Twin Falls, Idaho Optimist International Youth Club and also was selected as a Distinguished Lieutenant Governor of the Pacific Northwest Optimist International.

Mr Davis has served as the Co-Chairman of the ANMP Committee since the Original Bankruptcy Filing and has also served as a representative of the ANMP Receiver on the Board of Directors of Castle Mega Stores, While serving as a Representative on the Castle Board Mr. Davis participated in Negotiations with Taylor Coleman on several plans and Two Mediation Sessions over several days with Taylor Coleman trying to get the payments made to the Investors, all efforts resulted in Mr. Coleman defaulting on the negotiated settlements. While serving on the board Mr. Davis has been sued personally by Taylor Coleman, the Lawsuit is still pending.

He has been involved in the development of the New Bankruptcy Plan that allowed ANMP to get additional security for their investments through the establishment of a Liquidating Trust that owns the Castle Mega Stores New Castle Real Estate. The committee has held Investors Meetings to inform people as to what has been happening. He has been involved in most of the negotiations and hearings involving the various Lawsuits, the 100's of Meetings and Negotiations that have been occurring in the last seven years.

The Primary Objective that the ANMP Committee has followed since being formed is to attempt **"To Get as Much Money as Possible Recovered for all the Investors in ANMP"** All of our activities have tried to help insure that this objective is being accomplished. Unfortunately, the Legal Processes that have to be followed are sometimes very Long, Frustrating and Time Consuming.

John C. Mickelson

Graduated from the University of Denver with a Major in Marketing and Finance.

Worked in the banking industry since 1969, Security Pacific Bank of Los Angeles, Bank of Hawaii in Guam and Hawaii, American Savings and Loan of Guam and Bank of Saipan on Saipan.

Has been a real estate broker, owned a title company and started a number of other small businesses. Consulted on several real estate development projects in Arizona.

Presently working for Chase bank as a trainer in the Early Lost Mitigation Department in Tempe, Arizona.

Ralph S.Vescio, B.S,phcy, D.D.S. 78

Appointed to the AMNP board in June, 2010.

Dr Vescio hails for Upstate N.Y., where he ran a Endodontic office from 1963 until 1989, when he moved to Phoenix, Az. with his children to continue the practice of Endodontics as a independent contactor for Cigna Dental care and other dental offices. He retired in 2008 to continue full time in the practice of business management. He owned two large Apartment complex's in Upstate NY as well as a small strip shopping center in Kingman, Az.. He has also been involved in the loan business for the last 10 years. Dr.Vescio has been constantly in touch with committee, over the last seven plus years. He hasbeen very interested in all the activities and is totally informed as to what has been occurring with the AMNP litigations. Because of his interest and support, he was selected to join the committee..

Luther Abrahamson Age 71 retired clergy, retired Army chaplain

Significant investor who lost our life savings and forced back to work.

First invested in ANMP in 2001

At the disclosure the ANMP was fraudulent and a Ponzi scheme, I was approached to serve on the investors' committee representing the 300+ investors to serve as a conduit between the various litigants, law firms, receiver and the investors.

The committee was organized with five members in 2003 with Lyman Davis serving as the chairperson and Jerry Zwack as the secretary. Since then I have attended hundreds of meetings, driven countless miles, made many appearances at court on behalf of the investors, met with attorneys, receiver frequently to keep communication open, written many letters, underwent deposition as an investor and committee member, threatened with further litigation by several of the entities who originally defrauded the investors.

Re: Jerry Zwack

Jerry has run several businesses throughout the years, earning B.S. degree, being a Bible College Teacher, and running a Large Counseling Center. He has done many other things that have yielded experience related to being able to understand how the legal system works.

Jerry has been Co-Chairman for seven years and has been very active in all of the legal processes that have been occurring since ANMP was placed into receivership. He has attended over 200 meetings related to ANMP issues. He also attended countless court hearings. He is one of the most informed persons there is from the ANMP investor body.