

1 Lawrence E. Wilk, #006510
2 Jonathan P. Ibsen, #023284
3 **JABURG & WILK, P.C.**
4 3200 North Central Avenue, Suite 2000
5 Phoenix, Arizona 85012
6 (602) 248-1000
7 e-mail lew@jaburgwilk.com
8 *Counsel for American National Mortgage Partners and*
9 *Counsel for the Receiver*

10 UNITED STATES BANKRUPTCY COURT
11 DISTRICT OF ARIZONA

12 In re:
13 AMERICAN NATIONAL MORTGAGE
14 PARTNERS, LLC,
15 Debtor.

In Proceedings Under
Chapter 11

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

16
17 In re:
18 ANMP 74TH ST., LLC,
19 Debtor.

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

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

27 I. **INTRODUCTION.**

28 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