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8 **IN THE UNITED STATES BANKRUPTCY COURT**
9 **FOR THE DISTRICT OF ARIZONA**

10 In re:
11 MORTGAGES, LTD.,
12 Debtor.

Chapter 11

Case No. 2:08-bk-07465-RJH

13 **RESPONSE OF GOLD CREEK,**
14 **INC. TO SUN VALLEY**
15 **MASONRY, INC.’S LIMITED**
OBJECTION AND
RESERVATION OF RIGHTS

16 Gold Creek, Inc. (“Gold Creek”), respectfully responds to and disputes the Limited
17 Objection and Reservation of Rights (“Limited Objection,” Document 2780) to the proposed
18 Stipulated Order Approving the Release of Money from Chateaux Sale Escrow (the
19 “Stipulated Order,” Docket 2779) filed by Sun Valley Masonry, Inc. (“Sun Valley”). Sun
20 Valley has no standing to insert itself into the parties’ settlement (to which Sun Valley is not a
21 party) or involve itself the crafting of the Stipulated Order relating to escrowed monies to
22 which it has no claim. Consideration of Sun Valley’s Limited Objection will have no impact
23 upon the parties’ relative rights, as Sun Valley acknowledges, and will only delay
24 consummation of the settlement.

25 The Stipulated Order grows out of a settlement among ML Manager LLC, the ML
26 Liquidating Trust, ML Servicing, Co. and Gold Creek relating to disposition of the proceeds of

1 the sale of the Chateaux on Central property. The sale proceeds have been escrowed at First
2 American Title Insurance Co. for distribution in the manner outlined in the Stipulated Order.
3 It is anticipated that the escrowed monies will be used, in part, for satisfaction of various
4 recorded mechanic's lien claimants.

5 Sun Valley has no standing to lodge its Limited Objection. Sun Valley is not a party to
6 the settlement or the Stipulated Order. To that extent, Sun Valley's Limited Objection
7 acknowledges, "Sun Valley is not a party to that settlement . . ." Limited Objection 2:22. Sun
8 Valley does not possess a recorded mechanic's lien and has no direct claim to the escrowed
9 monies that are the subject of the Stipulated Order.

10 Sun Valley would have this Court modify the Stipulated Order based upon the purely
11 conjectural fear of some future interpretation of the order that may or may not ever be
12 advocated by parties to State court proceedings over which this Court is not presiding. In
13 other words, Sun Valley asks this Court to issue its advisory opinion over a dispute that does
14 not yet exist among parties to litigation over which it does not have jurisdiction.

15 Sun Valley objects to the Proposed Order "to the extent that any party can or may argue
16 that Gold Creek's decision to accept a reduced payment, rather than seek the full amount due
17 to it, in any way limits or reduces Sun Valley's ability to recover on or pursue its own claims
18 against Gold Creek or its payment bond sureties." Sun Valley, however, does not even
19 contend that the Proposed Order supports such an interpretation or that any party to date has
20 advocated such an interpretation. Of course, if such an interpretation is ever advocated as a
21 defense to Sun Valley's claims, Sun Valley can then (in the appropriate forum) argue how it
22 feels the Stipulated Order should be properly construed.

23 In sum, Sun Valley's Limited Objection should be overruled for the reason that Sun
24 Valley has no standing to assert it and it is otherwise asks this Court to issue an advisory ruling
25 based upon a speculative fear of dispute that has not and may never occur.
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RESPECTFULLY SUBMITTED this 18th day of June, 2010.

**MARISCAL, WEEKS, McINTYRE
& FRIEDLANDER, P.A.**

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COPY of the foregoing e-mailed
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