

1 **SCHIAN WALKER, P.L.C.**

3550 NORTH CENTRAL AVENUE, #1700

2 PHOENIX, ARIZONA 85012-2115

TELEPHONE: (602) 277-1501

3 FACSIMILE: (602) 297-9633

E-MAIL: ecfdocket@swazlaw.com

4 DALE C. SCHIAN, #010445

SCOTT R. GOLDBERG, #015082

Attorneys for the Value-To-Loan

5 Opportunity Fund I, L.L.C.

6
7 **UNITED STATES BANKRUPTCY COURT**

8 **DISTRICT OF ARIZONA**

9 In re:

10 MORTGAGES LTD.,

11 Debtor.

No. 2-08-bk-07465-RJH

CHAPTER 11

12 **LIMITED OBJECTION AND**
13 **RESERVATION OF RIGHTS REGARDING**
14 **ML MANAGER'S PROPOSED**
15 **ALLOCATION MODEL FILED BY THE**
16 **VALUE-TO-LOAN OPPORTUNITY FUND**
17 **I, L.L.C**

DATE: September 21, 2010

TIME: 1:30 p.m.

LOCATION: 230 North First Avenue

Phoenix, Arizona

Courtroom 603, 6th Floor

18 The Value-to-Loan Opportunity Fund I, L.L.C. (the "**VTL Fund**")¹, by and through its
19 undersigned counsel, hereby files this *Limited Objection and Reservation of Rights* (the "**Objection**") to
20 ML Manager's motion (the "**Motion**") requesting that the Court approve the "**Allocation Model**." The
21 Motion was filed on September 1, 2010 at DE 2913. Objections to the Motion were required to be filed
22 by September 10, 2010.

23 The VTL Fund is a secured lender to the Loan LLCs created under the confirmed Plan in
24 this case. The VTL Fund holds duly perfected liens and security interest in all of the assets that the
25

26 ¹ Unless otherwise defined herein, capitalized terms shall have the same meaning given to them in the Motion.

1 Loan LLCs own. Those assets are secured loans that are payable to the Loan LLCs by unrelated
2 borrowers. The Allocation Model is ML Manager's attempt to allocate among the Loan LLCs and other
3 investors the substantial costs of the Exit Financing and the costs associated with the management and
4 collection of the loans. These costs equate to substantial offsets and surcharges to the loan proceeds that
5 the Loan LLCs would otherwise receive. As a result, the costs reduce the collateral of the VTL Fund,
6 and thus the funds that the Loan LLCs have available to distribute to the VTL Fund. As a result, the
7 VTL Fund has a direct and substantial interest in the Allocation Model.

8 In its request to have the Allocation Model approved, ML Manager claims that hundreds
9 of hours were spent crafting, developing, and refining the Allocation Model. Motion at 2:11-13; 9:13-
10 17; and 9:22-24. ML Manager further states that the Allocation Model was designed by many legal and
11 accounting professionals, and by experts, and other staff members. Motion at 2:11-13; 9:13-17; and
12 9:22-26 – 10:1-5. ML Manager further states that an entire year was required to complete the Allocation
13 Model. Motion at 9:16-17 and 9:22-23. Finally, ML Manager states that the Allocation Model is
14 extraordinarily complex, and is based upon critically important estimates and projections, some of which
15 cannot be shared or disclosed. Motion 10:22-25 – 11:1-25; 20:3-6; and 20 at fn. 12. The VTL Fund
16 does not contest or object to these statements. In light of these statements however, the VTL Fund does
17 object to the speed at which ML Manager seeks approval of the Allocation Model.

18 As set forth above, the Motion was filed on September 1, 2010, and objections were due
19 on September 10, 2010. Respectfully, the Allocation Model, which took over a year to complete by a
20 variety of experts at substantial cost deserves serious inquiry and analysis that cannot be completed in a
21 mere nine days. Given its obvious importance, the Allocation Model should not be evaluated and
22 approved in haste. The Allocation Model was developed unbeknownst to the VTL Fund, and without its
23 input. Unlike the Loan LLCs, the VTL Fund simply has not had a sufficient opportunity to study the
24 Allocation Model to determine if, in its view, it is fundamentally fair, equitable and sound as
25 proclaimed. Finally, the VTL Fund is in the process of selecting a new manager, who should be given
26 an opportunity to evaluate the Allocation Model and to discuss his findings with the members of the

1 VTL Fund.

2 The VTL Fund appreciates ML Manager's efforts to have an allocation model approved
3 so that the Plan can be implemented in a fair, equitable, and non-discriminatory manner. At present, the
4 VTL Fund cannot determine whether the Allocation Model achieves those objectives. As a result, the
5 VTL Fund respectfully requests that the Court deny the Motion without prejudice or defer any ruling on
6 the Motion until the VTL Fund can give the Allocation Model the serious consideration it is due.

7 DATED this 10th day of September, 2010.

8 SCHIAN WALKER, P.L.C.

9
10 By /s/ SCOTT R. GOLDBERG, #015082

Dale C. Schian
Scott R. Goldberg
Attorneys for the Value-To-Loan
Opportunity Fund I, L.L.C.

11
12
13 COPY of the foregoing e-mailed and
14 mailed this 10th day of September, 2010 to:

15 Cathy L. Reece, Esq.
16 Keith L. Hendricks, Esq.
17 Fennemore Craig, PC
18 3003 N. Central Ave., #2600
19 Phoenix, AZ 85012
20 Attorneys for ML Manager, LLC
21 creece@fclaw.com

22 Tommy D. Crimmins, Trustee
23 or Judity Crimmins, Trustee
24 The Crimmins Family Revocable Trust
25 1021 Sheriff's Posse Tr.
26 Prescott, AZ 86303
tdcrim@msn.com

Robert J. Miller, Esq.
Bryce A. Suzuki, Esq.
Bryan Cave, LLP
One Renaissance Square
Two N. Central Ave., #2200
Phoenix, AZ 85004-4406
Attorneys for the Rev-Op Investors
rjmiller@bryancave.com
bryce.suzuki@bryancave.com

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

Francis P. Surdakowski & Linda
M. Surdakowski, Trustees
The Surdakowski Family Trust U/T/A
14619 N. 14th Dr.
Phoenix, AZ 85023
azheartdoc1@aol.com

/s/ JULIE LARSEN

145530.3