

1 FENNEMORE CRAIG, P.C.  
Cathy L. Reece (No. 005932)  
2 Keith L. Hendricks (No. 012750)  
Joshua T. Greer (No. 025508)  
3 3003 North Central Avenue  
Suite 2600  
4 Phoenix, AZ 85012-2913  
Telephone: (602) 916-5000  
5 Email: creece@fclaw.com

6 Attorneys for ML Manager LLC  
7

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

10 In re

11 MORTGAGES, LTD.,

12 Debtor.

Chapter 11

2:08-BK-07465-RJH

**ML MANAGER'S PRETRIAL  
STATEMENT FOR THE BARNES OSC  
HEARING SCHEDULED FOR JUNE 15,  
2011**

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15  
16 ML Manager submits the following pretrial statement in preparation for the hearing  
17 on June 15, 2011. ML Manager emailed a draft of a joint statement to Mr. Barnes.  
18 However, ML Manager did not receive a response.

19 **I. ML MANAGER'S STATEMENT OF MATERIAL FACTS.**

20 1. ML Manager liquidated six loans, collateral, or other properties included in  
21 the loans defined as the ML Loans in the Plan of Reorganization (the "Loans").

22 2. On January 20, 2011, this Court entered an order approving ML Manager's  
23 distribution of funds to investors (the "Distribution Order") [Docket 3051].

24 3. Barnes was an investor in the Loans.

25 4. A portion of the proceeds from the resolution or liquidation of the Loans  
26 was earmarked for Barnes.

1           5.     The Town of Gilbert holds a recorded judgment lien against Barness.

2           6.     The Distribution Order required the funds earmarked for Barness to be  
3 distributed to the Town of Gilbert -- not to Barness.

4           7.     On or about February 22, 2011, Canyon State Servicing Co., LLC (“Canyon  
5 State”) issued checks to 1600 investors, including a check to Barness in the amount of  
6 \$112,075.31 (the “Funds”).

7           8.     The Funds should have been disbursed to the Town of Gilbert.

8           9.     The Funds were deposited by Barness into an account at Bank of America  
9 ending in 3678 (the “Account”).

10          10.    ML Manager requested that Barness return the Funds.

11          11.    On March 29, 2011, the Court entered its ex-parte order requiring Mr.  
12 Barness and the Barness Investment Limited Partnership (collectively “Barness”) to return  
13 the \$112,075.31 [Docket No. 3126].

14          12.    Barness has failed to return the Funds.

15          13.    On April 14, 2011, the Court entered an Order to Show Cause requiring  
16 Mr. Barness to appear and show cause why he should not be held in contempt of court for  
17 failing to return the erroneously distributed funds.

18          14.    On May 10, 2011, Barness appeared at the Order to Show Cause Hearing to  
19 claim he was unable to return the Funds.

20    **II.    ML MANAGER’S STATEMENT OF CONTESTED ISSUES THAT MUST**  
21    **BE TRIED AND DETERMINED AT THE EVIDENTIARY HEARING.**

22          1.     Whether Barness is in contempt of Court for failing to return the Funds.

23          2.     Whether it is legally impossible for Barness to return the Funds.

24    **III.   ML MANAGER’S LIST OF WITNESSES.**

25          1.     Ron J. Barness

26

1 **IV. ML MANAGER'S LIST OF EXHIBITS.**

- 2 1. Distribution Order  
3 2. Order to Show Cause  
4 3. Judgment awarded to Town of Gilbert  
5 4. Bank statements and records related to Barness's account with Bank of  
6 America

7 DATED: June 13, 2011

8 FENNEMORE CRAIG, P.C.

9  
10 By /s/ Joshua T. Greer  
11 Cathy L. Reece  
12 Keith L. Hendricks  
13 Joshua T. Greer  
14 Attorneys for ML Manager LLC

13 E-FILED THIS DATE  
14 Copy mailed to:

15 Ron Barness  
16 Barness Investment Limited Partnership  
17 9830 N. 79<sup>th</sup> Place  
18 Scottsdale, AZ 85258

17 Ron Barness  
18 Barness Papas Investments, LLC  
19 15111 N. Hayden Road, Suite 160-363  
20 Scottsdale, AZ 85260

21 /s/ Kelly White