

1 Keith L. Hendricks (No. 012750)
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9 Attorneys for ML Manager, LLC

7 **UNITED STATES BANKRUPTCY COURT**
8 **FOR THE DISTRICT OF ARIZONA**

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

Chapter 11
Case No. 2:08-bk-07465-RJH
**NOTICE OF NON-COMPLIANCE
AND LODGING OF BENCH
WARRANT**

15 On March 28, 2011, ML Manager, LLC submitted an Emergency Application
16 [Docket 3124] for an Order regarding the \$112,075.31 sent to and retained by Ron Barness
17 that had been earmarked for disbursement to the Town of Gilbert (the "Funds"). On
18 March 29, 2011, the Court entered an Order [Docket 3126] requiring Ron Barness to
19 return the Funds, but Mr. Barness failed to do so.

20 On April 14, 2011, ML Manager filed an Application to Show Cause regarding the
21 matter. After consideration of the evidence and argument presented at the June 15
22 evidentiary hearing, the Court entered an Order dated June 21, 2011 holding Ron Barness
23 in contempt [Docket 3251].

24 The Court expressly found, "Barness is capable of returning the Funds to ML
25 Manager" and expressly "overrul[ed] Barness's defense that he is unable to return the
26 funds." See Order at p. 2. The Court ordered, "Barness shall return the Funds no later
27 than June 30, 2011 [or] a civil arrest warrant may be issued by the Court." See Order at p.
28

1 2. Barness failed to appeal this Order, and the time to do so has now passed. See Fed. R.
2 Bankr. P. 8002.

3 As of July 25, 2011, Ron Barness has still not returned the Funds. See Affidavit of
4 Stephen Brower (attached as **Exhibit A**) at ¶ 4. ML Manger has been diligent in its efforts
5 to follow up with Mr. Barness, but he refuses to return the Funds. See Affidavit (Exhibit
6 A) ¶ 5. Accordingly, with this Notice, ML Manager lodges a Bench Warrant to be entered
7 and sent to the U.S. Marshalls regarding Ron Barness's willful disobedience of this
8 Court's Order.

9 DATED: July 25, 2011.

10 **MOYES SELLERS & HENDRICKS**

11
12 By: /s/ Stephen Brower
13 Keith Hendricks
14 Stephen Brower
15 1850 North Central Avenue, Suite 1100
16 Phoenix, Arizona 85004-4584
17 Attorneys for ML Manager, LLC

18 EFILED THIS DATE: 07/25/11

19 COPY Emailed this date:

20 Ron Barness
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21 Phillip R. Rupprecht
22 Aiken Schenk Hawkins & Ricciardi PC
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26 /s/ L. Carol Smith
27
28

EXHIBIT A

1 Keith L. Hendricks (No. 012750)
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**AFFIDAVIT OF STEPHEN
BROWER**

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13
14 Upon penalty of perjury, Stephen Brower declares as follows:

- 15 1. I am an attorney with Moyes Sellers & Hendricks, counsel for ML Manager,
16 LLC and am competent in all respects to make this affidavit.
- 17 2. On March 29, 2011, the Court entered an Order [Docket 3126] requiring
18 Ron Barness to return \$112,075.31 sent to and retained by Ron Barness that had been
19 earmarked for disbursement to the Town of Gilbert (the "Funds").
- 20 3. On April 14, 2011, ML Manager filed an Application to Show Cause as a
21 result of Mr. Barness's failure to do so. After consideration of the evidence and argument
22 presented at the June 15 evidentiary hearing, the Court entered an Order dated June 21,
23 2011 holding Ron Barness in contempt [Docket 3251].
- 24 4. As of July 25, 2011, Ron Barness still has not returned the Funds.
- 25 5. ML Manger has been diligent in its efforts to follow up with Mr. Barness,
26 but he refuses to return the Funds.
- 27
28

