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6	Attorneys for Kenneth K. Losch, David C. Dewar, Graystar Investments, LLC,				
7	and Kingston Capital Co., LLC				
8	IN THE UNITED STATES BANKRUPTCY COURT				
9	FOR THE DISTRICT OF ARIZONA				
10	In re:	Chapter 11			
11	MORTGAGES LTD.,	Case No. 2:08-bk-07465-RJH			
12	Debtor.	STATEMENT OF POSITION			
13		CONCERNING MOTION FOR ORDER ENFORCING SECTION 10.5 OF THE			
14		PLAN AND PARAGRAPH D OF THE CONFIRMATION ORDER			
15					

Kenneth C. Losch, David C. Dewar, Graystar Investments, LLC and Kingston
Capital Co., LLC (the "Guarantors"), hereby submit this Statement of Position Concerning
Motion for Order Enforcing Section 10.5 of the Plan and Paragraph D of the Confirmation
Order (the "Statement"):

As the Court may recall, the Guarantors are involved in state court litigation
 with, among others, ML Manager, LLC ("ML Manager") asserting the invalidity of certain
 guaranties with respect to loans made by Mortgages Ltd. to Tempe Land Company, LLC
 and seeking to establish the Guarantors' entitlement to defensive setoff with respect to any
 claims under such guaranties (the "State Court Litigation").

25 2. On January 6, 2012, ML Manager filed its Motion for Order Enforcing
26 Section 10.5 of the Plan and Paragraph D of the Confirmation Order (the "Motion"). On
27 page 3 of the Motion, ML Manager alleges, with respect to the Centerpoint Property, that
28 "[t]he borrower under the loans subsequently defaulted on the loan obligations."

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3. The Guarantors do not object to relief requested in the Motion itself. But having noticed the allegation referenced above in paragraph 2, the Guarantors file this Statement to simply go on record once again that Tempe Land Company, LLC did not default on the loan obligations to Mortgages Ltd.; instead, Mortgages Ltd. defaulted on its obligations to the borrower. Such matters will be determined in the State Court Litigation. Dated: January 19, 2012.

8	RESPECTFULLY SUBMITTED,
9	SACKS TIERNEY P.A.
10	
11	By: <u>/s/ Aaron G. York</u>
12	Sharon B. Shively Aaron G. York
13	Attorneys for Kenneth K. Losch, David C. Dewar, Graystar Investments, LLC,
14	and Kingston Capital Co., LLC
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20	This document was electronically filed with the U.S. Bankruptcy Court
21	on this 19th day of January, 2012.
22	COPY of the foregoing
23	e-mailed and mailed the same day to the following parties:
24	
25	Cathy L. Reece, Esq. Fennemore Craig, P.C.
26	3003 N. Central Ave., Suite 2600
27	Phoenix, Arizona 85012 creece@fclaw.com
28	
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	7	/s/ Suellen Douglas	
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