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7 and Kingston Capital Co., LLC

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

**STATEMENT OF POSITION
CONCERNING MOTION FOR ORDER
ENFORCING SECTION 10.5 OF THE
PLAN AND PARAGRAPH D OF THE
CONFIRMATION ORDER**

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

20 1. As the Court may recall, the Guarantors are involved in state court litigation
21 with, among others, ML Manager, LLC ("ML Manager") asserting the invalidity of certain
22 guaranties with respect to loans made by Mortgages Ltd. to Tempe Land Company, LLC
23 and seeking to establish the Guarantors' entitlement to defensive setoff with respect to any
24 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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