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5
6 IN THE UNITED STATES BANKRUPTCY COURT
7 FOR THE DISTRICT OF ARIZONA

8 In re
9 MORTGAGES LTD.,
10 Debtor

Chapter 11

Case No. 2:08-bk-07465-RJH

**MOTION TO TRANSFER CASE
ASSIGNMENT OF 44 CP I LOAN LLC
(2:12-BK-15286-EWH) AND 44 CP II
LOAN LLC (2:12-BK-15287-CGC) TO
THE HONORABLE RANDOLPH J.
HAINES PURSUANT TO LOCAL RULE
1015-1(a)**

14 On July 9, 2012 the Board of Managers of ML Manager LLC caused the Chapter 11
15 filing of 44 CP I Loan LLC (“44 CP I”) (Case No. 2:12-bk-15286-EWH) and 44 CP II Loan
16 LLC (“44 CP II,” collectively “44 CP Entities”) (Case No. 2: 12-bk-15287). The 44 CP
17 Entities and ML Manager are entities created through the confirmed Plan of Reorganization
18 (the “Plan”) in this case, which was confirmed by this Court. Because the 44 CP Entities’
19 business and obligations are related to this case, it is respectfully requested, pursuant to
20 Local Rule 1015-1(a), that the 44 CP Entities cases be assigned to the Honorable Randolph
21 J. Haines who is already familiar with the complexities and issues of the Mortgages Ltd.
22 case. The 44 CP Entities do not seek joint administration or substantive consolidation of
23 their cases with Mortgages Ltd. No dual caption is necessary or sought. Instead, it only
24 seeks a transfer of the cases to Judge Haines because of his familiarity with related entities.¹

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26 ¹ The TLDP Loan LLC bankruptcy case (2:11-bk-32603-RJH) was reassigned to Judge
Haines. *See* Order Granting Motion To Transfer Case Assignment (Docket No. 3379).

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. BRIEF PROCEDURAL BACKGROUND**

3 On June 20, 2008, Mortgages Ltd. entered into bankruptcy via an involuntary
4 Chapter 7 petition. On May 20, 2009, the Plan was confirmed. The Plan created the 44
5 CP Entities along with the other 46 Loan LLCs and authorized the transfer of Mortgages
6 Ltd. property into the 44 CP Entities. ML Manager was created and under the Plan
7 became the manager of the 44 CP Entities and the agent for the pass through investors in
8 the same loan. The 44 CP Entities, ML Manager and Mortgages Ltd. are related entities.

9 In accordance with the confirmed Plan and Exit Financing Documents and the
10 Interborrower Agreement, the 44 CP Entities along with the other Loan LLCs and ML
11 Manager are borrowers under and are liable for their portion of the exit financing and
12 therefore the replacement loans. Furthermore, among other things, the 44 CP Entities
13 must conform with the terms of the allocation model approved by this Court. Further, on
14 July 12, 2010 the Court entered an Order Approving the Motion to Approve Settlements
15 with Grace Entities (Docket No. 2825) which under Section 4.16 of the Plan and
16 Paragraph V of the Confirmation Order authorized the settlements with the Borrowers and
17 involved the 44 CP Entities.

18 Judge Haines is familiar with the complexities of the Plan, the parties, the
19 documents, and the issues that have arisen since the filing of the Petition over four years
20 ago and confirmation of the Plan over three years ago. Accordingly, Judge Haines is the
21 appropriate judge to preside over the 44 CP Entities cases.

22 **II. LEGAL ANALYSIS**

23 Rule 1015-1(a) of the Local Rules of Bankruptcy Procedure, District of Arizona,
24 provide that:

25 Whenever more than one bankruptcy case is filed or pending in which
26 the debtor entities are related or the cases are otherwise related,
counsel may file a motion to transfer the assignment of the cases to a

1 single judge. The motion shall specify the reasons for having the
2 related cases heard by one judge. The motion to transfer the
3 assignment shall be filed in the lower numbered case only. It shall
4 identify the other cases to be assigned by case name and number in the
5 body of the motion. The judge assigned to the lower numbered case
6 will rule on the motion.

7 Furthermore, Rule 42(a)(3), Federal Rules of Civil Procedure, provides in relevant
8 part that “If actions before the court involve a common question of law or fact, the court
9 may . . . issue any other orders to avoid unnecessary cost or delay.” As such explained
10 above, the 44 CP Entities cases should be transferred to Judge Haines because of their
11 relationship to the Mortgages Ltd. bankruptcy case and the entities created under the Plan
12 and the implementation of the moneys under the allocation model.

13 It is in the best interest of justice, cost, and efficiency for the judge overseeing the
14 Mortgages Ltd. case and implementation of the Plan and implementation of the allocation
15 model to preside over the 44 CP Entities cases. Transferring the 44 CP Entities from their
16 original assignment of Judge Hollowell and Judge Case to Judge Haines will conserve
17 substantial time and expense for both the parties and the judicial system. Counsel has
18 discussed the transfer of such case assignments to Judge Haines with the U.S. Trustee’s
19 Office and indicated a motion would be filed.

20 WHEREFORE, request is made that an Order be entered reassigning the 44 CP
21 Entities case to Judge Haines. A form of Order is attached hereto as Exhibit A, and
22 simultaneously lodged herewith.

23 Dated this 26th day of July, 2012

24 FENNEMORE CRAIG, P.C.

25 By: /s/ Cathy L. Reece
26 Cathy L. Reece

1 COPY e-mailed mailed this
26th day of July, 2012, to:

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