

IT IS HEREBY ADJUDGED and  
DECREED this is SO ORDERED.

*The party obtaining this order is responsible  
for noticing it pursuant to Local Rule 9022-1.*

Dated: February 13, 2012



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Randolph J. Haines, Bankruptcy Judge

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**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF ARIZONA**

In Re:  
ANMP 74<sup>TH</sup> ST., LLC,  
Debtor.

In proceedings Under Chapter 11  
Case No. 2:03-bk-03799-RJH  
Case No. 2:03-bk-03803-RJH  
(Jointly Administered Under 2:03-bk-03799)

AMERICAN NATIONAL MORTGAGE  
PARTNERS, L.L.C.  
Debtor

**FINDINGS OF FACT AND ORDER  
GRANTING MOTION TO APPROVE  
SETTLEMENT AGREEMENT WITH  
NATIONAL BANK OF ARIZONA**

Hearing Date: February 13, 2012  
Hearing Time: 2:00 p.m.  
Location: Courtroom #603  
230 First Avenue  
Phoenix, AZ 85003

The Court having received and reviewed the Motion to Approve Settlement Agreement with National Bank of Arizona (“Motion to Approve”) filed by James C. Sell (“Sell”) on behalf of American National Mortgage Partners, LLC and the Substantively Consolidated Debtor Entities (collectively, “ANMP”) and as Assignee of the claims of the ANMP Investors, including the Class 3 creditors herein, the Motion to Approve having been properly noticed to all parties

1 and non-parties in interest, the Court having received no Objections to the Motion to Approve  
2 from any such party or non-party, and good cause appearing,

3 **THE COURT HEREBY MAKES THE FOLLOWING FINDINGS OF FACT AND**  
4 **CONCLUSIONS OF LAW:**

5 1. The Court has authority to make, and hereby makes, these findings of fact and  
6 conclusions of law pursuant to 28 U.S.C. § 157 and Fed.R.Bankr.P. 9019. Pursuant to the  
7 “Findings of Fact and Conclusions of Law, and Order Confirming Joint Plan of Reorganization”  
8 entered in this consolidated Bankruptcy Proceeding and dated December 7, 2005 (“Confirmation  
9 Order”) this Court has retention jurisdiction pursuant to Section 1123(b)(3) with respect to the  
10 approval of the NBA Settlement Agreement.

11 2. Pursuant to the Confirmation Order and pursuant to the “Order Approving State  
12 Court Orders” entered in this proceeding and dated March 30, 2005, Sell was authorized to  
13 pursue certain claims on behalf of ANMP, as well as claims on behalf of certain persons and  
14 entities who had invested in one or more of the ANMP entities and who were deemed to have  
15 assigned to the Receiver the right to bring claims against NBA and others. (All of such persons  
16 and entities are referred to collectively as the “ANMP Investors.”)

17 3. Sell, on behalf of ANMP in his capacity as State Court-Appointed Receiver, and  
18 in his capacity as Assignee of the ANMP Investors, commenced a civil action against National  
19 Bank of Arizona (“NBA”) by naming NBA as a defendant in a Second Amended Complaint  
20 filed in Sell v. Guccione, et al., CV2004-003803, CV2004-013037 and CV2005-003832  
21 (Consolidated) (the “State Court Litigation”).

22 4. Sell and NBA have entered into a Settlement Agreement and Mutual Release,  
23 dated as of December 21, 2011 (the “NBA Settlement Agreement”), a copy of which is attached  
24 as Exhibit A to the Motion to Approve.

25 5. The NBA Settlement Agreement resolves all claims that were or could have been  
26 alleged by ANMP, the Receivership Entities and the ANMP Investors against NBA in this  
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1 bankruptcy proceeding and in the State Court Litigation, as more fully described in the NBA  
2 Settlement Agreement.

3 6. Sell is the sole party that has standing and authority to act on behalf of the  
4 Receivership Entities and all of the ANMP Investors with respect to commencing and  
5 maintaining the claims that were or could have been alleged against NBA in the State Court  
6 Litigation and has the sole authority to bind the Receivership Entities and the ANMP Investors to  
7 the NBA Settlement Agreement.

8 7. Sell will hereafter seek approval of the terms of the NBA Settlement Agreement  
9 in the State Court Receivership Action, Ariz. Corp. Comm. v. American Nat'l. Mtg. Ptnrs.,  
10 CV2003-005724 (Maricopa County Superior Court) ("Receivership Action").

11 8. The terms and conditions of the NBA Settlement Agreement are just, fair and  
12 reasonable, were entered into in good faith, and are in the best interests of the Debtors' estates  
13 and creditors.

14 9. The Court specifically finds that the NBA Settlement Agreement is reasonable  
15 and should be approved based upon the following factors: (a) the probability of ANMP's success  
16 against NBA in this bankruptcy proceeding and in the State Court Litigation; (b) the complexity  
17 of the litigation and the expense, inconvenience, and delay necessarily attending it; and (c) the  
18 paramount interests of the creditors and the exercise of proper deference to their reasonable  
19 views.

20 10. The Court finds that the compromise presented by the NBA Settlement  
21 Agreement does not fall "below the lowest point in the zone of reasonableness," in accordance  
22 with applicable case law.

23 11. All of the foregoing findings of fact are binding on all parties and nonparties who  
24 have been served with notice of this matter and have failed to object within the time permitted by  
25 law.

26 The Court having made the foregoing findings of fact and conclusions of law, it is  
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**ORDERED, ADJUDGED AND DECREED** that the NBA Settlement Agreement is approved in its entirety; and

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that James C. Sell, as Receiver of ANMP and the Receivership Entities and in his capacity as Assignee of the ANMP Investors, is authorized to execute the NBA Settlement Agreement on behalf of ANMP, the Receivership Entities and the ANMP Investors and each of ANMP, the Receivership Entities and the ANMP Investors shall be bound by his execution of the NBA Settlement Agreement, and James C. Sell shall be further authorized to execute such other documents as may be required in order to facilitate the terms of the NBA Settlement Agreement.

**DATED AND SIGNED ABOVE.**