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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

Arizona Corporation Commission

DOCKETED

OCT 21 2009

KRISTIN K. MAYES, Chairman
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP

DOCKETED BY
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In the matter of:

) Docket No. S-03491A-02-0000

PHIL VIGARINO

) SETTLEMENT AGREEMENT AND
) ORDER RE: SAME BY: PHIL VIGARINO

Respondent.

) DECISION NO. 71301

I. SETTLEMENT AGREEMENT.

1. Plaintiff, the Arizona Corporation Commission ("Commission"), and Defendant Phil Vigarino ("Vigarino"), parties in the case of *Arizona Corporation Commission v. American National Mortgage Partners L.L.C. et al.*, Maricopa County Superior Court No. CV2003-005724 (the "lawsuit"), desire to resolve the portion of the lawsuit involving them and thus enter into this Settlement Agreement ("Agreement"). Trica Vigarino was dismissed from this action on September 22, 2006.

2. In settlement of the lawsuit, Vigarino elects to permanently waive his right to a trial of the lawsuit. Vigarino admits the jurisdiction of the Superior Court over the subject matter of this lawsuit.

3. Vigarino consents to the entry of the Proposed Judgment attached as Exhibit B to this Agreement.

4. Vigarino neither admits nor denies that he offered and sold interests through ANMP while the interests were not registered and Vigarino was not registered to offer and sell securities violating A.R.S. §§ 44-1841, 1842 and 44-2032.

5. Vigarino neither admits nor denies that he violated A.R.S. §44-1991, either directly or indirectly, when he offered and sold interest through ANMP. The Commission alleges that

1 Vigarino employed devices, schemes or artifices to defraud, made untrue statements of material fact
2 or omitted to state material facts which were necessary in order to make the statements made not
3 misleading in light of the circumstances under which they were made and/or engaged in any
4 transaction, practice or course of business which operated or would operate as a fraud or deceit when
5 Vigarino offered and sold interests in ANMP.

6 6. Vigarino was the subject of a Temporary Cease and Desist Order issued on
7 September 5, 2002, Docket No. S-03491A-02-0000.

8 7. Vigarino, pursuant to A.R.S. § 44-2032, agrees that he is to be permanently
9 enjoined from violating the Securities Act.

10 8. Vigarino agrees to entry of judgment against him of \$440,000 in restitution.

11 9. Vigarino agrees that the funds paid for restitution will be turned over to the
12 Receiver assigned to this matter and will be used to fund restitution to investors. If at the time
13 Vigarino pays the restitution amount, the Receiver has already fully repaid investors for their
14 losses, Vigarino's repayment would then go to the state of Arizona general fund.

15 10. Pursuant to A.R.S. § 44-2037, Vigarino is ordered to pay a civil penalty of \$20,000.

16 11. Pursuant to A.R.S. § 44-2032(1)(a), Vigarino is ordered to pay \$20,000 for
17 contempt of a Temporary Cease and Desist Order, issued on September 5, 2002, Docket No. S-
18 03491A-02-0000, related to the same activities.

19 12. Vigarino acknowledges that he has been fully advised of his right to a trial to
20 present evidence and call witnesses and Vigarino knowingly and voluntarily waives any and all
21 rights to a trial of this matter.

22 13. Vigarino knowingly and voluntarily waives any right he may have under to judicial
23 review by any court by way of suit, appeal, or extraordinary relief resulting from the entry of
24 Exhibit B, the proposed judgment.

25 14. Vigarino acknowledges and agrees that this Agreement is entered into freely and
26 voluntarily and that no promise was made or coercion used to induce such entry.

1 15. Vigarino understands and acknowledges that he has a right to seek counsel
2 regarding this Settlement Agreement, and that he has had the opportunity to seek counsel prior to
3 signing this Settlement Agreement. Vigarino acknowledges and agrees that, *despite the foregoing*,
4 he freely and voluntarily waives any and all right to consult or obtain counsel prior to signing this
5 Settlement Agreement.

6 16. By consenting to the entry of the Judgment, Vigarino agrees to refrain from taking
7 any action or to making, or permitting to be made, any public statement denying, directly or
8 indirectly, or calculated to create the impression that the legal conclusions contained in Paragraphs
9 4, 5 and 6 of the Agreement are without merit. Nothing in this paragraph shall preclude Vigarino
10 from defending himself or testifying in any administrative, civil or criminal proceedings to which
11 the Commission is not a party.

12 17. While this Order settles the lawsuit between Vigarino and the Commission,
13 Vigarino understands that this Order does not preclude the Commission from instituting other
14 administrative or civil proceedings based on violations that are not addressed by the lawsuit.

15 18. Vigarino understands that this Agreement does not preclude the Commission from
16 referring this matter to any governmental agency for administrative, civil, or criminal proceedings
17 that may be related to the matters addressed by the lawsuit.

18 19. Vigarino understands that this Agreement does not preclude any other agency or
19 officer of any governmental agency or its subdivisions from instituting administrative, civil or
20 criminal proceedings that may be related to matters addressed by this Agreement or the lawsuit.

21 20. Vigarino agrees that he will not apply to the state of Arizona for registration as a
22 securities dealer or salesman or for licensure as an investment adviser or investment adviser
23 representative at any time in the future.

24 21. Vigarino agrees that he will not exercise any control over any entity that offers or
25 sells securities or provides investment advisory services within or from Arizona at any time in the
26 future.

1 22. Vigarino agrees that he will not sell any securities in or from Arizona without being
2 properly registered in Arizona as a dealer or salesman, or exempt from such registration;
3 Respondent will not sell any securities in or from Arizona unless the securities are registered in
4 Arizona or exempt from registration; and he will not transact business in Arizona as an investment
5 adviser or an investment adviser representative unless properly licensed in Arizona or exempt from
6 licensure.

7 23. Vigarino understands that default shall render him liable to the Commission for its
8 costs of collection and interest at the legal rate determined by law.

9 24. Vigarino agrees that he will cooperate with the Securities Division and the Receiver
10 in any related investigation or any other matters arising from the activities described in the lawsuit.
11 Nothing in this paragraph shall preclude Vigarino from asserting his constitutional rights.

12 25. Vigarino agrees not to challenge the imposition or continuation of the Receivership.
13 Reasonable inquiries into the amount and nature of fees requested by the Receiver and/or their
14 counsel shall not be deemed a challenge to the imposition or continuation of the Receivership.

15 26. Each party shall bear its own attorneys' fees and costs.

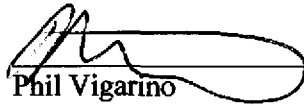
16 27. Vigarino acknowledges that this Agreement must be approved by the Commission
17 at a noticed Open Meeting.

18 28. The Commission and Vigarino agree that upon approval of this Agreement, counsel
19 for the Commission shall, as soon as practicable, execute and cause to be filed the attached
20 Stipulation to Entry of Judgment (Exhibit A to this Agreement) and Judgment (Exhibit B to this
21 Agreement).

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29. This Agreement resolves the lawsuit brought by the Commission against Vigarino.
It does not resolve the portion of the lawsuit pertaining to any other named Defendant.

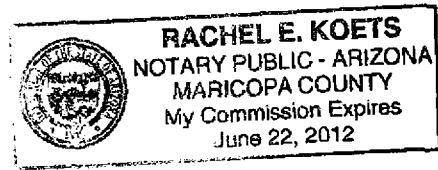

Phil Vigarino

SUBSCRIBED AND SWORN TO BEFORE me this 18th day of September, 2009.


NOTARY PUBLIC

My Commission Expires:

10.22.2012



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II.

ORDER

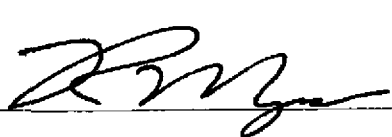
The Arizona Corporation Commission ("Commission") having reviewed the Settlement Agreement entered into between Phil Vigarino and the Securities Division of the Commission ("Division") and finding the Settlement Agreement to be in the public interest, the Commission finds that the following Order is appropriate and in the public interest:

IT IS ORDERED that the Settlement Agreement between the Commission and Vigarino is approved.

1 IT IS FURTHER ORDERED that the Securities Division is authorized to dismiss Vigarino
2 as a named Respondent In the Matter of American National Mortgage Partners, L.L.C. et al.,
3 Docket No. S-03491A-02-0000.

4 IT IS FURTHER ORDERED that this Order shall become effective immediately.

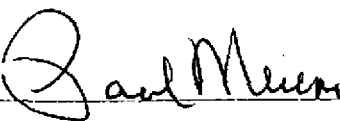
5 BY ORDER OF THE ARIZONA CORPORATION COMMISSION

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8 CHAIRMAN



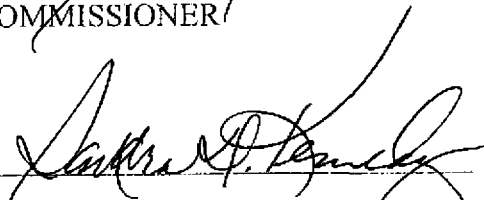
COMMISSIONER

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11 COMMISSIONER



COMMISSIONER



COMMISSIONER

13 IN WITNESS WHEREOF, I, ERNEST G. JOHNSON,
14 Executive Director of the Arizona Corporation
15 Commission, have hereunto set my hand and caused the
16 official seal of the Commission to be affixed at the
17 Capitol, in the City of Phoenix, this 21st day of
OCTOBER, 2009.



18 ERNEST G. JOHNSON
19 EXECUTIVE DIRECTOR

20
21 _____
22 **DISSENT**

23
24 _____
25 **DISSENT**

26 This document is available in alternative formats by contacting Shaylin A. Bernal, ADA
Coordinator, voice phone number 602-542-3931, e-mail sabernal@azcc.gov.
(wc)

1 SERVICE LIST FOR: PHIL VIGARINO

2 Lawrence E. Wilk, Esq.
3 Jaburg & Wilk, PC
4 3200 N. Central Ave. 20th Fl
5 Phoenix, Arizona 85012-2440

6 Michael Salcido
7 Buckley King
8 2020 North Central Avenue, Suite 1120
9 Phoenix, Arizona 85004

10 Larry and Sheila Dunning
11 2914 S. Ocean Blvd.
12 Highland Beach, Florida 33487

13 Phil Vigarino
14 41916 N 45th GLN
15 Phoenix, Arizona 85086-1455

16 LaVelle & LaVelle, PLC
17 2525 East Camelback Road, Suite 888
18 Phoenix, Arizona 85016

19 Mark Kesler
20 6638 West Rose Garden Lane
21 Phoenix, Arizona 85308

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EXHIBIT A

ARIZONA CORPORATION COMMISSION

Wendy Coy, #013195
1300 West Washington, 3rd Floor
Phoenix, Arizona 85007
Attorney for Plaintiff
Telephone: (602) 542-0633
Fax: (602) 594-7418
wcoy@azcc.gov

STATE OF ARIZONA

MARICOPA COUNTY SUPERIOR COURT

ARIZONA CORPORATION COMMISSION	)	No. CV2003 005724
)	
Plaintiff	)	STIPULATION FOR ENTRY OF
	)	JUDGMENT
v.)	
	)	RE: PHIL VIGARINO
AMERICAN NATIONAL MORTGAGE)	
PARTNERS, L.L.C., et al.	)	(Assigned to the Honorable Douglas Rayes)
)	
Defendants.	)	DECISION NO. 71301

Plaintiff, the Arizona Corporation Commission and Defendant Phil Vigarino, hereby stipulate to entry of the attached Judgment.

Dated this _____ day of October, 2009.

ARIZONA CORPORATION COMMISSION

By _____
Wendy Coy
Attorney for the Arizona Corporation
Commission

Dated this _____ day of October, 2009.

By _____
Phil Vigarino

1 ORIGINAL of the foregoing e-filed
2 this ___ day of October, 2009 with:

3 Clerk of the Maricopa County Superior Court

4 Copies of the foregoing mailed
5 this ___ day of October, 2009 to:

6 Maricopa County Superior Court
7 The Honorable Douglas Rayes
8 101 West Jefferson, ECB Room 411
9 Phoenix, Arizona 85003-2243

10 Copies of the foregoing mailed
11 this ___ day of October, 2009 to:

12 Lawrence E. Wilk, Esq.
13 Jaburg & Wilk, PC
14 3200 N. Central Ave. 20th Fl
15 Phoenix, Arizona 85012-2440
16 *Attorney for Receiver*

17 Michael Salcido
18 Buckley King
19 2020 North Central Avenue, Suite 1120
20 Phoenix, Arizona 85004
21 *Attorney for Defendant Caspare*

22 Larry and Sheila Dunning
23 2914 S. Ocean Blvd.
24 Highland Beach, Florida 33487

25 Phil Vigarino
26 41916 N 45th GLN
Phoenix, Arizona 85086-1455

LaVelle & LaVelle, PLC
2525 East Camelback Road, Suite 888
Phoenix, Arizona 85016

Mark Kesler
6638 West Rose Garden Lane
Phoenix, Arizona 85308

/s/ Veronica Sandoval
Legal Assistant, Securities Division

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EXHIBIT B

1 **ARIZONA CORPORATION COMMISSION**
 Wendy Coy, #013195
 2 1300 West Washington, 3rd Floor
 Phoenix, Arizona 85007
 3 Attorney for Plaintiff
 Telephone: (602) 542-0633
 4 Fax: (602) 594-7418
wcoy@azcc.gov

6 **STATE OF ARIZONA**

7 **MARICOPA COUNTY SUPERIOR COURT**

8 ARIZONA CORPORATION COMMISSION	)	No. CV2003 005724
)	
9 Plaintiff	)	JUDGMENT
)	
10 v.	)	RE: PHIL VIGARINO
)	
11 AMERICAN NATIONAL MORTGAGE	)	(Assigned to the Honorable Douglas Rayes)
12 PARTNERS, L.L.C., et al.)	
)	
13 Defendants.	)	DECISION NO. <u>71301</u>

14 Upon stipulation of Plaintiff, the Arizona Corporation Commission ("Commission") and
15 Defendant Phil Vigarino ("Vigarino") and good cause appearing:

16 IT IS HEREBY ORDERED pursuant to A.R.S. § 44-2032 Vigarino shall be permanently
17 enjoined from violations of the Arizona Securities Act, A.R.S. § 44-1801 *et seq.*

18 IT IS FURTHER ORDERED that judgment shall be entered in favor of the Commission
19 against Phil Vigarino in the amount of \$440,000 for restitution.

20 IT IS FURTHER ORDERED that pursuant to A.R.S. § 44-2037, civil penalty shall be
21 imposed against Phil Vigarino in the amount of \$20,000.

22 IT IS FURTHER ORDERED that pursuant to A.R.S. § 44-2032, civil penalty for
23 contempt of a prior Commission order shall be imposed against Phil Vigarino in the amount of
24 \$20,000.

25 IT IS FURTHER ORDERED that the Commission and Vigarino shall bear their own
26 attorneys' fees and costs.

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IT IS FURTHER ORDRED that interest shall accrue on all damages at the legal rate of ten percent per annum from date of entry of this Judgment until fully paid.

IT IS FURTHER ORDERED that there is no just reason for delay and this judgment shall be entered immediately.

ORDERED this ____ day of _____, 2009.

Honorable Douglas Rayes
Judge of the Superior Court