

1 THE COURT: Good afternoon. Please be seated.

2 THE CLERK: In the case of 03-3799, ANMP 74th Street.

3 THE COURT: And I have an appearance sheet. It looks
4 like I see only about six people signed up on it. Anyone else
5 wish to make an appearance that hasn't signed the appearance
6 sheet, please come forward to the podium and state your name
7 for the record.

8 MR. SWAN: My name is Jerry Swan.

9 THE COURT: Thank you. Any other appearances?

10 MR. GREEN: Your Honor, Richard Green for First
11 Fidelity Bank.

12 THE COURT: Thank you.

13 MR. GLASSCOCK: Your Honor, Phillip Glasscock for
14 Pamela Coulter (phonetic) and the Estate of Darrell Coulter.

15 THE COURT: Thank you.

16 MR. ABRAHAMSON: Your Honor, Luther Abrahamson with
17 the ANMP Dreamers.

18 THE COURT: Thank you. All right. Who'd like to
19 address this Order to Show Cause on behalf of ANMP? Mr. Ibsen?

20 MR. IBSEN: Thank you, Your Honor. Jonathan Ibsen,
21 Jaburg & Wilk, on behalf --

22 THE COURT: I see that you filed an extensive
23 response which I have reviewed. But I still have a couple of
24 questions. First of all, was the response that you filed
25 copied to, I guess, generically we call them the investors?

1 MR. IBSEN: Your Honor, the response was only copied
2 out to the individuals listed on the service list. That would
3 have been the investors who had filed letters. It did not go
4 out to the whole investor body, that would be over 300 some odd
5 investors. We do, however, have extra copies for -- I believe,
6 sufficient for anyone has appeared today in the courtroom.

7 THE COURT: All right. And frankly, it's a lot more
8 information than I need. It may be more than the investors
9 need. What -- it seemed to me that the letters complained of
10 is that there have not have been any kind of regular reports
11 giving the investors sort of -- at least big picture ideas of,
12 you know, "Here are the potential assets that we seek to
13 recover. Here is the amount we potentially could recover from
14 each of those buckets. And here's where we are in the
15 process." In other words, timing-wise. And I guess before I
16 get into that issue, I also note from the response that there
17 was a creditors committee in this case, of course, pre-
18 confirmation, that was continued in existence post-
19 confirmation. And maybe this whole response should have been
20 filed really by that committee rather than by the receiver,
21 himself, because maybe it should be the job of the creditors
22 committee to be providing this kind of information. So why
23 don't you start out by telling me, is the creditors committee
24 still functioning and what information has it been providing to
25 the investors?

1 MR. IBSEN: Well, Your Honor --

2 THE COURT: To your knowledge.

3 MR. IBSEN: -- I think first, to address whether or
4 not the creditors committee is still functioning would be a
5 function of whether or not we still have an estate. And at
6 this point, it would appear that yes we do. I believe we fit
7 into that narrow exemption, as Your Honor is alluding. Because
8 if not, then there would be no creditors committee.

9 We specifically, in the plan of reorganization, did
10 not disband the creditors committee. It continued to operate
11 for the ability of post confirmation to be there to serve its
12 same role. We are, however, post-confirmation so that we're
13 not functioning as a pre-confirmation debtor's estate with all
14 the requirements, which is why significant information is not
15 being filed and not going forward. It doesn't have to be.

16 Whether or not the creditors committee should have
17 been the entity that provided this response, in the future, if
18 his Honor orders so, then that's something the creditors
19 committee could do. We provided the response because we felt
20 compelled to by the Order to Show Cause. And at the time
21 because we probably were the best suited to get it out quick
22 enough so that it could be before the Court in time for this
23 hearing.

24 THE COURT: Well -- and I agree with that. I mean,
25 the Order to Show Cause was directed to the Receiver and it was

1 appropriate that you respond. But -- I mean, if the plan did
2 continue, the creditors committee in existence and we still
3 have a creditors committee, isn't it incumbent on the
4 committee, isn't it one of the duties of a committee to provide
5 this kind of information to the members, the investors?

6 MR. IBSEN: Well, Your Honor, I would agree that it's
7 incumbent upon a committee to provide information to their
8 constituency. Whether or not the duty goes to provide all the
9 information that was sought in those letters, really goes to
10 what's to the best interest of the post-confirmation estate.
11 And Your Honor really gets to a point that we addressed in the
12 response which is that post-confirmation, we have always kept a
13 flow of information. It's just that what has stopped is what
14 his Honor has alluded to as -- what stopped was written
15 reports. We have always, post-confirmation, taken the time to
16 keep apprised the members of the creditors committee primarily
17 through Mr. Davis as the chairman of the committee by updating
18 him near weekly, sometimes daily on the events that were
19 flowing in the estate with regard to litigations.

20 To answer the Court's question as to why the post-
21 confirmation written reports stopped at the time, I would
22 really direct Your Honor and the investors who are here to
23 what's a real important reason as to why written responses
24 stopped. We have in the courtroom today two appearances by
25 Rick Green and Phil Glasscock. Phil Glasscock represents one

1 of the defendants in one of the pending actions. So does Mr.
2 Green. We have sitting in the back of the courtroom a
3 representative, an attorney from Snell & Wilmer. We have, I
4 believe, off on the right, a paralegal from Perkins, Coie.

5 Written reports stopped because what was happening
6 was information was being taken out of context and his Honor
7 knows, showing up in pleadings like the Examiner's report and
8 like motions and being twisted and used against ANMP. So if
9 the investors goal was to try to provide more information to
10 adversaries and litigations, that's a net result of today's
11 hearing. And that's exactly why written reports stopped.

12 However, we never intended to stop information from
13 going to the constituency. What was we wanted to stop was a
14 deluge of discovery requests for those written reports, for
15 transcripts from town hall meetings and put it out in a way so
16 that any investor who asked would be able to inquire of their
17 committee members. If they called my offices, we would address
18 those requests. I know it was thought if there were any calls
19 to the Receiver, the Receiver would also address those
20 requests.

21 What's important to note, Your Honor, is also that
22 within the past two years, Jaburg & Wilk has interviewed, I
23 would say, in excess of 90 percent of the investor body. Those
24 interviews were conducted in connection with the pending,
25 what's identified in the response and what was identified in

1 the plan of reorganization as the financial institution's
2 litigation. It came about as a requirement by one of the
3 earlier procedural motions to augment the complaint which led
4 to an 850-page complaint. But at any point in time during
5 their interviews of their representatives, we were available to
6 answer questions. And to my knowledge, whenever any questions
7 were asked, Jaburg & Wilk representatives did try to answer
8 those for the investors.

9 So there's never been a conscience stopping of the
10 flow of information. It's really just a change in the way it's
11 been put out there. And that change was really necessitated to
12 try to make sure that what was put out there wasn't misused,
13 misquoted and didn't turn around winding up costing the estate
14 more money because of the very contentious litigations that
15 right now are pending.

16 THE COURT: Why would it be either difficult or
17 detrimental to the estate to prepare, say, quarterly or semi-
18 annual reports of the nature I described, which is a listing of
19 the various sources of recovery that you know exist, what it is
20 you're seeking from each of those sources of recovery, that is
21 the amount of the claim, because that's not confidential, and
22 at least a report on sort of the timeline of where you believe
23 you are in achieving the recovery. I mean, for example, a lot
24 of what your response filed is, how long it's taken even to get
25 through the pleading of the financial --

1 MR. IBSEN: Institutions litigation.

2 THE COURT: -- financial institution litigation. But
3 at least you could report on that that says, you know, "I'm
4 going to have file a third amended complaint and there will be
5 a time for further motion practice following that. And then we
6 anticipate that once the pleading is complete, discovery in
7 this case may take two years." Or whatever it is your
8 estimate. "And then it will be set for trial. And trial may
9 take six months." Or whatever your estimate is so that the
10 investors could get some idea of when you think there might be
11 funds available for distribution.

12 MR. IBSEN: In sticking to that strategy, Your Honor,
13 and that type of disclosure, that is something we could do and
14 clearly amenable if this Court directs that this is what the
15 Court thinks we should do, we will do. Our main concern is
16 keeping it very limited, very to the point that it doesn't
17 telegraph litigation strategy, very to the point that it
18 doesn't impair ability to enter into confidential settlements
19 or divulge any of that information. And that it's realistic.
20 And about the only thing that I would not like to include in
21 there would be any sort of speculating on when these things
22 would end. I mean, I would be able to think that we can give
23 them our estimate of where we are in the process and how long
24 we think that next step is going to be. But I would be
25 concerned that putting in an estimate on the Court and the

1 attorneys would believe to be a time frame of when these things
2 might end, where the Court and the attorneys are aware of how
3 these time frames necessarily expand and contract based on what
4 happens in the litigation. I wouldn't want to put that in
5 there only to have the investors in X amount of time sit there
6 and say -- think of it as more of a benchmark that "Okay. You
7 -- you know, it's X amount of time. You said that we should be
8 done by now." So other than that, Your Honor, though, no, I
9 think that would be something should the Court think that would
10 be information we should provide, we would have no problem
11 making that provision.

12 THE COURT: And assuming you do that, isn't that
13 information that you could then provide to the committee and
14 rely on the committee to disseminate to investors through
15 whatever means it believes best, whether it does it by email or
16 website or simply waits for inquires or whatever, but it would
17 seem to me that might be the committee's job to disseminate it
18 rather than the Receiver's job, assuming the committee's still
19 functioning.

20 MR. IBSEN: Absolutely, Your Honor. And we could
21 easily do that. And Your Honor's really picking up on what has
22 been maintained informally as the flow of information. As his
23 Honor is aware, Mr. Davis, chairman of the committee, was a
24 very active participant in the Castle confirmation process, in
25 the Coleman lawsuit. And as such, all of that information was

1 necessarily provided to him. He was --

2 THE COURT: And is he --

3 MR. IBSEN: -- a main --

4 THE COURT: -- still the chairman of the committee
5 and is he still active as such? I think one of the letters
6 suggested that maybe he wasn't active anymore.

7 MR. IBSEN: Your Honor, Mr. Davis is here. He'd
8 probably be best to answer that. But as far as our
9 understanding, he is still chairman and is still active. It's
10 not my understanding that he's resigned, stepped down or anyone
11 has taken any action to make a change in that.

12 THE COURT: All right. Anything else you'd like to
13 address?

14 MR. IBSEN: Your Honor, if I might have a moment with
15 Mr. Davis.

16 THE COURT: You may.

17 MR. IBSEN: Your Honor, if I could, perhaps a moment
18 maybe yield the podium to Mr. Davis. He would like to say
19 something to the Court.

20 THE COURT: I'll hear from him in a moment. Anything
21 else you'd like to address on this Order to Show Cause before I
22 hear from Mr. Davis?

23 MR. IBSEN: No, Your Honor, other than if the Court
24 has any further questions after hearing from anyone else, both
25 counsel for the Receiver and the Receiver are available to

1 answer them.

2 THE COURT: All right. Thank you. Mr. Davis.

3 MR. DAVIS: Thank you, Your Honor. It's been a long
4 since I've been up in front of this Court. I've been in this
5 for about seven and a half years now, and it took us about six
6 months to become the official committee to represent the
7 investors. And over that time period now in the last seven
8 years, even though we settled the first plan in 2003, I
9 insisted we keep the committee together. And there were some
10 reasons for that on my part. I wanted the information flowing
11 from the other people on our committee so if we were making
12 decisions that they were involved and I got their input on it
13 before we did anything.

14 Over the last seven years, I've probably received
15 anywhere from 25 to 35 calls a week talking to investors. When
16 we first started out, what we did was we had meetings. We had
17 large meetings with 250 people there, plus, sometimes 150,
18 sometimes. We disseminated a lot of information at that time.
19 And what we found is as we went through this, that this was
20 being used against us in the litigation from Castle or Coleman
21 or whoever it might be. So what we chose to do, based on
22 advice from counsel is to not have those kind of meetings
23 anymore. However, I have maintained along my other committee
24 people contact with all the investors. I haven't sent out
25 official letters to them because every time I do, it's subject

1 to discovery. So I talk to them. I keep them informed on
2 what's been going on, where we are, what's been happening with
3 the Castle case as to the new plan we've put into effect and
4 why it was done that way. So I've been providing a lot of
5 information to the investors. I've talked to Mr. Horan at
6 least on a weekly basis, if not more. I've talked to Mr.
7 Oliver the same way. So what we've tried to do is keep the
8 information flow, but keep it where it's not in a format that
9 can be used against us. And we chose not to put the financials
10 on the website -- we had an official website we used for ANMP,
11 but the things that were coming out, back to us, in the
12 litigation weren't true. They were being modified to fit their
13 needs. We chose not to put it out anymore. So that's why the
14 information is not being used on the website anymore is because
15 of that. Because whatever we said was twisted to the point
16 that it wasn't really true so we just chose not to put up the
17 website anymore or put any information any information on
18 there. And I did that myself as chairman with input from the
19 committee.

20 So what we've tried to do is to keep everybody
21 informed that contacts us. And I'll get calls once every six
22 months from people and once every year from people. Weekly
23 sometimes from people. So I've talked to a lot of people in
24 the last seven and a half years. And the frustrations that
25 most of them have is that there's no funds coming back to us.

1 For a while when we had the first Castle plan in effect, we
2 were getting payments. And about three years ago when we went
3 into litigation, that you're well aware of because you were
4 involved in it. And so since then, nobody's received any
5 payments and the frustration level is getting higher. And so
6 that's why I've tried to keep them informed, tell them what's
7 going on, where we're at in the litigation, with the new Castle
8 plan, with what's happening with the different lawsuits, as
9 much as I know. I've talked to Larry. I've talked to Jim Sell
10 -- Larry Wilk and Jim Cell at least once a week or more to
11 tried to keep informed and I try to tell people when they call
12 me what I know. And I don't hold anything back. Now, I have
13 been remiss, I admit, at getting all the financials. But I was
14 more concerned with the process at that time. So --

15 THE COURT: And, frankly, I don't know that you need
16 to disseminate what you refer to as the financials. And I
17 don't understand that that's what the letters are primarily
18 complaining about. They're looking more at, you know,
19 prospectively what remains out there to be collected and where
20 do we stand in that process.

21 MR. DAVIS: I think I've pretty told everybody --
22 everybody that I've talked to that information. I haven't --

23 THE COURT: You do though only rely --

24 MR. DAVIS: -- sent it to everybody.

25 THE COURT: -- on inquiries?

1 MR. DAVIS: Yes.

2 THE COURT: In other words, you don't have any
3 regular method of disseminating any kind of report?

4 MR. DAVIS: Well, we had the website.

5 THE COURT: Right.

6 MR. DAVIS: We chose not to use it.

7 THE COURT: But since then -- and you haven't --

8 MR. DAVIS: We haven't done anything in the process
9 because every time we sent a letter out, that's another track
10 that creates another trail that somebody can go ask. As an
11 example, the litigation with the banks, the last meeting we
12 had, when they were doing depositions to our people, they
13 weren't concerned about whether they had a contact with the
14 bank. They were more concerned about what we talked about in
15 our meetings. So we chose not to put any information out
16 because of that. And I think that that's a logical thing that
17 you should pursue. And we understand that -- I mean, we were
18 told this up front that the administrative fees always have to
19 be paid first in any case. And we understand that. But at the
20 same time, as -- in seven years, the length of this, we haven't
21 had any distributions for three years. And the frustration
22 level is there. And that's one of the reasons why I think this
23 happened today, Judge. It's not because, necessarily we
24 weren't get the information, it's just because of the fact that
25 we're not getting any funds. And we see funds coming in. And

1 we're saying, "Hey. What happened?" And that's why when I --
2 I don't know if you got my letter I sent to you or not with the
3 three pages --

4 THE COURT: If the Receiver were to prepare for you a
5 report sort of the type that I've described --

6 MR. DAVIS: Uh-huh.

7 THE COURT: -- that says, "Here are the claims that
8 exist."

9 MR. DAVIS: Uh-huh.

10 THE COURT: "And here's where we are today in the
11 process of getting either a judgment or a collection."

12 MR. DAVIS: Uh-huh.

13 THE COURT: And it's limited to that, which I have a
14 hard time seeing how that can be distorted and used against
15 you.

16 MR. DAVIS: Well --

17 THE COURT: If you got a report like that from the
18 Receiver, would you have any problem disseminating it to all
19 investors?

20 MR. DAVIS: No, sir, except for the cost. We have
21 300 investors.

22 THE COURT: That's one of the reasons I'm asking the
23 question. I don't know what kind of --

24 MR. DAVIS: Well, when you're sending out --

25 THE COURT: -- financing you have to --

1 MR. DAVIS: Well, we don't have any funds. That's
2 the problem. Okay? At one time we had some -- we got 38
3 people to put a thousand dollars each to give us funds. Since
4 the first inception of the 2003 plan, we refunded that back to
5 the investors that put that money up. So there really isn't
6 any funds for us to do it. And we rely on Mr. Sell's help to
7 do that or Mr. Wilk to help to do that. Because we really
8 don't have any funds, per se, for the ANMP investor group. So
9 we really don't have any funds to do that.

10 THE COURT: Does the website still exist?

11 MR. DAVIS: Is it still up, Jim?

12 MR. SELL: Yes.

13 MR. DAVIS: It's still up. We just haven't put
14 anything on it for a long time. Probably has been six months
15 or more.

16 THE COURT: So you could put such a report on the
17 website?

18 MR. DAVIS: Yes, sir. It would be easy to do.

19 MR. WILK: Your Honor, and if I may add, the Receiver
20 also has a website that's still in existence too. So it could
21 be put on that website.

22 THE COURT: All right.

23 MR. DAVIS: I think there's a lot of investors here
24 today. And I think most of them will say that I have talked to
25 -- I'd say everybody I see here, at least -- including Bob --

1 twice a week. So you know, I've talked to a lot of the
2 investors that are here. As a matter of fact, I told them to
3 come to the meeting today to get the information. You know?

4 THE COURT: I appreciate that.

5 MR. DAVIS: You know, so I think that it's important
6 that you know that we just haven't been -- we haven't been
7 getting any information, we've been putting out as much as can.
8 Whatever we know.

9 THE COURT: All right. Thank you. Mr. Ibsen, I have
10 a couple of questions for you.

11 MR. IBSEN: While we're here today and we have a
12 number of the investors here, can you summarize for me and for
13 them, and I assume any who want it will be able to get a copy
14 of the response you filed, which, as I indicated, may be a lot
15 more detail than I think is really necessary. But what are the
16 major categories of assets that the Receiver is looking at
17 collecting? I mean, off the top of my head, I can think of
18 three. You've got recovery from Castle, you've got the
19 financial institution litigation and you've got the judgment
20 against Guccione, are your major sources of recovery?

21 MR. IBSEN: Those are, Your Honor, hit right on what
22 are the major sources of recovery. And in fact that's what was
23 outlined in the plan. And we've been moving forward -- the
24 plan, just for reference for any of the investors here, Page 15
25 set out exactly what the assets of the estate were. And to

1 quote it, it said that, "The assets to fund the plan of
2 reorganization would be derived from funds received as a result
3 of the Receiver's liquidation of ANMP's assets, from the Castle
4 settlement, from the financial institution's litigation..."
5 And to shorten it, "... from other general litigation." And
6 that's what we have today, Your Honor. We have the Castle
7 settlement, which, for the investors here today, the Castle
8 settlement has changed from -- initially by virtue of Castle's
9 bankruptcy plan.

10 THE COURT: Let's put that at the back end.

11 MR. IBSEN: Okay.

12 THE COURT: And start at the other end, if you would.

13 MR. IBSEN: Okay. Why don't --

14 THE COURT: As to Guccione, you've got a judgment.

15 Right?

16 MR. IBSEN: Guccione we have a judgment, yes, Your
17 Honor.

18 THE COURT: And it's what, five million?

19 MR. IBSEN: Actually, with interest, it's 33 million,
20 Your Honor.

21 THE COURT: Thirty-three million.

22 MR. IBSEN: However, unfortunately, that judgment
23 falls under the category of judgments only as good as you can
24 collect.

25 THE COURT: Right.

1 MR. IBSEN: Mr. Guccione filed bankruptcy in
2 bankruptcy court in New Jersey. We continued pursuing him
3 through that bankruptcy. Part and parcel of that. we were able
4 to move forward with trying to recover some hard assets. We've
5 negotiated a settlement there with regard to trying to move
6 forward on getting something out of the judgment rather than
7 having to fight the whole thing out in the case. It's going to
8 be dependent upon equity in a sale of what seemed to be Mr.
9 Guccione's only asset, only findable remaining asset, Your
10 Honor, I should say, which was real property located in
11 Englewood Cliffs, New Jersey.

12 THE COURT: And is that in his bankruptcy case still?

13 MR. IBSEN: Actually, Your Honor, his case dismissed
14 with a provision to allow for the sale of the realty with a --
15 the unencumbered portion of it being turned over to ANMP. That
16 sale has not occurred yet. There was a provision that the case
17 could be reopened. And that the Chapter 7 --

18 THE COURT: What is --

19 MR. IBSEN: -- trustee --

20 THE COURT: What is your estimate of when that sale
21 might occur?

22 MR. IBSEN: Your honor -- just ball park a time
23 frame.

24 MR. WILK: Your Honor, that sale could close as early
25 as two weeks. It was supposed to close last week. And due to

1 some issues that came up, it's now scheduled to close, I
2 think, in three weeks. And the trustee in that bankruptcy is
3 well aware of the status and is prepared to close it. The
4 buyer met with us a week and a half ago in Phoenix. Says he's
5 got the money. So, you know, assuming he has the money, it
6 could close as early as three weeks. If he doesn't have the
7 money, the order that was ordered in the Guccione bankruptcy
8 provides that the bankruptcy court takes jurisdiction back over
9 that property because there's a senior lien on it. That way we
10 would avoid having a foreclosure take place on that property
11 and wipe out whatever equity there was. And the trustee would
12 sell it, receive a trustee's commission for it and we would get
13 the excess proceeds. So like I said, either three weeks or
14 when it can sell if that doesn't take place.

15 THE COURT: Well, based on the existing sale, can --
16 are you in a position to estimate what return that might
17 generate for ANMP?

18 MR. WILK: Half a million dollars. It's a net of
19 \$500,000 to the estate.

20 THE COURT: And will that be available in relatively
21 short order -- like, within say sixty days after closing -- to
22 make a distribution to creditors or are there administrative
23 expenses that would have to be paid out of that before you'd be
24 in a position to make a distribution?

25 MR. IBSEN: There are administrative expenses, Your

1 Honor, so we would not be in a position at that point.
2 However, of course, obviously that is all part of the
3 accounting which was provided to this Court under seal earlier
4 today.

5 THE COURT: So do you anticipate that there will be a
6 distribution to investors out of those proceeds or not?

7 MR. IBSEN: I do not, Your Honor, no.

8 THE COURT: All right. The financial services
9 litigation, I gather from your response, has a long ways to go.

10 MR. IBSEN: Yes it does, Your Honor.

11 THE COURT: As a practical matter, you really are
12 just now turning to the merits of that litigation?

13 MR. IBSEN: Correct, Your Honor. We really are at
14 initial disclosure statements at this point. We are really
15 beginning discovery. It's going to be a long case, Your Honor.

16 THE COURT: Is there a discovery plan in place?

17 MR. IBSEN: We do -- again I would defer to Scott
18 Richardson who's handling that case.

19 MR. RICHARDSON: If I may, Your Honor -- yes. There
20 is a discovery order in place with Judge Reiss and we're doing
21 our best to comply with that order. I believe we're at the
22 stage now where there's been a lot of fact discovery taken and
23 some expert depositions are scheduled for the months of March
24 and April -- or April and May.

25 THE COURT: And when does that order require

1 discovery to be concluded by?

2 MR. RICHARDSON: I believe it might be September.
3 But we have a status conference in June with the Court.

4 THE COURT: All right. And what's your best
5 estimate? Do you think --

6 MR. RICHARDSON: Early next year.

7 THE COURT: You think it'll be until next year before
8 discovery is concluded?

9 MR. RICHARDSON: Probably before we get a trial date.
10 There may be some motion practiced too, I expect.

11 THE COURT: So what is your -- assuming it ultimately
12 goes to trial, not resolved by motion practice, what's your
13 best estimate, right now --

14 MR. RICHARDSON: Mid 2000 --

15 THE COURT: -- as to when that trial might be ?

16 MR. RICHARDSON: Mid 2011.

17 THE COURT: All right.

18 MR. RICHARDSON: Thank you.

19 THE COURT: Thank you. And then let's turn to the
20 third pot or potential pot. What is the likely schedule for
21 ANMP to begin again receiving distributions from Castle, as
22 best you can estimate it today?

23 MR. IBSEN: Your Honor, actually if we could -- since
24 we wanted to do Castle last, if I might just address another
25 category --

1 THE COURT: All right.

2 MR. IBSEN: -- that we have in here. And we had put
3 into the response was that we are also moving forward with
4 collection efforts on over 15 million dollars worth of
5 judgments we've received. They are at various different points
6 depending on the cases. For example, the -- and this is on
7 Page 15 of the response -- the three million dollar judgment
8 against Riesterer. That was a judgment obtained after a trial.
9 I could tell you the specific status on that one. The
10 defendant took the decision up on appeal. The appeals court
11 just affirmed the trial court's ruling. So now we are moving
12 forward with the collection efforts on that.

13 Similarly, along with the others, they are all really
14 in the beginnings of the actual enforcement and collection
15 efforts. Whether or not there is a -- you know, what the
16 percentage recovery is going to be is going to really depend on
17 the credit worthiness of each of the individual debtors that
18 are listed there. And again, you know, it's really difficult
19 to say with certainty what sort of time frames those would
20 have. It could go very quickly or -- you know, if the person
21 has no assets and is able to prove that -- or it could take a
22 significant amount of time if Mr. Riesterer wants to fight us
23 hard on a three million dollar judgment. So that would be the
24 other litigation section that was referenced in the plan of
25 reorganization.

1 THE COURT: Of the four judgments that you have in
2 excess of a million dollars each, do you know of any potential
3 significant sources of recovery such as insurance policies, for
4 example. Or is truly, you said, the credit worthiness of the
5 individuals involved?

6 MR. IBSEN: Really, at this point, it's the credit
7 worthiness of the individuals involved, Your Honor. And with
8 regard to Mr. Riesterer, I can -- since I actually have done
9 that trial, I can tell you there are no insurance policies with
10 regard to Mr. Riesterer.

11 THE COURT: And he -- you said he appealed it. He
12 didn't get a stay pending appeal?

13 MR. IBSEN: No he did not.

14 THE COURT: So there's no bond --

15 MR. IBSEN: Correct.

16 THE COURT: -- for his stay pending appealing?

17 MR. IBSEN: Correct, Your Honor.

18 THE COURT: All right. And with that then, everybody
19 attune to --

20 MR. IBSEN: Your Honor --

21 THE COURT: -- an estimate of when you might get some
22 distributions from Castle.

23 MR. IBSEN: Your Honor, if I might have a moment.

24 THE COURT: You may.

25 MR. IBSEN: Your Honor, if I may, I've just been

1 informed that Mr. Sell would like to address the timing on the
2 Castle settlement as Mr. Sell sits on the trust board of the
3 liquidating trust that was formed as a result of that. He
4 could probably speak to the facts of that.

5 THE COURT: That would be fine. Thank you. Mr.
6 Sell.

7 MR. SELL: As you know, Your Honor, the settlement in
8 Castle isn't quite settled. There's still some issues that
9 exist. Yesterday was the hearing on the appeal of the
10 confirmation of the plan. The Court hasn't ruled on that
11 appeal and -- but the plan has been going forward, the
12 reorganization plan has been going forward.

13 THE COURT: And it's stayed pending appeal. Correct?

14 MR. SELL: That's correct.

15 THE COURT: Where is that appeal pending?

16 MR. SELL: In Federal District Court, I guess, is
17 what it is.

18 THE COURT: And what judge has that, do you know?

19 MR. SELL: Teilborg. It's Judge Teilborg. We had
20 that hearing and he took it under advisement. So I have no
21 idea of when he's actually going to rule on it. I'm hoping
22 that it's fairly quickly. And, you know, I'm hoping that he
23 dismisses the appeal and gets on with -- assuming that it is
24 dismissed and Mr. Franks continues to perform, which has been,
25 the projections for operation are pretty much on what the

1 testimony was in the court. His sales are down about two
2 percent since taking over. But his net is right where he
3 projected it would be. He's performing, making his payments on
4 the leases as was agreed upon. As I believe most people are
5 probably aware that the real estate market has been, at best,
6 in an order of disarray the last few years. I believe the
7 worst of the commercial market has yet to hit. I expect that
8 to occur this year and next year. I don't expect to see any
9 real ability to market the properties until 2012. As you know,
10 the trust holds the title to the real property. ANMP as it
11 stands right now, subject to the resolution of some contested
12 claims, is in excess of 80 percent of that interest in the
13 trust. I expect sales to occur, more likely in the year 2012.
14 Under the terms of the plan, the notes of the first mortgages
15 extended out anywhere from three to five years. At that time,
16 it will be required of the trustee to refinance those
17 properties or to sell them. I expect that at some point in
18 time, in the 2012, 2013 timeframe, for some sanity to return to
19 the commercial market. And these are income-producing
20 properties. And ultimately when the market shakes out, the
21 properties that are producing income will be going for fair
22 value. I expect at that time the trust will be able to sell or
23 refinance those properties. And that is the time period where
24 I believe that there would be money available for distribution
25 to the ANMP investors.

1 THE COURT: So the distributions from Castle
2 primarily come from the sale or refinance of the real
3 properties rather than from operations?

4 MR. SELL: That's correct. Under the plan for the
5 first five years, Mr. Franks is paying in excess of fair market
6 rent on those properties. He is paying an amount equivalent to
7 what the debt services on those properties. Which the net
8 effect on all the properties is in excess of fair market rents
9 right now. And so as he's making those payments, the equity in
10 those properties increase and the first mortgage liens are
11 decreasing. Some of those properties at the end of that five-
12 year period will be held free and clear. Others will have
13 greatly reduced principal balances on them. And I believe that
14 at that time, depending on the market, there will be, you
15 know, my best guess right now would be 12 to 15 million dollars
16 that would be realized on the sell or refinancing of those
17 properties.

18 THE COURT: All right. Thank you. I believe that
19 concludes my questions. I think what we've just heard is the
20 nature of the report that I think the Receiver ought to, with
21 some frequency, provide to the creditors committee which then
22 ought to provide it to the investors.

23 MR. IBSEN: And we'll make that -- Your Honor, with
24 the regularity, were you thinking semi-annually, quarterly?

25 THE COURT: I'll leave that to you, the judgment of

1 the Receiver and the creditors committee. But something like
2 that.

3 MR. IBSEN: Does the Court have anything further,
4 Your Honor?

5 THE COURT: I'll hear from anyone else that wants to
6 be heard from. But I don't have anything further. Anyone else
7 wish to be heard from? Please state your name for the record.

8 MR. HORAN: Your Honor, I'm -- Judge, I'm Robert
9 Horan, one of the people that sent you the letter. Number one,
10 I apologize to the Court for being late. I had a little bit of
11 trouble getting myself together today.

12 I have one other thing I'd like to discuss. Number
13 one, I appreciate what we just heard. Number one, Mr. Lyman
14 Davis is correct. He has his darnedest to keep at least me
15 informed. I can't speak for anybody else. I'm a little -- no,
16 not a little. I'm very upset with Mr. Wilk's letter to you,
17 response to show cause. In his letter, there's a personal
18 attack on me. According to his letter, Page 2, Paragraph 1, Mr.
19 Horan's February 1st, 2010, letter to the Court, Horan letter,
20 Page 1, second paragraph, both "...blame Mr. Sell and counsel,
21 Larry Wilk, of Jaburg & Wilk, counsel for failing to inform
22 them about such progress and suggests nefarious motives for
23 them to so do." I have never, ever to Mr. Sell or to Mr. Wilk
24 I don't think even raised my voice. I don't think they're
25 involved in anything nefarious. And if you happen to look at

1 my second paragraph, Page 1, it says, "I understand that our
2 committee has been dissolved and has been replaced by several
3 trustees. We heard nothing from them. And in fact most of us
4 don't know who they are or where they came from." I don't even
5 mention Mr. Sell or Mr. Wilk. No, it is true, we don't know
6 who the trustees are. We were never informed by any party that
7 we in fact -- our committee has been dissolved by the way, Your
8 Honor. So what you just asked them to do, I don't think they
9 can do because we don't have a committee.

10 THE COURT: Well, I've heard universally to the
11 contrary from everyone here that has spoken that the committee
12 still exists and Mr. Davis is still its chairman and that he
13 will continue to provide the communication we've talked about.
14 And as far as the statements made, I'm sure you're aware that
15 when matters get involved in litigation, attorneys can
16 sometimes get a bit defensive --

17 MR. HORAN: Feisty.

18 THE COURT: -- shall we say. And I think statements
19 like that should be taken in that light. Certainly, that's how
20 I took them. And it's, I think, understandable, especially
21 when the nature of the proceeding is initiated as an order to
22 show cause. Which sort of implies you've been doing wrong and
23 you better come explain yourself. And I think that accounts
24 for some of the tone of the response and I don't think you
25 should take it personally.

1 MR. HORAN: Well, I'm sorry, I took it personally.
2 Maybe I shouldn't. Maybe I've got thin skin. But just between
3 you and I and the rest of the people here, I'm sick to death of
4 this case. I think as --

5 THE COURT: I can certainly understand that.

6 MR. HORAN: I think as --

7 THE COURT: It's been a long time.

8 MR. HORAN: -- as victims --

9 THE COURT: And unfortunately, it's going to be still
10 a longer time before we see any significant distribution.

11 MR. HORAN: Well --

12 THE COURT: And if you read the response, I think you
13 can see why. Both -- you know, the litigation primarily
14 brought on by Taylor Coleman in the Castle case and the
15 defenses brought on the financial institutions have made both
16 of those potential sources of recovery very drawn out. And
17 unfortunately, I don't know that there's anything anyone can do
18 about that, except wade through it and hang in there and let's
19 see if we can get some substantial distribution eventually.
20 Anything else you'd like to address?

21 MR. HORAN: Yes. The trustees. Did someone -- I
22 look at the trustees, and maybe I'm wrong. I look at us, the
23 people who are the victims here as actually stockholders in a
24 company. And they as our board of directors. And anytime that
25 I've ever owned stock, when we have a board of directors, we

1 usually vote on them. I don't even know who they are. I would
2 like somebody to let me know who they are, what their
3 background is. And I'm sure they're all capable. But I would
4 like to check it out myself. Does that make sense?

5 THE COURT: Well, I'll tell you what I'll do. First
6 of all, as to who they are and how they got there, I'm sure
7 that was determined by the plan so there's not going to be any
8 more voting for that. But on the other hand, your analogy to a
9 corporation and a board of directors is a fairly apt analogy
10 and along that line, I think you ought to at least receive
11 annual reports, much like a shareholder does, in a corporation.
12 And I am confident that you will -- and I will ask both Mr.
13 Sell, the Receiver, and Mr. Davis, for the committee, to
14 provide in their next report a summary of who those people are
15 and what their responsibilities.

16 MR. HORAN: Could the Court asked Mr. Davis if he
17 thinks the committee is still active?

18 THE COURT: I think I did. And I think I heard a
19 clear answer that it is and he's still the chairman and he's
20 still willing to try to continue to provide information to the
21 investors. Right, Mr. Davis?

22 MR. DAVIS: Just for Horan's information, I think
23 I've talked to you about this, but I just met with Mr. Ted Burr
24 (phonetic) who is the trustee for the liquidating trust two
25 weeks ago to get some information flowing to me too, in

1 addition to what Mr. Sell tells me. And Mr. Burr was very
2 cooperative. He will give me any information I've asked him
3 for. So I think we've established that line. He has my email
4 now. So I am getting communications from him. But there's
5 really nothing, God willing, the fact that the estate at the
6 present time is bankrupt because they had to pay a lot of
7 administrative fees, half a million dollars to one attorney and
8 90,000 to some other people. And there's still funds that need
9 to be distributed -- that need to be paid that haven't been
10 paid yet. Which is kind of upsetting to me, but I don't know
11 if we can do anything about it. Okay?

12 THE COURT: Understood. All right. Anyone else wish
13 to be heard from? Please come forward to the podium. State
14 your name.

15 MR. O'CONNELL: My name is Fredrick O'Connell, Your
16 Honor. And this is one of the first meetings I've been to.
17 The last letter I got from James Sell was in 2004, September.
18 At that time, he explained it pretty good what was going on.
19 He was moving on. They were selling property. Gathering money
20 together. Then we got two payments. Two months, we got two
21 payments. One payment each month and then payments stopped.
22 I've gotten 2.9 percent of my investment. And I feel like I've
23 been swindled twice. Once with the ANMP and the second time
24 with the attorneys. Because it shows in there they've gotten
25 over five million dollars. Seems like every time they get --

1 it cost so much to get something retrieved, it uses up all the
2 money, and of course there's nothing left. And I'm afraid two
3 years are going to go by when this Taylor Coleman property and
4 they're going to shove in there when everything's sold that
5 we're going to get a balance sheet of zero. So what, that's
6 zero. Too bad. That's the way it goes. That's litigation.
7 Well, someone from the committee -- not the committee, but one
8 of the investors that they had called Mr. Wilk and he told them
9 that he was charging \$31 a minute for that phone conversation.
10 Well, at that rate, that's \$1800 an hour. I think the Court
11 should appoint a different attorney, someone who can work for a
12 third of that. To retrieve -- and Mr. Sell's job as a
13 bankruptcy administrator, he should be worried about the
14 investors, how much money he can retrieve for those investors.
15 The best job he can do. He should be proud of his job, that's
16 doing a job to get the most he can back for the investors.
17 Instead, he's finding ways to spend it. He's told you right
18 here at this podium that there's going to be nothing left of
19 that. There's going to be left of Guccilone (phonetic) or
20 whatever, you know, the guy in New York is. There's going to
21 be nothing left of that. It's five million. But we're only
22 going to get 500 million (sic) and we'll -- our administrative
23 fees will take all that away too. So that's a zero.
24 Everything turns up zero, zero, zero. For seven years -- and
25 he could have got this thing done a lot quicker, it seems to me

1 if he would be doing his job. So that's all I have to say.
2 Thank you for listening to me.

3 THE COURT: All right. Thank you. I -- along with
4 Mr. Sell, are both very familiar with ponzi cases. I'm sure by
5 now all of you are too and know what that term means. And
6 unfortunately that is a very common situation in ponzi cases.
7 It is extremely rare for anyone who gets involved in a ponzi
8 case to find that a pot of gold was created anywhere that can
9 be readily accessed and distributed to the investors. And, I
10 mean, right now, for example, the most recent dispute we've
11 seen is the order that the Court recently made in the Bernie
12 Madoff case, that the investors are not going to even have
13 claims in that case based upon the accounting statements they
14 got from Madoff before the bankruptcy, which led them all to
15 believe that's what they had invested in some good solid
16 performing securities. And the reason they're not even going
17 to have claims based on that amount is because those claims
18 reflected accrued profits or dividends that had been fictitious
19 for many years, a couple of decades. You're going to see,
20 probably, a huge dispute over that ruling. That's going to be
21 appealed and fought. But frankly, it's probably not going to
22 make a whole lot of difference. It's going to be a lot of
23 litigation over how big your claim's going to be, when the
24 reality is the pot that they're fighting over isn't even going
25 to be sufficient to justify that litigation. And that is

1 exactly the kind of thing that happens in virtually every ponzi
2 case. Because everybody feels cheated, rightfully so. And so
3 everyone wants to litigate their claim. And it causes a whole
4 lot of litigation. There's no easy way to liquidate, in a
5 sense, a ponzi case, because as I say, it's really just a nest
6 of litigation rather than a pot of gold that you've got to
7 divide.

8 And, I mean, I've seen the detailed report that Mr.
9 Sell has provided, detailing the work that's gone on and the
10 nature of the litigation that's gone on both in Castle --
11 well, in all of these sources of recovery, for example,
12 primarily the Castle litigation has been long and protracted
13 and I'm extremely familiar with that. And from the report -- I
14 mean, I've not been directly involved -- but from the report
15 I'm seeing, the financial institution litigation has been
16 extremely long and protracted. And the financial institutions
17 are mounting extremely vigorous defenses, as you might assume
18 that they would. And unfortunately, we've simply got to work
19 through those processes. They do take skilled attorneys to
20 work through them. Ponzi cases are probably among the most
21 difficult kinds of cases that we see in bankruptcy court,
22 precisely because it's not a simple matter of taking a hard
23 asset, selling it, and saying, "Now, we divide the proceeds up
24 among the creditors." It's going to be a substantial time.
25 And it's going to take a lot of attorneys fees and it's

1 precisely because it's difficult, complex litigation that you
2 need highly qualified attorneys to manage it and under the
3 market these days those attorneys charge hefty hourly rates.
4 That's just a fact of the market. And you're not going to get
5 the job done and you probably wouldn't be as well off as you
6 are today if you didn't have the kind of attorneys that you've
7 got involved in this case pursuing this kind of litigation.
8 And frankly, it appears to me that the Receiver is pursuing a
9 lot of this at his own risk, as well. Because there's money
10 available to pay his fees only to the extent he recovers. And
11 as you may know, when an attorney is a contingent fee situation
12 like that, he usually charges a much higher percentage of the
13 recovery, because of the risk he may not get anything. These
14 cases are not on a contingency fee as far I know. They're
15 hourly rate. And frankly, I think that's also good news in the
16 end. It should mean ultimately a larger recovery to the
17 investors than if you had contingent fee attorneys. But,
18 again, it's, you know, what kind of return we're going to get
19 is going to be unfortunately at least a couple of years down
20 the road before we're going to be in a position to make any
21 estimates. We've got -- as you've heard, the financial
22 services litigation is not far out of the starting gate and the
23 Castle plan, although now confirmed, is subject to appeal. And
24 even if the plan goes forward as planned, isn't likely to
25 generate significant returns until the real properties are sold

1 and refinanced. And you all know what the market means for
2 that. The requirement, as I understand, is that they must be
3 sold or refinanced within five years of confirmation. That's
4 the outside date. Hopefully, also by then we'll have some
5 recovery of the commercial market. But who knows on that.

6 I think that concludes this hearing. Thank you all
7 for coming and I will expect that you will get some periodic
8 reports of the nature I've indicated.

9 (Proceedings Concluded)

10
11
12 I certify that the foregoing is a correct transcript from
13 the record of proceedings in the above-entitled matter.

14
15 Dated: April 5, 2010



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