

SUPERIOR COURT OF WASHINGTON FOR CLARK COUNTY

In re:

Case No. 19-2-01458-06

AMERICAN EAGLE MORTGAGE 100, LLC; AMERICAN EAGLE MORTGAGE 200, LLC; AMERICAN EAGLE MORTGAGE 300, LLC; AMERICAN EAGLE MORTGAGE 400, LLC; AMERICAN EAGLE MORTGAGE 500, LLC; AMERICAN EAGLE MORTGAGE 600, LLC; AMERICAN EAGLE MORTGAGE MEXICO 100, LLC; AMERICAN EAGLE MORTGAGE MEXICO 200, LLC; AMERICAN EAGLE MORTGAGE MEXICO 300, LLC; AMERICAN EAGLE MORTGAGE MEXICO 400, LLC; AMERICAN EAGLE MORTGAGE MEXICO 500, LLC; AMERICAN EAGLE MORTGAGE MEXICO 600, LLC; AMERICAN EAGLE MORTGAGE I, LLC; AMERICAN EAGLE MORTGAGE II, LLC; and AMERICAN EAGLE MORTGAGE SHORT TERM, LLC.

RECEIVER’S NOTICE OF PROPOSED SETTLEMENT WITH JULIA FRANK POND, IN HER CAPACITY AS TRUSTEE OF THE GEORGE D. FRANK REVOCABLE TRUST, TRUSTEE OF THE GEORGE D. FRANK PENSICO SELF-DIRECTED IRA, INDIVIDUALLY, AND AS A MEMBER OF THE MARITAL COMMUNITY OF JULIA FRANK POND AND MICHAEL G. POND, MICHAEL G. POND, AS A MEMBER OF THE MARITAL COMMUNITY OF JULIA FRANK POND AND MICHAEL G. POND, TAMARA PARASHOS, INDIVIDUALLY, AND TERESA IRVIN, INDIVIDUALLY

Clyde A. Hamstreet & Associates, LLC, the duly appointed general receiver herein (the “Receiver”), gives this notice in accordance with paragraph 1 of the Order Establishing Procedures for Seeking Approval of Proposed Settlements dated March 5, 2021 (the “Settlement Procedures Order”).

The Receiver proposes to enter into a Settlement Agreement (the “Agreement”) with

1 Julia Frank Pond in her capacity as trustee of the George D. Frank Revocable Trust (the “Pond
2 Trust”), Julia Frank Pond in her capacity as trustee of the George D. Frank PENSICO Self
3 Directed IRA (the “Pond IRA”), Julia Frank Pond, individually and as a member of the marital
4 community of Julia Frank Pond and Michael G. Pond, Michael G. Pond, as a member of the
5 marital community of Julia Frank Pond and Michael G. Pond, Tamara Parashos, individually,
6 and Teresa Irvin, individually (collectively, the “Frank Defendants”), in order to resolve the case
7 known as *Clyde Hamstreet & Associates, LLC v. Pond et al.*, Clark County Superior Court Case
8 No. 20-2-00780-06 (the “Lawsuit”).

9 The following information regarding the proposed settlement is provided pursuant to the
10 Settlement Procedures Order:

11 **1. Description of the Relationship.** On May 10, 2019, the Receiver was appointed
12 as the general receiver for the above-captioned Washington limited liability companies (the
13 “Pools”) pursuant to the terms of the Order Appointing General Receiver dated May 10, 2019 (as
14 amended to date, the “Receivership Order”). The Receiver contends that the Pools are insolvent
15 and have been insolvent since at least January 1, 2007. In the Lawsuit, the Receiver has alleged
16 that, after January 1, 2007, certain of the Pools made cash transfers to Pool American Eagle
17 Mortgage Mexico 600, LLC on account of the Pond Trust’s and the Pond IRA’s investments in
18 the Pools and for the benefit of the Pond Trust and the Pond IRA in the aggregate amount of
19 approximately \$4.7 million, that American Mortgage 600, LLC assumed the obligations of Pools
20 American Eagle Mortgage Mexico 300, LLC and American Eagle Mortgage Mexico 400, LLC
21 and issued new investor Notes to the Pond Trust and the Pond IRA, that American Eagle
22 Mortgage Mexico 600, LLC made a series of payments to the Pond Trust and the Pond IRA
23 totaling \$1,414,581.00 on account of the new investor notes, and that such transfers (i.e., the
24 obligations and the payments) should be avoided and judgment entered in favor of the Receiver
25 for such amounts under RCW 19.40.040(a)(1), 19.40.040(a)(2), 19.40.041(1)(a),
26 19.40.041(1)(b), 19.40.050(a), and/or 19.40.050(1).

1 2. **Relationship to the Pools, American Equities, Inc., or Ross Miles.** The
2 Receiver believes that George Frank historically had a business relationship with Ross Miles
3 and/or his affiliates, including through the Pond Trust and the Pond IRA, but Mr. Frank passed
4 away several years ago. The Pond Trust and the Pond IRA obtained a judgment against
5 American Equities, Inc.

6 3. **Amounts to Be Received by the Receiver.** The Frank Defendants will pay the
7 Receiver \$700,000.00. The Receiver believes that settlement for this amount is fair and
8 reasonable and the best result that can be achieved under the circumstances. The Frank
9 Defendants have alleged certain defenses in the Lawsuit, the Receiver and the Frank Defendants
10 have engaged in extensive discovery and a full day of mediation. An award of this amount to the
11 Receiver is within the range of potential outcomes were the matter to go to trial.

12 4. **Summary of the Material Terms and Conditions of the Settlement.** The
13 material terms and conditions of the settlement, as set forth more fully in the Agreement, include
14 the following:

15 a. Payment to be made by the Frank Defendants to the Receiver by wire
16 transfer on or before the later of February 9, 2022, and the date that is the first business day
17 following the third day after the date on which an order of Clark County Superior Court
18 approving the Agreement is entered and no stay is in effect;

19 b. Release to be granted by the Frank Defendants of the Receiver, the Pools,
20 and the Estate (as defined in the Receivership Order), along with any and all of the Receiver's
21 present and former members, managers, employees, assigns, attorneys, and other agents, subject
22 to the limitations set forth in the Agreement, upon court approval;

23 c. Release to be granted by the Receiver of the Frank Defendants, along with
24 any and all of their present and former trustees, beneficiaries, transferees, employees, assigns,
25 attorneys and other agents, subject to the limitations set forth in the Agreement, upon the first
26 business day following the 91st day after the date on which the payment is made in full by the

1 Frank Defendants to the Receiver, provided, however, a petition for relief under any chapter of
2 title 11 of the United States Code is not filed by or against any of the Frank Defendants, on or
3 prior to such business day;

4 d. Upon court approval of the Agreement, the Frank Defendants waive the
5 right to submit any claim in this receivership proceeding and any previously submitted claims are
6 automatically disallowed and expunged ;

7 e. The Receiver to move to dismiss the Litigation with prejudice within five
8 business days after the Receiver's release of the Frank Defendants; and

9 f. Agreement to become effective only upon court approval.

10 YOU ARE NOTIFIED that unless a creditor or other party in interest notifies the
11 Receiver and the Receiver's attorneys, in writing within 14 calendar days after the date of this
12 notice, that such party objects to the proposed settlement, the Receiver will apply for an *ex parte*
13 order approving the settlement described above. Objections to the proposed settlement must
14 refer to this notice and be delivered or sent, so as to be actually received by the Receiver within
15 14 calendar days after the date of this notice, as follows:

16 AEM Receiver
17 c/o Miller Nash Graham & Dunn LLP
18 Attn: John R. Knapp, Jr.
19 2801 Alaskan Way, Suite 300
20 Seattle, Washington 98121
21 Email: john.knapp@millernash.com
22 Email: AEMReceiver@Hamstreet.net

23 DATED this 24th day of November, 2021.

24 MILLER NASH LLP

25 /s/ John R. Knapp, Jr.
26 John R. Knapp, Jr., P.C., WSB No. 29343

Attorneys for Receiver
Clyde A. Hamstreet & Associates, LLC