

**IN THE CIRCUIT COURT OF THE  
ELEVENTH JUDICIAL CIRCUIT IN  
AND FOR MIAMI-DADE COUNTY,  
FLORIDA**

**CASE NO. 07-43672 (CA 09)**

STATE OF FLORIDA, OFFICE OF FINANCIAL  
REGULATION,

Plaintiff,

v.

BERMAN MORTGAGE CORPORATION,  
a Florida corporation, M.A.M.C. INCORPORATED,  
a Florida corporation, DANA J. BERMAN,  
as Owner and Managing Member,

Defendant.

and

DB ATLANTA, LLC, a Florida limited liability  
company, et al.,

Relief Defendants.

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**RECEIVER'S MOTION TO AUTHORIZE DISTRIBUTION  
OF THE PROCEEDS OF THE SALE OF THE ATLANTIC BEACH PROPERTY**

Michael I. Goldberg, the Court-appointed receiver (the "Receiver") for Defendants Berman Mortgage Corporation ("BMC"), M.A.M.C. Incorporated ("M.A.M.C."), and Relief Defendants DB Atlanta, LLC, *et al.*, hereby files this *Motion to Authorize Distribution of the Proceeds of the Sale of the Atlantic Beach Property* (the "Motion"). In support of this Motion, the Receiver states as follows:

1. On December 11, 2007, this Court entered a *Temporary Injunction and Agreed Order* (the "Receivership Order") appointing Michael Goldberg as the receiver for BMC and M.A.M.C. (the "Defendants") and the Relief Defendants (collectively, the "Receivership

Defendants”) to prevent the waste and dissipation of the Receivership Defendants’ assets to the detriment of the investors (the “Lenders”) who entrusted over \$192 million (“Lender Funds”) to the Receivership Defendants.

2. The Lender Funds were secured by mortgages on approximately 40 different real estate projects and properties. One of the loans was made to Atlantic Beach Oceanfront, LLC and Seventh Street Properties, LLC (the “Borrowers”) with funds collected from 234 of the Lenders (the AB Lenders”) and secured by a first mortgage (“Mortgage”) on land located in Myrtle Beach, South Carolina (the “Atlantic Beach Property”). The loan, as modified, was serviced by MAMC.

3. BMC also raised money from Green-East SC Lender, LLC (“Green-East”) to lend to the Borrowers. The Borrowers and MAMC executed a modification of the AB Lenders’ Mortgage so that the AB Lenders’ note, and Green-East’s note were both secured by the AB Lenders’ Mortgage on a *pari passu* basis.

4. The Borrowers defaulted under the loan documents and in 2008, the Receiver, commenced a foreclosure suit against the Borrowers and other parties in the South Carolina Court of Common Pleas. The Receiver, Green-East and the Borrowers subsequently reached settlement, which was approved by this Court on August 18, 2011 (the “Atlantic Beach Settlement”).

5. Soon after the Atlantic Beach Settlement, the Receivership Court approved the employment of special counsel to pursue claims against CB Richard Ellis, Inc. d/b/a CBRE Valuation & Advisory Services (k/n/a CBRE, Inc.) (“CBRE”) and possibly other entities associated with CBRE relating to the valuation of Atlantic Beach Property.

6. The Receiver, Green-East and CBRE engaged in mediation and reached a confidential settlement (the “CBRE Settlement”). Upon motion, notice and hearing, on July 8, 2013, the Receivership Court entered an Order approving the CBRE Settlement.

7. The Receiver also obtained authority from the Receivership Court to retain a real estate broker to market and sell the Atlantic Beach Property. The real estate broker was unable to secure a buyer.

8. In 2017, the Receiver proposed an alternative method of sale – through the auction process. On June 21, 2017, upon the Receiver’s motion, the Court entered an Order authorizing the Receiver to sell certain Receivership properties, including the Atlantic Beach Property, by auction. After the auction failed to secure a purchaser, the Receiver continued to market the Atlantic Beach Property for sale.

9. The Atlantic Beach Property sold for \$1,150,000.00. After paying closing costs, there remained \$1,080,818.87 for distribution to the AB Lenders and Green-East, with 65% of the sale proceeds to the AB Lenders and 35% to Green-East. After payment of professional expenses, the AB Lenders will receive a *pro rata* distribution from their share of the remaining funds. See Exhibit 1 for a breakdown of the distribution.

10. The Receiver seeks authority to distribute the proceeds of the sale of the Atlantic Beach Property to the AB Lenders. The Receivership Court has previously approved distributions of the sale proceeds from other properties and the Receiver recommends approval of the distributions described in this Motion.<sup>1</sup>

11. Notice of this Motion shall be provided by posting copies of the Motion (and Notice of Hearing) on the Receivership website and sending the same to the Lenders via e-mail.

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<sup>1</sup> This is the final property in the receivership estate. The Receiver will prepare his final report, which will request authorization to distribute any remaining funds to the Lenders on a *pro rata* basis and to be discharged from his duties in this case.

**WHEREFORE**, Michael I. Goldberg, in his capacity as Receiver of M.A.M.C. and related entities, respectfully requests this Court to enter an Order authorizing the distribution described in this Motion and to grant such further relief as is just and proper.

Respectfully submitted,

**AKERMAN LLP**

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By: /s/ Joan Levit  
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**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that on this February 17, 2020, a true and correct copy of the forgoing was furnished to the parties who receive e-service, to the Lenders by e-mail and a copy of this Motion will be posted on the receivership website.

/s/ Joan Levit

**EXHIBIT "1"**

## ATLANTIC BEACH - DISTRIBUTION 2020

	AMOUNTS
Sale Price	\$ 1,150,000.00
Commission and costs	(\$77,128.33)
Pro Rated taxes	(\$2,052.80)
EMD	(\$65,000.00)
<b>NET Proceeds from Sale</b>	<b>\$ 1,005,818.87</b>
Extension fee	\$ 10,000.00
EMD held in escrow	\$ 65,000.00
<b>Total</b>	<b>\$ 75,000.00</b>
NET Proceeds from Sale	\$ 1,005,818.87
EMD held in escrow	\$ 75,000.00
<b>Total for Distribution</b>	<b>\$ 1,080,818.87</b>

### GE and MAMC Distribution

MAMC - 65.65%	\$ 709,557.59
GE - 34.35%	\$ 371,261.28
<b>TOTAL</b>	<b>\$ 1,080,818.87</b>

### MAMC's Total Share of recovery

MAMC - 65.65%	\$ 709,557.59
Bank Balance	\$ 36,764.15
Wire fee	\$ (15.00)
<b>Total for Internal Distribution</b>	<b>\$ 746,306.74</b>

### Deductions

Legal reimbursement	\$ (39,071.04)
Recent Legal	\$ (5,000.00)
Accounting	(\$2,000)
<b>Total due to Receivership</b>	<b>\$ (46,071.04)</b>

### Net Distribution to MAMC/Berman Partners

Total due to partners	\$ 746,306.74
Deductions	\$ (46,071.04)
<b>NET TO PARTNERS</b>	<b>\$ 700,235.70</b>

Recovery 7.32%