

IN THE CIRCUIT COURT OF THE
11TH JUDICIAL CIRCUIT IN AND FOR
MIAMI -DADE COUNTY, FLORIDA

CASE NO.: 07-43672 CA 09

STATE OF FLORIDA, OFFICE OF
FINANCIAL REGULATION,

Plaintiff,

vs.

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

Defendants,

and,

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

Relief Defendants.

**RECEIVER'S MOTION TO AUTHORIZE IN PART NUNC PRO TUNC
DISTRIBUTION
OF SALES PROCEEDS OF DB SIMPSONVILLE AND DB NORTH MIAMI**

Receiver, Michael Goldberg, by and through undersigned counsel, files this Motion for a Court Order *Authorizing the Distribution, in part nunc pro tunc of the Sales Proceeds of the Assets of DB Simpsonville and DB North Miami, LLC*, and as grounds therefore states:

1. The assets of DB Simpsonville were in the process of being sold prior to the institution of the Receivership, pursuant to the decision notice procedures described by the Receiver in prior motions. Funds from the sales continued to be received after the Receivership was instituted. Additional sales of units are currently proceeding pursuant to the pre-petition

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decision notice. This motion also seeks to have the Court approve the post petition sales of all of the assets of DB Simpsonville and DB North Miami, as well as to approve all sales of the assets of these relief defendants *nunc pro tunc to the sales dates*.

2. The Receivership estate has received \$1,878,097.64 from the sale of assets of DB Simpsonville. It has retained \$183,811.64 as a hold back to cover turnover and operating expenses. From the sales proceeds, the Receiver has distributed \$235,000.00 to a rehabilitation loan made by certain of the investors from the investor group. \$29,041.72 has been deposited to the Receiver's operating account pursuant to this Court's Order authorizing a withholding 2% of principal recovered. \$1,423,044.20 has been returned to the investors.

3. The assets of DB North Miami were sold pursuant to decision notice before the institution of the Receivership and post petition. \$159,812.71 remained in the Receiver's account with respect to future advance one on this loan. \$1,598.13 has been distributed to the MAMC Incorporated operating account as part of the 2% of principal that is to be held back pursuant to court order. \$158,214.58 has been distributed to the investor group. Additionally, \$28,303.44 of principal was available for distribution to the investors in the original DB North Miami original loan. \$566.07 was paid to the MAMC Incorporated operating account as part of the 2% hold back and \$27,737.37 was distributed to the investors.

4. The Receiver is currently holding additional funds which it seeks a court authority to distribute, including:

a. \$89,727.85 with respect to DB North Miami. From these funds, it proposes to hold back \$20,007.67 to meet payable obligations. \$1,394.40 to be paid as part of the 2% of operating expenses. \$20,188.42 will be paid to M.A.M.C. Incorporated to refund interest advanced. That proceeds of \$48,187.35 shall be paid to the investors. Separate funds

from DB North Miami, in the amount of \$185,994.06 are available for distribution. The Receiver proposes to hold back \$3,719.88 as the 2% of principal to be funded to the operating account. Distribution of \$182,274.18 is proposed to be distributed to the investor group.

b. Additional funds are available for distribution with respect to DB North Miami. The funds available total \$589,604.14. The Receiver seeks authority to distribute the funds as follows:

i. \$131,450.87 to be held back to cover payables with respect to the project.

ii. \$9,162.79 is to be paid to the MAMC Incorporated operating account as 2% of principal to be held for operating expenses pursuant to prior Court Orders.

iii. \$132,309.89 is to be repaid to M.A.M.C. Incorporated for interest advanced by the loan servicer when the borrower was not servicing the loan. The Receiver proposes to distribute of these \$316,715.60 to the investor group in this loan.

WHEREFORE, the Receiver seeks a Court Order approving *nunc pro tunc* the distribution of proceeds as set forth herein, approving the further distributions proposed herein, and approving all previous sales of DB Simpsonville and DB North Miami *nunc pro tunc* to the sale date and authorizing the sale of the remaining assets of DB Simpsonville and DB North Miami, and for such other relief as the Court deems just and appropriate to complete the intended purpose of the motion.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by Facsimile and U.S. Mail on this **26th day of March 2008**, to: **Cristina Saenz, Assistant General Counsel**, STATE OF FLORIDA, OFFICE OF FINANCIAL REGULATION, 401 N.W. 2nd Avenue, Suite N-708, Miami, Florida 33128; to **Alan M. Sandler, Esquire, Counsel for**

Defendants, Joel and Deborah Sokol, Darlene Levasser, Robert Dzimidas IRA, Lawrence Meyer IRA, Lawrence Meyer Roth IRA and Mary Joe Meyer SD IRA and Mary Joe Meyer Roth IRA, of SANDLER & SANDLER, 117 Aragon Avenue, Coral Gables, Florida 33134; to Allan A. Joseph, Esquire, Counsel for The Amid Companies and Amedia Family Investors, DAVID AND JOSEPH, P.L., 1001 Brickell Avenue, Suite 2002, Miami, Florida 33131; to Richard R. Robles, Esquire, LAW OFFICES OF RICHARD ROBLES, P.A., Counsel for the Four Ambassadors Association, Inc., 905 Brickell Bay Drive, Tower II, Mezzanine, Suite 228, Miami, Florida 33131; to Daniel Kaplan, Esquire, Counsel for Deborah A. Berman, at the LAW OFFICES OF DANIEL KAPLAN, P.A., Turnberry Plaza, Suite 600, 2875 N.E. 191st Street, Aventura, Florida 33180; and to Howard N. Kahn, Esquire, Attorneys for Intervenor, Ira Sukoff, KAHN & CHENKIN, 2924 Davie Road, Suite 200, Davie, Florida 33314.

Respectfully submitted,

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By: 

JAMES D. GASSENHEIMER
Florida Bar No. 959987

cc: The Honorable Thomas Wilson, Jr. *(via hand-delivery)*
Michael Goldberg, Esq., as Receiver *(via email)*
The Group of Lenders *(via email)*

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