

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.

THE ORIGINAL
FILED ON:
APR 30 2008
IN THE OFFICE OF
CIRCUIT COURT DADE CO. FL.

NOTICE OF FILING

Receiver, Michael I. Goldberg, Esq., ("Receiver"), by and through undersigned counsel, hereby gives Notice of Filing copies of the following, in support of the *Receiver's Motion to Approve the Assignment of the Pasco County Matters from Pasco County to this Court*, which is specially set for a thirty minute hearing on Friday, June 13, 2008 at 9:30 A.M., before the Honorable Thomas Wilson, Jr. The copies include the following:

1. Copy of Defendant's Notice of Receivership, Motion to Assign Case to Judge Wilson, or in the Alternative, Stay the Case Until Further Order of Judge Wilson, filed in the matter of *Jennifer & Robert Cunningham and Victor Elias vs. Oceanside Acquisitions, LLC*, case

number 51-07-CA-4792-WS, in the Circuit Court of the Sixth Judicial Circuit, in and for Pasco County, Florida.

2. Copy of Defendant's Notice of Receivership, Motion to Assign Case to Judge Wilson, or in the Alternative, Stay the Case Until Further Order of Judge Wilson, filed in the matter of *Tina Hinton vs. Oceanside Acquisitions, LLC*, case number *51-07-CA-4238-WS*, in the Circuit Court of the Sixth Judicial Circuit, in and for Pasco County, Florida.

3. Copy of Defendant's Notice of Receivership, Motion to Assign Case to Judge Wilson, or in the Alternative, Stay the Case Until Further Order of Judge Wilson, filed in the matter of *James R. Patterson and Eileen M. Patterson vs. Oceanside Acquisitions, LLC*, case number *51-07-CA-2371-WS*, in the Circuit Court of the Sixth Judicial Circuit, in and for Pasco County, Florida.

4. Copy of Defendant's Notice of Receivership, Motion to Assign Case to Judge Wilson, or in the Alternative, Stay the Case Until Further Order of Judge Wilson, filed in the matter of *Cyril Latona vs. Oceanside Acquisitions, LLC*, case number *51-07-CA-3925-WS*, in the Circuit Court of the Sixth Judicial Circuit, in and for Pasco County, Florida.

5. Copy of Defendant's Notice of Receivership, Motion to Assign Case to Judge Wilson, or in the Alternative, Stay the Case Until Further Order of Judge Wilson, filed in the matter of *Robert H. Abajian vs. Oceanside Acquisitions, LLC*, case number *51-07-CA-2370-WS*, in the Circuit Court of the Sixth Judicial Circuit, in and for Pasco County, Florida.

6. Copy of Defendant's Notice of Receivership, Motion to Assign Case to Judge Wilson, or in the Alternative, Stay the Case Until Further Order of Judge Wilson, filed in the matter of *Alex Bistricher, as limited Partner of Gulf Island Resort L.P. and Gulf Island Resort*,

L.P. vs. Oceanside Acquisitions, LLC, case number 51-03-CA-942-ES, in the Circuit Court of the Sixth Judicial Circuit, in and for Pasco County, Florida.

Respectfully Submitted,

BERGER SINGERMANN
Attorneys for the Receiver, Michael I. Goldberg
200 South Biscayne Boulevard, Suite 1000
Miami, FL 33131
Telephone: (305) 755-9500
Facsimile: (305) 714-4340

By: _____

JAMES D. GASSENHEIMER
Florida Bar No. 959987
E-Mail: jgassenheimer@bergersingerman.com

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail on this **29th day of April 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; to **Howard N. Kahn, Esquire**, *Attorneys for Intervenor, Ira Sukoff*, KAHN & CHENKIN, 2924 Davie Road, Suite 200, Davie, Florida 33314; to **Lawrence Shoot, Esquire**, *Attorneys for USA Funding*, 4830 SW 92nd Avenue, Miami, Florida 33165; and to **Charles Pickett, Esquire and Linda Dickhaus Agnant, Esquire**, *Attorneys for Johns Manville*, CASEY CIKLIN LUBITZ MARTENS & O'CONNELL, P.A., 515 North Flagler Drive, Suite 1900, West Palm Beach, Florida 33401; to **Jaime Austrich, Esquire**, *Attorneys for James R. and Eileen M. Patterson, Cyril Latona, and Robert H. and Deborah Abajian*, SHUMACKER, LOOP & KENDRICK, LLP, 101 E. Kennedy Boulevard, Suite 2800, Tampa, Florida 33602; to **David J. Sockol, Esquire and R. Mark Bortner, Esquire**, *Attorneys for Jennifer & Robert Cunningham*, SOCKOL & ASSOCIATES, P.A., 111 2nd Avenue NE, Suite 1401, St. Petersburg, Florida 33701; to **Andrew M. Lyons, Esquire**, *Attorneys for Tina Hinton*, CARTER & LYONS, P.A., 5308 Spring Hill Drive, Spring Hill, Florida 34606; to **Maurice Baumgarten, Esquire**, *Attorneys for Alex Bistricher, Gulf Island Resort L.P. and Gulf Island Resort, L.P.*, ANANIA, BANDKLAYDER, BLACKWELL, BAUMGARTEN, TORRICELLA & STEIN, 4300 Bank of America Tower, 100 SE 2nd Street, Miami, Florida 33131; to **Charles L. Neustein, Esquire**, CHARLES L. NEUSTEIN, P.A., 777 Arthur Godfrey Road, Second Floor, Miami Beach, Florida 33140; to **Scott A. McLaren, Esquire**, HILL, WARD AND HENDERSON, P.A., 101 East Kennedy Boulevard, Suite 3700, Tampa, Florida 33602; **Pete Hutchison Brock, II, Esquire**, JOHNSON, AUVIL, BROCK & WILSON, P.A., P.O. Box 2337, Dade City, Florida 33526; to **William Dufoe, Esquire, Robert W. Lang, Esquire and/or William H. Bartlett, Esquire**, HOLLAND & KNIGHT, LLP, 100 N. Tampa Street, Suite 4100, Tampa, Florida 33602; to **Deborah Poore Fitzgerald, Esquire**, *Attorneys for Steven C. Cronig*, WALTON LANTAFF SCHROEDER & CARSON, LLP, Corporate Center, Suite 2000, 100 East Broward Boulevard, Fort Lauderdale,

Florida 33301; and to **Peter Valori, Esquire**, DAMIAN & VALORI, LLP, 1000 Brickell Avenue, Suite 1020, Miami, Florida 33131.

By:


JAMES D. GASSENHEIMER

cc: Thomas Wilson, Jr. *(via hand-delivery)*
Michael Goldberg, Esq. *(via email)*
M.A.M.C. Inc. – Investor Group *(via email)*

1058228-1

IN THE CIRCUIT COURT OF THE 6TH
JUDICIAL CIRCUIT, IN AND FOR PASCO
COUNTY, FLORIDA

JENNIFER & ROBERT CUNNINGHAM
and VICTOR ELIAS, Individuals,

Plaintiffs,

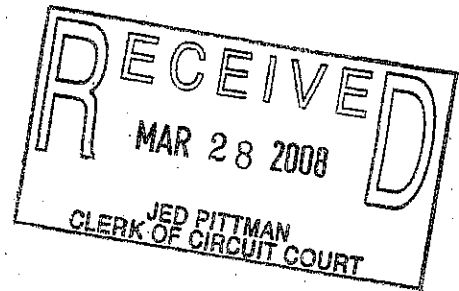
vs.

OCEANSIDE ACQUISITIONS, LLC,
a Florida limited liability company

Defendant.

CASE NO: 51 07 CA 4792 WS

SECTION: H-W. Lowell Bray, Jr.



**DEFENDANT'S NOTICE OF RECEIVERSHIP,
MOTION TO ASSIGN CASE TO JUDGE WILSON, OR IN THE
ALTERNATIVE, STAY THE CASE UNTIL FURTHER ORDER OF JUDGE WILSON**

Michael Goldberg, as State Court Appointed Receiver over Defendant Oceanside Acquisition, LLC, by and through undersigned counsel, pursuant to the Temporary Injunction and Agreed Order Appointing Receiver (the "Order") entered in the matter of State of Florida, Office of Financial Regulation v. Berman Mortgage Corporation, et al., Case No. 07-43672 CA 09 ("Receivership Proceedings"), files this Notice of Receivership, Motion to Assign Case to Judge Thomas Wilson, Jr., or in the alternative, Stay the Case Until Further Order of Judge Wilson, and states:

Judge Wilson Appoints a Receiver for Oceanside

1. On September 21, 2007, the Complaint was filed in this action seeking specific performance of an executory contract for purchase and sale of a condominium unit(s) owned by Defendant, Oceanside Acquisitions, LLC ("Oceanside").

2. The Receivership Proceedings are pending in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, and one of the relief defendants in the Receivership Proceedings is Oceanside.

3. On December 11, 2007, Judge Wilson, who presides over the Receivership Proceedings, appointed Michael Goldberg as the receiver (the "Receiver") over all of the relief defendants, including Oceanside. A true and correct copy of the Order is attached hereto as Exhibit "A."

4. Consequently, the relief defendants, including Oceanside, lost any power they had to transfer property or otherwise act. *See, e.g., O'Neal et al., v. General Motors Corp.*, 841 F. Supp. 391, 398 (M.D. Fla. 1993) ("Under Florida law, once a receiver is appointed for a business, the business loses power to transfer or otherwise act with regard to the property subject to the receivership."), *citing Sunland Mortgage Corp. v. Lewis*, 515 So.2d 1337, 1339 (Fla. 5th DCA 1987). *See also, Wilson et al., v. Hartman et al.*, 95 B.R. 841, 843, n. 4 (S.D. Fla. 1989) (same).

The Order and Applicable Law Support the Assignment of this Case to Judge Wilson

5. As the Judge presiding over the Receivership Proceedings, Judge Wilson has the power to determine all questions concerning the disposition of the Receivership property, and such power cannot be interfered with by other courts:

The custody of property by the court through its receiver is the custody of the sovereign power or government acting through the courts, possession by the court of the res gives jurisdiction over the res to the court appointing the receiver and gives such court power to determine all questions concerning the ownership and disposition of the property. *White v. Ewing*, 1894, 159 U.S. 36, 15 S. Ct. 1018, 40 L.Ed. 67. No other court can interfere with the possession of the res.

Murtha v. Steijskal, 232 So.2d 53, 55 (Fla. 4th DCA 1970) (emphasis added).

6. Similarly, Section 517.191(2), Florida Statutes, states that the receivership court, "in its discretion, may with the consent of the presiding judge of the circuit require that all such suits be assigned to the circuit court judge appointing the said receiver or administrator." (emphasis added).

7. In line with that power, in the Order, Judge Wilson specifically states that all receivership assets, which includes the assets belonging to the relief defendants (including Oceanside) are subject to the exclusive jurisdiction of Judge Wilson in the Circuit Court of the Eleventh Judicial Circuit, and such assets shall be under the exclusive control of the Receiver:

The Court hereby takes exclusive jurisdiction and possession of the assets of the ... Relief Defendants, the "Receivership Assets", which includes, but are not limited to: files, records, documents, leases, mortgages, investments, contracts, effects, lands, agreements, judgments, bank accounts, books of accounts, rents, goods, chattels, rights, credit claims, both asserted and unasserted, pending court actions and appeals, files and documents in the possession of attorneys and accountants of all of the Defendants and Relief Defendants, all other property, business offices, computers, servers, electronic data storage units, offsite storage locations, safety deposit boxes, monies, securities, choses in action, and properties, real and personal, tangible and intangible, of whatever kind and description, wherever situated of the Defendants ... and Relief Defendants. The Receiver shall retain custody and control of all of the foregoing pursuant to the terms of this Agreed Order.

Order, ¶ 3. *See also*, Order, ¶ 13 (Judge Wilson specifically appointing Receiver for Oceanside: "Michael Goldberg ... is appointed Receiver for ... Oceanside Acquisitions, LLC.").

The Order and Applicable Law Support
a Stay of this Case Until Further Order of Judge Wilson

8. Also in line with Judge Wilson's power to exercise exclusive jurisdiction over the Receivership property (including Oceanside), the Order prohibits the enforcement of any judgments against the Receivership defendants. *See* Order, ¶ 18 ("Until further Order of the Court, this Order prohibits the prosecution of any civil action or other proceeding or the enforcement of any judgments against the Receivership Defendants."). *See also*, Order, ¶ 15

("All persons ... and all of their partners, directors, officers, agents, servants, employees, stockholders, personal representatives, legal representatives, attorneys, accounts, as applicable, and all persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are stayed from: (a) Commencing continuing or enforcing any suit or proceeding against the Receiver or the Receivership Assets, except with the prior permission of the Court; (b) Using self-help or executing or issuing or causing the execution or issuance of any court attachment, subpoena, replevin, execution or other process for the purpose of impounding or taking possession of or interfering with or creating or enforcing a lien upon any property owned by or in the possession of the Receivership Assets or the Receiver, wherever situation; (c) Attempting to modify, cancel, terminate, call, extinguish, revoke, or accelerate (the due date), of any lease, loan mortgage, indebtedness, security agreement, or other agreement with any of the Receivership Assets or any entity controlled by them; (d) Doing any act or thing whatsoever to interfere with the taking control, possession or management, by the Receiver the receivership Assets and asset owned, controlled or in the possession of the entity in receivership, or to in any way interfere with or harass the Receiver, or to interfere in any manner with the exclusive jurisdiction of this court of the Receivership Assets ...") (emphasis added). *See also, Sunland Mortgage Corp.*, 515 So.2d at 1339 (stating that, "[t]hird parties ... cannot obtain a valid transfer ... on the receivership property through filing suits and obtaining a judgment").

9. Similarly, Section 517.191(2), Florida Statutes, states that the receivership court "may issue orders and decrees staying all pending suits and enjoining any further suits affecting the receiver's or administrator's custody or possession of the said property, assets, and business."

**The Order Specifically Authorizes the Receiver to
Adjust the Instant Action to Preserve Oceanside's Assets**

10. To effect exclusive Jurisdiction, the Order gives specific authority to the Receiver to adjust legal actions or proceedings pending against the Receivership assets (like the instant case):

The Receiver is hereby authorized and specifically has standing to institute, defend, compromise or adjust such actions or proceedings in state or federal courts now pending and hereafter instituted, as may in his discretion by advisable or proper for the protection of the Receivership Assets or proceeds thereof, and to institute, prosecute, compromise or adjust such actions or proceedings in state or federal courts as may in his judgment be necessary or proper for the collection, preservation and maintenance of the Receivership Assets and/or on behalf of the Receivership Defendants.

Order, ¶ 21 (emphasis added).

11. Thus, by way of the instant Motion, the Receiver, on behalf of Oceanside, seeks to have the instant matter assigned to the Judge Wilson in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida. Assignment is appropriate as Judge Wilson presides over the Receivership Proceedings, and thus he can prevent duplicative discovery, prevent inconsistent pretrial rulings concerning common questions of fact related to the Oceanside's activities, and thereby conserve judicial resources and the Receivership property.¹ In the alternative, this Court should stay the instant matter until further order of Judge Wilson.

¹ Notably, to the extent divergent interests arise between the parties in the different matters following a transfer to Judge Wilson, Judge Wilson has the broad flexibility to tailor a pretrial schedule to accommodate any divergent interests among the parties in the various actions. *See, e.g., In re Franklin National Bank Securities Litigation*, 393 F. Supp. 1093, 1095, (Jud. Pan. Mult. Lit. 1975). ("[W]e point out that the transferee judge has the broad flexibility to tailor a pretrial schedule to accommodate any divergent interests among the parties in the various actions. More precisely, he is free to gauge the extent of coordination appropriate between the SEC and private actions, without inhibiting the SEC's efforts for prompt injunctive relief and without sacrificing the advantages of centralized pretrial proceedings.").

WHEREFORE, the Receiver, on behalf of Defendant, OCEANSIDE ACQUISITIONS, LLC, respectfully requests (1) that this matter be assigned to Judge Thomas Wilson, Jr., in the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, or alternatively, (2) a stay of the instant litigation until further Order of Judge Thomas Wilson, Jr., and for such other and additional relief as the Court deems just and proper.


CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail on this 27th day of March 2008, to: **David J. Sockol, Esquire and R. Mark Bortner, Esquire, Attorneys for Plaintiffs**, SOCKOL & ASSOCIATES, P.A., 111 Second Avenue Northeast, Suite 1401, St. Petersburg, Florida 33701.

Respectfully Submitted,

BERGER SINGERMAN
Attorneys for Defendant
200 South Biscayne Boulevard, Suite 1000
Miami, FL 33131
Telephone: (305) 755-9500
Facsimile: (305) 714-4340

By: _____


JAMES D. GASSENHEIMER
Florida Bar No. 959987

1010762-1

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

STATE OF FLORIDA,
OFFICE OF FINANCIAL REGULATION,

CASE NO:

07-43672 CA 09

Plaintiff,

v.

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, DB DURHAM, LLC, a Florida Limited
Liability Company, NORMANDY HOLDINGS II,
LLC, a Florida Limited Liability Company, NORMANDY
HOLDINGS III, LLC, a Florida Limited Liability Company,
WATERSIDE ACQUISITIONS, LLC, a Florida Limited Liability
Company, DBKN GULF INCORPORATED, a Florida Limited
Liability Company, OCEANSIDE ACQUISITIONS, LLC,
a Florida Limited Liability Company, DB BILOXI, LLC, a Florida
Limited Liability Company, DB BILOXI II, LLC, a Florida
Limited Liability Company, DB BILOXI III, LLC, a Florida
Limited Liability Company, DBDS VERO BEACH, LLC, a
Florida Limited Liability Company, DB TAMPA, LLC, a
Florida Limited Liability Company, DB SIMPSONVILLE,
LLC, a Florida Limited Liability Company, DBDS NORTH MIAMI,
LLC, a Florida Limited Liability Company, REDLANDS RANCH
HOLDINGS, LLC, a Florida Limited Liability Company,
DBDS BISCAYNE PARK, LLC, a Florida Limited Liability
Company, DB CARROLL STREET, LLC, a Florida Limited
Liability Company,

Relief Defendants.

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HARVEY RUTIN, CLERK

EXHIBIT

"A"

TEMPORARY INJUNCTION AND AGREED ORDER
APPOINTING RECEIVER

This cause having come before the Court upon the State of Florida, Office of Financial Regulation's Complaint for a Temporary and Permanent Injunction and Appointment of a Receiver, and, after having reviewed the Complaint and Answer thereto filed by the Defendants and the Relief Defendants, and being otherwise advised in these premises, and further having heard of the agreement of the Parties, the Court does hereby:

ORDER AND ADJUDGE as follows:

1. It appears to the Court that an emergency exists in that the Defendants, Berman Mortgage Corporation ("Berman Mortgage"), M.A.M.C. Incorporated ("M.A.M.C."), and Dana J. Berman ("Berman") (collectively "Defendants"), and DB Atlanta, LLC, DB Durham, LLC, Normandy Holdings II, LLC, Normandy Holdings III, LLC, Waterside Acquisitions, LLC, DBKN Gulf Incorporated, Oceanside Acquisitions, LLC, DB Biloxi, LLC, DB Biloxi II, LLC, DB Biloxi III, LLC, DBDS Vero Beach, LLC, DB Tampa, LLC, DB Simpsonville, LLC, DBDS North Miami, LLC, Redlands Ranch Holdings, LLC, DBDS Biscayne Park, LLC and DB Carroll Street, LLC, who are defendants solely for purposes of equitable relief (the "Relief Defendants"), have violated and may continue to violate state securities laws and state mortgage lender laws in connection with the placement and servicing of mortgage loans which have been placed with investors who invested approximately \$192 million.

2. The Court is also concerned, and the evidence tendered to the Court shows that there is an imminent danger that the property of the Defendants and Relief

Defendants may be further dissipated and/or commingled if a Temporary Injunction and the appointment of a receiver is not issued.

3. The Court hereby takes exclusive jurisdiction and possession of the assets of the Defendants, Berman Mortgage, M.A.M.C., and Relief Defendants, the "Receivership Assets", which includes, but are not limited to: files, records, documents, leases, mortgages, investments, contracts, effects, lands, agreements, judgments, bank accounts, books of accounts, rents, goods, chattels, rights, credits claims, both asserted and unasserted, pending court actions and appeals, files and documents in the possession of attorneys and accountants of all of the Defendants and Relief Defendants, all other property, business offices, computers, servers, electronic data storage units, offsite storage locations, safety deposit boxes, monies, securities, choses in action, and properties, real and personal, tangible and intangible, of whatever kind and description, wherever situated of the Defendants, Berman Mortgage and M.A.M.C., and Relief Defendants. The Receiver shall retain custody and control of all of the foregoing pursuant to the terms of this Agreed Order. The Receiver shall file an inventory of the "Receivership Assets" within sixty (60) days of the entry of this Agreed Order.

4. The Court further finds that a temporary injunction shall be entered against all of the Defendants and Relief Defendants, and a Receiver appointed for Defendants, Berman Mortgage and M.A.M.C., and all Relief Defendants to prevent immediate and irreparable injury to the investors who have entrusted over \$192,000,000 to the Defendants and Relief Defendants.

5. Immediate and irreparable injury will result to numerous investors if, as alleged by Plaintiff in its Complaint, the Defendants' representatives are allowed to

transfer or commingle any assets(s) acquired with investor funds; or if the Defendants' and Relief Defendants' financial information is disturbed in any way which would have the effect of frustrating examination by the Court or the receiver. Any such injury would diminish the ability of the Defendants and Relief Defendants to satisfy an order of restitution or effect any rescission.

6. The Court has determined that it is probable that the Plaintiff would prevail on the claims and that the Plaintiff has no adequate remedy at law.

7. The appointment of a Receiver is both necessary and appropriate in this matter in order to prevent further waste and dissipation of the assets of the Defendants and Relief Defendants, to the detriment of its investors.

8. The State of Florida, Office of Financial Regulation is the agency charged, pursuant to Chapters 494 and 517, Florida Statutes, to protect the public from the illegal acts of mortgage brokerage and mortgage lending businesses and securities dealers and securities issuers, and the Court is therefore, waiving the bond requirement in this matter.

9. The Court finds that Plaintiff has a clear legal right to a statutory injunction as provided by Sections 494.0013 and 517.191, Florida Statutes.

IT IS FURTHER ORDERED AND ADJUDGED:

10. M.A.M.C., its officers, agents, servants, personal representatives, legal representatives, employees, and all other persons or entities acting in concert or cooperation with it, are hereby restrained and enjoined from the following acts:

A. Any and all violations of sections 494.0025 (4)(a), (b), (c) and (5), and 494.0072(2)(e), (f), (g) and (h), Florida Statutes;

B. Continuing to service loans for others in violation of Section 494.00721, Florida Statutes;

C. Co-mingling of investor funds in violation of 494.0076(1)(a)2, Florida Statutes.

11. The named Defendants and Relief Defendants, their officers, agents, servants, personal representatives, legal representatives, employees, and all other persons or entities acting in concert or cooperation with them, are hereby restrained and enjoined from the following acts:

A. Selling or offering to sell an unregistered security in this state, without first registering the security with the Office of Financial Regulation, in violation of section 517.07, Florida Statutes;

B. Selling or offering to sell any securities in or from offices in this state, or selling securities to persons in this state from offices outside this state, by mail or otherwise, without first being registered as a dealer, associated person, or issuer with the Office of Financial Regulation, in violation of section 517.12, Florida Statutes;

12. The named Defendants and Relief Defendants, their officers, agents, servants, personal representatives, legal representatives, employees, and all other persons or entities acting in concert or cooperation with them, are hereby restrained and enjoined from the following acts:

A. Dissipating, selling, conveying, alienating, divesting themselves of, withdrawing, pledging as security, transferring, assigning, giving away, or in any manner whatsoever disposing of any of the monies or assets, including checking accounts, savings accounts, money market accounts, certificates of deposit, or any deposit of cash,

securities or other things of value and any and all real property and improvements thereon, and any motor vehicle, vessel, aircraft, jewelry, art and any other personal property or other assets of any description, obtained with or derived directly or indirectly from any investor monies obtained by the Defendants from the placing and servicing of loans, mortgages, and investments, no matter how ownership or title is held, including, but not limited to, Berman Mortgage, M.A.M.C. and Berman, or in the names of any of the Relief Defendants, DB Atlanta, LLC, DB Durham LLC, Normandy Holdings II, LLC., Normandy Holdings III, LLC, Waterside Acquisitions, LLC, DBKN Gulf Incorporated, Oceanside Acquisitions, LLC, DB Biloxi, LLC, DB Biloxi II, LLC, DB Biloxi III, LLC, DBDS Vero Beach, LLC, DB Tampa, LLC, DB Simpsonville, LLC, DBDS North Miami, LLC, Redlands Ranch Holdings, LLC, DBDS Biscayne Park, LLC and DB Carroll Street, LLC.

13. Michael I. Goldberg, whose telephone number is 954-463-2700, is appointed Receiver for Berman Mortgage Corporation, M.A.M.C. Incorporated, DB Atlanta, LLC, DB Durham, LLC, Normandy Holdings II, LLC., Normandy Holdings III, LLC, Waterside Acquisitions, LLC, DBKN Gulf Incorporated, Oceanside Acquisitions, LLC, DB Biloxi, LLC, DB Biloxi II, LLC, DB Biloxi III, LLC, DBDS Vero Beach, LLC, DB Tampa, LLC, DB Simpsonville, LLC, DBDS North Miami, LLC, Redlands Ranch Holdings, LLC, DBDS Biscayne Park, LLC and DB Carroll Street, LLC, and the Receivership Assets. The Receiver is hereby authorized to take and have possession of the Receivership Assets. The Receiver shall have complete and exclusive control, possession and custody of all Receivership Assets. The Receiver shall be vested with the usual powers and duties of equity receivers in like cases and is hereby authorized and

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instructed to take possession of and control over the Defendants and Receivership Assets as defined herein, without any limitation of any kind as to his general duties.

14. All persons, including Berman Mortgage and MAMC, (the "Receivership Defendants"), all of their partners, directors, officers, agents, servants, employees, stockholders, personal representatives, legal representatives, attorneys, accountants, as applicable, and all persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, and specifically including any bank, brokerage company, or other financial or depository institution holding accounts for or on behalf of the Receivership Defendants shall promptly deliver to the Receiver all Receivership Assets in the possession or control of any one or more of them, and shall promptly surrender all books and records of any kind pertaining to the Receivership Defendants. This paragraph shall specifically apply to any and all depository and/or brokerage accounts held on behalf of the Receivership Defendants.

15. All persons, including the Receivership Defendants, and all of their partners, directors, officers, agents, servants, employees, stockholders, personal representatives, legal representatives, attorneys, accountants, as applicable, and all persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are stayed from:

(a) Commencing, continuing or enforcing any suit or proceeding against the Receiver or the Receivership Assets, except with the prior permission of the Court;

(b) Using self-help or executing or issuing or causing the execution or

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CERTIFICATION ON LAST PAGE
HARVEY RIVLIN, CLERK

issuance of any court attachment, subpoena, replevin, execution or other process for the purpose of impounding or taking possession of or interfering with or creating or enforcing a lien upon any property owned by or in the possession of the Receivership Assets or the Receiver, wherever situated;

(c) Attempting to modify, cancel, terminate, call, extinguish, revoke, or accelerate (the due date), of any lease, loan, mortgage, indebtedness, security agreement, or other agreement with any of the Receivership Assets or any entity controlled by them.

(d) Doing any act or thing whatsoever to interfere with the taking control, possession, or management, by the Receiver of the Receivership Assets and asset owned, controlled or in the possession of the entity in receivership, or to in any way interfere with or harass the Receiver, or to interfere in any manner with the exclusive jurisdiction of this Court over the Receivership Assets; and,

(e) Causing the issuance of a subpoena on the Receiver, except with the prior permission of the Court.

16. The Receiver is hereby authorized to make appropriate notification to the United States Postal Service and/or any private delivery/messenger service to forward delivery of any mail addressed to the Receivership Defendants, or any company or entity under the direction or control of the Receivership Defendants, to the Receiver. The Receiver is also authorized to open and inspect all such mail, to determine the location or identity of assets or the existence and amount of claims or any other purpose authorized by this Order.

17. The Receiver is further authorized to make such ordinary and necessary

payments, distributions, and disbursements and execute, deliver, file and record such contracts, instruments, releases, indentures, certificates, and other agreements and documents, and to take such action as he deems advisable or proper for the marshalling, maintenance or preservation of the Receivership Assets. From and after the date of the entry of this Order, the Receiver shall have the authority to conduct the business operations of the Receivership Defendants and any entity it controls, including the authority to endorse all checks and drafts now or hereafter made payable to the Receivership Defendants.

18. Until further Order of the Court, this Order prohibits the prosecution of any civil action or other proceeding or the enforcement of any judgments against the Receivership Defendants.

19. The Receiver is hereby authorized to employ, without further order of the Court, such employees, accountants, and attorneys, consultants, investigators, and other professionals ("Outside Professionals") as is necessary and proper for the collection, preservation, maintenance and operation of the Receivership Assets, including entities of which the Receiver is a shareholder, to furnish legal, accounting and other advice to the Receiver for such purposes as may be reasonable and necessary during the period of receivership.

20. The Receiver is hereby authorized to receive and collect any and all sums of money due and owing to the Receivership Defendants, whether the same are now due or shall hereafter become due and payable, and is authorized to incur such expenses, satisfy such liabilities, and make such disbursements as are deemed, in his discretion, necessary and proper for the collection, preservation, maintenance and operation of the

Receivership Assets. The Receiver may abandon Receivership assets to duly perfected secured or lien creditors, if after due investigation and notice to parties in interest, he determines that either the Receivership Defendants have no equity in such asset(s) or such asset(s) are burdensome to the estate or are of inconsequential value and harmful to the Receivership estate. Further, the Receiver shall maintain appropriate insurance for the Receivership assets, their premises and/or locations, if appropriate in the Receiver's sole discretion.

21. The Receiver is hereby authorized and specifically has standing to institute, defend, compromise or adjust such actions or proceedings in state or federal courts now pending and hereafter instituted, as may in his discretion be advisable or proper for the protection of the Receivership Assets or proceeds thereof, and to institute, prosecute, compromise or adjust such actions or proceedings in state or federal courts as may in his judgment be necessary or proper for the collection, preservation and maintenance of the Receivership Assets and/or on behalf of the Receivership Defendants.

By this authorization and empowerment, this Court specifically determines that the Receiver is not prohibited and shall not be barred from bringing any action or proceeding due to the doctrine of in pari delicto. In addition, the Receiver is further empowered and authorized to file suit against any person(s) or entity(ies) to recover property of any of the Receivership Defendants, including, but not limited to, fraudulent conveyances and other claims and causes of action of the Receivership Defendants.

The Receiver is authorized to set depositions and demand production of documents on five (5) business days' notice. Any objections to documents requested by the Receiver may be stated at the deposition and reserved for hearing.

22. Any and all attorney(ies), accountants and any and all other professionals handling any matter for the Receivership Defendants shall cooperate with the Receiver and deliver all files, including attorney/client privileged communications and documents and all work product to the Receiver at his direction, notwithstanding any claim of a retaining lien which, if valid, is not extinguished by the delivery of the documents.

Further, Berman Mortgage Corporation, M.A.M.C. Incorporated, Dana J. Berman, the Relief Defendants, and their officers, agents, partners, servants, employees and transferees shall cooperate fully with the Receiver and comply with the Receiver's request(s) for information, records and documentation so that the Receiver may perform his duties with full information and knowledge.

23. The Receiver and his retained personnel or professionals are entitled to reasonable compensation and expense reimbursement out of the Receivership Assets. The Receiver is authorized to pay from the receivership estate's funds eighty percent (80%) of the ordinary and reasonable fees and one hundred percent (100%) of the costs of such Outside Professionals upon receipt of a bill from the Outside Professionals. The remaining twenty percent (20%) of fees shall be withheld (the "holdback") pending final application to the Court for approval of all fees and expenses of such Outside Professionals, including the holdback.

24. The Receiver and his attorneys and his agents are entitled to rely on all outstanding rules of law and court orders, and shall not be liable to anyone for their own good faith compliance with any order, rule law, judgment, or decree. In no event shall the Receiver or his attorneys or his agents be liable to anyone for their good faith compliance with their duties and responsibilities as Receiver, attorney, or agent for

Receiver, nor shall the Receiver or his attorney or his agents be liable to anyone for any actions taken or omitted by them except upon a finding by this Court that they acted or failed to act, as a result of malfeasance, bad faith, gross negligence, or in reckless disregard of their duties. The Receiver and his attorneys and his agents shall be indemnified and held harmless out of the Receivership Assets for all costs and expenses, including reasonable attorney's fees, incurred as a result of such actions. The Receiver and his attorneys and his agents may rely on, and shall be protected in acting upon, any resolution, certificate, statement, opinion, report, notice, consent, order, or other paper or documents believed to be genuine and to have been signed or presented by the proper party or parties. The Receiver may consult with legal, financial, or accounting advisors for any action taken or omitted to be taken by it in accordance with the advice thereof. Persons dealing with the Receiver shall only look to the receivership Assets to satisfy any liability, and neither the Receiver nor his attorneys or his agents or professionals shall have any personal liability to satisfy any such obligation.

25. From time to time, upon the application of the Receiver, the Court may amend or reissue this Order.

26. The Receiver shall not be required to post any bond.

IT IS FURTHER ORDERED:

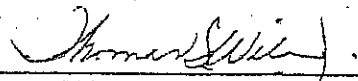
27. That this Court shall retain jurisdiction of this action for all purposes.

28. The Receiver is hereby authorized, empowered, and directed to apply to this Court, with notice to the Receivership Defendants named in this action for issuance of such other orders as may be necessary and appropriate in order to carry out the mandate of this Order.

WITNESSETH MY HAND AND SEAL OF THE COURT
AT THE CITY OF NEW YORK, ON MAY 11, 2011.
HARRY R. LEE, CLERK

IT IS FURTHER ORDERED that this Order will remain in effect until and unless modified by further Order of this Court.

DONE AND ORDERED in Chambers, in Miami, Miami-Dade County, Florida, on this 11 day of December 2007.



CIRCUIT COURT JUDGE

THOMAS S. WILSON, Jr.

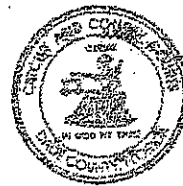
Copies furnished to:
Alan L. Goldberg, Chief Restructuring Officer, M.A.M.C.
Dana J. Berman
Daren A. Schwartz
Michael I. Goldberg, Esquire, Receiver
Cristina Saenz, Assistant General Counsel, Office of Financial Regulation

STATE OF FLORIDA, COUNTY OF MIAMI-DADE

I hereby certify that the foregoing is a true and correct copy of the original on file in this office 12/11 AD 2007

HARVEY RUAM, CLERK
Circuit and County Courts (SEAL)

Deputy Clerk 



IN THE CIRCUIT COURT OF THE 6TH
JUDICIAL CIRCUIT, IN AND FOR PASCO
COUNTY, FLORIDA.

TINA HINTON,

CASE NO: 51-2007-CA-⁴²³⁸~~2370~~-WS

Plaintiff,

DIVISION H

vs.

OCEANSIDE ACQUISITIONS, LLC,
a Florida limited liability company

Defendant.

**DEFENDANT'S NOTICE OF RECEIVERSHIP,
MOTION TO ASSIGN CASE TO JUDGE WILSON, OR IN THE
ALTERNATIVE, STAY THE CASE UNTIL FURTHER ORDER OF JUDGE WILSON**

Michael Goldberg, as State Court Appointed Receiver over Defendant Oceanside Acquisition, LLC, by and through undersigned counsel, pursuant to the Temporary Injunction and Agreed Order Appointing Receiver (the "Order") entered in the matter of State of Florida, Office of Financial Regulation v. Berman Mortgage Corporation, et al., Case No. 07-43672 CA 09 ("Receivership Proceedings"), files this Notice of Receivership, Motion to Assign Case to Judge Thomas Wilson, Jr., or in the alternative, Stay the Case Until Further Order of Judge Wilson, and states:

Judge Wilson Appoints a Receiver for Oceanside

1. On May 22, 2007, the Complaint was filed in this action seeking specific performance of an executory contract for purchase and sale of a condominium unit(s) owned by Defendant, Oceanside Acquisitions, LLC ("Oceanside").

2. The Receivership Proceedings are pending in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, and one of the relief defendants in the Receivership Proceedings is Oceanside.

3. On December 11, 2007, Judge Wilson, who presides over the Receivership Proceedings, appointed Michael Goldberg as the receiver (the "Receiver") over all of the relief defendants, including Oceanside. A true and correct copy of the Order is attached hereto as Exhibit "A."

4. Consequently, the relief defendants, including Oceanside, lost any power they had to transfer property or otherwise act. *See, e.g., O'Neal et al., v. General Motors Corp.*, 841 F. Supp. 391, 398 (M.D. Fla. 1993) ("Under Florida law, once a receiver is appointed for a business, the business loses power to transfer or otherwise act with regard to the property subject to the receivership."), *citing Sunland Mortgage Corp. v. Lewis*, 515 So.2d 1337, 1339 (Fla. 5th DCA 1987). *See also, Wilson et al., v. Hartman et al.*, 95 B.R. 841, 843, n. 4 (S.D. Fla. 1989) (same).

The Order and Applicable Law Support the Assignment of this Case to Judge Wilson

5. As the Judge presiding over the Receivership Proceedings, Judge Wilson has the power to determine all questions concerning the disposition of the Receivership property, and such power cannot be interfered with by other courts:

The custody of property by the court through its receiver is the custody of the sovereign power or government acting through the courts, possession by the court of the res gives jurisdiction over the res to the court appointing the receiver and gives such court power to determine all questions concerning the ownership and disposition of the property. *White v. Ewing*, 1894, 159 U.S. 36, 15 S. Ct. 1018, 40 L.Ed. 67. No other court can interfere with the possession of the res.

Murtha v. Stejskal, 232 So.2d 53, 55 (Fla. 4th DCA 1970) (emphasis added).

6. Similarly, Section 517.191(2), Florida Statutes, states that the receivership court, "in its discretion, may with the consent of the presiding judge of the circuit require that all such suits be assigned to the circuit court judge appointing the said receiver or administrator." (emphasis added).

7. In line with that power, in the Order, Judge Wilson specifically states that all receivership assets, which includes the assets belonging to the relief defendants (including Oceanside) are subject to the exclusive jurisdiction of Judge Wilson in the Circuit Court of the Eleventh Judicial Circuit, and such assets shall be under the exclusive control of the Receiver:

The Court hereby takes exclusive jurisdiction and possession of the assets of the ... Relief Defendants, the "Receivership Assets", which includes, but are not limited to: files, records, documents, leases, mortgages, investments, contracts, effects, lands, agreements, judgments, bank accounts, books of accounts, rents, goods, chattels, rights, credit claims, both asserted and unasserted, pending court actions and appeals, files and documents in the possession of attorneys and accountants of all of the Defendants and Relief Defendants, all other property, business offices, computers, servers, electronic data storage units, offsite storage locations, safety deposit boxes, monies, securities, choses in action, and properties, real and personal, tangible and intangible, of whatever kind and description, wherever situated of the Defendants ... and Relief Defendants. The Receiver shall retain custody and control of all of the foregoing pursuant to the terms of this Agreed Order.

Order, ¶ 3. *See also*, Order, ¶ 13 (Judge Wilson specifically appointing Receiver for Oceanside: "Michael Goldberg ... is appointed Receiver for ... Oceanside Acquisitions, LLC.").

**The Order and Applicable Law Support
a Stay of this Case Until Further Order of Judge Wilson**

8. Also in line with Judge Wilson's power to exercise exclusive jurisdiction over the Receivership property (including Oceanside), the Order prohibits the enforcement of any judgments against the Receivership defendants. *See* Order, ¶ 18 ("Until further Order of the Court, this Order prohibits the prosecution of any civil action or other proceeding or the enforcement of any judgments against the Receivership Defendants."). *See also*, Order, ¶ 15

("All persons ... and all of their partners, directors, officers, agents, servants, employees, stockholders, personal representatives, legal representatives, attorneys, accounts, as applicable, and all persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are stayed from: (a) Commencing continuing or enforcing any suit or proceeding against the Receiver or the Receivership Assets, except with the prior permission of the Court; (b) Using self-help or executing or issuing or causing the execution or issuance of any court attachment, subpoena, replevin, execution or other process for the purpose of impounding or taking possession of or interfering with or creating or enforcing a lien upon any property owned by or in the possession of the Receivership Assets or the Receiver, wherever situation; (c) Attempting to modify, cancel, terminate, call, extinguish, revoke, or accelerate (the due date), of any lease, loan mortgage, indebtedness, security agreement, or other agreement with any of the Receivership Assets or any entity controlled by them; (d) Doing any act or thing whatsoever to interfere with the taking control, possession or management, by the Receiver the receivership Assets and asset owned, controlled or in the possession of the entity in receivership, or to in any way interfere with or harass the Receiver, or to interfere in any manner with the exclusive jurisdiction of this court of the Receivership Assets ...") (emphasis added).

See also, Sunland Mortgage Corp., 515 So.2d at 1339 (stating that, "[t]hird parties ... cannot obtain a valid transfer ... on the receivership property through filing suits and obtaining a judgment").

9. Similarly, Section 517.191(2), Florida Statutes, states that the receivership court "may issue orders and decrees staying all pending suits and enjoining any further suits affecting the receiver's or administrator's custody or possession of the said property, assets, and business."

**The Order Specifically Authorizes the Receiver to
Adjust the Instant Action to Preserve Oceanside's Assets**

10. To effect exclusive Jurisdiction, the Order gives specific authority to the Receiver to adjust legal actions or proceedings pending against the Receivership assets (like the instant case):

The Receiver is hereby authorized and specifically has standing to institute, defend, compromise or adjust such actions or proceedings in state or federal courts now pending and hereafter instituted, as may in his discretion by advisable or proper for the protection of the Receivership Assets or proceeds thereof, and to institute, prosecute, compromise or adjust such actions or proceedings in state or federal courts as may in his judgment be necessary or proper for the collection, preservation and maintenance of the Receivership Assets and/or on behalf of the Receivership Defendants.

Order, ¶ 21 (emphasis added).

11. Thus, by way of the instant Motion, the Receiver, on behalf of Oceanside, seeks to have the instant matter assigned to the Judge Wilson in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida. Assignment is appropriate as Judge Wilson presides over the Receivership Proceedings, and thus he can prevent duplicative discovery, prevent inconsistent pretrial rulings concerning common questions of fact related to the Oceanside's activities, and thereby conserve judicial resources and the Receivership property.¹ In the alternative, this Court should stay the instant matter until further order of Judge Wilson.

¹ Notably, to the extent divergent interests arise between the parties in the different matters following a transfer to Judge Wilson, Judge Wilson has the broad flexibility to tailor a pretrial schedule to accommodate any divergent interests among the parties in the various actions. *See, e.g., In re Franklin National Bank Securities Litigation*, 393 F. Supp. 1093, 1095, (Jud. Pan. Mult. Lit. 1975). (“[W]e point out that the transferee judge has the broad flexibility to tailor a pretrial schedule to accommodate any divergent interests among the parties in the various actions. More precisely, he is free to gauge the extent of coordination appropriate between the SEC and private actions, without inhibiting the SEC's efforts for prompt injunctive relief and without sacrificing the advantages of centralized pretrial proceedings.”).

WHEREFORE, the Receiver, on behalf of Defendant, OCEANSIDE ACQUISITIONS, LLC, respectfully requests (1) that this matter be assigned to Judge Thomas Wilson, Jr., in the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, or alternatively, (2) a stay of the instant litigation until further Order of Judge Thomas Wilson, Jr., and for such other and additional relief as the Court deems just and proper.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail on this 27th day of March 2008, to: **Andrew M. Lyons, Esquire**, CARTER & LYONS, P.A., 5308 Spring Hill Drive, Spring Hill, Florida 34606.

Respectfully Submitted,

BERGER SINGERMANN

Attorneys for Defendant

200 South Biscayne Boulevard, Suite 1000

Miami, Florida 33131

Telephone: (305) 755-9500

Facsimile: (305) 714-4340

By: _____

JAMES D. GASSENHEIMER

Florida Bar No. 959987

1010759-1

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

STATE OF FLORIDA,
OFFICE OF FINANCIAL REGULATION,

CASE NO:

07-43672 CA 09

Plaintiff,

v.

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, DB DURHAM, LLC, a Florida Limited
Liability Company, NORMANDY HOLDINGS II,
LLC, a Florida Limited Liability Company, NORMANDY
HOLDINGS III, LLC, a Florida Limited Liability Company,
WATERSIDE ACQUISITIONS, LLC, a Florida Limited Liability
Company, DBKN GULF INCORPORATED, a Florida Limited
Liability Company, OCEANSIDE ACQUISITIONS, LLC,
a Florida Limited Liability Company, DB BILOXI, LLC, a Florida
Limited Liability Company, DB BILOXI II, LLC, a Florida
Limited Liability Company, DB BILOXI III, LLC, a Florida
Limited Liability Company, DBDS VERO BEACH, LLC, a
Florida Limited Liability Company, DB TAMPA, LLC, a
Florida Limited Liability Company, DB SIMPSONVILLE,
LLC, a Florida Limited Liability Company, DBDS NORTH MIAMI,
LLC, a Florida Limited Liability Company, REDLANDS RANCH
HOLDINGS, LLC, a Florida Limited Liability Company,
DBDS BISCAYNE PARK, LLC, a Florida Limited Liability
Company, DB CARROLL STREET, LLC, a Florida Limited
Liability Company,

Relief Defendants.

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HARVEY RUW, CLERK

EXHIBIT

"A"

TEMPORARY INJUNCTION AND AGREED ORDER
APPOINTING RECEIVER

This cause having come before the Court upon the State of Florida, Office of Financial Regulation's Complaint for a Temporary and Permanent Injunction and Appointment of a Receiver, and, after having reviewed the Complaint and Answer thereto filed by the Defendants and the Relief Defendants, and being otherwise advised in these premises, and further having heard of the agreement of the Parties, the Court does hereby:

ORDER AND ADJUDGE as follows:

1. It appears to the Court that an emergency exists in that the Defendants, Berman Mortgage Corporation ("Berman Mortgage"), M.A.M.C. Incorporated ("M.A.M.C."), and Dana J. Berman ("Berman") (collectively "Defendants"), and DB Atlanta, LLC, DB Durham, LLC, Normandy Holdings II, LLC, Normandy Holdings III, LLC, Waterside Acquisitions, LLC, DBKN Gulf Incorporated, Oceanside Acquisitions, LLC, DB Biloxi, LLC, DB Biloxi II, LLC, DB Biloxi III, LLC, DBDS Vero Beach, LLC, DB Tampa, LLC, DB Simpsonville, LLC, DBDS North Miami, LLC, Redlands Ranch Holdings, LLC, DBDS Biscayne Park, LLC and DB Carroll Street, LLC, who are defendants solely for purposes of equitable relief (the "Relief Defendants"), have violated and may continue to violate state securities laws and state mortgage lender laws in connection with the placement and servicing of mortgage loans which have been placed with investors who invested approximately \$192 million.

2. The Court is also concerned, and the evidence tendered to the Court shows that there is an imminent danger that the property of the Defendants and Relief

Defendants may be further dissipated and/or commingled if a Temporary Injunction and the appointment of a receiver is not issued.

3. The Court hereby takes exclusive jurisdiction and possession of the assets of the Defendants, Berman Mortgage, M.A.M.C., and Relief Defendants, the "Receivership Assets", which includes, but are not limited to: files, records, documents, leases, mortgages, investments, contracts, effects, lands, agreements, judgments, bank accounts, books of accounts, rents, goods, chattels, rights, credits claims, both asserted and unasserted, pending court actions and appeals, files and documents in the possession of attorneys and accountants of all of the Defendants and Relief Defendants, all other property, business offices, computers, servers, electronic data storage units, offsite storage locations, safety deposit boxes, monies, securities, choses in action, and properties, real and personal, tangible and intangible, of whatever kind and description, wherever situated of the Defendants, Berman Mortgage and M.A.M.C., and Relief Defendants. The Receiver shall retain custody and control of all of the foregoing pursuant to the terms of this Agreed Order. The Receiver shall file an inventory of the "Receivership Assets" within sixty (60) days of the entry of this Agreed Order.

4. The Court further finds that a temporary injunction shall be entered against all of the Defendants and Relief Defendants, and a Receiver appointed for Defendants, Berman Mortgage and M.A.M.C., and all Relief Defendants to prevent immediate and irreparable injury to the investors who have entrusted over \$192,000,000 to the Defendants and Relief Defendants.

5. Immediate and irreparable injury will result to numerous investors if, as alleged by Plaintiff in its Complaint, the Defendants' representatives are allowed to

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HEREIN IS UNCLASSIFIED
DATE 11/11/01 BY SP-10

transfer or commingle any assets(s) acquired with investor funds; or if the Defendants' and Relief Defendants' financial information is disturbed in any way which would have the effect of frustrating examination by the Court or the receiver. Any such injury would diminish the ability of the Defendants and Relief Defendants to satisfy an order of restitution or effect any rescission.

6. The Court has determined that it is probable that the Plaintiff would prevail on the claims and that the Plaintiff has no adequate remedy at law.

7. The appointment of a Receiver is both necessary and appropriate in this matter in order to prevent further waste and dissipation of the assets of the Defendants and Relief Defendants, to the detriment of its investors.

8. The State of Florida, Office of Financial Regulation is the agency charged, pursuant to Chapters 494 and 517, Florida Statutes, to protect the public from the illegal acts of mortgage brokerage and mortgage lending businesses and securities dealers and securities issuers, and the Court is therefore, waiving the bond requirement in this matter.

9. The Court finds that Plaintiff has a clear legal right to a statutory injunction as provided by Sections 494.0013 and 517.191, Florida Statutes.

IT IS FURTHER ORDERED AND ADJUDGED:

10. M.A.M.C., its officers, agents, servants, personal representatives, legal representatives, employees, and all other persons or entities acting in concert or cooperation with it, are hereby restrained and enjoined from the following acts:

A. Any and all violations of sections 494.0025 (4)(a), (b), (c) and (5), and 494.0072(2)(c), (f), (g) and (h), Florida Statutes;

B. Continuing to service loans for others in violation of Section 494.00721, Florida Statutes;

C. Co-mingling of investor funds in violation of 494.0076(1)(a)2, Florida Statutes.

11. The named Defendants and Relief Defendants, their officers, agents, servants, personal representatives, legal representatives, employees, and all other persons or entities acting in concert or cooperation with them, are hereby restrained and enjoined from the following acts:

A. Selling or offering to sell an unregistered security in this state, without first registering the security with the Office of Financial Regulation, in violation of section 517.07, Florida Statutes;

B. Selling or offering to sell any securities in or from offices in this state, or selling securities to persons in this state from offices outside this state, by mail or otherwise, without first being registered as a dealer, associated person, or issuer with the Office of Financial Regulation, in violation of section 517.12, Florida Statutes;

12. The named Defendants and Relief Defendants, their officers, agents, servants, personal representatives, legal representatives, employees, and all other persons or entities acting in concert or cooperation with them, are hereby restrained and enjoined from the following acts:

A. Dissipating, selling, conveying, alienating, divesting themselves of, withdrawing, pledging as security, transferring, assigning, giving away, or in any manner whatsoever disposing of any of the monies or assets, including checking accounts, savings accounts, money market accounts, certificates of deposit, or any deposit of cash,

securities or other things of value and any and all real property and improvements thereon, and any motor vehicle, vessel, aircraft, jewelry, art and any other personal property or other assets of any description, obtained with or derived directly or indirectly from any investor monies obtained by the Defendants from the placing and servicing of loans, mortgages, and investments, no matter how ownership or title is held, including, but not limited to, Berman Mortgage, M.A.M.C. and Berman, or in the names of any of the Relief Defendants, DB Atlanta, LLC, DB Durham LLC, Normandy Holdings II, LLC., Normandy Holdings III, LLC, Waterside Acquisitions, LLC, DBKN Gulf Incorporated, Oceanside Acquisitions, LLC, DB Biloxi, LLC, DB Biloxi II, LLC, DB Biloxi III, LLC, DBDS Vero Beach, LLC, DB Tampa, LLC, DB Simpsonville, LLC, DBDS North Miami, LLC, Redlands Ranch Holdings, LLC, DBDS Biscayne Park, LLC and DB Carroll Street, LLC.

13. Michael I. Goldberg, whose telephone number is 954-463-2700, is appointed Receiver for Berman Mortgage Corporation, M.A.M.C. Incorporated, DB Atlanta, LLC, DB Durham, LLC, Normandy Holdings II, LLC., Normandy Holdings III, LLC, Waterside Acquisitions, LLC, DBKN Gulf Incorporated, Oceanside Acquisitions, LLC, DB Biloxi, LLC, DB Biloxi II, LLC, DB Biloxi III, LLC, DBDS Vero Beach, LLC, DB Tampa, LLC, DB Simpsonville, LLC, DBDS North Miami, LLC, Redlands Ranch Holdings, LLC, DBDS Biscayne Park, LLC and DB Carroll Street, LLC, and the Receivership Assets. The Receiver is hereby authorized to take and have possession of the Receivership Assets. The Receiver shall have complete and exclusive control, possession and custody of all Receivership Assets. The Receiver shall be vested with the usual powers and duties of equity receivers in like cases and is hereby authorized and

instructed to take possession of and control over the Defendants and Receivership Assets as defined herein, without any limitation of any kind as to his general duties.

14. All persons, including Berman Mortgage and MAMC, (the "Receivership Defendants"), all of their partners, directors, officers, agents, servants, employees, stockholders, personal representatives, legal representatives, attorneys, accountants, as applicable, and all persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, and specifically including any bank, brokerage company, or other financial or depository institution holding accounts for or on behalf of the Receivership Defendants shall promptly deliver to the Receiver all Receivership Assets in the possession or control of any one or more of them, and shall promptly surrender all books and records of any kind pertaining to the Receivership Defendants. This paragraph shall specifically apply to any and all depository and/or brokerage accounts held on behalf of the Receivership Defendants.

15. All persons, including the Receivership Defendants, and all of their partners, directors, officers, agents, servants, employees, stockholders, personal representatives, legal representatives, attorneys, accountants, as applicable, and all persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are stayed from:

(a) Commencing, continuing or enforcing any suit or proceeding against the Receiver or the Receivership Assets, except with the prior permission of the Court;

(b) Using self-help or executing or issuing or causing the execution or

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HARVEY RUBIN, CLERK

issuance of any court attachment, subpoena, replevin, execution or other process for the purpose of impounding or taking possession of or interfering with or creating or enforcing a lien upon any property owned by or in the possession of the Receivership Assets or the Receiver, wherever situated;

(c) Attempting to modify, cancel, terminate, call, extinguish, revoke, or accelerate (the due date), of any lease, loan, mortgage, indebtedness, security agreement, or other agreement with any of the Receivership Assets or any entity controlled by them.

(d) Doing any act or thing whatsoever to interfere with the taking control, possession, or management, by the Receiver of the Receivership Assets and asset owned, controlled or in the possession of the entity in receivership, or to in any way interfere with or harass the Receiver, or to interfere in any manner with the exclusive jurisdiction of this Court over the Receivership Assets; and,

(e) Causing the issuance of a subpoena on the Receiver, except with the prior permission of the Court.

16. The Receiver is hereby authorized to make appropriate notification to the United States Postal Service and/or any private delivery/messenger service to forward delivery of any mail addressed to the Receivership Defendants, or any company or entity under the direction or control of the Receivership Defendants, to the Receiver. The Receiver is also authorized to open and inspect all such mail, to determine the location or identity of assets or the existence and amount of claims or any other purpose authorized by this Order.

17. The Receiver is further authorized to make such ordinary and necessary

payments, distributions, and disbursements and execute, deliver, file and record such contracts, instruments, releases, indentures, certificates, and other agreements and documents, and to take such action as he deems advisable or proper for the marshalling, maintenance or preservation of the Receivership Assets. From and after the date of the entry of this Order, the Receiver shall have the authority to conduct the business operations of the Receivership Defendants and any entity it controls, including the authority to endorse all checks and drafts now or hereafter made payable to the Receivership Defendants.

18. Until further Order of the Court, this Order prohibits the prosecution of any civil action or other proceeding or the enforcement of any judgments against the Receivership Defendants.

19. The Receiver is hereby authorized to employ, without further order of the Court, such employees, accountants, and attorneys, consultants, investigators, and other professionals ("Outside Professionals") as is necessary and proper for the collection, preservation, maintenance and operation of the Receivership Assets, including entities of which the Receiver is a shareholder, to furnish legal, accounting and other advice to the Receiver for such purposes as may be reasonable and necessary during the period of receivership.

20. The Receiver is hereby authorized to receive and collect any and all sums of money due and owing to the Receivership Defendants, whether the same are now due or shall hereafter become due and payable, and is authorized to incur such expenses, satisfy such liabilities, and make such disbursements as are deemed, in his discretion, necessary and proper for the collection, preservation, maintenance and operation of the

Receivership Assets. The Receiver may abandon Receivership assets to duly perfected secured or lien creditors, if after due investigation and notice to parties in interest, he determines that either the Receivership Defendants have no equity in such asset(s) or such asset(s) are burdensome to the estate or are of inconsequential value and harmful to the Receivership estate. Further, the Receiver shall maintain appropriate insurance for the Receivership assets, their premises and/or locations, if appropriate in the Receiver's sole discretion.

21. The Receiver is hereby authorized and specifically has standing to institute, defend, compromise or adjust such actions or proceedings in state or federal courts now pending and hereafter instituted, as may in his discretion be advisable or proper for the protection of the Receivership Assets or proceeds thereof, and to institute, prosecute, compromise or adjust such actions or proceedings in state or federal courts as may in his judgment be necessary or proper for the collection, preservation and maintenance of the Receivership Assets and/or on behalf of the Receivership Defendants.

By this authorization and empowerment, this Court specifically determines that the Receiver is not prohibited and shall not be barred from bringing any action or proceeding due to the doctrine of in pari delicto. In addition, the Receiver is further empowered and authorized to file suit against any person(s) or entity(ies) to recover property of any of the Receivership Defendants, including, but not limited to, fraudulent conveyances and other claims and causes of action of the Receivership Defendants.

The Receiver is authorized to set depositions and demand production of documents on five (5) business days' notice. Any objections to documents requested by the Receiver may be stated at the deposition and reserved for hearing.

22. Any and all attorney(ies), accountants and any and all other professionals handling any matter for the Receivership Defendants shall cooperate with the Receiver and deliver all files, including attorney/client privileged communications and documents and all work product to the Receiver at his direction, notwithstanding any claim of a retaining lien which, if valid, is not extinguished by the delivery of the documents.

Further, Berman Mortgage Corporation, M.A.M.C. Incorporated, Dana J. Berman, the Relief Defendants, and their officers, agents, partners, servants, employees and transferees shall cooperate fully with the Receiver and comply with the Receiver's request(s) for information, records and documentation so that the Receiver may perform his duties with full information and knowledge.

23. The Receiver and his retained personnel or professionals are entitled to reasonable compensation and expense reimbursement out of the Receivership Assets. The Receiver is authorized to pay from the receivership estate's funds eighty percent (80%) of the ordinary and reasonable fees and one hundred percent (100%) of the costs of such Outside Professionals upon receipt of a bill from the Outside Professionals. The remaining twenty percent (20%) of fees shall be withheld (the "holdback") pending final application to the Court for approval of all fees and expenses of such Outside Professionals, including the holdback.

24. The Receiver and his attorneys and his agents are entitled to rely on all outstanding rules of law and court orders, and shall not be liable to anyone for their own good faith compliance with any order, rule law, judgment, or decree. In no event shall the Receiver or his attorneys or his agents be liable to anyone for their good faith compliance with their duties and responsibilities as Receiver, attorney, or agent for

Receiver, nor shall the Receiver or his attorney or his agents be liable to anyone for any actions taken or omitted by them except upon a finding by this Court that they acted or failed to act, as a result of malfeasance, bad faith, gross negligence, or in reckless disregard of their duties. The Receiver and his attorneys and his agents shall be indemnified and held harmless out of the Receivership Assets for all costs and expenses, including reasonable attorney's fees, incurred as a result of such actions. The Receiver and his attorneys and his agents may rely on, and shall be protected in acting upon, any resolution, certificate, statement, opinion, report, notice, consent, order, or other paper or documents believed to be genuine and to have been signed or presented by the proper party or parties. The Receiver may consult with legal, financial, or accounting advisors for any action taken or omitted to be taken by it in accordance with the advice thereof. Persons dealing with the Receiver shall only look to the receivership Assets to satisfy any liability, and neither the Receiver nor his attorneys or his agents or professionals shall have any personal liability to satisfy any such obligation.

25. From time to time, upon the application of the Receiver, the Court may amend or reissue this Order.

26. The Receiver shall not be required to post any bond.

IT IS FURTHER ORDERED:

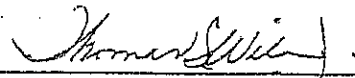
27. That this Court shall retain jurisdiction of this action for all purposes.

28. The Receiver is hereby authorized, empowered, and directed to apply to this Court, with notice to the Receivership Defendants named in this action for issuance of such other orders as may be necessary and appropriate in order to carry out the mandate of this Order.

BY THE COURT
CERTIFICATE ON LAST PAGE
NANCY ROTH, CLERK

IT IS FURTHER ORDERED that this Order will remain in effect until and unless modified by further Order of this Court.

DONE AND ORDERED in Chambers, in Miami, Miami-Dade County, Florida, on this 11 day of December 2007.



CIRCUIT COURT JUDGE

THOMAS S. WILSON, JR.

Copies furnished to:

Alan L. Goldberg, Chief Restructuring Officer, M.A.M.C.

Dana J. Berman

Daren A. Schwartz

Michael I. Goldberg, Esquire, Receiver

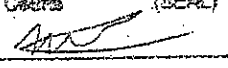
Cristina Saenz, Assistant General Counsel, Office of Financial Regulation

STATE OF FLORIDA, COUNTY OF MIAMI-DADE

I hereby certify that the foregoing is a true and correct copy of the original on file in this office 12/11 AD 2007

HARVEY BLUM, CLERK
Circuit and County Courts

(SEAL)

Deputy Clerk 



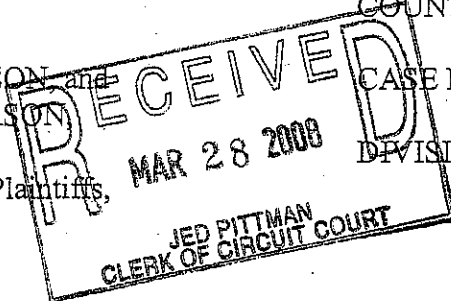
IN THE CIRCUIT COURT OF THE 6TH
JUDICIAL CIRCUIT, IN AND FOR PASCO
COUNTY, FLORIDA

JAMES R. PATTERSON and
EILEEN M. PATTERSON

Plaintiffs,

CASE NO: 51-2007-CA-2371-WS

DIVISION J3



vs.

OCEANSIDE ACQUISITIONS, LLC,
a Florida limited liability company

Defendant.

**DEFENDANT'S NOTICE OF RECEIVERSHIP,
MOTION TO ASSIGN CASE TO JUDGE WILSON, OR IN THE
ALTERNATIVE, STAY THE CASE UNTIL FURTHER ORDER OF JUDGE WILSON**

Michael Goldberg, as State Court Appointed Receiver over Defendant Oceanside Acquisition, LLC, by and through undersigned counsel, pursuant to the Temporary Injunction and Agreed Order Appointing Receiver (the "Order") entered in the matter of *State of Florida, Office of Financial Regulation v. Berman Mortgage Corporation, et al.*, Case No. 07-43672 CA 09 ("Receivership Proceedings"), files this Notice of Receivership, Motion to Assign Case to Judge Thomas Wilson, Jr., or in the alternative, Stay the Case Until Further Order of Judge Wilson, and states:

Judge Wilson Appoints a Receiver for Oceanside

1. On May 21, 2007, the Complaint was filed in this action seeking specific performance of an executory contract for the purchase and sale of a condominium unit(s) owned by Defendant, Oceanside Acquisitions, LLC ("Oceanside").

2. The Receivership Proceedings are pending in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, and one of the relief defendants in the Receivership Proceedings is Oceanside.

3. On December 11, 2007, Judge Wilson, who presides over the Receivership Proceedings, appointed Michael Goldberg as the receiver (the "Receiver") over all of the relief defendants, including Oceanside. A true and correct copy of the Order is attached hereto as Exhibit "A."

4. Consequently, the relief defendants, including Oceanside, lost any power they had to transfer property or otherwise act. *See, e.g., O'Neal et al., v. General Motors Corp.*, 841 F. Supp. 391, 398 (M.D. Fla. 1993) ("Under Florida law, once a receiver is appointed for a business, the business loses power to transfer or otherwise act with regard to the property subject to the receivership."), *citing Sunland Mortgage Corp. v. Lewis*, 515 So.2d 1337, 1339 (Fla. 5th DCA 1987). *See also, Wilson et al., v. Hartman et al.*, 95 B.R. 841, 843, n. 4 (S.D. Fla. 1989) (same).

The Order and Applicable Law Support the Assignment of this Case to Judge Wilson

5. As the Judge presiding over the Receivership Proceedings, Judge Wilson has the power to determine all questions concerning the disposition of the Receivership property, and such power cannot be interfered with by other courts:

The custody of property by the court through its receiver is the custody of the sovereign power or government acting through the courts, possession by the court of the res gives jurisdiction over the res to the court appointing the receiver and gives such court power to determine all questions concerning the ownership and disposition of the property. *White v. Ewing*, 1894, 159 U.S. 36, 15 S. Ct. 1018, 40 L.Ed. 67. No other court can interfere with the possession of the res.

Murtha v. Steijskal, 232 So.2d 53, 55 (Fla. 4th DCA 1970) (emphasis added).

6. Similarly, Section 517.191(2), Florida Statutes, states that the receivership court, "in its discretion, may with the consent of the presiding judge of the circuit require that all such suits be assigned to the circuit court judge appointing the said receiver or administrator." (emphasis added).

7. In line with that power, in the Order, Judge Wilson specifically states that all receivership assets, which includes the assets belonging to the relief defendants (including Oceanside) are subject to the exclusive jurisdiction of Judge Wilson in the Circuit Court of the Eleventh Judicial Circuit, and such assets shall be under the exclusive control of the Receiver:

The Court hereby takes exclusive jurisdiction and possession of the assets of the ... Relief Defendants, the "Receivership Assets", which includes, but are not limited to: files, records, documents, leases, mortgages, investments, contracts, effects, lands, agreements, judgments, bank accounts, books of accounts, rents, goods, chattels, rights, credit claims, both asserted and unasserted, pending court actions and appeals, files and documents in the possession of attorneys and accountants of all of the Defendants and Relief Defendants, all other property, business offices, computers, servers, electronic data storage units, offsite storage locations, safety deposit boxes, monies, securities, chooses in action, and properties, real and person, tangible and intangible, of whatever kind and description, wherever situation of the Defendants ... and Relief Defendants. The Receiver shall retain custody and control of all of the foregoing pursuant to the terms of this Agreed Order.

Order, ¶ 3. *See also*, Order, ¶ 13 (Judge Wilson specifically appointing Receiver for Oceanside: "Michael Goldberg ... is appointed Receiver for ... Oceanside Acquisitions, LLC.").

The Order and Applicable Law Support
a Stay of this Case Until Further Order of Judge Wilson

8. Also in line with Judge Wilson's power to exercise exclusive jurisdiction over the Receivership property (including Oceanside), the Order prohibits the enforcement of any judgments against the Receivership defendants. *See* Order, ¶ 18 ("Until further Order of the Court, this Order prohibits the prosecution of any civil action or other proceeding or the enforcement of any judgments against the Receivership Defendants."). *See also*, Order, ¶ 15

("All persons ... and all of their partners, directors, officers, agents, servants, employees, stockholders, personal representatives, legal representatives, attorneys, accounts, as applicable, and all persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are stayed from: (a) Commencing continuing or enforcing any suit or proceeding against the Receiver or the Receivership Assets, except with the prior permission of the Court; (b) Using self-help or executing or issuing or causing the execution or issuance of any court attachment, subpoena, replevin, execution or other process for the purpose of impounding or taking possession of or interfering with or creating or enforcing a lien upon any property owned by or in the possession of the Receivership Assets or the Receiver, wherever situation; (c) Attempting to modify, cancel, terminate, call, extinguish, revoke, or accelerate (the due date), of any lease, loan mortgage, indebtedness, security agreement, or other agreement with any of the Receivership Assets or any entity controlled by them; (d) Doing any act or thing whatsoever to interfere with the taking control, possession or management, by the Receiver the receivership Assets and asset owned, controlled or in the possession of the entity in receivership, or to in any way interfere with or harass the Receiver, or to interfere in any manner with the exclusive jurisdiction of this court of the Receivership Assets ...") (emphasis added).

See also, Sunland Mortgage Corp., 515 So.2d at 1339 (stating that, "[t]hird parties ... cannot obtain a valid transfer ... on the receivership property through filing suits and obtaining a judgment").

9. Similarly, Section 517.191(2), Florida Statutes, states that the receivership court "may issue orders and decrees staying all pending suits and enjoining any further suits affecting the receiver's or administrator's custody or possession of the said property, assets, and business."

**The Order Specifically Authorizes the Receiver to
Adjust the Instant Action to Preserve Oceanside's Assets**

10. To effect exclusive Jurisdiction, the Order gives specific authority to the Receiver to adjust legal actions or proceedings pending against the Receivership assets (like the instant case):

The Receiver is hereby authorized and specifically has standing to institute, defend, compromise or adjust such actions or proceedings in state or federal courts now pending and hereafter instituted, as may in his discretion by advisable or proper for the protection of the Receivership Assets or proceeds thereof, and to institute, prosecute, compromise or adjust such actions or proceedings in state or federal courts as may in his judgment be necessary or proper for the collection, preservation and maintenance of the Receivership Assets and/or on behalf of the Receivership Defendants.

Order, ¶ 21 (emphasis added).

11. Thus, by way of the instant Motion, the Receiver, on behalf of Oceanside, seeks to have the instant matter assigned to the Judge Wilson in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida. Assignment is appropriate as Judge Wilson presides over the Receivership Proceedings, and thus he can prevent duplicative discovery, prevent inconsistent pretrial rulings concerning common questions of fact related to the Oceanside's activities, and thereby conserve judicial resources and the Receivership property.¹ In the alternative, this Court should stay the instant matter until further order of Judge Wilson.

¹ Notably, to the extent divergent interests arise between the parties in the different matters following a transfer to Judge Wilson, Judge Wilson has the broad flexibility to tailor a pretrial schedule to accommodate any divergent interests among the parties in the various actions. *See, e.g., In re Franklin National Bank Securities Litigation*, 393 F. Supp. 1093, 1095, (Jud. Pan. Mult. Lit. 1975). ("[W]e point out that the transferee judge has the broad flexibility to tailor a pretrial schedule to accommodate any divergent interests among the parties in the various actions. More precisely, he is free to gauge the extent of coordination appropriate between the SEC and private actions, without inhibiting the SEC's efforts for prompt injunctive relief and without sacrificing the advantages of centralized pretrial proceedings.").

WHEREFORE, the Receiver, on behalf of Defendant, OCEANSIDE ACQUISITIONS, LLC, respectfully requests (1) that this matter be assigned to Judge Thomas Wilson, Jr., in the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, or alternatively, (2) a stay of the instant litigation until further Order of Judge Thomas Wilson, Jr., and for such other and additional relief as the Court deems just and proper.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail on this 27th day of March 2008, to: **Jaime Austrich, Esquire, Attorneys for Plaintiffs**, SHUMACKER, LOOP & KENDRICK, LLP, 101 East Kennedy Boulevard, Suite 2800, Tampa, FL 33602.

Respectfully Submitted,

BERGER SINGERMANN
Attorneys for Defendant
200 South Biscayne Boulevard, Suite 1000
Miami, FL 33131
Telephone: (305) 755-9500
Facsimile: (305) 714-4340

By: _____

JAMES D. GASSENHEIMER
Florida Bar No. 959987

1010774-1

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

STATE OF FLORIDA,
OFFICE OF FINANCIAL REGULATION,

CASE NO:

07-43672 CA 09

Plaintiff,

v.

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, DB DURHAM, LLC, a Florida Limited
Liability Company, NORMANDY HOLDINGS II,
LLC, a Florida Limited Liability Company, NORMANDY
HOLDINGS III, LLC, a Florida Limited Liability Company,
WATERSIDE ACQUISITIONS, LLC, a Florida Limited Liability
Company, DBKN GULF INCORPORATED, a Florida Limited
Liability Company, OCEANSIDE ACQUISITIONS, LLC,
a Florida Limited Liability Company, DB BILOXI, LLC, a Florida
Limited Liability Company, DB BILOXI II, LLC, a Florida
Limited Liability Company, DB BILOXI III, LLC, a Florida
Limited Liability Company, DBDS VERO BEACH, LLC, a
Florida Limited Liability Company, DB TAMPA, LLC, a
Florida Limited Liability Company, DB SIMPSONVILLE,
LLC, a Florida Limited Liability Company, DBDS NORTH MIAMI,
LLC, a Florida Limited Liability Company, REDLANDS RANCH
HOLDINGS, LLC, a Florida Limited Liability Company,
DBDS BISCAYNE PARK, LLC, a Florida Limited Liability
Company, DB CARROLL STREET, LLC, a Florida Limited
Liability Company,

Relief Defendants.

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HARVEY RUVIN, CLERK

EXHIBIT

"A"

tabbles

TEMPORARY INJUNCTION AND AGREED ORDER
APPOINTING RECEIVER

This cause having come before the Court upon the State of Florida, Office of Financial Regulation's Complaint for a Temporary and Permanent Injunction and Appointment of a Receiver, and, after having reviewed the Complaint and Answer thereto filed by the Defendants and the Relief Defendants, and being otherwise advised in these premises, and further having heard of the agreement of the Parties, the Court does hereby:

ORDER AND ADJUDGE as follows:

1. It appears to the Court that an emergency exists in that the Defendants, Berman Mortgage Corporation ("Berman Mortgage"), M.A.M.C. Incorporated ("M.A.M.C."), and Dana J. Berman ("Berman") (collectively "Defendants"), and DB Atlanta, LLC, DB Durham, LLC, Normandy Holdings II, LLC., Normandy Holdings III, LLC, Waterside Acquisitions, LLC, DBKN Gulf Incorporated, Oceanside Acquisitions, LLC, DB Biloxi, LLC, DB Biloxi II, LLC, DB Biloxi III, LLC, DBDS Vero Beach, LLC, DB Tampa, LLC, DB Simpsonville, LLC, DBDS North Miami, LLC, Redlands Ranch Holdings, LLC, DBDS Biscayne Park, LLC and DB Carroll Street, LLC, who are defendants solely for purposes of equitable relief (the "Relief Defendants"), have violated and may continue to violate state securities laws and state mortgage lender laws in connection with the placement and servicing of mortgage loans which have been placed with investors who invested approximately \$192 million.

2. The Court is also concerned, and the evidence tendered to the Court shows that there is an imminent danger that the property of the Defendants and Relief

Defendants may be further dissipated and/or commingled if a Temporary Injunction and the appointment of a receiver is not issued.

3. The Court hereby takes exclusive jurisdiction and possession of the assets of the Defendants, Berman Mortgage, M.A.M.C., and Relief Defendants, the "Receivership Assets", which includes, but are not limited to: files, records, documents, leases, mortgages, investments, contracts, effects, lands, agreements, judgments, bank accounts, books of accounts, rents, goods, chattels, rights, credits claims, both asserted and unasserted, pending court actions and appeals, files and documents in the possession of attorneys and accountants of all of the Defendants and Relief Defendants, all other property, business offices, computers, servers, electronic data storage units, offsite storage locations, safety deposit boxes, monies, securities, choses in action, and properties, real and personal, tangible and intangible, of whatever kind and description, wherever situated of the Defendants, Berman Mortgage and M.A.M.C., and Relief Defendants. The Receiver shall retain custody and control of all of the foregoing pursuant to the terms of this Agreed Order. The Receiver shall file an inventory of the "Receivership Assets" within sixty (60) days of the entry of this Agreed Order.

4. The Court further finds that a temporary injunction shall be entered against all of the Defendants and Relief Defendants, and a Receiver appointed for Defendants, Berman Mortgage and M.A.M.C., and all Relief Defendants to prevent immediate and irreparable injury to the investors who have entrusted over \$192,000,000 to the Defendants and Relief Defendants.

5. Immediate and irreparable injury will result to numerous investors if, as alleged by Plaintiff in its Complaint, the Defendants' representatives are allowed to

transfer or commingle any assets(s) acquired with investor funds; or if the Defendants' and Relief Defendants' financial information is disturbed in any way which would have the effect of frustrating examination by the Court or the receiver. Any such injury would diminish the ability of the Defendants and Relief Defendants to satisfy an order of restitution or effect any rescission.

6. The Court has determined that it is probable that the Plaintiff would prevail on the claims and that the Plaintiff has no adequate remedy at law.

7. The appointment of a Receiver is both necessary and appropriate in this matter in order to prevent further waste and dissipation of the assets of the Defendants and Relief Defendants, to the detriment of its investors.

8. The State of Florida, Office of Financial Regulation is the agency charged, pursuant to Chapters 494 and 517, Florida Statutes, to protect the public from the illegal acts of mortgage brokerage and mortgage lending businesses and securities dealers and securities issuers, and the Court is therefore, waiving the bond requirement in this matter.

9. The Court finds that Plaintiff has a clear legal right to a statutory injunction as provided by Sections 494.0013 and 517.191, Florida Statutes.

IT IS FURTHER ORDERED AND ADJUDGED:

10. M.A.M.C., its officers, agents, servants, personal representatives, legal representatives, employees, and all other persons or entities acting in concert or cooperation with it, are hereby restrained and enjoined from the following acts:

A. Any and all violations of sections 494.0025 (4)(a), (b), (c) and (5), and 494.0072(2)(e), (f), (g) and (h), Florida Statutes;

B. Continuing to service loans for others in violation of Section 494.00721, Florida Statutes;

C. Co-mingling of investor funds in violation of 494.0076(1)(a)2, Florida Statutes.

11. The named Defendants and Relief Defendants, their officers, agents, servants, personal representatives, legal representatives, employees, and all other persons or entities acting in concert or cooperation with them, are hereby restrained and enjoined from the following acts:

A. Selling or offering to sell an unregistered security in this state, without first registering the security with the Office of Financial Regulation, in violation of section 517.07, Florida Statutes;

B. Selling or offering to sell any securities in or from offices in this state, or selling securities to persons in this state from offices outside this state, by mail or otherwise, without first being registered as a dealer, associated person, or issuer with the Office of Financial Regulation, in violation of section 517.12, Florida Statutes;

12. The named Defendants and Relief Defendants, their officers, agents, servants, personal representatives, legal representatives, employees, and all other persons or entities acting in concert or cooperation with them, are hereby restrained and enjoined from the following acts:

A. Dissipating, selling, conveying, alienating, divesting themselves of, withdrawing, pledging as security, transferring, assigning, giving away, or in any manner whatsoever disposing of any of the monies or assets, including checking accounts, savings accounts, money market accounts, certificates of deposit, or any deposit of cash,

securities or other things of value and any and all real property and improvements thereon, and any motor vehicle, vessel, aircraft, jewelry, art and any other personal property or other assets of any description, obtained with or derived directly or indirectly from any investor monies obtained by the Defendants from the placing and servicing of loans, mortgages, and investments, no matter how ownership or title is held, including, but not limited to, Berman Mortgage, M.A.M.C. and Berman, or in the names of any of the Relief Defendants, DB Atlanta, LLC, DB Durham LLC, Normandy Holdings II, LLC., Normandy Holdings III, LLC, Waterside Acquisitions, LLC, DBKN Gulf Incorporated, Oceanside Acquisitions, LLC, DB Biloxi, LLC, DB Biloxi II, LLC, DB Biloxi III, LLC, DBDS Vero Beach, LLC, DB Tampa, LLC, DB Simpsonville, LLC, DBDS North Miami, LLC, Redlands Ranch Holdings, LLC, DBDS Biscayne Park, LLC and DB Carroll Street, LLC.

13. Michael I. Goldberg, whose telephone number is 954-463-2700, is appointed Receiver for Berman Mortgage Corporation, M.A.M.C. Incorporated, DB Atlanta, LLC, DB Durham, LLC, Normandy Holdings II, LLC., Normandy Holdings III, LLC, Waterside Acquisitions, LLC, DBKN Gulf Incorporated, Oceanside Acquisitions, LLC, DB Biloxi, LLC, DB Biloxi II, LLC, DB Biloxi III, LLC, DBDS Vero Beach, LLC, DB Tampa, LLC, DB Simpsonville, LLC, DBDS North Miami, LLC, Redlands Ranch Holdings, LLC, DBDS Biscayne Park, LLC and DB Carroll Street, LLC, and the Receivership Assets. The Receiver is hereby authorized to take and have possession of the Receivership Assets. The Receiver shall have complete and exclusive control, possession and custody of all Receivership Assets. The Receiver shall be vested with the usual powers and duties of equity receivers in like cases and is hereby authorized and

instructed to take possession of and control over the Defendants and Receivership Assets as defined herein, without any limitation of any kind as to his general duties.

14. All persons, including Berman Mortgage and MAMC, (the "Receivership Defendants"), all of their partners, directors, officers, agents, servants, employees, stockholders, personal representatives, legal representatives, attorneys, accountants, as applicable, and all persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, and specifically including any bank, brokerage company, or other financial or depository institution holding accounts for or on behalf of the Receivership Defendants shall promptly deliver to the Receiver all Receivership Assets in the possession or control of any one or more of them, and shall promptly surrender all books and records of any kind pertaining to the Receivership Defendants. This paragraph shall specifically apply to any and all depository and/or brokerage accounts held on behalf of the Receivership Defendants.

15. All persons, including the Receivership Defendants, and all of their partners, directors, officers, agents, servants, employees, stockholders, personal representatives, legal representatives, attorneys, accountants, as applicable, and all persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are stayed from:

- (a) Commencing, continuing or enforcing any suit or proceeding against the Receiver or the Receivership Assets, except with the prior permission of the Court;
- (b) Using self-help or executing or issuing or causing the execution or

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HARVEY ROYAL, CLERK

issuance of any court attachment, subpoena, replevin, execution or other process for the purpose of impounding or taking possession of or interfering with or creating or enforcing a lien upon any property owned by or in the possession of the Receivership Assets or the Receiver, wherever situated;

(c) Attempting to modify, cancel, terminate, call, extinguish, revoke, or accelerate (the due date), of any lease, loan, mortgage, indebtedness, security agreement, or other agreement with any of the Receivership Assets or any entity controlled by them.

(d) Doing any act or thing whatsoever to interfere with the taking control, possession, or management, by the Receiver of the Receivership Assets and asset owned, controlled or in the possession of the entity in receivership, or to in any way interfere with or harass the Receiver, or to interfere in any manner with the exclusive jurisdiction of this Court over the Receivership Assets; and,

(e) Causing the issuance of a subpoena on the Receiver, except with the prior permission of the Court.

16. The Receiver is hereby authorized to make appropriate notification to the United States Postal Service and/or any private delivery/messenger service to forward delivery of any mail addressed to the Receivership Defendants, or any company or entity under the direction or control of the Receivership Defendants, to the Receiver. The Receiver is also authorized to open and inspect all such mail, to determine the location or identity of assets or the existence and amount of claims or any other purpose authorized by this Order.

17. The Receiver is further authorized to make such ordinary and necessary

payments, distributions, and disbursements and execute, deliver, file and record such contracts, instruments, releases, indentures, certificates, and other agreements and documents, and to take such action as he deems advisable or proper for the marshalling, maintenance or preservation of the Receivership Assets. From and after the date of the entry of this Order, the Receiver shall have the authority to conduct the business operations of the Receivership Defendants and any entity it controls, including the authority to endorse all checks and drafts now or hereafter made payable to the Receivership Defendants.

18. Until further Order of the Court, this Order prohibits the prosecution of any civil action or other proceeding or the enforcement of any judgments against the Receivership Defendants.

19. The Receiver is hereby authorized to employ, without further order of the Court, such employees, accountants, and attorneys, consultants, investigators, and other professionals ("Outside Professionals") as is necessary and proper for the collection, preservation, maintenance and operation of the Receivership Assets, including entities of which the Receiver is a shareholder, to furnish legal, accounting and other advice to the Receiver for such purposes as may be reasonable and necessary during the period of receivership.

20. The Receiver is hereby authorized to receive and collect any and all sums of money due and owing to the Receivership Defendants, whether the same are now due or shall hereafter become due and payable, and is authorized to incur such expenses, satisfy such liabilities, and make such disbursements as are deemed, in his discretion, necessary and proper for the collection, preservation, maintenance and operation of the

Receivership Assets. The Receiver may abandon Receivership assets to duly perfected secured or lien creditors, if after due investigation and notice to parties in interest, he determines that either the Receivership Defendants have no equity in such asset(s) or such asset(s) are burdensome to the estate or are of inconsequential value and harmful to the Receivership estate. Further, the Receiver shall maintain appropriate insurance for the Receivership assets, their premises and/or locations, if appropriate in the Receiver's sole discretion.

21. The Receiver is hereby authorized and specifically has standing to institute, defend, compromise or adjust such actions or proceedings in state or federal courts now pending and hereafter instituted, as may in his discretion be advisable or proper for the protection of the Receivership Assets or proceeds thereof, and to institute, prosecute, compromise or adjust such actions or proceedings in state or federal courts as may in his judgment be necessary or proper for the collection, preservation and maintenance of the Receivership Assets and/or on behalf of the Receivership Defendants.

By this authorization and empowerment, this Court specifically determines that the Receiver is not prohibited and shall not be barred from bringing any action or proceeding due to the doctrine of in pari delicto. In addition, the Receiver is further empowered and authorized to file suit against any person(s) or entity(ies) to recover property of any of the Receivership Defendants, including, but not limited to, fraudulent conveyances and other claims and causes of action of the Receivership Defendants.

The Receiver is authorized to set depositions and demand production of documents on five (5) business days' notice. Any objections to documents requested by the Receiver may be stated at the deposition and reserved for hearing.

RECEIVED
JAN 11 2006
CLERK

22. Any and all attorney(ies), accountants and any and all other professionals handling any matter for the Receivership Defendants shall cooperate with the Receiver and deliver all files, including attorney/client privileged communications and documents and all work product to the Receiver at his direction, notwithstanding any claim of a retaining lien which, if valid, is not extinguished by the delivery of the documents.

Further, Berman Mortgage Corporation, M.A.M.C. Incorporated, Dana J. Berman, the Relief Defendants, and their officers, agents, partners, servants, employees and transferees shall cooperate fully with the Receiver and comply with the Receiver's request(s) for information, records and documentation so that the Receiver may perform his duties with full information and knowledge.

23. The Receiver and his retained personnel or professionals are entitled to reasonable compensation and expense reimbursement out of the Receivership Assets. The Receiver is authorized to pay from the receivership estate's funds eighty percent (80%) of the ordinary and reasonable fees and one hundred percent (100%) of the costs of such Outside Professionals upon receipt of a bill from the Outside Professionals. The remaining twenty percent (20%) of fees shall be withheld (the "holdback") pending final application to the Court for approval of all fees and expenses of such Outside Professionals, including the holdback.

24. The Receiver and his attorneys and his agents are entitled to rely on all outstanding rules of law and court orders, and shall not be liable to anyone for their own good faith compliance with any order, rule law, judgment, or decree. In no event shall the Receiver or his attorneys or his agents be liable to anyone for their good faith compliance with their duties and responsibilities as Receiver, attorney, or agent for

Receiver, nor shall the Receiver or his attorney or his agents be liable to anyone for any actions taken or omitted by them except upon a finding by this Court that they acted or failed to act, as a result of malfeasance, bad faith, gross negligence, or in reckless disregard of their duties. The Receiver and his attorneys and his agents shall be indemnified and held harmless out of the Receivership Assets for all costs and expenses, including reasonable attorney's fees, incurred as a result of such actions. The Receiver and his attorneys and his agents may rely on, and shall be protected in acting upon, any resolution, certificate, statement, opinion, report, notice, consent, order, or other paper or documents believed to be genuine and to have been signed or presented by the proper party or parties. The Receiver may consult with legal, financial, or accounting advisors for any action taken or omitted to be taken by it in accordance with the advice thereof. Persons dealing with the Receiver shall only look to the receivership Assets to satisfy any liability, and neither the Receiver nor his attorneys or his agents or professionals shall have any personal liability to satisfy any such obligation.

25. From time to time, upon the application of the Receiver, the Court may amend or reissue this Order.

26. The Receiver shall not be required to post any bond.

IT IS FURTHER ORDERED:

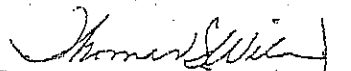
27. That this Court shall retain jurisdiction of this action for all purposes.

28. The Receiver is hereby authorized, empowered, and directed to apply to this Court, with notice to the Receivership Defendants named in this action for issuance of such other orders as may be necessary and appropriate in order to carry out the mandate of this Order.

IN WITNESS WHEREOF
CERTIFICATION OF CLERK
DAVID R. BROWN, CLERK

IT IS FURTHER ORDERED that this Order will remain in effect until and unless modified by further Order of this Court.

DONE AND ORDERED in Chambers, in Miami, Miami-Dade County, Florida, on this 11 day of December 2007.



CIRCUIT COURT JUDGE

THOMAS S. WILSON, Jr.

Copies furnished to:

Alan L. Goldberg, Chief Restructuring Officer, M.A.M.C.

Dana J. Berman

Daren A. Schwartz

Michael I. Goldberg, Esquire, Receiver

Cristina Saenz, Assistant General Counsel, Office of Financial Regulation

STATE OF FLORIDA, COUNTY OF MIAMI-DADE

I hereby certify that the foregoing is a true and correct copy of the original on file in this office 12/11 AD 2007

HARVEY RUBIN, CLERK
Circuit and County Courts

(SEAL)

Deputy Clerk 



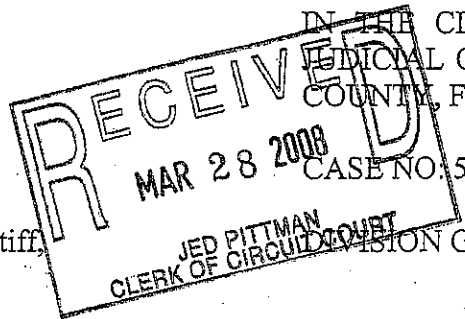
CYRIL LATONA,

Plaintiff,

vs.

OCEANSIDE ACQUISITIONS, LLC,
a Florida limited liability company

Defendant.



IN THE CIRCUIT COURT OF THE 6TH
JUDICIAL CIRCUIT, IN AND FOR PASCO
COUNTY, FLORIDA

CASE NO. 51-2007-CA-3925-WS

**DEFENDANT'S NOTICE OF RECEIVERSHIP,
MOTION TO ASSIGN CASE TO JUDGE WILSON, OR IN THE
ALTERNATIVE, STAY THE CASE UNTIL FURTHER ORDER OF JUDGE WILSON**

Michael Goldberg, as State Court Appointed Receiver over Defendant Oceanside Acquisition, LLC, by and through undersigned counsel, pursuant to the Temporary Injunction and Agreed Order Appointing Receiver (the "Order") entered in the matter of State of Florida, Office of Financial Regulation v. Berman Mortgage Corporation, et al., Case No. 07-43672 CA 09 ("Receivership Proceedings"), files this Notice of Receivership, Motion to Assign Case to Judge Thomas Wilson, Jr., or in the alternative, Stay the Case Until Further Order of Judge Wilson, and states:

Judge Wilson Appoints a Receiver for Oceanside

1. On August 13, 2007, the Complaint was filed in this action seeking specific performance of an executory contract for the purchase and sale of a condominium unit(s) owned by the Oceanside Acquisition, LLC ("Oceanside").

2. The Receivership Proceedings are pending in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, and one of the relief defendants in the Receivership Proceedings is Oceanside.

3. On December 11, 2007, Judge Wilson, who presides over the Receivership Proceedings, appointed Michael Goldberg as the receiver (the "Receiver") over all of the relief defendants, including Oceanside. A true and correct copy of the Order is attached hereto as Exhibit "A."

4. Consequently, the relief defendants, including Oceanside, lost any power they had to transfer property or otherwise act. *See, e.g., O'Neal et al., v. General Motors Corp.*, 841 F. Supp. 391, 398 (M.D. Fla. 1993) ("Under Florida law, once a receiver is appointed for a business, the business loses power to transfer or otherwise act with regard to the property subject to the receivership."), *citing Sunland Mortgage Corp. v. Lewis*, 515 So.2d 1337, 1339 (Fla. 5th DCA 1987). *See also, Wilson et al., v. Hartman et al.*, 95 B.R. 841, 843, n. 4 (S.D. Fla. 1989) (same).

The Order and Applicable Law Support the Assignment of this Case to Judge Wilson

5. As the Judge presiding over the Receivership Proceedings, Judge Wilson has the power to determine all questions concerning the disposition of the Receivership property, and such power cannot be interfered with by other courts:

The custody of property by the court through its receiver is the custody of the sovereign power or government acting through the courts, possession by the court of the res gives jurisdiction over the res to the court appointing the receiver and gives such court power to determine all questions concerning the ownership and disposition of the property. *White v. Ewing*, 1894, 159 U.S. 36, 15 S. Ct. 1018, 40 L.Ed. 67. No other court can interfere with the possession of the res.

Murtha v. Steijskal, 232 So.2d 53, 55 (Fla. 4th DCA 1970) (emphasis added).

6. Similarly, Section 517.191(2), Florida Statutes, states that the receivership court, "in its discretion, may with the consent of the presiding judge of the circuit require that all such suits be assigned to the circuit court judge appointing the said receiver or administrator." (emphasis added).

7. In line with that power, in the Order, Judge Wilson specifically states that all receivership assets, which includes the assets belonging to the relief defendants (including Oceanside) are subject to the exclusive jurisdiction of Judge Wilson in the Circuit Court of the Eleventh Judicial Circuit, and such assets shall be under the exclusive control of the Receiver:

The Court hereby takes exclusive jurisdiction and possession of the assets of the ... Relief Defendants, the "Receivership Assets", which includes, but are not limited to: files, records, documents, leases, mortgages, investments, contracts, effects, lands, agreements, judgments, bank accounts, books of accounts, rents, goods, chattels, rights, credit claims, both asserted and unasserted, pending court actions and appeals, files and documents in the possession of attorneys and accountants of all of the Defendants and Relief Defendants, all other property, business offices, computers, servers, electronic data storage units, offsite storage locations, safety deposit boxes, monies, securities, choses in action, and properties, real and personal, tangible and intangible, of whatever kind and description, wherever situated of the Defendants ... and Relief Defendants. The Receiver shall retain custody and control of all of the foregoing pursuant to the terms of this Agreed Order.

Order, ¶ 3. *See also*, Order, ¶ 13 (Judge Wilson specifically appointing Receiver for Oceanside: "Michael Goldberg ... is appointed Receiver for ... Oceanside Acquisitions, LLC.").

The Order and Applicable Law Support
a Stay of this Case Until Further Order of Judge Wilson

8. Also in line with Judge Wilson's power to exercise exclusive jurisdiction over the Receivership property (including Oceanside), the Order prohibits the enforcement of any judgments against the Receivership defendants. *See* Order, ¶ 18 ("Until further Order of the Court, this Order prohibits the prosecution of any civil action or other proceeding or the enforcement of any judgments against the Receivership Defendants."). *See also*, Order, ¶ 15

("All persons ... and all of their partners, directors, officers, agents, servants, employees, stockholders, personal representatives, legal representatives, attorneys, accounts, as applicable, and all persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are stayed from: (a) Commencing continuing or enforcing any suit or proceeding against the Receiver or the Receivership Assets, except with the prior permission of the Court; (b) Using self-help or executing or issuing or causing the execution or issuance of any court attachment, subpoena, replevin, execution or other process for the purpose of impounding or taking possession of or interfering with or creating or enforcing a lien upon any property owned by or in the possession of the Receivership Assets or the Receiver, wherever situated; (c) Attempting to modify, cancel, terminate, call, extinguish, revoke, or accelerate (the due date), of any lease, loan mortgage, indebtedness, security agreement, or other agreement with any of the Receivership Assets or any entity controlled by them; (d) Doing any act or thing whatsoever to interfere with the taking control, possession or management, by the Receiver the receivership Assets and asset owned, controlled or in the possession of the entity in receivership, or to in any way interfere with or harass the Receiver, or to interfere in any manner with the exclusive jurisdiction of this court of the Receivership Assets ...") (emphasis added).

See also, Sunland Mortgage Corp., 515 So.2d at 1339 (stating that, "[t]hird parties ... cannot obtain a valid transfer ... on the receivership property through filing suits and obtaining a judgment").

9. Similarly, Section 517.191(2), Florida Statutes, states that the receivership court "may issue orders and decrees staying all pending suits and enjoining any further suits affecting the receiver's or administrator's custody or possession of the said property, assets, and business."

**The Order Specifically Authorizes the Receiver to
Adjust the Instant Action to Preserve Oceanside's Assets**

10. To effect exclusive Jurisdiction, the Order gives specific authority to the Receiver to adjust legal actions or proceedings pending against the Receivership assets (like the instant case):

The Receiver is hereby authorized and specifically has standing to institute, defend, compromise or adjust such actions or proceedings in state or federal courts now pending and hereafter instituted, as may in his discretion be advisable or proper for the protection of the Receivership Assets or proceeds thereof, and to institute, prosecute, compromise or adjust such actions or proceedings in state or federal courts as may in his judgment be necessary or proper for the collection, preservation and maintenance of the Receivership Assets and/or on behalf of the Receivership Defendants.

Order, ¶ 21 (emphasis added).

11. Thus, by way of the instant Motion, the Receiver, on behalf of Oceanside, seeks to have the instant matter assigned to the Judge Wilson in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida. Assignment is appropriate as Judge Wilson presides over the Receivership Proceedings, and thus he can prevent duplicative discovery, prevent inconsistent pretrial rulings concerning common questions of fact related to the Oceanside's activities, and thereby conserve judicial resources and the Receivership property.¹ In the alternative, this Court should stay the instant matter until further order of Judge Wilson.

¹ Notably, to the extent divergent interests arise between the parties in the different matters following a transfer to Judge Wilson, Judge Wilson has the broad flexibility to tailor a pretrial schedule to accommodate any divergent interests among the parties in the various actions. *See, e.g., In re Franklin National Bank Securities Litigation*, 393 F. Supp. 1093, 1095, (Jud. Pan. Mult. Lit. 1975). (“[W]e point out that the transferee judge has the broad flexibility to tailor a pretrial schedule to accommodate any divergent interests among the parties in the various actions. More precisely, he is free to gauge the extent of coordination appropriate between the SEC and private actions, without inhibiting the SEC's efforts for prompt injunctive relief and without sacrificing the advantages of centralized pretrial proceedings.”).

WHEREFORE, the Receiver, on behalf of Defendant, OCEANSIDE ACQUISITIONS, LLC, respectfully requests (1) that this matter be assigned to Judge Thomas Wilson, Jr., in the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, or alternatively, (2) a stay of the instant litigation until further Order of Judge Thomas Wilson, Jr., and for such other and additional relief as the Court deems just and proper.

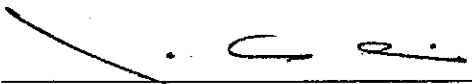
CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail on this 27th day of March 2008, to: **Jaime Austrich, Esquire, Attorneys for Plaintiffs**, SHUMACKER, LOOP & KENDRICK, LLP, 101 East Kennedy Boulevard, Suite 2800, Tampa, Florida 33602.

Respectfully Submitted,

BERGER SINGERMANN
Attorneys for Defendant
200 South Biscayne Boulevard, Suite 1000
Miami, FL 33131
Telephone: (305) 755-9500
Facsimile: (305) 714-4340

By: _____


JAMES D. GASSENHEIMER
Florida Bar No. 959987

1010789-1

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

STATE OF FLORIDA,
OFFICE OF FINANCIAL REGULATION,

CASE NO:

07-43672 CA 09

Plaintiff,

v.

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, DB DURHAM, LLC, a Florida Limited
Liability Company, NORMANDY HOLDINGS II,
LLC, a Florida Limited Liability Company, NORMANDY
HOLDINGS III, LLC, a Florida Limited Liability Company,
WATERSIDE ACQUISITIONS, LLC, a Florida Limited Liability
Company, DB KN GULF INCORPORATED, a Florida Limited
Liability Company, OCEANSIDE ACQUISITIONS, LLC,
a Florida Limited Liability Company, DB BILOXI, LLC, a Florida
Limited Liability Company, DB BILOXI II, LLC, a Florida
Limited Liability Company, DB BILOXI III, LLC, a Florida
Limited Liability Company, DBDS VERO BEACH, LLC, a
Florida Limited Liability Company, DB TAMPA, LLC, a
Florida Limited Liability Company, DB SIMPSONVILLE,
LLC, a Florida Limited Liability Company, DBDS NORTH MIAMI,
LLC, a Florida Limited Liability Company, REDLANDS RANCH
HOLDINGS, LLC, a Florida Limited Liability Company,
DBDS BISCAYNE PARK, LLC, a Florida Limited Liability
Company, DB CARROLL STREET, LLC, a Florida Limited
Liability Company,

Relief Defendants.

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HARVEY ROTH, CLERK

EXHIBIT

"A"

TEMPORARY INJUNCTION AND AGREED ORDER
APPOINTING RECEIVER

This cause having come before the Court upon the State of Florida, Office of Financial Regulation's Complaint for a Temporary and Permanent Injunction and Appointment of a Receiver, and, after having reviewed the Complaint and Answer thereto filed by the Defendants and the Relief Defendants, and being otherwise advised in these premises, and further having heard of the agreement of the Parties, the Court does hereby:

ORDER AND ADJUDGE as follows:

1. It appears to the Court that an emergency exists in that the Defendants, Berman Mortgage Corporation ("Berman Mortgage"), M.A.M.C. Incorporated ("M.A.M.C."), and Dana J. Berman ("Berman") (collectively "Defendants"), and DB Atlanta, LLC, DB Durham, LLC, Normandy Holdings II, LLC, Normandy Holdings III, LLC, Waterside Acquisitions, LLC, DBKN Gulf Incorporated, Oceanside Acquisitions, LLC, DB Biloxi, LLC, DB Biloxi II, LLC, DB Biloxi III, LLC, DBDS Vero Beach, LLC, DB Tampa, LLC, DB Simpsonville, LLC, DBDS North Miami, LLC, Redlands Ranch Holdings, LLC, DBDS Biscayne Park, LLC and DB Carroll Street, LLC, who are defendants solely for purposes of equitable relief (the "Relief Defendants"), have violated and may continue to violate state securities laws and state mortgage lender laws in connection with the placement and servicing of mortgage loans which have been placed with investors who invested approximately \$192 million.

2. The Court is also concerned, and the evidence tendered to the Court shows that there is an imminent danger that the property of the Defendants and Relief

Defendants may be further dissipated and/or commingled if a Temporary Injunction and the appointment of a receiver is not issued.

3. The Court hereby takes exclusive jurisdiction and possession of the assets of the Defendants, Berman Mortgage, M.A.M.C., and Relief Defendants, the "Receivership Assets", which includes, but are not limited to: files, records, documents, leases, mortgages, investments, contracts, effects, lands, agreements, judgments, bank accounts, books of accounts, rents, goods, chattels, rights, credits claims, both asserted and unasserted, pending court actions and appeals, files and documents in the possession of attorneys and accountants of all of the Defendants and Relief Defendants, all other property, business offices, computers, servers, electronic data storage units, offsite storage locations, safety deposit boxes, monies, securities, choses in action, and properties, real and personal, tangible and intangible, of whatever kind and description, wherever situated of the Defendants, Berman Mortgage and M.A.M.C., and Relief Defendants. The Receiver shall retain custody and control of all of the foregoing pursuant to the terms of this Agreed Order. The Receiver shall file an inventory of the "Receivership Assets" within sixty (60) days of the entry of this Agreed Order.

4. The Court further finds that a temporary injunction shall be entered against all of the Defendants and Relief Defendants, and a Receiver appointed for Defendants, Berman Mortgage and M.A.M.C., and all Relief Defendants to prevent immediate and irreparable injury to the investors who have entrusted over \$192,000,000 to the Defendants and Relief Defendants.

5. Immediate and irreparable injury will result to numerous investors if, as alleged by Plaintiff in its Complaint, the Defendants' representatives are allowed to

transfer or commingle any assets(s) acquired with investor funds; or if the Defendants' and Relief Defendants' financial information is disturbed in any way which would have the effect of frustrating examination by the Court or the receiver. Any such injury would diminish the ability of the Defendants and Relief Defendants to satisfy an order of restitution or effect any rescission.

6. The Court has determined that it is probable that the Plaintiff would prevail on the claims and that the Plaintiff has no adequate remedy at law.

7. The appointment of a Receiver is both necessary and appropriate in this matter in order to prevent further waste and dissipation of the assets of the Defendants and Relief Defendants, to the detriment of its investors.

8. The State of Florida, Office of Financial Regulation is the agency charged, pursuant to Chapters 494 and 517, Florida Statutes, to protect the public from the illegal acts of mortgage brokerage and mortgage lending businesses and securities dealers and securities issuers, and the Court is therefore, waiving the bond requirement in this matter.

9. The Court finds that Plaintiff has a clear legal right to a statutory injunction as provided by Sections 494.0013 and 517.191, Florida Statutes.

IT IS FURTHER ORDERED AND ADJUDGED:

10. M.A.M.C., its officers, agents, servants, personal representatives, legal representatives, employees, and all other persons or entities acting in concert or cooperation with it, are hereby restrained and enjoined from the following acts:

A. Any and all violations of sections 494.0025 (4)(a), (b), (c) and (5), and 494.0072(2)(e), (f), (g) and (h), Florida Statutes;

B. Continuing to service loans for others in violation of Section 494.00721, Florida Statutes;

C. Co-mingling of investor funds in violation of 494.0076(1)(a)2, Florida Statutes.

11. The named Defendants and Relief Defendants, their officers, agents, servants, personal representatives, legal representatives, employees, and all other persons or entities acting in concert or cooperation with them, are hereby restrained and enjoined from the following acts:

A. Selling or offering to sell an unregistered security in this state, without first registering the security with the Office of Financial Regulation, in violation of section 517.07, Florida Statutes;

B. Selling or offering to sell any securities in or from offices in this state, or selling securities to persons in this state from offices outside this state, by mail or otherwise, without first being registered as a dealer, associated person, or issuer with the Office of Financial Regulation, in violation of section 517.12, Florida Statutes;

12. The named Defendants and Relief Defendants, their officers, agents, servants, personal representatives, legal representatives, employees, and all other persons or entities acting in concert or cooperation with them, are hereby restrained and enjoined from the following acts:

A. Dissipating, selling, conveying, alienating, divesting themselves of, withdrawing, pledging as security, transferring, assigning, giving away, or in any manner whatsoever disposing of any of the monies or assets, including checking accounts, savings accounts, money market accounts, certificates of deposit, or any deposit of cash,

securities or other things of value and any and all real property and improvements thereon, and any motor vehicle, vessel, aircraft, jewelry, art and any other personal property or other assets of any description, obtained with or derived directly or indirectly from any investor monies obtained by the Defendants from the placing and servicing of loans, mortgages, and investments, no matter how ownership or title is held, including, but not limited to, Berman Mortgage, M.A.M.C. and Berman, or in the names of any of the Relief Defendants, DB Atlanta, LLC, DB Durham LLC, Normandy Holdings II, LLC., Normandy Holdings III, LLC, Waterside Acquisitions, LLC, DBKN Gulf Incorporated, Oceanside Acquisitions, LLC, DB Biloxi, LLC, DB Biloxi II, LLC, DB Biloxi III, LLC, DBDS Vero Beach, LLC, DB Tampa, LLC, DB Simpsonville, LLC, DBDS North Miami, LLC, Redlands Ranch Holdings, LLC, DBDS Biscayne Park, LLC and DB Carroll Street, LLC.

13. Michael I. Goldberg, whose telephone number is 954-463-2700, is appointed Receiver for Berman Mortgage Corporation, M.A.M.C. Incorporated, DB Atlanta, LLC, DB Durham, LLC, Normandy Holdings II, LLC., Normandy Holdings III, LLC, Waterside Acquisitions, LLC, DBKN Gulf Incorporated, Oceanside Acquisitions, LLC, DB Biloxi, LLC, DB Biloxi II, LLC, DB Biloxi III, LLC, DBDS Vero Beach, LLC, DB Tampa, LLC, DB Simpsonville, LLC, DBDS North Miami, LLC, Redlands Ranch Holdings, LLC, DBDS Biscayne Park, LLC and DB Carroll Street, LLC, and the Receivership Assets. The Receiver is hereby authorized to take and have possession of the Receivership Assets. The Receiver shall have complete and exclusive control, possession and custody of all Receivership Assets. The Receiver shall be vested with the usual powers and duties of equity receivers in like cases and is hereby authorized and

instructed to take possession of and control over the Defendants and Receivership Assets as defined herein, without any limitation of any kind as to his general duties.

14. All persons, including Berman Mortgage and MAMC, (the "Receivership Defendants"), all of their partners, directors, officers, agents, servants, employees, stockholders, personal representatives, legal representatives, attorneys, accountants, as applicable, and all persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, and specifically including any bank, brokerage company, or other financial or depository institution holding accounts for or on behalf of the Receivership Defendants shall promptly deliver to the Receiver all Receivership Assets in the possession or control of any one or more of them, and shall promptly surrender all books and records of any kind pertaining to the Receivership Defendants. This paragraph shall specifically apply to any and all depository and/or brokerage accounts held on behalf of the Receivership Defendants.

15. All persons, including the Receivership Defendants, and all of their partners, directors, officers, agents, servants, employees, stockholders, personal representatives, legal representatives, attorneys, accountants, as applicable, and all persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are stayed from:

(a) Commencing, continuing or enforcing any suit or proceeding against the Receiver or the Receivership Assets, except with the prior permission of the Court;

(b) Using self-help or executing or issuing or causing the execution or

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CERTIFICATION ON LAST PAGE
HARVEY RIVIN, CLERK

issuance of any court attachment, subpoena, replevin, execution or other process for the purpose of impounding or taking possession of or interfering with or creating or enforcing a lien upon any property owned by or in the possession of the Receivership Assets or the Receiver, wherever situated;

(c) Attempting to modify, cancel, terminate, call, extinguish, revoke, or accelerate (the due date), of any lease, loan, mortgage, indebtedness, security agreement, or other agreement with any of the Receivership Assets or any entity controlled by them.

(d) Doing any act or thing whatsoever to interfere with the taking control, possession, or management, by the Receiver of the Receivership Assets and asset owned, controlled or in the possession of the entity in receivership, or to in any way interfere with or harass the Receiver, or to interfere in any manner with the exclusive jurisdiction of this Court over the Receivership Assets; and,

(e) Causing the issuance of a subpoena on the Receiver, except with the prior permission of the Court.

16. The Receiver is hereby authorized to make appropriate notification to the United States Postal Service and/or any private delivery/messenger service to forward delivery of any mail addressed to the Receivership Defendants, or any company or entity under the direction or control of the Receivership Defendants, to the Receiver. The Receiver is also authorized to open and inspect all such mail, to determine the location or identity of assets or the existence and amount of claims or any other purpose authorized by this Order.

17. The Receiver is further authorized to make such ordinary and necessary

payments, distributions, and disbursements and execute, deliver, file and record such contracts, instruments, releases, indentures, certificates, and other agreements and documents, and to take such action as he deems advisable or proper for the marshalling, maintenance or preservation of the Receivership Assets. From and after the date of the entry of this Order, the Receiver shall have the authority to conduct the business operations of the Receivership Defendants and any entity it controls, including the authority to endorse all checks and drafts now or hereafter made payable to the Receivership Defendants.

18. Until further Order of the Court, this Order prohibits the prosecution of any civil action or other proceeding or the enforcement of any judgments against the Receivership Defendants.

19. The Receiver is hereby authorized to employ, without further order of the Court, such employees, accountants, and attorneys, consultants, investigators, and other professionals ("Outside Professionals") as is necessary and proper for the collection, preservation, maintenance and operation of the Receivership Assets, including entities of which the Receiver is a shareholder, to furnish legal, accounting and other advice to the Receiver for such purposes as may be reasonable and necessary during the period of receivership.

20. The Receiver is hereby authorized to receive and collect any and all sums of money due and owing to the Receivership Defendants, whether the same are now due or shall hereafter become due and payable, and is authorized to incur such expenses, satisfy such liabilities, and make such disbursements as are deemed, in his discretion, necessary and proper for the collection, preservation, maintenance and operation of the

Receivership Assets. The Receiver may abandon Receivership assets to duly perfected secured or lien creditors, if after due investigation and notice to parties in interest, he determines that either the Receivership Defendants have no equity in such asset(s) or such asset(s) are burdensome to the estate or are of inconsequential value and harmful to the Receivership estate. Further, the Receiver shall maintain appropriate insurance for the Receivership assets, their premises and/or locations, if appropriate in the Receiver's sole discretion.

21. The Receiver is hereby authorized and specifically has standing to institute, defend, compromise or adjust such actions or proceedings in state or federal courts now pending and hereafter instituted, as may in his discretion be advisable or proper for the protection of the Receivership Assets or proceeds thereof, and to institute, prosecute, compromise or adjust such actions or proceedings in state or federal courts as may in his judgment be necessary or proper for the collection, preservation and maintenance of the Receivership Assets and/or on behalf of the Receivership Defendants.

By this authorization and empowerment, this Court specifically determines that the Receiver is not prohibited and shall not be barred from bringing any action or proceeding due to the doctrine of in pari delicto. In addition, the Receiver is further empowered and authorized to file suit against any person(s) or entity(ies) to recover property of any of the Receivership Defendants, including, but not limited to, fraudulent conveyances and other claims and causes of action of the Receivership Defendants.

The Receiver is authorized to set depositions and demand production of documents on five (5) business days' notice. Any objections to documents requested by the Receiver may be stated at the deposition and reserved for hearing.

22. Any and all attorney(ies), accountants and any and all other professionals handling any matter for the Receivership Defendants shall cooperate with the Receiver and deliver all files, including attorney/client privileged communications and documents and all work product to the Receiver at his direction, notwithstanding any claim of a retaining lien which, if valid, is not extinguished by the delivery of the documents.

Further, Berman Mortgage Corporation, M.A.M.C. Incorporated, Dana J. Berman, the Relief Defendants, and their officers, agents, partners, servants, employees and transferees shall cooperate fully with the Receiver and comply with the Receiver's request(s) for information, records and documentation so that the Receiver may perform his duties with full information and knowledge.

23. The Receiver and his retained personnel or professionals are entitled to reasonable compensation and expense reimbursement out of the Receivership Assets. The Receiver is authorized to pay from the receivership estate's funds eighty percent (80%) of the ordinary and reasonable fees and one hundred percent (100%) of the costs of such Outside Professionals upon receipt of a bill from the Outside Professionals. The remaining twenty percent (20%) of fees shall be withheld (the "holdback") pending final application to the Court for approval of all fees and expenses of such Outside Professionals, including the holdback.

24. The Receiver and his attorneys and his agents are entitled to rely on all outstanding rules of law and court orders, and shall not be liable to anyone for their own good faith compliance with any order, rule law, judgment, or decree. In no event shall the Receiver or his attorneys or his agents be liable to anyone for their good faith compliance with their duties and responsibilities as Receiver, attorney, or agent for

Receiver, nor shall the Receiver or his attorney or his agents be liable to anyone for any actions taken or omitted by them except upon a finding by this Court that they acted or failed to act, as a result of malfeasance, bad faith, gross negligence, or in reckless disregard of their duties. The Receiver and his attorneys and his agents shall be indemnified and held harmless out of the Receivership Assets for all costs and expenses, including reasonable attorney's fees, incurred as a result of such actions. The Receiver and his attorneys and his agents may rely on, and shall be protected in acting upon, any resolution, certificate, statement, opinion, report, notice, consent, order, or other paper or documents believed to be genuine and to have been signed or presented by the proper party or parties. The Receiver may consult with legal, financial, or accounting advisors for any action taken or omitted to be taken by it in accordance with the advice thereof. Persons dealing with the Receiver shall only look to the receivership Assets to satisfy any liability, and neither the Receiver nor his attorneys or his agents or professionals shall have any personal liability to satisfy any such obligation.

25. From time to time, upon the application of the Receiver, the Court may amend or reissue this Order.

26. The Receiver shall not be required to post any bond.

IT IS FURTHER ORDERED:

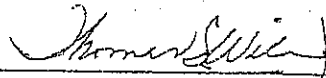
27. That this Court shall retain jurisdiction of this action for all purposes.

28. The Receiver is hereby authorized, empowered, and directed to apply to this Court, with notice to the Receivership Defendants named in this action for issuance of such other orders as may be necessary and appropriate in order to carry out the mandate of this Order.

RECEIVED COPY
CERTIFICATION OF JUDICIAL OFFICIAL
HARRY RUTH, CLERK

IT IS FURTHER ORDERED that this Order will remain in effect until and unless modified by further Order of this Court.

DONE AND ORDERED in Chambers, in Miami, Miami-Dade County, Florida, on this 11 day of December 2007.



CIRCUIT COURT JUDGE

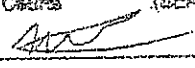
THOMAS S. WILSON, Jr.

Copies furnished to:
Alan L. Goldberg, Chief Restructuring Officer, M.A.M.C.
Dana J. Berman
Daren A. Schwartz
Michael I. Goldberg, Esquire, Receiver
Cristina Saenz, Assistant General Counsel, Office of Financial Regulation

STATE OF FLORIDA, COUNTY OF MIAMI-DADE

I hereby certify that the foregoing is a true and correct copy of the original on file in this office 12/11 AD 2007

HARVEY FLAVIN, CLERK
Circuit and County Courts (SEAL)

Deputy Clerk 



ROBERT H. ABAJIAN, and
DEBORAH R. ABAJIAN,

Plaintiffs,

IN THE CIRCUIT COURT OF THE 6TH
JUDICIAL CIRCUIT, IN AND FOR PASCO
COUNTY, FLORIDA

MAR 28 2008

CIVIL DIVISION J3

JED PITTMAN
CLERK OF CIRCUIT COURT

CASE NO: 51-07-CA-2370-WS

DIVISION: J2

vs.

OCEANSIDE ACQUISITIONS, LLC.

Defendant.

**DEFENDANT'S NOTICE OF RECEIVERSHIP,
MOTION TO ASSIGN CASE TO JUDGE WILSON, OR IN THE
ALTERNATIVE, STAY THE CASE UNTIL FURTHER ORDER OF JUDGE WILSON**

Michael Goldberg, as State Court Appointed Receiver over Defendant Oceanside Acquisition, LLC, by and through undersigned counsel, pursuant to the Temporary Injunction and Agreed Order Appointing Receiver (the "Order") entered in the matter of *State of Florida, Office of Financial Regulation v. Berman Mortgage Corporation, et al.*, Case No. 07-43672 CA 09 ("Receivership Proceedings"), files this Notice of Receivership, Motion to Assign Case to Judge Thomas Wilson, Jr., or in the alternative, Stay the Case Until Further Order of Judge Wilson, and states:

Judge Wilson Appoints a Receiver for Oceanside

1. On May 22, 2007, the Complaint was filed in this action seeking specific performance of an executory contract for purchase and sale of a condominium unit(s) owned by Defendant, Oceanside Acquisitions, LLC ("Oceanside").

2. The Receivership Proceedings are pending in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, and one of the relief defendants in the Receivership Proceedings is Oceanside.

3. On December 11, 2007, Judge Wilson, who presides over the Receivership Proceedings, appointed Michael Goldberg as the receiver (the "Receiver") over all of the relief defendants, including Oceanside. A true and correct copy of the Order is attached hereto as Exhibit "A."

4. Consequently, the relief defendants, including Oceanside, lost any power they had to transfer property or otherwise act. *See, e.g., O'Neal et al., v. General Motors Corp.*, 841 F. Supp. 391, 398 (M.D. Fla. 1993) ("Under Florida law, once a receiver is appointed for a business, the business loses power to transfer or otherwise act with regard to the property subject to the receivership."), *citing Sunland Mortgage Corp. v. Lewis*, 515 So.2d 1337, 1339 (Fla. 5th DCA 1987). *See also, Wilson et al., v. Hartman et al.*, 95 B.R. 841, 843, n. 4 (S.D. Fla. 1989) (same).

The Order and Applicable Law Support the Assignment of this Case to Judge Wilson

5. As the Judge presiding over the Receivership Proceedings, Judge Wilson has the power to determine all questions concerning the disposition of the Receivership property, and such power cannot be interfered with by other courts:

The custody of property by the court through its receiver is the custody of the sovereign power or government acting through the courts, possession by the court of the res gives jurisdiction over the res to the court appointing the receiver and gives such court power to determine all questions concerning the ownership and disposition of the property. *White v. Ewing*, 1894, 159 U.S. 36, 15 S. Ct. 1018, 40 L.Ed. 67. No other court can interfere with the possession of the res.

Murtha v. Steijskal, 232 So.2d 53, 55 (Fla. 4th DCA 1970) (emphasis added).

6. Similarly, Section 517.191(2), Florida Statutes, states that the receivership court, "in its discretion, may with the consent of the presiding judge of the circuit require that all such suits be assigned to the circuit court judge appointing the said receiver or administrator." (emphasis added).

7. In line with that power, in the Order, Judge Wilson specifically states that all receivership assets, which includes the assets belonging to the relief defendants (including Oceanside) are subject to the exclusive jurisdiction of Judge Wilson in the Circuit Court of the Eleventh Judicial Circuit, and such assets shall be under the exclusive control of the Receiver:

The Court hereby takes exclusive jurisdiction and possession of the assets of the ... Relief Defendants, the "Receivership Assets", which includes, but are not limited to: files, records, documents, leases, mortgages, investments, contracts, effects, lands, agreements, judgments, bank accounts, books of accounts, rents, goods, chattels, rights, credit claims, both asserted and unasserted, pending court actions and appeals, files and documents in the possession of attorneys and accountants of all of the Defendants and Relief Defendants, all other property, business offices, computers, servers, electronic data storage units, offsite storage locations, safety deposit boxes, monies, securities, chooses in action, and properties, real and person, tangible and intangible, of whatever kind and description, wherever situation of the Defendants ... and Relief Defendants. The Receiver shall retain custody and control of all of the foregoing pursuant to the terms of this Agreed Order.

Order, ¶ 3. *See also*, Order, ¶ 13 (Judge Wilson specifically appointing Receiver for Oceanside: "Michael Goldberg ... is appointed Receiver for ... Oceanside Acquisitions, LLC.").

**The Order and Applicable Law Support
a Stay of this Case Until Further Order of Judge Wilson**

8. Also in line with Judge Wilson's power to exercise exclusive jurisdiction over the Receivership assets (including Oceanside), the Order prohibits the enforcement of any judgments against the Receivership defendants. *See* Order, ¶ 18 ("Until further Order of the Court, this Order prohibits the prosecution of any civil action or other proceeding or the enforcement of any judgments against the Receivership Defendants."). *See also*, Order, ¶ 15

("All persons ... and all of their partners, directors, officers, agents, servants, employees, stockholders, personal representatives, legal representatives, attorneys, accounts, as applicable, and all persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are stayed from: (a) Commencing continuing or enforcing any suit or proceeding against the Receiver or the Receivership Assets, except with the prior permission of the Court; (b) Using self-help or executing or issuing or causing the execution or issuance of any court attachment, subpoena, replevin, execution or other process for the purpose of impounding or taking possession of or interfering with or creating or enforcing a lien upon any property owned by or in the possession of the Receivership Assets or the Receiver, wherever situated; (c) Attempting to modify, cancel, terminate, call, extinguish, revoke, or accelerate (the due date), of any lease, loan mortgage, indebtedness, security agreement, or other agreement with any of the Receivership Assets or any entity controlled by them; (d) Doing any act or thing whatsoever to interfere with the taking control, possession or management, by the Receiver the receivership Assets and asset owned, controlled or in the possession of the entity in receivership, or to in any way interfere with or harass the Receiver, or to interfere in any manner with the exclusive jurisdiction of this court of the Receivership Assets ...") (emphasis added). *See also, Sunland Mortgage Corp.*, 515 So.2d at 1339 (stating that, "[t]hird parties ... cannot obtain a valid transfer ... on the receivership property through filing suits and obtaining a judgment").

9. Similarly, Section 517.191(2), Florida Statutes, states that the receivership court "may issue orders and decrees staying all pending suits and enjoining any further suits affecting the receiver's or administrator's custody or possession of the said property, assets, and business."

**The Order Specifically Authorizes the Receiver to
Adjust the Instant Action to Preserve Oceanside's Assets**

10. To effect exclusive Jurisdiction, the Order gives specific authority to the Receiver to adjust legal actions or proceedings pending against the Receivership assets (like the instant case):

The Receiver is hereby authorized and specifically has standing to institute, defend, compromise or adjust such actions or proceedings in state or federal courts now pending and hereafter instituted, as may in his discretion by advisable or proper for the protection of the Receivership Assets or proceeds thereof, and to institute, prosecute, compromise or adjust such actions or proceedings in state or federal courts as may in his judgment be necessary or proper for the collection, preservation and maintenance of the Receivership Assets and/or on behalf of the Receivership Defendants.

Order, ¶ 21 (emphasis added).

11. Thus, by way of the instant Motion, the Receiver, on behalf of Oceanside, seeks to have the instant matter assigned to the Judge Wilson in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida. Assignment is appropriate as Judge Wilson presides over the Receivership Proceedings, and thus he can prevent duplicative discovery, prevent inconsistent pretrial rulings concerning common questions of fact related to the Oceanside's activities, and thereby conserve judicial resources and the Receivership property.¹ In the alternative, this Court should stay the instant matter until further order of Judge Wilson.

¹ Notably, to the extent divergent interests arise between the parties in the different matters following a transfer to Judge Wilson, Judge Wilson has the broad flexibility to tailor a pretrial schedule to accommodate any divergent interests among the parties in the various actions. *See, e.g., In re Franklin National Bank Securities Litigation*, 393 F. Supp. 1093, 1095, (Jud. Pan. Mult. Lit. 1975). ("[W]e point out that the transferee judge has the broad flexibility to tailor a pretrial schedule to accommodate any divergent interests among the parties in the various actions. More precisely, he is free to gauge the extent of coordination appropriate between the SEC and private actions, without inhibiting the SEC's efforts for prompt injunctive relief and without sacrificing the advantages of centralized pretrial proceedings.").

WHEREFORE, the Receiver, on behalf of Defendant, OCEANSIDE ACQUISITIONS, LLC, respectfully requests (1) that this matter be assigned to Judge Thomas Wilson, Jr., in the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, or alternatively, (2) a stay of the instant litigation until further Order of Judge Thomas Wilson, Jr., and for such other and additional relief as the Court deems just and proper.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail on this 27th day of March 2008, to: **Jaime Austrich, Esquire**, *Attorneys for Plaintiffs*, SHUMAKER, LOOP & KENDRICK, LLP, 101 East Kenney Blvd., Suite 2800, Tampa, Florida 33602.

Respectfully Submitted,

BERGER SINGERMANN
Attorneys for Defendant
200 South Biscayne Boulevard, Suite 1000
Miami, FL 33131
Telephone: (305) 755-9500
Facsimile: (305) 714-4340

By: _____

JAMES D. GASSENHEIMER
Florida Bar No. 959987

1010769-1

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

STATE OF FLORIDA,
OFFICE OF FINANCIAL REGULATION,

CASE NO:

07-43672 CA 09

Plaintiff,

v.

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

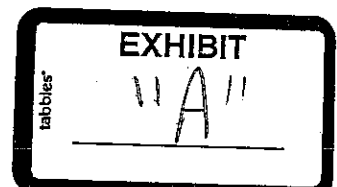
Defendants,

and,

DB ATLANTA, LLC, a Florida Limited
Liability Company, DB DURHAM, LLC, a Florida Limited
Liability Company, NORMANDY HOLDINGS II,
LLC, a Florida Limited Liability Company, NORMANDY
HOLDINGS III, LLC, a Florida Limited Liability Company,
WATERSIDE ACQUISITIONS, LLC, a Florida Limited Liability
Company, DBKN GULF INCORPORATED, a Florida Limited
Liability Company, OCEANSIDE ACQUISITIONS, LLC,
a Florida Limited Liability Company, DB BILOXI, LLC, a Florida
Limited Liability Company, DB BILOXI II, LLC, a Florida
Limited Liability Company, DB BILOXI III, LLC, a Florida
Limited Liability Company, DBDS VERO BEACH, LLC, a
Florida Limited Liability Company, DB TAMPA, LLC, a
Florida Limited Liability Company, DB SIMPSONVILLE,
LLC, a Florida Limited Liability Company, DBDS NORTH MIAMI,
LLC, a Florida Limited Liability Company, REDLANDS RANCH
HOLDINGS, LLC, a Florida Limited Liability Company,
DBDS BISCAYNE PARK, LLC, a Florida Limited Liability
Company, DB CARROLL STREET, LLC, a Florida Limited
Liability Company,

Relief Defendants.

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HARVEY RUHM, CLERK



TEMPORARY INJUNCTION AND AGREED ORDER
APPOINTING RECEIVER

This cause having come before the Court upon the State of Florida, Office of Financial Regulation's Complaint for a Temporary and Permanent Injunction and Appointment of a Receiver, and, after having reviewed the Complaint and Answer thereto filed by the Defendants and the Relief Defendants, and being otherwise advised in these premises, and further having heard of the agreement of the Parties, the Court does hereby:

ORDER AND ADJUDGE as follows:

1. It appears to the Court that an emergency exists in that the Defendants, Berman Mortgage Corporation ("Berman Mortgage"), M.A.M.C. Incorporated ("M.A.M.C."), and Dana J. Berman ("Berman") (collectively "Defendants"), and DB Atlanta, LLC, DB Durham, LLC, Normandy Holdings II, LLC, Normandy Holdings III, LLC, Waterside Acquisitions, LLC, DBKN Gulf Incorporated, Oceanside Acquisitions, LLC, DB Biloxi, LLC, DB Biloxi II, LLC, DB Biloxi III, LLC, DBDS Vero Beach, LLC, DB Tampa, LLC, DB Simpsonville, LLC, DBDS North Miami, LLC, Redlands Ranch Holdings, LLC, DBDS Biscayne Park, LLC and DB Carroll Street, LLC, who are defendants solely for purposes of equitable relief (the "Relief Defendants"), have violated and may continue to violate state securities laws and state mortgage lender laws in connection with the placement and servicing of mortgage loans which have been placed with investors who invested approximately \$192 million.

2. The Court is also concerned, and the evidence tendered to the Court shows that there is an imminent danger that the property of the Defendants and Relief

Defendants may be further dissipated and/or commingled if a Temporary Injunction and the appointment of a receiver is not issued.

3. The Court hereby takes exclusive jurisdiction and possession of the assets of the Defendants, Berman Mortgage, M.A.M.C., and Relief Defendants, the "Receivership Assets", which includes, but are not limited to: files, records, documents, leases, mortgages, investments, contracts, effects, lands, agreements, judgments, bank accounts, books of accounts, rents, goods, chattels, rights, credits claims, both asserted and unasserted, pending court actions and appeals, files and documents in the possession of attorneys and accountants of all of the Defendants and Relief Defendants, all other property, business offices, computers, servers, electronic data storage units, offsite storage locations, safety deposit boxes, monies, securities, choses in action, and properties, real and personal, tangible and intangible, of whatever kind and description, wherever situated of the Defendants, Berman Mortgage and M.A.M.C., and Relief Defendants. The Receiver shall retain custody and control of all of the foregoing pursuant to the terms of this Agreed Order. The Receiver shall file an inventory of the "Receivership Assets" within sixty (60) days of the entry of this Agreed Order.

4. The Court further finds that a temporary injunction shall be entered against all of the Defendants and Relief Defendants, and a Receiver appointed for Defendants, Berman Mortgage and M.A.M.C., and all Relief Defendants to prevent immediate and irreparable injury to the investors who have entrusted over \$192,000,000 to the Defendants and Relief Defendants.

5. Immediate and irreparable injury will result to numerous investors if, as alleged by Plaintiff in its Complaint, the Defendants' representatives are allowed to

transfer or commingle any assets(s) acquired with investor funds; or if the Defendants' and Relief Defendants' financial information is disturbed in any way which would have the effect of frustrating examination by the Court or the receiver. Any such injury would diminish the ability of the Defendants and Relief Defendants to satisfy an order of restitution or effect any rescission.

6. The Court has determined that it is probable that the Plaintiff would prevail on the claims and that the Plaintiff has no adequate remedy at law.

7. The appointment of a Receiver is both necessary and appropriate in this matter in order to prevent further waste and dissipation of the assets of the Defendants and Relief Defendants, to the detriment of its investors.

8. The State of Florida, Office of Financial Regulation is the agency charged, pursuant to Chapters 494 and 517, Florida Statutes, to protect the public from the illegal acts of mortgage brokerage and mortgage lending businesses and securities dealers and securities issuers, and the Court is therefore, waiving the bond requirement in this matter.

9. The Court finds that Plaintiff has a clear legal right to a statutory injunction as provided by Sections 494.0013 and 517.191, Florida Statutes.

IT IS FURTHER ORDERED AND ADJUDGED:

10. M.A.M.C., its officers, agents, servants, personal representatives, legal representatives, employees, and all other persons or entities acting in concert or cooperation with it, are hereby restrained and enjoined from the following acts:

A. Any and all violations of sections 494.0025 (4)(a), (b), (c) and (5), and 494.0072(2)(e), (f), (g) and (h), Florida Statutes;

B. Continuing to service loans for others in violation of Section 494.00721, Florida Statutes;

C. Co-mingling of investor funds in violation of 494.0076(1)(a)2, Florida Statutes.

11. The named Defendants and Relief Defendants, their officers, agents, servants, personal representatives, legal representatives, employees, and all other persons or entities acting in concert or cooperation with them, are hereby restrained and enjoined from the following acts:

A. Selling or offering to sell an unregistered security in this state, without first registering the security with the Office of Financial Regulation, in violation of section 517.07, Florida Statutes;

B. Selling or offering to sell any securities in or from offices in this state, or selling securities to persons in this state from offices outside this state, by mail or otherwise, without first being registered as a dealer, associated person, or issuer with the Office of Financial Regulation, in violation of section 517.12, Florida Statutes;

12. The named Defendants and Relief Defendants, their officers, agents, servants, personal representatives, legal representatives, employees, and all other persons or entities acting in concert or cooperation with them, are hereby restrained and enjoined from the following acts:

A. Dissipating, selling, conveying, alienating, divesting themselves of, withdrawing, pledging as security, transferring, assigning, giving away, or in any manner whatsoever disposing of any of the monies or assets, including checking accounts, savings accounts, money market accounts, certificates of deposit, or any deposit of cash,

securities or other things of value and any and all real property and improvements thereon, and any motor vehicle, vessel, aircraft, jewelry, art and any other personal property or other assets of any description, obtained with or derived directly or indirectly from any investor monies obtained by the Defendants from the placing and servicing of loans, mortgages, and investments, no matter how ownership or title is held, including, but not limited to, Berman Mortgage, M.A.M.C. and Berman, or in the names of any of the Relief Defendants, DB Atlanta, LLC, DB Durham LLC, Normandy Holdings II, LLC., Normandy Holdings III, LLC, Waterside Acquisitions, LLC, DBKN Gulf Incorporated, Oceanside Acquisitions, LLC, DB Biloxi, LLC, DB Biloxi II, LLC, DB Biloxi III, LLC, DBDS Vero Beach, LLC, DB Tampa, LLC, DB Simpsonville, LLC, DBDS North Miami, LLC, Redlands Ranch Holdings, LLC, DBDS Biscayne Park, LLC and DB Carroll Street, LLC.

13. Michael I. Goldberg, whose telephone number is 954-463-2700, is appointed Receiver for Berman Mortgage Corporation, M.A.M.C. Incorporated, DB Atlanta, LLC, DB Durham, LLC, Normandy Holdings II, LLC., Normandy Holdings III, LLC, Waterside Acquisitions, LLC, DBKN Gulf Incorporated, Oceanside Acquisitions, LLC, DB Biloxi, LLC, DB Biloxi II, LLC, DB Biloxi III, LLC, DBDS Vero Beach, LLC, DB Tampa, LLC, DB Simpsonville, LLC, DBDS North Miami, LLC, Redlands Ranch Holdings, LLC, DBDS Biscayne Park, LLC and DB Carroll Street, LLC, and the Receivership Assets. The Receiver is hereby authorized to take and have possession of the Receivership Assets. The Receiver shall have complete and exclusive control, possession and custody of all Receivership Assets. The Receiver shall be vested with the usual powers and duties of equity receivers in like cases and is hereby authorized and

instructed to take possession of and control over the Defendants and Receivership Assets as defined herein, without any limitation of any kind as to his general duties.

14. All persons, including Berman Mortgage and MAMC, (the "Receivership Defendants"), all of their partners, directors, officers, agents, servants, employees, stockholders, personal representatives, legal representatives, attorneys, accountants, as applicable, and all persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, and specifically including any bank, brokerage company, or other financial or depository institution holding accounts for or on behalf of the Receivership Defendants shall promptly deliver to the Receiver all Receivership Assets in the possession or control of any one or more of them, and shall promptly surrender all books and records of any kind pertaining to the Receivership Defendants. This paragraph shall specifically apply to any and all depository and/or brokerage accounts held on behalf of the Receivership Defendants.

15. All persons, including the Receivership Defendants, and all of their partners, directors, officers, agents, servants, employees, stockholders, personal representatives, legal representatives, attorneys, accountants, as applicable, and all persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are stayed from:

(a) Commencing, continuing or enforcing any suit or proceeding against the Receiver or the Receivership Assets, except with the prior permission of the Court;

(b) Using self-help or executing or issuing or causing the execution or

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HARVEY RUVIN, CLERK

issuance of any court attachment, subpoena, replevin, execution or other process for the purpose of impounding or taking possession of or interfering with or creating or enforcing a lien upon any property owned by or in the possession of the Receivership Assets or the Receiver, wherever situated;

(c) Attempting to modify, cancel, terminate, call, extinguish, revoke, or accelerate (the due date), of any lease, loan, mortgage, indebtedness, security agreement, or other agreement with any of the Receivership Assets or any entity controlled by them.

(d) Doing any act or thing whatsoever to interfere with the taking control, possession, or management, by the Receiver of the Receivership Assets and asset owned, controlled or in the possession of the entity in receivership, or to in any way interfere with or harass the Receiver, or to interfere in any manner with the exclusive jurisdiction of this Court over the Receivership Assets; and,

(e) Causing the issuance of a subpoena on the Receiver, except with the prior permission of the Court.

16. The Receiver is hereby authorized to make appropriate notification to the United States Postal Service and/or any private delivery/messenger service to forward delivery of any mail addressed to the Receivership Defendants, or any company or entity under the direction or control of the Receivership Defendants, to the Receiver. The Receiver is also authorized to open and inspect all such mail, to determine the location or identity of assets or the existence and amount of claims or any other purpose authorized by this Order.

17. The Receiver is further authorized to make such ordinary and necessary

payments, distributions, and disbursements and execute, deliver, file and record such contracts, instruments, releases, indentures, certificates, and other agreements and documents, and to take such action as he deems advisable or proper for the marshalling, maintenance or preservation of the Receivership Assets. From and after the date of the entry of this Order, the Receiver shall have the authority to conduct the business operations of the Receivership Defendants and any entity it controls, including the authority to endorse all checks and drafts now or hereafter made payable to the Receivership Defendants.

18. Until further Order of the Court, this Order prohibits the prosecution of any civil action or other proceeding or the enforcement of any judgments against the Receivership Defendants.

19. The Receiver is hereby authorized to employ, without further order of the Court, such employees, accountants, and attorneys, consultants, investigators, and other professionals ("Outside Professionals") as is necessary and proper for the collection, preservation, maintenance and operation of the Receivership Assets, including entities of which the Receiver is a shareholder, to furnish legal, accounting and other advice to the Receiver for such purposes as may be reasonable and necessary during the period of receivership.

20. The Receiver is hereby authorized to receive and collect any and all sums of money due and owing to the Receivership Defendants, whether the same are now due or shall hereafter become due and payable, and is authorized to incur such expenses, satisfy such liabilities, and make such disbursements as are deemed, in his discretion, necessary and proper for the collection, preservation, maintenance and operation of the

Receivership Assets. The Receiver may abandon Receivership assets to duly perfected secured or lien creditors, if after due investigation and notice to parties in interest, he determines that either the Receivership Defendants have no equity in such asset(s) or such asset(s) are burdensome to the estate or are of inconsequential value and harmful to the Receivership estate. Further, the Receiver shall maintain appropriate insurance for the Receivership assets, their premises and/or locations, if appropriate in the Receiver's sole discretion.

21. The Receiver is hereby authorized and specifically has standing to institute, defend, compromise or adjust such actions or proceedings in state or federal courts now pending and hereafter instituted, as may in his discretion be advisable or proper for the protection of the Receivership Assets or proceeds thereof, and to institute, prosecute, compromise or adjust such actions or proceedings in state or federal courts as may in his judgment be necessary or proper for the collection, preservation and maintenance of the Receivership Assets and/or on behalf of the Receivership Defendants.

By this authorization and empowerment, this Court specifically determines that the Receiver is not prohibited and shall not be barred from bringing any action or proceeding due to the doctrine of in pari delicto. In addition, the Receiver is further empowered and authorized to file suit against any person(s) or entity(ies) to recover property of any of the Receivership Defendants, including, but not limited to, fraudulent conveyances and other claims and causes of action of the Receivership Defendants.

The Receiver is authorized to set depositions and demand production of documents on five (5) business days' notice. Any objections to documents requested by the Receiver may be stated at the deposition and reserved for hearing.

22. Any and all attorney(ies), accountants and any and all other professionals handling any matter for the Receivership Defendants shall cooperate with the Receiver and deliver all files, including attorney/client privileged communications and documents and all work product to the Receiver at his direction, notwithstanding any claim of a retaining lien which, if valid, is not extinguished by the delivery of the documents.

Further, Berman Mortgage Corporation, M.A.M.C. Incorporated, Dana J. Berman, the Relief Defendants, and their officers, agents, partners, servants, employees and transferees shall cooperate fully with the Receiver and comply with the Receiver's request(s) for information, records and documentation so that the Receiver may perform his duties with full information and knowledge.

23. The Receiver and his retained personnel or professionals are entitled to reasonable compensation and expense reimbursement out of the Receivership Assets. The Receiver is authorized to pay from the receivership estate's funds eighty percent (80%) of the ordinary and reasonable fees and one hundred percent (100%) of the costs of such Outside Professionals upon receipt of a bill from the Outside Professionals. The remaining twenty percent (20%) of fees shall be withheld (the "holdback") pending final application to the Court for approval of all fees and expenses of such Outside Professionals, including the holdback.

24. The Receiver and his attorneys and his agents are entitled to rely on all outstanding rules of law and court orders, and shall not be liable to anyone for their own good faith compliance with any order, rule law, judgment, or decree. In no event shall the Receiver or his attorneys or his agents be liable to anyone for their good faith compliance with their duties and responsibilities as Receiver, attorney, or agent for

Receiver, nor shall the Receiver or his attorney or his agents be liable to anyone for any actions taken or omitted by them except upon a finding by this Court that they acted or failed to act, as a result of malfeasance, bad faith, gross negligence, or in reckless disregard of their duties. The Receiver and his attorneys and his agents shall be indemnified and held harmless out of the Receivership Assets for all costs and expenses, including reasonable attorney's fees, incurred as a result of such actions. The Receiver and his attorneys and his agents may rely on, and shall be protected in acting upon, any resolution, certificate, statement, opinion, report, notice, consent, order, or other paper or documents believed to be genuine and to have been signed or presented by the proper party or parties. The Receiver may consult with legal, financial, or accounting advisors for any action taken or omitted to be taken by it in accordance with the advice thereof. Persons dealing with the Receiver shall only look to the receivership Assets to satisfy any liability, and neither the Receiver nor his attorneys or his agents or professionals shall have any personal liability to satisfy any such obligation.

25. From time to time, upon the application of the Receiver, the Court may amend or reissue this Order.

26. The Receiver shall not be required to post any bond.

IT IS FURTHER ORDERED:

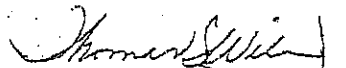
27. That this Court shall retain jurisdiction of this action for all purposes.

28. The Receiver is hereby authorized, empowered, and directed to apply to this Court, with notice to the Receivership Defendants named in this action for issuance of such other orders as may be necessary and appropriate in order to carry out the mandate of this Order.

IN WITNESS WHEREOF
CERTIFICATE OF ENTRY
JAMES R. BROWN, CLERK

IT IS FURTHER ORDERED that this Order will remain in effect until and unless modified by further Order of this Court.

DONE AND ORDERED in Chambers, in Miami, Miami-Dade County, Florida, on this 11 day of December 2007.



CIRCUIT COURT JUDGE

THOMAS S. WILSON, Jr.

Copies furnished to:

Alan L. Goldberg, Chief Restructuring Officer, M.A.M.C.

Dana J. Berman

Daren A. Schwartz

Michael I. Goldberg, Esquire, Receiver


Cristina Saenz, Assistant General Counsel, Office of Financial Regulation

STATE OF FLORIDA, COUNTY OF MIAMI-DADE

I hereby certify that the foregoing is a true and correct copy of the original on file in this office 12/11 AD 2007

HARVEY BLUM, CLERK
Circuit and County Courts

(SEAL)

Deputy Clerk 



IN THE CIRCUIT COURT OF THE 6TH
JUDICIAL CIRCUIT, IN AND FOR PASCO
COUNTY, FLORIDA.

ALEX BISTRICER, as limited Partner of
GULF ISLAND RESORT L.P., and GULF
ISLAND RESORT, L.P.,

CASE NO.: 51-2003-CA-942ES

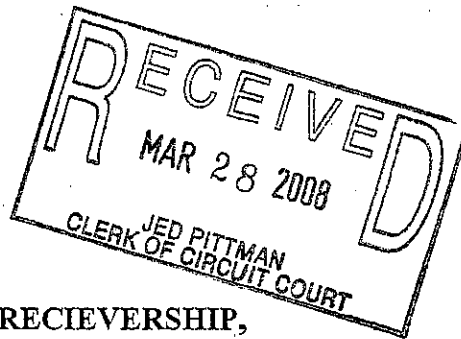
JUDGE: WAYNE L. COBB

Plaintiffs,

vs.

COASTAL REAL ESTATE ASSOCIATES,
INC., a Florida corporation, BERMAN
MORTGAGE CORPORATION; DANA
BERMAN, OCEANSIDE ACQUISITIONS,
LLC, a Florida limited liability company,
DBKN GULF INCORPORATED, a
Florida corporation, STEVEN CARLYLE
CRONIG, et al.,

Defendants.



**DEFENDANTS' NOTICE OF RECEIVERSHIP,
MOTION TO ASSIGN CASE TO JUDGE WILSON, OR IN THE
ALTERNATIVE, STAY THE CASE UNTIL FURTHER ORDER OF JUDGE WILSON**

Michael Goldberg, as State Court Appointed Receiver over Defendants OCEANSIDE ACQUISITION, LLC, and DBKN GULF INCORPORATED (the "Defendants"), by and through undersigned counsel, pursuant to the Temporary Injunction and Agreed Order Appointing Receiver (the "Order") entered in the matter of *State of Florida, Office of Financial Regulation v. Berman Mortgage Corporation, et al.*, Case No. 07-43672 CA 09 ("Receivership Proceedings"), files this Notice of Receivership, Motion to Assign Case to Judge Thomas Wilson, Jr., or in the alternative, Stay the Case Until Further Order of Judge Wilson, and states:

Judge Wilson Appoints a Receiver for the Defendants

1. On December 11, 2007, the Complaint was filed in the Receivership case.
2. The Receivership Proceedings are pending in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, and the Defendants constitute two of the relief defendants in the Receivership Proceedings.
3. On December 11, 2007, Judge Wilson, who presides over the Receivership Proceedings, appointed Michael Goldberg as the receiver (the "Receiver") over all of the relief defendants, including the Defendants. A true and correct copy of the Order is attached hereto as Exhibit "A."
4. Consequently, the relief defendants, including the Defendants, lost any power they had to transfer property or otherwise act. *See, e.g., O'Neal et al., v. General Motors Corp.*, 841 F. Supp. 391, 398 (M.D. Fla. 1993) ("Under Florida law, once a receiver is appointed for a business, the business loses power to transfer or otherwise act with regard to the property subject to the receivership."), *citing Sunland Mortgage Corp. v. Lewis*, 515 So.2d 1337, 1339 (Fla. 5th DCA 1987). *See also, Wilson et al., v. Hartman et al.*, 95 B.R. 841, 843, n. 4 (S.D. Fla. 1989) (same).

The Order and Applicable Law Support the Assignment of this Case to Judge Wilson

5. As the Judge presiding over the Receivership Proceedings, Judge Wilson has the power to determine all questions concerning the disposition of the Receivership property, and such power cannot be interfered with by other courts:

The custody of property by the court through its receiver is the custody of the sovereign power or government acting through the courts, possession by the court of the res gives jurisdiction over the res to the court appointing the receiver and gives such court power to determine all questions concerning the ownership and disposition of the property. *White v. Ewing*, 1894, 159 U.S. 36, 15 S. Ct. 1018, 40 L.Ed. 67. No other court can interfere with the possession of the res.

Murtha v. Steijskal, 232 So.2d 53, 55 (Fla. 4th DCA 1970) (emphasis added).

6. Similarly, Section 517.191(2), Florida Statutes, states that the receivership court, "in its discretion, may with the consent of the presiding judge of the circuit require that all such suits be assigned to the circuit court judge appointing the said receiver or administrator." (emphasis added).

7. In line with that power, in the Order, Judge Wilson specifically states that all receivership assets, which includes the assets belonging to the relief defendants (including the Defendants) are subject to the exclusive jurisdiction of Judge Wilson in the Circuit Court of the Eleventh Judicial Circuit, and such assets shall be under the exclusive control of the Receiver:

The Court hereby takes exclusive jurisdiction and possession of the assets of the ... Relief Defendants, the "Receivership Assets", which includes, but are not limited to: files, records, documents, leases, mortgages, investments, contracts, effects, lands, agreements, judgments, bank accounts, books of accounts, rents, goods, chattels, rights, credit claims, both asserted and unasserted, pending court actions and appeals, files and documents in the possession of attorneys and accountants of all of the Defendants and Relief Defendants, all other property, business offices, computers, servers, electronic data storage units, offsite storage locations, safety deposit boxes, monies, securities, chooses in action, and properties, real and person, tangible and intangible, of whatever kind and description, wherever situation of the Defendants ... and Relief Defendants. The Receiver shall retain custody and control of all of the foregoing pursuant to the terms of this Agreed Order.

Order, ¶ 3. *See also*, Order, ¶ 13 (Judge Wilson specifically appointing Receiver for the Defendants: "Michael Goldberg ... is appointed Receiver for ... DBKN Gulf Incorporated, Oceanside Acquisitions, LLC").

The Order and Applicable Law Support
a Stay of this Case Until Further Order of Judge Wilson

8. Also in line with Judge Wilson's power to exercise exclusive jurisdiction over the Receivership property (including the Defendants), the Order prohibits the enforcement of any

judgments against the Receivership defendants. *See* Order, ¶ 18 (“Until further Order of the Court, this Order prohibits the prosecution of any civil action or other proceeding or the enforcement of any judgments against the Receivership Defendants.”). *See also*, Order, ¶ 15 (“All persons ... and all of their partners, directors, officers, agents, servants, employees, stockholders, personal representatives, legal representatives, attorneys, accounts, as applicable, and all persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are stayed from: (a) Commencing continuing or enforcing any suit or proceeding against the Receiver or the Receivership Assets, except with the prior permission of the Court; (b) Using self-help or executing or issuing or causing the execution or issuance of any court attachment, subpoena, replevin, execution or other process for the purpose of impounding or taking possession of or interfering with or creating or enforcing a lien upon any property owned by or in the possession of the Receivership Assets or the Receiver, wherever situation; (c) Attempting to modify, cancel, terminate, call, extinguish, revoke, or accelerate (the due date), of any lease, loan mortgage, indebtedness, security agreement, or other agreement with any of the Receivership Assets or any entity controlled by them; (d) Doing any act or thing whatsoever to interfere with the taking control, possession or management, by the Receiver the receivership Assets and asset owned, controlled or in the possession of the entity in receivership, or to in any way interfere with or harass the Receiver, or to interfere in any manner with the exclusive jurisdiction of this court of the Receivership Assets ...”) (emphasis added). *See also*, *Sunland Mortgage Corp.*, 515 So.2d at 1339 (stating that, “[t]hird parties ... cannot obtain a valid transfer ... on the receivership property through filing suits and obtaining a judgment”).

9. Similarly, Section 517.191(2), Florida Statutes, states that the receivership court "may issue orders and decrees staying all pending suits and enjoining any further suits affecting the receiver's or administrator's custody or possession of the said property, assets, and business."

**The Order Specifically Authorizes the Receiver to
Adjust the Instant Action to Preserve the Defendants' Assets**

10. To effect exclusive Jurisdiction, the Order gives specific authority to the Receiver to adjust legal actions or proceedings pending against the Receivership assets (like the instant case):

The Receiver is hereby authorized and specifically has standing to institute, defend, compromise or adjust such actions or proceedings in state or federal courts now pending and hereafter instituted, as may in his discretion by advisable or proper for the protection of the Receivership Assets or proceeds thereof, and to institute, prosecute, compromise or adjust such actions or proceedings in state or federal courts as may in his judgment be necessary or proper for the collection, preservation and maintenance of the Receivership Assets and/or on behalf of the Receivership Defendants.

Order, ¶ 21 (emphasis added).

11. Thus, by way of the instant Motion, the Receiver, on behalf of the Defendants, seeks to have the instant matter assigned to the Judge Wilson in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida. Assignment is appropriate as Judge Wilson presides over the Receivership Proceedings, and thus he can prevent duplicative discovery, prevent inconsistent pretrial rulings concerning common questions of fact related to the Defendants' activities, and thereby conserve judicial resources and the Receivership property.¹ In the alternative, this Court should stay the instant matter until further order of Judge Wilson.

¹ Notably, to the extent divergent interests arise between the parties in the different matters following a transfer to Judge Wilson, Judge Wilson has the broad flexibility to tailor a pretrial schedule to accommodate any divergent interests among the parties in the various actions. *See*,

WHEREFORE, the Receiver, on behalf of Defendants, OCEANSIDE ACQUISITIONS, LLC, and DBKN GULF INCORPORATED, respectfully requests (1) that this matter be assigned to Judge Thomas Wilson, Jr., in the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, or alternatively, (2) a stay of the instant litigation until further Order of Judge Thomas Wilson, Jr., and for such other and additional relief as the Court deems just and proper.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail on this **27th day of March 2008**, to: **Maurice Baumgarten, Esquire**, ANANIA, BANDKLAYDER, BLACKWELL, BAUMGARTEN, TORRICELLA & STEIN, Bank of America Tower – Suite 4300, 100 SE 2nd Street, Miami, FL 33131, **Charles L. Neustein, Esquire**, CHARLES L. NEUSTEIN, P.A., 777 Arthur Godfrey Road, Second Floor, Miami Beach, FL 33140, **Scott A. McLaren, Esquire**, HILL, WARD AND HENDERSON, P.A., 101 East Kennedy Boulevard, Suite 3700, Tampa, FL 33602, **Pete Hutchison Brock, II, Esquire**, JOHNSON, AUVIL, BROCK & WILSON, P.A., P.O. Box 2337, Dade City, FL 33526, **William Dufoe, Esquire**, **Robert W. Lang, Esquire and/or William H. Bartlett, Esquire**, HOLLAND & KNIGHT, LLP, 100 North Tampa Street, Suite 4100, Tampa, FL 33602, **Deborah Poore Fitzgerald, Esquire**, WALTON LANTAFF SCHROEDER & CARSON, LLP, Corporate Center, Suite 2000, 100 East Broward Boulevard, Fort Lauderdale, FL 33301 and **Peter Valori, Esquire**, DAMIAN & VALORI, LLP, 1000 Brickell Avenue, Suite 1020, Miami, FL 33131.

Respectfully Submitted,

BERGER SINGERMAN

Attorneys for Defendants

200 South Biscayne Boulevard, Suite 1000

Miami, FL 33131

Telephone: (305) 755-9500

Facsimile: (305) 714-4340

By: 

JAMES D. GASSENHEIMER

Florida Bar No. 959987

1010695-1

e.g., In re Franklin National Bank Securities Litigation, 393 F. Supp. 1093, 1095, (Jud. Pan. Mult. Lit. 1975). (“[W]e point out that the transferee judge has the broad flexibility to tailor a pretrial schedule to accommodate any divergent interests among the parties in the various actions. More precisely, he is free to gauge the extent of coordination appropriate between the SEC and private actions, without inhibiting the SEC's efforts for prompt injunctive relief and without sacrificing the advantages of centralized pretrial proceedings.”).

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

STATE OF FLORIDA,
OFFICE OF FINANCIAL REGULATION,

CASE NO:

07-43672 CA 09

Plaintiff,

v.

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, DB DURHAM, LLC, a Florida Limited
Liability Company, NORMANDY HOLDINGS II,
LLC, a Florida Limited Liability Company, NORMANDY
HOLDINGS III, LLC, a Florida Limited Liability Company,
WATERSIDE ACQUISITIONS, LLC, a Florida Limited Liability
Company, DBKN GULF INCORPORATED, a Florida Limited
Liability Company, OCEANSIDE ACQUISITIONS, LLC,
a Florida Limited Liability Company, DB BILOXI, LLC, a Florida
Limited Liability Company, DB BILOXI II, LLC, a Florida
Limited Liability Company, DB BILOXI III, LLC, a Florida
Limited Liability Company, DBDS VERO BEACH, LLC, a
Florida Limited Liability Company, DB TAMPA, LLC, a
Florida Limited Liability Company, DB SIMPSONVILLE,
LLC, a Florida Limited Liability Company, DBDS NORTH MIAMI,
LLC, a Florida Limited Liability Company, REDLANDS RANCH
HOLDINGS, LLC, a Florida Limited Liability Company,
DBDS BISCAYNE PARK, LLC, a Florida Limited Liability
Company, DB CARROLL STREET, LLC, a Florida Limited
Liability Company,

Relief Defendants.

A TRUE COPY
CERTIFICATION ON LAST PAGE
HARVEY RUVIN, CLERK

EXHIBIT

"A"

TEMPORARY INJUNCTION AND AGREED ORDER
APPOINTING RECEIVER

This cause having come before the Court upon the State of Florida, Office of Financial Regulation's Complaint for a Temporary and Permanent Injunction and Appointment of a Receiver, and, after having reviewed the Complaint and Answer thereto filed by the Defendants and the Relief Defendants, and being otherwise advised in these premises, and further having heard of the agreement of the Parties, the Court does hereby:

ORDER AND ADJUDGE as follows:

1. It appears to the Court that an emergency exists in that the Defendants, Berman Mortgage Corporation ("Berman Mortgage"), M.A.M.C. Incorporated ("M.A.M.C."), and Dana J. Berman ("Berman") (collectively "Defendants"), and DB Atlanta, LLC, DB Durham, LLC, Normandy Holdings II, LLC, Normandy Holdings III, LLC, Waterside Acquisitions, LLC, DBKN Gulf Incorporated, Oceanside Acquisitions, LLC, DB Biloxi, LLC, DB Biloxi II, LLC, DB Biloxi III, LLC, DBDS Vero Beach, LLC, DB Tampa, LLC, DB Simpsonville, LLC, DBDS North Miami, LLC, Redlands Ranch Holdings, LLC, DBDS Biscayne Park, LLC and DB Carroll Street, LLC, who are defendants solely for purposes of equitable relief (the "Relief Defendants"), have violated and may continue to violate state securities laws and state mortgage lender laws in connection with the placement and servicing of mortgage loans which have been placed with investors who invested approximately \$192 million.

2. The Court is also concerned, and the evidence tendered to the Court shows that there is an imminent danger that the property of the Defendants and Relief

Defendants may be further dissipated and/or commingled if a Temporary Injunction and the appointment of a receiver is not issued.

3. The Court hereby takes exclusive jurisdiction and possession of the assets of the Defendants, Berman Mortgage, M.A.M.C., and Relief Defendants, the "Receivership Assets", which includes, but are not limited to: files, records, documents, leases, mortgages, investments, contracts, effects, lands, agreements, judgments, bank accounts, books of accounts, rents, goods, chattels, rights, credits claims, both asserted and unasserted, pending court actions and appeals, files and documents in the possession of attorneys and accountants of all of the Defendants and Relief Defendants, all other property, business offices, computers, servers, electronic data storage units, offsite storage locations, safety deposit boxes, monies, securities, choses in action, and properties, real and personal, tangible and intangible, of whatever kind and description, wherever situated of the Defendants, Berman Mortgage and M.A.M.C., and Relief Defendants. The Receiver shall retain custody and control of all of the foregoing pursuant to the terms of this Agreed Order. The Receiver shall file an inventory of the "Receivership Assets" within sixty (60) days of the entry of this Agreed Order.

4. The Court further finds that a temporary injunction shall be entered against all of the Defendants and Relief Defendants, and a Receiver appointed for Defendants, Berman Mortgage and M.A.M.C., and all Relief Defendants to prevent immediate and irreparable injury to the investors who have entrusted over \$192,000,000 to the Defendants and Relief Defendants.

5. Immediate and irreparable injury will result to numerous investors if, as alleged by Plaintiff in its Complaint, the Defendants' representatives are allowed to

transfer or commingle any assets(s) acquired with investor funds; or if the Defendants' and Relief Defendants' financial information is disturbed in any way which would have the effect of frustrating examination by the Court or the receiver. Any such injury would diminish the ability of the Defendants and Relief Defendants to satisfy an order of restitution or effect any rescission.

6. The Court has determined that it is probable that the Plaintiff would prevail on the claims and that the Plaintiff has no adequate remedy at law.

7. The appointment of a Receiver is both necessary and appropriate in this matter in order to prevent further waste and dissipation of the assets of the Defendants and Relief Defendants, to the detriment of its investors.

8. The State of Florida, Office of Financial Regulation is the agency charged, pursuant to Chapters 494 and 517, Florida Statutes, to protect the public from the illegal acts of mortgage brokerage and mortgage lending businesses and securities dealers and securities issuers, and the Court is therefore, waiving the bond requirement in this matter.

9. The Court finds that Plaintiff has a clear legal right to a statutory injunction as provided by Sections 494.0013 and 517.191, Florida Statutes.

IT IS FURTHER ORDERED AND ADJUDGED:

10. M.A.M.C., its officers, agents, servants, personal representatives, legal representatives, employees, and all other persons or entities acting in concert or cooperation with it, are hereby restrained and enjoined from the following acts:

A. Any and all violations of sections 494.0025 (4)(a), (b), (c) and (5), and 494.0072(2)(e), (f), (g) and (h), Florida Statutes;

B. Continuing to service loans for others in violation of Section 494.00721, Florida Statutes;

C. Co-mingling of investor funds in violation of 494.0076(1)(a)2, Florida Statutes.

11. The named Defendants and Relief Defendants, their officers, agents, servants, personal representatives, legal representatives, employees, and all other persons or entities acting in concert or cooperation with them, are hereby restrained and enjoined from the following acts:

A. Selling or offering to sell an unregistered security in this state, without first registering the security with the Office of Financial Regulation, in violation of section 517.07, Florida Statutes;

B. Selling or offering to sell any securities in or from offices in this state, or selling securities to persons in this state from offices outside this state, by mail or otherwise, without first being registered as a dealer, associated person, or issuer with the Office of Financial Regulation, in violation of section 517.12, Florida Statutes;

12. The named Defendants and Relief Defendants, their officers, agents, servants, personal representatives, legal representatives, employees, and all other persons or entities acting in concert or cooperation with them, are hereby restrained and enjoined from the following acts:

A. Dissipating, selling, conveying, alienating, divesting themselves of, withdrawing, pledging as security, transferring, assigning, giving away, or in any manner whatsoever disposing of any of the monies or assets, including checking accounts, savings accounts, money market accounts, certificates of deposit, or any deposit of cash,

securities or other things of value and any and all real property and improvements thereon, and any motor vehicle, vessel, aircraft, jewelry, art and any other personal property or other assets of any description, obtained with or derived directly or indirectly from any investor monies obtained by the Defendants from the placing and servicing of loans, mortgages, and investments, no matter how ownership or title is held, including, but not limited to, Berman Mortgage, M.A.M.C. and Berman, or in the names of any of the Relief Defendants, DB Atlanta, LLC, DB Durham LLC, Normandy Holdings II, LLC, Normandy Holdings III, LLC, Waterside Acquisitions, LLC, DBKN Gulf Incorporated, Oceanside Acquisitions, LLC, DB Biloxi, LLC, DB Biloxi II, LLC, DB Biloxi III, LLC, DBDS Vero Beach, LLC, DB Tampa, LLC, DB Simpsonville, LLC, DBDS North Miami, LLC, Redlands Ranch Holdings, LLC, DBDS Biscayne Park, LLC and DB Carroll Street, LLC.

13. Michael I. Goldberg, whose telephone number is 954-463-2700, is appointed Receiver for Berman Mortgage Corporation, M.A.M.C. Incorporated, DB Atlanta, LLC, DB Durham, LLC, Normandy Holdings II, LLC, Normandy Holdings III, LLC, Waterside Acquisitions, LLC, DBKN Gulf Incorporated, Oceanside Acquisitions, LLC, DB Biloxi, LLC, DB Biloxi II, LLC, DB Biloxi III, LLC, DBDS Vero Beach, LLC, DB Tampa, LLC, DB Simpsonville, LLC, DBDS North Miami, LLC, Redlands Ranch Holdings, LLC, DBDS Biscayne Park, LLC and DB Carroll Street, LLC, and the Receivership Assets. The Receiver is hereby authorized to take and have possession of the Receivership Assets. The Receiver shall have complete and exclusive control, possession and custody of all Receivership Assets. The Receiver shall be vested with the usual powers and duties of equity receivers in like cases and is hereby authorized and

instructed to take possession of and control over the Defendants and Receivership Assets as defined herein, without any limitation of any kind as to his general duties.

14. All persons, including Berman Mortgage and MAMC, (the "Receivership Defendants"), all of their partners, directors, officers, agents, servants, employees, stockholders, personal representatives, legal representatives, attorneys, accountants, as applicable, and all persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, and specifically including any bank, brokerage company, or other financial or depository institution holding accounts for or on behalf of the Receivership Defendants shall promptly deliver to the Receiver all Receivership Assets in the possession or control of any one or more of them, and shall promptly surrender all books and records of any kind pertaining to the Receivership Defendants. This paragraph shall specifically apply to any and all depository and/or brokerage accounts held on behalf of the Receivership Defendants.

15. All persons, including the Receivership Defendants, and all of their partners, directors, officers, agents, servants, employees, stockholders, personal representatives, legal representatives, attorneys, accountants, as applicable, and all persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are stayed from:

- (a) Commencing, continuing or enforcing any suit or proceeding against the Receiver or the Receivership Assets, except with the prior permission of the Court;
- (b) Using self-help or executing or issuing or causing the execution or

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CERTIFICATION ON LAST PAGE
HARVEY RUBIN, CLERK

issuance of any court attachment, subpoena, replevin, execution or other process for the purpose of impounding or taking possession of or interfering with or creating or enforcing a lien upon any property owned by or in the possession of the Receivership Assets or the Receiver, wherever situated;

(c) Attempting to modify, cancel, terminate, call, extinguish, revoke, or accelerate (the due date), of any lease, loan, mortgage, indebtedness, security agreement, or other agreement with any of the Receivership Assets or any entity controlled by them.

(d) Doing any act or thing whatsoever to interfere with the taking control, possession, or management, by the Receiver of the Receivership Assets and asset owned, controlled or in the possession of the entity in receivership, or to in any way interfere with or harass the Receiver, or to interfere in any manner with the exclusive jurisdiction of this Court over the Receivership Assets; and,

(e) Causing the issuance of a subpoena on the Receiver, except with the prior permission of the Court.

16. The Receiver is hereby authorized to make appropriate notification to the United States Postal Service and/or any private delivery/messenger service to forward delivery of any mail addressed to the Receivership Defendants, or any company or entity under the direction or control of the Receivership Defendants, to the Receiver. The Receiver is also authorized to open and inspect all such mail, to determine the location or identity of assets or the existence and amount of claims or any other purpose authorized by this Order.

17. The Receiver is further authorized to make such ordinary and necessary

payments, distributions, and disbursements and execute, deliver, file and record such contracts, instruments, releases, indentures, certificates, and other agreements and documents, and to take such action as he deems advisable or proper for the marshalling, maintenance or preservation of the Receivership Assets. From and after the date of the entry of this Order, the Receiver shall have the authority to conduct the business operations of the Receivership Defendants and any entity it controls, including the authority to endorse all checks and drafts now or hereafter made payable to the Receivership Defendants.

18. Until further Order of the Court, this Order prohibits the prosecution of any civil action or other proceeding or the enforcement of any judgments against the Receivership Defendants.

19. The Receiver is hereby authorized to employ, without further order of the Court, such employees, accountants, and attorneys, consultants, investigators, and other professionals ("Outside Professionals") as is necessary and proper for the collection, preservation, maintenance and operation of the Receivership Assets, including entities of which the Receiver is a shareholder, to furnish legal, accounting and other advice to the Receiver for such purposes as may be reasonable and necessary during the period of receivership.

20. The Receiver is hereby authorized to receive and collect any and all sums of money due and owing to the Receivership Defendants, whether the same are now due or shall hereafter become due and payable, and is authorized to incur such expenses, satisfy such liabilities, and make such disbursements as are deemed, in his discretion, necessary and proper for the collection, preservation, maintenance and operation of the

Receivership Assets. The Receiver may abandon Receivership assets to duly perfected secured or lien creditors, if after due investigation and notice to parties in interest, he determines that either the Receivership Defendants have no equity in such asset(s) or such asset(s) are burdensome to the estate or are of inconsequential value and harmful to the Receivership estate. Further, the Receiver shall maintain appropriate insurance for the Receivership assets, their premises and/or locations, if appropriate in the Receiver's sole discretion.

21. The Receiver is hereby authorized and specifically has standing to institute, defend, compromise or adjust such actions or proceedings in state or federal courts now pending and hereafter instituted, as may in his discretion be advisable or proper for the protection of the Receivership Assets or proceeds thereof, and to institute, prosecute, compromise or adjust such actions or proceedings in state or federal courts as may in his judgment be necessary or proper for the collection, preservation and maintenance of the Receivership Assets and/or on behalf of the Receivership Defendants.

By this authorization and empowerment, this Court specifically determines that the Receiver is not prohibited and shall not be barred from bringing any action or proceeding due to the doctrine of in pari delicto. In addition, the Receiver is further empowered and authorized to file suit against any person(s) or entity(ies) to recover property of any of the Receivership Defendants, including, but not limited to, fraudulent conveyances and other claims and causes of action of the Receivership Defendants.

The Receiver is authorized to set depositions and demand production of documents on five (5) business days' notice. Any objections to documents requested by the Receiver may be stated at the deposition and reserved for hearing.

22. Any and all attorney(ies), accountants and any and all other professionals handling any matter for the Receivership Defendants shall cooperate with the Receiver and deliver all files, including attorney/client privileged communications and documents and all work product to the Receiver at his direction, notwithstanding any claim of a retaining lien which, if valid, is not extinguished by the delivery of the documents.

Further, Berman Mortgage Corporation, M.A.M.C. Incorporated, Dana J. Berman, the Relief Defendants, and their officers, agents, partners, servants, employees and transferees shall cooperate fully with the Receiver and comply with the Receiver's request(s) for information, records and documentation so that the Receiver may perform his duties with full information and knowledge.

23. The Receiver and his retained personnel or professionals are entitled to reasonable compensation and expense reimbursement out of the Receivership Assets. The Receiver is authorized to pay from the receivership estate's funds eighty percent (80%) of the ordinary and reasonable fees and one hundred percent (100%) of the costs of such Outside Professionals upon receipt of a bill from the Outside Professionals. The remaining twenty percent (20%) of fees shall be withheld (the "holdback") pending final application to the Court for approval of all fees and expenses of such Outside Professionals, including the holdback.

24. The Receiver and his attorneys and his agents are entitled to rely on all outstanding rules of law and court orders, and shall not be liable to anyone for their own good faith compliance with any order, rule law, judgment, or decree. In no event shall the Receiver or his attorneys or his agents be liable to anyone for their good faith compliance with their duties and responsibilities as Receiver, attorney, or agent for

Receiver, nor shall the Receiver or his attorney or his agents be liable to anyone for any actions taken or omitted by them except upon a finding by this Court that they acted or failed to act, as a result of malfeasance, bad faith, gross negligence, or in reckless disregard of their duties. The Receiver and his attorneys and his agents shall be indemnified and held harmless out of the Receivership Assets for all costs and expenses, including reasonable attorney's fees, incurred as a result of such actions. The Receiver and his attorneys and his agents may rely on, and shall be protected in acting upon, any resolution, certificate, statement, opinion, report, notice, consent, order, or other paper or documents believed to be genuine and to have been signed or presented by the proper party or parties. The Receiver may consult with legal, financial, or accounting advisors for any action taken or omitted to be taken by it in accordance with the advice thereof. Persons dealing with the Receiver shall only look to the receivership Assets to satisfy any liability, and neither the Receiver nor his attorneys or his agents or professionals shall have any personal liability to satisfy any such obligation.

25. From time to time, upon the application of the Receiver, the Court may amend or reissue this Order.

26. The Receiver shall not be required to post any bond.

IT IS FURTHER ORDERED:

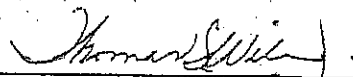
27. That this Court shall retain jurisdiction of this action for all purposes.

28. The Receiver is hereby authorized, empowered, and directed to apply to this Court, with notice to the Receivership Defendants named in this action for issuance of such other orders as may be necessary and appropriate in order to carry out the mandate of this Order.

A TRUE COPY
CERTIFICATE ON LAST PAGE
HARRY ALAN, CLERK

IT IS FURTHER ORDERED that this Order will remain in effect until and unless modified by further Order of this Court.

DONE AND ORDERED in Chambers, in Miami, Miami-Dade County, Florida, on this 11 day of December 2007.



CIRCUIT COURT JUDGE

THOMAS S. WILSON, JR.

Copies furnished to:
Alan L. Goldberg, Chief Restructuring Officer, M.A.M.C.
Dana J. Berman
Daren A. Schwartz
Michael I. Goldberg, Esquire, Receiver
Cristina Saenz, Assistant General Counsel, Office of Financial Regulation

STATE OF FLORIDA, COUNTY OF MIAMI-DADE

I hereby certify that the foregoing is a true and correct copy of the original on file in this office 12/11 AD 2007

HARVEY RUVIN, CLERK
Circuit and County Courts (SEAL)

Deputy Clerk 

