

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,
ETC., ET AL.,

Defendants.

And

DB TAMPA, LLC., ETC., ET AL.,

Relief Defendants.

MOTION FOR CONTEMPT
MOTION FOR ORDER TO SHOW CAUSE

The Defendant herein, GILES CONSTRUCTION GROUP, INC., moves this Court for an Order adjudging SKILLED SERVICES OF TAMPA BAY, LLC, a Florida Limited Liability Company and/or their counsel, Eric J. Partlow, Esquire to be in contempt of this Court or, alternatively, moves the Court for an Order to Show Cause why this Florida Limited Liability Company and their counsel should not be held in contempt. In support of the Motion, GILES CONSTRUCTION GROUP, INC., states:

1. SKILLED SERVICES OF TAMPA BAY, LLC., filed an action against GILES CONSTRUCTION GROUP, INC., and DB TAMPA, LLC, in July of 2007.
2. The action was timely answered by GILES CONSTRUCTION GROUP, INC., on August 8, 2007.
3. Notwithstanding the filing of an Answer, the Plaintiff's counsel moved for a default against GILES CONSTRUCTION GROUP, INC., secured such default and then was put to the

burden of vacating same.

4. Following these events, the Plaintiff filed a Motion for Summary Judgment against GILES CONSTRUCTION GROUP, INC., over the date February 29, 2008.

5. Such filing of a Motion for Summary Judgment follows the Plaintiff's counsel having received a Notice of Receivership entered by this Honorable Court as of December 11, 2007 (Exhibit "A" hereto), having received yet another copy of the Notice, together with the Injunction itself on March 3, 2008 (Exhibit "B" hereto) and having received yet again another copy of the Injunction by facsimile and mail on April 28, 2008 (Exhibit "C" hereto). Notwithstanding the foregoing, and objections to the proposed Final Judgment furnished to counsel on May 6, 2008, a Summary Final Judgment hearing was held and a judgment was entered against GILES CONSTRUCTION GROUP, INC. on May 20, 2008 (Exhibit "D" hereto).

6. The actions of SKILLED SERVICES OF TAMPA BAY, LLC., and their counsel, Eric J. Partlow, are wholly outside the permissible scope of this Court's Injunction entered in December of 2007, of which counsel had repeated actual notice and chose to completely ignore.

7. Alternatively, the actions of SKILLED SERVICES OF TAMPA BAY, LLC., and their counsel, Eric J. Partlow, constitute both a direct and indirect contempt of this Court's Order of December 11, 2007.

8. GILES CONSTRUCTION GROUP, INC., is now in the unenviable position of having suffered a summary judgment inappropriately entered and is further incapable of defending itself by virtue of making the required compulsory claims which would be directed to DB TAMPA, LLC., and other entities which are the additional subject matter of this Court's Receivership.

WHEREFORE, GILES CONSTRUCTION GROUP, INC., moves the Court as follows:

A. Enter its Order directing the Final Judgment entered against GILES CONSTRUCTION GROUP, INC., on May 20, 2008 be vacated at the insistence of the Plaintiff;

B. Impose sanctions against the Plaintiff, SKILLED SERVICES OF TAMPA BAY, LLC., and its counsel, Eric J. Partlow for proceeding in the face of this Court's Injunction abating all actions related to its taking jurisdiction over DB TAMPA, LLC., and the entities involved in these real property disputes;

C. Enter its Order directing SKILLED SERVICES OF TAMPA BAY, LLC., and its

counsel, Eric J. Partlow, to show cause why they should not be held in direct or indirect criminal or civil contempt of this Court;

D. Impose sanctions against SKILLED SERVICES OF TAMPA BAY, LLC., and its counsel, Eric J. Partlow for violation of this Court's Injunction.

E. Direct such other and further sanctions as are just and reasonable in these circumstances.

I HEREBY CERTIFY that a copy of the foregoing was mailed this 27^e day of May, 2008, to: Eric Partlow, RUDEN MCCLOSKEY, 401 East Jackson Street, Suite 2700, Tampa, Florida 33602 (via process server); Gabrielle Lyn D'Alemberte, Esquire, LAW OFFICES OF ROBERT L. PARKS, P.L., 2121 Ponce de Leon Boulevard, Suite 505, Coral Gables, Florida 33134; Michael I. Goldberg, Esquire, Receiver, AKERMAN, SENTERFITT, P.A., 350 East Las OAS Boulevard, Fort Lauderdale, Florida 33301.

LAW OFFICES OF
NORMAN MALINSKI, P.A.
2875 Northeast 191st Street
Suite 508
Aventura, Florida 33180
Telephone: (305) 937-4242

By: _____

Norman Malinski
Florida Bar ID# 182344

IN THE CIRCUIT COURT OF THE 13th
JUDICIAL CIRCUIT IN AND FOR
HILLSBOROUGH COUNTY, FLORIDA

SKILLED SERVICES OF TAMPA BAY,
LLC, a Florida Limited Liability Tampa

GENERAL JURISDICTION DIVISION

Plaintiff,

CASE NO.:07-8540

v.

GILES CONSTRUCTION GROUP, INC,
DB TAMPA, LLC, and UNKNOWN PERSONS,
et al.

Defendants.

NOTICE OF RECEIVERSHIP

DB TAMPA, LLC a/k/a DBDS TAMPA LLC, hereby gives notice that it is as of December 11, 2007, the subject of a receivership by virtue of the case styled *State of Florida Office of Financial Regulation vs. DBDS Tampa, LLC, et al.* Case No. 07-43672-CA-09, pending in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida. This receivership is pursuant to Florida Statutes 494.0013 and 517.191. Jurisdiction is vested by Article 5, Section 5(b) of the Florida Constitution and Sections 26.012(2)(b), 494.0013 and 517.191, Florida Statutes.

Pursuant to an Injunction issued by Judge Thomas Wilson, Jr., in said matter, all pending litigation against parties to the receivership is stayed as a matter of law.

GABRIELLE D'ALEMBERTÉ

501 Continental Plaza, 3250 Mary Street, Coconut Grove, Florida 3133 Telephone (305) Telefacsimile (305)

Respectfully submitted,

THE D'ALEMBERTE LAW FIRM

501 Continental Plaza

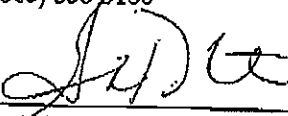
3250 Mary Street

Coconut Grove, FL 33133

Tel.: (305) 341-0600

Fax: (305) 358-8160

BY:



Gabrielle Lyn D'Alemberte, Esq.
Florida Bar No. 0169722

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail, on this 12 day of July 2008, to the parties' listed on the Service List below:

Kevin Murch
Fowler, White, Boggs & Banker, PA
P.O. Box 1438
Tampa, FL 33601

Norman Malinski
Law Offices of Norman Malinski, PA
2875 NE 191st Street
Aventura, FL 33180

Eric Parflow
Ruden McClosky
401 East Jackson Street
Ste. 2700
Tampa, Florida 33602

Brett Wasdsworth
P.O. Box 270118
Tampa, FL 33688

CASE NO.: 07-8540

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James Gassenheimer
Berger Singerman
200 South Biscayne Blvd
Suite 1000
Miami, FL 33131

DB Tampa, LLC
% Dana Berman, Owner
501 Continental Plaza
3250 Mary Street
Coconut Grove, FL 33133

BY: 

GABRIELLE LYN D'ALEMBERTE

LAW OFFICES OF
NORMAN MALINSKI, P. A.
2875 NORTHEAST 191ST STREET
SUITE 508
AVENTURA, FLORIDA 33180
TELEPHONE (305) 937-4242
TELECOPIER (305) 937-4261
e-mail: nmpa@att.net

March 3, 2008

Robert W. Boos, Esquire
RUDEN, MCCLOSKEY, SMITH
SCHUSTER & RUSSELL, P.A.
401 East Jackson Street, Suite 2700
Tampa, Florida 33602

Eric Pasto

Re: Skilled Services of Tampa Bay, LLC., vs. Giles Construction Group, Inc., et al.,
Hillsborough County Circuit Court Case No. 07-8540

Dear Mr. Boos:

We have your Motion for Summary judgment. You have been previously advised that an Injunction has been entered enjoining all activity relating to DB Tampa and, by virtue of the Injunction, Giles Construction Group, Inc. I am furnishing you with a copy of the Injunction.

Please advise that this matter is abated until this Injunction is vacated or, otherwise, modified.

Thank you.

Yours truly,

Norman Malinski

NM/sim
Enclosure

B

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

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

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HARVEY ROYIN, CLERK

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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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, Occanside 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, Occanside 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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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

A. J. ...
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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.

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HARRY 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

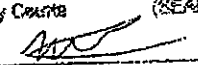
Daren A. Schwartz

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

MARVEY RUVIN, CLERK
Circuit and County Courts (REAL)
Deputy Clerk 



IN THE CIRCUIT COURT OF THE 13TH
JUDICIAL CIRCUIT IN AND FOR
HILLSBOROUGH COUNTY, FLORIDA

CASE NO. 07-8540
DIVISION K

SKILLED SERVICES OF TAMPA BAY, LLC.,
A Florida limited liability company,

Plaintiff,

vs.

NOTICE OF FILING

GILES CONSTRUCTION GROUP, INC., a
Florida corporation., etc., et al.,

Defendants.

The Defendant herein, GILES CONSTRUCTION GROUP, INC., a Florida Corporation, files a copy of the Temporary Injunction and Agreed Order Appointing Receiver in the matter *State of Florida, Office of Financial Regulation v. Berman Mortgage Corporation*, Miami-Dade County Circuit Court Case No. 07-43672 CA 09.

I HEREBY CERTIFY that a copy of the foregoing was mailed this 28th day of April, 2008, to: Robert W. Boos, Esquire, RUDEN MCCLOSKEY SMITH SCHUSTER & RUSSELL, P.A., 401 East Jackson Street, Suite 2700, Tampa, Florida 33602.

LAW OFFICES OF
NORMAN MALINSKI, P.A.
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Telephone: (305) 937-4242

By: NORMAN MALINSKI
Norman Malinski
Florida Bar ID# 182344

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Aventura, Florida 33180
Telephone: (305) 937-4242
Facsimile (305) 937-4261
E-mail: nmpa@att.net

FACSIMILE

DATE: 4-28-08

FROM: Norman Malinski FAX: (305) 937-4261

TO: Robert W. Boos

SUBJECT: _____

FACSIMILE: (813) 222-6666

This facsimile transmission consists of 2 pages including this cover note.

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED, AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED AND CONFIDENTIAL. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THE MESSAGE TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE, AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA THE U.S. POSTAL SERVICE. THANK YOU.

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IN THE CIRCUIT COURT FOR THE THIRTEENTH JUDICIAL CIRCUIT
OF FLORIDA, IN AND FOR HILLSBOROUGH COUNTY
CIVIL DIVISION

SKILLED SERVICES OF TAMPA BAY, LLC,
a Florida limited liability company,

Plaintiff,

Case No.: 07-8540

Division: K

v.

GILES CONSTRUCTION GROUP, INC., a Florida corporation and DB TAMPA, LLC, a Florida limited liability company, UNKNOWN PERSON IN POSSESSION OF THE SUBJECT REAL PROPERTY, IF LIVING, AND ALL UNKNOWN PARTIES CLAIMING BY, THROUGH, UNDER AND AGAINST THE ABOVE NAMED DEFENDANTS WHO ARE NOT KNOWN TO BE DEAD OR ALIVE WHETHER SAID UNKNOWN PARTIES MAY CLAIM AN INTEREST AS SPOUSES, HEIRS, DEVISEES, GRANTEEES, OR OTHER CLAIMANTS;

Defendants.

FINAL JUDGMENT AGAINST GILES CONSTRUCTION GROUP, INC.

THIS MATTER having come before the Court for hearing on May 1, 2008 upon Plaintiff's motion for summary final judgment against defendant Giles Construction Group, Inc. and the Court having considered said motion, the affidavits of record, and being otherwise duly advised in the premises, hereby finds as follows:

1. This Court has jurisdiction over the parties and the subject matter relevant to the motion *sub judice*.

2. Plaintiff Skill Services of Tampa Bay, LLC (n/k/a CLP Resources, Inc.) ("Skilled Services" or "Plaintiff") has moved for summary final judgment on Counts I and II of its complaint (the "Motion for Summary Judgment"). Counts I and II assert claims only against

Giles Construction Group, Inc.'s ("Giles") for breach of express contract and alternatively breach of contract implied in fact respectively.

3. The affidavit of Karolina Mark as Credit Manager for Skilled Services establishes that Skilled Services entered into a valid express contract with Giles (the "Contract") and that Skilled Services properly performed the contracted services for which it is entitled to be paid by Giles. Giles has breached the Contract by failing to make the payments demanded in the invoices attached to the complaint.

4. Despite due notice having been given on March 13, 2008, Giles failed to file any affidavits or other evidence of record to contest Plaintiff's evidence with the exception of a last minute facsimile transmission of an injunction (the "Injunction") entered in an entirely separate proceeding styled *State of Florida, Office of Financial Regulation v. Berman Mortgage Corporation, et al.*, pending in the Miami-Dade County Circuit Court Case No. 07-43672CA09, which counsel for Giles contends operates to stay Skilled Services' claims against Giles. However, no written motion has been filed requesting that this Court stay or abate these proceedings.

5. The Court finds Giles' delay in raising this issue especially troubling in view of the fact that the Injunction was apparently entered December 11, 2007.

6. Notwithstanding the above, the Court reviewed the Injunction, which review failed to indicate that there is any basis in fact or law for staying or abating these proceedings and counsel for Giles failed to direct the Court to any specific basis in the Injunction for staying or abating these proceedings. To the contrary, the instant proceedings are limited to seeking relief solely from Giles who is not a party to, nor falls within the express scope of, the Injunction.

7. Counsel for Giles expressly declined to present a defense to the Summary Judgment Motion beyond relying on the existence of the Injunction.

Accordingly, it is hereby **ORDERED AND ADJUDGED** that:

8. Plaintiff Skilled Services of Tampa Bay, LLC (n/k/a CLP Resources, Inc.), whose address is 10539 Professional Circle, Suite 200, Reno, NV 89521, is entitled to final judgment against defendant Giles Construction Group, Inc., whose last know address is 2341 Hollywood Boulevard, Hollywood, Florida 33020 in the following amounts:

- a. \$37,515.75 in damages for the unpaid invoices;
- b. \$7,696.38 in prejudgment interest as of May 1, 2008 (pursuant to the contractual rate of 18%) (\$18.50 per diem thereafter until the entry of this judgment);
- c. For a total judgment amount of \$53,611.51^(FILE),¹ which amount shall bear post judgment interest at the rate of 11% *per annum*
- d. all for which let execution issue;

9. Skilled Services is entitled to recover from Giles its attorneys' fees and costs, the amount of which shall be established at a later date, and the Court reserves jurisdiction on the issue of amount of attorneys' fees and costs.

DONE AND ORDERED in Hillsborough County, Florida, on this _____ day of May, 2008.

The Honorable Marva L. Crenshaw
Circuit Judge

ORIGINAL SIGNED
CONFORMED COPY

MAY 20 2008

MARVA L. CRENSHAW
CIRCUIT JUDGE

Copies to:
Eric J. Partlow, Esq.
Norman Malinski, Esq.
Gabrielle D'Alemberte, Esq.

¹ Total judgment amount equals the actual damages plus prejudgment interest pursuant to *Quality Engineered Installation, Inc. v. Higley South, Inc.*, 670 So.2d 929, 931 (Fla. 1996).