

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

GENERAL JURISDICTION DIVISION
CASE NO. 07-43672 CA 09

State of Florida,

Plaintiff,

v.

Berman Mortgage *et al.*

Defendants.

MOTION FOR APPOINTMENT OF STEERING COMMITTEE

Michael I. Goldberg, as State Court Appointed Receiver over Defendants Berman Mortgage Corporation, M.A.M.C. Incorporated, *et al.*, and Relief Defendants DB Atlanta LLC, *et al.*, by and through the undersigned Special Litigation Counsel, Hanzman & Gilbert, LLP, respectfully moves for an order (1) appointing a Steering Committee, to be comprised of the undersigned Special Litigation Counsel and the law firm of Colson Hicks Eidson, attorneys for certain investors, to work together in investigating claims against the accounting firms, Mallah Furman & Company, P.A., and Imber & Company, ("potential Accounting Defendants"), and pursuing any such claims which may be discovered; and (2) approving protection of the privileged and confidential activities of the Steering Committee under the joint interest doctrine. As grounds for this motion, the Receiver states as follows:

1. On December 11, 2007, this Court appointed Michael I. Goldberg to be the Receiver for the Defendants and the Relief Defendants, to, among other things, preserve the receivership assets, including the assets of the Defendants and Relief Defendants, stating:

The Receiver is hereby authorized to employ, without further order of the Court . . . attorneys . . . and other professionals . . . as is necessary and proper for the collection [and] preservation . . . of the Receivership Assets, including assets 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.

2. By Order dated April 16, 2008, upon motion of the Receiver, this Court approved the retention of undersigned counsel as Special Litigation Counsel to investigate (and if appropriate pursue) potential claims on behalf of the Receiver against the potential Accounting Defendants.

3. The law firm of Colson Hicks Eidson has been retained by certain investors to explore and if appropriate pursue similar claims against the potential Accounting Defendants on behalf of these investors and all others similarly situated.

4. The Receiver, through Special Litigation Counsel, and these investors, through their counsel, Colson Hicks Eidson, desire to work together in exploring and bringing their similar claims in a consolidated complaint to be filed on behalf of the Receiver and the investors.

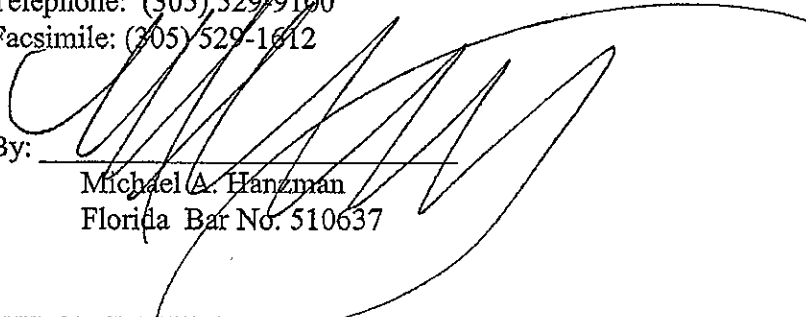
5. Special Litigation Counsel and counsel for the investors also wish to be able to share privileged and confidential information without waiving any applicable privileges or immunities from disclosure, and have entered into a joint interest agreement for this purpose. *See Visual Scene, Inc. v. Pinkerton Bros., plc*, 508 So.2d 437 (Fla. 3rd DCA 1987) (“An exception to this general waiver rule, variously called the ‘common interests,’ ‘joint defense,’ or ‘pooled information’ exception, enables litigants who share unified interests to exchange this privileged information to adequately prepare their cases without losing the protection afforded by the privilege. . . . Under this exception, clients and their respective attorneys sharing common litigation interests may exchange information freely among themselves without fear that by their exchange they will forfeit

the protection of the privilege.”).

WHEREFORE, The Receiver respectfully moves for an order (1) appointing a Steering Committee, to be comprised of the undersigned Special Litigation Counsel and the law firm of Colson Hicks Eidson, to work together in investigating claims against the potential Accounting Defendants and pursuing any such claims which may be discovered; and (2) approving protection of the privileged and confidential activities of the Steering Committee under the joint interest doctrine.

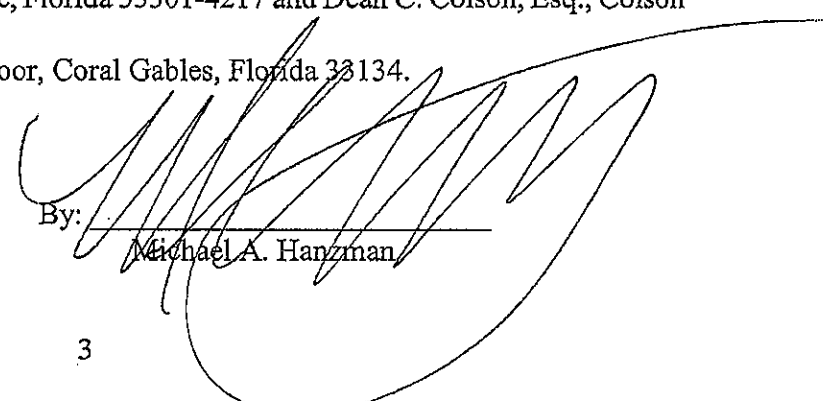
Respectfully submitted,

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By: 
Michael A. Hanzman
Florida Bar No. 510637

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was sent via facsimile and U.S. Mail this 19th day of May, 2008, to Michael I. Goldberg, Esq., Akerman Senterfitt, 350 East Las Olas Boulevard, Suite 1600, Ft. Lauderdale, Florida 33301-4217 and Dean C. Colson, Esq., Colson Hicks Eidson, 255 Aragon Avenue, 2nd Floor, Coral Gables, Florida 33134.

By: 
Michael A. Hanzman