

IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT, IN
AND FOR 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,

Defendant.

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, **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.

**MOTION TO ABANDON RELIEF DEFENDANTS DBDS BISCAYNE PARK, LLC AND
DBDS NORTH MIAMI, LLC AND REMOVE THEM FROM THE STYLE**

BERGER SINGERMAN
1176447-1 attorneys at law

Boca Raton Fort Lauderdale Miami Tallahassee

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., (the "Receiver") by and through undersigned counsel, hereby files this Motion to Abandon Relief Defendants DBDS Biscayne Park, LLC, and DBDS North Miami, LLC, and states:

Overview

1. DBDS Biscayne Park, LLC, and DBDS North Miami, LLC, are Relief Defendants in this action because the Court found it necessary to "prevent further waste and dissipation of the assets of the Defendants and Relief Defendants, to the detriment of its investors." *See* Temporary Injunction and Agreed Order Appointing Receiver ("Receivership Order"), previously filed with the Court, ¶7. With the approval of this Court, the Receiver has sold all of the assets of DBDS Biscayne Park, LLC, and DBDS North Miami, LLC and used the funds to pay down the mortgages on the property. Therefore, there is no further potential for waste of their respective assets. As such, they should be abandoned from these Receivership proceedings.

The Receiver is Appointed Over DBDS Biscayne Park, LLC, and DBDS North Miami,

LLC

2. On December 11, 2007, this Court appointed Michael Goldberg to be the Receiver for the Defendants and the Relief Defendants.

3. Among the Relief Defendants are DBDS Biscayne Park, LLC, and DBDS North Miami, LLC, two Florida limited liability companies. DBDS Biscayne Park, LLC, held property rights to condominium units located at 13201 Memorial Highway, Miami, Florida and property located at 1350-70 Northeast 11th Street, Miami, Florida.

4. DBDS North Miami, LLC, held property rights to condominium units located at 12890 NE 8th Avenue, North Miami, Florida 33161.

5. Pursuant to the Receivership Order, DBDS Biscayne Park, LLC, and DBDS North Miami, LLC, and their respective assets (i.e., units), are subject to the receivership. In fact, in the Receivership Order, Judge Wilson specifically states that all receivership assets, which include DBDS Biscayne Park, LLC, and DBDS North Miami, LLC, 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 Defendants, Berman Mortgage, M.A.M.C., and Relief Defendants [including DBDS Biscayne Park LLC and DBDS North Miami LLC], 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 person, 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.

Receivership Order, ¶ 3 (emphasis added). *See also*, Receivership Order, ¶ 13 ("Michael I. Goldberg ... is appointed receiver for ... DBDS North Miami, LLC ... DBDS Biscayne Park, LLC.").

DBDS Biscayne Park, LLC, and DBDS North Miami, LLC, Should be Abandoned as Relief Defendants Because All of their Units have been Sold

6. The entire purpose for the inclusion of DBDS Biscayne Park, LLC, and DBDS North Miami, LLC, as Relief Defendants was so that the Receiver could properly protect their assets because the evidence tended to show that there was 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” was not issued. Receivership Order, ¶2. Their inclusions served to “prevent immediate and irreparable injury to the investors who have entrusted over \$192,000,000 to the ... Relief Defendants,” Receivership Order, ¶4, and otherwise “prevent further waste and dissipation of the assets of the ... Relief Defendants, to the detriment of its investors.” Receivership Order, ¶7. Essentially, the Receivership Order served to protect DBDS Biscayne Park, LLC, and DBDS North Miami, LLC and their assets, and thereby protect the investors.

7. The Receiver has sold all of the units held by DBDS Biscayne Park, LLC, and DBDS North Miami, LLC, as approved by this Court, and thus, such protection is no longer necessary.

8. Consequently, DBDS Biscayne Park, LLC, and DBDS North Miami, LLC, no longer have any purpose in this Receivership action and should be removed herefrom.

WHEREFORE, the Receiver, on behalf of Relief Defendants DBDS Biscayne Park, LLC, and DBDS North Miami, LLC, respectfully requests that this Court grant this Motion to Abandon Relief Defendants DBDS Biscayne Park, LLC, and DBDS North Miami, LLC, remove the names from the style 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 Electronic Mail and/or U.S. Mail on this 9th day of July 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 & RESNIK, P.L., 1815 Griffin Road, Suite 207, Dania, Florida 33304; 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 **Helen Schwartz Romañez, Esquire**, *Attorneys for Turnberry Bank*, The Romañez Law Firm, 255 Alhambra Circle, Suite 850, Coral Gables, Florida 33134; to **Charles W. Throckmorton, Esquire**, *Attorneys for Dana Berman*, KOZYAK TROPIN THROCKMORTON, P.A., 2525 Ponce de Leon Boulevard, 9th Floor, Coral Gables, Florida 33134; to **James S. Telepman, Esquire**, *Attorneys for Jericho All-Weather Opportunity Fund, LP*, COHEN, NORRIS, SCHERER, WEINBERGER & WOLMER, 712 U.S. Highway One, Suite 400, North Palm Beach, Florida 33408-7146; to **Allen P. Pegg, Esquire**, *Counsel for Ibex Cheoah I, LLC*, at MURAI, WALD, BIONDO, MORENO & BROCHIN, P.A., Two Alhambra Plaza, Penthouse 1B, Coral Gables, Florida 33134; and to **J. Andrew Baldwin, Esquire**, *Attorneys for Regions Bank*, THE SOLOMON LAW GROUP, P.A., 1881 West Kennedy Boulevard, Tampa, Florida 33606-1606.

Respectfully submitted,

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By: _____

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