

**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,

Defendant.

and

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

Relief Defendants.

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**RECEIVER'S MOTION FOR AUTHORITY TO  
LOAN RELIEF DEFENDANTS UP TO \$10,000 FOR  
OPERATING COSTS, WITHOUT FURTHER ORDER OF THE COURT**

Michael I. Goldberg, the receiver (the "Receiver") of Defendants Berman Mortgage Corporation ("BMC"), M.A.M.C. Incorporated ("MAMC"), *et al.*, and Relief Defendants DB Atlanta, LLC, *et al.*, hereby files this Motion for Authority to Loan to Relief Defendants up to \$10,000 for Operating Costs, Without Further Order of the Court. In support of this Motion, the Receiver states as follows:

1. On December 11, 2007, this Court appointed Michael Goldberg as the receiver for BMC and MAMC (the "Defendants") and the Relief Defendants (collectively, the "Receivership Defendants") to prevent the waste and dissipation of the Receivership Defendants' assets to the

detriment of investors who entrusted over \$192 million ("Investor Funds") to the Receivership Defendants.

2. The Investor Funds were secured by mortgages in approximately 40 different real estate projects and properties ("Projects").

3. The Receivership Order initially identified 18 Relief Defendants. However, the Receiver obtained authority from the Court to add additional Relief Defendants as their Projects were brought to the Receiver's attention. The Receiver is still administering approximately 15 projects. Many of these Projects are either embroiled in litigation or currently being marketed for sale and require that certain essential expenses be paid in order to preserve the value of the Project. Often the expenses include payment of liability insurance, filing fees for annual reports, accounting and legal fees, and maintenance fees ("Project Costs").

4. This Court has previously approved the Receiver's requests to loan funds to certain of the Projects for payment of real property taxes or other expenses. However, the Receiver has filed a separate motion for each request. In order to streamline the process, the Receiver seeks approval from the Court to loan up to \$10,000 to the Projects ("Project Loans") for the purpose of payment of Project Costs without further approval of the Court.

5. The Project Loans will be made for the purpose of preserving the value of the Projects through payment of the Project Costs. The Project Loans will not be made to all of the Projects regardless of the feasibility of the Project. Rather the Project Loans will only be made to Projects when the Receiver believes that there is a substantial likelihood that the Project will ultimately be able to repay the Project Loan, with interest at four percent.

6. This request is not based solely on the Receiver's decision. The Receiver has consulted with and will continue to consult with the Executive Committee and the lender committees for each of the Relief Defendants who request a Project Loan.

7. The Project Loans will be made from available funds currently held in the Receiver's trust account. On or about March 24, 2010, the Court entered an Order approving the Receiver's Motion for an Order Approving the Proposed Priority of Distribution and Procedures for the Disbursement of Funds Recovered by Receiver in an Accounting Professional Liability Claim, which authorized the Receiver to hold back several million dollars of the settlement proceeds to fund future and current administrative expenses as well as to make loans to various Projects on an as-needed basis. Accordingly, the Receiver has a pool of money set aside from his settlement of claims against the Receivership Defendants' accountants.

8. The Projects will be charged interest at the rate of four percent per annum, simple interest. Currently, the funds are being held in the Receiver's law firm's trust account and are earning substantially less interest. Accordingly, making the Project Loans is a win-win situation for the receivership estate which will make more interest than it is currently earning.

9. The Receiver and the Executive Committee believe the Project Loans will be fully secured by the value of the property. The Project Loans, together with all accrued interest, will be payable on sale of the property. Moreover, the Project will reimburse the receivership estate \$250 in costs incurred in obtaining approval of the Project Loan.<sup>1</sup>

10. The Receiver and the Executive Committee believe that appropriate safeguards exist to make the Project Loans without incurring the expense of obtaining approval for each individual loan. The Receiver will continue to seek approval from the Court for any loans in an amount greater than \$10,000.

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<sup>1</sup> This fee will be added to the outstanding loan balance.

**WHEREFORE**, Michael I. Goldberg, in his capacity as Receiver of Berman Mortgage, M.A.M.C. and related entities, respectfully request this Court to enter an Order authorizing the Receiver to make the loans described herein and to grant such further relief as is just and proper.


Respectfully submitted,

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By:   
\_\_\_\_\_  
Joan M. Levit, Esquire  
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**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that on this 10 day of December, 2010, a true and correct copy of the forgoing was furnished via U.S. Mail to the parties on the attached Service List.

By:   
\_\_\_\_\_  
Joan M. Levit

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