

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.

THE ORIGINAL
FILED ON:

SEP 10 2009

IN THE OFFICE OF
CIRCUIT COURT DADE CO. FL.

MOTION TO ABANDON RELIEF DEFENDANT DBDS VERO BEACH, LLC

BERGER SINGERMAN
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 Defendant DBDS Vero Beach, LLC, and states:

Overview

1. DBDS Vero Beach, LLC, is a Relief Defendant in this action because the Court found its inclusion 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 allowed Transcapital Bank (which held the first mortgage on the assets of DBDS Vero Beach, LLC) to foreclose upon DBDS Vero Beach LLC's assets in exchange for a settlement amount of \$15,000. As such, DBDS Vero Beach, LLC, is no longer of any value to the Receivership estate and there is no further potential for waste of DBDS Vero Beach, LLC's assets. Consequently, it should be abandoned from these Receivership proceedings.

The Receiver is Appointed Over Relief Defendant DBDS Vero Beach, 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 is DBDS Vero Beach, LLC, a Florida limited liability company.

4. Pursuant to the Receivership Order, Relief Defendant DBDS Vero Beach, LLC, is subject to the receivership. In fact, in the Receivership Order, Judge Wilson specifically states that all receivership assets, which include Relief Defendant DBDS Vero Beach, LLC, is 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 Vero Beach, 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 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.

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

Defendant DBDS Vero Beach, LLC Should be Abandoned as Relief Defendant Because it is of No Value to the Receivership Estate

5. The entire purpose for the inclusion of DBDS Vero Beach, LLC, as a Relief Defendant was so that the Receiver could properly protect its 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. Its inclusion 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 Relief Defendant DBDS Vero Beach, LLC, and its assets, and thereby protect the investors.

6. The Receiver has recovered all that it can recover from Relief Defendant Vero Beach, LLC, via the settlement with Transcapital Bank, as approved by this Court. Thus, protection is no longer necessary.

7. Consequently, Relief Defendant DBDS Vero Beach, LLC, no longer has any purpose in this Receivership action and should be removed.

WHEREFORE, the Receiver, on behalf of Relief Defendant DBDS Vero Beach, LLC, respectfully requests that this Court grant this Motion to Abandon Relief Defendant DBDS Vero Beach, LLC, and for such other and additional relief as the Court deems just and proper.

Respectfully submitted,

BERGER SINGERMAN
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By: 

JAMES D. GASSENHEIMER
Florida Bar No. 959987

CERTIFICATE OF SERVICE

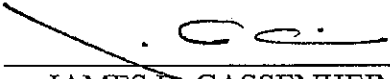
WE HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by Electronic Mail and U.S. Mail on this 10th day of September 2008, to: **Cristina Saenz, Assistant General Counsel**, STATE OF FLORIDA, OFFICE OF FINANCIAL REGULATION, 401 N.W. 2nd Avenue, Suite N-708, Miami, Florida 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 Bay Drive, 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; to **J. Andrew Baldwin, Esquire**, *Attorneys for Regions Bank*, THE SOLOMON LAW GROUP, P.A., 1881 West Kennedy Boulevard, Tampa, Florida 33606-1606; to **Rey Hicks and Javier Castillo** of COMPLETE PROPERTY MANAGEMENT, at Post Office Box 402507, Miami Beach, Florida

33140; to **Daren Schwartz**, Berman Mortgage Corporation d/b/a M.A.M.C., Inc., at 402 Continental Plaza, 3250 Mary Street, Coconut Grove, Florida 33133; to **Norman S. Segall, Esquire**, *Attorneys for Skilled Services of Tampa Bay, LLC*, RUDEN MCCLOSKEY SMITH SCHUSTER & RUSSELL, P.A., 701 Brickell Avenue, Suite 1900, Miami, Florida 33131; to **Norman Malinski, Esquire**, *Counsel for Giles Construction*, 2875 NE 191st Street, Suite 508, Aventura, Florida 33180; **Gabrielle D'Alemberte, Esquire**, LAW OFFICES OF ROBERT PARKS, 2121 Ponce de Leon Boulevard, Suite 505, Coral Gables, Florida 33134; and to **Robert B. Miller, Esquire**, *Attorneys for Atlantic Lending, LLC*, TABAS, FREEDMAN, SOLOFF & MILLER, P.A., The Ingraham Building 25 SE 2nd Avenue, Suite 919, Miami, Florida 33131-1538.

Respectfully submitted,

By: _____


JAMES D. GASSENHEIMER
Florida Bar No. 959987

cc: The Honorable Thomas Wilson, Jr. *(via Hand-Delivery)*
Michael Goldberg, Esq., as Receiver *(via e-mail)*
The Investor(s)/Lender(s) Group *(via e-mail)*

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