

IN THE CIRCUIT COURT OF THE 11TH
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, **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 26 2008

IN THE OFFICE OF
CIRCUIT COURT DADE CO. FL

**RECEIVER'S MOTION TO APPROVE THE SALE OF M.A.M.C. 903
DUVAL STREET, LLC AND DISTRIBUTION OF THE SALE PROCEEDS**

Michael I. Goldberg, as State Court Appointed Receiver over Defendants Dana J. Berman, Berman Mortgage Corporation, M.A.M.C. Incorporated, et al., and Relief Defendants DB Atlanta, LLC, et al., by and through undersigned counsel, hereby files this Motion to Approve the Sale of M.A.M.C. 903 Duval Street, LLC and Distribution of the Sale Proceeds, and states:

1. On December 11, 2007, this Court appointed Michael Goldberg (the "Receiver") to be the Receiver for the Defendants, the Relief Defendants, and their respective assets. *See* Temporary Injunction and Agreed Order Appointing Receiver ("Receivership Order") previously filed with this Court.

2. Among the Defendants is M.A.M.C. Incorporated. One of the assets of M.A.M.C. Incorporated is M.A.M.C. 903 Duval Street, LLC. It is managed, owned, and controlled by M.A.M.C. Incorporated. As such, M.A.M.C. 903 Duval Street, LLC, (which was created solely to hold title to a vacant lot located on Duval street in Key West) is an asset of the Receivership. Consequently, M.A.M.C. 903 Duval Street, LLC, is subject to the exclusive jurisdiction of Judge Wilson in the Circuit Court of the Eleventh Judicial Circuit, and subject to 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, 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.

3. The Receiver now seeks to sell the assets of M.A.M.C. 903 Duval Street, LLC, to Alisa Baty. Specifically, the Receiver seeks to sell the real property owned by the LLC, pursuant to the terms of the Commercial Contract and the First Addendum to Commercial Contract attached hereto as Composite Exhibit "A" (the "Contract").

4. Importantly, the Contract has already been executed by the Receiver, as this Court has already authorized the Receiver to execute contracts, instruments, and other agreements on behalf of the Receivership Defendants and the entities controlled by the Receivership Defendants:

The Receiver is further authorized to ... 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[.]

Receivership Order, ¶17. (emphasis added)

5. Further, the Receiver deems the sale of the assets of M.A.M.C. 903 Duval Street, LLC, advisable for the marshalling, maintenance and preservation of the Receivership assets.

6. The Receiver further seeks authority to distribute the sales proceeds above and beyond expenses required to be paid at closing (i.e. property taxes, commissions, title search, lien searches, insurance premiums, etc.). The obligations of the Receiver are as follows:

1. Reimbursement to M.A.M.C. Incorporated as advanced expenses and interest \$26,514.84;
2. Priming loan to Robert Parker \$21,600.00;

3. Priming loan to Art Cohen \$2,477.61.
4. Legal expenses and costs advanced with respect to the handling of the underlying foreclosure action that resulted in the acquisition of the property owed to James D. Gassenheimer, P.A. \$7,996.70.
5. The Receiver further seeks authority to pay 2% of the gross sales proceeds to the Receivership estate in accordance with prior Orders of the Court to cover administrative expenses.
6. The Receiver further seeks authority to distribute the remaining net proceeds on a pro-rata basis in accordance membership interests to the members of M.A.M.C. 903 Duval Street, LLC.
7. The Receiver further seeks a Court Order authorizing the Receiver to pay 100% of the attorneys fees and costs incurred by Berger Singerman, P.A., with respect to the handling of, at the time of the filing this motion, it is estimated that the attorneys fees and costs will be approximately \$7,500.00. However, this motion will be supplemented with a fee statement prior to the final distribution.

7. Therefore, via the instant Motion, the Receiver seeks to an Order approving the sale of the assets of M.A.M.C. 903 Duval Street, LLC, a Receivership asset and the distribution of proceeds.

WHEREFORE, the Receiver moves this Court for entry of an Order Approving the Sale of the assets of M.A.M.C. 903 Duval Street, LLC, to distribute proceeds and any other relief deemed necessary by this Court.

CERTIFICATE OF SERVICE


WE HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail on this **26th 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 & Bank of Coral Gables*, 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; 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; and to **Richard P. Cole, Esquire**, **Edward S. Polk, Esquire** and/or **Crystal Leah Arocha, Esquire**, *Attorneys for Meland Russin Hellinger & Budwick, P.A.* COLE SCOTT & KISSANE, P.A., Pacific National Bank Building, 1390 Brickell Avenue, Third Floor, Miami, Florida 33131.

Respectfully submitted,

BERGER SINGERMAN
Attorneys for Receiver
1000 Wachovia Bank Centre
200 South Biscayne Boulevard
Miami, Florida 33131
Telephone: (305) 755-9500
Facsimile: (305) 714-4340

By: _____


JAMES D. GASSENHEIMER
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deposits will be returned to Buyer in accordance with Paragraph 9.

4. TITLE: Seller has the legal capacity to and will convey marketable title to the Property by ordinary warranty deed other, W/A free of liens, assessments and encumbrances of record or known to Seller, but subject to property taxes for the year of closing; covenants, restrictions and public utility easements of record; and (list any other matters to which title will be subject) W/A

provided there exists at closing no violation of the foregoing and none of them prevents Buyer's intended use of the Property as stated on page 2 of this contract.

(a) Evidence of Title: Seller will, at (check one) Seller's Buyer's expense and within 30 days from Effective Date prior to Closing Date from date Buyer meets or waives financing contingency in Paragraph 3, deliver to Buyer (check one)

a title insurance commitment by a Florida licensed title insurer and, upon Buyer receiving the deed, an owner's policy in the amount of the purchase price for her simple title subject only to exceptions stated above an abstract of title, prepared or brought current by an existing abstract firm or certified as correct by an existing firm. However, if such an abstract is not available to Seller, then a prior owner's title policy acceptable to the proposed insurer as a basis for reinsurance of coverage. The prior policy will include copies of all policy exceptions and an update in a format acceptable to Buyer from the policy effective date and furnished to Buyer or Buyer's closing agent together with copies of all documents noted in the prior policy and in the update.

(b) Title Examination: Buyer will, within 15 days from receipt of the evidence of title deliver written notice to Seller of title defects. Title will be deemed acceptable to Buyer if (1) Buyer fails to deliver proper notice of defects or (2) Buyer delivers proper written notice and Seller cures the defects within 30 days from receipt of the notice ("Curetime Period"). If the defects are cured within the Curetime Period, closing will occur within 10 days from receipt by Buyer of notice of such curing. Seller may elect not to cure defects if Seller reasonably believes any defect cannot be cured within the Curetime Period. If the defects are not cured within the Curetime Period, Buyer will have 10 days from receipt of notice of seller's inability to cure the defects to elect whether to terminate this Contract or accept title subject to existing defects and close the transaction without reduction in purchase price. The party who pays for the evidence of title will also pay related title service fees including title and abstract charges and title examination.

(c) Survey: (check applicable provisions below) Seller will, within 30 days from Effective Date, deliver to Buyer copies of prior surveys, plans, specifications, and engineering documents, if any, and the following documents relevant to this transaction:

Any further documents constituting in proof and realization of the sale proceeds for replacement/renovation.

prepared for Seller or in Seller's possession, which show all currently existing structures.

Buyer will, at Seller's Buyer's expense and within the time period allowed to deliver and examine title evidence, obtain a current certified survey of the Property from a registered surveyor. If the survey reveals encroachments on the Property or that the improvements encroach on the lands of another, Buyer will accept the Property with existing encroachments such encroachments will constitute a title defect to be cured within the Curetime Period.

(d) Ingress and Egress: Seller warrants that the Property presently has ingress and egress.

(e) Possession: Seller will deliver possession and keys for all locks and alarms to Buyer at closing.

5. CLOSING DATE AND PROCEDURE: This transaction will be closed in Manatee County, Florida on or before the 20th day of September, 2008, or within 15 days from Effective Date ("Closing Date"), unless otherwise otherwise provided herein. Seller Buyer will designate the closing agent. Buyer and Seller will, within 30 days from Effective Date, deliver to Escrow Agent signed instructions which provide for closing procedure. If an institutional lender is providing purchase funds, lender requirements as to place, time of day, and closing procedure will control over any contrary provisions in this Contract.

(a) Costs: Buyer will pay taxes and recording fees on notes, mortgages and financing statements and recording fees for the deed. Seller will pay taxes on the deed and recording fees for documents needed to cure title defects. If Seller is obligated to discharge any encumbrance at or prior to closing and fails to do so, Buyer may use purchase proceeds to satisfy the encumbrances.

(b) Documents: Seller will provide the deed, bill of sale, mechanic's lien affidavit, assignments of interest, updated rent roll, leases and lender delinquent letters, assignments of points and fees, respective instruments and letters notifying tenants of the change in ownership/landlord agent. If any tenant refuses to execute an estoppel letter, Seller will certify that information regarding the tenant's lease is correct. If Seller is a corporation, Seller will deliver a resolution of its Board of Directors authorizing the sale and delivery of the deed and certification by the corporate Secretary certifying the resolution and signing form facts showing the conveyance conforms with the requirements of local law. Seller will transfer security deposits to Buyer.

Signature: *[Handwritten Signature]*

Signature: *[Handwritten Signature]*

145 conduct a final "walk-through" inspection of the Property to determine compliance with this paragraph and to ensure that all
146 Property is on the premises.

147 (G) **Disclosures:**

148 1. **Radon Gas:** Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient
149 quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and
150 state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be
151 obtained from your county public health unit.

152 2. **Energy Efficiency:** Buyer may have determined the energy efficiency rating of the building, if any is located on the
153 Real Property.

154 **6. OPERATION OF PROPERTY DURING CONTRACT PERIOD:** Seller will continue to operate the Property and any business
155 conducted on the Property in the manner operated prior to Contract and will take no action that would adversely impact the Property,
156 tenants, lenders or business, if any. Any changes, such as renting vacant space, that materially affect the Property or Buyer's
157 intended use of the Property will be permitted only with Buyer's consent without Buyer's consent.

158 **9. RETURN OF DEPOSIT:** Unless otherwise specified in the Contract, in the event any condition of this Contract is not met and
159 Buyer has timely given any required notice regarding the condition having not been met, Buyer's deposit will be returned in
160 accordance with applicable Florida laws and regulations.

161 **10. DEFAULT:**

162 (a) In the event the sale is not closed due to any default or failure on the part of Seller other than failure to make the title
163 marketable and diligent effort, Buyer may either (1) receive a refund of Buyer's deposits or (2) seek specific performance.
164 If Buyer elects a deposit refund, Seller will be liable to Broker for the full amount of the Brokerage fee.

165 (b) In the event the sale is not closed due to any default or failure on the part of Buyer, Seller may either (1) retain all
166 deposits paid or agreed to be paid by Buyer as agreed upon liquidated damages, consideration for the execution of this
167 Contract, and in full payment of any costs, upon which this Contract will terminate or (2) seek specific performance if Seller
168 retains the deposit. Seller will pay the Listing and Cooperating Brokers named in Paragraph 12 fifty percent of all forfeited
169 deposits retained by Seller to be split equally among the brokers up to the full amount of the broker's fee.

170 **11. ATTORNEY'S FEES AND COSTS:** In any claim or controversy arising out of or relating to this Contract, the prevailing party,
171 which for purposes of this provision will include Buyer, Seller and Broker, will be awarded reasonable attorney's fees, costs and
172 expenses.

173 **12. BROKERS:** Neither Buyer nor Seller has utilized the services of, or for any other reason owes compensation to a licensed
174 real estate broker or other agent.

175 (a) **Listing Broker:** Goldwell Banker Services
176 who is an agent of Seller a transaction broker a nonrepresentative
177 and who will be compensated by Seller Buyer both parties pursuant to a listing agreement other (specify)

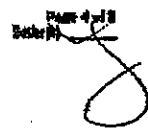
178 **Cooperating Broker:** Realtrac Properties Coastal Realty, Inc.
179 who is an agent of Buyer a transaction broker a nonrepresentative
180 and who will be compensated by Buyer Seller both parties pursuant to an MLS or other offer of compensation to
181 a cooperating broker other (specify)

182 (b) **Cooperating Broker:** Realtrac Properties Coastal Realty, Inc.
183 who is an agent of Buyer a transaction broker a nonrepresentative
184 and who will be compensated by Buyer Seller both parties pursuant to an MLS or other offer of compensation to
185 a cooperating broker other (specify)

186 **13. ASSIGNABILITY; PERSONS BOUND:** This Contract may be assigned to a related entity, and otherwise is not assignable
187 is assignable. The terms "Buyer," "Seller" and "Broker" may be singular or plural. This Contract is binding upon Buyer,
188 Seller and their heirs, personal representatives, successors and assigns (if assignment is permitted).

189 **14. OPTIONAL CLAUSES:** (Check if any of the following clauses are applicable and are attached as an addendum to this Contract):
190 Arbitration Seller Warranty Existing mortgage
191 Section 1031 Exchange Coastal Construction Control Line Other n/a
192 Property Inspection and Repair Flood Area Hazard Zone Other n/a
193 Seller Representation Seller Financing Other n/a

194 **15. MISCELLANEOUS:** The terms of this Contract constitute the entire agreement between Buyer and Seller. Modifications of

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Total \$65,000 \$315

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180 This Contract will not be binding unless in writing, signed and delivered by the party to be bound. Signatures, initials, documents
181 referenced in this Contract, counterparts and written modifications transmitted electronically or on paper will be acceptable for
182 all purposes, including delivery, and will be binding. Handwritten or typewritten terms inserted in or attached to this Contract
183 prevail over preprinted terms. If any provision of this Contract is or becomes invalid or unenforceable, all remaining provisions will
184 continue to be fully effective. This Contract will be construed under Florida law and will not be recorded in any public records.
185 Delivery of any written notice to any party's agent will be deemed delivery to that party.

186 THIS IS INTENDED TO BE A LEGALLY BINDING CONTRACT, IF NOT FULLY UNDERSTOOD, SEEK THE ADVICE OF AN
187 ATTORNEY PRIOR TO SIGNING. BROKER ADVISES BUYER AND SELLER TO VERIFY ALL FACTS AND
188 REPRESENTATIONS THAT ARE IMPORTANT TO THEM AND TO CONSULT AN APPROPRIATE PROFESSIONAL FOR LEGAL
189 ADVICE (FOR EXAMPLE, INTERPRETING CONTRACTS, DETERMINING THE EFFECT OF LAWS ON THE PROPERTY AND
190 TRANSACTION, STATUS OF TITLE, FOREIGN INVESTOR REPORTING REQUIREMENTS, ETC.) AND FOR TAX, PROPERTY
191 CONDITION, ENVIRONMENTAL AND OTHER SPECIALIZED ADVICE. BUYER ACKNOWLEDGES THAT BROKER DOES NOT
192 OCCUPY THE PROPERTY AND THAT ALL REPRESENTATIONS (ORAL, WRITTEN OR OTHERWISE) BY BROKER ARE
193 BASED ON SELLER REPRESENTATIONS OR PUBLIC RECORDS UNLESS BROKER INDICATES PERSONAL VERIFICATION
194 OF THE REPRESENTATION. BUYER AGREES TO RELY SOLELY ON SELLER, PROFESSIONAL INSPECTORS AND
195 GOVERNMENTAL AGENCIES FOR VERIFICATION OF THE PROPERTY CONDITION, SQUARE FOOTAGE AND FACTS
196 THAT MATERIALLY AFFECT PROPERTY VALUE.

197 DEPOSIT RECEIPT: Deposit of \$ 60,000 by check wire 2/1 received on

198 per signature by _____
199 Signature of Escrow Agent

200 Additional Terms Agreed to by Parties

201 The Seller may show the property to potential buyers until such time as the escrow money is delivered
to the Buyer agent. In the event that the Seller receives no acceptable offer during the 30 day
period, the Buyer will have 48 hours to either deliver said amount (\$60,000) to the Seller agent and
assume the due diligence of allow the new offer to be accepted. Additional 30 days in 60 Day
The Buyer reserves the right to assign the contract to any party with whom they are directly connected
at the purchase of the property. Expiration
Closing shall be within 30 days of expiration of the due diligence period.

202 OFFER: Buyer offers to purchase this Property on the above terms and conditions. Unless acceptance is signed by Seller and
203 signed copy delivered to Buyer or Buyer's agent no later than 9/16/08 a.m. p.m. on September 16, 2008,
204 Buyer may revoke this offer and receive a refund of all deposits.

205 BUYER [Signature] DATE 9/14/08
LISA BAY OF REALTOR
807 Washington Street #103, Bay West, FL 33410
Phone #: 305-294-0340

206 ACCEPTANCE: Seller accepts Buyer's offer and agrees to sell the Property on the above terms and conditions (subject to
207 the attached counter offer).

208 SELLER [Signature] DATE 9/16/08
RUSSELL
10942 903 Duval Forest Ln
903 Duval Street, Bay West, FL 33440

The Florida Association of REALTORS makes no representation as to the legal validity or adequacy of any provision of this form in any specific
jurisdiction. This document form should not be used in jurisdictions with unique laws or customs. This form is provided for use
by its users and users assume and are not intended to identify the user as a REALTOR. REALTOR is a separate collective membership form
which may be used only by real estate brokers who are members of the NATIONAL ASSOCIATION OF REALTORS and who are members of its
State or Local
The Florida Bar of the United States (17 U.S. Code) found the unauthorized reproduction of this form to be copyright infringement in
copyrighted form.

THIS FIRST ADDENDUM TO COMMERCIAL CONTRACT (the "First Addendum") is made and entered into this ___ day of September, 2008, by and between MAMC 309 DUVAL STREET, LLC, a Florida limited liability company ("Seller") and Alisa Baty ("Buyer").

WHEREAS Seller and Buyer are parties to that certain Commercial Contract (the "Purchase Agreement") of even date herewith (the "Effective Date"), with respect to the sale by Seller to Buyer of property located in Key West, Florida described therein (the "Property");

AND WHEREAS Seller and Buyer desire to enter into this First Addendum to amend certain terms and provisions of the Purchase Agreement only as hereinafter specifically set forth;

\$100 AB 9/19/08

NOW THEREFORE for and in consideration of the premises, ~~Ten (\$10.00)~~ Dollars in hand paid by Buyer to Seller, and other good and valuable consideration, the receipt, adequacy and sufficiency of which is hereby acknowledged by the parties hereto prior to the execution, sealing and delivery of this First Addendum, the parties hereto, intending to be legally bound, hereby agree as follows:

1. The foregoing recital of facts is hereby incorporated herein to the same extent as if hereinafter fully set forth. Capitalized words and phrases used herein which are not defined but which are defined in the Purchase Agreement shall have the meanings ascribed thereto in the Purchase Agreement.
2. The parties acknowledge that Seller is subject to a State Court Receivership in Miami, Florida before judge Thomas Wilson, Jr., and Michael I. Goldberg is the receiver appointed in connection thereto (the "Receiver"). Accordingly, the Purchase Agreement, and the transaction contemplated thereby, are subject to obtaining the Court's approval. Seller agrees to apply for Court approval forthwith after the Purchase Agreement and this Addendum have been executed by both parties. Notwithstanding such application, it is understood and agreed that the Due Diligence Period shall commence ~~on the Effective Date~~ ON DELIVERY OF COURT APPROVAL. *AB 9/19/08 and effective date*
3. Section 2(a) is amended to provide that the initial Deposit shall be non-refundable when Buyer confirms that it wishes to proceed with the transaction. Buyer shall make an ~~initial~~ payment of \$100.00 upon the execution of this Purchase Agreement, and the balance of \$49,900.00 shall be paid at the time set forth in the Purchase Agreement. The initial Deposit shall be non-refundable at the time that the additional Deposit is made. *AB 9/19/08 of \$50,000*
4. Section 2(b) is amended to provide that the additional Deposit shall be in the amount of \$100,000.00 to be paid upon expiration of the Due Diligence Period, or the date that Buyer indicates that it wishes to proceed with the *of \$100,000 AB 9/19/08*

transaction, whichever is earlier. The additional Deposit shall be non-refundable when paid, except in the event of Seller default.

5. Section 4(a) is amended to provide that Seller shall provide Buyer with a copy of the loan title insurance policy obtained by the lender at the time the loan to the previous owner was made. Buyer shall be responsible to order and obtain a title commitment, at its sole cost and expense and shall also be responsible for all title charges in connection therewith, including the cost of issuance of the owner's title insurance policy. Item 4(c) shall be amended by deleting the box that is checked at line 87 and substituting the following therefor:

"For greater certainty, Seller shall not be obliged to correct any title defect. Furthermore, should Buyer fail to obtain the survey within such time, then all conditions related to survey shall be deemed to have been waived or satisfied. Seller agrees, without representation or warranty, to provide Buyer whatever documents concerning the Property it can obtain from the Receiver but does not represent that it can supply any or all of the documents listed in section 4. Section 4(d) is hereby deleted and Buyer shall satisfy itself as to matters concerning ingress and egress."

6. Section 5 shall be amended to provide that Buyer shall select the title agent.
7. Section 5(a) is amended to provide that Buyer shall not be entitled to use any of the purchase proceeds to cure a title defect which Seller has decided not to cure.
8. Section 5(a) is amended to provide that Buyer shall pay all closing costs associated with the transaction (including documentary stamp tax), save and except for Seller's attorney fees and costs, and except for the cost of addressing any title defect which Seller has agreed to correct.
9. Section 5(b) shall be amended to provide that Seller is not obligated to deliver a resolution approving the sale, as the transaction is subject to Court approval which Seller undertakes to obtain in accordance with the provisions of this Addendum.
10. Section 7(b) is amended to provide that in the course of Buyer's carrying out physical inspections of the Property, Seller shall have the right to have a representative present during such inspections.
11. Section 10 of the Purchase Agreement shall be deleted and the following substituted therefor:

"Failure to Exercise; Default.

corporate
AS 9/19/08

The failure of Buyer to consummate the sale within the time and in the manner herein provided shall extinguish Buyer's right to the Property and the Deposit (and all deposits made or required to be made to Escrow Agent) shall be delivered to Seller, the delivery of which is to be Seller's sole and exclusive remedy. The parties agree that it is impossible to estimate more precisely the damages which might be suffered by Seller upon Buyer's default and that the right to retain the Deposit (and all deposits made or required to be made to Escrow Agent) as full liquidated damages for a default shall be Seller's sole and exclusive remedy.

If Seller shall default in any of its obligations hereunder, the Buyer may elect either to (i) have the full Deposit refunded to Buyer or (ii) seek specific performance to acquire the Property in accordance with the terms of this Agreement. The remedy selected by Buyer shall be its sole and exclusive remedy."

12. Section 12 shall be deleted and the following substituted therefor:

"Seller and Buyer warrant and represent to each other that, except for Coldwell Banker Schmitt, which shall be paid a commission of 4% by Seller if and only if the transaction closes and Preferred Properties Coastal Realty, Inc., which shall be paid a 2% commission by Seller if and only if the transaction closes, there are no other brokers in connection with this Purchase Agreement or the purchase and sale of the Property. Except as otherwise provided herein, Seller and Buyer shall and do each hereby indemnify, defend and hold harmless the other from and against the claims, demands, actions and judgments of any and all brokers, agents and other persons or entities alleging a commission, fee or other payment to be owing by reason of their respective dealings, negotiations or communications in connection with this Agreement or the purchase and sale of the Property except as set forth in this Section 12. The terms and provisions of this Section 12 shall survive the Closing or any termination of this Agreement."

13. Section 13 shall be deleted and the following substituted therefor:

"Buyer may, upon written notice to Seller, assign this Agreement to a party to which it is related or affiliated without Seller's consent. Any other assignment shall require Seller's consent, which consent may be given or withheld in Seller's sole discretion for any reason or no reason."

14. The following shall be added to "Additional Terms Agreed To By Parties":

The paragraph commencing at line 221 of the Purchase Agreement shall be deleted and the following substituted therefor:

"Until Buyer delivers the balance of the initial Deposit, Seller may continue to show the Property to interested parties. If Seller receives a bona-fide offer to purchase the Property from another buyer during that period, then Seller shall advise Buyer in writing to that effect. Within 48 hours of receipt of such notice, Buyer shall have the

right to either (i) permit Seller to accept such offer or (ii) pay the initial Deposit and additional Deposit to escrow agent, which Deposits shall be non-refundable except in case of Seller's default. If Buyer elects option (ii), then the parties shall proceed to close the transaction within the time parameters hereinafter set forth.

Seller makes no representation or warranty concerning the Property except (i) the limited warranties set forth in the Special Warranty Deed, (ii) Seller is the owner of the Property and has the right to execute this Purchase Agreement and to sell the Property upon receipt of Court approval; (iii) no portion of the Property is subject to any option or right of first refusal and no portion of the Property is subject to any lease or other possessory interest which cannot be cancelled or otherwise terminated on or before Closing. If Court approval not granted then the Purchase Agreement shall terminate, and except for those provisions which are specifically stated to survive termination, neither party shall have any further rights or obligations with respect to the other or the Property and the Deposits shall be returned to Buyer.

GENERAL DISCLAIMER. EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, THE SALE OF THE PROPERTY HEREUNDER IS AND WILL BE MADE ON AN "AS IS," "WHERE IS," AND "WITH ALL FAULTS" BASIS, WITHOUT REPRESENTATIONS AND WARRANTIES OF ANY KIND OR NATURE, EXPRESS, IMPLIED OR OTHERWISE, INCLUDING ANY REPRESENTATION OR WARRANTY CONCERNING TITLE TO THE PROPERTY, THE PHYSICAL CONDITION OF THE PROPERTY (INCLUDING THE CONDITION OF THE SOIL OR THE IMPROVEMENTS), THE ENVIRONMENTAL CONDITION OF THE PROPERTY (INCLUDING THE PRESENCE OR ABSENCE OF HAZARDOUS SUBSTANCES ON OR AFFECTING THE PROPERTY), THE COMPLIANCE OF THE PROPERTY WITH APPLICABLE LAWS AND REGULATIONS (INCLUDING ZONING AND BUILDING CODES OR THE STATUS OF DEVELOPMENT OR USE RIGHTS RESPECTING THE PROPERTY), ANY REPRESENTATION OR WARRANTY RESPECTING ANY INCOME, EXPENSES, CHARGES, LIENS OR ENCUMBRANCES, RIGHTS OR CLAIMS ON, AFFECTING OR PERTAINING TO THE PROPERTY OR ANY PART THEREOF. BUYER ACKNOWLEDGES THAT, DURING THE INSPECTION PERIOD, BUYER WILL EXAMINE, REVIEW AND INSPECT ALL MATTERS WHICH IN BUYER'S JUDGMENT BEAR UPON THE PROPERTY AND ITS VALUE AND SUITABILITY FOR BUYER'S PURPOSES. EXCEPT AS TO MATTERS SPECIFICALLY SET FORTH IN THIS AGREEMENT: (A) BUYER WILL ACQUIRE THE PROPERTY SOLELY ON THE BASIS OF ITS OWN PHYSICAL AND FINANCIAL EXAMINATIONS, REVIEWS AND INSPECTIONS AND THE TITLE INSURANCE PROTECTION AFFORDED BY THE OWNER'S POLICY, AND (B) WITHOUT LIMITING THE FOREGOING, BUYER WAIVES ANY RIGHT IT OTHERWISE MAY HAVE AT LAW OR IN EQUITY, INCLUDING, WITHOUT LIMITATION, THE RIGHT TO SEEK DAMAGES FROM SELLER IN CONNECTION WITH THE ENVIRONMENTAL CONDITION OF THE PROPERTY, INCLUDING ANY RIGHT OF CONTRIBUTION UNDER THE

COMPREHENSIVE ENVIRONMENTAL RESPONSE COMPENSATION AND LIABILITY ACT.

RELEASE. EXCEPT FOR MATTERS SET FORTH IN THIS AGREEMENT THAT SPECIFICALLY SURVIVE THE CLOSING OF THIS AGREEMENT, EFFECTIVE AS OF THE CLOSING, BUYER SHALL BE DEEMED TO HAVE RELEASED SELLER AND ANY AGENT, ADVISOR, REPRESENTATIVE, AFFILIATE, EMPLOYEE, DIRECTOR, PARTNER, MEMBER, BENEFICIARY, INVESTOR, SERVANT, SHAREHOLDER, TRUSTEE OR OTHER PERSON OR ENTITY ACTING ON SELLER'S BEHALF OR OTHERWISE RELATED TO OR AFFILIATED WITH SELLER (COLLECTIVELY, "SELLER RELATED PARTY") FROM ALL CLAIMS WHICH BUYER OR ANY AGENT, REPRESENTATIVE, AFFILIATE, EMPLOYEE, DIRECTOR, OFFICER, PARTNER, MEMBER, SERVANT, SHAREHOLDER OR OTHER PERSON OR ENTITY ACTING ON BUYER'S BEHALF OR OTHERWISE RELATED TO OR AFFILIATED WITH BUYER (EACH, A "BUYER RELATED PARTY") HAS OR MAY HAVE ARISING FROM OR RELATED TO ANY MATTER OR THING RELATED TO OR IN CONNECTION WITH THE PROPERTY INCLUDING THE DOCUMENTS AND INFORMATION REFERRED TO HEREIN, ANY CONSTRUCTION DEFECTS, ERRORS OR OMISSIONS IN THE DESIGN OR CONSTRUCTION OF ALL OR ANY PORTION OF THE PROPERTY AND ANY ENVIRONMENTAL CONDITIONS, AND BUYER SHALL NOT LOOK TO SELLER OR ANY SELLER RELATED PARTIES IN CONNECTION WITH THE FOREGOING FOR ANY REDRESS OR RELIEF. THIS RELEASE SHALL BE GIVEN FULL FORCE AND EFFECT ACCORDING TO EACH OF ITS EXPRESSED TERMS AND PROVISIONS, INCLUDING THOSE RELATING TO UNKNOWN AND UNSUSPECTED CLAIMS, DAMAGES AND CAUSES OF ACTION.

Limitation of Liability. No agent of Seller, nor any Seller Related Parties, shall have any personal liability, directly or indirectly, under or in connection with this Agreement or any agreement made or entered into under or pursuant to the provisions of this Agreement, or any amendment or amendments to any of the foregoing made at any time or times, heretofore or hereafter, and Buyer and its successors and assigns and, without limitation, all other persons and entities, shall look solely to Property for the payment of any claim or for any performance, and Buyer, on behalf of itself and its successors and assigns, hereby waives any and all such personal liability. The provisions of this Section shall survive the Closing or a termination of this Agreement.

All notices to be delivered hereunder to Seller shall be sent as follows:

If to Seller: 402 Continental Plaza
3250 Mary Street
Coconut Grove, Florida 33133
Fax: (305) 358 - 5160

With a copy to: Mr. Lawrence B. Steinberg
Berger Singerman PA
2650 N. Military Trail, Suite 240
Boca Raton, Florida 33431
Fax: (561) 998-0028

WAIVER OF TRIAL BY JURY. SELLER AND BUYER HEREBY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER ARISING IN TORT OR CONTRACT) BROUGHT BY EITHER AGAINST THE OTHER ON ANY MATTER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS PURCHASE AGREEMENT.

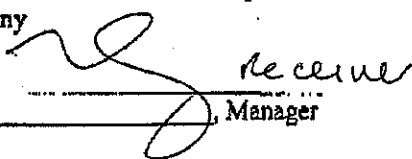
15. ^{AB + 31 SE} The Purchase Contract shall be amended to provide that Closing shall occur on the ~~15~~^{9/19/08} day after the earlier of either (i) the expiration of the Due Diligence Period should Buyer decide to proceed with the transaction or (ii) the day the Buyer indicates it wishes to proceed with the transaction as set forth in section 14 hereof. At Closing, Seller shall provide a Special Warranty Deed to convey title to Buyer.

16. Except as set forth herein, the Purchase Agreement shall remain in full force and effect. This First Addendum shall be binding upon and shall inure to the benefit of Seller and Buyer and their respective successors and assigns, and shall be governed by Florida law. To the extent that there is any conflict between the terms of this First Addendum and the Purchase Agreement, the terms of this First Addendum shall prevail. This First Addendum may be signed in counterparts and facsimile signatures shall be effective as if they had been originals.

IN WITNESS WHEREOF, the parties hereto have caused this First Addendum to be duly executed, sealed and delivered the day and year first above written.

SELLER:

MAMC 309 DUVAL STREET,
LLC, a Florida limited liability
company

By:  Manager

BUYER:


Alisa Baty