

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,  
**REDLANDS RANCH HOLDINGS, LLC**, a  
Florida Limited Liability Company, **DB  
CARROLL STREET, LLC**, a Florida Limited  
Liability Company,

Relief Defendants.

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**RECEIVER'S MOTION TO APPROVE THE RETENTION OF ROTH, JONAS, MITTELBERG & HARTNEY, CPA'S, P.A. FOR DBKN GULF INCORPORATED, BERMAN MORTGAGE CORPORATION AND M.A.M.C. INCORPORATED**

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 undersigned counsel, hereby files this Motion to Approve the Retention of Roth, Jonas, Mittelberg & Hartney, CPA's, P.A. ("Roth Jonas"), for Receivership Defendants M.A.M.C. Incorporated and Berman Mortgage Corporation and Relief Defendant DBKN Gulf Incorporated, and states:

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

2. Among the Defendants are M.A.M.C. Incorporated and Berman Mortgage Corporation and among the Relief Defendants is DBKN Gulf Incorporated.

3. As such, M.A.M.C. Incorporated, Berman Mortgage Corporation, and DBKN Gulf Incorporated are receivership assets 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).

4. M.A.M.C. Incorporated, Berman Mortgage Corporation, and DBKN Gulf Incorporated require certain accounting work to be completed and the Receiver now seeks to have the accounting working completed by Roth Jonas.

5. Roth Jonas' retention shall be pursuant to the terms of the engagement letter, attached hereto as Exhibit "A" (the "Engagement Letter"). Specifically, Roth Jonas will be retained to "prepare ... federal and home state partnership income tax returns for the 2007 tax year .... [Roth Jonas] will also prepare any other state income tax returns that [M.A.M.C. Incorporated, Berman Mortgage Corporation, and DBKN Gulf Incorporated] authorize [Roth Jonas] to prepare." *See id.*, at p. 1.

6. The Receiver believes that the retention of Roth Jonas is absolutely necessary to ensure the preservation and/or recovery of receivership assets, and thereby prevent any further waste or dissipation, and most of all, protect the Investor Group.

7. Importantly, the Receiver was specifically appointed by this Court to preserve the receivership assets, and employ accountants when necessary to preserve those assets:

The Receiver his hereby authorized to employ, without further order of the Court ... accountants ... 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.

*See* Receivership Order, ¶ 19 (emphasis added).

8. The Engagement Letter has already been executed by the Receiver, as this Court has previously 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).

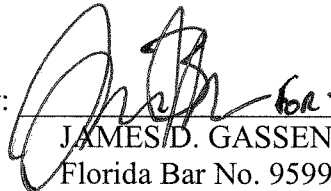
9. In line with the aforementioned authority granted by this Court, the Receiver now seeks to retain Roth Jonas pursuant to the terms contained in the Engagement Letter.

**WHEREFORE**, the Receiver moves this Court for entry of an Order Approving the Retention of Roth, Jonas, Mittelberg & Hartney, CPA's, P.A. and any other relief deemed necessary by this Court.

Respectfully submitted,

BERGER SINGERMAN  
*Attorneys for Receiver, Michael Goldberg*  
1000 Wachovia Financial Center  
200 South Biscayne Boulevard  
Miami, Florida 33131  
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Facsimile: (305) 714-4340  
E-Mail: [jgassenheimer@bergersingerman.com](mailto:jgassenheimer@bergersingerman.com)

By:



JAMES D. GASSENHEIMER  
Florida Bar No. 959987  
GREGORY A. HAILE  
Florida Bar No. 606421

**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 **9<sup>th</sup> day of October 2008**, to: **Cristina Saenz, Assistant General Counsel**, STATE OF FLORIDA, OFFICE OF FINANCIAL REGULATION, 401 N.W. 2<sup>nd</sup> 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*, 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. 191<sup>st</sup> 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, 9<sup>th</sup> 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 191<sup>st</sup> 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 2<sup>nd</sup> Avenue, Suite 919, Miami, Florida 33131-1538; 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; and to **David A. Wheeler, Esquire**, *Counsel for Various Unit Owners at Le Chateau Condominiums at DB Biloxi II, LLC* WHEELER & WHEELER, PLLC, 185 Main Street, Biloxi, Mississippi 39530.

Respectfully submitted,

BERGER SINGERMAN  
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By:  \_\_\_\_\_

JAMES D. GASSENHEIMER  
Florida Bar No. 959987  
GREGORY A. HAILE  
Florida Bar No. 606421

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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ROTH, JONAS, MITTELBERG  
& HARTNEY, CPA's, P.A.  
CERTIFIED PUBLIC ACCOUNTANTS

ROBERT ROTH, CPA  
PETER F. JONAS, CPA  
RICKEY I. MITTELBERG, CPA  
JOHN C. HARTNEY, CPA

U.S. CORPORATION INCOME TAX RETURN  
ENGAGEMENT LETTER

ROBERT N. PERLESS, CPA  
RETIRED

October 2, 2008

Berman Mortgage Corporation; MAMC, Inc.;  
DBKN Gulf Incorporated  
3250 Mary Street, Suite 402  
Coconut Grove, Florida 33133

Roth, Jonas, Mittelberg & Hartney, CPA's, P.A. is pleased to provide you with the professional services described below. This letter is to confirm our understanding of the terms and objectives for our engagement and the nature and limitations of the services we will provide. We will perform our services in accordance with the Statements on Standards for Tax Services issued by the American Institute of Certified Public Accountants.

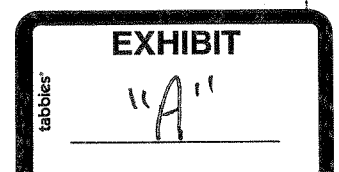
**Scope of Engagement**

We will prepare your federal and home state corporation income tax returns for the 2007 tax year from information that you provide to us. We will also prepare any other state income tax returns that you identify and authorize us to prepare. We will not audit or otherwise verify the data you submit to us, although we may ask you to clarify some of the information.

**Client Responsibilities**

You are responsible for determining your state or local tax filing obligations with any state or local tax authority, including, but not limited to, income, franchise, sales and use, and property taxes. If you use us to prepare these returns additional charges for those services may apply.

You should retain all documents that provide evidence and support for your reported income and deductions on your returns. You are responsible for the adequacy of all such documents. You may need to provide these documents to a taxing authority to substantiate the accuracy and completeness of the returns.



### **Client Responsibilities**

The due date for filing your corporation return was March 15, 2008. You have informed us that the return is on extensions that expired on September 15, 2008. Additionally, extensions may affect your liability for penalties and interest or compliance with government or other deadlines. We are available to discuss this matter with you at your request at our regular hourly fee should the need arise. You have final responsibility for the corporation tax returns. Check them carefully for accuracy before you sign them.

### **CPA Firm Responsibilities**

We will use our judgment to resolve questions in your favor where a tax law is unclear if there is reasonable justification for doing so. Whenever we are aware that an applicable tax law is unclear or that there are conflicting interpretations of the law by authorities (e.g., IRS and courts), we will explain the possible positions that may be taken on your return. We will follow whatever position you request, so long as it is consistent with the current codes and regulations and their interpretations. If the IRS or state tax authorities should later consent the position taken, there may be an assessment of additional tax, interest, and penalties. We assume no liability for any such additional tax, interest, and penalties or other fees and assessments.

Our work in connection with your corporation tax returns does not include any procedures designed to discover fraud, theft, or other irregularities, should any exist.

Our engagement does not include tax planning services, which are available as a separate engagement. During the course of preparing the tax returns identified above, we may bring to your attention certain available tax saving strategies for you to consider as possible means of reducing your income taxes in subsequent tax years. However, we have no responsibility to do so, and will take no action with respect to any such recommendations, as the responsibility for implementation remains with you, the taxpayer.

This engagement does not include responding to inquiries by any governmental agency or tax authority. If your tax return is selected for examination or audit, you may request that we assist you in responding to such inquiry. In that event, we would be pleased to discuss providing assistance to you under the terms of a separate engagement letter for that specific purpose.



October 2, 2008

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**Fees and Billings**

Our professional fees for the services outlined above is based on our standard hourly rates plus any out-of-pocket expenses. This fee is based upon the complexity of the work to be performed and our professional time to complete the work. Additionally, this fee is dependent on the availability, quality, and completeness of your records. You agree that you will deliver all records requested by our staff to complete this engagement on a timely basis. In the event your records are not submitted in a timely manner or they are incomplete or unusable, we reserve the right to charge additional fees and expenses for services required to correct any problems or to expedite the preparation of you tax returns.

We will bill you for our professional fees, expenses, and out-of-pocket costs as of the date we deliver our work product to you. Payment is due upon receipt of our invoice.

**Termination and Other Terms**

We reserve the right to withdraw from this engagement without completing the returns if you fail to comply with the terms of this engagement letter. In such case, Roth, Jonas, Mittelberg & Hartney, CPA's, P.A. will not be responsible for any tax, interest or penalties that the taxing authorities may levy against you for failure to file or for failure to file your returns on a timely basis. If any portion of this agreement is deemed **invalid or unenforceable, said finding shall not operate to invalidate the remainder of the terms set forth in this engagement letter.**

We appreciate the opportunity to be of service to you. Please sign and date the enclosed copy of this engagement letter and return it to us in the envelope provided to acknowledge your agreement with its terms. It is our policy to initiate services after we receive the signed copy of this engagement letter from you.

Very truly yours,

*Roth, Jonas, Mittelberg & Hartney, CPA's, P.A.*

ROTH, JONAS, MITTELBERG & HARTNEY, CPA's, P.A.

ACCEPTED BY:

Signed By:  \_\_\_\_\_

Title:           *Receiver*          

Date:           *10/6/08*          

*Subject to court approval*