

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,

THE ORIGINAL
FILED ON:

NOV 06 2008

Defendant.

IN THE OFFICE OF
CIRCUIT COURT DADE CO. FL

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.

BERGER SINGERMAN
attorneys at law

Boca Raton Fort Lauderdale Miami Tallahassee

**RECEIVER'S MOTION TO APPROVE THE SETTLEMENT AGREEMENT
BETWEEN ATLANTIC LENDING, LLC, AND BERMAN MORTGAGE
CORPORATION, M.A.M.C. INCORPORATED,
THE MAMC LENDERS AND THE RECEIVERSHIP ASSETS**

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 Settlement Between Atlantic Lending, LLC ("Atlantic") and Receivership Defendants Berman Mortgage Corporation, M.A.M.C. Incorporated, M.A.M.C. Lenders and the Receivership Assets, and states:

The Receiver is Appointed Over Berman Mortgage Corporation, M.A.M.C. Incorporated, and Their Respective Assets

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

2. Among the Defendants are Berman Mortgage Corporation, and M.A.M.C. Incorporated. As Receivership Defendants, Berman Mortgage Corporation and M.A.M.C. 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).

Atlantic and Its Lawsuits Involving Berman Mortgage Corporation, M.A.M.C. Incorporated and Their Respective Assets

3. Atlantic is a plaintiff in an action pending in Miami-Dade County Circuit Court captioned *Atlantic Lending, LLC and Stephen Zaron, M.D., et al. v. Fantasy of the Ocean, LLC*, Case No. 04-7035 (the "FOTO Case").

4. In addition to Atlantic, the other Plaintiffs in the FOTO Case consist of a large group of individuals (identified in the pleadings in the FOTO Case), who agreed to allow Berman Mortgage Corporation and/or M.A.M.C. Incorporated to service their loan and litigate the FOTO case on their behalf ("MAMC Lenders").

5. Atlantic also has an action pending in Miami-Dade County Circuit Court, Case No. 05-14867 (the "Fraud Case") against Mansiana Ocean Residences, LLC, Berman Mortgage Corporation, and Meland, Russin, Hellinger & Budwick, P.A., Andrew Hellinger, Esquire and Peter Russin, Esquire, and has sought to consolidate the Fraud Case with the FOTO Case.

6. Among the Receivership Assets are the attorney-client-work-product, and mediation privileges in connection with all matters in which Berman Mortgage Corporation and/or the MAMC Lenders were represented by Meland, Russin, Hellinger & Budwick, P.A. (or the employees and principals of said law firm), which privileges, prior to the transfer of same to the Receiver, belonged to Berman Mortgage Corporation or the MAMC Lenders (other than to the extent they may have previously been waived).

7. On September 17, 2008, this Court entered an Order relieving Atlantic from the stay obligations of the Receivership Order. On that same day, the Receiver filed a Motion for Rehearing on the Court's September 17, 2008 Order Granting Relief from Stay or in the Alternative to Correct its September 17, 2008 Order ("Rehearing Motion").

The Parties Agree to Settle, and Thereby Preserve Receivership Assets

8. Although the Rehearing Motion is still pending, the Parties have agreed to settle all disputes between them regarding the Receivership proceedings, so as to avoid the expense and delay associated with litigating these disputes.

9. The Waiver of Assignment of Privileges and Settlement Agreement are attached hereto as Exhibit "A" (the "Settlement Agreement") and contains the following key provisions:

1. **WITHDRAWAL OF REHEARING MOTION:** Contemporaneously with the execution of this Agreement, the Receiver shall serve a notice of withdrawal, with prejudice of his Rehearing Motion.

2. **WAIVER OF PRIVILEGE:** Contemporaneously with the execution of this Agreement, the Receiver shall irrevocably waive all of Berman Mortgage Corporation's ("BMC") and the MAMC Lenders' attorney-client, work-product, and mediation privileges in connection with all matters in which Berman Mortgage Corporation and/or the MAMC Lenders were represented by Meland, Russin, Hellinger and Budwick, P.A. (or the employees and principals of said law firm), which privileges shall be irrevocably assigned and transferred to Atlantic.

3. **LIMITATIONS ON EXECUTION AGAINST BERMAN MORTGAGE CORPORATION, THE MAMC LENDERS AND RECEIVERSHIP ASSETS:** In the event a final judgment is entered in the Fraud Case in favor of Atlantic and against Berman Mortgage Corporation (the "Fraud Judgment"), Atlantic agrees that it shall not execute on the Fraud Judgment, seek to collect, or otherwise seek to satisfy the Fraud Judgment against GMC, MAMC Incorporated, the Receiver, the Receivership Assets and the MAMC Lenders. This provision shall not in any way restrict Atlantic's ability to foreclose on the real property which is the subject of the FOTO Case.

4. **LIMITATIONS ON LITIGATION AS TO INDIVIDUAL LENDERS:** Atlantic shall not file an action to recover damages from any MAMC Lenders, except in the event that any individual Lender makes a claim against Atlantic in connection with the FOTO Case. Atlantic shall not take more than three MAMC Lenders' depositions in either the FOTO Case or the Fraud Case, except in the event that any Individual Lender (other than the three whom Atlantic deposes) makes any claim in either the FOTO Case or the Fraud Case asserting any right regarding such litigation. MAMC Lenders' depositions shall be coordinated with the Receiver's counsel.

13. REPRESENTATION AND WARRANTIES: The signatories to this Agreement mutually represent and warrant that they have full power and authority to execute this Agreement, unless such authority is not provided by the Court in the Receivership Case, in which case the Agreement shall be void. Provided this agreement is approved by the Court in the Receivership Case, it shall bind the Settlement Parties to the terms and provisions hereof. The Receiver's counsel shall, immediately following execution of this Agreement, file and set for hearing a motion seeking approval and ratification of this Agreement.

10. The Receiver now seeks to finalize this Settlement Agreement.

11. The Receiver believes that this settlement conforms with the Receiver's Court ordered obligation 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.

12. Importantly, this Court has previously authorized the Receiver to execute contracts, instruments, and other agreements on behalf of 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)


13. In line with the aforementioned authority granted by this Court, the Receiver now seeks this Court's approval of the Settlement Agreement.

WHEREFORE, the Receiver moves this Court for entry of an Order Approving the Settlement Between Atlantic Lending, LLC, and Receivership Defendants Berman Mortgage Corporation, M.A.M.C. Incorporated, M.A.M.C. Lenders, and the Receivership Assets, 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
Direct Line: (305) 714-4383
Telephone: (305) 755-9500
Facsimile: (305) 714-4340
E-Mail: jgassenheimer@bergersingerman.com

By: _____


JAMES D. GASSENHEIMER
Florida Bar No. 959987
ARIADNA HERNANDEZ
Florida Bar No. 020953


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 6th day of November 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 Amadi 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 **Allen P. Pegg, Esquire**, *Counsel for IBEX Cheoah I, LLC*, MURAI, WALD, BIONDO, MORENO & BROCHIN, P.A., Two Alhambra Plaza, PH-1B, Coral Gables, Florida 33134; 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 **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; 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; 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; to **James M. Kaplan, Esquire, Nanci S. Landy, Esquire and/or Kristen A. Rosenthal, Esquire**, *Attorneys for Non-Parties, Barry A. Imber and Imber & Company*, KAPLAN ZEENA, LLP, Two South Biscayne Boulevard, One Biscayne Tower, Suite 3050, Miami, Florida 33131-1806; to **Michael A. Hanzman, Esquire**, HANZMAN GILBERT, LLP, 2525 Ponce de Leon Boulevard, Suite 700, Coral Gables, Florida 33134; to **Paul Hawks, Esquire and Dean C. Colson, Esquire**, COLSON HICKS EIDSON, 255 Aragon Avenue, Second Floor, Coral Gables, Florida 33134; and to **Jason S. Miller, Esquire**, *Counsel for Flagstar Bank*, ADORNO & YOSS, LLP, 2525 Ponce de Leon Boulevard, Suite 400, Coral Gables, Florida 33134.

Respectfully submitted,

By: 

ARIADNA HERNANDEZ
Florida Bar No. 020953

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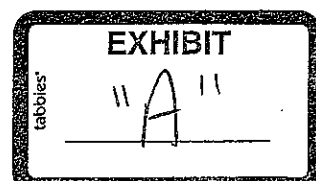
SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is entered between Atlantic Lending, LLC ("Atlantic") and Michael I. Goldberg, as Receiver (the "Receiver") for Berman Mortgage Corporation, MAMC Incorporated, the MAMC Lenders (as defined below), and the Receivership Assets as that term is defined in Judge Wilson's Order dated December 11, 2007 in Case No. 07-43672 CA 09 ("Receivership Assets"). The Receiver acts pursuant to his appointment in *State of Florida, Office of Financial Regulation v. Berman Mortgage Corporation, et al.*, in Miami-Dade Circuit Court, Case No. 07-43672 CA 09 (the "Receivership Case"). Atlantic and the Receiver shall hereinafter collectively be referred to as the "Settlement Parties".

WHEREAS, Atlantic is a plaintiff in an action pending in Miami-Dade County Circuit Court captioned *Atlantic Lending, LLC and Stephen Zaron, M.D., et al vs. Fantasy of the Ocean, LLC*, Case No. 04-7035 (the "FOTO Case").

WHEREAS, in addition to Atlantic, the other Plaintiffs in the FOTO Case consist of a large group of individuals (identified in the pleadings in the FOTO Case), who agreed to allow BMC and/or MAMC Incorporated to service their loan and litigate the FOTO case on their behalf ("MAMC Lenders").

WHEREAS, Atlantic has pending an action in Miami-Dade County Circuit Court, Case No. 05-14867 (the "Fraud Case") against Mansiana Ocean Residences, LLC, Berman Mortgage Corporation, and Meland, Russin, Hellinger & Budwick, P.A., Andrew Hellinger, Esquire and Peter Russin, Esquire, and has sought to consolidate the Fraud Case with the FOTO Case.



WHEREAS, a Temporary Injunction and Agreed Order Appointing Receiver was entered in the Receivership Case on December 11, 2007 which transferred all Receivership Assets to the Receiver.

WHEREAS, one of the Receivership Assets are the attorney-client, work-product, and mediation privileges in connection with all matters in which Berman Mortgage Corporation and/or the MAMC Lenders were represented by Meland, Russin, Hellinger & Budwick, P.A. (or the employees and principals of said law firm), which privileges, prior to the transfer of same to the Receiver, belonged to Berman Mortgage Corporation or the MAMC Lenders (other than to the extent they may have previously been waived).

WHEREAS, on September 17, 2008, the Court in the Receivership Case entered an *Order Granting Atlantic Lending, LLC's Motion for Relief from Temporary Injunction*.

WHEREAS, on September 17, 2008, the Receiver filed a *Motion for Rehearing on the Court's September 17, 2008 Order Granting Relief from Stay or in the Alternative to Correct its September 17, 2008 Order ("Rehearing Motion")*.

WHEREAS, the Settlement Parties have agreed to settle all disputes between them regarding the Receivership Case, so as to avoid through this Agreement the expense and delay associated with litigating these disputes.

AGREEMENT

NOW THEREFORE IN CONSIDERATION of the foregoing, the mutual covenants and considerations set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Settlement Parties agree to the following terms and conditions:

1. **RECITALS:** The Settlement Parties agree that the recitals above are true and correct.

2. **WITHDRAWAL OF REHEARING MOTION:** Contemporaneously with the execution of this Agreement, the Receiver shall serve a notice of withdrawal, with prejudice, of his Rehearing Motion.

3. **WAIVER OF PRIVILEGE:** Contemporaneously with the execution of this Agreement, the Receiver shall irrevocably waive all of Berman Mortgage Corporation's ("BMC") and the MAMC Lenders attorney-client, work-product, and mediation privileges in connection with all matters in which Berman Mortgage Corporation and/or the MAMC Lenders were represented by Meland, Russin, Hellinger and Budwick, P.A. (or the employees and principals of said law firm), which privileges shall be irrevocably assigned and transferred to Atlantic.

4. **LIMITATIONS ON EXECUTION AGAINST BERMAN MORTGAGE CORPORATION, THE MAMC LENDERS AND RECEIVERSHIP ASSETS:** In the event a final judgment is entered in the Fraud Case in favor of Atlantic and against Berman Mortgage Corporation (the "Fraud Judgment"), Atlantic agrees that it shall not execute on the Fraud Judgment, seek to collect, or otherwise seek to satisfy the Fraud Judgment against BMC, MAMC Incorporated, the Receiver, the Receivership Assets and the MAMC Lenders. This provision shall not in any way restrict Atlantic's ability to foreclose on the real property which is the subject of the FOTO Case.

5. **LIMITATIONS ON LITIGATION AS TO INDIVIDUAL LENDERS:** Atlantic shall not file an action to recover damages from any MAMC Lenders, except in the event that any Individual Lender makes a claim against Atlantic in connection with the FOTO Case. Atlantic shall not take more than three MAMC Lenders' depositions in

either the FOTO Case or the Fraud Case, except in the event that any Individual Lender (other than the three whom Atlantic deposes) makes any claim in either the FOTO Case of the Fraud Case asserting any right regarding such litigation. MAMC Lenders depositions shall be coordinated with the Receiver's counsel.

6. **CHOICE OF LAW:** This Stipulation shall be construed in accordance with the laws of the State of Florida, both substantive and remedial.

7. **ENTIRE AGREEMENT:** This Agreement represents the entire understanding and agreement between the Settlement Parties with respect to the subject matter hereof. The Settlement Parties stipulate and agree that no promise, warranty, representation, inducement or agreement, written or oral, not expressed or referred to in this Agreement, has been made and/or relied upon.

8. **MODIFICATIONS:** This Agreement may not be modified or amended in any respect whatsoever, except by a writing signed by all of the Settlement Parties.

9. **NOTICE:** Any notice required by the Agreement shall be provided,

If to Receiver to:

James D. Gassenheimer
Berger Singerman
200 South Biscayne Boulevard, Suite 1000
Miami, Florida 33131
Telephone: (305) 755-9500
Facsimile: (305) 714-4340

and, if to Atlantic, to

Robert B. Miller, Esquire
Tabas, Freedman, Soloff & Miller, P.A.
25 Southeast Second Avenue, Suite 919
Miami, Florida 33131 -1538
Telephone: (305) 375-8171
Facsimile: (305) 381-7708

10. **WAIVER:** No waiver of any provisions of this Agreement shall be valid unless in writing and signed by the party against whom charged.

11. **CONSTRUCTION AND HEADINGS:** In giving meaning to this Agreement, the singular shall be held to include the plural, the plural shall be held to include the singular. The Settlement Parties agree that the section headings contained herein are included for convenience only and are not to be deemed part of this Agreement.

12. **BINDING EFFECT:** This Agreement, upon execution and approval by the Receiver's counsel, is binding upon the Settlement Parties hereto, their heirs, successors, and assigns.

13. **REPRESENTATION AND WARRANTIES:** The signatories to this Agreement mutually represent and warrant that they have full power and authority to execute this Agreement, unless such authority is not provided by the Court in the Receivership Case, in which case the Agreement shall be void. Provided this agreement is approved by the Court in the Receivership Case it shall bind the Settlement Parties to the terms and provisions hereof. The Receiver's counsel shall, immediately following execution of this Agreement, file and set for hearing a motion seeking approval and ratification of this Agreement.

14. **NO SEVERABILITY:** If any part of this Agreement is deemed to be invalid in any court of law, the remaining provisions of this Agreement will thereby also be rendered invalid and of no effect, and may not be enforced.

15. **ENFORCEMENT:** Each of the Settlement Parties may enforce this Agreement as a valid contract, and may obtain any lawful remedy enforcing the Agreement.

16. **DRAFTING, ADVICE OF COUNSEL, AND VOLUNTARY EXECUTION:**


The Settlement Parties acknowledge and agree that (i) each of the Settlement Parties has participated fully in negotiating and drafting the terms hereof; (ii) each of the Settlement Parties has entered into this Agreement freely, voluntarily, without duress, coercion or oral inducement, and for valuable consideration; and (iii) this Agreement shall not be more strictly construed against either of the Settlement Parties than against the other.

17. **CONSIDERATION:** The Settlement Parties hereto acknowledge and agree that each is foregoing certain rights and assuming certain duties and obligations, which, but for this Agreement, would not have been foregone or assumed. Accordingly, the Settlement Parties agree that this Agreement is fully and adequately supported by consideration and is fair and reasonable in all of its terms.

ACCEPTED AND AGREED TO BY:

Dated this ___ day of October, 2008

ATLANTIC LENDING, LLC


Robert B. Miller, Esquire
Florida Bar No. 305685
Counsel for Atlantic Lending, LLC
Tabas, Freedman, Soloff & Miller, P.A.
25 Southeast Second Avenue
Suite 919
Miami, Florida 33131 -1538
Telephone: (305) 375-8171
Facsimile: (305) 381-7708

MICHAEL I. GOLDBERG, as
Receiver for Berman Mortgage
Corporation, MAMC Incorporated,
MAMC Lenders, and the Receivership
Assets

James D. Gassenheimer
Florida Bar No. 959987
Counsel for Michael I. Goldberg
Berger Singerman
200 South Biscayne Boulevard, # 1000
Miami, Florida 33131
Telephone: (305) 755-9500
Facsimile: (305) 714-4340

WAIVER AND ASSIGNMENT OF PRIVILEGES¹

This Waiver and Assignment of Privileges is made by Michael I. Goldberg, as Receiver for Berman Mortgage Corporation, MAMC Incorporated, the MAMC Lenders,² and the Receivership Assets (the "Receiver") pursuant to his appointment in *State of Florida, Office of Financial Regulation v. Berman Mortgage Corporation, et al.*, in Miami-Dade Circuit Court, Case No. 07-43672 CA 09 ("Receivership Case"), in favor of Atlantic Lending, LLC ("Atlantic").

The Receiver irrevocably waives all of Berman Mortgage Corporation's and the MAMC Lenders' attorney-client, work-product, and mediation privileges in connection with all matters in which Berman Mortgage Corporation and/or the MAMC Lenders were represented by Meland, Russin, Hellinger and Budwick, P.A. (or the employees and principals of said law firm), which privileges shall be irrevocably assigned and transferred to Atlantic.

Dated this ____ day of October, 2008

MICHAEL I. GOLDBERG, as Receiver for Berman Mortgage Corporation, MAMC Incorporated, the MAMC Lenders and the Receivership Assets

By: James D. Gassenheimer
Florida Bar No. 959987
As authorized agent and Attorney-in-Fact for
Michael I. Goldberg, Receiver
Berger Singerman
200 South Biscayne Boulevard, Ste 1000
Miami, Florida 33131
Telephone: (305) 755-9500
Facsimile: (305) 714-4340

¹ Only valid if approved by court order in the Receivership Case. The Receiver shall immediately upon execution file a motion seeking court approval of this Waiver and Assignment of privilege.

² The MAMC Lenders were plaintiffs in an action pending in Miami-Dade County Circuit Court captioned *Atlantic Lending, LLC and Stephen Zaron, M.D., et al vs. Fantasy of the Ocean, LLC*, Case No. 04-7035 (the "FOTO Case"). The MAMC Lenders consist of a large group of individuals (identified in the pleadings in the FOTO Case), who agreed to allow BMC and/or MAMC Incorporated to service their loan and litigate the FOTO case on their behalf.