

IN THE CIRCUIT COURT OF THE  
ELEVENTH JUDICIAL CIRCUIT IN  
AND FOR MIAMI-DADE COUNTY,  
FLORIDA

CASE NO: 08-79169 CA (09)

ALEX BISTRICER, as limited partner of GULF  
ISLAND RESORT, L.P., and GULF  
ISLAND RESORT, L.P.,

Plaintiffs,

vs.

**PLAINTIFFS' MOTION TO  
RELEASE BOND TO PLAINTIFFS**

COASTAL REAL ESTATE ASSOCIATES, INC.,  
a Florida corporation; BERMAN MORTGAGE  
CORPORATION; DANA BERMAN; OCEANSIDE  
ACQUISITIONS; LLC, a Florida limited liability  
company; DBKN GULF INCORPORATED, a  
Florida corporation; and STEVEN CARLYLE  
CRONIG,

Defendants.

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ALEX BISTRICER ("Mr. Bistricer"), as limited partner of GULF ISLAND RESORT, L.P.,  
and GULF ISLAND RESORT, L.P ("GIR LP")(collectively, "Plaintiffs"), by and through  
undersigned counsel, hereby move for the entry of an Order releasing the *lis pendens* bond previously  
deposited by Plaintiffs with the trial court in 2003 and, as grounds therefor, state as follows:

1. In this action, which was originally filed in March, 2003, Plaintiffs seek to quiet title to certain condominium units and land located at the Gulf Island Resort in Hudson, Florida.
2. On March 27, 2003, Plaintiffs filed a Notice of Lis Pendens ("*Lis Pendens*") in conjunction with the filing of this action.
3. By Order dated September 5, 2003, the trial court ordered Plaintiffs to post a *lis*

*pendens* bond (the "Bond"), and thereafter Plaintiffs posted a US\$100,000.00 bond in accordance therewith.

4. By Order dated May 9, 2007 (Exhibit A hereto), the trial court granted the motion of the Defendants in this action (who are represented in this action by James Gassenheimer, counsel for Receiver Michael I. Goldberg), to dissolve the *Lis Pendens* pursuant to Fla. Stat. §48.23, on the grounds that had been in effect more than one (1) year, had not been renewed and was not founded on a duly recorded instrument properly of record.

5. Furthermore, on January 18, 2007, the Defendants in this action voluntarily dismissed their claim against Plaintiffs for any damages that may have resulted from any wrongful filing of the *Lis Pendens*. See Exhibit B hereto, Defendants' Notice of dismissal Without Prejudice of Counts II-VI of Defendants' Counterclaims (in which Defendants dismissed their slander of title claim against Plaintiffs).

6. In view of the above, there is no longer any lawful basis for the Clerk of the Court to retain the Bond and accordingly, the Bond should be released to Plaintiffs.<sup>1</sup>

WHEREFORE, Plaintiffs ALEX BISTRICER, as limited partner of GULF ISLAND RESORT, L.P., and GULF ISLAND RESORT, L.P., respectfully request that this Court enter an Order directing the Clerk of the Court to release the Bond to Plaintiffs together with any and all interest that has accrued thereon, and that this Court grant Plaintiffs such other and further relief as the Court may deem proper.

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<sup>1</sup> By seeking release of the Bond, Plaintiffs do not waive their claim that the trial court abused its discretion in awarding title to the subject property to Defendants (based on an alleged discovery violation) and reserve their right to appeal that ruling when that ruling, which was not a final judgment, becomes ripe for appeal.

Respectfully submitted,

**ANANIA BANDKLAYDER BAUMGARTEN &  
TORRICELLA**

*Attorneys for Plaintiffs*

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Miami, Florida 33131

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

Maurice J. Baumgarten

Florida Bar No. 525324

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing was sent via email and regular mail on February 15  
2009 to: Ariadna Hernandez, Berger Singerman, Counsel for Receiver Michael I. Goldberg; William  
Dufoe, Holland & Knight, LLP, 100 North Tampa Street, Suite 4100, Tampa, Florida 33602; and  
Deborah Poore Fitzgerald, Esq., Walton, Lantaff, Schroeder & Carson, LLP, Corporate Center, Suite  
2000, 100 East Broward Boulevard, Fort Lauderdale, Florida 33301

\_\_\_\_\_  
Maurice J. Baumgarten

IN THE CIRCUIT COURT OF THE  
SIXTH JUDICIAL CIRCUIT IN AND  
FOR PASCO COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO: 51-2003-CA -942ES

JUDGE: WAYNE L. COBB

ALEX BISTRICER, as limited  
Partner of GULF ISLAND RESORT  
L.P., et al.,

Plaintiffs/Counterclaim Defendants,

vs.

COASTAL REAL ESTATE ASSOCIATES,  
INC., etc., et al.,

Defendants/Counterclaim Plaintiffs.

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COASTAL REAL ESTATE ASSOCIATES,  
INC., etc., et al.,

Defendants/Counterclaim Plaintiffs/  
Third-Party Plaintiffs,

vs.

CANDY SMITH, etc., et al.,

Third-Party Defendants.

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**ORDER ON  
DEFENDANTS, OCEANSIDE ACQUISITIONS, LLC AND DBKN GULF  
INCORPORATED'S, MOTION TO REMOVE/DISSOLVE LIS PENDENS**

This matter having come on before the Court on April 16, 2007, at 2:00 p.m., on Defendants, Oceanside Acquisitions, LLC and DBKN Gulf Incorporated's Motion to Remove/Dissolve Lis Pendens, and the Court having heard argument of counsel and being otherwise advised in the premises, it is



ORDERED AND ADJUDGED that:

1. Defendants Motion is GRANTED.
2. The Lis Pendens recorded by the Plaintiff in this action has been in effect for more than one year, has not been renewed and is not founded on a duly recorded instrument properly of record. The Lis Pendens is therefore discharged and dissolved pursuant to Section 48.23(2) and (3), Fla. Stat. (1993).

DONE AND ORDERED in Chambers, at Pasco County, Florida, this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
CIRCUIT JUDGE

SIGNED AND DATED  
MAY - 9 2007  
WAYNE L. CUBE  
CIRCUIT JUDGE

***Copies furnished to:***

**ATTORNEYS FOR PLAINTIFFS/COUNTER-DEEDANT AND THIRD-PARTY DEFENDANTS**

***Maurice Baumgarten, Esquire***

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**CO-COUNSEL FOR PLAINTIFFS/COUNTER-DEEDANT AND THIRD-PARTY DEFENDANTS**

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***Scott A. McLaren, Esquire***

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101 East Kennedy Boulevard, Suite 3700  
Tampa, FL 33602

**ATTORNEYS FOR DEFENDANT STEVEN CARLYLE CRONIG**

***Deborah Poore Fitzgerald, Esquire***

WALTON LANTAFF, SCHROEDER & CARSON, LLP  
Corporate Center - Suite 2000  
100 E. Broward Blvd.  
Ft. Lauderdale, FL 33301-3503

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT  
OF THE STATE OF FLORIDA AND IN AND FOR PASCO COUNTY  
CIVIL DIVISION

ALEX BISTRICER, as limited partner of GULF  
ISLAND RESORT, L.P., and GULF ISLAND  
RESORT, L.P.

Plaintiffs/Counterclaim Defendants,

vs.

CASE NO.: 51-2003-CA-942ES

COASTAL REAL ESTATE ASSOCIATES, INC.,  
a Florida corporation; BERMAN MORTGAGE  
CORPORATION; DANA BERMAN; OCEANSIDE  
ACQUISITIONS, LLC, a Florida limited liability  
company; DBKN GULF INCORPORATED, a  
Florida corporation; and STEVEN CARLYLE  
CRONIG,

DIVISION: B

Defendants/Counterclaim Plaintiffs.

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COASTAL REAL ESTATE ASSOCIATES,  
INC., a Florida corporation, BERMAN  
MORTGAGE CORPORATION, a Florida  
corporation; OCEANSIDE ACQUISITIONS,  
LLC, a Florida limited liability company;  
and DBKN GULF INCORPORATED, a  
Florida corporation,

Defendants/Counterclaim Plaintiffs/  
Third-Party Plaintiffs.

vs.

CANDY SMITH, an individual, and  
BARRY PEDERSEN, an individual, and ALL  
UNKNOWN PARTIES IN INTEREST,

Third-Party Defendants.

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DEFENDANTS' NOTICE OF DISMISSAL WITHOUT PREJUDICE OF COUNTS II-VI  
OF DEFENDANTS' COUNTERCLAIMS




Pursuant to the Florida Rules of Civil Procedure, Defendants, COASTAL REAL ESTATE ASSOCIATES, INC., BERMAN MORTGAGE CORPORATION, DANA BERMAN, OCCEANSIDE ACQUISITIONS, LLC, and DBKN GULF INCORPORATED (collectively "the Coastal/Berman Defendants"), hereby dismiss without prejudice the following counterclaims against Plaintiffs listed in response to Plaintiffs' Second Amended Complaint:

1. Count II (Slander of Title)
2. Count III (Tortious Interference with Contract)
3. Count IV (Tortious Interference with Business Relations)
4. Count V (Claim in the Alternative for Unjust Enrichment)
5. Count VI (Claim in the Alternative for Equitable Lien)

Each party is to bear its own fees and costs with respect to the above-referenced counterclaims, although Coastal/Berman Defendants are pursuing costs and attorneys fees (as appropriate) with respect to other claims between the parties.


Dated this 18<sup>th</sup> day of January, 2007.

Respectfully submitted,

  
\_\_\_\_\_  
Scott A. McLaren  
Florida Bar No. 414816  
Eric E. Page  
Florida Bar No. 905291  
HILL, WARD & HENDERSON, P.A.  
P. O. Box 2231  
Tampa, Florida 33601  
(813) 221-3900 Business  
(813) 221-2900 Facsimile  
Attorneys for Defendants/Counterclaim  
Plaintiffs

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Defendants' Notice of Dismissal Without Prejudice of Counts II-VI of Defendants' Counterclaims has been served via U.S. Mail and facsimile to: **Maurice J. Baumgarten, Esquire**, Anania, Bandklayder, Blackwell, Baumgarten, Torricella & Stein, Bank of America Tower – Suite 4300, 100 S.E. Second Street, Miami, Florida 33131, **P. Hutchison Brock, II, Esquire**, Johnson, Auvil, Brock & Wilson, P.A., P. O. Box 2337, Dade City, Florida 33526-2337, **William H. Bartlett, Esquire**, Fisher & Sauls, P.A., 100 Second Avenue South, City Center Suite 701, St. Petersburg, Florida 33701, **Robert Lang, Esquire**, Holland & Knight, LLP, P.O. Box 1288, Tampa, Florida 33601, **Deborah Poore Fitzgerald, Esquire**, Walton Lantaff Schroeder & Carson, 110 E. Broward Blvd., Suite 2000, Fort Lauderdale, Florida 33301-3503, **Peter Valori, Esquire**, Damian & Valori, LLP, 120 Brickell Avenue, Suite 950, Miami, Florida 33131; and **Charles L. Neustein, Esquire**, Charles L. Neustein, P.A., 777 Arthur Godfrey Road, Second Floor, Miami Beach, Florida 33140, on this 18<sup>th</sup> day of January, 2007.

  
\_\_\_\_\_  
Attorney