

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, et al.,

Relief Defendants.

THE ORIGINAL FILED
ON DEC 28 2009
IN THE OFFICE OF
CIRCUIT COURT DADE CO. FL.

**RECEIVER'S MOTION TO EXPAND RECEIVERSHIP TO INCLUDE ADDITIONAL
RELIEF DEFENDANT MAMC MELENDEZ, LLC**

Michael I. Goldberg, as State Court Appointed Receiver over Defendants Dana J. Berman ("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 Expand Receivership to Include Additional Relief Defendant MAMC Melendez, LLC ("MAMC Melendez") 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 the Court. Among the Receivership Defendants is M.A.M.C. Incorporated, a loan service provider.

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2. In the Receivership Order, Judge Wilson specifically states that all receivership assets, which includes the assets belonging to the Defendants and Relief Defendants, are subject to the exclusive jurisdiction of Judge Wilson in the Circuit Court of the Eleventh Judicial Circuit, and such assets shall be under the exclusive control of the Receiver:

The Court hereby takes exclusive jurisdiction and possession of the assets of the Defendants, Berman Mortgage, M.A.M.C., and Relief Defendants, the "Receivership Assets", which includes, but are not limited to: files, records, documents, leases, mortgages, investments, contracts, effects, lands, agreements, judgments, bank accounts, books of accounts, rents, goods, chattels, rights, credit claims, both asserted and unasserted, pending court actions and appeals, files and documents in the possession of attorneys and accountants of all of the Defendants and Relief Defendants, all other property, business offices, computers, servers, electronic data storage units, offsite storage locations, safety deposit boxes, monies, securities, choses in action, and properties, real and person, tangible and intangible, of whatever kind and description, wherever situation of the Defendants ... and Relief Defendants. The Receiver shall retain custody and control of all of the foregoing pursuant to the terms of this Agreed Order.

Receivership Order, ¶ 3 (emphasis added).

3. The Receiver was also authorized to investigate the manner in which the affairs of the Receivership Defendants were conducted and to institute actions on behalf of the Receivership Defendants as deemed necessary by the Receiver to collect funds or assets wrongfully misappropriated from the Receivership Defendants:

The Receiver is hereby authorized and specifically has standing to institute, defend, compromise or adjust such actions or proceedings in state or federal courts now pending and hereafter instituted, as may in his discretion be advisable or proper for the protection of the Receivership Assets or proceeds thereof, and to institute, prosecute, compromise or adjust such actions or proceedings in state or federal courts as may in his judgment be necessary or proper for the collection, preservation and maintenance of the Receivership Assets and/or on behalf of the Receivership Defendants.

Receivership Order, ¶ 21 (emphasis added).

4. The Receivership Order identified 18 Relief Defendants. However, the list of Relief Defendants should be expanded to include MAMC Melendez, LLC as it holds title to receivership assets.¹

5. M.A.M.C. Incorporated serviced a loan in the principal amount of \$30,000.00 from investors assembled by Berman Mortgage Corporation, a Florida limited liability company.

6. The loan was secured by a second position mortgage on a single-family home located at 11600 SW 122nd Place, (Lot 1, Block 111 of Devon-Aire Villas Section 10) in Miami-Dade County, Florida (collectively, the "Property")

7. The property-owner defaulted on the loan.

8. The MAMC lenders acquired the Property in foreclosure proceedings subject to the first-mortgage on the property in the principal amount of approximately \$106,400.00.

9. Importantly, the MAMC transferred the Property to MAMC Melendez, LLC – a Florida limited liability company created by the Receiver on behalf of MAMC Incorporated to take title to the Property.

10. MAMC Melendez is clearly an asset of the Receivership, and thus should be subject to the Receivership and the Receivership Order. MAMC Melendez is managed by M.A.M.C. Incorporated, and was created to take title to assets that were collateral for a loan serviced by M.A.M.C. Incorporated and funded by investors for whose benefit the Receivership is primarily established.

11. Consequently, and in line with the Receivership Order, inclusion of MAMC Melendez into the Receivership proceedings as a Relief Defendant "is both necessary and

¹ A relief defendant may either be a gratuitous beneficiary of the proceeds from the principal defendant's fraud or merely the custodian of the principal defendant's assets. *See, e.g., CFTC v. Hanover Trading Co.*, 34 F. Supp. 2d 203, 207 (S.D.N.Y. 1999).

appropriate in this matter in order to prevent further waste and dissipation of the assets of the Defendants and Relief Defendants, to the detriment of its investors.” Receivership Order, ¶ 3.

WHEREFORE, the Receiver moves this Court for entry of an Order Expanding the Receivership to Include Additional Relief Defendants MAMC Melendez, LLC and any other relief deemed necessary by this Court.

Respectfully submitted,

BERGER SINGERMAN

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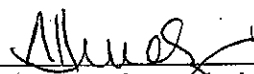
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CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by first-class pre-paid U.S. Mail on this 23rd day of December 2009, to the attached service list.

Respectfully submitted,

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cc: The Honorable Jerald Bagley (*via Hand Delivery*)
Michael Goldberg, Esq., as Receiver (*via e-mail*)
The Investor(s)/Lender(s) Group (*via e-mail*)
Posted to the Berman Mortgage Website

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