

Gabrielle D'Alemberte

From: James D. Gassenheimer [JGassenheimer@bergersingerman.com]
Sent: Wednesday, October 08, 2008 3:46 PM
To: Gabrielle D'Alemberte; Robert Miller
Cc: Goldberg, Michael
Subject: RE: BMC/Atlantic Lending/FOTO Foreclosure/Receivership

Gabrielle

We are working on the final agreement, however, provided it is finalized it will provide the protection to the lenders. We thank you for your assistance on this case. Once the agreement is final I will provide you with a copy. At that time you should feel free to withdraw from the case.

James

From: Gabrielle D'Alemberte [mailto:gabrielle@rplegal.com]
Sent: Wednesday, October 08, 2008 2:43 PM
To: Robert Miller
Cc: James D. Gassenheimer; Goldberg, Michael
Subject: RE: BMC/Atlantic Lending/FOTO Foreclosure/Receivership

So long as the Receiver and Mr. Gassenheimer are comfortable with the protection of the lenders, I am willing to serve in whatever role I am asked to and certainly I am willing to step down and out of this case.

I have asked for the receiver's "permission" (and will defer to his counsel Mr. Gassenheimer) in whatever decisions/stipulations or agreements are reached. What I cannot do is withdraw without some protection of the Lenders in what seemed to be your attempt to start deposing them individually.

I am in Costa Roca now and I will be back on Friday late, so whatever agreements are reached between the parties, please let me know in writing and I will prepare the necessary documents.

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From: Robert Miller [mailto:Robert@tfsmlaw.com]
Sent: Wednesday, October 08, 2008 11:57 AM
To: Gabrielle D'Alemberte
Cc: James D. Gassenheimer
Subject: BMC/Atlantic Lending/FOTO Foreclosure/Receivership

Mr. Gassenheimer and I spoke today and suggested I advise you that we both will agree to your submission of a proposed agreed order to the Court withdrawing from your representation of the individual lenders. Pursuant to the settlement agreement which we have tentatively reached, the written form of which Mr. Gassenheimer is reviewing to make sure that the interests of the receiver and the lenders are adequately protected, this controversy should be resolved, and you may feel free to communicate directly with Mr. Gassenheimer to confirm the accuracy of this email. Please let me know what you decide.