

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

STATE OF FLORIDA, OFFICE OF
FINANCIAL REGULATION,

GENERAL JURISDICTION DIVISION
CASE NO.: 07-43672 CA 09

Plaintiff,

vs.

BERMAN MORTGAGE CORPORATION,
a Florida corporation, M.A.M.C.
INCORPORATED, a Florida corporation,
DANA J. BERMAN, as Owner and Managing
Member,

Defendants,

and,

DB ATLANTA, LLC, a Florida Limited Liability
Company, et al.,

Relief Defendants.

THE ORIGINAL
FILED ON:
JUL 01 2010
IN THE OFFICE OF
CIRCUIT COURT DADE CO., FL.

**RECEIVER'S MOTION TO ABANDON
RELIEF DEFENDANT DB BILOXI II, LLC**

Michael I. Goldberg, as Court Appointed Receiver over Defendants Berman Mortgage Corporation, M.A.M.C. Incorporated, et al., and Relief Defendants DB Atlanta LLC, et al., (the "Receiver") by and through undersigned counsel, hereby files this Motion to Abandon Relief Defendant DB Biloxi II, LLC ("DB Biloxi II") (the "Motion"), and states:

Overview

The Receiver seeks to abandon DB Biloxi II as a Relief Defendant as it is no longer the owner of the real property upon which the MAMC Lenders held a first mortgage. On April 28, 2010, DB Biloxi II quitclaimed the subject property to GLP Properties, LLC and, as a result,

BERGER SINGERMAN
attorneys at law

Boca Raton Fort Lauderdale Miami Tallahassee

disposed of all the assets contained therein. See Quitclaim Deed attached as Exhibit "A" and incorporated herein by reference.

The Receiver is Appointed Over Relief Defendant DB Biloxi II

1. On December 11, 2007, this Court appointed Michael Goldberg to be the Receiver for the Defendants and the Relief Defendants.
2. DB Biloxi II is a Relief Defendant that, at the time of the Receivership was instituted, was a single purpose real estate entity and the owner of a condominium property known as Le Chateau located at 1194 Beach Boulevard in Biloxi, Mississippi (the "Le Chateau Project"). The Le Chateau Project suffered substantial property damage as a result of Hurricane Katrina and was deemed a total loss and leveled.
3. Pursuant to the Temporary Injunction and Agreed Order Appointing Receiver entered by this Court on December 11, 2007, (the "Receivership Order"), Relief Defendant DB Biloxi II is subject to the receivership. In fact, in the Receivership Order, Judge Wilson specifically states that all receivership assets, which include Relief Defendant DB Biloxi II, 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 [including DB Biloxi II, LLC], 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). See also, Receivership Order, ¶ 13 (“Michael I. Goldberg...is appointed receiver for...DB Biloxi II, LLC...”). DB Biloxi II is a Relief Defendant in this action because the Court found its inclusion necessary to “prevent further waste and dissipation of the assets of the Defendants and Relief Defendants, to the detriment of its investors.” See Receivership Order, ¶ 7.

Relevant Facts

4. On April 28, 2010, the Property of DB Biloxi II was quitclaimed to GLP Properties, LLC.

5. As such, because DB Biloxi II will no longer owns the Property, DB Biloxi II no longer has any equity to protect and thus its continued inclusion in the Receivership estate is no longer consistent with the purposes of the case and there is no further potential for waste of DB Biloxi II’s assets. Consequently, DB Biloxi II should be abandoned from these Receivership proceedings.

Defendant DB Biloxi II Should be Abandoned as a Relief Defendant Because it is of No Value to the Receivership Estate

6. The entire purpose for the inclusion of DB Biloxi II as a Relief Defendant was so that the Receiver could properly protect its assets because the evidence tended to show that there was an “imminent danger that the property of the Defendants and Relief Defendants may be further dissipated and/or commingled if a Temporary Injunction and the appointment of a receiver” was not issued. Receivership Order, ¶ 2. Its inclusion served to “prevent immediate and irreparable injury to the investors who have entrusted over \$192,000,000 to the ... Relief Defendants,” Receivership Order, ¶ 4, and to otherwise “prevent further waste and dissipation of the assets of the...Relief Defendants, to the detriment of its investors.” Receivership Order, ¶ 7.

Essentially, the Receivership Order served to protect Relief Defendant DB Biloxi II and its assets, and thereby protect the investors.

7. Pursuant to the Receivership Order, the Receiver may abandon Receivership assets to duly perfected secured or lien creditors, if after due investigation and notice to the parties in interest, it is determined that either the Receivership Defendants have no equity in such asset(s) or such asset(s) are burdensome to the Estate or are of inconsequential value and harmful to the Receivership estate. Receivership Order, ¶ 20.

8. The Receiver has recovered all that it can recover from Relief Defendant DB Biloxi II. Thus, protection is no longer necessary. Consequently, Relief Defendant DB Biloxi II no longer has any purpose in this Receivership action and should be removed.

WHEREFORE, the Receiver respectfully requests that this Court enter an Order:

- a) granting the Receiver's instant Motion;
- b) authorizing the Receiver to abandon DB Biloxi II, LLC; and
- c) awarding such other and further relief as this Court deems just and proper.

Respectfully submitted,

BERGER SINGERMAN

Attorneys for Receiver, Michael Goldberg
200 South Biscayne Boulevard, Suite 1000
Miami, FL 33131

Telephone: (305) 755-9500

Facsimile: (305) 714-4340

E-Mail: jgassenheimer@bergersingerman.com

mrossbach@bergersingerman.com

By: 

JAMES D. GASSENHEIMER

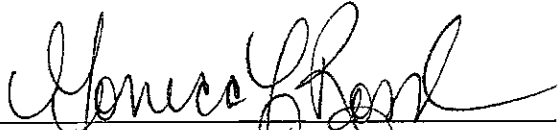
Florida Bar No. 959987

MONICA F. ROSSBACH

Florida Bar No. 13641

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail on this **1st of July, 2010**, to the attached Service List.

By: 

MONICA F. ROSSBACH

Florida Bar No. 13641

E-Mail: mrossbach@bergersingerman.com

SERVICE LIST

Cristina Saenz
Assistant General Counsel
STATE OF FLORIDA
OFFICE OF FINANCIAL REGULATION
401 N.W. 2nd Avenue, Suite N-708
Miami, FL 33128

Charles W. Throckmorton, Esquire
Attorneys for Dana Berman
KOZYAK TROPIN THROCKMORTON, P.A.
2525 Ponce de Leon Boulevard, 9th Floor
Coral Gables, FL 33134

Jason S. Miller, Esquire
Counsel for Flagstar Bank
ADORNO & YOSS, LLP
2525 Ponce de Leon Boulevard, Suite 400
Coral Gables, FL 33134

Robert and Mary Elrick
W. 658 Badger Drive
Freemont, WI 54940

Jeff Harrison
54102 Avenda Berinveas
La Quinta, CA 92253

Dennis Toney
2019 Sparkman Dr.
Suite D
Huntsville, AL 35810

Larry Bryant
1252 Ottawa Ave
Ottawa, IL 61350

Filiberto Munoz
555 Saturn Blvd., Box 452
San Diego, CA 92154

Alan M. Sandler, Esquire
Counsel for
Joel and Deborah Sokol,
Darlene Levasser,
Robert Dzimidas IRA,
Lawrence Meyer IRA,
Lawrence Meyer Roth IR
Mary Joe Meyer SD IRA
Mary Joe Meyer Roth IRA
SANDLER & SANDLER
117 Aragon Avenue
Coral Gables, FL 33134

Paul Huck, Esquire
Dean C. Colson, Esquire
COLSON HICKS EIDSON
255 Aragon Avenue, Second Floor
Coral Gables, FL 33134

Carmen Caraballo/Wm. Perez
770 Rose Brooke Dr.
Lawrenceville, GA 30045

Eugene Beck
18 N. Cambridge Way Lane
Huntley, IL 60142

Michelle Gamboa
8805 166th Ave NE
Redmond, WA 98052

Thomas and Katherine Kennedy
P.O. Box 180187
Los Angeles, CA 90018

Hubert Annen
13136 Sparrow Ct.
Homer Glenn, IL 60491

Anthony Lee
325 Sharon Park Dr., #312
Menlo Park, CA 94025

SERVICE LIST

(cont'd)

Joseph Pompeo
1010 Napa Pl.
Apex, NC 27502

Edward Lorin
1144 Water Wheel Pl.
West Lake Village, CA 91361

Adam Norvell
1028 11th Street
Manhattan Beach, CA 90266

Darren LaSalla
114 Queens Lane
Slidell, LA 70458

Geraldine Humphrey
115 Thunderbird Dr.
Harvest, AL 35749

Susan Harlow
141 Harbern Way
Hollister, CA 92808

Lynette Durtschi
590 S. 800 W.
Orem, Utah 84058

**Mike Boudreaux, Registered Agent for
GCID Realty, Inc.**
838 Vieux Marche
Biloxi, MS 39530

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

2853906-1

Prepared by:
Jeremy M. Clay, Esq.
Bradley Arant Boult Cummings LLP
One Jackson Place, Suite 400
188 E. Capitol Street
Jackson, Mississippi 39201
(601) 592-9953
Ms Bar No.: 103260

Return to:
GLP Properties, LLC
45 Katherine Blvd.
Suite 218
Palm Harbor, Florida 34684
Attention: A. Pawlan

STATE OF MISSISSIPPI
COUNTY OF HANCOCK

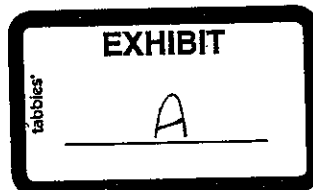
QUIT CLAIM DEED

THIS QUIT CLAIM DEED is executed, made and entered into as of the day and year set forth below by

DB BILOXI II, LLC, a Florida limited liability company (the "Grantor"),
DB Biloxi II, LLC
c/o Akerman Senterfitt
350 East Las Olas Boulevard, Suite 1600
Fort Lauderdale, Florida 33301-2229
Attention: Michael Goldberg
(954) 468-2444

in favor of

GLP PROPERTIES, LLC, a Mississippi limited liability company (the "Grantee")
45 Katherine Blvd.
Suite 218
Palm Harbor, Florida 34684
Attention: A. Pawlan
(727) _____



WITNESSETH:

THAT, in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration to DB Biloxi II, LLC ("Grantor") by GLP PROPERTIES, LLC ("Grantee"), the receipt and legal sufficiency of which are hereby irrevocably acknowledged, Grantor hereby remise, release, quit claim and convey unto Grantee the following described real property:

See attached Exhibit A.

INDEXING INSTRUCTIONS: [INSERT INDEXING INSTRUCTIONS]


TO HAVE AND TO HOLD to the Grantee, its successors and assigns forever.

[Signature Page Follows]

IN WITNESS WHEREOF, Grantor has executed this Special Warranty Deed on the 28 day of April, 2010.

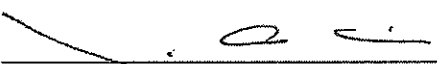
GRANTOR:

DB BILOXI II, LLC,
a Florida limited liability company

By: 
Print Name: Dana J. Berman
Its: President of manager

STATE OF FLORIDA)
COUNTY OF Miami-Dade)

Personally appeared before me, the undersigned authority in and for the said county and state, on this 28 day of April, 2010, within my jurisdiction, the within named Dana Berman, duly identified before me, who acknowledged to me that he is President of the Manager of DB Biloxi II, LLC, a Florida limited liability company and that for and on behalf of said limited liability company, and as the act and deed of said limited liability company, he executed the above and foregoing instrument, after first having been duly authorized by said limited liability company so to do.


NOTARY PUBLIC

My Commission Expires:

(Affix official seal, if applicable)

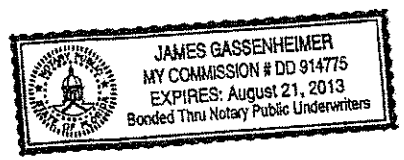


EXHIBIT A

Legal Description

Parcel IV:

Condominium Units 103, 104, 105, 106, 109, 110, 201, 204, 205, 206, 211, 215, 301, 302, 303, 305, 306, 307, 309, 310, 401, 405, 406, 407, 409, 503, 504, 505, 507, 508, 509 and 510, LE CHATEAU CONDOMINIUMS, as per the Declaration of Condominium dated June 21, 2002, recorded in Deed Book 338, at Page 59, re-recorded in Deed Book 388 at page 431 and the Amended and Restated Condominium Declaration dated March 4, 2005 bearing Instrument Number 2005-4229D-J2, and plat thereof as appears of record in Plat Book 18, at Page 24, in the Chancery Clerk of the Second Judicial District of Harrison County, Mississippi together with the appropriate interest in and to the common area for each respective unit as such are defined in said Amended and Restate Condominium Declaration of Le Chateau Condominiums.