

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT IN AND FOR  
CHARLOTTE COUNTY, FLORIDA CIVIL ACTION

KENNETH D. GOODMAN, TRUSTEE,

Plaintiff,

v.

M.A.M.C. WINDWARD, LLC, a Florida  
limited liability company, et al.,

Defendants.

CASE NO. 07-2492-CA

**PLAINTIFF'S THIRD REQUEST FOR PRODUCTION TO  
DEFENDANT SECOND MORTGAGE HOLDERS**

Plaintiff, KENNETH D. GOODMAN, TRUSTEE ("GOODMAN as TRUSTEE"), by and through his undersigned attorney, pursuant to Rule 1.350, Fla. R. Civ. P. files this his First Request for Production directed to Coconut Grove Bank, as Custodian of the Anita Speisman IRA as to an undivided 1% interest, Coconut Grove Bank, as Custodian of the William E. Simmel, IRA as to an undivided 2% interest, Coconut Grove Bank, as Custodian of the Barry Alter IRA as to an undivided 1.5% interest, Coconut Grove Bank, as Custodian of the Thomas B. Blaikie IRA as to an undivided 5% interest, Coconut Grove Bank, as Custodian of the Stephen Stong Rollover IRA as to an undivided 5% interest, Coconut Grove Bank, as Custodian of the Murray L. Kane Rollover IRA as to an undivided 2% interest, Berman Mortgage Corporation as to an undivided 26% interest, Patricia Marques Gianoli as to an undivided 4% interest, John Barry as to an undivided 2 % interest, James B. Jones and Sharon L. Jones as to an undivided 2.5% interest, Brandy L. Jacobs as to an undivided 1% interest, Ponce Portfolio Mortgage, Ltd. as to an undivided 1% interest, Scott J. Modist and Deborah Modist as to an undivided 7.5%

interest, Morris Berger as to an undivided 10% interest, Marlene Heller and Robert Heller JTWROS as to an undivided 2.5% interest, Douglas Winfield Clanton as to an undivided 5% interest, Gerald Friedman as to an undivided 2% interest, Sharon Ann Tompkins as to an undivided 2% interest, Kenneth Flanz as to an undivided 1% interest, Tema Burk TTEE dtd 7/27/89 as to an undivided 1% interest, Kenneth S. Andersen as to an undivided 2% interest, Elisabeth B. Edwards as to an undivided 1% interest, Vida Berkowitz as to an undivided 1% interest, Samuel M. Meline, DMD as to an undivided 2.5% interest, S. Atara Kane as to an undivided 1% interest, Jonathon Tepper as to an undivided 1% interest, Barkay Investments, Inc. Retirement Plan as to an undivided 7.5% interest, collectively referred to as "Second Mortgage Interest Holders" who is required to produce the following delineated documentation at Coleman, Hazzard & Taylor, P.A., 2640 Golden Gate Parkway, Suite 304, Naples, Florida 34105-3220 thirty (30) days from the date of service.

#### DEFINITIONS

1. "Plaintiff" means GOODMAN as TRUSTEE, and any employee, agent or attorney of Plaintiff and any other person acting for or on behalf of Plaintiff or under Plaintiff's authority and control.

2. "Defendants" means all the Defendants named in this lawsuit unless the proper name of an individual Defendant is provided. "Defendants" or the proper name of an individual Defendant includes any employee, agent or attorney of Defendants, and any other person acting for or on behalf of Defendants or under Defendants' authority or control individually, jointly, or in any capacity whatsoever with any other entity of any kind, nature or type including all successors, assigns and predecessors in right, title and interest.

3. "Document" means any written or graphic matter or other means of preserving thought or expression and all tangible things from which information can be processed or transcribed, including the originals and all non-identical copies, whether different from the original by reason of any notation made on such copy or otherwise, including but not limited to, correspondence, memoranda, notes, messages, letters, telegrams, teletype, telefax, bulletins, meetings or other communication, inter-office and intra-office, telephone calls, diaries, chronological data, minutes, books, reports, charts, ledgers, invoices, worksheets, receipts, returns, computer printouts, prospectuses, financial statements, schedules, affidavits, contracts, cancelled checks, transcripts, statistics, surveys, magazine or newspaper articles, releases (and any and all drafts, alterations and modifications, changes and amendments of any of the

foregoing), graphs or aural records or representations of any kind, including without limitation, photographs, charts, graphs, microfiche, microfilm, video tape, recordings, motion pictures and electronic, mechanical or electric recordings or representations of any kind., or any data in any electronic storage medium (including without limitation, tapes, cassettes, disks and records).

4. "Communication" means any written or oral statement, dialogue, colloquialism, discussion, conversation or agreement.

5. The terms "you" and "your" mean the party to whom this Request for Production is addressed, including their agents, attorneys and all other persons acting or purporting to act on their behalf.

6. "Person" means any natural person, individual, proprietorship, partnership, corporation, association, organization, joint venture, firm, other business enterprise, governmental body, group of natural persons or other entities.

7. As used herein, the singular and masculine form of a noun or pronoun shall be read, embraced and applied as may be appropriate under the circumstances as either.

8. "Refer to," or "relate to" shall mean to make a statement about, discuss, describe, reflect, constitute, identify, deal with, consist of, establish, compromise, list, evidence, substantiate or in any way pertain, in whole or in part, to the subject.

9. Unless otherwise stated, the relevant time period for purposes of this Request for Production shall be January 1, 2005 to the present.

10. The "Property" is defined as Condominium Units # 202, 203, 205 and 303 in Building #1 and Units #202, 203, 303 and 404 in Building #2 of The Preserve at Windward, A condominium according to the Declaration of Condominium therefore filed in Official Records Book 2610 at Page 2109 of the Public Records of Charlotte County, Florida and the vacant lands encumbered by the Berman Mortgage as the a result of a bankruptcy sale held in Case No. 9:05-BK-28399-ALP.

11. "Second Mortgage Interest Holders" is defined as Coconut Grove Bank, as Custodian of the Anita Speisman IRA as to an undivided 1% interest, Coconut Grove Bank, as Custodian of the William E. Simmel, IRA as to an undivided 2% interest, Coconut Grove Bank, as Custodian of the Barry Alter IRA as to an undivided 1.5% interest, Coconut Grove Bank, as Custodian of the Thomas B. Blaikie IRA as to an undivided 5% interest, Coconut Grove Bank, as Custodian of the Stephen Stong Rollover IRA as to an undivided 5% interest, Coconut Grove Bank, as Custodian of the Murray L. Kane Rollover IRA as to an undivided 2% interest, Berman Mortgage Corporation as to an undivided 26% interest, Patricia Marques Gianoli as to an undivided 4% interest, John Barry as to an undivided 2 % interest, James B. Jones and Sharon L. Jones as to an undivided 2.5% interest, Brandy L. Jacobs as to an undivided 1% interest, Ponce Portfolio Mortgage, Ltd. as to an undivided 1% interest, Scott J. Modist and Deborah Modist as to an undivided 7.5% interest, Morris Berger as to an undivided 10% interest, Marlene Heller and Robert Heller JTWROS as to an undivided 2.5% interest, Douglas Winfield Clanton as to an

undivided 5% interest, Gerald Friedman as to an undivided 2% interest, Sharon Ann Tompkins as to an undivided 2% interest, Kenneth Flanz as to an undivided 1% interest, Tema Burk TTEE dtd 7/27/89 as to an undivided 1% interest, Kenneth S. Andersen as to an undivided 2% interest, Elisabeth B. Edwards as to an undivided 1% interest, Vida Berkowitz as to an undivided 1% interest, Samuel M. Meline, DMD as to an undivided 2.5% interest, S. Atara Kane as to an undivided 1% interest, Jonathon Tepper as to an undivided 1% interest, Barkay Investments, Inc. Retirement Plan as to an undivided 7.5% interest, collectively.

12. "Second Mortgage" means that Second Mortgage and Security Agreement executed by MAMC in favor of Second Mortgage Interest Holders, and recorded against the Property in O.R. Book 3091, at Page 1945 of the Public Records of Charlotte County, Florida.

### **DOCUMENTS TO BE PRODUCED**

A. Copies of any and all documents and/or communications relating to the Second Mortgage (excluding privileged communications) including but not limited to: title policies, closing documents and loan documents.

B. Copies of any all documents and/or communications between Second Mortgage Interest Holders and any third party (excluding privileged communications) relating to the Second Mortgage.

### **CERTIFICATE OF SERVICE**

*I HEREBY CERTIFY*, that a true and correct copy of the foregoing was furnished by U.S. Mail to James D. Gassenheimer, Esq., and Monica F. Klein, Esq., The Gassenheimer Law Firm, 307 Continental Plaza, 3250 Mary Street, Coconut Grove, FL 33133, James P. S. Leshaw, Esq., Greenberg Traurig, P.A., 1221 Brickell Avenue, Miami, FL 33131, Andrew Zaron, Esq., Hunton & Williams LLP, 1111 Brickell Avenue, Suite 2500, Miami, FL 33131-1802, and Eugene H. Smith, Esq. & C. Richard Mancini, Esq., Henderson, Franklin Starnes & Holt, P.O. Box 280, Ft. Myers, FL 33902-0280, this 2nd day of April, 2009.

COLEMAN, HAZZARD & TAYLOR, P.A.

By: 

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