

IN THE CIRCUIT COURT OF THE ELEVENTH 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, a Florida limited liability  
company, et al.,

Relief Defendants.

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**RECEIVER'S MOTION FOR AUTHORIZATION TO  
LOAN FUNDS TO THE BELLA VISTA PROJECT IN  
ORDER TO FUND ESSENTIAL EXPENSES TO  
PRESERVE VALUE OF PROJECT**

Michael I. Goldberg, the receiver of Defendants Berman Mortgage Corporation, M.A.M.C. Incorporated, *et al.*, and Relief Defendants DB Atlanta, LLC, *et al.* (the "Receiver"), hereby files this Motion for Authorization to Loan Funds to the Bella Vista Project in Order to Fund Essential Expenses to Preserve Value of Project. In support of this Motion, the Receiver states as follows:

1. On December 11, 2007, this Court appointed Michael Goldberg as the receiver for the Defendants and the Relief Defendants (collectively, the "Receivership Defendants") to prevent the waste and dissipation of the Receivership Defendants' assets to the detriment of investors who entrusted over \$192 million to the Receivership Defendants.

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2. As part of his duties in administering the receivership, the Receiver uncovered potential claims against the Receivership Defendants' accountants. Accordingly, the Receiver, in conjunction with a class of creditors, brought claims against the accountants. Subsequently, a settlement with the accountants was reached and a pool of money was available to satisfy certain creditors' claims.

3. On or about March 9, 2010, the Receiver filed the Receiver's Motion for an Order Approving the Proposed Priority of Distribution and Procedures for the Disbursement of Funds Recovered by Receiver in an Accounting Professional Liability Claim (the "Distribution Motion").

4. The Court granted the Distribution Motion, and shortly thereafter, the Receiver made a distribution of a substantial portion of the settlement proceeds. With the Court's permission, the Receiver held back several million dollars of the settlement proceeds to fund future and current administrative expenses as well as to make loans to various projects on an as-needed basis. More specifically, the Receiver is still administering approximately 15 projects (down from 34 at the start of the receivership). Many of these projects are either embroiled in litigation or currently being marketed for sale and require that certain essential expenses, such as taxes and insurance, be paid in order to preserve the project's value.

5. Loans are not being made merely based on need. Rather, loans are only made to a project if the Receiver believes that there is a substantial likelihood that the project will ultimately be able to repay the loan, together with interest at 4%. Moreover, the Receiver is not making these loans solely based on his own decision. Rather, if a project needs a loan, the lender committee for the project makes a request to the Receiver to loan the project funds. The Receiver reviews the request, and if he believes that the funds are needed and there is a substantial

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likelihood that the project can repay the loan, the Receiver then convenes a meeting of the Executive Committee to consider the loan. Only if the Executive Committee agrees, does the Receiver seek the Court's authorization to make the loan.<sup>1</sup>

6. Through this Motion, the Receiver seeks authorization to loan the Bella Vista project up to \$100,000. This loan proceeds will be used to pay approximately \$91,000 in taxes due and owing and approximately \$1,000 in liability insurance premiums. Bella Vista is one-half acre of land located in Jacksonville, Florida. During the Receivership, the Bella Vista loan was foreclosed and now the Receiver is attempting to sell the property. There is currently \$153,000 of primed loans on Bella Vista and the project owes M.A.M.C. approximately \$32,000 in legal fees. If the Court approves this loan, the total debt owed by Bella Vista will be approximately \$285,000. The Bella Vista property is currently listed for \$2.5 million which the Receiver believes is a fair price. Even if Bella Vista is sold for half this amount, the loan will be fully secured.

7. The loan will accrue interest at the rate of 4% per annum, simple interest. Currently, the funds are being held in the Receiver's law firm's trust account and are earning substantially less interest. Currently, the project is paying interest on the taxes owed at 18%. Accordingly, making this loan is a win-win situation for the receivership estate which will make more interest than it is currently earning and the project will pay considerably less interest than what is accruing on the outstanding taxes.

8. The Receiver and the Executive Committee believe the loan is fully secured by the value of the property. The loan, together with all accrued interest, will be payable on sale of the property. Moreover, the project will reimburse the receivership estate \$1,000 in fees and

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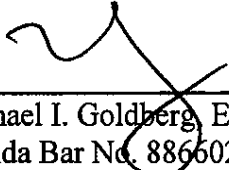
<sup>1</sup> As the Court is aware, at the outset of the receivership, the Receiver set up committees comprised of lenders for each loan (a "lender committee") and one overall committee made up of at least one lender from each loan (the "Executive Committee") to advise the Receiver.

costs incurred in obtaining approval of this loan.<sup>2</sup> The Receiver and the Executive Committee believe making this loan is in the best interest of the receivership estate.

**WHEREFORE**, Michael I. Goldberg, in his capacity as Receiver of Berman Mortgage, M.A.M.C. and related entities, respectfully request this Court to enter an Order authorizing the Receiver to make the loan described herein and to grant such further relief as is just and proper.

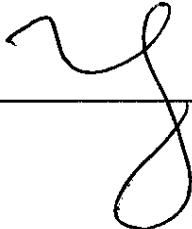
Respectfully submitted,

**AKERMAN SENTERFITT**  
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By:   
Michael I. Goldberg, Esquire  
Florida Bar No. 886602

**CERTIFICATE OF SERVICE**

I **HEREBY CERTIFY** that on this 9<sup>th</sup> day of July, 2010, a true and correct copy of the forgoing was furnished via U.S. Mail to the parties on the attached Service List.

By: 

<sup>2</sup> This fee will be added to the outstanding loan balance.

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SERVICE LIST

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|---|---|
| <p><b>Cristina Saenz</b><br/> <b>Assistant General Counsel</b><br/> STATE OF FLORIDA<br/> OFFICE OF FINANCIAL REGULATION<br/> 401 N.W. 2<sup>nd</sup> Avenue, Suite N-708<br/> Miami, FL 33128</p>  | <p><b>Alan M. Sandler, Esquire</b><br/> <i>Counsel for Joel and Deborah Sokol,<br/> Darlene Levasser, Robert Dzimidas IRA,<br/> Lawrence Meyer IRA, Lawrence Meyer Roth<br/> IRA, Mary Joe Meyer SD IRA, Mary Joe<br/> Meyer Roth IRA</i><br/> SANDLER &amp; SANDLER<br/> 117 Aragon Avenue<br/> Coral Gables, FL 33134</p> |
| <p><b>Charles W. Throckmorton, Esquire</b><br/> <i>Attorneys for Dana Berman</i><br/> KOZYAK TROPIN THROCKMORTON, P.A.<br/> 2525 Ponce de Leon Boulevard, 9<sup>th</sup> Floor<br/> Coral Gables, FL 33134</p>  | <p><b>Paul Huck, Esquire</b><br/> <b>Dean C. Colson, Esquire</b><br/> COLSON HICKS EIDSON<br/> 255 Aragon Avenue, Second Floor<br/> Coral Gables, FL 33134</p>  |
| <p><b>Jason S. Miller, Esquire</b><br/> <i>Counsel for Flagstar Bank</i><br/> ADORNO &amp; YOSS, LLP<br/> 2525 Ponce de Leon Boulevard, Suite 400<br/> Coral Gables, FL 33134</p>   | <p><b>Maurice Baumgarten, Esquire</b><br/> ANANIA, BANDKLAYDER, BLACKWELL,<br/> BAUMGARTEN, TORRICELLA &amp; STEIN<br/> Bank of America Tower - Suite 4300<br/> 100 SE 2<sup>nd</sup> Street<br/> Miami, FL 33131</p>   |
| <p><b>Mark A. Basurto, Esquire and</b><br/> <b>Charles Evans Glausier, Esquire</b><br/> <i>Attorneys for Gulf Island Beach and Tennis<br/> Club Condominium Association, Inc.</i><br/> BUSH ROSS, P.A.<br/> Post Office Box 3913<br/> Tampa, Florida 33601-3913</p> | <p><b>Charles L. Neustein, Esquire</b><br/> CHARLES L. NEUSTEIN, P.A.<br/> 777 Arthur Godfrey Road, Second Floor<br/> Miami Beach, FL 33140</p>   |
| <p><b>William Dufoe, Esquire</b><br/> <b>Robert W. Lang, Esquire</b><br/> HOLLAND &amp; KNIGHT, LLP<br/> 100 North Tampa Street, Suite 4100<br/> Tampa, FL 33602</p>  | <p><b>Deborah Poore Fitzgerald, Esquire</b><br/> WALTON LANTAFF SCHROEDER &amp;<br/> CARSON, LLP<br/> Corporate Center, Suite 2000<br/> 100 East Broward Boulevard<br/> Fort Lauderdale, FL 33301</p>   |
| <p><b>Peter Valori, Esquire</b><br/> DAMIAN &amp; VALORI, LLP<br/> 1000 Brickell Avenue, Suite 1020<br/> Miami, FL 33131</p>  | <p><b>Christopher S. Linde, Esquire</b><br/> BURR FORMAN<br/> 450 S. Orange Avenue<br/> Suite 200<br/> Orlando, Florida 32801</p>   |