

IN THE CIRCUIT COURT OF THE  
11<sup>TH</sup> JUDICIAL CIRCUIT IN AND FOR  
MIAMI -DADE COUNTY, FLORIDA

CASE NO.: 07-43672 CA 09

STATE OF FLORIDA, OFFICE OF  
FINANCIAL REGULATION,

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 JAN 11 2008**

**IN THE OFFICE OF  
CIRCUIT COURT DADE CO. FL**

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**NOTICE OF FILING**

Receiver, Michael I. Goldberg, Esq., ("Receiver"), by and through undersigned counsel, hereby gives Notice of Filing the Amendment to Loan Agreement to be executed by the Receiver (although prepared for the signature of Dana Berman), and in support of the Emergency Motion for Financing for DB Biloxi III, LLC.

**CERTIFICATE OF SERVICE**

WE HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by Facsimile and U.S. Mail on this **11<sup>th</sup> day of January 2008**, to: **Cristina Saenz, Assistant General Counsel**, STATE OF FLORIDA, OFFICE OF FINANCIAL REGULATION, 401 N.W. 2<sup>nd</sup> Avenue, Suite N-708, Miami, Florida 33128; to **Alan M. Sandler, Esquire, Counsel for Defendants, Joel and Deborah Sokol, Darlene Levasser, Robert Dzimidas IRA, Lawrence Meyer IRA, Lawrence Meyer Roth IRA and Mary Joe Meyer SD IRA and Mary Joe Meyer Roth IRA**, of SANDLER & SANDLER, 117 Aragon Avenue, Coral Gables, Florida 33134; and to **Michael P. Ehrenstein, Esquire, Counsel for The Amid Companies and Amedia Family Investors**, EHRENSTEIN CHARBONNEAU CALDERIN, 1111 Brickell Avenue, 2915 Mellon Financial Center, Miami, Florida 33131.

Respectfully Submitted,

BERGER SINGERMAN  
*Attorneys for the Receiver, Michael I. Goldberg*  
200 South Biscayne Boulevard, Suite 1000  
Miami, FL 33131  
Telephone: (305) 755-9500  
Facsimile: (305) 714-4340

By: \_\_\_\_\_

~~JAMES D. GASSENHEIMER  
Florida Bar No. 959987~~

936887-1

# LEOPOLD KORN LEOPOLD & SNYDER, P.A.

## ATTORNEYS AT LAW

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Gary A. Korn  
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Ileana Noa, LTA, Office Manager

December 21, 2007

VIA EMAIL: [michael.goldberg@akerman.com](mailto:michael.goldberg@akerman.com)

Michael I. Goldberg, Esquire  
Akerman & Senterfitt  
350 East Las Olas Boulevard  
Suite 1600  
Ft. Lauderdale, Florida 33301

Re: Alterna Capital Management, LLC, a Florida limited liability company f/k/a Konrad Capital Management, LLC, a Florida limited liability company Loan to DB Biloxi III, LLC, a Florida limited liability company

Dear Michael:

We are counsel to Alterna Capital Management, LLC, a Florida limited liability company. At the direction of our client we have prepared, and are forwarding to your attention for your review, the following proposed documents to be executed by the Borrower and by the Guarantors:

1. Amendment to Loan Agreement; and
2. Ratification and Reaffirmation of Personal Guaranty.

As Receiver for DB Biloxi III, LLC, a Florida limited liability company, we ask that you approve the content of the enclosed documents. In addition, please advise whether the Amendment to Loan Agreement needs to be modified to reflect that you will be executing this document as Receiver on behalf of DB Biloxi III, LLC, a Florida limited liability company.

Thank you.

Very truly yours,

  
GARY A. KORN  
For the Firm

GAK/df

Enclosures

cc: Mr. Albert Friedman (w/enc.-via email: [afriedman@kcapitalfunding.com](mailto:afriedman@kcapitalfunding.com))

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**AMENDMENT TO LOAN AGREEMENT**

**THIS AMENDMENT TO LOAN AGREEMENT** (the "Amendment") is made and entered into this \_\_\_ day of December, 2007 by and between **DB BILOXI III, LLC**, a Florida limited liability company (the "Borrower") and **ALTERNA CAPITAL MANAGEMENT, LLC**, a Florida limited liability company f/k/a **KONRAD CAPITAL MANAGEMENT, LLC**, a Florida limited liability company (the "Lender").

**WITNESSETH:**

**WHEREAS**, the Borrower and **COMMERCIAL CAPITAL RESOURCES, LLC**, a Florida limited liability company ("Commercial Capital") entered into and executed a Loan Agreement dated May 31, 2007 (the "Loan Agreement"), in conjunction with the extension of the loan, of even date therewith (the "Loan"), extended by Commercial Capital to the Borrower in the original principal amount of \$13,200,000.00; and

**WHEREAS**, the interest of Commercial Capital in and to the Loan and in and to the Loan Agreement has been assigned, conveyed and transferred by Commercial Capital to the Lender; and

**WHEREAS**, the Borrower and the Lender have agreed to amend and modify the Loan Agreement in the manner hereinafter specified;

**NOW THEREFORE**, for and in consideration of the sum of TEN AND NO/100 (\$10.00) DOLLARS and other good and valuable considerations, the receipt of which is hereby acknowledged, it is hereby agreed as follows:

1. In the event at any time during the Loan there shall be less than twenty (20) Contracts in effect, Lender shall have the right to require that Borrower tender funds to Lender in an amount which would be sufficient to cause the Interest Reserve to contain twelve (12) months of interest projected to be due with respect to the Note.

2. In supplementation of the provisions contained within Section 7.5(b) of the Loan Agreement, at Lender's discretion up to \$2,080,000.00 may be reborrowed (the "Reborrowing") by Borrower under the Loan Agreement, provided the following conditions are met and satisfied:

(a) the Reborrowing shall be available on an inverse one to three ratio, as Units are sold and sales proceeds are utilized by Borrower to tender payments on account of the Note. For example, for each \$300,000.00 paid by Borrower to Lender on account of the Note, from the sale of Units, \$100,000.00 shall be made available to be reborrowed by Borrower under the Loan Agreement; provided that the aggregate amount of the Reborrowing shall not exceed \$2,217,618.11;

(b) any Reborrowing made available by Lender to Borrower shall: (i) be applied first to the next monthly interest only payment due under the Note; and (ii) be utilized only for payment of the items of projected expenses contained within the schedule attached to this Amendment as Exhibit "A";

(c) If required by Lender, the funding of the Reborrowing shall be conditioned upon receipt of an updated appraisal of the Project satisfactory to Lender; and

(d) If any portion of the Reborrowing is utilized to replenish the Interest Reserve, then Borrower shall pay to Lender a loan fee in an amount equal to 3% multiplied by the amount of the Reborrowing utilized to replenish the Interest Reserve.

3. Borrower represents and warrants that, attached to this Amendment as Exhibit "B", is a schedule prepared by Borrower detailing: (i) the list of Units within the Project which are currently under contract to be sold and conveyed by Borrower to unit purchasers; and (ii) the projected schedule for the closing of the Units within the Project which are currently under contract to be sold and conveyed by Borrower to unit purchasers.

4. Except as herein modified and amended, each and every one of the terms and provisions contained within the Loan Agreement shall remain unmodified and shall continue in full force and effect.

**DB BILOXI III, LLC**, a Florida limited liability company

By: **DB BILOXI III MANAGER INCORPORATED**, a Florida corporation, its Manager

By: \_\_\_\_\_  
DANA J. BERMAN, President

Date: December \_\_, 2007

**ALTERNA CAPITAL MANAGEMENT, LLC**, a Florida limited liability company

**LEOPOLD KORN LEOPOLD & SNYDER, P.A.**

20801 Biscayne Boulevard, Suite 501, Aventura, FL 33180 Telephone: 305-935-3500



Bldg.	Unit #	ST	Contract Name	Contract Date	NET	
					PROCEEDS	Sales Price
5			Pam D. Fayard	2/6/06	74,206.00	79,900.00
28			Illiance Properties, LLC	9/24/07	83,606.00	89,900.00
31			J.L. Martin Investments	3/26/06	83,606.00	89,900.00
42			(Christie) My Tran	4/25/06	93,006.00	99,900.00
47			(Christie) My Tran	4/25/06	99,900.00	99,900.00
48			Delma Gordon	11/7/07	82,408.00	89,900.00
52			Maudena Stevenson	8/3/06	88,306.00	94,900.00
56			Earle Flett	7/7/07	83,606.00	89,900.00
57			Carmen Carabella-Perez	10/23/06	204,706.00	219,900.00
59			Anthony Lee	7/22/06	197,186.00	211,900.00
63			Robert & Mary Elrick	11/2/06	200,946.00	215,900.00
65			Eugene Beck	9/18/06	197,186.00	211,900.00
66			Rande LaTour	6/21/06	197,186.00	211,900.00
67			Fred & Ashley Kayal	8/26/06	197,186.00	211,900.00
68			Cheryl Gollnick / Anthony	6/28/06	148,556.00	159,900.00
69			Mark Tendler		134,928.00	145,403.00
71			Tony Nguyen & Thi Tran	4/29/06	147,710.00	159,000.00
72			Andrew N. & Vina J. Fong	6/28/06	148,556.00	159,900.00
74			Stephanie Pompeo	11/2/06	155,136.00	166,900.00
80			Keith Alling	6/29/06	148,556.00	159,900.00
81			Gustafon	12/10/07	143,910.00	159,900.00
82			Gustafon	12/10/07	143,910.00	159,900.00
88			Angela Pino	3/13/06	176,506.00	189,900.00
89			David Maslyn	7/13/06	197,186.00	211,900.00
96			Eberhard & Carol Samlov	8/26/06	197,186.00	211,900.00
97			Gerald Timms	6/28/06	192,486.00	206,900.00

EXHIBIT "B"

Bldg	Unit #	Contract Name	Contract Date	NET	
				PROCEEDS	Sales Price
	99	Dale J. & Dorothy R. Cox	6/29/06	192,486.00	206,900.00
	100	Eddie Lorin	8/27/05	148,306.00	159,900.00
	102	Emily Bell	6/27/06	192,486.00	206,900.00
	103	Wade Falkey	12/19/07	186,210.00	206,900.00
	106	Joseph E. Romano	6/30/06	192,486.00	206,900.00
	107	Wade Falkey	12/19/07	186,210.00	206,900.00
	108	Adam Norvell	8/27/05	148,306.00	159,900.00
	109	Ernest K. Meredith	6/28/06	192,486.00	206,900.00
	122	Sarah R. Lancione	9/5/06	148,556.00	159,900.00
	124	Jeanne M. Chacko	7/24/06	148,556.00	159,900.00
	129	Richard J Gyorkos	4/21/06	143,856.00	154,900.00
	130	Jeffrey D. Harrison	6/21/06	192,736.00	206,900.00
	136	Richard J Gyorkos	4/21/06	192,736.00	206,900.00
	137	Richard J Gyorkos	4/21/06	186,156.00	199,900.00
	140	James L Lee	7/3/06	185,906.00	199,900.00
	147	Dennis Toney	2/10/06	176,506.00	189,900.00
	151	Geraldine H. Humphrey	2/10/06	176,506.00	189,900.00
	152	Emily Bell	6/27/06	139,156.00	149,900.00
	153	Susan A Harlow	6/28/06	139,156.00	149,900.00
	154	Montressa Washington	8/3/06	139,156.00	149,900.00
	156	Zaw Thu	6/27/06	139,156.00	149,900.00
	158	Lynette Durtschi	6/27/06	139,156.00	149,900.00
	159	Olivia Rose	8/7/06	139,156.00	149,900.00
	160	Eberhard & Carol Samlov	8/26/06	139,156.00	149,900.00
	168	Olivia Rose	8/4/06	139,156.00	149,900.00

EXHIBIT "B"

DB Biloxi III, LLC  
Sales Analysis

	\$	Units				
Units under contract	(7,921,404)	(51)				
	<u>(7,921,404)</u>	<u>(51)</u>				
	Nov-07	Dec-07	Jan-08	Feb-08	Mar-08	Apr-08
Units under contract	2,640,468.00	2,640,468.00	2,640,468.00	2,640,468.00		7,921,404.00
	<u>2,640,468.00</u>	<u>2,640,468.00</u>	<u>2,640,468.00</u>	<u>2,640,468.00</u>	-	<u>7,921,404.00</u>

	1/1/2008	2/1/2008	3/1/2008	4/1/2008
Beginning Balance	\$ 12,792,500.00	\$ 11,031,307.84	\$ 9,270,115.69	\$ 7,508,923.53
	\$ 2,046,800.00	\$ 1,765,009.28	\$ 1,483,218.51	\$ 1,201,427.77
Interest Due	\$ 170,566.67	\$ 147,084.10	\$ 123,601.54	\$ 100,118.98
Principal Paydown	1,761,192.16	1,761,192.16	1,761,192.16	-
End Balance	\$ 11,031,307.84	\$ 9,270,115.69	\$ 7,508,923.53	\$ 7,508,923.53



**RATIFICATION AND REAFFIRMATION OF PERSONAL GUARANTY**

The undersigned, **DANA J. BERMAN** and **KEITH NOVAK** (collectively the "Guarantors") have read and understood the Amendment To Loan Agreement, of even date herewith (the "Loan Agreement Amendment") entered into by and between **DB BILOXI III, LLC**, a Florida limited liability company (the "Borrower") and **ALTERNA CAPITAL MANAGEMENT, LLC**, a Florida limited liability company f/k/a **KONRAD CAPITAL MANAGEMENT, LLC**, a Florida limited liability company (the "Lender"). The Guarantors, having read and understood each and every one of the terms, conditions and provisions contained within the Loan Agreement Amendment, do hereby ratify and reaffirm the continued validity and enforceability of that certain Personal Guaranty dated May 31, 2007 (the "Guaranty"), executed by the Guarantors in favor of **COMMERCIAL CAPITAL RESOURCES, LLC**, a Florida limited liability company ("Commercial Capital") (the rights of Commercial Capital under the Guaranty having been assigned, conveyed and transferred to the Lender), pursuant to which the Guarantors have personally guaranteed, jointly and severally, to the Lender the timely and complete payment and performance of all obligations due and owing by the Borrower to the Lender.

**IN WITNESS WHEREOF**, the Guarantors have executed this instrument for the purposes set forth above this \_\_\_\_ day of December, 2007.

**WITNESSES:**

\_\_\_\_\_

Print Name: \_\_\_\_\_

\_\_\_\_\_  
**DANA J. BERMAN**

\_\_\_\_\_

Print Name: \_\_\_\_\_

\_\_\_\_\_

Print Name: \_\_\_\_\_

\_\_\_\_\_  
**KEITH NOVAK**

\_\_\_\_\_

Print Name: \_\_\_\_\_