

IN THE CIRCUIT COURT OF THE
11TH JUDICIALCIRCUIT 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:
FEB 01 2008
IN THE OFFICE OF
CIRCUIT COURT DADE CO FL

**EMERGENCY MOTION FOR COURT ORDER DIRECTING
THE FOLTZ MARTIN LLC LAW FIRM TO CANCEL SALE**

Michael I. Goldberg, Esquire, as State Court Appointed Receiver ("Receiver"), by and through undersigned counsel, hereby files this *Emergency Motion for Court Order Directing the Foltz Martin, LLC Law Firm to Cancel Sale*, or in the alternative to authorize the filing of a Chapter 11, and as grounds therefore states:

1. A significant asset of the Receivership is a Hotel in Atlanta, Georgia owned by DB Atlanta, LLC. On January 18, 2008, the first mortgage holder against the property commenced a non-judicial sale proceeding in Atlanta, Georgia.
2. The Foltz Martin LLC law firm in Atlanta, Georgia acting for the first mortgage has scheduled a non-judicial sale for Tuesday, February 5, 2008.

BERGER SINGERMAN
attorneys at law

Boca Raton Fort Lauderdale Miami Tallahassee

200 South Biscayne Boulevard Suite 1000 Miami, Florida 33131-6308 Telephone 305-755-9500 Facsimile 305-714-4340

3. The total loan of the first mortgage is approximately \$11.9 million dollars. The Receiver is currently negotiating a \$17 million dollar offer to purchase the Hotel.

4. The Foltz Martin law firm was asked on Monday, January 28, 2008, to honor the Temporary Injunction issued by this Court precluding third-parties from taking action against assets of the Receivership. (*See attached Exhibit "A."*)

5. On January 31, 2008, after delaying several days, the Foltz Martin law firm responded with the attached letter, claiming that the Receiver's interpretation of the Temporary Injunction is incorrect and that the intent of the Temporary Injunction does not stay proceedings such as the non-judicial sale in Atlanta, Georgia. (*See attached Exhibit "B."*) The Receiver seeks an Order of this Court confirming his interpretation of the Temporary Order is correct.

6. Alternatively the Receiver seeks authority to file a bankruptcy on behalf of DB Atlanta, LLC invoking the automatic Bankruptcy stay, to prevent this non-judicial sale.

WHEREFORE, the Receiver respectfully requests this Court to enter an Order directing the Foltz Martin LLC law firm to cancel the sale, for the reasons set forth above herein, and for such other and further relief as the Court deems just and proper.

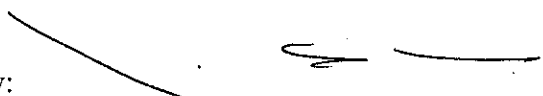
CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by Facsimile, Hand-Delivery and U.S. Mail on this **1st day of February 2008**, to: **Cristina Saenz, Assistant General Counsel**, STATE OF FLORIDA, OFFICE OF FINANCIAL REGULATION, 401 N.W. 2nd 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;

to **Allan A. Joseph, Esquire**, *Counsel for The Amid Companies and Amedia Family Investors*, DAVID AND JOSEPH, P.L., 1001 Brickell Avenue, Suite 2002, Miami, Florida 33131; to **Bruce Scheinberg, Esquire**, *Counsel for Jay Rothlein*, THE SOUTH BAY CLUB, 800 West Avenue, Suite C-1, Miami Beach, Florida 33139; to **Richard R. Robles, Esquire**, LAW OFFICES OF RICHARD ROBLES, P.A., *Counsel for the Four Ambassadors Association, Inc.*, 905 Brickell Bay Drive, Tower II, Mezzanine, Suite 228, Miami, Florida 33131, and to **Halsey G. Knapp, Jr., Esquire**, and **Mitchell T. Bagwell, Esquire**, *Counsel for Allen & Overy, LLP, FOLTZ MARTIN, LLC*, 5 Piedmont Center, Suite 750, Atlanta, Georgia 30305-1541.

Respectfully submitted,

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

By: 

JAMES D. GASSENHEIMER
Florida Bar No. 959987

cc: The Honorable Thomas Wilson, Jr. (*via hand-delivery*)
Michael Goldberg, Esq., as Receiver (*via email*)
The Group of Lenders (*via email*)

948677-1

James D. Gassenheimer
(305) 714-4383
JGassenheimer@bergersingerman.com

January 28, 2008

VIA FACSIMILE & FEDEX OVERNIGHT

Mitchell Bagwell, Esquire
FOLTZ MARTIN LLC
5 Piedmont Center
Suite 750
Atlanta, Georgia 30305-1541

**Re: M.A.M.C. Incorporated vs. DB Atlanta, LLC, et al.
Client-Matter No. 11581-0003**

Dear Mr. Bagwell:

The Berger Singerman law firm represents Michael Goldberg, as State Court appointed Receiver, in a Receivership which includes DB Atlanta, LLC. I had left you a telephone message earlier today to discuss this matter. The Receivership was initiated by the State of Florida Office of Financial Regulation and is currently pending in the Circuit Court of the Eleventh Judicial Circuit, in and for Miami-Dade County, Florida, Case number 07-43672-CA-09. The presiding judge is Thomas Wilson, Jr. On December 11, 2007, Judge Wilson entered an Order entitled *Temporary Injunction and Agreed Order Appointing Receiver*. Pursuant to this Order, the Court took jurisdiction over the entity, DB Atlanta, LLC. Paragraph 15 of the Order precludes your client from commencing, continuing or enforcing a suit or proceeding against the Receiver or the Receivership Assets. Your client is further enjoined from self-help or executing or issuing or causing the execution or issuance of any court attachments, subpoena, replevin, execution or other process for the purpose for impounding or taking possession over, interfering with or creating or enforcing a lien upon any property owned by or in the possession of the Receivership estate or the Receiver, among other restrictions. Further, and pursuant to paragraph 18, until further Order from the Court, the Temporary Restraining Order prohibits prosecution of any civil action or other proceeding or enforcement of any judgments against the Receivership Defendants.

We interpret your Notice of Sale under power to constitute a violation of the *Injunction*, and believe the injunction precludes sale of the property which you have currently scheduled for Tuesday, February 5, 2008.

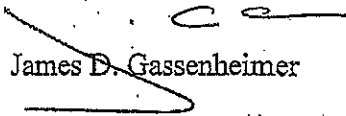


Mitchell Bagwell, Esq.
FOLTZ MARTIN LLC
January 28, 2008
Page 2

Please advise me immediately, as to whether you will agree to cancel the sale without the need for Court intervention. If we are unable to resolve this matter and if we are required to hire counsel in Georgia, we will seek to hold you and your client responsible for all fees and costs incurred.

Sincerely,

BERGER SINGERMAN



James D. Gassenheimer

JDG:imp

cc: Michael Goldberg, Esq. *(via e-mail)*

Enclosure: *Temporary Injunction and Agreed Order Appointing Receiver*

945784-1

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,

Defendants,

and,

DB ATLANTA, LLC, a Florida Limited
Liability Company, DB DURHAM, LLC, a Florida Limited
Liability Company, NORMANDY HOLDINGS II,
LLC, a Florida Limited Liability Company, NORMANDY
HOLDINGS III, LLC, a Florida Limited Liability Company,
WATERSIDE ACQUISITIONS, LLC, a Florida Limited Liability
Company, DBKN GULF INCORPORATED, a Florida Limited
Liability Company, OCEANSIDE ACQUISITIONS, LLC,
a Florida Limited Liability Company, DB BILOXI, LLC, a Florida
Limited Liability Company, DB BILOXI II, LLC, a Florida
Limited Liability Company, DB BILOXI III, LLC, a Florida
Limited Liability Company, DBDS VERO BEACH, LLC, a
Florida Limited Liability Company, DB TAMPA, LLC, a
Florida Limited Liability Company, DB SIMPSONVILLE,
LLC, a Florida Limited Liability Company, DBDS NORTH MIAMI,
LLC, a Florida Limited Liability Company, REDLANDS RANCH
HOLDINGS, LLC, a Florida Limited Liability Company,
DBDS BISCAYNE PARK, LLC, a Florida Limited Liability
Company, DB CARROLL STREET, LLC, a Florida Limited
Liability Company,

Relief Defendants.

FILED
11/11/09
CLERK

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BARTY BROWN, CLERK

TEMPORARY INJUNCTION AND AGREED ORDER
APPOINTING RECEIVER

This cause having come before the Court upon the State of Florida, Office of Financial Regulation's Complaint for a Temporary and Permanent Injunction and Appointment of a Receiver, and, after having reviewed the Complaint and Answer thereto filed by the Defendants and the Relief Defendants, and being otherwise advised in these premises, and further having heard of the agreement of the Parties, the Court does hereby:

ORDER AND ADJUDGE as follows:

1. It appears to the Court that an emergency exists in that the Defendants, Berman Mortgage Corporation ("Berman Mortgage"), M.A.M.C. Incorporated ("M.A.M.C."), and Dana J. Berman ("Berman") (collectively "Defendants"), and DB Atlanta, LLC, DB Durham, LLC, Normandy Holdings II, LLC, Normandy Holdings III, LLC, Waterside Acquisitions, LLC, DBKN Gulf Incorporated, Oceanside Acquisitions, LLC, DB Biloxi, LLC, DB Biloxi II, LLC, DB Biloxi III, LLC, DBDS Vero Beach, LLC, DB Tampa, LLC, DB Simpsonville, LLC, DBDS North Miami, LLC, Redlands Ranch Holdings, LLC, DBDS Biscayne Park, LLC and DB Carroll Street, LLC, who are defendants solely for purposes of equitable relief (the "Relief Defendants"), have violated and may continue to violate state securities laws and state mortgage lender laws in connection with the placement and servicing of mortgage loans which have been placed with investors who invested approximately \$192 million.

2. The Court is also concerned, and the evidence tendered to the Court shows that there is 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 is not issued.

3. The Court hereby takes exclusive jurisdiction and possession of the assets of the Defendants, Berman Mortgage, M.A.M.C., and Relief Defendants, 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, credits 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 personal, tangible and intangible, of whatever kind and description, wherever situated of the Defendants, Berman Mortgage and M.A.M.C., and Relief Defendants. The Receiver shall retain custody and control of all of the foregoing pursuant to the terms of this Agreed Order. The Receiver shall file an inventory of the "Receivership Assets" within sixty (60) days of the entry of this Agreed Order.

4. The Court further finds that a temporary injunction shall be entered against all of the Defendants and Relief Defendants, and a Receiver appointed for Defendants, Berman Mortgage and M.A.M.C., and all Relief Defendants to prevent immediate and irreparable injury to the investors who have entrusted over \$192,000,000 to the Defendants and Relief Defendants.

5. Immediate and irreparable injury will result to numerous investors if, as alleged by Plaintiff in its Complaint, the Defendants' representatives are allowed to

IN WISCONSIN COUNTY
CLERK OF COURT
MILWAUKEE WISCONSIN
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transfer or commingle any assets(s) acquired with investor funds; or if the Defendants' and Relief Defendants' financial information is disturbed in any way which would have the effect of frustrating examination by the Court or the receiver. Any such injury would diminish the ability of the Defendants and Relief Defendants to satisfy an order of restitution or effect any rescission.

6. The Court has determined that it is probable that the Plaintiff would prevail on the claims and that the Plaintiff has no adequate remedy at law.

7. The appointment of a Receiver is both necessary and appropriate in this matter in order to prevent further waste and dissipation of the assets of the Defendants and Relief Defendants, to the detriment of its investors.

8. The State of Florida, Office of Financial Regulation is the agency charged, pursuant to Chapters 494 and 517, Florida Statutes, to protect the public from the illegal acts of mortgage brokerage and mortgage lending businesses and securities dealers and securities issuers, and the Court is therefore, waiving the bond requirement in this matter.

9. The Court finds that Plaintiff has a clear legal right to a statutory injunction as provided by Sections 494.0013 and 517.191, Florida Statutes.

IT IS FURTHER ORDERED AND ADJUDGED:

10. M.A.M.C., its officers, agents, servants, personal representatives, legal representatives, employees, and all other persons or entities acting in concert or cooperation with it, are hereby restrained and enjoined from the following acts:

A. Any and all violations of sections 494.0025 (4)(a), (b), (c) and (5), and 494.0072(2)(c), (f), (g) and (h), Florida Statutes;

B. Continuing to service loans for others in violation of Section 494.00721, Florida Statutes;

C. Co-mingling of investor funds in violation of 494.0076(1)(a)2, Florida Statutes.

11. The named Defendants and Relief Defendants, their officers, agents, servants, personal representatives, legal representatives, employees, and all other persons or entities acting in concert or cooperation with them, are hereby restrained and enjoined from the following acts:

A. Selling or offering to sell an unregistered security in this state, without first registering the security with the Office of Financial Regulation, in violation of section 517.07, Florida Statutes;

B. Selling or offering to sell any securities in or from offices in this state, or selling securities to persons in this state from offices outside this state, by mail or otherwise, without first being registered as a dealer, associated person, or issuer with the Office of Financial Regulation, in violation of section 517.12, Florida Statutes;

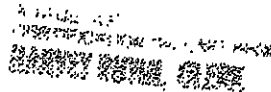
12. The named Defendants and Relief Defendants, their officers, agents, servants, personal representatives, legal representatives, employees, and all other persons or entities acting in concert or cooperation with them, are hereby restrained and enjoined from the following acts:

A. Dissipating, selling, conveying, alienating, divesting themselves of, withdrawing, pledging as security, transferring, assigning, giving away, or in any manner whatsoever disposing of any of the monies or assets, including checking accounts, savings accounts, money market accounts, certificates of deposit, or any deposit of cash,

DEPT. OF FINANCIAL SERVICES
HARVEY KATZ, CLERK

securities or other things of value and any and all real property and improvements thereon, and any motor vehicle, vessel, aircraft, jewelry, art and any other personal property or other assets of any description, obtained with or derived directly or indirectly from any investor monies obtained by the Defendants from the placing and servicing of loans, mortgages, and investments, no matter how ownership or title is held, including, but not limited to, Berman Mortgage, M.A.M.C. and Berman, or in the names of any of the Relief Defendants, DB Atlanta, LLC, DB Durham LLC, Normandy Holdings II, LLC., Normandy Holdings III, LLC, Waterside Acquisitions, LLC, DBKN Gulf Incorporated, Oceanside Acquisitions, LLC, DB Biloxi, LLC, DB Biloxi II, LLC, DB Biloxi III, LLC, DBDS Vero Beach, LLC, DB Tampa, LLC, DB Simpsonville, LLC, DBDS North Miami, LLC, Redlands Ranch Holdings, LLC, DBDS Biscayne Park, LLC and DB Carroll Street, LLC.

13. Michael I. Goldberg, whose telephone number is 954-463-2700, is appointed Receiver for Berman Mortgage Corporation, M.A.M.C. Incorporated, DB Atlanta, LLC, DB Durham, LLC, Normandy Holdings II, LLC., Normandy Holdings III, LLC, Waterside Acquisitions, LLC, DBKN Gulf Incorporated, Oceanside Acquisitions, LLC, DB Biloxi, LLC, DB Biloxi II, LLC, DB Biloxi III, LLC, DBDS Vero Beach, LLC, DB Tampa, LLC, DB Simpsonville, LLC, DBDS North Miami, LLC, Redlands Ranch Holdings, LLC, DBDS Biscayne Park, LLC and DB Carroll Street, LLC, and the Receivership Assets. The Receiver is hereby authorized to take and have possession of the Receivership Assets. The Receiver shall have complete and exclusive control, possession and custody of all Receivership Assets. The Receiver shall be vested with the usual powers and duties of equity receivers in like cases and is hereby authorized and



instructed to take possession of and control over the Defendants and Receivership Assets as defined herein, without any limitation of any kind as to his general duties.

14. All persons, including Berman Mortgage and MAMC, (the "Receivership Defendants"), all of their partners, directors, officers, agents, servants, employees, stockholders, personal representatives, legal representatives, attorneys, accountants, as applicable, and all persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, and specifically including any bank, brokerage company, or other financial or depository institution holding accounts for or on behalf of the Receivership Defendants shall promptly deliver to the Receiver all Receivership Assets in the possession or control of any one or more of them, and shall promptly surrender all books and records of any kind pertaining to the Receivership Defendants. This paragraph shall specifically apply to any and all depository and/or brokerage accounts held on behalf of the Receivership Defendants.

15. All persons, including the Receivership Defendants, and all of their partners, directors, officers, agents, servants, employees, stockholders, personal representatives, legal representatives, attorneys, accountants, as applicable, and all persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are stayed from:

(a) Commencing, continuing or enforcing any suit or proceeding against the Receiver or the Receivership Assets, except with the prior permission of the Court;

(b) Using self-help or executing or issuing or causing the execution or

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HARRY BLUM, CLERK

issuance of any court attachment, subpoena, replevin, execution or other process for the purpose of impounding or taking possession of or interfering with or creating or enforcing a lien upon any property owned by or in the possession of the Receivership Assets or the Receiver, wherever situated;

(c) Attempting to modify, cancel, terminate, call, extinguish, revoke, or accelerate (the due date), of any lease, loan, mortgage, indebtedness, security agreement, or other agreement with any of the Receivership Assets or any entity controlled by them.

(d) Doing any act or thing whatsoever to interfere with the taking control, possession, or management, by the Receiver of the Receivership Assets and asset owned, controlled or in the possession of the entity in receivership, or to in any way interfere with or harass the Receiver, or to interfere in any manner with the exclusive jurisdiction of this Court over the Receivership Assets; and,

(e) Causing the issuance of a subpoena on the Receiver, except with the prior permission of the Court.

16. The Receiver is hereby authorized to make appropriate notification to the United States Postal Service and/or any private delivery/messenger service to forward delivery of any mail addressed to the Receivership Defendants, or any company or entity under the direction or control of the Receivership Defendants, to the Receiver. The Receiver is also authorized to open and inspect all such mail, to determine the location or identity of assets or the existence and amount of claims or any other purpose authorized by this Order.

17. The Receiver is further authorized to make such ordinary and necessary

payments, distributions, and disbursements and execute, deliver, file and record such contracts, instruments, releases, indentures, certificates, and other agreements and documents, and to take such action as he deems advisable or proper for the marshalling, maintenance or preservation of the Receivership Assets. From and after the date of the entry of this Order, the Receiver shall have the authority to conduct the business operations of the Receivership Defendants and any entity it controls, including the authority to endorse all checks and drafts now or hereafter made payable to the Receivership Defendants.

18. Until further Order of the Court, this Order prohibits the prosecution of any civil action or other proceeding or the enforcement of any judgments against the Receivership Defendants.

19. The Receiver is hereby authorized to employ, without further order of the Court, such employees, accountants, and attorneys, consultants, investigators, and other professionals ("Outside Professionals") as is necessary and proper for the collection, preservation, maintenance and operation of the Receivership Assets, including entities of which the Receiver is a shareholder, to furnish legal, accounting and other advice to the Receiver for such purposes as may be reasonable and necessary during the period of receivership.

20. The Receiver is hereby authorized to receive and collect any and all sums of money due and owing to the Receivership Defendants, whether the same are now due or shall hereafter become due and payable, and is authorized to incur such expenses, satisfy such liabilities, and make such disbursements as are deemed, in his discretion, necessary and proper for the collection, preservation, maintenance and operation of the

Receivership Assets. The Receiver may abandon Receivership assets to duly perfected secured or lien creditors, if after due investigation and notice to parties in interest, he determines 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. Further, the Receiver shall maintain appropriate insurance for the Receivership assets, their premises and/or locations, if appropriate in the Receiver's sole discretion.

21. The Receiver is hereby authorized and specifically has standing to institute, defend, compromise or adjust such actions or proceedings in state or federal courts now pending and hereafter instituted, as may in his discretion be advisable or proper for the protection of the Receivership Assets or proceeds thereof, and to institute, prosecute, compromise or adjust such actions or proceedings in state or federal courts as may in his judgment be necessary or proper for the collection, preservation and maintenance of the Receivership Assets and/or on behalf of the Receivership Defendants.

By this authorization and empowerment, this Court specifically determines that the Receiver is not prohibited and shall not be barred from bringing any action or proceeding due to the doctrine of in pari delicto. In addition, the Receiver is further empowered and authorized to file suit against any person(s) or entity(ies) to recover property of any of the Receivership Defendants, including, but not limited to, fraudulent conveyances and other claims and causes of action of the Receivership Defendants.

The Receiver is authorized to set depositions and demand production of documents on five (5) business days' notice. Any objections to documents requested by the Receiver may be stated at the deposition and reserved for hearing.

22. Any and all attorney(ies), accountants and any and all other professionals handling any matter for the Receivership Defendants shall cooperate with the Receiver and deliver all files, including attorney/client privileged communications and documents and all work product to the Receiver at his direction, notwithstanding any claim of a retaining lien which, if valid, is not extinguished by the delivery of the documents.

Further, Berman Mortgage Corporation, M.A.M.C. Incorporated, Dana J. Berman, the Relief Defendants, and their officers, agents, partners, servants, employees and transferees shall cooperate fully with the Receiver and comply with the Receiver's request(s) for information, records and documentation so that the Receiver may perform his duties with full information and knowledge.

23. The Receiver and his retained personnel or professionals are entitled to reasonable compensation and expense reimbursement out of the Receivership Assets. The Receiver is authorized to pay from the receivership estate's funds eighty percent (80%) of the ordinary and reasonable fees and one hundred percent (100%) of the costs of such Outside Professionals upon receipt of a bill from the Outside Professionals. The remaining twenty percent (20%) of fees shall be withheld (the "holdback") pending final application to the Court for approval of all fees and expenses of such Outside Professionals, including the holdback.

24. The Receiver and his attorneys and his agents are entitled to rely on all outstanding rules of law and court orders, and shall not be liable to anyone for their own good faith compliance with any order, rule law, judgment, or decree. In no event shall the Receiver or his attorneys or his agents be liable to anyone for their good faith compliance with their duties and responsibilities as Receiver, attorney, or agent for

Receiver, nor shall the Receiver or his attorney or his agents be liable to anyone for any actions taken or omitted by them except upon a finding by this Court that they acted or failed to act, as a result of malfeasance, bad faith, gross negligence, or in reckless disregard of their duties. The Receiver and his attorneys and his agents shall be indemnified and held harmless out of the Receivership Assets for all costs and expenses, including reasonable attorney's fees, incurred as a result of such actions. The Receiver and his attorneys and his agents may rely on, and shall be protected in acting upon, any resolution, certificate, statement, opinion, report, notice, consent, order, or other paper or documents believed to be genuine and to have been signed or presented by the proper party or parties. The Receiver may consult with legal, financial, or accounting advisors for any action taken or omitted to be taken by it in accordance with the advice thereof. Persons dealing with the Receiver shall only look to the receivership Assets to satisfy any liability, and neither the Receiver nor his attorneys or his agents or professionals shall have any personal liability to satisfy any such obligation.

25. From time to time, upon the application of the Receiver, the Court may amend or reissue this Order.

26. The Receiver shall not be required to post any bond.

IT IS FURTHER ORDERED:

27. That this Court shall retain jurisdiction of this action for all purposes.

28. The Receiver is hereby authorized, empowered, and directed to apply to this Court, with notice to the Receivership Defendants named in this action for issuance of such other orders as may be necessary and appropriate in order to carry out the mandate of this Order.

A TRUE COPY
CERTIFICATION OF COURT OFFICE
HARVEY S. GARDNER, CLERK

IT IS FURTHER ORDERED that this Order will remain in effect until and unless modified by further Order of this Court.

DONE AND ORDERED in Chambers, in Miami, Miami-Dade County, Florida, on this 11 day of December 2007.



CIRCUIT COURT JUDGE

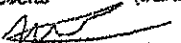
THOMAS S. WILSON, JR.

Copies furnished to:
Alan L. Goldberg, Chief Restructuring Officer, M.A.M.C.
Dana J. Berman
Daren A. Schwartz
Michael I. Goldberg, Esquire, Receiver
Cristina Saenz, Assistant General Counsel, Office of Financial Regulation

STATE OF FLORIDA, COUNTY OF MIAMI-DADE

I hereby certify that the foregoing is a true and correct copy of the original on file in this office 12/11 AG 2007

HARVEY RUVIN, CLERK
Circuit and County Courts (SEAL)

Deputy Clerk 



FOLTZ MARTIN LLC

ATTORNEYS AT LAW

5 PIEDMONT CENTER SUITE 750 ATLANTA GA 30305-1541
TELEPHONE 404-231-9397 / FACSIMILE 404-237-1659

January 31, 2008

**VIA FACSIMILE and FEDERAL
EXPRESS OVERNIGHT**

James D. Gassenheimer, Esquire
Berger Singerman
200 South Biscayne Boulevard
Suite 100
Miami, Florida 33131-5308

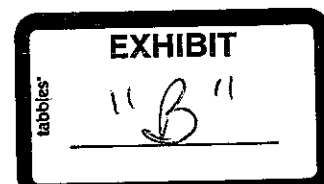
Re: *Temporary Injunction and Agreed Order Appointing Receiver (the "Florida Order") in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, Case Number 07-43672-CA-09*

Dear Mr. Gassenheimer:

Please accept this response to your letter addressed to Mitchell Bagwell of this law firm dated January 28, 2008.

Upon our initial review, we do not believe that the Florida Order precludes the proposed Sale Under Power of the subject property located in Fulton County, Georgia (the "Property"). Paragraph 15 of the Florida Order, referred to in your letter, would stay certain activities by persons working in "active concert" or "participation" with the Receivership Defendants (as defined in the Florida Order). As you are aware, this is not the case in the non-judicial foreclosure which is currently scheduled to be conducted in Atlanta, Georgia on Tuesday, February 5, 2008 and the provision therefore cannot serve to prevent non-parties to the action in Florida from pursuing their rights under a Deed To Secure Debt governed by Georgia law against the Property. We are certainly interested in understanding your views on these issues and welcome any additional relevant information you might have that would impact these matters.

Based upon the foregoing, our client intends to proceed as scheduled with respect to the Sale Under Power of the Property.



James D. Gassenheimer, Esquire

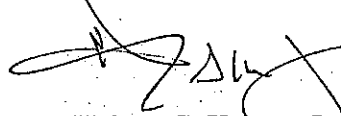
January 31, 2008

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We, along with our clients' primary counsel, Allen & Overy, LLP, are available to discuss this further should you so desire.

Sincerely,

FOLTZ MARTIN, LLC



Halsey G. Knapp, Jr.

HGKjr/rjl

cc: Chris Adams (via e-mail)
Darren Anikstein (via e-mail)
Jacob Pultman, Esquire (via e-mail)
I. Erwin Dweck, Esquire (via e-mail)