

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

**CASE NO.: 07-43672 CA 09**

STATE OF FLORIDA, OFFICE OF  
FINANCIAL REGULATION,

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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**EMERGENCY RELIEF REQUESTED**

**This motion concerns the sale of receivership property. Due to the condition of the real property, the buyer's interest in closing prior to the end of 2012 and the suspension of motion calendar through the remainder of 2012, the Receiver requests Court's immediate approval of this motion without a hearing. Receiver's counsel has consulted with counsel for the Gulf Island Beach and Tennis Club I Condominium Association and the Florida Office of Financial Regulation, both of whom have no objection to the relief requested.**

**RECEIVER'S UNOPPOSED *EX PARTE* MOTION  
FOR ENTRY OF AN ORDER APPROVING THE  
SALE OF UNIT 401 AT GULF ISLAND BEACH AND TENNIS CLUB**

Michael I. Goldberg, the receiver (the "Receiver") for Defendants Berman Mortgage Corporation ("BMC"), M.A.M.C. Incorporated ("MAMC"), and Relief Defendants DB Atlanta,

LLC, *et al.*, hereby files this Motion for Entry of an Order Approving the Sale of Unit 401 at Gulf Island Beach and Tennis Club (the "Motion"). In support, the Receiver states as follows:

1. On December 11, 2007, this Court entered a *Temporary Injunction and Agreed Order Appointing Receiver* ("Receivership Order") appointing Michael Goldberg as the receiver for BMC and MAMC (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 the investors (the "Lenders") who entrusted over \$192 million ("Lender Funds") to the Receivership Defendants.

2. The Lender Funds were secured by mortgages on approximately 40 different real estate projects and properties. The Receiver is still administering 12 projects. Many of these projects are currently being marketed for sale. One such property relates to a loan to Oceanside Acquisitions, LLC ("Oceanside") for the purchase of condominium units at Gulf Island Beach and Tennis Club I in Pasco County, Florida (the "Oceanside Units").

3. Oceanside is one of the original Relief Defendants and an entity formed by Dana Berman and Keith Novak. Oceanside borrowed \$1,700,000 from 38 of the Lenders to fund the purchase of the Oceanside Units. The loan was secured by the Oceanside Units and other related property as evidenced by loan documents including a mortgage recorded in the Official Records of Pasco County, Florida. The loan was serviced by MAMC and is in default.

4. The Oceanside Units and adjoining vacant land (collectively, the "Properties") have been the subject of multiple litigation and disputes since 2003. Lawsuits were filed as a result of non-payment of real property taxes and condominium assessments remain unpaid. However, as a result of the Receivership case, this Court (the "Receivership Court") stayed all foreclosure actions and other forms of collection against the Properties.

5. Alex Bistricer (“Bistricer”) a prior owner of the Properties, asserted an interest in the Properties and commenced a quiet title action (the “Quiet Title Action”) in Pasco County Circuit Court styled *Alex Bistricer, as limited partner of Gulf Island Resort, L.P. and Gulf Island Resort, L.P. v. Coastal Real Estate Associates, et al.*

6. After the commencement of the receivership, the Quiet Title Action was transferred to the Receivership Court pursuant to the June 13, 2008 *Order Granting Receiver’s Motion to Approve the Assignment of the Pasco County Matters to the Receivership Court*. The Receivership Court subsequently entered final summary judgment in favor of the receivership estate. In 2009, Bistricer appealed the decision of the Receivership Court to the Third District Court of Appeals, Case No. 3D09-3002, which affirmed the decision of the Receivership Court. Thereafter, Bistricer appealed to the Florida Supreme Court, Case No. SC11-1213. On December 12, 2011, the Florida Supreme Court dismissed the appeal for lack of jurisdiction.

7. The Receivership Court has previously authorized the Receiver to sell individual Oceanside Units. Upon motion, notice and evidentiary hearing, on September 1, 2009, the Receivership Court entered an *Order Granting the Receiver’s Motion to Sell the Property of Oceanside Acquisitions, LLC Free and Clear of Liens, Claims and Encumbrances*. The Order authorized the Receiver to negotiate the sale of Oceanside Units and execute purchase and sale contracts with prospective purchasers subject to the Receivership Court’s approval of the contracts by motion and notice to all interested parties. The Receivership Court further ordered the Receiver to deposit the net sale proceeds, after payment of outstanding condominium fees and taxes into the Court Registry until further motion and order.

8. The *Order Granting the Receiver’s Motion for an Order Approving the Receiver’s Execution of Sales Contracts for the Sale of Additional Condominium Units owned by Relief*

*Defendant, Oceanside Acquisitions, LLC*, dated July 8, 2011, approved the sale of three Oceanside Units. The Receivership Court ordered the payment of the outstanding tax liens and condominium assessments from the proceeds of the sale, but did not require the Receiver to deposit of the remaining sale proceeds in the Court Registry.

9. Here, the Receiver seeks entry of an Order granting similar relief as the July 8, 2011 Order. The taxes and condominium assessments remain unpaid, but the Quiet Title Action has concluded. Bistricher has no interest in the Properties or the proceeds of their sale. As a result, there is no need to place the net proceeds of the sale into the Court Registry.

10. The Receiver seeks to enter into an "As Is" Residential Contract for Sale and Purchase ("Agreement") with Tommy and Brenda Tallon for the sale of Unit 401 in the sum of \$90,000, subject to approval by the Receivership Court. A true and correct copy of the Agreement is attached hereto as **Exhibit 1**.

11. The sale of Unit 401 is "as is" due to its poor condition, including intrusion of mold. (This Court has previously found that the Oceanside Units were in a state of disrepair.<sup>1</sup>) The buyers are providing the Receiver with a hold harmless agreement.

12. The Receiver is authorized to enter into agreements and take such action as he deems advisable or proper for the marshaling, maintenance or preservation of the receivership assets. *See* Receivership Order at ¶ 17. The Receiver believes entering into the Agreement is in the best interest of the receivership and is the best opportunity for the Lenders to partially monetize their investment in the Properties.

13. At the outset of the receivership, the Receiver set up committees comprised of lenders for each loan and one overall committee made up of at least one lender from each loan

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<sup>1</sup> *See Order Granting the Receiver's Motion to Sell the Property of Oceanside Acquisitions, LLC Free and Clear of Liens, Claims and Encumbrances*, dated September 1, 2009.

to advise the Receiver. The Receiver has consulted with the lender committee for Oceanside, each of whom have advised the Receiver that they approve his entering into the Agreement.

14. Receiver's counsel has also consulted with counsel for the Gulf Island Beach and Tennis Club I Condominium Association and the Florida Office of Financial Regulation, neither of whom has an objection to the relief requested or to the entry of an Order without a hearing.

15. As stated above, due to the buyer's interest in closing prior to the end of 2012 and the suspension of motion calendar through the remainder of 2012, the Receiver requests the Court approve this motion without a hearing. Due to the disrepair to Unit 401 and the community, the Receiver believes it is in the best interest of the receivership estate to complete this sale prior to the end of 2012. Should the Court prefer to conduct a telephonic hearing or hold an emergency hearing, the Receiver's office is available to coordinate a date and time.


16. A proposed Order is attached hereto as **Exhibit 2**.

**WHEREFORE**, Michael I. Goldberg, in his capacity as Receiver of Berman Mortgage, MAMC and related entities, respectfully request this Court to enter an Order authorizing the sale and to grant such further relief as is just and proper.

Respectfully submitted,

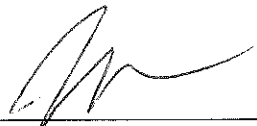
**AKERMAN SENTERFITT**  
Las Olas Centre II, Suite 1600  
350 East Las Olas Boulevard  
Fort Lauderdale, FL 33301-2229  
Phone: (954) 463-2700/Fax: (954) 463-2224  
Email: joan.levit@akerman.com

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

  
Joan M. Levit, Esquire  
Florida Bar No. 987530

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 11 day of December, 2012, a true and correct copy of the forgoing was furnished via e-mail and U.S. Mail to the parties on the attached Service List. A copy of the Motion will also be sent to the Lenders who have an interest in this property by e-mail and posted on the receivership website.

By:   
\_\_\_\_\_  
Joan M. Levit

**SERVICE LIST**

Pury Santiago  
Assistant General Counsel  
STATE OF FLORIDA  
OFFICE OF FINANCIAL REGULATION  
401 N.W. 2<sup>nd</sup> Avenue, Suite N-708  
Miami, FL 33128

Alan M. Sandler, Esquire  
SANDLER & SANDLER  
117 Aragon Avenue  
Coral Gables, FL 33134

Charles W. Throckmorton, Esquire  
KOZYAK TROPIN THROCKMORTON, P.A.  
2525 Ponce de Leon Boulevard, 9<sup>th</sup> Floor  
Coral Gables, FL 33134

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

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

Maurice Baumgarten, Esquire  
ANANIA, BANDKLAYDER,  
Bank of America Tower — Suite 4300  
100 SE 2<sup>nd</sup> Street  
Miami, FL 33131

Mark A. Basurto, Esquire and  
Charles Evans Glausier, Esquire  
BUSH ROSS, P.A.  
Post Office Box 3913  
Tampa, Florida 33601-3913

Charles L. Neustein, Esquire  
CHARLES L. NEUSTEIN, P.A.  
777 Arthur Godfrey Road  
Second Floor  
Miami Beach, FL 33140

William Dufoe, Esquire  
Robert W. Lang, Esquire  
HOLLAND & KNIGHT, LLP  
100 North Tampa Street  
Suite 4100  
Tampa, FL 33602

Deborah Poore Fitzgerald, Esquire  
WALTON LANTAFF, LLP  
Corporate Center, Suite 2000  
100 East Broward Boulevard  
Fort Lauderdale, FL 33301

Peter Valori, Esquire  
DAMIAN & VALORI, LLP  
1000 Brickell Avenue, Suite 1020  
Miami, FL 33131

Christopher S. Linde, Esquire  
BURR FORMAN  
200 S. Orange Avenue, Suite 800  
Orlando, Florida 32801

James D. Gassenheimer, Esquire  
BERGER SINGERMAN  
1000 Wachovia Financial Center  
200 South Biscayne Boulevard  
Miami, Florida 33131

Don Rosenberg  
PECKAR & ABRAMSON  
ONE S.E. THIRD AVE., SUITE 3100  
Miami, FL 33131

# EXHIBIT 1



**"AS IS" Residential Contract For Sale And Purchase**  
 THIS FORM HAS BEEN APPROVED BY THE FLORIDA REALTORS AND THE FLORIDA BAR



Realtors

1\* **PARTIES:** Oceanside Acquisitions LLC ("Seller"),  
 2\* and Tommy and Brenda Tallon ("Buyer"),

3 agree that Seller shall sell and Buyer shall buy the following described Real Property and Personal  
 4 Property (collectively "Property") pursuant to the terms and conditions of this AS IS Residential Contract For Sale  
 5 And Purchase and any riders and addenda ("Contract");

6 **1. PROPERTY DESCRIPTION:**  
 7\* (a) Street address, city, zip: 6035 Sea Ranch Drive, Unit 401, Hudson FL 34667-1526  
 8\* (b) Property is located in: Pasco County, Florida. Real Property Tax ID No: 33-24-16-0360-00000-4010  
 9\* (c) Legal description of the Real Property: Gulf Island Beach & Tennis Club I a Condominium Per OR 1381 Pg  
 10\* 932 & OR 3300 Pg 202 & Common Elements Bldg 1 Unit 401 OR 8263 Pg 1249

11 together with all existing improvements and fixtures, including built-in appliances, built-in furnishings and  
 12 attached wall-to-wall carpeting and flooring ("Real Property") unless specifically excluded below.  
 13 (d) Personal Property: The following items owned by Seller and existing on the Property as of the date  
 14 of the initial offer are included in the purchase ("Personal Property"): (i) range(s)/oven(s), dishwasher(s),  
 15 disposal, ceiling fan(s), intercom, light fixtures, rods, draperies and other window treatments, garage door  
 16 openers, and security gate and other access devices; and (ii) those additional items checked below. If  
 17\* additional details are necessary, specify below. **if left blank, the item below is not included:**

- |  |  |   |  |
|--|--|---|--|
| <input type="checkbox"/> Refrigerator(s)       | <input type="checkbox"/> Smoke detector(s) | <input type="checkbox"/> Pool barrier/fence         | <input type="checkbox"/> Storage shed              |
| <input type="checkbox"/> Microwave oven        | <input type="checkbox"/> Security system   | <input type="checkbox"/> Pool equipment             | <input type="checkbox"/> TV antenna/satellite dish |
| <input type="checkbox"/> Washer                | <input type="checkbox"/> Window/wall a/c   | <input type="checkbox"/> Pool heater                | <input type="checkbox"/> Water softener/purifier   |
| <input type="checkbox"/> Dryer                 | <input type="checkbox"/> Generator         | <input type="checkbox"/> Spa or hot tub with heater | <input type="checkbox"/> Storm shutters and panels |
| <input type="checkbox"/> Stand-alone ice maker |  | <input type="checkbox"/> Above ground pool          |  |

18 The only other items of Personal Property included in this purchase, and any additional details regarding  
 19\* Personal Property, if necessary, are: \_\_\_\_\_

20\* Personal Property is included in the Purchase Price, has no contributory value, and shall be left for the Buyer.  
 21  
 22\* (e) The following items are excluded from the purchase: \_\_\_\_\_

24\* **2. PURCHASE PRICE (U.S. currency):**..... \$ 90000

25\* (a) Initial deposit to be held in escrow in the amount of (checks subject to COLLECTION) \$ \_\_\_\_\_  
 26 The initial deposit made payable and delivered to "Escrow Agent" named below  
 27\* (CHECK ONE):  accompanies offer or  is to be made upon acceptance (Effective Date)  
 28\* or  is to be made within 3 (if blank, then 3) days after Effective Date  
 29\* Escrow Agent Information: Name: Executive Title Company  
 30\* Address: 6419 Main St, New Port Richey Fl Phone: 727-848-4111  
 31\* E-mail: \_\_\_\_\_ Fax: \_\_\_\_\_

32\* (b) Additional deposit to be delivered to Escrow Agent within \_\_\_\_\_ (if blank, then 3)  
 33\* days after Effective Date..... \$ 1000  
 34 (All deposits paid or agreed to be paid, are collectively referred to as the "Deposit")

35\* (c) Financing: Express as a dollar amount or percentage ("Loan Amount") see Paragraph 8 .....

36\* (d) Other: \_\_\_\_\_ \$ \_\_\_\_\_

37\* (e) Balance to close (not including Buyer's closing costs, prepaids and prorations) by wire  
 38\* transfer or other COLLECTED funds..... \$ 89000

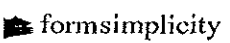
39\* NOTE: For the definition of "COLLECTION" or "COLLECTED" see STANDARD S.

40 **3. TIME FOR ACCEPTANCE OF OFFER AND COUNTER-OFFERS; EFFECTIVE DATE:**

41\* (a) If not signed by Buyer and Seller, and an executed copy delivered to all parties on or before Dec 3, 2012  
 42\* \_\_\_\_\_, this offer shall be deemed withdrawn and the Deposit, if any, will be returned to Buyer.  
 43 Unless otherwise stated, time for acceptance of any counter-offers shall be within 2 days after the day the  
 44 counter-offer is delivered.

45 (b) The effective date of this Contract will be the date when the last one of the Buyer and Seller has signed or  
 46 initiated this offer or final counter-offer ("Effective Date").

47 **4. CLOSING DATE:** Unless modified by other provisions of this Contract, the closing of this transaction shall occur  
 48 and the closing documents required to be furnished by each party pursuant to this Contract shall be delivered  
 49\* ("Closing") on December 14, 2012 ("Closing Date"), at the time established by the Closing Agent.



50 **5. EXTENSION OF CLOSING DATE:**

51 (a) If Closing funds from Buyer's lender(s) are not available at time of Closing due to Truth In Lending Act (TILA)  
52 notice requirements, Closing shall be extended for such period necessary to satisfy TILA notice requirements,  
53 not to exceed 7 days.

54 (b) If extreme weather or other condition or event constituting "Force Majeure" (see STANDARD G) causes:  
55 (i) disruption of utilities or other services essential for Closing, or (ii) Hazard, Wind, Flood or Homeowners'  
56 insurance, to become unavailable prior to Closing, Closing will be extended a reasonable time up to 3 days  
57 after restoration of utilities and other services essential to Closing, and availability of applicable Hazard, Wind,  
58 Flood or Homeowners' insurance. If restoration of such utilities or services and availability of insurance has not  
59\* occurred within \_\_\_\_\_ (if left blank, 14) days after Closing Date, then either party may terminate this  
60 Contract by delivering written notice to the other party, and Buyer shall be refunded the Deposit, thereby  
61 releasing Buyer and Seller from all further obligations under this Contract.

62 **6. OCCUPANCY AND POSSESSION:** Unless otherwise stated herein, Seller shall at Closing, have removed all  
63 personal items and trash from the Property and shall deliver occupancy and possession, along with all keys,  
64 garage door openers, access devices and codes, as applicable, to Buyer. If Property is intended to be rented or  
65 occupied beyond Closing, the fact and terms thereof and the tenant(s) or occupants shall be disclosed pursuant  
66 to STANDARD D. If occupancy is to be delivered before Closing, Buyer assumes all risks of loss to Property from  
67 date of occupancy, shall be responsible and liable for maintenance from that date, and shall be deemed to have  
68 accepted Property in its existing condition as of time of taking occupancy.

69\* **7. ASSIGNABILITY: (CHECK ONE)** Buyer  may assign and thereby be released from any further liability  
70\* under this Contract;  may assign but not be released from liability under this Contract; or  may not assign  
71 this Contract.

72 **FINANCING**

73 **8. FINANCING:**

74\*  (a) Buyer will pay cash or may obtain a loan for the purchase of the Property. There is no financing  
75 contingency to Buyer's obligation to close.

76\*  (b) This Contract is contingent upon Buyer obtaining a written loan commitment for a  conventional  FHA  
77\*  VA loan on the following terms within \_\_\_\_\_ (if blank, then 30) days after Effective Date ("Loan  
78\* Commitment Date") for: **(CHECK ONE):**  fixed,  adjustable,  fixed or adjustable rate loan in  
79\* the principal amount of \$ \_\_\_\_\_ or \_\_\_\_\_ % of the Purchase Price, at an initial interest rate  
80\* not to exceed \_\_\_\_\_ % (if blank, then prevailing rate based upon Buyer's creditworthiness), and for a  
81\* term of \_\_\_\_\_ years ("Financing").

82\* Buyer will make mortgage loan application for the Financing within \_\_\_\_\_ (if blank, then 5) days after  
83 Effective Date and use good faith and diligent effort to obtain a written loan commitment for the Financing  
84 ("Loan Commitment") and close this Contract. Buyer shall keep Seller and Broker fully informed about  
85 the status of mortgage loan application and Loan Commitment and authorizes Buyer's mortgage broker and  
86 Buyer's lender to disclose such status and progress to Seller and Broker.

87 If Buyer does not receive Loan Commitment, then Buyer may terminate this Contract by delivering written  
88 notice to Seller, and the Deposit shall be refunded to Buyer, thereby releasing Buyer and Seller from all  
89 further obligations under this Contract.

90 If Buyer does not deliver written notice to Seller of receipt of Loan Commitment or Buyer's written waiver of  
91 this financing contingency, then after Loan Commitment Date Seller may terminate this Contract by  
92 delivering written notice to Buyer and the Deposit shall be refunded to Buyer, thereby releasing Buyer and  
93 Seller from all further obligations under this Contract.

94 If Buyer delivers written notice of receipt of Loan Commitment to Seller and this Contract does not  
95 thereafter close, the Deposit shall be paid to Seller unless failure to close is due to: (1) Seller's default;  
96 (2) Property related conditions of the Loan Commitment have not been met (except when such conditions  
97 are waived by other provisions of this Contract); (3) appraisal of the Property obtained by Buyer's lender is  
98 insufficient to meet terms of the Loan Commitment; or (4) the loan is not funded due to financial failure of  
99 Buyer's lender, in which event(s) the Deposit shall be returned to Buyer, thereby releasing Buyer and Seller  
100 from all further obligations under this Contract.

101\*  (c) Assumption of existing mortgage (see rider for terms).

102\*  (d) Purchase money note and mortgage to Seller (see riders; addenda; or special clauses for terms).

Buyer's Initials TT ACT  
Florida Realtors/Florida Bar-ASIS-1

Seller's Initials \_\_\_\_\_

268 Broker will be treated as a party to this Contract. This Paragraph 14 shall survive Closing or termination of this  
269 Contract.

## 270 **DEFAULT AND DISPUTE RESOLUTION**

### 271 **15. DEFAULT:**

272 (a) **BUYER DEFAULT:** If Buyer fails, neglects or refuses to perform Buyer's obligations under this Contract,  
273 including payment of the Deposit, within the time(s) specified, Seller may elect to recover and retain the  
274 Deposit for the account of Seller as agreed upon liquidated damages, consideration for execution of this  
275 Contract, and in full settlement of any claims, whereupon Buyer and Seller shall be relieved from all further  
276 obligations under this Contract, or Seller, at Seller's option, may, pursuant to Paragraph 16, proceed in equity  
277 to enforce Seller's rights under this Contract. The portion of the Deposit, if any, paid to Listing Broker upon  
278 default by Buyer, shall be split equally between Listing Broker and Cooperating Broker; provided however,  
279 Cooperating Broker's share shall not be greater than the commission amount Listing Broker had agreed to pay  
280 to Cooperating Broker.

281 (b) **SELLER DEFAULT:** If for any reason other than failure of Seller to make Seller's title marketable after  
282 reasonable diligent effort, Seller fails, neglects or refuses to perform Seller's obligations under this Contract,  
283 Buyer may elect to receive return of Buyer's Deposit without thereby waiving any action for damages resulting  
284 from Seller's breach, and, pursuant to Paragraph 16, may seek to recover such damages or seek specific  
285 performance. This Paragraph 15 shall survive Closing or termination of this Contract.

286 **16. DISPUTE RESOLUTION:** Unresolved controversies, claims and other matters in question between Buyer and  
287 Seller arising out of, or relating to, this Contract or its breach, enforcement or interpretation ("Dispute") will be  
288 settled as follows:

289 (a) Buyer and Seller will have 10 days after the date conflicting demands for the Deposit are made to attempt to  
290 resolve such Dispute, failing which, Buyer and Seller shall submit such Dispute to mediation under  
291 Paragraph 16(b).

292 (b) Buyer and Seller shall attempt to settle Disputes in an amicable manner through mediation pursuant to Florida  
293 Rules for Certified and Court-Appointed Mediators and Chapter 44, F.S., as amended (the "Mediation Rules").  
294 The mediator must be certified or must have experience in the real estate industry. Injunctive relief may be  
295 sought without first complying with this Paragraph 16(b). Disputes not settled pursuant to this Paragraph 16  
296 may be resolved by instituting action in the appropriate court having jurisdiction of the matter. This Paragraph 16  
297 shall survive Closing or termination of this Contract.

298 **17. ATTORNEY'S FEES; COSTS:** The parties will split equally any mediation fee incurred in any mediation permitted  
299 by this Contract, and each party will pay their own costs, expenses and fees, including attorney's fees, incurred in  
300 conducting the mediation. In any litigation permitted by this Contract, the prevailing party shall be entitled to  
301 recover from the non-prevailing party costs and fees, including reasonable attorney's fees, incurred in conducting  
302 the litigation. This Paragraph 17 shall survive Closing or termination of this Contract.

## 303 **STANDARDS FOR REAL ESTATE TRANSACTIONS ("STANDARDS")**

### 304 **18. STANDARDS:**

#### 305 **A. TITLE:**

306 (i) **TITLE EVIDENCE; RESTRICTIONS; EASEMENTS; LIMITATIONS:** Within the time period provided in  
307 Paragraph 9(c), the Title Commitment, with legible copies of instruments listed as exceptions attached thereto, shall  
308 be issued and delivered to Buyer. The Title Commitment shall set forth those matters to be discharged by Seller at or  
309 before Closing and shall provide that, upon recording of the deed to Buyer, an owner's policy of title insurance in the  
310 amount of the Purchase Price, shall be issued to Buyer insuring Buyer's marketable title to the Real Property,  
311 subject only to the following matters: (a) comprehensive land use plans, zoning, and other land use restrictions,  
312 prohibitions and requirements imposed by governmental authority; (b) restrictions and matters appearing on the Plat  
313 or otherwise common to the subdivision; (c) outstanding oil, gas and mineral rights of record without right of entry;  
314 (d) unplatted public utility easements of record (located contiguous to real property lines and not more than 10 feet in  
315 width as to rear or front lines and 7 1/2 feet in width as to side lines); (e) taxes for year of Closing and subsequent  
316 years; and (f) assumed mortgages and purchase money mortgages, if any (if additional items, attach addendum);  
317 provided, that none prevent use of the Property for **RESIDENTIAL PURPOSES**. If there exists at Closing any  
318 violation of items identified in (b) - (f) above, then the same shall be deemed a title defect. Marketable title shall be  
319 determined according to applicable Title Standards adopted by authority of The Florida Bar and in accordance with  
320 law.

321 (ii) **TITLE EXAMINATION:** Buyer shall have 5 days after receipt of Title Commitment to examine it and notify  
322 Seller in writing specifying defect(s), if any, that render title unmarketable. If Seller provides Title Commitment and it  
323 is delivered to Buyer less than 5 days prior to Closing Date, Buyer may extend Closing for up to 5 days after  
324 date of receipt to examine same in accordance with this STANDARD A. Seller shall have 30 days ("Cure Period")  
325 after receipt of Buyer's notice to take reasonable diligent efforts to remove defects. If Buyer fails to so notify Seller,  
326 Buyer shall be deemed to have accepted title as it then is. If Seller cures defects within Cure Period, Seller will

CLOSING COSTS, FEES AND CHARGES

9. CLOSING COSTS; TITLE INSURANCE; SURVEY; HOME WARRANTY; SPECIAL ASSESSMENTS:

(a) COSTS TO BE PAID BY SELLER:

- Documentary stamp taxes and surtax on deed, if any
- Owner's Policy and Charges (If Paragraph 9(c)(i) is checked)
- Title search charges (if Paragraph 9(c)(iii) is checked)
- Other: all unpaid condominium association assessments and unpaid property taxes

If, prior to Closing, Seller is unable to meet the AS IS Maintenance Requirement as required by Paragraph 11 a sum equal to 125% of estimated cost to meet the AS IS Maintenance Requirement shall be escrowed at Closing. If actual costs to meet the AS IS Maintenance Requirement exceed escrowed amount, Seller shall pay such actual costs. Any unused portion of escrowed amount shall be returned to Seller.

(b) COSTS TO BE PAID BY BUYER:

- Taxes and recording fees on notes and mortgages
- Recording fees for deed and financing statements
- Owner's Policy and Charges (if Paragraph 9(c)(ii) is checked)
- Survey (and elevation certification, if required)
- Lender's title policy and endorsements
- HOA/Condominium Association application/transfer fees
- Other: \_\_\_\_\_

(c) TITLE EVIDENCE AND INSURANCE: At least \_\_\_\_\_ (if blank, then 5) days prior to Closing Date, a title insurance commitment issued by a Florida licensed title insurer, with legible copies of instruments listed as exceptions attached thereto ("Title Commitment") and, after Closing, an owner's policy of title insurance (see STANDARD A for terms) shall be obtained and delivered to Buyer. If Seller has an owner's policy of title insurance covering the Real Property, a copy shall be furnished to Buyer and Closing Agent within 5 days after Effective Date. The owner's title policy premium and charges for owner's policy endorsements, title search, and closing services (collectively, "Owner's Policy and Charges") shall be paid, as set forth below (CHECK ONE):

(i) Seller will designate Closing Agent and pay for Owner's Policy and Charges (but not including charges for closing services related to Buyer's lender's policy and endorsements and loan closing, which amounts shall be paid by Buyer to Closing Agent or such other provider(s) as Buyer may select); or

(ii) Buyer will designate Closing Agent and pay for Owner's Policy and Charges and charges for closing services related to Buyer's lender's policy, endorsements, and loan closing; or

(iii) [MIAMI-DADE/BROWARD REGIONAL PROVISION]: Seller will furnish a copy of a prior owner's policy of title insurance or other evidence of title and pay fees for: (A) a continuation or update of such title evidence, which is acceptable to Buyer's title insurance underwriter for reissue of coverage; (B) tax search; and (C) municipal lien search. Buyer shall obtain and pay for post-Closing continuation and premium for Buyer's owner's policy, and if applicable, Buyer's lender's policy. Seller shall not be obligated to pay more than \$ \_\_\_\_\_ (if blank, \$200.00) for abstract continuation or title search ordered or performed by Closing Agent.

(d) SURVEY: At least 5 days prior to Closing, Buyer may, at Buyer's expense, have the Real Property surveyed and certified by a registered Florida surveyor ("Survey"). If Seller has a survey covering the Real Property, a copy shall be furnished to Buyer and Closing Agent within 5 days after Effective Date.

(e) HOME WARRANTY: At Closing,  Buyer  Seller  N/A will pay for a home warranty plan issued by \_\_\_\_\_ at a cost not to exceed \$ \_\_\_\_\_. A home warranty plan provides for repair or replacement of many of a home's mechanical systems and major built-in appliances in the event of breakdown due to normal wear and tear during the agreement's warranty period.

(f) SPECIAL ASSESSMENTS: At Closing, Seller will pay: (i) the full amount of liens imposed by a public body ("public body" does not include a Condominium or Homeowner's Association) that are certified, confirmed and ratified before Closing; and (ii) the amount of the public body's most recent estimate or assessment for an improvement which is substantially complete as of Effective Date, but that has not resulted in a lien being imposed on the Property before Closing. Buyer will pay all other assessments. If special assessments may be paid in installments (CHECK ONE):

(a) Seller shall pay installments due prior to Closing and Buyer shall pay installments due after Closing. Installments prepaid or due for the year of Closing shall be prorated.

(b) Seller shall pay the assessment(s) in full prior to or at the time of Closing.

IF NEITHER BOX IS CHECKED, THEN OPTION (a) SHALL BE DEEMED SELECTED.

This Paragraph 9(f) shall not apply to a special benefit tax lien imposed by a community development district (CDD) pursuant to Chapter 190 F.S. which lien shall be treated as an ad valorem tax and prorated pursuant to STANDARD K.

DISCLOSURES

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10. DISCLOSURES:

- (a) **RADON GAS:** Radon is a naturally occurring radioactive gas that, when it is accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county health department.
- (b) **PERMITS DISCLOSURE:** Except as may have been disclosed by Seller to Buyer in a written disclosure, Seller does not know of any improvements made to the Property which were made without required permits or made pursuant to permits which have not been properly closed.
- (c) **MOLD:** Mold is naturally occurring and may cause health risks or damage to property. If Buyer is concerned or desires additional information regarding mold, Buyer should contact an appropriate professional.
- (d) **FLOOD ZONE; ELEVATION CERTIFICATION:** Buyer is advised to verify by elevation certificate which flood zone the Property is in, whether flood insurance is required by Buyer's lender, and what restrictions apply to improving the Property and rebuilding in the event of casualty. If Property is in a "Special Flood Hazard Area" or "Coastal High Hazard Area" and finished floor elevation is below minimum flood elevation, Buyer may terminate this Contract by delivering written notice to Seller within 20 days after Effective Date, failing which Buyer accepts existing elevation of buildings and flood zone designation of Property.
- (e) **ENERGY BROCHURE:** Buyer acknowledges receipt of Florida Energy-Efficiency Rating Information Brochure required by Section 553.996, F.S.
- (f) **LEAD-BASED PAINT:** If Property includes pre-1978 residential housing, a lead-based paint rider is mandatory.
- (g) **HOMEOWNERS' ASSOCIATION/COMMUNITY DISCLOSURE:** BUYER SHOULD NOT EXECUTE THIS CONTRACT UNTIL BUYER HAS RECEIVED AND READ THE HOMEOWNERS' ASSOCIATION/COMMUNITY DISCLOSURE, IF APPLICABLE.
- (h) **PROPERTY TAX DISCLOSURE SUMMARY:** BUYER SHOULD NOT RELY ON THE SELLER'S CURRENT PROPERTY TAXES AS THE AMOUNT OF PROPERTY TAXES THAT THE BUYER MAY BE OBLIGATED TO PAY IN THE YEAR SUBSEQUENT TO PURCHASE. A CHANGE OF OWNERSHIP OR PROPERTY IMPROVEMENTS TRIGGERS REASSESSMENTS OF THE PROPERTY THAT COULD RESULT IN HIGHER PROPERTY TAXES. IF YOU HAVE ANY QUESTIONS CONCERNING VALUATION, CONTACT THE COUNTY PROPERTY APPRAISER'S OFFICE FOR INFORMATION.
- (i) **TAX WITHHOLDING:** If Seller is a "foreign person" as defined by the Foreign Investment in Real Property Tax Act ("FIRPTA"), Buyer and Seller will comply with FIRPTA, which may require Seller to provide additional cash at Closing.
- (j) **SELLER DISCLOSURE:** Seller knows of no facts materially affecting the value of the Real Property which are not readily observable and which have not been disclosed to Buyer. Except as stated in the preceding sentence or otherwise disclosed in writing: (1) Seller has received no written or verbal notice from any governmental entity or agency as to a currently uncorrected building, environmental or safety code violation; and (2) Seller extends and intends no warranty and makes no representation of any type, either express or implied, as to the physical condition or history of the Property.

PROPERTY MAINTENANCE, CONDITION, INSPECTIONS AND EXAMINATIONS

11. **PROPERTY MAINTENANCE:** Except for ordinary wear and tear and Casualty Loss, Seller shall maintain the Property, including, but not limited to, lawn, shrubbery, and pool, in the condition existing as of Effective Date ("AS IS Maintenance Requirement").

12. **PROPERTY INSPECTION; RIGHT TO CANCEL:**

(a) **PROPERTY INSPECTIONS AND RIGHT TO CANCEL:** Buyer shall have 5 (if blank, 15) days from Effective Date ("Inspection Period") within which to have such inspections of the Property performed as Buyer shall desire during the Inspection Period. If Buyer determines, in Buyer's sole discretion, that the Property is not acceptable to Buyer, Buyer may terminate this Contract by delivering written notice of such election to Seller prior to expiration of Inspection Period. If Buyer timely terminates this Contract, the Deposit paid shall be immediately returned to Buyer, thereupon, Buyer and Seller shall be released of all further obligations under this Contract; however, Buyer shall be responsible for prompt payment for such inspections, for repair of damage to, and restoration of, the Property resulting from such inspections, and shall provide Seller with paid receipts for all work done on the Property (the preceding provision shall survive termination of this Contract). Unless Buyer exercises the right to terminate granted herein, Buyer accepts the physical condition of the Property and any violation of governmental, building, environmental, and safety codes, restrictions, or requirements, but subject to Seller's continuing AS IS Maintenance Requirement, and Buyer shall be responsible for any and all repairs and improvements required by Buyer's lender.

Buyer's Initials

*[Handwritten initials]*

Page 4 of 10

Seller's Initials

\_\_\_\_\_

- 209 (b) **WALK-THROUGH INSPECTION/RE-INSPECTION:** On the day prior to Closing Date, or on Closing Date prior  
210 to time of Closing, as specified by Buyer, Buyer or Buyer's representative may perform a walk-through (and  
211 follow-up walk-through, if necessary) inspection of the Property solely to confirm that all items of Personal  
212 Property are on the Property and to verify that Seller has maintained the Property as required by the AS IS  
213 Maintenance Requirement and has met all other contractual obligations.
- 214 (c) **SELLER ASSISTANCE AND COOPERATION IN CLOSE-OUT OF BUILDING PERMITS:** If Buyer's  
215 inspection of the Property identifies open or needed building permits, then Seller shall promptly deliver to  
216 Buyer all plans, written documentation or other information in Seller's possession, knowledge, or control  
217 relating to improvements to the Property which are the subject of such open or needed Permits, and shall  
218 promptly cooperate in good faith with Buyer's efforts to obtain estimates of repairs or other work necessary to  
219 resolve such Permit issues. Seller's obligation to cooperate shall include Seller's execution of necessary  
220 authorizations, consents, or other documents necessary for Buyer to conduct inspections and have estimates  
221 of such repairs or work prepared, but in fulfilling such obligation, Seller shall not be required to expend, or  
222 become obligated to expend, any money.
- 223 (d) **ASSIGNMENT OF REPAIR AND TREATMENT CONTRACTS AND WARRANTIES:** At Buyer's option and  
224 cost, Seller will, at Closing, assign all assignable repair, treatment and maintenance contracts and warranties  
225 to Buyer.

### 226 **ESCROW AGENT AND BROKER**

- 227 **13. ESCROW AGENT:** Any Closing Agent or Escrow Agent (collectively "Agent") receiving the Deposit, other funds  
228 and other items is authorized, and agrees by acceptance of them, to deposit them promptly, hold same in escrow  
229 within the State of Florida and, subject to **COLLECTION**, disburse them in accordance with terms and conditions  
230 of this Contract. Failure of funds to become **COLLECTED** shall not excuse Buyer's performance. When conflicting  
231 demands for the Deposit are received, or Agent has a good faith doubt as to entitlement to the Deposit, Agent  
232 may take such actions permitted by this Paragraph 13, as Agent deems advisable. If in doubt as to Agent's duties  
233 or liabilities under this Contract, Agent may, at Agent's option, continue to hold the subject matter of the escrow  
234 until the parties agree to its disbursement or until a final judgment of a court of competent jurisdiction shall  
235 determine the rights of the parties, or Agent may deposit same with the clerk of the circuit court having jurisdiction  
236 of the dispute. An attorney who represents a party and also acts as Agent may represent such party in such  
237 action. Upon notifying all parties concerned of such action, all liability on the part of Agent shall fully terminate,  
238 except to the extent of accounting for any items previously delivered out of escrow. If a licensed real estate  
239 broker, Agent will comply with provisions of Chapter 475, F.S., as amended and FREC rules to timely resolve  
240 escrow disputes through mediation, arbitration, interpleader or an escrow disbursement order.  
241 Any proceeding between Buyer and Seller wherein Agent is made a party because of acting as Agent hereunder,  
242 or in any proceeding where Agent interpleads the subject matter of the escrow, Agent shall recover reasonable  
243 attorney's fees and costs incurred, to be paid pursuant to court order out of the escrowed funds or equivalent.  
244 Agent shall not be liable to any party or person for mis-delivery of any escrowed items, unless such mis-delivery is  
245 due to Agent's willful breach of this Contract or Agent's gross negligence. This Paragraph 13 shall survive Closing  
246 or termination of this Contract.
- 247 **14. PROFESSIONAL ADVICE; BROKER LIABILITY:** Broker advises Buyer and Seller to verify Property condition,  
248 square footage, and all other facts and representations made pursuant to this Contract and to consult appropriate  
249 professionals for legal, tax, environmental, and other specialized advice concerning matters affecting the Property  
250 and the transaction contemplated by this Contract. Broker represents to Buyer that Broker does not reside on the  
251 Property and that all representations (oral, written or otherwise) by Broker are based on Seller representations or  
252 public records. **BUYER AGREES TO RELY SOLELY ON SELLER, PROFESSIONAL INSPECTORS AND  
253 GOVERNMENTAL AGENCIES FOR VERIFICATION OF PROPERTY CONDITION, SQUARE FOOTAGE AND  
254 FACTS THAT MATERIALLY AFFECT PROPERTY VALUE AND NOT ON THE REPRESENTATIONS (ORAL,  
255 WRITTEN OR OTHERWISE) OF BROKER.** Buyer and Seller (individually, the "Indemnifying Party") each  
256 individually indemnifies, holds harmless, and releases Broker and Broker's officers, directors, agents and  
257 employees from all liability for loss or damage, including all costs and expenses, and reasonable attorney's fees  
258 at all levels, suffered or incurred by Broker and Broker's officers, directors, agents and employees in connection  
259 with or arising from claims, demands or causes of action instituted by Buyer or Seller based on: (i) inaccuracy of  
260 information provided by the Indemnifying Party or from public records; (ii) Indemnifying Party's misstatement(s) or  
261 failure to perform contractual obligations; (iii) Broker's performance, at Indemnifying Party's request, of any task  
262 beyond the scope of services regulated by Chapter 475, F.S., as amended, including Broker's referral,  
263 recommendation or retention of any vendor for, or on behalf of, Indemnifying Party; (iv) products or services  
264 provided by any such vendor for, or on behalf of, Indemnifying Party; and (v) expenses incurred by any such  
265 vendor. Buyer and Seller each assumes full responsibility for selecting and compensating their respective vendors  
266 and paying their other costs under this Contract whether or not this transaction closes. This Paragraph 14 will not  
267 relieve Broker of statutory obligations under Chapter 475, F.S., as amended. For purposes of this Paragraph 14,

STANDARDS FOR REAL ESTATE TRANSACTIONS (CONTINUED)

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328 deliver written notice to Buyer (with proof of cure acceptable to Buyer and Buyer's attorney) and the parties will  
329 close this Contract on Closing Date (or if Closing Date has passed, within 10 days after Buyer's receipt of Seller's  
330 notice). If Seller is unable to cure defects within Cure Period, then Buyer may, within 5 days after expiration of  
331 Cure Period, deliver written notice to Seller: (a) extending Cure Period for a specified period not to exceed 120 days  
332 within which Seller shall continue to use reasonable diligent effort to remove or cure the defects ("Extended Cure  
333 Period"); or (b) electing to accept title with existing defects and close this Contract on Closing Date (or if Closing Date  
334 has passed, within the earlier of 10 days after end of Extended Cure Period or Buyer's receipt of Seller's notice), or  
335 (c) electing to terminate this Contract and receive a refund of the Deposit, thereby releasing Buyer and Seller from  
336 all further obligations under this Contract. If after reasonable diligent effort, Seller is unable to timely cure defects,  
337 and Buyer does not waive the defects, this Contract shall terminate, and Buyer shall receive a refund of the Deposit,  
338 thereby releasing Buyer and Seller from all further obligations under this Contract.

339 **B. SURVEY:** If Survey discloses encroachments on the Real Property or that improvements located thereon  
340 encroach on setback lines, easements, or lands of others; or violate any restrictions, covenants, or applicable  
341 governmental regulations described in STANDARD A (i)(a), (b) or (d) above, Buyer shall deliver written notice of such  
342 matters, together with a copy of Survey, to Seller within 5 days after Buyer's receipt of Survey, but no later than  
343 Closing. If Buyer timely delivers such notice and Survey to Seller, such matters identified in the notice and Survey  
344 shall constitute a title defect, subject to cure obligations of STANDARD A above. If Seller has delivered a prior  
345 survey, Seller shall, at Buyer's request, execute an affidavit of "no change" to the Real Property since the  
346 preparation of such prior survey, to the extent the affirmations therein are true and correct.

347 **C. INGRESS AND EGRESS:** Seller represents that there is ingress and egress to the Real Property and title to  
348 the Real Property is insurable in accordance with STANDARD A without exception for lack of legal right of access.

349 **D. LEASES:** Seller shall, within 5 days after Inspection Period, furnish to Buyer copies of all written leases and  
350 estoppel letters from each tenant specifying nature and duration of tenant's occupancy, rental rates, advanced rent  
351 and security deposits paid by tenant, and income and expense statements for preceding 12 months ("Lease  
352 Information"). If Seller is unable to obtain estoppel letters from tenant(s), the same information shall be furnished by  
353 Seller to Buyer within that time period in the form of a Seller's affidavit, and Buyer may thereafter contact tenant(s)  
354 to confirm such information. If terms of the lease(s) differ materially from Seller's representations, Buyer may deliver  
355 written notice to Seller within 5 days after receipt of Lease Information, but no later than 5 days prior to Closing  
356 Date, terminating this Contract and receive a refund of the Deposit, thereby releasing Buyer and Seller from all  
357 further obligations under this Contract. Seller shall, at Closing, deliver and assign all original leases to Buyer who  
358 shall assume Seller's obligation thereunder.

359 **E. LIENS:** Seller shall furnish to Buyer at Closing an affidavit attesting; (i) to the absence of any financing  
360 statement, claims of lien or potential lienors known to Seller, and (ii) that there have been no improvements or repairs  
361 to the Real Property for 90 days immediately preceding Closing Date. If the Real Property has been improved or  
362 repaired within that time, Seller shall deliver releases or waivers of construction liens executed by all general  
363 contractors, subcontractors, suppliers and materialmen in addition to Seller's lien affidavit setting forth names of all  
364 such general contractors, subcontractors, suppliers and materialmen, further affirming that all charges for  
365 improvements or repairs which could serve as a basis for a construction lien or a claim for damages have been paid  
366 or will be paid at Closing.

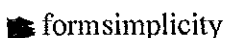
367 **F. TIME:** Calendar days shall be used in computing time periods. Any time periods provided for in this Contract  
368 which shall end on a Saturday, Sunday, or a national legal holiday (see 5 U.S.C. 6103) shall extend to 5:00 p.m.  
369 (where the Property is located) of the next business day. **Time is of the essence in this Contract.**

370 **G. FORCE MAJEURE:** Buyer or Seller shall not be required to perform any obligation under this Contract or be  
371 liable to each other for damages so long as performance or non-performance of the obligation is delayed, caused or  
372 prevented by Force Majeure. "Force Majeure" means: hurricanes, earthquakes, floods, fire, acts of God, unusual  
373 transportation delays, wars, insurrections, acts of terrorism, and any other cause not reasonably within control of  
374 Buyer or Seller, and which, by exercise of reasonable diligent effort, the non-performing party is unable in whole or in  
375 part to prevent or overcome. All time periods, including Closing Date, will be extended for the period that the Force  
376 Majeure prevents performance under this Contract, provided, however, if such Force Majeure continues to prevent  
377 performance under this Contract more than 14 days beyond Closing Date, then either party may terminate this  
378 Contract by delivering written notice to the other and the Deposit shall be refunded to Buyer, thereby releasing Buyer  
379 and Seller from all further obligations under this Contract.

380 **H. CONVEYANCE:** Seller shall convey marketable title to the Real Property by statutory warranty, trustee's,  
381 personal representative's, or guardian's deed, as appropriate to the status of Seller, subject only to matters described  
382 in STANDARD A and those accepted by Buyer. Personal Property shall, at request of Buyer, be transferred by  
383 absolute bill of sale with warranty of title, subject only to such matters as may be provided for in this Contract.

384 **I. CLOSING LOCATION; DOCUMENTS; AND PROCEDURE:**

385 (i) **LOCATION:** Closing will take place in the county where the Real Property is located at the office of the  
386 attorney or other closing agent ("Closing Agent") designated by the party paying for the owner's policy of title



**STANDARDS FOR REAL ESTATE TRANSACTIONS (CONTINUED)**

387  
388 insurance, or, if no title insurance, designated by Seller. Closing may be conducted by mail or electronic means.  
389 (ii) **CLOSING DOCUMENTS:** At Closing, Seller shall furnish and pay for, as applicable, deed, bill of sale,  
390 certificate of title, construction lien affidavit, owner's possession affidavit, assignments of leases, and corrective  
391 instruments. Seller shall provide Buyer with paid receipts for all work done on the Property pursuant to this Contract.  
392 Buyer shall furnish and pay for, as applicable, mortgage, mortgage note, security agreement, financing statements,  
393 survey, base elevation certification, and other documents required by Buyer's lender.  
394 (iii) **PROCEDURE:** The deed shall be recorded upon **COLLECTION** of all closing funds. If the Title  
395 Commitment provides insurance against adverse matters pursuant to Section 627.7841, F.S., as amended, the  
396 escrow closing procedure required by **STANDARD J** shall be waived, and Closing Agent shall, **subject to**  
397 **COLLECTION of all closing funds**, disburse at Closing the brokerage fees to Broker and the net sale proceeds to  
398 Seller.  
399 **J. ESCROW CLOSING PROCEDURE:** If Title Commitment issued pursuant to Paragraph 9(c) does not provide  
400 for insurance against adverse matters as permitted under Section 627.7841, F.S., as amended, the following escrow  
401 and closing procedures shall apply: (1) all Closing proceeds shall be held in escrow by the Closing Agent for a period  
402 of not more than 10 days after Closing; (2) if Seller's title is rendered unmarketable, through no fault of Buyer, Buyer  
403 shall, within the 10 day period, notify Seller in writing of the defect and Seller shall have 30 days from date of receipt  
404 of such notification to cure the defect; (3) if Seller fails to timely cure the defect, the Deposit and all Closing funds  
405 paid by Buyer shall, within 5 days after written demand by Buyer, be refunded to Buyer and, simultaneously with  
406 such repayment, Buyer shall return the Personal Property, vacate the Real Property and re-convey the Property to  
407 Seller by special warranty deed and bill of sale; and (4) if Buyer fails to make timely demand for refund of the  
408 Deposit, Buyer shall take title as is, waiving all rights against Seller as to any intervening defect except as may be  
409 available to Buyer by virtue of warranties contained in the deed or bill of sale.  
410 **K. PRORATIONS; CREDITS:** The following recurring items will be made current (if applicable) and prorated as of  
411 the day prior to Closing Date, or date of occupancy if occupancy occurs before Closing Date: real estate taxes  
412 (including special benefit tax assessments imposed by a CDD), interest, bonds, association fees, insurance, rents  
413 and other expenses of Property. Buyer shall have option of taking over existing policies of insurance, if assumable, in  
414 which event premiums shall be prorated. Cash at Closing shall be increased or decreased as may be required by  
415 prorations to be made through day prior to Closing. Advance rent and security deposits, if any, will be credited to  
416 Buyer. Escrow deposits held by Seller's mortgagee will be paid to Seller. Taxes shall be prorated based on current  
417 year's tax with due allowance made for maximum allowable discount, homestead and other exemptions. If Closing  
418 occurs on a date when current year's millage is not fixed but current year's assessment is available, taxes will be  
419 prorated based upon such assessment and prior year's millage. If current year's assessment is not available, then  
420 taxes will be prorated on prior year's tax. If there are completed improvements on the Real Property by January 1st of  
421 year of Closing, which improvements were not in existence on January 1st of prior year, then taxes shall be prorated  
422 based upon prior year's millage and at an equitable assessment to be agreed upon between the parties, failing which,  
423 request shall be made to the County Property Appraiser for an informal assessment taking into account available  
424 exemptions. A tax proration based on an estimate shall, at either party's request, be readjusted upon receipt of  
425 current year's tax bill. This **STANDARD K** shall survive Closing.  
426 **L. ACCESS TO PROPERTY TO CONDUCT APPRAISALS, INSPECTIONS, AND WALK-THROUGH:** Seller  
427 shall, upon reasonable notice, provide utilities service and access to Property for appraisals and inspections,  
428 including a walk-through (or follow-up walk-through if necessary) prior to Closing.  
429 **M. RISK OF LOSS:** If, after Effective Date, but before Closing, Property is damaged by fire or other casualty  
430 ("Casualty Loss") and cost of restoration (which shall include cost of pruning or removing damaged trees) does not  
431 exceed 1.5% of Purchase Price, cost of restoration shall be an obligation of Seller and Closing shall proceed  
432 pursuant to terms of this Contract. If restoration is not completed as of Closing, a sum equal to 125% of estimated  
433 cost to complete restoration (not to exceed 1.5% of Purchase Price), will be escrowed at Closing. If actual cost of  
434 restoration exceeds escrowed amount, Seller shall pay such actual costs (but, not in excess of 1.5% of Purchase  
435 Price). Any unused portion of escrowed amount shall be returned to Seller. If cost of restoration exceeds 1.5% of  
436 Purchase Price, Buyer shall elect to either take Property "as is" together with the 1.5%, or receive a refund of the  
437 Deposit, thereby releasing Buyer and Seller from all further obligations under this Contract. Seller's sole obligation  
438 with respect to tree damage by casualty or other natural occurrence shall be cost of pruning or removal.  
439 **N. 1031 EXCHANGE:** If either Seller or Buyer wish to enter into a like-kind exchange (either simultaneous with  
440 Closing or deferred) under Section 1031 of the Internal Revenue Code ("Exchange"), the other party shall cooperate  
441 in all reasonable respects to effectuate the Exchange, including execution of documents; provided, however,  
442 cooperating party shall incur no liability or expense related to the Exchange, and Closing shall not be contingent  
443 upon, nor extended or delayed by, such Exchange.  
444 **O. CONTRACT NOT RECORDABLE; PERSONS BOUND; NOTICE; COPIES:** Neither this Contract nor any  
445 notice of it shall be recorded in any public records. This Contract shall be binding on, and inure to the benefit of, the  
446 parties and their respective heirs or successors in interest. Whenever the context permits, singular shall include plural



**STANDARDS FOR REAL ESTATE TRANSACTIONS (CONTINUED)**

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448 and one gender shall include all. Notice and delivery given by or to the attorney or broker (including such  
449 estate licensee) representing any party shall be as effective as if given by or to that party. All notices  
450 writing and may be made by mail, personal delivery or electronic (including "pdf") media. A legible  
451 electronic (including "pdf") copy of this Contract and any signatures hereon shall be considered for all pur  
452 original.

453 **P. INTEGRATION; MODIFICATION:** This Contract contains the full and complete understanding and  
454 of Buyer and Seller with respect to the transaction contemplated by this Contract and no prior ag  
455 representations shall be binding upon Buyer or Seller unless included in this Contract. No modification t  
456 in this Contract shall be valid or binding upon Buyer or Seller unless in writing and executed by the part  
457 to be bound by it.

458 **Q. WAIVER:** Failure of Buyer or Seller to insist on compliance with, or strict performance of, any prov  
459 Contract, or to take advantage of any right under this Contract, shall not constitute a waiver of other  
460 rights.

461 **R. RIDERS; ADDENDA; TYPEWRITTEN OR HANDWRITTEN PROVISIONS:** Riders, addenda, and  
462 or handwritten provisions shall control all printed provisions of this Contract in conflict with them.

463 **S. COLLECTION or COLLECTED:** "COLLECTION" or "COLLECTED" means any checks tendered  
464 including Deposits, have become actually and finally collected and deposited in the account of Es  
465 or Closing Agent. Closing and disbursement of funds and delivery of Closing documents may be  
466 Closing Agent until such amounts have been COLLECTED in Closing Agent's accounts.

467 **T. LOAN COMMITMENT:** "Loan Commitment" means a statement by the lender setting forth the  
468 conditions upon which the lender is willing to make a particular mortgage loan to a particular borrower.

469 **U. APPLICABLE LAW AND VENUE:** This Contract shall be construed in accordance with the laws of  
470 Florida and venue for resolution of all disputes, whether by mediation, arbitration or litigation, shall lie in th  
471 which the Real Property is located.

472 **X. BUYER WAIVER OF CLAIMS:** *Buyer waives any claims against Seller and, to the extent p*  
473 *law, against any real estate licensee involved in the negotiation of this Contract, for any defe*  
474 *damage that may exist at Closing of this Contract and be subsequently discovered by the Buye*  
475 *claiming by, through, under or against the Buyer.*

**ADDENDA AND ADDITIONAL TERMS**

476  
477 **19. ADDENDA:** The following additional terms are included in the attached addenda and incorpor  
478\* Contract (Check if applicable):

- |  |   |   |   |
|--|---|---|---|
| <input checked="" type="checkbox"/> A. Condominium Assn. | <input type="checkbox"/> L. RESERVED  | <input type="checkbox"/> R. Rezoning                        | <input type="checkbox"/> Y. Seller's A              |
| <input type="checkbox"/> B. Homeowners' Assn.            |   | <input type="checkbox"/> S. Lease Purchase/<br>Lease Option | Approval  |
| <input type="checkbox"/> C. Seller Financing             | <input type="checkbox"/> M. Defective Drywall                                   | <input type="checkbox"/> T. Pre-Closing<br>Occupancy        | <input type="checkbox"/> Z. Buyer's /<br>Approval   |
| <input type="checkbox"/> D. Mortgage Assumption          | <input type="checkbox"/> N. Coastal Construction<br>Control Line                | <input type="checkbox"/> U. Post-Closing<br>Occupancy       | <input type="checkbox"/> AA. Licensee<br>Interest i |
| <input type="checkbox"/> E. FHAVA Financing              | <input type="checkbox"/> O. Insulation Disclosure                               | <input type="checkbox"/> V. Sale of Buyer's<br>Property     | <input type="checkbox"/> BB. Binding /<br>Other     |
| <input type="checkbox"/> F. Appraisal Contingency        | <input type="checkbox"/> P. Pre-1978 Housing<br>Statement (Lead<br>Based Paint) | <input type="checkbox"/> W. Back-up Contract                | _____   |
| <input type="checkbox"/> G. Short Sale                   | <input type="checkbox"/> Q. Housing for Older<br>Persons                        | <input type="checkbox"/> X. Kick-out Clause                 | _____   |
| <input type="checkbox"/> H. Homeowners' Insurance        |   |   | _____   |
| <input type="checkbox"/> I. FIRPTA                       |   |   | _____   |
| <input type="checkbox"/> J. Interest-Bearing Acct.       |   |   | _____   |
| <input type="checkbox"/> K. RESERVED                     |   |   | _____   |

479\* **20. ADDITIONAL TERMS:** This property is being sold wit  
480\* one parking space # 87 and boat slip # 16.  
481\* This unit is being purchased as is and  
482\* modal issues. Buyer's hold harmless. se  
483\*  
484\*

COUNTER-OFFER/REJECTION

494

496\*  Seller counters Buyer's offer (to accept the counter-offer, Buyer must sign or initial the counter-offered terms and deliver a copy of the acceptance to Seller).

497\*  Seller rejects Buyer's offer.

498 THIS IS INTENDED TO BE A LEGALLY BINDING CONTRACT. IF NOT FULLY UNDERSTOOD, SEEK THE ADVICE OF AN ATTORNEY PRIOR TO SIGNING.

500 THIS FORM HAS BEEN APPROVED BY THE FLORIDA REALTORS AND THE FLORIDA BAR.

501 Approval of this form by the Florida Realtors and The Florida Bar does not constitute an opinion that any of the terms and conditions in this Contract should be accepted by the parties in a particular transaction. Terms and conditions should be negotiated based upon the respective interests, objectives and bargaining positions of all interested persons.

505 AN ASTERISK (\*) FOLLOWING A LINE NUMBER IN THE MARGIN INDICATES THE LINE CONTAINS A BLANK TO BE COMPLETED.

507\* Buyer: Joanmy Lohren

Date: 12-2-12

508\* Buyer: Brenda Helen

Date: 12-2-12

509\* Seller: \_\_\_\_\_

Date: \_\_\_\_\_

510\* Seller: \_\_\_\_\_

Date: \_\_\_\_\_

511 Buyer's address for purposes of notice  
512\* \_\_\_\_\_  
513\* \_\_\_\_\_  
514\* \_\_\_\_\_

Seller's address for purposes of notice  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

516 **BROKER:** Listing and Cooperating Brokers, if any, named below (collectively, "Broker"), are the only Brokers entitled to compensation in connection with this Contract. Instruction to Closing Agent: Seller and Buyer direct Closing Agent to disburse at Closing the full amount of the brokerage fees as specified in separate brokerage agreements with the parties and cooperative agreements between the Brokers, except to the extent Broker has retained such fees from the escrowed funds. This Contract shall not modify any MLS or other offer of compensation made by Seller or Listing Broker to Cooperating Brokers.

521\* Fred Gould  
522 Cooperating Sales Associate, if any

Claudia Traywick  
Listing Sales Associate

523\* Coastal Real Estate Associates, Inc.  
524 Cooperating Broker, if any

Coastal Real Estate Associates, Inc. 6%  
Listing Broker

Comprehensive Rider to the  
Residential Contract For Sale And Purchase

THIS FORM HAS BEEN APPROVED BY THE FLORIDA REALTORS AND THE FLORIDA BAR

If Initialed by all parties, the clauses below will be incorporated into the Florida Realtors®/Florida Bar Residential Contract For Sale And Purchase between Oceanside Acquisitions LLC (SELLER) and Tommy and Brenda Tallon (BUYER) concerning the Property described as 6541 Sea Ranch Drive, Unit 401, Hudson, FL 34667

Buyer's Initials TT BT

Seller's Initials \_\_\_\_\_

**A. CONDOMINIUM ASSOCIATION DISCLOSURE**

**1. CONDOMINIUM ASSOCIATION APPROVAL:**

The Association's approval of Buyer (CHECK ONE)  is  is not required. If approval is required, this Contract is contingent upon Buyer being approved by the Association no later than 2 days prior to Closing. Within 2 days after Effective Date Seller shall initiate the approval process with the Association and Buyer shall apply for such approval. Buyer and Seller shall sign and deliver any documents required by the Association in order to complete the transfer of the Property and each shall use diligent effort to obtain such approval, including making personal appearances if required. If Buyer is not approved within the stated time period, this Contract will terminate and Buyer shall be refunded the Deposit, thereby releasing Buyer and Seller from all further obligations under this Contract.

**2. RIGHT OF FIRST REFUSAL:**

- (a) The Association (CHECK ONE)  has  does not have a right of first refusal ("Right"). If the Association has a Right, this Contract is contingent upon the Association, within the time permitted for the exercise of such Right, either providing written confirmation to Buyer that the Association is not exercising that Right, or failing to timely exercise such Right pursuant to the terms of the Declaration of Condominium ("Declaration", which reference includes all amendments thereto).
- (b) The members of the Association (CHECK ONE)  have  do not have a Right. If the members do have a Right, this Contract is contingent upon the members, within the time permitted for the exercise of such Right, either providing written confirmation to Buyer that the members are not exercising that Right, or failing to timely exercise such Right pursuant to the terms of the Declaration.
- (c) Buyer and Seller shall, within \_\_\_\_\_ days after Effective Date, sign and deliver any documents required as a condition precedent to the exercise of the Right, and shall use diligent effort to submit and process the matter with the Association and members, including personal appearances, if required.
- (d) If, within the stated time period, the Association, the members of the Association, or both, fail to provide the written confirmation or the Right has not otherwise expired, then this Contract will terminate and the Deposit will be refunded to the Buyer, thereby releasing Buyer and Seller from all further obligations under this Contract.
- (e) If the Association or a member timely exercises its or their Right, this Contract will terminate and the Deposit will be refunded to Buyer (unless this Contract provides otherwise), thereby releasing Buyer and Seller from all further obligations under this Contract, and Seller will pay to Broker the full commission at Closing in recognition that Broker procured the sale.

**3. FEES; ASSESSMENTS; PRORATIONS; LITIGATION:**

- (a) Assessments and Rents: Seller represents that the current annual assessment installments are \$ 375 per month and the current rent on recreation areas is \$ 0 per month. All annual assessments levied by the Association and rent on recreational areas, if any, shall be made current by Seller at Closing, and Buyer shall reimburse Seller for prepayments.
- (b) Fees: Seller will pay all fines imposed against the Unit as of Closing Date and any fees the Association charges to provide information about its fees on the Property, and will bring annual assessment installments and similar periodic fees and rents on any recreational areas current as of Closing Date.

(SEE CONTINUATION)

**A. CONDOMINIUM ASSOCIATION DISCLOSURE (CONTINUED)**

**(c) Special Assessments and Prorations:**

(i) Seller represents that Seller is not aware of any special or other assessment that has been levied by the Association or that has been an item on the agenda, or reported in the minutes, of the Association within twelve (12) months prior to Effective Date, ("pending") except as follows: \_\_\_\_\_

(ii) If special assessments levied or pending exist as of the Effective Date are disclosed above by Seller and may be paid in installments (**CHECK ONE**):  Buyer  Seller (if left blank, Buyer) shall pay installments due after Closing Date. **If Seller is checked, Seller will pay the assessment in full prior to or at the time of Closing.**

(iii) If special assessments levied or pending exist as of the Effective Date and have not been disclosed above by Seller, then Seller shall pay such assessments in full at the time of Closing.

(iv) If, after Effective Date, the Association imposes a special assessment for improvements, work or services, which was not pending as of the Effective Date, then Seller will pay all amounts due before Closing Date and Buyer will pay all amounts due after Closing Date.

(v) A special assessment shall be deemed levied for purposes of this paragraph on the date when the assessment has been approved as required for enforcement pursuant to Florida law and the condominium documents listed in Paragraph 5.

(vi) Association assets and liabilities, including Association reserve accounts, shall not be prorated.

**(d) Litigation:** Seller represents that Seller is not aware of pending or anticipated litigation affecting the Property or the common elements, if any, except as follows: \_\_\_\_\_

**4. SPRINKLER SYSTEM RETROFIT:**

If, pursuant to Sections 718.112(2)(l), F. S., the Association has voted to forego retrofitting its fire sprinkler system or handrails and guardrails for the condominium units, then prior to Closing Seller shall furnish to Buyer the written notice of Association's vote to forego such retrofitting.

**5. NON-DEVELOPER DISCLOSURE:  
(CHECK ONE )**

(a) THE BUYER HEREBY ACKNOWLEDGES THAT BUYER HAS BEEN PROVIDED A CURRENT COPY OF THE DECLARATION OF CONDOMINIUM, ARTICLES OF INCORPORATION OF THE ASSOCIATION, BYLAWS AND RULES OF THE ASSOCIATION, AND A COPY OF THE MOST RECENT YEAR-END FINANCIAL INFORMATION AND FREQUENTLY ASKED QUESTIONS AND ANSWERS DOCUMENT MORE THAN 3 DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, PRIOR TO EXECUTION OF THIS CONTRACT.

(b) THIS AGREEMENT IS VOIDABLE BY BUYER BY DELIVERING WRITTEN NOTICE OF THE BUYER'S INTENTION TO CANCEL WITHIN 3 DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, AFTER THE DATE OF EXECUTION OF THIS AGREEMENT BY THE BUYER AND RECEIPT BY BUYER OF A CURRENT COPY OF THE DECLARATION OF CONDOMINIUM, ARTICLES OF INCORPORATION, BYLAWS AND RULES OF THE ASSOCIATION, AND A COPY OF THE MOST RECENT YEAR-END FINANCIAL INFORMATION AND FREQUENTLY ASKED QUESTIONS AND ANSWERS DOCUMENT IF SO REQUESTED IN WRITING. ANY PURPORTED WAIVER OF THESE VOIDABILITY RIGHTS SHALL BE OF NO EFFECT. BUYER MAY EXTEND THE TIME FOR CLOSING FOR A PERIOD OF NOT MORE THAN 3 DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, AFTER THE BUYER RECEIVES THE DECLARATION, ARTICLES OF INCORPORATION, BYLAWS AND RULES OF THE ASSOCIATION, AND A COPY OF THE MOST RECENT YEAR-END FINANCIAL INFORMATION AND FREQUENTLY ASKED QUESTIONS AND ANSWERS DOCUMENT IF REQUESTED IN WRITING. BUYER'S RIGHT TO VOID THIS AGREEMENT SHALL TERMINATE AT CLOSING.

**6. BUYER'S REQUEST FOR DOCUMENTS:**

Buyer is entitled, at Seller's expense, to current copies of the condominium documents specified in Paragraph 5, above. Buyer (**CHECK ONE**)  requests  does not request a current copy of the documents specified in Paragraph 5, above. If this Contract does not close, Buyer shall immediately return the documents to Seller or reimburse Seller for the cost of the documents.

**(SEE CONTINUATION)**

**A. CONDOMINIUM ASSOCIATION DISCLOSURE (CONTINUED)**

**7. BUYER'S RECEIPT OF DOCUMENTS:**

**(COMPLETE AND CHECK ONLY IF CORRECT)**  Buyer received the documents described in Paragraph 5, above, on \_\_\_\_\_.

**8. COMMON ELEMENTS; PARKING:**

The Property includes the unit being purchased and an undivided interest in the common elements and an appurtenant limited common elements of the condominium, as specified in the Declaration. Seller's right and interest in or to the use of the following parking space(s), garage, and other areas are included in the sale of the Property and shall be assigned to Buyer at Closing, subject to the Declaration:

Parking Space(s) # 87 Garage # 1 Other: Boat slip # 16

**9. INSPECTIONS AND REPAIRS:**

The rights and obligations arising under Paragraphs 11 and 12 of this Contract to maintain, repair, replace or treat are limited to Seller's individual condominium unit and unless Seller is otherwise responsible do not extend to common elements, limited common elements, or any other part of the condominium property.

**10. GOVERNANCE FORM:**

PURSUANT TO CHAPTER 718, FLORIDA STATUTES, BUYER IS ENTITLED TO RECEIVE FROM SELLER A COPY OF THE GOVERNANCE FORM IN THE FORMAT PROVIDED BY THE DIVISION OF FLORIDA CONDOMINIUMS, TIMESHARES AND MOBILE HOMES OF THE DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION, SUMMARIZING THE GOVERNANCE OF THE CONDOMINIUM ASSOCIATION.

# EXHIBIT 2

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

**CASE NO.: 07-43672 CA 09**

STATE OF FLORIDA, OFFICE OF  
FINANCIAL REGULATION,

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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**ORDER GRANTING RECEIVER'S UNOPPOSED *EX PARTE* MOTION  
FOR ENTRY OF AN ORDER APPROVING THE SALE OF  
UNIT 401 AT GULF ISLAND BEACH AND TENNIS CLUB**

THIS MATTER came before the Court, without hearing on the Unopposed *Ex Parte* Motion for Entry of an Order Approving the Sale of Unit 401 at Gulf Island Beach and Tennis Club (the "Motion") filed by Michael I. Goldberg, the receiver (the "Receiver") for Defendants Berman Mortgage Corporation ("BMC"), M.A.M.C. Incorporated ("MAMC"), and Relief Defendants DB Atlanta, LLC, *et al.* The Court, having reviewed the Motion, being advised that notice was provided to all interested parties, each of whom have no opposition to the entry of this

Order and being otherwise fully advised in the premises, it is

**ORDER AND ADJUDGE** that:

1. The Motion is GRANTED.
2. The Receiver is authorized to execute the "AS IS" Residential Contract for Sale and Purchase with Tommy and Brenda Tallon Unit 401, 6035 Sea Ranch Drive, Hudson, Florida, located at the Gulf Island Beach and Tennis Club I. The Receiver is further authorized to execute any documents and take any actions reasonably necessary to consummate the transactions contemplated therein.
3. The Receiver is further authorized to satisfy the outstanding taxes and condominium assessments from the proceeds of the sale of Unit 401 and to maintain the remaining sale proceeds pending further order of this Court.

**DONE AND ORDERED** in Chambers in Miami-Dade County, Florida on this \_\_\_\_ day of \_\_\_\_\_, 2012.

**THE HONORABLE JERALD BAGLEY**  
**CIRCUIT COURT JUDGE**

**Conformed copies to:**

[cwt@kttl.com](mailto:cwt@kttl.com)  
[mbasurto@bushross.com](mailto:mbasurto@bushross.com)  
[william.dufoc@hklaw.com](mailto:william.dufoc@hklaw.com)  
[pvalori@dvllp.com](mailto:pvalori@dvllp.com)  
[jgassenheimer@bergersingerman.com](mailto:jgassenheimer@bergersingerman.com)  
[asandlerlaw@aol.com](mailto:asandlerlaw@aol.com)  
[dean@colson.com](mailto:dean@colson.com)  
[maurice.baumgarten@wilsonelser.com](mailto:maurice.baumgarten@wilsonelser.com)  
[cln@neusteinlaw.com](mailto:cln@neusteinlaw.com)  
[dfitzgerald@waltonlantaff.com](mailto:dfitzgerald@waltonlantaff.com)  
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[michael.goldberg@akerman.com](mailto:michael.goldberg@akerman.com)  
[joan.levit@akerman.com](mailto:joan.levit@akerman.com)