

**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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**RECEIVER'S MOTION TO AUTHORIZE DISTRIBUTION OF  
PROCEEDS OF THE SALE OF MAMC EMERALD CAY, LLC PROPERTY**

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 to Authorize Distribution of Proceeds of the Sale of MAMC Emerald Cay, LLC Property* (the "Motion"). In support of this Motion, 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 real estate projects and properties. As mortgagors defaulted on their loans, and if they were not an original Relief Defendant, the Receiver obtained Orders of this Court adding the projects to the receivership as additional relief defendants.

3. One of the loans was made to Emerald Cay Investments, LLC (the "Borrower") and secured by a First Mortgage and Security Agreement (the "Mortgage") on four parcels of approximately 7.84 acres of vacant land located at S.R. 535 at Polynesian Isle Boulevard & Oxford Drive, in Osceola County, Florida (the "Property"). The loan was serviced by MAMC.

4. After the Borrower defaulted under the loan documents, upon the direction of the Receiver, MAMC, on behalf of the Lenders, filed a Complaint in the Circuit Court of the Ninth Judicial Circuit of Osceola County Florida to foreclose the Mortgage. After the completion of the foreclosure, title to the Property was held in the name of MAMC Emerald Cay, LLC.

5. On August 17, 2010, upon notice and hearing, the Court entered an *Order Expanding the Receivership to Include MAMC Emerald Cay, LLC as a Relief Defendant* ("Order Expanding Receivership").

6. The Court has authorized the Receiver to market the Property for sale. On May 1, 2016, upon the Receiver's Motion to Approve Sale of Property Owned by MAMC Emerald Cay, LLC (the “Sale Motion”), the Court entered an Order granting the Sale Motion. On April 15, 2016, the Court approved the Sale Motion and thereafter, the Receiver closed on the sale of the Property for the sum of \$2,000,000.00.

7. The sale provided for a non-refundable deposit of \$800,000.00, which has been deposited in the Receiver's bank account. The remaining sum of \$1,200,000.00, plus interest payable at a fixed rate of 7.5% shall be payable on or before one year from the date of closing on the sale of the Property and evidenced by a Balloon Promissory Note in the sum of \$1,200,000.00 and secured by a Purchase Money Mortgage and Security Agreement.

8. The Receiver seeks authority to distribute the \$800,000 (the "Initial Proceeds").

9. In addition to making a pro rata distribution to the Lenders, MAMC Emerald Cay, LLC has incurred other priority expenses which it seeks to pay from the Initial Proceeds.<sup>1</sup>

10. The Receiver seeks authority to distribute the Initial Proceeds to cover closing costs, repay loans, interest, and legal fees, as more fully described in the attached **Exhibit 1**.

11. The Lenders have already received a pro rata distribution in the sum of \$51,172.26, pursuant to the *Order Authorizing Distribution of the Proceeds from Insurance Settlement*, dated July 22, 2015. After payment of the expenses described in Exhibit 1, the Receiver will make a second distribution to the Lenders in the sum of \$229,857.52.

12. The Receiver has consulted with the Emerald Cay lender committee<sup>2</sup>, who has advised the Receiver that they approve of his making this distribution of the Initial Proceeds.

13. Notice of this Motion shall be provided by posting a copy on the Receivership website and sending a copy to the Lenders via e-mail.

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<sup>1</sup> On December 1, 2010, February 1, 2012, January 30, 2013, December 16, 2013 and January 13, 2016, the Court granted the Receiver's request to loan MAMC Emerald Cay, LLC funds pay outstanding real property taxes and other annual expenses.

<sup>2</sup> 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 ("Executive Committee") to advise the Receiver.

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

Respectfully submitted,

**AKERMAN LLP**

*Counsel for the Receiver*

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By: /s/ Joan Levit

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**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that on this June 15, 2016, a true and correct copy of the motion 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 posted on the receivership website.

/s/ Joan Levit

Joan Levit, Esq.

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**EXHIBIT 1**

# MAMC Emerald Cay, LLC

## Historical Information

Original Loan Amount	\$ 2,500,000.00
1st Principal Distribution - 2015 E & O	\$ (51,172.26)
<b>Current Balance</b>	<b>\$ 2,448,827.74</b>

## Sale Proceeds

Sales Price	\$ 2,000,000.00
1st Payment	\$ 800,000.00
Purchase Money Mortgage (12 months @ 7.5%)	\$ 1,200,000.00

## Proposed Initial Distribution

1st Payment	\$ 800,000.00
Closing costs (closing statement) 5/13/16	\$ (130,887.34)
<b>Net proceeds</b>	<b>\$ 669,112.66</b>

Bank Balance as of 5/11/16	\$ 7,329.59
<b>Total available for distribution</b>	<b>\$ 676,442.25</b>

## Internal Deductions (carrying costs) - MAMC ESTATE

Priority Loan Payoff - Principal	\$ (355,490.00)
Interest on PL - 5/13/2016	\$ (61,094.73)
Reserve - legal*	\$ (30,000.00)
<b>Total Due to Recivership Estate</b>	<b>\$ (446,584.73)</b>

**Net Distribution to Lenders \$ 229,857.52**

## Percent Recovery

Principal Balance	\$ 2,448,827.74
Net Distribution to Lenders	\$ 229,857.52
<b>Recovery</b>	<b>9.39%</b>

## Total Recovery

Original Principal Amount	\$ 2,500,000.00
Total recoverd	\$ 281,029.78
<b>T. Recovery</b>	<b>11.24%</b>

## NOTES

\*Does not include interest.