

**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.

**RECEIVER'S MOTION TO AUTHORIZE DISTRIBUTION OF PROCEEDS
FROM THE SALE OF THE PROPERTY OWNED BY MAMC SOUTH CHASE, LLC**

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 from the Sale of the Property Owned by MAMC South Chase, LLC (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 different real estate projects and properties. As mortgagors defaulted on their loans, the Receiver obtained Orders of this Court adding the projects to the receivership as additional relief defendants.

3. One such project was the South Chase Commerce Center, LLC, which received a loan in the principal sum of \$2,370,000. The loan was secured by 14.45 acres in Orange County, Florida (the "Property"). MAMC filed a foreclosure suit against South Chase Commerce Center, LLC on behalf of the Lenders and acquired title to the Property under the name MAMC South Chase, LLC ("MAMC South Chase"), as the successful bidder at the foreclosure sale.

4. On January 5, 2010, this Court entered an *Order Granting Receiver's Motion to Expand Receivership to Include Additional Relief Defendant MAMC South Chase, LLC*.

5. Pursuant to the Exclusive Sales Listing Agreement ("Agreement") with Terranova Corporation (the "Broker"), which Agreement was previously approved by this Court, the Broker successfully marketed the Property for sale.

6. On January 30, 2013, the Court entered an *Order Granting Receiver's Motion to Approve Sale of Real Property Owned by South Chase, LLC*. Thereafter, the Receiver, on behalf of MAMC South Chase entered into a Contract for Sale and Purchase of Real Estate ("Agreement") with Kissimmee Chevrolet, LLC ("Buyer") for the sale of the Property for the sum of \$2,100,000.00.

7. The closing was completed on June 24, 2013. After payment of the broker's commission, documentary stamp taxes, fees and other closing expenses, the net sale proceeds are \$1,880,823.05 (collectively, the "Sale Proceeds").

8. The Receiver seeks authority to make an interim pro rata distribution to the Lenders, and pay other priority expenses from the Sale Proceeds.

9. This Court has previously entered Orders authorizing the Receiver to loan funds to MAMC South Chase: (i) for payment of the 2010 real property taxes (\$21,400); (ii) for payment of the 2011 real property taxes (\$19,889.67); (iii) for payment of the 2013 real property taxes, insurance and corporate filing fees (\$20,321); and (iv) for retention of special counsel to negotiate with Orange County, Florida and the FDOT to reduce the burden of MAMC South Chase's share of the financial obligations under the Development of Regional Impact (\$25,000). The loans accrued interest at an annual rate of four percent.

10. The Receiver seeks authority to distribute the Sale Proceeds as follows:

- a. Payment of the loans from the receivership estate: \$100,711.00;
- b. Payment of interest on the loans: \$7,614.60;
- c. Payment of attorneys' fees and costs: \$12,306.50;
- d. Payment of accounting expenses: \$1,600.00; and
- e. Payment of expenses relating to the preparation and distribution of this Motion, Order and court hearing: \$2,500.00.

11. Thereafter, the sum of \$1,756,215.37 will be distributed to the Lenders. This sum represents a 74.10% return on the Lenders' principal investment.

12. Notice of this Motion shall be provided by posting copies of the Motion (and Notice of Hearing), on the Receivership website and sending the same to the Lenders via e-mail.

{26717597;1}

WHEREFORE, Michael I. Goldberg, in his capacity as Receiver of MAMC and related entities, respectfully requests this Court to enter an Order authorizing distribution of Sale Proceeds as described in this Motion and to grant such further relief as is just and proper.

Respectfully submitted,

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By: /s/ Joan Levit
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of July, 2013, a true and correct copy of the forgoing was furnished to the parties on the attached Service List by U.S. mail, to the Lenders by e-mail and a copy of this motion will be posted on the receivership web-page.

/s/ Joan Levit

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