

**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,

Defendants.

and

DB ATLANTA, LLC, a Florida limited liability
company, et al.,

Relief Defendants.

**RECEIVER'S MOTION FOR AUTHORITY TO SELL THE THREE
REMAINING RECEIVERSHIP PROPERTIES BY AUCTION OR CONTRACT**

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 seeks authority from the receivership court to sell the three remaining receivership properties by auction or contract, at the Receiver's discretion. In support of this Motion, the Receiver states as follows:

1. On December 11, 2007, upon the *Complaint for Temporary and Permanent Injunction and Appointment of Receiver*, filed by the State of Florida, Office of Financial

Regulation (“OFR”), this Court appointed Michael Goldberg as the receiver for BMC, MAMC and the Relief Defendants (collectively, the “Receivership Defendants”).

2. Prior to the appointment of the Receiver, BMC brokered the funding of at least \$192 million in mortgage loans from approximately 700 private investors (“Lenders”) by offering fractional interests in short-term acquisition and/or construction mortgage loans. MAMC serviced the loans pursuant to servicing agreements entered into between the Lenders and MAMC.

3. Upon default by the borrowers, the majority of the properties were brought into the control of receivership estate through foreclosure or settlement with the borrowers. Working with the Lenders and the Asset Manager, the Receiver maintained the properties through the recession and marketed the properties for sale.

4. On June 21, 2017, upon motion, notice and hearing, the Court entered an Order Granting Receiver’s Motion for Authority Sell Certain Receivership Properties by Auction. The motion included the auction sale of the properties referred to as the Atlantic Beach Property¹ and the Highlands Property.² For detailed background information on the Atlantic Beach Property and the Highlands Property, the Receiver refers the Court and interested parties to the Receiver’s Motion for Authority Sell Certain Receivership Properties by Auction (the “Auction Motion”).

5. The Auction Motion proposed a specific type of auction, marketed and conducted by Fisher Auctions. However, Fisher Auctions did not produce a qualified buyer for the Atlantic Beach Property or the Highlands Property.

¹ The Atlantic Beach Property consists of vacant land located in Myrtle Beach, South Carolina, and is currently owned by Relief Defendant MAMC Atlantic Beach, LLC. The Receiver will distribute the proceeds of the sale of the Atlantic Beach Property to the Lenders and to non-receivership lender, Green-East SC Lender, LLC (“Green-East”) pursuant to the terms of the agreement between the Receiver and Green-East, previously approved by this Court.

² The Highlands Property consists of vacant land located in Highlands County, Florida and is currently owned by Relief Defendant MAMC Project Managers Group, LLC.

6. The only other property remaining in the receivership estate is the Bella Vista Property.³ On June 27, 2018, the Court granted the Receiver's motion to approve the sale of the Bella Vista Property to Nouveau Management Group, LLC. The Order also provided that in the event the sale of the Bella Vista Property is not timely completed pursuant to the terms of the sales contract, the Receiver is authorized to sell the Bella Vista Property (i) by auction sale (pursuant to the terms set forth in the Auction Motion) or (ii) by contract, without further Order of the Court.

7. Since potential sales of the properties have fallen through and traditional marketing efforts have failed to attract interest in the properties, the Receiver now seeks flexibility to sell the Atlantic Beach Property, the Highland Property and potentially, the Bella Vista Property at his discretion using a different auction platform such as Ten-X or through a new listing agent.

8. 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* Order Appointing Receiver, at ¶ 17. In order to preserve costs to the receivership estate and to wind down the receivership as soon as possible, the Receiver seeks authority to complete the sale of these properties without additional approval of the Court. The Receiver will confer with the lender committees for these properties to ensure the best possible sale price is realized.

9. After the sale of these three remaining properties and distribution of the sale proceeds, the Receiver will have completed his responsibilities and will return to the Court to close the receivership case.

³ The Bella Vista Property consists of vacant land located in Duval County, Florida and is currently owned by Relief Defendant MAMC Bella Vista, LLC.

10. Notice of this Motion shall be provided by posting a copy (and the Notice of Hearing) on the Receivership website and sending a copy to the Lenders who have an interest in these Properties via e-mail.

WHEREFORE, Michael I. Goldberg, in his capacity as Receiver of BMC, MAMC and related entities, respectfully request this Court to enter an Order granting the relief requested herein and such further relief as is just and proper.

Respectfully submitted,

AKERMAN LLP

Counsel for the Receiver

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: /s/ Joan Levit

Joan M. Levit, Esquire

Florida Bar No. 987530

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this July 25, 2018, a true and correct copy of the forgoing was furnished via email through the Court's electronic filing system to all parties who receive e-notice and to the Lenders by e-mail. A copy of this motion will be posted on the receivership web-page.

/s/ Joan Levit