

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 FOR ENTRY OF AN ORDER APPROVING
THE SALE OF MAMC V-STRATEGIC LLC'S REAL PROPERTY
TO BOOS DEVELOPMENT GROUP, INC.**

Michael I. Goldberg, the receiver (the "Receiver") for Defendants Berman Mortgage Corporation, M.A.M.C. Incorporated, *et al.*, and Relief Defendants DB Atlanta, LLC, *et al.*, hereby files this Motion for Entry of an Order Approving the Sale of MAMC V-Strategic LLC's Real Property to Boos Development Group, Inc. ("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 investors who entrusted over \$192 million ("Investor Funds") to the Receivership Defendants.

2. The Investor Funds were secured by mortgages on approximately 40 different real estate projects and properties. The Receiver is still administering approximately 17 projects. Many of these projects are currently being marketed for sale. One such property relates to a loan made to V-Strategic, LLC ("V-Strategic") for the purchase of a parcel of land located at 2101 East Hallandale Beach Boulevard, Hallandale Beach, Florida (the "Property"). The parcel sits on 2.36 acres and is zoned for commercial use.

3. Prior to the receivership case, MAMC serviced the loan made to V-Strategic. After V-Strategic defaulted, MAMC, on behalf of the investors, foreclosed on the loan and took title to the Property. On August 17, 2010, this Court entered an Order expanding the receivership estate to include Relief Defendant MAMC V-Strategic, LLC ("MAMC V-Strategic").

4. When the real estate market slowed down, the Receiver considered other options for the Property. On December 1, 2010, this Court entered an Order granting the Receiver's Motion for Authorization to Enter into a Leasing Agreement With Gadinsky Real Estate, LLC, for the purpose of locating retail tenant(s) to enter into a ground lease(s) with MAMC V-Strategic and build out the Property.

5. CVS Caremark Corporation ("CVS") had considered entering into a Leasing Agreement to build-out and occupy the Property. Boos Development Group ("Boos") is the preferred developer for CVS locations throughout the state of Florida (excluding the panhandle) and has been in discussions with the Receiver to purchase the Property.

6. The Receiver has entered into a Sale and Purchase Agreement for Commercial Land ("Agreement") with Boos for the sum of \$5.9 million, subject to approval by this Court. A true and correct copy of the Agreement is attached hereto as **Exhibit 1**.

7. 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 V-Strategic lenders to monetize their investment.

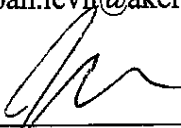
8. The Receiver has consulted with the lender committee for MAMC V-Strategic,¹ who have advised the Receiver that they approve his entering into the Agreement on behalf of MAMC V-Strategic.

9. A proposed Order approving the sale 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 of the Property 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

¹ 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.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25 day of May, 2012, a true and correct copy of the forgoing was furnished via U.S. Mail to the parties on the attached Service List.

By: _____


Joan M. Levit

SERVICE LIST

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Assistant General Counsel
STATE OF FLORIDA
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CHARLES L. NEUSTEIN, P.A.
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WALTON LANTAFF, LLP
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Fort Lauderdale, FL 33301

Peter Valori, Esquire
DAMIAN & VALORI, LLP
1000 Brickell Avenue, Suite 1020
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Christopher S. Linde, Esquire
BURR FORMAN
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200 South Biscayne Boulevard
Miami, Florida 33131

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

EXHIBIT 1

SALE AND PURCHASE AGREEMENT FOR COMMERCIAL LAND

This **SALE AND PURCHASE AGREEMENT FOR COMMERCIAL LAND** ("Agreement") is made and entered into by and between **MAMC V-STRATEGIC LLC**, a Florida limited liability company ("Seller") and **BOOS DEVELOPMENT GROUP, INC.**, a Florida corporation, or assigns ("Buyer").

RECITALS

- A. Seller is the sole owner of fee simple title to a certain parcel of real property located at the Northwest corner of Hallandale Beach Boulevard and Three Island Boulevard, having an address of 2101 East Hallandale Beach Boulevard, Hallandale Beach, Broward County, Florida, 33009, which property is described on **Exhibit "A"** attached hereto and made a part hereof, together with all improvements located thereon, if any (collectively, the "**Property**").
- B. Buyer wishes to purchase and Seller desires to sell the Property pursuant to the terms stated herein.

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants, representations warranties and agreements contained herein, and for other good and valuable consideration, the adequacy and receipt of which are hereby acknowledged by all the parties, it is agreed as follows:

TERMS

1. **Incorporation of Recitals.** The Recitals to this Agreement are hereby incorporated into and made a part of this Agreement.

2. **Purchase Price and Terms of Payment.** The purchase price ("**Purchase Price**") for the Property is Five Million Nine Hundred Thousand and No/100 Dollars (\$5,900,000.00). The Purchase Price shall be paid by Buyer as follows:

A. Within five (5) business days after the Effective Date (as hereinafter defined) of this Agreement, Buyer shall deposit Fifty Thousand and No/100 Dollars (\$50,000.00) ("**Initial Earnest Money Deposit**") with Chicago Title Insurance Company, Attn: Carolyn H. Hall, Commercial Escrow Administrator ("**Escrow Agent**").

B. Within ten (10) days after the expiration of the Inspection Period (as hereinafter defined), Buyer shall deposit an additional earnest money deposit of One Million and No/100 Dollars (\$1,000,000.00) with Escrow Agent (the "**Additional Earnest Money Deposit**"). After the expiration of the Inspection Period, the Additional Earnest Money Deposit shall be non-refundable, but applicable to the Purchase Price.

C. The Initial Earnest Money Deposit and the Additional Earnest Money Deposit shall hereinafter be collectively referred to as the "**Earnest Money Deposit**". At Closing, the Earnest Money Deposit and any other deposit(s) or extension fees which may be

made by Buyer hereunder will be disbursed to the Seller and applied against the Purchase Price, and the balance of the Purchase Price shall be paid to Seller by wired funds.

3. **Conveyance and Title.** Subject to the terms and conditions of this Agreement and for the consideration set forth herein, Seller agrees to convey, transfer, assign, sell and deliver to Buyer at Closing all of the following:

A. Fee Simple Title to the Property by Receiver's Deed ("Deed") free and clear of any lease, lien or claim except subject only to taxes for the current year and the Permitted Exceptions (defined below). Seller hereby agrees to satisfy and discharge any liens attributable to Seller on the Property prior to or at Closing.

B. All of Seller's right, title and interest, if any in and to all easements, privileges, licenses, reservations, permits, approvals, authorizations, rights-of-way, consents and other use rights, interests and privileges owned or used by Seller in connection with the Property.

C. Possession of the Property, unencumbered by any leasehold and/or possessory interest of any kind by any third party unless expressly stated to the contrary in this Agreement.

4. **Verification of Title.** Within ten (10) days after the Effective Date, Buyer shall obtain, at Buyer's sole cost and expense, a title insurance commitment ("Commitment") issued by Closing Agent (as hereinafter defined) as agent for Chicago Title Insurance Company ("Title Company") agreeing to provide, on the current ALTA marketability policy form, an owners' title insurance policy ("Title Policy") in an amount not less than the Purchase Price, which shall show insurable fee simple title to the Property to be vested in Seller and shall name Buyer as the proposed insured. Buyer shall pay the costs of the Commitment and of the Title Policy including any title examination or investigation fees and the costs for the premium for the Title Policy to be issued pursuant to the Commitment. Buyer shall be entitled to make objections to title if (i) the form of the Commitment is other than as described in this paragraph, or (ii) the Commitment reveals any exceptions to title (other than the lien of taxes not yet due and payable) that are not acceptable to Buyer in its sole discretion (hereafter collectively, "Title Objections"). Buyer shall notify Seller of any Title Objections in writing ten (10) days of receipt of the Commitment and Seller shall have ten (10) days after the receipt of Buyer's Title Objections to respond to Buyer in writing stating that it will either attempt to cure Buyer's Title Objections or respond that Seller does not desire to cure any of Buyer's Title Objections. Such notice and response may be by email or facsimile transmission. Should Seller desire to attempt to cure Buyer's Title Objections, then at Seller's option, the date of Closing may be extended for a period not to exceed ninety (90) days for purposes of eliminating Buyer's Title Objections. In the event that the Seller does not eliminate all of the Title Objections prior to the Closing Date, as same may be extended under the preceding sentence (or if Seller has notified Buyer that it does not wish to cure such Title Objections), then Buyer shall have the option of either: (i) waiving in writing its Title Objections and accepting the condition of title (exclusive of any liens, all of which Seller hereby agrees to satisfy on or before Closing, except in the event any such lien is contested by Seller in which event Seller shall obtain a bond securing payment of such lien) (which approved or accepted items shall be referred to herein as the "Permitted Exceptions"), or (ii) canceling this Agreement, in which event Escrow Agent immediately shall return the Earnest Money Deposit

and any other deposit(s) made by Buyer, plus any interest earned thereon, to Buyer, and whereupon both parties shall be released from all further obligations under this Agreement (except for the obligations and indemnities of the parties hereunder that are expressly stated to survive termination).

5. **Survey and Legal Description.** During the Inspection Period, Buyer shall, at Buyer's sole cost and expense, cause an accurate survey ("Survey") of the Property to be made by a reputable and competent registered land surveyor and such Survey shall be delivered to Buyer. Upon review and approval by Seller, the legal description of the Property contained in the Survey shall be used in the Deed and in the Commitment and Title Policy. The same examination, objection and cure periods and termination rights as are provided in Section 4 hereinabove for title matters shall apply to the Survey.

6. **Inspections, Approvals and Easements.**

A. Buyer, and its designees, shall have thirty (30) days after the Effective Date ("Inspection Period") to complete all things such as tests, inspections, studies and investigations (hereinafter referred to as the "Inspection Rights") as may be deemed appropriate by Buyer in its sole and absolute discretion to determine whether or not the Property is suitable for Buyer's purposes and whether or not it is in Buyer's best interest to consummate the transaction contemplated by this Agreement.

B. Seller hereby grants to Buyer and its designees the right to enter upon the Property to exercise the Inspection Rights in order to determine whether the Property is suitable for Buyer's purposes, and Seller hereby agrees to cooperate with Buyer and to execute any applications or other documents reasonably requested by Buyer in connection with the Inspection Rights provided that Seller incurs no cost in connection therewith (except as may be otherwise set forth in this Agreement). Any tests conducted in connection with the Inspection Rights shall be conducted so as not to damage the Property. Buyer agrees to repair any damage it causes to the Property and promptly restore the Property to its prior condition. All such entries onto the Property shall be at the risk of Buyer, and Seller shall have no liability for any injuries sustained by Buyer or any of Buyer's agents or contractors. Buyer agrees to indemnify and hold Seller harmless from any and all loss, claim, action, demand or liability which may arise against the Seller or the Property by virtue of Buyer exercising its Inspection Rights.

C. Within five (5) days after the Effective Date, Seller shall provide, at its cost, to Buyer any and all surveys, studies, test/inspection results, plans, reports and any other materials which Seller has in its possession and which relate to the condition and/or development of the Property, along with copies of any leases or other unrecorded agreements affecting the Property to assist Buyer in the exercise of its Inspection Rights.

D. In the event Buyer determines that it is not in Buyer's best interest to consummate the transaction contemplated by this Agreement for any reason or for no reason, Buyer may cancel this Agreement by delivering notice of such election to Seller at or prior to the expiration of the Inspection Period, in which event the Earnest Money Deposit held by Escrow Agent shall be immediately returned to Buyer together with any interest accrued thereon. Buyer's failure to cancel this Agreement prior to the expiration of the Inspection Period (as may

be extended by Section 16 below) shall be conclusive evidence of its determination that the Property is acceptable to Buyer, in which event Buyer's Earnest Money Deposit, shall become "at risk" and shall only be returned to Buyer in the event Seller defaults or fails, neglects or refuses to perform in accordance with this Agreement or pursuant to Sections 21 and 22 below.

E. During the Inspection Period, the Seller will reasonably cooperate with Buyer in connection with Buyer's filing, pursuing and obtaining declaratory relief (the "Relief") invalidating the buffer zone applicable to the Property pursuant to that certain Settlement Agreement dated January 30, 1969, between A.L. Mailman and J.L. Mailman, City of Hallandale, City of Hollywood, and Broward County, under Case No. 67-4954-Tedder, then pending before the Circuit Court of the Seventeenth Judicial Circuit in and for Broward County, Florida, and recorded in Official Records Book 3894, Page 356, Public Records of Broward County, Florida (the "Settlement Agreement"). Seller's cooperation shall include engaging Bilzin, Sunberg, Baena, Price & Axelrod LLP ("Bilzin"), at Buyer's sole cost and expense (or at Seller's option, having Buyer engage Bilzin at Buyer's sole cost and expense), to pursue the Relief on Seller and Buyer's behalf, as well as Seller's execution of any reasonable authorizations, affidavits or consents necessary to obtain the final judgment invalidating the Settlement Agreement, or as may otherwise be reasonably required by Buyer or other governmental agencies, provided that Seller incurs no cost in connection therewith. Prior to being required to execute any authorizations, affidavits, consents, or other documents, Buyer shall obtain Seller's prior written consent which shall not be unreasonably withheld, delayed or conditioned. Buyer shall not bind the Seller to the payment of any funds or performance of any work unless Seller consents in writing to same. Should Buyer be unsuccessful in invalidating the Settlement Agreement, Buyer's sole remedy shall be to terminate this Agreement by sending written notice to same to Seller prior to expiration of the Inspection Period and the Earnest Money Deposit shall be immediately returned to Buyer by Escrow Agent with any interest earned thereon. In no event shall the date of Closing with respect to invalidation of the Settlement Agreement be extended unless mutually agreed to by Buyer and Seller hereunder.

7. Deleted.

8. Deleted.

9. Closing. The closing of this transaction ("Closing") shall take place on or before ten (10) days after Seller's obtains the Court Order (as defined in Paragraph 12C below) but not earlier than forty five (45) days after expiration of the Inspection Period, unless extended pursuant to this Agreement. Closing shall be coordinated by Holland & Knight LLP ("Closing Agent") and at Buyer's election Closing may occur by way of advance delivery of executed documents into escrow at the office of Closing Agent.

10. Adjustments and Prorations. The following are to be prorated and apportioned as of the date of Closing and shall be adjusted against the Purchase Price:

A. Real estate taxes for the year of Closing shall be prorated through the date of Closing. If the taxes for the current year cannot be ascertained, those of the previous year shall be used, giving due allowance for the maximum discount allowable by law. If taxes are prorated

using the prior year's tax, Buyer and Seller agree that there will be no re-proration of taxes after Closing.

B. All liens or assessments, special or otherwise, against the Property, as of the date of Closing, shall be paid in full by Seller.

C. Any water, electricity or other utility charges for services furnished to the Property through the date of Closing shall be paid by Seller.

D. Real estate taxes for tax years preceding the date of the Closing shall be paid by Seller.

11. **Expenses of Closing.** Buyer shall pay and be responsible for (i) any documentary stamp, transfer or similar taxes due on or in relation to the transfer of the Property, (ii) the cost of recording the Deed, (iii) the cost of recording any corrective instruments; (iv) the cost of the Survey, (v) all costs associated with the Buyer's financing obtained in connection with this transaction, (vi) the cost of the Title Commitment (including any title work) and the premiums for the Owner's Title Policy; and (vii) the escrow fee charged by Escrow Agent. Each party shall be responsible for its own attorney's fees and costs, except as provided otherwise by this Agreement.

12. **Closing Documents.**

A. Seller shall execute and deliver the following documents prepared by Closing Agent, to Closing Agent at least two (2) business days before Closing:

1. The Deed, subject only to the Permitted Exceptions;
2. Seller's Affidavit as may be required by the Title Company to remove the standard mechanic's lien, possession and gap exceptions from the Title Policy (provided that Seller shall not be required to provide indemnification to either the Title Company or the Buyer for items or actions not in Seller's control);
3. The closing statement itemizing the dollar amounts of all financial matters related to the Closing, including the adjustments and prorations provided herein;
4. A FIRPTA Affidavit; and
5. Such other documents as may be required or reasonably necessary in consummating the transaction contemplated by this Agreement. Seller's closing documents shall be in form satisfactory to the title insurance underwriter, provided that in no event shall Seller be required to indemnify Buyer or the title insurance underwriter for items or actions not in Seller's control.

B. Buyer shall execute and/or deliver the following documents, prepared by Closing Agent, to Closing Agent at or before Closing:

1. The balance of the Purchase Price;

2. The closing statement itemizing the dollar amounts of all financial matters related to the Closing, including the adjustments and prorrations provided for herein; and

3. Such other documents as may be required or reasonably necessary in consummating the transaction contemplated by this Agreement.

C. Court Approval. This Agreement and the Closing are subject to the approval by the Court ("Approval") in that certain action entitled STATE OF FLORIDA, OFFICE OF FINANCIAL REGULATION, CASE NO.: 07-43672 CA 09 as 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 (the "Court Order"). In the event the Approval is not received within ninety (90) days after a request for the Approval is submitted to the Court by Seller (regardless of whether the Court Order has been issued at that time), then either Buyer or Seller shall have the right to cancel this Agreement by the delivery of written notice thereof to the other, whereupon this Agreement shall be deemed terminated and, notwithstanding any other provision in this Agreement to the contrary, the Earnest Money Deposit shall be returned to Buyer and the parties shall be thereafter relieved of any and all further obligations each to the other hereunder, except as otherwise expressly provided herein. Seller shall not be liable or in default of this Agreement if Seller requests the Court Order and this Agreement or the sale is not approved by the Court. Seller shall submit this Agreement for approval by the Court within fifteen (15) business days after the Effective Date, and thereafter shall diligently pursue same. A draft of the proposed Court Order shall be forwarded to Buyer for review and comment by the Buyer's legal counsel and the title insurer within ten (10) days after the Effective Date.

13. **Seller Representations, Warranties and Covenants.**

A. Seller warrants to Buyer that Seller has no actual knowledge (without any due diligence) and Seller has not received any written notices that: (i) the Property is environmentally contaminated; or (ii) that the Property has any history of use as a dry cleaners, automobile service station with underground petroleum or oil storage tanks or other business that indicates any environmental concerns.

B. Seller hereby represents to Buyer that subject to appropriate court approval, it has the full power and authority to make, deliver, enter into and perform pursuant to this Agreement. Seller further warrants and represents that this Agreement is valid, binding and enforceable against Seller in accordance with its terms.

C. From and after the Effective Date until the date of Closing or the earlier termination of this Agreement, Seller shall not (i) suffer or permit any third party to adversely affect Seller's title to or interest in the Property, and will not suffer or permit to be created any exceptions to the title to the Property other than the Permitted Exceptions, or (ii) enter into any contracts or agreements pertaining to the Property.

14. As-Is. Except as specifically provided herein or as represented by Seller in this Agreement, the Property shall be delivered by Seller to Buyer at Closing "AS-IS" and "WITH ALL FAULTS."

15. Brokerage Commission. Each party represents to the other that no broker has been involved in this transaction, except Seth Gadinsky of Gadinsky Real Estate, ("Broker"). At Closing, a commission shall be paid by Seller to such Broker in the amount of \$90,000.00 (the "Commission") upon the Closing and payment of the closing proceeds to Seller as full settlement of any and all obligations that Seller or Buyer may have to Broker. Upon request of Seller and payment of the Commission by Seller to Broker, Broker agrees to execute a written release, acknowledging release of any and all brokerage and commission claims it has with respect to Seller, Buyer and the Property. Broker has executed this Agreement for the purposes of acknowledging the foregoing agreement. It is agreed that any party to this Agreement who knowingly takes actions or knowingly makes commitments forming the basis of any additional claim for a brokerage commission, agrees to indemnify and hold harmless the other party hereto from and against any and all such claims or demands with respect to any brokerage fees or agent's commissions or other compensation asserted by any person, firm or corporation in connection with this Agreement or the transaction contemplated hereby.

16. Deleted.

17. Establishment of Escrow.

A. Buyer and Seller both hereby acknowledge and agree that Escrow Agent shall hold and deliver the Earnest Money Deposit and all other deposits which may be made under this Agreement in accordance with the terms and conditions of this Agreement and that this Agreement will constitute the escrow instructions. Escrow Agent may attach its standard conditions of escrow hereto and require Buyer and Seller to execute its standard form of escrow agreement and investment instructions, consistent therewith, as a condition to investment of the Earnest Money Deposit. Seller and Buyer agree that Escrow Agent may rely on unilateral instructions which conform with the time periods and the terms and conditions set forth in this Agreement. In the event of any dispute between the Buyer and Seller as to the disbursement of such deposit(s), Escrow Agent shall have the right to deliver the deposit(s) into the registry of a court of competent jurisdiction and, upon such delivery, Escrow Agent shall be discharged from any and all further obligations and liabilities hereunder.

B. If the deposit(s) is to be placed in an interest-bearing account, it shall be placed in an interest-bearing account of a federally insured financial institution. All interest earned on the deposit(s) shall belong to the party to whom the deposit(s) are disbursed unless the Buyer defaults, in which event all interest earned on the deposit(s) shall belong to the Seller. Buyer's federal tax identification number shall be supplied to Escrow Agent. Escrow Agent shall not be obligated to place the deposit(s) in an interest-bearing account unless requested to do so by Buyer and until the Escrow Agent has been provided with Buyer's federal tax identification number and an executed W-9 form. Escrow Agent shall not be responsible for any fluctuations in interest rate paid on the deposit(s) or for penalties due to early withdrawal.

18. **Buyer's Default.** In the event of a default by Buyer under this Agreement, Buyer's Earnest Money Deposit and any other deposit(s) made by Buyer hereunder together with any interest earned thereon shall be paid to Seller as liquidated damages which is Seller's sole and exclusive remedy at law or in equity, with Seller waiving all other rights or remedies in the event of such default by Buyer. The parties acknowledge that Seller's actual damages in the event of a default by Buyer under this Agreement will be difficult to ascertain, and that such liquidated damages represent the parties' best estimate of such damages.

19. **Seller's Default.** In the event of a default by Seller under this Agreement or if Seller's warranties and representations contained herein are not correct as of the Closing Date, then Buyer shall have the right to: (a) terminate this Agreement upon written notice to Seller and receive a full and immediate refund of the Earnest Money Deposit and any interest accrued thereon, held by Escrow Agent thereby waiving any action for damages resulting from Seller's default, or (b) seek specific performance of Seller's obligations hereunder. In no event shall Seller be liable for damages for breach of this Agreement, unless specific performance otherwise is not an available remedy.

20. **Warranties and Representations of Buyer.** Buyer hereby warrants and represents to Seller that it is in existence and in good standing and that it has full power and legal authority to enter into this Agreement for the purchase of the Property. Buyer further warrants and represents that neither its execution of this Agreement nor the consummation of the transaction contemplated by this Agreement will result in a breach of, or violation of, any agreement or covenant to which Buyer is signatory or is otherwise bound.

21. **Risk of Loss.** Seller shall maintain the Property between the date of this Agreement and the date of Closing in the same condition in which it existed as of the date of this Agreement, ordinary wear and tear excepted. The parties acknowledge and agree that the Property is vacant land and therefore there shall be no termination right due to any fire or other casualty. Notwithstanding the foregoing, a defect relating to the geotechnical status of the Property (by way of example, a sinkhole), or other hazardous materials, that in either case, has first appeared between the expiration of the Inspection Period and the date of Closing shall entitle Buyer to terminate the Agreement prior to the date of Closing by written notice to Seller and Buyer's sole remedy shall be a refund of the Earnest Money Deposit and the parties shall be thereafter relieved of any and all further obligations each to the other hereunder, except as otherwise expressly provided herein.

22. **Condemnation.** If any authority having the right of eminent domain shall commence negotiations with Seller or shall commence legal action against Seller for the damaging, taking or acquiring of all or any part of the Property either temporarily or permanently, by condemnation or by exercise of the right of eminent domain, Seller shall immediately give notice of the same to Buyer. Upon the occurrence of any of the foregoing events, Buyer shall have the right, at its option, to terminate this Agreement by giving notice thereof to Seller on or before the date of Closing, in which event Buyer shall be released of all further obligations hereunder and Buyer's Earnest Money Deposit and any other deposit(s) made by Buyer together with any interest earned thereon shall be returned to the Buyer. If Buyer does not so terminate this Agreement, the Purchase Price for the Property shall be reduced by the total of any awards, settlement proceeds, or other proceeds received by the Seller prior to date of

Closing with respect to any damaging, taking or acquiring. At the Closing, Seller shall assign to Buyer all rights of Seller in and to any such awards, settlement proceeds or other proceeds which are payable at or after the date of Closing. The risk of condemnation or eminent domain shall be borne by the Seller until the date of Closing. In the event of any negotiations with any authority regarding the payment of any awards or other sums or regarding any settlement on account of any damaging, taking or acquiring through condemnation or eminent domain, Seller will inform Buyer of all such negotiations of which Seller has notice and will permit Buyer to take part therein.

23. **Notice.** All notices, demands, requests, consents, approvals, waivers or other communications shall be in writing and shall be deemed to be delivered (i) upon receipt or confirmation of delivery when sent by hand delivery or nationally recognized overnight courier service and addressed to the parties as set forth below or upon refusal of delivery, or (ii) upon confirmation of facsimile transmission when sent by facsimile transmission to the parties at the numbers set forth below, so long as a duplicate copy of such communication by facsimile is deposited on the same day for delivery by one of the other methods permitted in (i) above, or (ii) upon confirmation of electronic transmission, as to those parties for whom an electronic mail address is set forth below, when sent by electronic transmission to such parties at the addresses set forth below, so long as a duplicate copy of such communication, if the same is requested by one of the recipients thereof, is deposited on the same day as the request, for delivery by one of the other methods permitted in (i) above:

To Seller: **Michael Goldberg – Receiver MAMC V-STRATEGIC LLC**
Akerman Senterfitt LLP
350 East Las Olas Boulevard, Suite 1600
Fort Lauderdale, FL 33301
Telephone: 954-468-2444
Fax: 954-463-2224
Email: michael.goldberg@akerman.com

With a copy to: **Theresa M. McLaughlin**
Akerman Senterfitt LLP
350 East Las Olas Boulevard, Suite 1600
Fort Lauderdale, FL 33301
Telephone: 954-468-2441
Fax: 954-463-2224
Email: theresa.mclaughlin@akerman.com

To Buyer: **BOOS DEVELOPMENT GROUP, INC.**
2651 McCormick Drive
Clearwater, FL 33759
Attention: Robert D. Boos and Robert B. Boos
Telephone: 727-669-2900
Fax: 727-669-2915
Email: rboos@boosdevelopment.com

And to: **BOOS DEVELOPMENT GROUP, INC.**
5789 NW 151st Street, #B
Miami Lakes, FL 33014
Attention: Richard C. Berk
Telephone: (305) 828-8284
Fax: (305) 828-9594
Email: rberk@boosdevelopment.com

To Closing Agent: **HOLLAND & KNIGHT, LLP.**
200 S. Orange Avenue, Suite 2600
Orlando, FL 32801
Attention: Christopher C. Brockman, Esq.
Telephone: 407-244-1123
Fax: 407-244-5288
Email: christopher.brockman@hklaw.com

To Escrow Agent: **CHICAGO TITLE INSURANCE COMPANY**
2400 Maitland Center Parkway, Suite 200
Maitland, FL 32751
Attention: Carolyn H. Hall
Telephone: 407-645-1070 ext. 5064
Fax: 866-819-7479
Email: carolyn.hall@ctt.com

24. **Entire Agreement.** This Agreement constitutes the entire agreement of the parties with respect to the Property described herein. This Agreement may not be amended or modified orally. All understandings and agreements heretofore between the parties with respect to the Property are merged in this Agreement, which alone fully and completely expresses their understanding. Handwritten and initialed provisions shall supersede typewritten provisions.

25. **No Waiver.** No waiver of any provision of this Agreement shall be effective unless it is in writing and signed by the party against whom it is asserted and any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed to be a continuing or future waiver.

26. **Amendments.** This Agreement may not be amended, modified, altered or changed in any respect whatsoever except in writing duly executed by the parties hereto.

27. **Assignment.** This Agreement may be assigned by Buyer to an entity controlled by Buyer or its principals or to CVS/Caremark or an entity controlled by CVS/Caremark, provided that Buyer provides the name of such entity to Seller prior to the date that Seller files for the Court Order, and such new entity executes an assignment and assumption of this Agreement. Seller will advise Buyer at least five (5) business days in advance as to when Seller will file for the Court Order.

28. **Captions.** The captions of this Agreement are for convenience and reference only and in no way define, describe, extend or limit the scope or intent of this Agreement or the intent of any provision hereof.

29. **Successors.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors, assigns and legal representatives.

30. **Time.** Time is of the essence with respect to all matters contained herein. Whenever any time period is to be computed hereunder, the day from which the period shall run is not to be included, and any period ending on a Saturday, Sunday or legal holiday will be extended to the next business day.

31. **Attorneys' Fees.** In any litigation which arises between the parties under or related to this Agreement, the prevailing party shall be entitled to recover its attorneys' fees and costs incurred in such litigation from the other party.

32. **Counterparts.** This Agreement may be executed in counterparts by the parties hereto and each shall be considered an original, but all such counterparts shall be construed together as representing one agreement between the parties hereto.

33. **Effective Date.** The effective date ("Effective Date") of this Agreement shall be that day upon which this Agreement has been both (a) fully executed by Buyer and Seller, and (b) delivered to Buyer.

34. **Validity.** In the event any term or provision of this Agreement is determined by appropriate judicial authority to be illegal or otherwise invalid, such provision shall be given its nearest legal meaning or be construed or deleted as such authority determines, and the remainder of this Agreement shall remain in full force and effect.

35. **No Recordation.** Neither this Agreement nor any notice or memorandum thereof shall be recorded in the public records of any jurisdiction.

36. **Miscellaneous.** Whenever used, the singular number shall include the plural; the plural number shall include the singular; and the use of any gender shall include all genders.

37. **Governing Law.** This Agreement shall be governed by the laws of the state in which the Property is situated.

38. **Deleted.**

39. **Tax Deferred Exchange.** Each party agrees to cooperate with the other, if requested, to effect a tax deferred exchange under the provisions of the Internal Revenue Code of 1986, as amended, provided such exchange is without cost or expense to cooperating party, and the requesting party shall indemnify and hold the other harmless from and against any cost or expense or other liability, tax or action which may be incurred in connection with such exchange. In no event shall such tax deferred exchange extend the date of Closing.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.
SIGNATURE PAGES TO FOLLOW.]**

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates specified below.

WITNESSES:

Erin Lyle
(Witness Signature)
Print Name: ERIN L. LYLE

R. Sullivan
(Witness Signature) REBECCA SULLIVAN
Print Name: _____

BUYER:

BOOS DEVELOPMENT GROUP, INC., a Florida corporation

By: *Robert D. Boos*
Robert D. Boos, Chairman and CEO

Date: 5-7-12

WITNESSES:

Charlene Corda
(Witness Signature)
Print Name: CHARLENE CORDA

Jeanette Martinez
(Witness Signature)
Print Name: Jeanette Martinez

SELLER:

MAMC V-STRATEGIC LLC, a Florida limited liability company

By: _____

Printed Name: Michael Goldberg
Its: Receiver

Date: 5/2/12

ACKNOWLEDGMENT AND AGREEMENT TO PARAGRAPH 15 OF THE AGREEMENT:

WITNESSES:

R. Sullivan
(Witness Signature)
Print Name: REBECCA SULLIVAN

(Witness Signature)
Print Name: _____

BROKER:

GADINSKY REAL ESTATE LLC

By: _____
Printed Name: Seth Gadinsky
Its: _____

Date: _____

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates specified below.

WITNESSES:

(Witness Signature)
Print Name: _____

(Witness Signature)
Print Name: _____

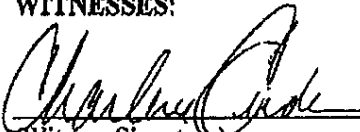
BUYER:

BOOS DEVELOPMENT GROUP, INC., a Florida corporation

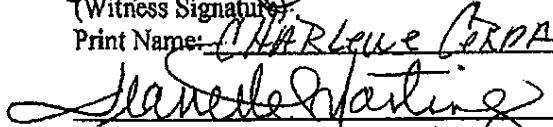
By: _____
Robert D. Boos, Chairman and CEO

Date: _____

WITNESSES:



(Witness Signature)
Print Name: Charlene Corda



(Witness Signature)
Print Name: Jeannette Martinez

SELLER:

MAMC V-STRATEGIC LLC, a Florida limited liability company


By: _____

Printed Name: Michael Goldsby
Its: Receiver

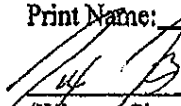
Date: 5/2/12

ACKNOWLEDGMENT AND AGREEMENT TO PARAGRAPH 15 OF THE AGREEMENT:

WITNESSES:



(Witness Signature)
Print Name: Justin Schultz



(Witness Signature)
Print Name: Mark Bank

BROKER:

GADINSKY REAL ESTATE LLC

By: _____
Printed Name: Seth Gadinsky
Its: _____

Manager
Date: 5/3/12

JOINDER BY ESCROW AGENT

The Escrow Agent agrees to act as Escrow Agent in accordance with the terms of the foregoing Agreement.

CHICAGO TITLE INSURANCE COMPANY

By: _____
Carolyn H. Hall, as
Commercial Escrow Administrator

Date Executed: _____

Exhibits Attached

Exhibit "A" Legal Description

1. Escrow Agent is not a party to, and is not bound by, or charged with notice of any agreement out of which this escrow may arise, other than this escrow agreement or the escrow provisions of the Purchase Agreement.
2. Escrow Agent is acting solely as a stakeholder and depository, and is not responsible or liable in any manner whatsoever for the sufficiency, correctness, genuineness or validity of the subject matter of the escrow, or for the identity or authority of any person executing or depositing it.
3. Except for a breach of this Escrow Agreement by the Escrow Agent, Buyer and Seller agree to jointly and severally indemnify, defend and hold harmless the Escrow Agent from and against any loss, cost, damage, expense and attorney's fee (collectively called "Expenses") in connection with or in any way arising out of this Escrow Agreement, other than expenses resulting from the Escrow Agent's own gross negligence or willful misconduct.
4. The Escrow Agent shall be protected in acting upon any written notice, request, waiver, consent, certificate, receipt, authorization, power of attorney or other document Escrow Agent in good faith believes to be genuine and what it purports to be. The Escrow Agent may, at its own expense, consult with legal counsel in the event of any dispute or questions as to the construction of any provisions hereof or its duties hereunder, and it shall be fully protected in acting in accordance with the opinion or instructions of such counsel.
5. In the event of a dispute between the Buyer and Seller, the Escrow Agent may continue to hold the deposits pursuant to the terms hereof, or may, at the joint and several cost of the Buyer and Seller, deposit the same in a court of competent jurisdiction. The Escrow Agent may dispose of the deposits in accordance with a court order, and it shall be fully protected if it acts in accordance with any such court order.
6. Deposits made pursuant to these instructions may be invested on behalf of any party or parties hereto; provided that any direction to the Escrow Agent for such investment shall be in writing and contain the consent of all other parties to this escrow and a completed, signed W-9 FORM accompanies it. Chicago Title Insurance Company is not to be held responsible for the loss of principal or interest on any investment made pursuant to the aforesaid instruction or in the redemption thereof.
7. Except as to the deposits of funds for which the Escrow Agent has received written instructions as set forth in Paragraph 6 hereinabove, the funds may be commingled with other escrowed funds in a non-segregated escrow account of Chicago Title Insurance Company.

EXHIBIT "A"

Legal Description of the Property

Tax I.D./Parcel/Account #'s: 514223-12-0020

Parcel D of Three Islands 2nd Section, according to the plat thereof recorded in Plat Book 77, Page 37, of the Public Records of Broward County, Florida.

EXHIBIT 2

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

STATE OF FLORIDA, OFFICE OF FINANCIAL
REGULATION,

CASE NO.: 07-43672 CA 09

Plaintiff,

v.

BERMAN MORTGAGE CORPORATION, a Florida
corporation, M.A.M.C. INCORPORATED, a Florida
corporation, DANA J. BERMAN, as Owner and
Managing Member,

Defendant.

and

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

Relief Defendants.

**ORDER APPROVING THE SALE OF MAMC V-STRATEGIC LLC'S
REAL PROPERTY TO BOOS DEVELOPMENT GROUP, INC.**

THIS MATTER came before the Court on _____, 2012, at the hearing on the *Motion for Entry of an Order Approving the Sale of MAMC V-Strategic LLC's Real Property to Boos Development Group, Inc.* (the "Motion"), filed by Michael I. Goldberg, the receiver (the "Receiver") over Defendants Berman Mortgage Corporation, M.A.M.C. Incorporated, and Relief Defendants DB Atlanta, LLC, *et al.* The Court, having reviewed the Motion, heard argument of counsel, finding that the notice and established procedures of posting to the Receivership website and e-mail distribution to the Lenders constitutes adequate notice of this Motion, the hearing

thereon and this Order, and being otherwise fully advised in the premises, does:

ORDER AND ADJUDGE that:

1. The Motion is GRANTED.
2. The Receiver is authorized to sell the real property located at located at 2101 East Hallandale Beach Boulevard, Hallandale Beach, Florida to Boos Development Group, Inc., pursuant to the Sale and Purchase Agreement for Commercial Land, a copy of which is attached to the Motion. The Receiver is further authorized to execute any documents and take any actions reasonably necessary to consummate the transactions contemplated therein.

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:

All counsel of record

Posted to the Receiver's Web Site