

**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 APPROVE LOANS TO CERTAIN
RECEIVERSHIP PROJECTS *NUNC PRO TUNC*, TO PAY
2017 REAL PROPERTY TAXES AND OTHER ANNUAL EXPENSES**

Michael I. Goldberg, the Court-appointed receiver ("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 Approve Loans to Certain Receivership Projects *Nunc Pro Tunc*, to pay 2017 Real Property Taxes and Other Annual Expenses, and in support, states as follows:

1. On December 11, 2007, this Court appointed Michael Goldberg as the Receiver for BMC, MAMC and the Relief Defendants (collectively, the "Receivership Defendants") to

prevent the waste and dissipation of the Receivership Defendants' assets to the detriment of the lenders ("Lenders") who entrusted over \$192 million to the Receivership Defendants.

2. The Receiver has held back a portion of funds from certain settlements with third parties unrelated to a specific project ("Settlement Proceeds") to fund current and future administrative expenses as well as to make loans to various projects on an as-needed basis. Loans are only made to a project with the consent of the executive committee of Lenders and the project committee for the relevant project, if the Receiver and the committees believe there is a substantial likelihood that the project will ultimately be able to repay the loan, together with interest.

3. More specifically, the Receiver is still administering five projects/properties, all of which are being offered for sale. In the interim, certain of the properties require that essential expenses, such as taxes, be paid in order to preserve their value:

A. AHIFO-MAMC Cape Coral, LLC ("AHIFO Cape Coral") currently holds title to three properties located in Lee County, Florida. The Receiver, on behalf of certain of the Lenders and non-lender, AHIFO-4, LLC are the principles AHIFO Cape Coral and share the costs of expenses associated with the properties. Florida tax collectors have mailed the 2017 real property bills. Although the taxes are due on or before March 31, 2017, Florida tax collectors offer a four percent discount off the total amount due, if the taxes are paid by November 30, 2017. The total amount of real property taxes due if paid by November 30, 2017 is \$9,387.41. AHIFO-4, LLC has provided the Receiver with its share of the tax bill. The Receiver seeks approval from the Court to lend AHIFO \$4,693.71 for the Lenders' share of the tax bill.

B. On September 19, 2012, the Court entered an Order, *nunc pro tunc* to January 18, 2012, expanding the Relief Defendants to include M.A.M.C. Biloxi, LLC ("MAMC Biloxi") as relief defendant. Out of the eleven acres originally owned by MAMC Biloxi, there remains 2.5 acres. The estimated sum of \$2,669.00 in real property taxes is due in December 2017.

4. The Projects will be charged interest at the rate of four percent per annum, simple interest. The Settlement Proceeds are currently being held in the Receiver's law firm's trust account and are earning substantially less interest. Accordingly, making the loans is a win-win situation for the receivership estate which will make more interest than it is currently earning and the amount of the taxes will be discounted as a result of early payment.

5. The Receiver, the Executive Committee and the Project Committees believe each of the loans is fully secured by the value of the corresponding property. The loans, together with all accrued interest, will be payable on sale of the corresponding property. Moreover, the Projects will reimburse the receivership estate \$250 in costs incurred in obtaining approval of their loan.¹ The Receiver and the Executive Committee believe making these loans are in the best interest of the receivership estate.

6. This Court has previously authorized the Receiver to loan funds from the Settlement Proceeds to certain receivership projects for payment of real property taxes and other expenses. The Receiver believes it is in the best interest of the receivership estate to loan the Projects money to pay the expenses described herein and the Lenders will receive a benefit from early payment of the taxes and timely payment of other annual expenses.

¹ This fee will be added to the outstanding loan balance.

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 authorizing the Receiver to make the loans described herein and to grant such further relief as is just and proper.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this November 17, 2017, a true and correct copy of the forgoing was furnished via U.S. Mail to the parties on the attached Service List, the lenders were notified by e-mail and a copy of this motion will be posted on the receivership web-page.

By: /s/ Joan Levit

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