IN THE CIRCUIT COURT OF THE 11<sup>TH</sup>
JUDICIAL CIRCUIT IN AND FOR MIAMIDADE COUNTY, FLORIDA

CASE NO.: 07-43672 CA 09

STATE OF FLORIDA, OFFICE OF FINANCIAL REGULATION,

Plaintiff,

٧.

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.

## INTERVENOR IRA SUKOFF'S VERIFIED MOTION FOR DISMISSAL OF RELIEF DEFENDANT NORMANDY HOLDINGS, II, LLC FROM RECEIVERSHIP PROCEEDING

PLEASE TAKE NOTICE that Intervenor, IRA SUKOFF ("SUKOFF"), by his undersigned counsel, files this Verified Motion for Dismissal of Relief Defendant NORMANDY HOLDINGS, II, LLC ("NORMANDY, II") from the Receivership proceeding, based upon the following grounds:

1. On or about December 11, 2007, the STATE OF FLORIDA, OFFICE OF FINANCIAL REGULATION (the "STATE") filed its Complaint seeking a temporary and

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permanent injunction and the appointment of a receiver and on December 11, 2007, this Court

entered an Order granting a temporary injunction involving over forty (40) entities, including

Relief Defendant NH, II. The Order also appointed Michael I. Goldberg as Receiver

("RECEIVER") for NH, II.

2. The Order precluded any further operations of NH, II, absent the formation and

recommendation of certain committees under the direction of RECEIVER.

3. SUKOFF is a member of NH, II, holding a 23% membership interest therein,

which was created in 2001 and consisted of thirty-four (34) town homes, approximately eight

(8) of which remained unsold at the time of the filing of the Complaint. At no time whatsoever

has SUKOFF had any affiliation with MAMC.

4. The present claims asserted by the RECEIVER against NH, II involves

recoupment of an approximate \$300,000.00 "loan" purportedly made by Defendant M.A.M.C

INCOPORATED ("MAMC") to NH, II which was directly disbursed by MAMC in full on a pro rata

basis to the investors/members of NH, II. Such actions were never authorized by NH, II.

However, for some unknown reason, the RECEIVER's proceeding is against NH, II, when NH,

Il did not receive or retain any of the funds in question. The investors in question, in some

cases, are the same creditors that the RECEIVER represents as part of the Receivership

proceeding.

5. For the RECEIVER to seek recoupment from NH, II would provide an unjust

enrichment on behalf of certain of the investors and, in come cases, creditors, for monies that

they already have received from MAMC and, as such, the proper party in this proceeding is not

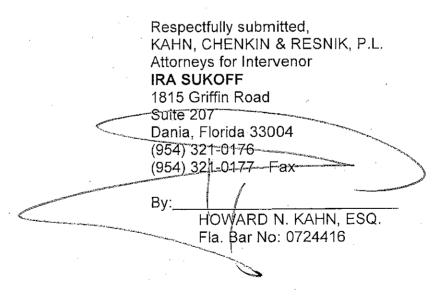
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NH, II, but the various investors/members of NH, II.

- 6. Alternatively, monies that were disseminated to certain of the creditors from MAMC would be entitled to essentially a "credit" from the monies allegedly misappropriated by Defendant DANA J. BERMAN ("BERMAN") as the basis for this proceeding.
- 7. The RECEIVER cannot have it both ways. The RECEIVER cannot seek monies from NH, II and, at the same time, allow the creditors, to the extent they exist, whom the RECEIVER represents, keep the allegedly misappropriated monies. As such, given the absence of any other claims against NH, II, it would be most appropriate that NH, II be dismissed from this proceeding.

WHEREFORE, Intervenor IRA SUKOFF respectfully requests that this Court dismiss Relief Defendant NORMANDY HOLDINGS, II, LLC from this proceeding, together with the awarding of attorneys' fees, costs and such other and further relief as this Court deems just and proper.



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## **CERTIFICATE OF SERVICE**

! HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via U.S. Mail and facsimile to: Cristina Saenz, Esq., Assistant General Counsel, State of Florida, Office of Financial Regulation, 401 N.W. 2<sup>nd</sup> Avenue, Suite N-708, Miami, Florida 33128; Alan M. Sandler, Esq., Counsel for Defendants Joel and Deborah Sokol, Darlene Levasser, Robert Dzimidas IRA, Lawrence Meyer IRA, Lawrence Meyer Roth IRA and Mary Joe Meyer Roth IRA, of Sandler & Sandler, 117 Aragon Avenue, Coral Gables, Florida 33134; Allan A. Joseph, Esq., Counsel for The Amid Companies and Amedia Family Investors, David & Joseph, P.L., 1001 Brickell Avenue, Suite 2002, Miami, Florida 33131; Richard R. Robles, Esq., Counsel for the Four Ambassadors Association, Inc., Law Offices of Richard R. Robles, P.A., 905 Brickell Bay Drive, Tower II, Mezzanine, Suite 228, Miami, Florida 33131; Lawrence M. Shoot, Esq., Counsel for USA Funding Mortgage, Inc., 4830 S.W. 92<sup>nd</sup> Avenue, Miami, Florida 33165; James D. Gassenheimer, Esq., Counsel for the Receiver, Michael I. Goldberg, Berger Singerman, 200 S. Biscayne Boulevard, Suite 1000, Miami, Florida 33131; and Marcy S. Resnik, Esq., Co-Counsel for Intervenor Ira Sukoff, Marcy S. Resnik, P.A., 1120 S.E. 3<sup>nd</sup> Avenue, Ft. Lauderdale, Florida 33316, this 2nd ay of September, 2008.

HÓWARD N. KAHN

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## **VERIFICATION**

Under penalties of perjury, IRA SUKOFF, declare that I have read the foregoing Verified

Motion for Dismissal of Relief Defendant Normandy Holdings, II, LCC from Receivership

Proceeding and the facts stated in it are true.

IRA SUKOFF