

**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 THE PROCEEDS OF THE SALE OF THE PROPERTY
OWNED BY M.A.M.C. PROJECT MANAGERS GROUP LLC**

Michael I. Goldberg, the Court-appointed receiver (the "Receiver") for Defendants Berman Mortgage Corporation ("BMC"), M.A.M.C. Incorporated ("M.A.M.C."), and Relief Defendants DB Atlanta, LLC, et al., hereby files this *Motion to Authorize Distribution of the Proceeds of the Sale of the Property Owned by M.A.M.C. Project Managers Group 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* (the "Receivership Order") appointing Michael Goldberg as the receiver for BMC and M.A.M.C. (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. One of the loans was made to Project Managers Group, LLC (the "Project Managers Borrowers") for the purchase of real property located in Highlands County, Florida (the "Highlands Property"). The loan was serviced by M.A.M.C.

3. Upon default by the Project Managers Borrowers, M.A.M.C. commenced a foreclosure suit in Highlands County (the "Foreclosure Court"), Florida against the Project Managers Borrowers and other parties who had an interest in the Highlands Property (collectively, the "Foreclosure Defendants").

4. On February 16, 2009, the Foreclosure Court entered a Corrected Final Summary Judgment¹ in favor of M.A.M.C. and the individual Lenders (collectively, the "Foreclosure Plaintiffs") and against the Foreclosure Defendants.

5. On February 18, 2009, the Foreclosure Plaintiffs filed an Assignment of Bid executed by the Receiver, assigning their successful bid at the foreclosure sale to M.A.M.C. Project Managers Group LLC, a company organized by the Receiver to hold title to the Highlands Property after the foreclosure sale.

6. After a foreclosure sale, the Clerk of the Court issued a Certificate of Title, dated March 5, 2009, in the name of M.A.M.C. Project Managers LLC.

7. The Receivership Court subsequently entered an Order expanding the Relief Defendants to include M.A.M.C. Project Managers Group LLC.

¹ The Final Summary Judgment was corrected to include exhibits that were erroneously excluded from the Final Summary Judgment.

8. The Receiver has marketed the Highlands Property for sale without success. In the interim, the Receiver loaned money to M.A.M.C. Project Managers Group LLC to maintain the Highlands Property, pay real property taxes and cover other expenses.

9. In 2017, the Receiver proposed an alternative method of sale – through the auction process. On June 21, 2017, upon the Receiver's motion, the Court entered an Order granting Receiver's motion for authority to sell certain Receivership properties, including the Highland's Property, by auction. After the auction failed to secure a purchaser, the Receiver continued to market the Highlands Property for sale.

10. Earlier this year, the Receiver secured a contract of sale of the Highlands Property to Green Trees of Florida, Inc. for \$500,000. While preparing for closing, the Receiver discovered that the Certificate of Title was incorrectly entered in favor of M.A.M.C. Project Managers LLC, not M.A.M.C. Project Managers Group LLC.

11. The Receiver filed an *ex parte* motion in the Foreclosure Court to re-open the Foreclosure Case and correct the scrivener's error in the name of the property owner. The Foreclosure Court granted the motion and on February 19, 2019, the Clerk of the Court for Highlands County, Florida entered a Corrected Certificate of Title in favor of M.A.M.C. Project Managers Group LLC.

12. The closing has taken place. After paying closing costs, reimbursing the receivership for funds loaned to maintain the Highlands Property, there remains \$374,482.31 from the proceeds of the sale to distribute to the Lenders on a *pro rata* basis. This distribution raises the Lenders' net recovery of their investment in the Highlands Property to 18.36%. See Exhibit 1 for a breakdown of the distribution.

13. The Receiver seeks authority to distribute the proceeds of the sale of the Highlands Property to the Lenders. The Receivership Court has previously approved distributions of the sale proceeds from other properties and the Receiver recommends approval of the distributions described in this Motion.

14. 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.

WHEREFORE, Michael I. Goldberg, in his capacity as Receiver of M.A.M.C. and related entities, respectfully requests this Court to enter an Order authorizing the distribution 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
Joan M. Levit, Esquire
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this April 3, 2019, 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 website.

/s/ Joan Levit

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EXHIBIT 1

MAMC Project Managers Group, LLC

| | |
|---------------------------|-----------------|
| Total LOAN | \$ 2,250,000.00 |
| E & O Distribution (2015) | \$ 38,535.62 |
| | <hr/> |
| | \$ 2,211,464.38 |

| | |
|---|----------------------|
| Net Proceeds from Sale - 2019 | \$ 481,286.51 |
| Bank Balance | \$ 308.99 |
| Wire Fee | \$ (30.00) |
| Total available for Distribution | \$ 481,565.50 |

DEDUCTIONS - Due to Berman/MAMC Rec. Estate

| | |
|--|------------------------|
| Priority Loan | \$ (52,921.65) |
| Priority Loan Interest @ 4% | \$ (15,351.38) |
| Legal | \$ (37,610.16) |
| Reserve for Taxes, motion, & k-1 forms | \$ (1,200.00) |
| Total deductions | \$ (107,083.19) |

| | |
|-------------------------------------|------------------------|
| Total available for Distribution | \$ 481,565.50 |
| Total deductions | \$ (107,083.19) |
| Net Distribution to partners | \$ 374,482.31 |

Total Return of Principal **18.36%**