

**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 AMENDED¹ MOTION TO AUTHORIZE DISTRIBUTION
OF THE PROCEEDS OF THE SALE OF THE PROPERTY
OWNED BY MAMC BELLA VISTA, LLC**

Michael I. Goldberg, the Court-appointed receiver (the "Receiver") for Defendants Berman Mortgage Corporation ("BMC"), M.A.M.C. Incorporated ("MAMC"), and Relief Defendants DB Atlanta, LLC, *et al.*, hereby files this *Amended Motion to Authorize Distribution of the Proceeds of the Sale of the Property Owned by MAMC Bella Vista, 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

¹ The Motion is amended to reflect an update to Exhibit 1, which represents a slight decrease in the pro rata distribution to the Lenders.

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 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 Bella Vista del Mar by Obake, LLC (the “Borrower”) and secured by a first mortgage (“Mortgage”) on vacant land located at 97 1st Street South, Jacksonville, Florida (the “Bella Vista Property”). The loan was serviced by MAMC.

3. After the Borrower defaulted under the loan documents, the Lenders, by and through BMC, commenced a foreclosure case in the Circuit Court of the Fourth Judicial Circuit in and for Duval County, Florida (Case No. 2006-CA-8129) against the Borrower and other parties who had an interest in the Bella Vista Property.

4. On June 18, 2008, the Court in the foreclosure case entered Final Summary Judgment in favor of the Lenders. After a foreclosure sale, the Clerk of the Court for Duval County, Florida issued a Certificate of Title, dated July 23, 2008, in the Bella Vista Property to MAMC Bella Vista, LLC. The Certificate of Title was recorded in the Official Records of Duval County at Book 14599, Page 1856.

5. Upon motion of the Receiver, and after notice and hearing, on August 11, 2008, this Court entered an Order expanding the Receivership Defendants to include MAMC Bella Vista, LLC as a Relief Defendant.

6. Upon motion of the Receiver, and after notice and hearing, on March 27, 2013, this Court entered an Order authorizing the Receiver to enter into an Exclusive Right of Sale Listing Agreement with Colliers International to market the Bella Vista Property for sale.

7. On October 22, 2015, the Receiver filed a motion to approve the sale of the Bella Vista Property. However, the buyer withdrew the contract prior to the hearing to approve the motion. On March 28, 2016, the Receiver filed a motion to approve the sale of the Bella Vista Property to a new buyer. After notice and hearing, on April 15, 2016, the Court approved the motion. However, after multiple extensions, the buyer was unable to complete the sale.

8. On June 27, 2018, 2018, after motion by the Receiver, notice and hearing, the Court approved the sale of the Bella Vista Property to Nouveau Management Group, LLC for \$1,250,000.00.²

9. The closing on the sale of the Bella Vista Property has taken place. After paying closing costs, reimbursing the receivership for funds loaned to maintain the Bella Vista Property, pay taxes and cover other costs, there remains \$484,230.15 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 Bella Vista Property up to 7.57%. See Exhibit 1 for a breakdown of the distribution.

10. The Receiver seeks authority to distribute the proceeds of the sale of the Bella Vista Property to the Lenders. The Receivership Court has approved distributions of the proceeds of the sale of other properties and settlement funds and the Receiver recommends approval of the distributions described in this Motion.

² In the abundance of caution, in the event the buyer was unable to close on the sale, the Receiver included the Bella Vista Property in his Motion for Authority to Sell the Three Remaining Receivership Properties by Auction or Contact, dated July 25, 2018. The Court entered an Order approving the motion, dated September 12, 2018.

11. 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 MAMC 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,

AKERMAN LLP
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 October 11, 2018, 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

EXHIBIT 1

MAMC Bella Vista Distribution

| | |
|--------------------------|-----------------|
| Original LOAN AMOUNT | \$ 6,650,000.00 |
| 1st distribution - E & O | \$ (252,765.22) |
| Balance | \$ 6,397,234.78 |

Sale Price - Closing Date 9/18/18 \$ 1,250,000.00

Closing costs

| | |
|---|------------------------|
| Doc Stamps on Deed | \$ (8,750.00) |
| Commission | \$ (75,000.00) |
| Other costs | \$ (117.00) |
| Taxes | \$ (17,979.61) |
| Net Cash due to Seller (Clsg Stmt) | \$ 1,148,153.39 |

| | |
|-----------------------------------|------------------------|
| Bank Account Balance | \$ 56,251.07 |
| Available for Distribution | \$ 1,204,404.46 |

Internal Deductions (due to MAMC Rec Estate)

| | |
|---|----------------------|
| Priority Loans | \$ (521,939.72) |
| Interest on Priority loan - 9/18/18 | \$ (138,291.22) |
| MAMC Rec. Estate (paid legal) - 9/30/18 | \$ (38,622.37) |
| James Gassenheimer Old legal fees due | \$ (16,321.00) |
| Accounting & Final Motions | \$ (5,000.00) |
| Total Net Recovery (due to partners) | \$ 484,230.15 |

Net recovery 7.57%