

IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA

IN RE:

CASE NO.: CACE 24-005243

HERON POND CONDOMINIUM
ASSOCIATION, INC.

Petitioner.

v.

HERON POND CONDOMINIUM
ASSOCIATION, INC.,

Defendant/Respondent

RECEIVER'S INITIAL REPORT

Daniel J. Stermer, not individually, but solely in his capacity as Receiver (the "Receiver") of Heron Pond Condominium Association, Inc. (the "Association"), by and through undersigned counsel, hereby reports to the Court, the parties, and the Heron Pond community of the activities of the Receivership and the books, records and property of the Association, in accordance with this Court's *Order Granting Verified Petition for Appointment of Receiver* dated April 26, 2024, and states as follows:

1. On April 16, 2024, the Plaintiffs, Heron Pond Condominium Association, Inc. (the "Plaintiff"), commenced this action by the filing of a *Verified Petition For Appointment of a Receiver* against the Association.

2. On April 16, 2024, the Association filed an *Ex Parte Verified Emergency Motion For Appointment of a Receiver Court* seeking the appointment of Daniel J. Stermer as Receiver of all the assets belonging to the Association, including all tangible assets, real estate, receivables, and financial accounts; and appointing the Receiver as the sole Board member for the Association with full power to act for the Association until this Court relieves the Receiver.

3. Heron Pond is an “Association” as defined in Chapter 718, Florida Statutes, located within Broward County and is governed by the Declaration of Condominium Establishing Heron Pond Condominium (the “Declaration”), recorded on June 14, 2006 in Official Records Book 42216, Page 910, in the Public Records of Broward County, Florida. The Association is comprised of 304 individual units contained in 19 separate buildings (the “Buildings”). As of September 12, 2023, six out of the nineteen buildings located within the Association were declared unsafe structures by the City of Pembroke Pines and rendered uninhabitable. An additional 26 units in the remaining buildings have also been rendered uninhabitable.

4. On April 26, 2024, the Court entered an *Order Granting Verified Petition for Appointment of Receiver* (the “Order Appointing Receiver”), thereby appointing Daniel J. Stermer., as Receiver for the Association.

5. Paragraph 8 of the Receivership Order provides:

Monthly Reports. Receiver is directed to prepare and file with this Court on the 25th day of each month commencing with the first calendar month beginning after the Effective Date, so long as its Property shall remain in its possession or care, a full and complete, separate report for such Property, under oath, setting forth all receipts and disbursements, reporting all changes in Assets or Property in the Receiver’s charge or claims against such Assets or Property that have occurred during the prior calendar month in compliance with Rule 1.620(b) of the Florida Rules of Civil Procedure and Section 714.19, Florida Statutes. The Receiver is directed to serve a copy of each such report on counsel who have made an appearance in this case, including counsel for any creditor of the Receivership Entity requesting copies of such reports.

Activities of the Receiver Since Appointment.

6. On April 29, 2024, the Receiver transmitted via email to all Unit Owner/Renter email addresses provided by the Association an *Introductory Letter* to the Unit Owners, tenants, and family members introducing himself and briefly explaining his role as Receiver. The Introductory Letter also included a *Contact Information Form* to be filled out by Owner’s and Occupants to assure the Receiver has up to date contact information.

7. On April 30, 2024, the Receiver filed the *Bond of Receiver*.

8. On April 30, 2024, the Receiver filed the *Oath and Acceptance of Receiver*, thereby accepting the appointment as Receiver pursuant to the terms and conditions of the Receivership Order.

9. On May 1, 2024, the Receiver notified Financial Institutions that the Association has open account at of his appointment and sought turnover of accounts and completed forms necessary to be the sole signatory on the accounts.

10. On May 2, 2024, the Receiver and his professionals met with officials from the City of Pembroke Pines regarding the condition of the Property and the Unsafe Structure Notifications that have been issued by the City regarding certain of the Association's Buildings, including with the City Manager, Assistant City Manager, the City Attorneys Office, the Vice Mayor, the Chief Building Official and his colleagues, and the Fire Marshal and his colleagues.

11. On May 7, 2024, the Receiver transmitted via email to all Unit Owner/Renter email addresses provided by the Association the Receiver's *Notice Regarding Status of Property Insurance and Liability Insurance*.

12. On May 22, 2024, the Receiver transmitted via email to all Unit Owner/Renter email addresses provided by the Association the URL for the Receiver's website (www.heronpondreceiver.com) that contains, among other information, all of the filings in this matter.

13. Since his appointment, the Receiver and his professionals have had several discussions and in-person meetings with the Association's engineer to discuss the technical Structural Reports and building permit applications that were previously submitted by the Association to the City of Pembroke Pines.

14. Since his appointment, the Receiver and his professionals have had multiple discussions and communications with West Broward Property Management, the Association's

property management firm and with Preferred Accounting, the Association's bookkeeper and financial team.

15. Since his appointment, the Receiver and his professionals have had extensive discussions and communications with the Association's insurance Agent of Record to fully understand the status of the Association's insurance policies and their status and potential next steps regarding critical insurance issues.

16. The Receiver has set up a website: www.heronpondreceiver.com to provide all interested parties with updates regarding the Association and with all court filings.

17. The Receiver and his professionals continue to assess the status of the Property and the Pending Lawsuits (as defined below).

Association Assets

18. On May 24, 2024, the Receiver filed *Receiver's Inventory Report* (the "Inventory Report"), reflecting the property coming into the Receiver's control and possession. To date, the Receiver and his financial advisor, Development Specialists, Inc., have been provided access to the accounting platform utilized by the current bookkeeper, Preferred Accounting Services, Inc. ("PAS"). Per discussions with PAS, this system replaced the prior accounting system utilized by the former bookkeeper retained by prior management. PAS commenced recording accounts receivable and collection related activity in August 2022 and full accounting reporting commencing in January 2023 in this accounting platform. PAS has cooperated with the Receiver informal requests for turnover and been responsive to the Receiver questions for information. To date, the following information has been provided:

- Monthly financial statements, bank reconciliations and bank statements for the periods January 2023 through April 2024 (prepared by PAS).
- Balance Sheet and Income Statements for November 2022 and December 2022 (prepared by prior bookkeeper).
- 2024 Approved Budget
- Details on the \$3.4MM Special Assessment approved in December 2023.

To date, no year-end audited financial statements for any period have been located or provided nor any financial reporting for activity prior to November 2022.

19. Pursuant to paragraph 13 of the Order, Popular Bank and Truist Bank, the financial institutions holding money on deposit belonging to the Association, have cooperated with my requests to freeze the Association bank accounts and provide me with control thereof. I served a demand letter on May 1, 2024, shortly after the Order was entered and was able to gain control of six bank accounts belonging to the Association.

20. The Association's Truist Operating Acct# XXXXXXXXXXXX1589¹ had an ending balance as of April 30, 2024, of \$93,267; the Association's Truist Reserve Acct# XXXXXXXXXXXX1597 had an ending balance as of April 30, 2024 of \$1,502; the Association's Truist Special Assessment Acct# XXXXXXXXXXXX1600 had an ending balance as of April 30, 2024 of \$286,620; the Association's Popular Operating Acct# XXXXXXXXXXXX2537 had an ending balance as of April 30, 2024 of \$41,979; the Association's Popular Reserve Acct# XXXXXXXXXXXX2626 had an ending balance as of April 30, 2024 of \$5,483; the Association's Popular Special Assessment Acct# XXXXXXXXXXXX2595 had an ending balance as of April 30, 2024 of \$169,959 The Receiver has exclusive control of these six (6) bank accounts. One legacy bank account which was identified at Ocean Bank with a balance of \$607, which was identified in the preparation of the Inventory filing, will be under my control in the shortly. Upon review of the banking activity and to account for checks released but not yet presented for payment (\$90,723) and other accounting adjustments (\$34,653) to the bank balances reported, adjustments to the cash balances have been made to properly reflect the current cash balances. As of April 30, 2024 the cash available in the bank in these seven (7) accounts is \$599,418. After adjustments for the items referenced above, the adjusted available cash balance as of April 30, 2024 is \$509,572.

21. The Receiver and his team continue to analyze the Association's books and records and have collected bank statements from their banks.

¹ Account numbers are redacted in their entirety pursuant to Fla. R. Jud. Admin. 2.240 and 2.245(a).

22. My financial advisor has and will continue to diligently analyze the transactions in these accounts to try to determine the current financial condition of the Association. At this point, a historical review of the pre-Receivership activity has not been commenced, while their efforts are focused on ascertaining the current and future financial condition of the Association. Additional review and discovery may be required to obtain a clearer picture of the historical flow of funds into and out of these bank accounts.

Receiver's Professionals

23. On or about April 26, 2024, the Receiver hired the law firm of Berger Singerman LLP to act as counsel to the Receiver in this case and filed a Motion, and, on May 3, 2024, the Receiver filed *Receiver, Daniel J. Stermer's Motion for Approval of Employment of Berger Singerman LLP as Counsel to the Receiver, Effective as of April 26, 2024*.

24. On May 20, 2024, the Court entered an *Order Granting Receiver, Daniel J. Stermer's Motion for Approval of Employment of Berger Singerman LLP as Counsel to the Receiver Effective as of April 26, 2024*.

25. On or about April 26, 2024, the Receiver hired the financial advisory firm of Development Specialists, Inc., to act as financial advisors and consultants to the Receiver in this case and filed a Motion, and, on May 3, 2024, the Receiver filed *Receiver, Daniel J. Stermer's Motion for Approval of Employment of Development Specialists, Inc. as Financial Advisor and Consultant to the Receiver, Effective as of April 26, 2024*.

26. On May 20, 2024, the Court entered an *Order Granting Receiver, Daniel J. Stermer's Motion for Approval of Employment of Development Specialists, Inc. as Financial Advisor and Consultant to the Receiver, Effective as of April 26, 2024*.

27. On or about April 26, 2024, the Receiver hired the law firm of Eisinger Law to act as special counsel to the Receiver in this case to continue their collections efforts and other actions on behalf of the Association, and on May 6, 2024, the Receiver filed *Receiver, Daniel J. Stermer's*

Motion for Approval of Employment of Eisinger Law as Special Counsel to the Receiver, Effective as of April 26, 2024.

28. On May 20, 2024, the Court entered an *Order Granting Receiver, Daniel J. Stermer's Motion for Approval of Employment of Eisinger Law as Special Counsel to the Receiver Effective as of April 26, 2024.*

29. Since the appointment of the Receiver, the Receiver has also met with several engineering and construction firms on behalf of the Association, including professionals previously engaged by the Association and other professionals. This process is ongoing.

30. On May 15, 2024, the Receiver hired Specialty Engineering Consultants, Inc. ("Specialty Engineering") as an engineering consultant to the Receiver to provide the Receiver with an independent and updated analysis of the current condition of the Property and Buildings, and on May 17, 2024, the Receiver filed *Receiver, Daniel J. Stermer's Motion for Approval of Employment of Specialty Engineering Consultants, Inc. as Engineering Consultants to the Receiver.*

31. On May 20, 2024, the Court entered an *Order Granting Receiver, Daniel J. Stermer's Motion for Approval of Employment of Specialty Engineering Consultants, Inc. as Engineering Consultants to the Receiver.*

32. The Receiver has also been in communication with B.B.S. Builders, Inc., to work with Specialty Engineering to address certain areas of the exterior and interior of the buildings and to assist in Specialty Engineering's visual inspection of the buildings. Upon receipt of a scope of work from B.B.S. Builders, Inc., the Receiver will seek approval of their employment with the Court.

33. The Receiver, and the professionals retained from the law firm Berger Singerman, DSI, and Eisinger Law, have incurred professional fees and costs. Pursuant to the Receivership

Order, the Receiver and his professionals will be filing the first statement of account which will include the Receivers professionals' fees and costs from April 26, 2024 through May 30, 2024, by separate motion. To be clear, their collective work on this matter has been near constant from inception. As noted in the Order, the Receiver discounted his standard hourly rate. *See* Order, ¶ 26. The Order states: "The Receiver and all professionals, consultants, and agents he may retain, shall be reasonably compensated from the Receivership Estate on a monthly basis to the extent funds are available from any source, including the sale of Assets or Property," (*id.*), until such time as the Association's finances are stabilized, the Receiver may defer the payment of fees and expenses that are otherwise authorized to be paid. Additionally, and as requested by the Court, the Receiver and his professionals shall file a statement of account with the Court by the tenth (10th) day of each month for the time and expenses incurred in the preceding calendar month ("Statement of Account"). The Statement of Account shall include each professional's hourly rate and the time worked by such professional. The Statement of Account will be posted on the Receiver's website: www.heronpondreceiver.com as well.

Status of Insurance

34. On May 6, 2024, the Receiver filed *Receiver, Daniel J. Stermer's, Notice Regarding Status of Property Insurance and Liability Insurance* providing notice to the Court and Unit Owners of the current status of the Association's property and liability insurance policies.

35. As set forth therein, the Association's property insurance policies were terminated April 8, 2024. The Receiver continues to work with the Association's Insurance Broker to investigate potential options for the Association to obtain appropriate and sufficient property insurance. As of the date of the filing of this Initial Report, the Receiver has been and continues to be unable to obtain adequate property coverage for the Association.

36. The Association currently maintains general liability insurance which will remain in place through June 20, 2024. The Receiver has been advised by the Association’s Insurance Broker that the general commercial liability policy and the excess general liability umbrella policy will not be renewed by the carriers. The Receiver continues to investigate potential options for the extension of the Association’s general insurance.

Litigation

37. Prior to the Receivership Order, certain unit owners filed eight Complaints against the Association and the alleged prior president of the Association, Peter Patel for: Count I- Negligence (Failure to Maintain Common Elements); Count II- a Statutory Cause of Action Pursuant to 718.303, Fla. Stat. Failure to Maintain Common Elements; and Count III- Breach of Contract (Failure to Maintain Common Elements) (the “Pending Lawsuits”). The Association filed third-party complaints against Tri-Star Construction LLC alleging breach of contract allegations in the Pending Lawsuits.

Pending Lawsuits
CACE24000488--Gabriel Coifman v. Heron Pond Condo Association, et al
CACE23021349--Armory Housing Corp. v. Heron Pond Condo Association, et al
CACE23021148--Las Auracarius LLC. v. Heron Pond Condo Association, et al
CACE23020826--Susana Rognone v. Heron Pond Condo Association, et al
CACE23-019617--Clarissa Florival v. Heron Pond Condo Association, et al
CACE23019893--Angel Cortes v. Heron Pond Condo Association, et al
CACE23022619--Porto Seguro, LLC v. Heron Pond Condo Association, et al
CACE23020265--Ocean 1212, LLC v. Heron Pond Condo Association, et al
CACE23021351—Yuga Corp v. Heron Pond Condo Association, et al

38. On May 6, 2024, the Receiver filed a Notice of Receivership and Motion to Transfer in each of the Pending Lawsuits, providing the court with notice of the Receivership and requesting, pursuant to the Receivership Order, that each of the cases be transferred to this Court. As of May 20, 2024, all but 1 case has been transferred to this Court.

39. Pursuant to the Receivership Order, all cases, including the Pending Lawsuits are stayed pending further order of this Court.

40. The Receiver and his professionals are currently reviewing the pleadings in each of the ancillary cases and will.

Construction

41. The Receiver is aware of and assessing the current situation regarding the Property. The Receiver and his professionals have reviewed each of the Structural Assessment Report (“Current Reports”) and have had discussions with the professionals that prepared the reports, ACG Engineering Services, Inc. (“ACG”)

42. The Receiver and his professionals have met with city officials and representatives from the City of Pembroke Pines

43. The Receiver and his professionals have met with the ACG on the Property to discuss the Current Reports and the status of the Buildings.

44. The Receiver and his professionals have met with additional engineering and construction professionals on the Property to obtain an independent analysis of the Buildings and have engaged such professionals to provide a separate report of each building.

45. The Receiver has met with counsel for and representatives from Federated Trust, the owner of 109 of the Association’s units, to discuss their involvement with the Association and requested payment of the outstanding Association Assessments.

46. The Receiver and his professionals remain in constant contact with West Broward Community Management, the Association’s property manager.

RECEIVER’S CERTIFICATION

I, Daniel J. Stermer, as Receiver, hereby certifies, under penalties of perjury, that the foregoing Receiver’s Initial Report is true and accurate to the best of my personal knowledge and belief.

/s/ Daniel J. Stermer
Daniel J. Stermer

Dated: May 23, 2024

Respectfully submitted,

BERGER SINGERMAN LLP
Counsel for Receiver
313 North Monroe Street, Suite 301
Tallahassee, FL 32301
Tel. (850) 561-3010
Fax (850) 561-3013

By: /s/ Brian G. Rich
Brian G. Rich
Florida Bar No. 38229
brich@bergersingerman.com
Michael J. Niles
Florida Bar No. 107203
mniles@bergersingerman.com

CERTIFICATE OF ELECTRONIC FILING AND SERVICE

I **HEREBY CERTIFY** that on this 23rd day of May 2024, the foregoing was filed electronically through the Florida Court’s E-Filing Portal, which will send notice of electronic filing to all electronic service parties.

By: /s/ Brian G. Rich
Brian G. Rich