

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, 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**

Daniel J. Stermer., as Court-appointed Receiver (the "Receiver") for Heron Pond Condominium Association, Inc. (the "Association"), pursuant to the Court's *Order Granting Verified Petition for Appointment of Receiver*, entered on April 26, 2024, respectfully moves for entry of the proposed order attached as **Exhibit A**, approving the employment of the management and consulting firm Development Specialists, Inc. ("DSI") as Financial Advisor and Consultant for the Receiver. In support of this Motion, the Receiver states:

1. On April 16, 2024, the Plaintiffs, Heron Pond Condominium Association, Inc. (collectively, the "Plaintiffs"), 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, 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. 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 24(j) of the Order Appointing Receiver, provides that the Receiver is authorized to employ “to employ accountants, financial advisors and day to day managers, brokers, developers and other professionals, upon application and approval by the Court, to furnish advice and services to the Receiver, all for such purposes as may be reasonable and necessary during the term of the receivership.

6. It is necessary for the Receiver to employ a financial advisor and consultant to assist him in the ongoing administration of the Receivership, pursuant to the terms of the Engagement Agreement between the Assignee and DSI attached hereto as **Exhibit B**.

7. The Receiver has selected DSI as his financial advisor and consultant because DSI has considerable experience in receivership matters and, in particular, acting as financial advisor and consultant to Receivers.

8. The Receiver is a Managing Director of DSI and will not seek a duplicative fee on any fee earned by and paid to DSI understanding that the Receiver will separate and segregate his time from other professionals working on this matter from DSI and will invoice the Receiver's time separate and apart from the professionals at DSI. The terms of the engagement with DSI are set forth in the Engagement Agreement, including the proposed compensation to be paid to DSI which includes an hourly fee component for the Receiver (at an agreed upon reduced hourly rate as set forth in the Order Appointing Receiver) and other employees at DSI, This Motion contains only a summary of the terms of DSI's engagement. For complete terms, please refer to the Engagement Letter.

9. The Receiver believes that employing DSI is in the best interests of the estate because DSI has the experience and resources to efficiently and effectively represent the Receiver in this case.

10. The Receiver is a Managing Director of DSI. To the best of the Receiver's knowledge, other than the Receiver's association with DSI, DSI is "disinterested" and has no connection with any other party in interest in the Receivership.

11. To the best of the Receiver's knowledge, DSI does not hold or represent any interest adverse to the Receivership or any matters in which DSI is to be engaged.

12. DSI's services are provided on an hourly basis with billing rates for its professionals varying depending upon levels of experience. The current billing rates of DSI's professionals range from \$190.00 per hour to \$815.00per hour. George E. Shoup III will serve as the lead consultant on this matter, and his hourly rate is \$525.00. DSI typically adjusts its hourly rates annually on January 1st. DSI has also agreed to waive its standard monetary retainer fee.

13. Compensation shall be pursuant Paragraph 26 of the Order Appointing Receiver. The Receiver will also be billed for disbursements and charges in connection with DSI's

representation, including charges for telephone calls, photocopying, messenger services, travel and lodging expenses, expert fees, computer assisted research charges, postage, court reporting and transcripts, and other expenses.

WHEREFORE, Daniel J. Stermer as Receiver, respectfully requests entry of the proposed Order attached as **Exhibit A**, approving the employment of Development Specialist, Inc. as financial advisor and consultant counsel for the Receiver, effective as of April 26, 2024 , and for such other and additional relief as the Court deems just and proper.

Dated: May 3, 2024

Respectfully submitted,

By: /s/ Daniel J. Stermer

Daniel J. Stermer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 3, 2024, the foregoing was filed using the Florida Court's E-Filing Portal, which will, in turn, send notice of electronic filing to all electronic service parties.

BERGER SINGERMAN LLP
Proposed Counsel for Receiver
201 East Las Olas Boulevard
Suite 1500
Fort Lauderdale, Florida 33301
Tel. (954) 525-9900
Fax (954) 523-2872

By: /s/ Brian G. Rich

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EXHIBIT A
Proposed Order

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

**AGREED 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**

THIS CAUSE came before the Court upon the *Receiver, Daniel J. Stermer's Unopposed Motion for Approval of Employment of Development Specialists, Inc. as Financial Advisor and Consultant to the Receiver, Effective as of April 26, 2024* (the "Motion") filed by the Court-appointed Receiver, Daniel J. Stermer ("Receiver"). The Motion seeks to retain Development Specialists, Inc. as counsel to the Receiver in this case. The Court, having considered the Motion and having reviewed the Court file, and being otherwise fully advised in the premises, it is hereupon,

ORDERED AND ADJUDGED that:

1. The Motion is hereby **GRANTED**.
2. The Receiver is authorized to retain Development Specialists, Inc. as financial advisor and consultant to the Receiver in the captioned case, effective as of April 26, 2024.

3. Compensation paid to Development Specialists, Inc. shall be in accordance with the Court's Order Appointing Receiver.

DONE AND ORDERED in Chambers at Broward County, Florida on

_____.

Honorable Jack Tuter
Circuit Court Judge

cc: All counsel of record

EXHIBIT B
Engagement Agreement



Development Specialists, Inc.

Advisory and Fiduciary Services • Corporate Restructuring and Workouts • Interim Management • Insolvency Services

May 1, 2024

Mr. Daniel J. Stermer, not individually, but solely
in his capacity as Receiver of
Heron Condominium Association, Inc
c/o Development Specialists, Inc.
500 East Broward Boulevard
Suite 1700
Fort Lauderdale, FL 33394

Re: **Development Specialists, Inc. ("DSI")**
Engagement Agreement

Dear Mr. Stermer:

Please accept this letter as DSI's formal written agreement (the "Agreement") to provide financial advisory and support services to you, not individually, but solely in your capacity as Receiver ("You" or "Receiver") in the Receivership of Heron Pond Condominium Association, Inc. ("Receivership Estate"). The Agreement will become effective upon execution by Receiver and subject to Court approval in the Receivership Proceeding.

Section 1 – Scope of Work

DSI will provide the following services (the "Services") to assist the Receiver in the implementation of the Receivership Order:

1. Assist the Receiver as necessary with day to day and management and oversight related issues;
2. Review and analyze financial information and other relevant data relating to Heron Pond Condominium Association, Inc.;
3. Assist the Receiver with financial analysis and forensic accounting services;
4. Assist the Receiver and counsel to prepare discovery request(s) for any deposition, testimony and court hearings, as requested;
5. Provide analysis and support of the Receiver's prosecution of causes of action against third parties;
6. Advise and assist the Receiver, the Receiver's counsel and other professionals in responding to governmental and third-party requests.
7. Assist the Receiver by providing and performing such other tasks as may be agreed to by DSI and the You.

MIAMI/FT. LAUDERDALE

500 East Broward Boulevard, Suite 1700 • Fort Lauderdale, Florida 33394 • Telephone: 305.374.2717 • www.DSIConsulting.com

NEW YORK • LOS ANGELES • CHICAGO • WILMINGTON • SAN FRANCISCO • COLUMBUS • MADISON • LONDON

A handwritten signature in blue ink, appearing to be "DJ", is located in the bottom right corner of the page.

Daniel J. Stermer, Receiver
Heron Pond Condominium Association, Inc.
May 1, 2024

DSI's ability to adequately perform the Services is dependent upon receiving timely, reliable, accurate and complete necessary information. DSI is not responsible for independently verifying the veracity, completeness or accuracy of any information supplied to us by or on behalf of the Assignor.

DSI will submit its evaluations and analyses pursuant to this Agreement in periodic oral and written reports. Such reports are intended to and shall constitute privileged and confidential information, and shall constitute the Receiver's property.

Although we do not predict or warrant the outcome of any particular matter or issue, and our fees are not dependent upon such outcomes, we will perform the Services with reasonable care and in a diligent and competent manner.

Section 2 – Rates, Invoicing and Retainer

A number of DSI's personnel have experience in the above matters and may be engaged in this representation. Although others of our staff may also be involved, we have listed below certain of the DSI personnel (along with their corresponding billing rates) who would likely constitute the core group for this matter.

George E. Shoup III	\$525.00/hr.
John W. Morrison	\$285.00/hr.
Conrad Grygoriew	\$260.00/hr.

Besides those listed, others at DSI may be chosen for specific tasks in their areas of experience. The hourly rate ranges for other DSI consultants are:

Senior Managing Directors	\$595 to \$815
Directors/Managing Directors	\$310 to \$620
Associates	\$190 to \$305

These rates are adjusted as of January 1 of each year to reflect advancing experience, capabilities and seniority of our professionals as well as general economic factors. This Receivership will be led by George E. Shoup III who will remain personally involved throughout the engagement.

DSI will submit detailed monthly invoices to the You. Invoices shall be paid within ten (10) days of receipt and/or in accordance with the fee procedures outlined in the Receivership Order and any other Order entered by the Court relative to DSI's retention and approval of professional fees. DSI reserves the right to suspend Services if invoices are not timely paid, in which event DSI will not be liable for any resulting loss, damage or expense connected with such suspension.

DSI also will be entitled to reimbursement for its reasonable costs and expenses. Such costs and expenses may include, among others, charges for messenger services, overnight deliveries, photocopying, travel expenses, long distance telephone charges, postage and other charges

Daniel J. Stermer, Receiver
Heron Pond Condominium Association, Inc.
May 1, 2024

customarily invoiced by consulting firms. Airfare for domestic flights will be charged at economy/coach fares.

Subject to a court order or written agreement providing for an alternative procedure, in the event that You disagree with or question any amount due under any invoice, the You agree to communicate such disagreement to us in writing within three (3) days of the invoice date. Any claim not made in writing within the time period will be deemed waived.

Section 3 – Termination

You or DSI may terminate this Agreement for any reason with three (3) business days' written notice; provided, however, that DSI be paid and/or reimbursed full fees and expenses accrued under this Agreement as of the effective date of the termination.

Section 4 – Relationship of the Parties, Confidentiality

DSI will provide the Services to You, as Receiver, with select members of DSI, as noted above, assigned to specific roles. These members will remain as DSI employees during the pendency of this case. Specifically, the parties intend that an independent contractor relationship will be created by this Agreement. Employees of DSI are not to be considered employees of the Receivership Estate and are not entitled to any of the benefits that the Receivership Estate provides for their respective employees, unless written modification is made to this Agreement.

You acknowledge that all advice (written or oral) given by DSI to You in connection with this Agreement is intended solely for Your benefit and use in considering the subject matter to which it relates, and that no third party is entitled to rely on any such advice or communication. DSI will in no way be deemed to be providing services for any person not an express party to this Agreement.

DSI agrees that all information not publicly available that is received by DSI from You or the Assignor in connection with this Agreement, or that is developed during this engagement, will be treated as confidential and will not be disclosed by DSI, except as required by court order or other legal process, or as may be authorized by You. DSI shall not be required to defend against any action to obtain an order requiring disclosure of such information, but shall instead give prompt notice of any such action to You so that You may seek appropriate remedies, including a protective order. You shall reimburse DSI for all costs and fees (including reasonable attorney's fees and internal time devoted by DSI employees) incurred by DSI, whether during the pendency of this Agreement or thereafter, relating to responding to (whether by objecting to or complying with) any subpoenas or requests for production of information or documents.

Section 5 – Indemnity, Limitation of Liability

To the fullest extent permitted under applicable law, the Receivership Estate shall indemnify, hold harmless and defend DSI, and each and every one of the personnel employed by DSI who provides

Daniel J. Stermer, Receiver
Heron Pond Condominium Association, Inc.
May 1, 2024

Services pursuant to this Agreement, as well as DSI officers, directors, employees and agents (the "DSI Parties") from and against any and all claims, liability, loss, cost, damage or expense (including reasonable attorney's fees) asserted against it or any of its individual personnel, or incurred by DSI or its personnel, including addressing or responding to a subpoena or court order, arising out of or in connection with this Agreement, or performance under this Agreement, except where it is determined in a final judgment by a court of competent jurisdiction (not subject to further appeal) that such claim, liability, loss, cost, damage or expense is the direct result of the willful misconduct, dishonesty, fraudulent act or omission, or gross negligence of any DSI personnel. Such indemnity shall survive the expiration or termination by either party of this Agreement.

The DSI Parties shall not be liable to You or the Receivership Estate, or any party asserting claims on behalf of the Assignor, except for direct damages found in a final determination by a court of competent jurisdiction (not subject to further appeal) to be the direct result of the bad faith, self-dealing or intentional misconduct of DSI. The DSI Parties' aggregate liability, whether in tort, contract or otherwise, is limited to the amount of fees paid to DSI for the Services (the "Liability Cap"). The Liability Cap is the total limit of the DSI Parties' aggregate liability for any and all claims or demands by anyone pursuant to this Agreement, including liability to the Company, to any other parties hereto, and to any others making claims relating to the work performed by DSI pursuant to this Agreement.

Section 6 – Conflicts

By executing this Agreement, You and the Receivership Estate specifically waive any objection, or standing to object, to the retention, in matters unrelated to the Receivership Estate or Assignor, of DSI by banks or other institutional lenders or debt holders who are or whose affiliates are lenders to the Assignor, or bank groups which include banks who are or whose affiliates are lenders to the Assignor.

Section 7 – No Audit

You acknowledge that DSI is being engaged to provide financial support assistance and advice to You and the Receivership Estate. DSI's performance of the Services shall not constitute an audit, review or compilation, or any other type of financial statement reporting engagement that is subject to the rules of AICPA or other such state and national professional bodies. It is beyond the scope of our services to identify deficiencies in record keeping practices or procedures, or errors or irregularities in financial statements or the Company's books and records.

Section 8 – Retention of Company Documents

Regarding all documents and other materials provided to DSI by or on behalf of the Receivership Estate, including all copies thereof (the "Documents"), upon termination or expiration of this Agreement, DSI shall, at its election, 1) return such documents to the Receivership Estate, 2) destroy such documents upon three (3) days' written notice to the Receivership Estate or 3) treat

Daniel J. Stermer, Receiver
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May 1, 2024

such documents and other materials in accordance with DSI's then-existing document retention policy. Should DSI elect either alternative 1 or 2 above, DSI may retain copies of those Documents that it deems necessary to address potential post-termination issues, subject to complying with any confidentiality provisions in effect at the time of termination of the Agreement.

Section 9 – Survival

The provisions of this Agreement relating to indemnification, limitation of liability, the non-solicitation or hiring of DSI employees and all other provisions necessary to the enforcement of the intent of this Agreement will survive the termination or expiration of this Agreement.

Section 10 – Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

Section 11 – Entire Agreement, Amendment

This Agreement contains the entire understanding of the parties relating to the subject matter of this Agreement and supersedes and is intended to nullify any other agreements, understandings or representations relating to the subject of this Agreement. This Agreement may not be amended or modified except in a writing signed by the parties.

If you are in agreement with the foregoing terms and conditions, please sign and return an original copy of this Agreement to DSI's Fort Lauderdale, Florida office.

Very truly yours,



George E. Shoup III
Managing Director

AGREED AND ACKNOWLEDGED:

Daniel J. Stermer, not individually, but solely
in his capacity as Receiver of Heron Pond Condominium Association, Inc

By:  _____

Date: 5/3/24 _____