

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, NOTICE REGARDING STATUS OF
PROPERTY INSURANCE AND LIABILITY INSURANCE**

Receiver, Daniel J. Stermer (the "Receiver"), of the Heron Pond Condominium Association, Inc. (the "Association"), by and through his undersigned proposed counsel, files this notice regarding the current status of the Association's property and liability insurance policies.

Summary and Background.

1. On April 16, 2024, the Association commenced this action by the filing of a *Verified Petition For Appointment of a Receiver* for 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 the Receiver for all the Association, including all of the Association's 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. The Association 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 “Declaration”).

4. The property within the Heron Pond community is comprised of 304 individual residential units (“Units”) contained in 19 separate buildings along with all common property elements (collectively, the “Property”). As of September 12, 2023, six out of the nineteen buildings located within the Property were declared unsafe structures by the City of Pembroke Pines (the “City”) and declared to be uninhabitable. An additional 26 Units in seven of the remaining buildings have also been declared to be uninhabitable. These Units that have been declared to be uninhabitable have been vacated and secured.

5. On April 26, 2024, the Court entered an *Order Granting Verified Petition for Appointment of Receiver* (the “Order Appointing Receiver”), thereby appointing the Receiver.

6. Since his appointment, the Receiver, in conjunction and coordination with his proposed professionals, has acted swiftly to get up to speed regarding the current operations and state of affairs of the Association and to protect and preserve the Property.

7. The Declaration requires the Association to maintain property and liability insurance covering the common elements.

8. Article XIV. Insurance and Condemnation Provision of the Declaration provides, in part:

The Association shall use its best efforts to obtain and maintain adequate insurance to protect the Association, the Association property and the condominium Property required to be insured by the Association pursuant to paragraphs 14.01 and 14.02 below.

Section 14.01.

The Board of Administration of the Association shall obtain public liability and property damage insurance covering all of the Common Elements of the Condominium, and insuring the Association and the Unit Owners, as its and their interests appear, in such amount as the Board of Administration of the Association may determine from time to time. Said insurance shall include, but not be limited to, water damage, legal liability, hired automobile, non-owned automobile, and off-premises employee coverages. All liability insurance shall contain a cross-liability endorsement to cover liabilities of the Unit Owners as a group to a Unit Owner. Premium for payment of such insurance shall be paid by the Association and charged as a Common Expense.

Section 14.02

Purchase of Insurance. The Association shall obtain fire and extended coverage insurance and vandalism and malicious mischief insurance, insuring all of the insurable improvements within the Condominium, including personal property owned by the Association, in and for the interest of the Association and all Unit Owners and their mortgagees, as their interests may appear, from a company acceptable to the Board of Administration of the Association, in an amount equal to the maximum insurable replacement value, as determined annually by the Board of Administration.

9. Immediately following his appointment, the Receiver was advised by the Association that the insurance the Declaration requires the Association to maintain was in place and in good standing.

10. On May 1, 2024, the Receiver learned that the Association does not currently maintain property and casualty, windstorm and/or flood insurance coverage on the Property.

11. Based upon review of the limited books and records provided to the Receiver since his appointment and discussions with the Association's previous insurance broker, Diversified Planning Brokerage, LLC, the Association's property insurance policies were terminated on April 8, 2024. The Notice of Cancellation of Insurance received from WKFC Underwriting Managers provided the reason for cancellation is "a building that is Covered Property has been declared unsafe by a governmental authority." See attached *Coverage Termination Letter* attached as **Exhibit "A"**.

12. The Association maintains general liability insurance which will remain in place through June 20, 2024, but has been advised by the Association's insurance broker that the general commercial liability policy will not be renewed by the carrier. The Association also maintains an excess general liability umbrella policy which is set to expire in July 2024. Similarly, the carrier has advised that they will not renew the Umbrella Policy

- a. General Liability #MGL0195000- issued by Mt. Hawley Insurance Company. It provides Commercial General Liability Insurance from June 20, 2023 through June 20, 2024 in the amount of \$1 Million for each occurrence and up to \$2 Million in the aggregate. (the "GCL Policy")
- b. Excess # UMBFLF167650231- issued by Ace Property & Casualty Insurance Company provides \$1 Million in coverage for each occurrence and up to \$2 Million in excess coverage to the General Liability Policy issued by Mt. Hawley Insurance Company from July 29, 2023 through July 29, 2024. This is an excess liability policy providing coverage for bodily injury or property damage caused by the insured. (the "Umbrella Policy")

13. Since learning of the property insurance cancellation of May 1, 2024, and the impending expiration of the GCL Policy and Umbrella policy, the Receiver and his proposed advisors have been actively pursuing insurance but, given the status of the Property, the Receiver cannot be assured that he will be able to procure insurance for the Association and the Property. The legion of issues presented by the Property, coupled with the lack of available insurance products to insure the Property (*i.e.*, including "fire and extended coverage insurance and vandalism and malicious mischief insurance, insuring all of the insurable improvements within the Condominium") (*see infra.* at Article XIV. Insurance and Condemnation Provision, Section 14.02 of the Declaration) and the lack of sufficient funds on hand to properly operate the Association, are of grave concern to the Receiver. Even if insurance coverage is obtainable, the Receiver has been advised that it may take several weeks for the insurance to be underwritten, bound, and in place. The current insurance broker, Assured Partners, has advised that a new insurance carrier

will likely not insure the buildings that have been previously declared unsafe by a governmental authority.

14. Section 24(e) of the Order Appointing Receiver provides as follows:

Insurance. The Association shall continue in existence all current insurance policies it has on the Receivership Entity and/or the Receivership Estate. If the Receiver determines that insurance has lapsed or is about to lapse or there is not insurance coverages needed to insure the Receivership Estate, then the Receiver shall obtain or maintain casualty insurance regarding the Receivership Entity and/or the Receivership Estate, and liability, windstorm and/or flood insurance regarding any Property, and if reasonably necessary, professional liability and workers' compensation insurance for the Receivership Entity, all in such amounts and with such coverages as the Receiver deems necessary. The Receivership Entity shall cooperate and assist the Receiver to obtain or retain all such insurance policies which shall name the Receiver and any property.

15. In addition to the Declaration, and Order Appointing Receiver, pursuant to §718.111 (11), Fla. Statutes, the Association must maintain insurance:

(11) INSURANCE.—In order to protect the safety, health, and welfare of the people of the State of Florida and to ensure consistency in the provision of insurance coverage to condominiums and their unit owners, this subsection applies to every residential condominium in the state, regardless of the date of its declaration of condominium. It is the intent of the Legislature to encourage lower or stable insurance premiums for associations described in this subsection.

a) Adequate property insurance, regardless of any requirement in the declaration of condominium for coverage by the association for full insurable value, replacement cost, or similar coverage, must be based on the replacement cost of the property to be insured as determined by an independent insurance appraisal or update of a prior appraisal. The replacement cost must be determined at least once every 36 months.

16. The repercussions of continuing to operate and permit residents to live in the Association and guests to enter on to the Property with no insurance in place could be catastrophic. For one, hurricane season is less than a month away, starting on June 1, 2024. More importantly, the potential of an injury or accident claimed against an uninsured Association after June 20, 2024 could be devastating not just for the Association but for a potential injured resident, guest or

invitee.

17. Neither the Association nor the Receiver should undertake the risk of injury or property damage to the residents where there is no insurance available to protect against those losses.

18. The Receiver shall provide an update regarding the status of insurance by May 20, 2024, but is compelled to provide notice to the Court and to current residents and owners of the lack of property insurance and impending expiration of the GCL Policy and Umbrella Policy.

Dated: May 6, 2024

Respectfully submitted,

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/ Michael J. Niles

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CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on May 6, 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.

By: /s/ Michael J. Niles
Michael J. Niles

EXHIBIT A

Heron Pond Condominium Association, Inc. v. Heron Pond Condominium Association, Inc.
Case No. CACE 24-005243

COMMERCIAL PROPERTY CONSORTIUM POLICY
MANAGED BY WKFC UNDERWRITING MANAGERS
1 HUNTINGTON QUADRANGLE STE. 4N20
MELVILLE NY 11747

NOTICE OF CANCELLATION OF INSURANCE

Named Insured & Mailing Address:

Producer: 345

HERON POND CONDOMINIUM ASSOCIATION
8400 SOUTHWEST 1ST STREET
PEMBROKE PINES FL 33025

HULL & COMPANY, LLC
PO BOX 9005
NEW HYDE PARK NY 11040

Policy No.: WKFCC-06117-00
Type of Policy: PROPERTY CONSORTIUM
Date of Cancellation: 04/08/2024; 12:01 A.M. Local Time at the mailing address of the Named Insured.

We are cancelling this policy. Your insurance will cease on the Date of Cancellation shown above.

The reason for cancellation is A building that is Covered Property has been declared unsafe by a governmental authority.

Named Insured

HERON POND CONDOMINIUM ASSOCIATION
8400 SOUTHWEST 1ST STREET
PEMBROKE PINES FL 33025

Date Mailed:
23rd day of February, 2024



AUTHORIZED REPRESENTATIVE

COMMERCIAL PROPERTY CONSORTIUM POLICY
MANAGED BY WKFC UNDERWRITING MANAGERS
1 HUNTINGTON QUADRANGLE STE. 4N20
MELVILLE NY 11747

Named Insured: HERON POND CONDOMINIUM ASSOCIATION

Policy Number: WKFCC-06117-00

This page is separate and independent from the notice given.
We are informing you that the following parties were notified of this action.

PARTIES NOTIFIED

Named Insured
Heron Pond Condominium Association
8400 Southwest 1st Street
Pembroke Pines FL 33025

Producer
Hull & Company, LLC
PO Box 9005
New Hyde Park NY 11040

Other Party of Interest
Richmond Insurance Group
1864 Clove Road
Suite C
Staten Island NY 10304

COMMERCIAL PROPERTY CONSORTIUM POLICY
MANAGED BY WKFC UNDERWRITING MANAGERS
1 HUNTINGTON QUADRANGLE STE. 4N20
MELVILLE NY 11747

NOTICE OF CANCELLATION OF INSURANCE

Named Insured & Mailing Address:

Producer: 345

HERON POND CONDOMINIUM ASSOCIATION
8400 SOUTHWEST 1ST STREET
PEMBROKE PINES FL 33025

HULL & COMPANY, LLC
PO BOX 9005
NEW HYDE PARK NY 11040

Policy No.: WK FCC-06117-00
Type of Policy: PROPERTY CONSORTIUM
Date of Cancellation: 04/08/2024; 12:01 A.M. Local Time at the mailing address of the Named Insured.

We are cancelling this policy. Your insurance will cease on the Date of Cancellation shown above.

The reason for cancellation is A building that is Covered Property has been declared unsafe by a governmental authority.

Producer

HULL & COMPANY, LLC
PO BOX 9005
NEW HYDE PARK NY 11040

Date Mailed:
23rd day of February, 2024



AUTHORIZED REPRESENTATIVE

COMMERCIAL PROPERTY CONSORTIUM POLICY
MANAGED BY WKFC UNDERWRITING MANAGERS
1 HUNTINGTON QUADRANGLE STE. 4N20
MELVILLE NY 11747

Named Insured: HERON POND CONDOMINIUM ASSOCIATION

Policy Number: WKFCC-06117-00

This page is separate and independent from the notice given.
We are informing you that the following parties were notified of this action.

PARTIES NOTIFIED

Named Insured
Heron Pond Condominium Association
8400 Southwest 1st Street
Pembroke Pines FL 33025

Producer
Hull & Company, LLC
PO Box 9005
New Hyde Park NY 11040

Other Party of Interest
Richmond Insurance Group
1864 Clove Road
Suite C
Staten Island NY 10304

COMMERCIAL PROPERTY CONSORTIUM POLICY
MANAGED BY WKFC UNDERWRITING MANAGERS
1 HUNTINGTON QUADRANGLE STE. 4N20
MELVILLE NY 11747

NOTICE OF CANCELLATION OF INSURANCE

Named Insured & Mailing Address:

Producer: 345

HERON POND CONDOMINIUM ASSOCIATION
8400 SOUTHWEST 1ST STREET
PEMBROKE PINES FL 33025

HULL & COMPANY, LLC
PO BOX 9005
NEW HYDE PARK NY 11040

Reference: RETAILER
Policy No.: WKFCC-06117-00
Type of Policy: PROPERTY CONSORTIUM
Date of Cancellation: 04/08/2024; 12:01 A.M. Local Time at the mailing address of the Named Insured.

We are cancelling this policy. Your insurance will cease on the Date of Cancellation shown above.

The reason for cancellation is A building that is Covered Property has been declared unsafe by a governmental authority.

Your interest in this policy as an "insured" or other party of interest is being cancelled effective 04/08/2024; 12:01 A.M. Local Time at the mailing address of the named insured.

Other Party of Interest

RICHMOND INSURANCE GROUP
1864 CLOVE ROAD
SUITE C
STATEN ISLAND NY 10304

Date Mailed:
23rd day of February, 2024



AUTHORIZED REPRESENTATIVE