

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

CASE NO.: CACE24015112

DANIEL J. STERMER AS RECEIVER OF THE
HERON POND CONDOMINIUM ASSOCIATION,
INC.,

Plaintiff,

v.

HERON POND CONDOMINIUM ASSOCIATION,
INC., AND ALL UNIT OWNERS LISTED ON EXHIBIT
“D” AND OTHER INTERESTED PARTIES LISTED
ON EXHIBIT “E” TO THE COMPLAINT,

Defendants.

**PLAINTIFF’S MOTION TO TRANSFER CASE
TO THE COMPLEX BUSINESS DIVISION**

COMES NOW, Plaintiff, Daniel J. Stermer as Receiver of the Heron Pond Condominium Association, Inc., and files this Motion to Transfer Case to the Complex Business Division. In support thereof, Plaintiff states:

Background and Procedural History

1. On October 18, 2024, Plaintiff filed a Complaint for Judicial Termination of Condominium pursuant to Section 718.118, Florida Statutes.
2. Pursuant to the Order Granting Verified Petition for Appointment of a Receiver (the “Receivership Order”), entered by The Honorable Jack Tuter in Case No. 24-005243, pending in the Seventeenth Judicial Circuit in and for Broward County, Florida (the “Receivership Case”),

the Complaint is to be heard before Judge Tuter. A copy of the Receivership Order is attached as **Exhibit A.**

3. The present case seeks to dissolve the Heron Pond Condominium form of ownership, a matter that involves complex issues related to property ownership and the interests of many parties. The dissolution will affect close to 250 defendants, including residents of Heron Pond Condominium Association and other interested parties.

4. The issues in this case are directly related to the Receivership Case, as the dissolution of the condominium ownership impacts the administration and management of the Receivership Entity's assets. Given the number of parties involved and the complexity of the legal and factual issues, this case is suitable for the Complex Business Division, where Judge Tuter is already presiding over the Receivership Case.

The Receivership Order

5. Paragraph 35 of the Receivership Order provides specific guidance on handling litigation related to the Receivership Entity, including consolidation of proceedings and assignment to the proper court division.

6. Paragraph 35.c. ("Consolidation of Litigation") states:

All proceedings and/or Supplemental Proceedings commenced by the Receiver shall be filed and/or heard before this Court and/or shall be subject to assignment by the Clerk to this Court's division.

7. This provision indicates that related litigation, including the current case seeking to dissolve the Heron Pond Condominium form of ownership, should be consolidated before Judge Tuter in the Complex Business Division to ensure consistency and efficiency in handling the Receivership matters.

8. This provision consolidates and coordinate litigation arising out of or related to the Receivership Entity, thus preventing inconsistent judgments, facilitating the efficient administration of justice, and ensuring that all related matters are managed under the supervision of the same court.

9. The present case involves complex legal issues, including the dissolution of the Heron Pond Condominium form of ownership and claims affecting hundreds of parties connected to the Receivership Estate. The litigation requires significant judicial management, making it appropriate for assignment to the Complex Business Division.

10. Because Judge Tuter is already presiding over the Receivership Case, transferring this case to the Complex Business Division will promote judicial economy by allowing one judge to oversee all related matters. This transfer is also consistent with Paragraph 35(c) of the Receivership Order, which contemplates that related litigation will be heard before the same division.

11. The issues involved in this case are inextricably linked to the Receivership Case, and consolidating these proceedings before Judge Tuter will facilitate the fair and efficient resolution of the legal and factual matters, including those affecting the rights of about 250 defendants and other interested parties.

12. Florida law permits the transfer of cases to the Complex Business Division when the case involves intricate legal and factual questions, many parties, or significant judicial management. The Complex Business Division is designed to precisely handle such matters.

13. The Receivership Order support transferring the current case to the division where the Receivership Case is being managed, to ensure consistency in the application of the law and the administration of the Receivership Estate.

WHEREFORE, Plaintiff, Daniel J. Stermer as Receiver of the Heron Pond Condominium Association, Inc., respectfully requests that this Court grant this Motion to Transfer Case to the Complex Business Division and assign the case to The Honorable Jack Tuter, consistent with the Receivership Order and the interests of judicial efficiency and fairness.

Dated: October 23, 2024

Respectfully submitted,

BERGER SINGERMAN LLP
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of the Heron Pond Condominium Association, Inc.*
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Exhibit A

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.

ORDER GRANTING VERIFIED PETITION FOR APPOINTMENT OF A RECEIVER

THIS CAUSE came before the Court on April __, 2024 at __:__.m. in Broward County, Florida upon the *Verified Petition for Appointment of Receiver* (the "Petition"), filed by Heron Pond Condominium Association, Inc. The Court has reviewed the Petition, the Court file, heard argument of counsel, finds good cause for issuance of the relief requested, and been otherwise fully advised in the premises it is,

ORDERED AND ADJUDGED that:

1. The Petition is **GRANTED** as set forth below.
2. This Order shall be effective immediately upon its entry (the "Effective Date").

Accordingly, it is **FURTHER ORDERED, ADJUDGED AND DIRECTED** that:

3. Appointment. As of the Effective Date, pursuant to the Uniform Commercial Real Estate Receivership Act, §§ 714.01, *et seq.*, Florida Statutes, and the inherent authority of the Court, Daniel J. Stermer is hereby appointed by the Court as the court-appointed receiver (the "Receiver") authorized to take immediate possession and control of HERON POND CONDOMINIUM ASSOCIATION, INC. (the "Association" or

“Receivership Entity”) including all of the Receivership Entity’s “Assets”¹ and “Property,”² whether held directly, beneficially or indirectly by any person or entity (the “Receivership Estate”).

4. Acting in place of Association’s Board of Directors. From and after the Effective Date, and through the Receivership Termination Date (as defined in ¶7, below), the Receiver shall have all the powers of the Association’s Board of Directors and is authorized to, and shall act as the Association’s Board of Directors notwithstanding the unexpired term of any or all of the Directors or the Receiver not having been previously appointed to the Association’s Board of Directors. Any action taken by the Board from and after the Effective Date, and through the Receivership Termination Date, shall be null and void unless expressly adopted in writing by the Receiver in his sole and absolute discretion. During the period from and after the Effective Date, and through the Receivership Termination Date, the Receiver shall have the sole authority to confer with and resolve any issues, if at all, involving the City of Pembroke Pines, including but not limited to any Unsafe Structure Notice(s) issued by the City of Pembroke Pines.

See also ¶ 24(c), below.

¹ The term “Assets” shall include files, records, computers, devices, e-mail servers, documents, monies, leases, mortgages, securities, investments, contracts, effects, lands, agreements, judgments, bank accounts, books of accounts, rents, chooses in action, goods, chattels, rights, credits, claims both asserted and unasserted, pending court actions and appeals, files and documents in the possession of attorneys and accountants for the Receivership Entity and all other Property, whether real, personal or mixed or previously belonging to the Receivership Entity, or which, in the case of records, documents and other papers, pertain to property belonging now or previously to the Receivership Entity, or obligations of the Receivership Entity.

² The term “Property” shall include the definition set forth by § 714.02(13), Florida Statutes, which terms shall be construed broadly to give effect to the terms of this Order.

5. Oath. Within fifteen (15) calendar days of the date of this Order, Receiver shall file with this Court an Oath of Receiver.
6. Bond. The Receiver shall post a bond with the Court in the amount of \$5,000.00 effective as of the Effective Date, conditioned upon the faithful discharge of his duties as Receiver, as prescribed by this Order and by such further orders of this Court as may be made and entered.
7. Term. This Order Appointing Receiver shall commence on the Effective Date and continue during the pendency of this action and subject to the provisions of § 714.22, Florida Statutes, until the first to occur of (i) further Order of this Court including based on a request from the Receiver made in the exercise of his business judgment; (ii) until a certificate of title for the Property has been issued after any sale by Receiver or foreclosure; or (iii) the filing of a Voluntary Petition for relief filed by the Receiver, in his sole and absolute discretion, on behalf of the Association pursuant to chapter 7 or 11 of title 11 of the United States Code in the United States Bankruptcy Court for the Southern District of Florida, Broward Division, at which time the Receivership shall terminate upon motion by the Plaintiff or Receiver and an applicable Order of this Court (the date on which the Receivership terminates is hereinafter referred to as the "**Receivership Termination Date**"). If the Receivership Termination Date occurs as a result of a request by the Receiver, subsection (i), above, then the Receiver shall appoint a new Board of Directors to serve a six (6) month term, after which a new Board of Directors will be seated after an election on notice and as otherwise required by the documents governing the Association, including the Declaration of Condominium as recorded in the Broward County Official Records at Book 42216, Page 910 (as

thereafter amended), its Bylaws, Articles of Incorporation, and as otherwise required by applicable Florida law.

8. Receiver Reports.

a. 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.

b. Receiver's final report and account and discharge.

(i) Discharge of Receiver shall require a Court order upon noticed motion for approval of Receiver's final report and account and exoneration of Receiver's bond, and Receiver should obtain a hearing date on the motion no later than sixty (60) days after the Receivership Termination Date;

(ii) The motion shall contain Receiver's final report and account and set forth (i) a declaration stating what was done during the receivership, (ii) certify the accuracy of the final accounting, (iii) state the basis for the termination of the receivership, (iv) state the basis for an order for the distribution of any surplus or payment of any deficit, and (v) and set forth a final accounting with the total revenues received, the total

expenditures identified and enumerated by major categories, the net amount of any surplus or deficit, and evidence of necessary supporting facts.

9. Receiver's Powers. The Receiver hereby appointed shall have and is hereby given all of the powers, rights and duties provided under Chapter 714, Florida Statutes, and as well as the usual, necessary, and incidental powers of court appointed receivers in Florida for the purposes of managing, operating, securing, preserving, protecting, and maintaining the Receivership Estate.

10. Inventory. The Receiver shall file with this Court within thirty (30) days after the Effective Date, a detailed inventory, under oath, of all parts of the Receivership Estate over which the Receiver has been given custody under this Order.

11. Asset Freeze. Except as otherwise specified herein, all assets of the Receivership Entity and the Receivership Estate are frozen until further Order of this Court. Accordingly, all persons and entities with direct or indirect control over any assets of the Receivership Entity or the Receivership Estate, other than the Receiver, are hereby restrained and enjoined from directly or indirectly transferring, setting off, receiving, changing, selling, pledging, assigning, liquidating, or otherwise disposing of, or withdrawing, such assets. This freeze shall include, but shall not be limited to, Assets or Property of the Receivership Entity or the Receivership Estate that are on deposit or in safe deposit boxes with financial institutions such as banks, cryptocurrency exchanges, brokerage firms, clearing firms, financial institutions or any other third party. To be clear, any and all account(s) under the direct care, custody, and control of the Receiver/Receivership Estate shall not be frozen and can be utilized by the Receiver as necessary to perform his duties as determined by the Receiver and as authorized by

this Court.

12. Injunction. The powers of the officers, directors, managers, employees, partners, representatives, agents, and shareholders of the Receivership Entity are hereby suspended. Such persons and entities shall have no authority with respect to the operations or assets of the Receivership Entity, except to the extent as may hereafter be expressly granted by the Receiver. The Receivership Entity and its respective current and former, officers, directors, managers, employees, partners, representatives, and agents, and all persons receiving notice of this Order by personal service, electronic mail, facsimile transmission or otherwise, are restrained and enjoined from directly or indirectly taking any action or causing any action to be taken, without the express written agreement of the Receiver, which would:

- a. Interfere with the Receiver's efforts to take control, possession, or management of any property of the Receivership Entity or of the Receivership Estate; such prohibited actions include, but are not limited to, using self-help or executing or issuing or causing the execution or issuance of any court attachment, subpoena, replevin, execution, or other process for the purpose of impounding or taking possession of or interfering with or creating or enforcing a lien upon any Assets or Property of the Receivership Entity or of the Receivership Estate;
- b. Hinder, obstruct or otherwise interfere with the Receiver in the performance of the Receiver's duties; such prohibited actions include, but are not limited to, concealing, destroying or altering records or information, including that relating to the Receivership Entity's Assets or Property;
- c. Dissipate or otherwise diminish the value of any of the Assets or Property of the Receivership Entity or of the Receivership Estate; such prohibited actions include, but are not limited to, releasing claims or disposing, transferring, exchanging, assigning or in any way conveying any of the Assets or Property of the Receivership Entity or the Receivership Estate, enforcing judgments, assessments or claims against the Receivership Entity or its Assets or Property of the Receivership Estate, attempting to modify, cancel, terminate, call, extinguish, revoke or accelerate (the due date), of any lease, loan, mortgage, indebtedness, security agreement or other agreement executed by any of the Receivership Entity or which otherwise affects any of its Assets or Property or the Receivership Estate;

- d. Dissipate, withdraw, transfer, remove, dispose or conceal any cash, cashier's checks, funds, assets or other Assets or Property of, or within the custody, control or actual or constructive possession of the Receivership Entity or any entities constituting the Receivership Estate, including, but not limited to, all funds, personal property, equipment, inventory, or financing relating to the foregoing, monies, funds, cryptocurrencies, or securities held in the name of the Receivership Entity, whether held or maintained in safety deposit boxes, and including all funds on deposit in any bank, cryptocurrency exchange, clearing firm, brokerage firm or other financial institution, futures commission merchant, bank or savings and loan account held by, under the actual or constructive control, or in the name of the Receivership Entity, funds or property of the Receivership Entity's creditors, wherever located, whether held in the name of the Receivership Entity, or any other entity owned or controlled by the Receivership Entity;
- e. Destroy, mutilate, conceal, alter or dispose of, in any manner, any of the books and records, documents, correspondence, brochures, manuals, electronically stored data, tape records or other property of the Receivership Entity or of any Assets or Property constituting the Receivership Estate wherever located, including all such records concerning the Receivership Entity's business operations and Assets or Property; or
- f. Interfere with or harass the Receiver or interfere in any manner with the exclusive jurisdiction of this Court over the Receivership Entity and the Receivership Estate.

Further, all banks, cryptocurrency exchanges, clearing firms, brokerage firms, financial institutions, and other persons or entities which have possession, custody or control of any Assets, equipment, inventory, or financing relating to the foregoing, monies, cryptocurrencies, funds or accounts held by, in the name of, or for the benefit of, directly or indirectly, the Receivership Entity or the Receivership Estate that receive actual notice of this Order by personal service, facsimile transmission or other electronic transmission (including via electronic mail) or otherwise shall:

- g. Not liquidate, transfer, sell, convey or otherwise transfer any Assets, equipment, inventory, or financing relating to the foregoing, monies, cryptocurrencies, securities, funds and/or accounts in the name of, or for the benefit of, the Receivership Entity, or for the benefit of its creditors, except upon instructions from the Receiver;
- h. Not exercise any form of set-off, alleged set-off, lien, or any form of self-help whatsoever, or refuse to transfer any Assets, equipment, inventory, or financing

relating to the foregoing, monies, cryptocurrencies, securities, funds, and/or accounts to the Receiver's control without the permission of this Court; and

- i. Cooperate expeditiously in providing information and Assets, equipment, inventory, or financing relating to the foregoing, and/or other Assets of the Receivership Entity (including, but not limited to the foregoing assets, monies, cryptocurrencies, funds, and/or accounts) to the Receiver or at the direction of the Receiver.

13. Access to Information. The Receivership Entity and its past and/or present officers, directors, managers, agents, general and limited partners, employees, trustees, attorneys, accountants, and other professionals, as well as those acting in their place, are hereby ordered and directed to preserve and turn over to the Receiver forthwith all paper and electronic information of, and/or relating to, the Receivership Entity and the Receivership Estate; such information shall include, but not be limited to, books, records, documents, accounts, electronically stored information, passcodes, and all other instruments and papers. Without limiting the generality of the foregoing, (a) any employee, officer, representative, or agent of the Receivership Entity in possession or control (or otherwise with the ability to access) any information relating to any Receivership Estate Assets or Property, including, without limitation, books, records, documents, accounts, or other instruments, and regardless of the manner in which such information is maintained or stored, shall provide such access to the Receiver, including, without limitation, by providing the Receiver with any pertinent computer passwords, PIN numbers, access codes, and with keys or access codes to any physical location, and (b) this shall include, without limitation, any keys and combination to any locks which must be opened for access to the offices or other locations (including any storage units) of the Receivership Entity or which are otherwise needed to obtain access to any deposit box, safe, or other place for the safekeeping of records, money, or other

property consisting of or otherwise relating to any Assets or Property of the Receivership Entity.

14. Disclosure of Assets and Liabilities. The Receivership Entity and its past and/or present officers, directors, managers, agents, general and limited partners, employees, trustees, attorneys, accountants, and other professionals, as well as those acting in their place, are hereby ordered and directed to cooperate with and immediately provide the Receiver with information identifying the accounts, employees, Property or other Assets or obligations of the Receivership Entity, and shall submit in writing to the Receiver, and provide as detailed below, within thirty (30) calendar days of this Order, the following accounting information for the period of January 1, 2017, to the date of submission, which will:

- a. Identify all banks, brokerage, financial and cryptocurrency institutions, including account numbers and passcodes/login information, which hold or have held monies, cryptocurrencies, funds, commodity interests, Assets, liabilities, and other property currently and previously owned or controlled (legally, equitably or otherwise) directly or indirectly by the Receivership Entity;
- b. Identify all monies, funds, cryptocurrencies, commodity interests, real estate, assets, liabilities, and other property currently or previously owned or controlled (legally, equitably or otherwise) directly or indirectly by the Receivership Entity;
- c. Identify all monies, cryptocurrencies, funds, commodity interests, real estate, assets, liabilities, and other property received directly or indirectly by the Receivership Entity, describing the source, amount, disposition, and current location of each listed item;
- d. Identify all monies, cryptocurrencies, funds, commodity interests, real estate, assets, liabilities, and other property transferred or otherwise disposed of directly or indirectly by the Receivership Entity, describing the source, amount, disposition, and current location of each listed item, including accounts or assets of the Receivership Entity held by any bank, cryptocurrency exchange, clearing firm, brokerage firm or other financial institution located inside and/or outside the territorial United States;

- e. Identify all investors, shareholders, owners, and/or members of the Receivership Entity, including name, address, telephone number and email, account number, deposit and withdrawal dates and amounts, and amounts owed by them and/or to them by the Receivership Entity;
- f. Identify all purchase and sale contracts with third party-purchasers of assets, including real property, currently or previously owned or controlled by the Receivership Entity, and identify all contracts, contracting parties, depositors, and amounts deposited and/or paid by each such person or entity;
- g. Identify the uses and balances for each deposit made by any person or entity for the purchase and/or construction of real property owned, marketed, and/or sold by the Receivership Entity, with sufficient detail to identify the depositor, amount, and use(s) of the proceeds from such deposits and/or sales;
- h. Identify all development agreements, loan agreements, financing agreements, and any and all other agreements to which the Receivership Entity is party and/or which affect the Assets and/or Property of the Receivership Estate;
- i. Identify all taxes due, paid, unpaid, including by year and amount, and describe the payments and/or basis for the non-payment of any such tax liabilities for the Receivership Entity;
- j. Identify any and all encumbrances, lawsuits, claims, liquidated and/or unliquidated, which may affect the liquidity or value of the Assets and/or Property of the Receivership Estate;
- k. Identify all salaries, wages, bonuses, loans, distributions, or remunerations for services provided, in any form and in any amount paid directly or indirectly by, for or on behalf the Receivership Entity, to include date, amount, and payor; and,
- l. Identify all expense reimbursements and other transfers of assets of any kind greater in value than \$1,000.00, including, paid directly or indirectly by, for or on behalf of the Receivership Entity, to include date, description of asset, asset value, reason for transfer, and transferor.

Further, the Receivership Entity's past and/or present officers, directors, agents, attorneys, managers, shareholders, employees, accountants, debtors, creditors, managers and general and limited partners (if any), and other appropriate persons or entities shall answer under oath all questions which the Receiver may put to them and produce all documents as required by the Receiver regarding the business of the Receivership Entity, or any other matter relevant to the operation or administration of the receivership or the collection of

funds due to the Receivership Entity.

15. Duty to Cooperate. The Receivership Entity and its current and former officers, directors, managers, employees, partners, representatives, and all other persons or entities served with a copy of this Order, shall cooperate fully with and assist the Receiver in the performance of the Receiver's duties. This cooperation and assistance shall include, but not be limited to, providing any information to the Receiver that the Receiver deems necessary to exercising the authority and discharging the responsibilities of the Receiver under this Order; and advising all persons who owe money to the Receivership Entity that all debts should be paid directly to the Receiver. This requirement does not impinge on any natural person's right to assert applicable privileges and nothing in this requirement shall be construed to require that any natural person abandon or waive any constitutional or legal privilege which they may have available to them.

16. Possession and Turnover of Assets and Property. The Receivership Entity, as well as its agents, servants, employees, attorneys, any persons acting for or on behalf of the Receivership Entity, and any persons receiving notice of this Order by personal service, facsimile transmission or other electronic transmission (including via electronic mail) or otherwise, having possession of the Property, business, books, records, accounts, electronically stored information, passcodes, or Assets of the Receivership Entity are hereby directed to deliver the same to the Receiver, the Receiver's agents, the Receiver's attorneys and/or the Receiver's employees. The Receiver shall oversee possession of all the Receivership Estate and shall control the Receivership Estate until further order of the Court. *See also* ¶ 7, above. All persons or entities now or hereafter

in possession of Assets and/or Property, or any part thereof, shall immediately turnover all Assets and/or Property to the control of the Receiver. Further, all persons and entities owing any obligation, debt, or distribution to the Receivership Entity or the Receivership Estate shall, until further ordered by this Court, pay all such obligations in accordance with the terms thereof to the Receiver, and the Receiver's receipt for such payments shall have the same force and effect as if the Receivership Entity had received such payment.

17. Possession and Turnover of Bank Accounts. The Receivership Entity and its members, managers, and/or agents shall give to Receiver, and Receiver shall take possession of and receive from all depositories, banks, brokerages and otherwise (collectively, the "Financial Institutions"), any money on deposit in all such Financial Institutions belonging to the Receivership Entity. Additionally, the Receiver is empowered to direct and control Receivership Entity's bank accounts, wherever situated. This includes but is not limited to full access to and control over all funds and access to account balances and statements. The Receivership Entity and its members, managers, and/or agents shall cooperate fully to provide access to such accounts and the funds deposited therein as requested by the Receiver. The Receiver shall retain custody of all such property, records, and documents until further Order of this Court.

18. Authority to Open a Receiver Account. The Receiver may open a bank account at a FDIC insured financial institution designated by the Receiver (the "Receiver Account"), to deposit funds, which the Receiver shall separate from all other funds and accounts of the Receivership Estate, in amounts that suffice to make all payments that are past due and that become due on any and all mortgages, utilities, maintenance fees,

taxes, insurance, or otherwise, in accordance with the business judgment of the Receiver. The Receiver is empowered to open new bank accounts using the Receivership Entity's EIN, use a new EIN or close any such accounts.

19. Access to Bank Records and Cooperation. Any Financial Institution, cryptocurrency exchange, clearing firm, brokerage firm, business entity, or person that holds, controls, or maintains custody of any equipment, inventory, or financing relating to the foregoing, monies, cryptocurrencies, funds, accounts, commodity interests, real estate, Assets, liabilities, electronically stored information, and other Property of any kind owned, controlled, managed, or held by, on behalf of, or for the benefit of the Receivership Entity, its creditors or any other entities constituting the Receivership Estate, or has held, controlled, or maintained custody of any equipment, inventory, or financing relating to the foregoing, monies, cryptocurrencies, funds, accounts, commodity interests, real estate, Assets, liabilities, and other Property of any kind owned, controlled, managed, or held by, on behalf of, or for the benefit of the Receivership Entity or its creditors the Receivership Estate at any time since, shall:

- a. Provide to the Receiver, within ten (10) calendar days of receiving a copy of this Order, a statement setting forth: (a) the identification number of each and every such account or Asset titled in the name of the Receivership Entity, or owned, controlled, managed, or held by, on behalf of, or for the benefit of any of the Receivership Entity or its creditors; the balance of each such account, or a description of the nature and value of such Asset as of the close of business on the day on which this Order is served, and, if the account or other Asset has been closed or removed, the date closed or removed, the total funds removed in order to close the account, and the name of the person or entity to whom such account or other asset was remitted; and the identification of any safe deposit box that is either titled in the name, individually or jointly, of the Receivership Entity or is otherwise subject to access by the Receivership Entity;
- b. Upon request by the Receiver, promptly provide the Receiver with copies of all records or other documentation pertaining to such account or Asset, including, but not limited to, originals or copies of account applications, account statements, signature cards, checks, drafts, deposit tickets, transfers to and from

the accounts, all other debit and credit instructions or slips, currency transactions reports, 1099 forms, and safe deposit box logs;

- c. Prohibit the Receivership Entity and any person other than the Receiver from withdrawing, removing, assigning, transferring, pledging, encumbering, disbursing, dissipating, converting, selling or otherwise disposing of any Assets or Property of the Receivership Entity or the Receivership Estate except as directed by further Order of this Court;
- d. Deny any person other than the Receiver access to any safe deposit box that is titled in the name of any Receivership Entity or otherwise subject to access by any Receivership Entity; and
- e. Cooperate with all reasonable requests of the Receiver relating to implementation of this Order, including producing records related to the Receivership Entity and its account(s) and business(es).

20. Access to Mail. The Receiver is solely authorized to open all mail addressed to the Receivership Entity, its agents, servants, employees or representative, or all person or entities acting under or in concert with Receivership Entity. Neither the Receivership Entity nor any of its employees or agents shall open any of the mail addressed to the Receivership Entity and shall immediately turn over such mail, regardless of when received, to the Receiver. The Receiver is also authorized to instruct the United States Postmaster to hold and/or reroute mail which is related, directly or indirectly, to the business, operations or activities of the Receivership Entity. The Receiver is authorized to make copies of this mail and may, in its sole and absolute discretion, then forward this mail to the addressee thereof.

21. Access to Electronic Mail. The Receiver is authorized to instruct the website hosting company and ISP of any of the Receivership Entity to hold and/or reroute any and all electronic mail which is related, directly or indirectly, to the business, operations or activities of the Receivership Entity (the "Receiver's Electronic Mail"), including all electronic mail addressed to, or for the benefit of, the Receivership Entity or any of

such Receivership Entity's current or former officers, directors, managers, agents, partners, representatives, or employees in their capacity as such for the Receivership Entity. The website hosting company and ISP shall not comply with, and shall immediately report to the Receiver, any change of Internet or e-mail address or other instruction given by anyone other than the Receiver concerning the Receiver's Electronic Mail. The Receivership Entity shall not open any of the Receiver's Electronic Mail and shall immediately turn over such electronic mail, regardless of when received, to the Receiver. All personal electronic mail of any individual, and/or any electronic mail appearing to contain privileged information, and/or any electronic mail not falling within the mandate of the Receiver, shall be released to the named addressee by the Receiver. The foregoing instructions shall apply to any proprietor, whether individual or entity, of any private electronic mailbox, depository, business or service, or electronic mail service provider hired or used by any of the Receivership Entity. The Receivership Entity shall not open a new electronic mailbox or take any steps or make any arrangements to receive electronic mail in contravention of this Order.

22. Turnover of Records and Other Items. The Receivership Entity and its respective members, employees, officers, directors, agents and all persons and entities served with a copy of this Order are directed, forthwith, to deliver to the Receiver (i) Assets, (ii) Property, and (ii) records pertaining to the Receivership Entity and the Receivership Estate, including without limitation, all books, records, documents, electronic data, servers, computers, electronic devices, ledgers, records, files, papers, titles, contracts, leases, licenses, permits, land use entitlements, insurance policies and certificates, keys,

pass codes, construction contracts, bids, subcontracts, permits, blueprints, architectural documents, plans, drawings, and specifications, books of account, service contracts, appraisals, engineering and environmental reports, and rent rolls, as well as any receivables, bank accounts assets, monies, deposit accounts, checks, securities, deposits, rents, profits, utility deposits and/or bonds, security deposits, actions and choses in action, and any other funds on deposit in any bank, savings and loan association and/or financial institution and all other Property, tangible and intangible, real, personal, or mixed, of any kind and every kind, character and description wherever the same may be located or found and used in connection with the operation of the Receivership Entity, the Receivership Estate, and/or Property owned or controlled by the Receivership Entity, including without limitation, any deposits and security deposits previously received with respect to Assets or Property.

23. Access to Books and Records. The Association shall have access to any non-privileged books, records and documents in the Receiver's possession relating to the Receivership Entity upon reasonable notice and during business hours.

24. Specific Duties of the Receiver. The Receiver may arrange and effect the marketing and sale of Assets and/or Property in a reasonable, prudent, diligent and efficient manner. Without limitation of that general duty, the Receiver is empowered, directed and authorized by this Court to act on its behalf as Receiver and to do all things necessary for the preservation, maintenance, protection, conservation and administration of the Receivership Estate in preparation for and execution of the sale of Assets and/or Property, including, but not limited to, the following:

- a. Receiver's Entry on to Property. Upon the Effective Date, Receiver is hereby authorized and empowered to enter upon the Receivership Estate to operate,

repair, manage, insure and otherwise maintain the Receivership Estate; to properly collect and account for all income of Receivership Entity and/or the Receivership Estate to demand, collect, and receive all rents, revenues, maintenance fees, assessments, issues, and profits generated from the operation and otherwise attributable to Receivership Entity or the Receivership Estate now due, past due, or hereafter to become due; and to perform and take all necessary actions in connection therewith; and to make such distributions as allowed herein.

- b. Access to Premises. The Receiver is authorized to enter and inspect the business premises of the Receivership Entity and to take documents or other property relating to the Receivership Entity, including by breaking locks, if he deems it necessary
- c. Property Maintenance and Repair; Payments. Subject to the availability of sufficient funds from the Receivership Entity, or the Receivership Estate, the Receiver shall oversee the maintenance of the buildings, appurtenances and grounds of real Property substantially in accordance with their current condition, making such repairs and renovations as are necessary and appropriate to ensure the life, health and safety of the occupants, if any, but only to the extent the Receiver determines, unilaterally or after consultation with one or more of the Parties, that such repairs and renovations are economically feasible and in the best interest of the Receivership Estate and otherwise required to take corrective action consistent with information contained in any Unsafe Structure Notice(s) issued by the City of Pembroke Pines.
- d. The Receiver need not obtain Court approval prior to the disbursement of the funds of the Receivership Estate for expenses in the ordinary course of the administration and operation of the Receivership Entity and/or the Receivership Estate, including filing fees, costs of litigation, emergency acts deemed necessary by the Receiver to maintain the Receivership Estate and/or comply with the terms of this Order. The Receiver is also authorized to make payments and disbursements from the Receivership Estate that are necessary or advisable for carrying out the directions of, or exercising the authority granted by, this Order
- e. 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

management company or agents retained by Receiver as additional insureds and name the Receiver loss payee regarding all casualty policies.

- f. Use and Maintenance of Property. The Receivership Entity shall not permit the use of the Receivership Entity and/or the Receivership Estate or take any actions for any purpose which will or might void any required policy of insurance or which might render any loss uncollectible, or which would violate any law or government restriction.
- g. Records. The Receiver is authorized to take appropriate actions to preserve evidence, including electronic evidence.
- h. Expedited Discovery. The Receiver is authorized to issue subpoenas to obtain documents or to compel testimony of persons pertaining to the receivership and to conduct discovery in this action on behalf of the Receivership Estate. The Receiver is authorized to take expedited discovery from parties and nonparties. Parties shall produce documents, answer interrogatories and/or answer requests for admissions within three (3) calendar days of service of the Receiver's discovery requests. Parties shall sit for deposition within five (5) calendar days of the Receiver's notice. The Receiver is authorized to serve subpoenas on nonparties through electronic means (including electronic mail and/or facsimile transmission), U.S. Mail, Federal Express, other commercial overnight service, or personal service to expedite the requested discovery. Documents from nonparties shall be produced to the Receiver within three (3) calendar days of service of the subpoena. Nonparties shall sit for deposition within five (5) calendar days of the Receiver's notice.
- i. Pre-Receivership Expenses. The Receiver shall not be liable for any expenses incurred regarding the Receivership Entity and/or the Receivership Estate incurred prior to entry of this Order, nor shall the Receiver be required to use any revenues collected after the Receiver takes possession of the Receivership Entity and/or the Receivership Estate for payment of any expenses incurred regarding the Receivership Entity and/or the Receivership Estate prior to the Receiver having taken control of the Receivership Entity and/or the Receivership Estate. Notwithstanding the foregoing, the Receiver may, in the Receiver's sole and absolute discretion, pay those expenses incurred in the normal and ordinary course of business of the Receivership Entity and/or the Receivership Estate in which it was incurred prior to the Receiver taking control of the Receivership Entity and/or the Receivership Estate, if, and only if, the payment of any such pre-existing expenses is necessary and critical to the ongoing operation of the Receivership Entity and/or the Receivership Estate (e.g., real estate taxes and utilities). It is within the Receiver's sole and absolute discretion to determine which expenses incurred prior to the Receiver taking control of the Receivership Entity and/or the Receivership Estate, if any, were incurred in the normal and ordinary course of business and the payment of which is necessary and critical to the ongoing operation of the Receivership Entity and/or the Receivership Estate.

- j. Consultants and Professionals. The Receiver is empowered to employ legal counsel, upon application and approval by the Court, to furnish legal advice to the Receiver for such purposes as may be necessary during the period of receivership.. The Receiver is also empowered 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. Upon appointment, the Receiver intends on employing: Eisinger Law, as special counsel for the Association to continue collection efforts and other actions of the Association; Berger Singerman LLP as special counsel to the Receiver; and Development Specialists, Inc. ("DSI") as financial advisor all pursuant to further application and approval by this Court.
- k. Studies, Surveys and Inspections. The Receiver may obtain appropriate environmental studies, surveys and inspections of the Receivership Estate.
- l. Communications with Governmental Entities. The Receiver may communicate and negotiate with any necessary governmental entities regarding the Receivership Estate, including but not limited to the City of Pembroke Pines.
- m. Compliance with Investigations. The Receiver is authorized to cooperate with regulatory and other government authorities with regard to any inquiry and to provide access and produce records upon request with or without subpoena.
- n. Right to Enter into Contracts. The Receiver is authorized to apply to this Court for authority to enter contracts consistent with the authority granted by this Order.
- o. Executory Contracts. With Court approval, the Receiver may adopt or reject an executory contract of the Receivership Entity relating to the Receivership Estate. The Court may condition the Receiver's adoption and continued performance of the contract on terms and conditions appropriate under the circumstances. If the Receiver does not request Court approval to adopt or reject the contract within a reasonable time after the Receiver's appointment, the Receiver is deemed to have rejected the contract. The Receiver's performance of an executory contract before Court approval of its adoption or rejection is not an adoption of the contract and does not preclude the Receiver from seeking approval to reject the contract in his business judgment
- p. Permits, Approvals, Entitlements. The Receiver has the authority to apply for and transfer to Receiver any permits, licenses, plats, tentative plats, registrations, approvals, permissions, extensions, renewals, concurrencies or entitlements for the Receivership Estate for and on behalf of and in the name of one or more the Receivership Entity.

q. Prospective Purchasers. The Receiver may initiate and receive communications with parties interested in purchasing Assets or Property of the Receivership Estate and show the Receivership Estate to interested buyers. If the Receiver receives oral or written communications from interested buyers, the Receiver shall notify the Receivership Entity.

25. Receiver's Certificates. The Receiver may issue one or more Receiver's Certificates of Indebtedness ("Certificates") to evidence borrowings from the Parties and from nonparties. The principal and interest evidenced by such Certificates shall be *pari passu* with all other Certificates, and all such Certificates shall be a first and prior lien and security interest upon the Receivership Estate, and upon all rents, earnings and income of the Receivership Estate. The lien of each Certificate shall be prior and superior to the right, title and interest in the Receivership Estate of all parties to this action, and to the lien of mortgages and other security instruments and promissory notes and other obligations secured (the "Security Documents"). The lien of each Certificate shall be prior and superior to the interest or lien of all judgment holders, mechanics' lien claimants, partners and creditors of the Receivership Entity. Without limitation of the foregoing, the sums evidenced by each Certificate shall also be secured by the Receiver's lien and security interests. If the Receiver desires to borrow funds, or funds from sources other than the Parties then the Receiver shall petition this Court (with notice to the Parties) for authority to issue Supplemental Certificates of Indebtedness ("Supplemental Certificates"), and this Court may authorize the specific amounts and terms of any Supplemental Certificates, the specific uses of any funds borrowed thereunder, and the lien priority of any Supplemental Certificates.

26. Compensation. 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. The Receiver's hourly rate is discounted to \$495 per hour for this receivership only, which is a 10% discount from the Receiver's normal rate. The Receiver 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. If no objection thereto is filed within ten (10) days following the filing thereof, such statement of account may be paid. If an objection is timely filed, such statement of account shall not be paid absent further order of the Court, however, the Receiver may seek entry of an order from the Court authorizing payment on an expedited basis. The Receiver and its professionals reserve the right to seek a success or transaction fee, which shall be subject to further Court approval. For the avoidance of doubt, Receiver and his retained professionals shall not disclose attorney-client privileged communications, including work-product or other privileged information, and may redact from any filing time entries and/or references to tasks that would reveal privileged information, if any party challenges the reasonableness of the fees and costs incurred and paid by Receiver pursuant to this Order. The Receiver shall otherwise take reasonable steps to provide the Court with confidential, non-public information through the use of under seal filings, as may be required from time to time for *in camera* inspection by the Court.

27. Interference. Except as otherwise requested or authorized by the Receiver or until further order of this Court, any persons or entities which receive actual notice of this Order are enjoined from interfering in any manner with the management of the Receivership Entity and/or the Receivership Estate and acting or purporting to act on behalf of the Receivership Entity, the Receivership Estate, and/or the Receiver.
28. Tax Returns. The Receiver is not responsible for filing any state, local, and/or federal

tax returns for the Receivership Entity or as may otherwise be necessary to maintain the Receivership Estate.

29. Judicial Immunity. The Receiver and the Receiver's attorneys and agents: (i) may rely on all outstanding court orders, judgments, decrees and rules of law, and shall not be liable to anyone for their own good faith compliance with any such order, judgment, decree or rule of law; (ii) may rely on, and shall be protected in any action upon, any resolution, certificate, statement, opinion, report, notice, consent, or other document believed by them to be genuine and to have been signed or presented by the proper parties; (iii) shall not be liable to anyone for their good faith compliance with their duties and responsibilities as Receiver, or as attorney or agent for Receiver; and (iv) shall not be liable to anyone for their acts or omissions, except upon a finding by this Court that such acts or omissions were outside the scope of their duties or were grossly negligent. Any person or entity seeking to file a lawsuit against the Receiver or his professionals shall, consistent with the Barton doctrine, first seek leave of this Court for permission to file such a lawsuit which shall not be granted absent a showing by the prospective plaintiff of a prima facie case of liability. *Desulme v. Rueda*, 252 So. 3d 293, 294 (Fla. 3d DCA 2018) (noting that the Barton doctrine, recognized under Florida law, requires that "before suit is brought against a receiver leave of the court by which he was appointed *must be obtained*" and that the party seeking leave to sue the receiver "must demonstrate a prima facie case of liability *before* the appointing court may grant leave to file suit.") (quotation omitted) (emphasis supplied); *One South Ocean Drive 2000, Ltd. v. One Ocean Boca, LLC*, 182 So. 3d 872, 874 (Fla. 4th DCA 2016) (same); *Lawrence v. Goldberg*, 573 F.3d 1265, 1269 (11th Cir. 2009) (the Barton

doctrine applies to actions against a receiver as well as a receiver's counsel) (cited approvingly in *Rosetto v. Murphy*, No. 16-81342-CIV-MARRA/MATTHEWMAN, 2017 WL 2833453, at *4 (S.D. Fla. June 30, 2017)). Except for matters in subsection (iv) of the preceding sentence, persons dealing with the Receiver shall only look to the Receivership Estate and bond posted by the Receiver to satisfy any liability, and neither the Receiver nor the Receiver's attorneys or his agents shall have any personal liability to satisfy any such obligation(s).

30. Further Instructions. The Receiver may at any time upon notice to the Receivership Entity, apply to this Court for further or other instructions or powers, whenever such instructions or additional powers shall be deemed necessary to enable the Receiver to perform properly and legally the duties of a receiver and to maintain, protect and preserve the Receivership Estate. The Receiver may seek authority to expand the scope of the receivership over other entities that (1) conducted any business or personal affairs related to or arising from the Receivership Estate, (2) commingled or pooled assets with the Receivership Entity, or (3) otherwise participated in the transfer or receipt of Assets or Property stemming from the Receivership Entity or from any business or personal activity of the members, managers, officers, directors, and/or owners of the Receivership Entity. The Receiver is authorized and has standing to petition the Court to be appointed as a termination trustee upon the termination of the Association pursuant to Section 718.118, Florida Statutes, to assist in the disposition of any property and administration of the affairs of the Association following and related to the same.
31. Miscellaneous. The Receiver may record this Order in the Public Records of Broward County, Florida, and in any other county in the State of Florida where Assets or

Property of the Receivership Defendants may be found to exist, and serve this Order on any person the Receiver deems appropriate to further his responsibilities. Copies of this Order may be served by any means, including by way of personal service, Federal Express or other commercial overnight service, electronic mail or facsimile transmission, upon any financial institution or any other entity or any other person that may have possession, custody, or control of any documents or assets of the Receivership Entity or that may be subject to any provision of this Order. The Receiver and his retained professionals are specially appointed to serve process, and/or effectuate service of process, including this Order and all other papers in this cause.

32. Jurisdiction. The Court retains jurisdiction of this matter to amend or modify this Order and enter such further orders as it deems necessary and proper. This Court shall retain jurisdiction over any action filed against the Receiver and any of his retained professionals and/or agents, based upon acts or omissions committed in their representative capacities. *See also* ¶ 29, above.

33. Prosecution and Tolling of Claims. The Receiver is authorized, empowered and directed to investigate, prosecute, defend, intervene in or otherwise participate in, compromise, settle, and/or adjust actions in any state, federal or foreign court or proceeding of any kind, including the action captioned above, as may in the Receiver's discretion be advisable or proper to recover and/or conserve any Receivership Estate Asset or Property, including on behalf of the Receivership Entity and for the benefit of its creditors against: (1) those individuals and/or entities which the Receiver may claim have wrongfully, illegally or otherwise improperly misappropriated, transferred or received any assets, properties, equipment, inventory, or financing relating to the

foregoing, monies, proceeds or other items of value directly or indirectly traceable from the Receivership Entity, including but not limited to each of their respective officers, directors, managers, employees, partners, representatives, agents, brokers, advisors or any persons acting in concert or participation with them; or (2) any transfers of assets, properties, equipment, inventory, or financing relating to the foregoing, monies, proceeds or other items of value directly or indirectly traceable from the creditors of the Receivership Entity. Such actions may include, but not be limited to, seeking imposition of constructive trusts, seeking imposition of equitable liens, unjust enrichment, breach of fiduciary duties, disgorgement of commissions and/or profits, recovery and/or avoidance of fraudulent transfers under § 726.101, *et seq.*, Florida Statutes, or otherwise, rescission and restitution, the collection of debts, and such Orders or other relief supported in law or equity from this Court as may be necessary to enforce this Order. This Order shall confer sufficient standing under Section 718.118, Florida Statutes, acting solus or in conjunction with other unit owners, to permit the Receiver to petition the Court for the termination of the Association and pursue such other related equitable relief to administer the affairs of the Association following such termination in the interests of the Receivership Estate. By this authorization and empowerment, this Court specifically finds and holds that the Receiver is not and shall not be barred from bringing any of the foregoing proceedings or subject to defenses by third-parties due to the doctrine *in pari delicto*. Further, as to any claim or cause of action which accrued prior to the date of this Order, any applicable statute of limitation is tolled during the period of this receivership.

34. Waiver of Privileges. The Receiver is specifically empowered to and authorized to

waive any attorney-client or any other recognized privilege held by the Receivership Entity as deemed appropriate by the Receiver, in the exercise of his professional business judgment.

35. Consolidation of Litigation. Except for the instant action and any police or governmental actions, actions against the Receivership Entity, other than compulsory counterclaims that may be pleaded in response to claims filed by the Receiver or claims asserted by the Receiver, are stayed until further Order of this Court, including: All past, present and future civil legal proceedings of any nature, including, but not limited to, bankruptcy proceedings, arbitration proceedings, foreclosure actions, default proceedings, or other actions of any nature against: (a) the Receiver, in the Receiver's capacity as such; (b) any of the Receivership Entity's Property or Property derived from the Receivership Entity or its creditors' funds, wherever located; (c) the Receivership Entity, including its subsidiaries, successors, assigns, and entities owned or controlled by it, which have been sued for, or in connection with, any action taken by them while acting in such capacity, whether as plaintiff, defendant, third-party plaintiff, third-party defendant, or otherwise (such proceedings are hereinafter referred to as "Ancillary Proceedings"). Such matters shall remain stayed during the course of this case, unless it is determined that any such Ancillary Proceedings are wholly independent from this case and this Order and entitled to proceed after application to the Court pursuant to § 714.14(4), Florida Statutes. Any such determination regarding the stay of any Ancillary Proceedings shall be determined by this Court.

- a. Parties to any and all Ancillary Proceedings are enjoined from commencing or continuing any such legal proceeding, or from taking any action, in connection with any such proceeding, including, but not limited to, the issuance or

employment of process, except in response to proceedings commenced by the Receiver.

- b. Except for proceedings commenced by the Receiver ("Supplemental Proceedings"), all Ancillary Proceedings remain stayed in their entirety, and all courts, arbitration tribunals or other fora having any jurisdiction thereof are enjoined from taking or permitting any action until further Order of this Court.
- c. All proceedings and/or Supplemental Proceedings commenced by the Receiver shall be filed and/or heard before this Court and/or shall be subject to assignment by the Clerk to this Court.
- d. Any and all Supplemental Proceedings commenced by the Receiver shall be brought as follows:
 - (1) The Florida Rules of Civil Procedure shall apply to Supplemental Proceeding(s), except where inconsistent with the provisions of this Order.
 - (2) The Clerk of the Court shall docket a Supplemental Proceeding under this matter's case number, and a separate Supplemental Proceeding number, and shall assign such supplemental proceeding to this Court's division.
 - (3) All pleadings and other papers filed in a Supplemental Proceeding shall contain a separate sub-caption and the Supplemental Proceeding number in addition to the caption and the case number applicable to the main case.
- e. This litigation ~~stay/injunction~~ against claims against the Receivership Entity shall cease upon termination of the receivership by Order of this Court, subject to Parties seeking permission from this Court to proceed with any claims against any of the Receivership Entity. To be clear, any of the foregoing proceedings to which individual defendants are joined who is not the Receivership Entity shall not be stayed as to those individual defendants.

DONE AND ORDERED in Chambers in Broward County, Florida, on this 26th day of

April, 2024.



HONORABLE CHIEF JUDGE
Circuit Court Judge

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