

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

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

CASE NO.: CACE-24-015112

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.

**U.S. BANK TRUST NATIONAL ASSOCIATION, AS TRUSTEE OF THE
LODGE SERIES III TRUST’S ANSWER AND AFFIRMATIVE DEFENSES**

Defendant, U.S. BANK TRUST NATIONAL ASSOCIATION, AS TRUSTEE OF
THE LODGE SERIES III TRUST (“Defendant” or “US Bank”), by and through undersigned
counsel, hereby files this Answer and Affirmative Defenses and states as follows:

INTRODUCTION

1. Admitted as to what Plaintiff seeks.
2. The documents speak for themselves.
3. The document speaks for itself.
4. Defendant is without knowledge; therefore denied. Defendant demands strict proof thereof.
5. Defendant is without knowledge as to whether operation and performance of the Heron Pond Condominium Association, Inc. (the “Condominium”) is an impossibility or a fiction; therefore denied. Admitted that in its current state, the Condominium creates vast economic waste.

6. Admitted that the Receiver and the Joining Unit Owners are invoking the equitable powers of this Court to effect a termination of the Condominium. Defendant is without knowledge as to the rest of the allegations; therefore denied.

THE PARTIES AND JOINING OWNERS

PLAINTIFF

7. The document speaks for itself.

8. The document speaks for itself.

JOINING OWNERS

9. Without knowledge; therefore denied.

10. Without knowledge; therefore denied.

11. Without knowledge; therefore denied.

12. Without knowledge; therefore denied.

13. Without knowledge; therefore denied.

14. Without knowledge; therefore denied.

DEFENDANTS

15. The document speaks for itself.

16. Admitted.

17. Admitted.

18. Admitted.

19. Admitted that US Bank is an interested party; however, without knowledge as to any "Other Interested Parties;" therefore denied.

20. Admitted that the Joining Owners are included as nominal defendants. As to the information allegedly identified in Exhibit "C" to the Complaint, the document speaks for itself.

21. As to the information identified in Exhibit “C” to the Complaint, the document speaks for itself. US BANK is without knowledge as of the rest of the allegations,; therefore denied.

JURISDICTION AND VENUE

22. Admitted for jurisdictional purposes only.

23. Admitted for venue purposes only.

24. Without knowledge; therefore denied.

25. Without knowledge; therefore denied.

26. Without knowledge; therefore denied.

TERMINATION

27. Admitted.

28. The document speaks for itself.

29. Admitted as to what Fl. Stat. §718.118 provides relative to Equitable Relief only.

30. Without knowledge; therefore denied.

31. Admitted that the City rendered certain units and residential buildings uninhabitable and unsafe. Without knowledge as to what issues resulted in the City’s determination or, the structural issues of the residential buildings; therefore denied.

32. The document speaks for itself.

33. As to the April 26, 2024, Order, the document speaks for itself. US Bank has no knowledge on whether the Receiver has and continues to act as Receiver for the Association since the entry of the Receivership Order; therefore denied.

34. Admitted that certain reports from the receiver have been filed with the Court and/or posted on the Receiver’s website. Without knowledge as to the rest of the allegations;therefore denied.

35. Without knowledge; therefore denied.
36. The documents speak for themselves.
37. The document speaks for itself. Admitted that it was posted on the Receiver's Website.
38. The document speaks for itself.
39. The document speaks for itself. Without knowledge as to whether the Receiver participated in a meeting with certain City representatives and officials the morning of July 23, 2024; therefore denied.
40. Admitted.
41. Admitted.
42. Without knowledge; therefore denied.
43. Without knowledge; therefore denied.
44. Without knowledge; therefore denied.
45. Without knowledge; therefore denied.
46. Without knowledge; therefore denied.
47. Without knowledge; therefore denied.
48. Admitted that several buildings have been shuttered since the summer of 2023. Without knowledge as to the remaining allegations; therefore denied.
49. Admitted that Unit Owners with mortgages encumbering their Units must continue paying the monthly mortgages. Without knowledge as to the remaining allegations; therefore denied.
50. Without knowledge; therefore denied.
51. Admitted that this is what Fl. Stat. §116.2.2 states.
52. Without knowledge; therefore denied.

53. Without knowledge; therefore denied.

54. Without knowledge; therefore denied.

55. Without knowledge; therefore denied.

56. Without knowledge; therefore denied.

57. Admitted that the Condo Property has not been repaired, reconstructed, and/or rebuilt. Without knowledge as to whether it can or cannot be repaired, reconstructed, and/or rebuilt in a reasonable amount of time due to the financial condition of the Association and the Unit Owners; therefore denied.

58. Admitted that Plaintiff is invoking the equitable powers of this Court to affect a termination of the Condominium. US Bank is without knowledge as to Plaintiff's motives to do so; therefore denied.

59. Without knowledge; therefore denied.

60. Without knowledge; therefore denied.

61. Without knowledge; therefore denied.

62. Admitted that this is what Plaintiff proposes and requests from this Court.

WHEREFORE, Defendant respectfully requests that this Court order the payout of any proceeds from the sale of the Condominium to be distributed in a manner fair and consistent with the condominium unit owners' relative stakes and interest in the Condominium.

AFFIRMATIVE DEFENSES

1. For its first affirmative defense, US Bank states that Unit Owner, Andrice Heritier, executed a certain Note and Mortgage¹ on or about October 4, 2007, which US Bank owns and holds. Said Mortgage was recorded in the Public Records of Broward County Florida, on November 1, 2007 at Book 44773 and Pages 557 - 575 and, encumbers real property located at:

¹ The Note and Mortgage were subsequently modified by way of certain Loan Modification Agreements.

8311 SW 5th Street, Unit 106, Pembroke Pines, FL 33025, and legally described as CONDOMINIUM UNIT NO. 106, IN BUILDING NO. 8, OF HERON POND CONDOMINIUM, a Condominium, according to the Declaration of Condominium thereof, as recorded in Official Records Book 42216, Page 910, of the Public Records of Broward County, Florida.

In the event the Court grants Plaintiff's claims and the Condominium sold, US Bank claims an interest in any excess proceeds by virtue of said Mortgage. US Bank is entitled to set off from any proceeds that may result from the sale of the Condominium, to be distributed to it in proportion to US Bank's relative stake, interest, and first lien position in the aforementioned Unit and the common areas of the Condominium and in the Condominium as a whole, as applicable.

RESERVATION OF AFFIRMATIVE DEFENSES

US Bank reserves the right to amend these affirmative defenses and/or raise additional affirmative defenses that may have been inadvertently omitted or are discovered through the course of discovery.

PRAYER FOR ATTORNEYS FEES AND COSTS

US Bank has retained undersigned counsel to represent it in this matter and has agreed to pay reasonable attorney's fees and costs; it seeks an award of same for having to defend this action.

WHEREFORE, Defendant, U.S. BANK TRUST NATIONAL ASSOCIATION, AS TRUSTEE OF THE LODGE SERIES III TRUST, respectfully requests this Honorable Court to protect Defendant's interests, award costs and reasonable attorney's fees as provided by applicable Statutes and the Florida Rules of Civil Procedure, and grant Defendant such other and further relief as the Court deems just and proper under the circumstances.

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that a true and correct copy of the foregoing was served on all counsel of record via the Florida e-Filing portal on December 19th, 2024:

GHIDOTTI | BERGER LLP

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ASSOCIATION, AS TRUSTEE OF THE LODGE
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By: /s/ Anya E. Macias

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