

**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 "C" AND
OTHER INTERESTED PARTIES LISTED ON
EXHIBIT "D" TO THE COMPLAINT,

Defendant(s).

ANSWER AND AFFIRMATIVE DEFENSES

Defendant, Nationstar Mortgage LLC (**Nationstar**), by and through undersigned counsel, hereby answers the Complaint and asserts the following affirmative defenses.

INTRODUCTION

1. Admitted this is an action to terminate the condominium. Nationstar denies Plaintiff is entitled to any relief against Nationstar and demands strict proof thereof.

2. Nationstar states that this paragraph contains no allegations directed at Nationstar and therefore no response this paragraph is required. To the extent a response is required, Nationstar states that it does not know whether the document attached as Exhibit A is a true and correct copy of the Declaration. Nationstar further states that if Exhibit A is a true and correct copy of the Declaration, that it speaks for itself and to the extent the allegations in paragraph 2 contradict the actual Declaration, the language of the Declaration controls.

3. Nationstar states that this paragraph contains no allegations directed at Nationstar and therefore no response this paragraph is required. To the extent a response is required, Nationstar does not know whether the allegations in paragraph 3 are true, therefore denied.

4. Nationstar states that this paragraph contains no allegations directed at Nationstar and therefore no response this paragraph is required. To the extent a response is required, Nationstar does not know whether the allegations in paragraph 4 are true, therefore denied.

5. Nationstar states that this paragraph contains no allegations directed at Nationstar and therefore no response this paragraph is required. To the extent a response is required, Nationstar does not know whether the allegations in paragraph 5 are true, therefore denied.

6. Nationstar states that this paragraph contains no allegations directed at Nationstar and therefore no response this paragraph is required. Nationstar further states that the allegations in paragraph 6 appear to call for a legal conclusion to which no response is required. To the extent a response is required, Nationstar does not know whether the allegations in paragraph 6 are true, therefore denied.

THE PARTIES AND JOINING OWNERS

7. Nationstar states that this paragraph contains no allegations directed at Nationstar and therefore no response this paragraph is required. To the extent a response is required, Nationstar states that it does not know whether the document attached as Exhibit B is a true and correct copy of the Receivership Order. Nationstar further states that if Exhibit B is a true and correct copy of the Receivership Order, that it speaks for itself and to the extent the allegations in paragraph 7 contradict the actual Receivership Order, the language of the Receivership Order controls.

8. Nationstar states that this paragraph contains no allegations directed at Nationstar

and therefore no response this paragraph is required. To the extent a response is required, Nationstar states that it does not know whether the document attached as Exhibit B is a true and correct copy of the Receivership Order therefore denied. Nationstar further states that if Exhibit B is a true and correct copy of the Receivership Order, that it speaks for itself and to the extent the allegations in paragraph 8 contradict the actual Receivership Order, the language of the Receivership Order controls.

9. Nationstar states that this paragraph contains no allegations directed at Nationstar and therefore no response this paragraph is required. To the extent a response is required, Nationstar does not know whether the allegations in paragraph 9 are true, therefore denied.

10. Nationstar states that this paragraph contains no allegations directed at Nationstar and therefore no response this paragraph is required. To the extent a response is required, Nationstar does not know whether the allegations in paragraph 10 are true, therefore denied.

11. Nationstar states that this paragraph contains no allegations directed at Nationstar and therefore no response this paragraph is required. To the extent a response is required, Nationstar does not know whether the allegations in paragraph 11 are true, therefore denied.

12. Nationstar states that this paragraph contains no allegations directed at Nationstar and therefore no response this paragraph is required. To the extent a response is required, Nationstar does not know whether the allegations in paragraph 12 are true, therefore denied.

13. Nationstar states that this paragraph contains no allegations directed at Nationstar and therefore no response this paragraph is required. To the extent a response is required, Nationstar does not know whether the allegations in paragraph 13 are true, therefore denied.

14. Nationstar states that this paragraph contains no allegations directed at Nationstar and therefore no response this paragraph is required. To the extent a response is required,

Nationstar states that it does not know whether the document attached as Exhibit C is a true and correct copy of the Written Consents of the Joining Owners therefore denied. Nationstar further states that if Exhibit C is a true and correct copy of the Written Consents of the Joining Owners and the Joining Owners consent is valid, the document speaks for itself and to the extent the allegations in paragraph 14 contradict the actual Written Consents of the Joining Owners, the Written Consents of the Joining Owners controls to the extent the joining owners actually consented and such consent was valid.

15. Nationstar states that this paragraph contains no allegations directed at Nationstar and therefore no response this paragraph is required. To the extent a response is required, Nationstar states that it does not know whether the document attached as Exhibit D is a true and correct copy of all Heron Pond Unit Owners, therefore denied.

16. Nationstar states that this paragraph contains no allegations directed at Nationstar and therefore no response this paragraph is required. Nationstar further states that the allegations in paragraph 16 appear to call for a legal conclusion to which no response is required. To the extent a response is required, Nationstar does not know whether the allegations in paragraph 16 are true, therefore denied.

17. Nationstar states that this paragraph contains no allegations directed at Nationstar and therefore no response this paragraph is required. Nationstar further states that the allegations in paragraph 17 appear to call for a legal conclusion to which no response is required. To the extent a response is required, Nationstar does not know whether the allegations in paragraph 17 are true, therefore denied.

18. Admitted this is an action to terminate the condominium. Nationstar denies Plaintiff is entitled to any relief against Nationstar and demands strict proof thereof.

19. Nationstar admits that it has an interest in the litigation and the property whose address is 420 SW 83rd Way (Building 7, Unit 107), Pembroke Pines, Florida 33025, by virtue of its first position lien recorded in the Official Records of Broward County at Book 50506, Page 623. Nationstar is without knowledge of the remaining allegations in paragraph 19 therefore denied.

20. Nationstar states that this paragraph contains no allegations directed at Nationstar and therefore no response this paragraph is required. Nationstar further states that the allegations in paragraph 20 appear to call for a legal conclusion to which no response is required. To the extent a response is required, Nationstar does not know whether the allegations in paragraph 20 are true, therefore denied.

21. Nationstar states that this paragraph contains no allegations directed at Nationstar and therefore no response this paragraph is required. To the extent a response is required, Nationstar incorporates its response regarding Exhibit C above. Nationstar further states that it does know whether the remaining allegations in paragraph 21 are true, therefore denied.

JURISDICTION AND VENUE

22. Admitted for jurisdictional purposes only.

23. Admitted.

24. Nationstar denies the allegations in paragraph 24. Specifically, Plaintiff failed to comply with Section XXV Rights Reserved Unto Institutional First Mortgagees which requires the Association to give written notice of, among other issues, any damage or condemnation to condominium property and any items requiring mortgagee consent. Plaintiff further failed to comply with the Termination requirements set forth in Section X.

25. Nationstar states that this paragraph contains no allegations directed at Nationstar

and therefore no response this paragraph is required. To the extent a response is required, Nationstar states it has no knowledge of the allegations in paragraph 25, therefore denied.

26. Nationstar states that this paragraph contains no allegations directed at Nationstar and therefore no response this paragraph is required. To the extent a response is required, Nationstar states it has no knowledge of the allegations in paragraph 25, therefore denied.

TERMINATION

27. Admitted this is an action to terminate the condominium. Nationstar denies Plaintiff is entitled to any relief against Nationstar and demands strict proof thereof.

28. The allegations in paragraph 28 of the Complaint refer to documents or records which speak for themselves. To the extent the allegations in paragraph 28 contradict Section XI, the Declaration controls.

29. The allegations in paragraph 29 of the Complaint refer to the Florida Statutes which speak for themselves. To the extent the allegations in paragraph 29 contradict the Florida Statutes, the Florida Statutes control.

30. This paragraph calls for a legal conclusion to which no response is needed, to the extent a response is required, Nationstar denies the allegations in paragraph 30.

31. Nationstar lacks sufficient knowledge or information as to the allegations in paragraph 31 of the Complaint. To the extent a response is required, Nationstar denies the allegations in paragraph 31.

32. The allegations in paragraph 32 of the Complaint refer to documents or records which speak for themselves. To the extent the allegations in paragraph 32 contradict the referenced Receiver Motion filed in the Receivership Case, the Receiver Motion controls, subject to a finding that the allegations within are supported by competent, substantial evidence. To the extent a further

response is required, Nationstar denies the allegations in paragraph 32 because it does not know if they are true.

33. Nationstar lacks sufficient knowledge or information as to the allegations in paragraph 33 of the Complaint. To the extent a response is required, Nationstar denies the allegations in paragraph 33.

34. Nationstar lacks sufficient knowledge or information as to the allegations in paragraph 34 of the Complaint. To the extent a response is required, Nationstar denies the allegations in paragraph 34.

35. Nationstar lacks sufficient knowledge or information as to the allegations in paragraph 35 of the Complaint. To the extent a response is required, Nationstar denies the allegations in paragraph 35.

36. Nationstar states that it does not know whether the documents attached as Exhibit F is a true and correct copy of the City's Unsafe Structure Notices, therefore denied. Nationstar further states that if Exhibit F is a true and correct copy of the City's Unsafe Structure Notices, the document speaks for itself and to the extent the allegations in paragraph 36 contradict the City's Unsafe Structure Notices, the City's Unsafe Structure Notices control.

37. Nationstar states that it does not know whether the documents attached as Exhibit G is a true and correct copy of the ACG Engineering Report, therefore denied. Nationstar further states that if Exhibit G is a true and correct copy of the ACG Engineering Report, the document speaks for itself and to the extent the allegations in paragraph 37 contradict the ACG Engineering Report, the ACG Engineering Report controls. Nationstar denies the remaining allegations in paragraph 37 because it does not know if they are true.

38. The allegations in paragraph 38 of the Complaint refer to documents or records

which speak for themselves. To the extent the allegations in paragraph 38 contradict the ACG Engineering Report, the ACG Engineering Report controls.

39. The allegations in paragraph 39 of the Complaint refer to documents or records which speak for themselves. To the extent the allegations in paragraph 39 contradict the ACG Engineering Report, the ACG Engineering Report controls.

40. The allegations in paragraph 40 of the Complaint refer to documents or records which speak for themselves. To the extent the allegations in paragraph 40 contradict the City's Unsafe Structure Notices, the City's Unsafe Structure Notices control.

41. Nationstar lacks sufficient knowledge or information as to the allegations in paragraph 41 of the Complaint. To the extent a response is required, Nationstar denies the allegations in paragraph 41.

42. Nationstar lacks sufficient knowledge or information as to the allegations in paragraph 42 of the Complaint. To the extent a response is required, Nationstar denies the allegations in paragraph 42.

43. Nationstar lacks sufficient knowledge or information as to the allegations in paragraph 43 of the Complaint. To the extent a response is required, Nationstar denies the allegations in paragraph 43.

44. Nationstar lacks sufficient knowledge or information as to the allegations in paragraph 44 of the Complaint. To the extent a response is required, Nationstar denies the allegations in paragraph 44.

45. Nationstar lacks sufficient knowledge or information as to the allegations in paragraph 45 of the Complaint. To the extent a response is required, Nationstar denies the allegations in paragraph 45.

46. Nationstar lacks sufficient knowledge or information as to the allegations in paragraph 46 of the Complaint. To the extent a response is required, Nationstar denies the allegations in paragraph 46.

47. The allegations in paragraph 47 of the Complaint refer to documents or records which speak for themselves. To the extent the allegations in paragraph 47 contradict the 25-year inspection letters, the 25-year inspection letters control.

48. Nationstar lacks sufficient knowledge or information as to the allegations in paragraph 48 of the Complaint. To the extent a response is required, Nationstar denies the allegations in paragraph 48.

49. Nationstar lacks sufficient knowledge or information as to the allegations in paragraph 49 of the Complaint. To the extent a response is required, Nationstar denies the allegations in paragraph 49.

50. Nationstar lacks sufficient knowledge or information as to the allegations in paragraph 50 of the Complaint. To the extent a response is required, Nationstar denies the allegations in paragraph 50.

51. The allegations in paragraph 51 of the Complaint refer to the Florida Statutes which speak for themselves. To the extent the allegations in paragraph 51 contradict the Florida Statutes, the Florida Statutes control.

52. Nationstar lacks sufficient knowledge or information as to the allegations in paragraph 52 of the Complaint. To the extent a response is required, Nationstar denies the allegations in paragraph 52.

53. Nationstar lacks sufficient knowledge or information as to the allegations in paragraph 53 of the Complaint. To the extent a response is required, Nationstar denies the

allegations in paragraph 53.

54. Nationstar lacks sufficient knowledge or information as to the allegations in paragraph 54 of the Complaint. To the extent a response is required, Nationstar denies the allegations in paragraph 54.

55. Nationstar lacks sufficient knowledge or information as to the allegations in paragraph 55 of the Complaint. To the extent a response is required, Nationstar denies the allegations in paragraph 55.

56. Nationstar lacks sufficient knowledge or information as to the allegations in paragraph 56 of the Complaint. To the extent a response is required, Nationstar denies the allegations in paragraph 56.

57. Nationstar lacks sufficient knowledge or information as to the allegations in paragraph 57 of the Complaint. To the extent a response is required, Nationstar denies the allegations in paragraph 57.

58. This paragraph calls for a legal conclusion to which no response is needed, to the extent a response is required, Nationstar denies the allegations in paragraph 58.

59. Nationstar states that this paragraph contains no allegations directed at Nationstar and therefore no response this paragraph is required.

60. This paragraph calls for a legal conclusion to which no response is needed, to the extent a response is required, Nationstar denies the allegations in paragraph 60.

61. This paragraph calls for a legal conclusion to which no response is needed, to the extent a response is required, Nationstar denies the allegations in paragraph 61.

62. This paragraph calls for a legal conclusion to which no response is needed, to the extent a response is required, Nationstar denies the allegations in paragraph 62.

RESPONSE TO REQUEST FOR RELIEF CLAUSE

Nationstar denies Plaintiff is entitled to any relief against Nationstar in this action, denies Plaintiff is entitled to damages, costs, or attorney's fees from or against Nationstar, and demands strict proof thereof.

AFFIRMATIVE DEFENSES

Nationstar, having answered the Complaint, now asserts the following Affirmative Defenses thereto:

1. *Failure to State a Claim* – Plaintiff fails to state a claim against Nationstar upon which relief can be granted.
2. *Nationstar's First-Position Lien* – Nationstar holds first priority as the mortgagee under the mortgage attached to the subject property located at 420 SW 83rd Way (Building 7, Unit 107), Pembroke Pines, Florida 33025. The mortgage was executed by borrower Norman Hislop on January 21, 2014, and it was recorded in the Official Records of Broward County as Instrument No. 112066229. The total amount due to Nationstar under the mortgage will be provided under separate affidavit/notice of claim; however, the face value of the mortgage demonstrates an amount of \$182,430.00 lent to Mr. Hislop. To the extent the court orders the Heron Pond Condominium be terminated pursuant to Fla. Stat. § 718.118 and/or approves the sale of the Condominium or other activities that may generate proceeds or assets related to Unit 107, in whole or in part, Nationstar should be paid a proportionate share of the proceeds or assets based upon the value of Unit 107, as set forth in paragraph 11 of the mortgage, and any other applicable provisions thereof.
3. *Conditions Precedent* - Plaintiff failed to comply with conditions precedent to termination because it failed to comply with Section XXV Rights Reserved Unto Institutional First

Mortgagees which requires the Association to give written notice of, among other issues, any damage or condemnation to condominium property and any items requiring mortgagee consent. Plaintiff further failed to comply with the Termination requirements set forth in Section X.

4. *Right to Contest* – Should the court enter a termination plan, Nationstar reserves the right to contest pursuant to Fla. Stat. § 718.117(6).
5. *Full and Complete Payment* – Should the court enter a termination plan, Nationstar states that any termination plan sought must provide for the full and complete payment of Nationstar’s mortgage to satisfy Nationstar’s lien against Unit 107 from the proceeds resulting from the sale of Unit 107.
6. *Reservation of Rights* – Nationstar reserves its right to exercise any remedies it may have under the mortgage and subject note against Norman Hislop to the extent the amount received under the termination plan is not sufficient to satisfy Norman Hislop’s obligations under the note and mortgage unless personal liability has been discharged.
7. *12 U.S.C. §4617(f)* – The Plaintiff’s requests for relief are barred by 12 U.S.C. §4617(f), which precludes courts from taking any action, including the imposition of any injunctive relief, to restrain or affect the exercise of powers or functions of the Conservator Federal Housing Finance Agency while Fannie Mae remains in federal conservatorship.
8. *12 U.S.C. §4617(j)(3)* – The Plaintiff’s requests for non-monetary relief are barred by 12 U.S.C. §4617(j)(3), which (1) precludes any levy, attachment, garnishment, foreclosure, or sale without the prior express consent of the Conservator Federal Housing Finance Agency, (2) precludes any foreclosure sale from extinguishing Fannie Mae’s deed of trust or subordinating Fannie Mae’s lien without the prior express consent of the Conservator

Federal Housing Finance Agency, (3) precludes the attachment of any involuntary lien to property of the conservatorship estate of Fannie Mae, and (4) preempts any state law to the contrary.

9. *12 U.S.C. §4617(a)(7)* – The Plaintiff’s requests for relief are barred, in whole or in part, by *12 U.S.C. §4617(a)(7)*, which limits external interference with the Federal Housing Finance Agency’s actions as conservator by providing that “when acting as conservator or receiver, the Agency shall not be subject to the direction or supervision of any other agency of the United States or any State in the exercise of the rights, powers, and privileges of the Agency,” and preempts any state law to the contrary.

Nationstar expressly reserves the right to amend, supplement, or otherwise add to these affirmative defenses as litigation progresses and additional information is discovered.

TROUTMAN PEPPER LOCKE LLP

Dated: January 29, 2025

By: /s/ Anthony Calenzo, Esq.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on January 29, 2025, a true and correct copy was served by E-service on: **Brian G. Rich, Esq.**, Berger Singerman LLP, 201 East Las Olas Blvd., Suite 1500, Fort Lauderdale, FL 33301, brich@bergersingerman.com; jwertman@bergersingerman.com; mniles@bergersingerman.com; and **Alejandro “Alex” Alonso II, Esq.**, Eisinger Law, 4000 Hollywood Blvd., Suite 265 South, Hollywood, FL 3302, eisingerlitigation@gmail.com; astivelman@eisingerlaw.com; aalonso@eisingerlaw.com; krodriguez@eisingerlaw.com.

/s/ Anthony Calenzo, Esq.
Attorney