

**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL
CIRCUIT IN AND FOR MIAMI-DADE COUNTY, FLORIDA**

CASE NO: 2022-007798-CA-01

SECTION: CA22

JUDGE: Beatrice Butchko Sanchez

Ana Danton

Plaintiff(s)

vs.

Hammocks Community Association Incorporated

Defendant(s)

_____ /

**AGREED ORDER TRANSITIONING THE RECEIVERSHIP INTO A MONITORSHIP,
DISCHARGING JUDGE DAVID M. GERSTEN (RET.) AS RECEIVER, AND RETAINING
JUDGE DAVID M. GERSTEN (RET.) AS COURT MONITOR**

THIS CAUSE having come before the Court on the Receiver's Motion to Transition the Receivership Into a Monitorship, Discharge Judge David M. Gersten (Ret.) as Receiver, and Retain Judge David M. Gerten (ret.) as Court Monitor (the "**Motion**") for the HAMMOCKS COMMUNITY ASSOCIATION INCORPORATED (the "Association"), and the Court having reviewed the Motion and being informed that this order was agreed to by the parties, and being fully advised in the premises, it is hereby

ORDERED AND ADJUDGED:

1. The Receiver's Motion is GRANTED.
2. The Receivership is hereby TERMINATED.
3. The Receiver Judge David M. Gersten (ret.) is FULLY DISCHARGED as Receiver of the Hammocks Community Association Incorporated.
4. The newly elected Advisory Board of Directors is hereby transitioned to the full-functioning Board of Directors of the Hammocks Community Association Incorporated, which is currently

composed of the following individuals, some of whom hold officer positions as noted:

- a. Idalmen “Chicky” Adisson, Vice-President
- b. Pete Cabrera, Treasurer
- c. Fernando Figueira
- d. Juan Franco
- e. Kristen Gurucharri
- f. Don Kearns, President
- g. Frank Perez, Secretary

5. The Receiver shall have no further obligations to the Court or any Party remaining, except as stated in this Order in his role as Court Monitor. The Receiver shall file his final fee application including a final application for all of his professionals within fifteen (15) days from the date of this Order.
6. Upon discharge, the Receiver and his professionals are hereby held harmless from and relieved of any and all liabilities (other than for acts involving a finding by the Court of malfeasance, bad faith, gross negligence, or reckless disregard of their duties) to any person or entity for their good faith compliance with their duties and responsibilities as Receiver or in their capacity as the Receiver’s professionals, including without limitation any and all liabilities, claims, demands, or legal proceedings arising from or relating to any and all duties, acts, and transactions of the Receiver or his professionals pursuant to or in connection with the Appointment Order or other Orders of this Court.
7. The Receiver is not responsible for any tax filings of the Association.
8. The Court hereby ratifies, confirms, and approves the Receiver’s acts, including acts through his professionals, as being correct and proper and in the best interest of the Receivership, and the parties to this action, including without limitation those disclosed by the pleadings, reports,

applications, and other papers filed with this Court.

9. Pursuant to the unanimous request of the Advisory Board of Directors at a duly noticed, open Meeting and the record evidence before this Court, a permanent injunction in the form of a monitorship is hereby GRANTED over the Hammocks Community Association Incorporated with the appointment by this Court of Judge David M. Gersten (ret.) as the initial Court Monitor, or in his absence a successor of his choosing subject to this Court's approval who will serve until further order of this Court.
10. A Court Monitor must be independent and impartial, with expertise in financial auditing, legal matters, and governance, and without any conflicts of interest with the Association or its Members. Consistent with the Association's governing documents, the Court Monitor and the Board of Directors shall be the governing body of the Association.
11. The Court Monitor serves as an agent of this Court and must seek authority from this Court to act on such matters not authorized in this Order, Chapter 720, Florida Statutes, or the Association's governing documents.
12. As the initial Court Monitor, Judge David M. Gersten (ret.) shall continue to: a) have full, immediate access to the Association's financial and bank records and Board and Committee minutes; b) be permitted to attend all Board and Committee meetings; c) make recommendations to the Board and its Committees; d) make decisions for the Board, as needed, including when (due to the absence of Board members) such a decision is needed to break a tie, or otherwise as deemed necessary by the Monitor, with Court approval; e) approve the retention and termination of all vendors, attorneys, accountants, and other professionals as well as the payment of all expenses; and, f) otherwise oversee the Association's operations to ensure strict compliance with this Court's Orders, the Association's rules and regulations, and the Association's Bill of Rights, and otherwise secure the policies instituted by the Receiver and his team during the receivership consistent with the Court's Order.
13. The Court Monitor, Judge David M. Gersten (ret.), and Gordon Rees Scully Mansukhani, LLP,

(or his and its successor) shall each be named an additional insured on all applicable Association insurance policies for the duration of the Court Monitorship and acquire insurance as necessary for the Association, including coverage for the benefit of the Court Monitor in compliance with his duties for the Association or as is customarily provided to Trustees.

14. The Association shall compensate the Court Monitor for the professional services provided under this Order, plus reimbursement of reasonable out-of-pocket expenses incurred to carry out the provisions of this Order. The Court Monitor shall make an application to the Court for payment of his monitor fees and (if any, his accompanying professional fees) and costs quarterly within 30 days of the end of the calendar quarter. If no objection is filed within 10 days of such application, the Court may award the fees without hearing.
15. No individual or entity may sue the Court Monitor or the Association for actions taken by the Court Monitor in his capacity as Court Monitor without first obtaining permission from this Court.
16. All allegations of fraud, corruption, or misappropriation of homeowner funds shall be submitted to the Court Monitor. Any Member with a reasonable suspicion of fraud, corruption, or misappropriation of funds by a member of the Board of Directors shall submit evidence supporting their suspicion to the Court Monitor. Evidence may include financial records, communication transcripts, or other relevant documentation.
17. Upon receiving evidence, the Court Monitor shall conduct an initial assessment to determine the credibility and seriousness of the allegations. If the evidence provided appears substantial and warrants further investigation, the Court Monitor shall proceed to notify the accused Member(s) of the Board of Directors about the allegations against him/her/them. The notification shall be made in writing and include a summary of the evidence provided by the Member. This provision is in addition to any rights any member would have in common law or under Florida Statutes.
18. The Court Monitor shall thoroughly investigate the allegations, which may include reviewing financial records, interviewing relevant parties, and gathering additional evidence as necessary.

Throughout the investigation, the Court Monitor shall maintain confidentiality to the extent possible to protect the privacy of all parties involved. The investigation should be completed within a reasonable timeframe, considering the allegations' complexity and the availability of information. The Court Monitor may require and be authorized to hire professionals to aid his investigation.

19. Upon completing the investigation, the Court Monitor shall make written findings. If the Court Monitor finds evidence of fraud, corruption, or misappropriation of funds, the Court Monitor shall take appropriate actions, which may include removal of a Board Member for cause and referring the matter to law enforcement authorities or recommending the Association take legal action against such person(s) or entity(ies). This Court shall retain jurisdiction over the monitorship and as necessary to effectuate this provision of the Court's Order.
20. If the Court Monitor determines insufficient evidence to substantiate the allegations, the Court Monitor shall inform the Member who raised the suspicion and provide a summary of his findings to the Board of Directors.
21. The Court Monitor retains the discretion to decide whether to report the results of the investigation to the entire membership of the Association. This decision should be based on the severity of the allegations, the potential impact on the Association, and the community's best interests.
22. The Court Monitor shall file an annual report within thirty (30) days of the Election regarding the outcome of the Election (the "Election Report").
23. The Court Monitor shall file an annual report by December 1st of each year evaluating the Association's financial status, budget, and allegations of corruption, if any (the "Monitor Report").
24. The Court Monitor shall record a copy of this Order in the Official Public Records of Miami-Dade County, Florida, and post a copy of the recorded Order on the Hammocks Website.

25. The Court retains jurisdiction concerning all matters related to the Receivership and the Court Monitorship described herein.

DONE and **ORDERED** in Chambers at Miami-Dade County, Florida on this 27th day of August, 2024.



2022-007798-CA-01 08-27-2024 2:22 PM

Hon. Beatrice Butchko Sanchez

CIRCUIT COURT JUDGE

Electronically Signed

No Further Judicial Action Required on **THIS MOTION**

CLERK TO **RECLOSE** CASE IF POST JUDGMENT

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