

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

CASE NO: 2020-025266-CA-01

SECTION: CA05

JUDGE: Vivianne Del Rio

**National Concrete Preservation, Inc.**

Plaintiff(s)

vs.

**Mirador Master Association, Inc. et al**

Defendant(s)

**SECOND AMENDED ORDER APPOINTING MELANIE E. DAMIAN, ESQ. AS  
RECEIVER OVER MIRADOR MASTER ASSOCIATION, INC.**

THIS CAUSE came before the Court on October 31, 2022, November 30, 2022, December 13, 2022, January 4, 2023, January 17, 2023, and February 28, 2023 in proceedings held on Defendants/Crossclaimants/Third-Party Plaintiffs, Mirador 1000 Condominium Association, Inc. (“**Mirador 1000**”) and Mirador 1200 Condominium Association, Inc.’s (“**Mirador 1200**”) Motion for Appointment of a Receiver for Defendant/Crossclaim Defendant, Mirador Master Association, Inc. (“**Master Association**” or “**Association**”), and the Court, having reviewed the Motion, filings, and testimony and evidence of record, and having heard argument from counsel otherwise being otherwise fully advised in the premises, and for the reasons stated on the record, it is hereby:

ORDERED AND ADJUDGED that:

1. The motion for the appointment of a Receiver is granted, as stated on the record at the hearings referenced above, including the Court’s finding that a Receiver is necessary to protect and preserve the assets of the Association from deterioration and waste, and to protect the rights of the members of the Association. In addition, the record became clear that the majority of the pre-receivership board of directors of the Association believed a receiver was in the best interest of the Association.
2. Melanie E. Damian, Esq. (the “**Receiver**”) is hereby appointed as the Receiver over the Master

Association and its property, with full and complete power, authority, management, administration, and operations over the entire Master Association's property, operations, and business, including, but not limited to the Master's property, finances, accounts, and any employees or agents, and all other matters of the Master Association, pending further Order of the Court. The Receiver shall have all the powers, authority and remedies granted to a homeowners' association pursuant to Chapter 720, Fla. Stat. in addition to any other powers, authority and remedies pursuant to Order of the Court. The Receiver shall have full operational authority of the Master Association to act as an agent of the Court and a neutral, third party with all of the power and authority granted to a board of directors pursuant to Ch. 720, Fla. Stat., the Master's Declaration of Covenants, By-Laws, and Articles of Incorporation, and Florida law.

3. The Receiver shall post a receiver bond in the amount of \$20,000.00.
4. The Receiver shall take possession and control of, and is empowered to manage, the Association and its property, including, without limitation, its accounts. The Master Association and its current representatives, attorneys, accountants, vendors, employees, and all others currently associated with Master, including its now prior Board of Directors, are instructed to cooperate with the Receiver in all matters including providing account information, log-in and passwords, financial information, documents, copies of contracts, and all other requests. The Master Association and its representatives, attorneys and agents, and its now prior Board of Directors, shall immediately turn over all books and records, including, without limitation, those required to be maintained under section 720.303, Fla. Stat., bank accounts and statements, accounts receivable and payable, contracts, keys, permits, access to any platform for communication with members or others, passcodes, passwords, usernames, computers, devices, software accounts, tangible and intangible property, claims, causes of action, authority, and choses in action, real property and personal property (the **"Receivership Property"**).
5. All financial institutions or banks with knowledge of this Order are ordered to immediately turn over all financial records and control of any and all accounts to the Receiver, Melanie Damian.
6. Stay. A stay is hereby imposed, prohibiting all persons and entities from commencing or continuing any litigation against the Association or executing, garnishing, attaching, or levying on any assets of

the Association during the pendency of this receivership. This case is stayed for a period of sixty (60) days from the date of this order, at which time the stay shall automatically lapse unless extended by this Court. The Receiver's performance and enforcement of the terms of this order shall not be stayed.

7. Inventory and Periodic Reports. Within sixty (60) days of the date of this Order, the Receiver shall file with the Court an initial report and initial inventory under oath of the Master Association's property coming under the Receiver's control or possession and of which the Receiver is hereby given custody. Additional monthly reports detailing the Association's bank account balances, lease revenues, assessments made and collected, and the payment of Association expenses will be prepared and filed by the Receiver every sixty (60) days thereafter.

8. Possession of Receivership Property. The Receiver shall take possession and control of the Association and the Receivership Property. All persons and entities in possession of any Receivership Property shall immediately surrender possession to the Receiver and in no event later than five (5) days from the date of this Order. The Receiver shall collect rents, dues, assessments, profits, and revenues from the Receivership Property. The Receiver shall have unfettered access and inspection rights to any accounts, records, documents, files, and computer data, equipment, and systems, in any way related to the Receivership Property. The Receiver is empowered to break and/or change any locks necessary to gain access and entry to any of the Association's property. The local police department in the jurisdiction in which the property is located shall assist the Receiver in gaining access and entry to such property.

9. Specific Receivership Duties. The Receiver shall have broad authority to manage, preserve, protect, and maintain the Receivership Property and the Association and to take any action the Receiver considers appropriate or expedient including setting the amount of assessments, special assessments, or fees due from the membership. Without limiting the Receiver's general duties in any way, the Receiver shall have at least the following specific duties and responsibilities to:

- i. investigate and review the Association's outstanding bills and expenses and determine the priority of items to be paid;

- ii. interview and retain the services of a professional management company for the Association;
- iii. inspect the Receivership Property including the grounds, facilities, amenities, and ensure it all remains, or is returned to, and is maintained on the Association's property;
- iv. manage the financial and business affairs of the Association to ensure payment of all legitimate and necessary Association expenses;
- v. interview and retain a Certified Public Accountant to prepare audited financial statements as required by Statute or the Association's governing documents;
- vi. borrow funds, through conventional loans, receiver certificates of indebtedness, or other means and sources, to meet the ongoing administrative expenses or other liquidity needs of the receivership and pledge whatever assets of the Association are necessary to obtain such loans;
- vii. pay any sum the Receiver deems necessary or advisable to preserve, conserve, or protect any asset or property on which the Association has a lien or in which the Association has a financial or property interest, and pay off and discharge any liens, claims, or charges of any nature against such property;
- viii. institute, prosecute, maintain, defend, intervene, and otherwise participate in any legal proceeding by or against the Association or in which the Association or its creditors or members have any interest, and represent in every way the Association, including following an appropriate investigation, affirmatively seeking to resolve such claims;
- ix. investigate any matter related to the conduct of the business of the Association, including, but not limited to, any claim of the Association against any individual or entity, and institute appropriate legal or other proceedings to prosecute such claims;
- x. investigate any matter related to the conduct of the business of the Association related to transfers of funds, or past payments resulting in the improper depletion of the Association's assets and finding any such improper payment, reversing said payments, and obtaining the return of said property;
- xi. execute, acknowledge, and deliver, in person or through a general or specific delegation, any

instrument necessary for any authorized purpose, and any instrument executed under this paragraph shall be valid and effective as if it had been executed by the Association's officers by authority of its board of directors;

xii. adopt a budget in accordance with the Association's governing documents;

xiii. levy and adopt any special assessment required to fulfill the Receiver's duties; and

xiv. employ legal counsel or other professionals on behalf of the Receiver or the Association as deemed necessary by the Receiver.

10. Return to Master Association. At some time following the Receiver's Initial Report, the Receiver should recommend to this Court a process to orderly transition the Association back to its members in accordance with the Association's governing documents.

11. Receiver and Professional Fees. The Receiver is specifically empowered to hire and employ legal counsel, engineers, contractors, accountants, investigators, and consultants ("**Outside Professionals**") to furnish legal, accounting, and other advice to the Receiver, including without limitation a forensic accounting for the pertinent periods and for such purposes as may be reasonable and necessary during the period of receivership. The Receiver and her Outside Professionals shall be compensated by the Association for the professional services provided pursuant to this Order. Additionally, the Receiver and her Outside Professionals shall be entitled to reimbursement of reasonable out-of-pocket expenses to the extent that same are reasonably and necessarily incurred by the Receiver and/or his Outside Professionals to carry out the provisions of this Order. The Receiver and her Outside Professionals shall be paid by the Association on a bi-monthly basis. To be paid, the Receiver must file a statement of account with the Court on behalf of the Receiver and her Outside Professionals, to be approved by the Court within ten (10) days of filing. Such approval shall be without a hearing unless an objection is filed within the ten (10) days.

12. Priority of Payments. The Association's revenues are to be applied by the Receiver with respect to the items set forth below, generally in the following order of priority in a commercially reasonable manner to: (i) the actual reasonable fees and costs of the Receiver and his Outside Professionals, including, without limiting the generality of the foregoing, the expenses of the receivership, all as approved by the Court; and

(ii) the reasonable costs and expenses of operating the Association, including property management, the costs of supplies, reasonable and necessary repairs, maintenance, utilities, insurance premiums, and other similar current operating expenses of the Association.

13. Management of the Association. Subject to the terms of this Order, the Receiver is empowered and directed to manage the Association in her broad discretion, including conserving, protecting, maintaining, and repairing the Association property as reasonable prudence dictates, providing for the payment of and making arrangements for necessary repairs and proper maintenance of the Association property, conducting inspections and, in general, managing the Association so that it is operated in accordance with generally accepted practices in the area, to enforce contracts and other agreements with respect to the Association and to compromise disputes regarding same, such actions to be taken in the Receiver's name in his capacity as the Receiver for the Association. The Receiver shall have all powers generally and specifically vested in the Association's Board of Directors, plus any special powers hereby granted pursuant to this Order.

14. Professional Management. The nature of the operations of a homeowners' association requires the services of a professional management company. The Association currently lacks satisfactory professional management, and given the immediate needs of the Association, the Receiver shall have the authority to negotiate a contract with a property manager for a commercially reasonable term with a 60-day termination provision. It is understood that many of the Receiver's duties under this Order shall be delegated by the Receiver to the property manager, subject to the Receiver's oversight and the Receiver being ultimately responsible for the management of the Association as set forth in this Order. The Court acknowledges that the Receiver is deemed president and sole director of the Association.

15. Contracts Entered into by the Receiver. All instruments or contracts executed by the Receiver shall be entered into on behalf of the Association and shall indicate that the Receiver is acting solely in her capacity as Receiver for the Mirador Master Association.

16. Existing Contracts. The Receiver is empowered to honor or terminate existing contracts, and to enter into additional contracts, for goods and services reasonably required for the operation of the Association to the extent the Receiver deems appropriate, except as otherwise specifically prevented by the Court.

17. Expenditures. The Receiver may make expenditures with respect to the Association that are necessary or desirable for its operation, maintenance, and repair, and the amount of each such expenditure shall, at the option of the Receiver, be paid out of current operating revenues of the Association. The Receiver may open any additional bank accounts deemed prudent, including but not limited to, a separate Receivership Operating Account, a Receivership Reserve Account, a Security Deposit Account, or a Money Market Account, so long as any such accounts are maintained with a bank whose deposits are FDIC insured.

18. Discovery. The Receiver shall have subpoena power and may serve discovery to obtain records or testimony as may be required to fulfil her duties or the purpose of this order to preserve, protect, and maintain the Association.

19. Insufficient Revenues. In the event the Association's revenues are not sufficient to meet its monthly operating expenses, the Receiver may, but is not required to, obtain direction from the Court as to how revenues should be allocated to cover expenses. Otherwise, the Receiver is granted broad authority to determine, in her own reasonable opinion or upon advice of Outside Professionals, what expenses must be paid first. In the event of a shortfall, the Receiver bears no personal responsibility for funding the shortfall; however, the Receiver is permitted to levy special assessments to cover the expenses of the Association and any expenses under this Order.

20. Availability of Records. The Association's agents, servants, attorneys, accountants, employees, owners, managers, affiliates, representatives, and assigns shall promptly make available to the Receiver: (i) all books and records of account and records of vendor payables (with aging reports), records of receipts and disbursements, ledgers, journals, check registers, check stubs, checkbooks, statements of operation, and all other accounting records of any kind or description in their possession or under their control relating to the Association; and (ii) all records relating to legal demands made upon the Association, any pending lawsuits or arbitration matters against or involving the Association, any pending tenant/purchaser applications, and any other outstanding requests made upon the Association. The Receiver shall be entitled to copy any such document at the expense of the Association.

21. Counsel and Legal Proceedings. The Receiver is empowered to employ independent legal counsel to provide legal advice to the Receiver for such purposes as may be necessary and appropriate during the

period of receivership, including but not limited to initiating such legal proceedings reasonably necessary to assist the Receiver in performing his duties and collecting on amounts due to the Association. The Receiver is also specifically empowered to employ legal counsel on behalf of the Association.

22. No Litigation Without Court Permission. Other than presently pending proceedings involving the Association, which action shall be stayed as set forth above, no individual or entity may sue the Association, or sue the Receiver for actions taken in her capacity as Receiver, without first obtaining the permission of this Court.

23. Additional Receiver Powers. The Receiver may, at any time upon prior written notice to the parties in this action, apply to the Court for further and other instructions or powers, whenever such instructions or powers may be deemed necessary to enable the Receiver to perform properly and legally the duties of the office of the Receiver to maintain, operate, preserve, and protect the Receivership Property, the members of the Association, and the residents of the property.

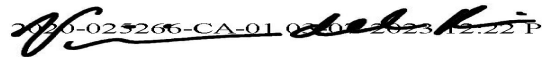
24. No Interference with the Receiver. All homeowners, residents, tenants, prior Board members, insurers, purported Board members, and any other parties acting by, through, or under any of the foregoing persons or entities, and those in concert or participation with them who receive notice of this Order, are hereby enjoined from interfering with the operations of the Association by the Receiver and the Receiver's agents and employees. All parties receiving notice of this Order are hereby notified that the Receiver has the sole, broad authority to act on behalf of the Association; no other person purporting to be an officer or agent of the Association shall have any authority to bind or speak on behalf of the Association unless and until this Order is modified stating otherwise or the receivership is terminated. The Court retains the right to hold any party on actual notice of this Order in contempt of court for interfering with or hindering the duties of the Receiver.

25. Termination of Receivership. The receivership established by this Order shall terminate on such date this Court determines that no just reason or cause for the continuation of the receivership shall exist. Upon discharge, the Receiver shall submit her final accounting for approval by the Court and, upon approval thereof, the Receiver may be discharged from office.



26. Cooperation and Assistance. The officers, board members (whether disputed or undisputed), agents, employees, contractors, servants, insurers, brokers, and attorneys of the Association and those in active concert or participation with them who receive actual notice of this Order shall cooperate and assist in the turnover of the Receivership Property as contemplated by this Order. The Receiver shall receive the complete cooperation of all non-parties in complying with the provisions of this Order, including banks and other financial institutions in possession, control, or with access to any assets, accounts, books, and records of the Association.

**DONE** and **ORDERED** in Chambers at Miami-Dade County, Florida on this 7th day of March, 2023.

  
2020-025266-CA-01 03-07-2023 12:22 PM

2020-025266-CA-01 03-07-2023 12:22 PM

Hon. Vivianne Del Rio

**CIRCUIT COURT JUDGE**

Electronically Signed

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

**CLERK TO RECLOSE CASE IF POST JUDGMENT**

**Electronically Served:**

Brian Matthew Engel, bme@lubellrosen.com  
Brian Matthew Engel, sharon@lubellrosen.com  
Cary A Lubetsky, cal@khllaw.com  
Cary A Lubetsky, eservicemia@khllaw.com  
Cary A. Lubetsky, cal@khllaw.com  
Christopher E Perse, cperse@dvllp.com  
Donald N Jacobson, donald@smfirm.com  
Donald N Jacobson, kassandra@smfirm.com  
Donald N Jacobson, reception@smfirm.com  
Francisco Touron III, Frank@TouronLaw.com  
Francisco Touron III, evelyn@touronlaw.com  
Geraldyn M Passaro Mrs., Passaro@litchfieldcavo.com  
Geraldyn M Passaro Mrs., donaldson@litchfieldcavo.com  
Geraldyn M Passaro Mrs., sterl@litchfieldcavo.com  
Gissell Jorge, gjorge@boydlawgroup.com

Gissell Jorge, servicemia@boydlawgroup.com  
Gissell Jorge, pcespo@boydlawgroup.com  
John W. Salmon, service@sd-adr.com  
Jose H Garcia, jgarcia@cuevaslaw.com  
Jose H Garcia, vramirez@cuevaslaw.com  
Jose H Garcia, jtorres@cuevaslaw.com  
Kristina L Puente, KPuente@VLPLaw.com  
Kristina L Puente, VLPCEpleadings@gmail.com  
Lauren S. Fallick, lfallick@klugerkaplan.com  
Lauren S. Fallick, clong@klugerkaplan.com  
Lauren S. Fallick, service@klugerkaplan.com  
Lucas Joel Sanchez, lucas@turonlaw.com  
Maia Dombey, mdombey@klugerkaplan.com  
Maia Dombey, miglesias@klugerkaplan.com  
Marcus Antonio Nielsen, mnielsen@boydlawgroup.com  
Marcus Antonio Nielsen, ekravets@boydlawgroup.com  
Marcus Antonio Nielsen, servicemia@boydlawgroup.com  
Marissa Analiese Reichel, mreichel@klugerkaplan.com  
Marissa Analiese Reichel, gparado@klugerkaplan.com  
Martin G. Zilber, mgz@khllaw.com  
Melanie Damian, mdamian@dvllp.com  
Melanie Damian, lfd@dvllp.com  
Michael Bogen, michael@condolaw.com  
Michael Bogen, eservice@condolaw.com  
Michael Bogen, Jennifer@condolaw.com  
Russell Landy, rlandy@dvllp.com  
Russell Landy, jflores@dvllp.com  
STEPHANIE CARLTON, carlton@litchfieldcavo.com  
STEPHANIE CARLTON, donaldson@litchfieldcavo.com  
Salvatore H. Fasulo, shf@khllaw.com  
Salvatore H. Fasulo, eservicemia@khllaw.com  
Samuel A Persaud, melissa@persaudlaw.net  
Samuel A Persaud, pleadings@persaudlaw.net  
Stephanie S Khouri, skhouri@klugerkaplan.com  
Stephanie S Khouri, crosabal@klugerkaplan.com  
Stephanie S Khouri, stephkhour@gmail.com  
Steven I Silverman, ssilverman@klugerkaplan.com  
Steven I Silverman, clong@klugerkaplan.com  
Steven I. Silverman, ssilverman@klugerkaplan.com  
Steven I. Silverman, clong@klugerkaplan.com  
William H Edwards, wedwards@hamiltonmillerlaw.com  
William H Edwards, dcox@hamiltonmillerlaw.com  
William H Edwards, dingraham@hamiltonmillerlaw.com  
menachem mayberg, menachem@smfirm.com  
menachem mayberg, reception@smfirm.com  
menachem mayberg, evelyn@smfirm.com

**Physically Served:**