

64. As a result of these multiple failures, Becker did not exercise the requisite level of professional service and care when counseling the Association concerning its obligations, rights and remedies relating to 87 Park Development.

65. Becker's attorneys have purportedly supported reasonable reserve strategies, including state legislatively-required reserve studies. Yet Becker's lawyers failed to properly counsel the Association about its obligation to address the adequacy of its reserves on a timely basis, particularly in concert with the structural integrity concerns about which Becker attorneys had been keenly aware since 2018. Indeed, the Association did not conduct a reserve study until 2020, two years after its attorneys had received the 2018 Morabito report that had described the need for significant and immediate repairs at a cost that dwarfed the Association's annual operating budget including reserves.

BECKER'S APPARENT CONFLICT OF INTEREST

66. The 87 Park Development is situated on land that is subject to the jurisdiction of the City of Miami Beach.

67. Becker attorneys were tasked by the Association to provide advice and counsel regarding proposed terms and conditions of a settlement arrangement proposed between the Association and the 87 Park Development. Among other things, the proposed settlement arrangement between the Association and the 87 Park Development contemplated the Association's general release of claims relating to the development of the 87 Park Development.

68. A slender public right-of-way owned by the City of Miami Beach had separated the 87 Park Development from the southern edge of the Condominium. As part of its effort to maximize its investment, the 87 Park Development actually acquired that public right-of-way through a deal with the City of Miami Beach. The acquisition of that right-of-way by the 87 Park

Development allowed 87 Park Development to develop its investment property just a few feet from the Condominium. The residents of the Condominium had voiced concern and outrage over the fact that the 87 Park Development had acquired the public right-of-way and how 87 Park Development's work to develop its parcels for construction had significantly disturbed the Condominium and had raised serious structural stability concerns.

69. At times material to the Association's negotiations with the 87 Park Development and amidst its residents' stated concerns about 87 Park Development's deal with the City of Miami Beach which allowed 87 Park Development's foundation work to occur just a few feet from the Condominium property, one of Becker's attorneys, Michael Gongora, was a City Commissioner with the City of Miami Beach.

70. **Gongora** was elected as Commissioner of the City of Miami Beach from November 2006 through November 2007, again elected as Commissioner of the City of Miami Beach from November 2009 through November 2013, and again elected as Commissioner of the City of Miami Beach from November 2017 through November 2021. The Receiver's factual inquiries indicate that Gongora also was a member of the Miami Beach Community Development Advisory Committee, the Miami Beach Zoning Board of Adjustment, the Miami Beach Design Review Board and the Miami Beach Condominium Reform Task Force, and also a Special Master determining Miami Beach Code Enforcement matters.

71. Having conducted a review of those documents produced thus far in this action by Becker, the Receiver has not discovered that Becker had disclosed Mr. **Gongora's** close affiliation with the City of Miami Beach to the Association, even though **Attorney Gongora** provided regular legal advice and counsel to the Association at its Board of Directors' meetings and concerning the Association's disputes with the 87 Park Development.

72. Becker should have disclosed to the Association that one of the attorneys assigned by Becker to advise and counsel the Association was directly linked to the City of Miami Beach, especially because of the serious questions that had been raised by the Association and its members about the dealings between the City of Miami Beach and 87 Park Development that had allowed 87 Park Development to conduct foundation preparations just a few feet from the southern edge of the Condominium.

COUNT I – PROFESSIONAL NEGLIGENCE

73. The Association realleges Paragraphs 1 through 72.

74. Becker and its founding attorneys played a vital role in enacting Florida's Condominium Act over 40 years ago.

75. Publicly recorded Condominium documents reveal that Becker acted as the Association's general counsel for decades prior to the tragic collapse of the Condominium on June 24, 2021.

76. Becker again was formally engaged by the Association in April 2017 by written contract. Becker undertook general counsel duties to the Association, and members of the Association's Board of Directors regularly looked to Becker for advice and counsel on a host of matters, including, without limitation, employment, dues and assessment collections, corporate governance, ballot and voting rules, strategies to assist the Board of Directors to garner sufficient votes from the unit owners on various matters, approaches to reserve funding, matters relating to the re-purposing of previously collected assessments, approvals of specific capital improvement projects, direct interaction with engineers and construction experts including providing commentaries and recommendations based on engineering reports, and step-by-step response strategies in relation to engineering reports.