

STATE OF SOUTH CAROLINA
COUNTY OF HORRY

Service Corporation of South Carolina,

Plaintiff,

vs.

Bahama Sands Development, LLC,
Landmark Builders of South Carolina,
LLC, and Janice B. Musante,

Defendants.

IN THE COURT OF COMMON PLEAS

Case No. 2008-CP-26-1277

**ORDER SUPPLEMENTING
ORDER APPOINTING RECEIVER
ENTERED MARCH 28, 2008**

ORDER CONSOLIDATING ACTIONS

**ORDER REFERRING THE
FORECLOSURE PORTION OF THIS
CASE TO THE MASTER IN EQUITY**

Bahama Sands Development, LLC,

Third Party Plaintiff,

vs.

JWS
Keith Gottlieb, Featured Properties, LLC,
John Thomas, Daniel McCullough, John
Bischof, Chris Wilcox, Glenn Mauney, Alan
Sechtin, Craig Thibeault, Richard Caron,
Richard Zigabarra, Dwight Good, Maureen
Matusak, Elmer Craft, Katrina Koons,
Sabrina Morin, Robert Gjormand, West Coast
Properties, LLC, Tim Thomas, Marriee
Welch, Wayne Rabon, Clay Branyon, Joseph
Johnson, Nell Buffkin, Roy Clyburn, Jr.,
Thomas Hastings, Michael Mockler, John
Booher, John Bernabei, Greg Anderson,
Doug Hardy, David McCullough, Cape Fear
Discount, Clyde Gilmore, III, Gillmore
Holdings, LLC, Vincent Formale, Cahobe,
LLP, Carolina Family Pharmacy, Inc., John
Calhoun, Greg Carper, Ed Thomas, Jan and
Helen Janick, Greg Kupetz, Robert Brooks,
R.W. Rogers, Robert Castellani, George
Bigham, Rick Funderburke, Ron Bridges,
Gene Fisher, Steve Smith, Thomas Magee,
Tony Thorpe, Jayne Workman, Tim
Tippman, L.J. Rogers, Walter Johnson, Henry

(NON-JURY)

HORRY COUNTY
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MELANIE HUGGINS
CLERK OF COURT

King, Jr., Janice Musante, Kyle Taylor, David)
Armstrong, Ann Brown, Jimmy Crawford,)
Donald Hedelston, Brent Caldwell, Anthony)
Winters, Kevin Smith, Spencer Thomas,)
Richard Schmidt, Terence Almengual, Brad)
Conklin, Phillip Aja, Stephen Orr, Bruce)
Bright, Ken Deal, Kevin Castellani, Robert)
Mockler,)
Third Party Defendants.)

Date of Hearing: June 3, 2008
Trial Judge: J. Michael Baxley
Plaintiff's Attorney: Richard M. Smith
Defendant's Attorney: Janet Haigler
Receiver: Robert A. Kerr, Jr.
Other Counsel: John E. Copeland, David B. Miller, Randall K. Mullins
F. Miles Adler, Henry F. Sewell, Jr.
Court Reporter: Pamela Ozment-Cartee

Job 2
THIS MATTER came before the Court on June 3, 2008 at the request of Robert A. Kerr, Jr., Esq. (the "Receiver"), concerning his management and operation of the property for which he was appointed as Receiver by this Court on March 28, 2008 (the "March 28 Order"). The March 28 Order appointed the Receiver to take possession of certain real property located at 1321 South Ocean Boulevard, North Myrtle Beach, South Carolina 29582 (the "Bahama Sands Property").

The Receiver requested that this Court conduct a hearing in accordance with Paragraph 16 of the March 28 Order which authorizes the Receiver to apply to this Court for further and other instructions and to request such further powers as may be necessary to enable the Receiver to properly carry out the terms of the March 28 Order and fulfill his duties as Receiver. At the outset of the hearing, the Receiver identified several issues for which he requested either further instructions or additional powers from this Court as follows:

1. The Receiver advised the Court that he had received a written demand from Defendant Bahama Sands Development LLC (“Defendant Bahama”) that the Receiver defend certain lawsuits filed against the Defendant Bahama by certain purchasers of condominium units at the Bahama Sands Property. A list of these lawsuits (the “Separate Purchaser Lawsuits”) is attached hereto as Exhibit “A”. The Receiver advised the Court that the parties bringing these lawsuits against Defendant Bahama had also been named as Third Party Defendants by Defendant Bahama in this case and that Defendant Bahama had also filed a Motion to Consolidate the Separate Purchaser Lawsuits (the “Consolidation Motion”) with the instant case. The Receiver advised the Court that he did not think it was either appropriate or within his powers as Receiver to defend the Separate Purchaser Lawsuits on behalf of Defendant Bahama;

2. The Receiver advised the Court that he had encountered difficulties with title insurance companies in signing deeds transferring individual condominium units at the Bahama Sands Property and requested that this Court clarify that the Receiver had the authority to sign deeds and other documents necessary to close such transactions and to supplement the March 28 Order with language acceptable to the title insurance companies so that the Receiver could transfer insurable title to condominium units;

3. The Receiver advised the Court that Defendant Bahama Sands had questioned his authority to negotiate the prices at which he could sell condominium units and that there was a current disagreement between the parties concerning the authority of the Receiver to negotiate such prices in accordance with the terms of the March 28 Order;

4. The Receiver requested clarification from the Court regarding his authority and ability to represent the interests of the Defendant Bahama in connection with the Homeowners’

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Association established for the Bahama Sands Property prior to his appointment as Receiver herein; and,

5. Finally, the Receiver requested clarification from this Court as to whether he was required to serve copies of any accountings filed by him with this Court upon all of the Third Party Defendants named herein or whether he could be permitted to post such reports on his website.

Appearing before the Court were the Receiver, counsel for the Plaintiff, counsel for Defendant Bahama, and counsel for certain of the Third Party Defendants.

During the course of the Hearing, Defendant Bahama withdrew its request that the Receiver defend the Separate Purchaser Lawsuits and further requested that it be permitted to substitute counsel to defend the Separate Purchaser Lawsuits. This latter request was not opposed by any other party appearing at the Hearing.

In addition, it does not appear to the Court that any party appearing at the hearing contests or opposes the Consolidation Motion filed by Defendant Bahama which requests the consolidation of the Separate Purchaser Lawsuits with this lawsuit.

After considering the arguments of counsel, the proffers and evidence submitted, reviewing the file in this matter, and from the pleadings before me,


IT IS ORDERED, ADJUDGED AND DECREED:

1. This Order incorporates by reference this Court's Order of March 28, 2008 which shall remain in full force and effect. To the extent of a conflict between the provisions of this Order and the Order of March 28, the provisions of this Order shall control; however, it is the intent of this Court that the Receiver shall continue to act as Receiver in accordance with all the duties and obligations as set forth in the March 28 Order which are incorporated by reference.

2. The Separate Purchaser Lawsuits are hereby consolidated with this case under the case number set forth in the caption above and the Clerk of this Court is hereby authorized and directed to take all actions and to send all notices as may be necessary to effectuate the consolidation of the Separate Purchaser Lawsuits with this case.

3. It shall be the responsibility of the Defendant Bahama to defend all claims brought in the Separate Purchaser Lawsuits as consolidated herein and the Receiver shall not have any duty or obligation to defend any claims brought against Defendant Bahama.

4. To the extent the Bellamy Law Firm has appeared as counsel for Defendant Bahama in the Separate Purchaser Lawsuits, the Bellamy Firm is hereby relieved of its duties as counsel for Defendant Bahama and the Finkel Law Firm LLC is hereby substituted in its stead. All further pleadings served or to be served upon Defendant Bahama in this action shall be served upon the Finkel Law Firm LLC.

 5. This Court declines to accept complex jurisdiction in this Case at this time and, upon completion of the consolidation of the Separate Purchaser Lawsuits into this action, the Plaintiff's action to foreclose its security interest in the Bahama Sands Property and any defenses thereto shall be severed from this case and shall be referred to the Horry County Master in Equity, who shall be authorized to make findings of fact and conclusions of law with any appeal directly to the South Carolina Supreme Court. All actions at law, including tort and breach of contract claims for damages, shall remain in this Court in this civil action. The actions at law will remain on the general docket and proceed in the normal fashion and the Clerk of this Court is hereby authorized and directed to take all steps necessary to sever the foreclosure action and to refer it to the Special Master in Equity.

6. Based upon the representations of the Receiver and due to the changing market conditions in the North Myrtle Beach area, it is apparent to this Court that the Receiver should have wide discretion with respect to his ability to sell condominium units. Accordingly, Paragraph 5 of the March 28 Order is hereby amended as follows:

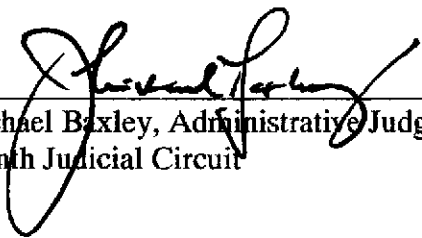
The Receiver is authorized to offer for sale condominium units of the Bahama Sands Property ("Units") and authorized to sell or convey individual Units at such prices that he deems appropriate in the exercise of his business judgment as Receiver and which are acceptable to the Plaintiff herein. The power granted to the Receiver to sell individual Units at the Bahama Sands Property shall include, but not be limited to, the power to transact all and every kind of business whatsoever necessary or convenient for the sale of said property, to enter into agreements to sell said Units, to execute and deliver a deed (with covenants of warranty) conveying said Units, to collect all monies for the sale of same, to satisfy liens against the property and to do all things necessary to effectuate the said sale and to execute settlement statements, affidavits, disclosures and all other closing documents and to execute all instruments reasonably required by the buyer(s) for the obtaining of financing for the purchase of same, and to take such other and further actions as may be required to sell the Units, all without the necessity of consent or joinder of the title holder.

7. The Receiver is hereby authorized to exercise any and all rights and duties that Defendant Bahama has with respect to the Bahama Sands Property and the Bahama Sands Homeowner's Association, including, but not limited to, the rights and duties granted to Defendant Bahama as Grantor in that certain Master Deed of Bahama Sands Horizontal Property Regime, recorded in Deed Book 3304, page 1609 ("Master Deed"), and with respect to the Units owned by Defendant Bahama, to vote the interests held by Defendant in the Bahama Sands Homeowners' Association pursuant to the Master Deed.

8. The Receiver shall not be required to mail copies of his accountings in this case to all of the Third Party Defendants herein but shall post copies of such accountings on his website (www.HagoodKerr.com) so that they are freely available for review by the Third Party Defendants and other parties to this case.

IT IS SO ORDERED.

July 2, 2008.



J. Michael Baxley, Administrative Judge
Fifteenth Judicial Circuit

EXHIBIT A

1. *Brien v. Bahama Sands Development, LLC*, C/A No. 2007-CP-6194
2. *Armstrong v. Bahama Sands Development, LLC*, C/A No. 2007-CP-26-6894
3. *Caron v. Bahama Sands Development, LLC*, C/A No. 2007-CP-26-6895
4. *Schmidt v. Bahama Sands Development, LLC*, C/A No. 2007-CP-26-6896
5. *Thorpe v. Bahama Sands Development, LLC*, C/A No. 2007-CP-26-7142
6. *Carolina Family Pharmacy, Inc., d/b/a Cape Fear Discounted Drugs et al. v. Bahama Sands Development, LLC*, C/A No. 2007-CP-26-7356
7. *Bridges v. Bahama Sands Development, LLC*, C/A No. 2007-CP-26-7804
8. *King v. Bahama Sands Development, LLC*, C/A No. 2008-CP-26-0118
9. *Mauney v. Bahama Sands Development, LLC*, C/A No. 2008-CP-26-4239
10. *Musante v. Bahama Sands Development, LLC*, C/A No. 2008-CP-26-6110
11. *McCulloch v. Bahama Sands Development, LLC*, C/A No. 2008-CP-26-2668
12. *McCulloch v. Bahama Sands Development, LLC* C/A No. 2008-CP-26-2792
13. *Featured Properties, LLC v. Bahama Sands Development, LLC*, C/A No. 2008-CP-26-2669
14. *Featured Properites, LLC v. Bahama Sands Development, LLC, et al.*, C/A No. 2008-26-CP-2794
15. *Thomas v. Bahama Sands Development, LLC*, C/A No. 2008-26-2666
16. *Thomas, John, et al. v. Bahama Sands Development, LLC, et al.* C/A No. 08-CP-26-2793