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NYSCEF DOC. NO. 14

RECEIVED NYSCEF: 03/06/2020

Exhibit J

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MOUND COTTON WOLLAN & GREENGRASS LLP

COUNSELLORS AT LAW
ONE NEW YORK PLAZA
NEW YORK, NY 10004-1901

NEW YORK, NY
FLORHAM PARK, NJ
GARDEN CITY, NY
SAN FRANCISCO, CA
FORT LAUDERDALE, FL
HOUSTON, TX

INDEX NO. 651065/2020

SAMUEL B WEISS
ASSOCIATE
(212) 804-4200
SWeiss@moundcotton.com

(212) 804-4200 FAX: (212) 344-8066 www.moundcotton.com

July 15, 2019

Via Regular Mail and Email

Michael Stein 245 East 54th Street, Unit 8 New York, New York 10022 Michael B. Stein@wellsfargo.com

Re: Insured:

Michael Stein

Location:

245 East 54th Street, Unit 8, New York, NY 10022

Date of Loss: February 26, 2018 (as reported)

Type:

Water

Policy No.:

2006000031 (the "Policy")

Policy Period: 1/9/18-1/9/19 Claim No.: 3288384

Dear Mr. Stein:

As you know, this firm has been retained by National General Insurance Company ("National General"), concerning your claim under Insurance Policy No. 2006000031 for water damage to the premises located at 245 East 54th Street, Unit 8, New York, NY 10022 (the "Premises") that allegedly occurred on or around February 26, 2018 (the "Loss").

1. Examination Under Oath

Pursuant to the terms and conditions of the Policy (see Form No. HO 6000 01 06, Section I- Conditions, B. Your Duties After Loss, at 7.(b), p. 10 of 19), you are required to produce records and documents requested by National General. Further, pursuant to the terms and conditions of the Policy (see Form No. HO 6000 01 06, Section I- Conditions, B. Your Duties After Loss, at 7.(c), p. 10 of 19), you are also required to submit to an examination under oath.

This letter is our third request for information.

On May 28, 2019, we sent you a letter in which, pursuant to the policy provisions above, we requested records and documents, and scheduled a July 9, 2019 examination under oath ("EUO"). The letter requested documents be forwarded by June 21, 2019, and that you call us by June 10, 2019 to confirm your availability for that date.

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On June 24, 2019, we sent you a second letter in which, pursuant to the policy provisions above, we requested records and documents, and scheduled a July 30, 2019 EUO. The letter requested documents be forwarded by July 15, 2019, and that you call us by July 15, 2019 to confirm your availability for that date.

To date, we have received no response from you. Accordingly, your EUO is adjourned so that documents can be received and reviewed before the examination.

By July 30, 2019, please forward to us the following documents:

- 1) Any and all documents, including but not limited to, estimates and/or paid invoices, relating to the work that was completed in or around February 2017, including but not limited to, plumbing work.
- 2) Any and all work orders submitted by you or your agents or representatives to the Condominium or its agents or representatives from January 1, 2017 to the present date.
- 3) Any and all communication, including emails, between the Insured and the following entities regarding the Loss:
 - a. any unit owner;
 - b. any condominium staff member or agent; and/or
 - c. any person hired to make repairs
- 4) Any and all invoices, receipts and/or other documentation relating to damages claimed by the Insured.
- 5) Any and all documents relating to any work performed in the Insured's unit in or around April 2018.
- 6) Any and all documents relating to any estimate to repair and/or replace any claimed property damage.
- 7) Any and all documents reflecting the amount incurred to repair and/or replace any claimed property damage.
- 8) Any and all documents provided to the Insured by the PA.
- 9) Any and all documents provided to the PA by the Insured.
- 10) Any and all photographs and/or videos of any damages claimed.

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- 11) Any and all documents, including, but not limited to, invoices, estimates, permits, and other construction documents regarding any renovation to the Property from January 1, 2009 to the present date.
- 12) Any and all construction documents generated prior to the Loss.
- 13) Any and all bank statements from January 1, 2018 to March 31, 2018.
- 14) Any and all credit card statements from January 1, 2018 to March 31, 2018.
- 15) Any and all Air Quality test results, invoices, and/or paid receipts from January 1, 2017 to the present date.
- 16) All documents supporting your claim for damages to the Premises and/or its contents including, but not limited to: invoices, receipts, bills, estimates, inventories, canceled checks, proof of payment, reports, or other records demonstrating the value of any property that you are claiming as part Loss.
- 17) Copies of all water bills for the Premises for 2016 to the present date.
- 18) Any and all permits, including applications for permits, filed with the New York City Department of Buildings from January 1, 2009 to the present.

In addition, we have several questions regarding the circumstances surrounding this loss and any resulting damage that need to be addressed before we can confirm whether coverage is available. Pursuant to the terms and conditions of the Policy, you are hereby required to submit to an Examination Under Oath ("EUO"). That examination will be conducted at the offices of Mound Cotton Wollan & Greengrass LLP, One New York Plaza, New York, New York 10004 at 10:00 a.m. on September 10, 2019. Please call me by July 30, 2019 at (212) 804-4528 to confirm your availability for this date. If this date or time is inconvenient, we can make suitable alternative arrangements. You will also be required to subscribe to the minutes of the examination.

2. Communications from your Public Adjuster

We received an email and letter from your Public Adjuster, Mr. Scott Modlin, on July 7, 2019, demanding appraisal. That request is premature. National General needs the documents requested above, and to take your EUO, to determine the scope and coverage of your claim. It is not clear to National General that the valuation of your claim is disputed until it completes its investigation, including your EUO. National General will consider appraisal upon your compliance with your duties under the Policy.

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On July 8, 2019, Mr. Modlin requested the return of the physical pipe to you. National General's investigation remains ongoing. As the pipe is a critical item of evidence in this investigation, it will be returned upon the completion of National General's investigation.

Please take notice that that, by refusing to provide documents or appear for an EUO, you are in breach of the Conditions of the Policy, which warrants a denial of your claim. We urge you to cooperate, as you are required to do under the Policy.

Please take further notice that National General hereby expressly notifies you that in writing this notice, in calling for your and conducting your examination under oath, and in requiring you to produce certain documents prior to the examination, it does not waive any provision or stipulation of the insurance policy defined above upon which your claim was made, or any forfeiture of that policy, nor does it waive any of its rights. Furthermore, neither this letter nor the examination under oath should be construed as either an admission or denial of liability under that policy.

If you have any questions or concerns, please feel free to give us a call.

Sincerely,

Samuel B Weiss

cc: National General Insurance Company

Sovereign Adjustments East 9728 3rd Avenue Brooklyn, New York 11209 Attn: Scott M. Modlin scott@sovereignadjustmentseast.com