

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
ABERDEEN DIVISION

CERTAIN UNDERWRITERS AT LLOYD'S, LONDON

PLAINTIFFS

v.

CAUSE NO. 1:17-CV-00041-SA-DAS

COLUMBUS BUSINESS CENTER, LLC,
TITAN EXTERIORS, INC. d/b/a TITANROOF,
HOPE FEDERAL CREDIT UNION, and
BYLINE BANCORP INC.

DEFENDANTS

AGREED ORDER OF DISTRIBUTION AND DISMISSAL

This matter comes before this Court based on the agreement of the parties remaining in the litigation¹ (sometimes collectively as “Parties”), Certain Underwriters at Lloyd’s, London (herein “Underwriters”), Titan Exteriors, Inc. dba Titan Roof (herein “Titan”), Byline Bancorp, Inc., a successor in interest to Ridgestone Bank (herein “Byline”), and Columbus Business Center, LLC (herein “Columbus”) and in accordance with this Agreed Order of Distribution and Dismissal:

Underwriters issued policy number 002832/1300 with effective dates of coverage from August 30, 2013 to August 30, 2014 to Columbus (the “Policy”), insuring property located at 133 Yorkville Road East, Columbus, MS 39702 (“Property”). Based on Underwriters’ investigation and review of the relevant facts, the Policy, and the applicable law, Underwriters advised Columbus on or about November 11, 2016 that there was coverage for observed hail-related damage that occurred during the Policy Period (subject to any applicable deductible(s) and allocation). Underwriters further advised Columbus that Underwriters disagreed with

¹ The Clerk of the Court entered default against Defendant Hope Federal Credit Union (“Hope Federal”) on June 13, 2017. On June 20, 2017, counsel for Hope Federal submitted to the Court an Agreed Order Dismissing Hope Federal Credit Union.

TitanRoof's scope of damage, scope of repair and the pricing associated with such repairs and reserved their right to adjust and measure the covered portion of the loss pursuant to the terms and conditions of the Policy and any applicable law.

Based on Underwriters' investigation and review of the relevant facts and the Policy, Underwriters notified Columbus on March 15, 2017 that Underwriters will issue payment in the amount of \$1,217,545.60, representing the amount calculated by Underwriters as the actual cash value for the damage to Buildings A-F at the Property resulting from an April 28, 2014 weather event or a June 10, 2014 weather event (herein "Funds"). Underwriters and Columbus disagree as to the full amount owed under the Policy and thus all rights, claims and defenses under the Policy are reserved and such rights, claims and defenses are not affected by this Order beyond claims for, or the distribution of, the Funds which are the subject of this Order.

Columbus, Titan, and Byline have all asserted claims to entitlement of the Funds. Accordingly, and based upon a reasonable fear of liability for the wrongful distribution of the Funds, Underwriters filed the present Complaint for Interpleader on March 15, 2017. Therein, Underwriters disclaimed interest to the Funds and asked this Court to adjudicate the conflicting claims to the Funds and determine the lawful claimants and the amount due each such claimant.

The Parties desire to fully and finally settle Columbus, Titan and Byline's asserted claims of entitlement to the Funds, as well as any and all claims, controversies or disputes the Parties have or may have between them arising from, relating to or connected with the distribution of the Funds. Columbus, Titan and Byline have agreed and consented to the following distribution of the Funds by Underwriters: (1) \$1,095,791.04 made payable to "Byline Bank" and delivered to Edmond M. Burke, Chuhak & Tecson, P.C., 30 S. Wacker Dr., Ste. 2600, Chicago, IL 60606 and (2) \$121,754.56 made payable to "Gilbert McWherter Scott & Bobbitt, PLC – TRUST" (on

behalf of Titan) and delivered to 341 Cool Springs Blvd. Suite 230, Franklin, TN 37067. Columbus instructs Underwriters to distribute the Funds in accordance with the above agreement, and Underwriters agree to distribute the Funds in accordance with the above agreement.

WHEREFORE, PREMISES CONSIDERED, IT IS ADJUDGED:

1. That Underwriters shall, within 14 days of the entry of this Order, distribute the Funds as follows: (1) \$1,095,791.04 made payable to “Byline Bank” and delivered to Edmond M. Burke, Chuhak & Tecson, P.C., 30 S. Wacker Dr., Ste. 2600, Chicago, IL 60606 and (2) \$121,754.56 made payable to “Gilbert McWherter Scott & Bobbitt, PLC – TRUST” (on behalf of Titan) and delivered to 341 Cool Springs Blvd. Suite 230, Franklin, TN 37067;

2. That, with the exception of claims to enforce this Order, all Defendants shall be restrained from instituting or prosecuting any proceeding or action in any State or United States court against Underwriters relating to claims for, or the distribution of, the Funds which are the subject of this Order;

3. That Plaintiff’s Complaint for Interpleader is dismissed and each Party shall be responsible for its own costs, attorneys’ fees and expenses; and

4. All other claims, disputes and matters among the Parties are reserved.

IT IS SO ORDERED.

This the 26th day of July, 2017.

/s/ Sharion Aycock
UNITED STATES DISTRICT COURT JUDGE

Submitted for Approval and Entry:

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DEFENDANT COLUMBUS BUSINESS CENTER, LLC

s/Stuart Millner, Authorized Agent/Officer