

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
CIVIL NO.: 3:09-cv-360-FDW-DSC

WESTFIELD INSURANCE COMPANY, )  
)  
Plaintiff, )  
)  
vs. )  
)  
GREGORY K. SILVER, Trustee for )  
CHARLOTTE FC, LLC, FLAHERTY )  
& COLLINS PROPERTIES A/K/A )  
FLAHERTY & COLLINS PROPERTIES, )  
LLC, FLAHERTY & COLLINS )  
CONSTRUCTION, INC., FLAHERTY & )  
COLLINS, INC., DAVID M. FLAHERTY, )  
JERRY K. COLLINS, BRIAN PLOSS, )  
U.S. BANK NATIONAL )  
ASSOCIATION, CHICAGO TITLE )  
INSURANCE COMPANY, DUNN )  
SOUTHEAST, INC., d/b/a/ R.J. )  
GRIFFIN & COMPANY, INC., )  
NAVIGATORS SPECIALTY )  
INSURANCE COMPANY, EVEREST )  
REINSURANCE COMPANY, )  
ENDURANCE AMERICAN )  
SPECIALTY INSURANCE )  
COMPANY and GENERAL SECURITY )  
INDEMNITY COMPANY OF ARIZONA, )  
)  
Defendants. )

**ORDER ON AGREED ENTRY**

This matter comes before the Court on the Consent Agreed Entry Between Westfield Insurance Company (“Westfield”), Navigators Specialty Insurance Company (“Navigators”), Everest Reinsurance Company (“Everest”), Endurance American Specialty Insurance Company (“Endurance”), General Security Indemnity Company of Arizona (“General Security”); Flaherty & Collins Properties a/k/a Flaherty & Collins Properties, LLC, Flaherty & Collins Construction, Inc., Flaherty & Collins, Inc., David M. Flaherty, Jerry K. Collins, Brian Ploss (collectively

“Flaherty & Collins”), Dunn Southeast, Inc. d/b/a R.J. Griffin & Company, Inc. (“R.J. Griffin”), Defendant U.S. Bank National Association (“U.S. Bank”) and Chicago Title Insurance Company (“Chicago Title”). (Doc. No. 98).

**AND IT APPEARING TO THE COURT AND THE COURT FINDING** that after reviewing the Agreed Entry and documents of record, that the Agreed Entry should be entered.

**AND IT FURTHER APPEARING TO THE COURT AND THE COURT CONCLUDING, BASED ON THE FOREGOING FINDINGS** that the Agreed Entry should be entered.

**NOW, THEREFORE, BASED ON THE FOREGOING FINDINGS AND CONCLUSIONS OF LAW, IT IS HEREBY ORDERED, ADJUDGED AND DECREED** as follows:

1. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. §1332(a).
2. This Court has personal jurisdiction over all parties in this matter.
3. On or about July 23, 2006, Westfield issued its Commercial Package Policy No. CMM 3 912 597 to, inter alia, Flaherty & Collins as the named insured, with effective dates of coverage of July 23, 2006 to July 23, 2007, and renewed thereafter for the period of July 23, 2007 to July 23, 2008 (the “Westfield Policy”).
4. On or about June 7, 2007, Navigators issued its Commercial Lines Policy No. CE07CGL008594-00 to, inter alia, Flaherty & Collins as the named insured, with effective dates of coverage of June 7, 2007, to September 7, 2009 (the “Navigators Policy”).
5. On or about June 7, 2007, General Security issued its Commercial Excess Liability Policy No. F130446 to, inter alia, Flaherty & Collins as the named insured, with

effective dates of coverage of June 7, 2007, to September 7, 2007 (the “General Security Policy”).

6. On or about June 14, 2007, Everest issued its Commercial Excess Liability Policy No. 71R2000194-071 to, inter alia, Flaherty & Collins as the named insured, with effective dates of coverage of June 14, 2007, to September 7, 2009 (the “Everest Policy”).

7. On or about June 14, 2007, Endurance issued its Commercial Excess Policy No. ELD100006860 00 to, inter alia, Flaherty & Collins as the named insured, with effective dates of coverage of June 14, 2007, to September 7, 2009 (the “Endurance Policy”).

8. On or about November 14, 2008, an “Amended Complaint” was filed against, inter alia, Charlotte FC, LLC, in the following legal proceedings: *“Dunn Southeast, Inc. d/b/a R.J. Griffin & Company, Inc., Plaintiff, vs. Charlotte FC, LLC; Flaherty & Collins Properties aka Flaherty & Collins Properties, LLC; Flaherty & Collins Construction, Inc.; Flaherty & Collins, Inc.; David M. Flaherty; Jerry K. Collins; Brian Ploss; House Investments-Charlotte FC Investors, LLC; House Investments-Real Estate Opportunity Fund III, L.P.; House Investments-Real Estate Opportunity Fund IV, LLC; House Investments, LLC; Doug Sylvester; U.S. Bank National Association; and Chicago Title Insurance Company, Defendants”*, Case No. 08-CVS-17301, Mecklenburg County, North Carolina (the “Lawsuit”).

9. Westfield has no duty under the Westfield Policy to defend/indemnify Flaherty & Collins, against the Lawsuit.

10. Navigators has no duty under the Navigators Policy to defend/indemnify Flaherty & Collins, against the Lawsuit.

11. General Security has no duty under the General Security Policy to defend/indemnify Flaherty & Collins against the Lawsuit.

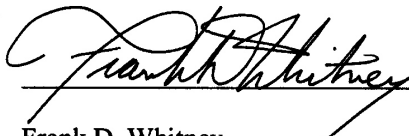
12. Everest has no duty under the Everest Policy to defend/indemnify Flaherty & Collins against the Lawsuit.

13. Endurance has no duty under the Endurance to defend/indemnify Flaherty & Collins against the Lawsuit.

14. Westfield, Navigators, General Security, Everest and Endurance hereby dismiss, with prejudice, their respective complaint and cross-claims against Flaherty & Collins, U.S. Bank, Chicago Title and R.J. Griffin.

**SO ORDERED.**

Signed: December 22, 2010

  
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Frank D. Whitney  
United States District Judge

