

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

ENDURANCE AMERICAN SPECIALTY  
INSURANCE COMPANY,

Plaintiff,

v.

NORTHLAND INVESTMENT CORP.,  
CHURCH STREET NEW HAVEN, LLC,  
NORTHLAND FUND II LP, NORTHLAND  
FUND II PARTNERS, LLC, CINQUE GREEN  
LIMITED PARTNERSHIP, AND LAWRENCE  
R. GOTTESDIENER,

Defendants.

Civil Action No.

**COMPLAINT**

**Introduction**

This action seeks [1] rescission of CGL Policy No. PGL 10008169100 (the “2015 Policy”), issued by Endurance American Specialty Insurance Company (“Endurance”) to Northland Investment Corp.; or, in the alternative, if rescission is not granted, [2] a declaration that the terms of the 2015 Policy do not obligate Endurance to defend or indemnify Northland in litigation arising out of the complaints of tenants at the Church Street South Housing Project in New Haven, Connecticut (the “Litigation”). This action also seeks a declaration that Endurance is not obligated to defend or indemnify Northland in the Litigation under Policy No. PGL 10008169101 (the “2016 Policy”), effective November 15, 2016.

**Parties**

1. Endurance is an insurance company incorporated in the State of Delaware, with its principal place of business in New York, New York. It issued the 2015 and 2016 Policies to

Northland Investment Corp. in Newton, Massachusetts, as first named insured. Copies of the Policies are attached as Exhibits A and B, respectively.

2. On information and belief, Northland Investment Corp. (“Northland Investment”) is a Massachusetts stock corporation with its principal place of business at 2150 Washington Street, Newton, Massachusetts. It is the first named insured under the each of the Policies above.

3. On information and belief, Lawrence S. Gottesdiener is the Chairman and Chief Executive Officer of Northland Investment. He resides in Wellesley, Massachusetts.

4. On information and belief, Northland Fund II LP (“Northland LP”) is a Delaware limited partnership with its principal place of business at 2150 Washington Street, Newton, Massachusetts. On information and belief, its General Partner is Northland Fund II Partners, LP (“Northland Partners LP”).

5. On information and belief, Northland Partners LP is a Delaware limited liability company with its principal place of business at 2150 Washington Street, Newton, Massachusetts. On information and belief, its sole member is Northland Investment.

6. On information and belief, Church Street New Haven LLC (“Church Street”) is a Delaware limited liability company with its principal place of business at 2150 Washington Street, Newton, Massachusetts. On information and belief, its sole member is Northland LP.

7. On information and belief, Cinque Green Limited Partnership (“Cinque Green”) is a Delaware limited liability company with its principal place of business at 2150 Washington Street, Newton, Massachusetts.

#### **Jurisdiction and Venue**

8. This court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1332. This is an action between citizens of different states and the amount in controversy exceeds \$75,000,

exclusive of interest and costs.

9. Venue is proper pursuant to 28 U.S.C. § 1391(a) because a substantial part of the events giving rise to this action occurred in this judicial district and the insurance policy that is the subject of this action was issued in this district.

### **Factual Allegations**

10. Northland is a real estate investment firm, which manages a portfolio of properties across the United States. One of those properties is the Church Street South Housing Project in New Haven, Connecticut (“Church Street Project”).

11. Northland Investment, Gottesdiener, Northland LP, Northland Partners LP, Church Street and Cinque Green have been named as defendants in two actions brought by tenants at the Church Street Project. That litigation is currently pending in Connecticut Superior Court: *Noble v. Northland Investment Corp.*, No. CV-16-6033559 (Waterbury, Conn. Super. Ct.), originally filed as *Noble v. Northland Investment Corp.*, No. 3:16-CV-1741 (D. Conn.) (“*Noble*”); and *Negron, et al. v. Northland Fund II, et al.* (Waterbury, Connecticut Superior Court, C.A. No. UWY-CV17-6033904-S) (“*Negron*”). For purposes of this Complaint, except where context otherwise requires, these individuals and entities will be referred to collectively as the “Northland Defendants,” or “Northland.”

12. The *Noble* class litigation involves a proposed class of persons who lived at the Church Street Project “during all or part of the three years prior to the service of the summons and complaint.” The *Negron* action is a second action brought by several individual members of this proposed class, making similar allegations on their own behalf.

13. Disputes have arisen between Northland and Endurance with respect to Northland’s knowledge – prior to Policy issuance – of the claims of these plaintiffs and the

occurrences on which these claims were based. Among other things, Endurance contends that Northland omitted or misrepresented certain information during the negotiation of the Policy, increasing the risk of loss to Endurance, and warranting rescission under applicable law.

**COUNT I**

**Rescission – 2015 Policy**

14. Endurance re-alleges and incorporates by reference paragraphs 1 through 13, above, as if fully set forth herein.

15. There exists an actual and justiciable controversy between Northland and Endurance as to the rescission of the Policy and as to whether the Policy is void *ab initio*; as to this controversy, Endurance has no adequate remedy at law.

**COUNT II**

**Declaratory Judgment - 2015 Policy**

16. Endurance re-alleges and incorporates by reference paragraphs 1 through 15, above, as if fully set forth herein.

17. In the event rescission is not granted, there exists an actual and justiciable controversy between Northland and Endurance as to whether the 2015 Policy provides coverage for the matters alleged in the Church Street Litigation. As to this controversy, Endurance has no adequate remedy at law.

**COUNT III**

**Declaratory Judgment – 2016 Policy**

18. Endurance re-alleges and incorporates by reference paragraphs 1 through 17, above, as if fully set forth herein.

19. There exists a further, actual and justiciable controversy between Northland and Endurance as to whether the 2016 Policy provides coverage for the matters alleged in the Church Street Litigation. As to this controversy, Endurance has no adequate remedy at law.

**PRAYER FOR RELIEF**

**WHEREFORE**, Endurance prays for judgment as follows:

1. That the Court enter an Order rescinding the 2015 Policy;
2. That the Court declare that the 2015 Policy is null and void *ab initio* and rescinded;
3. That the Court declare Northland is not entitled to any benefits under the 2015 and 2016 Policies, and should return benefits previously received;
4. That the Court declare the rights and obligations of the parties under the Policies in accordance with Endurance's contentions as set forth herein;
5. That the Court award Endurance reasonable attorneys' fees and costs incurred in connection with this action; and
6. That the Court order such other and further relief as is just and proper.

**JURY DEMAND**

Jury trial is requested on all claims so triable.

Dated: April 13, 2018

Respectfully submitted,

ENDURANCE AMERICAN SPECIALTY  
INSURANCE COMPANY

By its attorneys,

/s/ Rachel J. Eisenhaure

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