

*Claire Cubbin*  
*Attorney at Law*

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February 25, 2010

State of Florida  
Department of Business and  
Professional Regulation  
Division of Florida Condominiums,  
Timeshares and Mobile Homes

Attn: Kimberly in Arbitration Section

**RE: SMITH v. WATER BRIDGE 2 ASSOC.**  
**CASE NO. 2009-03-4877**

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Dear Kimberly,

Relative to the above-captioned case, attached hereto please find a copies of the following documents:

- a. **Motion to Set Aside Default** with attached copy of **Answer to Petition;**
- b. **Answer to Petition for Arbitration;**

Please file on behalf of the Respondent, **Water Bridge 2 Association, Inc.**

Very truly yours,



Claire Cubbin, Esq.

CC/sw  
cc: Water Bridge 2

STATE OF FLORIDA  
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION  
DIVISION OF FLORIDA CONDOMINIUMS, TIMESHARES AND MOBILE HOMES

Case No.: 2009-03-4877

IN RE: PETITION FOR ARBITRATION

STEPHEN SMITH

Petitioner,

vs.

WATER BRIDGE 2 ASSOCIATION,  
INC., a Corporation

Defendant

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RESPONDENT'S  
MOTION TO SET ASIDE DEFAULT

Respondent, **Water Bridge 2 Association, Inc.**, a Corporation, files this **Motion to Vacate Default** pursuant to **Section 718.501 (1) (f), Fla. Stat. and 719.501(1) (f), Fla. Stat.**, as well as **Rule 61B-50.117 (1), F.A.C.** A **Default** was entered against Respondent, **Water Bridge 2 Association, Inc.**, a Corporation, on February 3, 2010. Respondent asks that this **Default** be set aside and vacated, and for such other relief that the Arbitrator deems equitable and proper. Respondent alleges the following:

1. Pursuant to **Florida Rules of Civil Procedure**, there is an instance of mistake, inadvertence, surprise, or excusable neglect that requires that the default be vacated. After the Petition was served on the resident agent of **Water Bridge 2 Association, Inc.** it was inadvertently lost prior to physical receipt by the

Association. As a result the Association was unaware of the contents of said Petition and therefore, unable to properly Answer same.

2. The Respondent, **Water Bridge 2 Association, Inc.** has a meritorious defense, which is set out in its **Answer**, attached hereto as Exhibit "A" and made a part of this motion for all purposes.

3. The merits of this cause are more effectually presented by allowing the attached Answer and the Petitioner will not be prejudiced in maintaining an action upon the merits.

**WHEREFORE**, Respondent, **Water Bridge 2 Association, Inc.**, a Corporation, requests that the Arbitrator set aside the **Default** entered against Respondent, **Water Bridge 2 Association, Inc.**, a Corporation; that the Arbitrator grant leave for the Respondent to file said **Answer** attached hereto, as requested above; and that the Arbitrator order such further and other relief as the Arbitrator deems just and proper.

I certify that on February 25, 2010, a true and correct copy of the foregoing was served by U.S. mail on **Stephen Smith, Petitioner**, at **5950 Del Lago Circle, #209, Sunrise, FL 33313**.



**Claire Cubbin, Esq.**  
**Attorney for Respondent**  
**Florida Bar No. 281921**  
**2101 N. Andrews Avenue**  
**Suite Nos. 401-402**  
**Fort Lauderdale, Florida**  
**33311-3940**  
**Telephone: (954) 566-0111**  
**Fax: (954) 566-5859**

**STATE OF FLORIDA  
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION  
DIVISION OF FLORIDA CONDOMINIUMS, TIMESHARES, AND MOBILE HOMES**

*Note that this form is to be used for the filing of an answer in all arbitration proceedings conducted under Chapter 720, Florida Statutes.*

IN RE: PETITION FOR ARBITRATION  
STEPHEN SMITH,

\_\_\_\_\_  
**Petitioner(s) (name of association  
or homeowner filing petition),**

v.  
WATER BRIDGE 2 ASSOCIATION, INC.

Case No. 2009-03-4877  
**(To be assigned by Division)**

\_\_\_\_\_  
**Respondent(s) (name of association or  
homeowner named as respondent).**

**ANSWER TO PETITION**

Respondent shall file an answer using this form. The original answer must be filed with the arbitrator at: Division of Florida Condominiums, Timeshares, and Mobile Homes, Arbitration/Mediation Section, 1940 North Monroe Street, Tallahassee, Florida 32399-1029. In addition, a copy of the answer must be mailed to petitioner, petitioner's attorney, or petitioner's representative, as applicable.

1. Name, mailing address, telephone number, and e-mail address of respondent (party filing this answer):

WATER BRIDGE 2 ASSOCIATION, INC.  
5950 Del Lago Circle  
Sunrise, FL

2. Name, mailing address, telephone number, and e-mail address of respondent's representative, if any:

Claire Cubbin, Esq.  
Suite Nos. 401-402  
Fort Lauderdale, FL 33311-3940

(954) 566-0111  
Pericycle @ aol.com

If Respondent's representative is not an attorney, attach DBPR Form HOA 6000-6, QUALIFIED REPRESENTATIVE APPLICATION.

RESPONSE TO STATEMENT OF THE FACTS

State those facts from the STATEMENT OF FACTS portion of the petition that you deny. Refer to the particular paragraph in the petition that you dispute. All facts not specifically denied will be considered admitted.

- (1) The Respondent hereby denies paragraph no. 4 of the Petitioner's Petition.
  
- (2) The Respondent hereby denies paragraph no. 9 of the Petitioner's Petition.
  
- (3) The Respondent hereby denies paragraph no. 10 of the Petitioner's Petition.
  
- (4) The Respondent hereby denies paragraph no. 12 of the Petitioner's Petition.
  
- (5) The Respondent is without knowledge as to the Respondent's allegations as to the identity of the individual unit owners and the authority of the recall ballot signatures and demands strict proof thereof. Discovery will have to be completed in order to properly address the Petitioner's individual recall ballot allegations.
  
- (6)

DEFENSES

State all defenses, including all facts supporting each defense, and all additional facts that may be relevant.

- (1) The President of the Association received the recall ballots on June 25, 2009.

- (2) At the time that the President of the Association received the 27 recall ballots, there were no recisions received. Furthermore, pursuant to the Association's where an
  
- (3) The Board of Administration held a meeting on June 29, 2009--four days after receiving the recall ballots. Petitioner Stephen Smith, a board member, was present at the meeting.
  
- (4) Pursuant to the minutes of the Board meeting of June 29, 2009, the Board advised Stephen Smith that he was recalled. Copies of the recall ballots were presented to Stephen Smith at this meeting. With regard to the individual ballots, discovery will have to be completed in order to properly address the Petitioner's allegations as to the identity of unit owners and authority of recall ballot signatures. As a point of clarification, the Respondent is a condominium association as opposed to a homeowner's association and the Petitioner is the board member recalled as opposed to the condominium association. +

If the dispute involves your tenant, occupant, guest, etc., state the complete name and mailing address of that person, if it was not already provided in the petition for arbitration:

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by

U.S. Mail to: STEPHEN SMITH, Petitioner, at 5950 Del Lago Circle, #209, Sunrise, FL 33313

\_\_\_\_\_ on this 25th  
day of February, 20 10.



\_\_\_\_\_  
Signature of each Respondent,  
Respondent's attorney, or  
Respondent's representative