

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

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IN RE: PETITION FOR RECALL ARBITRATION

HERON AT THE HAMMOCKS CONDOMINIUM
ASSOCIATION, INC.,

CASE NO: 2014-03-1415

Petitioners,

vs.

UNIT OWNERS VOTING FOR RECALL,

Respondents.

_____ /

MOTION FOR ENLARGEMENT OF TIME

Petitioner, Heron at the Hammocks Condominium Association, Inc. ("Petitioner"), by and through its undersigned counsel, files this Motion for Enlargement of time, and in support thereof states as follows:

1. On July 25, 2014, Petitioner filed their Petition for Arbitration in the above styled case.
2. On June 30, 2014, the Department of Business and Professional Regulation, Division of Florida Condominiums, Timeshares and Mobile Homes (the "Division") entered an Order Requiring Answer.
3. On June 30, 2014, the Department of Business and Professional Regulation, Division of Florida Condominiums, Timeshares and Mobile Homes (the "Division") entered an Order Requiring Filing.

4. On August 1, 2014, the Respondents were presumably served with a copy of the Order Requiring Answer by the Division.

5. On August 1, 2014 Unit Owner Representative, Rajendra Prakash, was personally provided a copy of the Order Requiring Answer and Order Requiring Filing when he appeared in the undersigned's office to retrieve documents related to an official records inspection request pursuant to §718.111(12)(c), *Florida Statutes*.

6. This is the second recall attempt by the Unit Owners Voting for Recall utilizing substantially the same written recall ballots. Pursuant to 61B-23.0028(1)(i), *Florida Administrative Code*, "Written recall ballots in a recall by written agreement may be reused in one subsequent recall effort. Written recall ballots do not expire through the passage of time, however, written recall ballots become void with respect to the board member sought to be recalled where that board member is elected during a regularly scheduled election."

7. The first recall attempt resulted in a Summary Final Order affirming the Association's decision not to certify the written recall agreement. Despite being served with the Petition for Recall Arbitration, no answer or pleading disputing the allegations contained in the petition for recall arbitration was filed on behalf of the Respondent. See Heron at the Hammocks Condominium Association, Inc. v. Unit Owners Voting for Recall, Case No. 2014-02-2114 (Summary Final Order / Anderson-Adams / July 9, 2014).

8. Since Respondents may or may not have been served with the Petition for Recall Arbitration, and are obligated to Answer "within fourteen (14) days of the date of

the receipt of this order” but Petitioner is required to file pursuant to the Order Requiring Filing by a date certain (August 22, 2014), the Petitioner would be prejudiced by entry of a Summary Final Order presumably certifying the recall, should the Respondents choose to ignore the Petition for Recall Arbitration as it did in the first attempt.

9. Petitioner respectfully requests an Enlargement of Time to comply with the Order Requiring Filing, providing Petitioner with fifteen (15) days from receipt of Respondent's Answer to Recall Petition.

10. The filing of this motion is in good faith and not meant for purposes of delay.

WHEREFORE, PETITIONER, Heron at the Hammocks Condominium Association, Inc., requests that the Arbitrator: (1) enter an Order granting the Motion and allowing an enlargement of fifteen (15) days from the date of receipt of the Respondent's Answer to Recall Petition in which Petitioner will file a Response to the Order Requiring Filing; or (2) such other and further relief as the Arbitrator deems appropriate.

DATED this 14th day of August, 2014.

By: 

Russell M. Robbins, Esq.

Florida Bar No. 484954

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LIST OF EXHIBITS

Exhibit "A" – Summary Final Order in Heron at the Hammocks Condominium Association, Inc. v. Unit Owners Voting for Recall, Case No. 2014-02-2114 (Summary Final Order / Anderson-Adams / July 9, 2014)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by facsimile to: Division of Florida Condominiums, Timeshares and Mobile Homes, Arbitration Section, 1940 North Monroe Street, Tallahassee, Florida 32399-1029 [via facsimile (850) 487-0870 and regular mail] and Rajendra Prakash, 14395 S.W. 139th Court, Suite 103, Miami, Florida 33186-5583 [via facsimile (877) 849-4440, electronic mail rajprakash787@gmail.com and regular mail], on this 14th day of August, 2014.

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

IN RE: PETITION FOR ARBITRATION

Filed with
Arbitration Section

**HERON AT THE HAMMOCKS
CONDOMINIUM ASSOCIATION, INC.,**

JUL -9 2014

Petitioner,
v.

Div. of FL Condos, Timeshares & MH
Dept. of Business & Professional Reg

Case No. 2014-02-2114

UNIT OWNERS VOTING FOR RECALL,

Respondent.

SUMMARY FINAL ORDER

On May 21, 2014, Heron at the Hammocks Condominium Association, Inc. (the Association) filed a petition for recall arbitration with the Division of Florida Condominiums, Timeshares and Mobile Homes. By filing the petition for recall arbitration, the association seeks a final order affirming its decision not to certify the written recall agreement served on the board of directors on May 15, 2014. All of the unit owners who voted to recall the board members are considered collectively as the respondent in this action. The association is named as the petitioner.

On May 30, 2014, the arbitrator entered an Order Requiring Answer to Petition for Recall Arbitration. On June 3, 2014, the Order Requiring Answer to Petition for Recall Arbitration was served by certified mail on Rajendra Prakash, the individual designated in the written recall agreement as the Unit Owners' Representative. Respondent's answer was due on June 23, 2014. As of the date of the Order entered herein, no answer or other pleading disputing the allegations contained in the petition for recall arbitration has been filed by, or on behalf of, Respondent. Therefore, the

arbitrator concludes that Respondent is no longer challenging the facts as stated in the petition. Accordingly, a Summary Final Order is appropriate in this case pursuant to Rule 61B-50.119(3), Florida Administrative Code.

The petition states that all members of the five member board: Ida Suarez, Carlos Avila, Sal Fallavollita, Roberta Winokur, and Lourdes Rodriguez, were subjects of the recall. The written recall agreement was received by the board on May 15, 2014. The board determined not to certify the recall at a meeting held on May 19, 2014.

The total number of voting interests in the Association is 264. Therefore, 133 votes for recall are necessary to recall a board member. The petition states that 142 purported recall ballots were cast against Ida Suarez, Carlos Avila, Sal Fallavollita, Roberta Winokur, and Lourdes Rodriguez.

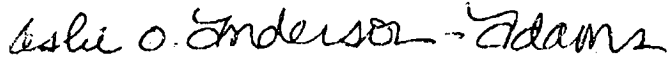
The petition further states, and the recall meeting minutes reflect, that the board rejected 64 of these recall ballots for various reasons. Given that Respondent does not contest these ballot rejections, the arbitrator accepts the Association's assertions that it properly rejected 64 recall ballots. Thus, only 78 valid recall ballots were cast against Ida Suarez, Carlos Avila, Sal Fallavollita, Roberta Winokur, and Lourdes Rodriguez. Accordingly, the recall fails for a lack of a majority. The board's decision not to certify the recall will be affirmed due to a failure to obtain a majority vote to recall any board member.

Based on the foregoing, it is

ORDERED:

The Association's decision not to certify the recall is **AFFIRMED**.

DONE AND ORDERED this 9th day of July, 2014, at Tallahassee, Leon County,
Florida.



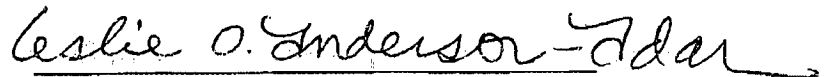
Leslie O. Anderson-Adams, Arbitrator
Department of Business and
Professional Regulation
Arbitration Section
1940 North Monroe Street
Tallahassee, Florida 32399-1030
Telephone: (850) 414-6867
Facsimile: (850) 487-0870

Certificate of Service

I hereby certify that a true and correct copy of the foregoing final order has been
sent by U.S. Mail to the following persons on this 9th day of July, 2014:

Leonard Wilder, Esq.
Bakalar & Associates, P.A.
150 Pine Island Rd., Suite 540
Plantation, FL 33324
Attorney for Petitioner

Rajendra Prakash
14395 SW 139th Court Ste. 103
Miami, FL 33186
Unit Owners' Representative



Leslie O. Anderson-Adams, Arbitrator

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MIAMI LAKES FLORIDA 33160

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