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

IN RE: PETITION FOR ARBITRATION-HOA

Filed with
Arbitration Section

MARTIN NEGRON,

Petitioner,

MAR 16 2017

v.

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

Case No. 2017-01-1731

ASSOCIATION OF POINCIANA VILLAGES, INC.,

Respondent.
_____/

ORDER REQUIRING ANSWER

Upon review of the Petition for Binding Arbitration-Election Dispute in a Homeowners' Associations, the arbitrator enters this Order as follows:

1. The Division of Florida Condominiums, Timeshares and Mobile Homes ("Division"), has received the enclosed petition for mandatory binding arbitration for an election dispute and hereby notifies the above-named Respondent that Respondent has been sued in this proceeding. This case has been assigned to the undersigned arbitrator.

2. A preliminary determination has been made that Petitioner is a member of the association, that Respondent is a homeowners' association under Chapter 720, Florida Statutes, and that there is a dispute which qualifies for mandatory binding arbitration pursuant to section 720.311(1), Florida Statutes over which the Division has jurisdiction.

3. This proceeding is governed by sections 720.311(1) and 718.1255, Florida Statutes, and Chapter 61B-80, Florida Administrative Code. A copy of these may be

obtained at www.myflorida.com/dbpr. **Respondent must file an answer to the enclosed petition within twenty (20) days from Respondent's receipt of this Order. In lieu of or in addition to the answer, Respondent may file any motion authorized by Rule 61B-80.113, Florida Administrative Code.**

4. The answer shall separately identify all facts contained in the petition that Respondent disputes or shall, in the alternative, state that no disputed facts exist. All facts not specifically denied shall be deemed admitted. A general denial does not satisfy the requirements of this paragraph. The answer shall be filed on DBPR Form HOA 6000-9, Answer to Petition. If Respondent relies on additional or alternate facts, supporting documentation in support thereof must be attached to the answer. In addition, the answer must include all defenses and objections that Respondent may have against the petition. All defenses not raised in Respondent's answer shall be waived. Any answer failing to comply with the rule may be stricken. The answer shall not include a request for relief (counterclaim) against Petitioner. Any claim or request for relief must be filed as a new petition following the procedures provided in Rule 61B-80.103, Florida Administrative Code.

5. Claims, such as counterclaims, that Respondent may have against Petitioner shall not be included in the answer, but may be asserted in a separate petition for mediation or arbitration, as applicable, pursuant to Chapter 720, Florida Statutes. However, Respondent is not required to pursue any counterclaims Respondent may have against Petitioner.

6. Section 720.311(1), Florida Statutes, provides that **the losing party shall pay the costs and attorney's fees of the prevailing party**. The party that loses the

arbitration is required to pay the other party's costs and attorney's fees; however, as provided by Rule 61B-80.123, Florida Administrative Code, any party seeking an award of costs and attorney's fees must request the award in writing prior to rendition of the final order. As a result, settlement of the dispute presented in the petition is encouraged, as is minimizing the number of issues in dispute. For example, if you admit facts that are true, as opposed to disputing the facts and requiring the conduct of a formal fact-finding hearing, you will reduce attorney time spent on the case, and thus will keep attorney's fees lower.

7. If a person other than an attorney files any pleading or paper on behalf of a party, that person shall file a completed DBPR Form HOA 6000-6, Qualified Representative Application, either with or before filing the answer. This form may be obtained at www.myflorida.com/dbpr/lsc/hoa. An association must be represented by an attorney or other qualified representative.

8. After the answer is filed, if relevant and material facts remain in dispute, a formal fact-finding hearing will be held. If there is no factual dispute, a summary final order may be entered by the arbitrator. If there is no need for a formal fact-finding hearing, the arbitration procedure will be greatly expedited, and costs and attorney's fees should be less..

9. Pursuant to Rule 61B-80.108, Florida Administrative Code, no party or any person directly or indirectly interested in an arbitration proceeding, nor anyone authorized to act on behalf of a party or other interested person, shall communicate verbally or in writing in the absence of all parties, with the arbitrator or with the

Department of Business and Professional Regulation concerning the merits of the arbitration proceeding.

10. **The final order of the arbitrator is binding on the parties and may not be appealed. The final order of the arbitrator does not constitute final agency action and is not appealable to the district courts of appeal in the manner provided by section 120.68, Florida Statutes.**

It is therefore ORDERED:

1. Respondent shall file with the arbitrator an answer to the petition or a qualified motion within twenty (20) days of the date of Respondent's receipt of this Order. The answer shall comply with the requirements of Rule 61B-80.111, Florida Administrative Code, this Order, and be filed on a DBPR Form HOA 6000-9, Answer to Petition. Respondent may fax the completed answer form, with attachments to be mailed separately, to the arbitrator at (850) 487-0870.

2. Respondent shall also mail or otherwise deliver a copy of the answer to Petitioner named below, and indicate on the answer that a copy has been provided to Petitioner. If Petitioner is not represented by legal counsel, all pleadings and documents provided to the arbitrator shall be provided to Petitioner. The answer must indicate that a copy of the answer has been provided to Petitioner or through Petitioner's attorney, the manner in which the copy was provided, and the address where the copy was provided. Be advised that this answer and all future communications or pleadings submitted to the arbitrator must be delivered to all parties named in this proceeding.

FAILURE TO SUBMIT AN ANSWER TO PETITION MAY RESULT IN THE ADMISSION OF ALL FACTS CONTAINED IN THE PETITION AND/OR AN ORDER OF DEFAULT AGAINST RESPONDENT.

DONE AND ORDERED this 16th day of March, 2017, at Tallahassee, Leon County, Florida.

Terri Leigh Jones, Arbitrator
Department of Business and
Professional Regulation
Arbitration Section
2601 Blair Stone Road
Tallahassee, Florida 32399-1030
Telephone (850) 414-6867
Facsimile (850) 487-0870

Copy furnished by U.S. Mail to:

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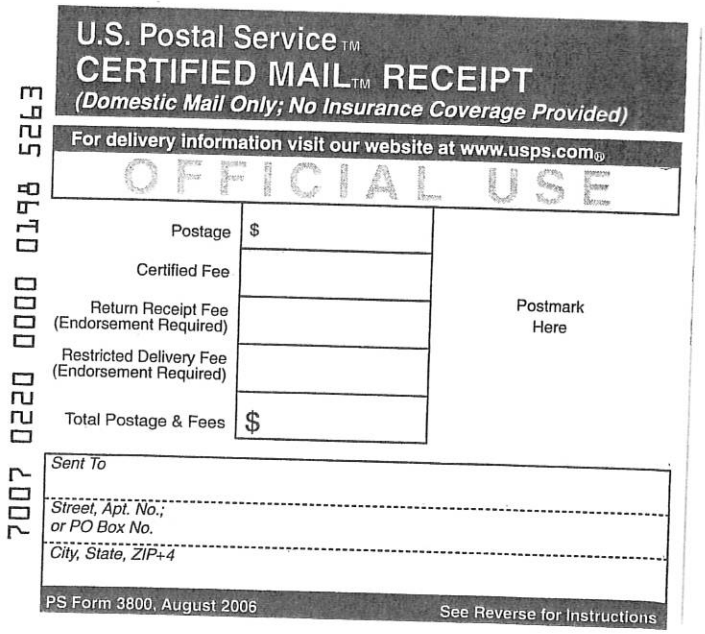
Attorney for Petitioner

Copies furnished by
United States Certified
Mail, with copy of petition

Mark Maldonado
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Poinciana, FL 34759
Registered Agent for Respondent