

IN THE CIRCUIT COURT OF THE 15TH  
JUDICIAL CIRCUIT, IN AND FOR  
PALM BEACH COUNTY, FLORIDA

**CASE NO.: 50 2020 CA 000251XXXX MB (AF)**

BOCA VIEW CONDOMINIUM ASSOCIATION, INC.,

Plaintiff,  
vs.

ELEANOR LEPSALTER, and  
EDWARD LEPSALTER,

Defendants.

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**PLAINTIFF'S EMERGENCY MOTION FOR REHEARING OF THIS COURT'S  
ORDER DENYING PLAINTIFF'S MOTION TO STAY PENDING APPEAL  
AND MOTION FOR DISSOLUTION OF THE WRIT OF SEQUESTRATION**

Plaintiff, BOCA VIEW CONDOMINIUM ASSOCIATION, INC., by and through undersigned counsel, requests a rehearing of this Honorable Court's Order, denying a stay this matter, and a dissolution of Writ of Sequestration, both dated February 16, 2023, after the predecessor Judge had entered a Final Judgment, dated December 2, 2022, and also the denial of Plaintiff's Motion for Rehearing/New Trial, dated December 28, 2022, both which are the subject of the Notice of Appeal, denying and states as grounds the following:

1. At a 30-minute specially set February 9, 2023 hearing, this Court heard both Plaintiff's Motion to Stay Pending Appeal (DE # 370) as well as Defendants' Motion for Sanctions and Issuance of Writ (DE #375).

2. On February 16, 2023, this Court denied Plaintiff's request to stay the action and issued a Writ of Sequestration (Composite Exhibit "A"). The Association seeks a rehearing based on several factors including issues that stretch for years and which the Court may have

misapprehended, found confusing or was unable to explore in depth over the course of a short 30-minute hearing on two (2) motions.

**STANDARD OF REVIEW ON A MOTION TO STAY**

3. “The authority of the Court to issue a stay [under Rule 9.310(f), Florida Rules of Appellate Procedure] serves the purpose of preserving the status quo during an appellate proceeding. See *Hirsch v. Hirsch*, 309 So.2d 47 (Fla. 3d DCA 1975). Once a stay is issued, the stay remains in effect until the appellate court mandate is issued. Rule 9.310(e), Fla. R. App.” See *Sepich v. Papadopoulos*, 145 So. 3d 156, 157 n. 6 (Fla 3d DCA 2014); see also *Freedom Insurers, Inc. v. M.D. Moody & Sons, Inc*, 869 So. 2d 1283 (Fla. 4<sup>th</sup> DCA 2004).

4. A party such as the Association seeking to stay the lower tribunal order pending appeal should demonstrate: **(I)** the likelihood of irreparable harm to the movant Association if the motion is not granted; **(II)** the movant Association's likelihood of prevailing on appeal; or **(III)** a showing that a stay would be in the public interest. See *Lampert-Sacher v. Sacher*, 127 So. 3d 667 (Fla. 1st DCA 2013) (citing *White Const. Co., Inc. v. Dept. of Transp.*, 526 So. 2d 998 (Fla. 1st DCA 1988)); see also *Sepich v. Papadopoulos*, 145 So. 3d 156, 157 n. 6 (Fla 3d DCA 2014) (quoting *Perez v. Perez*, 769 So.2d 389, 391 n. 4 (Fla. 3d DCA 1999),) (citing *State ex rel. Price v. McCord*, 380 So.2d 1037 (Fla. 1980)).

5. Below, the Association respectfully submits ample details that satisfy any and/or all three prongs such that a stay should therefore be granted.

**POINT I – The Likelihood of Irreparable Harm to Association if Motion Is Not Granted**

6. At the February 9, 2023 hearing, this Honorable Court noted “I’m very confused. There are other cases involving these same records?... So Mr. Shepard, so what is the -- I don't understand the significance of these rulings.”

7. However, the answer to the Court's inquiry required nuance and information about the tortured history of years of litigation involving the Defendants' records request subject to the instant matter. This important aspect establishing the irreparable harm to the Association did not become fully apparent at the February 9, 2023 hearing.

8. Throughout the instant litigation and the arbitration proceedings below, the Association's theory is that the Defendants are "straw persons".

9. The genesis of the Defendants' comprehensive records request seeking seven (7) years of Association records dates back to 2015. This is the third time some version of said request came to the Association.

10. By way of background, former owners of two condominiums within the Association, David "Avi" Shefet and Dganit Shefet (jointly "Shefets"), transferred their units to their limited liability corporation, Cool Spaze LLC without first seeking the approval of the Association. The Shefets filed an arbitration action<sup>1</sup> with the Division of Condominiums, Timeshares and Mobile Homes at the Department of Business and Professional Regulation ("DBPR"). In his January 9, 2015 Final Order of Dismissal of Cool Spaze's arbitration action, attached hereto as Exhibit "B", the arbitrator noted that:

the title issue is inextricably intertwined with the other issues in this case. Thus, this case must be dismissed for lack of jurisdiction.

Based on the foregoing, it is **ORDERED:**

This case is **DISMISSED** for lack of jurisdiction and arbitration case number 2015-00-0580 is hereby closed. Petitioner may seek relief in a court of competent jurisdiction.

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<sup>1</sup> Arb. Case # 2015-00-0580.

11. In order to leverage a subsequent lawsuit seeking relief on the “title issue” as framed by the arbitrator<sup>2</sup>, on or about mid-2016, the principals of Cool Spaze, David “Avi” Shefet and Dganit Shefet (jointly “Shefets”), made an almost identical records request to that of the Defendants’, seeking all possible records of the Association, a private corporation, over a period of the preceding multiple years while their litigation against the Association was still pending. The Shefets, Breikreutz and Defendants’ records requests are attached hereto as Composite Exhibit “C”.

12. When the Association did not provide the records due to the pending litigation involving their title issue, the Shefets filed yet another DBPR petition for arbitration<sup>3</sup> seeking “an Order directing the Association to allow inspection and copying of specified Association official records and declaring some or all of the Association’s rules governing inspection to be unreasonable and unenforceable.”<sup>4</sup>

13. Yet again, in his August 2, 2016 Final Order of Dismissal of Cool Spaze’s arbitration action, attached hereto as Exhibit “D”, the arbitrator noted that (emphasis added):

The issue of the validity of the transfer of title to Petitioner is currently being litigated in the circuit court in and for Palm Beach County, Florida, in Cool Spaze LLC v. Boca View Condominium Association, Inc. Case No. 502015CA001580XXXXMB. This case must be dismissed for lack of jurisdiction.

...

Therefore, the *title issue* is inextricably intertwined with the other issues in this case. Accordingly, this case must be dismissed for lack of jurisdiction.

Based on the foregoing, it is **ORDERED**:

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<sup>2</sup> Palm Beach County Circuit Court Case# 50-2015-CA-001580-XXXX-MB, *Cool Spaze LLC v. Boca View Condominium Association, Inc.*, (“Cool Spaze matter”), a currently pending title issue before Judge Nutt.

<sup>3</sup> Arb. Case # 2016-03-5598.

<sup>4</sup> Parenthetically, the retiring Judge Kastrenakes in this action found the Association’s rules to be reasonable.

This case is **DISMISSED** for lack of jurisdiction and arbitration case number 2016-03-5598 is hereby closed. *Petitioner may seek relief in a court of competent jurisdiction.*

14. The Shefets would not take “no” for an answer. Instead, having been twice rebuffed by the DBPR arbitration, they and their law firm, then Backer Aboud Poliakoff & Foelster (now Backer Poliakoff & Foelster) (“Backer Law Firm”) deployed a “straw person”, Eileen Breitkreutz (“Breitkreutz”), - who did not have a *title issue* with her unit at the Association - to seek the same exact records previously sought by the Shefets for the preceding multiple years. See Exhibit “C”, *supra*. Breitkreutz failed to appear to an October 19, 2016 appointment set for her to inspect those records and initiated a litigation<sup>5</sup> against the Association. The evidence and testimony in the Breitkreutz matter established that the Shefets financed the Breitkreutz litigation by paying their own firm, the Backer Law Firm and attorney Jonathon A. Yellin (“Yellin”), to represent Breitkreutz during the arbitration, trial *de novo* and appeal before the Fourth District Court of Appeal. Further, the Shefets indemnified Breitkreutz and, subsequently, stood to gain improper access to the records despite the pendency of their title issue. At the December 2018 trial in the Breitkreutz matter, Judge Hafele entered an oral judgment in favor of the Association.

15. The Defendants are real estate agents who have made substantial income in transactions involving sales and rentals of the vast property holdings of the Shefets and their family relatives. As discovered in this matter, the Shefets also paid a portion of a prior judgment the Defendants owed to the Association<sup>6</sup>. See Exhibit “E”. Additionally, the Defendants seemingly

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<sup>5</sup> *Breitkreutz v. Boca View Condominium Association, Inc.*, Palm Beach County Case# 50-2017-CA-007482-XXXX-MB (“*Breitkreutz* matter”) wherein, on March 12, 2019, the Court entered a Final Judgment in favor of the Association (subsequently affirmed on appeal in 292 So.3d 1182 (Fla. 4th DCA 2020)).

<sup>6</sup> Entered by former Judge Sandra Bosso-Pardo in Palm Beach County Small Claims Case # 50-2013-SC-005127-XXXX-MB, (wherein almost a decade ago, these Defendants and both their current lead counsel and co-counsel sued the Association and all its Board members individually). See DE #s 237 and 265 therein.

occupy most of their free time instigating lawsuits, State agency complaints, City of Boca Raton Code Enforcement or Police Department grievances aimed at harassing the Appellant, its Board Directors, maintenance staff, management company or attorneys.

16. In February 2019, less than two months after Judge Hafele's oral decision, the Defendants became the Shefets' post-Breitkreutz "straw persons" of turn and sent yet another version of the Shefet's 2015 records request through the Backer Law Firm. Yellin from that Firm quickly shifted gears from the Breitkreutz matter to the Defendants' records request and the arbitration action below the instant trial *de novo*.

17. Yellin is the Defendants' authorized representative. Yet, in a clear indication of the incestuous and conflicting legal relationships that have given the Association pause, to say the least, for years in all these matters, Yellin and the Backer Law Firm also represented the Shefets' interests in the instant matter as well when the Association sought their depositions in this matter. Furthermore, Yellin's Firm, the Backer Law Firm, represents the Shefets and their LLC in the *Cool Spaze matter*. Allowing him unfettered access to the Association's records would be improper while the Cool Spaze matter (and, subsequently, the Shefets' title issue) remain currently pending before Judge Nutt such that the Shefets would not be eligible to access the Association's records.

18. In sum, the Association was already involved in litigation with the Shefets and Cool Spaze at the time the Defendants made their request to inspect records. This request was a backdoor attempt at obtaining the records the Shefets could not get by engaging the Defendants here to do their dirty work. This issue was addressed in a recent Illinois case titled *Gelinas v. Barry Quadrangle Condo. Ass'n, Inc.*, 74 N.E.3d 49 (Ill. App. 2017). In that case, the Court

addressed a request to inspect records where a lawsuit was pending and explained that Count V of Plaintiff's Complaint was (emphasis added):

An action to compel examination of records against the Association and the Board. Count V was brought pursuant to sections 19(a)(1-5) and (b) of the Act, which requires an association's board of managers to keep and maintain certain records and also grants all members of an association the right to inspect, examine, and make copies of said records at any reasonable time. 765 ILCS 605/19(a)(1-5), (b) (West 2012).

The Trial Court dismissed Count V relying on *Bruske v. Arnold*, 44 Ill.2d 132, 135, 254 N.E.2d 453 (1969) wherein the court stated, "[i]n our courts, once a lawsuit has been filed, and all parties have appeared, **the pretrial search for matters relevant to the pending litigation is controlled by discovery rules promulgated by this court.**" *Id.* at 135, 254 N.E.2d 453.

Defendants respond that, even if the facts of *Bruske* are not exactly on point, plaintiff still cannot ignore the fact that courts recognize **that once a suit has been filed, the litigation is controlled by discovery rules. We agree with defendants. It would be duplicative and contrary to our settled law to require litigants to comply with both the rules of discovery and a section 19 request that was propounded subsequent to a lawsuit's filing. Once again, such a requirement would run contrary to common sense, and we refuse to impose such a burden on defendants here.**

19. Allowing the Shefets and Cool Spaze to obtain records that they were not entitled to in that litigation by allowing the Defendants to obtain it through another lawsuit, defeats the records request statute and circumvents the discovery rules as promulgated in the Florida Rules of Civil Procedure.

20. As such, the situation is very similar to the "cat out of the bag" discovery cases where either the trial court, or if denied, the appellate court stays the production pending the appeal. *See, e.g., Knauf Plasterboard (Tianjin) Co., Ltd.* 219 So. 3d 882 (Fla. 4<sup>th</sup> DCA 2017); *Lemieux v. Tandem Health Care of Florida, Inc.*, 862 So. 2d 745 (Fla. 2d DCA 2004).

**POINT II – The Moving Association's Likelihood of Prevailing on Appeal**

21. In terms of likelihood of success on the merits, the Appellant filed an 83-page Motion for Rehearing, which the Association incorporates by reference herein, raising a plethora of issues the predecessor Judge, respectfully, erred on in his various decisions in the case at bar. The sheer volume of these errors alone would provide ample grounds for reversal which substantially increases the Association's likelihood of success on appeal.

22. During the February 9, 2023 hearing, the Court noted "I don't have [Judge Kastrenakes'] original order [Final Judgment, dated December 2, 2022] in front of me", but read from his December 28, 2022 Order Denying Association's Motion for Rehearing/New Trial including the following paragraph (emphasis added):

[T]he Court notes first, that **some of the grounds** raised in the 83-page motion **were not argued or preserved at trial, or if argued and preserved**, the Court readopts and reaffirms its previous trial court rulings.

23. The ambiguous, non-committal language of the foregoing paragraph alone shows that Judge Kastrenakes could not unequivocally rebut the specific issues the Association raised in its Motion for Rehearing/New Trial. This fact provides additional preliminary insight that the Association's likelihood of prevailing on appeal is high.

24. More substantively, to name a few issues, the predecessor Judge: (a) improperly applied the legal precedent that the business judgment rule, a doctrine of judicial deference to decisions made by Boards of community associations, applies presumptively by operation of law. *New Horizons Condo. Master Ass'n, Inc. v. Harding*, 336 So. 3d 796 (Fla. 3d DCA 2022); (b) the trial court imposed a waiver defense that was never pled; (c) improperly applied an amended statute to a condominium association that had no *Kaufman* language in its documents; leading to an impairment of a contract; and, subsequently, (d) improperly applied F.S. § 617.1602(5)(2004)

which states in relevant part (emphasis added): “(5) A corporation **may deny any demand for inspection made pursuant to subsection (2) if the demand was made for an improper purpose...**”

25. The standard of review of all the legal issues raised in the foregoing paragraph would be *de novo* such that the Association’s likelihood of success on appeal increases substantially.

26. As to the abuse of discretion issues, the predecessor Judge, again respectfully, made several clear errors because: (i) the Final Judgment contains findings that were never made by the trial court in its oral rulings, - which, by his own admission, made him “nervous”<sup>7</sup>...; (ii) the trial court improperly excluded the Association's president from the trial; (iii) the trial court did not allow the Association to take and/or continue depositions of critical witnesses and party as well as necessary important discovery; (iv) Edward Lepselter was an indispensable party; (v) the trial court would not allow critical testimony in support of Association’s claims; (vi) the Association’s expert witness, Gerry Richman, Esq. was improperly excluded;... and (vii) failed to find the arbitrator lacked jurisdiction over the dispute due to the complexity of this matter ultimately leading to the Shefets’ unresolved title issue pending before Judge Nutt;... to name a few.

27. The foregoing abundantly provides that the Association’s chances of prevailing on appeal stand on solid grounds.

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<sup>7</sup> On December 2, 2022, the same day it entered said Final Judgment, the Court also rejected the Association’s competing Proposed Order submitted although at a November 7, 2022 hearing, the Court made the following remarks:

I got proposed orders on the trial, and what got me nervous, Salivar, is that I saw yours was like 30 or 40 pages. And you know what -- and I normally -- normally, as we have gone back through historically, I worked off your orders, right? But I tend to agree that something simpler that was drafted by the other side would work better. And I skimmed Mr. Cervera's order, and it appeared to be accurate and briefer.

**POINT III – A Stay Serves Public Interest**

28. In the most recent election in this 72-unit condominium community, held on January 27, 2023, the current Board Directors prevailed by 51 votes against 4.5 votes in favor of Defendant Eleanor Lepselter. Additionally, from a fiscal standpoint, the community has not had a special assessment in the last roughly seventeen (17) years and, over the years, has not even increased its dues to adjust for inflation. In light of said information, the Defendants' request for the Association's financial records is a red herring and was made for harassing purposes.

29. Indeed, the only issue Breitreutz was able to verbalize during the trial in her matter was that the Association was paying "too little" in attorney's fees, which reflects the frivolity of such requests. Similarly, on February 9, 2023, Defendants' attorney, Chris Salivar ("Salivar"), could only utter a pure speculation about some alleged "financial transparency to make sure that board members who are empowered for 15 years don't operate in the dark, which is what is actually going on" without providing proof of any wrongdoing.

30. In *Omes v. Ultra Enterprises, Inc.*, 116 So. 3d 633 (Fla. 3d DCA 2013), the Court explained that (emphasis added):

**The statutory inspection rights of shareholders are not tantamount to a free-ranging bill of discovery for corporate financial records**, nor do they obligate a corporation to prepare a record that does not exist... Tellingly, the exhibits attached to the Complaint disclose that Omes' sweeping allegations against new management and the Ultra entities' operations involve much more than a simple request for corporate financial statements. Pre-filing discovery (to attempt to find or substantiate shareholder claims for a later lawsuit) is not part of the letter or spirit of the records inspection statutes.

31. Based on the foregoing, public policy is in no way served by allowing unfettered access to the Defendants' authorized representative who is also the Shefets' own attorney, Yellin while the Shefets' *title issue* is still pending. Salivar, who also represents the Shefets individually

in the *Cool Spaze matter*, may opt to use said records to harass the Association in order to improperly leverage that action

32. As per the *Gelinas* Illinois case, *supra*, public policy would not be served by circumventing the rules of court or Florida Rules of Civil Procedure.

33. Similarly, the public are in no way served by first ignoring the business judgment of the Board of Directors who are best placed to understand the dynamics of harassing records requests and the connections between the parties making them, then engaging in “cat out of the bag” in releasing the records and making it impossible to bring “the horse back in the barn”. There is no way to unsee said records once access to them is provided.

34. Public policy would never allow a cabal of lawyers to use a handful of malcontent owners within an otherwise successful Association aiming to bankrupt the Association and harass its volunteer Directors to leave their position in which these Defendants have engaged for over a decade<sup>8</sup> in order to control all the real estate listings at the Association.

35. Further, the Writ of Sequestration is overbroad as a matter of law and will interfere with the Association's statutory functions. Under §718.111(12), Fla. Stat., the Association is required to make certain official records available for inspection by unit owners. However, under the Writ, these records must be held by the Association's property manager and will not be available for such production while held pursuant to the Writ.

36. Additionally, certain confidential and personal records are excluded from production under §718.111(12), Fla. Stat., but the Writ does not exclude or consider these records, so the Writ is overbroad.

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<sup>8</sup> Palm Beach County Small Claims Case # 50-2013-SC-005127-XXXX-MB. See also Footnote 6, *supra*.

WHEREFORE, Plaintiff respectfully request this Court grant rehearing or a stay of the Court's orders dated December 2, 2022, and December 28, 2022, as well as dissolve the February 16, 2023 Writ of Sequestration pending completion of the current appeal before the Fourth District Court of Appeal, award Plaintiff's attorneys' fees and costs, and grant such other and further relief as this Court deems appropriate and just.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 21st day of February, 2023, I electronically filed the foregoing document with the Clerk of the Court using the Florida Courts E-Filing Portal. I also certify that the foregoing document is being served this day on all counsel of record identified on the attached Service List.

FOWLER WHITE BURNETT, P.A.  
*Attorney for Plaintiff*  
515 N. Flagler Drive, Suite 2100  
West Palm Beach, FL 33401  
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By: /s/ John R. Sheppard  
John R. Sheppard, Esq.  
Fla. Bar No. 867152  
Esther E. Galicia, Esq.  
Fla. Bar No. 510459

**SERVICE LIST**

Andrew M. Schwartz, Esq. Fla. Bar No. 821802 <i>Attorney for Eleanor Lepselter and Edward Lepselter</i> 4755 Technology Way, Suite 103 Boca Raton, FL 33431 Email: <a href="mailto:ams@amslegalteam.com">ams@amslegalteam.com</a>	Christopher S. Salivar, Esq. Fla. Bar No.: 57031 <i>Attorney for Eleanor Lepselter and Edward Lepselter</i> 6576 Whispering Wind Way Delray Beach, FL 33484 (561) 628-8908 Email: <a href="mailto:cssalivarattorney@gmail.com">cssalivarattorney@gmail.com</a>
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# **EXHIBIT “A”**

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT  
IN AND FOR PALM BEACH COUNTY, FLORIDA

BOCA VIEW CONDOMINIUM ASSOCIATION,  
INC.,

CASE NO.: 502020CA000251  
JUDGE: CAROLYN BELL

PLAINTIFF,

vs.

ELEANOR LEPSALTER, AN INDIVIDUAL,  
AND EDWARD LEPSALTER, AN INDIVIDUAL,

DEFENDANTS.

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**ORDER ON BOCA VIEW CONDOMINIUM ASSOCIATION, INC.'S MOTION TO  
STAY PENDING APPEAL, AND ELEANOR LEPSALTER AND EDWARD  
LEPSALTER'S MOTION FOR SANCTIONS AND ISSUANCE OF WRIT**

The parties having come before the Court on February 9, 2023 to address multiple pending Motions before the Court (specifically a) BOCA VIEW CONDOMINIUM ASSOCIATION, INC.'S Motion to Stay Pending Appeal filed February 1, 2023, and b) ELEANOR LEPSALTER and EDWARD LEPSALTER's Motion for Sanctions and Issuance of Writ filed February 2, 2023), and the Court having fully reviewed the Motions brought before the Court, having entertained the argument of counsel, having fully reviewed the case authority presented by counsel for the parties, and the Court being otherwise fully advised in the premises, it is hereby ORDERED as follows:

1. The Court first takes note of the detailed Order entered by Judge Kastrenakes on December 28, 2022, wherein Judge Kastrenakes held:

**“ORDERED and ADJUDGED** that Plaintiff, Boca View Condominium Association, Inc.'s Motion for New Trial is **DENIED**. In that regard, the Court notes first, that some grounds raised in the 83-page Motion were not argued or preserved at trial, or, if argued and preserved, the Court re-adopts and re-affirms its previous trial court rulings.

Secondly, the Court affirms that substantial, competent evidence amply supported the Court's verdict in this case and rejects any assertion that the verdict was against the manifest weight of evidence. See *Laskey v. Smith*, 239 So.2d 0. (Fla. 1970); *Brown v. Estate of Stuckey*, 749 So.2d 490, 497 (Fla. 1999); *Smith v. Brown*, 525 So.2d 868, 870 (Fla. 1988).

Third, the "Statement of Facts" presented as a header in Plaintiff's Motion, should in reality be labeled "Statement of Unproven Theories", as the grand conspiracy theme of Plaintiff's Motion was simply unproven rhetoric and largely irrelevant. It is further

**ORDERED AND ADJUDGED** that the Court **DIRECTS** that the Judgment entered on December 2, 2022 be executed forthwith. Given the holiday season, the Court gives the parties thirty (30) days from the entry of this Order for the record review by Eleanor Lepselter or her authorized representative. The Plaintiff will provide three (3) dates in the next ten (10) days for the record review to take place within thirty (30) days. The defendant shall select one of those dates. The Court will not entertain any Motion for Stay of the Judgment or its Execution on the non-monetary portion of the Judgment."

2. The Court was advised that on or about January 26, 2023, Plaintiff filed a Notice of Appeal seeking review of the Court's December 2, 2022 Final Judgment and its December 28, 2022 Order Denying the Plaintiff's Motion for Rehearing and/or Motion for New Trial. Thereafter, on February 1, 2023, Plaintiff filed a Motion seeking a stay of these proceedings pending the conclusion of the newly initiated appeal.
3. "A party seeking to stay the lower tribunal order pending appeal should demonstrate a likelihood of prevailing on appeal, irreparable harm to movant if the motion is not granted,

or a showing that a stay would be in the public interest. *See White Constr. Co. v. State, Dep't of Transp.*, 526 So. 2d 998 (Fla. 1st DCA 1988).” *See Lampert-Sacher v. Sacher*, 120 So.3d 667 (Fla. 1<sup>st</sup> DCA 2013).

4. Having fully entertained and considered Plaintiff’s Motion to Stay Pending Appeal, the Court does not find that the Plaintiff has met the standard justifying an exercise of this Court’s discretion to issue a stay of these proceedings during the pending appeal.
5. The Court finds that the Plaintiff has not submitted any evidence or information to this Court which demonstrates that it possesses a likelihood of success on the merits in its appeal. The Court finds that Judge Kastrenakes’ December 2, 2022 Final Judgment and his December 28, 2022 Order expressly detailed the Court’s factual findings and legal conclusions, and demonstrate how the Court’s findings and rulings were supported by ample evidence of record before the Court. While the Plaintiff’s argument during the February 9, 2023 hearings cited to a part of its Motion for Rehearing and/or Motion for New Trial as the basis for its belief that it will prevail on appeal, the Plaintiff has not presented anything to this Court which leads this Court to believe that Plaintiff will establish on appeal that Judge Kastrenakes committed error in either his December 2, 2022 Final Judgment or his December 28, 2022 Order.
6. The Court also finds that the Plaintiff has not presented anything to this Court to suggest, let alone establish, that the Plaintiff would sustain irreparable harm if this Court does not grant a stay of these proceedings during the pending appeal. To the contrary, it was acknowledged that the Plaintiff previously offered to make the records at issue available to Defendant ELEANOR LEPSALTER herself, as a unit owner, for her inspection and copying. As such, the Court finds that no irreparable harm could possibly occur if these same records, which Plaintiff was willing to make available to ELEANOR LEPSALTER

herself, are made available to ELEANOR LEPSALTER'S authorized representative in compliance with the Court's December 2, 2022 Final Judgment and December 28, 2022 Order.

7. Finally, the Plaintiff has not presented anything to this Court to suggest, let alone establish, that it would be in the public's interest to stay these proceedings while an appeal remains pending.
8. Given the foregoing, Plaintiff's Motion to Stay Pending Appeal is **DENIED**.
9. The Plaintiff's request that this Court grant Plaintiff at least thirty (30) days from the date of entry of this Order to make the records available to ELEANOR LEPSALTER'S authorized representative is also **DENIED**, as the Court finds that Judge Kastrenakes' December 28, 2022 Order already granted the Plaintiff thirty (30) days from December 28, 2022 to complete the records inspection, and despite this extended time for compliance the Plaintiff still did not provide dates of availability for an inspection or make the records available for inspection.
10. Having fully considered the Defendants' Motion for Sanctions and Issuance of Writ, the Court hereby **GRANTS** the Motion in part, and **DENIES** the Motion in part, as set forth below.
11. The Plaintiff is hereby **ORDERED** to provide, within the next five (5) days, its property manager (Eric Estebanez) with three (3) proposed dates falling within the next ten (10) days, for ELEANOR LEPSALTER's authorized representative, Jonathan Yellin, Esq., to inspect and copy the records identified in Mr. Yellin's February 6, 2019 correspondence.
12. The Court will concurrently issue a Writ of Sequestration directing Eric Estebanez to sequester the records identified in Mr. Yellin's February 6, 2019 correspondence and make

them available to Mr. Yellin for inspection and copying pursuant to the timeframe in paragraph eleven (11) above.

13. The Court will retain jurisdiction over the Plaintiff and Eric Estebanez to address any non-compliance with this Order or the Court's issued Writ of Sequestration.
14. The Court **DENIES** the Defendants' request for the imposition of monetary sanctions without prejudice to the right of the Defendants to bring the request before the Court again if either (or both of) the Plaintiff or Eric Estebanez fails to comply with this Order or the Writ of Sequestration referenced herein.
15. If the Plaintiff and Eric Estebanez comply with this Order and the Writ of Sequestration and the records identified in Jonathan Yellin, Esq.'s February 6, 2019 correspondence are made available to him for inspection and copying, then the Defendants shall file a Notice of Compliance with this Court so that the Court may issue an Order dissolving the Writ of Sequestration so that the records may be returned to the location at which they are normally maintained by the Plaintiff's property manager.

DONE and ORDERED in West Palm Beach, Palm Beach County, Florida.

 502020CA000251XXXXMB 02/16/2023  
*Carolyn Bell*  
Carolyn Bell, Circuit Judge  
ADMINISTRATIVE OFFICE OF THE COURT

502020CA000251XXXXMB 02/16/2023  
Carolyn Bell  
Circuit Judge

Copies to all parties and counsel of  
record via email:

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT  
IN AND FOR PALM BEACH COUNTY, FLORIDA

BOCA VIEW CONDOMINIUM ASSOCIATION,  
INC.,

CASE NO.: 502020CA000251  
JUDGE: CAROLYN BELL

PLAINTIFF,

vs.

ELEANOR LEPSALTER, AN INDIVIDUAL,  
AND EDWARD LEPSALTER, AN INDIVIDUAL,

DEFENDANTS.

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**WRIT OF SEQUESTRATION:**

STATE OF FLORIDA

TO: **ERIC ESTEBANEZ**  
3600 South Congress Ave., Suite C  
Boynton Beach, FL 33426

**YOU ARE HEREBY COMMANDED** to take possession of the following documents belonging to Plaintiff BOCA VIEW CONDOMINIUM ASSOCIATION, INC.:

- 1) A full set of the Association's currently-effective Rules and Regulations; and
- 2) All documents related to funds received by the Association from the developer of Boca View in 2011, 2012, and 2013, which amounts were approximately Three Hundred Thousand and no/100 (\$300,000.00) Dollars, including but not limited to any documents showing: receipt of the funds; the deposit of the funds; the current location of the funds; and, to the extent such funds were used for any purpose, documents evidencing the expenditure of the funds and the purpose of such expenditures.
- 3) Documents falling within the categories identified below for years 2012, 2013, 2014, 2015, 2016, 2017, 2018, and 2019:

- a. Annual operating budgets, including reserve budgets;
- b. Monthly financial statements;
- c. Annual audits or reviews;
- d. Bank statements and bank reconciliations;
- e. Detailed year-to-date general ledgers;
- f. Journal entries recorded in the general ledgers and supporting documentation;
- g. Detailed accounts receivable listings including the name of the Unit Owner and the amount of each assessment, and the last payment date and balance due by aging category (i.e., current, 31-60 days, 61-90 days, over 90 days, etc.);
- h. Cash receipt schedules and related supporting documentation;
- i. Cash disbursement schedules and check registers;
- j. Paid invoices and/or contracts supporting disbursements, and related cancelled checks;
- k. All legal invoices showing amounts due, but redacting any descriptions of work performed, and receipts showing all amounts paid by Association;
- l. Purchase orders;
- m. Payroll journals;
- n. Insurance policies;
- o. All contracts for services with amounts due in the relevant years, including any bids for work to be performed, which bids were provided during the relevant years;
- p. Records reflecting the rental of any Units by Unit Owners during the relevant years;
- q. Minutes of Board Meetings, committee meetings or executive sessions; and
- r. Minutes of Membership Meetings.

YOU ARE HEREBY DIRECTED TO SEQUESTER the foregoing records until such time as Defendant, ELEANOR LEPSALTER'S authorized representative, Jonathan Yellin, Esq., may complete an inspection of (and may copy) such records, pursuant to the Order of this Court entered on February 16, 2023. The sequestered records are to be made available to Jonathan Yellin, Esq. pursuant to the aforementioned Order. The sequestered records shall be maintained at 3600 South Congress Ave., Suite C, Boynton Beach, FL 33426 until such time as this Court issues an Order dissolving this Writ.

DATED this 16th day of February, 2023.

 502020CA000251XXXXMB 02/16/2023  
*Carolyn Bell*  
Carolyn Bell Circuit Judge  
ADMINISTRATIVE OFFICE OF THE COURT

502020CA000251XXXXMB 02/16/2023  
Carolyn Bell  
Circuit Judge

Copies to all parties and counsel of  
record via email:

# **EXHIBIT “B”**

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

**IN RE: PETITION FOR ARBITRATION**

**COOL SPAZE, LLC,**

**Petitioner,**

**v.**

**Case No. 2015-00-0580**

**BOCA VIEW CONDOMINIUM  
ASSOCIATION, INC.,**

**Respondent.**

\_\_\_\_\_ /

**FINAL ORDER OF DISMISSAL**

On January 2, 2015, Petitioner Cool Spaze, LLC, filed a Request for Expedited Determination of Jurisdiction and a petition for arbitration naming Boca View Condominium Association, Inc. (the Association) as Respondent. The petition states that the Association refuses to acknowledge that Petitioner now holds legal title to a condominium unit within the Association and, as a consequence, the Association is refusing to process and approve applications for Petitioner to lease the unit to tenants.

As relief, Petitioner requests, among other things, an Order requiring the Association to acknowledge the validity of the transfer of title to Petitioner and an Order requiring the Association to process and approve applications for Petitioner to lease the unit to tenants. This case must be dismissed for lack of jurisdiction.

Pursuant to Section 718.1255, Florida Statutes, disagreements involving title to a unit are not eligible for arbitration. See *Lauderdale West Community Association No. 1, Inc. v. Hyatt*, Arb. Case No. 2005-03-8055, Final Order of Dismissal (July 26, 2005). The petition filed herein necessarily requires the undersigned to determine whether Petitioner holds legal title to a condominium unit within the Association. The arbitrator

does have jurisdiction to address whether the Association improperly failed to process and approve applications for Petitioner to lease the unit to tenants. However, before doing so, the arbitrator would have to first resolve the title dispute to determine if Petitioner even owns a unit within the Association. Therefore, the title issue is inextricably intertwined with the other issues in this case. Thus, this case must be dismissed for lack of jurisdiction.

Based on the foregoing, it is **ORDERED**:

This case is **DISMISSED** for lack of jurisdiction and arbitration case number 2015-00-0580 is hereby closed. Petitioner may seek relief in a court of competent jurisdiction.

DONE AND ORDERED this 9<sup>th</sup> day of January, 2015, at Tallahassee, Leon County, Florida.

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David R. Slaton, 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 person on this 9<sup>th</sup> day of January, 2015:

Karl M. Scheuerman, Esq.  
Edward S. Hammel, Esq.  
Sachs Sax Caplan  
660 East Jefferson Street, Suite 102  
Tallahassee, FL 32301  
Attorneys for Petitioner

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David R. Slaton, Arbitrator

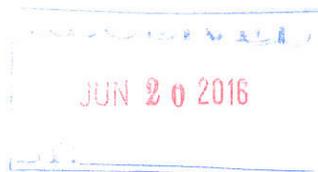
# **EXHIBIT “C”**

# Cool Spaze, LLC.

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June 17, 2016

Boca View Condominium Association, Inc.  
C/O Eric Estabanez, LCAM  
Pointe Management Group, Inc.  
1100 SW 10<sup>th</sup> Street, Suite B  
Delray Beach, FL 33444



**Re: Cool Spaze, LLC  
Boca View Condominium Association, Inc. ("Association")/  
Request to Inspect Records**

Dear Mr. Estabanez:

The undersigned, as the managing member of Cool Spaze, LLC ("Cool Spaze"), owner of Units 3K and 3W at Boca View Condominium, sends the following written request to inspect and copy the below-listed Association records within five (5) business days following your receipt of this request, as provided by Chapter 718.111(12), Fla. Stat. Such request is made for the purpose of performing a forensic audit of the Association's finances. The undersigned hereby requests, generally:

- 1) A full set of the Association's currently-effective Rules and Regulations; and
- 2) All documents related to funds received by the Association from the developer of Boca View in 2011 or 2012, which amounts were approximately Three Hundred Thousand and no/100 (\$300,000.00) Dollars, including but not limited to any documents showing: receipt of the funds; the deposit of the funds; the current location of the funds; and, to the extent such funds were used for any purpose, documents evidencing the expenditure of the funds and the purpose of such expenditures.

The following additional requests are for all documents dated or relevant to the years 2014, 2015 or 2016, as applicable:

- 1) Annual operating budgets, including reserve budgets;
- 2) Monthly financial statements;
- 3) Annual audits or reviews;
- 4) Bank statements and bank reconciliations;
- 5) Detailed year-to-date general ledgers;
- 6) Journal entries recorded in the general ledgers and related supporting documentation;
- 7) Detailed accounts receivable listings indicating the name of the Unit Owner, the amount of each assessment, and the last payment date and balance due by aging category (i.e., current, 31-60 days, 61-90 days, over 90 days, etc.)
- 8) Cash receipt schedules and related supporting documentation;

## Cool Spaze, LLC.

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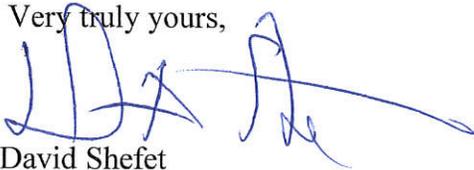
- 9) Cash disbursement schedules and check registers;
- 10) Paid invoices and/or contracts supporting disbursements, and related cancelled checks;
- 11) All attorney invoices showing amounts due, but redacting any descriptions of work performed, and receipts showing all amounts paid by Association;
- 12) Purchase orders;
- 13) Payroll journals;
- 14) Insurance policies;
- 15) All contracts for services with amounts due in the relevant years, including any bids for work to be performed, which bids were provided during the relevant years;
- 16) Records reflecting the rental of any Units by Unit Owners during the relevant years;
- 17) Minutes of Board Meetings; and
- 18) Minutes of Membership Meetings.

We are aware that the Association does not recognize Cool Spaze's ownership of Units 3K and 3W, and that it is contesting this issue in court. To the extent that the Association solely recognizes David Shefet and/or David Shefet and Dganit Shefet as the Owner/s of Units 3K and 3W, and without accepting the Association's argument with respect to same or waiving any rights to contest and challenge such determination of ownership, and though the undersigned maintains that both Units are owned by Cool Spaze, this request is similarly made on behalf of the undersigned, as an individual, on behalf of himself and Dganit Shefet.

To the extent that any of the requested financial information is available in electronic form, as electronic data from accounting software, we additionally request an electronic copy of same.

In the event that the Association does not comply with our request to inspect and/or copy records within the statutorily-mandated timeframe as provided by Section 718.111(12), Fla. Stat., including a failure to allow inspection; a failure to allow copying; or a failure to provide any of the requested records; we will file a petition for arbitration with the Division of Condominiums, Timeshares and Mobile Homes.

Very truly yours,



David Shefet

Eileen Breitkreutz  
1000 Spanish River Road  
Unit 3S  
Boca Raton, FL 33432



October 3, 2016

**VIA CERTIFIED MAIL/RETURN RECEIPT REQUESTED**  
**AND REGULAR MAIL/E-MAIL**

Boca View Condominium Association, Inc.  
C/O Eric Estabanez, LCAM  
1100 SW 10<sup>th</sup> Street, Suite B  
Delray Beach, FL 33444

**Re: Eileen Breitkreutz/Unit 3S**  
**Boca View Condominium Association, Inc. ("Association")/**  
**Request to Inspect Records**

Dear Mr. Estabanez:

I am the owner of Units 3S at Boca View Condominium. Please accept this written request for myself or my authorized representative representative to inspect and copy the below-listed Association records within five (5) business days following your receipt of this request, as provided by Chapter 718.111(12), Fla. Stat. Such request is made for the purpose of performing a forensic audit of the Association's finances. The undersigned hereby requests, generally:

- 1) A full set of the Association's currently-effective Rules and Regulations; and
- 2) All documents related to funds received by the Association from the developer of Boca View in 2011 or 2012, which amounts were approximately Three Hundred Thousand and no/100 (\$300,000.00) Dollars, including but not limited to any documents showing: receipt of the funds; the deposit of the funds; the current location of the funds; and, to the extent such funds were used for any purpose, documents evidencing the expenditure of the funds and the purpose of such expenditures.

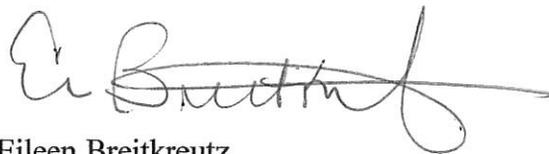
The following additional requests are for all documents dated or relevant to the years 2014, 2015 and/or 2016, as applicable:

- 1) Annual operating budgets, including reserve budgets;
- 2) Monthly financial statements;
- 3) Annual audits or reviews;
- 4) Bank statements and bank reconciliations;
- 5) Detailed year-to-date general ledgers;

- 6) Journal entries recorded in the general ledgers and related supporting documentation;
- 7) Detailed accounts receivable listings indicating the name of the Unit Owner, the amount of each assessment, and the last payment date and balance due by aging category (i.e., current, 31-60 days, 61-90 days, over 90 days, etc.)
- 8) Cash receipt schedules and related supporting documentation;
- 9) Cash disbursement schedules and check registers;
- 10) Paid invoices and/or contracts supporting disbursements, and related cancelled checks;
- 11) All legal invoices showing amounts due, but redacting any descriptions of work performed, and receipts showing all amounts paid by Association;
- 12) Purchase orders;
- 13) Payroll journals;
- 14) Insurance policies;
- 15) All contracts for services with amounts due in the relevant years, including any bids for work to per performed, which bids were provided during the relevant years;
- 16) Records reflecting the rental of any Units by Unit Owners during the relevant years;
- 17) Minutes of Board Meetings; and
- 18) Minutes of Membership Meetings.

In the event that the Association does not comply with this request to inspect and/or copy records within the statutorily-mandated timeframe as provided by Section 718.111(12), Fla. Stat., including a failure to allow inspection; a failure to allow copying; or a failure to provide any of the requested records; I will file a petition for arbitration with the Division of Condominiums, Timeshares and Mobile Homes.

Very truly yours,

A handwritten signature in black ink, appearing to read "Eileen Breikreutz". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Eileen Breikreutz

**Eleanor & Edward Lepselter  
1000 Spanish River Road, Unit 2S  
Boca Raton, FL 33432**

February 6, 2019

**VIA CERTIFIED MAIL / RETURN RECEIPT  
AND REGULAR MAIL / E-MAIL**

ericpmg@bellsouth.net

Boca View Condominium Association, Inc.  
c/o Eric Estebanez, LCAM  
1100 SW 10<sup>th</sup> Street, Suite B  
Delray Beach, FL 33444

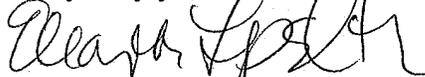
**Re: Appointment of Legal Representation  
Boca View Condominium / 1000 Spanish River Road, Unit 2S, Boca  
Raton, FL 33432**

Dear Mr. Estebanez:

Pursuant to Florida Statutes 718.111, we would like to inspect and copy the association records described in the attached correspondence from our attorney. This correspondence shall confirm that the law firm of Backer Aboud Poliakoff & Foelster, LLP represents us and we authorize them to inspect and receive copies of association documents as if we were requesting them ourselves under Florida law.

Please provide our attorneys with access to all association records. You must communicate with our attorney directly to arrange the inspection. You can email our attorney, Jonathan Yellin, at [jyellin@bapflaw.com](mailto:jyellin@bapflaw.com) to coordinate the inspection.

Very truly yours,



Eleanor Lepselter



Edward Lepselter

cc: Jonathan A. Yellin, Esq.

February 6, 2019

**VIA CERTIFIED MAIL / RETURN RECEIPT  
AND REGULAR MAIL / E-MAIL**

ericpmg@bellsouth.net

Boca View Condominium Association, Inc.  
c/o Eric Estebanez, LCAM  
1100 SW 10<sup>th</sup> Street, Suite B  
Delray Beach, FL 33444

**Re: Eleanor Lepselter /Unit 2s  
Boca View Condominium Association, Inc. ("Association")  
Request to Inspect Records**

Dear Mr. Estebanez:

This office has the pleasure of representing Eleanor Lepselter, the owner of Unit 2S at Boca View Condominium. This written request constitutes my client's request to inspect and copy the below-listed Association records within five (5) business days following your receipt of this request, pursuant to Chapter 718.111(12), Florida Statutes. Such request is made for the purpose of performing a forensic audit of the Association's finances. The undersigned hereby requests, generally:

- 1) A full set of the Association's currently-effective Rules and Regulations; and
- 2) All documents related to funds received by the Association from the developer of Boca View in 2011, 2012 and 2013, which amounts were approximately Three Hundred Thousand and no/100 (\$300,000.00) Dollars, including but not limited to any documents showing: receipt of the funds; the deposit of the funds; the current location of the funds; and, to the extent such funds were used for any purpose, documents evidencing the expenditure of the funds and the purpose of such expenditures.

The following additional requests are for all documents dated or relevant to the years 2012, 2013, 2014, 2015, 2016, 2017, 2018 and 2019 as applicable:

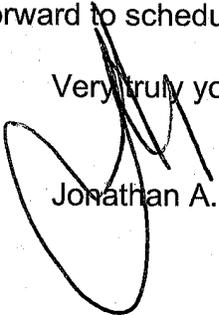
- 1) Annual operating budgets, including reserve budgets;
- 2) Monthly financial statements;
- 3) Annual audits or reviews;
- 4) Bank statements and bank reconciliations;
- 5) Detailed year-to-date general ledgers;

- 6) Journal entries recorded in the general ledgers and related supporting documentation;
- 7) Detailed accounts receivable listings indicating the name of the Unit Owner, the amount of each assessment, and the last payment date and balance due by aging category (i.e., current, 31-60 days, 61-90 days, over 90 days, etc.)
- 8) Cash receipt schedules and related supporting documentation;
- 9) Cash disbursement schedules and check registers;
- 10) Paid invoices and/or contracts supporting disbursements, and related cancelled checks;
- 11) All legal invoices showing amounts due, but redacting any descriptions of work performed, and receipts showing all amounts paid by Association;
- 12) Purchase orders;
- 13) Payroll journals;
- 14) Insurance policies;
- 15) All contracts for services with amounts due in the relevant years, including any bids for work to be performed, which bids were provided during the relevant years;
- 16) Records reflecting the rental of any Units by Unit Owners during the relevant years;
- 17) Minutes of Board Meetings, committee meetings or executive sessions; and
- 18) Minutes of Membership Meetings

In the event that the Association does not comply with this request to inspect and/or copy records within the statutorily-mandated timeframe as provided by Section 718.111(12), Fla. Stat., including a failure to allow inspection; a failure to allow copying; or a failure to provide any of the requested records; we will file a petition for arbitration with the Division of Condominiums, Timeshares and Mobile Homes.

Since I (or someone from my office) will be conducting the records inspection on behalf of Mrs. Lepselter, please contact me directly to arrange the inspection. I am currently available for the inspection on February 13, 2019 at 10:00 am. This date is subject to change as my schedule fills up, so I encourage you to respond as soon as possible to confirm the inspection date and time. I require documentation for all of our communications, given the past difficulty in getting a response from your office, so all communications between us must be via email. My email address is [jyellin@bapflaw.com](mailto:jyellin@bapflaw.com). I look forward to scheduling and attending the inspection.

Very truly yours,

  
Jonathan A. Yellin

cc: Eleanor Lepselter

# **EXHIBIT “D”**

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

**IN RE: PETITION FOR ARBITRATION**

**COOL SPAZE, LLC,**

Filed with  
Arbitration Section

**Petitioner,**

AUG - 2 2016

**v.**

**Case No. 2016-03-5598**

**BOCA VIEW CONDOMINIUM  
ASSOCIATION, INC.,**

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

**Respondent.**

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**FINAL ORDER OF DISMISSAL**

On July 27, 2016, Petitioner, Cool Spaze, LLC, filed a Request for Expedited Determination of Jurisdiction and a petition for arbitration naming Boca View Condominium Association, Inc. (the Association) as Respondent. The petition seeks an Order directing the Association to allow inspection and copying of specified Association official records and declaring some or all of the Association's rules governing inspection to be unreasonable and unenforceable. This a dispute over which the undersigned would ordinarily exercise jurisdiction under Section 718.1255(1)(b)4., Florida Statutes.

However, the petition states that Petitioner is the owner of two units within the Association, but also advises that the Association is of the position that Petitioner does not hold legal title to any unit within the Association. The issue of the validity of the transfer of title to Petitioner is currently being litigated in the circuit court in and for Palm Beach County, Florida, in Cool Spaze, LLC v. Boca View Condominium Association,

Inc., Case No. 502015CA001580XXXXMB(AO). This case must be dismissed for lack of jurisdiction.

Pursuant to Section 718.1255, Florida Statutes, disagreements involving title to a unit are not eligible for arbitration. See *Lauderdale West Community Association No. 1, Inc. v. Hyatt*, Arb. Case No. 2005-03-8055, Final Order of Dismissal (July 26, 2005). The petition filed herein necessarily requires the undersigned to determine whether Petitioner holds legal title to a condominium unit within the Association. The arbitrator does have jurisdiction to address the records dispute. However, before doing so, the arbitrator would have to first resolve the title dispute to determine if Petitioner even owns a unit within the Association and is thus entitled to inspect its official records per statute. Therefore, the title issue is inextricably intertwined with the other issues in this case. Accordingly, this case must be dismissed for lack of jurisdiction.

Based on the foregoing, it is **ORDERED**:

This case is **DISMISSED** for lack of jurisdiction and arbitration case number 2016-03-5598 is hereby closed. Petitioner may seek relief in a court of competent jurisdiction.

DONE AND ORDERED this 2<sup>nd</sup> day of August, 2016, at Tallahassee, Leon County, Florida.



David R. Slaton, Arbitrator  
Department of Business and  
Professional Regulation  
Arbitration Section  
2601 Blair Stone Road  
Tallahassee, Florida 32399-1030  
Tel. (850) 414-6867/Fax (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 person on this 2<sup>nd</sup> day of August, 2016:

Ryan D. Poliakoff, Esq.  
Backer Aboud Poliakoff & Foelster, LLP  
400 S. Dixie Hwy.  
Suite 420  
Boca Raton, FL 33432  
Attorney for Petitioner

A handwritten signature in black ink, appearing to read "David R. Slaton", written over a horizontal line.

David R. Slaton, Arbitrator

# **EXHIBIT “E”**



::

Bank of America, N.A.  
Wire Transfer Services

Date: 1-MAY-2015  
Time Wire Completed: 15:16 ET  
Account: XXXXXXXX8109

FLORIDA IOLTA TRUST ACCOUNT  
BECKER & POLIAKOFF PA TRTEE  
1 E BROWARD BLVD STE 1800  
FT LAUDERDALE, FL 33301-1876  
Attn: CAROL TUFFORD/GILMA MORENO

Please contact us at 800.729.9473 Option 2 if you have any questions about this wire transfer. Thank you for using Bank of America Wire Transfer Services.

The following wire was credited today in the amount of USD: 14,571.90

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Transaction Ref: 2015050100260188  
Sender's Ref: 0670144530006211  
Service Ref: 013246  
IMAD: 20150501GMQFMP0101324605011516FT03

Originator: SACHS SAX CAPLAN PL IOTA TRUST ACCT ID:120012943  
6111 BROKEN SOUND PKWY NW, #200  
BOCA RATON FL 32487

Sending Bank: LANDMARK BANK NA ID:067014453  
FORT LAUDERDALE, FL

Beneficiary: BECKER & POLIAKOFF IOTA TRUST ACCT ID:XXXXXXXX8109  
1 EAST BROWARD BLVD STE 1800  
FT LAUDERDALE FL 33301

Payment Details: SSC11951.01// CLIENT B09275  
MATTER 345815 ATTORNEY KJM

NNNN

**CONFIDENTIALITY NOTICE: This Fax transmittal is a confidential communication. If the reader of this message is not the intended recipient or an agent responsible for delivering it to the intended recipient, you are hereby notified that you have received this document in error and that any review, dissemination, distribution or copying of this transmittal is strictly prohibited. If you have received this communication in error, please notify this office and immediately delete this message and all of its attachments, if any.**