

Served on me this 6th day of February at 12:30 pm. (Signature)

STATE OF LOUISIANA CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

No. 2015 - 00916 1 Section: 6 - L Docket

OATS, STEPHEN A.] ENTERED]
versus] PAPER] RETURN]
HARBOR HOMEOWNERS ASSOCIATION, INC. BOARD OF] SERIAL NO. / DEPUTY / PARISH]
DIRECTORS]

R E S T R A I N I N G O R D E R

TO: HARBOR HOMEOWNERS ASSOCIATION, INC. BOARD OF DIRECTORS
THROUGH: ITS REGISTERED AGENT
CALEB H. DIDRIKSEN, 3114 CANAL STREET
NEW ORLEANS LA

GREETING: WHEREAS, it has been represented unto us in our said District Court on the part of OATS, STEPHEN A. in a PETITION FOR TRO, INJUNCTION AND PERMENENT INJUNCT

lately exhibited against you touching certain matters and things therein set forth; and, Whereas, the Honorable Kern A. Reese, a Judge of our said Court, upon due consideration thereof, has made and allowed an order in said cause, whereby you are required to show cause on the 9 day of February 2015 at 9:00 o'clock AM why an injunction should not issue as prayed for in said PETITION FOR TRO, INJUNCTION ; And, AND PERMENENT INJUNCT

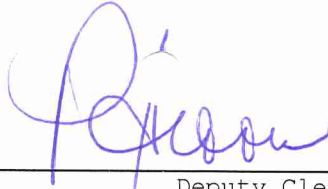
Whereas, the said Judge has granted and allowed an order restraining you HARBOR HOMEOWNERS ASSOCIATION, INC. BOARD OF DIRECTORS immediately and forthwith and during the pendency of said motion for an injunction to the full extent and effect as prayed for in said PETITION FOR TRO, INJUNCTION AND PERMENENT INJUNCT

Now, therefore, in consideration of the premises and of the allegations in said PETITION FOR TRO, INJUNCTION AND PERMENENT INJUNCT contained, you, the said HARBOR HOMEOWNERS ASSOCIATION, INC. BOARD OF DIRECTORS, your agents, attorneys, and servants and each of you are hereby commanded and strictly enjoined under the penalty of law. that you and each of you absolutely refrain and desist from

- 1. Mandating that the Board make available all of the financial documents requested, which are necessary to conduct an independent audit on the Association's financial records;
2. Mandating that the Board immediately comply with State statute and the founding documents regarding all financial transactions;
3. Restraining, enjoining, and prohibiting the Board from proceeding with expenditures outside of normal business until the Board produces the required documentation and complies with the founding documents and Louisiana law, in full;

And th attorneys, and servants and each of you remain so inhibited and restrained until the further order of our said Court in the premises.

Witness the Honorables Tiffany Chase, Robin M. Giarruso, Michael G. Bagneris, Regina Bartholomew, Ethel S. Julien, Clare Jupiter, Paulette Irons, Lloyd J. Medley, Jr, Paula Brown, Piper D. Griffin, Kern A. Reese, Bernadette D'Souza, Sidney H. Cates IV and Christopher Bruno, Judges of the said Court of the City of New Orleans, LA, this 30 day of January in the year of our Lord, 2015.



Deputy Clerk.
DALE N. ATKINS, CLERK OF COURT

Issued at the request of:
Klotz, William
Bar No. 17877

ATTORNEY'S NAME: Klotz, William 17877
AND ADDRESS: 909 Poydras Street, Suite 2950
New Orleans LA 70112

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS
STATE OF LOUISIANA

NO: 2015 -- 00916 2 DIVISION: L SECTION: 6

OATS, STEPHEN A. versus HARBOR HOMEOWNERS ASSOCIATION, INC. BOARD OF DIRECTORS

CITATION

TO: HARBOR HOMEOWNERS ASSOCIATION, INC. BOARD OF DIRECTORS
THROUGH: ITS REGISTERED AGENT
CALEB H. DIDRIKSEN
3114 CANAL STREET
NEW ORLEANS LA

YOU HAVE BEEN SUED: You are ordered to show cause February 9, 2015
at 9:00 AM as prescribed in the annexed copy of petition as prayed for and according to law.
You must either comply with the demand contained in the petition
FOR TRO, PRELIMINARY INJUNCTION, AND PERMANENT INJUNCTION W/EXHIBITS ATTACHED

a certified copy of which accompanies this citation, or file an answer or other legal pleading in the office of the Clerk of this Court, Room 402, Civil Courts Building, 421 Loyola Avenue, New Orleans, LA, within fifteen (15) days after the service hereof under penalty of default

ADDITIONAL INFORMATION

Legal assistance is advisable. If you want a lawyer and can't find one, you may call the New Orleans Lawyer Referral Service at 504-561- 8828. This Referral Service operates in conjunction with the New Orleans Bar Association. If you qualify, you may be entitled to free legal assistance through the New Orleans Legal Assistance Corp. You may call them at 800-624-4771 or 504-525-4431.

*****COURT PERSONNEL ARE NOT PERMITTED TO GIVE LEGAL ADVICE*****

IN WITNESS HEREOF, I have hereunto set my hand and affix the seal of the Civil District Court for the Parish of Orleans, State of LA January 30, 2015

Clerk's Office, Room 402, Civil Courts
421 Loyola Avenue
New Orleans, LA

DALE N. ATKINS, Clerk of
The Civil District Court
for the Parish of Orleans
State of LA

by 
Deputy Clerk

SHERIFF'S RETURN

(for use of process servers only)

PERSONAL SERVICE

On this _____ day of _____
_____ served a copy of the w/i petition
FOR TRO, PRELIMINARY INJUNCTION, AND PERMANENT
INJUNCTION W/EXHIBITS ATTACHED

On
HARBOR HOMEOWNERS ASSOCIATION, INC. BOARD OF
DIRECTORS

THROUGH: ITS REGISTERED AGENT

Returned same day

No.

Deputy Sheriff of _____

Mileage: \$ _____

PAPER

RETURN

SERIAL NO.

DEPUTY

PARISH

DOMICILIARY SERVICE

On this _____ day of _____
_____ served a copy of the w/i petition
FOR TRO, PRELIMINARY INJUNCTION, AND PERMANENT
INJUNCTION W/EXHIBITS ATTACHED

On
HARBOR HOMEOWNERS ASSOCIATION, INC. BOARD OF
DIRECTORS

THROUGH: ITS REGISTERED AGENT

by leaving same at the dwelling house, or usual place of
abode, in the hands of _____
a person of suitable age and discretion residing therein as
a member of the domiciliary establishment, whose name
and other facts connected with this service I learned by
interrogating HIM / HER the said _____
HARBOR HOMEOWNERS ASSOCIATION, INC. BOARD OF
DIRECTORS

being absent from the domicile at time of said service.
Returned same day

No.

Deputy Sheriff of _____

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

NO:

15-916

L

STEPHEN A. OATS

VERSUS

HARBOR HOMEOWNERS ASSOCIATION, INC. BOARD OF DIRECTORS

FILED
2015 JAN 30 P 2:10
DIVISION
CIVIL
DISTRICT COURT

FILED: _____

DEPUTY CLERK

PETITION FOR TEMPORARY RESTRAINING ORDER, PRELIMINARY
INJUNCTION, AND PERMANENT INJUNCTION

The petition of Stephen A. Oats, a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana, respectfully represents:

1.

Made Defendant herein is Harbor Homeowners Association, Inc. Board of Directors, a corporation licensed to do and doing business in the Parish of Orleans, State of Louisiana.

2.

Plaintiff Stephen A. Oats is the record owner of a condominium located in 500 Lake Marina Drive, New Orleans, Louisiana 70124. As owner of this condominium, Plaintiff is a member with full rights of the Harbor Homeowners Association, Inc., responsible for the upkeep, management, and finances of the condominium property.

3.

Defendant, Harbor Homeowners Association, Inc. and the condominium regime were created by the filing of a Declaration of Condominium, Articles of Incorporation, and organizational by-laws ("the founding documents") in the mortgage and conveyance records of Orleans Parish on April 29, 1983 in MOB 2421, folio 87 and the subsequent filing of the Articles of Incorporation with the Louisiana Secretary of State's office on April 25, 1985. Said documents dictate that members of the Association are defined as record owners of condominiums at 500 Lake Marina Drive.

4.

Defendant, Harbor Homeowners Association, Inc. Board of Directors is the management entity for the Association and is bound by said founding documents which have the force of law between the parties.

5.

The founding documents of the Association and Louisiana State statutes mandate:

- a. Proper accounting practices for all financial records and transactions be adopted by the Association through its Board of Directors (La. R.S. 9:1123.108) and (Harbor By-Laws Section 3.2(c)(12)).
- b. That all financial records of the Association be made available for inspection to members/homeowners or their agents with reasonable notice (La. R.S. 9:1123.108) and (Harbor By-Laws Section 3.2(c)(12)).
- c. That an annual audit be conducted by the Board along with an annual budget provided to the homeowners at least 45 days prior to the annual meeting of the Association. (Harbor By-Law Section 3.2(c)(12)).

6.

The Board has previously failed to comply with the founding documents and Louisiana law as related to audits and production of financial records upon request. Further, the Board has previously misappropriated funds and/or failed to keep a proper accounting in violation of the Harbor By-Laws. These actions required Plaintiff to file a prior Petition for Injunction, titled *Stephen A. Oats v. Harbor Homeowners Association, Inc. Board of Directors*, Civil District Court for the Parish of Orleans, No. 09-6033, Div. "L.". The Honorable Kern A. Reese granted the request for TRO and ordered financial documents produced.

7.

Since that Court Order was issued in July 2009, Defendants have again refused to provide financial records. Because of this failure to comply with the Harbor By-Laws, on or around November 2015, Plaintiff, Stephen A. Oats requested copies of the financial records so he could conduct an independent audit. The Board has failed to respond.

8.

Plaintiff subsequently hired an accountant, Ms. Marjorie R. Corcoran, CPA, to perform an audit of the Association's finances. On December 8, 2014, Ms. Corcoran sent a formal request for production of certain financial records. The Board has failed to respond.

9.

Both the Harbor Condominium declaration (Article X(a)) and La. State statute (La. R.S. 9:1124.115) allow for injunctive relief in this matter, and Plaintiff has made request as required by statute to inspect the accounts at issue.

10.

Unless a temporary restraining order is issued, mandating that the Board turn over or allow access to the requested documents and records, or is prevented from expending more funds (besides those necessary in the course of normal business), Plaintiff will suffer irreparable injury, loss and damage in that funds may be converted, misappropriated, or negligently spent.

11.

This temporary restraining order should issue without prior notice to Defendant as immediate relief is necessary to prevent damage to Plaintiff.

12.

This temporary restraining order should issue without security, as the Defendant will not be harmed in producing said documentation. In the alternative, security should be minimal in amount.

13.

The granting of the Temporary Restraining Order and/or preliminary injunction will maintain the status quo of the parties pending the outcome of Plaintiff's Petition for Preliminary Injunction and Permanent Injunction.

WHEREFORE, for the foregoing reasons, Plaintiff, Stephen A. Oats prays that this Honorable Court grant him a temporary restraining order, preliminary injunction, and permanent injunction, and that a temporary restraining order be issued herein, according to law, and without bond, directed to the Defendant:

- a. Mandating that the Board make available all of the financial documents requested, which are necessary to conduct an independent audit on the Association's financial records;
- b. Mandating that the Board immediately comply with La. State statute(s) and the condominium founding documents regarding all financial transactions;
- c. Restraining, enjoining, and prohibiting the Board from proceeding with expenditures outside of normal business; and

- d. Ordering that the Board show cause on the date and time fixed by this Honorable Court why a preliminary injunction in the form and substance of the temporary restraining order prayed for should not be issued; and
- e. For all additional relief as law, equity, and the nature of the cause may require.

Respectfully submitted,
KLOTZ & EARLY



W. Patrick Klotz, Bar# 17877
909 Poydras Street, Suite 2950
New Orleans, Louisiana 70112
Telephone: (504) 821-9900
Facsimile: (504) 821-8080
Attorney for Plaintiff, Stephen A. Oats

PLEASE SERVE

Harbor Homeowners Association, Inc. Board of Directors

Through its registered agent

Caleb H. Didriksen

3114 Canal Street

New Orleans, Louisiana 70119

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

NO:

STEPHEN A. OATS

VERSUS

HARBOR HOMEOWNERS ASSOCIATION, INC. BOARD OF DIRECTORS

FILED
2015 JAN 30 P 2:09"
DIVISION 09"
CIVIL DISTRICT COURT

FILED: _____

DEPUTY CLERK

ORDER

Considering the above and foregoing

IT IS ORDERED, ADJUDGED AND DECREED that a Temporary Restraining Order issue immediately on the Plaintiff's furnishing security in the amount of \$ 1000.00, directed to Harbor Homeowners Association, Inc. Board of Directors, directed to the Defendant:

1. Mandating that the Board make available all of the financial documents requested, which are necessary to conduct an independent audit on the Association's financial records;
2. Mandating that the Board immediately comply with State statute and the founding documents regarding all financial transactions;
3. Restraining, enjoining, and prohibiting the Board from proceeding with expenditures outside of normal business until the Board produces the required documentation and complies with the founding documents and Louisiana law, in full;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant, Harbor Homeowners Association, Inc. Board of Directors, appear and show cause on the 9th day of February 2015, at 9:00 a.m./p.m. as to why a preliminary injunction and, eventually, a permanent injunction in the form and substance of the above temporary restraining order should not issue herein;

Signed in NEW ORLEANS, Louisiana, this 30th day of Jan, 2015.

JUDGE

[Handwritten signature]

PLEASE SERVE

Harbor Homeowners Association, Inc. Board of Directors
Through its registered agent
Caleb H. Didriksen
3114 Canal Street
New Orleans, Louisiana 70119

A TRUE COPY
[Handwritten signature]
DEPUTY CLERK, CIVIL DISTRICT COURT
PARISH OF ORLEANS
STATE OF LOUISIANA

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

NO:

STEPHEN A. OATS

VERSUS

HARBOR HOMEOWNERS ASSOCIATION, INC. BOARD OF DIRECTORS

FILED
2015 JAN 30 P 2:10
DIVISION " "
DISTRICT COURT

FILED: _____

DEPUTY CLERK

VERIFICATION AFFIDAVIT


STATE OF LOUISIANA

PARISH OF ORLEANS

BEFORE ME, the undersigned Notary, personally appeared:

STEPHEN A. OATS

Who after, being sworn did depose and say that he has read the petition and that all of the allegations of fact contained therein are true and correct.


STEPHEN A. OATS

Sworn to and Subscribed before me, this 29th day of January, 2015.


NOTARY PUBLIC

W. PATRICK KLOTZ, Esq.
Notary Public, Louisiana
La. Bar #17877
Term is for Life

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

NO:

STEPHEN A. OATS

VERSUS

HARBOR HOMEOWNERS ASSOCIATION, INC. BOARD OF DIRECTORS

FILED: _____

DEPUTY CLERK

FILED
2015 JAN 30 P 2:10
DIVISION
CIVIL
DISTRICT COURT

ATTORNEY'S CERTIFICATE

The undersigned attorney certifies to this Honorable Court that on the 30th day of January, 2015 he delivered a copy of the foregoing Petition to Harbor Homeowners Association, Inc. Board of Directors through its agent for service of process, Caleb H. Didriksen, and that Plaintiff should not be required to give additional notice because of the need for immediate relief.

NEW ORLEANS, Louisiana, this 30th day of January, 2015.

Respectfully submitted,
KLOTZ & EARLY



W. Patrick Klotz, Bar# 17877
909 Poydras Street, Suite 2950
New Orleans, Louisiana 70112
Telephone: (504) 821-9900
Facsimile: (504) 821-8080
Attorney for Plaintiff, Stephen A. Oats

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

NO:

STEPHEN A. OATS

VERSUS

HARBOR HOMEOWNERS ASSOCIATION, INC. BOARD OF DIRECTORS

FILED: _____

DEPUTY CLERK

REQUEST FOR WRITTEN NOTICE

TO: Clerk of Court
421 Loyola Avenue, Room 402
New Orleans, Louisiana 70112

PLEASE TAKE NOTICE that you are hereby requested to provide the undersigned counsel with written notice of the date of trial of the above matter, as well as notices of hearings (whether on the merits or otherwise), orders, judgments, and interlocutory decrees, and any and all formal steps taken by the parties herein, the Judge, or any member of the Court, pursuant to the Louisiana Code of Civil Procedure, and without limitation, Articles 1674, 1913 and 1914.

Respectfully submitted,
KLOTZ & EARLY



W. Patrick Klotz, Bar# 17877
909 Poydras Street, Suite 2950
New Orleans, Louisiana 70112
Telephone: (504) 821-9900
Facsimile: (504) 821-8080
Attorney for Plaintiff

FILED
2015 JAN 30 P 2:10
DIVISION 4
CIVIL
DISTRICT COURT



2015 JAN 30 P 2:10
CIVIL
DISTRICT COURT

December 8, 2014

Mr. Michael George, Director
Mr. Peter Ingrassin, Director
Ms. Lisa Schuler, Director
% Harbor Homeowners Association, Inc.
500 Lake Marina Drive, Unit 100
New Orleans, Louisiana 70124

Dear Mr. George, Mr. Ingrassin, and Ms. Schuler:

Mr. Stephen A. Oats, the owner of unit 429, has retained my firm to review the accounting records of Harbor Homeowners Association, Inc. In accordance with Article 11 of the Condo Association's Articles of Incorporation, Mr. Oats propounds the following Request for Production of Documents of Harbor Homeowners Association, Inc. to be answered within fifteen (15) of the time of service hereof.

REQUEST FOR PRODUCTION OF DOCUMENTS NO. 1:

Complete back-up of the accounting system and general ledger including all subsidiary ledgers for each condominium unit owner. The back-up of the accounting system and general ledger should also include all allocation calculation details and all maintenance and unit repair expense line items that, at a minimum, detail the vendor's information, the date of service, the expense amount, and the general ledger account classification information for the periods January 1, 2006 through the current date..

REQUEST FOR PRODUCTION OF DOCUMENTS NO. 2:

If maintained by Harbor Homeowners Association, Inc. complete sub-ledgers, such as condo association operations management databases, for January 1, 2006 through the current date.

REQUEST FOR PRODUCTION OF DOCUMENTS NO. 3

Copy of the Harbor Association Inc. audited financial statements prepared by the association's CPA firm and covering the calendar years 2006 through 2013

After I have had a chance to review this initial document request, I will contact your office to set-up an appointment to address the additional information needed to complete my review.

Thank you in advance for your prompt attention in this matter and please give me a call at 885-0505 as soon as these documents are ready to be picked up.

Sincerely,

Marjorie R. Corcoran CPA, CVA, MAFF
cc: Mr. Stephen A. Oats

