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

CASE #:

POTIONS IN MOTION, LLC, a Florida
limited liability company, and JASON
SAVINO, an individual,

Plaintiffs,

vs.

SEVEN BRIDGES HOMEOWNERS
ASSOCIATION, INC., a Florida
corporation,

Defendant.

COMPLAINT FOR DEFAMATION AND BREACH OF CONTRACT

Plaintiffs JASON SAVINO and POTIONS IN MOTION, LLC sue Defendant SEVEN
BRIDGES HOMEOWNERS ASSOCIATION, INC. and alleges:

1. This is an action for damages that exceed \$30,000.00.
2. Plaintiff POTIONS IN MOTION, LLC, hereinafter "POTIONS IN MOTION", is Florida limited liability company with its principal place of business located in Palm Beach County, Florida. POTIONS IN MOTION is a catering company providing liquor and food catering for events throughout South Florida, as well as the Operator or a related business of the Operators of several restaurants located within the Clubhouses of various Homeowners Associations throughout Palm Beach.
3. Plaintiff JASON SAVINO is an individual residing in Palm Beach County, and is the owner and manager of POTIONS IN MOTION, LLC.

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4. Defendant SEVEN BRIDGES HOMEOWNERS ASSOCIATION, INC., hereinafter "SEVEN BRIDGES", is a Florida corporation with its principal place of business in Palm Beach County, Florida. SEVEN BRIDGES is the Homeowners Association responsible for the operation of the residential community known as "Seven Bridges" located in Delray Beach, Florida.

5. Jurisdiction is vested in this Honorable Court pursuant to Article V, §5, Florida Constitution and §26.012, Fla. Stat.

6. All conditions precedent to the institution of this action have occurred, been performed or waived.

7. At all times material, Plaintiff POTIONS IN MOTION was and is a business entity of good name, credit and reputation and enjoyed the esteem and good opinion of its colleagues and competitors and others who deal with it.

8. Defendant SEVEN BRIDGES knew of the good name, credit and reputation of Plaintiffs.

9. Starting in the spring of 2017, nonparty Devinos LLC, a related and associated business entity of POTIONS IN MOTION, for which JASON SAVINO is also an owner and manager, entered into a written contract with SEVEN BRIDGES with a three year term to operate and manage the restaurant, lounge, bar and catering kitchen located within the Clubhouse of the community, as well as to provide food and beverage service at the pool deck adjacent thereto.

10. Throughout the entirety of the duration of the written contract between Devinos

LLC and SEVEN BRIDGES, both the Association as well as members of the Seven Bridges community were aware of the association between Devinos LLC and POTIONS IN MOTION, regularly referring to the operators of the restaurant and catering facilities as POTIONS IN MOTION.

11. In March of 2020, Devinos LLC and SEVEN BRIDGES executed a Mutual Separation Agreement, which included a provision prohibiting the disparagement of either party or its businesses or associated third parties. A copy of the Mutual Separation Agreement is attached hereto as **EXHIBIT A**.

**COUNT I
DEFAMATION**

12. Plaintiffs repeat paragraphs 1 through 11.

13. This is an action for defamation against SEVEN BRIDGES.

14. In February 2020, shortly prior to the execution of the Mutual Separation Agreement, SEVEN BRIDGES reported to local authorities that an employee of Devinos, LLC allegedly broke into or otherwise unlawfully gained entry to the on-site property manager's office, for which an incident report was filed with the Palm Beach County Sheriff's Office.

15. Upon information and belief, and as will be attested to by members of the community, the incident report was utilized by SEVEN BRIDGES during subsequent board meetings (in which several members of the community were present) to openly discuss the accusations of breaking and entering into the office, and to support SEVEN BRIDGES' decision to hire a different restaurant operator.

16. Additionally, SEVEN BRIDGES openly discussed at its board meetings its allegations that Devinos, LLC's (through Jason Savino), failed or refused to provide certain financial information requested by the Defendant, to falsely support its claims that Devinos, LLC breached its contract with SEVEN BRIDGES to further support SEVEN BRIDGES' decision to hire a different restaurant operator.

17. The allegations of the unlawful entry and failure to comply with the requirement to provide financial information as discussed in paragraphs 15 and 16 above were also discussed at subsequent board meetings by SEVEN BRIDGES board members to support its refusal and rejection of any discussion or suggestion about entering into a new contract to again utilize Devino's, LLC, JASON SAVINO, or POTIONS IN MOTION, as its restaurant operator.

18. The statements published by SEVEN BRIDGES regarding the unlawful entry into the property manager's office, including the incident report filed with the authorities, and failure to provide financials as indicia of a contract breach, and the discussions about them during subsequent publicly held board meetings, were false, and imputed to the Plaintiffs both a criminal offense, as well as a breach of its contract and impropriety in the lawful conduct of Plaintiffs business.

19. Thereafter, on or about July 13, 2021, and in reference to comments or questions made to the Association regarding entering into a new contract or otherwise bringing Plaintiffs back to serve as the restaurant operator for the community, SEVEN BRIDGES composed and published additional defamatory statements via email to all of the unit owners and members of the Association, stating the following:

WOULD OUR BOARD CONSIDER BRINGING BACK POTIONS IN MOTION?

We have heard many comments suggesting that we bring back Potions in Motion as our restaurant operator. Suffice it to say that their past business practices and behavior has not been consistent with the high standards set by the previous board or this board for all vendors that we deal with. Accordingly, should there be a need to explore other opportunities, Potions in Motion will not be considered by this board or likely by any future board.

Again, if you have comments, suggestions, questions, email the board at 7bridgeshoa@gmail.com or restaurant@sevenbridgeshoa.com.

We hope the foregoing addresses your questions about Casa [*sic*]. We will update the community as appropriate.

THE BOARD OF DIRECTORS

20. The defamatory statements published to the community accusing Plaintiffs of committing a crime, committing a breach of its contract, and later concerning the past business practices of the Plaintiffs were made with malicious intent to injure Plaintiffs in their business, reputation, and credit, and/or imputes to others conduct, characteristics or conditions incompatible with the proper exercise of Plaintiffs lawful business, trade, and profession. In addition, the statements by Defendant have exposed the Plaintiffs to distrust, scorn, hatred, contempt and ridicule.

21. Further, the statements directly or otherwise implicitly assert that Plaintiffs acted contrary to the terms of the written contract with SEVEN BRIDGES or conducted themselves in a manipulative, scandalous or deceitful manner, and/or that they acted with lesser standards as compared to other vendors, whereby POTIONS IN MOTION would never be considered by the current board or any future board of directors to act again as the restaurant operator for the community.

22. The statements directly or implicitly accusing POTIONS IN MOTION of acting contrary to the terms of the written contract with SEVEN BRIDGES or that conducted itself in a manipulative, scandalous or deceitful manner, such that it acted with lesser standards than expected by the Association, are false.

23. By emailing the statements to all unit owners and/or members of the Association, and discussing the matters at public meetings, Defendant published the statements to third parties with knowledge of the falsity of the statements or in reckless or negligent disregard of their truth or falsity.

24. The statements posted by the Defendant and/or discussed during public board meetings were not privileged. As a result, Plaintiffs were injured in their good name, credit and reputation and were brought into public scandal and disgrace. In addition, Plaintiffs have been shunned by many persons with whom they previously had social or business relations from within the community, have suffered mental anguish and have been injured in their business by having lost trade and/or experienced difficulty in obtaining credit.

25. Defendant's statements constitute actionable defamation per se.

WHEREFORE Plaintiff demands judgment against Defendant for damages in excess of \$30,000.00 along with any and all relief available under Florida law, including its taxable court costs.

**COUNT II
BREACH OF CONTRACT**

26. Plaintiff readopts, realleges and reincorporates Paragraphs 1 through 11, 18 and

19 above as if fully set forth herein.

27. This is an action for breach of contract against SEVEN BRIDGES.

28. As a related business and associated third party, POTIONS IN MOTION was an intended third-party beneficiary of the provisions of the Mutual Separation Agreement prohibiting non-disparagement by either party, and is the assignee of claims by Devinos, LLC arising out of the Non-disparagement provision.

29. Pursuant to the Separation Agreement:

The ASSOCIATION and OPERATOR each agree and covenant that neither party shall at any time make, publish or communicate to any person or entity or in any public forum any defamatory or disparaging remarks, comments or statements concerning the other party or its businesses, or any of its employees or officers, and existing and prospective customers, suppliers, investors and other associated third parties, now or in the future.

30. The communications published by SEVEN BRIDGES to the entire community, including but not limited to the email disseminated on July 13, 2021, were both defamatory and disparaging as pertaining to the business practices of POTIONS IN MOTION and by implication Devinos, LLC, and constitute a material breach of contract.

31. As a result of SEVEN BRIDGES' material breach of contract, POTIONS IN MOTION, as assignee of Devinos, LLC, sustained damages.

32. Pursuant to the agreement between the parties, Plaintiff is entitled to reimbursement of its attorney's fees.

WHEREFORE Plaintiffs demand judgment against Defendant for damages in excess of \$30,000.00 along with any and all relief available under Florida law, including its taxable court costs and reimbursement of its reasonable attorneys fees.

**NOTICE OF COMPLIANCE WITH FLORIDA RULE
OF JUDICIAL ADMINISTRATION 2.516**

Pursuant to Florida Rule of Judicial Administration 2.516 regarding electronic service of documents, counsel for Plaintiff hereby files with the Court the undersigned Firm's designated email addresses:

Bradley R. Weiss, Esq.
Laurie Fox, FRP

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s/ *Bradley R. Weiss*

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NOT A CERTIFIED COPY

Mutual Separation Agreement

THIS MUTUAL SEPARATION AGREEMENT ("Agreement") is made and entered into as of this 13 day of March, 2020 by and between **SEVEN BRIDGES HOMEOWNERS ASSOCIATION, INC.**, a Florida not-for-profit corporation ("Association"), and **DEVINOS, LLC**, a Florida limited liability company ("Operator"), together the "Parties".

RECITALS

WHEREAS, ASSOCIATION and OPERATOR have a contract (and amendments thereto) providing for OPERATOR to provide management services of the restaurant(s) and lounge(s) within the residential community known as Seven Bridges ("Restaurant and Lounge Operation Agreement").

WHEREAS, ASSOCIATION has given OPERATOR notice that ASSOCIATION intends to terminate the services of OPERATOR on March 31, 2020;

WHEREAS, ASSOCIATION and OPERATOR desire to terminate the Restaurant and Lounge Operation Agreement earlier than the March 31, 2020 date, under the terms as set forth herein.

1. EARLY TERMINATION

OPERATOR has agreed to terminate the Restaurant and Lounge Operation Agreement and remove all personal property, described on Exhibit "A" hereto from the Property as of as of March 17, 2020, at 5:00 P.M. (the "Termination Date"). ASSOCIATION may keep or dispose of any and all personal property remaining after the Termination Date in any manner as ASSOCIATION in its absolute and sole discretion deems appropriate, without further notice to OPERATOR. Additionally, OPERATOR and ASSOCIATION agrees that the last day of food and beverage service which OPERATOR shall provide shall be on March 16, 2020.

OPERATOR shall cause to be delivered to ASSOCIATION all the keys and all access devices to the facility on or before the Termination Date.

2. PAYMENT

On or before the Termination Date, the ASSOCIATION shall make a final payment to OPERATOR in the amount of \$21,250.00 said amount representing the monthly pro-rata compensation due to OPERATOR from ASSOCIATION for the month of March 2020. Additionally, ASSOCIATION shall make payment to OPERATOR in the amount of \$1,593.83 for invoices related to the expenses incurred by OPERATOR for the months of February and March 2020 which ASSOCIATION is responsible for, copies of said invoices are attached hereto as Exhibit "B".

3. MUTUAL RELEASE

ASSOCIATION does hereby remise, release and forever discharge OPERATOR and its respective administrators, executors, representatives, successors and assigns, from any and all known actions, causes of action, suits, debts, accounts, covenants, disputes, agreements, promises, damages, judgments, executions, claims, and demands whatsoever in law or in equity that ASSOCIATION ever had, now has, or that ASSOCIATION or its administrators, executors, representatives, successors and assigns hereafter can or may have, by reason of any act, omission, matter,

cause or thing whatsoever arising from the Restaurant and Lounge Operation Agreement and occurring at any time prior to the execution of this Agreement.

OPERATOR does hereby remise, release and forever discharge ASSOCIATION and its respective administrators, executors, representatives, successors and assigns, from any and all known actions, causes of action, suits, debts, accounts, covenants, disputes, agreements, promises, damages, judgments, executions, claims, and demands whatsoever in law or in equity that OPERATOR ever had, now has, or that OPERATOR or its administrators, executors, representatives, successors and assigns hereafter can or may have, by reason of any act, omission, matter, cause or thing whatsoever arising from the Restaurant and Lounge Operation Agreement and occurring at any time prior to the execution of this Agreement.

The Releases provided for in this Section shall not be effective until the Parties have complied with the terms as specified in Sections 1 and 2 above.

4. NON-DISPARAGEMENT

The ASSOCIATION and OPERATOR each agree and covenant that neither party shall at any time make, publish or communicate to any person or entity or in any public forum any defamatory or disparaging remarks, comments or statements concerning the other party or its businesses, or any of its employees or officers, and existing and prospective customers, suppliers, investors and other associated third parties, now or in the future. This Section does not, in any way, restrict or impede the parties from exercising protected rights to the extent that such rights cannot be waived by agreement or from complying with any applicable law or regulation or a valid order of a court of competent jurisdiction or an authorized government agency, provided that such compliance does not exceed that required by the law, regulation or order. The party shall promptly provide written notice of any such order to the other party. For purposes of this Section, ASSOCIATION shall mean the board of directors, property management company, and each of their employees and officers, but shall not be so broadly construed to include each and every member and/or unit owner comprising Seven Bridges Homeowners Association, Inc.

5. GOVERNING LAW

This Agreement is being entered into in Palm Beach County Florida, and shall be interpreted under the laws of the State of Florida and shall be binding on the parties hereto, their successors, assigns, heirs, and personal representatives, and the Parties agree that in the event enforcement of this Agreement becomes necessary, that the Parties stipulate to be subject to the jurisdiction of and that venue will lie in the Circuit Court of the State of Florida for Palm Beach County, Florida.

6. ATTORNEY'S FEES

In the event that enforcement of this Agreement becomes necessary by either of the Parties, the party being required to seek enforcement shall be entitled to recover its reasonable attorney's fees and costs if the other party breaches any terms of this Agreement.

7. AUTHORITY TO BIND

Each of the Parties understands, agrees, and represents that the person signing this Agreement on their behalf has full and complete authority, both actual and apparent, to bind that party to the terms of this Agreement.

8. REVIEWED BY COUNSEL.

Each of the Parties represent that this Agreement has been negotiated by the Parties, and each has either reviewed this Agreement with their counsel, or has had the opportunity to review this Agreement with their counsel, and the presumption against drafting party shall not apply.


8. MODIFICATION

This Agreement may not be modified in any manner, except in a writing signed by the Parties. This Agreement shall be binding upon and inure to the benefit of the Parties, and their respective successors and assigns. This Agreement is solely for the benefit of the Parties, and no other party, person or entity or aggregation shall have any interest in, or benefit from, this Agreement.

THE UNDERSIGNED HAVE READ THE FOREGOING AGREEMENT AND RELEASE AND FULLY UNDERSTAND IT.

WHEREFORE, the party hereto sets her hands and seals this 13 day of March, 2020

**SEVEN BRIDGES HOMEOWNERS
ASSOCIATION, INC., A FLORIDA
NOT FOR PROFIT CORPORATION**



Lawrence Orbach, President

**DEVINOS, LLC, A FLORIDA LIMITED
LIABILITY COMPANY**



Jason Savino, Manager

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