

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

IN RE: PETITION FOR ARBITRATION - HOA

**Tiffany Woods HOA 2008-2009
Board of Directors,**

Petitioner,

Filed with
Arbitration Section

v.

Case No. 2009-03-6529

**J. Nieves, G. Holt, M. Mazur,
S. Dobbins and D. Welson,**

JUL 14 2009

Respondents.

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

FINAL ORDER OF DISMISSAL

On July 7, 2009, the seven members of the board of directors of Tiffany Woods Homeowners' Association, Inc., filed a Petition for Mandatory Binding Arbitration. The Petition requests that the arbitrator approve the board's certification of the March 17, 2009 election results. Although the Petitioners refer to themselves as the "2008-2009 Board of Directors", the certification declares the same individuals to be re-elected for 2009-2010.

The Petition names, as Respondents, five of the losing candidates (but fails to name one losing candidate).

The Petition for Mandatory Binding Arbitration in this case does not present a dispute subject to arbitration pursuant to sections 720.306(9) and 718.1255 Florida Statutes. An election dispute subject to arbitration must be "between a member and an association." The instant Petition goes out of its way to avoid naming the association as a party.

Section 718.1255(1)(b), Florida Statutes, does provide jurisdiction over, "The failure of a governing body . . . to: 1. properly conduct elections." But a governing body does not have standing to sue itself. The board of directors has no legal existence except as the corporate association. The legal status of the board and of the association does not change because each of the board members, individually, signed the petition. None of those individual board members has a dispute with the association.

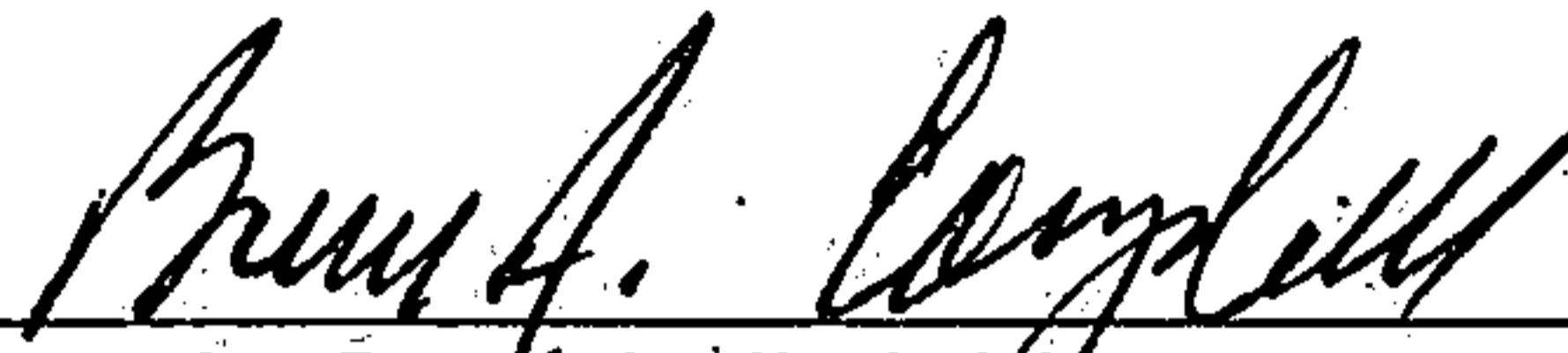
Even if the association were the named petitioner, there is no jurisdiction to arbitrate an association's request to confirm the validity of an election. *Cf., Gulf Island Beach & Tennis Club / Condominium, Inc. v. LaPenna*, Arb. Case No. 2003-04-2125, Final Order Dismissing Petition (March 11, 2003)(Condominium association sought order determining validity of election before certifying results).

Lack of standing has been recognized as grounds to dismiss an election dispute filed by one individual who alleged that the association failed to handle properly the candidacy of another individual. *Greenlee v. Oceanside Terrace Condominium Association, Inc.*, Arb. Case No. 95-0497(May 1996). The general rule may be stated that standing to challenge the results of an election must be established by allegations that a petitioner participated as a candidate.

Although one of the losing candidates would have standing, none of them chose to file a petition for arbitration. The board of directors has attempted to frame a dispute by naming the losing candidates as respondents, but there is no relief these respondents could provide to the association.

Based upon the foregoing, it is ORDERED that Arbitration Case No. 2009-03-6529 is Dismissed.

DONE AND ORDERED this 14th day of July, 2009, at Tallahassee, Leon
County, Florida.



Bruce A. Campbell, Arbitrator
Department of Business and
Professional Regulation
Arbitration Section
1940 North Monroe Street
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