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**BEFORE THE COMMISSION FOR COMMON-INTEREST
COMMUNITIES AND CONDOMINIUM HOTELS
STATE OF NEVADA**

JOSEPH (J.D.) DECKER, Administrator,
REAL ESTATE DIVISION, DEPARTMENT
OF BUSINESS & INDUSTRY,
STATE OF NEVADA,

Petitioner,

vs.

ANITA HERRERA-PEREZ,

Respondent.

Case No. 2013-2973

FILED

JUN 18 2015

NEVADA COMMISSION OF
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS

STIPULATION AND ORDER FOR SETTLEMENT OF DISCIPLINARY ACTION

This Stipulation and Order for Settlement of Disciplinary Action ("Stipulation and Order" or "Stipulation") is entered into between the Petitioner, Real Estate Division of the Department of Business and Industry, State of Nevada (the "Division"), through its Administrator, Joseph (J.D.) Decker, and Respondent, ANITA HERRERA-PEREZ ("Respondent").

JURISDICTION

RESPONDENT performed the duties of a community manager as defined by NRS 116.023 and is, therefore, subject to the jurisdiction of the Division and the provisions of NRS Chapters 116 and 116A and NAC Chapters 116 and 116A.

SUMMARY OF FACTUAL ALLEGATIONS SET FORTH IN THE COMPLAINT

1. Belvedere Towers Owners' Association (the "Association") governs a high-rise condominium tower conversion marketed as The Belvedere in Reno, Nevada consisting of approximately 176 units.

2. Secured Assets Belvedere Towers (SABT) owns 113 units and BTM, LLC (BTM) owns 31 units (SABT and BTM, collectively referred to herein as the "investment companies").

3. The investment companies controlled the Association's board of directors.

4. A unit owner within the Association filed a complaint against RESPONDENT alleging in part that RESPONDENT was being paid by the Association for performing

1 community management, but was not licensed to provide such services.

2 5. RESPONDENT is a licensed real estate broker and has a property manager
3 permit, but does not have a community manager certificate.

4 6. RESPONDENT was hired by the investment companies to manage the rental of
5 their units. The investment companies, through the Association's board, made
6 RESPONDENT an employee of the Association.

7 7. The Division's investigator asked RESPONDENT to respond to the allegation
8 that she was engaging in management of a common-interest community without a community
9 manager certificate from the Division.

10 8. The Association's attorney responded on behalf of RESPONDENT and
11 RESPONDENT signed a Verification of that response which described RESPONDENT'S
12 activities for the Association as:

13 Supervision of maintenance staff, facilitating bids and quotes based on the
14 [Association's] needs, served as emergency contact for the [Association], and
15 conducted routine inspections of common areas.

16 9. NRS 116.061 defines "management of a common-interest community" as "the
17 physical, administrative or financial maintenance and management of a common-interest
18 community, or the supervision of those activities, for a fee, commission or other valuable
19 consideration."

20 10. RESPONDENT'S response to the Division also included evidence that
21 RESPONDENT was paid by the Association as follows: \$55,250 in 2011, \$17,250 in 2012,
22 and \$15,750 in 2013.

23 11. In 2014, RESPONDENT was paid \$1,500 per month by the Association.

24 12. On or about April 9, 2014, principles of the investment companies owning a
25 majority of the units in the Association, including one board member of the Association, were
26 indicted in California for wire fraud, bank fraud, conspiracy and money laundering.

27 13. In June of 2014, a receiver was appointed to run the investment companies'
28 properties and the receiver was made the sole director of the Association; the investment

1 companies' representatives resigned from the board of directors.

2 14. The receiver and sole board member filed for bankruptcy protection on behalf of
3 the Association.

4 **SUMMARY OF VIOLATIONS OF LAW ALLEGED IN THE COMPLAINT**

5 15. RESPONDENT now understands that her actions might have amounted to
6 management of a common-interest community without a community manager certificate in
7 violation of NRS 116A.400(1).

8 **DISCIPLINE AUTHORIZED**

9 Pursuant to the provisions of NRS 116A.900 the Commission has discretion to impose
10 discipline as it deems appropriate, including, but not limited to one or more of the following
11 actions:

12 1. Impose a fine not to exceed the amount of any gain or economic benefit
13 RESPONDENT derived from the violation or \$10,000, whichever is greater.

14 2. Require the RESPONDENT to pay the costs of the investigation and hearing;
15 and

16 3. Take such other disciplinary action as the Commission deems appropriate.

17 The Commission may order one or any combination of the discipline described above.

18 **SETTLEMENT**

19 1. The Parties desire to compromise and settle the instant controversy pursuant to
20 the following terms and conditions.

21 2. Respondent agrees that she now understands that she may have unknowingly
22 performed community management services for compensation without a community manager
23 certificate as alleged in the Complaint.

24 3. Respondent agrees to pay to the Division \$74,783.00 in an administrative fine
25 which shall be paid within 60 days from the date this Stipulation and Order is signed by the
26 Commission.

27 4. The Division agrees not to pursue any other or greater remedies or fines in
28 connection with Respondent's alleged conduct referenced herein.

1 5. Respondent and the Division agree that by entering into this Stipulation and
2 Order, the Division does not concede any defense or mitigation Respondent may assert and
3 that once this Stipulation and Order is approved and fully performed, the Division will close its
4 file in this matter.

5 6. Respondent agrees that if the terms and conditions of this settlement are not
6 met, the Division may, at its option, rescind this Stipulation and Order and proceed with
7 prosecuting the Complaint before the Commission.

8 7. Respondent agrees and understands that by entering into this Stipulation and
9 Order, Respondent is waiving her right to a hearing at which Respondent may present
10 evidence in her defense, her right to a written decision on the merits of the Complaint, her
11 rights to reconsideration and/or rehearing, appeal and/or judicial review, and all other rights
12 which may be accorded by the Nevada Administrative Procedure Act, the Nevada Common
13 Interest Ownership statutes and accompanying regulations, and the federal and state
14 constitutions. Respondent understands that this Stipulation and other documentation may be
15 subject to public records laws. The Commission members who review this matter for approval
16 of this Stipulation may be the same members who ultimately hear, consider and decide the
17 Complaint if this Stipulation is either not approved by the Commission or is not timely
18 performed by Respondent. Respondent fully understands that she has the right to be
19 represented by legal counsel in this matter at her own expense.

20 8. Each party shall bear its own attorney's fees and costs.

21 9. Stipulation is Not Evidence. Neither this Stipulation nor any statements made
22 concerning this Stipulation may be discussed or introduced into evidence at any hearing on
23 the Complaint, if the Division must ultimately present its case based on the Complaint filed in
24 this matter.

25 10. Approval of Stipulation. Once executed, this Stipulation will be filed with the
26 Commission and will be placed on the agenda for approval at its June 16-18, 2015 public
27 meeting. The Division will recommend to the Commission approval of the Stipulation.
28 Respondent agrees that the Commission may approve, reject, or suggest amendments to this

1 Stipulation and that it must be accepted or rejected by Respondent before any amendment is
2 effective.

3 11. Withdrawal of Stipulation. If the Commission rejects this Stipulation or suggests
4 amendments unacceptable to Respondent, Respondent may withdraw from this Stipulation
5 and the Division may pursue its Complaint before the Commission at the Commission's next
6 regular public meeting.

7 12. Release. In consideration of execution of this Stipulation, the Respondent for
8 herself, her heirs, executors, administrators, successors, and assigns, hereby releases,
9 remises, and forever discharges the State of Nevada, the Department of Business and
10 Industry and the Division, and each of their respective members, agents, employees and
11 counsel in their individual and representative capacities, from any and all manner of actions,
12 causes of action, suits, debts, judgments, executions, claims, and demands whatsoever,
13 known and unknown, in law or equity, that the Respondent ever had, now has, may have, or
14 claim to have, against any or all of the persons or entities named in this section, arising out of
15 or by reason of the Division's investigation, this disciplinary action, and all other matters
16 relating thereto.

17 13. Indemnification. Respondent hereby indemnifies and holds harmless the State
18 of Nevada, the Department of Business and Industry, the Division, and each of their
19 respective members, agents, employees and counsel in their individual and representative
20 capacities against any and all claims, suits, and actions brought against said persons and/or
21 entities by reason of the Division's investigation, this disciplinary action and all other matters
22 relating thereto, and against any and all expenses, damages, and costs, including court costs
23 and attorney fees, which may be sustained by the persons and/or entities named in this
24 section as a result of said claims, suits, and actions.

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1 14. Respondent has signed and dated this Stipulation only after reading and
2 understanding all terms herein.

3 REAL ESTATE DIVISION
4 DEPARTMENT OF BUSINESS & INDUSTRY
5 STATE OF NEVADA

6 Dated: 4/01/15

7 By: [Signature]
8 JOSEPH (J.D.) DECKER, Administrator

9 Dated: April 13, 2015

10 By: [Signature]
11 ANITA HERRERA-PEREZ, Respondent

12 Approved as to form:

13 ADAM PAUL LAXALT
14 Attorney General

15 Dated: 4-27-15

16 By: [Signature]
17 Michelle D. Briggs, Esq.
18 Senior Deputy Attorney General
19 Attorney for the Division

MARQUIS AURBACH COFFING

20 Dated: April 23, 2015

21 By: [Signature]
22 Jack Juan, Esq.
23 Attorney for Respondent

24 IT IS ORDERED that the foregoing Stipulation is approved in full.

25 Dated this 17 day of June, 2015.

26 COMMISSION FOR COMMON-INTEREST
27 COMMUNITIES AND CONDOMINIUM HOTELS
28 DEPARTMENT OF BUSINESS & INDUSTRY
STATE OF NEVADA

By: [Signature]

Name: Barry Breslow

Title: Chairman