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. MAX MCCOMBS; and ENGLISH MILL CONDOMINIUMS HOMEOWNERS ASSOCIATION, Respondent.	**Case No. 2014-1179** FILED NOV 30 2015 NEVADA COMMISSION OF COMMON INTEREST COMMUNITIES AND CONDOMINIUM HOTELS

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ORDER REGARDING SETTLEMENT OF DISCIPLINARY ACTION

This matter having come before the Commission at its regularly scheduled meeting on November 17, 2015 in Carson City, Nevada, Petitioner, Real Estate Division of the Department of Business and Industry, State of Nevada (the "Division"), through its Administrator, JOSEPH (J.D.) DECKER, appeared by and through its counsel, Adam Paul Laxalt, Attorney General of the State of Nevada, Michelle D. Briggs, Senior Deputy Attorney General and Respondent, Max McCombs appeared for himself and English Mill Condominiums Homeowners Association (the "Association"). Ms. Briggs and Mr. McCombs presented to the Commission an oral stipulated settlement agreement as set forth in this Order Regarding Settlement of Disciplinary Action ("Order"). At the hearing, the Commission voted to approve the stipulated settlement terms as provided in this Order. The Complaint on file herein states as follows:

JURISDICTION AND NOTICE

1. During the relevant times mentioned in this complaint, RESPONDENT MAX MCCOMBS was an officer and director of ENGLISH MILL CONDOMINIUM HOMEOWNERS ASSOCIATION which governs a common interest community located in Reno, Nevada.

2. RESPONDENTS are subject to the provisions of Chapter 116 of each the Nevada Revised Statutes ("NRS") and the Nevada Administrative Code ("NAC") (hereinafter

collectively referred to as "NRS 116") and are subject to the jurisdiction of the Division, and the Commission for Common Interest Communities and Condominium Hotels pursuant to the provisions of NRS 116.750.

FACTUAL ALLEGATIONS

3. RESPONDENT ENGLISH MILL CONDOMINIUM HOMEOWNERS ASSOCIATION (the "Association") governs a 30 unit condominium project built in 1986.

4. RESPONDENT MAX MCCOMBS was the original declarant and is the sole board member for the Association.

5. The Association is self-managed.

6. The Association's board failed to submit the annual fee due to the Ombudsman's office in 2011 with its annual registration form.

7. The Division requested the fee by letter dated May 25, 2011 to the Association's board.

8. Receiving no response, the Division sent notice to the Nevada Secretary of State requesting that the Association be put in default status.

9. The Division sent a second request to the Association's board dated October 19, 2011.

10. The Division received no response.

11. The Association's board has not submitted an annual registration form to the Division since 2011.

12. The Division opened an investigation against the Association and RESPONDENT MAX MCCOMBS and requested Association records by letter dated April 8, 2014.

13. Receiving no response, the Division sent a follow-up letter dated June 26, 2014 with a deadline of July 11, 2014.

14. RESPONDENT MAX MCCOMBS responded in part to the Division's requests by letter dated August 25, 2014 to the Division's education officer.

15. The Association does not have regular meetings of the board or annual meetings of the owners.

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16. The Association is in permanently revoked status with the Nevada Secretary of State.

17. The Association does not have a reserve study or reserve funds.

18. The Association charges an assessment of $50 per month.

19. The minutes and budgets supplied to the Division by RESPONDENT MAX MCCOMBS appear to have been created just to satisfy the Division's requests.

20. The Association owes the Division approximately $438.54 in unit fees, late charges and interest.

VIOLATIONS OF LAW

21. RESPONDENT MAX MCCOMBS knowingly and willfully violated NRS 116.3103 by failing to transition the Association to the owners in accordance with NRS 116.31038 and NRS 116.31032.

22. RESPONDENT MAX MCCOMBS knowingly and willfully violated NRS 116.3103 (through NAC 116.405(3)) by committing an act or omission which amounts to incompetence, negligence or gross negligence by failing to have annual meetings and elections for the board.

23. RESPONDENT MAX MCCOMBS knowingly and willfully violated NRS 116.3103 (through NAC 116.405(3)) by committing an act or omission which amounts to incompetence, negligence or gross negligence by failing to have a reserve study performed.

24. RESPONDENT MAX MCCOMBS knowingly and willfully violated NRS 116.3103 (through NAC 116.405(3)) by committing an act or omission which amounts to incompetence, negligence or gross negligence by failing to cause the Association to have an adequately funded reserve account.

25. RESPONDENT MAX MCCOMBS knowingly and willfully violated NRS 116.3103 (through NAC 116.405(3)) by committing an act or omission which amounts to incompetence, negligence or gross negligence by failing to cause the Association to file annual registration forms with the Division required by NRS 116.31158 and pay the fees required by NRS 116.31155.

26. RESPONDENT MAX MCCOMBS knowingly and willfully violated NRS 116.3103 (through NAC 116.405(3)) by committing an act or omission which amounts to incompetence,

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negligence or gross negligence by failing to cause the Association to file an annual list of officers and directors with the Nevada Secretary of State's Office.

27. RESPONDENT MAX MCCOMBS knowingly and willfully violated NRS 116.3103 (through NAC 116.405(3)) by committing an act or omission which amounts to incompetence, negligence or gross negligence by failing to have annual meetings of the owners in accordance with NRS 116.3108.

28. RESPONDENT MAX MCCOMBS knowingly and willfully violated NRS 116.3103 (through NAC 116.405(3)) by committing an act or omission which amounts to incompetence, negligence or gross negligence by failing to have board meetings in accordance with NRS 116.31083.

29. RESPONDENT MAX MCCOMBS knowingly and willfully violated NRS 116.3103 (through NAC 116.405(3)) by committing an act or omission which amounts to incompetence, negligence or gross negligence by failing to prepare a budget in accordance with NRS 116.31151.

30. RESPONDENT MAX MCCOMBS knowingly and willfully violated NRS 116.3103 (through NAC 116.405(5)(a)) by impeding or otherwise interfering with an investigation of the Division by failing to comply with a request by the Division.

31. RESPONDENT MAX MCCOMBS knowingly and willfully violated NRS 116.3103 (through NAC 116.405(5)(b)) by impeding or otherwise interfering with an investigation of the Division by supplying false or misleading information to an investigator.

SETTLEMENT

1. Respondent Max McCombs admits that the Association does not have a properly funded reserve account; he failed to file annual registration forms with the Division; and failed to complete all filings with the Nevada Secretary of State's Office for the Association.

2. Respondents and the Division desire to compromise and settle the instant controversy pursuant to the following terms and conditions.

3. Respondents agree to pay to the Division the sum of $438.54 within 30 days of the date of this Order.

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4. Respondents agree to file an annual registration form with the Division and every year thereafter as required by NRS 116 and take all necessary steps to put the Association in good standing with both the Division and the Nevada Secretary of State within 60 days from the date of this Order.

5. Respondents agree to adopt the most recent reserve study obtained by Mr. McCombs from a reserve study specialist and to file Division Form 609 with the Division within 60 days from the date of this Order.

6. In accordance with the Association's reserve study, Respondents agree to impose a reserve assessment on all unit owners or add to the regular budget for 2016 the amount of $54.83 monthly per unit to be paid to the Association's separate reserve bank account.

7. Respondents agree to consult with a community manager regarding the requirements of NRS 116, but the Association is not required to be managed by a community manager.

8. In accordance with NRS 116, Respondents agree to have board meetings every 100 days and to provide notice to the owners of the board meetings no less than 10 days prior.

9. Respondents agree to send all unit owners a nomination form every 6 months until there is a full board in place.

10. Once this Order is fully performed, the Division will close its file in this matter.

11. This Order includes any claims that could have been included in a supplemental or amended complaint arising from the same operative facts, transactions and occurrences in existence as of the effective date of this Order. However, this Order does not include claims arising from facts or circumstances which have been concealed by Respondents.

12. Respondents agree that if the terms and conditions of this Order are not met, the Division may, at its option, rescind this settlement and proceed with prosecuting the Complaint before the Commission.

13. Respondents agree and understand that by entering into this settlement, Respondents are waiving their right to a hearing at which Respondents may present evidence

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in their defense, their right to a written decision on the merits of the Complaint, their rights to reconsideration and/or rehearing, appeal and/or judicial review, and all other rights which may be accorded by the Nevada Administrative Procedure Act, the Nevada Common Interest Ownership statutes and accompanying regulations, and the federal and state constitutions.

14. Respondents understand that this Order and other documentation may be subject to public records laws. The Commission members who review this matter for approval of this Order may be the same members who ultimately hear, consider and decide the Complaint if this Order is not timely performed by Respondents.

15. Respondents fully understand that they have the right to be represented by legal counsel in this matter at their own expense.

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

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

IT IS ORDERED.

Dated this 24th day of November, 2015.

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

By: _____

SCOTT SIBLEY, CHAIRMAN

Submitted by:
ADAM PAUL LAXALT,
Attorney General

By: _____
Michelle D. Briggs, Esq,
Senior Deputy Attorney General
Attorney for the Division

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