

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.

ANTHEM HIGHLANDS COMMUNITY
ASSOCIATION; ROBERT STERN;
CHARLES HERNANDEZ; and RONNIE
YOUNG,

Respondents.

Case Nos. 2015-3615; 2015-2155;
2015-3100; 2015-2207

FILED

JUN 16 2016

NEVADA COMMISSION OF
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS

STIPULATION AND ORDER FOR PARTIAL SETTLEMENT OF DISCIPLINARY ACTION

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, ROBERT STERN stipulate and agree as follows.

JURISDICTION AND NOTICE ALLEGED IN THE COMPLAINT

1. During the relevant times mentioned in this complaint, RESPONDENTS ROBERT STERN, CHARLES HERNANDEZ, and RONNIE YOUNG were officers or directors of ANTHEM HIGHLANDS COMMUNITY ASSOCIATION (the "Association"), a homeowners' association located in Henderson, 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 pursuant to the provisions of NRS 116.750.

SUMMARY OF FACTUAL ALLEGATIONS ALLEGED IN THE COMPLAINT

1. The Association is a master association with approximately 1,549 homes.

MS

1 2. The Association entered into an informal conference agreement with
2 RESPONDENT ROBERT STERN dated February 20, 2014 ("ICA") to settle a number of
3 intervention affidavits filed by the Association and RESPONDENT STERN.

4 3. In May 2014, the Association alleged a violation of the ICA by RESPONDENT
5 STERN and filed a claim with the Division's referee program.

6 4. RESPONDENT STERN refused to agree to the referee process and the
7 Association pursued a claim with the District Court in October 2014.

8 5. The Association's claim with the District Court sought declaratory relief as to the
9 ICA terms and requirements, but also alleged a claim for fraud against RESPONDENT
10 STERN.

11 6. RESPONDENT STERN filed a few intervention affidavits against the
12 Association after the ICA, including: one for not complying with NRS 116.31088 in the filing of
13 the civil action; and one for the board using Association funds for a trip to Carson City to meet
14 with legislators during the legislative session.

15 7. The civil case was dismissed and ordered to go to the referee program.

16 8. The Division investigated the affidavit and issued a letter of instruction to the
17 Association for failing to comply with NRS 116.31088.

18 9. The Division also investigated the issue of the use of Association funds and
19 issued a letter of instruction to the board advising them that a trip to the Nevada Legislature is
20 not a common expense.

21 10. RESPONDENTS STERN and HERNANDEZ ran for and were elected to the
22 board on May 27, 2015, also elected to the board at this time was Jody Fassette and Ken
23 Brensinger. RESPONDENT YOUNG was already on the board.

24 11. On or about May 31, 2015, Pennie Puhek contacted Ms. Fassette to discuss
25 Association issues.

26 12. Ms. Puhek was part of the investigations the Division concluded with a letters of
27 instruction and was a member of the Association's board when issues addressed by the ICA
28 were originally brought to the Division and has a long history of conflict with RESPONDENT

1 STERN.

2 13. The Association was to consider a memorandum of understanding with a sub-
3 association, Earlstone Homeowners Association ("Earlstone").

4 14. Ms. Puhek is a member of the board for Earlstone.

5 15. Ms. Fassette agreed to meet with Ms. Puhek on June 3, 2015 in a public place.

6 16. RESPONDENT HERNANDEZ and board member Brensinger were also
7 present, but Ms. Fassette was not told prior that they would be there.

8 17. Ms. Puhek, with Mr. Brensinger and HERNANDEZ, tried to convince Ms.
9 Fassette to vote in favor of the Earlstone memorandum.

10 18. Ms. Fassette was concerned about the terms of the memorandum and wanted
11 to see supporting documentation, so she could make an informed decision.

12 19. At the meeting later on June 3, board members RESPONDENTS STERN,
13 HERNANDEZ and YOUNG, as well as Ms. Fassette and Mr. Brensinger were present.

14 20. At the meeting, RESPONDENT HERNANDEZ made a motion to approve First
15 Service as the community manager effective September 1, subject to a committee of the
16 board to interview and approve a manager. The motion also included approval of the
17 Earlstone memorandum.

18 21. The motion failed.

19 22. Immediately after the June 3rd meeting Mr. Brensinger and RESPONDENT
20 HERNANDEZ verbally resigned, but never submitted a resignation in writing and continued to
21 act as members of the board.

22 23. On June 5, Ms. Puhek emailed the Association's board members threatening
23 legal action if the Earlstone memorandum is not approved.

24 24. An emergency meeting was called for June 12, 2015 to discuss and take action
25 on a new management contract.

26 25. Ms. Fassette emailed RESPONDENT HERNANDEZ, the board president, on
27 June 10 after she received the revised agenda for the emergency meeting.

28 26. The original agenda had not included the Earlstone memorandum, but the

1 revised agenda included the memorandum and tied it to the approval of the management
2 contract.

3 27. Ms. Fassette's email states:

4 I do not believe this falls under the emergency meeting criteria as the Earlstone
5 Memorandum is not an emergency.

6 28. Ms. Fassette went on to explain her issues with the Earlstone memorandum in
7 detail and asked for clarification.

8 29. Ms. Fassette also emailed the Association's attorney with her issues regarding
9 the Earlstone memorandum.

10 30. Ms. Fassette claims RESPONDENT HERNANDEZ told her the main issue was
11 the management agreement and that he would remove the Earlstone memorandum from the
12 agenda for the emergency meeting.

13 31. RESPONDENT HERNANDEZ did not remove the Earlstone memorandum from
14 the agenda, and instead phoned into the emergency meeting forcing Ms. Fassette to chair the
15 meeting.

16 32. Ms. Fassette was not comfortable voting in favor of the Earlstone memorandum.

17 33. During the meeting, the board created a committee consisting of
18 RESPONDENT HERNANDEZ and Ms. Fassette to interview and hire a manager.

19 34. Ms. Puhek is heard throughout the meeting yelling for a point of order as is
20 RESPONDENT STERN.

21 35. RESPONDENT STERN objects to having the Earlstone memorandum
22 addressed as it is not an emergency.

23 36. Mr. Brensinger says RESPONDENT STERN is not recognized by the chair
24 which seems to change from RESPONDENT HERNANDEZ to Ms. Fassette at various times.

25 37. The meeting is chaotic and ultimately the board continued the matter of the
26 Earlstone memorandum.

27 38. As a result of the June 12, 2015 meeting, Jody Fassette submitted her
28 resignation citing as her reason "threats, litigation intimidation from more than one individual,

1 retaliatory actions for voting/not voting a certain way and public defaming.”

2 39. By email dated June 18, 2015, Ms. Fassette notified RESPONDENT
3 HERNANDEZ that she wished to finish her term on the board.

4 40. RESPONDENT HERNANDEZ initiated a few letters from the Association's
5 attorney regarding Ms. Fassette's resignation and the effectiveness of it.

6 41. On June 30, RESPONDENT STERN posted to the Association's community
7 blog that he “will not be attending any board meetings until it is absolutely clear that
8 competent armed security is in place.”

9 42. On July 2, RESPONDENT STERN posted to the same blog that “trained
10 professionals with the necessary permits and training have decided that they will attend the
11 open board meetings to provide security.” He goes on to say he will attend the July 22
12 meeting of the board.

13 43. By letter dated July 8, Ms. Fassette states that her resignation was given under
14 duress and explains the situation she felt she was in.

15 44. By email dated July 19 to other board members, Ms. Fassette and Ms. Puhek,
16 RESPONDENT STERN states:

17 The clock is set and the final reel is unwinding. Get the popcorn and snow
18 cones. It is time to really protect the children and their parents from the enemies
19 within the Community. Most of the audience has figured it out and fearful that
20 the evil doers may prevail. Midsummers Nightmare. Coming to your local theater
21 July 22.

22 45. RESPONDENT HERNANDEZ refused to allow Ms. Fassette to return to her
23 position on the board, so RESPONDENT STERN filed an intervention affidavit against him.

24 46. RESPONDENT HERNANDEZ refused to attend an informal conference with the
25 Ombudsman's office to resolve the complaint.

26 47. At the July 22 meeting, several items were postponed and several items failed
27 due to split votes with only 4 board members.

28 48. RESPONDENT STERN made a motion to terminate the Association's attorney
as general counsel.

1 49. The Association's attorney represented the Association against RESPONDENT
2 STERN in the ICA matter referred back to the referee program and was not yet concluded.

3 50. RESPONDENT YOUNG supported the motion.

4 51. The motion passed with a "yes" vote from Mr. Brensinger who tried to take back
5 his vote saying he was confused about the motion and an argument ensued.

6 52. The same motion was brought up for a second vote and failed.

7 53. RESPONDENT STERN asserted Mr. Brensinger was not allowed to take back
8 his vote and treated the second vote as a motion to reconsider.

9 54. RESPONDENT HERNANDEZ, chairing the meeting, did not call for a vote
10 regarding Ms. Fassette's request to return to her seat on the board and no action was taken
11 to fill her vacancy.

12 55. By email dated September 9, Ms. Fassette asks RESPONDENT HERNANDEZ
13 and Mr. Brensinger to allow her to come back to the board as "a four person board is a
14 detriment to this community."

15 56. The Association had a meeting scheduled for September 23, but the meeting
16 did not occur due to a lack of a quorum with RESPONDENTS STERN and YOUNG not in
17 attendance.

18 57. By letter dated October 5, the Division notified RESPONDENT HERNANDEZ
19 that all efforts need to be taken to put an end to the board's current impasse.

20 58. Also by letter dated October 5, RESPONDENT STERN was notified that while
21 the intervention affidavit filed against him for failing to attend board meetings was being
22 closed due to the complainant's refusal to attend an informal conference, the Division
23 reserved the right to re-open the case if RESPONDENT STERN continued to fail to attend
24 future board meetings.

25 59. On or about October 6, 2015, Mr. Brensinger and RESPONDENT HERNANDEZ
26 signed an agreement whereby they would agree to bring Ms. Fassette back to the board on
27 certain conditions.

28 60. Ms. Fassette also signed the agreement, but RESPONDENT STERN and

1 YOUNG did not.

2 61. RESPONDENT STERN requested different terms of Ms. Fassette's return to the
3 board.

4 62. The board meetings scheduled for October 28, November 16, and December 9
5 did not take place due to a lack of a quorum as RESPONDENTS STERN and YOUNG did not
6 attend.

7 63. A meeting scheduled for December 28, requested by RESPONDENT STERN
8 with the agenda set by RESPONDENT STERN, did not happen due to a lack of a quorum
9 with RESPONDENTS STERN and YOUNG not in attendance.

10 64. The board has not met since the meeting on July 22, 2015.

11 65. The board has not addressed owner violations or adopted a budget for 2016.

12 66. The Association's fiscal year begins January 1.

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

14 1. RESPONDENTS STERN, YOUNG and HERNANDEZ knowingly and willfully
15 violated NRS 116.3103 (through NAC 116.405(2)) by failing to act in good faith and in the
16 best interests of the Association by acting for reasons of self-interest, gain, prejudice, or
17 revenge.

18 2. RESPONDENTS STERN, YOUNG and HERNANDEZ knowingly and willfully
19 violated NRS 116.3103 (through NAC 116.405(3)) by failing to act in good faith and in the
20 best interests of the Association by committing an act or omission which amounts to
21 incompetence, negligence or gross negligence.

22 3. RESPONDENTS STERN, YOUNG and HERNANDEZ knowingly and willfully
23 violated NRS 116.3103 (through NAC 116.405(8)(a)) by failing to act in good faith and in the
24 best interests of the Association by failing to cause the Association to comply with all
25 applicable federal, state and local laws and regulations and the governing documents of the
26 Association.

27 4. RESPONDENTS STERN, YOUNG and HERNANDEZ knowingly and willfully
28 violated NRS 116.3103 (through NAC 116.405(8)(c)) by failing to act in good faith and in the

1 best interests of the Association by failing to cause the Association to hold meetings of the
2 executive board with such frequency as to properly and efficiently address the affairs of the
3 Association.

4 5. RESPONDENTS knowingly and willfully violated NRS 116.31083(1) by failing to
5 have a meeting of the board at least once each quarter, and not less than once every 100
6 days.

7 6. RESPONDENTS knowingly and willfully violated NRS 116.31083(6) by failing to
8 have a meeting of the board at least once every quarter, and not less than once every 100
9 days, to review financial statements, revenues and expenses, operating and reserve
10 accounts, or financial statements.

11 7. RESPONDENTS knowingly and willfully violated NRS 116.31151(1) by failing to
12 prepare and distribute to each unit's owner a copy of the operating and reserve budget not
13 less than 30 days or more than 60 days before the beginning of the Association's fiscal year.

14 **DISCIPLINE AUTHORIZED**

15 Pursuant to the provisions of NRS 116.615; NRS 116.755; NRS 116.785; and NRS 116.790
16 the Commission has discretion to take any or all of the following actions:

- 17 1. Issue an order directing RESPONDENTS to cease and desist from continuing to
18 engage in the unlawful conduct that resulted in the violation.
- 19 2. Issue an order directing RESPONDENTS to take affirmative action to correct any
20 conditions resulting from the violation.
- 21 3. Impose an administrative fine of up to \$1,000 for each violation by RESPONDENTS.
- 22 4. IF RESPONDENTS ARE FOUND TO HAVE KNOWINGLY AND WILLFULLY
23 COMMITTED A VIOLATION of NRS or NAC 116 AND it is in the best interest of the
24 Association, such RESPONDENTS may be removed from his/her position as a director
25 and/or officer.
- 26 5. Order an audit of the ASSOCIATION, at the expense of the ASSOCIATION.
- 27 6. Require the BOARD MEMBERS to hire a community manager who holds a certificate.
- 28

1 7. Require RESPONDENTS to pay the costs of the proceedings incurred by the Division,
2 including, without limitation, the cost of the investigation and reasonable attorney's
3 fees.

4 8. Take whatever further disciplinary action as the Commission deems appropriate.
5

6 The Commission may order one or any combination of the discipline described above.
7 If the Commission finds that the RESPONDENTS knowingly and willfully violated the
8 provisions of NRS or NAC 116, the Commission may order that RESPONDENTS be
9 personally liable for all fines and costs imposed.
10

11 SETTLEMENT

12 1. The Division was prepared to present its case based upon the Complaint filed
13 with the Commission and RESPONDENT STERN was prepared to defend against the
14 Complaint.

15 2. The Parties desire to compromise and settle the instant controversy, with neither
16 assenting to the claims or defenses of the other, pursuant to the following terms and
17 conditions.

18 3. RESPONDENT STERN agrees not to serve on any board of directors or as an
19 officer for a common-interest community located in the state of Nevada for a period of 10
20 years from the date this Stipulation and Order is approved by the Commission.

21 4. The Division agrees not to pursue any other or greater remedies or fines in
22 connection with RESPONDENT STERN'S alleged conduct referenced herein.

23 5. RESPONDENT STERN and the Division agree that by entering into this
24 Stipulation, the Division does not concede any defense or mitigation RESPONDENT STERN
25 may assert and that once this Stipulation is approved and fully performed, the Division will
26 remove RESPONDENT STERN as a respondent in this matter.

27 6. This Stipulation includes any claims that could have been included in a
28 supplemental or amended complaint arising from the same operative facts, transactions and

1 occurrences in existence as of the effective date of this Agreement. However, this Settlement
2 does not include claims arising from facts or circumstances which have been concealed by
3 RESPONDENT STERN.

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

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

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

21 10. 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, except as it pertains to the hearing regarding the remaining Respondents, if
24 the Division must ultimately present its case based on the Complaint filed in this matter.

25 11. 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 2016 public meeting.
27 The Division will recommend to the Commission approval of the Stipulation. RESPONDENT
28 STERN agrees that the Commission may approve, reject, or suggest amendments to this

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

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

7 13. Release. In consideration of execution of this Stipulation, RESPONDENT
8 STERN for himself, his heirs, executors, administrators, successors, and assigns, hereby
9 releases, remises, and forever discharges the State of Nevada, the Department of Business
10 and 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 STERN ever had, now has,
14 may have, or claim to have, against any or all of the persons or entities named in this section,
15 arising out of or by reason of the Division's investigation, this disciplinary action, and all other
16 matters relating thereto.

17 14. Indemnification. RESPONDENT STERN hereby indemnifies and holds harmless
18 the State 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.

25 15. Nothing contained in this Stipulation shall hinder the Division's pursuit of the
26 complaint on file herein as to the Respondents, excluding STERN. The Division specifically
27 reserves the right to pursue the complaint as to the Respondents, excluding STERN.

28 16. RESPONDENT STERN has signed and dated this Stipulation only after reading

Attorney General's Office
555 E. Washington, Suite 3900
Las Vegas, NV 89101

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and understanding all terms herein.

Dated: _____

REAL ESTATE DIVISION
DEPARTMENT OF BUSINESS & INDUSTRY
STATE OF NEVADA

By: _____
JOSEPH (J.D.) DECKER, Administrator

Dated: 5/26/16

By: [Signature]
ROBERT STERN, RESPONDENT



Approved by:
ADAM PAUL LAXALT
Attorney General

By: _____
MICHELLE D. BRIGGS
Senior Deputy Attorney General
555 E. Washington Ave. Ste 3900
Las Vegas, Nevada 89101
(702) 486-3420
Attorneys for Real Estate Division

By: [Signature] 5/27/16
BRUCE FLAMMEY
LAW OFFICES OF BRUCE I.
FLAMMEY, a P.C.
3475 West Ford Avenue
Las Vegas, Nevada 89139
Attorney for Robert Stern

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

Dated this 16th day of June, 2016.

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

By: [Signature] Acting -
SCOTT SIBLEY, CHAIRMAN
[Signature]

1 and understanding all terms herein.

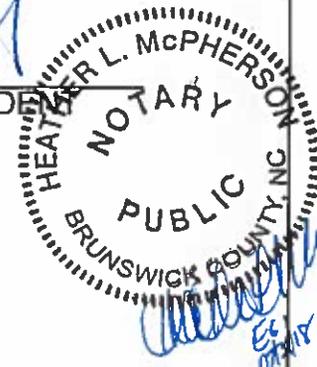
2 Dated: _____

REAL ESTATE DIVISION
DEPARTMENT OF BUSINESS & INDUSTRY
STATE OF NEVADA

6 By: _____
JOSEPH (J.D.) DECKER, Administrator

8 Dated: 5/26/16

By: 
ROBERT STERN, RESPONDER



10 Approved by:
11 ADAM PAUL LAXALT
12 Attorney General

14 By: _____
MICHELLE D. BRIGGS
15 Senior Deputy Attorney General
555 E. Washington Ave. Ste 3900
16 Las Vegas, Nevada 89101
(702) 486-3420
17 Attorneys for Real Estate Division

By: _____
BRUCE FLAMMEY
18 LAW OFFICES OF BRUCE I.
FLAMMEY, a P.C.
3475 West Ford Avenue
19 Las Vegas, Nevada 89139
Attorney for Robert Stern

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

20 Dated this _____ day of _____, 2016.

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

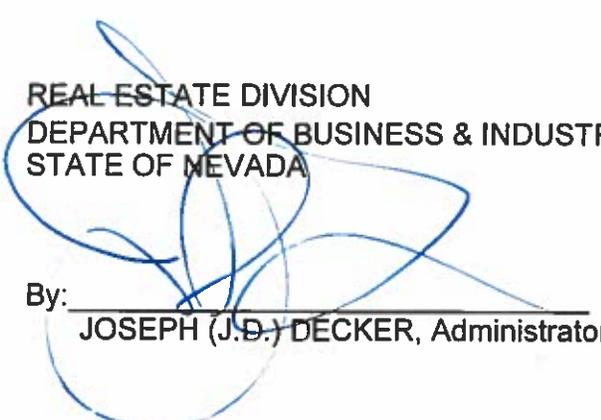
25 By: _____
SCOTT SIBLEY, CHAIRMAN

Attorney General's Office
555 E. Washington, Suite 3900
Las Vegas, NV 89101

1 and understanding all terms herein.

2 Dated: 06/02/16

REAL ESTATE DIVISION
DEPARTMENT OF BUSINESS & INDUSTRY
STATE OF NEVADA

By: 
JOSEPH (J.D.) DECKER, Administrator

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9 Dated: _____

By: _____
ROBERT STERN, RESPONDENT

10 Approved by:

11 ADAM PAUL LAXALT
12 Attorney General

13
14 By: 
MICHELLE D. BRIGGS
15 Senior Deputy Attorney General
16 555 E. Washington Ave. Ste 3900
17 Las Vegas, Nevada 89101
(702) 486-3420
Attorneys for Real Estate Division

By: _____
BRUCE FLAMMEY
LAW OFFICES OF BRUCE I.
FLAMMEY, a P.C.
3475 West Ford Avenue
Las Vegas, Nevada 89139
Attorney for Robert Stern

18
19 IT IS ORDERED that the foregoing Stipulation is approved in full.

20 Dated this _____ day of _____, 2016.

21
22 COMMISSION FOR COMMON-INTEREST
COMMUNITIES AND CONDOMINIUM HOTELS
23 DEPARTMENT OF BUSINESS & INDUSTRY
STATE OF NEVADA

24
25 By: _____
SCOTT SIBLEY, CHAIRMAN