

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

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

Petitioner,

vs.

BELVEDERE TOWERS OWNERS
ASSOCIATION; DAVID LONICH;
TERRY STRONGIN; and
KELLY VANDEVER,

Respondents.

Case No. 2013-2937; IN-1621 (2012-
2994); IN-1623 (2012-2870)

FILED

AUG 24 2016

NEVADA COMMISSION OF
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS

STIPULATION AND ORDER FOR 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 Respondents, BELVEDERE TOWERS OWNERS ASSOCIATION; DAVID LONICH; TERRY STRONGIN; and KELLY VANDEVER, by and through their undersigned counsel, stipulate and agree as follows.

JURISDICTION AND NOTICE

1. DAVID LONICH, TERRY STRONGIN, and KELLY VANDEVER (the "BOARD") were at all relevant times mentioned in this complaint members of the executive board for BELVEDERE TOWERS OWNERS ASSOCIATION (the "ASSOCIATION") located in Reno, Nevada.

2. The BOARD and the ASSOCIATION are subject to the provisions of Chapter 116 of both the Nevada Revised Statutes ("NRS") and the Nevada Administrative Code ("NAC") 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 ALLEGED IN THE COMPLAINT

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

5 4. The Belvedere was a condominium conversion of the former hotel/casino, The
6 Sundowner.

7 5. Belvedere, LLC took title to the project from the declarant in 2006.

8 6. Bijan Madjlessi was the manager of Belvedere, LLC.

9 7. Units began selling in 2007; some of the units were sold by Belvedere, LLC.

10 8. Beginning in 2011 Secured Assets Belvedere Tower, LLC (SABT) purchased
11 several units previously owned by Belvedere, LLC from the Washoe county treasurer at a tax
12 auction and BTM, LLC (BTM) purchased units from other owners.

13 9. SABT and BTM (collectively referred to herein as the "investment companies")
14 owned approximately 145 units in the Association in 2011.

15 10. Bijan Madjlessi and his attorney, RESPONDENT DAVID LONICH, controlled the
16 investment companies which controlled the Association's board of directors.

17 11. SABT and RESPONDENT KELLY VANDEVER owned units on the 11th, 12th, and
18 14th floors which had not been completed by Belvedere, LLC.

19 12. Bijan Madjlessi and Biganeh Madjlessi, husband and wife, served on the
20 Association's board of directors in 2011.

21 13. RESPONDENT DAVID LONICH was appointed to the board in April 2011.

22 14. In June 2011, Bijan Madjlessi was arrested in California for filing two separate
23 insurance claims for the same fire at The Belvedere which occurred in 2008.

24 15. In August 2011, the Madjlessi's resigned from the board and RESPONDENTS
25 TERRY STRONGIN and WILLIAM VANDEVER were appointed. RESPONDENT DAVID
26 LONICH became the president.

27 16. According to minutes from November 2012, the Board opened election ballots at
28 its meeting and RESPONDENT TERRY STRONGIN was elected.

1 17. RESPONDENTS LONICH, STRONGIN, AND VANDEVER were affiliated with the
2 investment companies.

3 18. Beginning in June 2012, RESPONDENT DAVID LONICH represented the
4 Association in a civil action he brought on behalf of the Association (as the assignee of
5 Belvedere, LLC) against Belvedere, LLC's insurance companies for allegedly failing to pay all
6 of the insurance proceeds for the fire at The Belvedere in 2008.

7 19. In 2012, a unit owner in the Association filed complaints against the Board which
8 the Division investigated.

9 20. The Association's budget for 2012 included a \$553,000 capital improvement
10 assessment, a \$1,102,000 special assessment, and a "dues reimbursement" of \$819,440.

11 21. The new assessments were for new construction and equipment costs as listed
12 in the budget such as: hallways and lobbies on the 11th, 12th, and 14th floors, new plantings and
13 furniture in the common areas, construction costs, furniture, and exercise and theatre
14 equipment according to the budget.

15 22. The Board also voted to not require units on the 11th, 12th, and 14th floors to pay
16 assessments to the Association and gave them credit for prior payments.

17 23. The Division requested an accounting of the special and capital improvement
18 assessments, but no such accounting was provided by the Board.

19 24. The Division had to issue a subpoena for records after several requests for
20 documents and even then the records were not complete.

21 25. According to financial records provided to the Division by the Board, assessments
22 were comingled with SABT's account.

23 26. Evidence of construction costs were provided by checks paid by SABT and
24 contracts were in the name of SABT.

25 27. The Board gave "credits" on assessments for units owned by the investment
26 companies and affiliated owners and provided the Division with evidence of checks from SABT's
27 bank account for alleged Association expenses.

28 28. The Board failed to provide evidence of the validity of the "dues reimbursement"
of \$819,440 that went primarily to SABT, Board members and members of the Madjlessi family.

1 29. Bank statements for the Association's account at Sonoma Bank in Santa Rosa,
2 California show multiple overdraft charges and electronic payments, and did not include copies
3 of checks paid from the account.

4 30. Association minutes provided do not show any discussion of bids for contractors
5 or contracts for construction.

6 31. Anita Perez was the property manager for the investment companies, but was
7 paid by the Association over \$100,000, and she did not have a community manager certificate
8 from the Division.

9 32. During a site visit to the Association, the Division's investigator discovered the
10 Association's records were kept in Santa Rosa, California in violation of NRS 116.31175.

11 33. The Board did not have audits performed as required by NRS 116.31144.

12 34. The Board did not fund a reserve account despite budgets reflecting reserve
13 deposits.

14 35. Bijan Madjlessi and RESPONDENT DAVID LONICH were indicted in April 2014
15 on federal charges of conspiracy, bank fraud, wire fraud, and money laundering, among other
16 charges, stemming from loans made by Sonoma Valley Bank that had been taken over by the
17 FDIC in 2010.

18 36. The Association filed for bankruptcy protection in 2014 and a receiver was
19 appointed to control the Association as requested by the investment companies' lender.

20 37. The Association's bankruptcy closed in January 2016.

21 **VIOLATIONS OF LAW ALLEGED IN THE COMPLAINT**

22 38. RESPONDENTS LONICH, STRONGIN, and VANDEVER knowingly and willfully
23 violated NRS 116.3103 (through NAC 116.405(2)) by failing to act in accordance with their
24 fiduciary duty to act in good faith by acting out of reasons of self-interest or gain by giving
25 "reimbursements" on assessments of over \$800,000 to the investment companies and affiliated
26 owners.

27 39. RESPONDENTS LONICH, STRONGIN, and VANDEVER knowingly and willfully
28 violated NRS 116.3103 (through NAC 116.405(2)) by failing to act in accordance with their
fiduciary duty to act in good faith by acting out of reasons of self-interest or gain when they

1 approved a special assessment and capital improvement assessment to fund construction of
2 the 11th, 12th, and 14th floors which benefited units owned by the investment companies and
3 RESPONDENT VANDEVER.

4 40. RESPONDENTS LONICH, STRONGIN, and VANDEVER knowingly and willfully
5 violated NRS 116.3103 (through NAC 116.405(3)) by failing to act in accordance with their
6 fiduciary duty to act in good faith by committing an act or omission which amounts to
7 incompetence, negligence or gross negligence by having the Association pay Anita Perez who
8 did not have a certificate from the Division to provide community management services and was
9 the investment companies' property manager.

10 41. RESPONDENTS LONICH, STRONGIN, and VANDEVER knowingly and willfully
11 violated NRS 116.3103 (through NAC 116.405(5)(a)) by failing to act in accordance with their
12 fiduciary duty to act in good faith by impeding or otherwise interfering with the Division's
13 investigation by failing to comply with requests from the Division for documents.

14 42. RESPONDENTS LONICH, STRONGIN, and VANDEVER knowingly and willfully
15 violated NRS 116.3103 (through NAC 116.405(5)(b)) by failing to act in accordance with their
16 fiduciary duty to act in good faith by supplying false or misleading information to the investigator.

17 43. RESPONDENTS LONICH, STRONGIN, and VANDEVER knowingly and willfully
18 violated NRS 116.3103 (through NAC 116.405(5)(c)) by failing to act in accordance with their
19 fiduciary duty to act in good faith by concealing facts and documents relating to the business of
20 the Association.

21 44. RESPONDENTS LONICH, STRONGIN, and VANDEVER knowingly and willfully
22 violated NRS 116.3103 (through NAC 116.405(7)) by failing to act in accordance with their
23 fiduciary duty to act in good faith by failing to cooperate with the Division in resolving complaints
24 filed with the Division.

25 45. RESPONDENTS LONICH, STRONGIN, and VANDEVER knowingly and willfully
26 violated NRS 116.3103 (through NAC 116.405(8)(a)) by failing to act in accordance with their
27 fiduciary duty to act in good faith by failing to cause the Association to comply with all applicable
28 federal, state and local laws and regulations.

1 provisions of Chapter 116, the Commission may order that RESPONDENTS be personally
2 liable for all fines and costs imposed.

3 SETTLEMENT

4 1. The Division was prepared to present its case based on the Complaint filed with
5 the Commission and the respondents were prepared to defend against the Complaint.

6 2. Respondents generally deny the factual allegations and violations of law alleged
7 in the Complaint. Notwithstanding, Respondents desire to compromise and settle the instant
8 controversy pursuant to the following terms and conditions.

9 3. The ASSOCIATION agrees to transfer \$175,000 to its reserve account within 10
10 days of the execution and approval of this Stipulation and Order for Settlement of Disciplinary
11 Action.

12 4. The ASSOCIATION agrees to increase the reserve assessment by \$28 per month
13 to begin no later than October 1, 2016, to make the monthly reserve contribution total \$10,000.
14 The monthly reserve contribution from the owners shall not be lower than \$10,000 per month
15 as of October 1, 2016 and shall progressively increase on an annual basis as provided in the
16 Association's Reserve Study dated August 26, 2015 from Browning Reserve Group prepared
17 by Robert W. Browning, RSS# 005.

18 5. The ASSOCIATION agrees to add to the reserve account all funds received from
19 the Fireman's Fund Settlement (Marin County Superior Court Case No. CIV1202632). The
20 amount of which is anticipated to be \$165,000 and will be deposited into the Association's
21 reserve account when the Association receives the funds.

22 6. Upon the sale of any unit in the Association owned by SABT and BTM, ½ of 1%
23 of the purchase price of the unit will be placed in the Association's reserve account.

24 7. Pursuant to a separate agreement between SABT, BTM and the Association,
25 SABT and BTM have agreed to forego collection of any amounts previously advanced to the
26 Association for operating expenses or any other purpose prior to the date of this Stipulation and
27 Order.
28

1 8. DAVID LONICH, TERRY STRONGIN and KELLY VANDEVER agree to never
2 again serve as a board member or officer for a common interest community located in the state
3 of Nevada.

4 9. The ASSOCIATION agrees to provide to the Division all documents and evidence
5 of the ASSOCIATION'S compliance with this Stipulation and Order as requested by the Division.

6 10. RESPONDENTS and the Division agree that by entering into this Stipulation and
7 Order, the Division does not concede any defense or mitigation RESPONDENTS may assert
8 and that once this Stipulation and Order is approved and fully performed, the Division will close
9 its file in this matter.

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

15 12. RESPONDENTS agree that if the terms and conditions of this Stipulation and
16 Order are not met, the Division may, at its option, rescind this Stipulation and Order and proceed
17 with prosecuting the Complaint before the Commission only against that RESPONDENT(S) that
18 breached the agreement.

19 13. RESPONDENTS agree and understand that by entering into this Stipulation and
20 Order, RESPONDENTS are waiving their right to a hearing at which RESPONDENTS may
21 present evidence in their defense, their right to a written decision on the merits of the Complaint,
22 their rights to reconsideration and/or rehearing, appeal and/or judicial review, and all other rights
23 which may be accorded by the Nevada Administrative Procedure Act, the Nevada Common
24 Interest Ownership statutes and accompanying regulations, and the federal and state
25 constitutions. RESPONDENTS understand that this Stipulation and Order and other
26 documentation may be subject to public records laws. The Commission members who review
27 this matter for approval of this Stipulation and Order may be the same members who ultimately
28 hear, consider and decide the Complaint if this Stipulation and Order is either not approved by
the Commission or is not timely performed by RESPONDENTS. RESPONDENTS fully

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

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

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

8 16. Approval of Stipulation and Order. Once executed, this Stipulation and Order will
9 be filed with the Commission and will be placed on the agenda for approval at its August 2016
10 public meeting. The Division will recommend to the Commission approval of the Stipulation and
11 Order. RESPONDENTS agree that the Commission may approve, reject, or suggest
12 amendments to this Stipulation and Order and that it must be accepted or rejected by
13 RESPONDENTS before any amendment is effective.

14 17. Withdrawal of Stipulation and Order. If the Commission rejects this Stipulation
15 and Order or suggests amendments unacceptable to RESPONDENTS, RESPONDENTS may
16 withdraw from this Stipulation and Order and the Division may pursue its Complaint before the
17 Commission at the Commission's next regular public meeting.

18 18. Release. In consideration of execution of this Stipulation and Order, the
19 RESPONDENTS for themselves, their heirs, executors, administrators, successors, and
20 assigns, hereby releases, remises, and forever discharges the State of Nevada, the Department
21 of Business and Industry and the Division, and each of their respective members, agents,
22 employees and counsel in their individual and representative capacities, from any and all
23 manner of actions, causes of action, suits, debts, judgments, executions, claims, and demands
24 whatsoever, known and unknown, in law or equity, that the RESPONDENTS ever had, now
25 has, may have, or claim to have, against any or all of the persons or entities named in this
26 section, arising out of or by reason of the Division's investigation, this disciplinary action, and
27 all other matters relating thereto.

28 19. Indemnification. RESPONDENTS hereby indemnify and hold harmless the State
of Nevada, the Department of Business and Industry, the Division, and each of their respective

1 members, agents, employees and counsel in their individual and representative capacities
2 against any and all claims, suits, and actions brought against said persons and/or entities by
3 reason of the Division's investigation, this disciplinary action and all other matters relating
4 thereto, and against any and all expenses, damages, and costs, including court costs and
5 attorney fees, which may be sustained by the persons and/or entities named in this section as
6 a result of said claims, suits, and actions.

7 20. RESPONDENTS have signed and dated this Stipulation and Order only after
8 reading and understanding all terms herein.

9
10 Dated: 08/24/16

REAL ESTATE DIVISION
DEPARTMENT OF BUSINESS & INDUSTRY
STATE OF NEVADA

11
12 By: 

13
14 JOSEPH (J.D.) DECKER, Administrator
SHARATH CHANDRA

15
16 Dated: 8/17/16

BELVEDERE TOWERS OWNERS ASSOCIATION,
RESPONDENT

17
18 By: 
19 M. Decker, PRESIDENT

20
21 Dated: _____

By: _____
DAVID LONICH, RESPONDENT

22
23 Dated: _____

By: _____
TERRY STRONGIN, RESPONDENT

24
25 Dated: _____

By: _____
KELLY VANDEVER, RESPONDENT

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1 members, agents, employees and counsel in their individual and representative capacities
2 against any and all claims, suits, and actions brought against said persons and/or entities by
3 reason of the Division's investigation, this disciplinary action and all other matters relating
4 thereto, and against any and all expenses, damages, and costs, including court costs and
5 attorney fees, which may be sustained by the persons and/or entities named in this section as
6 a result of said claims, suits, and actions.

7 20. RESPONDENTS have signed and dated this Stipulation and Order only after
8 reading and understanding all terms herein.

9
10 Dated: _____

REAL ESTATE DIVISION
DEPARTMENT OF BUSINESS & INDUSTRY
STATE OF NEVADA

11
12
13 By: _____

14 ~~JOSEPH (J.D.) DECKER~~, Administrator
15 *SHARATH CHANDRA*

16
17 Dated: _____

BELVEDERE TOWERS OWNERS ASSOCIATION,
RESPONDENT

18
19 By: _____, PRESIDENT

20
21 Dated: *16 August 2016*

22 By:  _____
23 DAVID LOMICHI, RESPONDENT

24 Dated: _____

25 By: _____
26 TERRY STRONGIN, RESPONDENT

27 Dated: _____

28 By: _____
KELLY VANDEVER, RESPONDENT

Office of the Attorney General
555 E. Washington Avenue, Suite 3900
Las Vegas, Nevada 89101

1 members, agents, employees and counsel in their individual and representative capacities
2 against any and all claims, suits, and actions brought against said persons and/or entities by
3 reason of the Division's investigation, this disciplinary action and all other matters relating
4 thereto, and against any and all expenses, damages, and costs, including court costs and
5 attorney fees, which may be sustained by the persons and/or entities named in this section as
6 a result of said claims, suits, and actions.

7 20. RESPONDENTS have signed and dated this Stipulation and Order only after
8 reading and understanding all terms herein.

9
10 Dated: _____ REAL ESTATE DIVISION
11 DEPARTMENT OF BUSINESS & INDUSTRY
12 STATE OF NEVADA

13 By: _____
14 ~~JOSEPH (J.D.) DECKER~~, Administrator
15 SHARATH CHANDRA

16
17 Dated: _____ BELVEDERE TOWERS OWNERS ASSOCIATION,
18 RESPONDENT

19 By: _____, PRESIDENT

20
21 Dated: _____ By: _____
22 DAVID LONICH, RESPONDENT

23 Dated: 8/16/14 By: 
24 TERRY STRONGIN, RESPONDENT

25
26 Dated: _____ By: _____
27 KELLY VANDEVER, RESPONDENT

28

1 members, agents, employees and counsel in their individual and representative capacities
2 against any and all claims, suits, and actions brought against said persons and/or entities by
3 reason of the Division's investigation, this disciplinary action and all other matters relating
4 thereto, and against any and all expenses, damages, and costs, including court costs and
5 attorney fees, which may be sustained by the persons and/or entities named in this section as
6 a result of said claims, suits, and actions.

7 20. RESPONDENTS have signed and dated this Stipulation and Order only after
8 reading and understanding all terms herein.

9
10 Dated: _____ REAL ESTATE DIVISION
DEPARTMENT OF BUSINESS & INDUSTRY
STATE OF NEVADA

11
12
13 By: _____
14 ~~JOSEPH (J.D.) DECKER~~, Administrator
SHARATH CHANDRA

15
16 Dated: _____ BELVEDERE TOWERS OWNERS ASSOCIATION,
17 RESPONDENT

18
19 By: _____
_____, PRESIDENT

20
21 Dated: _____ By: _____
22 DAVID LONICH, RESPONDENT

23
24 Dated: _____ By: _____
TERRY STRONGIN, RESPONDENT

25
26 Dated: 8-17-16 By: Kelly Vandever
KELLY VANDEVER, RESPONDENT

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Approved as to form:

ADAM PAUL LAXALT,
Attorney General

LIPSON NEILSON

Dated: 8-18-16

Dated: _____

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

By: _____
Kaleb D. Anderson, Esq.
Attorneys for Respondents

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

Dated this _____ day of August, 2016.

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

By: _____

Name: _____

Title: _____

1 Approved as to form:

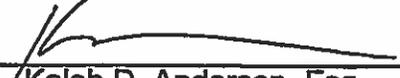
2 ADAM PAUL LAXALT,
3 Attorney General

LIPSON NEILSON

4 Dated: _____

Dated: 8/17/16

5
6 By: _____
7 Michelle D. Briggs, Esq,
8 Senior Deputy Attorney General
9 Attorney for the Division

By: 
Kaleb D. Anderson, Esq.
Attorneys for Respondents

10
11 **IT IS ORDERED** that the foregoing Stipulation and Order is approved in full.

12 Dated this 24th day of August, 2016.

13
14 COMMISSION FOR COMMON-INTEREST
15 COMMUNITIES AND CONDOMINIUM HOTELS
16 DEPARTMENT OF BUSINESS & INDUSTRY STATE
17 OF NEVADA

18 By: 

19 Name: SCOTT SIBLEY

20 Title: CHAIRMAN