

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.

MARTIN L. SAXON,

Respondent.

Case No. 2015-3007

FILED

FEB 02 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, by and through its counsel, Adam Paul Laxalt, Attorney General of the State of Nevada, and Michelle D. Briggs, Esq., Senior Deputy Attorney General and Respondent, MARTIN L. SAXON stipulate and agree as follows.

JURISDICTION AND NOTICE

1. During all relevant times mentioned in this complaint, SAXON was licensed as a community manager by the Division 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.

FACTUAL ALLEGATIONS ALLEGED IN THE COMPLAINT

1. SAXON was at all relevant times mentioned in this complaint a community manager under certificate number CAM.0007152 and received his supervisory designation on October 27, 2015.

2. SAXON works for Performance CAM, LLC and is the community manager for Durango Trails Homeowners Association Inc. (the "Association") located in Las Vegas, Nevada.

3. As the Association's community manager, SAXON completed, signed and

1 submitted annual registration forms for the Association for the years 2012 and 2013.

2 4. Both annual registration forms from 2012 and 2013 state under the signature
3 line: "Authorized person signing is attesting to the accuracy of the information provided."

4 5. The 2012 annual registration form states that the Association completed its
5 annual audit required by NRS 116.31144 on June 29, 2012.

6 6. SAXON signed the 2012 annual registration form on July 15, 2012.

7 7. The 2013 annual registration form states that the Association completed its
8 annual audit required by NRS 116.31144 on June 24, 2013.

9 8. SAXON signed the 2013 annual registration form on July 22, 2013.

10 9. Both 2012 and 2013 annual registration forms state the Association's reserve
11 balance was over \$1million.

12 10. In November 2014, the Division's auditor reviewed the Association's records and
13 discovered that the Association had not completed audits for 2012 or 2013.

14 11. The Division's auditor also found that the Association's reserve balance was just
15 over \$40,000.

16 12. The Association transferred approximately \$800,000 into the reserve account
17 from its construction defect account on December 15, 2014, leaving the Association's
18 reserves approximately 42% funded according to its most recent reserve study.

19 13. The Association completed the audits for 2012 and 2013 as of January 27,
20 2015.

21 14. SAXON admitted to the Division's investigator that he completed the registration
22 forms and put the date that the audits should have been completed by even though they were
23 not done.

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

25 15. SAXON violated NAC 116A.355(1)(a)(1) (through NAC 116A.355(2)(a)(3)) by
26 committing unprofessional conduct by presenting false information to the Division about the
27 Association's compliance with NRS 116 in 2012 and 2013.

28 16. SAXON violated NAC 116A.355(1)(a)(1) (through NAC 116A.355(2)(c)) by

1 committing unprofessional conduct by engaging in deceitful, fraudulent or dishonest conduct
2 by providing false information to the Division on the Association's annual registration forms for
3 2012 and 2013.

4 17. SAXON violated NAC 116A.355(1)(a)(2) (through NAC 116A.355(3)(a)) by
5 committing professional incompetence by demonstrating a significant lack of ability,
6 knowledge or fitness to perform a duty or obligation owed to a client by submitting false
7 information about the Association's compliance with NRS 116 to the Division in 2012 and
8 2013.

9 18. SAXON violated NAC 116A.355(1)(a)(2) (through NAC 116A.355(3)(b)) by
10 committing professional incompetence by failing to exercise reasonable skill and care with
11 respect to a duty or obligation owed to a client by submitting false information about the
12 Association's compliance with NRS 116 to the Division in 2012 and 2013.

13 **DISCIPLINE AUTHORIZED**

14 Pursuant to the provisions of NAC 116A.360 the Commission has discretion to impose
15 discipline as it deems appropriate, including, but not limited to one or more of the following
16 actions:

- 17 1. Revoke or suspend the certificate;
- 18 2. Refuse to renew or reinstate the certificate;
- 19 3. Place the community manager on probation;
- 20 4. Issue a reprimand or censure to the community manager;
- 21 5. Impose a fine of not more than \$5,000 for each violation of a statute or
22 regulation;
- 23 6. Require the community manager to pay restitution;
- 24 7. Require the community manager to pay the costs of the investigation and
25 hearing;
- 26 8. Require the community manager to obtain additional education relating to the
27 management of common-interest communities; and
- 28 9. Take such other disciplinary action as the Commission deems appropriate.

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

2 **SETTLEMENT**

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

5 2. SAXON'S supervisory certificate designation shall be revoked for a period of two
6 (2) years from date of this Stipulation and Order at which time SAXON may apply to the
7 Division for reinstatement of his supervisory certificate designation.

8 3. SAXON shall pay an administrative fine to the Division in the amount of \$5,000
9 in monthly payments as follows:

- 10 a. \$833 due on or before March 1, 2016;
- 11 b. \$833 due on or before April 1, 2016;
- 12 c. \$833 due on or before May 1, 2016;
- 13 d. \$833 due on or before June 1, 2016;
- 14 e. \$833 due on or before July 1, 2016; and
- 15 f. \$835 due on or before August 1, 2016.

16 Payments not paid on or before the due date shall bear interest at the rate of 12% per annum.

17 4. SAXON and the Division agree that by entering into this Stipulation and Order,
18 the Division does not concede any defense or mitigation SAXON may assert and that once
19 this Stipulation and Order is approved and fully performed, the Division will close its file in this
20 matter.

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

26 6. SAXON agrees that if the terms and conditions of this Stipulation and Order are
27 not met, the Division may, at its option, rescind this Stipulation and Order and proceed with
28 prosecuting the Complaint before the Commission.

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

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

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

18 10. Approval of Stipulation and Order. Once executed, this Stipulation and Order
19 will be filed with the Commission and will be placed on the agenda for approval at its February
20 2016 public meeting. The Division will recommend to the Commission approval of the
21 Stipulation and Order. SAXON agrees that the Commission may approve, reject, or suggest
22 amendments to this Stipulation and Order and that it must be accepted or rejected by SAXON
23 before any amendment is effective.

24 11. Withdrawal of Stipulation and Order. If the Commission rejects this Stipulation
25 and Order or suggests amendments unacceptable to SAXON, SAXON may withdraw from this
26 Stipulation and Order and the Division may pursue its Complaint before the Commission at
27 the Commission's next regular public meeting.

28 12. Release. In consideration of execution of this Stipulation and Order, SAXON for
himself, his heirs, executors, administrators, successors, and assigns, hereby releases,

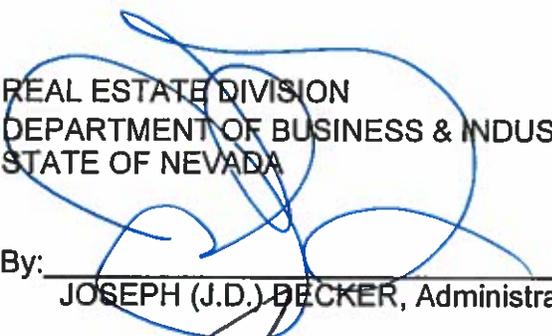
1 remises, and forever discharges the State of Nevada, the Department of Business and
2 Industry and the Division, and each of their respective members, agents, employees and
3 counsel in their individual and representative capacities, from any and all manner of actions,
4 causes of action, suits, debts, judgments, executions, claims, and demands whatsoever,
5 known and unknown, in law or equity, that the SAXON ever had, now has, may have, or claim
6 to have, against any or all of the persons or entities named in this section, arising out of or by
7 reason of the Division's investigation, this disciplinary action, and all other matters relating
8 thereto.

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

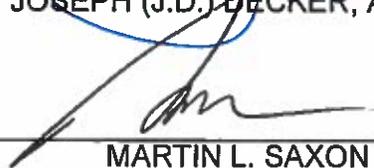
17 14. SAXON has signed and dated this Stipulation and Order only after reading and
18 understanding all terms herein.

19
20 Dated: 02/02/16

REAL ESTATE DIVISION
DEPARTMENT OF BUSINESS & INDUSTRY
STATE OF NEVADA

21
22
23 By: 
JOSEPH (J.D.) BECKER, Administrator

24
25 Dated: JANUARY 13, 2016


MARTIN L. SAXON

1 Submitted by:

2 ADAM PAUL LAXALT,
3 Attorney General

4 Dated: 2-2-16

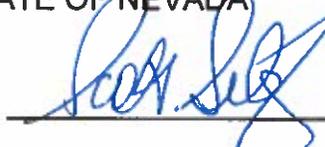
5
6 By: 

7 Michelle D. Briggs, Esq,
8 Senior Deputy Attorney General
9 Attorney for the Division

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

11
12 Dated this 2 day of February, 2016.

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

18 By: 

19 Name: SCOTT SIBLEY

20 Title: COMMISSIONER