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

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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.

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

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

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

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

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

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

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

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

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

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

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

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STERN.

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

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

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

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

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

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

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

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

21. The motion failed.

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

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

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

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

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

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

27. Ms. Fassette's email states:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

50. RESPONDENT YOUNG supported the motion.

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

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

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

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

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

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

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

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

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

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

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YOUNG did not.

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

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

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

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

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

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

SUMMARY OF VIOLATIONS OF LAW ALLEGED IN THE COMPLAINT

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

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

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

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

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

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

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

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

DISCIPLINE AUTHORIZED

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

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

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7. Require RESPONDENTS to pay the costs of the proceedings incurred by the Division, including, without limitation, the cost of the investigation and reasonable attorney's fees.
8. Take whatever further disciplinary action as the Commission deems appropriate.

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

SETTLEMENT

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

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

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

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

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

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

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

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

8. RESPONDENT STERN agrees and understands that by entering into this Stipulation, RESPONDENT STERN is waiving his right to a hearing at which RESPONDENT STERN may present evidence in his defense, his right to a written decision on the merits of the Complaint, his 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. RESPONDENT STERN understands that this Stipulation and other documentation may be subject to public records laws. The Commission members who review this matter for approval of this Stipulation may be the same members who ultimately hear, consider and decide the Complaint if this Stipulation is either not approved by the Commission or is not timely performed by RESPONDENT STERN. RESPONDENT STERN fully understands that he has the right to be represented by legal counsel in this matter at his own expense.

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

10. Stipulation is Not Evidence. Neither this Stipulation nor any statements made concerning this Stipulation may be discussed or introduced into evidence at any hearing on the Complaint, except as it pertains to the hearing regarding the remaining Respondents, if the Division must ultimately present its case based on the Complaint filed in this matter.

11. Approval of Stipulation. Once executed, this Stipulation will be filed with the Commission and will be placed on the agenda for approval at its June 2016 public meeting. The Division will recommend to the Commission approval of the Stipulation. RESPONDENT STERN agrees that the Commission may approve, reject, or suggest amendments to this

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

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

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

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

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

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

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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:_____
ROBERT STERN, RESPONDENT

HEATHER L. McPHERSON NOTARY PUBLIC BRUNSWICK COUNTY, NC

Approved by:

ADAM PAUL LAXALT
Attorney General

By:_____
MICHELLE D. BRIGGS
Senior Deputy Attorney General
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(702) 486-3420
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By: Bruce Flammey 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: Acting
~~SCOTT SIBLEY~~, CHAIRMAN
Barry Beslow

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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:_____
ROBERT STERN, RESPONDENT

HEATHER L. McPHERSON NOTARY PUBLIC BRUNSWICK COUNTY, NC

Approved by:

ADAM PAUL LAXALT
Attorney General

By:_____
MICHELLE D. BRIGGS
Senior Deputy Attorney General
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By:_____
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 _____ day of _____, 2016.

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

By: _____
SCOTT SIBLEY, CHAIRMAN

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and understanding all terms herein.

Dated: 06/02/16

REAL ESTATE DIVISION
DEPARTMENT OF BUSINESS & INDUSTRY
STATE OF NEVADA

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

Dated: _____

By: _____
ROBERT STERN, RESPONDENT

Approved by:

ADAM PAUL LAXALT
Attorney General

By: _____
MICHELLE D. BRIGGS
Senior Deputy Attorney General
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By: _____
BRUCE FLAMMEY
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3475 West Ford Avenue
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Attorney for Robert Stern

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

Dated this _____ day of _____, 2016.

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

By: _____
SCOTT SIBLEY, CHAIRMAN

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