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

GAIL J. ANDERSON, Administrator, REAL
ESTATE DIVISION, DEPARTMENT OF
BUSINESS & INDUSTRY, STATE OF
NEVADA,

Petitioner,

vs.

PUEBLO AT SANTA FE CONDOMINIUM, INC.,
JOHN SWANSON, BRIDGET COUGHLIN,
TERESA BRUNNER, BRENDA TIERNEY, AND
WAYNE KLOSEK,

Respondents.

Case No. IS 13-2668

FILED

AUG 30 2013

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, Gail J. Anderson, and Respondents, PUEBLO AT SANTA FE CONDOMINIUM, INC., BRIDGET COUGHLIN, TERESA BRUNNER, and WAYNE KLOSEK by and through their undersigned counsel stipulate and agree as follows.

JURISDICTION AND NOTICE ALLEGED IN THE COMPLAINT

1. JOHN SWANSON, BRIDGET COUGHLIN, TERESA BRUNNER, BRENDA TIERNEY, and WAYNE KLOSEK are currently members of the executive board for PUEBLO AT SANTA FE CONDOMINIUM, INC. (the "Association") located in Las Vegas, County of Clark, State of Nevada.

2. The executive board members and the Association 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.

3. An Intervention Affidavit was filed on or about June 22, 2012 alleging that the Association through its executive board violated provisions of NRS 116.

4. The executive board was requested by the Real Estate Division (the "Division")

1 to respond to the allegations in this case.

2 5. During the course of the Division's investigation, the Division ordered the
3 executive board to cease and desist transferring funds from the Association's reserve
4 accounts into its operating accounts for payment of non-reserve expenses.

5 6. The Association requested a hearing before this Commission based on the
6 Division's cease and desist. The Division brings this Complaint prior to completion of the
7 Division's investigation to accommodate the Association's request. The Division reserves the
8 right to file additional factual allegations and violations of law as discovered during the course
9 of its on-going investigation.

10 **SUMMARY OF FACTUAL ALLEGATIONS ALLEGED IN THE COMPLAINT**

11 7. On June 22, 2012, the Division received an Intervention Affidavit from Crear
12 Mitchell alleging the Association had withdrawn \$40,000 from its reserve account to place in
13 its operating account.

14 8. RESPONDENTS JOHN SWANSON, TERESA BRUNNER, and WAYNE
15 KLOSEK were asked by the Division to provide an affidavit regarding the transfer and
16 produce the following documents: current audit, reserve study, account records documenting
17 aged assessments, board packets, including financials that the board reviewed, and meeting
18 minutes from January 1, 2012 to current.

19 9. RESPONDENT JOHN SWANSON responded to the Division by affidavit saying:

20 In February 2012, our bookkeeper explained that the Association was having difficulty
21 meeting our monthly expenses. I looked at the balances in the operating account from
22 our financials and found that indeed, the Association did not have the funds to pay the
23 expenses for the Association.... The Association clearly had to do something so the
24 Board determined to borrow money from reserves for the immediate solution.

25 Prior to the May 2012 meeting, the bookkeeper for the Association indicated to us that
26 monies were needed for payment of operating expenses and that the loan from
27 reserves was necessary. I made the phone call to the bank to transfer the funds from
28 reserves to operating.

At the May 2012 meeting, the board voted to approve the emergency action that had
been taken to borrow \$40,000 reserves for operating expenses based on our counsel's
advice.

10. RESPONDENT JOHN SWANSON alleges the Association paid back

1 approximately \$15,000 to the reserve and that the reserve account is "more than 100%
2 funded according to our most recent Reserve Study."

3 11. RESPONDENTS WAYNE KLOSEK and TERESA BRUNNER submitted
4 affidavits nearly identical to RESPONDENT JOHN SWANSON.

5 12. RESPONDENTS BRENDA TIERNEY and BRIDGET COUGHLIN were not on
6 the Board at the time the loan from the reserve account was discussed or made.

7 13. The Association's most recent reserve study is dated February 23, 2007.

8 14. The Association provided the Division with invoices it paid from April 1, 2012 to
9 October 8, 2012.

10 15. The Association's invoices reflect balances due totaling more than \$29,000 to
11 the law firm of Patti Sgro & Lewis. The billing statements provided to the Division are
12 redacted but reflect the firm's client is Judith Fenner.

13 16. Judith Fenner's company, Old West Realty, currently provides community
14 manager services to the Association. Judith Fenner previously managed the Association.

15 17. Beginning in 2010, the Association became self-managed and Judith Fenner
16 provided "bookkeeping" services to the Association through her entity Western
17 Bookkeeping/Secretarial Services LLC.

18 18. On February 23, 2012, Judith Fenner - using Patti Sgro & Lewis - filed a lawsuit
19 against this Commission seeking injunctive relief to postpone three administrative hearings
20 set for March 6-8, 2012. Two of the three administrative matters concern complaints by
21 homeowners within the Association.

22 19. The three administrative matters before this Commission were continued and
23 have not been set for hearing.

24 20. In April of 2012, Judith Fenner amended her complaint against this Commission
25 by adding additional defendants (the Division, the Ombudsman's office, and Division
26 investigator, Cheryl Fleming), and asserting tort claims for interference with contractual
27 relations, false light, abuse of process, injunctive relief, and defamation (the "Civil Action").

28 21. At a Board meeting on December 17, 2012, the Board passed a motion to

1 withdraw \$50,000 from the Association's reserve account to place it into the Association's
2 operating account. RESPONDENTS BRENDA TIERNEY and BRIDGET COUGHLIN were
3 not present for the meeting.

4 22. The Division requested a basis for this additional withdrawal of funds from the
5 reserve account and instructed the Board not to withdraw additional funds from the
6 Association's reserve account and to stop paying Judith Fenner's attorneys' fees.

7 23. RESPONDENTS JOHN SWANSON, WAYNE KLOSEK, and TERESA
8 BRUNNER state by affidavit that in an executive session meeting of the Board in November
9 2012, "our manager indicated that we were overfunded in our reserves according to our
10 reserve accounts."

11 24. RESPONDENTS JOHN SWANSON, WAYNE KLOSEK, and TERESA
12 BRUNNER state by affidavit: "When we entered into our various contracts with Fenner, we
13 intended to indemnify Fenner as our agent mostly due to the litigious nature of a couple of
14 owners in our Association. Thus, we believe that the Association has the obligation to pay for
15 the Association's portion of Fenner's defense of the claims involving two owners."

16 25. RESPONDENT JOHN SWANSON signed an "Addendum to Western
17 Bookkeeping/Secretarial Services LLC Contract" on January 1, 2011 stating that "Contractor
18 shall be covered by the insurance of the Assn. and shall be an additional insured." Western
19 Bookkeeping/Secretarial Services LLC is shown as Contractor and signed by Judith Fenner.

20 26. RESPONDENT JOHN SWANSON signed an "Addendum to Old West Realty
21 Management Contract" dated February 1, 2012 obligating the Association to indemnify Suzy
22 Q, Inc. dba Old West Realty, Inc. and Judith Fenner, collectively defined as "Manager".

23 27. The Association's contracts with Old West Realty ended in 2010 when the
24 Association signed an Employment Agreement with "Western Services LLC" effective August
25 1, 2010.

26 28. Minutes from a Board of Directors meeting on October 20, 2012 state:

27 J. Swanson opened management bids from Excellence; Old West Realty; Camco; RMI
28 and Real Mgmt. Motion: J Swanson motioned to table this issue for workshops to

1 compare the bids and have a meeting Nov. 13, 2012 at 11:00a.m. in the clubhouse to
2 choose a full service mgmt. company; 2nd by W Klosek; discussed and voted unmc.

3 29. The Board did not disclose the amounts of the bids at the open meeting.

4 30. RESPONDENT JOHN SWANSON refused to give the amounts of the bids and
5 told the owners present at the October 20, 2012 meeting that the bids would be discussed in
6 a meeting of the Board in executive session.

7 31. RESPONDENT JOHN SWANSON signed a management contract with Old
8 West Realty on October 20, 2012 to be effective November 13, 2012.

9 32. The agenda for the November 13, 2012 board of directors meeting states:

10 Bids from mgmt. companies opened at last meeting. Motion to contract company for
11 full service mgmt. effective Nov. 14, 2012 and to terminate Western Bk/Sec. Services
12 at same effective date.

13 33. RESPONDENT BRENDA TIERNEY was elected to the Board on November 30,
14 2012. The Board held a meeting after the election to appoint officers. RESPONDENT
15 BRENDA TIERNEY was appointed as the treasurer by the Board.

16 34. RESPONDENT BRENDA TIERNEY made several requests for Association
17 records, particularly financial information, and to be put on the Association's bank account as
18 a signer.

19 35. RESPONDENT BRENDA TIERNEY was notified by email that the Board
20 wanted to vote to remove her as the treasurer and to make RESPONDENT TERESA
21 BRUNNER the treasurer. The vote for this action was taken without notice to the unit owners.

22 36. RESPONDENT BRENDA TIERNEY did not know the Board planned to remove
23 \$50,000 from the reserve account at the December 17, 2012 meeting.

24 37. RESPONDENTS JOHN SWANSON, WAYNE KLOSEK, and TERESA
25 BRUNNER state by affidavit that they went to Nevada State Bank in late December to sign
26 the necessary paperwork to transfer the reserve funds.

27 38. RESPONDENT BRENDA TIERNEY was not told by RESPONDENTS JOHN
28 SWANSON, WAYNE KLOSEK, and TERESA BRUNNER that they went to the Association's
bank in late December to transfer the reserve funds.

39. The Association's newsletter dated November 30, 2012 states:

1 Will the board attest that every board member and owner running for election are
2 owners, current on assessments; have no pending violations: The people running
3 must attest to being owners and current on assessments.

4 40. RESPONDENT WAYNE KLOSEK ran for reelection in the November 2012
5 election.

6 41. According to the Association's "Aged Owner Balances" dated December 1, 2012
7 RESPONDENT WAYNE KLOSEK is behind in the payment of his assessments in excess of
8 \$1,600.

9 42. RESPONDENT BRENDA TIERNEY was told by Judith Fenner that
10 RESPONDENT WAYNE KLOSEK signed a payment plan and is considered current on his
11 assessments.

12 43. RESPONDENT BRENDA TIERNEY requested the payment plan, but has not
13 received it.

14 44. RESPONDENT BRENDA TIERNEY discovered the following Association
15 checks have been written to RESPONDENT WAYNE KLOSEK:

16 Check No. 331 in the amount of \$630.00 on November 19, 2012

17 Check No. 322 in the amount of \$345.00 on November 9, 2012

18 Check No. 230 in the amount of \$100.00 on June 26, 2012

19 45. RESPONDENT BRENDA TIERNEY requested the invoices or receipts for these
20 checks to RESPONDENT WAYNE KLOSEK but she has not received anything from
21 RESPONDENTS JOHN SWANSON, TERESA BRUNNER or WAYNE KLOSEK.

22 46. RESPONDENT BRENDA TIERNEY discovered the following Association
23 checks have been written to RESPONDENT JOHN SWANSON:

24 Check No. 262 in the amount of \$504.94 on July 26, 2012

25 Check No. 198 in the amount of \$120.42 on May 8, 2012

26 Check No. 120 in the amount of \$110.00 on January 18, 2012

27 47. RESPONDENT BRENDA TIERNEY requested the invoices or receipts for these
28 checks to RESPONDENT JOHN SWANSON but she has not received anything from

1 RESPONDENTS JOHN SWANSON, TERESA BRUNNER or WAYNE KLOSEK.

2 48. The Association has not provided the Division with an audit for 2011.

3 49. In August 2012, RESPONDENTS JOHN SWANSON, TERESA BRUNNER and
4 WAYNE KLOSEK voted to fill a vacancy on the Board with Teresa Cook. It was later
5 determined that Teresa Cook was not a unit owner.

6 50. The Association has not provided the Division with detailed information
7 regarding the need for the first withdrawal of \$40,000 from the reserve account.

8 51. RESPONDENTS JOHN SWANSON, TERESA BRUNNER and WAYNE
9 KLOSEK took action to increase the assessments for 2013.

10 52. The Association's budget for 2013 projects an annual expense for attorneys'
11 fees in the amount of \$35,000.

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

13 53. RESPONDENTS JOHN SWANSON, TERESA BRUNNER and WAYNE
14 KLOSEK violated NRS 116.31144(1)(c) and NAC 116.457 by failing to cause the 2011
15 financial statement of the Association to be reviewed by an independent certified public
16 accountant within 210 days after the end of the fiscal year.

17 54. RESPONDENTS violated NRS 116.31152 by failing to cause a study of the
18 reserves to be conducted at least once every 5 years.

19 55. RESPONDENTS JOHN SWANSON, TERESA BRUNNER and WAYNE
20 KLOSEK knowingly and willfully violated NRS 116.3115 by using \$40,000 from the
21 Association's reserve fund not for reserve expenses as required by NRS 116.3115(2)(b).

22 56. RESPONDENT JOHN SWANSON knowingly and willfully violated NRS
23 116.31153 by failing to have two signatures on a withdrawal of reserve account funds when
24 he made a \$40,000 transfer of the reserve funds to the operating account by telephone call to
25 the bank.

26 57. RESPONDENTS JOHN SWANSON, TERESA BRUNNER and WAYNE
27 KLOSEK knowingly and willfully violated NRS 116.3103 (through NAC 116.405(3)) by
28 committing an act or omission which amounts to incompetence, negligence or gross

1 negligence when they took action to withdraw \$40,000 from the Association's reserve account
2 as a loan to the operating account.

3 58. RESPONDENTS JOHN SWANSON, TERESA BRUNNER and WAYNE
4 KLOSEK knowingly and willfully violated NRS 116.3115 by transferring \$50,000 from the
5 Association's reserve fund to the Association's operating account not to be used for reserve
6 expenses as required by NRS 116.3115(2)(b).

7 59. RESPONDENTS JOHN SWANSON, TERESA BRUNNER and WAYNE
8 KLOSEK knowingly and willfully violated NRS 116.3103 (through NAC 116.405(3)) by
9 committing an act or omission which amounts to incompetence, negligence or gross
10 negligence when they asserted at their board meeting on December 17, 2012 that the reserve
11 fund had a surplus without having an updated reserve study performed.

12 60. RESPONDENTS JOHN SWANSON, TERESA BRUNNER and WAYNE
13 KLOSEK knowingly and willfully violated NRS 116.3103 (through NAC 116.405(3)) by
14 committing an act or omission which amounts to incompetence, negligence or gross
15 negligence by failing to submit a claim for indemnification by Judith Fenner to their insurance
16 company.

17 61. RESPONDENTS JOHN SWANSON, TERESA BRUNNER and WAYNE
18 KLOSEK knowingly and willfully violated NRS 116.3103 (through NAC 116.405(3)) by
19 committing an act or omission which amounts to incompetence, negligence or gross
20 negligence by agreeing to pay and causing the Association to pay attorneys' fees incurred by
21 Judith Fenner in her lawsuit against this Commission, the Real Estate Division, the Office of
22 the Ombudsman, and the former Division investigator, Cheryl Fleming.

23 62. RESPONDENTS JOHN SWANSON, TERESA BRUNNER and WAYNE
24 KLOSEK knowingly and willfully violated NRS 116.3103 (through NAC 116.405(3)) by
25 committing an act or omission which amounts to incompetence, negligence or gross
26 negligence when they entered into an addendum to contracts with Old West Realty in 2012
27 when the contracts with Old West Realty ended in 2010. The 2012 addendum imposes an
28 obligation on the Association to indemnify Old West Realty and Judith Fenner.

1 63. RESPONDENTS JOHN SWANSON, TERESA BRUNNER and WAYNE
2 KLOSEK knowingly and willfully violated NRS 116.3103 (through NAC 116.405(3)) by
3 committing an act or omission which amounts to incompetence, negligence or gross
4 negligence by entering into an agreement to indemnify Judith Fenner in February of 2012 for
5 existing complaints before this Commission.

6 64. RESPONDENT WAYNE KLOSEK knowingly and willfully violated NRS
7 116.31034(8) by failing to disclose he is not a member in good standing prior to running in the
8 November 2012 election. NRS 116.31034(8)(b) states "a candidate shall not be deemed to
9 be in 'good standing' if the candidate has any unpaid and past due assessments...."

10 65. RESPONDENTS JOHN SWANSON, TERESA BRUNNER, WAYNE KLOSEK,
11 and BRIDGET COUGHLIN knowingly and willfully violated NRS 116.3103 (through NAC
12 116.405(3)) when they confirmed to the unit's owners by newsletter that the Board members
13 and those running in the November 2012 election are current on assessments when
14 RESPONDENT WAYNE KLOSEK, a Board member and a candidate in the November 2012
15 election, was not current on his assessments.

16 66. RESPONDENT JOHN SWANSON knowingly and willfully violated NRS
17 116.3103 (through NAC 116.405(1) and (3)) by acting outside the scope of his authority and
18 committing an act or omission which amounts to incompetence, negligence or gross
19 negligence when he signed the Old West Realty Management Contract on October 20, 2012.
20 The minutes from the Board's meeting on October 20, 2012 state that the issue of hiring a
21 management company would be tabled and the management company would be chosen at a
22 meeting on November 13, 2012.

23 67. RESPONDENT JOHN SWANSON knowingly and willfully violated NRS
24 116.31086 when he refused to disclose the amount of the bids he opened at the October 20,
25 2012 board meeting.

26 68. RESPONDENTS JOHN SWANSON, TERESA BRUNNER, WAYNE KLOSEK,
27 and BRIDGET COUGHLIN knowingly and willfully violated NRS 116.31085(2) by meeting to
28 consider bids for their management contract in executive session.

1 69. RESPONDENTS JOHN SWANSON, TERESA BRUNNER, WAYNE KLOSEK,
2 and BRIDGET COUGHLIN knowingly and willfully violated NRS 116.31083 and NRS
3 116.31085 by taking action to remove RESPONDENT BRENDA TIERNEY as the treasurer of
4 the Association and appoint RESPONDENT TERESA BRUNNER as the treasurer without
5 notice to the units' owners.

6 70. RESPONDENTS JOHN SWANSON, TERESA BRUNNER and WAYNE
7 KLOSEK knowingly and willfully violated NRS 116.3103 (through NAC 116.405(5)(c)) by
8 impeding or otherwise interfering with an investigation of the Division by concealing facts or
9 documents relating to the business of the Association by failing to provide specific details of
10 the Association's need to borrow \$40,000 from its reserve fund.

11 71. RESPONDENTS JOHN SWANSON, TERESA BRUNNER and WAYNE
12 KLOSEK knowingly and willfully violated NRS 116.3103 (through NAC 116.405(5)(c)) by
13 impeding or otherwise interfering with an investigation of the Division by concealing facts or
14 documents relating to the business of the Association by failing to provide the Division with
15 the Association's 2011 audit.

16 72. RESPONDENTS JOHN SWANSON, TERESA BRUNNER and WAYNE
17 KLOSEK knowingly and willfully violated NRS 116.3103 (through NAC 116.405(5)(c)) by
18 impeding or otherwise interfering with an investigation of the Division by concealing facts or
19 documents relating to the business of the Association by failing to provide the Division with
20 the board packets from 2012.

21 73. RESPONDENTS JOHN SWANSON, TERESA BRUNNER and WAYNE
22 KLOSEK knowingly and willfully violated NRS 116.3103 (through NAC 116.405(3)) by
23 committing an act or omission which amounts to incompetence, negligence or gross
24 negligence by appointing a non-unit owner, Teresa Cook, to the executive board in August
25 2012.

26 74. RESPONDENTS JOHN SWANSON, TERESA BRUNNER and WAYNE
27 KLOSEK knowingly and willfully violated NRS 116.3103 (through NAC 116.405(2)) by acting
28 for reasons of self-interest, gain, prejudice or revenge by failing to respond to RESPONDENT

1 BRENDA TIERNEY'S requests for why RESPONDENTS JOHN SWANSON and WAYNE
2 KLOSEK received checks from the Association.

3 75. RESPONDENTS JOHN SWANSON, TERESA BRUNNER and WAYNE
4 KLOSEK knowingly and willfully violated NRS 116.3103 (through NAC 116.405(3)) by
5 committing an act or omission which amounts to incompetence, negligence or gross
6 negligence by taking action to increase the assessments without reviewing the 2011 audit or
7 an updated reserve study.

8 **SUMMARY OF DEFENSES ASSERTED**

9 76. RESPONDENTS allege that they at all times acted in good faith, with a view to
10 the interests of the corporation. RESPONDENTS also allege that in performing their
11 respective duties, RESPONDENTS relied on information, opinions, reports, books of account
12 or statements, including financial statements and other financial data prepared or presented
13 by one or more professionals as to matters reasonably believed to be within the preparer's or
14 presenter's professional or expert competence.

15 **DISCIPLINE AUTHORIZED**

16 Pursuant to the provisions of NRS 116.615; NRS 116.755; NRS 116.785; and NRS
17 116.790 the Commission has discretion to take any or all of the following actions:

18 1. Issue an order directing RESPONDENTS to cease and desist from continuing to
19 engage in the unlawful conduct that resulted in the violation.

20 2. Issue an order directing RESPONDENTS to take affirmative action to correct
21 any conditions resulting from the violation.

22 3. Impose an administrative fine of up to \$1,000 for each violation by
23 RESPONDENTS.

24 4. Order an audit of the association, at the expense of the association.

25 5. IF ANY RESPONDENTS ARE FOUND TO HAVE KNOWINGLY AND
26 WILLFULLY COMMITTED A VIOLATION of Chapter 116 AND it is in the best interest of the
27 Association, such RESPONDENTS may be removed from their positions as directors and/or
28 officers.

1 KLOSEK agree to resign from the board of the Association and from any office they may hold
2 for the Association and further agree not to serve on the executive board for any common-
3 interest community as defined by NRS 116.021 until the date that is 10 years from the date
4 this Stipulation is ordered by the Commission or the date Payment required by Section 2 is
5 paid, whichever occurs later.

6 4. The resignation of RESPONDENTS WAYNE KLOSEK, TERESA BRUNNER
7 and BRIDGET COUGHLIN shall be effective immediately.

8 5. The Association agrees to have its current community manager, Kenneth
9 Williams, License No. CAM.0007857, conduct an election according to NRS 116.31034 to fill
10 the positions being vacated by RESPONDENTS JOHN SWANSON, TERESA BRUNNER,
11 WAYNE KLOSEK, and BRIDGET COUGHLIN.

12 6. RESPONDENT WAYNE KLOSEK shall be removed from all bank accounts for
13 the Association immediately.

14 7. RESPONDENTS TERESA BRUNNER and BRIDGET COUGHLIN shall take all
15 action necessary to cause Board member BRENDA TIERNEY to be named the President of
16 the ASSOCIATION and a signor on all of the Association's bank accounts.

17 8. All Association checks made from the date of this Stipulation through the date of
18 the election of the replacement board members described in paragraph 4 will be signed by
19 BRENDA TIERNEY in addition to one of: RESPONDENTS TERESA BRUNNER or
20 BRIDGET COUGHLIN.

21 9. The Association shall not enter into any contracts from the date of this
22 Stipulation until the replacement board members are elected.

23 10. The Division agrees to enter into this Stipulation based on the representation of
24 RESPONDENTS that the Association has not entered into any settlement of claims with
25 Judith Fenner or any of her entities.

26 11. The Division agrees to enter into this Stipulation based on the representation of
27 RESPONDENTS that the Division's cease and desist demand by letter dated January 8, 2013
28 has been complied with since no later than January 14, 2013.

1 12. The Association agrees to provide to the Division the Association's audit from
2 2011 and the audit for 2012, once prepared.

3 13. The Association agrees to cause an updated reserve study to be prepared and
4 adopted within 6 months from the date this Stipulation is ordered by the Commission.

5 14. The Division agrees not to pursue any other or greater remedies or fines in
6 connection with Respondents' alleged conduct referenced herein.

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

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

15 17. Respondents agree that if the terms and conditions of this Stipulation are not
16 met, the Division may, at its option, rescind this Stipulation and proceed with prosecuting the
17 Complaint before the Commission.

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

1 represented by legal counsel in this matter at their own expense.

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

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

7 21. Approval of Stipulation. Once executed, this Stipulation will be filed with the
8 Commission and will be placed on the agenda for approval at its August 2013 public meeting.
9 The Division will recommend to the Commission approval of the Stipulation. Respondents
10 agree that the Commission may approve, reject, or suggest amendments to this Stipulation
11 and that it must be accepted or rejected by Respondents before any amendment is effective.

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

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

26 24. Indemnification. Respondents hereby indemnify and hold harmless the State of
27
28

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

8 26. Respondents have signed and dated this Stipulation only after reading and
9 understanding all terms herein.

10
11 Dated: 8-30-13

REAL ESTATE DIVISION
DEPARTMENT OF BUSINESS & INDUSTRY
STATE OF NEVADA

12
13
14 By: 
15 GAIL J. ANDERSON, Administrator

16
17 Dated: 8/27/2013

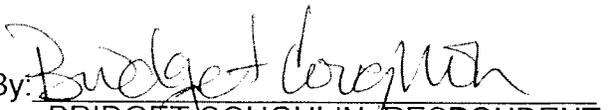
PUEBLO AT SANTA FE CONDOMINIUM, INC.,
RESPONDENT

18
19 By: 

20
21 Name: Brenda Tierney

22 Title: Director

23
24 Dated: 8/27/13

25 By: 
BRIDGET COUGHLIN, RESPONDENT

26
27 Dated: _____

By: _____
TERESA BRUNNER, RESPONDENT

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

8 26. Respondents have signed and dated this Stipulation only after reading and
9 understanding all terms herein.

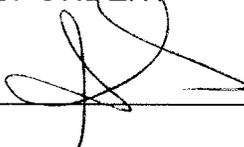
10
11 Dated: _____

REAL ESTATE DIVISION
DEPARTMENT OF BUSINESS & INDUSTRY
STATE OF NEVADA

12
13
14 By: _____
15 GAIL J. ANDERSON, Administrator

16
17 Dated: 0-27-13

PUEBLO AT SANTA FE CONDOMINIUM, INC.,
RESPONDENT

18
19 By:  _____

20
21 Name: Brenda Tierney

22
23 Title: Director

24 Dated: _____

25 By: _____
BRIDGET COUGHLIN, RESPONDENT

26
27 Dated: 7-30-13

28 By:  _____
TERESA BRUNNER, RESPONDENT

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

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Dated: 8/13/2013

By: 
WAYNE KLOSEK, RESPONDENT

Approved as to form:

CATHERINE CORTEZ MASTO
Attorney General

LIPSON NEILSON COLE SELTZER GARIN,
P.C.

Dated: 8/29/13

Dated: 8.28.13

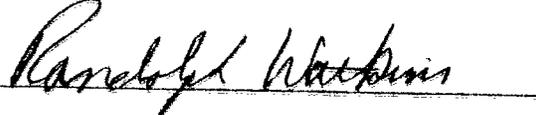
By: 
Michelle D. Briggs, Esq,
Senior Deputy Attorney General
Attorney for the Division

By: 
Attorneys for Respondents, Pueblo at
Santa Fe Condominium, Inc., John Swanson,
Bridget Coughlin, Teresa Brunner, Wayne
Klosek

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

Dated this 20TH day of AUGUST, 2013.

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

By: 

Name: RANDOLPH WATKINS

Title: CHAIR