

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.

SIERRA RANCHOS PROPERTY
OWNERS ASSOCIATION; ROGER
SEIFERT; SCOTT DALMAN; SCOTT
CROW; BRENT JOHNSON; and RON WIX,

Respondents.

Case No. IN-1608

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, by and through its undersigned counsel and Respondents, SIERRA RANCHOS PROPERTY OWNERS ASSOCIATION, ROGER SEIFERT, SCOTT CROW, SCOTT DALMAN and RON WIX (hereinafter "SETTLING RESPONDENTS") by and through their undersigned counsel, stipulate and agree as follows.

JURISDICTION AND NOTICE

1. ROGER SEIFERT, SCOTT DALMAN, SCOTT CROW, BRENT JOHNSON, and RON WIX (the "BOARD") were at all relevant times mentioned in this complaint members of the executive board for SIERRA RANCHOS PROPERTY 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

3. The Sierra Ranchos Property Owners Association (the "ASSOCIATION") was

1 created in 1974 and governs 212 lots which are all approximately 10 or more acres in size and
2 located in Reno, Nevada.

3 4. The Association is self-managed.

4 5. On or about July 10, 2012, a homeowner within the ASSOCIATION, Greta
5 Anderson, filed an Intervention Affidavit against the ASSOCIATION and the BOARD.

6 6. Ms. Anderson alleged retaliation and selective enforcement of the governing
7 documents in violation of NRS 116.

8 7. Ms. Anderson provided evidence of a dispute between herself and her neighbor,
9 RESPONDENT BRENT JOHNSON.

10 8. Beginning in 2010, RESPONDENT JOHNSON made complaints about Ms.
11 Anderson's horses and dogs on the north side of her property to the Washoe County Regional
12 Animal Services, the Washoe County Department of Public Works, the Washoe County Sheriff's
13 Department, and BLM – Department of the Interior.

14 9. RESPONDENT JOHNSON'S property is on the north side of Ms. Anderson's
15 property.

16 10. Beginning on or about August 26, 2011, RESPONDENT JOHNSON began
17 making complaints to the Washoe County Regional Animal Service and recorded a hand written
18 complaint nearly every day until the end of October 2011.

19 11. Ms. Anderson moved her horses to the south side of her property due to
20 RESPONDENT JOHNSON'S complaints.

21 12. RESPONDENT JOHNSON became a board member in November 2011 when
22 the board decided after he was elected that he would fill a vacancy on the board until his official
23 term began.

24 13. At the November 2011 meeting where RESPONDENT JOHNSON was appointed
25 to the board, the board directed him and RESPONDENT WIX to investigate a complaint filed
26 by owners about their neighbor putting 55 gallon drums along the fence line.

27 14. In RESPONDENT JOHNSON'S report regarding the complaint he concluded
28 there were over 80 steel and plastic drums being placed at the owner's fence line which he
stated would be a violation of the CC&R's Section 3.09.

1 15. Section 3.09 requires removal of rubbish and debris which is defined as "items of
2 trash that are offensive by sight or smell to owners of neighboring Lots or other members of the
3 association."

4 16. RESPONDENT JOHNSON called the complaining owner informing him that the
5 board "has not historically taken a position that [he] was aware of regarding CC&R violations
6 regarding section 3.09."

7 17. RESPONDENT JOHNSON'S report goes on to say there are much more
8 egregious violators.

9 18. RESPONDENT JOHNSON recommended that the board take no action on the
10 complaint, and the board took no action on the complaint.

11 19. On March 12, 2012, Ms. Anderson filed an application for an order for protection
12 against stalking, aggravated stalking or harassment against RESPONDENT JOHNSON.

13 20. Ms. Anderson alleged that RESPONDENT JOHNSON was verbally abusive and
14 threatening to her, fired his guns and shoots air horns to incite her animals, and videotapes her.

15 21. On March 15, 2012, RESPONDENT JOHNSON made a written complaint to the
16 ASSOCIATION that Ms. Anderson's horse shelters did not comply with the 60' setback
17 requirement in the ASSOCIATION'S governing documents and that she erected a used building
18 structure.

19 22. The horse shelters RESPONDENT JOHNSON complained about were located on
20 the south side of Ms. Anderson's property.

21 23. According to the Association's minutes from the hardship hearing, one shelter was
22 about 30 feet from the property line, and one was about 33 feet away from the property line.

23 24. Along the south side of Ms. Anderson's property is several acres of vacant
24 property.

25 25. On April 11, 2012, Ms. Anderson received a restraining order against
26 RESPONDENT JOHNSON which was extended for a year to expire on April 11, 2013.

27 26. The Extended Order for Protection Against Stalking, Aggravated Stalking, or
28 Harassment prohibits RESPONDENT JOHNSON from the following:

- a. Going on Ms. Anderson's property;

- 1 b. Making a video of Ms. Anderson;
- 2 c. Firing any weapon on his property unless to defend himself or his animals;
- 3 d. Stopping on the street in front of or along the side of Ms. Anderson's property; and
- 4 e. Vilifying, defaming or calling Ms. Anderson names or otherwise speaking of her in
- 5 a derogatory manner.

6 27. On or about May 24, 2012, the ASSOCIATION authorized its counsel, Gayle Kern,

7 to send a letter to Ms. Anderson that her horse shelters complained about by RESPONDENT

8 JOHNSON are within the 60' setback requirement of the CC&R's and must be moved.

9 28. Ms. Anderson complained to the ASSOCIATION that the setback requirement

10 was only being enforced against her and no other owner with structures within the 60' setback.

11 29. Ms. Anderson requested the ASSOCIATION grant her a hardship exemption from

12 the 60' setback requirement based on her property's unique propensity for high levels of

13 standing water during certain times of the year.

14 30. Ms. Anderson requested copies of all minutes from board meetings multiple times

15 in 2012.

16 31. By letter dated April 2, 2012, the Association states it cannot provide minutes from

17 the board's February 2012 meeting as they were not yet completed.

18 32. By letter dated June 14, 2012, the Association's attorney sent Ms. Anderson a

19 notice of violation for the horse shelters within the 60-foot setback. No hearing date was set

20 and no possible fine amount was stated in the notice.

21 33. The Association provided Ms. Anderson the minutes in draft form from the

22 February 16, 2012 meeting by letter dated August 6, 2012. The Association never provided Ms.

23 Anderson the final copy of the minutes for the February 16, 2012 board meeting.

24 34. By letter dated August 16, 2012, the Association notified Ms. Anderson of a

25 hearing on her request for a hardship exemption. No possible fine amount is included in the

26 letter.

27 35. The ASSOCIATION held a hearing on September 12, 2012 for Ms. Anderson's

28 hardship exemption request.

36. At the hearing, Ms. Anderson explained how portions of her property are under

1 water during certain times of the year and the horse shelters are located on the driest portion.

2 37. Ms. Anderson provided pictures of her property after rainfall and a letter from a
3 Washoe County Engineering Inspector who said he saw standing water on the property and
4 that the horse shelters were moved to keep the horses from standing in water. He added that
5 the Engineering Department had no requirements for where she puts the horse shelters.

6 38. Ms. Anderson also referenced properties with other violations of the CC&R's
7 including board members, RESPONDENTS RON WIX, who had junk on this property, and
8 BRENT JOHNSON, who had inoperable vehicles and barrels on his property.

9 39. Ms. Anderson asserted at the hearing that the restrictions cannot be enforced in
10 an arbitrary or capricious manner.

11 40. By letter dated September 23, 2012, the ASSOCIATION notified Ms. Anderson
12 that her hardship exemption request was denied.

13 41. The ASSOCIATION'S letter states that "[t]he extenuating circumstances you
14 asserted do not rise to the level of the requirements identified in Article III, Section 3.01."

15 42. The ASSOCIATION'S letter continues to state: "Nevada law requires that the
16 [ASSOCIATION] enforce the governing documents."

17 43. By letter dated November 30, 2012, the ASSOCIATION again notified Ms.
18 Anderson that her hardship exemption was denied and added that she had 30 days to move
19 the shelters out of the setback otherwise she would be fined \$100 per day until the violation
20 was corrected.

21 44. No letter provided to Ms. Anderson prior to the hardship hearing stated a fine
22 amount for the alleged violation.

23 45. By letter dated June 5, 2013, the ASSOCIATION'S attorney notified Ms. Anderson
24 that a fine in the amount of \$17,825 was then due and owing based on her alleged failure to
25 move her horse shelters outside the 60' setback.

26 46. By email dated June 22, Ms. Anderson informed the ASSOCIATION'S attorney
27 that she had complied with the demand of the ASSOCIATION'S board to move her horse
28 shelters.

47. Ms. Anderson also provided to the attorney a table identifying over 30 properties

1 within the ASSOCIATION that have structures, including some homes, within the 60' setback
2 based on an aerial view of the properties.

3 48. The table was created by Don Jeppson, the Director of the Washoe County
4 Building and Safety Department, using aerial photographs of the property.

5 49. The ASSOCIATION took no action against the properties identified in the table
6 provided by Ms. Anderson.

7 50. On or about November 8, 2013, the ASSOCIATION sent Ms. Anderson a
8 statement of her account dated October 30, 2013 which included regular road assessments in
9 addition to a fine in the amount of \$17,600, a fine in the amount of \$2,400, and interest and late
10 fees in the amount of \$1,075.51 on the fines.

11 51. By letter dated March 21, 2014, the ASSOCIATION'S attorney informed Ms.
12 Anderson that the fines, fees and interest were waived, but for \$100 and acknowledges that the
13 setback violation was corrected.

14 52. During the Division's investigation into Ms. Anderson's allegations of selective
15 enforcement, the ASSOCIATION was asked to provide a complete record of disciplinary action
16 taken against any owner.

17 53. As of October 28, 2014, the complete list of disciplinary action contains two
18 owners, Ms. Anderson for the setback requirements dated March 2012, and one other owner
19 who built an animal shelter before building the main residence in June 2012.

20 54. The same owner who was forced to comply with the CC&R's in June of 2012 filed
21 an application for a protective order against RESPONDENT JOHNSON in 2014.

22 55. Ms. Anderson was the first owner in the ASSOCIATION to have any disciplinary
23 action taken against her.

24 56. No other owner within the ASSOCIATION has ever been forced to comply with
25 the 60' setback requirement despite the fact that there are several properties with structures
26 within the setback.

27 57. The ASSOCIATION granted a hardship exemption to an owner for having a horse
28 shelter in front of the home and along the fence line on February 18, 2014 without explanation.

1 VIOLETIONS OF LAW ALLEGED IN THE COMPLAINT

2 58. RESPONDENT JOHNSON knowingly and willfully violated NRS 116.3103
3 (through NAC 116.405(2)) by failing to act in accordance with his fiduciary duty to act in good
4 faith by acting out of reasons of self-interest, gain, prejudice or revenge by filing a complaint
5 with the ASSOCIATION against his neighbor after she applied for a restraining order against
6 him and while as a board member he discouraged the ASSOCIATION from enforcing the
7 governing documents for a complaint filed by another owner.

8 59. RESPONDENTS SEIFERT, DALMAN, CROW and WIX knowingly and willfully
9 violated NRS 116.3103 (through NAC 116.405(2)) by failing to act in accordance with their
10 fiduciary duty to act in good faith by acting out of reasons of self-interest, gain, prejudice or
11 revenge when they forced Ms. Anderson to move her horse shelters to comply with a 60'
12 setback while at the same time failing to pursue any other owner for the same violation.

13 60. RESPONDENTS SEIFERT, DALMAN, CROW and WIX knowingly and willfully
14 violated NRS 116.3103 (through NAC 116.405(3)) by failing to act in accordance with their
15 fiduciary duty to act in good faith by committing an act or omission with amounts to
16 incompetence, negligence or gross negligence by enforcing the governing documents against
17 a single owner and no other owner.

18 61. RESPONDENTS SEIFERT, DALMAN, CROW, JOHNSON and WIX knowingly
19 and willfully violated NRS 116.3103 (through NAC 116.405(8)(b)) by failing to act in accordance
20 with their fiduciary duty to act in good faith by failing to cause the ASSOCIATION to uniformly
21 enforce the governing documents.

22 62. RESPONDENTS violated NRS 116.31031(4)(b) by failing to include the fine
23 amount in the notice of the alleged violation or the notice of a hearing.

24 63. RESPONDENTS violated NRS 116.31031(11) by imposing interest charges on
25 the fine as evidenced by a statement dated October 30, 2013 the ASSOCIATION sent to Ms.
26 Anderson.

27 64. RESPONDENTS violated NRS 116.310315 by failing to establish a separate
28 compliance account for the fine charged to Ms. Anderson as evidenced by a statement dated
October 30, 2013 the ASSOCIATION sent to Ms. Anderson.

1 following terms and conditions.

2 3. The ASSOCIATION agrees to pay an administrative fine to the Division in the
3 amount of \$1,000 to be paid within 60 days from the date this Stipulation and Order is signed
4 by the Commission.

5 4. The ASSOCIATION agrees to grant Greta Anderson a hardship exemption for the
6 installation of horse shelters on her property wherever she deems most appropriate even if such
7 location is within the 60-foot setback.

8 5. The ASSOCIATION agrees to remove all fines and any other penalties applied to
9 Greta Anderson's account as a result of the 60-foot setback violation.

10 6. ROGER SEIFERT, SCOTT CROW, SCOTT DALMAN and RON WIX agree not
11 to serve as a member of the board of directors or as an officer for the ASSOCIATION or any
12 other common-interest community located in the state of Nevada for no less than 5 years from
13 the date this Stipulation and Order is signed by the Commission; unless, (1) the ASSOCIATION
14 cannot fill all openings on its board of directors with the voluntary participation of owners within
15 the ASSOCIATION, and (2) the ASSOCIATION is managed by a community manager who
16 holds a certificate from the Division.

17 7. SETTLING RESPONDENTS and the Division agree that by entering into this
18 Stipulation and Order, the Division does not concede any defense or mitigation SETTLING
19 RESPONDENTS may assert and that once this Stipulation and Order is approved and fully
20 performed, the Division will remove the SETTLING RESPONDENTS as respondents in this
21 matter.

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

27 9. SETTLING RESPONDENTS agree that if the terms and conditions of this
28 Stipulation and Order are not met, the Division may, at its option, rescind this Stipulation and
Order and proceed with prosecuting the Complaint before the Commission.

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

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

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

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

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

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

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

19 17. Nothing contained in this Stipulation shall hinder the Division's pursuit of the
20 complaint on file herein as to the Respondents, excluding the SETTLING RESPONDENTS. The
21 Division specifically reserves the right to pursue the complaint as to the Respondents, excluding
22 the SETTLING RESPONDENTS.

23 18. SETTLING RESPONDENTS have signed and dated this Stipulation and Order
24 only after reading and understanding all terms herein.

25 Dated: JUNE 09 2016

REAL ESTATE DIVISION
DEPARTMENT OF BUSINESS & INDUSTRY
STATE OF NEVADA

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27
28 By: 
JOSEPH (J.D.) DECKER, Administrator

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STATE OF NEVADA

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

Dated: _____ SIERRA RANCHOS PROPERTY OWNERS
ASSOCIATION, RESPONDENT

By: 
TERRY KAUFMANN, MEMBER

Dated: _____ By: 
ROGER SEIFERT, RESPONDENT

Dated: _____ By: _____
SCOTT DALMAN, RESPONDENT

Dated: _____ By: _____
SCOTT CROW, RESPONDENT

Dated: _____ By: _____
BRENT JOHNSON, RESPONDENT

Dated: _____ By: _____
RON WIX, RESPONDENT

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

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Dated: _____

SIERRA RANCHOS PROPERTY OWNERS
ASSOCIATION, RESPONDENT

By: _____
TERRY KAUFMANN, MEMBER

Dated: _____

By: _____
ROGER SEIFERT, RESPONDENT

Dated: _____

By: _____
SCOTT CROW, RESPONDENT

Dated: _____

By: _____
SCOTT DALMAN, RESPONDENT

Dated: 6-8-16
Ron Wix

By: Ron Wix
RON WIX, RESPONDENT

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Dated: _____

SIERRA RANCHOS PROPERTY OWNERS
ASSOCIATION, RESPONDENT

By: _____
TERRY KAUFMANN, MEMBER

Dated: _____

By: _____
ROGER SEIFERT, RESPONDENT

Dated: 6/7/2015

By: *Scot Crow*
SCOTT CROW, RESPONDENT

Dated: _____

By: _____
SCOTT DALMAN, RESPONDENT

Dated: _____

By: _____
RON WIX, RESPONDENT

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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.

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

Dated: _____

REAL ESTATE DIVISION
DEPARTMENT OF BUSINESS & INDUSTRY
STATE OF NEVADA

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

Dated: _____

SIERRA RANCHOS PROPERTY OWNERS
ASSOCIATION; RESPONDENT

By: _____
TERRY KAUFMANN, MEMBER

Dated: _____

By: _____
ROGER SEIFERT, RESPONDENT

Dated: 6-8-2016


By: 
SCOTT DALMAN, RESPONDENT

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Approved as to form:


ADAM PAUL LAXALT,
Attorney General

Dated: 6-9-16

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

Lipson, Neilson, Cole, Seltzer & Garin, P.C.

Dated: 6/8/16

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

IT IS ORDERED that the foregoing STIPULATION AND ORDER FOR SETTLEMENT
OF DISCIPLINARY ACTION is approved in full.

Dated this 15th day of June, 2016.

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

By: 

Name: SCOTT SIBLEY

Title: COMMISSIONER