

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

4 **Sharath Chandra, Administrator,**
5 **Real Estate Division, Department of**
6 **Business & Industry, State of Nevada,**
7 **Petitioner,**

Case No. 2017-2046

8 vs.

FILED

APR 01 2019

9 **Mountain Gate Homeowners Association,**
10 **Doris Markham, Lillie Wyatt, Susan South**
11 **and Robert South,**

**NEVADA COMMISSION OF
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS**

12 **Respondents..**

13 **STIPULATION AND ORDER**
14 **FOR SETTLEMENT OF DISCIPLINARY ACTION**

15 **Petitioner, Real Estate Division, Department of Business & Industry, State of**
16 **Nevada (the "Division") through its Administrator, Sharath Chandra, and Respondents,**
17 **Mountain Gate Homeowners Association, Doris Markham, Lillie Wyatt, Susan South and**
18 **Robert South enter into this STIPULATION AND ORDER FOR SETTLEMENT OF**
19 **DISCIPLINARY ACTION ("Stipulation and Order") as follows.**

20 **JURISDICTION AND NOTICE**

21 1. **During the relevant times mentioned in this complaint, RESPONDENTS**
22 **DORIS MARKHAM, LILLIE WYATT, SUSAN SOUTH, and ROBERT SOUTH served as**
23 **board members and/or officers of MOUNTAIN GATE HOMEOWNERS ASSOCIATION (the**
24 **"Association"), a common-interest community located in Las Vegas, Nevada.**

25 2. **RESPONDENTS are subject to the provisions of Chapter 116 of each the**
26 **Nevada Revised Statutes ("NRS") and the Nevada Administrative Code ("NAC") (hereinafter**
27 **collectively referred to as "NRS 116") and are subject to the jurisdiction of the Division, and**
28 **the Commission for Common-Interest Communities pursuant to the provisions of NRS**
 116.750.

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

2 15. RESPONDENTS SUSAN SOUTH, WYATT, AND MARKHAM violated NRS
3 116.3103 (through NAC 116.405(3)) by committing acts or omissions which amount to
4 incompetence, negligence or gross negligence for hiring a board member to perform work he
5 was not licensed to provide.

6 16. RESPONDENT ROBERT SOUTH violated NRS 116.3103 (through NAC
7 116.405(3)) by committing acts which amount to incompetence, negligence or gross negligence
8 by performing services for the Association that he was not licensed to provide.

9 17. RESPONDENTS WYATT AND MARKHAM violated NRS 116.3103 (through
10 NAC 116.405(3)) by committing acts or omissions which amount to incompetence, negligence
11 or gross negligence by allowing board members to receive payment from the Association
12 prohibited by NRS 116.31187.

13 18. RESPONDENTS ROBERT SOUTH and SUSAN SOUTH violated NRS
14 116.3103 (through NAC 116.405(2)) by acting out of reasons of self-interest or gain.

15 19. RESPONDENTS ROBERT SOUTH and SUSAN SOUTH violated NRS
16 116.3103 (through NAC 116.405(3)) by committing acts or omissions which amount to
17 incompetence, negligence or gross negligence by violating NRS 116.31187 which prohibits
18 board members and officers from contracting with the Association or otherwise accepting any
19 commission, personal profit or compensation of any kind from the Association for services
20 provided to the Association.

21 20. RESPONDENTS violated NRS 116.31034(13)(b) by allowing RESPONDENTS
22 ROBERT SOUTH and SUSAN SOUTH to continue to serve on the board after the law was
23 changed in 2015 to prohibit board members from being eligible to serve on the board pursuant
24 to NRS 116.31034(10)(a)(2) if they stand to gain any personal profit or compensation of any
25 kind from a matter before the executive board of the Association.

26 **DISCIPLINE AUTHORIZED**

27 Pursuant to the provisions of NRS 116.615, NRS 116.755, NRS 116.785, and NRS
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1 116.790, the Commission has discretion to take any or all of the following actions:

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

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

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

8 4. IF RESPONDENTS ARE FOUND TO HAVE KNOWINGLY AND
9 WILLFULLY COMMITTED A VIOLATION of NRS or NAC 116 AND it is in the best
10 interest of the Association, such RESPONDENT may be removed from his/her position as
11 a director and/or officer.

12 5. Order an audit of the ASSOCIATION, at the expense of the ASSOCIATION.

13 6. Require the BOARD MEMBERS to hire a community manager who holds a
14 certificate.

15 7. Require RESPONDENTS to pay the costs of the proceedings incurred by the
16 Division, including, without limitation, the cost of the investigation and reasonable
17 attorney's fees.

18 8. Take whatever further disciplinary action as the Commission deems
19 appropriate.

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

24 SETTLEMENT

25 1. RESPONDENTS SUSAN SOUTH and ROBERT SOUTH shall resign from the
26 Association's board immediately, if they are currently serving, and shall not serve as an officer
27 or director for any common-interest community in the state of Nevada for a period of no less
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1 than ten years from the date of this Stipulation and Order, but in no event prior to completion
2 of the payments agreed to be paid to the Association pursuant to this Stipulation and Order.

3 2. RESPONDENTS LYLLIE WYATT and DORIS MARKHAM shall resign from
4 the Association's board immediately, if they are currently serving, and shall not serve as an
5 officer or director for any common-interest community in the state of Nevada for a period of
6 no less than five years from the date of this Stipulation and Order.

7 3. Vacancies on the Association's board shall be filled by an election pursuant to
8 NRS 116 and not by appointment.

9 4. RESPONDENTS SUSAN SOUTH and ROBERT SOUTH shall reimburse the
10 Association the sum of \$6,950 to be paid in monthly installments of no less than \$115.83, until
11 paid in full.

12 5. RESPONDENT SUSAN SOUTH surrendered her community manager
13 certificate in lieu of discipline.

14 6. In exchange for the foregoing, the Division agrees to close its matters pertaining
15 to RESPONDENT SUSAN SOUTH (Case no. 2018-398) and RESPONDENT LYLLIE
16 WYATT (Case no. 2018-744).

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

21 8. RESPONDENTS agree that if the terms and conditions of this Stipulation and
22 Order are not met, the Division may, at its option, rescind this Stipulation and Order and
23 proceed with prosecuting the Complaint before the Commission.

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

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

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

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

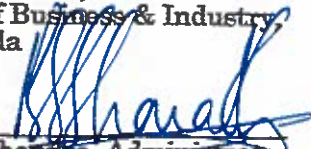
25 13. Indemnification. RESPONDENTS hereby indemnify and hold harmless the
26 State of Nevada, the Department of Business and Industry, the Division, and each of their
27 respective members, agents, employees and counsel in their individual and representative
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1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

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

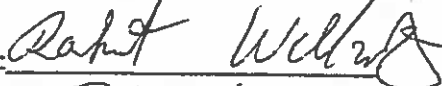
8 DATED: March 20, 2019.

Real Estate Division,
Department of Business & Industry,
State of Nevada

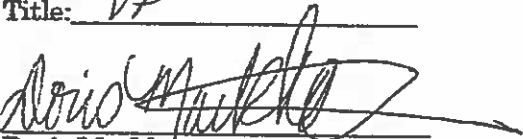
By: 
Sharath Chandra, Administrator

12 DATED: March 10, 2019.

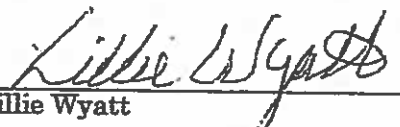
Mountain Gate Homeowners Association

By: 
Name: Robert Wellnitz
Title: VP


18 DATED: March 10, 2019.


Doris Markham


21 DATED: March 7, 2019.


Lillie Wyatt

23 DATED: March 8, 2019.


Susan South

25 DATED: March 8, 2019.


Robert South

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3 attorney fees, which may be sustained by the persons and/or entities named in this section as a
4 result of said claims, suits, and actions.

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

7 DATED: March ____, 2019.

Real Estate Division,
Department of Business & Industry,
State of Nevada

9 By: _____
10 Sharath Chandra, Administrator

11 DATED: March 17th, 2019.

Mountain Gate Homeowners Association

12 By: _____

13 Name: _____

14 Title: _____

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16 DATED: March 17th, 2019.

Doris Markham
Doris Markham

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19 DATED: March ____, 2019.

Lillie Wyatt

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22 DATED: March ____, 2019.

Susan South

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24 DATED: March ____, 2019.

Robert South

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28 **ORDER**

IT IS ORDERED that the foregoing Stipulation and Order for Settlement of Disciplinary

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3 attorney fees, which may be sustained by the persons and/or entities named in this section as a
4 result of said claims, suits, and actions.

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

7 DATED: March ____, 2019.

Real Estate Division,
Department of Business & Industry,
State of Nevada

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9 By: _____
Sharath Chandra, Administrator

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DATED: March 7th, 2019.

Mountain Gate Homeowners Association

12 By: _____

13 Name: _____

14 Title: _____

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16 DATED: March 17th, 2019.


Doris Markham

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19 DATED: March ____, 2019.

Lillie Wyatt

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22 DATED: March ____, 2019.

Susan South

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24 DATED: March ____, 2019.

Robert South

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28 **ORDER**

IT IS ORDERED that the foregoing Stipulation and Order for Settlement of Disciplinary

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ORDER

IT IS ORDERED that the foregoing Stipulation and Order for Settlement of Disciplinary Action is approved in full.

Dated: March 22, 2019.

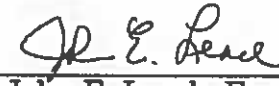
Commission for Common-Interest
Communities and Condominium Hotels,
Department of Business & Industry,
State of Nevada

By:  VICE CHAIR
FOR Michael Burke, Chairman

Submitted by:

AARON FORD, Attorney General

By: 
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Senior Deputy Attorney General
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Attorneys for Real Estate Division

By: 
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Attorney for Respondents