

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,**

8 vs.

9 Silverstone Ranch Community Association,
10 Thomas Masson, Chrisa Chen, Colleen
11 Malany, Katrina Yoa-Townsend, Frank
12 Anderson, and William Walter,

13 **Respondents.**

Case No. 2018-1322

FILED

MAY 22 2020

NEVADA COMMISSION FOR
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS

Kelley Valadez

14 **PARTIAL STIPULATION AND ORDER**
15 **FOR SETTLEMENT OF DISCIPLINARY ACTION**

16 Petitioner, Real Estate Division, Department of Business & Industry, State of
17 Nevada (the "Division") through its Administrator, Sharath Chandra, and Thomas
18 Masson, Chrisa Chen, Colleen Malany, Frank Anderson, and William Walter
19 (hereinafter, "RESPONDENTS") enter into this PARTIAL STIPULATION AND
20 ORDER FOR SETTLEMENT OF DISCIPLINARY ACTION ("Stipulation and Order")
21 as follows.

22 **JURISDICTION AND NOTICE**

23 During the relevant times mentioned in this complaint, RESPONDENTS Thomas
24 Masson, Chrisa Chen, Colleen Malany, Frank Anderson, and William Walter served as
25 members and/or officers of Silverstone Ranch Community Association (the
26 "Association"), a common-interest community located in Las Vegas, Nevada.

27 RESPONDENTS are subject to the provisions of Chapter 116 of each the Nevada
28 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

1 NRS 116.750.

2 **FACTUAL ALLEGATIONS IN THE COMPLAINT**

3 1. On or around September 1, 2018, Rosario Romano ("Complainant")
4 submitted an Intervention Affidavit to the Division claiming in part, that the
5 Association failed to provide him with a copy of a \$380,000 settlement agreement that
6 the Association entered into and/or failed to provide him with the terms of the
7 settlement.

8 2. On September 1, 2018, Complainant submitted a letter to the Division
9 specifying that on December 5, 2017, the Clark County District Court approved a class
10 action settlement agreement in a lawsuit commonly known as the Higher Ground
11 Lawsuit, requiring the Association to pay the plaintiffs \$380,000 in settlement funds
12 (the "Settlement Agreement")

13 3. Complainant also stated that the Association paid a total of \$17,065
14 dollars in legal expenses related to the settlement of the Higher Ground Lawsuit.

15 4. Complainant stated that he had made numerous written requests to the
16 Association requesting financial records related to the payment of the settlement along
17 with requests for a copy of the Settlement Agreement.

18 5. On November 20, 2018, the Division properly notified the Association
19 regarding Complainant's complaint and requested notarized, written responses to the
20 allegations set forth in the Division's November 20th letter.

21 6. On December 7, 2018, the Division received a response from the
22 Association's attorney, John E. Leach of Leach Kern Gruchow Anderson Song, stating in
23 part, that the Association only has an obligation to allow owners to review records *filed*
24 with a court.

25 7. In his letter, Mr. Leach proceeded to state that because the Settlement
26 Agreement was not a record *filed* with the court, the Association was not obligated to
27 produce it to Complainant.

28 8. Mr. Leach also stated that filing the Settlement Agreement with the court

1 would make it a public record, violating the Settlement Agreement's confidentiality
2 provision.

3 9. In his December 7th letter to the Division, Mr. Leach stated:

4 Based on the language of the aforementioned statutes, production of
5 settlement agreement is not necessary and appropriate. Therefore, the
6 Association does not intend to do so as it is not going to breach the
7 terms of the settlement agreement.

8 10. After this case was referred to the Attorney General's Office to pursue
9 disciplinary action, the Division obtained a copy of the Settlement Agreement that had
10 been filed with the court on August 28, 2017, as part of the parties' Joint Motion for
11 Preliminary Approval of Class Settlement as Set Forth in the Settlement Agreement,
12 Approval of Class Notification and Entry of Scheduling Order.

13 11. NRS 116.31088(4) requires:

14 If any civil action in which the association is a party is settled, the
15 executive board shall disclose the terms and conditions of the
16 settlement at the next regularly scheduled meeting of the executive
17 board after the settlement has been reached. The executive board may
18 not approve a settlement which contains any terms and conditions that
19 would prevent the executive board from complying with the provisions
20 of this subsection.

21 12. Despite the Settlement Agreement being filed with the court on August 28,
22 2017, for court approval, the Settlement Agreement was not on the agenda of
23 Association's Board meeting set for October 10, 2017.

24 13. Minutes obtained from the October 10, 2017 meeting failed to expressly
25 reference the Settlement Agreement.

26 14. Despite the agenda and the minutes not mentioning the Settlement
27 Agreement, the Association claimed it satisfied the requirements of disclosure when the
28 president responded to an owner during the homeowner's forum at the beginning of the
meeting which is part of the audio from the October 10, 2017 meeting.

15. Based on the audio from the October 20, 2017, the president's comments on
the Settlement Agreement did not fully disclose the terms and conditions of the

1 Settlement Agreement as required by statute.

2 16. The Settlement Agreement terms and conditions were not disclosed to the
3 homeowners until a year later, at the October 10, 2018 Board meeting.

4 17. On February 28, 2019, the Division sent the Association a letter stating
5 that the Division viewed the Settlement Agreement as a record of the Association and
6 that it must be made available for inspection.

7 18. On August 21, 2019, the Association was properly notified by the Division
8 that the Division intended to commence disciplinary action against the Board by filing a
9 complaint for hearing before the Commission for Common Interest Communities and
10 Condominium Hotels.

11 VIOLATIONS OF LAW ALLEGED IN THE COMPLAINT

12 19. Respondents violated NRS 116.31175(1), (2) by failing to disclose the
13 Settlement Agreement and the financial records pertaining to the payment of the
14 settlement to Complainant.

15 20. Respondents violated NRS 116.31088(4) by failing to disclose the terms
16 and conditions of the Settlement Agreement at the next regularly scheduled meeting of
17 the executive board of directors.

18 SETTLEMENT

19 1. Respondents Thomas Masson, Colleen Malany, Chrisa Chen, Frank
20 Anderson, and William Walter agree that, although they relied on the advice of counsel
21 and their community manager, the allegations of fact and law in the complaint are true
22 and that should they serve as a board member for any common-interest community now
23 or in the future, they will comply with records requests from homeowners in a timely
24 fashion and will notice homeowners of a settlement by placing the matter on the agenda
25 for discussion of the terms in compliance with the law.

26 2. Respondents Chrisa Chen, Frank Anderson, and William Walter agree
27 that if they currently serve or will serve on any association board, they will take ten
28 hours of board member education (approved by the Division in advance of taking the

1 class), to be completed within 1 year from the date of this Stipulation and Order.

2 3. Respondents Thomas Masson and Colleen Malany agree that if they
3 currently serve or will serve on any association board, they will take five hours of board
4 member education (approved by the Division in advance of taking the class), to be
5 completed within 1 year from the date of this Stipulation and Order.

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

10 5. Respondents agree that if the terms and conditions of this Stipulation and
11 Order are not met, the Division may, at its option, rescind this Stipulation and Order as
12 to the Respondent in default and proceed with prosecuting the Complaint before the
13 Commission.

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

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

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

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

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

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1 11. Respondents have signed and dated this Stipulation and Order only after
2 reading and understanding all terms herein.

3 DATED: May 20, 2020.

4 REAL ESTATE DIVISION,
5 DEPARTMENT OF BUSINESS &
6 INDUSTRY, STATE OF NEVADA

7 By: 
8 Sharath Chandra, Administrator

9 DATED: May 18, 2020.

10 
11 Frank Anderson

12 DATED: May _____, 2020.

13 _____
14 Thomas Masson

15 DATED: May _____, 2020.

16 _____
17 Colleen Malany

18 DATED: May _____, 2020.

19 _____
20 Chrisa Chen

21 DATED: May _____, 2020.

22 _____
23 William Walter

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By: _____
Sharath Chandra, Administrator

DATED: May ____, 2020.

Frank Anderson

DATED: May 18, 2020.

Thomas Masson

Thomas Masson

DATED: May 18, 2020.

Colleen Malany

Colleen Malany

DATED: May ____, 2020.

Chrisa Chen

DATED: May ____, 2020.

William Walter

ORDER

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

Dated: May ____, 2020.

1 11. Respondents have signed and dated this Stipulation and Order only after
2 reading and understanding all terms herein.

3 DATED: May _____, 2020.

REAL ESTATE DIVISION,
DEPARTMENT OF BUSINESS &
INDUSTRY, STATE OF NEVADA

6 By: _____
Sharath Chandra, Administrator

8 DATED: May _____, 2020.

Frank Anderson

10 DATED: May _____, 2020.

Thomas Masson

12 DATED: May _____, 2020.

Colleen Malany

14 DATED: May _____, 2020.


Ensa Chen

16 DATED: May _____, 2020.

William Walter

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11. Respondents have signed and dated this Stipulation and Order only after reading and understanding all terms herein.

DATED: May _____, 2020.

REAL ESTATE DIVISION,
DEPARTMENT OF BUSINESS &
INDUSTRY, STATE OF NEVADA

By: _____
Sharath Chandra, Administrator

DATED: May _____, 2020.

Frank Anderson

DATED: May _____, 2020.

Thomas Masson


DATED: May _____, 2020.

Colleen Malany

DATED: May _____, 2020.

Chrisa Chen

DATED: May 18, 2020.



William Walter

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ORDER

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

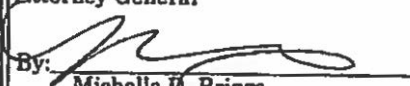
Dated: May 20, 2020.

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

By: 
Michael Burke, Chairman

Submitted by:

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