

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 **Vistana Condominium Owners**
10 **Association, Carlos Aguirre, Victor Chill,**
11 **John Rhodes and Linda Williams,**

12 **Respondents.**

Case No. 2019-89

FILED

MAY 29 2020

NEVADA COMMISSION FOR
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS

Kelly Valadez

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 VISTANA
17 CONDOMINIUM OWNERS ASSOCIATION, CARLOS AGUIRRE, VICTOR CHILL,
18 JOHN RHODES, AND LINDA WILLIAMS (hereinafter, "RESPONDENTS") enter into
19 this STIPULATION AND ORDER FOR SETTLEMENT OF DISCIPLINARY ACTION
20 ("Stipulation and Order") as follows.

21 **JURISDICTION AND NOTICE**

22 During the relevant times mentioned in the complaint, RESPONDENTS
23 CARLOS AGUIRRE, VICTOR CHILL, JOHN RHODES, AND LINDA WILLIAMS
24 served as board members and/or officers of VISTANA CONDOMINIUM OWNERS
25 ASSOCIATION (the "Association"), a common-interest community located in Las Vegas,
26 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
NRS 116.750.

FACTUAL ALLEGATIONS IN THE COMPLAINT

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2 1. In 2017, the Commission ordered findings of fact and conclusions of law in
3 Case No. 2015-3373 involving the VISTANA CONDOMINIUM OWNERS
4 ASSOCIATION (the "Association") and board members Larry Fitch, Anthony Kneip,
5 Lynn Williams and Ardyce Nelson ("2017 Order").

6 2. The 2017 Order, among other items, imposes personal fines against each of
7 the board members in the amount of \$5,128.40 to be paid on or before January 1, 2018,
8 and required education. No fines were ordered against the Association.

9 3. On October 19, 2017, the Association and the board members filed a
10 petition for judicial review to challenge the 2017 Order in court.

11 4. The petition for judicial review challenges the Commission's findings of
12 "knowing and willful" violations by the board members.

13 5. NRS 116.785 provides that the Association is responsible for fines imposed
14 against the board members unless the Commission finds the violations were knowing
15 and willful.

16 6. The board members failed to meet the January 1st deadline to pay the fine.

17 7. By order of the Commission filed March 13, 2018, the 2017 Order was
18 amended to allow the board members to pay \$100 each month.

19 8. By order of the Commission filed July 6, 2018, the 2017 Order was
20 amended again to provide a late fee for any payment made after the 10th of each month.
21 The order also requires confirmation of the completion of 9 hours of education to the
22 Division no later than September 1, 2018.

23 9. By order of this Commission filed December 4, 2018, board members, Lynn
24 Williams, Ardyce Nelson and Anthony Kneip, were removed from the board for failing to
25 comply with the 2017 Order.

26 10. The Association held an election in November 2018 at which
27 RESPONDENT CARLOS AGUIRRE was elected.

28 11. RESPONDENT CARLOS AGUIRRE served on the board prior to the

1 election as an appointee in May 2018.

2 12. After the November 2018 election and the removal of board members by
3 the Commission, the board consisted of three members, RESPONDENTS VICTOR
4 CHILL and CARLOS AGUIRRE, as well as Frank Falcone.

5 13. At a board meeting on December 13, 2018, RESPONDENTS VICTOR
6 CHILL and CARLOS AGUIRRE voted to appoint RESPONDENTS LINDA WILLIAMS
7 and JOHN RHODES to the board.

8 14. RESPONDENT LINDA WILLIAMS is the wife of removed board member,
9 Lynn Williams.

10 15. In January 2019, the Division received an intervention affidavit filed by a
11 homeowner who objected to the appointment of RESPONDENT LINDA WILLIAMS,
12 because the Association's attorney was and still is representing her husband in the
13 petition for judicial review challenging the 2017 Order.

14 16. NRS 116.31034(10)(a)(2) provides that "[a] person may not be a candidate
15 for or member of the executive board or an officer of the association if:...The person
16 stands to gain any personal profit or compensation of any kind from a matter before the
17 executive board of the association."

18 17. NRS 116.31034(13) provides that "[i]f a person is not eligible to be a
19 candidate for or member of the executive board or an officer of the association pursuant
20 to any provision of this chapter, the association: (a) Must not place his or her name on
21 the ballot; and (b) Must prohibit such a person from serving as a member of the
22 executive board or an officer of the association."

23 18. The Division requested a response from the RESPONDENTS to the
24 allegation that they were in violation of NRS 116.31034.

25 19. RESPONDENTS provided affidavits saying RESPONDENT LINDA
26 WILLIAMS does not vote on matters involving her husband, Lynn Williams.

27 20. RESPONDENT LINDA WILLIAMS stated that she recuses herself from
28 any matters involving her husband and provided minutes from a meeting where she

1 recused herself.

2 21. RESPONDENT LINDA WILLIAMS provided minutes from the board's
3 April 2019 meeting at which RESPONDENTS CHILL, AGUIRRE and RHODES voted
4 to approve payment for an invoice from Lynn Williams for reimbursement of mileage in
5 the amount of \$959.20.

6 22. The Williams live in Long Beach, California, and the Association paid Mr.
7 Williams \$0.545 per mile for his travel to Las Vegas to "Testify @ NRED hearing,"
8 attend "Training for NRED," and attend "meeting with Attorney."

9 23. Mr. Williams's invoice to the Association is dated September 21, 2018 and
10 says it is for mileage "required to testify in state Court and to attend the mandated
11 training required by NRED."

12 24. The Association's agenda for its April 11, 2019 board meeting lists under
13 New Business: "Approval of Lynn Williams to be Legal Consultant for Vistana."

14 25. Prior to the appointment of RESPONDENT LINDA WILLIAMS, on
15 December 13, 2018, the board voted to "acquire a second opinion from legal counsel
16 regarding the Association continuing to fund the previous Board members appeal of the
17 NRED Decision."

18 26. No such opinion was acquired.

19 27. RESPONDENT LINDA WILLIAMS ran for election in 2019.

20 28. RESPONDENT LINDA WILLIAMS stated on her nomination form dated
21 August 4, 2019 that she does not have a potential conflict of interest.

22 VIOLATIONS OF LAW ALLEGED IN THE COMPLAINT

23 29. RESPONDENT LINDA WILLIAMS is in violation of NRS
24 116.31034(10)(a)(2) as she is not eligible to serve on the Association's board.

25 30. RESPONDENTS are in violation of NRS 116.31034(13) by allowing
26 RESPONDENT WILLIAMS to serve on the Association's board even though she is not
27 eligible to serve.

28 31. RESPONDENT LINDA WILLIAMS violated NRS 116.31034(9) by failing

1 to disclose her conflict of interest concerning the Association's payment of attorneys'
2 fees for her husband's pending petition for judicial review.

3 32. RESPONDENTS violated NRS 116.3103 (through NAC 116.405(3)) by
4 failing to act in good faith and in the best interests of the Association when they
5 committed an act or omission which amounts to incompetence, negligence or gross
6 negligence.

7 33. RESPONDENTS violated NRS 116.3103 (through NAC 116.405(8)(a)) by
8 failing to act in good faith and in the best interests of the Association when they failed
9 to cause the Association to comply with all state laws.

10 SETTLEMENT

11 1. RESPONDENT VISTANA CONDOMINIUM OWNERS ASSOCIATION
12 agrees to have the Division provide a 2 hour class at the Association for all current
13 board members and any owners desiring to attend. The date and time of the class will
14 be worked out between the Division and the Association. The topic for the class must be
15 approved by the Division based on the needs of the Association in the Division's
16 discretion.

17 2. RESPONDENT CARLOS AGUIRRE agrees to attend 20 hours of classes –
18 offered by the Division or approved by the Division in writing prior to taking the class –
19 within 6 months of the date of this Stipulation and Order. To satisfy the education
20 requirement, AGUIRRE may use any class offered by the Division taken within the
21 prior 6 months provided he provides a certificate of attendance to the Division.

22 3. RESPONDENTS VICTOR CHILL and JOHN RHODES shall not serve as
23 a board member or officer of any common-interest community located in the state of
24 Nevada for a period of no less than 5 years from the date of this Stipulation and Order.
25 If after 5 years, CHILL OR RHODES wants to serve as a board member or officer for
26 any common-interest community in the state of Nevada, each shall complete no less
27 than 20 hours of classes offered by the Division or approved in writing by the Division
28 prior to the class being taken.

1 4. **RESPONDENT LINDA WILLIAMS** shall not serve as a board member or
2 officer of any common-interest community located in the state of Nevada for a period of
3 no less than 10 years from the date of this Stipulation and Order, but in no event prior
4 to the payment due to the Association in Subsection 5 is paid in full

5 5. **RESPONDENT LINDA WILLIAMS** shall reimburse to the Association the
6 sum of \$959.20 within 30 days of the date of this Order and Stipulation.

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

11 7. **RESPONDENTS** agree that if the terms and conditions of this Stipulation
12 and Order are not met, the Division may, at its option, rescind this Stipulation and
13 Order as to the **RESPONDENT** in default and proceed with prosecuting the Complaint
14 before the Commission.

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

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

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

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

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

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

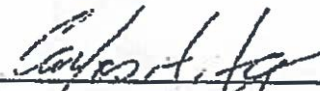
DATED: ~~March~~ ^{May} 20, 2020.

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

By: 
Sharath Chandra, Administrator

DATED: ~~March~~ ^{APRIL} 27th, 2020.

Vistana Condominium Owners Association

By: 
Name: CARLOS A. AGUIRRE
Title: PRESIDENT


DATED: ~~March~~ ^{APRIL} 24th, 2020.


Carlos Aguirre

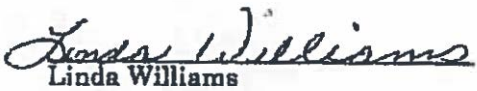
DATED: ~~March~~ ^{April} 27, 2020.


Victor Chill

DATED: ~~March~~ ^{APRIL} 27, 2020.


John Rhodes

DATED: ~~March~~ ^{May} 4, 2020.


Linda Williams

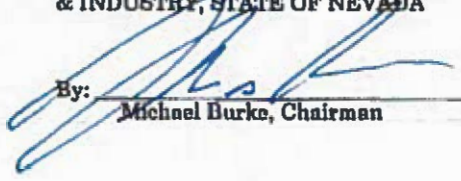
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ORDER

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

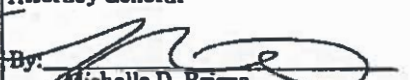
Dated: March 20 2020.


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

By: 
Michael Burke, Chairman

Submitted by:

AARON D. FORD
Attorney General

By: 
Michello D. Briggs
Senior Deputy Attorney General
555 E. Washington Ave. Ste 3900
Las Vegas, Nevada 89101
(702) 486-8420
Attorneys for Real Estate Division

By: 
Michael W. McKelley
~~McKelley-Carpenter-Hazlewood~~
871 Coronado Center Drive, Suite 200
Henderson, NV 89052
Attorney for Respondents