



1                                   **FACTUAL ALLEGATIONS IN THE COMPLAINT**

2           1.    **BELCOURT OWNERS ASSOCIATION** is a self-managed, planned  
3 community consisting of 101 units.

4           2.    The Association has an annual budget of \$19,695.

5           3.    In 2017, the Association failed to submit its annual registration form with  
6 the Division and also submitted a check to the Division with only one signature.

7           4.    The Division sent notice to the Association on February 12, 2018, that it was  
8 opening an investigation regarding the Association's failure to properly register the  
9 Association in 2017, and also regarding the Association's improper submittal of a sole  
10 signed check to the Division.

11          5.    **RESPONDENT MARCIA CREAMER** responded to the Division stating that  
12 she submitted the annual list to the Secretary of State's Office and did not know annual  
13 registration with the Division was necessary.

14          6.    **CREAMER** also stated that only one board member of the Association signs  
15 checks when the amount is under \$1,000.

16          7.    On June 20, 2018, the Division sent notice to the Association that it was  
17 continuing its investigation and requested a response from Board Members to the  
18 Division's allegations regarding the following: (1) executive board meetings were not  
19 being held at least once every 100 days, (2) unit owners were not provided the date, time  
20 and place of executive meetings, (3) unit owners were not provided a copy of the agenda  
21 prior to the board meetings, and (4) interim financial statements were not being properly  
22 maintained and distributed.

23          8.    In response to the Division's letter, the Board Members confirmed that the  
24 Association holds meetings "as needed," but does not hold a meeting every 100 days.

25          9.    The Division confirmed that Board Members conduct business by email on  
26 a regular basis as opposed to conducting properly noticed meetings every 100 days.

27          10.   The Division confirmed that Board Members do not notice owners of board  
28 meetings and do not have agendas for board meetings.

1           11.    The Division confirmed that the Association did not maintain or distribute  
2 monthly financial statements.

3           12.    On August 7, 2018, the Division further requested that the Association  
4 provide its interim financial statements from January 2018 through June 2018, bank  
5 statements from January 2018 through July 2018, and audio recordings for executive  
6 board meeting from January 2017 through July 2018.

7           13.    The Board Members were unable to provide the Division with audio  
8 recordings of board meetings for 2014 through 2018.

9           14.    The Board Members were unable to provide the Division with the requested  
10 interim financial statements.

11          15.    The Division's review of the bank records provided showed that the  
12 Association has a debit card that is used for various retail locations, including, without  
13 limitation, Toys R Us, Michael's, LVRJ Advertising, and Smith's.

14          16.    Review of the bank records provided showed that almost all checks written  
15 on behalf of the Association reflect only one signature.

16          17.    Review of the bank records provided also show payments to  
17 RESPONDENTS MARCIA CREAMER and ANGELA BERLINER.

18          18.    The Division further requested that RESPONDENTS MARCIA CREAMER  
19 and ANGELA BERLINER provide a description of what these payments were for along  
20 with documentation.

21          19.    MARCIA CREAMER provided a response, but failed to provide adequate  
22 documentation for the payments.

23          20.    Records provided to the Division also showed that the 2018 budget was  
24 approved by the board in May 2017 and presented to the owners at the annual meeting  
25 in June 2017.

26          21.    The records provided to the Division also indicate budgets for 2015, 2016,  
27 and 2017 were all approved and presented to owners at the annual meeting in June of  
28 the prior year.

1           22.    The fiscal year of the Association is the calendar year.

2           23.    The Association has 5 board members when the governing documents allow  
3 for 3.

4           24.    The board members fail to understand basic legal requirements: for  
5 example; emailing notices of eligibility to serve and giving owners 10 days to respond,  
6 discussing owner violations in an open meeting, reimbursing a board member for airfare  
7 to attend a meeting, and having election ballots returned to president's home.

8           25.    During the Division's Investigation, board member Eliot Kushner  
9 cooperated with the Division and expressed concern over the management of the  
10 Association.

11          26.    Mr. Kushner questioned board members on their authority and procedures.

12          27.    RESPONDENTS ANGELA BERLINER and JESSE ZAMBRANO informed  
13 Mr. Kushner that the "board" held an emergency meeting and removed him from the  
14 board pursuant to Association Bylaws, Article VIII, Section 5.

15          28.    Article VIII, Section 5 of the Association Bylaws applies to officers – not  
16 board members.

17          29.    Mr. Kushner received no prior notice of an emergency board meeting.

18          30.    The emergency meeting was held in executive session for the stated purpose  
19 of "Personnel."

#### 20                                   **VIOLATIONS OF LAW ALLEGED IN THE COMPLAINT**

21          31.    RESPONDENTS violated NRS 116.31151 by adopting a budget more than  
22 60 days before the beginning of the fiscal year of the Association.

23          32.    RESPONDENTS violated NRS 116.31153 by failing to have two signatures  
24 on all checks of the Association.

25          33.    RESPONDENTS violated NAC 116.451 by failing to prepare and distribute  
26 interim financial statements.

27          34.    RESPONDENTS violated NRS 116.31083(1) by failing to have board  
28 meetings once every 100 days.

1           35.   RESPONDENTS violated NRS 116.31083(2) by failing to provide no less  
2 than 10 days prior notice to owners of meetings of the board.

3           36.   RESPONDENTS violated NRS 116.31083(6) by failing to have an agenda  
4 for all of its board meetings.

5           37.   RESPONDENTS ANGELA BERLINER, JESSE ZAMBRANO, MARCIA  
6 CREAMER, and JOHN CARTER violated NRS 116.31083 by holding an emergency  
7 meeting when no emergency existed as defined in NRS 116.31083(13).

8           38.   RESPONDENTS ANGELA BERLINER, JESSE ZAMBRANO, MARCIA  
9 CREAMER, and JOHN CARTER violated NRS 116.31083 and NRS 116.31085 by holding  
10 an emergency meeting to remove a board member in executive session stating on the  
11 agenda that the matter was relating to "personnel."

12          39.   RESPONDENTS violated NRS 116.31083 by failing to maintain copies of  
13 audio recordings from executive board meetings.

14          40.   RESPONDENTS violated NRS 116.3103 (through NAC 116.405(3)) by  
15 failing to act in good faith and in the best interests of the Association when they  
16 committed an act or omission which amounts to incompetence, negligence or gross  
17 negligence by failing to comply with Nevada law.

18          41.   RESPONDENTS violated NRS 116.3103 (through NAC 116.405(8)(a)) by  
19 failing to act in good faith and in the best interests of the Association when they failed to  
20 cause the Association to comply with all state laws and the governing documents of the  
21 Association.

22          42.   RESPONDENTS violated NRS 116.3103 (through NAC 116.405(8)(c)) by  
23 failing to act in good faith and in the best interests of the Association when they failed to  
24 hold meetings of the board with such frequency as to properly and efficiently address the  
25 affairs of the Association.

26          43.   RESPONDENTS violated NRS 116.3103 (through NAC 116.405(8)(g)) by  
27 failing to maintain current, accurate and properly documented financial records.

28          44.   RESPONDENTS violated NRS 116.3103 (through NAC 116.405(8)(i)) by

1 failing to establish policies and procedures that are designed to provide reasonable  
2 assurances in the reliability of financial reporting, including, without limitation, proper  
3 maintenance of accounting records, documentation of the authorization for receipts and  
4 disbursements, verification of the integrity of the data used in making business decisions,  
5 facilitation of fraud detection and prevention, and compliance with the applicable laws  
6 and regulations governing financial records.

7 45. RESPONDENTS violated NRS 116.3103 (through NAC 116.405(8)(j)) by  
8 failing to prepare interim and annual financial statements that will allow the Division,  
9 the executive board, the units' owners and the accountant or auditor to determine  
10 whether the financial position of the association is fairly presented in accordance with  
11 the provisions of NAC 116.451 to 116.461, inclusive.

#### 12 SETTLEMENT

13 1. Respondents Angela Berliner, Marcia Creamer, Jesse Zambrano, and John  
14 Carter agree not to serve as a board member or officer of any common-interest community  
15 in this State for a period of no less than 10 years from the date this Stipulation and Order  
16 is signed by the Commission.

17 2. Respondent Marcia Creamer agrees to reimburse the sum of \$614.84 to the  
18 Association within 30 days from the date this Stipulation and Order is signed by the  
19 Commission.

20 3. Respondents and the Division agree that by entering into this Stipulation  
21 and Order, the Division does not concede any defense or mitigation Respondents may  
22 assert and that once this Stipulation and Order is approved and fully performed, the  
23 Division will close its file in this matter as to Respondents.

24 4. Respondents agree that if the terms and conditions of this Stipulation and  
25 Order are not met, the Division may, at its option, rescind this Stipulation and Order and  
26 proceed with prosecuting the Complaint before the Commission.

27 5. Respondents agree and understand that by entering into this Stipulation  
28 and Order, Respondents are waiving their right to a hearing at which Respondents may

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

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

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

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

27 9. Indemnification. Respondents hereby indemnify and hold harmless the  
28 State of Nevada, the Department of Business and Industry, the Division, and each of their



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

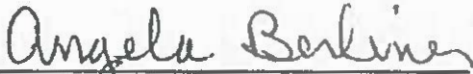
7 10. Respondents signed and dated this Stipulation and Order only after reading  
8 and understanding all terms herein.

9 DATED: February 1, 2021.

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

11 By:   
12 Sharath Chandra, Administrator

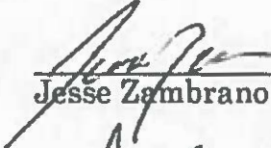
13  
14 DATED: 2-1-21, 2021.

  
15 Angela Berliner

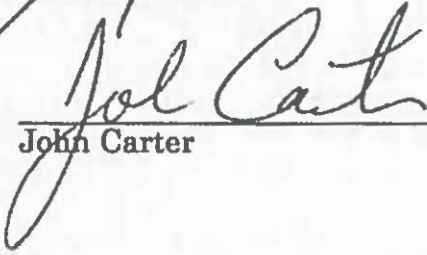
16  
17 DATED: January 31, 2021.

Marcia Creamer   
18 Marcia Creamer

19  
20 DATED: 2/1/21, 2021.

  
21 Jesse Zambrano

22 DATED: 2/1/21, 2021.

  
23 John Carter



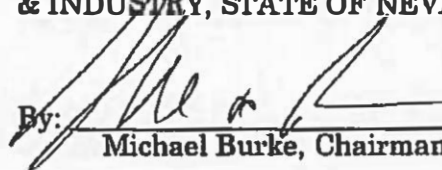
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**ORDER**

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

Dated: February 3, 2021.

**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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