Sharath Chandra, Administrator, Real Estate Division, Department of Business \& Industry, State of Nevada,

Petitioner,
vs.

Monterey Grand Manor Owners Association, Dale Milligan, Susan Moore, Richard Jagodzinski, Saturday Aisuan,

Respondents.

Case No. 2021-1049

## STIPULATION AND ORDER FOR SETTLEMENT OF DISCIPLINARY ACTION

This Stipulation for Settlement of Disciplinary Action ("Stipulation") is entered into by and between the State of Nevada, Department of Business and Industry, Real Estate Division ("Division"), through its Administrator Sharath Chandra ("Petitioner"), by and through their attomey of record, Phil W. Su, and MONTEREY GRAND MANOR OWNERS ASSOCLATION, (the "Association"), DALE MILLIGAN, SUSAN MOORE, RICHARD JAGODZNNSKI, and SATURDAY AISUAN (collectively, the "RESPONDENTS").

## JURISDICTION AND NOTICE

1. During the relevant times mentioned in this complaint, RESPONDENTS DALE MILLIGAN, SUSAN MOORE, RICHARD JAGODZINSKI, and SATURDAY AISUAN served as board members and/or officers of MONTEREY GRAND MANOR OWNERS ASSOCLATION, (the "Association"), a common-interest community located in Las Vegas, Nevada.
2. RESPONDENTS are subject to the provisions of Chapter 116 of each the Nevada 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.

## SUMMARY OF FACTUAL ALLEGATIONS SET FORTH IN TEE COMPLAINT

3. Monterey Grand Manor Owners Association consists of 140 condominium units in a common interest community, located in Las Vegas, Nevada.
4. At all relevant times, the Association was governed by four resident board members, who were respondents Dale Milligan, Susan Moore, Richard Jagodzinski, and Saturday Aisuan.
5. This complaint was initiated based on an audit ("the audit") performed by the Division, in which it was discovered that the RESPONDENTS:

- Failed to cause a Reserve Study to be conducted every 5 years as one had not been done since October 31, 2015;
- Failed to submit a reserve study summary form 609 ;
- Failed to have a certified public accountant audit performed since 2017 even though the Association's annual budget calls for an audit to be performed annually; and
- Failed to comply with a request by the Division to provide information and documents.

6. According to the Annual Association Registration, dated March 23, 2021, the last audit was completed on October 4, 2018
7. The audit was initiated on August 25,2021 and was completed on September 28, 2021.
8. On or about November 10,2021, the Division informed the RESPONDENTS that it had initiated an investigation regarding their failure to produce the requested documents, to conduct a reserve study and to have a CPA audit performed annually.
9. The RESPONDENTS did not respond to the Division's request for documents and information.
10. On or about December 21,2021 , the Division sent a second request for the same documents and information.
11. The RESPONDENTS also did not respond to the Division's second request.
12. No Board member provided a response to the Division regarding the above alleged violations.

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13. On or about June 10, 2022, the Division properly gave notice to the Association, and its board members, that it will file a Complaint against them regarding their failure to produce the requested information and to respond to the allegations, pursuant to the Division's letters dated November 10, 2021, and December 21, 2021.

## VIOLATIONS OF LAW ALLEGED IN THE COMPLAINT

14. RESPONDENTS violated NRS 116.31152 (1)(a), when they failed to cause a Reserve Study to be conducted every 5 years as one had not been conducted since October 31, 2015.
15. RESPONDENTS violated NRS 116.31144 (2) when the Association failed to have a CPA audit performed since 2017 even though the Association's annual budget called for an audit to be performed annually.
16. RESPONDENTS violated NRS 116.3103 through NAC $116.405(5)$ by failing to comply with a request by the Division to provide information or documents on two separate occasions.
17. RESPONDENTS violated NRS 116.3103 through NAC $116.405(3)$ by failing to act in good faith and in the best interests of the Association when they committed an act or omission which amounts to incompetence, negligence, or gross negligence by failing to comply with Nevada law.
18. RESPONDENTS violated NRS 116.3103 through NAC $116.405(8)$ (a) by failing to act in good faith and in the best interests of the Association when they failed to cause the Association to comply with all state laws and the governing documents of the Association.

## DISCIPLINE AUTHORIZED

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

1. Issue an order directing RESPONDENTS to take affirmative action to correct any conditions resulting from the violation.
2. Impose an administrative fine of up to $\$ 1,000$ for each violation by RESPONDENTS.
3. If RESPONDENTS are found to have knowingly and willfully committed a violation of NRS and NAC 116 and it is in the best interest of the Association, such RESPONDENTS may be removed from his/her position as a director and/or officer.
4. Order an audit of the ASSOCIATION, at the expense of the ASSOCIATION.

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5. Require RESPONDENTS to pay the costs of the proceedings incurred by the Division, including, without limitation, the cost of the investigation and reasonable attomey's fees.
6. Take whatever further disciplinary action as the Commission deems appropriate.

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

## PROPOSED SETTLEMENT AGREEMENT

In an effort to avoid the time and expense of litigating these issues before the Commission, the parties desire to compromise and settle the Division's findings of violations of law in Case No. 20211049 upon the following terms and conditions:

1. RESPONDENTS agrees that each of the Association's current executive board members will complete three (3) hours of continuing education in relevant subject matters areas of budget and reserve study, financial management, and/or record keeping and reporting, to be completed within one (1) year from the date of the order approving this Stipulation. The required hours of continuing education may be completed via in-person or remotely, and, upon completion, proof of completion will be supplied to the Division.
2. The RESPONDENTS and the Division agree that by entering into this Stipulation, the Division does not concede any defense or mitigation that the RESPONDENT Association and RESPONDENT board members might otherwise assert and that once this Stipulation is approved and fully performed, the Division will close its file in this matter.
3. The RESPONDENTS agree and understand that by entering into this Stipulation they are waiving their right to a hearing at which they may present evidence in their defense, their right to a writen decision on the merits of the complaint, their rights to reconsideration and/or rehearing, appeal and/or judicial review, and all other rights which may be accorded by the Nevada Administrative Procedure Act, the Nevada Common-Interest Communities and Condominium Hotels statutes and accompanying regulations, and the federal and state Constitutions.

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4. The RESPONDENTS understand that this Agreement and other documentation may be subject to public records laws.
5. The Commission members who review this matter for approval of this Stipulation may be the same members who ultimately hear, consider, and decide the Complaint if this Stipulation is either not approved by the Commission or is not timely performed by the RESPONDENT Association and/or RESPONDENT board members. The RESPONDENTS fully understand that they have the right to be represented by legal counsel in this matter at their own expense.
6. Each party shall bear their own attomey's fees and costs.
7. Stipulation and Order is Not Evidence. Neither this Stipulation and Order nor any statements made conceming this Stipulation and Order may be discussed or introduced into evidence at any hearing on the Complaint, if the Division must ultimately present its case based on the Complaint filed in this matter.
8. Approval of Stipulation. Once executed, this Stipulation will be filed with the Commission and will be placed on the agenda for approval at its next public meeting. The Division will recommend to the Commission approval of the Stipulation. The RESPONDENTS agree that the Commission may approve, reject, or suggest amendments to this Stipulation that must be accepted or rejected by the RESPONDENTS before any amendment is effective.
9. Withdrawal of Stipulation. If the Commission rejects this Stipulation or suggests amendments unacceptable to the RESPONDENTS, they may withdraw from this Stipulation, and the Division may pursue its Complaint before the Commission. This Stipulation then shall become null and void and unenforceable in any manner against either party.
10. Release. In consideration of the execution of this Stipulation, the RESPONDENTS for themselves, their heirs, executors, administrators, successors, and assigns, hereby releases, remises, and forever discharges the State of Nevada, the Department of Business and Industry, and the Division, and each of their respective members, agents, employees, and counsel in their individual and representative capacities, from any and all manner of actions, causes of action, suits, debts, judgments, executions, claims, and demands whatsoever, known and unknown, in law or equity, that RESPONDENTS ever had, now has, may have, or claim to have against any or all of the persons or entities named in this section,

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arising out of or by reason of the Division's investigation of this action, this disciplinary action, and all matters related thereto.
11. Indemnification. The RESPONDENTS hereby agree to indemnify and hold harmless the State of Nevada, the Department of Business and Industry, Petitioner, the Division, and each of their 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 attomey fees, which may be sustained by the persons and/or entities named in this section as a result of said claims, suits, and actions.
12. Default. The RESPONDENTS agree that if the terms and conditions of this 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.
13. The RESPONDENTS have signed and dated this Stipulation only after reading and understanding all terms herein.

DATED: September $\qquad$ 2023.


MONTEREY GRAND MANOR OWNERS ASSOCIATION


MONTEREY GRAND MANOR OWNERS ASSOCIATION

By:
Josie Rigden, Board Member

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MONTEREY GRAND MANOR OWNERS ASSOCIATION
$\mathrm{By}:$ Saturdac Aisuan
Saturday Aisuan, Board Member

Submitted by:
AARON D. FORD
Attomey General

PHIL W. SU (Bar No. 10450)
Senior Deputy Attorney General
Attorneys for Real Estate Division

## ORDER

IT IS ORDERED that the foregoing Stipulation and Order for Settlement of Disciplinary
Action is approved in full.
Dated: September /| , 2023

Submitted by:
AARON D. FORD
Attorney General

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