

FILED

NOV 26 2024

NEVADA COMMISSION FOR
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS

mgallo

1 **RESP**
 2 **LEACH KERN GRUCHOW SONG**
 3 RYAN D. HASTINGS, ESQ.
 Nevada Bar No. 12394
 4 E-mail: rhastings@lkglawfirm.com
 2525 Box Canyon Drive
 Las Vegas, Nevada 89128
 5 Telephone: (702) 538-9074
 Facsimile: (702) 538-9113
 6 Attorneys for Respondents

7 **BEFORE THE COMMISSION FOR COMMON-INTEREST**
 8 **COMMUNITIES AND CONDOMINIUM HOTELS**
 9 **STATE OF NEVADA**

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

Case No. 2021-942

13 Petitioner,

14 vs.

15 Wine Ridge Estates Homeowners' Association,
 Fernando Herrera, Rebecca Coins,

16 Respondents.

17
 18 **RESPONSE TO MOTION TO SHOW CAUSE AND STATUS REPORT FOR**
 19 **COMMISSION HEARING DECEMBER 3-5, 2024**

20 The Respondents, WINE RIDGE ESTATES HOMEOWNERS' ASSOCIATION, (the
 21 "Association"), FERNANDO HERRERA and REBECCA COINS (collectively,
 22 "RESPONDENTS"), hereby submit this **RESPONSE TO MOTION TO SHOW CAUSE**
 23 **AND STATUS REPORT FOR COMMISSION HEARING DECEMBER 3-5, 2024.**

24 This response is submitted for the Commission for Common-Interest Communities and
 25 Condominium Hotels ("Commission") benefit and evaluation when considering whether to hold
 26 Respondents in breach of violating the Commission's Stipulation and Order for Settlement of
 27 Disciplinary Action dated June 21, 2023 ("Order"). For the reasons set forth in greater detail
 28 below, the Respondents respectfully request that the Commission find that Respondents have

LEACH KERN GRUCHOW SONG
 2525 Box Canyon Drive, Las Vegas, Nevada 89128
 Telephone: (702) 538-9074 – Facsimile (702) 538-9113

1 either complied or substantially complied with the Order such that this matter can be considered
2 resolved.

3 **Procedural History**

4 On November 2, 2022, the Real Estate Division Department of Business & Industry
5 (“Division”) filed a Complaint against Respondents. Pursuant to the Complaint, the Division
6 alleged that Respondents failed to produce all documents in response to a request from a
7 Division auditor. The documents requested were those typically maintained by management for
8 the Association, including meeting minutes, budget and/or other financial documents, certificates
9 of insurance and vendor contracts. Indeed, the Complaint alleges that the then community
10 manager, Scott Hedlind, communicated with the Division and provided some, but not all, of the
11 records requested. Importantly, no allegation was made by the Division that Respondent Coins
12 or Herrera personally maintained records or otherwise failed to provide documents over which
13 they had personal control.

14 On December 5, 2022, Katie Hedlind contacted Leach Kern Gruchow & Song (“LKG”) and retained LKG to represent Respondents in regard to this matter and representation at a
15 hearing scheduled to take place before the Commission on December 6, 2022. LKG
16 immediately contacted Ms. Hedlind and began gathering documents to ensure that all documents
17 specifically included in the Complaint as being outstanding were provided to the Division.
18 Many documents were provided to Maria Gallo on December 5, 2022 at the direction of then
19 Deputy Attorney General, Virginia T. Tomova.
20

21 At the hearing on December 6, 2022, the Commission granted Respondents’ request for a
22 continuance in order to ensure that all documents had been provided that were the subject of the
23 Complaint. Additional documents were provided and subsequent discussions and negotiations
24 with then assigned Deputy Attorney General Christal Keegan resulted in a Stipulation and Order
25 for Settlement of Disciplinary Action being signed by the parties on June 20th and June 21st, 2023
26 respectively. The Commission then entered its Order on June 23rd, 2023.

27 The Order contemplated Respondents Coins and Herrera completing six (6) hours of
28 continuing education (“CE”) in the areas of budget and reserve study, board meeting, financial

1 management, and/or record keeping and reporting, to be completed within one (1) year from the
2 date of the Order with proof of completion supplied.

3 **Respondents' Efforts to Complete CE**

4 The Association retained the services of Sierra Community Management ("Sierra") in
5 July 2023. For the first several months of Sierra working with Respondents, Sierra and
6 Respondents focused their time and attention on correcting and improving various aspects of the
7 Association which suffered from the failures of prior management, Desert HOA Management.
8 These actions included repairing damages to the common areas within the Association,
9 completing large maintenance projects which were overdue, including paving, irrigation, and
10 beginning much needed compliance work related to many owners within the Association failing
11 to abide by the maintenance obligations.

12 In January 2024, Respondents asked Sierra for assistance with identifying and signing up
13 for CE classes. Sierra manager, Connie Colwell, began forwarding emails received from
14 Community Association Institute ("CAI") for continued education classes, however, none were
15 on the topics identified in the Order. In February and March 2024, Respondent Coins repeatedly
16 searched the Division's website for available classes to satisfy the CE requirement in the Order.
17 Respondent Coins was unable to find any available classes by searching the Division's website.

18 In May 2024, Respondent Coins was able to locate and complete a 3-hour class on
19 "Managing Aging Communities: Planning, Strategies and Reserves." See Exhibit A.
20 Unfortunately, Respondent Herrera works demanding hours at a hospital and a cardiac and
21 pulmonary rehab center and was unable to attend this class due to his work schedule.
22 Respondents were unable to find any other classes available on the Division's website for board
23 members.

24 Finally, in June, after being frustrated by their unsuccessful attempts to locate and take
25 classes which would satisfy the Order by the June 23, 2024 deadline, Respondents searched for
26 and found classes being offered by Key Realty on Property Condition and Compliance and Top
27 Policy Issues. Respondents completed these classes on June 20, 2024 to complete their six (6)
28 credit hours. See Completion Certificates, Exhibit B. Respondents then submitted their

1 completion certificates to the Division. On June 25, 2023, Respondent Coins also took a class
2 offered by John Leach of LKG entitled “2023 Legislative Update,” in an attempt to satisfy the
3 requirements of the Order. *See* Completion Certificate, **Exhibit C**.

4 On July 8, 2024, Ms. Keegan contacted counsel for Respondents advising that she did not
5 believe that the certificates were in the relevant subject matters contemplated by the Order. *See*
6 July 8, 2024 email, **Exhibit D**. Ms. Keegan further inquired whether Respondents would be able
7 to take additional CE classes in relevant subject matters prior to the September 10-12, 2024
8 hearings. *Id.*

9 Upon being notified of the Division and/or Attorney General’s position on the certificates
10 submitted, Respondent Coins called the Division to explain the difficulties she had experienced
11 in finding applicable classes using the Division’s website and try to find additional classes that
12 could be completed prior to the September hearings identified by Ms. Keegan. Ms. Coins was
13 told by the Division that it was not surprising that Ms. Coins was unsuccessful in finding classes
14 on the Division’s website because the Division had not been offering board member classes since
15 January 2023. Indeed, Sierra was able to confirm the truth of what Ms. Coins was being told by
16 the Division’s office, when it received a message directly from the Division’s Board Member
17 and Homeowner Training Program that no Board member classes were offered due to a
18 “personnel shortage.” *See* Division Notice, **Exhibit E**. Ms. Coins was told by the Division to
19 contact an investigator who might be able to assist her.

20 On July 16, 2024, Ms. Coins received a call from a Division investigator who confirmed
21 that the Division had not offered Board member training since January 2023. The Division
22 investigator went through the Division website with Ms. Coins to confirm that Ms. Coins had in
23 fact been reviewing the appropriate locations on the website to find classes. When locating
24 classes that were offered for community managers, the Division investigator advised that she did
25 not believe that board members were able to sign up for CE classes designed for community
26 managers.

27 On July 29, 2024, counsel for Respondents advised Ms. Keegan of Respondents
28 frustrations with being unable to comply with the Order and the fact that no additional classes

1 appeared to be offered on the Division’s website which would satisfy the Order prior to the
2 September hearings. *See* July 29th, 2024 emails between Mr. Hastings and Ms. Keegan, **Exhibit**
3 **F**. Respondents sought a Zoom meeting with Ms. Keegan so that their efforts to comply with the
4 Order could be explained and further guidance could be sought related to completing the
5 required CE. *Id.*

6 Additionally, on July 29th, 2024, counsel for the Association sent an email to Ms. Keegan
7 providing a copy of Ms. Coin’s completion certificate for the legislative update class being
8 offered by Mr. Leach from LKG. *Id.* Ms. Keegan responded by stating that she could not
9 confirm that the course completed by Ms. Coins was the “most appropriate,” as it was about
10 legislative updates. *Id.*

11 On July 31, 2024, Respondents located a CE class being offered through Community
12 Association’s Institute (“CAI”) that could be completed before the September hearings. Counsel
13 for Respondents reached out to Ms. Keegan for approval that the course would satisfy the Order.
14 *See* July 31, 2024 email from Mr. Hastings to Ms. Keegan, **Exhibit G**. On August 5, 2024, Ms.
15 Keegan advised that the CAI course was not a Division approved course and asked whether
16 counsel or Respondents had reached out to the Division’s Education Section for guidance on
17 getting approval. *Id.*

18 On August 8, 2024, Respondents, Sierra and counsel conducted a Zoom meeting with
19 Ms. Keegan where Respondents were able to explain the efforts taken to try to comply with the
20 Order, but for circumstances largely outside their control, they were unable to comply in terms of
21 completing classes that were satisfactory to either Ms. Keegan and/or the Division.

22 On August 16, 2024, and at the direction of Ms. Keegan, counsel for Respondents sent an
23 email to the Division, Education Section, in an attempt to secure the Division’s agreement that
24 the CAI course being offered prior to the September hearings would satisfy the Division for
25 purposes of the Order. *See* August, 16, 2024 email from Mr. Hastings to Division, **Exhibit H**.
26 Counsel for Respondents also identified a CE class offered by Better Reserve Consultants
27 (“BRC”) seeking approval for that class. *Id.* On August 20, 2024, counsel for Respondents
28 followed up with the Division asking for confirmation that the CAI class available prior to the

1 September hearings would satisfy the Order or alternatively asked the Division to identify
2 alternative classes that would satisfy the Order. *Id.*

3 On August 21, 2024, Ms. Keegan advised counsel for Respondents that neither the CAI
4 nor BRC class would be acceptable. *See* August 21-23, 2024 emails between Ms. Keegan and
5 Mr. Hastings, **Exhibit I**. Furthermore, Ms. Keegan identified seven classes she represented had
6 been offered by the Division since January of 2024 that would have been satisfactory pursuant to
7 the Order. *Id.* On August, 23, 2024, counsel for the Association advised that the classes
8 identified by Ms. Keegan in her August 21, 2024 email were classes for managers, not board
9 members. *Id.*

10 On August 26, 2024, the Division responded to counsel for Respondents advising, for the
11 first time, that board members were able to take classes designed for and located within the
12 “manager” sections of the Division’s website. *See* August 26, 2024 email from Ayanna B to Mr.
13 Hastings, **Exhibit J**. On September 9, 2024, counsel for Respondents notified Ms. Keegan that
14 Ms. Coins had signed up for a class identified by the Division being offered on September 11,
15 2024. *See* September 9-13, 2023 emails between Mr. Hastings and Ms. Keegan, **Exhibit K**.
16 Importantly, Mr. Hastings confirmed that by completing the 2nd class approved by the Division,
17 Ms. Coins would have her 6 credit hours completed which was what was required by the Order.
18 *Id.* On September 11, 2024, Ms. Keegan noted the class that Ms. Coins was scheduled to take to
19 complete her CE requirement and requested a date by which Ms. Coin’s completion certificate
20 would be provided to Ms. Keegan. *Id.* On September 13, 2024, counsel for the Association
21 provided a copy of the completion certificate for Financial Considerations in the CIC which Ms.
22 Coins completed on September 11, 2024.¹ *Id.* In light the Division having identified the
23 September 11th class as being acceptable in prior communications, Mr. Hastings specifically
24 asked Ms. Keegan to confirm that “with this submission, Ms. Coins has completed the required
25 education pursuant to the stipulated agreement.” *Id.*

26 ///

27 _____
28 ¹ Mr. Herrera also completed a 1.5 credit hour class on September 11, 2024. This class was
offered by Better Reserve Consultants. *See* **Exhibit N**.

1 Also on September 13, 2024, counsel for Respondents sent an email to Ayanna B. at the
2 Division identifying another class offered on the website Ayanna B. had previously identified as
3 a source for completing classes, asking for confirmation that completion of the same by Mr.
4 Herrera would satisfy the Order. *See* September 13-17, 2024 emails between Mr. Hastings,
5 Ayanna B., and Ms. Keegan, **Exhibit L**. On September 17, 2024, Ayanna B. responded to
6 counsel for Respondents refusing to confirm whether the class identified by counsel would
7 satisfy the Order. Instead, Ayanna B. advised counsel for Respondents that it was “ultimately
8 [counsel’s] responsibility, along with [Respondents], to determine whether the class fulfills the
9 requirements outlined in the Order, as [the Division is] unable to make that determination on
10 [Respondent’s] behalf. *Id.* Ms. Keegan, who was copied on Ayanna B.’s email, responded
11 stating that she “would agree with [Ayanna B.] that it would be inappropriate for [Ayanna B.] to
12 interpret whether this class satisfies the education contemplated in the Stipulated Settlement
13 Agreement.” *Id.*

14 Upon receiving the September 17th emails from Ayanna B. and Ms. Keegan, counsel for
15 Respondents immediately called Ms. Keegan as Ms. Keegan’s position and that of the Division,
16 namely, that the Division would not determine whether any given class satisfies the Order, was
17 completely inconsistent with the positions taken by both Ms. Keegan and the Division earlier in
18 this case. Indeed, this saga began with Ms. Keegan’s July 8, 2024 email notifying counsel for
19 Respondents that the certificates of completion were not satisfactory pursuant to the Order.
20 Moreover, there are dozens of communications outlined above wherein Ms. Keegan and/or the
21 Division determined that classes proposed by Respondents would not be satisfactory. On
22 September 18, 2024, Ms. Keegan wrote to counsel for Respondents asserting that the Order did
23 not specify that the continuing education had to be approved by the Division, but that there were
24 quality concerns for courses not approved by the Division. *See* September 18, 2024 email from
25 Ms. Keegan to Mr. Hastings, **Exhibit M**.

26 On September 17, 2024, counsel for the Association confirmed with Ms. Keegan that
27 Respondents, with the assistance of management, would continue to scour the Division’s website
28 for classes being offered to managers (as these were the only classes being offered and approved

1 by the Division) which would satisfy the Order. *Id.* Moreover, the parties agreed that to the
2 extent Respondents were unable to find an applicable class prior to the end of October, the
3 matter would be put back before the Commission for a determination by the Commission on how
4 Respondents are to proceed. *Id.*

5 Since September 17, 2024, Respondents, with assistance from Sierra, have consistently
6 monitored the Division’s website for classes that would satisfy the Order. However, no such
7 classes have been offered. Despite this, on October 17, 2024, Mr. Herrera, in an extremely
8 proactive attempt to comply with the Order given his work schedule, completed additional five
9 (5) credit hour class offered by CAI which covered the following topics which clearly cover
10 those identified by the Order: Governing Documents and Roles & Responsibilities,
11 Communications, Meetings & Volunteerism, Fundamentals of Financial Management, and
12 Professional Advisors & Service Providers. *See* CAI Certificate, **Exhibit N**.

13 **Conclusion**

14 As set forth above, this is not a case where Respondents have ignored or otherwise
15 refused to comply with the Commission’s Order. In fact, the exact opposite is true. After
16 working hard with new management to correct issues that arose from the Association being
17 mismanaged for years, Respondents began a nearly constant effort to find and take classes that
18 would satisfy the Order. This effort has taken over 10 months and resulted in both Respondents
19 having exceeded the original six (6) hour CE requirement.² While it is true that all six hours
20 were not completed prior to the original deadline of June 23, 2024, there can be no doubt that
21 Respondents’ inability to comply with the timeframe was due, in large part, to the Division not
22 offering classes for Board members, and the Division’s failure to guide and advise Respondents
23 when they reached out for assistance in identifying and signing up for classes that would be
24 acceptable.

25 ///

26 ///

27 _____
28 ² Respondent Coins has completed 12 CE hours and Respondent Herrera has completed 12.5 CE hours.

1 Respondents respectfully request that the Commission find that Respondents are not in
2 violation of the Order, that Respondents have complied with and completed the requirements of
3 the Order, and that this matter can be closed.

4 Dated this 26th day of November, 2024

5 LEACH KERN GRUCHOW SONG

6
7 /s/ Ryan D. Hastings
8 Ryan D. Hastings, Esq.
9 Nevada Bar No. 12394
10 2525 Box Canyon Drive
11 Las Vegas, NV 89128

12 *Attorneys for Respondents*

13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
LEACH KERN GRUCHOW SONG
2525 Box Canyon Drive, Las Vegas, Nevada 89128
Telephone: (702) 538-9074 – Facsimile (702) 538-9113

LEACH KERN GRUCHOW SONG
2525 Box Canyon Drive, Las Vegas, Nevada 89128
Telephone: (702) 538-9074 – Facsimile (702) 538-9113

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), the undersigned, an employee of LEACH KERN GRUCHOW SONG, hereby certified that on the 26th day of November, 2024, she served a true and correct copy of the foregoing, STATUS REPORT, by:

- _____ Depositing for mailing, in a sealed envelope, U.S. postage prepaid, at Las Vegas, Nevada
- _____ Personal Delivery
- _____ Facsimile
- _____ Federal Express/Airborne Express/Other Overnight Delivery
- _____ Las Vegas Messenger Service
- X Electronic Service – via E-mail

addressed as follows:

Aaron D. Ford, Esq.
Attorney General
Christal P. Keegan, Esq.
Deputy Attorney General
5420 Kietzke Lane, Suite 202
Reno, NV 89511
Via Email: ckeegan@ag.nv.gov

Maria Gallo, Commission Coordinator
Common-Interest Communities
and Condominium Hotels
3300 W. Sahara Avenue, Suite 350
Las Vegas, NV 89102
Via Email: mgallo@red.nv.gov

/s/ Bonnie Cibura

An employee of LEACH KERN GRUCHOW SONG