BEFORE THE COMMISSION FOR COMMON-INTEREST COMMUNITIES AND CONDOMINIUM HOTELS

STATE OF NEVADA

SHARATH CHANDRA, Administrator, REAL ESTATE DIVISION, DEPARTMENT OF BUSINESS AND INDUSTRY, STATE OF NEVADA, Petitioner, vs. TURNBERRY TOWERS EAST UNIT-OWNERS' ASSOCIATION, TONY RECTOR, JAMES ORR, LAWRENCE (LARRY) KARP; MANU SETHI, and TAMRA TRAINER, Respondent.	Case No. 2023-309 FILED DEC 11 2024 NEVADA COMMISSION FOR COMMON INTEREST COMMUNITIES AND CONDOMINIUM HOTELS mgallo

STIPULATION AND ORDER FOR SETTLEMENT OF DISCIPLINARY ACTION FOR RESPONDENT ASSOCIATION AND RESPONDENT BOARD MEMBERS ORR, KARP, AND SETHI

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 attorney of record, Phil W. Su, and TURNBERRY TOWERS EAST UNIT-OWNERS' ASSOCIATION ("RESPONDENT ASSOCIATION") and Board Members JAMES ORR, LAWRENCE (LARRY) KARP, and MANU SETHI ("RESPONDENT BOARD MEMBERS ORR, KARP, and SETHI"), by and through their attorney of record, Sean Anderson of the Wilson Elser law firm.

JURISDICTION AND NOTICE

During all relevant times, RESPONDENT ASSOCIATION (Entity Number 0069772007-3) is and has been a common-interest community located in Las Vegas, Nevada, and the RESPONDENT BOARD MEMBERS are current board members of record for RESPONDENT ASSOCIATION. Therefore, the 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 THE COMPLAINT

1. RESPONDENT ASSOCIATION is a common-interest community located in Las Vegas, Nevada (Entity Number 0069772007-3) consisting of 318 units, and a sub-association of Turnberry Towers Community Association. CIC0001-0003; 0070-0071.

2. At all times relevant to the Complaint, the Respondent's management company was PINNACLE COMMUNITY ASSOCIATION MANAGEMENT, represented by Supervising Community Manager Francesca Stevenson CAM. CIC0001-0003; CIC0070-0071.

3. As of the date of this Complaint, RESPONDENT BOARD MEMBERS TONY RECTOR, JAMES ORR, LAWRENCE (LARRY) KARP, MANU SETHI, and TAMRA TRAINER ("RESPONDENT BOARD MEMBERS") currently serve as board members of RESPONDENT ASSOCIATION. CIC0068-0069.

4. The Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels ("Ombudsman") initiated an audit ("Initial Audit") of RESPONDENT ASSOCIATION on July 13, 2023, which was completed and submitted on November 23, 2023. CIC0001–CIC0067.

5. The Audit was initiated based on a referral from the Division's compliance section, which identified employee incentives and Board expenses that exceeded the approved and ratified budgets, and which appeared excessive. CIC0004-0005.

6. The Audit noted, among other irregularities, that the reporting of the Reserve balances from 2020 and 2021 were identical, which is atypical, and warranted further review. CIC0005.

7. The Audit identified numerous non-compliance issues, including with Financial Reporting, Bank Accounts and Commingling of Association Funds; Missing and Omitted Records; CPA Audits submitted to the Board in draft, rather than final, form; repeated failure to timely and accurately reconcile security and lease deposit refunds; repeated failure to meet Due-to liability balances between operating and reserve accounts; unadjusted and inaccurate budget preparation; unsupervised petty cash transactions; excessive board expenses and reimbursements; inaccurate records for employee and community manager bonus incentives; issues with employee payroll and vendor services; sole-signed checks; missing and incomplete meeting minutes and vendor bids; funds held in excess of FDIC-insurance deposit limits; and delinquent assessments by board members. CIC0004-0026.

8. The Audit specifically noted that the Board Members at the time of the audit, including RESPONDENTS RECTOR and TRAINER, neglected their duty of care in ensuring adherence to internal controls related to accounting and business practices. CIC0026.

9. The Audit further stated that RESPONDENT RECTOR "appear[ed] to act unilaterally for many of the association's business practices and Board process, such as reimbursements, issuance of bonuses, and investment account practices. CIC0027.

10. The Audit further stated that "the lack of care and attention to the Board's fiduciary and business responsibilities suggest an intentional disregard for NRS 116.3103, the results of which may serve to imperil the association as a going concern," and warranted further investigation by the Division's compliance section. CIC0029.

11. The Audit specifically stated that, in the auditor's opinion, RESPONDENT RECTOR'S actions were "willful and neglectful" and recommended that the Commission "seek to reimburse the association for the monies found to be used for personal gain by the Board." CIC0029.

12. On January 11, 2024, Division Investigator Christina Pitch sent an opening investigation letter/request for information to the RESPONDENTS, asserting allegations regarding the commingling of funds from various bank accounts; missing and/or omitted records regarding cash disbursements; untimely and preliminary draft versions of 2020 and 2021 CPA audits; lack of controls and documentation of petty cash disbursements; the mis-assignment of Association employees for the personal benefit of RESPONDENT RECTOR, and over fifty (50) sole-signed checks from the 2021 and 2022 sample received by the auditor. CIC0075-0080.

13. On or about February 2, 2024, CAM Stevenson emailed the Division a response, indicating that, regarding the allegation of commingled funds, those bank funds were "deposited into Merrill Lynch... against the advice of management." CIC0082.

14. The February 2, 2024, response from CAM Stevenson stated that regarding the allegation of missing and/or omitted records regarding cash disbursements, "some bank records [were] sent to the former Board President directly" and were sometimes not provided to management despite requests from management, and that "registers, receipts, and documentation for the petty cash box are supposed to be kept by onsite office staff and were not made available to management." CIC0082-0083.

15. The February 2, 2024, response from CAM Stevenson included final versions of the 2020 and 2021 audit reports, each of which was dated February 22, 2023. CIC0082-0120.

16. The February 2, 2024, response from CAM Stevenson noted that RESPONDENT ASSOCIATION would draft and adopt policies and resolutions to address internal controls for use of association funds and to define reimbursable expenses; that duties for employees of the tower would be limited to association work and not for personal matters; and did not address allegations that some BOARD ASSOCIATION employees on payroll were performing non-Board related work on behalf of RESPONDENT RECTOR. CIC0082-83; 0132-0146.

17. On May 7, 2024, newly-elected Board Treasurer, RESPONDENT KARP, provided an additional response to her January 11, 2024, letter and request for information. CIC0147-0155.

18. The May 7, 2024, letter did not deny any of the allegations, but noted that they were each being addressed by the newly elected executive board. CIC0147-0155.

19. The May 7, 2024, letter noted that bank accounts have been reactivated and funded appropriately; that petty cash has been completely eliminated and Venmo electronic payments are now utilized to ensure payment is made by homeowners directly to the Association's operating account; and that the board members are verifying the status of prior-year audits to resolve any outstanding issues and to ensure no future delays in issuance; that board members could no longer hire personal assistants with Association funds, and that all checks will now be counter-signed and reviewed by the office manager to ensure that there are two signatures. CIC0147-0155.

20. The May 7, 2024, letter further noted that the Board of Directors held an emergency meeting to remove RESPONDENT RECTOR from his position as Vice-President of the RESPONDENT ASSOCIATION, and a petition for RESPONDENT RECTOR'S recall as a board member was received by the community manager and was being processed pursuant to NRS 116. CIC0148.

21. Lastly, the May 10, 2024, letter included a copy of a new resolution proposed by the Board to ensure that the issues raised in the audit and investigator Pitch's January 11, 2024, letter would not reoccur. CIC0149; 0153-0155.

22. The Division's investigation separately identified that a November 15, 2023, a lawsuit was filed by RESPONDENT ASSOCIATION against RESPONDENT RECTOR, individually, seeking injunctive and declaratory relief against RECTOR. CIC0156-0158.

23. The parties appear to have settled the lawsuit and stipulated for dismissal of that case in May of 2024. CIC0158.

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CORROBORATING WITNESS STATEMENTS

24. On February 7, 2024, Jacqueline Phillips, a unit owner in RESPONDENT ASSOCIATION, sent investigator Pitch an email detailing, among other things, her discussions with former Association employee Sonya Clemons about RESPONDENT RECTOR'S practice of using Association money for his own personal benefit, including bringing cash to Clemons for her to wire to women in the Philippines from her personal accounts. CIC0165-0167.

25. On February 20, 2024, RESPONDENT TRAINER emailed investigator Pitch to corroborate Phillips' statements and provided supporting documentation. CIC0159-0242.

26. Among the documents provided by RESPONDENT TRAINER was an order granting Petition for Temporary Restraining Order against RESPONDENT RECTOR in the A-23-881671-C matter. CIC0159; 0169-0180.

27. On March 19, 2024, RESPONDENT TRAINER provided her own personal response to the allegations in Investigator Pitch's January 11, 2024, initial request for information, outlining details she discovered during her time on the board about RESPONDENT RECTOR'S extensive use of HOA funds to pay for his own personal expenses, and his complete control over petty cash handling and disbursement of funds. CIC0243-0249.

28. In the March 19, 2024, letter, RESPONDENT TRAINER also asserted that RESPONDENT ASSOCIATION employee Sandra Watkins served as RESPONDENT RECTOR'S personal assistant and worked out of his personal condo, even as she simultaneously serves as the on-site office manager for both RESPONDENT ASSOCIATION and Turnberry Towers Community Association on behalf of Pinnacle Community Management. CIC0247-0249.

29. On March 31, 2024, Crysta Willis, a former employee of RESPONDENT ASSOCIATION, emailed Investigator Pitch regarding how although she had been hired by

RESPONDENT ASSOCIATION, her only job was to help complete the personal taxes for RESPONDENT RECTOR. CIC0250-0252.

30. Willis stated that while helping RESPONDENT RECTOR with his taxes she saw items that the board reimbursed RESPONDENT RECTOR for, but which he wrote off on his taxes, including cell phone bills for employees at his Colorado ranch, and meals when traveling and visiting his Colorado ranch. CIC0250-0252.

31. Willis asserted that RESPONDENT RECTOR paid employees through board funds to perform tasks personal to him, such as accompanying him to doctors appointments or to view his out-of-state properties, and that RESPONDENT RECTOR would have them falsify their timecards and would cut "bonus" checks for them rather than pay overtime. CIC0252.

32. Investigator Pitch also obtained an April 18, 2023, letter from former Association employee Marissa Kevilus where she also accuses RESPONDENT RECTOR of embezzling Association funds and of sending money from petty cash to send to women in the Philippines, and that former board members and/or associates of RESPONDENT RECTOR owed money to the association, to which collection efforts were not pursued. CIC0253.

33. On May 29, 2024, the Division notified RESPONDENTS via an NRS 233B letter sent via certified mail that it obtained sufficient evidence to pursue disciplinary action in a hearing before the Commission for potential violations of NRS 116. CIC0255-0257.

VIOLATIONS OF LAW ALLEGED IN THE COMPLAINT

1. RESPONDENT TONY RECTOR willfully and knowingly violated NRS 116.3103 pursuant to NAC 116.405; by actively commingling of funds in various Association bank accounts, against the advice of Association management.

2. RESPONDENT BOARD MEMBERS violated NRS 116.3103 pursuant to NAC 116.405(8)(i) by failing to exercise ordinary and reasonable care by establishing policies

and procedures to provide reasonable assurances regarding the accuracy of the association's petty cash disbursements and other financial records.

3. RESPONDENT TONY RECTOR willfully and knowingly violated NRS 116.3103 pursuant to NAC 116.405(8)(i) by acting for reasons of self-interest in using the Association's petty cash disbursements for his own personal use.

4. RESPONDENT BOARD MEMBERS violated NRS 116.31144 and NRS 116.3103 pursuant to NAC 116.405 and NAC 116.457 by failing to exercise ordinary and reasonable care when they failed to ensure the financial statements of the Association were audited by a CPA for fiscal years 2020 and 2021, and the final audits timely provided to the Division within 210 days of the end of each fiscal year.

5. RESPONDENT BOARD MEMBERS violated NRS 116.3103 pursuant to NAC 116.405(3) by committing acts or omissions constituting incompetence, negligence or gross negligence when they allowed for the use of petty cash without established controls or retention of receipts, resulting in non-association related and/or personal expenses primarily by, or on behalf of, RESPONDENT BOARD MEMBER Tony Rector.

6. RESPONDENT TONY RECTOR willfully and knowingly violated NRS 116.3103 pursuant to NAC 116.405(2) by acting for reasons of self-interest and gain in repeatedly using the Association's funds, including, but not limited to, petty cash disbursements, for his own personal benefit, unrelated to Association business.

7. RESPONDENT TONY RECTOR willfully and knowingly violated NRS 116.3103 pursuant to NAC 116.405(2) by acting for reasons of self-interest and gain in repeatedly using the Association's resources, including, but not limited to Association employees, for his own personal benefit, unrelated to Association business.

8. RESPONDENTS violated NRS 116.3103 pursuant to NRS 116.31153 by failing to exercise ordinary and reasonable care in allowing a single board member to sign off on more than fifty (50) association checks without the required countersignature.

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PROPOSED SETTLEMENT AGREEMENT

RESPONDENT ASSOCIATION and RESPONDENT BOARD MEMBERS ORR, KARP, and SETHI (collectively, the "SETTLING RESPONDENTS") do not admit the above factual allegations and violations as alleged in the Complaint filed in Case 2023-309. However, in an effort to avoid the time and expense of litigating these issues before the Commission, the SETTLING RESPONDENTS agree, for purposes of Case 2023-309 only, to waive their right to contest the above factual allegations and violations alleged in the Complaint filed in Case 2023-309. The parties desire to compromise and settle the instant controversy upon the following terms and conditions:

1. The SETTLING RESPONDENTS agree to pay the Division a total amount of FIVE THOUSAND SEVEN HUNDRED SEVEN DOLLARS and 52/100 cents ($5,707.52) ("Amount Due"), consisting of zero administrative fine imposed by the Division, the Division's pro-rated pre-hearing costs and fees in the amount of $780.00, and pro-rated pre-hearing attorney's fees in the amount of $4,927.92.

   a. The Amount Due shall be payable to the Division in full within sixty (60) days of the date of the order approving this settlement.

   b. No grace period is permitted. If the payment is not actually received by the Division on or before its due date, it shall be construed as an event of default by the SETTLING RESPONDENTS.

2. SETTLING RESPONDENTS and the Division agree that by entering into this Stipulation, the Division does not concede any defense or mitigation, the SETTLING RESPONDENTS may assert and that once this Stipulation is approved and fully performed, the Division will close its file in this matter.

3. SETTLING RESPONDENTS agree and understand that by entering into this Stipulation, SETTLING RESPONDENTS are waiving their right to a hearing at which they may present evidence in their defense, their right to a written 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. The SETTLING RESPONDENTS understand that this Agreement and other documentation may be subject to public records laws. 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 SETTLING RESPONDENTS. The SETTLING RESPONDENTS fully understand that they have the right to be represented by legal counsel in this matter at their own expense.

4. Each party shall bear their own attorney's fees and costs, ***except*** as the Division's Attorney's pre-hearing costs provided above.

5. 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. SETTLING RESPONDENTS agree that the Commission may approve, reject, or suggest amendments to this Stipulation that must be accepted or rejected by SETTLING RESPONDENTS before any amendment is effective.

6. Withdrawal of Stipulation. If the Commission rejects this Stipulation or suggests amendments unacceptable to the SETTLING RESPONDENTS, the SETTLING RESPONDENTS 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.

7. Release. In consideration of the execution of this Stipulation, Association and SETTLING RESPONDENTS for itself/themselves, its/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 SETTLING RESPONDENTS ever had, now has, may have, or claim to have against any or all of the persons or entities named in this section, arising out of or by reason of the Division's investigation of this action, this disciplinary action, and all matters related thereto.

8. Indemnification. SETTLING 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 attorney fees, which may be sustained by the persons and/or entities named in this section as a result of said claims, suits, and actions.

9. Default. In the event of default, the SETTLING RESPONDENTS agree that the RESPONDENT ASSOCIATION'S registration status with the Division shall be immediately suspended, and the unpaid balance of the administrative fine and costs, together with any attorney's fees and costs that may have been assessed, shall be due in full to the Division within ten (10) calendar days of the date of default. Debt collection actions for unpaid monetary assessments in this case may be instituted by the Division or its assignee. SETTLING RESPONDENTS agree that the foregoing suspension of the RESPONDENT ASSOCIATION'S registration status shall continue until the unpaid monetary assessments are paid in full.

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10. RESPONDENT ASSOCIATION'S executive board members have signed and dated this Stipulation only after reading and understanding all terms herein.

DATED: December 2, 2024

NEVADA DEPARTMENT OF BUSINESS AND INDUSTRY, REAL ESTATE DIVISION

By: _____
SHARATH CHANDRA
Administrator

DATED: December _____, 2024
12/2/2024 | 12:18 PM PST

TURNBERRY TOWERS EAST OA

By: DocuSigned by: James Orr 694F2C7EC01A4CB...
JAMES ORR
Executive Board Member

DATED: December _____, 2024
12/2/2024 | 12:25 PM PST

TURNBERRY TOWERS EAST OA

By: DocuSigned by: Lawrence Karp 8CBE298D250A4AF...
LAWRENCE (LARRY) KARP
Executive Board Member

DATED: December _____, 2024
12/2/2024 | 12:42 PM PST

TURNBERRY TOWERS EAST OA

By: Signed by: Jasmeet Sethi 199AC8B5A5C7448...
MANU SETHI
Executive Board Member

APPROVED AS TO FORM:

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By: _____
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BEFORE THE COMMISSION FOR COMMON-INTEREST COMMUNITIES AND CONDOMINIUM HOTELS

STATE OF NEVADA

SHARATH CHANDRA, Administrator, REAL ESTATE DIVISION, DEPARTMENT OF BUSINESS AND INDUSTRY, STATE OF NEVADA, Petitioner, vs. TURNBERRY TOWERS EAST UNIT-OWNERS' ASSOCIATION, TONY RECTOR, JAMES ORR, LAWRENCE (LARRY) KARP; MANU SETHI, and TAMRA TRAINER, Respondent.	Case No. 2023-309

ORDER FOR SETTLEMENT OF DISCIPLINARY ACTION

FOR RESPONDENT ASSOCIATION AND RESPONDENT BOARD MEMBERS

ORR, KARP, AND SETHI

IT IS ORDERED that the foregoing Stipulation and Order for Settlement of Disciplinary Action for RESPONDENT ASSOCIATION AND RESPONDENT BOARD MEMBERS ORR, KARP, and SETHI is approved in full.

DATED: December 11, 2024

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

By: _____
Phyllis Tomasso, Chairwoman

Submitted by:

AARON D. FORD
Attorney General

By: */s/ Phil W. Su*
PHIL W. SU (Bar No. 10450)
Attorneys for Real Estate Division

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