

19 APR -8 AM 10:13

1 R. L. Whitmer  
2 6333 N. Scottsdale Rd.  
3 Casita 21  
4 Scottsdale, Arizona 85250  
5 602.531.2615

6 Pro Per

7 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**  
8 **IN AND FOR THE COUNTY OF MARICOPA**

9 R. L. WHITMER,

10 Petitioner.

11 v.

12 HILTON CASITAS HOMEOWNERS  
13 ASSOCIATION, also known as  
14 HILTON CASITAS COUNCIL OF  
15 HOMEOWNERS, also known as  
16 COUNCIL OF CO-OWNERS, also  
17 known as HILTON CASITAS  
18 COUNCIL OF CO-OWNERS; and  
19 MICHAEL BENGSON, solely in his  
20 capacity as President of the named  
21 Respondent Entities, and not  
22 personally

23 Respondents.

CV2016-055080

**PETITIONER'S MOTION FOR  
RECONSIDERATION**

(Assigned to the Honorable  
Cynthia Bailey)

Oral Argument Requested

22 Petitioner respectfully requests that the Court reconsider its dismissal of Mr.  
23 Bengson for the reasons stated in this motion.

24 **MEMORANDUM OF POINTS AND AUTHORITIES**

25 **I. Background**

26 It is not disputable that, as the Respondents' counsel citing ARS § 10-  
27 3801.B at the March 26, 2019 oral argument, the HOA acts through its board of  
28 directors.

1                   ARS § 10-3801. Requirement for and duties of board

2                   B. All corporate powers shall be exercised by or under  
3                   the authority of and the affairs of the corporation shall be  
4                   managed under the direction of its board of directors,  
5                   subject to any limitation set forth in the articles of  
6                   incorporation.

7                   It is long recognized in Arizona case law that corporations, as a legal  
8                   fiction, can only act through their officers and directors. "A corporation can act  
9                   only through its agents or officers." See *Lois Grunow Mem'l Clinic v. Davis*, 49  
10                  Ariz. 277,284, 66 P.2d 238,241 (1937).

11                 ARS § 10-3841 makes it clear that the HOA's bylaws (Ex. 1) set forth the  
12                 duties of the HOA officers:

13                   ARS § 10-3841. Duties and authority of officers

14                   Each officer has the authority and shall perform the  
15                   duties set forth in the bylaws or, to the extent consistent  
16                   with the bylaws, the duties and authority prescribed by  
17                   the board of directors or by direction of an officer  
18                   authorized by the board of directors to prescribe the  
19                   duties and authority of other officers.

20                 Article V, Section 4 of the bylaws of Hilton Casitas HOA define the duties of  
21                 the office of president as:

22                   The President shall be the chief executive officer of the  
23                   Council and shall preside at all meetings of the Council  
24                   and of the board of Directors. Subject to the control of  
25                   the Board he shall exercise general supervision and  
26                   direction over the management and conduct of the  
27                   business and affairs of the Council. He shall also have  
28                   such other powers and duties as may be provided by  
                    these Bylaws or assigned to him from time to time by the  
                    Board.

                    At the December 23, 2014 Administrative Law hearing Mr. Bengson was a  
                    witness, admitted that the HOA had violated ARS § 33-1243D, promised to "get  
                    everything on the right track," and knew the Tribunal's decision would be

1 forthcoming. "Every order granting an injunction and every restraining order shall  
2 set forth the reasons for its issuance; shall be specific in terms; shall describe in  
3 reasonable detail, and not by reference to the complaint or other document, the  
4 act or acts sought to be restrained; and is binding only upon the parties to the  
5 action, their officers, agents, servants, employees, and attorneys, and upon those  
6 persons in active concert or participation with them who receive actual notice of  
7 the order by personal service or otherwise." *Longshoremen v. Marine Trade*  
8 *Assn*, 389 U.S. 64, 74-75 (1967) (Emphasis Added). Consistent with ARCP  
9 65(d) the Administrative Law Judge was specific in his Order that "Hilton Casitas  
10 shall fully comply with the applicable provisions of A.R.S. § 33-1243(D) in the  
11 future."

12 The Administrative Law Order ("Order") was issued on January 7, 2015 and  
13 received and reviewed by the HOA's attorney on February 17, 2015 (Ex. 2). On  
14 February 17, 2015 the HOA attorney emailed Mr. Bengson a memorandum  
15 regarding the Order (Ex. 2). After being noticed by the HOA attorney to comply  
16 with the Order, Mr. Bengson personally secured a \$550.00 cashiers' check<sup>1</sup>  
17 drawn of the HOA's bank account and hand-delivered it to the mailbox of the  
18 Petitioner (Ex. 3). On February 19, 2015 the HOA attorney again briefed Mr.  
19 Bengson about the Order (Ex. 2).

20 The HOA meeting agendas and minutes for 2015 through March 1, 2016  
21 (Ex. 4) and the billing records of the HOA's attorney from December 5, 2014 to  
22 March 31, 2016 (Ex. 5) clearly demonstrate that the HOA board members were  
23 not briefed on, nor notified about, the Order by the HOA attorney or the HOA  
24 president and CEO Mr. Bengson.

25 ///

26 ///

27  
28 <sup>1</sup> "It is further ORDERED that Hilton Casitas shall pay Petitioner his filing fee of \$550.00, to be paid directly to Petitioner within thirty (30) days of this Order [by February 7, 2105]." Page 4, Lines 28 -30 of the Order.

1       **II. Analysis**

2           Pursuant to ARCP Rule 65(d)(B) “the parties’ officers, agents, servants,  
3 employees, and attorneys,” are bound by the Order if they received notice of the  
4 Order. Accordingly, as the CEO of the HOA and sole recipient of notice and legal  
5 advice of the Order from the HOA’s Attorney, Mr. Bengson caused the HOA to  
6 violate the Order first in 2015 and again in 2016 by not causing the board to adopt  
7 a budget and not setting a date for a meeting of the unit owners<sup>2</sup> to consider  
8 ratification of the budget not fewer than fourteen nor more than thirty days after  
9 mailing of the summary in order to comply with ARS § 33-1243.D and the Order.

10           Perhaps if the other board members and officers had been noticed about  
11 the Order by the HOA counsel and Mr. Bengson, they could have called a board  
12 meeting in order to comply with ARS § 33-1243.D, but they were never briefed  
13 and did not know. There is no meeting notice, agenda or minutes that such a  
14 briefing ever took place.

15           Without the officers and/or directors of an HOA being bound by an  
16 administrative law judge’s order, ARS § 32-2199.02.B<sup>3</sup> would be rendered  
17 unenforceable, and advisory at best.

18       **III. Conclusion**

19           Mr. Bengson consciously chose not to obey the Order and by concealing  
20 from the other HOA board members and not acting to comply with the Order  
21 caused the HOA to violate the Order.

22           <sup>2</sup> Pursuant to Article III Section 4 of the HOA Bylaws the president is the only  
23 officer or director authorized to call meetings of the unit owners. (Ex. 1, p. 3).

24           <sup>3</sup> ARS § 32-2199.02. B. The order issued by the administrative law judge is  
25 binding on the parties unless a rehearing is granted pursuant to section 32-  
26 2199.04 based on a petition setting forth the reasons for the request for  
27 rehearing, in which case the order issued at the conclusion of the rehearing is  
28 binding on the parties. The order issued by the administrative law judge is enforceable through contempt of court proceedings ... (Emphasis added).

1 The Petitioner respectfully request that the Court reconsider its ruling  
2 dismissing Mr. Bengson as a party to the contempt of court proceedings.

3 Additionally, the Petitioner respectfully requests that the Court pause the  
4 scheduled proceedings until this reconsideration is fully briefed, argued and  
5 decided.

6 Dated this 8<sup>th</sup> day April 2019.

7  
8   
9

10 R. L. Whitmer

11 ORIGINAL filed this  
12 8<sup>th</sup> day April 2019,  
13 with the Clerk of the Court;

14 and a COPY mailed this same date to:  
15 Augustus Shaw  
16 Shaw & Lines Law Firm  
17 4523 E. Broadway Rd., Phoenix, AZ 85040

18  
19 **TABLE OF EXHIBITS**

20 Exhibit:

- 21
- 22 1. Hilton Casitas HOA Bylaws
  - 23 2. HOA's attorney billing records February 17, 2015 to February 27, 2015
  - 24 3. February 18, 2015 HOA payment as ordered by the Administrative Law  
25 Judge
  - 26 4. HOA Board meeting agendas and available minutes
  - 27 5. HOA's attorney billing records December 5, 2014 to March 31, 2016
- 28

# Exhibit 1

BYLAWS

OF

HILTON CASITAS COUNCIL OF CO-OWNERS

ARTICLE I

NAME AND LOCATION OF COUNCIL OF CO-OWNERS

Section 1. Name and Location. The name of this Council of Co-owners is HILTON CASITAS COUNCIL OF CO-OWNERS (hereinafter called the "Council"). Its principal place of business shall be located in the City of Scottsdale, Maricopa County, Arizona.

ARTICLE II

REFERENCE TO DECLARATION

Section 1. Reference. Reference is made to that certain Declaration of Horizontal Property Regime, recorded on May 22, 1972, in Docket 9448, pages 790 to 846 inclusive, records of Maricopa County, Arizona (hereinafter called the "Declaration"). The Declaration, as amended and supplemented from time to time as therein provided, is incorporated herein by reference. The Declaration covers Hilton Casitas (hereinafter called the "Property" or "Hilton Casitas"), as described in the Declaration.

ARTICLE III

MEMBERSHIP

Section 1. Qualification. Membership shall be limited to Owners (as said term is defined in the Declaration) of the

Casitas (as said term is defined in the Declaration). An owner will be deemed a member upon recordation, in the public records of Maricopa County, Arizona, of a Sublease and/or other instrument establishing a record title to the Casita. An owner shall remain a member of this Council until such member's death, or until such time as such member's Sublease is assigned or is terminated for any reason, or until such time as such member's right of occupancy of the Casita under the Sublease is terminated for any reason, at which time such member's membership in this Council shall automatically cease and terminate. No certificates of membership shall be issued, and membership shall be evidenced by an official list of said members, which list shall be kept by the Secretary of the Council.

Section 2. Place of Meetings. Meetings of the members of the Council shall be held at the Property or such other suitable place convenient to the members as may be designated by the Board of Directors.

Section 3. Annual Meetings. The first annual meeting of the members of this Council shall be held within one year after completion and occupancy by owners of seventy-five percent (75%) of the total number of Casitas to be constructed upon the Property, or at such earlier time as the initial Board of Directors shall designate, whichever is sooner. Thereafter the annual

meetings of the Council shall be held within three months after the end of each accounting year.

Section 4. Special Meetings. Special meetings of the Council may be held at any time upon the call of the President or a petition signed by at least twenty-five per cent (25%) of the members and presented to the Secretary.

Section 5. Notice of Meetings. The Secretary shall give written notice of each annual and special meeting to every member according to the Council's record of ownership, at least five days before the date set for such meeting, stating whether it is an annual or special meeting, the authority for the call thereof, the place, day and hour of such meeting and the purpose therefor, in any of the following ways: (a) by delivering it to him personally, or (b) by leaving it at his Casita in the Property or at his usual residence or place of business, or (c) by mailing it, postage prepaid, addressed to him at his address as it appears on the Council's records of ownership. If notice is given, pursuant to the provisions of this section, the failure of any members to receive actual notice of any meeting shall in no way invalidate such meeting or any proceedings thereat. The presence of any member in person or by proxy at any meeting shall be deemed a waiver of any required notice to such member unless he shall at the opening thereof object to the holding of such meeting

because of the failure to give notice in accordance with the provisions hereof.

Section 6. Quorum. The presence at any meeting in person or by proxy of a majority of members shall constitute a quorum, and the acts of a majority of the members at any meeting at which a quorum is present shall be the acts of the Council except as otherwise provided herein. The quorum percentage requirement shall be reduced by fifteen percent (15%) for each meeting which follows any prior meeting in which a sufficient number of members to constitute a quorum were not present in person or by proxy.

Section 7. Voting. A member shall be entitled to one vote for each Casita subleased (hereinafter referred to in the context of "owned") by such member. In the event any Casita is owned by two or more persons, by a corporation, partnership or other entity having more than one person as a member, whether by joint tenancy, tenancy in common, community property, or otherwise, the membership as to such Casita shall be joint and a single membership for such Casita shall be issued in the names of all, and they shall designate to this Council, in writing, at the time of issuance, one of their number who shall have the power to vote said membership, and, in the absence of such designation and until such designation is made, the Board of Directors of the Council shall make such designation.

Votes may be cast in person or by proxy by the respective members as shown in the records of ownership of the Council. An executor, administrator, guardian or trustee may vote in person or by proxy the vote for any Casita owned or controlled by him in such capacity, whether or not the same shall have been transferred to his name in the Council's records of ownership, provided that he shall first present evidence satisfactory to the Secretary of the Council that he owns or controls such Casita in such capacity.

Section 8. Proxies and Pledges. The authority given by any member to another person to represent him at meetings of the Council shall be in writing, signed by such owner and filed with the Secretary, and unless limited by its terms shall continue until revoked by writing filed with the Secretary or by the death or incapacity of such member.

Section 9. Adjournment. Any meeting of the Council may be adjourned from time to time to such place and time as may be determined by majority vote of the members present, whether or not a quorum be present, without notice other than the announcement at such meeting. At any such adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted by a quorum at the meetings as originally called.

Section 10. Order of Business. The order of business (if the subjects are appropriate) at all meetings of the Council shall be as follows:

- (a) Roll call;
- (b) Proof of notice of meeting;
- (c) Reading of minutes of preceding meeting;
- (d) Report of officers;
- (e) Report of committees;
- (f) Election of directors;
- (g) Unfinished business;
- (h) New business.

#### ARTICLE IV

##### BOARD OF DIRECTORS

Section 1. Number and Qualifications. The business and affairs of the Council shall be governed by a Board of Directors composed of not less than three (3) nor more than five (5) persons, who shall serve without compensation. The initial Board shall be composed of five members, and the number of members on the Board thereafter shall be established from time to time by the Board. No person shall be eligible for election as a director who is not at the time of election a member of this Council (except such persons who may serve as directors during the period from the date of recordation of the Declaration until the first annual meeting of the members).

Section 2. Powers. The Board of Directors shall have all powers necessary for the administration of the affairs of the Council and may do all such acts and things therefor as are not by law, the Declaration or these Bylaws directed to be exercised or done only by the members.

Section 3. Election and Term. The Board of Directors shall be elected annually by the members at the annual meeting of the members of the Council, or at any special meeting called for the purpose of such election, for a term of one year, and each member shall be entitled to one vote for each Casita owned by him.

Section 4. Vacancies. Vacancies in the Board of Directors caused by any reason other than removal of a director by the Council shall be filled by vote of a majority of the remaining directors, even though they may constitute less than a quorum, and each person so elected shall be a director until his successor is elected at the next annual meeting of the Council. Ceasing to be a member of the Council, death, incapacity or resignation of any director shall cause his office to become vacant.

Section 5. Removal of Directors. At any regular or special meeting of the Council duly called, any one or more of the directors may be removed with or without cause by vote of a majority of members and a successor may then and there be elected to fill the vacancy thus created. Any director

whose removal has been proposed by the members shall be given at least five days notice of such proposed action and an opportunity to be heard at such meeting.

Section 6. Annual Meeting. An organizational meeting of the Board of Directors shall be held at the place of, and immediately following, each annual meeting of the Council, and it shall not be necessary to give any notice to any directors in order for there to be a valid meeting, provided that a majority of the whole Board shall be present. At such meeting the Board shall elect the officers of the Council for the ensuing year.

Section 7. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the Directors. Notice of regular meetings of the Board shall be given to each director, personally or by mail, telephone or telegraph, at least one day prior to the date of such meeting.

Section 8. Special Meetings. Special meetings of the Board of Directors may be called by the President on at least one day's notice to each director, given personally or by telephone or telegraph, which notice shall state the time, place and purpose of such meeting. Special meetings of the Board shall be called by the President or Secretary in like manner and with like notice on the written request of at least two directors.

Section 9. Waiver of Notice. Before or at any meeting of the Board of Directors any director may in writing waive notice of such meeting, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director at any meeting of the Board shall be a waiver of notice to him of such meeting. If all the directors are present at any meeting of the Board, no notice thereof shall be required, and any business may be transacted at such meeting.

Section 10. Quorum of Board. At all meetings of the Board of Directors a majority of the total number of directors established by these Bylaws shall constitute a quorum for the transaction of business, and the acts of a majority of the directors present at any meeting at which a quorum is present shall be the acts of the Board. If less than a quorum shall be present at any meeting of the Board, a majority of those present may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

Section 11. Fidelity Bonds. The Board of Directors may require that all officers, employees and agents of the Council handling or responsible for its funds, shall furnish adequate fidelity bonds. The premiums on such bonds shall be paid by the Council.

Section 12. First Board of Directors. The members of the first Board of Directors shall be George Palē, Gerald Hirt, Norman Grossman, Norman D. Levitt and Robert H. Karatz.

ARTICLE V  
OFFICERS

Section 1. Designation. The principal officers of the Council shall be a President, a Vice President, a Secretary and a Treasurer, all of whom shall be elected by, and in the case of the President from, the Board of Directors. The Board may appoint an assistant treasurer, an assistant secretary and such other officers as in its judgment may be necessary.

Section 2. Election and Term. The officers of the Council shall be elected annually by the Board of Directors at the Board's annual meetings and shall hold office at the pleasure of the Board. The officers elected shall hold office for a period of one (1) year, or until their successors are elected and qualified. No person shall be eligible for election as an officer who has not, at the time of election, fulfilled the membership requirements set forth in Article III hereof.

Section 3. Removal. Any officer may be removed either with or without cause by vote of a majority of the members of the Board of Directors and his successor elected, at any

regular meeting of the Board or any special meeting called for such purpose.

Section 4. President. The President shall be the chief executive officer of the Council and shall preside at all meetings of the Council and of the Board of Directors. Subject to the control of the Board he shall exercise general supervision and direction over the management and conduct of the business and affairs of the Council. He shall also have such other powers and duties as may be provided by these Bylaws or assigned to him from time to time by the Board.

Section 5. Vice President. The Vice President shall assume and perform the duties of the President in the absence or disability of the President or whenever the office of President is vacant. He shall also have such other powers and duties as may be assigned to him from time to time by the Board.

Section 6. Secretary. The Secretary shall attend and keep the minutes of all meetings of the Council and of the Board of Directors, give all notices thereof as provided by these Bylaws, maintain and keep a continuous and accurate record of ownership of all Casitas, have charge of such books, documents and records of the Council as the Board may direct, and in general perform all the duties incident to the office of Secretary.

Section 7. Treasurer. The Treasurer shall keep and maintain the books and financial records of the Council, and shall prepare regular reports thereof and be responsible for the proper deposit and custody in the name of the Council of all its funds and securities.

Section 8. Auditor. The Council may appoint annually an independent public accountant or accounting firm as auditor to audit the books and financial records of the Council.

#### ARTICLE VI

#### ADMINISTRATION

Section 1. Management. The Board of Directors shall at all times manage and operate the Property and have such powers and duties as are granted the Board by the Declaration and these Bylaws.

#### ARTICLE VII \*

#### COVENANTS AND RESTRICTIONS AS TO SALE, LEASING AND OTHER ALIENATION

Section 1. Sale or Lease. Except for any leasing of a Casita for a period of not in excess of 60 days (which shall require no notice to or approval by the Corporation, as said term is defined in the Declaration, or the Council), any owner who wishes to sell or lease his Casita (or any lessee of any Casita wishing to assign or sublease such Casita) to any person not related by blood or marriage to the owner shall give to the Corporation and the Council no less than fifteen (15)

days' prior written notice of the terms of any contemplated sale or lease, together with the name and address of the proposed purchaser or lessee. The Corporation shall at all times have the first right and option to purchase or lease such Casita upon the same terms, which option shall be exercisable for a period of fifteen (15) days following the date of receipt of such notice. If said option is not exercised by the Corporation within said fifteen (15) days, the Council shall have the second right and option to purchase such Casita upon the same terms, which option shall be exercisable for a period of five (5) days following the expiration of the Corporation's option period. If said option is not exercised by the Council within said five (5) days, the owner (or lessee) may, at the expiration of said period and at any time within sixty (60) days after the expiration of the last option period, contract to sell or lease (or sublease or assign) such Casita to the proposed purchaser or lessee named in such notice upon the terms specified therein.

Section 2. Gift. Any owner who wishes to make a gift of his Casita or any interest therein to any person or persons who would not be heirs at law of the owner under the laws of intestate succession of this state, shall give to the Corporation and the Council not less than fifteen (15) days'

written notice of his or her intent to make such gift prior to the contemplated date thereof, together with the name and address of the intended donee and the contemplated date of such gift. The Corporation shall at all times have the first right and option, and if it fails to exercise such right the Council shall have the second right and option, to purchase such Casita or interest therein for cash at fair market value to be determined by arbitration as herein provided. The Corporation's option shall be exercisable until the expiration of forty-five (45) days after receipt by it of the written notice, and the Council's option shall be exercisable until the expiration of five (5) days after expiration of the Corporation's option period. Within five (5) days after receipt of said written notice by the Corporation and the Council, the Corporation and the owner desiring to make such gift shall each appoint a qualified real estate appraiser to act as arbitrators. The two arbitrators so appointed shall, within ten (10) days after their appointment, appoint another qualified real estate appraiser to act as the third arbitrator. Within ten (10) days after the appointment of said arbitrator, the three arbitrators shall determine, by majority vote, the fair market value of the Casita or interest therein which the owner contemplates conveying by gift, and shall thereupon give written notice of

such determination to the owner, the Corporation and the Council. The Corporation's and Council's respective options to purchase the Casita or interest therein shall expire within the time periods set forth above.

Section 3. Devise. In the event any owner dies leaving a will devising his Casita or any interest therein to any person or persons not his heirs at law under the laws of intestate succession of this state, and said will is admitted to probate, the Corporation shall have the first option and the Council shall have the second option (to be exercised in the manner hereinafter set forth) to purchase said Casita or interest therein either from the devisee or devisees thereof named in said will or, if a power of sale is conferred by said will upon the personal representative named therein, from the personal representative acting pursuant to said power, for cash at fair market value which is to be determined by arbitration. Within twenty (20) days after the appointment of a personal representative for the estate of the deceased owner, the Corporation shall appoint a qualified real estate appraiser to act as an arbitrator, and shall thereupon give written notice of such appointment to the said devisee or devisees or personal representative as the case may be. Within twenty (20) days thereafter said devisee or devisees, or personal representative, as the case may be, shall appoint a qualified

real estate appraiser to act as an arbitrator. Within ten (10) days after the appointment of said arbitrator, the two so appointed shall appoint another qualified real estate appraiser to act as the third arbitrator. Within ten (10) days thereafter, the three arbitrators shall determine, by majority vote, the fair market value of the Casita or interest therein, and shall thereupon give written notice of such determination to the devisee or devisees (or personal representative), the Corporation and the Council. The Corporation's option to purchase the Casita or interest therein shall expire thirty (30) days after the arbitrators' written determination is delivered to the Corporation and the Council, and if the Corporation fails to exercise the option, the Council's option shall expire fifteen (15) days after the Corporation's option period.

Section 4. Consent of Voting Members. The Council shall not exercise any option hereinabove set forth to purchase any Casita or interest therein without the prior written consent of two-thirds of the voting members. The Council may bid to purchase at any sale of a Casita or any interest therein of any deceased owner which is held pursuant to an order or direction of a court upon the prior written consent of two-thirds of the voting members of the Council, which consent

shall set forth a maximum price which the Council is authorized to bid and pay for said Casita or interest therein.

Section 5. Release or Waiver of Options. The Corporation may, by written consent to be given within ten (10) days after application for such consent is received by the Corporation, release or waive any of the options given to it (for the particular transaction under consideration) in this Article. If the Corporation so releases or waives its options, then upon the written consent of a majority of the Board of Directors, such consent to be given within ten (10) days after application for such consent is received by the Board, and upon the written consent of two-thirds of the members of the Council, such consent to be given at the first meeting of the members after application for such consent is received by the Secretary, any of the options contained in this Article (with respect to the particular transaction at hand or the particular owner so applying) may be released or waived by the Council, and the Casita or any interest therein may be sold, conveyed, leased, assigned, given or devised free and clear (for that particular transaction) of the provisions of this Article.

Section 6. Proof of Termination of Option. A certificate executed and acknowledged by the respective secretaries of the Corporation and the Council stating that the provisions of

this Article as hereinabove set forth have been met by an Owner, or duly waived by the Corporation and the Council, and that the rights of the Corporation and the Council hereunder have terminated, shall be conclusive upon the Corporation, the Council and the owners in favor of all persons who rely thereon in good faith, and such certificate shall be furnished upon request to any owner who has in fact complied with the provisions of this section or in respect to whom the provisions of this section have been waived.

Section 7. Nonapplicability. The provisions applicable to (or obligations imposed upon) an owner in this Article shall not apply to the Corporation in its capacity as the owner of any Casita.

## ARTICLE VIII

### MANAGING AGENT AND EXECUTION OF INSTRUMENTS

Section 1. Managing Agent. The Board of Directors may annually employ a responsible corporation, partnership, individual or other entity, as Managing Agent to manage and control the Property, subject at all times to direction by the Board, with all the administrative functions set forth elsewhere in these Bylaws and such other powers and duties and at such compensation as the Board may establish.

Section 2. Execution of Instruments. All checks, drafts, notes, acceptances, conveyances, contracts and other

instruments shall be signed on behalf of the Council by such person or persons as shall be provided by general or special resolution of the Board of Directors, or, in the absence of any such resolution applicable to such instrument, by the President or Vice President and by the Treasurer or Secretary.

## ARTICLE IX

### OBLIGATIONS OF MEMBERS

Section 1. Assessments. All members shall pay to the Council or its Managing Agent in advance on the first day of each and every month the monthly installments of assessments against their respective Casitas for common expenses of the Property in accordance with the operating budget which shall be prepared thirty (30) days prior to the beginning of each fiscal year. In the event any member is delinquent in the payment of any monthly assessment for a period in excess of thirty (30) days, the Board of Directors may take any and all necessary action, pursuant to its powers set forth in the Declaration, including at its discretion and without limitation, sever or disconnect any or all utility connections to his Casita after five (5) days written notice.

Section 2. House Rules. The Board of Directors, upon giving notice to all members in the same manner as herein provided for notice of meetings of the Council, may adopt, amend or repeal any supplemental rules and regulations governing

details of the operation and use of the Property not inconsistent with any provision of law, the Declaration or these Bylaws.

Section 3. Record of Ownership. Every Casita owner shall promptly cause to be duly recorded or filed of record the Sublease, deed or other instrument establishing a record title to the Casita in the Property and deliver to the Secretary of the Council a certified copy of such instrument. The Secretary shall maintain all such information in the Council's records of ownership of the Casitas.

Section 4. Mortgages. Any Casita owner who mortgages his Casita or any interest therein shall notify the Corporation and the Board of Directors of the name and address of his mortgagee, and also of the release of such mortgage, and the Secretary shall maintain all such information in the Council's records of ownership. The Board of Directors at the request of any mortgagee or prospective purchaser of any Casita shall report to such person the amount of any assessments against such Casita then due and unpaid.

## ARTICLE X

### AMENDMENTS

Section 1. Procedure. These Bylaws may be amended by fifty-one percent (51%) of the members at a meeting of the members specially held for such purpose; provided, however,

that no amendment shall be valid and effective unless it bears the signed and acknowledged concurrence of the Corporation (as said term is used in the Declaration).

## ARTICLE XI

### CONFLICTS

Section 1. Control. These Bylaws are set forth to comply with the provisions set forth in the Declaration. In case any of the provisions of these Bylaws conflict with the provisions of said Declaration, the provisions of said Declaration shall control.

# Exhibit 2

## CLARK HILL P.L.C.

Hilton Casitas Council of Homeowners  
Condominium Reorganization and Whitmer Dispute  
March 20, 2015  
INVOICE # 588805  
Page 2

### DETAILED DESCRIPTION OF SERVICES

02/17/15	Review order from Administrative Judge.	R Anderson	1.10	NO CHARGE
02/17/15	Review original By-laws and Amendment to By-laws; prepare Amended By-laws.	R Anderson	1.20	390.00
02/17/15	Memorandum to M. Bengson (.1 no charge); telephone conference with H. Textor at Department of Fire and Transportation (.2 no charge).	R Anderson	.30	NO CHARGE
02/18/15	Review file regarding lawsuit; review original Declaration and continue work on Amended Declaration.	R Anderson	1.90	617.50
02/19/15	Telephone conference with M. Bengson regarding court decision, next meeting, issues for Annual Meeting, and special revisions for new Declaration (.3 no charge).	R Anderson	.30	NO CHARGE
02/25/15	Review memorandum from M. Bengson, review Declaration regarding issues M. Bengson has raised.	R Anderson	.50	162.50
02/27/15	Telephone conference with M. Bengson regarding Management Agreement with hotel regarding revised Declaration; review and revise Declaration.	R Anderson	2.60	845.00

# Exhibit 3



Cashier's Check

No. 1040003451

Always purchase in the counter and check in box, not made for  
others. Serial number, amount, date, and name of payee will be  
printed on the back. This check is not to be cashed at any other  
place.

Valid After 90 Days

Date 02/18/75 01:10:53 PM

91-1701-231

MAZ

LINCOLN SCOTTSDALE

6005 0008256

0677



Pay

\*\*\$550.00

To The Order Of LEMAR WHITMAN

Remitter (Purchased By): CASITA HOMEOWNERS ASSOCIATION

Bank of America, N.A.  
PHOENIX, AZ

*Cash + ordered Payment*

*[Signature]*  
AUTHORIZED SIGNATURE

⑆1040003451⑆ ⑆22101706⑆ 457002931704⑆

THIS ORIGINAL DOCUMENT HAS A REFLECTIVE WATER MARK ON THE BACK. HOLD AT AN ANGLE TO VIEW WHEN CHECKING THE ENDORSEMENTS.

# Exhibit 4

**Subject:** FW: Hilton Casita's of Homeowners Board meeting

On Tuesday, February 24, 2015 1:11 PM, Michael Bengson <[mike@mbengson.com](mailto:mike@mbengson.com)> wrote:

We will be having a Board Meeting 3/3/15 at 4:30 in the Board room. Below is the agenda:

- Call to Order and Roll call. 4:30
- Approval of previous minutes:
- Financial report.....15 minutes
  - 2014 Expenses
  - 2015 budget and expectations.
- New Business.....45 minutes
  - Management Company presentation
  - Legal Representation Robert Anderson and expenses
  - Sign issue
  - Casita's not current in HOA fee's
  - Proposed bylaw changes.
  - General Meeting Timing and agenda.
- Open Forum.....30 minutes
  - Meeting adjourned....6:00PM

Michael Bengson

480-688-7002

**From:** Michael Bengson <mike@mbengson.com>  
**Sent:** Monday, March 23, 2015 8:27 PM  
**To:** 13; 17; 'Barbara Askenazi'; 'Bill Shrader'; Bloomquist; Brooke; Cameron; Diamond; 'Esther Karatz'; Fitzsimmons; Jack Houston; jgee5@cox.net; King; Leslie Ludy; Levin; London; Malanfand; Malanfand; Maureen Longo; Mykol; Pam Penn; Pollock; Randolph; Shaffer; Sheedy; stevepollock@me.com; Stodola; Vukanovich; 'Walker'; Whitmer  
**Subject:** 2015 Hilton Casitas of Homeowners Annual Meeting 3/31/2015  
**Attachments:** 2014 cash flow.docx; 2014 Expenses and income.xls; 2015 Agenda.docx; 2015 Board Ballot.docx; 2015 Budget.docx; 2015 Proposed Budget.xls; 10152015 minutes.pdf; CPI Proposal.docx; Hilton RULES AND REGULATIONS (2).doc; MONTHLY DUES BALLOTT.docx

To all:

Attached are the documents for the Annual Meeting of The Hilton Casitas Council of Homeowners on 3/31/2015 at the Hilton Hotel 6PM.

You will also be receiving the hard copies via mail.

Please review the financials. We have not had any increase in dues in 10+ years. We are spending more money than ever before in legal costs. The increase is ALL related to legal costs. I would hope that we spend less. If we do then we will have added money for the roads and the improvement of our community values. All of the legal expenses are negatively impacting our values and we are moving in the direction to limit them in the future. It just makes good business sense to budget more than we may need as it is an unknown and we need to be prepared.

Please let me know if you have any questions.

Hope to see you then

Michael Bengson  
mike@mbengson.com  
480-688-7002

2015

Hilton Casitas Council of Homeowners

General Meeting of all Members.

March 31, 2015

6:00PM Hilton Hotel

Call for a Quorum

Call meeting to order

Approval of the 2014 minutes

Introduction of Homeowners

Introduction of guests:

- Cory Hill Attorney. Lawsuit update
- Bob Anderson Attorney Hilton Casitas Council of Homeowners
- CPI Management Company duties and introduction
- Hilton Executives

Budget

- Monthly HOA adjustment. Membership vote.
- Current Cash on hand

Vote to elect Board of Directors

Rules and Regulations

- Rental provision
- Monetary Penalties

Open forum

Meeting adjourned

New Board meeting to follow to elect officers.

- Vote on violation penalties.

**From:** Michael Bengson <mike@mbengson.com>  
**Sent:** Thursday, April 2, 2015 8:14 PM  
**To:** 13; 17; 'Barbara Askenazi'; 'Bill Shrader'; Bloomquist; Brooke; Cameron; Diamond; 'Esther Karatz'; Fitzsimmons; Jack Houston; jgee5@cox.net; King; Leslie Ludy; Levin; London; Malanfand; Malantfant; Maureen Longo; Mykol; Pam Penn; Pollock; Randolph; Sam; Shaffer; Sheedy; stevepollock@me.com; Stodola; Vukanovich; 'Walker'; Whitmer  
**Cc:** 'Jeff Blass'; 'Peggy Bengson'  
**Subject:** Summary of Annual Meeting Hilton casitas  
**Attachments:** Minutes Annual Meeting March 31 2015.doc; Minutes 3312015 board meeting.docx

The annual meeting was Tuesday 3/31/2015. The minutes are attached.

Please note the following:

• **Effective 5/1/2015 the monthly dues will be \$289.04.**

- Enforcement of all Rules and Regulations and the Declarations will begin. Everybody will be treated fairly according to our Declarations and rules and regulation.
- Fines for noncompliance are \$50/day after two warning are sent. Each warning has a 15 day period to comply. In effect the fine will not start for 30 days. This is more than fair for everybody.
- Late monthly dues will be pursued per our Declarations as well. It is not a big issue but all owners should be paying their share.

The areas of concern are the following:

- Auto's parking on the street.
- Landscaping being neat and kept up.
- Signs not approved by the board.

Please also put your garbage out in the morning not the night before. **If you have a renter or family member staying in your unit please let them know.**

We will be updating all of our documents over the next 4-6 months. They are all original and much of them do not comply with current statues. I feel less is better than more. Limit the number if rules and regulations that are needed.

Feel free to contact me with any questions.

Michael Bengson  
480-688-7002

Hilton Casitas Council of Homeowners  
Annual General Meeting of Members  
March 31, 2015  
Minutes

Meeting called to order by Mike Bengson at 6:10 pm.

There was a call for a Quorum. The following members were in attendance: Sue Karatz, Mike Bengson, Peggy Bengson, Pamela Penn, Dorene Mykol, John Huston, Betsy Stodola, Barbara Askenazi, Kristin Bloomquist, Don Randolph, Barrie Bercuson, Mike Sheedy, Undine King, Steve Pollock, David Cameron, Nancy Diamond.

Motion to approve the October 15, 2014 minutes by Kristin Bloomquist, 2<sup>nd</sup> by Barbara Askenazi, motion passed.

Attorney Cory Hill, provided a summary and update on the pending Eli lawsuit.

Attorney Bob Anderson, General Counsel for the Hilton Casitas Council of Homeowners, discussed the process to make changes to our current governing documents.

Lia Correa, Community Manager with Cornerstone Properties, Inc. (CPI) described how her firm can assist the board in the management, administration and operations of our association.

Kristin Bloomquist made a motion to hire CPI as our management company, 2<sup>nd</sup> by Steve Pollock, motion passed.

Doug Heaton, General Manager with the Hilton Hotel, expressed good will and hospitality, appreciates Casitas as good neighbors. He listed perks/amenities for Casita owners. They will continue. He said the basic charges have stayed the same.

Annual budget was presented and discussed.

Betsy Stodola made a motion to approve the 2015 budget, 2<sup>nd</sup> by Barrie Bercuson, motion passed.

Ballots were collected for increase of monthly dues. The members approved monthly dues increase, effective May 1, 2015.

Ballots were collected for New Board Members. The members elected the following to the Board: Mike Bengson, Steve Pollock, David Cameron, Don Randolph, and Barrie Bercuson.

Mike Bengson adjourned the meeting at 7:40 pm.

Respectfully submitted by Barbara Askenazi

**MINUTES OF BOARD MEETING MARCH 31 2015**

**A BOARD MEETING OF HILTON CASITAS HOA TOOK PLACE MARCH 31, 2015 IN THE HILTON HOTEL SALON 1.**

**THE MEETING WAS CALLED TO ORDER BY THE PAST PRESIDENT MIKE BENGLESON AND THE NEWLY ELECTED BOARD MEMBERS WERE VOTED IN.**

**PRESIDENT: MICHAEL BENGSON**

**VICE PRESIDENT: STEVE POLLOCK**

**TREASURER: DAVID CAMERON**

**SECRETARY: BARRIE BERCUSON**

**BOARD MEMBER: DON RANDOLPH**

**A MOTION WAS MADE BY DAVID CAMERON AND SECONDED BY STEVE POLLOCK TO START A PROCESS OF WARNING AND FINES FOR HOMEOWNERS IN VIOLATION OF THE Declarations and The RULES and Regulations.**

**IT WAS AGREED THAT A WARNING LETTER TO COMPLY BE SENT WITH A RESPONSE TIME OF 15 DAYS. SECOND WARNING LETTER BE SENT WITH ANOTHER 15 DAYS TO COMPLY. IF NO COMPLIANCE, FINES OF \$50.00 PER DAY WOULD INSUE AND RISE TO 75.00 PER DAY if NO COMPLIANCE AFTER 30 DAYS OF FINES. THESE WARNINGS AND FINES TO BE HANDLED BY THE NEW MANAGEMENT COMPANY AND ARE TO START IMMEDIATELY.**

**IT WAS AGREED THAT ALL PROVISIONS OF THE DECLARATIONS WOULD BE ENFORCED AND FINES IMPOSED WITH POTENTIALLY PLACING A LIEN IF FINES ARE NOT PAID. PER THE DECLARATIONS.**

**MICHAEL BENGSON WAS TO HAVE THE MANAGEMENT COMPANY START THE PROCESS.**

**THE MEETING WAS THEN CONCLUDED UNANIMOUSLY.**

**rlw@fulcrumgroup.biz**

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**From:** Colleen London <cglondon@yahoo.com>  
**Sent:** Tuesday, August 18, 2015 2:28 PM  
**To:** R. L. Whitmer  
**Subject:** Fw: Scottsdale Hilton Casitas - Board Meeting Notice

More details about the Board Meeting.

On Tuesday, August 18, 2015 1:47 PM, Lia Correa <lia@cpihoa.com> wrote:

Should any owner be interested in calling in for the Board Meeting. Details are listed below:

Scheduled Conference Date: Tuesday, August 25, 2015  
Scheduled Start Time: 03:30 PM Arizona Time  
Scheduled End Time: 06:25 PM Arizona Time  
Scheduled # of Participants: 15  
Type of Conference: Web-Scheduled Standard  
Dial-in Number: 1-302-202-1098 (East Coast)  
Participant Access Code: 4223227

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**From:** Lia Correa  
**Sent:** Thursday, August 13, 2015 12:57 PM  
**To:** Lia Correa <lia@cpihoa.com>  
**Subject:** Scottsdale Hilton Casitas - Board Meeting Notice

# **Board Meeting NOTICE**

The Board of Directors Meeting is scheduled for:

**Date/Time: TUESDAY, AUGUST 25, 2015 @ 3:30 PM**

**Location: Hilton Conference room**

**Agenda items:**

- Call to Order
- Approve minutes of last meeting.

- Review of the New Declarations.
- General Neighborhood Issues
- Meeting Adjourned.

Anyone that would like to attend is Welcome!

Thank you

**From:** Evon Potocki <Evon@cpihoa.com>  
**Sent:** Thursday, February 11, 2016 11:07 AM  
**Subject:** FW: Scottsdale Hilton Casitas - Board Meeting Notice

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**From:** Evon Potocki  
**Sent:** Wednesday, February 10, 2016 4:32 PM  
**To:** Evon Potocki <Evon@cpihoa.com>  
**Subject:** Scottsdale Hilton Casitas - Board Meeting Notice

## BOARD OF DIRECTORS MEETING NOTICE

The Board of Directors meeting scheduled for:

**Date:** Tuesday February 16<sup>th</sup>, 2016.

**Located:** Casita 26

**Time:** 4:30pm

**Agenda:**

- Approve the last Board minutes
- Parking signs
- Noncompliance Issues
- Discuss the amended Declarations.
- Date for annual meeting and vote on the amended Declarations.
- Questions
- Adjourned

Homeowners are welcome to attend!

Thank you-

**Evon Potocki**  
*Community Manager*



**Cornerstone Properties, Inc.**  
P.O. Box 62073  
Phoenix, AZ 85082

Office: (602) 433-0331 x103  
Fax: (602) 244-9214  
E-Mail: [evon@cpihoa.com](mailto:evon@cpihoa.com)  
<http://www.cpihoa.com>

A meeting of the Board of Directors of the H.O. A of Casita owners took place on Feb.16 4.30 p.m. in the Hilton Hotel.

Attending were Mike Bengson (president) and board members Steve pollock, Don Randolph, Barrie Bercuson and David Cameron (by conference call). Also attending were Bob Anderson (lawyer) and three casita owners.

The meeting was brought to order and the minutes from previous Board Meeting approved.

The purpose of this meeting was to go over the H.O.A. declarations that were amended by the board at the last meeting, and Mr. Anderson gave his comments and suggestions before presenting them to a general meeting of owners.

Also discussed were signs restricting overnight parking and approved by the board.

There were discussions about penalties for owners behind on dues and fines with comments from Bob Anderson of how to enforce penalties.

Also discussed was the option for owners to rent out their casitas, with the decision to bring it to a vote with all owners participating with a 51% margin for approval or disapproval.

Suggestions were made of forming an architectural committee to standardize exterior casita appearances but no decision taken. To be raised at next general meeting.

The meeting was ajourned with a motion from Don Randolph and seconded by Steve Pollock.

# Exhibit 5

# CLARK HILL P.L.C.

Hilton Casitas Council of Homeowners  
Condominium Reorganization and Whitmer Dispute  
October 20, 2015  
INVOICE # 621868  
Page 2

## DETAILED DESCRIPTION OF SERVICES

09/01/15	Review memorandum from C. Hill regarding State Farm accepting claim. (no charge)	R Anderson	.10	NO CHARGE
09/03/15	Review emails form Corey Hill and Mike Bengam regarding hotel authorization and tender of defense in new Whitmere matter, call Mike B.	R Anderson	.20	65.00

\$65.00

## TIMEKEEPER SUMMARY

RGA	Robert G. Anderson	0.10 hours at	\$0.00 =	\$0.00
RGA	Robert G. Anderson	0.20 hours at	\$325.00 =	\$65.00

**CLARK HILL P.L.C.**

Hilton Casitas Council of Homeowners  
Condominium Reorganization and Whitmer Dispute  
November 23, 2015  
INVOICE # 627533  
Page 2

10/27/15	Review email from M. Bengson and reply.	R Anderson	.20	NO CHARGE
10/29/15	Review comments to declaration and review memorandum from M. Bengson (no charge).	R Anderson	.30	NO CHARGE

\$0.00

TIMEKEEPER SUMMARY

**CLARK HILL P.L.C.**

Hilton Casitas Council of Homeowners  
Condominium Reorganization and Whitmer Dispute  
December 16, 2015  
INVOICE # 631943  
Page 2

DETAILED DESCRIPTION OF SERVICES

11/03/15	Telephone conference with M. Bengson regarding new Declaration, Whitmer's Complaint.	R Anderson	.30	97.50
11/12/15	Review letter from Schaffer regarding delinquent notice and memorandum from M. Bengson (.1) (no charge); memorandum to M. Bengson (.1) (no charge).	R Anderson	.20	NO CHARGE
11/20/15	Review comments from Board of Directors regarding changes to declaration and provide comments (.6); memorandum to M. Bengson (.2).	R Anderson	.80	260.00

\$357.50

TIMEKEEPER SUMMARY

RGA	Robert G. Anderson	0.20 hours at	\$0.00 =	\$0.00
RGA	Robert G. Anderson	1.10 hours at	\$325.00 =	\$357.50

# CLARK HILL P.L.C.

Hilton Casitas Council of Homeowners  
Condominium Reorganization and Whitmer Dispute  
February 16, 2016  
INVOICE # 639112  
Page 2

## DETAILED DESCRIPTION OF SERVICES

01/22/16	Review memorandum from Corey R Anderson regarding status of litigation (.1) (No Charge); review letter from LeMan Witter regarding invalid assessment (.3).	.30	97.50
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\$97.50

## TIMEKEEPER SUMMARY

RGA	Robert G. Anderson	0.30 hours at \$325.00 =	\$97.50
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# CLARK HILL P.L.C.

Hilton Casitas Council of Homeowners  
Condominium Reorganization and Whitmer Dispute  
March 24, 2016  
INVOICE # 645220  
Page 2

## DETAILED DESCRIPTION OF SERVICES

02/11/16	Review comments to Declaration from Board members and Reply.	R Anderson	.90	292.50
02/12/16	Review and revise Declaration.	R Anderson	2.80	910.00
02/16/16	Review Declaration and bylaws; attend Homeowners Association Board meeting (No Charge).	R Anderson	3.20	NO CHARGE
02/24/16	Revise Declaration per Board's comments (2.2); telephone call to M. Bengson regarding changes to Declaration (.3). (Discount 1.0 hours from total).	R Anderson	1.50	487.50

\$1,690.00

## TIMEKEEPER SUMMARY

RGA	Robert G. Anderson	3.20 hours at	\$0.00 =	\$0.00
RGA	Robert G. Anderson	5.20 hours at	\$325.00 =	\$1,690.00

# CLARK HILL P.L.C.

Hilton Casitas Council of Homeowners  
Condominium Reorganization and Whitmer Dispute  
April 28, 2016  
INVOICE # 649885  
Page 2

## DETAILED DESCRIPTION OF SERVICES

03/10/16	Review memorandum regarding voting for Board (.1); review condominium statutes and reply to B. Pollock, review issue of short term leases (.2); telephone call to M. Bengson regarding lease issue on Declaration, Whitmer's recent actions, HOA meeting, revision of rules and regulations (.8); research case law on amending Declaration, scope of amendment, (.9); review original declaration regarding rental issue and new Declaration (.7); memorandum to S. Pollock regarding amendment and fines for violating rules and regulations (.2).	R Anderson	2.90	942.50
03/14/16	Telephone call from S. Pollock regarding Declaration and leasing issue (No Charge).	R Anderson	.20	NO CHARGE
03/15/16	Review and revise Declaration in final format.	R Anderson	1.00	325.00
03/15/16	Telephone call to M. Bengson regarding meeting (.2); review Declaration and make revisions to Declaration (.5).	R Anderson	.70	227.50
03/21/16	Telephone call from M. Bengson regarding annual meeting (No Charge).	R Anderson	.20	65.00

## CLARK HILL P.L.C.

Hilton Casitas Council of Homeowners  
Condominium Reorganization and Whitmer Dispute  
April 28, 2016  
INVOICE # 649885  
Page 3

03/23/16	Prepare letter to members, Notice of Meeting and Agenda, review Absentee ballot.	R Anderson	1.30	422.50
03/24/16	Telephone call to M. Bengson regarding rules and regulations (.2); review memorandum from E. Sluder (.2).	R Anderson	.40	130.00
03/28/16	Telephone call from S. Pollock regarding issues with violation of rules and regulations.	R Anderson	.40	130.00
03/29/16	Review letter from attorney R. Porter regarding new Declaration.	R Anderson	.30	97.50
03/30/16	Review emails and prepare for meeting (.5); telephone call from Mike regarding corporation not ready to ratify new declaration, rules and regulations, issues at meeting (.8).	R Anderson	1.30	422.50
03/31/16	Review email from Cameron and Lamar regarding issues with Declaration (.1); telephone call to Mike B. regarding agenda, Cameron letter (.2); review email from Pollock (.1); Attend HOA meeting (2.1 No Charge).	R Anderson	.40	130.00

\$2,892.50

### TIMEKEEPER SUMMARY

RGA	Robert G. Anderson	0.20 hours at	\$0.00 =	\$0.00
RGA	Robert G. Anderson	8.90 hours at	\$325.00 =	\$2,892.50

## CLARK HILL P.L.C.

Hilton Casitas Council of Homeowners  
Condominium Reorganization and Whitmer Dispute  
March 27, 2015  
INVOICE # 578577  
Page 2

### DETAILED DESCRIPTION OF SERVICES

12/05/14	Telephone call to M. Bengson regarding meeting and leasing (.2 no charge).	R Anderson	.20	NO CHARGE
12/08/14	Telephone call from L. Whitmer regarding ground lease issue, hotel's offer (.2 no charge).	R Anderson	.20	NO CHARGE
12/12/14	Telephone call from M. Bengson regarding hearing (.2 no charge); telephone call from C. Hill, attorney for lawsuit.	R Anderson	.40	NO CHARGE
12/15/14	Meeting with M. Bengson, B. and S. Askenazi regarding Board elections, Administrative Hearing, witnesses, and evidence.	R Anderson	1.20	390.00
12/16/14	Telephone call from B. Askenazi regarding witnesses for hearing (.2 no charge).	R Anderson	.20	NO CHARGE
12/18/14	Review emails from M. Bengson, L. Whitmer, E. Karatz.	R Anderson	.30	97.50
12/19/14	Telephone call to M. Bengson regarding leasing; review evidence.	R Anderson	.20	65.00
12/22/14	Telephone call to M. Bengson regarding hearing; review evidence; review file; review pleading and Whitmer's evidence; prepare for hearing.	R Anderson	3.20	1040.00

# CLARK HILL P.L.C.

Hilton Casitas Council of Homeowners  
Condominium Reorganization and Whitmer Dispute  
March 27, 2015  
INVOICE # 589369  
Page 2

## DETAILED DESCRIPTION OF SERVICES

01/05/15	Review emails regarding written letter and regarding next meeting of association and respond.	R Anderson	.30	97.50
01/06/15	Review Covenants, Conditions, and Restrictions regarding short term rental issue; review ground lease regarding rental issue; review by-laws and amendments.; review letter from L. Whitmer.	R Anderson	.90	292.50
01/20/15	Telephone call from M. Bengson regarding board meeting, status of lawsuits. (.5 NO CHARGE)	R Anderson	.50	NO CHARGE
01/21/15	Telephone call from B. Askenazi regarding parking issue and rental issue (.7 no charge).	R Anderson	.70	NO CHARGE
01/22/15	Review Ground Lease assignment; review original Declaration of Horizontal Property Regime; work on new Declaration of Condominium; review Plat of Property; review recorded documents regarding lease and ground lease.	R Anderson	5.50	1787.50
01/26/15	Continue work on revised Declaration.	R Anderson	1.30	422.50

## CLARK HILL P.L.C.

Hilton Casitas Council of Homeowners  
Condominium Reorganization and Whitmer Dispute  
March 20, 2015  
INVOICE # 588805  
Page 2

### DETAILED DESCRIPTION OF SERVICES

02/17/15	Review order from Administrative Judge.	R Anderson	1.10	NO CHARGE
02/17/15	Review original By-laws and Amendment to By-laws; prepare Amended By-laws.	R Anderson	1.20	390.00
02/17/15	Memorandum to M. Bengson (.1 no charge); telephone conference with H. Textor at Department of Fire and Transportation (.2 no charge).	R Anderson	.30	NO CHARGE
02/18/15	Review file regarding lawsuit; review original Declaration and continue work on Amended Declaration.	R Anderson	1.90	617.50
02/19/15	Telephone conference with M. Bengson regarding court decision, next meeting, issues for Annual Meeting, and special revisions for new Declaration (.3 no charge).	R Anderson	.30	NO CHARGE
02/25/15	Review memorandum from M. Bengson, review Declaration regarding issues M. Bengson has raised.	R Anderson	.50	162.50
02/27/15	Telephone conference with M. Bengson regarding Management Agreement with hotel regarding revised Declaration; review and revise Declaration.	R Anderson	2.60	845.00

# CLARK HILL P.L.C.

Hilton Casitas Council of Homeowners  
Condominium Reorganization and Whitmer Dispute  
March 20, 2015  
INVOICE # 588805  
Page 3

02/28/15	Review Petition filed by LeMar Whitmer against Association for alleged breach of CC&Rs, work on answer of petition.	R Anderson	1.50	487.50
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\$2,502.50

## TIMEKEEPER SUMMARY

RGA	Robert G. Anderson	1.70 hours at	\$0.00 =	\$0.00
RGA	Robert G. Anderson	7.70 hours at	\$325.00 =	\$2,502.50

# CLARK HILL P.L.C.

Hilton Casitas Council of Homeowners  
Condominium Reorganization and Whitmer Dispute  
April 22, 2015  
INVOICE # 593077  
Page 2

## DETAILED DESCRIPTION OF SERVICES

03/02/15	Review letter from L. Whitmer (.1 no charge).	R Anderson	.10	NO CHARGE
03/03/15	Telephone conference with M. Bengson regarding Board Meeting; review statutory authority of board regarding attorney delegation of duties; review Whitmer complaint; attend Board of Directors meeting (1.8 no charge).	R Anderson	1.80	NO CHARGE
03/03/15	Review correspondence from Whitmer; review by-laws regarding Whitmer claims.	R Anderson	1.20	390.00
03/17/15	Telephone conference with M. Bengson regarding Member's meeting, agenda, new declaration; review suit from Whitmer (.3 no charge).	R Anderson	.30	NO CHARGE
03/23/15	Review new complaint; review documents for board meeting (.4).	R Anderson	.40	130.00
03/23/15	Conference with M. Bengson regarding new complaint (1.0 no charge).	R Anderson	1.00	NO CHARGE
03/27/15	Review Declaration and Bylaws regarding leasing; memorandum to M. Bengson regarding lease issue; review declaration and statutes; review and revise response to Whitmer's petition; prepare Notice of Appearance.	R Anderson	4.60	1495.00

# CLARK HILL P.L.C.

Hilton Casitas Council of Homeowners  
Condominium Reorganization and Whitmer Dispute  
April 22, 2015  
INVOICE # 593077  
Page 3

03/27/15	Review billing statements and adjust. (.5 no charge)	R Anderson	2.70	NO CHARGE
03/30/15	Review memorandum from M. Bengson on prior billing; review billings and revise descriptions for better description; prepare memorandum to M. Bengson; review memorandum regarding six (6) month lease limits. (1.2 no charge)	R Anderson	1.20	NO CHARGE
03/31/15	Review memorandum from M. Bengson regarding Witmer's comments.	R Anderson	.10	32.50
03/31/15	Attend HOA Member meeting (1.5 no charge).	R Anderson	1.50	NO CHARGE

\$2,047.50

## TIMEKEEPER SUMMARY

RGA	Robert G. Anderson	8.60 hours at	\$0.00 =	\$0.00
RGA	Robert G. Anderson	6.30 hours at	\$325.00 =	\$2,047.50

# CLARK HILL P.L.C.

Hilton Casitas Council of Homeowners  
Condominium Reorganization and Whitmer Dispute  
June 16, 2015  
INVOICE # 602290  
Page 2

## DETAILED DESCRIPTION OF SERVICES

05/01/15	Review memorandum from J. Blass and letter from C. London.	R Anderson	.30	97.50
05/06/15	Review Demand Letter to owner for breach of CC&Rs.	R Anderson	.20	65.00
05/07/15	Conference with M. Bengson regarding status of new Declaration (.3 no charge).	R Anderson	.30	NO CHARGE
05/13/15	Review Whitmer's motion to vacate (.3 no charge); Telephone call to M. Bengson regarding Whitmer's motion (.2 no charge).	R Anderson	.50	NO CHARGE
05/27/15	Review Delinquent Payment Notice; review letter from Property Manager from L. Whitmer objecting to Assessment; review Condominium Declaration regarding Assessments rules and enforcement.	R Anderson	1.10	357.50
05/28/15	Review memorandum from M. Bengson and motions filed with court; review statutory provisions regarding HOA liens and enforcement.	R Anderson	1.10	357.50
05/29/15	Telephone call to C. Hill regarding Motion and additional support brief; review file, motions, and briefs; review Declaration.	R Anderson	1.20	390.00

\$1,267.50

# CLARK HILL P.L.C.

Hilton Casitas Council of Homeowners  
Condominium Reorganization and Whitmer Dispute  
July 14, 2015  
INVOICE # 605608  
Page 2

## DETAILED DESCRIPTION OF SERVICES

06/08/15	Review Judgment from Fire and Water Department (.2 no charge).	R Anderson	.20	NO CHARGE
06/09/15	Telephone call from M. Bengson regarding joining motion filed by C. Hill; issues with proposed new declaration.	R Anderson	.30	97.50
06/10/15	Prepare Joinder to Response to Plaintiff's Motion to Set Aside Judgment.	R Anderson	1.40	455.00
06/11/15	Review and response to Whitmer motion to set aside.	R Anderson	.50	162.50
06/12/15	Review memorandum from M. Brown on Court rulings (.2 no charge).	R Anderson	.20	NO CHARGE
06/17/15	Review case favorable to defeating Whitmer claims (.4 no charge).	R Anderson	.40	NO CHARGE
06/26/15	Review Whitmer's response to Motion.	R Anderson	.30	97.50

\$812.50

## TIMEKEEPER SUMMARY

RGA	Robert G. Anderson	0.80 hours at	\$0.00 =	\$0.00
RGA	Robert G. Anderson	2.50 hours at	\$325.00 =	\$812.50