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KAREN ELLISON, RECORDER

APN 1420-08-412-001

APN _____

APN _____

FOR RECORDER'S USE ONLY

Notice of Entry of Judgment

TITLE OF DOCUMENT

I, the undersigned, hereby affirm that the attached document, including any exhibits, hereby submitted for recording does not contain personal information of any person or persons. (NRS 239B.030)

I, the undersigned, hereby affirm that the attached document, including any exhibits, hereby submitted for recording does contain personal information of a person or persons as required by law. State specific law: _____

Signature

Print Name & Title

WHEN RECORDED MAIL TO:

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Las Vegas, NV 89130

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Michael L. Matuska, Esq. SBN 5711
MATUSKA LAW OFFICES, LTD.
937 Mica Drive, Suite 16A
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Attorneys for Plaintiff CARSON PARK
CONDOMINIUM ASSOCIATION

REC'D & FILED
2014 JUN -9 PM 3:45
ALAN GLOVER
BY  DEPUTY CLERK

**IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR CARSON CITY**

CARSON PARK CONDOMINIUM
ASSOCIATION,

Plaintiff,

v.

JOHN M. ("MIKE") MULLINS, individually and
dba EVERGREEN MAINTENANCE; TERESA
MULLIN; and DOES I-X,

Defendants.

CASE NO.: 13 TRT 00015 1B
DEPT.: I

NOTICE OF ENTRY OF JUDGMENT

PLEASE TAKE NOTICE that on May 30, 2014, the District Court Judge entered his
Judgment in favor of the Plaintiffs in the above entitled matter, a copy of which is attached hereto
as *Exhibit 1*.

Dated this 6th day of June 2014.

MATUSKA LAW OFFICES, LTD.

By: 

MICHAEL L. MATUSKA, SBN 5711
Attorneys for Plaintiff CARSON PARK
CONDOMINIUM ASSOCIATION

MATUSKA LAW OFFICES, LTD.
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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Matuska Law Offices, Ltd. and that on the 9th day of June 2014, I served a true and correct copy of the preceding document entitled **NOTICE OF ENTRY OF JUDGMENT** as follows:

Nancy Rey Jackson, Esq. Nancy Rey Jackson, Ltd. 1591 Mono Avenue Minden, NV 89423	Justin M. Clouser, Esq. J.M. Clouser & Associates, Ltd. 1669 Lucerne, Suite A-3 Minden NV 89423
--	--

BY U.S. MAIL: I deposited for mailing in the United States mail, with postage fully prepaid, an envelope containing the above-identified document(s) at Carson City, Nevada, in the ordinary course of business.

BY PERSONAL SERVICE: I personally delivered the above-identified document(s) by hand delivery to the office(s) of the person(s) named above.

BY FACSIMILE:

BY FEDERAL EXPRESS ONE-DAY DELIVERY:

BY MESSENGER SERVICE: I delivered the above-identified document(s) to Reno-Carson Messenger Service for delivery.

~~ERIC STERN, PARALEGAL~~

EXHIBIT INDEX

Exhibit 1 Judgment

COPY

EXHIBIT 1

COPY

EXHIBIT 1

COPY

REC'D & FILED

2014 MAY 30 PM 2: 50

ALAN GLOVER

BY: ~~ALAN GLOVER~~ CLERK
DEPUTY

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6 **IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
7 **IN AND FOR CARSON CITY**
8

9 CARSON PARK CONDOMINIUM
10 ASSOCIATION,

Plaintiff,

11 v.

12 JOHN M. ("MIKE") MULLINS, individually and
13 dba EVERGREEN MAINTENANCE; TERESA
14 MULLIN; and DOES I-X,

Defendants.

CASE NO.: 13 TRT 00015 1B
DEPT.: I

JUDGMENT

15
16 This case was referred to the Court Annexed Arbitration Program on May 10, 2013. Mike
17 Pavlakis, Esq., was appointed as the arbitrator on June 5, 2013. The arbitration took place on
18 February 27, 2014. The arbitrator entered the Award in Arbitration on March 3, 2014, and the
19 Decision on Plaintiff's Motion for Attorney's Fees on March 18, 2014. The deadline to request
20 trial de novo has expired. Based on the foregoing, and for good cause appearing, the Award in
21 Arbitration attached hereto as Exhibit "1" is hereby adopted and incorporated in its entirety.
22 Judgment shall be and is hereby entered in the amount of \$50,000 in favor of the Plaintiff, Carson
23 Park Condominium Association, against John M. ("Mike") Mullins, individually and doing
24 business as Evergreen Maintenance, and Teresa Mullins, on its First Cause of Action (Breach of
25 Contract) and Third Cause of Action (Embezzlement and Fraud). All other claims, counterclaims
26 and causes of action shall be and are hereby dismissed with prejudice.
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This judgment shall bear interest at the legal rate for judgments according to NRS 99.040, and shall run from the date of the answer, April 16, 2013 until satisfied. Interest as of the date of the Award in Arbitration is \$2,309. This amount shall be included in the judgment.

Carson Park Condominium Association is further awarded its reasonable costs in the amount of \$5,512.61 and attorney's fees in the amount of \$3,000. Interest shall continue to accrue on the costs and fees from the date of this Judgment.

Dated this 30th day of May, 2014.



JAMES T. RUSSELL
DISTRICT COURT JUDGE

EXHIBIT 1

COPY

EXHIBIT 1

ALLISON, MacKENZIE, PAVLAKIS, WRIGHT & FAGAN, LTD.
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1 Mike Pavlakis, Esq., Nev. State Bar # 539
2 ALLISON, MacKENZIE, PAVLAKIS,
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4 402 North Division Street
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9 e-mail: mpavlakis@allisonmackenzie.com

6 Arbitrator

9 IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

10 IN AND FOR CARSON CITY

11 -000-

12 **CARSON PARK CONDOMINIUM**
13 **ASSOCIATION,**

Case No.: 13 TRT 00015 1B

Dept. No. II

14 Plaintiff,

15 vs.

16 **JOHN M. ("MIKE") MULLINS,**
17 **individually and dba Evergreen Maintenance;**
18 **TERESA MULLINS; and DOES I-X,**

18 Defendant.

20 **AWARD IN ARBITRATION**

21 THIS CASE came on for hearing before the undersigned Arbitrator on Friday, February
22 28, 2014. Present were Kimberly Perkins on behalf of Plaintiff, Carson Park Condominium
23 Association, represented by Michael L. Matuska, Esq.; Defendant and Counter-Claimant, John
24 M. ("Mike") Mullins, represented by Justin M. Clouser, Esq., and Defendant, Teresa Mullins,
25 represented by Nancy Rey Jackson, Esq. The proceedings were stenographically recorded by
26 Carrie Wolden, CSR, of Sunshine Litigation Services.¹

27
28 ¹ Plaintiff requested the hearing be reported. NAR 14(B).

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1 In addition to the 3 individuals named above, testimony was provided by Jonathan Steele,
2 CPA, and Robert DaSilva. The witnesses were sworn and testified; 26 documents were admitted
3 in evidence, and the attorneys were afforded the opportunity for opening statements and closing
4 arguments. The hearing convened at 8:30 AM and concluded at 5:30 PM.

5 In this case, the evidence showed that Mr. Mullins was retained by Plaintiff as an
6 independent contractor to provide maintenance and repairs of the Plaintiff's grounds, facilities,
7 and property. A written Maintenance Contract was first entered into on or about August 1, 1997
8 (Exhibit 2), and the contract was renewed annually thereafter.² Among his duties was the repair
9 of balcony floors, decks, and support structures, upon request by the Plaintiff.

10 In 1999, Mr. Mullins suggested that repairs be made to the decks, and he proposed, and
11 Plaintiff's Board of Directors agreed, to retain a helper to assist Mr. Mullins with the work.
12 Exhibits 4, 5, and 6. Mr. Mullins was paid pursuant to his Maintenance Contract, and the helper
13 was paid an hourly sum. Exhibit 6.1.

14 On or about November 6, 2004, Mr. Mullins proposed that, going forward, certain items
15 be considered outside of his Maintenance Contract and that bids be requested therefor. Exhibit 7.
16 Accordingly,

- 17 1. on or about March 11, 2005, Mr. Mullins proposed to remove and reconstruct patio
18 enclosures at a cost to the Plaintiff of \$1,998 per enclosure, including materials. Exhibit 8.
- 19 2. on or about December 5, 2005, Mr. Mullins submitted his bid for work on staircase
20 railings, as required by an insurance review, at a cost to Plaintiff of \$1,875 per week for
21 labor, plus material costs. Exhibit 9.
- 22 3. on or about February 27, 2008, Mr. Mullins proposed to remove and replace building
23 siding "as needed" at a cost to Plaintiff of \$150 for each piece of 4 x 8 foot siding replaced.
24 This included materials, paint, and finish. Exhibit 10.

25
26 ² The parties agreed that although the last written renewal occurred August 1, 2008, Mr.
27 Mullins continued to work as Plaintiff's contractor through the spring of 2012, and the payments
28 to Mr. Mullins continued as they were under the August 1, 2007 renewal.

1 There is no dispute that Mr. Mullins was fully paid for the work relating to the patios, the
2 staircase railings, and the replacement of the siding. See, Exhibit 11.

3 Because Plaintiff maintained accounts with various vendors in the area, including
4 Copeland Lumber, Meeks Lumber, Kelly Moore Paint, and Dave's Supply, Mr. Mullins charged
5 material and supply purchases to Plaintiff's accounts, as regards the materials and supplies
6 necessary for the patio enclosures and the siding. Mr. Mullins testified that he owes Plaintiff the
7 cost of those materials, but he claims he never made a payment because he never received a
8 billing. He just figured that there would be a day of reckoning for the amounts he owed and the
9 amounts he claims the Plaintiff owes him.³

10 During the time that Mr. Mullins was engaged to provide contract maintenance and
11 repair, Mrs. Mullins was retained to provide bookkeeping services. She testified she began
12 work for Plaintiff in 2000. On average, she worked 3 hours per day, 5 days per week. Her duties
13 included posting monthly payments from Members of Plaintiff's Association, typically \$150 per
14 Membership Unit per month; attend to the office, responding to homeowner issues; writing
15 checks for payables, and preparing monthly reports for the Treasurer to use at meetings of
16 Plaintiff's Board of Directors. Mrs. Mullins purchased Quickbooks for the Plaintiff's use during
17 her first year of employment, and although she had no prior knowledge or training in the
18 program, she was able to set up a chart of accounts. She was able to match monthly payments to
19 the Members' unit numbers; made bank deposits; backed up her computer files on a floppy disk.
20 She also maintained a hand written check register. Each week, she prepared checks for money
21 owed to vendors. The checks were signed by Plaintiff's duly authorized officer, and Ms. Mullins
22 would write "paid" on the invoices; make notes to her check register, and enter the payment in
23 Quickbooks. Although she could not identify the Exhibits as documents she prepared, she
24 testified that she "must have" set up a vendor account for Evergreen (her husband's company).

25
26
27 ³ Mr. Mullins never submitted an invoice or other claim to Plaintiff for amounts allegedly due
28 him until after his Maintenance Contract with Plaintiff was terminated.

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1 In sharp contrast to the testimony of Mr. Mullins, Mrs. Mullins testified that her husband
2 made reimbursements to the Association for the amounts he owed for materials. She testified he
3 probably made at least "a couple" of payments by check and others were in cash. She testified
4 that she did not keep a statement to track payments made by Mr. Mullins. She did testify that
5 Mr. Mullins "had a plan" to pay the Plaintiff for any balance owing for materials charged to
6 Plaintiff's vendor accounts.

7 Jonathan Steele, CPA, testified that his firm was retained to perform an audit of the
8 Plaintiff's books and records for the year ending 2009. This was the first such audit his firm had
9 been requested to conduct, and it resulted from certain changes in the law governing homeowner
10 associations. Mr. Steele had difficulty reconciling the entries in a "sub cash account" (Exhibit
11 12), and his firm made certain recommendations to the Plaintiff. Plaintiff implemented the
12 accountant's recommendations, and retained Mr. Steele and his associate, Vanessa Davis, CPA,
13 to perform an Agreed Upon Procedures engagement. Exhibit 14. Under the supervision of Mr.
14 Steel and Ms. Davis, Ms. Perkins was able to properly trace the discrepancies in the "sub cash
15 account" which total \$67,493.96. Exhibit 13.

16 As a result of the Agreed Upon Procedures engagement, Mr. Steele determined that of the
17 \$67,493.96, there were "false deposits" totaling \$40,209.90, and \$610 recorded as cash having
18 been received but not deposited. The balance, just over \$24,000, represents materials charged to
19 Plaintiff by Mr. Mullins after September 30, 2010, when Mrs. Mullins stopped accounting in the
20 "sub cash account" of Evergreen.⁴ Exhibit 14. Mr. Steele went on to testify that given the length
21 of time over which these discrepancies occurred, the husband and wife relationship between the
22 parties, and the fact that the only account for which his firm detected accounting irregularities
23 was the Evergreen account, this was a case in which there was a deliberate recording of
24 transactions by Mrs. Mullins designed to make them difficult to discover. There were instances
25 in which both Evergreen and the Member each received credit for the same payment. This was
26 done so that the Member would not detect an error in the accounting.

27 ⁴ The charges made after September 30, 2010 appear to be for materials for building siding and
28 paint. See, Exhibit 13.

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1 There was no evidence that anyone other than Mrs. Mullins made entries to the
2 Quickbooks accounts until she and her husband left Plaintiff's employment in March, 2012, after
3 the audit report and recommendations were delivered.

4 In support of his claim, Mr. Mullins testified that he had an unwritten "good faith"
5 agreement with the Plaintiff to the effect that he would be paid for work he performed outside of
6 his contract, and outside of the bids he submitted for the patio enclosures, staircase railings, and
7 building siding. Much of the work dated back to 1997, when a deck railing fell onto a lower
8 patio. Mr. DaSilva recalled the event. Both Mr. Mullins and Mr. DaSilva testified that any such
9 "good faith" agreement would have been reported to and approved by Plaintiff's Board of
10 Directors and mentioned in the minutes of its meetings. However, no such minutes, and no
11 records of any such "good faith" agreement were provided.

12 On the basis of the foregoing facts, it appears that:

13 1. Except for the work on the patio enclosures, the staircase railings, and the building
14 siding, there was no "good faith" agreement to pay Mr. Mullins for his work over and above
15 the amounts paid pursuant to his Maintenance Contract.

16 2. Although the last written Maintenance Contract was executed effective August 1, 2007,
17 through September 30, 2008, the parties continued to operate in accordance with the prior
18 Maintenance Contract as regards the work performed by Mr. Mullins for Plaintiff.

19 3. Mr. Mullins has been paid all sums due him under his contracts with the Plaintiff.

20 4. Mr. Mullins owes the Plaintiff the sum of \$67,493.96 for materials charged to vendor
21 accounts of Plaintiff for which Mr. Mullins agreed to and should be required to reimburse
22 Plaintiff.

23 5. Mrs. Mullins made improper accounting entries in Plaintiff's Quickbooks accounting
24 system, which resulted in underestimating the amount owing by Mr. Mullins to Plaintiff, and in
25 so doing, Mrs. Mullins improperly appropriated to herself and her husband the sum of
26 \$67,493.96, while contracted with Plaintiff to provide bookkeeping services.

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1 Accordingly, it is the decision of this Arbitrator that the Plaintiff is entitled to an award of
2 \$50,000⁵ against Defendants, John M. ("Mike") Mullins, individually and doing business as
3 Evergreen Maintenance, and Teresa Mullins, on its First and Third Claims for Relief, and that
4 Defendant, John M. ("Mike") Mullins should take nothing on his Counterclaim.

5 Pursuant to ADR 17, any application for attorney's fees, costs and/or interest must be
6 filed and served within 5 days after service of this Award.

7 Dated this 3rd day of March, 2014.

8 *Mike Pavlakis*

9 Mike Pavlakis, Nev. State Bar #00539, Arbitrator

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27 ⁵ Pursuant to ADR 16(B), the maximum award that can be rendered by the arbitrator is
28 \$50,000, exclusive of attorney's fees, interest, and costs.

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Certificate of Service by Mail

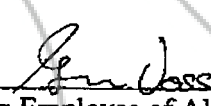
Pursuant to NRCP 5(b), I certify that I am an employee of Allison, MacKenzie, Pavlakis, Wright & Fagan, Ltd., and that on the 3 day of March, 2014, I deposited for mailing, a copy of the foregoing document, described as Award in Arbitration, to the individuals listed below, by placing a true copy thereof in a sealed envelope, placed for collection and mailing, via U.S. Mail, in Carson City, Nevada, addressed as follows:

Michael L. Matuska, Esq.
937 Mica Drive, Suite 16A
Carson City, NV 89705

Nancy Rey Jackson, Esq.
1591 Mono Avenue
Minden, NV 89423

Justin M. Clouser, Esq.
1669 Lucerne, Suite A-3
Minden, NV 89423

Dated this 3 day of March, 2014.


An Employee of Allison MacKenzie, Pavlakis,
Wright & Fagan, Ltd.

COPY

CERTIFIED COPY

The document to which this certificate is attached is a full, true and correct copy of the original on file and of record in my office.

Date August 18, 2016

Susan Merrivether, City Clerk and Clerk of the First Judicial District Court of the State of Nevada, in and for Carson City.

By [Signature] Deputy

Per NRS 239 Sec. 6 the SSN may be redacted, but in no way affects the legality of the document.