

<b>FILED</b>	
Department of Business and Professional Regulation	
Senior Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	6/22/2020
File #	2020-03476

**STATE OF FLORIDA  
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION  
DIVISION OF FLORIDA CONDOMINIUMS, TIMESHARES, AND MOBILE HOMES**

STATE OF FLORIDA  
DEPARTMENT OF BUSINESS AND  
PROFESSIONAL REGULATION,  
DIVISION OF FLORIDA CONDOMINIUMS,  
TIMESHARES, AND MOBILE HOMES,

CASE NO 2020011599

Petitioner,

v

TRAILS ASSOCIATION, INC.

Respondent

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**CONSENT ORDER**

Petitioner, the State of Florida, Department of Business and Professional Regulation, Division of Florida Condominiums, Timeshares, and Mobile Homes (hereinafter the Division), and Respondent, Trails Association, (hereinafter the Respondent), stipulate and agree to the terms and issuance of this Consent Order, pursuant to sections 120.57 and 718.501, Florida Statutes, as follows.

**PRELIMINARY STATEMENT**

1. The Division is the state "agency," as that term is defined by section 120.52, Florida Statutes, that is statutorily responsible for enforcement of the Florida Condominium Act, chapter 718, Florida Statutes
2. The Division has investigated the Respondent for certain alleged violations of chapter 718, Florida Statutes, in Division investigative file number 2020011599.
3. The Respondent desires to resolve this investigation without formal administrative or judicial proceedings that might be available.

4 The Respondent and the Division agree that the statutory citations referenced in this Consent Order are intended to reference the correct statutory citations for the year(s) in which the violation(s) occurred as well as the Division's proper enforcement authority, and that any errors in such statutory citations are not substantive or prejudicial to either party.

#### **STATEMENT OF FACTS**

5. The Division is the state agency charged with enforcing Chapter 718, Florida Statutes, the Condominium Act, and the Division's administrative rules

6. Trails Association is a "residential condominium," as that term is defined in section 718.103(23), Florida Statutes, containing 8 residential units located in Sarasota County, Florida

7. Respondent is the condominium "association," as that term is defined in section 718 103(2), Florida Statutes, that operates Spanish Trails Villages, A Condominium.

~~8. The Respondent~~ The Respondent failed to provide a unit owner with access to the Association's official records, specifically, the Respondent failed to response to a unit owner's request for access to the Association's official records prior to the payment of a fee for staff time necessary to photocopy the record.

9 There is competent substantial evidence to support the foregoing facts

#### **CONCLUSIONS OF LAW**

14 The Division has jurisdiction over these proceedings pursuant to chapters 120 and 718, Florida Statutes, and is authorized to enter into this Consent Order, assess civil penalties, and consider evidence of mitigation of violations, pursuant to sections 120.57 and 718.501(1)(d), Florida Statutes.

15. The Respondent failed to provide access to the Association's official records, in violation of section 718.111(12)(b), Florida Statutes.

16. Respondent agrees that there is competent substantial evidence to support the foregoing conclusions of law.

**AGREEMENT**

18. **Civil Penalty and other relief:**

(a) The Respondent shall remit to the Division a civil penalty in the amount of Five Thousand Dollars and No Cents (\$5,000 00) by certified check, cashier's check, or money order made payable to **DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION** as a condition precedent to the Division's execution of this Consent Order.

(b) The Respondent shall, if not already accomplished, contact the complainant within 14 working days of receipt of this Consent Order and provide an appointment for the complainant to view/inspect the Association records. Provide the division with evident indicating completion of this task. If the complainant has already viewed/inspected the records, provide evidence of this action within two weeks of receipt of this Consent Order.

(c) Respondent agrees to post a copy of this Consent Order, as signed by both parties, in a conspicuous place of the condominium property or where notices for meetings are normally posted for 30 continuous days. Posting should begin no later than two (2) business days after receiving the copy of the Consent Order, as signed by both parties, from the Division.

(d) Respondent agrees to maintain its copy of this Consent Order as part of the Association's official records, in accordance with section 718.111(12), Florida Statutes and rule 61B-23.002(7)(b), Florida Administrative Code.

(e) Respondent agrees that all items it agreed to remit, provide, submit or in any way furnish to the Division shall be sent by certified mail, return-receipt requested to the following address.

**Bureau of Compliance  
Division of Florida Condominiums, Timeshares, and Mobile Homes  
Department of Business and Professional Regulation  
2601 Blair Stone Road  
Tallahassee, Florida 32399-1031**

(f) Respondent agrees that its duties pursuant to this Consent Order shall not be discharged until all items that the Respondent has agreed to remit, provide, submit or in any way furnish to the Division have actually been received by the Division at the address above.

19. **Attorney's fees and prevailing party.** The Division and the Respondent agree that the Respondent, through the rendition of this Consent Order, is not a "prevailing small business party" as that term is defined by section 57.111, Florida Statutes, and it is mutually agreed that the Respondent shall bear its own costs and attorney's fees that are in any way associated with this action.

20. **Duress.** The Respondent entered into this Consent Order without duress and for the uses and purposes stated in this order.

21 **Effectiveness** This Consent Order is effective on the last date executed below and upon its issuance it shall be a final administrative order. This Consent Order is fully enforceable by the Division under the provisions of sections 120.69 and 718.501, Florida Statutes.

22 **Failure to Comply** As acknowledged and agreed between the Division and the Respondent, this Consent Order is directly enforceable by petition to the Circuit Court of Leon County, Florida, as provided by section 120.69, Florida Statutes. For any violation by the Respondent of the provisions of this Consent Order, the Respondent understands the Division shall bring such action as is necessary to seek compliance with chapter 718, its administrative rules, and the provisions of this Consent Order. This Consent Order does not constitute a waiver of the rights of the Respondent to a contested hearing on any subsequent alleged violation of this order.

23. **Future actions.** Nothing in this order shall be construed to waive or restrict the Division's right to initiate any action against the Respondent pursuant to chapters 120, and 718, Florida Statutes, including, but not limited to, administrative or civil action or referral for criminal prosecution if facts or information not presently known or available to the Division come to its attention subsequent to the execution of this Consent Order, including facts that may become known as a result of production of any documents to be produced in compliance with this Consent Order. The Division expressly reserves all rights to pursue such remedies should a cause of action exist. This agreement shall be binding upon the parties their successors, and assigns.

24. **Releases.** Respondent, for itself and any legal representatives, administrators, successors, and assigns, hereby, without reservation, voluntarily releases, waives, absolves, and forever discharges, to the full extent permitted by law, the Division and its employees, agents, successors, appointed officials, assigns, representatives, any and all other officials and employees of the State of Florida, and legal representatives, all in their official and individual capacities, and including former members of any of the foregoing groups, from any and all claims, demands, actions, judgments, causes of action, or suits at law or in equity, of any kind and nature, whether these claims are known to Respondent at this time or unknown, suspected or not suspected, or by reason of any damage, injury, or loss, including but not limited to, actual damages, compensatory damages, punitive damages, attorneys' fees, interest, costs, other special damages, general damages, and/or other equitable relief arising out of this administrative proceeding. The Division accepts this release and waiver by Respondent without in any way acknowledging or admitting that any such cause of action does or may exist.

25. **Time.** Time is of the essence in this Consent Order

26. **Waivers.** The Respondent knowingly and voluntarily waives.

(a) any right to an administrative hearing provided by chapters 120, and 718, Florida Statutes;

(b) any right to the issuance of a recommended order by an administrative law judge from the Division of Administrative Hearings or from the Division; and,

(c) any and all rights to object to or challenge in any judicial proceeding, including but not limited to, an appeal pursuant to section 120.68, Florida Statutes, any aspect, provision or requirement concerning the content, issuance, procedure or timeliness of this Consent Order

27. **Entire Agreement.** This Consent agreement embodies the whole agreement of the parties. There are no promises, terms, conditions, or agreements other than those contained herein and this document shall supersede all previous communications, representations, and or agreements whether written or verbal, between the parties hereto.

**END OF PAGE**

**SIGNATURE PAGES FOLLOW**

WHEREFORE, the Respondent, Trails Association, Inc. , by its duly authorized representative, Virginia Thomas, Vice-President, pursuant to the following certified resolution agrees to the terms, conditions and issuance of this Consent Order on this 10 day of <sup>June</sup> ~~May~~, 2020.

Trails Association, Inc.,  
a Florida not-for-profit corporation

By. Virginia Thomas  
Virginia Thomas, Vice-President

State of FLORIDA  
County of PASCO

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this 10 day of June, 2020, by Virginia Thomas, as Vice-President of Trails Association, Inc., a Florida not-for-profit corporation, on behalf of the corporation. He/she is  personally known to me or  who has produced \_\_\_\_\_ as identification.

(Notary Seal)



Nichole Cole  
Comm. #GG381781  
Expires: August 1, 2023  
Bonded Thru Aaron Notary

[Signature]  
Notary Public

Nichole Cole  
Name typed, printed or stamped  
My Commission Expires: 8/1/2023

**CORPORATIONS MUST COMPLETE THE FOLLOWING PARAGRAPH TO THIS ORDER.**

BE IT RESOLVED, THAT ON 6-2- 2020, a meeting of the Board of Directors was held pursuant to legal notice and that the Officer's signature appearing on this Consent Order, executed in Case No. 2019089050, on behalf of this Corporate Respondent, is duly authorized, empowered and directed to execute the Consent Order on behalf of the Corporation and is further empowered to execute any other documents necessary to fulfill the intent of the Consent Order.

IN WITNESS WHEREOF, I have hereunto set my HAND AND SEAL of this Corporation this 6 day of 2, 2020.

Trails Association, Inc., a Florida not-for-profit corporation

By: <sup>(Marti)</sup>  
*Marti G. Crowley*  
CORPORATE SECRETARY'S SIGNATURE

**CORPORATE SEAL**

Attorney for Respondent:

*Jonathan James Demonte*  
Jonathan James Demonte, Esq., B.C.S.  
Jonathan James Demonte, Chartered  
12110 Seminole Blvd.  
Largo, FL 33778  
Telephone: (727)586-2880  
Telecopier: (727)581-0822  
[jjd@demontelaw.com](mailto:jjd@demontelaw.com)  
[olivia@demontelaw.com](mailto:olivia@demontelaw.com)

**CONTACT PERSON:**

Printed Name: \_\_\_\_\_  
7111 Golf Blvd.  
Zephyrhills, FL 33541  
(813)788-7038  
(813)780-1843 (fax)  
[office@seanlehtails.org](mailto:office@seanlehtails.org)  
[seanlehtailsch@gmail.com](mailto:seanlehtailsch@gmail.com)

Department of Business and Professional Regulation v.  
Trails Association, Inc., Case No. 2020011599



**DONE AND ORDERED** in Tallahassee, Leon County, Florida this   18   day of  
  June  , 2020.



Boyd McAdams, Director  
Division of Florida Condominiums,  
Timeshares, and Mobile Homes  
Department of Business and  
Professional Regulation  
2601 Blair Stone Road  
Tallahassee, Florida 32399-1030

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of this Consent Order has been  
furnished by U. S. Mail to Sunstate Association Management Group, Inc., Registered  
Agent of Respondent, 5602 Marquesas Circle, Suite 103, Sarasota, Florida 34233 this  
22<sup>nd</sup> day of June, 2020.

  
\_\_\_\_\_  
Agency Clerk's Office

**Copies furnished to:**

John Waddell  
Investigator  
Bureau of Compliance

Jonathan James Damonte, Esq.  
12110 Seminole Blvd  
Largo, FL 33778