

IN THE CIRCUIT COURT OF ST. LOUIS COUNTY
STATE OF MISSOURI

CHARLOTTE SMITH and JOHN SMITH)	
)	
Plaintiffs,)	Case No.: 24SL-CC01168
)	
vs.)	Division:
)	
MARK E. GAVAN)	
)	
Defendant.)	

ANSWER TO PLAINTIFFS PETITION FOR DAMAGES

COMES NOW, Defendant Mark E. Gavan, representing himself pro se, answering to plaintiffs Petition for Damages, and states to this Honorable Court as follows:

As to paragraph 1-26, no comment.

As to paragraph 27, Defendant believes all statements made about the plaintiffs to be factually true.

As to paragraph 28, The First Amendment protects speech criticizing public officials (i.e. HOA Presidents) against civil defamation liability, unless the defendant acted with "actual malice", of which there have been no instances of such actual malice.

As to paragraph 29, Mrs. Smith uses her Board Member position having property repair decision-making authority for personal gain while also being a realtor transacting on realty deals in the same community in which she serves, which is a significant conflict of interest, and is a direct violation of the Code of Ethics for Autumn Lakes Association Board Members. Policy 1: Mrs. Smith acts outside of the boundaries of her authority as defined by law and the governing documents of the association by collecting compensation for the services she provides in working in the dual role of realtor and Board of Trustee. Policy 2: Mrs. Smith prioritizes her realty client building repairs over other homeowner repairs which conflicts with her Trustee role to strive at all times to serve the best interests of the association as a whole regardless of their personal interests. Policy 6: Mrs. Smith has escalated building repairs for her realty client to be completed the week of her realty Open House, whereas other homeowners have been waiting years for same or similar repairs—this is a significant conflict of interest being both a realtor and

Board Trustee in the same community, personally approving and prioritizing work orders for her realty clients over other homeowners. Policy 7: Mrs. Smith makes unauthorized promises to a contractor or bidder on behalf of the Board to escalate/prioritize her client's repairs. Policy 8: Mrs. Smith uses her Board positions or decision-making authority for personal gain by escalating repairs to her client's buildings so as to influence her sales opportunity and increase the commission (compensation) she earns on the realty transaction—a violation of performing her duties without bias for or against any individual or group of owners or non-owner residents. Policy 9: Spend unauthorized association funds for their own personal use or benefit (escalated repairs for her realty clients to increase her commission/compensation). Refer to exhibit

As to paragraph 30, please refer to the Autumn Lakes work order list for practically no maintenance or repairs performed during the pandemic and years 2019-2023. The Board acknowledged in our recorded HOA Meetings of this fact—refer to those recordings at autumnlakesuncensored.com. The Board claims the HOA has always had adequately funded Reserves and Operating Expenses, but they chose not spend the funds on maintenance or repairs for years. Mrs. Smith did, however, authorize the spending of funds on front entrance flowers, mulch, lawn care, all to enhance aesthetics during this timeframe. Mrs. Smith was on the Board for all of these years, serving as President for most if not all of this time. Additional evidence resides in the Autumn Lakes property repair records for the units in which Mrs. Smith was the realtor reflecting homeowner bias for repairs. Autumn Lakes Financial Statements and repairs history have not been disclosed prior to 2024 so they must be subpoenaed by defendant.

As to paragraph 31, defendant served on the Board for two months during 2023. He was not provided TownSq app authorizations to approve any homeowner repairs. He is not aware of any Board Trustee other than Mrs. Smith that had TownSq authorization or authority to approve or prioritize any repair orders. No approval authority or instruction/guidance is included in any policy. Board of Trustee policies do prohibit anyone but Mrs. Smith from speaking with SMG property management group or other 3rd party service providers without incurring a \$50 fine. Mrs. Smith has acknowledged that she submits repair orders on behalf of her clients—she also approves, prioritizes, and submits these repair orders to 3rd party contracting companies for the repairs to be completed on her schedule—a schedule and prioritization putting the repair ahead of all other homeowners awaiting the same or similar repairs. This is a conflict of interest and a flaw in procedural segregation of duties in any organization. Refer to exhibit

HOA policies do exist and mandate the following or result in Board sanctions: All communications with SMG must go through the Board President unless coordination has been assigned to another trustee by the President. All vendor communications, for example, current contracts, bids, direction to workers, etc must go through SMG or the Board President unless coordination has been assigned to another trustee by the President. Any trustee in violation of the Code of Ethics for Autumn Lakes Board Members will be assessed a \$50 fine per occurrence. Continued violations may result in Board sanctions. Refer to exhibit

As to paragraph 32, Steering is an illegal sales tactic by unethical realty professionals. Defendant is not an attorney and is unfamiliar with the legal aspects of the term. Refer to Exhibit

As to paragraph 33, it is correct that that Mrs. Smith is the President of our HOA, she presides over the HOA Board having final say on rules and on property repair approval/prioritization, she oversees the voting procedures and the decision to delay mailing the US Postal delivered HOA election ballots such that their delivery was after the date of the election, approves the HOA annual budget and how moneys are spent and revenues generated, and that she frequently disregards or intentionally misinterprets our governing documents to her and the Board's advantage and to the disadvantage of our HOA homeowner interests. Ample evidence exists of these facts, including HOA Meeting recordings and Gazette Newsletters, and homeowners willing to testify.

As to paragraph 34, it is common practice for Mrs. Smith to submit work orders and approve/prioritize them ahead of other homeowners, to increase the marketability of her realty listings, as favors and preferential treatment (i.e. bias/discrimination) to certain homeowners, and to increase the condo sales values of her clients thereby increasing her sales commission. This is a significant conflict of interest and in violation of many Board Ethics Policies. Other realtors do not have the luxury of being able to promise HOA completed repairs before a realty closing date—this is unethical and illegal discrimination of all other homeowners awaiting the same or similar repairs for a longer period of time. Refer to exhibit

As to paragraph 35, it is common practice for Mrs. Smith to submit work orders and approve/prioritize them ahead of other homeowners, to increase the marketability of her realty listings, as favors and preferential treatment (i.e. bias/discrimination) to certain homeowners, and to increase the condo sales values of her clients thereby increasing her sales commission. This is a significant conflict of interest and in violation of many Board Ethics Policies. Other realtors do not have the luxury of being able to promise HOA completed repairs before a realty closing date—this is unethical and illegal discrimination of all other homeowners awaiting the same or similar repairs for a longer period of time. Refer to exhibit

As to paragraph 36, it is correct that Mrs. Smith approaches condo owners about their interest in selling their units. She never misses an HOA occasion to market her realty company and her professional excellence. Mr. and Mrs. Smith both recently approached Autumn Lakes homeowner Rose Halbert in her front yard to market her company's realty services. Mrs. Smith sends US Postal realty advertisements to many Autumn Lakes homeowners soliciting her realty services. She represents herself in many realty settings that she is an HOA President. The lines are blurred by her actions between her being an HOA President and a condo realtor—this poses significant conflicts of interest to our HOA homeowner community.

As to paragraph 37, Mrs. Smith has conveyed to defendant on multiple occasions that homeowners are not interested in serving on the Board. Defendant has spoken with many homeowners that they are uninterested in serving on the Board alongside Mrs. Smith. When

Board seats vacate, Mrs. Smith must “appoint” replacement members that she has hand-picked. These appointees’ views seem to always be aligned with her views based on voting records. Mrs. Smith has conveyed that Board Members never dissent during votes until defendant’s arrival to the Board. It is defendant’s belief based upon personally witnessed behavior on multiple occasions, and also understood from other homeowner accounts, that Mrs. Smith has longtime suffered from dementia or other cognitive deficiency.

As to paragraph 38, defendant is very interested in Mrs. Smith’s responses to these questions.

As to paragraph 39, defendant responded to Mrs. Smith’s client’s email. As had already been explained to that client by a family friend and neighbor of their interested property, that a Special Assessment was under consideration by the Board. The \$10,000 was a calculated estimate to each homeowner, and would be also be assessed to them if they were the homeowner at the time the assessment was declared. This fact should have been disclosed on their Resale Certificate provided in the realty transaction contract. In defendant’s case, the disclosure was not included on his Resale Certificate from his own condo purchase so he was warning this client of their potential additional cost in purchasing this property.

As to paragraph 40, defendant has picketed within the community the Board’s illegal and unethical behavior that has also been reported to the MO Attorney General. Defendant utilizes social media for community awareness. Defendant will convey the problems of Autumn Lakes to the community by any means available, including the media press.

As to paragraph 41, it is common practice for Mrs. Smith to submit work orders and approve/prioritize them ahead of other homeowners, to increase the marketability of her realty listings, as favors and preferential treatment (i.e. bias/discrimination) to certain homeowners, and to increase the condo sales values of her clients thereby increasing her sales commission. This is a significant conflict of interest and in violation of many Board Ethics Policies. Other realtors do not have the luxury of being able to promise HOA completed repairs before a realty closing date—this is unethical and illegal discrimination of all other homeowners awaiting the same or similar repairs for a longer period of time. Refer to exhibit

As to paragraph 42, it is common practice for Mrs. Smith to submit work orders and approve/prioritize them ahead of other homeowners, to increase the marketability of her realty listings, as favors and preferential treatment (i.e. bias/discrimination) to certain homeowners, and to increase the condo sales values of her clients thereby increasing her sales commission. This is a significant conflict of interest and in violation of many Board Ethics Policies. Other realtors do not have the luxury of being able to promise HOA completed repairs before a realty closing date—this is unethical and illegal discrimination of all other homeowners awaiting the same or similar repairs for a longer period of time. Refer to exhibit

As to paragraph 43, it is defendant’s belief based upon personally witnessed behavior on multiple occasions, and also understood from other homeowner accounts, that Mrs. Smith has longtime

suffered from dementia or other cognitive deficiency. She habitually confuses her people, places, things, times, events—she misstates facts and confuses situations with other situations. This has been personally witnessed by the defendant, and it significantly impacts her decision-making ability, and is detrimental to our HOA. Her cognitive deficiency has been confirmed by Jay Black, another homeowner, who has stated that Mrs. Smith even years ago would confuse him with another Board Member, had stated in public venues that despite being on the Board for numerous years that our lakes were situated behind our Maintenance Garage (which there are not), and that it is common understanding by her church friends and congregation that her cognition has really deteriorated and that her husband has asked her to retire from the Board to focus on her health. Just recently it was conveyed by Kristin Williams and Cheryl Einsporn, both homeowners, that something is seriously wrong with Mrs. Smith. Jeff Yin, another homeowner, has stated that Mrs. Smith is “delusional”—refer to exhibit . Defendant has requested of Mrs. Smith on multiple occasions that she provide her most recent cognitive exam results for review by the HOA due to the amount of money she is ultimately responsible for being HOA President in a cognitively impaired condition.

As to paragraph 44, it is defendant’s belief based upon personally witnessed behavior on multiple occasions, and also understood from other homeowner accounts, that Mrs. Smith has longtime suffered from dementia or other cognitive deficiency. She habitually confuses her people, places, things, times, events—she misstates facts and confuses situations with other situations. This has been personally witnessed by the defendant, and it significantly impacts her decision-making ability, and is detrimental to our HOA. Her cognitive deficiency has been confirmed by Jay Black, another homeowner, who has stated that Mrs. Smith even years ago would confuse him with another Board Member, had stated in public venues that despite being on the Board for numerous years that our lakes were situated behind our Maintenance Garage (which there are not), and that it is common understanding by her church friends and congregation that her cognition has really deteriorated and that her husband has asked her to retire from the Board to focus on her health. Just recently it was conveyed by Kristin Williams and Cheryl Einsporn, both homeowners, that something is seriously wrong with Mrs. Smith. Jeff Yin, another homeowner, has stated that Mrs. Smith is “delusional”—refer to exhibit . Defendant has requested of Mrs. Smith on multiple occasions that she provide her most recent cognitive exam results for review by the HOA due to the amount of money she is ultimately responsible for being HOA President in a cognitively impaired condition.

As to paragraph 45 - 50, no comment.

As to paragraph 51, Mrs. Smith left voicemail messages following her husband’s supposed heart attack. Voicemails were left for the defendant, for homeowner Kristy Mox, and potentially for other homeowners and community members that Mrs. Smith was trying to deflect her personal responsibility for his heart condition rather than accepting the cause as being stress suffered from her own unethical/illegal activities, his age, his lack of physical activity, his eating habits and vices, his realty business in decline, his teaching career, the next HOA Meeting to occur that next day or two, his living with a demented narcissist, and the myriad of other more direct causes to

account for his physical condition. Ms. Mox's voicemail immediately followed her posting on NextDoor of Mrs. Smith's criminal history while residing in Texas due to its reputational impact to her realty business and position on the Board. The voicemail to defendant can be heard here: https://drive.google.com/file/d/1akugf3qf3ey0JQDdreF-wf3OuedC55C8/view?usp=drive_link

As to paragraph 52, it is common practice for Mrs. Smith to submit work orders and approve/prioritize them ahead of other homeowners, to increase the marketability of her realty listings, as favors and preferential treatment (i.e. bias/discrimination) to certain homeowners, and to increase the condo sales values of her clients thereby increasing her sales commission. This is a significant conflict of interest and in violation of many Board Ethics Policies. Other realtors do not have the luxury of being able to promise HOA completed repairs before a realty closing date—this is unethical and illegal discrimination of all other homeowners awaiting the same or similar repairs for a longer period of time. Refer to exhibit

As to paragraph 53, defendant is not at fault.

As to paragraph 54, defendant publishes what he believes to be the truth for his HOA community regarding the Board President's unethical and illegal behavior in representing their interests. Mrs. Smith's unethical and illegal discriminatory behavior while being a long-term Board Trustee has impacted her reputation and social associations.

As to paragraph 55, the Smiths have no way of knowing what might have been read by any individual on any social media site.

As to paragraph 56, based on current statistics, the Smith's reputation has not been impacted by the defendant. The Smith's do not appear to have not lost any realty listings or sales in Autumn Lakes based on published MLS data. Their MLS listings and sales exceed list price by 10 to 15%, and they have received significant commissions based on published MLS data. Picketing by the defendant has not impacted their sales, listings, or commissions, likely higher than otherwise would have been if they had removed their magnetic realty marketing signs from their vehicles to be compliant with Autumn Lake Indentures and Bylaws. The Smiths solicit realty business of homeowners by approaching neighborhood walkers and homeowners on their own condo properties, which is a violation of Autumn Lakes Ethics Policy, Indentures, and Bylaws. The Smith's tax returns and 1099 receipts likely support the MLS data and will be subpoenaed.

As to paragraph 57, it is common practice for Mrs. Smith to submit work orders and approve/prioritize them ahead of other homeowners, to increase the marketability of her realty listings, as favors and preferential treatment (i.e. bias/discrimination) to certain homeowners, and to increase the condo sales values of her clients thereby increasing her sales commission. This is a significant conflict of interest and in violation of many Board Ethics Policies. Other realtors do not have the luxury of being able to promise HOA completed repairs before a realty closing date—this is unethical and illegal discrimination of all other homeowners awaiting the same or similar repairs for a longer period of time. Refer to exhibit

As to paragraph 58, defendant is not at fault.

As to paragraph 59, defendant had presented what he believed to be the truth to his HOA community regarding the Board President's unethical and illegal behavior in representing their interests.

As to paragraph 60, the Smiths are not members of the private Facebook group, and they have no visibility as to whether any posts have been posted and/or viewed.

As to paragraph 61, based on current statistics, the Smith's reputation has not been impacted by the defendant. The Smith's do not appear to have not lost any realty listings or sales in Autumn Lakes based on published MLS data. Their MLS listings and sales exceed list price by 10 to 15%, and they have received significant commissions based on published MLS data. Picketing by the defendant has not impacted their sales, listings, or commissions, likely higher than otherwise would have been if they had removed their magnetic realty marketing signs from their vehicles to be compliant with Autumn Lake Indentures and Bylaws. The Smiths solicit realty business of homeowners by approaching neighborhood walkers and homeowners on their own condo properties, which is a violation of Autumn Lakes Ethics Policy, Indentures, and Bylaws. The Smith's tax returns and 1099 receipts likely support the MLS data and will be subpoenaed.

As to paragraph 62, Steering is an illegal sales tactic by unethical realty professionals. Defendant is not an attorney and is unfamiliar with the legal aspects of the term. Refer to Exhibit

As to paragraph 63, defendant is not at fault.

As to paragraph 64, Mrs. Smith's unethical and illegal discriminatory behavior while being a long-term Board Trustee has impacted her reputation and social associations.

As to paragraph 65, the Smiths are not members of the private Facebook group, and they have no visibility as to whether any posts have been posted and/or viewed.

As to paragraph 66, based on current statistics, the Smith's reputation has not been impacted by the defendant. The Smith's do not appear to have not lost any realty listings or sales in Autumn Lakes based on published MLS data. Their MLS listings and sales exceed list price by 10 to 15%, and they have received significant commissions based on published MLS data. Picketing by the defendant has not impacted their sales, listings, or commissions, likely higher than otherwise would have been if they had removed their magnetic realty marketing signs from their vehicles to be compliant with Autumn Lake Indentures and Bylaws. The Smiths solicit realty business of homeowners by approaching neighborhood walkers and homeowners on their own condo properties, which is a violation of Autumn Lakes Ethics Policy, Indentures, and Bylaws. The Smith's tax returns and 1099 receipts likely support the MLS data and will be subpoenaed.

As to paragraph 67, it is correct that that Mrs. Smith is the President of our HOA, she presides over the HOA Board having final say on rules and on property repair approval/prioritization, she oversees the voting procedures and the decision to delay mailing the US Postal delivered HOA election ballots such that their delivery was after the date of the election, approves the HOA annual budget and how moneys are spent and revenues generated, and that she frequently disregards or intentionally misinterprets our governing documents to her and the Board's advantage and to the disadvantage of our HOA homeowner interests. Ample evidence exists of these facts, including HOA Meeting recordings and Gazette Newsletters, and homeowners willing to testify.

As to paragraph 68, defendant is not at fault.

As to paragraph 69, Mrs. Smith's unethical and illegal discriminatory behavior while being a long-term Board Trustee has impacted her reputation and social associations.

As to paragraph 70, the Smiths are not members of the private Facebook group, and they have no visibility as to whether any posts have been posted and/or viewed.

As to paragraph 71, based on current statistics, the Smith's reputation has not been impacted by the defendant. The Smith's do not appear to have not lost any realty listings or sales in Autumn Lakes based on published MLS data. Their MLS listings and sales exceed list price by 10 to 15%, and they have received significant commissions based on published MLS data. Picketing by the defendant has not impacted their sales, listings, or commissions, likely higher than otherwise would have been if they had removed their magnetic realty marketing signs from their vehicles to be compliant with Autumn Lake Indentures and Bylaws. The Smiths solicit realty business of homeowners by approaching neighborhood walkers and homeowners on their own condo properties, which is a violation of Autumn Lakes Ethics Policy, Indentures, and Bylaws. The Smith's tax returns and 1099 receipts likely support the MLS data and will be subpoenaed.

As to paragraph 72, it is common practice for Mrs. Smith to submit work orders and approve/prioritize them ahead of other homeowners, to increase the marketability of her realty listings, as favors and preferential treatment (i.e. bias/discrimination) to certain homeowners, and to increase the condo sales values of her clients thereby increasing her sales commission. This is a significant conflict of interest and in violation of many Board Ethics Policies. Other realtors do not have the luxury of being able to promise HOA completed repairs before a realty closing date—this is unethical and illegal discrimination of all other homeowners awaiting the same or similar repairs for a longer period of time. Refer to exhibit

As to paragraph 73, defendant is not at fault.

As to paragraph 74, Mrs. Smith's unethical and illegal discriminatory behavior while being a long-term Board Trustee has impacted her reputation and social associations.

As to paragraph 75, the Smiths have no way of knowing who received any email or whether any email was read by any recipient.

As to paragraph 76, Mrs. Smith's unethical and illegal discriminatory behavior while being a long-term Board Trustee has impacted her reputation and social associations.

As to paragraph 77, it is common practice for Mrs. Smith to submit work orders and approve/prioritize them ahead of other homeowners, to increase the marketability of her realty listings, as favors and preferential treatment (i.e. bias/discrimination) to certain homeowners, and to increase the condo sales values of her clients thereby increasing her sales commission. This is a significant conflict of interest and in violation of many Board Ethics Policies. Other realtors do not have the luxury of being able to promise HOA completed repairs before a realty closing date—this is unethical and illegal discrimination of all other homeowners awaiting the same or similar repairs for a longer period of time. Refer to exhibit

As to paragraph 78, defendant is not at fault.

As to paragraph 79, Mrs. Smith's unethical and illegal discriminatory behavior while being a long-term Board Trustee has impacted her reputation and social associations.

As to paragraph 80, the Smiths have no way of knowing who may have read any website.

As to paragraph 81, based on current statistics, the Smith's reputation has not been impacted by the defendant. The Smith's do not appear to have not lost any realty listings or sales in Autumn Lakes based on published MLS data. Their MLS listings and sales exceed list price by 10 to 15%, and they have received significant commissions based on published MLS data. Picketing by the defendant has not impacted their sales, listings, or commissions, likely higher than otherwise would have been if they had removed their magnetic realty marketing signs from their vehicles to be compliant with Autumn Lake Indentures and Bylaws. The Smiths solicit realty business of homeowners by approaching neighborhood walkers and homeowners on their own condo properties, which is a violation of Autumn Lakes Ethics Policy, Indentures, and Bylaws. The Smith's tax returns and 1099 receipts likely support the MLS data and will be subpoenaed.

As to paragraph 82, it is correct that Mrs. Smith approaches condo owners about their interest in selling their units. She never misses an HOA occasion to market her realty company and her professional excellence. Mr. and Mrs. Smith both recently approached Autumn Lakes homeowner Rose Halbert in her front yard to market her company's realty services. Mrs. Smith sends US Postal realty advertisements to many Autumn Lakes homeowners soliciting her realty services. She represents herself in many realty settings that she is an HOA President. The lines are blurred by her actions between her being an HOA President and a condo realtor—this poses significant conflicts of interest to our HOA homeowner community.

As to paragraph 83, defendant is not at fault.

As to paragraph 84, Mrs. Smith's unethical and illegal discriminatory behavior while being a long-term Board Trustee has impacted her reputation and social associations.

As to paragraph 85, the Smiths are not members of the private Facebook group, and they have no visibility as to whether any posts have been posted and/or viewed.

As to paragraph 86, based on current statistics, the Smith's reputation has not been impacted by the defendant. The Smith's do not appear to have not lost any realty listings or sales in Autumn Lakes based on published MLS data. Their MLS listings and sales exceed list price by 10 to 15%, and they have received significant commissions based on published MLS data. Picketing by the defendant has not impacted their sales, listings, or commissions, likely higher than otherwise would have been if they had removed their magnetic realty marketing signs from their vehicles to be compliant with Autumn Lake Indentures and Bylaws. The Smiths solicit realty business of homeowners by approaching neighborhood walkers and homeowners on their own condo properties, which is a violation of Autumn Lakes Ethics Policy, Indentures, and Bylaws. The Smith's tax returns and 1099 receipts likely support the MLS data and will be subpoenaed.

As to paragraph 87, it is defendant's belief based upon personally witnessed behavior on multiple occasions, and also understood from other homeowner accounts, that Mrs. Smith has longtime suffered from dementia or other cognitive deficiency. She habitually confuses her people, places, things, times, events—she misstates facts and confuses situations with other situations. This has been personally witnessed by the defendant, and it significantly impacts her decision-making ability, and is detrimental to our HOA. Her cognitive deficiency has been confirmed by Jay Black, another homeowner, who has stated that Mrs. Smith even years ago would confuse him with another Board Member, had stated in public venues that despite being on the Board for numerous years that our lakes were situated behind our Maintenance Garage (which there are not), and that it is common understanding by her church friends and congregation that her cognition has really deteriorated and that her husband has asked her to retire from the Board to focus on her health. Just recently it was conveyed by Kristin Williams and Cheryl Einsporn, both homeowners, that something is seriously wrong with Mrs. Smith. Jeff Yin, another homeowner, has stated that Mrs. Smith is “delusional”—refer to exhibit . Defendant has requested of Mrs. Smith on multiple occasions that she provide her most recent cognitive exam results for review by the HOA due to the amount of money she is ultimately responsible for being HOA President in a cognitively impaired condition.

As to paragraph 88, defendant is not at fault.

As to paragraph 89, Mrs. Smith's unethical and illegal discriminatory behavior while being a long-term Board Trustee has impacted her reputation and social associations.

As to paragraph 90, the Smiths have no way of knowing who may have read any social media site.

As to paragraph 91, based on current statistics, the Smith's reputation has not been impacted by the defendant. The Smith's do not appear to have not lost any realty listings or sales in Autumn Lakes based on published MLS data. Their MLS listings and sales exceed list price by 10 to 15%, and they have received significant commissions based on published MLS data. Picketing by the defendant has not impacted their sales, listings, or commissions, likely higher than otherwise would have been if they had removed their magnetic realty marketing signs from their vehicles to be compliant with Autumn Lake Indentures and Bylaws. The Smiths solicit realty business of homeowners by approaching neighborhood walkers and homeowners on their own condo properties, which is a violation of Autumn Lakes Ethics Policy, Indentures, and Bylaws. The Smith's tax returns and 1099 receipts likely support the MLS data and will be subpoenaed.

As to paragraph 92, defendant is very interested in Mrs. Smith's responses to the questions.

As to paragraph 93, defendant is not at fault.

As to paragraph 94, Mrs. Smith's unethical and illegal discriminatory behavior while being a long-term Board Trustee has impacted her reputation and social associations.

As to paragraph 95, the Smiths have no way of knowing who may have read any social media site.

As to paragraph 96, based on current statistics, the Smith's reputation has not been impacted by the defendant. The Smith's do not appear to have not lost any realty listings or sales in Autumn Lakes based on published MLS data. Their MLS listings and sales exceed list price by 10 to 15%, and they have received significant commissions based on published MLS data. Picketing by the defendant has not impacted their sales, listings, or commissions, likely higher than otherwise would have been if they had removed their magnetic realty marketing signs from their vehicles to be compliant with Autumn Lake Indentures and Bylaws. The Smiths solicit realty business of homeowners by approaching neighborhood walkers and homeowners on their own condo properties, which is a violation of Autumn Lakes Ethics Policy, Indentures, and Bylaws. The Smith's tax returns and 1099 receipts likely support the MLS data and will be subpoenaed.

As to paragraph 97, defendant responded to Mrs. Smith's client's email. As had already been explained to that client by a family friend and neighbor of their interested property, that a Special Assessment was under consideration by the Board. The \$10,000 was a calculated estimate to each homeowner, and would be also be assessed to them if they were the homeowner at the time the assessment was declared. This fact should have been disclosed on their Resale Certificate provided in the realty transaction contract. In defendant's case, the disclosure was not included on his Resale Certificate from his own condo purchase so he was warning this client of their potential additional cost in purchasing this property.

As to paragraph 98, defendant is not at fault.

As to paragraph 99, Mrs. Smith's unethical and illegal discriminatory behavior while being a long-term Board Trustee has impacted her reputation and social associations.

As to paragraph 100, the Smiths have no way of knowing who may have read any social media site.

As to paragraph 101, based on current statistics, the Smith's reputation has not been impacted by the defendant. The Smith's do not appear to have not lost any realty listings or sales in Autumn Lakes based on published MLS data. Their MLS listings and sales exceed list price by 10 to 15%, and they have received significant commissions based on published MLS data. Picketing by the defendant has not impacted their sales, listings, or commissions, likely higher than otherwise would have been if they had removed their magnetic realty marketing signs from their vehicles to be compliant with Autumn Lake Indentures and Bylaws. The Smiths solicit realty business of homeowners by approaching neighborhood walkers and homeowners on their own condo properties, which is a violation of Autumn Lakes Ethics Policy, Indentures, and Bylaws. The Smith's tax returns and 1099 receipts likely support the MLS data and will be subpoenaed.

As to paragraph 102, defendant has picketed within the community the Board's illegal and unethical behavior that has also been reported to the MO Attorney General. Defendant utilizes social media for community awareness. Defendant will convey the problems of Autumn Lakes to the community by any means available, including the media press.

As to paragraph 103, defendant is not at fault.

As to paragraph 104, Mrs. Smith's unethical and illegal discriminatory behavior while being a long-term Board Trustee has impacted her reputation and social associations.

As to paragraph 105, the Smiths have no way of knowing who may have read any social media site.

As to paragraph 106, based on current statistics, the Smith's reputation has not been impacted by the defendant. The Smith's do not appear to have not lost any realty listings or sales in Autumn Lakes based on published MLS data. Their MLS listings and sales exceed list price by 10 to 15%, and they have received significant commissions based on published MLS data. Picketing by the defendant has not impacted their sales, listings, or commissions, likely higher than otherwise would have been if they had removed their magnetic realty marketing signs from their vehicles to be compliant with Autumn Lake Indentures and Bylaws. The Smiths solicit realty business of homeowners by approaching neighborhood walkers and homeowners on their own condo properties, which is a violation of Autumn Lakes Ethics Policy, Indentures, and Bylaws. The Smith's tax returns and 1099 receipts likely support the MLS data and will be subpoenaed.

As to paragraph 107, Mrs. Smith uses her Board Member position having property repair decision-making authority for personal gain while also being a realtor transacting on realty deals in the same community in which she serves, which is a significant conflict of interest, and is a direct violation of the Code of Ethics for Autumn Lakes Association Board Members. Policy 1: Mrs. Smith acts outside of the boundaries of her authority as defined by law and the governing documents of the association by collecting compensation for the services she provides in working in the dual role of realtor and Board of Trustee. Policy 2: Mrs. Smith prioritizes her realty client building repairs over other homeowner repairs which conflicts with her Trustee role to strive at all times to serve the best interests of the association as a whole regardless of their personal interests. Policy 6: Mrs. Smith has escalated building repairs for her realty client to be completed the week of her realty Open House, whereas other homeowners have been waiting years for same or similar repairs—this is a significant conflict of interest being both a realtor and Board Trustee in the same community, personally approving and prioritizing work orders for her realty clients over other homeowners. Policy 7: Mrs. Smith makes unauthorized promises to a contractor or bidder on behalf of the Board to escalate/prioritize her client's repairs. Policy 8: Mrs. Smith uses her Board positions or decision-making authority for personal gain by escalating repairs to her client's buildings so as to influence her sales opportunity and increase the commission (compensation) she earns on the realty transaction—a violation of performing her duties without bias for or against any individual or group of owners or non-owner residents. Policy 9: Spend unauthorized association funds for their own personal use or benefit (escalated repairs for her realty clients to increase her commission/compensation). Refer to exhibit

As to paragraph 108, defendant is not at fault.

As to paragraph 109, Mrs. Smith's unethical and illegal discriminatory behavior while being a long-term Board Trustee has impacted her reputation and social associations.

As to paragraph 110, the Smiths have no way of knowing who may have read any social media site.

As to paragraph 111, based on current statistics, the Smith's reputation has not been impacted by the defendant. The Smith's do not appear to have not lost any realty listings or sales in Autumn Lakes based on published MLS data. Their MLS listings and sales exceed list price by 10 to 15%, and they have received significant commissions based on published MLS data. Picketing by the defendant has not impacted their sales, listings, or commissions, likely higher than otherwise would have been if they had removed their magnetic realty marketing signs from their vehicles to be compliant with Autumn Lake Indentures and Bylaws. The Smiths solicit realty business of homeowners by approaching neighborhood walkers and homeowners on their own condo properties, which is a violation of Autumn Lakes Ethics Policy, Indentures, and Bylaws. The Smith's tax returns and 1099 receipts likely support the MLS data and will be subpoenaed.

As to paragraph 112, it is common practice for Mrs. Smith to submit work orders and approve/prioritize them ahead of other homeowners, to increase the marketability of her realty listings, as favors and preferential treatment (i.e. bias/discrimination) to certain homeowners, and to increase the condo sales values of her clients thereby increasing her sales commission. This is a significant conflict of interest and in violation of many Board Ethics Policies. Other realtors do not have the luxury of being able to promise HOA completed repairs before a realty closing date—this is unethical and illegal discrimination of all other homeowners awaiting the same or similar repairs for a longer period of time. Refer to exhibit

As to paragraph 113, defendant is not at fault.

As to paragraph 114, Mrs. Smith's unethical and illegal discriminatory behavior while being a long-term Board Trustee has impacted her reputation and social associations.

As to paragraph 115, the Smiths have no way of knowing who may have read any social media site.

As to paragraph 116, based on current statistics, the Smith's reputation has not been impacted by the defendant. The Smith's do not appear to have not lost any realty listings or sales in Autumn Lakes based on published MLS data. Their MLS listings and sales exceed list price by 10 to 15%, and they have received significant commissions based on published MLS data. Picketing by the defendant has not impacted their sales, listings, or commissions, likely higher than otherwise would have been if they had removed their magnetic realty marketing signs from their vehicles to be compliant with Autumn Lake Indentures and Bylaws. The Smiths solicit realty business of homeowners by approaching neighborhood walkers and homeowners on their own condo properties, which is a violation of Autumn Lakes Ethics Policy, Indentures, and Bylaws. The Smith's tax returns and 1099 receipts likely support the MLS data and will be subpoenaed.

As to paragraph 117, it is defendant's belief based upon personally witnessed behavior on multiple occasions, and also understood from other homeowner accounts, that Mrs. Smith has longtime suffered from dementia or other cognitive deficiency. She habitually confuses her people, places, things, times, events—she misstates facts and confuses situations with other situations. This has been personally witnessed by the defendant, and it significantly impacts her decision-making ability, and is detrimental to our HOA. Her cognitive deficiency has been confirmed by Jay Black, another homeowner, who has stated that Mrs. Smith even years ago would confuse him with another Board Member, had stated in public venues that despite being on the Board for numerous years that our lakes were situated behind our Maintenance Garage (which there are not), and that it is common understanding by her church friends and congregation that her cognition has really deteriorated and that her husband has asked her to retire from the Board to focus on her health. Just recently it was conveyed by Kristin Williams and Cheryl Einsporn, both homeowners, that something is seriously wrong with Mrs. Smith. Jeff Yin, another homeowner, has stated that Mrs. Smith is “delusional”—refer to exhibit . Defendant has requested of Mrs. Smith on multiple occasions that she provide her most recent cognitive

exam results for review by the HOA due to the amount of money she is ultimately responsible for being HOA President in a cognitively impaired condition.

As to paragraph 118, defendant is not at fault.

As to paragraph 119, Mrs. Smith's unethical and illegal discriminatory behavior while being a long-term Board Trustee has impacted her reputation and social associations.

As to paragraph 120, the Smiths have no way of knowing who may have read any social media site.

As to paragraph 121, based on current statistics, the Smith's reputation has not been impacted by the defendant. The Smith's do not appear to have not lost any realty listings or sales in Autumn Lakes based on published MLS data. Their MLS listings and sales exceed list price by 10 to 15%, and they have received significant commissions based on published MLS data. Picketing by the defendant has not impacted their sales, listings, or commissions, likely higher than otherwise would have been if they had removed their magnetic realty marketing signs from their vehicles to be compliant with Autumn Lake Indentures and Bylaws. The Smiths solicit realty business of homeowners by approaching neighborhood walkers and homeowners on their own condo properties, which is a violation of Autumn Lakes Ethics Policy, Indentures, and Bylaws. The Smith's tax returns and 1099 receipts likely support the MLS data and will be subpoenaed.

As to paragraph 122, it is defendant's belief based upon personally witnessed behavior on multiple occasions, and also understood from other homeowner accounts, that Mrs. Smith has longtime suffered from dementia or other cognitive deficiency. She habitually confuses her people, places, things, times, events—she misstates facts and confuses situations with other situations. This has been personally witnessed by the defendant, and it significant impacts her decision-making ability, and is detrimental to our HOA. Her cognitive deficiency has been confirmed by Jay Black, another homeowner, who has stated that Mrs. Smith even years ago would confuse him with another Board Member, had stated in public venues that despite being on the Board for numerous years that our lakes were situated behind our Maintenance Garage (which there are not), and that it is common understanding by her church friends and congregation that her cognition has really deteriorated and that her husband has asked her to retire from the Board to focus on her health. Just recently it was conveyed by Kristin Williams and Cheryl Einsporn, both homeowners, that something is seriously wrong with Mrs. Smith. Jeff Yin, another homeowner, has stated that Mrs. Smith is “delusional”—refer to exhibit . Defendant has requested of Mrs. Smith on multiple occasions that she provide her most recent cognitive exam results for review by the HOA due to the amount of money she is ultimately responsible for being HOA President in a cognitively impaired condition.

As to paragraph 123, defendant is not at fault.

As to paragraph 124, Mrs. Smith's unethical and illegal discriminatory behavior while being a long-term Board Trustee has impacted her reputation and social associations.

As to paragraph 125, the Smiths have no way of knowing who may have read any social media site.

As to paragraph 126, based on current statistics, the Smith's reputation has not been impacted by the defendant. The Smith's do not appear to have not lost any realty listings or sales in Autumn Lakes based on published MLS data. Their MLS listings and sales exceed list price by 10 to 15%, and they have received significant commissions based on published MLS data. Picketing by the defendant has not impacted their sales, listings, or commissions, likely higher than otherwise would have been if they had removed their magnetic realty marketing signs from their vehicles to be compliant with Autumn Lake Indentures and Bylaws. The Smiths solicit realty business of homeowners by approaching neighborhood walkers and homeowners on their own condo properties, which is a violation of Autumn Lakes Ethics Policy, Indentures, and Bylaws. The Smith's tax returns and 1099 receipts likely support the MLS data and will be subpoenaed.

As to paragraph 127, defendant is not at fault.

As to paragraph 128, Mrs. Smith's unethical and illegal discriminatory behavior while being a long-term Board Trustee has impacted both Smiths' reputation and social associations.

As to paragraph 129, defendant did not know Mr. Smith, nor had any relationship with Mr. Smith, and therefore had no reasonable expectation of any emotional or physical distresses with him.

As to paragraph 130, Mrs. Smith left voicemail messages following her husband's supposed heart attack. Voicemails were left for the defendant, for homeowner Kristy Mox, and potentially for other homeowners and community members that Mrs. Smith was trying offlay the responsibility rather than accepting the cause being stress from her own unethical/illegal activities, his age, his lack of physical activity, his eating habits and vices, his realty business in decline, his teaching career, the next HOA Meeting to occur within a day or two, his living with a demented narcissist, and the myriad of other more direct causes to account for his physical condition. Ms. Mox's voicemail was following her posting on NextDoor of Mrs. Smith's criminal history while residing in Texas and with its reputational impact to her realty business and position on the Board. The voicemail to defendant can be heard here:
https://drive.google.com/file/d/1akugf3qf3ey0JQDdreF-wf3OuedC55C8/view?usp=drive_link

As to paragraph 131, Mrs. Smith left voicemail messages following her husband's supposed heart attack. Voicemails were left for the defendant, for homeowner Kristy Mox, and potentially for other homeowners and community members that Mrs. Smith was trying offlay the responsibility rather than accepting the cause being stress from her own unethical/illegal activities, his age, his lack of physical activity, his eating habits and vices, his realty business in

decline, his teaching career, the next HOA Meeting to occur within a day or two, his living with a demented narcissist, and the myriad of other more direct causes to account for his physical condition. Ms. Mox's voicemail was following her posting on NextDoor of Mrs. Smith's criminal history while residing in Texas and with its reputational impact to her realty business and position on the Board. The voicemail to defendant can be heard here:
https://drive.google.com/file/d/1akugf3qf3ey0JQDdreF-wf3OuedC55C8/view?usp=drive_link

As to paragraph 132, defendant was not at fault.



CODE OF ETHICS FOR AUTUMN LAKES ASSOCIATION BOARD MEMBERS

Board Members Agree to:

1. Act within the boundaries of their authority as defined by law and the governing documents of the association.
2. Strive at all times to serve the best interests of the association as a whole regardless of their personal interests.
3. Use sound judgement to make the best possible business decisions for the association, taking into consideration all available information, circumstances, and resources.
4. Always speak with one voice, supporting all duly adopted board decisions – even if the board member was in the minority regarding actions that may not have obtained unanimous consent.
5. Provide opportunities for owners to comment or question board actions during the open forum of any scheduled meeting.
6. Perform their duties without bias for or against any individual or group of owners or non-owner residents.
7. Disclose personal and professional relationships with any company or individual who has or is seeking to have a business relationship with the association.
8. Conduct open, fair, and well-publicized elections.

Board members agree not to:

1. Advocate or support any action or activity that violates a law or regulatory requirement.
2. Divulge personal information about any association owner, resident, or employee that was obtained in the performance of board duties.
3. Share preliminary/final financial information or preliminary/final decision making prior to an agreement by the majority of the board that information is ready to be disclosed, and how to disclose it.
4. Misrepresent known facts in any issue involving association business.
5. Reveal to any owner, resident, or other third party, the discussions, decisions, and comments made at any meeting or discussion of board members regarding association issues.
6. Reveal confidential information provided by contractors or share information with those bidding for association contracts unless specifically authorized by the board.
7. Make unauthorized promises to a contractor or bidder.
8. Use their positions or decision-making authority for personal gain.
9. Spend unauthorized association funds for their own personal use or benefit.
10. Accept any gifts – directly or indirectly – from owners, residents, contractors, or suppliers, except for inconsequential gifts (under \$25) given to all board members.
11. Make personal attacks on colleagues, staff, employees, owners or residents through any means.
12. Harass, threaten, or attempt through any means to control or instill fear in any board member, owner, resident, employee, or contractor.
13. Any trustee in violation of the Code of Ethics for Autumn Lakes Board Members will be assessed a \$50 fine per occurrence. Continued violations may result in Board sanctions.

Board Member Signature

Date Signed



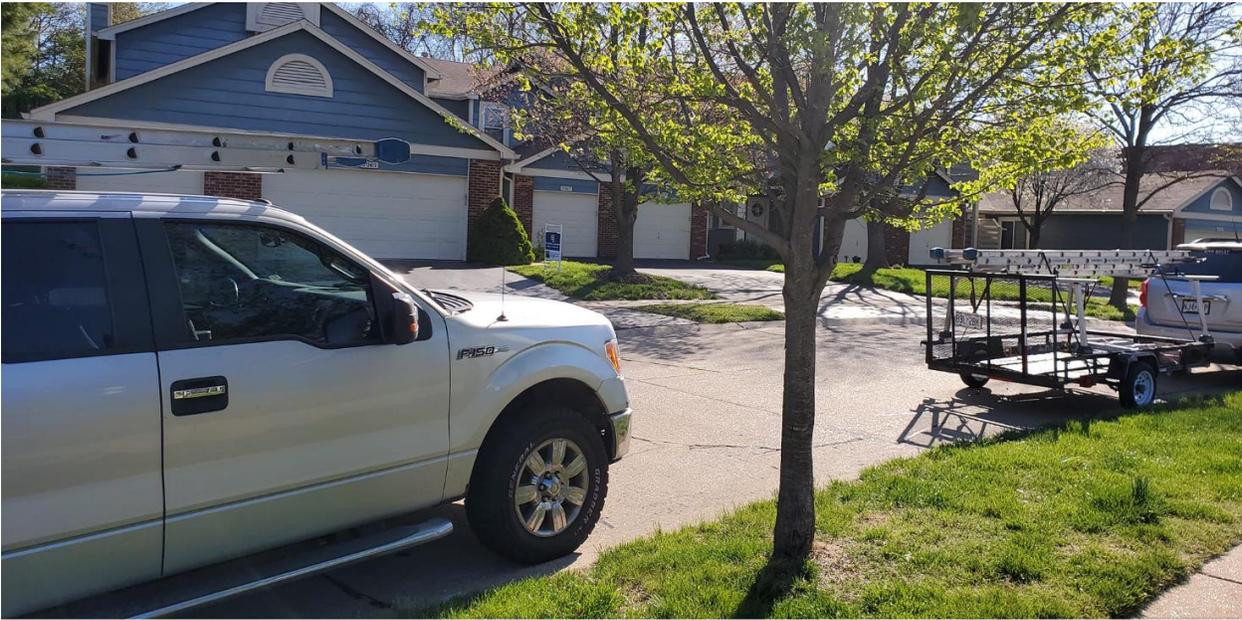
Adopted from the Model Code of Ethics for Community Association Board Members

Exhibit 2

Autumn Lakes Bylaws, ala_declaration_bylaws-7267-978-1003.pdf, page 8.

Section 3: Compensation: No director shall receive compensation for any services he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

Exhibit 3



Mark Gavan [Author](#)

And why prioritize this fireplace rebuild when they cannot even burn wood. Because ss wants the building to "look" perfect to sell her condo at a higher commission. The Facade! This is conflict of interest, and violates about 6 of our Board Ethics Policies!

22h Like Reply Edited



Sue Emrich

I hope everyone who needs repairs done calls for an update on their work order

22h Like Reply



Sue Emrich

And she doesn't seem to care that we can all see. That's just weird.

22h Like Reply



Emily Christian

Jake Sinovich how is this condo getting two work order fulfilled before our work order?

19h Like Reply



Mark Gavan [Author](#)

Emily Christian they have a realtor on the Board.

19h Like Reply



Jake Sinovich

Sue Emrich yep, all her shit got done. I drove by and looked... chimney stack boarding/trim is fresh and new....meanwhile....mine is completely rotted away and a work order has been submitted for it 3x now over 3 years.

Jeff Yin

I'm tired. This is beyond blatant. She is delusional

1h Like Reply

Jeff Yin

Jake Sinovich send in a work order every day. Email them directly to the management company as well. She probably intercepts any work orders that are submitted the "official" way.

Jake Sinovich

This chimney is getting repaired and mine isn't? I've walked this neighborhood and looked everyone's and ours is hands down, the WORST. After submitting multiple work orders over a 3 year period....we get nothing.



3d Like Reply



Mark Gavan **Author**

Jake Sinovich she is not your realtor so you are undeserving.



3d Like Reply



Laura Flsher

Jake Sinovich Maybe you have to list for sale to get it fixed....??



3d Like Reply

Jerris A. Collins-Ruth

We need to see the date on the work orders. Ss has been working on this unit over a month. Check to see what else got done ahead if AL owners. This place is vacant.

Jerris A. Collins-Ruth

Again this was moved ahead if living in AL home owners



3d Like Reply



Mark Gavan **Author**

Jerris A. Collins-Ruth I don't think so, because that would be yet another ethics violation: "6. Perform their duties without bias for or against any individual or group of owners or non-owner residents."

3d Like Reply



Laura Flsher

And my neighbor has had a long-standing work order to check on leak in her chimney — so surely not putting property to sell ahead of homeowners living here with prior requests.

3d Like Reply



Jerris A. Collins-Ruth

Laura Flsher ridiculous. Sick of the discrimination.



Jake Sinovich

Shah needs to be outed in may. This is absolute bullshit that her work orders get completed over everyone else's like we don't notice.

3d Like Reply



Mark Gavan Author

Jake Sinovich Ethics Policy #6: Board is to "Perform their duties without bias for or against any individual or group of owners or non-owner residents."

3d Like Reply



Jerris A. Collins-Ruth

Demand to see the work order. Check the date. All for \$\$\$\$ in someone's pocket



Alison Fisher

That's funny because I put in two work orders to have a gap in my siding fixed where a cable box (that I don't even use) has separated from the building. I was told to fix it myself! 😞

49m [Like](#) [Reply](#)

1 



Mark Gavan

[Alison Fisher](#) discrimination is illegal.

46m [Like](#) [Reply](#)



Mark Gavan [Author](#)

[Alison Fisher](#) I was told the landscape bricks between my and my neighbor's entryways was my responsibility. They are discriminating against those of us that are against the Board. They are doing the same to Jake/Emily and many others.

Just now [Like](#) [Reply](#)

Mark Gavan [Author](#)

She fixed that neighbor's chimney in return for being able to use their driveway for the realty showings since no parking allowed anywhere in the street. Quid pro quo. Discrimination is illegal. Cherry-picking repair orders based on personal favors to the detriment of all other homeowners. Violates so many Ethics Policies and our Indentures.

Exhibit 4

Meeting Minutes of June 17, 2023

<p>AUTUMN LAKES ASSOCIATION EXECUTIVE SESSION June 17, 2023, 4:30 PM SHAH'S HOUSE 3134 AUTUMN TRACE Dr. MARYLAND HEIGHTS MO</p>

The meeting started on time.

Present: Shah Smith – President, Laura Farkas – Vice President, Retta Morcom – Secretary, Madonna Esposito - Trustee, Mark Gavan – Absent.

Retta requested add-on to agenda – Landscaping, Madonna seconded.

Favor = All Nays = None Motion carried

Shah requested add-on to agenda – Processes, Madonna seconded.

Favor = All Nays = None Motion carried

COMMUNICATION

1. How we communicate with one another:

Discussion: Mark sent the trustees a request stating that he did not to be included on phone/text or other distribution lists. It is not clear on what distribution lists; however, he will be able to revise his statement at a later date. Communication between trustees normally occurs by phone, text, in-person, or email. No trustee should be sending demanding, threatening emails to other trustees. Emails should be kept professional. Sharing information about homeowners amongst the trustees is ok.

Laura made a motion: ***Trustees will accept Mark's request not to be included on phone/text messages, or on distribution lists.***

Madonna seconded.

Favor = All Nays = None Motion carried

2. How we communicate with Smith Management Group (SMG):

Discussion: We need to ensure that SMG is not swamped with multiple requests from trustees, or involved in board discussions before a direction has been decided upon. The board needs to speak with one voice. The Board president is the SMG contact person.

Laura made a motion: ***All communications with SMG must go through the Board President unless coordination has been assigned to another trustee by the President.***

Madonna seconded.

Favor = All Nays = None Motion carried

3. How we communicate with and about homeowners:

Discussion: We need to ensure the owners' right to privacy. The information they have provided beyond their mailing address should only be used for Board sanctioned activities only.

Shah made a motion: ***The Town Square owner directory is confidential information. Owners should be contacted through the information in our records for Board sanctioned purposes only.***

Retta seconded.

Favor = All Nays = None Motion carried

4. How we communicate with Vendors/Contract employees:

Discussion: It is important that the board speak to vendors/contract employees with one voice. Directions and requests coming from multiple directions can be confusing for everyone. Communications may include work orders, contract agreements, work direction, bids, etc.

Madonna made a motion: ***All vendor communications, for example, current contracts, bids, direction to workers, etc must go through SMG or the Board President unless coordination has been assigned to another trustee by the President.***

Laura seconded.

Favor = All Nays = None Motion carried

PROCESSES

Discussion: Much of the work prior boards have done has been informally agreed upon (for instance things like Board responsibilities, pool operations, tree care, work order priorities, communication to owners about the responsibility grid, committee tasks, warnings about violations, etc.). With a board that worked cohesively together these processes were easily shared in an informal manner. Last year, we did start writing some of these down, so that as the board makeup changes overtime, there would be continuity or at least of history of how things were handled. Madonna suggested we begin formulating Standard Operating Procedures (SOPs) for the processes we have already been following, and determine what other processes should be included. The group agreed that this could be very helpful when trying to quickly on-board new trustees or committee chairs to avoid misunderstandings. Such a packet could be put together

as part of a board training packet to be signed off on by new trustees. Madonna is going to begin putting the ones we have already written into an SOP format, which the board will vote on at a later date.

July 8th COMMUNICATION FOCUS GROUP

Discussion: Mark presented in a meeting July 1, 2023 “Proposed Approach to Develop Communication Strategy.” The Board voted to setup a focus group with the following parameters: (1) each trustee was to invite four owners-to include diversity in age and length of ownership. (2) The purpose of the meeting was to hold a brainstorm/discussion session to talk about how communications are occurring, should be occurring and improvement suggestions (3) Mark was to facilitate. Shortly after that exec session, the trustees received emails from Mark indicating he was personally inviting a larger number of owners than was agreed upon with no explanation. When asked why and how he planned to facilitate and be the scribe, he stated he was no longer interested in facilitating this meeting but planned to participate as a member of the audience. Feedback from some of the invited owners was that people might be more open if board trustees were not present in the focus group. We could receive the information from the session, and then discuss how we can best meet the suggestions of the focus group in a future exec session. A report on both the focus group and the board’s response could be made at the July meeting. After much discussion the Board decided we should still go forward with the communication focus group meeting, with the only board member present being Retta as the scribe. The Board is still working on obtaining an experienced facilitator at no cost.

Retta made a motion: ***The Communication Focus Group will consist of 20 owners (each trustee will invite 4 diverse owners.) Retta Morcom will be the scribe, and an experienced facilitator is to be determined. No other trustees will attend the session.***

Madonna seconded

Favor = All Nays = None Motion carried

WORK ORDERS

Discussion: Work orders come in from owners, SMG, Chris and Trustees. They are reviewed by SMG and the President to make sure that they are actually association responsibilities. They are then assigned by SMG or the President to Chris, or added on Chris’s designated list (being completed over the summer), to an Associa on Call worker, or it may be designated to work to be done by contract. This protocol is addressed above.

BOARD CODE OF ETHICS

Discussion: There are concerns that some of the code of ethics is not being followed. Mark sent a list of items he wanted addressed. The Trustees held a discussion about both his claims and their own claims. The Trustees' claims are well documented.

BOARD MEMBERS AGREE TO

#2: Mark: Favoritism: owners allowed to become delinquent, owners allowed to plant private gardens beyond 10 feet of the building, many instances of favoritism cited.

Trustees agreed that these were not instances of favoritism. Mark is aware of the steps being taken to address delinquencies. He is also aware that exceptions to the rules are sometimes made by the board, not by favoritism, but for valid reasons. There have been no other instances of favoritism by this board cited by Mark, although he has made these repeated claims to the board and on FB without specifics.

*Trustees: There have been many instances, documented on Mark's FB page, in meetings, and in emails sent to the trustees, that Mark has stated that his sole purpose for being on the board is to fire SMG and get the other trustees to quit. Even when he has been asked by owners, in person and in writing, to stop with the attacks on board members, owners he disagrees with, and the community as a whole, he has continued to do so. Although he has been asked repeatedly to refrain from making derogatory, unfair, and unsubstantiated comments on FB, he has stated that he will do whatever the #@*1 he wants, and won't be bound by the code of ethics he signed. This is in blatant disregard of the best interests of the association and community.*

#3 Mark: Allowing delinquencies, ignoring work orders, not forming committees, not fixing budgeted repairs from reserves, etc. Trustees agreed that Mark does not appear to understand the committees, budget, or work order process, and gave no valid examples of work orders being ignored (delayed, but not ignored). He is aware of the steps that have been taken over the last year to correct financials, and just doesn't accept that all financials and delinquencies have been under review both before and after he came on the board.

#4 Trustees: Mark has used his FB to undermine board decisions and discussions. He has not followed the speaking with one voice agreement.

#6 Mark: Repeated #2, Trustees agreed this had already been addressed in #2.

#8 Mark: Failure to timely send ballots, no publicizing of election on front entry signage, failure to communicate quorum requirements, failure to timely communicate to candidates of other candidates dropping out.

Trustees agreed that the election packages were sent out by mail per the indentures, just as they are every year. There were two people who called and stated they did not get their packet and they were issued new packets. Extra ballots were also available on the night of the election. Elections are noted in the Gazette, our regular form of owner notice, and are the indentures. There has never been the need to post additional reminders on the bulletin board. This year we did add a Meet the Candidates Forum, the

minutes of which were included in the election packet. No trustee received a request to list the quorum requirements, although apparently Mark, and others stated misinformation on his FB page. The information is in the indentures. As far as notification of candidates dropping out, one candidate recalled her candidacy a day and a half before the Candidates Forum. The other dropped out twenty minutes before the Forum. In the past, notification of who is running happened with the issuance of ballots. Those who came to the Candidates forum did get early notice this year.

BOARD MEMBERS AGREE NOT TO:

#2 Trustees: *Mark has divulged personal information about owners on his FB page and chat room.*

#3 Trustees: *Mark has posted emails sent to him as a trustee on his FB page, asking questions or making comments that put into question the work and discussions of the board.*

#4 Trustees: *Mark has misrepresented known facts about association business by asking questions he knows the answers to and reasons for - solely to incite owners.*

#5 Trustees: *Mark, as a trustee spoke with at least two owners and misrepresented what was said to him (per those owners).*

#6 Trustees: *Mark attempted to get proprietary information about our 2022-23 snow removal vendor so that he could "negotiate" a better deal with a prior contractor. He was only given permission to see if he could smooth things over with the prior contractor. This would have been unethical, and he could not negotiate separately with vendors.*

#7 Trustees: *Mark made unauthorized promises to the prior snow removal contractor stating that he would "walk through" invoices in the future. He also attempted to circumvent the contract process with a Solitude worker by suggesting that he should be the contact person if there were any problems.*

#8 Mark: *Being an HOA Board Member and a buy/sell real estate agent within the same property is inherently an ethical conflict of interest.* Trustees: *Shah's protection of owner information has been discussed in meetings with Mark in attendance several times. It has been noted that many HOAs have Real estate agents on their board. If the Real estate agent is not using information from Board sources to contact owners, this is not a conflict of interest (and Shah has shared her division of owner information process with Mark and other owners). No owner who has not freely given email or phone numbers to JohnandShahSTL has been contacted by phone or email. All mailing information comes from the county records that all real estate agents use. It was also noted that AMC had at least two real estate agents actively working in Autumn Lakes.*

#11 Mark: *Plenty of personal attacks on Mark via email.* Trustees agree there is no documentation of personal attacks from trustees via email, although he has been asked to follow protocol and refrain from threatening residents and fellow trustees.

Trustees: All agree that there are many documented cases of Mark making personal attacks on board members, owners, residents, employees, and contractors, primarily

through his FB page, but also in documented emails. He has repeatedly been asked not to just try and make work for other board members by sending pictures and making incorrect claims.

#12 Mark: *Plenty of attempts to control Mark and others verbally and in writing. The same answer as #11. The only attempt to control Mark is asking him to refrain from making false and misleading statements on FB, to owners/residents and to fellow trustees, and to request him to be an active trustee on committees like the other trustees, which he has refused to do-calling these committees unimportant.*

Trustees: To the contrary, there are documented cases of Mark threatening (to remove other trustees and take their place), harassing on FB (including name calling trustees, neighbors and the management company), attempting to control or instill fear (by threatening other trustee's veracity).

Trustees agreed that there is a large gap between what Mark is claiming to take place and what is actually taking place. His continued attacks, innuendos, and false statements are hurting the community, and do not represent what is expected of a trustee with the community's best interests in mind.

Shah made a motion: ***Any trustee in violation of the Code of Ethics for Autumn Lakes Board Members will be assessed a \$50 fine per occurrence. Continued violations may result in Board sanctions.***

Laura seconded.

Favor = All Nays = None Motion carried

FINANCIAL UPDATE

There are now no unanswered questions about the 2022 Financials. As expected, the question about the \$75,000 was a clerical error that did not reflect any intentional misrepresentation of the finances. Laura will be preparing a more formal report for the board. She is continuing to work with the new Community Manager and accounting to insure that all invoices are being properly split or assigned to the right GL.

LANDSCAPING

Laura has 2 bids on the bush replacements. Schmittels included some changes but was much higher as well. She is waiting for a clarification from Lawn Groomers

Laura made a motion: **The board will approve \$4,000 of \$7,500 budgeted amount for existing plant order replacements.**

Madonna seconded.

Favor = All Nays = None Motion carried

INSURANCE

The trustees have a lot of concern about obtaining a new broker and a new insurance policy given that Middle Oaks is moving out of the condominium insurance realm, and Jim Walsh handed our account over to McGowan Company who is still not responding to requests from SMG. SMG is setting up a meeting for the board to talk with the CAI Insurance Crisis presenters: Stephen Davis (Carmody law firm) and Jim Ruebsam (Daniel Henry Insurance and Risk Management). This will be followed by a town hall meeting to explain the current insurance climate to homeowners. In the meantime, time is of the essence to get underway searching for a new insurance provider. While the board needs a good understanding of the insurance, the bid process itself is handled by the property management company, not the trustees.

Laura made a motion: ***SMG to start the bid process for a new broker and insurance company.***

Madonna seconded.

Favor = All Nays = None Motion carried

The meeting ended at 7:25 pm.



Mark Gavan

July 14, 2023 · 🌐



Our HOA President has highlighted some of her own "conflicts of interest" below. Nails in her own coffin. You be the judge.

Mark's continuous accusation that there is a conflict of interest because I am a real estate agent and on the board, is completely unfounded. Many real estate agents serve on HOA boards and bring value. It has come to my attention that today, Mark Gavan posted the following letter addressed on his nasty "uncensored" facebook page. He has been attacking and maligning me and other board members for months now on his facebook page, NextDoor and on a one-on-one basis with some individuals. We don't respond to him on social media, but this latest unwarranted attack will be addressed with a lawyer. "Board, It has come to my attention that Shah has two new Listings in Autumn Lakes where she has committed to completing HOA repairs prior to their home closings. This is a blatant conflict of interest--it is discrimination and is extremely unethical if not also illegal. Nobody on this Board can put personal monetary motives ahead of the good of our owners. This is unacceptable behavior and I demand that Shah resign from our Board immediately. Failure to resign by end of business July 14, 2023, will result in further actions being taken against her for both civil and legal crimes. Sincerely, Mark Gavan Trustee" While I don't feel the need to address a response to him directly, I do want to make sure that others are aware of the facts, and just how far off the mark he is. I FACT 1: Contrary to his accusation, I do not have any listings in Autumn Lakes at this time. I have however been approached by several families of deceased owners who are considering listing with me and trying to prepare their condos for sale. I fully expect that I will earn those listings, not because I put in routine work orders for them as a member of the board, but because I am a successful and conscientious Realtor. FACT 2: I met with one set of family members this morning. I did my normal real estate assessment of the property to give them practical advice for what they may want to do to enhance the sale of the property. Giving them my opinion does not require them to list with me. I often do that for owners who aren't even thinking about selling right now. During my assessment I saw that there were three water damaged areas on the ceiling - although they appeared to be from old leaks. This damage to the roofs and any resulting interior damage is the responsibility of the association. Had I been in a different condominium complex I would have suggested they turn a work order in to their management company. Because I am on the board here, I went ahead and asked SMG to check the records to see if the roof had been repaired. If no repairs are evident, then a roofing company will be dispatched to do any necessary repairs - as usually happens. There was no special treatment given. The fact is that these family members do not have access to TownSquare and I do. Even if the roof was repaired previously, it is very possible that the owner, for various reasons, never turned in a work order for the interior repairs. Once it is determined that the roof is no longer leaking, the association will proceed to have the interior damage fixed, as the association always does. It is the usual followup procedure. I regularly act in a reporting capacity for other owners, so this was no different. I met with another family this evening. During that assessment I found out that they were under the mistaken impression that everything on the exterior, including the deck, would be the association's responsibility to fix prior to their sale. This is not accurate. I did not ask them who gave them this false information. As a member of the board, I did tell them that I saw a piece of window trim that needs immediate repair, and a rotten piece of chimney trim that also needs repair. Again, as they are not on Town Square, I turned in a work order for them. I further explained that some of the other siding issues we saw are already a part of the master list for repairs. None of these were major, so I explained that they will be fixed as the building is fixed as a whole. There were several gutter issues that the owner had asked AMC to fix for years. AMC had jerry-rigged a fix that hasn't worked. The two areas will be looked at by Chris on his routine work list. No special treatment there. I acted responsibly both as a real estate agent and as a board member in assisting this family. . Thanks, for listening. If you have questions, please do not hesitate to call me.and by the way contrary to Mark's reporting on facebook, while I won't be resigning, I will be asking him for his resignation. Shah



Shah S.

Autumn Lakes · 9h · 

While on occasion I have entered work orders for elderly owners, owners who aren't on the internet or portal, or because I've seen something that needs doing, I do this to be helpful. Any owner can do this. I have never put a work order on one of my client's properties to the front of the line". No one could cite an actual example because it has never happened.

As to a recent ND complaint w/picture made claiming I had done so, that work order was for a property next door to one of my listings. Her family had sent in the request with pictures. The owner is elderly and had a large hole in her siding (possibly critter related). The area wasn't even visible from my listing.

He can't have it both ways. - claiming no work is being done and then showing work being done. Lots of siding repair work has and is being done, with the worst jobs being tackled first. Is there more? Absolutely - and most of it stems from the poor work done by the management company that was here 20+ years. This is the company he and his cohorts keep saying was perfect.

This same individual has been interfering with potential buyers (actual reports of him approaching and trying to tell them why they should NOT buy here), waving his protest signs on McKelvey and littering the neighborhood with his "business" cards. Potential buyers have said they don't want to move into a neighborhood with this kind of "nutcase" running around.

Autumn Lakes is a wonderful place to live. 97% of the people who live here are unstanding owners who care



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Autumn Lakes is a wonderful place to live. 97% of the people who live here are upstanding owners who care about their properties and their neighbors. It's a shame that less than 3% of the residents (primarily one individual supported by a few others) can make so much noise, wasting the Board's time, increasing costs, and bringing the AL reputation and values down in the eyes of the larger community and attempting to paint the board and me in a false light. We will get past this when the ownership speaks up.

Owners will have an opportunity to question candidates next Sunday, and vote in the upcoming election May 15. Hopefully, candidates will be judged not by what they "promise" but by what they have actually done, particularly in the last year.



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Exhibit 5



Mark Gavan

September 10, 2023 · 🌐



In real estate terms, what is Steering? <illegal>

What is steering?

In a real estate context, steering is an illegal form of housing discrimination. The federal [Fair Housing Act](#), passed in 1968 as part of the larger Civil Rights Act, prohibits real estate professionals from participating in this practice. This means they may not “steer” buyers either toward or away from neighborhoods based on any of the following:

- Race
- Color
- Religion

Exhibit 6

December 5, 2023

To Whom it May Concern at the Missouri Real Estate Commission:

I am bringing to your attention Ms. Charlotte E. Smith (aka Shah Smith), License number 2016013632, and Mr. John E. Smith, License number 2016021465, realtors with Coldwell Banker Realty in Maryland Height, MO 63043, and residing in Autumn Lakes community at 3134 Autumn Trace Drive, Maryland Heights, MO. Ms. Smith is also the President of the community's HOA Board: including both Autumn Lakes Condominium Association (condo buildings) and Autumn Lakes Association (common grounds and amenities)., overseeing \$1.3 Million in annual revenues and expenditures.

Over the past two years, homeowners have become dissatisfied with the Abuse of Power by Ms. Smith as HOA trustee, and with Mr. Smith through their joint real estate deals. Here are a few of the many concerns:

Conflict of Interest between Real Estate deals and HOA Board trusteeship –

- In her Board role, Ms. Smith has approved work orders for condominium repairs, frequently moving work in queue order for her clients and potential clients, ahead of other homeowners with similar work order who have been waiting by Smith Management Group (Property Managers for Autumn Lakes) on August 9, 2023 over similar internal water damage and resultant mold for home of Godwin and Premita Soares, who have been waiting over five months and are still waiting, being told the mold resulting from a roof leak is not the Association's problem – and the Soares family, including 3 young children have suffered allergy and health problems as a result of the delay. The Verbrugge listing was ultimately won by Shah and John Smith , who sold the unit to a rehabber in August 2023. Preamble/Art.10/SP 9-2/12-3 (Exhibit 1)
- During an open house for a condo they ultimately bought at 11907 Autumn Trace Court, Brian and Catherine Burkard were told by John Smith that his wife was on the Board and would be able to get any needed repairs done expeditiously to facilitate City of Maryland Heights Occupancy permits. This claim was brought forward by Ms. Burkard at a bi-monthly HOA meeting on July 26, 2023 and disputed by Shah Smith in her role as Board President. The exchange was recorded on livestream video to accommodate a larger number of people in attendance, many of whom exceeded the occupancy capacity and were turned away as no further provision had been made. Later, after the video was posted on private Facebook (membership only, not public posting), the Board declared live stream recordings would no longer be allowed due to privacy concerns. Ms. Burkard later reiterated her claim in a post to that same private Facebook group (AutumnLakesUncensored); see Exhibit 1
- Property repairs for other condo units were moved ahead in the queue as well. See Exhibit 1
- AMC Property Management managed Autumn Lakes for many years, but in 2021 after some unknown dispute between Board Officers and AMC principals, the Board Officers (including Ms.

Smith) decided to replace AMC and hired Smith Management Group as Property Managers for Autumn Lakes HOA. Mr. Keith McCracken told researchers that Ms. Smith over many years routinely demanded work projects for her clients' properties get moved ahead in the queue. He indicated she would get angry when challenged on fairness of these demands. Preamble, Exhibit 1 et al

Unjust Retaliation Against Others, including Jerris Ruth, Realtor, PA License # RS199898L and MO License # 2005009809:

- Mr. Mark Gavan, former Autumn Lakes HOA trustee, and current Autumn Lakes homeowner since 2022, has been the “whistleblower” on the Board’s actions and failings of the property managers, Smith Management Group, hired by the Board without consent of the HOA populace, per indentures where “major expenditures and changes” must be brought to the homeowners for approval before actions by the Board. Ms. Jerris Ruth has been the primary researcher into HOA indentures, Bylaws, rules, regulations and compliance therewith. Mr. Gavan resides at 3131 Autumn Trace Drive, Maryland Heights, Mo. There have been numerous instances where Ms. Smith (and other HOA trustees) have retaliated against Mr. Gavan after he has brought issues to the other Autumn Lakes home owners and raised awareness of wrong-doing by the Board. See Exhibit 2, Exhibit 5, Art. 10/SP 1-2
- On July 26, 2023, Ms. Collins-Ruth was scheduled to speak to homeowners at an HOA meeting that evening. In the afternoon, in a pre-meeting with only Board members, Ms. Ruth and other researchers presented some of their findings on negligence and actions in conflict with indentures. After less than 15 minutes, Ms. Smith stormed out of the meeting and accused Ms. Ruth of dual agency. (audio recording available.) The remaining trustees continued in the meeting for the next 90-some minutes. That evening, at the regularly scheduled HOA meeting, Ms. Smith refused to allow the prepared speaker, Ms. Ruth, to present her research findings, forcing unprepared team members to step in, with less successful results. The FOLLOWING day, Ms. Smith filed a retaliatory complaint with the Saint Louis Area Real Estate Association Ethics Board over Ms. Ruth’s alleged “dual agency”, which was dropped as Ms. Ruth does not act as a dual agent. Mr. Smith has been a member of the Ethics Review Board. Art. 10, Exhibit 11
- Following legitimate free speech actions, protests with signs, and picketing, Ms. Smith caused a summons to be served to Mark Gavan for a spurious Petition to the Court for Full Order of Protection over “stalking”, because he has mentioned her actions as Board President and conflicts of interest between real estate listings and Board role. She called police to where he was lawfully picketing at her open house, and the police confirmed his right to protest as he was doing. Exhibit 3, Exhibit 12

Favoritism / Discrimination in Applying Bylaws and Rules to HOA residents and homeowners:

- Only limited signs are allowed in our community per indentures and Bylaws. Since they became realtors seven years ago, the Smiths have had magnetic car signs on both their vehicles, advertising themselves as realtors. These signs have been forbidden in our community, but the Smiths ignored that rule and continue to have them on their vehicles, parked outside on the street or in sight on their driveways, whereas others with similar signs were told to remove them. In fact, Ms. Smith ripped the signs from Ms. Ruth’s car in front of witnesses a number of

years ago and told her “no signs allowed”. Therefore, clearly Ms. Smith knew the rule when later she, and then her husband, became realtors and added their signs. It was only after the whistleblowers and researchers began to promote idea The Smiths should be fined per the same fines threatened to others, that suddenly the Board claimed the “no sign rule” didn’t apply to magnetic car signs. There are at least three instances where similar signs were disallowed and fines threatened, including one homeowner who ultimately sold his condo in Autumn Lakes and moved to subdivision next door. See notarized statements and exhibits 4 and A, Art. 10

- One homeowner (a minority whose identify is not included here, but may be provided if required), has repeatedly stated his deck was the only one cited in his building as not meeting code, while other decks of a similar build and age, and likely by the same builder, were not cited. Further, he has had a water problem, which the Board refuses to have property managers look at, saying it is due to lack of flashing on deck (a home owner responsibility), while the deck builder and replacement door technicians have run tests and said problem is more than just flashing by deck. Homeowner is afraid to pursue further due to fear of retaliation. His family have had trouble accessing pool and other amenities, somehow pool key seems to be turned off for some unknown reason; and again, homeowner believes this to be retaliation for his legitimate questions and complaints, or due to his minority status. Exhibits available if identity privacy must be breached. Exhibit 1, Art. 10, SP 9-2 and SP 12-3
- Another homeowner at 11910 Autumn Lakes Drive has a utility box loosely hanging from side of the building. After waiting two months and repeated requests on status updates of the submitted work order, the homeowner received an update from the Board saying the box is a cable box and therefore the responsibility of the homeowner. However, the homeowner does not currently and has never had cable; and there is a new AT&T internet box nearby, which is hers. Further, the exterior of the condo was painted by the in 2019 before the homeowner bought her condo in April 2021, and the exterior of this utility box was painted, which would seem to reflect the Association has taken responsibility for this box. The refusal to have the on-site handyman refasten or remove the non-working utility box is wrong, and could be discriminatory. This homeowner also has reported water leaking into her fireplace and then into her lower level ceiling; no one has inspected the chimney to see if there is a loose chimney cap, missing flashing or other problems the Association needs to repair ASAP. Exhibit 5, SP 1-11

Abuse of Power as Board Trustee, with Implications for Real Estate dealings:

- Ms. Smith promotes herself as an expert in the condominium housing market, citing her positions on the Board over a number of years to claim that status. In fact, the researchers found a number of issues where ignorance and negligence by Ms. Smith as Board President have been detrimental to the HOA members. This includes, but is not limited to: not knowing the non-profit status of the HOA, thereby not taking advantage of opportunities for federal insurance, upgrades to make amenities available for barrier-free access, and more; not assuring the community had Master Insurance Policy in place, assuring correct information is provided for all home sales, and not informing home owners of lack of coverage until after researchers brought it to her attention. The result was the from October 1, 2022 until mid-September 2023, the HOA did not have insurance. While this poor performance and negligence of trusteeship is not a real estate matter per se, marketing herself with her Board roles and as a specialist in the condominium marketplace is surely misguiding to prospective clients, whether buying or selling. Exhibit 1, Art. 10/SP 1-3/SP 1-2/SP 1-9

- Similarly, the magnetic cars signs noted above are another instance of abuse of power. Since only the Smiths have been allowed to have signs on their cars for all these years, the signs have given the Smiths an unfair advantage, making them known as “The Realtors of Autumn Lakes”, in conjunction with Ms. Smith’s marketing her Board roles as evidence of her (false or over-stated) “knowledge” of the condominium marketplace. See Exhibit 6
- As Board President, Ms. Smith has been instrumental in how Association monies have been spent and to whom. At the May 2023 Annual HOA Meeting, homeowners were told the Master Insurance Policy would be up for renewal in October. With insurers getting out of the condominium market and/or consolidating, it was expected insurance could be significantly higher, homeowners were told – perhaps over \$100,000 or perhaps 2-3 times as high as previous premiums. In August a contract was signed for replacing less than a dozen asphalt driveways and applying an asphalt sealant to the remainder (regardless of cracks, dips and other conditions) for ~\$75,000. The next week, lawn aeration and over-seeding was done at a cost of \$35,000-40,000. While the lawn care may have been in a contract it, could have been deferred or negotiated out to not be done. Neither of these two projects were pressingly needed – and both, totally over \$110,000, would have offset the increased cost of insurance the next month (mid-September). Whether true intention or not, the view of some is this work was done to make driveways and lawns look nice for potential buyers. In any event, since these were work that could have been deferred, and since the increased insurance premium was pending, it is irresponsible, negligent and poor decision making to have spent Association monies on asphalt and lawn aeration. Exhibit 7, Art. 2 and Art. 11
- Ms. Smith, and on her behalf, members of the Landscaping Committee are instructed to find violations of rules. However, it is well-known and easily observed that her clients and friends are given exceptions to the rules that others are made to follow, threatened with fines if they do not comply. One example of this was a bare spot of ground between 11907-11915 Autumn Trace Court, where this Spring a homeowner planted a lovely bed of flowering annuals where the bare spot had existed for some time. Because this “garden” was more than ten feet from the building, because permission was not sought, and because this is not a special friend or client of Ms. Smith, the homeowner was demanded to remove the flower bed, face assessment of fines, or the bed would be removed. Ultimately cooler heads prevailed after this situation, too, was brought to public scrutiny. Exhibit 8, and SP 1-11

Negligence in Securing Master Insurance Policy and properly reporting information for home sale settlements:

- As mentioned above, the Board believed Autumn Lakes two HOAs had Master Insurance and other coverage for the amenities, liability and officer/directors’ errors and omissions coverage. A certificate of insurance and other information was posted on the official Autumn Lakes website and copies provided to title companies for home sale settlements. The Board had previously obtained insurance through a brokerage, first from the father and then the son who took over the brokerage upon his father’s retirement. Somewhere in the years leading up to the last coverage period (beginning October 1, 2022), the coverage was dropped through apparent fraud on the part of the broker. This situation is being prepared as part of a lawsuit against the broker, who maintains his innocence. While researchers were unable to find more information, some facts are clear: the Board (through its officers, including Ms. Smith, the President, and Laura

Farkas, the Vice President and Treasurer) did not secure coverage for the Associations; due diligence should have been taken to assure complete documentation was provided from the last date of renewal, particularly since the Trustees and Property Management Company are responsible to carry such insurance and to provide it for home sale settlements. Failure of this due diligence is not only irresponsible and negligent, but also wrong for all the sale settlements occurring at that time: the mortgages of such home buyers could have been withdrawn, had the mortgage institutions known of the fraud and lack of insurance. Further, the researchers and other homeowners brought the insurance questions to the Board's attention in early August – the Board did not know at that time because they were working with a new broker to obtain insurance for the year ahead – and it was not until August 31, 2023 that Board Officers notified homeowners of the lack of insurance. Had due diligence been done at the time of renewal, this situation would not have occurred. One result is that home sales in August and September had to move to an all-cash purchase, a difficult situation for many buyers. The Board is responsible for this required change in selling practices, and more than one contracted sale fell through as a result. See Exhibit 6, SP 1-1, and Art. 2

- Six condos had to be sold as cash sales, which might have occurred anyway – but also is a practice that would be detrimental over the long term to homeowners seeking to sell. Exhibit 6
- The highest-selling condo was located at 101 Autumn Shores Court, listed in Spring 2023 for \$259,900 and sold for \$270,000. This past week, after the insurance debacle, another condo of same style, size and condition (move-in ready desirable end unit with 2-car garage) was listed for \$229,000. And the current listings of town houses and one-floor units are all in the listing range of \$219,900 - \$229,900, a decrease of \$20,000 to \$30,000 from earlier in the year. This seems to be a reflection of decreased values, perhaps reflection HOA management problems and negligence, in what has been known as a Showcase Community in the City of Maryland Heights, MO. Homes rarely went on the market; and when they did, it was not unusual to sell on the first day of sale. See Exhibit 6, Art. 1
- In mid-September 2023, liability insurance and then a new Master Policy to cover the buildings was obtained. However, the terms of the new insurance are unfavorable to homeowners. The deductible per unit had been \$10,000 in 2022, and was raised to \$15,000 in early 2023 – we do not know what event changed to raise the insurance deductible occurred at that time, only that it had occurred. Was there a policy change in early 2023 that was not communicated? If so, why was that not a “flag” to the alleged insurance fraud and lack of coverage? Surely the Board could not change the deductible without some insurance involvement. Then with the new insurance in mid-September 2023 to replace the nonexistent coverage, the deductible increased to \$25,000 per occurrence, with a second and separate \$25,000 for water damage – and total of \$50,000 per home unit if both damages occurred at once. In addition, the new insurance coverage no longer allowed grilling on decks or patios nor anywhere within ten feet of the dwelling – a provision we were told was not unusual. However, the new insurance coverage ALSO no longer allowed the use of wood-burning fireplaces in condos, a condo feature many homeowners paid extra to have in their units and many adored. The initial policy also did not have earthquake insurance, although the Board indicated it would continue to seek that coverage and would let homeowners know final details. At this writing, no details have yet been provided to homeowners, and requests from homeowners to Brokers' Office have not been successful in obtaining full information needed by homeowners and for home sale settlements. Exhibit 6, Art. 11

- The Nihil de nobis, sine nobis (“Nothing about us without us”) unilateral action was not brought to the home owners by Board Officers in advance, nor in full. The insurance was contracted on September 8, 2023; homeowners were advised of insurance provisions and subdivision rules regarding use and grills, wood-burning fireplaces, and the homeowners were invited to an off-site and Zoom meeting Town Hall with the attorney and insurance broker on September 28, 2023. Homeowners were advised to store their grills in their garages, which is a dangerous practice denounced by Fire Marshalls across the country; no provisions to store covered grills (covers making it obvious they are not in use, and a practice ALLOWED by insurance underwriters) 10-feet away from dwellings, nor in common grounds. Fines to be levied starting October 9, 2023 were announced: from \$50-\$500 per occurrence / per day. After September 28, homeowners scurried to remove grills, to sell, give them away or send them perfectly good grills to landfills by the October 9th deadline – at which time the Board finally identified a storage area in an RV lot – another instance where involving the Community in problemsolving would yield workable solutions they could not / would not identify on their own. Many owners are ready to vote them out of office when their terms are up in May 2024, which is still more than six months away. See Exhibit 6, Art. 11 and Art. 13

Decisions by Ms. Smith as Board Trustee having negative impact on Homeowners:

- Building painting and other routine maintenance has been done on a rotating 7-year cycle. Beginning in 2020, the Board decided to defer routine painting and maintenance. They fired our long-term painting contractor, Mark Neibeuer (sp), and his son who was taking over the business when his father retired. If, after many years, they were dissatisfied, they should have worked through those problems until a satisfactory solution could be arranged – after all, 2020 was the beginning of the COVID years, where it was hard to find workers and we had proven contractors lined up. Since 2019, no routine building exteriors have been painted, and only necessary repairs to exteriors and roofs have been done, if that. The perception is firing of our long-time painters was a retaliatory action by Ms. Smith. SP 1-10
- Without spending the money for annual painting and maintenance, our Reserve Funds should be significantly higher than they are. At one point in first Quarter 2023, the monthly account books researchers were able to obtain from Smith Management Group, the property management company, showed a \$25 balance. Homeowners have called for Independent Audit of books, without response from Ms. Smith and the Board.
- Ms. Smith has a notebook of repairs needed across the Associations’ properties, over 700 items, identified by Smith Management Group, the property management company. This book was shared with homeowners at the Annual HOA Meeting in May 2023, but significant progress on resolving these repairs has not been made. Ms. Smith personally and individually approved any work orders, because (homeowners were told) Smith Management Group wanted only one point of contact with the HOA and that was decided to be the Board President, Ms. Smith. This arrangement allows Ms. Smith to move certain work orders forward in the queue, ahead of others. The perception, proven by facts for some specific locations but hidden from researchers as a “grouped or bundled” work project in other cases, is that Ms. Smith her real estate clients’ projects to the top of the queue in order to meet sales closing dates and City occupancy permit requirements. Researchers have requested access to details, but have been denied by Ms. Smith and the Board. See Exhibit 1

Unilateral Hiring of Property Management Company by Ms. Smith and Board, ignoring Owner Petition to Replace:

- Autumn Lakes Homeowners were surprised and shocked in November 2021, when Ms. Smith and the Board announced they were replacing our long-term and well-liked property management company with two groundsmen on site, with Smith Management Group and (initially) no groundsman on site, effective January 1, 2022. After significant community pushback, a part-time groundsman was added, whose daily work is directed by Ms. Shaw. The transition was not well planned nor executed, and there was much dissatisfaction among homeowners. In June 2022, over fifty-one percent of the homeowners signed a petition to ask Ms. Smith and other Board Officers to dismiss Smith Management Group at the end of their contract on December 31, 2022. The petitioning group was initially blocked, but then did meet with Board representatives. The petitioning home owners offered to help the Board find a replacement Property Management Company in the remaining months of 2022, bringing a recommendation back to the Board. That offer was refused. Ms. Smith claimed there were irregularities in the petitioning process, which was subsequently refused by the Board. Exhibit 1, SP 3-7
- Ms. Smith as President, Laura Farkas (Vice President and Treasurer) and other Board members not only made the decision to ignore the homeowners request, but upon learning in July of 2022 that Smith Management Group had messed up our homeowner accounts and monthly Account Books, decided they could not unravel the problems in the months remaining in the Smith Management contract. Therefore they rewarded Smith Management Group with a 2nd year contract renewal at higher rates! This indeed is poor decision making, as the year-end books for 2022 were not closed until June 2023, the 2022 year tax filing was delayed, and as of this writing, the last monthly financials published were June 30, 2023. If monthly financials have been closed since that date, they were not reported to homeowners. Denial of financial information continues at this time. See Exhibit 7
- Further, Ms. Smith, acting as Board President, has refused homeowner access to account records, despite repeated written and verbal requests. It is the homeowners right to see these records and homeowners' responsibilities outlined in Indentures and Bylaws to assure Trustees are doing the right things for the Association. By blocking access, Ms. Smith and other Board Officers are in violation of these indentures and other rules of conduct. Exhibit 1, SP 12-8
- The Board, led by Ms. Smith, routinely blocks homeowners from discussing Association problems and potential solutions by the format set for bi-monthly HOA meetings, which used to be monthly meetings. Now the Board meets in private and homeowners are only invited to hear presentations by the Board, to submit written questions, which are then grouped and selected for answering, but not for open discussion at HOA meetings. This one-direction communication format allows Ms. Smith to control the narrative of the community. She is forceful and bullying (see videos where she lectures on process on how to remove Board members, when that question was not asked; instead she bullied presenter, who was asking for her voluntary resignation and not forced removal – until ultimately the speaker at the meeting backed down and agreed to table the request.) Exhibit 4
- A group of researchers, led by Ms. Jerris Collins-Ruth, PA License # RS199898L and MO License # 2005009809, properly and well in advance petitioned to be on the July 26, 2023 HOA Meeting agenda under New Business, providing the subject matter topics. Ms. Smith demanded to see

the presentation before she would give her approval – this is not required by Indentures and Bylaws. Homeowners have the right to request time on the agenda. Ms. Smith refused an answer until the date of the meeting, and then only allowed 10 minutes on the agenda. Later at that meeting, before it began, Ms. Smith refused Ms. Collins-Ruth the right to speak, claiming she was not a homeowner. Ms. Collins-Ruth has been a homeowner with her husband since 2004 and Ms. Smith well knew that. Consequently the packed house of home owners waiting to hear Ms. Collins-Ruth’s research findings were set aside by Ms. Smith’s personal agenda to control the narrative and block reporting of the findings into Board irregularities and wrong-doings. These actions are hardly those of a trustee with the best interests of the community and Association at heart, and more in line with someone wielding power and control at the expense of the homeowners, leaving the perception there is a question to be asked: what is Ms. Smith trying to hide? Exhibit 9, SP 12-8 and SP 1-11

Board actions by Ms. Smith to endanger the environment and failure to protect the grounds of Autumn Lakes Assoc.:

- From at least 2020 until current year, Ms. Smith and the Board have directed the application of chemicals in and around the four Autumn Lakes, which are part of the watershed leading to Saint Louis County drinking water, managed by Missouri American Water Company. Homeowners have noticed the lack of shore birds, fish, frogs and other aquatic wildlife for some time in our lakes, and the brown grass around the retaining rocks, where marsh plants used to grow. Technicians told residents they applied RoundUp weed killer, which is illegal for use in this situation; Ms. Smith claims to have hired and left treatment decisions up to Solitude, a licensed water specialist company, and refuses to allow Solitude to provide information to homeowners upon request (“Ms. Smith told us we cannot talk to you”. “We can only talk to the Board”), Ms. Smith will not respond to homeowners’ request nor provide this information to homeowners , despite repeated requests. A former Board President, Dick Ornberg has written within the last year about the value of using RoundUp around our lakes, suggesting he or others on Board have recommended and/or condoned its use. Again, this is the right to know and right to ask for and be provided this information. Exhibit 8, Preamble paragraphs 1 and 3
- Hazardous chemicals could have been used in the ground and water surrounding the condos and houses without homeowners’ knowledge. Buyers attest to these facts when signing their mortgages at closing. Exhibit 8, Preamble paragraph1 and 3
- Homeowners have requested ground and water testing, which also has been ignored and denied by Ms. Smith. Exhibit 8, Preamble paragraphs 1 and 3
- Ms. Smith ordered a number of old-growth hardwood trees to be removed from our grounds, paid \$47,000 of Association monies, despite homeowner requests that these trees be left in place, pruned as necessary instead, and wait out the cycle of Oak Gall Disease. An independent study from arborists (not tree cutters) showed at least one oak tree had an estimated ten years life, if not longer; Ms. Smith violently told the condo owner seeking to say the tree near her home that it WOULD be cut down, and the homeowner only prevailed against Ms. Smith tirade by going public with her independent arborists’ report and her efforts to save the tree. Exhibit 8, Preamble paragraphs 1 and 3.

Improper behavior as a Realtor in the sale of at least one property:

- In July 2023, the condo at 11925 Autumn Trace Court was listed for sale by Ms. Smith and Mr. Smith. The initial winning buyer's purchase, with an offer of \$265,000, fell through. There was a secondary buyer with a lower bid, who was still interested. The secondary buyer was told by the Smiths (listing agent) that it would take \$265,000 to close the deal. The secondary buyer agreed to that purchase price as she wanted the home. However, this is absolutely unethical behavior, against every Code of Ethics for Realtors. SP 1-15

There are many more examples of unethical, if not illegal, behaviors by The Smiths, and Ms. Smith in particular.

Based upon the above actions both Ms. Smith and Mr. Smith have violated the NAR Code of Ethics, The Saint Louis Code of Ethics, Missouri Condominium Act, HUD Discrimination and Fair Housing acts, Hazardous and Natural Resource Acts with EPA, Elder/ Adult Abuse, Steering and unfair leveraging over Association Residents/ Owner/ Members. Deliberate acts to control or influence the livelihood, maintenance, and devaluation of Autumn Lakes Condos, homes and its Residents/ Owners. The perception of their actions warrants the revoking of their licenses as Realtors in the State of Missouri. They cannot be trusted.

In over 31 years as a realtor, I have never before had to file complaints against other realtors, but I could not remain silent in the face of these and more egregious actions. I have presented all the exhibits from court. There is also a full affidavit which I have signed before a Notary Public to be true and factual items. Video and audio recordings are also available, should you need them. One correction to attachments: our HOA is a Non-profit, and not a 503c. My humble submissions are hereby presented.

Most Sincerely,

Jerris Collins-Ruth, Realtor

Master of REAL ESTATE

ABR, AHWD, CSP, e-pro, Green GRI, RRES, SRES, Relocation Specialist.

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