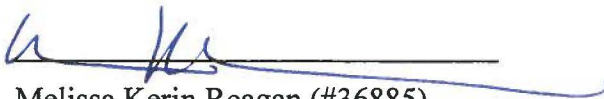


BEFORE THE INDEPENDENT ETHICS COMMISSION OF THE STATE OF COLORADO	<p style="text-align: center;">▲ IEC USE ONLY ▲</p>
COMPLAINANT: COLORADO ETHICS WATCH v. RESPONDENT: PUBLIC TRUSTEE ASSOCIATION OF COLORADO	
Attorneys for Defendant: Melissa Kerin Reagan (#36885) Sherman & Howard L.L.C. 633 17th Street, Suite 3000 Denver, Colorado 80202 Phone Number: (303) 297-2900 Fax Number: (303) 298-0940 E-Mail: mreagan@shermanhoward.com	Case Number: Division:
AMENDED REQUEST FOR STIPULATED JUDGMENT	

Complainant, by and through its Director, Luis Toro, and Defendant, by and through its attorney, Melissa K. Reagan, Sherman & Howard L.L.C., hereby stipulate to the resolution of all claims raised in this action. The parties request that the Independent Ethics Commission enter the attached Order. This amended request supersedes the previous request made by the parties on December 16, 2011.

DATED: February 23, 2012

SHERMAN & HOWARD L.L.C.



Melissa Kerin Reagan (#36885)
 633 17th Street, Suite 3000
 Denver, CO 80202
 Telephone: (303) 297-2900
 Facsimile: (303) 298-0940

ATTORNEYS FOR RESPONDENT PUBLIC
 TRUSTEE ASSOCIATION OF COLORADO

COLORADO ETHICS WATCH



Luis Toro, Director (#22093)
 1630 Welton Street, Suite 415
 Denver, CO 80202
 Telephone: (303) 626-2100
 Facsimile: (303) 626-2101

ATTORNEY FOR COMPLAINANT
 COLORADO ETHICS WATCH

BEFORE THE COLORADO INDEPENDENT ETHICS COMMISSION

STATE OF COLORADO

Case No. 11-12

ORDER

COLORADO ETHICS WATCH,

Complainant,

v.

PUBLIC TRUSTEE ASSOCIATION OF COLORADO,

Respondent.

UPON stipulation of the parties and the Independent Ethics Commission being advised in the matter, the following Order is entered:

1. The Independent Ethics Commission finds that there is a factual basis for adopting this stipulation as an order of the Commission.
2. Article XXIX of the Colorado Constitution ("Amendment 41"), Section 3, provides that no local government official may receive any gift or other thing of value having a cost greater than \$50 in any calendar year from a person without the person receiving lawful consideration of equal or greater value.
3. Pursuant to Section 3(6) of Amendment 41 and Position Statement 11-01 of the Independent Ethics Commission, the fifty dollar (\$50) limit described in paragraph 2 was adjusted to fifty-three dollars (\$53) for calendar year 2011.
4. Section 2(3) of Amendment 41 provides that a "local government official," as used in paragraph 2, "means an elected or appointed official of a local government."
5. Section 2(2) of Amendment 41 provides that a "local government," as used in paragraph 3 includes a county.
6. The public trustee for each county in the State of Colorado is an elected or appointed county official, and, therefore, each is subject to the restriction described in paragraph 2.
7. Section 2(4) of Amendment 41 provides that a "person," as used in paragraph 2, includes a corporation.
8. Respondent is a Colorado nonprofit corporation formed to facilitate coordination and cooperation among the public trustees of the State, and is therefore a person, as such term is used in paragraph 2.
9. At Respondent's summer conference in June 2011, the Association provided lodging for one night for thirty-two (32) public trustees at a cost of ninety-nine

dollars (\$99) per trustee. The public trustees in question are listed in Exhibit A hereto.

10. In response to questions raised with respect to the 2011 summer conference, in August 2011, Respondent retained the law firm of Sherman & Howard L.L.C. ("Sherman & Howard") to provide legal guidance on Amendment 41 and its applicability to Respondent and its members.
11. In August 2011, Sherman & Howard provided Respondent with written guidance specifically explaining the conduct prohibited by Amendment 41 and the actions necessary to ensure that Respondent's actions complied with Amendment 41.
12. In October 2011, an attorney from Sherman & Howard presented at Respondent's fall seminar to provide information to Respondent's individual members regarding Amendment 41 and the steps necessary for Respondent and its members to comply.
13. In November 2011, Respondent retained Simmons & Wheeler, P.C., a firm of certified public accountants, to assist Respondent in establishing new record-keeping procedures for use in implementing the legal guidance from Sherman & Howard regarding permissible activity under Amendment 41.
14. As described in paragraph 12, Respondent provided training to its members on how to comply with Amendment 41 at its October meeting in 2011, and it intends to do so again at its October meeting in 2012.
15. At Complainant's request, Respondent has agreed to pay a sum of ninety-two dollars (\$92) to each of the counties whose public trustee received the lodging described in paragraph 9, such amount equaling twice the difference between the ninety-nine dollar (\$99) cost of such lodging and the fifty-three dollar (\$53) limit set forth in paragraph 3.
16. In addition, Respondent has agreed to send a copy of the letter attached hereto as Exhibit B to each of its members in connection with this complaint.
17. As a resolution to this controversy and by the mutual agreement of Complainant and Respondent, Respondent shall pay the amount described in paragraph 15 and deliver the letters described in paragraph 16.


Dated:



Approved as to form:



Attorney for Complainant



Attorney for Respondent

EXHIBIT A

TRUSTEE LIST FROM COMPLAINT

AMERISTAR

CASINO ★ RESORT ★ SPA

111 Richman Street / P.O. Box 45
Black Hawk, CO 80422
Phone: 720.946.4200 ~ Fax: 720.946.4290

Invoice

Michelle Miller
P.O. Box 638
Fairplay, CO 80440

Items

Wednesday Room Nights

Susie Velasquez
Jaine Stiasny
Richard Pettitt
Annette Carino
Kimberly Pfeifer
Jeanne Whiddon
Paul Brown
Jeanne Casolario
Deeanna Stults
Rosemary Murphy
Debra Cooper
Linda Statz
Pamela Mills
James Covington
Virgina Trujillo
Susan Cochell
Diana Wood
Altamae Brown
Lorrain Woolley
Elaine Sullivan
Patricia Barlett
Kerry Carl
Mack Crowther
Jim Vntrello
Lois Widhalm
Debra Reynolds
Michelle Miller
Robert Campbell
Donna Leonetti
Patricia McFarland
Margaret Chapman
Deborah Morgan

Amount

\$3168.00

Total: \$3168.00

EXHIBIT B

FORM OF TRUSTEE LETTER

_____, 2012

_____ County Public Trustee

_____, Colorado _____

Dear _____:

Enclosed with this letter, please find a copy of an order of the Colorado Independent Ethics Commission (the "Commission") relating to a complaint (the "Complaint") filed against the Public Trustee Association of Colorado (the "Association") by Colorado Ethics Watch. The Complaint has been resolved by the agreement of the Association, Colorado Ethics Watch and the Commission. I am sending you this letter as a part of that agreement.

As discussed in the attached order and at our fall seminar in October 2011, each public trustee in Colorado must comply with Article XXIX of the Colorado Constitution ("Amendment 41"). The Complaint stated, and the attached order finds, that several members of the Association received lodging from the Association at the 2011 summer conference with a value of \$99, which exceeded the permissible limit of \$53 from Amendment 41. We recognize that many of the trustees may not have realized that Amendment 41 could restrict their ability to accept lodging from the Association. However, understanding and complying with Amendment 41 is an important responsibility of every local government official, including public trustees.

For this reason, we have prepared this letter as a reminder of the requirements that Amendment 41 places upon all of the trustees. When you have reviewed the information in this letter, please sign the section at the bottom and return it to me on behalf of the Association. We have also retained legal counsel and certified public accountants to guide the Association in complying with Amendment 41.

If you have any questions, please do not hesitate to contact me. Thank you for your cooperation and for your continued public service as a public trustee.

Sincerely,

Patty Bartlett
President, Public Trustee Association of Colorado

Amendment 41

Amendment 41 was approved by Colorado voters in 2006. Section 3(2) of Amendment 41 states as follows:

No . . . local government official, or government employee . . . either directly or indirectly as the beneficiary of a gift or thing of value given to such person's spouse or dependent child, shall solicit, accept or receive any gift or other thing of value having either a fair market value or aggregate actual cost greater than fifty dollars (\$50)¹ in any calendar year, including but not limited to, gifts, loans, rewards, promises or negotiations of future employment, favors or services, honoraria, travel, entertainment, or special discounts, from a person, without the person receiving lawful consideration of equal or greater value in return from the . . . local government official . . . who solicited, accepted or received the gift or other thing of value.

Under Amendment 41, a "local government official" includes any elected or appointed official of a county, such as a public trustee.² Colo. Const. Art. XXIX, Sec. 2(2), (3). Likewise, Amendment 41 and the \$53 limit applies to county employees, including those who work in the office of a public trustee. Colo. Const. Art. XXIX, Sec. 2(1), (2).³ This means that, generally speaking, no public trustee or employee in a public trustee's office may accept items of value in excess of \$53 per year from any person or organization, including the Association, without providing payment or something of equal value in return.

However, Amendment 41 contains several exceptions to the \$53 limit. Colo. Const. Art. XXIX, Sec. 3(3). The limit does not apply if the gift or thing of value is:

- (a) A campaign contribution as defined by law;
- (b) An unsolicited item of trivial value less than fifty dollars (\$50), such as a pen, calendar, plant, book, note pad or other similar item;
- (c) An unsolicited token or award of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item;
- (d) Unsolicited informational material, publications, or subscriptions related to the recipient's performance of official duties;

¹ Section 3(6) of Amendment 41 provides that the \$50 limit will be adjusted to account for inflation every four years. Pursuant to this Section, the Independent Ethics Commission has increased this limit to \$53. *IEC Position Statement 11-01*.

² Although some public trustees are appointed by the Governor, the Colorado Supreme Court has clarified that all public trustees are officers of their respective counties and not of the State of Colorado. *Chambers v. People ex rel. Storer*, 202 P. 1081, 1082 (Colo. 1921); *Walsh v. People*, 211 P. 646, 647 (Colo. 1922) ("The public trustee is a county officer").

³ It should also be noted that local government officials and employees may not accept anything of value, even worth less than \$53, from a professional lobbyist. A trustee should consult with legal counsel prior to accepting any funds, goods or services from a professional lobbyist.

(e) Admission to, and the cost of food or beverages consumed at, a reception, meal or meeting by an organization before whom the recipient appears to speak or to answer questions as part of a scheduled program;

(f) Reasonable expenses paid by a nonprofit organization or other state or local government for attendance at a convention, fact-finding mission or trip, or other meeting if the person is scheduled to deliver a speech, make a presentation, participate on a panel, or represent the state or local government, provided that the nonprofit organization receives less than five percent (5%) of its funding from for-profit organizations or entities;

(g) Given by an individual who is a relative or personal friend of the recipient on a special occasion; or

(h) A component of the compensation paid or other incentive given to the recipient in the normal course of employment.

The provisions of Amendment 41 are enforced by the Commission, which has provided additional guidance on Amendment 41. For example, the Commission has provided that organizations such as the Association that bring officials from various governments together may pay expenses in excess of \$53 on behalf of government officials or employees if the organization receives payments such as membership dues from the related local government that are specifically allocated for the payment of those expenses. *IEC Position Statement 10-01.*

In short, each public trustee should monitor all things of value he or she receives, including travel expenses, to make sure that either: (1) the total value of all things received from any person does not exceed \$53 per year; or (2) one of the exceptions to the \$53 limit above applies. If you have any questions as to how these rules would apply to a specific situation, please contact the Association and we will be happy to provide any assistance we can. In addition, for questions where the answer is not clear, the Commission regularly provides guidance to public officials through advisory opinions and letter rulings.

I have reviewed the letter dated _____, 2012 from the Public Trustee Association of Colorado and agree to follow the guidance set forth in the letter with respect to Amendment 41.

Name: _____

_____ County Public Trustee