

CAUSE NO. 2008-60050-393

THE FRISCO FAIRWAYS HOMEOWNERS ASSOCIATION, RICHARD O'NEIL, GABRIEL CORRA, DAVE WILCOX JOHN MISTR AND PHIL LUZIUS	§	IN THE DISTRICT COURT
	§	
	§	
	§	
<i>Plaintiffs,</i>	§	DENTON COUNTY, TEXAS
	§	
vs.	§	
	§	
DAVID DOUMANI, DOUG MACARI, and DAVID SNELL	§	
<i>Defendants.</i>	§	393rd JUDICIAL DISTRICT

SETTLEMENT AGREEMENT

The Parties in the above captioned and numbered cause, enter into this Settlement Agreement (the "Settlement Agreement") and agree to adhere to the following terms:

I. PLAINTIFFS' AGREEMENTS

The Frisco Fairways Homeowners Association (the "HOA"), Richard O'Neil, Gabriel Corra, Dave Wilcox, John Mistr and Phil Luzius (each a "Plaintiff" and collectively the "Plaintiffs"), each in their individual capacity, their capacity as a members of the Board of Directors of the Frisco Fairways Homeowners Association and as a collective group, in exchange for good and valuable consideration, the sufficiency of which is hereby acknowledged, agree to the following conditions of settlement:

- a. The Plaintiffs will, immediately upon the signing of this agreement or the next available day in which the Denton County Courthouse is open, file a Notice of Dismissal (the "Dismissal") of this entire matter. The dismissal shall be with prejudice.
- b. The Plaintiffs will, immediately upon the signing of this agreement or

within a reasonable time thereafter, but under no circumstances more than 24 hours from the time of the signing of this agreement, reinstate, restore and otherwise grant David Snell and Doug Macari any and all rights and privileges to access, post or otherwise make use of any website maintained or operated by the Frisco Fairways Homeowners Association subject to the terms and conditions of the Terms of Service of the website maintained or operated by the Frisco Fairways Homeowners Association as applied to all homeowners.

- c. The Plaintiffs will post the Dismissal on the front page of the FriscoFairways.org website and the posting shall remain for not less than 30 days after the signing of this agreement. The form of the posting shall be a link on the FriscoFairways.org website that links to the actual document. The link shall read “Notice of Dismissal: Frisco Fairways v. Snell, Doumani and Macari.”
- d. In addition to the required language of the Dismissal, the Dismissal shall include the following language: “In an attempt to promote the well being of the Frisco Fairways Homeowners Association and all of its members, and to promote the betterment of the community as a whole, all Plaintiffs hereby dismiss the above captioned lawsuit with prejudice. The Defendants, in the spirit of promoting the well being of the Frisco Fairways Homeowners Association and all of its members, and to promote the betterment of the community as a whole, agree to this dismissal with the understanding that the Plaintiffs take nothing from the

suit with each party to bear their own costs.”

- e. Plaintiffs agree to provide, within 24 hours of the request, any information, materials or documents, requested by any of the Defendants to be able to vote, cast votes, solicit proxies, solicit participation in the HOA’s annual meeting, including but not limited to, proxy forms, membership lists, agendas, etc. To the extent that state statute or HOA rules require a different time frame for the provision of these materials, the HOA shall produce the requested documents in accordance with those rules, provided however, that any request made previously shall be considered as of the time it was made and no new request shall be required.
- f. Plaintiffs agree that they shall not make a motion, vote on a motion, pass a motion to change or alter the date of the HOA annual meeting, currently set for May 21, 2008 nor give any effect to a motion so made, voted on or passed without the written consent of each of the Defendants.
- g. The Plaintiffs, collectively or individually, shall not state or publish that they have “won” the lawsuit that is the basis of this Settlement Agreement nor shall they make any similar statements.
- h. Plaintiffs, collectively and/or individually, agree not to reveal any information learned during the conduct of discovery in the above captioned matter. Provided, however, the Plaintiffs are not prohibited from making any statements that they made prior to the lawsuit or

publishing or revealing information learned from a source other than that of the discovery conducted in the above captioned matter.

II. DEFENDANT'S AGREEMENTS

David Snell, Doug Macari and David Doumani (each a "Defendant" and collectively the "Defendants") in exchange for good and valuable consideration, the sufficiency of which is hereby acknowledged, agree to the following conditions of settlement:

- a. The Defendants, collectively or individually, shall not state or publish that they have "won" the lawsuit that is the basis of this Settlement Agreement nor shall they make any similar statements.
- b. Defendants, collectively and/or individually, agree not to reveal any information learned during the conduct of discovery in the above captioned matter. Provided, however, the Defendants are not prohibited from making any statements that they made prior to the lawsuit or publishing or revealing information learned from a source other than that of the discovery conducted in the above captioned matter.
- c. The Defendants will not oppose the filing of a motion to seal the discovery responses filed in the above captioned action, nor will they affirmatively support any effort to unseal those documents.

II. MUTUAL AGREEMENTS

Each of the Plaintiffs and each of the Defendants do hereby release and forever discharge each other of and from, on account of, or with respect to any demands, all actions, causes of action, liabilities, obligations, damages or claims of any and every kind and nature

whatsoever at law, in equity or otherwise, which are now ripe and known or should be known including claims for damages, costs, loss of use of funds, expenses and compensation which they or any of their attorneys, or assigns have, had, by reason of any matter, cause or things directly or indirectly arising out of or related to the events and circumstances underlying, giving rise to, or relating to, without limitation, the above referenced cause.

WHEREFORE, PREMISES CONSIDERED, each and all of the parties to the above captioned action agree to the above stated terms.

THE FRISCO FAIRWAYS HOMEOWNERS ASSOCIATION

BY: _____

NAME: _____

TITLE: _____

DATE: _____

BY: _____

RICHARD O'NEIL, individually and as a Member of the Board of Directors of the Frisco Fairways Homeowners Association

DATE: _____

BY: _____

GABRIEL CORRA, individually and as a Member of the Board of Directors of the Frisco Fairways Homeowners Association

DATE: _____

BY: _____

DAVE WILCOX, individually and as a Member of the Board of Directors of the Frisco Fairways Homeowners Association

DATE: _____

BY: _____
JOHN MISTR, individually and as a Member of the Board of Directors
of the Frisco Fairways Homeowners Association

DATE: _____

BY: _____
PHIL LUZIUS, individually and as a Member of the Board of Directors
of the Frisco Fairways Homeowners Association

DATE: _____

BY: _____
DAVID DOUMANI

DATE: _____

BY: _____
DOUG MACARI

DATE: _____

BY: _____
DAVID SNELL

DATE: _____

APPROVED AS TO FORM:

BY: _____
Christopher A. Payne
Attorney for the Plaintiffs

APPROVED AS TO FORM:

BY: _____
Pat Kelly
Attorney for Defendant David Doumani

APPROVED AS TO FORM:

BY: _____
Michael C. Witt
Attorney for Defendant Doug Macari

APPROVED AS TO FORM:

BY: _____
Charles W. Branham, III
Attorney for Defendant David Snell