

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

AGENCY CLERK
2020 JUN 11 P 1:20

STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

Petitioner,

DOAH No.: 19-5514
AHCA No.: 2019008816
Facility Type: ALF
License No. 5059

vs.

SANTA BARBARA BH, INC.,
d/b/a VILLA SERENA VIII,

Respondent.

STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

Petitioner,

DOAH No. 19-5560
AHCA No.: 2019011132
Facility Type: ALF
License No. 5059

vs.

SANTA BARBARA BH, INC.,
d/b/a VILLA SERENA VIII,

Respondent.

STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

Petitioner,

AHCA No.: 2019017727
Facility Type: ALF
License No. 5059

vs.

RENDITION NO.: AHCA-20-437-S-OLC

SANTA BARBARA BH, INC.,
d/b/a VILLA SERENA VIII,

Respondent.

FINAL ORDER

THIS CAUSE came on for consideration before the Agency for Health Care Administration (“the

Agency”), which finds and concludes as follows:

1. The Agency issued the Respondent, Santa Barbara BH, Inc., d/b/a Villa Serena VIII, the attached Administrative Complaints and Election of Rights Forms (Ex. 1 and Ex. 2). The parties have since entered into the attached Settlement Agreement (Ex. 3), which is adopted and incorporated by reference.

2. In accordance with Florida law, the Respondent is responsible for retaining and appropriately distributing all client records within the timeframes prescribed in the authorizing statutes and applicable administrative code provisions. The Respondent is advised of Section 408.810, Florida Statutes.

3. In accordance with Florida law, the Respondent is responsible for any refunds that may have to be made to the clients.

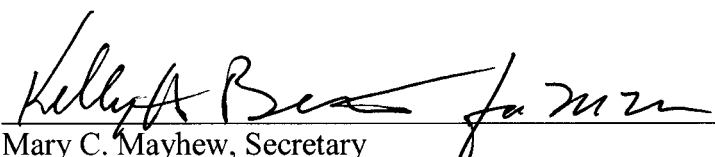
4. The Respondent is given notice of Florida law regarding unlicensed activity. The Respondent is advised of Section 408.804 and Section 408.812, Florida Statutes. The Respondent should also consult the applicable authorizing statutes and administrative code provisions. The Respondent is notified that the cancellation of an Agency license may have ramifications potentially affecting accrediting, third party billing including but not limited to the Florida Medicaid program, and private contracts.

5. The Respondent shall pay an administrative fine of eighteen thousand five hundred dollars (\$18,500.00) to the Agency no later than 30 days of the entry of the Final Order adopting this Agreement or prior to the issuance of change of ownership licensure, whichever shall first occur. If full payment has been made, the cancelled check acts as receipt of payment and no further payment is required. If full payment has not been made, payment is due within 30 days of the Final Order or prior to the issuance of change of ownership licensure, whichever shall first occur. Overdue amounts are subject to statutory interest and may be referred to collections. A check made payable to the “Agency for Health Care Administration” and containing the AHCA ten-digit case number should be sent to:

Central Intake Unit
Agency for Health Care Administration
2727 Mahan Drive, Mail Stop 61
Tallahassee, Florida 32308

6. The Parties shall comply with the remaining terms of the Agreement.

ORDERED at Tallahassee, Florida, on this 11th day of June, 2020 ⁽¹³⁾

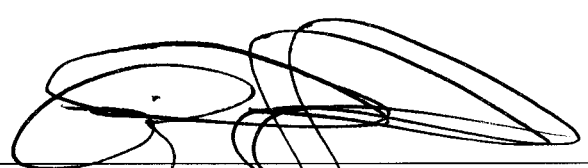

 Mary C. Mayhew, Secretary
 Agency for Health Care Administration

NOTICE OF RIGHT TO JUDICIAL REVIEW

A party who is adversely affected by this Final Order is entitled to judicial review, which shall be instituted by filing one copy of a notice of appeal with the Agency Clerk of AHCA, and a second copy, along with filing fee as prescribed by law, with the District Court of Appeal in the appellate district where the Agency maintains its headquarters or where a party resides. Review of proceedings shall be conducted in accordance with the Florida appellate rules. The Notice of Appeal must be filed within 30 days of rendition of the order to be reviewed.

CERTIFICATE OF SERVICE

I **CERTIFY** that a true and correct copy of this Final Order was served on the below-named persons by the method designated on this 11th day of Jan, 2019.


 Richard J. Shoop, Agency Clerk
 Agency for Health Care Administration
 2727 Mahan Drive, Mail Stop 3
 Tallahassee, Florida 32308
 Telephone: (850) 412-3630

Facilities Intake Unit Agency for Health Care Administration (Electronic Mail)	Keisha Wood, Unit Manager Licensure Unit Agency for Health Care Administration (Electronic Mail)
Central Intake Unit Agency for Health Care Administration (Electronic Mail)	Arlene Mayo-Davis, Field Office Manager Local Field Office Agency for Health Care Administration (Electronic Mail)
Katrina Derico-Harris Medicaid Accounts Receivable Agency for Health Care Administration (Electronic Mail)	Gisela Iglesias, Assistant General Counsel Office of the General Counsel Agency for Health Care Administration (Electronic Mail)

Nicholas Constantino Medicaid Contract Management Agency for Health Care Administration (Electronic Mail)	Javier Talamo, Esq. Counsel for Santa Barbara BH, Inc., d/b/a Villa Serena VIII and Roxana Solano 7600 W. 20th Avenue, Suite 213 Hialeah, Florida 33016 (U.S. Mail)
The Honorable Robert L Kilbride Administrative Law Judge Division of Administrative Law Hearings The DeSoto Building 1230 Apalachee Parkway Tallahassee, Florida 32399-3060 (U.S. Mail)	

NOTICE OF FLORIDA LAW

408.804 License required; display.--

(1) It is unlawful to provide services that require licensure, or operate or maintain a provider that offers or provides services that require licensure, without first obtaining from the agency a license authorizing the provision of such services or the operation or maintenance of such provider.

(2) A license must be displayed in a conspicuous place readily visible to clients who enter at the address that appears on the license and is valid only in the hands of the licensee to whom it is issued and may not be sold, assigned, or otherwise transferred, voluntarily or involuntarily. The license is valid only for the licensee, provider, and location for which the license is issued.

408.812 Unlicensed activity. --

(1) A person or entity may not offer or advertise services that require licensure as defined by this part, authorizing statutes, or applicable rules to the public without obtaining a valid license from the agency. A licenseholder may not advertise or hold out to the public that he or she holds a license for other than that for which he or she actually holds the license.

(2) The operation or maintenance of an unlicensed provider or the performance of any services that require licensure without proper licensure is a violation of this part and authorizing statutes. Unlicensed activity constitutes harm that materially affects the health, safety, and welfare of clients. The agency or any state attorney may, in addition to other remedies provided in this part, bring an action for an injunction to restrain such violation, or to enjoin the future operation or maintenance of the unlicensed provider or the performance of any services in violation of this part and authorizing statutes, until compliance with this part, authorizing statutes, and agency rules has been demonstrated to the satisfaction of the agency.

(3) It is unlawful for any person or entity to own, operate, or maintain an unlicensed provider. If after receiving notification from the agency, such person or entity fails to cease operation and apply for a license under this part and authorizing statutes, the person or entity shall be subject to penalties as prescribed by authorizing statutes and applicable rules. Each day of continued operation is a separate offense.

(4) Any person or entity that fails to cease operation after agency notification may be fined \$1,000 for each day of noncompliance.

(5) When a controlling interest or licensee has an interest in more than one provider and fails to license a provider rendering services that require licensure, the agency may revoke all licenses and impose actions under s. 408.814 and a fine of \$1,000 per day, unless otherwise specified by authorizing statutes, against each licensee until such time as the appropriate license is obtained for the unlicensed operation.

(6) In addition to granting injunctive relief pursuant to subsection (2), if the agency determines that a person or entity is operating or maintaining a provider without obtaining a license and determines that a condition exists that poses a threat to the health, safety, or welfare of a client of the provider, the person or entity is subject to the same actions and fines imposed against a licensee as specified in this part, authorizing statutes, and agency rules.

(7) Any person aware of the operation of an unlicensed provider must report that provider to the agency.

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DOAH No. 19-5560
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STATE OF FLORIDA, AGENCY FOR
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Petitioner,

vs.

SANTA BARBARA BH, INC.,
d/b/a VILLA SERENA VIII,

Respondent.

AHCA No.: 2019017727
Facility Type: ALF
License No. 5059

SETTLEMENT AGREEMENT

The State of Florida, Agency for Health Care Administration (hereinafter the "Agency"),

through its undersigned representatives, and Santa Barbara BH, Inc., d/b/a Villa Serena VIII (hereinafter "Villa Serena VIII"), and Roxana Solano, Individually, pursuant to Section 120.57(4), Florida Statutes, each individually, a "party," collectively as "parties," hereby enter into this Settlement Agreement ("Agreement") and agree as follows:

WHEREAS, the Agency issued an Administrative Complaint (hereinafter Complaint 1") dated July 9, 2019, seeking the imposition of administrative fines totaling five thousand five hundred dollars (\$5,500.00) based upon one (1) Class II deficient practice and one (1) uncorrected Class III deficient practice; and

WHEREAS, Villa Serena VIII filed a petition for a formal hearing contesting the allegations in Complaint 1; and

WHEREAS, the Agency issued an Administrative Complaint (hereinafter "Complaint 2") dated July 22, 2019, seeking the revocation of Villa Serena VIII's license to operate an assisted living facility in the State of Florida and the imposition of administrative fines of twelve thousand dollars (\$12,000.00) based upon one (1) Class I deficient practice and two (2) uncorrected Class III deficient practices; and

WHEREAS, the Agency completed surveys of Villa Serena VIII on May 21, 2019 and August 6, 2019 (hereinafter "Surveys")¹ (Case number 2019017727), during which deficient practices were cited; and

WHEREAS, the citation of the above referenced deficient practices subject Villa Serena VIII to fines in the amount of one thousand dollars (\$1,000.00);

WHEREAS, Roxana Solano is the controlling interest of Villa Serena VIII; and

NOW THEREFORE, for good and valuable consideration, the sufficiency of which is

¹ The findings of the Surveys were reduced to a State form 3020.

hereby agreed to and confirmed, Villa Serena VIII, Roxana Solano, Individually, and the Agency agree as follows:

1. All of the above recitals are true and correct and are expressly incorporated into the Agreement.
2. The Parties agree that the above recitals are binding findings of the Parties.
3. Upon full execution of this Agreement, the Parties agree to waive any and all appeals and proceedings to which they may be entitled, including but not limited to, an informal proceeding under Subsection 120.57(2), Florida Statutes, a formal proceeding under Subsection 120.57(1), Florida Statutes, appeals under Section 120.68, Florida Statutes; and declaratory and all writs of relief in any court or quasi-court of competent jurisdiction; and agree to waive compliance with the form of the Final Order (findings of fact and conclusions of law) to which they may be entitled, provided, however, that no agreement herein shall be deemed a waiver by any party of its right to judicial enforcement of this Agreement. Villa Serena VIII specifically waives the necessity of the drafting of or the service of an Administrative Complaint for the relief stipulated to in this Agreement as the same relates to the Surveys.
4. Upon full execution of the Agreement:
 - a. The Agency must receive from an independent third party a complete change of ownership (CHOW") application², with full fee, by no later than ninety (90) days from the date of the Final Order adopting this Settlement Agreement. The CHOW application must contain all required information and supporting documentation required by law for a CHOW applicant, including but not limited to, documents reflecting the effective date

² See generally, §408.807, Florida Statutes (2019).

of any closing, leasehold, or purchase agreements between Villa Serena VIII and the CHOW applicant.

- b. Should a CHOW application not be submitted to the Agency within ninety (90) days of the entry of a Final Order in accordance with the requirements set forth in subparagraph 4(a) above, Villa Serena VIII's application for license renewal (License number 5059) shall be deemed withdrawn effective as of the 90th day of the entry of the Final Order. In such case, all right, title or interest in Villa Serena VIII's license shall be deemed surrendered and canceled without further action required by the Agency as of the 90th day of the entry of the Final Order.
- c. If the Agency receives a timely CHOW application as set forth above in subparagraph 4(a) above, but provisional licensure is not issued on or before one hundred twenty (120) days from the date of the Final Order adopting this Settlement Agreement, Villa Serena VIII's application for license renewal (License number 5059) shall be deemed withdrawn effective as of the 120th day of the date of the Final Order. In such case, all right, title or interest in Villa Serena VIII's license shall be deemed surrendered and canceled without further action required by the Agency as of the 120th day of the entry of the Final Order.
- d. All residents in the Villa Serena VIII assisted living facility (License number 5059) shall be discharged within ninety (90) days of the entry of the Final Order unless a change of ownership application has been filed in accordance with subparagraph 4(a) by a third party applicant prior

thereto.

- e. If a CHOW application is submitted to the Agency in accordance with the provisions of subparagraph 4(a) above but provisional licensure is not issued by the Agency within one hundred twenty (120) days of the entry of the Final Order, all residents in the Villa Serena VIII assisted living facility must be discharged by one hundred twenty (120) days of the date of the Final Order.
- f. Villa Serena VIII shall pay an administrative fine of eighteen thousand five hundred dollars (\$18,500.00) within thirty (30) days of the date of the Final Order or prior to the issuance of change of ownership licensure, whichever shall first occur.
- g. Villa Serena VIII shall comply with all provisions of Chapter 408, Part II, Florida Statutes, Chapter 429, Part I, Florida Statutes, and Chapters 59A-35 and 59A-36, Florida Administrative Code throughout the discontinuation of operations including, but not limited to, compliance with provisions related to the timely provision of statutory or contractual notice of discharge to residents; the timely distribution of client records; and the timely provision of refunds to residents and the return of resident personal property. Nothing in this Agreement estops or prevents the Agency from seeking sanctions against Villa Serena VIII for any non-compliance which Villa Serena VIII may be cited for based upon the acts or omissions of Villa Serena VIII including, but not limited to, appropriate discharge, timely resident refunds, and the timely return of resident property.

h. Villa Serena VIII and Roxana Solano, Individually, further stipulate and agree that Villa Serena VIII and Roxana Solano, Individually, and any business entity in which Villa Serena VIII or Roxana Solano, Individually, hold an interest, shall not apply for future licensure, permits, or other authorization to conduct business under the color of law as administered by the Agency for Health Care Administration, including but not limited to, health facility licensure, registration, or Medicaid provider contracts; nor shall Villa Serena VIII or Roxana Solano, Individually, obtain any interest in any business entity which holds licensure or Medicaid provider contracts administered by law by the Agency for Health Care Administration, for a period of five (5) years from the entry of a Final Order adopting this Agreement. For the purposes of this paragraph, the term “business entity” shall not include any business entity publicly traded on a recognized stock exchange. Should Villa Serena VIII and Roxana Solano, Individually, apply for authorization to conduct business under the color of law as administered by the Agency for Health Care Administration including but not limited to health facility licensure, registration, or Medicaid provider contract, the application or other request of any type shall be summarily denied by the Agency. In said event, Villa Serena VIII and Roxana Solano, Individually, specifically waive any and all rights provided by law, including but not limited to, administrative review under Chapter 120, Florida Statutes, appellate rights, or injunctive or other actions in law or equity in any court or forum to challenge such

denial action(s).

- i. The provisions of subparagraph 4(h) above shall not apply to any application seeking the periodic renewal of the licensure of Villa Serena 1, Inc. d/b/a Villa Serena I (hereinafter "Villa Serena I") located at 1200 SW 22 Terrace, Miami, Florida 33145, License number 8022 ; Villa Serena II Inc. d/b/a Villa Serena II (hereinafter "Villa Serena II") located at 60 NW 33rd Avenue, Miami, Florida 33125-5342, License number 8518; Villa Serena III, Inc. d/b/a Villa Serena III (hereinafter "Villa Serena III") located at 1777 NW 39th Street, Miami, Florida 33142, License number 10792; Villa Serena IV, Inc. d/b/a Villa Serena IV (hereinafter "Villa Serena IV") located at 754 NW 22nd Court, Miami, Florida 33125-3309, License number 10868; Villa Serena V, Inc d/b/a Villa Serena V (hereinafter "Villa Serena V") located at 2750 NW 6 Street, Miami, Florida 33125, License number 11694; San Thelmo Investment Group, Inc. d/b/a Villa Serena VI (hereinafter "Villa Serena VI") located at 2120 NW 18th Terrace, Miami, Florida 33125, License number 12947; and Santa Barbara BH Inc. d/b/a Villa Serena VII (hereinafter "Villa Serena VII") located at 3317 SW 24th Terrace #19, Miami, Florida 33145-3139, License number 5058, to operate their respective assisted living facilities identified above (Villa Serena I, Villa Serena II, Villa Serena III, Villa Serena IV, Villa Serena V, Villa Serena VI, and Villa Serena VII (hereinafter collectively referred to as "Villa Serena I-VII")), or to any application for a Medicaid Provider agreement to Villa Serena I-VII.

5. Venue for any action brought to enforce the terms of this Agreement or the Final Order entered pursuant hereto shall lie in Circuit Court in Leon County, Florida.

6. By executing this Agreement, Villa Serena VIII denies the allegations set forth in Complaint 1, Complaint 2, and the Surveys, and the Agency asserts the validity of the allegations raised in Complaint 1, Complaint 2, and the Surveys. No agreement made herein shall preclude the Agency from imposing a penalty against Villa Serena VIII for any deficiency/violation of statute or rule identified in a future survey of Villa Serena VIII which constitutes a “repeat” or “uncorrected” deficiency from surveys identified in Complaint 1, Complaint 2, and the Surveys. In said event, Villa Serena VIII retains the right to challenge the factual allegations related to the deficient practices/violations alleged in the instant cause.

7. No agreement made herein shall preclude the Agency from using deficiencies from surveys involving Villa Serena I-VII regarding the licensure of Villa Serena I-VII, including, but not limited to, licensure for limited mental health, limited nursing services, extended congregate care, or a demonstrated pattern of deficient performance. The Agency is not precluded from using the subject events for any purpose within the jurisdiction of the Agency. Further, Villa Serena VIII acknowledges and agrees that this Agreement shall not preclude or estop any other federal, state, or local agency or office from pursuing any cause of action or taking any action, even if based on or arising from, in whole or in part, the facts raised in the above referenced Complaint 1, Complaint 2, and the Surveys. This agreement does not prohibit the Agency from taking action regarding Medicaid provider status, conditions, requirements or contract of Villa Serena VIII related to the allegations of the above referenced Complaint 1, Complaint 2, and the Surveys.

8. Upon full execution of this Agreement, the Agency shall enter a Final Order adopting and incorporating the terms of this Agreement and closing the above-styled case.

9. Each party shall bear its own costs and attorney's fees.

10. This Agreement shall become effective on the date upon which it is fully executed by all the parties.

11. Villa Serena VIII, and Roxana Solano, Individually, for themselves and for their related or resulting organizations, their successors or transferees, attorneys, heirs, and executors or administrators, do hereby discharge the Agency, and its agents, representatives, and attorneys of and from all claims, demands, actions, causes of action, suits, damages, losses, and expenses, of any and every nature whatsoever, arising out of or in any way related to this matter and the Agency's actions, including, but not limited to, any claims that were or may be asserted in any federal or state court or administrative forum, including any claims arising out of this agreement, by or on behalf of Villa Serena VIII and Roxana Solano, Individually, or related facilities.

12. This Agreement is binding upon all parties named herein and those identified in the aforementioned paragraph of this Agreement.

13. In the event that Villa Serena VIII was a Medicaid provider at the subject time of the occurrences alleged in the complaints herein, this settlement does not prevent the Agency from seeking Medicaid overpayments related to the subject issues or from imposing any sanctions pursuant to Rule 59G-9.070, Florida Administrative Code.

14. Villa Serena VIII agrees that if any funds to be paid under this agreement to the Agency are not paid within thirty (30) days of the Final Order adopting this Agreement or prior to a change of ownership, whichever shall first occur, the Agency may deduct the amounts assessed against Villa Serena VIII in the Final Order, or any portion thereof, owed by Villa Serena VIII to the Agency from any present or future funds owed to Villa Serena VIII by the Agency, and that

the Agency shall hold a lien against present and future funds owed to Villa Serena by the Agency for said amounts until paid.

15. The undersigned have read and understand this Agreement and have the authority to bind their respective principals to it. Villa Serena and Roxana Solano, Individually, have the capacity to execute this Agreement.

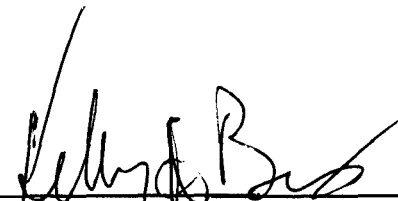
16. This Agreement contains and incorporates the entire understandings and agreements of the parties.

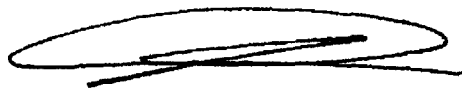
17. This Agreement supersedes any prior oral or written agreements between the parties.

18. This Agreement may not be amended except in writing. Any attempted assignment of this Agreement shall be void.

19. All parties agree that a facsimile signature suffices for an original signature.

20. The following representatives hereby acknowledge that they are duly authorized to enter into this Agreement.


for Molly McKinstry, Deputy Secretary
Health Quality Assurance
Agency for Health Care Administration
2727 Mahan Drive, Building #1
Tallahassee, Florida 32308


Javier Talamo Esq.
Kravitz, Talamo & Leyton.
Counsel for Santa Barbara BH, Inc.,
d/b/a Villa Serena VIII and Roxana Solano
7600 W. 20th Avenue, Suite 213
Hialeah, Florida 33016
Florida Bar No. 721808

DATED: 6-11-20

DATED: 12-9-19

Stefan Grow

Stefan Grow, General Counsel
Office of the General Counsel
Agency for Health Care Administration
2727 Mahan Drive, MS #3
Tallahassee, Florida 32308
Florida Bar No. 93585

Roxana Solano

Name: Roxana Solano
Title: CEO
Santa Barbara BH, Inc., d/b/a Villa Serena
VIII

DATED: 1/15/20

DATED: 12.09.2019

Gisela Iglesias

Gisela Iglesias, Senior Attorney
Office of the General Counsel
Agency for Health Care Administration
525 Mirror Lake Drive, North, Suite 330G
St. Petersburg, Florida 33701
Florida Bar No. 21010

Roxana Solano

Name: Roxana Solano, Personally

DATED: 12/9/19

DATED: 12.9.19