

**COMMISSION FOR COMMON-INTEREST COMMUNITIES AND CONDOMINIUM
HOTELS MEETING NOVEMBER 18-19, 2014**

**GAMING CONTROL BOARD
GRANT SAWYER BUILDING
555 E. WASHINGTON AVENUE, ROOM 2450
LAS VEGAS, NEVADA 89101**

**VIDEO CONFERENCED TO:
GAMING CONTROL BOARD
1919 COLLEGE PARKWAY,
CARSON CITY, NEVADA 89706**

NOVEMBER 18, 2014

1:00 P.M.

1-B) Introduction of Commissioners in attendance

Stephen Aichroth, Robert Frank, Richard D. Layton, Barry Breslow, Ken Williams, James Rizzi, Scott Sibley and Senior Deputy Attorney General Henna Rasul as Commission Counsel.

1-A) Swearing in of Commissioners Richard D. Layton, Stephen Aichroth, James Rizzi and Barry Breslow.

Barry Breslow was sworn in as attorney member by Commissioner Frank. Richard D. Layton was sworn in as accountant member by Chairman Breslow. Stephen Aichroth was sworn in as homeowner member by Chairman Breslow. James Rizzi was sworn in as developer member by Chairman Breslow.

1-C) Introduction of Division Staff in attendance

In Las Vegas: Joseph Decker, Administrator; Sharon Jackson, Ombudsman; Sonya Meriweather, Chief Compliance Audit Investigator; Claudia Rosolen, Commission Coordinator; Teralyn Thompson, Administration Section Manager; Jennifer Oerding, Education Officer; Stacey Spoerl, Program Training Officer; Christine Worrell, Auditor; Marisu Abellar, Legal Secretary; Senior Deputy Attorney General Kimberly Arguello; Senior Deputy Attorney General Michelle Briggs serving as Division Counsel.

In Carson City: Christopher Cook, Compliance Audit Investigator.

2) Public Comment

In Las Vegas: Robert Robey, unit owner in Sun City Summerlin, commented. Mr. Robey provided the Commission with written public comment and read his comments into the record.

In Las Vegas: Tim Stebbins, Henderson resident and member of the Nevada Homeowner Alliance PAC (NHA), commented. Mr. Stebbins provided the Commission with written public comment and read his comments into the record.

In Las Vegas: John Radocha, unit owner in a homeowner association in Las Vegas, commented. Mr. Radocha stated that he is a victim of his board, management company and the Division. Mr. Radocha stated that he had his monthly assessment applied to a bogus fine six times plus additional fines. Mr. Radocha stated that he filed a claim with the Division, and an investigator from the Compliance department stated that there was no evidence and closed the case. Mr. Radocha stated that his board is trying to take his mortgage free home away from him and sell it. Mr. Radocha stated that the Division closed his case and will not return his calls. Mr. Radocha stated that he is going to file a complaint against the Division according to NRS 197.190.

In Las Vegas: Delores Bornback commented. Ms. Bornback stated that she had six brothers who were in the military. Ms. Bornback stated that an acquaintance of hers was deployed to Afghanistan for four months and he hired someone to cut his grass. Ms. Bornback stated that when this person returned back home he discovered that his association had fined him a total of over three thousand dollars for weeds and brown spots. Ms. Bornback stated that something needs to be done about the excess fines for military people that are deployed.

In Las Vegas: Gary Brodt, homeowner at Hunter Springs Homeowners Association, commented. Mr. Brodt stated that he filed a complaint with the Division based on a Commission ruling and it was denied. Mr. Brodt stated that he appealed the Division's decision and he was denied again. Mr. Brodt stated that it is difficult when there is a ruling by the Commission on a case and a similar case is presented to the Division and the Division rejects it.

In Las Vegas: B.J. Wolf, homeowner and a board member at Duck Creek Village, commented. Mr. Wolf stated that his board is violating NRS 116 by granting full access to all homeowner's records to homeowners that are employees of the association. Mr. Wolf stated that he was told by the Ombudsman's Office to file a complaint. Mr. Wolf stated that he does not like that the Ombudsman's Office will not share with the homeowner that files a complaint the result of the investigation since those are sealed documents.

In Las Vegas: Marcia Masterton, homeowner at Duck Creek Village, commented. Ms. Masterton commented on a problem with the timeliness of some investigation processes.

In Las Vegas: George Crocco, resident of Canyon Willow Pecos, commented. Mr. Crocco stated that he filed a complaint with the Ombudsman's Office. Mr. Crocco stated that he called the Ombudsman's Office after receiving an instructional letter. Mr. Crocco stated that no one returned his calls.

In Las Vegas: Jonathan Friedrich, former Commission for Common-Interest Communities and Condominium Hotels commissioner, commented. Mr. Friedrich thanked the Governor for his term on the Commission. Mr. Friedrich stated that he is happy that Commission Advisory Opinion 2010-01 has been removed from the Real Estate Division website. Mr. Friedrich thanked Mr. Decker for his commitment to uphold NRS 38.330 which requires that mediation must be completed within sixty days from the date of filing.

In Carson City: Norman Rosensteel, president of Community Associations Institute Nevada Chapter, commented. Mr. Rosensteel stated that the fact that tomorrow's Commission meeting will not be

teleconferenced to the North will discourage participation. Mr. Rosensteel stated that if the Commission can't include everybody it is wrong to be holding a meeting.

3-A) Disciplinary action: Hearing and possible action by the Commission

NRED v. Richard Willer, for possible action

Case No. 2013-3730

Type of Respondent: Board member

Parties Present:

Senior Deputy Attorney General Michelle Briggs was present representing the Division.

Richard Willer was present.

Stephen Mingali was present representing Richard Willer.

Preliminary Matters:

Mr. Mingali filed a motion to dismiss complaint for disciplinary action.

The Commission heard Mr. Mingali's motion.

Ms. Briggs opposed to respondent's motion.

Mr. Mingali responded to Ms. Briggs opposition to the motion.

Commissioner Layton stated that as a certified public accountant (CPA) he has done work for Kallfelz Management. Commissioner Layton stated that four years ago his firm prepared the taxes for Mr. Willer's association. Commissioner Layton stated that he does not have a personal or professional relationship with Mr. Willer. Commissioner Layton stated that he can be fair and impartial.

Commissioner Frank asked what is the proper channel to follow in order for the complainant to communicate with the board.

Ms. Briggs stated that the manager was the point of contact that was listed on the complainant's lease.

Commissioner Frank move to deny the motion to dismiss complaint for disciplinary action.
Seconded by Commissioner Layton.

Chairman Breslow stated that he is not sure that a proper case was made to dismiss.

Commissioner Sibley stated that he is always concerned about due process and making sure that people get proper notice. Commissioner Sibley stated that it seems that the notice was proper.

Commissioner Williams stated that there is not enough evidence to dismiss the complaint for disciplinary action.

Commissioners Rizzi and Aichroth agreed with the rest of the Commission.

Commissioner Layton stated that the Attorney General's Office indicated receiving the information from the Ombudsman's Office. Commissioner Layton stated that this indicates that at some point the Ombudsman's Office had the information and referred it to the proper division.

Motion carried unanimously.

Mr. Mingali withdrew the motion for a continuance of the hearing to allow the respondent's counsel the opportunity to locate and subpoena a witness.

Mr. Minigali requested a motion to postpone the proceeding until the next scheduled calendar meeting to proceed to District Court with a petition for judicial review.

Ms. Briggs stated that the Commission would have to issue a final order before the respondent would be entitled to file a petition for judicial review.

Senior Deputy Attorney General Henna Rasul stated that there is no basis for a petition for judicial review at this time because there has to be a final decision by this Commission with regards to the findings of fact and conclusion of law, and order.

Chairman Breslow stated that based on advice from Commission Counsel, the Commission will proceed with the matter.

State's Witness:

Dara Charatsang testified.

Mr. Minigali objected to Ms. Dara's lack of personal knowledge.

Chairman Breslow overruled Mr. Minigali objection.

Mr. Minigali cross-examined Ms. Dara.

Redirect examination by Ms. Briggs.

Commissioner Aichroth questioned Ms. Dara.

Commissioner Frank questioned Ms. Dara.

Commissioner Williams questioned Ms. Dara.

Commissioner Sibley questioned Ms. Dara.

Redirect examination by Ms. Briggs.

State's Witness:

Lynn Espinoza testified.

Mr. Minigali cross-examined Ms. Espinoza.

State's Witness:

Sonya Meriweather, Chief Compliance Audit Investigator, testified.

Mr. Minigali objected to Ms. Briggs line of questioning. Mr. Minigali stated that he does not believe that what the association did is relevant to what the Commission has to decide.

Ms. Briggs stated that the association was also a respondent on the intervention affidavit. Ms. Briggs stated that the Division's investigation included all parties involved and the Division builds a case against whoever violated the law. Ms. Briggs stated that to determine that the association acted properly they were questioned on what they did or did not do.

Chairman Breslow overruled Mr. Minigali's objection.

Mr. Minigali objected to State's exhibit 9.

Ms. Briggs stated that State's exhibit 9 is an affidavit regarding the investigation. Ms. Briggs stated that the affidavit was received by the Division and it is evidence of what a board member did.

Mr. Minigali stated that he does not have an opportunity to cross-examine the board member that made that affidavit.

Chairman Breslow sustained Mr. Minigali's objection.

Mr. Minigali cross-examined Ms. Meriweather.

Redirect examination by Ms. Briggs.

Commissioner Williams questioned Ms. Meriweather.

Ms. Briggs requested to admit the State's exhibits 1 to 12 excluding State's exhibit 9 and State's exhibit 11.

Mr. Minigali had no objections.

The Commission admitted the documents as State's exhibit 1, 2, 3, 4, 5, 6, 7, 8, 10, 12 and excluded State's exhibit 9 and 11.

Respondent's Witness

Richard Willer testified.

Mr. Minigali requested that the packet containing documents A through F to be admitted as respondent's exhibit A through F.

Ms. Briggs had no objections.

The Commission admitted the documents as respondent's exhibit A through F.

Ms. Briggs cross-examined Mr. Willer.

Commissioner Williams questioned Mr. Willer.

Commissioner Frank questioned Mr. Willer.

Commissioner Aichroth questioned Mr. Willer.

Closing Arguments

Ms. Briggs gave her closing argument.

Mr. Minigali gave his closing argument.

10) For possible action: Adjournment

The meeting recessed at 5:00 p.m. on November 18, 2014 until November 19, 2014 at 9:00 am.

**COMMISSION FOR COMMON-INTEREST COMMUNITIES AND CONDOMINIUM
HOTELS MEETING NOVEMBER 18-19, 2014**

**DEPARTMENT OF BUSINESS & INDUSTRY
2501 E. SAHARA AVE,
2nd FLOOR CONFERENCE ROOM
LAS VEGAS, NEVADA 89104**

VIDEO CONFERENCING NOT AVAILABLE ON THIS DAY

NOVEMBER 19, 2014

9:00 A.M.

1-B) Introduction of Commissioners in attendance

Stephen Aichroth, Robert Frank, Richard D. Layton, Barry Breslow, Ken Williams, James Rizzi, Scott Sibley and Senior Deputy Attorney General Henna Rasul as Commission Counsel.

1-C) Introduction of Division Staff in attendance

In Las Vegas: Joseph Decker, Administrator; Sharon Jackson, Ombudsman; Sonya Meriweather, Chief Compliance Audit Investigator; Claudia Rosolen, Commission Coordinator; Teralyn Thompson, Administration Section Manager; Jennifer Oerding, Education Officer; Marisu Abellar, Legal Secretary; Stacey Spoerl, Program Training Officer; Susan Clark, Licensing Manager; Deputy Attorney General Kimberly Arguello; Senior Deputy Attorney General Michelle Briggs serving as Division Counsel.

3-A) Disciplinary action: Hearing and possible action by the Commission

NRED v. Richard Willer, for possible action

Case No. 2013-3730

Type of Respondent: Board member

Parties Present:

Senior Deputy Attorney General Michelle Briggs was present representing the Division.

Richard Willer was present.

Stephen Mingali was present representing Richard Willer.

Factual Allegations

Ms. Briggs stated that she meet with opposing counsel and agreed on factual allegation deemed admitted.

Ms. Briggs stated that items deemed admitted are 1, 2, 4, 5, 6, 9, 10, 11, 13, 14, 17, 18, 19, 21 and 22.

Mr. Minigali had no objections.

Chairman Breslow stated that yesterday there was a stipulation that Mr. Willer's witness, Lance Kallfelz, would have testified that Ms. Dara told him that Mr. Willer had not disrobed in the present of the child.

Commissioner Sibley moved that the Commission accept factual allegations 3, 7, 8 and 12 as proven and not to accept 15, 16, and 20. Commissioner Williams seconded.

Motion carried unanimously.

Violations of Law

Commissioner Frank moved to accept 23 and 24 as true Commissioner Aichroth seconded.

Motion carried unanimously.

Division's Recommendation for Discipline

Michelle Briggs gave the Division's recommendation for discipline.

- Fine of \$2,000.00
- Division's attorney's fees and hearing cost of \$7,120.00
- The total fine shall be paid within 60 days of the date of the Order.
- Respondent shall be removed from his position as a director and officer of Images Homeowners Association.
- Respondent is prohibited from serving on any board in the State of Nevada for a period of not less than 10 years, but in no event shall respondent serve on any board in the State of Nevada until the total fine is paid in full.

Mr. Mingali asked the Commission not to impose a fine or administrative costs on Mr. Willer. Mr. Mingali stated that Mr. Willer came in front of the Commission and was honest and did not run from this situation. Mr. Mingali stated that Mr. Willer acknowledged that he used poor judgment and understands the Commission's reasoning. Mr. Mingali stated that Mr. Willer should not be receiving the maximum nor monetary penalties.

Ms. Briggs stated that Mr. Willer violated his fiduciary responsibility as a board member when he knowingly and willfully committed an act or omission which amounted to incompetence, negligence or gross negligence. Ms. Briggs stated that Mr. Willer's action forced Ms. Dara to incur costs.

Commissioner Sibley moved to issue an order direct to the respondent to cease and desist from this unlawful conduct, to take affirmative actions and correct any condition, to have the respondent removed from the board, to pay the costs back to the Division and the respondent cannot serve on any board until all the costs are paid to the Division.

Motion failed for lack of a second.

Commissioner Frank moved to accept the Division's recommendation for discipline. Commissioner Layton seconded.

Motion carried 6 to 1 with Commissioner Sibley opposed.

3-B) Disciplinary action: Hearing and possible action by the Commission

NRED v. Judith Fenner, for possible action

Case No. CIS 11-01-57-205

Type of Respondent: CAM.0006716-REVOKED

Parties Present:

Senior Deputy Attorney General Michelle Briggs was present representing the Division.

Judith Fenner was not present.

Preliminary Matters

Ms. Briggs stated that the Commission has received Ms. Fenner's answer to the complaint.

Chairman Breslow read Ms. Fenner's answer into the record.

Ms. Briggs gave the Commission background history regarding Ms. Fenner.

Ms. Briggs stated that Ms. Fenner contacted the commission coordinator and asked for a continuance. Ms. Briggs stated that the Division objected to the continuance request and the request was denied by the Commission's Secretary.

State Witness:

Claudia Rosolen, Commission Coordinator. Ms. Rosolen testified on receiving a continuance request from Ms. Fenner.

Ms. Rosolen read Ms. Fenner's continuance request, Division counsel's response and the Commission secretary's decision regarding the continuance request into the record.

Ms. Rosolen stated that she received the certified mail card returned to the Division by the United States Postal Service on November 14, 2014 and the card was signed by Ms. Fenner on November 13, 2014.

Chairman Breslow stated that the factual allegations are accepted as true by the Commission due to the respondent's failure to appear.

Commissioner Sibley moved that the Commission find violations of law paragraphs 30 through 48 as true. Commissioner Rizzi seconded.

Motion carried unanimously.

Division's Recommendation for Discipline

Michelle Briggs gave the Division's recommendation for discipline.

- Fine of \$95,000.00
- Division's attorney's fees and costs for \$7,795.00
- Pay restitution to the Pueblo at Santa Fe Condominium Association in the amount of

- \$55,926.90, for respondent's attorney fees paid by the association.
- Pay restitution to Pueblo at Santa Fe Condominium Association in the amount of \$4,300.00 for overdraft and insufficient funds fees incurred by the association.
 - Total fine to be paid in full no later than 60 days from the date of the Order.
 - The Respondent shall not serve on any homeowners' association board in the State of Nevada for a period of not less than 10 years from the date of the Order, but in no event shall the respondent serve on any board in the State of Nevada prior to the total fine and restitution being paid in full.
 - The respondent shall not work as a bookkeeper for any homeowners' association board in the State of Nevada.
 - If respondent is found to be working as a bookkeeper on any homeowners' association board, it will be considered unlicensed community manager activity.

Commissioner Frank moved to accept the Division's recommendation for discipline.
Commissioner Williams seconded.

Commissioner Aichroth asked how fines and restitution get paid and who is first in line to receive the payments.

Ms. Briggs stated that the board of the associations will have to take action to enforce that against Ms. Fenner. Ms. Briggs stated that when this Commission orders restitution to an association, that association has the right to either claim that against their own insurance or to pursue a legal action based on the Commission's findings. Ms. Briggs stated that this process helps the association if they chose to try to recoup the money.

Motion carried unanimously.

4) License Denial Appeal: Discussion and possible action by the Commission

License denial appeal of GREGORY DEAN BRANSON, File No. S-CAM-LDA-15-002 and why applicant should or should not be granted a license.

Gregory Dean Branson was present.

Chairman Breslow moved for the Commission meeting to go into closed session to review Mr. Branson's license denial appeal in accordance with NRS 241.030.

Review and discussion was conducted in closed session.

Meeting returned to open session.

Commissioner Williams moved for the Commission to approve the appeal and grant a provisional license. Commissioner Rizzi seconded.

Motion carried unanimously.

2) Public Comment

In Las Vegas: Tim Stebbins, Henderson resident, and member of the Nevada Homeowner Alliance PAC (NHA), commented. Mr. Stebbins provided the Commission with written public comment and read his comments into the record.

In Las Vegas: John Radocha, unit owner in a homeowner association in Las Vegas, commented. Mr. Radocha stated that his association charged him five dollars for a CD containing the recordings of his association's meeting. Mr. Radocha stated that he should not have to pay for that and requested the money back. Mr. Radocha stated that he filed a statement of fact with the Division and his case, after a long time, was closed. Mr. Radocha stated that he requested help from another institution and within ten days his association gave him his five dollars back. Mr. Radocha stated that the Division should have transparency.

In Las Vegas: Joe Wolfe, homeowner in an association in Las Vegas, commented. Mr. Wolfe stated that the current prohibition of audio recording of an executive session meeting creates a situation in which homeowner's right to due process is violated. Mr. Wolfe stated that this results in executive boards conducting hearings at which there is no substitutive record of testimony given by the accuser. Mr. Wolfe asked the Commission to take action to help change NRS 116 and NAC 116 to require all executive session meetings to be audio recorded or at minimum that the portion of executive session meeting involving the imposition of a fine over three hundred dollars or an imminent threat which can cause a substantial adverse effect on unit owners or residents of a common-interest community to be audio recorded.

6-A) Ombudsman's Report

Joseph Decker stated that the Division is going in a new direction. Mr. Decker stated that the most important issue is common-interest communities' enforcement backlog of cases. Mr. Decker stated that the Division hired three investigators to fill the four positions that were open and is in the process of interviewing a fourth person.

Mr. Decker stated that the Ombudsman's section is considering creating a second mediator position.

Mr. Decker stated that in order to address the backlog, he and the Ombudsman have been personally reviewing cases of the enforcement section. Mr. Decker stated that the Division closed forty cases in the last few weeks. Mr. Decker stated that the goal of the Division is not to pursue discipline but to pursue compliance.

Mr. Decker stated that the Division has a process provided through the legislator to resolve disputes between homeowners, licensees, and board members. Mr. Decker stated that the primary method for the Division to resolve disputes is the Ombudsman's dispute resolution process.

Mr. Decker stated that based on NRS 116.765 the Administrator and the Ombudsman have the authority to determine whether a level of misconduct meets the standards of good cause to proceed with a hearing. Mr. Decker stated that the Division enforcement track is not a tool of the public but is a tool of the Administrator to pursue misconduct on behalf of the State. Mr. Decker

stated that the service that the Division offers to homeowners and board members is dispute resolution.

Mr. Decker stated that the number of cases that will go in front of the Commission will increase and they will be of the severity that the Commission has seen so far.

Commissioner Frank stated that one of his frustrations has been that policies stated by investigators are that the Division did not pursue financial misconduct and that the statute requires that the Division focus on violations of 116. Commissioner Frank stated that from Mr. Decker's explanation of the Division's new direction it seems that the Division will pursue financial misconduct. Commissioner Frank stated that the previous Chief Investigator told him that she did not have authority to do so and a complainant had to deal with that through civil or criminal procedures. Commissioner Frank stated that law enforcement agencies in Nevada are refusing to accept criminal complaints from homeowners. Commissioner Frank stated that they tell people to go to the Real Estate Division. Commissioner Frank stated that he hopes and trusts that the administrator will help him help the community and homeowner associations to influence the law enforcement agencies to do more in regards to financial misconduct.

Mr. Decker stated that the Division will use the above standard of good cause to determine which misconduct needs to be investigated. Mr. Decker stated that there will be plenty of minor violations below those standards that the Division will not investigate because those are resolution issues that will go back to the Ombudsman's Office.

Commissioner Williams thanked the Administrator.

Sharon Jackson presented this report. Ms. Jackson stated that the training officer position has been filled.

- 32 completed Intervention Affidavits received
- 7 informal conferences held
- 3 informal conferences resolved
- 11 cases forwarded to Compliance
- Ombudsman's resolution rate 68%
- 5 records requests

Ms. Jackson stated the goals for the Ombudsman's Office:

- Community managers online certificate renewal is now available
- Rollout of online continuing education attendance verification for continuing education is set for December 1, 2014

Ms. Jackson stated that there have been 306 conferences offered. Ms. Jackson stated that a lot of people refuse the conference option stating that they want to go straight to investigation because they can't get participation from the board. Ms. Jackson stated that the Ombudsman is referring to NRS 116.765 with what they can compel a unit owner and a board to do.

6-B) Program Training Officer's Report

Stacey Spoerl presented this report. Ms. Spoerl stated that the completion of the educational manual is in progress. Ms. Spoerl stated that there are currently five chapters on the website and anticipates completion of the educational manual by the end of the year. Ms. Spoerl stated that there have been changes to the website in order to provide better tools. Ms. Spoerl stated that the Division's goal is to educate, communicate and engage. Ms. Spoerl stated that she had started responding to the Ombudsman's emails.

6-C-1) Administrative Program Officer's report on number and types of associations registered within the State

Sharon Jackson presented this report. Ms. Jackson stated that there are 3,045 registered associations with 506,998 registered units in Nevada. Ms. Jackson stated that there were 368 new units in September.

6-C-2) Administrative Program Officer's report on Homeowner Association and Compliance Audits

Sharon Jackson presented this report. Ms. Jackson stated that total non-compliant homeowner cases are sixty-six. Ms. Jackson stated that nine audits have been worked on.

Commissioner Frank asked if there is something in writing about the auditor's performance and job description.

Ms. Jackson stated that the auditor has work performance standards and evaluation issued by the supervisor.

Commissioner Frank asked the duty of the Division from a financial management point.

Mr. Decker stated that the auditor's focus is related on the overall solvency of the association not related to investigation.

Commissioner Frank asked if this will lead to some kind of investigation if misconduct is found.

Mr. Decker stated that there are indicators that the Division uses based on registrations and other sources of information in which the Division develops a level of suspicion sufficient to assign an audit. Mr. Decker stated that the auditor reviews and either confirms that the association is solvent, or that there are problems or potential misconduct. Mr. Decker stated that that the auditor is not assigned based upon suspicions of misconduct, but problems related to solvency.

6-C-3) Administrative Program Officer's report on Alternative Dispute Resolution filings and subsidy claims

Sharon Jackson presented this report. Ms. Jackson stated that from July to September the total alternative dispute resolution cases opened were forty-two. Ms. Jackson stated that thirty-four of those claims were mediation, five were from the referee program, and four were closed. Ms. Jackson stated that the referee and the mediation program are now subsidized. Ms. Jackson stated that the amount of subsidy to date is one thousand dollars.

6-C-4) Administrative Program Officer's report on Notices of Sales

This report was not presented.

6-D) Compliance Section's report

Sonya Meriweather presented this report. Ms. Meriweather stated that in September they had 65 cases that were assigned, 146 cases that were closed and 403 that were active. Ms. Meriweather stated that they identified 40 cases that they are going to recommend to the Administrator to be heard before the Commission. Ms. Meriweather stated that the new direction is to bring the investigator to identify those cases that should go in front of the Commission with the approval of the Administrator.

Commissioner Frank asked if he could review the closed cases.

Chairman Breslow stated that is not the Commission birthright.

6-E) Administrative fine report pursuant to NAC 116A.350 (4)

Teralyn Thompson presented this report. Ms. Thompson stated that there was one administrative sanction that was issued by the Compliance section upon a supervisory community manager and had been paid in full as of September 15, 2014.

6-F) Licensee and board member discipline report

Teralyn Thompson presented this report. Ms. Thompson stated that the Commission was given a report dated 2009 to 2014. Ms. Thompson stated that this report reflects fines that were ordered by the Commission.

5-A-1) For possible action: Discussion regarding status updates on proposed regulation LCB File No. R125-12.

Joseph Decker presented this report. Mr. Decker stated that this regulation has been approved by the Legislative Commission. Mr. Decker stated that this regulation was for the subsidization of mediation with State funding. Mr. Decker stated that this regulation is currently being implemented.

5-A-2) For possible action: Discussion regarding status updates on proposed regulation LCB File No. R049-13.

Joseph Decker presented this report. Mr. Decker stated that this proposed regulation prohibits community managers from receiving any form of compensation for the collection of fines. Mr. Decker stated that this proposed regulation has been approved and vetted and will proceed with an adoption hearing.

5-A-3) For possible action: Discussion regarding status updates on proposed regulation LCB File No. R050-13.

Joseph Decker presented this report. Mr. Decker stated that this proposed regulation is about the reserve studies and the Division supports this regulation. Mr. Decker stated that this regulation will proceed to a workshop.

5-A-4) For possible action: Discussion regarding status updates on proposed regulation LCB File No. R052-13.

Joseph Decker presented this report. Mr. Decker stated that this proposed regulation would allow for a party to file motions for rehearing or reconsideration of the final decision of the Commission after the close of a hearing. Mr. Decker stated that this proposed regulation has been vetted and will proceed to a workshop.

5-A-5) For possible action: Discussion regarding status updates on proposed regulation LCB File No. R152-13.

Joseph Decker presented this report. Mr. Decker stated that this proposed regulation changes the number of hours for community managers' continuing education courses from three hours to one hour. Mr. Decker stated that this proposed regulation has been vetted and will proceed with an adoption hearing.

5-A-6) For possible action: Discussion regarding status updates on proposed regulation LCB File No. R153-13.

Joseph Decker presented this report. Mr. Decker stated that this is the consent to process regulation that requires an out of state financial institution holding association funds to complete a form appointing the Division's administrator as the financial institution's agent for service of process for an action or proceedings filed against the financial institution in this State.

Mr. Decker stated that the Division does not support this. Mr. Decker stated that this proposed regulation has been withdrawn.

5-A-7) For possible action: Discussion regarding status updates on proposed regulation LCB File No. R065-14.

Joseph Decker presented this report. Mr. Decker stated that this proposed regulation generally addresses the process for complaints and the rights of the parties involved in the resolution process. Mr. Decker stated that the Division does not support the regulation entirely due to some excessive requirements and duplications. Mr. Decker stated that this proposed regulation will proceed to a workshop.

5-A-8) For possible action: Discussion regarding status updates on proposed regulation LCB File No. R066-14.

Joseph Decker presented this report. Mr. Decker stated that the Division is not supporting this proposed regulation and it has been withdrawn.

5-B) Discussion regarding what information the Commission would like to have concerning sources and histories of proposed regulations.

Commissioner Frank stated that if all of the processes for those regulations move along quicker then the regulations could be finished within a year.

5-C) For possible action: Discussion and decision to approve minutes of the August 27, 2014 Commission meeting.

Commissioners Layton and Aichroth abstained from voting on this agenda item because they did not attend the meeting.

Commissioner Layton stated that on page two, second paragraph instead of “weren’t meet” it should be “weren’t met”. Commissioner Layton stated that on page five, second paragraph, third line up, he does not recognize the word “despair”.

Chairman Breslow stated that instead of “despair” should be “disparate”.

Chairman Breslow asked to have the pages numbered at the bottom.

Commissioner Williams moved to approve the minutes as amended. Commissioner Rizzi seconded.

Motion carried unanimously.

5-D) Discussion regarding Commissioners’ speaking engagement requests.

No speaking engagements.

7) For possible action: Discussion and decision on date, time, place, and agenda items for upcoming meetings.

Teralyn Thompson presented the dates for the 2015 Commission meetings.

- March 3-5, 2015 location South
- June 16-18, 2015 location to be determined
- August 25-27, 2015 location to be determined
- November 17-19, 2015 location South

Commissioner Williams stated that he will not be available on March 5, 2015.

8) Public Comment

In Las Vegas: John Radocha, unit owner in a homeowner association in Las Vegas, commented. Mr. Radocha asked for transparency from the Division.

In Las Vegas: Tim Stebbins, Henderson resident, commented. Mr. Stebbins provided the Commission with written public comment and read his comments into the record.

In Las Vegas: William Wright, Wright Law Firm, commented. Mr. Wright stated that NRS 116.757 contains the statute regarding confidentiality of records. Mr. Wright stated that as an attorney for associations, he does not receive a copy of the complaint. Mr. Wright stated that he receives a letter from the investigator asking questions or asking for documents

Mr. Wright commented on the public comment concerning the audio recording of an executive session meeting. Mr. Wright stated that the statute is very clear that audio recording is not legal. Mr. Wright stated that these kinds of requests should go to the Legislator.

Commissioner Frank asked Mr. Wright what he meant when he stated that the association does not receive a copy of the complaint.

Mr. Wright stated that the complaint is filed with the Division and the board will not receive a copy of the complaint. Mr. Wright stated that there is a pre-requisite letter that needs to be sent to the board and that letter has to be sent by certified mail before a claimant can file an affidavit.

Commissioner Frank stated that every complaint he filed required him to prove that he provided a copy of the affidavit to the board before he was able to submit the affidavit to the Division or the Division would reject it.

Mr. Wright stated that it is in the statute that a claimant has to prove that the respondent was notified by letter. Mr. Wright stated that the letter must specify the alleged violation and any corrective action proposed by the claimant. Mr. Wright stated that in the affidavit the claimant must swear that the respondent was given enough time to respond to the letter. Mr. Wright stated that this is a pre-requisite to a complaint. Mr. Wright stated that the letter and the certified returned receipt must be attached to the affidavit. Mr. Wright stated that the board will not receive a copy of the affidavit.

9) Commissioner Comment

Commissioner Williams stated that in yesterday's public comment there was a lady, Delores Bornback, who raised a concern about how the military are treated sometimes when they are deployed. Commissioner Williams stated that Nellis and the Army Reserves have programs when people deploy. Commissioner Williams stated that in those programs there are specific checklists that military personnel must follow before deploying. Commissioner Williams stated that he would reach out to Nellis and the Army Reserves and ask how to include items that are related to the maintenance of houses if military personnel have properties in a homeowner association. Commissioner Williams stated that not all military can afford a property manager. Commissioner Williams stated that there must be some way to put military personnel on notice that if they live in an association they are responsible for their property when they are leaving. Commissioner Williams stated that management companies, the board and the Division should have some type of lenience in these areas until the Commission can get this sorted out.

Commissioner Frank stated that if occasionally some his comments sound like he had nothing but complains about the Division that is not the case. Commissioner Frank stated that he sees his job as trying to defend the homeowner's needs. Commissioner Frank stated that he is worried about people being abused by bad management and cares about trying to find better solutions.

10) For possible action: Adjournment

Meeting adjourned at 2:34 p.m. on November 19, 2014.

Respectfully Yours,

Claudia Rosolen
Commission Coordinator