

1 **BEFORE THE COMMISSION FOR COMMON-INTEREST**
2 **COMMUNITIES AND CONDOMINIUM HOTELS**
 STATE OF NEVADA

3 Sharath Chandra (formerly Joseph (JD)
4 Decker), Administrator, Real Estate
5 Division, Department of Business &
6 Industry, State of Nevada,

 Petitioner,

vs.

7 Penny D. Frederick
8 (fka Penny Wood),

 Respondent.

Case No. 2014-1053

FILED

NOV 30 2016

NEVADA COMMISSION OF
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS

10 **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

11 This matter came on for hearing before the Commission for Common-Interest
12 Communities and Condominium Hotels, Department of Business and Industry, State of
13 Nevada (the "Commission"), during a regular agenda on November 15, 16, and 17, 2016, at
14 the Grant Sawyer Building, 555 E. Washington Ave., Rm. 2450, Las Vegas, on the 15th and
15 16th and Henderson City Hall, Council Chambers, 240 South Water Street, Henderson,
16 Nevada on the 17th (the "Hearing"). Respondent Penny D. Frederick, represented by A.J.
17 Kung of the law firm of Kung and Brown, appeared at the Hearing. Michelle D. Briggs,
18 Senior Deputy Attorney General with the Nevada Attorney General's Office, appeared on
19 behalf of the Real Estate Division of the Department of Business and Industry, State of
20 Nevada (the "Division").

21 After hearing the allegations, the respective arguments, and having considered the
22 evidence introduced by the parties and being fully advised, the Commission enters the
23 following Findings of Fact, Conclusions of Law, and Order. Under Nevada Revised Statutes
24 (NRS) Chapter 116A, the Commission has legal jurisdiction and authority over this matter.

25 ///

26 ///

27 ///

28

1 **FINDINGS OF FACT**

2 The Commission, by a vote of 5-0, with 1 abstention, based upon the evidence
3 presented during the Hearing, finds that by a preponderance of the evidence in the record
4 the following facts have been proven.

5 1. PENNY D. FREDERICK (fka Penny Wood) engages in the management of a
6 common-interest community as defined by NRS 116A.110 in the state of Nevada.

7 2. FREDERICK is subject to the provisions of Chapters 116 and 116A of both the
8 Nevada Revised Statutes ("NRS") and the Nevada Administrative Code ("NAC") and is
9 subject to the jurisdiction of the Division, and the Commission for Common Interest
10 Communities and Condominium Hotels.

11 3. In July of 2011, FREDERICK entered into a settlement with the Nevada Real
12 Estate Division for engaging in the management of multiple common-interest communities
13 in the state of Nevada without a certificate from the Division.

14 4. FREDERICK'S community manager certificate expired in 2005.

15 5. As part of the settlement accepted and ordered by this Commission,
16 FREDERICK agreed to pay an administrative fine and also agreed that any management
17 contract with her company, PWJames Management, would include notice that she is not a
18 certified community manager.

19 6. In March of 2014, the Division received a statement of fact against
20 FREDERICK alleging she was performing the services of a community manager for Laurel
21 Canyon Homeowners Association (the "Association") without a certificate.

22 7. The complaint alleged FREDERICK controlled board meetings, advised board
23 members, dealt with all vendors, paid bills, controlled the election process, and refused to
24 turn over Association records after her contract was terminated in January 2014.

25 8. The documents FREDERICK refused to turn over to the new manager included
26 returned ballots for an upcoming election.

27 9. FREDERICK provided a declaration to the court stating that she prepared the
28

1 ballots for the election and deliberately left off names of candidates provided by the board
2 president, because she determined they were not eligible.

3 10. The two candidates who received the ballots opened them at a meeting they
4 called; and according to themselves, they became board members.

5 11. In March 2014, after being terminated and assisting unit owners running in
6 the election to open the ballots, FREDERICK attended an emergency meeting of the self-
7 proclaimed newly elected board members held at FREDERICK'S management office.

8 12. At the emergency meeting, the new board members fired the community
9 manager, rehired FREDERICK'S company, and fired the Association's attorney.

10 13. By the end of March 2014, the Association's case against FREDERICK and her
11 company was dismissed by virtue of a stipulation of the parties.

12 14. According to the audio recordings of board meetings, FREDERICK regularly
13 advised the board on a variety of association matters, including, without limitation, fines,
14 collections, appointing officers, hiring vendors, bids, and recall elections.

15 15. The complainant stated in an affidavit to the Division that he took two checks
16 to FREDERICK'S office at the end of 2013, because they needed a second signature.

17 16. FREDERICK told him that her husband needed to sign the checks.

18 17. FREDERICK'S husband had a community manager certificate, but he was not
19 there.

20 18. FREDERICK used a stamp of her husband's signature, stamped both checks
21 with her husband's name, and returned the checks to the complainant.

22 19. FREDERICK'S husband was not a signor on the Association's bank account.

23 20. FREDERICK'S management contract through PWJames Management does
24 not contain a provision notifying the Association that FREDERICK is not a community
25 manager.

26 21. During the litigation initiated by the Association to recover the records,
27 FREDERICK provided a declaration to the court saying:
28

1 I have been working with the Real Estate Division to reinstate my license, but the
2 Real Estate Division has been unable to determine the proper course for
reinstatement since my license expired (and was not suspended or terminated).

3 22. The Division's regulations for a community manager certificate are clear. NAC
4 116A.145(4) provides as follows:

5 If a certificate has not been renewed for a period that exceeds 1 year past its
6 expiration date, an applicant must reapply pursuant to the provisions of NAC
7 116A.110.

8 CONCLUSIONS OF LAW

9 Based on the foregoing factual findings, the Commission concludes by a vote of 5-0,
10 with 1 abstention, that the following violations of law occurred:

11 23. FREDERICK violated NRS 116A.400(1) by engaging in the management of a
12 common-interest community without a community manager certificate from the Division.

13 ORDER

14 The Commission being fully apprised in the premises, and good cause appearing to
15 the Commission, 4-1, with 1 abstention, ORDERS as follows:

16 1. FREDERICK shall pay a total fine in the amount of \$15,758.76. The total fine
17 reflects an administrative fine in the amount of \$5,000 for the violation of law, plus
18 \$10,758.76 for the Division's costs and attorney's fees. The total fine shall be paid in equal
19 monthly payments in the amount of \$875.49 beginning on January 1, 2017 and continuing
20 on the first day of each month thereafter until such time as the total fine is paid in full.

21 ///

22 ///

23 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

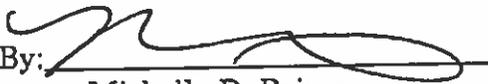
2. The Division may institute debt collection proceedings for failure to timely pay the total fine. Further, if collection goes through the State of Nevada, then FREDERICK shall also pay the costs associated with collection.

DATED this 28 day of November, 2016.

Commission for Common-Interest Communities
and Condominium Hotels, Department of Business
& Industry, State of Nevada

By: 
Bruce Breslow, Chairman


Submitted by:
ADAM PAUL LAXALT
Attorney General

By: 
Michelle D. Briggs
Senior Deputy Attorney General
555 E. Washington Ave. Ste 3900
Las Vegas, Nevada 89101
(702) 486-3420
Attorneys for Real Estate Division