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

JOSEPH (JD) DECKER, Administrator,
REAL ESTATE DIVISION, DEPARTMENT
OF BUSINESS & INDUSTRY, STATE OF
NEVADA,

Petitioner,

vs.

BELVEDERE TOWERS OWNERS
ASSOCIATION; DAVID LONICH;
TERRY STRONGIN; and
KELLY VANDEVER,

Respondents.

Case No. 2013-2937; IN-1621 (2012-
2994); IN-1623 (2012-2870)

FILED

FEB 26 2016

NEVADA COMMISSION OF
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS

**COMPLAINT FOR DISCIPLINARY
ACTION AND NOTICE OF HEARING**

15 The Real Estate Division of the Department of Business and Industry, State of Nevada
16 ("the Division"), by and through its counsel, Adam Paul Laxalt, Attorney General of the State
17 of Nevada, and Michelle D. Briggs, Senior Deputy Attorney General, hereby notifies
18 Respondents BELVEDERE TOWERS OWNERS ASSOCIATION, DAVID LONICH, TERRY
19 STRONGIN, and KELLY VANDEVER (collectively, the "RESPONDENTS") of an
20 administrative hearing before the Commission for Common-Interest Communities and
21 Condominium Hotels, State of Nevada, which is to be held pursuant to Chapters 233B and
22 Chapter 116 of the Nevada Revised Statutes ("NRS") and Chapter 116 of the Nevada
23 Administrative Code ("NAC"). The purpose of the hearing is to consider the allegations stated
24 below and to determine if an administrative penalty will be imposed on the RESPONDENTS
25 pursuant to the provisions of NRS and NAC including, but not limited to, NRS 116.785 and
26 NRS 116.790.

JURISDICTION AND NOTICE

27 1. DAVID LONICH, TERRY STRONGIN, and KELLY VANDEVER (the "BOARD")
28 were at all relevant times mentioned in this complaint members of the executive board for

1 BELVEDERE TOWERS OWNERS ASSOCIATION (the "ASSOCIATION") located in Reno,
2 Nevada.

3 2. The BOARD and the ASSOCIATION are subject to the provisions of Chapter
4 116 of both the Nevada Revised Statutes ("NRS") and the Nevada Administrative Code
5 ("NAC") and are subject to the jurisdiction of the Division, and the Commission for Common
6 Interest Communities and Condominium Hotels pursuant to the provisions of NRS 116.750.

7 **FACTUAL ALLEGATIONS**

8 3. Belvedere Towers Owners' Association (the "Association") governs a high-rise
9 condominium tower conversion marketed as The Belvedere in Reno, Nevada consisting of
10 approximately 176 units.

11 4. The Belvedere was a condominium conversion of the former hotel/casino, The
12 Sundowner.

13 5. Belvedere, LLC took title to the project from the declarant in 2006.

14 6. Bijan Madjlessi was the manager of Belvedere, LLC.

15 7. Units began selling in 2007; some of the units were sold by Belvedere, LLC.

16 8. Beginning in 2011 Secured Assets Belvedere Tower, LLC (SABT) purchased
17 several units previously owned by Belvedere, LLC from the Washoe county treasurer at a tax
18 auction and BTM, LLC (BTM) purchased units from other owners.

19 9. SABT and BTM (collectively referred to herein as the "investment companies")
20 owned approximately 145 units in the Association in 2011.

21 10. Bijan Madjlessi and his attorney, RESPONDENT DAVID LONICH, controlled the
22 investment companies which controlled the Association's board of directors.

23 11. SABT and RESPONDENT KELLY VANDEVER owned units on the 11th, 12th,
24 and 14th floors which had not been completed by Belvedere, LLC.

25 12. Bijan Madjlessi and Biganeh Madjlessi, husband and wife, served on the
26 Association's board of directors in 2011.

27 13. RESPONDENT DAVID LONICH was appointed to the board in April 2011.

28 14. In June 2011, Bijan Madjlessi was arrested in California for filing two separate
insurance claims for the same fire at The Belvedere which occurred in 2008.

1 15. In August 2011, the Madjlessi's resigned from the board and RESPONDENTS
2 TERRY STRONGIN and WILLIAM VANDEVER were appointed. RESPONDENT DAVID
3 LONICH became the president.

4 16. According to minutes from November 2012, the Board opened election ballots at
5 its meeting and RESPONDENT TERRY STRONGIN was elected.

6 17. RESPONDENTS LONICH, STRONGIN, AND VANDEVER were affiliated with
7 the investment companies.

8 18. Beginning in June 2012, RESPONDENT DAVID LONICH represented the
9 Association in a civil action he brought on behalf of the Association (as the assignee of
10 Belvedere, LLC) against Belvedere, LLC's insurance companies for allegedly failing to pay all
11 of the insurance proceeds for the fire at The Belvedere in 2008.

12 19. In 2012, a unit owner in the Association filed complaints against the Board which
13 the Division investigated.

14 20. The Association's budget for 2012 included a \$553,000 capital improvement
15 assessment, a \$1,102,000 special assessment, and a "dues reimbursement" of \$819,440.

16 21. The new assessments were for new construction and equipment costs as listed
17 in the budget such as: hallways and lobbies on the 11th, 12th, and 14th floors, new plantings
18 and furniture in the common areas, construction costs, furniture, and exercise and theatre
19 equipment according to the budget.

20 22. The Board also voted to not require units on the 11th, 12th, and 14th floors to pay
21 assessments to the Association and gave them credit for prior payments.

22 23. The Division requested an accounting of the special and capital improvement
23 assessments, but no such accounting was provided by the Board.

24 24. The Division had to issue a subpoena for records after several requests for
25 documents and even then the records were not complete.

26 25. According to financial records provided to the Division by the Board,
27 assessments were comingled with SABT's account.

28 26. Evidence of construction costs were provided by checks paid by SABT and
contracts were in the name of SABT.

1 27. The Board gave “credits” on assessments for units owned by the investment
2 companies and affiliated owners and provided the Division with evidence of checks from
3 SABT’s bank account for alleged Association expenses.

4 28. The Board failed to provide evidence of the validity of the “dues reimbursement”
5 of \$819,440 that went primarily to SABT, Board members and members of the Madjlessi
6 family.

7 29. Bank statements for the Association’s account at Sonoma Bank in Santa Rosa,
8 California show multiple overdraft charges and electronic payments, and did not include
9 copies of checks paid from the account.

10 30. Association minutes provided do not show any discussion of bids for contractors
11 or contracts for construction.

12 31. Anita Perez was the property manager for the investment companies, but was
13 paid by the Association over \$100,000, and she did not have a community manager certificate
14 from the Division.

15 32. During a site visit to the Association, the Division’s investigator discovered the
16 Association’s records were kept in Santa Rosa, California in violation of NRS 116.31175.

17 33. The Board did not have audits performed as required by NRS 116.31144.

18 34. The Board did not fund a reserve account despite budgets reflecting reserve
19 deposits.

20 35. Bijan Madjlessi and RESPONDENT DAVID LONICH were indicted in April 2014
21 on federal charges of conspiracy, bank fraud, wire fraud, and money laundering, among other
22 charges, stemming from loans made by Sonoma Valley Bank that had been taken over by the
23 FDIC in 2010.

24 36. The Association filed for bankruptcy protection in 2014 and a receiver was
25 appointed to control the Association as requested by the investment companies’ lender.

26 37. The Association’s bankruptcy closed in January 2016.

27 **VIOLATIONS OF LAW**

28 38. RESPONDENTS LONICH, STRONGIN, and VANDEVER knowingly and willfully
violated NRS 116.3103 (through NAC 116.405(2)) by failing to act in accordance with their

1 fiduciary duty to act in good faith by acting out of reasons of self-interest or gain by giving
2 "reimbursements" on assessments of over \$800,000 to the investment companies and
3 affiliated owners.

4 39. RESPONDENTS LONICH, STRONGIN, and VANDEVER knowingly and willfully
5 violated NRS 116.3103 (through NAC 116.405(2)) by failing to act in accordance with their
6 fiduciary duty to act in good faith by acting out of reasons of self-interest or gain when they
7 approved a special assessment and capital improvement assessment to fund construction of
8 the 11th, 12th, and 14th floors which benefited units owned by the investment companies and
9 RESPONDENT VANDEVER.

10 40. RESPONDENTS LONICH, STRONGIN, and VANDEVER knowingly and willfully
11 violated NRS 116.3103 (through NAC 116.405(3)) by failing to act in accordance with their
12 fiduciary duty to act in good faith by committing an act or omission which amounts to
13 incompetence, negligence or gross negligence by having the Association pay Anita Perez who
14 did not have a certificate from the Division to provide community management services and
15 was the investment companies' property manager.

16 41. RESPONDENTS LONICH, STRONGIN, and VANDEVER knowingly and willfully
17 violated NRS 116.3103 (through NAC 116.405(5)(a)) by failing to act in accordance with their
18 fiduciary duty to act in good faith by impeding or otherwise interfering with the Division's
19 investigation by failing to comply with requests from the Division for documents.

20 42. RESPONDENTS LONICH, STRONGIN, and VANDEVER knowingly and willfully
21 violated NRS 116.3103 (through NAC 116.405(5)(b)) by failing to act in accordance with their
22 fiduciary duty to act in good faith by supplying false or misleading information to the
23 investigator.

24 43. RESPONDENTS LONICH, STRONGIN, and VANDEVER knowingly and willfully
25 violated NRS 116.3103 (through NAC 116.405(5)(c)) by failing to act in accordance with their
26 fiduciary duty to act in good faith by concealing facts and documents relating to the business
27 of the Association.

28 44. RESPONDENTS LONICH, STRONGIN, and VANDEVER knowingly and willfully
violated NRS 116.3103 (through NAC 116.405(7)) by failing to act in accordance with their

1 fiduciary duty to act in good faith by failing to cooperate with the Division in resolving
2 complaints filed with the Division.

3 45. RESPONDENTS LONICH, STRONGIN, and VANDEVER knowingly and willfully
4 violated NRS 116.3103 (through NAC 116.405(8)(a)) by failing to act in accordance with their
5 fiduciary duty to act in good faith by failing to cause the Association to comply with all
6 applicable federal, state and local laws and regulations.

7 46. RESPONDENTS LONICH, STRONGIN, and VANDEVER knowingly and willfully
8 violated NRS 116.3103 (through NAC 116.405(8)(g)) by failing to act in accordance with their
9 fiduciary duty to act in good faith by failing to cause the Association to maintain current,
10 accurate and properly documented financial records.

11 47. RESPONDENTS LONICH, STRONGIN, and VANDEVER knowingly and willfully
12 violated NRS 116.3103 (through NAC 116.405(8)(j)) by failing to act in accordance with their
13 fiduciary duty to act in good faith by failing to cause the Association to prepare interim and
14 annual financial statements that will allow the Division and units' owners to determine whether
15 the financial position of the Association is fairly presented in accordance with the provisions of
16 NAC 116.451 to 116.461, inclusive.

17 **DISCIPLINE AUTHORIZED**

18 Pursuant to the provisions of NRS 116.615; NRS 116.755; NRS 116.785; and NRS
19 116.790 the Commission has discretion to take any or all of the following actions:

- 20 1. Issue an order directing RESPONDENTS to cease and desist from continuing to
21 engage in the unlawful conduct that resulted in the violation.
- 22 2. Issue an order directing RESPONDENTS to take affirmative action to correct any
23 conditions resulting from the violation.
- 24 3. Impose an administrative fine of up to \$1,000 for each violation by RESPONDENTS.
- 25 4. IF ANY RESPONDENTS ARE FOUND TO HAVE KNOWINGLY AND WILLFULLY
26 COMMITTED A VIOLATION of Chapter 116 AND it is in the best interest of the
27 Association, such RESPONDENTS may be removed from their positions as directors
28 and/or officers.

1 5. Require RESPONDENTS to pay the costs of the proceedings incurred by the Division,
2 including, without limitation, the cost of the investigation and reasonable attorney's
3 fees.

4 6. Take whatever further disciplinary action as the Commission deems appropriate.

5 The Commission may order one or any combination of the discipline described above.

6 **If the Commission finds that the RESPONDENTS knowingly and willfully violated the**
7 **provisions of Chapter 116, the Commission may order that RESPONDENTS be**
8 **personally liable for all fines and costs imposed.**

9 **NOTICE OF HEARING**

10 PLEASE TAKE NOTICE, that a disciplinary hearing has been set to consider this
11 Administrative Complaint against the above-named RESPONDENTS in accordance with
12 Chapters 233B and 116 and 116A of the Nevada Revised Statutes and Chapters 116 and
13 116A of the Nevada Administrative Code.

14 THE HEARING WILL TAKE PLACE on March 29-31, 2016, beginning at 9:00 a.m.
15 each day or until such time as the Commission concludes its business. The Commission
16 meeting on March 29, 2016, will be located at the Grant Sawyer Building, 401 South Carson
17 Street, Room 2134, Carson City, Nevada 89701, with videoconferencing to the Grant Sawyer
18 Building, 555 E. Washington Ave., Room 4412, Las Vegas, Nevada 89101. The Commission
19 meeting on March 30-31, 2016, will be located at the Grant Sawyer Building, 401 South
20 Carson Street, Room 2134, Carson City, Nevada 89701, with videoconferencing to the Grant
21 Sawyer Building, 555 E. Washington Ave., Room 4412 E, Las Vegas, Nevada 89101.

22 STACKED CALENDAR: Your hearing is one of several hearings that may be
23 scheduled at the same time as part of a regular meeting of the Commission that is expected to
24 take place on March 29-31, 2016. Thus, your hearing may be continued until later in the day
25 or from day to day. It is your responsibility to be present when your case is called. If you are
26 not present when your hearing is called, a default may be entered against you and the
27 Commission may decide the case as if all allegations in the complaint were true. If you need
28 to negotiate a more specific time for your hearing in advance because of coordination with out

1 of state witnesses or the like, please call Claudia Rosolen, Commission Coordinator, at (702)
2 486-4606.

3 YOUR RIGHTS AT THE HEARING: Except as mentioned below, the hearing is an
4 open meeting under Nevada's open meeting law, and may be attended by the public. After
5 the evidence and arguments, the commission may conduct a closed meeting to discuss your
6 alleged misconduct or professional competence. A verbatim record will be made by a certified
7 court reporter. You are entitled to a copy of the transcript of the open and closed portions of
8 the meeting, although you must pay for the transcription.

9 As a RESPONDENT, you are specifically informed that you have the right to appear
10 and be heard in your defense, either personally or through your counsel of choice. At the
11 hearing, the Division has the burden of proving the allegations in the complaint and will call
12 witnesses and present evidence against you. You have the right to respond and to present
13 relevant evidence and argument on all issues involved. You have the right to call and
14 examine witnesses, introduce exhibits, and cross-examine opposing witnesses on any matter
15 relevant to the issues involved.

16 You have the right to request that the Commission issue subpoenas to compel
17 witnesses to testify and/or evidence to be offered on your behalf. In making this request, you
18 may be required to demonstrate the relevance of the witness' testimony and/or evidence.
19 Other important rights and obligations, including your obligation to answer the complaint, you
20 have are listed in NRS Chapters 116 and 116A and NAC 116 and 116A, including without
21 limitation, NRS 116.770 through 116.780, and NAC 116.500 through NAC 116.635 and NRS
22 Chapter 233B.

23 Note that under NAC 116.575, not less than five (5) working days before a hearing,
24 RESPONDENTS, and each of them, must provide to the Division a copy of all reasonably
25 available documents that are reasonably anticipated to be used to support his or her position,
26 and a list of witnesses RESPONDENTS, and each of them, intend to call at the time of the
27 hearing. Failure to provide any document or to list a witness may result in the document or
28 witness being excluded from a RESPONDENT'S defense. The purpose of the hearing is to

1 determine if the RESPONDENTS or any of them have violated the provisions of Chapter 116,
2 and to determine what administrative penalty is to be assessed against RESPONDENTS.

3 DATED this 25th day of February, 2016.

4 REAL ESTATE DIVISION
5 DEPARTMENT OF BUSINESS & INDUSTRY
6 STATE OF NEVADA

7 By: _____

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