

FILED

JUL 12 2016

NEVADA COMMISSION OF
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS

1 MOTION
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4 VAN DUYNELAW GROUP
5 1575 Bellocchi Lane, Suite 215
6 Reno, Nevada 89502
7 Phone: 775-345-3402
8 Fax: 1-800-345-1085

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

9 JOSEPH (J.D.) DECKER, Administrator,
10 REAL ESTATE DIVISION,
11 DEPARTMENT OF BUSINESS &
12 INDUSTRY, STATE OF NEVADA,
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14 Petitioner,
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16 vs.
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18 RHONDA FREIH,
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20 Respondent.

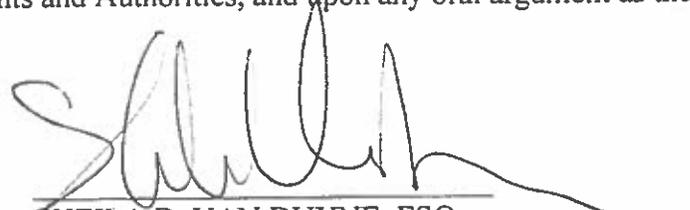
Case No. 2013-464
(formerly CIN 13-02-37-238)

**MOTION TO DISMISS COMPLAINT DUE
TO THE FAILURE TO FILE AGAINST
FREIH WITH THE DIVISION WITHIN
ONE YEAR (NRS 116.760)**

NOTICE OF MOTION

21 COMES NOW, Respondent RHONDA FREIH, by and through her counsel of record,
22 VAN DUYNELAW GROUP, and hereby files this MOTION TO DISMISS COMPLAINT
23 DUE TO THE FAILURE TO FILE AGAINST FREIH WITH THE DIVISION WITHIN ONE
24 YEAR (NRS 116.760). The Motion is made and based upon the pleadings and papers on file
25 herein, the following Memorandum of Points and Authorities, and upon any oral argument as the
26 Commission may request.

Dated this 11th day of July 2016.


SHEILA D. VAN DUYNELAW GROUP,
Attorney for Respondent

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I. FACTUAL BACKGROUND

3 According to the allegations of the Complaint filed against Community Manger Rhonda
4 Freih, ("Freih") this administrative action stems from a Statement of Fact and Request for
5 Intervention that was first filed with the Division on February 11th 2013 (See Complaint
6 Paragraph #5). The Statement of Fact mentioned in the Complaint is the **first document** in this
7 proceeding that makes any mention of the claims that a March 3, 2011 Executive Session
8 Meeting did not occur, that No Board decision authorized the hiring of Red Rock Collections and
9 that Meeting minutes for that meeting were fraudulently created. Prior to that Statement of Fact
10 and the resultant Opening of CASE #CIN13-02-37-238, by the Letter of the Ombudsman's
11 Office, dated March 13, 2013 and signed by Christopher Cooke, Compliance Investigator,
12 ("Cooke"), Freih had never been contacted with any questions regarding the Red Rock
13 Collections Contract matter or the Executive Meeting issue.

14 The Letter from Cooke references a certified letter of March 28, 2012, from Attorney
15 Gayle Kern ("Kern") that served as the pre-intervention affidavit "contact" between the
16 aggrieved party and Freih. (See Cooke Letter attached as Exhibit 1) Cooke then asks that Freih
17 provide answers to all of Kern's claims which didn't include any mention of the Red Rock
18 Collections Matter or Executive Meeting issue, and then additionally asks Freih to provide
19 answers to a new and heretofore unknown claim regarding the executive session meeting and the
20 contract with Red Rock -- which has become the only subject of this pending Complaint against
21 Freih.

22 II. LEGAL AUTHORITY FOR MOTION TO DISMISS

23 NRS 116.760 was not complied with in bringing this Complaint against Freih.

24 *NRS 116.760 Right of person aggrieved by alleged violation to file affidavit with
25 Real Estate Division; procedure for filing affidavit; administrative fine for filing
false or fraudulent affidavit.*

26 *1. Except as otherwise provided in this section, a person who is aggrieved by an
27 alleged violation may, not later than 1 year after the person discovers or
28 reasonably should have discovered the alleged violation, file with the Division a
written affidavit that sets forth the facts constituting the alleged violation. The*

1 affidavit may allege any actual damages suffered by the aggrieved person as a
2 result of the alleged violation.

3 **2. An aggrieved person may not file such an affidavit unless the aggrieved**
4 **person has provided the respondent by certified mail, return receipt requested,**
5 **with written notice of the alleged violation set forth in the affidavit. The notice**
6 **must:**

7 (a) Be mailed to the respondent's last known address.

8 (b) **Specify, in reasonable detail, the alleged violation, any actual damages**
9 **suffered by the aggrieved person as a result of the alleged violation, and any**
10 **corrective action proposed by the aggrieved person.**

11 3. A written affidavit filed with the Division pursuant to this section must be:

12 (a) On a form prescribed by the Division.

13 (b) Be accompanied by evidence that:

14 (1) **The respondent has been given a reasonable opportunity after receiving the**
15 **written notice to correct the alleged violation; and**

16 (2) **Reasonable efforts to resolve the alleged violation have failed.**

17 4. The Commission or a hearing panel may impose an administrative fine of not
18 more than \$1,000 against any person who knowingly files a false or fraudulent
19 affidavit with the Division.

20 (Added to NRS by 2003, 2214; A 2005, 2620)

21 Then, **only if the affidavit complied with the provisions of NRS 116.670, the Division**
22 **shall refer the affidavit to the Ombudsman.** In contrast to the requirements set forth above in
23 NRS 116.670, all alleged violations related to the signing of the Red Rock contract and the
24 minutes related to the March 3, 2011 executive session where such contract was discussed (or
25 not discussed depending on whom you believe), all took place two years prior to the filing of the
26 Statement of Fact by the aggrieved party. Also, the Statement of Fact itself is not in accordance
27 with proper NRED standards set forth in the Instructions on its own website. (See Exhibit 2, the
28 Statement of Fact)

29 Firstly, the "aggrieved party" was Ms. Beckman who was a non-board member at the
30 time of the alleged incidents and could not possibly have first-hand information to which she
31 could testify under penalty of perjury. She simply wouldn't have been a party to an executive
32 meeting because she wasn't a Board member at the time of the alleged incidents. Also, she
33 would not have been privy to any communications via email, phone or text between the Board

1 members regarding the decision regarding the new Collections Company or the Meeting.
2 Additionally, Ms. Beckman, who signed the Statement of Fact, neither included any NRS
3 provisions nor violations of Governing documents when she mentioned, in a short paragraph, the
4 Red Rock collections matter. That in itself was non-compliance with the NRED guidelines for
5 filing a Complaint against a community manager.

6 From instructions published by the Nevada Real Estate Division on its website at
7 <http://www.red.nv.gov>, we see that *"If after contacting the person a resolution is not reached,*
8 *you may complete the Intervention affidavit form and submit it to the Office of the Ombudsman*
9 *no later than one (1) year after discovery of the alleged violation (or after the alleged violation*
10 *should have reasonably been discovered). You should also reference any applicable statutes*
11 *regarding the alleged violation. Any allegation that was not indicated in the written notice and*
12 *not listed on page 4 of the affidavit cannot be discussed considered by the Commission for*
13 *disciplinary action."*

14 From a review of the Statement of Fact signed by Ms. Beckman, we see that the
15 only violation that has become the subject of this pending Complaint of the Petitioner
16 was stated as follows: *"She fraudulently produced minutes of a meeting that did not*
17 *occur. She produced to the Association in 2013, long after the records were provided,*
18 *minutes dated March 3, 2011. A copy in enclosed. This meeting did not even take place.*
19 *The executive session reflects alleged action to move collection accounts to Red Rock*
20 *Financial Service. In fact, Rhonda Freih signed the contract, no board member did. The*
21 *Board did not vote to move the accounts to Red Rock. It was not done by phone and*
22 *emails. It was not authorized. Further, no action to execute a contract would be lawful*
23 *to be done via email and phone or in executive session. The alleged action was on non-*
24 *tan agenda. These minutes and the alleged action were falsely created by Rhonda*
25 *Freih."*

26 This is the first mention of this claim. No person had previously contacted Freih
27 regarding the issue contained in the Beckman Statement of Fact which was used to Open the
28 NRED Investigation. Given the fact that the Statement of Fact described above was

1 noncompliant with NRS 116.670, in that it was not timely, nor did it contain references to
2 statutory violations or CC&R violations, nor was it proceeded by communication with Freih
3 regarding the Red Rock matter or the Executive Session meeting, it should not have been
4 forwarded on for investigation.

5 *NRS 116.765 Referral of affidavit to Ombudsman for assistance in*
6 *resolving alleged violation; report by Ombudsman; investigation by Real Estate*
Division; determination of whether to file complaint with Commission.

7 *1. Upon receipt of an affidavit that complies with the provisions of NRS*
8 *116.760, the Division shall refer the affidavit to the Ombudsman.*

9 *2. The Ombudsman shall give such guidance to the parties as the*
10 *Ombudsman deems necessary to assist the parties to resolve the alleged violation.*

11 *3. If the parties are unable to resolve the alleged violation with the*
12 *assistance of the Ombudsman, the Ombudsman shall provide to the Division a*
13 *report concerning the alleged violation and any information collected by the*
14 *Ombudsman during his or her efforts to assist the parties to resolve the alleged*
15 *violation.*

16 *4. Upon receipt of the report from the Ombudsman, the Division shall*
17 *conduct an investigation to determine whether good cause exists to proceed with*
18 *a hearing on the alleged violation.*

19 *5. If, after investigating the alleged violation, the Division determines that*
20 *the allegations in the affidavit are not frivolous, false or fraudulent and that good*
21 *cause exists to proceed with a hearing on the alleged violation, the Administrator*
22 *shall file a formal complaint with the Commission and schedule a hearing on the*
23 *complaint before the Commission or a hearing panel.*

24 *(Added to NRS by 2003, 2215)*

25 The signing of the contract, the notes regarding the meeting/minutes taken in Rhonda
26 Freih's book longhand, the decision by the Board or not to go with Red Rock all were brought up
27 "too late." There should have been no referral or follow up investigation of such stale issues in
28 accordance with NRS 116.670.

29 III. VIOLATIONS OF THE COMPLAINT SHOULD BE DISMISSED

30 Of the violations contained in the pending administrative Complaint, six are based on the
31 signing of the contract. Such a signing clearly occurred approximately two years prior to the
32 HOA ever making taking issue with it. The other two violations relate to the keeping of minutes
33 for a meeting which also occurred two years in the past.

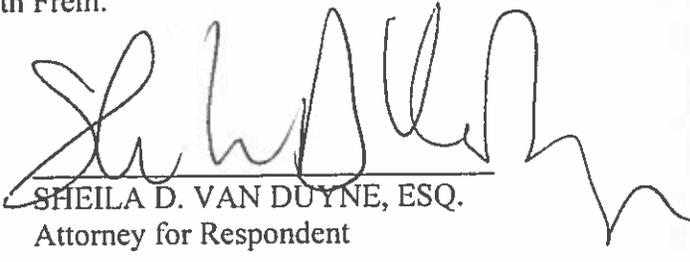
1 The only way the Petitioner could try to draw out the statute of limitations would be for
2 them to claim that the transfer of records to a new management company somehow extended the
3 statute. It would be as if you could somehow extend a statute of limitations by simply asking a
4 party for old records. That would simply not make sense.

5 There are many reasons to enforce a statute of limitations in a case such as this. Firstly,
6 delay is not tolerated by the statute. This is a statutory mandate not a discretionary decision for
7 NRED. A statute of limitations is established to protect the accused because often times
8 witnesses leave the area, memories fade and documents are lost. For instance, in the case at
9 hand, the Association has changed management companies four times since the alleged incident
10 and has also changed collections companies during the same time period. The entire Board has
11 been replaced.

12 IV. CONCLUSION

13 Respondent therefore respectfully requests a complete Dismissal of the Complaint due to
14 the fact that the underlying Statement of Fact was not compliant with Statutory requirements in
15 that it was not timely, did not make mention of specific statutory or document violations, nor was
16 it preceded by requisite communication with Freih.

17 Dated this 11th day of July 2016.

18 
19 SHEILA D. VAN DUYNÉ, ESQ.
20 Attorney for Respondent
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1 CERTIFICATE OF SERVICE

2 I hereby certify that on this 11th day of July 2016, a true and correct copy of **MOTION**
3 **TO DISMISS COMPLAINT DUE TO THE FAILURE TO FILE AGAINST FREIH**
4 **WITH THE DIVISION WITHIN ONE YEAR (NRS 116.760)**, was placed in an envelope,
5 postage prepaid, addressed as stated below, in a basket for outgoing mail at the firm of VAN
6 DUYNE LAW GROUP and via electronic mail using the addresses listed below.

7 Michelle D. Briggs
8 Senior Deputy Attorney General
9 555 E. Washington Ave., Suite 3900
10 Las Vegas, Nevada 89101
11 mbriggs@ag.nv.gov

Claudia Rosolen, Commission Coordinator
Commission for Common-Interest
Communities and Condominium Hotels,
State of Nevada
2501 E. Sahara Ave., Suite 303
Las Vegas, Nevada 89104-4137
crosolen@red.nv.gov

12
13 By: Betty Chronister
14 Betty Chronister, an employee of
15 VAN DUYNE LAW GROUP
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INDEX OF EXHIBITS

Exhibit 1	Number of Pages 7
Exhibit Description:	Letters from Christopher Cooke and Gayle Kern
Exhibit 2	Number of Pages 3
Exhibit Description:	Statement of Facts

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EXHIBIT 1



BRIAN SANDOVAL
Governor

STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
REAL ESTATE DIVISION
OFFICE OF THE OMBUDSMAN FOR OWNERS IN
COMMON-INTEREST COMMUNITIES AND CONDOMINIUM HOTELS
CICOmbudsman@red.state.nv.us
<http://www.red.state.nv.us>

BRUCE H. BRESLOW
Director

GAIL J. ANDERSON
Administrator

KARA M. JENKINS
Ombudsman

March 13, 2013

**CERTIFIED MAIL#: 7011 2970 0003 5620 7343
RETURN RECEIPT REQUESTED**

Rhonda Freih, CAM.0000084-SUPR
Community Association Management Company
2240 Meridian Boulevard, Unit D
Minden, Nevada 89423

Re: CASE# CIN13-02-37-238

Dear Ms. Freih:

The Nevada Real Estate Division (Division), Compliance Section for Owners in Common Interest Communities and Condominium Hotels has received a complaint against you as the Community Association Manager (CAM) for Autumn Trails Homeowners Association (ATHOA).

The Division has opened an investigation to determine if there have been violations of Nevada Revised Statutes (NRS) and Nevada Administrative Code (NAC) Chapter 116 and 116A for Common Interest Communities and Condominium Hotels.

I am the Investigator assigned to this matter. I will seek information, review the facts, and may facilitate communication aimed at resolving the conflict. I may make a recommendation regarding resolution of the issue(s) and/or make a recommendation for a hearing before the Commission for the Common Interest Communities and Condominium Hotels.

Please be advised that the actual complaint is confidential in accordance with NRS 116.757 and NRS 116A.270.

In an effort to maintain clarity to this investigation, please provide a notarized written response to all of Attorney Gayle Kern's, and the ATHOA Executive Board's, allegations (NRS 116.31038-NRS 116A.630(4) and following) as listed in Ms. Kern's March 28, 2012 letter (copy enclosed) to you. Also provide answers to this investigator's following questions:

1179 Fairview Drive, Suite E • Carson City, Nevada 89701

Telephone (775) 687-4280 • Facsimile (775) 687-4868 • Statewide Toll Free (877) 829-9907

1. When do you believe transition was supposed to occur regarding this association?
2. When did the declarant declare bankruptcy? Please provide all information and documentation you possess regarding the declarant and this bankruptcy. Please provide date (Kern's #31) you assert transition did occur.
3. Ms. Kern requested an explanation in the March 28, 2012 letter regarding the "basis for you having allowed the Association to be controlled by an entity that was not the Declarant?" Please provide further information regarding this accusation?
4. Ms. Kern and the executive board assert that you did not provide numerous records of the association. If any of the items listed under 1-31 of Ms. Kern's letter have been, or have not been, provided please supply a complete list of transition items and the dates on which the transfers were complete.
5. Why was the requested information allegedly not provided within 30 days pursuant to statute? If it was provided within 30 days, please provide documentation regarding the transfer.
6. Allegedly you stored the association's records more than 60 miles from the association.
7. Allegedly you/CAMCO entered into numerous contracts that were not approved by the executive board.
8. Allegedly you used a California attorney and a bank in California.
9. You fraudulently produced meeting minutes for a meeting that did not occur. Enclosed is a copy of meeting minutes dated March 3, 2011 that Ms. Kern and the ATHOA Executive Board allege never occurred.
10. Allegedly you signed a contract with Red Rock Financial Service when executive board members did not sign or approve to move the association's account to Red Rock.
11. Allegedly, you refused to facilitate the closing of bank accounts so the association could have control of their money.

In addition, please provide all documents or other evidence to support your above written responses and provide the following information and documents:

1. A list of ATHOA Executive Board Members with addresses, telephone numbers and email addresses.
2. Please provide all back and forth correspondence with the ATHOA Executive Board and/or Attorney Gayle Kern regarding these allegations and any other correspondence you deem pertinent.
3. Please provide documentation regarding the transfer the association's records to ATHOA or the subsequent management company upon the termination of your/CAMCO's services.
4. Copies of all of CAMCO's Contracts with ATHOA.
5. Copies of all invoices between you/CAMCO and ATHOA.

6. Copy of ATHOA's contract with Red Rock Financial Services—specifically the one you allegedly signed without executive board approval. Please provide copies of referenced emails and telephone logs from the March 3, 2011 meeting minutes.
7. All items (1.-31.) listed in Ms. Kern's March 28, 2012 letter or a detailed explanation why this information cannot be provided.
8. Copies of all ATHOA Meeting (Units' Owners', Executive Board, Executive Session, hearings, etc... Agendas and Minutes from January 1, 2010 to present.

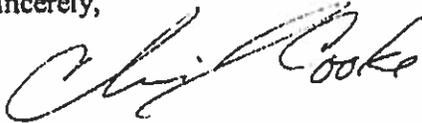
All documents requested in this letter and your responses to the allegations are required to be sent to the Division no later than Friday, March 29, 2013.

Please be advised that if the Division does not receive the requested information or a satisfactory explanation as to why the documents are not forthcoming by the aforementioned date, the Division, Compliance Section for Owners in Common Interest Communities and Condominium Hotels will refer this matter to the Administrator who will levy an administrative fine against you in the amount of \$500.

Upon review of the requested documents, the undersigned may be contacting you for further information and/or an interview.

Thank you in advance for your anticipated cooperation. Should you have any questions, you may contact me at (775) 687-4280 ex 311 or by email at cjcooke@red.state.nv.us.

Sincerely,



Christopher Cooke
Compliance Investigator

Enc. Blank affidavit form
c: File

7011 2970 0003 5620 7343

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Street, Apt. No., or PO Box No.	2240 Meridian Blvd., Suite D
City, State, ZIP	Minden, Nevada 89423

Postmark Here

KERN & ASSOCIATES, LTD.
ATTORNEYS AT LAW

GAYLE A. KERN, ESQ.
gaylekern@kernltd.com

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5421 KIBTZKE LANE, SUITE 200
RENO, NEVADA 89511

TELEPHONE: (775) 324-5930
FACSIMILE: (775) 324-6173

March 28, 2012

Via Email [RJFreih@camco4nv.com] Facsimile [775-782-1983]
and Via Certified Mail, Return Receipt Requested

Rhonda Freib
CAMCO
2240 Meridian Blvd. Suite D
Minden, NV 89423

Re: *Autumn Trails Homeowners Association*

Dear Ms. Freib:

As you know, I have been retained by the Autumn Trails Homeowners Association ("Association"). Please accept this letter as one written in accordance with NRS 116.750 et seq. As a result of your refusal to communicate about the Association or provide any information regarding action you may or may have not taken in fulfilling your duties as a community manager, the Association has been forced to take the formal step of identifying the serious and numerous violations of Nevada law and to file an Intervention Affidavit if correction is not obtained immediately as required by applicable statutory provisions.

It is my understanding that the Association retained Kenyon and Associates, Inc. as its community manager. I further understand that as the soon-to-be former community manager, you still have the records of the Association and should have been fulfilling your duties and obligations in this regard.

In any event, my client expects that it will obtain all of the records immediately with no problems or additional delays. These records include but are not limited to:

1. Inventory of Records.
2. All financial records including original bank statements.
3. All original documentation regarding any and all reserve studies, budgets and the like.
4. All minutes of all board meetings, member meetings and executive sessions.
5. All notices of all board meetings, member meetings and executive sessions.
6. Violation log.

7. A copy of all landscape plans as built.
8. The original or certified copy of the recorded declaration as amended, the association's original articles of incorporation, original bylaws, minute books and other books and records of the Association including any resolutions, policies, rules or regulations which may have been adopted.
9. An accounting for money of the association and financial statements from the date the Association received money to the date the declarant's control ended.
10. If not otherwise included in your response to item number 3 above, the complete study of reserves and any documents provided to or from the reserve specialist.
11. A written disclosure of the amount of money that was subsidized on a per unit or per lot basis.
12. Any personal property that is property of the Association.
13. Copy of any plans and specifications used in the construction of the improvements in the common area in the common-interest community which were completed within two years before the CC&Rs were recorded, that is June 8, 2003.
14. All insurance policies in force within the past six years together with all applications, solicitations, communications from and to the insurance broker, agent and carrier.
15. Copies of any certificates of occupancy that may have been issued.
16. Any renewable permits and approvals issued by governmental bodies applicable to the Association.
17. Written warranties of the contractor, subcontractors, suppliers and manufacturers that are still effective.
18. Roster of owners and mortgagees of units and their addresses and telephone numbers, if known, as shown on your records.
19. Contracts of employment in which the Association is a contracting party.
20. Any contract for service in which the Association is a contracting party or in which the Association or the owners have any obligation to pay a fee.
21. Evidence or documents related to the conveyance of common elements if there are any.
22. Copy of Public Offering Statement and any amendments thereto.
23. Any and all records of the Association.
24. Any records of individual members of the Association.
25. All correspondence by and between CAMCO and the Declarant.
26. All correspondence by and between CAMCO and any board member.
27. Audit required to be provided by Declarant.
28. Interim and annual financial statements.
29. Certificates of compliance with NRS 116.31034 executed by all board members.
30. All invoices and documentation evidencing any payment made by the Association.
31. The date that you assert that the transition occurred from Lakemont Spanish Springs, LLC to the Association pursuant to NRS 116.31038 and the basis for such assertion.

With respect to the Declarant and the transition period, I am very confused. In reviewing the public records, it appears this transition should have been approximately five years ago. I do not

understand the basis for allowing any other entity appoint members of the Board and control that Board once the Declarant's status was revoked. Will you please provide the basis for your having allowed the Association to be controlled by an entity that was not the Declarant? Depending on the explanation of the actions taken, this may have been numerous violations of Chapters 116 and 116A of the Nevada Revised Statutes:

NRS 116.31038 - If you failed to monitor the transition of the Declarant, the required action was not taken.

NRS 116.31039 - If you failed to monitor the trigger of declarant control, additional common elements should have been transferred to a member-controlled board.

NRS 116.3104 - If there was an unlawful transfer to a special declarant, your conduct may have furthered such unlawful transfer prejudicing your client.

NRS 116.31043 - If you failed to determine if there had been a lawful transfer of any liabilities and obligations of an alleged special declarant, this statute was violated.

NRS 116.31046 - There appears to be no evidence that you provided information for the Association to make proper demands on the alleged special declarant.

NRS 116.3105 - There appears to be no evidence that you provided information for the Association to terminate contracts.

NRS 116.31032 - There appears to be no evidence that you provided information for a timely election of members to the Board and that you unlawfully allowed appointment to the Board by an entity with no lawful authority to do so.

NRS 116A.630(1) - If the transition should have occurred years ago, your actions would be a violation of your obligation to act as a fiduciary to the Association by serving the interests of an owner. Such conduct would also constitute a failure to exercise ordinary and reasonable care in performing duties including conducting or calling for proper elections, avoiding control by a proper and lawful declarant. Based on the information available at the present time, you have failed to properly maintain and provide access to Association records and financial information. Based on information available, you failed to provide information to allow the Association to serve notice to terminate your contract to continue proper and lawful management of the community and other contracts that were entered into by an entity other than the member elected board.

NRS 116A.630(2) - As identified above, the failure to comply with applicable laws would also constitute a violation of this provision.

NRS 116A.630(3) - The Association has received no evidence of your having been kept informed of new developments in community management including developments when declarants go bankrupt.

NRS 116A.630(4) - There is no evidence you advised the Association to seek advice of independent experts including attorneys and/or accountants relative to the issues of the declarant, alleged successor declarant, financial demands by you.

Further, my client has provided me with a demand from you that you be paid \$18,475.00. I have reviewed the invoices you provided and have a difficult time reconciling this demand with the Management Agreement and Nevada law. Do you have a collection license? If not, such actions may constitute a violation of NRS 116A.630(7). If not, can you explain on what basis you are

March 28, 2012

Page 4

assessing collection charges? In addition, Nevada law limits the amount that a community manager may charge for administrative work associated with any delinquent account. This action to collect more than is allowed by law constitutes a violation of NAC 116.470. It appears that even if the charges are characterized as administrative charges, they are far in excess of what is allowed. In addition, my client does not have any information regarding the administrative work that was allegedly performed. Please provide copies of the documents evidencing the collection action that you now seek nearly \$20,000.00.

In addition to the above violations, your failure to provide any communication to your client constitutes a violation of NRS 116A.630.

In addition to the above violations, your failure to provide any records to your client constitutes a violation of NRS 116A.630.

You must provide all requested information, documentation and evidence of the work performed for the past thirty days no later than March 30, 2012. In addition, in accordance with your notice of termination of management, you are required to have complied with the transition documentation. You must also provide sufficient information to explain the transition issue and collection fees you seek to recover.

Therefore, demand is made that in order to avoid an intervention affidavit being filed, you must comply with the required documentation and applicable statutes. I am sorry that the Association was forced to take this step, but the lack of communication and information is putting the Association in a precarious position. I urge you to address this serious matter immediately.

Very truly yours,

KERN & ASSOCIATES, LTD.


Gayle A. Kern

c: Client
Terri Kenyon

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EXHIBIT 2

RECEIVED

FEB 11 2013

STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
REAL ESTATE DIVISION

2501 East Sahara Avenue, Suite 202 • Las Vegas, NV 89104-4137
(702) 486-4480 • Toll free: (877) 829-9907 • Fax: (702) 486-4520
E-mail: CICombudsman@red.state.nv.us <http://www.red.state.nv.us>

DEPT OF BUSINESS & INDUSTRY
REAL ESTATE DIVISION - LV

STATEMENT OF FACT
AGAINST A COMMUNITY MANAGER

Please Print or Type

Your Name: Autumn Trails Homeowners Association
Home Phone: _____ Business Phone: 775-324-5830
Address: 5421 Kietzke Ln. Suite 200 Reno Nevada 89511
(Street) (City) (State) (Zip)

Please complete the following information concerning your complaint. The Division's ability to investigate the matter will depend largely upon you providing a complete and detailed sworn statement. **ATTACH ALL PERTINENT COPIES OF PAPERS AND/OR DOCUMENTS TO THIS FORM. KEEP ORIGINALS FOR YOUR FILE.**

Name of Community Manager complaint is against: Rhonda Freih
Name of Management Company: CAMCO
Address of Management Company: 2240 Meridian Blvd., Suite D, Minden, NV 89423
Management Company Telephone No. 775-782-8340
Is any legal action pending? Yes No If so, what action? _____
Has an Alternative Dispute Resolution (ADR) claim been filed? Yes No If so, what date: _____

CONSIDER THE FOLLOWING CAREFULLY

- The Division is not empowered to compel anyone to accede to demands of any kind. We cannot compel refunds of any kind. In this regard, we suggest that you seek private counsel to protect your interests, as we are not authorized to give legal advice.
- Do not delay any civil action you might be considering regarding this matter.
- Should the Division determine that a case warrants opening against the Community Manager, an investigation will be initiated. Considerable time may be required to complete our investigation. You will be advised of the disposition of this matter when the investigation is completed. Also, it may be necessary for you to appear and testify should this matter proceed to a hearing before the Commission for Common-Interest Communities.

As required by NAC 116A.350 (2) (c) (4) prior to filing a complaint with the Division against a Community Manager, you must:

1. Provide to the Division proof of written communication with the Community Association Manager.
2. The written communication must include all allegations that you request the Division to consider for possible investigation. The written communication may be in the form of an e-mail, facsimile or letter.
3. Allow the Community Manager a minimum of twelve (12) business days to respond before filing a complaint with the Division.
4. Provide copies of all documentation that supports the allegation(s) against the Community Manager.

I declare under penalty of perjury under law of the State of Nevada that the foregoing attached statement consisting of 4 pages is true and correct.

Executed on 1-31-2013
(Date)

Arcie M. Beckman
(Signature)

RECEIVED FEB 11 2013
3:59 PM

EXPLAIN FULLY: (Describe events in the order in which they happened, if possible. Please include dates, names and all applicable statutes. You must begin describing the events on this sheet. You can attach additional sheets if needed. SEE ATTACHMENT IS NOT ACCEPTABLE. AGAIN, YOUR EXPLANATION MUST BEGIN ON THIS SHEET. IF YOU NEED ADDITIONAL SPACE, YOU CAN ATTACH ADDITIONAL SHEETS.

Rhonda Freih was the Community Manager for Autumn Trails from approximately the Spring of 2005 until March 2012. Included in this time period was the period when Declarant control should have ended, prompting transition. In reviewing the public records, it appears this transition should have been approximately five years ago. The Association requested information regarding the failure to transition five years ago. Depending on the explanation of the actions taken, this may have been numerous violations of Chapters 116 and 116A of the Nevada Revised Statutes:

NRS 116.3103B - Failure to monitor the transition of the Declarant, the required action was not taken.

NRS 116.3103B - Failure to monitor the trigger of declarant control, additional common elements should have been transferred to a member-controlled board.

NRS 116.3104 - Failure to lawfully transfer to a special declarant.

NRS 116.31043 - Failure to determine if there had been a lawful transfer of any liabilities and obligations of an alleged special declarant, this statute was violated.

NRS 116.31046 - Failure to provide information for the Association to make proper demands on the alleged special declarant.

NRS 116.3105 - Failure to provide information for the Association to terminate contracts.

NRS 116.31032 - Failure to provide information for a timely election of members to the Board and unlawful appointment to the Board by an entity with no lawful authority to do so.

NRS 116A.630(1) - If the transition should have occurred years ago, Ms. Freih's actions would be a violation of her obligation to act as a fiduciary to the Association by serving the interests of an owner. Such conduct would also constitute a failure to exercise ordinary and reasonable care in performing duties including conducting or calling for proper elections, avoiding control by a proper and lawful declarant. Based on the information available at the present time, she failed to properly maintain and provide access to Association records and financial information. Based on information available, she failed to provide information to allow the Association to serve notice to terminate her contract to continue proper and lawful management of the community and other contracts that were entered into by an entity other than the member elected board.

NRS 116A.630(2) - As identified above, the failure to comply with applicable laws would also constitute a violation of this provision.

NRS 116A.630(3) - The Association has received no evidence of Ms. Freih having been kept informed of new developments in community management including developments when declarants go bankrupt.

NRS 116A.630(4) - Failure to advise the Association to seek advice of independent experts including attorneys and/or accountants relative to the issues of the declarant, alleged successor declarant, financial demands; transition from declarant; election of members to the Board.

Ms. Freih demanded \$18,475.00 in fees for collection of delinquent assessments. The Management Agreement and Nevada law do not support the invoices provided. There is no evidence that Ms. Freih has a collection license. If not, such actions may constitute a violation of NRS 116A.630(7). In addition, Nevada law limits the amount that a community manager may charge for administrative work associated with any delinquent account. This action to collect more than is allowed by law constitutes a violation of NAC 116.470. It appears that even if the charges are characterized as administrative charges, they are far in excess of what is allowed. In addition, there is no evidence of the administrative work that was allegedly performed. Copies of the documents evidencing the collection action were requested and not provided.

In addition to the above violations, the failure to provide any communication to the client constitutes a violation of NRS 116A.630.

In addition to the above violations, Ms. Freih failed to provide numerous records to the client (see attached list) which constitutes a violation of NRS 116A.630. She refused to deliver them within thirty days. A copy of the demand letter is enclosed. She failed to provide the original bank statements; failed to provide the original documentation of reserve studies and budgets; she failed to maintain and provide all minutes of the Board, executive sessions and hearings; failed to provide all notices of meetings; failed to provide a violation log; items in my letter continue to list all. See attached additional page.

**Autumn Trails Homeowners Association
Additional page to Intervention Affidavit**

She failed to store the records within 60 miles of the Association, instead keeping them at her office which is more than 60 miles away. She refused to bring the records to the Association, instead forcing the new community manager to travel to her office. Ms. Freih entered into numerous contracts that were never approved by the Board. She used an attorney in California. She used a bank in California. She refused to facilitate the closing of the accounts so the Association could have control of the money.

She fraudulently produced minutes of a meeting that did not occur. She produced to the Association in 2013, long after the records were provided, minutes dated March 3, 2011. A copy is enclosed. This meeting did not even take place. The executive session reflects alleged action to move collection accounts to Red Rock Financial Services. In fact, Rhonda Freih signed the contract, no board member did. The Board did not vote to move the accounts to Red Rock. It was not done by phone and e-mails. It was not authorized. Further, no action to execute a contract would be lawful to be done via e-mail and phone or in executive session. The alleged action was not on an agenda. These minutes and the alleged action were falsely created by Rhonda Freih.