

**COMMISSION FOR COMMON-INTEREST COMMUNITIES AND CONDOMINIUM
HOTELS MEETING MINUTES FEBRUARY 2, 2016**

**DEPARTMENT OF BUSINESS AND INDUSTRY
2501 E. SAHARA AVENUE
2ND FLOOR CONFERENCE ROOM
LAS VEGAS, NEVADA 89104**

**VIDEOCONFERENCE TO:
DEPARTMENT OF BUSINESS AND INDUSTRY
DIRECTOR'S OFFICE
1830 EAST COLLEGE PARKWAY
SUITE 100
CARSON CITY, NEVADA 89706**

FEBRUARY 2, 2016

9:00 A.M.

1-A) Swearing in of Commissioner

Doris Woods was sworn in as commissioner by Chairman Sibley.

1-B) Introduction of Commissioners in attendance

In Las Vegas: Scott Sibley, Barry Breslow, Stephen Aichroth, Ken Williams, James Rizzi, Richard Layton, Doris Woods, and Rose Marie Reynolds as Commission Counsel.

1-C) Introduction of Division Staff in attendance

In Las Vegas: Joseph Decker, Administrator; Sharon Jackson, Ombudsman; Stacey Spoerl, Program Training Officer; Teralyn Thompson, Administration Section Manager; Jennifer Oerding, Education Officer; Susan Clark, Licensing Manager; Sandra Saenz, Licensing Supervisor; Claudia Rosolen, Commission Coordinator; Christine Worrell, Auditor; and Senior Deputy Attorney General Michelle Briggs serving as Division Counsel.

In Carson City: Michael Jory, Deputy Administrator.

2) Public Comment

In Las Vegas: Tim Stebbins, Henderson resident and director of the Nevada Homeowner Alliance PAC (NHA), commented. Mr. Stebbins welcomed Commissioner Woods and wished her a successful term.

In Las Vegas: John Parrella, homeowner and Henderson resident, commented. Mr. Parrella stated that it is very difficult to seek the referee avenue when a board and their legal counsel insist on seeking mediation. Mr. Parrella stated that once an issue has gone through the informal conference it should be directed to a referee instead of the more expensive option of District Court.

In Carson City: None.

3) Petition for Rehearing for Mary Felicia Novak-File No. S-CAM-LDA-16-001.

Parties Present:

Mary Felicia Novak was present.

Senior Deputy Attorney General Michelle Briggs stated that the Division does not oppose a rehearing.

Ms. Novak asked the Commission to rehear her license denial appeal.

Commissioner Breslow move to grant the request for a rehearing. Commissioner Layton seconded.

Motion carried unanimously.

4) License Denial Appeal for Mary Felicia Novak-File No. S-CAM-LDA-16-001.

Ms. Novak requested a closed session.

Commissioner Breslow moved for the Commission meeting to go in closed session to review Ms. Novak's license denial appeal in accordance with NRS 241.030(1). Commissioner Layton seconded.

Motion carried unanimously.

Review and discussion was conducted in closed session.

Commissioner Layton moved for the Commission meeting to return to open session. Commissioner Williams seconded.

Motion carried unanimously.

Meeting returned to open session.

Commissioner Williams moved to deny the appeal without prejudice with the ability for reapplication during the winter meeting of 2017. Commissioner Breslow seconded.

Susan Clark, Licensing Manager, stated that the Division's procedure for this type of situation is that the applicant will have to reapply because fingerprints are required to be done again. Ms. Clark stated that the application would be denied and the applicant would have to come back in front of the Commission.

Commissioner Breslow stated that even though he seconded Commissioner Williams' motion he is not in favor.

Motion failed 1 to 6 with Commissioners Sibley, Breslow, Aichroth, Wood, Rizzi and Layton opposed.

Commissioner Breslow moved for the Commission to grant the appeal. Commissioner Rizzi seconded.

Motion carried 6 to 1 with Commissioner Williams opposed.

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

NRED v. Martin Saxon, for possible action

Case No. 2015-3007

Type of Respondent: Community Manager

Parties Present:

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

Martin Saxon was present.

Preliminary Matters:

Ms. Briggs stated that the State and the respondent reached a settlement. Ms. Briggs read the stipulation for settlement into the record.

Chairman Sibley asked Mr. Saxon if he was in favor of the obligations under the terms of the stipulation.

Mr. Saxon stated that he understood and agreed with the terms set forth in the stipulation.

Commissioner Layton moved to accept the settlement. Commissioner Williams seconded.

Commissioner Breslow stated that there is a bit of disconnect between the transgressions that are alleged in the complaint and the significant, but still modest discipline. Commissioner Breslow asked Ms. Briggs why this is a good resolution for the State.

Ms. Briggs stated that she agrees with Commissioner Breslow on the fact that the discipline is light. Ms. Briggs stated that the respondent cooperated with the Division and the findings of the audit showed that there was no money missing. Ms. Briggs stated that the stipulation is in the interest of resolving this dispute.

Mr. Saxon stated that the audit firm that he hired was not reputable and they were based in Florida. Mr. Saxon stated that there was no malice intended nor money defrauded from the association. Mr. Saxon stated that everything has been corrected, refiled and a budget from a CPA has been created.

Commissioner Aichroth asked why the balance of the reserve account was over a million dollars for the years 2012/2013 and then became significantly short.

Mr. Saxon stated that when his company took over the account, there were CD's totaling over a million dollars. Mr. Saxon stated that those CD's were mis-categorized and were never added to reserve account.

Motion carried unanimously.

5-E) Disciplinary action: Hearing and possible action by the Commission
NRED v. Anthem Highlands Community Association; Robert Stern; Charles Hernandez;
and Ronnie Young, for possible action regarding partial settlement, for possible action
Case Nos. 2015-3615; 2015-2155; 2015-3100; 2015-2207
Type of Respondent: Board Officer and Director

Parties Present:

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

Ronnie Young was present.

Preliminary Matters:

Ms. Briggs provided the Commission with a copy of the stipulation for partial settlement of disciplinary action signed by the respondent Ronnie Young, the Administrator and Division's Counsel.

Commissioner Aichroth read the partial stipulation for settlement for respondent Ronnie Young into the record.

Chairman Sibley asked Mr. Young if he was in favor of the obligations under the terms of the stipulation.

Mr. Young stated that he understood and agreed with the terms set forth in the stipulation.

Commissioner Williams moved to accept the partial settlement for respondent Ronnie Young. Commissioner Rizzi seconded.

Motion carried unanimously.

5-A) Disciplinary action: Hearing and possible action by the Commission
NRED v. Maria Limon, for possible action
Case No. 2015-2028
Type of Respondent: Community Manager

Parties Present:

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

Maria Limon was not present.

Preliminary Matters:

Ms. Briggs stated that she spoke with Gabriel Grasso, Esq. on February 1, 2016. Ms. Briggs stated that Mr. Grasso is Ms. Limon's attorney and has been copied on all documents that have

been filed in this matter. Ms. Briggs stated that Mr. Grasso was approached to represent Ms. Limon in this case, but was never retained. Ms. Briggs stated that this is the reason why Mr. Grasso was not present today. Ms. Briggs stated that Ms. Limon has the notice of the complaint and the notice of default that was filed on January 22, 2016.

Allegations:

Ms. Briggs asked that the allegations contained in the complaint be accepted as true.

Violations of Law:

Ms. Briggs asked that the violations of law contained in the complaint be accepted as they are alleged.

State's Witness:

Claudia Rosolen, Commission Coordinator testified regarding mailing of the notice of complaint and notice of default.

Commissioner Breslow moved to accept the factual allegations of the complaint as true and that the violations of law to have occurred. Commissioner Layton seconded.

Motion carried unanimously.

Division's Recommendation for Discipline:

Ms. Briggs gave the Division's recommendation.

- Respondent shall pay restitution to Diamond Head Villas Inc. and Diamond Head Villas Association Phase II in the total amount of \$125,000; with Diamond Head Villas Association, Inc. to receive \$62,500 and Diamond Head Villas Association Phase II to receive \$62,500; which shall be paid within 30 days of the date of the Order;
- Respondent shall pay an administrative fine to the Division in the total amount of \$31,108.43 which includes a fine of \$25,000 for the violations of law and \$6,108.43 representing the total amount due for the Division's attorney's fees and costs no later than 30 days from the date of the Order; and
- Respondent's certificate was revoked by order the Commission on July 10, 2014 for a period of no less than 10 years. The Commission further orders Respondent's certificate revocation shall not end prior to such time as all fines and restitution ordered by this Commission have been paid in full.

Commissioner Layton moved to accept the recommendation for discipline. Commissioner Williams seconded.

Motion carried unanimously.

5-C) Disciplinary action: Hearing and possible action by the Commission

NRED v. Laurel Canyon Homeowners Association; James Schumann; and Robert Valentine, for possible action

Case Nos. 2015-1360; 2015-1361; and 2015-1363

Type of Respondent: Board Officer and Director

This matter was continued.

5-D) Disciplinary action: Hearing and possible action by the Commission

NRED v. Jeffrey Allan Frederick, for possible action

Case No. 2014-1057

Type of Respondent: Community Manager

Parties Present:

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

Jeffrey Allan Frederick was present.

Preliminary Matters:

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

Mr. Frederick gave the Commission a response to Ms. Briggs' background history regarding the case.

Commissioner Williams stated that he had prior knowledge of some of the information regarding the case and recused himself from the case.

Ms. Briggs requested a ten minutes continuance.

6-B) For possible action: Discussion and decision regarding the review of the Commission for Common-Interest Communities and Condominium Hotels by the 2015-2016 Interim Sunset Subcommittee of the Legislative Commission pursuant to NRS 232B.

Joseph Decker stated that there is a Legislative Commission that is currently reviewing the operations, activities and need for continuance of a number of commissions and boards throughout the State. Mr. Decker stated that one of those commissions is the Commission for Common-Interest Communities and Condominium Hotels. Mr. Decker stated that the Legislative Commission provided the Division with a list of questions and some research for the Division to do. Mr. Decker stated that after discussion with the Commission's Chair, the Division answered those questions on behalf of the Commission. Mr. Decker stated that the Division will testify in front of the Legislative Commission on February 23, 2016.

Commissioner Breslow asked how the Legislative Commission will go about ending those commissions that are deemed to be no longer necessary.

Mr. Decker stated that the Legislative Commission has the authority to take action. Mr. Decker stated that he is not sure if the Legislative Commission has the authority specifically to recommend to the full Legislation to disband a commission or whether they have the authority to do it themselves. Mr. Decker stated that the Division feels that the Commission provides very important service to the State of Nevada. Mr. Decker stated that the Division will defend the Commission vigorously before the Legislative Commission.

Chairman Sibley stated that this is something that the Governor did when he was elected into office. Chairman Sibley stated that the Governor asked to review every commission every ten

years.

8-A-1) Administrator's Report: Personnel

Joseph Decker presented this report. Mr. Decker stated that the current education officer is leaving and the Division has a posting to fill that position. Mr. Decker stated that the Division is still working on reassigning the extra investigator position to the Ombudsman Section to assist with mediations and with the tripling of Alternative Dispute Resolution cases that the Division is handling now. Mr. Decker stated that the Compliance Section has one of the investigators as acting Chief and he is doing an excellent job.

8-A-2) Administrator's Report: Update on LCB File No. R050-13

Teralyn Thompson presented this report. Ms. Thompson stated that the Division went in front of the Legislative Commission on December 21, 2015 and the Legislative Commission approved the corrected version of LCB File No. R050-13. Ms. Thompson stated that the Legislative Commission backdated the approved LCB File No. R050-13 to August 10, 2015 when the originally proposed regulation was approved. Ms. Thompson stated that the regulation is currently effective.

8-B-1) Ombudsman's Report on intervention

Sharon Jackson presented this report. Ms. Jackson stated that 157 interventions have been received since July 2015. Ms. Jackson stated that due to the past holidays, the number of intervention affidavits received was lower than usual. Ms. Jackson stated that the Division anticipates that the number of intervention affidavits will pick up again.

8-B-2) Ombudsman's Report on informal conferences

Sharon Jackson presented this report. Ms. Jackson stated that the Division held 140 informal conferences with resolution rate of 83% since inception. Ms. Jackson stated that the year to date resolution rate is 79%. Ms. Jackson stated that the Division has changed the format of the report in order to make it easier to read.

8-B-3) Ombudsman's Report on alternative dispute resolution filings and subsidy claims

Sharon Jackson presented this report. Ms. Jackson stated that the Alternative Dispute Resolution (ADR) program is transitioning. Ms. Jackson stated that a lot of cases are related to the super priority lien. Ms. Jackson stated that banks are filing with the Division so that they can move forward and go to court. Ms. Jackson stated that the Division is handling 700 ADR complaints. Ms. Jackson stated that staff has been reassigned to that section in order to handle the high volume of cases.

8-B-4) Ombudsman's Report on homeowner association and compliance audits

Sharon Jackson presented this report. Ms. Jackson stated that in fiscal year 2016 the Division had a total of 11 audits. Ms. Jackson stated that the amount retrieved by the auditor was \$7,384.01.

8-B-5) Ombudsman's Report on Program Training Officer's Report

Sharon Jackson and Stacey Spoerl presented this report. Ms. Jackson stated that the training classes are doing very well.

Ms. Spoerl stated that Google translator has been added to the Division's website. Ms. Spoerl stated that she sees new people coming to the classes and new PowerPoints are added based upon requests that she is receiving. Ms. Spoerl stated that the Division has an email address for members of the public to ask questions. Ms. Spoerl stated that the number of walk-in constituents is also increasing.

Commissioner Williams asked about the spike in attendance during the month of September.

Ms. Spoerl stated that was due to a seminar that she held at an event.

Ms. Jackson stated that the Division was invited as a guest speaker to an event. Ms. Jackson stated that companies and board members now have the opportunity to request to have the Program Training Officer come to their location or events.

8-B-6) Ombudsman's Report on number and types of associations registered with the State

Sharon Jackson presented this report. Ms. Jackson stated that in September the number of registered associations was 3,100 with a total of 1,535 new units.

Commissioner Aichroth asked how the Division is handling the ADR claims timewise.

Ms. Jackson stated that due to the exponential growth of cases, the process is now pretty lengthy. Ms. Jackson stated that it is going to take a while for the situation to go back to normal. Ms. Jackson stated that in the past two and a half months, the Ombudsman's Office had 700 cases, and ninety percent of those cases are bank related.

Mr. Decker stated that the Division is having trouble keeping up. Mr. Decker stated that the Division is trying to give priority to unit owners and board issues over the banks that are filing for the foreclosure proceedings.

Commissioner Breslow asked what type of issues the Division sees with the banks.

Mr. Decker stated that the banks are just getting to their foreclosure actions.

9) For possible action: Discussion and decision on date, time, place, and agenda items for upcoming meetings; including setting meeting dates 2016.

Teralyn Thompson presented the dates for the 2016 Commission meetings.

- March 29-31, 2016 in the North;
- June 7-9, 2016 in the South;
- August 16-18, 2016 in the North; and
- November 15-17, 2016 in the South.

8-C) Compliance Section's report

Sharon Jackson presented this report. Ms. Jackson stated that the Enforcement Section has 124 active cases. Ms. Jackson stated that seventy of those cases are for community managers and fifty-four are regarding boards.

8-D) Administrative fine report pursuant to NAC 116A.350 (4)

Teralyn Thompson stated that she has nothing to report at this time.

8-E) Licensee and board member discipline report

Teralyn Thompson presented this report. Ms. Thompson stated that payments were received after the report was posted. Ms. Thompson stated that Leslie White, Audra Collins and Ryon Collins are on time with payments.

Ms. Thompson stated that Richard Willer paid his fine in full.

Ms. Thompson stated that Cottonwood Court Townhomes Homeowners paid its fine in full.

Ms. Thompson stated that the Division received notification from the supervising community manager stating that Falcon Capital, LLC fulfilled the Commission order by paying the association and provided the plans.

7-1) Ben C. Scheible.

“Common-Interest Communities Law Update 2015”

Request: 3 Hours Legal Classroom

Jennifer Oerding presented this course. Ms. Oerding stated that the Division is recommending approval. Ms. Oerding stated that this course is a carryover from the previous meeting.

Ben C. Scheible was present and provided the Commission with his resume.

Commissioner Williams stated that he does not see any common-interest communities experience on his resume, only real estate. Commissioner Williams stated that this is the concern that was raised at the last meeting.

Commissioner Layton stated that he has a similar concern.

Mr. Scheible stated that this is a basic legislative updates class. Mr. Scheible stated that he was asked by several community managers that attended the real estate classes that he teaches to submit this class for approval.

Commissioner Aichroth asked to elaborate on the common-interest communities’ module that is listed under the relevant teaching experience on Mr. Scheible’s resume.

Mr. Scheible stated that he does a legislative update class for real estate licensees that include a module for the common-interest communities.

Commissioner Williams moved to deny the application. Commissioner Layton seconded.

Motion failed 2 to 5 with Commissioners Aichroth, Breslow, Woods, Rizzi, and Chair Sibley opposed.

Commissioner Breslow moved to approve the course. Commissioner Aichroth seconded.

Motion carried 5 to 2 with Commissioners Williams and Layton opposed.

Mr. Decker stated that the module that Mr. Scheible referenced is part of the NRS Chapter 645 requirements for real estate training that includes a module for common-interest communities. Mr. Decker stated that the Division is working with the Real Estate Commission to change the regulation and remove the module. Mr. Decker stated that on the Real Estate side there is too much confusion between property management and community association management. Mr. Decker stated that the Division doesn't want to give the attendees of real estate classes the idea that they can manage a community association after attending a real estate class that has a common-interest communities module in it.

7-2) APS, Inc.

“Facilities Maintenance”

Request: 3 Hours

General

Classroom

Jennifer Oerding presented this course. Ms. Oerding stated that the Division is recommending approval.

Commissioner Rizzi disclosed that APS, Inc. manages several of the communities that he works with. Commissioner Rizzi stated that this will not affect his ability to be impartial in his vote.

Commissioner Layton moved to approve the course. Commissioner Williams seconded.

Motion carried unanimously.

7-3) Office of the Ombudsman.

“Community Managers, HOA Boards and Ethics”

Request: 3 Hours

General

Classroom

Jennifer Oerding presented this course. Ms. Oerding stated that the Division is recommending approval.

Commissioner Breslow moved to approve the course. Commissioner Layton seconded.

Motion carried unanimously.

7-4) Leach Johnson Song & Gruchow.

“Litigation: Working Effectively with the Attorney when your HOA is named in a Lawsuit”

Request: 3 Hours

General

Classroom

Jennifer Oerding presented this course. Ms. Oerding stated that the Division is recommending approval.

Commissioner Woods disclosed that her association uses Leach Johnson Song & Gruchow periodically. Commissioner Woods stated that this will not affect her ability to be impartial in her vote.

Chairman Sibley disclosed that Leach Johnson Song & Gruchow worked for his firm. Chairman Sibley stated that this will not affect his ability to be impartial in his vote.

Commissioner Rizzi disclosed that his firm is currently in litigation with Leach Johnson Song & Gruchow and will abstain from voting.

Commissioner Layton disclosed that his association uses Leach Johnson Song & Gruchow periodically. Commissioner Layton stated that this will not affect his ability to be impartial in his vote.

Commissioner Williams moved to approve the course. Commissioner Layton seconded.

Motion carried with Commissioner Rizzi abstained.

7-5) Community Association Solutions.

“Financial Considerations in the CIC for the Reserve Study Specialist”

Request: 3 Hours General Classroom

Jennifer Oerding presented this course. Ms. Oerding stated that the Division is recommending approval.

Commissioner Layton moved to approve the course. Commissioner Williams seconded.

Motion carried unanimously.

6-C) Discussion and decision to approve minutes of the November 17-18, 2015 Commission meeting.

Chairman Sibley stated that on page ten, discussion item 8-F, the date for Advisory Opinion 16-01 should be “October 22, 2015” and not “October 22, 2016”.

Commissioner Layton moved to approve the minutes as amended. Commissioner Aichroth seconded.

Commissioner Woods abstained from voting because she was not present at the November 17-18, 2015 meeting.

Motion carried with Commissioner Woods abstained.

6-A) For possible action: regarding proposed form for community managers to affirm election process.

Joseph Decker stated that at the last meeting the Commission asked the Division if it could do some sort of certification so that community managers that are involved in the verification of the election process have to sign stating that specific items were done and procedures were followed as per the Division’s protocol. Mr. Decker stated that community managers are already required to comply with the law, and the law already specifies what community managers can and cannot do. Mr. Decker stated that the Division is opposed to unnecessary forms that are duplicative and redundant.

6-D) Discussion regarding Commissioners' speaking engagement requests.

No speaking engagements.

5-D) Disciplinary action: Hearing and possible action by the Commission

NRED v. Jeffrey Allan Frederick, for possible action

Case No. 2014-1057

Type of Respondent: Community Manager

Ms. Briggs asked to exclude from the room any witnesses that are going to participate in the hearing.

Ms. Briggs asked if Mr. Frederick has any objection to having the State's documents admitted into the record as exhibits.

Commissioner Breslow asked if Mr. Frederick have seen the State's proposed evidence.

Ms. Briggs stated that all the documents were noticed to Mr. Frederick on December 30, 2015.

Mr. Frederick stated he had not seen the documents. Mr. Frederick stated since the State is going to present those documents he wants to get counsel. Mr. Frederick asked the Commission for a continuance.

Ms. Briggs stated that Mr. Frederick had ample opportunity to hire an attorney and opposed a continuance.

Commissioner Williams asked Mr. Frederick why he is just now deciding to seek an attorney since he had the documents for over a month.

Mr. Frederick stated that he thought he was well covered, but now the State is coming up with documents that he is not sure if he has seen, he would like to have an attorney to look over all the documents.

Commissioner Woods asked if Mr. Frederick received the documents that the State is going to present.

Ms. Briggs stated that due to high volume, the documents were provided on discs.

Mr. Frederick stated that he did not receive a disc.

Ms. Briggs stated that the discs were sent by certified mail.

Chairman Sibley asked if a return receipt was received.

Claudia Rosolen stated the address where the discs were sent. Ms. Rosolen stated the date and time of when the discs were received according to the United States Postal Service (USPS) website.

Ms. Briggs stated that the Division would be willing to accept a continuance if Mr. Frederick surrenders his license at this time.

Mr. Frederick stated that he can surrender his license until this matter is resolved.

Commissioner Breslow moved to accept Mr. Frederick motion for a continuance until the June meeting with the condition that Mr. Frederick will surrender his license when he goes to pick up the discs at the Attorney General's Office. Commissioner Layton seconded.

Motion carried with Commissioner Williams abstained.

10) Public Comment

None.

11) Commissioner Comments

The Commission welcomed Commissioner Woods.

Commissioner Breslow thanked Ms. Oerding for her work at the Division.

Commissioner Rizzi stated that we wanted to acknowledge Administrator Decker and Sharon Jackson for acting swiftly on an inquiry that he received from a reserve study specialist.

12) For possible action: Adjournment

The meeting adjourned at 1:56 p.m. on February 2, 2016.

Respectfully Yours,

Claudia Rosolen
Commission Coordinator