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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.

CARLOS CALDERON,

Respondent.

Case No. 2015-1137

**FILED**

**MAR 31 2016**

NEVADA COMMISSION OF  
COMMON INTEREST COMMUNITIES  
AND CONDOMINIUM HOTELS

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

The Real Estate Division of the Department of Business and Industry, State of Nevada ("the Division"), by and through its counsel, Adam Paul Laxalt, Attorney General of the State of Nevada, and Michelle D. Briggs, Senior Deputy Attorney General, hereby notifies Respondent CARLOS CALDERON ("RESPONDENT" or "CALDERON") of an administrative hearing before the Commission for Common-Interest Communities and Condominium Hotels, State of Nevada, which is to be held pursuant to Chapters 233B and Chapter 116 of the Nevada Revised Statutes ("NRS") and Chapter 116 of the Nevada Administrative Code ("NAC"). The purpose of the hearing is to consider the allegations stated below and to determine if an administrative penalty will be imposed on the RESPONDENT pursuant to the provisions of NRS and NAC including, but not limited to, NRS 116.785 and NRS 116.790.

**JURISDICTION AND NOTICE**

1. At all relevant times mentioned in this complaint RESPONDENT CARLOS CALDERON represented himself to be a member of the executive board for Diamond Head Villas, Inc. (the "ASSOCIATION") located in Las Vegas, Nevada.

2. RESPONDENT CALDERON is subject to the provisions of Chapter 116 of both the Nevada Revised Statutes ("NRS") and the Nevada Administrative Code ("NAC") and are

1 subject to the jurisdiction of the Division, and the Commission for Common Interest  
2 Communities and Condominium Hotels pursuant to the provisions of NRS 116.750.

3 **FACTUAL ALLEGATIONS**

4 3. On or about January of 2015, the Division received an Intervention Affidavit  
5 against the Association and sent the board a letter regarding a conference with the  
6 ombudsman's office.

7 4. The Division received a response from RESPONDENT CALDERON who  
8 represented that he was a board member and the Association was self-managed after the  
9 prior manager, Maria Limon, was revoked, but said he could not attend a conference as he  
10 lived in Mexico City.

11 5. The address for the Association according to the letter from RESPONDENT  
12 CALDERON was the same as Maria Limon business address.

13 6. The envelope RESPONDENT CALDERON'S letter was sent in had Maria  
14 Limon's business name on it and was mailed from Las Vegas.

15 7. During an investigation into the financial condition of the Association, the  
16 Division discovered that assessment checks from owners in the Association were being  
17 commingled with the neighboring association.

18 8. The bank records reflect multiple on-line transfers to two other bank accounts;  
19 one belonging to Maria Limon personally and one belonging to Maria Limon and  
20 RESPONDENT CALDERON.

21 9. RESPONDENT CALDERON is related to Maria Limon.

22 10. The bank transfers to the account owned by RESPONDENT CALDERON  
23 totaled approximately \$44,521 from September 2014 through September 2015.

24 11. By letter dated December 7, 2015, RESPONDENT CALDERON was asked to  
25 respond to the allegation that he was taking the Association's money for personal use.

26 12. RESPONDENT CALDERON did not respond.

27 **VIOLATIONS OF LAW**

28 13. RESPONDENT CALDERON knowingly and willfully violated NRS 116.3103

1 (through NAC 116.405(2)) by failing to act in accordance with his fiduciary duty to act in good  
2 faith by acting out of reasons of self-interest or gain by taking Association funds for his  
3 personal use.

4 14. RESPONDENT CALDERON knowingly and willfully violated NRS 116.3103  
5 (through NAC 116.405(3)) by failing to act in accordance with his fiduciary duty to act in good  
6 faith by committing an act or omission which amounts to incompetence, negligence or gross  
7 negligence by taking Association funds for his personal use.

8 15. RESPONDENT CALDERON knowingly and willfully violated NRS 116.3103  
9 (through NAC 116.405(5)(b)) by failing to act in accordance with his fiduciary duty to act in  
10 good faith by impeding the Division's investigation by supplying false and misleading  
11 information to the Division.

12 16. RESPONDENT CALDERON knowingly and willfully violated NRS 116.3103  
13 (through NAC 116.405(5)(c)) by failing to act in accordance with his fiduciary duty to act in  
14 good faith by impeding the Division's investigation by concealing facts and documents relating  
15 to the business of the Association.

16 17. RESPONDENT CALDERON knowingly and willfully violated NRS 116.3103  
17 (through NAC 116.405(8)(g)) by failing to cause the Association to maintain current, accurate  
18 and properly documented financial records.

19 18. RESPONDENT CALDERON knowingly and willfully violated NRS 116.3103  
20 (through NAC 116.405(8)(l)) by failing to cause the Association to cooperate with the Division  
21 in resolving complaints.

22 **DISCIPLINE AUTHORIZED**

23 Pursuant to the provisions of NRS 116.615; NRS 116.755; NRS 116.785; and NRS  
24 116.790 the Commission has discretion to take any or all of the following actions:

- 25 1. Issue an order directing RESPONDENT to cease and desist from continuing to engage  
26 in the unlawful conduct that resulted in the violation.
- 27 2. Issue an order directing RESPONDENT to take affirmative action to correct any  
28 conditions resulting from the violation.

3. Impose an administrative fine of up to \$1,000 for each violation by RESPONDENT.
4. IF RESPONDENT IS FOUND TO HAVE KNOWINGLY AND WILLFULLY COMMITTED A VIOLATION of Chapter 116 AND it is in the best interest of the Association, such RESPONDENTS may be removed from their positions as directors and/or officers.
5. Require RESPONDENT to pay the costs of the proceedings incurred by the Division, including, without limitation, the cost of the investigation and reasonable attorney's fees.
6. Take whatever further disciplinary action as the Commission deems appropriate.

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

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

#### NOTICE OF HEARING

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

**THE HEARING WILL TAKE PLACE** on June 7-9, 2016 beginning at 9:00 a.m. each day or until such time as the Commission concludes its business. **The Commission meeting on June 7 and 8, 2016, will be located at the Grant Sawyer Building, 555 East Washington Avenue, Room 4412, Las Vegas, Nevada 89101, with videoconferencing at the Legislative Building, 401 South Carson Street, Room 2134, Carson City, Nevada 89701. The Commission meeting on June 9, 2016, will be located at the Department of Business and Industry, 2501 E. Sahara Avenue, 2nd Floor Conference Room, Las Vegas, Nevada 89104, with videoconferencing to the Department of Business and Industry, Director's Office, 1830 East College Parkway, Suite 100, Carson City, Nevada 89706.**

**STACKED CALENDAR:** Your hearing is one of several hearings that may be

1 scheduled at the same time as part of a regular meeting of the Commission that is expected to  
2 take place on June 7-9, 2016. Thus, your hearing may be continued until later in the day or  
3 from day to day. It is your responsibility to be present when your case is called. If you are not  
4 present when your hearing is called, a default may be entered against you and the  
5 Commission may decide the case as if all allegations in the complaint were true. If you need  
6 to negotiate a more specific time for your hearing in advance because of coordination with out  
7 of state witnesses or the like, please call Claudia Rosolen, Commission Coordinator, at (702)  
8 486-4606.

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

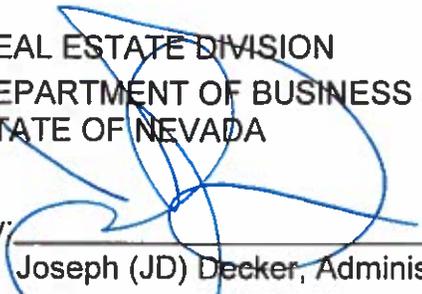
15 As a RESPONDENT, you are specifically informed that you have the right to appear  
16 and be heard in your defense, either personally or through your counsel of choice. At the  
17 hearing, the Division has the burden of proving the allegations in the complaint and will call  
18 witnesses and present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

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

1 Note that under NAC 116.575, not less than five (5) working days before a hearing,  
2 RESPONDENTS, and each of them, must provide to the Division a copy of all reasonably  
3 available documents that are reasonably anticipated to be used to support his or her position,  
4 and a list of witnesses RESPONDENT intends to call at the time of the hearing. Failure to  
5 provide any document or to list a witness may result in the document or witness being  
6 excluded from a RESPONDENT'S defense. The purpose of the hearing is to determine if the  
7 RESPONDENT has violated the provisions of Chapter 116, and to determine what  
8 administrative penalty is to be assessed against RESPONDENT.

9 DATED this 30 day of March, 2016.

10  
11 REAL ESTATE DIVISION  
12 DEPARTMENT OF BUSINESS & INDUSTRY  
13 STATE OF NEVADA

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