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. PENNY D. FREDERICK (fka PENNY WOOD), Respondent.	**Case No. 2014-1053** FILED APR 15 2016 NEVADA COMMISSION OF COMMON INTEREST COMMUNITIES AND CONDOMINIUM HOTELS

Office of the Attorney General
555 East Washington Avenue, Suite 3900
Las Vegas, Nevada 89101

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 PENNY D. FREDERICK (fka PENNY WOOD) (the "RESPONDENT" or "FREDERICK") 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 Chapters 116 and 116A of the Nevada Revised Statutes ("NRS") and Chapters 116 and 116A 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 RESPONDENT pursuant to the provisions of NRS and NAC including, but not limited to, NRS 116A.900.

JURISDICTION AND NOTICE

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

2. FREDERICK is subject to the provisions of Chapters 116 and 116A of both the Nevada Revised Statutes ("NRS") and the Nevada Administrative Code ("NAC") and is subject

to the jurisdiction of the Division, and the Commission for Common Interest Communities and Condominium Hotels.

FACTUAL ALLEGATIONS

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

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

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

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

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

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

9. The Association pursued litigation to have the records, including the sealed ballots, provided to the new manager.

10. FREDERICK provided a declaration to the court stating that she prepared the ballots for the election and deliberately left off names of candidates provided by the board president, because she determined they were not eligible.

11. Instead of returning the sealed ballots to the new manager, the ballots were given to two of the candidates running in the election.

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

13. In March 2014, after being terminated and assisting unit owners running in the

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election to open the ballots, FREDERICK attended an emergency meeting of the self-proclaimed newly elected board members held at FREDERICK'S management office.

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

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

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

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

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

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

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

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

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

23. During the litigation initiated by the Association to recover the records, FREDERICK provided a declaration to the court saying:

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

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

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

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VIOLATIONS OF LAW

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

DISCIPLINE AUTHORIZED

Pursuant to the provisions of NRS 116A.900 the Commission has discretion to impose discipline as it deems appropriate, including, but not limited to one or more of the following actions:

1. Impose a fine not to exceed the amount of any gain or economic benefit RESPONDENT derived from the violation or $10,000, whichever is greater.

2. Require the RESPONDENT to pay the costs of the investigation and hearing; and

3. Take such other disciplinary action as the Commission deems appropriate.

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

NOTICE OF HEARING

PLEASE TAKE NOTICE, that a disciplinary hearing has been set to consider this Administrative Complaint against the above-named RESPONDENTS 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.**

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

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

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

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

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Chapter 233B.

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

DATED this 15th day of April, 2016.

REAL ESTATE DIVISION
DEPARTMENT OF BUSINESS & INDUSTRY
STATE OF NEVADA

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