

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

4 Sharath Chandra (formerly Joseph (J.D.)
5 Decker), Administrator, Real Estate
6 Division, Department of Business &
7 Industry, State of Nevada,

Case No. 2014-1057

FILED

MAR 21 2017

NEVADA COMMISSION OF
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS

Petitioner,

8 vs.

9 Jeffrey Allan Frederick,

10 Respondent.

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12 **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

13 This matter came on for hearing before the Commission for Common-Interest
14 Communities and Condominium Hotels, Department of Business and Industry, State of
15 Nevada (the "Commission"), during a regular agenda on March 7-8, 2017, at the Nevada
16 Department of Employment Training & Rehabilitation, 2800 E. St. Louis Avenue,
17 Conference Room A-C, Las Vegas, Nevada 89104 (the "Hearing"). The Respondent,
18 Jeffrey Allan Frederick, appeared through his attorney, Matthew Johnson, Esq. Michelle
19 D. Briggs, Esq., Senior Deputy Attorney General with the Nevada Attorney General's
20 Office, appeared on behalf of the Real Estate Division of the Department of Business and
21 Industry, State of Nevada (the "Division"). Commissioner Sibley did not attend the
22 meeting and Commissioner Williams recused himself from the Hearing.

23 After hearing the allegations, the respective arguments, and having considered the
24 evidence introduced by the parties and being fully advised, the Commission enters the
25 following Findings of Fact, Conclusions of Law, and Order. Under Nevada Revised
26 Statutes (NRS) and Nevada Administrative Code (NAC) Chapters 116 and 116A, the
27 Commission has legal jurisdiction and authority over this matter.

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2 **FINDINGS OF FACT**

3 The Commission, based upon the evidence presented during the Hearing, finds
4 that by a preponderance of the evidence in the record the following facts have been
5 proven.

6 1. FREDERICK was at all relevant times mentioned in this Complaint,
7 licensed as a community manager under certificate number CAM.0007580.

8 2. FREDERICK acted as the community manager for Laurel Canyon
9 Homeowners Association (the "Association") until January 2014 and then became the
10 community manager again in March 2014.

11 3. The Association hired a new community manager in December 2013 and
12 sought legal action against PW James Management and Consulting, LLC ("PW James")
13 for refusing to relinquish control over the Association and to stop a pending election.

14 4. During this time, FREDERICK'S community manager certificate was
15 associated with MP Association Management according to Division records, but the
16 Association's 2013 management contract is with PW James.

17 5. Penny Frederick, RESPONDENT FREDERICK'S wife, does not have a
18 community manager certificate, but is an owner of PW James with RESPONDENT.

19 6. Board member, Dov Erlichman, filed a complaint against FREDERICK for
20 his failure to turn over Association records to the new manager and also alleged Penny
21 Frederick was managing the Association without a certificate.

22 7. The ballots for the election at issue in the legal proceeding were not turned
23 over to the new manager and were eventually opened at a meeting noticed by two
24 candidates, James Schumann and Robert Valentine, resulting in those two candidates
25 becoming board members.

26 8. By emergency meeting on March 17, 2014, the two new board members
27 rehired FREDERICK and terminated the prior manager.

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1 9. The Division notified FREDERICK of the complaint's allegations by letter
2 dated April 28, 2014 as follows:

- 3 a. It is alleged that you have violated NRS 116.31153(1) by signing checks from
4 the Association's Reserve account.
- 5 b. It is alleged that you have violated NRS 116.31153(2) by allowing checks to
6 be paid from the Association's operating account with only your sole
7 signature on the checks.
- 8 c. It is alleged that you have violated NRS 116A.630(a) by signing checks from
9 the Association's operating account without being an authorized signer on
10 that account.
- 11 d. It is alleged that you have violated NRS 116.31034(4) as less than 30 days
12 after sending out notice of the unit's owner's eligibility to serve as a member
13 of the executive board you prepared the ballots for the 2014 election.
- 14 e. It is alleged that you have violated NRS 116.31034(4) as you did not send
15 notice to all qualified owners notifying them of eligibility to serve as a
16 member of the executive board for the 2014 election.

17 10. In July 2014, the Secretary of State's records were updated to include James
18 Schumann and Robert Valentine as board members and officers, but the Division received
19 no such notification.

20 11. The Division sent a second letter to FREDERICK dated May 23 and
21 requested additional information.

22 12. The Division requested and received audio recordings for meetings in 2013
23 to August 21, 2014.

24 13. In June of 2014, FREDERICK responded to the Division with a binder of
25 various documents from the court proceedings, but no sworn affidavit as to the
26 allegations from the April letter.

1 14. By letter dated October 16, 2014, the Division requested documents based on
2 the information in the binder.

3 15. FREDERICK responded by affidavit dated October 24 by attaching some
4 documents and stating "PWJames is not in possession of original voting materials. The
5 board of Directors has these items."

6 16. FREDERICK provided no other response to the allegations from April.

7 17. By letter dated December 4, 2014, the Division provided another request for
8 information.

9 18. On or about December 18, 2014, FREDERICK responded in part to the
10 request from the Division by providing unsigned minutes from 2014 and the following in
11 response to the allegation concerning the election materials:

12 Regarding the February 2014 election meeting – PWJames was not the
13 management company at the time of the February 2014 election meeting, and as
14 such were not included in the process. We are unaware as to who made the
15 determination to hold the February 2014 election meeting. The contract between
PWJames Management and the Laurel Canyon HOA was terminated in January
2014 and reinstated in April 2014.

16 19. By this time, the Association still had not filed an amendment to the annual
17 registration form with the Division.

18 20. By letter dated February 4, 2015, the Division requested additional details
19 regarding the election, the petition of homeowners, and the emergency meeting from
20 February 2014.

21 21. By letter dated February 13, 2015, the Division again requested a response
22 to the allegations from the April 2014 letter.

23 22. FREDERICK did not respond.

24 23. The Division received an email from the complainant, board member Dov
25 Erlichman, stating that FREDERICK threatened to hurt him during a meeting of the
26 board on February 12, 2015.

1 24. By letter dated February 18, 2015 to FREDERICK, the Division requested
2 audio from the Association's February 12, 2015 meeting.

3 25. FREDERICK did not respond.

4 26. The Division's second request for the audio included a request for all 2014
5 meetings through April 2015.

6 27. FREDERICK did not respond.

7 28. The Division issued an administrative fine in the amount of \$1,000 to
8 FREDERICK dated June 2, 2015 for his failure to cooperate with the Division.

9 29. FREDERICK did not pay the administrative fine and did not appeal the fine
10 to the Commission.

11 30. Through its attorney, the Division received a copy of pleadings filed in a civil
12 proceeding brought by the Association against PW James, Penny Woods-Frederick, James
13 Schumann and Robert Valentine.

14 31. As exhibits to an Opposition filed by all the defendants, Schumann and
15 Valentine submitted their declarations.

16 32. The binder provided by FREDERICK included the Opposition, but did not
17 include any of the exhibits.

18 33. Both Schumann and Valentine state that they were candidates in the 2014
19 election that had been challenged in court.

20 34. On or about February 13, 2014, Schumann and Valentine state that they
21 went to PW James and asked Penny Frederick to turn over the returned ballots to them.

22 35. The ballots were opened and counted at that meeting and Schumann and
23 Valentine received the most votes.

24 36. According to the records provided by FREDERICK, the nomination form for
25 the election was mailed on October 31, 2013 and states that it must be returned no later
26 than November 18, 2013.

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1 37. NRS 116.31034(4) states: "Not less than 30 days before preparation of a
2 ballot for the election of members of the executive board, the secretary... shall cause
3 notice to be given to each unit's owner of the unit's owner's eligibility to serve as a
4 member of the executive board."

5 38. The ballot created by Penny Frederick states the following:

6 There are two vacant seats on the Board of Directors available for election.
7 Each home is entitled to cast one vote, for one candidate. If more than one
8 vote is shown below, or if more than one vote is shown for any one candidate,
9 the ballot will not be counted.

10 **Total Number of Votes - 1**

11 39. During the investigation, the Division subpoenaed bank records for the
12 Association from January 2012 through April 2014.

13 40. FREDERICK'S signature is on approximately 74 Association checks:

14 a. Three of the checks are only signed by FREDERICK.

15 i. Check No. 300 dated October 10, 2013 made payable to Ami
16 Bornheimer for \$76.00;

17 ii. Check No. 295 dated October 4, 2013 made payable to PW James for
18 \$2,630.16; and

19 iii. Check No. 252 dated April 25, 2013 made payable to PW James for
20 \$2,471.

21 b. One check is from the Association's reserve account.

22 i. Check No. 11 dated September 11, 2013 made payable to Park Pro for
23 \$453.91.

24 c. One check was made out to the Association for its reserve account, but
25 deposited into the account of PW James.

26 i. Check No. 256 dated May 16, 2013 made payable to Laurel Canyon for
27 \$2,709.31.
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1 41. PW James's management contract dated December 1, 2013 provided for a
2 monthly fee of \$2,058.

3 42. PW James's management contract dated March 17, 2014 and signed by
4 James Schumann on behalf of the Association provides for a monthly fee of \$2,743.50.

5 43. However, PW James received two checks in March 2014 totaling \$5,214.50
6 and four checks in April 2014 totaling \$12,830.94.

7 44. FREDERICK filed paperwork with the Division to associate his license with
8 PW James as of September 22, 2015.

9 45. FREDERICK filed the Association's registration with the Division on
10 November 2, 2015 and submitted fees, with penalties and interest that had accrued.

11 46. Although the registration form states that the board members provided
12 Division Form 602 per NRS 116.31034(15); the Division is not in possession of such forms
13 for James Schumann or Robert Valentine.

14 CONCLUSIONS OF LAW

15 Based on the foregoing factual findings, the Commission concludes by unanimous
16 vote that the following violations of law occurred:

17 47. RESPONDENT FREDERICK violated NRS 116A.640(2)(a) and NAC
18 116A.345(2)(a) by impeding or otherwise interfering with an investigation of the Division
19 by failing to comply with a request of the Division to provide documents.

20 48. RESPONDENT FREDERICK violated NRS 116A.640(3) and NAC
21 116A.345(3) by commingling money from the Association with PW James's money by
22 depositing a check payable to the Association into PW James's account.

23 49. RESPONDENT FREDERICK violated NRS 116A.630(6)(a) by failing to
24 ensure that the financial transactions of his client were current, accurate, and properly
25 documented.

26 50. RESPONDENT FREDERICK violated NAC 116A.355(1)(a)(1) (through NAC
27 116A.355(2)(f)) by committing unprofessional conduct by failing to cooperate with the
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1 Division in the investigation of a complaint by failing to produce requested documents
2 and by failing to provide a response to allegations of misconduct.

3 51. RESPONDENT FREDERICK violated NAC 116A.355(1)(a)(a) by committing
4 unprofessional conduct by failing to pay an administrative fine issued by the Division or
5 timely file an appeal to the Commission.

6 52. RESPONDENT FREDERICK violated NAC 116A.355(1)(a)(2) (through NAC
7 116A.355(3)(a)) by committing professional incompetence by demonstrating a significant
8 lack of ability, knowledge or fitness to perform a duty or obligation owed to a client by
9 failing to turn over Association records to the Association's new community manager.

10 53. RESPONDENT FREDERICK violated NAC 116A.355(1)(a)(2) (through NAC
11 116A.355(3)(a)) by committing professional incompetence by demonstrating a significant
12 lack of ability, knowledge or fitness to perform a duty or obligation owed to a client by
13 failing to notify the Division of the new board members or to timely file the Association's
14 annual registration.

15 54. RESPONDENT FREDERICK violated NAC 116A.355(1)(a)(2) (through NAC
16 116A.355(3)(a)) by committing professional incompetence by demonstrating a significant
17 lack of ability, knowledge or fitness to perform a duty or obligation owed to a client by
18 supplying false information on the Association's registration form.

19 55. RESPONDENT FREDERICK violated NAC 116A.355(1)(a)(2) (through NAC
20 116A.355(3)(b)) by committing professional incompetence by failing to exercise reasonable
21 skill and care with respect to a duty or obligation owed to a client by failing to turn over
22 Association records to its new community manager.

23 56. RESPONDENT FREDERICK violated NAC 116A.355(1)(a)(1) and (2)
24 (through NAC 116A.355(4)(g)) by committing unprofessional conduct and professional
25 incompetence by failing to act in the best interests of the client.

1 57. RESPONDENT FREDERICK violated NAC 116A.340 by failing to give the
2 Division timely notice of his change of association from MP Association Management to
3 PW James.

4 **ORDER**

5 The Commission being fully apprised in the premises, and good cause appearing to
6 the Commission, by a unanimous vote, ORDERS as follows:

7 1. FREDERICK'S community manager certificate is revoked for a period of no
8 less than 18 months from the date of this Order.

9 2. FREDERICK shall pay an administrative fine to the Division in the total
10 amount of \$22,300 – which includes a fine of \$11,000 for the violations of law and \$11,300
11 representing the total amount due for the Division's attorney's fees and costs – no later
12 than 48 months from the date of this Order. The total administrative fine shall be due in
13 monthly payments of no less than \$464.58 each and shall be due on the first day of each
14 month beginning on April 1, 2017, until the total fine is paid in full.

15 3. FREDERICK shall pay to Laurel Canyon Homeowners Association the
16 amount of \$2,709.31 as reimbursement for Check No. 256 dated May 16, 2013; unless,
17 within 45 days of the date of this Order, FREDERICK provides to the Division evidence
18 sufficient to verify that either Check No. 256 dated May 16, 2013 was not deposited into
19 PW James's bank account, or alternatively, that reimbursement of the amount of the
20 check was already made to the Association. Except as otherwise provided in the preceding
21 sentence, payment to the Association shall be made to: Laurel Canyon Homeowners
22 Association, c/o Thoroughbred Management, 2555 W. Cheyenne Ave., North Las Vegas,
23 Nevada 89032.

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1 4. The Division may institute debt collection proceedings for failure to timely
2 pay the total fine. Further, if collection goes through the State of Nevada, then
3 FREDERICK shall also pay the costs associated with collection.


4 Dated: March 21, 2017.

5 COMMISSION FOR COMMON-INTEREST
6 COMMUNITIES AND CONDOMINIUM
7 HOTELS, DEPARTMENT OF BUSINESS &
8 INDUSTRY, STATE OF NEVADA

9 By: 
Barry Breslow, Chairman

10 Submitted by:

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