

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

4 Sharath Chandra, Administrator,
5 Real Estate Division, Department of
6 Business & Industry, State of Nevada,

Case No. 2016-3885

Petitioner,

FILED

vs.

MAR 22 2017

7 Penny D. Frederick (fka Penny Wood),

8 Respondent.

9
NEVADA COMMISSION OF *CR*
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS

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

11 This matter came on for hearing before the Commission for Common-Interest
12 Communities and Condominium Hotels, Department of Business and Industry, State of
13 Nevada (the "Commission"), during a regular agenda on March 9, 2017, at the Henderson
14 City Hall, Council Chambers, 240 South Water Street, Henderson, Nevada 89015 (the
15 "Hearing"). The Respondent, Penny D. Frederick, did not appear. Michelle D. Briggs,
16 Esq., Senior Deputy Attorney General with the Nevada Attorney General's Office,
17 appeared on behalf of the Real Estate Division of the Department of Business and
18 Industry, State of Nevada (the "Division"). Commissioners Sibley and Breslow did not
19 attend the Hearing.

20 Due to the RESPONDENT'S failure to appear for the Hearing, the Division
21 requested a finding of default against RESPONDENT. The Commission voted
22 unanimously to find RESPONDENT in default. The Commission enters the following
23 Findings of Fact, Conclusions of Law, and Order. Under Nevada Revised Statutes (NRS)
24 and Nevada Administrative Code (NAC) Chapters 116 and 116A, the Commission has
25 legal jurisdiction and authority over this matter.

26 **FINDINGS OF FACT**

27 Based on the Commission's finding of a default against RESPONDENT for failing
28 to appear, the Commission accepted as true all of the following factual allegations:

1 1. On or about October 31, 2016, the Division received a statement of fact
2 against FREDERICK alleging she was performing the services of a community manager
3 for Souvenir Homeowners Association (the "Association") without a certificate.

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

5 3. PW James Management began managing the Association in February of
6 2016.

7 4. In response to the investigation, FREDERICK denied providing community
8 management services to the Association and provided an email from the Association's
9 president, David Purvis.

10 5. Mr. Purvis's email is dated August 22, 2016 wherein he states:

11 Also, the issue has been raised by a couple of homeowners that we don't
12 appear to have someone with a community management license present at
13 our meetings. I know you are the owner of PWJames but I believe you stated
14 you aren't a "Community Manager." Are we required to have someone with
15 an active license present at our meetings? Since we have to rely on a
16 community manager for guidance in following the law with regards to HOA
17 management I'm not sure how we are being given proper guidance and
18 advice on HOA management issues if we don't have any interaction or
19 presence of a community manager at our meetings.

20 6. FREDERICK responded to Mr. Purvis:

21 No you are not required to have a community manager at your meetings.
22 Allan in our office is the community manager and handles all of the
23 community manager functions for the Souvenir HOA. This last meeting was
24 an Annual and Election. Allan will be in attendance at your board meetings.

25 7. According to the Association's minutes, FREDERICK attended meetings
26 without a community manager present.

27 8. According to the audio recording for the Association's meeting on June 29,
28 2016, FREDERICK advised the board regarding bids and when bids are necessary and
not necessary, on the amount of money currently in their operating account, and
regarding the annual meeting and whether the board members needed to attend.

 9. The audio from the Association's election and annual meeting – on August
18, 2016 – includes FREDERICK answering questions regarding what would happen if a
candidate wanted to withdraw from the election and the board filling vacancies,

1 discussing restrictions in the CC&R's, discussing the violation policy for the Association,
2 providing what the law says about entering a property to make repairs, and suggests that
3 the board hold a workshop to discuss adopting rules without notice to the owners.

4 10. PW James Management received \$20,086.42 from the Association.

5 **CONCLUSIONS OF LAW**

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

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

10 **ORDER**

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

13 1. RESPONDENT shall pay an administrative fine to the Division in the total
14 amount of \$22,697.01 – which includes a fine of \$20,086.42 for the violations of law and
15 \$2,610.59 representing the total amount due for the Division's attorney's fees and costs –
16 no later than 60 days from the date of this Order.

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