

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

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

5 Petitioner,

6 vs.

6 Pecos Estates Homeowners Association,
7 Barbara Stark, Melani Laver, and Ninette
8 Macedo,

8 Respondents.

Case No. 2016-3278

FILED

JUN 30 2017

NEVADA COMMISSION OF
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS

9
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 June 27, 2017, at the Nevada
14 State Business Center, 3300 West Sahara Avenue, Nevada Room, Suite 400, Las Vegas,
15 Nevada 89102 (the "Hearing"). The Respondents, Pecos Estates Homeowners Association,
16 Barbara Stark, Melani Laver, and Ninette Macedo, appeared through their attorney,
17 Michael Van Luven of Boyack, Orme & Anthony. Also present on behalf of the Association
18 were board members, Guy Kistler and James Sisler. Michelle Briggs, Esq., Senior Deputy
19 Attorney General with the Nevada Attorney General's Office, appeared on behalf of the
20 Real Estate Division of the Department of Business and Industry, State of Nevada (the
21 "Division").

22 This matter was first heard by the Commission in March. At that time, Mr. Van
23 Luven, on behalf of the Respondents, stated that a funding plan would be put in place, so
24 this matter was continued to the Commission's next meeting in June. No funding plan or
25 new reserve study was completed. Mr. Kistler testified to the Commission that he had
26 served on the board for over a year and did not know about the complaint or the issues
27 with the reserve funds. He testified that he had a hard time getting financial records.

1 After hearing the testimony and arguments of counsel and being fully advised, the
2 Commission enters the following Findings of Fact, Conclusions of Law, and Order. During
3 the relevant times mentioned in the complaint, RESPONDENTS BARBARA STARK,
4 MELANI LAVER, and NINETTE MACEDO were officers or directors of PECOS
5 ESTATES HOMEOWNERS ASSOCIATION (the "Association"), a common-interest
6 community located in Las Vegas, Nevada. Under Nevada Revised Statutes (NRS) and
7 Nevada Administrative Code (NAC) Chapter 116, the Commission has legal jurisdiction
8 and authority over this matter.

9 FINDINGS OF FACT

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

13 1. The Association consists of 32 condominium units built in 1980 and reports an
14 annual budget of \$59,570.

15 2. The Association submitted an untimely annual registration form in 2015 that
16 reflected the reserves were less than 15% funded.

17 3. In 2016, the Association failed to timely submit an annual registration form
18 and was in default status with the Nevada Secretary of State, so the Division initiated an
19 investigation against the Association.

20 4. In response to the Division's inquiry regarding the reserve account deficiency,
21 the Association through its manager, Jeffrey Frederick, stated that the board would look at
22 a reserve assessment for 2017.

23 5. The board has not provided any evidence that they are taking action to fund
24 the reserve or that they have a funding plan.

25 6. Based on the Association's 2012 reserve study, the Association should have
26 more than \$300,000.

27 7. According to bank records provided by the Association, the reserve account
28

1 totals approximately \$35,000.

2 8. During the investigation, the Association completed its Secretary of State
3 filing, filed its annual registration form with the Division, and paid the fees with late
4 charges.

5 9. The Division requested records for the Association consisting of financial
6 statements, budgets, copies of checks, and meeting minutes and audio for 2015 and 2016,
7 but received none of the requested documents.

8 CONCLUSIONS OF LAW

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

11 10. RESPONDENTS BARBARA STARK, MELANI LAVER, and NINETTE
12 MACEDO violated NRS 116.3103 (through NAC 116.405(5)(a)) by failing to act in the best
13 interests of the Association by impeding or otherwise interfering with an investigation of the
14 Division by failing to comply with a request by the Division to provide information and
15 documents.

16 11. RESPONDENTS BARBARA STARK, MELANI LAVER, and NINETTE
17 MACEDO violated NRS 116.3103 (through NAC 116.405(5)(a)) by failing to act in the best
18 interests of the Association by failing to cause the Association to comply with all applicable
19 federal, state and local laws and regulations.

20 12. RESPONDENTS violated NRS 116.3115 by failing to establish adequate
21 reserves.

22 ORDER

23 The Commission finding that the violations of law were committed knowingly and
24 willfully by BARBARA STARK, MELANI LAVER, and NINETTE MACEDO, and good
25 cause appearing to the Commission, by a unanimous vote, ORDERS as follows:

26 1. RESPONDENTS BARBARA STARK, MELANI LAVER, and NINETTE
27 MACEDO shall be removed as board members and officers of the Association and shall
28

1 not serve as a board member or officer for any homeowners' association in the State of
2 Nevada for a period of no less than 10 years from the date of this Order.

3 2. RESPONDENTS BARBARA STARK, MELANI LAVER, and NINETTE
4 MACEDO shall each personally pay an administrative fine to the Division in the amount
5 of \$901.37 (for a total fine in the amount of \$2,704.11) representing the Division's
6 attorney fees and costs. The administrative fine is due no later than 60 days from the
7 date of this Order.

8 3. The Association shall report back to the Commission on the status of the
9 reserve study and funding plan, and provide proof of compliance with the Division's
10 requirements at the Commission's next meeting on August 29-31, 2017.

11 4. The Division may institute debt collection proceedings for failure to timely
12 pay the total fine or any portion thereof that is due. Further, if collection goes through the
13 State of Nevada, then RESPONDENTS BARBARA STARK, MELANI LAVER, and
14 NINETTE MACEDO shall also pay the costs associated with collection.

15 Dated: June 30, 2017.

16 Commission for Common-Interest Communities
17 and Condominium Hotels, Department of Business
& Industry, State of Nevada

18
19 By: 
James Rizzi, Chairman

20
21 Submitted by:

22 ADAM PAUL LAXALT
Attorney General

23
24 By: 
Michelle D. Briggs
25 Senior Deputy Attorney General
26 555 East Washington Avenue, Suite 3900
Las Vegas, Nevada 89101
27 (702) 486-3809
Attorneys for Real Estate Division