

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

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

Case No. 2016-3042

Petitioner,

vs.

FILED

JAN 25 2017

NEVADA COMMISSION OF
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS

Palmilla Homeowners Association, Vijay
Shetty, Tracy Dalton, William Simpson,
James Lee, Renee Snodgrass, Shauna
Carson, and Karen Henderson,

Respondent.

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, Esq., Senior Deputy Attorney General, hereby notifies Respondents Palmilla Homeowners Association, Vijay Shetty, Tracy Dalton, William Simpson, James Lee, Renee Snodgrass, Shauna Carson, and Karen Henderson (collectively, "RESPONDENTS") 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 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 RESPONDENTS pursuant to the provisions of NRS and NAC including, but not limited to, NRS 116.785 and NRS 116.790.

JURISDICTION AND NOTICE

1. PALMILLA HOMEOWNERS ASSOCIATION (the "Association"), is a common-interest community located in North Las Vegas, Nevada, and during the relevant times mentioned in this complaint, VIJAY SHETTY, TRACY DALTON, WILLIAM

1 SIMPSON, JAMES LEE, RENEE SNODGRASS, SHAUNA CARSON, and KAREN
2 HENDERSON served or currently serve on the Association's board of directors.

3 2. RESPONDENTS are subject to the provisions of Chapter 116 of each the
4 Nevada Revised Statutes ("NRS") and the Nevada Administrative Code ("NAC")
5 (hereinafter collectively referred to as "NRS 116") and are subject to the jurisdiction of the
6 Division, and the Commission for Common-Interest Communities pursuant to the
7 provisions of NRS 116.750.

8 FACTUAL ALLEGATIONS

9 3. The Association consists of approximately 300 condominium units and has an
10 annual budget of approximately \$522,000.

11 4. In August 2013, the Division received an annual registration form for the
12 Association that stated the 2012 financial statements were audited as of June 27, 2013 and
13 reserves totaled approximately \$12,000 when approximately \$654,000 was required.

14 5. In July 2014, the Division received an annual registration form for the
15 Association that stated the 2013 audit was ongoing and reserves totaled approximately
16 \$190,000 when approximately \$1 million was required.

17 6. In June 2015, the Division received an annual registration form for the
18 Association that stated the 2013 financials were "reviewed" as of June 30, 2014, and the
19 reserves totaled \$220,000 when approximately \$1.3 million was required.

20 7. The Division did not receive an annual registration form for the Association by
21 the due date in 2016.

22 8. The Division initiated a complaint against the Association to determine
23 whether audits were being performed and whether the reserves were being funded properly.

24 9. The Division's letter dated July 22, 2016 was not responded to by the
25 Association.

26 10. The Division sent a follow-up letter dated August 10, 2016 which was
27 responded to by email from William Simpson, the board's president, saying the
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1 management company had all the records.

2 11. The Division received a letter dated August 18, 2016 from the manager,
3 Jeffrey Frederick, with copies of some bank records.

4 12. Based on the records provided by Mr. Frederick, the Association deposited
5 \$907,949.38 into its operating account in January of 2014 presumably from a construction
6 defect settlement.

7 13. The Division requested copies of Association checks (front and back) from
8 January 2014 through December 2015, but they were not provided.

9 14. The Division requested audits for 2012 through 2015 in six different letters to
10 the Association, but did not receive any.

11 15. The Association's last reserve study performed in 2010 states that the fully
12 funded amount for 2016 is \$1.6 million.

13 16. The board is required to cause a study of the reserves to be conducted at least
14 once every 5 years pursuant to NRS 116.31152.

15 17. The Division requested bank statements for the Association's reserve account
16 from January 2014 through May 2016, but only received statements through August 2015.

17 18. The August 2015 bank statement for the reserve account shows a balance of
18 \$217,000.

19 19. According to balance sheets provided during the investigation, the Association
20 had \$247,000 in reserves and \$266,000 in operating funds as of July 1, 2016.

21 20. On September 19, 2016, the Division received the untimely filed annual
22 registration form for the Association that stated the 2013 financial statement "review" was
23 "ongoing," and that the reserves total \$391,000 when approximately \$1.5 million is required.

24 VIOLATIONS OF LAW

25 21. RESPONDENTS VIJAY SHETTY, TRACY DALTON, WILLIAM SIMPSON,
26 JAMES LEE, RENEE SNODGRASS, SHAUNA CARSON, and KAREN HENDERSON
27 violated NRS 116.3103 (through NAC 116.405(5)(a)) by failing to act in the best interests of
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1 the Association by impeding or otherwise interfering with an investigation of the Division by
2 failing to comply with a request by the Division to provide information and documents.

3 22. RESPONDENTS violated NRS 116.31144 by failing to cause the financial
4 statement of the Association to be audited by an independent certified public accountant for
5 fiscal years 2012, 2013, 2014, and 2015.

6 23. RESPONDENTS violated NRS 116.31152 by failing to cause a study of the
7 reserves to be conducted at least once every 5 years.

8 24. RESPONDENTS violated NRS 116.3115 by failing to establish adequate
9 reserves.

10 DISCIPLINE AUTHORIZED

11 Pursuant to the provisions of NRS 116.615; NRS 116.755; NRS 116.785; and NRS
12 116.790 the Commission has discretion to take any or all of the following actions:

13 1. Issue an order directing RESPONDENT to cease and desist from continuing
14 to engage in the unlawful conduct that resulted in the violation.

15 2. Issue an order directing RESPONDENT to take affirmative action to correct
16 any conditions resulting from the violation.

17 3. Impose an administrative fine of up to \$1,000 for each violation by
18 RESPONDENT.

19 4. IF RESPONDENT IS FOUND TO HAVE KNOWINGLY AND WILLFULLY
20 COMMITTED A VIOLATION of NRS or NAC 116 AND it is in the best interest of the
21 Association, such RESPONDENTS may be removed from his/her position as a director
22 and/or officer.

23 5. Order an audit of the ASSOCIATION, at the expense of the ASSOCIATION.

24 6. Require the BOARD MEMBERS to hire a community manager who holds a
25 certificate.

26 7. Require RESPONDENTS to pay the costs of the proceedings incurred by the
27 Division, including, without limitation, the cost of the investigation and reasonable
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1 attorney's fees.

2 8. Take whatever further disciplinary action as the Commission deems
3 appropriate.

4 The Commission may order one or any combination of the discipline described
5 above. If the Commission finds that the RESPONDENTS knowingly and willfully violated
6 the provisions of NRS or NAC 116, the Commission may order that RESPONDENTS be
7 personally liable for all fines and costs imposed.

8 **NOTICE OF HEARING**

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

13 **THE HEARING WILL TAKE PLACE** at the Commission meeting scheduled for
14 March 7-9, 2017, beginning at approximately 9:00 a.m. each day, or until such time as the
15 Commission concludes its business. The Commission meeting on March 7 and 8,
16 2017, will be held at the Nevada Department of Employment, Training and
17 Rehabilitation, 2800 E. St. Louis Avenue, Las Vegas, Nevada 89104 with
18 videoconferencing to Nevada Department of Employment, Training and
19 Rehabilitation, 500 East Third Street, Carson City, Nevada 89713. The
20 Commission meeting on March 9, 2017 will be held at the Henderson City Hall
21 Council Chambers, 240 South Water Street, Henderson, Nevada 89015, with no
22 videoconferencing.

23 **STACKED CALENDAR:** Your hearing is one of several hearings that may be
24 scheduled at the same time as part of a regular meeting of the Commission that is
25 expected to take place on March 7-9, 2017. Thus, your hearing may be continued until
26 later in the day or from day to day. It is your responsibility to be present when your case
27 is called. If you are not present when your hearing is called, a default may be entered
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1 against you and the Commission may decide the case as if all allegations in the complaint
2 were true. If you need to negotiate a more specific time for your hearing in advance
3 because of coordination with out of state witnesses or the like, please call Claudia
4 Rosolen, Commission Coordinator, at (702) 486-4606.

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

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

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

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

6 DATED this 25 day of JANUARY, 2017.

7 REAL ESTATE DIVISION,
8 DEPARTMENT OF BUSINESS & INDUSTRY,
9 STATE OF NEVADA

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