

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,

Petitioner,

vs.

Wine Ridge Estates Homeowners'
Association, Fernando Hernandez, Rebecca
Coins,

Respondents.

Case No. 2021-942

FILED

NOV 02 2022

NEVADA COMMISSION FOR
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS

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**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, Aaron D. Ford, Attorney General of the State of Nevada, and Virginia T. Tomova, Deputy Attorney General, hereby notifies RESPONDENTS WINE RIDGE ESTATES HOMEOWNERS' ASSOCIATION, ("Association"), FERNANDO HERNANDEZ and REBECCA COINS (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. During the relevant times mentioned in this complaint, RESPONDENTS FERNANDO HERNANDEZ and REBECCA COINS served as board members and/or ...

1 officers of WINE RIDGE ESTATES HOMEOWNERS ASSOCIATION (the "Association"),
2 a common-interest community located in Las Vegas, Nevada.

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. WINE RIDGE ESTATES HOMEOWNERS' ASSOCIATION is a 415 single-
10 family home community located in Las Vegas, Nevada ("the community").

11 4. At all relevant times, the Association was governed by two resident board
12 members Fernando Hernandez and Rebecca Coins.

13 5. The Division and the Secretary of State records reflect that Fernando
14 Hernandez is the President of the Association and Rebecca Coins as the Secretary and
15 Treasurer for the Association as of July 28, 2021.

16 6. Based on these records RESPONDENTS Hernandez and Coins were board
17 members as of 2019.

18 7. On or about July 12, 2021, the auditor properly gave notice to the Association
19 by sending an audit engagement letter to the board of directors (BOD) and the community
20 manager (CM) Scott Hedlind with Desert Homeowners Association Management. Bates
21 Nos. CICC 0005-0006.

22 8. In the audit engagement letter, the Division requested that the Association
23 provide the following documents:

- 24 a. The Association's covenants, conditions and restrictions, the bylaws,
collection policy, violations policy, rules and regulations, and resolutions;
- 25 b. Current certificate of insurance;
- 26 c. Meeting minutes and agendas from January 1, 2019 to May 31, 2021;
- 27 d. 2015 Reserve Study and all subsequent reserve studies;
- 28 e. 2018-2020 CPA audits;
- f. 2020-2021 budgets;
- g. Interim financial statements including balance sheets dated December 31,
2019, December 31, 2020, and May 31, 2021, comparative budget to actual

1 income statement for fiscal years 2019-2020, January 1, 2021 to May 31,
2 2021; and assessment delinquent reports dated December 31, 2019,
3 December 31, 2020 and May 31, 2021;

- 4 h. Statements of the operative, reserve, contingency, investment, credit card,
5 and loan accounts for the Association from January 1, 2019 through May 31,
6 2021;
- 7 i. Front and back of checks from the operating and reserve accounts for the
8 Association from January 1, 2019 through May 31, 2021;
- 9 j. Vendor agreements from January 1, 2019 through May 31, 2021;
- 10 k. W9s and 1099s for 2019 and 2020; and
- 11 l. Invoices, receipts for disbursements from the operating and reserve funds
12 from January 1, 2019 to May 31, 2021. (the "Requested Documents") Bates
13 Nos. CICC 0005-0006.

14 9. The auditor also asked the Association to complete and submit the Annual
15 Association Registration Form # 562, unit fees, including penalty and interest in the
16 amount of \$2,006.25 and a confirmation that the Association is in good standing with the
17 Secretary of State's office. Bates Nos. CICC 0005-0006.

18 10. The Association was given until August 3, 2021 to submit the Requested
19 Documents. Bates Nos. CICC 0005-0006.

20 11. The Association failed to submit the Requested Documents by that deadline.

21 12. The auditor sent a second request and gave the Association until August 10,
22 2021 to produce the Requested Documents. Bates Nos. CICC 0007-0010.

23 13. On or about August 11, 2021, the community manager contacted the Division
24 and requested an extension until August 24, 2021 to provide the Requested Documents.
25 Bates Nos. CICC 0007-0010.

26 14. The requested extension was granted. Bates Nos. CICC 0007-0010.

27 15. The community manager emailed some of the records, however not all of the
28 Requested Documents were provided to the auditor. Bates Nos. CICC 0007-0010.

16. The records that were provided to the Division included

- a. Interim financial statements;
- b. Financial records;
- c. Meeting minutes from January 1, 2019 to May 21, 2021;
- d. Association's governing documents;
- e. Certificate of insurance; and
- f. Vendor contracts. Bates Nos. CICC 0007-0010.

1 17. As of the date of filing of this complaint, the Association has not provided the
2 rest of the Requested Documents.

3 18. As neither the BOD and/or the CM submitted the Requested Documents, the
4 auditor was not able to fully complete the audit. Bates Nos. CICC 0007-0010.

5 19. Based on the limited information provided, the auditor completed the audit
6 on September 14, 2021. Bates Nos. CICC 0007-0010.

7 20. Subsequently, an Intervention Affidavit was submitted to the Division by the
8 auditor for further investigation regarding compliance and violation of NRS 116 and NAC
9 116.

10 21. On or about October 5, 2021, the Division sent its initial request for the
11 Requested Documents to the BOD requesting a response as to why the BOD has failed to
12 provide the Requested Documents. Bates Nos. CICC 0011-0013.

13 22. In that initial correspondence, the Division also requested that the BOD
14 provides all of the Requested Documents. Bates Nos. CICC 0011-0013.

15 23. The BOD failed to respond to the Division's request.

16 24. On or about October 27, 2021, the Division sent its second request for the
17 Requested Documents and gave the BOD until November 4, 2021 to provide the requested
18 information. Bates Nos. CICC 0015-0017.

19 25. The BOD failed to respond to that request as well.

20 26. On or about November 5, 2021, the Division sent its third request for the
21 Requested Documents. Bates Nos. CICC 0019-0022.

22 27. In that correspondence, the Division also requested that the BOD respond to
23 the allegations based on the Association's:

- 24 a. failure to submit the Requested Documents to the Division;
25 b. failure to cooperate with the Division in resolving complaints; and
26 c. failure to complete its annual registration form and pay its past due amounts
27 of \$2,029.49. Bates Nos. CICC 0019-0022.

28 28. The Division requested that the above information is produced by November
10, 2021. Bates Nos. CICC 0019-0022.

1 29. As of April 28, 2022, the Association has been in good standing with the
2 Division and the Secretary of State.

3 30. The Association has also paid its annual registration fees and past due
4 amounts in the amount of \$4,038.99 on April 28, 2022.

5 31. The Division received the Annual Association Registration Form, dated
6 November 30, 2021 on January 13, 2022. Bates Nos. CICC 0023-0024.

7 32. According to the Annual Registration Form, the Association has not had a
8 reserve study done since July 6, 2015. Bates Nos. CICC 0023-0024.

9 33. According to the Annual Registration Form, the Association's last annual
10 meeting was on July 15, 2019. Bates Nos. CICC 0023-0024.

11 34. On November 18, 2021, the Division properly notified the Association and the
12 board that it will commence a disciplinary action by filing a Complaint for a hearing before
13 the Commission. Bates Nos. CICC 0028-0029.

14 35. No Board member provided a response to the Division regarding the
15 allegations.

16 VIOLATIONS OF LAW

17 36. RESPONDENTS violated NRS 116.3103 (through NAC 116.405(3)) by failing
18 to act in good faith and in the best interests of the Association when they committed an
19 act or omission which amounts to incompetence, negligence or gross negligence by failing
20 to comply with Nevada law.

21 37. RESPONDENTS violated NRS 116.3103 (through NAC 116.405(8)(a)) by
22 failing to act in good faith and in the best interests of the Association when they failed to
23 cause the Association to comply with all state laws and the governing documents of the
24 Association.

25 38. RESPONDENTS violated NRS 116.3103 (through NAC 116.405(5)(a)) by
26 impeding or otherwise interfering with an investigation of the Division by failing to comply
27 with a request by the Division to provide information or documents.

28 . . .

1 **DISCIPLINE AUTHORIZED**

2 Pursuant to the provisions of NRS 116.615; NRS 116.755; NRS 116.785; and NRS
3 116.790 the Commission has discretion to take any or all of the following actions:

4 1. Issue an order directing RESPONDENTS to cease and desist from continuing
5 to engage in the unlawful conduct that resulted in the violation.

6 2. Issue an order directing RESPONDENTS to take affirmative action to correct
7 any conditions resulting from the violation.

8 3. Impose an administrative fine of up to \$1,000 for each violation by
9 RESPONDENTS.

10 4. IF RESPONDENTS ARE FOUND TO HAVE KNOWINGLY AND
11 WILLFULLY COMMITTED A VIOLATION of NRS or NAC 116 AND it is in the best
12 interest of the Association, such RESPONDENTS may be removed from his/her position
13 as a director and/or officer.

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

15 6. Require RESPONDENTS to pay the costs of the proceedings incurred by the
16 Division, including, without limitation, the cost of the investigation and reasonable
17 attorney's fees.

18 7. Take whatever further disciplinary action as the Commission deems
19 appropriate.

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

24 **NOTICE OF HEARING**

25 **PLEASE TAKE NOTICE**, that a disciplinary hearing has been set to consider this
26 Administrative Complaint against the above-named RESPONDENTS in accordance with
27 Chapters 233B and 116 of the Nevada Revised Statutes and Chapter 116 of the Nevada
28 Administrative Code.

1 **THE HEARING WILL TAKE PLACE** at the Commission meeting(s)
2 scheduled for December 6 – December 8, 2022, beginning at approximately 9:00
3 a.m. each day, or until such time as the Commission concludes its business. The
4 Commission meeting will be held at the Nevada State Business Center, 3300 W.
5 Sahara Avenue, 4th Floor, Nevada Room, Las Vegas, Nevada 89102.

6 **STACKED CALENDAR:** Your hearing is one of several hearings that may
7 be scheduled at the same time as part of a regular meeting of the Commission
8 that is expected to take place on December 6-8, 2022. Thus, your hearing may be
9 continued until later in the day or from day to day. It is your responsibility to
10 be present when your case is called. If you are not present when your hearing is
11 called, a default may be entered against you and the Commission may decide the
12 case as if all allegations in the complaint were true. If you need to negotiate a
13 more specific time for your hearing in advance because of coordination with out
14 of state witnesses or the like, please call Maria Gallo, Commission Coordinator,
15 at (702) 486-4074.

16 **YOUR RIGHTS AT THE HEARING:** Except as mentioned below, the hearing is
17 an open meeting under Nevada’s open meeting law, and may be attended by the public.
18 After the evidence and arguments, the commission may conduct a closed meeting to
19 discuss your alleged misconduct or professional competence. You are entitled to a copy of
20 the transcript of the open and closed portions of the meeting, although you must pay for
21 the transcription.

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

1 You have the right to request that the Commission issue subpoenas to compel
2 witnesses to testify and/or evidence to be offered on your behalf. In making this request,
3 you may be required to demonstrate the relevance of the witness' testimony and/or
4 evidence. Other important rights and obligations, including your obligation to answer the
5 complaint, you have are listed in NRS Chapter 116 and NAC Chapter 116, including
6 without limitation, NRS 116.770 through 116.780, and NAC 116.500 through NAC
7 116.635 and NRS Chapter 233B.

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

16 DATED this 1 day of November, 2022.

17 REAL ESTATE DIVISION,
18 DEPARTMENT OF BUSINESS &
19 INDUSTRY, STATE OF NEVADA

20 By: 

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