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

JOSEPH (J.D.) DECKER, Administrator,
REAL ESTATE DIVISION, DEPARTMENT
OF BUSINESS & INDUSTRY,
STATE OF NEVADA,

Petitioner,

vs.

ANTHEM HIGHLANDS COMMUNITY
ASSOCIATION; ROBERT STERN;
CHARLES HERNANDEZ; and RONNIE
YOUNG,

Respondents.

Case Nos. 2015-3615; 2015-2155;
2015-3100; 2015-2207

FILED

DEC 31 2015

NEVADA COMMISSION OF
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS

**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, Senior Deputy Attorney General, hereby notifies Respondents ANTHEM HIGHLANDS COMMUNITY ASSOCIATION; ROBERT STERN; CHARLES HERNANDEZ; and RONNIE YOUNG (hereinafter, 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.

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1 **JURISDICTION AND NOTICE**

2 1. During the relevant times mentioned in this complaint, RESPONDENTS
3 ROBERT STERN, CHARLES HERNANDEZ, and RONNIE YOUNG were officers or directors
4 of ANTHEM HIGHLANDS COMMUNITY ASSOCIATION (the "Association"), a homeowners'
5 association located in Henderson, Nevada.

6 2. RESPONDENTS are subject to the provisions of Chapter 116 of each the
7 Nevada Revised Statutes ("NRS") and the Nevada Administrative Code ("NAC") (hereinafter
8 collectively referred to as "NRS 116") and are subject to the jurisdiction of the Division, and
9 the Commission for Common Interest Communities pursuant to the provisions of NRS
10 116.750.

11 **FACTUAL ALLEGATIONS**

12 3. The Association is a master association with approximately 1,549 homes.

13 4. The Association entered into an informal conference agreement with
14 RESPONDENT ROBERT STERN dated February 20, 2014 ("ICA") to settle a number of
15 intervention affidavits filed by the Association and RESPONDENT STERN.

16 5. In May 2014, the Association alleged a violation of the ICA by RESPONDENT
17 STERN and filed a claim with the Division's referee program.

18 6. RESPONDENT STERN refused to agree to the referee process and the
19 Association pursued a claim with the District Court in October 2014.

20 7. The Association's claim with the District Court sought declaratory relief as to the
21 ICA terms and requirements, but also alleged a claim for fraud against RESPONDENT
22 STERN.

23 8. RESPONDENT STERN filed a few intervention affidavits against the
24 Association after the ICA, including: one for not complying with NRS 116.31088 in the filing of
25 the civil action; and one for the board using Association funds for a trip to Carson City to meet
26 with legislators during the legislative session.

27 9. The civil case was dismissed and ordered to go to the referee program.

28 10. The Division investigated the affidavit and issued a letter of instruction to the

1 Association for failing to comply with NRS 116.31088.

2 11. The Division also investigated the issue of the use of Association funds and
3 issued a letter of instruction to the board advising them that a trip to the Nevada Legislature is
4 not a common expense.

5 12. RESPONDENTS STERN and HERNANDEZ ran for and were elected to the
6 board on May 27, 2015, also elected to the board at this time was Jody Fassette and Ken
7 Brensinger. RESPONDENT YOUNG was already on the board.

8 13. On or about May 31, 2015, Pennie Puhek contacted Ms. Fassette to discuss
9 Association issues.

10 14. Ms. Puhek was part of the investigations the Division concluded with a letters of
11 instruction and was a member of the Association's board when issues addressed by the ICA
12 were originally brought to the Division and has a long history of conflict with RESPONDENT
13 STERN.

14 15. The Association was to consider a memorandum of understanding with a sub-
15 association, Earlstone Homeowners Association ("Earlstone").

16 16. Ms. Puhek is a member of the board for Earlstone.

17 17. Ms. Fassette agreed to meet with Ms. Puhek on June 3, 2015 in a public place.

18 18. RESPONDENT HERNANDEZ and board member Brensinger were also
19 present, but Ms. Fassette was not told prior that they would be there.

20 19. Ms. Puhek, with Mr. Brensinger and HERNANDEZ, tried to convince Ms.
21 Fassette to vote in favor of the Earlstone memorandum.

22 20. Ms. Fassette was concerned about the terms of the memorandum and wanted
23 to see supporting documentation, so she could make an informed decision.

24 21. At the meeting later on June 3, board members RESPONDENTS STERN,
25 HERNANDEZ and YOUNG, as well as Ms. Fassette and Mr. Brensinger were present.

26 22. At the meeting, RESPONDENT HERNANDEZ made a motion to approve First
27 Service as the community manager effective September 1, subject to a committee of the
28 board to interview and approve a manager. The motion also included approval of the

1 Earlstone memorandum.

2 23. The motion failed.

3 24. Immediately after the June 3rd meeting Mr. Brensinger and RESPONDENT
4 HERNANDEZ verbally resigned, but never submitted a resignation in writing and continued to
5 act as members of the board.

6 25. On June 5, Ms. Puhek emailed the Association's board members threatening
7 legal action if the Earlstone memorandum is not approved.

8 26. An emergency meeting was called for June 12, 2015 to discuss and take action
9 on a new management contract.

10 27. Ms. Fassette emailed RESPONDENT HERNANDEZ, the board president, on
11 June 10 after she received the revised agenda for the emergency meeting.

12 28. The original agenda had not included the Earlstone memorandum, but the
13 revised agenda included the memorandum and tied it to the approval of the management
14 contract.

15 29. Ms. Fassette's email states:

16 I do not believe this falls under the emergency meeting criteria as the Earlstone
17 Memorandum is not an emergency.

18 30. Ms. Fassette went on to explain her issues with the Earlstone memorandum in
19 detail and asked for clarification.

20 31. Ms. Fassette also emailed the Association's attorney with her issues regarding
21 the Earlstone memorandum.

22 32. Ms. Fassette claims RESPONDENT HERNANDEZ told her the main issue was
23 the management agreement and that he would remove the Earlstone memorandum from the
24 agenda for the emergency meeting.

25 33. RESPONDENT HERNANDEZ did not remove the Earlstone memorandum from
26 the agenda, and instead phoned into the emergency meeting forcing Ms. Fassette to chair
27 the meeting.

28 34. Ms. Fassette was not comfortable voting in favor of the Earlstone

1 memorandum.

2 35. During the meeting, the board created a committee consisting of
3 RESPONDENT HERNANDEZ and Ms. Fassette to interview and hire a manager.

4 36. Ms. Puhek is heard throughout the meeting yelling for a point of order as is
5 RESPONDENT STERN.

6 37. RESPONDENT STERN objects to having the Earlstone memorandum
7 addressed as it is not an emergency.

8 38. Mr. Brensinger says RESPONDENT STERN is not recognized by the chair
9 which seems to change from RESPONDENT HERNANDEZ to Ms. Fassette at various times.

10 39. The meeting is chaotic and ultimately the board continued the matter of the
11 Earlstone memorandum.

12 40. As a result of the June 12, 2015 meeting, Jody Fassette submitted her
13 resignation citing as her reason "threats, litigation intimidation from more than one individual,
14 retaliatory actions for voting/not voting a certain way and public defaming."

15 41. By email dated June 18, 2015, Ms. Fassette notified RESPONDENT
16 HERNANDEZ that she wished to finish her term on the board.

17 42. RESPONDENT HERNANDEZ initiated a few letters from the Association's
18 attorney regarding Ms. Fassette's resignation and the effectiveness of it.

19 43. On June 30, RESPONDENT STERN posted to the Association's community
20 blog that he "will not be attending any board meetings until it is absolutely clear that
21 competent armed security is in place."

22 44. On July 2, RESPONDENT STERN posted to the same blog that "trained
23 professionals with the necessary permits and training have decided that they will attend the
24 open board meetings to provide security." He goes on to say he will attend the July 22
25 meeting of the board.

26 45. By letter dated July 8, Ms. Fassette states that her resignation was given under
27 duress and explains the situation she felt she was in.

28 46. By email dated July 19 to other board members, Ms. Fassette and Ms. Puhek,

1 RESPONDENT STERN states:

2 The clock is set and the final reel is unwinding. Get the popcorn and snow
3 cones. It is time to really protect the children and their parents from the enemies
4 within the Community. Most of the audience has figured it out and fearful that
5 the evil doers may prevail. Midsummers Nightmare. Coming to your local
6 theater July 22.

7 47. RESPONDENT HERNANDEZ refused to allow Ms. Fassette to return to her
8 position on the board, so RESPONDENT STERN filed an intervention affidavit against him.

9 48. RESPONDENT HERNANDEZ refused to attend an informal conference with
10 the Ombudsman's office to resolve the complaint.

11 49. At the July 22 meeting, several items were postponed and several items failed
12 due to split votes with only 4 board members.

13 50. RESPONDENT STERN made a motion to terminate the Association's attorney
14 as general counsel.

15 51. The Association's attorney represented the Association against RESPONDENT
16 STERN in the ICA matter referred back to the referee program and was not yet concluded.

17 52. RESPONDENT YOUNG supported the motion.

18 53. The motion passed with a "yes" vote from Mr. Brensinger who tried to take back
19 his vote saying he was confused about the motion and an argument ensued.

20 54. The same motion was brought up for a second vote and failed.

21 55. RESPONDENT STERN asserted Mr. Brensinger was not allowed to take back
22 his vote and treated the second vote as a motion to reconsider.

23 56. RESPONDENT HERNANDEZ, chairing the meeting, did not call for a vote
24 regarding Ms. Fassette's request to return to her seat on the board and no action was taken
25 to fill her vacancy.

26 57. By email dated September 9, Ms. Fassette asks RESPONDENT HERNANDEZ
27 and Mr. Brensinger to allow her to come back to the board as "a four person board is a
28 detriment to this community."

58. The Association had a meeting scheduled for September 23, but the meeting

1 did not occur due to a lack of a quorum with RESPONDENTS STERN and YOUNG not in
2 attendance.

3 59. By letter dated October 5, the Division notified RESPONDENT HERNANDEZ
4 that all efforts need to be taken to put an end to the board's current impasse.

5 60. Also by letter dated October 5, RESPONDENT STERN was notified that while
6 the intervention affidavit filed against him for failing to attend board meetings was being
7 closed due to the complainant's refusal to attend an informal conference, the Division
8 reserved the right to re-open the case if RESPONDENT STERN continued to fail to attend
9 future board meetings.

10 61. On or about October 6, 2015, Mr. Brensinger and RESPONDENT
11 HERNANDEZ signed an agreement whereby they would agree to bring Ms. Fassette back to
12 the board on certain conditions.

13 62. Ms. Fassette also signed the agreement, but RESPONDENT STERN and
14 YOUNG did not.

15 63. RESPONDENT STERN requested different terms of Ms. Fassette's return to
16 the board.

17 64. The board meetings scheduled for October 28, November 16, and December 9
18 did not take place due to a lack of a quorum as RESPONDENTS STERN and YOUNG did
19 not attend.

20 65. A meeting scheduled for December 28, requested by RESPONDENT STERN
21 with the agenda set by RESPONDENT STERN, did not happen due to a lack of a quorum
22 with RESPONDENTS STERN and YOUNG not in attendance.

23 66. The board has not met since the meeting on July 22, 2015.

24 67. The board has not addressed owner violations or adopted a budget for 2016.

25 68. The Association's fiscal year begins January 1.

26 **VIOLATIONS OF LAW**

27 69. RESPONDENTS STERN, YOUNG and HERNANDEZ knowingly and willfully
28 violated NRS 116.3103 (through NAC 116.405(2)) by failing to act in good faith and in the

1 best interests of the Association by acting for reasons of self-interest, gain, prejudice, or
2 revenge.

3 70. RESPONDENTS STERN, YOUNG and HERNANDEZ knowingly and willfully
4 violated NRS 116.3103 (through NAC 116.405(3)) by failing to act in good faith and in the
5 best interests of the Association by committing an act or omission which amounts to
6 incompetence, negligence or gross negligence.

7 71. RESPONDENTS STERN, YOUNG and HERNANDEZ knowingly and willfully
8 violated NRS 116.3103 (through NAC 116.405(8)(a)) by failing to act in good faith and in the
9 best interests of the Association by failing to cause the Association to comply with all
10 applicable federal, state and local laws and regulations and the governing documents of the
11 Association.

12 72. RESPONDENTS STERN, YOUNG and HERNANDEZ knowingly and willfully
13 violated NRS 116.3103 (through NAC 116.405(8)(c)) by failing to act in good faith and in the
14 best interests of the Association by failing to cause the Association to hold meetings of the
15 executive board with such frequency as to properly and efficiently address the affairs of the
16 Association.

17 73. RESPONDENTS knowingly and willfully violated NRS 116.31083(1) by failing to
18 have a meeting of the board at least once each quarter, and not less than once every 100
19 days.

20 74. RESPONDENTS knowingly and willfully violated NRS 116.31083(6) by failing to
21 have a meeting of the board at least once every quarter, and not less than once every 100
22 days, to review financial statements, revenues and expenses, operating and reserve
23 accounts, or financial statements.

24 75. RESPONDENTS knowingly and willfully violated NRS 116.31151(1) by failing to
25 prepare and distribute to each unit's owner a copy of the operating and reserve budget not
26 less than 30 days or more than 60 days before the beginning of the Association's fiscal year.

27 **DISCIPLINE AUTHORIZED**

28 Pursuant to the provisions of NRS 116.615; NRS 116.755; NRS 116.785; and NRS

1 116.790 the Commission has discretion to take any or all of the following actions:

- 2 1. Issue an order directing RESPONDENTS to cease and desist from continuing to
- 3 engage in the unlawful conduct that resulted in the violation.
- 4 2. Issue an order directing RESPONDENTS to take affirmative action to correct any
- 5 conditions resulting from the violation.
- 6 3. Impose an administrative fine of up to \$1,000 for each violation by RESPONDENTS.
- 7 4. IF RESPONDENTS ARE FOUND TO HAVE KNOWINGLY AND WILLFULLY
- 8 COMMITTED A VIOLATION of NRS or NAC 116 AND it is in the best interest of the
- 9 Association, such RESPONDENTS may be removed from his/her position as a
- 10 director and/or officer.
- 11 5. Order an audit of the ASSOCIATION, at the expense of the ASSOCIATION.
- 12 6. Require the BOARD MEMBERS to hire a community manager who holds a certificate.
- 13 7. Require RESPONDENTS to pay the costs of the proceedings incurred by the Division,
- 14 including, without limitation, the cost of the investigation and reasonable attorney's
- 15 fees.
- 16 8. Take whatever further disciplinary action as the Commission deems appropriate.

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

21 NOTICE OF HEARING

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

26 **THE HEARING WILL TAKE PLACE** on February 2-4, 2016 beginning at 9:00 a.m.
27 each day or until such time as the Commission concludes its business. **The Commission**
28 **meeting on February 2, 2016, will be located at the Department of Business and**

1 Industry, 2501 E. Sahara Avenue, 2nd Floor Conference Room, Las Vegas Nevada
2 89104, with videoconferencing to the Department of Business and Industry, Director's
3 Office, 1830 East College Parkway, Suite 100, Carson City, Nevada 89706. The
4 Commission meeting on February 3, 2016, will be located at the Nevada Department of
5 Employment Training and Rehabilitation, 2800 East St. Louis Avenue, Conference
6 Room A-C, Las Vegas, Nevada 89104, with videoconferencing to the Nevada
7 Department of Employment Training and Rehabilitation, 500 East Third Street, Carson
8 City, Nevada 89713. The Commission meeting on February 4, 2016, will be located at
9 the Department of Business and Industry, 2501 E. Sahara Avenue, 2nd Floor
10 Conference Room, Las Vegas Nevada 89104, with no videoconferencing.

11 STACKED CALENDAR: Your hearing is one of several hearings that may be
12 scheduled at the same time as part of a regular meeting of the Commission that is expected
13 to take place on February 2-4, 2016. Thus, your hearing may be continued until later in the
14 day or from day to day. It is your responsibility to be present when your case is called. If you
15 are not present when your hearing is called, a default may be entered against you and the
16 Commission may decide the case as if all allegations in the complaint were true. If you need
17 to negotiate a more specific time for your hearing in advance because of coordination with
18 out of state witnesses or the like, please call Claudia Rosolen, Commission Coordinator, at
19 (702) 486-4606.

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

26 As a RESPONDENT, you are specifically informed that you have the right to appear
27 and be heard in your defense, either personally or through your counsel of choice. At the
28 hearing, the Division has the burden of proving the allegations in the complaint and will call

1 witnesses and present evidence against you. You have the right to respond and to present
2 relevant evidence and argument on all issues involved. You have the right to call and
3 examine witnesses, introduce exhibits, and cross-examine opposing witnesses on any matter
4 relevant to the issues involved.

5 You have the right to request that the Commission issue subpoenas to compel
6 witnesses to testify and/or evidence to be offered on your behalf. In making this request, you
7 may be required to demonstrate the relevance of the witness' testimony and/or evidence.
8 Other important rights and obligations, including your obligation to answer the complaint, you
9 have are listed in NRS Chapter 116 and NAC Chapter 116, including without limitation, NRS
10 116.770 through 116.780, and NAC 116.500 through NAC 116.635 and NRS Chapter 233B.

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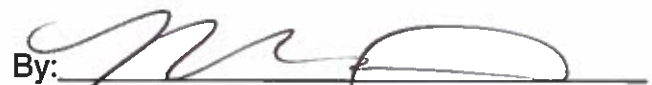
1 Note that under NAC 116.575, not less than five (5) working days before a hearing,
2 RESPONDENT must provide to the Division a copy of all reasonably available documents
3 that are reasonably anticipated to be used to support his position, and a list of witnesses
4 RESPONDENTS intend to call at the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

9 DATED this 31st day of December, 2015.

10
11 REAL ESTATE DIVISION
12 DEPARTMENT OF BUSINESS & INDUSTRY
13 STATE OF NEVADA

14 By: 
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20 ADAM PAUL LAXALT
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