

**COMMISSION FOR COMMON-INTEREST COMMUNITIES AND CONDOMINIUM
HOTELS MEETING MINUTES NOVEMBER 15-17, 2016**

**NEVADA STATE GAMING CONTROL BOARD
555 E. WASHINGTON AVENUE
ROOM 2450
LAS VEGAS, NV. 89101**

**VIDEO CONFERENCE TO:
NEVADA STATE GAMING CONTROL BOARD
1919 COLLEGE PARKWAY
CARSON CITY, NV. 89706**

NOVEMBER 15, 2016

9:03 A.M.

1-A) Swearing in of reappointed Commissioners

Ryan Henderson and Ken Williams were sworn in by Chairman Breslow.

1-B) Introduction of Commissioners in attendance

In Las Vegas: Barry Breslow, Ken Williams, James Rizzi, Richard Layton, Doris Woods, Ryan Henderson, and Senior Deputy Attorney General Sarah Bradley as Commission Counsel.

Scott Sibley was not present.

1-C) Introduction of Division Staff in attendance

In Las Vegas: Sharath Chandra, Administrator; Teralyn Thompson, Administration Section Manager; Sharon Jackson, Ombudsman; Ingrid Trillo, Education Officer; Stacey Spoerl, Program Training Officer; Darik Ferguson, Chief Compliance Audit Investigator; Claudia Rosolen, Commission Coordinator; and Senior Deputy Attorney General Michelle Briggs serving as Division Counsel.

In Carson City: Michael Jory, Deputy Administrator and Chris Cooke, Compliance Audit Investigator.

2) Public Comment

In Las Vegas: Tim Stebbins, Henderson resident and director of the Nevada Homeowner Alliance PAC (NHA), commented. Mr. Stebbins welcomed Commissioner Henderson.

In Las Vegas: George Crocco, resident of Canyon Willow Pecos, commented. Mr. Crocco stated that Stacey Spoerl is doing a fantastic job with the Q&A classes. Mr. Crocco stated that Sharon Jackson and the Ombudsman's team are doing a good job.

**8-C) NRED v. Pecos Creek Homeowners Association, James Gilmore, Rodolfo Rocha, Omar Guerra, Ofelia Santos, and Patricia Yuen, for possible action
Case No. 2016-1949**

Type of Respondent: Executive Board

Parties Present:

Michelle Briggs was present representing the Division.

Respondent Ofelia Santos was present.

Preliminary Matters:

Ms. Briggs made an opening statement. Ms. Briggs asked the Commission to put forth an order to set a board to be put in place with Ms. Santos and another homeowner who was present at the meeting.

Ms. Briggs stated that Mr. Gilmore has moved to Florida with health issues, Mr. Guerra does not speak English and his niece translated for him. Ms. Briggs stated that Mr. Guerra was unaware that he was on the board. Ms. Briggs stated that Ms. Yuen has not responded to the Division and Mr. Rocha lost his units several years ago and is not an owner.

Ms. Briggs asked to have the new board ordered to come back to the next Commission meeting to address the issues in the complaint regarding the reserves and audits.

Commissioner Williams questioned Ms. Briggs regarding the notice requirements.

Ubaldo Chavarria, a homeowner within Pecos Creek Homeowners Association, appeared at the hearing and expressed his desire to serve on the board.

Ms. Santos agreed and said she would be back in March for a status update.

Division's Recommendation for Discipline:

Ms. Briggs gave the Division's recommendation for discipline:

- Ms. Briggs stated that the facts are not in dispute and asked that the facts be found as proven. Ms. Briggs stated that she is going to postpone any decision regarding violation of law at this time.
- Ofelia Santos and Ubaldo Chavarria are deemed to be board members.
- Ms. Santos and Mr. Chavarria have the authority to appoint a third board member to call meetings and conduct association business, and in particular, respond to the allegations that are in the complaint.
- The board is to report back to the Commission at the next meeting at which time the Commission could issue an order as to when the election is to take place.

Commissioner Layton moved to approve the Division's recommendation for discipline. Commissioner Williams seconded.

Motion carried.

3-D) For possible action: Respondent's report on the order regarding settlement of disciplinary action

NRED v. Max McCombs; and English Mill Condominiums Homeowners Association, for

possible action

Case No. 2014-1179

Type of Respondent: Board Officer and Director

Parties Present:

Michelle Briggs was present representing the Division.

Max McCombs was present via videoconference in Carson City.

Ms. Briggs stated that the points of concern are the status of the reserve account funding and the election of board members.

Mr. McCombs stated that the reserve account was opened six months ago and there is \$3,000 in it. Mr. McCombs stated that in the first week of December the board will have a meeting with the newly appointed members. Mr. McCombs stated that during that meeting they will have the motion to approve the reserve study and initiate and the recommendations from the reserve study to fund the reserve account on a monthly basis.

Ms. Briggs asked if the amount that is in the order for \$54.83 per month that was supposed to be added to the reserves has been done.

Mr. McCombs stated that he does not have the amount of the shortfall.

Chairman Breslow proposed to do one more status check at the next Commission meeting.

Ms. Briggs stated that she does not know if at this point \$54.83 is enough to keep the association funded. Ms. Briggs stated that when this case will come back before the Commission at the next meeting, Ms. Briggs would like to see more than \$54.83 being put into the reserve account because the association needs to be adequately funded.

Commissioner Williams asked if the other items in the settlement have been completed.

Mr. McCombs stated that they have been.

Commissioner Layton stated that the order effective date was December 2015. Commissioner Layton stated that every homeowner is responsible for the \$54.83 per month from December 2015 to be paid to be current. Commissioner Layton stated that next time Mr. McCombs comes before the Commission, Mr. McCombs will have to report the number of homeowners who are current, how many homeowners have partially paid, how many have not paid at all and what the association is doing to try to collect those funds.

Mr. McCombs agreed.

8-E) Disciplinary action: Hearing and possible action by the Commission

NRED v. Carlos O. Hidrogo, for possible action

Case No. 2015-3526

Type of Respondent: Community Manager

License#: CAM.0008221-PROV (CLOSED)

Parties Present:

Michelle Briggs was present representing the Division.

Respondent Carlos O. Hidrogo was not present.

Chairman Breslow asked if Carlos O. Hidrogo received proper notice.

Ms. Briggs stated that she spoke with Mr. Hidrogo's attorney and proper notice was given.

Preliminary Matters:

Ms. Briggs asked that the Commission accept the factual allegations and violations of law as proven.

Ms. Briggs gave the Commission a summary of the allegations and violations.

Commissioner Layton moved for the factual allegation and the violations of law to be proven as default against Carlos O. Hidrogo by failure to appear and respond. Commissioner Woods seconded.

Motion carried.

Division's Recommendation for Discipline:

Ms. Briggs gave the Division's recommendation for discipline:

- Fine in the amount of \$32,000 which is the amount of checks deposited into the Associations' account while Limon was in prison, and costs of hearing in the amount of \$6,566.53.

Commissioner Williams moved for a \$32,000 fine, cost in the amount of \$6,566.53 and to revoke Mr. Hidrogo's provisional certificate for a period of not less than 10 years.

Commissioner Layton seconded.

Motion carried.

8-B) Disciplinary action: Hearing and possible action by the Commission

NRED v. Penny D. Frederick (fka Penny Wood), for possible action

Case No. 2014-1053

Type of Respondent: Unlicensed Community Manager

Parties Present:

Michelle Briggs was present representing the Division.

Penny D. Frederick was present.

AJ Kung was present representing Penny D. Frederick.

Ms. Kung asked that agenda items 8-A and 8-B be heard at the same time because there is a lot of redundancy.

Ms. Briggs stated that the issue in the complaint against Ms. Frederick is for unlicensed activity. Ms. Briggs stated that it would confuse the Commission if they were required to hear evidence that is not relevant to the allegations against Ms. Frederick specifically.

Ms. Kung stated that the cases should be consolidated because both cases arose from a complaint filed by the same complainant.

Chairman Breslow stated that the items would be heard together because of the overlap and redundancy.

8-A) Disciplinary action: Hearing and possible action by the Commission

NRED v. Jeffrey Allan Frederick, for possible action

Case No. 2014-1057

Type of Respondent: Community Manager

License#: CAM.0007580 (ACTIVE)

8-B) Disciplinary action: Hearing and possible action by the Commission

NRED v. Penny D. Frederick (fka Penny Wood), for possible action

Case No. 2014-1053

Type of Respondent: Unlicensed Community Manager

Parties Present:

Michelle Briggs was present representing the Division.

AJ Kung was present representing Penny D. Frederick and Jeffrey Allan Frederick.

Penny D. Frederick was present.

Jeffrey Allan Frederick was present.

Commissioner Williams stated that he had prior knowledge of some of the information regarding the case and recused himself from both cases.

Opening Statement:

Ms. Briggs made an opening statement.

Ms. Kung made an opening statement.

Ms. Briggs requested the rule of exclusion of witnesses.

Commissioner Layton disclosed that prior to retiring from his CPA firm he had a onetime meeting with the owner of Thoroughbred Management and it was not regarding this case. Commissioner Layton stated that this will not affect his ability to be impartial in his vote.

State's Witness:

Christina Pitch testified.

Ms. Briggs submitted State's Exhibits 1 to 21.

State's Exhibits 1-21 were accepted into evidence with no objection.

Ms. Pitch continued her testimony.

Ms. Kung stated that she objected to State's Exhibit 20. Ms. Kung stated that she stipulated to the authenticity and foundation but not to relevancy.

Chairman Breslow stated that State's Exhibit 20 is not admitted.

Ms. Pitch continued her testimony.

Ms. Kung stated that she listened to the audio tape of the meetings and is willing to admit State's Exhibit 20 if they stipulate that a licensed manager was present with Ms. Frederick at the meeting.

Ms. Briggs stated that she will not stipulate that there was a licensed community manager at the March 1, 2013 meeting.

State's Exhibit 20 was admitted.

Ms. Pitch continued her testimony.

Ms. Kung cross-examined Ms. Pitch.

Ms. Briggs redirected Ms. Pitch.

Ms. Kung re-crossed examined Ms. Pitch.

Ms. Kung submitted Respondent's Exhibit K; J, and BB.

Respondent's Exhibit K; J, and BB were admitted into evidence.

Commissioners Woods and Layton questioned Ms. Pitch.

Chairman Breslow questioned Ms. Pitch.

Ms. Kung resumed her re-cross examination of Ms. Pitch.

Chairman Breslow questioned Ms. Pitch.

Ms. Briggs re-directed Ms. Pitch.

The witness was excused.

Chairman Breslow stated that the Commission reconsidered the decision of hearing the matters for Jeffrey Allan Frederick and Penny Frederick together, and continued with Ms. Frederick's matter.

8-B) Disciplinary action: Hearing and possible action by the Commission
NRED v. Penny D. Frederick (fka Penny Wood), for possible action
Case No. 2014-1053
Type of Respondent: Unlicensed Community Manager

State's Witness:

Dov Elrichman testified.

Ms. Kung cross-examined Mr. Elrichman.

The hearing was continued to the next day due to time constraints.

12) Public Comment

None.

14) For possible action: Adjournment

The meeting recessed at 4:30 p.m. on November 15, 2016.

**NEVADA STATE GAMING CONTROL BOARD
555 E. WASHINGTON AVENUE
ROOM 2450
LAS VEGAS, NV. 89101**

**VIDEO CONFERENCE TO:
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1919 COLLEGE PARKWAY
CARSON CITY, NV. 89706**

NOVEMBER 16, 2016

9:03 A.M.

1-B) Introduction of Commissioners in attendance

In Las Vegas: Barry Breslow, Ken Williams, James Rizzi, Richard Layton, Doris Woods, Ryan Henderson, and Senior Deputy Attorney General Sarah Bradley as Commission Counsel.

Scott Sibley was not present.

1-C) Introduction of Division Staff in attendance

In Las Vegas: Sharath Chandra, Administrator; Teralyn Thompson, Administration Section Manager; Sharon Jackson, Ombudsman; Ingrid Trillo, Education Officer; Stacey Spoerl, Program Training Officer; Darik Ferguson, Chief Compliance Audit Investigator; Claudia Rosolen, Commission Coordinator; and Senior Deputy Attorney General Michelle Briggs serving as Division Counsel.

In Carson City: Michael Jory, Deputy Administrator, and Chris Cooke, Compliance Audit Investigator.

2) Public Comment

None.

9-A) For possible action: Discussion and decision to approve minutes of August 16-18, 2016 Commission meeting

Commissioner Henderson and Commissioner Rizzi abstained from voting on the matter because they were not present.

Commissioner Williams moved to approve the minutes. Commissioner Layton seconded.

Motion carried with Commissioners Henderson and Rizzi abstained.

11) For possible action: Discussion and decision on date, time, place, and agenda items for upcoming meetings; including setting meeting dates for 2017.

Teralyn Thompson presented the dates for the 2017 Commission meetings:

- March 7-9, 2017 in the South.
- June 27-29, 2017 in the South.

- August 29-31, 2017 in the North.
- November 14-16, 2017 in the South.

Commissioner Rizzi moved to accept the proposed dates. Commissioner Layton seconded.

Motion carried.

9-B) Discussion regarding Commissioners' speaking engagement requests.

No speaking engagements.

10-A-2) Administrator's Report: The Division's Las Vegas office moving to another location.

Sharath Chandra presented this report. Mr. Chandra stated that the Division is scheduled to move in January 2017. Mr. Chandra stated that at some point the Division will reach out to the industry because the Division might have a black out time where people will not be able to actively walk into the Division for services.

Ms. Thompson gave the Commission the proposed address to the new location.

10-A-1) Administrator's Report: Personnel

Sharath Chandra presented this report. Mr. Chandra stated that the Division is in the process of recruiting for the Projects section. Mr. Chandra stated that Ingrid Trillo has taken the position as the Education Program Officer for the Ombudsman's Office.

8-B) Disciplinary action: Hearing and possible action by the Commission NRED v. Penny D. Frederick (fka Penny Wood), for possible action Case No. 2014-1053

Type of Respondent: Unlicensed Community Manager

Parties Present:

Michelle Briggs was present representing the Division.

AJ Kung was present representing Ms. Frederick.

Ms. Frederick was present.

State's Witness:

Ms. Kung resumed her cross examination of Dov Elrichman.

Ms. Kung asked that the unsigned draft minutes NRED document 1097 and 1098 from the Notice of Documents be admitted.

Commission admitted as Respondent's Exhibit AA.

Ms. Briggs redirected Mr. Elrichman.

Ms. Kung re-cross Mr. Elrichman.

Commissioners Rizzi, Woods and Layton questioned Mr. Elrichman.

Chairman Breslow questioned Mr. Elrichman.

Ms. Briggs conducted re-direct examination.

Ms. Kung conducted re-cross examination.

State's Witness:

Kevin Ruth testified.

Ms. Kung conducted cross examination.

The hearing was continued for after the lunch break.

8-D) Disciplinary action: Hearing and possible action by the Commission

NRED v. Vistana Condominium Owners Association, Larry Fitch, Anthony Knelp, Lynn Williams, Ardyce Nelson, for possible action

Case No. 2015-3373

Type of Respondent: Executive Board

Parties Present:

Michelle Briggs was present representing the Division.

Richard Haskin appeared on behalf of Vistana Condominium Owners Association, Larry Fitch, Anthony Knelp, Lynn Williams, and Ardyce Nelson.

Ms. Briggs stated that an agreement has been reached, and that the Division is not opposed to a continuance on this matter. Ms. Briggs stated that this matter would be moved to the Commission's March meeting.

Mr. Haskin agreed.

Commissioner Rizzi moved to accept the request to continue the matter until the March meeting. Commissioner Layton seconded.

Motion carried.

8-G) Disciplinary action: Hearing and possible action by the Commission

NRED v. Rosario Orozco, for possible action

Case Nos. 2014-3723 & 2014-3453

Type of Respondent: Community Manager

License#: CAM.0007435 (ACTIVE)

Parties Present:

Michelle Briggs was present representing the Division.

Richard Haskin appeared on behalf of Rosario Orozco.

Ms. Brigg stated that in exchange for the continuance, Ms. Orozco agrees to pay an administrative fine of \$2,000 in four monthly payments with the first payment starting January 1, 2017.

Ms. Haskin stated that this is acceptable to his client.

Commissioner Layton moved to approve the stipulation for a continuance moving this matter to the Commission's March meeting with the agreement that the respondent will pay an administrative fine of \$2,000 payable in \$500 payments with the first payment being January 1, 2017. Commissioner Rizzi seconded.

Motion carried.

**8-B) Disciplinary action: Hearing and possible action by the Commission
NRED v. Penny D. Frederick (fka Penny Wood), for possible action
Case No. 2014-1053**

Type of Respondent: Unlicensed Community Manager

State's Witness:

Ms. Kung resumed her cross examination of Mr. Ruth.

Ms. Briggs re-directed Mr. Ruth.

Commissioner Rizzi questioned Mr. Ruth.

The witness was dismissed.

Respondent's Witness:

Lewis Wood testified.

Ms. Briggs cross-examined Mr. Wood.

Ms. Kung re-directed Mr. Wood.

Ms. Kung submitted Respondent's Exhibit K and J which were accepted into evidence with no objection.

The witness was dismissed.

Respondent's Witness:

James Schuman testified.

Ms. Briggs cross-examined Mr. Schuman.

Ms. Kung re-directed Mr. Schuman.

Ms. Briggs re-cross examined Mr. Schuman.

Commissioners Rizzi, Woods and Henderson questioned Mr. Schuman.

Chairman Breslow questioned Mr. Schuman.

The witness was dismissed.

Respondent's Witness:

Robert Valentine testified.

Ms. Briggs cross-examined Mr. Valentine.

Ms. Kung redirected Mr. Valentine.

The witness was dismissed.

Respondent's Witness:

Penny Frederick testified.

Ms. Kung submitted Respondent's Exhibit E and was admitted into evidence with no objection.

Ms. Briggs cross-examined Ms. Frederick.

Chairman Breslow questioned Ms. Frederick.

The hearing was continued to the next day due to time constraints.

8-E) Disciplinary action: Hearing and possible action by the Commission

NRED v. Carlos O. Hidrogo, for possible action

Case No. 2015-3526

Type of Respondent: Community Manager

License#: CAM.0008221-PROV (CLOSED)

Chairman Breslow stated that the Commission took action on this item on November 15, 2016.

Chairman Breslow stated that the Commission learned that there was a calendar mix up.

Parties Present:

Michelle Briggs was present representing the Division.

Alex Ghibaudo was present representing the respondent.

Preliminary Matters:

Ms. Briggs stated that a settlement was reached that Mr. Hidrogo pay restitution to the associations in the amount of \$6,000 to be paid over twelve months starting January 1, 2017.

Ms. Briggs stated that Mr. Hidrogo would pay an administrative fine of \$1,000 within 90 days and that his certificate be revoked for no less than 10 years.

Mr. Ghibaudo stated that Mr. Hidrogo agrees with the settlement and that Mr. Ghibaudo has full

authority to enter into such agreement. Mr.Ghibauda requested that the Commission modify the decision of the Commission from November 15, 2016.

Sara Bradley stated that the factual allegations and violations are still deemed proven. Ms. Bradley stated that the Commission would decide on modifying the discipline that was ordered on November 15, 2016.

Commissioner Layton moved to rescind the Commission's action regarding discipline for this item that was done on November 15, 2016 and replace it with the stipulated discipline that has been put on record. Commissioner Rizzi seconded.

12) Public Comment

None.

14) For possible action: Adjournment

The meeting recessed at 4:30 p.m. on November 16, 2016.

**HENDERSON CITY HALL
COUNCIL CHAMBERS
240 SOUTH WATER STREET
HENDERSON, NV. 89015**

NO VIDEOCONFERENCE

NOVEMBER 17, 2016

9:03 A.M.

1-B) Introduction of Commissioners in attendance

In Las Vegas: Barry Breslow, Ken Williams, James Rizzi, Richard Layton, Doris Woods, Ryan Henderson, and Senior Deputy Attorney General Sarah Bradley as Commission Counsel.

Scott Sibley was not present.

1-C) Introduction of Division Staff in attendance

In Las Vegas: Sharath Chandra, Administrator; Teralyn Thompson, Administration Section Manager; Sharon Jackson, Ombudsman; Ingrid Trillo, Education Officer; Stacey Spoerl, Program Training Officer; Darik Ferguson, Chief Compliance Audit Investigator; Claudia Rosolen, Commission Coordinator; and Senior Deputy Attorney General Michelle Briggs serving as Division Counsel.

2) Public Comment

None

8-B) Disciplinary action: Hearing and possible action by the Commission

NRED v. Penny D. Frederick (fka Penny Wood), for possible action

Case No. 2014-1053

Type of Respondent: Unlicensed Community Manager

Parties Present:

Michelle Briggs was present representing the Division.

AJ Kung was present representing Penny D. Frederick.

Respondent's Witness:

Ms. Briggs resumed her cross examination of Ms. Frederick.

The Commission listened to audio recordings of association meetings presented by Ms. Briggs.

Ms. Kung re-directed Ms. Frederick.

Commissioner Rizzi questioned Ms. Frederick.

Closing Arguments:

Ms. Briggs made her closing argument.

Ms. Kung made her closing argument.

Ms. Briggs made a final rebuttal argument.

Factual Allegations:

Commissioner Rizzi moved to accept as proven factual allegations 3-7, 10, 12, 13, 14-16 and 23. Commissioner Layton seconded.

Motion carried with Commissioner Williams abstained.

Commissioner Rizzi moved to accept as proven factual allegations 17, 18, 19, 20, 21, and 22. Commissioner Woods seconded.

Motion carried with Commissioner Williams abstained.

Commissioner Rizzi moved to accept as proven factual allegation 24. Commissioner Layton seconded.

Motion carried with Commissioner Williams abstained.

Commissioner Rizzi moved to accept as not proven factual allegation 11 as it relates to Ms. Frederick. Commissioner Woods seconded.

Motion carried with Commissioner Williams abstained.

Commissioner Rizzi moved to accept factual allegation 8 as proven and factual allegation 9 as not proven. Commissioner Layton seconded.

Motion carried with Commissioner Williams abstained.

Commissioner Rizzi moved to accept as proven factual allegations 1 and 2.

Commissioner Rizzi stated that in Ms. Frederick's testimony she stated that there were some gray areas where she might have crossed the line. Commissioner Rizzi stated that there was also strong testimony that Ms. Frederick did not cross the line. Commissioner Rizzi stated that is why he thinks these allegations have been proven as factual.

Commissioner Layton seconded.

Chairman Breslow stated that the evidence to show that Ms. Frederick was acting as a community manager included testimony, audio, investigator's report and a declaration. Chairman Breslow stated that Ms. Frederick taking continuing education for that many years is great if she wants to keep her finger on the pulse of the industry, but a little unusual for someone who is acting as an administrative assistant. Chairman Breslow stated that the fact that Ms. Frederick was alone at the association meeting in 2012 is a piece of evidence for the Division. Chairman Breslow stated that it is perplexing that Ms. Frederick would not re-apply for a

community manager certificate.

Chairman Breslow stated that Ms. Frederick told members of the Laurel Canyon board that she was not licensed and that she had licensed managers at meetings. Chairman Breslow stated that was more evidence for than opposed showing that she was acting as a community manager without a license.

Commissioner Henderson stated that it would have been better if Ms. Frederick had placed it in writing. Commissioner Henderson stated that telling two board members was not doing due diligence.

Commissioner Woods stated that her concern is that there were no community managers at meetings in 2012 so there is no way of knowing what was said or not said. Commissioner Woods stated that given the amount of input in 2013, Commissioner Woods stated that she didn't think it was reasonable to assume that there was no discussion from Ms. Frederick.

Commissioner Layton stated he believes that Ms. Frederick is an honorable woman trying to do her best with her business. Commissioner Layton stated that he is concerned that Ms. Frederick reached a stipulation in 2011 for operating as a manager and attended several meetings in 2012 without a community manager there. Commissioner Layton stated that based on the testimony, board members looked to Ms. Frederick for direction. Commissioner Layton stated that he believes the facts have been proven.

Motion carried with Commissioner Williams abstained.

Violations of Law:

Commissioner Rizzi moved to accept that violation of law 25 was proven. Commissioner Layton seconded.

Motion carried with Commissioner Williams abstained.

Division's Recommendation for Discipline:

Ms. Briggs gave the Division's recommendation for discipline. Ms. Briggs stated the testimony was that Ms. Frederick's company received \$170,000 since 2011. Ms. Briggs stated that the testimony was \$30,000 per year from 2011 to 2014 and then \$50,000 in 2015.

- Fine of \$170,000
- Costs of \$10,758.76

Ms. Kung made a statement in opposition to the amount of the fine. Ms. Kung stated that she recommends a minimal fine.

Chairman Breslow stated that he would be in favor of Ms. Frederick paying the costs and a fine.

Commissioner Woods agreed with Chairman Breslow.

Commissioner Layton stated that he was in favor of ordering the cost of the hearing of

\$10,758.76 and a fine of \$10,000.

Commissioner Henderson stated that he was in favor of a fine of \$5,000 and costs of \$10,758.76.

Commissioner Rizzi stated that he would agree with the costs. Commissioner Rizzi stated that he would round it up to \$12,000 making it \$10,758.76 in costs and a fine of \$1,241.24.

Commissioner Layton moved to order the following discipline:

- Costs of \$10,758.76
- Fine of \$5,000

Commissioner Henderson seconded. Motion carried 4 to 1 with Commissioner Rizzi opposed, and Commissioner Williams abstained.

Commissioner Woods moved to allow for a year to pay the fine. Commissioner Layton seconded.

Commissioner Woods amended the motion to state “12 equal payments beginning January 1st and last payment date of December 1, 2017. Each in the amount of 1/12 of the total \$15,758.76”. Commissioner Layton seconded the amended motion.

Ms. Kung asked if the motion could be changed to 18 months instead of 12 months.

Commissioner Woods amended the motion to state “18 equal payments beginning January 1st. Each in the amount of 1/18 of the total \$15,758.76”. Commissioner Layton seconded the amended motion.

Motion carried with Commissioner Williams abstained.

8-A) Disciplinary action: Hearing and possible action by the Commission

NRED v. Jeffrey Allan Frederick, for possible action

Case No. 2014-1057

Type of Respondent: Community Manager

License#: CAM.0007580 (ACTIVE)

Chairman Breslow stated that the Commission will not have enough time to get to this case.

Chairman Breslow stated that this case will be heard at the Commission’s March meeting unless the Commission can meet in December to hear this matter.

Ms. Kung stated that she would not be available in December.

Chairman Breslow stated that it would be scheduled for a date when all involved could attend or the first day of the March meeting.

8-F) Disciplinary action: Hearing and possible action by the Commission

NRED v. H. Amanda Davis, for possible action

Case No. 2016-1406

Type of Respondent: Community Manager

License#: CAM.0001226-SUPR (ACTIVE)

Parties Present:

Michelle Briggs was present representing the Division.

AJ Kung was present representing H. Amanda Davis.

H. Amanda Davis was present.

Opening Arguments:

Ms. Briggs made an opening statement.

Ms. Kung made an opening statement.

The Commission took a short recess to allow the parties to work on a stipulation.

Ms. Briggs stated that the parties agreed on the following stipulation:

- Ms. Davis must complete the Division's form to associate her community manager certificate with PW James Management and pay the fee within 3 business days of the date of the Order.
- Ms. Davis must pay an administrative fine in the amount of \$250 within 30 days of the date of the Order.

Ms. Kung and Ms. Davis agreed to the stipulation.

Commissioner Woods move to accept the stipulation for settlement of disciplinary action.

Commissioner Layton seconded.

Motion carried.

Commissioners Breslow and Henderson were not present for the remainder of the meeting. Commissioner Rizzi took over as chair with Commissioners Woods, Williams and Layton present making a quorum.

5-A) For possible action: Respondent James Lauth's Motion for Prehearing Conference NRED v. Anthem Highlands Community Association; Pennie Puhek; James Lauth; and Charles Hernandez, for possible action

Case No. 2015-291

Type of Respondent: Board Officer and Director

Parties Present:

Michelle Briggs was present representing the Division.

Gregory P. Kerr was present representing James Lauth.

Mr. Kerr stated that based on the settlement, the respondent is withdrawing this motion.

6-A) For possible action: Respondent James Lauth's Motion to Dismiss or, in the Alternative, Motion, for Summary Judgment and Division's Countermotion for Partial

Summary Judgment

NRED v. Anthem Highlands Community Association; Pennie Puhek; James Lauth; and Charles Hernandez, for possible action

Case No. 2015-291

Type of Respondent: Board Officer and Director

Parties Present:

Michelle Briggs was present representing the Division.

Gregory P. Kerr was present representing James Lauth.

Mr. Kerr stated that based on the settlement, the respondent is withdrawing this motion.

7) For possible action: Joinder to respondent James Lauth's Motion to Dismiss or, in the Alternative, for Summary Judgment

NRED v. Anthem Highlands Community Association; Pennie Puhek; James Lauth; and Charles Hernandez, for possible action

Case No. 2015-291

Type of Respondent: Board Officer and Director

Parties Present:

Michelle Briggs was present representing the Division.

Gregory P. Kerr was present representing James Lauth.

Mr. Kerr stated that based on the settlement, the respondent is withdrawing this motion.

8-H) Disciplinary action: Hearing and possible action by the Commission

NRED v. Anthem Highlands Community Association; Pennie Puhek; James Lauth; and Charles Hernandez, for possible action

Case No. 2015-291

Type of Respondent: Board Officer and Director

Parties Present:

Michelle Briggs was present representing the Division.

Gregory P. Kerr was present representing James Lauth.

Preliminary Matters:

Ms. Briggs stated that there is a settlement regarding Mr. Lauth.

Mr. Kerr stated that the settlement for Mr. Lauth will be that he will not sit on an association board in Nevada for 5 years, making it clear on the records that Mr. Lauth is not admitting to any guilt or wrong doing as alleged in the complaint.

Commissioner Layton moved to approve the stipulation of partial settlement for Mr. Lauth. Commissioner Woods seconded.

Motion carried.

4-A) For possible action: Division's Countermotion for Partial Summary Judgment to Respondent Pennie Puhek's Motion for More Definitive Statement

NRED v. Anthem Highlands Community Association; Pennie Puhek; James Lauth; and Charles Hernandez, for possible action

Case No. 2015-291

Type of Respondent: Board Officer and Director

Parties Present:

Michelle Briggs was present representing the Division.

Pennie Puhek was present.

Ms. Briggs spoke to the motion.

Ms. Puhek spoke against the motion.

Commissioner Williams moved to deny the motion. Commissioner Layton seconded.

Motion carried.

7) For possible action: Joinder to respondent James Lauth's Motion to Dismiss or, in the Alternative, for Summary Judgment

NRED v. Anthem Highlands Community Association; Pennie Puhek; James Lauth; and Charles Hernandez, for possible action

Case No. 2015-291

Type of Respondent: Board Officer and Director

Parties Present:

Michelle Briggs was present representing the Division.

Ted Boyack was present representing Charles Hernandez.

Vice Chairman Rizzi stated that his company and an association being represented by Mr. Boyak are in a legal dispute right now. Vice Chairman Rizzi stated that he believes that he can be fair and impartial.

Ms. Briggs and Mr. Boyak did not object.

Commissioner Williams stated that since the last Commission meeting it has come to his attention that Mr. Boyak's office is representing a former client who are both in the same law suit. Commissioner Williams stated that there could be a substitution of attorneys where Mr. Boyak's firm may be defending Commissioner Williams at some point, or his former company. Commissioner Williams stated that he can still be fair and impartial.

Mr. Boyak stated that he was is aware of the case that Commissioner Williams is referencing and Commissioner Williams was not named in that case individually.

Ms. Briggs and Mr. Boyak did not object.

Ms. Briggs stated that since Mr. Lauth brought the motion and that since Mr. Lauth's motion was taken off calendar because of the settlement, the joiner also has to be taken off calendar because the motion is no longer going to be heard. Ms. Briggs asked that the motion be denied for not being on calendar.

Mr. Boyak stated that he disagrees with Ms. Briggs. Mr. Boyak stated that he has the right to continue with the motion and have it heard before the Commission.

Mr. Boyack asked for a continuance on the motion. Mr. Boyak stated that the legal nature of the arguments being made would require a full Commission including Chairman Breslow due to the complexity of the legal issues. Mr. Boyak stated that there is also the matter in District Court regarding Ms. Briggs representation of the State in this matter.

Commissioner Williams moved to deny the motion to dismiss. Commissioner Woods seconded.

Mr. Boyak gave his argument for the motion.

Ms. Briggs gave her argument against the motion.

Mr. Boyak responded to Ms. Briggs argument.

Motion carried.

8-F) Disciplinary action: Hearing and possible action by the Commission
NRED v. Anthem Highlands Community Association; Pennie Puhek; James Lauth; and
Charles Hernandez, for possible action
Case No. 2015-291

Type of Respondent: Board Officer and Director

Commissioner Layton moved to continue this matter to the next scheduled meeting.
Commissioner Woods seconded.

Motion carried.

10-B-1) Ombudsman's Report on intervention

Sharon Jackson presented this report. Ms. Jackson stated that the report goes to September 2016. Ms. Jackson stated that 59 complaints have been received regarding board issues.

10-B-2) Ombudsman's Report on informal conferences

Sharon Jackson presented this report. Ms. Jackson stated that there was an 84% resolution rate for 2016.

10-B-3) Ombudsman's Report on alternative dispute resolution filings and subsidy claims

Sharon Jackson presented this report. Ms. Jackson stated that there are 250 filings. Ms. Jackson stated that the section has reduced the backlog.

10-B-5) Ombudsman's Report on Program Training Officer's Report

Sharon Jackson presented this report. Ms. Jackson stated that she would like to see more people attend the classes.

10-B-6) Ombudsman’s Report on number and types of associations registered with the State

Sharon Jackson presented this report. Ms. Jackson stated that the current number of registered associations is 3,146 with 522,908 units. Ms. Jackson stated that there are currently 197 new associations registered.

10-B-4) Ombudsman’s Report on homeowner association and compliance audits

Sharon Jackson presented this report.

10-B-7) Compliance Section’s report

Darik Ferguson presented this report. Mr. Ferguson stated that for the first quarter of the fiscal year there have been 35 community manager cases that have been opened. Mr. Ferguson stated that 58 intervention affidavit cases were opened. Mr. Ferguson stated that 31 community manager cases have been closed and 49 intervention affidavits closed.

Commissioner Williams asked if there is a consistent complaint that Mr. Ferguson sees more than any other.

Mr. Ferguson stated that the most commonly seen cases are for unlicensed activity for community managers and records not being provided.

10-D) Licensee and board member discipline report

Teralyn Thompson presented this report. Ms. Thompson updated the Commission on changes to the disciplinary report since the last Commission meeting.

Commissioner Williams asked what would prohibit someone with an LLC from filing bankruptcy and the next day opening up and continuing business.

Ms. Thompson stated that if a community manager files for bankruptcy, the Division’s database will still show that their certificate has been suspended for failure to comply with the Commission’s order or as revoked.

12) Public Comment

Tim Stebbins, Henderson resident and director of the Nevada Homeowner Alliance PAC (NHA), commented. Mr. Stebbins commented on Ms. Frederick’s attorney use of the term “property manager” and “community manager”. Ms. Stebbins stated that it would have been useful for the Commission to correct the attorney.

13) Commissioner Comments

Commissioner Layton wished everyone a happy holiday.

Commissioner Woods wished everyone a happy holiday.

Commissioner Williams commented regarding the decisions of the Commission. Commissioner Williams stated that today the Commission needed more information and decisions had nothing to do with the way that Division staff conducts themselves or how hard staff works.

Vice Chairman Rizzi commented on the hard work of the compliance investigators.

14) For possible action: Adjournment

The meeting adjourned at 2:58 p.m. on November 17, 2016.

Respectfully Yours,

Claudia Rosolen
Commission Coordinator