

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. 2016-3885

Petitioner,

vs.

Penny D. Frederick (fka Penny Wood),

Respondent.

FILED

FEB 02 2017

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 Respondent PENNY D. FREDERICK (fka PENNY WOOD) (the "RESPONDENT" or "FREDERICK") 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 Chapters 116 and 116A of the Nevada Revised Statutes ("NRS") and Chapters 116 and 116A 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 RESPONDENT pursuant to the provisions of NRS and NAC including, but not limited to, NRS 116A.900.

JURISDICTION AND NOTICE

1. During the relevant times mentioned in this complaint, PENNY D. FREDERICK (fka Penny Wood) engaged in the management of a common-interest community as defined by NRS 116A.110 in the state of Nevada.

2. FREDERICK is subject to the provisions of Chapters 116 and 116A of both the

1 Nevada Revised Statutes ("NRS") and the Nevada Administrative Code ("NAC") and is
2 subject to the jurisdiction of the Division, and the Commission for Common Interest
3 Communities and Condominium Hotels.

4 FACTUAL ALLEGATIONS

5 3. On or about October 31, 2016, the Division received a statement of fact against
6 FREDERICK alleging she was performing the services of a community manager for
7 Souvenir Homeowners Association (the "Association") without a certificate.

8 4. FREDERICK'S community manager certificate expired in 2005.

9 5. PW James Management began managing the Association in February of 2016.

10 6. In response to the investigation, FREDERICK denied providing community
11 management services to the Association and provided an email from the Association's
12 president, David Purvis.

13 7. Mr. Purvis's email is dated August 22, 2016 wherein he states:

14 Also, the issue has been raised by a couple of homeowners that we don't appear
15 to have someone with a community management license present at our
16 meetings. I know you are the owner of PWJames but I believe you stated you
17 aren't a "Community Manager." Are we required to have someone with an
18 active license present at our meetings? Since we have to rely on a community
19 manager for guidance in following the law with regards to HOA management
20 I'm not sure how we are being given proper guidance and advice on HOA
21 management issues if we don't have any interaction or presence of a
22 community manager at our meetings.

19 8. FREDERICK responded to Mr. Purvis:

20 No you are not required to have a community manager at your meetings. Allan
21 in our office is the community manager and handles all of the community
22 manager functions for the Souvenir HOA. This last meeting was an Annual
23 and Election. Allan will be in attendance at your board meetings.

23 9. According to the Association's minutes, FREDERICK attended meetings
24 without a community manager present.

25 10. According to the audio recording for the Association's meeting on June 29,
26 2016, FREDERICK advised the board regarding bids and when bids are necessary and not
27 necessary, on the amount of money currently in their operating account, and regarding the
28 annual meeting and whether the board members needed to attend.

1 11. The audio from the Association's election and annual meeting – on August 18,
2 2016 – includes FREDERICK answering questions regarding what would happen if a
3 candidate wanted to withdraw from the election and the board filling vacancies, discussing
4 restrictions in the CC&R's, discussing the violation policy for the Association, providing
5 what the law says about entering a property to make repairs, and suggests that the board
6 hold a workshop to discuss adopting rules without notice to the owners.

7 12. PW James Management received \$20,086.42 from the Association.

8 VIOLATIONS OF LAW

9 25. RESPONDENT violated NRS 116A.400(1) by engaging in the management of a
10 common-interest community without a community manager certificate from the Division.

11 DISCIPLINE AUTHORIZED

12 Pursuant to the provisions of NRS 116A.900 the Commission has discretion to
13 impose discipline as it deems appropriate, including, but not limited to one or more of the
14 following actions:

- 15 1. Impose a fine not to exceed the amount of any gain or economic benefit
16 RESPONDENT derived from the violation or \$10,000, whichever is greater.
- 17 2. Require the RESPONDENT to pay the costs of the investigation and
18 hearing; and
- 19 3. Take such other disciplinary action as the Commission deems appropriate.

20 The Commission may order one or any combination of the discipline described
21 above.

22 NOTICE OF HEARING

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

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1 THE HEARING WILL TAKE PLACE at the Commission meeting scheduled for
2 March 7-9, 2017, beginning at approximately 9:00 a.m. each day, or until such time as the
3 Commission concludes its business. The Commission meeting on March 7 and 8, 2017,
4 will be held at the Nevada Department of Employment, Training and Rehabilitation,
5 2800 E. St. Louis Avenue, Las Vegas, Nevada 89104 with videoconferencing to Nevada
6 Department of Employment, Training and Rehabilitation, 500 East Third Street, Carson
7 City, Nevada 89713. The Commission meeting on March 9, 2017 will be held at the
8 Henderson City Hall Council Chambers, 240 South Water Street, Henderson, Nevada
9 89015, with no videoconferencing.

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

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

25 As a RESPONDENT, you are specifically informed that you have the right to
26 appear and be heard in your defense, either personally or through your counsel of choice.
27 At the hearing, the Division has the burden of proving the allegations in the complaint
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1 and will call witnesses and present evidence against you. You have the right to respond
2 and to present relevant evidence and argument on all issues involved. You have the right
3 to call and examine witnesses, introduce exhibits, and cross-examine opposing witnesses
4 on any matter 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,
7 you may be required to demonstrate the relevance of the witness' testimony and/or
8 evidence. Other important rights and obligations, including your obligation to answer the
9 complaint, you have are listed in NRS Chapters 116 and 116A and NAC 116 and 116A,
10 including without limitation, NRS 116.770 through 116.780, and NAC 116.500 through
11 NAC 116.635 and NRS Chapter 233B.

12 Note that under NAC 116.575, not less than five (5) working days before a hearing,
13 RESPONDENT must provide to the Division a copy of all reasonably available documents
14 that are reasonably anticipated to be used to support his or her position, and a list of
15 witnesses RESPONDENT intends to call at the time of the hearing. Failure to provide

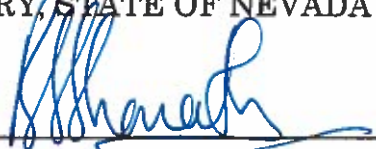
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1 any document or to list a witness may result in the document or witness being excluded
2 from a RESPONDENT'S defense. The purpose of the hearing is to determine if the
3 RESPONDENT has violated the provisions of Chapter 116A, and to determine what
4 administrative penalty is to be assessed against RESPONDENT.

5 DATED this 2 day of February, 2017.

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

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