

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. 2016-3278

Petitioner,

vs.

FILED

JAN 13 2017

Pecos Estates Homeowners Association,
Barbara Stark, Melani Laver, and Ninette
Macedo,

NEVADA COMMISSION OF
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS

Respondents.

**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 Pecos Estates Homeowners Association, Barbara Stark, Melani Laver, and Ninette Macedo (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 BARBARA STARK, MELANI LAVER, and NINETTE MACEDO were officers or directors of PECOS ESTATES HOMEOWNERS ASSOCIATION (the "Association"), a common-interest community located in Las Vegas, Nevada.

1 but received none of the requested documents.

2 VIOLATIONS OF LAW

3 12. RESPONDENTS BARBARA STARK, MELANI LAVER, and NINETTE
4 MACEDO violated NRS 116.3103 (through NAC 116.405(5)(a)) by failing to act in the best
5 interests of the Association by impeding or otherwise interfering with an investigation of the
6 Division by failing to comply with a request by the Division to provide information and
7 documents.

8 13. RESPONDENTS BARBARA STARK, MELANI LAVER, and NINETTE
9 MACEDO violated NRS 116.3103 (through NAC 116.405(5)(a)) by failing to act in the best
10 interests of the Association by failing to cause the Association to comply with all applicable
11 federal, state and local laws and regulations.

12 14. RESPONDENTS violated NRS 116.3115 by failing to establish adequate
13 reserves.

14 DISCIPLINE AUTHORIZED

15 Pursuant to the provisions of NRS 116.615; NRS 116.755; NRS 116.785; and NRS
16 116.790 the Commission has discretion to take any or all of the following actions:

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

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

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

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

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

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1 6. Require the BOARD MEMBERS to hire a community manager who holds a
2 certificate.

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

6 8. Take whatever further disciplinary action as the Commission deems
7 appropriate.

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

12 NOTICE OF HEARING

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

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

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

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

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


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


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

11 DATED this 12 day of January, 2017.

12 REAL ESTATE DIVISION,
13 DEPARTMENT OF BUSINESS & INDUSTRY,
14 STATE OF NEVADA

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