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. PECOS ESTATES HOMEOWNERS ASSOCIATION, BARBARA STARK, MELANI LAVER, AND NINETTE MACEDO, Respondents.	**Case Nos. 2016-3278**

FILED

MAR 06 2017

NEVADA COMMISSION OF COMMON INTEREST COMMUNITIES AND CONDOMINIUM HOTELS

RESPONSE TO COMPLAINT FOR DISCIPLINARY ACTION AND NOTICE OF HEARING

This Response is submitted by Boyack Orme & Anthony as counsel for the above-captioned Respondents.

The Complaint for Disciplinary Action and Notice of Hearing ("Complaint"), filed January 13, 2017, makes three allegations, titled as "Violations of Law" ("Violations"). *See* Complaint at 3. Each of these are repeated and addressed below.

VIOLATION 1

This Violation alleges that "RESPONDENTS BARBARA STARK, MELANI LAVER, and NINETTE MACEDO violated NRS 116.3103 (through NAC 116.405(5)(a)) by failing to act in the best interests of the Association by impeding or otherwise interfering with an investigation of the Division by failing to comply with a request by the Division to provide information and documents." *Id.*

Respondents attempted to the best of their ability to comply with the Division's requests and

investigation. Respondents have recently retained counsel to assist them in complying with their ongoing obligations to the Division. Accordingly, Respondents will ensure ongoing and future compliance/cooperation with the Division's requests.

VIOLATION 2

Violation 2 alleges that "RESPONDENTS BARBARA STARK, MELANI LAVER, and NINETTE MACEDO violated NRS 116.3103 (through NAC 116.405(5)(a)) by failing to act in the best interests of the Association by failing to cause the Association to comply with all applicable federal, state and local laws and regulations." *Id.*

Respondents were previously a self-managed association. During that period, board members on two occasions embezzled funds from the Association, and otherwise engaged in improper, illegal, and malevolent conduct that harmed the Association. The Association is still attempting to recover from these actions, and is behind on the funding of its reserves, in addition to other compliance matters. However, the Respondents are committed to bringing the Association in compliance, having retained the services of a management company and counsel to assist them with their rebuilding.

The Respondents represent that they will do everything to ensure total compliance with all applicable rules, regulations, policies, and laws.

VIOLATION 3

Violation 3 alleges that the above-named Respondents "violated NRS 116.3115 by failing to establish adequate reserves." *Id.*

Respondents repeat their response to Violation 2, above, and represent to this Commission and to the Division that they are engaged in the process to conduct a proper reserve study, and to begin funding the reserve in accordance with their obligations.

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CONCLUSION

This Association has had a difficult time until very recently, but is now "on the mend". The current Board is working to repair the damage done by decades of self-management and malfeasance by prior, self-interested board members. The progress is slow, but ongoing and deliberate. With luck, and professional direction, the Association will be brought into compliance (or will have made substantial progress) in time for the Commission's next regular meeting.

Accordingly, Respondents request that this matter be continued to allow for further progress, with a status check to be held at the next Commission hearing.

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