

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. 2016-4210

Petitioner,

vs.

FILED

Rodolfo Rocha,

FEB 02 2017

Respondent.

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, Esq., Senior Deputy Attorney General, hereby notifies Respondent Rodolfo Rocha ("RESPONDENT" or "ROCHA") 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, RESPONDENT was an officer or director of PECOS CREEK HOMEOWNERS ASSOCIATION (the "Association"), a common-interest community located in Las Vegas, Nevada.

2. RESPONDENT is subject to the provisions of Chapter 116 of each the Nevada Revised Statutes ("NRS") and the Nevada Administrative Code ("NAC") (hereinafter

1 collectively referred to as "NRS 116") and is subject to the jurisdiction of the Division, and
2 the Commission for Common Interest Communities pursuant to the provisions of NRS
3 116.750.

4 FACTUAL ALLEGATIONS

5 3. RESPONDENT RODOLFO ROCHA owns Rudy's Cleaning Service.

6 4. At a meeting of the Association on May 30, 2007, the Association's board took
7 action to approve Rudy's Cleaning Service to provide property maintenance and janitorial
8 services to the Association in the amount of \$950 per month.

9 5. RESPONDENT ROCHA was a board member in 2007 when his company was
10 hired to provide services to the Association.

11 6. PW James Management and Consulting ("PW James") provided community
12 management services to the Association in 2007 and Penny Wood was the only
13 representative from PW James in attendance at the meeting.

14 7. Since October 1, 2003, NRS 116.31187 prohibited a board member or officer
15 from entering into a contract with the association or receiving "any commission, personal
16 profit or compensation of any kind for providing financing, goods or services to the
17 association."

18 8. At some time in 2016, RESPONDENT ROCHA resigned as a board member,
19 but remained an officer of the Association until this Commission ordered a change to the
20 board's governance at its November 2016 meeting based on a complaint filed against the
21 Association and its purported board members (the "Association Complaint").

22 9. RESPONDENT ROCHA was named as a party to the Association Complaint,
23 but failed to appear or respond.

24 10. The Commission ordered two owners who appeared for the November hearing
25 to be the board members and any other board members or officers of the Association were
26 deemed to be resigned.

27 11. Bank records for the Association show that RESPONDENT ROCHA'S wife,
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1 Evangelina Rocha, received payments from the Association.

2 12. Invoices received by the Division for some of those payments are from Rudy's
3 Cleaning Service with directive to pay Evangelina Rocha.

4 13. On or about December 22, 2016, H. Amanda Davis, a community manager
5 with PW James, responded to the Division's investigation on behalf of RESPONDENT
6 ROCHA.

7 14. The Division directed that RESPONDENT ROCHA respond personally.

8 15. In a substantially similar statement to that provided by Ms. Davis,
9 RESPONDENT ROCHA'S response states that he did not receive compensation from the
10 Association and that his wife was hired to provide cleaning services for the Association, and
11 she sends the money to her family in Mexico.

12 16. According to the bank records provided to the Division, the Association paid
13 RESPONDENT ROCHA'S wife a total of \$38,200 with 38 checks from January 2014
14 through October 2016.

15 17. Virtually every Association check issued to RESPONDENT ROCHA'S wife is
16 signed by RESPONDENT ROCHA.

17 **VIOLATIONS OF LAW**

18 18. RESPONDENT ROCHA violated NRS 116.31187(1) by receiving
19 compensation from the Association through his wife for services provided by his company,
20 Rudy's Cleaning Service.

21 19. RESPONDENT ROCHA violated NRS 116.31034(9)(a)(2) by serving as a
22 board member and officer of the Association when he stood to gain personal profit or
23 compensation of any kind from a matter before the executive board of the Association.

24 20. RESPONDENT ROCHA violated NRS 116.3103 (through NAC 116.405(2)) by
25 failing to act in the best interests of the Association by acting for reasons of self-interest or
26 gain.

27 21. RESPONDENT ROCHA violated NRS 116.3103 (through NAC 116.405(3)) by
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1 failing to act in the best interests of the Association by committing an act or omission which
2 amounts to incompetence, negligence or gross negligence.

3 22. RESPONDENT ROCHA violated NRS 116.3103 (through NAC 116.405(6)) by
4 failing to act in the best interests of the Association by failing to keep informed of laws,
5 regulations and developments relating to common-interest communities.

6 DISCIPLINE AUTHORIZED

7 Pursuant to the provisions of NRS 116.615, NRS 116.755, NRS 116.785, and NRS
8 116.790, the Commission has discretion to take any or all of the following actions:

9 1. Issue an order directing RESPONDENT to cease and desist from continuing
10 to engage in the unlawful conduct that resulted in the violation.

11 2. Issue an order directing RESPONDENT to take affirmative action to correct
12 any conditions resulting from the violation.

13 3. Impose an administrative fine of up to \$1,000 for each violation by
14 RESPONDENT.

15 4. IF RESPONDENT IS FOUND TO HAVE KNOWINGLY AND WILLFULLY
16 COMMITTED A VIOLATION of NRS or NAC 116 AND it is in the best interest of the
17 Association, such RESPONDENT may be removed from his/her position as a director
18 and/or officer.

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

20 6. Require the BOARD MEMBERS to hire a community manager who holds a
21 certificate.

22 7. Require RESPONDENT to pay the costs of the proceedings incurred by the
23 Division, including, without limitation, the cost of the investigation and reasonable
24 attorney's fees.

25 8. Take whatever further disciplinary action as the Commission deems
26 appropriate.

27 The Commission may order one or any combination of the discipline described
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1 above. If the Commission finds that the RESPONDENT knowingly and willfully violated
2 the provisions of NRS or NAC 116, the Commission may order that RESPONDENT be
3 personally liable for all fines and costs imposed.

4 NOTICE OF HEARING

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

9 THE HEARING WILL TAKE PLACE at the Commission meeting scheduled for
10 March 7-9, 2017, beginning at approximately 9:00 a.m. each day, or until such time as the
11 Commission concludes its business. The Commission meeting on March 7 and 8, 2017,
12 will be held at the Nevada Department of Employment, Training and Rehabilitation,
13 2800 E. St. Louis Avenue, Las Vegas, Nevada 89104 with videoconferencing to Nevada
14 Department of Employment, Training and Rehabilitation, 500 East Third Street, Carson
15 City, Nevada 89713. The Commission meeting on March 9, 2017 will be held at the
16 Henderson City Hall Council Chambers, 240 South Water Street, Henderson, Nevada
17 89015, with no videoconferencing.

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

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

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

13 You have the right to request that the Commission issue subpoenas to compel
14 witnesses to testify and/or evidence to be offered on your behalf. In making this request,
15 you may be required to demonstrate the relevance of the witness' testimony and/or
16 evidence. Other important rights and obligations, including your obligation to answer the
17 complaint, you have are listed in NRS Chapter 116 and NAC Chapter 116, including
18 without limitation, NRS 116.770 through 116.780, and NAC 116.500 through NAC
19 116.635 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 RESPONDENT intends to call at the time of the hearing. Failure to provide any
5 document or to list a witness may result in the document or witness being excluded from
6 RESPONDENT'S defense. The purpose of the hearing is to determine if the
7 RESPONDENT has violated the provisions of Chapter 116, and to determine what
8 administrative penalty is to be assessed against RESPONDENT.

9 DATED this 2 day of FEBRUARY, 2017.

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

13 By: 

14 Sharath Chandra, Administrator
15 2501 East Sahara Avenue
16 Las Vegas, Nevada 89104
17 (702) 486-4033

18 ADAM PAUL LAXALT
19 Attorney General

20 By: 

21 Michelle D. Briggs, Esq.
22 Senior Deputy Attorney General
23 555 E. Washington Avenue, Suite 3900
24 Las Vegas, Nevada 89101
25 (702) 486-3420
26 Attorneys for Nevada Real Estate Division
27
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