

1                                    BEFORE THE COMMISSION FOR COMMON-INTEREST  
2                                    COMMUNITIES AND CONDOMINIUM HOTELS  
3                                    STATE OF NEVADA

4 Sharath Chandra, Administrator,  
5 Real Estate Division, Department of  
6 Business & Industry, State of Nevada,

Case No. 2017-435

7                                    Petitioner,

**FILED**

8 vs.

OCT 02 2017

9 Joseph Bitsky,

NEVADA COMMISSION OF  
COMMON INTEREST COMMUNITIES  
AND CONDOMINIUM HOTELS

10                                    Respondent.

11                                    **COMPLAINT FOR DISCIPLINARY  
12 ACTION AND NOTICE OF HEARING**

13                                    The Real Estate Division of the Department of Business and Industry, State of  
14 Nevada (the "Division"), by and through its counsel, Adam Paul Laxalt, Attorney General  
15 of the State of Nevada, and Michelle D. Briggs, Esq., Senior Deputy Attorney General,  
16 hereby notifies Respondent Joseph Bitsky ("BITSKY" or "RESPONDENT") of an  
17 administrative hearing before the Commission for Common-Interest Communities and  
18 Condominium Hotels, State of Nevada, which is to be held pursuant to Chapters 233B  
19 and 116 of the Nevada Revised Statutes ("NRS") and Chapter 116 of the Nevada  
20 Administrative Code ("NAC"). The purpose of the hearing is to consider the allegations  
21 stated below and to determine if an administrative penalty will be imposed on the  
22 RESPONDENT pursuant to the provisions of NRS and NAC including, but not limited to,  
23 NRS 116.785 and NRS 116.790.

24                                    **JURISDICTION AND NOTICE**

25                                    1.        RESPONDENT JOSEPH BITSKY is the subject of this Commission's order  
26 dated October 10, 2012 in Case No. IS 10-2194.

27                                    2.        RESPONDENT is subject to the provisions of Chapter 116 of each the Nevada  
28 Revised Statutes ("NRS") and the Nevada Administrative Code ("NAC") (hereinafter  
collectively referred to as "NRS 116") and is subject to the jurisdiction of the Division, and  
the Commission for Common-Interest Communities pursuant to the provisions of NRS

1 116.750 and NRS 116.785(3).

2 **FACTUAL ALLEGATIONS**

3 3. BITSKY was a board member for Autumn Chase Homeowners Association  
4 (the "Association").

5 4. After the hearing on Case No. IS 10-2194, this Commission ordered BITSKY  
6 removed from the Association's board.

7 5. BITSKY was to pay the Association restitution in the amount of \$10,312.83.

8 6. BITSKY was to pay to the Division costs totaling \$22,884.39 and an  
9 administrative fine in the amount of \$41,700.

10 7. BITSKY has not paid the restitution to the Association or the fines or costs due  
11 to the Division.

12 8. In December 2016, the Division received a complaint from the board members  
13 for the Association against BITSKY.

14 9. The complaint states that BITSKY hand delivered to the board members  
15 several documents "claiming to order the immediate transfer of Board of Directors to a new  
16 temporary board, the immediate removal of Triton HOA Services, LLC" which is the  
17 Association's management company and "immediate delivery of all [Association] property to  
18 the new temporary board."

19 10. The documents included a petition with illegible signatures and no addresses.

20 11. BITSKY also sent emails to news reporter, Darcy Spears, saying that he was  
21 the spokesperson for the new board and that the prior board was removed.

22 12. BITSKY circulated a letter to the owners within the Association directing  
23 them to send assessment payments to the new temporary board member's home address.

24 13. In response to the investigation, BITSKY provided a written statement saying:

25 This is harassment by the H.O.A. manager – there is no legal board of  
26 directors (CC&R's)

27 **VIOLATIONS OF LAW**

28 14. BITSKY violated NRS 116.785(3) by failing to comply with the Commission's  
order in Case No. IS 10-2194.

1 **DISCIPLINE AUTHORIZED**

2 Pursuant to the provisions of NRS 116.615; NRS 116.755; NRS 116.785; and NRS  
3 116.790 the Commission has discretion to take any or all of the following actions:

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

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

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

10 4. Require RESPONDENT to pay the costs of the proceedings incurred by the  
11 Division, including, without limitation, the cost of the investigation and reasonable  
12 attorney's fees.

13 5. Take whatever further disciplinary action as the Commission deems  
14 appropriate.

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

19 **NOTICE OF HEARING**

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

24 **THE HEARING WILL TAKE PLACE** at the Commission meeting scheduled for  
25 November 14-16, 2017, beginning at approximately 9:00 a.m. each day, or until such time  
26 as the Commission concludes its business. The Commission meeting will be held at the  
27 Nevada State Business Center, 3300 W. Sahara Avenue, Nevada Room, Suite 400, Las  
28 Vegas, Nevada 89102 with videoconferencing to Department of Business & Industry,

1 Director's Office, 1830 East College Parkway, Suite 100, Carson City, Nevada 89706.

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

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

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

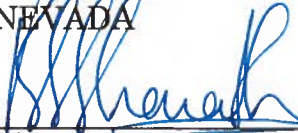
24       You have the right to request that the Commission issue subpoenas to compel  
25 witnesses to testify and/or evidence to be offered on your behalf. In making this request,  
26 you may be required to demonstrate the relevance of the witness's testimony and/or  
27 evidence. Other important rights and obligations, including your obligation to answer the  
28 complaint, you have are listed in NRS Chapter 116 and NAC Chapter 116, including

1 without limitation, NRS 116.770 through 116.780, and NAC 116.500 through NAC  
2 116.635 and NRS Chapter 233B.

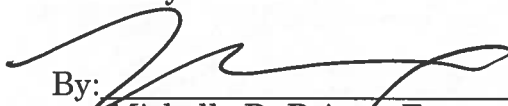
3 Note that under NAC 116.575, not less than five (5) working days before a hearing,  
4 RESPONDENT must provide to the Division a copy of all reasonably available documents  
5 that are reasonably anticipated to be used to support his position, and a list of witnesses  
6 RESPONDENT intends to call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

11 DATED this 29 day of September, 2017.

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

15 By:   
16 Sharath Chandra, Administrator  
17 3300 W. Sahara Ave. Ste 350  
18 Las Vegas, Nevada 89102  
19 (702) 486-4033

20 ADAM PAUL LAXALT  
21 Attorney General

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