

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

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

Case No. 2017-599

5 Petitioner,

FILED

6 vs.

OCT 02 2017

7 Jeffrey Allan Frederick,

NEVADA COMMISSION OF
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS *CK*

8 Respondent.

9
10 **COMPLAINT FOR DISCIPLINARY
11 ACTION AND NOTICE OF HEARING**

12 The Real Estate Division of the Department of Business and Industry, State of
13 Nevada (the "Division"), by and through its counsel, Adam Paul Laxalt, Attorney General
14 of the State of Nevada, and Michelle D. Briggs, Esq., Senior Deputy Attorney General,
15 hereby notifies Respondent Jeffrey Allan Frederick ("RESPONDENT" or "FREDERICK")
16 of an administrative hearing before the Commission for Common-Interest Communities
17 and Condominium Hotels, State of Nevada, which is to be held pursuant to Chapters
18 233B and Chapters 116 and 116A of the Nevada Revised Statutes ("NRS") and Chapter
19 116 and 116A of the Nevada Administrative Code ("NAC"). The purpose of the hearing is
20 to consider the allegations stated below and to determine if an administrative penalty
21 will be imposed on the RESPONDENT pursuant to the provisions of NRS and NAC
22 including, but not limited to, NAC 116A.360.

22 **JURISDICTION AND NOTICE**

23 1. During all relevant times mentioned in this complaint, FREDERICK held a
24 community manager certificate from the Division (CAM.0007580) and is, therefore,
25 subject to the jurisdiction of the Division and the provisions of NRS Chapters 116 and
26 116A and NAC Chapters 116 and 116A.

27 **FACTUAL ALLEGATIONS**

28 2. In 2016, the Division opened an investigation against Hidden Crest IV

1 Homeowners Association (the "Association") for failing to register annually with the
2 Division or with the Secretary of State's Office and for failing to have adequate reserves.
3 (Case No. 2016-3329)

4 3. By letter dated October 13, 2016, FREDERICK responded on behalf of the
5 Association stating "[t]he Hidden Crest IX Board of Directors requested that I as their
6 CAM respond to your allegations."

7 4. FREDERICK stated that the Secretary of State's records were updated and
8 provided a printout from the Secretary of State's website.

9 5. FREDERICK stated that the Association's reserves were between 30% and
10 70% funded and that they were "properly funded."

11 6. The printout from the Secretary of State's website for the Association shows
12 Anthony Gelsone and Jamie Yamamoto as the board members.

13 7. Neither Mr. Gelsone nor Ms. Yamamoto responded personally to the
14 investigation.

15 8. The Division located Ms. Yamamoto in San Diego and she reported to the
16 Division that she had resigned from the board in 2013.

17 9. She provided email evidence of her resignation from 2013.

18 10. Mr. Gelsone informed this Commission on the hearing for Case No. 2016-
19 3329 in June 2017 that he was the sole board member and no board meetings took place
20 for the past three years.

21 11. FREDERICK never provided any minutes or audio for meetings or any
22 response as to why they could not be provided.

23 12. FREDERICK did not submit the Association's 2016 annual registration form
24 to the Division.

25 13. An investigation against FREDERICK for providing false information to the
26 Secretary of State and to the Division ensued.

27 14. FREDERICK did not respond to the investigation.

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1 **VIOLATIONS OF LAW**

2 15. FREDERICK violated NRS 116A.630(1)(a) by failing to act as a fiduciary in
3 his relationship with the Association.

4 16. FREDERICK violated NRS 116A.630(1)(b) by failing to exercise ordinary
5 and reasonable care in the performance of his duties.

6 17. FREDERICK violated NRS 116A.630(2)(a) by failing to comply with state
7 laws.

8 18. FREDERICK violated NRS 116A.640(2)(a) and NAC 116A.345(2)(a) by
9 impeding or otherwise interfering with an investigation of the Division by failing to
10 comply with a request of the Division to provide documents.

11 19. FREDERICK violated NRS 116A.640(2)(b) and NAC 116A.345(2)(b) by
12 impeding or otherwise interfering with an investigation of the Division by supplying false
13 or misleading information to an investigator.

14 20. FREDERICK violated NRS 116A.640(2)(c) and NAC 116A.345(2)(c) by
15 impeding or otherwise interfering with an investigation of the Division by concealing
16 facts or documents relating to the business of a client.

17 21. FREDERICK violated NAC 116A.355(1)(a)(1) (NAC 116A.355(2)(c)) by
18 committing unprofessional conduct by engaging in deceitful, fraudulent, or dishonest
19 conduct, including, without limitation, knowingly communicating false, misleading or
20 fraudulent information to a client.

21 22. FREDERICK violated NAC 116A.355(1)(a)(1) (NAC 116A.355(2)(f)) by
22 committing unprofessional conduct by failing to cooperate with the Division in the
23 investigation of a complaint including, without limitation, failure to produce any
24 document, book or record in the possession or control of the community manager after the
25 Division requests the production of such document, book or record in the course of an
26 investigation of a complaint.

27 23. FREDERICK violated NAC 116A.355(1)(a)(1) (NAC 116A.355(2)(i)) by
28 committing unprofessional conduct by exceeding the authority granted to him by the

1 Association.

2 24. FREDERICK violated NAC 116A.355(1)(a)(2) (NAC 116A.355(3)(a)) by
3 committing professional incompetence by demonstrating a significant lack of ability,
4 knowledge or fitness to perform a duty or obligation owed to a client.

5 25. FREDERICK violated NAC 116A.355(1)(a)(2) (NAC 116A.355(3)(b)) by
6 committing professional incompetence by failing to exercise reasonable skill and care with
7 respect to a duty or obligation owed to a client.

8 26. FREDERICK violated NAC 116A.355(1)(a)(1) and (2) (NAC 116A.355(4)(g))
9 by committing unprofessional conduct or professional incompetence by failing to act in
10 the best interests of the Association.

11 **DISCIPLINE AUTHORIZED**

12 Pursuant to the provisions of NAC 116A.360 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. Revoke or suspend the certificate;
- 16 2. Refuse to renew or reinstate the certificate;
- 17 3. Place the community manager on probation;
- 18 4. Issue a reprimand or censure to the community manager;
- 19 5. Impose a fine of not more than \$5,000 for each violation of a statute or
20 regulation;
- 21 6. Require the community manager to pay restitution;
- 22 7. Require the community manager to pay the costs of the investigation and
23 hearing;
- 24 8. Require the community manager to obtain additional education relating to
25 the management of common-interest communities; and
- 26 9. Take such other disciplinary action as the Commission deems appropriate.

27 The Commission may order one or any combination of the discipline described
28 above.

1 **NOTICE OF HEARING**

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

6 **THE HEARING WILL TAKE PLACE** at the Commission meeting scheduled for
7 November 14-16, 2017, beginning at approximately 9:00 a.m. each day, or until such time
8 as the Commission concludes its business. The Commission meeting will be held at the
9 Nevada State Business Center, 3300 W. Sahara Avenue, Nevada Room, Suite 400, Las
10 Vegas, Nevada 89102 with videoconferencing to Department of Business & Industry,
11 Director's Office, 1830 East College Parkway, Suite 100, Carson City, Nevada 89706.

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

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

27 As a **RESPONDENT**, you are specifically informed that you have the right to
28 appear and be heard in your defense, either personally or through your counsel of choice.

1 At the hearing, the Division has the burden of proving the allegations in the complaint
2 and will call witnesses and present evidence against you. You have the right to respond
3 and to present relevant evidence and argument on all issues involved. You have the right
4 to call and examine witnesses, introduce exhibits, and cross-examine opposing witnesses
5 on any matter relevant to the issues involved.

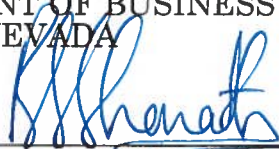
6 You have the right to request that the Commission issue subpoenas to compel
7 witnesses to testify and/or evidence to be offered on your behalf. In making this request,
8 you may be required to demonstrate the relevance of the witness's testimony and/or
9 evidence. Other important rights and obligations, including your obligation to answer the
10 complaint, you have are listed in NAC 116A.560 through NAC 116A.655, NRS Chapter
11 233B, and NRS Chapters 116 and 116A and NAC 116 and 116A.

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1 Note that under NAC 116A.585, not less than five (5) working days before a
2 hearing, RESPONDENT must provide to the Division a copy of all reasonably available
3 documents that are reasonably anticipated to be used to support his or her position, and a
4 list of witnesses RESPONDENT intends to call at the time of the hearing. Failure to
5 provide any document or to list a witness may result in the document or witness being
6 excluded from RESPONDENT'S defense. The purpose of the hearing is to determine if the
7 RESPONDENT has violated any of the provisions of NRS and NAC Chapters 116 and
8 116A, and to determine what administrative penalty is to be assessed against
9 RESPONDENT, if any, pursuant to NAC 116A.360.

10 DATED this 29 day of September, 2017.

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

14 By: 
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