

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

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

Case No. 2016-3329

5 Petitioner,

6 vs.

7 Hidden Crest IV Homeowners Association
and Anthony Gelsone,

8 Respondents.

FILED

APR 27 2017

NEVADA COMMISSION OF
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS

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 Respondents Hidden Crest IV Homeowners Association and Anthony
16 Gelsone (collectively "RESPONDENTS") of an administrative hearing before the
17 Commission for Common-Interest Communities and Condominium Hotels, State of
18 Nevada, which is to be held pursuant to Chapters 233B and 116 of the Nevada Revised
19 Statutes ("NRS") and Chapter 116 of the Nevada Administrative Code ("NAC"). The
20 purpose of the hearing is to consider the allegations stated below and to determine if an
21 administrative penalty will be imposed on the RESPONDENTS pursuant to the
22 provisions of NRS and NAC including, but not limited to, NRS 116.785 and NRS 116.790.

23 **JURISDICTION AND NOTICE**

- 24 1. RESPONDENT HIDDEN CREST IV HOMEOWNERS ASSOCIATION (the
25 "Association") is a common-interest community located in Las Vegas, Nevada.
26 2. During the relevant times mentioned in this complaint, RESPONDENT
27 ANTHONY GELSONE was and is currently a board member or officer for the Association.
28 3. RESPONDENTS are subject to the provisions of Chapter 116 of each the
Nevada Revised Statutes ("NRS") and the Nevada Administrative Code ("NAC")

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

4 **FACTUAL ALLEGATIONS**

5 4. The Association failed to timely submit its annual registration form and fees in
6 April 2016 and was in default status with the Nevada Secretary of State's Office.

7 5. Based on the Association's annual registration form from 2015, the
8 Association's reserves were less than 50% funded and RESPONDENT GELSONE was the
9 sole board member.

10 6. The Division initiated an investigation of the Association in August, 2016.

11 7. On August 30, 2016, the Association filed its annual list with the Nevada
12 Secretary of State's Office listing Jamie Yamamoto as an officer.

13 8. Ms. Yamamoto reported to the Division that she resigned in 2013 and moved
14 to San Diego, California.

15 9. By letter dated October 13, 2016, the community manager for the Association,
16 Jeffrey Frederick, states that he is responding at the request of the board.

17 10. As to the allegation that the reserves were not adequately funded, Mr.
18 Frederick states: "The Association's Reserve Account falls between the 30% and 70% which
19 the reserve specialist has noted as 'fairly funded.'"

20 11. The Association's most recent reserve study was performed in 2011.

21 12. During the investigation, the Association submitted payment to the Division,
22 but did not file its annual registration form.

23 13. As part of its investigation, the Division requested copies of budgets, checks,
24 and meeting minutes for 2015 and 2016, but none were received.

25 14. RESPONDENT GELSONE did not personally respond to the Division.

26 **VIOLATIONS OF LAW**

27 15. RESPONDENT GELSONE violated NRS 116.3103 (through NAC
28 116.405(5)(a)) by failing to act in the best interests of the Association by impeding or

1 otherwise interfering with an investigation of the Division by failing to comply with a
2 request by the Division to provide information and documents.

3 16. RESPONDENT GELSONE violated NRS 116.3103 (through NAC
4 116.405(5)(c)) by failing to act in the best interests of the Association by impeding or
5 otherwise interfering with an investigation of the Division by concealing facts or documents
6 relating to the business of the Association.

7 17. RESPONDENT GELSONE violated NRS 116.3103 (through NAC 116.405(3))
8 by failing to act in the best interests of the Association by committing an act or omission
9 which amounts to incompetence, negligence or gross negligence when the Nevada secretary
10 of state's records were updated to list Jamie Yamamoto as an officer of the Association when
11 she was not.

12 18. RESPONDENT GELSONE violated NRS 116.3103 (through NAC
13 116.405(8)(a)) by failing to act in the best interests of the Association by failing to cause the
14 Association to comply with all applicable federal, state and local laws and regulations.

15 19. RESPONDENTS violated NRS 116.3115 by failing to establish adequate
16 reserves.

17 20. RESPONDENTS violated NRS 116.31152 by failing to cause to be conducted a
18 study of the reserves at least once every 5 years.

19 21. RESPONDENTS violated NRS 116.31158 by failing to complete an annual
20 registration form and submit it to the Division for 2016.

21 DISCIPLINE AUTHORIZED

22 Pursuant to the provisions of NRS 116.615; NRS 116.755; NRS 116.785; and NRS
23 116.790 the Commission has discretion to take any or all of the following actions:

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

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

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

1 RESPONDENTS.

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

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

7 6. Require the BOARD MEMBERS to hire a community manager who holds a
8 certificate.

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

12 8. Take whatever further disciplinary action as the Commission deems
13 appropriate.

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

18 NOTICE OF HEARING

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

23 THE HEARING WILL TAKE PLACE at the Commission meeting scheduled for
24 June 27-29, 2017, beginning at approximately 9:00 a.m. each day, or until such time as
25 the Commission concludes its business. The Commission meeting will be held at the
26 Nevada State Business Center, 3300 W. Sahara Avenue, Nevada Room, Suite 400,
27 Las Vegas, Nevada 89102 with videoconferencing to Department of Business &
28 Industry, Director's Office, 1830 East College Parkway, Suite 100, Carson City,

1 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 June 27-29, 2017. Thus, your hearing may be continued until
5 later in the day or from day to day. It is your responsibility to be present when your case
6 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.

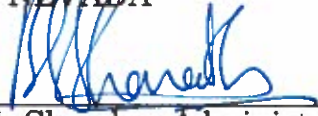
24 You have the right to request that the Commission issue subpoenas to compel
25 witnesses to testify and/or evidence to be offered on your behalf. In making this request,
26 you may be required to demonstrate the relevance of the witness' testimony and/or
27 evidence. Other important rights and obligations, 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 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 26th day of April, 2017.

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

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