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FILED

NOV 12 2021

NEVADA COMMISSION FOR
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS

Kelly Valadez

8
9 **BEFORE THE COMMISSION FOR COMMON-INTEREST COMMUNITIES AND**
10 **CONDOMINIUM HOTELS, STATE OF NEVADA**

11 SHARATH CHANDRA, ADMINISTRATOR,
12 REAL ESTATE DIVISION, DEPARTMENT OF
13 BUSINESS & INDUSTRY, STATE OF
14 NEVADA,

Case No.: 2020-186

14 Petitioner,

15 vs.

16 WEXFORD VILLAGE HOMEOWNERS
17 ASSOCIATION; JOSE A. MALAVE II, ERIKA
18 ZUMAYA, AND CHARLES THARP,

18 Respondents.

19
20 **RESPONDENTS' ANSWER TO COMPLAINT FOR DISCIPLINARY ACTION**

21 COMES NOW, Respondents, Wexford Village Homeowners Association ("HOA"), Jose A.
22 Malave II, Erika Zumaya, and Charles Tharp, by and through their attorney of record, CAROLYN M.
23 BROUSSARD, ESQ., of the LAW OFFICES OF S. DENISE MCCURRY, and answer Petitioners'
24 Complaint, as follows:

25 **JUDICIAL NOTICE**

26 I. Answering Paragraphs 1, and 2, of Petitioner's Complaint (Judicial Notice), Answering
27 Respondents object to the allegations contained therein on the grounds that they are vague and

1 ambiguous. Answering Respondents further object, as the allegations therein call for legal conclusions.
2 Without waiving said objections, Answering Respondents state they are without sufficient knowledge or
3 information necessary to form a belief as to the truth or falsity of the allegations contained therein, and
4 therefore, deny the same.

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6 **FACTUAL ALLEGATIONS**

7 2. Answering Paragraphs 3, 4, 5, 6, 7, and 8, of Petitioner's Complaint, (Factual
8 Allegations) Answering Respondents admit the allegations contained therein.

9 3. Answering Paragraphs 9, 10, 11, 12, 13, 14, 15, 15a, 15b, 15c, 15d, 15e, 15f, 15g,
10 15h, 15i, 15j, 15k, 15l, 15m, 15n, 15o, 15p, and 15q, of Petitioner's Complaint, (Factual Allegations)
11 Answering Respondents object to the allegations contained therein on the grounds that they are vague
12 and ambiguous. Answering Respondents further object, as the allegations therein call for legal
13 conclusions. Without waiving said objections, Answering Respondents state they are without sufficient
14 knowledge or information necessary to form a belief as to the truth or falsity of the allegations contained
15 therein, and therefore, deny the same.
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18 **VIOLATIONS OF LAW**

19 4. Answering Paragraphs 16, 17, 18, 19, and 20, of Petitioner's Complaint, (Violations of
20 Law) Answering Respondents object to the allegations contained therein on the grounds that they are
21 vague and ambiguous. Answering Respondents further object, as the allegations therein call for legal
22 conclusions. Without waiving said objections, Answering Respondents state they are without sufficient
23 knowledge or information necessary to form a belief as to the truth or falsity of the allegations contained
24 therein, and therefore, deny the same.

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26 **DISCIPLINE AUTHORIZED**

27 4. Answering Paragraphs 1, 2, 3, 4, 5, 6, 7, and 8, of Petitioner's Complaint, (Discipline
28 Authorized) Answering Respondents object to the allegations contained therein on the grounds that they

1 are vague and ambiguous. Answering Respondents further object, as the allegations therein call for
2 legal conclusions. Without waiving said objections, Answering Respondents state they are without
3 sufficient knowledge or information necessary to form a belief as to the truth or falsity of the allegations
4 contained therein, and therefore, deny the same.

5
6 5. As to those matters, if any, not herein answered, Answering Respondents expressly deny
7 any and all allegations relating thereto.

8 **AFFIRMATIVE DEFENSES**

9 **FIRST AFFIRMATIVE DEFENSE**

10 Respondents, at all times reference in this action or relative hereto, did not possess the requisite
11 intent pursuant to the NRS and/or NAC 116, such that would prove violations of same.

12 **SECOND AFFIRMATIVE DEFENSE**

13 Respondents, at all times referenced in this action, acted in the best interests of the Association.

14 **THIRD AFFIRMATIVE DEFENSE**

15 Respondents, at all times referenced in this action, had the honest and sincere beliefs they were
16 acting in the best interests of the Association.

17 **FOURTH AFFIRMATIVE DEFENSE**

18 Respondents allege that no injuries have been sustained by the Petitioner or the Association.

19 **FIFTH AFFIRMATIVE DEFENSE**

20 Respondents are not liable to Petitioner pursuant to the counts alleged.

21 **NINTH AFFIRMATIVE DEFENSE**

22 Pursuant to Rule 11 of NRCP as amended, all possible affirmative defenses may not have been
23 alleged herein insofar as sufficient facts are not available after reasonable inquiry from the filing of
24 Petitioner's Complaint, and therefore, Respondents reserves the right to amend his Answer to allege
25 additional affirmative defenses, delete or change the same as subsequent investigation warrants.

26 **TENTH AFFIRMATIVE DEFENSE**

27 Respondents incorporates by reference each and every affirmative defense set forth in NRCP 8(c)
28 as if fully set forth herein.

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WHEREFORE, Answering Respondents pray for relief as follows:

1. That Petitioner take nothing by way of their Complaint on file herein;
2. For an Order proclaiming that the Respondents acted in good faith and therefore not violative of the charges alleged herein;
3. That no penalties and/or fines be imposed upon Respondents;
4. That Answering Respondents be dismissed with costs incurred and reasonable attorney fees; and,
5. For such other and further relief as the Tribunal deems just and proper in the premises.

DATED: November 11, 2021

LAW OFFICES OF S. DENISE MCCURRY

BY: 

CAROLYN M. BROUSSARD, ESQ.
Attorney for Respondents

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2 **CERTIFICATE OF SERVICE**

3 Pursuant to Rule 5(b) of the Nevada Rules of Civil Procedure, I certify that I am an employee of
4 and that on the 12 day of November, 2021, I served a true and correct copy of the above and
5 foregoing **RESPONDENTS' ANSWER TO COMPLAINT FOR DISCIPLINARY ACTION** on the
6 parties addressed as shown below:

- 7
8 *Via U.S. Mail* by placing said document in a sealed envelope, with postage prepaid [N.R.C.P. 5(b)]
9 *Via Electronic Filing* [N.E.F.R. 9(b)]
10 *Via Electronic Service* [N.E.F.R. 9]
11 *Via Facsimile* [E.D.C.R. 7.26(a)]
12

13 Matthew Feely
14 Deputy Attorney General
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17 (7-2_ 486-3420
18 Attorneys for the NRED

19 Sharath Shandra, Administrator
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24 

25 _____
26 SHERRI LECKY, An Employee of
27 The Law Offices Of S. Denise McCurry
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