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ANS
Andrew H. Pastwick, ESQ.
Nevada Bar No. 009146
LAW OFFICE OF ANDREW H. PASTWICK L.L.C.
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Attorney for Respondent
Michael Sosebee

FILED

JAN 28 2021

NEVADA COMMISSION FOR
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS

Kelly Valadez

BEFORE THE REAL ESTATE COMMISSION

STATE OF NEVADA

SHARATH CHANDRA, Administrator,
REAL ESTATE DIVISION, DEPARTMENT
OF BUSINESS & INDUSTRY, STATE OF
NEVADA

Case No.: 2019-9

Petitioner,

**RESPONDENT MICHAEL
SOSEBEE'S ANSWER**

v.

MICHAEL SOSEBEE,

Date of Hearing: February 2, 2021
Time of Hearing: 9:00 a.m.

Respondent.

COMES NOW Respondent MICHAEL SOSEBEE, (hereinafter referred to as
"Answering Respondent" or "SOSEBEE"), by and through his attorneys of record, Andrew H.
Pastwick, Esq. and the law office of Andrew H. Pastwick, LLC, and in response to Petitioner's
Complaint on file herein, admits, denies, and alleges as follows:

JURISDICTION AND NOTICE

1. Answering Paragraph 1 of the Complaint on file herein, Answering Respondent
admits to the allegations set forth in said paragraph.

FACTUAL ALLEGATIONS

2. Answering Paragraphs 2, 3, 4 and 5 of the Complaint on file herein, Answering
Respondent admits the allegations as set forth in said paragraphs.

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3. Answering Paragraph 6 of the Complaint on file herein, Answering Respondent is unable to admit or deny the allegations as set forth in said paragraph.

4. Answering Paragraph 7 of the Complaint on file herein, Answering Respondent admits the allegations as set forth in said paragraph.

5. Answering Paragraphs 8, 9 and 10 of the Complaint on file herein, Answering Respondent is unable to admit or deny the allegations as set forth in said paragraphs.

6. Answering Paragraphs 11, 12 and 13 of the Complaint on file herein, Answering Respondent admits the allegations as set forth in said paragraphs.

7. Answering Paragraph 14 of the Complaint on file herein, Answering Respondent is unable to admit or deny the allegations as set forth in said paragraph.

8. Answering Paragraphs 15, 16, 17, 18, 19 and 20 of the Complaint on file herein, Answering Respondent admits the allegations as set forth in said paragraphs.

9. Answering Paragraphs 21, 22, 23 and 24 of the Complaint on file herein, Answering Respondent denies the allegations as set forth in said paragraphs.

10. Answering Paragraph 25 of the Complaint on file herein, Answering Respondent admits the allegations as set forth in said paragraph.

11. Answering Paragraph 26 of the Complaint on file herein, Answering Respondent denies the allegations as set forth in said paragraph.

VIOLATIONS OF LAW

12. Answering Paragraphs 27, 28, 29, 30, 31, 32 , 33 and 34 of the Complaint on file herein, Answering Respondent denies the allegations as set forth in said paragraph.

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AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Petitioner's Complaint fails to state a claim against Answering Respondent upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

The events referred to in the Complaint and injuries, if any, arising therefrom, were caused by the acts of a third person or persons over whom Answering Respondent had no control and no involvement and for which Respondent cannot be held liable.

THIRD AFFIRMATIVE DEFENSE

Petitioner's claims are non-perfected and invalid.

FOURTH AFFIRMATIVE DEFENSE

Answering Respondent has valid and/or equitable excuses for any claims raised by Plaintiff.

FIFTH AFFIRMATIVE DEFENSE

Petitioner's claims are barred by principals of failure of consideration.

SIXTH AFFIRMATIVE DEFENSE

Petitioner has failed to name necessary and indispensable parties for relief.

SEVENTH AFFIRMATIVE DEFENSE

Respondent alleges that he observed and discharged each and every duty required of it by law and due care

EIGHTH AFFIRMATIVE DEFENSE

Respondent states that he complied with NRS 645 *et. seq.* and NAC *et. seq.*

NINTH AFFIRMATIVE DEFENSE

Respondent states that he complied with NRS 645 *et. seq.* and NAC *et. seq.*

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Answering Respondent reserves the right to amend this Answer to add additional affirmative defenses as discovery progresses and new facts come to light.

WHEREFORE, Answering Respondent prays that this Tribunal finds that he did not commit any violations and therefore is not subject to any administrative penalty as set forth in NRS 645 *et. seq.*

STATEMENT

Here is a short synopsis of my personal history of El Sol Del Pueblo, a 22 acre development just south of the old NV Dept of Business and Industry on East Sahara. It consists of 192 rental units.

In 2014 I had moved back to Las Vegas and my mother, Kathleen Sosebee, asked me to help my sister, Patricia Dickinson, who was managing the HOA. She had received a notice from the Ombudsman's Office that they needed to register and file the CC&Rs and Bylaws of the community. She asked my wife Carmen Duran to help her. Carmen has done project coordination in the past, so she took on the task for the HOA to find an Attorney that deals specifically with HOA CC&Rs and Bylaws. During this time, Patricia asked me to help her with the HOA Management. The President, Mike McNeill, insisted that she get licensed. Patricia planned on retiring so she asked me if I would do it.

I agreed, I took classes in 2016 and passed the State Exam. I received my provisional license March of 2017. The Board reviewed 3 bids for the position and I was offered the job. Prior to that point I have been working as an assistant to the board coordinating the Slurry Coat and dealing with Landscaping issues.

Mike McNeill, the HOA President, said rather than paying me for services in 2016 and 2017, they would pay me retroactively from the day my license becomes active. I do not believe that it is illegal for a non-licensee to do HOA work for the Board and be compensated. The Board

1 had always been self-managing, so they had the right to hire an assistant to the Board. Prior to me
2 working for the Board the Board of Directors were seldom residents of the community. Mike
3 McNeill, the former President of El Sol Del Pueblo HOA lives in Laguna Beach California, he
4 seldom visits the community. Other owners live in Hawaii even in China. The HOA office is their
5 eyes and ears. It is important for this HOA to maintain an on-sight presence.

6 Respondent violated NRS 116.31151 by sole signing Association checks from March 2017
7 through May 2019. When I went to work with my provisional license my boss was Patricia
8 Dickinson. I was instructed by the Board of Directors to follow Patricia's direction. Patricia knew
9 more about bookkeeping than anyone I know. She taught me accrual accounting, how to use excel,
10 create a budget. I was her trainee. I didn't even have signing privileges until the end of 2017; we
11 were **misinformed** and the procedural error has been corrected. During this time, Patricia
12 Dickinson was my boss, licensed or not. Since that original violation was filled, she is no longer
13 on the accounts. As a matter of fact she has retired permanently.

14 I informed Patricia that we should be doing audits and she said we would do it next year. I
15 received bids from 3 separate CPA auditing firms. Audits were performed as instructed by the
16 Ombudsman's office 2016, 2017, 2018, and 2019, a year and a half prior to my license being
17 active. The CPA firm was Kondler & Associates, CPAs.

18 As a matter of note there was no evidence of any fraud or comingling. I spent hundreds of
19 hours performing these audits. The workload became so heavy I hired an assistant, Ariana Subia,
20 to work with me to complete the audits. Currently we are working on the 2020 audit. I hired Sara
21 Barry, S-CAM, to assess my office and my reports. She felt that everything was up to date and
22 files easy to find. My Bookkeeping is impeccable.

23 I was unaware that I was violating NRS 116A.620 by entering into a management
24 agreement with the Association that had an auto renewal clause. I had explained this several times,
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1 I hold a Property Management certificate. I have managed properties for years. In Property
2 Management, there is an auto renewal clause that is permissible. I made an honest mistake.

3 When I initially answered the first complaint back in March 2019 from the Ombudsman's
4 office, I hand carried the package directly to them with a zip drive and other documents in the
5 format. I even included a schedule. I asked the desk representative if I could present the package
6 to Christian Pitch. The person at the desk said they will get her. I waited for 20 minutes but she
7 never came out. Finally a man come out took the pkg and issued a receipt.

8 A month later I was taking refresher Community Area Management Classes at the Nevada
9 School of Real Estate. The instructor, Sara Barry, S-CAM, told an interesting anecdote: she said
10 she was talking with her friend who is an investigator for the Ombudsman's office and she told
11 the class "she couldn't believe that a CAM would be so stupid to solo sign a check to the
12 Ombudsman's office." That attitude has continued throughout this investigation.

13 Later I hired Sara Barry, Supervisory-CAM, to examine my office for compliance. She
14 said my office was "well organized. The HOA is very lucky to have an exclusive CAM. Most
15 CAMs manage multiple neighborhoods. Sara Barry mentored me for almost a year during this
16 investigation period until the Pandemic began. She conducted the 2019 Orientation for new Board
17 Members.

18 I disagree with the allegation that I violated NAC 116.355(1)(a)(1) and (2) (through NAC
19 116A.355(4)(g)) by committing unprofessional conduct or professional incompetence by failing
20 to act in the best interests of the Association. I always acted in the best interest of the Association.

21 NRS 116 states that my focus is to "maintain and improve the community. " Prior to my
22 10 year as a CAM, El Sol Del Pueblo had become a favorite location for dropping off stolen and
23 stripped cars. The 2016 slurry coat cost more than \$60,000 from our reserve account. There were
24 so many leaking vehicles in the alleyway that we had to replace large section of the asphalt. I
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1 assigned parking passes to the residents. I started a Roving Patrol and a Next- door created a Next-
2 Door Neighbor program. The patrol that enforces parking in the community and answers calls for
3 domestic violence. If there is a problem, they call police and wait until the altercation is over. Last
4 year there was a fire-arm discharged in a building.

5 Parking has always been a source of dissension in the community. Last week there was an
6 altercation between two residents over a parking space and it came to fisticuffs, but Roving Patrol
7 was here to help. A police Report was made and a letter was sent out to the Resident and the
8 Property Owner.

9
10 Prior to the pandemic we had 100% occupancy. We are now in the process of rehabbing
11 the pool, our common element, using plaster tile and cool deck. Tom Porter a board member and
12 retired contractor helped negotiate a very good deal with a pool company that saved the HOA
13 almost \$12,000.00.

14 I take seriously the mandate of my license: "To maintain and improve the community". I
15 worked for this Community for 6 years. My sister Patricia 25 years which overlapped with my
16 mother Kathleen's work of 28 years. None of us got rich. Never a dime out of place.

17
18 I have worked hard to improve the community. 4 years ago K-Mart closed. Today the only
19 shopping store in the neighborhood is the Dollar Store. The neighborhoods around us are slowly
20 collapsing. But the Community of El Sol Del Pueblo survives because of the efforts of me and my
21 family. Most of the owners live out of State, they depend on that HOA office to feel that their nest
22 eggs are safe. We've done that for 49 years.

23
24 My mother passed away July 31, 2018. The aquatic mural next to the pool was a gift to the
25 Community dedicated to the memory of my mother, who spent a lot of her adult life walking those
26 alleyways and looking after things.

1 In closing, I realize that my predecessors and I may have failed to properly follow some
 2 procedures in the past. However, I have been working tirelessly with bringing the HOA into
 3 compliance. More importantly, I have not obtained or received any personal benefits from these
 4 procedural missteps. The accounts are correct and there has been no allegations of financial
 5 malfeasance. Lastly, I feel that the community and the HOA have received significant benefits
 6 from my services.

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 8 **DOCUMENTS**

Documents	Bate Nos:
Annual Audit 2016	Sosebee001-007
Annual Audit 2017	Sosebee008-011
Annual Audit 2018	Sosebee012-015
MJS Community Management Agreement	Sosebee016-033
El Sol Del Pueblo HOA reserve analysis report	Sosebee034-061
Landscape Contract	Sosebee062
Employment Contract Agreement	Sosebee063-066
Employment Contract Agreement	Sosebee067-071
Employment Contract Agreement	Sosebee072-075
2017 Budget vs. Actuals Q-3	Sosebee076
2017 Budget vs. Actuals Q-1	Sosebee077-080
2017 Budget vs. Actuals Q-2	Sosebee081-084
2017 Budget vs. Actuals Q-4	Sosebee085-088
2018 Budget vs. Actuals Q-1	Sosebee089-092
2018 Budget vs. Actuals Q-2	Sosebee093-096
2018 Budget vs. Actuals Q-3	Sosebee097-100
2018 Budget vs. Actuals Q-4	Sosebee101-104
2019 Budget vs. Actuals Q-1	Sosebee105-108
2019 Budget vs. Actuals Q-2	Sosebee109-112
El Sol 2016 Tax return	Sosebee113-132
El Sol 2017 Tax return	Sosebee133-148
El Sol 2018 Tax return	Sosebee149-163
General ledger 1-1-2016 to 12-31-2016	Sosebee164-178
General ledger 1-1-2017 to 12-31-2017	Sosebee179-185
General Leger 1-1-2019 to 6-30-2019	Sosebee186-250
General Leger 2018	Sosebee251-372
W-9 for HOA vendors	Sosebee373-381

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FURTHER AFFIANT SAYETH NAUGHT.

Dates this 27th day of January 2021

Michael J Sosebee

Name: Michael J Sosebee

Addresses 40 Hunt Valley Tr

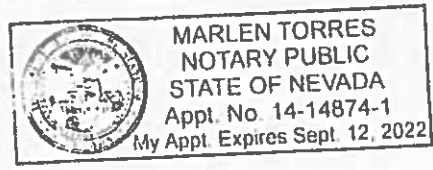
City Henderson State NV Zip 89052

Telephone Number 760 586 0568

Subscribed and Sworn to before me
this 27th day of January 2021.

[Signature]

Notary Public in and for said County and State



Dated this 27 day of January, 2021.

Law Office of Andrew H. Pastwick L.L.C.

By: [Signature]

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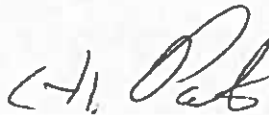
CERTIFICATE OF SERVICE

1
2 I hereby certify that on the 27th day of January, 2021, I served a copy of the foregoing
3 RESPONDENT MICHAEL SOSEBEE'S ANSWER in the following manner upon the parties so
4 indicated therein as having received service:
5

- 6 ■ **First-Class United States mail, postage fully prepaid upon the following**
7 **Parties who are not registered users in accordance with NEFCR 9(d) a sealed**
8 **envelope, postage prepaid to the following counsel and/or parties to this**
9 **matter:**

10 Real Estate Division
11 State of Nevada
12 Attn: Legal Administrative Officer
13 3300 West Sahara Avenue, Suite 350
14 Las Vegas, Nevada 89102

15 Karissa D. Neff
16 Senior Deputy Attorney General
17 555 E. Washington Avenue, Suite 3900
18 Las Vegas, Nevada 89101

19 

20 An Employee of Law Office of Andrew H. Pastwick L.L.C.
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