

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. 2019-9

7 Petitioner,

FILED

8 vs.

DEC 30 2020

9 Michael Sosebee,

NEVADA COMMISSION FOR
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS

10 Respondent.

Kelly Valadez

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, Aaron D. Ford, Attorney General of
15 the State of Nevada, Michelle D. Briggs, Esq., Senior Deputy Attorney General, and
16 Karissa D. Neff, Senior Deputy Attorney General, hereby notify Respondent Michael
17 Sosebee ("RESPONDENT") of an administrative hearing before the Commission for
18 Common-Interest Communities and Condominium Hotels, State of Nevada, which is to be
19 held pursuant to Chapters 233B and Chapters 116 and 116A of the Nevada Revised
20 Statutes ("NRS") and Chapter 116 and 116A of the Nevada Administrative Code ("NAC").
21 The purpose of the hearing is to consider the allegations stated below and to determine if
22 an administrative penalty will be imposed on the RESPONDENT pursuant to the
23 provisions of NRS and NAC including, but not limited to, NAC 116A.360.

24 **JURISDICTION AND NOTICE**

25 1. RESPONDENT holds a community manager certificate from the Division
26 (CAM.0009040) since March of 2018, currently in active status, and also held a temporary
27 certificate (CAM.0008808-TEMP) from March 2017 to March 2018, and is therefore, subject
28 to the jurisdiction of the Division and the provisions of NRS Chapters 116 and 116A and
NAC Chapters 116 and 116A.

1 **FACTUAL ALLEGATIONS**

2 2. RESPONDENT is the community manager of El Sol Del Pueblo Home Owners
3 Association ("Association") located in Las Vegas, Nevada, consisting of 48 buildings each
4 containing a fourplex.

5 3. The majority of the units in the Association are investor owned.

6 4. In March of 2018, RESPONDENT submitted the Association's Initial
7 Association Registration to the Division along with a check to the Division for the payment
8 of unit fees.

9 5. The check submitted by RESPONDENT was only signed by RESPONDENT.

10 6. During its investigation, the Division also reviewed the Association's bank
11 records that showed that all Association checks were sole signed by either RESPONDENT
12 or his sister, Patricia Dickinson ("Dickinson") from at least 2016 through through Dec.
13 2018.

14 7. At all relevant times, Dickinson was not on the Board, was not an officer, and
15 was not a community manager.

16 8. Dickinson was also being compensated by the Association in the amount of
17 \$1,344.00 per month until January 2017.

18 9. In an April 25, 2019 letter to RESPONDENT, the Division requested that
19 RESPONDENT provide a notarized written response to the following allegations: (1) that
20 RESPONDENT was paid for providing community management services before he
21 obtained his community manager certificate, (2) was not performing yearly audits for the
22 Association and had the Association's financial statements reviewed by an individual who
23 was not a Certified Public Accountant, and (3) that his management agreements contained
24 an auto-renew provision.

25 10. In the Division's April 25th letter to RESPONDENT, RESPONDENT was also
26 asked to provide the Division with the following: (1) information regarding the
27 Association's rental office (specifically, its physical address and how it is used), and (2)
28 audio recordings for Board meetings held on 1/25/18 and 9/14/17.

1 11. RESPONDENT responded to the Division's April 25th letter through his
2 counsel.

3 12. In response to the allegation that RESPONDENT was being paid for
4 community management services prior to obtaining his community manager certificate,
5 RESPONDENT denied the allegation, claiming that he informally began working as an
6 assistant to the Board in July of 2016 and became the community manager after March of
7 2017.

8 13. RESPONDENT further claimed that the Association agreed to pay him
9 retroactively from January 1, 2017 for his performing services of being an assistant to the
10 Board.

11 14. The Association's annual budget required its financial statements to be
12 audited by a CPA every fiscal year.

13 15. In response to the Division's allegation that RESPONDENT did not have a
14 CPA perform a yearly audit, RESPONDENT stated that the Association is in the process
15 of vetting certified public accounts to perform an accounting pursuant to NRS 116.31144.

16 16. RESPONDENT admitted that his management agreement with the
17 Association had an auto renewal provision but stated that he and the Association were in
18 the process of amending it to delete the auto renewal provision.

19 17. In response to the Division's investigation, RESPONDENT stated that the
20 Association's office is 2845 Klinger Circle #1, Las Vegas, NV 89121 and is where the
21 RESPONDENT maintains the HOA's records, security cameras, logs and conducts tenant
22 relations, tenant registration and meetings.

23 18. The Association pays rent for the use of this unit.

24 19. In response to the Division's investigation, RESPONDENT stated that the
25 Board did not have audio recordings for the 1/25/18 and 9/14/17 meetings, that NRS
26 116.31083 does not set forth a specific time that the Board is required to keep audio
27 recordings, and that going forward the Board will keep audio recordings in a digital format.

28 20. While managing the Association, RESPONDENT sole signed Association

1 checks from March 2017 through December 2018.

2 21. While managing the Association, RESPONDENT permitted Dickinson (his
3 sister) to sole sign Association checks.

4 22. The Association's 2018 reserve study indicates that the Association's reserve
5 account was underfunded and states it was only 27.4 percent funded.

6 23. While managing the Association, RESPONDENT failed to inform the Board
7 that the Association was required to have its financial statements audited by a CPA every
8 fiscal year and thus no audits were performed from 2016 through 2018.

9 24. While managing the Association, RESPONDENT did so under a 2017
10 management agreement that contained an auto-renewal provision.

11 25. The Division's counsel requested that RESPONDENT provide certain
12 documents, including proof of the Association's funding plan, audits, meeting minutes for
13 2020, audio for meetings in 2020, bank records, budget, proof of the Association's adoption
14 of the Rules and Regulations and the Association's authority to enforce them ("Requested
15 Documents)."

16 26. RESPONDENT agreed to provide the Requested Documents to the Division's
17 counsel by November 20, 2020 but failed to do so.

18 VIOLATIONS OF LAW

19 27. RESPONDENT violated NRS 116.31153 by sole signing Association checks
20 from March 2017 through May 2019.

21 28. RESPONDENT violated NRS 116.31153 by permitting Dickinson (his sister)
22 to sole sign Association checks.

23 29. RESPONDENT violated NRS 116A.630(1)(b) through NRS 116.31144 by
24 failing to inform the Board that the Association was required to have an audit performed
25 by a CPA every fiscal year such that no audits were performed from 2016 through 2018.

26 30. RESPONDENT violated NRS 116A.620 by entering into a management
27 agreement with the Association that had an auto renewal clause.

28 31. RESPONDENT violated NRS 116A.630(2)(a) by failing to comply with state

1 laws.

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

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

8 34. RESPONDENT violated NAC 116A.355(1)(a)(1) and (2) (through NAC
9 116A.355(4)(g)) by committing unprofessional conduct or professional incompetence by
10 failing to act in 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 above.

28 be assessed against RESPONDENT, if any, pursuant to NAC 116A.360.

1 **NOTICE OF HEARING**

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

6 **THE HEARING WILL TAKE PLACE** at the Commission meeting scheduled
7 for February 2-4, 2021, beginning at approximately 9:00 a.m. each day, or until
8 such time as the Commission concludes its business. The Commission uses WebEx
9 for its meetings. To join the hearing go to the website Webex.com and put in the Meeting
10 ID and Password:

11 **TUESDAY, FEBRUARY 2, 2021 MEETING NUMBER ACCESS CODE: 146 403 3741**
12 **MEETING PASSWORD: 6XJp9XvJRK2 (69579985752 from phones and video systems)**

13 **WEDNESDAY, FEBRUARY 3, 2021 MEETING NUMBER ACCESS CODE: 146 504 1488**
14 **MEETING PASSWORD: KSegwVx3Y83 (57249893983 from phones and video systems)**

15 **THURSDAY, FEBRUARY 4, 2021 MEETING NUMBER ACCESS CODE: 146 079 8134**
16 **MEETING PASSWORD: acVDMZs4e33 (22836974333 from phones and video systems)**

17 If you do not have internet access, you may attend by phone at (844) 621-3956. Some
18 mobile devices may ask attendees to enter a numeric meeting password provided above. If
19 you would like an email containing this information, before the hearing, please contact
20 Kelly Valadez, Commission Coordinator, at (702) 486-4606 or KValadez@red.nv.gov.

21 **STACKED CALENDAR:** Your hearing is one of several hearings that may
22 be scheduled at the same time as part of a regular meeting of the Commission
23 that is expected to take place on February 2-4, 2021. Thus, your hearing may be
24 continued until later in the day or from day to day. It is your responsibility to be
25 present when your case is called. If you are not present when your hearing is
26 called, a default may be entered against you and the Commission may decide the
27 case as if all allegations in the complaint were true. If you need to negotiate a
28 more specific time for your hearing in advance, please call Kelly Valadez,
Commission Coordinator, at (702) 486-4606.

1 **YOUR RIGHTS AT THE HEARING:** Except as mentioned below, the hearing is
2 an open meeting under Nevada's open meeting law and may be attended by the public.
3 After the evidence and arguments, the commission may conduct a closed meeting to discuss
4 your alleged misconduct or professional competence. You are entitled to a copy of the
5 transcript of the open and closed portions of the meeting, although you must pay for the
6 transcription.

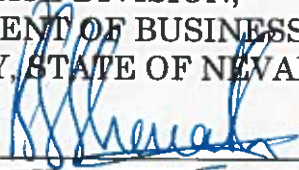
7 As a **RESPONDENT**, you are specifically informed that you have the right to appear
8 and be heard in your defense, either personally or through your counsel of choice. At the
9 hearing, the Division has the burden of proving the allegations in the complaint and will
10 call witnesses and present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

14 You have the right to request that the Commission issue subpoenas to compel
15 witnesses to testify and/or evidence to be offered on your behalf. In making this request,
16 you may be required to demonstrate the relevance of the witness's testimony and/or
17 evidence. Other important rights and obligations, including your obligation to answer the
18 complaint, you have are listed in NRS Chapters 116 and 116A and NAC 116 and 116A,
19 including without limitation, NAC 116A.560 through NAC 116A.655, and NRS Chapter
20 233B.

21 Note that under NAC 116A.585, not less than five (5) working days before a hearing,
22 **RESPONDENT** must provide to the Division a copy of all reasonably available documents
23 that are reasonably anticipated to be used to support his or her position, and a list of
24 witnesses **RESPONDENT** intends to call at the time of the hearing. Failure to provide any
25 document or to list a witness may result in the document or witness being excluded from
26 **RESPONDENT'S** defense. The purpose of the hearing is to determine if the **RESPONDENT**
27 has violated any of the provisions of NRS Chapter 116A, and to determine what
28 administrative penalty is to be assessed against **RESPONDENT**.

1 DATED this 30thth day of December, 2020.

2
3 REAL ESTATE DIVISION,
4 DEPARTMENT OF BUSINESS &
INDUSTRY, STATE OF NEVADA

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9 AARON D. FORD
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11 By: /s/ *Karissa Neff*

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