

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,

6 Petitioner,

7 vs.

8 Dayton Valley Community Association,
9 Dennis Drury, Carla Cole, Sandy Mass,
10 Joan Latimer, Steve Gallisdorfer, James
11 Kepler, Michelle Carr

12 Respondents.

Case No. 2021-761 and 2021-696

FILED

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NEVADA COMMISSION FOR
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS

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13 **COMPLAINT FOR DISCIPLINARY
14 ACTION AND NOTICE OF HEARING**

15 The Real Estate Division of the Department of Business and Industry, State of
16 Nevada (the "Division"), by and through its counsel, Aaron D. Ford, Attorney General of
17 the State of Nevada, and Virginia T. Tomova, Deputy Attorney General, hereby notifies
18 RESPONDENTS DAYTON VALLEY COMMUNITY ASSOCIATION ("Association"),
19 DENNIS DRURY, CARLA COLE, SANDY MASS, JOAN LATIMER, STEVE
20 GALLISDORFER, JAMES KEPLER, MICHELLE CARR (collectively,
21 "RESPONDENTS") of an administrative hearing before the Commission for Common-
22 Interest Communities and Condominium Hotels, State of Nevada, which is to be held
23 pursuant to Chapters 233B and 116 of the Nevada Revised Statutes ("NRS") and Chapter
24 116 of the Nevada Administrative Code ("NAC"). The purpose of the hearing is to consider
25 the allegations stated below and to determine if an administrative penalty will be imposed
26 on the RESPONDENTS pursuant to the provisions of NRS and NAC including, but not
27 limited to, NRS 116.785 and NRS 116.790.

28 **JURISDICTION AND NOTICE**

1. During the relevant times mentioned in this complaint, RESPONDENTS
DENNIS DRURY, CARLA COLE, SANDY MASS, JOAN LATIMER, STEVE

1 GALLISDORFER, JAMES KEPLER, and MICHELLE CARR served as board members
2 and/or officers of DAYTON VALLEY COMMUNITY ASSOCIATION (the "Association"), a
3 common-interest community located in Las Vegas, Nevada.

4 2. RESPONDENTS are subject to the provisions of Chapter 116 of each the
5 Nevada Revised Statutes ("NRS") and the Nevada Administrative Code ("NAC")
6 (hereinafter collectively referred to as "NRS 116") and are subject to the jurisdiction of the
7 Division, and the Commission for Common-Interest Communities pursuant to the
8 provisions of NRS 116.750.

9 FACTUAL ALLEGATIONS

10 3. DAYTON VALLEY COMMUNITY ASSOCIATION is an 823 single family
11 home community located in Dayton, Nevada ("the community").

12 4. At all times relevant, the Association was governed by RESPONDENTS
13 Dennis Drury, Carla Cole, Sandy Mass, Joan Latimer, Steve Gallisdorfer, James Kepler,
14 and Michelle Carr.

15 5. The Division and the Secretary of State records reflect that Dennis Drury is
16 the President of the Association, and James Kepler is the Board Director for the
17 Association.

18 6. On or about May 26, 2021, RESPONDENT Kepler filled out a Candidacy
19 Disclosure Statement to be a member of the board during an open election period for the
20 Association. Bates Nos. CICC 0014-0016, CICC 0047-0049.

21 7. In his disclosure statement, RESPONDENT Kepler stated that he was "the
22 new owner of the golf course" and an owner of a home in the Association. Bates Nos. CICC
23 0014-0016.

24 8. RESPONDENT Kepler indicated that he did not have any conflicts in his
25 Candidacy Disclosure Statement. Bates Nos. CICC 0014-0016.

26 9. RESPONDENT Kepler failed to disclose his ownership interest in the guard
27 shack and the road located at the Palmer Gate exit, which is the subject of this complaint.
28 Bates Nos. CICC 0014-0016.

1 10. The guard shack and the road located at the Palmer Gate exit are currently
2 owned by Tour Specs Golf Management, LLC aka Dayton Valley Golf Course. Bates Nos.
3 CICC 0075-0085, CICC 0186-0192, 0194-0200.

4 11. As of July 19, 2017, RESPONDENT Kepler is the owner of Reliance Golf
5 Management, an entity that owns Tour Specs Golf Management. Bates Nos. CICC 0075-
6 0085, CICC 0194-0200.

7 12. RESPONDENT Kepler is also the sole principal of Tour Specs Golf
8 Management, which is the entity owning the Dayton Valley Golf Course. Bates Nos. CICC
9 0075-0085, CICC 0186-0192.

10 13. RESPONDENT Kepler is the owner of the Dayton Valley Golf Course, which
11 is adjacent to the Dayton Valley Community Association. Bates Nos. CICC 0075-0085,
12 CICC 0186-0192.

13 14. In July of 2021, RESPONDENT Kepler was elected to the Association's board
14 of directors.

15 15. On or about July 20, 2021, the Division received an Intervention Affidavit
16 from Joseph Hughes, a resident of the Association. Bates Nos. CICC 0001-0010, CICC
17 0086-0095.

18 16. In his Intervention Affidavit, Mr. Hughes stated that the board of directors
19 failed to exercise fiduciary responsibility and failed to act in the best interest of the
20 Association, when they did not properly review the Candidacy Disclosure Statement
21 statements including that of the RESPONDENT Kepler for conflicts. Bates Nos. CICC
22 0001-0010, CICC 0086-0095.

23 17. Specifically, Mr. Hughes represented to the Division that RESPONDENT
24 Kepler's name should be removed from the voting ballot by the Association as he was a
25 person who stands to gain either a personal profit or compensation of any kind as an owner
26 of the Dayton Valley Golf Course. Bates Nos. CICC 0001-0010, CICC 0086-0095.

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1 18. On or about July 1, 2021, Mr. Hughes received a letter from the counsel for
2 the Association, Gayle Kern, Esq. with Leach, Kern, Gruchow, Anderson, Song. Bates Nos.
3 CICC 0117-0120.

4 19. That letter was in response to Mr. Hughes' second notice of intent- to file
5 Form 530 Intervention Affidavit, dated June 25, 2021.

6 20. In that correspondence, the Association admitted that there was a Landscape
7 Maintenance Easement that concerned the maintenance of the golf course. Bates Nos.
8 CICC 0117-0120.

9 21. The purpose of the Landscape Maintenance Easement was due to the board's
10 determination that it would be in the Association's best interest to maintain the area on
11 or around the Palmer Gate exit which also included the guard shack. Bates Nos. CICC
12 0117-0120.

13 22. The Landscape Maintenance Easement was first addressed in January of
14 2019. Bates Nos. CICC 0117-0120.

15 23. The Association maintained areas of the golf course which included the areas
16 around the Palmer Gate exit and the guard shack. Bates Nos. CICC 0117-0120.

17 24. The Association determined that it will be in the best interest of the
18 Association to maintain the above referenced areas. Bates Nos. CICC 0117-0120.

19 25. As a result, the Landscape Maintenance Easement was prepared and
20 recorded on or about January 15, 2020. Bates Nos. CICC 0117-0120.

21 26. The Association claimed that the members of the Association derived the sole
22 benefits from maintenance of these areas and not the golf course, even though such area
23 was owned by the golf course, which in turn is owned by RESPONDENT Kepler. Bates
24 Nos. CICC 0117-0120.

25 27. On or about January 27, 2021, the Landscape Maintenance Easement was
26 revised, and the board voted that it was no longer in the best interest of the Association to
27 maintain the area. Bates Nos. CICC 0214-0215.

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1 28. On or about August 9, 2021, the Division properly notified the Association
2 that it has received a complaint against the executive board of the Association and an
3 investigation has been opened against the Association for possible violations under NRS
4 116 and NAC 116. Bates Nos. CICC 0113-0115, CICC 0161-0163.

5 29. The Division requested that the Association provide responses to the
6 allegations regarding:

- 7 a. Its failure to exercise its fiduciary responsibilities and its failure to act in the
8 best interests of the Association by not properly reviewing candidate
9 disclosure statements;
- 10 b. Its failure to investigate completely, each person who is nominated as a
11 candidate for a membership on the executive board that each person has
12 made a good faith effort to disclose any financial, business, professional or
13 personal relationship or interest that it would result in a potential conflict of
14 interest if the person is elected to the executive board; and
- 15 c. Allowing a person to be a candidate for or a member of the executive board
16 or an officer of the association if the person stands to gain any personal profit
17 or compensation of any kind from a matter before the executive board of the
18 association. Bates Nos. CICC 0113-0115, CICC 0161-0163

19 30. The Division instructed the Association to respond to these allegations by
20 August 19, 2021.

21 31. On or about August 20, 2021, the Division received a letter of representation
22 from Gayle Kern, Esq. with Leach, Kern, Gruchow, Anderson, Song. Bates Nos. CICC
23 0108-0112, CICC 0146-0150.

24 32. The counsel for the Association provided an answer to the allegations on
25 August 20, 2021. Bates Nos. CICC 0108-0112, CICC 0146-0150.

26 33. In its response, the Association admitted that these issues were previously
27 raised by the Division. Bates Nos. CICC 0108-0112, CICC 0146-0150.

28 34. The Association also stated that it is confused of why the Division continued
its investigation and instructed the Division to stop taking any action. Bates Nos. CICC
0108-0112, CICC 0146-0150.

 35. The Association claimed that there was no evidence of financial or personal
gain by RESPONDENT Kepler even though he was the owner of Tour Specs Golf

...

1 Management and Dayton Valley Golf Course. Bates Nos. CICC 0108-0112, CICC 0146-
2 0150.

3 36. The Association admitted to having a maintenance agreement for the
4 maintenance of the golf course. Bates Nos. CICC 0108-0112, CICC 0146-0150.

5 37. The Association claimed that such maintenance agreement was done for the
6 benefit of the Association and not the golf course, even though the golf course is owned by
7 RESPONDENT Kepler. Bates Nos. CICC 0108-0112, CICC 0146-0150.

8 38. On or about August 27, 2021, the Division sent a Compliance Demand Letter
9 to the Association. Bates Nos. CICC 0143-0145.

10 39. In the demand letter, the Division stated that although it understood that
11 there was an annexation problem with the property located at and around Palmer Gate
12 exit, until this property was annexed to the Association, there was a conflict of interest
13 with the RESPONDENT Kepler being placed on the ballot and being elected to the board,
14 as he was the owner of the Dayton Valley Golf Course. Bates Nos. CICC 0143-0145.

15 40. Due to this conflict of interest, the Division instructed the Association to
16 remove any stakeholder with Tour Specs Golf Management aka Dayton Valley Golf Course
17 from the board and not placed on a future election ballot pursuant to NRS 116.31034
18 (13)(a)(b) until the property in question is properly annexed to the Association. Bates Nos.
19 CICC 0143-0145.

20 41. Believing that the Association will comply, the Division in good faith closed
21 its investigation at that time. Bates Nos. CICC 0143-0145.

22 42. In that correspondence, the Division informed the Association that it
23 reserved its right to bring up this case before the Nevada Real Estate Commission, if the
24 Association failed to comply. Bates Nos. CICC 0143-0145.

25 43. The Association failed to comply with the Division's Compliance Demand
26 Letter.

27 44. On or about September 29, 2021, the Association sent a response to the
28 Compliance Demand Letter. Bates Nos. CICC 0128-0131.

1 45. In that correspondence, the Association claimed that there was no issue of
2 annexation as Palmer Drive and the improvements on Palmer Driver were annexed to the
3 Association. Bates Nos. CICC 0128-0131.

4 46. The Association has not provided any evidence of such annexation to the
5 Division.

6 47. The Association claimed that it was Lyon County's fault to provide for a
7 separate parcel or parcels for the various roads within the subdivision. Bates Nos. CICC
8 0128-0131.

9 48. The Association admitted that it was working with Lyon County on
10 correcting this problem. Bates Nos. CICC 0128-0131.

11 49. However, to date this problem has not been resolved.

12 50. As a matter of fact, Lyon County Assessor's Office reports that the area in
13 question is owned by Tour Specs Golf Management. Bates Nos. CICC 0151-0152, 0182-
14 0184, 0194-0200, 0202-0204, 0206-0208, 0229-0235, 0256-0266, 0272-0282.

15 51. As a result, individuals owning Tour Specs Golf Management such as
16 RESPONDENT Kepler stand to gain personal profit or compensation as the Association
17 is maintaining that portion of the property.

18 52. The Association admitted that it has maintained that portion of the property
19 since approximately 1990, that the maintenance has spanned for decades, and it did not
20 arise from any action by Tour Specs Golf Management. Bates Nos. CICC 0128-0131.

21 53. The Association also admitted to maintaining areas that it did not own. Bates
22 Nos. CICC 0128-0131.

23 54. As a result, the Association stated that RESPONDENT Kepler will not be
24 resigning from his position because he did not receive any profit or compensation from the
25 maintenance of the golf course by the Association, of which he is an owner. Bates Nos.
26 CICC 0128-0131.

27 55. According to the Dayton Valley Community Association 2020 Operating and
28 Reserve Budget:

- a. In 2018, the Association spent \$750.00 for gate repairs and \$1,950.00 for gate maintenance;
- b. In 2019, the Association spent \$5,000.00 for repairs of the gate; \$2,600.00 for gate maintenance contract and \$2,000.00 for guard shack maintenance; and
- c. In 2020, the Association spent \$2,600.00 for gate maintenance contract and \$1,000.00 for guard shack maintenance.
- d. In 2018, the Association estimated \$27,558.00 for landscaping;
- e. In 2019, the Association's budget for landscaping was \$23,364.00; and
- f. In 2020, the Association's landscaping budget almost doubled to \$50,000.00. Bates Nos. CICC 0284-0286.

56. It is not clear, what amount of the landscaping budget was allocated to the maintenance of the golf course including the area of Palmer Gate exit and the guard shack.

57. Based on the Association's own admissions, it has maintained the area in question, even though it has acknowledged that it is not a common area that belonged to the Association. Bates Nos. CICC 0128-0131.

58. On or about July 18, 2022, the Division properly notified the Association that it has obtained sufficient evidence to commence a disciplinary action and to file a complaint against the Association before the Nevada Real Estate Commission. Bates Nos. CICC 0125-0127, CICC0294-0296.

VIOLATIONS OF LAW

59. RESPONDENTS violated NRS 116.31034(10)(a)(2) by allowing RESPONDENT Kepler, an owner of the Dayton Valley Golf Course, who stands to gain any personal profit or compensation of any kind from a matter before the executive board of the association regarding the maintenance of the golf course, to be elected to the board.

60. RESPONDENTS violated NRS 116.31034(13)(a) by placing the name of RESPONDENT Kepler on the ballot after knowing that he was the owner of the Dayton Valley Golf Course, a property adjacent to the Dayton Valley Community Association, which in turn provided maintenance to various areas of the golf course, even though such areas were not part, were not common elements, did not belong and/or were not owned by the Association.

61. RESPONDENTS violated NRS 116.3103 (through NAC 116.405(3)) by failing to act in good faith and in the best interests of the Association when they committed an

1 act or omission which amounts to incompetence, negligence or gross negligence by failing
2 to comply with Nevada law.

3 62. RESPONDENTS violated NRS 116.3103 (through NAC 116.405(8)(a)) by
4 failing to act in good faith and in the best interests of the Association when they failed to
5 cause the Association to comply with all state laws and the governing documents of the
6 Association.

7 **DISCIPLINE AUTHORIZED**

8 Pursuant to the provisions of NRS 116.615; NRS 116.755; NRS 116.785; and NRS
9 116.790 the Commission has discretion to take any or all of the following actions:

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

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

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

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

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

21 6. Require RESPONDENTS to pay the costs of the proceedings incurred by the
22 Division, including, without limitation, the cost of the investigation and reasonable
23 attorney's fees.

24 7. Take whatever further disciplinary action as the Commission deems
25 appropriate.

26 The Commission may order one or any combination of the discipline described
27 above. If the Commission finds that the RESPONDENTS knowingly and willfully violated

28 ...

1 the provisions of NRS or NAC 116, the Commission may order that RESPONDENTS be
2 personally liable for all fines and costs imposed.

3 **NOTICE OF HEARING**

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

8 **THE HEARING WILL TAKE PLACE** at the Commission meeting(s)
9 scheduled for December 6 – December 8, 2022, beginning at approximately 9:00
10 a.m. each day, or until such time as the Commission concludes its business. The
11 Commission meeting will be held at the Nevada State Business Center, 3300 W.
12 Sahara Avenue, 4th Floor, Nevada Room, Las Vegas, Nevada 89102 or virtually
13 through WebEx. To join the hearing virtually, go to the website Webex.com and
14 enter the Meeting ID and Password:

15 **DIAL-IN NUMBER: (844) 621-3956 or Webex.com**

16 **TUESDAY, DECEMBER 6, 2022**

17 **1-844-621-3956 Access Code/Meeting Number: 2494 526 1865##**

18 **or**

18 **Webex.com**

19 **Meeting Number: 2494 526 1865 Meeting Password: F6MkbJMgC37**

20 **WEDNESDAY, DECEMBER 7, 2022**

21 **1-844-621-3956 Access Code/Meeting Number: 2499 735 4848##**

22 **or**

22 **Webex.com**

23 **Meeting Number: 2499 735 4848 Meeting Password: ueMpHR2ra27**

24 **THURSDAY, DECEMBER 8, 2022**

25 **1-844-621-3956 Access Code/Meeting Number: 2494 336 6189##**

26 **or**

26 **Webex.com**

27 **Meeting Number: 2494 336 6189 Meeting Password: Etmk5FqTW82**

28 **If you do not have internet access, you may attend by phone at (844) 621-3956.**

Some mobile devices may ask attendees to enter a numeric meeting password provided

1 above. If you would like an email containing this information or a direct link for the virtual
2 meeting, before the hearing, please contact Maria Gallo, Commission Coordinator, at (702)
3 486-4074 or mgallo@red.nv.gov.

4 **STACKED CALENDAR:** Your hearing is one of several hearings that may
5 be scheduled at the same time as part of a regular meeting of the Commission
6 that is expected to take place on December 6-8, 2022. Thus, your hearing may be
7 continued until later in the day or from day to day. It is your responsibility to
8 be present when your case is called. If you are not present when your hearing is
9 called, a default may be entered against you and the Commission may decide the
10 case as if all allegations in the complaint were true. If you need to negotiate a
11 more specific time for your hearing in advance because of coordination with out
12 of state witnesses or the like, please call Maria Gallo, Commission Coordinator,
13 at (702) 486-4074.

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

20 As a RESPONDENT, you are specifically informed that you have the right to appear
21 and be heard in your defense, either personally or through your counsel of choice. At the
22 hearing, the Division has the burden of proving the allegations in the complaint and will
23 call witnesses and present evidence against you. You have the right to respond and to
24 present relevant evidence and argument on all issues involved. You have the right to call
25 and examine witnesses, introduce exhibits, and cross-examine opposing witnesses on any
26 matter relevant to the issues involved.

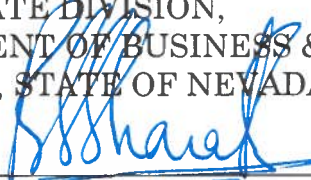
27 You have the right to request that the Commission issue subpoenas to compel
28 witnesses to testify and/or evidence to be offered on your behalf. In making this request,

1 you may be required to demonstrate the relevance of the witness' testimony and/or
2 evidence. Other important rights and obligations, including your obligation to answer the
3 complaint, you have are listed in NRS Chapter 116 and NAC Chapter 116, including
4 without limitation, NRS 116.770 through 116.780, and NAC 116.500 through NAC
5 116.635 and NRS Chapter 233B.

6 Note that under NAC 116.575, not less than five (5) working days before a hearing,
7 RESPONDENTS must provide to the Division a copy of all reasonably available
8 documents that are reasonably anticipated to be used to support his position, and a list of
9 witnesses RESPONDENTS intend to call at the time of the hearing. Failure to provide
10 any document or to list a witness may result in the document or witness
11 being excluded from RESPONDENTS' defense. The purpose of the hearing is to determine
12 if the RESPONDENTS have violated the provisions of NRS 116, and to determine what
13 administrative penalty is to be assessed against RESPONDENTS.

14 DATED this 2 day of November, 2022.

15
16 REAL ESTATE DIVISION,
17 DEPARTMENT OF BUSINESS &
18 INDUSTRY, STATE OF NEVADA

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