

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,
7 Petitioner,

8 vs.

9 Rancho San Juan Homeowners Association,
10 Christopher Seckler, Sebastian Mayo, and
11 Cesar Valdez,
12 Respondents.

Case No. 2021-161

FILED

JUN 14 2022

NEVADA COMMISSION FOR
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS

Kelly Valadez

13 **FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER REGARDING**
14 **RESPONDENTS CHRISTOPHER SECKLER, SEBASTIAN MAYO AND CESAR**
15 **VALDEZ**

16 This matter came on for hearing before the Commission for Common-Interest
17 Communities and Condominium Hotels, State of Nevada (the "Commission"), during a
18 regular agenda set on a three-day stack beginning at 9 am on May 31, 2022 (the
19 "Hearing"). RESPONDENT Rancho San Juan Homeowners Association was represented
20 by Patrick Orme, Esq. at the Hearing. RESPONDENTS Christopher Seckler, Sebastian
21 Mayo and Cesar Valdez did not appear personally or through counsel and did not answer
22 the complaint. Virginia T. Tomova, Esq., Deputy Attorney General with the Nevada
23 Attorney General's Office, appeared on behalf of the Real Estate Division of the
24 Department of Business and Industry, State of Nevada (the "Division").

25 Ms. Tomova presented testimony from Kelly Valadez, the Commission coordinator,
26 regarding service of the notice of the Complaint, hearing and documents on
27 RESPONDENTS Christopher Seckler, Sebastian Mayo and Cesar Valdez. The
28 Commission, having determined that these RESPONDENTS were properly served with
the complaint but that they failed to timely respond as required by NRS 116.770(5), voted
in favor of entering a default against these RESPONDENTS and making a decision based

1 on the allegations in the complaints pursuant to NAC 116.580.

2 The Commission, having considered the evidence introduced by the Division and
3 being fully advised, enters the following Findings of Fact, Conclusions of Law, and Order.
4 Under Nevada Revised Statutes (NRS) and Nevada Administrative Code (NAC) Chapter
5 116, the Commission has legal jurisdiction and authority over this matter.

6 FINDINGS OF FACT

7 Based on a preponderance of the evidence in the record and the documents
8 admitted at the Hearing, the Commission unanimously voted to find the following factual
9 allegations were proven:

10 1. RANCHO SAN JUAN HOMEOWNERS ASSOCIATION is a 61 mobile
11 homes community located in Las Vegas, Nevada ("the community").

12 2. At all relevant times, the Association was governed by three resident board
13 members Christopher Seckler, Sebastian Mayo and Cesar Valdez.

14 3. Based on these records RESPONDENTS Mayo and Valdez were board
15 members from July 2020 to October 2021.

16 4. On or about February 11, 2021, the Division received an intervention
17 affidavit from a resident complainant Renee Montenegro ("Ms. Montenegro"), who was
18 also a former president of the Association.

19 5. Ms. Montenegro informed the Division that the board members failed to
20 establish adequate reserves for the Association.

21 6. On March 10, 2021, the Division properly gave notice to the Association that
22 it had opened an investigation regarding the Association and possible violations of
23 NRS/NAC 116 and alleged certain violations and requested responses from each Board
24 member regarding the Board's failure to properly fund the Association's reserve account.

25 7. On or about June 21, 2021, Amy L. Groves with Nevada's Finest Properties,
26 LLC informed the Division that the Association is "probably 10% funded now," which
27 confirms that the board members failed to establish adequate reserves for the
28 Association.

1 8. The Association's 2019 Reserve Study ("the Reserve Study") also showed
2 that the reserve account was extremely underfunded.

3 9. The Association's 2019 Reserve Study showed that:

- 4 a. The Board failed to adhere to the approved Reserve Budget or Reserve Study
5 Recommendations.
6 b. The Board failed to adequately fund the reserve accounts.
7 c. Specifically, the 2019 Reserve Study recommended an ideal monthly reserve
8 contribution of \$3,560.00 (\$58.36 per unit) per month, with a minimum
9 reserve contribution of \$3,000.00 (\$49.18 per unit) per month.
10 d. The Reserve Study showed that the Association's projected starting balance
11 as of January 1, 2019, was \$29,506.00, when the reserve balance should have
12 been \$392,872.00, a deficit of \$363,366.00.
13 e. In comparing the projected starting reserve balance of \$29,506.00 versus the
14 ideal reserve balance of \$392,872.00, the Association's reserve fund was
15 approximately 8% funded.
16 f. To assist with the Association's underfunding of its reserve account, the
17 Reserve Study recommended a special assessment of \$300,000.00.

18 10. According to the Reserve Study Summary Form ("summary"), dated April
19 24, 2019:

- 20 a. The Association was -5.43% underfunded.
21 b. The board was aware of the extreme underfunding; and
22 c. The Association has not funded the reserves on a consistent basis for many
23 years.

24 11. According to the Annual Association Registration dated October 18, 2021,
25 the Association's reserve account balance was \$65,591.90 when the required reserve
26 account should have been \$371,892.00, which shows that the Association was funded at
27 17.63%.

28 12. According to the Annual Association Registration dated March 6, 2019, the
Association's reserve account balance was \$34,884.00 when the required reserve account
balance should have been \$170,701.00, which shows that the Association was funded at
20.43%.

 13. According to the Annual Association Registration dated March 9, 2018, the
Association's reserve account balance was \$40,275.00 when the required reserve account
per the 2013 Reserve Study should have been \$163,204.00, which shows that the
Association was funded at 24.67%.

1 14. On June 29, 2021, the Division properly notified the Association and the
2 board that it will commence a disciplinary action by filing a Complaint for a hearing
3 before the Commission.

4 15. No Board member provided a response to the Division.

5 CONCLUSIONS OF LAW

6 Based on the foregoing factual findings and the preponderance of the evidence, the
7 Commission unanimously voted that the following violations of law occurred:

8 16. RESPONDENTS Christopher Seckler, Sebastian Mayo and Cesar Valdez
9 violated NRS 116.3103 (through NAC 116.405(3)) by failing to act on an informed basis,
10 in good faith and in honest belief that their action was in the best interests of the
11 Association by committing incompetence, negligence or gross negligence by failing to
12 adequately fund the reserve account.

13 17. RESPONDENTS Christopher Seckler, Sebastian Mayo and Cesar Valdez
14 violated NRS 116.3103 (through NAC 116.405(5)) by failing to comply with a request by
15 the Division to provide information or documents.

16 18. RESPONDENTS Christopher Seckler, Sebastian Mayo and Cesar Valdez
17 violated NRS 116.31152 by failing to determine if the Association's reserves are sufficient
18 based on the reserve study and by failing to adjust the Association's funding plan for the
19 required reserves.

20 19. RESPONDENTS Christopher Seckler, Sebastian Mayo and Cesar Valdez
21 violated NRS 116.3103 (through NAC 116.405(3)) by failing to act in good faith and in the
22 best interests of the Association when they committed an act or omission which amounts
23 to incompetence, negligence or gross negligence by failing to comply with Nevada law.

24 20. RESPONDENTS Christopher Seckler, Sebastian Mayo and Cesar Valdez
25 violated NRS 116.3103 (through NAC 116.405(8)(a)) by failing to act in good faith and in
26 the best interests of the Association when they failed to cause the Association to comply
27 with all state laws and the governing documents of the Association.

28 21. RESPONDENTS Christopher Seckler, Sebastian Mayo and Cesar Valdez

1 violated NRS 116.3103 (through NAC 116.405(5)(a)) by impeding or otherwise interfering
2 with an investigation of the Division by failing to comply with a request by the Division
3 to provide information or documents.

4 **ORDER**

5 The Commission, being fully apprised in the premises and good cause appearing,
6 ORDERS as follows:

7 22. RESPONDENT Christopher Seckler is ordered to pay the Division a fine in
8 the amount of \$6,000.00 in addition to the Division's attorney's fees and investigation
9 costs in the amount of \$1,491.95 for a total amount of \$7,491.95 ("Amount Due") on or
10 before September 13, 2022.

11 23. RESPONDENT Christian Mayo is ordered to pay the Division a fine in the
12 amount of \$6,000.00 in addition to the Division's attorney's fees and investigation costs
13 in the amount of \$1,491.95 for a total amount of \$7,491.95 ("Amount Due") on or before
14 September 13, 2022.

15 24. RESPONDENT Cesar Valdez is ordered to pay the Division a fine in the
16 amount of \$6,000.00 in addition to the Division's attorney's fees and investigation costs
17 in the amount of \$1,491.95 for a total amount of \$7,491.95 ("Amount Due") on or before
18 September 13, 2022.

19 25. Each one of the above-mentioned board members is prohibited from serving
20 on a board of this and any other homeowner's association for at least 10 years.

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10 before September 13, 2022.

11 23. RESPONDENT Sebastian Mayo is ordered to pay the Division a fine in the
12 amount of \$6,000.00 in addition to the Division's attorney's fees and investigation costs
13 in the amount of \$1,491.95 for a total amount of \$7,491.95 ("Amount Due") on or before
14 September 13, 2022.

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16 amount of \$6,000.00 in addition to the Division's attorney's fees and investigation costs
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