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**BEFORE THE COMMISSION FOR COMMON-INTEREST
COMMUNITIES AND CONDOMINIUM HOTELS
STATE OF NEVADA**

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

Case No. 2023-204

Petitioner,

FILED

vs.

OCT 18 2023

CASA ROSA HOMEOWNERS ASSOCIATION,
SHEILA MATHERLY,

NEVADA COMMISSION FOR
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS

Respondents.

mgallo

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

This matter came on for hearing before THE COMMISSION FOR COMMON-INTEREST COMMUNITIES AND CONDOMINIUM HOTELS, STATE OF NEVADA (“Commission”) during a regular agenda, set for three (3) days, beginning on September 26, 2023. (the “Hearing”). RESPONDENTS CASA ROSA HOMEOWNERS ASSOCIATION and SHEILA MATHERLY (hereinafter, “RESPONDENTS”) did not appear in person, through counsel, or otherwise, nor did they answer the complaint. Samuel J. Taylor, Esq., Deputy Attorney General with the Nevada Attorney General’s Office, appeared on behalf of the Real Estate Division of the Department of Business and Industry, State of Nevada (the “Division”).

Commission Coordinator, Maria Gallo, testified regarding notices sent to the RESPONDENTS and steps taken to effect proper service and Compliance Audit Investigator II, Vanessa Ward, testified as to other matters. The Commission found appropriate service of the notice of the hearing, the complaint and notice thereof, the notice of documents, and all other efforts taken to inform the RESPONDENTS of the matter before the Commission. The Commission thereafter took notice of the documents filed by the Division to substantiate the allegations within the Complaint. After hearing testimony and examining the evidence presented in this matter, and for good cause appearing, the Commission now enters its Findings of Fact, Conclusions of Law, and Order by default against RESPONDENTS as follows:

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JURISDICTION

1. At all times relevant in the Complaint, RESPONDENT Matherly served as a board member and/or officer of the Association, a common-interest community located in Las Vegas, Nevada.

2. RESPONDENTS are subject to the provisions of NRS Chapter 116 and NAC Chapter 116 and are subject to the jurisdiction of the Commission for Common-Interest Communities pursuant to the provisions of NRS 116.750 through 116.795.

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FINDINGS OF FACT

Based on a preponderance of the evidence in the record, and based upon the evidence presented during the Hearing, the Commission unanimously voted to find that the following factual allegations were proven:

1. The Association is an 84-unit single family home community located in Las Vegas, Nevada (“The Community”).

2. According to Division records, at all times relevant to this Complaint, RESPONDENT Matherly was the Treasurer of the Association.

3. On March 30, 2023, the Division notified the Association and RESPONDENT Matherly that an investigation has begun to determine whether there have been violations of Chapters 116 of the NRS and NAC.

4. In that March 30, 2023, Notice of Investigation, the Division requested that the Association provide the following documents to the Division on or before April 20, 2023:

- a) Governing Documents (CCRS, Amendments), Bylaws, Collection Policy, Violations Policy, Rules & Regulations, Resolutions.
- b) Current Certificate of Insurance for all policies issued to the association.
- c) Meeting Minutes and Agendas from 1/1/21 - 3/31/23 (i.e., Annual, Budget, Executive including Financial Review packages, Special Meetings, Executive Session, and Budget Ratification packages).
- d) CPA Audits for years 2020, 2021, and 2022.
- e) Budgets for years 2021, 2022, and 2023.
- f) The most recent Reserve Study with Site Visit.

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- g) Interim Financial Statements (presented on an Accrual basis):
 - i. Balance Sheets dated 12/31/21, 12/31/22, and 3/31/2023.
 - ii. Comparative Budget to Actual Income Statement for fiscal years 2021, 2022, and 3/31/2023.
 - iii. Assessment Delinquent report dated 12/31/21, 12/31/22, and 3/31/2023.
- h) Statements of association accounts including, but not limited to, operating, reserve, contingency, investment, credit card, and loan accounts from 1/1/21 – 3/31/23:
 - i. Checks – Fronts and backs of checks from the Operating and Reserve funds from 1/1/21 – 3/31/23.
 - ii. If using electronic payment methods, then return a copy of the Invoice Approval and Payment register showing Board approvals.
 - iii. If using electronic payment methods, then return a copy of the Resolution approving said method of payment.
 - iv. Bank signature cards for all association accounts open in 2021, 2022, and 2023.
- i) Vendor agreements/contracts (i.e., management, landscaping, pool).
- j) Invoices, receipts for disbursements from the Operating and Reserve funds, excluding utilities, from 1/1/21 – 3/31/23.
- k) General Ledger Statements – 2021, 2022, and 3/31/2023.
- l) Return a completed Reserve Study Summary form (#609).
- m) Updated form 623 showing all current members on the Board of Directors.

5. The Association failed to submit any of the requested documents by the April 20, 2023, deadline.

6. On April 20, 2023, the Division sent a second Notice of Investigation and Request for the Association to provide the documents set out in Paragraph 3, above, by May 5, 2023.

1 7. The Association failed to provide any of the requested documents to the Division by the
2 May 5, 2023, deadline, aside from a partial response for Item k (i.e., general ledger statements for
3 calendar year 2022 only and not CY2021 and CY2023).

4 8. As of the date of the filing of this Complaint, the 2022 general ledger statements are the
5 only documents that have been provided to the Division.

6 9. The Association is currently not in good standing with the Nevada Secretary of State
7 despite receiving notice from the Division that the annual registration Form 562 for the March 31, 2022,
8 through March 31, 2023, cycle was due on March 31, 2023.

9 10. According to the last Annual Association Registration Form received by the Division, the
10 last reserve study was conducted in March of 2017 and adopted by the Board in May of 2017, and is
11 more than one year overdue.¹

12 11. According to the last Annual Association Registration Form received by the Division on
13 July 1, 2022, the last meeting of the Association was held on August 3, 2021.²

14 12. According to the last Annual Association Registration Form received by the Division on
15 July 1, 2022, and the resignation letter of the President dated March 23, 2023, there are not enough
16 officers/directors of the Association to adequately conduct the business of the Association.

17 13. On or about July 7, 2023, the Division properly notified RESPONDENTS it intended to
18 file a complaint against them for disciplinary action before the Commission.

19 **CONCLUSIONS OF LAW**

20 Based on the foregoing factual findings, and via a preponderance of evidence, the Commission
21 concludes by unanimous vote that RESPONDENTS have committed the following violations of law by
22 default:

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26 ¹ There is conflict in the dates between the May 2017 Reserve Study Summary Form and the
2022 Annual Association Registration Form, as to when the reserve study was conducted and adopted by
the Board.

27 ² There is some indication, via an e-mail from the Association President, that a meeting may have
28 been held on March 22, 2023, but that information has not been reported to the Division via an Annual
Association Registration Form.

1 1. RESPONDENTS violated NRS 116.3103, as applied via NAC 116.405(3), by failing to
2 act in good faith and in the best interests of the Association when they committed acts or omissions
3 amounting to incompetence, negligence or gross negligence by failing to comply with Nevada law.

4 2. RESPONDENTS violated NRS 116.3103, as applied via NAC 116.405(5)(a), by
5 impeding or otherwise interfering with an investigation of the Division by failing to comply with multiple
6 requests by the Division to provide information or documents.

7 3. RESPONDENT Association violated NRS 116.3103, as applied via NRS 116.31034, by
8 failing to elect an executive board of at least three members, all of whom must be unit owners.

9 4. RESPONDENTS violated NRS 116.3013, as applied via NAC 116.405(8)(c), by failing
10 to hold meetings of the executive board with such frequency to properly and efficiently address the affairs
11 of the Association when they failed to hold executive board meetings in 2022.

12 5. RESPONDENTS violated NRS 116.3013, as applied via NRS 116.31152, by failing to
13 undertake a reserve study every five (5) years or submit a summary of that reserve study to the Division
14 as required under NRS 116.31152(4).

15 **ORDER**

16 Based on the foregoing findings of facts and violations of law, the Commission hereby Orders:

17 1. RESPONDENTS shall be jointly and severally liable for paying to the Division a total of
18 \$12,719.32 ("Amount Due"), consisting of \$5,000.00 in administrative fines (\$1,000 per violation as set
19 forth above), plus the Division's fees and costs in the amount of \$7,719.32. The Amount Due shall be
20 paid to the Division within ninety (90) days of the effective date of this Order.

21 2. An Audit and Reserve Study shall be conducted within the next six (6) months.

22 3. If the Amount Due is not actually received by the Division on or before its due date, it
23 shall be a default by RESPONDENTS. In the event of default, the unpaid balance of the administrative
24 fine and costs, together with any attorney's fees and costs that may have been assessed, shall be due in
25 full to the Division within ten (10) calendar days of the date of default, and the Division may obtain a
26 judgment for the amount owed, including collection fees and costs.

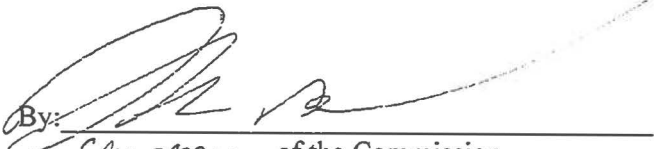
27 4. The Commission retains jurisdiction for correcting any errors that may have occurred in
28 the drafting and issuance of this document.

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5. This order shall become effective on the 18th day of OCTOBER, 2023.

DATED this 17th day of OCTOBER, 2023.

COMMISSION FOR COMMON-INTEREST
COMMUNITIES AND CONDOMINIUM HOTELS

By: 
AARON D. FORD of the Commission

Submitted by:
AARON D. FORD
Attorney General of Nevada

By: /s/ Samuel J. Taylor
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