

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

Sharath Chandra, Administrator,  
Real Estate Division, Department of  
Business & Industry, State of Nevada,

Petitioner,

vs.

Yun (Jack) Lin,

Respondent.

Case No. 2023-227

**FILED**

NOV 09 2023

NEVADA COMMISSION FOR  
COMMON INTEREST COMMUNITIES  
AND CONDOMINIUM HOTELS

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

The Real Estate Division of the Department of Business and Industry, State of Nevada (the "Division"), by and through its counsel, Aaron D. Ford, Attorney General of the State of Nevada, and Phil W. Su, Senior Deputy Attorney General, hereby notifies YUN (JACK) LIN ("Lin" and/or "RESPONDENT") of an administrative hearing before the Commission for Common-Interest Communities and Condominium Hotels, State of Nevada, which is to be held pursuant to Chapters 233B and Chapters 116 of the Nevada Revised Statutes ("NRS") and Chapter 116 of the Nevada Administrative Code ("NAC"). The purpose of the hearing is to consider the allegations stated below and to determine if an administrative penalty will be imposed on the RESPONDENT pursuant to the provisions of NRS and NAC including, but not limited to, NRS 116.790.

**JURISDICTION AND NOTICE**

1. During the relevant times mentioned in this complaint, RESPONDENT served as a member, director, and/or officer of the Board of Directors (hereinafter "Board") of San Severo Homeowners Association ("Association"), a common-interest community located in Las Vegas, Nevada.

2. RESPONDENT is subject to the provisions of Chapter 116 of each the Nevada Revised Statutes ("NRS") and the Nevada Administrative Code ("NAC")

1 (hereinafter collectively referred to as “NRS 116”) and is subject to the jurisdiction of the  
2 Division, and the Commission for Common-Interest Communities pursuant to the  
3 provisions of NRS 116.750.

#### 4 **FACTUAL ALLEGATIONS**

5 1. At all relevant times herein, the Association is comprised of a 344-unit  
6 community located in Las Vegas, Nevada. [NRED0001-0009].

7 2. On or about March 29, 2023, COMPLAINANT Kathy Shimizu  
8 (“Complainant”), Director at large/President of the Association and upon behalf of fellow  
9 Director-at-large/Secretary Treasurer, David Brummer, sent the Division a Form 530  
10 Intervention Affidavit (“IA”) alleging that the Association’s third Director-at-large,  
11 RESPONDENT Yun (Jack) Lin, only sought election to the board “to get his own personal  
12 driveway extension ARC Application approved.” [NRED0010-0016].

13 3. The IA further alleges that RESPONDENT engaged in actions “in complete  
14 disregard for his fiduciary duty obligations, acting outside the scope of his authority, for  
15 self-interest, gain, prejudice, revenge, intentionally hindering the Board from conducting  
16 business, and costing the Association substantial legal fees.” [NRED0010-0016].

17 4. Attached to the IA were twenty-eight (28) exhibits consisting of  
18 correspondence between the Association’s community manager and/or its retained  
19 counsel and RESPONDENT from November 19, 2020, (prior to RESPONDENT’S election  
20 to the Board) through March 1, 2023. [NRED0017-0263].

21 5. On a November 23, 2020, correspondence (erroneously dated November 19,  
22 2019) consisted of a cease and desist letter from association counsel Cheri A. Hauser,  
23 Esq., to RESPONDENT regarding his alleged harassment of board members and  
24 management staff attributable to the Board’s rejection of his proposed ARC for a driveway  
25 extension, noting that although he could not install a driveway extension, he could install  
26 two paver strips 25-30” wide in Sierra Blend color. [NRED0024-0027].

27 6. On a March 8, 2021, correspondence from association counsel Matthew  
28 Grode, Esq., he further addressed RESPONDENT’S continued harassment of directors

1 and management, and referenced a February 25, 2020, incident where the Association  
2 was forced to call the police for assistance based upon RESPONDENT'S refusal to leave  
3 a meeting where he was being disruptive. **[NRED0028-0031]**.

4 7. The March 8, 2021, letter from Attorney Grode also gave notice to  
5 Respondent that he was required to attend a hearing being held by video-conference set  
6 for March 23, 2021, to address his history of harassment, pursuant to NRS 116.31185.  
7 **[NRED0028-0031]**.

8 8. RESPONDENT was elected as a director-member of the board on May 18,  
9 2021. **[NRED0003]**.

10 9. RESPONDENT engaged in a subsequent series of lengthy email  
11 communications with association counsel William Wright, Esq., from August to  
12 September of 2021, regarding RESPONDENT'S disputes with board operations and  
13 community management. **[NRED0036-0082]**.

14 10. On September 9, 2021, RESPONDENT filed an Alternative Dispute  
15 Resolution ("ADR") claim form with the Division's Ombudsman's office, claim no. 2022-  
16 045, and retaining Attorney Duane Frizell, Esq., to represent him personally.  
17 **[NRED0083-0184]**.

18 11. On February 23, 2022, Attorney Frizell withdrew as counsel for  
19 RESPONDENT. **[NRED0202-0203]**.

20 12. On April 21, 2022, RESPONDENT filed a small claims suit against the  
21 Association, seeking refund of a fine imposed against him for beginning driveway  
22 construction without Association approval, and that the Court order the Association to  
23 allow him to construct the driveway. **[NRED0204-0205]**.

24 13. On August 15, 2022, the Association's motion to dismiss the small claims  
25 matter was granted without prejudice. **[NRED0221-0222]**.

26 14. On August 20, 2022, RESPONDENT informed the Association and its  
27 counsel, Attorney Wright, of his intention to construct a front driveway without prior  
28 Architectural approval, due to ongoing drainage issues with his yard that he alleges are

1 due to the delay in approving the driveway improvement. **[NRED 0223-0237]**.

2 15. According to Attorney Wright, RESPONDENT has caused the Association  
3 to incur in excess of \$20,000.00 in attorney's fees with his lawsuits and actions against  
4 board members and management and caused the Association's insurance carrier to drop  
5 their Directors and Officers (D&O) liability coverage, resulting in a doubling of premiums.  
6 **[NRED256]**.

7 16. On or about February 21, 2022, RESPONDENT'S disruptive behavior (by  
8 refusing to stop reading an email regarding his personal issues with the executive board)  
9 during a director's board meeting caused him to be escorted from the meeting. **[Exhibit**  
10 **#2 Audio recording of February 21, 2023, board meeting]**.

11 17. On April 13, 2023, the Division's Investigator, Khalid Tatum, sent the  
12 RESPONDENT an initial Request for Information, indicating that it had initiated an  
13 investigation against him under Case No. 2023-227 and asking for a written response and  
14 information regarding the allegations set forth in the IA. **[NRED0263-0264]**.

15 18. On or about April 26, 2023, RESPONDENT sent Investigator Tatum a  
16 response to the initial Request for Information, denying the allegations and asserting  
17 uneven application of the governing documents regarding his driveway ARC Application,  
18 retaliation against him by the Association, and that the Association and its manager  
19 hindered his investigation of allegations of election fraud in 2018. **[NRED0265-335]**.

20 19. On or about June 23, 2023, the Division sent RESPONDENT an NRS 233B  
21 letter notifying him that it obtained sufficient evidence to commence disciplinary action  
22 by filing a complaint as a result of its investigation. **[NRED0336-0337]**.

### 23 **VIOLATIONS OF LAW**

24 20. RESPONDENT violated NRS 116.3103 pursuant to NAC 116.405(1) and  
25 breached his fiduciary duty to the Association by causing the Association to incur  
26 substantial legal and service expenses related to addressing his repeated lengthy  
27 communications with Association counsel regarding his personal interests and disputes  
28 with the Association, and his actions, including initiation of claims and litigation against

1 the association, that resulted in the Association's loss of existing D&O insurance  
2 coverage.

3 21. RESPONDENT violated NRS 116.3103 pursuant to NAC 116.405(2) and  
4 breached his fiduciary duty to the Association by engaging in repeated disruptive acts  
5 while sitting as a board member in sole furtherance of his personal interests, including,  
6 but not limited to, his repeated and persistent efforts to challenge his prior ARC  
7 Application denials and his disruptive actions at the February 21, 2023, board meeting  
8 that led to him being escorted from that meeting.

9 22. RESPONDENT violated NRS 116.3103 through NAC 116.405(3)(c) and  
10 breached his fiduciary duty to the Association by using his position as a Board Director  
11 to intentionally hinder the ability of the executive board to conduct business.

12 23. RESPONDENT attempted to gain access to privileged documents that  
13 served his self-interest as it related to the subject of RESPONDENT's lawsuits against  
14 the Association.

15 24. RESPONDENT violated NRS 116.3103 through NRS 116.31038(6) and  
16 breached his fiduciary duty to the Association by his disruptive actions at the February  
17 21, 2023, board meeting that led to him being escorted from that meeting and for that  
18 meeting to be prematurely concluded.

#### 19 **DISCIPLINE AUTHORIZED**

20 Pursuant to the provisions of NRS 116.615; NRS 116.755; NRS 116.760; NRS  
21 116.785; and NRS 116.790 the Commission has discretion to take any or all of the  
22 following actions:

- 23 1. Issue an order directing RESPONDENT to cease and desist from continuing  
24 to engage in the unlawful conduct that resulted in the violation.
- 25 2. Issue an order directing RESPONDENT to take affirmative action to correct  
26 any conditions resulting from the violation.
- 27 3. Impose an administrative fine of up to \$1,000 for each violation by  
28 RESPONDENT.

4. If RESPONDENT is found to have knowingly and willfully committed a violation of NRS or NAC 116 AND it is in the best interest of the Association, RESPONDENT may be removed from his/her position as a director and/or officer.

5. Require RESPONDENT to pay the costs of the proceedings incurred by the Division, including, without limitation, the cost of the investigation and reasonable attorney's fees.

6. Take whatever further disciplinary actions the Commission deems appropriate.

The Commission may order one or any combination of the discipline described above. If the Commission finds that the RESPONDENT knowingly and willfully violated the provisions of NRS or NAC 116, the Commission may order that RESPONDENT be personally liable for all fines and costs imposed.

## NOTICE OF HEARING

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

**THE HEARING WILL TAKE PLACE** at the Commission meeting(s) scheduled for December 12-14, 2023, beginning at approximately 9:00 a.m. each day, or until such time as the Commission concludes its business. The Commission meeting will be held at the Nevada State Business Center, 3300 W. Sahara Avenue, 4th Floor, Nevada Room, Las Vegas, Nevada 89102 with videoconferencing to Department of Business & Industry, Division of Insurance, 1818 E. College Parkway, Suite 103, Carson City, Nevada 89706.

**STACKED CALENDAR:** Your hearing is one of several hearings that may be scheduled at the same time as part of a regular meeting of the Commission that is expected to take place on December 12-14, 2023. Thus, your hearing may be continued until later in the day or from day to day. It is your responsibility to be present when your case is called. If you are not present when your hearing



1 is called, a default may be entered against you and the Commission may decide  
2 the case as if all allegations in the complaint were true. If you need to negotiate  
3 a more specific time for your hearing in advance because of coordination with  
4 an out of state witness, please call Maria Gallo, Commission Coordinator, at (702)  
5 486-4074.

6 **YOUR RIGHTS AT THE HEARING:** Except as mentioned below, the hearing is  
7 an open meeting under Nevada's open meeting law and may be attended by the public.  
8 After the evidence and arguments, the commission may conduct a closed meeting to  
9 discuss your alleged misconduct or professional competence. You are entitled to a copy of  
10 the transcript of the open and closed portions of the meeting, although you must pay for  
11 the transcription. As a RESPONDENT, you are specifically informed that you have the  
12 right to appear and be heard in your defense, either personally or through your counsel of  
13 choice. At the hearing, the Division has the burden of proving the allegations in the  
14 complaint and will call witnesses and present evidence against you. You have the right to  
15 respond and to present relevant evidence and argument on all issues involved. You have  
16 the right to call and examine witnesses, introduce exhibits, and cross-examine opposing  
17 witnesses on any matter relevant to the issues involved.

18 You have the right to request that the Commission issue subpoenas to compel  
19 witnesses to testify and/or evidence to be offered on your behalf. In making this request,  
20 you may be required to demonstrate the relevance of the witness's testimony and/or  
21 evidence. Other important rights and obligations, including your obligation to answer the  
22 complaint, are listed in NAC 116A.560 through NAC 116A.655, NRS Chapter 233B, and  
23 NRS Chapters 116 and 116A and NAC 116 and 116A.

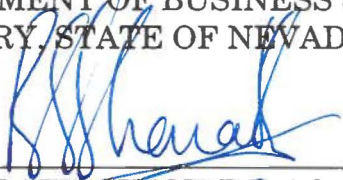
24 Note that under NAC 116A.585, not less than five (5) working days before a hearing,  
25 RESPONDENT must provide to the Division a copy of all reasonably available documents  
26 that are reasonably anticipated to be used to support his or her position, and a list of  
27 witnesses RESPONDENT intends to call at the time of the hearing. Failure to provide any  
28 document or to list a witness may result in the document or witness being excluded from

1 RESPONDENT'S defense.

2 The purpose of the hearing is to determine if the RESPONDENT has violated NRS  
3 Chapter 116 and/or NAC Chapter 116 and if the allegations contained herein are  
4 substantially proven by the evidence presented and to further determine what  
5 administrative penalty is to be assessed against the RESPONDENT, if any.

6 DATED this 9 day of November, 2023.

7  
8 REAL ESTATE DIVISION,  
9 DEPARTMENT OF BUSINESS &  
10 INDUSTRY, STATE OF NEVADA

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