

August 29, 2024.

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VIA EMAIL TO PSU@AG.NV.GOV

Office of the Attorney General of the State of Nevada
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FILED

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NEVADA COMMISSION FOR
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS

mgallo

RE: ***Sharath Chandra, Administrator, for the Real Estate Division of the Department of Business and Industry, State of Nevada ("Division") v. Turnberry Towers East Unit-Owners' Association ("TTE") et al. – Supplement to TTE's Letter Dated May 7, 2024***
Case No. 2023.309

Dear Mr. Su:

As you know, Brownstein Hyatt Farber Schreck, LLP has been retained to represent Turnberry Towers East Unit-Owners' Association ("TTE") in the above-mentioned case (the "Action") before the Commission for Common-Interest Communities and Condominium Hotels. I write in follow up to our August 20, 2024, telephone conference.

On January 11, 2024, Christina Pitch, the assigned Compliance Audit Investigator II of the Division, sent Pinnacle Community Association Management ("Pinnacle"), TTE's community manager, a request for written responses to six allegations and supporting documentation. Pinnacle thereafter sent a response letter addressing each of the six allegations. In February 2024, I contacted Ms. Pitch to request an update on the status of the investigation and inquired whether any additional information was needed for the Division's investigation. On April 16, 2024, Ms. Pitch contacted me to confirm that the Division did not have any further requests for TTE, and asked whether TTE had provided all of its responses to her January 11, 2024 letter.

On May 7, 2024, TTE and the Board of Directors ("Board") for TTE sent a follow up letter to Ms. Pitch regarding their efforts to cure the allegations informally asserted against TTE (the "May 7 Letter"), which are now the subject of the recently filed Complaint in the Action. To further support TTE and the Board's efforts since the May 7 Letter, and per your request during our telephone call on August 20, 2024, TTE submits the below documentation and information for your review and consideration.

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All documents referenced below can be downloaded at the following ShareFile link:
<https://bhfs.sharefile.com/d-s39948e321a2147d58d4fd51ad6f9f970>.

1. **Allegation 1 regarding the Commingling of Funds**¹

As explained in the May 7 Letter, any comingling among TTE's accounts has been reversed, and TTE's operating accounts have been reactivated and funded appropriately. Since being reactivated and appropriately funded, these accounts have been properly maintained without any comingling between accounts. Additionally, to ensure that the accounts do not exceed the FDIC-insurance deposit limits, a majority of the funds in each account are transferred to Insured Cash Sweep ("ICS") Accounts bearing the same associated account number for each account. See Updated Account Information Spreadsheet, labeled as "**Attachment 1A**"; Copies of Account Statements, as of July 31, 2024, for Account Nos. 3207, 9722, 9730, 9749, 9773, 9350, 1102, labeled as "**Attachment 1B**." To the extent it would be helpful to the Division to receive these same statements for these accounts prior to July 31, 2024, please let me know and I will obtain them.

2. **Allegation 2 regarding the Use of Petty Cash**

Since May 15, 2024, in lieu of petty cash, which TTE eliminated the use of, as explained in the May 7 Letter, homeowners have been provided with the option to use Venmo electronic payments (as an alternative to traditional payment options via check or direct billing to the homeowner's account, options that are still available to owners) to purchase air filters, key FOBs, and car tags. TTE's Venmo account is connected directly to one of TTE's operating accounts, eliminating any cash payments and ensuring accurate record keeping for these payments. When an owner makes a payment for these items to the Venmo account, TTE issues a written receipt reflecting that payment. Additionally, as stated in the May 7 Letter, access to TTE's Venmo account is limited to TTE's Office Manager. See Venmo Statement and Verifying Receipts, labeled as "**Attachment 2**."

3. **Allegation 3 regarding Audits**

At the time of the May 7 Letter, audits of TTE's financials for 2020, 2021, and 2022 were in the process of being completed by an independent auditor, Kondler & Associates, CPAs. Kondler & Associates has since completed those independent audits. See Independent Auditor's Report for 2020, labeled as "**Attachment 3A**"; Independent Auditor's Report for 2021, labeled as "**Attachment 3B**"; Independent Auditor's Report for 2022, labeled as "**Attachment 3C**."²

¹ For consistency, I have used the same categories of allegations from Ms. Pitch's January 11, 2024 letter.

² Although not identified in the Division's Complaint, TTE is still working with its auditor to complete its audited financial statements for FY 2023.

4. Allegation 4 regarding Use of Petty Cash

At the time of the May 7 Letter, the Board was in the process of creating a policy related to the use of TTE debit cards, not accepting cash for payments, and reimbursement of Board members' expenses, which were set forth in a proposed resolution. The Board has since formally adopted the resolution. See Board of Directors Resolution, labeled as "**Attachment 4.**"

5. Allegation 5 regarding Use of Assistants by Tony Rector

On November 15, 2023, TTE filed suit for injunctive relief in the Eighth Judicial District Court for Clark County, Nevada (Case No. A-23-881671-C), against then-Board member Tony Rector ("**Mr. Rector**") related to his misuse of TTE's letterhead and funds, his efforts to influence the Board elections, and his other misdeeds as a member of the Board ("**Rector Suit**").

While the Rector Suit was pending, and at the time of the May 7 Letter, a petition had been received by TTE's Community Manager for the recall and removal of Mr. Rector as a member of the Board, and the Community Manager was in the process of facilitating the recall proceedings in compliance with NRS Chapter 116.

After successfully obtaining a preliminary injunction and temporary restraining order in the Rector Suit, TTE and Mr. Rector reached a settlement. As part of the settlement, Mr. Rector agreed to resign from the Board, rendering the recall proceedings moot. The settlement also put in place parameters to deter Mr. Rector from using any private and confidential information obtained by Mr. Rector while he was a member of the Board or otherwise misrepresenting himself as a member of the Board. Mr. Rector also expressly agreed in the settlement not to run or seek appointment for any position on the Board for a period of five years. The Rector Suit has since been dismissed with prejudice. See Complaint, filed on Nov. 15, 2023 in Case No. A-23-881671-C, labeled as "**Attachment 5A**"; Order Granting Motion for Preliminary Injunction, filed on Nov. 29, 2023 in Case No. A-23-881671-C, labeled as "**Attachment 5B**"; Temporary Restraining Order, filed on Apr. 8, 2024 in Case No. A-23-881671-C, labeled as "**Attachment 5C**"; Settlement Agreement and Mutual Release, dated May 8, 2024, labeled as "**Attachment 5D**"; Mr. Rector's Resignation Letter, dated May 8, 2024, labeled as "**Attachment 5E**"; Stipulation and Order for Dismissal with Prejudice, filed on May 13, 2024 in Case No. A-23-881671-C, labeled as "**Attachment 5F.**"

Accordingly, any concerns regarding Mr. Rector's continued involvement in the Board or TTE have been resolved.

6. Allegation 6 regarding Check Handling and Use of Association Funds

TTE has taken measures to ensure that all checks issued by TTE must bear two signatures that only TTE's President and Treasurer are able to communicate with First Citizens Bank (TTE's chosen

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bank). See Examples of Invoice Payment/Two Signer Checks Procedure, labeled as “Attachment 6A.” TTE’s signature card agreement with First Citizens bank is included as “Attachment 6B,” and shows those Board members who may access TTE funds/sign checks on behalf of TTE. In addition, these protections are memorialized in the previously discussed Board of Directors Resolution. See Attachment 4.

7. Allegation in Complaint regarding Submission of Forms

In a footnote, the Complaint alleges that the Division, as of the date of the Complaint, has not received the forms for updating the Board of Directors and that the Secretary of State’s records reflect that Mr. Rector is still a director. Compl., at 2, n.1. The reason this was not immediately done is that TTE intended to make these updates on an annual (year-end) basis. Regardless, the required forms have since been submitted and the Secretary of State’s records have been updated (which includes Tamra Trainer’s recent resignation from the Board).³ See TTE’s Registration Filing Addendum (Form 623), labeled as “Attachment 7A”; TTE’s Annual Association Registration (Form 562), labeled as “Attachment 7B”; Secretary of State Printout for TTE, labeled as “Attachment 7C.”

If you have any questions or concerns about the foregoing, or need additional information, please contact me.

Sincerely,



Travis F. Chance

cc: Client (by email)
30768220

³ The Secretary of State’s “Filing History Details” for TTE’s most recently filed Amended List appears to reflect Tamra Trainer as a “Director” and Mr. Rector (without a title) under “Officer Information.” It appears to be a result of how the Secretary of State maintains this historical information. The current “Officer Information” is accurate and does not include Tamara Trainer or Mr. Rector. See Attachment 7C.