

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
6 OF BUSINESS & INDUSTRY, STATE OF
7 NEVADA,

8 Petitioner,

9 vs.

10 STANFORD SQUARE,
11 (Entity Number C5498-1980); JOHN
12 FRAGOLA; ERICH BREISACHER; and
13 DANIEL TEPPER;

14 Respondents.

Case No. 2023-35

FILED

FEB 02 2024

NEVADA COMMISSION FOR
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS

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

17 The Real Estate Division of the Department of Business and Industry, State of
18 Nevada (the "Division"), by and through its counsel, Aaron D. Ford, Attorney General of
19 the State of Nevada, and Phil W. Su, Senior Deputy Attorney General, hereby notifies
20 Stanford Square ("RESPONDENT ASSOCIATION") and its board members and/or
21 officers John Fragola, Erich Breisacher, and Daniel Tepper, ("RESPONDENT BOARD
22 MEMBERS" and, collectively, "RESPONDENTS") of an administrative hearing before the
23 Commission for Common-Interest Communities and Condominium Hotels, State of
24 Nevada, which is to be held pursuant to Chapters 233B and Chapters 116 of the Nevada
25 Revised Statutes ("NRS") and Chapter 116 of the Nevada Administrative Code ("NAC").
26 The purpose of the hearing is to consider the allegations stated below and to determine if
27 an administrative penalty will be imposed on the RESPONDENT pursuant to the
28 provisions of NRS and NAC including, but not limited to NRS 116.785 and NRS 116.790.

JURISDICTION AND NOTICE

During all relevant times, RESPONDENT ASSOCIATION Stanford Square is a
common-interest community located in Stateline, Nevada (Entity Number C5498-1980)

1 and RESPONDENT BOARD MEMBERS John Fragola, Erich Breisacher, and Daniel
2 Tepper served as board members and/or officers of RESPONDENT ASSOCIATION.
3 Therefore, the RESPONDENTS are subject to the provisions of Chapter 116 of each the
4 Nevada Revised Statutes (“NRS”) and the Nevada Administrative Code (“NAC”)
5 (hereinafter collectively referred to as “NRS 116”) and are subject to the jurisdiction of the
6 Division, and the Commission for Common-Interest Communities pursuant to the
7 provisions of NRS 116.750.

8 **FACTUAL ALLEGATIONS**

9 1. RESPONDENT ASSOCIATION is a common-interest community located in
10 Stateline, Nevada (Entity Number C5498-1980) with 32 units. *CCIC0001*.

11 2. RESPONDENT ASSOCIATION has been organized as a Domestic Non-
12 Profit Cooperative Corporation without Stock pursuant to NRS 81. *CCIC0001; 0003*.

13 3. From 2015 through November 2022, the RESPONDENT ASSOCIATION’S
14 Community Association Management Company was Associa Sierra North, and its
15 Community Association Managers (“CAM”) was Alfonso Alamillo, Jr, Debora Costa, and
16 other miscellaneous managers. *CCIC0030*.

17 4. As of January 2023, the RESPONDENT ASSOCIATION’S Community
18 Association Management Company has been The Management Trust, and its CAM has
19 been Cecilia Lebel. *CCIC0030*.

20 5. At all relevant times, the RESPONDENT ASSOCIATION was governed by
21 RESPONDENT BOARD MEMBERS John Fragola, Erich Breisacher, and Daniel Tepper.
22 *CCIC0002; 0030*.

23 6. The Office of the Ombudsman for Owners in Common-Interest Communities
24 and Condominium Hotels (“Ombudsman”) initiated an audit (“Initial Audit”) of
25 RESPONDENT ASSOCIATION in December 2022, for which it received no response from
26 RESPONDENT ASSOCIATION or its CAM. *CCIC0007–CCIC0013*.

27 7. On February 21, 2023, the Ombudsman referred the Initial Audit to the
28 Division’s compliance division for further investigation, after which the investigator issued

1 an initial investigation letter to RESPONDENT ASSOCIATION by and through its
2 registered CAM, Kera Randolph of The Management Trust. *CCIC0014–CCIC0015*.

3 8. On March 17, 2023, the Division issued a Request for Information letter via
4 certified mail to the RESPONDENT ASSOCIATION’S CAM, Kera Randolph of The
5 Management Trust, requesting response by March 26, 2023. *CCIC0016-0017*.

6 9. RESPONDENT ASSOCIATION, through its new CAM, Cecilia Lebel of The
7 Management Trust, sent a response dated March 23, 2023, indicating that owing to its
8 recent acquisition of Stanford Square as an association client and the departure of the
9 previously assigned manager, they could account for only a portion of the records
10 requested. *CCIC0019-0021*

11 10. Per the March 23, 2023, letter, Lebel represented that the following records
12 remained unaccounted for:

- 13 a. Violation Policy;
- 14 b. Executive Session Meeting Minutes (1/1/20-11/30/22);
- 15 c. Agendas and board packets (1/1/20-11/30/22);
- 16 d. CPA Audits 2020;
- 17 e. All financial documentation (1/1/20-11/30/22); and
- 18 f. Invoices and receipts for disbursements from Operating and Reserves
19 funds including Utilities (1/1/20-11/30/22).

20 *CCIC0019-0021*

21 11. On April 11, 2023, the Division communicated with CAM Lebel via email that
22 the administrative hold with the Nevada Secretary of State remained in place and
23 inquired about status. *CCIC0022-025*.

24 12. CAM Lebel indicated that she would “follow up on this and... get back to [the
25 investigator].” *CCIC0022*.

26 13. On April 23, 2023, the Division issued a letter of instruction regarding the
27 Nevada Secretary of State administrative hold and requiring RESPONDENT
28 ASSOCIATION to bring itself into compliance with the Nevada Secretary of State within

1 60 days of the date of the letter. *CCIC0026*.

2 14. The Ombudsman's audit was reopened on July 25, 2023, ("Reopened Audit")
3 and completed on August 2, 2023. *CCIC0028*.

4 15. The Reopened Audit identified some issues that were ultimately deemed
5 resolved, such as delinquent annual association registration (Form #562) and delinquent
6 unit fee payment, but also identified other issues remained unresolved as of the date the
7 audit closed, such as anomalies in reporting and an "Administrative Hold" status with the
8 Nevada Secretary of State for unpaid unit fees to the Ombudsman's Office. *CCIC0028-*
9 *0043*.

10 16. The Ombudsman's audit recommended referral to a Compliance Audit
11 investigator to address the issues identified by the audit that remained unresolved.
12 *CCIC0038*.

13 17. On September 27, 2023, the Division issued a letter to the RESPONDENT
14 ASSOCIATION and its executive board requesting written response within ten business
15 days of the date of that letter. *CCIC0044-047*.

16 18. Among the allegations asserted in the September 27, 2023, letter, the
17 Division requested confirmation if the RESPONDENT ASSOCIATION held any "meetings
18 outside of standard business hours." *CCIC0046*.

19 19. On November 8, 2023, RESPONDENT ASSOCIATION, through counsel
20 Donna Zanetti, responded to the Division's letter and attached exhibits in support of those
21 responses. *CCIC0048-0056*.

22 20. Among the responses asserted by the RESPONDENT ASSOCIATION
23 through counsel, it acknowledged that there were no meetings held during the 2020-2022
24 audit period other than at 1:30 pm or 3:00 pm. *CCIC0054*.

25 21. In its defense, the RESPONDENT ASSOCIATION noted that one of the three
26 board members resides on the east coast that would result in an evening meeting start
27 due to time zone differences, that it started its July 27, 2023, meeting at 5:00 pm and that
28 it would hold another meeting in 2023 to start at 5:00 pm as well. *CCIC0054*.

1 22. As of the date of filing of this Complaint the entity status of RESPONDENT
2 ASSOCIATION remains on “Administrative Hold” with the Nevada Secretary of State.
3 *CCIC0003-0005*.

4 23. On January 24, 2024, the Division notified RESPONDENTS in writing that
5 it would pursue disciplinary action in a hearing before the Commission for potential
6 violations of NRS 116. *CCIC0057-0058*.

7 **VIOLATIONS OF LAW**

8 Based on the foregoing alleged facts, the Division further alleges that the
9 RESPONDENTS committed the following violations of law:

10 1. RESPONDENTS violated NRS 116.3103 pursuant to NRS 116.31083 by
11 failing to hold meetings of the executive board from 2020 through 2022 at least twice
12 annually during times other than standard business hours.

13 2. RESPONDENTS violated NRS 116.3103 pursuant to NRS 116.3101 by
14 failing to bring the association into compliance with the requirements of its corporate
15 status with the Nevada Secretary of State, such that it continues to be subject to an
16 “Administrative Hold” status.

17 **DISCIPLINE AUTHORIZED**

18 Pursuant to the provisions of NRS 116.615; NRS 116.755; NRS 116.785; and NRS
19 116.790 the Commission has discretion to take any or all of the following actions:

20 1. Issue an order directing Respondent(s) to take affirmative action to correct
21 any conditions resulting from the violation.

22 2. Impose an administrative fine of up to \$1,000 for each violation by
23 Respondent(s).

24 3. Order the Respondent(s) to pay the costs of the proceedings incurred by the
25 Division, including, without limitation, the cost of the investigation and reasonable
26 attorney’s fees.

27 4. Approve application to a court of competent jurisdiction for the appointment
28 of a receiver for the Respondent(s).

1 The Commission may order one or any combination of the discipline described
2 above.

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) scheduled
9 for March 5-7, 2024, beginning at approximately 9:00 a.m. each day, or until such time as
10 the Commission concludes its business. The Commission meeting will be held at the
11 Nevada State Business Center, 3300 W. Sahara Avenue, 4th Floor, Tahoe Room, Las
12 Vegas, Nevada 89102 with videoconferencing to Department of Business & Industry,
13 Division of Insurance, 1818 E. College Parkway, Suite 103, Carson City, Nevada 89706.

14 **STACKED CALENDAR: Your hearing is one of several hearings that may**
15 **be scheduled at the same time as part of a regular meeting of the Commission**
16 **that is expected to take place on March 5-7, 2024. Thus, your hearing may be**
17 **continued until later in the day or from day to day. It is your responsibility to**
18 **be present when your case is called. If you are not present when your hearing**
19 **is called, a default may be entered against you and the Commission may decide**
20 **the case as if all allegations in the complaint were true. If you need to negotiate**
21 **a more specific time for your hearing in advance because of coordination with**
22 **an out of state witness or the like, please call Maria Gallo, Commission**
23 **Coordinator, at (702) 486-4074.**

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

1 the transcription. As a RESPONDENT, you are specifically informed that you have the
2 right to appear and be heard in your defense, either personally or through your counsel of
3 choice. At the hearing, the Division has the burden of proving the allegations in the
4 complaint and will call witnesses and present evidence against you. You have the right to
5 respond and to present relevant evidence and argument on all issues involved. You have
6 the right to call and examine witnesses, introduce exhibits, and cross-examine opposing
7 witnesses on any matter relevant to the issues involved.

8 You have the right to request that the Commission issue subpoenas to compel
9 witnesses to testify and/or evidence to be offered on your behalf. In making this request,
10 you may be required to demonstrate the relevance of the witness' testimony and/or
11 evidence. Other important rights and obligations, including your obligation to answer the
12 complaint, you have are listed in NRS Chapter 116 and NAC Chapter 116, including
13 without limitation, NRS 116.770 through 116.780, and NAC 116.500 through NAC
14 116.635 and NRS Chapter 233B.

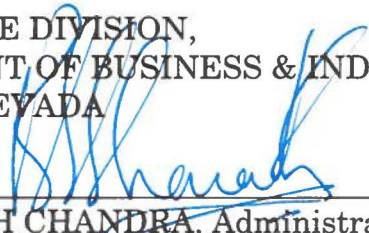
15 Note that under NAC 116.575, not less than five (5) working days before a hearing,
16 RESPONDENTS must provide to the Division a copy of all reasonably available
17 documents that are reasonably anticipated to be used to support his position, and a list of
18 witnesses RESPONDENTS intend to call at the time of the hearing. Failure to provide
19 any document or to list a witness may result in the document or witness being excluded
20 from RESPONDENTS' defense. The purpose of the hearing is to determine if the
21 RESPONDENTS have violated the provisions of NRS 116, and to determine what

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23 ///
24 ///
25 ///

1 administrative penalty is to be assessed against RESPONDENTS.

2 DATED this 1 day of February, 2024.

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4 REAL ESTATE DIVISION,
5 DEPARTMENT OF BUSINESS & INDUSTRY,
6 STATE OF NEVADA

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