

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 AND INDUSTRY, STATE OF
7 NEVADA,

8 Petitioner,

9 vs.

10 DEL REY ESTATES HOMEOWNERS
11 ASSOCIATION,
12 (Entity Number C11413-1995)

13 Respondent.

Case No. 2023-929

FILED

JUN 20 2024

NEVADA COMMISSION FOR
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS

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14 **FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

15 This matter came on for hearing before the Commission for Common-Interest
16 Communities and Condominium Hotels, State of Nevada (the "Commission") during a
17 regular agenda set on a three-day stack beginning at 9:00 am on June 11, 2024 (the
18 "Hearing."). Henry H. Kim, with Gordon Rees Scully Mansukhani, appeared on behalf of
19 Del Rey Estates Homeowners Association ("RESPONDENT") with new Board President
20 Dean Allen. The complainant Jon Margalit was present. Christal P. Keegan, Deputy
21 Attorney General with the Nevada Attorney General's Office, appeared on behalf of the
22 Real Estate Division of the Department of Business and Industry, State of Nevada
(the "Division").

23 Since the RESPONDENT admitted to the Division's factual allegations and
24 violations of law in its Complaint filed April 15, 2024, the parties made statements
25 regarding the RESPONDENT'S Proposed Resolution/Settlement in its Answer filed May
26 28, 2024. Additional information was provided by Board President Mr. Allen.
27 Complainant Mr. Margalit also made a statement.

28 . . .

1 **FINDINGS OF FACT**

2 Based on a preponderance of the evidence in the record, the documents admitted at
3 the Hearing, and by stipulation of the parties, the Commission voted, to find all the
4 following factual allegations were proven:

5 1. On or about November 1, 2023, the Division received a homeowner complaint
6 against the RESPONDENT executive board. *Exhibit 2, CIC 010.*

7 2. Therefore, on or about November 16, 2023, the Division opened an
8 investigation against the RESPONDENT, with a deadline to respond by December 1, 2023.
9 *Exhibit 3, CIC 036-038.*

10 3. On December 1, 2023, RESPONDENT failed to respond to the Division.
11 *Exhibit 3, CIC 039-041.*

12 4. Therefore, on or about December 5, 2023, in the Division's second attempt
13 to the RESPONDENT, it extended the deadline to respond by December 19, 2023.
14 *Exhibit 3, CIC 039-041.*

15 5. On or about December 27, 2023, RESPONDENT Brian K. Berman as
16 its Board President finally remitted his untimely response to the Division. *Exhibit 4,*
17 *CIC 047-051.*

18 6. At all times relevant, RESPONDENT'S Board was comprised of three (3)
19 members, Board President Berman, Secretary Dean Allen, and Treasurer John
20 Hernandez. *Exhibit 1, CIC 002, and Exhibit 4, CIC 068.*

21 7. At all times relevant, President Berman was also acting as the
22 RESPONDENT'S attorney and custodian of records. *Exhibit 1, CIC 002, Exhibit 4,*
23 *CIC 072.*

24 8. RESPONDENT President Berman represented that the Association is run
25 by him and Secretary Allen. *Exhibit 4, CIC 068.*

26 9. RESPONDENT President Berman represented Treasurer Hernandez moved
27 to Georgia and "has not been involved with association affairs in a number of years."
28 *Exhibit 4, CIC 068.*

1 10. At all times relevant, the RESPONDENT President Berman admitted “there
2 has not been an annual meeting in a number of years” but claimed “it is not for want of
3 trying”. *Exhibit 4, CIC 050.*

4 11. In a letter to the homeowners dated February 20, 2018, RESPONDENT
5 President Berman indicated the last four annual meetings were attempted, claiming
6 quorum prevented it from holding elections and conducting official business. *Exhibit 4,*
7 *CIC 050.*

8 12. As a result, RESPONDENT President Berman stated: “I have basically given
9 up trying.” *Exhibit 4, CIC 050.*

10 13. RESPONDENT President Berman advised the Division “that there are no
11 meeting minutes, no election records, no financial statements and no budgets from the
12 requested timeframe [January 1, 2020, to present].” *Exhibit 4, CIC 064.*

13 14. RESPONDENT President Berman admitted “[t]here has never been a
14 reserve study.” *Exhibit 4, CIC 065.*

15 15. RESPONDENT President Berman reasoned its 25-year history established
16 that a professionally prepared reserve study was an entirely unnecessary expenditure.
17 *Exhibit 4, CIC 065.*

18 16. Despite missing from RESPONDENT’S bank statements, President Berman
19 produced a check copy of Check #1080 dated March 3, 2021, to “Brian Berman, Chtd.” with
20 President Berman as the sole signatory. *Exhibit 5, CIC 314.*

21 17. RESPONDENT President Berman represented to the Division that he only
22 reimbursed himself for “\$22.30 reimbursement for postage” and “a reimbursement for the
23 Association’s Nevada Secretary of State annual filings.” *Exhibit 5, CIC 073.*

24 18. But carbon copy of duplicate Check #1068 dated February 20, 2019, to “Brian
25 K. Berman” indicated otherwise. *Exhibit 5, CIC 324.*

26 19. The carbon copy of duplicate check #1075 dated July 1, 2020, to “Dean Allen”
27 with “void” written in black ink contradicts other evidence of a note that it was paid: “pd
28 7/1/20”. *Exhibit 5, CIC 331, and CIC 304.*

1 **ORDER**

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

4 1. RESPONDENT shall pay the costs of the investigation and the hearing in
5 the amount of \$3,818.34 which are actual, reasonable, and necessary within 60 days of
6 entry of Order.

7 2. RESPONDENT shall perform a reserve study by a licensed reserve study
8 specialist, and such requirement may be stayed until the next Commission meeting if the
9 Association determines it is a limited-purpose association for exemption purposes.

10 3. RESPONDENT shall provide a status report at the September 10-12, 2024
11 Commission Meetings on the following:

- 12 a. Bank statements from December 31, 2023 to August 2024;
- 13 b. Draft budget for 2025; and
- 14 c. Tax return filings for years 2022 and 2023.

15 4. All three (3) board members must be present and appear at the September
16 10-12, 2024 Commission Meetings.

17 5. If payment is not actually received by the Division on or before its due date,
18 it shall be a default by RESPONDENT. In the event of default, the unpaid balance of the
19 administrative fine and costs, together with any attorney's fees and costs that may have
20 been assessed, shall be due in full to the Division within ten (10) calendar days of the date
21 of default, and the Division may obtain a judgment for the amount owed, including
22 collection fees and costs;

23 ...
24 ...
25 ...

