

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 MANTOVA COMMUNITY ASSOCIATION,
11 CHARLES WRIGHT, PAMELIA LOWRY,
12 and TRICIA YOST,
13 (Entity Number C18509-2002)

14 Respondents.

Case No. 2023-384

FILED

MAY 10 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 Mantova Community Association ("RESPONDENT ASSOCIATION") and association
21 board members Charles Wright, Pamela Lowry, and Tricia Yost, ("RESPONDENT
22 BOARD MEMBERS") of an administrative hearing before the Commission for Common-
23 Interest Communities and Condominium Hotels, State of Nevada, which is to be held
24 pursuant to Chapters 233B and Chapters 116 of the Nevada Revised Statutes ("NRS") and
25 Chapter 116 of the Nevada Administrative Code ("NAC"). The purpose of the hearing is
26 to consider the allegations stated below and to determine if an administrative penalty will
27 be imposed on the RESPONDENT pursuant to the provisions of NRS and NAC including,
28 but not limited to NRS 116.785 and NRS 116.790.

JURISDICTION AND NOTICE

During all relevant times, RESPONDENT is a common-interest community located

1 in Henderson, Nevada (Entity Number C18509-2002) and is, therefore, subject to the
2 provisions of Chapter 116 of each the Nevada Revised Statutes (“NRS”) and the Nevada
3 Administrative Code (“NAC”) (hereinafter collectively referred to as “NRS 116”) and are
4 subject to the jurisdiction of the Division, and the Commission for Common-Interest
5 Communities pursuant to the provisions of NRS 116.750.

6 **FACTUAL ALLEGATIONS**

7 1. RESPONDENT ASSOCIATION is a common-interest community located in
8 Henderson, Nevada (Entity Number C18509-2002) with 123 units. *CCIC0004; 0016-0019.*

9 2. At all times relevant to the Complaint, the Respondent’s management
10 company was FirstService Residential, and managed by community manager Michelle
11 Wolven. *CCIC0004; 0016-0019.*

12 3. At all relevant times, the RESPONDENT ASSOCIATION was governed by
13 RESPONDENT BOARD MEMBERS Charles Wright, Pamela Lowry, and Tricia Yost.
14 *CCIC0004; 0016-0019.*

15 4. The Office of the Ombudsman for Owners in Common-Interest Communities
16 and Condominium Hotels (“Ombudsman”) initiated an audit (“Initial Audit”) of
17 RESPONDENT ASSOCIATION in February of 2023, completing the audit on May 8, 2023.
18 *CCIC0001–CCIC0015.*

19 5. The Audit noted that the RESPONDENTS had initial non-compliance issues
20 including delinquent reserve study and delinquent submission of reserve study Form 609.
21 *CCIC 0001; 0007-0008.*

22 6. The Audit further determined that the Association’s Reserve balance was
23 allowed to be depleted from a level of 92% in 2016 to 16% funded as of 1/1/23. *CCIC 0001;*
24 *0007-0008.*

25 7. The Audit further determined that the RESPONDENTS relied upon Due-to
26 accounts and failed to prepare an adequate budget to fund its daily operations, resulting
27 in low Reserve funding. *CCIC 0008-0009.*

28 8. The Audit further determined that the RESPONDENTS allowed unit owners

1 and family members of unit-owners to be employed or to contract with the Association to
2 provide services, and that some of those services required a license which the contractors
3 did not have. *CCIC 0009-0010*.

4 9. The Audit further determined the RESPONDENTS did not have proper
5 policies in place, or meeting minutes regarding, the purchase and use of gift cards
6 purchased by Board members using board funds in lieu of petty cash disbursements. *CCIC*
7 *0010-0011*.

8 10. On May 10, 2023, the Ombudsman referred the Initial Audit to the Division's
9 compliance division for further investigation. *CCIC0001*.

10 11. On January 11, 2024, the Division opened an investigation against
11 Respondent association and issued a Request for Information (RFI) letter via certified mail
12 to the RESPONDENTS, requesting response within ten (10) business days of the letter.
13 *CCIC0020-0022*.

14 12. In a letter dated January 11, 2024, the RESPONDENTS provided a response
15 to the RFI, which included a copy of reserve study adopted on 12/26/23, a draft of the Form
16 609, and a copy of a letter sent to the unit owners regarding the assessment increases
17 adopted at the 12/26/23 board meeting. *CCIC0023; 0024-0211*.

18 13. The letter sent to unit owners noted that the Association's Reserve fund
19 would only be 5% funded as of 1/1/24. *CCIC0209*.

20 14. On March 30, 2024, the Division notified RESPONDENTS in writing that it
21 would pursue disciplinary action in a hearing before the Commission for potential
22 violations of NRS 116. *CCIC0212-0213*.

23 VIOLATIONS OF LAW

24 1. RESPONDENTS violated NRS 116.3103 pursuant to NRS 116.31152 by
25 failing to timely perform its required quinquennial Reserve Study.

26 2. RESPONDENTS violated NRS 116.3103 pursuant to NRS 116.31152 by
27 failing to timely submit a Reserve Study Form (Form 609) to the Division.

28 3. RESPONDENTS violated NRS 116.3115(2)(b) pursuant to NRS

1 116.31152(1)(b)(c) by failing to exercise ordinary and reasonable care by allowing its
2 Reserve balance to be depleted from a level of 92% in 2016 to 16% funded as of 1/1/23 and
3 5% funded as of 1/1/24.

4 4. RESPONDENTS violated NRS 116.3115 pursuant to NRS 116.31151 by
5 failing to adequately prepare a budget to meet the association's operating expenses and to
6 adequately fund the Reserve account.

7 5. RESPONDENTS violated NRS 116.3103 pursuant to NRS 116.3115(2)(b) by
8 failing to exercise ordinary and reasonable care in allowing excessive Due-to obligations
9 from its Reserve fund to its operating account to deplete the Reserve fund to extremely
10 low levels.

11 6. RESPONDENTS violated NRS 116.3103 pursuant to NAC 116.405(8)(i) by
12 failing to exercise ordinary and reasonable care by allowing unmonitored and unapproved
13 acquiring and usage of gift cards by board members using board funds.

14 **DISCIPLINE AUTHORIZED**

15 Pursuant to the provisions of NRS 116.615; NRS 116.755; NRS 116.785; and NRS
16 116.790 the Commission has discretion to take any or all of the following actions:

17 1. Issue an order directing Respondent to take affirmative action to correct any
18 conditions resulting from the violation.

19 2. Impose an administrative fine of up to \$1,000 for each violation by
20 Respondent.

21 3. Order the Respondent to pay the costs of the proceedings incurred by the
22 Division, including, without limitation, the cost of the investigation and reasonable
23 attorney's fees.

24 4. Approve application to a court of competent jurisdiction for the appointment
25 of a receiver for the Respondent.

26 The Commission may order one or any combination of the discipline described
27 above.

1 **NOTICE OF HEARING**

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

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

16
17 **STACKED CALENDAR:** Your hearing is one of several hearings that may
18 be scheduled at the same time as part of a regular meeting of the Commission
19 that is expected to take place on June 11-13, 2024. Thus, your hearing may be
20 continued until later in the day or from day to day. It is your responsibility to
21 be present when your case is called. If you are not present when your hearing
22 is called, a default may be entered against you and the Commission may decide
23 the case as if all allegations in the complaint were true. If you need to negotiate
24 a more specific time for your hearing in advance because of coordination with
25 an out of state witness or the like, please call Maria Gallo, Commission
26 Coordinator, at (702) 486-4074.

27 **YOUR RIGHTS AT THE HEARING:** Except as mentioned below, the hearing is
28 an open meeting under Nevada’s open meeting law and may be attended by the public.

1 After the evidence and arguments, the commission may conduct a closed meeting to
2 discuss your alleged misconduct or professional competence. You are entitled to a copy of
3 the transcript of the open and closed portions of the meeting, although you must pay for
4 the transcription. As a RESPONDENT, you are specifically informed that you have the
5 right to appear and be heard in your defense, either personally or through your counsel of
6 choice. At the hearing, the Division has the burden of proving the allegations in the
7 complaint and will call witnesses and present evidence against you. You have the right to
8 respond and to present relevant evidence and argument on all issues involved. You have
9 the right to call and examine witnesses, introduce exhibits, and cross-examine opposing
10 witnesses on any matter relevant to the issues involved.

11 You have the right to request that the Commission issue subpoenas to compel
12 witnesses to testify and/or evidence to be offered on your behalf. In making this request,
13 you may be required to demonstrate the relevance of the witness' testimony and/or
14 evidence. Other important rights and obligations, including your obligation to answer the
15 complaint, you have are listed in NRS Chapter 116 and NAC Chapter 116, including
16 without limitation, NRS 116.770 through 116.780, and NAC 116.500 through NAC
17 116.635 and NRS Chapter 233B.

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

26 DATED this 9 day of May, 2024.
27

28 REAL ESTATE DIVISION,
DEPARTMENT OF BUSINESS & INDUSTRY,

STATE OF NEVADA

By: 

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