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. Rancho San Juan Homeowners Association, Christopher Seckler, Sebastian Mayo, and Cesar Valdez, Respondents.	Case No. 2021-161

FILED
JAN 24 2022
NEVADA COMMISSION FOR COMMON INTEREST COMMUNITIES AND CONDOMINIUM HOTELS
Kelley Valadez

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 Virginia T. Tomova, Deputy Attorney General, hereby notifies RESPONDENTS RANCHO SAN JUAN HOMEOWNERS ASSOCIATION, ("Association"), CHRISTOPHER SECKLER, SEBASTIAN MAYO, and CESAR VALDEZ (collectively, "RESPONDENTS") 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 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 RESPONDENTS pursuant to the provisions of NRS and NAC including, but not limited to, NRS 116.785 and NRS 116.790.

JURISDICTION AND NOTICE

1. During the relevant times mentioned in this complaint, RESPONDENTS CHRISTOPHER SECKLER, SEBASTIAN MAYO, and CESAR VALDEZ served as board

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members and/or officers of SAN JUAN HOMEOWNERS ASSOCIATION (the "Association"), a common-interest community located in Las Vegas, Nevada.

2. RESPONDENTS are subject to the provisions of Chapter 116 of each the Nevada Revised Statutes ("NRS") and the Nevada Administrative Code ("NAC") (hereinafter collectively referred to as "NRS 116") and are subject to the jurisdiction of the Division, and the Commission for Common-Interest Communities pursuant to the provisions of NRS 116.750.

FACTUAL ALLEGATIONS

3. RANCHO SAN JUAN HOMEOWNERS ASSOCIATION is a 61 mobile homes community located in Las Vegas, Nevada ("the community").

4. At all relevant times, the Association was governed by three resident board members Christopher Seckler, Sebastian Mayo and Cesar Valdez.

5. The Division and the Secretary of State records reflect that Dario Mejia Ochoa and Clara Mireles-Hernandez are the current board members of the Association as of October 2021.

6. Based on these records RESPONDENTS Mayo and Valdez were board members from July 2020 to October 2021.

7. On or about February 11, 2021, the Division received an intervention affidavit from a resident complainant Renee Montenegro ("Ms. Montenegro"), who was also a former president of the Association.

8. Ms. Montenegro informed the Division that the board members failed to establish adequate reserves for the Association.

9. On March 10, 2021, the Division properly gave notice to the Association that it had opened an investigation regarding the Association and possible violations of NRS/NAC 116 and alleged certain violations and requested responses from each Board member regarding the Board's failure to properly fund the Association's reserve account.

10. As part of its investigation, on or about March 10, 2021, the Division requested that the Association produce the following documents:

a. Copies of all meeting minutes from January 2018 through February 2021;
b. Copies of all monthly interim financial statements (pursuant to NAC 116.451) from January 2018 through February 2021;
c. Copies of all bank statements for all Association accounts from January 2018 through February 2021; and
d. A copy of the most current reserve study.

11. On or about March 29, 2021, the Division sent a **second request** to the Association, to produce the above requested documents.

12. On or about May 6, 2021, the Division sent a **third request** to the Association, to produce the above requested documents.

13. On or about June 21, 2021, **more than three months** from the Division's initial request for the documents, the Division received electronic copies of the:

a. Reserve, operating and petty cash accounts for the Association for the period of January 2021 through April 2021;
b. 2020 financial statements for September, October, November, and December and January 2021;
c. 2021 Bank statements for January, February, March and April; and
d. The 2019 Reserve Study.

14. On or about June 21, 2021, Amy L. Groves with Nevada's Finest Properties, LLC informed the Division that the Association is "probably 10% funded now," which confirms that the board members failed to establish adequate reserves for the Association.

15. The Association's 2019 Reserve Study ("the Reserve Study") also showed that the reserve account was extremely underfunded.

16. The Association's 2019 Reserve Study showed that:

a. The Board failed to adhere to the approved Reserve Budget or Reserve Study Recommendations.
b. The Board failed to adequately fund the reserve accounts.
c. Specifically, the 2019 Reserve Study recommended an ideal monthly reserve contribution of $3,560.00 ($58.36 per unit) per month, with a minimum reserve contribution of $3,000.00 ($49.18 per unit) per month.
d. The Reserve Study showed that the Association's projected starting balance as of January 1, 2019, was $29,506.00, when the reserve balance should have been $392,872.00, a deficit of $363,366.00.
e. In comparing the projected starting reserve balance of $29,506.00 versus the ideal reserve balance of $392,872.00, the Association's reserve fund was approximately 8% funded.

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f. To assist with the Association's underfunding of its reserve account, the Reserve Study recommended a special assessment of $300,000.00.

17. According to the Reserve Study Summary Form ("summary"), dated April 24, 2019 :

a. The Association was -5.43% underfunded;
b. The board was aware of the extreme underfunding; and
c. The Association has not funded the reserves on a consistent basis for many years.

18. According to the Annual Association Registration dated October 18, 2021, the Association's reserve account balance was $65,591.90 when the required reserve account should have been $371,892.00, which shows that the Association was funded at 17.63%.

19. According to the Annual Association Registration dated March 6, 2019, the Association's reserve account balance was $34,884.00 when the required reserve account balance should have been $170,701.00, which shows that the Association was funded at 20.43%.

20. According to the Annual Association Registration dated March 9, 2018, the Association's reserve account balance was $40,275.00 when the required reserve account per the 2013 Reserve Study should have been $163,204.00, which shows that the Association was funded at 24.67%.

21. The Division's investigation revealed that from 2018 to 2020, the Association was managed by Griswold Real Estate Management.

22. Subsequently, the Division's investigation revealed that the Association was managed by First Colombia Community Management, Inc. ("FCCMI").

23. The Division's further investigation revealed that the Association was then managed by Paradigm Realty, that did not have a community management certificate.

24. Following Paradigm's management, the Association was managed by Amy Groves with Nevada's Finest Properties in June of 2021.

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25. On or about January 11, 2022, the Division received an electronic correspondence from Michelle Tagata with Varalino Community Management, that Varalino was now managing the Association.

26. To date, the Association has not provided the Division with the meeting minutes from January 2018 through February 2021, financial statements for 2018, and 2019, and bank statements for 2018, 2019 and 2020.

27. On June 29, 2021, the Division properly notified the Association and the board that it will commence a disciplinary action by filing a Complaint for a hearing before the Commission.

28. No Board member provided a response to the Division.

VIOLATIONS OF LAW

29. RESPONDENTS violated NRS 116.3103 (through NAC 116.405(3)) by failing to act on an informed basis, in good faith and in honest belief that their action was in the best interests of the Association by committing incompetence, negligence or gross negligence by failing to adequately fund the reserve account.

30. RESPONDENTS violated NRS 116.3103 (through NAC 116.405(5)) by failing to comply with a request by the Division to provide information or documents.

31. RESPONDENTS violated NRS 116.31152 by failing to determine if the Association's reserves are sufficient based on the reserve study and by failing to adjust the Association's funding plan for the required reserves.

32. RESPONDENTS violated NRS 116.3103 (through NAC 116.405(3)) by failing to act in good faith and in the best interests of the Association when they committed an act or omission which amounts to incompetence, negligence or gross negligence by failing to comply with Nevada law.

33. RESPONDENTS violated NRS 116.3103 (through NAC 116.405(8)(a)) by failing to act in good faith and in the best interests of the Association when they failed to cause the Association to comply with all state laws and the governing documents of the Association.

34. RESPONDENTS violated NRS 116.3103 (through NAC 116.405(5)(a)) by impeding or otherwise interfering with an investigation of the Division by failing to comply with a request by the Division to provide information or documents.

DISCIPLINE AUTHORIZED

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

1. Issue an order directing RESPONDENTS to cease and desist from continuing to engage in the unlawful conduct that resulted in the violation.

2. Issue an order directing RESPONDENTS to take affirmative action to correct any conditions resulting from the violation.

3. Impose an administrative fine of up to $1,000 for each violation by RESPONDENTS.

4. IF RESPONDENTS ARE FOUND TO HAVE KNOWINGLY AND WILLFULLY COMMITTED A VIOLATION of NRS or NAC 116 AND it is in the best interest of the Association, such RESPONDENTS may be removed from his/her position as a director and/or officer.

5. Order an audit of the ASSOCIATION, at the expense of the ASSOCIATION.

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

7. Take whatever further disciplinary action as the Commission deems appropriate.

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

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NOTICE OF HEARING

PLEASE TAKE NOTICE, that a disciplinary hearing has been set to consider this Administrative Complaint against the above-named RESPONDENTS 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 March 1-3, 2022, 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, Nevada Room, 4th Floor, Las Vegas, Nevada 89102 with videoconferencing to Department of Business & Industry, Division of Insurance, 1818 E. College Parkway, Suite 103, Carson City, Nevada 89706.

If the meeting will not be conducted in person, then you will be notified by known email or mail as soon as possible that the Commission will conduct a virtual meeting using Webex.com with the meeting information below:

DIAL-IN NUMBER: (844) 621-3956 or Webex.com

TUESDAY, MARCH 1, 2022 **MEETING NUMBER ACCESS CODE: 2493 368 6567**
MEETING PASSWORD: tS5NAtapd33 (87562827333 from phones and video systems)

WEDNESDAY, MARCH 2, 2022 **MEETING NUMBER ACCESS CODE: 2491 202 8116**
MEETING PASSWORD: 7G8UyK8Hdvf (74889584383 from phones and video systems)

THURSDAY, MARCH 3, 2022 **MEETING NUMBER ACCESS CODE: 2491 892 6520**
MEETING PASSWORD: 4aK5pBPipt2 (42557274782 from phones and video systems)

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 March 1-3, 2022. 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 is called, a default may be entered against you and the Commission may decide the case as if all allegations in the complaint were true. If you need to negotiate a

more specific time for your hearing in advance because of coordination with out of state witnesses or the like, please call Kelly Valadez, Commission Coordinator, at (702) 486-4606.

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

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

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

Note that under NAC 116.575, not less than five (5) working days before a hearing, RESPONDENTS must provide to the Division a copy of all reasonably available documents that are reasonably anticipated to be used to support his position, and a list of witnesses RESPONDENTS intend to call at the time of the hearing. Failure to provide any document or to list a witness may result in the document or witness

being excluded from RESPONDENTS' defense. The purpose of the hearing is to determine if the RESPONDENTS have violated the provisions of NRS 116, and to determine what administrative penalty is to be assessed against RESPONDENTS.

DATED this 24 day of January, 2022.

REAL ESTATE DIVISION,
DEPARTMENT OF BUSINESS & INDUSTRY, STATE OF NEVADA

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