BEFORE THE COMMISSION FOR COMMON-INTEREST COMMUNITIES AND CONDOMINIUM HOTELS STATE OF NEVADA

SHARATH CHANDRA, Administrator, REAL ESTATE DIVISION, DEPARTMENT OF BUSINESS AND INDUSTRY, STATE OF NEVADA, Petitioner, vs. STANFORD SQUARE, (Entity Number C5498-1980); JOHN FRAGOLA; ERICH BREISACHER; and DANIEL TEPPER; Respondent.	Case No. 2023-35

FILED
OCT 15 2024
NEVADA COMMISSION FOR COMMON INTEREST COMMUNITIES AND CONDOMINIUM HOTELS

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

This matter came on for hearing before the Commission for Common-Interest Communities and Condominium Hotels, State of Nevada (the "Commission") on Wednesday, September 11, 2024. (the "Hearing") Respondent STANFORD SQUARE ("RESPONDENT ASSOCIATION") appeared by and through their community manager, Chera Wolfe. Phil W. Su, Senior Deputy Attorney General, appeared on behalf of the Real Estate Division of the Department of Business and Industry, State of Nevada (the "Division").

The parties agreed to stipulate to the facts and legal violations as set forth in the Complaint. Attorney Su further noted that RESPONDENT ASSOCIATION demonstrated proof of compliance with the two remaining issues by having the Secretary of State remove the administrative hold status on RESPONDENT ASSOCIATION'S entity registration, and by holding two (2) after-hours board meetings, on April 30, 2024, and July 30, 2024.

FINDINGS OF FACT

Based on a preponderance of the evidence in the record and the documents admitted at the Hearing, the Commission hereby finds that the following factual allegations were

proven:

JURISDICTION AND NOTICE

During all relevant times, RESPONDENT ASSOCIATION Stanford Square is a common-interest community located in Stateline, Nevada (Entity Number C5498-1980) and RESPONDENT BOARD MEMBERS John Fragola, Erich Breisacher, and Daniel Tepper served as board members and/or officers of RESPONDENT ASSOCIATION. Therefore, the 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

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

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

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

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

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

6. The Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels ("Ombudsman") initiated an audit ("Initial Audit") of

RESPONDENT ASSOCIATION in December 2022, for which it received no response from RESPONDENT ASSOCIATION or its CAM. *CCIC0007–CCIC0013.*

7. On February 21, 2023, the Ombudsman referred the Initial Audit to the Division's compliance division for further investigation, after which the investigator issued an initial investigation letter to RESPONDENT ASSOCIATION by and through its registered CAM, Kera Randolph of The Management Trust. *CCIC0014–CCIC0015.*

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

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

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

a. Violation Policy;

b. Executive Session Meeting Minutes (1/1/20-11/30/22);

c. Agendas and board packets (1/1/20-11/30/22);

d. CPA Audits 2020;

e. All financial documentation (1/1/20-11/30/22); and

f. Invoices and receipts for disbursements from Operating and Reserves funds including Utilities (1/1/20-11/30/22).

CCIC0019-0021

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

12. CAM Lebel indicated that she would "follow up on this and... get back to [the

investigator]." *CCIC0022.*

13. On April 23, 2023, the Division issued a letter of instruction regarding the Nevada Secretary of State administrative hold and requiring RESPONDENT ASSOCIATION to bring itself into compliance with the Nevada Secretary of State within 60 days of the date of the letter. *CCIC0026.*

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

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

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

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

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

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

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

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

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

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

CONCLUSIONS OF LAW

Based on the foregoing factual findings and upon a preponderance of the evidence, the Commission hereby finds that the following violations of law occurred:

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

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

ORDER

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

1. RESPONDENT ASSOCIATION shall pay to the Division a total amount of $4,364.01, which entirely consists of the Division's prehearing costs and attorney's fees. The total amount is payable within thirty (30) days of the effective date of this Order.

2. The total amount due reflects that no administrative fine has been assessed by the Commission to RESPONDENT ASSOCIATION for committing the above-stated

violation of law.

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

4. The Commission retains jurisdiction for correcting any errors that may have occurred in the drafting and issuance of this document.

DATED this 15th day of October, 2024.

COMMISSION FOR COMMON-INTEREST COMMUNITIES AND CONDOMINIUM HOTELS

By: _____
PHYLLIS TOMASSO
Chairperson of the Commission

Submitted by:

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Attorney General of Nevada

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