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. JOHN BIELUN, Respondent.	Case No. 2023-979

FILED

OCT 31 2024

NEVADA COMMISSION FOR COMMON INTEREST COMMUNITIES AND CONDOMINIUM HOTELS

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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 Phil W. Su, Senior Deputy Attorney General, hereby notifies JOHN BIELUN ("RESPONDENT") 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 Chapters 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

During all relevant times, RESPONDENT was an executive board member/director of a Henderson, Nevada, common-interest community, Resort Villa Owners Association (the "Association"), and is, therefore, 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 is

subject to the jurisdiction of the Division, and the Commission for Common-Interest Communities and Condominium Hotels pursuant to the provisions of NRS 116.750.

FACTUAL ALLEGATIONS

1. On November 16, 2023, the Division received an Intervention Affidavit from Complainant Wendy Sue Denman regarding an allegation that RESPONDENT sent one or more emails entitled "It Takes a Village" from an info@resortvillashomeowners.com email address to selected unit owners of Resorts Villa Owners Association. **CICCH001-014.**

2. Complainant alleged that RESPONDENT, from his info@resortvillashomeowners.com email account, sent an email that represented himself as a board member and that stated "inaccuracies and misinformation" and "called out previous and current board members with definitive descriptions of who they are and who he is targeting." **CICCH001-014.**

3. Attached to the Intervention Affidavit was the subject September 25, 2023, "It Takes a Village" email from the RESPONDENT. **CICCH005-007.**

4. Also attached to the Intervention Affidavit was an August 23, 2023, proxy request response email from Taylor Management attempting to address concerns the Association was facing a "financial crisis," out of Taylor Management's stated concern that such allegations could affect the marketability and value of the homes in the community. **CICCH008-014.**

5. On February 16, 2024, Division Investigator Christina Pitch sent an initial open investigation and request for information letter ("#1 RFI") to RESPONDENT, noting that "it [was] alleged that [he] violated NRS 116.3103 through NAC 116.405 as on or about 9/25/23 [he] represented [himself] as a board member and sent emails to selected unit owners containing inaccuracies and misleading information regarding the financial condition of the Association." **CICCH015-017.**

6. On February 22, 2024, RESPONDENT replied to the #1 RFI, denying any violation of statute and requesting proof of allegations asserted in the open investigation

letter. **CICCH018.**

7. On April 4, 2024, Investigator Pitch sent a second request for information letter ("#2 RFI") directed to the board of directors of the Association, including RESPONDENT, stating: "It was alleged that Mr. Bielun sent a unit owner an email that was filled with "inaccuracies" and "misinformation" which the unit owner found to be inappropriate and unacceptable (see enclosed email copy). Did the board grant Mr. Bielun the authority to send this email in his role as a board member?" **CICCH019-023.**

8. On April 7, 2024, RESPONDENT sent Investigator Pitch a responsive letter to the #2 RFI, stating that the September 25, 2023, letter contained "no inaccuracies or confidential information" and referring Investigator Pitch to another responsive letter he sent the Division regarding a separate, concurrent Division investigation against him, Case #2023-662. **CICCH024-025.**

9. That same weekend, Association board members Burgess, McCoy, Camicia, and Simpson sent responsive emails to Investigator Pitch, where each affirmed that the board never granted RESPONDENT authority to send any emails to other unit owners on behalf of the board. **CICCH026; 027; 038; 039.**

10. Camicia noted that the "It Takes a Village" website and emails were "the platform [RESPONDENT] created to publicize his own self-serving version of HOA "facts," and that the Resort Villas HOA board of directors did not authorize or request RESPONDENT to write or distribute the email referenced in RFI #2. **CICCH040.**

11. On May 27, 2024, the Division sent, via Certified Mail, an NRS 233B letter notifying the RESPONDENT that it would pursue disciplinary action in a hearing before the Commission for potential violations of NRS 116. **CICCH041-042.**

VIOLATIONS OF LAW

1. RESPONDENT willfully and knowingly violated NRS 116.3103 through NAC 116.405(1) by failing to exercise ordinary and reasonable care when he acted outside the scope of his authority granted in the governing documents by representing himself as a board member in his "It Takes a Village" communications to unit owners,

where he provided his personal opinions and narratives regarding Association issues, without prior board approval.

2. RESPONDENT willfully and knowingly violated NRS 116.3103 through NAC 116.405(3)(d) by failing to exercise ordinary and reasonable care when he acted without authority first granted by the executive board by representing himself as a board member in his "It Takes a Village" communications to unit owners, where he provided his personal opinions and narratives regarding Association issues, without prior board approval.

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 Respondent to take affirmative action to correct any conditions resulting from the violation.

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

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

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

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

NOTICE OF HEARING

PLEASE TAKE NOTICE that a disciplinary hearing has been set to consider this Administrative Complaint against the above-named RESPONDENT 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 December 3-5, 2024, 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, 4th Floor, Nevada Room, Las Vegas, Nevada 89102 on December 3 – 4, 2024, with videoconferencing to Department of Business & Industry, Division of Insurance, 1818 E. College Parkway, Suite 103, Carson City, Nevada 89706. The Commission meeting will be held at the Nevada State Business Center, 3300 W. Sahara Avenue, 4th Floor, Tahoe Room, Las Vegas, Nevada 89102 on December 5, 2024, with videoconferencing to Department of Business and Industry, Division of Insurance, 1818 E. College Parkway, Suite 103, Carson City, Nevada 89706.

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 December 3-5, 2024. 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 an out of state witness or the like, please call Maria Gallo, Commission Coordinator, at (702) 486-4074.

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, RESPONDENT 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 RESPONDENT 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 RESPONDENT'S defense.

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The purpose of the hearing is to determine if the RESPONDENT has violated the provisions of NRS 116, and to determine what administrative penalty is to be assessed against RESPONDENT.

DATED this 30 day of OCTOBER, 2024.

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

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