



EXHIBIT 19

Andrea Collier
v.
Pennie Mossett-Puhek, et al.

Transcript of
Katherine Matheson
Volume I
February 6, 2024



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DISTRICT COURT
CLARK COUNTY, NEVADA

ANDREA COLLIER, as)
trustee of the JACT)
TRUST,)
Plaintiff,)
vs.)
PENNIE MOSSETT-PUHEK,)
individually; ANTHEM)
HIGHLANDS COMMUNITY)
ASSOCIATION, a Nevada)
Non-Profit Corporation;)
DOES I through X and)
ROE BUSINESS ENTITIES I)
though X, inclusive,)
Defendants.)

Case No.: A-22-852032-C

DEPOSITION OF KATHERINE MATHESON
Taken on Tuesday, February 6, 2024
At 10:04 a.m.
At 8965 South Eastern Avenue, Suite 382
Las Vegas, Nevada

Reported by: Lori-Ann Landers, CCR 792, RPR
Job No. 55944, Firm No. 116F

2

1 A P P E A R A N C E S:

2 For the Plaintiff Andrea Collier, as trustee of the

3 JACT Trust

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22 ALSO PRESENT:

23 PENNIE MOSSETT-PUHEK

24 ANDREA COLLIER

3

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2 WITNESS PAGE

3 KATHERINE MATHESON

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4

1 P R O C E E D I N G S

2 (Prior to the commencement of the

3 deposition, all of the parties present agreed to

4 waive statements by the court reporter pursuant to

5 Rules 30(b)(5)(A) and 30(b)(5)(C) of the NRCP.)

6 (Witness sworn.)

7 KATHERINE MATHESON,

8 having been first duly sworn, was examined and

9 testified as follows:

10 EXAMINATION

11 BY MR. ELSON:

12 Q. Good morning.

13 A. Hi.

14 Q. My name is Timothy Elson and I represent

15 Ms. Andrea Collier in this matter. Before we begin

16 this deposition, could you please state and spell

17 your legal name for the record.

18 A. Katherine, K-a-t-h-e-r-i-n-e, middle initial

19 D, Matheson, M-a-t-h-e-s-o-n.

20 Q. Have you ever been sworn to tell the truth

21 before, Ms. Matheson?

22 A. I have.

23 Q. On how many occasions?

24 A. Oh, I would say under six.

25 Q. And what did those involve?

5

1 A. Depositions regarding my former business.

2 Q. When was the last time you were deposed?

3 A. Oh, in excess of 15 years. 15 to 20 years.

4 Q. Let me explain the basic rules of a

5 deposition; it's been a while since you have been

6 deposed. We will go through them just to make sure

7 there is no confusion here today.

8 Do you understand you are under oath here

9 today?

10 A. Yes.

11 Q. And that this is the same oath you would

12 take if we were before a judge and jury?

13 A. Yes.

14 Q. Do you understand that anything you say here

15 today carries the same penalty of perjury as it would

16 in front of a judge and jury?

17 A. Yes.

18 Q. Have you consumed any alcohol in the last

19 12 hours?

20 A. No.

21 Q. Have you consumed any prescription or

22 nonprescription medication in the last 24 hours?

23 A. No.

24 Q. Do you know of any reason why you can't give

25 me your best testimony here today?

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| <p style="text-align: right;">6</p> <p>1 A. No.</p> <p>2 Q. One of the basic rules of a deposition is</p> <p>3 only one person speaks at a time. The reason why is</p> <p>4 we have the court reporter here who is taking down</p> <p>5 everything that we're saying. It becomes very</p> <p>6 difficult to create a clean and accurate record if we</p> <p>7 are speaking over one another, so I would ask that</p> <p>8 you wait for me to finish asking my question before</p> <p>9 you answer and I will do my best to provide you the</p> <p>10 same courtesy.</p> <p>11 Is that fair?</p> <p>12 A. Yes.</p> <p>13 Q. Sometimes in ordinary language, we do things</p> <p>14 like ah-huhs or un-uns or nodding our head yes or no,</p> <p>15 and while that's perfectly fine in ordinary language,</p> <p>16 sometimes it makes it difficult to create a clean and</p> <p>17 accurate record. So from time to time I may say "Is</p> <p>18 that a yes?" or "Is that a no?" I'm not doing it to</p> <p>19 be rude; I'm just trying to create a clean and</p> <p>20 accurate record.</p> <p>21 Do you understand?</p> <p>22 A. Yes.</p> <p>23 Q. I don't want you to guess here today, but I</p> <p>24 am entitled to your best estimate.</p> <p>25 Do you understand the difference between a</p> | <p style="text-align: right;">8</p> <p>1 Q. As such I want you to understand my</p> <p>2 questions before you answer them. If you don't</p> <p>3 understand my question, please tell me and I will</p> <p>4 rephrase it as many times as necessary until you do</p> <p>5 understand the question.</p> <p>6 Is that fair?</p> <p>7 A. Yes.</p> <p>8 Q. Please be cautious, however, that if you</p> <p>9 provide me an answer to a question, everyone will</p> <p>10 have the right to understand you presumed the</p> <p>11 question before you answered it.</p> <p>12 Is that fair?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. From time to time we may take breaks.</p> <p>15 I don't anticipate your deposition is going to last</p> <p>16 all day.</p> <p>17 A. I hope not. I have a date at 3.</p> <p>18 Q. We should be done by then. In any event,</p> <p>19 from time to time we may take breaks, get up, stretch</p> <p>20 our legs, use the restroom. If at any point in time</p> <p>21 you need to take a break, just go ahead and ask. The</p> <p>22 only thing that I ask in response is that you answer</p> <p>23 any question that's pending before you or maybe I</p> <p>24 finish my line of questioning before you take a</p> <p>25 break.</p> |
| <p style="text-align: right;">7</p> <p>1 guess and an estimate?</p> <p>2 A. Yes.</p> <p>3 Q. Most people tell me they do, but I like to</p> <p>4 give a brief example to help demonstrate. If I asked</p> <p>5 you to estimate the length of the table in front of</p> <p>6 you, you could look at it using your everyday</p> <p>7 experiences, tell me what you believe it's X amount</p> <p>8 of feet long.</p> <p>9 If I asked you to estimate the length of the</p> <p>10 table in my house, seeing how you have never been to</p> <p>11 my house, that would be a pure guess.</p> <p>12 Does that correlate with your understanding?</p> <p>13 A. Yes.</p> <p>14 Q. Your testimony will come in a typed booklet</p> <p>15 format. You will have the opportunity to review it</p> <p>16 and make any changes that you wish to make to ensure</p> <p>17 that it is accurate. Please be cautious, however,</p> <p>18 that any changes you make to your deposition</p> <p>19 testimony at any time anyone will have the right to</p> <p>20 comment or opine as to whether or not you were</p> <p>21 telling the truth at one time or another. Therefore,</p> <p>22 it's really important we get your best testimony here</p> <p>23 today.</p> <p>24 Do you understand?</p> <p>25 A. Yes.</p> | <p style="text-align: right;">9</p> <p>1 Is that fair?</p> <p>2 A. Yes.</p> <p>3 Q. Do you have any questions before we begin?</p> <p>4 A. No.</p> <p>5 Q. Ms. Matheson, when were you born and where</p> <p>6 were you born?</p> <p>7 A. May 30, 1956, Las Vegas, Nevada.</p> <p>8 Q. I don't want to offend you, I ask this</p> <p>9 question of every witness I have ever deposed, have</p> <p>10 you ever been convicted of a felony?</p> <p>11 A. No.</p> <p>12 Q. Have you ever been convicted of a crime of</p> <p>13 moral turpitude, that is one involving deceit or</p> <p>14 dishonesty?</p> <p>15 A. No.</p> <p>16 Q. What did you do today to prepare for your</p> <p>17 deposition?</p> <p>18 A. Really nothing.</p> <p>19 Q. Did you review any documents?</p> <p>20 A. I looked at your address on the subpoena.</p> <p>21 Q. Have you ever seen the complaint in this</p> <p>22 case?</p> <p>23 A. No.</p> <p>24 Q. Do you know what the complaint is?</p> <p>25 A. Not really. Vaguely.</p> |

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| <p style="text-align: right;">10</p> <p>1 Q. The complaint is a document that initiates</p> <p>2 the lawsuit. It has the different allegations as to</p> <p>3 the basis of the lawsuit.</p> <p>4 Have you ever seen that document before?</p> <p>5 A. No, I have not.</p> <p>6 Q. Okay. Have you ever seen any written</p> <p>7 discovery in this case?</p> <p>8 A. No, I have not.</p> <p>9 Q. Have you ever seen any of the document</p> <p>10 production in this case?</p> <p>11 A. No.</p> <p>12 Q. Have you reviewed any depositions in this</p> <p>13 case?</p> <p>14 A. No.</p> <p>15 Q. As you sit here today, are you aware of what</p> <p>16 the subject matter of this case involves?</p> <p>17 A. Very broadly.</p> <p>18 Q. What's your understanding?</p> <p>19 A. It involves CC&R violations.</p> <p>20 Q. Do you have any other further understanding?</p> <p>21 A. No, I do not.</p> <p>22 Q. Did you speak to anybody about today's</p> <p>23 deposition?</p> <p>24 A. Yes.</p> <p>25 Q. Who did you speak with?</p> | <p style="text-align: right;">12</p> <p>1 Q. Just so the record is clear, you are</p> <p>2 pointing to your deposition notice or is that your</p> <p>3 subpoena?</p> <p>4 A. The subpoena that was --</p> <p>5 Q. Your subpoena. Other than Mr. Boyack, did</p> <p>6 you speak with anyone about your deposition?</p> <p>7 A. I spoke with the CEO of Terra West, Lisa</p> <p>8 Demarigny probably six weeks ago and she told me that</p> <p>9 I should expect a subpoena in this matter.</p> <p>10 Q. Would you please spell her name for the</p> <p>11 record.</p> <p>12 A. L-i-s-a, capital D-e-m-a-r-i-g-n-y.</p> <p>13 Q. How long did you speak with -- I'm going to</p> <p>14 call her Lisa because I'm sure I will mispronounce</p> <p>15 her last name. I will re-ask the question.</p> <p>16 How long did you speak with Lisa about your</p> <p>17 potential deposition of this matter?</p> <p>18 A. Oh, less than five minutes.</p> <p>19 Q. Did you ask her why you might be deposed in</p> <p>20 this case?</p> <p>21 A. No.</p> <p>22 Q. Did you discuss anything substantively</p> <p>23 regarding this lawsuit with Lisa?</p> <p>24 A. No.</p> <p>25 Q. Other than Lisa and Mr. Boyack, did you</p> |
| <p style="text-align: right;">11</p> <p>1 A. Ted Boyack.</p> <p>2 Q. I don't want to know -- actually, strike</p> <p>3 that.</p> <p>4 When did you and Mr. Boyack speak?</p> <p>5 A. This morning at around 9.</p> <p>6 Q. How long did you and Mr. Boyack speak for?</p> <p>7 A. Less than three or four minutes.</p> <p>8 Q. What did you and Mr. Boyack discuss?</p> <p>9 A. He asked me if I knew what this case was</p> <p>10 about, and I told him that I really didn't.</p> <p>11 Q. Anything else that you recall discussing</p> <p>12 with Mr. Boyack?</p> <p>13 A. He shared an overview that it was --</p> <p>14 involved violations. That was pretty much the</p> <p>15 conversation.</p> <p>16 Q. Are you aware that Terra West is a named</p> <p>17 defendant in this lawsuit?</p> <p>18 A. I was not.</p> <p>19 Q. Are you aware that Ms. Carmen Eassa is a</p> <p>20 named defendant in this lawsuit?</p> <p>21 A. I was not.</p> <p>22 Q. Are you aware -- were you aware of that</p> <p>23 before I just asked you those two questions?</p> <p>24 A. No. I mean, everything I have is what is in</p> <p>25 this and that's all I know.</p> | <p style="text-align: right;">13</p> <p>1 speak with anybody else about your deposition?</p> <p>2 A. No.</p> <p>3 Q. When was the last -- I know I saw you</p> <p>4 speaking to Ms. Mossett-Puhek before your deposition</p> <p>5 started. Other than that conversation, when was the</p> <p>6 last time you spoke with Ms. Mossett-Puhek?</p> <p>7 A. I would say approximately two years and</p> <p>8 eight or nine months ago.</p> <p>9 Q. What did that involve?</p> <p>10 A. When we were selling our business, I reached</p> <p>11 out to Pennie to tell her about the pending sale of</p> <p>12 the company.</p> <p>13 Q. Why would you do that?</p> <p>14 A. Because she was the president of an HOA that</p> <p>15 was a client of ours.</p> <p>16 Q. Did you reach out to all of the presidents</p> <p>17 for all of the HOAs?</p> <p>18 A. The majority, yes.</p> <p>19 Q. How many did you not reach out to?</p> <p>20 A. I don't know.</p> <p>21 Q. Was there a reason why you reached out to</p> <p>22 certain HOAs and not other HOAs?</p> <p>23 A. Yes.</p> <p>24 Q. What was that reason?</p> <p>25 A. Primarily the size of the community.</p> |

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| <p style="text-align: right;">14</p> <p>1 Q. Which community does Ms. Mossett-Puhek --</p> <p>2 which community is she involved with?</p> <p>3 A. At the time, Anthem Highlands.</p> <p>4 Q. What size of client would you say Anthem</p> <p>5 Highlands was for Terra West at the time you</p> <p>6 contacted Ms. Mossett-Puhek?</p> <p>7 A. It would be -- probably in the top</p> <p>8 20 percent.</p> <p>9 Q. When you spoke with Ms. Mossett-Puhek, what</p> <p>10 did the two of you discuss at that time?</p> <p>11 A. I basically told -- shared that we had sold</p> <p>12 the company and when the transaction would take place</p> <p>13 and assured her that there would be a continuation of</p> <p>14 the services that they had been receiving.</p> <p>15 Q. Prior to that conversation with</p> <p>16 Ms. Mossett-Puhek, when was the time before that that</p> <p>17 you last spoke with her?</p> <p>18 A. I don't recall.</p> <p>19 Q. Did you speak with Ms. Mossett-Puhek often</p> <p>20 when you were an owner of Terra West?</p> <p>21 A. No.</p> <p>22 Q. Were you involved with Anthem Highlands on a</p> <p>23 regular basis when you were the owner of Terra West?</p> <p>24 A. No.</p> <p>25 Q. What was your role with Terra West when you</p> | <p style="text-align: right;">16</p> <p>1 Q. And where did you attend college at?</p> <p>2 A. UNLV and Clark County Community College.</p> <p>3 Q. Is that what CCSD was before CCSD?</p> <p>4 A. CCSD?</p> <p>5 Q. Clark County --</p> <p>6 A. School district, no. They are different.</p> <p>7 Q. I understand. But -- my apologies. So you</p> <p>8 attended schooling at UNLV.</p> <p>9 Did you obtain a degree from UNLV?</p> <p>10 A. No.</p> <p>11 Q. How many years of schooling did you attend</p> <p>12 at UNLV?</p> <p>13 A. One year.</p> <p>14 Q. Did you have any sort of emphasis or major</p> <p>15 at UNLV at that point?</p> <p>16 A. Yes.</p> <p>17 Q. What was your major?</p> <p>18 A. Business.</p> <p>19 Q. After you stopped attending schooling at</p> <p>20 UNLV, did you attend any additional schooling?</p> <p>21 A. The Clark County Community College.</p> <p>22 Q. Okay. How many years did you attend at the</p> <p>23 Clark County Community College?</p> <p>24 A. One year.</p> <p>25 Q. After that did you attend any additional</p> |
| <p style="text-align: right;">15</p> <p>1 were involved with it?</p> <p>2 A. CEO, co-founder.</p> <p>3 Q. Help me understand what your duties and</p> <p>4 responsibilities were with Terra West at that time.</p> <p>5 A. Executive to the company, overseeing</p> <p>6 staffing, contracting and overall finances for the</p> <p>7 company.</p> <p>8 Q. Let's take a step back and go into a little</p> <p>9 more background of your history. Let's start with</p> <p>10 your education.</p> <p>11 Did you graduate high school?</p> <p>12 A. Yes.</p> <p>13 Q. When and where did you graduate high school?</p> <p>14 A. 1974, Valley High School, Las Vegas.</p> <p>15 Q. It sounds like you have lived in Las Vegas</p> <p>16 your entire life; is that correct?</p> <p>17 A. That's correct.</p> <p>18 Q. My wife always reminds me that even though I</p> <p>19 have been here 28 years, I'm not a native.</p> <p>20 Did you attend any schooling after high</p> <p>21 school?</p> <p>22 A. Yes.</p> <p>23 Q. What type of schooling did you attend after</p> <p>24 high school?</p> <p>25 A. College.</p> | <p style="text-align: right;">17</p> <p>1 schooling anywhere?</p> <p>2 A. Just general real estate certification-type</p> <p>3 stuff, continuing Ed.</p> <p>4 Q. So let's talk about those vocational</p> <p>5 schooling, I will call it.</p> <p>6 When did you start to attend that type of</p> <p>7 education?</p> <p>8 A. Oh, probably 1977, '78.</p> <p>9 Q. And when you first attended that schooling,</p> <p>10 or that training, what was it for?</p> <p>11 A. Real estate brokerage.</p> <p>12 Q. So did you first obtain your real estate</p> <p>13 license?</p> <p>14 A. Real estate broker's license, yes.</p> <p>15 Q. Okay. My apologies, I thought the first</p> <p>16 step was to become a real estate agent and then you</p> <p>17 became a real estate broker.</p> <p>18 Is that not the process?</p> <p>19 A. It is for some people. I took a different</p> <p>20 path.</p> <p>21 Q. Okay. So how long was your route to become</p> <p>22 a real estate broker?</p> <p>23 A. One year.</p> <p>24 Q. And after you became a real estate broker,</p> <p>25 what type of business did you conduct at that time?</p> |

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| <p>18</p> <p>1 A. Real estate sales.</p> <p>2 Q. So what we would think of as a traditional</p> <p>3 real estate agent, you would help people buy and sell</p> <p>4 homes?</p> <p>5 A. Yes.</p> <p>6 Q. At that point in time, did your real estate</p> <p>7 business involve anything else?</p> <p>8 A. At what point in time?</p> <p>9 Q. Right after you became your real estate</p> <p>10 broker.</p> <p>11 A. No, it did not.</p> <p>12 Q. At some point in time, did your real estate</p> <p>13 business involve other activities?</p> <p>14 A. Yes.</p> <p>15 Q. And when was that?</p> <p>16 A. Approximately 1982.</p> <p>17 Q. And what did you expand your business to</p> <p>18 include?</p> <p>19 A. Rentals, property management.</p> <p>20 Q. Did you have to go back and obtain</p> <p>21 additional licensing to become a property manager?</p> <p>22 A. Not at that point.</p> <p>23 Q. At any point, did you go back and obtain</p> <p>24 some sort of licensing to become a property manager?</p> <p>25 A. Yes.</p> | <p>20</p> <p>1 licensing?</p> <p>2 A. None other than the continuing education.</p> <p>3 Q. Did you obtain an additional license to</p> <p>4 become a community manager?</p> <p>5 A. Yes.</p> <p>6 Q. And that was in the '90s; is that correct?</p> <p>7 A. Yes.</p> <p>8 Q. At any point in time, did you expand your</p> <p>9 business beyond what we have discussed about so far?</p> <p>10 A. We had some government contracts, but they</p> <p>11 really fell under the umbrella of property</p> <p>12 management.</p> <p>13 Q. What type of government contracts?</p> <p>14 A. Property management for government entities.</p> <p>15 Q. Anything else that you can think of that we</p> <p>16 haven't discussed so far today?</p> <p>17 A. We got involved in collections at some</p> <p>18 point, I think 2000.</p> <p>19 Q. Did that involve HOA collections?</p> <p>20 A. Yes.</p> <p>21 Q. What business conducted that?</p> <p>22 A. Assessment management services.</p> <p>23 Q. What was your role in assessment management</p> <p>24 services?</p> <p>25 A. Same as Terra West.</p> |
| <p>19</p> <p>1 Q. When was that?</p> <p>2 A. I'm not certain of the date.</p> <p>3 Q. Again, I understand this was quite some time</p> <p>4 ago, so if you can just provide me your best</p> <p>5 estimate. You can say '80s, '90s, the best of your</p> <p>6 ability.</p> <p>7 A. I would say the '90s.</p> <p>8 Q. And did that require additional training to</p> <p>9 obtain that license to manage properties?</p> <p>10 A. Not at the time.</p> <p>11 Q. Did you ever take additional training to</p> <p>12 manage properties?</p> <p>13 A. Continuing Ed.</p> <p>14 Q. At some point, did your business involve</p> <p>15 anything beyond what we've discussed so far?</p> <p>16 A. Yes.</p> <p>17 Q. And when was that?</p> <p>18 A. In the -- probably the '90s.</p> <p>19 Q. And what did your business expand to at that</p> <p>20 time?</p> <p>21 A. Homeowners association management.</p> <p>22 Q. So what we will consider community</p> <p>23 management; is that correct?</p> <p>24 A. Yes.</p> <p>25 Q. Did that require any additional schooling or</p> | <p>21</p> <p>1 Q. Co-owner and CEO?</p> <p>2 A. Yes.</p> <p>3 Q. When did you start Terra West?</p> <p>4 A. Early '90s.</p> <p>5 Q. Did you have another business -- strike</p> <p>6 that.</p> <p>7 What was Terra West's focus when it started</p> <p>8 in the early '90s?</p> <p>9 A. Primarily rental management.</p> <p>10 Q. At some point, did Terra West's focus</p> <p>11 change?</p> <p>12 A. Yes.</p> <p>13 Q. Is that when you entered into the community</p> <p>14 management business?</p> <p>15 A. Yes.</p> <p>16 Q. Did you still do rental management at that</p> <p>17 time?</p> <p>18 A. Yes.</p> <p>19 Q. Does Terra West do rental management up</p> <p>20 until you sold the company?</p> <p>21 A. Yes.</p> <p>22 Q. What about real estate transactions, the</p> <p>23 buying and selling, was that conducted through Terra</p> <p>24 West?</p> <p>25 A. Yes.</p> |

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| <p style="text-align: right;">22</p> <p>1 Q. Did Terra West still conduct that business 2 when you sold the company? 3 A. Yes. 4 Q. So was there a business that you used prior 5 to forming Terra West? 6 A. Yes. 7 Q. And what business was that? 8 A. Americana Group. 9 Q. I'm sorry, could you state – 10 A. Americana Group. 11 Q. A-m-e-r-i-c-a-n-a? 12 A. Yes. 13 Q. What happened with Americana Group? 14 A. We left that company. It was owned by 15 someone else and we formed our Terra West. 16 Q. Did you start with Americana Group in the 17 '80s when you first started conducting your real 18 estate business? 19 A. Yes. 20 Q. So if my understanding is incorrect, 21 state – just tell me. I'm going to do a general 22 summary just to make sure I understand it. 23 You graduated high school, attended some 24 schooling at UNLV and the community college, you then 25 went a different business route and obtained your</p> | <p style="text-align: right;">24</p> <p>1 A. Correct. 2 Q. Who took over your position? 3 A. I don't know. 4 Q. After June 15th of 2021, do you have any 5 knowledge of any business activities that Terra West 6 conducted? 7 A. No. 8 Q. Who did you deal with when you sold the 9 business? Who did you sell it to? 10 A. A company, a local company, Yes &. 11 Q. And who over there were you dealing with? 12 A. Primarily Anthony Twist. 13 Q. And so I just want to make sure I'm clear on 14 this. 15 After June 15th of 2021, you had no further 16 involvement with Terra West? 17 A. That's correct. 18 Q. So prior to June 15th of 2021, because 19 that's all you have knowledge of, so unless I ask 20 otherwise, I'm asking you about the time frame that 21 you have knowledge of; is that fair? 22 A. Yes. 23 Q. How was the hierarchy of Terra West set up? 24 A. As far as? 25 Q. Who oversaw the community managers of Terra</p> |
| <p style="text-align: right;">23</p> <p>1 real estate brokerage license. After that you 2 started with Americana Group where you continued to 3 work until around the early '90s when you started 4 Terra West. 5 You then worked through Terra West at which 6 point you expanded your business into property 7 management and then community management which 8 continued to conduct that business until you sold it 9 and in addition at some point in the 2000s, you 10 created assessment management services to conduct 11 collection activity. 12 Is that correct? 13 A. Yes. 14 Q. Okay. When you sold Terra West -- because 15 let me preface it this way throughout this 16 deposition: Unless I state otherwise, it's my 17 understanding you don't have knowledge as to what 18 Terra West -- what business Terra West conducts now 19 that you sold it and are no longer involved with it; 20 is that correct? 21 A. Correct. 22 Q. Okay. When did that occur? 23 A. June 15th of 2021. 24 Q. So on June 15th of 2021, is that when you 25 stopped being the CEO of Terra West?</p> | <p style="text-align: right;">25</p> <p>1 West prior to June 15th of 2021? 2 A. We had directors. 3 Q. How many directors did Terra West have? 4 A. I believe four or five at the time. 5 Q. How many offices did Terra West have? 6 A. Five or six. 7 Q. Did each office have its own director? 8 A. Yes. 9 Q. And was that director in charge of 10 overseeing the community management operations at 11 each office? 12 A. That's correct. 13 Q. Who oversaw the directors? 14 A. Myself and my business partner. 15 Q. Who is your business partner? 16 A. Deborah Ogilvie. 17 Q. Ms. Ogilvie was also an owner of Terra 18 West -- 19 A. Yes. 20 Q. -- prior to June 15th of 2021? 21 A. Yes. 22 Q. Did she also sell her ownership interest in 23 Terra West? 24 A. Yes. 25 Q. What role did Ms. Ogilvie have with Terra</p> |

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| <p style="text-align: right;">26</p> <p>1 West? What was her title? Yours was CEO.</p> <p>2 A. She was president.</p> <p>3 Q. How did her duties differ as president</p> <p>4 compared to your duties as CEO?</p> <p>5 A. They really didn't differ much. She was</p> <p>6 more involved with the legal side of the business.</p> <p>7 Q. After June 15th of 2021, if you know, did</p> <p>8 Ms. Ogilvie have any role with Terra West at that</p> <p>9 time?</p> <p>10 A. No.</p> <p>11 Q. So just to be clear, you know the answer to</p> <p>12 that question and the answer is no; is that correct?</p> <p>13 A. That's correct.</p> <p>14 Q. So my understanding is there was a -- like a</p> <p>15 head corporate office of Terra West; is that correct?</p> <p>16 A. Yes.</p> <p>17 Q. Who was the director of that office?</p> <p>18 A. At the time we sold may have been Renee</p> <p>19 Smith. I'm not absolutely -- I don't recall.</p> <p>20 Q. Did Ms. Eassa at the time you left -- let me</p> <p>21 rephrase.</p> <p>22 Do you know who Carmen Eassa is?</p> <p>23 A. Yes.</p> <p>24 Q. Who is Carmen Eassa?</p> <p>25 A. A community manager.</p> | <p style="text-align: right;">28</p> <p>1 Q. How would the client affect whether or not a</p> <p>2 community manager was supervised?</p> <p>3 A. Depended on the -- that's a difficult</p> <p>4 question to answer. I really can't answer that.</p> <p>5 Q. I guess I'm just trying to figure out how</p> <p>6 the supervision worked at Terra West and whether or</p> <p>7 not there was supervision over community managers.</p> <p>8 A. Well, there was.</p> <p>9 Q. Okay. And so was somebody supposed to</p> <p>10 supervise Ms. Eassa?</p> <p>11 A. It wasn't set up that way with her.</p> <p>12 Q. Why not? Help me understand.</p> <p>13 A. Because she worked basically for Anthem</p> <p>14 Highlands, and I don't believe that we saw a need for</p> <p>15 her to report to a director at that point.</p> <p>16 Q. So if something was going wrong with</p> <p>17 Ms. Eassa, or Ms. Eassa was experiencing issues, who</p> <p>18 would Ms. Eassa report to?</p> <p>19 A. She would talk to me on occasion.</p> <p>20 Q. Is there something known as a supervisory</p> <p>21 community manager at Terra West?</p> <p>22 A. Yes.</p> <p>23 Q. I think they're called super CAMs?</p> <p>24 A. Correct.</p> <p>25 Q. How many super CAMs were at Terra West in</p> |
| <p style="text-align: right;">27</p> <p>1 Q. Did she work at this corporate office, the</p> <p>2 head office that we just mentioned?</p> <p>3 A. I believe she was splitting her time.</p> <p>4 Q. Splitting her time where?</p> <p>5 A. Between corporate and Henderson.</p> <p>6 Q. And so would there have been two directors</p> <p>7 responsible to supervise Ms. Eassa if that was true?</p> <p>8 A. I don't recall, actually.</p> <p>9 Q. So what happens if a community manager is</p> <p>10 splitting their time between two offices, who is</p> <p>11 responsible to supervise that community manager?</p> <p>12 A. Well, it depends on the client. Carmen was</p> <p>13 pretty much a standalone.</p> <p>14 Q. What does that mean?</p> <p>15 A. She just managed. She -- I don't recall how</p> <p>16 she was involved with the director at that point.</p> <p>17 Q. Were all community managers supervised by</p> <p>18 directors?</p> <p>19 A. Not all of them, no.</p> <p>20 Q. At some point if you felt like a community</p> <p>21 manager was senior enough or had enough competency,</p> <p>22 did that affect whether or not the community manager</p> <p>23 was supervised by a director?</p> <p>24 A. It really depended upon the client that they</p> <p>25 were working for more so than the manager per se.</p> | <p style="text-align: right;">29</p> <p>1 2020 or 2021?</p> <p>2 A. I would have to guess. I don't know for</p> <p>3 certain.</p> <p>4 Q. I don't want you to guess.</p> <p>5 Was there at least one super CAM at Terra</p> <p>6 West?</p> <p>7 A. Yes.</p> <p>8 Q. Are you a super CAM?</p> <p>9 A. I was.</p> <p>10 Q. When did you stop holding the license as a</p> <p>11 super CAM?</p> <p>12 A. I believe the summer of 2021.</p> <p>13 Q. So at the time you were involved in Terra</p> <p>14 West, you held the licensing as a super CAM; is that</p> <p>15 correct?</p> <p>16 A. That's correct.</p> <p>17 Q. Did Ms. Ogilvie also hold the license as a</p> <p>18 super CAM?</p> <p>19 A. No.</p> <p>20 Q. Was there anybody else at Terra West that</p> <p>21 was also a super CAM at that time?</p> <p>22 A. Yes, but I don't recall who.</p> <p>23 Q. Is it fair to say that you were the super</p> <p>24 CAM responsible for supervising Ms. Eassa?</p> <p>25 A. I was not.</p> |

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| <p style="text-align: right;">30</p> <p>1 Q. Would that be the director or how would I</p> <p>2 determine that information?</p> <p>3 A. You would have to check with the NRED. I</p> <p>4 don't recall. The Nevada Real Estate Division.</p> <p>5 Q. What type of records would exist within</p> <p>6 Terra West on that issue?</p> <p>7 A. I have no idea.</p> <p>8 Q. Terra West certainly had its own records as</p> <p>9 to who was responsible to supervise who; is that</p> <p>10 correct?</p> <p>11 A. I don't recall that being kept.</p> <p>12 Q. But if Ms. Eassa had a problem, it's your</p> <p>13 testimony here today that she would have -- she was</p> <p>14 supposed to speak to you about those types of issues;</p> <p>15 is that correct?</p> <p>16 MR. NOACK: Objection. Misstates prior</p> <p>17 testimony.</p> <p>18 MR. ELSON: Misstates --</p> <p>19 A. Ask the question again.</p> <p>20 Q. If Ms. Eassa had an issue at Terra West,</p> <p>21 whether with a community, with her community or an</p> <p>22 issue that arose at the community or something that</p> <p>23 was going on in a professional issue, who was</p> <p>24 Ms. Eassa supposed to direct that to?</p> <p>25 A. She may come to me on occasion, but I don't</p> | <p style="text-align: right;">32</p> <p>1 assistant at that same association?</p> <p>2 A. Well, I guess it really boils down to making</p> <p>3 sure they are doing their job.</p> <p>4 Q. So it would be fair to say that in addition</p> <p>5 to the lead assistant and the director, the community</p> <p>6 manager was also responsible for supervising the</p> <p>7 assistant?</p> <p>8 A. Well, there was an interface.</p> <p>9 Q. What do you mean by interface?</p> <p>10 A. Well, they work together as a team.</p> <p>11 Q. That's correct. And the community manager</p> <p>12 is the individual that's licensed through the State</p> <p>13 of Nevada; correct?</p> <p>14 A. Yes.</p> <p>15 Q. That's ultimately responsible for managing</p> <p>16 the association; is that correct?</p> <p>17 A. Yes.</p> <p>18 Q. And the community manager would also be</p> <p>19 responsible for ensuring that the assistant was</p> <p>20 conducting herself in accordance with Nevada law as</p> <p>21 it relates to that association; is that correct?</p> <p>22 A. I would assume.</p> <p>23 Q. Well, you would assume or that's the answer?</p> <p>24 MR. BOYACK: Object. Calls for speculation.</p> <p>25 Q. Why are you assuming? Is that the case or</p> |
| <p style="text-align: right;">31</p> <p>1 recall any specifics.</p> <p>2 Q. How are assistants supervised -- let me take</p> <p>3 a step back. It's my understanding that certain</p> <p>4 communities have an assistant that essentially</p> <p>5 assists the community manager; is that correct?</p> <p>6 A. Yes.</p> <p>7 Q. Anthem had such an assistant; is that</p> <p>8 correct?</p> <p>9 A. Yes.</p> <p>10 Q. Who was responsible for supervising the</p> <p>11 assistant?</p> <p>12 A. There was primarily a lead assistant and</p> <p>13 then the director.</p> <p>14 Q. Do you recall who the lead assistant was in</p> <p>15 2020 or 2021?</p> <p>16 A. No. It's all kind of a blur. You have to</p> <p>17 realize that we were in the midst of COVID, so we</p> <p>18 weren't even in the office for some time.</p> <p>19 Q. Was there any sort of employee handbook or</p> <p>20 written company policies on what type of supervision</p> <p>21 was supposed to occur for either community managers</p> <p>22 or assistants?</p> <p>23 A. No.</p> <p>24 Q. What type of role did the community manager</p> <p>25 for an association have with supervising the</p> | <p style="text-align: right;">33</p> <p>1 is it not the case, Ms. Matheson?</p> <p>2 A. As I said, I assume that they were</p> <p>3 overseeing the assistant.</p> <p>4 Q. So when you say you assume, you mean that</p> <p>5 that would be your expectation at that time as CEO of</p> <p>6 Terra West that the community manager would be</p> <p>7 supervising the assistant; is that correct?</p> <p>8 A. That would be my expectation.</p> <p>9 Q. Are there any types of regular meetings like</p> <p>10 monthly meetings, quarterly meetings, weekly meetings</p> <p>11 between the directors and the people that report to</p> <p>12 the director?</p> <p>13 A. Nothing was set in stone per se.</p> <p>14 Q. So it would be up to the discretion of the</p> <p>15 director on what level of interaction the director</p> <p>16 would have with those that the director is</p> <p>17 overseeing?</p> <p>18 A. Yes.</p> <p>19 Q. Is the community manager responsible for --</p> <p>20 let me take a step back.</p> <p>21 My understanding is at associations there is</p> <p>22 what I would call a violation or enforcement process</p> <p>23 where if certain homeowners are violating the</p> <p>24 governing documents or Nevada law, that the HOA</p> <p>25 pursues either this violation or enforcement process</p> |

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| <p>34</p> <p>1 in order to correct those violations. 2 Is that your understanding as well? 3 A. Yes. 4 Q. Would you refer to that as the violation 5 process or how would you refer to that? 6 A. Yes. 7 Q. Is the community manager responsible to 8 supervise the violation process at an association? 9 A. I would say they oversee it. 10 Q. What do you mean by oversee it? 11 A. To make sure that the property is being 12 inspected per board policy. 13 Q. Would that also include making sure that 14 improper violations aren't issued by the association 15 or the management company? 16 A. No. I don't understand your question. 17 Q. What type of -- so strike that. 18 Sounds like you testified that the community 19 manager is responsible to ensure that there are 20 inspections that take place to determine whether or 21 not alleged violations are occurring; is that 22 correct? 23 A. Yes. 24 Q. After that inspection takes place, what type 25 of role does the community manager have with respect</p> | <p>36</p> <p>1 that correct? 2 A. Yes. 3 Q. What type of role does the community manager 4 have during the notice to the unit owner, the hearing 5 and the meeting with the executive board; is the 6 community manager involved in that process? 7 A. In terms of making sure that the matters are 8 placed on the agenda for the board meeting. 9 Q. Does the community manager -- is the 10 community manager ultimately responsible to ensure 11 that the violation process is done in accordance with 12 the governing documents of the association and Nevada 13 law? 14 A. Personally, I would say that that really 15 goes back to the board of directors. That's my 16 personal opinion. 17 Q. Okay. What's your understanding as to what 18 the Nevada Real Estate Division requires as to a 19 community manager's role in that process? 20 A. Oversight. 21 Q. Is the community manager -- so when you 22 say -- strike that. 23 When you say "oversight," what do you mean 24 by that? 25 A. To ensure that the violation process is</p> |
| <p>35</p> <p>1 to the violation process? 2 A. Well, there would be -- violation letters 3 would be generated if there is a need for next steps. 4 Depends upon the community. I don't know what the 5 policy was at Anthem. 6 Q. Generally speaking, there is typically a -- 7 some type of notice to the homeowner; correct? 8 A. Yes. 9 Q. And then if the violation is not remedied, 10 the next step or one of the next steps is to bring 11 the homeowner to hearing; is that correct? 12 A. Yes. 13 Q. And at hearing, the board meets in executive 14 session; is that correct? 15 A. It depends on the board's policy. So 16 it's -- I can't say that that's the case for all 17 associations. 18 Q. Well, if the board were to issue some type 19 of corrective action or enforcement action, the board 20 would do that at an executive session meeting? 21 A. As I understand it, that's what they should 22 do, yes. 23 Q. So in addition to the inspection process, we 24 kind of just generally described an overview of what 25 happens through the hearing and the fine process; is</p> | <p>37</p> <p>1 adhered to as was approved by the board. 2 Q. Is the community manager responsible to 3 provide any sort of counseling to the board on the 4 governing documents and Nevada law in the violation 5 process? 6 A. No. 7 Q. Should the community manager be providing 8 any counseling to the board as to what language 9 exists in the CC&Rs or the governing documents? 10 A. No. 11 Q. Should the community manager be responsible 12 for discussing with the Nevada -- strike that. 13 Should the community manager be responsible 14 to discuss with the board what Nevada law requires as 15 to the violation process? 16 A. It depends on the homeowners -- the 17 association. 18 Q. So the fiduciary obligations that a 19 community manager owes to an association depends on 20 which association the community manager is managing? 21 A. Well, in some cases the association has 22 legal counsel and they refer matters to legal 23 counsel. So the community manager isn't going to 24 give legal advice. 25 Q. Is the community -- does referring a matter</p> |

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| <p style="text-align: right;">38</p> <p>1 to legal counsel absolve the community manager of</p> <p>2 their administrative and licensing responsibilities</p> <p>3 to the association?</p> <p>4 MR. BOYACK: Object. Calls for a legal</p> <p>5 conclusion and compound.</p> <p>6 MR. NOACK: Join. Calls for expert.</p> <p>7 Q. I will rephrase.</p> <p>8 Is it your understanding that once a</p> <p>9 community manager refers a matter to legal counsel,</p> <p>10 that the community manager is absolved from providing</p> <p>11 further guidance to the association?</p> <p>12 A. I don't have an opinion on that.</p> <p>13 Q. At Terra West, once a matter was referred to</p> <p>14 legal counsel, was the community manager still</p> <p>15 supposed to provide guidance to a board of directors</p> <p>16 or the association on Nevada law?</p> <p>17 A. I would have to see it. Depends on what the</p> <p>18 attorney says. I don't know.</p> <p>19 Q. How does Terra West ensure – strike that.</p> <p>20 Before a courtesy notice is sent out to a</p> <p>21 homeowner, should a community manager approve the</p> <p>22 courtesy notice being sent to the homeowner?</p> <p>23 A. It depends on the community. Some board</p> <p>24 members want the manager to go ahead and approve it;</p> <p>25 some board members don't. Depends.</p> | <p style="text-align: right;">40</p> <p>1 MR. NOACK: Join.</p> <p>2 Q. You can go ahead and answer the question.</p> <p>3 A. I don't – I don't agree with that</p> <p>4 statement.</p> <p>5 Q. What part of it don't you agree with?</p> <p>6 A. You are confusing at this point. You are</p> <p>7 talking around –</p> <p>8 Q. I'm not trying to talk around any issues, so</p> <p>9 let's take a step back.</p> <p>10 A. Okay.</p> <p>11 Q. Community managers are licensed through the</p> <p>12 Nevada Real Estate Division; is that correct?</p> <p>13 A. Yes.</p> <p>14 Q. They're governed by the Nevada</p> <p>15 Administrative Code as to what obligations they owe</p> <p>16 an association and how to perform their duties; is</p> <p>17 that correct?</p> <p>18 A. Yes.</p> <p>19 Q. They're professionals, like lawyers that owe</p> <p>20 standards of care to their clients; would you agree</p> <p>21 with me on that?</p> <p>22 A. I would agree that they're professionals,</p> <p>23 yes.</p> <p>24 Q. And they owe a standard of care to their</p> <p>25 client.</p> |
| <p style="text-align: right;">39</p> <p>1 Q. Under Nevada law, as you sit here today, is</p> <p>2 it your understanding a community manager does not</p> <p>3 have to be involved in approving notices to</p> <p>4 homeowners before those are sent out?</p> <p>5 A. It varies from community to community. I</p> <p>6 don't know.</p> <p>7 Q. So the obligations that exist under Nevada</p> <p>8 law, the standard of care that's owed to an</p> <p>9 association, that varies from community to community?</p> <p>10 MR. BOYACK: Objection. Calls for --</p> <p>11 A. I didn't say that.</p> <p>12 MR. BOYACK: Hold on. Objection. Calls for</p> <p>13 a legal conclusion and is argumentative.</p> <p>14 Q. I will limit it to your understanding.</p> <p>15 Please answer as it relates to your understanding.</p> <p>16 A. Would you restate the question, please.</p> <p>17 Q. Is it your understanding that the</p> <p>18 obligations that exist – is it your understanding</p> <p>19 that the obligations that exist under Nevada law --</p> <p>20 strike that.</p> <p>21 Is it your understanding that the</p> <p>22 obligation, the duty that a community manager owes to</p> <p>23 the association under Nevada law varies from</p> <p>24 association to association?</p> <p>25 MR. BOYACK: Same objection.</p> | <p style="text-align: right;">41</p> <p>1 A. Yes.</p> <p>2 Q. Okay. So what I'm trying to figure out is</p> <p>3 the standard of care that Terra West expected these</p> <p>4 community managers to perform, and what duties they</p> <p>5 owed to their client, these associations, so the</p> <p>6 question is does that change from association to</p> <p>7 association?</p> <p>8 MR. BOYACK: I'm going to pose an objection</p> <p>9 here as to being vague to the term standard of care.</p> <p>10 I think that may be part of this confusion here.</p> <p>11 As best the witness can answer, but you are</p> <p>12 asking for a legal conclusion on a vague question to</p> <p>13 the term standard of care.</p> <p>14 With that objection on the record, if the</p> <p>15 witness can answer, go ahead.</p> <p>16 A. We had a contractual agreement with the</p> <p>17 association, so our managers would follow the</p> <p>18 contract.</p> <p>19 Q. And I'm sure those contracts complied with</p> <p>20 the Nevada Administrative Code as to what duty each</p> <p>21 community manager owed the association; is that</p> <p>22 correct?</p> <p>23 A. Yes.</p> <p>24 Q. So would the duty owed – I will rephrase.</p> <p>25 How did Terra West ensure – strike that.</p> |

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| <p style="text-align: right;">42</p> <p>1 For Anthem, who was responsible to send out</p> <p>2 the courtesy notices to homeowners?</p> <p>3 A. It would fall back to the assistant.</p> <p>4 Q. How did Terra West ensure that assistants</p> <p>5 were not sending out courtesy notices for issues that</p> <p>6 were improper?</p> <p>7 A. I don't know how an assistant would know if</p> <p>8 it was improper.</p> <p>9 Q. So did Terra West monitor what types of</p> <p>10 violations assistants were sending out?</p> <p>11 A. No.</p> <p>12 Q. Why not?</p> <p>13 A. Well, you are adhering to the violation</p> <p>14 policy and they would send out the violation notices</p> <p>15 based upon an inspection and then it would just go</p> <p>16 through the violation process.</p> <p>17 Q. Okay. Well, how would Terra West ensure</p> <p>18 that the assistants were not sending out improper</p> <p>19 violations?</p> <p>20 A. I have never had a situation where -- like</p> <p>21 that.</p> <p>22 Q. How did Terra West ensure that violations</p> <p>23 were properly researched and reviewed before the</p> <p>24 violations were sent out?</p> <p>25 A. You had an inspection of the property and</p> | <p style="text-align: right;">44</p> <p>1 A. They are required to adhere to the CC&Rs,</p> <p>2 the governing documents.</p> <p>3 Q. Okay. And are there Nevada statutes that</p> <p>4 require associations to uniformly enforce those</p> <p>5 governing documents?</p> <p>6 A. Yes.</p> <p>7 Q. Are there statutes that require the</p> <p>8 association to treat all homeowners equally?</p> <p>9 A. I don't know if it's addressed specifically</p> <p>10 like that, so I don't know.</p> <p>11 Q. Do you think it's fair for an association to</p> <p>12 treat one homeowner differently than another</p> <p>13 homeowner?</p> <p>14 MR. NOACK: Objection. Argumentative.</p> <p>15 A. Yeah, you follow the CC&Rs and the violation</p> <p>16 process.</p> <p>17 Q. Do you think it's fair for an association to</p> <p>18 treat one homeowner differently than another</p> <p>19 homeowner?</p> <p>20 MR. NOACK: Objection. It's argumentative.</p> <p>21 It's been asked and answered.</p> <p>22 A. You're asking my personal opinion and that</p> <p>23 really doesn't matter here.</p> <p>24 Q. I'm asking for you -- okay.</p> <p>25 Did Terra West have a policy and procedure</p> |
| <p style="text-align: right;">43</p> <p>1 based upon the violation process the letter was</p> <p>2 generated.</p> <p>3 Q. So what's the violation process?</p> <p>4 A. It differs from association to association.</p> <p>5 Q. For Anthem Highlands, what was the violation</p> <p>6 process?</p> <p>7 A. I have no idea.</p> <p>8 Q. Who was responsible for ensuring that the</p> <p>9 violation process was done correctly?</p> <p>10 A. That would be the community manager.</p> <p>11 Q. Would you agree with me that as part of the</p> <p>12 violation process, current boards are required to</p> <p>13 treat alleged violations of the governing documents</p> <p>14 and Nevada law the same as prior boards and prior</p> <p>15 management companies?</p> <p>16 MR. BOYACK: Objection. Calls for a legal</p> <p>17 conclusion. Compound.</p> <p>18 Q. You can answer. I will rephrase.</p> <p>19 Is it your understanding -- strike that.</p> <p>20 How did Terra West ensure that current</p> <p>21 boards treated alleged violations of the governing</p> <p>22 documents the same as prior boards?</p> <p>23 A. We didn't ensure that.</p> <p>24 Q. Are associations required to treat all unit</p> <p>25 owners equally?</p> | <p style="text-align: right;">45</p> <p>1 to ensure that associations treated all homeowners</p> <p>2 the same?</p> <p>3 A. We did not have a policy and procedure.</p> <p>4 Q. Okay. Is it your understanding that Nevada</p> <p>5 law requires all homeowners to be treated the same?</p> <p>6 A. I don't recall that.</p> <p>7 Q. As you recall the language that the</p> <p>8 governing documents should be uniformly enforced; is</p> <p>9 that correct?</p> <p>10 A. I recall that being in CC&Rs that I have</p> <p>11 seen, yes.</p> <p>12 Q. You don't recall that statute existing</p> <p>13 within Nevada law?</p> <p>14 A. No.</p> <p>15 Q. Do you recall the statute that says that</p> <p>16 associations cannot arbitrarily and capriciously</p> <p>17 enforce the governing documents?</p> <p>18 A. I don't recall the specifics of that.</p> <p>19 Q. Do you believe associations should</p> <p>20 arbitrarily and capriciously enforce the governing</p> <p>21 documents?</p> <p>22 MR. BOYACK: Objection. Vague. Calls for a</p> <p>23 legal conclusion.</p> <p>24 Q. You can go ahead and answer the question as</p> <p>25 to your understanding.</p> |

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| <p style="text-align: right;">46</p> <p>1 A. It's a personal opinion. I don't see where 2 that applies here. 3 Q. Are you refusing to answer the question? 4 A. No, I'm not. I'm just trying to understand 5 what you're driving. 6 Q. Is it your understanding that associations 7 can arbitrarily and capriciously enforce the 8 governing documents? 9 A. It's my opinion they shouldn't. 10 Q. What policies and procedures existed within 11 Terra West to ensure that associations were not 12 arbitrarily and capriciously enforcing the governing 13 documents? 14 A. There was not a procedure. 15 Q. What type of training was provided to 16 assistants on this issue? 17 A. I don't recall. 18 Q. What type of training was provided to 19 assistants on ensuring that the governing documents 20 were uniformly enforced? 21 A. I don't recall. 22 Q. What type of training was provided to 23 community managers on ensuring that the governing 24 documents were uniformly enforced? 25 A. I don't recall.</p> | <p style="text-align: right;">48</p> <p>1 Ms. Matheson, what type of training was 2 provided to community managers to ensure that 3 associations were not enforcing violations 4 differently against different homeowners? 5 A. I don't recall. 6 Q. What type of training was provided to 7 assistants to ensure that violations -- to -- let me 8 rephrase. 9 What type of training was provided to 10 assistants to ensure that associations were not 11 enforcing violations differently against different 12 homeowners? 13 A. I don't recall. 14 Q. After an HOA discovers an alleged violation, 15 how long does the HOA have to address it with a unit 16 owner? 17 A. It depends on each association's policies. 18 Q. Does Nevada law impose a requirement that an 19 association enforce an alleged violation within a 20 reasonable amount of time? 21 A. I don't recall the specifics of the statute. 22 Q. What type of training did Terra West 23 provide -- strike that. 24 What type of supervision did Terra West have 25 over community managers to ensure that violations</p> |
| <p style="text-align: right;">47</p> <p>1 Q. What type of training was provided to 2 community managers on ensuring that the association 3 did not arbitrarily and capriciously enforce the 4 governing documents? 5 A. I don't recall. 6 Q. What type of training was provided to 7 community managers on ensuring that violations were 8 not enforced differently against different 9 homeowners? 10 A. I don't recall. 11 Q. What type of training was provided to 12 assistants on ensuring that alleged violations of the 13 governing documents were not enforced differently 14 against different homeowners? 15 A. Didn't you just ask that question in a 16 different form? 17 Q. I meant to ask it about community managers. 18 If I ask it about both, I may draw objections, so I'm 19 trying to ask it separately so the question is not 20 compound. So if I repeated myself, it was 21 unintentional. I'm going to ask it both ways just to 22 make sure I have asked that question as to both 23 assistants and community managers. Again, I'm not 24 trying to be rude; just trying to make sure that the 25 question complies with Nevada law.</p> | <p style="text-align: right;">49</p> <p>1 were addressed in a reasonable manner after 2 discovered by an association? 3 A. It would be a matter of following the 4 violation process that the board agreed upon. 5 Q. What type of supervision did Terra West have 6 to ensure that the fine enforcement process as it 7 relates to the reasonableness of the timing complied 8 with Nevada law? 9 A. I don't recall. 10 Q. What type of guidance should the community 11 manager have provided the association as it relates 12 to the reasonableness of the timing of enforcing an 13 alleged violation? 14 A. Well, it depends on the association if they 15 had legal counsel and legal counsel would be 16 involved. 17 Q. So let's take a scenario where legal counsel 18 wasn't involved. 19 What type of guidance should the community 20 manager provide the association? 21 A. Just to make sure that they're following the 22 violation process. 23 Q. Okay. What about Nevada law as it relates 24 to the reasonableness on the timing of enforcing the 25 alleged violation?</p> |

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| <p style="text-align: right;">50</p> <p>1 A. Well, the violation process should be in 2 compliance with Nevada law. 3 Q. Okay. So how long does an association have 4 to enforce a violation after its discovered? 5 A. I don't recall specifics of the statute. 6 MR. BOYACK: Objection. Asked and answered. 7 Q. Should an association be enforcing it more 8 than one year after discovering the alleged 9 violation? 10 MR. BOYACK: Objection. Asked and answered. 11 The witness already stated she did not know. 12 Q. Should an -- I will re-ask the question. So 13 from time to time an attorney may interpose an 14 objection on the record here today. We don't have a 15 judge to rule on the objection, so unless you are 16 instructed to not answer the question, which really 17 shouldn't happen today, because you are not 18 represented by the counsel, but unless you are 19 instructed to not answer the question, just go ahead 20 and answer the question after the attorney interposes 21 his objection on the record. 22 Do you understand? 23 A. Yes. 24 MR. BOYACK: Can we take a break. 25 (Whereupon, a recess was taken at this time.)</p> | <p style="text-align: right;">52</p> <p>1 association should be enforcing an alleged violation 2 more than one year after discovering the alleged 3 violation? 4 MR. NOACK: Objection. Argumentative. 5 A. Well, I'm not certain, you know, if it's 6 something that wasn't seen. I don't know. I mean, 7 it depends on the situation. I don't know. 8 Q. Okay. If the association had knowledge of 9 the alleged violation, should the association be 10 pursuing enforcement activities more than one year 11 after discovering the alleged violation? 12 MR. NOACK: Object. Incomplete 13 hypothetical. 14 A. Yeah, I mean -- 15 MR. NOACK: You can answer. 16 A. -- in what context? I don't... 17 Q. How would the context matter? 18 A. Well, depends on the association. Depends 19 on the violation. Depends on the policy. I don't 20 have enough information to give you an answer. 21 Q. What does Nevada law require? 22 A. I don't recall. 23 Q. What type of policies and procedures within 24 Terra West existed to ensure that alleged violations 25 were timely enforced under Nevada law?</p> |
| <p style="text-align: right;">51</p> <p>1 BY MR. ELSON: 2 Q. Ms. Matheson, we just took a break. 3 Did you speak with anyone during the break? 4 A. Yes. 5 Q. Who did you speak with? 6 A. She said, "How are you doing?" I said, "I'm 7 fine." And Ted said, "Hang in there." 8 Q. Did Mr. Boyack say anything else to you? 9 A. No. 10 Q. How long did you speak with Mr. Boyack for? 11 A. Just in passing. 12 Q. You guys didn't take a walk together? 13 A. No. He went to the bathroom; I went down 14 the hall. 15 Q. Okay. Just making sure that nobody was 16 speaking to one another and that there was not any 17 improper coaching of the witness because Mr. Boyack 18 asked to take a break, I saw you and Mr. Boyack walk 19 out of here together and I just want to confirm what 20 was discussed with you during the break. 21 So as you sit here today, under sworn 22 penalty of perjury, it's your testimony that the only 23 thing Mr. Boyack said to you was "Hang in there"? 24 A. That's correct. 25 Q. Okay. Is it your understanding that an</p> | <p style="text-align: right;">53</p> <p>1 A. I don't recall. 2 Q. What type of policies and procedures existed 3 within Terra West to ensure that violations were not 4 pursued after a reasonable time elapsed from 5 discovering the alleged violation? 6 A. I don't recall. 7 Q. What type of training was provided to 8 assistants on that issue? 9 A. I don't recall. 10 Q. What type of training was provided to 11 community managers on that issue? 12 A. I don't recall. 13 Q. Should this be an issue that the community 14 manager discusses with the board? 15 A. I would imagine so. 16 Q. What should a community manager ensure that 17 the board discusses during an executive session 18 meeting regarding a unit owner violation? 19 A. What -- ask that again, please. 20 Q. Of course. What should a community manager 21 ensure that the board discusses during an executive 22 session meeting regarding an alleged unit owner 23 violation? 24 A. I don't think the use of the word ensure 25 would apply. They can make a comment or offer an</p> |

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| <p style="text-align: right;">54</p> <p>1 opinion, but how -- I don't know how they would</p> <p>2 ensure that.</p> <p>3 Q. Is a community manager supposed to be an</p> <p>4 active participant in those discussions?</p> <p>5 A. No.</p> <p>6 Q. Should the community manager help ensure</p> <p>7 that the board is properly applying Nevada law?</p> <p>8 A. They can offer an opinion, but the board is</p> <p>9 going to do what the board wants to do.</p> <p>10 Q. Should the community manager help ensure</p> <p>11 that the board is properly applying the governing</p> <p>12 documents?</p> <p>13 A. They should offer an opinion, but, again,</p> <p>14 they can't ensure anything.</p> <p>15 Q. Well, let me ask it this way: What steps</p> <p>16 should a community manager take to help counsel a</p> <p>17 board during an executive session meeting on properly</p> <p>18 applying Nevada law?</p> <p>19 MR. NOACK: Objection. Lacks foundation.</p> <p>20 A. Again, they can offer an opinion, but there</p> <p>21 is no assurance.</p> <p>22 Q. And is that the same answer as it relates to</p> <p>23 the governing documents?</p> <p>24 A. Yes.</p> <p>25 Q. If the community manager determines that the</p> | <p style="text-align: right;">56</p> <p>1 reviewed the written correspondence?</p> <p>2 A. It depends on the association and their</p> <p>3 internal policies.</p> <p>4 Q. What does Nevada law require?</p> <p>5 A. I don't know the specifics of the statute.</p> <p>6 Q. What type of training is provided by Terra</p> <p>7 West to community managers on that issue?</p> <p>8 A. I don't recall.</p> <p>9 Q. What type of training does Terra West</p> <p>10 provide community managers on health safety and</p> <p>11 welfare violations?</p> <p>12 A. Are you asking does? I don't know what they</p> <p>13 do now.</p> <p>14 Q. At that time. Again, when I started off</p> <p>15 this conversation, I said you can't testify to</p> <p>16 anything after June 15, 2021, because you weren't</p> <p>17 involved; correct?</p> <p>18 A. Correct.</p> <p>19 Q. And I limited the time frame to the time</p> <p>20 that you were involved prior to June 15th of 2021.</p> <p>21 Do you remember that?</p> <p>22 A. Yes.</p> <p>23 Q. Would any of your answers that you provided</p> <p>24 me so far change given the reminder on the timing</p> <p>25 limitations that we discussed?</p> |
| <p style="text-align: right;">55</p> <p>1 board is not properly applying either Nevada law or</p> <p>2 the governing documents, should the community manager</p> <p>3 offer an opinion?</p> <p>4 A. They may offer an opinion.</p> <p>5 Q. Are they required to offer an opinion?</p> <p>6 A. I don't know the answer to that.</p> <p>7 Q. Okay. Are there policies and procedures</p> <p>8 within Terra West on that issue?</p> <p>9 A. I don't recall.</p> <p>10 Q. Is there any training provided by Terra West</p> <p>11 on that issue to community managers?</p> <p>12 A. I don't recall.</p> <p>13 Q. If a homeowner sends in written</p> <p>14 correspondence regarding an alleged violation, should</p> <p>15 the community manager ensure that each board received</p> <p>16 the written correspondence from the homeowner?</p> <p>17 A. It depends on the policy of the association.</p> <p>18 Q. What does Nevada law require?</p> <p>19 A. I don't recall the specifics.</p> <p>20 Q. What type of training is provided to</p> <p>21 community managers on that issue by Terra West?</p> <p>22 A. I don't recall.</p> <p>23 Q. If a homeowner sends in written</p> <p>24 correspondence on an alleged violation, should the</p> <p>25 community manager ensure that each board member</p> | <p style="text-align: right;">57</p> <p>1 A. No.</p> <p>2 Q. What type of training did Terra West provide</p> <p>3 on health safety welfare violations to community</p> <p>4 managers?</p> <p>5 A. I don't recall.</p> <p>6 Q. Was there any written documents on health</p> <p>7 safety welfare violations, any policies and</p> <p>8 procedures?</p> <p>9 A. I don't recall.</p> <p>10 Q. What type of training did Terra West provide</p> <p>11 on the appropriateness of fine amounts as it relates</p> <p>12 to health safety welfare violations?</p> <p>13 A. I don't recall.</p> <p>14 Q. Let's talk a little bit about the Anthem</p> <p>15 Highlands Community Association account that was with</p> <p>16 Terra West. At times we have referred to Anthem or</p> <p>17 Anthem Highlands throughout this deposition.</p> <p>18 Do you recall that?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. Is it your understanding that either</p> <p>21 you or myself, depending on who made the reference,</p> <p>22 that we were always referring to the Anthem Highlands</p> <p>23 Community Association?</p> <p>24 A. During my testimony, yes.</p> <p>25 Q. Yes, and during my examination of you; is</p> |

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| <p style="text-align: right;">58</p> <p>1 that correct?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. Would you prefer to call them Anthem</p> <p>4 or Anthem Highlands? How do you refer to that</p> <p>5 account?</p> <p>6 A. It doesn't matter to me.</p> <p>7 Q. Okay. So moving forward if we say "Anthem"</p> <p>8 or "Anthem Highlands," either one of us, let's both</p> <p>9 understand that we're referring to Anthem Highlands</p> <p>10 Community Association.</p> <p>11 Is that fair?</p> <p>12 A. Yes.</p> <p>13 Q. Do you recall how many times Terra West has</p> <p>14 managed Anthem?</p> <p>15 A. Yes.</p> <p>16 Q. How many teams?</p> <p>17 A. Twice.</p> <p>18 Q. How long did Terra West manage Anthem the</p> <p>19 first time?</p> <p>20 A. Oh, I would have to give an estimate between</p> <p>21 three and five years. Purely an estimate.</p> <p>22 Q. I understand. When did that take place?</p> <p>23 A. Oh, it had to have been about 12 years ago.</p> <p>24 Again, I don't recall the exact dates.</p> <p>25 Q. That's fine. I'm just trying to get your</p> | <p style="text-align: right;">60</p> <p>1 the second time?</p> <p>2 A. I believe two years up until we sold the</p> <p>3 company.</p> <p>4 Q. How was that working out for Terra West,</p> <p>5 managing Anthem the second time?</p> <p>6 A. Fine.</p> <p>7 Q. Who is Dawn Marshall?</p> <p>8 A. She was a CAM who, as I recall, passed away.</p> <p>9 Q. When did she pass away?</p> <p>10 A. Probably three years ago.</p> <p>11 Q. It was my understanding based on looking at</p> <p>12 the board meeting minutes for Anthem that</p> <p>13 Ms. Marshall started out as the community manager for</p> <p>14 Anthem the second time.</p> <p>15 Does that ring any bells to you?</p> <p>16 A. Yes, it does.</p> <p>17 Q. Okay. What happened with her managing</p> <p>18 Anthem?</p> <p>19 A. I don't recall if it was a matter of her --</p> <p>20 she had a number of health issues and that may have</p> <p>21 been part of the change.</p> <p>22 Q. Because I saw that she only managed it for a</p> <p>23 month or two until it switched to Ms. Eassa.</p> <p>24 Do you recall anything about why it started</p> <p>25 with Ms. Marshall and why it transitioned to</p> |
| <p style="text-align: right;">59</p> <p>1 best recollection as you sit here today.</p> <p>2 A. Ah-huh.</p> <p>3 Q. So it would be fair to say it was roughly 10</p> <p>4 to 12 years ago, and would that have been when it</p> <p>5 started the management of Anthem?</p> <p>6 A. Yes.</p> <p>7 Q. And then it managed it for roughly a few</p> <p>8 years, maybe five years after it started; is that</p> <p>9 correct?</p> <p>10 A. Yes.</p> <p>11 Q. Who is the manager for -- strike that.</p> <p>12 Who was the community manager for Anthem</p> <p>13 when Terra West first managed it?</p> <p>14 A. As I recall, it was Carmen.</p> <p>15 Q. Were there any issues with Ms. Eassa</p> <p>16 managing Anthem?</p> <p>17 MR. NOACK: Objection. Vague.</p> <p>18 A. No. No.</p> <p>19 Q. Did Ms. Eassa complain about having to</p> <p>20 manage Anthem at that time?</p> <p>21 A. No.</p> <p>22 Q. Who was the manager the second time?</p> <p>23 A. As I recall, it was Carmen, but I'm not</p> <p>24 super clear on that. I believe it was Carmen.</p> <p>25 Q. Okay. How long did Terra West manage Anthem</p> | <p style="text-align: right;">81</p> <p>1 Ms. Eassa?</p> <p>2 A. No.</p> <p>3 Q. Was Ms. Marshall complaining about the</p> <p>4 community?</p> <p>5 A. No.</p> <p>6 Q. Was Ms. Marshall complaining about</p> <p>7 Ms. Mossett-Puhek?</p> <p>8 A. No.</p> <p>9 Q. When did you rehire Ms. Eassa? Let me</p> <p>10 start -- strike that.</p> <p>11 Let me start from the beginning. How many</p> <p>12 times has Ms. Eassa worked for Terra West?</p> <p>13 A. Twice.</p> <p>14 Q. And when did she first start her employment</p> <p>15 with Terra West?</p> <p>16 A. I believe it was when -- around the time</p> <p>17 that we started managing Anthem Highlands, as I</p> <p>18 recall, the first time.</p> <p>19 Q. And how long did she work with Terra West</p> <p>20 the first time?</p> <p>21 A. Probably three or four years.</p> <p>22 Q. Did you have any issues with Ms. Eassa?</p> <p>23 A. No.</p> <p>24 Q. Any reprimands?</p> <p>25 A. No.</p> |

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| <p style="text-align: right;">62</p> <p>1 Q. Any complaints about her management?</p> <p>2 A. No.</p> <p>3 Q. Do you recall why Ms. Eassa stopped working</p> <p>4 for Terra West?</p> <p>5 A. I think that she was just kind of tired of</p> <p>6 community management.</p> <p>7 Q. Do you know what she did after she stopped</p> <p>8 working for Terra West?</p> <p>9 A. I think she -- I think she went to work for</p> <p>10 Ted's office.</p> <p>11 Q. Do you know what she did for Mr. Boyack?</p> <p>12 A. I don't know.</p> <p>13 Q. Do you know anything else about her</p> <p>14 employment from the time she stopped working at Terra</p> <p>15 West to when she started working there the second</p> <p>16 time?</p> <p>17 A. No.</p> <p>18 Q. When did she start working for Terra West</p> <p>19 the second time?</p> <p>20 A. I believe it would have been around the time</p> <p>21 that we started managing Anthem Highlands.</p> <p>22 Q. How did Ms. Eassa come to work for Terra</p> <p>23 West the second time?</p> <p>24 A. Oh, it was probably -- we would place ads</p> <p>25 for CAMs and whatnot and it was probably something</p> | <p style="text-align: right;">64</p> <p>1 like Art in the Park and movie night, and so that</p> <p>2 was -- and getting those things up and running. That</p> <p>3 was a little different than most of our accounts.</p> <p>4 Q. Anything else that you can think of?</p> <p>5 A. No.</p> <p>6 Q. Were you aware of any prior NRED</p> <p>7 investigations into Anthem?</p> <p>8 A. I vaguely remember something a number of</p> <p>9 years ago, but I don't remember specifics.</p> <p>10 Q. Were you aware of any prior NRED</p> <p>11 investigations into Ms. Mossett-Puhek?</p> <p>12 A. I would have to say if I was aware of</p> <p>13 anything, it would have been hand in hand with Anthem</p> <p>14 Highlands, so I don't know specifics.</p> <p>15 Q. If board members were being investigated for</p> <p>16 alleged misconduct by the Nevada Real Estate</p> <p>17 Division, does Terra West take any additional steps?</p> <p>18 A. No.</p> <p>19 Q. Why not?</p> <p>20 A. We're not the attorneys.</p> <p>21 Q. Do you know who was representing Anthem in</p> <p>22 the NRED investigations?</p> <p>23 A. I do not.</p> <p>24 Q. Would it surprise you that Mr. Boyack was</p> <p>25 representing Ms. Mossett-Puhek in the NRED</p> |
| <p style="text-align: right;">63</p> <p>1 like that or she -- our HR director would reach out</p> <p>2 to people that had worked for us previously.</p> <p>3 Q. Would it surprise you at her deposition that</p> <p>4 Ms. Eassa testified that you personally called her</p> <p>5 and asked her to return to Terra West?</p> <p>6 A. It wouldn't surprise me.</p> <p>7 Q. And that when you called her, you asked her</p> <p>8 to take over the Anthem account?</p> <p>9 A. It wouldn't surprise me.</p> <p>10 Q. Why would you have contacted Ms. Eassa?</p> <p>11 A. Well, I personally think she's a standup</p> <p>12 individual and I liked working with her.</p> <p>13 Q. Was Anthem a problem client for Terra West?</p> <p>14 A. Not that I recall.</p> <p>15 Q. Was it a lot of work as far as associations</p> <p>16 go?</p> <p>17 A. They're all a lot of work. Once you get</p> <p>18 over a thousand units, it's a lot of work.</p> <p>19 Q. Did Anthem have anything special about it</p> <p>20 that made it different than any of these other large</p> <p>21 associations?</p> <p>22 A. Well, I think, you know, that it was</p> <p>23 important that we develop a sense of community. So</p> <p>24 there were some special needs there in terms of</p> <p>25 bringing the community together and putting together</p> | <p style="text-align: right;">65</p> <p>1 investigation?</p> <p>2 A. I wouldn't be surprised.</p> <p>3 Q. Are you aware of any complaints regarding</p> <p>4 Ms. Mossett-Puhek by unit owners within Anthem?</p> <p>5 A. No.</p> <p>6 Q. Are you aware of any complaints by any staff</p> <p>7 of Terra West regarding Ms. Mossett-Puhek?</p> <p>8 A. No.</p> <p>9 Q. Community managers?</p> <p>10 A. No.</p> <p>11 Q. Assistants?</p> <p>12 A. No.</p> <p>13 Q. Inspectors?</p> <p>14 A. No.</p> <p>15 Q. Do you know an individual by the name of</p> <p>16 Danielle Gallant?</p> <p>17 A. No.</p> <p>18 Q. Would it surprise you that in -- well,</p> <p>19 strike that.</p> <p>20 Who is Natalie Dubois?</p> <p>21 A. She was our COO, CFO.</p> <p>22 Q. Would it surprise you to learn that</p> <p>23 Ms. Dubois told Ms. Gallant in a conversation that</p> <p>24 the company knows Ms. Mossett-Puhek has a huge</p> <p>25 problem within Anthem?</p> |

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| <p>66</p> <p>1 A. I don't know who Ms. Gallant is.</p> <p>2 Q. Would it surprise you to learn that</p> <p>3 Ms. Dubois told – sorry, I was waiting for</p> <p>4 Mr. Boyack to stop coughing. I'll reask the</p> <p>5 question.</p> <p>6 A. Should I be wearing a mask?</p> <p>7 Q. I think we all should. That was just in</p> <p>8 jest.</p> <p>9 A. Sorry, I'm going to wear a mask.</p> <p>10 Q. You're absolutely --</p> <p>11 A. I have grandkids.</p> <p>12 Q. You are more than welcome to wear a mask. I</p> <p>13 can hear you just fine with one.</p> <p>14 A. Thank you.</p> <p>15 Q. Let me re-ask the question.</p> <p>16 Would it surprise you to learn that</p> <p>17 Ms. Dubois told anybody in a conversation that the</p> <p>18 company, meaning Terra West, knew Ms. Mossett-Puhek</p> <p>19 was a huge problem?</p> <p>20 A. I would be surprised by that.</p> <p>21 Q. When a community manager receives notice of</p> <p>22 potential misconduct by Terra West, what should the</p> <p>23 community manager do?</p> <p>24 A. What should they do or what should they do</p> <p>25 in the case of Anthem Highlands?</p> | <p>68</p> <p>1 to your attention?</p> <p>2 A. Of Terra West?</p> <p>3 Q. That's correct.</p> <p>4 A. Being conduct – no.</p> <p>5 Q. What about as it relates to the board of</p> <p>6 Anthem, did Ms. Eassa ever discuss with you</p> <p>7 allegations that Anthem, the association, was accused</p> <p>8 of misconduct?</p> <p>9 A. No.</p> <p>10 Q. Are there any written policies and</p> <p>11 procedures on this?</p> <p>12 A. No. Not that I recall.</p> <p>13 (Plaintiff's Exhibit 1, P00256 through P00260,</p> <p>14 was marked for identification as of this date.)</p> <p>15 BY MR. ELSON:</p> <p>18 Q. Ms. Matheson, you have been handed what's</p> <p>17 marked as Exhibit 1. Take a moment to review it,</p> <p>18 generally familiarize yourself with it. I don't know</p> <p>19 that I'm going to ask you specific questions about</p> <p>20 the exact language of it.</p> <p>21 A. Ah-huh.</p> <p>22 Q. But I do want to give you an opportunity to</p> <p>23 review it and familiarize yourself with Exhibit 1 and</p> <p>24 if at any point in time you feel the need to review</p> <p>25 it in more detail, you are welcome to do so.</p> |
| <p>87</p> <p>1 Q. Let's start generally.</p> <p>2 What should they do?</p> <p>3 A. Well, it depends on the allegation.</p> <p>4 Q. Okay. If the allegation is that Terra West</p> <p>5 is falling below the standard of care in the</p> <p>6 performance of its duties and obligations, what</p> <p>7 should the community manager do about it?</p> <p>8 A. Bring it to the attention of the director.</p> <p>9 Q. Are you -- is that any different with</p> <p>10 respect to Anthem?</p> <p>11 A. No.</p> <p>12 Q. Should the community manager bring it to</p> <p>13 your attention?</p> <p>14 A. They have in some cases, yes.</p> <p>15 Q. Should Ms. -- let me ask it specifically</p> <p>16 now. I was waiting for you to finish drinking and</p> <p>17 putting your mask on.</p> <p>18 A. Thank you.</p> <p>19 Q. Just trying to be courteous, Ms. Matheson.</p> <p>20 If Ms. Eassa, as it relates to Anthem,</p> <p>21 learned or received notice of an allegation of</p> <p>22 potential misconduct by Terra West, what should</p> <p>23 Ms. Eassa have done about it?</p> <p>24 A. She should have brought it to my attention.</p> <p>25 Q. Did Ms. Eassa ever bring anything like that</p> | <p>89</p> <p>1 A. Okay. I'm good.</p> <p>2 Q. Have you ever seen Exhibit 1 before?</p> <p>3 A. I have not.</p> <p>4 Q. This is entitled Demand For Preservation Of</p> <p>5 Documents Including Electronically Stored</p> <p>6 Information.</p> <p>7 Do you see the title of that?</p> <p>8 A. Yes.</p> <p>9 Q. It's dated June 17th of 2021.</p> <p>10 Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. It's addressed to Anthem Highlands Community</p> <p>13 Association Care Of KGDO Holding Company.</p> <p>14 A. Yes.</p> <p>15 Q. What is KGDO Holding Company?</p> <p>16 A. The parent company of Terra West. It was</p> <p>17 the parent company.</p> <p>18 Q. Looking at the first paragraph, it states,</p> <p>19 "This letter serves as a preservation of documents in</p> <p>20 your possession of evidence relevant to Collier's</p> <p>21 claims against Anthem Highlands Community</p> <p>22 Association."</p> <p>23 Did I read that correctly?</p> <p>24 A. Yes.</p> <p>25 Q. Should Ms. Eassa have brought this letter to</p> |

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| <p style="text-align: right;">70</p> <p>1 your attention?</p> <p>2 A. We had sold the company.</p> <p>3 Q. On June 17th of 2021?</p> <p>4 A. June 15th.</p> <p>5 Q. So had you been employed at Terra West, had</p> <p>6 you not sold the company, would it have been your</p> <p>7 expectation that Ms. Eassa would have reported this</p> <p>8 to somebody at the time she received it?</p> <p>9 A. I suppose so, yes.</p> <p>10 Q. What would Terra West – had you received</p> <p>11 this letter prior to selling the company, what would</p> <p>12 Terra West have done upon receipt of this type of</p> <p>13 letter?</p> <p>14 MR. NOACK: Okay. Calls for speculation.</p> <p>15 Incomplete hypothetical.</p> <p>16 You can answer.</p> <p>17 A. I probably -- if I had received it, I would</p> <p>18 probably refer it over to the association's legal</p> <p>19 counsel.</p> <p>20 Q. Would Terra West have conducted any sort of</p> <p>21 independent investigation into the allegations to</p> <p>22 determine whether or not the association was engaging</p> <p>23 in any misconduct?</p> <p>24 A. No, we would not.</p> <p>25 Q. Why not?</p> | <p style="text-align: right;">72</p> <p>1 require a certain level of training.</p> <p>2 Q. What type of training do they receive?</p> <p>3 A. I don't know if you would call it training</p> <p>4 per se, but there is a document that they have to</p> <p>5 sign with the NRED that they are familiar with the</p> <p>6 governing documents of the association, et cetera, et</p> <p>7 cetera. I don't recall the exact content of that.</p> <p>8 Q. You would agree with me that they're not</p> <p>9 licensed professionals; is that correct?</p> <p>10 A. Well, I have had associations that had</p> <p>11 licensees who served as board members.</p> <p>12 Q. Typically, are board members licensed</p> <p>13 professionals?</p> <p>14 A. No.</p> <p>15 Q. They rely on the guidance and expertise of</p> <p>16 the community manager; is that correct?</p> <p>17 A. And legal counsel.</p> <p>18 Q. They rely on the guidance and expertise of</p> <p>19 the community managers; is that correct?</p> <p>20 MR. NOACK: Objection. Asked and answered.</p> <p>21 A. No, we don't tell boards what to do.</p> <p>22 MR. ELSON: Let's take a look at Exhibit 2.</p> <p>23 (Plaintiff's Exhibit 2, Email chain, was</p> <p>24 marked for identification as of this date.)</p> <p>25 BY MR. ELSON:</p> |
| <p style="text-align: right;">71</p> <p>1 A. Why would we?</p> <p>2 Q. As the community manager of the management</p> <p>3 company that's responsible for oversight and</p> <p>4 compliance with Chapter 116, do you feel that Terra</p> <p>5 West owes any independent obligation to ensure that</p> <p>6 no wrongdoing was occurring within this association?</p> <p>7 A. As I stated, in a case like this, I would</p> <p>8 refer this over to association counsel.</p> <p>9 Q. Would you have monitored it or followed up</p> <p>10 with it to determine how legal counsel was treating</p> <p>11 the matter?</p> <p>12 A. I don't know. I think that once it's in the</p> <p>13 hands of legal counsel, they will guide – direct us.</p> <p>14 Q. Direct you or direct the association?</p> <p>15 A. The association.</p> <p>16 Q. So who would have been directing Terra West</p> <p>17 to ensure that Terra West was fulfilling its</p> <p>18 obligations?</p> <p>19 A. The board of directors.</p> <p>20 Q. Are board of directors compensated for their</p> <p>21 role on serving for association boards?</p> <p>22 A. No.</p> <p>23 Q. Are board of directors trained in</p> <p>24 Chapter 116 of the Nevada Revised Statutes?</p> <p>25 A. There are provisions in the statute that</p> | <p style="text-align: right;">73</p> <p>1 Q. Have you seen Exhibit 2 before?</p> <p>2 A. No, I have not.</p> <p>3 Q. This is an email chain dated – start with</p> <p>4 the bottom email, it's dated June 17th of 2021.</p> <p>5 Do you see that?</p> <p>6 A. Yeah. I got it.</p> <p>7 Q. And then the top two emails are on Friday,</p> <p>8 June 18th of 2021; is that correct?</p> <p>9 A. Yes.</p> <p>10 Q. And at the top on the CC, the carbon copy</p> <p>11 line, we see Katherine Matheson with email address</p> <p>12 kmatheson@terrawest.com.</p> <p>13 Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. And we see next to it Deborah –</p> <p>16 A. Ogilvie.</p> <p>17 Q. Ogilvie, thank you, with her email address</p> <p>18 dogilvie@terrawest.com.</p> <p>19 Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. Is that your email address?</p> <p>22 A. It was my email address until June 15th.</p> <p>23 Q. Was that Ms. Ogilvie's email address?</p> <p>24 A. Until June 15th.</p> <p>25 Q. What steps did you take to terminate your</p> |

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| <p style="text-align: right;">74</p> <p>1 email address upon your departure with Terra West?</p> <p>2 A. I didn't do anything. It was done by the</p> <p>3 new -- by the new owners.</p> <p>4 Q. Do you know what steps the new owners took?</p> <p>5 A. I do not.</p> <p>6 Q. What steps did you take to remove yourself</p> <p>7 from Terra West's website after you departed?</p> <p>8 A. I didn't do anything. It was up to the new</p> <p>9 owners.</p> <p>10 Q. Do you know if your email address was still</p> <p>11 active on June 18th of 2021?</p> <p>12 A. I don't believe it was.</p> <p>13 Q. Did you set up a bounce back for your email</p> <p>14 address before you departed?</p> <p>15 A. I did not.</p> <p>16 Q. Did you -- strike that.</p> <p>17 Do you know when you were removed from Terra</p> <p>18 West's website as being listed as the CEO of Terra</p> <p>19 West?</p> <p>20 A. I don't know.</p> <p>21 Q. Do you know if you were still listed on</p> <p>22 June 18th of 2021 as the CEO of Terra West?</p> <p>23 A. I don't know.</p> <p>24 Q. Same questions with respect to Ms. Ogilvie.</p> <p>25 Do you know if she was listed as the</p> | <p style="text-align: right;">76</p> <p>1 email, the first email on June 17th of 2021. Let's</p> <p>2 first take a look at the top. The header says "Re:</p> <p>3 2822 Culloden: Preservation Of Evidence."</p> <p>4 Did I read that correctly?</p> <p>5 A. Where are you at, on Page 1 or 2?</p> <p>6 Q. Page 1 at the top, the very top of the</p> <p>7 heading.</p> <p>8 A. Yes, I see that.</p> <p>9 Q. Same date as the preservation of evidence</p> <p>10 letter, Ms. Mossett Puhek's email; correct?</p> <p>11 A. Well, one is the 17th; one is the 18th.</p> <p>12 Q. Look at --</p> <p>13 A. The first one, excuse me, yes. They're both</p> <p>14 June 17th, the first email and the letter.</p> <p>15 Q. Ms. Mossett-Puhek starts off by writing,</p> <p>16 "Thank you for your email. You cannot direct</p> <p>17 management to do anything so please cease and desist</p> <p>18 doing so."</p> <p>19 Did I read that correctly?</p> <p>20 A. That's what it states.</p> <p>21 Q. Do you think sending a preservation of</p> <p>22 evidence letter to the association is improper?</p> <p>23 A. No.</p> <p>24 Q. Would you agree with Ms. Mossett-Puhek's</p> <p>25 statement, (as read) "You cannot direct management to</p> |
| <p style="text-align: right;">75</p> <p>1 president of Terra West on Terra West's website on</p> <p>2 June 18th of 2021?</p> <p>3 A. I don't know.</p> <p>4 Q. When did your licensing stop being attached</p> <p>5 to Terra West?</p> <p>6 A. Immediately at closing.</p> <p>7 Q. What steps did you ensure that -- what steps</p> <p>8 did you take to ensure that took place?</p> <p>9 A. Sent the forms to the NRED.</p> <p>10 Q. And how do you know NRED processed it by</p> <p>11 June 15th of 2021?</p> <p>12 A. I don't know.</p> <p>13 Q. At that point in time if your involvement</p> <p>14 with Terra West was terminated, did your licensing</p> <p>15 with Nevada require you to ensure that you were no</p> <p>16 longer being marketed or attached with Terra West</p> <p>17 after June 15th of 2021?</p> <p>18 A. I don't know.</p> <p>19 Q. Have you ever seen these types of</p> <p>20 preservation of evidence letters before, Exhibit 1?</p> <p>21 A. I have seen those.</p> <p>22 Q. What's your understanding of what a</p> <p>23 preservation of evidence letter is?</p> <p>24 A. Just what it says, preserve evidence.</p> <p>25 Q. Let's take a look at Ms. Mossett-Puhek's</p> | <p style="text-align: right;">77</p> <p>1 do anything so please cease and desist from doing</p> <p>2 so"?</p> <p>3 A. Well, we do take our direction from the</p> <p>4 board.</p> <p>5 Q. Was the preservation of evidence letter --</p> <p>6 strike that.</p> <p>7 What should Ms. Eassa have done after</p> <p>8 receiving the preservation of evidence letter under</p> <p>9 the policies and procedures that existed when you</p> <p>10 owned Terra West?</p> <p>11 A. When we owned Terra West?</p> <p>12 Q. That's correct. Two days earlier.</p> <p>13 A. If I would have received it, we would have</p> <p>14 referred it over to legal counsel, association legal</p> <p>15 counsel.</p> <p>16 Q. Do you follow direction from the board even</p> <p>17 if that direction violates Nevada law? Let me</p> <p>18 rephrase. Strike that.</p> <p>19 Is a community manager required to follow</p> <p>20 direction from the board even if that direction</p> <p>21 violates Nevada law?</p> <p>22 A. Well, they are not required to, no.</p> <p>23 Q. What should a community manager do when a</p> <p>24 community manager receives direction from a board</p> <p>25 that violates Nevada law?</p> |

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| <p style="text-align: right;">78</p> <p>1 A. Again, I would defer to legal counsel. I 2 would refer it to legal counsel. 3 Q. What legal counsel would you refer it to? 4 A. Association's counsel. 5 Q. Why would you refer it to association's 6 legal counsel when it's Terra West that's being 7 directed to do something that Terra West shouldn't 8 do? Why wouldn't you refer it to Terra West's own 9 legal counsel? 10 MR. NOACK: Objection. Lacks foundation. 11 Q. I'm not talking about Exhibit 1 or 12 Exhibit 2. Let's set those aside for the moment. 13 The community manager receives a direction 14 from a board that violates Nevada law, should the 15 community manager follow that direction? 16 A. Again, this is addressed to Anthem. 17 Q. I am not talking about Exhibits 1 or 18 Exhibit 2. Let me take these away to ensure there is 19 no confusion here. 20 If a community manager receives direction 21 from a board that directs the community manager to 22 violate Nevada law, what should that community 23 manager do -- 24 MR. NOACK: Objection. 25 Q. -- under Terra West's policies and</p> | <p style="text-align: right;">80</p> <p>1 A. Yes. 2 Q. Did Terra West ever seek legal counsel from 3 Mr. Ogilvie related to Anthem? 4 A. I don't recall. 5 Q. Let's go back to Exhibit 1 and Exhibit 2. 6 Continues to state, "State law dictates what we 7 preserve and what we don't and absent a court order 8 we will not adhere to your demands." 9 Did I read that correctly? 10 A. Yes. 11 Q. Before sending this type of email, should 12 Ms. Mossett-Puhek have consulted with the board of 13 directors? 14 MR. NOACK: Objection. Calls for 15 speculation. Argumentative. 16 Q. What's your understanding? You can answer 17 as to your understanding. 18 A. I don't know if she should have. I don't 19 know what -- how their board was set up in terms of 20 communication and such. 21 Q. What does Nevada law require? 22 A. As far as? 23 Q. What types of decisions can a board member 24 make without consulting the rest of the executive 25 board?</p> |
| <p style="text-align: right;">79</p> <p>1 procedures that were enacted prior to your departure? 2 MR. NOACK: Objection. Incomplete 3 hypothetical. You can answer. 4 A. We did not have a written policy and 5 procedure. 8 Q. What does Nevada law require that a 7 community manager do if a community manager receives 8 direction from a board that violates Nevada law? 9 MR. NOACK: Objection. Calls for a legal 10 conclusion. 11 A. Off the top of my head, I don't know. 12 Q. At what point would Terra West seek counsel, 13 it's own legal counsel if an association was 14 directing a community manager to take steps that 15 violated Nevada law? 16 A. We would call on corporate counsel on 17 occasion, but we didn't have a hard and fast rule. 18 Q. Who was corporate counsel for Terra West 19 prior to June 15th of 2021? 20 A. George Ogilvie. 21 Q. Was there anybody else that was legal 22 counsel for Terra West prior to June 15th of 2021? 23 A. There may have been another associate at 24 McDonald Carrano, but George was our primary. 25 Q. Was George at McDonald Carrano?</p> | <p style="text-align: right;">81</p> <p>1 A. They can't make decisions on hiring 2 contractors, you have to go out to bid, when you 3 have, you know, insurance, you're going to hire a new 4 insurance broker, you need to bring it to the board. 5 It's really -- that's my understanding. 6 Q. Can a board member unilaterally decide 7 whether or not to follow a preservation of evidence 8 request without consulting the rest of the executive 9 board? 10 A. I don't have an opinion. 11 Q. Just to be clear, you were licensed as a 12 super CAM, a supervisory CAM and you don't have an 13 opinion on what Nevada law requires on whether or not 14 a board member should consult with other members of 15 the executive board? 16 MR. NOACK: Objection. Legal conclusion. 17 Misstates prior testimony. 18 You can answer. 19 A. I refer it to legal counsel. 20 Q. Terra West's legal counsel? 21 A. No. 22 Q. Goes on to state, "I understand that you 23 feel these harassing tactics may get the association 24 attorney involved, but it will not." 25 Did I read that correctly?</p> |

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| <p style="text-align: right;">82</p> <p>1 A. Yes.</p> <p>2 Q. Do you think it's harassing to send a</p> <p>3 preservation of evidence letter?</p> <p>4 A. Personally, I don't think it's harassing,</p> <p>5 but...</p> <p>6 Q. Seems like Ms. Mossett-Puhek decided that</p> <p>7 she shouldn't get the association attorney involved;</p> <p>8 is that correct?</p> <p>9 MR. NOACK: Objection. Argumentative.</p> <p>10 A. All I have is what I can read here and I</p> <p>11 don't know what she was thinking.</p> <p>12 Q. Is a board president permitted to spend</p> <p>13 association money without obtaining consent from the</p> <p>14 remainder of the board?</p> <p>15 A. Depends on the association. Some</p> <p>16 associations allow that and others don't.</p> <p>17 Q. What does Nevada law require?</p> <p>18 A. I don't recall.</p> <p>19 Q. Would it surprise you at her deposition that</p> <p>20 Ms. Mossett-Puhek testified that she can spend up to</p> <p>21 \$7,500 without approval from any other board member?</p> <p>22 A. Would it surprise me?</p> <p>23 Q. That's correct.</p> <p>24 A. No.</p> <p>25 Q. Do you think that meets the requirements of</p> | <p style="text-align: right;">84</p> <p>1 proceed in a proper manner. Notice of a claim</p> <p>2 carries with it different obligations in addition to</p> <p>3 what Chapter 116 sets forth, some of which are set</p> <p>4 forth in more detail in our letter. While Anthem is</p> <p>5 free to disregard our letter requesting preservation</p> <p>6 of evidence, Anthem's decision to do so may carry</p> <p>7 with it certain penalties set forth under the Nevada</p> <p>8 Rules of Civil Procedure to the extent litigation is</p> <p>9 pursued, which is looking more probable."</p> <p>10 Did I read that correctly?</p> <p>11 A. Yes.</p> <p>12 Q. If Ms. Eassa received this type of email and</p> <p>13 you were still at Terra West, is this the type of</p> <p>14 email that you would expect Ms. Eassa to bring to</p> <p>15 your attention?</p> <p>16 A. I suppose so.</p> <p>17 Q. Next paragraph goes on to state, "Even more</p> <p>18 problematic is that it appears you unilaterally made</p> <p>19 a decision to disregard the letter, which violates</p> <p>20 Chapter 116. As you are aware, HOAs are heavily</p> <p>21 regulated by Chapter 116."</p> <p>22 Did I read that correctly?</p> <p>23 A. Yes.</p> <p>24 Q. Do you agree or disagree that HOAs are</p> <p>25 heavily regulated by Chapter 116?</p> |
| <p style="text-align: right;">83</p> <p>1 Chapter 116?</p> <p>2 MR. NOACK: Objection. Legal conclusion.</p> <p>3 A. I don't recall a specifics --</p> <p>4 Q. You can answer as to your understanding.</p> <p>5 A. I don't know.</p> <p>6 Q. What type of policies and procedures existed</p> <p>7 at Terra West to ensure that board members didn't act</p> <p>8 beyond their authority?</p> <p>9 A. I don't recall.</p> <p>10 Q. Let's go back to Exhibit 2. Looking at the</p> <p>11 email dated June 28, 2021, at 9:08 a.m., the one</p> <p>12 right above the email we were just looking at.</p> <p>13 Second paragraph states, "With that said, your email</p> <p>14 is problematic for a variety of reasons."</p> <p>15 A. Hold on, where are we looking at? I don't</p> <p>16 see June 18th. I see --</p> <p>17 Q. June 18th. If I said June 28th --</p> <p>18 A. You said June 28th.</p> <p>19 Q. I misspoke. My apologies. I'm looking at</p> <p>20 this paragraph right here, Ms. Matheson (indicating).</p> <p>21 A. Okay.</p> <p>22 Q. States, "With that said, your email is</p> <p>23 problematic for a variety of reasons. Anthem has now</p> <p>24 been put on notice of a potential claim, which</p> <p>25 carries potential ramifications if Anthem does not</p> | <p style="text-align: right;">85</p> <p>1 A. I agree that they're regulated.</p> <p>2 Q. Goes on to state, "You are not in a position</p> <p>3 to unilaterally make any decision for the HOA.</p> <p>4 Furthermore, HOAs must typically make these types of</p> <p>5 decisions at properly noticed board meetings or as</p> <p>6 otherwise set forth within the governing documents.</p> <p>7 The fact that Terra West is allowing you to act in</p> <p>8 this manner is problematic for Terra West as well</p> <p>9 (along with some of the other procedural issues I've</p> <p>10 documented), which is why I've now copied upper</p> <p>11 management at Terra West."</p> <p>12 Did I read that correctly?</p> <p>13 A. Yes.</p> <p>14 Q. Ms. Mossett-Puhek responds on the email</p> <p>15 above, looking at the first line, "I am really sick</p> <p>16 of your ridiculous and uninformed threats. Please</p> <p>17 learn HOA law before you start spouting nonsense."</p> <p>18 Did I read that correctly?</p> <p>19 A. Yes.</p> <p>20 Q. Do you believe Ms. Mossett Puhek's response</p> <p>21 is professional?</p> <p>22 MR. NOACK: Objection. Argumentative.</p> <p>23 A. You know, that's kind of -- I don't know the</p> <p>24 backdrop to how this evolved, so I don't know if it's</p> <p>25 unprofessional or not.</p> |

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| <p style="text-align: right;">86</p> <p>1 Q. Goes on to state, "You clearly do not 2 understand it which should be a surprise and a 3 disservice to your client. This is a governing 4 document issue. Potential means nothing. I 5 potentially want to fly to the moon, but the chance 6 of that happening is little to none." 7 Did I read that correctly? 8 A. Yes. 9 Q. Do you have an opinion now as to whether or 10 not this email is professional by Ms. Mossett-Puhek? 11 MR. NOACK: Objection. Argumentative. 12 A. I have an opinion that it's funny. 13 Q. I'm sorry, are you laughing during this 14 deposition? 15 A. I chuckled. 16 Q. Do you think this is serious? 17 A. No. You asked me my -- 18 MR. BOYACK: Tim, stop badgering the 19 witness. She has every right -- 20 MR. ELSON: Excuse me, do not interrupt my 21 deposition. The witness is laughing. 22 MR. BOYACK: You are badgering this witness. 23 Stop it. She was simply laughing and you are now 24 getting argumentative. She said it was funny; that's 25 her testimony. Period.</p> | <p style="text-align: right;">88</p> <p>1 BY MR. ELSON: 2 Q. Ms. Matheson, do you think this is funny? 3 A. I do not. 4 MR. NOACK: Objection. Argumentative. 5 Q. Do you think Ms. Mossett Puhek's response is 6 professional? 7 MR. NOACK: Objection. Asked and answered. 8 A. Again -- 9 MR. NOACK: Argumentative. 10 A. Out of context. I don't know what the 11 lead-up was to this. 12 Q. Based on what you have read so far, do you 13 believe her response is professional? 14 MR. NOACK: Same objection. 15 A. Again, out of context. I don't know what 16 led to this. 17 Q. Goes on to state, "Additionally, I can make 18 unilateral decisions regarding the management of the 19 HOA." 20 Did I read that correctly? 21 A. Yes. 22 Q. Do you agree with that statement? 23 A. I don't know what their internal policy was, 24 so I don't have an opinion. 25 Q. Do you believe Nevada law permits the board</p> |
| <p style="text-align: right;">87</p> <p>1 MR. ELSON: Mr. Boyack, I will conduct this 2 deposition in a manner I see fit. Throughout this 3 deposition, you made improperly speaking objections. 4 You have improperly coached the witness and I ask you 5 to stop interfering with my deposition. 6 MR. BOYACK: Just for the record, none of 7 that is accurate. This is the same MO, same 8 objections and running objections you stated in other 9 depositions. This witness has a right to chuckle and 10 she was answering your questions. 11 When you talk about unprofessionalism, I 12 think at this point if you are badgering a witness 13 over her laughing and then asking her if she somehow 14 thinks this is a laughing process, I think that's 15 improper questioning. That's for the record. That's 16 my objection. 17 MR. ELSON: Mr. Boyack, I will ask that you 18 review the discovery commissioner's opinion as to 19 what conduct is appropriate in a deposition and limit 20 your objections to such, which you have not done 21 today, and, frankly, you haven't done in many 22 depositions. 23 MR. BOYACK: Very good. Take me to the 24 discovery commissioner. 25 MR. ELSON: Okay.</p> | <p style="text-align: right;">89</p> <p>1 president to unilaterally make a decision to 2 disregard a preservation of evidence letter? 3 A. Again, I don't know in what context the 4 lead-up to this. 5 Q. What should Ms. Eassa have done after 6 witnessing this email exchange under the policies and 7 procedures that existed at Terra West prior to 8 June 15, 2021, just three days earlier? 9 A. We did not have policies and procedures in 10 place to address an issue specific to this. 11 Q. Would you have expected Ms. Eassa to bring 12 it to your attention had you still been there on 13 June 18th of 2021? 14 A. I would imagine she would have brought it to 15 my attention. 16 MR. NOACK: We have been going over an hour. 17 I don't know how much you have left, if it's a good 18 time to take another short break or if you are close 19 to it? 20 MR. ELSON: I have a few more questions 21 before we take a break. 22 MR. NOACK: No problem. 23 Q. Looking back at this email, the second email 24 where it states, "The fact that Terra West is 25 allowing you to act in this manner is problematic for</p> |

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| <p style="text-align: right;">90</p> <p>1 Terra West as well (along with some of the other 2 procedural issues I have documented)," does that 3 cause you concern that Ms. Eassa received notice that 4 Terra West was engaging in potential wrongdoing? 5 A. Again, this was after June 15th, so... 6 Q. Did Terra West have any policies and 7 procedures on what steps should be taken to preserve 8 evidence? 9 A. I don't recall. 10 MR. ELSON: Let's go off the record. 11 (Whereupon, a recess was taken at this time.) 12 (Plaintiff's Exhibit 3, Email chain, was 13 marked for identification as of this date.) 14 BY MR. ELSON: 15 Q. Ms. Matheson, you have been handed what's 16 been marked as Exhibit 3. Please take a moment to 17 familiarize yourself with it and let me know when you 18 are ready for me to ask you questions. 19 A. Okay. 20 Q. What is the purpose of an executive session 21 meeting on a violation? 22 A. To discuss the merits of the violation and 23 make decisions on what the next steps will be. 24 Q. What is a homeowner -- strike that. 25 What's the purpose of permitting a homeowner</p> | <p style="text-align: right;">92</p> <p>1 6:14 p.m.; is that correct? 2 A. Yes. 3 Q. So that's about a week earlier than 4 Exhibits 1 and 2 prior to June 15th of 2021; is that 5 correct? 6 A. Yes. 7 Q. Looking at the bottom email first, the one 8 that's first in time, it starts off by saying, "This 9 email confirms the complete inappropriate conduct of 10 Ms. Mossett-Puhek at the hearing just now. 11 Ms. Mossett-Puhek repeatedly interrupted me from the 12 very outset of the meeting. When she interrupted me, 13 she claimed that Nevada law permitted her to do so as 14 she ran the meeting, which is far outside the bounds 15 of professionalism." 16 Did I read that correctly? 17 A. Yes. 18 Q. When homeowners present their positions at 19 executive session meetings, should they be constantly 20 interrupted when they are speaking about their 21 position? 22 MR. NOACK: Objection. Argumentative. 23 A. You're asking for my opinion? 24 Q. That's correct. First, I will ask for your 25 opinion.</p> |
| <p style="text-align: right;">91</p> <p>1 to attend the violation hearing? 2 A. In my opinion, it's to share their position 3 on the violation. 4 Q. Is a homeowner typically permitted to bring 5 evidence on a violation hearing? 6 A. I would imagine so. 7 Q. And explain their position as to why they 8 are in compliance with the governing documents and/or 9 Nevada law? 10 A. I would imagine so, yes. 11 Q. Let's go back to Exhibit 3. We are going to 12 start with the bottom email again. Actually, I take 13 that back. Start with the top. 14 A. Okay. 15 Q. The subject line is Anthem. 16 Do you see that? 17 A. Yes. 18 Q. It is addressed to Carmen Eassa and Ted 19 Boyack. 20 Do you see that? 21 A. Yes. 22 Q. The top email is dated June 9th of 2021 at 23 6:17 p.m.? 24 A. Yes. 25 Q. The bottom email is dated June 9, 2021, at</p> | <p style="text-align: right;">93</p> <p>1 Yes, what's your opinion on the matter? 2 A. My opinion is if a homeowner comes in, they 3 should be able to state their case and then the 4 matter is referred to the board and they make a 5 decision. 6 Q. Goes on to state, "Ms. Mossett-Puhek 7 reviewed" -- sorry. Goes on to state, 8 "Ms. Mossett-Puhek refused to allow us to present 9 documents or evidence at the hearing." 10 Did I read that correctly? 11 A. Yes. 12 Q. I think we already talked about that, but I 13 will ask it again just to make sure. Should a 14 homeowner be permitted to present documents or 15 evidence at a hearing? 16 A. In my opinion, yes. 17 Q. Goes on to state, "Ms. Mossett-Puhek 18 misstated Nevada law, in claiming that a unit owner 19 may not present evidence at a hearing, which is the 20 exact time Nevada law allows a unit owner to do so. 21 At one point early in the meeting, the host (which we 22 understand is you)" -- referring to Ms. Eassa -- 23 "muted me. Ultimately, Ms. Mossett-Puhek refused to 24 allow me to answer specific questions from board 25 members, specifically the gentleman named Joseph."</p> |

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| <p style="text-align: right;">94</p> <p>1 Did I read that question?</p> <p>2 A. Yes.</p> <p>3 Q. Or did I read that correctly?</p> <p>4 A. Yes.</p> <p>5 Q. Should a unit owner be permitted to answer</p> <p>6 questions from board members at an executive session</p> <p>7 meeting?</p> <p>8 A. In my opinion, yes.</p> <p>9 Q. "When Ms. Mossett-Puhek engaged in this</p> <p>10 conduct, we asked to record the meeting to document</p> <p>11 it, at which point Ms. Mossett-Puhek refused to allow</p> <p>12 it on the grounds that Nevada law precluded the</p> <p>13 recording (which I don't necessarily believe is true</p> <p>14 when the unit owner consents to it or requests it</p> <p>15 given the abusive nature of the Board President)."</p> <p>16 Did I read that correctly?</p> <p>17 A. Yes.</p> <p>18 Q. Goes on to state, "Ultimately, Anthem</p> <p>19 refused to allow us to present all evidence or</p> <p>20 otherwise engage with the Board, which is yet another</p> <p>21 procedural deficiency as to how the notice hearing</p> <p>22 was conducted. In all of my years of practice, I've</p> <p>23 never encountered such a hostile executive meeting</p> <p>24 that was run with a complete lack of</p> <p>25 professionalism."</p> | <p style="text-align: right;">96</p> <p>1 as Mr. Boyack must step in to ensure that Anthem is</p> <p>2 following Nevada law, as this conduct will likely be</p> <p>3 referred to the ombudsman absent immediate corrective</p> <p>4 action."</p> <p>5 Did I read that correctly?</p> <p>6 A. Yes.</p> <p>7 Q. What would be your expectation of how</p> <p>8 Mr. Boyack should have responded after receiving this</p> <p>9 email?</p> <p>10 A. Oh, I'm sorry.</p> <p>11 Q. Did you just laugh again on the record?</p> <p>12 A. I was sneezing. I can't say what he should</p> <p>13 have done.</p> <p>14 (Plaintiff's Exhibit 4, DFT1615 through</p> <p>15 DFT1616, was marked for identification as of this</p> <p>16 date.)</p> <p>17 BY MR. ELSON:</p> <p>18 Q. Let me hand you what's been marked as</p> <p>19 Exhibit 4. Please take a moment to review it and</p> <p>20 familiarize yourself with Exhibit 4.</p> <p>21 A. Okay.</p> <p>22 Q. Exhibit 4 includes a response back from</p> <p>23 Pennie Mossett-Puhek.</p> <p>24 Do you see that?</p> <p>25 A. Yes.</p> |
| <p style="text-align: right;">95</p> <p>1 Did I read that correctly?</p> <p>2 A. Yes.</p> <p>3 Q. Goes on to state, "As the community manager,</p> <p>4 you should have stepped in to prevent</p> <p>5 Ms. Mossett-Puhek from incorrectly running the</p> <p>6 meeting outside of Nevada law."</p> <p>7 Did I read that correctly?</p> <p>8 A. Yes.</p> <p>9 Q. Do you agree with that statement?</p> <p>10 MR. NOACK: Objection. Hearsay.</p> <p>11 Argumentative.</p> <p>12 Q. Let's presume that everything in this email</p> <p>13 is true, do you agree with the statement that I just</p> <p>14 read to you?</p> <p>15 A. I don't think it's the property manager's</p> <p>16 place to step in until the board president, that</p> <p>17 she's running the meeting improperly.</p> <p>18 Q. What should the community manager do in such</p> <p>19 a situation?</p> <p>20 A. Take the minutes. The president is in</p> <p>21 charge of the meeting.</p> <p>22 Q. Is the community manager supposed to do</p> <p>23 anything else?</p> <p>24 A. No.</p> <p>25 Q. Goes on to state, "Mr. Boyack is also copied</p> | <p style="text-align: right;">97</p> <p>1 Q. It's responding back only to Ms. Eassa; is</p> <p>2 that correct?</p> <p>3 A. Yes.</p> <p>4 Q. That's at June 9, 2021, at 7:22 p.m.;</p> <p>5 correct?</p> <p>6 A. Yes.</p> <p>7 Q. Below that is an email dated June 9, 2021,</p> <p>8 at 6:17 p.m.; is that correct?</p> <p>9 A. Yes.</p> <p>10 Q. It's blank, but it appears to be an email</p> <p>11 from Ms. Eassa to Ms. Mossett-Puhek where Ms. Eassa</p> <p>12 forwards her the email.</p> <p>13 Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. I don't see any indication that Ms. Eassa</p> <p>16 forwarded this email to anybody other than</p> <p>17 Ms. Mossett-Puhek. So it's my understanding that the</p> <p>18 only individual that Ms. Eassa sent this email to is</p> <p>19 the very individual that the email seeks to address</p> <p>20 the misconduct of; is that correct?</p> <p>21 MR. NOACK: Objection. Calls for</p> <p>22 speculation.</p> <p>23 A. I don't know.</p> <p>24 MR. NOACK: Lacks foundation.</p> <p>25 A. I don't know who this went to.</p> |

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| <p style="text-align: right;">98</p> <p>1 Q. Should Ms. Eassa have sent this email to 2 anybody other than Ms. Mossett-Puhek? 3 A. Depends on their internal policy and how 4 matters like this are handled. 5 Q. Would this be the type of email that you 6 would expect Ms. Eassa to bring to your attention? 7 A. Not particularly, no. 8 Q. It doesn't address misconduct at the 9 association? 10 A. No. It's been referred to legal counsel, 11 Ted Boyack. 12 Q. So it's your understanding, based on this, 13 that it's been referred to legal counsel; is that 14 correct? 15 A. Well, Ted is copied in the email. 16 Q. Do you know what direction was provided to 17 Mr. Boyack as it relates to this email? 18 MR. BOYACK: Objection. Calls for 19 attorney-client privilege. 20 A. I have no idea. 21 Q. Let's look at Ms. Mossett-Puhek's response. 22 She replies back, "What an idiot." 23 Did I read that correctly? 24 A. Yes. 25 Q. Does that seem to take this situation</p> | <p style="text-align: right;">100</p> <p>1 notice is? 2 A. I am. 3 Q. This has a process date of June 10, 2021, at 4 8:25 a.m. 5 Do you see that? 6 A. Yes. 7 Q. Do you have any idea what process date 8 means? 9 A. I would assume that it's the date that the 10 letter was generated. 11 Q. It says "Property Address: 2822 Culloden 12 Avenue. Regarding: Courtesy Notice. Inspection 13 Date: June 10, 2021." 14 Did I read that correctly? 15 A. Yes. 16 Q. It says "Violation. Unit owner's authorized 17 representative Tim Elson has been emailing the 18 association's legal counsel without board 19 authorization for such conduct. This unauthorized 20 conduct has incurred legal fees for the association. 21 Please be advised that all legal fees incurred as a 22 result of this misconduct will be assessed to the 23 unit owner account after a duly noticed hearing." 24 Did I read that correctly? 25 A. Yes.</p> |
| <p style="text-align: right;">99</p> <p>1 seriously? 2 MR. NOACK: Objection. Speculation. It's 3 argumentative. 4 A. I would have no idea given what happened at 5 the meeting and -- I don't know. 6 Q. Does that seem like a professional response 7 to you? 8 MR. NOACK: Objection. Argumentative. 9 A. I don't know what kind of a relationship 10 Pennie and Carmen have, but maybe that's -- I don't 11 know. 12 (Plaintiff's Exhibit 5, P00245245, was marked 13 for identification as of this date.) 14 BY MR. ELSON: 15 Q. You have been handed what's been marked as 16 Exhibit 5. Please take a moment to review it and let 17 me know when you have had a chance to familiarize 18 yourself with the document. 19 A. Okay. I have read it. 20 Q. Do you recognize the form, maybe not this 21 document itself, but do you recognize the form of 22 this document? 23 A. I do not recognize this specific document, 24 no. 25 Q. Okay. Are you familiar with what a courtesy</p> | <p style="text-align: right;">101</p> <p>1 Q. This courtesy notice was sent roughly 2 12 hours after Exhibit 3 was sent; is that correct? 3 A. Yes. 4 Q. Should the board have been in the -- 5 involved in the process before issuing this courtesy 6 notice? 7 MR. NOACK: Objection. Calls for 8 speculation. 9 A. I don't know if the board was or wasn't 10 involved. How would I know? 11 Q. What would be your expectation as the owner 12 of Terra West at this time as to what involvement the 13 board would have in determining whether or not to 14 send this type of courtesy notice? 15 A. Again, it goes back to the latitude that the 16 board has given the association president and what 17 they can do. 18 Q. When should an association member -- when 19 should a board member be screened off of a matter? 20 A. Again, it depends on the internal policies 21 of that particular board of directors. 22 Q. Chapter 116 doesn't have any role in that 23 process? 24 A. I don't recall. 25 Q. So, again, as a super CAM, the owner of</p> |

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| <p style="text-align: right;">102</p> <p>1 Terra West, as you sit here today, you have no</p> <p>2 understanding of what Chapter 116 requires as to when</p> <p>3 a board member should be screened off of a process?</p> <p>4 MR. NOACK: Objection.</p> <p>5 A. You are asking me a question after I have</p> <p>6 sold the company, three years later. I don't recall</p> <p>7 the statute.</p> <p>8 Q. I'm asking you what your understanding is</p> <p>9 here as somebody that's been involved in the</p> <p>10 community management business for approximately</p> <p>11 30 years and holds the highest licensing within that</p> <p>12 business what your understanding is as to whether or</p> <p>13 not a board member needs to be screened off of a</p> <p>14 matter.</p> <p>15 As you sit here today, what is your</p> <p>16 understanding on that issue?</p> <p>17 A. As I stated, I don't recall the specifics of</p> <p>18 the statute sitting here today.</p> <p>19 Q. Should a board member be screened off when</p> <p>20 it directly involves alleged misconduct of a board</p> <p>21 member?</p> <p>22 A. I don't have an opinion.</p> <p>23 Q. Did Terra West have any policies and</p> <p>24 procedures on that issue?</p> <p>25 A. I don't recall.</p> | <p style="text-align: right;">104</p> <p>1 me so.</p> <p>2 A. It was referred to association's counsel and</p> <p>3 at that point we weren't involved.</p> <p>4 Q. Based on Exhibit 5, does it still appear</p> <p>5 like it was referred to association's counsel?</p> <p>6 A. Where is 5 again? Oh, this one? I don't</p> <p>7 know.</p> <p>8 Q. I mean, 5 is threatening to fine a homeowner</p> <p>9 for involving association's counsel; correct?</p> <p>10 A. I know, but Ted was informed on June 9th and</p> <p>11 this is June 10th, so I don't know what involvement</p> <p>12 he had.</p> <p>13 Q. In the 12 hours overnight?</p> <p>14 A. I don't know.</p> <p>15 Q. Seems like Ms. Eassa wasted no time in</p> <p>16 having Exhibit 5 issued; right?</p> <p>17 MR. NOACK: Objection. Argumentative.</p> <p>18 A. I disagree with that. I don't know what</p> <p>19 took place.</p> <p>20 Q. What took place between 6:30 on June 19,</p> <p>21 6:30 p.m. and 8:30 a.m. the following day?</p> <p>22 A. How would I know what Carmen did? I don't</p> <p>23 know.</p> <p>24 (Plaintiff's Exhibit 6, DFT1658, was marked</p> <p>25 for identification as of this date.)</p> |
| <p style="text-align: right;">103</p> <p>1 Q. As you sit here today, are you able to</p> <p>2 identify any policies and procedures that Terra West</p> <p>3 had enacted prior to June 15th of 2021?</p> <p>4 MR. NOACK: Objection. Asked and answered.</p> <p>5 A. I don't recall.</p> <p>6 Q. As you sit here today, would you have an</p> <p>7 expectation as to what role the other board members</p> <p>8 would have played in this prior to this courtesy</p> <p>9 issue – courtesy notice being issued?</p> <p>10 A. Again, it goes back to the operational</p> <p>11 processes of the board. I don't know what those</p> <p>12 were.</p> <p>13 Q. Would it surprise you that the rest of the</p> <p>14 board was not informed about this, that the other</p> <p>15 four board members other than Ms. Mossett-Puhek were</p> <p>16 not informed that this courtesy notice was generated?</p> <p>17 MR. NOACK: Objection. Argumentative.</p> <p>18 A. I have no idea.</p> <p>19 Q. So your earlier testimony, the way I</p> <p>20 understood it, was that Mr. Boyack was involved in</p> <p>21 this matter and therefore there was no further need</p> <p>22 for internal review by Terra West; is that correct?</p> <p>23 MR. NOACK: Objection. Misstates prior</p> <p>24 testimony.</p> <p>25 Q. If it misstates your testimony, please tell</p> | <p style="text-align: right;">105</p> <p>1 BY MR. ELSON:</p> <p>2 Q. Handing you what's been marked as Exhibit 6.</p> <p>3 Please take a moment, review it and familiarize</p> <p>4 yourself with it.</p> <p>5 Have you had a chance to review Exhibit 6?</p> <p>6 A. Yes.</p> <p>7 Q. This is an email dated June 10, 2021, at</p> <p>8 5:46 a.m.</p> <p>9 Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. It's from Ms. Mossett-Puhek to Ms. Eassa; is</p> <p>12 that correct?</p> <p>13 A. Yes.</p> <p>14 Q. It also has Chrislin Perez carbon copied.</p> <p>15 Do you know who Ms. Perez is?</p> <p>16 A. She was an assistant at one point of Terra</p> <p>17 West.</p> <p>18 Q. Was she still employed at Terra West when</p> <p>19 you sold the company in –</p> <p>20 A. I don't recall.</p> <p>21 Q. I guess it would have been five days later.</p> <p>22 A. One could assume.</p> <p>23 Q. Presumably she was. The email states,</p> <p>24 "Please send the following violation notice." It</p> <p>25 states out the substance of what's in the violation</p> |

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| <p style="text-align: right;">106</p> <p>1 notice, Exhibit 5; is that correct?</p> <p>2 A. Yes.</p> <p>3 Q. Do you see any other board members copied on</p> <p>4 this email?</p> <p>5 A. No.</p> <p>6 Q. Did Ms. Eassa – based on this email,</p> <p>7 Ms. Eassa didn't make this determination to send out</p> <p>8 this courtesy notice, it appears; correct?</p> <p>9 A. It appears that Pennie directed Carmen to</p> <p>10 send out this violation notice.</p> <p>11 Q. As you sit here today, do you believe that</p> <p>12 that's a problem that the very individual that was</p> <p>13 alleged to engage in misconduct that had her</p> <p>14 misconduct reported to counsel for the association</p> <p>15 directs the community manager less than 12 hours</p> <p>16 later to send out a notice attempting to quash the</p> <p>17 whistleblower notice to legal counsel?</p> <p>18 MR. NOACK: Objection. Argumentative. It's</p> <p>19 compound.</p> <p>20 A. I have no idea who Pennie spoke to, so I</p> <p>21 don't know.</p> <p>22 Q. Okay. Let's presume Pennie didn't speak to</p> <p>23 the rest of the board.</p> <p>24 Would you find this email problematic?</p> <p>25 MR. NOACK: Objection. Incomplete</p> | <p style="text-align: right;">108</p> <p>1 MR. NOACK: Objection. Lacks foundation.</p> <p>2 It's argumentative.</p> <p>3 A. That's why we have attorneys.</p> <p>4 Q. Just to be clear, you weren't notified about</p> <p>5 any of this conduct that was occurring on or about</p> <p>6 June 9th and June 10th of 2021; is that correct?</p> <p>7 A. That's correct.</p> <p>8 Q. And as you sit here today, that's the first</p> <p>9 time you are learning about that, these issues; is</p> <p>10 that correct?</p> <p>11 A. That's correct.</p> <p>12 Q. Do you believe it should have been brought</p> <p>13 to your attention?</p> <p>14 A. Again, it was sent over to legal counsel.</p> <p>15 Q. Do you know if legal counsel was authorized</p> <p>16 to look into the matter?</p> <p>17 MR. NOACK: Objection. Calls for</p> <p>18 speculation.</p> <p>19 A. I don't know.</p> <p>20 Q. Let's presume legal counsel wasn't</p> <p>21 authorized to look into the matter, do you think it</p> <p>22 should have been brought to your attention?</p> <p>23 A. I don't have an opinion one way or another.</p> <p>24 Q. What type of relationship existed between</p> <p>25 Mr. Boyack and Terre West prior to June 15th of 2021?</p> |
| <p style="text-align: right;">107</p> <p>1 hypothetical.</p> <p>2 A. Again, it depends on the association's</p> <p>3 internal policies. I wasn't at the meeting. I have</p> <p>4 no idea.</p> <p>5 Q. What could be in their internal policies</p> <p>6 that would authorize Ms. Mossett-Puhek to</p> <p>7 unilaterally determine to send out this notice on an</p> <p>8 issue that dealt with her own misconduct?</p> <p>9 A. You would have to ask them what their</p> <p>10 internal policies were. I don't know.</p> <p>11 Q. Are you concerned about any of this conduct</p> <p>12 as you sit here today?</p> <p>13 MR. NOACK: Objection. Overbroad.</p> <p>14 Argumentative.</p> <p>15 A. You're asking my opinion, I don't have an</p> <p>16 opinion one way or another.</p> <p>17 Q. You don't have an opinion on this issue?</p> <p>18 MR. NOACK: Same objection.</p> <p>19 A. No.</p> <p>20 Q. Just want to be clear that you don't have an</p> <p>21 opinion on whether or not any of this alleged</p> <p>22 misconduct that was occurring at a time when you</p> <p>23 owned Terra West that alleged wrongdoing on behalf of</p> <p>24 Terra West, you don't have any opinion on whether or</p> <p>25 not you are concerned about it?</p> | <p style="text-align: right;">109</p> <p>1 A. He represented some of our association</p> <p>2 clients.</p> <p>3 Q. How many association clients would you</p> <p>4 estimate that Mr. Boyack represented?</p> <p>5 A. I really couldn't give you a number.</p> <p>6 Q. Could you give me a percentage?</p> <p>7 A. I don't know, 10, 15. I don't know. I have</p> <p>8 no idea.</p> <p>9 Q. Was Mr. Boyack – strike that.</p> <p>10 If an association is going to hire a new</p> <p>11 vendor, what's the procedure that the association is</p> <p>12 supposed to follow?</p> <p>13 A. Again, it depends on the internal policies</p> <p>14 of the association.</p> <p>15 Q. What does Chapter 116 require?</p> <p>16 A. I don't know.</p> <p>17 Q. Do community managers ever make</p> <p>18 recommendations to associations on potential vendors</p> <p>19 they could hire or solicit bids from?</p> <p>20 A. That does happen on occasion.</p> <p>21 Q. Is Mr. Boyack one of the vendors that Terra</p> <p>22 West recommends to associations?</p> <p>23 A. No, we did not recommend legal counsel.</p> <p>24 Q. So community managers never recommend names</p> <p>25 of potential legal counsel that associations could</p> |

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| <p style="text-align: right;">110</p> <p>1 retain?</p> <p>2 A. I can't speak for the individual community</p> <p>3 managers, so I don't know.</p> <p>4 Q. Would it be Terra West's policy and</p> <p>5 procedure for community managers to not recommend</p> <p>6 names of legal counsel that associations could</p> <p>7 retain?</p> <p>8 A. No. If a board asks -- you know, there are</p> <p>9 trade shows and so forth, so boards go to those and</p> <p>10 they form their own opinions and they may say "Hey,</p> <p>11 what do you think of so-and-so?" We just really</p> <p>12 didn't get into that.</p> <p>13 Q. Were you aware that Ms. Eassa previously</p> <p>14 worked for Mr. Boyack prior to June of 2021?</p> <p>15 A. Yes.</p> <p>16 Q. Were you aware that Ms. Mossett-Puhek</p> <p>17 previously worked for Mr. Boyack prior to June of</p> <p>18 2021?</p> <p>19 A. No.</p> <p>20 Q. Were you aware that Ms. Eassa and</p> <p>21 Ms. Mossett-Puhek worked for Mr. Boyack at the same</p> <p>22 time?</p> <p>23 A. No.</p> <p>24 Q. Were you aware that Ms. Mossett-Puhek</p> <p>25 retained Mr. Boyack as her attorney in her individual</p> | <p style="text-align: right;">112</p> <p>1 retained Mr. Boyack in her individual capacity, do</p> <p>2 you believe any of those items should have been</p> <p>3 revealed to the community by Ms. Mossett-Puhek?</p> <p>4 A. I don't know. I don't know if she did</p> <p>5 reveal them or not. I have no idea.</p> <p>6 Q. I'm not asking whether she did or whether</p> <p>7 she didn't. I'm asking you what your expectation</p> <p>8 would be as to whether or not those items should be</p> <p>9 revealed to the community.</p> <p>10 A. Well, certainly, that's a board discussion.</p> <p>11 I don't know what happened when they talked about</p> <p>12 hiring legal counsel.</p> <p>13 Q. What does Chapter 116 require?</p> <p>14 A. Again, I don't recall.</p> <p>15 Q. Does Chapter 116 require board members to</p> <p>16 reveal matters on their candidate statements?</p> <p>17 A. It requires a statement, but I don't know if</p> <p>18 it requires their personal relationships with people.</p> <p>19 Q. Did Terra West, prior to June 15th of 2021,</p> <p>20 have any policies and procedures as to what types of</p> <p>21 matters individual board members should reveal to the</p> <p>22 community?</p> <p>23 A. We did not.</p> <p>24 Q. Should Ms. Eassa have revealed any of these</p> <p>25 relationships to the community?</p> |
| <p style="text-align: right;">111</p> <p>1 capacity?</p> <p>2 A. No.</p> <p>3 Q. Were you aware that Ms. Mossett-Puhek</p> <p>4 accepts expensive dinners from unit owners?</p> <p>5 A. No.</p> <p>6 MR. ELSON: Mr. Boyack, will you please</p> <p>7 instruct your client to not laugh at questions if</p> <p>8 she's going to be --</p> <p>9 MS. MOSSETT-PUHEK: I'm not laughing, I'm</p> <p>10 coughing, if you can pardon me. Thank you.</p> <p>11 Q. Do you believe that any of the items I just</p> <p>12 mentioned create conflict issues for</p> <p>13 Ms. Mossett-Puhek?</p> <p>14 A. I mean, I didn't know that she worked for</p> <p>15 him, so I don't know.</p> <p>16 Q. What type of conflicts are board members or</p> <p>17 potential board members supposed to reveal to the</p> <p>18 community?</p> <p>19 A. I suppose if they have a personal</p> <p>20 relationship with the vendor.</p> <p>21 Q. Do you believe any of what we just talked</p> <p>22 about, Ms. Mossett-Puhek working for Mr. Boyack,</p> <p>23 Ms. Mossett-Puhek working with Ms. Eassa, the two of</p> <p>24 them working together at the same time for</p> <p>25 Mr. Boyack, the fact that Ms. Mossett-Puhek had</p> | <p style="text-align: right;">113</p> <p>1 A. I don't think so.</p> <p>2 Q. Are there any regulations within Chapter 116</p> <p>3 or any other statutes that relate to community</p> <p>4 managers, do any of those discuss what type of</p> <p>5 relationships a community manager should reveal to</p> <p>6 the community?</p> <p>7 A. I don't know.</p> <p>8 Q. Did Terra West have any policies and</p> <p>9 procedures to ensure that community managers were</p> <p>10 revealing all appropriate relationships?</p> <p>11 A. I don't recall.</p> <p>12 Q. Were you aware of a point in time when</p> <p>13 Anthem's paint scheme was not properly listed on</p> <p>14 Terra West's website?</p> <p>15 A. I'm not aware of that.</p> <p>16 MR. ELSON: Let's go off the record.</p> <p>17 (Whereupon, a recess was taken at this time.)</p> <p>18 BY MR. ELSON:</p> <p>19 Q. At the time you sold Terra West in June of</p> <p>20 2021, how many employees did Terra West have?</p> <p>21 A. Around 175.</p> <p>22 Q. How many community managers did Terra West</p> <p>23 have?</p> <p>24 A. Around 25, 30.</p> <p>25 Q. How many assistants did Terra West have?</p> |

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| <p style="text-align: right;">114</p> <p>1 A. I don't know the exact number, but it would 2 be probably close to the CAM. Probably 20. 3 Q. How many associations did Terra West manage 4 at that time? 5 A. Around 230, 240. 6 Q. How many associations were larger than a 7 thousand homes? 8 A. Estimate of probably 18. 9 Q. I would consider that – 10 A. Eighteen to 15, let's say. 11 Q. Sure. I would consider that to be a large 12 association, more than a thousand homes. 13 Is that a fair category? 14 A. Yes. 15 Q. What would you consider to be a medium size 16 association? 17 A. Couple hundred units. 18 Q. So somewhere between 200 to a thousand, 19 would that be – 20 A. A medium size will probably be 200 to 500. 21 Q. Let me break it down in this way, then: So 22 over 500, is that what you would consider to be a 23 large association? 24 A. A larger association, yes. 25 Q. So how many larger associations did Terra</p> | <p style="text-align: right;">116</p> <p>1 beyond that master, large, large. 2 Q. So it sounds like less than ten percent fit 3 in the large, large? 4 A. Ah-huh. 5 Q. Do you know what percentage would fit in the 6 small? 7 A. Probably 30 percent. 8 Q. And then the medium and large, are you able 9 to provide any breakdowns for those? 10 A. Not off the top of my head. I would have to 11 do the math. 12 Q. Fair enough. I don't have any further 13 questions at this time. 14 EXAMINATION BY 15 MR. NOACK: 16 Q. Good afternoon, Ms. Matheson. I introduced 17 myself to you off the record, but I'm Derek Noack. I 18 am an attorney that represents Pennie Mossett-Puhek 19 individually in this matter. I appreciate your time 20 very much today. 21 A. You're welcome. 22 Q. I'll try not to take too much more of it. 23 Real quick, I'm not your attorney; correct? 24 A. Yes. 25 Q. And are you aware that I don't represent</p> |
| <p style="text-align: right;">115</p> <p>1 West have? 2 A. I don't recall the number. 3 Q. Do you recall how many medium size 4 associations Terra West had at that time? 5 A. I don't recall the number. 6 Q. Okay. Are you able to provide like a 7 percentage? 8 A. I mean, I would – I just can't answer the 9 question off the cuff like this. That stuff is a 10 past life. 11 Q. I understand it's been a couple of years, 12 two and a half years since you sold the company. 13 Just wasn't sure if you had any estimates on the size 14 of the communities that Terra West managed. If you 15 don't, that's fine. I'm just trying to get your best 16 estimate to the extent you can provide it. 17 Are you able to provide any such estimate? 18 A. So your question was how many over 500? 19 Q. I was just going to ask you what small means 20 to you, what medium means to you and what large means 21 to you and if you could provide an estimate of – 22 A. Small would be 0 to a hundred, medium would 23 be a hundred to 4-ish. 24 Q. Okay. 25 A. And then 4- to 9- large and then you have</p> | <p style="text-align: right;">117</p> <p>1 Terra West? 2 A. Yes. 3 Q. Okay. Have we ever spoken before today's 4 deposition? 5 A. No. 6 Q. I will apologize if I jump around a little 7 bit, please help me clarify, I'm just going to clear 8 up a few things, notes that I have. 9 Do you recall that earlier testimony 10 regarding the Anthem community manager Carmen Eassa? 11 A. Yes. 12 Q. There were some questions about who or whom 13 Carmen reported to while she was on the Anthem 14 account and my question is did Carmen Eassa ever 15 report directly to you while on the Anthem account? 16 A. On occasion. 17 MR. ELSON: Objection. Leading. Go ahead 18 and answer the question. 19 A. On occasion she would talk to me about it, 20 but she was pretty much a standalone. 21 Q. So generally her reporting of day-to-day 22 activity at Anthem didn't go through you? 23 A. No. 24 Q. Okay. 25 MR. ELSON: Objection. Leading.</p> |

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| <p style="text-align: right;">118</p> <p>1 Q. Earlier there was some testimony regarding 2 where Carmen Eassa worked, whether she was at the 3 Terra West corporate location or the Henderson 4 location. 5 Do you remember that? 6 A. Yes, I do. 7 Q. And is it possible that Carmen only worked 8 at the corporate location? 9 MR. ELSON: Objection. Leading. 10 A. Yes, it is possible because when that 11 question was asked, I was trying to recall if there 12 was a period of time where she went out to Henderson 13 for like a day or a few hours and then corporate. So 14 I don't recall exactly what we had set up. 15 Q. Previously there were some questions about 16 CAMs and super CAMs and -- 17 A. Ah-huh. 18 Q. -- in general. 19 Would you agree that super CAMs are 20 generally for provisional trainees? 21 A. Yes. 22 MR. ELSON: Objection. Leading. 23 Q. And is there a difference between a super 24 CAM and a full CAM? 25 MR. ELSON: Objection. Leading.</p> | <p style="text-align: right;">120</p> <p>1 MR. NOACK: Just briefly for the record, 2 Counsel appears to be making a leading objection to a 3 number of our questions. We had a conversation about 4 this yesterday where it's not my -- it's my 5 understanding that I cannot be leading a witness I 6 don't represent; however, if counsel will agree to it 7 so we don't have to break up the record and it appear 8 as either harassing or confusing type of objections, 9 I can agree that your leading objection is interposed 10 into each of my questions so we don't have to disrupt 11 the testimony. 12 Are you agreeable to that, Counsel? 13 MR. ELSON: No, I don't want a running 14 objection, just like I didn't yesterday. I'm 15 limiting my objection to proper objections, not 16 trying to affect anybody's line of questioning other 17 than just protecting a record and I would prefer to 18 do it on a question-by-question basis, but I 19 appreciate the offer. Thank you. 20 MR. NOACK: You're welcome. 21 BY MR. NOACK: 22 Q. There were some questions earlier regarding 23 I think at times just generally referred to as 24 policies or enforcement policies for an association. 25 Do you remember those?</p> |
| <p style="text-align: right;">119</p> <p>1 A. As the name implies, the supervising CAM has 2 more responsibility in terms of more so with 3 provisional because they're tracking what the 4 provisional is doing and accounting for the hours and 5 so forth so they can get their CAM. 6 Q. And do you know what type of CAM Carmen 7 Eassa was? 8 A. I don't recall. 9 Q. Do you know whether or not Carmen Eassa was 10 a full CAM? 11 A. She was -- as I recall, she was a full CAM. 12 Q. And the directors would oversee full CAMs; 13 correct? 14 MR. ELSON: Objection. Leading. 15 A. They would report to the director, yes. 16 MR. ELSON: Ms. Matheson, I don't mean to 17 interrupt your line of questioning, but just give me 18 a moment to interpose any objections before you 19 answer. I don't want to speak over you, I don't want 20 to speak over Mr. Noack and I don't want the court 21 reporter to get mad at all of us because we're going 22 too quickly. She's the most important person in the 23 room. She is the one creating the record. 24 So, Mr. Noack, thank you for your 25 indulgence, please continue.</p> | <p style="text-align: right;">121</p> <p>1 A. Yes. 2 Q. And are you aware that associations 3 typically have a fine and enforcement policy? 4 A. Yes. 5 Q. In your time at Terra West, did you ever 6 review any of the specifics of a fine and enforcement 7 policy in Anthem community? 8 A. No. 9 Q. Did you ever review the fine and enforcement 10 policy for the Anthem community? 11 A. No. 12 Q. Is it your understanding that the fine and 13 enforcement policy establishes the process by which 14 an association such as Anthem would follow during the 15 issuance of courtesy notices or violations? 16 MR. ELSON: Objection. Leading. Incomplete 17 hypothetical. 18 A. Yes. 19 Q. Does the Terra West management team 20 typically follow the process that's outlined in a 21 fine and enforcement policy for each association? 22 MR. ELSON: Objection. Leading. 23 A. Yes. 24 Q. And it would be your -- strike that. 25 Generally, each member of the Terra West</p> |

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| <p style="text-align: right;">122</p> <p>1 management team would have the responsibility to make 2 them familiarize themselves with the fine and 3 enforcement policy of the association they are 4 managing; right? 5 A. Yes. 6 Q. Are you generally familiar with the Nevada 7 Real Estate Division Form 602? 8 A. Which form is that? I don't know the 9 number. 10 Q. Do you know whether or not there is a form 11 from the Nevada Real Estate Division that would 12 require each board member in an association to 13 individually read NRS 116? 14 A. I am familiar with that form; I just didn't 15 know the number. 16 Q. Does that refresh your recollection whether 17 or not you know it's Form 602 that there is an NRED 18 form that requires board members to familiarize 19 themselves with 116? 20 A. Yes, I -- 21 MR. ELSON: Objection. Form. 22 A. I'm aware of that form. 23 Q. And does this form also require board 24 members to read the governing documents and 25 familiarize themselves with the law?</p> | <p style="text-align: right;">124</p> <p>1 association to determine whether to take enforcement 2 action for a violation of the governing documents, 3 including for unpaid assessments or other claims made 4 by or against it? 5 MR. ELSON: Objection. Leading. Lacks 6 foundation. Argumentative. 7 A. I'm aware of that form. 8 Q. Are you aware under NRS 116.3102 that the 9 executive board does not have a duty to take 10 enforcement action if it determines that under the 11 facts and circumstances presented, the association's 12 position or legal position does not justify taking 13 any enforcement action? 14 MR. ELSON: Objection. Leading. Lacks 15 foundation. Argumentative. 16 A. I don't have a definitive recollection of 17 that specifically. 18 Q. And are you aware that NRS 116.3102, 19 Sections 3 and 4 allow an executive board's decision 20 not to pursue enforcement under one set of 21 circumstances to not prevent the executive board from 22 taking enforcement under another set of 23 circumstances? 24 MR. ELSON: Objection. Leading. 25 Argumentative. Lacks foundation.</p> |
| <p style="text-align: right;">123</p> <p>1 MR. ELSON: Objection. Lacks foundation. 2 Leading. 3 A. As I recollect. 4 Q. Now, would you agree with me that a 5 community manager's obligation to make sure the 6 policies and governing documents that are approved by 7 the board are adhered to? 8 MR. ELSON: Objection. Leading. 9 A. Yes. 10 Q. Would you agree that each board of an 11 association determines the extent of enforcement of 12 their association and it varies from board to board? 13 MR. ELSON: Objection. Compound. Leading. 14 A. Yes. 15 Q. Would you agree that enforcement should be 16 equal based on similar circumstances as provided 17 under NRS 116? 18 A. Yes. 19 Q. Are you familiar with the provisions of NRS 20 116.3102? 21 MR. ELSON: Objection. Lacks foundation. 22 A. No. 23 Q. Are you aware, and I'm going to summarize, 24 but within NRS 116.3102, Sections 3 and 4, the 25 statute authorizes an executive board of an</p> | <p style="text-align: right;">125</p> <p>1 A. Again, I'm not definitively familiar with 2 that. 3 Q. However, we had some testimony on this 4 before, you would agree that the executive board may 5 not be arbitrary and capricious in taking enforcement 6 actions; right? 7 A. Correct. 8 Q. Would you agree that discovery of a 9 violation by observing it is critical for issuing the 10 actual courtesy notice of a violation? 11 MR. ELSON: Objection. Leading. 12 A. Yes. 13 Q. So, for example, if a violation existed at a 14 residence but wasn't observed by a Terra West 15 inspector, you wouldn't -- that wouldn't preclude the 16 inspector from issuing a violation when they notice 17 it at a later time; right? 18 MR. ELSON: Objection. Leading. Incomplete 19 hypothetical. 20 A. Correct. 21 Q. And so just because a violation might exist 22 for a time, that doesn't mean that it's observed; 23 right? 24 MR. ELSON: Objection. Leading. Incomplete 25 hypothetical.</p> |

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| <p style="text-align: right;">126</p> <p>1 A. Yes.</p> <p>2 Q. Inspectors aren't perfect, sometimes they</p> <p>3 miss the violations that exist, they just don't see</p> <p>4 it; right?</p> <p>5 MR. ELSON: Objection. Leading.</p> <p>6 A. That's true.</p> <p>7 Q. And then I just want to – you testified</p> <p>8 earlier I believe that you sold your ownership rights</p> <p>9 to Terra West on June 15, 2021; right?</p> <p>10 A. Yes.</p> <p>11 Q. Do you know when Terra West's employees</p> <p>12 found out about you selling the business?</p> <p>13 A. It was prior to that. I don't recall the</p> <p>14 date.</p> <p>15 Q. And how was it communicated, if you know?</p> <p>16 A. With our leadership, it was in a meeting</p> <p>17 with them and then it was via internal written</p> <p>18 communication for the balance of our team.</p> <p>19 Q. And did you communicate directly with any of</p> <p>20 the Terra West employees the date that you were</p> <p>21 selling and leaving the company?</p> <p>22 A. Yes. Ah-huh.</p> <p>23 Q. Are you aware of whether Carmen Eassa was</p> <p>24 notified that you were selling the company on or</p> <p>25 around June 15, 2021?</p> | <p style="text-align: right;">128</p> <p>1 MR. ELSON: Objection. Leading.</p> <p>2 Q. Exhibit 1 was not directed to Terra West,</p> <p>3 was it?</p> <p>4 MR. ELSON: Objection. Leading.</p> <p>5 A. No, it was not.</p> <p>6 Q. And so you would expect that the board of</p> <p>7 directors on the Anthem board would respond to that</p> <p>8 letter; right?</p> <p>9 MR. ELSON: Objection. Leading.</p> <p>10 A. Yes, it was care of.</p> <p>11 Q. You have been asked a lot of questions today</p> <p>12 in general by plaintiff's counsel about actions taken</p> <p>13 under Nevada law.</p> <p>14 Do you remember those?</p> <p>15 A. Yes.</p> <p>16 Q. I just want to ask generally is it unlawful,</p> <p>17 to your knowledge, for a community manager to give</p> <p>18 legal advice to an association's board?</p> <p>19 MR. ELSON: Objection. Leading.</p> <p>20 A. Yes, it is.</p> <p>21 Q. Because you want counsel to give such</p> <p>22 advice, not the community manager; right?</p> <p>23 MR. ELSON: Objection. Leading.</p> <p>24 A. Correct.</p> <p>25 Q. For the Anthem association or Anthem</p> |
| <p style="text-align: right;">127</p> <p>1 A. She knew about it, yes.</p> <p>2 Q. And how do you know that she knew about it?</p> <p>3 A. Because – I don't recall exactly if I told</p> <p>4 her, but she knew.</p> <p>5 Q. And then I would anticipate you may not know</p> <p>6 this, but when the new owners took over Terra West,</p> <p>7 they probably announced that they were the new owners</p> <p>8 of Terra West to the employees; right?</p> <p>9 MR. ELSON: Objection. Lacks foundation.</p> <p>10 Leading.</p> <p>11 A. I would assume so.</p> <p>12 Q. And before you left Terra West, was there</p> <p>13 any discussion as to how that transition was going to</p> <p>14 be communicated to Terra West?</p> <p>15 A. No.</p> <p>16 Q. All right. I don't think you have to look</p> <p>17 at it, unless you don't remember it, but Exhibit 1</p> <p>18 was a letter that was addressed to the board of</p> <p>19 directors at Anthem.</p> <p>20 Right?</p> <p>21 A. Yes, I have it. Yes.</p> <p>22 Q. So, again, Exhibit 1 was addressed to the</p> <p>23 board of directors at Anthem; correct?</p> <p>24 A. Yes.</p> <p>25 Q. And --</p> | <p style="text-align: right;">129</p> <p>1 Highlands' board, are you aware of whether the</p> <p>2 association adopted a procurement policy that the</p> <p>3 board had approved?</p> <p>4 A. I'm not aware of such policy.</p> <p>5 Q. Are you aware whether under the Nevada Real</p> <p>6 Estate Division there was an agreement that an</p> <p>7 association like Anthem and their board could approve</p> <p>8 procurement policy?</p> <p>9 A. I don't recall the specifics of that.</p> <p>10 Q. And so you don't know whether or not if the</p> <p>11 Anthem board approved that a board president could</p> <p>12 authorize expense payments up to a certain amount,</p> <p>13 whether or not that procurement policy existed at</p> <p>14 Anthem?</p> <p>15 MR. ELSON: Objection. Leading. Incomplete</p> <p>16 hypothetical. Lacks foundation.</p> <p>17 A. Correct.</p> <p>18 Q. And if the Anthem board had approved a</p> <p>19 procurement policy that the board president could</p> <p>20 authorize payment of expenses up to \$7,500, would</p> <p>21 management, community management follow such a</p> <p>22 policy?</p> <p>23 MR. ELSON: Objection. Leading. Incomplete</p> <p>24 hypothetical. Lacks foundation.</p> <p>25 A. Yes.</p> |

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| <p style="text-align: right;">130</p> <p>1 Q. There were some questions earlier from 2 counsel and some emails read verbatim into the record 3 regarding a description, his description of the 4 circumstances at a notice of violation hearing. 5 Do you remember those? 6 A. Yes. 7 Q. I don't have any specific questions about 8 the document; I just want to ask you in general if a 9 homeowner -- strike that. 10 In your experience, is it common for a 11 homeowner responding to a courtesy notice or a CC&R 12 violation to be represented by an attorney? 13 MR. ELSON: Objection. Leading. 14 A. It's very unusual. 15 Q. And if a homeowner was represented by 16 counsel and if counsel had provided a position letter 17 and documents to the board which were circulated, 18 would you expect the board to review those documents 19 before the hearing? 20 A. Yes. 21 Q. And if a letter with the position of the 22 homeowner along with documents and images had 23 previously been circulated, would you expect the 24 attorney to then be able to communicate those to the 25 full board again at the actual hearing?</p> | <p style="text-align: right;">132</p> <p>1 board sessions or in executive board meetings where 2 an individual homeowner was addressing the board, you 3 would agree the community manager would need to learn 4 how to mute and unmute people and everything like 5 that because the technology was so new; right? 6 A. Yes. 7 MR. ELSON: Objection. Leading. 8 Q. In your experience during and during your 9 time owning Terra West, did you ever hear any issues 10 from community managers about mistakes made or 11 learning about the technology? 12 MR. ELSON: Objection. Leading. 13 A. All the time. It was a major headache. 14 Q. And what type of, I guess, growing pains 15 were you communicated about the videoconference 16 technology? 17 A. Just the unfamiliar art with using it and 18 there were different applications, so people had a 19 hard time learning. 20 Q. Would that include like screen sharing or 21 different ways to present documents at an actual 22 videoconference? 23 A. Oh, definitely. 24 Q. And then also the muting/unmuting or 25 admitting people into the room?</p> |
| <p style="text-align: right;">131</p> <p>1 A. If the attorney received it, the documents, 2 yes. 3 Q. And so, for example, at a -- strike that. 4 During COVID, a lot of the meetings were 5 held by Zoom videoconference; correct? 6 A. Yes. 7 Q. And was that a new -- prior to COVID, were 8 any of the board meetings held by video conference? 9 A. Absolutely not. 10 Q. So this is the first time, I mean, around 11 that mid 2020 through 2021 that video conference 12 technology was deployed for board meetings; right? 13 MR. ELSON: Objection. Leading. 14 A. Yes. I mean, there were some occasions, but 15 generally it would be if a board member was out of 16 state or out of the country and that necessitated the 17 Zoom call. 18 Q. So would you agree that there was a learning 19 curve during this time about use of the 20 videoconference technology by the property managers 21 since it was so new? 22 MR. ELSON: Objection. Leading. Vague and 23 ambiguous. Incomplete hypothetical. 24 A. Yes. 25 Q. And so I will ask it this way: In executive</p> | <p style="text-align: right;">133</p> <p>1 A. All of the above. It was a problem. 2 Q. And were there also times where a 3 videoconference attendee may drop off due to either 4 user error or Internet capabilities? 5 A. Sorry to laugh, but, yeah, that was a real 6 problem. 7 Q. Do the videoconference meetings continue to 8 this day, if you know? 9 A. You know, I don't know. 10 Q. Now that most, not all, the COVID 11 restrictions, at least in Clark County, have been 12 lifted, are these meetings now held in person once 13 again? 14 A. I really don't know because we sold kind of 15 when things started to settle down. 16 Q. Are you aware of what an association board 17 liaison to management is? 18 A. A board liaison, would that be a board 19 member who is the liaison? Yes, I am aware of that. 20 Q. And are there any provisions, to your 21 knowledge, during your time at Terra West that 22 existed in the management contract regarding who the 23 board liaison is with management? 24 A. Yes, it was included in our contract. 25 Q. Who generally was the board liaison?</p> |

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| <p style="text-align: right;">134</p> <p>1 A. Generally speaking, it was the president. 2 Q. And, again, just generally, what's your 3 understanding of what the role is of a board liaison 4 with management? 5 A. Basically to be the point person for the 6 board. 7 Q. Now, under the liaison provision of the 8 Terra West management contract, would the property 9 manager take instruction or communicate solely from 10 the board liaison? 11 MR. ELSON: Objection. Leading. 12 A. Well, it depends on the contract. Some of 13 our community ask that two board members serve and 14 some of them just specify one. 15 Q. So just depends on the language of the 16 agreement? 17 A. What was agreed upon, yes. 18 Q. Are you aware under the Anthem agreement 19 with Terra West who the board liaison was? 20 A. I don't recall the specifics. 21 Q. And then just real quick, there were some 22 questions or almost kind of a setup to a question 23 regarding the licensing and highest licensing for a 24 CAM. 25 Do you remember those questions?</p> | <p style="text-align: right;">136</p> <p>1 Q. But just aware in general? 2 A. Yes. 3 MR. ELSON: Objection. Leading. Lacks 4 foundation. 5 Q. I will reserve my right to follow up, but I 6 don't have anything further at this time. 7 MR. BOYACK: I have nothing. 8 FURTHER EXAMINATION BY 9 MR. ELSON: 10 Q. Ms. Matheson, you are getting close, but I 11 have a few more questions for you. 12 A. Okay. 13 Q. Do you want a break or do you want to 14 proceed forward? 15 A. Let's keep moving. 16 Q. Okay. We just heard questions about COVID 17 and remote meetings and how special circumstances 18 called for meetings to go remote. 19 Do you remember that line of questioning? 20 A. Yes, I do. 21 Q. My recollection is the shutdown happened 22 around March or April of 2020. 23 Does that sound right to you? 24 A. Yes. 25 Q. When did meetings start to go remote?</p> |
| <p style="text-align: right;">135</p> <p>1 A. Yes. 2 Q. What is the highest licensing 3 characterization or definition of a CAM? 4 A. The super CAM. Supervising CAM. 5 Q. Is there also something called a PCAM? 6 A. That's not dictated by the State; that's a 7 designation from the CAI. 8 Q. And what is PCAM? What's the -- 9 A. Like a Ph.D. of community management. 10 Q. You are not a PCAM; correct? 11 A. Correct. 12 Q. You are a super CAM or you were a super CAM 13 during your time? 14 A. Correct. 15 Q. And then are you aware of an NRS 116 statute 16 or provision that states the real estate division 17 does not get involved in management's day-to-day 18 operations of an association unless there is an 19 alleged violation of NRS 116? 20 MR. ELSON: Objection. Leading. Lacks 21 foundation. 22 A. I am aware of that, yes. 23 Q. Do you know specifically what statute that 24 is? 25 A. I don't recall.</p> | <p style="text-align: right;">137</p> <p>1 A. I really don't recall the exact date. It 2 was kind of an evolution just based upon the state of 3 the state. 4 Q. Fair to say that there were no in-person 5 meetings after the government shutdown, though; is 6 that correct? 7 A. Not that I am aware of. 8 Q. Well, yeah. I mean, I guess meetings could 9 have possibly occurred, but you are not aware of any; 10 is that correct? 11 A. That's correct. 12 Q. Did -- 13 A. The board meetings you are referring to? 14 Q. That's correct. The board meetings or the 15 executive session meetings. 16 A. Okay. 17 Q. What type of training did Terra West provide 18 the community managers in conducting remote meetings? 19 A. Oh, it was really kind of on the fly. There 20 wasn't formal training. 21 Q. Were there any policies and procedures in 22 place for community managers after these meetings 23 started to be conducted remotely? 24 A. I don't recall specifics. 25 Q. How did Terra West address some of these</p> |

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| <p style="text-align: right;">138</p> <p>1 issues or were they just kind of addressed on like a 2 case-by-case basis? 3 A. Pretty much on the fly. 4 Q. Something would come up, you would talk 5 about it, try and figure it out or train somebody at 6 that time? 7 A. That's correct. 8 Q. Do you remember Ms. Eassa ever discussing 9 any issues with remote meetings? 10 A. I do not. 11 Q. Who would Ms. Eassa have brought these 12 concerns up to? 13 A. In all likelihood, probably IT. 14 Q. That would make sense, somebody that had 15 probably more training than yourself; is that right? 16 A. Yes. 17 Q. Did the issues eventually get better before 18 you left? 19 A. They evolved, but, again, it was just such a 20 time of upheaval, I can't give you a definitive yes. 21 Q. What do you mean by evolved? 22 A. Well, the learning how to use online 23 meetings kind of evolved. 24 Q. People struggled with it more in the 25 beginning than what they did –</p> | <p style="text-align: right;">140</p> <p>1 Q. Have you ever heard the name Sara Barry 2 before? 3 A. Yes. 4 Q. Do you have any opinions on Sara Barry? 5 A. Yes. 6 Q. What are your opinions on Ms. Barry? 7 A. She's been great for our industry and 8 training people and providing continuing education. 9 Q. Do you believe she's knowledgeable on 10 Chapter 116 matters? 11 A. I believe she's knowledgeable, yes. 12 Q. Have you ever taken any training from 13 Ms. Barry before? 14 A. I have. 15 Q. Would you defer to Ms. Barry's expertise on 16 Chapter 116 matters? 17 MR. NOACK: Objection. Vague. 18 Argumentative. 19 A. She had kind of a black and white point of 20 view, so I can't say that I would 100 percent agree 21 with her. 22 Q. As it relates to the transition from your 23 ownership of Terra West to the new ownership of Terra 24 West, it sounds like there was a time period where 25 the employees knew that that was going to happen; is</p> |
| <p style="text-align: right;">139</p> <p>1 A. They seemed to get used to it to some 2 degree, but there were always problems. It was just 3 a moving target. 4 Q. If an association was experiencing issues 5 that affected the procedural process of a violation 6 hearing, how do you think the association should have 7 addressed it to make sure the unit owner had a fair 8 hearing? 9 A. Well, I think that, you know, following the 10 violation policy is basically your – sets your 11 limits, tells them what they should be doing. 12 Q. You don't think that the meeting being 13 conducted remotely should have precluded the unit 14 owner from being heard on the merits of the alleged 15 violation; is that correct? 16 A. I would imagine that -- 17 Q. And if there were issues about the unit 18 owner being heard on the merits as a result of the 19 meeting being conducted remotely, you would have 20 expected the association or Terra West to take steps 21 to try and address those issues; right? 22 A. I think the association should have, yes. 23 Q. Did Terra West offer any training to any of 24 the board members of the association? 25 A. I do not recall.</p> | <p style="text-align: right;">141</p> <p>1 that correct? 2 A. Yes. 3 Q. How long was that time period; are we 4 talking months, days, years? 5 A. Probably a month. 6 Q. Were the employees told to do anything 7 differently during that month as it transitioned to 8 new ownership? 9 A. No. 10 Q. Would you have expected the employees to 11 follow the same policies and procedures during that 12 one-month period? 13 A. Yes. 14 Q. I don't have any further questions at this 15 time. 16 FURTHER EXAMINATION BY 17 MR. NOACK: 18 Q. Very briefly to follow up. We'll get you 19 out of here. During the time the videoconferencing 20 was set up, were you aware that the Terra West IT 21 department assisted Anthem in setting up those 22 meetings? 23 MR. ELSON: Objection. Leading. 24 A. I am not aware of the specifics, so I don't 25 know.</p> |

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| <p style="text-align: right;">142</p> <p>1 Q. Were you aware of whether or not IT was 2 available should Terra West have any issues running 3 the videoconferencing? 4 MR. ELSON: Objection. Leading. 5 A. Again, the availability was there. Whether 6 people took them up on it or not, I don't know. 7 Q. And do you know if the videoconferencing 8 ever changed from, for example, Zoom to GoTo Meeting 9 or any of the other platform, videoconferencing 10 platforms? 11 MR. ELSON: Objection. Leading. 12 A. A variety of platforms were used. It really 13 depended upon the board. 14 Q. So perhaps a platform used at the onset of 15 COVID in 2020 may have transitioned to a platform 16 such as Zoom over the course of that year; is that 17 fair? 18 MR. ELSON: Objection. Leading. 19 A. I would say that's an accurate statement. 20 Q. I don't have anything further. Thank you. 21 THE REPORTER: Electronic, Counsel? 22 MR. BOYACK: I will give you a call. 23 THE REPORTER: Did you need to order? 24 MR. NOACK: We're kind of aligned, so 25 whatever --</p> | <p style="text-align: right;">144</p> <p>1 CERTIFICATE OF DEPONENT 2 PAGE LINE CHANGE REASON 3 4 5 6 7 8 9 10 11 12 13 14 * * * * * 15 I, KATHERINE MATHESON, deponent herein, 16 do hereby certify and declare under penalty of 17 perjury the within and foregoing transcription to be 18 my deposition in said action; that I have read, 19 corrected and do hereby affix my signature to said 20 deposition. 21 22 KATHERINE MATHESON 23 Deponent 24 25 Subscribed and sworn to before me the day of 2024. Notary Public</p> |
| <p style="text-align: right;">143</p> <p>1 MR. BOYACK: You can get a copy. 2 MR. NOACK: One of us will get a copy, so I 3 guess I will take a copy. Etrans. 4 -oOo- 5 (Whereupon, the deposition of 6 KATHERINE MATHESON was concluded at 7 1:45 p.m.) 8 9 10 KATHERINE MATHESON 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> | <p style="text-align: right;">145</p> <p>1 REPORTER'S CERTIFICATE 2 STATE OF NEVADA) 3) ss 4 COUNTY OF CLARK) 5 I, Lori-Ann Landers, a duly commissioned 6 Notary Public, Clark County, State of Nevada, do 7 hereby certify: 8 9 That I reported the taking of the 10 deposition of the witness, KATHERINE MATHESON, at the 11 time and place aforesaid; 12 13 That prior to being examined, the witness 14 was by me duly sworn to testify to the truth, the 15 whole truth, and nothing but the truth; 16 17 That I thereafter transcribed my 18 shorthand notes into typewriting and that the 19 typewritten transcript of said deposition is a 20 complete, true and accurate transcription of my said 21 shorthand notes taken down at said time to the best 22 of my ability. 23 I further certify that I am not a 24 relative or employee of an attorney or counsel of any 25 of the parties, nor a relative or employee of any attorney or counsel involved in said action, nor a person financially interested in the action; and that transcript review NRCP 30(e) was requested. IN WITNESS WHEREOF, I have hereunto set my hand in the County of Clark, State of Nevada, this 6th day of February 2024. Lori-Ann Landers LORI-ANN LANDERS, CCR 792, RPR</p> |