



ANS
Edward D. Boyack, Esq.
Nevada Bar No. 5229
BOYACK ORME ANTHONY & MCKIEVER
7432 W. Sahara Ave., Suite 101
Las Vegas, Nevada 89117
ted@boyacklaw.com
702.562.3415
702.562.3570 (fax)
Attorneys for Defendants

DISTRICT COURT

CLARK COUNTY, NEVADA

ANDREA COLLIER, as trustee of the JACT
TRUST

CASE NO. A-22-852032-C

DEPT. NO. VIII

Plaintiff,

vs.

**DEFENDANTS' ANSWER TO
PLAINTIFF'S COMPLAINT**

PENNIE MOSSETT-PUHEK, individually;
ANTHEM HIGHLANDS COMMUNITY
ASSOCIATION, a Nevada Non-Profit
Corporation; DOES I through X and ROE
BUSINESS ENTITIES I through X,
inclusive.

Defendants.

Defendants, PENNIE MOSSETT-PUHEK and ANTHEM HIGHLANDS
COMMUNITY ASSOCIATION, by and through its attorney of record Edward D. Boyack
of the law firm Boyack Orme Anthony & McKiever, hereby answers Plaintiff's Complaint on
file herein as follows:

PARTIES, JURISDICTION AND VENUE

1. In answering Paragraph 1 of the Complaint on file herein, Defendants are
without sufficient knowledge or information necessary to form a belief as to the truth or falsity
of said allegations, and therefore, denies the allegations contained therein.

2. In answering Paragraph 2 of the Complaint on file herein, Defendants deny the

allegations therein.

3. In answering Paragraphs 3 through 8 of the Complaint on file herein, Defendants are without sufficient knowledge or information necessary to form a belief as to the truth or falsity of said allegations, and therefore, denies the allegations contained therein.

FACTUAL ALLEGATIONS

A. Collier and Mossett-Puhek's Relationship.

4. In answering Paragraphs 9 through 13 of the Complaint on file herein, Defendants are without sufficient knowledge or information necessary to form a belief as to the truth or falsity of said allegations, and therefore, denies the allegations contained therein.

5. In answering Paragraphs 14 through 16 of the Complaint on file herein, Defendants deny the allegations contained therein.

6. In answering Paragraph 17 of the Complaint on file herein, Defendants are without sufficient knowledge or information necessary to form a belief as to the truth or falsity of said allegations, and therefore, denies the allegations contained therein.

7. In answering Paragraphs 18 and 19 of the Complaint on file herein, Defendants deny the allegations contained therein.

8. In answering Paragraph 20 of the Complaint on file herein, Defendants are without sufficient knowledge or information necessary to form a belief as to the truth or falsity of said allegations, and therefore, denies the allegations contained therein.

9. In answering Paragraph 21 of the Complaint on file herein, Defendants deny the allegations contained therein.

B. The Violation Letters And Continued Harassment From Anthem and Mossett-Puhek.

10. In answering Paragraphs 22 and 23 of the Complaint on file herein, Defendants deny the allegations contained therein.

11. In answering Paragraphs 24 through 30 of the Complaint on file herein, Defendants are without sufficient knowledge or information necessary to form a belief as to the truth or falsity of said allegations, and therefore, denies the allegations contained therein.

12. In answering Paragraphs 31 and 32 of the Complaint on file herein, Defendants deny the allegations contained therein.

13. In answering Paragraphs 33 and 34 of the Complaint on file herein, Defendants are without sufficient knowledge or information necessary to form a belief as to the truth or falsity of said allegations, and therefore, denies the allegations contained therein.

14. In answering Paragraphs 35 through 37 of the Complaint on file herein, Defendants deny the allegations contained therein.

15. In answering Paragraphs 38 through 41 of the Complaint on file herein, Defendants are without sufficient knowledge or information necessary to form a belief as to the truth or falsity of said allegations, and therefore, denies the allegations contained therein.

16. In answering Paragraph 42 of the Complaint on file herein, Defendants deny the allegations contained therein.

17. In answering Paragraph 43 of the Complaint on file herein, Defendants are without sufficient knowledge or information necessary to form a belief as to the truth or falsity of said allegations, and therefore, denies the allegations contained therein.

18. In answering Paragraph 44 of the Complaint on file herein, Defendants deny the allegations contained therein.

19. In answering Paragraph 45 of the Complaint on file herein, Defendants are without sufficient knowledge or information necessary to form a belief as to the truth or falsity of said allegations, and therefore, denies the allegations contained therein.

20. In answering Paragraph 46 of the Complaint on file herein, Defendants deny the allegations contained therein.

21. In answering Paragraph 47 of the Complaint on file herein, Defendants are without sufficient knowledge or information necessary to form a belief as to the truth or falsity of said allegations, and therefore, denies the allegations contained therein.

22. In answering Paragraphs 48 through 50 of the Complaint on file herein, Defendants deny the allegations contained therein.

23. In answering Paragraph 51 of the Complaint on file herein, Defendants are without sufficient knowledge or information necessary to form a belief as to the truth or falsity of said allegations, and therefore, denies the allegations contained therein.

24. In answering Paragraph 52 of the Complaint on file herein, Defendants deny the allegations contained therein.

25. In answering Paragraphs 53 and 54 of the Complaint on file herein, Defendants are without sufficient knowledge or information necessary to form a belief as to the truth or falsity of said allegations, and therefore, denies the allegations contained therein.

26. In answering Paragraph 55 of the Complaint on file herein, Defendants deny the allegations contained therein.

27. In answering Paragraphs 56 and 57 of the Complaint on file herein, Defendants are without sufficient knowledge or information necessary to form a belief as to the truth or falsity of said allegations, and therefore, denies the allegations contained therein.

28. In answering Paragraph 58 through 60 of the Complaint on file herein, Defendants deny the allegations contained therein.

FIRST CAUSE OF ACTION

(For Violation of Nevada Law and Nevada Statutes Against All Defendants)

29. In answering Paragraphs 61 through 63 of the Complaint on file herein, Defendants are without sufficient knowledge or information necessary to form a belief as to the truth or falsity of said allegations, and therefore, denies the allegations contained therein.

30. In answering Paragraphs 64 through 68 of the Complaint on file herein,
Defendants deny the allegations contained therein.

SECOND CAUSE OF ACTION

**(Breach of Contract/governing documents/Breach of Real Covenant/Chapter 116
Against Anthem)**

31. In answering Paragraphs 69 through 71 of the Complaint on file herein,
Defendants are without sufficient knowledge or information necessary to form a belief as to
the truth or falsity of said allegations, and therefore, denies the allegations contained therein.

32. In answering Paragraphs 72 through 80 of the Complaint on file herein,
Defendants deny the allegations contained therein.

THIRD CAUSE OF RELIEF

**(Breach of Covenant of Good Faith and Fair Dealing (In Tort And contract) – Against
Defendants)**

33. In answering Paragraphs 81 through 84 of the Complaint on file herein,
Defendants are without sufficient knowledge or information necessary to form a belief as to
the truth or falsity of said allegations, and therefore, denies the allegations contained therein.

34. In answering Paragraphs 85 through 89 of the Complaint on file herein,
Defendants deny the allegations contained therein.

FOURTH CLAIM FOR RELIEF

(Breach of Fiduciary Duty – Against Defendants)

35. In answering Paragraphs 90 and 91 of the Complaint on file herein, Defendants
are without sufficient knowledge or information necessary to form a belief as to the truth or
falsity of said allegations, and therefore, denies the allegations contained therein.

36. In answering Paragraphs 92 through 94 of the Complaint on file herein,
Defendants deny the allegations contained therein.

FIFTH CLAIM FOR RELIEF

(Declaratory Relief Against All Defendants)

1 37. In answering Paragraphs 95 and 96 of the Complaint on file herein, Defendants
2 are without sufficient knowledge or information necessary to form a belief as to the truth or
3 falsity of said allegations, and therefore, denies the allegations contained therein.

4 38. In answering Paragraphs 97 through 98 of the Complaint on file herein,
5 Defendants deny the allegations contained therein.

6 **AFFIRMATIVE DEFENSES**

7 1. Defendants affirmatively alleges that Plaintiff fails to state a claim upon which
8 relief can be granted.

9 2. Defendants have, and at all times herein, acted reasonably and in good faith
10 in discharging their obligations and duties, if any, to Plaintiff.

11 3. Defendants acted properly and in good faith, and in accordance with all duties
12 imposed by law, without malice, either express or implied, and without oppression.

13 4. Upon information and belief, Defendants affirmatively alleges Plaintiff failed
14 to mitigate damages.

15 5. Any damages claimed by Plaintiff are speculative, are not supported by proof
16 and are not compensable as a matter of law.

17 6. Defendants are informed, believes, and thereon allege that if any contract,
18 guarantee, obligation or amendment, as alleged in the Complaint on file herein, has been
19 entered into, any duty of performance of Defendants are excused by reason of frustration of
20 purpose.

21 7. Defendants are informed, believes, and thereon allege that if any contract,
22 guarantee, obligation or amendment, as alleged in the Complaint on file herein, has been
23 entered into, any duty of performance of Defendants are excused by reason of breach
24 of condition precedent by Plaintiff.
25
26
27
28

1 8. Defendants are informed, believes, and thereon allege that if any contract,
2 guarantee, obligation or amendment, as alleged in the Complaint on file herein, has been
3 entered into, any duty of performance of Defendants are excused by reason of breach
4 of condition subsequent by Plaintiff.
5

6 9. Defendants are informed, believes, and thereon allege that if any contract,
7 guarantee, obligation or amendment, as alleged in the Complaint on file herein, has been
8 entered into, any duty of performance of Defendants are excused by reason of breach of
9 an implied condition by Plaintiff.
10

11 10. Plaintiff's own defaults, misfeasances, negligence, and/or intentional
12 conduct contributed to his damages, if any, so that Plaintiff should be barred by the Doctrine
13 of Unclean Hands from any recovery on any of his claims.
14

15 11. Defendants did not make false material representation of fact, which was not
16 true, or if such representation was made, which Defendants specifically denies, Defendants did
17 not make the representation with the intent either to deceive or to induce Plaintiff to act in
18 reliance.
19

20 12. Plaintiff has waived, by conduct or otherwise, any claim against Defendants.
21

22 13. Plaintiff's claims are barred, in whole or in part, by the doctrines of
23 waiver, acquiescence and/or ratification.
24

25 14. Plaintiff did not justifiably rely, in any fashion whatsoever, upon any
26 statement, representation, advice, or conduct of Defendants, and did not act upon any
27 statement, representation, advice, or conduct to his damage.
28

 15. By virtue of Plaintiff's conduct, Plaintiff should be barred from prosecuting
his claims against Defendants by reason of the Doctrine of Estoppel.

1 16. No actual, justiciable controversy exists between Defendants and Plaintiff and,
2 thus, Plaintiff's Complaint must be dismissed as to Defendants.

3 17. Plaintiff's claims are barred against Defendants, to the extent that they are from
4 an alleged contract or contracts with third parties which did not bind Defendants.

5 18. Plaintiff's claims and allegations are barred against Defendants by the doctrine
6 of laches.

7 19. Plaintiff's claims and allegations are barred by its contributory and/or
8 comparative negligence.

9 20. Plaintiff's claims and allegations are barred by the applicable statute
10 of limitation.

11 21. Plaintiff's claims and allegations are barred by the Doctrine of Assumption
12 of Risk.

13 22. Plaintiff's claims and allegations are barred by the Statute of Frauds.

14 23. Defendants are informed, believes, and thereon alleges that if any contract,
15 guarantee, obligation or amendment, as alleged in the Complaint on file herein, has been
16 entered into, any duty of performance of Defendants are excused by reason of lack of
17 consideration.

18 NOTE: Some or all of the affirmative defenses above plead may have been plead
19 for purposes of non-waiver pending discovery. Other affirmative defenses may be added
20 as discovery continues.

21 WHEREFORE, Defendants pray that Plaintiff takes nothing by way of its Complaint
22
23
24

25 / / /
26
27
28

on file herein and that Defendants recovers all costs incurred.

DATED this day of May, 2022.

BOYACK ORME ANTHONY & MCKIEVER

By: /s/Edward D. Boyack

EDWARD D. BOYACK, ESQ.

Nevada Bar No. 005229

7432 W. Sahara Ave, Ste 101

Las Vegas, Nevada 89117

Attorney for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this day of May, 2022, a true and correct copy of the Foregoing **DEFENDANTS' ANSWER TO PLAINTIFF'S COMPLAINT**, was served via electronic submission through the Clerk of Court's electronic filing/ service to all parties registered to receive electronic service.

By: /s/ Norma Ramirez

An Employee of Boyack Orme Anthony & McKiever