

Roz Berman Fails Her Fiduciary Duty & Business Judgment Tests

On June 22, 2008 I provided my fellow SCA Board Members with truly compelling evidence that Mike Dixon had filed a fraudulent affidavit against me on September 7, 2007, and that the previous Board had committed serious statute violations while they were involved with Dixon to try to punish and sanction me for pressing for answers to financial management questions.

I also provided truly compelling evidence that the last SCA Board had committed very serious law violations and had disregarded SCA governing documents when four Board Members (Berg, Dwyer, Roz Berman and Bob Berman) claimed in a letter on November 19, 2007 that they had nothing to do with Dixon's September 7, 2007 affidavit, and that his complaints against me had nothing to do with my performance as a board member. Can you imagine them attempting to take and hold such an obviously false position after they had twice removed me as Association Vice President?

In my June 22 letter concerning dismissal of the Dixon affidavit, I politely asked the Board to meet on an emergency basis to vote to require Mike Dixon to withdraw his affidavit because the cost of legal services created by that affidavit had already reached an estimated \$60,000, and that costs to SCA could exceed \$200,000 if the Nevada Real Estate Division should decide to move ahead and conduct a formal hearing in 2008 and 2009 on Mike Dixon's bogus claims.

That would trigger a major legal process involving witnesses, depositions, major document searches and subpoenas--similar to a law suit. It could take up to two years to complete—including time for appeals from either side. I pointed out that the current Board would have to bear the responsibility for the major financial impacts of that continuing process if it did not require Mike Dixon to withdraw his Board-sponsored affidavit.

On June 22, 2008 I sent a separate letter to my fellow Board Members advising that I currently required reimbursement of my out-of-pocket legal expenses of \$28,782.20 used to defend myself against the Board President's affidavit since October 2007.

On June 25 I received a single reply from Roz Berman. She denied everything provided to her, and refused to even allow discussion of the matters requested in our forthcoming Executive Session or the June 26 regular Board Meeting. Even before she consults with the association attorney or other members of the Board, she has completely rejected all of the arguments provided to her.

Specifically, Roz Berman refuses to believe the following provision of **NRS 116.785**:

“5. Notwithstanding any other provision of this section, unless the respondent has knowingly and willfully committed a violation, if the respondent is a member of an executive board or an officer of an association:

(a) The association is liable for all fines and costs imposed against the respondent pursuant to this section; and (b) The respondent may not be held personally liable for those fines and costs.”

After almost 9 months of NRED investigations, it is clear that I have not been found to have knowingly and willfully committed any statute violations. Moreover, proving such an extremely

difficult matter in court under even normal circumstances is nearly impossible. So, the long-term financial impacts to this association of Roz Berman's, Mike Dixon's and Faviel West's presidencies are likely to add up to be in the hundreds of thousands of dollars.

Obviously, I must publically release all current and future correspondence relating to this and other matters and ask the members of this association to become involved—and to stay involved. If you do not demand better management and judgment from your Board of Directors, your association attorney, and your Community Management Company, you will be paying a heavy price in terms of future dues increases to cover their individual and collective failures.

Please be assured, Roz Berman (and her suspended attorney spouse who appears to be illegally guiding her instead of consulting Mr. Leach) will totally fail in their attempts to protect the improper and illegal activities of Mike Dixon, Faviel West, Bob Berman, Kay Dwyer, Lanie Berg, Barry Friedman and the others who have helped to create and cover up the mismanagement of the past.

In the meantime, a great deal of your dues money could be wasted, and it would have to be replaced by future dues increases. If that disturbs you, you must demand a stop now to these outrageous wastes of time and resources!

You have a right to know the answers to the questions: *“What is it that the Board majority feels is so secret and so important to protect that they must spend tens of thousands of dollars to try to force Bob Frank off the board and silence him? Why will you not schedule a public hearing to review all the facts in front of the community members who are paying dearly for this apparent witch hunt?”*

However, if you are not yet convinced there is a big problem, check out, monitor, and comment on the blogs about documents coming online at <http://www.anthemvoice.org/violations.html> . That is the only place where you can find a comprehensive library of relevant documents and records.

Finally, be aware that the new board members (Weinstein, Cheri and Cooper) can NOT avoid being held personally accountable for failing to act on behalf of the community interests. Shame on them for trying to invoke the so-called “Pontius Pilot Defense” (*it was not my doing, and I am not involved*).

A Director must take responsibility for the association's business. A board member is either part of the problem or part of the solution. There can be no middle ground when it comes to decisions about such large sums of community funds. And, Roz Berman can not legally make the kind of unilateral decisions for the board that her letter attempts to do. Even if the majority refuses to be involved, they are making a choice to aid and abet the misbehavior of the past. We must demand better from all current and past Directors.

Bob Frank
SCA Director
June 25, 2008