

Note From Kay and Robert Frank:

In response to questions and comments from fellow SCA member, journalist, and website operator, Mr. Ron Johnson, Kay sent the following email on June 29, 2008 -- just 3 days after the alleged statute violations.

Please observe that neither Board President Berman nor VP Weinstein has ever offered a sincere apology or shown any real remorse for their well-documented willful misconduct described by this affidavit. While both have been more cautious about their behavior since being challenged by our notification of intent to file this affidavit, neither one has consistently avoided such misconduct.

In the meantime, as the top two officers in this community association, Ms. Berman and Mr. Weinstein were able to quickly get all local charges dismissed concerning their violating community governance rules. And, for their convenience, they immediately caused the local rules to be removed from our local regulations so they could not be charged again for such flagrant misconduct.

This point is made in support of our position that Ms. Berman and Mr. Weinstein must be found guilty of statute violations and heavily punished for such willful misconduct.

Robert and Kay Frank

Subject: Re: Board meeting
From: "Kay Frank" <kayfrank@cox.net>
Date: Sun, 29 Jun 2008 19:10:32 -0700
To: "Ronald Johnson" <rljohnson32@cox.net>
CC: <bobfrank@cox.net>

Ron,

Bob and I have reviewed your comments, and you are correct. In addition, here are some thoughts that may be useful for today--or in the future.

* Carl Weinstein has a history of unprovoked, personal, hateful attacks on me on your blog and elsewhere. (I, and many others, still believe Carl was largely responsible for many of the most vicious, hateful postings that you had to remove and in fact, he frequently used his name.) Carl has sometimes apologized for his nasty comments by email, but he never made a public apology for anything. Although his hateful behavior was in a public venue. As a Board Member, he now has a higher standard of conduct to meet under NRS 116.31083(5) and 116.31085(1), but he appears unable to hold his anger and handle the higher responsibility. No doubt some of his anger is due to his knowing the board is dead wrong on continuing to press the harassment and retaliation against my

husband, and he probably wishes he was not involved, but he has had a choice to opt out, and he has failed to have the courage to do so.

* For example, although he attempted a half-baked apology just before the end of the meeting, he had waited for a couple of hours had passed and two-thirds of the audience had left. He probably thinks that is all he has to do. But, he did not retract his twice-made insulting and defamatory remarks. First, he call me a liar after interrupting both me and Roz, and then again called me a liar to the SCA member who followed me in the comment period and asked Roz about whether Carl was the board's "super parliamentarian", or not.

* While Carl has the right to wait until I have finished speaking, and to state that he disagrees with my statements, or even to say that he believes that I am seriously misinformed or mistaken on the facts, but he can never call me, or any other homeowner, a liar. According to Bob Maddox, my husband's attorney, during "member comment period", an association member has the right to say anything (even recite the phone book if they wish) without interruption as long as they are not abusive and not vulgar. And, board members are not required to respond.

* This is serious misbehavior (by both Carl and Roz), as you have suggested, because Carl claims to have served 35 years in HR corporate management and, if so, he most certainly knows he can not do what he did. At SCA during the past few years, he has had a consistent pattern of trying to insult, demean, intimidate, and sully me--and others. If a corporate employee (in his previous life or in RMI) had brought a complaint after receiving this type of unacceptable manager behavior, Carl would have been required to attend Anger Management Courses or fired. Anger Management training and related counseling is something he should be required to attend for this and related misbehavior. I will ask that he attend an anger management course and a course on NRS 116.

* Second, Roz Berman violated the same NRS statute, twice, even after I had advised her that an attorney had previously advised me she could not interrupt a resident for doing what I was doing, and that such an error in judgment by the board member could be justification to restart my member comment time. She has a pattern of doing this at town halls as well.

* As president of the board (after serving on the board for over a year and after being heard during her campaign speeches complaining about Favil West's disrespectful treatment of residents) and as the person solely in charge of the meeting, she had unique responsibilities to (1) not interrupt me, (2) not allow Carl to interrupt me, and (3) not allow Carl to insult or defame a

homeowner. Instead, Roz Berman completely lost control of the meeting, lost her temper, interrupted me twice, and failed in her duty to the members. Worse yet, Roz Berman allowed Carl to make an additional insulting statement against me when he was asked to respond to another resident's question about his obviously improper behavior. They both only stopped as a result of my husband demanding that they stop and to get control of themselves. As you have suggested, this is a long-standing Board President pattern of misbehavior (at board meetings, town hall meetings and committee meetings) for the past few years that absolutely must stop. Not one of the previous presidents have been sanctioned in any way for such behavior, and I believe that Roz Berman needs public rebuke and formal re-training to ensure it does not happen again. I shall ask that she receive the same training as well as a course in leadership duties.

* Because this is a repeat and a pattern of misbehavior by both board members and tolerated by four others, I must file a SCA Code of Conduct violation and an Ombudsman Intervention Affidavit against them for statute violations. I will request an open hearing and I will ask for Ombudsman Mediation. I will also be publically posting my letters before submitting (as you did before for your complaints against Mike Dixon) so that the community will know my full story and understand the full pattern of their misbehavior. Some will say that is over-kill on this matter, but the past shows that doing nothing has no effect on this kind of bullying behavior. The entire time I have lived at SCA, I have heard other homeowners say they have chosen not to speak because they are afraid of this same treatment.

Kay

P.S. Concerning my statement about the obligation for SCA to pay some \$60,000 in legal fees that set Carl off, I had made it clear that I was quoting my husband's attorney and my husband in all that I was saying. Carl might not like what I was saying, but a person in control of themselves would know better than to interrupt both Roz and I and call me a liar. Even if he had totally failed to listen to my opening comments, he still would have said nothing until I was finished--to see what else I was going to say.... He had the right to advise the homeowners that he did not agree but not to call me a liar. I was, in fact, citing others including two attorneys. I do have a clear taped copy of the entire board meeting. It is amazing to me that after the flimsy apology by Carl without retraction for calling me a liar and the audience was mollified. I was astounded by the fact that audience members were so rude to me. Should Roz and Carl accept my requests for training and issue a public apology including the claim of liar, it will save this association money and perhaps

encourage a practice of respect for homeowners and obedience to the law.

----- Original Message -----

*From: Ronald Johnson
To: Kay Frank
Sent: Sunday, June 29, 2008 6:45 AM
Subject: Board meeting*

Kay, this is my recollection to what transpired at the Board meeting. Could you please take a look and make any corrections or additions you deem appropriate.

Ron

Contrary to the allocates expressed by some residents on the performance of the Board, it was very troubling and disturbing to witness the outrageous display exhibited by Carl Weinstein towards a speaker during the public comment period, the worst in my seven years in attending Board meetings. Sadly, his outburst appeared to have been prompted by the failure of Roz Berman to control her own demeanor in her uncalled-for attempt to stop the speaker from talking, not because the speaker's time limit had been exceeded but because she was uncomfortable with the subject matter that was being aired by Kay Frank, wife of Board member Bob Frank.

As Kay had explained, she was reading a brief passage from an attorney's analysis of the complaint against Bob that Mike Dixon as president of the Board had submitted last year to the Ombudsman's Office. In her unsuccessful efforts to stop Kay from continuing, Roz offered up her lame reason for doing so, namely, that the subject matter was unrelated to Association business. Of course, that excuse for her interrupting behavior seemed out of place. After all, anyone used to attending a Board meeting is all too familiar with the wide ranging topics that are brought up by homeowners, many if not most of which are unrelated to Association business. What was it that Roz didn't want the homeowners to hear?

As Kay continued, and for reasons known only to Carl, he suddenly took the mike and shouted to Kay, "You're a liar." While the audience understood that Kay was repeating what someone else had written, Carl did not seem to have a clue. Carl was calling her a liar for the words of another. While Carl's angry display was clearly unacceptable, his ill tempered behavior raises the question of his suitability as a Board member. While Carl later offered his apology to Kay, his poor judgment and behavior offended the entire community.