

Public Misconduct Involving Statute & Code of Conduct Violations
by Directors Roz Berman and Carl Weinstein
During the June 26, 2008 Board Meeting

Introduction: The following set of transcript segments was extracted from a digital recording of the June 26, 2008 Sun City Anthem Board Meeting that started at 1:30 PM and continued to approximately 4 PM. The full meeting is archived in *.WAV and *.MP3 file formats on a CD-ROM. This document is available online at www.AthemVOICE.org.

The Nevada Statute violations and SCA governing rules violations were made by Roz Berman, Board President, and Carl Weinstein, Board Vice President. The violations were witnessed by Kay Frank, Bob Frank, Gerrie Wolf, Steve Baldweber and approximately 100 other homeowners during the June 26, 2008 Board of Directors Meeting in Freedom Hall, Sun City Anthem, Henderson, NV 89052. The following document will be used as clear evidence of statute violations and SCA code of conduct violations by both Board President Roz Berman and Board Vice President Carl Weinstein.

During the Board Meeting Member Comment Period the following was recorded:

Kay Frank said: *"My name is Kay Frank, and I reside in Black Mountain Village. My husband is Bob Frank--a Director. I have some items to read into the record. I am going to read just a brief part of them, and comment on them."*

Ms. Frank continued: *"This is a letter from Bob Maddox, one of my husband's attorneys, to Mindy Elliott, who is the head of the (Nevada) Department of Business and Industry—where the Real Estate Division falls under. And, he has provided her with a cover letter and an analysis of the affidavit accusing my husband of wrong-doing by Mr. Dixon."*

Kay Frank also said: *"And, this is his analysis to Ms. Mindy Elliott. And, in the second paragraph, and this is just one item, but it is on Anthem Voice, so don't think I am cherry-picking, you can read the entire thing, not just what I am going to read you."* At this point **Kay Frank** began reading Attorney Bob Maddox's quoted paragraph (atch. #2.) but she was rudely interrupted for the first time by **Board President Roz Berman** about a minute after **Kay** started to read: *"In the second paragraph of page 7, again Mr. Dixon accuses Mr. Frank of breaching his fiduciary duties and, again, offers no explanation. Mr. Dixon claims that Item 40 attached to the Dixon Intervention Affidavit..."*

At this point, **Ms. Berman** yelled at Ms. Frank through her microphone, interrupted her presentation, and disrupted Kay's concentration by shouting *"Is there anything you would like the Board to do for you?"*

Kay Frank responded by stopping her reading, and saying, *"Yes. I would like to finish reading this."* She resumed reading, but **Ms. Berman** interrupted a second time asking: *"What is it?"*

Ms. Frank said: *“No, I want to finish, and if you interrupt me again, I want you to restart my time.”*

So, **Ms. Frank** resumed reading Mr. Maddox’s analysis where she left off: *“...supports his contention that Mr. Frank acted unilaterally on association matters without prior board knowledge, discussion or decision. Mr. Dixon claims that Item 40 attached to the Dixon Intervention Affidavit supports his contention that Mr. Frank acted unilaterally on association matters without prior board knowledge, discussion or decision. Item 40 is an email from Terry DaSilva to all board members, requesting board members to agree upon a date for a seminar to be conducted. Mr. Frank responded to that email, selecting a certain date and suggesting all residents be invited to the seminar. Supposedly, Mr. Frank breached his fiduciary to the association because he responded to the association manager’s request for a seminar date...”*

At that point, **Board President Roz Berman** interrupted Ms. Kay Frank a third time. It was obvious to many that **Ms. Berman** was attempting to distract **Kay Frank** with classic disruption techniques. **Roz Berman** appeared to be well versed of how to interfere with Kay’s presentation and how to try to push her to lose self control; but, Kay stayed calm.

Board President Berman shouted out: *“Could you please make your point!”* (...some other highly charged comments were heard, but garbled due to overlapping exchanges...)

Kay Frank tried to complete the reading of the rest of her prepared statement by saying: *“...and recommended that the seminar be open to others in the community.”*

Ms. Berman interrupted a FOURTH time, and said *“..you were nasty...”* but the rest was garbled again due to the simultaneous voices over the microphones. **Ms. Frank** then politely asked: *“Could you re-start my time, please?”*

More garbled overlapping conversation was heard between **Ms. Berman** and **Ms. Frank** and then, sounding and looking like he was losing his self control, **Board VP Carl Weinstein** loudly shouted out over everyone saying: *“KAY, YOU DON’T RUN THIS MEETING!”*

Kay Frank then said, in a calm manner: *“According to my lawyer, you have to restart my time.”*

Ms. Berman once again shouted: *“So, make your comments for the Minutes, please— with no extra minutes. We are not holding a trial here. We are ready to move on.”*

Kay Frank calmly resumed her presentation, turned to face the audience, and said: *“Exactly, and this is what this association is spending our homeowner’s money on. I am here, not to challenge the board members, but to tell YOU that YOU are already up to over forty-seven thousand dollars because my husband replied to an email from Terry DaSilva. Would he not have been charged...”*

For the second time in just a couple of minutes, **Board Vice President Carl Weinstein** was unable to control his intense anger. He seizes control of the meeting from Roz Berman and shouts at the top of his voice: *“Kay, that is a lie!” “Kay, you are a lying!”*

Ms. Frank replied with: ***“WHO is lying?”*** and continued her prepared statement by finishing her prior sentence with: ***“...if he had not replied to the email?”***

Now, sounding close to becoming hysterical, **Mr. Carl Weinstein** interrupted a THIRD time and drowned everyone out by shouting: ***“The association has not spent a nickel!”***

At that point, **Director Bob Frank** could no longer tolerate the constant interruptions, flagrant verbal abuse of his spouse, and loss of self control by the top two board officers. He attempted to get **Mr. Weinstein** to calm down by shouting: ***“Mr. Weinstein! Mr. Weinstein, would you allow her to finish?”***

Meanwhile, **Kay Frank** was still trying to finish her two-minute statement after being interrupted seven times by the two board officers. She continued reading by citing Bob Frank’s SCA Insurance-provided attorney’s statement saying: ***“According to Joe Garin, it is clear the association is required under statute 116.785 to pay. They owe for those expenses...”***

At this point, **Bob Frank** said, ***“Kay, I think they’ve got your point...”*** So, **Kay Frank** concluded by saying: ***“Thank you all.”*** (While still facing the homeowners.)

Ms. Berman then politely said: ***“As I have said before, it will be in the Minutes. Thank you very much, Kay.”***

Director Frank then said to the Board Vice President: ***“By the way, Mr. Weinstein, I believe every resident is entitled to two minutes to say what they want to--as long as it is not abusive, as long as it is not in bad taste. So, you should not interrupt any resident when they are talking.”***

Ms. Kay Frank concluded by saying: ***“I have a right to talk, and I am going to ask for my two minutes back.”***

Ms. Berman responded angrily saying, ***“You will get it, if I say you can get it. Number six please.”***

Director Bob Frank asked: ***“Roz, I would like a clarification. For the future, for the future members that wish to speak, are we going to allow them to speak for two minutes without interruptions?”***

Ms. Berman replied once again with flagrant and shocking disregard for the provisions of Nevada statutes and SCA Code of Conduct rules: ***“They will speak for two minutes if they speak on something that is board business.”***

Director Bob Frank corrected her and said: ***“No. They don’t have to...”***

Yet again, **Ms. Roz Berman** interrupted and clearly confirmed her ignorance of the statutes when she said: ***“I asked Kay what she wanted the board to do.”***

Bob Frank said: ***“No, Roz....”***

And again, **Board President Roz Berman** rudely interrupted **Bob Frank** by continuing with her previous point: ***“She didn’t want to tell me.”***

Bob Frank followed up by reporting about the law: ***“The statute does not limit the residents in what they wish to talk about. They have the right to speak for two minutes about anything they are concerned about.”***

Kay Frank then added from the audience: ***“And, I have the right to educate my fellow homeowners to how their money is being spent.”***

Bob Frank then concluded the Board interchanges with Kay Frank’s Member Comment Statements by admonishing the other two Board Members with: ***“I think we need to be more civil and let people get it off their mind what they are concerned about-- regardless.”***

After a prepared Member Comment statement by Norman McCullough was read into the Minutes, **Mr. Steve Baldweber** rose to comment on the flagrant Board misbehavior by Ms. Berman and Mr. Weinstein that he had just witnessed. He said: ***“My name is Steve Baldweber and I am shocked at what I just listened to. And, I only have one question to ask...”***

Ms. Roz Berman rudely shouts at him: ***“Louder!”***

Mr. Baldweber then moves closer to the microphone and says: ***“Can you hear me now? Yes? Thank you. I only have one question to ask. Is Mr. Weinstein the super parliamentarian of this board? Because that’s what we just saw a few moments ago when Ms. Frank was up here. I don’t care what Ms. Frank was talking about in (garbled) I just...go ahead and answer my question! I am just tired of hearing you (garbled)...”***

Ms. Berman restated the question and looked at **Carl Weinstein** saying: ***“I think the question was for you Carl. Are you the super parliamentarian of the board? I believe that is what he asked.”***

Carl Weinstein responded with yet another clear violation of SCA code of conduct rules saying: ***“Not at all. I just don’t think the audience should listen to lies and mis-statements!”***

After **Ms. Gerrie Wolf** spoke about her concerns over the delays in building Recreation Center Three, she added the following: ***“And to the gentleman who spoke before (referring to Carl Weinstein), according to the rules, you should not interrupt any speaker and call them a liar-- even if they are. As the person speaking, they have two minutes. So, maybe YOU should read the rules!”***

At this point, as another resident was coming forward to speak, **Director Bob Frank** made the following statement in a calm and measured tone: ***“I would like to advise the President that I will file a Code of Conduct violation against Mr. Weinstein’s behavior. My reason for doing this is (while board members have to take a lot of abuse from the audience and from the residents) because it is part of what we buy into. We have***

discussed many times that board members do not get the right to criticize or accuse residents of lying or other factors. They have to be responsible. Board members have to be disciplined and we have to be respectful.”

After more than two more hours of the Board Meeting, and just a few minutes before the board was to adjourn, **Mr. Carl Weinstein** decided slip in a last minute attempt to try to apologize for some of the damage he had done by making the following statement to a nearly empty auditorium: ***“I just want to take this opportunity to publically apologize to Kay Frank and (garbled). It was not called for, and I hope that you understand that the three new board members have been under an awful lot of pressure to go after the other board members on this issue, and you hit a hot button for me, but you did not deserve the comment I made.”***

Kay Frank responded with: ***“I found it difficult to be called a liar when I am reading from a paper from an attorney.”*** (At this moment there was some disruptive discussion from some members of the audience, and Kay said: ***“Excuse me!”*** (Directed at the audience to quiet them down, and then, to Carl she said) ***“I accept your apology. I would like also an apology from the President of the Board for the things she should not have done. I agree that it is probably very testy for everybody. But, there is a lot of emotion involved. We do need to control our anger. I have the right to speak uninterrupted. I did not get that right. I do not like being called a liar, and I do not understand how one can accuse me of lying when I am quoting a statement by a lawyer. You can disagree with me, you can call him a liar, but you may not call me a liar.”***

After that closing statement, the Board Meeting was adjourned. It must be noted that Roz Berman never made an attempt to apologize for her frequent and flagrant statute violations and her management misbehavior. As can be seen on pages 7, 8 and 10 of the transcript of the Roger Grant Board Training Seminar in August 2007, Roz Berman can not claim ignorance of the law in this area. (Attached)

Abusive behavior, retaliation, and excessive control are simply not allowed by statutes or community governance rules when board members are challenged by homeowners at board meetings. It should also be noted that Carl Weinstein’s apology was for the manner/style of his interruptions, not for the actual defamatory slurs or illegal purposes of his interruptions. Neither Mr. Weinstein nor Ms. Berman has retracted their insulting and/or defamatory actions.

Therefore, we believe these Directors must be sanctioned to set an example for the community and to achieve tangible changes in their behavior. They have had previous training sessions and warnings about proper board behavior, but they have ignored them.

Note: The digital recorded confirmations of the above major law violations by the SCA Board President and Vice President are available on CD-ROM, or the recording segments can be read and heard online (in MP3 format) at:

<http://www.anthemvoice.org/violations.html>