

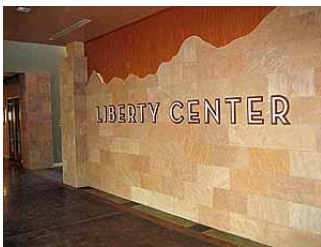
## The Untold Story of the Resolution of the Frank-Stebbins Criminal Complaint against Rosalyn Berman and Roger Cooper



On a Tuesday afternoon in January 2010, the 26<sup>th</sup> to be precise, key members of the Sun City Anthem board gathered in a law office conference room on the second floor of this commercial building on Rainbow Blvd. to conspire with representatives of the Henderson Police Department. The purpose of that conspiracy was to exonerate board officers Rosalyn Berman and Roger Cooper of wrongdoing in connection with their having signed a legally required IRS tax resolution they knew to be false. Berman-Cooper's signing event occurred on 28 August 2008 and concerned the alleged return of excess income to SCA's homeowners from 2007 under IRS Ruling 70-604. That alleged return never happened.

The association's 2007 tax return was the subject of a 2010 IRS audit; that audit was concluded in 2011 with a finding of \$1.345 million tax liability that is on administrative appeal. The IRS auditor's report is readily available to establish the truth of President Jack Troia's knowledge about whether 2007 surplus monies were ever refunded or applied in calendar year 2008.

By the time of their meeting in January 2010, however, elements of the conspiracy were already in the works. No ESP or rocket science is needed to conclude what really happened within the City of Henderson and Henderson Police Department. What one needs to make those determinations is a dose of common sense and the ability to follow the clues. While proof of a conspiracy may be wanting, the participants, actions taken and timing of key events should speak volumes about what went down and when.



In January, if not earlier, plans were underway for a gala grand opening of our "green" constructed recreation center, Liberty Center, to take place on 26 February. City of Henderson Mayor Andy Hafen and other dignitaries would be present.

The timing of this grand opening event in relation to the ongoing police investigation of allegations of wrongdoing against former board president and then Vice President Rosalyn Berman and Secretary Roger Cooper would play a key role in the outcome of that police investigation.



Few doubt that Mayor Hafen and his entourage of City officials would agree to step one foot on Sun City Anthem property while his police department is conducting a criminal investigation of Sun City Anthem board members for their past actions, and who are also current SCA board members. If the Mayor was going to appear, the matter of the police investigation had to be wrapped up and resolved quickly. How quickly?

It was January and the next Sun City Anthem board meeting was on the 28<sup>th</sup>. Arrangement had to be made, a meeting scheduled, decisions implemented and official notification of Berman-Cooper's not guilty finding in the hands of the board by the 28<sup>th</sup>. The schedule was tight and, as we learned, it was doable.



Who might act as an intermediary between City officials and the board? Logically, that task might fall on President Jack Troia, or V.P. Rosalyn Berman. But they lacked close ties with Henderson officials. If the board was looking for someone with close ties to City Hall and the Police Department, they might look no further than to fellow board director Ann Small. After all, Ann Small had been Judge Pro Tempore at the Henderson Municipal Court, a Henderson deputy city attorney and criminal prosecutor. I understand that Ann Small also had a working and friendly relationship with Police Chief Jutta Chambers in her role as an occasional lecturer to HPD personnel. Her City relationships could be helpful to both the City and especially the board in resolving the ongoing investigation of Berman-Cooper's alleged wrongdoing. While Ann's role as a potential liaison between the SCA board and the City is speculative, other more compelling, albeit circumstantial evidence would suggest that Ann Small would play a key role in the outcome of the police investigation as well as the decision to charge and arrest Bob Frank and Tim Stebbins for filing a false report.

When it came time for the HPD to sit down with association representatives on the 26<sup>th</sup> of January, who would be representing the association's interests? According to available information, association legal counsel Edward Song of Leach Johnson Song & Gruchow, Association President Jack Troia, Association Vice President Rosalyn Berman and Association Secretary Roger Cooper, all corporate officers, would be present to represent the association.

Was anyone else present? Of some interest, the **ONLY** non-board officer present in that meeting was Ann Small. Seemingly, Ann Small's presence was unnecessary to either explain or defend complex tax matters that were being scrutinized by the police department. Ann's presence at this key event might be suggestive of her past roles in City affairs. As a potential liaison between the board and City of Henderson officials, Ann could play an important part in communicating board concerns and as an invaluable conduit for reciprocal communications from City officials to the board.

# CONSPIRACY



If we can agree that the City-HPD was now on a fast track mission to exonerate Berman-Cooper of wrongdoing, the purpose of that meeting on the 26<sup>th</sup> takes on an entirely different meaning. HPD's Chief of the Fraud Division Jeffrey Farley, along with his supervisor, were present not so much to learn the facts about what financial matters had transpired but to receive information from SCA that would accomplish two objectives: 1) absolve Berman-Cooper of any wrongdoing; and 2) bury Frank-Stebbins as purveyors of a false claim of possible criminal activity.

With such objectives in mind, it is inconceivable to believe that none of the participants had prior knowledge of that very outcome. In other words, before stepping into the conference room, there is a presumption that key board officials were in agreement on the outcomes and that those outcomes had been prearranged.

Had Sgt. Farley any legitimate investigative purpose at that meeting he would have asked a tax expert to accompany him. He failed to do so. We know that for the simple reason that was his prior practice in matters that were beyond his limited expertise, which was handling check-fraud cases. In fact, in a telephone conversation I had with Sgt. Farley, he told me early on in his investigation that it was his intention to bring along a tax expert when he would meet with association representatives, lest he was bamboozled.

Given that Sgt. Farley apparently had a different priority in mind in his 26<sup>th</sup> meeting with association representatives, he had no need for assistance from a tax expert who just might understand what was occurring. In fact, the presence of an independent tax expert would have made it impossible for Sgt. Farley to reach the erroneous conclusions he did about Berman-Cooper's alleged wrongdoing.

So, if Sgt. Farley had ulterior motives for his meeting on the 26<sup>th</sup>, what's the likelihood that he would go into that meeting blind, that is, without a well-founded belief that those from Sun City Anthem knew in advance why he and his supervisor requested the meeting. Sgt. Farley was there for the sole purpose of receiving so called evidence that would exonerate Berman-Cooper while Troia and Berman were present to convey such evidence to the HPD. Sgt. Farley needed that evidence from the association to conclude his investigation; otherwise, the investigation could not have been cleared with a determination of Berman-Cooper's innocence, which was the plan.

But how did Sgt. Farley know in advance of his meeting that he would be receiving evidence of Berman-Cooper's innocence? If you think about it, is it reasonable to believe that the HPD would have taken the risk of calling for such a meeting if there was any chance that Troia-

Berman would come empty handed, i.e., without something that would have the appearance of demonstrating that Berman-Cooper were innocent of wrongdoing? No way! The purpose of that meeting was not merely to provide HPD with something of value for the City—the expeditious disposition of the Frank-Stebbins complaint—but also to return to the Sun City Anthem board and Berman-Cooper their collective reputations and peace of mind that members of the board would not be found guilty of executing a document they knew to be false. And finally, there would be payback for the Berman-Cooper complaint, the arrest of Bob Frank and Tim Stebbins for filing a false report.

Sgt. Farley’s purpose was no longer fact finding in a criminal investigation but was to close the investigation of the Frank-Stebbins complaint in a manner that was acceptable to the association. There would be no hard questioning since Sgt. Farley was understandably out of his comfort zone. The sergeant was present merely to carry back to his desk so called evidence the board had prepared. As others had prearranged, that evidence had the appearance of exonerating Berman-Cooper. While some might be fooled by such evidence, it would not pass scrutiny of a tax expert familiar with HOA financial documents. In the end, there was no such evidence, only unsupported conclusions.



So, what was the nature of this exonerating evidence? Berman-Cooper had signed a board resolution declaring that excess income earned in 2007 would be returned or credited to unit owners in 2008. If that event had occurred, Berman-Cooper would be exonerated. However, if that event did not occur, they would have been found guilty of executing a false document, which is equivalent to the crime of forgery.

Could the board show Sgt. Farley that excess funds from 2007 were returned in 2008? No! That task would be impossible as long as the board accurately represented the financial conditions of the association. However, the one thing the board could do was to assert that that impossible outcome was actually possible, show Farley some figures he did not fully understand, prompt Farley to make unwarranted conclusions about those figures, and withhold key financial details that would demonstrate the falsity of Farley’s conclusions. That might work if we assume that Sgt. Farley was either too overwhelmed or had been duped. .



Few can forget the TV legal drama Perry Mason based on the works of Erle Stanley Gardner, a self-taught lawyer and writer of some 80 detective stories.

If my memory serves me correctly, Perry Mason would occasionally catch a testifying witness in a real quandary when he would ask this troubling question, *“Were you lying then or are you lying now?”*



We know that had the trial of Frank-Stebbins proceeded to the point of witnesses testifying, President Jack Troia would have been called to testify along with Sgt. Farley. But if called to testify, Jack Troia had a potential problem to deal with that he could not avoid. There was a strong likelihood that Jack would have been asked a question very similar to the one quoted above that Perry Mason asked his fictional character while testifying on the stand in court, as I will explain below.

Jack Troia was keenly aware that his so-called evidence for use by the HPD did not demonstrate what he claimed it demonstrated. We have to believe that because Mr. Troia is not merely very smart, but because he is a consummate accountant and intimately familiar with every aspect of SCA’s financial affairs. Jack’s skills would include knowing what and when excess funds are carryforward from one year to the next—the heart of the case against Berman-Cooper.

Yet, somehow Sgt. Farley got it wrong, or was he misled into making judgements about matters that were beyond his skills to properly comprehend. It’s difficult to imagine that Sgt. Farley made things up on his own initiative. While that “return of funds” event never took place, the HPD accepted and acted on such information as if what the association portrayed as happening actually happened.

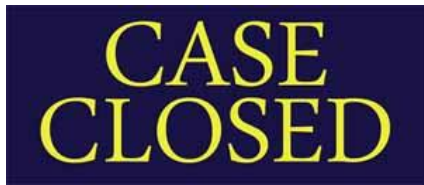
The so-called evidence provided to the HPD was at best misleading, at worst it was an outright lie. What Sgt. Farley understood he was receiving from the association is material, although it might be convenient for some to later claim that he lacked any understanding about what he learned at that meeting. Sgt. Farley possible lack of understanding might be sufficient to enable a claim of [plausible deniability](#).

As far as the association and the HPD were concerned, everything was a settled matter and no one would be able to dispute the ultimate outcome that would come two days later at the SCA board meeting, at least not in January of 2010. A year later, however, that “settled” situation would take a dramatic turn. On the 28<sup>th</sup> of January, the police would hand carry a letter from

Police Chief Jutta Chambers to be read at the 28 January board meeting. There, Jack Troia would read the letter from Chief Chambers, which in part, said:

*“ . . . it has been determined that there is no evidence of criminal conduct by Mr. Cooper, Ms. Berman or any other Sun City Anthem Board of Directors member. Consequently, this investigation is being closed as unfounded.”*

This event occurred two days after that secret meeting was held on the 26<sup>th</sup> between select board members and the HPD. In fact, there is no official record that such a meeting ever occurred, let alone any transcript or accounting of what had transpired—except for Sgt. Farley’s subsequent affidavit.



Not so fast! Jack Troia thought everything was behind him with HPD’s judgment in the case of Berman-Cooper. However, that finality was not really true. When the City of Henderson’s Police Department brought charges against Frank-Stebbins, the issue of what happened to the excess income from 2007 would have come up again. That issue would have been settled at their trial, as long as the City allowed that matter to come to trial.

But we now know the City had stopped the trial just before witnesses would be called to testify. Knowing how witnesses will testify is critical in any trial. Uncertainty about the outcome of such testimony does not make for a successful case. Was there any reason to anticipate a potential problem with such testimony, as in the case of then President Jack Troia?

Unfortunately for Jack Troia, he would likely face some awkward moments when he would have been cross examined by the defendants’ attorneys. For example, Jack’s difficulties would likely arise when he would have been confronted with his version of events concerning the disposition of funds in 2008, as relayed to the HPD in that meeting on the 26<sup>th</sup> of January, compared to his version of events in 2008 when he met with the IRS audit examiner about eight months later. Understandably, Mr. Troia had no way knowing in advance how significant his January 2010 story to the HPD about the use of 2007 excess funds in 2008 would become later that same year. Although the details about what transpired in that January meeting with the HPD are missing, if anyone was going to convey the association’s position about what financials transactions occurred in 2008, that person would be then President Jack Troia.

Most people will understand the importance of telling the same story on two different occasions, here in January 2010 to the HPD and the other in September 2010 to the IRS. The apparent story allegedly told to the HPD had a special purpose, to exonerate Berman-Cooper of any guilt in signing a false document. However, the purpose in communicating with the IRS auditor about the association’s 2007 tax filing was altogether different. There was no reason for President Jack Troia to mislead, mischaracterize, deceive or lie to the IRS auditor. Doing so could have placed the association at greater risk than a likely finding of underpayment.

By the time of the IRS investigation later that same year, Berman-Cooper would be exonerated and Frank-Stebbins would be under arrest and prosecuted for filing a false report. Those two events would not have occurred had the association not engaged in unusual and unlawful efforts to exonerate Berman-Cooper and arrest Frank-Stebbins..

Less than eight months after that January meeting during the course of the IRS investigation, Mr. Troia was asked about the application of IRS Ruling 70-604 that was the subject matter of the excess income resolution that had been signed by Berman-Cooper. According to the IRS auditor's report (on page 2 of the FACTS statement of her audit report), she states that President Troia told her that 2007 surplus funds were never refunded or applied to the subsequent year. Here is her statement:

*"Based upon conversation with Jack Troia, President of Sun City Anthem Community Association, on September 9, 2010, during the field audit, the 2007 reserve surplus was never refunded or applied to the subsequent year."*

As you can readily see from the above quote, Jack Troia had categorically denied that 2007 surplus funds were refunded or applied to 2008. Who would know better than Jack Troia? That statement was contradicted by what the HPD acted on when they exonerated Berman-Cooper and charged Frank-Stebbins with filing a false report.

It's an unpleasant reality to learn that had Jack Troia told the HPD what he told the IRS auditor, Berman-Cooper would not have been exonerated and Frank-Stebbins would not have been arrested and charged with filing a false report. If we understand that Jack Troia told the IRS and the HPD two contradictory scenarios of what transpired financially in 2008, logic tells us that both scenarios cannot be true. Moreover, it's not necessary for the HPD to have been duped by the association, although that outcome must remain a possibility, however remote.



What would be nicer than to have had a fly on the wall at that HPD –Association meeting to overhear what was said and what the HPD had learned? Although I was not present at this meeting, we are fortunate to know what the HPD was told.

Absent that fly on the wall, we do have the next best thing, a record of what the HPD was reportedly told on that winter day in January. This record is from a written account, an affidavit, which was executed by Sergeant Jeffrey Farley in support of the arrest of Frank-Stebbins for the alleged crime of filing a false report. In his affidavit, Sgt. Farley details the basis for his conclusions that Frank-Stebbins filed a false report about Berman-Cooper.

More specifically, Sgt. Farley tells us what he was told on 26 January 2010 about the use of 2007 excess funds in CY 2008. Sgt. Farley was led through a series of 2008 transactions that appeared to demonstrate that 2007 excess income was used in 2008 either to fund 2008 operations or to return such funds to unit owners. There was no way he could have come to

that false conclusion on his own. Someone had to tell him that, one assumes at his meeting on the 26<sup>th</sup> of January.

Incredibly, Frank, Stebbins and Sgt. Farley each acknowledged that the only matter in dispute was the disposition of 2007 excess income to the unit owners in 2008. Yet, in the end Sgt. Farley conveniently chose to ignore the elephant in the room, which in 2008 was approaching almost 5 million dollars.

Here is what Sgt. Farley wrote he was told, presumably by President Troia. The second paragraph on page 3 of Sgt. Farley's affidavit has been broken down into manageable sections to explain where Farley's statements are correct and where those statements are false:

*In relation to the allegation that the 2007 resolution was a forgery, I was presented with the following facts:*

*In the 2007 tax return, the carryforward reported from 2006 was \$3,179,168. The amount of \$3,845,024 was reported as carryforward to 2008. The difference of the two numbers reflects the amount of excess earned during 2007. That dollar amount is \$665,856.*

So far so good, Sgt. Farley is absolutely correct in his understanding. Then something quite unusual, actually strange, happens as Sgt. Farley continues:

*"It was explained that 2007 excess would have been spent in 2008 to cover part of the costs related to the opening of a new facility."*

Here, according to Sgt. Farley, we have the association explaining "that 2007 excess would have been spent in 2008," leading Sgt. Farley down the primrose path to report something that would have happened if only the new facility had opened in 2008. Such speculation is not only meaningless but was untrue since no evidence exists to demonstrate that 2007 excess was in fact spent in 2008 to cover any costs let alone to fund anything else. Association records and tax documents clearly demonstrate that all 2007 excess income was carryforward to 2008, i.e., was NOT spent in 2008.

Conspicuously, Sgt. Farley left out of his affidavit the fact that unit owners were being assessed an additional \$160 from 1 January 2008 forward to pay for the costs related to the opening of the new recreation center and reserves. That carryforward money will continue to be carryforward and not touched in 2008 as Mr. Troia truthfully told the IRS auditor.

While that opening event did not happen in 2008, the extra and unneeded assessment income was being accumulated at the rate of about \$95,000 per month, or about \$285,000 per quarter. By the end of the third quarter, the association would have accumulated an extra \$857,000, money just sitting in the bank. Since the opening of the new facility did not take place in 2008, the board decided to implement a dues holiday in the fourth quarter of 2008. That holiday, however, was only a partial dues holiday, equal to a reduction of \$100 in fourth quarter dues.



Below, Sgt Farley continues:

*“As explained in this report, by using the excess to cover expenses, it is applied to the 2008 assessments by not requiring an assessment increase to cover expenses.”*

Here Sgt. Farley makes two erroneous statements. First, he attempts to justify his second statement by claiming that the 2007 excess was used to cover 2008 expenses. That never happened as Troia told the IRS auditor. Second, Sgt. Farley claims falsely that such excess income was “applied to the 2008 assessments by not requiring an assessment increase to cover expenses.” SCA’s financial documents show just the opposite in two respects—namely, that 2007 excess was never used to cover 2008 expenses or applied to 2008 assessments, and, contradicting what actually happened in 2008, Farley goes on to falsely claim that this happened “by not requiring an assessment increase to cover expenses.”

As Jack Troia and Rosalyn Berman and the rest of the community know only too well, the association did in fact require an additional assessment of \$160/yr. on top of the prior year’s assessment of \$940/yr. for the very purpose Sgt. Farley implies did not happen, i.e., to cover than planned 2008 expenses. Sgt. Farley goes on:

*“Due to the planned opening of a new facility being postponed, the cost was not realized in 2008. As a result, it was decided that the association reduce the assessments of all of its members by \$100 during the final quarter of 2008.”*

Here Sgt. Farley is again absolutely correct. Then, Sgt. Farley in his final statement concludes wrongly and falsely as follows:

*“This resulted in an approximate \$700,000.00 reduction in assessment revenue clearly offsetting the \$665,856 excess collected in 2007.”*

Well, Sgt. Farley is half right. Indeed, there was an approximate \$700,000 reduction in assessment revenue attributable to the fourth quarter reduction of \$100 in assessments. However, Farley’s conclusion is merely a perpetuation of the lie that the 2007 excess of \$665,856 was used (in whole or in part) in funding the approximate \$700,000 fourth quarter assessment reduction. How do we know that?

We know that for two reasons:

- 1) Because of what President Jack Troia subsequently told the IRS auditor, namely, that **“the 2007 reserve surplus was never refunded or applied to the subsequent year”**; had any part of that 2007 surplus been refunded or applied in 2008, Troia would have said so; and
- 2) Because the association had been accumulating additional assessments throughout 2008, at the rate of \$160/unit for 3 quarters and \$60/unit for the 4<sup>th</sup> quarter, something Sgt. Farley was either unaware of because he was not told or because he conspired with



the association to ignore that fact in his affidavit since that fact would have conflicted with his purpose in meeting with association representatives to exonerate Berman-Cooper of any wrongdoing.

Incredibly, in his affidavit Sgt. Farley cites board-provided documents that are unrelated to the issues in this matter and he makes conclusions that are false and have no evidentiary support. Even more incredibly, the only document not mention by Sgt. Farley is the one document that sets forth the planned budget for 2008, the alleged focus of and justification in support of Sgt. Farley's affidavit. That budget document, the CY 2008 Budget presentation, addressed important facts about which Sgt. Farley is either uninformed or has chosen to ignore in key respects.

For example, Sgt. Farley makes unfounded statements about what he assumes was the absence of increase assessments in 2008, ostensibly requiring the association to use 2007 surplus income to fund the 4<sup>th</sup> quarter assessment holiday. Never mind that such additional assessments of \$160/unit are specifically highlighted in that CY 2008 Budget presentation document, a copy of which Sgt. Farley had available to him but was ignored.

Contradicting Sgt. Farley's assertion that the fourth quarter \$700,000.00 reduction in assessment revenue was offset by the \$665,856 excess collected in 2007, we have the board's August 2008 Minutes attributing that planned 4<sup>th</sup> quarter revenue reduction not, as claimed, to the use of returning excess income collected in 2007 but instead to a six month review of the association's financial performance, thereby enabling the board to approve a further increase in 4<sup>th</sup> quarter 2008 assessment reduction from \$60 previously approved to \$100. Was Sgt. Farley told about that or did he ignore that fact in falsely attributing the fourth quarter reduction as "offsetting the \$665,856 excess collected in 2007?"

## THE JANUARY 28, 2010 BOARD MEETING

Pictured at left is a soothsayer with her crystal ball. This is reminiscent of Ann Small's foretelling-like comments she made at the January 2010 board meeting following President Troia's reading of Police Chief Jutta Chambers' letter to the board. It was surreal, almost as if Ann Small knew in advance what the HPD was going to do with the so called "evidence" that had been gathered by Sgt. Farley in his 26 January meeting. Ann Small said the following:

*"Jack, I would just like to say something to the audience for anyone who is concerned about this. It is a misdemeanor in the State of Nevada and the City of Henderson to file a false report. There are consequences to this. So, anyone who thinks they can get around the City of Henderson by filing something which is made to assert a crime like this, and I would caution people to be sure of their facts and have perfect, perfect evidence before you go forward to comment like this again. As a Judge, I have*

*seen incidents come up and I will tell you that the court is not lenient in this respect.”*

What can we make of Ann Small’s prophecy of very bad things happening on the horizon, presumably to Bob Frank and Tim Stebbins? Predictably, it did not take long for the HPD to make their arrests and begin prosecuting Bob and Tim.



Sgt. Farley got it wrong; some believe he deliberately lied, while the overall circumstances suggest that he was acting on orders from far up the City’s chain of command.

Common sense tells us that having persons charged with a crime based on false evidence while knowing of their innocence is wrong and offensive. Persons that govern on our behalf who sanction the use of dirty deeds to accomplish their ends are very poor examples of the style of governance this community aspires to achieve. Sadly, we have experienced here this type of behavior before. What has transpired must be viewed as a gross injustice, reprehensible acts that are signs of corruption in the use of power for deceitful purposes.

Less than two weeks following the arrival of Henderson Police Chief Jutta Chambers’ letter to the board announcing the exoneration of Roz Berman and Roger Cooper, Bob Frank and Tim Stebbins were arrested. They were arrested on nothing more than trumped up evidence for a crime they did not commit, the filing of a false report about the actions of board officers Rosalyn Berman and Roger Cooper in signing a tax document they knew to be false.

Ron Johnson, 3 April 2012, updated 24 March 2022

Addendum

Part 2 of The Untold Story discusses in some detail the outright falsity of the numerous claims that Sgt. Farley had relied on in his Affidavit to establish probable cause to justify the arrests of Bob Frank and Tim Stebbins.