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**BEFORE THE COMMISSION FOR COMMON-INTEREST
COMMUNITIES AND CONDOMINIUM HOTELS
STATE OF NEVADA**

GAIL J. ANDERSON, Administrator,
REAL ESTATE DIVISION, DEPARTMENT
OF BUSINESS & INDUSTRY,
STATE OF NEVADA,

Petitioner,

vs.

LISA KIM,

Respondent.

Case No. CIS 12-06-05-229

FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
ORDER

FILED

DEC 27 2012

NEVADA COMMISSION OF
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS

This matter came on for hearing before the Commission for Common-Interest Communities and Condominium Hotels, Department of Business and Industry, State of Nevada (the "Commission"), during a regular agenda on December 4, 2012, at the Nevada Department of Employment, Training & Rehabilitation, 2800 E. Saint Louis Ave., Las Vegas, Nevada 89104 (the "Hearing"). The Respondent, Lisa Kim, failed to appear at the Hearing, but did previously file an Answer to the Complaint. Michelle D. Briggs, Esq., Senior Deputy Attorney General with the Nevada Attorney General's Office, appeared on behalf of the Real Estate Division of the Department of Business and Industry, State of Nevada (the "Division").

The Commission, having considered the evidence introduced by Petitioner and being fully advised, enters the following Findings of Fact, Conclusions of Law, and Order. Under Nevada Revised Statutes (NRS) and Nevada Administrative Code (NAC) Chapter 116 and 116A, the Commission has legal jurisdiction and authority over this matter.

FINDINGS OF FACT

The Commission, based upon the evidence presented during the Hearing, finds that there is substantial evidence in the record to establish each of the following Findings of Fact.

1 1. RESPONDENT was at all relevant times mentioned in the Complaint, a licensed
2 community manager under certificate number CAM.0001688.

3 2. On May 31, 2012, RESPONDENT entered into a Plea Memorandum with the United
4 States of America regarding criminal charges filed against RESPONDENT pursuant to Case
5 numbers 2:12-CR-114-JCM and 2:12-CR-113-JCM.

6 3. RESPONDENT pled guilty to the felony charge of conspiracy to commit wire and mail
7 fraud and to misprision of felony.

8 4. RESPONDENT pled guilty to the felony charges because RESPONDENT is guilty of
9 the charged offenses.

10 5. RESPONDENT specifically admitted and declared under penalty of perjury that all of
11 the facts set forth below are true and correct.

12 6. From as early as in or about November 2004 through at least in or about February
13 2009, RESPONDENT knowingly participated in a scheme to control various Homeowner
14 Association (HOA) boards of directors so that the HOA boards would award the handling
15 construction defect lawsuits and remedial construction contracts to a law firm and construction
16 company designated by RESPONDENT'S co-conspirators.

17 7. In order to accomplish this scheme, co-conspirators acted as straw purchasers of
18 properties in numerous Nevada HOA communities. The co-conspirators managed and
19 operated the payments associated with maintaining these straw properties by running a so-
20 called "Bill Pay Program," pursuant to which the co-conspirators funded the properties through
21 several limited liability companies and at the direction of a co-conspirator. Many of the
22 payments on these straw properties were wired from California to Nevada. Co-conspirators
23 also transferred an interest in some of the units to other co-conspirators to make it appear as
24 if the co-conspirator was a bona fide homeowner.

25 8. The straw purchasers and those who acquired a transferred interest in a unit agreed to
26 run for election to the respective HOA boards. These co-conspirators were paid in cash,
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1 check, or promised things of value for their participation, all of which resulted in a personal
2 financial benefit to the co-conspirators.

3 9. RESPONDENT specifically admits and declares under penalty of perjury that all of the
4 facts set forth below of which the RESPONDENT has knowledge of as a member of the
5 conspiracy are true and correct. The parties agree that some of the facts outlined below were
6 actions taken by RESPONDENT'S co-conspirators and without the knowledge of
7 RESPONDENT at the time; however, RESPONDENT acknowledges that she knew of the
8 unlawful purpose of the conspiracy and willfully joined it and that she is, therefore, responsible
9 as a member of the conspiracy for those actions that were taken by her co-conspirators in
10 furtherance of the conspiracy. RESPONDENT'S actions in furtherance of the conspiracy are
11 specifically indicated.

12 10. In 2004, RESPONDENT owned and operated a property management company in Las
13 Vegas. RESPONDENT knew that co-conspirators controlled the board of directors at the
14 Vistana condominium complex HOA and that a co-conspirator directed their voting, hiring and
15 other official duties as board members. In November 2004, RESPONDENT agreed with co-
16 conspirator directing the board that her company would assume the role of community
17 manager of Vistana, knowing that her co-conspirator had directed the Vistana HOA to hire her
18 management company for the job.

19 11. With respect to a February 2005 recall election for the Vistana HOA board of directors,
20 the co-conspirator who directed the activities of the Vistana HOA board of directors instructed
21 RESPONDENT to make sure that co-conspirator board members were not removed as a
22 result of the recall election. RESPONDENT and her co-conspirators agreed to falsify ballots
23 to ensure that the co-conspirator board members received enough votes to retain their
24 position on the board, and RESPONDENT instructed a co-conspirator how to falsify the
25 ballots.

26 12. Another tactic the co-conspirators used to rig certain HOA board elections was to
27 prepare forged ballots for out-of-town homeowners and either cause them to be transported or
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1 mailed to California and thereafter to have the ballots mailed back to Las Vegas from vari
2 locations around California so as to make it appear that the ballots were completed and
3 mailed by bona fide homeowners residing in other states. RESPONDENT'S co-conspirators
4 utilized this tactic in an April 2008 election for the Park Avenue board of directors. In
5 response to an inquiry from the Ombudsman for the Nevada Real Estate Division relating to
6 the propriety of the election, RESPONDENT, in coordination with the co-conspirator who was
7 handling the construction defect litigation for Park Avenue, failed to disclose her knowledge
8 that the election had been rigged and that her co-conspirators had tampered with the votes.

9 13. RESPONDENT later learned that co-conspirators also attempted to create the
10 appearance that the elections were legitimate by hiring independent attorneys to run the HOA
11 board elections. The homeowners were led to believe that these "special election masters"
12 were supposed to: (i) contact the bona fide homeowners to inform them of the election; (ii)
13 mail the bona fide homeowners election ballots and voting instructions; (iii) collect and secure
14 those election ballots returned by mail until the date of the election; and (iv) preside over
15 HOA board election, including supervising the counting of ballots. However, they, too, were
16 paid in cash, check, and promised things of value, by or on behalf of RESPONDENT'S co-
17 conspirators for their assistance in rigging the elections.

18 14. Once elected, the co-conspirator board members would meet with other co-
19 conspirators in order to manipulate board votes, including the selection of community
20 managers, contractors, and general counsel for the HOA and attorneys to represent the HOA.

21 15. Often the co-conspirators created and submitted fake bids for "competitors" to make
22 the process appear to be legitimate while ensuring co-conspirators were awarded the
23 contract.

24 16. Once hired, the co-conspirator community managers, including RESPONDENT, and
25 general counsel were paid cash, check, or things of value for using their positions to gain
26 inside information and recommend that the HOA board hire a co-conspirator for remediation
27 and construction defect repairs.

1 17. This process created the appearance of legitimacy since bona fide homeowners
2 believed the elected board members and community managers were, as fiduciaries, acting in
3 their best interest rather than to advance the financial interests of co-conspirators. In fact,
4 RESPONDENT and others were paid or received things of value by or on behalf of their co-
5 conspirators for their assistance in purchasing the properties, obtaining HOA membership
6 status, rigging elections, using their positions to manipulate the HOA's business and to further
7 the goals of the conspiracy, and to enrich the co-conspirators at the expense of the HOA and
8 the bona fide homeowners.

9 18. In addition, the initial contract for emergency remediation repairs contained a "right of
10 first refusal" clause to ensure that a co-conspirator was awarded the construction repair
11 contracts following the construction defect litigation. RESPONDENT was aware that
12 immediately after the settlement of the construction defect litigation, a co-conspirator member
13 of the Park Avenue HOA board of directors lead an effort to secure the board's vote in favor of
14 granting the construction repair contract to the co-conspirator construction company pursuant
15 to the right of first refusal.

16 CONCLUSIONS OF LAW

17 The Commission concludes:

18 19. RESPONDENT violated NAC 116.310 (Jul. 2000) by failing to disclose her expectation
19 to receive financial compensation from co-conspirators and by failing to disclose the intentions
20 of her co-conspirators at Vistana and Park Avenue before entering into a management
21 agreement with the HOA's.

22 20. RESPONDENT violated NAC 116.300 (2) (Jul. 2000) by accepting remuneration that
23 improperly influenced her decision making and created a conflict of interest between her and
24 the best interests of her clients.

25 21. RESPONDENT violated NAC 116.360 (1)(a)(1) (Jul. 2000) by committing acts of
26 unprofessional conduct by engaging in deceitful and fraudulent conduct when she agreed to
27 falsify recall election ballots to ensure that her co-conspirator board members received
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1 enough votes to retain their positions on the board at Vistana HOA in 2005 in violation of NAC
2 116.31034.

3 22. RESPONDENT violated NAC 116.300 (9) (Jul. 2005) and NAC 116.341 (2)(b) and (c)
4 (Jul. 2005) by supplying false and misleading information to the Division and concealing facts
5 relating to the business of her client during an investigation of the April 2008 election at Park
6 Avenue HOA that had been rigged by RESPONDENT'S co-conspirators.

7 23. RESPONDENT violated NAC 116.360 (1)(a)(1) (Jul. 2000) by committing acts of
8 unprofessional conduct by failing to comply with the provisions of NRS 116, by failing to
9 disclose the details of her co-conspirators' plan to control and manipulate her clients, and by
10 engaging in deceitful, fraudulent, and dishonest conduct in her interactions with her clients.

11 24. RESPONDENT violated NAC 116.360 (1)(a)(2) (Jul. 2000) by committing acts of
12 professional incompetence in that she demonstrated a significant lack of ability, knowledge,
13 and fitness to perform the duties she owed to her clients and failed to exercise reasonable skill
14 and care with respect to the obligations she owed her clients. RESPONDENT failed to protect
15 the public against fraud, misrepresentations, and unethical practices related to the business
16 affairs of her clients and failed to act in the best interests of her clients.

17 25. RESPONDENT violated NAC 116.360 (1)(a)(3) (Jul. 2000) by engaging in negligent
18 and grossly negligent conduct.

19 26. RESPONDENT violated NAC 116.360 (1)(a)(4) (Jul. 2000) by committing a felony
20 which is also an offense involving moral turpitude.

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ORDER

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2 The Commission, being fully apprised in the premises and good cause appearing to the
3 Commission, ORDERED as follows.

4 1. The Respondent shall pay to the Division a total fine of \$41,373.00. The total fine
5 reflects a fine of \$40,000.00 for committing the violations of law, plus \$1,373.00 for the
6 Division's attorney's fees and costs. The total fine of \$41,373.00 (the "principal balance") shall
7 be payable as follows:

- 8 i. Interest shall accrue on the principal balance at the rate of 5.25% per annum
9 commencing February 1, 2013 (the "Interest Commencement Date") and payments
10 of \$785.51 shall be payable monthly beginning on February 1, 2013.
11 ii. The principal balance, plus interest, shall be due and payable on the date 5 years
12 from the Interest Commencement Date, which is February 1, 2018 (the "Maturity
13 Date"). The principal balance may be paid at any time prior to the Maturity Date.
14 iii. All payments shall be applied first to the payment of any costs, fees or other
15 charges incurred in connection with the indebtedness evidenced hereby, next to the
16 payment of accrued interest, and then to the reduction of the principal balance.
17 iv. The failure to make payment when due should such failure continue for a period of
18 more than 15 days shall constitute a default under these payment terms. In the
19 event of such a default, the entire outstanding principal balance shall immediately
20 become due and payable, without notice to Respondent.

21 2. Respondent's license is revoked for a period of no less than 10 years.

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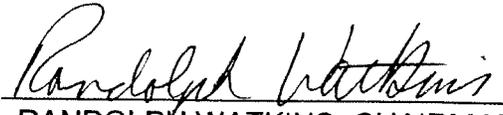
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3. The Division may institute debt collection proceedings for failure to timely pay the total fine, or any installment or portion thereof. Further, if collection goes through the State of Nevada, then Respondent shall also pay the costs associated with collection.

DATED this 19TH day of December, 2012.

COMMISSION FOR COMMON-INTEREST
COMMUNITIES AND CONDOMINIUM
HOTELS DEPARTMENT OF BUSINESS &
INDUSTRY STATE OF NEVADA

By: 
RANDOLPH WATKINS, CHAIRMAN

Submitted by:

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