

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,

Case No. CIS 12-10-25-087

Petitioner,
vs.

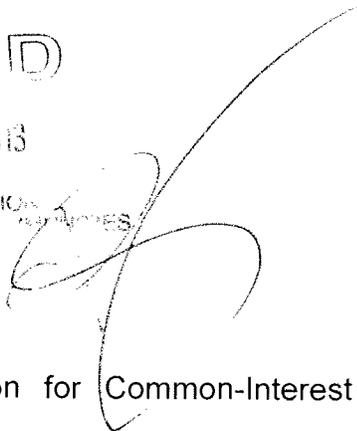
MARY BRAILEY,

Respondent.

FILED

DEC 09 2013

NEVADA COMMISSION FOR COMMON-INTEREST
COMMUNITIES AND CONDOMINIUM HOTELS



FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

This matter came on for hearing before the Commission for Common-Interest Communities and Condominium Hotels, State of Nevada (the "Commission"), during a regular agenda on December 3, 2013, at the Grant Sawyer Building, 555 E. Washington Ave., Room 2450, Las Vegas, Nevada 90101 (the "Hearing"). The RESPONDENT, Mary Brailey, did not appear and was not represented. 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 complaint filed by PETITIONER, the response filed by RESPONDENT, and being fully advised, enters the following Findings of Fact, Conclusions of Law, and Order (the "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 filed complaint and response, and the evidence filed by Petitioner in support of the complaint, finds that there is substantial evidence in the record to establish each of the following Findings of Fact.

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1 1. The Division received a response from RESPONDENT that neither denied nor
2 admitted the allegations of the complaint.

3 2. RESPONDENT is, and was at all relevant times, licensed as a community
4 manager under certificate number CAM.0001060. RESPONDENT'S license expired on
5 February 29, 2012, and was not renewed.

6 3. RESPONDENT was employed by Terra West Property Management ("Terra
7 West") in December 2010 through September 19, 2011.

8 4. On or about September 19, 2011, Terra West terminated RESPONDENT'S
9 employment.

10 5. RESPONDENT failed to notify the Division that she was no longer working for
11 Terra West.

12 6. On or about October 10, 2011, Terra West Chief Operating Officer, Michael
13 Baca, filed a Statement of Fact with the Division against RESPONDENT alleging
14 embezzlement of association funds.

15 7. On or about December 2, 2011, Terra West filed a police report with the
16 Mesquite Police Department ("Mesquite PD") against RESPONDENT.

17 8. RESPONDENT was arrested on or about December 7, 2011.

18 9. RESPONDENT used the Terra West credit card to pay her personal utility bill
19 and then submitted an altered invoice to Terra West for reimbursement from the associations.

20 10. The Mesquite PD report states that RESPONDENT admitted to using white-out
21 to remove her husband's name from her personal utility bill and submitting that altered bill to
22 the accounting department for Terra West claiming the bills belonged to different associations
23 as follows:

24 a. On or about December 31, 2010, for the amount of \$133.69.

25 b. On or about January 11, 2011, for the amount of \$202.84.

26 c. On or about June 7, 2011, for the amount of \$179.02.

27 d. On or about July 6, 2011, for the amount of \$134.48.

28 e. On or about August 8, 2011, for the amount of \$232.75.

1 11. Terra West subsequently found an additional \$4,723.98 in falsified invoices
2 which were all signed and/or altered by RESPONDENT.

3 12. Additional findings of embezzlement include the following:

4 a. On or about February 11, 2011, RESPONDENT submitted an altered utility
5 bill for payment by an association in the amount of \$224.22.

6 b. On or about February 12, 2011, RESPONDENT submitted a bill for her
7 personal vehicle repair in the amount of \$495.12. The association's board
8 previously approved payment not to exceed \$500 for vehicle repairs based
9 on the RESPONDENT'S representation to the board that a potential buyer
10 named Larry Ames damaged his vehicle while in the community due to a
11 gate malfunction.

12 13. Terra West provided evidence to support that RESPONDENT submitted a total
13 of 36 falsified invoices which were all signed and/or altered by RESPONDENT and were for
14 RESPONDENT'S personal expenses.

15 14. Terra West reimbursed the five associations involved.

16 **CONCLUSIONS OF LAW**

17 15. RESPONDENT violated NRS 116A.630(1)(a) 36 times by failing to act as a
18 fiduciary in her relationship with associations she provided services to by submitting falsified
19 personal invoices for payment from the associations.

20 16. RESPONDENT violated NRS 116A.630(1)(b) 36 times by failing to exercise
21 ordinary and reasonable care in the performance of her duties when she submitted falsified
22 personal invoices for payment from associations she provided services to.

23 17. RESPONDENT violated NRS 116A.630(2)(a) 36 times when she submitted
24 falsified personal invoices for payment from associations she provided services to and
25 personally took payment for those falsified invoices.

26 18. RESPONDENT violated NRS 116A.630(6)(a) 36 times by failing to ensure that
27 the financial transactions of associations she provided services to were current, accurate, and

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1 properly documented when she submitted falsified personal invoices for payment from
2 associations she provided services to.

3 19. RESPONDENT violated NRS 116A.630(4) 36 times by using money of an
4 association she provided services to for her own personal use.

5 20. RESPONDENT violated NAC 116A.340 by failing to notify the Division that her
6 address changed after she was terminated by Terra West.

7 21. RESPONDENT violated NAC 116A.345(3) 36 times by using money of an
8 association she provided services to for her own personal use.

9 22. RESPONDENT violated NAC 116A.355(a)(1) 36 times by committing
10 unprofessional conduct (through NAC 116A.355(2)(c)) by engaging in deceitful, fraudulent or
11 dishonest conduct when she submitted falsified personal invoices for payment from
12 associations she provided services to.

13 23. RESPONDENT violated NAC 116A.355(a)(1) 36 times by committing
14 unprofessional conduct (through NAC 116A.355(3)) by demonstrating a significant lack of
15 ability, knowledge or fitness to perform a duty or obligation owed to associations, and failing to
16 exercise reasonable skill and care with respect to a duty or obligation owed to associations
17 when she submitted falsified personal invoices for payment from associations she provided
18 services to.

19 **ORDER**

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

- 22 1. RESPONDENT'S community manager certificate is revoked for a period of no less
23 than 10 years.
- 24 2. RESPONDENT shall pay to the Division a total fine of \$18,385. The total fine
25 reflects a fine of \$16,200 for committing the violations of law, plus \$2,185.00 for the
26 Division's attorney's fees and costs. The total fine shall be paid in equal monthly
27 payments of \$383.00, provided the total fine shall be entirely due and payable on
28 the date that is 48 months from the date of this Order. The first payment shall be

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due on February 1, 2014, with each additional payment due on the first of each subsequent month.

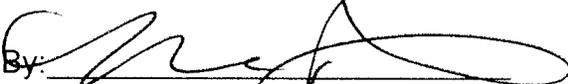
- 3. The Division may institute debt collection proceedings for failure to timely pay the total fine, or any installment thereof. Further, if collection goes through the State of Nevada, then RESPONDENT shall also pay the costs associated with collection.

DATED this _____ day of December, 2013.

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

By: _____
RANDOLPH WATKINS, CHAIRMAN

Submitted by:
CATHERINE CORTEZ MASTO
Attorney General

By: 
Michelle D. Briggs, Esq.
Nevada Bar No. 7617
Senior Deputy Attorney General
2501 E. Sahara Ave., Ste. 201
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Attorneys for Petitioner

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2 subsequent month.

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

6 DATED this 6TH day of December, 2013.

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

12 By: Randolph Watkins
13 RANDOLPH WATKINS, CHAIRMAN

14 Submitted by:

15 CATHERINE CORTEZ MASTO
16 Attorney General

17 By: Michelle D. Briggs

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