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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.

JUDITH FENNER,

Respondent.

Case No. CIS 13-09-12-068

FILED

DEC 09 2013

NEVADA COMMISSION OF
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, Judith Fenner, appeared and was represented by Melinda Weaver, Esq. of the law firm of Patti, Sgro & Lewis. 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 (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 evidence presented during the Hearing, finds that there is substantial evidence in the record to establish each of the following Findings of Fact.

1. In response to a separate disciplinary case before the Commission for Common-Interest Communities and Condominium Hotels (the "Commission"), RESPONDENT asserted

1 that the Division and the Commission did not have jurisdiction over her as she was acting as a
2 bookkeeper and not as a community manager.

3 2. RESPONDENT provided her bookkeeping services under her entity Western
4 Bookkeeping/Secretarial, LLC ("Western Bookkeeping") and provided community
5 management services under her entity Old West Realty.

6 3. The Division was concerned that RESPONDENT'S attempt to avoid the
7 authority of the Division and the Commission was a potential risk to the associations involved.

8 4. The Division reviewed the annual registration filings for Tara Homeowners
9 Association (the "Association").

10 5. The annual registration form filed on February 25, 2010, reflects Old West
11 Realty and RESPONDENT as the management company and custodian of records. The
12 Ombudsman's fee was paid by Association check which states "Tara Homeowners
13 Association % Western Services" and is signed only by RESPONDENT.

14 6. The annual registration form filed on April 4, 2011, lists Western Bookkeeping as
15 the custodian of records and lists RESPONDENT as a board member and officer of the
16 Association. The form reflects there is no management company and it is signed by
17 RESPONDENT as Secretary. The registration fee was paid with an Association check and
18 signed only by RESPONDENT.

19 7. The annual registration form filed on March 28, 2012 lists Western Bookkeeping
20 as the custodian of records and that RESPONDENT is the bookkeeper.

21 8. Based on concerns with the registration forms, the Division opened an
22 investigation into RESPONDENT'S activities for the Association.

23 9. The registration form filed on March 28, 2012 reflects Ron Brady is a board
24 member and officer. The address for Ron Brady on the registration form is the same address
25 as a vendor of the Association, Premier Management Services.

26 10. Premier Management Services is owned by Ron Brady, Jr. and Kimberley
27 Brady. Ron Brady, Sr. sold the company to his son, Ron Brady, Jr., in 2010 and works for
28 him.

1 11. The registration form from March appears to be signed by Ron Brady, Sr.

2 12. Clark County Tax Assessor's Records do not reflect that Ron Brady, Sr. or Jr. is
3 an owner of a unit within the Association.

4 13. As part of the Division's investigation of RESPONDENT'S activities, the Division
5 subpoenaed bank records for the Association and requested documents from the Association.

6 14. The bank records for the Association show RESPONDENT was a signor on the
7 account since November 8, 2005.

8 15. Ron Brady's name appears on several Association checks.

9 16. RESPONDENT was the only signor on 70 Association checks.

10 17. In August of 2012, the Association terminated the services of RESPONDENT
11 and hired a new management company.

12 18. By letter dated November 5, 2012, the Division requested a response from the
13 board members as to how Ron Brady came to be a board member and his connection with
14 Premier Management Services.

15 19. The Division also requested a response from the board about checks
16 RESPONDENT signed on behalf of the Association.

17 20. Board member, Daniel Amitin, responded to the Division's letter.

18 21. Mr. Amitin's affidavit states:

- 19 ▪ He was asked to serve on the board at the end of 2011 by RESPONDENT.
- 20 ▪ Ron Brady was already on the board at that time, so he asked
21 RESPONDENT about Ron Brady.
- 22 ▪ RESPONDENT told him that she put Ron Brady – who was a friend of hers
23 for over 25 years – on the board to fill a vacancy because the owners would
24 not volunteer.
- 25 ▪ He was unaware that Ron Brady had any connection to Premier
26 Management Services and that he did not own a unit in the Association.
- 27 ▪ He said he was unaware that RESPONDENT signed any checks on behalf of
28 the Association.

1 22. Mr. Amitin also reported to the Division that some of the checks he reviewed
2 from the Division with his signature were not signed by him.

3 23. Mr. Amitin confirmed that 8 checks reflecting his name were not signed by him.

4 24. Mr. Amitin lives in California and filed a police report with the LAPD alleging that
5 RESPONDENT forged his signature on Association checks.

6 25. Mr. Amitin later confirmed additional checks bearing his signature were not
7 signed by him. There are a total of 14 checks with Mr. Amitin's signature that were not signed
8 by him from September 2011 through August 2012.

9 26. The Division questioned a former board member, Nancy Lin, about
10 discrepancies with her signature as well.

11 27. Ms. Lin, who lives in California, resigned from the board in June 2010 and no
12 longer owned a unit in the Association after March 2011.

13 28. Ms. Lin confirmed by sworn affidavit that in fact 8 checks with her name had
14 been forged. The checks range in dates from July 2010 through January 2012.

15 29. Ms. Lin later confirmed additional checks bearing her signature were not signed
16 by her. There are a total of 39 checks with Ms. Lin's name that were not signed by her from
17 March 2010 through January 2012.

18 30. RESPONDENT exercised complete control over the Association's physical,
19 administrative and financial maintenance and management.

20 31. By certified letter dated January 30, 2013, the Division requested that
21 RESPONDENT respond to the allegations that Mr. Amitin's and Ms. Lin's signatures were
22 signed by RESPONDENT on Association checks, that she appointed Ron Brady, who is not
23 an owner, to the board, and that she was the only signor on several Association checks.

24 32. RESPONDENT signed for the letter and the Division received the return receipt
25 on February 2, 2013.

26 33. The Division did not receive a response to the allegations from RESPONDENT.

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CONCLUSIONS OF LAW

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2 34. RESPONDENT violated NRS 116A.630(1)(a) 14 times by failing to act as a
3 fiduciary in her relationship with the Association by signing Daniel Amitin's name to 14
4 Association checks.

5 35. RESPONDENT violated NRS 116A.630(1)(a) 39 times by failing to act as a
6 fiduciary in her relationship with the Association by signing Nancy Lin's name to 39
7 Association checks.

8 36. RESPONDENT violated NRS 116A.630(1)(a) 70 times by failing to act as a
9 fiduciary in her relationship with the Association by being the sole signor on 70 Association
10 checks in violation of NRS 116.31153.

11 37. RESPONDENT violated NRS 116A.630(1)(a) by failing to act as a fiduciary in
12 her relationship with the Association by appointing Ron Brady to the board and allowing him to
13 sign Association checks.

14 38. RESPONDENT violated NRS 116A.630(1)(b) 14 times by failing to exercise
15 ordinary and reasonable care in the performance of her duties when she signed Daniel
16 Amitin's name to 14 Association checks.

17 39. RESPONDENT violated NRS 116A.630(1)(b) 39 times by failing to exercise
18 ordinary and reasonable care in the performance of her duties when she signed Nancy Lin's
19 name to 39 Association checks.

20 40. RESPONDENT violated NRS 116A.630(1)(b) 70 times by failing to exercise
21 ordinary and reasonable care in the performance of her duties when she was the only signor
22 on 70 Association checks.

23 41. RESPONDENT violated NRS 116A.630(1)(b) by failing to exercise ordinary and
24 reasonable care in the performance of her duties when she appointed Ron Brady to the board
25 and allowed him to sign Association checks.

26 42. RESPONDENT violated NAC 116A.355(1)(a)(1) 14 times by committing
27 unprofessional conduct (through NAC 116A.355(2)(c)) by engaging in deceitful, fraudulent or
28 dishonest conduct when she signed Daniel Amitin's name on 14 Association checks.

1 43. RESPONDENT violated NAC 116A.355(1)(a)(1) 39 times by committing
2 unprofessional conduct (through NAC 116A.355(2)(c)) by engaging in deceitful, fraudulent or
3 dishonest conduct when she signed Nancy Lin's name on 39 Association checks.

4 44. RESPONDENT violated NAC 116A.355(1)(a)(1) 70 times by committing
5 unprofessional conduct (through NAC 116A.355(2)(a)(3)) when she violated NRS 116.31153
6 by being the only signor on 70 Association checks.

7 45. RESPONDENT violated NAC 116A.355(1)(a)(1) by committing unprofessional
8 conduct (through NAC 116A.355(2)(a)(3)) by violating NRS 116.31187 when she received
9 compensation from the Association while she served as a board member and officer of the
10 Association.

11 46. RESPONDENT violated NAC 116A.355(1)(a)(1) by committing unprofessional
12 conduct (through NAC 116A.355(2)(c)) by engaging in deceitful, fraudulent or dishonest
13 conduct when she appointed Ron Brady to the board and allowed him to sign Association
14 checks.

15 47. RESPONDENT violated NAC 116A.355(1)(a)(1) by committing unprofessional
16 conduct (through NAC 116A.355(2)(f)) by failing to cooperate with the Division's investigation.

17 48. RESPONDENT violated NAC 116A.355(1)(a)(2) 14 times by committing
18 professional incompetence (through NAC 116A.355(3)(a)) by demonstrating a significant lack
19 of ability, knowledge or fitness to perform a duty or obligation owed to a client when she
20 signed Daniel Amitin's name on 14 Association checks.

21 49. RESPONDENT violated NAC 116A.355(1)(a)(2) 39 times by committing
22 professional incompetence (through NAC 116A.355(3)(a)) by demonstrating a significant lack
23 of ability, knowledge or fitness to perform a duty or obligation owed to a client when she
24 signed Nancy Lin's name on 39 Association checks.

25 50. RESPONDENT violated NAC 116A.355(1)(a)(2) 70 times by committing
26 professional incompetence (through NAC 116A.355(3)(a)) by demonstrating a significant lack
27 of ability, knowledge or fitness to perform a duty or obligation owed to a client when she
28 violated NRS 116.31153 by being the only signor on 70 Association checks.

