

**COMMISSION FOR COMMON-INTEREST COMMUNITIES AND CONDOMINIUM
HOTELS TELECONFERENCE MEETING
MARCH 28, 2014
DEPARTMENT OF BUSINESS AND INDUSTRY
2501 E. SAHARA AVENUE, 2ND FLOOR CONFERENCE ROOM
LAS VEGAS, NEVADA 89104**

MARCH 28, 2014

1:00 P.M.

1-A) Introduction of Commissioners in attendance.

At meeting location: Jonathan Friedrich and Robert Frank.

By telephone: Barry Breslow, Scott Sibley, James Rizzi and Senior Deputy Attorney General Henna Rasul present as Commission Counsel.

1-B) Introduction of Division Staff in attendance.

Gail Anderson, Administrator; Teralyn Thompson, Legal Administrative Officer; Cheryl Fleming, Compliance Audit Investigator; Senior Deputy Attorney General Michelle Briggs serving as Division Counsel.

2) Public Comment

Mike Randolph, Homeowner Association Services, commented. Mr. Randolph welcomed the new commissioner and gave his respect to former Commissioners Schwenk, Watkins and Lein for their dedication and effort.

John Radocha, homeowner, commented. Mr. Radocha stated that on January 21, 2013 he asked for a CD of a HOA meeting that had questionable voting procedures. Mr. Radocha stated that he was told it would cost five dollars because the community management company and the association had a contract to charge a fee. Mr. Radocha stated that he paid the fee but later found a statute in NRS 116 that said that he did not have to pay for a CD. Mr. Radocha stated that on April 15, 2013 he requested his five dollars back but was denied. Mr. Radocha stated that on December 5, 2013 he filed a statement of fact with the Division. Mr. Radocha stated that sometime in February 2014 he had a verbal conversation with an employee of the Division who told Mr. Radocha that the case was still under investigation. Mr. Radocha stated that he did not understand the delay. Mr. Radocha stated that he took action at his own expense and filed a complaint with the Better Business Bureau on February 17, 2014. Mr. Radocha stated that on March 10, 2014 he received a check for five dollars from the management company. Mr. Radocha stated the committee and the State legislators should consider two options: give the Division tough statute authority and more budget finances to be a forceful player in the HOA game and to have a vetted transparent judicial committee that would be fair and balanced in settling HOA disputes and violations.

3-1) For possible action: Discussion and decision regarding respondent's petition for rehearing, reconsideration and/or appeal.

NRED v. Diane Wild, for possible action

Case No. CIS 14-07-51-051 & CIS 13-09-19-075

**License No. CAM.0000164 (REVOKED), CAM.0000164-SUPR (REVOKED) and
RSS.0000046 (REVOKED)**

Parties Present

Attorney Edgar Carranza was present representing Diane Wild.

Senior Deputy Attorney Michelle Briggs was present representing the Division.

Mr. Carranza stated that his position is that the idea that by turning in Ms. Wild's community management certificate, Ms. Wild did not appreciate that the hearing would move forward. Mr. Carranza stated that Ms. Wild assumed, per the regulation, that the Commission would make them available to the idea that by surrendering her certificate no further action would be taken. Mr. Carranza stated that because of Ms. Wild's misunderstanding, she failed to appear on February 25, 2014 and the Commission moved forward anyway.

Mr. Carranza stated that their second position is the idea of due process. Mr. Carranza stated that Ms. Wild did not know that her reserve study specialist permit would be subject to discipline despite the fact that there was no mention in either complaints and no allegations in either complaint about any unprofessional conduct by her with respect to her role as a reserve study specialist. Mr. Carranza stated that whether that provided Ms. Wild with her right to due process as far as reasonable notice so that Ms. Wild would be able to appreciate fully the ramifications of what the Commission's intent was in prosecuting those complaints. Mr. Carranza stated that this goes hand in hand with the idea that the discipline that was imposed on Ms. Wild, as a result of the two complaints, went beyond what was outlined in the complaints themselves whether that is in respect to the reserve study specialist permit or the Division's telephone campaign. Mr. Carranza stated that these calls have come to Ms. Wild's attention and was not delineated in the complaint as a potential aspect of discipline to be imposed on her and was not delineated in the orders after the hearing as an aspect of the discipline that would be applied.

Commissioner Friedrich asked Mr. Carranza if he was familiar with NAC 116A.435 regarding the disciplinary action that can be taken against a reserve study specialist by the Division.

Mr. Carranza stated that he is not disputing that the Division and Commission, by way of disciplinary action, can impose discipline on someone holding a reserve study specialist permit. Mr. Carranza stated that his position is that under the prongs of due process, notice was not provided to Ms. Wild as part of the complaints against her that her reserve study specialist permit was an issue. Mr. Carranza stated that the language that was used in the complaints and orders speaks to exclusively Ms. Wild's community management certificate and violations of community management regulations and statutes.

Commissioner Frank stated that as a result of the sanctions and punishment that Ms. Wild received from previous cases, he finds it difficult that Ms. Wild would assume anything when it came to communicating with the Division.

Commissioner Breslow asked Mr. Carranza if in Mr. Carranza's petition or reply if there is an affidavit or declaration from Ms. Wild under oath that confirms arguments made by counsel to the effect that Ms. Wild thought the matter would be closed and was not aware that the Commission might be taking up issues relative to Ms. Wild's reserve study specialist permit.

Mr. Carranza stated only exhibit 3 to Ms. Briggs' opposition which is the letter which Ms. Wild signed with a notary indicating that Ms. Wild was surrendering the license.

Ms. Briggs stated that the reserve study specialist permit is a registration and not a certificate. Ms. Briggs stated that NAC 116A.420 allows the Division to revoke the registration if the Division finds that a person who has submitted for that registration does not meet the qualifications. Ms. Briggs stated that subsection 1(a) says a good reputation for honesty, trustworthiness and integrity. Ms. Briggs stated that the complaints that the Commission heard in February have everything to do with Ms. Wild's honesty, integrity and trustworthiness. Ms. Briggs stated that Ms. Wild was already on probation for not complying with rules that Ms. Wild is required to comply with such as not responding to the Division, not responding to homeowners and not doing what Ms. Wild was supposed to be doing as a community manager. Ms. Briggs stated that the complaints list what the Commission can do and that the Commission can take whatever action the Commission deems necessary and appropriate. Ms. Briggs stated that Ms. Wild should have realized that any license or registration that Ms. Wild has with the Division could be taken away. Ms. Briggs stated that Ms. Wild's surrender of her community management certificate the day before the hearing had nothing to do with the Commission not hearing her case. Ms. Briggs stated that Ms. Wild cites NAC 116A.610 which is for the Commission to approve a voluntary surrender in lieu of disciplinary. Ms. Briggs stated that Ms. Wild never asked the Commission to approve that surrender. Ms. Briggs stated that Ms. Wild never contacted Ms. Briggs or the Commission Coordinator about what she was doing by surrendering her license. Ms. Briggs stated that this is just a reason to get this matter back in front of the Commission to delay any sort of consequence to Ms. Wild.

Ms. Briggs stated that the rehearing requirements require new evidence or something happened that requires a rehearing. Ms. Briggs stated that nothing has been alleged to justify that. Ms. Briggs asked that the Commission to deny Ms. Wild's request.

Commissioner Breslow stated that there was not new evidence provided, no substantial change in the law, nor any irregularity in the proceeding that compelled a different decision.

Mr. Carranza reiterated his position.

Ms. Briggs reiterated her position.

Commissioner Friedrich moved to deny the petition for rehearing. Seconded by Commissioner Frank. Motion carried unanimously.

4) Public Comment

Randolph Watkins commented. Mr. Watkins thanked Mr. Randolph and Commissioner Breslow for their kind comments about the service of Commissioners Schwenk, Lein and himself.

5) Commissioner Comments

Commissioner Frank stated that some of the complaints that have been judged against Ms. Wild fit what would be considered to be criminal complaints. Commissioner Frank stated that homeowners in that association are not receiving the justice that they deserve because they have lost a lot of money that is not all being returned. Commissioner Frank stated that he does not see a solution yet but will continue to press on the issue of how to get clear investigative services done by the State of Nevada made available to the appropriate law enforcement agencies so that the real teeth of the law where people are accused of forgery of checks, embezzlement and related type fraudulent activity does not go unpunished.

Commissioner Friedrich stated that he will be speaking at public meetings regarding the office for which Commissioner Friedrich is running.

Commissioner Breslow stated that it was his pleasure to work with Commissioners Lein, Watkins and Schwenk.

6) For possible action: Adjournment

Commissioner Friedrich moved to adjourn the meeting. Seconded by Commissioner Frank. Motion carried unanimously. Meeting ended at 2:08 p.m. on March 28, 2014.

Respectfully Yours,

Teralyn Thompson
Legal Administrative Officer