

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

JOSEPH (J.D.) DECKER, Administrator,
REAL ESTATE DIVISION, DEPARTMENT
OF BUSINESS & INDUSTRY,
STATE OF NEVADA,

Petitioner,

vs.

AUDRA COLLINS,

Respondent.

Case No. 2014-1485

FILED *DR*

AUG 07 2015

NEVADA COMMISSION OF
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS

COMPLAINT FOR DISCIPLINARY
ACTION AND NOTICE OF HEARING

The Real Estate Division of the Department of Business and Industry, State of Nevada (the "Division"), by and through its counsel, Adam Paul Laxalt, Attorney General of the State of Nevada, and Michelle D. Briggs, Esq., Senior Deputy Attorney General, hereby notifies Respondent AUDRA COLLINS ("RESPONDENT" or "COLLINS") of an administrative hearing before the Commission for Common-Interest Communities and Condominium Hotels, State of Nevada, which is to be held pursuant to Chapters 233B and Chapters 116 and 116A of the Nevada Revised Statutes ("NRS") and Chapter 116 and 116A of the Nevada Administrative Code ("NAC"). The purpose of the hearing is to consider the allegations stated below and to determine if an administrative penalty will be imposed on the RESPONDENT pursuant to the provisions of NRS and NAC including, but not limited to, NAC 116A.360.

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JURISDICTION

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2 1. During all relevant times mentioned in this complaint, COLLINS was licensed as
3 a community manager by the Division and is, therefore, subject to the jurisdiction of the
4 Division and the provisions of NRS Chapters 116 and 116A and NAC Chapters 116 and
5 116A.

ALLEGATIONS OF FACT

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7 2. COLLINS is and was at all relevant times mentioned in this Complaint, licensed
8 as a supervisory community manager under certificate number CAM.0000314-SUPR.

9 3. COLLINS and her mother, Leslie White, provide community manager services
10 through their company NCF Corporation, doing business as Associated Community
11 Management (the "Management Company").

12 4. The Division opened an investigation against COLLINS and Leslie White in
13 2013 under Case No. CIS 13-05-34-340 based on information contained in annual
14 registration forms supplied by COLLINS and Ms. White to the Division.

15 5. The initial investigation concerned 21 associations managed by COLLINS
16 and/or Ms. White, including Benton Homeowners Association (the "Association").

17 6. The initial investigation concerned whether the associations had board
18 members.

19 7. By letter dated June 7, 2013, the Division sent COLLINS and Ms. White a letter
20 detailing the alleged violations and requesting documents and a sworn affidavit as to the
21 alleged violations.

22 8. By letter dated December 30, 2013, the Division sent COLLINS and Ms. White
23 a second request for the documents previously requested.

24 9. Neither COLLINS nor Ms. White responded with regard to the Association.

25 10. After not receiving an adequate response to the investigation from COLLINS or
26 Ms. White, the Division subpoenaed bank records for certain associations as well as the
27 Management Company in January 2014.

28 11. According to the Association's bank, Mutual of Omaha Bank, all of the

1 associations use a master signature card for the Management Company that goes with all of
2 their accounts.

3 12. The master signature card for the Management Company shows Ms. White as
4 the only authorized signor.

5 13. Based on a review of the subpoenaed bank records, the Division opened a new
6 case against COLLINS concerning only the Association under Case No. 2014-1485.

7 14. COLLINS was noticed of the new case by letter dated May 6, 2014 which
8 alleged COLLINS was the sole signor on Association checks. The Division's letter requested
9 copies of COLLIN'S three most recent management contracts, minutes from the last three
10 elections for the board, and copies of Association CC&R's and bylaws.

11 15. COLLINS responded by email dated June 6, 2014, which included as
12 attachments, her sworn affidavit, her management contract dated as signed September 5,
13 2010, her management contract dated July 1, 2005, nomination forms, CC&R's, and bylaws.

14 16. COLLIN'S explanation for the single signed checks was that no one would run
15 for the board, so she was signing checks without a board in place based on the requirements
16 of her contract.

17 17. Ms. White signed and submitted to the Division annual registration forms for the
18 Association as follows:

- 19 18. 2010 reflecting one board member, John Lord;
- 20 19. 2011 reflecting two board members, John Lord and Vilmarie Vilar;
- 21 20. 2012 reflecting one board member, John Lord;
- 22 21. 2013 reflecting two board members, John Lord and Vilmarie Vilar;
- 23 22. 2014 reflecting two board members, John Lord and Vilmarie Vilar; and
- 24 23. 2015 reflecting one board member, Jermain Tate.

25 24. The Division requested from the Secretary of State's office the annual list of
26 directors and officers filed for the Association. For 2012, COLLINS submitted an annual list
27 for the Association as its manager.

28 25. The Division sent Mr. Lord a list of questions regarding his service on the board.

1 26. Mr. Lord responded by sworn affidavit dated June 13, 2014 stating, "I have not
2 been president for over 2 years."

3 27. Mr. Lord later clarified to the Division that he had not served on the board for
4 the prior two years.

5 28. The management contract provided by COLLINS is purportedly signed by "John
6 Lord" on behalf of the Association.

7 29. By sworn affidavit, Mr. Lord states that he did not sign the management
8 contract and it is not his signature.

9 30. The Division requested COLLIN'S response to the allegation that the
10 management contract she provided to the Division contained a forged board member's
11 signature.

12 31. COLLINS responded to the Division by email dated February 13, 2015 that she
13 never was the manager of the Association and had no knowledge of a forged contract.

14 32. The Division followed up with Mr. Lord asking that he respond to whether he
15 was the co-signor on three Association checks made payable to the Division dated
16 September 17, 2010, January 26, 2012, and January 28, 2013 as each check appeared to be
17 signed "John Lord" along with Ms. White's signature.

18 33. By sworn affidavit dated February 10, 2015, Mr. Lord stated as to each of the
19 three checks, "No! Not my signature. Never seen this check before."

20 34. Ms. White was asked to respond to the allegation that Association checks
21 provided to the Division contained a forged board member's signature.

22 35. Ms. White stated she had no knowledge of forged signatures and that:

23 Previously checks that had my signature were placed in a folder in a box so when
24 board members came in to sign they were easily located. This box was placed in an
25 area that was accessible by anyone. This practice is no longer used and most boards
use digital signatures.

26 36. The three forged checks are the only Association checks with two signatures
27 out of 331 Association checks.

28 37. The annual registration forms filed by Ms. White with the Division represent a

1 projected reserve account balance of over \$24,000 in 2010, \$42,000 in 2011, \$41,000 in
2 2012, \$24,000 in 2013, \$23,000 in 2014, and \$14,000 in 2015.

3 38. The Division reviewed bank statements and checks for the Association's
4 operating and reserve accounts from January 2010 through January 2014.

5 39. The Association's reserve account had a balance of approximately \$2,900 in
6 January 2010. By August 2011 through January 2014, the reserve account was
7 approximately \$260.

8 40. Ms. White was the sole signor on approximately 202 Association checks from
9 2010 through January 2014.

10 41. COLLINS was the sole signor on approximately 129 Association checks from
11 2010 through February 2013.

12 42. Approximately 134 Association checks were written to the Management
13 Company totaling over \$76,000.00.

14 43. In January 2014, the Management Company received money from the
15 Association by direct transfer of funds in the amount of \$2,120.

16 **VIOLATIONS OF LAW**

17 44. COLLINS violated NRS 116A.640(2)(a) and NAC 116A.345(2)(a) by impeding
18 the Division's investigation by failing to comply with requests from the Division to provide
19 documents.

20 45. COLLINS violated NRS 116A.640(2)(b) and NAC 116A.345(2)(b) by impeding
21 the Division's investigation by supplying false and misleading information to the Division's
22 investigator.

23 46. COLLINS violated NRS 116A.640(2)(c) and NAC 116A.345(2)(c) by impeding
24 the Division's investigation by concealing facts and documents relating to the business of the
25 Association.

26 47. COLLINS violated NAC 116A.355(1)(a)(1) by committing unprofessional
27 conduct by engaging in deceitful, fraudulent or dishonest conduct by supplying to the Division
28 an improperly signed management agreement.

1 48. COLLINS violated NAC 116A.355(1)(a)(1) by committing unprofessional
2 conduct when she failed to cooperate with the Division's investigation by failing to timely
3 produce documents and records of the Association.

4 49. COLLINS violated NAC 116A.355(1)(a)(1) by committing unprofessional
5 conduct by exceeding the authority granted to her by the Association.

6 50. COLLINS violated NAC 116A.355(1)(a)(2) by engaging in conduct constituting
7 professional incompetence by demonstrating a significant lack of ability, knowledge or fitness
8 to perform a duty or obligation owed to the Association.

9 51. COLLINS violated NAC 116A.355(1)(a)(2) by engaging in conduct constituting
10 professional incompetence by failing to exercise reasonable skill and care with respect to a
11 duty or obligation owed to the Association.

12 52. COLLINS violated NRS 116.31153 129 times by being the sole signor on 129
13 Association checks between January 2010 and January 2014.

14 53. COLLINS violated NRS 116A.620 and NAC 116A.325 by failing to have a valid
15 management contract with the Association at all times while she performed community
16 management services for the Association.

17 54. COLLINS violated NRS 116A.630(1)(a) by failing to act as a fiduciary in her
18 relationship with the Association.

19 55. COLLINS violated NRS 116A.630(1)(b) by failing to exercise ordinary and
20 reasonable care in the performance of her duties for the Association.

21 56. COLLINS violated NRS 116A.630(2) by failing to comply with all federal, state
22 and local laws, regulations and ordinances.

23 57. COLLINS violated NRS 116A.630(6)(a) by failing to ensure that the financial
24 transactions of the Association are current, accurate and properly documented.

25 58. COLLINS violated NRS 116A.630(6)(b) by failing to ensure that there are
26 policies and procedures designed to provide reasonable assurances in the reliability of the
27 financial reporting.

28 59. COLLINS violated NRS 116A.630(7) by failing to prepare or cause to be

1 prepared interim and annual financial statements to allow the Division, the unit owner and
2 board members to determine whether the financial position of the Association is fairly
3 presented in accordance with all applicable laws and regulations.

4 60. COLLINS violated NRS 116A.630(10) by failing to cooperate with the Division.

5 61. COLLINS violated NRS 116A.630(13) by failing to maintain the Association's
6 funds in separate financial accounts in the name of the Association and ensure that the
7 Association is authorized to have direct access to those accounts.

8 62. COLLINS violated NRS 116A.630(14) by failing to notify unit owners that the
9 board is aware of all legal requirements pursuant to the applicable laws and regulations.

10 63. COLLINS violated NRS 116A.630(15) by failing to maintain internal accounting
11 controls, including without limitation, segregation of incompatible accounting functions.

12 64. COLLINS violated NRS 116A.630(16) by failing to ensure that the executive
13 board developed and approved written investment policies and procedures.

14 65. COLLINS violated NRS 116A.630(18) by failing to take direction from the
15 Association.

16 66. COLLINS violated NAC 116A.320 by failing to comply with NRS 116A.630.

17 **DISCIPLINE AUTHORIZED**

18 Pursuant to the provisions of NAC 116A.360 the Commission has discretion to impose
19 discipline as it deems appropriate, including, but not limited to one or more of the following
20 actions:

- 21 1. Revoke or suspend the certificate;
- 22 2. Refuse to renew or reinstate the certificate;
- 23 3. Place the community manager on probation;
- 24 4. Issue a reprimand or censure to the community manager;
- 25 5. Impose a fine of not more than \$5,000 for each violation of a statute or
26 regulation;
- 27 6. Require the community manager to pay restitution;
- 28 7. Require the community manager to pay the costs of the investigation and

1 hearing;

2 8. Require the community manager to obtain additional education relating to the
3 management of common-interest communities; and

4 9. Take such other disciplinary action as the Commission deems appropriate.

5 The Commission may order one or any combination of the discipline described above.

6 **NOTICE OF HEARING**

7 **PLEASE TAKE NOTICE**, that a disciplinary hearing has been set to consider this
8 Administrative Complaint against the above-named RESPONDENT in accordance with
9 Chapters 233B and 116 and 116A of the Nevada Revised Statutes and Chapters 116 and
10 116A of the Nevada Administrative Code.

11 **THE HEARING WILL TAKE PLACE** at the Commission meeting scheduled for
12 **September 22, 23, and 24, 2015, beginning at approximately 9:00 a.m. each day, or until**
13 **such time as the Commission concludes its business. The Commission meeting will**
14 **be held at the Grant Sawyer Building, 555 E. Washington Ave., Room 4401, Las Vegas,**
15 **Nevada 89101, with videoconferencing to the Legislative Building, 401 South Carson**
16 **Street, Room 2135, Carson City, Nevada 89701.**

17 **STACKED CALENDAR:** Your hearing is one of several hearings that may be
18 scheduled at the same time as part of a regular meeting of the Commission that is expected
19 to take place on September 22-24, 2015. Thus, your hearing may be continued until later in
20 the day or from day to day. It is your responsibility to be present when your case is called. If
21 you are not present when your hearing is called, a default may be entered against you and
22 the Commission may decide the case as if all allegations in the complaint were true. If you
23 need to negotiate a more specific time for your hearing in advance because of coordination
24 with out of state witnesses or the like, please call Claudia Rosolen, Commission Coordinator,
25 at (702) 486-4606.

26 **YOUR RIGHTS AT THE HEARING:** Except as mentioned below, the hearing is an
27 open meeting under Nevada's open meeting law, and may be attended by the public. After
28 the evidence and arguments, the commission may conduct a closed meeting to discuss your

1 alleged misconduct or professional competence. A verbatim record will be made by a
2 certified court reporter. You are entitled to a copy of the transcript of the open and closed
3 portions of the meeting, although you must pay for the transcription.

4 As a RESPONDENT, you are specifically informed that you have the right to appear
5 and be heard in your defense, either personally or through your counsel of choice. At the
6 hearing, the Division has the burden of proving the allegations in the complaint and will call
7 witnesses and present evidence against you. You have the right to respond and to present
8 relevant evidence and argument on all issues involved. You have the right to call and
9 examine witnesses, introduce exhibits, and cross-examine opposing witnesses on any matter
10 relevant to the issues involved.

11 You have the right to request that the Commission issue subpoenas to compel
12 witnesses to testify and/or evidence to be offered on your behalf. In making this request, you
13 may be required to demonstrate the relevance of the witness' testimony and/or evidence.
14 Other important rights and obligations, including your obligation to answer the complaint, you
15 have are listed in NAC 116A.560 through NAC 116A.655, NRS Chapter 233B, and NRS
16 Chapters 116 and 116A and NAC 116 and 116A.

17 Note that under NAC 116A.585, not less than five (5) working days before a hearing,
18 RESPONDENT must provide to the Division a copy of all reasonably available documents
19 that are reasonably anticipated to be used to support his or her position, and a list of
20 witnesses RESPONDENT intends to call at the time of the hearing. Failure to provide any
21 document or to list a witness may result in the document or witness being excluded from
22 Respondent's defense. The purpose of the hearing is to determine if the RESPONDENT has
23 violated any of the provisions of NRS and NAC Chapters 116 and 116A, and to determine

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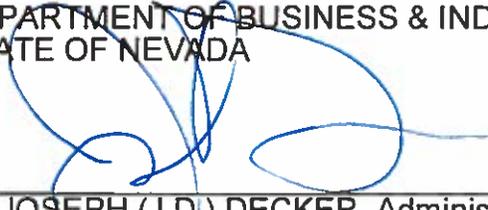
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what administrative penalty is to be assessed against RESPONDENT, if any, pursuant to
NAC 116A.360.

DATED this 7th day of August, 2015.

REAL ESTATE DIVISION
DEPARTMENT OF BUSINESS & INDUSTRY
STATE OF NEVADA

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