Office of the Attorney General
2501 East Sahara Avenue, Suite 201
Las Vegas, Nevada 89104

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. RYON COLLINS, Respondent.	**Case No. 2014-4472** FILED MAY 08 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 RYON 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

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

ALLEGATIONS OF FACT

2. RESPONDENT was at all relevant times mentioned in this Complaint, licensed as a community manager under certificate number CAM.0007445.

3. RESPONDENT provides community management services through NCF Corporation, doing business as Associated Community Management (the "Management Company") along with his wife, Audra Collins, and his mother-in-law, Leslie White.

4. RESPONDENT first applied for his provisional certificate in 2011 and received his community manager certificate in 2013, and only worked for the Management Company with the certificates.

5. The Division opened an investigation against Audra Collins and her mother, Leslie White, in 2013 under Case No. CIS 13-05-34-340 based on information contained in annual registration forms supplied by Ms. Collins and Ms. White to the Division.

6. The initial investigation concerned whether 21 associations managed by Ms. Collins or Ms. White had a board of directors.

7. The Division subpoenaed bank records for a number of the associations.

8. Ultimately, the Division opened an investigation specific to Willow Trace Homeowners' Association (the "Association") against both Ms. White and Ms. Collins.

9. Ms. White responded with a sworn statement dated June 21, 2013 stating that the Association had struggled to keep a full board, but did have a board at that time. She stated meetings "have been held as schedules and directors were able."

10. By email dated June 6, 2014, Ms. White provided the Division with a management contract from 2005 that had an automatic one year renewal period ("2005 Contract #1") and a management contract from 2012 purportedly signed by board member,

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Janet Deaver ("2012 Contract").

11. Janet Deaver informed the Division that she did not sign the 2012 Contract and was not on the board until February 2013.

12. RESPONDENT submitted the Association's annual registration form to the Division in 2013.

13. The Division opened an investigation against RESPONDENT for managing the Association without a valid management contract.

14. In response to the investigation, RESPONDENT provided a management contract from 2005 (the "2005 Contract #2") which was identical to the 2005 Contract #1, but the term was one year with automatic month to month renewals indefinitely.

15. Both 2005 Contract #1 and 2005 Contract #2 have the same signature page and are missing page 2.

16. After being asked to respond to the allegation that the 2012 Contract was forged, Leslie White provided the 2005 Contract #2 and said the other contracts were provided in error.

17. Audra Collins also provided the 2005 Contract #2 in her response to the allegation that she was managing the Association without a valid management contract.

18. RESPONDENT states that he was supposed to be the manager for the Association, but plans changed and he was not.

19. RESPONDENT emailed the board members elected in February 2013 to tell them he and Leslie White are the managers for the Association and that they need to set up a meeting date.

20. Before a meeting was scheduled RESPONDENT requested that one of the three new board members sign checks payable to the Division for annual fees and late fees.

21. By email, the new board members questioned their authority to sign checks without having had a meeting or being put on the bank account as a signor.

22. By email copied to RESPONDENT, Leslie White advised the board that when they come in to sign the checks to the Division, they will also be signing a signature card for

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the bank.

23. By email dated February 28, 2013 from RESPONDENT to the board members he provides meeting dates for consideration saying board member Janet Deaver is available those dates.

24. RESPONDENT mentions in his email that Ms. Deaver signed the checks for the Division, and he thanked her for her assistance.

25. Ms. Deaver was never a signor on the Association's bank accounts.

26. Ms. Deaver received a Director's Book from the Management Company containing NRS and NAC 116 provisions from 2009, CC&R's, Architectural Rules and Regulations, Reserve Study from 2011, list of owners, 2008 budget, and unsigned document titled Violation Process.

27. By the time a meeting was scheduled for April 5, 2013 one board member had already resigned.

28. The April 5th meeting was cancelled by Ms. White due to a second board member's resignation leaving only Janet Deaver on the board.

29. Ms. White emailed Ms. Deaver that nomination forms would be sent out for the two vacancies and that she can contact RESPONDENT with any questions.

30. Ms. Deaver did not hear from RESPONDENT or Ms. White after April 5, 2013.

31. In July 2013, Derek Wise and Allan Barnett were informed by email that they were elected to the board.

32. In July 2013, RESPONDENT emailed Mr. Wise and Mr. Barnett informing them that he was the community manager for the Association and a meeting needed to be scheduled.

33. Mr. Wise responded with days that worked for him.

34. Hearing nothing more from RESPONDENT, Mr. Wise emailed Ms. White in May of 2014 asking when the first meeting would be.

35. Ms. White responded that she was trying to coordinate dates and planning on June.

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36. No meeting was ever scheduled.

37. During 2013, while RESPONDENT represented to the Association board members and to the Division that he was the Association's community manager:

- No board meetings were held;
- No one other than Leslie White was an authorized signor on the Association's bank accounts;
- Out of the 82 checks written from the Association's operating account in 2013 by Leslie White only 4 checks were counter-signed by a board member;
- 2 of the 4 checks signed by a board member were payable to NRED;
- The Management Company received approximately $18,859.63 which included monthly charges for parking inspections, graffiti removal and website management not authorized by a management contract or approved by the board;
- In addition to the $900 per month management fee charged by the Management Company an additional $900 was charged as management fees for the months of April, May and August totaling $2,700;
- Automatic withdrawals from the Association's account were made for Tops Software, also not authorized by a management contract;
- No payments were made to the Association's reserve account; and
- No board members received a copy of the management contract.

38. According to documents provided by RESPONDENT, the Association's Income/Expense Statements for 2013 did not reflect the additional management fees paid by the Association and billed by the Management Company for the months of April, May and August totaling $2,700.

39. According to the Association's reserve study from 2011, the Association's reserve account should have had approximately $47,000 by the beginning of 2014 and would have been 49% funded. At the beginning and end of 2013, the Association's reserve account balance was approximately $20,000.

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40. According to the Association's bank statements for 2014 provided by RESPONDENT, fees charged by the Management Company were electronically withdrawn and transferred to the Management Company's bank account from the Association's account over 45 times in an amount totaling $17,826.99, and electronic funds transfers were made for Tops Software in an amount totaling $599.40.

VIOLATIONS OF LAW

41. RESPONDENT violated NAC 116A.355(1)(a)(2) (through NAC 116A.355(3)(a)) by committing professional incompetence by demonstrating a significant lack of ability, knowledge or fitness to perform a duty or obligation owed to a client by allowing the Management Company to receive unauthorized fees and overcharge for April, May and August 2013.

42. RESPONDENT violated NAC 116A.355(1)(a)(2) (through NAC 116A.355(3)(b)) by committing professional incompetence by failing to exercise reasonable skill and care with respect to a duty or obligation owed to a client by failing to have board members approve invoices when the Management Company took unauthorized fees and overcharged for April, May and August 2013.

43. RESPONDENT violated NAC 116A.355(1)(a)(3) by committing negligence or gross negligence preparing or failing to review the Income/Expense Statements for 2013 which fail to report additional Management Company fees for the months of April, May and August 2013.

44. RESPONDENT violated NAC 116A.355(1)(a)(2) (through NAC 116A.355(3)(a)) by committing professional incompetence by demonstrating a significant lack of ability, knowledge or fitness to perform a duty or obligation owed to a client by having board member Janet Deaver sign four checks during 2013 (two of which were to the Division) while Leslie White signed over 75 Association checks as the sole signor and Leslie White was the only authorized signor for the Association's bank accounts.

45. RESPONDENT violated NAC 116A.355(1)(a)(1) and (2) (through NAC 116A.355(4)(g)) by failing to act in the best interests of his client.

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46. RESPONDENT violated NAC 116A.355(1)(a)(1) and (2) (through NAC 116A.355(4)(h)) by failing to ensure that each member of the board received a copy of the management agreement.

47. RESPONDENT violated NRS 116A.620 and NAC 116A.325 by managing the Association without a valid management contract.

48. RESPONDENT violated NRS 116A.630(1)(a) by failing to act as a fiduciary in his relationship with the Association.

49. RESPONDENT violated NRS 116A.630(1)(b) by failing to exercise ordinary and reasonable care in the performance of his duties for the Association.

50. RESPONDENT violated NRS 116A.630(2)(a) by failing to comply with all federal, state and local laws, regulations and ordinances.

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

52. RESPONDENT violated NRS 116A.630(6)(b) by failing to ensure that there are policies and procedures designed to provide reasonable assurances in the reliability of the Association's financial reporting, including, without limitation, documentation of the authorization for any expenditures or disbursements.

53. RESPONDENT violated NRS 116A.630(7) by failing to prepare or cause to be prepared accurate interim and annual financial statements to allow the Division, the unit owners and board members to determine whether the financial position of the Association is fairly presented in accordance with all applicable laws and regulations.

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

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

56. RESPONDENT violated NRS 116A.630(15) by failing to maintain internal accounting controls, including without limitation, segregation of incompatible accounting

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functions.

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

58. RESPONDENT violated NRS 116A.640(10) by collecting fees or charges from the Association that were not specified in a management contract.

59. RESPONDENT violated NAC 116A.320 by failing to comply with the standards of practice set forth in NRS 116A.630.

DISCIPLINE AUTHORIZED

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

1. Revoke or suspend the certificate;
2. Refuse to renew or reinstate the certificate;
3. Place the community manager on probation;
4. Issue a reprimand or censure to the community manager;
5. Impose a fine of not more than $5,000 for each violation of a statute or regulation;
6. Require the community manager to pay restitution;
7. Require the community manager to pay the costs of the investigation and hearing;
8. Require the community manager to obtain additional education relating to the management of common-interest communities; and
9. Take such other disciplinary action as the Commission deems appropriate.

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

NOTICE OF HEARING

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

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116A of the Nevada Administrative Code.

THE HEARING WILL TAKE PLACE at the Commission meeting scheduled for **June 16, 17, and 18, 2015, beginning at approximately 9:00 a.m. each day, until such time as the Commission concludes its business. The Commission meeting will be held at the Gaming Control Meeting Room located at the Grant Sawyer Building, 555 E. Washington Ave., Room 2450, Las Vegas, Nevada 89101, with videoconferencing to the Gaming Control Meeting Room, 1919 College Parkway, Carson City, Nevada 89706.**

STACKED CALENDAR: Your hearing is one of several hearings that may be scheduled at the same time as part of a regular meeting of the Commission that is expected to take place on June 16-18, 2015. Thus, your hearing may be continued until later in the day or from day to day. It is your responsibility to be present when your case is called. If you are not present when your hearing is called, a default may be entered against you and the Commission may decide the case as if all allegations in the complaint were true. If you need to negotiate a more specific time for your hearing in advance because of coordination with out of state witnesses or the like, please call Claudia Rosolen, Commission Coordinator, at (702) 486-4606.

YOUR RIGHTS AT THE HEARING: Except as mentioned below, the hearing is an open meeting under Nevada's open meeting law, and may be attended by the public. After the evidence and arguments, the commission may conduct a closed meeting to discuss your alleged misconduct or professional competence. A verbatim record will be made by a certified court reporter. You are entitled to a copy of the transcript of the open and closed portions of the meeting, although you must pay for the transcription.

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

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relevant to the issues involved.

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

Note that under NAC 116A.585, not less than five (5) working days before a hearing, RESPONDENT must provide to the Division a copy of all reasonably available documents that are reasonably anticipated to be used to support his or her position, and a list of witnesses RESPONDENT intends to call at the time of the hearing. Failure to provide any document or to list a witness may result in the document or witness being excluded from Respondent's defense. The purpose of the hearing is to determine if the RESPONDENT has violated any of the provisions of NRS and NAC Chapters 116 and 116A, and to determine what administrative penalty is to be assessed against RESPONDENT, if any, pursuant to NAC 116A.360.

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DATED this 1 day of May, 2015.

REAL ESTATE DIVISION
DEPARTMENT OF BUSINESS & INDUSTRY
STATE OF NEVADA

By: _____
JOSEPH (J.D.) DECKER, Administrator
2501 East Sahara Avenue
Las Vegas, Nevada 89104
(702) 486-4033

ADAM PAUL LAXALT
Attorney General

By: _____
MICHELLE D. BRIGGS, ESQ.
Senior Deputy Attorney General
2501 E. Sahara Avenue, Suite 201
Las Vegas, Nevada 89104
(702) 486-3695
Attorneys for Real Estate Division

Office of the Attorney General
2501 East Sahara Avenue, Suite 201
Las Vegas, Nevada 89104