

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,

Case No. 2014-1491

Petitioner,

FILED

vs.

MAR 27 2015

LESLIE WHITE,

NEVADA COMMISSION OF
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS

Respondent.

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 Leslie White ("RESPONDENT" or "WHITE") 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, WHITE was licensed as a
3 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. At all relevant times mentioned in this complaint, WHITE was and is currently
8 licensed as a supervisory community manager under certificate number CAM.0000070.

9 3. At all relevant times mentioned in this complaint, WHITE acted as and is
10 currently performing the services of a community manager for Benton Homeowners
11 Association (the "Association") through her entity NCF Corporation, doing business as
12 Associated Community Management (the "Management Company").

13 4. The Division opened an investigation against WHITE and her daughter, Audra
14 Collins, in 2013 under Case No. CIS 13-05-34-340 based on information contained in annual
15 registration forms supplied by WHITE and Ms. Collins to the Division.

16 5. The initial investigation involved 21 associations managed by WHITE and
17 concerned whether the associations had board members.

18 6. By letter dated June 7, 2013, the Division sent WHITE a letter detailing the
19 alleged violations and requested documents and a sworn affidavit as to the alleged violations.

20 7. By letter dated December 30, 2013, the Division sent WHITE a second request
21 and again requested the management contracts for each association.

22 8. As to the Association, WHITE did not respond or provide a copy of her
23 management contract as requested in both the June 7 and December 30, 2013 letters.

24 9. The Division subpoenaed bank records for the Association in January of 2014.

25 10. According to the Association's bank, Mutual of Omaha Bank, all of WHITE'S
26 associations use a master signature card for the management company that goes with all of
27 their accounts.

28 11. The master signature card is for the Management Company and shows WHITE

1 as the only authorized signor.

2 12. Based on a review of the subpoenaed bank records, the Division opened a new
3 case concerning only the Association under Case No. 2014-1491.

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

8 14. WHITE responded by email dated June 3, 2014, which included as
9 attachments, her sworn affidavit dated June 3, 2014, her management contract dated as
10 signed September 5, 2010, and nomination forms.

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

14 16. WHITE signed and submitted to the Division annual registration forms for the
15 Association as follows:

- 16 i. 2010 reflecting one board member, John Lord;
- 17 ii. 2011 reflecting two board members, John Lord and Vilmarie Vilar;
- 18 iii. 2012 reflecting one board member, John Lord;
- 19 iv. 2013 reflecting two board members, John Lord and Vilmarie Vilar;
- 20 v. 2014 reflecting two board members, John Lord and Vilmarie Vilar; and
- 21 vi. 2015 reflecting one board member, Jermain Tate.

22 17. Each annual registration form submitted to the Division by WHITE states that
23 the board members completed Division Form 602 and submitted them to the Division, but
24 none were ever submitted to the Division.

25 18. The Division requested from the Secretary of State's office the annual list of
26 directors and officers filed for the Association. For 2011, WHITE submitted an annual list for
27 the Association reflecting Linda Shreve and Chris Hansel as the sole board members and
28 officers.

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

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

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

6 22. The management contract provided by WHITE is purportedly signed by "John
7 Lord" on behalf of the Association.

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

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

13 25. WHITE responded to the Division by sworn affidavit stating she had "no
14 knowledge of a contract with a forged signature" and provided a new contract dated January
15 30, 2015 and signed by "Jermaine Tate."

16 26. WHITE also provided purported minutes from a meeting held January 30, 2015,
17 but they are not signed.

18 27. The Division then followed up with Mr. Lord asking that he respond to whether
19 he was the co-signor on three Association checks made payable to the Division dated
20 September 17, 2010, January 26, 2012, and January 28, 2013 as each check appeared to be
21 signed "John Lord" along with WHITE'S signature.

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

24 29. WHITE was asked to respond to the allegation that Association checks
25 provided to the Division contained a forged board member's signature.

26 30. WHITE stated she had no knowledge of forged signatures and that:

27 Previously checks that had my signature were placed in a folder in a box
28 so when board members came into sign they were easily located. This

1 box was placed in an area that was accessible by anyone. This practice
2 is no longer used and most boards use digital signatures.

3 31. The annual registration forms filed by WHITE with the Division represent a
4 projected reserve account balance of over \$24,000 in 2010, \$42,000 in 2011, \$41,000 in
5 2012, \$24,000 in 2013, \$23,000 in 2014, and 14,000 in 2015.

6 32. The Division reviewed bank statements and checks for the Association's
7 operating and reserve accounts from January 2010 through January 2014.

8 33. The Association's reserve account had a balance of approximately \$2,900 in
9 January 2010. By August 2011 through January 2014, the reserve account was
10 approximately \$260.

11 34. WHITE was the sole signor on approximately 202 Association checks from
12 2010 through January 2014.

13 35. WHITE'S daughter Audra Collins, also a licensed community manager, was the
14 sole signor on approximately 129 Association checks from 2010 through February 2013.

15 36. Approximately 134 Association checks were written to the Management
16 Company totaling over \$76,000.00.

17 **VIOLATIONS OF LAW**

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

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

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

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

1 41. WHITE violated NAC 116A.355(1)(a)(1) by committing unprofessional conduct
2 by engaging in deceitful, fraudulent or dishonest conduct by supplying three improperly
3 signed checks payable to the Division with annual registration filings.

4 42. WHITE violated NAC 116A.355(1)(a)(1) by committing unprofessional conduct
5 when she failed to cooperate with the Division's investigation by failing to timely produce
6 documents and records of the Association.

7 43. WHITE violated NAC 116A.355(1)(a)(1) by committing unprofessional conduct
8 by exceeding the authority granted to her by the Association.

9 44. WHITE violated NAC 116A.355(1)(a)(1) by committing unprofessional conduct
10 by supplying false or misleading information on annual registration forms she filed on behalf
11 of the Association.

12 45. WHITE violated NAC 116A.355(1)(a)(2) by engaging in conduct constituting
13 professional incompetence by demonstrating a significant lack of ability, knowledge or fitness
14 to perform a duty or obligation owed to the Association.

15 46. WHITE violated NAC 116A.355(1)(a)(2) by engaging in conduct constituting
16 professional incompetence by failing to exercise reasonable skill and care with respect to a
17 duty or obligation owed to the Association.

18 47. WHITE violated NRS 116.31153 202 times by being the sole signor on 202
19 Association checks between January 2010 and January 2014.

20 48. WHITE violated NRS 116A.620 and NAC 116A.325 by failing to have a valid
21 management contract with the Association at all times while she performed community
22 management services for the Association.

23 49. WHITE violated NRS 116A.630(1)(a) by failing to act as a fiduciary in her
24 relationship with the Association.

25 50. WHITE violated NRS 116A.630(1)(b) by failing to exercise ordinary and
26 reasonable care in the performance of her duties for the Association.

27 51. WHITE violated NRS 116A.630(2) by failing to comply with all federal, state and
28 local laws, regulations and ordinances.

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

3 53. WHITE violated NRS 116A.630(6)(b) by failing to ensure that there are policies
4 and procedures designed to provide reasonable assurances in the reliability of the financial
5 reporting.

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

10 55. WHITE violated NRS 116A.630(10) by failing to cooperate with the Division.

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

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

16 58. WHITE violated NRS 116A.630(15) by failing to maintain internal accounting
17 controls, including without limitation, segregation of incompatible accounting functions.

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

20 60. WHITE violated NRS 116A.630(18) by failing to take direction from the
21 Association.

22 61. WHITE violated NAC 116A.320 by failing to comply with NRS 116A.630.

DISCIPLINE AUTHORIZED

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

- 27 1. Revoke or suspend the certificate;
- 28 2. Refuse to renew or reinstate the certificate;

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

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

12 NOTICE OF HEARING

13 **PLEASE TAKE NOTICE**, that a disciplinary hearing has been set to consider this
14 Administrative Complaint against the above-named RESPONDENT in accordance with
15 Chapters 233B and 116 and 116A of the Nevada Revised Statutes and Chapters 116 and
16 116A of the Nevada Administrative Code.

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

23 **STACKED CALENDAR:** Your hearing is one of several hearings that may be
24 scheduled at the same time as part of a regular meeting of the Commission that is expected
25 to take place on June 16-18, 2015. Thus, your hearing may be continued until later in the
26 day or from day to day. It is your responsibility to be present when your case is called. If you
27 are not present when your hearing is called, a default may be entered against you and the
28 Commission may decide the case as if all allegations in the complaint were true. If you need

1 to negotiate a more specific time for your hearing in advance because of coordination with
2 out of state witnesses or the like, please call Claudia Rosolen, Commission Coordinator, at
3 (702) 486-4606.

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

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

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

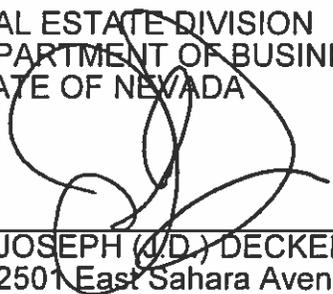
23 Note that under NAC 116A.585, not less than five (5) working days before a hearing,
24 RESPONDENT must provide to the Division a copy of all reasonably available documents
25 that are reasonably anticipated to be used to support his or her position, and a list of
26 witnesses RESPONDENT intends to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

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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.

DATED this 26th day of March, 2015.

REAL ESTATE DIVISION
DEPARTMENT OF BUSINESS & INDUSTRY
STATE OF NEVADA



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