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

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

Petitioner,

vs.

CARLOS CALDERON,

Respondent.

Case No. 2015-1137

FILED

JUN 23 2016

NEVADA COMMISSION OF
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS

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**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 June 7, 2016, at the Grant Sawyer Building, 555 E. Washington Ave., Room 4412, Las Vegas, Nevada 90101 (the "Hearing"). The Respondent, Carlos Calderon, did not appear and did not answer the complaint. 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").

Ms. Briggs presented testimony from Claudia Rosolen, the Commission coordinator, regarding notices of the Complaint, hearing and documents to Mr. Calderon via certified and regular mail. Ms. Rosolen also testified to sending a notice of default to Mr. Calderon via regular and certified mail. The Commission, having considered the evidence introduced by the Division and being fully advised, enters the following Findings of Fact, Conclusions of Law, and 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 filed complaint and default, and the evidence filed by the Division in support of the complaint, finds that the following Findings of Fact are accepted

1 as true in accordance with NAC 116.580.

2 1. On or about January of 2015, the Division received an Intervention Affidavit
3 against the Association and sent the board a letter regarding a conference with the
4 ombudsman's office.

5 2. The Division received a response from RESPONDENT CALDERON who
6 represented that he was a board member and the Association was self-managed after the
7 prior manager, Maria Limon, was revoked, but said he could not attend a conference as he
8 lived in Mexico City.

9 3. The address for the Association according to the letter from RESPONDENT
10 CALDERON was the same as Maria Limon business address.

11 4. The envelope RESPONDENT CALDERON'S letter was sent in had Maria
12 Limon's business name on it and was mailed from Las Vegas.

13 5. During an investigation into the financial condition of the Association, the
14 Division discovered that assessment checks from owners in the Association were being
15 commingled with the neighboring association.

16 6. The bank records reflect multiple on-line transfers to two other bank accounts;
17 one belonging to Maria Limon personally and one belonging to Maria Limon and
18 RESPONDENT CALDERON.

19 7. RESPONDENT CALDERON is related to Maria Limon.

20 8. The bank transfers to the account owned by RESPONDENT CALDERON
21 totaled approximately \$44,521 from September 2014 through September 2015.

22 9. By letter dated December 7, 2015, RESPONDENT CALDERON was asked to
23 respond to the allegation that he was taking the Association's money for personal use.

24 10. RESPONDENT CALDERON did not respond.

25 **CONCLUSIONS OF LAW**

26 By a preponderance of the evidence, the Commission finds that the following
27 conclusions of law have been proven.

28 11. RESPONDENT CALDERON knowingly and willfully violated NRS 116.3103

1 (through NAC 116.405(2)) by failing to act in accordance with his fiduciary duty to act in good
2 faith by acting out of reasons of self-interest or gain by taking Association funds for his
3 personal use.

4 12. RESPONDENT CALDERON knowingly and willfully violated NRS 116.3103
5 (through NAC 116.405(3)) by failing to act in accordance with his fiduciary duty to act in good
6 faith by committing an act or omission which amounts to incompetence, negligence or gross
7 negligence by taking Association funds for his personal use.

8 13. RESPONDENT CALDERON knowingly and willfully violated NRS 116.3103
9 (through NAC 116.405(5)(b)) by failing to act in accordance with his fiduciary duty to act in
10 good faith by impeding the Division's investigation by supplying false and misleading
11 information to the Division.

12 14. RESPONDENT CALDERON knowingly and willfully violated NRS 116.3103
13 (through NAC 116.405(5)(c)) by failing to act in accordance with his fiduciary duty to act in
14 good faith by impeding the Division's investigation by concealing facts and documents relating
15 to the business of the Association.

16 15. RESPONDENT CALDERON knowingly and willfully violated NRS 116.3103
17 (through NAC 116.405(8)(g)) by failing to cause the Association to maintain current, accurate
18 and properly documented financial records.

19 16. RESPONDENT CALDERON knowingly and willfully violated NRS 116.3103
20 (through NAC 116.405(8)(l)) by failing to cause the Association to cooperate with the Division
21 in resolving complaints.

22 **ORDER**

23 The Commission, being fully apprised in the premises and good cause appearing to the
24 Commission, ORDERED as follows.

25 1. RESPONDENT shall be deemed removed from serving as a board member and
26 officer for any common-interest community located within the state of Nevada and shall not
27 serve as a board member or officer for any common-interest community in the state of
28 Nevada for no less than 10 years from the date of this Order.

1 2. RESPONDENT shall pay to the Division a total fine of \$9,771.20. The total fine
2 reflects an administrative fine of \$6,000 for committing the violations of law, plus \$3,771.20 for
3 the Division's attorney's fees and costs. The total fine shall be paid in full no later than 90 days
4 from the date of this Order.

5 3. RESPONDENT shall pay restitution to the associations in the total amount of
6 \$44,521; with Diamond Head Villas Association, Inc. to receive \$22,260.50 and Diamond
7 Head Villas Association Phase II to receive \$22,260.50; which shall be paid in full no later
8 than 90 days from the date of this Order to the address of the Associations as follows:

9 Diamond Head Villas Inc
10 c/o Triton HOA Services, LLC
11 Attn: David Mulligan
12 7495 W. Azure Dr. Ste 101
13 Las Vegas, NV 89130

14 Diamond Head Villas Association Phase II
15 c/o Triton HOA Services, LLC
16 Attn: David Mulligan
17 7495 W. Azure Dr. Ste 101
18 Las Vegas, NV 89130

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