

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

Sharath Chandra, Administrator,  
Real Estate Division, Department of  
Business & Industry, State of Nevada,

Case No. 2016-3771

Petitioner,

vs.

Helen Amanda Davis, aka H. Amanda  
Davis,

Respondent.

FILED

OCT 02 2017

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, Senior Deputy Attorney General, hereby notifies Respondent HELEN AMANDA DAVIS (the "RESPONDENT" or "DAVIS") 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 Chapters 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 RESPONDENT pursuant to the provisions of NRS and NAC including, but not limited to, NAC 116A.360.

JURISDICTION AND NOTICE

1. DAVIS engages in the management of common-interest communities as defined by NRS 116A.110 in the state of Nevada under certificate number (CAM.0001226-SUPR).

2. DAVIS is subject to the provisions of Chapters 116 and 116A of both the Nevada Revised Statutes ("NRS") and the Nevada Administrative Code ("NAC") and is

1 subject to the jurisdiction of the Division, and the Commission for Common-Interest  
2 Communities and Condominium Hotels.

### 3 FACTUAL ALLEGATIONS

4 3. On or about March 25, 2016, RESPONDENT DAVIS provided the Division  
5 with a list of homeowners' associations she was managing for PW James Management  
6 and Consulting ("PW James").

7 4. DAVIS began managing the associations on February 2, 2016 when the prior  
8 manager, Jeffrey Allan Frederick, agreed to surrender his certificate pending the outcome  
9 of a disciplinary case against him.

10 5. After Mr. Frederick surrendered his certificate, DAVIS became the only  
11 certificate holder to work for PW James.

12 6. Pecos Creek Homeowners Association (the "Association") is on the list of  
13 associations managed by DAVIS.

14 7. DAVIS listed as board members: James Gilmore, Rodolfo Rocha, Omar  
15 Guerra and Ophelia Santos.

16 8. Based on a prior disciplinary case heard by this Commission, Ofelia Santos  
17 and Omar Guerra never knew they were board members, and Rodolfo Rocha was not an  
18 owner of a unit in the Association. (Case No. 2016-1949)

19 9. An investigation against DAVIS was initiated by the Division based on her  
20 having provided false information about the board members.

21 10. After several letters from the Division, DAVIS responded to the  
22 investigation by letter dated December 12, 2016.

23 11. DAVIS stated that no meetings took place after July 7, 2015.

24 12. DAVIS stated that Rodolfo Rocha was an officer, not a board member.

25 13. The financial records provided to the Division during the investigation of the  
26 Association included evidence that Mr. Rocha was providing janitorial services to the  
27 Association. (Case No. 2016-4210)

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1           14.   Records provided to the Division during its investigation of the Association  
2 also included invoices from "A Unique Construction" which is owned by DAVIS.

3           15.   DAVIS is not a licensed contractor.

4           16.   The Division asked DAVIS to respond to the allegation that her company  
5 was receiving payments from the Association that were not specified in the management  
6 contract.

7           17.   DAVIS responded by email on January 31, 2017 stating:

8           Please consider this my formal response!  
9           You are stepping WAY out of your realm as an investigator for the Nevada  
10          Real-Estate Division with your most recent correspondence. At this point I  
11          believe that this is downright harassment and or discrimination and I have  
12          copied my attorney Ms. Kung on this email.

13          18.   The Division clarified the allegation stating that NRS 116A.610 requires a  
14 written disclosure when a manager has "any affiliation with or financial interest in any  
15 person or business who furnishes goods or services to the client."

16          19.   DAVIS did not respond to any further requests for a response to the  
17 allegations or requests for documents until the case was turned over to the Attorney  
18 General's Office.

19          20.   DAVIS stated by email that the board knew she was the owner of A Unique  
20 Construction and generally denied the allegations.

21          21.   The Association paid DAVIS'S company approximately \$10,600 in 2016 for  
22 services including: demo stucco as needed for mailbox enclosure; install new mail box  
23 units; cleaning roofs for pigeon waste and debris removal; and painting trip hazards in  
24 the concrete around the club house.

25          22.   DAVIS did not provide all of the invoices to support the payments made to  
26 her by the Association.

27          23.   The checks to DAVIS'S company were signed by Mr. Rocha and DAVIS.

28          24.   DAVIS was charged with the misdemeanor crime of contracting without a  
license in violation of NRS 624.750 based on services her company performed for the

1 Association.

2 **VIOLATIONS OF LAW**

3 25. DAVIS violated NRS 116A.630(1)(a) by failing to act as a fiduciary in her  
4 relationship with the Association.

5 26. DAVIS violated NRS 116A.630(1)(b) by failing to exercise ordinary and  
6 reasonable care in the performance of her duties.

7 27. DAVIS violated NRS 116A.630(2)(a) by failing to comply with state laws.

8 28. DAVIS violated NRS 116A.640(2)(a) and NAC 116A.345(2)(a) by impeding or  
9 otherwise interfering with an investigation of the Division by failing to comply with a  
10 request of the Division to provide documents.

11 29. DAVIS violated NRS 116A.640(2)(b) and NAC 116A.345(2)(b) by impeding or  
12 otherwise interfering with an investigation of the Division by supplying false or  
13 misleading information to an investigator.

14 30. DAVIS violated NRS 116A.640(2)(c) and NAC 116A.345(2)(c) by impeding or  
15 otherwise interfering with an investigation of the Division by concealing facts or  
16 documents relating to the business of a client.

17 31. DAVIS violated NRS 116A.640(7)(b); NAC 116A.345(6)(b) and NAC  
18 116A.355(4)(c) by providing services to the Association for which she is not properly  
19 licensed.

20 32. DAVIS violated NAC 116A.355(1)(a)(1) (NAC 116A.355(2)(b)) by committing  
21 unprofessional conduct by failing to disclose to a client any material fact or other  
22 information that she knows which concerns or relates to the common-interest community  
23 and which is of customary or express interest to the client.

24 33. DAVIS violated NAC 116A.355(1)(a)(1) (NAC 116A.355(2)(c)) by committing  
25 unprofessional conduct by engaging in deceitful, fraudulent, or dishonest conduct,  
26 including, without limitation, knowingly communicating false, misleading or fraudulent  
27 information to a client.

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1 34. DAVIS violated NAC 116A.355(1)(a)(1) (NAC 116A.355(2)(f)) by committing  
2 unprofessional conduct by failing to cooperate with the Division in the investigation of a  
3 complaint including, without limitation, failure to produce any document, book or record  
4 in the possession or control of the community manager after the Division requests the  
5 production of such document, book or record in the course of an investigation of a  
6 complaint.

7 35. DAVIS violated NAC 116A.355(1)(a)(1) (NAC 116A.355(2)(i)) by committing  
8 unprofessional conduct by exceeding the authority granted to her by the Association.

9 36. DAVIS violated NAC 116A.355(1)(a)(2) (NAC 116A.355(3)(a)) by committing  
10 professional incompetence by demonstrating a significant lack of ability, knowledge or  
11 fitness to perform a duty or obligation owed to a client.

12 37. DAVIS violated NAC 116A.355(1)(a)(2) (NAC 116A.355(3)(b)) by committing  
13 professional incompetence by failing to exercise reasonable skill and care with respect to  
14 a duty or obligation owed to a client.

15 38. DAVIS violated NAC 116A.355(1)(a)(1) and (2) (NAC 116A.355(4)(d)) by  
16 committing unprofessional conduct or professional incompetence by failing to comply with  
17 the disclosure requirement of NAC 116A.330.

18 39. DAVIS violated NAC 116A.355(1)(a)(1) and (2) (NAC 116A.355(4)(g)) by  
19 committing unprofessional conduct or professional incompetence by failing to act in the  
20 best interests of the Association by failing to disclose her ownership of A Unique  
21 Construction.

## 22 DISCIPLINE AUTHORIZED

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

- 26 1. Revoke or suspend the certificate;
- 27 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
- 9 the 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

12 above.

13 **NOTICE OF HEARING**

14 **PLEASE TAKE NOTICE**, that a disciplinary hearing has been set to consider

15 this Administrative Complaint against the above-named RESPONDENTS in accordance

16 with Chapters 233B and 116 and 116A of the Nevada Revised Statutes and Chapters 116

17 and 116A of the Nevada Administrative Code.

18 **THE HEARING WILL TAKE PLACE** at the Commission meeting scheduled for

19 November 14-16, 2017, beginning at approximately 9:00 a.m. each day, or until such time

20 as the Commission concludes its business. The Commission meeting will be held at the

21 Nevada State Business Center, 3300 W. Sahara Avenue, Nevada Room, Suite 400, Las

22 Vegas, Nevada 89102 with videoconferencing to Department of Business & Industry,

23 Director's Office, 1830 East College Parkway, Suite 100, Carson City, Nevada 89706.

24 **STACKED CALENDAR:** Your hearing is one of several hearings that may be

25 scheduled at the same time as part of a regular meeting of the Commission that is

26 expected to take place on November 14-16. Thus, your hearing may be continued until

27 later in the day or from day to day. It is your responsibility to be present when your case

1 is called. If you are not present when your hearing is called, a default may be entered  
2 against you and the Commission may decide the case as if all allegations in the complaint  
3 were true. If you need to negotiate a more specific time for your hearing in advance  
4 because of coordination with out of state witnesses or the like, please call Claudia  
5 Rosolen, Commission Coordinator, at (702) 486-4606.

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

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

19 You have the right to request that the Commission issue subpoenas to compel  
20 witnesses to testify and/or evidence to be offered on your behalf. In making this request,  
21 you may be required to demonstrate the relevance of the witness' testimony and/or  
22 evidence. Other important rights and obligations, including your obligation to answer the  
23 complaint, you have are listed in NRS Chapters 116 and 116A and NAC 116 and 116A,  
24 including without limitation, NRS 116.770 through 116.780, and NAC 116.500 through  
25 NAC 116.635 and NRS Chapter 233B.

26 Note that under NAC 116.575, not less than five (5) working days before a hearing,  
27 RESPONDENT must provide to the Division a copy of all reasonably available documents  
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1 that are reasonably anticipated to be used to support his or her position, and a list of  
2 witnesses RESPONDENT intends to call at the time of the hearing. Failure to provide  
3 any document or to list a witness may result in the document or witness being excluded  
4 from a RESPONDENT'S defense. The purpose of the hearing is to determine if the  
5 RESPONDENT has violated the provisions of NRS and NAC Chapter 116A, and to  
6 determine what administrative penalty is to be assessed against RESPONDENT.

7 DATED this 29 day of September, 2017.

8  
9 REAL ESTATE DIVISION  
10 DEPARTMENT OF BUSINESS &  
11 INDUSTRY, STATE OF NEVADA

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