

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. 2017-2082

Petitioner,

vs.

Kristen Gillis,

Respondent.

FILED

JAN 25 2018

**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 Kristen Gillis ("RESPONDENT" or "GILLIS") 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.

JURISDICTION AND NOTICE

1. During all relevant times mentioned in this complaint, GILLIS held, and currently holds, a supervisory community manager certificate from the Division (CAM.0001092-SUPR) 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.

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1 **FACTUAL ALLEGATIONS**

2 2. In July 2017, the Division opened an investigation against Jeffrey and
3 Penny Frederick based on information it received from a board member within
4 Springfield Property Owners Association (the "Association").

5 3. Penny and Jeffrey Frederick own PW James Management and Consulting,
6 LLC ("PW James") and Jeffrey Frederick had his community manager certificate revoked
7 by the Commission in March 2017.

8 4. The Association's board member received from the Fredericks a
9 management contract to sign dated April 1, 2017 which lists Harmony Management, LLC
10 and PW James as the management company.

11 5. The board member also received a check payable to PW James for his
12 signature for management services for April 2017.

13 6. GILLIS owns Harmony Management.

14 7. In addition to the management contract and check, the board member
15 received from Jeffrey Frederick a bank signature card to sign that was already signed by
16 GILLIS.

17 8. The Association owners received notice that PW James merged with
18 Harmony Management and that assessments were to be sent to Harmony Management.

19 9. The Association's board never met with GILLIS or to discuss the
20 management contract.

21 10. The Division requested a response from GILLIS regarding her involvement
22 with the Association by letters dated August 14, 2017 and September 1, 2017.

23 11. GILLIS did not respond, so the Division opened this matter against GILLIS
24 for failing to cooperate with the Division's investigation.

25 12. The Division sent three letters requesting additional information and a
26 response to the investigation, dated September 20, 2017, October 6, 2017, and October 19,
27 2017.

28 13. GILLIS did not respond.

1 14. The Division sent a final letter dated December 27, 2017 to notify GILLIS
2 that the Division intended to file a complaint with this Commission.

3 15. GILLIS did not respond.

4 VIOLATIONS OF LAW

5 16. GILLIS violated NRS 116A.630(1)(a) and NAC 116A.320 by failing to act as
6 a fiduciary in her relationship with the Association.

7 17. GILLIS violated NRS 116A.630(1)(b) and NAC 116A.320 by failing to
8 exercise ordinary and reasonable care in the performance of her duties.

9 18. GILLIS violated NRS 116A.630(2)(a) and NAC 116A.320 by failing to comply
10 with state laws.

11 19. GILLIS violated NRS 116A.630(10) and NAC 116A.320 by failing to
12 cooperate with the Division in resolving complaints filed with the Division.

13 20. GILLIS violated NRS 116A.640(2)(a) and NAC 116A.345(2)(a) by impeding
14 or otherwise interfering with an investigation of the Division by failing to comply with a
15 request of the Division to provide documents.

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

19 22. GILLIS violated NRS 116A.620 and NAC 116A.325 by performing
20 community management services for the Association without a signed management
21 contract approved by the Association.

22 23. GILLIS violated NAC 116A.355(1)(a)(1) (through NAC 116A.355(2)(b)) by
23 committing unprofessional conduct by failing to disclose to the Association's board that
24 she was responsible for managing the Association.

25 24. GILLIS violated NAC 116A.355(1)(a)(1) (through NAC 116A.355(2)(f)) by
26 committing unprofessional conduct by failing to cooperate with the Division in the
27 investigation of a complaint including, without limitation, failure to produce any
28 document, book or record in the possession or control of the community manager after the

1 Division requests the production of such document, book or record in the course of an
2 investigation of a complaint.

3 25. GILLIS violated NAC 116A.355(1)(a)(1) (through NAC 116A.355(2)(i)) by
4 committing unprofessional conduct by exceeding the authority granted to her by the
5 Association.

6 26. GILLIS violated NAC 116A.355(1)(a)(2) (through NAC 116A.355(3)(a)) by
7 committing professional incompetence by demonstrating a significant lack of ability,
8 knowledge or fitness to perform a duty or obligation owed to a client.

9 27. GILLIS violated NAC 116A.355(1)(a)(2) (through NAC 116A.355(3)(b)) by
10 committing professional incompetence by failing to exercise reasonable skill and care with
11 respect to a duty or obligation owed to a client.

12 28. GILLIS violated NAC 116A.355(1)(a)(1) and (2) (through NAC
13 116A.355(4)(g)) by committing unprofessional conduct or professional incompetence by
14 failing to act in the best interests of the Association.

15 DISCIPLINE AUTHORIZED

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

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

1 the management of common-interest communities; and

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

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

5 NOTICE OF HEARING

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

10 THE HEARING WILL TAKE PLACE at the Commission meeting scheduled for
11 March 6-9, 2018, beginning at approximately 9:00 a.m. each day, or until such time as the
12 Commission concludes its business. The Commission meeting will be held at the Nevada
13 State Business Center, 3300 W. Sahara Avenue, Nevada Room, Suite 400, Las Vegas,
14 Nevada 89102 with videoconferencing to Department of Business & Industry, Director's
15 Office, 1830 East College Parkway, Suite 100, Carson City, Nevada 89706.

16 STACKED CALENDAR: Your hearing is one of several hearings that may be
17 scheduled at the same time as part of a regular meeting of the Commission that is
18 expected to take place on March 6-9, 2018. Thus, your hearing may be continued until
19 later in the day or from day to day. It is your responsibility to be present when your case
20 is called. If you are not present when your hearing is called, a default may be entered
21 against you and the Commission may decide the case as if all allegations in the complaint
22 were true. If you need to negotiate a more specific time for your hearing in advance
23 because of coordination with out of state witnesses or the like, please call Teralyn
24 Thompson, Administration Section Manager, at (702) 486-4036.

25 YOUR RIGHTS AT THE HEARING: Except as mentioned below, the hearing is an
26 open meeting under Nevada's open meeting law, and may be attended by the public.
27 After the evidence and arguments, the commission may conduct a closed meeting to
28 discuss your alleged misconduct or professional competence. A verbatim record will be

1 made by a certified court reporter. You are entitled to a copy of the transcript of the open
2 and closed portions of the meeting, although you must pay for the transcription.

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

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

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

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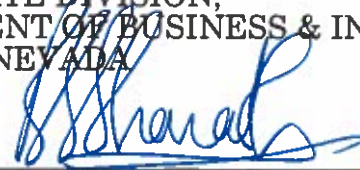
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1 RESPONDENT has violated any of the provisions of NRS and NAC Chapters 116 and
2 116A, and to determine what administrative penalty is to be assessed against
3 RESPONDENT, if any, pursuant to NAC 116A.360.

4 DATED: January 24, 2018.

5 REAL ESTATE DIVISION,
6 DEPARTMENT OF BUSINESS & INDUSTRY,
7 STATE OF NEVADA

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