

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

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

7 Petitioner,

8 vs.

9 Sherryl Baca,

10 Respondent.

Case Nos. 2017-1579 and 2018-136

FILED

JUN 27 2019

NEVADA COMMISSION OF
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS



11 **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

12 This matter came on for hearing before the Commission for Common-Interest
13 Communities and Condominium Hotels, Department of Business and Industry, State of
14 Nevada (the "Commission"), during a regular agenda on June 4, 2019, at the Nevada State
15 Business Center, 3300 W. Sahara Avenue, Nevada Room, Suite 400, Las Vegas, Nevada
16 89102 (the "Hearing"). The RESPONDENT, SHERRYL BACA, did not appear and neither
17 did her attorney, Michael Nunez. Michelle D. Briggs, Esq., Senior Deputy Attorney General
18 with the Nevada Attorney General's Office, appeared on behalf of the Real Estate Division
19 of the Department of Business and Industry, State of Nevada (the "Division").

20 The Hearing began on March 12, 2019. At that hearing, both parties presented their
21 cases and made closing arguments. During deliberation, the Commission allowed BACA to
22 provide an inventory list 30 days prior to the next Commission meeting which was already
23 scheduled for June 4-6, 2019. No such list was provided. Ms. Briggs reported to the
24 Commission that she amended the Complaint in favor of BACA after the investigator found
25 some signed minutes in the Association's records. The only change to the complaint was to
26 add specific years there were no signed board meeting minutes instead of saying the
27 Association records included no signed meeting minutes.

28 By letter dated May 28, 2019, Mr. Nunez requested a continuance of the hearing
from June and filed an answer to the amended complaint and additional documents. None

1 of these documents were provided to Ms. Briggs by Mr. Nunez.

2 The Commission's secretary denied Mr. Nunez's request for a continuance on or
3 about May 30, 2019. Mr. Nunez emailed Ms. Briggs and the Division's legal administrator,
4 Teralyn Thompson requesting that the hearing take place on Wednesday, June 5, 2019.
5 The Commission concluded its meeting on June 4, 2019.

6 The Commission decided to conclude the Hearing on this matter as it was already in
7 its deliberation stage and no documents were provided 30 days prior to the Hearing.

8 The Commission enters the following Findings of Fact, Conclusions of Law, and
9 Order. Under Nevada Revised Statutes (NRS) and Nevada Administrative Code (NAC)
10 Chapters 116 and 116A, the Commission has legal jurisdiction

11 FINDINGS OF FACT

12 Based on a preponderance of the evidence in the record and testimony presented in
13 March, the Commission voted to find the following factual allegations were proven:

14 1. In January 2016, the Division's auditor requested documents from
15 RESPONDENT BACA as the manager for Cottonwood on Alexander Homeowners
16 Association (the "Association") for an audit.

17 2. The Association appeared to be underfunded in its reserves based on annual
18 registration filings, but no documents were provided by BACA as requested by the auditor.

19 3. The Division investigated the Association and requested certain financial
20 information.

21 4. Based on records provided by BACA, the Division requested additional
22 records, including her management contract with the Association.

23 5. After the second letter requesting the management contract, BACA requested
24 additional time to respond and was given until January 18, 2017.

25 6. The Division received no further response from BACA and sent two additional
26 letters to the Association through BACA.

27 7. In March through May, 2017, the Division sent emails and letters to BACA
28 requesting that she send her management contract.

1 8. BACA emailed the investigator saying she would provide the management
2 contract the first week of April. She did not.

3 9. In July 2017, the Division opened an investigation against BACA for impeding
4 the Division's investigation of the Association (Case No. 2017-1579) by failing to provide
5 her management contract.

6 10. The Division sent letters dated July 13, 2017, August 8, 2017, December 5,
7 2017, and March 29, 2018.

8 11. In July 2017, the Association hired a new manager. The new manager could
9 not find any management contracts in the Association's records.

10 12. The Association's records indicate BACA signed 259 checks from the
11 Association's operating and construction defect accounts in 2014, 2015, and 2016.

12 13. The Division opened a new investigation against BACA regarding her
13 authority to sign checks on behalf of the Association (Case No. 2018-136).

14 14. The Association's records also showed the 2014 and 2015 audits were ordered
15 in September 2016, and completed in June 2017.

16 15. None of the Association's regular board meeting minutes from 2014, 2015, and
17 2016 are signed.

18 16. The Division received an affidavit from BACA on March 30, 2018 saying:

19 Community Management & Sales has a continuous management contract in
20 place with Cottonwood on Alexander since 2004. We have been unable to
locate the signed contracts for the years 2014, 2015, and 2016...

21 17. The Division sent additional letters requesting the "continuous management
22 contract."

23 18. On May 25, 2018, BACA provided an additional affidavit and a copy of her
24 contract from 2006.

25 19. The 2006 contract states:

26 This Agreement shall commence on November 1, 2006 and continue in effect
27 until October 31, 2007 following which is [sic] shall automatically renew for
28 one (1) year periods, unless either party notifies the other of its intent to
terminate the contract at least thirty (30) days before the end of the one (1)
year term.

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

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

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

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

13 **ORDER**

14 The Commission being fully apprised in the premises, and good cause appearing to
15 the Commission, by a unanimous vote, ORDERS as follows:

16 1. BACA'S community manager certificate is revoked for a period of no less than
17 ten years from the date of this Order, but in no event sooner than all fines imposed by the
18 Commission are paid in full.

19 2. BACA shall pay an administrative fine to the Division in the total amount of
20 \$63,771.70 – which includes a fine of \$60,000 for the violations of law and \$3,771.70
21 representing the total amount due for the Division's attorney's fees and costs – no later
22 than 90 days from the date of this Order.

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