

# Community Insights

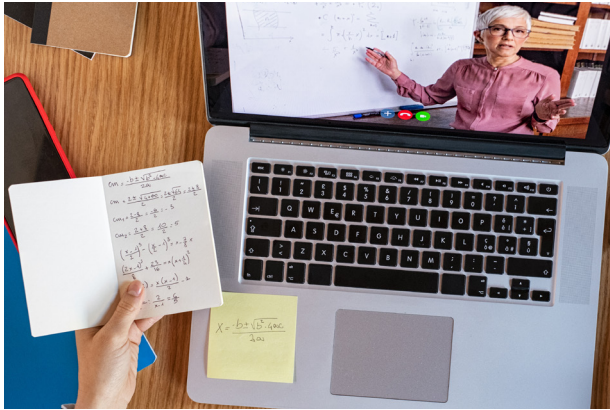
SPRING  
2021

A NEWSLETTER FROM THE COMMON-  
INTEREST COMMUNITIES AND  
CONDOMINIUM HOTELS PROGRAM

DEPARTMENT OF BUSINESS & INDUSTRY  
REAL ESTATE DIVISION







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# Ombudsman's Huddle

**S**pring has arrived, and with this new season I look forward to embracing a few new changes. To begin with, the office is incredibly pleased to welcome two new Commissioners and three new staff members to the Division. These additions will be introduced later in this newsletter, and we are excited to implement the new ideas and processes they bring to the table.

I am also happy to announce that the Ombudsman's Office will not be looking backwards regarding the education that it provides. Both continuing education classes approved by the Division, and the classes directly created and presented by the office, will continue to be offered remotely. Reflecting this permanent change, the [Northern and Southern Nevada CE calendars](#) posted online have now been merged into one calendar. Additionally, the [calendar for Ombudsman board member training classes](#) has been updated to reflect scheduled Teams classes through the end of June. New executive board directors and officers can conveniently access a number of excellent resources, ranging from answers to frequently asked questions to templates and cheat sheets, all through the [Ombudsman's main page](#). We encourage community managers to remind new board members of the many tools and resources available there.

Sticking to this theme of newness, for community managers taking on new associations, it is important to remember that the association should be submitting addendum [Form 623](#) within 30 days of any change made to association contact information, management, board membership, etc. Please also be aware of additional manager "change" forms located at [https://red.nv.gov/Content/Forms/Community\\_Managers/](https://red.nv.gov/Content/Forms/Community_Managers/). We further ask that managers have a method in place for ensuring that all records have been properly transitioned and that they are aware of the association's annual filing date. In addition, the association should be making membership aware of any changes to contact information, as well as any changes made to the way assessments are to be paid, if applicable.

For new developers currently building associations throughout Nevada, it is important to understand the importance of the language included in the association's declaration. Please note that the interpretation of a limited purpose association (LPA) can be found in [NAC 116.090](#) and the definition of a master association can be found in [NRS 116.212](#). It is crucial to remember that non rural agricultural LPAs cannot enforce use restrictions upon units' owners.

We will continue to be responsive to all of our constituents via phone and email, and will soon be accepting many of our forms and payments via online submission. New ways of conducting business have proven themselves to be both efficient and convenient, and will only be enhanced in the future.

**- OMBUDSMAN CHARVEZ FOGER**

# New Hires to the Ombudsman's Office

## COMPLIANCE/AUDIT INVESTIGATOR II



Khalid S. Tatum was hired by the Ombudsman office as a Compliance Audit Investigator II in November of 2020. Khalid is a seasoned combat war veteran who served honorably in the United States Air Force from 1994 to 2008. During his time in the Air Force, Khalid earned a Bachelor's degree in Criminal Justice Administration, and in 2008 he began working on his Master's degree in Public Administration. Khalid is currently working on a third Associate degree in Business Management, while concurrently working on a second Bachelor's degree in Project Management. Khalid has a long history with the State, starting in 2009 as a Compliance Audit Investigator for Nevada's Department of Employment Training and Rehabilitation (DETR), then transferring in 2015 to the Nevada Equal Rights Commission (NERC) before joining the NRED last year. Khalid is "excited to have the opportunity to continue serving the citizens of Nevada through the CICCH program," and we are grateful to have him.

## ACCOUNTING ASSISTANT III



Noel Thornton was hired by the Ombudsman Office as an Accounting Assistant III in November of 2020. Noel has lived in Las Vegas for over 26 years, earning her Bachelor's degree in Business Administration with an emphasis in Marketing from the University of Nevada, Las Vegas. Noel has worked for Caesars Entertainment as Assistant Manager at the Rio Spa & Salon, eventually transferring to the advertising department as the Advertising Coordinator for Rio, Bally's & Paris properties. Noel also worked as a Human Resource Assistant for Live Nation at the House of Blues, where she was lucky enough to enjoy some amazing concerts. For the past 10 years, Noel worked alongside the owner of a small local business, acting as the payroll, bookkeeping, and project manager. She helped grow that business from a one store operation to a multi-state, five-store company. During Noel's impressive career, she has worked in various roles and gained extensive knowledge and skills that we are thrilled to see applied in her current position. Noel is "excited to begin this new chapter and embrace the opportunity to learn and grow with the State."

## ADMINISTRATIVE ASSISTANT I



Jori Coggs was hired by the Ombudsman Office as an Administrative Assistant I at the beginning of February 2021. Prior to joining the office, Jori graduated from the University of Nevada, Las Vegas with a Bachelor of Arts in English. Jori comes to us with a strong history in government employment, having served in clerical and administrative support roles for the Clark County Public Administrator, Henderson Police Department, and the Human Resources section of the Department of Family Services. Jori sought out employment with the Ombudsman's office to "learn, grow, become more well-rounded, and contribute to the agency's success." She is excited to apply her knowledge and skills to her new position with the State, and we are lucky to have her.

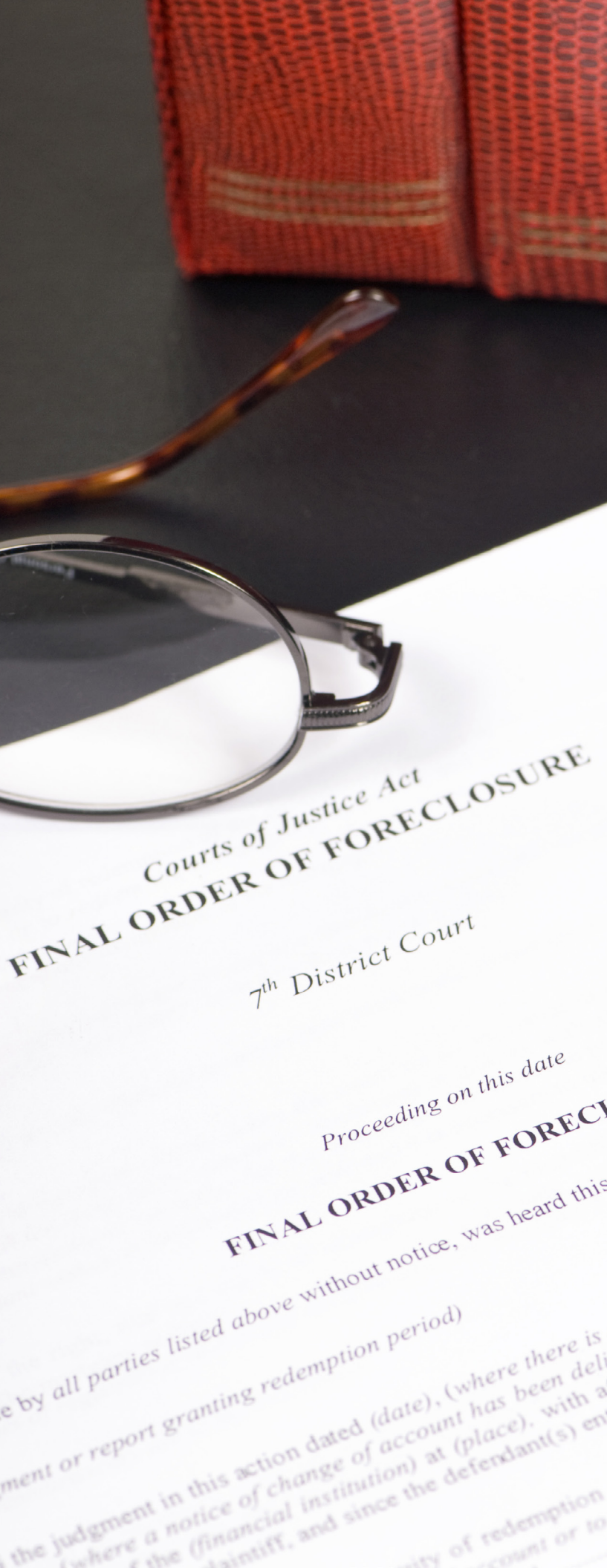
# Reserve Studies — What to Look For

Within Nevada CICs, the executive board shall, at least once every 5 years, cause to be conducted a study of the reserves (NRS 116.31152(1)(a)). The 5-year period for conducting this study commences on the date on which the on-site inspection of the major components is performed (NAC 116.427). Please see a condensed checklist of what should be included as part of the reserve study below:

NAC 116.425

- ☐ Names and credentials (background, training, qualifications and references) of the specialist and any consultants/persons with expertise used to assist in the preparation of the study;
- ☐ Disclosure of any relationship which could result in actual or perceived conflicts of interest for individuals preparing/assisting with the study;
- ☐ Disclosure of whether the persons conducting/assisting in the preparation of the study are bonded and have professional liability insurance with a minimum coverage of \$1,000,000;
- ☐ Beginning and ending dates for which the reserve study is prepared;
- ☐ A detailed description of the type of study performed (full study with on-site visit, update to a previous study with on-site visit, update without on-site visit);
- ☐ A statement of the number of units in the association;
- ☐ A listing and detailed description of each major component of the common elements and the methods used for determining those components (i.e. on-site inspection, material information provided by the association, previous reserve study, plats, governing documents, etc.);
- ☐ A table showing the remaining useful life of each major component from the time of each component's initial or last installation, maintenance, repair, replacement or restoration, a disclosure of industry sources used to determine useful life, and the projected cost of maintaining, repairing, replacing or restoring each of those components when due;
- ☐ A statement identifying the sources relied upon to estimate costs of future maintenance, repair, placement or restoration (sources of inflation rate included);
- ☐ If known, any guarantees, express or implied, provided by any component manufacturer or service provider with predictions that would affect the cost or life expectancy of any of the major components;
- ☐ A listing of any significant components which are not included and the reason for excluding those components;
- ☐ A general statement describing the computation of the initial (actual or projected) balance of the reserve fund and the sources used to determine this initial balance;
- ☐ A 30-year schedule showing estimated interest income earned in the reserve fund, projected reserve expenditures, and the projected ending balance of the reserve fund (sources of interest rate included);
- ☐ Using current replacement costs, a 30-year table reflecting the projected ending reserve fund balance for each year as compared to the fully funded balance for that year;
- ☐ A 30-year schedule which shows the projected increase in reserve contributions, adjusted for inflation, required in any given year to provide adequately funded reserves;
- ☐ An estimate of the total annual assessment that may be necessary to cover future reserve costs, and the funding plan necessary to provide adequate funding for the reserves (full, threshold, or baseline funding);
- ☐ A general statement describing the current status of the reserve fund;
- ☐ A statement of whether a special reserve assessment is anticipated; and
- ☐ Required disclosures pursuant to NAC 116.430.





# Understanding Foreclosure Notices

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**C**IC foreclosures resulting in a transfer of property are not a particularly common occurrence in Nevada. In the fiscal year beginning prior to the start of the pandemic, the Office of the Ombudsman received a total of 28 copies of recorded deeds pursuant to NRS 116.31166(7). This is out of the 571,533 units located within CICs in the State at that time. Between the multiple intent to act letters permitted to be sent pursuant to NAC 116.470, the option of entering into a proposed repayment plan, and the time frames existing in law, a unit owner is provided with multiple opportunities to remedy a lien situation prior to its escalation to foreclosure.

To best understand the process, one must understand the three primary notices sent to unit owners once they become delinquent:



**1. NOTICE OF DELINQUENT ASSESSMENT — NRS 116.31162(4)**

Not earlier than 60 days after an assessment obligation becomes past due, the association must mail or email to the address on file for the unit owner a schedule of the fees that may be charged if the unit owner fails to remedy payment of the past due obligation. This notice includes a proposed repayment plan, and notice of the right to contest the past due obligation at a hearing, plus procedures for requesting that hearing.

**2. NOTICE OF DEFAULT AND ELECTION TO SELL (Recorded Document) — NRS 116.31162(1)(b)**

Not less than 30 days after delivering to the unit owner a Notice of Delinquent Assessment, the association must deliver

another notice containing the same information, additionally describing the total amount of the deficiency in payment as of the date of the notice. This notice must also include a separate, signed statement of the amount of the association's lien that is: prior to the first security interest on the unit; attributable to assessments; attributable to abatement; and attributable to the costs of enforcing the association's lien (additional inclusions found in NRS 116.31162). This notice may be recorded up to 9 months following the past due date in order to capture and record the full amount of the association's super priority lien.

**3. NOTICE OF SALE (Recorded Document) — NRS 116.311635**

90 days following the recording of the Notice of Default and Election to Sell, and before selling the unit,

the association records the Notice of Sale. This notice includes the time and place of the sale. The association will post this notice in a public place within the county for 20 consecutive days; publish a copy of the notice in a local newspaper of general circulation once each week for 3 consecutive weeks; and mail a copy of the notice, by certified or registered mail, return receipt requested, to the unit's owner or his or her successor in interest at his or her address and to the address of the unit. A copy of the notice will also be posted in a conspicuous place on the unit itself. Additionally, a served copy of this notice will include the amount necessary to satisfy the lien as of the date of the proposed sale, and the warning included in NRS 116.311635(3)(b).

For the complete process, please see NRS 116.3116-116.31168



# New Community Developments



## Match the Answers

1. No \_\_\_\_\_ material may be displayed or delivered to prospective purchasers which describes or portrays an improvement that is not in existence, unless properly labeled.
2. A declarant warrants that a unit will be in at least as good a \_\_\_\_\_ when conveyed as it was at the time of contracting, reasonable wear and tear excepted.
3. A declarant warrants that any improvements made will be free from \_\_\_\_\_ materials.
4. During the period of declarant control, the association may authorize an independent committee to evaluate and enforce any \_\_\_\_\_ claims involving the common elements.
5. Within 2 years after the executive board elected by units’ owners takes office, the association may terminate, upon not less than 90 days’ notice to the other party, certain \_\_\_\_\_.
6. Not later than 60 days after \_\_\_\_\_ of 50% of the units, not less than 1/3 of the executive board must be elected by units’ owners.
7. A common-interest community may be created only by \_\_\_\_\_ a declaration.
8. If a conflict exists between the declaration and the bylaws, the \_\_\_\_\_ prevails, except to the extent it is inconsistent with the law.
9. The term of office of a member of the executive board may not exceed 3 years, except for members who are appointed by the \_\_\_\_\_.
10. Within 30 days after units’ owners may elect a majority of the members of the executive board, the declarant shall deliver to the association all \_\_\_\_\_ of the association.

- WARRANTY
- CONVEYANCE
- PROPERTY
- DECLARATION
- PROMOTIONAL
- CONDITION
- RECORDING
- DECLARANT
- CONTRACTS
- DEFECTIVE

### ANSWER KEY

- |                |              |              |             |              |               |              |                |              |              |
|----------------|--------------|--------------|-------------|--------------|---------------|--------------|----------------|--------------|--------------|
| 1. PROMOTIONAL | 2. CONDITION | 3. DEFECTIVE | 4. WARRANTY | 5. CONTRACTS | 6. CONVEYANCE | 7. RECORDING | 8. DECLARATION | 9. DECLARANT | 10. PROPERTY |
|----------------|--------------|--------------|-------------|--------------|---------------|--------------|----------------|--------------|--------------|



# Please Welcome Our New CICCH Commissioners

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## Commissioner Patricia Morse Jarman



An intense sense of adventure enticed Newark, New Jersey native Patricia Morse Jarman to drive across the country by herself to Travis Air Force Base in Fairfield, CA in 1971 to begin her military career. It was not until September 1974, however, when Ms. Jarman first arrived in Las Vegas to start her assignment at Nellis Air Force Base, that she found her new home, stating that “it was love at first sight.”

After leaving the Air Force, Ms. Jarman embarked on a career in broadcast journalism. Her first stint was in radio at KENO FM News. She then moved to television at KTNV-TV Las Vegas Channel 13, as a General Assignment Reporter. Broadcast journalism led her to focus on Nevada politics and sports. Ms. Jarman developed a specific love for boxing when she covered the Holmes vs. Ali “last hurrah” mega match in the parking lot of Caesars Palace Hotel in 1980.

From 1981 to 1983, Ms. Jarman lobbied for and assisted in crafting the language that would eventually become NRS 467.108. This provision provides funding for travel, meals, and participation, in order for amateur boxers to compete nationally. Ms. Jarman considers the passage of NRS 467.108 to be one of her most important contributions to boxing in Nevada. In 1984, Ms. Jarman became licensed in Nevada as a Professional Boxing Judge. Since that time, she has judged over 800 professional boxing matches and numerous world-titled matches on six different continents. She has also judged Mixed Martial Arts, Kick boxing, Muay Thai and Big Knockout Boxing. In November 2021, Ms. Jarman will be inducted into the New Jersey Boxing Hall of Fame.

In 1992, former Governor Bob Miller appointed Ms. Jarman to head the nation’s first “Office

for Hospital Patients,” created to combat the high cost of hospitalizations in Nevada, considered among the highest in the country at the time. During her tenure, Ms. Jarman saved patients in Nevada several millions of dollars in reduced hospital costs. In 1994, former Department of Business and Industry Director, Rose McKinney-James, appointed Ms. Jarman as Commissioner of the Nevada Consumer Affairs Division, where she battled numerous deceptive trade practices and consumer fraud issues, and effectuated changes in Nevada consumer laws still in effect today.

With all of these diverse career experiences, Ms. Jarman still found time over the years to serve on her HOA’s board of directors, and the Office of the Ombudsman is thrilled to welcome her, and all of her experience, to the CICCH Commission as a unit owner member.

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## Commissioner James Bruner



We are pleased to welcome James Bruner as the new developer member of the CICCH Commission. Mr. Bruner was born in South Dakota and moved to Las Vegas in 2001 to attend UNLV. After receiving his Bachelor of Science in Construction Management, he quickly got involved in the construction industry, including both residential and commercial developments, parks, and other outdoor spaces.

Today Mr. Bruner proudly represents the home building industry while serving to preserve and enhance the six-decade legacy of Tri Pointe Homes, formerly named Pardee Homes, in Southern Nevada. Serving as the Director of Land Development, Mr. Bruner is part of Tri Pointe’s innovative efforts among municipalities and utilities in Southern Nevada to have

builders work collaboratively with other home building competitors on high-profile master-planned communities. In 2018, he worked closely with Southwest Gas to improve its business process, leading a pilot program that will ultimately benefit design time frames integral to getting natural gas to new subdivisions.

Mr. Bruner brings a positive approach to what can be difficult situations, managing the unknowns of off-site improvements, landscape amenities, dry utility coordination, safety and environmental compliance, as well as HOA management and entitlements. Within the HOA industry, Mr. Bruner has served as the “builder-representative” for nine different HOA boards, representing Tri Pointe neighborhoods valley-wide. Additionally, he served on the

Board of Directors of the Southern Nevada Home Builders Association in 2019.

Mr. Bruner’s efforts have been well received by those who work for and with him, whether it be a co-worker, consultant, contractor, utility company, neighbor, or government agency. His attention to detail, professionalism and ability to communicate to all audiences have made him a valuable representative. The Ombudsman’s Office is excited to utilize his years of experience working on development projects in Southern Nevada, and can’t wait to see the fresh perspective he brings with him to the CICCH Commission. Mr. Bruner is “honored and excited to have been appointed the developer seat for the CCICCH,” and we are just as honored to have him.

# What happened at Commission?

## ALLEGATIONS/STIPULATIONS

Stipulations occur when both the respondent and the Division have agreed to conditions reviewed and accepted by both sides. A stipulation may or may not be an admission of guilt.

## ACTIONS/DECISIONS

Acts of the Commission for Common-Interest Communities and Condominium Hotels are not published until after the 30-day period allowed for filing under Judicial Review. If a stay on discipline is issued by the court, the matter is not published until the final outcome of the review.

### NRED V. RUBY CHANG

**CASE NUMBER** 2019-1100 **TYPE OF RESPONDENT** Unit Owner

## ALLEGATIONS/VIOLATIONS

Respondent acted as the “office manager” for the association, but does not hold a community manager certificate from the Division. Documents show that since at least 2015, respondent was performing the duties of a community manager for the association and was being compensated by the association for doing so. In her November 10th response to the Division, respondent admitted to receiving compensation for managing the association and the 1099 tax form she provided to the Division was proof. Respondent violated NRS 116A.400(1) by engaging in community management without holding a certificate to do so.

## DISCIPLINARY ACTIONS

The Commission orders as follows: (1) the respondent shall pay to the Division a total of \$15,241.67, consisting of a fine of \$14,300.00, plus \$941.67 for the Division's attorney's fees and costs. The total fine shall be paid in full no later than 180 days from the date of this order; (2) the Division may institute debt collection proceedings for failure to timely pay the total fine, including action to reduce the order to a judgment. Further, if collection goes through the State of Nevada, then respondent shall also pay the costs associated with collection.

### NRED V. KRISTIN PUTINTA

**CASE NUMBER** 2019-1061 **TYPE OF RESPONDENT** Supervising Community Manager

## ALLEGATIONS/VIOLATIONS

Respondent was employed by Associa Nevada South and was the on-site community manager for the Club at Madeira Canyon Unit Owners Association from approximately June of 2018 through October of 2019. An audit conducted by the Division concluded that there were numerous control deficiencies and break downs within the association's petty cash account. It was found that the association's credit card was misused by Associa's on-site staff, amounting to \$938.68 worth of charges for personal purchases. Additionally, the audit found that \$6,988.90 in charges were made on the association's card which could not be accounted for due to lack of proper documentation. Respondent violated: NRS 116A.630(1) by failing to act as a fiduciary to the association and failing to exercise ordinary and reasonable care in the performance of her duties; NRS 116A.630(2)(a) and NAC 116A.320 by failing to comply with state laws; NRS 116A.640(4) and NAC 116A.355(1)(a)(4) by misappropriating money from the association; NRS 116A.640(2)(a) and NAC 116A.345(2)



# What happened at Commission?

**CONTINUED**

## **NRED V. KRISTIN PUTINTA CONTINUED**

(a) by impeding or otherwise interfering with an investigation of the Division by failing to provide requested documents; NAC 116A.355(1)(a) (through NAC 116A.355(4)(g)) by committing unprofessional conduct or professional incompetence; and NAC 116A.355(2)(c) by engaging in deceitful, fraudulent, or dishonest conduct.

### **DISCIPLINARY ACTIONS**

The Commission orders as follows: (1) respondent's supervisory community manager certificate is revoked for a period of no less than ten years; (2) respondent shall not be permitted to reapply for a certificate from the Division following the ten-year revocation period until all fines and restitution imposed by the Commission are paid in full; (3) respondent shall pay to the Division a total of \$41,980.33, consisting of a fine of \$40,000.00, plus \$1,980.33 for the Division's attorney's fees and costs; (4) respondent shall also pay \$5,286.99 in restitution to the association within one year of the date of the order; (5) the Division may institute debt collection proceedings for failure to timely pay the total fine, including action to reduce the order to a judgment. Further, if collection goes through the State of Nevada, then respondent shall also pay the costs associated with collection.

## **NRED V. BELCOURT OWNERS ASSOCIATION, ANGELA BERLINER, MARCIA CREAMER, JESSE ZAMBRANO, AND JOHN CARTER**

**CASE NUMBER** 2018-172      **TYPE OF RESPONDENT** Board of Directors

### **ALLEGATIONS/VIOLATIONS**

In 2017, the association failed to submit its annual registration form to the Division and also submitted a check with only one signature. Respondent Creamer responded to the Division stating that she did not know annual registration was necessary and that only one board member of the association signs checks when the amount is under \$1,000. The Division opened an investigation and found that respondents violated: NRS 116.31151 by adopting a budget more than 60 days before the beginning of the fiscal year of the association; NRS 116.31153 by failing to have two signatures on checks; NAC 116.451 by failing to prepare and distribute interim financial statements; NRS 116.31083(1) by failing to have board meetings once every 100 days; NRS 116.31083(2) by failing to provide prior notice to owners of board meetings; NRS 116.31083(6) by failing to have an agenda for board meetings; NRS 116.31083(8) by failing to maintain audio recordings of executive board meetings; NRS 116.31083(13) by holding an emergency meeting when no emergency existed; and NRS 116.3103 (through NAC 116.405) by failing to act in good faith and in the best interests of the association by failing to: comply with Nevada law; maintain current, accurate and properly documented financial records; and establish policies and procedures designed to provide reasonable assurances in the reliability of financial reporting.

### **DISCIPLINARY ACTIONS**

Respondents agree not to serve as a board member or officer of any common-interest community in this State for a period of no less than 10 years from the date of the order. Respondents agree that if the terms and conditions of the Stipulation and Order are not met, the Division may, at its option, rescind the Stipulation and Order and proceed with prosecuting the complaint before the Commission.

## OUR OFFICES WILL BE CLOSED UNTIL FURTHER NOTICE:

To receive updates as to when the office will reopen, as well as other pertinent, ongoing information, please sign up to receive Ombudsman emails by subscribing from our [Direct Link](#).

## Ombudsman Information

January through March 2021

Total Associations Registered in the State of Nevada	<b>3,481</b>
Complaints Received	<b>74</b>
Alternative Dispute Resolution (ADR) Filings	<b>76</b>
Associations Reviewed for Possible Audit	<b>50</b>
Records Requests Processed	<b>9</b>
Training Sessions Conducted	<b>33</b>
Classroom Attendees	<b>446</b>

## UPCOMING COMMISSION MEETINGS

● JUNE 1-3

● AUGUST 31 - SEPTEMBER 2

● DECEMBER 7-9

Further details located on the [CICCH Commission Calendar](#).

## UPCOMING HOLIDAYS

**MAY 31/** MEMORIAL DAY

**JULY 4 /** INDEPENDENCE DAY

### STATE OF NEVADA DEPARTMENT OF BUSINESS & INDUSTRY

Terry Reynolds  
Director

### REAL ESTATE DIVISION

Sharath Chandra  
ADMINISTRATOR

### COMMON-INTEREST COMMUNITIES & CONDOMINIUM HOTELS Office of the Ombudsman

Charvez Foger  
OMBUDSMAN

Monique Williamson  
EDUCATION & INFORMATION OFFICER  
EDITOR

### COMMISSION FOR COMMON- INTEREST COMMUNITIES & CONDOMINIUM HOTELS

Michael Burke, Esq., Chairman  
ATTORNEY MEMBER

James Bruner, Vice-Chairman  
DEVELOPER MEMBER

Richard Layton, CPA, Secretary  
CERTIFIED PUBLIC ACCOUNTANT MEMBER

Charles Niggemeyer, Commissioner  
HOMEOWNER MEMBER

Phyllis Tomasso, Commissioner  
HOMEOWNER MEMBER

Patricia Morse Jarman, Commissioner  
HOMEOWNER MEMBER

Tonya Gale, Commissioner  
COMMUNITY MANAGER MEMBER

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