

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 Helen Amanda Davis, aka H. Amanda
0 Davis,

1 Respondent.

Case Nos. 2016-3771; 2016-3832; 2017-290

FILED

DEC 01 2017

NEVADA COMMISSION OF
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS

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

11 These three matters came on for hearing before the Commission for Common-
12 Interest Communities and Condominium Hotels, Department of Business and Industry,
13 State of Nevada (the "Commission"), during a regular agenda on November 14, 2017, at
14 the Nevada State Business Center, 3300 W. Sahara Avenue, Nevada Room, Suite 400,
15 Las Vegas, Nevada 89102 with videoconferencing to Department of Business & Industry,
16 Director's Office, 1830 East College Parkway, Suite 100, Carson City, Nevada 89706 (the
17 "Hearing"). The RESPONDENT, HELEN AMANDA DAVIS, did not appear or submit an
18 answer to the Complaint. Michelle D. Briggs, Esq., Senior Deputy Attorney General with
19 the Nevada Attorney General's Office, appeared on behalf of the Real Estate Division of
20 the Department of Business and Industry, State of Nevada (the "Division").

21 The Commission heard testimony from Claudia Rosolen regarding notices sent to
22 the RESPONDENT. Ms. Briggs stated that she had heard from Ms. Davis prior to the
23 Hearing. Due to the RESPONDENT'S failure to appear for the Hearing, the Division
24 requested a finding of default against RESPONDENT. The Commission voted
25 unanimously to find RESPONDENT in default. The Commission enters the following
26 Findings of Fact, Conclusions of Law, and Order. Under Nevada Revised Statutes (NRS)
27 and Nevada Administrative Code (NAC) Chapters 116 and 116A, the Commission has
28 legal jurisdiction and authority over this matter.

1 **FINDINGS OF FACT**

2 Based on the Commission's finding of a default against RESPONDENT for failing
3 to appear, the Commission accepted as true all of the following factual allegations:

4 Case No. 2016-3771:

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

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

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

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

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

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

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

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

24 9. DAVIS stated that no meetings took place after July 7, 2015.

25 10. DAVIS stated that Rodolfo Rocha was an officer, not a board member.

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

1 12. 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 13. DAVIS is not a licensed contractor.

4 14. 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 15. 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 16. 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 17. 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 18. DAVIS stated by email that the board knew she was the owner of A Unique
20 Construction and generally denied the allegations.

21 19. 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 20. DAVIS did not provide all of the invoices to support the payments made to
26 her by the Association.

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

28 22. 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
Association.

1 Case No. 2016-3832:

2 23. In August 2016, the Division initiated an investigation involving Cimarron
3 West Homes Association (the "Association") for being in default with the Secretary of
4 State and not having a properly funded reserve account.

5 24. During the investigation of the Association, the Division opened a separate
6 investigation against the Association's manager, RESPONDENT, HELEN AMANDA
7 DAVIS.

8 25. DAVIS holds a supervisory community manager certificate from the Division
9 and managed the Association beginning in February 2016.

10 26. DAVIS was asked to respond to an allegation that Association checks
11 included the signature of a former board member, Joseph Mondo.

12 27. DAVIS responded that the board's president authorized the checks, and the
13 former board member's signature was applied to the checks.

14 28. DAVIS stated that she never saw the checks and that the accounting
15 department generates the checks after the invoices are approved by the board's president.

16 29. The Association's check number 5050 was paid to DAVIS'S company,
17 "Unique Construction Service, LLC," in the amount of \$95.00 on April 28, 2016 and that
18 check contained Mr. Mondo's signature.

19 30. While DAVIS was the Association's manager, there were approximately 106
20 Association checks issued with Mr. Mondo's signature in 2016 totaling approximately
21 \$145,500.

22 31. According to a Registration Filing Addendum submitted to the Division in
23 July of 2015, Mr. Mondo had resigned from the board.

24 32. The Association's annual budget is over \$300,000.

25 33. The Association did not have the 2015 audit performed in 2016.

26 34. DAVIS blamed the prior manager for the audit not being done.

27 35. DAVIS informed the Division that a firm was hired to do the 2015 audit at
28 the end of 2016, but no such audit was ever done.

1 Case No. 2017-290:

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

5 37. DAVIS began managing the associations on February 2, 2016 when the prior
6 manager, Jeffrey Alan Frederick, agreed to surrender his certificate pending the outcome
7 of a disciplinary case against him.

8 38. After Mr. Frederick surrendered his certificate, DAVIS became the only
9 certificate holder to work for PW James.

10 39. Palmilla Homeowners Association (the "Association") is on the list of
11 associations managed by DAVIS.

12 40. The Division opened an investigation against the Association for its failure
13 to annually register with the Division, to have audits performed, and to have an updated
14 reserve study. (Case No. 2016-3042)

15 41. Records produced during the investigation of the Association showed "A
16 Unique Construction SVC LLC" was a vendor for the Association in 2016 and the address
17 for the vendor was DAVIS'S address.

18 42. DAVIS is the owner of A Unique Construction Service, LLC ("A Unique
19 Construction").

20 43. During the investigation of the Association, the Division also became aware
21 that Rest Easy Pest Control was a vendor of the Association and is owned by the board
22 president, William Simpson. (Case No. 2016-4209)

23 44. In 2016, while managing the Association, DAVIS received over \$9,000 from
24 the Association for her company, A Unique Construction.

25 45. The reference description for the invoices from A Unique Construction state:
26 back gate lock repair, washer and dryer removal, utility door repair, locking bars 5950
27 barbosa, graffiti removal, men's restroom, pool fence repairs, trash removal, material
28 deposit utility door, new lock back door.

1 46. Board member, Karen Henderson, informed the Division that she did not
2 know DAVIS was the owner of A Unique Construction.

3 47. The Division opened an investigation against DAVIS and asked for a
4 response.

5 48. DAVIS did not respond to the investigation or provide any documentation.

6 49. The Association's financial records indicate that A Unique Construction has
7 been providing services to the Association since 2012 and was paid a total of \$45,138.14.

8 50. DAVIS is not a licensed contractor.

9 51. DAVIS was charged in 2013 and in 2017 with contracting without a license
10 under NRS 624.750.

11 CONCLUSIONS OF LAW

12 Based on the foregoing factual findings, the Commission concludes by unanimous
13 vote that the following violations of law occurred:

14 Case No. 2016-3771:

15 52. DAVIS violated NRS 116A.630(1)(a) by failing to act as a fiduciary in her
16 relationship with the Association.

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

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

20 55. DAVIS violated NRS 116A.640(2)(a) and NAC 116A.345(2)(a) by impeding or
21 otherwise interfering with an investigation of the Division by failing to comply with a
22 request of the Division to provide documents.

23 56. DAVIS violated NRS 116A.640(2)(b) and NAC 116A.345(2)(b) by impeding or
24 otherwise interfering with an investigation of the Division by supplying false or
25 misleading information to an investigator.

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

1 58. DAVIS violated NRS 116A.640(7)(b); NAC 116A.345(6)(b) and NAC
2 116A.355(4)(c) by providing services to the Association for which she is not properly
3 licensed.

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

8 60. DAVIS violated NAC 116A.355(1)(a)(1) (NAC 116A.355(2)(c)) by committing
9 unprofessional conduct by engaging in deceitful, fraudulent, or dishonest conduct,
10 including, without limitation, knowingly communicating false, misleading or fraudulent
11 information to a client.

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

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

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

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

26 65. DAVIS violated NAC 116A.355(1)(a)(1) and (2) (NAC 116A.355(4)(d)) by
27 committing unprofessional conduct or professional incompetence by failing to comply with
28 the disclosure requirement of NAC 116A.330.

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

5 Case No. 2016-3832:

6 67. DAVIS violated NRS 116A.630(6)(a) by failing to ensure the financial
7 transactions of the Association were current, accurate and properly documented.

8 68. DAVIS violated NRS 116A.630(1)(a) by failing to act as a fiduciary of the
9 Association when she failed to prevent or notice that a former board member's signature
10 was used on over 100 Association checks.

11 69. DAVIS violated NRS 116A.630(1)(a) by failing to act as a fiduciary of the
12 Association when she failed to cause the Association to comply with NRS 116.31144 and
13 NAC 116.457.

14 70. DAVIS violated NRS 116A.630(1)(b) by failing to exercise ordinary and
15 reasonable care in the performance of her duties by failing to prevent or notice that a
16 former board member's signature was used on over 100 Association checks.

17 71. DAVIS violated NRS 116A.630(1)(b) by failing to exercise ordinary and
18 reasonable care in the performance of her duties by failing to have the Association comply
19 with NRS 116.31144 and NAC 116.457.

20 72. DAVIS violated NRS 116A.630(2)(b) by failing to comply with federal, state
21 and local laws, regulations and ordinances.

22 73. DAVIS violated NRS 116A.630(15) by failing to maintain internal
23 accounting controls.

24 74. DAVIS violated NRS 116A.640(2)(b) and NAC 116A.345(2)(b) by impeding or
25 otherwise interfering with an investigation of the Division by supplying false or
26 misleading information to an investigator.

27 Case No. 2017-290:

28 75. DAVIS violated NRS 116A.630(1)(a) by failing to act as a fiduciary in her

1 relationship with the Association.

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

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

5 78. DAVIS violated NRS 116A.640(2)(a) and NAC 116A.345(2)(a) by impeding or
6 otherwise interfering with an investigation of the Division by failing to comply with a
7 request of the Division to provide documents.

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

11 80. DAVIS violated NRS 116A.640(7)(b); NAC 116A.345(6)(b) and NAC
12 116A.355(4)(c) by providing services to the Association for which she is not properly
13 licensed.

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

18 82. DAVIS violated NAC 116A.355(1)(a)(1) (NAC 116A.355(2)(c)) by committing
19 unprofessional conduct by engaging in deceitful, fraudulent, or dishonest conduct,
20 including, without limitation, knowingly communicating false, misleading or fraudulent
21 information to a client.

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

28 84. DAVIS violated NAC 116A.355(1)(a)(1) (NAC 116A.355(2)(i)) by committing

1 unprofessional conduct by exceeding the authority granted to her by the Association.

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

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

8 87. DAVIS violated NAC 116A.355(1)(a)(1) and (2) (NAC 116A.355(4)(d)) by
9 committing unprofessional conduct or professional incompetence by failing to comply with
10 the disclosure requirement of NAC 116A.330.

11 88. DAVIS violated NAC 116A.355(1)(a)(1) and (2) (NAC 116A.355(4)(g)) by
12 committing unprofessional conduct or professional incompetence by failing to act in the
13 best interests of the Association by failing to disclose her ownership of A Unique
14 Construction.

15 ORDER

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

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

21 2. DAVIS shall pay an administrative fine to the Division in the total amount
22 of \$44,064.60 – which includes a fine of \$35,000 for the violations of law and \$9,064.60
23 representing the total amount due for the Division's attorney's fees and costs – no later
24 than 90 days from the date of this Order.

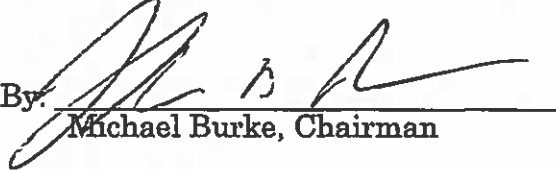
25 3. DAVIS shall pay restitution to Pecos Creek Homeowners Association in the
26 amount of \$10,600 within 90 days from the date of this Order.

27 4. DAVIS shall pay restitution to Palmilla Homeowners Association in the
28 amount of \$9,000 within 90 days from the date of this Order.

1 5. The Division may institute debt collection proceedings for failure to timely
2 pay the total fine, including action to reduce this Order to a judgment. Further, if
3 collection goes through the State of Nevada, then DAVIS shall also pay the costs
4 associated with collection.

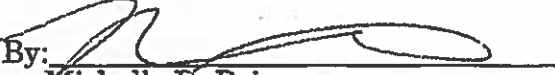
5 Dated: November 28TH, 2017.

6 Commission for Common-Interest Communities
7 and Condominium Hotels, Department of Business
& Industry, State of Nevada

8
9 By: 
Michael Burke, Chairman

10 Submitted by:

11 ADAM PAUL LAXALT
12 Attorney General

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