

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 Rosario Orozco,

10 Respondent.

Case Nos. 2014-3723 and 2014-3453

FILED

MAR 22 2017

NEVADA COMMISSION OF
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS

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

13 This matter came on for hearing before the Commission for Common-Interest
14 Communities and Condominium Hotels, Department of Business and Industry, State of
15 Nevada (the "Commission"), during a regular agenda on March 9, 2017, at the Henderson
16 City Hall, Council Chambers, 240 South Water Street, Henderson, Nevada 89015 (the
17 "Hearing"). The Respondent, Rosario Orozco, appeared through her attorney, Steven
18 Scow, Esq. Michelle D. Briggs, Esq., Senior Deputy Attorney General with the Nevada
19 Attorney General's Office, appeared on behalf of the Real Estate Division of the
20 Department of Business and Industry, State of Nevada (the "Division"). Commissioners
21 Sibley and Breslow did not attend the Hearing.

22 After hearing the allegations, the respective arguments, and having considered the
23 evidence introduced by the parties and being fully advised, the Commission enters the
24 following Findings of Fact, Conclusions of Law, and Order. Under Nevada Revised
25 Statutes (NRS) and Nevada Administrative Code (NAC) Chapters 116 and 116A, the
26 Commission has legal jurisdiction and authority over this matter.

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FINDINGS OF FACT

The parties stipulated to the admission of the following facts:

1. RESPONDENT was at all relevant times mentioned in this complaint and currently holds a community manager certificate from the Division under certificate number CAM.0007435.

2. During the time RESPONDENT has held her community manager certificate, she has worked for First Service Residential Nevada, LLC which provides community manager services to Vistana Condominium Owners Association (the "Association") located in Las Vegas, Nevada.

3. RESPONDENT works on-site for the Association.

4. In September 2014, the Division received two statements of fact filed by different complainants against RESPONDENT based on similar facts and circumstances.

5. The complaints allege that their vehicles were towed within the Association during a repaving project.

6. Both complainants talked to RESPONDENT about the location of their vehicles after realizing their vehicles were towed.

7. RESPONDENT told the complainants they needed to pay \$275, and she would tell them where their vehicles were.

8. One complainant was able to negotiate the cost down to \$75 after bargaining with RESPONDENT. When he was walking to the bank to get the money, he found his vehicle in the parking lot and took it back.

9. The other complainant, Rio Radice, paid \$275 by money order to RESPONDENT; and in exchange RESPONDENT informed Ms. Radice her vehicle was a few hundred feet away.

10. Ms. Radice also filed a complaint with the Nevada Transportation Authority against Quality Towing.

11. The Division opened two separate cases against RESPONDENT and

1 requested a response from RESPONDENT by letters dated October 3 and October 6,
2 2014.

3 12. RESPONDENT failed to respond to the first letter sent for both cases, so the
4 Division sent a second letter for both cases advising RESPONDENT that it was the
5 second request for a response for both cases.

6 13. The second letters were dated November 6, 2014.

7 14. By February 2015, RESPONDENT still had not responded to any of the four
8 Division letters.

9 15. As of February 1, 2015, RESPONDENT'S community manager certificate
10 was expired as not renewed even though she continued to work for the Association.

11 16. The Division imposed a \$1,000 administrative fine against RESPONDENT
12 for each of the two cases for her failure to cooperate and for impeding the investigation by
13 failing to provide requested documents.

14 17. By letter dated February 24, 2015, RESPONDENT disputed the
15 administrative fines imposed saying the board responded to the Division, and she
16 provided tow company documents regarding the towing of vehicles.

17 18. The documents provided by RESPONDENT show the Association was
18 charged \$75 per vehicle and multiple tows were performed from August 13 through
19 August 27, 2014.

20 19. RESPONDENT failed to provide all the records requested by the Division,
21 and RESPONDENT did not submit a sworn affidavit regarding the allegations against
22 her.

23 20. The Division requested a response from the Association's board members,
24 but did not receive an adequate response.

25 21. By letter dated April 14, 2015, the Division informed RESPONDENT that
26 she was performing the services of a community manager while her certificate was
27 expired due to her failure to renew it.

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1 22. RESPONDENT provided a sworn affidavit in response saying she was wrong
2 not to renew her certificate and claimed she was not acting as a community manager even
3 though she was working for the Association and her name appeared on Association
4 correspondence while her certificate was inactive.

5 23. RESPONDENT'S certificate was reinstated on April 24, 2015.

6 24. The NTA investigation revealed 84 vehicles were towed within the
7 Association and Quality Towing charged the Association \$75 per tow.

8 25. According to meeting minutes from a board meeting in August of 2015,
9 RESPONDENT informed the board that 30 vehicles had been towed for the resurfacing
10 project in 2014, and the Association collected a total of \$4,375 which was placed in the
11 Association's operating account.

12 26. The Division received a copy of the minutes through a separate
13 investigation.

14 27. By letter dated February 10, 2016 to RESPONDENT, the Division requested
15 additional documentation for the investigation including board meeting minutes for 2014
16 and 2015, audio for the meetings in 2014, and documentation regarding the names of
17 those owners or residents who paid towing fees and the amount they paid.

18 28. RESPONDENT did not respond.

19 29. By letter dated April 4, 2016, the Division notified RESPONDENT that this
20 matter would proceed to hearing before the Commission.

21 30. RESPONDENT provided a sworn affidavit dated April 15, 2016 saying the
22 board agreed "to have the additional \$200 assessed to the vehicle owner as a violation."

23 31. RESPONDENT claims she advised the board that they had to go through
24 the hearing process, "but they knew there was no way they would get their fines, if they
25 went through the hearing process."

26 32. RESPONDENT provided copies of notices allegedly provided to owners and
27 residents, but she does not say a sign was posted on the property and the notices do not
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1 state the telephone number of the police department as required by NRS 487.038.

2 33. RESPONDENT did not provide the documents requested in the letter dated
3 February 10, 2016; and she did not provide all the documents requested when the
4 investigation began in October 2014.

5 CONCLUSIONS OF LAW

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

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

11 35. RESPONDENT violated NAC 116A.345(2)(c) by impeding or otherwise
12 interfering with an investigation of the Division by concealing facts or documents relating
13 to the business of the Association.

14 36. RESPONDENT violated NAC 116A.355(1)(a)(1) (through NAC
15 116A.355(2)(a)(3)) by committing unprofessional conduct by failing to comply with NRS
16 116.3102(1)(s) by directing the removal of vehicles in the Association without complying
17 with NRS 487.038.

18 37. RESPONDENT violated NAC 116A.355(1)(a)(1) (through NAC
19 116A.355(2)(a)(3)) by committing unprofessional conduct by failing to comply with NRS
20 116 by imposing fines, including negotiating the amount of the fine, when the Association
21 had not complied with NRS 116.31031.

22 38. RESPONDENT violated NAC 116A.355(1)(a)(1) (through NAC
23 116A.355(2)(f)) by committing unprofessional conduct by failing to cooperate with the
24 Division in the investigation of a complaint by failing to provide documents requested
25 during the investigation by letters dated October 3, 2014, October 6, 2014, November 6,
26 2014, and February 10, 2016.

27 39. RESPONDENT violated NAC 116A.355(1)(a)(2) (through NAC
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1 116A.355(3)(a)) by committing an act of professional incompetence by demonstrating a
2 significant lack of ability, knowledge, or fitness to perform a duty or obligation owed to a
3 client.

4 40. RESPONDENT violated NAC 116A.355(1)(a)(2) (through NAC
5 116A.355(3)(b)) by committing an act of professional incompetence by failing to exercise
6 reasonable skill and care with respect to a duty or obligation owed to a client.

7 41. RESPONDENT violated NAC 116A.355(1)(a)(1) and (2) (through NAC
8 116A.355(4)(a)) by committing an act of unprofessional conduct and professional
9 incompetence by failing to do her utmost to protect the public against fraud,
10 misrepresentation or unethical practices related to the business affairs of the client.

11 42. RESPONDENT violated NAC 116A.355(1)(a)(1) and (2) (through NAC
12 116A.355(4)(g)) by committing an act of unprofessional conduct and professional
13 incompetence when she failed to act in the best interests of the client by causing vehicles
14 to be towed within the Association without complying with NRS 116.3102(1)(s) and NRS
15 487.038.

16 ORDER

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

19 1. RESPONDENT'S community manager certificate is downgraded to a
20 provisional community manager certificate for a period of no less than 12 months from
21 the date of this Order. RESPONDENT must petition this Commission prior to receiving a
22 full community manager certificate. Prior to approving a full community manager
23 certificate for RESPONDENT, the Commission will need to receive a report from
24 RESPONDENT'S supervising community manager.

25 2. RESPONDENT shall pay an administrative fine to the Division in the total
26 amount of \$11,108.37 - which includes a fine of \$7,000 for the violations of law and
27 \$4,108.37 representing the total amount due for the Division's attorney's fees and costs -
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1 no later than 60 months from the date of this Order. The total administrative fine shall
2 be due in monthly payments of no less than \$185.14 each and shall be due on the first day
3 of each month beginning on April 1, 2017, until the total fine is paid in full.

4 3. The Commission's Order Continuing Case dated November 30, 2016 for this
5 matter is vacated.

6 4. The Division may institute debt collection proceedings for failure to timely
7 pay the total fine. Further, if collection goes through the State of Nevada, then
8 RESPONDENT shall also pay the costs associated with collection.


9 Dated: March 22, 2017.

10 COMMISSION FOR COMMON-INTEREST
11 COMMUNITIES AND CONDOMINIUM
12 HOTELS, DEPARTMENT OF BUSINESS &
INDUSTRY, STATE OF NEVADA

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