

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 Margaret Thayer,

10 Respondent.

Case No. 2016-628

FILED

DEC 01 2017

NEVADA COMMISSION OF
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS

11 **STIPULATED FACTS, 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 November 16, 2017, at the
15 Nevada State Business Center, 3300 W. Sahara Avenue, Nevada Room, Suite 400, Las
16 Vegas, Nevada 89102 with videoconferencing to Department of Business & Industry,
17 Director's Office, 1830 East College Parkway, Suite 100, Carson City, Nevada 89706 (the
18 "Hearing"). The Respondent, Margaret Thayer, appeared through her attorneys, Joseph
19 Garin, Esq. and Angela Ochoa, Esq. Michelle D. Briggs, Esq., Senior Deputy Attorney
20 General with the Nevada Attorney General's Office, appeared on behalf of the Real Estate
21 Division of the Department of Business and Industry, State of Nevada (the "Division").

22 The parties offered stipulated facts and made argument regarding the violation of
23 law. The Commission enters the following Stipulated Facts, Conclusions of Law, and
24 Order. Under Nevada Revised Statutes (NRS) and Nevada Administrative Code (NAC)
25 Chapters 116 and 116A, the Commission has legal jurisdiction and authority over this
26 matter.

27 **STIPULATED FACTS**

28 The parties stipulated to the following facts:

1 1. On or about December 2, 2015, a homeowner within Los Prados Community
2 Association (the "Association") filed a complaint against the Association, its board
3 members and RESPONDENT MARGARET THAYER.

4 2. The Association is a master planned community with approximately 1,358
5 units, and an annual budget of over \$4.9 million.

6 3. THAYER provides services to the Association under an employment
7 agreement dated October 1, 2011.

8 4. The complainant states that THAYER was hired as the Association's "Chief
9 Operating Officer" and "General Manager"

10 5. THAYER has never had a certificate from the Division to perform
11 community management.

12 6. THAYER'S employment contract states:

13 WHEREAS, the COO is not a licensed community association manager
14 within the State of Nevada and the Association shall at all times during the
15 Term of this Agreement (as hereinafter defined) retain the services of a
16 licensed community manager in compliance with NRS Chapter 116 to advise
the Board and COO with respect to issues of compliance with statutes,
Nevada regulations, CC&R's, Articles of Incorporation, Association Rules
and Regulations, and Bylaws.

17 7. In 2011, the Association employed the services of Gerry Northfield, a
18 certificated community manager.

19 8. Annual filings with the Division state that the Association is self-managed.

20 9. Mr. Northfield stopped working for the Association on April 30, 2012 and no
21 other community manager was hired until March 2016.

22 10. According to THAYER'S contract, her job duties include "management of the
23 Association's financial affairs in accordance with the provisions of policies adopted by the
24 Board," and she assists and advises "the Board in all matters of administration."

25 11. She was hired by the Board and directed by the Board to perform specific job
26 duties which include, without limitation:

27 a. Assisting with the preparation of the budgets;

- 1 b. Collecting assessments;
- 2 c. Preparing delinquency lists for the board;
- 3 d. Implementing the assessment collections procedure;
- 4 e. Accounting for all funds received and deposited;
- 5 f. Maintaining a record of all income and expenses, utilizing the accrual
method of accounting, with a monthly summary statement;
- 6 g. Preparing checks;
- 7 h. Complete accounting of all financial transactions monthly;
- 8 i. Administer and monitor an investment program as developed by the Board
to optimize revenues;
- 9 j. Provide all documents necessary to perform annual audit;
- 10 k. Provide accountant all necessary documents to file taxes;
- 11 l. Maintain a comprehensive system of records and files;
- 12 m. Cooperate with the Board in investigating and administering all
accidents or claims for damage;
- 13 n. Attend meetings of the board, owners, and committees;
- 14 o. Prepare agenda and meeting minutes;
- 15 p. Prepare a report for the monthly compliance committee meeting on any
violation or evidence of violations of the governing documents;
- 16 q. Prepare annual list of officers for the Secretary of State;
- 17 r. Prepare a report to the monthly ACC Committee meeting;
- 18 s. Prepare and distribute all notices, newsletters and general correspondence
for the Association;
- 19 t. Cooperate with any efforts to pursue or defend any claims made by or
against the Association;
- 20 u. Conduct drive through and/or on sight inspections of the property for the
purpose of determining the condition of the common elements and checking
for violations of the governing documents;
- 21 v. Negotiate and execute contracts for grounds area maintenance;
- 22 w. Evaluate subcontractor's bids and made recommendations to the board;
- 23 x. Oversee activities of subcontractors; and
- 24 y. Negotiations of warranty claims, insurance claim investigation, and
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1 accounting activities associated with any special assessments or special
2 billings to an individual unit.

3 12. THAYER'S contract requires that her activities be supervised by a
4 community manager.

5 13. After Mr. Northfield ended his agreement with the Association, THAYER
6 performed her duties without any supervision from a community manager.

7 14. THAYER signed over 95 Association checks from December 2012 through
8 the beginning of 2015.

9 15. By letter dated March 9, 2016, the Division issued a Cease and Desist to
10 THAYER directing her to stop performing community management services without a
11 certificate.

12 16. By email dated March 18, 2016, the Association's counsel informed the
13 Division that a community manager was retained on a temporary basis.

14 17. In response to the investigation, THAYER stated that the Association is self-
15 managed and does not need a community manager based on advice from counsel for the
16 Association.

17 18. Through counsel, THAYER responded to the Division saying she never
18 served on the board or as an officer, but is an employee of the Association.

19 19. The community manager hired by the Association serves as a consultant "on
20 an as-needed basis," and the Association remains self-managed.

21 20. THAYER continued to perform under the terms of her employment contract
22 without the supervision of a community manager, but at the direction and instruction of
23 the Board.

24 21. According to her contract, THAYER'S annual salary is \$65,000 per year.

25 22. After Gerald Northfield quit, the Board, including complainant, Mark
26 Dzarnoski, investigated with their attorney whether they needed a community
27 association manager to supervise THAYER.

28 23. THAYER relied on that advice.

