

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 Diana Gillis,

10 Respondent.

Case No. 2017-2111

FILED

NOV 13 2018

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 November 6, 2018, at the Nevada
15 State Business Center, 3300 W. Sahara Avenue, Nevada Room, Suite 400, Las Vegas,
16 Nevada 89102 with videoconferencing to Division of Insurance, 1818 E. College Parkway,
17 Suite 103, Carson City, Nevada 89706 (the "Hearing"). The RESPONDENT, DIANA
18 GILLIS, did not appear or submit an answer to the Complaint. Michelle D. Briggs, Esq.,
19 Senior Deputy Attorney General with the Nevada Attorney General's Office, appeared on
20 behalf of the Real Estate Division of the Department of Business and Industry, State of
21 Nevada (the "Division").

22 Due to GILLIS'S failure to appear for the Hearing or answer the complaint, the
23 Division requested a finding of default against GILLIS. The Commission Coordinator,
24 Samiel Williams, testified regarding notice to GILLIS of the complaint and notice
25 documents. Ms. Briggs informed the Commission that a notice of default was also sent to
26 GILLIS. The Commission voted unanimously to find GILLIS in default. The Commission
27 enters the following Findings of Fact, Conclusions of Law, and Order. Under Nevada
28 Revised Statutes (NRS) and Nevada Administrative Code (NAC) Chapters 116 and 116A,
the Commission has legal jurisdiction and authority over this matter.

1 **FINDINGS OF FACT**

2 Based on the Commission's finding of a default against GILLIS for failing to
3 appear and failing to answer the complaint, the Commission accepted as true all of the
4 following factual allegations by unanimous vote:

5 1. In September 2017, the Division opened an investigation against
6 RESPONDENT DIANA GILLIS based on an annual registration form signed by GILLIS
7 for Cimarron West Homes Association (the "Association").

8 2. The registration form dated May 9, 2017 states that the Association
9 completed an audit in 2015 and that GILLIS is the community manager.

10 3. The Association's annual budget is over \$312,000.

11 4. GILLIS works for Harmony Management, LLC which was under contract for
12 management services for the Association beginning July 1, 2017.

13 5. The Association subsequently hired a new management company, but no
14 audits were provided to the new company.

15 6. The Association is currently in the process of having forensic audits
16 conducted for 2015 and 2016.

17 7. The Division received multiple emails from the Association's board member
18 complaining that their requests for records to be turned over to the new manager were
19 being ignored.

20 8. The Division sent GILLIS six letters regarding the misrepresentation on the
21 annual registration form and the failure to turn over all Association records to the new
22 management company.

23 9. GILLIS did not respond.

24 10. GILLIS voluntarily surrendered her community manager certificate in
25 January 2018.

26 11. The Association's financial records were not kept up to date resulting in
27 increased fees to have required audits performed.

28 12. The Association spent approximately \$6,559.50 to have audits performed for

1 2015 and most of 2016. To finalize the 2016 audit and complete the 2017 audit, the
2 Association will incur an additional estimated amount of \$4,500.

3 13. An email and letter from the Association's manager regarding increased
4 expenses for audits incurred by the Association was admitted into evidence.

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 14. GILLIS violated NRS 116A.630(1)(a) and NAC 116A.320 by failing to act as
9 a fiduciary in her relationship with the Association.

10 15. GILLIS violated NRS 116A.630(1)(b) and NAC 116A.320 by failing to
11 exercise ordinary and reasonable care in the performance of her duties.

12 16. GILLIS violated NRS 116A.630(2)(a) and NAC 116A.320 by failing to comply
13 with state laws.

14 17. GILLIS violated NRS 116A.630(10) and NAC 116A.320 by failing to
15 cooperate with the Division in resolving complaints filed with the Division.

16 18. GILLIS violated NRS 116A.640(2)(a) and NAC 116A.345(2)(a) by impeding
17 or otherwise interfering with an investigation of the Division by failing to comply with a
18 request of the Division to provide documents.

19 19. GILLIS violated NRS 116A.640(2)(c) and NAC 116A.345(2)(c) by impeding or
20 otherwise interfering with an investigation of the Division by concealing facts or
21 documents relating to the business of a client.

22 20. GILLIS violated NRS 116A.620 and NAC 116A.325 by performing
23 community management services for the Association without a signed management
24 contract approved by the Association.

25 21. GILLIS violated NAC 116A.355(1)(a)(1) (through NAC 116A.355(2)(b)) by
26 committing unprofessional conduct by failing to complete the registration form
27 accurately.

28 22. GILLIS violated NAC 116A.355(1)(a)(1) (through NAC 116A.355(2)(f)) by

1 committing unprofessional conduct by failing to cooperate with the Division in the
2 investigation of a complaint including, without limitation, failure to produce any
3 document, book or record in the possession or control of the community manager after the
4 Division requests the production of such document, book or record in the course of an
5 investigation of a complaint.

6 23. GILLIS violated NAC 116A.355(1)(a)(1) (through NAC 116A.355(2)(i)) by
7 committing unprofessional conduct by exceeding the authority granted to her by the
8 Association.

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

12 25. GILLIS violated NAC 116A.355(1)(a)(2) (through NAC 116A.355(3)(b)) by
13 committing professional incompetence by failing to exercise reasonable skill and care with
14 respect to a duty or obligation owed to a client.

15 26. GILLIS violated NAC 116A.355(1)(a)(1) and (2) (through NAC
16 116A.355(4)(g)) by committing unprofessional conduct or professional incompetence by
17 failing to act in the best interests of the Association.

18 ORDER

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

21 1. GILLIS'S community manager certificate is revoked for a period of no less
22 than ten years from the date of this Order, but in no event sooner than all fines and
23 restitution imposed by the Commission are paid in full.

24 2. GILLIS shall pay an administrative fine to the Division in the total amount
25 of \$15,542.21 – which includes a fine of \$13,000 for the violations of law and \$2,542.21
26 representing the total amount due for the Division's attorney's fees and costs – no later
27 than January 1, 2019.

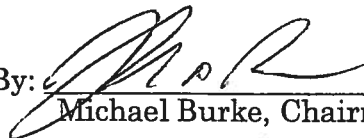
28 3. GILLIS shall pay restitution to the Association in the amount of \$8,209.50

1 no later than January 1, 2019. The restitution payment shall be made to Cimarron West
2 Homes Association, c/o Kallfelz Team Association Management, LLC, 6595 W. Smoke
3 Ranch Ste 110, Las Vegas, Nevada 89108.

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

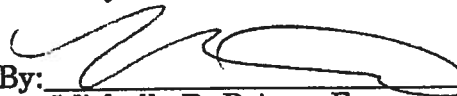
8 Dated: November 8, 2018.

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

11
12 By: 
Michael Burke, Chairman

13 Submitted by:

14 ADAM PAUL LAXALT
15 Attorney General

16 By: 
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