

BEFORE THE COMMISSION FOR COMMON-INTEREST
COMMUNITIES AND CONDOMINIUM HOTELS
STATE OF NEVADA

Sharath Chandra, Administrator,
Real Estate Division, Department of
Business & Industry, State of Nevada,

Case No. 2017-2111

Petitioner,

vs.

Diana Gillis,

Respondent.

FILED

SEP 21 2018

NEVADA COMMISSION OF
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS

**COMPLAINT FOR DISCIPLINARY
ACTION AND NOTICE OF HEARING**

The Real Estate Division of the Department of Business and Industry, State of Nevada (the "Division"), by and through its counsel, Adam Paul Laxalt, Attorney General of the State of Nevada, and Michelle D. Briggs, Esq., Senior Deputy Attorney General, hereby notifies Respondent Diana Gillis ("RESPONDENT" or "GILLIS") of an administrative hearing before the Commission for Common-Interest Communities and Condominium Hotels, State of Nevada, which is to be held pursuant to Chapters 233B and Chapters 116 and 116A of the Nevada Revised Statutes ("NRS") and Chapter 116 and 116A of the Nevada Administrative Code ("NAC"). The purpose of the hearing is to consider the allegations stated below and to determine if an administrative penalty will be imposed on the RESPONDENT pursuant to the provisions of NRS and NAC including, but not limited to, NAC 116A.360.

JURISDICTION AND NOTICE

1. During all relevant times mentioned in this complaint, GILLIS held a community manager certificate from the Division (CAM.0001821) and is, therefore, subject to the jurisdiction of the Division and the provisions of NRS Chapters 116 and 116A and NAC Chapters 116 and 116A.

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1 **FACTUAL ALLEGATIONS**

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

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

7 4. The Association's annual budget is over \$312,000.

8 5. GILLIS works for Harmony Management, LLC which was under contract for
9 management services for the Association beginning July 1, 2017.

10 6. The Association subsequently hired a new management company, but no
11 audits were provided to the new company.

12 7. The Association is currently in the process of having forensic audits
13 conducted for 2015 and 2016.

14 8. The Division received multiple emails from the Association's board member
15 complaining that their requests for records to be turned over to the new manager were
16 being ignored.

17 9. The Division sent GILLIS six letters regarding the misrepresentation on the
18 annual registration form and the failure to turn over all Association records to the new
19 management company.

20 10. GILLIS did not respond.

21 11. GILLIS voluntarily surrendered her community manager certificate in
22 January 2018.

23 12. The Association's financial records were not kept up to date resulting in
24 increased fees to have required audits performed.

25 13. The Association spent approximately \$6,559.50 to have audits performed for
26 2015 and most of 2016. To finalize the 2016 audit and complete the 2017 audit, the
27 Association will incur an additional estimated amount of \$4,500.

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VIOLATIONS OF LAW

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

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

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

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

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

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

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

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

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

28 23. GILLIS violated NAC 116A.355(1)(a)(1) (through NAC 116A.355(2)(i)) by

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

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

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

9 26. GILLIS violated NAC 116A.355(1)(a)(1) and (2) (through NAC
10 116A.355(4)(g)) by committing unprofessional conduct or professional incompetence by
11 failing to act in the best interests of the Association.

12 DISCIPLINE AUTHORIZED

13 Pursuant to the provisions of NAC 116A.360 the Commission has discretion to
14 impose discipline as it deems appropriate, including, but not limited to one or more of the
15 following actions:

- 16 1. Revoke or suspend the certificate;
- 17 2. Refuse to renew or reinstate the certificate;
- 18 3. Place the community manager on probation;
- 19 4. Issue a reprimand or censure to the community manager;
- 20 5. Impose a fine of not more than \$5,000 for each violation of a statute or
21 regulation;
- 22 6. Require the community manager to pay restitution;
- 23 7. Require the community manager to pay the costs of the investigation and
24 hearing;
- 25 8. Require the community manager to obtain additional education relating to
26 the management of common-interest communities; and
- 27 9. Take such other disciplinary action as the Commission deems appropriate.

28 The Commission may order one or any combination of the discipline described

1 above.

2 **NOTICE OF HEARING**

3 **PLEASE TAKE NOTICE**, that a disciplinary hearing has been set to consider
4 this Administrative Complaint against the above-named RESPONDENT in accordance
5 with Chapters 233B and 116 and 116A of the Nevada Revised Statutes and Chapters 116
6 and 116A of the Nevada Administrative Code.

7 **THE HEARING WILL TAKE PLACE** at the Commission meeting scheduled for
8 November 6-8, 2018, beginning at approximately 9:00 a.m. each day, or until such time as
9 the Commission concludes its business. The Commission meeting will be held at the
10 Nevada State Business Center, 3300 W. Sahara Avenue, Nevada Room, Suite 400, Las
11 Vegas, Nevada 89102 with videoconferencing to Division of Insurance, 1818 E. College
12 Parkway, Carson City, Nevada 89153.

13 **STACKED CALENDAR:** Your hearing is one of several hearings that may be
14 scheduled at the same time as part of a regular meeting of the Commission that is
15 expected to take place on November 6-8, 2018. Thus, your hearing may be continued until
16 later in the day or from day to day. It is your responsibility to be present when your case
17 is called. If you are not present when your hearing is called, a default may be entered
18 against you and the Commission may decide the case as if all allegations in the complaint
19 were true. If you need to negotiate a more specific time for your hearing in advance
20 because of coordination with out of state witnesses or the like, please call Samiel
21 Williams, Commission Coordinator, at (702) 486-4606.

22 **YOUR RIGHTS AT THE HEARING:** Except as mentioned below, the hearing is an
23 open meeting under Nevada's open meeting law, and may be attended by the public.
24 After the evidence and arguments, the commission may conduct a closed meeting to
25 discuss your alleged misconduct or professional competence. A verbatim record will be
26 made by a certified court reporter. You are entitled to a copy of the transcript of the open
27 and closed portions of the meeting, although you must pay for the transcription.

28 As a RESPONDENT, you are specifically informed that you have the right to

1 appear and be heard in your defense, either personally or through your counsel of choice.
2 At the hearing, the Division has the burden of proving the allegations in the complaint
3 and will call witnesses and present evidence against you. You have the right to respond
4 and to present relevant evidence and argument on all issues involved. You have the right
5 to call and examine witnesses, introduce exhibits, and cross-examine opposing witnesses
6 on any matter relevant to the issues involved.

7 You have the right to request that the Commission issue subpoenas to compel
8 witnesses to testify and/or evidence to be offered on your behalf. In making this request,
9 you may be required to demonstrate the relevance of the witness's testimony and/or
10 evidence. Other important rights and obligations, including your obligation to answer the
11 complaint, you have are listed in NAC 116A.560 through NAC 116A.655, NRS Chapter
12 233B, and NRS Chapters 116 and 116A and NAC 116 and 116A. Note that under NAC
13 116A.585, not less than five (5) working days before a hearing, RESPONDENT must
14 provide to the Division a copy of all reasonably available documents that are reasonably
15 anticipated to be used to support his or her position, and a list of witnesses
16 RESPONDENT intends to call at the time of the hearing. Failure to provide any
17 document or to list a witness may result in the document or witness being excluded from
18 RESPONDENT'S defense. The purpose of the hearing is to determine if the

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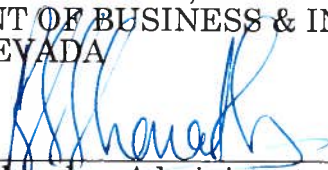
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1 RESPONDENT has violated any of the provisions of NRS and NAC Chapters 116 and
2 116A, and to determine what administrative penalty is to be assessed against
3 RESPONDENT, if any, pursuant to NAC 116A.360.

4 DATED: September 21, 2018.

5 REAL ESTATE DIVISION,
6 DEPARTMENT OF BUSINESS & INDUSTRY,
7 STATE OF NEVADA

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