

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 Sierra Ranchos Property Owners  
10 Association, Sabrina Brin, Tony Boggs, and  
11 Greg Mayer,

12                                   Respondents.

Case No. 2018-1663

**FILED**

**SEP 27 2019**

NEVADA COMMISSION OF  
COMMON INTEREST COMMUNITIES  
AND CONDOMINIUM HOTELS

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

14                   This matter came on for hearing before the Commission for Common-Interest  
15 Communities and Condominium Hotels, Department of Business and Industry, State of  
16 Nevada (the "Commission"), during a regular agenda on September 17, 2019, at the  
17 Nevada Department of Insurance, 1818 E. College Pkwy, Ste 103, Carson City, Nevada  
18 89706 (the "Hearing"). The RESPONDENT, TONY BOGGS, did not appear. Michelle D.  
19 Briggs, Esq., Senior Deputy Attorney General with the Nevada Attorney General's Office,  
20 appeared on behalf of the Real Estate Division of the Department of Business and  
21 Industry, State of Nevada (the "Division").

22                   The Commission took testimony from Teralyn Lewis regarding certified mailing of  
23 the complaint, notice of hearing, and documents for this matter. The documents were sent  
24 certified mail to the address on file for RESPONDENT BOGGS in the Division's records,  
25 but were not claimed and were returned to the Division. Ms. Briggs stated that she  
26 received two calls from RESPONDENT BOGGS regarding the complaint. Ms. Briggs  
27 emailed the complaint to RESPONDENT BOGGS and he replied to her email on  
28 September 16, 2019. At the request of the Commission, Ms. Briggs read into the record

1 RESPONDENT BOGGS'S email dated September 16, 2019. The Commission voted to  
2 hold RESPONDENT BOGGS in default for failing to answer the complaint or appear at  
3 the hearing. Ms. Briggs presented exhibits to the Commission and they were admitted  
4 into the record.

5 The Commission enters the following Findings of Fact, Conclusions of Law, and  
6 Order. Under Nevada Revised Statutes (NRS) and Nevada Administrative Code (NAC)  
7 Chapter 116, the Commission has legal jurisdiction over this matter. RESPONDENT  
8 BOGGS served on the Association's board in 2017 and 2018.

### 9 FINDINGS OF FACT

10 Based on a preponderance of the evidence in the record, the Commission voted to  
11 find the following factual allegations were proven:

12 1. SIERRA RANCHOS PROPERTY OWNERS ASSOCIATION (the  
13 "Association"), is a self-managed, planned community consisting of 197 units.

14 2. The Association has an annual budget of \$50,880.

15 3. The Association submitted checks to the Division with signatures from a  
16 prior board member, Roger Seifert, and the Association's bookkeeper, Joy Marvin.

17 4. The Division initiated an investigation against the Association and its board  
18 members.

19 5. Joy Marvin signed over 160 Association checks from June 2016 to June 2018  
20 and was paid \$425 a month.

21 6. Mr. Seifert agreed to step down from the board to resolve a disciplinary case  
22 before this Commission in June 2016, but he continued to sign checks through March  
23 2018.

24 7. The Association's attorney responded to the Division saying:

25 The Association is self-managed and was unaware of the limitations and  
26 requirements regarding the signing of checks.

27 8. The Association's records show that the Association's bookkeeper performs  
28 the services of a community manager, including without limitation, by signing

1 Association checks, preparing financial statements and delinquency reports,  
2 participating in board meetings, preparing resale packages, and being the custodian of  
3 the Association's records.

4 9. The Association transferred all of its reserve funds totaling \$15,000 to its  
5 operating account in October and November 2017.

6 10. The Association imposed a special reserve assessment in 2018 and deposited  
7 the funds in its operating account.

8 11. In 2019, the Association put \$10,672.15 in its reserve account.

9 12. The Association employs a homeowner, Don Lingle, to perform road grading  
10 services and maintenance, but he is not a Nevada contractor licensed to provide those  
11 services.

12 13. Mr. Lingle was paid over \$90,000 in two years from June 2016 to June 2018.

13 14. The Association's financial statements do not comply with NAC 116.451.

#### 14 VIOLATIONS OF LAW

15 Based on the foregoing factual findings and documents in the record, the  
16 Commission concludes by unanimous vote that the following violations of law occurred:

17 15. RESPONDENT BOGGS violated NRS 116.31153(2) by allowing a former  
18 board member and the Association's bookkeeper to sign Association checks.

19 16. RESPONDENT BOGGS violated NRS 116.3103 (through NAC 116.405(3))  
20 by failing to act in good faith and in the best interests of the Association when they  
21 committed multiple acts or omissions which amount to incompetence, negligence or gross  
22 negligence by failing to comply with Nevada law.

23 17. RESPONDENT BOGGS violated NRS 116.3103 (through NAC  
24 116.405(8)(a)) by failing to act in good faith and in the best interests of the Association  
25 when they failed to keep informed of laws, regulations and developments relating to  
26 common-interest communities.

27 18. RESPONDENT BOGGS violated NRS 116.3103 (through NAC  
28 116.405(8)(d)) by failing to act in good faith and in the best interests of the Association

1 when they failed to obtain bids from reputable service providers who possess the proper  
2 licensing before purchasing any service for use by the Association.

3 19. RESPONDENT BOGGS violated NRS 116.3103 (through NAC  
4 116.405(8)(e)) by failing to act in good faith and in the best interests of the Association  
5 when they failed to consult with appropriate professionals as necessary before making  
6 any major decision affecting the Association or the common elements.

7 20. RESPONDENT BOGGS violated NRS 116.3103 (through NAC  
8 116.405(8)(g)) by failing to act in good faith and in the best interests of the Association by  
9 failing to maintain current, accurate and properly documented financial records.

10 21. RESPONDENT BOGGS violated NRS 116.3103 (through NAC  
11 116.405(8)(j)) by failing to act in good faith and in the best interests of the Association by  
12 failing to prepare interim and annual financial statements that will allow the Division,  
13 the executive board, the units' owners to determine whether the financial position of the  
14 association is fairly presented in accordance with the provisions of NAC 116.451.

### 15 ORDER

16 The Commission being fully apprised in the premises, and good cause appearing to  
17 the Commission, by a 6-1 vote, ORDERS as follows:

18 1. The Commission finds RESPONDENT BOGGS committed violations of law  
19 knowingly and willfully and it is in the best interests of the Association that  
20 RESPONDENT BOGGS be removed from the board. RESPONDENT BOGGS shall be  
21 immediately removed from the board of directors for the Association and shall not serve  
22 on the board of directors or as an officer of any common-interest community in the state  
23 of Nevada for no less than 10 years, but in no event shall RESPONDENT BOGGS serve  
24 on any board or as an officer until all other provisions of this Order are satisfied.

25 2. RESPONDENT BOGGS shall turnover to the Association its water truck  
26 and roller with all accompanying materials and parts as directed by the Association  
27 within 7 days of the date of this Order.

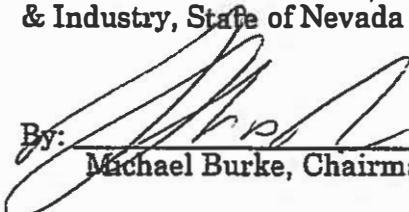
28 3. RESPONDENT BOGGS shall pay an administrative fine to the Division in

1 the total amount of \$3,305.21 representing the total amount due for the Division's  
2 attorney's fees and costs no later than 90 days from the date of this Order. The  
3 Commission discussed a breakdown of the costs for prehearing and hearing costs and  
4 finds the amount reasonable.

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

9 Dated: September 26<sup>th</sup>, 2019.

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

12  
13 By:   
Michael Burke, Chairman

14 Submitted by:

15 AARON D. FORD  
16 Attorney General

17 By:   
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