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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. 2019-415

**FILED**

DEC 18 2019

NEVADA COMMISSION FOR  
COMMON INTEREST COMMUNITIES  
AND CONDOMINIUM HOTELS

*Kelly Valadez*

Petitioner,

vs.

Rand Terkel,

Respondent.

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

This matter came on for hearing before the Commission for Common-Interest Communities and Condominium Hotels, State of Nevada (the "Commission"), during a regular agenda on December 3, 2019, at the Nevada State Business Center, 3300 W. Sahara Avenue, Nevada Room, Suite 400, Las Vegas, Nevada 89102 (the "Hearing"). The Respondent, RAND TERKEL ("TERKEL" and/or "RESPONDENT"), did not appear personally or through counsel and did not answer the complaint. Karissa D. Neff, Esq., Deputy Attorney General with the Nevada Attorney General's Office, appeared on behalf of the Real Estate Division of the Department of Business and Industry, State of Nevada (the "Division").

Ms. Neff presented testimony from Teralyn Lewis, the Commission coordinator, regarding notices of the Complaint, hearing and documents to RESPONDENT via certified and regular mail. Ms. Neff also admitted documents into evidence. The Commission, having considered the evidence introduced by the Division and being fully advised, enters the following Findings of Fact, Conclusions of Law, and Order. Under Nevada Revised Statutes (NRS) and Nevada Administrative Code (NAC) Chapter 116 and 116A, the Commission has legal jurisdiction and authority over this matter.

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1 **FINDINGS OF FACT**

2 The Commission, based upon the filed complaint, and the evidence filed by the Division in  
3 support of the complaint, finds that the following Findings of Fact are accepted as true in accordance  
4 with NAC 116.580.

5 1. Encanto Homeowners Association ("Encanto") is a planned community located in Las  
6 Vegas, Nevada that has 83 units consisting of single family dwellings.

7 2. From approximately the summer of 2018 through March of 2019, Encanto was managed  
8 by Rand Community Association Management, LLC, a Nevada limited liability company ("Rand  
9 Management").

10 3. TERKEL was the owner and manager of Rand Management.

11 4. On or around January 1, 2019, RESPONDENT informed Encanto's board members that  
12 Rand Management would no longer manage Encanto because Rand Management was going out of  
13 business effective March 1, 2019.

14 5. Epic Association Management ("Epic") was succeeding Rand Management as Encanto's  
15 community manager.

16 6. On or around March 4, 2019, TERKEL provided Epic with certain homeowner's  
17 association items and documents to assist Epic in its succession as Encanto's new community manager.

18 7. Tonya Gale, on behalf of Epic, signed and acknowledged the receipt of certain items and  
19 documents provided by TERKEL on March 4, 2019, on a document titled *Encanto HOA Transition*  
20 ("Transition List").

21 8. The Transition List provided by TERKEL failed to include all of Encanto's association  
22 files and documents.

23 9. On or around March 21, 2019, Jeanine Rego ("Rego"), Accounting Supervisor for Epic,  
24 emailed TERKEL and requested that he provide specific files and documents (the "Requested  
25 Documents") that TERKEL failed to provide Epic.

26 10. TERKEL responded to Rego but stated that he had been locked out of his software  
27 program that he had used to manage Encanto and did not have access to any of the records.

28 11. On April 17, 2109, Epic filed a complaint with the Division alleging that TERKEL had

1 failed to provide Epic with the Requested Documents within the 30-day period as required by Nevada  
2 law when a community management company succeeds a prior community manager.

3 12. On May 9, 2019, the Division notified TERKEL by certified mail that it was opening an  
4 investigation regarding Epic's complaint.

5 13. The Division requested that TERKEL provide the Division with certain documents  
6 including all homeowner account ledgers, homeowner violation ledgers, 2018 and 2019 detailed general  
7 ledgers, aged receivables as of 2/28/19, prepaids as of 2/28/19, December 2018 and January 2019  
8 financials, and a list of homeowners in collection, and contact information for the respective collection  
9 companies (the "Division Requested Documents").

10 14. On May 17, 2019, TERKEL responded to the Division claiming that he had provided all  
11 association files that Rand Management had in its possession to Epic, but that TERKEL was unable to  
12 provide the Division Requested Documents because TERKEL's access to the software system he had  
13 used during the management of Encanto was terminated due to his nonpayment.

14 15. TERKEL'S access to the software system was terminated as of February 25, 2019.

15 16. To date, TERKEL has failed to provide the Division with the Division Requested  
16 Documents.

17 17. Despite TERKEL'S claim that he is unable to access the software system Rand  
18 Management used during management of Encanto, TERKEL was required to have those documents in  
19 his possession that would have been required to be generated in performing his community manager  
20 duties for Encanto prior to his going out of business.

#### 21 CONCLUSIONS OF LAW

22 1. Based on the foregoing findings of fact, the Commission concludes by  
23 unanimous vote that RESPONDENT committed the following violations of law:

24 2. TERKEL violated NRS 116A.620(6) and NAC 116A.325(6) by failing to provide  
25 Encanto's successor community manager with all books, records and other papers within 30 days of the  
26 termination of Rand Management's community management agreement.

27 3. TERKEL violated NRS 116A.630(1)(b) and NAC 116A.320 by failing to exercise  
28 ordinary and reasonable care in the performance of his duties.



1 year unless TERKEL provides the Division Requested Documents (as defined herein) to the Division  
2 prior to the one-year period.

3 2. Following the one-year revocation period, should TERKEL desire to become licensed again  
4 with the Division as a community manager, TERKEL shall be required to submit a new application to  
5 the Division to become a community manager and comply with all Division requirements.

6 3. Should the Division deny TERKEL's application, TERKEL may appeal any such denial to  
7 the Commission pursuant to NAC 116A.135.

8 4. TERKEL shall pay to the Division a total fine of \$12,307.86. The total fine reflects an  
9 administrative fine of \$10,000 for committing the violations of law, plus \$2,307.86 for the Division's  
10 attorney's fees and costs. The total fine shall be paid in full no later than 60 days from the date of this  
11 Order.

12 5. The Division may institute debt collection proceedings for failure to timely pay the  
13 total fine, or any installment thereof. Further, if collection goes through the State of Nevada, then  
14 RESPONDENT shall also pay the costs associated with collection


15 DATED this 18<sup>TH</sup> day of December, 2019.

16 COMMISSION FOR COMMON-INTEREST  
17 COMMUNITIES AND CONDOMINIUM HOTELS  
18 DEPARTMENT OF BUSINESS & INDUSTRY STATE  
19 OF NEVADA

20 By:   
MICHAEL BURKE  
CHAIRMAN

21 Submitted by:

22 AARON D. FORD  
23 Attorney General

24 By:   
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